

Freight rail projects in Colombia: Here are the risk allocation principles

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In recent years rail projects in Colombia have received a boost, in an attempt to reduce costs and times in logistics chains, among other benefits brought by a reactivation of the sector. This led to new legislation on a range of topics. In this article we describe the characteristics of the contractual risk policy for freight rail projects and their distribution. We also provide an overview of the rail projects currently in progress.

The 2020 CONPES 3982 document containing the National Logistics Policy in Colombia recommended the drawing up of a reactivation and promotion policy for rail transport. The response came in November 2020 when the Rail Master Plan was issued setting out the priorities for boosting rail transport in the country in institutional, legislative, regulatory and funding terms. The main benefits sought by implementing this plan include a reduction of costs and times in logistics chains, the attraction of foreign investment and an increase in the country's competitiveness.

In line with this, in September 2021 the CONPES 4047 document was issued, which adopts the characteristics of the government's contractual risk policy for freight rail systems with private investment in the country. This policy was issued to create a set of rules on risks for the structuring and development of rail projects with private investment, bearing in mind that a few rail projects involving freight transport are currently in a structuring process.

Shown below is the distribution of risks associated with rail projects according to the CONPES document:

Area	Risk	State-owned company	Private investor
Land	Management of the availability and purchase of private land.		X
	Management of the availability of land located in areas for public use or public vacant plots (<i>baldíos</i>) or land under the control of public entities.	X	
	Variations in the estimated value of privately owned land and socioeconomic compensation.	X	X
	Surveillance and holding of land, together with the related legal defense.		X
Environmental	Environmental management, and obtaining, amending or assigning licenses, permits, authorizations,	X Should the need arise from an amendment of the	X

	plans or instruments in relation to environmental matters.	regulations occurring after the opening date of the bidding process or after the feasibility approval date.	
	Variations in the estimated value of environmental compensation actions resulting from the issuing of licenses, permits, authorizations or instruments after the opening date of the bidding process or after the feasibility approval date.	X	X
	Variations in the estimated value of environmental compensation actions resulting from the issuing of licenses, permits, authorizations or instruments which have been assigned or are in force on the opening date of the bidding process or on the feasibility approval date.		X
	Changes to licenses, permits, authorizations, plans or instruments after their initial approval.		X
	Costs associated with the performance of works not envisaged in the technical specifications for the contract and which are requested by the public entity.	X	
Social and cultural	Relations with the community or stakeholders, such as steps under certified decisions stemming from prior consultation.	X After the opening date of the bidding process or the feasibility approval date.	X
	Variations in the estimated value for implementation of the decisions stemming from prior consultation.	X After the opening date for the bidding process or on the feasibility approval date.	X Before the opening date of the bidding process or the feasibility approval date.
	Losses, damage, expenses, charges or costs stemming from invasion of the project's infrastructure by third parties.		X
	Costs and actual cost overruns related to obtaining and complying with the permits for the use of or	X Where the permit or authorization is required after the	X Where the permit or authorization has been obtained on the

	interventions to property of cultural interest.	opening date of the bidding process or the feasibility approval date.	opening date of the bidding process or the feasibility approval date or where the permit has not been obtained at the time in question.
Social media	Transfer, alteration, protection or relocation of infrastructure for the transportation and supply of services.	X If contractually so defined.	X
Design	Variations in the costs of preparing and modifying the designs.		X
	Changes in design stemming from a unilateral decision by the granting entity.	X	
	Changes in design stemming from new works requested by the environment authority, or the granting entity.	X	
Construction	Structure of costs and times created by variations in the amounts used on-site, market prices of supplies and time periods for carrying out construction activities, provision, renovation or improvement of rail infrastructure.		X
	Need for more complex projects in terms of construction technique.	X	
Operation and maintenance	Structure of costs and times created by variations in amounts used on-site, market prices of supplies and time periods for carrying out operation and maintenance activities on rail infrastructure.		X
	Changes to technology which have to be implemented.	X	
	Non-availability of the line creating inability to transport freight on the rail corridor.	X	
	Incompatible components for the project or any potential effects of technical interfaces that occur, where the construction activities are not integrated with operation and maintenance activities.	X	
Rolling stock	Cost overruns in the supply, installation, assembly, testing and		X

	bringing into operation of rolling stock.		
	Variation in the costs of the elements needed to ensure the operating condition of rolling stock.	X Where they relate to a change in technical specifications	X
	Delays in delivery times of rolling stock.		X
	Costs and time periods for providing, installing and ensuring the operating condition of the project's equipment.		X
	Terms and conditions for rolling stock.		X
Commercial	Variation in regulated revenues.	X	X
	Variation in commercial operating revenues stemming from commercial operations.	X	X
	Variation in other revenues from commercial operations.		X
Finance	Not obtaining the financing for performance of the project.		X
	Alteration of the financing terms.		X
	Alteration of the composition of financing sources.		X
	Variation in the financing amount.		X
	Insufficient funds to pay for control and coordination and for contractual support.	X	
Liquidity	Insufficient liquid funds to perform the project.		X
Economic	Variations or changes in national or international economic cycles.		X
Exchange	Variation in the purchasing power of the Colombian peso with effects on any project income stream.		X
	Variation in project income streams.		X
Regulatory matters	Changes in the tariff structure for the project.	X	
	Changes in the tax legislation.	X	X
	Changes in the technical specifications.	X	
Force majeure	Uninsurable events.	X	

Insurable events.

