EU-FUNDED LOGMOS PROJECT
LOGISTICS PROCESSES AND MOTORWAYS OF THE SEA II

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 functionning 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 chanel)
- 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.

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Alternative port management structures and ownership models

Port operations

Require specific equipment (investments)

Operation	Equipment
Cargo handling (loading / unloading to / from ships– movement of cargo from quays to / in yards and warehouses)	Quay cranes – gantry cranes - reach stackers – elevators - tractor trailers, etc.
Storage	Yards – warehouses – refrigerated warehouses
Service to ships	Tugs – pilot launches – boats for mooring staff

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

Port model	Description
Public service port	A public port authority owning and operating all equipment (port authority **and** port operations)
Tool port	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)
Landlord port	Separation between public port authority (not involved in port operations) and private operators (generally concessionaires)
Private service port	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)

Within the same country different models can apply to different ports (see Case Study II)

Alternative port management structures and ownership models

Strenghts and weaknesses

Port model	Strenghts	Weaknesses
Public service port	Superstructure development and cargo operations under the responsibility of a unique organisation (unity of command)	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
Tool port	Good coordination between investments in port infrastructures and equipment – low risk of duplication	Conflict between port authority (owns equipment) and private firms (operate equipment) – limited involvement of private sector (low innovation / efficiency)
Landlord port	Port authority focus on Governing functions – Commercial activities by private firms more market oriented and competition driven (favour efficiency & innovation)	Risk of duplication of equipment - pressure of private operators on port authority to oversize the infrastructures
Private service port	Maximum flexibility - more market oriented development strategy	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

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Alternative port management structures and ownership models

Main trends

Port model	Trend
Public service port	Till the late 80s used to be the dominant model (Governments wanted to control all port activities which were considered as strategic)
Tool port	Used to be common
Landlord port	Becomes the dominant model (Governments still in charge of all Governing functions - directly control strategic port activities & supervise commercial operations)
Private service port	Generally limited to specific cases (The private sector is entrusted with some « Governing functions »)

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 loose 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 disciplne
- 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

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- **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 infrastrucures 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

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- **Framework for port reform**

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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, stengths / weaknesses of the port sector and its role in the national economy
  - ✓ Supervised by an high-level inter-ministerial working group
- Redefine regulation, authorities and powers
  - ✓ Identification of new regulations, rules, tariffs and procedures ensuring port activities are adequatly 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 transparant, open and competitive
  - ✓ Transation implementation (tendering procedures, tendering evaluation, contract negotiation)

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- **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

Category of PPP	Description	Investments borne by private partner
Management contract	Private entity takes over the management of a subsidiary of the port authority in charge of port operations	No investment
Terminal concession	Private entity awarded by a port authority a concession for the operation of an existing port terminal for a given period of time	Significant investments (handling equipment, workshops, superstructures, warehouses and storage yard, possibly infrastructures)
Greenfield project / BOT concession	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)	High investments but possible Government subsidies (particularly for breakwaters, capital dredging, etc.)
Divestiture	Private consortium buys an equity stake in a subsidiary of the port authority in charge of port operations	Bying shares

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%
  - ✓ 21management 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)

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PPP in ports

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

Indicator	Before the reform	After the reform
Container ship waiting time	10 days	< 2 hours
Containership turnaround time	72 hours	7 hours
Gross productivity/hour	7 moves/ship-hour	52 moves/ship-hour
Cost per move	984 US $	224 US $
Bulk cargo productivity	500 tons/vessel-day	4,000 tons/vessel-day
Cargo dwell time	>30 days	2 days

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- **Globalization of container terminal operators**

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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); 2d Hutchison Port Holding (HPH) (U.K.); 3d : Dubaï Port World (DP World); 4th APM Terminal (Netherland)

Port of Singapore

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Globalization of container terminal operators

- **Globalisation of shipping lines**
  - ✓ 1st : APM – MAERSK (2 million TEUs, 540 ships)
  - ✓ 2d MSC (1.5 million TEUs, 390 ships)
  - ✓ 3d 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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Part II – Case study

