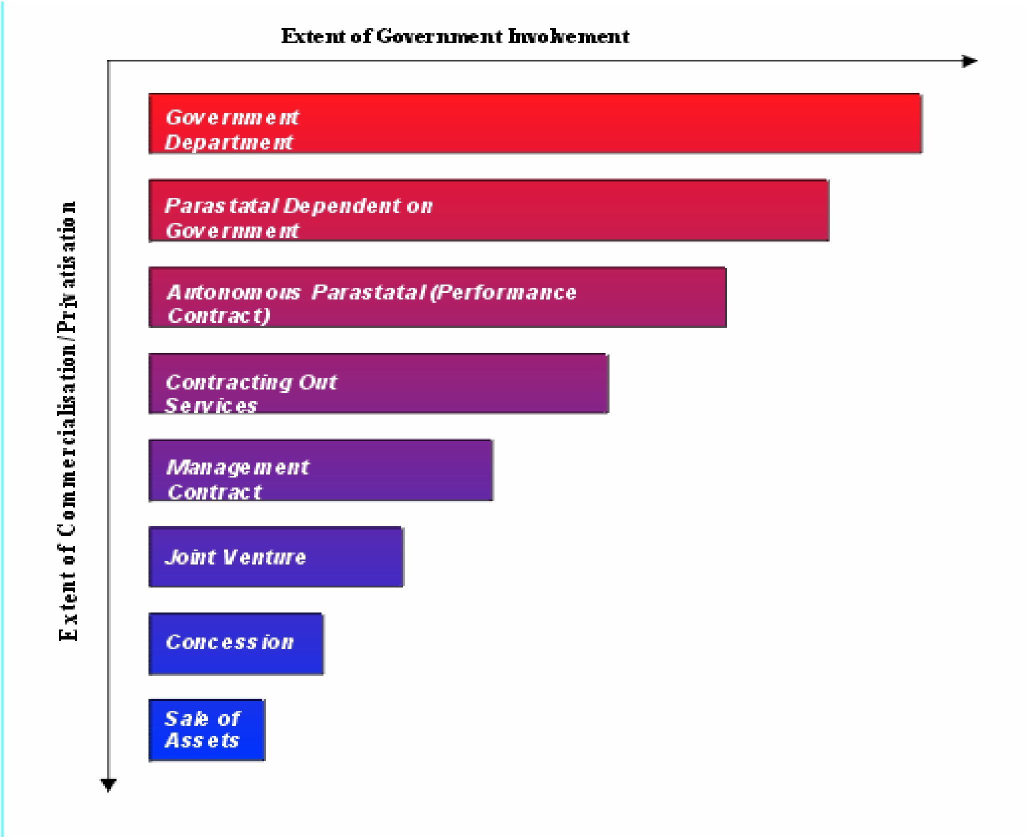
Private Sector Participation in the Ports Sector

Introduction

Private Sector Participation in ports takes place in a variety of ways. In some instances the amount of private sector participation is small, such as the contracting out of certain equipment maintenance functions, whereas a relatively small number of ports have been privatised in their entirety. Port operations can proceed from being a government function to being completely owned and operated by private companies. This continuum is illustrated in the diagram below.



The most common forms of private sector participation in ports are:

- Contracting out services;
- Management contract;
- Joint venture;
- Concession;
- Sale of assets.

Contracting Out Services

Examples of contracting out of services can range from the types mentioned above to large labour supply and asset maintenance contracts.

Management Contract

In a management contract the Government retains ownership of the assets, and is responsible for the general commercial policy of the port (tariffs, labour conditions etc), whilst the private sector contractor operates the port and is responsible for day-to-day commercial decisions. The actual allocation of responsibilities between the Government and the private sector can vary significantly from port to port.

In contrast to asset leasing where costs and revenues both accrue to the private operator, the Government receives all revenues generated by the port, and is responsible for all costs. The private sector receives a fixed annual fee for operating the port on behalf of the Government and often, as an incentive for good performance, is given a share in the port's revenues or profits. Management contracts are usually of short duration (1 to 5 years) with options for renewal. They have been extensively used in ports in the Middle East.

Joint Venture

Joint ventures between port authorities and private operators were considered a viable option in some instances about ten to fifteen years ago, but few delivered the required results for either party. This is not a popular arrangement.

