



Strengthening Social Dialogue in the Process of Structural Adjustment and Private Sector Participation in Ports



TIMETABLE OF NATIONAL TRIPARTITE WORKSHOP – Varna, Bulgaria 11 – 15 May 2009

	MONDAY (11.05.09)	TUESDAY (12.05.09)	WEDNESDAY (13.05.09)	THURSDAY (14.05.09)	FRIDAY (15.05.09)	
9:00	Arrival and registration of participants	9:00	Representation of the Social Partners and Interest Representation in Participants' Ports <i>Peter Turnbull/Participants</i>	EU Ports Policy: Contemporary Developments <i>Peter Turnbull</i>	Making Social Dialogue Work <i>Peter Turnbull</i>	Implementing Social Dialogue <i>Peter Turnbull</i>
9:15	Introduction: Workshop Programme and Participants' Presentations <i>Marios Meletiou/Peter Turnbull/Participants</i>					
10:15	Arrival of guests	10:20	<i>Tea/coffee-break</i>	<i>Tea/coffee-break</i>	<i>Tea/coffee-break</i>	<i>Tea/coffee-break</i>
10:30	Opening Session	10:40	Social Dialogue in Situations of Structural Change <i>Peter Turnbull</i>	National Port Developments <i>Local Expert(s)</i>	ILO Model of Social Dialogue <i>Peter Turnbull / Marios Meletiou</i>	Monitoring and Evaluating the Process of Social Dialogue <i>Peter Turnbull</i>
11:00	<i>Tea/coffee-break</i>					
11:20	The ILO's Social Dialogue Programme <i>Yucef Ghellab</i>					
12:30	<i>Lunch break</i>		<i>Lunch break</i>	<i>Lunch break</i>	<i>Lunch break</i>	<i>Lunch break</i>
14:00	ILO Activities in the Ports Sector <i>Marios Meletiou</i>	14:00	Private Sector Participation (PSP) in European Ports <i>Peter Turnbull</i>	Stakeholder Presentations: FEPOR, ETF	Planning for Social Dialogue <i>Peter Turnbull</i>	Mobilizing the Resources Needed for Social Dialogue <i>Peter Turnbull</i>
14:40	The History of Social Dialogue in Ports <i>Peter Turnbull</i>					
15:20	<i>Tea/coffee-break</i>	15:20	<i>Tea/coffee-break</i>	<i>Tea/coffee-break</i>	<i>Tea/coffee-break</i>	<i>Tea/coffee-break</i>
15:40	The History of Social Dialogue in Ports <i>Peter Turnbull</i>	15:40	EU Ports Policy: Historical Overview <i>Peter Turnbull</i>	Round Table Discussion: Social Partners	Initiating Social Dialogue <i>Peter Turnbull</i>	Review and Presentations by Government, Employer and Worker Representatives
16:20	The New Agenda for Social Dialogue in European Ports <i>Peter Turnbull</i>					Closing Session / Presentation of certificates
17:30	<i>End of day</i>	17:00	<i>End of day</i>	<i>End of day</i>	<i>End of day</i>	<i>End of workshop</i>

EU funded ILO Technical Cooperation Project: “Strengthening Social Dialogue in the Process of Structural Adjustment and Private Sector Participation in Ports in Bulgaria, Croatia and Romania”

National Tripartite Workshop in Bulgaria
11 to 15 May 2009, Varna, Bulgaria

Government Nomination of Participants

NO.	NAME	TITLE / ORGANIZATION
1	Mr. Stefan Yankov	Chief inspector, Executive Agency Maritime Administration
2	Mr. Rumens Arabadjiev	Head of directorate of EA Maritime Administration in Varna
3	Mr. Valdirmir Todorov	Ministry of Transport
4	Ms. Stefanka Simeonova	Industrial relation directorate, Ministry of Labour
5	Mr. Desislav Daminov	Ministry of Transport
6	Ms. M. L. Siarova	Ministry of Transport

Employers' Nomination of Participants

NO.	NAME	TITLE / ORGANIZATION
1	Mr. Alexander Stankov	Port Varna
2	Ms Irena Cholakova	Port Burgas
3	Mr. Rumen Nestorov	Bulgarian Chamber of Shipping, Varna
4	Mr. Rumen Simeonov	Bulgarian Chamber of Shipping, Sofia
5	Cap. Marin Petrov	Bulgarian Shipowners Association, Sofia
6	Ms. Stela Statkova	Bulgarian Chamber of Shipping, Varna

Workers' Nomination of Participants

NO.	NAME	TITLE / ORGANIZATION
1	Ms Timka Filcheva	Chairperson of the trade union organization, Port Varna East
2	Ms Penka Ilieva	Chairperson of the trade union organization, Port Varna, West
3	Mr. Konstantin Trendafilov	Chairperson of the trade union organization, Port Lom
4	Mr. Alexander Yanchev	Chairperson of the trade union organization FTW, Port Varna
5	Mr. Marin Sarafov	Chairperson of the trade union organization FTW, Port Burgas
6	Mr. Rozen Zarkov	Chairman of the FTW

BULGARIA

THE REPORT ON THE RESULTS FROM THE STUDY

of the national independent expert
In the Framework of project

**“STRENGTHENING THE SOCIAL DIALOGUE IN THE RESTRUCTURING PROCESS OF
BULGARIAN PORTS AND PRIVATE SECTOR PARTICIPATION IN THAT DIALOGUE”**

CHAPTER ONE

SHORT DESCRIPTION OF THE SCOPE OF THE NATIONAL SOCIAL DIALOGUE REGULATION IN THE REPUBLIC OF BULGARIA

The social dialogue is the fundament of the civil society development. The development of the civil society has its legal ground in the system of the state regulation in the provision of Art. 4, Para 2 of the Bulgarian Constitution: "The Republic of Bulgaria shall guarantee the life, dignity, and rights of the individual and shall create conditions conducive to the free development of the individual and the civil society." This is the constitutional basis of civil society, which lives through the social dialogue, guaranteed by the state. The constitutional text allows the inclusion of the civil society in the governance indirectly.

The civil society is human community, which is free from the political wardship of the state. Its structure comprises different organizations and bodies. Freedom of association is one of the basic prerequisites of its formation and stable development. The state has an obligation obliged to provide conditions for the free development of the civil society (Art. 41, Para 1 of the Bulgarian Constitution), realized through free associations, setting their objectives and developing the activities, for which they have been registered. In this context **the social dialogue serves as guarantee for attracting a broad circle of legal and natural persons to the process of setting relevant to a given branch regulation** and its implementation is carried out through presenting and discussing various opinions and positions before the relevant regulation is set up. The collective bargaining is traditionally channelled through it, as well as the social protection of workers, etc.

Since the beginning of the 1990s of the past century tripartite co-operation has enlarged its scope, has grown and developed into **social dialogue policy**, i.e. of constant and permanent inclusion of the social partners (workers' and employers' organizations) in the discussion and defining the **main tendencies** in the development of the employment relations **as well as in the economic and social policy** at national level. Gradually the social dialogue is turning into expression of the general national consensus in defining the direction of the economic development, the increase in its efficiency and specifically on this basis – of the fair regulation of the employment and other social relations. According to modern concepts social dialogue is a broad term, which comprises classical tripartism as well as other forms of social co-operation – collective bargaining at different levels (national, sectoral and at enterprise), participation of the workers and the employees in councils and committees at enterprises, settling industrial conflicts through negotiations, mediation, arbitration, etc. Based on this broad understanding of the social dialogue scope, **the permanent policy** of the state is to attract all stakeholders – bodies, organizations and persons aiming at discussing and settling all hot problems facing the economy and the society through strengthening the social protection and the protection of the legitimate interests of the citizens.

Scope of the national provisions on social dialogue in Bulgaria

The **Labour Code** provides the framework for conducting social dialogue in Art. 1 Para 3, among the basic and most important objectives of the labour relations regulations contained in the LC. The implementation of the social dialogue is a new objective introduced with the amendments from March 2001 in the LC

The **nature** of the social dialogue is to be a mechanism for conducting joint discussions and deliberations in order to achieve more thorough and balanced account of the interests of the participants when working out the legal framework of labour relations, its implementation and regular functioning of the labour relations. Setting up legal rules for social relations is and remains a state function. However, the LC includes the social dialogue in the process of setting up the legal rules- thus the setting up of rules is performed after "**consultations and dialogue...**", in the spirit of cooperation, mutual compromise and respect for the interests of each of the parties."

The participants in the social dialogue are: the state (through its bodies), workers and employees (through the general assembly of workers and employees or through their representatives and organizations – trade unions); employers – directly or through their representatives (employers' organizations).

Upon the adoption in 2001 of the **Social and Economic Council Act**, was established an Economic and Social Council as a "consultative body expressing the will and the structures of the civil society for the economic and social development", with objective to ensure the participation of a wide circle of civil society representatives in the public and economic life, **to serve as a permanent institutional form of the social and civil dialogue and consultations on the economic and social policy between the President of the Republic, the National Assembly and the Council of Ministers and the structures of the organised civil society**. The Council works out and adopts statements on **draft bills, national programmes and plans** regarding the economic and social development; statements on acts of the National Assembly regarding the economic and social development; opinions on **strategic problems** of the economic and social policy; resolutions on **hot topics** of the economic and social policy and the civil society; **analyses** of the problems of the economic and social policy. The Council organizes discussions and consultations with representatives of the legislative and executive bodies and the civil society structures over highly relevant to the economic and social development issues. The Council may work out the above acts on its own initiative as well. Established at the Council shall be standing and temporary commissions. These commissions shall prepare for the plenary sessions drafts of the above acts, which in turn are published in the official bulletin of the Council, based on a decision of the plenary session.

The scope of the social dialogue includes "regulation of labour relations, as well as other relationships immediately related to them" – there is coincidence between the subject of the LC rules and the social dialogue, but it is not limited only to the labour relations, since it covers also the social insurance relations and the issues of standard of living, i.e. these are employment relations, the duties of the workers and employees, respectively of the employers, remunerations, working time, rests, leaves, safety and health, social and welfare services, vocational training, relations concerning the association of both parties, social insurance relations, including health insurance, issues of standard of living– ratio between prices and incomes (wages, pensions and social assistance), periodic updates of the minimum wage, pensions and minimum income for social assistance, wage increases, social insurance payments and social aid, social and living minimum, prices, payment of health services, etc.

Apart the typical field of application of social dialogue, some of its major forms are covered in the following legal acts:

- **Labour Code** (Promulgated, SG, No. 26 of 1.04.1986 and No. 27 of 4.04.1986, last amend. and supplemented SG No. 94 of 31.10.2008, in force since 1.01.2009);
- **Social Insurance Code** (promulgated, SG, No. No. 110 of 17.12.1999 , in force from 1.01.2000; last amended and supplemented, SG, No. 102 of 28.11.2008);
- **Collective Labour Disputes Settlement Act** (Promulgated SG, No. 21 of 13.03.1990, last amend. and supplemented SG No. 87 of 27.10.2006);
- **Health Insurance Act** (promulgated, SG, No. 70 of 19.06.1998, last amend. and supplemented SG No. 71 of 12.08.2008, in force since 12.08.2008);
- **Law on Health and Safety at Work** (Promulgated SG No. 124 of 23.12.1997, last amend. and supplemented SG No. 102 of 28.11.2008);
- **Employment promotion Act** (promulgated, SG, No. 112 of 29.12.2001 , in force since 01.01.2002; last amended and supplemented, SG, No. 89 of 14.10.2008);
- **Economic and Social Council Act** (Promulgated SG No. 41 of 24.04.2001, last amend. and supplemented SG No. 36 of 04.04.2008);
- **Standing Orders on the Organization and Activity of the Tripartite Co-operation Councils** (issued by the president of the National Council of Tripartite Co-operation, SG No. 57 of 26.06.2001, in force since 30.05.2001);

The forms of exercising social dialogue are differentiated into important groups regulated by the Labour Code and other acts:

- Tripartite co-operation;

- Collective bargaining and collective labour agreements;

The collective labour agreement regulates issues of the labour and social security relations of workers and employees, which are not regulated by mandatory provisions of the law. The collective labour agreement should not contain clauses, which are more unfavourable to the employees than the provisions of the law or of collective labour agreement, which is binding upon the employer.

- The general assembly and the participation of workers and employees in the decision-making;

The General Assembly of employees and workers has as a main objective decision-making, aiming to protect the general interests of workers and employees before the employer, as well as before the public authorities; to elect representatives for implementing the information and consultation activities when there is change in the activities, the economic situation of the enterprise and its work organization. The General Assembly may confer these functions to representatives nominated by the leadership of the trade unions or to workers' representatives that plead for their joint interests in terms of labour and social insurance relations, before the employer or before public authorities;

- Voluntary settlement of collective labour disputes;

Collective labour disputes are settled by immediate negotiations between the workers and the employers or between their representatives following freely defined by them procedures. In case no agreement is reached or some of the parties refuse to negotiate, each party may seek cooperation for settling the industrial dispute through mediation and/or voluntary arbitration by trade unions or employers' organizations and/or by the National Institute for Conciliation and Arbitration, which acts in compliance with the Settlement of Collective Labour Disputes Act /SCLDA/.

One of the fundamental and most dynamic forms of social dialogue is **the tripartite co-operation**, where parties are the state, the representative organizations of the workers and employees, and representative organizations of the employers. Each party nominates its representatives for the body, through which the tripartite co-operation is realized - the National Council for Tripartite Cooperation (Art. 3a of LC), comprising two representatives from each of the following: the Council of Ministers, the representative organizations of the workers and employees and the representative organizations of the employers. The Council of Ministers shall assign its representatives, and the representatives of the representative organizations of the employees and the employers shall be assigned by their managing bodies, in compliance with their charters. The National Council for Tripartite Cooperation shall be headed by Deputy Prime Minister. The National Council for Tripartite Cooperation discusses and offers opinions on bills, drafts of secondary legislation and decisions of the Council of Ministers. The co-operation and the consultations are performed before adopting the legal acts on labour and similar issues and social insurance issues, as well as on issues of standards of living.

Unlike social dialogue, the circle of participants in the process of tripartite co-operation is limited to the representative organizations of the workers and employees and employers associations. The essence of the tripartite co-operation is in participating in setting up regulations – discussing bills of secondary legislation or laws. As the final and conclusive decision is taken by the relevant competent state bodies, one cannot speak of tripartite regulation, but of cooperation in the process of legal regulation. Thus, it contributes to finding more just social decisions and averts social tension. Abiding by the procedure is **mandatory** (Art. 3, Para 2 LC). The law does not differentiate the prepared bills by rank. The legal consequences of not complying to the procedure are of particular importance: the case law leaves no doubt¹ that non compliance to the procedure is a significant breach and constitutes grounds for reversing the acts of the Council of Ministers and of individual ministers.

