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## **FIGHTING FOR MONEY, INVESTMENTS AND CAPACITY**

### **Port Governance and Devolution in Belgium**

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# 1 INTRODUCTION

The starting point for any economic analysis of sea-port activity is a clear definition of the concept sea-port and an understanding of the institutional context. As to the definition of a sea port, reference is made to the nature of the vessels entering the port: if sea vessels can reach the port, it is to be considered as a sea port; if only inland vessels can reach the port, it is to be considered as an inland port (Blauwens, De Baere and Van de Voorde, 2002). Alternative but less suited approaches would be the locational approach to defining a sea-port (Henk, 2003) or the hinterland-size approach (Branch, 1986).

Broadly speaking, issues in port policymaking are most often related to the necessity of creating additional docks and/or terminals, and the appropriate timing and location for such expansion operations. In other words, port policymaking is concerned with the manner in which the scarce production factors of 'time' and 'space' can or shall be assigned to port activities.

Irrespective of whether a port is in private or public hands, policymaking is largely controlled by an administrative authority. The reason why the public authorities in particular tend to show great interest in sea ports is that ports are of enormous economic significance to the area governed: depending on the administrative level, they generate significant benefits in the shape of direct and indirect employment, added value and international trade (Meersman, Van de Voorde and Vanelslender, 2003). On the other hand, there are costs to consider, including public investment in maritime access, port infrastructure, hinterland connections, next to for instance negative externalities like congestion and air pollution.

Such public administrative control due to national economic importance also exists in Belgium. In terms of surface area and population, Belgium is one of the smaller member states of the European Union. However, because of Belgium's central geographical location in the vicinity of important production and market centres, and because of its dense population, it has four sea ports, all situated in Flanders, which together are the motor of the country's economy.

In 2003, the direct added value created by the four sea ports rose by 3.6 percent to EUR 11.5 billion. The indirect added value amounted to EUR 10.5 billion (National Bank of Belgium, 2005).<sup>1</sup> Also in 2003, the port of Antwerp accounted for 5.3% of the added value generated by the Belgian economy and 9.3% of that of the Flemish economy. As to employment, 105,419 jobs are created directly and 133,457 jobs indirectly at Flemish ports. About 3.6% of Belgian and 6.2% of Flemish employment is generated directly or indirectly by the port of Antwerp. There are considerable differences between the four ports, though. Antwerp accounted for 64.4% of the added value, compared to 25.7% in the case of Ghent and 6.1% for Zeebruges (National Bank of Belgium, 2005).

It should be noted that the level of port industrialisation is an important determinant of a port's contribution to the national economy. Although the port of Ghent for instance handles less traffic than the port of Zeebruges (23.5 versus 30.6 mn tonnes), the former's added value is higher. The type of activities inside the port perimeter is therefore of crucial importance.

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<sup>1</sup> The National Bank's calculations of these indicators are based on the balance sheet of the various undertakings in the four ports.

Institutionally speaking, Belgium is a federal state, consisting of three Regions (Flanders, Wallonia and the Brussels Capital Region) and three Communities (the Flemish, the French-speaking and the German-speaking communities). It is the Regions which have full decision power with regard to sea-port policy. The Flemish Region sets out the lines with respect to the ports of Antwerp, Zeebruges, Ghent and Ostend, the Brussels Region does so for its sea port, and the Walloon Region is in charge of sea-port policy at the port of Liège. Distinguishing among the regions is important, as policies diverge among the Regions, as the European Community in its documents and data treats port in the different Regions separately, and as the Regions themselves are in charge of contacts with the European Commission, for instance with respect to state aid to ports.

This paper deals in greater depth with port governance in Flanders. It considers consecutively: port management, i.e. the manner in which daily operations are run; sea-port policy, i.e. the role that the higher authorities play; an assessment of port governance issue. The great economic significance of sea ports and the resulting toughness of port competition have, all too often, caused port policy and the role of government to be preoccupied with a struggle for money, investments and capacity, as we already indicate in the title of this paper.

