



LAND MANAGEMENT IN POLISH SEAPORTS – LEGAL AND ECONOMIC ASPECTS

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ABSTRACT: Land management is one of the most important attributes of an entity which manages a seaport or port complex. Before the social, economic and system transformations took place in Poland in 1989 each major seaport (as regards the ports of Szczecin and Świnoujście they were considered a seaport complex) had had one state-owned enterprise called Zarząd Portu (Seaport Authority). Not only was it an administrator of the seaport land, but it was the only entity which provided operating services including transshipment and storage on the seaport land. However, it did not control the whole area within the limits of a seaport. Some enclaves of the seaport land were controlled by other state-owned enterprises including shipbuilding industry companies, deep-sea fishing enterprises or industrial plants which used inexpensive raw materials transported by sea. The article presents how the background of European experience and the major national determinants influenced on development in Polish ports models of cooperation between the port management and investors interested in locating his business in the port areas.

KEY WORDS: Land management, Port strategy, Port development.

STRESZCZENIE: Prowadzenie gospodarki gruntami portowymi należy do najważniejszych atrybutów podmiotu zarządzającego danym portem lub zespołem portowym. W Polsce do okresu rozpoczęcia przemian ustrojowych i społeczno – gospodarczych w 1989 r. w każdym dużym porcie (a w przypadku portów w Szczecinie i Świnoujściu zespole portowym) funkcjonowało jedno przedsiębiorstwo państwowe noszące nazwę Zarząd Portu, które pełniło zarówno rolę gospodarza terenów portowych, jak i jedyne podmiotu realizującego na tych gruntach działalność eksploatacyjną (przeładunkowo - składową). Jego władztwo nie rozciągało się jednak na całość terenów w granicach administracyjnych poszczególnych portów morskich. Wydzielone enklawy terenów portowych znajdowały się w gestii innych przedsiębiorstw państwowych (m.in. przemysłu stoczniowego, przedsiębiorstw połowów dalekomorskich, czy zakładów przemysłowych wykorzystujących w swojej produkcji tanie surowce przewożone drogą morską). Artykuł ukazuje jak na tle doświadczeń europejskich oraz głównych uwarunkowań krajowych wypracowano w polskich portach modele współpracy między zarządem portu a inwestorami zainteresowanymi lokowaniem swojej działalności gospodarczej na terenach portowych.

SŁOWA KLUCZOWE: Zarządzanie gruntami portowymi, Strategia portowa, Rozwój portu.

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1. Introduction

The changes in Poland which took place in the early 90's had their impact on the Polish seaports. The primary goal was to adjust the seaport land management to the systems used in the ports of Western Europe.

The ports of Western Europe have very complex organizational structures. They are often based on different systems of ownership, management and organization. Interrelated private enterprises and public organizations take part in port operations. However, most of the Western European ports have their land controlled by port authorities whose tasks include port infrastructure management which includes granting a lease to business entities. Port infrastructure is typically regarded as:

– port entrance infrastructure including sea access canals, port entrance, breakwaters, locks, navigation signs, hydraulic and meteorological systems

– internal port infrastructure including quays and piers, internal port canals, utilities such as electricity infrastructure, water and sewage systems, roads, railways

– mainland access port infrastructure including roads and railways

In most of the European ports the scope of operation is narrowed down to the internal port infrastructure located within the limits of the port. The main source of income for seaport authorities includes fees charged for passive vessel services such as tonnage and harbour fees and the ones related to the long-term lease or rent of the seaport land. The policy affecting leaseholders has its influence on the seaport authorities' income. It is then in the interest of seaport authorities to attract investors generating port transshipment, which results in a bigger number of vessels that the services are provided for, and thus a higher income derived from tonnage fees is earned. In numerous cases this relation results in the seaport authorities giving their consent to a lower income derived from lease fees unless it is compensated by the increased port cargo handling. Bearing in mind the fact that the volume of transshipment, and especially its dynamics as well as its share in other ports of the region, is one of the primary indicators of a seaport ranking position, the port policy with regard to their land lease and infrastructure can be one of the most important factors contributing to its competitiveness with other port regions. Each European port has its own policy in this respect. This chapter explores the conditions for seaport land lease in two European ports, i.e. the ports of Rotterdam and Antwerp.

2. Land management in the selected ports of Western Europe

2.1. Port of Rotterdam

The port of Rotterdam is a municipal port. The municipality of Rotterdam has granted the Port of Rotterdam Authority the right to manage the port land. By virtue of that right the Port of Rotterdam Authority can grant a lease to legal entities which comply with some specific conditions (purchase of the port land is forbidden). Principally, the Port Authority grant a lease of undeveloped land and it is the leaseholder who has to prepare the land for their use. Since there is a limited area of undeveloped land it occurs more and more often that a lease is

granted for the land which is fully developed with its infrastructure and primary suprastructure including warehouses, etc.

In the port of Rotterdam there are two forms of lending land, i.e. lease and rent. Lease is connected with the right to use the port land in all respects. The leaseholder has got the right to lease the entire land or its part to other entities, establish a mortgage for the port land which is leased, transfer the right of use onto a third party as well as divide the right of use. In each case the leaseholder has to be given the port authority's consent.

