

Devolution of Libya's Ports Governance: Reasons and Challenges

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Abstract: Libya's strategic location, in the middle of the northern coast of Africa, means that the country can play a vital role in trade between the world's regions. The state has recently encouraged this by establishing free trade zones and a network of roads to connect the state with other African countries. Since suspension of the United Nations sanctions in 1999, which had been imposed on Libya since 1992, the country's economy has been growing. Improvement and development of Libya's port sector has become very important so that it can cope with this growth. Devolution of the governance of Libyan ports is a requirement for this. The reasons that have contributed to this action are discussed in this article. However, prior to any attempt to devolve the sector's governance, there are a variety of challenges that need to be dealt with carefully. These challenges are discussed in this article. This article is based on interviews with key people in Libya who have shipping expertise.

Keywords: Libya, Ports, Devolution, Reasons, Challenges

1 Introduction

Since the lifting of sanctions at the beginning of the 21st century that had been imposed on Libya by the United Nations from the early 1990s (Otman and Karlberg, 2007, p. 45), the economy of the country has witnessed remarkable growth. The isolation of the country during those years led to a delay in development and improvement plans for almost all state owned enterprises. A privatisation program announced in 2003 has played a major role in the growth of the country's economy. It has been aimed at improving the efficiency and productivity of state-owned enterprises, in addition to reforming the Libyan economy's structure in general. The port sector has a great influence on Libya's economy because around 90% of the country's export and import activities are dependent on it. Hence, the government has taken action such as appointing an executive manager for each port to represent the authority of port and marine transport. They have been authorised to take action and make decisions to develop their port and improve its services. However, the sector has remained largely unchanged, physically and in terms of how it is managed and operated, since the end of the 1970s. This freezing of the port sector has led to inefficiency and low productivity. Subsequently, the sector has become increasingly unable to cope with the growth in the country's economy and the new technology that appeared in the market. Libya aims to become a hub for shipping (Our World, 2006). The country's location in the middle of North Africa makes it well positioned to serve the trade of certain African countries that do not have their own ports, such as Chad and Niger. This trend has been welcomed because shipping lines will be able to avoid many of the problems they face at the ports of West Africa, in addition the country is close to the main shipping lane (UNCTAD, 2008) see Figure 1. The country has already started to work in this area. Establishing roads to connect the country with the rest of Africa already considered. The reforming of the port sector is under the consideration.

2 Libya's Ports Sector and the Reasons for Devolution of their Governance

2.1 Libya's Ports Sector

There are 20 ports that lie along the Libyan coast line from the west to the east, including Abu Kamaash, Zwara, Azzawia, Tripoli, Elkhoms, Misurata, Sirte, Essedra, Ras Lanuf, Rasco, Elbrega, Azzuwaytinah, Benghazi, Derna, Tobruk and Alharega. Some of them serve only as oil terminals and the rest as cargo and

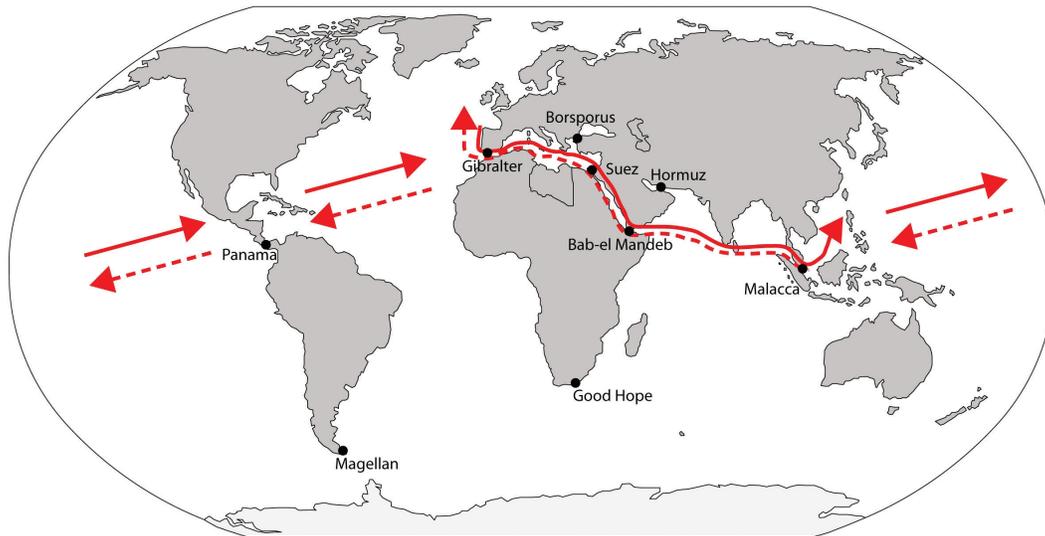


Figure 1 - Libyan location in respect to main shipping lane

Source: Developed from UNCTAD 2008.

