République Libanaise
Bureau du Ministre d'Etat pour la Réforme Administrative
Centre des Projets et des Etudes sur le Secteur Public
(C.P.E.S.P.)

REPUBLIC OF LEBANON

Office of the Minister of State for Administrative Reform

FORMULATION OF OPTIONS FOR TRANSPORT SECTOR POLICY IN LEBANON

Contract No: 3/LBN/B7-4100/97/0687

INTERIM REPORT

July 2002

TEAM International
Engineering & Management Consultants
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1. INTRODUCTION

1.1 STUDY BACKGROUND

This is the second report submitted as per the Terms of Reference of the Study of Formulation of Options for Transport Sector Policy in Lebanon. This Interim Report entitled "Identification of Main Policy Options for Transport Sector Reform", will form the basis for discussions with Lebanese stakeholders, in particular during the seminar planned for that purpose.

As the planned seminar for July 24, 2002 will be dedicated to the discussion of ports and maritime transport, this Interim Report concentrates on this element of the assignment.

The sequence of reporting on this project is to present the required reports: Inception, Interim, Draft Final, and Final. Each will present a more complete picture culminating with the Final that will be submitted at the conclusion of the study.

It is to be recalled that discussions with the Beneficiary, the Directorate General of Land and Maritime Transport led to the adoption of splitting the 2-day seminar identified in the TOR to two one-day seminars. The first is scheduled for July 24, 2002, which will be dedicated to ports and maritime transport, while the second will be held in early September after submitting the Draft Final Report. The second one-day seminar will cover the entire scope of the study, that is a Draft Maritime Transport Policy together with a refinement and integration of the draft policy documents prepared earlier for Land and Air Transport, plus the intermodality considerations.

Accordingly, this Interim Report will be dominated by material related to Port and Maritime Transport, that will form the basis for discussion during the one-day seminar scheduled for July 24, 2002.

1.2 PROGRESS OF WORK

The period between submittal of the Inception and Interim Reports was characterized by intensive research into available documents and analysis of the interviews conducted with various stakeholders. Complementary interviews were held, some were with persons not interviewed earlier and others were a repeat with persons interviewed earlier to clarify some issues. These meetings included:

Capt. Maroun Khoury - Beirut Harbor Master

Me. Saleh Helou – Legal Advisor of Port of Beirut

Mr. Georges Kurban – Director General CMA Agency Liban s.a.l.

Mr. Marwan Ghazzaoui – Chairman – Lebanese Shipowners Association.

Additionally, extensive meetings were held with staff of the DGLMT and OMSAR. This included:

Mr. A.H. Kaissi – Director General – DGLMT

Mr. A. Wali – Study Coordinator

Mr. R. Semaan – Program Manager – MPWT

Mrs. R. Kabbani – Project Coordinator – TCU – OMSAR

Mr. J. Abadeh – Procurement Officer – TCU – OMSAR

Ms. J. Oueidat – Assistant Policy Analyst – IDU – OMSAR.

During those meetings it was decided on the organization of the seminar(s), the participants, seminar venue, and detailed schedule.

2. CURRENT STATUS OF THE TRANSPORT SECTOR

2.1 PORTS

The port system of Lebanon includes 4 ports of very unequal importance. The dominant port, both from the point of view of the development of the port instrument and that of traffics is Beirut which is supported by a nearby, extremely populated hinterland (greater Beirut = 1.5 million inhabitants). The port of Tripoli, today less important, presents interesting possibilities for extension and could play an important role in the field of transit traffics because of its good road connections and its future railway line to Syria. The two other ports, Saida and Tyre, play a very minor role.

2.1.1 Regulatory Framework and Actors of the Port System

Two cases must be distinguished from each other:

- The specific case of the port of Beirut,
- That of the other Lebanese ports.

2.1.1.1 BEIRUT

History

The origins of the port of Beirut go back to 1887, date of the creation of the first concession (" *Compagnie du Port, des Quais et des Entrepôts de Beyrouth* " or CPQEDB). In 1925, This concession was transferred to a French company and in 1960[1] this was transformed into a Lebanese company under the name " *Compagnie de Gestion et d'Exploitation du port de Beyrouth ou CGEPB*".

This company, which built the fourth dock, saw as from 1975, its activities highly perturbed by the war.

On the expiry of the concession on the 31/12/1990, The Lebanese State retook possession of the port and created a Provisional Ministerial Committee (decision 1 PV 23) to ensure provisionally the management and operations of the port for the account of the State and also to determine and propose a permanent management structure for the port.

***The powers of the* " Commission Provisoire "**

The " *Commission Provisoire de Gestion et d'Exploitation du Port de Beyrouth" (GEPB)* **does not have any statutes.** It is supposed to function with the same objectives and means and in the same spirit as the previous concession. Nevertheless, a certain number of texts have come progressively to define the powers of this provisional structure, after the failure, in January 1993, of a tentative to create, under the decree 4517, a public enterprise called *"Port of Beirut Operating Company"*.

GEPB is not subjected to the control of the "Audit Office", nor of the Central Inspection Authority. The Chairman of GEPB, nominated by the Council of Ministers, is at the same time the General Manager.

GEPB has the charge of managing and operating all the activities carried out on the port domain. This domain has been expanded (as far as the river Beirut) and its extent laid down by the decree 9040 of 29/08/1996.

[1] Agreement dated 13.04.1960 approved by the law of 31.05.1960

GEPB is notably in charge of all operations of storage and handling on the quays, in the Free Zone, or in all types of warehouse. It also provides services to vessels (supply of water, electricity and telephone, repairs).
Most of the cargo handling activities are sub-contracted by GEPB to stevedores, with GEPB getting a third of the sums charged out for cargo handling.

The cargo handling and storage monopoly that GEPB has "inherited" from the previous concessions are understood as « **intuitu personae** », that implies that they can sub-contract this activity only under their own full responsibility. This circumstance explains for example why the port of Dubai (DPA), candidate for the container terminal concession would not have obtained the complete control of its relationships with its customers, notably on the financial side (invoicing by GEPB and retrocession of an agreed percentage to the operator).

Harbor Master's Office

The Harbor Master is directly attached to the Ministry of Public Works and Transport and is not placed under the authority of GEPB. It is responsible for an area extending from Damour to the river Beirut (also including the fishing port and yacht harbor). The Harbor Master has the usual prerogatives of a port Captain in European ports: management of the accesses (VTS...), the allocation of berths, regulation of dangerous goods onboard (but not on land in the port where this responsibility falls on the operations department of GEPB).
Generally speaking, it can be thought that the Harbor Master possesses neither the powers nor the means to satisfactorily accomplish these safety missions. In these matters, the sharing of responsibility with the management of GEPB makes for one of the weaknesses in the handling of safety, particularly as regards hazardous goods.
Furthermore, he assumes a great number of administrative tasks. He collects the port Dues and Light dues. He manages the maritime registers (registry of vessels and certification and signing-on of seamen). The Harbor Master works in close relationship with the operations department of GEPB.
The Harbor Master employs about 7 staff (with half of them being close to retirement age).

2.1.1.2 TRIPOLI, SAIDA AND TYRE

The other ports of Lebanon are public enterprises governed by the Law n° 4517.
Thus, the **port of Tripoli** is managed by a Board of Directors with 8 members, of which seven are appointed by the Council of Ministers for a mandate of 3 years and there is one representative of the Ministry of Public Works and Transport (MOPWT). A Manager is responsible for the day to day running of the port.

All the decisions of the Board of Directors have to be ratified by MOPWT. Financial engagements of over 3 million Lebanese pounds (LL)[2] have also to be ratified by the Ministry of Finance (MOF).

The employment of labor obeys the procedures laid down for the recruitment of civil servants. However the port managers consider that the port is managed in the same way as would be a private company.

[2] 3 million LL = 2 000 US$

In fact, it is a bureaucratic system in which the port has practically no autonomy of decision, notably in financial matters.
The maritime interface of these ports is also managed by a Harbor Master.

2.1.2 Organization, Activities and Performances of the Port System

2.1.2.1 PORT DE BEIRUT

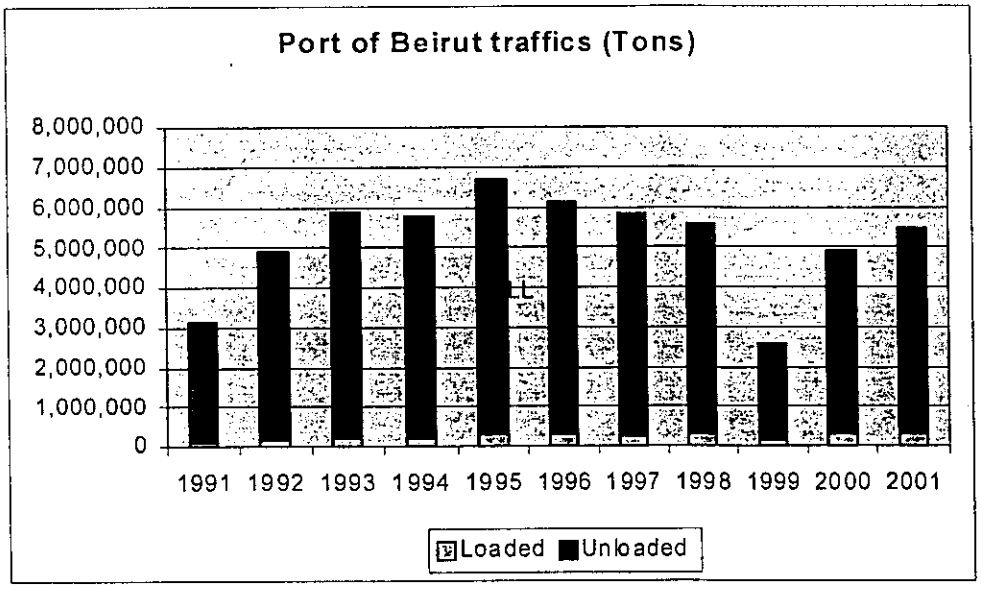
2.1.2.1.1 Infrastructures

The port of Beirut comprises an old part (docks), whose "crenelated" design provides a lot of quay length but relatively little space for storage areas. All the port activities are handled there. A new container terminal should take its place in Dock N° 5. 600 meters of quayside have been constructed, ready to commence operations.

2.1.2.1.2 Traffics

The port of Beirut is by far the top Lebanese port with a traffic in the order of 5.5 to 5.6 million tons (MT) per annum (record in 1995 with 6.6 MT, lowest figure in 1999 with 2.6 MT in conjunction with the dire crisis of the national economy). These traffics include a limited and falling share of transit cargo (100 000 T in 2001) for Jordan, Iraq, Syria and various other countries in the region.

Import cargo is largely dominant: 5.1 MT in 2001 against only 0.33 MT for exports.
By type of packing, the imports are spread out between 32% of bulk liquids, 9.1% of solid bulk, 28.2% of other conventional cargo and 30.6% of containerized goods; as for exports, they are also divided between conventional cargo and containerized goods.



2.1.2.1.3 Cargo Handling

Cargo handling in Beirut is carried out by 32 non specialized stevedores. These share the cargo handling according to an "each in turn" set up by the port authority. This share-out takes into account the variable capabilities of the stevedores, some of whom do not have any equipment for the handling of containers for example.

The most important traffic in terms of cargo handling is that of containers. About fifteen stevedores handle this traffic.
The cargo handling is invoiced to the ship agents by GEPB, who then hands over two thirds of the proceeds to the stevedore concerned.

Other than the stevedores, it is necessary to mention the role of the Lebanese Lighterage Company, which has been granted the monopoly for lashing and unlashing on the quays.

The handling of containers is carried out either by using the ship's gear or by the stevedore company's mobile cranes, not conceived for this purpose. This cargo handling is carried out under bad technical and safety conditions and takes up the greater part of the available storage areas, the vessels being berthed on the quays of n° 4 dock, or even docks N°2/3 in case of lack of berths. The stacking of full containers is two high. Containers to be loaded during a call are prepared in advance. 20' containers are carried by non-specialized lorries.

The productivity of cargo handling is difficult to judge for lack of operational data. Certain actors put forward productivities in the order of 18 to 20 containers an hour per gang, which seems unlikely in view of the technical means employed[3]. According to other actors, the true performances are far weaker. A recent report[4] gives a figure of 8 to 10 containers per crane per hour, which is much more plausible.

what is the comparison of the ports in the region and the Mediterranean space for example for delay

2.1.2.1.4 Customs

The Lebanese Customs impose **particularly heavy and complex procedures**. The result is excessively long stays in the port for import cargo: 8 to 10 days[5]. Containerized goods are the object of excessive controls, 30% of containers being opened and partially or totally stripped. The regulations regarding shortages is excessively severe. In general terms, the regulations are not adapted for containerized goods. The omnipresence of Customs personnel who intervene at all stages of the processes of cargo handling must be noted. This, together with the complexity of the procedures and the slowness of the processing creates as many opportunities for illegal transactions aiming to accelerate operations. → very important should be highlighted

The result is a reduction of the efficiency of the port (notably the excessive occupation of storage areas) as well as difficulties and over-costs for the port's customers.

2.1.2.1.5 Other Port Operations

Towage, pilotage and mooring are the monopoly of a family business, Baltagi, in virtue of a contract going back to the Fifties.
As an exception, the grain silo is operated by the Ministry of Economy and Trade (MOET).

these considerations and analysis should be consolidated with operation and Ports

[3] But nevertheless reproduced in certain studies, such as " Analysis of options for improving port operations in the Lebanese Republic", International Maritime Associates Inc, p. 5

[4] Preliminary Report for the study « Advisory services for private participation in the ports of Beirut and Tripoli », BCEOM, April 2002, p. 84

[5] According to the report of HP Rendel

2.1.2.2 PORT OF TRIPOLI

2.1.2.2.1 Infrastructures

The port of Tripoli, situated 100 Km to the North of Beirut, suffered very bad damage during the war. The period 1992 – 1997 enabled the installations to be put back into shape. In 1998, the port was back to its initial state with 700 meters of quay at -8 meters. Dredging work was undertaken in 98-99 enabling an extension of the access channel to 1200 meters (depth -12 meters) and to deepen the draft to -10 meters and to fill in 310 000m² of storage areas on a new dock. The present configuration of the port is not satisfactory, with warehouses (and an unused silo) right on the quayside, hindering the efficiency of operations and leading to the practice of direct discharge of the goods, which slows down the cargo handling.

2.1.2.2.2 Traffics

The traffics of the port are essentially made up of homogenous shipments of conventional goods. As is the case for Beirut, it is mostly imports. In 1998, these amounted to a total of 556 000 T, of which 211 000 T of timber, 100 000 T. of iron and steel, 83 000 T. of fertilizers, 82 000 T. of marble etc.... Exports (45 000 T. in 1998) are dominated by metal scrap (32 000 T.). These traffics are localized in Tripoli notably for historical reasons and the local presence of specialized traders and industrials.

2.1.2.2.3 Cargo Handling

As regards cargo handling, the port of Tripoli is also operated by stevedores utilizing their own equipment. Ten to twelve companies can be counted, more or less well equipped, and are provided with work by the port authority. The authority invoices the services according to the tariff and gives back 80% of the proceeds to the stevedore who did the work.

2.1.1.3 PORT OF SAIDA

The port of Saida, situated 45 km to the South of Beirut, traditionally had fishing and leisure-boat activities. During the war period, it developed limited means for merchant shipping in order to ensure a part of local supplies. These infrastructures, placed in a historic site that should be preserved, are threatened. The port handles at present a reduced traffic (205 000 T. in 1998) dominated by imports of marble.

2.1.1.4 PORT OF TYRE

The port of Tyre is the smallest Lebanese port. It receives on average one vessel per week and its traffic is mainly made up of imports of second hand cars.

2.1.3 Port Development Projects

In the three most important ports there are ambitious development plans.

2.1.3.1 PORT OF BEIRUT

The port of Beirut has started the construction of a container terminal capable, at term, of providing 1200 meters of quayside. 600 meters of quayside and the corresponding storage

areas have been completed, but have not been used for three years pending the installation of equipment and the selection of an operator.

There are also development projects for a passenger terminal.

2.1.3.2 PORT OF TRIPOLI

The project being undertaken today, in the continuity of previous actions, consists of constructing a new quay in a new dock. In the first stage, it is a question of the construction of a new breakwater on the North (1200 m), of a prolongation by 1000 m of the West breakwater and the construction of a 600 m quayside with a depth of -12 m. The foundations of this quay are planned to enable it to be deepened to -15 m. The completion of the project (during a second stage) will enable the port to possess a new quay of 1200 meters length with corresponding storage areas (120 hectares).

The first phase of this project (sea defenses, general dredging, 600 meters of quay and corresponding storage areas (35 hectares) has been evaluated at US$ 84 million. According to the General Manager of the port, financing of US$42 million has been granted by EIB (European Investment Bank), the remaining amount having to be auto-financed.

2.1.3.3 PORT OF SAIDA

The port of Saida would like to develop about 2 km to the South of the present site. The management has had numerous studies carried out with in view of a technical definition and the justification for a new port aimed mainly at containerized but also conventional traffics.

The project consists of a port equipped with:

- A container terminal with 1300 m of quayside at -15.5 m depth and 450 000 m² of surfaces with a potential of 1.2 million TEU's per annum.
- A multipurpose terminal with 600 m. of quay with a potential of 1 million T of conventional cargo and 172 000 m² of storage areas,
- A free zone with an area of 81 000 m².

This potential is considerably higher than the global traffic of all the Lebanese ports put together, notably as regards containerized traffics. A large share of the containers to be handled would be transhipments.

The cost of this project is today estimated at about US$ 500 million and must be entirely financed by the private sector in the form of a concession contract (for example BOT: Build, Operate, Transfer).

2.1.4 Manpower Employed by the Ports

2.1.4.1 PORT OF BEIRUT

The port of Beirut has a serious problem of over-manning. It currently employs 1037 staff in administrative, technical and security tasks.

The administrative tasks cover the global management of the port, invoicing, statistics, etc... The technical tasks cover the cargo handling and running of the equipment in the warehouses as well as all the maintenance tasks. The security concerns the policing of the installations.

The average age is today 57 (in spite of taking on 200 young people a few years ago, according to the General Manager of the port). Turnover is nil (dismissal impossible) and recruitment is blocked.

This situation is very costly for the port, and must radically change at term with the extension of privatization. The heart of the problem could be easily resolved by retirements, but:

- The port would lose its competencies and its experience in one blow
- The younger staff do not all have the competence necessary to the tasks of the new port authority.

2.1.4.2 PORT OF TRIPOLI

The port of Tripoli does not suffer from overstaffing as evidently as the port of Beirut. In 1998[4] the port counted 96 staff, employed in administrative and management tasks (12), watchmen (25), accountancy and financial tasks (12), commercial tasks (24) and technical tasks (23).

This should according to Port's point of view.

2.1.5 Financing of the Ports and Tariffs

Whatever their statute, the ports produce profits and finance their investments (a part of the income can be put into reserves for this purpose). Any then available surplus is paid into the coffers of the State.

The port tariffs of the ports of Beirut and Tripoli have an out of date structure, a low taxation of vessels (2.5% of the income in Beirut, 7% in Tripoli) and storage, but heavily charging the goods (69% of income in Beirut, 40% in Tripoli) and the handling of cargo (18% of income in Beirut, 27% in Tripoli). The basis of the port dues on goods is organized according to 10 categories of goods (in fact a classification by value) and is ad valorem in Tripoli.

The expenditure of the port of Beirut is largely dominated by personnel costs (62% of costs, including social actions and sickness benefit insurance). This underlines the importance of the overstaffing of the port.

The structure of costs of the port of Tripoli is widely different, with personnel costs lower (15%), costs of maintenance higher (31%) and above all a high level of repayment of financial debts (34%) which leads to pointing out the limits of the borrowing capacity of this port.

The 2001 budget of the port of Beirut shows an operational profit of 37.147 million LL (nearly US$ 25 million) or 36% of the income, dedicated for the most part towards investments and for the remainder to the build up of provisions and reserves.
In the port of Tripoli, the operational profit bears on 59 % of the total income, that is to say US$ 2.94 million.

[4] according to the study "Analysis of options for Improving Port Operations in the Lebanese Republic, p11) ?

2.2 MARITIME

2.2.1 Signed and Ratified International Conventions

The International Conventions concerning the maritime sector originate from the International Maritime Organization (IMO) and the International Labor Organization (ILO), both specialized organizations within the United Nations Organization (UNO).

At 31st May 2002, Lebanon had ratified **20 conventions, amendments or Additional Protocols** stemming from IMO. They are the following :

- IMO Convention 1948
- IMO amendments 1993
- International Convention for the Safety of Life At Sea (SOLAS) 1974
- SOLAS Protocol 1978
- International Convention on Load Lines (LL) 1966
- International Convention on Tonnage Measurement of Ships (TONNAGE) Convention 1969
- International Convention for Safe Containers (CSC) 1972
- International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW) 1978, as amended
- Convention on the International Maritime Satellite Organization (INMARSAT) 1976
- INMARSAT Operating Agreement (OA) 1976
- INMARSAT Amendments 1998
- Convention on Facilitation of International Maritime Traffic (FAL) Convention 1965
- International Convention for the Prevention of Pollution from Ships (MARPOL) 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78 annexes I/II, III, IV and V)
- International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (INTERVENTION) 1969
- International Convention on Civil Liability for Oil Pollution Damage (CLC) 1969
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) 1988
- SUA Protocol 1988

At 26th June 2002, Lebanon had ratified **44 conventions** stemming from ILO.
The following **9 conventions,** simultaneously ratified by Lebanon on the 6th December 1993, cover more particularly aspects of maritime working:

- C. 8 Convention n°8: Unemployment Indemnity (Shipwreck) 1920
- C. 9 Convention n°9: Placing of Seamen 1920
- C. 58 Convention n°58: Minimum Age (Sea Convention revised) 1936
- C. 71 Convention n°71: Seafarer's Pensions 1946
- C. 73 Convention n°73: Medical Examination (Seafarers Convention) 1946
- C. 74 Convention n°74: Certification of Able Seamen 1946
- C. 109 Convention n°109: Wages, Hours of Work and Manning (Sea Convention revised) 1958 (not entered into force)
- C. 133 Convention n°133: Accommodation of Crews (Supplementary Provisions)1970
- C. 147 Convention n°147: Merchant Shipping (Minimum Standards) 1976.

2.2.2 Structure of the Maritime Administration: Organization, Missions, Human and Material Means

The Ministry of Transport was created, in its current form, by the decree n° 214 of the 2nd April 1992, published in the Official Gazette of the 8th April 1993.
It covers the various modes of transport and has officially received a mandate of 8 main missions[6]:

2.2.2.1 MINISTERIAL MISSIONS

Mission 1:
Organize and supervise land, maritime and air transport:
adopt a policy relative to the land, maritime and air transport which specifies the role of the government in regulating and or providing the service, and propose the legal framework for regulating this transport mode,
supervise compliance of the private sector with the set regulations, and
study and propose ratification of international transport and transit agreements.

Mission 2:
Construct, equip, manage and exploit publicly owned transport modes and facilities and develop them in harmony with the social and economic development and according to the needs of the country.

Mission 3:
Supervise the safety of transport means and facilities, its maintenance, modernization and development:
establish safety standards to be complied with by all transport operators,
inspect the operation of the transport facilities, whether public or private, to ensure compliance with regulations and safety standards, and
ensure the safety of the transport modes and eliminate hazards emanating from encroachment on right-of-ways and safety envelops of transport modes.

Mission 4:
Prepare plans and conduct techno-economic studies aiming at operating transport means and facilities at the highest level of technical competence and economic feasibility.

Mission 5:
Enforce laws and regulations related to the transport and public maritime property:
coordinate with the Ministry of Environment and local authorities on the protection of the coast line and maritime property free from pollution caused by shipping operations, and
coordinate with Customs Authorities, International Security Forces and Local Authorities to combat contraband through the ports, harbors and border posts.

Mission 6:
Exercise tutelage authority over autonomous authorities and public enterprises in the public transport sector.

[6] Republic of Lebanon, Ministry of State for Parliament Affairs, National Administrative Rehabilitation Program (NARP) 1995-1997, Ministry of Transportation, February 1995, p.

Mission 7:
Exercise control over transport concessions.

Mission 8:
Control and periodically update transport tariffs.

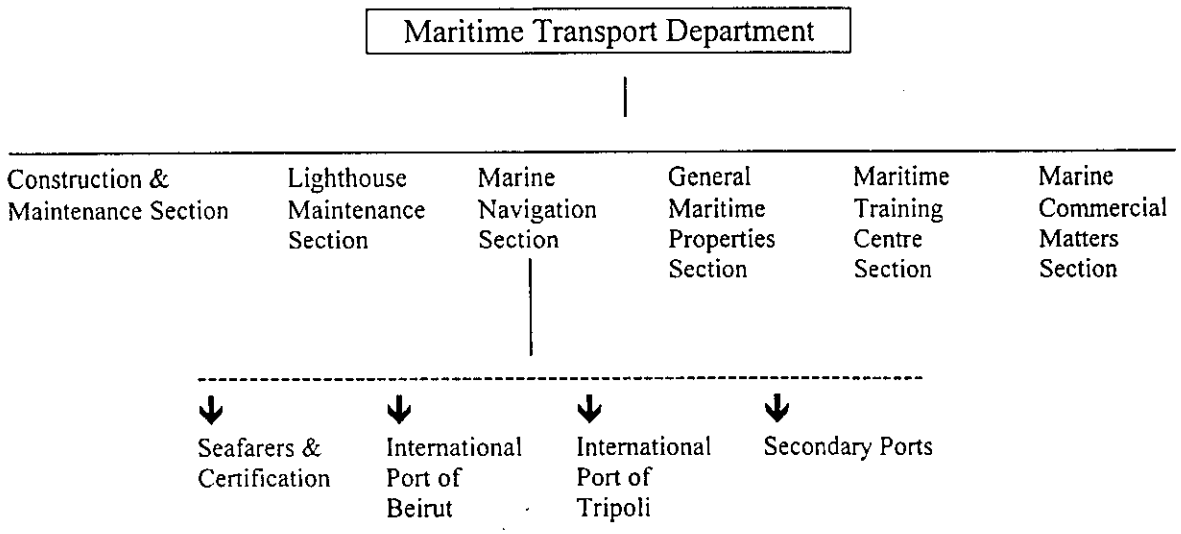
In order to fulfill these various missions, the Ministry of Transport is connected with a certain number of public or private institutions implicated in the transport sector. As regards maritime transport, these are more specifically:
Ministry of Environment as related to the protection of the environment against air and coastal pollution and noise pollution produced by transport modes.
Ministry of Interior and Security Forces as to safety at transport terminals.
Regional and International Organizations.

2.2.2.2 ORGANIZATION

The Ministry of transport is made up of a "*Common Administrative Department*" as well as two General Directorates:
Directorate General of Civil Aviation
Directorate General of Land and Maritime Transport.

The Directorate General of Land and Maritime Transport is comprised of 127 staff [7], distributed in the following departments:
Diwan
Bureau of Projects and Programs
Bureau of Land Transport
Department of Maritime Transport
The Department of Maritime Transport is broken down in the following way:

[7] 1997 figure.