¹ Ruling № 9289 dated 4.12.2001 of the Supreme Administrative Court on administrative case № 8256/2001, 5-member committee

Implementation of the social dialogue is ensured by the right of workers and employees, and the employers, without previous authorisation, freely to establish organisations of their own choosing, which would represent and protect their interest, as well as freely to join and leave these organisations subject only to the articles of association of the organisations concerned. The mechanism through which the trade unions and the employers' organisations participate in the social dialogue is provided in the Labour Code:

- „Trade union organizations shall represent and protect employees' interests before government agencies and employers as regards the issues of labour and social security relations and living standards through collective bargaining, participation in the tripartite cooperation, organization of strikes and other actions, pursuant to the law." (Art 4. Para 2 LC)
- "The employers' organizations shall represent and protect their interests through collective bargaining, participation in the tripartite cooperation, and through other actions, pursuant to the law." (Art 5. Para 2 LC)

CHAPTER TWO

SHORT DESCRIPTION OF THE SCOPE OF THE NATIONAL LEGAL FRAMEWORK RELEVANT TO PORTS

The legal framework relevant to Bulgarian ports after the adoption of the Constitution of 1991 is the Law on the Maritime Spaces, Inland Waterways and Ports of the Republic of Bulgaria (LMSIWPRB), respectively the following substantial amendments adopted in 2004, as well as the Republic of Bulgaria's Constitutional Court decisions, which had **repercussions on the structure, the model and the pace of the ports' reform in the country, and respectively on the port system restructuring process.**

The lack of sufficient resources in the state budget for maintaining and modernisation of the ports' infrastructure to great extent has predetermined the philosophy of the LMSIWPRB, adopted in 2000 and amended in 2004. The versions of legal basis for letting in the private capital in ports' operation and provision of ports' services, sought through the entire period, finally imposed the concession as a form of private sector participation on this market.

In 2000 for the first time, LMSIWPRB regulated the legal regime of ports in Republic of Bulgaria. However, it did not solve all issues related to liberalization of the market of port services. The Executive Agency "Port Administration" has been established with three main tasks:

1. Provide the security and safety of ports through organizing the maintenance of the existing and the building of new approach channels, port water areas, sea and river spoil grounds, piers, protective structures, as well as performing activities for constructing, reconstructing, rehabilitation and maintenance of ports;
2. Assist the Minister of Transport and Communications in withdrawing from the assets of the trading companies of sites having the nature of public state property and adopting measures for decreasing their capital with the value of the deducted assets;
3. collect duties payable by ships when visiting Bulgarian public transport ports, as per Tariff No. 5 on the Dues Levied in the System of the Ministry of Transport and Communications, (so called "ports' dues");

In practice, it proved to be impossible to prepare and open up procedures for making concessions in ports.

The inaccurate formulations in the law at that time generated a serious delay in the process of the withdrawal of assets that are public state property from the patrimonies of the companies, which was necessary in order to single out targets fit to be under concession.

At the same time, the port dues were paid to the state budget and insignificant amounts were returned, so and in spite of the considerable revenues collected by the agency, it practically did not have at its disposal enough financial resources for undertaking repairs and rehabilitation activities for the ports infrastructure. Until the establishment of the agency, the maintenance of the

infrastructure and the water area was duty of the port operators - sole proprietor companies with state property. After the CMD No. 8 of 29.01.1991 on price liberalization and social protection of the population became effective, the prices of all goods and services started being negotiated freely, the Minister of Transport, with an order ПД-08-36 of 5.02.1991, denounced the effective port tariffs and enabled the ports to negotiate freely the prices of their claims. Since then, port dues stopped being considered as "stamp duties" within the meaning of the Public Taxes Act, and the parties of merchant shipping relations started to negotiate them freely. Thus they became part of the general tariffs of the operators, which diluted the control on their special purpose spending for infrastructure projects, as de facto the resources were redirected in the frame of the investment policy of the company, but out of the port infrastructure. The establishment of the Executive Agency Port Administration revealed that the invested resources by the state port operators in maintaining the infrastructure and the water area were highly insufficient through a long period, thus causing the amortization of the infrastructure, inadmissible decrease of the water area depths and of the approach channels in ports, and even to emergency situations during port operations.

Due to these reasons, the LMSIWPRB was amended in 2004, so that **the model and the philosophy of the development and restructuring of Bulgarian ports** were **changed** radically. Rules that are more precise were defined, which allowed better access to the port services market in order to improve the efficiency and the flexibility of their implementation, and finally their quality. Some of the major amendments and supplements may be grouped in several directions:

1. New possibilities for increase of the infrastructure investments in the development of the port system and infrastructure through private funding were created (concessions).

2. The regime included return on investments taking into account the price expectations of the port services consumers and the possibility to increase the present traffic and attract transit traffic.

3. Definitions of the types of port services and of the concept "port service" were introduced into the Act. Port services were clearly defined in conformity with the European requirements and were **differentiated** from the other activities. The right of the operators to perform port services in public transport ports has been defined as "access to port services market", which is provided by the virtue of contracts for providing port services or as function of the concession contract.

4. The imperfections of the former version of the Act were corrected, the status was clarified, and definitions were provided for the different types of ports. The territory and the port infrastructure of public transport ports of national importance were explicitly proclaimed as public state property (Art. 106). The scope of the public property encompasses the territory of the port, the buildings, and the facilities on this territory and related to the catering of the performed port activities and services. At the same time a new concept was introduced - "public transport port of regional importance", including the territory and port infrastructure, which could be owned by the state, municipalities or by natural and legal persons.

5. Persons, who are proprietors of fishing and yacht harbours, and special purpose ports, as well as public transport ports with regional importance, within certain period after the Act is effective, should claim their rights to be entered into the registers of the ports, **but only if** they could present evidence of operations fitness of ports.

6. The amendments envisaged establishing for all ports, with the exception of the military ports, of register in which the public transport ports should be registered **after** the issue of a certificate on operational fitness. The registration of port operators, who have gained access to port services market in a legitimate way in other special register, provided by the law, was a prerequisite for performing port services.

7. The law provided a legal obligation for the drafting of annual programmes for the development of ports and port activities. Thus a possibility was provided for carrying out of unified state policy on ports, for planning the maintenance activities and further development of the public property in ports, as well as obtaining the necessary funding for that. The establishing of new public transport ports should be realized in compliance with a national programme.

8. New dues were introduced called "access to ports prices", instead of the stamp duties collected under Tariff № 5 that were received by the state budget.

9. The concept of "concomitant activities" was introduced to notify activities that assist or are related to the port operations or services performance.

10. The major amendment in the provisions on ports in Republic of Bulgaria was the establishment of the national company "Ports" having a status of a public enterprise, with access to public transport port prices set up and declared by that company.

The basic aim of establishing the National Company "Ports" was to release the budget from performing unnatural functions of business nature and to ensure the spending of the revenues exclusively and only for development of the port infrastructure. The company was also entrusted with the maintenance of the navigation facilities in the internal seawaters, the channels and the water areas of ports, the management, and organisation of the maintenance of the existing and building of new facilities for navigation security.

The company continued the transformation of ownership in ports, a process significantly hampered by:

- Indeterminate and unsettled status of ports' properties through the years (indeterminate boundaries of the properties part of the capital of the state operators);
- the accomplished restitution not taking into account the nature of the port properties, with indeterminate boundaries, due to lack of effective planning schemes for the predominant part of the port properties (until 1989 the construction in ports was carried out on the basis of the general planning schemes, which is not qualified for town planning under the present spatial and public works legislation);
- conferred rights to manage parts of the properties to other structures within the transport system and of other agencies outside the system of transport.

Despite difficulties, the territory and infrastructure of public transport ports with national importance Varna, Burgas, Russe, Lom and Vidin, was handed over from the port operators- sole proprietors to the port administration.

However, Ruling № 5 of 10.05.2005 on constitutional case № 10/2004, the Constitutional Court of Republic of Bulgaria ruled the provisions establishing the NC "Ports" as anti-constitutional, and regulated its status, subject matter and functions, as well as the provisions on access prices. Once again, an Executive Agency "Port Administration" was established, and through amendments and supplements to the LMSIWPRB (promulgated SG, No. 104 of 27.12.2005, effective since 27.12.2005) in conformity with the Ruling of the Constitutional Court, the state enterprise "Port Infrastructure" was established. The functions related to state security and port security were assigned to a body of the executive power – Executive Agency "Port Administration". No doubt, all these factors had extremely negative impact on the speed of the reforms in the Bulgarian ports.

The Act Amending and Supplementing the Merchant Shipping Code (SG, No. 71 of 12.08.2008) the legislative body merged the Executive Agency "Port Administration" into EA "Maritime Administration", aiming at optimizing the structure of the executive bodies that supervise the water transport on behalf of the state; performance of some of the functions, so far performed by the state through EA "Maritime Administration", which in nature are not state function but related to the provision of services, by the State enterprise "Port Infrastructure". Finally the State Enterprise "Port Infrastructure" started rendering also services related to traffic management and to shipping information services, as well as information services on river shipping.

Taking into account the analysed system of port authorities and the participants on the port services market, it might be stated that the following laws and secondary legislation regulate the port system in Republic of Bulgaria:

1. The Merchant Shipping Code (promulgated, SG, No. 55 of 14.07.1970, last amend. and supplemented SG No. 71 of 12.08.2008);
2. Law on the Maritime Spaces, Inland Waterways and Ports of the Republic of Bulgaria (promulgated, SG, No. 12 of 11.02.2000, last amend. and supplemented SG No. 98 of 14.11.2008);
3. The Concessions Act (prom., SG, No. 6 of 2.05.2006, last amended. SG, No. 102 of 28.11.2008);

4. The State Property Act (promulgated, SG, No. 44 of 21.05.1996, last amend. and supplemented SG No. 54 of 13.06.2008);
5. Ordinance № 9 of 29.07.2005 on the operational fitness of ports requirements (prom. SG No. 65 of 9.08.2005, last amend. SG No. 103 of 7.12.2007);
6. Ordinance № 18 of 3.12.2004 on registration of port operators in Bulgaria (prom., SG, No. 109 of 14.12.2004, last amendment, No. 62 of 29.07.2005);
7. Ordinance № 19 of 9.12.2004 on registration of ports in Republic of Bulgaria (promulgated, SG, No. 111 of 21.12.2004, last amend. No. 91 of 10.11.2006);
8. Ordinance № 7 of 23.05.2001 on the order of visiting, manoeuvring and staying of vessels in ports and roadstead, for loading and discharging, to boarding and disembarking the ship by the crew, passengers and other persons, as well as to providing communication between the ship and the shore (prom., SG, No. 55 of 19.06.2001, last amend. No. 62 of 01.08.2006);
9. Ordinance № 16 of 20.06.2006 on handling and shipping of dangerous cargo by sea and internal waterway (prom. SG, No. 53 of 30.06.2006);
10. Ordinance № 39 of 21.12.2005 on the scope and contents of the general development plans for public transport ports with national importance (promulgated, SG, No. 6 of 20.01.2006);
11. Ordinance № 919 of 8.12.2000 on collecting statistics information about port operators' and owners of ports activities and port facilities in the Republic of Bulgaria (prom., SG, No. 106 of 22.12.2000, last amended, No. 6 of 19.01.2007);
12. Ordinance № 53 of 2.07.2004 on the conditions and order of attaining safety of ships and ports (promulgated, SG, No. 72 of 17.08.2004, last amended No. 70 of 28.08.2007);
13. Ordinance on organizing the frontier passport, customs', health, veterinarian and sanitary control, as well as vessels' control in the port serving international shipping in the republic of Bulgaria (adopted by CMD № 2 of 06.01.2006, promulgated SG, No. 5 of 17.01.2006, last amended, No. 79 of 09.09.2008, effective since 09.09.2008)
14. Tariff № 5 on the Dues Levied in the System of the Ministry of Transport (promulgated, SG, No. 41 of 19.05.2000, last amended SG No. 79 of 09.09.2008)
15. Tariff on Port Dues Levied by the Bulgarian Ports Infrastructure Company (promulgated, SG, No. 38 of 11.05.2007, last amend. SG No. 2 of 08.01.2008);

CHAPTER THREE

DESCRIPTION OF THE CURRENT GOVERNMENT POLICY ON PORTS AND THE EXPECTED CHANGES THEREOF

The current policy of the government in relation to ports is reflected in the draft National Programme on Public Transport Ports Development under Art. 103a, Para 2 of the LMSIWPRB.

In the last years there are worldwide deep changes in the sea traffic that also change the balance between the capital and labour in ports. While in the past ports were mainly industries based on workforce, nowadays the trend is their conversion into increasingly capital industries. This change leads to excess of workforce in most cases. Another factor with significant impact on the essence of port operations is the development of container transport. The use of containers results in significant price reductions in cargo handling, but also poses new requirements to ports in relation to port equipment (cranes, improvement of flooring, etc.). The traffic of large number of containers and bulk cargo results in economy of scale that finally result in building bigger and bigger specialized ships that on their part require new infrastructure and equipment. All these technical changes give rise to highly competitive environment in the port industry. Modern ports no longer hold monopoly over goods traffic to neighbouring regions. The development of integrated transport chains decreases the transport costs to such extent that today shippers prefer to use remote ports with better facilities and connections in the inland to a closer port that offers less facilities. For this reason, the modern Bulgarian ports should be highly competitive, i.e. to be able to offer optimal combinations of time and prices to the business partners seeking their services, so the state policy should be targeted in this direction – increased competitiveness and the ability to attract cargo. Just these technological changes and the intensified competitive environment led in 2004 to

reconsidering the role, which the public sector should play in the management of the Bulgarian

Public transport ports	2003	2004	2005	2006	2007
National Importance	21 163 703	23 277 113	24 793 101	27 318 897	24 766 181
Regional importance	202 396	231 471	247 237	422 693	727 425
Total	21 366 091	23 508 581	25 040 338	27 741 590	25 493 606

ports. In most countries, the tradition is that public institutions (the state, municipalities) own and govern the ports. The public ownership of ports is explained by the argument that the ports play key role in national economies and show characteristics that could easily provide the business with market power. At the same time, the international experience shows that the inclusion of the private sector in operations increases the efficiency significantly², while the process continues³ even today. The need of seeking funding for infrastructure renewal and building of new facilities and of achieving higher levels of efficiency, were in the foundation of the legislative concept when introducing the concession with the State Property Act and the Concessions Act, as public private partnership in managing the public transport ports, respectively in the amendments adopted in the LMSIWPRB in 2004, thus allowing the existence of public transport ports with regional importance – private property, which in practice are real competitors to public ports.

Bulgaria has strategically important place in Southeast Europe and is part of the Trans-European Transport Networks (TEN-T). The geographic situation of the country poses a unique challenge to the state in relation to undertaking **timely steps** for the infrastructure development, relevant to **all transport types**. The transport corridors passing through Republic of Bulgaria **include practically all significant sea and river ports**.

Only achieving a good traffic capacity of Bulgarian ports and operating the mechanisms of further capacity increasing will allow them to turn into modern distribution and logistics centres of combined and transit cargoes.

The good work organization and the close communication between the different modes of transport – **railway, road and river or sea** is of decisive importance for the intermodal process, whose key element is most frequently a **contemporary, modern port with developed infrastructure**. The European transport system, as any other transport system, will always need optimization through the implementation of ever better logistics solutions. The efforts of the government to develop the Bulgarian ports in such way as to achieve a complete transport chain, offered by the ports, should be considered in this context.

