

HRS Resilience Foundation

TECHNICAL PAPER 03

Concession Transparency Frameworks for Strategic Ports

Review, Award and Continuity in Panama, Peru and Brazil

PUBLICATION TYPE

Independent technical paper

PRIMARY ENVIRONMENT

Western Hemisphere

EDITION

October 2026

SERIES POSITION

Technical Paper 03

AUTHOR

André Vieira

INSTITUTION

HRS Resilience Foundation

Research integrity. Public research publication. Independent analysis. No U.S. Government endorsement or sponsorship. Not a procurement request, an endorsement of a vendor, or a representation of partnership with any government or private organization.

Evidence discipline. This publication presents an analytical framework. It does not represent the views, positions, endorsements or commitments of any government, international organization, university, donor or private company. It is not a legal opinion on any country's law.

CONTENTS

— Executive Summary	3
— Key Findings and Recommendations	4
01 The Technical Problem	5
02 Concession-to-Oversight Architecture	6
03 Instrument Classification and Oversight Mapping	7
04 Register: Titles, Contracts and Beneficial Ownership	8
05 Screen: Bidders, Transferees and Nationality-Neutral Criteria	9
06 Award: Competitive Tender and Transitional Designation	10
07 Monitor: Change-of-Control and Performance Triggers	11
08 Review: Periodic Review and Transition Continuity	12
09 Governance and Decision Rights	13
10 Performance Measurement	14
11 Implementation Framework and Technical Design Checklist	15
12 Policy Relevance and Durability Protocol	16
13 Conclusion	17
— Selected References	18

About this series. This Technical Paper is the third publication in the HRS Resilience Foundation's Western Hemisphere Readiness Series. It extends the framework approach introduced in Technical Paper 02^[19] from fiscal institutions to port-concession institutions, and draws on applied cases examined in Country Readiness Assessments 11 (Panama)^[15], 06 (Peru)^[16] and 01 (Brazil)^[17] and in Strategic Report 04^[18].

EXECUTIVE SUMMARY

Concession Transparency Frameworks for Strategic Ports

Port concessions are a readiness capability, not merely a procurement instrument. Between 2024 and 2026, three Western Hemisphere cases tested the same institutional question from different angles. In Panama, the Supreme Court voided on 29 January 2026 the 1997 contract-law under which Panama Ports Company operated the Balboa and Cristóbal terminals for almost thirty years.^{[1][2]} In Peru, courts and regulators contested for more than eighteen months whether Chancay, a privately titled public-use port 60 percent owned by COSCO Shipping Ports, falls under the transport-infrastructure regulator, a question now before the Constitutional Tribunal.^{[4][6][7]} In Brazil, China Merchants Port's agreement to acquire 70 percent of Vast Infraestrutura, the crude-oil terminal at Porto do Açu, is conditional on antitrust, port-regulator and state-asset approvals.^[10]

The technical problem is not that these regimes lack rules. Each country has an authority, a statute and a contract. The problem is that the points at which a state can see, test and revisit a concession were absent, concentrated in a single instrument, or exercised only after a crisis. In Panama, a contract renewed automatically in 2021 for another 25 years, after a board certification of compliance, was revisited through a constitutional ruling rather than a scheduled public review.^[2] In Peru, the regulator's authority over a privately titled port was settled by litigation rather than by registration.^{[4][6]} In Brazil, the acquirer's own summary of the principal closing conditions for a strategic terminal lists competition, sector-regulator and state-asset approvals, and does not list a separate national-security or foreign-investment review step.^[10]

This paper develops an operational framework, the HRS Port Concession Transparency Framework, around five linked stages: Register, Screen, Award, Monitor and Review. Each stage should have a decision right, a public record and a time-based indicator. The framework is nationality-neutral by design: it asks whether a state's process is visible and repeatable regardless of who the bidder or owner is. Panama, Peru and Brazil serve as applied cases; the framework is an analytical construct, not a legal opinion on any country's law.

CENTRAL TECHNICAL PROPOSITION

A strategic port concession is resilient when the state can see it (Register), test who is behind it (Screen), award it competitively (Award), observe changes of control and performance (Monitor), and revisit it on a schedule (Review), before a dispute, a court ruling or a takeover forces the question. The appropriate response may be a public registry, standing screening criteria, published tender rules, change-of-control triggers, a statutory review calendar, or a combination of these measures.

