PPP in ports, landlord port model

by

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Content of the presentation

*Part I – General background*

- Alternative port management structures and ownership models
- Landlord port model
- Private service port model
- Framework for port reform
- PPP in ports
- Globalization of container terminal operators

*Part II – Case study*

- Case study I – PPP for the new Ferry & cruise terminal in Zadar, Croatia
- Case study II – Port reform in Madagascar
- Case study III – Greenfield new mineral port (RIO TINTO)
Content of the presentation

*Part I – General background*

- Alternative port management structures and ownership models
Alternative port management structures and ownership models

Functions to be rendered in a port classified in 3 broad categories

- Governing functions in relation to port ownership, police and regulation (Port authority functions)
- **Port operations** covering commercial functions which are *absolutely necessary* to the functioning of ports:
  - Handling (loading / unloading cargo to / from ships)
  - Storage and warehousing within the port limits (short term)
  - Services to ships including: pilotage, towage, mooring
- **Logistic functions** (which may preferably be rendered within the port limits but may also be rendered outside from the port limits):
  - General logistic services
  - Value added logistic services
Alternative port management structures and ownership models

*Governing functions (Port authority)*

- Maintenance and development of port infrastructures (breakwater, jetty, quays, berths, etc.) *and maritime accesses* (bathymetry and dredging of access channel)
- Manage maritime traffic (Police of the water of the port « Harbour’s Master Office ») (sometimes directly managed by a separate Government department)
- Security & safety (ISPS)
- Management of the port domain
  - Deliver authorization to occupants and control their activity
  - Police of the port domain
- Ensure port operation services are adequately provided
- Coordination and regulation of port activities / operators
  - Coordination of public services (custom, immigration, etc.)
  - Tariff regulation
  - Etc.
Alternative port management structures and ownership models

**Port operations**

*Require specific equipment (investments)*

<table>
<thead>
<tr>
<th>Operation</th>
<th>Equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cargo handling (loading / unloading to / from ships – movement of cargo from quays to / in yards and warehouses)</td>
<td>Quay cranes – gantry cranes - reach stackers – elevators - tractor trailers, etc.</td>
</tr>
<tr>
<td>Storage</td>
<td>Yards – warehouses – refrigerated warehouses</td>
</tr>
<tr>
<td>Service to ships</td>
<td>Tugs – pilot launches – boats for mooring staff</td>
</tr>
</tbody>
</table>
Alternative port management structures and ownership models

In addition to core port services, ports are increasingly delivering non-traditional Logistic Services for shippers

- **General logistics services (GLS)**
  - Container stripping and stuffing
  - Groupage, consolidation, and distribution

- **Value-added logistics services (VAL)**
  - Packaging - repackaging
  - Quality control
  - Testing
  - On-terminal auto-accessorizing
  - Grain storage and fumigating
  - Etc.

*Development of logistic services rendered possible by opening ports to private operators*
Alternative port management structures and ownership models

4 alternative port models

Depending upon « who » performs port authority / port operation functions

<table>
<thead>
<tr>
<th>Port model</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public service port</td>
<td>A public port authority owning and operating all equipment (port authority and port operations)</td>
</tr>
<tr>
<td>Tool port</td>
<td>A public port authority owns all equipment which is operated by labor employed by private firms (port authority + ownership of equipment required for port operations)</td>
</tr>
<tr>
<td>Landlord port</td>
<td>Separation between public port authority (not involved in port operations) and private operators (generally concessionaires)</td>
</tr>
<tr>
<td>Private service port</td>
<td>Private port authority owning and operating all equipment (private port authority and port operations) (in some case – not always - port infrastructures are financed / built / owned by the private sector)</td>
</tr>
</tbody>
</table>

Within the same country different models can apply to different ports (see Case Study II)
## Alternative port management structures and ownership models

