



# PORTS GOVERNANCE STUDY

PREPARED BY THE COMMITTEE OF SEVENTY



---

# PORTS GOVERNANCE STUDY

---

THE COMMITTEE  
OF SEVENTY

Copyright December, 1980  
The Committee of Seventy  
Philadelphia, PA



---

*The contents of this publication  
are solely the product of the  
Committee of Seventy.*

*Acknowledgment is gratefully made  
to Rohm and Haas Company for under-  
writing the research for and  
publication of this study.*

*Further acknowledgment is made to  
the many members of the port  
community who consented to be  
interviewed during the preparation  
of this study.*

## TABLE OF CONTENTS

PREFACE .....	5	3. Philadelphia Industrial Development Corporation .....	21
CHAPTER ONE		4. Camden Municipal Port Authority .....	21
<b>A History of Governance in the Ports of Philadelphia</b>		B. <i>Interstate Agencies</i> .....	22
I. BEGINNINGS .....	9	1. Delaware River Port Authority .....	22
II. PHILADELPHIA AT THE TURN OF THE CENTURY: FROM WIND AND WOOD TO STEAM AND STEEL .....	9	2. Delaware River Joint Toll Bridge Commission .....	23
III. INTRA-REGIONAL PORT COMPETITION .....	10	3. The Delaware River and Bay Authority ..	23
IV. ATTEMPTS AT REGIONALIZATION IN THE DELAWARE VALLEY .....	11	C. <i>Single-State Agencies</i> .....	23
V. HOME RULE IN PHILADELPHIA: THE EFFECT ON PORT GOVERNANCE .....	12	1. General State Authority (Pennsylvania) ..	23
VI. THE RISE OF THE DELAWARE RIVER PORT AUTHORITY .....	13	2. South Jersey Port Corporation .....	24
VII. THE CONTAINERIZATION BREAKTHROUGH .....	14	D. <i>Federal Agencies</i> .....	24
VIII. PHILADELPHIA'S RESPONSE TO CONTAINERIZATION: THE PHILADELPHIA PORT CORPORATION .....	15	1. Army Corps of Engineers .....	24
IX. LOOKING AHEAD: THE CHAMBER OF COMMERCE PORT TASK FORCE STUDY .....	16	2. United States Coast Guard .....	24
NOTES TO CHAPTER ONE .....	17	3. Federal Maritime Commission .....	24
CHAPTER TWO		4. Maritime Administration .....	25
<b>Agencies and Organizations Affecting Port Governance</b>		III. PRIVATE AGENCIES .....	25
I. INTRODUCTION .....	19	A. <i>Philadelphia Maritime Exchange</i> .....	25
II. PUBLIC AGENCIES .....	19	B. <i>Philadelphia Marine Trade Association</i> .....	25
A. <i>Municipal Agencies</i> .....	19	C. <i>Joint Executive Committee for the Improvement and Development of the Philadelphia Port</i> ..	25
1. Philadelphia Department of Commerce ..	19	D. <i>Port Liaison Committee</i> .....	26
2. Philadelphia Port Corporation .....	20	E. <i>The Chamber of Commerce of Greater Philadelphia/The PENJERDEL Corporation</i> ..	26
		F. <i>Philadelphia Marine Terminal Association</i> ...	26
		IV. FUNCTIONAL ANALYSIS OF GOVERNANCE IN THE PORT OF PHILADELPHIA .....	26
		A. <i>Marketing/Promotion</i> .....	27
		B. <i>Basic Administration</i> .....	27
		C. <i>Facilities Planning and Development</i> .....	28
		D. <i>Personnel Management</i> .....	29
		NOTES TO CHAPTER TWO .....	30



## CHAPTER THREE

### Problems of Port Governance

I. INTRODUCTION .....	32
II. PROBLEM NUMBER ONE: FRAGMENTATION OF RESPONSIBILITIES AMONG EXISTING PORT AGENCIES .....	32
III. PROBLEM NUMBER TWO: LACK OF ACCOUNT- ABILITY AMONG EXISTING PORT AGENCIES .....	33
IV. PROBLEM NUMBER THREE: LACK OF COMPREHENSIVE PORT PLANNING AND DEVELOPMENT .....	34
V. PROBLEM NUMBER FOUR: INTRA-REGIONAL PORT COMPETITION AND CONFLICT .....	35
NOTES TO CHAPTER THREE .....	36

## CHAPTER FOUR

### Proposals for Reform of Port Governance

I. INTRODUCTION .....	37
II. SCOPE AND POWERS .....	38
A. <i>Scope</i> .....	38
B. <i>Powers</i> .....	38
1. Marketing .....	38
2. Labor .....	39
3. Personnel .....	39
4. Funding .....	39
5. Planning .....	40
6. Tariffs .....	40
7. Ownership and Operation of Facilities ...	41
8. Lobbying .....	42

III. JURISDICTION .....	42
A. <i>Introduction</i> .....	42
B. <i>Proposal One: Tri-State Authority</i> .....	42
C. <i>Proposal Two: Bi-State Authority</i> .....	43
D. <i>Proposal Three: Pennsylvania Port Authority</i> .....	44
E. <i>Proposal Four: Estuarian Port Authority</i> ....	44
F. <i>Proposal Five: Municipal Port Authority</i> <i>(Philadelphia)</i> .....	45
G. <i>Proposal Six: Philadelphia Department</i> <i>of Commerce</i> .....	46

## APPENDIX A

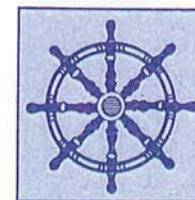
<b>Additional Agencies Affecting Governance in the Ports of Philadelphia</b> .....	47
NOTES TO APPENDIX A .....	48

## APPENDIX B

<b>A Summary of the Structure and Powers of Authorities</b> .....	49
BIBLIOGRAPHY .....	51

---

## PREFACE



**The productivity of ports is directly linked to the manner in which they are governed.**

I. The importance of the ports along the Delaware and Schuylkill Rivers to the regional economy is not often fully appreciated by area residents. Each load of cargo that passes through one of these ports provides economic benefits in various forms: employment of longshoremen; expenditures on services such as marine insurance, banking, warehousing and land transport; and industrial production using imported goods, such as the refining of petroleum, raw sugar, and iron ore. Estimates of direct and indirect annual revenues from these activities, excluding the cost of the cargo itself, have been placed between \$2 and \$3 billion in the Delaware Valley region. Port productivity is, therefore, of concern not only to the port business community, but to the manufacturers, retailers, politicians and consumers of the port region and its hinterlands.

Port governance covers a wide range of activities, including administration of port resources, maintenance of old facilities and construction of new ones, planning for industry growth and development, and attracting new business through aggressive marketing of the port's services and facilities. Good management practice indicates that maximum productivity is achieved when most aspects of port governance are planned, coordinated and executed by one central agency. In reality, however, port governance in Philadelphia and the Delaware Valley is characterized by fragmentation of responsibility for the various aspects of governance among a multitude of federal, state, and local agencies.

Over the years, this fragmentation has repeatedly hindered the Ports from developing to their full economic potential. The absence of a unified, efficient port government has fostered numerous and costly problems: Philadelphia's late development of facilities to handle lucrative containerized general cargo, and rail and truck rates and connections that favor Baltimore over Philadelphia, are only two examples.\* Many believe these problems would never have developed if the present governance structure had been functioning properly.

Today, experts in the port community believe that the problem facing the Ports has gone beyond the mere reduction of their potential. The problem is that the Ports may not survive as a viable economic entity.

The perception that the Ports of Philadelphia may not survive extends beyond members of the local port community. In 1969, a private study was issued by the consulting firm of Diebold Associates which was to dramatically affect shipping strategy on the eastern seaboard. The Diebold Report asserted that because of technological advances, only two ports were needed to handle all general cargo on the eastern seaboard, one in the north and one in the south. The immense

\*The availability of land transports, most-especially rail service, in and out of the port district is one of the most crucial factors affecting port operations. While the quality and quantity of rail service in the Ports of Philadelphia is one of the most pressing issues currently confronting the port community, this large and complex problem is beyond the scope of this study. Any consideration of change in the current port governance structure, however, will have to address this issue. The Maritime Administration, in conjunction with local and state governments, is expected to publish a study at the end of 1981 on the adequacy of railroad and highway services for the Ports of Philadelphia and Camden.



port complex in New York was the obvious choice for the northern port. The choice of the southern port was less obvious, but Hampton Roads seemed the most likely. The report predicted that several major eastern ports, among them Philadelphia and Baltimore, would be "dried up" within fifteen years.

Today, Philadelphia's Ports indeed show a steady decline: all measures of the Ports' vitality are judged to be at the threshold of survival. But the Diebold Report has proven to be totally incorrect in its assessment of Baltimore's future. Through a powerful, single-purpose port authority, Baltimore has met head-on the challenge of Diebold's two-port strategy. The Port of Baltimore not only has survived; it is thriving.

The pervasive view within the Philadelphia Ports community is that, unlike Baltimore, the Ports of Philadelphia possess a structure of port governance which is unable to reverse the slow, but persistent spiral downward into economic stagnation. The only hope left for the Ports of Philadelphia is the rapid implementation of a structure of port governance with sufficient power to marshal the available resources into a competitive unit of facilities and services capable of holding its own in the open market.

II. With the desire to promote a governance structure capable of meeting this challenge, the Committee of Seventy presents this study of the governance of the Ports of Philadelphia. This report is divided into four chapters. Chapter One provides a history of port governance in Philadelphia and the Delaware Valley, focusing especially on the period beginning with the creation of the Delaware River Port Authority and continuing to the present. Chapter Two provides a survey of the public and private agencies and organizations that share in the responsibilities for port governance in Philadelphia and the Delaware Valley. This chapter describes what functions of port governance each entity is authorized to perform by statute or articles of incorporation, what functions it actually does perform, and those which it does not.

Chapter Three identifies the problems and concerns with the present governance structure that have been expressed by knowledgeable port observers. These problems fall within four basic areas, and can be summarized as follows:

#### *Problem Number One: Fragmentation of Responsibilities Among Existing Port Agencies*

At least part of the reason for fragmentation of port governance is historic. Control of port operations in this country began as a totally private undertaking. The port industries were financed and operated by free enterprise. The involvement of federal, state and local governments in maritime affairs occurred gradually, in an uncoordinated and piecemeal fashion. The result was a system of port governance in which commerce and government are enmeshed in a tangle of maritime agencies and organizations. Efforts to untangle this system into a more streamlined mode of governance have been frustrated by a number of political and economic factors.

