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The French Port System: Forty Years of Port Governance Reforms

Laurent Fedi, Pierre Cariou, and Jason Monios

Until the beginning of the twenty-first century, the French port system was characterised by the dominance of the ‘tool port’ model (Brooks & Pallis, 2012; World Bank, 2013). The concepts of ‘public port service’ and related ‘general interest’ have shaped the development of French ports for decades. Compared to other European seaports, the key changes in the French port system occurred later and were undertaken in a fragmented way. Successive law reforms have been adopted with the aim to modernise the status of French seaports facing stronger competition and

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market share erosion, notably in the container segment (Cariou et al., 2014; Court of Auditors, 2006; Lacoste & Douet, 2013). In 2008, a significant port reform was announced and came into force in 2011 after tough negotiations characterised by numerous strikes and lock-outs (Fedi & Rézenthel, 2011). The ‘landlord port’ model has finally been introduced for major metropolitan commercial seaports (so-called ‘Grands Ports Maritimes’—GPMs), which remain state-owned public bodies like the majority of European seaports (ESPO, 2016). Following a clear trend of devolution (Debie et al., 2017), all other French commercial seaports and fishing ports have been under local administration, mostly Regions and Departments, since January 2007 (Debie & Lavaud-Letilleul, 2010).

The French Port System Description

France represents the second largest maritime domain after the United States of America, with 11 million square kilometres. Thanks to the Overseas Departments, France has a large number of ports from the Indian Ocean to South America, passing through the Caribbean. The entire maritime activity (fleet, ports, fisheries, naval industry, shipyard, research and tourism excluded) represents more than 336,000 direct jobs in the local basins (French Maritime Cluster, 2018) and industrial activities employ more than 90,000 people. The turnover of French seaports was € 830 million in 2016 and commercial seaports (Table 12.1) are divided into three main categories:

- the ‘decentralised ports’
- the ‘autonomous ports’
- the ‘major maritime ports’ (‘grands ports maritimes’ GPMs in French).

Table 12.1 Typology of the French seaports

Category	Decentralised ports	Autonomous ports	Major ports (GPM)
Main regulations	1983, 2002, 2004, 2015	1965, 1994, 1999	2008, 2012, 2016
Number	500	2	11
Status	Public body	Public body	Public body
Ownership and control	Local authorities: Regions, Departments, Agglomeration Communities, CCI	French state	French state

Source Adapted from Cariou et al. (2014)

Table 12.2 French port traffics in million tonnes

	2000	2005	2010	2015	2017	AAGR 2000–2017 (%)
European Union (EU15) ^a	3,012,086	3,433,446	3,358,165	3,500,521	3,607,446	1.1
France	325,789	341,470	316,137	297,880	302,840	−0.4
Marseille	91,279	93,308	82,427	77,479	75,617	−1.1
Le Havre	63,885	70,801	65,946	62,946	66,104	0.2
Dunkirk	44,318	48,503	36,309	36,906	39,085	−0.7
Nantes Saint-Nazaire	31,263	34,043	30,582	24,878	29,307	−0.4
Others	95,044	94,815	100,873	95,671	92,727	−0.1

^aBelgium; Denmark; Germany; Ireland; Greece; Spain, France; Croatia; Italy; Netherlands; Portugal; Finland; Sweden, United Kingdom; Iceland

Source Eurostat (2019)—<https://ec.europa.eu/eurostat/data/database>

The *decentralised ports* represent more than 500 small trading and fishing ports. As public entities, these ports are devolved to local government¹ such as Municipalities, Regions, Departments and Chambers of Commerce and Industry (CCI). Taking into account their modest traffic, usually less than five million tonnes per year except for the port of Calais,

¹ The French administrative organisation is divided between the central government and local governments or authorities that are the Regions, Departments and Municipalities respectively. They have specific competencies and port management especially.

they are considered secondary ports. On the other hand, the *autonomous ports* and the *major maritime ports* (GPMs) represent the largest French ports handling more than five million tonnes a year. As public bodies, they belong to the French State and are directly monitored by the central administration. Only two inland river ports, Paris and Strasburg, belong to the *autonomous* port taxonomy implemented by the Law no. 65-491 (JORE, 1965). Prior to the latest reform in 2008, large French ports were operated under this framework that set up the tool port regime. It means that the port authority is involved in commercial operations at the same time as traditional port authority activities (e.g. safety and security). In addition, there are seven metropolitan GPMs: Marseille-Fos, La Rochelle, Le Havre, Nantes Saint-Nazaire, Bordeaux, Dunkirk and Rouen. In 2016, these ports represented more than 74% of the French ports' total volume. Four overseas major maritime ports are also operational: Guadeloupe, Guyanne, Martinique and Port Réunion. In 2017, 365 million tonnes were handled by French ports (Ministry of Ecological Transition, 2020).