### Strengths and weaknesses

<table>
<thead>
<tr>
<th>Port model</th>
<th>Strengths</th>
<th>Weaknesses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Public service port</strong></td>
<td>Superstructure development and cargo operations under the responsibility of a unique organisation (unity of command)</td>
<td>Not user / market oriented - Lack of internal competition leading to inefficiency - Strong interferences of Government (labor, investment planning) - Lack of innovation due to limited role of private sector</td>
</tr>
<tr>
<td><strong>Tool port</strong></td>
<td>Good coordination between investments in port infrastructures and equipment – low risk of duplication</td>
<td>Conflict between port authority (owns equipment) and private firms (operate equipment) – limited involvement of private sector (low innovation / efficiency)</td>
</tr>
<tr>
<td><strong>Landlord port</strong></td>
<td>Port authority focus on Governing functions – Commercial activities by private firms more market oriented and competition driven (favour efficiency &amp; innovation)</td>
<td>Risk of duplication of equipment - pressure of private operators on port authority to oversize the infrastructures</td>
</tr>
<tr>
<td><strong>Private service port</strong></td>
<td>Maximum flexibility - more market oriented development strategy</td>
<td>Risk of private firms taking undue advantage of monopoly position – Government risks having poor control on strategic issues and Governing functions - If full privatization, risk of speculation on high value port land</td>
</tr>
</tbody>
</table>
## Alternative port management structures and ownership models

### Main trends

<table>
<thead>
<tr>
<th>Port model</th>
<th>Trend</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Public service port</strong></td>
<td>Till the late 80s used to be the dominant model (Governments wanted to control all port activities which were considered as strategic)</td>
</tr>
<tr>
<td><strong>Tool port</strong></td>
<td>Used to be common</td>
</tr>
<tr>
<td><strong>Landlord port</strong></td>
<td>Becomes the dominant model (Governments still in charge of all Governing functions - directly control strategic port activities &amp; supervise commercial operations)</td>
</tr>
<tr>
<td><strong>Private service port</strong></td>
<td>Generally limited to specific cases (The private sector is entrusted with some « Governing functions »)</td>
</tr>
</tbody>
</table>
Alternative port management structures and ownership models

*Possible ways from service port to landlord port*

- **Modernization of existing public port administration**
  - Without legal and policy changes (Governments often reluctant to lose control on their ports)

- **Commercialisation of port operations**
  - Introduction of commercial principles and practices into the management of the public port administration requiring it to operate under market discipline

- **Liberalization of port operations**
  - A step beyond commercialization: liberalization of port operations (authorising private operators to perform certain port activities previously reserved for the public port administration)

- **Corporatization of terminals**
  - A step beyond commercialisation: transforming the public port administration into a corporation with subsidiary firms involved in terminal operation

- **PPP concessions**
  - Final step consisting of selling shares of - or privatizing - subsidiaries operating specific terminals
Content of the presentation

*Part I – General background*

- Alternative port management structures and ownership models
- **Landlord port model**
Landlord port model

Port regulator / port authority / port operators

- Role of the port regulator: enforcement of port regulation – supervise activities of port authorities
- Ministry adopts port regulation (Decree, Ministerial orders) – port policy – long-term planning of port development
- If no «Port regulator» regulation directly performed by the Ministry in charge of port
- «Port regulator» highly recommended in countries with several ports
  - Managed by different port authorities
  - Managed and operated under different models
- Port operations by private concessionaires
- Services to ships possibly by port authority (safety reasons)
Landlord port model

*Port regulator & Landlord port model*

- **Ministry**
  - Prepares and adopts port regulation (Decree, Ministerial orders) - policy and long-term planning

- **Port regulator**
  - Enforcement of port regulation - Supervision of port authorities

- **Port authorities**
  - Governing functions in their port - (possibly services to ships)

- **Port operators** (most generally concessionnaire)
  - Handling - storage + possibly services to ships if not by port authority

- **Other private operators** (most generally licencees)
  - Other commercial logistic services
Content of the presentation

*Part I – General background*

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- Landlord port model
- Private service port model
Private service port model

2 sub-models

- **Full privarization** « the British model »
  - Few examples in the World (mainly in the U.K. and New Zealand)
  - Considered as an extreme form of port reform
  - Port land is privately owned (transfer of ownership from the public to the private sector)
  - Governments may simultaneously transfer the regulatory functions to private companies
    - If no port regulator (example U.K.), privatized ports are “self-regulating”
  - Risk that port land is sold or resold for non-port activities (impossible to reclaim for its original maritime use)

- **Full concession**
  - Private concessionnaire entrusted both functions of “port authority” and “port operators” under a single concession contract
    - No transfer of ownership of infrastructures and land
  - Rights and obligations of concessionnaire clearly described in a concession contract (avoid the concessionaire abusing his dominant position)
    - Regulatory functions led by the conceding authority
  - Conceding authority : Ministry or port regulator (preferred option); possibly port authority for secondary port sites within the limit of the port domain managed by the port authority
Content of the presentation

