

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

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DIFFERENT TIERS OF GOVERNMENT IN PORT GOVERNANCE: SOME GENERAL REMARKS ON THE INSTITUTIONAL GEOGRAPHY OF PORTS IN EUROPE AND CANADA

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ABSTRACT

For the last thirty years, port governance has been marked by a new level of complexity which has resulted in the reshaping of the system of actors involved in the organization of ports. Devolution, which is taking place on most of the world's port ranges has thus altered the public-private division, i.e. the respective roles played by the different tiers of government and private operators in operation and regulation functions. There is an abundant literature on this topic, particularly in economics and management and the work of international organizations. This research has cast much light on the new modes of governance and is now attempting to explain how they are linked to port performance. Models of port governance frequently consider the "public sector" to be a homogeneous entity and rather less research has examined its variety, i.e. the different categories of public sector actors that run the institutional levels that control the ports. The aim of this paper is thus to provide some insights into this question of the institutional geography of ports by identifying the various tiers of government, the functions they perform and how they are linked with each other in a number of ports. It draws on the main findings of research carried out for the French General Directorate for the Sea and Transport that aimed to shed light on public decision-making and the institutional models applied in port governance in 7 European countries and Canada. It therefore examines port statuses and legislation, supervision, monitoring, management and public finance in order to understand the diversity of the public sector presence in port models that are founded on different institutional geographies.

Keywords: port, governance, institutional geography

INTRODUCTION: THE VARIETY OF ROLES FOR THE PUBLIC SECTOR IN PORT GOVERNANCE MODELS

The changes in port policy that have occurred throughout the world in the last thirty years have considerably modified the way functions are distributed between the private and public sectors. A few general institutional and academic models sum up this change. These models explain the recent transition, that has occurred since the 1980s, from highly centralized port management performed exclusively by the public sector to joint management by the maritime and port industry and various levels of the public sector. The word “governance” illustrates this idea of a new complexity which results in the interweaving of the public and private sectors and a complex encounter between the different levels of port development, from local to global, to use the traditional expression. By modifying port management more or less all over the world, port policies have thus moved in step with the changes that have affected the maritime industry (containerization, specialization, the concentration of flows) and the strategies of actors in the transport sector (vertical and horizontal integration, privatization and internationalization, etc.).

There is an abundant literature, particularly in economics and management on this topic. The research in question has shed much light on the new modes of governance, the distribution of the various functions of ports and is now attempting to explain the complex link between performance and governance. The links between the private and public sectors are central to these analyses. In this work the “public sector” is frequently considered to be a homogeneous entity and little research has addressed the different tiers of government and the various public sector actors present in the institutions that control the ports. The aim of this paper is thus to provide some insights into this question of the institutional geography of ports. After describing some of the major work that explains the changes that have occurred in port governance (Part 1), we shall present the principal results of a research project conducted for the French General Directorate for the Sea and Transport (Direction Générale de la Mer et des Transports) that investigated the diversity of the public sector and the institutional levels of port management in 7 European countries with a comparison with Canada (Part 2). This comparative approach will then allow us to identify some of the major features of the institutional geography of ports and how it may change, explaining the new role of the public sector in the management of the interfaces between the different levels of port systems.

1.PORT GOVERNANCE: AN ABUNDANCE OF ACADEMIC RESEARCH THAT SUPPLEMENTS THE MODELS DEVELOPED BY INSTITUTIONS.

The success of the concept of governance is shown by the fact that it has been defined in a large number of ways in the context of institutional use and academic research. International institutions, the World Bank first and foremost, have given wide currency to this term which opened up the way for a new approach to political issues, in particular the relationship between the public and private spheres. This use has an obvious instrumental or even normative dimension (“good governance”) which makes it possible to recommend and justify certain political reforms. The academic world, in the disciplines of political science, management, institutional economics, sociology and geography, has also appropriated this word which made it possible to renew the theoretical apparatus in a changing institutional environment. We shall not attempt here to examine all the different approaches involved but will start from a point which is common to virtually all the definitions: the complex forms of interaction between actors belonging to different spheres (political, business, civil society). Behind the different definitions lies the recognition of the increased complexity of relationships when the actors and their level of action develop in an environment of globalization, regionalization and decentralization which modifies the traditional boundaries of political action.

With regard to the question of ports, an increasing number of studies are dealing with the relationship between governance and the modes of port organization. It is true that the developments that have taken place in ports show to perfection the new type of relationships between the private and public sectors, i.e. the encounter between different levels of action and new ways of coordinating the varied interests which must come together to develop a common project (port organization). In an environment where the liberalization of service activities has become almost universal, and in an attempt to find capital that is able to meet the new needs of the maritime and port industry, legislators have accepted the transition from a model in which the port was almost completely public to new models which encourage the greater involvement of private sector operators in port governance. Of course, the changes have not been uniform and have not led to the dominance of a single organizational model that is applied everywhere regardless of national conditions. However, the move towards a market economy model underpins public policies on all port ranges and the investment needs arising from the concentration of flows in a smaller number of ports have encouraged the emergence of new forms of public-private partnership everywhere.

