SOUTHERN AFRICA GLOBAL COMPETITIVENESS HUB

Review of the Effectiveness of Port and Port Terminal Concessions

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ABSTRACT

This report presents a study of five port and port terminal concessions in three SADC countries, namely Angola (Luanda), Mozambique (Beira, Maputo and Nacala) and Tanzania (Dar es Salaam). The study has been commissioned by the SADC Secretariat, in response to a decision of the SADC Ministers for Transport at their meeting in Gaborone in October 2007, "to review the concessioning process and performances of concessioned ports and terminals with a view to drawing important lessons regarding the effectiveness of the policy position and implementation process for that policy position". It is supported financially by the USAID Southern Africa Global Competitiveness Hub.

Based on a review of the existing concessions and documents as made available to the author, discussion at the Johannesburg Forum and written material supplied thereafter by CFM, Mozambique, the report makes recommendations for consideration in any renegotiation of existing concessions or the preparation of future concessions.

The report's findings and recommendations, including any errors of fact or interpretation, are the sole responsibility of the author.

ACKNOWLEDGEMENTS

The study has been prepared by Alan Harding, Consultant, under the guidance of Mr. Godwin Punungwe, Transport Advisor to the USAID Southern Africa Global Competitiveness Hub with technical support provided by Ms Mapolao Mokoena, Senior Programme Manager for Transport at the SADC Secretariat, with additional contacts suggested by Ms. Maxine Kennett, Director of the USAID Southern Africa Global Competitiveness Hub.

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EXECUTIVE SUMMARY

1. Port reform: Concessions have been widely adopted within the transport sector of SADC countries, reflecting Chapter 8 of the SADC Protocol on Transport, Communications and Meteorology, "*Member States shall promote efficient port management and operations through economic and institutional reform measures accommodating leasehold and other arrangements to encourage private investment in port facilities"* (Article 8.2 section 3 (c)) and at the meeting of the SADC Ministers for Transport at Gaborone in October 2007 the decision was taken to review the concessioning process and the performance of selected concessioned ports and terminals.

2. Present report: The present report gives the result of this study for three countries: Angola (Luanda), Mozambique (Beira, Maputo and Nacala) and Tanzania (Dar es Salaam). The study was commissioned by the SADC Secretariat, with financial support from the USAID Southern Africa Global Competitiveness Hub and has been undertaken by Alan Harding, consultant, with guidance and support from the two fore-mentioned institutions. In the course of the study, visits have been made to each of the concessions, including conversations with the authorities, the concessionaires and to the extent permitted by time constraints, with port users. The report is based on these visits and meetings, plus a review of relevant documentation as provided to the study.

3. Concessions: The five study ports provided a total of eight concessions for review:
Angola: port of Luanda (three concessions)
Mozambique: (a) port of Maputo (two concessions), (b) port of Beira and (c) port of Nacala
Tanzania: port of Dar es Salaam: one concession.

4. Analysis: The following paragraphs briefly analyze each concession, based on the consultant's review[1] and concentrating on their ***Highlights***. Section 5 of this Executive Summary then identifies the ***Issues*** common to some or all of the concessions. For each issue that has been identified, a corresponding ***Recommendation*** is made.

Aspects of the concessions have been criticized and the following analysis tries to identify these critical points. At the same time, it is apparent that the condition and performance of the ports now is better than it was prior to the concessions. Whether the improvements would have been seen under public sector operation is impossible to determine, though it is evident that Governments have not had to spend money on the ports and the financial circumstances of the port entities have improved.

4.1 *Angola*: The three concessions reviewed in Angola were at the port of Luanda. The port has other concessions including the oil terminal, which were not reviewed. The Port of Luanda EP was created in 1998 as successor to the Empresa Portuaria de Luanda.

Box 1: Luanda concessions

Luanda:
i) Concept of the concessions*:* The first plan for concessions within the general cargo area of the port envisaged two concessions, one for container operations and another primarily for general cargo and Roll-on/Roll-off vessels (including some containers). In the event and presumably better to accommodate one of the existing operators, three concessions were defined, break-bulk, multipurpose and container. The berth-line of the container terminal has a kink in it and technically speaking, two concessions would have been better.

[1] For a fuller analysis of each concession, refer to the main text of the report, in particular sections 4.7, 5.7 and 6.7.

ii) Bidding process: Bids were called in 2003 for the general cargo and the container terminal and the concession for the general cargo terminal was signed with Multiterminais in 2005. The award of the container terminal concession was delayed by legal attempts to disqualify one bidder Sogester, lead by APM (Maersk), on the grounds that as a shipping company it could not offer an impartial service. These attempts failed and Sogester signed the concession in 2005. The third concession was assigned to a state owned company without bidding.
***iii) Investment and performance**:* The concessions appear to be fulfilling their investment obligations for rehabilitation. Performance levels are below those required (see next paragraph). In the case of Sogester the layout and equipment adopted for cargo-handling operations differs from their original proposal, which formed part of their bid. Plans may have to change in the course of time but changes affecting contractual obligations need to be the subject of agreements with the regulatory authority.
***iv) Government obligations*:** The environment for all three concessions is less than optimal on account of heavy landside congestion, negatively affecting cargo-handling performance. Imports have increased sharply with the oil boom, importers may not wish to clear goods rapidly and Customs and port authority procedures are swamped. As a result containers and other cargo stay too long in the port, many in excess of 30 days. Procedures for abandoned and out-of-time cargo are not followed. In this respect, the Government is not fulfilling an implicit obligation to the concessionaires. For the concessionaires, the inconvenience is tempered by the additional storage income they enjoy. Inland clearance depots (ICDs) are being constructed, but in the author's experience, these provide only temporary relief at substantial added cost.
v) Shipping surcharges: Shipping lines have applied a substantial congestion surcharge on ocean freight for vessels calling at the port. This is a direct cost for the national economy.
vi) Port development: The concessions are all for 20 years and within that period there will be major port expansion, for which plans are at an advanced stage. This may discourage the existing concessionaires from additional investments. The terms of concession contracts need to take cognizance of Government's long-term plans for additional capacity.
***vii) Regulatory agency**:* This is formally the Maritime and Port Institute of the Ministry of Transport. The Ministry and the Institute are putting the necessary staffing and other measures into place. In practice the port authority supervises the concessions.

4.2 ***Mozambique***: Four concessions were reviewed in Mozambique, two at the port of Maputo, one at the port of Beira and one at the port of Nacala. The national body responsible to the Government through the Ministry of Transport and Communications for the concession process is Ports and Railways of Mozambique, ep[2] (CFM). All the concessions reviewed in Mozambique have CFM as a minority shareholder. This means that the bidding procedure was aimed at selecting the majority partner.

The original concept, as agreed with the World Bank in 1999, had been for concessions of corridors, linking both port and railway, one each for the Northern, Central and Southern corridors. However, a concession had already been made for general cargo operations in the port of Beira and attempts to form a linked concession for the Southern corridor were unsuccessful, so that in the end only one combined concession was made, for the Northern Corridor.

Box 2: Mozambique: Port of Maputo

Maputo: MIPS (Mozambique International Port Services)
i) Concept: This is a container terminal concession, made at a time when CFM was privatizing a number of other (bulk) terminals in the port of Maputo.
***ii) Bidding procedure**:* International bids were called for this concession in 1994 and two tenders, P&O Ports and the Rennies Group were selected to form a joint venture with CFM. The new company MIPS, was registered in Mozambique in February 1996. Subsequently DP World bought P&O Ports and the shareholding in MIPS is now DP World 60% and CFM 40%.

[2] CFM was previously Caminhos de Ferro de Mocambique. The restructuring process commenced in 1987.

iii) Financing: The Commonwealth Development Corporation provided a long-term loan of US$2.5 mln towards to the initial US$ 8 million required for rehabilitation of the two gantry cranes, other equipment and minor civil works. To date about US$12.5 million has been spent.
iv) Performance*:* Traffic has grown strongly from 8865 TEUs to a still relatively modest 80,347 TEUs in 2007. Container dwell times average an acceptable 10 days.
v) Duration of concession: Originally 10 years, this was extended in 2003 to 2013. This period is too short to permit major additional investment.

Maputo: MPDC (Maputo Port Development Company)
vi) Concept*:* The ports of Maputo and Matola share the same maritime access and services. CFM decided to retain certain bulk terminals at Matola. Everything else, including port authority functions, was put into the Maputo master concession. This included the MIPS concession, various specialized installations and residual general cargo with minor bulks and vehicular traffic. Thus the concession although including port authority functions was much more than a "landlord" port authority.
vii) Signing the concession*:* As noted above, this was to have been a port concession linked to the railway to South Africa (Ressano Garcia). This was not successful and CFM decided to continue direct operation of the railway. The bidder, selected in 1998 by international bidding, was reluctant to sign the port concession until the efficient operation of the railway had been assured. CFM's direct operation gave this assurance and the port concession became effective in 2003. CFM is understood to have given indicative traffic levels for the railway, though not so far as we know, in the form of guarantees.
viii) Financing Investment: A complex financing structure was put in place for the US$70 mln investment committed in the contract. This saddled the MPDC with substantial fixed loan repayments, plus the fixed annual rental.
viii) Performance: The concession began well with the successful dredging of the entrance channel. Traffic was slow to develop and the Maputo Corridor Logistics Initiative (MCLI) was incorporated in 2004 to facilitate traffic flows. The disappointing traffic figures and some other factors led to deterioration in MPDC performance (and finances) and a failure to pay the annual rental fees. This, coupled with the failure to declare a dividend, did not improve relations with CFM, as principal minority shareholder (and beneficiary with Government of the annual rental).
ix) Regulatory entity: Within the statutory powers of the Ministry of Transport and Communications, the regulation of port concessions is exercised by CFM.
x) Current situation: DP World and Grindrod now have the MPDC concession. DP World also have the MIPS concession. Prospects for the port are good.

Box 3: Mozambique: Ports of Beira and Nacala

Port of Beira: Container Terminal and General Cargo Concession (CdM)
i) Concept of concession*:* This is a terminal concession for containerized and general cargo, signed between CFM and Cornelder de Mozambique in 1996 for a period of 25 years. The CFM retains full port authority responsibilities. In this and the other concession, the use of expatriate staff is permitted when no national candidate is available, "not only for the efficient running of the terminals but also to train Mozambican staff".
ii) Rail connection*:* The port of Beira depends heavily on traffic from the neighboring countries of Zimbabwe and Malawi. This traffic has been stationary since 2001, about 1.6 mln tons. Rail borne traffic during this same period has declined from 0.9 mln tons to 0.5 mln tons over the same period. These are factors outside the control of the concessionaire.
***iii) Obligations of CFM*:** The contract requires the Conceding Authority (CFM) to ensure the dredging of the channel, berth basin etc "so as to maintain the designed depths". Lloyds "Ports of the World" for 1996 gives maximum depths as 11.5m (berths 2-5) and between 8 and 9.4m (berths 6 - 11). These depths have not been maintained. The contract gives the concessionaire the right to contract the work if the conceding authority does not. This right has not been exercised and the state dredging agency EMODRAGA has acquired or will acquire the necessary equipment to do the work. Exports of minerals will require vessels up to 12m draft (handymax).

iv) Port developments: The concessionaire has the right of first refusal for major port developments involving any concession/lease of such facilities. This right does not appear to apply if CFM intends to operate the facility directly.

Port of Nacala: Concession for the Port of Nacala
v) Concept: A consortium Sociedad de Desenvolvimento do Corredor de Nacala (SDNC) entered into negotiations in 1998 with CFM for the joint concessioning of both Nacala port and the associated rail system. Agreements were signed in 2000 for the two concessions, port and railway, both to be managed by a new company, Compania de Desenvolvimento de Norte (CDN). However, following delays with the railway concession, the two concessions did not come into operation until January 2005. Recently (September 2008) the two foreign members of CDN sold their interest in the company to national investors.
vi) Nature of concession: This is a master concession, where within the Area of Jurisdiction the concessionaire exercises port authority functions including all marine services. ***vii) Port traffic:*** In the first three years since takeover, port traffic increased at an acceptable annual rate of 8.5%. However, of this total, rail traffic at the port in 2007 was 114 thousand tons, just 12%. Thus the port has operated up to now with minimal contribution from railway traffic, even with the long distances involved for Malawi traffic. The port has natural deep water appropriate for the handling of bulk cargoes. For some bulks it is in competition with the port of Beira.
viii) Performance: Productivity, whilst still not high, is acceptable and has increased each year since 2005. Ship waiting time for container vessels has increased, reflecting the restricted capacity of the container terminal in the face of increased demand.
ix) Investment: Investment has been for cargo handling equipment, repairs to marine craft and the rehabilitation of buildings. Under construction by Bakhresa Grain Milling within the port are silos with 60.000 ton capacity. CDN is constructing an off-dock container terminal.
x) Port development: Within the Area of Jurisdiction the concessionaire "shall enjoy a right of preference", to be exercised within 60 days, if the Government decides to do port development.