## **2 FLANDERS' PORTS IN A NUTSHELL**

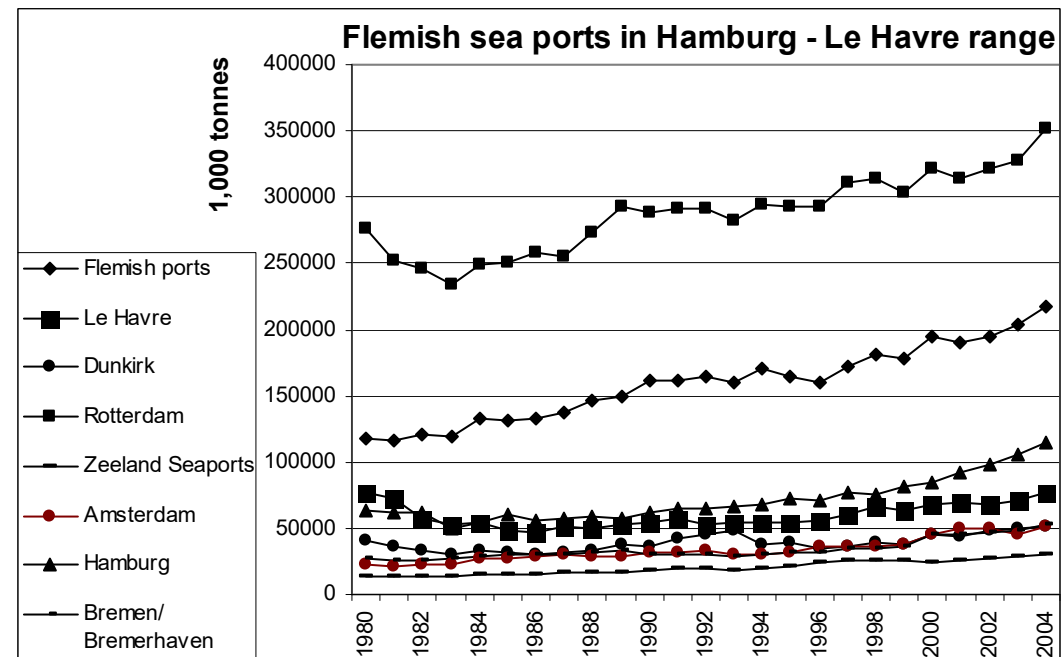
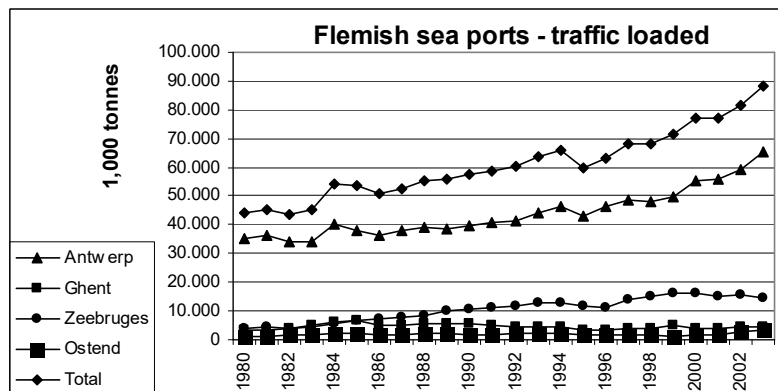
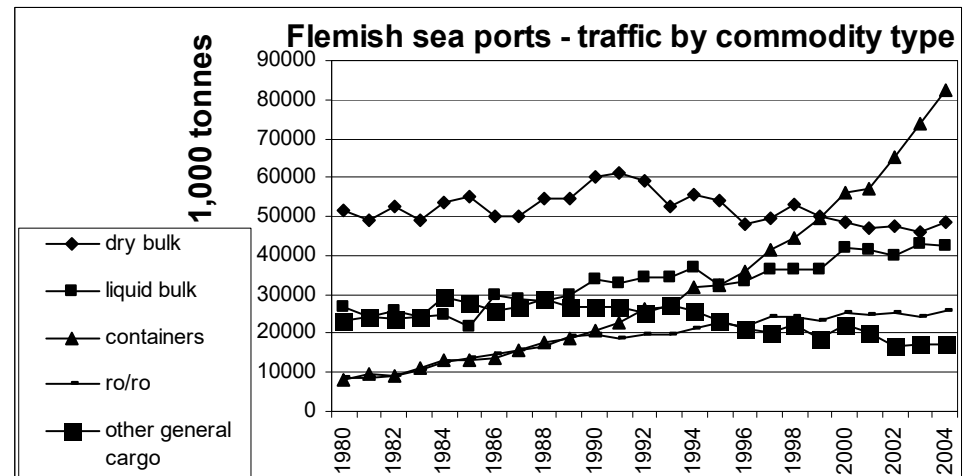
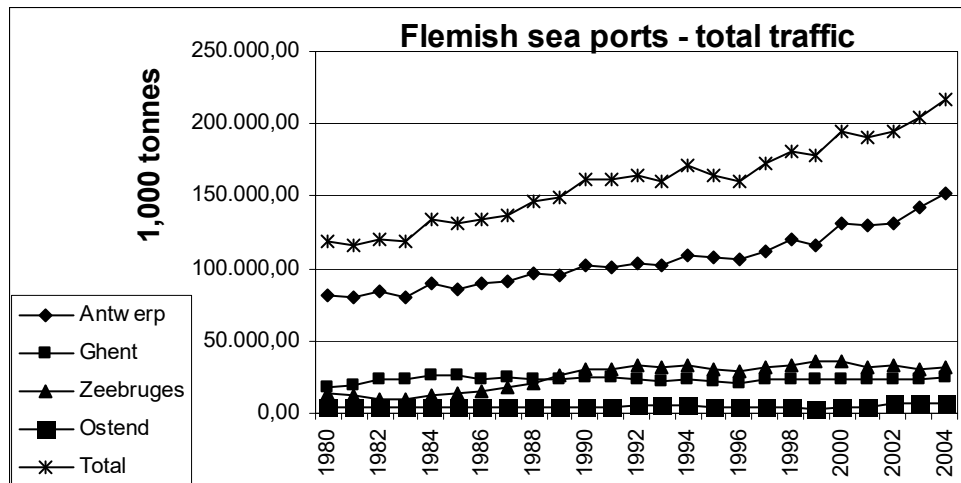
The principle of the derived nature of transport demand also holds in the port sector. A period of strong economic growth, further internationalisation and globalisation, with ever-growing trade flows, automatically implies increased port throughput in the large port ranges. However, whatever holds at aggregate level may not ring true for each port separately. Within the Hamburg-Le Havre range, port competition is stiff. This means that international and national influences can impact on the competitive position of individual ports. Port management and policy are therefore crucially important factors to a port's comparative success or failure.

Figure 1 provides an overview of the relative size of Flanders' ports in 2004.

Over the decades, one has come accustomed to Flemish sea ports reporting good growth figures year after year. In 2004, Antwerp once again broke its own traffic record. Total throughput rose above 152 million tons, beating the previous record year, 2003, by 6.6%. Between 2000 and 2004, traffic in Antwerp grew by approximately 30%.