When considering the relationship between the public and private sectors, the most frequently-used classification is that given by the World Bank in Module 3 of the “Port Reform Toolkit”, which has subsequently been modified and added to by a number of researchers. Four categories of port organization are identified according to whether it is the private or the public sector that dominates management of the infrastructures, the superstructures, operations and other services. The two extremes of this typology – *service ports* in which all the functions are performed by the private sector and *private ports* in which there is no public sector participation – characterize ports with very little sharing of responsibility between the public and private sectors. In the third category – the *tool ports* – public participation is still

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

very dominant and private sector activity is limited to certain operations, in particular cargo handling on the quays, which is nevertheless performed using equipment owned by the public authority. The last category consists of the *landlord port* model in which the public authority merely owns the infrastructure and the land and leases them out to private operators in the framework of a port concession. In this category, the superstructure belongs to the private sector operator that runs to terminal under a contractual agreement with the port authority for a variable duration that in theory depends on the scale of the investments made by the private sector operator.

This typology provides an imperfect but convenient way of looking at modes of port governance and allows us to classify the world's ports. It has, above all, an obvious normative function, guiding port reforms. It is interesting, for example, to note that the recent reform of the Major French Seaports (Grands Ports Maritimes) in France referred explicitly to the landlord port model to justify the change in port statuses. The toolkit does not therefore just provide a classification but also recommends a refocusing of public sector involvement and greater private sector activity. Baird has concluded that this general model is applied in 90% of the world's largest container ports (Baird, 1999). These categories have been much added to, but the convenient definition of port organization based on the distinction between superstructure, infrastructure and operation has not been brought into question. The main shortcoming of this distinction is that it does not take account of regulation and ownership, despite the attention these frequently receive in academic studies. Baird also, still from the standpoint of the distinction between the public and private sectors, brings in the concept of port regulator in order to explain the different possible modes of port governance (Baird, 2000). Regulation, ownership and operation thus represent a more sophisticated way of analyzing the functions of ports and the actors involved. The work of Baltazar & Brooks (2001) added substantially to this analysis framework, identifying in greater detail the various regulator and port operation functions by considering the division between the public and private sectors from a functional perspective. This work, which has subsequently been extended, identified varied port profiles on the basis of a port devolution matrix (Brooks, 2004 & 2007).

Other approaches have made the question of ownership central to the definition of port regimes. This means that in order to define a port organization it is first of all necessary to be aware of ownership rights in the ports. For Gouvernal and Lotter (2001) for example, the above categories may be defined on the basis of the ownership and use of assets, that is to say by who owns the land, who owns the infrastructure and who owns the equipment as much as by who provides the services. A "service port" is therefore defined by the fact that a port authority (which may be private or public) owns and manages all the assets and provides all the port's services (a "tool port" cannot provide all the services that can be provided by private sector while retaining the public ownership of assets). In addition, the landlord port model is founded on a distinction between the ownership of the land and the infrastructure (public) and the ownership of the equipment and the provision of services (private).

It is, of course, necessary to add to this initial brief survey of the literature. A large body of research has shed light on the rapid changes that have affected port organization modes, in the context, in particular, of the development of containerization, by analyzing the changes that have affected modes of management, operation, ownership and regulation of the

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

infrastructure and superstructures that provide port services¹. Thus, a wide range of studies have analyzed the challenges posed to port authorities by the changes that are affecting the transport and logistics sector (Comtois & Slack, 2003; Notteboom & Winkemans, 2001), and other studies have attempted to explain the political processes responsible for the changes in port governance, be they various forms of devolution (Brooks, 2007) or simply privatization (Cullinane & Song & Cullinane, 2002, Baird, 1995). More generally, maritime researchers have given much attention to new types of private-public relationship, analyzing the changes that are apparent along the port ranges of Asia (Wang & Olivier, 2004), North America (Ircha, 1997, Brooks, 2007, Slack., 1993), Europe (Heaver et al., 2001, Meersmann et al, 2007, De Langen et al., 2007...), but also in different environments such as Australia (Everett & Robinson, 1998) or Latin America (Hoffmann, 2001). In addition, more recently, a new research direction seems to be developing that examines the link between these types of governance and port performance. One recent paper (Brooks & Pallis, 2008) has measured port performance in terms of efficiency and effectiveness and related it directly to the type of port organization. It employs a conceptual framework that takes account of the different components of port performance with a view to providing a tool for evaluating and improving existing port governance models.

This brief survey is obviously not exhaustive. It nevertheless allows us to show the wealth of research in the area of port governance. Despite the variety of the approaches, it all observes change on the basis of a threefold division between infrastructure and superstructure, regulation and operation and public and private sector actors. The distinction between the operator function and the regulator function frequently allows us to understand the division of tasks between private operators and the public sector, although admittedly this association between the private sector and operation does not involve all port services and only relates to market services. A number of functions, in particular with regard to policing, security, customs, and environmental protection are mostly performed by the public sector, and frequently by central government. More broadly, the distinction between market and non-market services, to use the terminology of the European Union, often provides the boundary between private and public sector action. It should also be added that public action is characterized by a number of different levels. The highest level of port governance consists of the legal framework which is subject to the Executive and the institutions of the various tiers of government (municipal, regional, national). In all parts of the world, the legal status of ports is first of all defined by the legislator, usually central government. Even the completely private status of British ports was granted by the legislative authority (central government). Below this level, there is more variety as regards the body to which the port authority answers. There is a variety of arrangements that run from a central government agency to regional or even municipal supervisory authorities and it is not possible to identify any relationship between the size of the port and the level from which it is supervised. The interaction between these political bodies and the port authority is obviously the central aspect of port governance. The degree of autonomy granted to the authority that manages the port with respect to the supervisory authority determines the port authority's scope of action.

