

German Infrastructure Stimulus Packages: necessity is the mother of invention

Following years of growth, the German economy is struggling, gradually being sucked into the vortex of the credit crunch. As in most other jurisdictions, politicians are intensively discussing the appropriate counter-measures. But whereas many other states are focussing on tax reductions, the German government has also been concentrating on substantially increasing public investments resorting to even shelving the lofty goal of budget consolidation by 2011.

Funded by the Federal Budget, the German States (*Laender*) as well as the recently increased heavy goods vehicle motorway tolls, the infrastructure-related packages worth a two digit billion Euro amount will basically comprise of the following:

December 2008: First Infrastructure Stimulus Package

- Adopted in December 2008 and resulting in an approximate **10 per cent increase to the standard Federal budget for transport infrastructure**, the First Infrastructure Stimulus Package provides for an envisaged **additional €1 billion of investments in 2009 and 2010** respectively.
- **Sector allocation:** The additional funding in the next two years will mainly be allocated to federal roads at €950 million (2009: €550 million), waterways at €430 million (2009: €280 million) and rail at €620 million (2009: €170 million).
- €450 million will be spent **on 44 new road projects**, with the acceleration of projects already in the pipeline being funded by an additional approximately €245 million. Maintenance for existing road infrastructure will be improved, with a focus on ring roads, federal roads, and lorry parking spaces for €220-250 million.
- Apart from roads, **13 rail projects** (worth up to €420 million) as well as improvement to **railway stations** (€150 million), **harbours** (€210 million) and **waterways** (€170 million) and **noise protection** (€50 million) are a key focus with funds being allocated to the German States (*Laender*) by way of a fixed allocation formula.

The idea is to penetrate existing transport infrastructure bottlenecks and solve the maintenance backlog. Key sample projects are, accordingly, likely to include the following:

- **Roads** (each exceeding a project investment of €100 million): the 6-lane extension to the A8 Karlsbad-Pforzheim West motorway in Baden-Württemberg, the closing of the A66 motorway ring east of Frankfurt, Hessen with the so-called Riederwaldtunnel; the construction of the A44 Düsseldorf Rating to Velbert motorway and the B50 crossing of the Mosel in Rhineland-Palatinate.
- **Rail:** extensions and improvements e.g. between Stelle and Lüneburg, from the Dutch border to Obernhäusen and the Polish border to Knappenrode.
- **Waterways:** e.g. the extension to the Northern-Baltic Sea channel and the improvement and modernisation of the river-locks at the Mosel and Neckar.

Further economic incentives include the availability as of February 2009 of €300 million of low interest KfW-credit facilities for economically underdeveloped municipalities and the increase to federal funding for urban development by €40 million to €217 million.

January 2009: Second Infrastructure Stimulus Package – general consensus achieved, implementation to be seen

Within weeks following the adoption of the First Package, the global economic crisis required German politicians to consider additional steps. A Second Infrastructure Stimulus Package was finally adopted in January 2009.

- From an overall amount of an expected additional €50 billion approximately **another €18 billion is allocated to infrastructure** with €4 billion coming from the *Laender*.

- Apart from a minor share for transport infrastructure (approx. €2 billion specifically designated by the *Bund*), additional emphasis is made by this package on **local projects in the educational and healthcare sector** (€10 billion), **urban modernisation and energetic refurbishment and high-speed broadband networks** (€4 billion).
- To achieve that ideally almost 50% of funds are turned into construction projects in 2009 already, **procurement law requirements shall be temporarily slackened** – to the extent legally possible under EU law - by an increase to the thresholds from which a formal tender procedure is required and a reduction of the minimum number of bidders to be admitted. This ties in with the recently demonstrated flexibility of the EU Commission, strengthening the possibility of an accelerated tender procedure within 30 days under a general "assumption of exigency" as required by the EC directive 2004/18/EG in 2009 and 2010.

Conclusion

EU and German legal requirements, including but not exclusively limited to procurement law and environmental laws as well as Germany's federal structure may, once again, create difficult tasks and delay major investments. Also the downturn in private construction due to the credit crunch has to be compensated for. The above-mentioned incentive programmes are, nevertheless, likely to result in major infrastructure investments and related business opportunities which will materialise more quickly than expected. It is essential that all participants, public authorities as well as private players make the necessary preparations in order to turn this into a success story. This is particularly the case given that, despite years of efforts, there is still a considerable investment backlog in public infrastructure and Germany has yet to develop a Project/PPP infrastructure culture similar to neighbouring European countries such as the UK and France. Still: nothing is ever as bad as it seems.

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