One of the key advantages of French seaports is very good nautical accessibility, allowing them to welcome the largest containerships (20,000 TEUs) in particular in Le Havre, Dunkirk and Marseille, very large crude carriers (400,000 GRT) notably in Nantes Saint-Nazaire, and Marseille, which is the third busiest European oil terminal, handling large LNG tankers and the biggest cruise ships (Ports de France, 2016). In addition, numerous ports² benefit from efficient port community systems (PCS) connecting internal and external port stakeholders (Fedi et al., 2019; Mahé des Portes, 2013). Moreover, 26 French ports are identified as Trans-European Transport Network (TEN-T) ports, some of them positioned within TEN-T Corridors (EU Commission, 2014) and the Belt and Road Initiative (BRI) (Port of Marseille, 2018). Lastly, France provides a central system of large maritime ports in Europe with good connection to the major routes, motorways, railways and inland waterways (Seine and Rhône).

² Le Havre, Marseille-Fos, Dunkirk, Fecamp, Bordeaux, Nantes, Caen, La Rochelle, Lorient, Saint-Malo, Sète. Two French leading providers of cargo community system are established in France : MGI in Marseille <https://www.mgi-ci5.com/en/> and SOGET in Le Havre: <http://www.soget.fr/en/solutions.html>.

Table 12.3 Quality of port infrastructure—World Economic Forum ranking

	EU	France	Netherlands	Belgium	Germany	Spain	Italy
2007	4.82	5.87	6.7	6.4	6.5	5.3	3.1
2017	4.86	5.10	6.8	6.1	5.5	5.5	4.4

Source World Economic Forum (2019)—https://data.worldbank.org/indicator/IQ.WEF.PORT.XQ?year_high_desc=true

Despite these key advantages, the analysis of the long-term evolution of French port traffic (Table 12.1) depicts a declining trend, with an Average Annual Growth Rate of -0.4% against 1.1% for EU 15 countries from 2000 to 2017. France handles less than 10% of EU 15 port traffic, and within France, Le Havre and Marseille account for approximately 50% of total French traffic.

The World Economic Forum (WEF) survey on the Quality of Port Infrastructure (from one for underdeveloped to seven for well-developed and efficient) at the country level provides another basis of evaluation (Table 12.3). In 2007, the WEF index that measures business executives' perception of their country's port facilities was 5.87, France being number ten in the World Ranking and number seven in Europe. In 2017, France was number 28 in the world and 14 in Europe with an index of 5.1 out of seven.

The French Port Regulation and Planning Tools

The current French model of port governance is based on successive reforms that have been initiated in the last century as summarised in Table 12.4. As regards secondary ports, two regulations in 1983 (JORE, 1983a, 1983b) started the transfer of competences from the State to Departments (for trading and fishing ports) and to Municipalities (for marinas). The Law of 13 August 2004 relating to the responsibilities of local authorities (JORE, 2004a) transferred the 18 ports of 'national interest' representing 20% of goods traffic and 80% of passenger traffic to local authorities and their groupings. The ownership and management of these ports (development strategy, investment, maintenance,

Table 12.4 The main successive modifications of the French legal framework on seaport management