2.2.3 Rules Concerning the Lebanese Ship Registry

2.2.3.1 LEGISLATIVE SOURCES:

The Lebanese Maritime Statutes:
The Lebanese Code of maritime trade was promulgated by he Law of the 18th February 1947. This Code is largely inspired from the big International Maritime Conventions, from the Moroccan Maritime Code and from the draft project for the Egyptian Code of Trade.
Law of December 21, 1954, amending provisions of the Lebanese Maritime Statutes.
Law of August 21, 1964, related to the supervision of Lebanese ships.
Decree n°315 of November 15, 1964, related to the supervision of Lebanese ships.
Law n°61/64 of December 30, 1964, amending provisions of the Lebanese Maritime Statutes and permitting the Government to ratify International Maritime Conventions.
Ministerial Decree n°31/1 of January 26, 1966, outlining the procedures and conditions of registering ships under the Lebanese Flag.
Law n°11/66 of February 14, 1966, amending provisions of the Lebanese Maritime Statutes.
Law n°35/68 of December 30, 1966, related to the ratification of the Brussels Convention of 1926 related to mortgages, liens and arrests.
Legislative Decree n°46 of June 24, 1983, related to off shore companies.
The Lebanese Finance Law of December 16, 1993, related to ship registration fees.
The Lebanese Finance Law of July 30, 1999, related to Port fees.

2.2.3.2 JURIDICAL STATUS OF THE LEBANESE SHIP-REGISTRY[8]

The registry of a vessel under Lebanese flag is made under the control of the Maritime Transport Department as well as that of the Harbor master of the port in which the registration is requested. A certain number of conditions are imposed.

A. Conditions of Nationality Concerning the Ship-owner:
According to articles 2 and 3 of the Code of Maritime Trade, a vessel can be enrolled in the Lebanese ship-register if she has a Lebanese home-port and belongs at least by half

[8] Raymond A. FARHAT, Cours de Droit de la Mer et de Droit maritime, 1999.

to a Lebanese citizen or
To a Limited Company [9] under Lebanese law, the majority of whose Board of Directors and the Chairman of the Board are of Lebanese nationality.

Since the Law of the 21st December 1954, a vessel belonging to a foreign Company or to a private individual of foreign nationality, can also be enrolled on the Lebanese Ship Register, subject to a special authorization from the Ministry of Transport[10]. The vessel concerned must be dedicated to deep-sea shipping (beyond the Mediterranean Basin) and exceed 500 NRT.

The Law of Finances of 1993 has added to this list, companies under foreign law, controlled by Lebanese persons.

NB. : It would appear however that since 1968, no authorizations have been granted to foreigners for the registration of their vessel under Lebanese Flag.[11].

B. Condition of Age for a Vessel

To be enrolled under Lebanese Registration, the vessel should not be over 30 years old.

C. Conditions Regarding the Crew

In spite of the existence of a legal disposition (art. 133 CML), stating that the Lebanese administration should impose a crew comprised of at least 20% of Lebanese nationals on the ship-owner of the vessel, or ensure the training of at least 20% of her crew, in practice, crews are not subjected to any conditions of nationality.

The officers and technicians should however come from a country whose certificates of competence are judged to be equivalent to those required by the Lebanese Administration for officers and technicians.

A work-contract should also be established between the Captain of the Vessel, the ship-owner or the charterer of the vessel and the seaman. This contract of engagement should be inscribed in the Log of the vessel and can be checked at any time by the Lebanese Maritime Police. The work-contract should respect the basic conditions (mention of the duration of the contract, date of the start of service, the function of the seaman, the date and place of the termination of the contract - art. 130 CML) as well as the usual conditions (signature or mark of the seaman, inscription of the contract of engagement on the crew list, reading of the clauses and conditions of the contract with questioning of the parties in order to assure that they understand the contents).

The registration of a vessel implies besides, the respect of the rules of hygiene and safety on board stemming from the Lebanese regulations and the International Conventions (ILO) ratified by Lebanon. The respect of these various regulations is checked and verified at the time of the necessary inspections for licensing and for the renewal of certificates of

[9] By a law of December 15, 1992, the owner of ships sailing under the Lebanese Flag was extended to: limited liability companies, joint liability companies and partnership in commendum.
[10] In order to simplify this procedure, the Minister of Transport rendered a ministerial decision dated August 4, 1999, by which he delegated the authorization of registry of ships owned by non-nationals to the Director of the Department of Merchant Shipping.
[11] Raymond A. FARHAT, op. cit., p. 71.

seaworthiness and classification, as well as the time of various Customs, sanitary and safety inspections.

The ship-owner has more specially the obligation to feed, lodge, take care of and repatriate the seaman. All seamen must however undergo a medical examination prior to signing his engagement and the crew register should mention the medical permit to embark.

The ship-owner or the Captain of the vessel cannot take on, as cabin boys, children under the age of turned 15 and up to their legal age of majority, without the written consent of the parents or legal tutor (art. 134 CML).

D. Procedure for Registration

The registration of the vessel can be made directly with the Harbormasters of ports where books of registration are available: Beirut, Tripoli, Saïda and Sour (art. 8 CML).

All Lebanese vessels should be registered, at the latest, fifteen days after her launch or acquisition, or within the fifteen days that follow her entry to Lebanese territorial waters if she was built or purchased abroad (art. 16 CML). Failing this, she can be seized by the harbormaster of the first Lebanese port called at or by the harbormaster of the nearest Lebanese port if she is arrested at sea.
Registration can also be carried out by the owners of the vessel or their representatives through the offices of a Lebanese consular mission outside Lebanon. This registration is then valid for two months, but must be finalized in Lebanon by an administrative decision coming from the Lebanese Ministry of Transport.

To register a vessel, ~~her~~ the owner must declare, under oath, a certain number of elements enabling the vessel to be identified (art. 12 and following, CML). This declaration should be made before the harbormaster and four witnesses and include:

- the name of the vessel
- the registration number
- the Place and date of construction
- the type of the vessel
- its dimensions
- the Gross and Net tonnage (GRT and NRT)
- the type of the engines
- the name(s), nationality, and address of the owner(s)
- the name, nationality and address of the managing ship-owner / operator
- the transfers of the vessel, the changes of homeport, of owners etc...
- the causes of her cancellation, of her loss, of her destruction or sale
- the mortgages and seizures that the vessel is subjected to.

Once registered, the vessel authorized to bear the Lebanese Flag must carry on board the following ship's documents (art. 41 CML):

- the title deed of ownership
- the crew register
- seaworthiness certificate and the Safety certificate for passenger vessels
- the seaman's book for each member of the crew
- the clearance certificate
- the manifest of goods on board

- the good health certificate
- the receipt for port dues.

2.2.4 Attractiveness of the Flag: access to financing, taxation, mortgage and depreciation rules

Over and above the conditions to be fulfilled, the registration of a vessel under Lebanese Flag gives her owners/operators certain **advantages**, amongst which are:
A 50% reduction on port taxes and dues
A 25% reduction on pilot dues
Exclusivity for carriage of cargo between Lebanese ports
The advantages of the Code of Conduct for Maritime Conferences or of the bilateral agreements made by Lebanon concerning the sharing of maritime traffic.

NB: It would appear however that these advantages have been, in practice, gradually "whittled down".

The ship-owner benefits also from the application of low cost fees and subscriptions that take into account the size and age of the vessel.

Initial registration fees:

- Vessels of less than 10 years, per NRT:
  - from 1 to 1 000 NRT: 800 Leb.£
  - from 1 001 to 3 000 NRT: 400 Leb.£
  - from 3 001 NRT and above: 100 Leb £

- Vessels of more than 10 years but less than 30 years, per NRT:
  - from 1 to 1 000 NRT: 600 Leb £
  - from 1 001 to 3 000 NRT 200 Leb £
  - from 3 001 NRT and above: 75 Leb £

- Annual fees, per NRT:
  - from 1 to 1 000 NRT: 300 Leb £
  - from 1 001 to 3 000 NRT: 100 Leb £
  - from 3 001 NRT and above: 50 Leb £

The ship-owner is also subject to Company Income Tax at **15 %.**

The shared ownership status is authorized and enables a vessel to be purchased in co-ownership (24 owners shares).

Finally the vessel can be the subject of **preferential claims** and **taking out mortgages.**
The maritime preferential claim enables a creditor, because of the quality of his debt, to be given preference over other creditors. Article 48 CML thus lays down that certain debts will be paid before the others since they are the result of expenditures made in the interests of running the vessel.

As for the maritime mortgage, it offers preferential rights together with follow-up rights. The ship-owner/operator can therefore mortgage his vessel, even whilst it is under construction

(art. 66 CML). The mortgage can cover the whole vessel, her gear, apparatuses, engines and accessories. It cannot however apply on the insurance indemnity in case of damage, nor on the freight, or premiums and subsidies from the government. Finally it can cover the indemnity for damage unless such indemnity is used for repairs or preservation of the vessel (art. 65 CML).

2.3 LAND TRANSPORT

Land transport has been extensively researched during the past decade, and a land transport policy was the subject of several efforts as of 1998. The DGLMT has organized several seminars that included all the stakeholders, and also used the services of consultant, part of its effort to draft a Land Transport Policy Document. Additionally, the Public Works Committee of the Lebanese Parliament organized recently a meeting on the same topic, the result of which was documented and then adopted by the Committee

The following paragraphs rely on the work described above, and on the understanding of the study team of the sector. The purpose of the following is to provide a summary of the current situation, leaving extensive analysis and evaluation to subsequent reports.

2.3.1 Institutional Framework

Land transport functions and responsibilities are fragmented over a number of ministries and government organizations, as follows:
MPWT: Directorate of Road – in charge of the classified road network; DGLMT: is in charge of regulation of land transport and of maritime transport.
Municipalities: in charge of roads within municipal jurisdiction, plus they have powers to regulate transport and traffic within their jurisdiction.
Ministry of Interior: in charge of:
Vehicle Registration and Inspection
Driver's Licensing
Traffic Policing.
OCFTC: Public transport operator and in charge of railroad, reports to Minister of PWT.
CDR: Involved in land transport planning and construction, and it has taken over functions played earlier by CEGP and CEGPVB.

In addition to those direct main players, there are other important players who are indirectly involved.

Ministry of Finance: Taxes are levied on transport services with the only perspective of collecting revenues for covering the budget deficit and without considering implications on transport.
Ministry of Energy and Water: Fuel policy, especially related to specifications of gasoil (actually fuel oil) used by diesel vehicles, and imported by the Ministry.
Directorate General of Urbanism (part of MPWT): whose actions (or lack of actions) have significant impacts on urban transport.
Ministry of Environment: Expected to play a role in setting air quality standards.
Ministry of Tourism: has a role in licensing touristic vehicles? → are you sure

The following chart summarizes the division of the land transport functions among various components of the Lebanese Administration related to land transport, clarifying areas of gaps and redundancies.

2.3.2 Land Transport Issues

The salient features of the Land Transport System are listed below. More analysis and evaluation will be presented in subsequent reports. The land transport system is composed of several components: fixed infrastructure (roads and rail terminals), rolling stock (vehicles fleets), and operating system (laws, regulations, institutional framework, financing. A land transport policy is concerned with all the components of the system. The issues listed below cover each one or more of the system components.

2.3.2.1 Deteriorated Road Network

Survey done in preparation of the National Road Project has shown that 36% of the Lebanese road network is in poor condition, compared to 12% on average for well managed networks, and 22% on average for poorly managed networks. Since then some improvements were achieved, but the NRP still has a long way to go.

On the other hand, annual expenditure for maintenance per kilometer (about $10,000 per Km) is more than twice the level for stable well-maintained networks. Most maintenance expenditures go to resurfacing with asphaltic concrete overlays without attention to other pavement layers and drainage facilities. Such overlays have a very short service life due to bad drainage or weak base, sub-base, or subgrade.

The classified road network lengths are as follows:

International	529 km
Primary	1673 km
Secondary	1367 km
Local	2811 km
Total	6380 km

2.3.2.2 Control of Access Motorways Is Only Partial

The existing motorways (so-called autostrade or autoroute) were supposed to enjoy full control of access. Regulations imposing control of access were never enforced. The above lengths do not include those of roads inside Municipal Beirut. Many of the motorways now open to traffic are merely divided multi-lane roadways that encourage speeding, but lack the safety features that usually characterize motorways. Signing, marking, delineators, guard-rails and above all access control does not exist. U-turns are made across the median, and parked cars on the pavement are not uncommon. The investment put in such facilities does not provide the expected carrying capacity, quality of service, nor safety. It is important to direct future efforts in motorway towards creating a high level network of roads that serves inter-city and international travel, without losing its character because of linear development along its whole length.

FUNCTIONAL RESPONSIBILITY MATRIX

Modes and Functional Issues / Process Responsibility	Urban Transp. Modal Coordination	Road Construction And Maintenance	TSM And Control	Parking Policy And Control	Road Safety	Vehicle Licensing And Control/ Traffic Enforcement	Public Transport	Paratransit
Policy and Research	MOT	MPW					MOT	MOT
Standards and Regulations	MOT	MPW		MPW (GDU)	MOT	MOI MOE	MOT	MOT
Strategic & Tactical Planning		MPW CDR					OCTFC	
Financing		MOF CDR			MOF CDR	MOI	OCTFC MOF	
Project Preparation and Implementation		MOPW CDR/CEGP CEGPVB MUNI MOMRA	MUNI CEGPVB	MOMRA MUNI	MPW CDR CEGP CEGPVB MUNI	MOI	OCTFC MUNI	
Operations Management		MUNI		MOI MUNI		MOI	OCTFC MOMRA	
Maintenance Management		MPW MUNI					OCTFC	
User Information & Awareness						MOI	OCTFC	

MO= Ministry of Transport
MPW = Ministry of Public Works
GDU = Directorate General of Urbanism
MOMRA = Ministry of Municipal and Rural Affairs
CDR = Council for Development & Reconstruction

CEGP and CEGPVB were recently made part of CDR
MOF = Ministry of Finance
OCTFC = Railways & Public Transport Authority

MOI = Ministry of Interior
MOE = Ministry of Environment
MUNI = Municipality

2.3.2.3 RAIL SERVICE COMPLETELY STOPPED

No rail service is currently provided. Commuter rail-service along the coast, especially within Greater Beirut, can play an important role in reducing urban traffic congestion and air pollution, and is an important component of any future rail mass transit network.

The existing right-of-way has been usurped. Moreover, due to the extreme traffic congestion and limited possibilities of widening existing roads due to abutting development and expensive real estate, some rail right-of-way is being now considered for converting to roads. Although this is being presented as a temporary solution, it risks to stay permanent. Accordingly, the reinstatement of rail service will prove to be very costly in the future, if additional right-of-way is required.

Recently it was decided to rehabilitate the rail link between Tripoli Port and Abboudieh (Akkari in SAR). And similarly for the link from Rayak towards SAR. Studies were also made for the feasibility of a light rail service along the coast within Greater Beirut. Earlier, the Greater Beirut Area Transport Plan has demonstrated the importance of the rail in providing a commuter service in Greater Beirut. What still lacks is a vision on how to develop rail services and utilize the vast assets in land available to OCFTC.

2.3.2.4 AGING VEHICULAR FLEET BUT NO VEHICLE INSPECTION

Due to very primitive vehicle registration system, no accurate figures exist on the size of the fleet and its age. Figures published by the Office of Vehicle Registration in the Ministry of Interior show that there are 1,100,000 private passenger cars, 11,000 trucks, 2,000 buses, 4,000 micro-buses, and 32,298 taxi-services.

The vehicular fleet which is increasing rapidly in numbers at a high rate through importing new and used cars contains now a high percentage of mechanically defective and highly polluting vehicles.

Although the annual tax "mécanique" paid on vehicles should be concurrently accompanied by a vehicle inspection, this inspection is not being currently performed. Moreover, Lebanese laws do not have any restriction, till now, on exhaust emissions. As far as information on vehicle caused pollution, only terse information is available on the level of various pollutants caused by various types of vehicle and levels of various pollutants in specific areas and along specific corridors.

The law that resulted in tripling the number of taxi – service vehicles has materially contributed to the increase in traffic congestion, vehiculars emission, dissatisfaction of the operators and users, best described as a lose-lose situation. The conversion of many of these vehicles to diesel (contrary to existing laws) has complicated the problem even further.

2.3.2.5 LACK OF ORGANIZED DISTRIBUTION SYSTEM AND MULTIMODAL FACILITIES

There is a dire lack of transportation terminals, whether for passengers or for goods. Taxi-service and buses operating internationally, inter-city, or within metropolitan areas use curb-side locations as terminals. Inter-modal transfer is very inefficiently handled. No truck terminals are available. Warehousing is not provided at efficiently designed facilities.

Alternatively, basements of apartment buildings within residential areas are used for storage and warehousing, thus further negatively impacting the quality of urban living. Urban traffic congestion is further complicated by these practices. Our investigation of the maritime transport system has also indicated the need to develop truck logistic facilities that complements the cycle of flow and distribution of trade.

In fact, no organized distribution function exists. The truck fleet (about 10,000) is run in a fragmented manner, mostly owner/operator, with very low level of productivity and efficiency, and consequently the high cost is turned over to the user.

2.3.2.6 Severe Parking Problem Within Greater Beirut And Other Urban Areas

Beirut suffers from a severe parking problem which renders all attempts to ease traffic congestion futile. Curb-sides are all occupied by parking vehicles, with double parking, over the side-walk, along street corners, and improper parking in general is a preponderant situation. Street capacities are consumed by parked vehicles. Sight lines around corners are obstructed, and pedestrians are denied the benefits of sidewalks. Improper parking is practiced even in cases where it could be avoided. Lebanese drivers were never trained to dispose of their cars in an orderly manner.

A parking study for Greater Beirut identified a parking deficiency of 70,000 spaces during the day and 25,000 during the night. It also showed that current building laws do not require enough parking to be provided to satisfy the needs of building residents, and ignore by far the needs of clients and visitors.

In spite of the severe shortage of parking facilities, curb parking is still free, even in the most congested areas. Moreover, parking fees are very low and not segmented by location nor duration. Within Beirut, the parking fee in a private parking lot is about US$ 1, for a duration of up to 8 hours (or the whole day), and it is not differentiated between city areas. This is causing a misuse of a scarce resource (parking areas), reducing the parking turnover per space, and providing a dis-incentive for investment in parking.

The severity of the problem is frustrating the effort to enforce existing parking laws and restrictions. Parking restrictions are enforced intermittently, selectively, and sporadically. Restricting parking at certain locations is being achieved through positioning fixed objects at these locations, to make it physically impossible to park.

2.3.2.7 Lack Of Traffic System Management And Control

Traffic control devices are sparsely present. Signals, signs, and pavement marking are almost inexistent. This is true along highways and roads and also within urban areas.

Traffic control devices are installed as part of new projects, but no upkeep is maintained beyond the defect liability period of the installation contract. The operation of motorways, highways, roads, urban facilities and intersections does not seem to be clearly the duty of anybody. There is no systematic and continuous surveillance of such facilities in order to identify problem spots, react to deficiencies, respond to hazardous conditions, or initiate corrective measures.

Until now the urban traffic engineering function is totally absent. A new section was recently created in the MPWT for Traffic Safety and Environment, but it is only partly active. A decree (November 2001) created the Traffic Management Organization as an independent authority, its board was only recently appointed. It is not expected to become functional except with the implementation of the Urban Transport Development Project (formerly BUTP).

2.3.2.8 Traffic Code Enforcement Is Deficient

Traffic code enforcement is not consistently nor uniformly exercised. The proliferation of violations (especially parking violations) makes them beyond the capabilities of enforcement. The human and material resources for traffic law enforcement may be less than required. But what may be the real problem is the improper or lack of specialized training of traffic police and the inconsistency in enforcement. Similarly, axle-loads limits are believed to be consistently violated. It is established that high axle loads, especially on 2-axle and 3-axle rigid trucks, usually are in the range of 18-22 tons compared to a 13 ton limit.

2.3.2.9 Road Safety Problems

No accurate road accident reporting that permits a meaningful analysis of accident rates and causes exists. Rescue services are not sufficient, especially in remote areas, mainly due to poor communication. Compulsory 3rd party vehicle insurance is not yet enforced. Many roadworks are in progress currently in Lebanon, but work-site safety precautions are not adequately implemented.

Reported traffic accidents in 2000, included 306 fatalities and 4,100 injuries. There is a general lack of road safety devices along roads. Signing, marking, guard rails, collision barriers, and delineators are absent on most roads. In this respect, it is worthwhile to signal a common malpractice. Motorway and highway construction projects are divided into several lots. Civil works are given to one contractor, while signing, marking, and safety devices (guard-rails, delineators, etc.) are given to a second contractor. Civil works are usually completed before the second contractor starts. Motorways or highways are frequently opened to traffic before safety and traffic control devices are installed. This practice has been the cause of several fatal accidents, especially that newly opened motorways provide an attractive site for speeding.

There are indications of very high fatal accident rates on certain road sections where the design of roadway elements is unbalanced (multi-lane sections in flat terrain without control of access making dangerous maneuvers possible). On congested city streets, with low travel speeds, no severe accidents are observed. But on the coastal highway, where the multi-lane roadways encourage speeding, severe accidents are observed. The stretch from Mkalles, through Hayek and Saloumi, to Nahr el-Mott and through Antélias, Tabarja, till Nahr el-Madfoun is 44.45 km long (27% of which within GBA). The fatal accidents recorded in 1992 on this stretch amounted to 96, which corresponds to 8 fatalities per 100 million vehicle-km. This fatality rate is twice that expected on a similar road with partial control of access in an urban area in the U.S. On this road section and for the same period, 56% of the victims of personal injury vehicle accidents were pedestrians.

2.3.2.10 ACQUISITION OF RIGHT-OF-WAY IS EXPENSIVE

Acquiring ROW for new transport facilities has become extremely expensive, especially in urban areas, and in Beirut in particular. On some motorway projects, acquisition of ROW may reach more than 70% of the total cost. This is becoming a major hurdle delaying implementing new projects. Private investors or funding agencies would contribute to the ROW acquisition costs component of projects. The total cost of a project, accordingly, has become extremely high per unit of physical facility (e.g. per Km of road or per parking space in a parking structure). In many cases, even if the external funding is available, lack of local funds to cover ROW acquisition is haulting the implementation of projects.

2.3.2.11 LACK OF EFFICIENT RELIABLE PUBLIC TRANSPORT

No efficient reliable public transport currently operates in Lebanon. This forces heavy reliance on the private vehicle and increases the cost of transport. Eighty Three percent of all motorized person-trips of Greater Beirut residents are done by car (68% of which by the private car, 8% by vans, and 9% by bus).

Private car vehicle occupancy is quite low, especially for work trips. Fifty seven percent of all person-trips are car-driven trips. Even taxi-service (jitney) occupancy is low (1.6 only one passenger more than the average occupancy of the private car), because taxi-service vehicles roam the streets in search of passengers and operate without terminals and on very flexible routes.

Many schools that used to provide student bus transport stopped during the war because of the high safety risks at that time. Most parents drive their kids to and from school, blocking streets waiting to pick them up at school closing in the afternoon.

2.3.2.12 HIGH CONGESTION BUT LOW MOBILITY

A high level of congestion is observed on most links of the urban road network. Variation in traffic flow in Greater Beirut during the period of 7:00 am to 7:00 pm is quite low indicating that traffic on many streets reaches a level close to its capacity, and stays near it for most hours of the day. Similarly, day-to-day variability in peak hour traffic volumes is limited.

A speed-delay survey conducted on major arterial streets in the Greater Beirut Area encompassed 27 routes of a total length of approximately 250 kilometers. The results indicate generally low speeds with a wide variability in average speeds. Observed average speeds ranged from 6.5 kph to 31.0 kph. Speeds of less than 20 kph were observed on more than 70% of the route sections on which surveys were conducted.

The same survey provided values of delays as a proportion of travel time for the route sections on which surveys were conducted. Results indicated that delays ranged from 1% to 51% of total route travel time. Moreover, delays of more than 20% of the total travel times were observed on more than 35% of the route sections surveyed.

Low speeds and delays are caused by four main factors, namely: intersections, street congestion, parking, and buses and taxis making stops. Accidents caused considerable delays in a number of cases.

An analysis of main intersections in GBA indicated that in 1994, out of 127 intersections in the Beirut City, 46% of which were operating at a Level of Service (LOS) D or worse (average individual vehicle stopped delay in seconds exceeds 25 seconds), and out of 100 intersections in the suburbs, 75 were operating at a LOS D or worse.

In spite of the heavy congestion in Greater Beirut Area, studies have shown that the citizens of Beirut are limiting their travel to the essential. It seems that high transport cost, congestion, and lack of parking discourage trip-making.

2.3.2.13 TRAFFIC CAUSED POLLUTION

This congested situation is accompanied with unacceptable levels of noise and air pollution and with excessive car accident fatalities. Noise levels of 89 dB were measured in Dora, 90 dB in Hamra, and 95 dB in Sin el-Fil. Those noise levels measured at major roads in GBA fall into levels that cause irritation and may as well cause some health problems.

Although no measurements are available of various vehicle emissions, but based on counted vehicles, ambient climatic conditions, average rate of emissions of different pollutants, the area source model was used to predict the concentration of various pollutants. The following table compares predicted pollutant levels with acceptable air quality standards. The figures quoted below demonstrate the severity of the vehicle-caused pollution problem.

Lebanon has consumed around 5 million tons of fuel in 2000, with a total cost of USD 1,137 m. Gasoline consisted of 38% and fuel oil 24% of quantities. Transport sector is estimated to consume 45% of all imported fuel. The contribution of the transport sector to air pollution is very significant. The proliferation of the use of badly run diesel engines on taxi – service has brought the level of pollution to unbearable levels. In addition to the heavy medical bill associated with transport caused pollution, the latter has become one of the most serious deterrant to attracting tourists.

Predicted Concentration Levels of Pollutants in μg/m³
At Selected Locations in GBA Compared to NAAQS

Pollutant NAAQS Location	NOx 100	CO 40	HC 160	Pb 1.5
Raouché	63	315	236	7.3
Verdun	41	204	153	4.8
Hamra	34	171	128	4.0
Spears	53	263	197	6.0
Mkalles – Hayek	45	233	175	5.4
Dora - Nahr el-Mott	125	622	467	14.5
Coastal Road Jdaideh	63	315	236	7.3
Coastal Road Jal el-Dib	173	864	648	20.1

NAAQS: National Ambient Air Quality Standard Level in μg/m³

Source: Emissions from the Transportation Sector in Lebanon, FEA (EE Dept), AUB, 1996.

2.3.2.14 HIGH COST OF TRANSPORT

The issues presented above have led to a very costly transport system:

- Lebanon imported 41,091 vehicles in 2000, of which 14,000 are new vehicles, plus a large amount of spare parts.
- The fuel bill is also probably in access of USD 500 million annually.
- The government subsidizes transport but in a most ineffective manner. The subsidy to OCFTC is a mere L.L. 20 billion per year, but pay over L.L. 100 billion in transport allowance to public sector employees, and this is mostly spent on private cars or as a supplement to income.
- The owners of red plates benefit from reductions in CNSS dues amounting to L.L. 48 billion (OCFTC contributes per driver 5 times what an owner of a red plate pays to CNSS). This subsidy to taxi – service owners is 5 times the subsidies paid by government to OCFTC.
- The transport allowances paid by the private sector (L.L. 6,000 per day) are estimated at L.L. 400 billion per year.
- The daily transport allowance of L.L. 6,000 paid to all employees constitutes 50% of the monthly minimum wage. Is it in fact a wage supplement?