¹ The recent collective publication "Devolution, Port Governance and Port Performance" (under the direction de Brooks & Cullinane) points up a wide range of theoretical research into these issues, which has then been applied to a large number of national situations (cf. Bibliography).

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

Research into port governance has until now paid less attention to the complex nature of public sector involvement, i.e. the different institutional levels and the interaction between them. After a detailed examination of the new types of relationships between the public and private sectors and the links between these and port performance, a new area of research seems to be emerging that deals with the public sector and its different forms. In this context, special mention should be given to the work of Wang and Olivier (2004). Their analysis of the changes in the governance of Chinese ports is based on a three-axis conceptual framework: spatial-jurisdictional scales (axis 1), the stakeholder community (axis 2), and logistical capabilities (axis 3). The first axis represents the redistribution of public power between the different levels of port management (local, provincial, national). The authors thus show the new distribution of institutional responsibilities between the Ministry of Communications, provincial and municipal governments and port administrations that has taken place since the Port Law of the People's Republic of China was introduced. This geographical approach to institutional levels equally explains the recent transition to competition between ports which also becomes competition between port cities and port terminals. The institutional geography of governance can also provide some valuable insights into the changes that affect port dynamics.

2. INSTITUTIONAL LEVELS, ACTORS AND DECISIONS: THE DIVERSITY OF THE PUBLIC SECTOR.

The different modes of port organization in Europe and Canada allow us to perceive the diversity of public sector involvement in port governance. The observations that follow are based on research carried out for the French General Directorate for the Sea and Transport². This work set out to provide insights that would be useful for the reform of French ports by comparing the main features of port organization in 7 European countries (Belgium, France, Germany, Italy, the Netherlands, Spain, the United Kingdom) and Canada. The study was based on an examination of the texts and laws that apply to ports, a consideration of the institutional relationships within international organizations and the Ministries of each country with regard to the issue of port reform, an examination of the academic literature mentioned in Part 1, and a number of interviews in Europe and Canada. This paper does not set out to provide a detailed explanation of the situation in each of the studied countries³ but rather to identify the main elements that reveal the institutional geography of ports.

European ports

² Debie J & Ruby C. (2009) *Approche des réformes portuaires européennes et nord américaines (Canada). Eléments de réflexion pour la politique portuaire française*. An overview study conducted in the framework of the core studies of the Direction Générale de la Mer et des Transports / Ministère de l'Ecologie, de l'Energie, du Développement Durable et de l'Aménagement du Territoire (France), 50 p.

³ This overview study that provides a picture of the situations in different countries is in the public domain and available (in French) on request (jean.debie@inrets.fr)

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

From the institutional point of view, this analysis of the situation in seven European countries shows very clearly the absence of a European model in the areas of port status, the legal status of port authorities, the level of port supervision, national legislation and port autonomy. The most important aspects to point out are the differences in the status of ports and the status of the port authorities. The public supervisory bodies for the major European ports may be municipal, regional, joint or national. At a European level it is also difficult to construct a typology in order to sort ports into different categories. The major German ports (Hamburg, Bremen-Bremerhaven) are thus under the joint supervision of municipalities and regions (Lander) which is not at all comparable with the situation in the major ports in the Netherlands (Rotterdam, Amsterdam) or Belgium (Antwerp, Ghent) whose main supervisory authority is municipal. In this case, therefore it is mainly the amount of autonomy a port authority has in relation to its supervisory authority which allows us to identify the port model. It is nevertheless obviously the case that in the three countries in the North of Europe (Belgium, Germany, the Netherlands) the municipal levels of government play a remarkably important role in comparison with the other European countries (France, Spain, Italy) which are characterized by national supervision, by which we mean that central government in all cases plays an important role in controlling the organization of ports with municipalities playing a very secondary role in governance systems. This diversity of statuses is even more marked when we consider the legal status of the port authorities. In fact, all the possible situations as regards the status of a port authority are present in each country. Although, except in the United Kingdom, there has not been a policy of privatization, and although ports are still largely public, European ports display highly varied profiles. They sometimes consist of classical public corporations (the major French, Spanish and Italian ports), sometimes autonomous municipal corporations or private companies with public capital (the major Belgian, Dutch and German ports), and more rarely private companies with private capital (the majority of UK ports).

The next factor that differentiates the institutional composition of European ports is the general legislative dimension. The modes of port organization are thus defined either by what one could term a national framework law which lays down imposed changes (law number 84/94 in Italy, law number 2008-660 on port reform in France, law 48/2003 of 26 November for Spanish ports of general interest), or, in the other European countries, defined by a specific arrangement for each port that is built up gradually in agreement with the existing jurisdictions (employment law, environmental legislation) but without any legal framework that imposes the mode of port organization.