Over 60 % of the foreign trade turnover of the country passes through the Bulgarian **sea and river ports**. In the last years, **certain growth** of the volume of handled cargoes in both the sea and river ports has been registered.

Total freight turnover of the Public Transport Ports with national and regional importance of the Varna region and Burgas region in the period 2003 - 2007 (in tons)

²At the end of the 1990's of the past century, the Romanian state has built completely new container terminal 15 km south of Constanza and granted a concession to the biggest port operator in the world - the company Dubai Port World (DPW), which for less than 8 years managed to transform it into the fastest developing terminal in the Black sea area

³The Chinese Cosco Pacific Ltd will operate from October 2009 part of the Greek port of Piraeus. The biggest Chinese sea shipper signed on the 25.10.2008 a 35-year concession contract for the terminal, in which it should invest for the contract period 4.3 billion USD, thus leaving behind in the procedure another consortium – the giant Hutchinson Port Holdings. Cosco intends to turn Greece into basic transit station for commercial goods deliveries from the Far East for Eastern Europe and the Balkans. The aim of the Chinese shipper, number 5 in the world transport sector is to enlarge and modernize the Greek port as to reach the capacity of 3.7 million TEU per year in comparison to the present 1.6 million TEU. Its operation in Piraeus will create 1000 new jobs, which will be taken by local workers. The traffic of cargo will be facilitated by the new railway connection between Piraeus and Thessaloniki, which will start functioning in the first months of 2009.

There is an insignificant reduction in the freight turnover in seaports in 2007, which is due to the **change of the market situation of loose bulk, solid and liquid cargoes, transported by sea.**

	2003	2004	2005	2006	2007
Liquid bulk cargo	7 424 303	8 469 563	9 701 770	11 825 695	11 492 706
Bulk/loose cargo	9 266 912	10 130 121	10 421 958	10 666 160	8 805 005
Containers	995 416	1 275 062	1 343 139	1 491 589	1 695 243
Ro-Ro cargo	497 532	484 500	541 484	444 664	380 876
General cargo	3 181 928	3 149 335	3 031 987	3 313 482	3 119 776
Total	21 366 091	23 508 581	25 040 338	27 741 590	25 493 606

Total freight turnover of the Public transport ports in the Varna region and Burgas region in the period 2003 – 2007 (in tons) as per mode of transport

	2003	2004	2005	2006	2007
Import	12 369 090	13 526 606	14 398 300	16 370 588	16 120 022
Export	8 635 035	9 518 631	10 553 223	11 318 157	9 299 246
Transit	326 470	451 799	76 521	44 835	63 606
Inland	25 644	782	1 723	2 333	1 742
Transshipment	8 557	10 090	10 571	3 633	6 082
Without bearing	1 295	673	0	2 044	2 908
Total	21 366 091	23 508 581	25 040 338	27 741 590	25 493 606

Total freight turnover of the Public transport ports in the Varna region and Burgas region in the period 2003 – 2007 (in tons) as per bearing of transport

The analysis indicates that the handling of liquid bulk cargoes like oil and products of oil contributes to the growth of the freight turnover of **Bulgarian seaports**. It is obvious that the international oil crisis has affected the country through the increase of oil products output. A significant increase of 21 % has been recorded in turnover of container cargoes. A decrease in Ro-ro cargoes has been noticed.

Public transport ports	2003	2004	2005	2006	2007
National Importance	3 082 369	3 710 192	3 418 905	3 858 009	3 945 688
Regional importance	574 152	578 032	1 854 276	2 159 985	2 714 672
Total	3 656 521	4 288 224	5 273 181	6 017 994	6 660 360

Total freight turnover of the Public transport ports with national and regional importance in the Lom region and Russe region in the period 2003 – 2007 (in tons)

	2003	2004	2005	2006	2007
Liquid bulk cargo	51151	29659	224998	351556	401361
Loose cargo	2008070	2519378	2367836	2632695	3032738
General	826375	836649	806181	999567	994576
Total	2885596	3385686	3399015	3983818	4428675

Cabotage traffic	770925	902538	1874166	2034176	2231685
All without Ferryboats	3656521	4288224	5273181	6017994	6660360

Ferryboats – number of transport units	156859	168872	141953	124177	360605
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Total freight turnover of the Public transport ports with national and regional importance in the Lom region and Russe region in the period 2003 – 2007 (in tons) as per mode of transport

The analysis indicates that in international transport (without ro-ro) there is a **decrease in the volume of the processed loose and general cargo** and an increase (with approximately 40 000 tons) of **liquid bulk cargoes**. The main reason for the registered total decrease of the freight turnover in the first half of 2008 is the decrease with 111,000 tons (33%) of **ores and metal scrap**, the shipper of which is the Bulgarian ferrous metallurgy. The same tendency is observed in seaports as well.

In cabotage traffic, an increase of 111,734 tons has been registered, almost totally in shipping of building materials (sand and gravel) and coal. **Significant increase is registered in Ferryboat shipments**, mainly between **Bulgaria and Romania**, which is caused by the development of transport connections in the EU, mainly on the European transport corridor № 4.

<i>Year</i>	<i>Sea ports</i>	<i>River ports</i>	<i>Total</i>
2009	27,8 mln tons	7,2 mln tons	34,9 mln tons
2015	35,7 mln tons	9,5 mln tons	45,2 mln tons

Forecast of freight turnover growth in the National Programme for Development of Public Transport Ports

Taking into account the relevance of the port sector for the development of the transport network in the country and aiming at its timely integration into the European transport scheme, the Minister of Transport has put forward in the Council of Ministers the **National Programme on the Development of the Public transport ports 2008 - 2015**, in compliance with Art. 103a, Para 2 of the LMSIWPRB.

The above-analyzed statistical data show the trend of change in the freight turnover structure – the share of the container and Ro-ro traffic increases at the expense of loose bulk cargoes. The lagging behind of multimodal traffic in Bulgaria imposed the forecasting of higher rate of increase of container and ro-ro traffic in the National programme after 2009, compared to the loose bulk and general cargoes. The freight turnover growth forecasted in the programme for seaports will be realized almost completely through the increase of the container and Ro-ro shipments. The assumption is that container shipments will reach 180,000 TEU in 2009, and in 2015 – up to 900,000 TEU. The Ro-ro shipments are expected to follow the same trend – i.e. approximately 0,8 mln tons in 2009 and 3 - 4 mln tons in 2015. Simultaneous development of land infrastructure (with adequate absorption of the European funds), should bring a growth of Ro-ro shipments between the Bulgarian and Romanian ports on the Danube. In 2007, due to the EU accession and opening of the borders with Romania, a rapid increase was registered of the handled transport units (up to 360,000).

When the Danube Bridge 2 is put in operation, it could be expected that the shipments between Vidin-Calafat and Oriahovo-Becket on the Danube will decrease significantly – up to 40 - 50,000 transport units per year. The two ferryboats will remain as alternative transport option that could attract the traffic flows with competitive prices. On the other hand, an increase of the cargo traffic between small Bulgarian and Romanian ports is expected, due to the facilitated customs regime after the EU accession of the two countries. New Ro-ro lines and ports for coasting the Ro-ro platforms will be opened in most of the towns at the Danube, mainly in Silistra, Svishtov, Nikopol, etc.

The regional port in Belene is expected to start handling cargoes, related to the construction of the nuclear power plant.

Concerning the orientation of the Bulgarian export and import (before the implementation of the projects Belene, Southern Stream and Burgas – Alexandrupolis) the basic conclusions are based on the decreased trade exchange with Russia, Ukraine and the other countries from CIS. The structure of the Bulgarian economy will be of decisive role – the import of raw materials and the export of metals and semi-ready products irrespective of the destination, will continue to be realized through waterways.

The Status of the Bulgarian Port Infrastructure and its Trends

The basic infrastructure of the Bulgarian ports has been built 50 years ago, and partly even a 100 years ago. Regardless of all that, the handling of cargo capacities are estimated to be approximately 30 - 35 million tons (sea shipment) and around 10 million tons on the Danube river, given their present loading and unloading equipment. As already stated, the investments in maintenance and development of ports have decreased significantly in the last years and the status of the ports does not comply with the high modern requirements, and the necessity of relocating the basic port capacity becomes prominently clear. The port facilities built at the beginning of the past century in Varna, Burgas, Russe, Svishtov, as well as Nessebar and Sozopol, are already within the central parts of the respective towns, which causes, as everywhere in Europe, serious environmental and urban problems, and limits the development potential. Thus the investments for port development should be focused in certain areas, as is indicated in the National Programme:

- relocating the port facilities for handling cargoes that create environmental problems outside the broad town centres;
- Reconstruction of the port facilities, situated in the broad town centres mainly into ports for passengers, sport and recreation purpose zones and business zones;
- establishing facilities for receiving vessels with bigger deadweight through dredging the water areas and the approaches, ensuring adequate surface clearance and water area for manoeuvring;
- Restoring and strengthening of the port facilities – quay walls, breakwaters and port territory and other elements of the port infrastructure;
- Specialization of the port terminals, modernization of the loading and unloading equipment and improving the work organization;
- Modernization of the safety and protection systems of the ports;
- ensuring compliance of port facilities and systems with the international and national requirements for environment protection;
- ensuring reception facilities for collection and treatment of waste ships and port activities.

The maintenance of maximum possible depths in ports reflects in all directions: a good example is the export of grain - the bigger the ship lot the lower the freight, which frees resources that could be used to buy the grain. At the same time, for longer destinations the lots of minimum 25,000 – 30,000 tons are mandatory. The larger lots are also preferred in case of quota transactions for export to the EU, when the period of delivery is limited and the price of the grain is beneficial.

The state of the available warehouses is not satisfactory in general. There are old warehouses, which in fact are sheds- far from the concept of modern storing, handling and distribution of goods and cargoes.

For these reasons, along with the necessity of speeding up the implementation of the projects in the National Programme, the following recommendations could be made:

- to establish legal possibilities for conducting flexible tariff policy in relation to port dues, aiming at increasing the attractiveness of the Bulgarian ports with view to the competition of neighbouring ports in Romania, Greece and Turkey;
- to continue and speed up the process of liberalization of the sector, more specifically the process of granting concessions.

The development of the competitive model of the Bulgarian ports with the strength of the market logic should lead the operators to acquiring of highly productive transshipment equipment, communication systems, contemporary software, targeting several basic results:

1. Increasing the efficiency of the transshipment process – i.e. traffic capacity of the terminal, decrease of the cargo handling times, thus achieving lower port dues;
2. Improving the security on vessels and in ports through improving the control over passing cargoes and travellers⁴;
3. Introducing organization and facilities for environment protection on the territory of ports, including the reception and treatment of shipping waste⁵.

Prospects of Bulgarian Ports

- **Related to the development of the Bulgarian economy in the conditions of the present world financial and economic crisis**
- **Related to the volume of transit traffic**

The favourable geographic place of the country that makes it a connection between Europe and Asia, to a great extent predetermines the potential role of Bulgaria as transit country between the rich with natural resources states in the Near East, West and Central Asia and the well developed industrialized countries from Western and Central Europe. **The transit cargo traffic would not influence strongly the forecasted cargo traffic in ports on a short run.** On a long run, some deviation of certain cargo traffic could be expected through Bulgaria, **provided there are elaborated extremely competitive logistics schemes.** For this reason **the attraction of transit traffic is a policy, determined by the strategy for development of the transport sector and taking into account its importance for the national economy.** It involves:

1. **Construction of railway, road and information infrastructure** along the European transport corridors crossing Bulgaria;
2. **Construction of container and ro-ro terminals in Bulgarian ports, provided with up-to-date loading and unloading equipment;**
3. **Attracting concessionaires capable of providing transit cargoes;**
4. **Conducting active marketing policy and introducing the principles of modern logistics;**
5. **Establishing conditions for developing ancillary activities.**

The implementation of certain projects may have favourable impact on the increase of cargo traffic through Bulgarian ports, such as:

- launching the projects Burgas – Alexandrupolis and Burgas - Vliora - the expected freight flow of transit liquid oil cargo might come up to 35 million tons (a significant amount port dues will be accumulated, which will be used by the State Enterprise "Port Infrastructure" for investments in port infrastructure)
- Gradual development of corridor № 8, as the expectations are to attract significant cargo traffic from and to Southern Europe through Albania, as well as from and to the countries of the Black sea region.

Dangers reflected in the National Programme

Dangers related to the development of the Bulgarian economy

1. Possible restructuring of the Bulgarian economy aiming at highly technological products that would not require import and export of large quantities of raw materials and semi-ready products;
2. Failures in the economy, related to closing down of production units of big shippers.

Related to the volume of transit shipments

1. Building of the Vidin-Calafat Bridge and other bridges through the Danube, which will decrease the cargo traffic designated for Danube ports;

⁴ ISPS code; Regulation (EC) 725/2004 of the European Parliament and the Council of 31 March 2004 on enhancing ship and port facility security and Directive 2005/65/EC on enhancing port security.

⁵ Directive 2000/59/EC of the European Parliament and the Council, as well as of port activities както и от пристанищната дейност.

2. Modernization and enlargement of the ports in neighbouring countries, among them the modernization of the Thessaloniki Port, Cavala, Aleksandrupolis and others.

Dangers related to the work organization

The delay in the port reform that started in 2000 may have impact on decreasing the volumes of the necessary investments, consequently on limiting the fitness of the Bulgarian ports to comply with the European and international requirements.

Measures envisaged in the National Programme for implementing its priorities and achievement of the mentioned objectives

1. Liberalization and commercialization of port services

2. Development and modernization of the port infrastructure

The National port system has at its disposal 13,796 m total length of quay front in the seaports and 7,862 m in the river ports. Through the amendment of the law, effective from 23.03.2004, new ports were included in the National Port System with total length of the quay front 988 m in the sea and 2,583 m on the river, i.e. through modernization loading-unloading technology process, the capacity of the Bulgarian ports might be increased significantly in order to satisfy the need of port infrastructure up to year 2015.

2.1. **The enlargement and the construction of new basic port infrastructure** is predetermined by the necessity of relocating of port facilities outside the towns, as well as by the necessity of building of specialized port facilities, for which specific requirements on safe location exist.

2.2. Rehabilitation and maintenance of the existing port infrastructure

The LMSIWPRB has redistributed the responsibilities for maintenance of the port infrastructure of public transport ports with national importance. The analysis of the ports infrastructure status in public transport ports with national importance gives grounds to qualify it as operationally fit and safe, but not complying with the requirements for modern and highly efficient port, providing environmentally friendly and safe working conditions. The amount of investments needs to be increased both **from the budget** and from private investments.

2.3. Reserving new terrains for future development, reflected in the general plans

The main functions of the SE "Port Infrastructure" are related to the planning and development. In compliance with the newest European trends, based on analysis of cargo traffic, terrains for future development are reserved, respectively acquired or granted by the state or the municipalities and, when necessary, alienated.

