

# Transportation Infrastructure

## Ports, Port-related Facilities and Intermodal Projects

The world is witnessing rapid growth in ports, related maritime developments and intermodal projects. Capitalizing on the current opportunities in ports and related infrastructure requires assistance from legal advisers who are versed in this complex field. At Mayer Brown we have a team of lawyers who can provide detailed advice in all aspects of these projects.

### Depth and Breadth of Experience

Mayer Brown is recognized as a market-leading law firm in transportation infrastructure privatization/PPP projects in the United States, and as a first-choice adviser for innovative projects worldwide.

We have experience representing all parties in port and intermodal projects, including bidders, owners, sponsors, investors, and such public sector clients as national, state and municipal governments, and port authorities.

We regularly advise on the drafting and negotiating of the many different agreements necessary for the successful implementation of these projects, including concession arrangements, complex design and construction agreements, port and terminal usage agreements and operating agreements.

With our global platform, we offer integrated teams that combine experienced lawyers from such key related disciplines as global infrastructure, project finance and development, international construction, environmental regulatory, government relations and tax. In addition, some projects will require assistance from a range of more esoteric legal disciplines, which we can offer as a matter of course, such as municipal finance, MARAD and shipping finance matters.

### Global Integration

Port projects often require that advisers draw on a broad range of practices to fully support the client in every aspect of their transaction. At Mayer Brown we have depth in a wide range of practices and can call upon that depth to assist clients in achieving their goals.

The practice areas that are often involved in port and intermodal projects are described in more detail below.

### PROJECT FINANCE & DEVELOPMENT

Mayer Brown has extensive, global experience in limited-recourse project finance techniques. Our Global Projects group has been involved in many “Deals of the Year” and continues to represent clients in precedent-setting transactions, such as acting as counsel on the first privately-owned port financing in Brazil and serving as procurement counsel to the Panama Canal Authority in connection with the Panama Canal Expansion Program.

### ENVIRONMENTAL, REGULATORY & GOVERNMENT RELATIONS

Ports, maritime asset and intermodal projects face unique definitions, limitations and considerations from transport ministries, maritime agencies, environmental authorities and naval and military authorities. Our environmental law and government relations practices can help clients understand the environmental issues and regulatory landscape each project may face.

We advise clients on securing necessary federal, state and local permits and government approvals, responding to land use issues such as compatibility of infrastructure projects with local land uses, implementing successful National Environmental Policy Act (NEPA) compliance, advising on historic preservation issues, developing effective government and public relations strategies and, where necessary, advocating changes in state or federal law. We have applied this environmental and regulatory advice in an array of port and intermodal matters, including port facilities, port access, port handling and expansion and intermodal-related issues.

### INFRASTRUCTURE

As regulated assets, ports offer a distinct range of issues. Government authorities interface with private investors who are participating as operators, owners, bidders or bidder lenders, among other roles. We act for governments and their infrastructure development

agencies and have extensive experience advising government entities in choosing between such alternative bidding strategies as design-bid and design-bid-build.

We are a leading law firm in the United States for the privatization of public assets. We regularly advise on drafting and negotiating concession agreements with detailed capital improvement requirements and operating standards. Clients benefit from the knowledge and experience that we have gained from advising on projects such as the Chicago Skyway, Indiana Toll Road, Chicago Midway Airport, Corredor Sur Toll Road, IIRSA Sur Toll Road and Jorge Chávez International Airport.

### INTERNATIONAL CONSTRUCTION & ENGINEERING

Port developments often require the precise integration of land-based and maritime construction activities. Our International Construction and Engineering Group has extensive experience in the design and construction of major public and civil works projects, and in the negotiating of design/build, partial design/build and other contracts for unique or unusual projects.

We carry out contract and bid-form drafting, as well as the preparation of most construction-related agreements, forms and documents. Additionally, we offer a strong litigation practice to assist in construction auditing and with representing clients in the trial of complex design and construction claims. These consulting, negotiation and contracting services have included sophisticated risk and risk-avoidance advice.

### Notable Port and Maritime Infrastructure Experience

**Port of the Americas.** We are representing the Port of the Americas Authority, a public authority of the Commonwealth of Puerto Rico, in connection with negotiations for the long-term operating concession for the \$750 million Port of the Americas container terminal project in Ponce, Puerto Rico.

