

## **Merger agreed, now LAN-TAM must seal approvals**

*Tuesday, 17th August 2010 by David Thorley*

**Closing the LAN-TAM airline merger, announced on Friday, could take between six and eight months as shares in the newly merged company are listed and the deal secures regulatory approval, says Pinheiro Neto Advogados' Alexandre Bertoldi, counsel to LAN.**

**'The agreement has been concluded, but now its application is extremely complicated. There is a lot to do from now: a lot of regulatory approval to get and the listing and delisting of two companies,' says Bertoldi.**

**'It's a very complex structure because, both in Brazil and in Chile, there are regulations in relation to foreign ownership of airlines,' he explains, adding that the legal teams' immediate task is to organise the delisting of TAM's shares in Brazil, as well as preparing an share exchange offer for the company's minority shareholders.**

**This offer, he says, will be made on the same terms as the offer made to the company's controlling shareholder, the Amaro family.**

**'That, at least, saved a lot of justification and explanation from us,' he says, adding, if it was a different rate, 'it would have been a good deal more work for us.'**

**Although Brazil only has two major airlines, TAM and Gol, Bertoldi says that he does not anticipate that the deal's antitrust implications will be significant.**

**'Antitrust is going to be an issue, but in Brazil, LAN has a place only in the cargo business, so they are not a major player in the sector. It still has to be approved by the antitrust authorities, but I wouldn't say it's a major concern,' he says.**

LAN's other legal advisors are Claro y Cía in Chile and Sullivan & Cromwell LLP in the US, while Machado, Meyer, Sendacz e Opice Advogados in Brazil, Chile's Cariola, Diez, Pérez-Cotapos & Cía Ltda and Clifford Chance LLP are advising TAM.

TAM's shareholders have retained Brazilian firm Turci Advogados.

**Bertoldi says that Pinheiro Neto came to the deal having worked for LAN before, though never on a major scale.**

**'We got the deal through a combination of factors: we have worked very closely with both Claro and Sullivan & Cromwell,' he explains.**

**Negotiating the merger agreement, he says, was a smooth process given that sitting opposite Machado Meyer at the deal table is a familiar experience for Pinheiro Neto's lawyers.**

**'We see each other on the other side all the time. We are competitors, but I can say we are friends, and we have an excellent relationship with them, as we do with Claro, Sullivan & Cromwell, and Clifford Chance,' he says.**

**Bertoldi says that 'depending on the outcome of this, I think the LAN-TAM deal might cause some movement in the sector.'**

**Although insisting that Pinheiro Neto and Machado Meyer are well placed to take a slice of any business that spills out of this deal, Bertoldi also says 'This is still an M&A and although the structure is a very complex one it's not proprietary and I think that other people will try to replicate it.'**

Counsel to TAM

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Clifford Chance LLP

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Brazil

Machado, Meyer, Sendacz e Opice Advogados

Partners Antonio Corrêa Meyer, Carlos José Rolim de Mello and Raquel Novais and associates Fernando Tonnani, Fabio Falkenburger and Paula Magalhães

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