3. Establishing conditions for port terminals specialization

The analysis of the national port system operations shows that it lags behind significantly from the international trends, oriented to increased rate of container and other multimodal transport at the expense of the general and bulk cargoes traffic. Other direction in the international transport is related to providing conditions for handling large tonnage vessels. The capacities of the Bulgarian ports are limited. This concerns mainly the handling of large tonnage vessels with loose bulk cargo, handling of big container carriers and handling of large tonnage vessels with liquid bulk cargo.

3.1. Conditions should be created for increase of container and ro-ro cargo traffic in Bulgarian ports, both on the seaside and the rivers, i.e. construction and change of equipment of port facilities into specialized terminals for ro-ro cargo handling.

3.2. **Creating conditions for handling large tonnage vessels in the main Bulgarian ports.** The major projects, which should have priority:

- Dredging the approaches and the water area of port Burgas;
- Dredging the approaches and the water area of port terminal Rossenetz;
- Providing maximum air draft for vessels entering the Varna Lake, which would allow the access of large tonnage container carriers.

Government Policy on Granting Concessions for Ports

The expected effect is **port infrastructure quality and the capacity improvement, port services quality improvement, and ultimately increasing the competitiveness of the Bulgarian ports.**

At present the concession procedures of the following Bulgarian ports are finalized:

Port terminal Lesport, part of "Public transport port with national importance Varna" – object – public state property. The period of the concession is 30 years. The date of concluding the concession contract is **08.06.2005**.

Port terminal Balchik – territorially differentiated zone of "Public transport port with national importance Varna" – object – public state property. The period of the concession is 25 years. The date of concluding the concession contract is **14.12.2005**.

Port terminal Oriahovo, part of "Public transport port with national importance Lom". The period of the concession is 25 years. The date of concluding the concession contract is **04.07.2007**.

Port terminal Svishtov, part of "Public transport port with national importance Russe" – object – public state property. The period of the concession is 31 years. The date of concluding the concession contract is **15.02.2007**.

Ferryboat terminal Silistra – territorially differentiated zone of "Public transport port with national importance Russe" - object - public state property. This is the first concession in Bulgaria, implemented based on the principle: build-operate-transfer. The period of the concession is 35 years. The date of concluding the concession contract is **03.02.2006**.

At present, apart of the pending procedures for Vidin-North and Ferryboat Complex - Vidin, Lom and Somovit, the option of starting **procedures for granting concessions of the terminal Varna- West and the dangerous cargoes terminal** is being discussed, while considering the **option of starting joint ventures**, which became possible after the amendments in the Concessions Act. These amendments defined and established the legal basis for the well known, including in the European Union countries, form of institutionalized public-private partnerships (i.e. establishing joint venture capital units - commercial companies between the public and private sector, which operate concessions.

The Bill harmonises the Bulgarian law with a number of community regulations: Interpretative Communication of the Commission on Concessions under Community Law dated 12 April 2000; the Green Paper on Public-Private Partnerships (hereinafter "PPP Green Paper") and the Community law on public contracts and concessions; Preliminary Considerations and Key Contents of a Possible Initiative on Concessions CC/2007/12 EN, meeting of the Advisory Committee on Public Contracts, Brussels, 21 June 2007 of the European Commission; Internal Market and Services DG; Discussion Paper: "Key Issues of a Possible Initiative on Concessions" CC/2007/17 EN, Meeting of the Advisory Committee on Public Procurement, Brussels, 24 October 2007 of the EC DG Internal Market and Services; Interpretative Communication of the EC CC/2007/16 EN of 2008 on Institutionalized Public- Private Partnerships. The above community instruments provide opportunity of granting concession to a company, where both public and private persons participate. The state, respectively the municipalities or the public organization participates in the company directly or through sole proprietor company or through state or municipal enterprise. The private party in the company, to which the concession is granted, is defined through a procedure provided in the law, which is yet to be developed in the Rules of application.

Bulgarian Port Policy in the context of the European Port Policy

European ports are facing the following challenges:

1. Demand of international transport services, which is growing due to the low costs and is expanding quicker than the economic growth.
2. Major technological change at hand, marked by the development of container shipping leading to more efficient, quicker, safer and cleaner operation of ports.

The European experts forecast for 2010 a 50 % growth, half of which contributed by direct shipping of full containers and approximately 20 % of which contributed by shipping of empty

containers as a reflection of the asymmetric flows, and the rest will include one or several intermediate transfers between ports. Ships servicing direct lines become bigger and unload cargoes at transit ports in deep waters; then cargoes would pass through one or more intermediate stages of further carriage with smaller ships, in order to ensure deliveries to smaller ports situated closer to the final recipient.

In the context of the above, the European, respectively the Bulgarian ports and towns where they are situated, have to make great efforts to adapt to the acquisition of land and to management, as well as to technologies and social problems.

3. The commitments of decreasing greenhouse gases and the hot problems with air quality, require decrease of hazardous emissions and traffic jam at every transported ton/kilometre, as well as diversification of transport modes by including railway transport, internal waters navigation and sea shipping.

4. It is necessary to develop regular dialogue among the stakeholders within the town, the region or even at higher level, when needed, on the operation and the development of ports. The dialogue has major importance since it can ensure social approval and efficiency, improve the image of ports and lead to better spatial organization of the urban function.

5. Last, but not least, the need to achieve conformity between the ports development and management on one hand and the transparency and competition requirements, and in general with the Community law on the other.

In many ports however there is still inconsistency between the storing and loading/unloading capacities, inadequate spatial organization of terminals and insufficient productivity per area unit with installed capacities, inefficient routes and access by sea or by land, long awaiting, unsatisfactory safety of lorries, trains and scows, inadequate working conditions and productivity, and last but not least, excessive administrative requirements that prove to be expensive in terms of both time costs and money costs. The good location of the ports at the seaside alone is not enough, more important is the provision of reliable services at reasonable prices.

Strategies need to be developed for promotion of intermodality and multimodality, tailored to the various regional peculiarities.

The administrative handling of ships needs improvement. The recommendation is to plan for "one stop shop", where document check and supervision by the respective port operators can be performed. Improvement of communications between ships and land, sustaining connections with the intermediate ports through which the vessel passes and port-logistical software with the participation of the stakeholders from the public and private sectors, might contribute to elaboration of integrated port systems. These would improve the handling goods, lead to better planning of transfers to inland transport means, decrease the pressure on the port area and be a major instruments for sailors, ships, port services and planning.

The important tasks for the port operators could be better performed be they independent to a sufficient degree. In particular, with regard to financial independence, it is a necessary precondition that would allow effective distribution of investments, and ultimately would make possible the development of ports.

Competition from third country ports, which faces ports in EU Member States, raises some concerns, expressed by several European ports. Such is the case with EU ports that are close to ports outside the EU (Bulgarian ports as well). Lower environmental requirements and social rules, fiscal dumping, public funding of connections with remote inland regions, discriminatory practices at tax collecting for suing the connections to the remote inland regions, might breach fair competition and pose at risk the uninterrupted functioning of the ports.

CHAPTER FOUR

SHORT DESCRIPTION OF THE MAJOR COMMERCIAL PORTS SERVING INTERNATIONAL TRADE BY SEA AND BY DANUBE RIVER, INCLUDING

INSTITUTIONAL AND STRUCTURAL ARRANGEMENTS, PROPERTY STATUS, PUBLIC-PRIVATE PARTNERSHIPS, MANAGEMENT, FORMS OF ACCESS TO PORT SERVICES MARKET, INFRASTRUCTURE DEVELOPMENT PROGRAMMES AND PROJECTS, NUMBER OF EMPLOYED (PORT STAFF), TRADE UNION DENSITY, MAIN ACTIVITIES, CURRENT TRAFFIC LEVELS AND EXPECTATIONS

The main commercial public transport ports with national importance in the Republic of Bulgaria are Varna, Burgas, Russe, Vidin and Lom.

Chapter two "Short Description of the Scope of the National Legal Framework Relevant to Ports" provided description and comments on the present institutional structure of terminal ownership in Public transport ports with national importance (land lord system), as well as the role, the subject matter and the capacities of the State Enterprise "Port Infrastructure", respectively the arrangement, the status and the capacities of the port operators at public transport ports with national importance.

Chapter Three "Description of the Current Government Policy on Ports and the Expected Changes Thereof" briefly presented the implemented and planned concession procedures and other legal options for public-private partnerships.

Discussed were also the different forms and the nature of private sector participation in the restructuring process of the ports system through the legal entitlement to operate, build and develop private ports with regional importance, respectively the ports under articles 107 through 109 of the LMSIWPRB.

Basic Parameters of the Public Transport Ports with National Importance

№	Name of Port Terminal	Number of ship positions /numbers/	Quay Front – total length /m/	Open warehouse area /thousand m²/	Covered warehouse Area /thousand m²/	Electric gantry cranes /numbers/	Purpose as per the Operational Fitness Certificate
SEA PORTS AND PORT INFRASTRUCTURE							
Public transport ports with national importance							
1.	Varna - East	14	2378	33,6	26,5	27 pcs.; portainer and belt conveyor	Handling of general and loose bulk cargoes, containers and passengers -
2.	Varna - West	18	3223	190,5	36	28 pcs.; 1. transport system for soda and urea 2 mobile elevators etc.	Handling of general, liquid, loose bulk cargoes, ro-ro cargo and containers
3.	Balchik	2	164	1,8	no	2	Handling of general, loose bulk cargoes and liquid vegetable cargoes and mail
4.	Thermal Electric Power Station Ezerovo	3	530	4,2	no	6	Specialized in handling coal
5.	Petrol	3	500	no	no	no	Handling of oil products

№	Name of Port Terminal	Number of ship positions /numbers/	Quay Front – total length /m/	Open warehouse area /thousand m ² /	Covered warehouse Area /thousand m ² /	Electric gantry cranes /numbers/	Purpose as per the Operational Fitness Certificate
6.	Lesport	3	469	18,0	0,863	5	Handling of general, loose bulk cargoes and ro-ro cargoes; liquid vegetable food cargoes, empty 20-foot containers from/on stack
7.	Ferryboat complex - Varna	2	400	no	no	no	Services Ferryboats
8.	Burgas - East	22	2715	99	49,5	33	Handling of general, loose bulk, liquid cargoes and ro-ro cargoes and containers; supplying ships with water, communications and electricity; handling of waste from shipping activities
9.	Burgas - West	5	890	191	11,0; refrigerator warehouse – 7,0	13 pcs.; reloading machine for grain	Handling of general, loose bulk, liquid cargoes and ro-ro cargoes and containers; supplying ships with water, communications and electricity; handling of waste from shipping activities
	Terminal 2A	3	715	42,225	no	7	
10.	Rossetz	3	300	no	no	no	Handling of liquid cargoes
11.	Sozopol	3	170	4,4	no	no	Providing passengers services -
12.	Nessebar	3	410	6,8	no	no	Providing passengers services

RIVER PORTS AND PORT INFRASTRUCTURE							
Public transport ports with national importance							
1.	Russe – East	14 – two for Ro-Ro ships	1618	148,2 32300 square metres parking	15,8	18	Handling of general bulk and liquid cargoes, containers and Ro-ro ships
2.	Russe – centre /Passenger quay/	10	1490	no	no	no	Serving passengers, stay and supply to ships
3.	Russe – West	11	1310	28,7	8,9	11	Handling of general bulk and liquid cargoes
4.	Ferryboat Terminal Silistra	1	30	no	no	no	Handling of Ro-ro cargoes and mail, providing passengers' services -
5.	Silistra	3 passenger pontoons	470	no	no	no	Servicing passengers and ship bunkering operations
6.	Tutrakan	2 –	110	3,5	no	1	Handling of general and bulk

		1 passengers.					cargoes and passengers' services
7.	Svishtov	8 – 1 passengers	922	4,5	6,1	13	Handling of general bulk and liquid cargoes, mail and passengers' services
8.	Somovit	2	354	9,7	3,4	5	Handling of general and loose bulk cargoes
9.	Lom	13	1335	54,8	8,4	26	Handling of general and loose bulk cargoes, passenger services and supplies to the ships
10.	Oriahovo	3 - 1 pass.	170	4,4	0,962	3	Handling of general and loose bulk cargoes, passenger services and supplies to the ships
11.	Vidin - centre	4 pontoons	1440	no	no	no	Servicing passengers and supplies to ships
12.	Vidin- South	2	160	4,8	no	2	Handling of general and bulk cargoes
13.	Vidin - North	1	118	10,0	no	1	handling of general and bulk cargoes
14.	Ferryboat complex – Vidin	1	Width 40 m	no	no	no	Handling of ro-ro cargoes

The number of employed (ports staff, design and building) in the port sector will be influenced favourably by the most significant Bulgarian project for building new port infrastructure, namely the construction of new modern container terminals at the ports of Varna and Burgas. The project will be implemented under a Loan Agreement with the Japanese Bank for International Co-operation. The State enterprise "Port Infrastructure" will be implementing agency and the project value will be 54 617 000 000 Japanese yens or 334 436 000 EUR. The government of Japan has approved loan in amount of 36 932 000 000 Japanese yens, that is equal to 26 144 000 EUR. The total area of the two container terminals will reach approximately 570 000 square meters with cargo traffic over 900 000 TEU per year (in comparison for 2007 the total amount was 145 000 TEU⁶). The implementation of this project should be actively promoted: the potential of the Black Sea basin in container shipping is already close to 2 000 000 TEUs. Given that the countries from this region are mainly developing countries, the expectations are that this growth will continue although with certain slowdown. The equipment however is amortized and scanty. The container cargo traffic is increasing, while port Varna does not have technical capacity to handle it effectively enough and stands on the verge of its capacity. The net rates of container handling at Port Varna are very low. The negative trend in Bulgarian ports is reinforced by the change in the policy of the container operators with regard to the structure of their fleets and optimization of tonnage and rotations, while Port Varna still cannot respond to the new requirements for berthing and handling of large tonnage container carriers. At present two container terminals are differentiated practically – at Varna - East and Varna - West, each of them without sufficient capacity to take over the whole traffic, while the simultaneous functioning of both does not provide economy of scale, including with regard to cargo handling equipment, which is not sufficient as it is divided between the two terminals. The problems of Varna East terminal are limited draught and the slack quay that cannot bear the weight of the crane, necessary for handling container carriers. Improving the capacities of

⁶ The time schedule for project implementation by years:

1. Selection of consultant for engineering services – March-April 2009;
2. Detailed design –until December 2009;
3. Tender procedure for the builder – from July 2009 to August 2010;
4. Construction works in Port Varna – from September 2010 to September 2014;
5. Construction works in Port Burgas – from September 2010 to September 2014;
6. Selection of consultant for the concessionaires – April through November 2008 ;
7. Elaboration of concession plan – January 2009 trough April 2010;
8. Procedure of selecting concessionary and signing the concession contract – January through March 2010;
9. Supply and installation of the reloading equipment at both terminals – March 2012 through July 2014;
10. Deployment of the two terminals – by October 2014.

the container terminal at Varna - West would cost significantly more. The existence of 2 terminals involves twice the equipment, which is not reasonable and practically raises the costs of refurbishing the terminals, which proceeds with slow pace.