KEY FINDINGS AND RECOMMENDATIONS

Key Findings and Recommendations

Five findings from the three cases, each paired with a recommendation that applies to any strategic port, whoever the bidder or owner is.

Key Finding	Recommendation
In the three cases examined, oversight failed at the interfaces between instrument, regulator and owner rather than for lack of rules. ^{[1][2][4][10]}	Map every strategic port by instrument, term, owner and competent regulator before a dispute arises.
A port's legal classification decided which regulator had jurisdiction; in Peru that question took more than eighteen months and is now before the Constitutional Tribunal. ^{[4][6]}	Settle classification and supervisory scope when a port is authorized, and record both in a public registry.
Ownership can change above the concession instrument; in Brazil the Açú transaction runs through competition, port-regulator and state-asset approvals, with no separate strategic-ownership step listed in the acquirer's summary. ^[10]	Define a control threshold and a published, nationality-neutral screening step with a named decision owner.
Panama's 2021 automatic renewal left no scheduled reopening of terms; the contract was revisited by constitutional ruling and followed by direct interim designations. ^{[1][2]}	Replace automatic renewal with statutory review points, and publish a transition plan and a tender timetable before a concession ends.
Levers that do not depend on a dispute already exist: lease extensions tied to investment commitments and licence milestones. ^{[9][10]}	Attach notification, performance and licence triggers to every award and extension, and track them with the indicators in Section 10.

SECTION 01

The Technical Problem

Port-concession failures occur at the interfaces between instruments, authorities and owners. A state can hold a statute, a regulator and a signed contract and still lack a point at which any of them is tested: a long contract is renewed without a scheduled reopening, a terminal's legal classification decides which regulator has jurisdiction only after the terminal is built, and ownership changes at holding-company level without touching the concession itself.

Three cases examined in this series illustrate each failure. In Panama, the 1997 contract-law behind the Balboa and Cristóbal concession was extended automatically in 2021 for another 25 years and then declared unconstitutional by the Supreme Court on 29 January 2026, together with its addenda and the extension.^[2] In Peru, whether the transport-infrastructure regulator may supervise Chancay, a terminal the national port authority classified as privately titled, was decided by court rulings in January and June 2026, after a dispute that began in 2024, and is now before the Constitutional Tribunal.^{[4][5][6]} In Brazil, the pending acquisition of Vast Infraestrutura by China Merchants Port requires antitrust, port-regulator and acquirer-side state-asset approvals.^[10]

Failure Mode	Illustrative Mechanism
Automatic renewal	A long contract is extended without a competitive process or a scheduled reopening of terms (Panama, 2021). ^[2]
Classification dependence	Regulatory jurisdiction turns on how a port is classified (concession, lease, private title), and the classification is contested after construction (Peru, 2024–2026). ^{[4][6]}
Layered ownership change	Control moves through share transfers above the operating company, outside the concession instrument (Paranaguá, 2017–2020; Açu, 2025–2026). ^{[10][12]}
Screening gap	Approval steps address competition and sector regulation; a separate strategic-ownership step is not listed among the principal closing conditions summarized in the acquirer's filing (Açu). ^[10]
Transition improvisation	After an abrupt end of a concession, interim operators are designated directly and the permanent tender is designed afterwards (Panama, 2026). ^[1]
Enforcement discontinuity	Authority over a terminal changes with each court ruling rather than with a published rule (Peru, January and June 2026). ^{[5][6]}

Scope note: This paper presents an analytical framework, not a legal opinion on any country's law. Regulatory descriptions rely on public sources of varying dates and should be verified with local counsel. The status of three pending processes, Panama's permanent concession tender, the closing of the Açu acquisition and the Constitutional Tribunal's review in the Chancay case, is reported as of early October 2026 and may have changed.

SECTION 02

Concession-to-Oversight Architecture

The HRS Port Concession Transparency Framework treats concession governance as five linked stages. Each stage should have a decision right, a public record and a time-based indicator. The stages are a cycle rather than a one-time sequence: the outcome of each Review feeds the next Register.