While the boundaries of individual port districts are defined politically, the economics of port industries are defined regionally. In other words, the Port of Philadelphia is located within the political unit known as the City of Philadelphia, which in turn is located in the larger political unit of the Commonwealth of Pennsylvania. However, businessmen and economists, when measuring productivity or weighing the advantages of one port over another, evaluate the maritime services and facilities within the *Ports* of Philadelphia, that is, all the ports along the Delaware River from Wilmington, Delaware in the south to Trenton, New Jersey in the north. This is because the accrued economic benefits of a maritime transaction do not begin and end in the particular port where the ship unloads its cargo. Instead they move, like waves of concentric circles, across the tri-state area. For example, a ship docking in Camden, New Jersey, may send its cargo to a retailer in Philadelphia via a Delaware based trucking firm. One ship has thus benefited the economies of three states with maritime industries. Because this regional economic interdependence exists, it would seem logical that a system of port governance that was also regional would be better suited to maximize port productivity. Regional port governance in the Delaware Valley has, in fact, been attempted. It has, however, failed because what is reasonable economically is not always possible politically. Local political jurisdictions with maritime industries prefer to keep their ports under local control. Regional port governments are eyed with suspicion because they might involve loss of local political control. Thus, when problems arise, the usual response within the various political jurisdictions along the Delaware River has



been to create another local agency, even when the problem is one better solved by a regional approach. Each time this happens port governance becomes a bit more fragmented, overall efficiency is reduced, and a great deal of time and money are wasted duplicating the same functions.

*Problem Number Two: Lack of Accountability Among Existing Port Agencies*

With responsibility for port governance scattered among so many public and private agencies, accountability for the various functions has been made nearly impossible. Accountability fixes responsibility for a specific task to a particular individual or agency. Because there is no governmental entity with overall responsibility for port governance, in Philadelphia or the Delaware Valley, accountability is horizontal rather than vertical; that is, responsibility does not move systematically up and down, but rather out and around. The various port agencies generally operate independently of one another, making little or no effort to coordinate their activities. When problems arise, an aggrieved party must, in effect, run from one agency to another in an attempt to discover "in whose department" the problem falls. Identifying the responsible agency is often further hindered by the fact that two or more agencies may be performing the same function, making it easy to "pass the buck" back and forth, to the endless confusion and frustration of the port user. Effective accountability for port governance cannot be achieved with responsibility fragmented among a multitude of public and private agencies.

*Problem Number Three: Lack of Comprehensive Port Planning and Policy Making*

Planning, as a function of port governance, is crucial to the economic well being of the port district. The maritime industries, like any other commercial enterprise, must plan and coordinate their operations, not only to promote productivity and efficiency, but also to anticipate and meet market demands. Port planning must take into consideration every aspect of day-to-day operations of the maritime industries, including economic growth trends, changes in technology, maintenance of port facilities, and labor relations. Data collected on each of these activities must be assembled, analyzed, and then used to formulate a comprehensive plan of operation and development in the port district. Sound planning and policy making enhance the port's competitive position in the market.

Port planning in Philadelphia and the Delaware Valley has suffered because there is no central agency that can take overall charge of this function of port governance. With responsibility for the various aspects of port operations spread among so many public and private organizations, it is difficult to collect the data necessary to effectively formulate a comprehensive plan. Even if the data could be assembled, there is no agency with a professional staff to make a comprehensive study of the information. Most agencies plan only with their own particular functions in mind, paying little attention to what the other agencies are planning.

Any changes contemplated in Philadelphia's current structure of port governance must take planning into consideration. Without comprehensive planning, valuable resources are wasted and efficiency is reduced.

*Problem Number Four: Intra-Regional Port Competition and Conflict*

It has been said that competition is the life blood of commerce. To a large extent, this is still true of the maritime industries when the competition being considered is that between regional ports (for example, the Ports of New York and Northern New Jersey versus the Ports of Philadelphia). However, competition between *intra*-regional ports (for example, between the Port of Philadelphia and the Port of Camden) tends to be destructive to the overall economic health of the area. Individual ports within a regional port district need to cooperate with one another so as to maintain their competitive position in the larger national and international market. Unfortunately, this cooperation has always been difficult to achieve. Business competition across the river is more visible, and therefore more of an apparent threat than competition farther up and down the seaboard. The mistrust and uncooperativeness generated by intra-regional competition have proved historically to be detrimental to the overall economic status of the area. It is this same mistrust and uncooperativeness that have prevented a workable system of regional port governance from evolving in the Delaware Valley. If port governance in the Philadelphia area is to be improved, even



if only at the local level, improving relations among port districts in the Delaware Valley must be an important consideration.

Chapter Four is based exclusively on interviews conducted with twenty-eight representatives of all segments of the port community, and summarizes what those individuals believe should be done to modify the existing structure of port governance. In this chapter, we describe six proposals for reform suggested by those interviewed, and present their own critical evaluations of each proposal. It should be noted that the Committee of Seventy is not at this time the author or proponent of any proposal or evaluation.

The six proposals for modification of port governance are:

- A tri-state port authority (Pennsylvania, New Jersey, and Delaware)
- A bi-state port authority (Pennsylvania and New Jersey)
- A state port authority (Pennsylvania only)
- An estuarian port authority (Philadelphia, Bucks, and Delaware Counties)
- A municipal port authority (Philadelphia only)
- Direct port operation by Philadelphia's Department of Commerce (Philadelphia only).

With assurances of anonymity, those interviewed were invited to describe, in detail, the type of port government they would prefer to see implemented. The majority wanted a port authority which could assume control of as many functions of port governance as possible. Participants emphasized, however, that the scope of this new authority should be limited exclusively to port matters, and should not include such non-port-related responsibilities as bridges, commuter lines, or airports. The nearly unanimous belief was that these functions should be turned over to separate agencies so that the port authority could devote its full attention to the problems of the Ports.

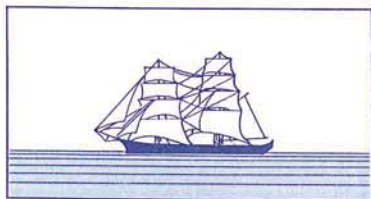
Asserting that the Ports of Philadelphia are faced with an economic decline which has reached crisis proportions, the great majority of those interviewed believed that the question of jurisdiction was one of designing a port government which can be put into place quickly, and with enough power to save what they view as a dying port. Compelled by a sense of urgency, these port observers sought effective solutions which they considered to be immediately feasible politically. The clear majority view was that the new port government should be a single-purpose authority within the boundaries of Pennsylvania. In the judgment of most of those interviewed, a confluence of the feasibility of implementation and sufficient political power occurs at the level of an estuarian authority.

III. This study should not be confused with the various consultants' studies that the City of Philadelphia, the Delaware River Port Authority, and others have commissioned over the years. Those studies generally were focused on port *facilities*, forecasting future volumes and types of cargoes and making recommendations for port construction. In contrast, this study concentrates on port *governance*, examining the public and private agencies that are involved in the four primary governance functions: basic administration, personnel management, marketing, and planning and development. It has a dual focus, emphasizing both regional and municipal aspects of port governance; therefore, it is applicable, not only to Philadelphia, but to the entire region serviced by all the *Ports* of Philadelphia. The residents of this entire region — most especially, the corporate and governmental residents — must focus their attention on the governance of this vital resource.

It is our profound hope that this publication will *not* simply generate another study. In our judgment, the information furnished to us by the members of the port community and presented in Chapter Four is more than sufficient to justify taking immediate steps toward reformation of the existing port governance structure. All that is presently lacking is enough political will to implement change.



## CHAPTER ONE:



### A HISTORY OF GOVERNANCE IN THE PORTS OF PHILADELPHIA

#### I. BEGINNINGS

In 1681, William Penn received a charter from Charles II, King of England, granting to him a large piece of property in the New World in consideration for a debt which the Crown owed to Penn's father. The following year Penn sent an advance party to scout a site on his new estate upon which he could build Philadelphia, the first planned community in America. Looking ahead, Penn concluded that his "holy experiment" could not survive without an adequate port. He therefore specifically charged his men to find a site where "it is most navigable, high, dry and healthy; where most ships may ride of deepest draught of water and load and unload without lighterage."<sup>1</sup> Penn's insight paid off. The Port of Philadelphia was to play a critical role in the social and commercial development of the City and the American colonies. Nearly three hundred years later the importance of the Port to the economic well being of the Philadelphia area has not diminished.

An efficiently run, well-equipped port is invaluable to the commercial growth and development of its hinterlands. Indeed, one of the strongest indicators of a maritime region's economic health is the condition of the port that services it.<sup>2</sup> A basic prerequisite to an efficient and fully functioning port is a well-designed system of port governance. In this chapter, we explore the history of port governance in the Philadelphia port area, with particular emphasis on the role of Philadelphia's municipal government. Such an exploration should assist the reader in evaluating both the current state of port governance and proposals for reform, which are described in subsequent chapters.

Port governance is a matter of concern to all levels of government. Various federal, state, municipal, and regional port agencies have certain regulatory and proprietary interests in port governance, a circumstance which reflects the wide-reaching impact of port activities. As a result, while our primary focus in this chapter is on port governance in Philadelphia proper — and therefore on the role of Philadelphia's municipal government — we also address the history of governance throughout the tri-state port district of the Delaware Valley.

The role of Philadelphia's municipal government in supervising the Port has developed gradually since the City's founding. In 1803, the Pennsylvania General Assembly established a Board of Wardens, appointed by the Governor, to regulate the licensing of pilots and to set wharfage rates.<sup>3</sup> The Board's authority subsequently was expanded into other areas, such as regulating the construction of new piers on the

Delaware and Schuylkill Rivers and imposing fines for violation of port rules. (The proceeds of these fines went into a fund "for the relief of poor and distressed masters of ships and their widows and children.") In 1839, the City voluntarily undertook the responsibility to keep the Delaware River free of ice during the winter months so that the Port would always remain open and commerce uninterrupted.<sup>4</sup>

In 1854, the General Assembly transferred control of the selection of the Wardens from the Governor to the dual City Councils of Philadelphia. (At that time, Philadelphia was simultaneously served by two City Councils, an "upper" and "lower," modeled after the English Parliament.) The City Councils also were given the responsibility of formulating uniform wharfage construction codes and ensuring that the Port remained navigable.<sup>5</sup> In the same Act the Assembly further decreed: "The city councils shall authorize the construction of wharves upon a plan and scale to meet the demands of commerce . . ." This language appropriately acknowledged the City's need to begin exercising closer control over port development. In that same year, the boundaries of the City of Philadelphia had been expanded to be identical with those of the previously larger County of Philadelphia. All of the municipal governments in Philadelphia County had been consolidated, including such port communities as Bridesburg and Kensington. As a result, the City of Philadelphia was now functioning as a larger political and economic unit, and could look forward to running its port facilities in a more unified fashion.