Decentralisation secondary ports	Dock workers reform	Public domain and public investments	Terminal operating agreement	Reform of major ports (GPMs)
Law 1983	Law 1992	Law 1994	Decree 1999	Law 2008
<ul style="list-style-type: none"> Transfer from the State to Public entities: commercial ports (Departments) and fishing ports (Municipalities) 	<ul style="list-style-type: none"> Reform of the port workers' status Implementation of the 'monthly principle' Severe reduction of the number of dock workers 	<ul style="list-style-type: none"> Granting more rights to private operators/investors operating the port public domain Rights <i>in rem</i> recognised: e.g. mortgage on buildings (warehouse) 	<ul style="list-style-type: none"> Creation of a new contract: 'Terminal operating agreement' supposed to progressively replace concession contracts 	<ul style="list-style-type: none"> New 'brand' and missions for previous 'autonomous ports' Landlord port model New governance bodies Environmental requirements Strategic plan
Law 2002	Law 2006	Bylaw 2009	Law 2012	
<ul style="list-style-type: none"> Transfer from the State to 'Collectivité Territoriale de Corse': Ports of Ajaccio and Bastia 	<ul style="list-style-type: none"> Creation of port companies 	<ul style="list-style-type: none"> 'Terminal agreement' with specific clauses (i.e. standardised contract) became mandatory 	<ul style="list-style-type: none"> Four oversea ports : Fort-de-France (Martinique), Degrad-des-Cannes (Guyanne), Port -Réunion (La Réunion) and Pointe-à-Pitre (Gaudeloupe) became major ports 	
Law 2004		Law 2019	Law 2016	

Decentralisation secondary ports	Dock workers reform	Public domain and public investments	Terminal operating agreement	Reform of major ports (GPMs)
<ul style="list-style-type: none"> • Transfer of secondary ports in full ownership to local authorities Regions, Departments, Agglomeration Communities, CCI 			<ul style="list-style-type: none"> • New rules for port terminal management 	<ul style="list-style-type: none"> • Additional measures on the composition of governance bodies • Reinforcement of the Regions' representativeness • Creation of Commission on investments
Law 2015				
<ul style="list-style-type: none"> • Transfer of departmental ports to regions or local authorities or groupings 			<p>Decree 2020</p> <ul style="list-style-type: none"> • Adaptation of the 'Terminal agreement' conditions 	

Source The authors

etc.) are performed by local authorities either Regions, Departments or mixed associations including different local authorities while the CCI is still involved as concessionaire. According to Debie et al. (2017), this devolution has provided a 'three-dimensional port model' incorporating the State, the new concessioning authorities (local authority) and the concession holder (CCI). Whereas the State remains in charge of activities in the public interest (safety, security, public order and environmental protection), the concessioning entity owns the port domain, takes over the port development planning and is considered as the port authority (PA). The concessionaire operates handling equipment, cranes, warehouses and facilities. The latest modification to the new administrative organisation of the French territory (JORE, 2015) allowed a possible transfer of departmental ports to Regions or local authorities from 1st January 2017.

Concerning the largest French ports, several reforms occurred in order to modify their legal environment. The first reform dealt with the port labour regime aiming at allowing dockers to become salaried employees of handling companies (JORE, 1992). In 1994, a reform of the public domain was enacted (JORE, 1994) with the purpose to promote the public port domain and to grant more securities—real rights—for private investors (Fedi & Rézenthel, 2007b). In 1999, the 'terminal operating agreement' was established (JORE, 1999) in order to modernise the legal framework of port land management (Fedi & Rézenthel, 2007a; Rézenthel, 2010) and to take into consideration the worldwide terminalisation of seaports (Slack, 2005).

Finally, a profound reform occurred between 2008 and 2011 transforming the existing 'autonomous ports' into 'large maritime ports' (GPMs). The law no. 2008-660 of 4 July 2008 replaced the 'tool port' organisation with the 'landlord port' model with the implicit aim to restore the French ports' competitiveness (Cariou et al., 2014). In 2011, notwithstanding severe social tensions (Fedi & Rézenthel, 2011), the reform took place with a dedicated framework applicable to the local context of each GPM (Lacoste & Douet, 2013; Debie et al., 2017). The key features of this reform lie in different aspects in particular: transfer of full ownership of the State's infrastructure and facilities to the GPMs, new PA missions, sale and transfer of port equipment, transfer of port

workers to private operators, new governance bodies designed to improve the decision-making process, generalisation of terminal operating agreements, integration of environmental protection and stronger compliance with competition rules.

The fundamental change of the 2008 reform was the adoption of the landlord port regime setting out the principle that GPMs cannot operate equipment designed for handling and storing goods. They instead focus on development, promotion and regulation. GPMs take charge of the construction, operation and maintenance of maritime access routes, port safety and security. Moreover, GPMs are also responsible for the administration and development of the whole port domain under their jurisdiction, the construction and maintenance of port infrastructure, the planning and management of industrial or logistic zones linked to port activities (Rézenthel, 2008a). In addition, GPMs take over development of infrastructure networks, rail and inland waterways to promote inter-modality to support the development of the container industry (Cariou et al., 2014).