*Part I – General background*

- Alternative port management structures and ownership models
- Landlord port model
- Private service port model
- **Framework for port reform**
Framework for port reform

Implementing port reform: a 5 steps process

- Prepare a port reform strategy
  - Based on an in depth analysis of the competitiveness, strengths/weaknesses of the port sector and its role in the national economy
  - Supervised by a high-level inter-ministerial working group

- Redefine regulation, authorities and powers
  - Identification of new regulations, rules, tariffs and procedures ensuring port activities are adequately coordinated and supervised in a manner consistent with the public interest
  - Role and powers of existing/new public authorities/agencies

- Adapt legal framework (reflecting the strategy and redefined regulation, authorities and powers)

- Put in place new public authorities (if required)

- PPP transaction
  - Development of tendering procedures that are transparent, open and competitive
  - Transaction implementation (tendering procedures, tendering evaluation, contract negotiation)
Content of the presentation

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- Framework for port reform
- PPP in ports
PPP in ports

Objectives of PPP in ports

- Improve efficiency (higher productivity / lower costs) and introduce innovation in port operation services
  - ✓ Private sector methods more « market oriented »
  - ✓ Competition between private port operators favours efficiency and innovation

- Lessen the financial burden to the Government budget
  - ✓ Private funds for port development (equipment and possibly infrastructures)

- Limit political interferences in port management and operations

Improve efficiency of port operations
PPP in ports

**Condition for success of PPP in ports**

- **Good expected financial return for private partner** (detailed financial analysis required before any decision)
- **Adequate debt / equity financing structure** (typically 70/30)
- **Strong commitment from the Government**
- **Solid legal basis** (secure the private partner’s investments and limit his risks)
  - Appropriate institutional and legal framework
  - Solid legal contract
- **Fair risk sharing between Government and private partner**
- **Fair and open bidding procedures**
- **Credible feasibility study** (technical, financial, legal, environmental)
**PPP in ports**

*Dominant categories of PPP in ports*

<table>
<thead>
<tr>
<th>Category of PPP</th>
<th>Description</th>
<th>Investments borne by private partner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management contract</td>
<td>Private entity takes over the management of a subsidiary of the port authority in charge of port operations</td>
<td>No investment</td>
</tr>
<tr>
<td>Terminal concession</td>
<td>Private entity awarded by a port authority a concession for the operation of an existing port terminal for a given period of time</td>
<td>Significant investments (handling equipment, workshops, superstructures, warehouses and storage yard, possibly infrastructures)</td>
</tr>
<tr>
<td>Greenfield project / BOT concession</td>
<td>Private entity / public-private joint venture awarded by a port authority or directly by the Government a concession for financing, building, managing operating and maintaining new port facilities (infrastructure, superstructures and equipment)</td>
<td>High investments but possible Government subsidies (particularly for breakwaters, capital dredging, etc.)</td>
</tr>
<tr>
<td>Divestiture</td>
<td>Private consortium buys an equity stake in a subsidiary of the port authority in charge of port operations</td>
<td>Bying shares</td>
</tr>
</tbody>
</table>
PPP in ports

Past trends for PPP in ports (1990 – 2011) (PPIAF)

- 381 PPP port projects
  - 180 terminal concession equivalent 47% of total
  - 155 Greenfield BOT concessions equivalent 41%
    - 25 divestiture equivalent 7%
    - 21 management contracts equivalent 6%

- Total private investments in ports 60 billion US $
  (representing 20% of private investment in the transport sector over the period)
  - Greenfield-BOT concessions 33 billion US $ equivalent 54% of total (average 211 million US $ per project)
  - Terminal concessions 25 billion US $ equivalent 42% (average 140 million US $ per project)
  - Divestiture 2 billion US $ equivalent 4% (average 92 million US $ per project)
  - Private investment in management contracts negligible
PPP in ports

Experience from PPP in ports

- Favoured the modernization of the sector (including the development of major global port operators, see next section)
- Massive private investment in handling equipment (gantry cranes, etc.), port superstructures (container yard, container freight stations, etc.) and, to a lower extent, infrastructures (dedicated terminals)
- Port productivity has dramatically increased (see next slide)
- No negative impact on the tariffs (some concessions resulted in a significant fall of handling tariffs)
- Harsh competition during tendering procedure often resulted in high concession fees (securing revenues of port authorities)
PPP in ports