Aggregate figures can however hide divergent trends. This is also the case for the port of Antwerp. Handling of liquid bulk remained stable in 2004, but traffic in other goods categories rose by several percent. The big success story, though, is undoubtedly container throughput: in 2004, a total of 6,063,744 TEU was achieved, representing 11.4% growth over the previous year. This corresponds with a tonnage of over 68 million. Antwerp's container capacity has, for that matter, been increased by a further 6.4 million TEU with the opening in 2005 of a brand-new tidal dock called Deurganckdok.

Equally interesting is the distinction between loaded and unloaded tonnage. More goods are unloaded than loaded at Flemish ports. (116,200,000 versus 88,001,000 tonnes in 2003). Taking into account flows that almost never generate backhaul cargo, shipping companies do on average have a reasonable chance of attracting cargo for the return trip. This enhances a port's competitiveness.



**Figure 1: Total traffic, traffic according to commodity type and loadings and unloadings in Flemish seaports and within the Hamburg-Le Havre range**

Source: Flemish Port Commission, 2005

Another important aspect is the respective market shares. In 2004, the port of Antwerp achieved a market share of 16.4% of total freight throughput in the Hamburg-Le Havre range. This means the port ranks second, behind Rotterdam's market share of 37.9%. Hamburg, by comparison, achieved a 12.3% share. As far as non-containerised general cargo is concerned, Antwerp is the largest port within the range, while in terms of container throughput it ranks third behind Rotterdam and Hamburg.

### 3 PORT GOVERNANCE IN FLANDERS

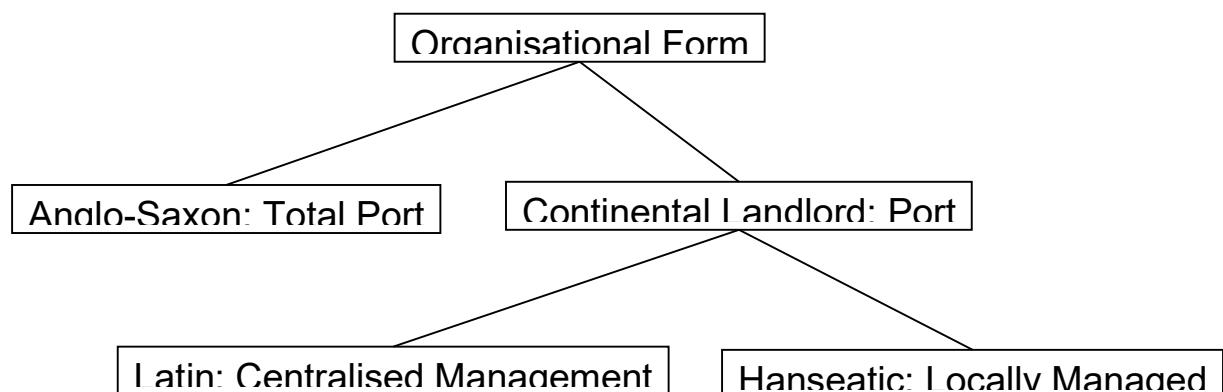
Belgium's sea ports are not all governed in the same way. Moreover, there is no uniformity within Europe in terms of the financial and organisational structure of ports. This is not without consequence for their competitive position, as becomes apparent if one considers the various managerial structures in greater detail. Especially the financing specifications and the degree of commercial freedom is determining.

#### 3.1 The broad European framework

Within Europe, we can distinguish between various types of port governance. In Figure 2, the emphasis is on the distinction between pure private ownership on the one hand and mixed private-public management on the other. In Figure 3, on the other hand, the focus is on the distinction between central and decentralised management.

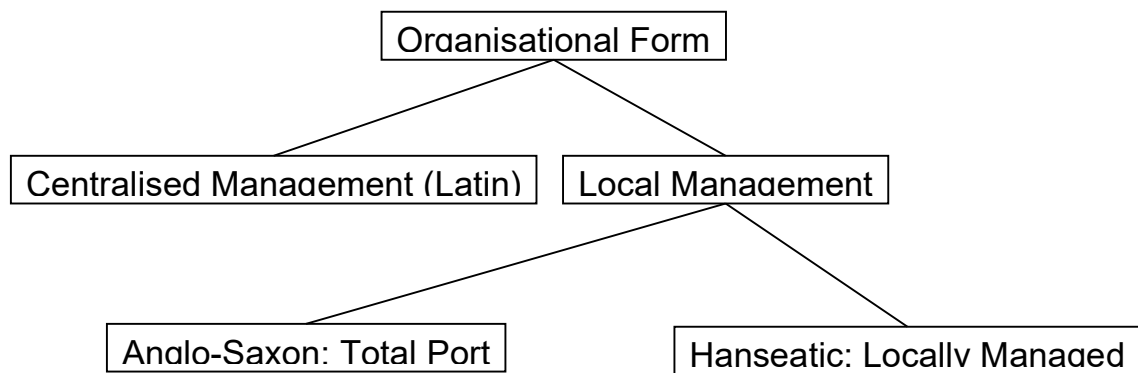
In practice, we can thus distinguish between state-run ports, municipal ports and privately owned ports (Grammenos, 2002). The first type has a centralised management, while the other two are locally run. The main objective of centralised governance is to arrive at an equitable distribution of means and to enhance the implementation of national port policy, while a local management can respond to specific needs of the port more swiftly. Furthermore, the first two types generally have a mixed (private-public) structure, while ports of the third port type are typically fully privatised.

**Figure 2: Types of port management by distinction fully private / mixed structure**



Source: own composition on basis of Suykens (1995)

**Figure 3: Types of port management by distinction centralised or local**



Source: own composition on basis of Jansson and Shneerson, 1982, p.4

The current situation in Europe is summarised in Table 1.