Unlike land lease, rent does not grant the right to establish a mortgage for the property. As it is in the case of lease, the one who rents can let the property to a third party. However, their rent is fixed on an individual basis and cannot be transferred onto a subletting company without the port authority's consent. The lease and rent fees are relative to:

- function of the land and what sort of activity is intended
- quality, location and the area available
- level of land development.

The price is not relative to the form of land use transferred by the port authority.

The duration of rent or lease agreement is relative to the costs of investment - the higher they are the longer the duration of rent or lease. In the port of Rotterdam the land can be leased for a period of up to 25 years. This period is up to 50 years for large-scale investments. In both cases it is possible to extend the lease period. If the lease agreement includes a stipulation that this period can be extended, the lessee is obliged to inform about their intention to do so one year before the lease agreement expires or if it is not under the agreement they are obliged to do so two years before the agreement expires. The lease fee includes payment for using the land and water areas, wharf, quay and pier and is annually adjusted for inflation (see Table 1).

Description	Lease	Rent
leased by other entities (optionally)	yes	yes
transferring the right of use onto a third party	yes	yes/rent fixed on an individual basis
mortgage establishment (optionally)	yes	no
the land used in all respects	yes	no

Table 1. A description of the primary forms of transferring the port land for use in the port of Rotterdam¹.

¹ Resources: Own work based on: General terms of rights of use havenbedrijf Rotterdam N.V. 2004, [Online: <http://www.portofrotterdam.com>].

On the day of agreement expiry or after 25 years of its duration the two parties of the agreement, i.e. the port authority and a lessee, can demand changes applying to the terms of the contract - lease fee. The amount of a new fee is based on the agreements concluded within the last year between the port authority and other leaseholders. While determining a new lease fee the operational function, size and conditions of both properties are taken into account. If the parties reach no agreement with regard to the new lease fee, its amount is determined by outside experts. If the port authority does not sign any lease contract within the last year, the experts determine the new fee as the primary fee by taking into account changes in the property value and the rate of inflation.

The user who leases a quay or pier is obliged to pay the harbour fee. While determining its amount the following factors are taken into account:

- depth and length of the quay
- a possibility to moor at the quay

It is the port authority's responsibility to maintain appropriate depths at the quay and provide technical maintenance of the quay. In the event of damages resulting from the so called 'regular use' the repair costs are covered by the port authority. However, if they result from misconduct in operation they are covered by the lessee.

Investment work on the leased land should start within two years after the lease contract is signed. The investment plan has to be agreed upon with the port authority and should include the basic components of a terminal infrastructure and suprastructure, vehicle park and line infrastructure for road vehicles operating at the terminal. It is also the lessee's obligation to maintain and modernize buildings located on the leased land. After the lease period expires the lessee should return the land they received in the condition it was received from the port authority. If the lessee is granted the port authority's permission, they can return the land with its buildings, but without entitlement to compensation thereof.

2.2. Port of Antwerp

The Antwerp Port Authority manages the land of 350 hectares located within the limits of the port according to the decree signed on 2nd March 1999. In order to start a business on the port land one has to be granted a concession. The procedure of granting a concession is started with a press and online advertisement on the port's website which says that a port land is let to be leased. At the same time the port authority collects information about the companies which can take part in the tender. The candidates submit an application form to the port authority. The form has to include the following:

a) company details such as a company name, names of the shareholders, contact persons, annual account of the past two years, information whether or not the company is quoted on the stock exchange (if yes, listed where?);

b) project information, i.e.

–description of the activities to be executed on the concession ground: production (chemistry/petro-chemistry/others), storage and transshipment (dangerous goods, chilled goods, etc.)

–storage method (tanks, containers, warehouses, open air yards)

–description of dangerous goods according to the IMDG code in the case of activities implying their storage and transshipment.

If the concession period exceeds one year the following are also required:

a) technical and financial clarification of the planned investments

b) expected employment

c) environmental impact: odour, sound and dust emission

d) expected transport method of the products (by road, rail or water) and quantities per modus;

e) information whether or not specific permissions are required for the planned activities (if yes, which ones are they and which have already been granted?);

f) requirements pertaining to the concession ground: surface, requested land description, its efficiency, preferred location, whether or not direct access to the water is absolutely necessary, type of quay;

g) a period of time the concession is granted for;

h) other requirements such as access to the concession ground and certain means of transport.

The following factors determine whether or not a concession is granted to a candidate concessionary:

–the scope of activities performed by the company - the chief asset is a business related to port services

–the amount of funds the investor intends to spend on their investment

–number of expected workplaces.²

The final offer is approved by the port authority.

The concession period is mainly relative to the scale of investment which is determined as an 'investment rate', i.e. the value of investment calculated by 1 m2. The higher the rate the longer the concession period is.

² Information Form Candidate-Concessionary, Port of Antwerp, [Online: we can see: <http://www.portofantwerp.com/en/concession-policy>]

Investment work	Term (extension)
Investment \geq 375 EUR/m ² built-on area	40 years (5)
225 EUR \leq investment $<$ 375 EUR/m ² built-on area	35 years (5)
175 EUR \leq investment $<$ 225 EUR/m ² built-on area	30 years (5)
150 EUR \leq investment $<$ 175 EUR/m ² built-on area	25 years (5)
125 EUR \leq investment $<$ 150 EUR/m ² built-on area	20 years (5)
100 EUR \leq investment $<$ 125 EUR/m ² built-on area	15 years (5)
25 EUR/m ² \leq investment $<$ 100 EUR/m ² built-on area	10 years (3)
0 EUR/m ² \leq investment $<$ 25 EUR/m ² built-on area	Quarter (0)

Table 2. Lease period/investment rate interrelation³.