*Port of Cartagena Colombia* *(cited by World Bank)*

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Before the reform</th>
<th>After the reform</th>
</tr>
</thead>
<tbody>
<tr>
<td>Container ship waiting time</td>
<td>10 days</td>
<td>&lt; 2 hours</td>
</tr>
<tr>
<td>Containership turnaround time</td>
<td>72 hours</td>
<td>7 hours</td>
</tr>
<tr>
<td>Gross productivity/hour</td>
<td>7 moves/ship-hour</td>
<td>52 moves/ship-hour</td>
</tr>
<tr>
<td>Cost per move</td>
<td>984 US $</td>
<td>224 US $</td>
</tr>
<tr>
<td>Bulk cargo productivity</td>
<td>500 tons/vessel-day</td>
<td>4,000 tons/vessel-day</td>
</tr>
<tr>
<td>Cargo dwell time</td>
<td>&gt;30 days</td>
<td>2 days</td>
</tr>
</tbody>
</table>
Content of the presentation

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- Framework for port reform
- PPP in ports
- Globalization of container terminal operators
Globalization of container terminal operators

- 2 broad categories of operators of container terminals
  - ✔ Specialized terminal operators (sometime subsidiaries of a port authority)
  - ✔ Shipping lines / consortium with shipping lines

- Emergence of global specialised terminal operators
  - ✔ A limited number of global terminal operators have emerged during the last 20 years / the top 10 have distanced themselves from the rest of the market over the last ten years
  - ✔ In 2012, the Top 4 has represented 26% of the world seaborne container traffic: 1st Port of Singapore Authority (PSA); 2nd Hutchison Port Holding (HPH) (U.K.); 3rd : Dubaï Port World (DP World); 4th APM Terminal (Netherland)
Globalization of container terminal operators

- Globalisation of shipping lines
  - 1st: APM – MAERSK (2 million TEUs, 540 ships)
  - 2nd MSC (1.5 million TEUs, 390 ships)
  - 3rd CMA-CGM (1 million TEUs, 360 ships)

- Integration with terminal operation
  - A number of terminal operators and major shipping lines have merged to invest in and take control of terminals all over the world
  - Global shipping lines have concluded long-term contracts for container terminals in major, strategically located ports

**Shipping lines often consider they need to control all stages of the transport chain to increase their competitiveness**
Globalization of operations of container terminals

Avoid situations where

- One operator controls too many terminals within a region
  Example: EU did not allow HPH buying 49% of the shares of ECT in Rotterdam (HPH would have been dominant in Northwestern Europe since it already operates Felixstowe, Thamesport, and Harwich)

- A consortium with one global shipping line fully controls the transport / logistics chain - 4 broad categories of ports / shipping lines relationships
  - Ports facing strong inter-port competition: to attract major shipping lines, the port authority offers them dedicated facilities, smaller lines being accommodated at “common user” terminals
    Examples: Yokohama (Japan) and Long Beach (USA)
  - Ports deriving the bulk of their business from a major container line (generally transhipment traffic): the risk is that if this dominant line leaves the port, 80-90% of the traffic would be lost
    Examples: Algeciras (Spain) and Salalah (Oman)
  - Ports where a line not dominating the port’s traffic volume can pressure the port authority into accepting a dedicated terminal because of harsh regional competition for transhipment traffic.
    Example: Miami, hub for the Caribbean and Central and South America
  - Major world ports such as Shanghai, Hong Kong, Singapore, and Rotterdam with highly developed container sector: they can easily resist pressures from shipping lines to have dedicated terminals.
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- PPP in ports
- Globalization of container terminal operators

Part II – Case study
Case study I

Zadar ferry and cruise terminal in Croatia (on-going)

Croatia

Zadar old town
Case study I

Context

- Existing ferry & cruise terminal in Zadar old town: congested / no possibility of development to cater for increase of cruise traffic

Cruise traffic

- Generates high revenues for the port and the regional economy
- Increasing dramatically in Adriatic (+20% per annum from 2000 to 2009, still +10% since the global crisis has started)
Case study I

The Project (Greenfield)