As regards the new governance bodies, the reform created a three-level structure made up of a *board of directors*, a *supervisory board* and a *development council* (Fig. 12.1). The board of directors is the executive body managing the day-to-day activities of the port and carries out the

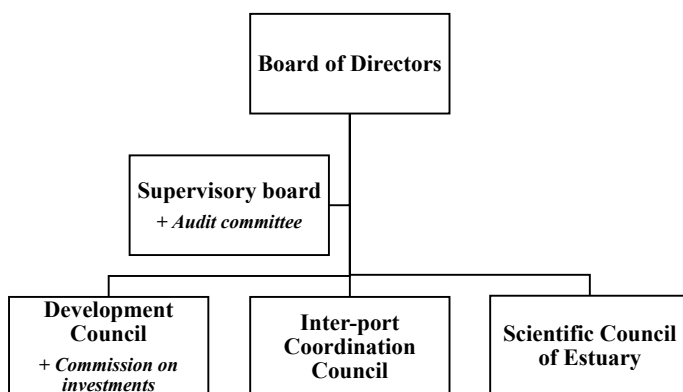


Fig. 12.1 The structure of the GPM's governance (Source The authors, based on Law No. 2008-660 and Law No. 2016-816)

decisions taken by the supervisory board. The supervisory board sets up strategies and monitors the board of directors. Following the example of joint-stock companies, the new structure separated the responsibility for control and management (Fedi & Pignatelli, 2011). An *audit committee* attached to the supervisory board performs the financial supervision of the GPM and provides information to the central government (JORE, 2016). An *inter-port coordination council* can be set up to encourage synergies between seaports and waterway ports such as Seine and Rhône and Atlantic (Gallais-Bouchet, 2013) as well as a *scientific council of estuary* that gives advice on ecological concerns and carries out environmental studies with the aim to orientate the choices of supervisory councils (Lacoste & Douet, 2013). A synthesis of this new organisation structure is presented in Table 12.5.

Concerning the planning tools, the reform has provided two key instruments: the *strategic plan* and the general application of *terminal operating agreements*. The strategic plan formalises a pluri-annual contractual relationship between the GPMs and the State that ‘redefines the port authorities’ missions and activities’ (Cariou et al., 2014). Drafted for five years, the strategic plan requires each port to set up its strategy including its main orientations, the conditions of actions notably as regards planning and sustainable development policy, rail and inland waterway strategy, a business plan and a plan for estimating dividends to the State. The contract can be multilateral and involving territorial bodies. The GPMs are currently implementing their second strategic plans (2014–2019). Regarding the second tool, the reform has generalised the regime of terminal operating agreements. The previous ‘concessions of public handling equipment’ and the ‘authorisations of private handling equipment with obligation of public service’ have automatically been transformed into terminal operating agreements. Compared to previous contracts, the terminal agreement is bilateral with balanced obligations and duties for both parties (Fedi & Rézenthel, 2007a) and it grants more rights to the operator, rights *in rem* in particular. Furthermore, the operator freely defines his commercial strategy while he must respect performance and investment objectives (Rézenthel, 2008b, 2010). Even though the terminal operation agreement cannot avoid compliance

Table 12.5 The organisation structure of GPMs

Post-reform: 2008–2011 and 2016

Bodies and functions	Number of members
<i>Supervisory board</i> Defines strategic orientations, controls the board of directors	18 <ul style="list-style-type: none"> • Five state representatives • Five local communities • Three port employees • Five qualified persons or experts (appointed by state)
+ Audit Committee Performs the financial supervision	One Region's representative at least
<i>Board of directors</i> Management body: manages and carries out the supervisory council's decisions	Three or four members <ul style="list-style-type: none"> • Chairman is appointed by French State • Other members: appointed by Supervisory board
<i>Development council</i> Advisory body that gives advice to the supervisory board	20–40 members Appointed by the Prefect (State)
+ Commission on port investments	Two colleges of investors (one public and one private)
<i>Scientific council of estuary</i> Optional, gives advice on ecology concerns	Undetermined number, not legally detailed
<i>Inter-port coordination council</i> Optional, proposes strategies for maritime and inland waterways or river port issues	Undetermined number, not legally detailed

Source The authors based on Law No. 2008-660, Law No. 2016-816 and adapted from Cariou et al. (2014)

with competition rules, this new regime translates a liberalisation of conditions of occupation of the port public domain (Rézenthel, 2008b).