These differences in statuses, supervisory authorities and national legislation mean that there is no such thing as a European model. However, an analysis of the seven countries allows us to identify easily some common features which describe a general pattern of institutional change in ports. The division between operational activities and regulatory activities which provides the basis for the division of functions between the private and public sectors is clearly apparent in the modes of organization of European ports. The distribution of roles seems not only to be determined by differences in status but also by the separation between infrastructure and superstructure. This is of course the case with regard to port functions, but it also applies to finance. While infrastructure remains predominantly financed by the public sector, apart from in the United Kingdom, the superstructure is increasingly

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

privately financed. In the case of container terminal development projects, this division of investment has become the general rule in all major European ports. This way of funding infrastructure depends on contributions from all the levels of the public sector, from the municipal to the European level. More generally, port access, the locks, the terminal infrastructure, and dredging etc. are paid for by the public sector in a way that has been more or less fixed. In connection with this last point, we can observe the familiar clear, quantified and fulfilled commitment on the part of the public authorities that finance the German, Belgian and Dutch ports. So, while the public sector has withdrawn from operating and financing superstructures, it nevertheless frequently pays infrastructure costs in their entirety. Commercial services are therefore generally provided by private operators. The withdrawal of the Port Authorities from operation, particularly at terminals, is a general feature of European ports. Thus, some port reforms have put into law this withdrawal and the refocusing of the activities of the port authorities towards regulation, management and promotion (in France and Italy). There has therefore been a general move among European ports towards the landlord port model, i.e. a structure with public infrastructure, private superstructure, private market services and public non-market services. While the general changes involve a move towards the landlord port model, when we look in detail at port functions and organizations the boundaries are frequently less clear. Many ports are still in an in-between state where the landlord port model dominates but some features of the tool port remain. A number of superstructures can thus remain in public ownership and be leased to private operating companies.

The most striking feature to emerge from our analysis of national situations is the persistence of a hybrid model which combines aspects of the market-based landlord port model with aspects of the more classical tool port model. In a common normative framework (the public-private divide which is itself founded on an operation-regulation divide provides the norm for modern port reforms) and in a common political framework (the European Union), different decisions are made for different areas of activity. With regard to port market services, most ports adhere to the general philosophy of the European Commission with regard to transport policy so these services have been liberalized by implementing varied systems of concession and delegation. However, in terms of the real autonomy of the port authorities, that is to say their ability to plan, regulate and finance port projects, the national situations exhibit much greater contrasts. It is moreover difficult to perceive these differences. Management autonomy, financial autonomy, pricing autonomy and commercial autonomy have very different meanings in the administrative systems of the different countries. In addition, the academic world has so far paid little attention to the issue of autonomy. Nevertheless, from a general perspective, the national situations are characterized by variable degrees of autonomy that are easily identified and that range from the highest level of autonomy (Belgium) to the highest level of national control (Spain). Italian and Spanish ports have budgetary and pricing autonomy but are subject to a national process of bargaining for the distribution of what are known as extraordinary resources. In contrast, the autonomy of the ports of northern Europe extends considerably beyond the management of day-to-day affairs. Here too, these degrees of autonomy express complexity in the public sector which is difficult to gauge.

