EXECUTIVE SUMMARY

The private sector has always been actively involved in port affairs. The land and water transport services that use the port are almost entirely private sector. Nearly all of the cargo shipped through ports is privately owned. The private sector provides an array of complementary trade facilitation and logistics services for this cargo. Within the confines of the public port, cargo owners, forwarders and ship agents actively participate in decisions concerning the handling and storage of cargo. A significant portion of the national network is made up of private ports. These handle only a few types of cargo, provide services to a limited number of vessel operators, and are usually controlled by either the owner of the cargo or the operator of the shipping lines. The public sector's role is to own, develop, and manage basic port infrastructure and common-user facilities. The role of the private sector in public ports generally includes providing cargo-handling equipment and services and vessel services but varies with type of port (resource, service, or landlord port).

Private terminal concessions are commonly used to develop both liquid and dry bulk terminals in public ports. Over the last three decades, they have been used to develop container terminals in most of the countries of Asia. These terminals are concessioned by shipping lines such as Sealand, Maersk, Evergreen, and K Lines, and by international terminal operators such as Hong Kong International Terminals, P&O, Stevedoring Services of America, International Container Terminal Services Inc, and Singapore Port Authority, together with their local partners. Even in countries characterized by strong centralized governments, the pace of concessioning is accelerating.[1]

The process of port privatization has rarely involved pure privatization, since land and infrastructure are rarely sold. Instead, the process involves private sector participation in operations and investment in equipment and facilities. The process is not a monolithic effort because of the diversity and complexity of ports and the services they provide. It can be divided into three components (i) institutional reform, (ii) divestiture of existing services and assets, and (iii) investment in new facilities and services. These can be implemented individually or in combination. For each component, there are many possible public-private partnerships.

Institutional reform is intended to improve but not necessarily change the management of public ports. The principal objectives are to increase efficiency and improve the quality of services by making management more responsive to the needs of port users. This reform encompasses five activities. The first is decentralization of the national port system by granting financial and operational autonomy to individual ports, thereby limiting the influence of central government. The next two are separation of regulatory and management functions and commercialization of the latter. The regulatory function covers not only health, safety, and environmental protection, but also competition and pricing. Commercialization begins with the introduction of commercial accounting systems and financial objectives, e.g., self-sufficiency and profitability, and extends to client-oriented management behavior. The fourth activity is improved access to long-term capital such as commercial loans, debentures and project finance. The fifth is the conversion of the corporation to a share company with an option for public ownership of the shares.

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[1] For example, recent terminal concessions in Dammam, Jeddah, and other Saudi ports are rapidly replacing labor contracts and overstaffed administration.

Divestiture of existing services and assets to the private sector on a temporary or permanent basis requires a change of management. It can be accomplished through contractual arrangements including service contracts, capital leases, franchises, service contracts, and concessions or through the sale of assets and open competition for specific port services.[2] The term "privatization", when properly defined, refers to the outright sale of assets and open competition. In practice, it has come to refer to all these options.

Investment in new facilities and services occurs as a follow-on to divestiture when the private sector rehabilitates and expands existing assets. It also occurs through the establishment of private ports or through concessions for new facilities within public ports. In both cases, the private sector is given effective control over all assets, including land and foreshore, either in perpetuity or for a lengthy period.

The best institutional structure for promoting private sector involvement in public port operations and investment is the landlord port. This structure provides a broad framework in which the private sector can replace the public sector in the provision of services to the vessel and its cargo. It allows the public sector to retain ownership of the land and infrastructure and to continue regulating their use, while sharing responsibility for capital investment. This framework has been used throughout Western Europe and the United States for much of this century. In the last decade, it has become increasingly popular in Asia and South America. Its popularity is based on the effectiveness of this framework for increasing operational efficiency, providing flexibility in the structure of the tripartite relationship between government, labor, and private management and promoting client-oriented management. It allows a port to improve the quality of its service through a process of evolution, which can accommodate the changes in trade, shipping and regional political structures.