The concession period should not go over 40 years in the event of investments relating to port activities and generating transshipment and 30 years for other investments relating to port services. Bearing in mind the fact that the value of an investment carried out in the direct vicinity of a quay is usually lower than at the back located at a further distance from the quay the following factors are taken into account while selecting a concessionary:

- generating dedicated workplaces
- creating an added value
- kind of business activity: transshipment, other port services, production
- efficiency in use of the concession ground.

The rate of fees for granting a concession is determined by the port authority and is relative to the three parameters:

–ground location, distance from the quay - charges at the quay are usually higher than at the back

–kind, quality and condition of the infrastructure placed on the ground - charges are normally higher for the developed land

–kind of planned business activity - lower charges are for the activity generating port transshipment.

In the port of Antwerp the following activities are allowed:

³ Resources: General Terms And Conditions For Concessions In The Antwerp Port Area, Antwerp Port Authority, July, 1st 2011, [<http://www.portofantwerp.com/sites/portofantwerp/files/General%20Conditions%20Concessions.pdf>]

a) generating cargo handling: transshipment, storage and cargo distribution in sea-mainland handling, i.e.

- general cargo: big bags, coils, bags, pallets, steel products
- containers
- ro-ro cargo
- dry bulk: aggregates, coal, cement, etc.
- liquid bulk: crude oil and oil products, etc.

b) services related to loads and means of transport taking part in port cargo handling

- hire and repair of port equipment and machinery
- repair of containers
- cleaning vessel holds and tank containers
- collection of waste, water and oil from vessels
- transportation of semi-trailers
- forwarding and ship husbandry services
- bunkering
- vessel repairs
- vessel painting

c) industrial activity: vehicle assembly, chemical industry, refineries, etc.

d) other services strictly related to port and maritime activity such as running a laboratory for analysis of load samples, providing accommodation for seafarers, etc.⁴

Although there are slight differences in selecting the leaseholder, determining the lease fee or its duration both examples are characterized by similar primary principles pertaining to port land management (see Table 3).

port	Rotterdam	Antwerp
Management system	municipal	municipal
The way the land is used	lease or rent	concession, concessionary selected by tender
purchase of port land (optional)	no	no

⁴ Info by Antwerp Port Authority [Online: <http://www.portofantwerp.com>]

Land lease duration	is relative to the overall investment outlay; 25-50 years and can be prolonged optionally	is relative to the investment rate; 40 years for transshipment services and 30 years for other services
The factors which determine the lease fee	what is the land used for and kind of planned activity, quality, location and accessibility, level of land development.	land location, distance from a quay, kind, quality and condition of the infrastructure placed on the land, kind of planned activity
A possibility to grant a lease to a third party	yes, with the Port Authority's consent	no data

Table 3. Terms and conditions of land lease in the European ports we focused our research on⁵

In each port these entrepreneurs who generate port transshipment are especially encouraged to invest, which significantly influences how the ports are viewed in terms of competitiveness. In these ports a kind of business activity a future investor intends to perform also plays an important role. If it is not going to generate transshipment it should be connected with maritime economy and additionally it should have a minimal environmental impact and have a beneficial influence on the local community and generate an added value.

3. Port land management systems in Polish seaports

The transformation of Poland into a free-market economy had also its influence on the Polish seaport sector. The authors of the act had to face a key challenge of meeting a demand for establishing one administrator over the entire area of the seaport land.

However, this demand was not met after the Act amending the act of 29 September 1990 on Land Management and Expropriation of Real Property had become law⁶. In accordance with Article 2 of this legal act the land belonging to State Treasury, a municipality or municipal corporation which on the day the act came into force was in the hands of state legal persons different from State Treasury became on that day their object of perpetual usufruct as of right. The buildings, facilities and establishments located on the land became property of the above mentioned legal persons.

As a result property rights were given to numerous enterprises operating within the limits of seaports. For example, at the turn of 20th and 21st century the land within Port of Szczecin was owned by 35 entities! Consequently, the

⁵ Resources: Own work based on: General Terms And Conditions For Concessions In The Antwerp Port Area, Antwerp Port Authority, July, 1st 2011, [Online: <http://www.portofantwerp.com/sites/portofantwerp/files/General%20Conditions%20Concession>] and General terms of rights of use havenbedrijv Rotterdam N.V. 2004, [Online: <http://www.portofrotterdam.com>].

⁶ Dz. U. [Journal of Laws] of 1990 No. 79, item 464

management of seaport land became extremely difficult. The fees for perpetual usufruct are statutory. Therefore one is not allowed to use prohibition rents to eradicate the seaport land users and replace them with the new ones who may use the land in a more effective way.