4.3 ***Tanzania****:* The concession reviewed in Tanzania was the container terminal at the port of Dar es Salaam. The concessionaire is Tanzania International Container Terminal Services (TICTS) majority owned by Hutchison Port Holdings of Hong Kong.

Box 4: Tanzania: port of Dar es Salaam

Port of Dar es Salaam: Container Terminal Concession
i) Concept: A master Concession had been discussed but rejected in favor of terminal concesions, starting with the container terminal. The reluctance of the port authority at that time (THA, now TPA) to let go of cargo handling operations was probably another factor.
ii) Bidding process: Seven firms submitted a letter of intention, five were shortlisted, four submitted bids of which two were valid and the contract was awarded to ICTSI, Manila, with a minority local partner. ICTSI was later taken over (in some parts or the world) by HPH, Hong Kong and HPH is the present concessionaire with a minority local partner.
iii) Performance: Conditions were good at the date the concession started, with recent dredging of the channel and most equipment in place. Performance in terms of crane moves per hour improved rapidly, reached a peak in 2005[3] and has since deteriorated. Part of the decline is attributed to congestion in the terminal, due to excessive dwell time, partly to ageing equipment now being replaced.
iv) Congestion: Import container dwell time has increased to unacceptable levels, in excess of 25 days at the time of our visit. The private sector claims to be investing US$40 mln in ICDs. In the consultant's view, this will add costs to imports and provide only a temporary relief, if the underlying reasons for delay in clearing and removing cargo are not addressed. The presentation by PMAESA at the recent PAPC conference commented on the low performance of inland transport especially the rail lines with low availability of wagons and locomotives in Tanzania [4].

[3] Private Sector Participation in Eastern Africa Ports, Olivier Hartmann, PMAESA 2005
[4] PMAESA Ports: Challenges and Opportunities, Jerome Ntibarekerwa, PAPC Djibouti December 2008

v) Financial aspects: Traffic increased rapidly and UNCTAD[5] has estimated that profit in the first complete year of the concession amounted to US$11 millions (with a required investment of US$5 millions). An earlier study by CIDA consultants (under the SADC PPP programme) found that the financial impact on the port authority was positive (challenged by THA). The Government gains from the payment of tax and levies. The concession is a source of on-going controversy.
vi) Re-negotiation of contract: The original contract was for 10 years starting in 2000. This duration was generally considered to be short even at the time of the original bidding. The concession was performing well and making substantial profits. For these and possibly other (alleged) reasons, the contract was reviewed and amended in 2005 to extend its duration to 2025, provide additional space for the concessionaire and introducing the concept of exclusivity until a level of 650,000 TEUs had been reached (probably in excess of the terminal's capacity). The matter is now before Parliament.
vii) Shipping surcharges: Shipping lines have applied a congestion surcharge on ocean freight for vessels calling at the port. This is a direct cost for the national economy.
viii) Port development and exclusivity: A master plan is under preparation for port expansion, with possible legal issues for the exclusivity clauses.
viii) Regulatory Agency: This new agency SUMATRA although legally established, was apparently not yet effective at the time of the renegotiation of the concession in 2005.

5. Issues and Recommendations: This Review of Port and Port Terminal concessions has analyzed eight concessions, with the *Highlights* summarized in the above boxes. Various common *Issues* have been identified, affecting the performance and hence the perceived success of the concessions. These issues are listed below, with some commentary and accompanied in each case by a corresponding *Recommendation,* made by the consultant on the basis of experience and published guidelines. The identification of the Issues and the content of the Recommendations are subject to discussion.

A: ISSUES CONCERNING THE CONCESSION DESIGN AND ACCOMPANYING CONTRACT

Issue A1: Scope of the concession: port "Master Concession" or terminal concession

Maputo and the relatively small port of Nacala are the two examples of a master port concession amongst the concessions reviewed. For Maputo, the master port concession included not only port authority responsibilities and powers for the country's main port but also breakbulk and some other cargo handling operations. As noted above, the original concept for Maputo was a port/railway concession, similar to Nacala. Our impression is that in this cae, a perceived need to support the reform of the port authority was considered at the same time as deciding the best arrangements for the port. The reform of the port authority alone is not, in our view sufficient to justify a master concession (see "Setting Reform Objectives" module 1 page 12).[6] Fortunately Maputo now has a major operator as concessionaire. Terminal concessions offer the possibility of intra-port competition (though not with the port authority as operator).
Recommendation: A Master Concession for a major port, to include port authority powers and responsibilities, is a decisive and long term step and has to be justified both by the national port policy accompanied by an analysis of the specific needs of the situation. It should only be contemplated for a "landlord" port.

Issue A2: Feasibility of a "Corridor Concession" combining both port and rail concession

Vertical integration is an attractive concept (see module 5 page 35). However its success depends on the two partners advancing at the same speed. The Nacala corridor was created with linked rail and port concessions but to date the port concession is more successful than the rail concession. Dar es Salaam with two institutionally distinct railway systems presents a complex situation.
Recommendation: Vertical integration should only be attempted when the port's traffic is totally dependent on the rail system. The creation of the Maputo Corridor Logistics Initiative MCLI has

[5] UNCTAD/SDTE/TLB/5, 31 March 2003
[6] References in parentheses are to the World Bank Port Reform Toolkit, and specifically to Module and Page numbers.

facilitated cooperation amongst users without the need for their involvement in a contractual arrangement. Experience could usefully be shared with experience of transport corridors in Brazil.

Issue A3: Direct participation by Government or state entity in the concession
Such participation involves participation in risk as well as benefits. The value of shares can go down as well as up and direct participation implies risk-taking.
Recommendation: Government participation as shareholder or partner in a concession should be based on specific and explicit objectives that cannot be achieved in other ways. The experience of PR China of joint ventures with equal shares may be of interest in this context.

Issue A4: Financial terms: the relative proportions of fixed fee and royalty payments
Most of the concessions have had an entry fee then a relatively high escalating fixed fee, with a comparatively modest royalty on throughput or turnover. Too high a fixed fee has meant lower revenue to the Government with the increasing traffic of recent years. The concessions reviewed were with the exception of Dar es Salaam basically for rehabilitation and re-equipping with relatively modest investments, probably averaging about US$3-5 million per year. The figure is higher for the MPDC at Maputo. With the exception of that concession, no investment has been made for new facilities to provide major additional capacity.
Recommendation: Concession payments should be based on a relatively high royalty, as a percentage of turnover, with a relatively low fixed annual fee.

Issue A5: Duration of the concession
The concessions have durations ranging from 10 years (MIPS at Maputo, now extended and TICTS at Dar es Salaam, also extended though subject to controversy), to 25 years in Beira. The three concessions in Luanda were for 20 years. The problem with concessions is that the desire to spend tails off in the latter years of the concession and 10 years is clearly too short Civil works even for rehabilitation require a minimum of 15 years to allow for tendering and works, unless port development is going to modify the concession environment before that time .
Recommendation: The duration of the concession should not normally be less than 20 years.

Issue A6: Bidding procedures and nationality of concessionaires
With three exceptions (Luanda Unicargas and Mozambique Beira and Nacala) the concessions reviewed were let through international competitive bidding procedures. There is now substantial foreign participation in five concessions: Luanda Sogester (APL) and Multiterminais (Nile Dutch); Maputo MPDC (Dubai and Grindrod) and MIPS (Dubai) and Dar es Salaam TICTS (APM). The Beira concession is to Cornelder of Mozambique, which is a national firm with a parent company in the Netherlands. The other two are in the hands of national operators. Three of the largest terminal operators in the world are represented in the list.
Recommendation: Ownership by these major operators appears to be positive both technically and financially (though even they are not immune from world economics). Local partners should be evaluated on the basis of their financial contribution to the concession.

Issue A7: Expatriate staff, labor issues and training
Small numbers of senior expatriate staff are employed. The concession contracts have general clauses relating to the training of local staff for these positions, though without timings. Labor retrenching has not so far been a major issue. The most substantial impact on labor has been seen in Mozambique where the concession process was simultaneous with the restructuring of CFM, requiring that institution to show courageous determination in reaching planned manpower reductions. There is some unrest among groups of compensated workers in Angola and Mozambique.
Recommendation: Training for senior management and more junior staff should be specifically addressed in the concession contracts.

Issue A8: Port development and exclusivity
In at least two cases, Sogester at Luanda and TICTS at Dar es Salaam, the existing concessionaire may be affected by port expansion in the near future and it is good for the concessionaire to have some assurance of commercial stability. "A concession agreement may

contain an exclusivity clause (module 4 page 26). The Toolkit text goes on to say that close restrictions should apply to such a clause, if the future development of the port is not to be distorted.
Recommendation: The physical master plan needs to be accompanied by a concessions master plan, to include policy for existing and future concessions (and with a plan for the reorganization of the existing port layout).

B: ISSUES CONCERNING THE REGULATION OF THE CONCESSION

Issue B1: Purpose of Regulation
Regulation involves the "Creation of a mechanism to protect the public interest" (module 1 page 15). With a complete and fully correct contract of concession, regulation would be kept to a minimum, so that the result is "to regulate only when essential" (module 5 page 4). The purpose of regulation is to ensure that national port policy is followed, that the contractual conditions are adhered to and the interests of port users and especially that the wider Public Interest are taken into account.
Recommendation: The purpose and nature of the regulation proposed should be specified in detail in the concession contract.

Issue B2: Regulator: Ministry of Transport, Port Authority or Independent Regulator
Tanzania has established a regulatory agency for port (and other) concessions, SUMATRA. Mozambique and Angola have created but not yet fully implemented the necessary legal structure, in the latter case with the Maritime and Ports Institute.
Recommendation: The existing agencies should be strengthened and a suitable independent agency established in Mozambique. Day to day supervision should be done by the port authority on the basis of contractual clauses.

Issue B3: Explicit and implicit Government obligations to the concessionaire
Dredging: The need for dredging is a contractual responsibility of the State. This has affected performance at two of the ports reviewed. Measures have already been taken in one case (Dar es Salaam) and are in hand in another (Beira) to resolve the difficulties experienced.
Landside congestion: At the ports of Luanda and Dar es Salaam, there is serious land-side congestion of containers and other cargo, affecting negatively the performance of the concessionaire and resulting in costly ship congestion. Inland depots (ICDs) are springing up, representing additional costs for the consumer. "Unclaimed cargo may burden the operator's ability to meet performance target" (module 5 page 57). Government has the obligation to provide the conditions which permit the concessionaire to meet performance targets. Unclaimed and out-of-time cargo procedures have to be followed.

Issue B4: Renegotiation of the concession
Much can change in the life of a concession. The World Bank Toolkit observes that: "Clauses are necessary that define the conditions and procedures for periodic reviews (of the contract) and negotiations for the purpose of making periodic adjustments" (module 5 page 4). The Mozambique Maputo and Nacala concessions do have such a "Change of Circumstances" clause that allows the parties to take all steps reasonably required to restore their ability to perform their obligations under the concession Agreement.
Recommendation: The concession contract should specify the need for periodic meetings, including but not limited to the topics to be discussed at such meetings, with the possibility of renegotiation when warranted by changing circumstances.

6. Concluding remarks and Action Recommendations

6.1 Concluding remarks: In conclusion, the biggest issue of all is represented by the challenges of the future. With some imperfections, the concessions reviewed have made and continue to make a valuable contribution to the rehabilitation and present operation of their ports and it is recommended that the concession concept now be applied to the expansion of these and other SADC ports, through the use of BOT or similar contracts, with greatly increased private investment. The impact of the world economic crisis for trade and shipping is becoming more apparent every day. The possible implications of these developments should be discussed and possible actions identified to preserve the stability of the present concessions.

