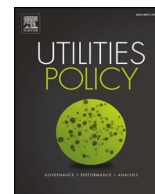




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Legal reform and the devolution of the Spanish Port System: An econometric assessment

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ABSTRACT

Successive changes to the legal framework affecting the Spanish Port System have been implemented over the last 25 years, forcing maritime operators to adapt to new rules. Based on a comprehensive literature review of studies addressing Spanish port devolution, our paper provides the most up-to-date evaluation of the impacts of these changes. Apart from the correlation between port activity and the economic cycle, an encouraging finding highlighted here is that legal reforms underpinned by broad political and port community consensus appear to be effective in attracting passenger and container traffic.

1. Introduction

Traditionally, ports have played an essential role as centers of cultural exchange and hubs for the transfer of merchandise from one mode of transport to another. They have made trade possible, enabled sought-after products to be obtained and, at the same time, served as an outlet for the surplus that a country or city's economic system has produced at a given moment in time. However, as Brooks and Cullinane (2007) and Ferrari et al. (2015), and others have pointed out, there has been a root-and-branch change in Port Economics over the last three decades, with a substantial increase in the duties undertaken by ports. Ports have become complex conglomerates of service companies, triggering a variety of industrial and commercial activities, advocating private participation and forming part of multi-modal transport chains, and setting themselves up as *bona fide* integrated logistics facilities.

As Woo et al. (2012) state, this paradigm change, characterized by scale economies, growing “containerization,” and vertical and horizontal company integration, and driven by the technical revolution and recent expansion of global trade of recent times, has not been limited to the restructuring of port activities. There has also been a sea change in Port Authority (PA) ownership, goals, and management strategies (Chen, 2009). New lines of research have therefore sprung up around port governance. Brooks and Cullinane (2007) highlight the multidimensional nature of port governance in terms of systems, structures, and processes as well as the rules and regulations surrounding the broad array of public and private activities that take place in ports.

In response to the need to improve transparency of operations, optimize spending and management efficiency, and find alternative means of funding in the current context of competitiveness and the internationalization of stakeholders (Castillo-Manzano et al., 2008), diverse port governance models have evolved worldwide based on the combination of spatial and temporal elements (following Estache et al., 2004; Verhoeven, 2011; Verhoeven and Vanoutrive, 2012). These include the level of functional autonomy; the current degree of regulation; port authority (PA) size; the economic context, and financial performance. As Castillo-Manzano and Asencio-Flores (2012) and Castillo-Manzano and Fageda (2012) suggest, on occasion port governance reform programs can be forced by political authorities, on the grounds of efficiency, budgetary restrictions, or simply ideology.

In short, port governance has become increasingly complex and not always as a result of evolving maritime traffic, but due to the influence of external factors embedded in the existing political, economic, and administrative organization found in any given place at any given time. In many instances, this has prevented the pursued objectives being fully achieved (Brooks and Pallis, 2008). Port sector devolution (considered as a decentralization or deregulation port governance process within a wider context of port evolution, according to González Laxe et al., 2016), usually denotes a gradual transfer of functions and responsibilities from central governments to minor administrative levels that decreases government financial and administrative involvement and increases the participation of the private sector (Brooks and Pallis, 2008).

However, as Debie et al. (2013) and Cullinane and Song (2002)

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state, the changes have not all been the same and the result has not been one single, dominant model in all the countries affected by the process. The outcomes of port devolution depend on both internal and external factors. Internal factors that stand out include their historically established management types (a form of *path dependence* as was described by [Notteboom et al., 2013](#)). Among external factors that can be highlighted are the socio-economic context, the presence of reluctant lobbies and interest groups directly affected by the reforms ([Gong et al., 2012](#)), the capital market and the country's transportation policy.

The well-known [World Bank \(2007\)](#) guide distinguishes between four basic port administration models, in turn separated into different varieties depending on the PA's legal status ([Ferrari et al., 2015](#))¹: *service port*, *tool port*, *landlord port* and *private-service port*. However, as the literature highlights, these differences cannot be discerned in the majority of the objectives pursued by port governance reforms (see for greater detail: [González Laxe, 2011](#); [Pallis et al., 2011](#); [Woo et al., 2012](#); among many others). The prevailing trend has been toward the popular *landlord model*, with its blend of public and private initiatives, where the PA owns and maintains port spaces and infrastructure ([Chen, 2009](#)) and certain services are leased out as total or partial concessions to private firms ([Xiao et al., 2012](#)).

A management model has thus progressively been implemented that leans toward the facility's economic performance, creating a two-way feedback relationship between governance and performance, in the sense that any change in the governance model affects port performance, and port performance drives reforms in port governance ([Brooks and Pallis, 2008](#)). A number of academic studies ([Chen, 2009](#); [Cullinane and Song, 2002](#); [Pallis et al., 2011](#); [Woo et al., 2012](#)) bear witness to the success of these policies (in the form of major improvements to productivity and financial sustainability, and a substantial reduction in port tariffs, for example). However, rather than the theoretical legal issues that reforms seek to implement in port governance, it is the influence of external factors ([Bergantino and Musso, 2011](#); [Ng et al., 2010](#)), that might eventually impact port performance in one way or another, and lead to results not meeting expectations ([Verhoeven, 2011](#)).

