



**United Nations
Conference
on Trade and
Development**

Distr.
LIMITED

TD/B/CN.4/GE.1/L.4
22 March 1996

Original: ENGLISH

TRADE AND DEVELOPMENT BOARD
Standing Committee on Developing Services
Sectors: Fostering Competitive Services
Sectors in Developing Countries - Shipping
Intergovernmental Group of Experts on Ports
Second session
Geneva, 18 March 1996
Agenda items 3 and 4

CHAIRMAN'S SUMMARY

1. On the subject of strategic port pricing, the Group benefited from the presentation made by Mr. Caude from Le Havre Port Authority (France). The Port Authority assessed pricing for each of the links of the logistics chain, which allowed discussions with shippers and shipowners about the total cost of transit of specific cargoes. Examples for crude oil and containers were given to illustrate the approach, which showed that differences between ports were not important when total transit costs were considered. The volume of cargo to be handled was an important variable when calculating unit costs. Further, tariffs were made up of two parts: a public one, applicable to all users, which could not be negotiated; and a commercial component, for which discretion was given to the Board to adjust it to market conditions.

2. The Group also profited from the presentation made by Mr. N'Zi N'Guessan from Abidjan Port Authority (Côte d'Ivoire). Pricing was made to comply with the Port Authority's financial objective of self-sufficiency, and analytical cost accounting was used to control and reduce costs. Pricing levels were also set on the basis of the long-term development plan of the port. The views of users were taken into account by seeking an adequate ratio of quality and price in the provision of services. Finally, the objective of national development was taken into account in fixing certain prices, notably for staple cargoes. Constraints on pricing arose from the need to continue to attract transit cargoes for land-locked countries.

3. Many port authorities considered that an important element in tariff setting was the need to repay the loans taken to fund port expansion, as well as to contribute to the municipality (e.g. Rotterdam contributed 8 per cent of its anticipated revenue and Antwerp 15 per cent) or to state or national Governments. Further, it was generally agreed that tariffs must provide sufficient funds to cover costs without hindering trade.

4. While there was agreement that the quality of services offered was more important than price, ports often competed on price. The nature and amount of the premium for quality was a matter to be regarded on a case-by-case basis. Many authorities in developing countries and countries in transition charged national users in local currency and international users in hard currency, sometimes with the option to pay in local currency at the rate of exchange applying when the service was performed. Again, port authorities agreed that pricing advantages should not be achieved by disregarding environment protection. There was agreement that competition was the best way to control prices.

5. The socio-economic development of the country had a bearing on the way tariffs were established and fixed. Port authorities which had a large portion of government-related traffic, maintained port facilities in remote locations, made a financial contribution to the functioning of other ports (i.e. for instance to cover expensive dredging) or were located in countries with unstable economies, tended to experience strict control over tariffs by government. The reasons for the involvement of Governments in pricing issues, which included port authority tariffs and cargo handling charges, included fears of the impact of charges on the cost of living or a desire to subsidize an undeveloped region or to balance income and expenditure at the national level. Conversely, ports located in countries with mature and stable economies relied more on decisions made by commercial parties, notably for cargo handling charges. However, even in this case special bodies existed in some countries to hear grievances.

6. Finally, the legal framework for pricing was reviewed by the Group, and it was found that the view that port authorities' tariffs were taxes was losing its universality. A recent European Union ruling stated that port authorities were enterprises which sought compensation for the services they performed and therefore were free to set tariffs in the way best adapted to trade. It was also agreed that port authorities should not look for unfair advantages through their monopoly powers.

7. For the issue of deregulation, commercialization and privatization, the Group benefited from the presentation made by Mr. Naumof (Romania). He explained that, in Romania, achievements had been made in the ongoing process of reform.

About 500 commercial bodies were now in charge of cargo handling, dredging, repairs, mooring, towage and maintenance activities. All these bodies were selected through a tender procedure, and all of them were funded by private capital. In some cases, a management/employee buy-out (MEBO) had been resorted to. Four autonomous state enterprises (Constantza, Maritime Danube, River Danube and Navigable Canals) were in charge of managing the public port domain, comprising breakwaters, port basins, approach channels, quays, port roads, and port utilities and telecommunications networks. Thus, ports were now managed under the regime of a landlord port authority. Shortcomings in the process were due to the lack of investors in value-added cargo-handling and industrial activities in the port area, insufficient capital in Romanian companies, the unstable situation in Yugoslavia and also the slow change in the previous centralized decision-making mentality.