6.2 Action Recommendations: These are grouped under the headings of Existing Concessions, Future Concessions, Regulation and Port Planning, as follows:

1. Existing concessions: These have to be as efficient as possible, in order to serve the needs of the country, in a spirit of cooperation with the port authority rather than adversarial. Port Authorities have to confront with concessionaires the possibility of downturn in traffics, especially regarding rail borne mineral exports, which may give rise to financial difficulties for the concessionaires. The need for concessionaires to have reasonable financial stability for investment has to be recognized, especially in the context of port expansion plans. It is necessary to reduce the time import containers spend in the port, by appropriate storage tariffs and other measures. Rial-port connections have to be optimized by means of Corridor Initiatives and improved communications between the parties involved. Exploratory discussions are required with PMAESA and Customs administrations to establish the contribution that port community computer networks can make, using a common SADC model.

2. Future concessions: These will be required for the next stage of port capacity expansion, primarily using the BOT model. Present conditions may provide an unavoidable but useful breathing space, which will give time for port planning. The preferred model is that of the landlord port authority, which implies that port authorities withdraw from port operations. There is a need to intensify discussions with PMAESA in this respect. The objective of any future concession should be defined carefully, with a concentration on port efficiency rather than on a fixed fee structure. . Joint shareholding arrangements between the port authority and the strategic partner have proved to be complicated. Nevertheless, it would be interesting for SADC to examine the Chinese model of joint venture, with equal shares. The Port Authority and Ministry of Transport relationship needs to be defined adopting common requirements to the practices of each country.

3. Regulation: This aspect requires to be clarified and strengthened, for the review countries of Angola and Mozambique and for other SADC countries. It will be important to draw on the developing experience of Tanzania (SUMATRA) and look closely at the provisions of the South African National Ports Act 2005, chapter 5. In general the regulator should be distinct from the port authority.

4. National Port Planning: National port planning has to involve Government, the port authorities, rail and road transport operators and private operators, on the basis of an objective assessment of the market. International safety, environmental and security requirements make port planning an increasingly complex activity.

1. INTRODUCTION

1.1 Background

The twin pressures of globalization and technical changes, including the growth of ship size and containerization, have placed increasing emphasis on the capacity and performance of seaports, leading governments to adopt a strategy of port reform, determined by the constraints of the national transport policy, land use and environmental responsibilities. Port reform in all countries has involved increased private participation, in the search for improved efficiency and service quality, greater responsiveness to the market through the encouragement of competition and the attraction of additional investment for infrastructure, equipment and control systems.

During the study period (November and December 2008), early signs have become apparent of the impact that the burgeoning economic crisis will have on world trade. This will impact increasingly on port traffic both exports, especially bulk cargoes and on imports, predominately containerized cargo. There will be a knock-on effect on port revenues and hence, given the existence of a high proportion of fixed costs, on the profitability of some existing concessions. The study has been done before the full impact of the crisis can be foreseen and in particular, its impact on the port and terminal concessions. Nevertheless, this factor underlines the timeliness of the study and the importance of the proposed Forum.

1.2 SADC Protocol

Concessions have been widely adopted within the transport sector of SADC countries, reflecting Chapter 8 of the SADC Protocol on Transport, Communications and Meteorology, "*Member States shall promote efficient port management and operations through economic and institutional reform measures accommodating: leasehold and other arrangements to encourage private investment in port facilities"* (Article 8.2 section 3 (c)). This Protocol came into effect in July 1998 and member countries have been active in implementing its provisions, in most cases using the modality of concessions, though with the significant exception of South Africa, not included in the present Review, where container terminals have remained under operational control of South African Port Operations (SAPO), a Division of Transnet, with private sector participation in breakbulk and bulk terminals through leasehold arrangements[7].

1.3 Concessions

Concessions are one way available to governments to achieve increased private participation in ports, where the concession approach may vary from a simple lease of existing infrastructure to the concession of a green-field site, through a BOT (Build-Operate-transfer) contract[8]. SADC member countries have put a number of port and port terminal concessions into place, with different views of their success among those involved. In order to take advantage of experience to date, the decision was taken at the meeting of the SADC Ministers for Transport at Gaborone in October 2007 to review the concessioning process and performances of selected concessioned ports and terminals.

The present report gives the result of this review for three countries: Angola (Luanda), Mozambique (Beira, Maputo and Nacala) and Tanzania (Dar es Salaam). The study was commissioned by the SADC Secretariat, with financial support from the USAID Southern Africa Global Competitiveness Hub and has been undertaken by Alan Harding, consultant, with guidance and support from the two fore-mentioned institutions. In the course of the study, visits have been made to each of the five concessions, including conversations with the authorities, the

[7] "Ports restructuring, Policy and Regulation", Dr Henriette C van Niekerk, IAME Panama 2002
[8] "Concessions include all contractual arrangements through which a private firm obtains the right from government to provide a service under conditions of significant market power", World Bank Knowledge Resources.
See also the World Bank Port Tool Kit (2007) which defines the full range of private participation in seaports from the status quo of Public Management and Operations to Full Divestiture by Sale. (Port Tool Kit, section 4, page 49, Box 18, Spectrum of Port Reform Tools).

concessionaires and to the extent permitted by time constraints, with port users. The report is based on these visits and meetings, plus a review of documentation as provided to the study.

2. OBJECTIVES OF THE REVIEW

2.1 Objectives

The overall objective of the study was to review the concessioning processes and performances of the concessioned ports and terminals with a view to drawing important lessons regarding the effectiveness of the policy position and implementation process for that policy position. Specific aspects to be covered included the objectives, mode and scope of the privatization scheme; critical factors in the implementation of the concessions including national policy positions, political initiative and support, clarity of objectives and the existence of a rational action programme, labour reforms and tendering and evaluation procedures; definition of the role of the Port Management Authority and any necessary institutional reforms; investment requirements and tariff setting; and performance and monitoring.

2.2 Information sources

The review is based primarily on information obtained during initial meetings in Gaborone, with SADC and Southern Africa Global Competitiveness Hub, followed by the visits to Angola, Mozambique and Tanzania. In all cases meetings with Government authorities were followed up by visits and discussions at the ports.

With the exception of the port of Luanda (Angola), the port and port terminals reviewed depend substantially for their traffic and hence their success, on railway connections, either national or in the majority of cases, to landlocked neighboring countries. In this context, attention is drawn to the complementary study entitled "Review of the Effectiveness of Rail Concessions in the SADC Region (draft)", by Larry Phipps and also commissioned by the Southern Africa Global Competitiveness Hub in 2008.

Additional information about the review ports was obtained from the Port Management Association of East and South Africa (PMAESA) website including the recent Pan- African Ports Co-operation conference which had a session programmed on "African Ports Privatization and Concessioning of port services".

Two other recent reports: Improving Transit Transport in East Africa: Challenges and Opportunities (UNCTAD 2007) and Transport Corridors and Costs in Africa: A Review of the Main International Corridors (World Bank, 2008) provide additional information on rail and road links to and from the ports.

3. LAYOUT OF REPORT

The report first reviews for each country, the concession or concessions in each of the five study ports in turn, describing each of the six concessions, placing them in the context of the port and its hinterland (chapters 4-6). Attention is drawn on a number of occasions to an earlier UNCTAD report[9] and to other documents

After the country-specific sections, the analyses are brought together and discussed in the Regional Findings (chapter 7). The final chapter (chapter 8) synthesizes the Highlights, Issues and Recommendations of the review. The report is a draft and its contents and especially the "Recommendations" depend on comments received for their finalization.

[9] "African ports: reform and the role of the private sector" UNCTAD/SDTE/TLB/5 31 March 2003

4. ANGOLA: LUANDA

4.1 Administration

The port of Luanda[10] is a public enterprise created by Decree No. 26/98. The decree, prepared by the Ministries of Planning, Transport and Finance, approves the statutes of the port with three governing Councils: *Administration* (for the management of the enterprise), *Fiscal* (for financial control) and *Consultative* (for consultation and information).

In the year 2007 the port handled 6 million tons of cargo, of which about half was in containers[11]. The total is nearly three times the corresponding figure for the year 2002. This dramatic increase in traffic has been a contributing factor to the present congestion experienced by the port, both of ships and on land.

4.2 Concessions reviewed

Cargo handling operations within the port have been concessioned to four independent operators, as follows:

- Petroleum Terminal: this was concessioned to SONILS in 1997 for a period of 25 years. The terminal serves the oil and gas industries and is not considered further in this report.

- General Cargo Terminal (TCG): berth 900m (not all available) with back-up 8 hras. This terminal was concessioned to Multiterminais in 2005 for a period of 20 years. Multiterminais is a consortium made up of Copinol SARL (51%), Nile Dutch Africa Line (35%) and NDS Ltda (14%).

- Multipurpose Terminal (TP): berth 536m with back-up 18 hras. This terminal was concessioned to Unicargas in 2005 for a period of 20 years. Unicargas is a government owned transport company. The concession was granted without competitive tendering.

- Container Terminal (TC): berth 550m (including an angle) with back-up 14 hras. This terminal was concessioned to Sogester in 2007 for a period of 20 years. Sogester is owned by APM Terminals (40%) with Maersk Line (11%) and Gestao de Fundos (49%)[12]. The last mentioned is an Angolan based pension fund management company. APMT is part of the Moller-Maersk Group, which also includes Maersk, the shipping company.

In addition, to the North of the petroleum terminal is an area allocated to vessels of the National Reconstruction Project (GRN).

4.3 Policy objectives and the concessioning procedure

Angola has a well-defined policy for attracting foreign investment, based on the Private Investment Law (PIL) no.11/03, 13 May 2003, with supporting tax, Customs and commercial legislation.[13] Specifically, the private investment law created ANIP (Agência Nacional para o Investimento Privado) as the responsible agency. ,.

The concession for the general cargo terminal TCG was developed out of an earlier agreement for the operation of the terminal. What was new was the requirement for the new concessionaire to undertake specific investments in the terminal. The final bidders included the Multiterminais consortium and Gray-Angola. Multiterminais was selected and ANIP proceeded to the detailed

[10] The official name is Empresa Publica Porto de Luanda, abbreviated as Porto de Luanda E.P.
[11] These figures do not include traffic at the Petroleum Terminal.
[12] Figures quoted by the African review of Business and Technology, Oct 2007.
[13] See: http://www.investinangola.com/eng_home.asp. Also the document ANIP: How to Invest in Angola - The Transportation Sector.

negotiation of the investment contract, which was formally approved by Resolution no. 39/05 of the Council of Ministers. This refers to the Contract of Investment between ANIP representing Government and the three partners of Multiterminais. The objective of the contract is the "exploitation by concession of the general Cargo terminal of the Port of Luanda" (Decree clause 2 - following clauses refer to the investments agreed and the standard contractual conditions).

4.3.1 Container terminal concession

The Container Terminal concession was more controversial. After short-listing, bids were received from TECON Angola with ICTSI, Intertransit an existing operator and the APMT group. Significant differences existed in the bidders investment plan, with quay reconstruction featuring in one of the bids. The APMT bid was selected, then challenged in the courts on the grounds that the choice of a shipping line related was inappropriate. The challenge was unsuccessful and the Container Terminal concession was signed with the APMT-led consortium Sogester.

4.3.2 Labor aspects

Two of the concessions (Container terminal and especially Multiterminais) have been involved in claims for compensation made in March of this year by four groups of former port workers against the new terminal operators. The matter has been passed to the Minister of Transport for resolution.[14]

4.4 Port Management Authority and institutional reforms

The Port of Luanda E.P. as is noted above was created in 1998. It is the port authority and empowered (Article 6) to establish forms of association or cooperation with national or foreign entities in order better to achieve the objectives of the port. Thus the concessions are of port terminals, reserving the corresponding powers to the port authority.

The port authority does no cargo handling but controls berthing allocation. Road congestion makes access to the port difficult and rail access does not play a significant role at present though there are plans to construct a rail link to the Congo provinces of Bengo, Uíge, Zaire and Cabinda. The plans are part of the "Development of the Integrated Railway System" program, approved by the government in 2001.

4.4.1 Institutional reforms

The port authority has been exercising an important role in the control the concessions. This allocation of responsibilities may require review as the Maritime and Port Institute of Angola gains experience (see 4.6.2 below).

4.5 Investment requirements and tariff setting

The investment requirements of the concessionaires are expressed in the respective decrees in detailed monetary terms and in general terms of their content. Thus the Multiterminais decree requires (Clause 7, 1 (a)) USD 16,127,066 to be spent on works of construction, rehabilitation and modernization of the physical infrastructure of the area of the concession. A more detailed description is given in the tender document though such general descriptions may leave some flexibility in respect of the works actually done. In addition, cost estimates for works made at the time of bidding may be out-of-date by the time it comes to hire a contractor. Equipment planned for the concession is also specified in the tender document, though not described in detail in the decree.