#### II. PHILADELPHIA AT THE TURN OF THE CENTURY: FROM WIND AND WOOD TO STEAM AND STEEL

By the turn of the Twentieth Century, ships were becoming larger, and marine technology had advanced considerably. The demands of modern shipping called for larger and more complex facilities in the port district. Capital requirements for these new facilities usually were beyond the means of private business interests in the Port, and as a result, maintaining a competitive edge against other modern ports became increasingly difficult. As a matter of necessity, Philadelphia, like other large port cities, found that to protect local commerce it would be prudent for the municipal government to finance and build these facilities, and then to lease them back to the private sector. The City, therefore, took steps to increase greatly its involvement in port development. In 1907, the Philadelphia City Councils, acting pursuant to legislation en-



acted in 1885, transferred local control of the Port from the Board of Wardens to a newly established City Department, the Department of Wharves, Docks, and Ferries.<sup>6</sup> The Act of 1885 had authorized such a department "for the improvement, regulation, and supervision of the construction, extension, alteration, maintenance and use of wharves, piers, bulkheads, docks, slips, basins, ferries, harbors and harbor structures, in cities of the first class . . ."

It is especially important to note that the Act of 1885 provided Philadelphia with the necessary authority to acquire property by purchase or condemnation. This power of eminent domain, given to the City for the purpose of constructing municipally owned port facilities, indicated the radical shift of roles that the City had taken in supervision of the Port since the Act of 1854. That Act had given the City the comparatively passive role of licensing wharf construction by private businesses and ensuring that the facilities were built to minimum code specifications. By 1907, however, the City was not content to leave port development to the private sector; it felt compelled to make certain that adequate facilities were available, and to do so by directly financing and building these facilities.<sup>7</sup>

By the beginning of the Twentieth Century, Philadelphia already owned a considerable amount of waterfront property and, through exercise of the powers of its new Department of Wharves, Docks, and Ferries, was actively seeking to increase its role as waterfront landlord. Excerpts from the Department's Annual Report for 1911 illustrate the degree of the City's concern for and involvement in the Port:

#### "RECOMMENDATIONS

##### *"Acquirement of River Front Properties*

FIRST. That at the earliest possible moment the city acquire such unused portions of the Delaware River and Schuylkill River waterfronts as are now unused by the owners . . . and erect piers on the same, so as to control commerce of the port of Philadelphia and be in a position to offer inducements to new lines seeking termini . . .

##### *"Renting Municipal Piers*

TENTH. As to the renting of municipal piers, I strongly urge that for the present and next few years to come, the rental be fixed at a low rate in order to induce new lines to this port . . ."

### III. INTRA-REGIONAL PORT COMPETITION

While inter-regional port competition remained the overriding concern of Philadelphia port planners, other aspects of competition were almost as disturbing. Wherever numerous ports operated in close proximity on common waterways, it was no unusual for intense rivalries to develop among neighboring port communities as each struggled for its share of the local trade. Unfortunately, the communities all too often responded by adopting destructive trade practices which hurt all parties involved and hindered efficient operation of the ports. Moreover, the emphasis on competition — and the disregard for cooperation — which these rivalries fostered resulted in wasteful duplication of port facilities. The problem of unnecessary duplication became more acute as facilities became more expensive and complex.<sup>8</sup> This intra-regional commercial squabbling led to the creation of one of the most innovative forms of government developed in this century, the regional port authority.

The ports of New York City and Northern New Jersey were the most commonly cited example of localized commercial warfare. Historically, these ports were continually locked in a battle for commercial dominance. During World War I, this uncontrolled skirmishing virtually paralyzed the ports and required that shipping be diverted elsewhere.<sup>9</sup> Obviously, this wasteful state of affairs was intolerable.

In 1921, the legislatures of New York and New Jersey responded by creating, through an interstate compact, a bi-state governmental unit to take charge of the ports in both states.<sup>10</sup> Their invention, called the Port of New York Authority ("PNYA"), was a radical new approach to port development and governance. Instead of following political boundaries of state and municipality, this new entity proposed to govern port development and operations in a *geographical region*.

The PNYA's port operations have been successful largely because the Authority has sufficient political and economic autonomy to plan and implement its waterfront development projects without serious interference from other governing agencies.<sup>11</sup> This was not always so. Although the compact empowered the PNYA to own, construct, and operate marine terminals and related facilities,<sup>12</sup> originally the PNYA required funding from the New York and New Jersey legislatures in order to exercise these powers. The legislatures, however, refused to fund any port work by the PNYA, funding only the construction and operation of the bridges and tunnels between New York and Northern New Jersey.<sup>13</sup> Lacking independent taxing power, the PNYA could do little to improve



the regional waterfront beyond submitting proposals for port development to the state and local governments.

This pattern changed, however, in the 1930s, when the PNYA developed a method for independently funding its own projects. The Authority borrowed money by issuing public revenue bonds, which were secured by the future income which would be derived from operating the project being financed. This technique was a comparatively new one in governmental financing; several extensive court battles were necessary for the PNYA to establish its legality. Once questions concerning bonding and the Authority's tax status were resolved in the Authority's favor, it was free to establish an independent credit base.<sup>14</sup>

By the end of the 1940s, the PNYA had moved rapidly into active port planning and development.<sup>15</sup> Today, an effective, centralized Authority has resulted in a balanced and comprehensive development of port facilities and services. Avoiding wasteful duplication, the PNYA's staff has sought to cultivate commercial growth to the best advantage of all public and business concerns in the region. It has provided a fair regulatory structure which has helped prevent the affected ports from financially undercutting one another. Finally, the independent financial base of the PNYA has generated the funding necessary for the increasingly expensive facilities which are required to keep the intra-regional ports competitive with other ports.

#### IV. ATTEMPTS AT REGIONALIZATION IN THE DELAWARE VALLEY

The success of the PNYA caught the attention of port planners across the country. By mid-century, the use of a regional approach to port governance in areas where political subdivisions shared commercial waterways was widely advocated.<sup>16</sup> This concept had obvious appeal for economic and governmental planners in the Delaware Valley. Theoretically, a regional port government would be well suited to the geographical layout of the Ports of Philadelphia (which include all port facilities on the Delaware River between the Delaware Bay and Trenton, New Jersey). This intercoastal waterway stretches for 135 miles and touches on the three states of Delaware, New Jersey, and Pennsylvania. Since 1930, most consultant reports addressing port administration in the Delaware Valley have discussed and advocated the regional approach. Today, port officials continue to regard regionalization as a panacea for the problems of port governance.

The first attempt to introduce regional port governance to the Delaware Valley was a limited one in 1931, when the Pennsylvania and New Jersey legislatures entered into a bi-state compact creating the Delaware River Joint Commission ("DRJC").<sup>17</sup> Although the primary purpose of the DRJC was to administer the construction and maintenance of bridges between Philadelphia and New Jersey, the compact also anticipated that the two states would work together toward the "development of the ports on the lower Delaware River."

The real push for regional port governance in the Delaware Valley, however, did not begin in earnest until after World War II. In 1947, political planners in Pennsylvania and New Jersey, well aware of the success of the PNYA, actively began lobbying for legislation that would permit the formation of a regional port authority in the Delaware River Valley.<sup>18</sup> Opposition to the proposal came swiftly from a number of different quarters. The most vocal opponent of a four-state authority was Ellwood Turner, Chairman of the Interstate Commission on the Delaware River Basin ("Incode").<sup>19</sup> Incode, the predecessor agency to the Delaware River Basin Commission, was a four-state agency responsible for improving and protecting water resources in the Delaware Valley, and was particularly concerned with the pollution of the Delaware River, which it saw as the greatest hindrance to port development in the region. Incode had also been conducting its own studies into port development and was reluctant to yield to another agency moving into what it had come to consider its own "territory."<sup>20</sup> It should also be noted that Turner, a State Representative from Chester, Delaware County, was zealously protective of port interests in that city.

The reactions from the business sectors in both states toward a regional port authority were mixed. There was widespread concern that a governmental agency with the power to finance, construct, and operate port facilities might become a dangerously effective competitor to private businesses.<sup>21</sup> Those voicing this concern contended that the proposed authority should be restricted to port promotion, and that the functions of port operation and development should be left to free enterprise. Other critics of regionalization simply felt that port governance was better left to the various political jurisdictions up and down the river.<sup>22</sup> The commercial interests in Philadelphia were particularly skeptical of a bi-state authority. Edwin Cox, Director of Philadelphia's Department of Wharves, Docks, and Ferries, summed it up rather succinctly: "What we want from the State is money, not legislation."<sup>23</sup> The Philadelphia Chamber of Commerce, concerned by what seemed to be a potentially divisive controversy, sought to establish a



middle ground, and convened a committee to investigate the possibility of creating a *municipal* port authority.<sup>24</sup> (The notion of a municipal port authority ultimately was abandoned when, in 1951, the Pennsylvania and New Jersey legislatures approved a regional port authority.)

In the 1947 Session of the Pennsylvania General Assembly, a compromise of sorts was reached by the advocates and opponents of a regional port authority. Legislation authorizing the creation of a new bi-state port authority was scrapped, but the power of the Delaware River Joint Commission was expanded. The new legislation specifically charged the DRJC to "undertake immediately an aggressive campaign to promote increased commerce on the Delaware River, both freight and passenger. . . ."<sup>25</sup> Arguably, the DRJC already had such power, inasmuch as the statutory language used was taken directly from the 1931 compact. The new statute, however, further directed the Commission to make reports and recommendations to "the proper authorities: concerning improvement of port facilities, inter-port communications and port promotion."

The DRJC responded to its newly emphasized mandate by commissioning the engineering firm of Knappen, Tippetts & Abbett to make a comprehensive study of the ports along the Delaware River. The Knappen report was completed and made public in the fall of 1948. It was an extensive study, presenting not only technical surveys of the region's facilities and resources, but a detailed report on port marketing and administration as well. The report recommended that the DRJC's powers be expanded so that it could become *the* central port administration, that a new port district comprising both sides of the Delaware River be formed, and that the DRJC acquire and operate a substantial number of the port district's piers and terminals.<sup>26</sup> In short, the Knappen report proposed that the DRJC be transformed into the Delaware River Port Authority.