2.3.2.15 UNCLEAR DEFINITION OF AUTHORITIES AND RESPONSIBILITIES

Managing the transport function, including traffic management, seems to suffer from some institutional anomalies. The planning, design, construction, operation, maintenance, regulation and control of transportation infrastructure, fleets, terminals, and services are functions shared by many ministries, councils, and authorities with overlapping jurisdiction. This is truer in case of road transportation. This problem is made worse by the fact that each of the existing institutional units also suffers from numerous vacancies in critical positions.

In spite of the severe congestion conditions described above there is an almost complete absence of the traffic engineering function. While an urban area in the U.S., of a size similar to GBA, is expected to have a traffic engineering department that employs 40 professionals, 40 traffic engineering technicians, and 160 traffic maintenance workers, GBA have none of them. Moreover, the fifty three municipalities within GBA have no coordination mechanism among them. There is no single organization on the metropolitan level to deal with transport related issues comprehensively.

This lack of clarity as to the authority and responsibility will be a major hurdle against the implementation of any transport policy. Taxation can be decided upon independently from its effect on transport for example. Similarly, the specifications of imported fuel, controlled by the Ministry of Energy and Water, has implications on transport and resulting emissions.

2.3.2.16 CONFUSION OVER THE ROLE OF GOVERNMENT

It is becoming increasingly apparent that the private sector needs to play a larger role in the provision of transport infrastructure and services. This desired orientation is clearly recognized by Government, but it is not well expressed. The concepts of privatization and PPP are mixed up. The issue is that the private sector needs to play a larger role in operation,

taking over from Government responsibilities it never was able to satisfy efficiently, while the private sector is better equipped to handle them. While government should concentrate on its regulatory role.

The critical constraints against more private sector involvement seems not to be the unreadiness of the private sector but rather the unclear governmental policy and the weakness of the institutional set up required for playing the roles of "enabler" and "regulator".

2.4 AIR TRANSPORT

This section relies completely on Booz-Allen & Hamilton study reports, 2000.

2.4.1 Legislative and Institutional Framework

2.4.1.1 CURRENT LEGISLATIVE FRAMEWORK

The current legislative framework of civil aviation in the Lebanon consists of the following principal instruments:

- The Aviation Law promulgated on the 11 January 1949 (as amended in 1955) that was clearly designed to implement in Lebanon the provisions of the Chicago Convention
- Decree 13677 of 23 August 1963 entitled Creation the Civil Aviation Safety Centre
- Decree 2158 of 8 July 1965, Regulation of Civil Aviation Sector
- Law 70/66, Rights of encumbrance to ensure air navigation safety
- Presidential Decree 15648 of 21 September 1970 entitled Organization of Aerial Work and Air Transport in Lebanon
- Decree 938 of 14 April 1971 which created, inter alia, the Directorate General of Civil Aviation within the Ministry of Public Works and Transportation
- Presidential Decree 1610 of 26 July 1971 entitled Organization of the General Directorate of Civil Aviation (as amended by Law 19/81 of 6 August 1981)
- Law No. 214 dated 2 March 1993 entitled Formation of Ministry of Transport.

In its report, ICAO notes that the laws and decrees are supported by a series of decisions and safety directives which specify mandatory requirements concerned with licensing, operational and airworthiness matters. However, it further notes that these various decisions, decrees and directives have not been consolidated leading to a wide dispersal of rules and requirements in a manner that is not user-friendly and which leads to difficulty with compliance.

ICAO further notes that the Aviation Law of 1949 is outdated and does not enable Lebanon to adequately implement and enforce the provisions of the Chicago Convention of the Annexes.

2.4.1.2 INSTITUTIONAL FRAMEWORK

Currently, the aviation sector in Lebanon is managed on a unitary basis by the Directorate General of Civil Aviation (DGCA), established through Decree 1610 of 26 July 1971. The DGCA is charged with:

- Supervising air transport
- Supervising air navigation safety
- Ensuring civil aviation communications
- Promulgating laws concerning aircraft operation

- Controlling the implementation of these laws
- Managing civil airports
- Collecting the appropriate fees.

DGCA comprises:

- Operations Directorate, which is responsible for:
  - maintenance of aids to navigation, telecommunications equipment, telephone equipment and electrical equipment (e.g. runway lights, baggage conveyors, closed-circuit television, etc.)
  - operation of telecommunications
  - provision of air traffic services, including aeronautical information services (AIS), air traffic control at Beirut International Airport (BIA) and area air traffic control services in Lebanese airspace
- Airports Directorate, responsible for the operation and maintenance of BIA, including security, and fire and rescue
- Meteorological Department, which is responsible for meteorological observation, distribution of forecasts, collection and distribution of statistics
- Aviation Safety Department, including departments dealing with airworthiness, flight operations and personnel licensing
- Research and Studies Department
- Air Transport Department, responsible for the preparation of international agreements, participation in international for a, technical cooperation at local, regional and international levels, and legal and economic studies.

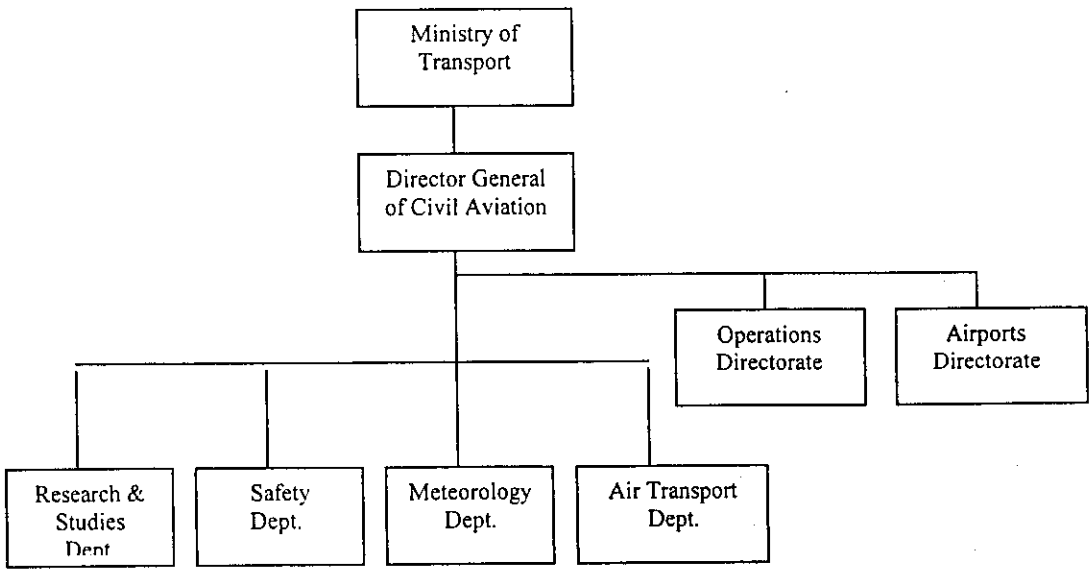


Figure: Current Institutional Arrangements for Civil Aviation in Lebanon

In addition to the DGCA, the Higher Council for Civil Aviation is charged with:

- Proposing the economic policy for civil aviation
- Giving opinions on requests for the creation and operation of airlines
- Giving opinions on requests for bilateral agreements
- Examining requests for the incorporation of new companies in the civil aviation sector.

The Higher Council has representatives from all of the relevant ministries, including Transport, Economy, Foreign Affairs and the Interior. MEA and TMA attend meetings but have no voting rights. The exact executive powers of the Higher Council are not clearly defined.

The Civil Aviation Safety Center was created through Decree 13677 of 23 August 1963. It is an independently funded legal entity charged with provision of training in civil aviation and performing research and studies into air navigation safety.

2.4.2 Air Transport System Salient Features

The following information is presented as it appeared in Booz-Allen Hamilton reports, with minor revisions if any.

2.4.2.1 Passenger Traffic

Since 1992, the average annual growth in passenger traffic at BIA has been approximately 14% per year. Over the most recent years, this growth has been approximately 5.5%. The evolution of passenger traffic has been stable, and it reached a total of 2,343,387 in the year 2000 (1,120,164 arrivals; 1,124,624 departures and 98,599 transit).

2.4.2.2 Freight Traffic

Demand for freight transport decreased significantly over the period from its peak in 1984 (78,000 tons) to 1988 (32,000 tons). Since 1990, the evolution of demand has been fairly volatile and unpredictable. However, there has been a slight upward trend in demand to the level of 59,243 tons reached in the year 2000 (35,859 tons of imports and 23,384 tons of exports).

2.4.2.3 Air Rights Policy

Current Lebanese policy towards traffic rights is framed in three decisions of the Council of Ministers:

- Decision Number 35 of 20 August 1997 that recommends the liberalization of air transport to/from Lebanon based on 3rd and 4th freedoms from the beginning of 2000. The Ministry of Transport/DGCA is permitted to negotiate and conclude agreements with other countries on the basis of:
  - reciprocity
  - analysis of demand to ensure that capacity / operational frequencies are in equilibrium with this demand
  - progressive transition to policy implementation to minimize negative effects.
- Decision Number 28 of 16 October 1997 that allows the liberalization of air transport to / from Lebanon based on 3rd and 4th freedoms to account for temporary peaks in

demand occurring during the summer and around religious events. DGCA is permitted to grant temporary permission for flights / increased in operational frequency on the basis of:

- the principles of Decision No. 35
- a case-by-case analysis.

- The recent policy statement on liberalization made in the Council of Ministers that approves the open sky policy including fifth freedom rights and the charter system (Decision No. 23, Council of Ministers Meeting, Wednesday 08 November, 2000).

1/ → what is the opinion of the Consultant?
2/ → did he recommend any measures to sustain this Policy

2.3.2.4 POSITION OF THE LEBANESE AIRLINES

Lebanon has two airlines:

- Middle Eastern Airlines (MEA), which has the sole right to operate as a passenger airline registered in Lebanon. MEA is owned by the Central Bank. It operates a small fleet of 9 Airbus aircraft and is currently the subject of a privatization study being performed by the International Finance Corporation (IFC).

- Trans-Mediterranean Airways (TMA) is a wholly freight operator. It is privately owned. Its fleet comprises 5 B-707 hush-kitted aircraft, of which only 2 are fully operational. TMA is searching for a strategic investor.

Both MEA and TMA are in severe loss-making positions. MEA is quoted in May 1999 as making a $43m over the last year. After making a small profit in 1998, TMA reverted to loss making in 1999.

The poor performance of both airlines can be attributed to a number of common causes:

- Overstaffing: This problem is particularly significant for MEA, where overstaffing by a factor of approximately 2 is concluded by comparison with industry best practice. As a public entity, MEA is constrained in any approach to restructuring and / or reducing staff numbers. The privately owned TMA has recently restructured and reduced its staff contingent.

- Under-utilization: MEA has low load factors relative to the other carriers in the region.

The TMA fleet is also under-utilized. On average, each aircraft is flown for 2000 hours per year as opposed to the industry norm of around 4,000 hours for cargo aircraft. However, despite this, TMA has captured around 60% of the freight market in Lebanon, indicating that the total capacity of TMA is around 66,000 tons of freight per year. Based on a continuation of the share of market, the overall freight capacity for Lebanon would then be 110,000 tons per year or, if 50:50 sharing were allowed, the freight capacity would be 132,000 tons per year.

We have to make comparison with the Regional companies, we don't have long distance

- Inefficient fleet configuration: Although it is relatively modern and small, the MEA fleet is made up of a diverse range of aircraft and engine types. The fleet mix does not provide a good capacity / performance match to the markets being served. The TMA fleet comprises old aircraft that are expensive to operate and maintain and the capacity / performance provided may not be optimized to the markets served.

2.4.2.5 SUMMARY OF CURRENT STATISTICS

The current status of the air transport sector is as follows:

- Economic Growth: GDP growth has been relatively volatile since 1990 reaching a high of 8% in 1994 and reaching a low of less than 1% in 2000.

- Infrastructure Development: The infrastructure supporting civil aviation in Lebanon has been the subject of high investment and has a high level of capability with respect to the demands placed on it. Beirut International Airport has a capacity of approximately 6 million passengers and 120,000 tons of freight per year.

- Political Stability: The political situation in the major part of Lebanon is stable but the situation in the southern part of the country is unstable. There is an external perception that the unrest in Palestine could spill over to other parts of the region.

- Traffic Evolution: Passenger traffic in Lebanon has recovered from the effects of the war. Since 1992, the average annual growth in passenger traffic at BIA has been approximately 14% per year. Recently, this growth has fallen back to approximately 5,5%.

- Freight traffic has decreased since the mid 1980s and its demand is volatile. Current demand at Beirut International Airport is around 60,000 tons of freight per year.

- There were approximately 36,500 overflights in 1997.

- Liberalization / Open Skies: Air transport is governed by bilateral agreements negotiated on the basis of reciprocity. The agreements take into account demand, frequency and capacity and equality of opportunity. Any relaxation of the constraints imposed by the agreements is subject to the "no objection" principle from the domestic airlines. The current policy, agreed by the Council of Ministers at its meeting on 08 November 2000, is to implement an open skies policy based on fifth freedom rights and the charter system.

- Privatization: The degree of privatization is very low. The airport and air traffic services are operated by the Directorate General of Civil Aviation. Middle Eastern Airlines (MEA) is owned principally by the Central Bank although Trans Mediterranean Airways (TMA) is a private sector company.

- Competition: The degree of competition is very low. The airport and air traffic services are operated as monopolies. There is no internal competition to MEA and TMA and the bilateral agreement arrangements ensure that additional competition from foreign carriers is limited. There is a degree of competition in ground handling at BIA, where three companies (MEAS, LAT and the Helicopter Company) provide services.

- Social Aspects: The aviation sector in Lebanon suffers from over-staffing, particularly within MEA. In general, the staff is highly qualified although there are skill shortages in certain areas. Working arrangements are inflexible.

- Environmental Policy: An environmental policy relating to civil aviation does not appear to have been defined.

- Technological Innovation: The reconstruction process has resulted in Lebanon being equipped with modern technology and systems.
- Regional Harmonization of Air Transport Sector: Regional cooperation occurs at a minimal level. MEA is a member of the Arab Air Carriers Organization (AACO) and Lebanon is a dormant member of the Arab Civil Aviation Commission (ACAC).

2.5 INTERMODALITY

Very little intermodal coordination is practiced in Lebanon. This is an indication that transport in Lebanon has not yet achieved the status of an "industry".

As stated earlier Land Transport is dominated by the car, without any rail services at the present. The port sector is dominated by Beirut Port, with Tripoli coming second, other ports have only a marginal contribution. Air Transport is served from Beirut International Airport, with plans to rehabilitate Quleiaat and maybe Rayak Airports.

The improvement of the connection of the Ports of Beirut and Tripoli with the road network is now under consideration. Actually the Penetrante de Port was designed to better connect Beirut Port with the road network. While most of its construction is complete, there remains few problems on it at its termini which hampers its effectiveness. For Tripoli Port, the Western Bypass (between Tripoli Fair and Beddawi) is now candidate to get financed and built. Both ports are served by the rail network, but rail services are not available.

BIA is well served by roads. The Greater Beirut Area Transportation Plan envisages serving BIA by the Regional Rail Line and also by the proposed mass transit that leads to Central Beirut. These plans are still far from execution.

The transportation – distribution chain suffers from the lack of warehousing and logistics facilities.

On the passenger transport side, the picture is not brighter.

Most of the terminal function occurs on the streets due to lack of specialized bus terminals (except for Charles Helou Station). No Park-and-Ride facilities are present. Taxi-services do not have terminals but rather roam all day.

In a nutshell, out of all the essential components of a multimodal transport network, currently in Lebanon only some of the components are present with serious absence of other components that constitute a system.

3. IDENTIFICATION AND ANALYSIS OF PROBLEM AREAS

3.1 PORTS

3.1.1 The traffics

3.1.1.1 PROSPECTS FOR TRANSHIPMENTS

A considerable share of the world's regular deep-sea liner trades go through the Mediterranean. There therefore exist strong opportunities for the development of transhipments in this area. Beirut, and more generally the Lebanese ports are not however situated on the routes of these vessels which sail in both directions between Algeciras and Suez. In relation to this route, a 12 hours navigational detour is necessary to call at Beirut.
That is why this port cannot hope to compete with the hubs situated on the sailing route of vessels, such as Algeciras, Gioia Tauro, Malta (Marsaxlokk), Cagliari, Taranto, Damietta or Port Saïd. These ports enable the shipping companies to concentrate many of their services in them and to carry out transhipments not only to ensure a local collection-distribution of containers (feedering), but also to optimize the port service pattern of the vessels of the principal services (interlining)[12].

Against that, it must not be excluded that Beirut may be able in the future to play a certain role in the servicing by the feedering to and from the neighboring regions : East of Turkey (Mersin, Iskenderun), Syria (Tartous, Lattaquia), Jordan (Aqaba), etc.

The attractiveness of Beirut for this function will, in part, depend on the size of its interior market and of the transit traffics that it can attract. It is indeed this market that will or will not justify a direct call by large vessels, instead and in place of a feeder service linked to a hub such as Damietta for instance.

The choice of the ship-owners will also depend on the efficiency of cargo handling in Beirut and also on a tariff that incites transhipments.

3.1.1.2 PROSPECTS FOR TRANSIT

Transit cargo for Syria, Jordan, Iraq, or even Iran, represents a very important challenge for the Lebanese ports.

Indeed, the national market of Lebanon is a small market, based on a population of 3.6 million inhabitants, against 16.7 million in Syria, 23 million in Iraq, and 66 million in Iran.

Although sea transport will always be the cheapest form of transport, land transport can be justified for Iraq, for example when it is containerized cargo from Europe, taking into account:

- The Suez Canal costs and the necessity to tranship
- The gain in time (possibly considerable) that transit through the port of Beirut could make possible.

[12] Interlining enables the big shipping companies and the alliances operating numerous services to provide in each port of call a very large number of destinations, thanks to the transhipment in a hub called at by a great number of these services.

In spite of the interest of this solution for the customer, transit through Lebanese ports is today fairly low for various reasons, essentially political. There is notably the protectionism of Syria, looking to defend its national ports, the sanctions imposed on Iraq and also the evolution of the peace process in the sub-region. The importance of the political factor in this matter leads to practically no visibility for the medium and long term.

The side of the question that is apparently the easiest to grasp is the protectionism of Syria which is penalizing its own market (Beirut is 100 km from Damascus, against 350 km for Lattakia). But Syria imposes shipments through Lattakia or Tartous on its own traders. In a more insidious way, Syria penalizes transit traffics on its own territory, regardless of the international conventions it has signed (TIR).

The two tables hereunder well illustrate the consequences of protectionism on the competitiveness of transit via Beirut.[13].

Customs Fees and Taxes for the Passage of One Kuwaiti Truck from Beirut to Kuwait

	Fees (US$)		Transit Tax
Lebanon	34	Stamps	
Syria	226	Fuel, escort, misc.	+ 0,2 %
Jordan	126	Fuel, escort, misc.	+ 0,4 % (Max = 285$ per truck)
Saudi Arabia	29	Passage, misc.	
TOTAL	415		+ 0,6 % Advalorem

It is evident that the passage through Syria is penalizing.

Comparison of Transport Cost for 1 X 40' Container
Ex Tartous / Aqaba / Beirut to Baghdad

Port Dues	$93 ,50	$51	$100

	Tartous	Aquaba	Beirut
THC	$87	$127	$260
Transit Formality & Ex	$140	$53	$180
Road / Border Exp.	$70	$39	$260
Haulage to Baghdad	$700	$665	$700
Empty : Haulage	(incl)	$35	$210
Empty : Road / Border	$14	-	$125
Empty : Formality	$10	-	$235
Transit Tax (V $ 30 000)	-	-	$60
TOTAL	$1115	$1020	$2130

The Lebanese corridor is handicapped by high port costs as well as by a discriminatory treatment in Syria.

These fees should be verified

[13] This data is extracted from a conference « Road Transport in Lebanon », by Fouad BAWARSHI, GEZAIRI Transport (1st annual conference for transport facilitation, Beirut 24 february 2001)

The development of these transit traffics going through the gateway potentially made up of the ports of Beirut and Tripoli has been rendered less necessary, and therefore more difficult by the development of the Persian Gulf ports, or even those of the Red Sea. Moreover, any important development of these traffics absolutely necessitates the suppression of the numerous tariff or non-tariff forms of protection set up by neighboring countries to Lebanon. This development requires the spirit and the letter of the International Conventions signed between the various States to be applied and where necessary additional facilitation measures taken

3.1.2 Inefficient and Outdated Organization of Cargo Handling

3.1.2.1 PORT OF BEIRUT

The port of Beirut is rightly considered by certain actors in the port community as **a conventional port handling container activities.**

Indeed, the organizational and institutional framework is characterized by the intervention of a large number of actors who break up operations and multiply the changes in responsibility (and the grey areas in the field of these responsibilities), the interferences and the economic inefficiencies. The existence of certain of these actors, justified by technical requirements of past times, has never been abolished to take into account the advances in the domain of these activities.

A profession such as that of the workers of "Société Libanaise d'Acconage", who hook and unhook the slings from the corners of the containers could advantageously be substituted by the use of automatic spreaders to the advantage of speed and safety in the operations.

According to the evidence collected by the consultant, the actors intervening in port cargo handling (in the widest sense) all present the character of informal businesses. They only possess limited material means, most often unsuited to the operations to be carried out, with bad maintenance and out of date, no longer complying with the safety standards usually admitted. They only employ a limited number of permanent personnel, recruiting, on a day by day basis, casual labor possessing no technical training suitable to the correct execution of their tasks (notably as regards the driving of the shipboard electronic cranes to be found on certain vessels).

The stevedores are engaged by the ship-agent, engaging the liability of the ship-owner. Certain of these stevedores are not insured[14]. What are therefore the liabilities in case of accident or in case of damage to shipboard cranes?

As for the Société Libanaise d'Acconage, a monopoly created at the time when the port was congested, it intervenes on the quayside to hook and unhook the slings, employing for this task one or two "boys".

In a lesser measure, also intervene in the port, gangway watchmen, tally clerks who belong to a special union and who are not controlled by anyone, and finally the dockers of the GEPB who work in the warehouses.

[14] One can suppose that in the absence of a meaningful financial standing, it is very difficult for them to insure for high levels of liability.

GEPB accepts liability for the goods only when they are set down in the warehouse. Between the landing on the quayside and the warehouse (and of course the open storage areas) there is a grey area where there is no responsibility.

Furthermore, it appears that hazardous goods are not handled with all the care that should be imposed. The separation of powers between the Harbor Master in charge of the safety of vessels on the one hand, and an Operations Managements of GPB in charge of safety on port land on the other hand, renders the reception of responsibility of hazardous goods more complex and increases the risks.

The transport of containers to and from the port is carried out by independent truckers. These firms utilize equipment unsuited to the carriage of containers (notably the 40's simply set down on a flatbed with no fixations, which makes for serious risks of accidents). There again, certain firms are probably not insured, or at least not in respect of the values carried. Similarly, in the absence of any verification, overloading can also threaten safe carriage.

Moreover, numerous entities are present in the port with fiscal or security missions: Customs, General Safety, State Security, Military Intelligence services.... All these superposed entities intervene in, for example, the visit of containers, considerably increasing the lengths of stay of the goods in the port, as well as formal and informal additional costs.

3.1.2.2 Other Ports

The organization of operations in the port of Tripoli appears similar to that observed in Beirut. But on the one hand the stakes are not of the same order, and on the other hand the port of Tripoli only handles containers in a marginal way. Consequently, it being a question of conventional cargo handling, the weaknesses observed are a lot less penalizing.

3.1.3 Insufficient Efficiency

In the absence of operational statistics (which cannot be envisaged in the present context of cargo handling characterized by the informal character of operations), there is no exact and uncontested data (which is a problem in itself).

Because of this, the most fantastic figures are bandied about. According to many of the actors of the port system, the productivity for handling containers achieves 18 to 20 moves per hour and per gang (which corresponds to the average commercial rate obtained by certain ports in Europe equipped with container gantries). In fact, it appears that the true average rate would be nearer to 50% of the figures given.[15]

In the fields of conventional or bulk traffics, it is even less possible to gain an even approximate idea of the efficiency of operations, given the great variety of cases. The recent report of BCEOM mentions a wide bracket of 400 to 1000 tons per shift.

What is your recommendations?

[15] Which remains however extremely honourable given the means employed.

These insufficient performances result from an institutional framework and an inadequate organization in the implementation of modern methods of cargo handling as well as the absence of adequate equipment and training of personnel in the corresponding technologies.

3.1.4 Prospects for the Future Management of the Container Terminal of the Port of Beirut

The new container terminal of the Port of Beirut has been inactive for three years, which presents an important loss for the Nation.

This delay is due to the failure to set up the terminal concession. Following a call for bids, the concession was in fact awarded to a Lebanese company associated with the Dubai Port Authority (DPA). Following this award, a long process was engaged. The new concessionary firstly put themselves in a condition de fulfill their contract by the acquisition of the equipment necessary to work the terminal. They then entered into negotiation with the port of Beirut and put in question certain of their contractual obligations. As the negotiations continued, it became more and more evident that the concessionary no longer wanted to operate the terminal. In spite of a very conciliating attitude on the part of the authorities, and some very generous offers made to the concessionary, the latter finally refused. The equipment ordered has been installed in another port

The causes of this renunciation have not been determined: mistake on the volume of traffic anticipated, in relationship or not with the deterioration of the international context, under-estimation of the social problems to be resolved?

With a view of getting out of this deadlock and to get the terminal working as soon as possible, it was decided that GEPB could acquire the equipment and hand over the running of the terminal, in the shape of a "management contract" to an operator for a duration of several years. Only after this period, would a definitive solution be looked for, founded on the taking over of the equipment by a concessionary installed for a long period.

This solution can effectively guarantee that the terminal be put in use more rapidly than any other way. The order for equipment[16] can indeed be placed immediately, at the same time as the call for bids for the recruitment of a management firm.

Obviously this would be a twist to the general policy of the government oriented towards the privatization of market activities, but justified by its urgency.

The question now to be answered is that of the recruitment of the management firm and this notably as regards two points:

- What is the minimal length of time to be granted to this management in order to motivate them to undertake a real commercial approach for the promotion of the terminal? Is a three years time-span, suggested by one of the actors, not too short a time from this point of view?
- How to draw up the call for tenders and the contract in order to recruit a competent and motivated management company?

[16] Three post-panamax, gantry cranes, Six RTG's, seven FLT's, four Reach-Stackers, etc...

One must, without doubt, also be conscious of the fact that the chances of success of a possible future call for tenders aiming at the recruitment of a concessionary to take over the terminal equipment will, to a certain extent, be conditioned by the quality of the results obtained during the transitory management phase.

3.1.5 Human Resources : over-staffing, qualifications, know-how

The port of Beirut in particular suffers from very heavy over-staffing and from an top heavy age pyramid. Various problems are therefore posed:

- A freeze on hiring new personnel because of over-staffing, therefore impossibility to attain a younger age pyramid and to accompany the modernization of methods by the recruitment of qualified personnel,
- A relatively high salary level due to the average length of service of the personnel,
- Prospects of massive retirements resulting in losses of know-how.