The Financial Tools of the French Seaports

The funding options of the French seaports are diverse and can be categorised as self-funding, government funding and EU funding as shown in Table 12.6. As regards self-funding, decentralised ports and GPMs are legally entitled to collect:

Table 12.6 Main funding sources of French seaports

Self-funding	Governmental and regional funding	EU funding
<ul style="list-style-type: none"> • Port dues • Services to ship • Concession/Terminal agreements royalties • Port land royalties • Port companies 	<ul style="list-style-type: none"> • Operating funding • Maintenance funding • CPER • CPIER • AFITF 	<ul style="list-style-type: none"> • TEN-T Programme • CEF • ERDF • EIB

Source The authors

- port dues (on ships, goods, passengers and ship-generated waste) that represent their primary source of funding, i.e. more than 50% (Court of Auditors, 2017),
- concession and terminal revenues (royalties),
- revenues from the port domain,
- revenues from docks and storage areas.

For the period 2008–2015, the revenues from concession contracts and the leases of port domain represented an average of 25% of the annual turnover of Le Havre, Marseille, Rouen, Nantes Saint-Nazaire, La Rochelle and more than 35% for Bordeaux and Dunkirk (Court of Auditors, 2017).

Government funding comes from the central State through allocation budgets for facility maintenance and investments considered as fundamental ‘to maintain the French port competitiveness and their capacity to regain market shares vis-à-vis other European ports and Northern seaports in particular’ (Ministry of Ecological Transition, 2020). Operating and investment funding allows seaports to secure their maritime access (dredging), reinforce their multimodality and develop processing capacities of goods notably for container traffic which is a key component of the French ports’ economic model (Le Havre, Marseille and Dunkirk in particular). The second financing source lies in co-funding between the State, the Regions and the local authorities. The State’s contributions to ports’ investments must be registered in ‘State-region project contracts’ (CPER) or in ‘State-interregional project contracts’ (CPIER). For the period 2015–2020, the latest contracts have represented around

€2 billion for the development of logistics activities and massification of flows. The State's contribution to these operations is roughly €360 million. Furthermore, the *French Infrastructure Transport Funding Agency* (AFITF) launched in 2004 (JORE, 2004c) also contributes to the funding of port infrastructure and in particular large projects of national and international interest such as Port 2000 in Le Havre and Fos 2XL in Marseille.

Additional financing can also be adopted. For example, a plan of economic revival (2009–2013) permitted to support port development up to €271 million in order to accompany the GPMs' reform. Nonetheless, these funding sources must comply with the European rules on State aid and not consequently distort competition (art. 107 TFEU). Furthermore, the French government sustains project leaders in attracting European funds in particular through the mechanism of 'Connecting Europe Facilities' (CEF), the Trans-European Transport Network (TEN-T) Programme where 26 French ports are concerned (EC, 2014) and that co-financed several projects on Sulphur (SOx) mitigation (Fedi & Cariou, 2015), the European Regional Development Fund (ERDF) or from the European Investment Bank (EIB).

Additionally, according to the latest provisions of the 2008 reform, GPMs can act inside or outside port limits and own shares in commercial, logistics firms, Economic Interest Groups (GIE) or Public Interest Groups (GIP) with the aim to pool activities and enhance the development or modernisation of the port. This principle was already set out by the Law no. 2006-10 that allowed autonomous ports to create 'port companies' (JORE, 2006; Vantorre & Rézenthel, 2006). Along the same lines and as derogation to the principle of prohibition to perform commercial activities, GPMs can temporarily operate terminals in case of failure of tenders and a subsidiary controlled by a port authority can be set up for strategic interest (e.g. oil products supply). The port of Marseille established 'Fluxel' a subsidiary owned at 66% dedicated to oil terminal operations (Cariou et al., 2014; JORE, 2004b). In 2015, the PA of Le Havre launched a tri-modal terminal and owned 49% of the capital. Furthermore, GPMs can hold minor shares in a private handling company such as the Port of Marseille with Intramar STS and the port of Dunkirk which holds an interest in the coal terminal (GIE Sea Bulk)

and in the container terminal (Transmanche Terminal). Consequently, these investments allow ports additional financing.