passenger ports (General Planning Council, 2006; Our World, 2006). The main operator of Libyan ports is the Socialist Ports Company, which is state-owned and operates almost all the Libyan cargo ports. The company has, for a long time, been responsible for all kinds of activities and services that are provided by the ports it operates. The SPC was established in 1985 under Law No. (21)/1985. Since 2003, towage and salvage operations were listed under the activities of the SPC. The major Libyan cargo ports are Tripoli, Elkhoms, Misurata and Benghazi. Almost all of them have the same maximum draft of 12 m¹ and carry out a variety of activities, such as general cargo, container handling and bulk cargo. In addition, other services are provided by ports such as bunkers, fresh water, crew changing and garbage disposal. In 2007, all Libyan ports were handling about 175,334 TEUs² (O.B.G³, 2009). The state aims to increase the capacity of the ports to about 30 million tonnes p.a. improving the efficiency of the ports is the priority of the state. Socialist Ports Company has long been dominated the sector in terms of operation, management and control. Resolution number 280/2006 of the secretary of the general committee was made regarding ports, and its amendment was listed in the resolution number 330/2007. This resolution enables the public authority to perform its duty and gave the authority the right to appoint the most suitable company to operate the ports in general or divide the port activities between different companies to achieve satisfactory services.

2.2 Reasons Contributing to the Devolution of Libyan Ports Governance

The era of the 1970s witnessed a great deal of port congestion. In 1977, the average waiting time for ships to be unloaded in Tripoli's port was around 24 days. Since that time, the priority of the government was to improve the country's ports to cope with the improvement plans of the country. The 1980s saw many construction projects that enabled the ports to handle an increase in general cargo. In 1985, Tripoli, Benghazi and Qasr Ahmad (Misurata) were equipped to handle 12.5, 3.5 and 1.5 million tonnes, respectively. In addition to many other construction projects, the government sent many Libyan candidates to different countries to study and train to establish highly qualified workforce to manage and operate Libyan ports. At the end of

1 Some information regarding Libyan ports can be founded at. accessed on April 2009 http://www.worldportsource.com/ports/LBY_Port_of_Derna_667.php, and <http://www.temehu.com/Libyan-ports.htm>.

2 TEUs; Twenty-foot equivalent unites, a measure used in intermodal transport.

3 O.B.G.; Oxford Business Group.

the 1980s, sanctions were imposed against Libya, and the country was isolated from the world. This action led to the destruction of a lot of public enterprise and disruption of the improvement and development of others. The port sector was one of the enterprises that were negatively affected by the sanctions. Because of this, Libyan ports became unable to cope with the great development that occurred in the shipping sector and gradually became unable to deal with the new vessels that appeared on the shipping market in terms of draft, stevedoring requirements and storage of cargo, in particular, the container ships. Moreover, waiting time together with time of handling the cargos still the main concern of the vessel's owners that serve Libyan ports, hence, these two elements affect the frequency of the vessels negatively. The reasons for devolution of Libya's ports governance can be divided into two groups: technical and economical. These two main reasons have an interdependent relationship, and both of them complement each other.

2.2.1 Technical Factors

Libyan ports require rehabilitation in terms of queues and expansion of port land. There is a need to build more storage areas and equip the ports with modern stevedoring equipment and facilities, in addition to information technology that has become very important in the transportation industry. Its importance revolves around facilitating the flow of information, which leads to saving time.

The strength of queues has decreased over the last three decades because of neglect of maintenance and the expiry of lifespan. This has led to difficulty in use and they are unable to serve heavy cargo. For instance, in the port of Tripoli, which is the most important port in Libya, the queues were built in the mid 1970s to solve congestion problems, without consideration being given to the future of the port and the city, or any change of the pattern of the transportation industry or trade. The draft of Libyan ports, in general, is another very important element. The maximum draft of commercial Libyan ports is 12 m, which represents the main concentration for larger ships.