The Knappen report immediately revived the port authority debate. Earlier in the year, the Governors of Pennsylvania and New Jersey had held a joint press conference to announce their support for the creation of a Delaware River Port Authority.<sup>27</sup> Following publication of the Knappen report, Philadelphia's *Daily News* and *Bulletin* both published editorials supporting the idea.<sup>28</sup> Nevertheless, the general business community remained skeptical<sup>29</sup> and whatever support it gave for an authority was at best lukewarm. Indeed, particular businesses—principally the railroad and shipyard companies—so vigorously opposed the establishment of an authority that when the Pennsylvania General Assembly convened in

1949, the push for enabling legislation was considerably hampered.<sup>30</sup>

Resistance to a port authority in the Pennsylvania Assembly itself came from the Delaware County delegation:<sup>31</sup> always suspicious of the Philadelphia delegation, the Delaware County contingent greatly feared that their port of Chester would be controlled by the commercial maritime interests of their northern neighbor. The railroad and shipyard companies lobbied intensively against a port authority in both the Pennsylvania and New Jersey legislatures.<sup>32</sup> The railroad and shipyard interests especially feared the authority's proposed power of eminent domain. Although bills eventually were introduced in both legislatures to permit the creation of a bi-state authority through a new interstate compact, as one observer put it, "They amended the heart out of it." The revised bills subsequently were passed in both states, but, stripped of their effectiveness, were vetoed by the Governors of Pennsylvania and New Jersey.<sup>33</sup> Governor James H. Duff of Pennsylvania excoriated the bill in the text accompanying his veto:

"This bill has been so emasculated by various amendments thereto that it leaves a hodgepodge, grossly unlike the original bill and inadequate to accomplish the purposes intended. It would be much better to await another meeting of the General Assembly to endeavor to work out a bill that would adequately meet the purposes intended than to make effective the instant bill which utterly fails to do so."<sup>34</sup>

Hopes for a Delaware River Port Authority thus were dashed in 1949, and the prevailing mood among supporters of an authority was that a regional port government was permanently doomed.<sup>35</sup> The 1949 Pennsylvania General Assembly did, however, enact legislation which, at least indirectly, soon would have an impact upon port governance in Philadelphia.

## V. HOME RULE IN PHILADELPHIA: THE EFFECT ON PORT GOVERNANCE

The 1949 First Class City Home Rule Act authorized Philadelphia to empanel a Charter Commission to draft a new City Charter, incorporating into it much-needed reform of municipal government.<sup>36</sup> Among the divisions of city government slated for modification was Philadelphia's Department of Wharves, Docks, and Ferries. Like all branches of city government, it was reviewed with an eye toward improving its efficiency and assuring its smooth integration into a new scheme of municipal governance.



The first three drafts of the Charter had reduced the Department of Wharves, Docks, and Ferries to a Bureau under the Department of Utilities.<sup>37</sup> This plan was opposed by the port business community. In testimony given before the Charter Commission, a spokesman for the Joint Executive Committee for Improvement and Development of the Philadelphia Port Area asserted that the Port was too important to the City's economic well-being to be submerged into a larger department. He argued that the Department of Wharves, Docks, and Ferries should remain a separate and independent entity, and that to do otherwise would increase the possibility that the Port's interests and needs might be overlooked by the city government.<sup>38</sup>

The City's operation of its port properties and interests ultimately were retained in a bureau, as authorized by Section 3-700 of the final draft of the Home Rule Charter. But instead of being assigned to the Department of Utilities, it was placed within the newly formed Department of Commerce.

The creation of the Department of Commerce included several new concepts which, in 1950, were considered quite innovative.<sup>39</sup> The Department was placed under the direction of the City Representative, whose office previously had handled only publicity and public relations for the City.<sup>40</sup> Under the new plan, however, the City Representative/Director of Commerce performed not only publicity functions, but was additionally given the responsibility of running the City's port and airport facilities.<sup>41</sup> In addition, he was to promote the development of commerce and industry in Philadelphia.<sup>42</sup> As a study prepared by the Pennsylvania Economy League explained, "This was done apparently on the theory that commercial operations which are involved—ports, airports, and Convention and Exhibition halls—are closely related to the promotion and public relations activities of the City Representative."<sup>43</sup>

This arrangement seemed to be more acceptable to the business community of the Port. The Bureau of Port Operations established by the Department of Commerce was responsible for managing the City's waterfront properties and facilities, and for setting wharfage rates. More importantly, the Charter explicitly charged the Department of Commerce to promote the Port of Philadelphia, thus assuring the businessmen that the Port was less likely to be forgotten in the shuffle of municipal government.

There is little indication that the Charter Commission anticipated the eventual creation of a bi-state port authority when the old Department of Wharves, Docks, and Ferries was reorganized. The possibility was barely discussed when the

Commission received testimony concerning the City's port facilities and management.<sup>44</sup> It seems likely that when Charter revision was being considered in 1950, a Delaware River Port Authority was considered to be a dead issue. As noted earlier, the City's port business community was not enthusiastic about the idea. Further, a memorandum from the Department of Wharves, Docks, and Ferries evaluating the Knapen report indicated hostility to the notion of a port authority taking control of Philadelphia's waterfront properties.<sup>45</sup> The Charter Commission apparently decided to focus exclusively on municipal port governance.

## VI. THE RISE OF THE DELAWARE RIVER PORT AUTHORITY

The issue of a regional port authority was raised again, however, when the Pennsylvania General Assembly reconvened in 1951. This time, proponents of the bi-state agency were not to be denied. Port business interests were soothed by the insertion of a "free enterprise" clause into the text of the compact, which was intended to assure them that the authority would not undertake any project without first carefully evaluating whether or not it should be left to private industry.<sup>46</sup> The free enterprise clause apparently blunted the argument that the railroad and shipyard lobby had used to block effective legislation in 1949. The Delaware County delegation again expressed its suspicion that Philadelphia port interests would dominate Chester port interests, but this time was not willing to be held responsible for again blocking a Delaware River Port Authority.<sup>47</sup> On July 18, 1951, Pennsylvania's General Assembly approved the Port Authority Compact,<sup>48</sup> following similar approval by the New Jersey Legislature several weeks earlier.<sup>49</sup> One year later, Congress approved the compact<sup>50</sup> and on July 18, 1952, President Harry Truman signed the bill, transforming the Delaware River Joint Commission into the Delaware River Port Authority.

The compact creating the Delaware River Port Authority ("DRPA") was extensive. The DRPA was to continue planning, operating, and maintaining the bridges between Philadelphia and New Jersey.<sup>51</sup> It was also empowered to build and operate a high speed commuter line between Philadelphia and the New Jersey suburbs surrounding Camden.<sup>52</sup> These two functions have remained, to the present, the primary concern of the DRPA. For promotion purposes, the DRPA has also created the World Trade Division, which has the responsibility of marketing the Ports of Philadelphia throughout the rest of the nation and the world. Finally, the compact also authorized the DRPA to purchase, rent, construct, or otherwise acquire port facilities such as piers, docks,



and terminals, and to operate them for the public benefit.<sup>53</sup> This the DRPA has not done, and for many it is the most disappointing aspect of the DRPA's performance thus far. It bears emphasis that the regionally planned financing, construction, and operation of port facilities was one of the principal reasons that legislators had pushed so hard to establish a port authority.<sup>54</sup> Why has it apparently been impossible to emulate the successes achieved by the Port of New York Authority?

Much of the DRPA's inability to participate actively in port operations appears to stem from the fact that any action in that direction by the DRPA would require the approval of both state legislatures. This is an unwieldy process which sharply restricts the DRPA's independence. For example, in 1967, the New Jersey Legislature conducted extensive hearings to investigate the possibility of merging the financially ailing South Jersey Port Commission into the DRPA.<sup>55</sup> Despite the facts that the jurisdictions of the two organizations overlapped, and such a merger would have constituted a substantial step toward fulfilling the unifying purpose of the DRPA, the legislature deemed such an action not desirable "at this time."<sup>56</sup> Instead of approving the merger, the New Jersey Legislature reformed the South Jersey Port Commission into the South Jersey Port Corporation, which still exists today. In 1968, the DRPA wanted funds from both states to build and operate terminals in Camden. The plan was killed in the Pennsylvania Assembly, primarily due to the efforts of the Philadelphia delegation, which objected to having the Commonwealth finance local competition on the other side of the river.<sup>57</sup> Basically, then, the failure of the DRPA to effectively control port development in the Delaware Valley has been the result of a lack of political will by its member states.

The DRPA's failure to build facilities eventually was to have a far greater negative impact on port development than had been anticipated. In 1949, shortly after the defeat of the first port authority bill, reporter Oliver Crawford wrote a series of articles on the future of the port for the *Philadelphia Inquirer*.<sup>58</sup> In that series, he quoted a proponent of the authority:

"You can't build business for the Port of Philadelphia with nothing but a publicity campaign. You've got to provide facilities that will make shippers want to use this port. The port authority bill was designed to provide those facilities as needed. It was scuttled by waterfront operators, each of whom was more interested in his own peanut stand than in the general welfare of the port."<sup>59</sup>

Quite possibly, this port watcher did not appreciate the full quantum of truth in his own words, for in the late 1940s no one anticipated the advent of containerization.