- New ferry & cruise terminal 3.5 km from Zadar old town
- Cost: 250 M€ financed by Port of Zadar Authority (PZA) (EIB/KfW loans)
- Works on going (marine structures completed in 2013)

- 12 berths (length: 1,850 m; depth 5 – 13 m) of which 5 for the international terminal (length 1,100 m; depth 10 – 13 m)

- Terminal Building (TB)
  - Open area 27,000 m² (galleries, parking, green areas)
  - Closed area 18,000 m² (1,200 m² office space; 2,000 m² commercial premises; 6,500 m² of « Home port » facilities)
  - Two skyways (phase II)
Case study I

Step 1 – Diagnosis of existing situation

- Existing regulation: Landlord port model - full concessions not allowed
- PZA has no real experience in concessionning (licence-type concessions only)
- PZA clearly not sufficient experiences and capacities to:
  - ✓ Manage the new Terminal Building
  - ✓ Market the port (cruise activity)
Case study I

Step 2 – Choice of Business Model

- Identification and comparison of possible Business Models (BM) & recommendations
  - Terminal Building managed & operated by PZA or by concessionnaire
  - Possible « terminal concession » (including berths)

- Decision upon the BM (PZA GM + PZA Board + Ministry: one year process)
  - Concessionnaire for management, maintenance and day-to-day operation of the TB
    (« operate only » no BOT since it was decided from the beginning that the TB will be financed and built by PZA)
  - Berths managed by PZA
  - Ancillary services by « licencees »

- Detailed study of BM:
  - including detailed financial analysis
  - In order to fix the main parameters of the concession (see next slide)
Case study I

*Main parameters of the concession*

- Duties of the concessionaire: marketing cruise activity + maintenance & day-to-day operation of TB + Public Service Obligations (PSO) (coordination of operators + information to pax)
- No major investment (construction of the TB by PZA)
- Performance indicators: targets for cruise traffic (to be proposed by the tenderers in their tender with minimum targets fixed in tender documents)
- Penalties / incentives if performance targets not met / overcome
- Revenues:
  - ✔ Regulated: % port dues & rents
  - ✔ Non regulated: commercial revenues
- Concession fees: entry fee + fixed annual fees + variable fees (% commercial revenues) (to be proposed by tenderers in their tender with minimum fixed in tender documents)
- Duration (15 years with possible 5 years extension)
Case study I

Step 3 – Transaction preparation

- Preparation of draft Tender Documents:
  - Information to Tenderers (evaluation criteria)
  - Draft concession contract
- Call for Expression of Interest (CEOI) (October 2012) very positive outcomes

*Change in BM are now envisaged* *(impact of financial crisis)*

*(DBOT with reduced TB)*

- New CEOI for DBOT (on-going)
- New BM to be studied (financial analysis)
- Modification of TD *(DBOT)*
Case study II
*Port reform in Madagascar (completed)*

Madagascar

A project implemented by

Port of Toamasina
François-Marc TURPIN EGIS International
Case study II

Context

- Importance of port sector in Madagascar:
  - Large island (1,500 km x 500 km): 99% of foreign trade by sea
  - Low extent and poor condition of the road network « archipelago »

- Port system:
  - 15 classified ports: 4 main ports – 9 secondary ports
  - Poor performances

- Port model:
  - Most important port (Toamasina): **Public Service Port** model
  - Other ports: **Landlord Port** model (private concessions for handling) **centrally managed** by the Ministry (no independant port authorities)

- Port financing:
  - Toamasina: port dues on cargo and ships + tariffs from port operation (handling, warehousing service to ships)
  - Other ports: annexed budget to National Budget (revenues of port dues + concession fees)

**Funds insufficient for proper maintenance and port development**
Case study II

Step 1 – Design of port reform

- Identification and comparison of possible options for port management and operation:
  - National port authority + concession for port operations
  - Regional port authorities + concession for port operations
  - Local port authorities + concession for port operations
  - Full concessions.

