

European Sea Ports Organisation (ESPO)

Intervention Patrick Verhoeven at General Assembly Assoport

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Ladies and Gentlemen,

It is an honour and true pleasure to address your General Assembly this morning. Assoport gently persuaded me to read out my speech in Italian, which is a challenging task, especially since my knowledge of your language doesn't stretch far beyond being able to order in the fine restaurants that you have in this country. Please be patient with me therefore.

I have been asked to present the findings of the latest ESPO 'Fact-Finding Report' which has brought together a wealth of information on the governance of European seaports. Time does not permit me to give an extensive presentation of all the results, but I do want to summarise for you the main findings of the report. I will present them in seven distinct categories: devolution, corporate governance, operational profile, functional autonomy, functional pro-activeness, investment responsibility and financial autonomy. I will conclude my intervention with some general observations.

Throughout my presentation I will be illustrating results both in general terms and specified according to a regional typology, which distinguishes between 'Latin', 'Hanse', 'Anglo-Saxon', 'New Hanse' and 'New Latin' countries.

1. Devolution

If we start with 'devolution', I have to remark first of all that I use the term here in the broad sense as a means to identify to which extent port management has been privatised, decentralised and/or corporatised.

The findings of the report confirm first of all that the vast majority of port authorities in Europe are publicly owned. The main exceptions are to be found in the Anglo-Saxon region, where, especially in the UK, some of the larger ports were fully privatised in the 1980s and 1990s. In this region, further privatisations are currently under discussion. Privately owned and managed ports can be found on the continent as well, but this mainly concerns a limited number of smaller, industrial ports. On the continent, there are presently no reforms envisaged which would involve systematic and complete privatisation of port authorities. Even in Greek ports, where the plan was contemplated for a while, the government has now decided to retain a 51% share. Privatisation and liberalisation of operational services is however on-going in several countries.

The Hanseatic and Latin regional traditions of, respectively, local and centralised port governance are still very much present on the continent today. Taking into account that most port authorities in Europe proportionally belong to either one of these traditions, the

difference between both translates itself in a north-south duality. This does not only involve simple ownership differences, but covers many other governance elements, especially functional and financial autonomy, as I will explain in a minute. Port authorities in the new Member States of Europe are generally marked by central government ownership or control and would therefore be closer to the Latin tradition, although there are differences. It is significant that most port authorities that participated in the survey confirm that, regardless of their ownership or dominant level of control, they maintain the most intense contacts with local government. Several port authorities in the Latin region are furthermore seeking greater autonomy from central government, pressing for reforms in a bottom-up manner. In the Hanse region one detects a kind of opposite movement, whereby national governments want to obtain a closer grip on port governance. The various top-down initiatives aimed at stimulating closer co-operation between (neighbouring) ports and selecting 'ports of national interest' is a good illustration. Although current reforms do not immediately point at substantial changes in the Hanse-Latin constellation, there may be developments in the longer term which could make the opposition between the two big traditions more vague.

Most port authorities participating in the survey have their own legal personality, which generally takes a 'commercialised' or 'corporatised' form. Corporatised port authorities have share capital that is owned in part or in full by government. Regional comparison highlights that corporatised port authorities, including privately owned corporations, occur most frequent in the Anglo-Saxon and 'new' regions. Some of the larger port authorities in the Hanse and Latin region have taken on a corporatised form as well and on-going reforms indicate that more may follow in the near future. The European Union could have an indirect influence on this process, as I will explain at the end of my presentation.

2. Corporate Governance

Let us now move to corporate governance, whereby I focus on the principles of corporate governance that are customary in private undertakings. These can be assessed from various perspectives, including the objectives that port authorities have, their organisational structure, transparency of procedures, the use of corporate accounting principles, and taxation.

Port authorities in Europe pursue very different economic and non-economic objectives. The diversity is to some extent linked to the regional governance traditions, but not entirely. Port authorities in the Anglo-Saxon are most outspoken in pursuing typical 'corporate' objectives, such as maximisation of profit.

The analysis of the organisational structure of port authorities shows that political influence varies between the regions, but is substantial everywhere, with the exception again of the Anglo-Saxon region (mainly UK). Political influence is especially visible through the appointment of top management executives and the composition of supervisory bodies. Although the role of the latter mostly seems to correspond with the usual role of a board of directors, indications are that in some cases it gets involved in more daily management decisions, therefore limiting the discretionary powers and autonomy of management. The question of course remains whether, given the strong degree of public ownership of European port authorities, political influence can or should be absent at all.