## VII. THE CONTAINERIZATION BREAKTHROUGH

During the 1950s, a technological breakthrough occurred in the shipping industry: the containerization of general cargo. The impact of this new concept upon shipping can be compared to that of mass production upon manufacturing. Basically, containerization involves loading and sealing cargo into large, van-like containers at locations other than the port district, usually at the shipper's plant. The containers can be transported to the waterfront quickly and conveniently by truck or rail. Once in the port district, these containers can be brought directly alongside specially designed container ships and stacked in the hold by large cranes. This process drastically reduces the need for port warehousing, gangs of stevedores, and the other traditional accouterments of ship loading. The advantages of containerization lie mostly in its speed and efficiency: rapid loading and unloading substantially increases the volume of cargo that can be moved through the port. This is especially significant since containerized cargo is *general* cargo, which generates more regional income per ton than other types of cargo.<sup>60</sup>

The initial drawback to containerization was that the facilities needed to load and unload cargo were prohibitively expensive.<sup>61</sup> Further, docks had to be enlarged and redesigned, and a substantial amount of land adjacent to the terminal was needed as a holding area for containers brought into the port district.<sup>62</sup> As was the case at the close of the Nineteenth Century, when shipping went from wind and wood to steam and steel, private port industry lacked the capital to provide the waterfront facilities which corresponded to this new level of ship technology. Most container terminals therefore had to be publicly constructed.<sup>63</sup> Local governmental units usually were able to fund construction by issuing bonds. Additionally, since these public entities usually had the power of eminent domain, acquiring the necessary space was easier for them than for the private port industry. Thus, in the race to capture the biggest share of the lucrative containerized cargo, port communities with the most efficient systems of governance were able to build their facilities first and gain the competitive edge. It is not surprising that the Port of New York Authority was able to build one of the largest container ports in the world in Elizabeth, New Jersey.<sup>64</sup>



## VIII. PHILADELPHIA'S RESPONSE TO CONTAINERIZATION: THE PHILADELPHIA PORT CORPORATION

The Port of Philadelphia came late to the Age of Containerization. Following World War II, port development in the City fell into a hiatus, and it was all the City could do to keep its aging facilities maintained, let alone construct new ones.<sup>65</sup> Meanwhile, shippers were rapidly converting to the use of containers; cargos formerly routed through Philadelphia were directed elsewhere.<sup>66</sup>

By the early 1960s, the port community was becoming increasingly aware of the inroads which containerization was making on the local economy. Existing facilities were extensively upgraded, but none was suitable for conversion to container facilities. The City of Philadelphia began to negotiate terms for the construction of a container terminal at Packer Avenue II, but the process took longer than expected. Actual construction was not begun soon enough to suit most port watchers.<sup>67</sup> In response to this sluggish port development, the President of the Philadelphia Chamber of Commerce and the Director of the City's Department of Finance formed an ad hoc committee in 1964 to study the cargo situation in Philadelphia. On the committee were representatives from the Philadelphia Marine Trade Association, the Pennsylvania Economy League, the Philadelphia Industrial Development Corporation, the Chamber of Commerce, and the Department of Finance. Technical assistance was provided by the consulting firm of Buckley, Inc. and the Wharton School of Business. The committee released its findings in a published study that same year.<sup>68</sup>

The committee discovered that, although import tonnages were up, these increases were mostly in bulk cargos, such as oil and grain. The startling news was that general cargo tonnage over a ten year period was not keeping pace with the volume of cargo being moved through the other major eastern ports. In fact, the percentage of the market share of general cargo showed a steady decline.<sup>69</sup> The loss of general cargo, it will be remembered, is especially damaging to the economic well-being of a port and the region that it services, since it generates more monetary gain per ton than any other category of cargo.

The committee examined a number of factors which it felt could account for the decline in general cargo, including port promotion and the condition of inland and local markets. The committee concluded that the deficiencies in these areas did not account for the loss of general cargo. It stated:

"The one thing which this investigation has brought to light as a controlling and limiting factor on the further expansion of Philadelphia's general cargo trade is the almost complete lack of *new* general cargo facilities . . . Philadelphia's general cargo plant, although it has been extensively rehabilitated in recent years, is not keeping up with the new and fully efficient terminals coming to service in New York, Baltimore, and Hampton Roads."<sup>70</sup>

The answer to the Port's dilemma was, in the committee's judgment, obvious: "the prompt and continuing installation of new and modern general cargo facilities in accordance with a sound long term program. Basic to this cure is the adoption of a financing plan which will permit the implementation of this program."<sup>71</sup> The committee, however, did not feel that the City's existing procedures for capital financing were adequate to finance a project that would require \$6-8 million annually for the succeeding ten years. Moreover, the committee was convinced that a City-Commonwealth venture would take far too much time, just when immediate action was essential to the port industry.<sup>72</sup>

The committee developed what it felt was a better solution: a non-profit corporation modeled after the Philadelphia Industrial Development Corporation ("PIDC"). The PIDC was formed during the late 1950s as a partnership among the City, the Chamber of Commerce, and the business community to promote commercial growth in Philadelphia. As a quasi-public corporation, the PIDC could act as a land bank; that is, it was legally permitted to acquire private and public property in the City, develop it for industrial use, and then sell or lease it to private business interests, preferably new businesses which the PIDC had persuaded to locate in Philadelphia. (State law forbade the City to perform this function directly.) The committee believed that a similar entity should be created to operate the City's waterfront properties, and to finance and construct the badly needed new general cargo terminals.<sup>73</sup>

On March 8, 1965, the Philadelphia Port Corporation was formed. The Port Corporation was created jointly by the Commonwealth, the City, and the Chamber of Commerce.<sup>74</sup> The Articles of Incorporation state the following purposes:

"(1) to promote the water-borne commerce of the Port of Philadelphia; (2) to acquire, by lease or otherwise, maintain, and modernize the Port's existing facilities for the handling of general cargo and (3) to design, construct, lease, or otherwise acquire and maintain and modernize new facilities in a comprehensive program for the prompt



and full development of this Port's cargo handling potential."<sup>75</sup>

The Port Corporation has all the normal corporate powers: it can, for example, borrow money, pledge assets, and accept gifts and subsidies. The Board of Directors is comprised of thirty-three members: nine officers of the City, nine persons named by the Chamber of Commerce of Greater Philadelphia, two Pennsylvania officers named by the Governor, two officers of the DRPA, and eleven public appointees selected jointly by the Mayor and the President of the Chamber from persons prominent in the City's community, business, and governmental affairs.<sup>76</sup>

The Articles of Incorporation specify that the Port Corporation is to "cooperate closely with the Delaware River Port Authority in the latter's port development activities."<sup>77</sup> This was not intended as a mere goodwill gesture: the stated objectives of the Port Corporation and the DRPA in terms of port growth and development are almost identical. The only difference is that the latter's concern is regional while the former's is basically local. Since port development in Philadelphia directly and substantially affects the regional shipping industry, logic dictates that the two organizations establish a good working relationship. Indeed, the Articles expressly consider the possibility that the Port Corporation eventually could be merged into the DRPA. Such a merger can be undertaken when the Governor, Mayor, City Council, the President of the Chamber of Commerce, and the DRPA concurrently agree that the DRPA is prepared to assume the functions of the Port Corporation.<sup>78</sup> This provision reflects a continuing hope for the establishment of an effective regional port government. The fact that the Port Corporation has existed for over fifteen years without such a merger ever being attempted strongly suggests that a consolidation of the two agencies is unlikely to occur, given present political realities.

Since its creation in 1965, the Port Corporation has taken full control of all the City's waterfront properties, including the Packer Avenue I (general cargo) Terminal, completed in the late 1960s. It has begun a long-term port development program which has resulted in the construction of new container terminals in the mid-1970s (Tioga I Marine Terminal and Packer II Container Terminal). A major rehabilitation program to upgrade older piers has recently been accelerated by the receipt of federal Economic Development Administration funds for this purpose.<sup>79</sup> The Port Corporation manages the municipal port facilities under a series of lease agreements made with the City. Construction has been principally funded

through bond issues arranged by the City and approved by the electorate.<sup>80</sup> The rentals collected by the Port Corporation from the private sector for the use of these facilities are used for maintenance and repayment of the general obligation bonds.<sup>81</sup> Any surplus funds are reinvested in other port development projects.

In the early 1970s, the Port Corporation also entered into a joint venture with the City and Commonwealth to promote and develop a business residential district on the Delaware waterfront, to be known as Penn's Landing. According to the Port Corporation's 1979 Annual Report, future plans include a new pier at the National Sugar Company's refinery and a Coast Guard, Police, and Fire Department facility to be located on the waterfront near Delaware and Washington Avenues.

Although the Port Corporation had been successful in expanding and updating the City-owned facilities in the port district, there remained in the port community a general feeling that overall management and development of Philadelphia's waterfront could be improved.

## IX. LOOKING AHEAD: THE CHAMBER OF COMMERCE PORT TASK FORCE STUDY

In 1978, the Chamber of Commerce of Greater Philadelphia formed a Port Task Force to study the current needs of the City's Port. After the Task Force had met several times throughout 1979, its Chairman, Dr. Donald L. Felley, issued an interim summary of the group's activities and his conclusions in April, 1980.<sup>82</sup> For our purposes, the most significant portion of Dr. Felley's report is its general conclusion, which critically evaluates the current state of port governance. It states in part:

"Finally, it is my opinion that the organization of the various port activities is not such as to maximize efficiency of operations. Three of the principal functions of the port are handled by three separate organizations.

- *Marketing*, by the World Trade Division of the Delaware River Port Authority;
- *Capital Planning and Expenditure, Installation and Operation of the Port Equipment*, by the [Philadelphia Port Corporation, the South Jersey Port Corporation, and the City of Wilmington];
- *Labor Relations and Contract Negotiations*, by the Philadelphia Marine Trade Association.



"These three organizations do not converge to a common management authority. Additionally, there is a proliferation of other agencies of various types—somewhere between 15 and 25—which impinge in one way or another on the activities of the Port. In no industrial business would it be tolerable for these three key functions—marketing, operations, and labor relations—to operate independently under separate management."

The conclusion of the Chairman of the Task Force is, then, that the Ports of Philadelphia have not yet achieved a method of port governance that permits maximum benefit of the City's waterfront to the local and regional economy.