Along to the purely technical limitations, that hamper the development of the Bulgarian ports **the impact of the world economic crisis on Bulgaria and Bulgarian ports** should be taken into account.

The basic industry that promotes many other sectors of the economy, ports included, is the metallurgy – some companies use scrap as raw material, others use ores. Logically, when orders for metallurgical products go down companies that collect and deliver raw materials also have difficulties. The large tonnage transport in all its forms is directly dependent on the metallurgy. The large steel, ore and coal producers are among its major clients, but now they abstain from transactions due to the big price drop of raw materials on the market (between 20 and 70 %). On other hand, the buyers are also tuned to the recession regime.

The crisis affected another big provider of cargo for ports - the nitrogen and phosphate fertilizers plant "Agropolichim" that recently stopped one of its production lines (60% of all sales of the company are for export, while the international demand is reticent, together with the lack of demand at the internal market as the Bulgarian farmers were deprived from the European funds after the negative EC report on the country's progress in July 2008). The plant cessation will also affect "Umicor copper" which is basic provider of sulphuric acid for the fertilizers plant. This cessation might also affect "Solvey Sodi" and "Lukoil" as they use in their working processes ammoniac water from the fertilizers plant.

Sea transport

The ship-owners, maritime brokers and agents, together with port operators, were the first to feel the approach of the world financial crisis to Bulgaria. Since two months, the sea shipping market is decreasing. The demand and offer of ships both nationally and internationally is undergoing a major stagnation. A third of the procurements for East Asia of approximately 3000 new ships was denounced by end of November 2008, while at present negotiations are taking place for new conditions of ship building contracts. Certain part of the ships was bought with lease contracts and companies do not anymore have the needed securities for paying the contributions due to the decreased cargo traffic.

The Bulgarian port operators undergo losses also because of the difficulties of the grain-producers, who were hampered by the stopping of the SAPARD programme (along with this the grain market is blocked from several months on due to the low purchase prices). Almost all Bulgarian ship-owners own vessels pledged to bank institutions and have big credit liabilities, calculated however in the conditions of a better economic trend. At present 5-6 of the new vessels of the Bulgarian Maritime Fleet are waiting potential cargoes and are at anchor, the same is the situation with all offered for sale older vessels (they are 25 out of 71, owned by the shipping company). The crisis has blocked the market of older vessels totally, while their cutting into scrap is not an alternative either, because of the very low price of iron and the over stocks on a world scale. The ports in neighbouring Greece are almost empty now – only in the Black Sea, there are over 1100 vessels at anchor and their number is constantly growing (this is twice the number of vessels affected negatively by previous crises). The inactivity of the sea vessels due to lack of orders naturally leads to decrease of freight prices, which in practice were highly overestimated on a world scale during the last years (according to owners of forwarding companies in Bulgaria the decrease of prices has reached almost 70 %, which in fact makes their business useless). The market went down in 10 days – the carriage prices decreased 10-fold in comparison with the beginning of 2008.

River going transport

During the last two years, cargoes transported via the Danube River were going up, although in the last two months a decrease is registered. The crisis affected general cargoes – metals, grain and ores. The credit decrease has led to decreased prices of metals in Europe (compared to last year the prices at the London stock exchange have dropped three times – at present zinc costs 1050 USD per ton, while lead costs 1200 USD per ton, given that last year the price of both metals was approximately 4000 USD per ton). On the eastern markets (Russia and Ukraine) the impact has

already been felt – the ports there are full of metals, imported under higher prices and now they cannot be sold – the same situation is observed in Russe and Svishtov from where the metals from Ukraine pass.

Railway transport

Cargoes carried by the Bulgarian State Railway Company are also going down. In October 2008, they are 8.8% less as volume in comparison with the same month in 2007. The Bulgarian Railway Company transports around 22% of the total cargo of Kremikovtzy metallurgical plant. Other major clients of the Company are Lukoil, Steel Industry, mining companies and others. From these most serious decrease of trafficked cargoes comes from Steel Industry – approximately 50 %. The port of Burgas handles around 40 % of the cargoes from or to Kremikovtzy. Quite recently in Burgas, the trade unions held a meeting where a declaration against the Government was read. It was adopted by a joint confederative council of the trade union organizations of CL “Podkrepa” and CITUB, which marked the protest campaign of the TU, as they have also left the National Council for Tripartite Co-operation. The reasons for this extreme measure of the two trade unions is "the failure to fulfil the Pact for Economic and Social Development, as well as the lack of measures countervailing the world economic crisis" – in joint declaration the two trade unions find the inadequate economic policy of the Government and assign to the trade union leaders the performance of an analysis of the draft budget for 2009.

Although it is difficult to make forecasts in general, the expectations of the managers are that the crisis will be relatively short. There is an open possibility to use different buffers and in general, there is place for optimism.

The Port Sector

The river going carriage has its potential in certain market segments, for example in shipping of specialized cargo – machines and equipment (each cargo which is over 3.70 – 4 meters could not be transported at long distances by road: the specialized lorries are very expensive, licences for non-standard cargo should be obtained for each country through which the transport goes). There are possibilities for deliveries to Istanbul where the construction volumes are higher than those in the entire Bulgaria. No decrease in this segment is expected in the next 6 months, as the trade with machines is usually between third countries. Machines were ordered to plants in the East some 2-3 years ago and now they have to be delivered. A general opinion is shared that the East will be less affected than the West, and Bulgaria is on the boarder between them. Along the river, there are two goods traffics: the first comes from the East and consists of general cargoes, the second comes from the West and comprises machines and equipment. The trend is of decrease in large general cargoes. What should not be neglected is that despite the Romanian ports are developing much faster than the Bulgarian ports, which makes them more attractive for forwarding agents, operators and ship-owners – it does not matter to the ship-owner whether the ship will enter at Russe or in Georgiou as the distance between them is negligible. Because of this, the draft waterpower system Nikopol – Turnu Magurele should be supported: such project will have 4 advantages to a bridge – existing road connection, regulation of the navigation level, profits from electricity generation and impact on irrigation.

Another example is the container turnover at the port of Burgas, which has sharply increased with 50% for the last year – since the beginning of the year over 30 000 containers have been unloaded at the port. Even more indicative is the situation of the Port of Varna, which has been congested for months of container carriers, while up to the end of August 2008 100 000 TEU were handled, which equals the volumes for the entire 2007. The main reason for the increased traffic in fact was the strike that lasted several months at the Greek ports and mainly in Thessaloniki. It is noted however that the operators continue to work with the old machines that are of low productivity; many of the new containers are of larger tonnage than they could carry.

It is envisaged that the first real container terminals will become effective in 2014. It is also important what type of service will the line operators will offer to freighters, in order to keep them as clients. Congestions should be overcome – there is no sufficient equipment, options, capacity, the work organization should be improved. For these reasons, it is of utmost importance that the

operator is mobilized to a maximum degree, in order to prove that it could cope with and react to such challenges. Thus, once the clients are convinced in the capacity of the port, the cargo traffic will be retained.

**The Present Status of Employment in Public Transport Ports with National Importance –
Number of Employed and Level of Trade Union Membership**

PORT OPERATOR AT PUBLIC TRANSPORT PORT WITH NATIONAL IMPORTANCE	NUMBER OF EMPLOYED	TOTAL NUMBER OF WORKERS AND EMPLOYEES, MEMBERS OF THE TRADE UNIONS	TRADE UNION ACTIVITIES
Port Varna - Single Owner Joint Stock Company	1625	1602	Union of Port Workers CITUB Varna East Union of Port Workers CITUB Varna West Trade Union "Podkrepa" Trade union of Dockers
Port Burgas Single Owner Joint Stock Company	1400	400	PODKREPA CITUB Sailors Union Trade union of crane operators
Port Complex Russe Single Owner Joint Stock Company	342	323	Union of transport trade unions – CITUB; CL „Podkrepa” Russe; "Promiana" Union of Port Workers and Employees
Port Complex Lom Single Owner Joint Stock Company	308	305	Trade union of port workers CITUB; Transport workers federation "PODKREPA"
Port Vidin Single Owner Limited Liability Company	37	34	Section affiliated to CL "PODKREPA"
Danube Industrial Park Ferryboat Terminal Silistra	4	-	-
Port Lesport Joint Stock Company Port terminal Lesport	119	-	-

CHAPTER FIVE

ONGOING OR PLANNED INSTITUTIONAL AND INFRASTRUCTURAL CHANGES

After the already effectuated merger of the Executive Agency "Port Administration" and Executive Agency "Maritime Administration", no further institutional or infrastructural changes in the port sector are envisaged, except the ongoing necessary activities that follow from the process of harmonization of the national legislation with the community law.

CHAPTER SIX

ANALYSIS OF OTHER MERCHANT PORTS SERVICING THE NATIONAL OR REGIONAL MARITIME TRAFFIC, OWNERSHIP STATUS AND NUMBERS OF WORKFORCE (PORT STAFF, PORT TRADE UNION MEMBERSHIP)

Along with the public transport ports with national importance, due to the amendments in the LMSIWPRB in March 2004, public transport ports with regional importance were established - presently 26.

The Law has accepted the ownership on these ports to be state, municipal, of private natural and/or of legal persons. According to Art. 117a, Para 3 of the LMSIWPRB, port operators of public transport ports with regional importance are the owners or persons that have contracts with them.

Basic Parameters of the Public Transport Ports with Regional Importance

№	Name of Port Terminal	Number of ship positions /numbers/	Quay Front – total length /m/	Open warehouse area /thousand m ² /	Covered warehouse Area /thousand m ² /	Electric gantry cranes /numbers/	Purpose as per the Operational Fitness Certificate
Sea Public Transport Ports with Regional Importance							
1.	Pomorie	2	435 m	4,5	no	no	Providing passengers services
2.	Tzarevo	2	170	9,0	0,25	no	Providing passengers services
3.	Ahtopol						Berth for fishing boats – operation stopped
4.	Fish port – Burgas	3	400	12	2,5 + refrigerator storage 48	2	Handling of general and non-hazardous liquid cargoes
5.	Ship Repair Plant "Port – Burgas"	2	202	6,5	4,0	7	Handling of non-hazardous general and liquid cargoes and loose bulk food cargoes
6.	"Burgas Shipyard Southern Quay – L"	2	240	12,25	2,6	1	Handling of general cargoes and scrap
7.	"Transstroy" – Burgas	2	180	3,0	1,4	2 mobile cranes; 3 vehicle cranes	Handling of general cargoes, liquid food stuff cargoes
8.	"Odesos PBM" – Varna	1	271	17	5	3	Handling of general cargoes, loose bulk cargoes and containers
9.	Maintenance of sea water cleanliness – Varna	1	115	1,9	400 sq. m. for liquid cargoes 3000 m ³	1; one pump station	Handling of general cargoes, containers, oil cargoes and loose bulk cargoes
River Public Transport Ports with Regional Importance							
1.	Silistra – Polaris 8	2	250	2,1	no	3	Handling of general cargoes, loose bulk cargoes -

№	Name of Port Terminal	Number of ship positions /numbers/	Quay Front – total length /m/	Open warehouse area /thousand m²/	Covered warehouse Area /thousand m²/	Electric gantry cranes /numbers/	Purpose as per the Operational Fitness Certificate
2.	Silistra - Lessil	5	500	16	no	3 and 1 vehicle crane	Handling of general and bulk cargoes
3.	"East Point"	1	229,80`	no	no	no	Servicing of passengers, mail handling, water, fuel, electricity and communications supply to ships
4.	Russe oil on tap terminal – Arbis	1	60	no	no Warehouse for liquid fuels 5800 cubic meters	2 pump aggregates	Processing of oil products and refuelling of ships
5.	Port Bulmarket Russe	4	650	19,0	1,4	1; 1 aggregate for grain processing	Handling of general cargoes, loose bulk cargoes and oil products
6.	Russe – duty free zone	1	100	no	liquid cargoes 4 numbers of 10 x m ³	2 pump installation units	Handling of oil products
7.	Danube dredge fleet - Russe	3	350	10,0	no	3	Handling of general and loose bulk cargoes and supplying ships with water, communications and electricity
8.	Svishtov - Sviлоza	2	100	26,2	no	2	Handling of general and loose bulk cargoes and supplying ships with water, communications and electricity
9.	“W Co” - Russe	2	250	2,1	no	2	Handling of general and loose bulk cargoes and supplying ships with water, communications and electricity.
10.	Belene	2	320	21,2	no	2	Handling of general and loose bulk cargoes and mail
11.	Petrol - Somovit	2	300	no	Warehouse for liquid fuels 10 000 cubic meters	10 pump facilities	Handling of oil and oil products
12.	Ferryboat complex Oriahovo	2	105	no	no	no	Handling of ro-ro cargoes and servicing of passengers
13.	DDF “Dunim” – Kozloduy	2	215	1,0	no	2	Handling of general and bulk cargoes
14.	Ecopetroleum – Vidin /Typhoon/	1	77	no	Liquid fuels warehouse	Pump facility	Processing of oil products and refuelling of ships

№	Name of Port Terminal	Number of ship positions /numbers/	Quay Front – total length /m/	Open warehouse area /thousand m²/	Covered warehouse Area /thousand m²/	Electric gantry cranes /numbers/	Purpose as per the Operational Fitness Certificate
15.	Ro-ro SO MAT - Vidin	1	130	42,0	no	no	Handling of ro-ro cargoes
16.	Duty free zone - Vidin	1	75	no	Warehouse area for liquid cargo - 400 cubic meters	no	Handling of oil products
17.	DDF "Budín" – Vidin	2	171	7,0	no	2	Handling of general and loose bulk cargoes
18.	Nikopol	1	100	no	no	no	Passengers services

Plans in the National Programme on Development of Public Transport Ports with Regional Importance – **new construction sites and enlargement of public transport ports with regional importance**

№	Name of the construction site	Purpose / basic parameters	Funding Private Investments	Period of implementation
I. Region Varna				
1.	Building of new container terminal on the territory of port "Odesos – PBM"	Building of port capacities for handling of 125000 TEU	26.2 mln BGN	2008 - 2013
2.	Building of specialized terminal for straight oil through enlarging the Port MSWC – Varna	For handling of 150 000 tons of fuel grease materials	28 mln BGN	2008 – 2010
3.	Building of specialized terminal for liquefied gases	For handling of 200 000 tons liquefied gases	3.8 mln BGN	In stages 2008 – 2010
4.	Building of port terminal of the Transit-commercial zone of the Island – Varna	Building of port facilities for handling of 125 000 TEU and 200 000 tons of general cargo	70 mln BGN	In stages 2009 - 2013
II. Region Burgas				
1.	Enlargement of Port "Ship Repairs Plant – Port Burgas"	For handling general, loose bulk and liquid cargoes	27 mln BGN	In stages: 2008 – 2015
III. Region Russe				
1.	Building of terminal for straight oils near the 499 th km	With capacity for handling of 200 000 tons of fuel grease materials.	20 mln BGN	In stages 2008 – 2011
2.	Enlargement and modernization of Port "Svishtov – Svilozha" with 4 ship positions	for handling loose bulk cargo, dangerous liquid cargoes and containers and a ro-ro terminal	25 mln BGN	In stages 2008 – 2015