The use of public selection procedures to contract port land out to terminal operators can be seen as an indicator of transparency. Most port authorities use such procedures, although this is often conditional, e.g. only for plots of land that are of strategic interest. The use of public selection procedures is most widespread in the Latin and new Member State regions and also more commonly used by medium-sized and large port authorities. This is another area where EU law and policy may implicitly have a harmonising influence. Transparency can also be related to the existence of corporate social responsibility policies, the use of integrated management systems and the involvement of stakeholders in port development masterplans. Whereas the latter is common practice for most port authorities, the former two occur less frequent.

Most port authorities that have their own legal personality follow generally applied accounting principles and make their annual financial accounts public. The situation is very different for taxation, whereby only about half of the responding port authorities are subject to income tax.

We can conclude here that the overall picture in terms of application of corporate governance is mixed, especially in the traditional Latin and Hanse regions. The size of the port authority often stands out as a distinguishing factor. Port authorities in the Anglo-Saxon region are most outspoken in corporate behaviour. Port authorities in the new regions tend towards corporate behaviour, but not quite on all accounts.

3. Operational Profile

The customary way to classify port authorities in operational terms is to distinguish between 'landlord ports', 'tool ports' and 'service ports'. The report shows that most port authorities, at least those on the continent, converge to the landlord model. These port authorities mainly pulled out of cargo-handling services, both on board ship and on shore, and re-focused their role on landlord and regulatory aspects. On-going reform processes, especially in Latin countries and new Member States, confirm this trend. Port authorities generally do maintain certain operational activities, but these concentrate mainly on the provision of those ancillary services that are to the benefit of the entire port community, such as provision of public utilities and dredging. Some important regional differences however exist, with notably Anglo-Saxon port authorities being much more involved in the provision of cargo-handling and also technical-nautical services. Equally, smaller port authorities remain generally more involved in the provision of these kind of services.

4. Functional Autonomy

If we look at the functional autonomy of port authorities, we especially need to focus on the landlord and regulatory function.

The landlord function can be considered as the principal function of contemporary port authorities. Nevertheless, only about half of the responding port authorities actually own the port land they manage. Most port authorities are not able to sell port land, unless with restrictions. The landlord function therefore translates itself essentially in the ability to

contract land to third parties, which most port authorities can do and which forms the most important governance tool they have at their disposal. Hanseatic and Anglo-Saxon port authorities enjoy relatively more autonomy when it comes to land ownership and contracting out of port land than their colleagues in other regions.

This same north-south duality applies to the regulatory function. Whereas port authorities in the Anglon-Saxon, Hanse and – to some extent – New Hanse region generally incorporate the harbour master’s office, this is usually a distinct entity in the Latin and New Latin regions.

5. Functional Pro-activeness

From functional autonomy, we move to functional pro-activeness. This can be assessed at the level of the port authority’s own port(s) and beyond.

The ‘own port’ dimension covers pro-active fulfilment of the traditional landlord and regulatory functions as well as the community manager function, which is pro-active by nature. As regards the landlord function, it appears that many port authorities in Europe are trying to optimise the use of scarce land via the inclusion of throughput specifications, environmental performance targets and other clauses in terminal contracts. They are also increasingly using the terminal awarding process in view of a broader environmental compliance of port activities and the sustainable development of the port. Apart from the regular commercial exploitation and administration of port land, almost half of the responding port authorities also engage in urban real estate management and environmental land management. The former is especially typical for port authorities in the Latin region. On the regulatory side, most port authorities issue their own regulations in the field of safety, security and environment, but generally do not go beyond mere transposition of legal requirements. This somehow contrasts with the fact that half of the responding port authorities do claim to go beyond legal requirements in implementing and developing actions to enhance sustainability. The actual community manager function appears to be well-rooted in the functional profile of port authorities. Both the economic dimension of this function, which focuses on facilitation of the port community and the solving of various kinds of bottlenecks, and the societal dimension, which focuses on external stakeholders, is very much present and many port authorities assume a leadership role in both. Latin port authorities are among the most pro-active in this field.

As regards the ‘external’ dimension, there are currently few port authorities that transpose their functions beyond their own borders, whether this concerns investment in hinterland networks, investment in other ports, export of regulatory and other expertise etc. Mainly larger ports seem to actively develop initiatives beyond their own perimeter.