- Choice of option (Government):
  - Independant regulating authority
  - Main ports: local port authorities (one regional) + private concessionaires (all port operations including service to ships)
  - Secondary ports: full concession
Case study II

Policy - sector supervision
long-term planning - regularity framework

Sector regulation
(supervisory authority for port authorities; conceding authority for full concession) - delegated maritime administration

Ministry of transport

Regulating authority
(Port, Maritime and Fluvial Agency)

Main ports (4)

Secondary ports (11)

Port Authorities

Role of port authority
(port police; management and maintenance of the port domain, of infrastructures, of maritime access; development of port infrastructures and access channel; conceding authority)

Concessionaires (100% private commercial company)

Port operations (handling, warehousing, pilotage, mooring, towage)

Full concessionaires
(100% private commercial company)

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Case study II

**Step 2 – Drafting, public consultation and promulgation of Port Act and port regulation**

- Port Law
- Application decrees (with model of articles of associations for Port Authorities)
- Decree creating the port regulator (with Governing statutes)
- Decrees creating the port authorities
- Ministerial orders:
  - Approving models for concession contracts,
  - Fixing general port regulations (port police, berthing priority, etc),
  - Fixing regulated rate base for port dues,
  - Etc.

*Public consultation with private sector for preparing Decrees and Ministerial orders (national & regional Workshops)*
Case study II

Governing statutes for the regulator (approved by Decree)

- Public authority with administrative and financial autonomy (no equity capital)
- Missions: (i°) supervisory authority for port authorities ; (ii°) conceding authority for full concessions ; (iii°) delegated maritime administration
- Ressources: dues on imported containers (« redevance de flux maritime ») + fees paid by port authorities + concession fees paid by concessionnaires (full concession)
- Board : 50% public / 50% private (clause hardly negotiated between Gvt and private sector) (unusual for regulatory authority but very satisfactory)
- Chairman of Board: public but not holding deciding vote (Minister arbitration if equal number of votes) (clause hardly negotiated between Gvt and private sector)
- General Manager recruited by the Board and confirmed by Decree
Case study II

**Articles of associations for the port authorities (as per model approved by Decree)**

- Commercial company with equity capital
- Infrastructures and port domain inalienable property of the country
- Not involved in port operations (handling, warehousing and services to ships by private concessionnaires)
- Government owns majority of equity capital (Law)
- Equity capital: 51% Government / 49% private (application Decree)
- Ressources: port dues on cargo and ships, fees paid by concessionaire, fees from lease, etc.
- Board: 50% public / 50% private (including representative of Chamber of commerce)
- Chairman of Board: public and holding deciding vote
- General Manager recruited by the Board and confirmed by Decree
## Case study II

<table>
<thead>
<tr>
<th>Category</th>
<th>Regulating authority</th>
<th>Port authorities</th>
<th>Concessionnaires (full concessions or concession for port operations only)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Statutes</strong></td>
<td>Public body &quot;Etablissement Public&quot;</td>
<td>Commercial company</td>
<td>Commercial company</td>
</tr>
<tr>
<td><strong>Equity share</strong></td>
<td>No</td>
<td>51% Government / 49% private</td>
<td>100% private</td>
</tr>
<tr>
<td><strong>Revenues</strong></td>
<td>Dues on imported containers - fees paid by port authorities - concession fees paid by full concessionnaires</td>
<td>Port dues on cargo and ships - concession fees - revenues from lease</td>
<td>Tariffs for services rendered (handling, warehousing, pilotage, mooring, towage)</td>
</tr>
<tr>
<td><strong>Board</strong></td>
<td>50% public / 50% private</td>
<td>50% public / 50% private</td>
<td>100% private</td>
</tr>
<tr>
<td><strong>Chairman</strong></td>
<td>Elected by the Board among the board members - not holding deciding vote</td>
<td>Nominated by Decree among the representatives of the Government at the board - hold deciding vote</td>
<td>Elected by the Board</td>
</tr>
<tr>
<td><strong>General Manager</strong></td>
<td>Recruited by the Board - confirmed by Decree</td>
<td>Recruited by the Board - confirmed by Decree</td>
<td>Recruited by the Board</td>
</tr>
</tbody>
</table>
Case study II

Step 3 – Creation of the regulator (APMF)

- Establishment of operating and investment 5 years rolling budget
- Fix level of fees to be paid to the regulator
- Establishment of opening balance sheet
- Preparation of organisation chart
- Preparation and implementation of transfer and recruitment plan
- Preparation of training programme
- Preparation of procedure manuals
- Appointment of the Board
- Recruitment and nomination of the General Manager
Case study II

Step 4 – Creation of the port authorities « Ports à Gestion Autonome » (autonomous ports)