The Sogester concessionaire has signed an agreement with the African Investment Bank (BAI) in July 2008 for a loan of USD 45 million towards the required rehabilitation works for the concession

[14] Dani Costa "Semanario Angolense" 17 Mar 2008

area, including "associated improvements in the operation system, accounting, administration and security".[15] Consequently the container terminal concessionaire is now (November 2008) calling for bids for the civil works, which will permit the introduction of new equipment. This is more than a year after the concession agreement was signed. Especially in the conditions of the port of Luanda, the concessionaires should be up and running as soon as possible after the signing date.

Any change to the tariff applied by the concessionaire has to be justified to and agreed with the port. Current discussions concern the container storage tariff.

4.6 Performance and Monitoring

4.6.1 Performance

Terminal performance is specified in the concession contract in terms of ship to shore handing performance, i.e. container moves per hour. Rates in 2007 at 7/8 moves per hour were below the required performance. There has been a small improvement this year, to 10 moves per hour, still short of the target figure. No performance measures are specified in the contract for the time that containers and other cargo remain in the port. The constrained conditions under which the concessionaire has to operate hinders the achievement of high levels of productivity.

4.6.2 Monitoring

The monitoring of performance of the concessionaires is the responsibility of the Maritime and Port Institute of Angola, ascribed to the Ministry of Transport, with statutes approved by decree 66/07 (Aug 15, 2007). The Institute has a number of responsibilities including the Port Captains and the control of laws and regulations within its competence, including the port concessions. The necessary systems and the training of staff are being implemented and a Committee has been set up by the Ministry of Transport specifically to follow the concessions. Up to now the supervision of the concessions has been done mainly by the Port of Luanda EP.

The view was expressed to us that better control was required, so as to know in detail the performance of each concession. Such a review should include consideration of the traffic level on the profitability of the concession. Unexpectedly significant increased traffic levels may result in high levels of profitability for the concessionaire. The opposite, should traffic decrease, may also be true.

4.7 Critical factors affecting the concessions in the port of Luanda

4.7.1 Number of Concessions

The general cargo and container terminals together have 1086 m of quay, with a supporting area of 32 hectares. These figures over-estimate the operational availability, on account of two "elbows" (changes of direction) in the berthing line and various existing buildings that take up space in the supporting areas. The considerations which led to three concessions are related to the existence of three publicly owned previous operators However, in operational terms, two concessions, one general cargo/multipurpose and the other an enlarged container terminal, could have been more attractive to potential bidders. As noted above, more than a year has elapsed between the signing of the Container Terminal concession and the opening of bids for the agreed civil works.

4.7.2 Congestion

<u>Ship Congestion</u>: Traffic growth at the port has exceeded all expectations. This has led to port congestion so that at the time of the visit (early November 2008), there were 28 vessels waiting entry. The European shipping lines have applied an emergency congestion surcharge of $600 per 20ft container and $900 per 40ft container for the period through the end of December, 2008.

[15] Angola Press Agency July 1, 2008

It may be observed that the concessions have not been effective in tackling this congestion (though it might have been worse without them). The greatly increased traffic will have led to increased profit levels for the concessionaires, though the study did not obtain figures on this aspect.

Cargo Congestion: Clearance times for containers and other general cargo are excessive, with more than 6000 containers that have been there for over 60 days. There is also cargo which appears to have been abandoned. The reasons for this situation have been debated[16] and an Action Plan was announced by the Minister of Transport in May of this year.[17] As a first priority, it is essential for Customs and the Port Authority to work together to get this cargo out of the port, starting with abandoned cargo. Whatever the reasons for the cargo congestion as described here, the concessionaires cannot be expected to perform to full efficiency without space for the correct operation of their equipment, leading to additional equipment costs.

Storage tariff: It is noted that the daily storage charge (USD 5 per teu) dates from 1991. The policy on the container terminal is to transfer an import container after 10 days to an off-dock terminal at importer's expense, though this may not always be achieved in practice. The extended storage times will represent additional revenue for the concessionaires.

4.7.3 Off-dock terminals

Off-dock terminals: Several off-dock terminals are in operation or proposed for the transfer of containers, with their subsequent clearance by Customs at the off-dock terminal On the basis of experience in other ports at times of similar congestion, these terminals should be primarily for out-of-time and abandoned containers and other cargo. This leaves space in the port for the clearance of newly discharged containers in the concessionaires' yards, thus avoiding additional costs and the inevitable administrative complexity when uncleared containers are moved out of the port..

4.7.4 Future port developments

Uncertainty: The existing concessionaires' investment plans, though costly, are dedicated primarily to repairing the results of decades of neglect. No new construction of quays is envisaged nor the installation of gantry crane rails. This means that the port of Luanda, despite its substantial throughput of containers, will not have gantry cranes within the immediate future[18].

New port: A new port has been announced by the Minister of Transport, to be located at Barra de Dande, with construction work scheduled to start in the coming year. This may have been a factor in persuading the present concessionaires to be relatively modest in their investment plans. Where a new port is planned to come on stream within the life of an existing concession, some assurances should be given to the concessionaire, to encourage their investment plans.

5. MOZAMBIQUE: BEIRA, MAPUTO AND NACALA

5.1 Overall aspects of the port sector in Mozambique

Total port traffic exceeded 11 million tons in the year 2007, with the three principal ports of Maputo, Beira and Nacala representing 98% of the total, leaving the ports of Quelimane,Pemba and M.Praia with just under 2%. The four concessions reviewed are in the ports of Maputo (2), Beira and Nacala.

[16] See for example "Trade Facilitation" by Matingou and Jenicek, Agricultura Tropica and Subtropica, Vol 41 (2) 2008
[17] See "Rumos" nro.5, Ministry of Transport.
[18] Two arguments were advanced in discussion with the port for the decision not to install gantry cranes: (a) the high cost this would involve, and (b) the imminent construction of the new port. For a discussion of construction requirements see: The Construction of a New Quay Wall in the Port of Luanda, Angola", Paul, Thomas and Dogra, Ports 2001

The ports have historically depended largely on rail traffic for much of their cargo, though by the year 2007 this represented only 34% of port traffic (see footnote[19]). This change in the relative shares of rail and road traffic is primarily due to the growth of road transport, with the growth of containerized cargo as an important element.[20] Container traffic at the three ports has increased strongly in recent years with a total of 179,618 TEUs registered in the year 2007. .

There are high expectations of substantial further increases in port traffic depending on effective competition with South African ports for the South African and Swaziland traffic, the success of efforts to rehabilitate the railway connections with neighboring land-locked countries and on plans for coal and other mining projects in Mozambique.[21]

Prospects for traffic growth can be looked at in two ways: first, in terms of recent years, there has been a growth of 52% in overall port traffic since the year 2001. Second and taking an historical perspective, the ports of Mozambique handled 18.3 million tons in the year 1973. Much of this traffic may be recovered now that conditions in the region are back to normal.

At the same time, it may be observed that the current world economic crisis could complicate the full realization in the short term of these expectations for substantial traffic increases, especially in bulk export cargoes.

5.2 Concessions reviewed in Beira, Maputo and Nacala

The concessions reviewed in the ports of Maputo, Beira and Nacala are described briefly below. The original concept, as described in the World Bank Appraisal Document[22], appears to have been to offer joint port-railway concessions in all three ports, reflecting their original structure. This interesting approach did not reflect present day realities and separate port and railway concessions were made in Maputo and Beira, with single management for both port and railway only in Nacala.

5.2.1 Maputo and Matola

Maputo (including Matola): These two ports form one port complex, under a single administration. The principal bulk terminals (petroleum, coal, aluminum and grain) are located at Matola, with the container terminal, general cargo berths and certain specialist terminals located at Maputo. The grain, aluminum and liquid bulk terminals are under CFM "direct management"[23], handling 2.7 million MT. in 2006.

The concessions reviewed are (1) the container terminal, concessioned to the company Mozambique International Port Services or MIPS and (2) the overall port administration, concessioned to the company Maputo Port Development Company or MPDC.

5.2.1.1 MIPS

MIPS (container terminal): International tenders were called in 1994 for the lease and management of the container terminal at the port of Maputo. The proposal by P&O Ports with the Rennies Group of South Africa was selected and the firms were invited to form a joint venture with CFM. Following negotiations, an agreement was signed in 1995 to form the Servico Internacional de Portos de Mocambique known as MIPS. Operations commenced in March 1996. The original shareholdings were Rennies with 37%, P&O Ports with 30% and CFM with 33%. Following changes in the ownership of Rennies in 1998 and P&O Ports in 1995, the present shareholdings are DPWorld 60% and CFM 40%. The initial lease was for 10 years. In 2003 MIPS was awarded an extension to 2013. The original rehabilitation, including the rehabilitation of the two gantry

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[19] "CFM Developments on Maputo Corridor - Perspectives and Challenges", Dr. Joaquim Zucule, CFM 2008
[20] "Transport Prices and Costs in Africa", Teravaninthorn and Raballand, World Bank, 2008
[21] "Review of the Effectiveness of Rail Concessions in the SADC Region (draft)", Larry Phipps, Southern Africa Global Competitiveness Hub, 2008
[22] Project Appraisal Document, Report No. 19085-MOZ, World Bank, September 14, 1999.
[23] CFM Annual Report 2006, page 12 "Cargo handled in the terminals under CFM's direct management".

cranes, cost USD 8 million, partly financed by the Commonwealth Development Corporation (USD 2.5 million). To date it is understood that about USD 12.5 million has been invested. Rental and throughput-related payments are made to MPDC.

The throughput of the container terminal has increased from 8,865 TEUs in 1996 to 63,764 TEUs in 2007.

5.2.1.2 MPDC

MPDC (port administration): Bids were invited for the concessioning of the port of Maputo (with Matola) in 1996. A major motivate on for this was the need to rehabilitate the port after the cessation of hostilities.

In May 1998, a consortium led by Merseyside Docks and Harbour Company (the Port of Liverpool) was named the preferred bidder to form a concession with CFM as the Maputo Port Development Company (MPDC). There were protracted negotiations related to the royalty payments structure (fixed and variable fees). In addition, Paribas Bank, who did the transaction analysis, had identified the importance of the Ressano-Garcia railway line to the success of the port concession. The Banks providing finance for the MPDC were reluctant to provide financial closure until this factor was clarified to their satisfaction. Discussions between SpoorNet and CFM for a possible concession of the line were not successful and CFM determined that the best solution would be continued operation of the railway by CFM in close interline cooperation with Spoornet[24]. The Consortium finally accepted this solution and the concession agreement, which had been signed in September 2000, was made operational in April 2003

The original consortium included the Merseyside Docks and Harbour Company (MDHC), Skanska AB of Sweden and Liscont SA of Portugal, with equal shares of a 51% shareholding. The other 49% is held by CFM with 33% and the Government of Mozambique with 16%, held in trust by CFM.

Despite successful dredging of the entrance channel by MPDC using EMODRAGA (Empresa Mocambicana De Dragagens E P) resources, traffic build-up has been slower than expected. There were also high start-up costs associated with the attendance of the financing institutions during the protracted contract negotiations. As a result, the fixed annual fee was not paid in the early years. A lack of trust was also apparent between CFM and the strategic partner. The cost of the negotiations with CFM (the 49% shareholder) had been borne by the latter. The concession of the port and the participation of CFM was effectively a condition of the financial support of the IFIs, principally the World Bank, in the restructuring of CFM, which had been making substantial losses.

However, following changes on the private side, approved by Government, the 51% private shareholding, known as Portus Indico, is now owned by DP World and Grindrod SA each with 48.5% and Mozambique Gestores with 3%. The previous shareholders had renegotiated the unpaid fees with Government and this debt is now being paid by the new owners. Prospects for an improved relationship are seen to be good by CFM.

An early initiative of the MPDC was to encourage the creation of the Maputo Corridor Logistics Initiative (MCLI), which was incorporated as not for profit organization membership-organization in March 2004, with members drawn from freight logistics stakeholders of South Africa, Mozambique and Swaziland, in order to encourage use of the port by South African and Swaziland traffics.