<i>No</i>	<i>Name of the construction site</i>	<i>Purpose / basic parameters</i>	<i>Funding Private Investments</i>	<i>Period of implementation</i>
3.	Building of terminal in the region of Silistra, km 378-379	for handling of liquid, loose bulk and general cargoes	20 mln BGN	In stages 2009-2011
	IV. Region LOM			
1.	Enlargement of "Ferryboat Complex – Oriahovo" - building of passenger terminal and enlargement of the ro-ro platform	Enlarging the capacity of the ro-ro terminal with 4 new ship positions.	20 mln BGN	In stages 2008-2015
	Total Investments		Private Investments 240 mln BGN	2008-2015

Current status of employment at public transport ports with regional importance – number of employed (port staff) and trade union membership level

PORT OPERATOR AT PUBLIC TRANSPORT PORT WITH REGIONAL IMPORTANCE	NUMBER OF EMPLOYED	TOTAL NUMBER OF WORKERS AND EMPLOYEES, MEMBERS OF THE TRADE UNIONS	TRADE UNION ACTIVITIES
Port MSWC			
General cargoes terminal	19		
Straight oils terminal	11	-	-
ODESOS PBM	24	-	-
Ship Repair Plant Port Burgas	63	25	Trade Union "Podkrepa"
Ro-ro SOMAT Vidin	18	-	Union of transport workers CITUB in SOMAT
BULMARKET	49	-	-
Thermoelectric Power Station SVILOZA	16	12	-
BELENE	9	9	National federation of power engineers CITUB; Federation Energy – Podkrepa; Independent trade unions federation of power engineering in Bulgaria –CITUB; Federation Nuclear energy at CL "Podkrepa"
East point Silistra	3	-	-
Petrol – Somovit	2	-	-
W Co – Russe	5	-	-
Russe – duty free zone	19	-	-

CHAPTER SEVEN

PRESENTATION OF THE PAST AND PRESENT FRAMEWORK (PRACTICES), INSTITUTIONAL ORGANISATION AND AGREEMENTS BETWEEN THE SOCIAL PARTNERS RELATED TO THE SOCIAL DIALOGUE AT PORTS

A Branch Council for Tripartite Co-operation (BCTC) is established in the system of the Ministry of transport in compliance with the National Branch Classification, respectively sub-branch councils for tripartite co-operation (SBCTC), among them for **water transport**, as well as Councils for Social Co-operation (CSC) at enterprises, companies and organisations within the ministry's system. The parties are the Ministry of transport, trade unions and nationally representative employers' organisations. Social tripartite co-operation covers issues related to workforce, labour relations, employment, training and retraining, wages, incomes and social security, collective labour disputes, collective bargaining, working conditions, restructuring and privatization, having impact on the social status of the transport workers, as well as elaboration of legal acts, related to the labour and transport legislation. A deputy minister of transport represents the government at the BCTC (authorized by an order of the minister); in the SBCTC the state is represented by the head of the respective sub branch (authorized by an order of the minister). BCTC holds regular meetings once in three months and discusses problems of general interest for the branch and issues, on which no agreement has been achieved by the sub-branch councils. BCTC does not discuss and review individual petitions, complaints and proposals. Experts related to the different parties may take part in the meetings of BCTC. BCTC makes decisions in case of consensus of all participants in the meeting on the discussed issues, and if decision has been made every participant in the BCTC is obliged to undertake the necessary actions for the strict implementation of the reached agreements. In case of failure to reach an agreement on the issues discussed, the chairperson shall put forward these issues executed in minutes within 14 days to the NCTC, in case these issues fall within its competence. If needed temporary working groups of experts could be established, as well as extraordinary sittings may be convened. SBCTC holds regular meetings once a month. The sittings are legitimate, if representatives of all participants are present or if the absent members have been duly notified. Decisions are taken again with consensus of all participants, and if a decision has been made, every participant in the SBCTC is obliged to undertake the necessary actions for the strict implementation of the reached agreements. In case of failure to reach agreement on the issues discussed, the chairperson shall put forward these issues executed in minutes within 7 days in the BCTC for discussion and resolution, whereas the meeting of the SBCTC shall be attended by the stakeholders in the BCTC. In case of need temporary working groups of experts could be established with specific tasks, independent experts could also be involved, as well as representatives of organisations and institutions, whereas for that purpose the agreement of all participants in the SBCTC shall be obtained.

Having analysed the minutes of the sittings of the SBCTC (waterway transport) with the Ministry of transport, a conclusion can be made that the amendments in the legislation and the secondary legislation have been discussed regularly. These amendments were imposed by the need of transposition in the Bulgarian legislation of the European directives in the field of waterway transport and ports, as well by the need to improve the effective law. At these meetings comments were made on the nature, the speed and results of the reform in ports, the competitive impetus in the branch after the private ports and operators emerged on the market (the private operators score advance and "take away" cargo traffic from the public ports, as a result of the more flexible and more ambitious tariff policy, supported by serious investments, while the public operators, that have received already operative infrastructure, adequate equipment and well kept depths in the water area and do not have to pay water area fee, in practice loose cargo traffic). Along with these issues BCTC has discussed the contracts of the Minister of transport with the public port operators and the need to have them comply with the market logic, to the structure and scheme of the concession contracts.

The BCTC has regularly listened to and commented on information about the effective concession contracts and the procedures prepared for granting new concessions.

BCTC also has discussed the analyses of occupational safety and health activities, report of the activities with analysis of the investments programmes for the improvement of the working

conditions in the companies and enterprises, as well as the investment programmes. Measures limiting the risk at work in the process of providing port activities and services have been discussed, as well as the implementation of the business programmes of the port operators for work environment and working equipment recuperation. Analyses have been provided on the requirements from the applicants for concession contracts in the frame of the concession procedures to present business proposal for preserving the existing and creating of new jobs; on the connection between the expected increase of the cargo traffic and the increase of the jobs in case of concessions; on good practices in preserving the employment relationships in compliance with Art. 123a /Labour code; the role of the trade unions as duly informing the administration on potential violations of the concession contracts; the need to establish the so called "pools", investments in reloading equipment, etc.

The employers – companies with state equity share, concessionaires and private companies with access to the port services market as a result of concessions, contracts with the minister of transport under § 74 of the Transitional and Closing Provisions of the Law Amending and Supplementing the LMSIWPRB (SG, No. 24 of 2004) or contracts concluded with owners of ports and port terminals in ports with regional importance, are as follows:

"Port Varna" Single Owner Joint Stock Company; "Maintenance of sea water cleanliness" JSC; „Odesos PBM” JSC; „Port Lesport” Single Owner Joint Stock Company; „Port Balchik” JSC; „Port Burgas” Single Owner Joint Stock Company; „Fish Port” JSC; „Liberty Metals Group” JSC; „Shipyard „Port Burgas” JSC; „Transstroy – Burgas” JSC; „Polaris 8” Ltd; „Lessil” JSC; „Rompetrol – Bulgaria” JSC, „Bulmarket – DM” Ltd, „Danube Dredge Fleet” JSC; „Svilozha” JSC; „TPS Svilozha” JSC, „Petrol” JSC, Sofia, „Naftex Petrol” Single Owner Limited Liability Company; „Free zone – Russe” Single Owner Joint Stock Company; „Danube Tours” JSC; „Port Complex – Russe” Single Owner Joint Stock Company; „W Co” Single Owner Limited Liability Company; „Naren” Single Owner Limited Liability Company; „Dredge Fleet – Istar” JSC; „Danubean Industrial Park” JSC; „Mecom” Ltd.; „Bon Marin Logistics Varna” Single Owner Joint Stock Company; „SO MAT” JSC, branch Vidin; „Ferryboat complex” JSC, Oriahovo; „Ecopetroleum” Ltd., „Danube Dredge Fleet - Dunim” JSC, branch in Kozloduy; „Danube Dredge Fleet Vidin” JSC; „Free ZoneVidin” Single Owner Joint Stock Company; „Port Complex Lom” Single Owner Joint Stock Company; „Port Vidin” Single Owner Joint Stock Company; „OMV Bulgaria” Single Owner Limited Liability Company; „Sunny Gift” JSC.

The social dialogue - origin and background, successes and failures.

Social dialogue is implemented in various forms, grouped into relevant institutes, set forth in the Labour code:

The general assembly and the participation of workers and employees in the decision-making;

Tripartite co-operation;

Collective bargaining and

Collective labour agreements.

One important form of social dialogue is regulated in the Collective Labour Disputes Settlement Act – voluntary settlement of collective labour disputes.

Social dialogue started in the spring of 1990 through one of its major and most dynamic forms – tripartite co-operation. At the end of 1991 and through 1992 the tripartite co-operation was not active and only at the beginning of 1993 it had been restored. In 1994 it had been suspended again. It was reinstated in the beginning of 1995, while in the second half of 1996 it "faded" again. In the period 1997 – 2000 the process resumed. Always when during the transition period the government neglected the social dialogue, the social tension was increasing, reforms were suspended and the government had to leave office. Tripartite co-operation should be regular and constant and invariable part of the government labour policy, particularly in periods of economic crisis, when the executive power is prone to set up legal rules surpassing the law authorization, as a relapse from past periods.

Tripartite co-operation is established as an aggregate (system) of interrelated bodies that operate under a fixed procedure and aim at achieving common objectives. This is a national system

and its bodies are established at various levels: national, sectoral, branch and local /municipal level. All these bodies have common model of establishment, structure and composition, while each of them operates within the framework settled by the law without any hierarchic or administrative dependency. Consultations and co-operation at national level are performed by the National Council of Tripartite Co-operation. It is not a body of or with the Council of Ministers. Its functions cover issues and matters that affect the national interests, of all workers, employees, employers and their respective organizations. Sectoral and branch level councils are established in accordance with the manufacturing principle - in sectors and branches. Their establishment takes into account the sectoral divisions and groups and their management, as well as the traditions of the trade union association. Municipal councils are established at municipality level. The tripartite co-operation councils are not permanent bodies, they function through participation in sessions - meetings convened as a rule by their chairpersons or upon request of their members. The decisions adopted by the councils of tripartite co-operation are submitted to the relevant state bodies as follows:

1. Decisions of the National Council of Tripartite Co-operation - to the Prime Minister or to the respective minister or head of other institution;
2. Decisions of the sectoral and branch councils for tripartite co-operation – to the respective minister or head of other institution;
3. Decisions of the municipal councils for tripartite co-operation – to the mayor of the municipality or to the chairperson of the local municipal council, depending on their respective competence for making a final decision on the discussed issues.

The state and municipal bodies, to which opinions of a council for tripartite co-operation have been submitted, **must discuss them** when taking decisions within their respective competence.

Examples of successful contributions to social peace and smooth implementation of ports reforms through social dialogue carried out within the framework of the Sub-branch Council for Tripartite Dialogue in Water Transport

First of all, the discussions on the draft Law amending and supplementing the LMSIWPRB of 2004 (Minutes of the meeting of the Sub-branch Council for Tripartite Dialogue in Water Transport with the Ministry of Transport and Communications, held on 21.03.2002) have helped trade unions to better understand the port reform and in practice to support the transformation of the Executive Agency "Port Administration" into National company "Ports". Thus, the highly important and necessary consensus on the port reform was achieved through the social dialogue structures (sub-branch council for tripartite dialogue) on the following issues:

- the need of providing in the legislation of guarantees and prerequisites for faster and easier lending of port terminals to concessions, targeting at attracting freighters, in combination with strict supervision on implementation of investment programmes and engagements for achieving more and better offers in the procedure for selecting the average annual turnover of the concessionaires (with expected increase in the number of employed);
- the significance of the option, aimed at with the amendments and guaranteed by law, to let the state owned enterprise managing the port infrastructure, which is public state property, on one hand retain the taxes collected from ships visiting Bulgarian public transport ports, and on the other – retain the future incomes from concession payments. These funds will be earmarked only on construction, maintenance and rehabilitation of ports infrastructure (thus, after the reforms in the state enterprise "Port Infrastructure", the breakwater of the terminal in Balchik and Varna were repaired, as well as the causeway in port Burgas, servicing of the JBIC loan for constructing terminal 2 A in Burgas started, etc.).

The Sub-branch council for tripartite dialogue has provided forum for discussing issues, related to:

- participation of trade union experts in the process of conducting social analyses (part of the needed concession analyses) for the individual port terminals;
- including parts of the social analyses as clauses in the concession contracts;
- binding the selected concessionaires with the clauses of the collective labour agreements in force;
- obligation of the applicants for concessionaires to develop, for the needs of the selection

procedures, employment programmes offering minimum number of jobs that will be maintained and/or created in the concession period, while complying with the rule of Art. 123a of Labour code (retention of the employment relationship in case of change of employer in case of full or partial concession contracts), which supported the smooth transition in case of concessions of terminals and is a good practice that the Ministry of Transport applies in all procedures;

- obligation of the applicants for concessionaires to include in the developed social programmes proposals, related to the best international practices in managing and operation of port terminals on safety and health, training and retraining of the staff (the programme should include proposal on the basic parameters of a future collective labour agreement);

- supervisory mechanisms on implementation of the concluded concession contracts. The following clause from a concession contract illustrates the above: "for each year of the concession period, should the average number of jobs falls below the number of jobs as of the date of execution of the concession contract, the concessionary shall be liable to pay penalty amounting to 5% of the fixed part of the annual concession payment for every vacant job", or "should the concessionary fail to fulfil its obligations as set forth in the social programme that was part of the business proposal and concerning the increase of staff with 20% by the tenth concession year, it shall be liable to pay a penalty of 10% of the fixed part of the annual concession payment for every vacant job", as well as "should the concessionary, after the tenth year and until the end of the concession, fails to maintain an average payroll staff equal to the one at the end of the tenth concession year, it shall be liable to pay for every year a penalty of 10% of the fixed part of the annual concession payment for every vacant job";

- regular information on concession contracts concluded at certain period and on procedures elaborated for granting concessions on terminals from public transport ports of national importance;

- annual analyses on the status and activities providing occupational safety and health, as well as reports-analyses of the investment programmes for improving working conditions at state port operators;

- measures limiting the risks at work in the process of providing port services and activities and for implementation of business programmes of the port operators on rehabilitation of the working environment and equipment (renovation of rest homes, modernization of workshops, etc.);

- forms of employment injuries prevention through co-ordinating the cards for standard technological process by the administration and the implemented monitoring on hazardous port equipments;

- turnover of the workforce as a result of changes in job categorization of port workers, resulting from reforms in the social security system of the country, but in contradiction with the philosophy of the ongoing port reforms;

- ideas of starting "pools" of workforce, where port workers could be trained and retrained and which provide qualified port workers for temporary employment in handling specific cargo of different operators;

- trend of ageing of port workers and unattractive conditions for employing young and skilled staff (low wages, etc.), excessive general administration of the state port operators.

The role of trade union organisations in conducting social dialogue is of particular importance, namely in conducting collective bargaining and **concluding collective labour agreements**. Workers and employees get better working conditions through collective bargaining and collective labour agreements, since they exceed the minimum standards set forth by the labour legislation.