The Act of 29 December 1996 on Seaports and Harbours has not altered the situation in this respect.⁷ Since it could not violate the acquired rights, it did not state that one owner of the entire area of land belonging to the seaports and seaport complexes should be established. However, it needs to be stressed that by establishing separate and independent entities managing seaports (seaport complexes) the act said that their main tasks included seaport land management and new land acquisition for the development of seaports. In order to reduce negative consequences of the seaport land ownership fragmentation the Act on Seaports and Harbours gave an entity which manages a seaport (seaport complex) the pre-emptive right to sell or transfer perpetual usufruct (release for perpetual usufruct) with regard to the land located within the limits of a seaport. However, so far the seaport authorities have rarely exercised the pre-emptive right with regard to the seaport lands, which mainly results from their limited financial resources. An attempt to prevent further ownership fragmentation and uncontrolled trade in the seaport land was the amendment to the Act on Seaports and Harbours which gives State Treasury the pre-emptive right with regard to the seaport land unless an entity which manages a seaport exercises it⁸. This provision, however, has not resulted in a substantial change that would affect the complex ownership situation in the Polish seaports. The legislators have also failed to make the provision demanded in 'Strategia rozwoju portów morskich do 2015 roku' ['A strategy towards development of seaports by 2015'] become law. The provision demanded that a dedicated reserve for purchasing a seaport property be established in the budget of Ministry of Marine Economy (now Ministry of Transport, Construction and Maritime Economy)⁹. After the Act on Seaports and Harbours came into force ten years ago the situation with regard to the seaport land ownership is as follows:

21.5% of the entire seaport area within the largest Polish seaports is controlled by the managing entities,

48.5% of the area controlled by the seaport managing entities is used for commercial purposes.

Although the Act on Seaports and Harbours and subsequent amendments to it became law, part of the seaport land is managed by other entities and not a Seaport Authority. These entities are both seaport land managing entities and companies running operating services in order to maximize their profit. It is especially worth noticing that not only do the seaport industry plants, which very often control a large area of a seaport, manage seaports and run operating services but they also tend to extend the range of their production activities by:

- 1) providing transshipment and storage services for external entities,
- 2) creating an opportunity for external entities to realize investments on their land.

⁷ Dz. U. [Journal of Laws] of 1997 No. 9, item 44.

⁸ Dz. U. [Journal of Laws] of 2004 No. 281, item 2782

⁹ *A strategy towards development of seaports by 2015*; Ministry of Marine Economy, Warsaw 2007, p. 32

It is also visible that industrial activity is being completely replaced with such services as transshipment, storage and specific trading services. The services are provided in order to meet the needs of an owner, who very often has their industrial plants located at a distance from the coast, or at the external entity's request (the flow of transshipment is guaranteed by contractual duties).

The complex ownership situation of the seaport land has not excluded the managing entities from performing the tasks related to seaport land management. Similarly to what is happening in numerous ports of Western Europe¹⁰ the two activity directions in this respect are followed, i.e.:

- 1) new seaport land development,
- 2) restructuring (revitalization) of the land which has been previously used for the purposes of a port.

In this respect the cooperation of a managing entity (Seaport Authority) with investors who are interested in running their businesses on the seaport land can be based on one of the following concepts.

3.1. Private initiative - one external investor

The concept of one private investor making an investment in a port infrastructure is the most advantageous for the Seaport Authority. The investor is totally responsible for the accomplishment of their investment. Apart from providing equipment for the terminal the investor's venture includes infrastructure investments which by virtue of the Act is the managing entity's responsibility. By signing a lease agreement, which typically covers a period of 30 years with an extension option, the investor can be obliged to perform infrastructure investments such as road paving, building a wharf or supplying utilities for the area where a future terminal is to be located and also provide additional seaport infrastructure improvements such as:

- 1) utilities at the terminal
- 2) terminal- hinterland connection, for example by building roads and a railway within the limits of a seaport.

The exact investment plan is agreed upon on an individual basis in relation to the existing level of land development and range of facilities. Apart from that the investor is obliged to realize this part of investment which by virtue of the Act is their contractual responsibility. It includes building storage yards and warehouses, all the other components of the ground terminal infrastructure and providing necessary suprastructure equipment for the terminal. In return for the infrastructure investments the Seaport Authority reduces the ground rent within the return on investment period.

¹⁰ D. Amato, "Port planning and port/city relations", *The Dock & Harbour Authority*, July/December, 1999.