- Delineation of the port domain (by Decree)
- Establishment of operating and investment 5 years rolling budget
- Fix tariffs (port dues, concession fees, etc.)
- Establishment of opening balance sheets
- Preparation of organisation chart
- Preparation and implementation of transfer and recruitment plan
- Preparation of training programme
- Preparation of procedure manuals
- Sale of shares to private sector by public auctions (oversubscribed)
- Appointment of the Board
- Recruitment and nomination of the General Manager
Case study II

**Step 5 – Award full concessions / concessions for port operations**

- Model for concession contracts approved by Ministerial orders
- If concession contract substantially different from model, concession must be approved by Ministerial order (as per the application Decree)
- Concession awarded through competitive bidding (as per the Law)
- Port regulator conceding authority for full concessions in Secondary Ports
- Port authority conceding authority for concessions in Main Ports
Case study II

**Conclusion**

- As for every reform in Africa the reform is still only partially implemented

- **Positive impacts on port operations**
  - In Toamasina: container productivity increased from 7 moves per crane per hour before the reform to 25 moves per crane per hour presently (x 3.5)
  - Port performances reach international standards in ports in full concession

- **Positive impact on port development**
  - A number of port developments (terminal within existing ports or greenfield projects) have been developed under PPP or purely private financing

- **Positive impact on port finance**
  - Concession fees significant (40 €/EVP in Toamasina)

- **Strong support of International Donors** (refuse to finance projects in ports where the reform is not yet implemented)
Case study III
Greenfield new mineral port (RIO TINTO) (in operation)

www.ehoalaport.com
Case study III

- **Context**
  - Ilmenite (Oxyde of titanium) deposits in a remote area in the South of Madagascar
  - Project dependant of the construction of new protected deep water port facilities (625 m-long breakwater – main quay : 250 m-long, 16 m-deep ; secondary berths)
  - Cost of the port : 170 million US $
  - Promoter of the project RIO TINTO (n°2 mining operator worldwide)
  - Port used only 15 days per month by bulk carriers
  - Port offers opportunities for the development of non mineral traffic (including cruise)

*Problematic very common in mining industry*

(new infrastructures absolutely required for developing a new mine but which can serve other « public » needs)

- **Principles negotiated between RIO TINTO, Gvt & port regulator:**
  - Port built, managed and operated by a special purpose company (« Port of Ehoala Ltd. ») under a full concession contract
  - Concession contract approved by Decree (substantial differences with model concession contract)
  - Port construction financed under a PPP scheme, the private partner bearing the bulk of the investments
  - Bulk carriers chartered by RIO TINTO will have priority for berthing
Case study III

Transaction preparation

- Preliminary study
  - ✔ Assess the level of Gvt participation economically justified by the public use of the port (non mineral traffic)
  - ✔ Study carried out by independant Consultant hired by the World Bank

**Maximum participation of the Gvt estimated to about 40 million US $ (economically justified) vs 130 million US $ for the private partner**

- Negotiation of the concession contract:
  - ✔ Principles fixed in a Law specifically adopted in the late 90s to structure the development of this mine
    - ✔ Ensure consistency between this Law and the new Port Law
    - ✔ Long term process following the schedule for mine development (several years)
  - ✔ Difficult process: high-quality lawyers on RIO TINTO side; excessive demands; political interferences to try to impose unfair clauses; etc.
  - ✔ Final agreement reached in June 2007
Case study III

Main issues during concession negotiations

- **Port operations**
  - Priority for bulk carriers: absolute priority (non mineral vessels shift) if according to scheduled planning
  - Public service obligations for non mineral traffic
  - Performance indicators (minimum productivity / maximum dwell time)

- **Port infrastructures**
  - Initial design and related technical issues
  - Control of conceding authority during and after construction
  - Modifications and extension during concession: after approval from conceding authority

- **Finance**
  - Initial tariffs
  - Rules about tariff regulation
  - State guarantee in case of unbalanced results: *rejected*

- **Other**
  - Exclusivity rights - protection against possible competing ports: *rejected*
  - Force majeure
  - Etc.
Case study III

Outcomes

▪ Port built as planned
  ✔ Open in 2009 without any specific issues raised during construction
  ✔ Fully meet the requirements of the mine

▪ Development of non-mineral traffic
  ✔ Cruise traffic: main port of call for cruise in Indian Ocean from South Africa
  ✔ Positive impact on regional development: industrial zone adjacent to the port
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