## NOTES

### to Chapter One

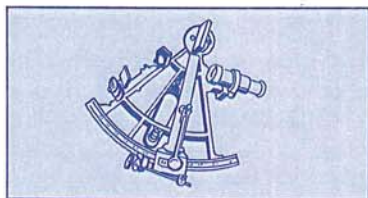
1. Regional Planning Federation of the Philadelphia Tri-State District, *The Regional Plan of the Philadelphia Tri-State District* (Philadelphia: William F. Fell Co., 1932), p. 80.
2. John I. Griffin, *The Port of New York* (New York: Arco Publishing Co., 1959), p. 4.
3. Act of March 29, 1803 (4 Smith's Law, 62).
4. Department of Wharves, Docks, and Ferries, City of Philadelphia, *Memorandum concerning Knappen, Tippetts, and Abbett, Delaware River Port Development Plan: Prepared for the Delaware River Joint Commission of Pennsylvania and New Jersey* (New York, 1948), p. 4.
5. Act of February 2, 1854 (P.L. 37).
6. Pennsylvania Public Law 321 (1907), A Supplement to an act, entitled "An act to provide for better government of cities of the first class in the Commonwealth," approved the First day of June, One thousand eight hundred and eighty-five, creating a Department of Wharves, Docks, and Ferries. . . ."
7. Carroll R. Thompson, "Municipal Pier Construction in the Port of Philadelphia," *The Port of Philadelphia: Its History, Advantages and Facilities* (Philadelphia: Department of Wharves, Docks, and Ferries, 1926), p. 136.
8. The National Research Council, *Port Development in the United States*, Panel on Future Port Requirements of the United States (Washington, D.C.: National Academy of Sciences Press, 1976), p. 36.
9. Griffin, *op. cit.*, p. 71.
10. *Compact Between the States of New York and New Jersey of 1921* (Pursuant to Ch. 154, Laws of New York, 1921; Ch. 151, Laws of New Jersey, 1921).
11. Griffin, *op. cit.*, p. 78.
12. *Compact Between the States of New York and New Jersey of 1921, op. cit.*, Article VI.
13. Griffin, *op. cit.*, p. 74.
14. *Ibid.*, p. 80.
15. *Ibid.*, pp. 82-83.
16. Walter P. Hedden, *Mission: Port Development* (Washington, D.C.: The American Association of Port Authorities, 1967), p. 76.
17. *The Delaware River Joint Commission Compact of 1931*, (pursuant to Pennsylvania Act No. 200, P.L. 575, approved June 12, 1931; New Jersey Ch. 391, P.L. 1931, approved June 30, 1931).
18. "Duff Said to Back Authority," *The Bulletin*, March 23, 1947.
19. *Ibid.*
20. *Ibid.*
21. "Shipmen Oppose Port Authority," *The Philadelphia Inquirer*, April 9, 1947.
22. "Port Authority Plan for Philadelphia Rapped," *The Philadelphia Inquirer*, March 31, 1947.
23. "Port Authority Plan Assailed," *The Bulletin*, April 18, 1947.
24. *Ibid.*
25. P.L. 598, approved June 13, 1947; 36 Pa. Section 3509.
26. Knappen, Tippetts, and Abbett, *Delaware River Port Development Plan: Prepared for the Delaware River Joint Commission of Pennsylvania and New Jersey* (New York, 1948), p. ii.
27. "The Green Light on the Port," *The Daily News*, March 31, 1948.
28. "Port Authority Law is Urged," *The Bulletin*, March 15, 1948; "Ports Gain Ground Work," *The Daily News*, March 16, 1948.
29. "'Vague' Port Bill Rapped by Group," *The Philadelphia Inquirer*, April 17, 1949.
31. *Pennsylvania Legislative Journal*, April 26, 1949, p. 4,385.
32. *The Bulletin*, April 27, 1949.



33. Vetoes by the Governor of Bills Passed by the General Assembly: Session of 1949, No. 51, p. 135.
34. Vetoes by the Governor of Bills Passed by the General Assembly: Session of 1949, No. 51, p. 135.
35. Oliver Crawford, "The Port — Present and Future," *The Philadelphia Inquirer*, July 7, 1949.
36. Act of April 21, 1949, P.L. 665.
37. Philadelphia Home Rule Charter (Draft II), Ch. 17, Section 4-1700; (Draft III), Ch. 8, Section 6-800.
38. Philadelphia Charter Commission (1949), *Public Hearings*, October 24, 1950.
39. Pennsylvania Economy League, *Philadelphia's City Representative — Director of Commerce*. A Report prepared by the Bureau of Municipal Research. (Philadelphia: Pennsylvania Economy League), 1954, p. 5.
40. Philadelphia Home Rule Charter, adopted April 17, 1951, Section 3-100(o).
41. Philadelphia Home Rule Charter, Section 4-500(b).
42. Philadelphia Home Rule Charter, Section 4-500(a).
43. Pennsylvania Economy League, *op. cit.*, (1954), p. 6.
44. Philadelphia Charter Commission (1949), *op. cit.*, October 24, 1950.
45. Department of Wharves, Docks, and Ferries, *op. cit.*
46. Philadelphia Maritime Exchange, *78th Annual Report*, (1953).
47. *Pennsylvania Legislative Journal*, June 26, 1951, p. 3,525.
48. Act No. 214, P.L. 1010, approved July 18, 1951.
49. Ch. 288, P.L. 1951, Approved June 26, 1951, R.S. Sections 32:3-2, -3, -5, -12, -13, and -13.23.
50. Public Law 573, Ch. 921, 82nd Congress, Second Session, approved July 17, 1952.
51. *Port Authority Compact*, Act No. 214, P.L. 1010, approved July 18, 1951; Art. I(a).
52. *Port Authority Compact*, Act No. 214, P.L. 1010, approved July 18, 1951; Art. I(b).
53. *Port Authority Compact*, Act No. 214, P.L. 1010, approved July 18, 1951; Art. III(o).
54. *Pennsylvania Legislative Journal*, June 26, 1951, p. 3,523.
55. *Report and Recommendation of the Legislative Commission to Study the Practicability of the Consolidation of the South Jersey Port Commission and the Delaware River Port Authority*, March 6, 1967.
56. *Ibid.*, p. 11.
57. Philadelphia Maritime Exchange, *93rd Annual Report* (1968), p. 11.
58. Crawford, *op. cit.*, July 7, 1949.
59. *Ibid.*
60. Tippets, Abbett, McCarthy, Stratton, *Port Facilities Study: City of Philadelphia*, Prepared for the Department of Commerce (New York, 1978), p. 2.
61. National Research Council, *op. cit.*, p. 4.
62. *Ibid.*, p. 22.
63. Arthur D. Little, Inc., *Port Development Requirements*, Report prepared for the Delaware River Port Authority, (Philadelphia, 1965), p. 50.
64. *Ibid.*, p. 45.
65. *Ibid.*, p. 21.
66. Department of Commerce, City of Philadelphia, *The General Cargo Situation in Philadelphia* (Philadelphia, 1964), p. ii.
67. James H. Goss, "Conflicting Proposals for Piers Advanced on Both Sides of River," *The Philadelphia Inquirer*, February 24, 1965.
68. Department of Commerce, City of Philadelphia, *op. cit.*, p. ii.
69. *Ibid.*, p. 3.
70. *Ibid.*, pp. 12-13.
71. *Ibid.*, p. 16.
72. *Ibid.*, p. 27.
73. *Ibid.*, p. 28.
74. Philadelphia Port Corporation, *Annual Report* (1979), p. 14.
75. Philadelphia Port Corporation, *Articles of Incorporation*, Art. 3.
76. Philadelphia Port Corporation, *Articles of Incorporation*, Art. 3.
77. Philadelphia Port Corporation, *Articles of Incorporation*, Art. 3.
78. Philadelphia Port Corporation, *Articles of Incorporation*, Art. 3.
79. Philadelphia Port Corporation, *Annual Report* (1979), p. 1.
80. *Ibid.*, p. 14.
81. Philadelphia Port Corporation, *Background Statement*, prepared by the Office of the Director of Finance (Philadelphia: 1971), p. 5.
82. Port Task Force, *Task Force — Ports of Philadelphia: Report to the Chamber of Commerce* (Philadelphia, 1980).



## CHAPTER TWO:



### AGENCIES AND ORGANIZATIONS AFFECTING PORT GOVERNANCE

## I. INTRODUCTION

A look at the history of the governance of the Ports of Philadelphia has shown that the current structure has evolved out of a series of political compromises and ad hoc responses to particular exigencies. Legislation establishing the public agencies governing the Ports reflects the haphazard and uncoordinated approach that municipal and state legislatures have used in piecing together a Ports governance structure. Frequently, public agencies have been granted sweeping legislative mandates to carry out several governance functions, only to have the effective exercise of their wide-ranging power stifled by political obstacles and their own inaction. In these cases, the municipal and state legislatures have often responded by creating new agencies with scaled-down authority. This proliferation of agencies is largely the result of the inability of the state and local legislative bodies to respond to the regional demands for effective governance of the Delaware River Ports.

The piecemeal development and frequent ineffectiveness of the public agencies governing the Ports have left gaps in the administrative structure that have spurred the creation of numerous private organizations. These private agencies have assumed functions that their founders felt were either inadequately handled by the public agencies or not dealt with at all. Because the public agencies have least effectively met the administrative needs on a regional level, most of the private organizations serve the entire Ports of Philadelphia community.

This chapter describes the structure and functions of all significant agencies which have or could have a role in the governance of the Ports. It begins with an examination of the public agencies, detailing their statutory authority and contrasting that with the actual powers they exercise. In this manner, the often sharp difference between the intended legislative authorization and the actual politically feasible activities for these public agencies should become evident. Following this analysis of the public agencies on the city, regional, state, and federal levels, the structure and activities of the private organizations will be discussed. The order in which the public and private agencies are discussed does not reflect their relative importance to the port community. Appendix A to this study identifies additional agencies which play a less direct role in port governance than those described in this chapter.

## II. PUBLIC AGENCIES

### A. *Municipal Agencies*

#### 1. Philadelphia Department of Commerce

Under the 1951 Philadelphia Home Rule Charter, a single official serves as Director of Commerce and City Representative. Placing this dual role in a single official was a unique step in municipal government, for the job now couples promotional and ceremonial responsibilities with commercial management and maintenance responsibilities. The framers of the Charter viewed the commercial operation of the Port as intimately related to the promotional responsibility of the City Representative. Thus, the first duty listed in the 1951 Charter for the Department of Commerce is the "promotion of commerce, industry and the Port of Philadelphia."<sup>1</sup>

In its management role, the Commerce Department is responsible for maintaining the existing City wharf, dock, and harbor facilities, and for making all necessary repairs and improvements. The Department can, however, delegate this duty by contract. In addition, the Department has the power to acquire other such facilities or to design and construct new facilities with the approval of City Council. The Department must maintain and operate equipment to conduct any necessary harbor cleaning, deepening, dredging, and ice-breaking operations, although the Department may also delegate these duties by contract. Further, the Department has the option to grant leases and licenses for the use of its facilities.<sup>2</sup>

Clearly, the City of Philadelphia has the complete power to operate and promote the Port through the Department of Commerce. Most of that power, however, has been transferred by contract to the Philadelphia Port Corporation, discussed below. Thus, while the Commerce Department managed, promoted, and planned the future development of Philadelphia's port facilities in the years following the adoption of the Home Rule Charter, today the Department's role is limited mainly to the approval of maintenance and improvement projects conducted by the Philadelphia Port Corporation. The Commerce Department has delegated its responsibilities to such an extent that now only one employee, an accountant, deals solely with the Port. Other Commerce Department officials, including the Director of Commerce and his or her deputies, limit their involvement with the Port principally to the review of capital improvement projects recommended by the Port Corporation. In effect, two agencies now share the responsibilities once held only by the Com-



merce Department. Even though the Commerce Department is still ultimately responsible for approving activities affecting the City's waterfront, it is now a passive organization that no longer takes initiative on the improvement and maintenance of the City's port facilities.