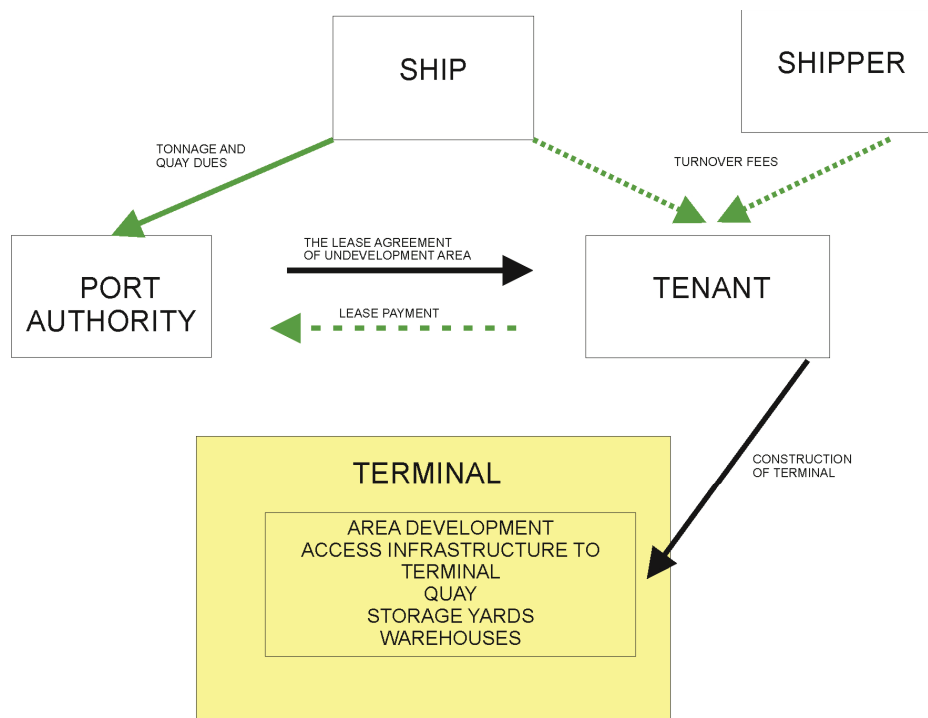


Figure 1: One external investor strategy - private initiative¹¹.

The main income of the Seaport Authority includes tonnage fees collected from shipowners and a reduced land lease. The leaseholder's income, however, includes transshipment and storage fees received from a shipowner and/or cargo carrier (depending on the terms and conditions of a particular contract and means of sailing) as well as harbour fees.

DCT Gdansk Container Terminal is an example of the investment completed according to the strategy in question. The North Port land, which covers approximately 30 ha, has been leased to a British investor for 30 years. The lease agreement can be optionally prolonged for another 30 years. Deepwater Container Terminal Gdańsk SA is a British consortium which was set up especially for the completion of this investment. The company is registered in Poland. In its major part it is owned by Global Infrastructure Fund (GIF) - a special fund managed by Macquaire Bank Group headquartered in Australia. The investment carried out by the company included building a pier covering an area of 21 hectares, a wharf (650 m in length and 315 in width), two vessel quays - one which is 265 m in length and 13.5 m deep and the second one which is 385 m in length and 16.5 m deep as well as a Ro-Ro ramp. The terminal is equipped with 5 post-panamax ship-to-shore gantry cranes, 58 tonnes load capacity and 13 rubber-tyred gantry cranes. After the investment was completed the British consortium retained its ownership of the wharves. Therefore it still imposes quay charges. Additionally, the company covered the costs of building the access road and therefore its ground rent amount is reduced until the outlay is recouped.¹²

Deepwater Container Terminal Gdańsk started to perform its operating services on 1 June 2007. In January 2010 it started to provide its services for

¹¹ Resources: own work.

¹² Info by Gdańsk Port Authority [Online: www.port.gdansk.pl]

the first ocean service AE10 Asia–Europe–Asia on the Baltic sea. At its first stage the terminal reached its annual handling capacity of 500,000 TEU. The final expansion plans foresee its handling capacity at the level of 4,000,000 TEU.¹³

3.2. Public/private initiative - one external investor

Public/private initiative is an investment strategy based on a financial involvement of one external investor and the Seaport Authority. The Seaport Authority's responsibility is to prepare the land for an investor, provide facilities, pave the terrain, build a railway and access roads as well as develop a wharf for future transshipment operations. It is the private investor's responsibility to equip the terminal with all the technical equipment, prepare storage yards, warehouses and port suprastructure as well as provide facilities at the terminal.

The Seaport Authority's income includes a primary ground rent and harbour and tonnage fees for the passive services provided for a vessel (Figure 2). The leaseholder's income is primarily from the fees for transshipment services.

