



BULLETIN

FACILITATION OF TRANSPORT AND TRADE IN LATIN AMERICA AND THE CARIBBEAN

# The great challenge for ports: the time has come to consider a new port governance

## I. Introduction

Since the remotest antiquity, ports have been hubs of cultural, financial and commercial exchange; they were the usual point of entry for the goods required by each country or city, as the case might be, and for outward trade in the surpluses it generated. Given this, port governance is a complex issue that is inseparable from different stages in history, cultures and geography, and from the different forms of political, economic and administrative organization prevailing in each, in different spatial and temporal combinations. It is therefore necessary to specify the time and place of the analysis.

The relationships between ports, societies and governments have changed significantly over the past 25 years in most of the world, and in Latin America and the Caribbean in particular. At the start of the period, a number of characteristics had recently become prevalent in port activity, and they can be summed up as follows. Beginning in the twentieth century, ports went through different roles within the trading, transport and logistics system, and were managed and administered under different governance models, which could typically be divided into the following categories: (1) ports fully administered by the public sector (also known as service ports), (2) an intermediate, hybrid category consisting of ports known as tool ports, where the above situation was supplemented by services (particularly cargo handling) provided by private firms, and (3) terminals that remained publicly owned but were leased to and operated by specialized or multi-service private-sector firms under what is known as the landlord model.

During this time, a number of governments all over the world, including those of many Latin American and Caribbean countries, decided to withdraw from the direct management of the port business and operations and initiated a number of reforms to that end. Looking at the subject from a

This *FAL Bulletin* analyses changes in port governance since the start of the last round of reforms and the new circumstances of the port system. They point to the need to develop a new governance for Latin American and Caribbean ports that can meet the requirements of the twenty-first century.

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### I. Background



### II. Rethinking port governance, from governance 1.0 to 2.0: the time has come!



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theoretical standpoint, a number of authors have agreed to call this process “devolution”, a general term for the shift in primacy between a public-sector and a private-sector regime that has taken place over history. A specific notion of “governance” has gone along with each of these changes, such as those described above between service, tool and landlord ports, each of them employing different devolution mechanisms, regulatory reforms, oversight instruments and systems of governance, signalling different kinds of partnership.

In an effort to clarify the scope of the “governance” concept, Brooks and Cullinane (2007) refer to a set of systems, structures and processes organized by groups of individuals for a common purpose; these can be understood as constituents of their governance structure, together with the laws and regulations framing the action of the public policy applied by the government to the public- and private-sector businesses concerned. The structures and processes implemented through national laws, such as the requirements for open tenders, oversight, follow-up, objectives and restrictions, make up a government’s governance. Similarly, although more synthetically, González Laxe (2013) structures governance into three fundamental areas: institutions, mechanisms and processes.

At the start of the current governance cycle, public ports in the region were going through a stage of manifold management problems, giving rise to substantial fiscal costs that, by the 1990s, States were finding themselves unable to sustain. They were also experiencing problems with staffing and workforce management, and the services they were providing were not compatible with expectations of rising trade in many countries. The situation ports were going through in the late 1980s and early 1990s was described as follows: “The public-sector ports of Latin America and the Caribbean face a crisis in almost every aspect of their activities—from investments and planning to labour, management, costs and productivity. This can be seen from complaints of port users, as well as from the steps governments are taking to reduce capital investments and budgets for equipment maintenance and personnel training programmes. Many exogenous factors have contributed to the crisis, such as external indebtedness, transformations in national economic goals and fiscal deficits, but governments have largely imposed it upon themselves through policies which strongly support the demands of dominant port groups. The responsiveness of governments to such groups has led to the establishment of port institutions based on laws, regulations, agreements, policies and socio-political obligations that lack coherence and pursue conflicting objectives” (ECLAC, 1992).