8. The Group also benefited from a presentation by Mr. Hayes (Australia). He explained that dissatisfaction with high charges had started a process that had led in a period of 15 years to the closing of the Maritime Service Board of New South Wales. The labour cuts during the process had been substantial, and three new port corporations established to manage the ports of New South Wales were aiming to be successful business entities in charge of maximizing the net worth of state assets and promoting trade, with due regard for community needs and the environment. In his view, a blind preference for privatization was not always justified. In practice, efficient port services were provided by fully public ports, such as Singapore, and fully private ones, such as Hong Kong. He concluded by saying that no port in the world could do without the regulatory function of the Government.

9. Many ports spoke of their experiences with port reform, and presentations were also given by the representatives of Venezuela and Brazil. In many cases, there had been a decentralization of port ownership from the central government to state governments, often as a result of a general government policy to liberalize the economy. What was clear was the need to have a specific regulatory framework for the port administrative structure. Thus, it would be better to speak of re-regulation rather than deregulation. Several experts indicated that the issue of port reform was a process that required a pragmatic approach to suit the particular conditions present in the country and the individual ports. A common feature of the process was the transfer of duties from the operating type of port authority to the leaner landlord type, and for that a legislative framework was needed. In some cases, a port law was enacted first, as in Brazil; in other countries, a general law such as the devolution of powers from the federal level to states was used. In other cases, a phased legislative approach was used, as in Poland, where the port was first transformed

into a company belonging fully to the national government and after a few years a port bill was submitted to Parliament proposing a non-profit public company, or in Romania, where the limits of the current laws allowing the setting up of commercial bodies in ports had been reached and there was now a lack of legislation.

10. What was also clear was that the process of port reform took a considerable time. Further, for any reform, it was important to have clearly in view the goal of promoting trade, while at the same time having profitable and thus sustainable operations. The objective for port authorities was to have adequate capacity and efficient services. A complementary legislative effort was required in other areas affecting port operations, and the upgrading of Customs, labour, fiscal, trade and other legal instruments was a prerequisite for successful port reform. In France, one of the components of the reform had included a change in the law concerning the public domain. The changes allowed leases of up to 90 years, mortgages on public port lands and indemnity in case of eviction.

11. It was agreed that a partnership of the public and private sector was needed to have a successful port reform, notably in connection with the financing of development schemes. New financing methods such as BOT were being used increasingly by ports. However, proof of technical know-how for both construction and operation of terminals, in addition to the financial commitment of the interested parties, was deemed necessary to avoid financial speculation.

12. The objective of port reform was increased efficiency of ports. One important issue was the regulation of port operators which, during the first stages of the process, were sometimes numerous and had insufficient resources. For this, a pragmatic approach was needed. In all cases, the need for efficiency placed the focus on a motivated and well trained work force. In general, the introduction of the private sector meant leaner bodies, and the problem of placing excess labour occurred. Redundancy payments and retraining were two means mentioned to solve this problem.

13. On the subject of financing port development, there was a considerable degree of agreement on the conditions required to attract private capital. Leases of 20 to 25 years which were also renewable were common in several ports, and longer periods were allowed for larger investments. The representative from Rotterdam explained that his port provided only land, land access and the quay wall, for which a fixed amount was charged. The amount was indexed, and the lessee had to return the land in the same condition. An environmental audit was made before and after the lessee took the premises, and he was liable for any pollution. In other countries, notably Egypt and Morocco, due to the large

investment required and the long payback period, financing of port development was undertaken by the State.

14. State aid, like that proposed by the European Union for the development of transport networks, could affect the competitive position of ports by reducing inland transport costs. However, it was maintained that such aid was necessary for some ports which were not commercially viable due to their eccentric location and which were necessary for broader national reasons, as in Greece and Norway.

15. On the subject of cooperation, the Group benefited from a series of presentations made by representatives of several French ports. Mr. Fourgeaud from Nantes-St. Nazaire Port Authority presented the collaboration of his port with Djibouti Port Authority (PAID) within the framework of the Convention signed between the two Governments. This collaboration involved financial aid amounting to eight million French francs, and a supplementary protocol had been signed between the two port authorities. The implementation of a Company Plan was agreed as the main object of the collaboration. Some of the main actions undertaken were: reorganization of the accounting and financial functions; setting-up of a new tariff; a development plan for the workforce; updating of port regulations; improving port statistics and establishing commercial policies. A new simplified tariff, a union agreement and new regulations had all been implemented.