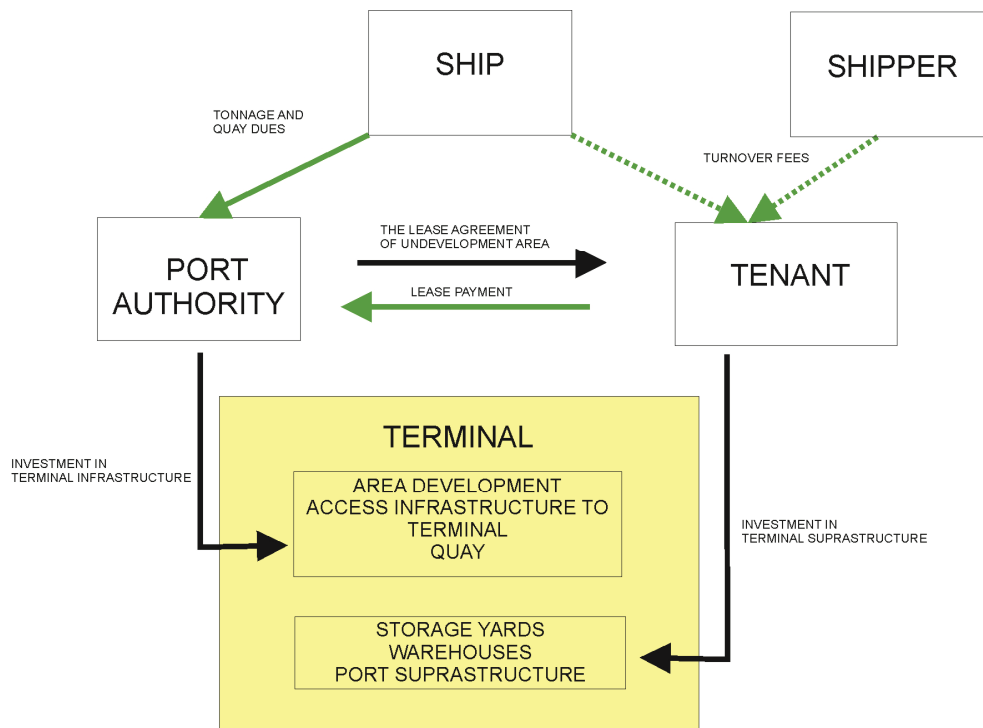


Figure 2: One external investor strategy - public/private initiative.¹⁴

This investment strategy can be employed in two possible formulations. In the first strategy the investment by the Seaport Authority is realized after an agreement has been signed with a future operator. This strategy formulation is beneficial for both parties. On one hand the kind and range of investment are agreed upon with a future operator, which excludes possible expenditures

¹³ Info by Deepwater Container Terminal, [Online: <http://www.dctgdansk.com>]

¹⁴ Resources: own work.

relating to the adjustment of infrastructure to the needs of a particular operator, but on the other hand the Seaport Authority is certain that the investment is purposeful and that the port activity will be performed while the investment is being realized. The drawback of this solution is a long period of investment accomplishment.

In the second formulation the Seaport Authority builds a seaport infrastructure in accordance with the research data relating to the existing and predicted demand for seaport services. It is only after the investment has been accomplished that the procedure of finding an investor for operating services is employed. For the Seaport Authority this solution involves a greater investment risk related to a possibility of unmet needs of the future investors and difficulty in finding investors. The advantage of this solution is a shorter period of investment preparation for port operations beginning the day the agreement between an operator and the Seaport Authority has been concluded.

An example of investment which is now being realized according to the public/private strategy is a container terminal at Ostrów Grabowski in the port of Szczecin. The investment preparations involved groundwork of the quay back on the area of 10 hectares. A surcharge embankment was built for the road and railway. The groundwork cost of 20 million PLN was financed by Szczecin and Świnoujście Seaports Authority S.A. At the next stage the Seaports Authority built the Fińskie Quay of 240 m long with a ro-ro ramp and a must-have connecting quay at a cost of 70 million zlotys. The terminal can handle vessels of 9.15 m draught and 30,000 tonnes of load capacity.

The land prepared this way was leased to PCC Port Szczecin in 2008. Originally, the agreement between the Seaports Authority and PCC Port Szczecin stated that the Fińskie Quay should be leased for a period of 10 years. The lease period was extended with the consent granted by the Minister of Treasury and is now 30 years. In 2009 PCC Rail- PCC Port Szczecin was taken over by Deutsche Bahn Schenker. As a result a new enterprise called DB Port Szczecin was established. Officially, the container terminal at Ostrów Grabowski was opened in April 2012.

The terminal is equipped with two STS gantry cranes of 45 tonnes load capacity and 6 RTG gantry cranes of 35-40 tonnes load capacity. By 2014 the open-air storage yards at the back of Fińskie Quay should have been completed. They will consist of two blocks of 336 TEU each. There will have been 6 blocks of this kind built at the completion of the project. As a result the terminal will be able to handle 120,000 TEU annually.

This formulation includes a possibility of leasing the seaport land to other entities. After the land development operations are performed the terminal operator, who is the main leaseholder, can let part of the storage space to enterprises running a distribution-logistic or trading activity (Figure 3).

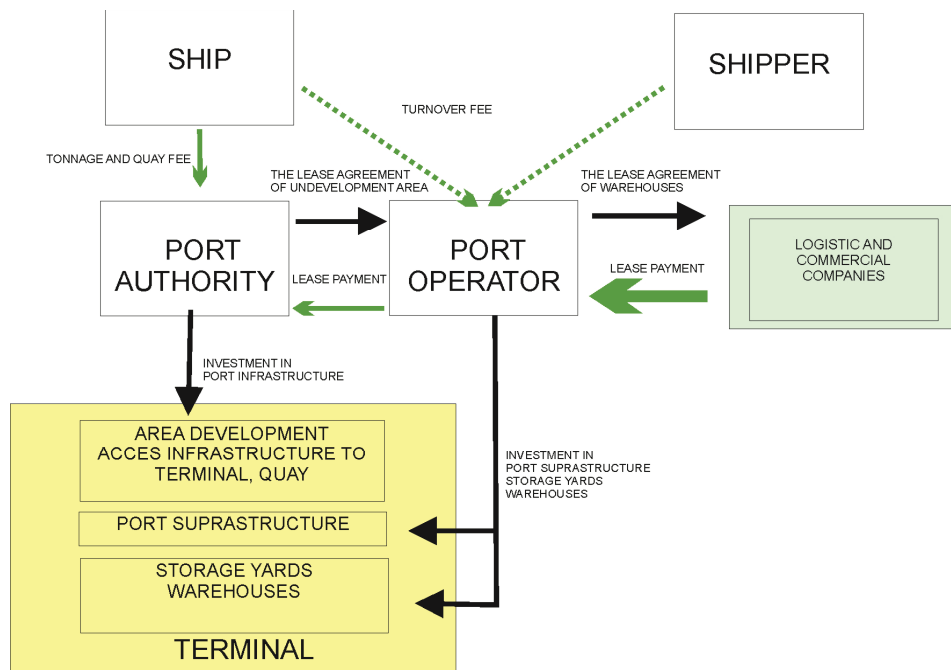


Figure 3: One external investor and numerous users strategy - public/private initiative¹⁵.