However, there may be some merit in the Bangladesh context for Joint Ventures for individual port facilities in the absence of BOT or BOO investors. There are two possible forms this could take; the first, termed an Early Joint Venture, would require the setting up of the JV arrangement prior to design and construction of the facility; the second, Late Joint Venture, would be formed after

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completion of construction. Of the two, the first arrangement is considered optimal, although the second could be applied to existing facilities in lieu of a concession.
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Concession

The term “concession” is frequently used in discussions of port private sector participation. Sometimes it is used interchangeably with the term “lease”, sometimes it refers to the right to Build, Operate and Transfer a completely new facility, and sometimes it refers to a hybrid of PSP which combines the leasing of existing facilities with the right or obligation to invest in new ones.

> ***Some form of concession is the most common way in which to introduce PSP to container and general cargo operations in an existing port. Features of concessions are:***
> - ***In the case of major container operations, concessions are normally awarded to large, experienced foreign operating companies;***
> - ***Holders of concessions are given complete freedom to carry out all aspects of their businesses subject to the conditions of the concession; agreement and the laws of the country***
> - ***There is usually an obligation to maintain the port’s assets;***
> - ***There is no permanent transfer of port assets to concession holders.***

With asset leasing the successful bidder is given the right to use the port’s assets for a limited period only, in exchange for a fixed amount of money or regular annual or monthly payments. The lease is for a fixed period of time, after which the assets have to be returned to the Government; the length of the lease varies from port to port, but is normally between 5 and 20 years.

In this form of private sector participation, the port’s assets remain the responsibility of the State, and the private sector sets up a cargo handling company responsible for port operations only. The capital requirements and level of risk to the private sector would be substantially less than in the case of a trade sale.

In asset leasing the port operator is normally given the same freedom to determine his commercial policies as in the case of a trade sale, with the following exceptions:

- there is usually an obligation to maintain the port’s assets, so that they can be returned to the Government in a comparable condition to that in which they were received at the beginning of the lease. This obligation may include the replacement of minor items of equipment which wear out during the period of the lease;
- the lessee is not permitted to undertake major investments without authorisation from the Government (and rarely has any incentive to do so);

This form of private sector participation is very common in North America.

In the case of general or break-bulk cargo operations there is a further form of PSP in cargo handling. This is through the licensing of private stevedoring companies to submit bids to shipping lines for the handling of their cargoes and to carry out these services on whichever of the State’s or port authority’s assets the ship may be directed to upon arrival in port. This allows for greater flexibility in the use of port assets, and, because relatively small firms can operate in this type of arrangement, is well suited to local entrepreneurs.

Sale of Assets

Under Sale of Assets there are several alternatives:

Trade Sale

In a trade sale the port’s assets are transferred in perpetuity to the preferred bidder, who is given the right (subject to any legal regulations or conditions of sale) to operate them how he wishes. The preferred bidder may be selected on the basis of the highest price (as in an auction or financial tender); alternatively bidders may be requested to submit Business Plans for the development of the port, showing their proposed investment program, method of operation, marketing strategy, tariff policies etc. This form of port private sector participation has been extensively used in Great Britain.

Share Flotation

In a flotation, shares in the joint stock company are sold to anyone who wants them at a published price. The shares are usually listed to allow subsequent trading on a Stock Exchange.

Management/Employee Buyout

A management/employee buyout involves selling the port (often at a very favourable price) to its existing workforce. The workers contribute a small amount of capital to the purchase (usually less than 10%), the remainder of the sale price being financed by bank loans. Several of the recent UK port privatisations have been on the basis of management/employee buyouts.

Management/employee buyouts are only possible where port profits are sufficiently stable to offer reasonable security to banks that their loans will be repaid, and are only desirable when the Government wishes to widen share owner-ship or believes that the change in workers' attitudes resulting from share ownership will result in greater improvements in port efficiency than would occur in the case of a trade sale to another company.

> ***A sale of assets can assume a number of forms, including:***
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> - ***Trade Sale;***
> - ***Share Flotation;***
> - ***Management/Employee Buyout;***
> - ***Private Placement of Shares.***
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> ***However, sale of assets is not normally the model of PSP adopted.***

Private Placement of Shares

A private placement of shares can usually be achieved more quickly than a flotation, as it usually involves large private investors who are more knowledgeable and prepared to take risks than members of the general public. It usually requires the services of a skilled intermediary, usually an international bank, to ensure that the shares are placed with appropriate investors, on terms that meet the requirements of both the government and the new investors. This is not a common method of port privatization.