X

In view of the mentioned rules for risk allocation in freight rail projects, the following projects are currently involved in structuring and implementation processes and although they are mainly for passenger transport, they are conceptually aligned with the CONPES document mentioned above, as well as the characteristics set out in the CONPES 3961 document for rail system projects co-funded by the government:

Project	Description	Competent entity	Status
Corredor férreo La Dorada - Chiriguana	This project involves renovation of this rail corridor, which was intended to carry up to 598 tons of freight and runs for 560 kilometers between La Dorada (Caldas) and Chiriguana (César).	National Infrastructures Agency	Feasibility
Tren del Caribe	A train intended to transport passengers along 363 kilometers of track running through 25 municipalities across three Departments.	The Atlántico, Bolívar and Magdalena government authorities, together with technical support from Findeter	Pre-feasibility
Tren de cercanías del Valle Del Cauca	Local train intended for passenger transport, running along 70 kilometers of track through the municipalities of Cali, Jamundí, Yumbo, Palmira and Alfonso Bonilla airport, in a medium and high capacity rail transport system.	Valle del Cauca government authority, Cali District, and Jamundí, Yumbo and Palmira local authorities.	Feasibility
Regiotram del Norte	A tram intended for passengers and freight, running along a line 48 kilometers long through the localities of Usaquén, Teusaquillo, Puente Aranda, Chapinero, Barrios Unidos in Bogotá and the Chía, Cajicá, and Zipaquirá municipalities.	Cundinamarca and Bogotá District government authority	Feasibility
Second Bogotá subway line	Most of the route is underground, and it runs for 15.5 kilometers through 11 stations, from the northeast part of the city at the crossroads between Calle 72 and Avenida Caracas, where it will join station 16 on the first subway line, and its terminus will be in the northwest area at Fontanar del Río.	Empresa Metro de Bogotá S.A.	Feasibility
Ferrocarril de Antioquia: Section 1 -Tren del Café	A rail line intended for freight transport running for approximately 187.7 kilometers between Caldas and Antioquia.	Promotora Ferrocarril de Antioquia S.A.S.	Feasibility

Ferrocarril de Antioquia – Section 2 -Tren del Río	A rail line intended for passenger transport. In the first stage of the Tren del Río project 46,5 km will be built between the Aguacatala sector in Medellín and the municipality of Barbosa, and in the second stage the remaining 16,5 km will be built, between the La Aguacatala sector and the municipality of Caldas, Antioquia.	Promotora Ferrocarril de Antioquia S.A.S.	Feasibility
Ferrocarril de Antioquia: Section 3 -Tren Verde	Rail line intended for freight transport between the municipalities of Barbosa and Puerto Berrío. It will be a continuation of the Ferrocarril de Antioquia in Sections I (Tren del Café) and II (Tren del Río).	Promotora Ferrocarril de Antioquia S.A.S.	Pre-feasibility
Metro Ligero de la Avenida 80	A light subway line running 13.25 km between Caribe and the La Aguacatala sector in the city of Medellín.	Metro de Medellín Ltda	Allocation process in progress
Regiotram Occidente	Tram line intended for passenger transport running for 39,6 km, connecting the western area (<i>sábana occidental</i>) of Bogotá with the first Bogotá subway line.	Empresa Férrea Regional	In progress.
Primera Línea del Metro de Bogotá	The first Bogotá metro line is intended for passenger transport, along a long route, running for 23.96 kilometers calling at 12 stations, between Portal Américas and Avenida Caracas.	Empresa Metro de Bogotá S.A.	In progress
Corredor férreo La Dorada - Chiriguáná	Renovation of the rail corridor, which is intended to transport up to 598 tons of freight, running for 560 kilometers between La Dorada (Caldas) and Chiriguáná (César).	National Infrastructures Agency	Feasibility

GARRIGUES

Isidora Goyenechea, 3477 - Piso 12
Las Condes - Santiago de Chile (Chile)
T +56 2 29419000
santiagodechile@garrigues.com

Avenida Calle 92, 11-57 - Piso 4
Bogotá D.C. (Colombia)
T +57 601 326 69 99
F +57 601 326 69 70
porto@garrigues.com

Corporativo Reforma Diana,
Paseo de la Reforma 412 Piso 26
Associate no. Juárez – 06600
Mexico City – Mexico
T +52 55 1102 3570
F +52 55 1102 96 3599
mexico@garrigues.com

Av. Víctor Andrés Belaúnde, 332
(Oficina 701)
San Isidro - Lima (Peru)
T +51 1 399 2600
F +51 1 399 96 2699
lima@garrigues.com

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