In this case the additional income of the main leaseholder/operator is the ground rent collected from the above mentioned enterprises. It is normally much higher than the primary fee the Seaport Authority is paid. Taking into account a possibility of such circumstances a lease agreement between the managing entity and the operator (main leaseholder) normally includes a clause under which a written agreement given by the Seaport Authority is necessary for transferring the seaport land use to another entity by the operator.

The situation in which a private entity is granted a lease of land from the port operator has been in the port of Szczecin on the ground belonging to Bulk Cargo. A forwarding company Dan Shipping which provides full service for bulk cargo loads such as limestone, dolomite, carbamide and chemical fertilizers has been Bulk Cargo's client for many years. The company's activity includes transshipment and storage arrangement in the port of Szczecin. Bulk Cargo gave Dan Shipping access to warehouses which can store 6,000 tonnes of cargo and storage yards for about 8,000 tonnes of cargo, which did not meet demands of the company at the time of accumulated transshipment. In 2007 Dan Shipping made a decision to build their own warehouse on the port land. In order to do that Dan Shipping and Bulk Cargo signed a long-term lease contract pertaining to a future warehouse. A warehouse for storing fertilizers was built at the Noteckie Quay. Its storage capacity is 5,000 tonnes. It is the operator's responsibility to give access to the quays and provide appropriate service, equipment and machinery. It is to the companies' mutual benefit. Dan Shipping is guaranteed access to the roofed storage area which can be offered at competitive prices to the clients and at the same time the operator is

¹⁵ Resources: own work.

guaranteed proper income derived from transshipment and other services relating to cargo transportation and storage performed for Dan Shipping.

3.3. Public/private and private initiative - numerous external investors

The third strategy which can be applied to the seaports is a public/private and private initiative in which a public entity (Seaport Authority and two or more private investors) is involved. As previously, it is the Seaport Authority's responsibility to build the terminal infrastructure which includes providing facilities, land development and building a quay. At a later stage the terminal is leased to a transshipping operator. Apart from the quay a minimum area necessary for transshipping operations is leased to the operator. It is the operator's responsibility to equip the terminal with the necessary transshipment suprastructure. The operator does not have their own warehouse-storage space (Figure 4).

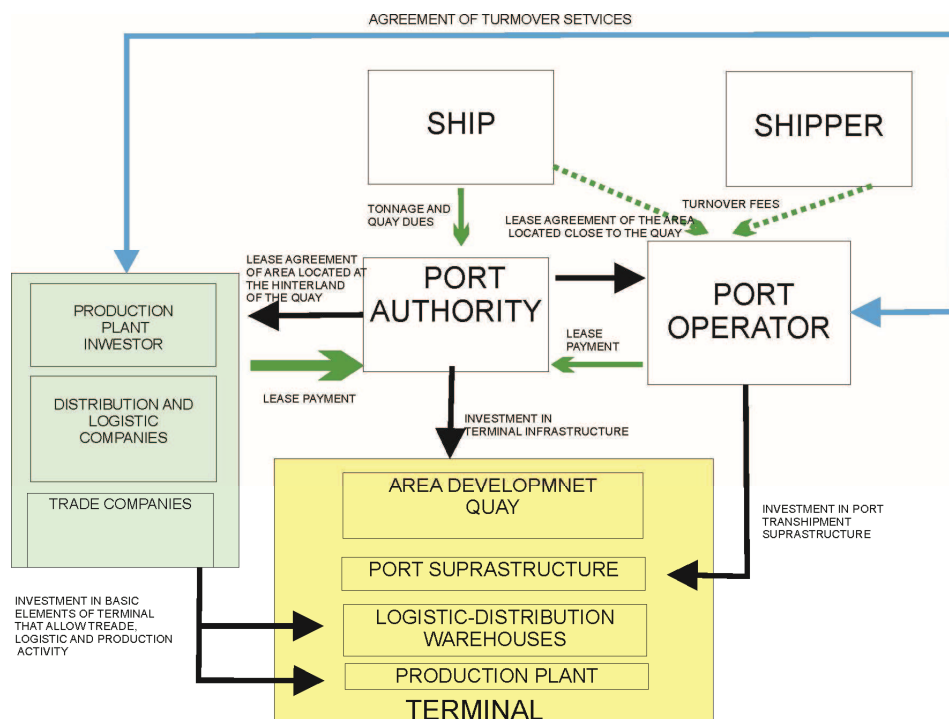


Figure 4: Numerous external investors strategy - public/private and private initiative¹⁶.

The remaining part of the seaport land is leased by the Seaport Authority to the enterprises which run various businesses such as:

- 1) storage-warehousing or distribution-logistic activity,
- 2) production,
- 3) trade.