Case study I

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

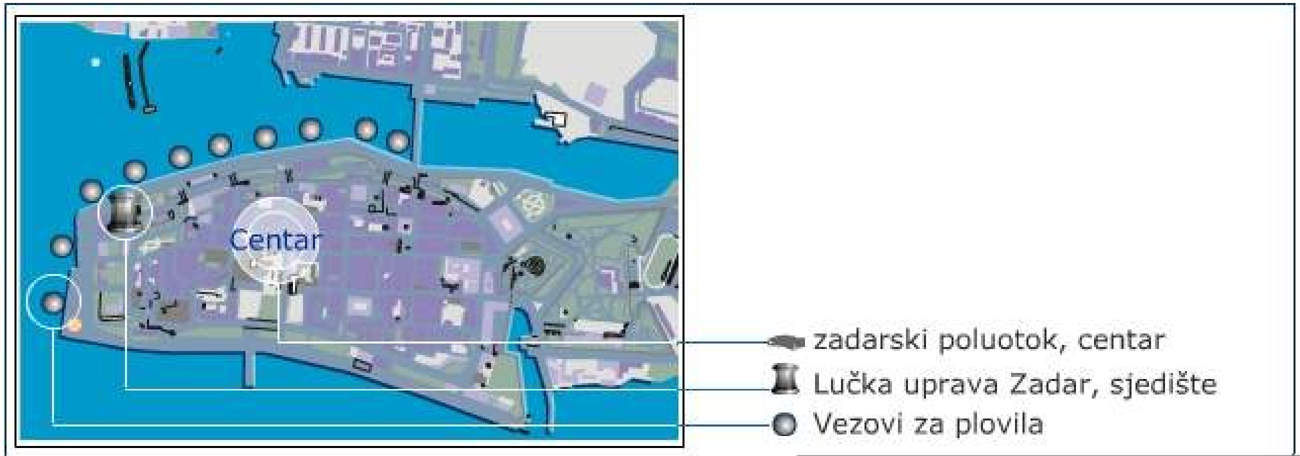
Croatia

Zadar old town

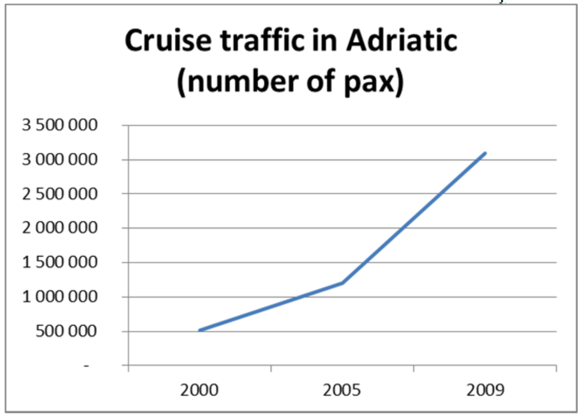
Case study I

Context

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



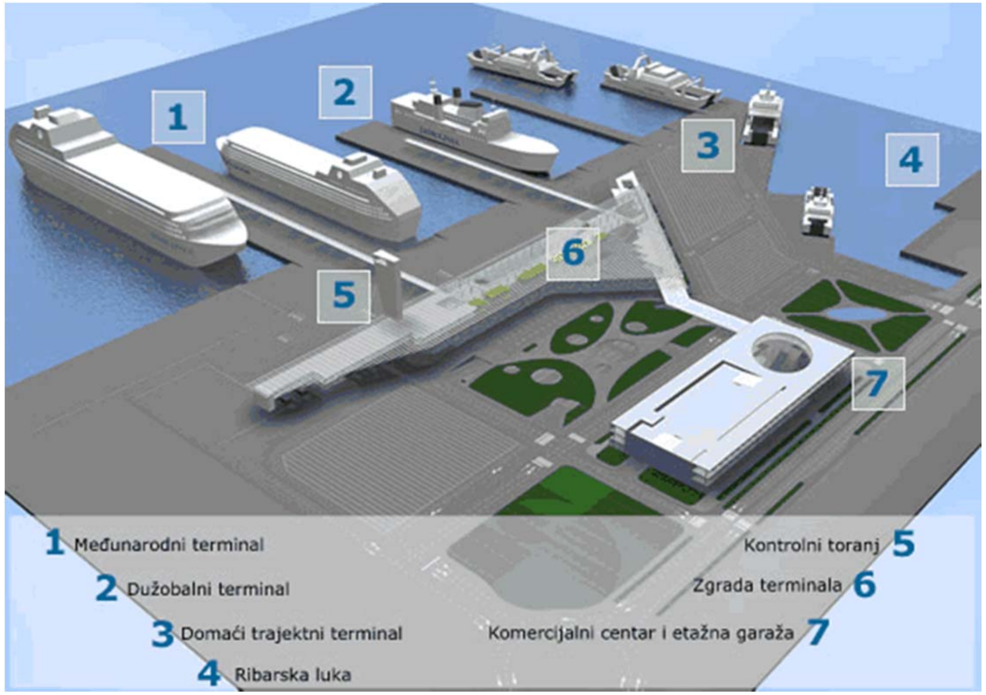
- Cruise traffic
  - ✓ Generates high revenues for the port and the regional economy
  - ✓ Increasing dramatically in Adriatic (+20% per annum from 2000 to 2009, still +10% since the global crisis has started)



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 (galeries, 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) & recommandations
  - ✓ 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

Port of Toamasina

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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)