Stage	Function	Case Illustration
1. Register	Maintain a public record of port titles, instruments, terms and beneficial owners.	Chancay was classified by the national port authority as privately titled; the scope of regulatory oversight was litigated from 2024 and was before the Constitutional Tribunal as of mid-2026. ^{[4][6]}
2. Screen	Apply published, nationality-neutral criteria to bidders and to transferees of control.	Closing of the Açu acquisition is conditional on antitrust, port-regulator and acquirer-side state-asset approvals. ^[10]
3. Award	Tender competitively on published criteria; limit transitional awards in scope and duration.	Panama contracted two separate 18-month interim operators in February 2026 and is preparing a permanent international tender. ^[1]
4. Monitor	Trigger a review on changes of control and on performance shortfalls.	Paranaguá’s operator moved from a 90% to a 67.5% China Merchants holding in 2020; the terminal lease extension was linked to investment commitments. ^{[9][12]}
5. Review	Run a statutory review calendar with a transition plan.	Panama's 1997 contract was renewed automatically in 2021 to 2047 and voided by the Supreme Court in early 2026. ^[2]

TECHNICAL NOTE

Each stage is only as strong as the stage before it: a screening step cannot test an ownership chain that was never registered, and a review calendar cannot reopen terms that no record shows.

SECTION 03

Instrument Classification and Oversight Mapping

Oversight follows the instrument, not the importance of the asset. The same strategic terminal can sit under a contract-law, a lease, a private authorization or an interim designation, and each places the public record, the competent regulator and the review point in a different place. Brazil's port statute, Law 12,815 of 2013, distinguishes leases of areas inside organized ports from authorizations for private-use terminals, and the port regulator ANTAQ, created by Law 10,233 of 2001, manages port-lease contracts.^[8]

Instrument Type	Case	Oversight Hook	Typical Transparency Gap
Concession by contract-law	Balboa and Cristóbal (Panama), Law 5 of 1997	Contract terms and the maritime authority AMP ^{[1][2]}	Terms embedded in a statute; in practice the terms were reopened through a constitutional challenge
Lease inside an organized port	TCP, Paranaguá (Brazil)	ANTAQ contract management; early extension against investment commitments ^{[8][9]}	Extension negotiated with the regulator; ownership changes occur above the lease
Privately titled public-use port or private terminal	Chancay (Peru); Vast, Açu (Brazil)	Competence depends on classification and public-use status; ANTAQ approval is a closing condition for Vast ^{[4][6][10]}	Scope of oversight contested until litigated, or arranged case by case
Interim designation	Balboa and Cristóbal, 2026	The authority's own resolutions ^[1]	Short duration; scope and succession depend on a later tender

TECHNICAL NOTE

A classification that is clear on the day a port is authorized prevents a jurisdiction dispute after it is built. In Chancay, whether public-use status brings a privately titled port under the regulator's authority was decided in COSCO's favor in January 2026 and reversed on appeal in June 2026, about twenty months after the amparo action was filed; a constitutional appeal is now pending.^{[5][6][7]}

SECTION 04

Register: Titles, Contracts and Beneficial Ownership

A registry should let any official or bidder answer five questions about a strategic port: what is the title, under which instrument, with what exclusivity, owned by whom, and supervised by which authority. Chancay shows what happens when those answers are contested. The national port authority classified the terminal as a privately titled port and granted operational exclusivity by administrative resolution in 2021; in March 2024 it moved to annul that exclusivity, citing an administrative error, and the dispute culminated in Law 32048, published in June 2024, under which exclusivity in essential port services requested by the owner of a private port is approved automatically once port enablement is granted.^{[4][7]}

The oversight question followed. COSCO Shipping Ports Chancay Perú, owned 60 percent by COSCO Shipping Ports and 40 percent by Volcan, filed an amparo action in late October 2024 arguing that a private port is outside the regulator Ositrán's jurisdiction; Ositrán answered that its authority rests on public-use status, not on ownership or a concession contract.^[7] A Lima court sided with COSCO on 29 January 2026, leaving tariff intervention, conditioned on a prior Indecopi decision, as the only exception; the cabinet office said it was evaluating recourse, and on 11 February 2026 the U.S. State Department's Bureau of Western Hemisphere Affairs publicly expressed concern about the ruling.^[5] On appeal, the Second Constitutional Chamber of the Lima Superior Court reversed that ruling by a decision of 17 June 2026, announced by Ositrán on 1 July, and declared the amparo inadmissible on the ground that the contested acts were a regular exercise of Ositrán's legal competences and not a certain and imminent threat to fundamental rights; according to Ositrán, the terminal is subject to its regulation, supervision, inspection and sanction functions.^[6] COSCO filed a constitutional appeal (recurso de agravio constitucional), which the chamber granted on 24 July 2026, sending the file to the Constitutional Tribunal; the resolution granting the appeal does not rule on the merits of the dispute.^[6]