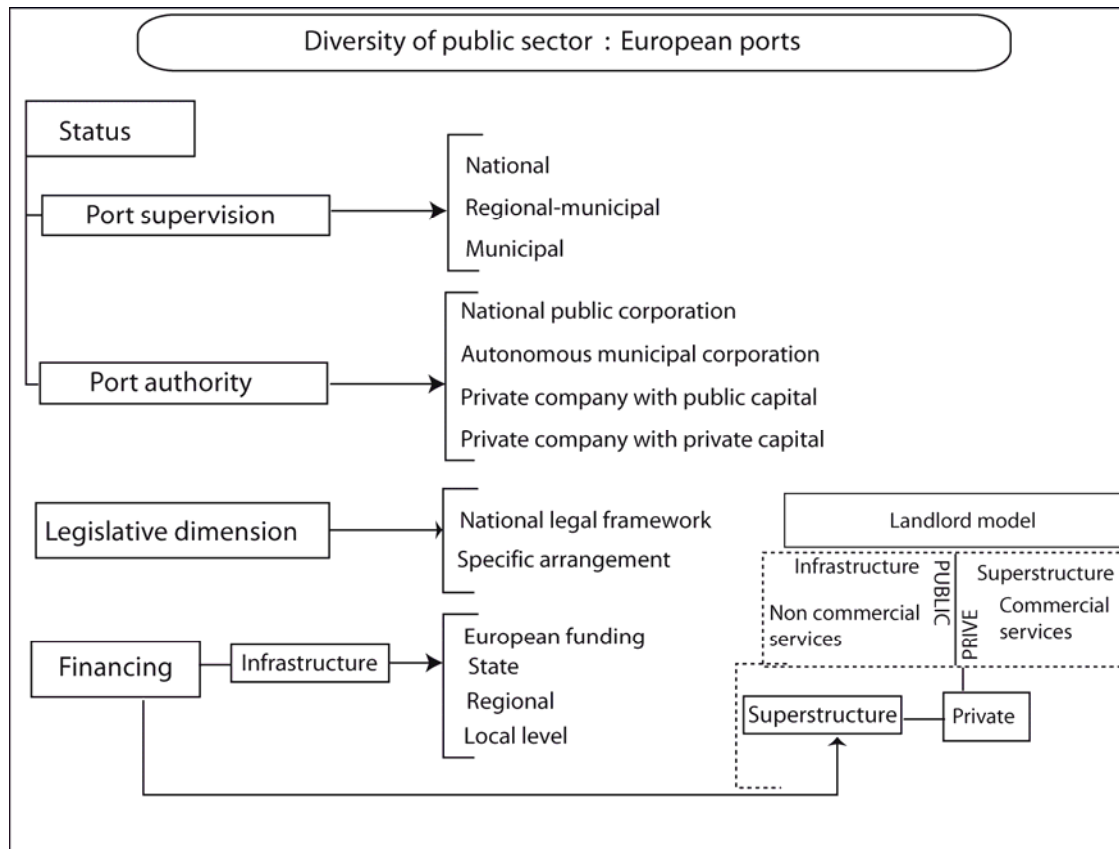


Figure 1 – diversity of public sector: European ports

Canadian ports

The case of Canadian ports provides an interesting contrast which is based on a somewhat different public model. Marie Brooks' research has to a large extent elucidated this governance model, in particular the devolution and marketing models applied in the Canadian system (Brooks M, 2007). In terms of the role played by the different tiers of government and the nature of institutional organization, we have also compared the situation concerning port decentralization and devolution in France and Canada. This work has been supplemented by some more recent surveys on the Canada Port Authorities⁴ that have revealed the mode of organization of the tiers of government involved in port management. The changes that have occurred in Canadian port policy in the last 15 years testify to a major repositioning of the tiers of government. In the early 1990s, the federal government was

⁴ This work was started in the framework of an agreement between the Quebec Department of Transport in Canada and the National Institute for Transport and Safety Research (INRETS) in France (Debie et al., 2007). It has recently been added to during a spell as visiting professor at the Université de Montréal (Geography Department) during the Autumn term of 2008.

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

confronted by large financial deficits. In 1994, the government issued a budget which amongst other things, reduced expenditure in the transport industry. A consequence of this was the 1995 National Marine Policy (Act C44). Although this act was not approved until 1998 as Act C9 (Canada Marine Act), the implementation of the National Marine Policy in fact started at the earlier date. The goal of this policy was to reduce federal expenditure and rationalize the port and maritime system. It governed the development of all ports apart from private ports. This change in the status of ports, which is one of many aspects of the Marine Act⁵, is explained by the rechanneling of federal expenditure. This reclassified Canada Transport' ports into three operational categories: financially autonomous ports with diversified traffic that could become one of the Canada Port Authorities (CPAs); regional and local ports to be run by new regional or local authorities; and ports that were defined as "remote ports" which provided the only means of access to some localities and which could continue to be operated by Canada Transport⁶.

Prior to the 1995-1998 reforms, in spite of the fact that reporting and port management were occasionally transferred to the local level, the Canadian model corresponded to the classical pattern whereby ports answered to central or federal governments. The Canada Ports Corporation managed ports either directly (7 so-called "divisional" ports) or through local companies that were under federal control (7 local port companies). 9 Harbour Commissions existed in addition to these 14 ports. While remaining under federal jurisdiction, they had greater autonomy, but with a considerable municipality presence on their boards of directors. These 23 ports represented the first level of the port hierarchy and after the reform mostly became Canada Port Authorities (CPAs). Canada Transport – The Canadian Ministry of Transport - also directly managed 549 ports or port sites prior to the reform. These sites are currently subject to a handover process which aims to deproclaim or transfer them to regional or local public or private authorities. Included among these ports are 32 entirely private ports which are not under federal jurisdiction except for environmental regulations. These ports are therefore not affected by the reform. The 1998 Marine Act is therefore based on three categories of ports. The first category is the 26 remote ports, which are under federal control and managed by the regional departments of Canada Transport. The second category is the 549 regional or local ports listed under the Marine Act which have been joined by about 30 sites that were identified after the original inventory. By 31 May 2008, 472 ports that came under the port divestiture programme had been divested, demolished, closed or removed from public ownership⁷. The third category is the Canada Port Authorities (CPAs), of which, following the merger of the 3 ports in the Vancouver region there are now 19. If we consider Canadian ports as a whole, the variety of public involvement is clearly considerable, taking in all tiers of government from the federal level to the municipal level. The port reforms have thus set in motion a comprehensive process of devolution that saw a transfer from central government to varied forms of port organization (Brooks, 2004). In fact, the

⁵ The 1998 Marine Act dealt with all the components of the port and maritime system, not only ports but also pilots, coast guards and management of the Saint Laurent.

⁶ Except in the case of ports where the local players show interest in acquiring these port tools

⁷ 129 sites were thus transferred to local interests. They take a large variety of forms, public-public, private-public or private-private. 211 sites have been deproclaimed. A smaller number of ports have been transferred to the provinces (40) or to other federal ministries (66). The divestiture process, which was planned between 1995 and 2006, has not been closed to provide an opportunity to settle the case of the remaining port sites (77).

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

institutional geography for local or regional ports resulting from this devolution process presents all the possible combinations of public involvement (as well as public-private involvement).

