

BRAZIL: NEW REGULATORY FRAMEWORK FOR PUBLIC OFFER OF AREAS FOR MINERAL EXPLORATION AND MINING IS PROVING SUCCESSFUL

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I. The New Regulatory Framework

In early 2020, the Brazilian National Mineral Agency (ANM) issued a new regulatory framework for the public offer of areas that had reverted back to the government, and organized three tenders based on this framework. The public offer applies to areas that had been previously subject to exploration or exploitation rights that for some reason expired or were terminated. As a consequence, some geological knowledge regarding such areas presumably exists. The public offer procedure does not extend to areas deemed as free, which will remain subject to the first-come, first-served system.

The new regulations established a two-stage process: first, bidders should formalize their interest in an area or block of areas; second, an auction is held among them (if more than one) for the highest offered value. At the second stage of public tenders, neither the identity and number of bidders nor the bid offers are disclosed until the area is awarded. In practical terms, bidders do not know who they are competing with (speculators, junior exploration companies, local mining companies, global major producers, to name a few), and hence, how marketing is pricing each area.

The entire process is on-line, through an electronic system put in place by the ANM exclusively for the purposes of the public offers.

At the time these new regulations were issued, there were high hopes they would represent an important step forward towards the generation of new projects and investment opportunities in the mining industry. The old model was clearly inefficient, based exclusively on “technical proposals,” each of which was supposedly reviewed by an under-staffed federal government agency. Tenders were time-consuming and their outcome was often challenged due to the high level of subjectivity in technical reviews. More than 70,000 areas were ready for tender in Brazil when the new regulatory framework came into effect.

II. Experience With the New Model

Experience shows that new model is meeting the expectations – and some say it have exceeded them. The three tenders thus far have all been extremely successful for both the regulator and the industry.

The first tender was released in September 2020 as a pilot for the new model and the on-line system, focusing on minerals for the construction industry in 501 areas. The tender lasted three months and 37% of the areas were awarded.

The second tender took place in December 2020 and encompassed a vast range of minerals, such as iron ore, gold, copper and nickel. More than 6,800 areas were offered – 25% were awarded at the first stage, and 35% were auctioned. The tender results were

released in mid-May 2021. The highest bid offer was BRL 50,000,000.00 (*circa* USD 10,000,000.00). The average offer, however, was considerably below this threshold – less than BRL 100,000.00 (*circa* USD 20,000.00).

The third tender, which is currently underway for 2,762 areas, should be completed by the third quarter of 2021, when the bidding notice for the fourth tender is poised to be released.

No major issues were reported in any of the tenders held to date. The new regulations are proving efficient and the on-line system reliable. There are still a high number of areas ready for tender, and the government has apparently realized the public offer of areas is a convenient source of revenue in lieu of increasing taxes on the mining sector.

Exploration and mining companies have welcomed the opportunity of securing title to explore or mine areas of interest that had been unavailable for years. Companies established in Brazil are lobbying with the ANM to add other areas of interest to coming tender rounds, while foreign prospective investors are reviewing the government's portfolio of 70,000+ areas that are ready for tender seeking for opportunities to enter Brazil.

III. Conclusion

Brazil already is known as one of the most successful, stable, and friendly mining jurisdictions among developing countries. The country's geological potential, the confluence of public and private interests around the public offer of areas, the success of the first tenders, the nominal average price of the areas auctioned, and the recent boost in commodity prices are putting Brazil in an excellent place for investments in mineral exploration and mining worldwide.