After the end of Second World War, when the labour relations were centrally regulated, the collective labour agreements (since 1949) have lost their relevance (the collective labour agreement was transformed into negotiorum gestio and instrument for performing and over-performing central plans – Art. 9 LC of 1951). The imperative legal regulation in the Labour Code 1986 did not establish a legal space for collective bargaining either, since many of the issues that the parties were interested in agreeing collectively, were settled in a centralised manner and were fixed in terms of volume and contents of the rights and obligations of the parties in the employment relation. The amendments of the LC in November 1992 introduced a broadly practiced and centuries-old tradition

of the market economies' countries, whereas the law shall regulate imperatively only minimum labour protection standards, which shall be mandatory for the parties of the employment relation. Such cannot be less favourable, since then they can be claimed invalid. Standards included in the collective labour agreements that are more favourable than the legally established minimum standards, become part of the contents of the individual employment relation between the parties to which the collective labour agreement applies. The legal regulation of collective bargaining and collective labour agreements, established in 1992, stood the test of time. By providing the collective bargaining option, the state transferred the self-regulation functions of labour relations to the legal entities - trade unions and employers' organisations and individual employers, which were closer to the participants in the individual employment relations – workers, employees and employers and their interests. This allowed for establishing a vital and flexible regulation that is adapted to the specific working conditions, complementing and expanding the minimum legal (state) standards with favourable solutions.

In the recent years industry collective labour agreements have been concluded between the representatives of employers organizations in transport – National Transport Chamber, Bulgarian Road Transport Union on one hand and on the other the representative trade unions: the Federation of Transport Trade Unions in Bulgaria - CITUB, the Trade Union of Road Transport Workers in Bulgaria - CITUB, the Trade Union of the Rail workers in Bulgaria - CITUB, Sailors' Trade Union – CITUB, the Federation of Transport Workers – CL "Podkrepa":

1. Collective agreement of 15.12.1998;
2. Collective agreement of 28.03.2002;
3. Collective agreement of 31.03.2004;
4. Collective agreement of 15.02.2006;
5. Collective agreement of 23.03.2008.

The branch collective agreements (BCA) define the framework of the relations between the bargaining parties and constitute grounds for collective labour agreements between the structural units of transport and the trade unions.

The latest branch collective agreement in force (of 23.03.2008) regulates issues of the labour and social security relations of employees - union members, which are not regulated by mandatory provisions of the law – incomes, employment, social services, working time, social insurance, social partnership and working conditions, trade union membership. The collective agreement contains minimum clauses and binding for all structural units in the industry, where there are organised representatives of the parties, regardless of the ownership. The structural units and trade unions execute their own collective labour agreements, containing clauses that are integral part of the individual employment contracts of workers and employees - union members, parties of the agreement and those that have joined the collective agreement individually. The BCA regulates:

- the minimum wage for the industry – national minimum wage, increased with a coefficient of 1.3 (compared with the BCA of 1998, when the coefficient was 1.30; a progress compared to prior BCAs is also the revocation of the following clause: "in case of lack of funds for employees' remunerations and financial difficulties at some structural units, the parties of the BCA may consent, provided the need has been proved, to a wage lower than the minimum industry wage, but not less than the national minimum wage");

- procedure for the determination of basic wages, based on assessments of the job, the working place and the business and professional skills;

- determination of basic wages for jobs, requiring a certain type of education (the progress here is in the higher coefficient of starting wages for university education – 1.35 in 1998 – 1.40 in 2008);

- employers' commitments to increase in their business plans the incomes of workers and employees, to reflect the forecasted inflation and productivity growth;

- it is an obligation of the parties in the CLA to agree on mechanisms and actions in case of shortage of funds for wages, including increasing of incomes, reducing the costs, using other available funds, establishing strict control on all costs, reducing the wages of officials violating the financial discipline to cover the shortage, optimising the number of staff, etc.;

- the amount of additional remuneration, overtime payment (the amount of the excess for overtime payment in the case of regular time work schedule is different: 110 percent in the 1998 CLA, 120 percent in the 2008 CLA for work during official holidays);
- specific additional payments to the agreed basic monthly wage in the CLA, for workers and employees in water transport;
- cases and procedure for receiving free food and/or food supplements;
- an option for the parties of the CLA to determine the specific amount and the conditions for receiving the indemnities, provided in Chapter 10, Section III of the LC, concerning the agreement on other types of indemnities permitted by law;
- an option to regulate in the CLA the specific issues on working time at the individual structural units, if such have not been provided in a law, as well as an obligation of the employer to develop and approve Internal Rules and Regulations, after discussions and hearing the opinion of trade unions, not allowing overtime above the permitted hours and beyond the permitted occasions, not violating the health and safety standards, etc.;
- the mandatory shift, daily and weekly breaks and rest are defined in the CLA;
- the amount of the main and additional paid annual leave, whereas the leave schedules developed by the employers shall be agree with the trade unions (according to the BCA clauses of 1998, an employee having at least 8 months of service, is entitled to a paid annual leave of at least: 1. 18 working days for 10 years of service; 2. 20 working days for 10 to 15 years of service, and 3. 22 working days for more than 15 years of service, whereas the BCA 2008 provides that every worker or employee with at least 8 months of service is entitled to a paid annual leave of not less than 22 working days);
- obligation of the employers to provide a paid official leave for non-payroll members of the central, industry and branch trade union management, of non-payroll chairpersons and members of trade union management in every structural unit, including when attending seminars, conferences or conventions, collective bargaining (the BCA of 1998 provides that upon termination of employment relations with a payroll trade unionist (voluntary), if impossible to reinstate him/her on the previous job, the employer shall offer another suitable job "except in cases when the person has been dismissed before expiry of the term, due to failure to justify the rendered trust" – the 2008 BCA does not include such a text);
- an obligation of employers to reserve funds for social and cultural services for workers, amounting to at least 5 % of the payroll funds, to be spent on the basis of specifically developed social programmes for the following main types: organised catering, commercial and public services; transport services; payment of transport costs of workers; facilities for rest, sports, tourism and cultural events; health prevention and medical services, payment of drugs and medical services, reduction of meal prices, monetary aid for long-term sickness etc.; provision of free working outfits and uniforms, whereas the CLA shall define the jobs entitled to these clothes;
- an obligation of the employers to provide conditions and accept, allocate funds and implement programmes (approved after discussions with trade unions) for training and retraining of workers and employees, comprising initial, short-term and long-term training, off or on-the-job training, retraining upgrading and regular test of the knowledge;
- an obligation of employers to open new jobs through expanding their line of business;
- an obligation, within 30 days from the execution of the CLA, to establish committees having equal membership between the employer and the CLA parties, which shall develop and adopt an employment, training and retraining programme;
- an obligation of the employer for early warning of the trade unions about lay-offs or decrease in the work volumes, closing part of the structural unit or intentions for collective redundancy, and the respective obligation to jointly determine the selection criteria for the structural unit;
- an obligation of employers to discuss with trade unions and seek consensus on the estimations of needed staff with view to work volumes and guaranteeing the safety at work standards;

- an obligation for workers and employees in transport sector to not participate in both managing or control bodies of structural units, as well as not to do business for their own or somebody else's benefit, without the prior consent of the employer, when that business is in the line of business of the employer;

- an obligation of employers to provide free movable or immovable property and conditions for trade union activities;

- standards for protection of workers and employees – for trade union members - from dismissal due to cuts or reduced work volumes, without the consent of the relevant trade union organisation, and for members of the trade union management bodies - without the consent of the relevant central trade union management that is party of the BCA;

- an obligation of employers to provide technical means, raw materials, materials and energy, sufficient for the performance of duties by the workers and employees, so as they can earn the remuneration in the BCA within the legally established working hours;

- an obligation of employers to provide to the trade unions written information on the economic and financial state of the structural unit and its prospects;

- a joint obligation of employers and trade unions to develop and adopt an investment programme to eliminate or reduce the dangerous and heavy work; to ensure a permanent representation of trade unions in cases of investigation of work accidents; to insure workers and employees when the risk factor is big.

Provisions and agreements executed at structural units that contradict the BCA shall be invalid. If the employer fails to fulfil the BCA provisions and the structural unit has more than 50% state share, the parties shall propose to the minister of transport to terminate the management contract. The transport sector BCA of 23.03.2008 is effective until 27.03.2010.

The effective branch collective agreement provides that disputes between the employers and trade unions of structural units regarding the "meaning and contents or the application of any contract provision" shall be settled either by the parties thereof or through mediation of the National Institute for Conciliation and Arbitration (in compliance with the Settlement of Collective Labour Disputes Act).

The National Institute for Conciliation and Arbitration shall render assistance for the voluntary settlement of collective labour disputes between employees and employers. It shall be a legal entity with the Minister of Labour and Social Policy, based in Sofia and having the rank of an executive agency. The managing bodies of NICA are the Supervisory board and the Director. The Supervisory Board includes two representatives of each of the state, the nationally represented employers' organizations and trade unions. The representatives of the state are appointed by the Minister of Labour and Social Policy. The Director of the Institute becomes a member of the Supervisory Board ipso iure. The representatives of the organizations of employees and employers are determined by their national managing bodies. The Institute adopts selection criteria and approves the lists of mediators and arbitrators drafted based on proposals by organizations of employees and employers and by the state. The arbitration dispute is considered on the grounds of a written request by the parties or by their representatives. The dispute is considered in an open sitting with summoned parties. The explanations of the parties, of their representatives, the presented written documents and other materials are heard and considered, third persons' statements can be heard, as well as conclusions of experts can be demanded by the arbitrators during the sitting. The dispute is considered in two sittings at the most, as the recess between them cannot be more than 7 days, unless the parties have agreed on another number of sittings or for another period of recess between sessions. In compliance with the legislation in force the arbitration award is declared in writing, within three days from the date of the last sitting.

For satisfying their demands, each party can exert influence upon the other, without interrupting their work, through organizing public meetings, demonstrations after office hours, information to the public through the mass media or another legal way.

Arbitration mediated by the National Institute for Conciliation and Arbitration is voluntary, which means that it can be put in motion in case no agreement could be reached through negotiations with or without the support of mediator, on the collective labour dispute. This is

considered a good opportunity for quick, authoritative and final settlement of collective labour disputes and for evading effective strikes. Voluntary arbitration on collective labour disputes is similar to the system of state justice and is its' alternative. According to the explicit provision of Art. 357 of the LC, only the legal dispute on implementation of collective agreements is excluded from the jurisdiction of the arbitration body, as it is under the general jurisdiction of civil courts. The non-legal collective labour dispute (economic or dispute of interests) may arise from the specific implementation of imperative blanket rule, as for example the text of Art. 277 LC, which states that the employer shall work out and endorse internal rules for safe and healthy working conditions; another example could be the rules on concluding and on the contents of a collective labour agreement. Non-legal labour dispute is also the one regulated in Art. 14, Para 3 of Settlement of Collective Labour Disputes Act on the minimum actions during strike, which is subject to a mandatory arbitration by NICA. This provision complies with the idea that the arbitration by NICA deals with non-legal collective disputes. The arbitration award on non-legal collective dispute does not have the typical legal consequences of a judicial act, which are usually of substantive character, and this is the main difference from the decision on legal collective dispute.

The arbitration agreement is a contract of procedural nature that justifies the competence of the voluntary arbitration, which after the beginning of the arbitration procedure becomes a power of the single arbitrator or the arbitration commission to hear and resolve the collective labour dispute. The rules of procedure for hearing and resolving CLDs are the same, whether the arbitration body is a person or a group. The bodies are defined by the parties, according to special rules, from among persons included in a list of arbitrators, approved by the Supervisory Board of NICA and promulgated in State Gazette. NICA director gives a motion to the proceedings, informs the parties of the final elected arbitrator, as well as of the place and hour for the first hearing. The dispute is heard based on the rules of procedure, regulated by the SCLDA, and following the clarification of the dispute, the arbitration body issues a resolution, which ends the proceedings. The resolution, including the motifs and special opinions, are then informed to the parties. The proceedings are of single instance, therefore it is final and not subject to appeal. A transcript of the resolution shall be issued by NICA. The arbitration proceedings may end up, apart of arbitration resolution, with arbitration agreement for voluntary settlement of the CLD. The execution of an arbitration agreement serves as a replacement of collective labour agreement between the parties when resolving a non-legal labour dispute, and it entails new rights and obligations for the parties. The executed arbitration agreement is mandatory for the parties and subject to immediate application.

Collective labour agreements have been signed at port level with the following operators: "Port Varna" Single Owner Joint Stock Company; "Port Burgas" Single Owner Joint Stock Company; "Shipyard "Port Burgas" JSC; "Port Complex – Russe" Single Owner Joint Stock Company; "SO MAT" JSC, branch Vidin - for port Ro-ro Somat Vidin; "Port Complex Lom" Single Owner Joint Stock Company; "Port Vidin" Single Owner Limited Liability Company.

CONCLUSIONS AND RECOMMENDATIONS

Work in ports. Dialogue

Different regimes of the work of dockers exist in the European ports. The dialogue between the stakeholders might contribute considerably for achieving better understanding and for successful management of changes. In this context, the dialogue between the social partners might have very important role in creating more and better jobs in ports.

Training

At present there are no specific community rules on training of port workers. Awareness should be raised on training of port workers and its extreme importance for safe and effective work in ports. Port equipment is of high technological standard and often comprises complex tools. Work in ports has changed respectively and the development of set of general guidelines for training of port workers is considered necessary, even at community level. This could also improve the mobility of the European port workers through mutual recognition of their competencies.

Safety and health at work

At European level, the general rules for safety and health of workers are set forth in the Community Directive 89/391/EEC (“framework directive”), which has been supplemented by 19 separate directives that treat specific branches and risks. Most of these directives are applicable to work in ports. The full compliance with these rules and their application is of utmost importance for the improvement of working conditions.

In February 2007 the EC has adopted a communication, which promotes the culture of risk prevention at the work place that was supported by a Decision of the Council. Ports also fall into the scope of this communication.

It should be noted that still in ports a considerable number of occupational injuries take place, some of which lethal. At national level application of Community rules on safety and health at work should be carefully followed and statistical information on injuries should be collected.

It is necessary to promote social dialogue. This must be done in close co-operation with the social partners. Good and safe working conditions, as well as the permanent improvement of initial and life long training of port workers, e.g. through standardized use of simulators for example, are major factors for positive and sustainable further development of ports and of the regions where they are situated. EU promotes high standards of safety and reliability at European ports through the provision of adequate financial support for training and education programmes and through the enforcement of the effective legislation on safety. For these reasons, the development of good social policy at national level in ports, in close co-operation with the social partners, is of utmost importance. National governments and the social partners have at their disposal very important instruments for designing good social policy, in particular the ILO conventions on work in ports, which could also contribute to the establishment of fair working conditions.

A set of interrelated actions must be taken, including a thorough dialogue and interpretations, which explain the respective rules at community and national level. All stakeholders from the private and the public sector should support the extensive dialogue and to guarantee **its continuity**.