In this context, a number of reforms were initiated with a view to switching from tool or service management systems to landlord systems, i.e. ports where the State retains ownership of the assets while tendering out their operation as specialized or multipurpose terminals. This new process was undertaken with a view to remedying port inefficiency, reducing high fiscal costs and improving service quality, which at that time was low and uncompetitive. Some authors (Rodal and Mulder, 1993, cited in Brooks and Cullinane, 2007) have grouped these reforms under the heading of “devolution”, which they define as “the transfer of functions or responsibility for the delivery of programs and services from the federal government to another entity”, which may be “another order of government or a non-governmental organization, community group, client association, business or industry” (Rodal and Mulder, 1993). However, the main current definition is based on “decreasing financial and administrative involvement from government, and simultaneous increase in the other party’s commitment and responsibility” (Brooks and Cullinane, 2007).

By definition, this kind of “devolution” clearly involves decentralization of responsibilities and accountability (i.e. a shift from central and national controls to local capabilities). In sum, decentralization entails a number of objectives that differ depending on the form of devolution chosen. For the purposes of this document, “devolution” in Latin America and the Caribbean mainly meant concession contracts under the landlord model, and the aim of decentralization was to make service provision by the port authority more responsive so that operations and asset administration were placed on a more commercial footing with a view to (a) deriving greater revenues from the assets administered or (b) limiting the impact on the government finances of loss-making assets. The distribution of the benefits from these processes is a different matter from their extraction. While decentralization has unquestionably formed part of port reforms and has had the effects mentioned, in its most extreme version it reflects a lack of the kind of public policies, planning and strategies for port development needed to serve the wider national interest, hinders proper investment decision-making and weakens concerted State action on general port activity for the benefit of the economy as a whole.

The landlord port model was implemented in the last decade of the twentieth century by bringing in private-sector capital to increase port competition, thereby reducing the fiscal burden. Generally speaking, too, many decisions were decentralized to each port in order to bring the port administration closer to customers’ requirements and increase competition, all with a view to improving foreign trade competitiveness.

At the same time, even if this was not spelled out in most legislation, the reforms tended to improve the efficiency of the old public-sector ports, particularly for container movements. This opened the way to investment and the emergence of numerous specialized terminals, but while this was beneficial, there was less of an effect on other terminal and cargo types.

Lastly, the reforms undertaken to transform the old public ports took an essentially modal approach focusing solely on maritime transport, with no systemic vision to tie them to the development of railways, roads and other modes of transport. Thus, ports went their own way and the other components of the logistics system each went their own separate ways as well. The result has been a remarkable improvement in the efficiency of seaports in themselves, but efforts to work together with the other trade-related forms of transport, and above all with logistics, have been more limited. Today, the globalized system and the new conditions facing the world economic system have clearly shown the need for change in different areas of economic activity, including logistics and transport, if competitiveness and factor productivity are to be improved. For this, it is necessary to rethink the role played by a port in a country's supply chain with reference to its economics, its relationship to other forms of cargo transport, and the city of which it forms part.

Many of the goals of the last change in port governance have now been achieved, since the aim was to maximize efficiency, and while there is still some way to go, there has been a substantive improvement in the quality and quantity of provision. This has occurred thanks to reform, public action, the injection of private-sector capital and the introduction of competition between ports, forcing private-sector operators to invest in cranes and other facilities required to provide an efficient, high-quality service. However, this quarter-century-old governance approach is limited in its ability to deal with future challenges (and current ones too in some cases), since its objectives and mechanisms of action are bound up with a situation that has been changing very markedly. A key factor is the use of space, since capacity and territorial constraints have been becoming acute in many cases. Consequently, there is a need to devise strategic plans for making more efficient use of existing territory and for expanding as the ultimate needs of each port require.

To cope with the challenges facing the port industry, it is necessary to redefine what a port is and what role it has to play in final economic activity, since a port combines aspects of infrastructure, equipment, advanced services and logistics (González Laxe, 2013). This is why ports need to move from a unimodal approach to an integrated and systemic one that includes integration with the hinterland, logistics, production and other modes of transport.