Poor information systems in Libyan ports, which have led to delays in information flow, are another problem for the port sector. Stevedoring, Pilotage and tugs are another essential element that should be available at any port. With respect to the quality of the services provided, Libyan ports have long suffered from inadequacies in this area due to a lack of adequate equipment and a shortage of qualified labour, because most qualified people have now retired without them being replaced by newly qualified workers. Therefore, intensive capital, enhancing labour skills and introduction of new technology and management skills are all required.

2.2.2 Economic Factors

According to the technical factors that have been discussed previously, the shipping lines and the tramp vessels charge Libyan cargo freight rate higher than the average available in the market. For example, the Messina Line charge is about double the price for transporting a container 20 feet from Genova to Tripoli, when compared with Genova to Tunisia. If the cost for the later is \$400, it will cost \$800 for the former. The IRISL Line charges an extra amount ranging on average from \$300 to \$400 for a container 20 feet travelling to Libyan ports. The extra money is to compensate the line for delays, which cost the lines money. The port tariff is another problem facing vessels in Libyan ports, especially when the government increased it. This is another reason behind the rise in the freight rate for voyages to Libyan ports. The high freight rate means adding extra cost on goods and commodities, which eventually will create a burden on the people buying the goods.

Another serious problem is that the government should consider carefully and seriously that the importers and the shipping lines may divert their cargo to other ports to reduce costs and secure delivery on time, avoiding the bureaucracy. From the point of view of the lines, they are aiming to maintain their schedule and avoid any disruption to their services. Because of such diversions, the number of ships visiting Libyan ports has reduced. Thus, the income that can be gained from such industry has already faced a reduction, and an important source of income for the state is likely to be missed.

As mentioned earlier, the state is aiming at becoming a hub centre in the Mediterranean region, to create another source of income to help the country to reduce its heavy dependence on the oil sector. Many resolutions and regulations have been issued regarding this issue, such as law number (9)/2000 regarding establishing and organising the free zone and transit area. There has also been resolutions that have dealt with the same matter, such as resolutions No. (32)/2006 reorganising the Misurata free zone, No. (215)/2006 establishing a special area, No. (33)/2006 regarding transferring the management of the Misurata port from the port company to the Misurata free zone. Theoretically, these steps are very useful for the Libyan economy. However, improvement and development of the country's ports are a prerequisite.

It is true that these trends are welcomed by the shipping lines, and hence it will help to exploit the features of Libya's location. The other features that are unique to Libya when compared with other Mediterranean countries include a cheaper labour force and suitability of bunker price. In addition, most shipping lines that serve the trade of African countries do so through west and east Africa. However, they are looking seriously towards diverting their destination from west and east African ports to Libyan ports to save time and money, and to avoid any disruption to their service. Unfortunately, Libya's port problems represent an obstacle to this.

There is no doubt that the previous discussion points towards devolution of port governance as being the solution to the problems faced by Libyan ports. However, prior to any move to devolve the governance of ports, there are many issues that should be considered.

3 Devolution of the Port Sector and Models of Port Administration

3.1 Devolution of the Port Sector

Devolution of the port sector has been the solution for many countries wanting to improve the efficiency and productivity of their ports and working as transshipment. As stated by Brook and Cullinane (2007), devolution is all the activities that may be undertaken by a government to reform its way of managing and operating port activities. Devolution, includes all forms of managing and operating ports stemming from *decentralisation*, transfers control from the central government level to the level of port users. *Corporatisation* is another form of devolution and is concerned with creating a separate legal entity to take full legal responsibility and carry out all activities in a commercial manner. Such an entity may be owned partly or fully by the government, and ownership of assets usually remains with the government. The most successful example of corporatisation is the case of Singapore (Tongzon, 2006), where risk has been transferred to the private sector. *Commercialisation* is slightly different as risk is still covered by the government and aspects such as the ability to sell assets, and ownership of new capital assets are subject to contract terms. The port of Casablanca in Morocco is one such example of commercialisation. *Privatisation* is the extreme end of devolution and involves the full transfer of ownership of ports, whether this transfer is of part of a port or a port as a whole. True privatisation has been implemented in the UK and New Zealand.