6. Investment Responsibility

Let us now talk about money. The Fact-Finding Report shows that, in most cases, the port authority bears a very important financial responsibility for the capital investment, administration, operation and maintenance of the capital assets that constitute a port. Taking into account regional and size-related differences, most port authorities bear financial

responsibility for maritime access (at least partly), terminal-related infrastructure and transport infrastructure within the port area. The private sector mainly assumes financial responsibility for superstructure, which is again an indicator that most European port authorities converge towards the landlord model. Government bears in most cases the principal financial responsibility for transport infrastructure outside the port area. On average, port authorities from Anglo-Saxon and, to a lesser extent, New Latin regions bear relatively more financial responsibility than their colleagues in other regions.

7. Financial Autonomy

I guess that the final part of my summary covers something that interests you in particular, and that is the financial autonomy of port authorities.

General port dues form the most important source of operating income for port authorities, next to income from land lease and income from services. If present at all, public funding forms only a very limited part of the operating income. The revenue from land lease is relatively lowest in the Anglo-Saxon and New Latin regions. The income charges that port authorities apply often have a public nature, either in the form of taxes or retributions, and these are mostly based on public tariffs. This is especially the case for general port dues. The autonomy of port authorities with regard to port charges, especially where it concerns setting the level of charges, differs according to regions and is especially low for port authorities from the Latin region. Port authorities from the Anglo-Saxon region have relatively the highest autonomy in this respect. The same picture emerges for the overall financial autonomy of port authorities. Small port authorities often seem to have relatively more financial autonomy than large ones.

A fundamental weakness thus appears. Whilst most port authorities apparently have to bear heavy investment responsibilities, many do not seem to be full master over their income. This is especially the case for Latin port authorities and - to a lesser extent - port authorities in the new regions, which are marked by a rigid public nature of port charges and lack of financial autonomy. Italian port authorities are probably the least autonomous in this respect.

8. Concluding Observations

Let me now make a few concluding observations.

The conceptual basis of the ESPO 'Fact-Finding Report' was built on the hypothesis that a 'renaissance' of port authorities would enable them to face multiple and ever-changing economic and societal challenges. At the same time, a series of governance factors were identified that would determine whether port authorities remain mere 'conservators' or take on a higher profile as 'facilitators' or 'entrepreneurs'.

The report indicates that 'renaissance' ambitions do exist in most cases, but that diversity in governance frameworks indeed either limits or enables those. Most port authorities somehow converge towards the 'facilitator' type, with only few venturing into 'entrepreneurial' activities. The latter is more typical for port authorities in the Anglo-Saxon region, which –

especially in the UK – are in many ways closest to commercial undertakings, and large port authorities, mainly from the Hanse region.

This already illustrates that differences in governance frameworks are mainly regionally determined. The survey confirms that the traditional Hanse, Latin and Anglo-Saxon frameworks still explain most of the governance diversity in Europe. Port authorities in the ‘new’ regions situate themselves somewhere in between the main traditions, although a strong central government influence would make many of them more affiliated with the Latin tradition. Taking into account that, proportionally, most port authorities in Europe belong to either the Hanse or Latin tradition, the difference between both translates itself in a north-south duality which not only involves simple ownership differences, but covers many other governance elements, especially functional and financial autonomy, which is typically more limited in the south. Whilst this may prevent Latin port authorities more from achieving their objectives and investment responsibilities, it somehow paradoxically does not always appear to be a constraint for functional pro-activeness. Although current reforms do not immediately point at substantial changes in the Hanse-Latin constellation, there may be developments in the longer term which could make the opposition between the two traditions more vague.

The size of the port authority may to some extent explain governance diversity as well, especially where it comes to corporate governance, the operational profile as well as functional pro-activeness.

Finally, we should take into account that European Union law and policy potentially have an implicit or explicit harmonising influence on port governance. European competition law in any case implies that port authorities engaged in economic activities have to be considered as undertakings, regardless what their legal form or ownership is. It will be interesting to see if and how the European Commission’s new ports package will address this matter. I am personally convinced that, even if only the very basic EU rules on market access and competition would be rigorously applied in all Member States, we will already move to a greater harmonisation of European port governance. If we want to strengthen the role and performance of port authorities, the EU may even be an objective ally, for instance in optimising the use of concessions or establishing financial autonomy. Let us therefore look at the initiative of Commissioner Kallas as an opportunity to make our own wishes clear as port authorities, regardless of the restrictive frameworks some of us may be bound by at national level.

I don’t want to end this presentation without extending a warm thanks to Assoport, not just for translating my speech today, but also for producing an Italian version of the ESPO ‘Fact-Finding Report’. I hope you will find it of interest and I very much look forward to continuing an open dialogue with the Italian ports on these and the many other issues we deal with in ESPO.

Thank you.