Registry Field	Why It Matters	Case Reference
Title and classification	Determines whether public-use infrastructure rules apply	Chancay: classified as privately titled; the appellate ruling and Ositrán treat it as public-use infrastructure subject to Ositrán's functions ^{[4][6]}
Instrument, term and renewal rights	Shows when terms can be reopened	Balboa and Cristóbal: 25-year contract with a 25-year automatic renewal exercised in 2021 ^[2]
Exclusivity or priority rights	Affects competition between terminals	Chancay: exclusivity granted in 2021, challenged in 2024, then covered by statute ^{[4][7]}
Ownership chain to the ultimate controller	Identifies who controls the operator	Paranaguá: 90% in 2017, 67.5% after a 22.55% sale to two investment funds in 2020 ^[12]
Competent regulator and scope	Avoids jurisdiction litigation	Chancay: regulator's competence contested from 2024; under Constitutional Tribunal review as of mid-2026 ^{[6][7]}

SECTION 05

Screen: Bidders, Transferees and Nationality-Neutral Criteria

Screening is the stage most often reduced to whichever approvals already exist. In Brazil, China Merchants Port's February 2025 agreement to acquire 70 percent of Vast made closing conditional on antitrust approval from CADE, approval from the port regulator ANTAQ, and approval of, or filing with, China's state-owned assets regulator, alongside third-party consents and a corporate restructuring of Vast.^[10] The agreement was amended and restated on 27 November 2025, extending the long-stop date to 28 November 2026; this paper did not locate confirmation that closing had occurred.^[11]

According to the acquirer's filing, the terminal handles approximately 30 percent of Brazil's crude oil exports and is the only privately operated terminal in Brazil, outside Petrobras facilities, able to receive very large crude carriers.^[10] The filing's summary of principal conditions does not list a separate national-security or foreign-investment review step. This paper takes no position on whether such a step should exist; the technical point is that a screening stage needs an owner and published criteria, whatever the buyer's nationality.

Screening Element	Technical Requirement
Beneficial-ownership disclosure	Bidders and transferees disclose ownership to the ultimate controller, including state-owned shareholders.
Published criteria	Financial capacity, operating record and conflict-of-interest tests are published and identical for every bidder.
Control thresholds	The share or governance right that counts as a change of control is defined in advance.
Operator-user overlap	The overlap between an operator and the principal users of the terminal is examined; the Balboa interim operator was described in its designation as the terminal's principal current user. ^[1]
Decision owner	One identified authority is responsible for the screening decision and its public record.

SECTION 06

Award: Competitive Tender and Transitional Designation

After the ruling, Panama's maritime authority took possession of the terminals by occupation decree and, by resolutions adopted in February 2026, contracted APM Terminals Panamá for Balboa (US\$26.1 million for 18 months) and TiL Panamá for Cristóbal (US\$15.8 million), replacing one contract for both ports with two separate ones.^{[1][3]} The designation of APM Terminals cites its experience in 60 ports and its status as the principal current user of Balboa.^[1] The government has stated that a permanent concession will be tendered internationally on terms it describes as considerably more favorable to the State.^[1]

The earlier award provides the comparison. The 1997 contract committed Panama Ports Company to a fixed annual fee of US\$22.2 million plus 10 percent of gross revenue; at the 2021 renewal the State received US\$150 million and projected more than US\$800 million over the following 25 years.^[2]

Award Design Choice	Panama 2026 Interim Practice	Consideration for the Permanent Tender
Number of instruments	Two separate contracts, one per terminal	Keeps open the option of different operators for each terminal
Duration	18 months, expiring around August 2027 if counted from late February 2026	Define a fallback if the permanent award is delayed
Selection basis	Direct designation citing experience and current-user status	Publish the rationale; limit scope to continuity functions
Economic terms	US\$26.1 million and US\$15.8 million contract values	Compare against the published 1997 and 2021 terms
Permanent award	International tender being prepared; this paper did not locate a published tender	Publish timetable and criteria before bids are invited

SECTION 07

Monitor: Change-of-Control and Performance Triggers

Monitoring turns a concession from a one-time award into a continuing relationship. In Brazil, the 2017 decree implementing the port statute makes prior analysis by ANTAQ part of the approval of transfers of the titularity of concession, lease and authorization contracts.^[8] In the Vast transaction, ANTAQ approval is also a closing condition even though the transfer is of shares rather than of a contract.^[10] The technical question is whether such a review is triggered by a published rule or arranged case by case.