3.2 Models of Port Administration

A large amount of work has been carried out in the area of port administration models. On the basis of the WBPRTK (World Bank Port Reform ToolKit), there are four administration models for ports. The first is the *services port model* – the port in this model is totally owned, managed and operated by the public sector. Second is the *tool port model* – under this model small private companies may be involved in carrying out certain operational activities such as cargo-handling, while the rest of the ports functions are still in the hand of the government. Third is the *landlord port model* – the government holds ownership of the port but the rest of the port's functions are transferred to the private sector. Finally, the *private services port model* – in this case the government no longer owns or is responsible for the port. In other words, all of the port's functions are transferred to the private sector. As stated by Baird (2000), the three main functions of ports are as regulator, landowner and operator. As can be seen in Figure 2, the participation of the private sector in these

Port Models	Port Regulator	Port Landowner	Operator
<i>Public</i>	Public	Public	Public
<i>Private/I</i>	Public	Public	Private
<i>Private/II</i>	Public	Private	Private
<i>Private/III</i>	Private	Private	Private

Figure 2 - The matrix of involvement of the private sector in port functions

Source: Baird (2000).

functions determines the port's model. These models are public, public/private, private/public and private. Under the public model all port elements are the government's responsibility; this model may also be known as the comprehensive port. The second model is private/I (public/private); in this case the operation function is transferred to a private entity, while the other elements remain in state control. The third model is private/II (private/ public); two elements are transferred or controlled by a private entity, namely operations and assets. Finally, private/III (private port), all port elements including regulation come under the control of the private sector.

4 Challenges Facing Devolution of Libyan Ports Governance

There are many challenges facing Devolution of Libyan ports governance, which should carefully consider prior any action. These challenges are as follows.

4.1 Rules and Regulations

Despite the resolution number (280)/2006 and its amendment No. (330)/2007 regarding regulation related to port issues, which gave the right to the state port authority to appoint an authorised manager for each port, the manager has authorisation to select the company that can operate the port. In addition, resolution No. (14)/2006 removed Tripoli, Misurata and Benghazi, and Elkhoms ports from the control of the SPC to tackle the SPC monopoly. The result of this latter resolution was a kind of decentralisation. Although there is no specific law, regulation or effective legal framework that deals with port privatisation or investment in the ports sector, the resolution gave the public port authority the right to select and sign contracts with any suitable company to operate the ports in terms of stevedoring, Pilotage, towage and storage as long as it is done with respect for the applicable regulations. However, the resolution does not include any detail regarding the shape of the contracts such as the period, terms and conditions, etc.

Up to the end of 2006, almost all the rules and regulations regarding Libyan ports that were in force dealt with port charges. They included law No: (35)/1976, which modified the law (53)/1970 regarding port fees. The latest amendment of the law, which determines port dues, was made by resolution No. (758)/2005 (Harab, 2006).⁴ According to the resolution, port dues were doubled. There are other rules and regulations that tend to classify the country's ports in terms of activities carried out there and the dependence of the ports.

However, in terms of investment in the country, the government issued law No. (5)/1997 (Encouraging Foreign Investment). This law can be seen as an improvement to the legal framework as it encourages local and foreign investors to invest in the country. Although the law does not determine the period of any investment contract, this is left to the country authority or is determined through negotiation between the parties of the investment contract. In terms of investment in the port sector and according to company representatives who wish to invest in Libyan ports, the law is not enough to secure their capital and investment. Some areas where law No. (5) falls short include the fact that although the law allows investment, it does not include the port sector or transportation activities. Also, of the kinds of activities that may be considered under the terms of service, the organisation that is responsible for implementation, enforcing the law and sponsoring the investment does not have enough authority to deal with offers.

4 All of the country decrees and regulations that issued by 2006 are listed in the Harab, 2006.

4.2 Political and Management Situations

Libya is a stable country in terms of its political situation. This feature gives the country the ability to attract foreign investment. In addition, Libya is a very safe country in regards to security matters. In this respect, the foreign investor would not have any problems. The stability of the country's government and willingness to improve the country's ports, in addition to its aim of making the country a hub centre and a gateway to other African countries, will encourage both local and foreign investors. The only challenge that the government faces is the old reputation of the country. Many positive actions had taken by the government towards global peace, such as the disposal of weapons of mass destruction and cooperation with international organisations against terrorism.

The objective of the government in respect to the country's ports is still not clear. The aim of the government is to make Tripoli's port a tourist port, but there is no resolution or studies that have been undertaken relating to the matter. Misurata port has transferred to the free zone authority to operate and manage the port through resolution No. (33)/2006. This issue reflects the bad coordination between government departments and the ambiguous and conflicting government goals, which create another serious barrier to investment. Furthermore, the devolution actions are very slow. This can be attributed to the doubts of politicians as to the benefits that can be gained from such actions.