The MPDC is the entity responsible for: all marine services within the Maputo Bay Port Jurisdiction area; designated port areas within Maputo and the coal terminal of Matola. The MPDC operates the break-bulk terminals. Existing bulk terminals operate under their original leases, though now paying rentals to the MPDC. The MPDC is thus both the port authority and for certain cargoes, the

[24] See Phipps, op.cit. pages 45,46. Also CFM Annual Report 2006 page 16 "Concessions".

operator so that to this extent, the landlord concept has been compromised. See the interesting reported observations by the president of CFM.[25]

Under the terms of the concession, the MPDC has the right to develop, rehabilitate, finance operate and manage the port of Maputo. Legislation was put in place to enable the private company to hold public land (Decreto No. 22/2000 de 25 July 2000 defines the powers and responsibilities of the concessionaire). Environmental liabilities were resolved through the clauses of the concession agreement. Under the terms of the concession, MPDC was to pay an entry fee and subsequently a rental of USD5 millions pa, plus a royalty on gross revenue, starting at 5% and increasing by stages to 10%.. The moneys paid go in the first place to the CFM. For the first 5 years of the concession, 85% of concession receipts go to CFM and 15% to Government. After 5 years (currently), the receipts are scheduled to be apportioned 50/50 between CFM and the Government, though discussions in this area are ongoing with Government.

Annual reports by the concessionaire are submitted to the Government and tax paid on declared profits after an initial tax holiday. No dividend was paid in the first 5 years of the concession. Nor were annual rents as agreed in the concession contract paid as contracted and it was claimed in April 2008 that about USD 16 million was owed in unpaid rent. As noted above, this debt has been taken over by the new strategic partner.

There were various allegations by the concessionaire in this respect, related to tax rebates (IVA), the negative impact of the costs of the container scanner and the cost of paying off redundant workers. In addition the concessionaire claimed that traffic was much lower than expected, partly because of the negative impact of new security arrangements, which made the port more expensive, and partly because of continuing shortages of rail equipment. The present report has no information concerning this dispute except to comment that it did nothing to improve relations between the concessionaire and the CFM as 49 % shareholder.

The initial key investments amounted were in excess of USD 50 millions including dredging and equipment In addition this figure includes a substantial amount in respect of shareholder loans capitalizing start-up costs. The financing structure included senior debt, subordinated debt and mezzanine debt with a political risk guarantee and investment tax incentives[26].

5.2.2 Beira

Beira: The port of Beira serves its national hinterland and provides a major link for the land-locked countries of Zimbabwe, Malawi, Zambia and beyond, with which it is connected by two railways, the Machipanda Line and the Sena Line. The long term growth of the port depends on the success of these railways.

The Beira concession relates to the Container and General Cargo Terminals of the port, with CFM retaining other facilities including the oil terminal. The shareholders of the concessionaire are Cornelder de Mocambique (70%) and CFM (30%). The Conceding Authority is CFM which remains as the port authority. Cornelder also has the concession of Quilmane port signed in the year 2004 (Decreto No. 33/2004).

Under the concession the Conceding Authority "will ensure the dredging and maintenance of the approach channels etc so as to maintain the designed depth". In addition the Conceding Authority has a number of obligations to do with rail access and operation (among other clauses). Subject to various conditions, the concessionaire may suspend (retain) payments if the Conceding Authority fails to meet its obligations.

[25] See comments in "We have to gradually conquer our traffic", an interview with the President of CFM, reported in the CFM review Xitimela, No.18, Aug 2007

[26] "Maputo Port Financing", International Securitization and Structured Finance Report, WorldTrade Executive, Volume 6, no.9, May15, 2003.

The contract of concession includes the undertaking that no additional facilities shall be granted to another party (by CFM as the Conceding Authority) without first offering the Concessionaire such development on terms and conditions "not less favorable than that given to the other party". A similar undertaking is included in the concession contract with respect to port developments outside the concessioned area.

The concession started in 1998 and has a 25 year term. In the first year the investment for share capital comprised the payment of USD 700,000 by Cornelder and a notional USD 300,000 by CFM. The CFM contribution was payable with a warehouse valued at USD 1.1 million and the remaining portion of USD 800,000 is to be treated as a loan to the concessionaire repayable over 10 years at 10%.

Beira is about 20km from the sea and channel deepening is necessary if it is to attract deep sea vessels and in particular to accommodate the deep-drafted bulk carriers required for the export of bulk minerals. Two actions are planned to address the dredging issue, including maintenance dredging and the acquisition of a heavy-duty capital dredger. Tenders are invited for April15, 2009 for the maintenance dredging, to restore design depths to a minimum of 8m below datum, with -9.2 m in the Macuti Bend. The last capital dredging was done in 1992. For the sustainability of the programme, financing for the acquisition of a new dredger has been arranged from DANIDA with CFM cofinancing. The dredger Aruangua constructed in Japan arrived in the year 2000 and the Alcantara Santos in 2007. Additional capacity is expected within the next two years, so that EMODRAGA, (Empresa Mocambicana De Dragagens E P) the State dredging company, should have sufficient resources for the necessary works. The successful development of mineral traffics will require greater depths.

Total port traffic has increased though slowly from 2.43 million tons in 2001 to 2.75 million in 2007. The traffic handled by the concession has increased from 1.24 to 1.98 million tons over the same period. Container traffic has increased more strongly, from 30,007 TEUs in 2001 to 71,167 TEUs in 2007. About half the cargo including container traffic is for international transit. Only 543,000 tons were carried by train in the year 2007, 20% of the total, partly on account of reduced Zimbabwe traffic.[27] This represents a decline from 2001 when the figure was 886 thousand tons. Rail and dredging are the lifelines of this port.

5.2.3 Nacala

Nacala (port concession): The Nacala Corridor includes three concessions created with the same shareholder structure. The railway network consists of two connected lines: the Northern Mozambique railway system (CDN) and the Malawi railway system (CEAR). Concessions for both railways have been agreed with the same 51% shareholder SDCN. The Port of Nacala has also been concessioned to CDN. CDN or Corredor de Desenvolvimento do Norte SARL, is a company constituted in Mozambique. The original shareholders included the Railroad Development Corporation of the USA (RDC), ERL of Bermuda, Nacala Comercio Internacional and other private investors from Mozambique with 51% and CFM with 49%. Funds were provided principally by Overseas Private Investment Corporation (USA). The CEAR concession started in December 1999, for 25 years. The Port of Nacala concession was effective January 2005 and has a duration of 15 years with an extension subject to conditions for another 15 years.

In October 2008 RDC and ERL announced that they had sold their equity to Insitec, a subsidiary of the Commercial and Investment Bank (BCI) of Mozambique "for a profit" according to the RDC executive[28]. CFM is critical of a number of aspects of the Malawi and North of Mozambique railway concessions including the failure to produce audited accounts and to comply with maintenance obligations, indicating the weakness of regulatory procedures..

[27] Presentation by CFM-Centro, 2008
[28] CFM Company News September 2008.

The concession is that of a port authority similar to the MPDC at Maputo though on a smaller scale. The concession in Mozambique North were awarded on a direct negotiation basis.

The port meantime has been performing reasonably well with increasing traffic: total cargo has increased from 744,514 tons in 2005 to 951,596 tons in 2007, whilst container traffic has increased from 31,118 TEUs in 2005 to 44,687 TEUs in 2007.

The port is replacing out-dated equipment; nevertheless in the meantime ship waiting is a problem. The port has a contractual obligation to pay USD 0.5 million pa for the first 5 years (then increasing to USD 2 million) plus a variable rent of gross returns, starting at 5% and increasing by year 11 to 15%. There have been failures in these fee obligations.

About 25% of the total traffic is shown in the port statistics as international transit. This appears to suggest that the port could function independently of the rail system.

5.3 Policy objectives and the concessioning procedure

Government policy for the ports is defined in the Council of Ministers Resolution 5/96 (April 2nd). This includes (section 2):

"*Provide incentives to the participation of private capital in the creation of new port infrastructure, in the exploitation of ports and different port services and activities through management contracts, total or partial concession in joint venture with the State port operator*."[29]

The above definition makes it clear that the joint-venture model with CFM is an integral part of the port reform policy. Thus the concessioning procedure was directed towards the choice of a suitable partner for CFM.

The transaction for the concessions at the port of Maputo (for MIPS and MPDC) was prepared by Paribas (now BNP Paribas) and followed the usual competitive procedures. Both the Beira concession and the Nacala port/railway concession were based on direct negotiation with a pre-=selected consortium with Ministry of Finance participated in the negotiations and final approval by Government. Additional information is given in an UNCTAD report.[30]

5.3.1 CFM

The reform of the ports (and railway) was to some extent shaped by the reform of the responsible State-owned entity CFM. Previously, the ports and railways of Mozambique were administered and operated by Caminho de Ferro de Mocambique (CFM). Starting in the 1990s with Resolucion 1/36 of 13 Sept 1994, CFM has been restructured as Ports e Caminhos de Ferro de Mocambique E.P. (CFM). The Mission Statement of the restructured CFM is stated to be:

"To promote and develop rail and port infrastructures and services, so that it will reveal a modern, competitive, efficient system, market oriented and financially viable in partnership with the private sector in transport and logistical operations in the region and worldwide"[31]

Under this decree paragraph 4, CFM was permitted "to associate with national and international organizations related to the activities of the CFM, subject to authorization of the MTC".

Support was provided by a World Bank/IDA loan in 1999 to assist the Government in the reform of the three major port-rail transport corridors, mainly in the area of staff rationalization.[32] The

[29] Incentivar a participacao do capital privado na criacao de noves infra-estructuras portuarias e bem assim na exploracao de portos e das diversas actividades e servicios portuarios, atraves de contratos de gestao, concessao total ou parcial, em parceria com o operador estatal portuario (joint-venture); (Resolution 5/96 section 2, 3rd paragraph)
[30] "African Ports: reform and the role of the private sector", UNCTAD/SDTE/TLB/5, 31 March 2003
[31] "Mozambique Ports and Railways, EP: Corporate Restructuring", CFM April 2006.
[32] Report No: 19085-MOZ, World Bank, 1999

concession model adopted with the support and encouragement of the World Bank included a 51% shareholding for the strategic investor, with the balance of 49% held by CFM. At some stage in the future, CFM was expected to off-load 16% to regional and local investors.

Exceptions to the above include MIPS where the CFM shareholding is 40%, the port of Beira where CFM have 30% and Cornelder have 70%.

Thus CFM enters as shareholder in what is described as a joint-venture model. However, a joint-venture shares the risks and costs of an enterprise with a common goal and, should it be successful, shares also in the profits. The extent to which the concessions under review fit that definition is an important question, referred to again below.[33]

5.3.2 Labor issues

The port concessions have been put in place without significant labor issues, as a result of the implementation of sound labor compensation policies under the leadership of CFM. More than 13,500 workers have left the company at a cost of about USD 80 million. Payments have been largely funded by the World Bank. The staff compensation model followed by CFM was generous and helped the retrenched workers reintegrate smoothly. There have been some few complaints and earlier this year a complaint was made to the Petitions Commission regarding compensation payments. The Commission has hired KPMG to prepare a report.[34]

5.3.3 Financial aspects

As noted above, concession fees in the first 5 years are apportioned 85% to CFM and 15% to Government. Subsequently the apportionment may reach 50/50, subject to the outcome of present discussions. In addition the ports have benefited from investments at no cost to the State, though the figures made available to the study did not permit an overall balance from the point of view of Government finances to be made.

5.4 Port Management Authority and Institutional reforms

The Ministry of Transport and Communications represents Government in the port sector, through the Maritime Directorate, the National Institute for Hydrography and Navigation (INAHINA), the Maritime Administration & Safety Authority (SAFMAR) and the National Maritime Institute (INAMAR). The Empresa Mocambicana De Dragagens E P (EMODRAGA) is the State dredging entity.

Port authority responsibilities are exercised by CFM, restructured in Jan 1995 as a public company with three divisions: CFM-South, CFM-Centre and CFM-North. The CFM has concessioned its port authority functions in the case of Maputo to MPDC and Nacala to CDN. In the case of CDN, the port authority also has the railway concession, so that:

"*The Corredor de Desenvolvimento do Norte Project represents a new concept in operations and management of infra-structures in Africa since it reunites one deep water port and the railway systems of two countries under a single and fully integrated private management and shareholding structure*."[35]

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[33] See also "Public-Private Partnerships in the Port Domain in Developing Countries", by Herve Martel, INSED June 1999

[33] "CFM, the company that owns ports and rail companies in Mozambique, has been accused of violating workers rights following massive redundancies in recent years. The organization counters by pointing out that redundancy payments were more than it was legally required to make. KPMG has been appointed to investigate further". Port Strategy, April, 2008

[33] "Nacala Port Presentation", CDN, 27 Feb 2007

5.5 Investment requirements and tariff setting

The concessionaires took over selected equipment formerly directly operated by CFM, either in lieu of shareholding payments or with appropriate payments. The base case financial models presented by the bidders forecast the expected investment plans though there is no binding clause in the concession contracts. The existing gantry cranes at Maputo (two Ansaldo ship to shore and one Jessop for rail transfer), at Beira (two Ansaldo ship to shore) and at Nacala (one Liebherr) all date from the pre-concession period. No new quay has been constructed to date under the concessions.