**Table 1: Organisational structure of European ports**

	<i>PUBLIC</i>			<i>PRIVATE</i>
	Type I	Type II	Type III	Type IV
<b>Ownership</b>	Public	Public	Mixed	Private
<b>Autonomy of Port Management</b>	very restricted	limited	high	complete
<b>Responsibility of Port Management</b>	State operated/ 'Tool port'**/ 'Landlord port'***	'Landlord port'*** (predominant) 'Tool port'**	'Full Service port'****	'Full Service port'****
<b>External public funding</b>	extensive	important	very limited	no public aid
<b>Cost recovery practices</b>	not principal objective	partial recovery predominant	full services, some infrastructure investments	full cost recovery
<b>Access to provide services</b>	open tender/ direct agreement	direct agreement predominant	direct agreement	normally Closed
<b>Relative importance in traffic terms*</b>	limited 8%	very important 75%	limited 7%	limited 10%
<b>EU states employing organisation types I-IV</b>	Dk, Gr, F, P, D, I	B, Dk, Fin, F, D, Gr, NL, P, E, S, I	Dk, Ir, S, UK	mostly UK, but also in other member states
* traffic estimates based on EU member states replies and best evidence available ** a port where the public authority is not only providing basic infrastructure but also (some) facilities to port operators *** a port where the public authority is co-ordinating port development and manages only basic infrastructure **** a port operating company runs the port entirely. This company is very often established in a mixed holding between public and private operators.				

Source: Commission of the European Communities, 2001

The above table takes no account of ports belonging to a hybrid class, with a mixed state ownership<sup>2</sup> but private-style daily operation organised in an autonomous body, as is the case in certain French ports (the so-called *Ports Autonomes*). An other form of French port organisation is locally oriented and combines the benefits of a mixed management (no dominance of private interests) and private ownership (no public or political interference). The latter type is either run by the local ‘Chambre de Commerce et d’Industrie’ or by the regional authority<sup>3</sup>.

Particularly in the Hanseatic port type, but also in the Latin and the Anglo-Saxon systems, capital goods (i.e. port infrastructure) are usually in public hands, while labour (i.e. goods-handling) and specific superstructure are usually privately owned. In other sectors of the economy, capital and labour are often in the same hands.

### **3.2 Evolution of port governance types in Flanders**

In Flanders, port governance is typically decentralised. Ports are either run at the municipal level (Antwerp, Ghent and Ostend) or by an autonomous body (Zeebruges). There are no fully privatised sea ports in Belgium.

#### **a. Ghent and Antwerp**

The ports of Ghent and Antwerp were transformed into municipal companies on 1 January 1979 and 1 January 1988 respectively. The ports are managed outside the general municipal services, yet on the basis of a regulation that is drawn up by the municipal council.

Previously, the situation had been rather ambiguous. A municipal port authority is, after all, not an autonomous body. Management and supervision were in the hands of the alderman for the port or another member on the local council. The port thus remained subject to decisions taken by the municipal council and to managerial guardianship. A separate budget and business account used to be drawn up, and expenses and revenue fell under the competence of a company treasurer rather than the municipal treasurer.

The port of Antwerp was transformed into an autonomous municipal port company. Ghent held on to its specific form of mixed management, but in consequence of the new port decree, it was eventually transformed into a municipal autonomous port company late September 1999. The port decree, which prescribes uniform rules for the management of Flemish sea ports, contains a number of stipulations to which port companies must conform, one of which is that they must possess legal personality. The port of Ghent’s mixed public-private form of governance did not possess legal personality, so that a reform imposed itself. The ports of Antwerp, Ostend and Zeebruges, by contrast, already fulfilled this condition.

In the case of Antwerp, one must take account of the fact that the port area on the left bank of the Scheldt (LBS) lies in East Flanders territory, while the area on the right bank lies in Antwerp. A 1978 act, amended in 1987, prescribes that land and industrial management of

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<sup>2</sup> The Director as well as the Chief Accountant (‘Agent Comptable’) of a Port Autonome are appointed by the State

<sup>3</sup> A recent decree states that all Port of National Interest, which were State owned (e.g. Calais, Nice), but mainly run by the local Chamber of Commerce by means of long-term concessions, will be handed over to the Regions which will lead a bidding process by (consortia of) local authorities.



LBS should be in the hands of a so-called intercommunal company<sup>4</sup>, who leases the land under a leasehold system, while the management of docks and channels is in the hands of the Port of Antwerp, who gives them in concession. The act is designed to strike a compromise between unity of port governance between the two “riverbanks” and the sovereignty of the local authorities to which the area on the left bank belongs. At the same time, however, it is stipulated that the port dues and other port-related revenues on LBS should have the same structure and be of the same order as those on the right bank.

#### **b. Zeebruges**

The port is managed by *Maatschappij der Brugse Zeevaartinrichtingen* (M.B.Z.), which by law has been a public utility company since 1954. The shares of the company were initially divided between the Flemish Region (65.4%), the city of Bruges (31.0%) and private shareholders (3.6%). In 2001, the Flemish government transferred its shares to the city of Bruges.

The port is managed on the basis of the statutes of the company. The highest body is the meeting of shareholders. The company is managed by the Board of Directors, which is made up of 15 members, including the Regional Port Commissioner. The accounts are supervised by a commissioner appointed by the Board of Directors;

The M.B.Z. held an exploitation concession until 1997, which has since been extended. Should M.B.Z. ever be disbanded, the port and its equipment shall be returned in part to the Flemish Region and in part to the city of Bruges.