In this general structure, the Canada Port Authorities are deemed to form the national strategic network of ports and can therefore be compared to the major European ports we have discussed earlier. To be eligible for CPA status, ports must satisfy criteria that relate to financial autonomy, diversity of traffic, intermodal connections and be of strategic importance for Canada's trade. The CPAs must be *autonomous* and able to finance their activities from the three types of income they generate: the leasing of land, commissions on goods and charges on vessels. It should be noted that the original law laid down that ports were not eligible for federal finance other than general subsidies or in the event of an emergency. The question of access to federal funds has been the subject of much debate that has led to the recent reform of the Law which we shall consider later. The difference with European port models is therefore significant and worth highlighting: even though they are governed by federal legislation that reformed all ports and maritime services, the size of the ports seems to be the decisive factor in deciding their modes of organization. The national legal definition of a CPA is not therefore based on a framework that imposes a distribution of functions or an organizational model but rather on the basis of financial and commercial criteria. It was the port's self-financing capacity that enabled it to apply for Canada Port Authority status and it is still this autonomy that is monitored by the federal government which does not lay down rules that fix the allocation of public and private roles for market and nonmarket services⁸. The CPAs can thus in certain cases become involved in activities that are related to dispatching, navigation and the transport of passengers and goods. When they are engaged in such activities, like when they take up loans, the CPAs are not agents of the Canadian government. The infrastructure-superstructure division is therefore not as apparent in Canada as in Europe and depends directly on the economic importance and the size of the port in question. While the major ports (Vancouver, Montreal, Halifax...) apply the classical landlord port model, the smaller ports (Trois Rivières, Toronto...) still have a large number of publicly-owned facilities which allows them to compensate for the lack of private investment. The "marketing" model adopted by the Canadian federal authorities with the aim of reducing federal expenditure provides a different way of considering ports which remain in public ownership while retaining complete financial and commercial autonomy and a degree of freedom regarding their mode of operational organization.

⁸ With regard to *federal surveillance*, in addition to the federal government's power to appoint members to the boards of directors, the CPAs are obliged to publish annual accounts and develop a strategic plan. In the event of a problem in the accounts, the federal minister can demand an in-depth financial investigation. Federal surveillance was above all decisive at the time the CPAs were set up when the federal government defined the port's freedom of action in the official document that set up the port authority. This federal document, known as a "letter patent", is issued to each port separately and defines its obligations, responsibilities, scope of activity, restrictions, possibilities of purchasing or selling land etc.

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

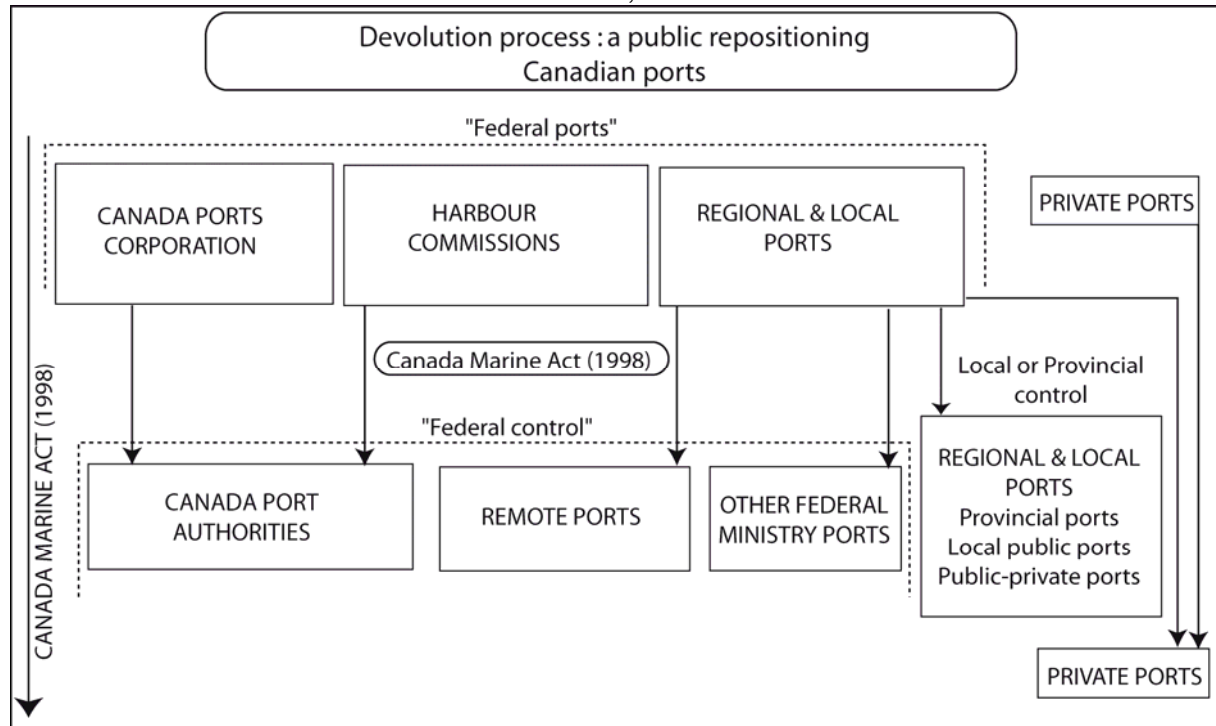


Figure 2: devolution process: a public repositioning Canadian ports

Without undermining the commercial model, recent amendments to the Canada Marine Act with regard to public financing brings another factor into the current European debate. While marketing was very successful in reducing federal expenditure during the 1990s, thereby helping to reduce public debt, it today raises the issue of how the Port Authorities can obtain finance in an environment that has changed profoundly in the last ten years, thus since the creation of the CPAs. The events of 11 September 2001 have had an impact on regulatory constraints and their associated costs and together with growing environmental concerns have completely altered the general context within which Canadian ports operate. The recent reform the Marine Act which lays down the rules that apply to ports takes account of this modification and now allows ports to access federal funds for only three purposes – infrastructure, sustainability and security – thereby creating a public investment charter that outlines the major directions that port management in Canada will take in the future and federal government’s contribution to these investments, in view of the fact that federal plans involve all the inland links that are required to serve ports.