The situation of the shipping industry is an important consideration here, as it is currently undergoing great changes, including the fact that: (a) ships are becoming ever larger and (b) there is a trend towards alliances between shipping companies, which means increasing their negotiating power vis-à-vis port terminals, network overhauls and fewer port calls. Set against this situation, the port expansion resulting from the widespread application of a management model that pursues greater efficiency and competition has vastly expanded the number of facilities run by major global operators of specialized container terminals everywhere in the region.<sup>1</sup>

The expansion of economic activity and trade, along with the requirements listed earlier, has meant that extra space is needed to improve services for cargo, ships and importers and exporters, and to start handling other types of cargo. However, most of the traditional ports that were the main target of the port reform initiatives of the 1990s are located in the middle of cities or adjoin sites that have been used for non-port purposes. As a result, one feature of recent years has been the construction of new greenfield ports in non-port areas where there is enough space to meet modern port requirements.<sup>2</sup>

Port administrations considering creating new ports, remodelling old ones or expanding existing ones are faced with a variety of problems that include city regulations and the occupation of land around ports, as well as what are usually defensive reactions in civil society to the prospect of urban land being reconditioned to create port facilities.

Given all the points touched on above, today's governance models, which are oriented towards meeting port productivity and efficiency needs and basic market requirements by altering and improving traditional ports that were originally in the public sector, have been caught between the new requirements and a governance framework that was designed for other purposes.

To cope with these needs, there has to be greater coordination between civil society, the State and the private sector, specifically with a view to: (1) moving towards an integrated and systemic approach; (2) rationalizing investments on the basis of social efficiency criteria; (3) combining private capital with public investment; (4) solving social and labour problems and those involved in ports' relationship with their surrounding areas; (5) improving not just competitiveness in the economy but factor productivity as well; (6) promoting integration of all components; (7) rethinking the decentralization-

<sup>1</sup> According to ECLAC data, the number of port terminals operated by major international firms in Latin America and the Caribbean grew from 11 in 1995 to 67 in 2014, or almost 90 if large regionally owned firms are included.

<sup>2</sup> Ports developed on sites never previously used for this type of activity, usually away from cities.



centralization process to restore lost balance; (8) meeting the needs of all types of cargo and not just container cargo; and (9) taking integrality and sustainability goals as guiding principles.

For this new governance to be generated, decision-making levels and responsibilities need to be clearly defined in a way that ensures that the different actors are capable of identifying and reaching consensus on a viable solution that benefits all concerned. The point needs to be clearly made that the beneficiaries should be the whole of the economy and society, and not just direct stakeholders.

For this, there is a need to rethink the relationships between society, the market and the State, and public management for ports in particular. As ECLAC put it almost a quarter of a century ago: “Like pieces of different puzzles that do not fit together, the wide range of governmental agencies involved in ports seem to lack the agility needed to plan, organize and execute institutional and infrastructural improvements” (ECLAC, 1990).

What is needed for the new governance is to establish a climate of institutional cooperation between public and private actors and civil society within a common general framework that provides a basis for policymaking, transformation strategy decisions and actions and interventions to meet the objectives set in view of the new challenges facing ports.

## II. Rethinking port governance, from governance 1.0 to 2.0: the time has come!

The significant and rapid changes in the world economy over the last five years, with impacts on levels of production and trade, on the maritime cycle and on the whole shipping and logistics industry, have had different effects on ports in Latin America and the Caribbean. The challenge for them has been to cope not only with volatility or periods of reduced activity, but also with new situations both in world trade and in shipping movements and the liner industry, as well as their own emerging issues, one of which, in many cases, is that they are running up against the limits of expansion.

Accordingly, the situation of the different entities in the region needs to be grasped so that it becomes possible to rethink the way ports and their institutions might deal with the coming challenges. This requires analysis of port governance in the region, as new conditions need to be created so that the emerging challenges can be fully responded to, something for which the current governance will probably not suffice.

