

Prospects for container terminals in the Ukraine*

Development of container traffic in the Ukraine is being held back simply by the capacity deficit of the country's container terminals. During the past 15 years about US\$500M has been invested in all Ukrainian ports. In contrast, no less than US\$1.5B has been ploughed into one Romanian port, Constantza.

Unfortunately, Ukrainian ports have lacked a co-ordinated programme for development/. As well as inadequate facilities, the tariff policy of container lines has also contributed to freight flowing to ports outside the Ukraine.

New capacity is beginning to come on stream. Recently, for example, Metalsukraine, a private stevedoring firm, opened a new facility at Berth No. 7 in the Port of Odessa, with a capacity for up to 7000 TEU/month. Previously, the company specialised in handling rolled ferrous metals, general cargo and grain.

Last year one of the Ukraine's largest private stevedoring companies, Trans-InvestService Ltd (TIS), which owns and operates a bulk cargo handling terminal in the Port of Yuzhny, announced plans to construct the country's biggest container terminal within its 350 hectare operational area.

Biggest to date

And delegates at the first International Black Sea Container Summit held in Odessa last November took part in the ceremonial opening of the new container terminal in the Port of Ilyichevsk.

This terminal, operated by Ukrtranscontainer (UTC), part of Russia's National Container Company, is currently the biggest in Ukraine and is the only one able to cater for large containerships performing direct calls en route from Asia. It is operating the terminal. Investments in the new terminal amount to more than US\$51M and capacity is slated at 850,000 TEU/year.

Major shipping and port operators have shown a willingness to invest in container terminals, either renovating old facilities or building new ones. Interest has peaked in the last two years. APM Terminal, PSA, Hutchison Port Holdings and CMA CGM have all showed an interest because they recognise that existing capacity falls well short of demand.

Problems of ownership

However, there are obstacles in the way. Is the Ukraine looking for private funding and who can bring freight flows along with financing? Investment is hampered by the fact that the ports are almost exclusively owned by the state, which wants to retain ownership and control.

However, this should not stop goods handling, storage, forwarding and distribution, which makes up most of the economic activity of a port, being transferred to the private sector. This would bring new funding into the ports and port administrations can focus on landlord activities, fairways, access, security and other services required for the normal functioning of the port.

Failing to separate the economic functions of the port from the proper state functions has hampered Ukrainian sea trade up to now. But the change has to come, since only a rational market approach can resolve issues connected with the economic activity in the seaports.

There are no ready-to-apply or one-size-fits-all solutions. But our experience of various projects indicates that enough mechanisms already exist in Ukrainian law to protect investors' rights and balance their interests with the legitimate interests of the state and society.

Partnerships

We have worked on projects in Odessa, Ilyichevsk, Nikolaev, Kherson, Izmail, Berdyansk, Sebastopol and other Ukrainian ports and in each case a format can be tailored to the needs of the investor. We have also gained experience working alongside the international advisors team at the European Bank for Reconstruction and Development.

As noted, Ukrainian ports cannot be sold off lock, stock and barrel to the private sector in view of their economic, social and political significance to the

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country. On the other hand, the state budget is not adequate to ensure that they can serve the country's transport needs.

The concept of public-private partnership (PPP) can settle this conundrum. Contracts that are presented to private companies by the state for performance of works and services, for management of or technical assistance with state-owned assets are the proper areas for PPPs. Lease

agreements are also a form of PPP, as are joint ventures and joint stock companies.

Agreements of "joint activity" (similar to partnership) have great potential that is not sufficiently exploited today. Normally joint ownership appears and has a mixed nature. There is no legal person established and profit is shared in proportion to the contribution of the parties.

Concessions

The most widespread form of PPP today is a concession agreement, but so far this has not been introduced into the Ukrainian port sector. For example, the UTC operation in Ilyichevsk is based on a joint activity agreement. Terminals in the port

of Odessa are based on a mixture of different contracts. The new project of TIS in Yuzhny is absolutely private in that there is no participation of any kind by the state in its financing.

Ports could be a good field to trial concession agreements. The basic funds of the ports are obsolete, investments in their infrastructure are hampered and not enough new capacity is being established. Even in the conditions of economic growth during the past few years the inflow of investments to the port infrastructure has been insignificant.

Lack of budget funds, the unreadiness of the state to transfer particular rights over infrastructure to the investor accord-

ing to PPP schemes, and the risk of investing in capital-intensive projects without assurances from the state, have all contributed to the investment shortfall in the port sector.

PPP, a mechanism tried and tested by international practice, is the only way to attract domestic and international capital. Coming up with normative and individual legal solutions in respect of concessions that should regulate the functioning of industries with elements of "natural monopoly" is not easy in the Ukraine, but it should be tackled.

The state should acknowledge clearly that there are objects of economic activity that will remain in state ownership, but their development requires private investment, know-how and mechanisms of private ownership and management. □