Performance commitments are the second trigger. The early extension of the TCP lease at Paranaguá, signed with the federal government in 2016, moved its expiry from 2023 to 2048 against investment commitments of about R\$1.1 billion, of which R\$548.5 million for 2024–2048 is supervised by ANTAQ.^[9] The original Vast agreement tied part of the consideration to Vast obtaining certain operating licences and approvals by the end of 2026 or 2027.^[10] In both cases the regulator or the counterparty holds a lever that does not depend on a dispute.

Trigger	Technical Standard
Share transfer above a threshold	Notification to the port authority within a fixed period, whether or not the concession contract itself is transferred.
Change in the ultimate beneficial owner	Update of the public registry and a screening decision on the new controller.
Financing events and liens	Disclosure of pledges over shares, assets or revenues of the operator.
Performance shortfall	Defined remedies against investment, throughput and service commitments, applied on a published schedule.
Licence or approval milestones	Tracking of operating licences whose grant or loss changes the value or lawfulness of the concession.

SECTION 08

Review: Periodic Review and Transition Continuity

Panama's Balboa and Cristóbal concession shows how a missing review calendar converts a contract question into a crisis. The 1997 contract ran for 25 years and was renewed automatically in 2021 for another 25 years, to 2047, after the maritime authority's board unanimously certified compliance with the contract.^[2] On 29 January 2026 the Supreme Court declared the contract-law, its addenda and the 2021 extension unconstitutional; the ruling was published in the Official Gazette on 23 February 2026, with the Court specifying that its effect is that no concession exists.^[2] Panama Ports Company ceased operations that day; the authority took possession by occupation decree and assumed temporary administration under Article 29 of the General Ports Law, stating that the measure was not an expropriation and that the equipment remained the concessionaire's property.^[3] CK Hutchison described the end of the concessions as illegal, and PPC has begun arbitration under International Chamber of Commerce rules.^[3]

The interim contracts last 18 months, so the transition itself now needs a review point.^[1] A review stage converts events of this kind from crises into calendar items: a scheduled review, a published compliance record and a transition plan agreed before the contract ends.

Review Element	Technical Standard
Statutory review points	Fixed intervals at which terms can be reopened, in place of automatic renewal.
Public compliance record	Compliance findings published, not only certified by the granting authority's board.
Transition plan	Operator continuity, workforce guarantees and asset handover agreed before expiry or termination.
Asset-ownership rules at exit	Treatment of equipment and works defined in the instrument.
Dispute path	Forum and timetable for disputes defined, so that arbitration or litigation does not stall continuity.

SECTION 09

Governance and Decision Rights

Decision rights should be written before a dispute: who registers, who screens, who awards, who monitors and who reviews. The three cases show different allocations of those rights, and in each case at least one stage had no clearly identified owner until a dispute or a transaction forced the question.

Country	Authorities Appearing in the Cases	Role in the Case
Panama	Maritime Authority of Panama (AMP); Supreme Court	AMP granted and administered the concession, took possession and contracted interim operators; the Court voided the contract-law. ^{[1][3]}
Peru	National Port Authority (APN); Ositrán; Indecopi; the courts	APN classified the terminal and granted exclusivity; Ositrán's competence and the exclusivity were disputed among the agencies and in court. ^{[4][6]}
Brazil	ANTAQ; CADE	ANTAQ and CADE approvals are closing conditions for the Vast acquisition; ANTAQ manages port lease contracts. ^{[8][10]}

Decision Domain	Illustrative Authority Structure
Registry of titles and owners	Port authority maintains a public registry; regulator has read access.
Screening of bidders and transferees	Defined inter-agency panel with published criteria and a single accountable decision owner.
Transitional designations	Authority resolution with a published rationale, a fixed term and legislative or audit notification.
Change-of-control review	Port regulator with competition-authority consultation on a published schedule.

SECTION 10

Performance Measurement

Port-concession governance should be measured with time-based indicators of how quickly and how openly each stage operates, not only with the count of concessions awarded.