3.1.6 Tariffs and Financial Structure of Lebanese Ports

Port tariffs are very high in Lebanese ports and produce large profits, even in Beirut where the personnel costs weigh down heavily on the profitability. These tariffs raise several questions:

- **The structure of these tariffs is old,** puts all the charges on the goods and spares the ship, does not reflect the true costs[17]. These tariffs do not only apply to services rendered but also to cargo handling which is carried out by private operators.
- These tariffs enable **huge surplus margins** even with the excessive costs: this situation does not incite rigorous management
- To a certain extent, these surpluses can be freely used for the investments decided on by the port, the remainder being paid into the coffers of the State. This situation is particularly questionable in Beirut, where the port authority (GEPB) has a wide autonomy vis-à-vis the State.

The last point provides an argument for the port management: not only do we totally cover the financing of our investments, but moreover our activity brings in money for the State.

That means in fact that **the port acts as a tax collector**. Now, is that the normal role of a port? Wouldn't it be preferable that the port levies less money, that the collection of taxes be the prerogative of Customs (whose scales reflect the policy of the State in matters of imports) and that the State remains master of its options in matters of the utilization of funds collected: construction of roads, or of port infrastructures, or of schools?

Whatever their statute, the ports produce profits and finance their investments (a part of the income can be put into reserves for this purpose). Any then available surplus is paid into the coffers of the State.

[17] The principle of transparency of prices would entrain that the costs generated by the vessel (use of the channels, shelter, berth occupation) be invoiced to the ship-owner and that the costs generated by the handling of the goods (utilisation of port roadways, occupation of open storage areas and warehouses) be debited to the forwarder, the representative of the shipper. A more or less realistic application of this principle leads to an 80/20 split between port dues on the vessel and port dues for the goods.

what is the proposed structure

The port tariffs of the ports of Beirut and Tripoli have an out of date structure, a low taxation of vessels (2.5% of the income in Beirut, 7% in Tripoli) and storage, but heavily charging the goods (69% of income in Beirut, 40% in Tripoli) and the handling of cargo (18% of income in Beirut, 27% in Tripoli). The basis of the port dues on goods is organized according to 10 categories of goods (in fact a classification by value) and is ad valorem in Tripoli.

should be confirmed by the ports

The expenditure of the port of Beirut is largely dominated by personnel costs (62% of costs, including social actions and sickness benefit insurance). This underlines the importance of the overstaffing of the port.

The structure of costs of the port of Tripoli is widely different, with personnel costs lower (15%), costs of maintenance higher (31%) and above all a high level of repayment of financial debts (34%) which leads to pointing out the limits of the borrowing capacity of this port.

The 2001 budget of the port of Beirut shows an operational profit of 37.147 million LL (nearly US$ 25 million) or 36% of the income, dedicated for the most part towards investments and for the remainder to the build up of provisions and reserves.

In the port of Tripoli, the operational profit bears on 59 % of the total income, that is to say US$ 2.94 million.

[4] according to the study "Analysis of options for Improving Port Operations in the Lebanese Republic, p11

3.1.7 Investments and Competition

3.1.7.1 Compatibility Of The Investment Projects Of The Various Lebanese Ports

The overall traffic of the Lebanese ports currently amounts to about 6 to 6.5 million tons and 300 000 TEUs of containerized traffic.

the project of PoB should be taken into consideration

In the port of Beirut, the start-up of activities on the new container terminal (600 meters quay-length extendable to 1200 meters) will enable 400 000 TEUs per annum to be handled in the first stages (and well over a million when it is completed). It can face up to all the growth of container traffic that can be reasonably forecasted for a horizon of 2015 (including the development of transit traffics). The commissioning of this terminal will free the quays and storage areas of the other docks in the port of Beirut from a large part of their current activity, rendering them capable of satisfying the development of conventional cargo and passenger traffics.

to be clarify

The port of Tripoli has undertaken an ambitious investment program regarding which the consultant lacks information. These investments covered in a first stage the improvement of the depths of the present accesses and docks, the utility of which cannot be denied taking into account the increases in sizes of ships and the economies in sea freight achievable.

But the future prospects opened by this program cover 600m of quay, extendable to 1200 m in its final form with a water depth of -12m capable of being dredged to -15m. What is then the aim of this investment? Is it coherent with the prospects of short and medium term demand? Will it not become a competitor of the new container terminal of Beirut and will the future

operator of this terminal accept to commit himself with the threat of such competition? Indeed, the profitability of the operation of a container terminal is strongly linked to the massing of flows, the volume enabling a good pay off on fixed costs.

The case of the investments studied by the management of the **port of Saida** is clearer. It is a project for a container terminal.

This terminal, set up as a "hub" would evidently be firstly a competitor for the port of Beirut, only 45 km away. The risk of a premature undertaking of this port would be that of a destructive price war, increasing the costs of each of the two parties. Here again, the future operator of the port of Beirut container terminal would be founded in his opposition to the undertaking of such a project.

This project however appears unlikely to be undertaken, its financing being entirely based on the private sector. Insofar as both in the short and medium terms, the market is obviously insufficient, such an undertaking may be excluded.

ok

3.1.7.2 The Financing Of The Port Investment Projects Of The Various Ports

Thanks to the size of its traffics and to the profit margin permitted by high tariffs, the port of Beirut has been able to finance the construction of the first phase of its container terminal, for a sum of US$ 150 million. To do this the port did not need to turn to loans liable to compromise its future financial balance.

It is a completely different picture for the investments under way today in the port of Tripoli. These are for an amount estimated at US$ 84 million, financed by a loan from the EIB of US$ 42 million and by auto-financing for the complement.

The conclusion of the financial analysis carried out by BCEOM was (in the case of a landlord port:

"With the low traffic hypothesis, the financial flow analysis clearly shows that in view of the operating and investment assumptions we have made, the Port Management Entity cannot service the debt relating to the loan taken out with the BEI, and even less pay compensation for the capital invested by the State to finance this work.

If the high traffic hypothesis is confirmed, the Port Management Entity will be able to service the debt. Still in this high traffic hypothesis, the IRR for the State only attains 7.68% and therefore does not make the investment profitable if the desired IRR is 12%".[18]

This should be updated on the basis of the final report.

No

→ [A consultant's opinion should be given]

3.1.7.3 Competition Versus Efficiency

Lebanon is a country of modest size, and the distances do not justify a multiplicity of ports by the potential savings in road haulage. Against that, a certain degree of competition is necessary to guarantee the competitiveness of the system. But on this point it is necessary to make a distinction between the various activities.

[18] Advisory Services For Private Participation in the Ports of Beirut and Tripoli, BCEOM, June 2002, p 92

Open competition enables an economic optimum to be attained under certain conditions laid down in theory. In practice, competitiveness is that much more desirable when the sector is less capitalistic, generating less indivisibilities. The application to the field of port operations leads to one to judge competition as being desirable for operations relative to conventional and Ro-Ro cargo, which require little specialized equipment and little tying up of capital.

Against this, it only appears to be desirable in the field of container terminals over a certain volume enabling two operators both to obtain the required economies of scale to lower the costs and get a return on the equipment.

Below this threshold, the level of which may be debatable but which is necessarily superior to 500/600 000 TEUs per annum, a **regulated** monopoly seems preferable to competition.

3.1.8 Excessive Transit Costs Through Lebanese Ports

The transit costs in Lebanese ports are high, notably in Beirut. Port dues contribute to this but are only one element amongst others

Thus for example, the case cited in a recent report[19], comparing the cost of port transit in Beirut with the cost of transport by sea from Europe. This case may be criticizable in the details, but globally the remark remains.

Estimated Cost to Import a 40 ft Container From Europe Through the Port of Beirut

	US $
Freight Charges from Europe (average)	1 200
Cost in the Port of Beirut	
- Custom Cost (stamps, fines)	150
- Port fees (for miscellaneous goods in containers)	500
- Container handling cost (new terminal charge)	150
- Miscellaneous port charges	50
- Port clearance cost (based on trade efficiency project)	510
- Local trucking cost	75
- Informal cost (based on trade efficiency project)	475
Total Port Cost	1 910
Total Transportation Cost	3 110

à vérifier et considérer

These high costs penalize the local consumer, and moreover are of a nature to handicap the development of transit traffics to other countries for which the port of Beirut is in competition with other corridors. An in-depth action is necessary, aiming to simplify procedures, and to obtain better flows in the transit of goods (cutting out at the same time the opportunities for the payment of illicit commissions). A "culture of open competition" must be promoted in order to limit the costs imposed by the various actors in the transport chain.

[19] International Maritime Associates Inc, Analysis of options for Improving Port Operations in the Lebanese Republic,

It is remarkable that these very high costs only be for a very small part attributable to port cargo handling. From this observation it results that the improvement to the efficiency only of the latter would not suffice to reduce the port transit costs, far from it.

3.1.9 Pilot and Towage Services

According to the evidence collected by the consultant, the employees of the family firm that has the monopoly of the exercise of pilot and towage services in the port of Beirut have not all received the necessary training to practice the job of piloting. Certain vessels entering the port of Beirut have a dispensation for piloting but nevertheless have to pay for the service.

Moreover, one can question the pertinence of coupling the monopoly of pilot services and towage services, the pilots having every interest under these conditions to recommend the use of tugs.

3.2 MARITIME

3.2.1 Administrative Structures

The Ministry of Transport is a very recent and young Ministry (1993). Its two General Directorates belonged before to the *Ministry of Public Works and Transport.*

The youth of this structure notably explains:
the lack of necessary complementary organizing legal texts,
the lack of persons with the required background and experience to enable some positions to function effectively.

This phase of ministerial reorganization, hastened in the context of the National Program for Administrative Rehabilitation, provided the opportunity to renovate the role of the Government in the Transport sector. It turns out however that in 2002, a certain number of weaknesses can still be noted.
The degree of the direct implication of the Government in the Transport sector has yet to be determined.
The exact specification of the functions and competences of each department and service remains to be defined.
The possibility to delegate certain functions to autonomous bodies or agencies does not seem to have been sufficiently employed in matters of maritime transport.
The relations between the Ministry and these agencies, placed under tutorship, lack coordination and often result in a lack of efficiency, or even a waste of public funds.

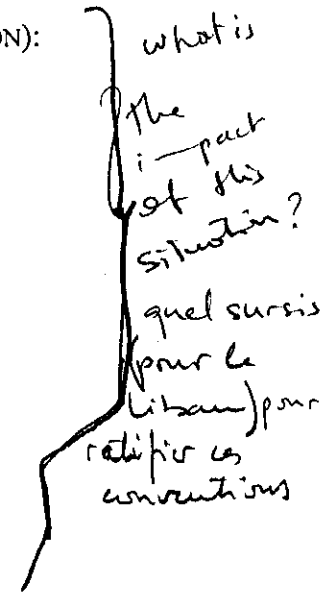
Finally, Lebanon, during the years of instability, was constrained to suspend or halt its relations with numerous regional and international Organizations implicated in the transport sector. It therefore becomes necessary today to re-establish these relations, to restore the position of Lebanon on the international stage and to catch up with the backlog in terms of the ratification of the International Conventions. This role, in the foreign relations of Lebanon, falls especially on the shoulders of the Ministry of Transport.

3.2.2 International Conventions not yet Ratified by Lebanon

3.2.2.1 IMO CONVENTIONS (NOT RATIFIED BY LEBANON):

- IMO Amendments 1991
- International Convention for the Safety of Life at Sea (SOLAS) Protocol 1988
- Stockholm Agreement 1996
- LOAD LINES Protocol 1988
- Convention on the International Regulations for Preventing Collisions at Sea (COLREG) Convention 1972
- International Convention for Safe Containers (CSC) Amendments 1993
- The Torremolinos International Convention for the Safety of Fishing Vessels (SFV) Protocol 1993
- International Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel (STCW-F) Convention 1995
- International Convention on Maritime Search and Rescue (SAR) Convention 1979
- Special Trade Passenger Ships (STP) Agreement 1971 et STP Protocol 1973
- Convention on the International Maritime Satellite Organization (INMARSAT) Amendments 1994
- International Convention for the Prevention of Pollution from Ships (MARPOL) Protocol 1997 (Annex VI)
- London Convention 1972 et London Convention Protocol 1996
- International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (INTERVENTION) Protocol 1973
- International Convention on Civil Liability for Oil Pollution damage (CLC) Protocol 1976 et CLC Protocol 1992
- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND) Convention 1971, FUND Protocol 1976 et FUND Protocol 1992
- Convention relating to Civil Liability in the field of Maritime Carriage of Nuclear Material (NUCLEAR) Convention 1971
- Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL) Convention 1974, PAL Protocol 1976 et PAL Protocol 1990
- Convention on Limitation of Liability for Maritime Claims (LLMC) Convention 1976 et LLMC Protocol 1996
- International Convention on Salvage (SALVAGE) Convention 1989
- International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) Convention 1990
- International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances (HNS) Convention 1996
- OPRC/HNS Convention 2000
- International Convention on Civil Liability for Bunker Oil Pollution Damage (BUNKERS) Convention 2001
- International Convention on the Control of Harmful Anti-fouling Systems on Ships (ANTI FOULING) 2001.

3.2.2.2 ILO CONVENTIONS CONCERNING WORK AT SEA (NOT RATIFIED BY LEBANON):



- C. 16 Medical Examination of Young Persons (Sea) Convention, 1921
  Ratified by: Cyprus, Greece, Malta, Tunisia
- C. 54 Holidays with pay (Sea) Convention, 1936
- C. 56 Sickness Insurance (Sea) Convention, 1936
  Ratified by: Algeria, Egypt
- C. 68 Food and Catering (Ships' Crew) Convention, 1945
  Ratified by: Algeria, Egypt, Greece
- C. 70 Social Security (Seafarers) Convention, 1946
  Ratified by: Algeria
- C. 72 Paid Vacations (Seafarers) Convention, 1946
- C. 75 Accommodation of Crews Convention, 1946
- C. 76 Wages, Hours of work and Manning (Sea) Convention, 1946
- C. 91 Paid Vacations (Seafarers) Convention (revised), 1949
  Ratified by: Algeria, Israel, Tunisia
- C. 92 Accommodations of Crews Convention (revised), 1949
  Ratified by: Algeria, Cyprus, Egypt, Greece, Israel
- C. 93 Wages, Hours of Work and Manning (Sea) Convention (revised), 1949
- C. 108 Seafarers' Identity Documents Convention, 1958
  Ratified par: Algeria, Greece, Malta, Morocco, Tunisia
- C. 134 Prevention of Accidents (Seafarers) Convention, 1970
  Ratified by: Egypt, Greece, Israel
- C. 145 Continuity of Employment (Seafarers) Convention, 1976
  Ratified by: Egypt, Morocco
- C. 146 Seafarers' Annual Leave with Pay Convention, 1976
  Ratified by: Morocco
- C. 147 Protocol of 1996 to the Merchant Shipping (Minimum standards Convention), 1976 Ratified by: Greece, Malta
- C. 163 Seafarers' Welfare Convention, 1987
- C. 164 Health protection and Medical Care (Seafarers) Convention, 1987
- C. 165 Social Security (Seafarers) convention (revised), 1987
- C. 166 Repatriation of Seafarers Convention, 1988
- C. 178 Labor Inspection (Seafarers) Convention, 1996
  Ratified by: Morocco
- C. 179 Recruitment and Placement of Seafarers Convention, 1996
- C. 180 Seafarers' Hours of Work and the Manning of Ships Convention, 1996
  Ratified by: Greece, Morocco

3.2.3 Difficulties of Implementing the International Conventions Ratified by Lebanon

The lack of legal constraints is one of the major characteristics of numerous international rules (*soft law*). The case of the Recommendations and the Resolutions of IMO and even of certain Conventions leaves a discretionary power for their application or interpretation by the States. This lack of compulsory force handicaps the efficiency of these regulations and can therefore become a source of differences in their application. The Flag States are therefore

only invited or incited to adopt a determined behavior and to incorporate these prescriptions in their national law.[20].

This freedom left to the Flag States therefore enables them to opt between two attitudes:
Adopt all internal measures providing a constraining legal force for the international texts (choice of the regulatory or legal path).
Consider that the text is of no interest and decide to leave it as a dead letter.

Only a politically asserted will of the Flag States as well as the moral authority of IMO or ILO will enable a concrete application of these rules. Indeed, the adoption of numerous amendments or protocols through the rule of *tacit acceptation* [21], implies a rigorous legal follow-up of the international regulations. It is effectively considered that these complementary rules progressively work towards the formation of an international juridical custom, that at term will lead the whole international maritime community to comply with them.

If the application of international rules is in the first instance the prerogative of the Flag State (*Flag State Control – FSC*), Flag States can nevertheless be relayed, in case of failures, by the State of the port (*Port State Control – PSC*).

3.2.3.1 FLAG STATE

In virtue of article 94 of the Montego Bay Convention of 1982, the Flag State has the responsibility to exercise fully its jurisdiction as well as the administrative, technical and social controls of the vessels flying its flag.

Amongst the obligations of the Flag State are counted:
- the holding of a register providing the names and characteristics of the vessel,
- jurisdiction over the vessel, the captain, officers and crew,
- taking measures to ensure safety at sea (construction, equipment, seaworthiness, composition of crews, working conditions and training of seamen, employment of signals, correctly working communications equipment, prevention of collisions),
- obligation to conform to the international regulations, procedures and practices generally accepted,
- obligation to hold an enquiry on any accident at sea or navigational incident.

3.2.3.1.1 Concerning the Fundamental Elements of the Vessel[22]:

Compelled to satisfy its obligation to implement international regulations, the Flag State has two possibilities:
Either it exercises itself (through its competent administration) its legal functions of control and of certificating its vessels as conforming with the conventions,
Or it delegates, all or part of its inspection and visit powers to exterior organizations: **Classification Societies**.

[20] Numerous recommendations specify that the States are invited to adopt these *"insofar as it is possible and reasonable"*.
[21] This procedure provides that an amendment will enter into force at a given date unless, prior to this date, a certain number of States have registered their opposition to it.
[22] The fundamental elements of a vessel are: the hull, the engines, the electrical installations and the steering gear. The operational aspects of safety fall outside the competences of the classification societies.

Insofar as numerous Flag States are conscious that they do not possess adequate means, notably in specialized personnel, this delegation of competence has become a virtually universal phenomena. The Classification Societies therefore play, other than their function of classification of vessels, a **role of certification.**

These classification societies have multiplied and unreliable societies have made their appearance. The latter do not present the required qualities to act in the name of the State. A lack of experienced and qualified personnel as well as a lack of appropriate infrastructures is to be noted.

A very divergent application of the international regulations therefore emerges from the value and competences of the classification societies. Certain of them sometimes decide on matters of safety taking into account other imperatives, such as that of keeping vessels on the national register.

Some of them however have joined together in the *International Association of Classification Societies* (IACS). This International Non Governmental Organization appeared as early as 1968 in Oslo and intends to promote a high level of safety as well as preserving the reputation for integrity and the competence of member societies[23].

In Lebanon, insofar as numerous technical shortcomings (lack of competent technical personnel to be employed to manage competent technical departments) can be noted, certain classification societies have been licensed by the Government. They are more than 10 international classification societies, some of them being well known and internationally recognized (LLOYDS, Bureau Veritas, GL, etc.); and some others like RNR (Romania) or CRS (Croatia).

3.2.3.1.2 As for the regulations relative to crew numbers and the qualification of seamen, these remain it would appear, in the province of the Flag State.

Two international regulations from IMO regarding the competence of the Flag State thus place the human element at the heart of the matter. These are the STCW 78/95 Convention and the ISM (International Safety Management) Code.

STCW 78/95:
This convention, drawn up in 1978, and then amended in 1995, has the vocation to fix, on an international level, minimum professional standards for seamen. For the first time IMO acquires here a real right of approval as to the correct application of the text and compels the Flag State to communicate to it the legal administrative measures for the application of the Convention. The initial date limit of the 1st August 1998 was extended to the 1st February 2002, and finally further extended to 31st July 2002. The communications from Flag States have enabled the Maritime Safety Committee of IMO to identify, in a *"White List"*, the States whose national certificates could be universally accepted. Failing this, vessels that do not respect these obligations will be subject to rigorous controls by the State of the port and seamen will have increasing difficulties in obtaining jobs.

[23] 11 classification societies are presently members of IACS: ABS (American Bureau of Shipping, BV (Bureau Veritas), CCS (China Classification Society), DNV (Det Norske Veritas), GL (Germanischer Lloyd), KR (Korean Register of Shipping), LR (Lloyd's Register), NK (Nippon Kaji Kyokai), PRS (Polski Rejestr Stakow), RINA (Registro Italiano Navale), RS (Maritime Register of Shipping - Russian).

Faced with the urgency of the situation the General Directorate for Land and Sea Transport submitted its candidature to the IMO in August 1998. Not immediately complying with the criteria and in particular not providing any maritime training on Lebanese soil, Lebanon was finally only entered on the famous *"White List"* on the 23rd May 2002[24].

The Lebanese Government has however still to adapt its national legislation inj order to conform completely With he requirements of the STCW 78/95 Convention. Supported by "*the IMO Technical Co-operation Division*", the Ministry of Public Works and Transport has drawn up a "*Resolution as to the implementation of the provisions of the International Convention on Standards of training, Certification and Watch-keeping for Seafarers, 1978, as amended in 1995 (STCW 95)*". This should soon be promulgated.

ISM Code:
IMO, in adopting under the form of a recommendation on the 4th November 1993, has for the first time placed the human element at the heart of a system for the prevention and control of maritime risks. In the month of May 1994, the code was integrated with Chapter IX of the SOLAS Convention, thus becoming by this insertion, compulsory. Its date of application was set for the 1st July 1998 and concerned passenger vessels, petrol tankers, chemical carriers, gas carriers, bulk carriers and high speed vessels of over 500 GRT.

For the other types of vessels, the date limit has just been reached on the **1st July 2002**.

The system imposed by the ISM Code consists in evaluating the four fundamental elements of safety in maritime transport, that is to say:
management
men
material and equipment
methods.

In order to favor a uniform implementation of the Code by maritime administrations, IMO has developed directives for application for maritime administrations. These should apply the following steps: an initial verification, and periodic verification, and a renewal verification. These various verifications are carried out on the request of the companies themselves.

Each company should effectively set up an internal system including:
a policy in matters of safety and protection of the environment,
instructions and procedures to correctly guarantee safety in the running of the ship the protection of the environment,
a hierarchy and means of communication enabling members of seafaring personnel to communicate with each other and with members shore based personnel,
Procedures for advising of accidents and non compliance with the dispositions of the Code,
Procedures for preparation and intervention when confronted with emergency situations,
Procedures for internal audits and management controls.

Once this management system is set up, the official verifications can start. Because of the complexity of the Code, it would appear that, in practice, only the classification societies belonging to IACS are, in the first stage, truly capable of carrying out the necessary

[24] Cf. Circular n°1031 of the Maritime Safety Committee of IMO of 23rd May 2002.

verifications. These start with the review of the documents that should be held by the company and by an audit of shore premises. Following this first phase of audit, a document of conformity (DOC) is issued to the company. An audit on board ship then has to be carried out in order to evaluate the efficiency of the management system on the vessel. At the outcome of this audit, the vessel may receive a Safety Management Certificate (SMC). These documents are valid for five years.

This concept of safety management imposes a profound upset in shipping companies, a redistribution of relationships within the firms and substantial investments to implement these reorganizations.

In the absence of ISM certification, vessels will be subjected to the sanctions of Port State Control. They will be immobilized, even "banished" form controlled waters, until they can present the required certificates.

The Lebanese fleet, mainly made up of companies owning a single ship and solely utilized on the tramping market, is at present very backward in this field. According to the *Chairman of the Lebanese Ship-owners Association (LSA)*, only 10% of the fleet currently fulfills these criteria. The future of the Lebanese fleet is therefore particularly shrouded in darkness[25]. A certain number of very old Lebanese vessels non longer fulfilling the ISM conditions will probably have to be sent to the ship-breakers. The prospects for the replacement of these ships will then depend on the attractiveness of the Lebanese registry and the financing conditions at the disposal of Lebanese ship-owners.

3.2.3.1.3 State Port Control

As for the State of the port, it is charged with the control of the effective application of these international regulations, as much for their national flag vessels as for foreign vessels. The guiding principle behind PSC therefore consists in taking the advantage of the calls of vessels in seaports to carry out an on-board inspection.

The Port States, in order to make their inspections uniform, but above all to avoid any diversion of traffic and distortion of competition between ports of a same region, have organized themselves in the framework of regional administrative agreements. Like the Paris Memorandum of Understanding (MoU) of 1982, certain Mediterranean States have got together on PSC, since 1997, in a Mediterranean MoU. The concerned parties are the maritime authorities of the following States: Algeria, Cyprus, Egypt, Israel, Lebanon, Malta, Morocco, Tunisia, Turkey, Palestinian Authority[26].

The youth of this Mediterranean MoU notably explains the disparities between maritime authorities in terms of the sanctions imposed on sub-standard vessels (fine, immobilization, banishment...) as well as in terms of the number and strictness of the inspections. Although the maritime authorities of the region have committed themselves to control 15%[27] of the vessels calling at their ports, it would seem that the reality is far from this. The restricted number of national inspectors naturally explains these results.

[25] See also as early as 1997: Flag decline remains critical, Lloyd's List, Wednesday June 25, 1997.
[26] Cf. htpp://www.medmou.org
[27] In the framework of the Paris Memorandum, tregarding the European region, this percentage is raised to 25%. Moreover, it would seem that the 15% of MedMoU has been further diminished in 2001. cf. Sandra Speares, *Port State Control : Inspection rules eased in the Med*, Lloyd's List, Tuesday July 23, 2001.

The mechanism for the collection of data also remains fairly succinct and does not enable, for instance, the maritime authorities to be informed of the follow-up and correction of the exceptions remarked. It should also be noted that, up to today, the official reports of Med MoU are not directly consultable.

Finally it should be underlined that the authorities of Med MoU are supposed to verify the effective application of a certain number of international juridical texts, called *" pertinent* instruments". More precisely, these are the LL Convention (1966), the SOLAS Convention (1974), the MARPOL Convention (73/78), the STCW Convention (78/95), the COLREG Convention (1972), the OIT 147 Convention (1976) and finally the ISM Code of 1993.

However, in the case of Lebanon, the existence of a gap must be observed between these pertinent elements for which the Lebanese authorities are supposed to impose compliance in the context of PSC and the realities of the international conventions as applied to Lebanon in the name of the Flag State (FSC). This gap is particularly striking as regards the ISM Code and the COLREG Convention.

3.2.4 Difficulties Linked to the Ratification of International Conventions not yet Ratified by Lebanon

The difficulties concerning the International Conventions already ratified by Lebanon are, *a fortiori* , pertinent for the International Conventions not yet ratified by Lebanon..

However internal juridical difficulties linked to the process of ratification of the international texts have to be added. It is effectively a relatively long political process insofar as it requires the agreement of the Council of Ministers as well as the agreement of the Chamber of Deputies.

Article 52 (Lebanese Constitution)

(Modified by the constitutional law of 17/10/1927, by the constitutional law of 9/11/1943 and by the constitutional law of 21/9/1990)

" The President of the Republic negotiates treaties and ratifies them in agreement with the Head of the Government. Such will only be considered as ratified after the agreement of the Council of Ministers. The Government informs the Chamber of Deputies about them when the interest of the country and the safety of the State allow it. The treaties that engage the finances of the State, trade treaties and all treaties that cannot be denounced at the end of each year can only be ratified after the agreement of the Chamber of Deputies"

Furthermore, it is obvious that any initiative taken in terms of ratification, and then application of an international text, introduces costs that it is imperative to evaluate and then budget. A Ministerial strategy in terms of human resources (recruitment and training) should also be envisaged in parallel with any ratification.