In Latin America and the Caribbean, port governance, defined as the whole set of systems, structures and processes involved, as well as legislation, regulatory action and public policy goals, is still guided by objectives set almost a quarter of a century ago. Broadly speaking, these can be summarized as follows:

- Putting saturated traditional public-sector ports back on a viable footing.
- Making ports less of a fiscal burden. “For many years port deficits were considered of minimal importance and a matter that could be corrected with larger budget allocations or simply by raising charges. However, such increases for nations which have adopted export-oriented macroeconomic policies will ultimately affect the price of both exports and imports” (ECLAC, 1992).
- Introducing private-sector capital and business management to create a port services industry that emphasized market demands and competition. Regarding these, ECLAC (1992) put it as follows: “To promote private-sector involvement in port services and port facilities, a central government must adopt a market-oriented institutional framework which reassigns operational, planning and administrative functions among public-sector agencies and private interests, in order to ensure that dominant port groups cannot distort the commercial environment in which trade relations take place... The major elements of such a framework include statutory authority for private participation, deregulation, decentralization, an antimonopoly regime and a public-sector agency which balances competing interests to ensure that no one group can utilize market mechanisms to obtain a monopoly position. The statutory authority should clearly define standards for approval of private-sector proposals and establish a strong presumption that increased participation will benefit the nation through increased competition, in order to avoid the endless problems and delays of trying to satisfy imprecise regulatory requirements.” The solution proposed was “antimonopoly regimes to ensure that no group of the port community is able to insulate itself from market forces and exact monopoly rents”.

- Improving external trade competitiveness. “In the last decade of the twentieth century, governments face a fundamental choice: either they identify and define appropriate roles for the public and private sectors in ports vis-à-vis international trade or accept a reduction in the competitiveness of their exports in world markets, a contraction in foreign exchange receipts, a decline in domestic investments and a higher level of national unemployment” (ECLAC, 1992).
- Dealing with the labour problems, low productivity and high costs that existed in almost all the region’s ports. “All mixed public-private options must be supported by economic policies which seek to promote trade, an institutional framework which allows market forces to govern port activities, a productive workforce whose collective agreement permits the attainment of commercial goals and an attractive environment for private-sector investments, or the risk of transferring a public-sector monopoly to private interests could become a reality” (ECLAC, 1992).

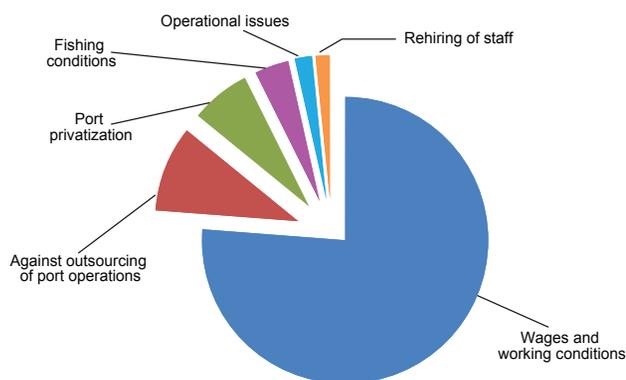
The reforms implemented to achieve these objectives relied on special instruments such as new port legislation, which proliferated in the region, and an effort to decentralize port authorities. The instruments used reveal a clear modal orientation in public policies, with isolated visions for each of the elements involved in logistics and freight processes. Another aspect that was very important in practice, although not clearly delineated in the legal instruments of the time, was a marked tendency for action to focus on container ports, as noted earlier.

The objectives of that wave of reforms were partially fulfilled, sometimes very successfully; competition, the introduction of private-sector capital and the decentralization of decision-making triggered a phase of major progress in the modernization of port services, with very striking increases in productivity. Other aspects, however, were not fully resolved, examples being certain labour issues, mechanisms for expanding the system as a whole as opposed to individual facilities, and certain matters connected with the legal or regulatory governance of concessions and competition. Of particular concern are the situations that have arisen when excessive competition has affected aggregate efficiency and the mechanisms for renewing concession contracts and allocating new operating rights. Competition remains a valid goal and needs to be sustained. However, it is important to analyse the difference between promoting service provision “in a competitive environment” that prevents the creation and capture of monopoly rents by port operators and an

overblown competition affecting the social efficiency to be expected from the market (Gillen and Morrison, 2004).