The introduction of the landlord structure requires a consensus between government, labor, and private management on the procedures for transferring control of services and assets to the private sector. This is followed by a gradual expansion of the private sector's role in operations and investment, the evolution of the contractual relationship between the parties and the development of a common set of goals for the port and its users. The process should not emphasize the shift from one institutional structure to another, but rather the continuing reallocation of responsibilities so as to improve the quality of port services. In order to be effective, this process requires specific objectives. The experience of the last decade has confirmed the need for commercialization of management, timely and efficient investment, efficient allocation of risk between the public and private sector, and active competition among service providers. To these objectives, there is a need to promote the integration of the port into the logistics chain connecting producers and consumers.

A strong client-orientation is needed both for improving existing services and facilities and for introducing new services and facilities. For the former, the management must trade-off the quality and price of port services. For the latter, the management must determine the potential demand and the price required to justify the related investments. Timely investment requires the ability to determine if existing assets are being used efficiently as well as the capacity to procure new assets without being encumbered by lengthy procurement procedures. Effective risk allocation requires that risks be assigned according to which party has the greater capacity to mitigate the risk. Since the objective of this process is to introduce commercial

[2] The definition of these arrangements is presented in the Glossary at the beginning of the report.

behavior, the commercial risk would be transferred entirely to the private sector. The public sector would retain the regulatory risk since it is directly involved in the design and enforcement of these regulations.

Competition can be in the form of direct competition between service providers or indirect competition among providers of complementary network services Where competition is not possible, a contestable situation can be created through the terms and conditions of the contract between the public port and the private sector, or by allowing the shipping lines and cargo owners to provide services where existing providers do not meet their needs. The role of the public and private sector in port investment will vary from port to port, but the public sector generally retains responsibility for basic port infrastructure and the private sector for mobile equipment and operations-related structures.

The port industry has undergone rapid technical and organizational change since the start of containerization nearly a half century ago. During this period the sustained growth of oceanborne commerce and the development of international shipping have been served through a combination of improvements in technology, tighter integration of network functions and productivity gains for general cargo operations, which have averaged four percent per year for facilities and eight percent for labor. In this environment, it is not possible to identify best practices except as a snapshot on time. It is anticipated that the practices mentioned in this report would be modified and replaced over the next 10-15 years as the requirements of international trade and the accepted role of government change.

The value of the landlord port model is closely associated with the need for government to maintain control of its foreshore, especially areas suitable for port development. Public ownership of the port land is likely to continue as long as the sites for port development are scarce. In the future, this scarcity will diminish as:

- The location increases in importance relative to the physical suitability of the site.
- Financial resources for dredging, breakwaters etc., become more readily available for well-located but unsuitable sites.
- The technology of cargo-handling improves, e.g., the development of the Single Point Moorings for oil transfer.
- More sophisticated and complex logistics chains generate a larger number of solutions to transport needs.
- The public interest dimension shifts from local to national to international.

With these changes, the limitations of public sector landlord ports will become more apparent. These limitations as observed in the port networks of the United States and North Europe, include:

- The continued use of public subsidies (albeit in more subtle ways).
- Public investment based on local/national pride rather than commercial objectives, which leads to over-capacity.
- Public political concerns overriding commercial judgment.

Within the next two decades, the role of common-user public ports is expected to diminish and be replaced by private terminals, thus marking a return to the structure of earlier centuries. For now, however, the improvement in port efficiency and move towards commercial management will be accomplished through public landlord ports with private sector operations and shared investments.

The Asian Development Bank and other multilateral development banks can provide an important impetus to the shift from public operating ports to landlord ports. They can arrange for technical and financial assistance for assessing the legal, political, and financial constraints to divestiture of responsibilities and assets. They can also provide this assistance to support the process of negotiation between the government, labor, port users, and private management. This would include the development of an agreement with labor on the process of divestiture and with the private sector on a contractual relationship that will provide efficiency gains and increased competition while allowing reasonable returns on investment (both capital and management). The Asian Development Bank can provide financial support for the labor reform and for the public investment required to promote competition. It can also assist in designing an appropriate tendering system and the formulation of the contract terms followed by the negotiation of a sustainable relationship between the public and private sector.

These institutions can also provide assistance with related reforms. One is the development of the long-term domestic capital markets, which are needed to provide a reliable source of funding for the development of port infrastructure. Another is the integration of the transport network to provide seamless intermodal transport. They can also provide assistance to the public port organizations and the ministries of transport for developing national transport network plans and port masterplans.