Indicator	What It Measures
Registry completeness	Share of strategic port titles with a public record of instrument, term, exclusivity, regulator and ownership chain.
Screening cycle time	Days from submission to a published screening decision for a bidder or transferee.
Competitive-award share	Share of concessions and extensions awarded through a published competitive process.
Change-of-control notification lag	Days between a share transfer above threshold and its notification to the authority.
Review-calendar adherence	Share of scheduled reviews completed on time, with a published record.
Interim-period overrun	Months by which a transitional designation exceeds its planned term.

SECTION 11

Implementation Framework and Technical Design Checklist

The five-stage framework translates into a practical sequence applicable to any state with strategic ports, not only the three examined here.

Phase	Primary Activity	Expected Output
1. Baseline	Inventory strategic ports by instrument, term, owner and competent regulator.	Concession baseline.
2. Register	Establish a public registry and assign its custodian.	Visible titles and ownership chains.
3. Screen	Publish screening criteria and name a decision owner.	Repeatable, nationality-neutral screening.
4. Award and monitor	Tender competitively; define change-of-control and performance triggers.	Continuing oversight after award.
5. Review	Adopt a review calendar and transition plans.	Continuity across contract expiry or termination.

Element	Design Question
Classification	Is the legal classification of each strategic port settled on the day it is authorized?
Registry	Can an official or bidder see title, term, exclusivity, regulator and ownership chain in one place?
Screening	Are criteria published, identical for every bidder, and owned by a named authority?
Award	Are extensions and transitional awards subject to published limits on scope and duration?
Monitoring	Does a share transfer above threshold trigger notification even if the contract is not transferred?
Review	Does the instrument fix review points in place of automatic renewal?
Transition	Is there a transition plan that does not depend on a direct designation made after the fact?

SECTION 12

Policy Relevance and Durability Protocol

This section links the framework to initiatives that governments have already announced, and sets out how the paper is meant to be kept current. The nationality-neutral design of the framework is HRS's own; it is offered so that any partner government can adopt registry, screening, award, monitoring and review steps without presupposing a position on any particular investor.

Initiative	Status	Relevance to the Framework
Joint Statement on Defending Hemispheric Sovereignty, 22 September 2026	Fifteen governments, including Panama, Peru and the United States, stated their intention to explore investment screening mechanisms and to promote trusted-supplier regulations for digital infrastructure applied on a non-discriminatory basis; Brazil is not among the signatories. ^[13]	The Register and Screen stages give the exploration of screening a port-specific, operational form.
Securing Partner Supply Chains Act (Senators Curtis and Kaine)	Bipartisan bill introduced in the Senate on 24 June 2026 (S. 4899, announced 29 June); it would establish a State Department-led Initiative on Foreign Investment Screening to help partners build screening mechanisms, and its background statement cites port facilities in Mexico, Brazil and Panama; this paper did not locate evidence of enactment. ^[14]	Registry and screening steps are the kind of capacity such assistance would support.
Statement of the State Department's Bureau of Western Hemisphere Affairs on Chancay, 11 February 2026	Public expression of concern about a ruling limiting the host-state regulator's supervision of the port. ^[5]	Illustrates the Register and Monitor gaps examined in Sections 04 and 07.

The paper has two layers. The framework layer (Sections 02, 03 and 09 to 11) is structural and nationality-neutral, and is designed to remain valid across changes of government; it applies to any strategic port and, with the instrument table adapted, to other strategic infrastructure such as cables, terminals and data facilities. The case layer (Sections 01 and 04 to 08) records three processes as of early October 2026 and will age. The paper is revised when a trigger below occurs: the case layer is updated, and the framework layer changes only if a trigger exposes a design flaw.

Watch Item	Status at Cutoff	Update Trigger
Panama permanent concession tender	Being prepared; no published tender located	Publication of tender rules or an award; expiry of the interim contracts (around August 2027)
Açu (Vast) acquisition	Closing not confirmed; long-stop date 28 November 2026	Closing, extension or lapse of the agreement
Chancay constitutional appeal	Before the Constitutional Tribunal	A ruling of the Tribunal
Brazil change-of-control rules	No dedicated screening step identified in the acquirer's filing	A new rule, regulation or approval step

Version control: V1.0, October 2026. Scheduled review after 28 November 2026 (the Açu long-stop date) and no later than April 2027, or earlier on any trigger above.