Links Between Local and National Port Regulation and the International Framework of Ports

Like other EU and global seaports (Notteboom, 2007; World Bank, 2007), the large French ports have experienced the development of public–private partnerships (PPPs) for a long time and before the 2008 port reform (Rézenthel, 2007). The reasons justifying the development of PPPs in French ports are similar to other countries (Notteboom & Winkelmans, 2001; Wang et al., 2010): the decline of public funds, greater competition, the need to improve service levels for infrastructure users, various types of highly specialised port terminals and consequently to enhance efficiency in operations (Merlin, 2009).

Private companies were already active prior to the port reform in operating several terminals; nonetheless, thanks to the implementation of the new framework, the partnerships with the private sector have been implicitly reinforced insofar as private entities are supposed to manage commercial activities. GPMs have indeed lost the right to handle cargoes except in some specific cases. In addition, the new legislation has generalised the terminal operating agreement in replacement of the former contracts such as the traditional *public service concession* or *private equipment with public service*. According to some experts the terminal operating agreement represents the main strategic tool for establishing a PPP (Merlin, 2009, 2013). The key principle of the terminal agreement is sharing risks between the PA and the private operator. Even though these risks are numerous for both parties, especially when the terminal is not yet built at the time the agreement is signed, they are mostly financial, commercial, operational and legal risks (Notteboom et al., 2012). To summarise, since the operator is ready to carry out investments in facilities (gantry cranes, rail cranes, straddle carriers, etc.), to satisfy performance objectives and to pay royalties, it can benefit

from port infrastructure in the long-term (20–30 years) and from a large operational and commercial freedom. For its part, the PA must finance and build infrastructure (quays, yards, land connections—road and rail), dredge docks, maintain nautical access to the terminal and allow rights *in rem* on constructions realised by the operator. Finally, the new terminal operating agreement allows both parties to build a balanced and sustainable partnership while its economic equilibrium lies mainly in third parties who are shipping lines calling at the terminal (Merlin, 2013). Shipping lines are in reality directly involved in terminal operations as illustrated by the two main container terminals of the Port of Marseille-Fos: ‘Terminal de la Méditerranée’ operated by Seayard (*owned 50% by Terminal Investment Ltl (MSC group), 42% by AP Moller-Maersk Terminal and 8% by COSCO*) and ‘Fos 2XL’ operated by PortSynergy/Eurofos managed by a consortium made up of CMA CGM, DP World and China Merchants. More than €200 million of private funding were invested for Fos 2 XL (Merlin, 2009).

Furthermore, the existing concession contracts with private operators at the time of the entry into force of the 2008 reform were prorogated and turned into terminal operating agreements. It was the case for the container terminals of Le Havre operated jointly by the leading worldwide shipping lines Maersk, MSC, CMA CGM and the local stevedoring companies TN and GMP, the iron terminal of Dunkirk operated by Arcelor Mittal or the oil terminals of Le Havre-Antifer operated by CIM-CCMP. In addition, the development of logistics platforms established close to ports have attracted international companies and new investments. During the last decade, the Distriport platform next to the container terminals of the port of Marseille-Fos has welcomed large companies, notably Mattel, Danone, Ikea, Maisons du Monde, CEVA, Mediaco Vrac, Daher and XPO Logistics. To conclude, the 2008 law reinforced the relationships between the PAs and the private sector and implicitly encouraged the port managers to become more customer-oriented (Cariou et al., 2014).

Critical Discussion

The different reforms have enabled a greater liberalisation of port activities and simplified the French port system with two main categories of port (state and decentralised ports). One can conclude that GPMs are henceforth positioned at the same 'standards' as other European ports. Their new sphere of intervention and cooperation allows greater commercial opportunities at national and international level (Gallais-Bouchet, 2013). HAROPA (Le Havre, Rouen, Paris that merged in June 2021), NORLINK (Haut de France ports: Dunkirk, Calais, Boulogne-sur-Mer, Eurotunnel dry port) and MEDLINK (Rhône Saône Mediterranean Ports) illustrate three successful actions of regional port strategies with the aim to pool and rationalise actions both commercially and logistically. At the international level, other cooperations are developing, enabling stronger lobbying and visibility, such as *Intermed Gateway* joining Marseille, Barcelona and Genoa. Nevertheless, some weaknesses remain in particular for the public domain management and the capacity of PAs to set up efficient commercial and financial strategies.