Although charged with port promotion, the Commerce Department's activities in this area are minimal. Its promotional work has been limited to an occasional pamphlet describing the City's port facilities and cooperation with other agencies promoting the Ports. The Commerce Department also conducts public hearings on proposed actions affecting the waterways in the City of Philadelphia.

## 2. Philadelphia Port Corporation

The Philadelphia Port Corporation was formed on March 8, 1965, as a non-profit Pennsylvania corporation, jointly by the City of Philadelphia, the Commonwealth of Pennsylvania, and the Chamber of Commerce of Greater Philadelphia.<sup>3</sup> The Corporation, as stated in its Charter,<sup>4</sup> was formed for three purposes: (1) to promote waterborne commerce of the Port; (2) to maintain and modernize the Port's existing facilities; and (3) to design, construct, and manage new facilities built, with the power to lease such facilities.

Overseeing the activities of the Port Corporation is a thirty-three-member Board of Directors, consisting of nine officers of the City of Philadelphia (the Mayor; the Director of Commerce; the Director of Finance; the City Solicitor; the Managing Director; the Chairman of the City Planning Commission; the President of City Council; the Chairman of the Committee on Commerce, Navigation, and Airport Facilities of City Council; and the Chairman of the Philadelphia Redevelopment Authority); nine persons named by the President of the Philadelphia Chamber of Commerce; two Pennsylvania officers (either elected or appointed) named by the Governor of Pennsylvania; the Chairman and the Vice Chairman of the Delaware River Port Authority; and eleven members, chosen jointly by the Mayor of Philadelphia and the President of the Chamber, who are prominent in the financial, commercial, industrial, and professional community of Philadelphia.<sup>5</sup>

In an attempt to fulfill the purposes for which it was formed, the Port Corporation entered into two agreements with the City of Philadelphia — the Consolidated Lease Agreement and the Port Improvements and Lease Agreement. The Consolidated Lease Agreement was signed May 24, 1966 (since amended) retroactive to October 1, 1965, and was approved

by a City ordinance of September 1, 1966. Through this lease agreement, the Port Corporation assumed the City's existing leases with certain pier tenants and agreed to pay the City annual rentals equivalent to the remaining debt service for the use of these facilities through 1998.

The City and the Port Corporation entered into the Port Improvements and Lease Agreement on September 23, 1966 (since amended) to detail the Port Corporation's delegated responsibility for planning, constructing, extending, and improving the port facilities. Under the terms of the agreement, the Port Corporation requires the approval of the Director of Commerce in order to undertake activities which are financed with municipal or federal bond moneys. Moreover, the Philadelphia Home Rule Charter separately requires that City Council approve the acquisition, design, and construction of *new* facilities.<sup>6</sup> Such approval evidently is not needed when the Port Corporation finances activities under the Port Improvements and Lease Agreement with its own operating funds.

Presently, the Port Corporation is not hindered by these bureaucratic approval processes, inasmuch as the City has consistently given Port Corporation projects high priority in granting its approval. Nevertheless, the bureaucratic approval process could indeed prove cumbersome with the advent of a less cooperative municipal administration.

The Port Improvements and Lease Agreement further provides for necessary bond financing; these bonds are being repaid through port-generated income. The agreement has been amended so that the City can float up to \$70,160,000 in bonds to provide capital funds for port purposes. This amount is excluded from calculations of the City's indebtedness.

As set out in its Articles of Incorporation, the Port Corporation has the power to promote the physical development and use of port facilities along the Delaware in other Pennsylvania counties, provided these counties request such promotion.<sup>7</sup> Although the Port Corporation has no authority in New Jersey, the Articles of Incorporation state that it will cooperate closely with the Delaware River Port Authority with respect to port development activities. Further, the Articles provide for the DRPA to assume all of the Port Corporation's functions and responsibilities, provided such action is approved by the Pennsylvania Governor, Philadelphia Mayor and City Council, President of the Greater Philadelphia Chamber of Commerce, and the DRPA.<sup>8</sup>



The actual activities of the Port Corporation differ little from those described in the lease and improvement agreements with the City and in the Articles of Incorporation. The Port Corporation leases the City-owned waterfront facilities to various private terminal operators and turns over the amount of rental income agreed upon in the lease agreements to the City. Having thus assumed the City's "landlord" role, the Port Corporation is responsible for the maintenance and improvement of the City's port facilities. As noted, some maintenance and improvement projects developed by the Port Corporation require City Commerce Department assent. The Port Corporation thus initiates most of the changes in the City's waterfront property, which the Commerce Department only reviews and approves.<sup>9</sup>

In addition to its management duties, the Port Corporation is authorized to promote waterborne commerce. The Port Corporation, however, does no formal marketing of the Port; any promotional work that occurs does so incidentally in the course of the Port Corporation's public relations efforts. To date, these efforts have been limited to the publication of a magazine, some advertising, and the occasional showing of the Port to potential investors. Thus, while both the Commerce Department and the Port Corporation are legally empowered to engage in promotional work, neither is solely responsible or accountable for port promotion, and neither has made any sustained effort to exercise its promotional authority.

Because the Port Corporation's statutory authority is shared with or dependent upon other governing bodies, the effective exercise of that authority could be hindered. Thus, the need for Commerce Department approval for some port maintenance and improvement projects could result in unproductive bureaucratic delays. Shared responsibility for Port of Philadelphia promotion leaves accountability inefficiently divided between the two agencies. With respect to the merger envisioned by the framers of the Articles of Incorporation between the Port Corporation and the Delaware River Port Authority, the cumbersome approval process has completely thwarted any action. Before such a merger can take place, five leaders and organizations must agree that the DRPA is able to assume the functions, liabilities, and responsibilities of the Port Corporation. Given this legislative and bureaucratic obstacle, it is not surprising that a merger has not been attempted. The Port Corporation and the DRPA lack the authority to decide for themselves whether or not such a merger will occur.

The Port Corporation became the second city agency to own waterfront facilities in Philadelphia when, in 1979, it purchased a combination heavy-lift container crane for the Packer Avenue Marine Terminal in South Philadelphia.<sup>10</sup> This purchase departed from the usual practice for port improvements, which has been for the City to finance such expenditures and for the Port Corporation to lease the equipment or facilities from the city, as set out in the Ports Improvement and Lease Agreement.

The Port Corporation has received annual supplemental operating appropriations from the Commonwealth of Pennsylvania and the City of Philadelphia as necessary to carry out its activities.

### 3. Philadelphia Industrial Development Corporation

The Philadelphia Industrial Development Corporation ("PIDC") was formed in 1958 as a non-profit corporation. It is empowered to develop programs stimulating new or enlarged industrial and/or commercial enterprises within Philadelphia County.<sup>11</sup>

PIDC does not have any formal responsibilities for port governance, but its mission of preserving and increasing the number of jobs in the city and of expanding the city's tax base leads PIDC actively to promote investment in the port area. PIDC's primary contribution to port commerce has been its promotion of Philadelphia's Foreign Trade Zones. A Foreign Trade Zone is a physical facility with specific boundaries where importers and exporters may, pursuant to federal law, store or manufacture their goods, and benefit from reductions in, deferrals of, or exemptions from, United States Customs Duties. Three such regions are located in South Philadelphia near Philadelphia International Airport and the Packer Avenue Marine Terminal. Informing industry of the advantages of constructing facilities in a Foreign Trade Zone follows from one of PIDC's primary functions, that of finding attractive financing schemes for those considering investing in Philadelphia.<sup>12</sup>

### 4. Camden Municipal Port Authority

South Jersey's major port facilities are in Camden, and fall within the jurisdiction of two overlapping entities, the South Jersey Port Corporation and the Camden Municipal Port Authority. The South Jersey Port Corporation (*see* Section C of this chapter) presently operates all the facilities in the South Jersey Port District, including Camden. Although the Camden Municipal Port Authority is similarly empowered to operate the Camden facilities, it has never exercised this



power, as the operational control has remained with the South Jersey Port Corporation. The Camden Municipal Port Authority is instead presently best characterized as a port improvements agency.

Created in February, 1978, by municipal ordinance and in accordance with state law, the Camden Municipal Port Authority is authorized to improve, establish, and develop port facilities.<sup>13</sup> Like the Philadelphia Port Corporation, the Camden Authority has the power to construct and lease Camden's facilities. The Authority has no bond limitation and does not need approval by either the municipal or state government before beginning a port project.<sup>14</sup>

Presently, this newly formed authority does not anticipate exercising its power to build major additional port facilities in the near future.<sup>15</sup> It is now building a freezer warehouse, to be completed in December, 1980, and is clearing sixteen acres of land for port back-up use.<sup>16</sup> The Authority's present projects were partially funded by an urban development action grant.<sup>17</sup>

#### B. *Interstate Agencies*

##### 1. Delaware River Port Authority

In an effort to increase trade and travel between New Jersey and Pennsylvania, the two states passed uniform acts in 1919 establishing a Delaware River Bridge Joint Commission, for the purpose of building the Benjamin Franklin Bridge. In 1931, this commission continued in existence as the Delaware River Joint Commission, with the authority to continue operating the Benjamin Franklin Bridge, to establish and operate railroad or other transportation facilities across the bridge, to investigate the need for additional Delaware River crossings, and to promote increased commerce on the Delaware.<sup>18</sup>

Again, in 1951, the two states updated the Commission through a joint compact approved by the United States Congress in 1952.<sup>19</sup> This new compact, which today remains substantially unaltered, changed the name of the Commission to the Delaware River Port Authority ("DRPA"), altered the method of appointing commissioners and extended the jurisdiction, powers, and duties of the updated authority. Today, the DRPA has jurisdiction over the Counties of Philadelphia and Delaware in Pennsylvania, and over Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem Counties in New Jersey. (Bucks County in Pennsylvania and Mercer County in New Jersey thus are excluded from the DRPA's jurisdiction.<sup>20</sup>) Its non-port-related powers

include the construction and operation of bridges across the Delaware and the development of mass transit facilities between New Jersey and Pennsylvania.<sup>21</sup> The DRPA now operates the Lindenwold High Speed Line (under the direction of the Port Authority Transit Corporation — "PATCO" — a subsidiary wholly owned by the DRPA) and the Walt Whitman, Benjamin Franklin, Commodore John Barry, and Betsy Ross Bridges.<sup>22</sup>

The DRPA's port-related responsibility also was extended by the 1951 Compact beyond the mere promotion of commerce on the Delaware. The DRPA now has a considerable range of potential responsibilities with respect to port development, including the authority to acquire, build, and operate marine terminals, but only with the approval of both the Pennsylvania and New Jersey Legislatures.<sup>23</sup> Even before the DRPA can seek the approval of the two legislatures, however, it must gain the approval of the sixteen commissioners: a majority of each state's eight (unpaid) commissioner representatives must agree to any proposal before the approval of the state legislatures is sought.<sup>24</sup> Thus, five commissioners from each state must approve any port development plan.