For this change in the Marine Act is part of a more comprehensive strategy that is built around Canada’s “National Policy Framework for Strategic Gateways and Trade Corridors”⁹. The aim of this policy framework, which was announced in 2007, is to propose an integrated intermodal policy for upgrading Canadian Gateway ports by targeting federal investment, introducing coherent planning, and combining different sources of public and private finance¹⁰. But it is important to note that these investments – which are targeted at major

⁹ So far, one such initiative (the "Asia-Pacific Gateway and Corridor Initiative") has made it possible to direct investment towards the west of Canada, particularly around the Vancouver region, and to combine different sources of finance (private and public) in order to improve specific port service corridors. A similar initiative,

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

corridors and therefore only a small number of ports – do not directly involve investment in ports but improvements in their continental services. The changes in the Marine Act remain within this policy framework which governs federal investment and regulatory changes. The transition from a policy aimed at ports to one aimed at corridors mirrors many tendencies that have been identified in European port policies and seems to presage a new approach to port organization modes by strengthening the on-going process by which the public authorities, the port authorities in particular, are refocusing their activities on providing an interface between the different players and the different levels of government involved in port activities.

3. THE INSTITUTIONAL GEOGRAPHY OF PORTS: MOVING BEYOND TRADITIONAL PUBLIC SECTOR ROLES

These remarks about the position and role of the various tiers of government in major European ports and in Canadian ports do not, obviously, reveal the variety and the interactions between them. They nevertheless allow us to identify some features of the institutional geography of ports. The first thing to emphasize about this is its complexity. All political levels are present, in various combinations in European and Canadian ports, from the legislator who decides on the legal status of the ports (Central Government) to the port supervisory authority (National, Regional, Municipal, joint), the port authority (Public Institution, Autonomous Company, Commercial Company) to local government. And such variation is also present in all the areas where the public sector is present: the control, status, design and financing of ports. the “spatial-jurisdictional scales”, to use a term coined by Wang and Olivier, are of such complexity that they cannot be represented as a single homogeneous public entity. We can add that the most significant difference between the port models as regards tiers of government lies in the role given to the municipal level in port organization. In some major ports the municipal level is thus the principal supervisory authority that manages the port authority, in others the local level has virtually no presence on the boards of directors or the supervisory boards. Thus, what emerges from our comparison between different national situations is the large diversity in the relationship between the city and the port with regard to governance. Also, in this context of institutional geography, it is important to bear in mind that there is no association between the size of ports and their type of supervisory authority.

The next thing to highlight is whether or not the institutional geography is imposed. In the process of devolution, both the new public-private division and the distribution of roles between the different levels of government are either stated in a law which sets up a rigid framework that sometimes goes as far as to fix the operational organization of the ports or, on the contrary, constructed progressively by each port in the context of a process of

known as the “Ontario-Quebec Continental Gateway and Trade Corridor” is currently being discussed at federal level and the various provincial levels.

12th WCTR, July 11-15, 2010 – Lisbon, Portugal

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

bargaining between the different levels of government. In addition, these imposed frameworks or bargaining processes are governed by differing rules. Some decisions are thus based on purely political considerations (reforming the administrative system, decentralization, subsidiarity), and others on financial and economic considerations (financial autonomy). With regard to the imposed frameworks, the reform decisions have taken little account of the economic profiles and sizes of the ports and have been applied in a uniform manner to ports which may be of very different sizes. This last comment echoes the conclusions of recent research that has shown that port governance decisions are not really based on a genuine measure of effectiveness or, more generally, port profiles and performance (Brooks & Pallis, 2008).

The third and final component of this institutional geography results from the need for links between the different tiers of government that constitute the organization of the port. Devolution has had a clear geographical impact in that it makes it necessary to create instruments that link the domains of responsibility of each tier of government. Co-operation between the different tiers of government is therefore required in order to manage the activities of the port which obviously go beyond their respective domains of responsibility. The recent shift in port policy towards the concept of corridors is one example of this. Similar advance port or corridor initiatives are under way in most European countries that show the importance of ensuring the interface between each tier that is affected by devolution which requires a new form of “spatial” governance. The interface function, which is a consequence of devolution, thus becomes an important goal for public action, particularly for the port authorities that find themselves at the centre of the complex institutional system that characterizes port management.

CONCLUSION: WHAT ROLE FOR THE PORT AUTHORITIES IN THIS GEOGRAPHY

Ultimately, the issue that is raised is the role of the port authority in this changing institutional environment in which the separation between operation and regulation defines new roles for both the public sector (legislation / regulation) and the private sector (operation). The port authority is in a position between the two and in most case has to reorganize its activities. In the case of the dominant landlord model, the port authorities tend to refocus their activities onto coordinating the port's various activities, planning and anticipating demand, land management and monitoring port efficiency. Recent developments are also tending to give the port authorities a more important role in environmental management which is in the process of becoming an indispensable part of port planning and development projects. In a recent paper (2003), Comtois and Slack have identified this change in the role of the port authorities and described three functions in the port authority's new governance agenda: “land management”, which fulfils the classical planning function, the new priority of “environmental management” and “transaction management” which allows the port authority

to perform the interface role we have mentioned in the context of the modified links between the different tiers of government and the operators.