This research addresses the port governance and devolution processes that have affected the Spanish Port System. This is a relevant case study because of the importance of some of the ports in the system and the large number of legal reforms that have been implemented for the sector over the last quarter of a century. Our first objective was to undertake the most comprehensive systematic literature review to date of works that have dealt with Spanish Port System reforms. Second, we aimed to provide estimations of the impact of each of the law reforms on the Spanish Port devolution process, measuring the effects on port activity in terms of total traffic and container traffic. The broad time period of the analysis and its complexity and the wide variety of the legal reforms meant that the most logical and best-suited methodology to meet our objective was advanced econometric time-series analysis. As the law reforms overlapped with each other and other factors, such as the economic cycle, also affected the evolution of Spanish ports, these had to be isolated.

This paper is organized as follows: Section 2 describes the successive changes to the law implemented in the Spanish Port System during the 1992 to 2014 period and provides what we believe to be the most comprehensive systematic review to date of the prior literature directly or indirectly addressing the port devolution process in Spain. Section 3 states our research questions and sets out the methodological framework. Section 4 presents the main findings and discussion. Finally, Section 5 includes concluding remarks and presents our research

implications and our specific contribution to the literature.

2. Spanish port devolution process

Although the vast majority of European countries have opted for the landlord model, according to [Verhoeven \(2011\)](#) among many others, the range of models that exists follows a spatial pattern with a geographical subdivision into the three traditional port models. This is not so different from the pattern resulting from the roles played by PAs (traditional, mediating or entrepreneurial): Hanseatic (local or municipal governance, around the Baltic and the North Sea); Latin (dominant in Mediterranean regions and characterized by central governance), and Anglo-Saxon (typical of the United Kingdom and Ireland and based on independent governance).

Similarities can be found among the proposals that sparked port devolution processes at European ports, although several authors, including [Notteboom \(2010\)](#) and [Verhoeven and Vanoutrive, 2012](#), have highlighted the complex variety of governance practices implemented by different countries. Moreover, major changes have taken place in port governance throughout Europe as a result of actions taken by the European Commission to put a European port policy in place.

Although all ports currently face the same main challenges and objectives, the particular reforms vary. In general terms, the deregulation and decentralization processes implemented in the European Union (EU) follow models that adopt the premises of the market economy, with a redistribution of functions between the public and private sectors. However, the changes made have not been the same, and no predominant model has emerged ([Debie et al., 2013](#)). For instance, [Ng et al. \(2010\)](#) observed asymmetries in port governance in Holland and Greece based on differences at the institutional level. The main difference observed between the European models seems to be related to the role given to the municipal administration in port organization: in some cases, the port authority's is the primary overseer, while in others it is just another member of the management board ([Debie et al., 2013](#); [Ferrari et al., 2015](#)).

Nevertheless, it is possible to identify a series of characteristics that exhibit a common pattern in EU reforms in southern port systems, as is illustrated by France ([Cariou et al., 2014](#); [Debie et al., 2013](#)), Italy ([Di Vaio et al., 2011](#); [Parola et al., 2012](#)), and Portugal ([Castillo-Manzano and Asencio-Flores, 2012](#)): (1) laws, decrees, and legal changes implemented to decouple the control of port operations from port services; (2) the sharing of roles with a separation between infrastructure and superstructure, with the public sector regulating the activity and the private sector responsible for port operations (the former is usually financed with public funds and the latter through private means); and (3) a general tendency toward the liberalization of transport services through varieties of concession or delegation, which allows private operators to manage their activities within their own facilities and port authorities to organize and regulate the port without participating in commercial activities.

The focus of our paper is the Spanish General Interest Port System, which is comprised of 28 PAs and 64 ports in all. These are currently individual management units coordinated and supervised by the State Ports Public Body, which is responsible for executing and putting into practice central Government-designed port and investment policy ([González Laxe, 2011](#); [2012](#)).

There have been six waves of legal reform (1992–2014) during the past three decades of the Spanish democratic era, included in [Table 1](#) with their specific framework and objectives. All had the common goal of adapting the regulatory framework to ports' new organizational forms and management structures in order to address emerging challenges derived from greater competitiveness, opportunities to improve efficiency, and their wider position on the world stage.

Various studies have listed the difficulties encountered in various areas (economic, political, labor by pressure groups, such as stevedores) during this period to fully achieve the goals set ([Castillo-Manzano and](#)

¹ This dichotomy is established depending on the characteristics and distribution between the public and private sectors of property and management, and service operations and delivery. For further details of each, see [Brooks and Cullinane \(2007\)](#) and [Debie et al. \(2013\)](#), among many others.

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