In the case of public finances weakened by an economic and historic context, a hierarchy of international priorities has to be established in function of the objectives aimed at by the State.

3.2.5 Evaluation of the Attractiveness of the Flag

Generally speaking, one can consider that the decline of the fleet under Lebanese flag resides in the image of a flag of convenience widely given to the Lebanese registry, to the registration restrictions, as well as to the fiscal and financial difficulties suffered by Lebanese ship-owners.

3.2.5.1 Access To Financing (acquisition / construction of vessels)

According to the Lebanese Ship-owners Association, on of the major problems for ship-owners resides in the juridical qualification of the activities of maritime transport. Indeed this is not classified in the industrial activities of Lebanon. The result is that the activity of maritime transport is not eligible to financial support granted by the Bank of Lebanon which holds the industrial character as a condition of eligibility.

Ship-owners do not benefit from attractive interest rates from the banks. They are subject to the common law interest rate, currently varying between 8 & 9%.

No policy of national direct aid for this branch of activity (from national origin funds) exists up to now. Neither does there exist specific national funds to help the ship-owners to modernize their fleet.

3.2.5.2 Rules Concerning Crews

Lebanese crews are not subject, in practice, to any restrictions of nationality. Seamen of various nationalities can sign on the same vessel. Consequently this results in an advantage from the point of view of ship-owning point of view insofar as seamen can be signed on according to the laws of their country of origin (for example Syria). Economies can be made in terms of payment of lower salaries.

Lebanon, however, is undertaking in the future to only authorize the signing on of seamen coming from countries shown on the famous White List of the IMO's STCW Convention.

As for Lebanese seamen, they do not have the advantage of an attractive image in the marketplace of international maritime employment. There is no longer today an Institute of Maritime Training in Lebanon. Consequently at the present moment about 75% of Lebanese officers have obtained their certificates on the basis a validation of their professional experience at sea, without their having to have received any theoretical maritime training. Seamen wishing to benefit from training (a minority) have had to go to the *Arab Maritime Transport Academy in Alexandria-Egypt*, to Morocco or to Algeria.

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However it would appear that since a short while, the Ministry of Transport dispenses in its premises , a certain number of maritime lessons. The Lebanese Government also seems to be attached to the idea of the foundation of a *Maritime Training Center (National Maritime Academy in Batroun*[28] *?)*.

[28] seer *Tax boost for owners*, Lloyd's List, 30/06/1998.

3.2.5.3 RULES CONCERNING THE VESSELS

Theoretically, no vessel of over thirty years of age should be able to be registered under the Lebanese maritime Register. However, it turns out that the Lebanese fleet is made up in the following manner (in February 2002):
One single vessel under 10 years old
2 vessels less than 20 years old
9 vessels less than 25 year old
27 vessels less than 30 years old
69 vessels 30 years old or more.

If one refers to the latest official report from UNCTAD relative to state of maritime transport in the world, it would appear that the situation of the Lebanese fleet is particularly critical. In 2001, the average age of ships throughout the world was 13.9 years and 14.1 in 2000. This average varies between 10.4 years for container vessels and 17 years for classical cargo ships[29].

If the average age of vessels under the Lebanese flag (25-30 years and over) can, at first sight, seem attractive for less scrupulous operators, it undeniably helps towards a bad picture of the Lebanese registry. This laxity is besides double edged since it leads to strict and repetitive inspections from the Port State Controls of ports of destination. Immobilizations or heavy fines are the direct consequences of this.

3.2.5.4 FISCAL RULES (DEPRECIATION, TAXATION, ETC.)

There does not exist today, properly speaking, any Lebanese fiscal policy tending to avoid the transfer of Lebanese vessels towards foreign flags with more advantageous fiscal regimes.

The fiscal advantages of Lebanese ship-owners is at the moment limited to a Company income tax of 15%.

3.3 LAND TRANSPORT

3.3.1 Sustainability

The transport policy should address the investments in construction and maintenance of the road network. This should be done primarily regarding the aspects of sustainability: economic, financial, environmental, and social.

ECONOMIC AND FINANCIAL SUSTAINABILITY

Investments in road infrastructure rarely get screened through a rigorous economic feasibility study, except if requested by a foreign funding agency. Moreover, the use of foreign financing is being hampered by the availability, sometimes, of the local funds needed for right-of-way expropriation.

It should be stated in the adopted policy that all investments in land transport infrastructure must be subjected to economic feasibility studies, independently from the source of financing.

[29] Studies on Maritime Transport, Rapport UNCTAD 2001.

3.3.1.2 ENVIRONMENTAL SUSTAINABILITY

Road and railroad construction may have serious impacts on the environment, mainly during construction and also throughout the life of the project.

Till now the mitigation of negative environmental impacts of land transport projects are not consistently considered. It should be part of the Land Transport Policy to require Environmental Impact Assessment studies be conducted as part of every project's preparatory studies.

3.3.1.3 SOCIAL SUSTAINABILITY

Assessment of the social impact of land transport projects should also be a routine requirement. The interests of all sectors of the population should be considered.

3.3.2 Vehicle Fleet

The policy should address the question of whether the vehicle fleet would be allowed to increase indefinitely. Alternatively, what should be the measures taken to discourage an uncontrolled increase in vehicles.

During the last decade, erroneous decisions were made regarding the vehicle fleet, their cost on the national economy was huge. These unwise decisions regarding the "red" license plates, followed by the introduction of the diesel van has resulted in tragic conditions on everybody (except car importers). Such a mistake should not be repeated.

The other problem associated with the fleet pertain to its road-worthiness and emission control. The policies need to be coordinated with fuel specifications, the planned phasing out of leaded-gasoline, mechanical and environmental inspection.

3.3.3 Traffic Safety

The proposed policy should address the traffic safety comprehensively, required actions cover the following areas:

- road design
- road maintenance
- driver's licenses: gradual revoking of all driver's licenses (starting with public driver's license), and re-examining
- vehicle inspection and road worthiness
- law enforcement of traffic laws (speed, signaling, lane discipline, etc.)
- education and awareness.

3.3.4 Public Transport

What should be the role of Government? And how to channel governmental subsidy (if any) to urban public transport?

The policy should give guidelines as to principles governing the regulation and organization of taxi – service. It should be investigated how to migrate out of the current system of red plates ownership and to a licensing system to operate a passenger car for-hire.

3.3.5 Rail Transport

The role of the rail in the total land transport system should be defined. This will require the redefinition of OCFTC mission.

From observing recent actions, one gets confused over the current defacto policy regarding rail transport. Lip service in favor of rail transport is not matched practical steps.

3.3.6 Trucking Industry

The government should adopt incentives that will favor the development of a trucking industry, both for local and international transport. The Lebanese truck fleet involved in international land transport is very small and not price competitive. Protecting the existing operators against competition from neighboring operators will not give them any incentive to improve and develop, if it continues indefinitely. A policy on liberalization should be taken.

3.3.7 Distribution Warehousing and Logistics

Multi-modality requires giving attention to the entire supply chain cycle, as far as goods transport; multi-modal passenger terminals, and parking.

3.4 AIR TRANSPORT

The main issues to be settled include:

1) Promulgate of the Civil Aviation Bill creating the Civil Aviation Authority.
2) Operationalize the Council of Ministers decision regarding open skies.
3) Corporatization of BIA and its possible privatization.
4) Decision on whether air traffic services and meteorology to be privatized or corporatized, independently from the BIA.
5) Decision on how to handle the operation of the proposed Quleiaat Airport.
6) Recommendation for MEA re-structuring.

All these issues should be highlited.

4. TRANSPORT SECTOR POLICY GUIDELINES

4.1 PORTS

4.1.1 Specificity of the Ports and the Role of the State

The ports have each a very strong specificity that partly assimilates them to **"natural monopolies".**

Overall, it is a question of a very capitalistic activity, characterized by **very high fixed costs** (and very low marginal costs).

The threshold of profitability of the port investments in basic structures is more often than not well beyond that which the private sector and commercial banks permit themselves. The heavy investments engender very high initial losses and only attain a return in the long or very long term. A breakwater is built to last 100 years, a lock for 50 and a quay for 30.... Private sector shareholders generally do not accept the returns on investment provided by port infrastructures.

Distinctions can be made between the various categories of infrastructures and notably between :
The basic port infrastructures, such as the protection of the coast or the breakwaters for the protection of the ports as well as the locks, access channel, etc., that have highly positive externalities, but for which there is a very long term collective profitability and whose effects cannot be individualized.

So called "operational" infrastructures for which the threshold of profitability is reached in a relatively short time and/or that can be individualized, notably quay walls (which belong to a specific terminal), VTMS systems, meteorological systems, etc....

In the first case, the investments necessarily fall under the competence of the State. In the second, depending on the case, private investors can be led to invest or to assume a part of the investment in the context of a public / private partnership.

Investments in infrastructures are heavily marked by their **indivisibilities;** thus all the protecting works have to be built, a complete dock dredged, several hundreds of meters of quay constructed and not just one berth (capacity expanding exponentially with the number of equivalent berths), etc. before the first berth can be commissioned. The development of the capacity of a port cannot be achieved in a continuous manner but in a staggered manner.

Port infrastructures are by definition **immoveable** and generally cannot be converted in a profitable way. The corresponding fixed costs are therefore irrecoverable ("sunk costs") and, for an operator to assume them implies a much heavier risk than the financing of equipment that, in the case of failure in one port, can be moved to another.

Furthermore a port is located in an area and is a site endowed with unique properties, notably as regards its near hinterland that cannot be economically serviced from a more distant port. This natural monopoly should therefore be the subject a particular attention to avoid its being inveigled away to the detriment of the regional community.

Amongst others, these reasons lead to a port not being considered like any other type of enterprise and also that the intervention of the State can be justified there under various considerations.

4.1.2 Objectives of the State in Port Matters

These are multiple and can be partially contradictory. These objectives are more or less put forward by all States, but the essential point lies in the hierarchy given to them.

The prime mission of a port being that of an interface between the national economy and that of the rest of the world (international trade), the State should be looking at the efficiency and competitiveness of port operations with a view to enabling the full development of the potential of this international trade for the benefit of the economic actors of the country.

This criteria of competitiveness goes beyond the direct costs born by the vessel and the goods. It includes elements of performances and quality of service (there again, as much in the interests of the vessel as of the cargo).

The State should also be looking at the timely provision and availability of the infrastructures required by the long-term development of the imports and exports of the country.

The achievement of this objective has implications, notably in the domains of the institutional structure of the port sector, in that of the development by the State of a framework for the balanced and equitable exercise of their trades by the actors of the port sector, and that of the regulation of this framework. It implies that the State should be conscious of the strategic role played by ports and by the fact that port infrastructures make up a rare resource that requires efficient utilization and a coherent development scheme.

Other objectives of the State can be put forward:
It can wish to **limit its financial implication** in port investments, or even to feed its Treasury by the product of operations of privatization;
It can wish to make the ports **an instrument for territorial development**, for the creation of new activities and employment.

Finally, the State should assume its responsibilities on several levels in ports
international obligations: port state control, fight against pollution, etc...
other obligations: handling of hazardous goods, security of property and persons, immigration, health control, etc.

4.1.3 Necessity for Port Reform (from a general point of view)

The expansion of international trade, the phenomenon of globalization, has underlined the economic importance of the ports.

This awareness is at the origin of the decisions for the reform of the ports when these are faltering. The reform then aims to improve the efficiency of the ports, to reduce their costs and to improve their performances and quality of service. It can also have more specific motivations such as the financial disengagement of the State or the attraction of foreign investments.

To reach such objectives, the ways and means for reforming the ports are multiple; they bear on the reduction of public involvement and bureaucracy, on the reduction of staff or training of personnel, on the elimination of restrictive practices in working procedures, on the introduction of competition for port activities, on the introduction of modern management methods, etc...

4.1.4 The Various Institutional Management Models for Ports

4.1.4.1 SERVICE PORT

The port enterprise of a Service Port provides a wide collection of services (practically all the port services) notably including cargo handling and warehousing carried out using its own equipment and by its own staff. **A Service Port is strongly dominated by the Public sector**[30].. The port enterprise is attached directly to a Ministry and its managers are civil servants.

In certain cases of Service Ports, the cargo handling can be supplied by a public enterprise other than the port authority but nevertheless attached to the same Ministry[31]. Numerous African or Indian ports have been until recently, or are still Service Ports.

Numerous Service Ports have developed either towards the model of a private port by going through a phase of corporatization[32] (the case of Singapore), or towards a "Landlord" model by the partial privatization of terminals (the procedure under way in the south African ports).

4.1.4.2 TOOL PORT

In this model, the port authority is responsible for the development and maintenance of the port infrastructures and superstructures, as well as the heavy equipment (quay cranes and gantries). Its personnel deals with the running and the maintenance of this equipment. The other cargo handling tasks both on board vessels and on the storage areas and warehouses ashore are the responsibility of private stevedoring companies. In the same way, the pilotage, towage and mooring services are normally performed by private businesses[33]. The French ports still provide an example of Tool Ports. The Italian and Spanish ports which shared this model up to the beginning of the Nineties have developed towards the "Landlord" model (sale of the port authority equipment to the stevedoring companies, transfer to the operators of this equipment, transfer of the staff (crane-drivers etc.) to the dock labor pool, granting of concessions for the terminals).

4.1.4.3 LANDLORD PORT (PARTIAL PRIVATIZATION)

The "landlord" model is characterized by **a clear separation between the commercial activities** that are entirely given over to private enterprise **and the governing or regulatory activities** or those judged to be necessarily in the competence of the public domain.

[30] According to the most usual definition of this expression. However, "Service Port" can be found used in a similar sense to "Private port". This is the case in the recent BCEOM report (June 2002)
[31] This can produce serious inconveniences insofar as the interests of the two enterprises can be at loggerheads
[32] Cf. §164 hereafter
[33] Possibly (for technical reasons), by private monopolies requiring a certain degree of regulation of their scales of rates.

The Port Authority ensures the planning and the development of the port installations, constructs terminals, gets value from the port lands and the terminals by renting them out with a long term lease or concession to the operators (after a procedure of call for tenders). The port authority is also in charge of the regulatory and governing missions (safety of property and persons, protection of the environment etc...) and the coordination of public services.

In general, **the port services,** and more specially those of cargo handling and warehousing are entirely in the hands of private enterprise, stevedores or industrial concerns. These firms pay to the port authority a rent corresponding to the recovery of the costs of the infrastructures and equip the terminal with superstructures and equipment: laying out of storage areas (surfacing), construction of warehouses or specialized buildings, acquisition of quayside and storage park handling equipment, etc... They sign a contract specifying the activities of the terminal, a minimum volume of activity, and possibly also levels of performance and quality of service... Labor can be directly employed by these firms (Rotterdam), or formally be part of a dock labor pool (Antwerp).

This institutional model is by far the model the most widely spread over the world, in various forms. Finding its roots in the North Continent, it is highly dominant in Europe. It can be considered as a system of the **partial privatization** of port activities.

4.1.4.4 PRIVATE PORT (TOTAL PRIVATIZATION)

A Private Port is the other face of the Service Port, all the activities being concentrated in the hands of a single enterprise, but a private enterprise and not a public one. In particular, a private port has all the prerogatives for buying or selling land. There is no public port domain. The privatization of a port frequently goes through a "corporatization" phase, with the creation of a private law company to which all the assets of the port are transferred and whose capital (shares) is initially entirely owned by the State, and then gradually sold off to players in the private sector.

This model can practically only be found in the United Kingdom and in New Zealand.

4.1.5 Strengths and Weaknesses of these Institutional Models

Service Ports are public monopolies. In the absence of any internal competition, they tend to be inefficient. They are passive and do not search for any development of their activities. The influence of the State and of the Government can be translated in terms of overstaffing and squandering of resources. Passivity and squandering result in under-investment.

The only strong point in this system lies in the single command unit, as much for the management and planning decisions as for the control of operations.

Tool Ports, on the other hand, suffer precisely from the lack of a single command unit in cargo handling because of the intervention of the port authority (who owns and operates the cranes) and of the private stevedore who deals with the vessel and the transfer of the cargo to the storage areas and warehouses.

Otherwise, this system where the port authority provides practically all the investment, makes for weak, under capitalized stevedores for whom all costs are variable and who are selling

only labor rather than an industrial service. Since the users are not the payers, there is no strong incitement towards an intensive utilization of the means. For these reasons, it generates overrun costs and limits the growth of the activity.

"Landlord" Ports are much more open to market requirements, the competing operators completely control the productivity of their services and negotiate their contracts with their customers. These operators invest (mainly in superstructures and equipment but also possibly in certain infrastructures), they find an advantage in increasing their activity to obtain a better return on their investments.

The biggest risk lies in the decisions of the port authority in matters of investment in infrastructures, in its ability to sufficiently appreciate and anticipate requirements. As a side effect, there can be transitory problems of over-investment by the competitors fighting for a same market.

Private Ports have the advantage of several strong points because of their control over all the procedures. They are protected from any State interference. Their control of all the land belonging to the port can notably enable them to make a profit from obsolete installations by selling them (these are often situated in areas with an urban vocation).

Against that, the State loses the control of the development of the port. It may be led to set up a cumbersome regulatory system in order to guarantee the protection of the interests of the nation and its economic actors faced with monopolistic behavior (and moreover from a private monopoly). This risk is even more important in Lebanon's case where there are no good alternatives to the Port of Beirut for servicing the internal market of the country.

The control of the land belonging to the port presents the risk of leading to speculation in the construction domain.

The risk of under-investment is particularly heavy and could lead to a critical delay in the construction of infrastructures necessary to the development of port activities.

4.1.6 The Methods of Port Reform

Port reform is not only limited to the introduction of private enterprise in the place of the public sector. Various approaches (or a combination or succession of these approaches) can be employed to improve the efficiency of the port system.

4.1.6.1 Modernization Of The Management Of The Port

A port organization possesses a certain potential for change capable of being set up without delay, so long as there are no preconditions regarding the institutional or legal framework. It will always be better to find suitable management tools to make the work system develop or to improve the work-training of staff for instance.

4.1.6.2 LIBERALIZATION OR DEREGULATION OF PORT SERVICES

This is a question of the elimination of restrictive practices, getting rid of restricting bureaucratic rules and lightening the procedures ("facilitation"). It means opening to the private sector certain areas of exercise where previously only public bodies were admitted.

4.1.6.3 "COMMERCIALIZATION"

Under this heading is meant the introduction into a public organization of methods and rules coming from the management of private firms. It is above all making the organization responsible, providing it with more autonomy of action in exchange for a much greater responsibility for its results.

4.1.6.4 "CORPORATIZATION"

This is the transformation of a public entity into a private law company by transfer of its assets. The ownership of the shares remains in public hands (the State or public enterprises) at least at the beginning. Corporatization gives the port authority the means of a private enterprise in terms of control (for example of property), of technical instruments (creation of subsidiary companies, taking of shareholdings...), of autonomy, of the flexibility and reactivity that is often denied to enterprises with the status of a public undertaking.
Corporatization can be a first step towards privatization.

4.1.6.5 "PRIVATIZATION"

Privatization covers a complex notion.
It is necessary to distinguish between full and partial privatization.
Full privatization supposes the transfer of all the assets of a port (including the port land and properties) to a private company. It aims notably at enabling a rapid access to the know-how of port management held by internationally recognized port companies and, through this, put an end to restrictive practices and inefficient methods.

It is also a question for the State to set the port enterprise outside of political influences as well as to reduce public expenditure (port investments), or even to gain new resources for the Treasury (through the privatization operation

4.1.7 The tools of Port Reform

4.1.7.1 MANAGEMENT CONTRACTS

Port activities up to now managed by the public sector can be handed over for management by a private enterprise, on condition that it employs the human and material means and supplies the required service under satisfactory conditions of cost and quality of service.

This means is used when private management is judged to be able to supply, within a short time, better results than under public management. It provides the advantage of enabling short contracts to be made (3 to 5 years), the private operator having no need to get a return on the investments. On the other hand, the private operator is less implicated by having only to take limited risks. Another risk is the burden that can be laid on him (notably in matters of personnel) which can lead to his failure.

Such a management contract is sometimes used as a first step towards corporatization or privatization.

4.1.7.2 CONCESSIONS

Two types of concessions can be distinguished. In both cases, it is a question of long term undertakings (10 to 50 years according to the case) by which the operator becomes the lessee of an area of the port or of a terminal. However in the first case, a lease contract, the concessionary commits himself only on the provision of equipment and superstructures for the terminal. In the second case, a Concession contract, the concessionary assumes all the investments and commercial risks.

4.1.7.3 OPERATIONS OF THE "BUILD, OPERATE, TRANSFER" TYPE

This is the most usual form of concession which provides the characteristics of a temporary privatization. In a general manner, a BOT can only be concluded for a clearly isolated operation that can be run independently, typically a terminal. A particular case can be envisaged, of an overall concession (BOT master concession scheme). There are many variants in this plan of concession. Thus the BOO (Built, Operate, Own is the designation for the privatization of a terminal to be created, the EOT[34] (Equip, Operate, Transfer), in which the infrastructure already exists, or again a more sophisticated form, the WBOT (Wraparound BOT) in which a private business will be led to invest in the extension of a terminal or of a part of a port belonging to the public sector, with the prospect of operating this during a defined period of time.

4.1.7.4 FULL PRIVATIZATION

The full privatization of a port requires the legal means, and notably so:
that the Port Authority be able to create a company that will succeed it, talking in hand all its missions and its means
that this company be able to issue shares, both for the former Port Authority or for a third party
that a calendar for the distribution or sale of shares be laid down
that the means of the State for setting up the privatization be established
that all the financial dispositions to be set up to the advantage of the State as regards the sale of the port and its land properties be defined
that the conditions for the transfer to the new company of the port authority personnel (numbers of staff by category, salaries etc..) and those for the compensation to be granted to excess personnel (reclassification, work-training, indemnities...) be defined
that the fiscal regulations applicable to the new company be defined
that the conditions for the accomplishment of governmental or public tasks be identified
etc...
An interesting reference on full privatization of ports is available with the **British example.** This turned out to provide extremely varying results. There was a massive injection of capital into the sector, but only for the purchase of existing assets. The ownership of land property did not lead to reprehensible excesses, even though the impact on port employment was radical. In the ports that were already managed under the principles of private economy

[34] Also called FOT (Furnish, Operate, Transfer

(Dover, Portsmouth, whose institutional framework was close to the "landlord" model), the privatization of the land property did not significantly modify the results and performances. Overall, privatization did not prove that it enabled better results to be achieved than those provided by the "landlord" model.

4.2 MARITIME

4.2.1 Structure of the Maritime Administration

In conformity with the United Nations Convention on the Law of the Sea of 1982 (Montego Bay) coastal States should be organized, on an internal level, to enforce compliance with the various maritime regulations. Different administrative systems are in existence in the world. Two approaches towards the action at sea of the State can be mainly observed.

4.2.1.1 THE AMERICAN COASTGUARD MODEL

The Coastguard is a very structured institution, a close cousin to a federal maritime administration. Five big categories of missions at sea have fallen to it:

- *Waterways Management* (the application of the regulations at sea concerning ships, navigable waters, and port installations as well as the policing of maritime traffic),
- Search and Rescue at sea,
- Navigational aids (maintenance of lighthouses, beacons, buoys, etc...),
- The control of territorial waters (fight against smuggling, notably drug-running, policing against illegal immigration, control of fishing),
- Combat preparation and training with a view to possible collaboration with the Navy [35] (protection of the coasts and defense of the ports).

To these main missions are added further missions such as:

- The fight against marine pollution,
- Enquiries on accidents at sea,
- The control of safety aspects of ship-building,
- Broadcasting of weather reports,
- Maritime piloting.

One of the particularities of the most integrated coastguards consists in drawing up themselves the safety regulations which they then have the role of fully enacting and enforcing.

They are therefore fully-fledged administrations, with powers to regulate and act enabling them to harmoniously undertake the action at sea of the State.
However they still share a certain number of functions with other administrative bodies such as Customs, Ministries of the Environment or Immigration services. It is not therefore just a question of the exercise of the action at sea of the State.

This American model (*Coast Guards*) has made a lot of emulators in Europe[36], although these show a variable degree of integration according to the countries.

[35] The American Coast Guard has the status of an army corps but for a large part undertakes civil missions.
[36] Ex: *Kustwacht* in the Netherlands, *HM Coast Guard* in the United Kingdom, the *Guardia civil del mar* in Spain, the *Limeniko Soma* in Greece, the *Guardia Costiera* in Italy.

4.2.1.2 THE MARITIME PREFECTURE À LA FRANÇAISE

For its part, France has adopted the choice of a general maritime responsibility, under the command of an Admiral of the French Navy, the Maritime Prefect. This prefect has the benefit of a dual status (civil and military) insofar as he exercises at the same time the functions of the safety of the maritime territory and the functions of military defense.

Officer holding the Authority of the State and delegate of the Government, the Maritime Prefect is invested with three civil missions:
- The maintenance and re-establishment of public order at sea,
- The prevention and fight against marine pollution,
- The rescue of persons in distress at sea.

To undertake these functions the Prefect is endowed with a general administrative police authority enabling him to regulate the exercise of all human activities at sea. He thus insures public safety security and health, but above all, he coordinates the action and means of the various administrations of a maritime nature.

The Maritime prefect thus coordinates four main administrations at sea:
- The National Navy
- The National Gendarmerie
- The Office of Maritime Affairs
- Customs.

If the institution is pragmatic, insofar as it enable the work of several administrative bodies to be coordinated, and evolving, since it has been able to adapt to new circumstances (drug-running, terrorism at sea, etc.), it nevertheless presents some difficulties. The simple coordination of equipment and the job doctrines of the various administrations forbid a central programming of maritime investments and interventions. Numerous duplications of employment and the inventory of under-equipped areas is a direct result of this. The diversity of the status, the responsibilities and the service obligations of the various personnel, joined with a dispersion of means also often lead to an insufficient productivity, or even to an under-employment of the means allocated to missions at sea.

Faced with these various advantages and malfunctions, certain countries have opted for a mixture of these two models.

4.2.2 Means implemented for the applications of the International Maritime Conventions

4.2.2.1 LEGISLATION

In order to ensure a satisfactory application of the international technical regulations by Flag States, it appears necessary to more directly implicate the national maritime administration in the process of certification and inspection of vessels.

The Flag States that decide to delegate their competences of control and certification of conformity to the International Conventions should only do so to organizations replying to high standards. This is the option chosen by the **European Union**.

Since a Community Directive of the 22nd November 1994[37], Ships flying the flag of an European State may only be certified by one of the classification societies licensed on an European scale. If the well-recognized societies (IACS) easily obtain their license, a probationary period of three years is imposed on societies with lower calibres

These minimum criteria that have to be respected by the classification societies are in fact similar to those laid down by IACS and by the IMO Resolution A.739(18) *on the directives in matters of licensing of organizations acting in the name of an administration.* This is a question notably of the criteria specified by the international standards relative to quality insurance systems, such as ISO 9001 and EN 45000.

These criteria notably concern:

- A wide experience in the field of the evaluation, conception and construction of merchant ships,
- The classing of at least 1000 vessels (of over 100 GRT) and representing a total of at least 5 million GRT,
- The employment of a technical staff commensurate with the number of ships classed or at least 100 exclusive inspectors,
- The drawing up of exhaustive regulations on the conception, construction and periodic visits of merchant ships, continually updated and improved,
- The annual publication of the organization's register of vessels,
- The independence of these organizations from the professionals of the maritime world.