Another aspect of this refocusing of the port authority's role, which has received less attention in institutional and scientific research, appears to be gradually assuming greater importance. This is the role of the port authority in coordinating port and inland services. Issues relating to partnerships with inland structures, the creation of what are known as advanced ports, the participation of the port authorities in services by rail or inland waterways, and more generally involvement in improving port corridors is gradually emerging as a new function which is frequently associated with the policy objective of sustainability. This opens up the question of the involvement of the port authorities in intermodal services. As the authorities gradually withdraw from operational activities within their port, they play a greater part in operational activities outside it. It is nevertheless still the case that in general the role of ports in service strategies is mainly to coordinate operational and institutional actors rather than to operate inland intermodal services. Ultimately, what we observe is the port authorities becoming involved in the administration and management of port infrastructure (a role which reflects the fact that this infrastructure is in public ownership), and the coordination and surveillance of the operators present and, last, playing a greater role in linking the different actors and levels involved in inland services.

REFERENCES

- Baird, A.J., (1995) « Privatisation of Trust Ports in the United Kingdom: Review and Analysis of the First sales. *Transport Policy*, 2, pp. 135-143.
- Baird, A.J. (1999) "Analysis of private seaport development in the port of Felixstowe". *Transport Policy*, 6, 109-122.
- Baltazar, R., Brooks, M.R., (2001) "The Governance of Port Devolution: A Tale of Two Countries", *World Conference on Transportation Research (WCTR)*, Seoul.
- Brooks, M.R., (2004). "The Governance Structure of Ports", *Review of Network Economics* 3, pp. 168-183.
- Brooks, M.R., (2007). "Port devolution and governance in Canada", in *Devolution, Port governance and Port performance, Research in Transportation Economics*, vol. 17, 2007, pp. 237-257.
- Brooks M. R., Pallis A. A. (2008) "Assessing port governance models: process and performance components" in *Maritime Policy Management*, vol. 35, n° 4, pp. 411-432.
- Comtois C., Slack B. (2003) « Innover l'autorité portuaire au 21ème siècle : un nouvel agenda de gouvernance », *Les Cahiers Scientifiques du Transport*, n°44, pp. 11-24.
- Debrie J., Ruby, C. (2009) *Approche des réformes portuaires européennes et nord américaines (Canada). An overview study conducted in the framework of the core studies of the Direction Générale de la Mer et des Transports (France)*, 50 p.

Different tiers of government in port governance: some general remarks on the institutional geography of ports in Europe and Canada

DEBRIE, Jean

- Debrie J., Gouvernal E., Slack B. (2007) "Port devolution revisited: the case of regional ports and the role of lower tier governments" in *Journal of Transport Geography*, vol 15. November 2007, pp. 455-464, Elsevier Ltd.
- De Langen, P., Van der Lugt, L. Governance structures of port authorities in the Netherlands, in *Research in Transportation Economics* vol. 17, 2007
- Everett S., Robinson R. (1998) « Port reform in Australia :issues in the ownership debate » in *Maritime Policy Management*, 25, pp. 41-62.
- Gouvernal E., Lotter F (2001) « Evolution des Systèmes Institutionnels et Nouvelles Formes d'Organisation Portuaire », Seminário Internacional « EFICÁCIA LOGÍSTICA PORTUÁRIA » Curitiba, Brésil, 26 octobre 2001.
- Hoffmann J. (2001) "Latin American ports: results and determinants of private sector participation" in *International Journal of Maritime Economics*, 3, pp. 221-241.
- Heaver T., Meersman H., Van de Voorde E. (2001) « Co-operation and competition in international container transport: strategies for ports », *Maritime Policy and Management* 28:3, pp. 293-305.
- Ircha, M.C., (1997) "Reforming Canadian Ports". *Maritime Policy and Management*, 24, pp. 123-144.
- Meersmann, H., Van de Voorde, E., Vanelslander, T., Fighting for money, investments and capacity: port governance and devolution in Belgium, in *Research in Transportation Economics*, 2007
- Notteboom T.E., Winkelmans W. (2001) « Structural changes in logistics: how will port authorities face the challenge? », *Maritime Policy and Management* 28, pp. 71-89.
- Slack, B., 1993. *Ports: Public Policy Issues*. in J. Andrey and G. Nelson (eds), *Public Issues: A Geographical Perspective*, Department of Geography, University of Waterloo, Waterloo, 41, 181 - 193.
- Song, D-W. and Cullinane, K. (2002), *Port Privatisation: A New Paradigm of Port Policy*, in Borges, E., Chircop, A. and McConnell, M. (eds.), *Ocean Yearbook* 16, University of Chicago Press, Chicago, pp. 398-420.
- Wang J.J., Olivier D. (2004), « Port Governance in China: a review of policies in an era of internationalizing port practices », *Transport Policy* 11, pp. 237-250.