SECTION 13

Conclusion

Panama, Peru and Brazil are not variations of one dispute. They are three views of the same design question: whether a state can see, test, award, monitor and revisit a strategic port concession before a court ruling, a takeover or a transaction forces the answer. Panama's contract was renewed without a scheduled reopening and voided by a constitutional ruling; Peru's regulator learned the extent of its authority over a private-title port through litigation; and Brazil's change-of-control review for a strategic terminal runs through competition, sector-regulator and state-asset approvals rather than through a dedicated screening step identified in the acquirer's filing.^{[1][2][4][6][10]}

The HRS Port Concession Transparency Framework developed in this paper (Register, Screen, Award, Monitor and Review) offers a structured starting point for states, partners and technical-assistance providers evaluating port-concession readiness. It applies equally to any bidder or owner, which is its purpose: transparency that does not depend on the nationality of the investor.

CLOSING TECHNICAL NOTE

A concession contract, however well drafted, is a necessary but insufficient condition for port readiness; the determining factor is whether the registry, screening, award, monitoring and review capacity around that contract is in place before the question is forced.

SELECTED REFERENCES

Selected References

CASE AND REGULATORY REPORTING

- [1] La Estrella de Panamá; La Prensa (Panamá); TVN Noticias. Transition of the Balboa and Cristóbal ports: Maritime Authority of Panama (AMP) takeover, interim contracts with APM Terminals Panamá (Resolution No. 4) and TiL Panamá (Resolution No. 5, 23 February 2026), and preparation of a permanent tender. January–February 2026.
- [2] Órgano Judicial de Panamá, communiqué of the Plenary of the Supreme Court, 29 January 2026; TVN Noticias (Official Gazette publication, 23 February 2026); La Prensa (Panamá); Revista Summa (EFE). Panama Ports Company concession: 1997 contract and fee terms, AMP board renewal of 23 June 2021 to 2047, and the declaration of unconstitutionality of Law 5 of 1997, its addenda and the 2021 extension. 2021–2026.
- [3] Mundo Marítimo, CK Hutchison califica como ilegal fin de concesiones en Balboa y Cristóbal tras toma estatal de ambas terminales (25 February 2026); Autoridad Marítima de Panamá, Comunicado No. 45 (March 2026, via Telemetro): temporary administration under Article 29 of the General Ports Law and PPC's arbitration under ICC rules.
- [4] Bonifaz, J. L. and Aguirre, J. C. Retos de regulación y competencia relacionados con el Puerto de Chancay. Universidad del Pacífico, Lima, June 2026.
- [5] América TV (Andina); Canal N; Peru Retail. Communiqué of the Presidency of the Council of Ministers (PCM) of 11 February 2026 and first-instance ruling of 29 January 2026 (Resolución N.º 6); EFE and Bloomberg Línea (statement of the U.S. Department of State's Bureau of Western Hemisphere Affairs, 11 February 2026). February 2026.
- [6] Ositrán (gob.pe), Segunda Sala Constitucional ratifica competencia del Ositrán para supervisar el Terminal Portuario de Chancay, press release, 1 July 2026; Gestión (Resolución de Vista N.º 13 of 17 June 2026; Resolución N.º 16 of 24 July 2026 and the recurso de agravio constitucional); PortNews, 2 July 2026.
- [7] Congreso de la República del Perú, Centro de Noticias, and Andina (text and publication of Law 32048, 6–7 June 2024); Diálogo Américas (Chancay regulatory dispute, 2024–2026).
- [8] Federative Republic of Brazil. Lei n.º 12.815/2013 (Lei dos Portos); Decreto n.º 8.033/2013; Decreto n.º 9.048/2017. Texts consulted via LegJur and Poder360; ANTAQ established by Lei n.º 10.233/2001, as described in a Tribunal de Contas da União postgraduate study on ANTAQ's analysis of early extensions of port-lease contracts.
- [9] Tribuna do Paraná (Estado Conteúdo); Agência Estadual de Notícias do Paraná. Early renewal of the lease of the Paranaguá Container Terminal (TCP) to 2048 against investment commitments of R\$1.1 billion. 2016–2017.
- [10] China Merchants Port Holdings Company Limited. Discloseable transaction: acquisition of Vast in Brazil. The Stock Exchange of Hong Kong, 28 February 2025.
- [11] China Merchants Port Holdings Company Limited. Announcement of the amended and restated share purchase agreement for Vast, 27 November 2025, The Stock Exchange of Hong Kong, as summarized by Bulletin Express (27 November 2025) and Deep News (1 December 2025); TradeWinds, 2 April 2026.
- [12] Container Management; Mundo Marítimo; FreightWaves. China Merchants and the Paranaguá Container Terminal: 90% acquisition (2017) and sale of a 22.55% stake to two investment funds (2020). 2017–2020.

