

TAKING STOCK OF US RAILWAY EXPANSION - GREENBERG TRAURIG

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It was the railroads that built America and the expansion and redevelopment of the country's networks may yet offer a new route to economic recovery

The US is falling back in love with the railways and is likely to get its first true high-speed railway lines over the coming decade, as the country sees growing investment in its network infrastructure, says Patricia Menéndez-Cambó, Chair of the Global Practice and Co-Chair of the Global Energy & Infrastructure Practice Group at international firm Greenberg Traurig.

"Rising fuel and transport costs combined with the levels of security that surround air travel mean that there is now more interest in the use of the railways than ever before. And this is being translated into new Federal incentives and investment including, finally, the development of a high-speed rail network."



Based in the firm's Miami office, she is well-placed to comment on the scale and pace of developments. Florida had been expected to be the home of the country's first high-speed link, connecting Orlando and Tampa. But in response to perceived voter dissatisfaction with an increasing US Federal budget deficit, the newly-elected Florida Governor Rick Scott returned approximately US\$2bn in Federal funds destined for the project, effectively cancelling the planned start of work.

"Of the two high-speed lines proposed for Florida, the other being Orlando to Miami, it was considered the most likely to be completed in the near term," says Menéndez-Cambó. "The expectation was that its success would have served as a 'proof of concept' for other more difficult developments nationwide."

In February, US Vice President Biden nonetheless proposed investing \$53bn in improved passenger rail service over six years and so despite the local disappointment, projects elsewhere are moving forward, says fellow Partner Yosbel Ibarra.

"Florida's loss is others' gain, particularly California's. The US is vast and there is an acceptance that we need a more aligned railway network, which encompasses short-rail and metro services as well as high-speed inter-city routes and an improved goods transport network."

Immediate attention is therefore now switching to routes in the Midwest, between Chicago and St Louis, to the line between Boston and Washington DC, and in California where the state plans an 800 mile route connecting Los Angeles and San Francisco.

"Clear issues remain around the ability of the State and Federal Governments to fund these projects and Governors facing budgetary constraints are however wary of taking on even more debt," says Ibarra.

Several States, including California, have however now established high-speed rail authorities to offer oversight of projects and there is a general consensus that these will be built using public-private partnership (P3) structures.

"There are though still some battles to be won in overcoming some of the negative connotations that surround P3 projects in the US, and reassurances that it will not be the taxpayer that ultimately pays the final bill if such projects do encounter construction problems or fail to meet revenue projections," says Menéndez-Cambó.

A major issue also to overcome is credibility, she adds. "When international investors look at rail projects in the US they see 'stop-start'. Some states have been unable to deliver even after initial investments and planning, so there is likely to be a greater demand for certainty in the execution of future plans."

There is though a sense that the rail projects now being planned will be better thought through and issues more fully formed.

"This extends to planning, zoning and financing issues that you would face in any complex infrastructure project, but also to the required regulatory changes specific to rail, such as Federal safety standards, that have to be updated to reflect the realities of high-speed travel," says Ibarra. The current debate over high-speed rail therefore echoes that seen in the renewable energy sector, and similarly presents tremendous opportunities for Spanish infrastructure companies and operators, says Menéndez-Cambó.

"There is a consensus that this is a good thing and that we need it. But the primary challenge is where will the money come from and how will deals be structured. The scale of opportunities is vast and very few leading international infrastructure businesses are going to be likely to ignore the US market."