The structure of and the rules applying to the port tariff are defined in the contract of concession. Concessionaires enjoy commercial freedom in setting their tariffs: "Subject to the foregoing (related to the need to provide an economic return), the Company shall be free to set and revise the tariffs charged for Port services…The tariffs may include reductions intended to increase traffic…" (contract of concession).

The sensitivity of port traffic to port costs was much discussed when a scanner was introduced in the port of Maputo. The original charge was considered to be too high and a brake on trade. At the Third Annual meeting of the MCLI it was alleged that: "the port's annual growth rate of 12-16% from 2003 had slowed to 2% as a result of the introduction of the scanner at the port". The charges were revised following an initial study (by Nathan Associates)[36] and a further study by Dutch consultants of the competitiveness of the port of Maputo is being completed[37].

5.6 Performance and monitoring

5.6.1 Performance

Performance indicators are not included in the concession contracts for the MPDC, nor for Beira or Nacala. There are indicators in the contract for the container terminal at Maputo (MIPS). It is evidently difficult to monitor performance in the case of a whole port concession, except perhaps in terms of overall profitability, which depends on traffic levels and hence to some extent outside the control of the concessionaire. Gross turnover depends also on the tariff levels charged to port users. The performance of a commercial undertaking has ultimately to be the return earned for shareholders, in return for the risk they have assumed. The distinction between ordinary (risk-taking) shares and debenture shares (which have a first call with a fixed interest payment) is relevant in this context.

5.6.2 Monitoring

Article 12 of Decreto No. 22/2000 de 25 July 2000 delegates to MTC competence to represent the Government in respect of the contract of concession. However, in practice, with insufficient resources in the Ministry, the task of supervision falls principally on CFM. "In the context of the new organizational structure, CFM has to reinforce its mission within the concessioned areas of operation where the company is simultaneously a shareholder and supervisor of the Government interests, such as performance standards, observation of regulations, safety and environmental standards, public interests, terms of the contract, public social obligations, etc..."[38]

5.7 Critical factors related to the concessions in Mozambique

5.7.1 Concession models

[36] "The Economic Costs of Port Scanning Fees in Mozambique", Nathan associates, 2007
[37] by ECORYS Nederland BV
[38] "Corporate restructuring" CFM April 2006.

Three distinct concession models have been put into place in Mozambique: the terminal model as at Beira where the CFM maintains the role of "landlord" and at Maputo for the MIPS container terminal concession; the master concession model as at Maputo (MPDC) where the "landlord" role is exercised by the concessionaire; and the through-transport model as at Nacala, where the port concession including landlord is bundled with the railway concession. The different traffic demand at each of the three ports makes it difficult to judge which model is more effective in terms of efficiency.

5.7.2 Port and Corridor

The Maputo Corridor Logistics Initiative (MCLI) has shown how the different stakeholders, both public and private, can be brought together through a multi-lateral approach. Two analyses of the Maputo corridor confirm the correctness of the approach and its generally positive results, once initial difficulties with the rail element had been resolved.[39]

5.7.3 Government participation

In all three models, the CFM has retained a substantial shareholding in the concession. There is as yet no independent regulatory body.

The CFM shareholding for the port concessions[40] has generally been paid for by the transfer of physical assets to the concession rather than by the contribution of working capital, whilst risk for the CFM shareholding is expressed primarily in terms of rentals and fees foregone.

5.7.4 Public interest

It is noted that the statement of "Government interest" quoted in paragraph 5.6.2 above includes specific mention of "public interests". Public interest in this context embraces both port users and the wider (general) public. There is no specific mechanism for representation of the interests of these groups other than CFM itself (which is a shareholder) and ultimately the Ministry of Transport and Communications and the Executive.

5.7.5 National staff

The contracts of concession refers to the use of expatriate personnel "only for those positions for which Mozambique staff are not available", At the time of the sale of MPDC to DP World, there were eight expatriate staff working for MPDC (and 456 nationals, not including casual labor). The concessionaire is required to present and implement a detailed program for the development the national work force.

5.7.6 Port rehabilitation and expansion

The concessions reviewed, when measured in terms of overall traffic and container throughput, have made contributions to the recovery of the ports of Mozambique, with greater or lesser investment evident in the rehabilitation of deteriorated infrastructure and in the provision of equipment. In the port of Maputo the new strategic partner has plans for increased investment and increased throughput.

6. TANZANIA: DAR ES SALAAM

6.1 Administration

[39] "The impact of the Maputo Development Corridor on freight flows - an initial investigation", Driver and de Barros, Development Policy Research Unit, Cape Town, March 2000 and "Maputo Development Corridor: Evaluation of First Phase", Schutte, CSIR Transportek, Pretoria, 2005.

[40] By contrast in the Beira Railway system CFM has made cash provisions, with in addition IDA loans and (under negotiation) an EIB loan.

The port of Dar es Salaam is administered by the Tanzania Ports Authority, established on April 15th 2005 following the enactment of TPA Act No.17/04. Under the Act, the TPA is responsible to the Minister of Infrastructure Development (successor to the Ministry of Communications and Transport) for the construction and operation of the Nation's ports.

6.1.1 Port Traffic

Port traffic at Dar es Salaam has increased rapidly in recent years, reaching 7.4 million tons in the year 2007. The container total for this year was 343,490 TEUs, nearly three times the figure for the year 2000. The high traffic levels have been a contributory factor to the present serious port and terminal congestion, with congestion surcharges applied by the shipping lines[41] and additional port costs.

6.1.2 Rail connection

The port handles a significant proportion of transit traffic, representing 27% of total traffic in the year 2007. Handling capacity for this traffic depends in part on the performance of the two railway systems serving the port, the Tanzania Railway Corporation (TRC) and the Tazara Railway, constructed with financing from PR China. These railways have been underperforming but improvements are expected following the restructuring of the TRC as the Tanzanian Railways Limited (TRL) under a concession granted to a consortium led by RITES of India in 2007, with Tanzanian Government participation. The reorganization of the Tazara Railway is also planned. These changes could lead to further substantial increases in transit traffic through the port of Dar es Salaam.

6.2 Concession reviewed

The container terminal in Dar es Salaam port is concessioned. The original concessionaire was a consortium consisting of International Container Terminal Inc-Philippines (ICTSI) with 70% of shares and Vertex Financial services of Tanzania with 30%. The consortium registered a local company Tanzania International Container Terminals Services Ltd (TICTS), which began operations in September 2000 with a ten year contract.

Subsequently Hutchison Port Holdings (HPH) of Hong Kong purchased a proportion of ICTSI's worldwide interests, so that the shares in the concession are now held by HPH with70% and Harbour Investment Limited (HIL), which is stated to be a "sister company" to Vertex, with 30%. The contract was revised and extended in 2005 as discussed below.

The TICTS concession consists of 550m of quay equipped with three gantry cranes (already in place prior to the concession), 12 hras of exclusive stacking area and a share of an adjacent area. The terminal is connected to both railways. There are in addition two off-dock depots served by the terminal.

6.2.1 Other cargo handling

Cargo-handling operations for non-containerized cargo, including some containers on conventional vessels, are undertaken by the TPA. The TPA has contracted consultants to prepare plans for additional berths for non-bulk dry cargo including containerized cargo and for the relocation of the oil facility.

6.3 Policy and the concessioning procedure

6.3.1 National policy

[41] Varying in 2008 from $200 per TEU to as much as $300 per TEU.

The Presidential Parastatal Sector Reform Commission (PPSRC) was established in 1993 with a list of parastatal enterprises to be privatized or reformed, including the port sector. This marked the first efforts towards the restructuring of the parastatal enterprises and led to the preparation of the container concession for the port of Dar es Salaam in 1999. [42]

Nevertheless, within this context the contribution that the private sector can and should make in the port sector has been subject to an on-going discussion. Most recently, the National Transport Policy document (NTP) of 2003 states:

"NTP recognizes the need for further restructuring of ports for increased infrastructure, safety, Security and operations efficiency. Private sector involvement in the enhancement of infrastructure, services in port development, operations and in shipping services is underlined. The role of the Government in the development of the basic maritime infrastructure, safety, Security remains paramount".

6.3.2 Concessioning procedure

The concession contract for the container terminal was prepared in 1998 using funds provided by a World Bank loan to the port sector. International bids were invited and a short list of five firms was prepared. Only two bids were received and one of these withdrew before adjudication. As noted above, the concession was signed in 1999 with a consortium consisting of ICTSI Philippines and Vertex Tanzania. The initial concession was for 10 years, without the possibility of extension but with a review after 5 years in the event of greater-than-expected traffic volumes. The contract did not offer exclusivity to the concession for container handling. These conditions may have been a contributing factor in the relatively poor response obtained from the Call for Bids.

6.3.3 Renegotiation

The contract was renegotiated in the fifth year of the concession, in 2005, when traffic was increasing strongly and the terminal productivity was at its highest. An extended contract was signed for an additional 15 years, giving 25 years in total. The extended contract differed in concept from the original contract, which was envisaged as primarily an operating contract, with minimal investment obligations. The extended contract requires the concessionaire to make substantial investments. In addition it contains some important operating changes, with the provision of additional berth space and an extended back-up area.

A clause was included giving exclusivity for the handling of container vessels to the concessionaire, to apply until a level of 650,000 TEUs had been reached (or the terminal had expired). The current level is about 360,000 TEUs pa and has been increasing (at least until the present economic crisis) at a rate of approximately 15,000 TEUs pa. Improved transport connections with neighboring countries could bring substantial additional traffic so that the cut-off level may be reached within 10 years or less. The level of 650,000 TEUs appears to be close to or above the maximum capacity of the present concession (including berth 8).

It is understood that exclusivity may not be applied when the berths at the terminal are all occupied and there is a suitable vessel waiting. Adjacent general cargo berths operated by the port authority may then be used. The vessel will necessarily have to be capable of using its own gear for handling containers off and on the ship.

The signing of the extended contract has proved controversial and the matter is in discussion before parliament at the time of writing. The procurement of public contracts is governed by the Public Procurement Act 2004 Act No. 21/04.[43]

[42] Responsibility for implementing Government decisions on privatization is now with the Consolidated Holding Corporation.
[43] see "Public Procurement Reform - The Tanzanian Experience" by Eng. NSD Nkinga, Joint WTO-World Bank workshop 2003

6.4 Port Management Authority and Institutional reforms

The TPA was established by Act TPA No. 17/04 as the successor body to the Tanzania Harbors Authority, established by the Act THA No. 12/77. The purpose of the new Act was, among other objectives, to mark another step on the transformation of the port structure to that of a landlord port. The commercialization of the THA had commenced in 1994 when Government entered into a performance contract with the THA.[44]

The TPA is registered with the Tanzania Investment Centre as a local investor, to the benefit of potential joint ventures with private investors from overseas. At the same time, the TPA reiterates that "Government policy is to retain 100% ownership of port major assets (and quays).[45]

One important factor in all this is what is considered in the country to be the high profitability of the container terminal at the present time, whilst shipping lines are applying a congestion surcharge. There is a perception that the profits are "going overseas" and the Tanzania Revenue Authority (TRA) has recently (September 2008) attached a TICTS bank account for alleged tax arrears.

6.5 Investment requirements and tariff setting

As noted, the original contract for 10 years did not include investment in infrastructure or gantry cranes as it was considered that the three on the terminal would last the duration of the concession. The original contract envisaged expenditure of USD 5 million on yard equipment. The extended contract includes increased investment and an annual rent understood to have started at USD 3 million pa rising to USD 5 million plus a per TEU element of USD 13. Payments in 2007 to the TPA are understood to have been of the order of USD 9 million, which would represent about USD 27 per TEU.

The concessionaire informed the consultant that US$19.5 million was invested in new equipment and civil works in 2008. The three ship to shore gantry cranes are now (March 2009) in operation, with another on order, and as a result performance is improving.

6.6 Performance and monitoring

6.6.1 Performance

a) Container moves

The performance of the container terminal can be observed in the comprehensive statistics of the TPA Planning Department. These show that Crane moves per hour were 14.7 in the first complete year of the concession, rising to 23.1 in the year 2004. The highest figure was achieved in 2005 with 23.5 moves per hour and productivity has since declined to 18.5 in 2007 and 13.1 in the first months of 2008. The target moves according to the contract were 20 per hour up to the year 2004 and 25 moves per hour thereafter (see table). Underperformance may be a breach of the contract conditions. However, the present congested conditions on at the terminal are outside the control of the concessionaire and will reduce ship to shore performance.