4.2.2.2 ADMINISTRATION AND ORGANIZATION

The Flag States, fully or partially exercising their jurisdiction, should in all cases have, within their Ministry of Transport, specialized maritime departments.

A high level legal department should notably ensure a "legal watch" consisting in monitoring the development of the big international texts (IMO, ILO, etc.) and to carry out a punctilious analysis of them. These analyses should enable the potential difficulties of these new texts to be pointed out in terms of their financial and institutional implication for the State, as well as in terms of their compatibility with already existing texts.

In order to best protect its maritime interests on the international stage, the Flag State should also implicate itself in the highest decisional instances. For this it should provide itself with a Permanent Representative with the various pertinent International Organizations. This Representative will be a negotiating partner of the first order to follow the development of the big international dossiers, to put forward the necessity to adopt new texts and to protect the position of the State.

4.2.2.3 HUMAN MEANS

The composition of high level ministerial teams is indispensable for any efficient policy in matters of maritime transport.

[37] Directive 94/57 of the Council of 22nd November 1994, establishing common rules and standards concerning the organizations licensed to carry out the inspection and visit of ships as well as of the permanent activities of maritime administrations, OJEC L 319/20 of 12th December 1994, modified by the directive 97/58 of the European Commission of 26th September 1997, OJEC L 274 of 7th October 1997, p.8.

Ministries of Transport should consequently recruit experienced and specialized personnel with higher educational diplomas.

Jurists, specialized as much in national law as in international law, should be part of these teams, as should also be particularly experienced technical engineers and former seafarers.

In a field as complex as that of the maritime world, Flag States should absolutely employ personnel with an excellent knowledge of the specificities of this branch of activity.

Paying precisely a growing attention to the problems of implementing its so complex and ever-modified regulations, IMO has developed since 1975, a Program of technical assistance in order to help developing countries to ratify and then apply its various texts.

The Mission Statement of IMO's Technical Co-operation Program is:

- to help developing countries improve their ability to comply with international rules and standards relating to maritime safety and the prevention and control of maritime pollution, giving priority to technical assistance programs that focus on human resources development and institutional capacity-building.

NB: It should this be noted that in 2001, a counseling mission was undertaken in Lebanon concerning the modernization of national maritime law[38].

Three international training institutes especially play a part in this mission. They are:

- World maritime University (WMU): was established in 1983 by the International Maritime Organization, to serve the global maritime community as a center of excellence and IMO's apex institution for high-level maritime education and training (Malmo, Sweden)

- International Maritime Law Institute (IMLI), University of Malta, established under the auspices of the International Maritime Organization.

- International Maritime Academy (IMOIMA), Trieste, Italy (Marine accidents investigation, Port State Control Surveying etc.).

4.2.3 Rules for the Registers

Maritime transport is a branch of activity subjected to an ultra-liberal situation. This is due to various economic factors, but is also reinforced by the principle according to which each State has the faculty to grant, or not, to a vessel, its nationality in the material form of its Flag.

This liberty is however limited by article 91 of the Montego Bay Convention stipulating that *there should exist a substantial link between the State and the ship*. On looking at this clause and in the wake of the *Nottenbohm* decision of the International Court of Justice[39], it results that this link must not be fictitiously made after the registration of the vessel, but, on the

[38] cf. Integrated Technical Co-operation Program, IMO Annual Report 2001.
[39] C.I.J., arrêt *Nottenbohm* du 6 avril 1955, Rec., p. 23.

contrary, should be in pre-existence to it. If the link only appears with the registration itself, then the whole debate on maritime convenience comes to the fore.

The extreme mobility of the maritime world can however authorize the introduction of a nuance in this internationalist conception of the attachment of the vessel to the Flag State. Indeed, it seems today, in face of the multi-nationality of maritime actors and the globalization of the activity, a more determining factor to refer to the intensity of the jurisdiction and control exercised by the Flag State after the registration. The United Nations Convention on the conditions of registration of vessels of 7th February 1986, although it has not yet entered into force, thus grants, through the *notion of authentic link*, its preference for the concrete exercise of the administrative and juridical responsibility of the registration.

This nuance enables the legitimization of a free registration flag (***open registers***), within which a link between the vessel and the State is established with the registration but, *a contrario*, to condemn **so called flags of convenience** for which no links exist neither before nor after the registration.

A list of six cumulative criteria enables the convenience of a flag to be identified:
The Flag State has neither the desire, nor the power to apply the national or international regulations, any more than to control the shipping companies,
Registration is easily obtained there, in exchange for very few formalities and very low or non-existent registration fees,
It belongs to a State of weak economic power,
It is exempted from any income tax or is subjected to a particularly low rate,
It is accessible to foreigners,
It authorizes the manning of vessels by foreign crews.

The major difference between free registration flags and flags of convenience lies in the compliance or not with international regulations. The owners/shipping companies registering their vessels under open registers for mainly fiscal reasons thus globally meet with international rules. The negligence, or even the absence of controls of the working conditions of flags of convenience, aiming to attract potential ship-owners, are therefore different from the positive measures taken by the open registers. These positive measures are however variable between one State and another.

Besides these liberal flags, there naturally exist stricter registers, called **traditional national registers.** These registers impose:
A condition of nationality for the ship-owner
A restrictive access to the national register
Taxation in full of maritime income
A crew comprised of national officers and seamen, subjected to conditions of diplomas
A respect of national and international regulations by the ship-owners.

Faced with this palette of maritime registers, it is finally the right of each sovereign State to choose, in function of its own interests, its form of maritime registration.

4.2.3.1 CREWS (EXCLUDING TRADITIONAL REGISTERS)

Numerous Flag States do not demand any condition of nationality either for officers or for seamen.

Although open to all nationalities, most of them however subject enlistment to the delivery of certificates of competence or of safety (ex. *: a minimum Safe Manning Certificate for Malta, Panama*), that they themselves grant, in function of the country from which they come, or henceforth in function of the conformity to the STCW Convention of the training received (ex. : *Antigua & Barbuda, Bermuda, St Vincent & the Grenadines*). These certificates are very often delivered on simple sight of the certificates delivered by other States benefiting from recognition of the Flag State (ex : *Barbados, Cyprus (in spite of an imposing legal condition theoretically imposing 15% of Cypriot seamen), Liberia (requirement of a Record book as a record of sea service and qualification*).

Certain require only local standards (*Singapore: Ratings must have one year of service or an approved basic safety course in addition to six months of sea service*) or even do not require any condition of diplomas (ex: *ratings in Bahamas*).

4.2.3.2 VESSELS (EXCLUDING TRADITIONAL REGISTERS)

Concerning vessels, age limits are generally imposed, but vary from one State to another. In certain States, age levels are fixed and beyond these, vessels can only be registered after more thorough inspections.

Ex :	Antigua & Barbuda :	over 14 years : seaworthiness inspection
	Bahamas:	12 years, over : survey condition
	Barbados:	20 years
	Belize:	over 20 years: an inspection report prepared by an authorized Government safety Inspection
	Cyprus:	17 years
	Gibraltar:	20 years and special authorization over that
	Liberia:	20 years
	Malta:	20 years, over: inspection by an authorized flag state inspector
	Panama:	over 20 years: special inspection
	St Vincent & Grenadines:	25 years

Certain States do not impose any age conditions (ex. Bermuda, British Virgin Islands), but, most of the time, an inspection beforehand (ex. Cayman Islands, Hong-Kong, Isle of Man).

4.2.3.3 PROCEDURE OF REGISTRATION (EXCLUDING TRADITIONAL REGISTERS)

In order to attract the greatest possible number of ship-owners, many Flag States offer numerous facilities for registration, both in terms of rapidity as in terms of administrative formalities.

Numerous States thus place at the disposal of ship-owners, registration offices throughout the world, either by the intermediary of private bureaus or through the diplomatic or consular representations of their country. Ship-owners then obtain a provisional registration, whose

validity varies from one State to another, and must receive a final approval from the national maritime administration.

Examples:
Bahamas: registration of Bahamian ships may take place in Nassau, London or New-York.
Barbados: the registration offices in London and Bridgetown and provisional registrars in Hong Kong, Limassol, New-York, Piraeus, Singapore and Tokyo may undertake the provisional registration of ships which may be valid up to 6 months.
Cyprus: provisional registration may be affected in any place where Cyprus has an embassy, a consulate or an honorary consul. Permanent registration of a provisionally registered vessel must be completed within 9 months after provisional registration.
Malta: Application may be made to the office of the Registrar in Valleta, Malta or, if necessary, to the office of a Maltese Consulate if prior arrangements have been made.
Panama: Application for provisional registration should be submitted to the Shipping Department or a special Panamanian Consulate which is authorized to receive such applications.
St Vincent & Grenadines: Application for registration may be made to any of the registration offices in Monaco, Geneva, Greece or Hong Kong.

Most of them authorize a provisional registration, by the dispatch of documents (copies by mail, fax) and offer a continuous possibility for registration (24h/24 and 7 days a week).

Certain States however require from the ship-owner, the presence, or the setting up of a legal entity on national soil, or the representation of the interests of the ship-owner by a national lawyer.

4.2.3.4 FINANCING, TAXATION, DEPRECIATION (PANORAMA OF POSSIBLE MEASURES)[40]

4.2.3.4.1 State aids linked to the Fiscal Treatment of Shipping Companies

A) Treatment of Profits

i- Fiscal regime of company profits

Company tax:
In numerous States, the taxation of companies is done through the taxation of profits made. The regimes of taxation of profits remains nevertheless extremely variable according to the countries. The variations result from the fixing of the tax base and of the rate of taxation practiced.

In order to reinforce the competitive ability of ship-owners and the modernization of national merchant fleets, numerous States have however adopted measures exempting them from common law.

States can opt for a reduction of the tax base by deciding to tax only a part of the profits made, possibly at a preferential rate or by the creation of provisions for investment, or non-taxable legal reserves.

[40] Armateurs de France, Annual report, 2002 et TIREAU C., *Les mesures de promotion des flottes maritimes de l'Union européenne*, Thesis for a Doctorate of public law, University of Rennes I, 1996.

Provisions for investment are then destined to cover the costs linked to maintenance, major repairs or to the reclassification of the vessel.

The application of preferential taxation rates can also be decided.

Lump-sum Taxation of the tonnage

The system of taxation can, a contrario, be based, not on the profits but on the tonnage and age of the vessels. This mechanism of Greek origin, seems to be being followed, in Europe notably (e.g.: Belgium, Denmark, Finland, Germany, Netherlands, Norway, Spain, United Kingdom) and also by the big international countries of registration (Liberia, Panama). It is considered that today, 70% of the world fleet is subject to this fiscal mechanism.

It is a question of an annually collected tax calculated according to the size and age of the vessel. The tax is due even if the company has recorded losses. Insofar as the tax remains constant, there is therefore a sizeable advantage in the case of average or high profits. A contrario, in case of low profits or even losses, the amount of the tax will appear heavier.

This "Greek" regime reveals itself to be especially interesting but cannot of course compete with States who have opted for the application of a **zero rate of taxation** (e.g. Cyprus).

ii- Fiscal regime of capital gains

Other than the treatment accorded to profits from activities, certain States concern themselves with capital gains obtained by the transfer of the assets of shipping companies. These are capital gains earned by a ship-owner, notably for the sale of a merchant vessel. Various regimes exist in this matter.

One can first of all point out the method of provision for investment with total or partial exoneration of taxes. The profits earned from the sale of a part of the capital, including vessels, are for example not taxable if they are re-invested within two or three years of their realization (e.g.: in Germany: exoneration of taxation on 50% of the profits made, Madera: total exoneration if reinvestment within 2 years).

The system of carrying forward taxation can also be applied. In this case, the income gained from the sale of a vessel can be placed into reserves which will be progressively added to the taxable revenues during the following years. That enables the payment of the tax to be spread out and, consequently, to increase the liquid assets of the ship-owner during this period (e.g.: Denmark: carry forward of taxation, Italy : spread out of taxation, Great Britain : tax credit at revisable rate).

B) Fiscal Treatment of Depreciation

When a ship-owner makes an investment, he has to take into account the depreciation that this investment will suffer over time, so as to be able to assure its future replacement. This is the object of industrial depreciation which consists in recording in the accounts, the depreciation suffered by an asset (ship) during the last financial

exercise. A sum corresponding to this depreciation is put into reserve, free of tax, in view of the future renewal of the asset.

The rules of depreciation are particularly important as depreciation provides the main instrument of the self-financing of ship-owners today. Depreciation can thus be anticipated (prior to delivery of the asset), linear (depreciation of an equivalent share of the asset each year) or degressive (thanks to the application of a coefficient; depreciation of the biggest amount in the first year, then decreasing amounts during the following years up to the complete depreciation of the asset).

As a general rule, after the acquisition of the asset, the ship-owner has the choice between linear or degressive depreciation, or even an exceptional depreciation (Germany, France).

This choice thus exists for instance in Belgium, Germany, Spain, France, Luxemburg, or in the Netherlands.

The length of time for depreciation (linear or degressive) as well as the coefficients for degressive depreciation vary according to the country.[41].

Certain countries (e.g.. Ireland, United Kingdom) even leave the possibility for ship-owners to choose their depreciation rates or the carry forward of the depreciation at their discretion. This flexibility thus enables the ship-owners to spread out their fiscal charges in the best interests of their needs for cash-flow.

It must finally be underlined that France, after a short experience of the ship-share system ("financement quirataire", has worked out a new system: the fiscal Economic Interest Group.(EIG)

This new arrangement, aimed to favor maritime investment, offers an exceptional depreciation of vessels owned by an EIG, as well as the retrocession to the user of the vessel of two-thirds of the fiscal advantage. The resale of the vessel by the EIG to the user, when two-thirds of the normal time of utilization of the vessel have passed, is subject to an exoneration of capital gains tax.

4.2.3.4.2 Measures of Support Linked to Labor Costs

Faced with the importance of wage charges in the operating costs of shipping companies, numerous States intervene to reduce the weight of them, either by socio-fiscal type measures, or at the level of the costs of training and travel of crew-members.

- These can be thus arrangements for total or partial tax exemptions on the salaries of seamen consisting in reducing the salary to be paid by the ship-owner by the amount of the Income Tax payable by the seaman. These arrangements can take different forms:

[41] E.g. : 8 years in Belgium in the context of degressive depreciation or 12 to 20 years in the Netherlands. In Spain, linear depreciation is 6% for a vessel with a life-span of 25 years and 5% for a vessel with a life-span of 30 years.

- exoneration in the case of absence for over 183 days from the country of origin (e.g. United Kingdom),
- total (e.g. Denmark, Italy, international registers) or partial exoneration,
- tax reductions (e.g. Netherlands, Finland, Sweden, Norway, Spain, Greece)

- Waiver regimes (total or partial exoneration or repayment to the ship-owner of the employers' charges) concerning social contributions are more and more utilized, rather than tax reductions. These systems enable ship-owners to keep the share of the gross salaries of their employees. Some other countries have opted for the application of reduced rates of social contributions.

- It must finally be noted that the States can also possibly accept to take to their charge the costs of the training of seamen as well as the costs of repatriation of seamen (e.g. United Kingdom, Denmark).

NB : Most of the European States today are heading towards wide measures of lightening the fiscal and social burden by the following triptych : exoneration from social charges, de-taxing seamen's salaries and lump-sum taxation on tonnage.

4.2.3.4.3 Direct or Indirect Aids to Ship-owners

A certain number of financial aids may be granted to ship-owners by States who have made the choice of an interventionist maritime policy. These aids can take various forms and are often subject to conditions of nationality or of keeping the vessels under the national register during a certain period of time.

These can thus take the form of:
Financial help for the modernization of vessels,
aids connected with the quality of the vessels in terms of maritime safety and protection of the environment,
preferential loans,
investment subventions.

4.3 LAND TRANSPORT

Good land transport is fundamental to the economic viability of the country and to the quality of everyone's life. The increasing demand for transport was mostly met in Lebanon, till now, by an increase in the use of the car, where almost 75% of the households in urban areas depend on the private car for their mobility and the national car ownership has reached more than 200 per 1000 population.

This reliance on the car has resulted in an escalating strain on transport systems, leading to more pollution, accidents, and congestion. These negative impacts are of a high economic cost to the country. Thus, instead of broadening the freedom of movement, which is a valuable objective, the ever-increasing reliance on the car has contributed to a remarkable loss of mobility, due to congestion in the densely populated regions of Lebanon. Moreover, more than 35% of Lebanon's households do not have access to a car, and they therefore sustain

definite social and economic disadvantages in a transport system, which depends substantially on the availability of the private car.

The economic, safe, and convenient movement of people and goods must be at the core of transportation policy-making. An integrated approach is essential. It should involve balanced reliance on a multi-modal transport system, which provides alternative attractive choices, where high level-of-service public transport plays a substantial role in providing mobility.

Policies that foster transport systems which satisfy economic, environmental, and social sustainability objectives, should be targeted.

Economic and financial sustainability requires that resources be used efficiently and that assets be maintained properly.

The primary economic and financial objective is to make transport cost-effective and continuously responsive to changing demands, thus increasing responsiveness of transport offer to users needs through competition and enhancement of user participation.

In order to increase the use of competitive market structures in transport services, encouraging the private operation of fleets and developing better franchise and concessionaire arrangements to ensure competition for the market, is required.

Establishing an enabling framework for competition requires creating or strengthening regulatory institutions and performance standards for transport to ensure fair competition and protect public interest. It also requires unbundling and restructuring agency responsibilities to enhance the potential for the subcontracting of the provision, operation, and maintenance of transport systems and services. It is also necessary to increase the capacity for creating private-public partnerships by defining more clearly and sharing more fairly the liabilities, risks, and returns in concessionaire contracts.

Finally it is necessary to develop strategic planning and system management capabilities by creating or strengthening the public strategic planning capabilities necessary to complement and underpin a more competitive transport network. It is also important to establish processes for the effective participation of users and affected communities in making decisions on the design, management, and maintenance of transport infrastructure and publicly sustained services.

Environmental and ecological sustainability requires that the external effects of transport be taken into account fully when public or private decisions are made that determine future development. The objective is to ensure that environmental issues are addressed as an integral part of the formulation of transport strategy and project design.

The objective of addressing health-threatening impacts as a priority requires initiating benchmarked safety programs and adopting cleaner fuel standards. It also requires integrating environmental and economic elements in project appraisal through requiring more systematic estimation of impact that transport programs and projects have on safety and air pollution.

Finally, it is essential to protect against the adverse environmental impact of developments induced by transport networks on natural habitats, as well on cultural heritage sites, by requiring the correct mitigatory framework be in place before the project is implemented.

Environmental sustainability hinges on developing an environmentally sensitive strategic framework, whose elements include:

- better integration of circulation space and transport capacity with land use development,
- develop strategies that enable urban mass rapid transit projects to be cost-effectively incorporated in the long-term development of growing urban areas,
- establish road-user charges that reflect externalities (air pollution, noise, congestion, accidents),
- establish an urban transport fund to which revenues from fuel surcharges are assigned in support of expenditures on improving the performance of the urban transport system; and
- ensure that urban public transport fare, service, and finance policies maintain a balanced, sustainable urban transport system, while avoiding an excessive shift to the private automobile.

Social sustainability requires that the benefits of improved transport reach all sections of the community. The objective is to increase the social sustainability of transport by:

- targeting the transport problems of low income groups; and
- protecting low-income groups against the adverse effects of changes in general transport policies and programs.

A change in focus in transport policy implies a radical change in the role of government. The private sector can take on more responsibility for providing, operating, and financing transport services through concessionaire arrangements. Thus, the role of the government as supplier or quantitative regulator will decline, but its importance as the enabler of competition and the custodian of environmental and social interests will increase.

5. POLICY GUIDELINES APPLIED TO THE LEBANESE TRANSPORT SECTOR

5.1 PORTS

5.1.1 Institutional Structures Envisaged

The institutional reform of the ports of Lebanon has given rise to two recent studies; that of the HP Rendel Cabinet (Feb. 2001) and that of the BCEOM (2002). The first of these studies deals only with the port of Beirut, whilst that of BCEOM deals with both Beirut and Tripoli. In principle, the present study has a wider domain of application, covering all the Lebanese ports.

The common approach of all these studies is based on a "liberal" development of the Lebanese port system. It is not envisaged to reinforce the role of the State as the little ports of Tyre and Saida are sometimes calling for. This means notably the rejection of a system based on a National Port Authority in charge of the governing and public service tasks, as well as the rejection of a National Port Master-plan authoritatively distributing traffics (and the corresponding investments) between the ports of Lebanon and giving them specializations.

5.1.1.1 PROCESSES UNDER WAY

In the port of Beirut, following the construction of the new container terminal, and the incidents regarding the contract signed with DPA (Dubaï Port Authority) through a Company under Lebanese law, the Lebanese government has decided to authorize the Port of Beirut to equip the terminal (gantry cranes, RTG, reach-stackers, etc), with a view to a rapid commissioning. The intention of GEPB is therefore, after the installation of the equipment, to recruit an operator under a management contract, over a short period, and during this time to study the resale of the equipment to an operator prepared to take the risk of a concession.
The proposals for reform should notably take into account in the institutional context, these very recent developments.

5.1.1.2 PROPOSAL OF THE RENDEL STUDY: CORPORATIZATION

The HP Rendel cabinet's study examines a certain number of institutional models that could be applied to the Port of Beirut, examines their strengths and weaknesses, and makes a choice of a preferred model.

This choice is made on the basis of a matrix of criteria reproduced hereunder.

The institutional models examined are the following, classed according to the scale of State intervention ranging from the highest degree of implication (nationalization) to the lowest (total privatization).:

A. Full nationalization of all assets and activities
B. Decree 4517 Entity
C. « Stay where we are » (SWWA) : no changes in the current institutional layout of Port of Beirut
D. The "Port Autonome" (French institutional layout of larger ports)
E. State corporate entity
F. The Beirut Port 1960 Contract Management

G. State sector / Private sector joint venture
H. The 1887 Beirut Port Concession
I. A Solidere Type Model
J. Full privatization of all assets and activities

	A	B	C	D	E	F	G	H	I	J
Free from government Interference	1	2	3	5	7	7	8	8	8	9
Real Estate Development	4	5	6	6	9	1	6	7	9	9
Financial Independence	1	2	5	6	7	8	6	8	8	9
Commercially pro-active and responsive to market forces	1	3	2	4	8	8	8	8	8	6
Port Planning & Development	8	4	5	6	7	1	6	8	7	4
Independent Administration	1	2	4	6	8	8	7	8	7	9
Personnel Recruitment, assessment and training	1	1	2	6	7	7	7	7	7	7
Bankability	1	1	1	1	6	3	6	6	7	7
Accountability	1	2	1	5	7	8	5	7	7	5
Timely Legal Implementation	7	8	9	4	7	5	3	3	2	1
Lebanese Free Enterprise Spirit	1	2	1	2	8	7	5	7	7	7
Global Trend	1	2	1	3	7	6	6	7	7	8
Previous Experience with Models	1	2	1	3	6	8	5	9	7	7
End User Cost	2	3	1	4	6	6	5	7	7	8
National Interest	7	7	3	6	8	7	6	4	4	3
Preservation of Inherent Asset Value	9	9	9	9	8	9	6	9	6	5
TOTAL	**47**	**55**	**54**	**76**	**116**	**99**	**95**	**113**	**108**	**104**

The choice falls naturally on a corporate entity which obtains the greatest number of points in the range of criteria. It must however be noted that this type of multi-criteria method enables numerous solutions to be justified. The multiplication of criteria, associated with a lack of any weighting, does not appear to be a satisfactory method of selection (certain criteria are much more important than others).

The proposed **Corporate status** consists in transferring the assets and activities of the port to a private law Company (Beirut Port Corporation or BPC) all of whose shares are held at the start by the State. These shares will then be able to be sold to private players, wholesale or in successive stages.

With a view to conserving the vital interests of the State in the case of a subsequent privatization, the consultant has made provision for a " **Golden Share** " enabling the State to veto any developments that are judged to be unacceptable.

In order to protect the customers' interests in the face of a monopoly, it is planned to establish a regulatory body (National Maritime Council) at the Ministry of Transport, whose functions will also be extended to the Port of Tripoli. The functions would be notably:
To control the nature and the levels of port dues and taxes

To advise the Minister in matters of investments exceeding 50 million US$
To facilitate the integration of the maritime link in the overall transport chain
To monitor the implementation of the port investments necessary for the handling of future demand under satisfactory conditions of quality of service
To determine and implement the necessary social plan for indemnifying or reclassifying of the personnel of GEPB at the moment of forming the corporation.
To audit regularly the performances of BPC (every three years).

It is planned that BPC should award the management of port operations to an internationally recognized operator, in the form of a **30-year management contract**, similar in form to the " Beirut Port 1960 Contract Management " model.
Like that, **BPC employs practically no labor** (and takes over practically no staff from GEPB). In this, a radical change with the former bureaucratic practices is introduced, BPC is protected from the risk of drifting into an inflated administrative apparatus (" there would be little opportunity for empire building ").
But at the same time, a major social problem has to be dealt with by indemnities.

Otherwise, it is proposed that BPC should have the full ownership of port land and be thus able to convert the obsolescent parts of the port to other forms of utilization and obtain the profits from this (under the control of the regulatory body).

The present costs of the port being judged extremely high, it is proposed that, at soon as it has been created, BPC should be compelled by law to apply an initial reduction of its rates by 15%.

5.1.1.3 PROPOSALS PUT FORWARD BY THE BCEOM STUDY

In its draft final report of June 2002, BCEOM proposes two alternative solutions, applicable both to the port of Beirut and to the port of Tripoli, whilst indicating clearly their own preferences.
These two solutions are respectively derived from:
The "landlord" model
The model of an **global concession** under the questionable title of "service port".

5.1.1.3.1 The "Landlord" Proposal

In the ports of Beirut and Tripoli, a port authority company having the status of a State owned company is set up under the administrative and technical tutorship of the Ministry of Transport, with the following missions:
The development, renewal and maintenance of the infrastructures (excepting the possible case of BOT);
The planning and programming of developments
The market promotion of the port
The exercise of the prerogatives of the authority of the State: governing activities, coordination of the services of the State intervening in the port domain, etc...
The creation of concessions (or other juridical form: lease or sub-contracting) for all the commercial activities "by apartment", that is to say by homogeneous unit (from the point of view of the goods to be handled and/or by the port site concerned, and/or by the required technical abilities.

The activities concerned by creation of concessions (under terms of references) would be:
Towage, pilot and mooring services
The container terminal
The port silo.

Elsewhere, **set up under the lease system** (comparable to a concession but with the difference that the operators do not have to take the investments to their charge) would be the following activities:
Free Zone
Long stay warehousing.

Finally, in the ports of Beirut and Tripoli, **the activities in the multipurpose port areas would be sub-contracted**. These activities are:
Cargo handling / stevedoring
Trucking.

The sub-contracted operators must be licensed by the port authority and are subject to terms of reference. They freely make their contracts with the ship and liner agents, without any interference from the port authority.

In this layout conforming to the "Landlord" model, it is easy to integrate any possible future new activity. This would be contracted under one of the above mentioned forms (concession, lease, or sub-contract) according to its inherent characteristics.