The expression of management in these circumstances means the shape of the government system, in terms of the shape of official ministries (secretary of committees) and the dependence of the departments on these committees. Because of this, there is another problem that exists as an obvious result of the instability of the management system of government. For unknown reasons, the Libyan Maritime Transport and Port Authority sometimes represents a department under the secretary of committee for transportation and telecommunications, at other times it works as an independent department, and sometimes it is just a neglected section without any authority. This situation has a negative impact on the port authority and affects its credibility, in addition to influencing the external correspondence.

4.3 Technical Aspects

The technical aspects includes the following points.

4.3.1 The Equipment

The availability of equipment and its condition is another important challenge that is facing devolution of port governance in Libya. In the port industry, a lack of equipment clearly affects any improvement to efficiency within the port sector, and it has a negative impact upon the sector's productivity. The problem is not related to the purchase of modern, new equipment, computerised systems or software, as Libya has the money to purchase these; the problem is how to manage the equipment and how to keep it in good condition. A recent example of this problem is the Germa Shipping Company, who bought modern equipment for the purpose of stevedoring. The problem that the company faced was the maintenance and repair of the equipment. It is clear that the main problem is the transfer of management skills and associated techniques with a full understanding of how to apply such techniques.

4.3.2 Information Technology

Information technology has become a very important factor in business today. An absence of smooth inflow of information into the Libyan port sector with regards movement of containers and commodities in general can have a serious impact on port operation. In addition, a lack of any information network connecting the ports with economic activities makes investment in Libyan ports more expensive. It is true that there are many highly qualified people in the field of information technology. However, the challenge is how to encourage such people to help the state establish a data base for Libyan ports, and make them update any such system with any new development in the field. Such an action will add credit to the port sector, which will encourage private sector investment to this strategic sector.

4.3.3 The Infrastructure

The ports need to be improved and developed in terms of infrastructure to encourage local and foreign investment. In addition, to the challenges already discussed the infrastructure of the ports represents one of the main challenges that faces potential devolution especially when private sector allowed participating in the ports to meet the government trend toward the international market. The ports lack an adequate number of terminals and queues. Moreover, there is no proper storage in almost all Libyan ports and the draft and entrances to the ports are needs to be deepening to attract the lines and to enhance the position of Libyan ports in term of competition among the mid-ports.

Furthermore, the centre of the country's economy is in the capital city, Tripoli, but almost all of the major Libyan importers are based outside of the city. Therefore, decent transport links are required. To achieve this, the country's roads need to be improved and developed to facilitate the movement of cargo and avoid serious road congestion, which may cause delays.

4.3.4 Consultation and Planning

The Port and Marine Constructions Office was established in 1985 under resolution No. (1073)/1985. The main function of this office is to provide consultation and research related to port construction and maintenance. The office does not perform its duty adequately. The lack of consultation and planning for economic activities remains a challenge to the country's port industry. The challenges can be summarised as follows: first, the lack of consultants with a capacity to undertake planning and research of ports in terms of economics, and the needs of the port industry in term of construction. Second, the SPC Company has dominated the industry in the country, which led the company to become careless about improving services and it began to ignore the changes that happened in the industry all over the world, which affected its experience and made it limited to the local market only. There are no international Libyan port companies operating overseas, such as Dubai Ports Company or Singapore port authority.

4.4 Labour Reform

The union of Libyan ports and the Socialist Company of Ports labour are against any type of reform to Libyan ports, in particular, they are against any form of devolution in the port industry due to reasons such as the large number of port workers who will lose their jobs.

It is necessary to mention that the number of employees is likely to increase, especially if the country achieves its aim to become a regional gateway. The activities of ports will increase and so extra labour will be required. An example of this is the case of Mexico, where the number of employees almost doubled as a result of the increased activities of its ports following the reform process (Estache et al., 2002).

The majority of stevedoring workers are temporary employees, which means they have little experience of stevedoring and/or other port activities. This issue is a serious problem that needs to be addressed by the government if wants to encourage private investors to employ the staff already working in the sector for private projects, to reduce the labour burden from the government's shoulders.

The government has adopted a program of rehabilitation for the labour force of the country in all sectors, in addition to a redundancy program which gives the right to those who are no longer needed by their employers to obtain wages and a salary from the general budget for a period of 3 years. They are also helped to find another job or supported in setting up their own business. However, this procedure is still largely unsuccessful, and hence it needs careful and accurate planning.

4.5 Exchange Rate

Conversion of the Libyan Dinar into the main currencies that dominate international trade is required because of the need for buying facilities and paying the wages of foreign workers. As foreign companies will be getting paid in Libyan Dinars for their basic services, concerns about the exchange rate will inevitably arise.