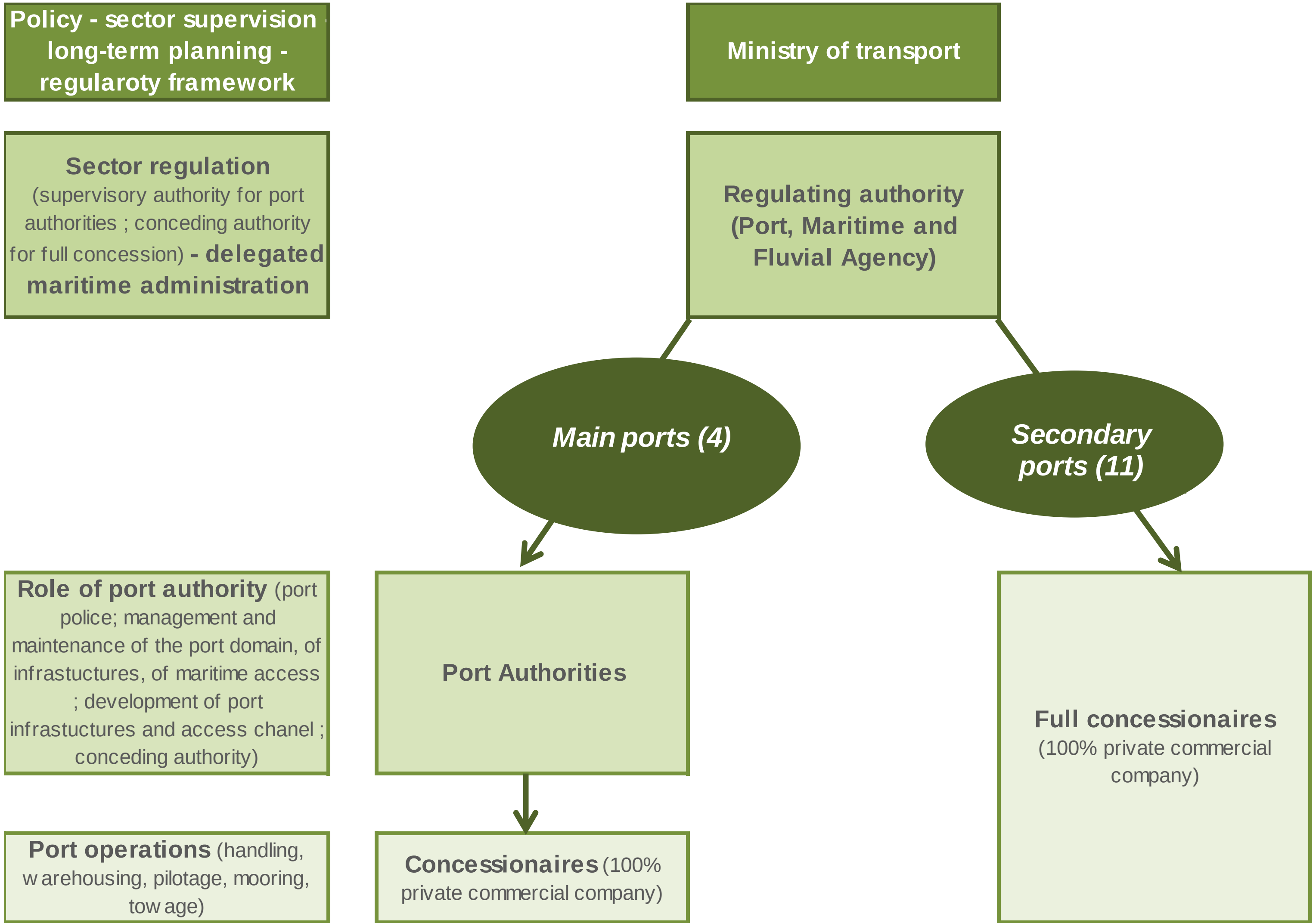
Funds insufficient for proper maintenance and port development

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 autorities + 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



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)

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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

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Case study II

	Regulating authority	Port authorities	Concessionaires (full concessions or concession for port operations only)
Statutes	*Public body "Etablissement Public"*	*Commercial company*	*Commercial company*
Equity share	*No*	*51% Government / 49% private*	*100% private*
Revenues	*Dues on imported containers - fees paid by port authorities - concession fees paid by full concessionaires*	*Port dues on cargo and ships - concession fees - revenues from lease*	*Tariffs for services rendered (handling, warehousing, pilotage, mooring, towage)*
Board	*50% public / 50% private*	*50% public / 50% private*	*100% private*
Chairman	*Elected by the Board among the board members - not holding deciding vote*	*Nominated by Decree among the representatives of the Government at the board - hold deciding vote*	*Elected by the Board*
General Manager	*Recruited by the Board - confirmed by Decree*	*Recruited by the Board - confirmed by Decree*	*Recruited by the Board*

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 recruitement plan
- Preparation of training programme
- Preparation of procedure manuals
- Appointment of the Board
- Recruitement and nomination of the General Manager

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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 recruitement plan
- Preparation of training programme
- Preparation of procedure manuals
- Sale of shares to private sector by public auctions (oversubsribed)
- Appointment of the Board
- Recruitement 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)

Case study III

- Context
  - ✓ Ilmenite (Oxyde of titanium) deposits in a remote area in the South of Madagscar
  - ✓ 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 (subtantial 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: abolute 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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Thank you for your attention

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