Furthermore, **an independent regulatory structure would be created, the Port Committee.**
The setting up of this structure finds its justification notably in:
the nature of the port authority belonging to the State, which renders it sensitive to political influences
the fact that this port authority is itself a service provider in a monopoly situation, (in the sense of providing the infrastructures which should be suitable for the good execution of commercial operations)
the necessity to associate the beneficiaries in the regulation of public services

The Port Committee would be in charge of monitoring and controlling:
the rate tariff levels and the competitiveness of the conditions for the provision of port services (in comparison with ports of reference)
the quality of service supplied
the absence of abuse of dominating positions
the respect of the general principles of public service (continuity of service, equality of users)
the respect of the contractual arrangements between the port authority and the operators
the pertinence of the development policy driven by the port authority
The composition of the Port Committee would include representatives of all the economic interests concerned by the activities of the port (Chamber of Commerce, importers and exporters, operators within the port, banks and insurance companies, as well as representatives of the State and the City.

It has adequate means to act in the exercise of its mission, tenders injunctions and if necessary proposes to the Government the measures to be taken.

A variant of the institutional set-up is also described by the BCEOM, consisting in setting up a private law company alongside the port authority with the job of managing the financial resources of the said management, with a view to reducing the risk of political interference in the port finances.

5.1.1.3.2 "Global Concession " Proposal

This scenario consists in the **Global concession of all the activities of the port** to a single operator who has the possibility of subcontracting, under its own responsibility, a part of these activities. This concession is long term (50 years) on account of the overall financial responsibility of the concessionary (including the infrastructures). At the end of this concession, all the installations would be returned to the State.

The conceding party is the Ministry of Transport which determines the conditions for the concession and lays down the specifications and articles. A department within the Ministry is in charge of the governing activities.

The concessionary, a private law company, develops and maintains the port infrastructures, as well as its superstructures and equipment. It runs the port, freely determining the services that it provides and their tariffs.

The need for regulation is obviously more important in this case than in the "landlord" model. Because of this, **the Port Committee** should see its scope and power reinforced.

Taking account of the critical role played by containerized operations in the port of Beirut, the BCEOM suggests that the majority shareholding in the capital of the concessionary should be held by an experienced operator of container terminals.

In face of the difficulties of such a plan (cf 1133 hereafter), the BCEOM also suggests the possibility of an intermediary scenario in which there would indeed be an overall concession of operations but the State would remain responsible for the financing of the heavy infrastructures (protecting breakwaters), and with the concession period then being shorter (15 years).

5.1.1.3.3 Choices Proposed by the BCEOM

The BCEOM strongly suggests the adoption of the "landlord" model for the ports of Beirut and of Tripoli.
The reasons for this choice are mainly the following:
The "Landlord" model enables a much better control by the State of the port development (necessary reactivity because of the rapidity of the development of international demand)
Because of the limited duration of the concessions (15 to 20 years) and the delimited character of the concessions, it limits the risk of divergence between the interests of the concessionary and the conceding party.
A State controlled management enables the social problem of the absorption of the GEPB personnel to be spread out
It is easier to license new activities in the case of a "landlord" port (one only needs to create a new concession)
The financial disengagement of the State that the overall concession allows in appearance, is only partial: necessity to reimburse the un-depreciated part of the investments at the

termination of the concession, the necessary intervention of the State in the financing of the heavy investments whose threshold of profitability goes well beyond that which is acceptable by the private sector...
The overall concessionary, given the incertitude linked to the long duration of the concession and to the activities that he only partially controls, would be more inclined to claim a higher return on his capital to reduce his risks, and this to the detriment of the financial interests of the State).

5.1.2 Proposals of the Consultant

5.1.2.1 Introductory Remarks

The solutions examined by the BCEOM and Rendel are pertinent. It appears very clear indeed that on the institutional level, the only credible alternatives are several variants of the "landlord" or of the "private port" models, including the model for an overall concession described above. The corporation proposed by the Rendel study is to be considered as a first step towards a total privatization. This is the current approach of the Port of Singapore, until recently still a publicly owned "service port", and today a private law corporation entirely owned by the State, and on the road towards privatization.

The other models, "service port" or "tool port" are now a disappearing species in the international field.

For all the reasons exposed in the present chapter, but also in Chapter IV, an institutional set-up of the "landlord" type appears preferable to entirely private forms of management for both of the two most important ports of Lebanon, Beirut and Tripoli.

In the consultant's opinion, there is no reason to put in question the conclusions of the BCEOM study on this point. The discussion that remains open is situated much more at the level of the detailed arrangements for the implementation of a reform of these ports.

Two main questions are posed in this respect:
Is the proposed plan of sub-contracts on the basis of a "stevedoring license" realistic (taking into account the socio-economic characteristics of the stevedores currently operating in the port of Beirut) and is this of a nature to permit the modernization of the handling of conventional cargo in the ports of Beirut and Tripoli?
Is it not possible to ensure a part of the necessary regulation of the system by the introduction of a certain degree of intra- port competition?

5.1.2.2 Institutional Set-up Regarding The Conventional Cargo Activities Of The Ports Of Beirut And Of Tripoli

The poor relation of the reflection on the reform of the ports in Lebanon, efforts being generally entirely concentrated on the question of the container terminal, the conventional cargo activities, in the BCEOM report, are dealt with in a spirit of compromise aiming to reconcile two constraints:
"to normalize" these activities today still being carried out in an informal manner, to integrate them into a more regular technical, economic and juridical framework

to minimize the social problem that would occur with a sudden breakdown such as the handing over the concession of the conventional area to any foreign port operator

The system of subcontracting called "stevedore license" that the BCEOM proposes reflect these issues by enabling certain of the stevedores currently working in the port to continue their activity subject to an important effort towards rigor in working methods and an alignment of their practices with those for example that prevail in the conventional activities in the average sized French ports (there where there are still common-user multi-purpose infrastructures).

The proposed system **puts an end to the present cutting up of the cargo handling tasks** with its numerous actors: stevedore, Sté Libanaise d'Acconage, Watchmen, Tally-Clerks.... The cargo handling company takes charge of the goods from on board the vessel right through to their delivery and vice versa, going through possible phase of warehouse or open area storage.

It also puts an end to the direct implication of the port authority in the organization of the traffics and the invoicing of operations (whereas today the GEPB implements the organization of the rotation in turn between the stevedores, invoices the cargo handling and pays the stevedores whilst holding onto a remuneration of 33% of the price invoiced to the customer).

The licensing conditions for "stevedores" laid down in the report are rigorous since they are required:
to be a legally constituted company, with a minimum issued share capital
to provide a administrative file to include the statutes of the company, the list of shareholders and their shareholding, as well as a statement of their underwritten and paid up share capital
to provide a file on their competence and good moral conduct (managers)
to undertake to respect the specifications in the terms of reference laid down by the port authority and stipulating the following obligations:

- The existence of (a) cargo handling contract(s) with shipping lines
- The existence of an insurance policy contract
- The provision of a minimum of equipment defined according to the operations to be carried out
- An undertaking to adapt the equipment to the traffic and to renew this equipment
- The deposit of a security to guarantee good and safe utilization of the equipment belonging to the port
- The respect of the port regulations: police and operating
- the respect of the minimal production rates laid down by the port authority
- the production of operational statistics

Can these conditions be met by the stevedores currently working in the port? The consultant does not know the answer to this question.

However if the answer is in the negative, a choice will have to be made:
to relax the conditions of licensing to the detriment of the regularity of the operations
to give up the envisaged solution and to recruit one or more concessionaries by call for tenders

If on the other hand the answer is positive for all or some of the stevedores, that means that they are truly enterprises in the juridical form of a company and capable of mobilizing a certain amount of capital and to subscribe to a certain number of formal requirements.

In this case, why do these actors not associate themselves and join forces, or even associate themselves with third parties with a view to responding to the calls for tenders for the concessions?

5.1.2.3 THE REGULATION OF THE PORT SYSTEM

The setting up of an independent regulatory body is necessary whenever the market is not capable of self-regulation by the effects of internal competition or competition from other ports.
Such a system must therefore be set up for want of anything better. Its work is subject to many difficulties (even if the principle of it is declared, the transparency of the operations of the concessionaries is far from being assured and access to information can prove a real problem).

On the other hand, an independent regulatory body, whatever the quality of its information and the pertinence of its decisions, will never have the market capacity in real time to push the operators to supply the required services quantitatively and qualitatively by the correct anticipations.

Finally, a cumbersome regulation implies a not un-negligible loss of energy in terms of the production and collection of data, the analysis of this data, of meetings, of letter writing ...

The best regulator is the market itself when it is sufficiently competitive.
In Lebanon, the situation appears to be very different from that of Europe. There are not numerous ports in competition to satisfy the requirements of an effectively small home market.

In the specific field of containerized goods, the volumes of traffic are insufficient to render acceptable the coexistence of two container terminals, taking into account the indivisibilities and the effects of scale.

The situation is at first sight more favorable when it is a question of conventional cargoes insofar as such activities are significantly less capitalistic and for which the effects of scale are less.
The question posed is therefore the following: is it possible to determine an institutional set-up which enables competition within the port and with other ports to be reinforced, without overly diminishing the efficiency of operations so as to reduce the requirements for an external regulatory body?

The consultant thinks that it is possible to reply in the affirmative to this question. It seems to him to be possible to introduce a certain degree of competition within the port and thus reduce the needs for regulation (without however this being able to do away with all needs for regulation). It is only a question of going from a heavy-hand regulator to a less constricting monitoring set-up.

5.1.2.4 A POSSIBLE INSTITUTIONAL PLAN FOR THE PORT OF BEIRUT

This **ideal plan** is that of a "landlord" type port such as that defined by the BCEOM, but which would have several differences as to the number and to the nature of the concessions. Other than the concessions mentioned:
pilot, mooring, towage services
container terminal
silo
as well as the lease regarding the long-term storage and the Free Zone, it could be envisaged to put under concession the conventional cargo activities of the port of Beirut, in the form of two competing concessions.

Furthermore, these two concessions dedicated to operations on conventional traffics would **provide a marginal competition** to the operator of the container terminal by offering their services:
to the shipping companies using "multipurpose" or "conbulk" ships carrying a limited number of containers on deck in addition to conventional cargo
to the operators of small container vessels or self-geared container vessels usually only carrying out a limited number of moves in Beirut.

Such competition, recommended by the World Bank in a context similar to that of the Lebanese ports (small volumes insufficient to support the co-existence of two container terminals) and called **"Overlapping Competition Strategy"**[42] has the effect of:
not congesting the container terminal with vessels that are difficult to handle with container gantries
avoiding a berth shift for multipurpose vessels (penalizing both in time and cost) if the cargo operations for conventional cargo have to be carried out on a conventional berth and container operations on a container terminal
putting competitive pressure on the container terminal operator.

If this operator does not attempt to abuse his dominant position, the competition will not take away much traffic. Even if the conventional terminals, not equipped with gantries, invoice their service at a lower rate, the line operator has everything to gain by using the services of a container terminal that will enable the vessel to save precious time, typically about twelve hours for a vessel with 600 moves (50 moves a vessel / hour at the container terminal against only 25 moves per vessel/ hour on a multipurpose terminal).
Against that the multipurpose terminals would become a realistic commercial alternative for the line operators in the case of an abuse of the dominant position.
Furthermore, the two multipurpose terminals would open the door to internal competition within the port for the conventional and bulk traffics of the port of Beirut.

Each of these two conventional terminals should be made up of well-defined infrastructures and superstructures by sub-dividing the port conventional cargo area (N° 2 & N° 3 docks) into two possibly unequal parts, but both able to support the activity of a single operator.

[42] See on this subject World Bank port reform Toolkit, Module 6 : Port regulation module, p 16

5.1.2.5 METHODS FOR IMPLEMENTATION OF THE STEVEDORING ACTIVITY CONCESSIONS

In the case of the Port of Beirut, two situations must be distinguished:
That of the container terminal
That of the other terminals.

In the case of the container terminal, two strategies can be envisaged:
Management Contract, and then placing under concession
Directly placing under concession, with purchase of the equipment by the concessionary (hire purchase).

The first solution is the more complex. It gives the advantage of absolutely guaranteeing the rapid start-up of activity, the risk being potentially very limited for the holder of the management contract.

It provides the serious disadvantage of a possible break at the end of the period of the management contract.

The second strategy is by far the preferable, if can be assured that there is no risk of a fruitless call for tenders, given the precedent created by the breakdown of the placing under concession with DPA.

Are the potential candidates for a concession absolutely convinced today of the absence of risk or is it necessary to reassure them by providing (through the setting up of a temporary management contract) a demonstration of the correct functioning and of the traffic potential of the terminal?

The possible forms of the calls for tender for a management contract and for a concession will be developed hereafter.

a) The Container Terminal: 3 to 5 years management contract

The container terminal has been built and financed by GEPB. After the breakdown of the setting up of a concession for the port of Dubai and in the absence of an alternative solution enabling the terminal to be rapidly put into service, it has been decided to equip it (quayside and container yard) to enable them to be able to entrust the management of it to an operator, for a short period of about 3 to 5 years.

Indeed this solution appears to be the only one permitting the handicap linked to the breakdown of the previous approach to be overcome. The management contract, by providing the demonstration of the good functioning of the terminal both on the operational level and on the commercial level (development of the traffic) will open the way to the future implementation of a concession with the re-sale of the equipment to the concessionary. It is even within the bounds of possibility to envisage that the signatory to the management contract should be a candidate for the future concession.

The candidates for the management contract must be able to show proof of:
Experience in the management and running of operations on a container terminal (operating sites in several countries).

A sufficient financial standing.
Their financial independence from any shipping company.
Experience in the operating system envisaged for the port of Beirut (employment of RTG in the container yard).

The **criteria of judgment** of the tenders should include:
The scope of experience of the candidate.
The undertakings that he gives regarding additional payments to the port authority per cargo unit handled (according to the various types of operation).
In a certain measure, his aptitude (in function of his present undertakings and activities) to become a future concessionary of the container terminal, beyond the period of the management contract.

The candidate selected should be subjected to extremely detailed **terms of reference** notably specifying:
A maximum handling price (laid out under various headings or sub-prices: loaded 20', loaded 40', etc., shiftings and hatch-covers, transhipments etc...
A minimum productivity (in terms of number of moves per gang and per hour recorded over monthly periods).
Minor maintenance of the equipment and storage areas.
The respect of the port regulations (1^{st} come 1^{st} served, safety procedures in matters of hazardous goods, etc...).
Obligation to compile and publish operational statistics.
Security deposit against the state of the equipment and storage areas at the end of the contract.
Contribution to a reserve fund to guarantee against the major maintenance on equipment during the contract period.
Etc...

b) Container Terminal: putting under concession

After and beyond the period fixed for the management contract, it is planned to put the terminal under a concession, for a period of 15 years (roughly covering the residual life-span of the heavy equipment).

Ideally, this concession could be granted to the holder of the management contract, who could buy the equipment from the conceding party. The holder would have the benefit of the experience gained, of the personnel employed, etc... The conceding party, the port authority would also find an advantage in the continuation of the running of the terminal without interruption.

However, an opening to competition will be necessary insofar as the concession will require a completely different financial equilibrium from that of the management contract.
Nevertheless the selection criteria must include the above-mentioned items and preference should be given to the holder of the management contract in the case of two economically comparable tenders.

The knowledge of the work achieved under the management contract, the working of the equipment, the productivity obtained, the growth of traffic recorded, the impact of the marginal competition from the multipurpose terminals, the social conditions in force in the

port will be of a nature to reduce any incertitude and to reassure the candidates for the concession.

The candidate for the concession would be judged on the basis of the following **criteria**:
The scope of experience of the candidate (including the possible experience of the management of the terminal in Beirut).
The price offered for the purchase of the equipment of the terminal.
The undertakings given with regard to additional payments to the port authority per unit of traffic (according to the various types of operations).

The **terms of reference** would be very much like the previous ones but should also include:
An undertaking of availability of the equipment.
An undertaking for the renewal of equipment.
An undertaking to supply additional quayside and container-yard equipment in function of the development of the traffic.

c) Multipurpose Terminals

Two multipurpose terminals should be defined in the Port of Beirut for the purpose of competing with each other in respect of the operations for general conventional and bulk cargos.

In addition, these terminals would be authorized to handle multipurpose vessels carrying both conventional cargo and containers, or even small container vessels.

As far as possible, the conditions for the concessions of these terminals should take into account the social problem connected with the stevedores and their dock-labor force.

The candidates for one or other of the concessions should be able to show proof of:
A legal structure (Limited Company under Lebanese law).
Experience in the management and running of conventional cargo operations (sites operated in Lebanon or in other countries).
A financial standing sufficient to guarantee the financial stability of the company and an investment capacity sufficient for the operations to be carried out (mobile cranes, fork-lift trucks of various sizes, trailers, tug-masters, etc...

The **criteria for judging** the tenders should include:
The scope of experience of the candidate.
Participation in a company that includes operators formerly established in the Port of Beirut (a optional condition, but a big advantage for the selection process).
The undertakings given regarding additional payments to the port authority per unit of traffic handled (according to the various types of operations).
The candidate selected should sign detailed terms of reference notably imposing:
A maximum price for cargo-handling (laid out under various headings or sub-prices:

- Loading or discharging bulk cargos,
- Loading or discharging of conventional cargo (per ton, per unit...),
- Ro-Ro operations (per vehicle, per trailer...),
- Lo/lLo operations for containers (loaded 20', loaded 40' , etc., shiftings and hatch-covers, transhipment), etc...

- transfer to container yard, transfer to warehouse, open storage...
- etc...

A minimum productivity for the various categories of products (in terms of tons or units handled per gang and per hour recorded over a period of a month).
The respect of the port regulations (1st come 1st served, safety procedures in matters of hazardous goods, etc...).
The obligation to compile and publish operational statistics.
Etc...

5.1.2.6 THE PORT OF TRIPOLI

The port of Tripoli, in the same way as Beirut, represents an important stake for the future of Lebanon. Today, it is a port specialized in a certain number of conventional traffics.

Tomorrow, its traffics will be able to develop notably in the field of transit cargo for Iraq, on condition notably of a favorable geopolitical development of the region, of a normalization of relations between neighboring countries and the implementation of numerous facilitations for international trade in the transit corridors.

But above all, at term, the port of Tripoli will be in measure to take the relay from the port of Beirut in matters of port development, having a widely expandable site and not being like Beirut enclosed in the urban tissue.

These reasons justify that the case of the port of Tripoli be considered as major playing card for Lebanon and as such benefit from an institutional framework to meet the stakes in play.

The consultant suggests that the port of Tripoli be given the same institutional framework as that for the port of Beirut, in other words the framework of the "landlord" model:
A port authority in charge of long-term planning, of the development and maintenance of the infrastructures, of the putting in value of the port lands by the granting of concessions, the governing tasks and the tasks of coordination of the other public services.
Two distinct concessions for multipurpose terminals dividing up the present quay and its storage areas:
concessions for the pilot, towage and mooring services
special arrangements concerning the free zone (leases).

The conditions for putting the terminals under concessions would be similar to those for the concessions for the conventional terminals in Beirut.

The operators in Tripoli would notably be authorized to marginally compete with the Beirut container terminal (operations not requiring specialized equipment).
During the call for tenders aimed at the recruitment of concessionaries for the two terminals in Tripoli, advantage would be given to companies complying with all the requirements but whose share capital would be wholly or partially held by former stevedores having operated in the port of Tripoli (with the aim of minimizing the social consequences of the granting of the concessions).

The envisaged new extension could be undertaken at an opportune time under the form of a BOT, a private concessionary constructing a new terminal, its quay and storage areas, whilst the port authority would take in charge the construction of the basic infrastructures of the port.

5.1.2.7 THE PORTS OF SAÏDA AND TYRE

These are two secondary ports of very limited importance. On the national level they have no strategic character. The port of Saïda has been developed largely to make up for the lack of working in the port of Beirut during the war. The port of Tyre practically operates only a single category of traffics, the import of second hand cars. The local stakes for these ports are also very limited (some exports of the local production of citrus fruit by the port of Saïda) and should be evaluated taking into account the distances: the port of Saïda is only 30 km to the south of Beirut !

These ports ask to be managed with the greatest possible economy of means. They are not subject to experience developments implying the creation of new infrastructures. The project for the development of a new port at Saïda, at the outset not very realistic, should be handled separately from the question of the management of the present port.

Therefore, in the same measure as there are no stakes to interest the national community, there are no risks associated in the creation of monopolies.

These ports should be placed under the responsibility of the competent local or regional governments (the municipalities of Saïda and Tyre for example) who could then concede the management to a private entity under the form of an overall concession.

The fact of entrusting the responsibility for the port to the municipalities concerned would present also the advantage of entrusting them with the necessary arbitrages between the continuation of the commercial activity of the port and other objectives (restoration of the original site with a view to putting in value the historic heritage in the case of the port of Saïda).

5.1.3 Need for Specific Studies

Four types of studies should be carried out for the implementation of the institutional modification of the ports of Beirut and Tripoli and their adoption of the "landlord" model:
A study concerning the management of the port authority:

- Missions
- Means
- Methods.

A study concerning the port rates tariff (port dues on the vessel and on the goods) in function of the needs of the port authority:

- for its functioning
- for the maintenance of its infrastructures
- for investments in infrastructures.

A technical and economic study of the separation of the conventional terminals in Beirut and Tripoli.

Assistance to the prime contractor for placing the terminals under concession.

5.2 MARITIME

With a concern to valorize the Lebanese maritime register and in the perspective of a regain of interest in Lebanon from international maritime economic actors, it is recommended that the following measures be adopted.

5.2.1 Structure of the Maritime Administration to be set up / reinforced

In order to carry through a dynamic maritime policy, it seems indispensable that the administrative departments of the Lebanese Ministry of Transport be restructured.

In the context of a small State, it appears easy to draw inspiration from the efficiency of the American Coast Guards model, firstly in a civil context. It is, at mean term, conceivable that this reform be prolonged in providing this coast-guard with a military character enabling it to coordinate *(à la française)* the other intervening State bodies such as Customs, Ministry of the Environment, Maritime Police, or National Security.

The centralization of competences would enable the administration to function in a more efficient and rational manner and would cut down the number of intermediaries that contribute to the slowness and impenetrability of the work of the Lebanese maritime authorities.

DIRECTORATE GENERAL OF LAND AND MARITIME TRANSPORT

Maritime Transport Department

Ports and Harbors Section	Civil Coast-guards	Maritime Training Division	Legal Section
- Port dues - Ship Registry	- Pilotage and VTS - Navigational Lights & Buoys	- Seafarer's Database - Seaman book Section	International Conventions (*juridical watch*)
- Ports	- Hydrographic Survey	- Examination & Certification	
- Waster disposal - Port reception facilities	- Ship Construction - Ship Equipment	- Training standards - Liaison with Unions	National law Regulations
	- Safety Control: PSC FSC	- Training Center	Other Policy issues
		- Implementation of STCW, ILO Conventions, etc...	
	- SAR - Casualty Investigation - Implementation of Marpol, Solas Conventions etc.		

5.2.2 Means to be implemented for the application of International Maritime Conventions and priorities

5.2.2.1 LEGISLATION

In order to position Lebanon amongst the respectable maritime nations, it is necessary to select the most pertinent IMO and ILO International Conventions and proceed to their ratification.

- **ILO**:

During the 29th session of the Maritime Parity Commission held in Geneva in January 2001, ILO decided to draw up a unique Convention for Maritime Working which should be drawn up around the concept of "*decent working*", to include at the same time the personal situation of the seafarer, his professional and family environment. This convention should see the light of day in 2005 and should play an important part in the fight against sub-standard vessels and working conditions[43].

It would therefore be judicious to wait for the achievement of this codification to envisage an overall ratification of the ILO conventions relative to work at sea and to put the Lebanese legislation into conformity with them.

[43] Armateurs de France, Annual Report 2002, p. 29.

Consequently the Lebanese maritime authorities are recommended to use this waiting time to prepare themselves in the best way for this new load of measures. Projects of laws for the application of these Conventions should therefore be drawn up as well as a budget evaluation of the engendered costs.

- **IMO**:

- In order to be in a suitable position to carry out the Port State Control in the context of Med MoU, it is necessary to ratify rapidly the COLREG Convention (Convention on the International Regulations for Preventing Collisions at Sea 1972).

- With a concern for the contribution of Lebanon to the protection of the maritime and coastal environment, it would appear also appropriate to proceed with a overall ratification of all the Conventions fixing the rules of responsibility in cases of accidental pollution and the rules for the reparation of damage.
- London Convention 1972 et London Convention Protocol 1996
- International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (INTERVENTION) Protocol 1973
- International Convention on Civil Liability for Oil Pollution damage (CLC) Protocol 1976 et CLC Protocol 1992
- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND) Convention 1971, FUND Protocol 1976 et FUND Protocol 1992
- Convention relating to Civil Liability in the field of Maritime Carriage of Nuclear Material (NUCLEAR) Convention 1971
- Convention on Limitation of Liability for Maritime Claims (LLMC) Convention 1976 et LLMC Protocol 1996
- International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) Convention 1990
- International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances (HNS) Convention 1996
- OPRC/HNS Convention 2000
- International Convention on Civil Liability for Bunker Oil Pollution Damage (BUNKERS) Convention 2001.

- Finally the ratification of the two Conventions relative to rescue at sea should be envisaged in a concomitant manner :
  - International Convention on Maritime Search and Rescue (SAR) Convention 1979
  - International Convention on Salvage (SALVAGE) Convention 1989.

5.2.2.2 ADMINISTRATION AND ORGANIZATION

With the prospect of the heavy work of ratification laid out above, it is absolutely indispensable to create a legal department of a high level within the Maritime Transport Department. This department should prepare the legislative or regulatory measures necessary to the ratification of the International Conventions mentioned and ensure a judicial watch in order to avoid too important delays in face of the advances of the international maritime community.

The Ministry of Transport should besides be represented in an active and permanent manner within the various International Organizations with a maritime vocation (principally IMO and ILO). The nomination of a senior civil servant or of a small staff specialized in maritime questions should be seriously envisaged.

The Lebanese Maritime Authority should proceed with a strict selection of classification societies carrying out registration operations in the name of the Lebanese Government. The delegation of technical maritime competences should only be given to carefully selected societies. On this point it is recommended that a licensing mechanism on the European model be should be instituted or that only societies accepted by IACS be selected.

Finally, the Lebanese authorities carrying out the Flag State Control should take their responsibilities and not hesitate to sanction recalcitrant ship-owners. Ship-owners not accepting to submit to extensive inspections should be barred from the Lebanese register. In the same manner, vessels presenting a too dangerous state of decrepitude should be excluded from the Lebanese register and sent to the breakers yard. The respectability of the Lebanese register inevitably depends on the "removal" of deficient vessels.

5.2.2.3 HUMAN AND MATERIAL MEANS

A maritime policy of quality, both from the point of view of the Flag State and from that of the Port State, necessarily supposes the recruitment of high class civil servants or the "excellence" training of administrative staff already in place.

Insofar as Lebanon does not posses any training institutes at this level, it is pertinent to call on, once again, the IMO Technical Cooperation Committee. This has the vocation of valorizing and developing available human resources and contributes to the build-up of the institutional abilities of the States asking for it.

It is particularly recommended to envisage the further training of administrative senior staff as well as of inspectors at the various international training institutes

- World maritime University (WMU), Malmo, Sweden
- International Maritime Law Institute (IMLI), University of Malta
- International Maritime Academy (IMOIMA), Trieste, Italy.