Salama and Flanagan (2005) argue that foreign exchange remains a challenge for Libya, although the fluctuation of the exchange rate is an international concern that is not limited to Libya. The government has given the right to certain projects, called 'strategic projects', to buy foreign currency at a cheaper price than the common price in the market. This could make investors doubt the future of their investment. In other words, such exchange might affect the participation of the private sector in the port industry.

4.6 Setting of Service Price

As stated by UNCTAD (1998), the freedom to set price is a necessity. However, port service prices have long been determined by the state. The port tariff and service prices were first stated under law No. (53)/1970. Then prices were increased under resolution No. (75)/1982. After this they were modified under resolution No. (400)/1992. Despite the ports being under the control of SPC, all these changes to port dues and the price of stevedoring were made by the committee secretary of transportation. The last amendment of the charges, which led to another increase, was made by resolution No. (758)/2006, the last resolution which aimed to maintain the amount of foreign currency that could be gained through operation of the country's ports. It does not satisfy the shipping companies that serve Libyan trade, and according to their opinion the price does not accurately reflect market conditions. The action is one factor that led to an increase to the freight rate at Libyan ports. Port market oriented is looking toward more freedom to set the price according to their investment situation, the quality and level of services provided and the condition of the market. The question is whether the state is willing to allow the new entity, whether private or public one to set prices or not.

4.7 Cultural Aspects

The term 'culture' is a very wide concept. It includes the culture of the society and understanding of economic issues that cover all aspects of people's lives; in addition to their acceptance of the changes that occur in the global economy and its needs. The people in Libya have depended on government employment and subsidiaries for a long time. They believe that working with the government is more secure and safer. However, the idea of changing the way of managing and operating ports still unacceptable. However, efforts required to make the society aware of the effectiveness of such action is necessary prior to any attempt to do so.

Moreover, in terms of working hours and days, Libyans work for 8 h a day at the most and the weekly holiday is Friday. Foreign investors in the port sector could face some problems due to this. Libyan workers will seek to work only half a day on Friday to attend Friday prayers. Having Friday as the start of the weekend could affect business processes between sponsors, the headquarters of the investor's company (foreign investors) and its office in Libya, as the Libyan branch will be closed on Friday while the head office will close on Saturday and Sunday. The number of working hours could therefore be increased to a level that is acceptable to Libyan workers to offset this potential pitfall.

5 Conclusion

The economy of Libya has been growing over the last few years as a direct result of the improvement of its relationship with the rest of the world. Some of the actions already taken by the Libyan government have played a vital role in this growth, including the state's strategy to restructure the country's economy and allow the private sector to become involved in various economic aspects. There is a new initiative, still in progress, to establish free zones and state is also keen to engage in transit trade to serve the trade of African countries in need of port access and converting the country to distribution centre. The strategic position of the state's ports will support these initiatives.

Notwithstanding the aforementioned, Libyan ports are greatly in need of devolved governance for them to overcome the problems faced by the sector, such as long-term inefficiency and low productivity it has faced which has discouraged shipping lines and importers from using Libyan ports. These two problems

are a result of technical challenges such as the condition of equipment and facilities, the situation of quays, poor levels of information technology and an unskilled labour force. Furthermore, economic issues have had a serious impact on the sector's revenue; hence, many lines have diverted their business to other ports in the region, such as Tunisian ports, to avoid additional burden and expenditure. Another most important factor contributed to devolution of port governance is attracting the shipping lines to invest in Libyan ports. Such action will help the country a lot to become a regional container distribution centre.

However, to devolve port governance effectively, there are some challenges that need to be overcome. This article found that the main challenges are enhancing labour skills, rules and regulations and technical aspects. These require careful and serious consideration. The lack of a well-designed legal framework is also another main problem, as stated by Notteboom (2007, p. 51), establishing appropriate legislative framework that guarantees an efficiency-oriented approach is one of main challenges to port policy makers. However, such a problem is not so difficult to overcome. Sometimes there is a need to formulate new rules and regulations that support such an action. Technical aspects must be dealt with in a different way. A portion of government expenditure must be allocated to the technical aspects to improve and develop labour skills. In addition to the aforementioned challenges, instability of the management system of the state can be seen as another of the barriers to port sector in general. In addition, cultural aspects, the banking and financial systems, in addition to the rate of exchange, should be sitting clearly and officially.

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