#### **c. Ostend**

The port of Ostend used to be fully integrated into the municipal council, as was the case in Ghent and Antwerp<sup>5</sup>. This meant that the port service was subject to the same municipal regulation as any other municipal service. This structure brought with it a number of specific problems that stood in the way of the port’s future development: the fragmentation of port management, the absence of a port authority, and the further absence of formal deliberation and cooperation structures between port managers and port users.

A solution needed to be found in the short run. The available potential of the port of Ostend required a coordinated and dynamic commercial approach, so that its possibilities could be exploited fully and more efficiently. One could not continue either with negotiations over and the approval of a renovation plan if a structure was lacking that assured the drawing up of an adequate corporate plan, an integrated port management and, last but not least, an appropriate commercial approach.

The general starting points for the new organisational structure were a unified port management for the entire port area, coupled with managerial autonomy, and supported by a port authority. Eventually, the port of Ostend was transformed into an autonomous port company on 1 January 1998.

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<sup>4</sup> Participants in this intercommunal company called IMALSO are: the Flemish Region (10%), the municipality of Beveren (14.6%), the Intercommunal Company of the Country of Waas (48.7%), the city of Antwerp (25%) and the municipality of Zwijndrecht (1.7%) (Nieuwsbank, 1999).

<sup>5</sup> Until 1998, a distinction used to be made in Ostend between the commercial port and the quays of the outport.

## 4 FLEMISH SEA-PORT POLICY

Regional government still plays a significant role in Flemish sea ports. First and foremost, it remains the primary financier of port infrastructure. Government is also closely involved in outlining sea-port policy, which is moreover embedded in the policy of the Benelux Economic Union as well as the European Union.

### 4.1 Investments in port infrastructure

Impulses for investments in Flemish port infrastructure and in new maritime access routes come from two sources: initiatives on the part of the regional authorities and initiatives taken by the port authority.

In the first case, the regional authority may finance the infrastructure works to be executed and have them carried out under its own direct management. After completion, ownership or exploitation of the port infrastructure can be transferred to the port authority. Examples of this procedure are plenty: the expansion of the port of Zeebruges, the further development of the port the Antwerp on the left bank of the Scheldt, including the recent completion of Deurganck container dock, the construction of the quay walls along the Ghent to Terneuzen canal, and the Kluizen docks in Ghent.

The port authority can also take the initiative to have infrastructure works carried out under its own management. To this end, it can apply for subsidies from the Flemish Region.

From 1988, under the so-called St Anna Plan, the subsidising scheme was adapted, even for investments made by the authorities themselves:

- the basic infrastructure, such as maritime locks, harbour dams, dredging works, road networks and the like, is financed for 100% by the Flemish Region;
- additional infrastructure, such as quay walls, is financed for 60% by the Flemish Region and for 40% by the port management, irrespective of whether the Region has taken the initiative or not; in the case of renovation works and smaller sea ports, the proportion is 80% - 20%;
- superstructure<sup>6</sup> is not subsidised, with the exception of superstructure which the port authority requires to fulfil its public duty.

As regards the maritime access routes, a distinction needs to be made between access to the ports of Ostend and Zeebruges on the one hand and to those of Ghent and Antwerp on the other.

Ostend and Zeebruges are located on the coast. The necessary dredging of the access channels is carried out at the expense of the Flemish Region.

The ports of Ghent and Antwerp, on the other hand, are accessible to sea-going vessels via the Scheldt, a tidal river. Significantly, a large part of the river (known as the Western Scheldt) lies in Dutch territory. The status of the Scheldt was fixed under the Belgian-Dutch Separation Treaties of 1839-1843.

Table 2 provides an overview of who takes which decisions and who bears the costs.

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<sup>6</sup> Superstructure includes buildings as well as all movable equipment.

**Table 2: Decision-making regarding the Scheldt**

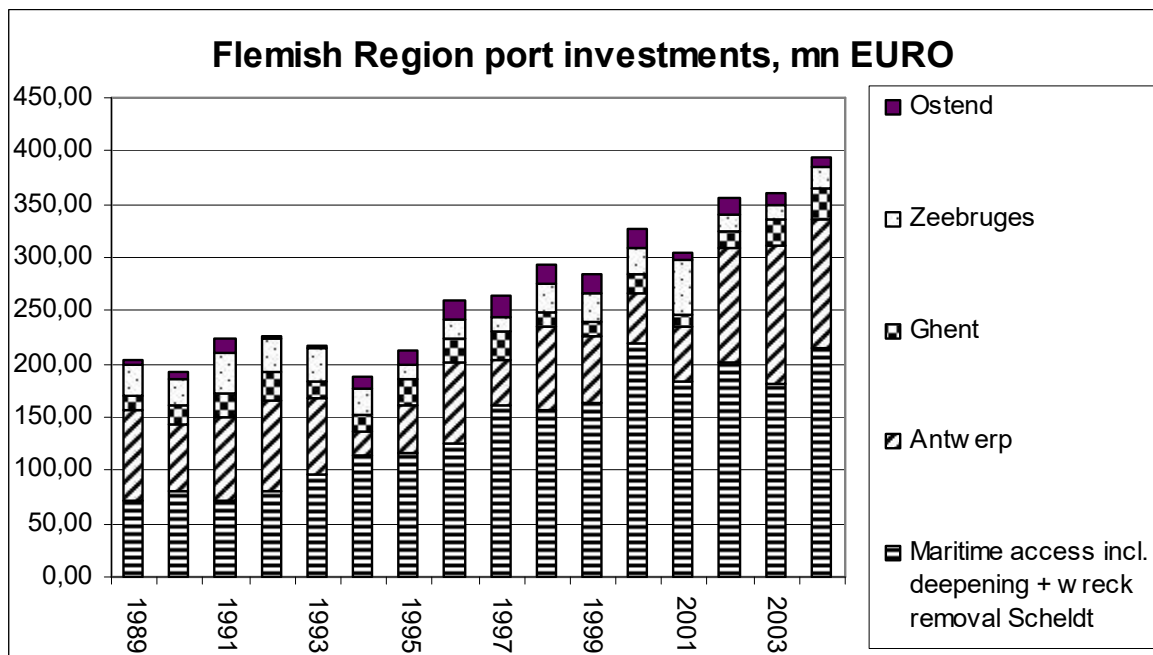
<i>Item</i>	<i>Who does what?</i>	<i>Costs borne by...</i>
<b><u>Dutch section (Western Scheldt)</u></b>		
Concreting and beaconing	The Netherlands	Mostly by the Flemish Region
Baggerwerken Westerschelde (op diepte houden en verbeteren)	Flemish Region (Dutch permission required)	Flemish Region
Hydraulic engineering on the Western Scheldt	Deliberation within Technical Scheldt Commission	
<b><u>Belgian section (Maritime Schelde)</u></b>		
Maintenance and improvement of the river (regional patrimony)	Flemish Region	Flemish Region
Concreting and beaconing	Flemish Region	Flemish Region
Radio Telephony	Flemish Region	Flemish Region
<b><u>Maritime access channels</u></b>		
Wielingen, Scheur	Flemish Region	Flemish Region