5.2.3 Rules for the Lebanese Register

The regulations regarding the maritime register must reply to two complementary objectives :
To increase the attractiveness of the register for potential ship-owners, in order to stimulate this economic sector as well as all the connected activities
To put the image of the Lebanese register into value on the international stage.

Consequently, new Lebanese regulations need to be drawn up, oscillating between an easing of the methods of registration, financial support to the ship-owners and strictness of the quality and safety inspections of the vessels.

5.2.3.1 NATIONALITY OF SHIP-OWNERS

Up to now the Lebanese maritime register was only open to individual persons of Lebanese nationality or to legal companies with a majority shareholding by Lebanese citizens. A special authorization was required for foreign ship-owners.

Just like numerous *open registers*, it is desirable to open up access to the registry more widely for foreign ship-owners (individual persons or companies), provided that they plan to open a local representative office. Foreign ship-owners should be placed in a similar situation as that of the national ship-owners.

5.2.3.2 CREWS

Although maritime practice in Lebanon already gives liberty to engage entirely foreign crews, it is necessary to legalize this practice.
The Lebanese maritime code should therefore authorize this practice, subject to the presentation of certificates of competence delivered by maritime authorities figuring on the OMI (STCW) White List.

It is also recommended that the validity period of voyage documents for Lebanese seamen be revised. These are currently only valid for one year. It would be clearly preferable that this validity be extended up to 5 years, in order to simplify the formation of the ships complement for the ship-owner.

5.2.3.3 VESSELS

The maximum age of vessels under Lebanese registry should also be reduced in order to avoid the excessive extension of the life-age of Lebanese vessels, as well as the arrival of sub-standard vessels on the Lebanese registry.

Following a comparative study of the regulations applicable in numerous States and taking into account the present composition of the Lebanese fleet, it would appear that the fixing of an age limit of 20 years would be reasonable.

5.2.3.4 PROCEDURE FOR REGISTRATION

The procedure for the registration of vessels under the Lebanese register is still fairly complex and lengthy. It would here again be desirable to implement a simplification of these administrative procedures for the ship-owner.

It is thus conceivable to guarantee a possibility of continuous registration (24 hrs a day and 7 days a week) by using modern methods of communication (fax, internet) and through a declaration by the ship-owner or his legal representative (suppression of the requirement for 4 witnesses).

The opening of several registration bureaus in strategic ports could also be envisaged.

It is however important, in terms of the quality of the register, to maintain the mechanism of temporary registration, having to be subsequently validated after a strict verification of the

various documents delivered. The validity of two months for the temporary registration could however be extended up to six months in order to enable the ship-owner to more comfortably finalize his registration.

5.2.3.5 FINANCING, TAXATION, DEPRECIATION

With a concern to the attractiveness of the Lebanese register, but above all in the perspective of making the Lebanese fleet conform to the requirements of the ISM code, it is imperative to set up a real national policy of financial support to this branch of activity. Otherwise, a virtual disappearance of the fleet under Lebanese registration is to be feared.

A. Financing

- It seems that the development of relations between Lebanon and the European Union is opening encouraging prospects from a point of view of the financial resources available to Lebanese ship-owners. The signature of an Agreement of Association EU-Lebanon was drawn up between the two parties on the 10th January 2002 in Brussels. This agreement, although still requiring the ratification of the 15 members of the EU and of Lebanon, is accompanied by a large financial program. Indeed the European Commission has decided to improve the efficiency of its aids to Lebanon in favoring, for the new program planning exercise (MEDA A – 2002-2004), the utilization of faster instruments of implementation. The payment of this new wave of aids should be made in a more efficient manner thanks to the decentralization of decisions to the level of the European Commission delegation in Beirut as from autumn 2002[44].

Four areas have been judged as priorities. Amongst them is the will to accompany the economic development of Lebanon to prepare it to adapt to the clauses of the Agreement of Association (modernization of the legislative, institutional and regulatory framework, **improvement of the productivity and the competitiveness of Lebanese firms**). A budget of 45 million Euros has been allotted to this priority.

The ship-owners on the Lebanese registry, vectors of a strong economic and commercial potential in the region[45], can hope to benefit from this European financial windfall through their own government.

- It is however indispensable to draw up a new legal qualification for the activity of maritime transport so that the ship-owners can claim the financial aids of the Bank of Lebanon. The recognition of the industrial character of this activity is thus ardently looked for.

- The granting of loans at preferential interest rates, specially reserved for ship-owners who have chosen the Lebanese register would inevitably work towards a renewal of the Fleet and re-flagging.

- Finally, faced with the age and alarming decrepitude of the Lebanese fleet, it would be particularly judicious, at the time of entry into force of the ISM Code, to set up an exceptional mechanism of financial support for the renewal of vessels. This support

[44] See *Les relations Liban-UE*, Fiches de synthèse de l'Ambassade de France au Liban – Mission économique, may 2002.
[45] See *Transport Minister planning changes*, Lloyd's List, Wednesday June 25, 1997.

could be subjected to the reliability and solvency of the ship-owner as well as to an undertaking to remain under the Lebanese registry for a certain number of years.

- A revision of the registration fees could come to complete these national subventions. Contrary to the present scale by virtue of which fees are diminish with the age of the vessel, it would be pertinent to reverse the system. This revision would enable ship-owners investing in recent vessels to be "rewarded" and, a contrario, to "sanction" ship-owners who continue to run decrepit vessels.

B. Taxes

- Just like 70% of the world's fleet, it would be advisable to apply the regime of **Lump-sum taxation on tonnage** for vessels registered in Lebanon.

  This regime provides in reality numerous advantages, in terms of simplicity, anticipation and lightening of the fiscal burden on ship-owners.

  Although it creates an exception to the basic rules of company taxation, the risk of "contagion" to other sectors of economic activity are very small, taking into account the specificities of the maritime sector. The observation of the situations in other countries having instituted it for several years, shows that the extension of the system is non-existent. International comparisons besides show the efficiency of the tonnage tax in terms of re-flagging of the fleet and in employment[46].

- It would also be desirable in order to lighten the fiscal burden weighing on Lebanese ship-owners, to envisage **the exoneration of social security charges** provided that the ship-owner shows the proof of cover by a P&I club as well as an appropriate medical cover.

- **The exoneration of social contributions** relative to the salaries of seamen should be implemented in order to offer ship-owners better profits and the creation of a more comfortable cash-flow turnover.

- In order to complete this series of positive measures, the Lebanese Government could envisage to **totally or partially exonerate taxation on seamen's wages.** Ship-owners would therefore only be subjected to the payment of the net salaries.

C. Depreciation

The rules of depreciation are aimed at facilitating the ship-owners' investments in new vessels and in "clean" and efficient marine technologies. They are vital in the present context of "under-investment" and of the very worrisome aging of the Lebanese fleet.

It is therefore indispensable to work out a depreciation regime particularly advantageous for ship-owners who have chosen the Lebanese register.

[46] cf. Armateurs de France, Annual Report , 2002, p. 24.

This could be built around the following main axis:
Fixing of a limit of the period for depreciation corresponding to the "useful life" of the vessel (in order to avoid prolonging the depreciation of a vessel after it has been broken up),
application of a regime of degressive depreciation at attractive rates (the objective being to reduce the period of the depreciation and to favor a regular renewal of vessels),
a mechanism of flexibility of depreciation rates in function of the needs of ship-owners for liquidities.

The option of a French type fiscal EIG could also come to complete these arrangements.

D. Capital Gains

The Lebanese Government could finally, to complete this new maritime fiscal regime, apply, as regards the sale of assets (e.g. sale of a vessel) the method of the creation of an investment reserve, with an, at least partial, exoneration of taxes. This possibility should be subject to a condition of re-employment of the reserve in the acquisition, the modernization or the transformation of another merchant vessel.

This mechanism would in reality be an aid towards investment.

5.3 LAND TRANSPORT SECTOR

5.3.1 Introduction

We have introduced earlier in this report the distribution of transport functions, processes and services among various government departments, pointing out the fragmentation of responsibilities as well as gaps and redundancies. We have also discussed key issues and problems pertaining to the land transport system components.

In this section we discuss the institutional framework of the transport sector and we seek to explore an appropriate structure conducive to improving the sector's performance by focusing on results and effectiveness.

This institutional "rethinking" is needed because the government is faced with a host of demands on its manpower and financial resources at a time when there is a dire need to limit government spending while keeping the economy moving. The level of demand for infrastructure and services will increase over the coming years while resources are limited. The increased demand can only be met by improving value for money. This calls for service provision through a management framework that is appropriate for each service, ensuring the selection of the best way to deliver a service to achieve government objectives, while creating a more client-oriented, affordable and innovative service delivery environment. Alternative forms of service delivery may include options which generate revenues by charging user fees, encouraging increased cost effectiveness, optimal use of resources, responsiveness to clients and good business practices.

First, we introduce the key issues outlined in the Inception Report showing problems and weaknesses of various components of the transport system.

Second, we outline the strategic objectives of OMSAR's initiative pertaining to the Public Administration Development Strategy. Based on these objectives, we have formulated a set of guiding principles for institutional reform.

Third, we discuss the major factors that affect the choice of the most appropriate service delivery structure (executive agency), and the types of public sector executive agencies.

Finally, we introduce various forms of private sector participation in service delivery, and an outline of the proposed land transport service delivery structure.

5.3.2 Key Issues

5.3.2.1 Management Issues

We have indicated earlier in this report that the current institutional set up of the transport sector suffers from inadequate management structures, fragmentation of functions and responsibilities, unclear definition of authorities and responsibilities, lack of accountability, and confusion over the role of government.

Public agencies in Lebanon are guided by and operate under laws and decrees that specify their mandate or role. These legal texts are general in nature and contain only general statements about areas of responsibility and functions rather than their outcomes and results. Furthermore legislative texts are "reactive" in nature and are issued to address marginal changes and needs as they arise in time, and often lack comprehensive and consistent vision of government functions and their performance.

Specifically, there is no focus on performance in terms of quality, quantity, results, effectiveness, value for money, responsiveness to beneficiaries, innovative approaches to service delivery, performance based budgeting, continuous improvement...

5.3.2.2 Performance Related Issues

Performance has to do with the adequacy, quality, reliability and sustainability of the transport system services. The following performance related issues have been identified earlier in the study:

- Deteriorated road network and costly maintenance practice.
- Inadequate access control on motorways resulting in safety hazards and traffic disruption.
- A serious imbalance of the land transport system due to the halt of rail service and the lack of efficient reliable public transport.
- Aging vehicular fleet with no effective vehicle inspection for road worthiness, safety and pollution control.
- Lack of organized distribution system and multimodal facilities, impacting negatively urban traffic congestion and goods transport efficiency and productivity.
- Severe parking problems within Greater Beirut and other urban areas resulting in restricted street capacity and disruption of pedestrian traffic.
- Lack of traffic system management and control
- Deficient enforcement of traffic code
- Road safety problems.

Combined, these issues result in high congestion and low mobility. They produce transportation services that are inadequate, unreliable, and unsustainable, causing people to limit their travel to the bare essential.

5.3.2.3 Economic And Cost Issues

- High concentration of sector imports
- All vehicles, new and used, including spare parts and fuel are imported.
- The government subsidizes transport ineffectively.
- The private sector enterprises, by government decree, subsidize transport ineffectively.

5.3.2.4 Environmental Issues

- The concentration of pollutants predicted by the area source model in congested areas in Greater Beirut exceeded the NAAQS levels.
- Excessive noise levels were measured in congested areas.

5.3.3 OMSAR's Initiative

The Public Administration Development Strategy, prepared by OMSAR, provides an ambitious initiative and a framework within which an outline of the institutional structure of the transport sector could be explored. The strategic objectives of this initiative as stated by OMSAR include:*

- Focus the role of the state on core functions and tasks
- Ensure effective and coherent structures of the public administration
- Strengthen policy making and implementation capacity
- Ensure high quality civil service and civil servants
- Streamline and modernize procedures and systems
- Enhance the quality of governance
- Improve client and result orientation.

Based on these objectives, the following guiding principles for institutional reform can be derived:

1- The roles and responsibilities of central government departments should be restructured and rationalized, so that the ministries would focus on policy setting, planning, decision making, resource allocation, control and evaluation, and delegate delivery of services to a management framework that is appropriate to the nature of each service.

2- Ministries should be equipped with a proper system for policy and resource management in order to evaluate regularly the achievements and costs of government activities to ensure achieving value for money. This ensures that the most efficient means of service delivery is selected, based on good understanding of outputs, level of service and costs.

* Strategy for the Reform and Development of the Public Administration in Lebanon, OMSAR, Sept. 2001.

3- Stressing effective management practices, MBO, customer focus, optimization of service quality to meet the needs of beneficiaries and citizens, introducing information technology and e-government, simplification of procedures and cutting routine, performance management.

4- Adopting effective human resource management coupled with empowerment and accountability for results and performance, and encouraging employees to become better managers.

5- Stressing and enforcing the principle of public interest for guiding decision making across all levels of the management of public funds: from policy setting to planning through implementation.

6- Ensuring proper links and coordination between those responsible for policy-making and the implementation agencies.

These principles of reform must be applied within the context of the main functions of civil service: 1) Resource planning and budgeting, 2) Policy management, and 3) Service delivery (policy execution). Figure 5.1 shows the responsibilities of various levels of government.

5.3.4 Selection of Appropriate Service Delivery Structure

5.3.4.1 Public Sector Executive Agencies

Transport sector services delivery may be assumed by several types of public sector executive agencies or by the private sector. The choice of service delivery structure depends, inter alia, on the following most important factors:

(a) The type of service to be delivered:

1- Core services, including policy setting, regulation, strategic planning, law enforcement, and other economic functions performed by the government as a matter of public policy.

2- Support services, including ancillary services provided only to other government bodies (e.g. data processing, vehicles, property services...)

3- Commercial services, covering those services, such as public transport and transport terminals, that are provided to the general public at a charge. These services are often monopolies and traditionally have been provided by the government, although this need not be necessarily the case.

(b) The degree of autonomy and flexibility, or freedom from government control that is desired:

1- Services kept under direct government control, such as law enforcement, and vehicle registration.

Figure 5.1: Functions and Responsibilities of Institutions within the Government

Government Functions	Institution	Responsibilities	Comments and Suggestions
1.Resource Planning and Budgeting	Council of Ministers	- Overall resource planning - Financial Control - Control on allocation of resources - Policy review	- The budget preparation exercise is based on the incremental/ marginal approach. It is recommended that activity based budgeting or performance based budgeting be adopted
2. Policy Management	Ministries	- Identifying policy issues and developing broad policy goals based on social and economic requirements - Establishing policy objectives - Deciding on appropriate service delivery mechanisms/agencies - Obtaining and allocating resources to delivery agencies - Evaluation of results	- Ministries need a policy and financial framework within which their service delivery mechanism can operate. - Ministries need to observe social and economic requirements and constraints, on one hand, and the ability of the service delivery agency to deliver, on the other hand. They need to match between policy requirements with the resources available.
3. Service Delivery	- Public corporations & authorities - Government departments - Other executive agencies, municipalities, contracts, concessions, BOT, private operators.	- Operational Planning - Preparation of annual operating budgets and targets. - Implementation of plans - Management of resources - Monitoring budgets - Undertaking performance improvement measures - Evaluating and reporting performance	The service delivery agency is to provide information which enables the Ministry to measure progress towards achievement of objectives. This will enable the government to exercise regular and systematic review of the whole public expenditure

2- Services that would benefit from a wider public participation in their management, and requiring operational flexibility not normally attainable in government structure: e.g. public transport, on-street parking management, and toll highways.

(c) Pricing Strategy:

The pricing strategy needed for a particular service, affects the choice of executive agency. It depends on the government's economic, social and fiscal policies:

1- Free to the consumer, or for a nominal charge, such as on-street parking.

2- Partial cost recovery, for services that earn revenue, but are subsidized, such as public transport.

3- Full cost recovery, where prices charged reflect the full cost of provision of the service including the cost of capital.

The selection of the appropriate executive agency depends on the various combinations of factors that can arise. Four broad types of executive agency can be considered:

- Traditional Department (إدارة حكومية عادية)
  Applicable to core government services that are provided to the public at no charge, such as law enforcement.

- Trading Fund Department (Autonomous Public Agency) (مؤسسة عامة)
  Applicable to core services, support services or commercial services where partial or full cost recovery is sought and where direct control by government is desired, e.g. vehicle registration (core service), tunnel or bridge operation (commercial service).

- Public Corporations (شركة مملوكة بالكامل من قبل الدولة)
  Applicable to core functions where commercial viability is sought or for commercial services. Wholly owned by government but with separate accounting and management structure, operating according to commercial principles.

- Autonomous Public Bodies (هيئة عامة مستقلة)
  Non-departmental public bodies with a role in government but operating at arm's length. This type is appropriate for service delivery requiring a greater degree of freedom from government for purposes of independence or flexibility.

5.3.4.2 PRIVATE SECTOR PARTICIPATION

Lebanon's public sector is fairly limited in scope and the bulk of its economic activities are handled by the private sector. However, given the need to explore the most efficient means of service delivery, the transport sector has room for private sector participation, based on good understanding of needs, outputs, level of service and costs. Such participation may take either of the following two forms:

1- Contracting out the delivery of services, whereby the private sector acts as an agent for the government, and its involvement is introduced within a contractual framework.

2- Divestiture, whereby the public sector withdraws from the provision of a service, or the ownership of a function or enterprise is transferred to the private sector.

Contracting out

Contracting out the delivery of services is a regular practice and it is a flexible way of involving the private sector in service delivery. It can take three main forms:

- Service Contracts (outsourcing)
  Applied for specific activities or services such as custodian services, security, property maintenance. This form of contracting out transfers the management of the costs of service provision.

- Management Contracts
  Applies where a concession is granted to a private sector company to manage a business such as car parks, on street parking, or a dockyard. A management contract usually transfers responsibility for managing the costs and revenues of a service or a business.

- BOOs (Build-Own-Operate) Schemes
  Involves granting a concession to the private sector to build, finance and operate a new infrastructure project such as a bridge or tunnel. A BOO scheme transfers responsibility for managing the costs, revenues and finance.

Figure 5.2 shows the conditions of applicability, contractual issues and examples of applicability of various forms of contracts.

Form of Contract / Responsibility for	Service Contract	Management Contract	Build-Own-Operate
Cost	✓	✓	✓
Revenues		✓	✓
Financing			✓

Divestiture

Divestiture involves one of the following forms:

- The public sector withdraws from providing a service and lets the private sector fill the need.
- The public sector sells all or part of the government's share in existing corporate enterprises.
- The public sector transfers the ownership of a service or business and its associated assets to the private sector through various forms of sale.

Divestiture may involve a number of issues including regulation, retaining strategic control, valuation of the business, observing relevant policies and public interest.

Figure 5.2: Conditions of Applicability and Contractual Issues by Form of Contract

Form of Contract	Applicability	Contractual Issues	Examples
Service contracts	• Where service requirements can be easily defined • Where the private sector provides adequate expertise and capacity (number of firms) to allow for competitive bidding. • Government has adequate capability to maintain control to protect public interest. • Redundant government staff can be redeployed and social pressures minimized. • The contracted service would be carried out more efficiently by the private sector, at the standards required.	• Services are easily contracted out when the requirements are simply and clearly defined: the contractor knows what is required and the government obtains what is requires, and the contractor's performance can be monitored. • Demand is reasonably certain and quantities can be fairly ascertained. • Effective monitoring by the government through inspection or reviews of user complaints. • Quality of service can be maintained through stipulation of payment penalties. • In the extreme case of non performance, termination of contract and take over of the capital assets of the contractor to ensure continuity of service. • Contract period: depends on the extent of capital equipment needed. A trade-off between the need to shorten it for the benefit of the government and to lengthen it to allow enough qualified bidders to be interested. Typically 3 or more years.	Solid waste collection/ Management Routine Maintenance of parts of the rural road network
Management Contracts	• Where qualifications and skills of the private sector would increase business efficiency and profitability through improved management, technology and marketing. • Public interest is protected if management is transferred to the private sector • Fair arrangements can be made for redeployment of redundant staff.	• Bidding is usually by prequalifying interested firms • Tender evaluation considers the financial return to government based on a revenue sharing scheme proposed by the tenders. • The management firm is expected to provide improved management and operating technology for improving efficiency.	Management & Operation of car parks

BOO/BOOT Schemes	• The proposed project will be feasible in terms of generating revenues, which would enable the private sector to raise the necessary finance. • The project is sufficiently autonomous as an entity and could be handled by the private sector with minimal demands on the staff and resources of government. • The project demands skills, expertise, technology or management capability not available in the government. • Adequate contingency arrangements can be made to protect public interest.	• Scope of work may include design, building, financing, operating and maintaining the project. • Ownership may remain in the private sector throughout the life of the project. • In BOOT projects, ownership may be transferred to the public sector after a specified period or after all debt has been repaid and target equity returns achieved. • Usually a joint venture is created for such a project linking the contractor, operator and banks. Finance is typically arranged through a mixture of equity and debt. • Precontract studies may be needed to establish commercial and technical viability and suitable project scope and limits. Legislative framework may also need to be established.	- Infrastructure development packages

5.3.5 Proposed Land Transport Service Delivery Structure

Good regulation and management of land transport services promote economic viability and improved utility to persons and goods.
Based on the guiding principles for institutional reform, introduced above, we foresee an increased role of the Lebanese government in policy management, strategy development and choice of the most appropriate service delivery structure in accordance with public interest and in line with the objectives of economic, financial, environmental and social sustainability of the transport sector. At the same time we foresee more delegation of transport service delivery to autonomous public agencies and the private sector.

Figure 5.3 shows the proposed land transport service delivery structure. In principle, core governmental functions that are normally provided free of charge, or as a matter of public policy are delivered through government departments. On the other hand, commercial functions that involve cost recovery are better provided by the private sector.

5.3.5.1 PUBLIC TRANSPORT

Public transport is a major and fundamental service, which when provided properly contributes positively to all transport objectives in service of public interest, including economic, social and environmental sustainability.

It contributes to improving mobility, reducing congestion, reducing pollution and promoting social equity.
Public transport is a commercial function, which is best managed outside the civil service for operational and managerial reasons, aiming at increased efficiency and effectiveness.

The proposed service delivery mechanism may be structured under two alternatives:

I. Mixed delivery where the service is performed by a public corporation (wholly owned public company) and through management contracts/concessions by the private sector.
II. Only private sector delivery.

In both cases policy management is retained by the Directorate General of Transport / OCFTC, including the regulation framework pertaining to quality, safety, efficiency, equipment specifications and fares.

Because of the importance of public transport in terms of system efficiency and environmental / social / economic sustainability it is usually subsidized by direct incentives (including exclusive bus lanes) in addition to internalizing all costs attributable to the use of private cars. A sound pricing policy helps structuring the most appropriate pricing scheme for principal transport services in line with public policy pertaining to the transport sector.

5.3.5.2 TAXI / SERVICE

The taxi / service as a paratransit component has been both a convenience and a nuisance to the urban environment. With the addition of 20,000 more plates in mid 90's the hazards of the mode became more pronounced: deteriorating vehicles, undisciplined driving and increasing pollution, although diesel engines were banned as of mid June 2002.

Figure 5.3: Proposed Land Transport Service Delivery Structure

Function / Service	Type of Service - Core service, or - Support service, or - Commercial	DEGREE OF GOV. CONTROL - Direct Gov. Control, or - Autonomous, or - Independent	Pricing Strategy - Free, or - Partial cost recovery, or - Full cost recovery	Policy Management	Proposed Executing Agency	
					Public	Private Sector
Public Transport	Commercial	Autonomous	Partial or full cost recovery	DGT/OCFTC	Public corporation - A I. Mixed delivery - A II. Only private sector delivery	Management contract/concession
Taxi / Service	Commercial	Autonomous / Indep.	Full cost recovery	DGT	-	Licenced operators organized in companies or coops
On-Street Parking	Commercial	Autonomous / Indep.	Partial or full	DGT / Municipalities	-	Management Contract
Car Parks	Commercial	Independent	Full	DGT / Municipalities	-	BOO
Vehicle Registration / Annual Vehicle Inspection	Core/ commercial	Autonomous	Full	MOI	- AI Traditional Dept, or - AII Trading Fund Dept., or - AIII Public Corporation	Contracting out Vehicle Inspection
Traffic Law Enforcement	Core	Direct Control	Free	MOI	Traditional Dept	-
TSM / Safety	Core	Autonomous	Free	DGT/Muni	Traditional Dept.	Studies
Road Construction and Maintenance	Core	Autonomous	Road Fund	MOPWT/ Muni	Traditional Dept. / CDR	Contracts
Toll Highways, Bridges, Tunnels,	Core/ Commercial	Independent	Full	MOPWT	CDR	BOOT
Metro lines	Core / Commercial	Autonomous	Partial	MOPWT	CDR	BOOT/Management Contract
Urban Transport Modal coordination	Core	Direct	Free	DGT	Traditional Dept.	Studies

It is proposed that the DGT (or an organizing authority set by DGT) provide the policy management, regulatory function for this mode, such that individual operators are organized in companies or in coops, and their operations are defined in terms of geographical scope, type, routes, stops, rules of operation and fares.

5.3.5.3 ON-STREET PARKING

On-Street parking affects road capacity and accessibility of vehicle trips to commercial and business areas.

On-Street parking is a commercial function that could be more efficiently performed by the private sector through a management contract.

Regulation and policy management should be assumed by the municipalities, and the pricing structure could be set in accordance with the parking demand and the nature of the location.

5.3.5.4 OFF-STREET PARKING

Off-street parking services on private land (lots or car parks) are purely commercial activities regulated by the Municipalities. When built on public land it could be contracted out as a BOOT scheme.

5.3.5.5 VEHICLE REGISTRATION / ANNUAL VEHICLE INSPECTION

Vehicle registration is a core government function but with a commercial attribute. It should be preferably managed by an autonomous executive agency. The following alternatives could be considered:

I- Traditional Department, as in the current situation, where vehicle registration is part of the structure of the Ministry of Interior.

II- Trading Fund Department, whereby a separate department with its own accounting structure is created to manage the service.

III- Public corporation, whereby a public company wholly owned by the government is set up to manage the service.

However, the annual vehicle inspection could be contracted out to the private sector, where certain vehicle inspection facilities are licensed to carry out the inspection for a specified fee. These facilities could be located in all Mohafazats or Cazas to improve geographical accessibility to users.

5.3.5.6 ROAD CONSTRUCTION AND MAINTENANCE

Road Construction and maintenance is a core function, which is best financed through a dedicated fund (Road Fund, or Transport Fund).
This function shall remain within the MOPWT (and CDR temporarily), with design and construction contracted to the private sector.

5.3.5.7 TOLL HIGHWAYS, BRIDGES AND TUNNELS

Toll highways, bridges and tunnels represent a core function but with a commercial attribute involving full cost recovery. They are best implemented through a BOOT (build – own – operate – transfer) scheme by the private sector. The government organizations responsible for policy management and implementation management are MOPWT and CDR respectively. If toll highways are to be implemented, a mixed public – private corporation can be formed to take care of this activity.

5.3.5.8 METRO LINES

Metro lines are core/commercial functions that could be built by the government or through a BOO scheme. As a public transport service, they are usually priced on the basis of partial cost recovery, receiving subsidy from the government.

5.3.5.9 TRAFFIC LAW ENFORCEMENT, TSM/SAFETY, URBAN TRANSPORT MODAL COORDINATION

These services are core services that are provided free by traditional departments.

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