POLICY AND LEGISLATIVE CONTEXT

- [13] U.S. Department of State, Office of the Spokesman. Joint Statement on Defending Hemispheric Sovereignty, 22 September 2026. state.gov/releases/office-of-the-spokesman/2026/09/joint-statement-on-defending-hemispheric-sovereignty/
- [14] U.S. Senate. S. 4899, Securing Partner Supply Chains Act (119th Congress), introduced 24 June 2026, text via govinfo; Office of Senator John Curtis, press release, 29 June 2026.

RELATED HRS RESEARCH OUTPUTS

- [15] HRS Resilience Foundation. Country Readiness Assessment 11 — Panama: Institutional Readiness, Canal Security and Hemispheric Logistics. September 2026.
- [16] HRS Resilience Foundation. Country Readiness Assessment 06 — Peru: Institutional Readiness, Strategic Infrastructure and Hemispheric Supply-Chain Security. September 2026.
- [17] HRS Resilience Foundation. Country Readiness Assessment 01 — Brazil. September 2026.
- [18] HRS Resilience Foundation. Strategic Report 04 — China's Bi-Oceanic Pivot: South American Land Corridors as a Panama Canal Alternative. October 2026.
- [19] HRS Resilience Foundation. Technical Paper 02 — Fiscal Transparency Frameworks for Resource-Boom States. September 2026.

HRS Resilience Foundation

Independent research for institutional readiness, continuity, and 50-year resilience planning across the Western Hemisphere. Research Outputs span Strategic Reports, Policy Briefs, Technical Papers, Sector Readiness Assessments and Country Assessments, translating public-source evidence into practical frameworks built to remain valid for governments, infrastructure operators, investors, and institutional decision-makers across changes in technology, suppliers, and political leadership.

RESEARCH OUTPUTS TO DATE

STRATEGIC REPORTS

Strategic Report 01 — Health Security and Institutional Resilience in the Americas
Strategic Report 02 — Resilient Infrastructure Investment in the Western Hemisphere
Strategic Report 03 — Strategic Dependency Patterns Across the Western Hemisphere
Strategic Report 04 — China's Bi-Oceanic Pivot: South American Land Corridors as a Panama Canal Alternative

POLICY BRIEFS

Policy Brief 01 — Strengthening Regional Health Emergency Readiness in the Americas
Policy Brief 02 — Operationalizing the Economic Pillar of the Shield of the Americas
Policy Brief 03 — Operationalizing the Security Pillar of the Shield of the Americas

TECHNICAL PAPERS

Technical Paper 01 — Building Resilient Health Supply Chains
Technical Paper 02 — Fiscal Transparency Frameworks for Resource-Boom States
Technical Paper 03 — Concession Transparency Frameworks for Strategic Ports

COUNTRY ASSESSMENTS

Country Readiness Assessment 01 — Brazil
Country Readiness Assessment 02 — Venezuela
Country Readiness Assessment 03 — Cuba
Country Readiness Assessment 04 — Colombia
Country Readiness Assessment 05 — Bolivia
Country Readiness Assessment 06 — Peru
Country Readiness Assessment 07 — Ecuador
Country Readiness Assessment 08 — Paraguay
Country Readiness Assessment 09 — Chile
Country Readiness Assessment 10 — Argentina
Country Readiness Assessment 11 — Panama
Country Readiness Assessment 12 — Guyana

SECTOR ASSESSMENTS

SRA 01 — Telecommunications & Digital Infrastructure
SRA 02 — Data Centers, Cloud & AI Infrastructure
SRA 03 — Critical Minerals & Strategic Materials
SRA 04 — Rare Earths & Western Hemisphere Mineral Security
SRA 05 — Energy Security & Strategic Power Infrastructure
SRA 06 — Ports, Logistics & Maritime Infrastructure
SRA 07 — Food Security & Strategic Agricultural Resilience
SRA 08 — Pharmaceutical & Medical Supply Chains
SRA 09 — Advanced Manufacturing & Industrial Capacity
SRA 10 — Western Hemisphere Strategic Infrastructure & Resilience

André Vieira, MD

FOUNDER & CHAIRMAN, HRS RESILIENCE FOUNDATION