Pilotage, concreting and maintenance of the fairway on the Western Scheldt are supervised by a council of permanent commissioners made up of two Dutch and two Belgian members. A radar system was constructed along the Scheldt and its maritime access channels, together with an information processing system. The Flemish Region takes 90% of the construction and operational costs on Dutch territory for its account and the full cost on Flemish territory.

The port of Ghent is connected with the Western Scheldt via the Ghent to Terneuzen canal. The Belgian section of the maritime canal to Ghent is regional property, so that it is maintained and improved at the expense of the Flemish Region. The Dutch section is owned by the Dutch state. Improvement works, including the construction of locks at Terneuzen, are subject to negotiation between Belgium and the Netherlands. On the basis of the treaty of 20 June 1960, Belgium contributes 80% of the costs of works in the Netherlands, while Belgium contributes an annual sum to maintenance.

Figure 2 gives an overview of the amounts of capital the Flemish Region has invested in Flemish ports over the period 1989-2004.

**Figure 2: Flemish Region port investments**



Source: SERV (2005)

## 4.2 How does Flemish sea-port policy take shape?

Belgian, and subsequently Flemish, sea-port policy has always been a rather ambiguous affair. On the one hand, it used to be the case that port management was decentralised, while on the other government made a significant financial contribution to the maritime access route and subsidises port infrastructure. Moreover, actual transport policy, including port policy, fell within the area of competence of the Minister of Traffic and Transport, while the development of transport and port infrastructure was the responsibility of the Minister of Public Works.

This situation necessitated a level of coordination and, in a later phase, organised deliberation on sea-port-related policy. In this context, two important dates should be mentioned:

- 2 April 1963: the establishment of the National Commission for the Enhancement of Port Interests
- 3 January 1978: reform of the above commission into the National Commission for Port Policy

The purpose was to create a consultative body for representatives of the ports and the most important ministries involved. Port undertakings were, however, clearly underrepresented.

Since 1988, Belgian sea-port policy has been completely devolved to the Flemish Region, so that now the regional authorities have power of decision in many sea-port matters. After devolution of sea-port policy, the Flemish Executive decided on 15 November 1989 to set up a Flemish Port Commission to prepare port policy. The text defines the core purpose of the commission as follows: "... in order to advise the Flemish Executive in outlining Flanders' port policy, taking into account a number of pressing issues in the field of investments as well as the competitive position vis-à-vis foreign ports, and the operational and managerial structure."

The Flemish Port Commission's assignment is to make a general contribution to the preparation of port-related policy. This entails, among other things:

- working out general policy objectives for the infrastructure and exploitation of the ports;
- formulation of proposals regarding the managerial and operational structures of ports, as well as the conditions of competition between ports (funding, subsidising, cooperation agreements, port dues, ...)
- drafting of proposals to enhance the complementary nature of the sea ports through deliberation, greater specialisation in particular kinds of traffic and closer cooperation between the ports;
- formulation of proposals regarding all hinterland connections of the ports and their role in export policy;
- preparation of interregional and international consultation with regard to sea-port policy;
- developing these general policy objectives into concrete infrastructure plans and projects for the ports as a whole;
- stimulating the creation and organisation of scientific policymaking tools for supporting the economic aspects of sea-port policy<sup>7</sup>;
- organising consultation between all parties directly involved in all bottlenecks in the implementation of port-related policy with a view to enhancing inter-port cooperation.

Moreover, the Commission is supposed to formulate recommendations on socioeconomic studies concerning newly planned projects, which are to be proposed the following budget year and whose cost over several budget years exceeds EURO 10 million.

The Port Commission is made up of a chairman and 30 members, who are appointed for a four-year term. Mandates are renewable. Table 3 provides an overview of the composition of the Commission.