Crane (SSG) Moves per Hour

	2001	2002	2003	2004	2005	2006	2007 Sept
Actual moves	14.7	17	19.5	20.1	23.5	21.6	13.1
Target moves	20	20	20	20	25	25	25

Source: TPA Statistics

[44] UNCTAD/ITE/IPC/Misc.9 (2001)
[45] "DSM Port Investment Opportunities", NEPAD-SADC meeting 2007

b) Container dwell times

The average dwell time for import containers was as much as 37.7 days in the year 2001 declining to 16.7 in 2004. Since then it has risen again and in 2008 (first 9 months) an average of 25.1 days was recorded. This figure is not acceptable and seriously impedes the efficient operation of the container terminal.

Average Dwell Time (Days per Container)

	2001	2002	2003	2004	2005	2006	2007	2008 SEPT.
Import	37.7	25.9	16.7	16.7	20.2	22.2	19.8	25.1
Export	7.8	8.3	7.4	6.2	5.3	4.8	5.3	7.8
Empty	14.9	13.1	11.9	8.1	4.4	4.4	3.7	6.8
Overall	23.4	19.5	13.9	11.6	12.7	12.7	12.2	16.8

Source: TPA Statistics

c) Off-dock terminals

Off-dock terminals (ICDs) have been established to give some relief to the port. These provide only a temporary palliative, making a useful contribution only until the ICD is itself full and in any case add to cost through double handling. There has been a dispute this year about responsibility for the cost of drayage from port to ICD which has further complicated matters. For the concessionaire, congestion impedes efficient operation so reducing ship to shore throughput. At the same time it may increase the concessionaire's revenue for storage. ICDs have a valuable role for up-country imported containers, especially those due for rail transport, but should not be used for local imports.

6.6.2 Monitoring responsibility - Sumatra

Responsibility for monitoring the concession contract lies with the Surface and Marine Transport Regulatory Authority (SUMATRA). This body` was established by Act No. 9/01 and began operations in August 2004 after the enactment of the TPA Act but was apparently not fully effective until 2006. Unfortunately this was to late for the renegotiation of the TICTS contract. An earlier Ernst & Young study done in 2004 commented that:

"…the study showed how a lack of transparency, inadequate Regulation and poor communication and public relations seem to have cast a shadow over the Container Terminal project." [46]

SUMATRA's role is to provide the necessary regulation. With regard to the container concession, its responsibilities are to approve rates and charges and standards of service, to monitor performance and investment obligations and in general to ensure efficient operation. Shipping surcharges are another topic within SUMATRA's remit. The Act is comprehensive but its success will depend on the increasing experience of the entity and the definition of an effective way of working together with the port authority (TPA).

6.7 Critical factors related to the concession of the container terminal in Dar es Salaam

6.7.1 Contract of the Concession

The present uncertainty and controversy regarding the concession contract will damage the performance of the container terminal and hence that of the port. It goes without saying that any

[46] SADC Banking Association Newsletter, No.2, 2004

solution will have to be fully in conformity with the Public Procurement Act 2004 Act No. 21/04. A reasonable stability is a necessary element of a successful concession.

6.7.2 Container Terminal productivity

There were eight vessels waiting for entry to the port at the time of the visit (November 2008) with an Emergency Congestion surcharge applied by the European lines of USD 300 per TEU[47]. The increased productivity required to reduce congestion and hence remove the surcharge has to come a reduction of the time that containers spend in the terminal, permitting the effective use of the new equipment on order. SUMATRA and the TPA have both made important contributions to the analysis of the problem and implementation is required.[48] Until that is achieved, it is not in our view reasonable to expect the performance of the concessionaire to reach contractual targets.

6.7.3 ICDs and Customs

Customs appear to be reluctant to seize and sell off out-of-time cargo. It can be the case that procedures designed to protect the goods' owners may at the same time act as a disincentive to Customs' treatment of abandoned cargo. ICDs are at best a palliative and there is no alternative to resolution of the problem of out-of-time and abandoned cargo. Storage charges should reflect the cost to the port's operations of long dwell times and the cost of shifting containers outside the port.

6.7.4 Duration of Concession

The original contract was primarily a short term operating contract and this may have been one of the factors discouraging bidders in 1999. Where substantial investment is involved, particularly in civil works and in new ship-to-shore gantry cranes, ten years is too short for the concessionaire to recover costs. At the same time, the way the first contract was renegotiated has not proved acceptable. There are now fresh factors in play, given the strong increase in container traffic and the preparation of plans for a second container terminal. This will take time and it is in the port's and the Nation's interest that the existing terminal should realize its full potential in the relief of congestion. Renegotiation of the 2005 contract, possibly through use of the Arbitration procedure once the longer term Concession Strategy has been defined, may be the best way to proceed.

6.7.5 Exclusivity

The rules of the game with regard to competition within the port have to be better defined. Clearly the prospect of competition with the THA as cargo handling operator was another negative factor at the time of the Call for Bids. At the same time, the level of exclusivity included in the extended contract is possibly out of proportion to the size and hence the capacity of the concessioned area. This would be one of the factors on the table in the event of renegotiation.

6.7.6 Port extension and a second container terminal

The TPA is understood to be preparing a long term Master Plan for physical expansion, with a second container terminal. Such a plan should include a Concessions Plan, to guide the timing of decisions and to give clear signals to existing and potential concessionaires about the share of the market they may aspire to. At the same time, a short term plan is required to get the maximum capacity out of the existing installations, whose layout may not correspond to the needs of the present traffic mix, where non=containerized cargo has shown minimal growth in recent years.

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[47] As well as a Freight Tax Surcharge of USD 20 per TEU, related to an on-going dispute about the application of VAT to stevedoring charges.

[48] See: "The Role of SUMATRA in Reducing Port Congestion at Dar-Es-Salaam port, Tanzania" and "TPA Action Plans to Address Congestion at the Port of Dar es Salaam", (Jason Rugaihuruza), both presented at the PMAESA workshop on port congestion, Mombasa, September 2008.

7. OVERALL HIGHLIGHTS

7.1 Study ports:

The study ports were in Angola (port of Luanda), Mozambique (ports of Beira, Maputo with two concessions and Nacala) and Mozambique (port of Dar es Salaam). The total traffic of the five ports in the year 2007 is estimated at 23.2 million tons, 9% of all PMAESA ports.

Figure: Traffic at ports with Port and Port Terminal Concessions

Country/port	Traffic 2007 (metric tons)	Comments
Angola: Luanda	 5,252,000	
Mozambique Beira Maputo Nacala	 2,961,200 6,826,000 766,700	
Tanzania Dar es Salaam	 7,427,274	
Total	23,233,174	9% of PMAESA total (or 31% excluding South African ports)
Total PMAESA ports	257,841,121	
Total (excluding South Africa)	74,487,926	

Source: PMAESA statistics

7.1.1 Competition

The study ports compete with neighboring ports for direct shipping services, most notably Maputo competes with the port of Durban. This means that with greater efficiency, including lower costs and improved land access, the study ports can attract additional traffic. The following figure shows services and frequency of call at the study ports and selected competing ports.

Figure: Sailing times to study ports compared with competing ports

Port of origin	Port of destination	Number of sailings	Least sailing time (days)	Most sailing time (days)
Singapore	Durban	12	12	19
Singapore	Maputo	6	17	29
Shanghai	*Durban*	*12*	*18*	*51*
Shanghai	*Maputo*	*7*	*26*	*30*
Rotterdam	Durban	11	12	19
Rotterdam	Maputo	4	30	41
Singapore	Dar Es Salaam	4	22	26
Singapore	Mombasa	8	11	47
Shanghai	*Dar Es Salaam*	*4*	*28*	*38*
Shanghai	*Mombasa*	*5*	*31*	*56*
Rotterdam	Dar Es Salaam	2	29	29
Rotterdam	Mombasa	2	32	32
Singapore	Cape Town	12	17	32
Singapore	Luanda	2	31	53
Shanghai	*Cape Town*	*12*	*24*	*45*
Shanghai	*Luanda*	*8*	*31*	*52*
Rotterdam	Cape Town	7	17	21
Rotterdam	Luanda	4	26	41

Note: including feeder times where relevant

Source: www.oceanschedules.com/schedules/schedule-search.do (Nov 28, 2008)

7.2 **Concessions**:

Eight concessions were reviewed, as follows:

Angola: Luanda: three concessions (Sogester with the container terminal, Multiterminais with the general cargo terminal and Unicargas with the multipurpose terminal);
Mozambique: (a) Maputo: two concessions (MPDC with the master concession and MIPS with the concession of the container terminal);
(b) Beira: one concession (Cornelder SARL with the concession for container and break-bulk cargo handling; and
(c) Nacala: (CDN with the master concession).
Tanzania: Dar es Salaam (TICTS with the concession for the container terminal).

There were differences in the scope of the terminals: two (MPDC at Maputo and CDN at Nacala) are master concessions where the concessionaire exercises port authority powers and the other six were terminal concessions, for limited areas with a port under the control of a separate port authority. The years of effectiveness of the concessions and their duration are as follows:

Angola:	Multiterminais:	2005	20 years
	Unicargas	2005	20 years
	Sogester	2007	20 years
Mozambique	MPDC	2003	15 years
	MIPS	1996	10 years now extended to 2113
	Beira	1998	25 years

	Nacala	2005	15 years plus extension of same duration
Tanzania	Dar es Salaam	2000	10 years now extended to 2025 (with controversy)

7.2.1 Concessionnaires

The operators of the eight concessions include substantial foreign participation in five concessions: Luanda Sogester (APL) and Multiterminais (Nile Dutch), Maputo MPDC (Dubai and Grindrod), Maputo MIPS (Dubai) and Dar es Salaam TICTS (APM). Two are in the hands of national operators: Luanda Unicargas and Nacala. The Beira concession is to Cornelder of Mozambique, which is a national firm with a parent company in the Netherlands. Three of the largest terminal operators in the world are represented:

Figure: The top five container terminal operators: 2007 and 2002

Ranking	2007	2002
1.	Port of Singapore Corporation	Hutchison Port Holdings (HPH)
2.	Hutchison Port Holdings (HPH)	Port of Singapore Corporation
3.	APM Terminals	APM Terminals
4.	DP World	P&O Ports
5.	COSCO Group	Eurogate

Note: Port of Singapore total for 2007 includes the 20% share of HPH acquired in 2006

Source: Drewry Shipping Consultants

State participation in the concessions in Mozambique was through the shareholding of CFM Concessions in Angola and Tanzania did not have a direct State shareholding, though the concessionaire Unicargas in Luanda is a State-owned company. With two exceptions (Luanda Unicargas and Mozambique Nacala) the concessions were let through international competitive bidding procedures. The Sogester concession in Luanda was unsuccessfully questioned in the courts on the grounds that APM is owned by what is primarily a shipping company. The concession for the port of Nacala is held by the same company CDN that has the corresponding rail concession and the lower than expected rail traffic may impinge on the port concession.

7.3 Container traffic

Three of the concessions were for container terminals (or a container/break-bulk terminal at Beira). These terminal concessions handled nearly one million TEUs in the year 2007:

Port	TEUs 2007
Angola:	
Luanda	444,867
Mozambique:	
Beira	71,167
Maputo: MIPS	63,764
Nacala	44,687
Tanzania:	
Dar es Salaam	333,847
Total	958,352

Source: port authorities, MIPS Maputo

It may be noted by comparison that the port of Durban handled 2,479,232 TEUs in the same year.

7.4 Land access to the ports:

The study ports of Mozambique and Tanzania depend in part on traffic to and from neighboring countries, for which in most cases the traditional connection has been by rail. Thus the demand for rail services and the capacity of the railway lines is an important element in the growth of the port. Special arrangements with focus on the port accesses have been put in place for Maputo by the creation of the Maputo Corridor Logistics Initiative MCLI and in Dar es Salaam with the Dar es Salaam Corridor Committee.

7.5 Land and marine congestion:

There has been no interruption to the operation of any of the eight concessions that were reviewed. Ship congestion was evident at the time of the visits to the ports of Luanda and Dar es Salaam, indicating a shortfall in port capacity. However at these two ports there was heavy landside congestion due to the excessive time containers and other cargo remain in the port and concessionaire performance is negatively affected. ICDs are being set up but these are at best a costly palliative. There is no alternative to the removal of out-of-time cargo and its disposal.