One of the problems presented by current governance has been its inability to resolve some labour problems, as demonstrated by the large numbers of strikes that have taken place in the region over recent years. In the last four years, there have been a total of 312 days of strikes in the 12 countries covered by an ECLAC study (Sánchez, 2014), mainly in pursuit of higher pay or improvements in port workers’ employment conditions, as detailed in figure 1.

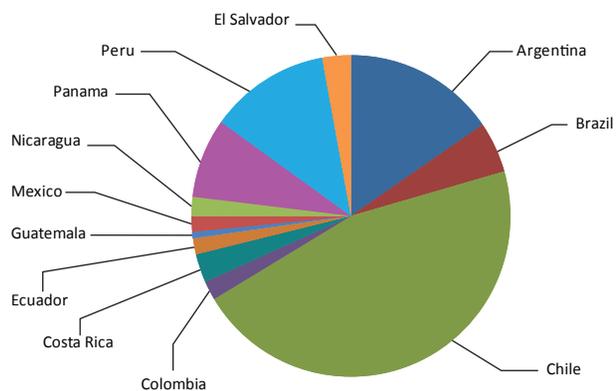
**Figure 1**  
**REASONS FOR STRIKES IN LATIN AMERICAN AND CARIBBEAN PORTS, 2010-2014**  
(Percentages of all strikes)



Source: Economic Commission for Latin America and the Caribbean (ECLAC), Natural Resources and Infrastructure Division, (2014).

Figure 2 shows the number of days of port strikes between 2010 and 2014 for each of the countries analysed.

**Figure 2**  
**DAYS OF PORT STRIKES, BY COUNTRY, 2010-2014**  
(Percentages of all strike days)



Source: Economic Commission for Latin America and the Caribbean (ECLAC), Natural Resources and Infrastructure Division (2014).

Nonetheless, the current governance (what this publication calls governance 1.0) has been a useful mechanism for

attaining the objectives of the last 25 years. As Octavio Doerr of ECLAC has often pointed out, “the model of port growth in most of Latin America and the Caribbean has relied mainly on rising productivity, centring on investment and management within terminals, particularly, although not exclusively, container terminals”. This claim is based

on the data in table 1, which reveals a relatively modest physical expansion of ports (they grew by about 76% between 2000 and 2013) alongside a much larger throughput rise of 460%, a ratio that is explained by increases in productivity. If the period from 1995 to 2013 is taken, the increase was 689%.

**Table 1**  
**EXPANSION AND PRODUCTIVITY AT LATIN AMERICAN AND CARIBBEAN CONTAINER PORTS, 1995-2013**  
(Absolute numbers and percentages)

	1995	2000	2005	2007	2009	2011	2013	Increase 2000-2013 (%)
Millions of TEUs (sample of 30 ports representing 60% of regional throughput)	-	4.4	11.9	15.4	16.0	22.7	24.6	460
Millions of TEUs (Latin America and the Caribbean)	6.7	16.7	27.0	34.6	33.9	44.0	46.3	177
Quay length (thousands of metres)		13.0	15.0	16.7	19.3	22.3	22.9	76
Number of STS cranes		60	92	119	161	187	204	238
Berth productivity (TEUs/m)		338	792	923	829	1019	1077	218

Source: Octavio Doerr, on the basis of surveys and the ECLAC Maritime and Logistics Profile.

Governance centred on terminal modernization is becoming inadequate and obsolete, however, as it overlooks a whole host of aspects of modern port life. For one thing, the old public-sector ports have little scope to grow physically, being enclaves in populous cities that struggle to coexist with the urban population and sustainable land-use goals. This was not a problem a quarter of a century ago, as there was room for expansion and, most particularly, scope to grow through investment in technology and organization that could enhance terminal productivity and efficiency, greatly increasing the yield from the same physical space. When the potential of this form of expansion began to be exhausted, however, a great many brownfield and greenfield projects and developments began to be seen. This is happening right up and down the region as it becomes clear that the traditional public-sector ports are close to their limits.