**Table 3: Composition of the Flemish Port Commission**

<i><b>Representatives</b></i>	<i><b>Appointed by</b></i>	<i><b>Number</b></i>
Employees	The Flemish Government, at the suggestion of their representative body in the SERV <sup>8</sup>	8
Employers	Idem	8
Port authorities	The Flemish Government, at the suggestion of the Flemish Minister of Public Works (five members for Antwerp, two members for the other ports).	11
Rail, road, inland navigation	Flemish Government, at the suggestion of the Flemish Minister of Public Works	3
Chairperson	Idem (not entitled to vote)	1

Source: SERV, 2005

<sup>7</sup> Specifically, this involves the making of medium- and long-term traffic prognoses, research into the competitive position of the Flemish ports, studies into the capacity and capacity utilisation, sectoral analyses of specific goods categories, research into the most appropriate assessment tool for port projects, studies into the social and economic contribution that the ports make.

<sup>8</sup> The SERV is the Socio-Economic Council of Flanders.

The advices and recommendations of the Commission are issued for the benefit of the Flemish Minister of Public Works. Approval is by simple majority of members present. The minister can only depart from a unanimous recommendation if such a step is motivated.

The Port Commission can call on the assistance of external experts who are not seated on the commission. Working parties may be established to carry out preparatory research into specific aspects.

Since its creation in 1989, the Flemish Port Commission has given advice on various matters of large regional and economic importance. In 1991-1992, the Flemish Port Commission has advised on a first regional port decree, which in the end was rejected. 1999, a new port decree was accepted and approved by the Flemish government. Six principles dominate this decree (SERV, 2005).

1. Larger autonomy of local port authorities in management and operations.
2. Uniform operating conditions for all sea ports.
3. More flexibility for port authorities in labour matters.
4. Mandatory legal status for all port authorities.
5. A clear and transparent relationship between port authorities and the Flemish Region.
6. A more objective Flemish financing policy.

Various executive statements have been issued by the Flemish Port Commission since 1999, dealing with following topics.

**Table 4: Flemish Port Commission executive statements**

Date	Topic
2/3/1999	Lock maintenance financing
12/1/2001	Organization and operation of sub-regional concertation forums
27/4/2001	Sale rights of port authorities
13/7/2001	Provisionary delineation of port areas
13/7/2001	Subsidies to ports for port captainery servicing traffic, safety and the environment
13/7/2001	Delineation of maritime access routes and port infrastructure
13/7/2001	Conditions and procedures for project subsidies
13/7/2001	Co-financing of maritime access mooring locations
30/10/2002	Set-up of sub-regional concertation forum for the Port of Ghent
21/5/2004	Revision of port delineation
31/12/2004	Environmental effect reporting
31/12/2004	Port security
31/12/2004	Services on the internal market
31/12/2004	Access to the market for port services

Source: SERV, 2005

In general, the Port Commission deals with following topics.

1. Financing.
2. Maritime and hinterland access.
3. Environment.
4. European policy.

(SERV, 2005)

### **4.3 The level of the Benelux Economic Union**

Within the Benelux Economic Union, there are a number of ports attracting globally significant traffic volumes. Historically speaking, the divergent development of the Belgian and the Dutch states has resulted in different port structures in the two countries, as well as different forms of port exploitation and management.

The economic significance of the Benelux sea ports is reflected in a number of treaties. First and foremost, there is the “Treaty Establishing the Benelux Economic Union” (3 February 1958), article 69 of which stipulates that:

“The above signatory parties to the treaty commit themselves to directing their common policy towards enhancing a harmonious development of and an active cooperation between their sea ports”.

Furthermore, there is the Belgian-Dutch Treaty concerning the new Scheldt-Rhine connection (dd. 13 May 1963), which explicitly mentions sea ports.

In 1971, the Dutch Minister of Transport and Waterways took the initiative for the so-called “Benelux sea-port deliberation”, with a view to optimising the utilisation of the potential that sea-port development represented to the Benelux. The three countries should aim their common policy at enhancing a harmonious development of and active cooperation between their sea ports.

In 1991, within the framework of the Benelux sea-port deliberation, a meeting was held at the level of the executive committee and the coordination committee. The executive committee of the Benelux Sea-port Deliberation is made up of the chairperson and the secretary of the Flemish Port Commission (*Vlaamse Havencommissie*) and the Dutch Port Council (*Havenraad*) on the one hand and civil servants on the other. For Belgium, these are representatives of the national and the Flemish authorities, as well as one representative each for the regional governments of Wallonia and Brussels Capital.

The activities of the executive committee are prepared at the level of coordination committee, which is made up of the secretaries of the port commissions and two Dutch and two Flemish civil servants.

Important topics to have been discussed at this level include European mobility policy, European transport policy and the Benelux sea ports, and pilot services and pilotage. The Benelux also lent support to the Rhine-Scheldt-Delta Cooperation (RSD). The ports of the Rhine-Scheldt delta have united in this organisation with a view to harmonising the management and policies of the ports concerned and in order to protect their mutual interests.

### **4.4 The impact of European port policy**

The significance of sea ports to the European Union is clear to see. It is therefore all the more surprising that the Treaty of Rome Establishing the European Economic Community makes no mention of sea ports. However, there is a subsequent judgment by the European Court of Justice (4 April 1974) in a dispute between the European Commission and the French government according to which the general stipulations of the Treaty are applicable to maritime transport. Consequently, many port-related issues (e.g. rules of competition, subsidising...) may be approached from the perspective of these general stipulations.

With the 1992 reform of the Treaty with a view to the creation of the European single market, it was stipulated that maritime transport was subject to the terms of the Treaty.

In addition, sea-port policy is also a function of industrial policy. Whatever the European Commission decides in that field has direct consequences for port policy (e.g. energy policy, agricultural policy, social policy, taxation, transport policy, maritime policy...).