Dredging is the responsibility of the State unless specifically included in the concession contract.

7.6 Regulatory aspects:

Tanzania has established a regulatory agency for port (and other) concessions SUMATRA, which is comparatively new. Mozambique and Angola have created but not yet fully implemented the necessary legal structure. In all three countries the port authorities have de facto continued their role of supervision of the concessions. In all three countries the institutional framework is in place but requires attention to staffing and other aspects, including the future role of the port authorities, to be fully operational.

7.7 Investments, income and labor aspects:

The eight concessionaires have invested approximately USD 200 million to date,[49] in rehabilitation of structures and additional equipment. No investment has been made for new facilities to provide additional capacity. In all the concessions the pattern of payments by the concessionaire is similar: an entry fee, then an escalating annual rental plus a proportion of the gross revenue. Delays in making fixed payments have been experienced in Maputo (MPDC) and Nacala (CDN). The general feeling expressed to the study by government officials was that the concessions were unduly favorable to the concessionaires in financial terms, though without specific figures. Traffic has increased faster than expected for most concessions, with the possible exception of Maputo, so that revenues may indeed have been strong.

Labor retrenching has not so far been a major issue. The most substantial impact has been seen in Mozambique where the concession process was simultaneous with the restructuring of CFM, requiring that institution to show courageous determination in reaching planned manpower reductions. As noted above, there is some unrest among groups of compensated workers in Angola and Mozambique.

7.8 Expansion of capacity:

The present concessions are approaching the limits of their capacity and if traffic trends continue at their present rate, major investment in the extension of existing concessions or in the construction of new installations will be required in a few years. The existing concessionaires have to be brought into the process of expansion in order to maintain stability in port operation.

[49] Consultant's estimate. Precise figures were not available.

8. ISSUES AND RECOMMENDATIONS:

8.1 ISSUES

This Review of Port and Port Terminal concessions has analyzed eight concessions, with the *Highlights* summarized above. Highlights for the individual concessions are presented in the boxes of the Executive Summary. Various common *Issues* have been identified, affecting the performance and hence the perceived success of the concessions. These issues are listed below, with some commentary and accompanied in each case by a corresponding *Recommendation,* made by the consultant on the basis of experience and published guidelines. The identification of the Issues and the content of the Recommendations are subject to discussion.

A: ISSUES CONCERNING THE CONCESSION DESIGN AND ACCOMPANYING CONTRACT

Issue A1: Scope of the concession: port "Master Concession" or terminal concession
Maputo and the relatively small port of Nacala are the two examples of a master port concession amongst the concessions reviewed. For Maputo, the master port concession included not only port authority responsibilities and powers for the country's main port but also breakbulk and some other cargo handling operations. As noted above, the original concept for Maputo was a port/railway concession, similar to Nacala. Our impression is that in this case, a perceived need to support the reform of the port authority was considered at the same time as deciding the best arrangements for the port. The reform of the port authority alone is not, in our view sufficient to justify a master concession (see "Setting Reform Objectives" module 1 page 12).[50] Fortunately Maputo now has a major operator as concessionaire. Terminal concessions offer the possibility of intra-port competition (though not with the port authority as operator).
Recommendation: A Master Concession for a major port, to include port authority powers and responsibilities, is a decisive and long term step and has to be justified both by the national port policy with an analysis of the specific needs of the situation. It should only be contemplated for a "landlord" port.

Issue A2: Feasibility of a "Corridor Concession" combining both port and rail concession
Vertical integration is an attractive concept (see module 5 page 35). However its success depends on the two partners advancing at the same speed. The Nacala corridor was created with linked rail and port concessions but to date the port concession is more successful than the rail concession. Dar es Salaam with two institutionally distinct railway systems presents a complex situation.
Recommendation: Vertical integration should only be attempted when the port's traffic is totally dependent on the rail system. The creation of the Maputo Corridor Logistics Initiative MCLI has facilitated cooperation amongst users without the need for their involvement in a contractual arrangement. Experience could usefully be shared with experience of transport corridors in Brazil.

Issue A3: Direct participation by Government or state entity in the concession
Such participation involves participation in risk as well as benefits. The value of shares can go down as well as up and direct participation implies risk-taking.
Recommendation: Government participation as shareholder or partner in a concession should be based on specific and explicit objectives that cannot be achieved in other ways. The experience of PR China of joint ventures with equal shares may be of interest in this context.

Issue A4: Financial terms: the relative proportions of fixed fee and royalty payments
Most of the concessions have had an entry fee then a relatively high escalating fixed fee, with a comparatively modest royalty on throughput or turnover. Too high a fixed fee has meant lower revenue to the Government with the increasing traffic of recent years. The concessions reviewed were with the exception of Dar es Salaam basically for rehabilitation and re-equipping with relatively modest investments, probably averaging about US$3-5 million per year. The figure is

[50] References in parentheses are to the World Bank Port Reform Toolkit, and specifically to Module and Page numbers.

higher for the MPDC at Maputo. With the exception of that concession, no investment has been made for new facilities to provide major additional capacity.
Recommendation: Concession payments should be based on a relatively high royalty, as a percentage of turnover, with a relatively low fixed annual fee.

Issue A5: Duration of the concession
The concessions have durations ranging from 10 years (MIPS at Maputo, now extended and TICTS at Dar es Salaam, also extended though subject to controversy), to 25 years in Beira. The three concessions in Luanda were for 20 years. The problem with concessions is that the desire to spend tails off in the latter years of the concession and 10 years is clearly too short Civil works even for rehabilitation require a minimum of 15 years to allow for tendering and works, unless port development is going to modify the concession environment before that time .
Recommendation: The duration of the concession should not normally be less than 20 years.

Issue A6: Bidding procedures and nationality of concessionaires
With three exceptions (Luanda Unicargas and Mozambique Beira and Nacala) the concessions reviewed were let through international competitive bidding procedures. There is now substantial foreign participation in five concessions: Luanda Sogester (APL) and Multiterminais (Nile Dutch); Maputo MPDC (Dubai and Grindrod) and MIPS (Dubai) and Dar es Salaam TICTS (APM). The Beira concession is to Cornelder of Mozambique, which is a national firm with a parent company in the Netherlands. The other two are in the hands of national operators. Three of the largest terminal operators in the world are represented in the list.
Recommendation: Ownership by these major operators appears to be positive both technically and financially (though even they are not immune from world economics). Local partners should be evaluated primarily on the basis of their financial contribution to the concession.

Issue A7: Expatriate staff, labor issues and training
Small numbers of senior expatriate staff are employed. The concession contracts have general clauses relating to the training of local staff for these positions, though without timings. Labour retrenching has not so far been a major issue. The most substantial impact on labour has been seen in Mozambique where the concession process was simultaneous with the restructuring of CFM, requiring that institution to show courageous determination in reaching planned manpower reductions. There is some unrest among groups of compensated workers in Angola and Mozambique.
Recommendation: Training for senior management and more junior staff should be specifically addressed in the concession contracts.

Issue A8: Port development and exclusivity
In at least two cases, Sogester at Luanda and TICTS at Dar es Salaam, the existing concessionaire may be affected by port expansion in the near future and it is good for the concessionaire to have some assurance of commercial stability. "A concession agreement may contain an exclusivity clause (module 4 page 26). The Toolkit text goes on to say that close restrictions should apply to such a clause, if the future development of the port is not to be distorted.
Recommendation: The physical master plan needs to be accompanied by a concessions master plan, to include policy for existing and future concessions (and with a plan for the reorganization of the existing port layout).

B: ISSUES CONCERNING THE REGULATION OF THE CONCESSION

Issue B1: Purpose of Regulation
Regulation involves the "Creation of a mechanism to protect the public interest" (module 1 page 15). With a complete and fully correct contract of concession, regulation would be minimum, so that the result is "to regulate only when essential" (module 5 page 4). The purpose of regulation is to ensure that national port policy is followed, that the contractual conditions are adhered to and the interests of port users and especially that the wider Public Interest are taken into account.

Recommendation: The purpose and nature of the regulation proposed should be specified in detail in the concession contract.

Issue B2: Regulator: Ministry of Transport, Port Authority or Independent Regulator
Tanzania has established a regulatory agency for port (and other) concessions, SUMATRA. Mozambique and Angola have created but not yet fully implemented the necessary legal structure, in the latter case with the Maritime and Ports Institute.
Recommendation: The existing agencies should be strengthened and a suitable independent agency established in Mozambique. Day to day supervision should be done by the port authority on the basis of contractual clauses.

Issue B3: Explicit and implicit Government obligations to the concessionaire
Dredging: The need for dredging is a contractual responsibility of the State. This has affected performance at two of the ports reviewed. Measures have already been taken in one case (Dar es Salaam) and are in hand in another (Beira) to resolve the difficulties experienced.
Landside congestion: At the ports of Luanda and Dar es Salaam, there is serious land-side congestion of containers and other cargo, affecting negatively the performance of the concessionaire and resulting in costly ship congestion. Inland depots (ICDs) are springing up, representing additional costs for the consumer. "Unclaimed cargo may burden the operator's ability to meet performance target" (module 5 page 57). Unclaimed and out-of-time cargo procedures have to be followed.
Recommendation: Government has the obligation to provide the conditions of access, both sea and land, which permit the concessionaire to meet performance targets.

Issue B4: Renegotiation of the concession
Much can change in the life of a concession. The World Bank Toolkit observes that: "Clauses are necessary that define the conditions and procedures for periodic reviews (of the contract) and negotiations for the purpose of making periodic adjustments" (module 5 page 4). The Mozambique Maputo and Nacala concessions do have such a "Change of Circumstances" clause that allows the parties to take all steps reasonably required to restore their ability to perform their obligations under the concession Agreement.
Recommendation: The concession contract should specify the need for periodic meetings, including but not limited to the topics to be discussed at such meetings, with the possibility of renegotiation when warranted by changing circumstances.

8.2 Concluding remarks and Action Recommendations

Concluding remarks: In conclusion, the biggest issue of all is represented by the challenges of the future. With some imperfections, the concessions reviewed have made and continue to make a valuable contribution to the rehabilitation and present operation of their ports and it is recommended that the concession concept now be applied to the expansion of these and other SADC ports, through the use of BOT or similar contracts, with greatly increased private investment. The impact of the world economic crisis for trade and shipping is becoming more apparent every day. The possible implications of these developments should be discussed and possible actions identified to preserve the stability of the present concessions.

Action Recommendations: These are grouped under the headings of Existing Concessions, Future Concessions and Regulation, as follows:

1. Existing concessions: These have to be as efficient as possible, in order to serve the needs of the country, in a spirit of cooperation with the port authority rather than adversarial. Port Authorities have to confront with concessionaires the possibility of downturn in traffics, especially regarding rail borne mineral exports, which may give rise to financial difficulties for the concessionaires. The need for concessionaires to have reasonable financial stability for investment has to be recognised, especially in the context of port expansion plans. It is necessary to reduce the time import containers spend in the port, by appropriate storage tariffs and other measures. Rial-port connections have to be optimized by means of Corridor Initiatives and improved

communications between the parties involved. Exploratory discussions are required with PMAESA and Customs administrations to establish the contribution that port community computer networks can make, using a common SADC model.

2. Future concessions: These will be required for the next stage of port capacity expansion, primarily using the BOT model. Present conditions may provide an unavoidable but useful breathing space, which will give time for port planning. The preferred model is that of the landlord port authority, which implies that port authorities withdraw from port operations. There is a need to intensify discussions with PMAESA in this respect. The objective of any future concession should be defined carefully, with a concentration on port efficiency rather than on a fixed fee structure. . Joint shareholding arrangements between the port authority and the strategic partner have proved to be complicated. Nevertheless, it would be interesting for SADC to examine the Chinese model of joint venture, with equal shares. The Port Authority and Ministry of Transport relationship needs to be defined adopting common requirements to the practices of each country.

3. Regulation. This aspect requires to be clarified and strengthened, for the review countries of Angola and Mozambique and for other SADC countries. It will be important to draw on the developing experience of Tanzania (SUMATRA) and look closely at the provisions of the South African National Ports Act 2005, chapter 5. In general the regulator should be distinct from the port authority.

4. National Port Planning. National port planning has to involve Government, the port authorities, rail and road transport operators and private operators, on the basis of an objective assessment of the market. International safety, environmental and security requirements make port planninh an increasingly complex activity.