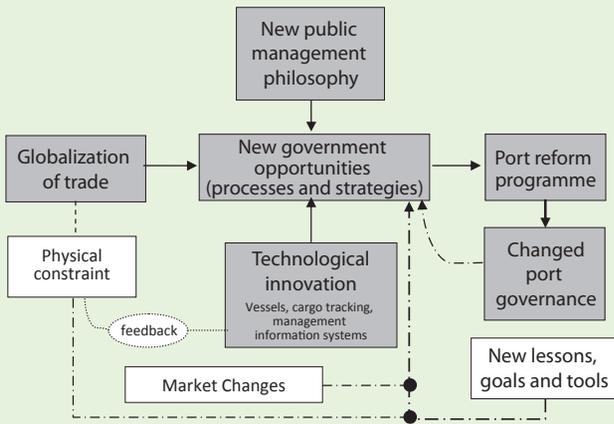
Diagram 1, modified from Brooks and Cullinane (2007), shows the reasons why a governance model may require changes. The authors base the model on a new philosophy of government action. This occurs, for example, when the decision is taken to move from straightforward port operation and regulatory action to public policy design and action focused on serving the common interests of society. This shift in the orientation of public policies, combined with technological change and the trade boost from globalization, creates a set of opportunities for change in processes and strategies that can lead to a programme of reforms and a shift to a new governance.

Indeed, the authors begin by pointing out that the dynamics of port development themselves can yield new opportunities for improvement by governments. It is important to stress, however, that other elements can also feed back into the process and once again drive a programme of reforms leading to a new governance. Some of the main ones are as follows:

- The interaction of ever-advancing trade and globalization with technological change, as this produces feedback that can push traditional ports to the edge of their expansion capacity.
- Partial attainment of the original objectives, which can prompt consideration of what new goals might be needed, taking advantage of lessons learned and new instruments that were not part of the original design.
- Changes in the market (and in technology), lack or excess of competition and shifts in bargaining power between actors in the market that can result in monopsonies or oligopsonies (the original objectives included the prevention of monopolies but not of monopsonies).

As time passes, a governance model may be called into question because of its intrinsic characteristics or because of the results achieved, in the light of various considerations. One quite common one is the existence of multiple strategic objectives that can be managed and monitored in a wide variety of ways (Brooks and Cullinane, 2007). This may be a common issue in the Latin American experience.

**Diagram 1**  
**PORT GOVERNANCE DECISION-MAKING FLOW CHART**

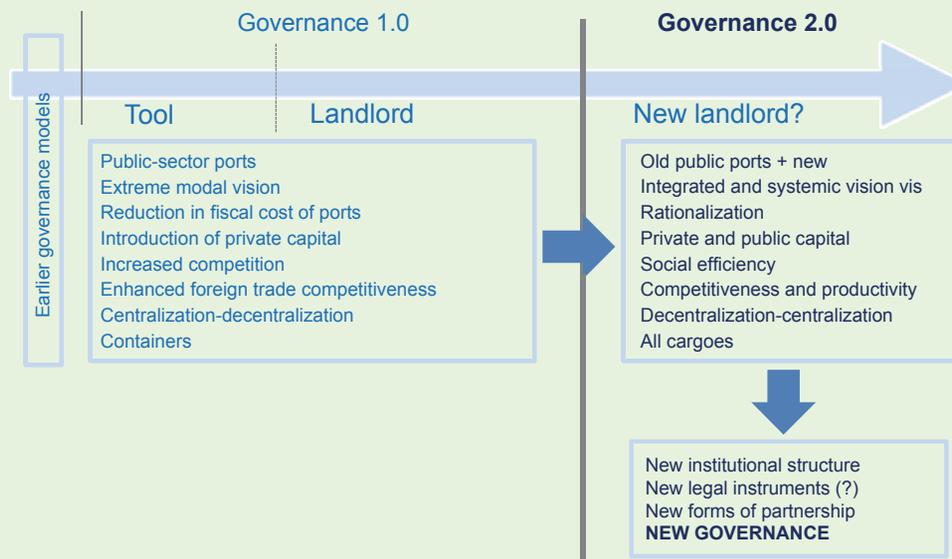


**Source:** Adapted from Brooks and Cullinane (2007).  
**Note:** The boxes shaded in grey are from the original diagram.