In recent time, the European Commission has devoted much greater attention to transport in general and sea ports in particular. On 10 December 1997, the European Commission published a 'Green Paper on Sea ports and Maritime Infrastructure'. The purpose was to launch a debate on sea ports and their efficiency, their integration into multimodal networks and the rules of competition that should apply. The Green Paper had been prompted by the following observations:

- competition between sea ports is becoming increasingly fierce as a result of a liberalisation of the global economy, technological progress and the development of TENs;
- maritime transport has not succeeded in reducing the modal share of road transport within Europe;
- safety of shipping needs to be guaranteed; to this end, port services such as pilotage, towage and mooring must be of the highest possible quality.

In early 2001, the European Commission issued a draft guideline concerning access to the market of port services. The purpose was to ensure the right to free entrepreneurship in the port services sector, in accordance with the basic treaties of the European Union. However, in November 2003, the European Parliament rejected the proposed compromise. In 2004, an amended guideline was put forward that strove to regulate goods-handling, towage, pilotage and mooring and unmooring.

## **5 PORT GOVERNANCE ISSUES: AN ASSESSMENT**

The stiff competition that exists between the different ports of the Hamburg-Le Havre range, within and beyond the national boundaries of the various EU member states, implies that good port governance has become crucially important to a port's chances of success. The overall package of goods to be traded within the range is known, and price elasticity across the range is low, at least for dry and liquid bulk. This is illustrated among others by Van de Voorde (2005). This elasticity does, however, become significant when it concerns the choice for a specific port. Port authorities, terminal operators and other players who are active within the port perimeter are all too aware of this, which explains why scientific research into port competition has received growing attention over the past decade or so (see among others Heaver *et al.*, 2001; Huybrechts *et al.*, 2002; Leggate *et al.*, 2005; Notteboom, 2002). At the same time, efforts are made at the Flemish as well as the European policymaking level to create a level playing field in response to mutual accusations of distortion of port competition.

At the present moment, there are a number of important focal points that require urgent solutions and/or decisions. Invariably, it concerns aspects that are related to port management, port policy and most certainly also port governance.

A first important issue concerns the most appropriate definition of a sea port. Two rather opposed views are held. The first takes as broad as possible a view of sea ports, both functionally and geographically, so that the notion 'sea port' also encompasses port



industrialisation. This view is generally held in Flanders and the Netherlands, for example. The second definition is much narrower and describes sea ports primarily as locations for loading and unloading of sea-going vessels. This perspective dominates in Germany among other places. Obviously, the definition applied will determine what falls within the port perimeter and it will therefore also affect port management and policymaking.

Moreover, there is great diversity within Europe in terms of port governance. Ports are seen partly as a public service (cf. the infrastructure) and partly as a commercial undertaking (cf. goods-handling). As a result of the public service aspect, government influence remains considerable in most European ports.

We also observe great differences between EU member states in terms of port operations. This becomes apparent when one considers the competence of the port authorities in relation to the various aspects of a port: maritime access routes, hinterland connections, port infrastructure and superstructure, and goods-handling in the port itself. Suykens (1990, p.19) distinguishes two main trends in this respect. In the case of the Continental trend (incl. Belgium), ports are managed and operated by a port authority to a limited extent. The maritime access routes and hinterland connections are the responsibility of the central authorities and goods-handling is in the hands of the private sector. On the other hand, there is a trend towards managing ports as a totally integrated organisation (e.g. in the UK). Maritime access routes, the port and goods-handling are then all managed by a single body responsible for all port functions. Under this model, one often sees cross-subsidising.

Possible distortion of port competition is, to an extent, a consequence of these different approaches to port governance, so that charges and forms of management can diverge (see for instance Trujillo and Nombela, 2001 and Van de Voorde and Winkelmans, 2002). This gives rise to the issue of financial intervention on the part of government and, in consequences, the issue of possible traffic diversion. Only if the latter occurs can one speak of distortion of competition. The differences in port dues and charges are sometimes greater between ports within the same country than between ports in different countries.

On the basis of the foregoing, a number of critical aspects relating to port governance can be derived for the Belgian and the European port sector:

- taxation and subsidisation policies
- the land and quay concession policies of port authorities
- joint venture activities of port authorities (e.g. in private companies) and potential conflict of interest
- state support for maritime access and effect on port dues
- operational deficits
- privileged loans
- privileged hinterland transport rates

Each of these issues requires further theoretical and empirical research. This research should provide the scientific underpinning for a comparison between port governance rules followed by Belgian and European ports. More importantly still: to what extent do differences in port governance rules impact on the competitive position of ports? And what are the economic consequences? But we should not restrict ourselves to researching port governance: research should also be conducive to an evolution towards *good* port governance.

## 6 CONCLUSIONS

In most countries, growing attention is paid to the issue of port governance. This is also the case in Flanders, a region that possesses a number of important sea ports and has a long tradition of port activity. It is also a country where internal as well as external port competition is fierce, and where previously reference has been made to possible distortion of competition.

Strikingly, in Flanders, port management is decentralised. Ports are run at municipal level or by an autonomous body. Fully privatised ports do not exist here. If one considers the role of the higher authorities in port policymaking, then one notices that this role is concerned mostly with investments in port infrastructure and the manner in which sea-port policy is shaped. More recently, one notices the growing influence of the European level.

In Flanders, scientific research has, in recent times, focused mainly on port competition and the manner in which port competition is influenced. As far as the latter is concerned, the authorities clearly play an important role, besides a battery of other important variables, like hinterland connections, labour productivity, etc. However, as far as pure 'port governance' is concerned, that same research has only reached the stage of describing the state of affairs. Further study should make available an analytical framework for comparative empirical research. In this manner, one can prevent unnatural influence on port competition, and thus also prevent mutual accusations of dishonest practices and even distortion of competition.

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