It is recommended to set up structures at national level, respectively at European level, that could support regular consultations with all stakeholders, so that the results could be further used in the development of the European ports policy, avoid conflicts and exchange good practices. Options should be sought to support local and regional institutions, in order to guarantee broad acceptance of this policy.

The capacity development of ports requires significant investments. The limitation of state budgets means that the private capital is of utmost importance for the financing of port infrastructure and superstructure. This requires a long-term commitment of private investors with regard to ports.

Since the ports are cross-points of combined transport services, their efficiency is largely dependent on the efficiency of services offered by both the adjacent hinterland and themselves. Moreover the ports are a place of border control on ship safety, security, customs control, health control, environment quality, social benefits and social conditions on board, etc. Many of these types of control are specific for the maritime sector and are not always well matched and harmonised.

Policy in ports should be focused on promoting growth, establishing attractive climate for investments in ports, increase of legal security, optimizing integration of sea ports in the supply chains, enhancing the general competitiveness, as well as ensuring fair social policy and constructive social relations, so that all these aspects could contribute to setting a positive image of ports and making them look as an attractive work place.

The effectiveness of the port activities depends on both reliability and safety, which, despite the technological progress, are dependent to a high degree on the human factor. This explains the need of qualified and well-trained workforce in ports for all types of services and operations on land and on board of sea vessels. This condition is valid, whether the ownership of ports and of the providers of port services is public or private.

Ports are responsible for maintaining high standards of reliability and safety. The

Government could promote such standards by providing adequate financial support (from the EU funds as well) to educational and training programmes and by enforcing the effective legislation related to safety, by strengthening the control on port operators.

The Copenhagen European Council explicitly underlined that "the same importance, as rendered to the economic aspects, shall be rendered to social issues, which thereafter shall be developed in a balanced manner". The improved economy competitiveness is related to the growth prospects and increased number of jobs, i.e. the economic growth presupposes improved labour market efficiency. The international competitiveness of the economy must grow in such a manner that given the loyal competition with regard to the location of companies, any economic success could be used for the purposes of the sustainable social progress. All representative organisations of employers and employees must be part of the social dialogue. The growth, competitiveness and employment issues are interrelated and any proposals for changes of legislation must pay particular attention to the impact on employment of such changes. Relations among the social insurance, employment and competitiveness must be analysed thoroughly in this process. The information exchange, even on Community level, must be actively supported, with regard to measures for cost cutting, motivation of the workforce and promotion of competition.

One should not forget that strengthening the roles of both parties in industrial relations is a major prerequisite for matching the free market with social equilibrium. Special attention should be paid to the sectoral social dialogue, since the results of regulating or non-regulating the employment in different sectors, could be best assessed in the framework of social dialogue. Sectoral social dialogue should be real, efficient and targeted, which is not possible with the active participation of social partners in the discussions on improvement of working conditions and standards of living and working in their respective sectors.



PROJECT TITLE:

**“Strengthening Social Dialogue in the Process of Structural Adjustment
and Private Sector Participation in Ports in Bulgaria”**

**LIST OF MEMBERS OF THE
NATIONAL TRIPARTITE PROJECT STEERING COMMITTEE (NTPSC)**

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DRAFT PROPOSAL

NATIONAL ACTION PLAN FOR STRENGTHENING THE SOCIAL DIALOGUE IN THE PORT SECTOR IN BULGARIA FOR THE PERIOD 2010-2011

Introduction

Bulgaria occupies a strategically important place in Southeast Europe and is part of the Trans-European Transport Networks (TEN-T). Geographical situation of the country, in turn, puts a kind of challenge to the state on taking timely steps for infrastructure development relating to all modes. The crossing Republic of Bulgaria corridors include virtually all major sea and river ports, through which passes more than 60% of the country's foreign trade turnover.

In Bulgaria the tripartite cooperation has a short history. At the beginning of 1990 negotiations began on a national level between government representatives, the Confederation of Independent Trade Unions in Bulgaria and the National Union of managers in Bulgaria. As a result on 15.03.1990 was signed the first in our country General Agreement on solving the most pressing issues that affect vital processes of workers and generate social tensions. A particularly important component of this first agreement in the system of tripartite cooperation at national level is the general agreement between the representatives of the Government, unions and employers to establish a National Commission for conciliation of interests, built on parity basis - with an equal number of representatives of the government, organizations of employers and workers' and employees' organizations.

The Social dialogue is the basis for the development of civil society and is a continued government policy to strengthen the social protection. It is a guarantee to attract entities in the establishment of relevant legislation and sets guidelines for national employment and social policy.

Forms of social dialogue:

- Tripartite cooperation;
- Collective bargaining
- Collective agreements

- General Assembly of the employees and their participation in the management of the enterprises;

- Voluntary settlement of collective disputes

In addition to this typical area in which social dialogue is used, a number of its important forms are covered in other legal acts.

Participants in the social dialogue are: the state (through its bodies), employees (through their representatives and organizations - trade unions or by the general meeting of employees) and employers - either directly or through their representatives (employers' organizations).

At the scope of the social cooperation are included the issues of labor force, labor relations, employment, training and retraining, wage, income and social security, collective litigations, collective bargaining, working conditions, restructuring and privatization, affecting the social status of transport workers and the preparation of regulations relating to employment and transport legislation.

Table 1 - Current status of employment in ports for public transport with national importance
- number of employees and level of professional association

Port operator in Port of public transport of national importance	Number of employees	Total number of employees - members in trade unions
Port Varna	1625	1602
Port Burgas	1400	400
Port Rousse	342	323
Port Lom	308	305
Port Vidin	37	34
Danube Industrial Park Ferry terminal Silistra	4	-
Port Lesport	119	-

Table 2 - Current employment situation in the ports for public transport with regional importance - number of employees (port staff) and level of professional association

Port operator in Port of public transport of regional importance	Number of employees	Total number of employees - members in trade unions
Port "PCHMV" General cargo terminal	19	-
Terminal for base oils	11	
ODESSOS PBM	24	-
KRZ Port Bourgas	63	25
Ro-ro SOMAT Vidin	18	-
BULMARKET	49	-
TPP SVILOZA	16	12
Bellene	9	9
East Point Silistra	3	-
Petrol - Somovit	2	-
W Ve Co - Ruse	5	-
Rousse – duty free zone	19	-

During the project of the International Labor Organization (ILO) “Strengthening the social dialogue process and structural changes in private sector participation in ports” there was a 5-day training in Varna, which covered more than 20 representatives of the social partners. The main objective of the training was to build and strengthen the capacity of social partners and other institutions involved in the port sector aiming to build a constructive social dialogue. As a result, participants received knowledge in terms of the ILO Social Dialogue, ILO activities in the port sector, the history of social dialogue in the port and review of the social policy of the European countries, the new agenda of social dialogue at European ports, social dialogue in a situation of structural

changes, private sector participation in European ports, development of national ports, the ILO model of social dialogue, planning, monitoring and evaluation process of social dialogue and mobilize the necessary resources for social dialogue. Particularly useful for the participants was their inclusion in work groups where it was felt the spirit of social dialogue. Obtained from evaluation of training provided, the audience indicated their satisfaction with the high quality training and materials, professionalism and rich experience of the lecturers in the sector and has identified the need to capture a larger audience and to focus on more specific topics of the Bulgarian ports.

As a result, one of the certified participants exposed the received information, knowledge and skills to the employees of the Directorate of Port Administration - Burgas.

Draft proposal

National Action Plan for strengthening the social dialogue in the Port sector in Bulgaria

The ILO project sets the base of a recognized need to improve the knowledge and skills of social partners in conducting social dialogue in the port sector. In this regard, the representatives of the government, employers and unions have reached mutual agreement to continue what was made by ILO as proposing the creation of a draft proposal of a National Action Plan for strengthening the social dialogue in the Port sector in Bulgaria.

Main objectives

- Strengthening the social cooperation between the social partners;
- Informing the social partners of the social dialogue and preparing them to conduct constructive negotiations and to defend their positions;
- Involvement of the stakeholders to the mechanism of social dialogue;
- Inclusion of more social partners in the field of social dialogue in the ports which will promote and safeguard their working and living conditions at European standards and achieve efficient and competitive operations of their business respectively;
- Introduction to students from final courses of education the nature and mechanism of social dialogue.

Partners

Leading role with its collaboration will play the Ministry of Transport, Communications and Information Technology with the support of the Ministry

of Labor and Social Policy. By employers will be engaged all employers' organizations in the sector. By representatives of the employees will contribute two nationally represented trade union organizations STSB - CITUB and FTW Podkrepa – CL Podkrepa.

It is envisaged between the social partners to be circulated and signed an agreement which aims to lay down the duties and responsibilities of the parties in order to achieve transparency and greater efficiency of the National Plan.

Structure

It is envisaged to set up a *National Tripartite Steering Committee* (NTSC), which will be responsible for the implementation, monitoring and coordination of the draft proposal of the National Plan. NTUK is expected to consist of 6 members - two representative of each social partner, which will meet three times a year. At its meetings NTUK will:

- organize and coordinate the training;
- organize and coordinate the working groups;
- sets the tasks of the working groups;
- examine the reports from the trainings;
- review the progress of the working groups;
- organize the consultation of experts /Bulgarian or foreign/ when necessary;
- organize meetings with the EU member states for exchanging information and experience.

We plan to create *working groups of experts*, which will consist of six experts in specific fields which will establish the sources and causes of the existing problems will analyze and propose ways to resolve them. Recruiting information can be provided from:

- discussions from the organized trainings;

- submitted signals;
- the Committee;
- the press, etc.

For each working group are envisaged two meetings a year where will be discussed and summarized the results of the work undertaken to implement the assignment. It is envisaged that each working group will prepare a report to submit to the Committee.

Membership of the Working Groups:

Experts aware of the operation of ports and the legislation in Bulgaria.

Possible assignments of the working groups associated with issues of the social dialogue at the ports:

- Healthy and safe working conditions;
- Permanent or temporary employment;
- Consideration of the need to establish a register of dock workers following the example of other countries;
- Examining the experiences of other countries;
- Provision of labor without an employment contract;
- A study in order to attract new social partners from the port sector, etc;

In the National Plan has been included the conducting of *trainings* of the social partners in the social dialogue in the sector. These trainings will be organized by the ILO model, but adapted to the specifics of the Bulgarian ports. Training will be conducted on materials provided by the ILO, which will be processed in accordance with Bulgarian legislation and problems in the sector. It is planned to have three three-day trainings per year with 20 participants present. Instructors will be the certified by ILO representatives of the social partners. The overall objective of the training is to strengthen the capacity of social

partners and other institutions involved in the ports sector in Bulgaria in order to engage them in constructive social dialogue on economic, labor, social and other issues of common interest. Participants after the seminar should be able to:

- fully understand the process of social dialogue at national and company level;
- explain to others the content and the benefits of the social dialogue in the port sector and advising organizations on their social dialogue;
- participate in constructive social dialogue on economic, labor, social and other issues of common interest to the social partners.

The topics of the trainings are planned to be:

- Historical overview of the social dialogue and the role of ILO to strengthen the tripartism and the social dialogue;
- Legal framework of social dialogue, according to the Labor Code: nature and scope; collective bargaining - at national, regional or at enterprise level
- How can we encourage the social dialogue to work
- Construction and improvement of the skills in planning, implementation and monitoring of the social dialogue; mobilizing the necessary resources;
- Building the skills of communication between the social partners - exchange of information, consultation, negotiation
- Building the skills and creation of the conditions for feedback among the participants in the social dialogue.

The National Plan envisages the conduction of *lectures* in specialized secondary and higher education schools. The aim of these lectures is that students in the last course of education in the field of water transport to be aware of the nature of social dialogue, its history, operation and application in the Bulgarian legislation. Lecturers will be the certified participants by the ILO training from the project "Strengthening social dialogue in the process of

structural change and the private sector participation in ports”. These lectures are intended to be conducted in 3 schools per year.

Draft Budget of the National Plan for 2010-2011 in BGN

Heading 1 - NTSC

1.1. Costs per member per meeting	
Travel costs.	100.00
Materials.	100.00
Accommodation.	200.00
Food.	100.00
Total expenses.	500.00
1.2. Costs of 6 members for a meeting	
Total expenses.	3 000.00
1.3. Charge 6 members in six meetings	
Total expenses.	18 000.00
Total cost of NTSC	18.000.00

Heading 2 - Working Groups

2.1. Experts' costs	
Travel costs.	100.00
Materials.	150.00
Accommodation	200.00
Food.	100.00
Total expenses.	550.00
2.2 Expenditure for 6 members per meeting	3 300.00
2.3. Costs for 6 members to four meeting.	13 200.00
2.4. Professional honorarium	
Honorarium for an expert.	4 000.00
Total costs for 6 experts.	24 000.00
2.5. Other expenses	

Total.	20 000.00
Total cost of working groups.	57 200.00

Heading 3 - Training

3.1. Costs per participant

Travel costs.	100.00
Materials.	100.00
Accommodation	300.00
Food.	100.00
Total expenses.	600.00
Costs for 120 participants.	72 000.00

3.2. Costs for lecturer

Honorarium for lecturer.	3 000.00
Costs.	5 000.00
Total cost for 18 lecturers.	144 000.00

3.3 Cost of Facilities

Room + equipment.	150.00
Total cost of facilities for 6 trainings	900.00

Total cost of training 216 900.00

Heading 4 - Lectures

4.1. Costs for lecturers

Honorarium.	500.00
Others.	600.00
Total cost for one lecture.	1 100.00

Total cost for six lectures 6 600.00

<i>Total</i>	298 700.00 BGN
	152 709.00 EUR

Promotion and publicity of the project

NTSC aims to achieve sustainability of the National Plan for a period longer than two years. The results of the National Plan will be disseminated through:

- web pages of the social partners;
- press release;
- brochures and posters;
- other materials.

Time frame

The national plan is expected to extend over a period of two calendar years (2010-2011).

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Noe	Dec
NTSC Program												
Meeting 1	■											
Meeting 2					■							
Meeting 3											■	
Working groups Program												
Meetings			■						■			
Training Program												
Training 1		■										
Training 2						■						
Training 3											■	
Lectures Program												
Lecture 1		■										
Lecture 2					■							
Lecture 3											■	

Conclusion

It is necessary to promote the social dialogue. This should be done in close cooperation with social partners. Good and safe working conditions and continuous improvement of initial and continuing training of port workers are key factors for positive and sustainable further development of ports and regions in which they are located. The EU promotes high standards of reliability and safety in European ports, by providing adequate (financial) support of programs for training and education and through enforcement of existing legislation on safety. It is therefore essential to develop a national good social policy in ports, in close cooperation with social partners. National governments and social partners have very important instruments for good social policy, in particular the Conventions of the ILO on labor in ports, which may also contribute significantly to the establishment of fair labor conditions.

With this draft proposal for a National plan the social partners express their greater willingness to cooperate in the field of social dialogue in the port sector. The aims are strengthening the capacity of participating in the sector, raising awareness of the social partners and building trust between them that will help their work together, conducting training, creation of prerequisites for the sustainability of social dialogue.