When a number of the elements described over the course of this document are found in combination, this is a sure sign that the time has come to move from governance 1.0 to governance 2.0.

Diagram 2 uses an imaginary timeline to summarize the main differences between the priorities of governance 1.0 and those of the requisite governance 2.0. In it, each of the main aspects of the former are matched against their equivalents in the latter, the conclusion being that there is a need for new institutional arrangements and new or further-reaching forms of partnership between the public and private sectors—in short, a new set of systems, structures and processes matched by standards and regulations to set the course for public policy action. In other words, a new port governance is required. This could also be seen as the need for a comprehensive and sustainable port policy with a more complete vision for port development and operation, including investments not only in expansion but in improved productivity and connectivity, the port community and logistical integration, among other measures that are urgently needed to boost efficiency throughout the entire logistics chain. The new policy cannot be introduced in isolation from the rest of the country’s logistics policy, as happened in the past.

**Diagram 2**  
**EVOLUTION OF PORT GOVERNANCE MODELS IN LATIN AMERICA AND THE CARIBBEAN**



**Source:** Prepared by the authors.

A new governance is necessary to deal with the new situation, without neglecting the development of traditional ports, and to address the striking changes that have occurred in the shipping and logistics industry in recent years. A new governance is needed even more to integrate the logistics chain within the framework of a comprehensive and sustainable public policy based on an

integrated and systemic vision that may require the design of new policy instruments. Modern ports require a more sophisticated and complex governance capable of guiding the port system towards objectives that clearly serve countries’ economic development, such as higher levels of provision, efficiency, productivity and competitiveness.

The objectives have to be consistent with the governance model. Every such model has its own implicit objectives and incentives, so that if this condition is not met (if governments impose internally inconsistent models on ports), performance simply cannot be optimal, irrespective of what performance outcomes were intended (Brooks and Cullinane, 2007, p. 655). This is not just a requirement for the authorities, but demands the application of vision and leadership that can induce both higher productivity and efficiency and greater coordination among all actors.

In every particular situation, meanwhile, the suitability of port administration, policies, strategies, models and tools (including special laws) and the degree to which they fit this new situation need to be analysed. Legislative change will probably be required in some cases, while in others existing laws, perhaps with some adjustments, will be sufficient to meet the situation.

Port models also need to be reviewed. A study of 42 ports around the world has confirmed a number of interesting conclusions. The first is that the traditional classification of service, tool and landlord ports given by Baird (2000) and the World Bank is overly simplistic and does not reflect the infinite variety of forms adopted in practice in a competitive port world. The second is that the governance models appropriate to each set of public policy objectives (for ports or for logistics in general) have not always worked as expected. Some of the possible reasons for this are: (1) governments lack an active port policy, (2) governments have more than one objective and have failed, even if only partially, to achieve what they set out to with the reforms, (3) the governance model applied has been compromised by secondary political interventions and (4) a number of mistakes have simply been made in the practical implementation of the reforms.

The investment regime, under a new governance characterized by strong expansion into new-generation ports, will usually involve a major role for public investment in new infrastructure, as well as existing infrastructure maintenance. The investments normally made by the private sector will continue to be very significant, but will no longer be enough; public investment in ports needs to be expanded. In this connection, efficiency and profitability criteria need to be both social and private, as in some of the reforms initiated during the 1990s.

A clear, strong link must be forged between the new governance and objectives of national and regional development, land management, changes in inclusive development models and improvements in factor

productivity, which is the only way this transformation can come about. Consequently, the vision for ports should not centre on improving the international trade position of the region's economies, which means once again that partial or modal approaches need to be abandoned in favour of a new one that is integrated and sustainable.

For this, it may perhaps be necessary to strike a new balance between centralization and decentralization, with recentralization of certain types of decisions, particularly those relating to territorial planning and development, the use of regulatory tools and pro-competition measures, and production strategies. This means considering the needs of all cargoes and their logistics chains, and not just containers.

In summary, a new governance is required for ports, matched by a new governance for infrastructure services.

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