16. Mr. Weizmann from the Directorate of Ports of France presented the rationale for and the scope of cooperation in the Mediterranean Sea, as agreed by the European Union, to establish a zone of stability, development and free trade in the southern region of the Union. France acted as the focal point in transport and communications. Two projects that were being implemented were in the areas of maritime safety and the linkage of computerized networks.

17. The evolution of cooperation in the field of ports in the Mediterranean Sea was presented by Mrs. Romani from the Marseille Port Authority. She described the use of the ESCALE software to speed up the turnaround of ships in 14 Mediterranean ports, the plans for the rehabilitation of the port of Beirut and the development of a new port in Gaza strip, as well as the MARTRANS programme of the European Union which would simplify and standardize the transfer of computerized data for maritime transport in the Mediterranean. Cooperation in the field of hydrography was presented by Mrs. Fourcassies from the Bordeaux Port Authority. She stressed the importance of hydrography for port authorities to assure a safe passage to and from the port and the benefits that could be reaped from decreasing dredging costs. She outlined the cooperation carried out by her port in this field with several ports in Africa and the Caribbean.

18. The role of the International Association Cities and Ports was presented by Mr. Delsalles, representative of the Association, who noted the need of ports and cities to discuss important issues such as the reconversion into commercial or residential areas of the obsolete sections of ports, the increased concern for the environment and the important role played by ports in respect of regional planning and development.

19. The cooperation of four major deep-water ports and two railway companies in one Brazilian state to set up an export/import corridor in Central Brazil was presented by Mr. Pimentel (Brazil). The objective of this cooperation was to promote exports from the region.

20. Cooperation between European ports was presented by Mr. Suykens, Chairman of the European Sea Port Organization (ESPO). Extreme diversity in size, location, management, operations, etc. was the main feature of European ports, but in 1972 they had started to cooperate informally within the scope of the activities of the European Commission, and in 1993 they had created ESPO. The rapidly changing environment maintained the need for ports to cooperate, notably in issues related to regulations.

21. The cooperation carried out by the Port Management Association of West and Central Africa was presented by Mr. Daniels, representative of the Association. The Association provided useful fora for exchanging information on the experiences of those member ports introducing commercialization. In addition to the regular meetings, international seminars were also sponsored by the Association in the subregion.

22. The cooperation carried out by the Union of Port Administrations of North Africa was presented by Mr. Ait Jafour (Morocco). Members from the seven countries of the Union concentrated on the harmonization of laws, regulations and policies, the running of seminars and the preparation of feasibility studies for the procurement of computerized equipment.

23. The activities of the Association of Port Lawyers (Legiport) was presented by Mr. Rezenthel, Secretary-General of the Association, who invited interested professionals from port authorities, port-related bodies and organizations and academia to participate in the seminar to be organized in Casablanca (Morocco), in late 1996, to foster the main aim of the Association, namely to develop port law as a specialized branch of law.

24. The intervention of several experts showed that considerable cooperation was taking place between ports at the subregional level. Cooperation existed

amongst ports in Southern Africa, in the Black Sea, in the Baltic Sea, in the Mediterranean Sea and, through the American Association of Port Authorities, in Latin America. Participants from Latin America stated their support for the work of Legiport and emphasized the need to introduce commercial concepts into the traditional administrative law that prevailed in many ports. Cooperation activities at a bilateral level were reported by a number of countries, e.g. Netherlands and India, and Belgium and China, and well established channels, such as the Ministry for Cooperation in France, were in place for this purpose in many countries. There were mixed opinions as to whether cooperation between competing ports was feasible, but the exchange of information on matters concerning safety was essential. Cooperation amongst ports was also essential to dissuade the use of substandard ships.

25. Participants were appreciative of the new certificate course for the training of middle managers and the training survey for senior port managers presented by the UNCTAD secretariat. Comments related to the need to have a comprehensive approach to training that covered several management areas, the need to tailor training to the specific needs of individual ports, the importance of building some in-port capacity for training delivery, and the importance of attitude changes in respect of training in the work place. Many developing countries noted the positive results they had achieved in developing training capability by being associated with the Trainmar programme.