The prior lease condition for the above mentioned investors is to run a business activity which generates port transshipment operations. The transshipment operations are performed by the operator who becomes the wharf leaseholder by virtue of a separate agreement.

¹⁶ Resources: own work.

It is the private investors' responsibility to provide equipment for the land, build warehouses, storage yards, production plants, etc. The ground rent for those leaseholders should be higher than for the operator and dependant on:

- 1) generated transshipment volume at the terminal which corresponds to the income of the Seaport Authority' in connection with tonnage and harbour fees
- 2) expected number of employed people
- 3) investment ratio (invested amount in relation to the leased land).

This solution is often used when the Seaport Authority has no free seaport land. New enterprises which offer a broad range of services including industrial, logistic and trading services are located on the land belonging to the existing transshipment companies. The Seaport Authority excludes this land from lease by those companies and offers it at a higher rate to new investors. In order to compensate the new investors are obliged to generate shipment and use transshipment services provided by the seaport companies whose land is used for the enterprise's premises.

The same principles applied until 2007 for the cooperation of Fast Terminals with Drobica Port Szczecin - transshipment operator. Fast Terminals was set up in December 1990. Its shareholders included: Fast Shipping and Port of Szczecin-Świnoujście Authority SA.¹⁷ In May 1991 Port of Szczecin-Świnoujście Authority and Fast Terminals signed an agreement pertaining to granting a lease of the land located in the port of Szczecin. By virtue of the agreement Szczecin and Świnoujście Seaports Authority granted a 28-year lease of the land which covered 5 hectares in total to Fast Terminals. The land included the following quays: Polskie 2, Holenderskie, Luksemburskie and Belgijskie of 567 m in total, storage yards, railway and crane and gantry crane rails. After the agreement had been signed Fast Terminals started to build a warehouse of 8,000 m².¹⁸ The agreement included a clause which said that transshipment services for Fast Terminals should be performed by an operator agreed upon with Szczecin and Świnoujście Seaports Authority. The operator in question was 'Łasztownia' – after the port enterprises had merged the terminal was operated by PUP Drobica Port Szczecin - whose task was to provide enough employees, transshipment equipment and machinery for handling cargo meant for Fast Terminals. This strategy of cooperation was in use until 2007. The significant increase in transshipment charges by about 60 to 100% persuaded Fast Terminals to terminate the agreement pertaining to operation and their employees and buy necessary transshipment equipment. At present the company's equipment includes rubber-tyred gantry cranes: a Multidocker – load capacity 16 tonnes and a Liebherr – load capacity 40 tonnes for ship-to-shore handling.

4. Summary

As it was said before, part of the land belonging to the ports is not managed by port authorities but by some other entities. These entities are both seaport land managing entities and companies running operating services in order to maximize their profit. It is worth noticing that not only do the seaport industry

¹⁷ In 2006 Port of Szczecin-Świnoujście Authority sold their shares in the company.

¹⁸ The company has also a warehouse of 2,000 m² with a retractable roof, storage yards of 20,000 m² in total.

plants, which very often control a large area of a seaport, manage seaports and run operating services but they also tend to extend the range of their production activities by:

- 1) providing transshipment and storage services for external entities,
- 2) creating an opportunity for external entities to realize investments on their land.

It is also visible that industrial activity is being totally replaced with services such as transshipment, storage and specific trading services. The services are provided in order to meet the needs of an owner, who very often has their industrial plants located at a distance from the coast, or at the external entity's request (the flow of transshipment is guaranteed by contractual duties). The presented changes can significantly influence the port land management in the future.

5. Conclusions

1. The land within the limits of Polish seaports has a complex ownership situation.

2. The Seaport Authorities which have been established by virtue of the Act on Seaports and Harbours have the biggest share in the ownership of the land. One of their main tasks is land management.

3. The owner of this seaport land which has been separated in terms of property ownership (outside of the Seaport Authority's direct control) makes functional changes and thus creates their own land management including establishment of external investors on the land in question.

4. The Seaport Authorities have the pre-emptive right to buy the seaport land which is for sale. However, in practice it is difficult to exercise this right as it is necessary to set aside the appropriate amount of financial resources. The attempt to implement tools supporting the use of pre-emptive right by the seaport managing entities has ended in failure.

5. Land management in the Polish seaports is not much different from the solutions implemented in Western Europe (new seaport land development, revitalization of the existing seaport land).

6. In the ports of Western Europe the amount of lease fee is to a great extent relative to a kind of activity performed by a future investor. The lower fees are paid by these investors who generate port transshipment and the lease duration is relative to the invested funds.

7. The Seaport Authorities and investors can adopt one of the strategies in their cooperation: (1) private initiative - one external investor, (2) public/private initiative - one external investor, (3) public/private and private initiative - numerous external investors.

8. It is impossible to assess accurately which of the above mentioned strategies is the most efficient solution for the Seaport Authorities and operators since they are selected in relation to numerous external factors. The most important factors relating to what investment strategy is selected include: accessibility to the undeveloped seaport land, seaport infrastructure development for suprastructure investments and its functionality, the investors' expectations with regard to the existing infrastructure related to their business activity, acceptable financial contribution of the private investor towards infrastructure investments or a scheduled date for starting their business activity.

9. It is expected that there will be more private capital financing seaport infrastructure investments in the future.

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