First, it should be stressed that the French traditional key legal principles governing the public domain are still in force and constrain port managers. The current regime of the public port domain jeopardises ports' competitiveness when confronted with fierce competition in a market economy (Naudin, 2013). For instance, private investors are subjected to the 'precariousness principle' of the occupation of publicly owned domain. Furthermore, the urban planning law and the port domain law set out numerous rules that often overlap and the provisions on environmental protection are stricter than those of European neighbours (Rézenthel, 2017). Although the Supreme administrative court recognised that the mission of valorisation of port land by major ports justified the freedom of choice of the land regime (Conseil d'Etat, 2015), the recent decision of the same court that requalified a 'terminal operating agreement' in a 'service concession' (Conseil d'Etat, 2017) indubitably showed a clear resistance to the liberalisation of the port public domain. This decision dealt with the container terminal of the Verdon (GPM of Bordeaux) that faced significant delay in its commissioning and finally led to a loss of traffic. Consequently, this policy of

‘port land sanctuary’ can have counter-productive effects and lead to a marginalisation of the public domain while it is necessary to promote it today more than ever. In addition, the Supreme administrative court still considers that the port management constitutes a public service (Conseil d’Etat, 2009) in contradiction with the European law (ECJ, 1997, 2003). While the EU Regulation n° 2017/352 establishing a framework for the provision of port services recognises that the Member States are entitled to impose public service obligations to port providers, it is merely an option and not a prerequisite for *sinequanon* (Fedi & Rézenthel, 2017).

Second, although GPMs are allowed to take equity investments in the capital of companies, they remain specific public shareholders. Pursuant to the Code of Transports, the supervisory board has to approve these participations (acquisition, extension or transfer) since they must comply with the purpose of ‘the speciality’ of the PA and are not merely speculative. Moreover, this financial strategy must be approved by the *State Agency of Participations* (JORE, 2004b) and when a PA is a major shareholder of companies located in the port area, the PA cannot discriminate in their favour pursuant with EU competition rules. The respect of transparency of State aid regulation and the use of competitive procedures (calls for proposal) must be followed.

To conclude, the current status of GPMs is indubitably hybrid and at an intermediate stage of corporatisation confirmed by the new governance bodies similar to private companies and possible equity investments inside or outside the port limits. Paradoxically, whereas GPMs have an apparent financial autonomy, set up commercial strategies and undertake promotion activities at international level, a close monitoring by the central State remains regarding the budget and the strategic orientations on economic, commercial and environmental aspects. This political intervention also characterises Italian ports and certainly with a higher acuity (Parola et al., 2012, 2017). Finally, the rules applied are still governed by the administrative law and the broad notion of public service subjected to numerous constraints that slow down decision-making.

The successive waves of laws adopted in the last 40 years illustrate clearly the ‘atomised’ approach of French port governance to the detriment of a more comprehensive policy. Nonetheless, law alone cannot solve everything and obviously these 40 years of reforms have not attracted greater traffic and have not prevented ‘a worsening of deindustrialisation processes’ (Debie et al., 2017). According to a recent report of French Court of Auditors: ‘[...] implementation of provisions are unequal, with high potential costs, the effects on competitiveness have not been forthcoming and new evolutions are necessary. Competitiveness and performance objectives are not satisfied’ (2017).

The greatest French port reform has now lasted ten years. Although the new governance model of the GPMs has improved their situation, the rules applied are still rooted in a ‘bastion’ of conservatism. Notwithstanding some measures of liberalisation, the key principles governing the port public domain and related public service raise difficulties for port managers in the valuation of the port land. The attractiveness of the French ports for foreign investors lies in the right balance between general and particular interests (Rézenthel, 2018). In addition, while the State’s investments have progressively declined in the two last decades (Debie et al., 2017; Lacoste & Douet, 2013), notwithstanding a lack of national port strategy (Court of Auditors, 2017), the public role remains significant in the port governance. The latest modification introduced by the Law on the Blue Economy (JORE, 2016) has indeed strengthened public representation within the GMPs’ governance and has implicitly demonstrated that seaports remain strategic infrastructure for the French government that wants to maintain a close monitoring on their daily management.

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