**Virginia Port Authority.** We are counsel to CenterPoint Properties in its proposal to privatize operations at the state-owned Port of Virginia, which

is the third largest port on the Eastern seaboard and the fifth largest port in the United States. This would be the first privatization of an entire existing port in the US. CenterPoint Properties is offering an estimated \$8.9 billion over the 60-year period of a long-term lease for the port's operating rights. We assisted CenterPoint Properties in the use of the "unsolicited proposal" mechanism under the Virginia public-private partnership statute to initiate the proposal process.

**Panama Canal Expansion.** We have been appointed by the Panama Canal Authority (Autoridad del Canal de Panamá or "ACP") as procurement counsel for the planned Panama Canal expansion. This engagement consists of advising the ACP on its RFQ/bidding process, financial and legal aspects of bid contract terms, contract negotiation, and all related construction and project development matters for the \$5.25 billion Panama Canal Expansion Program.

**Embraport.** We are acting for Empresa Brasileira de Terminais Portuários SA, a port operator and part of the Coimex Group, on all aspects relating to the financing of an expansion to the port of Santos, Brazil which is expected to be the biggest multi-purpose port in Brazil once completed.

**Corpus Christi Container Project.** We are representing the Port of Corpus Christi in connection with its La Quinta Trade Gateway container expansion project. This project will bring a major new container handling and related facilities to the Gulf Coast region and when fully developed will be able to handle up to 1.5 million TEUs per year. This is the first port facility in the United States to be developed on a privatized basis.

**Chilean Port.** We acted for the IDB in connection with both the original financing and the refinancing of the Mejillones port project in Chile. This transaction involved a BOT structured new port facility in the Bay of Mejillones, Chile, principally consisting of a multi-purpose terminal for the handling of metals products.

**Tecon Santa CatOrina.** We are advising the Inter-American Development Bank (IDB) in connection

with the Tecon-Santa Catarina port project in Brazil, which will be the project financing of the first privately-owned port in that country, to be located in the Babitonga Bay, Itapoá, State of Catarina, Brazil.

This project involves the construction and financing of a \$140.1 million, privately-owned but public-use greenfield container port, including infrastructure and superstructure for container berths, warehousing and logistics facilities, access roads and other facilities.

**African Greenfield Port.** We are advising a sponsor with a concession to construct and operate the first private port and related facilities in Equatorial Guinea. This \$800 million new port will contain the following facilities: two 1,000 foot concrete berths, facilities for 25,000 containers with four container cranes, break-bulk cargo facilities, ore grinding mills, and a 1.5 million barrel refined petroleum products storage and handling facility. In addition, the project includes road, rail and utility infrastructure facility.

Our responsibilities have included drafting the sovereign concession agreement, advising the sponsor on contracting strategy, preparation of terms sheets and other documents for the project documents and assisting in designing the financing terms and conditions.

**Aqaba.** We are acting for Aqaba Petroleum Company in connection with the development and operation of a new oil terminal port facility to be located in Aqaba, Jordan.

**Egyptian Port Expansion.** We have been involved for more than five years in advising the lead lender in a \$540 million gas-to-ammonia project in Egypt, whose export facilities are to be located at a new expansion of the first private port in that country. This assignment has involved due diligence on both the original and the new expansion concessions, and review and analysis of the dredging contracts, the construction contracts for the new berths, jetties and liquids facilities, and all other related contracts.

**Port of Portland.** We are counsel to the Port of Portland in connection with the potential long-term

concession and lease of the Port's Terminal 6 marine container terminal. Our responsibilities include drafting and negotiating the concession and lease agreement for the transaction, collaborating with the Port on the operating standards for the operation and maintenance of the terminal during the term of the transaction and advising the Port with respect to legal issues related to the bidding process.

**Port MacKenzie, Alaska.** We are acting as environmental and regulatory counsel in connection with the planned extension of a rail line to Port MacKenzie, Alaska. This 30- to 45-mile rail line extension is intended to provide the Port, its customers and shippers with efficient rail transportation between the Port and interior Alaska.

**New Intermodal Facility.** We are serving as environmental and regulatory counsel in connection with the development of a new intermodal facility and logistics park in the Midwest. Planned to accommodate growing volumes of container traffic from ports on the west coast, this intermodal facility and logistics park will include transload facilities with rail lines located adjacent to truck lanes so that containers can be loaded or unloaded directly from trucks to trains and from trains to truck.

## For More Information

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