GOVERNMENT & REGULATORY

CLIENT ALERT

MARCH/2019

NATIONAL LAND TRANSPORTATION AGENCY INFORMS THAT A NEW RESOLUTION ABOUT MINIMUM FREIGHT RATES WILL BE ENACTED SOON

Through a media release published yesterday on its official website, the Brazilian National Land Transportation Agency (ANTT) stated that technical studies and a draft version of a new resolution amending the National Minimum Freight Rates Policy are currently under analysis. Once approved by the Agency's Board, such documents will be submitted to a public hearing — and, subsequently, a new resolution will be enacted.

ANTT indicated that such public hearing is expected to occur as early as April 2019. Such announcement was made promptly after the appearance of rumors suggesting that a new nationwide truck protest was being organized. Currently, pursuant to an injunction granted by the Brazilian Supreme Court, all lawsuits regarding minimum freight rates are stayed — and will probably remain so until the Court renders a decision on the constitutionality of Federal Law nº 13.703/2018.

We highlight that the Agency must pursue "*an evidence-based decision-making process*" (art. 4º, VIII, of Decree nº 9,203/2017), and that, before a new resolution is issued on this matter, ANTT shall prepare and disclose a report presenting all the contributions submitted at the public hearing — along with the "*technical analyses and reasons for* [each contribution's] *admission or rejection*" (art. 26, VII, of Resolution nº 5,624/2017). In this scenario, participation in the public hearing can be a valuable opportunity for any adversely affected parties to demonstrate the losses and market distortions caused by the current minimum freight rates — so as to cause the Agency to take such elements into account in its future decision.

Our Administrative Law practice group is available to clarify any issues related to this subject.

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