The 1951 compact also empowers the DRPA to intervene in any litigation involving rates, preferences, rebates, or matters affecting the Ports District, provided notice of this intention to intervene is promptly given to the Attorney Generals of both states.<sup>25</sup> Additionally, the DRPA may study the need for improvement of terminal lighterage, wharfage, warehouse, and other facilities necessary for the promotion of commerce on the Delaware, but can only make such recommendations "to the proper authorities" for implementation.<sup>26</sup> Finally, the DRPA is authorized to promote the Delaware as a highway of commerce, and in so doing must cooperate with all agencies interested or affected by similar promotional interests.<sup>27</sup> Thus, although it is apparent that the DRPA has a potentially wide range of port-related duties, the action of outside legislative entities ultimately determines the actual scope and effectiveness of the DRPA's participation in port planning and operation.

While the 1951 compact indicates that the New Jersey and Pennsylvania Legislatures intended that the Delaware River Port Authority would assume the planning, terminal construction and management, and marketing functions for the Ports of Philadelphia region, its *actual* port-related activities have been solely in the field of Ports promotion. Because of the stringent requirements for approval of any capital improvement project to be carried out by the DRPA — assent of



a majority of the Commissioners from New Jersey and Pennsylvania, and approval of both legislatures — the DRPA's power to plan and construct its own waterfront facilities has existed on paper only. Only a marketing program for the Ports of Philadelphia has been seen as providing sufficient benefits to the entire region to meet the acceptance of the DRPA Commissioners.

The DRPA attempts to carry out its marketing function through its World Trade Division, which promotes the Ports to domestic and overseas shippers and encourages increased investment in the Ports. To this end, the World Trade Division maintains overseas offices in Brussels, Bogota, Tokyo, Hong Kong, and Seoul, and domestic offices in New York, Pittsburgh, and Chicago. In recent years, the World Trade Division has increased its efforts to attract "reverse investment" — direct investment by foreign industry in the United States — to the Delaware Valley region.<sup>28</sup> In this endeavor, the DRPA joins the Philadelphia Industrial Development Corporation, the Commonwealth of Pennsylvania, State of New Jersey, and other industrial development agencies outside of Philadelphia.

Because the DRPA has not exercised its statutory authority to develop and construct marine facilities, it receives no revenue from port operations. In contrast, the bridges and PATCO High Speed Line which the DRPA administers are direct revenue-producing operations for the DRPA. Given this, it is not surprising that developing an effective Ports promotion program has been of a lesser priority to the DRPA's board and staff than the effective administration of the bridges and the PATCO High Speed Line. The direct financial incentive to vigorously promote the Ports does not currently exist.

## 2. Delaware River Joint Toll Bridge Commission

The Delaware River Joint Toll Bridge Commission was created in 1934 by a compact between New Jersey and Pennsylvania which directed it to oversee the navigable portion of the Delaware River northward from the Rancocas Creek to the New York-New Jersey line.<sup>29</sup> (The Delaware River Port Authority has jurisdiction southward from the Rancocas Creek.) The Joint Toll Bridge Commission is another entity which presently does not exercise its full complement of port-related powers.

Like the Delaware River Port Authority, the Joint Toll Bridge Commission is authorized to operate and construct bridges between New Jersey and Pennsylvania and to acquire, construct, and operate port and terminal facilities in its jurisdiction.<sup>30</sup> Any proposed construction projects must be approved by a majority of Commissioners from both states; the current legislation leaves unclear whether or not joint legislative approval also is required. In any event, the Joint Toll Bridge Commission has never exercised its port-related powers. A port construction project came closest to fruition in 1964, when the Commission recommended the construction of a Trenton, New Jersey-Morrisville, Pennsylvania port. At that time, joint legislative approval was required and, while one state legislature approved the project, the other vetoed the recommendation.<sup>31</sup> Thus, the Commission is basically a bridge-operating agency, operating thirteen tax-supported bridges, and does not presently contribute to port governance.

## 3. The Delaware River and Bay Authority

The Delaware River and Bay Authority ("Bay Authority") is a bi-state agency of Delaware and New Jersey. Formed by concurrent legislation enacted by these states in 1961 (legislation which received United States Congressional approval in 1962), the Bay Authority, like the DRPA, has a broad set of potential responsibilities with respect to port development, but no power to exercise those responsibilities without prior approval of both legislatures.<sup>32</sup> While authorized to develop, construct, and operate mass transit facilities, airports, watercraft, docks, wharves, piers, and accompanying storage places, the Bay Authority in fact can carry out only those efforts which the legislatures jointly approve.<sup>33</sup> In the nine years of its existence, the Bay Authority has never carried out a port project. Today, it performs only its separately stated responsibility to operate the Delaware Memorial Bridge and Ferry service, which runs between Cape May in New Jersey and Lewes in Delaware. Thus, the Bay Authority is not now an active contributor to governance in the Ports area.

## C. Single-State Agencies

### 1. General State Authority (Pennsylvania)

The General State Authority ("GSA") was created by the Pennsylvania General Assembly in 1949 and transferred to the Department of General Services in 1975.<sup>34</sup> Although merged into the Department of General Services/Office of Public Works, the GSA will exist through 1998 as an independent public corporation, when the outstanding debt from bonds issued to fund earlier projects will be satisfied.<sup>35</sup>



The GSA is authorized to construct, acquire, improve, and operate various public works projects, including marine terminals and port improvements, provided this responsibility does not interfere with existing business or enterprise serving the same purpose.<sup>36</sup> The GSA exercised such power in the early 1960s by helping to finance six sheds and three berths at the Packer Avenue I Marine Terminal in South Philadelphia.<sup>37</sup> Although it owns a forty-eight percent share in this terminal by virtue of its funding assistance, the GSA has, in effect, sublet its share to the City with the provision that the City reimburse the GSA with 48% of the rental income from the terminal. Thus, this state assistance can be characterized as a loan to the City of Philadelphia.<sup>38</sup>

## 2. South Jersey Port Corporation

The South Jersey Port Corporation ("SJPC") was created in 1968 as South Jersey's then sole agency for port development, assuming the rights, debts, property and facilities of the South Jersey Port Commission. (The South Jersey Port Commission, the SJPC's predecessor agency, was formed in 1926 with jurisdiction over the South Jersey Port District.) The SJPC has jurisdiction over that part of the Delaware flowing through the counties of Mercer, Burlington, Camden, Gloucester, Salem, Cumberland, and Cape May. It is empowered to construct, acquire, maintain, and operate marine terminals within its jurisdiction, and to set and collect rents, tolls, fees, and charges for the use of these facilities. Additionally, the SJPC is authorized to promote the use of port facilities and the Delaware River and Bay, and to enter into contracts and agreements with the Delaware River Port Authority (or any other regional agency) for joint participation in any undertaking for marine terminal purposes.<sup>39</sup>

Foremost among the SJPC's current port-related activities is the operation of the Camden port facilities previously operated by the South Jersey Port Commission. Its major port improvement projects have been the recent construction of a 200-foot extension to the Beckett Street Wharf and, earlier, the conversion of the New York Shipbuilding Yard into the Broadway Marine Terminal. The SJPC plans to construct an additional 540-foot extension of the Beckett Street Wharf and to convert a portion of the Broadway Terminal to handle export coal and coke.<sup>40</sup>

## D. Federal Agencies

In the United States, there are no federal or national ports. As has been shown, port governance is handled by non-federal institutions, such as state and local governments, quasi-governmental bodies, or private enterprise. The federal government's role is limited mainly to that of a regulator in the areas of safety standards, pollution control, navigation control, tariffs, and customs. Four federal agencies regulate the Ports of Philadelphia. These agencies only have legal powers to regulate in waterborne commerce and do not have the authority to operate any facilities.

### 1. Army Corps of Engineers

The first of these agencies is the Army Corps of Engineers under the Department of Defense. The United States is a rare example of a major maritime nation that designates *federal* responsibility for channels while leaving responsibility for port operations at the local level. The Army Corps is responsible for the improvement and maintenance of rivers, harbors, connecting channels, and other waterways. The responsibilities of the Army Corps, under a District Engineer for Philadelphia, include: dredging and maintaining channel projects as authorized by Congress, making recommendations for the establishment of bulkhead and pierhead lines, and granting permits for improvements and construction work beyond pierhead and bulkhead lines.<sup>41</sup>

### 2. United States Coast Guard

The United States Coast Guard was established by Congress in 1915 and presently is part of the Department of Transportation. The Coast Guard provides search and rescue services, and functions as the primary maritime law enforcement agency for the United States. It administers safety standards for commercial vessels and small craft, and provides a system of aids to navigation, and a port security program.<sup>42</sup>

### 3. Federal Maritime Commission

The Federal Maritime Commission ("FMC") was established in 1961 as an independent agency to carry out the responsibilities established under various shipping, merchant marine, and pollution control acts. The FMC regulates the waterborne foreign and domestic offshore commerce of the United States, assures that United States international trade is open to all nations on fair and equitable terms, and guards against unauthorized monopoly in the waterborne commerce of the United States. To accomplish these goals, the FMC regulates the practices of common carriers through water and steam-



ship conferences; approves or disapproves agreements subject to the Shipping Act (for example, rates set by marine terminal operators, including those agreed upon by the Philadelphia Marine Terminal Association); guarantees equal treatment to shippers and carriers by terminal operators, freight forwarders, and other persons subject to shipping statutes enacted to prevent favoritism and discrimination; and ensures that adequate levels of financial responsibility are maintained for indemnification of injured passengers and for clean-up required after oil and hazardous substance spills.<sup>43</sup>

#### 4. Maritime Administration

The Maritime Administration ("MarAd"), was established in 1950. Generally, MarAd administers the development, promotion, and operation of the United States Merchant Marine. Additionally, it organizes and directs emergency merchant ship operations. In March, 1980, MarAd agreed to undertake a Delaware River Regional Port Study in conjunction with the Delaware River Port Authority, Bucks County, and the Cities of Camden, Chester, Philadelphia and Wilmington, to determine future capacity and development needs of port facilities for the Delaware River port region.<sup>44</sup>

### III. PRIVATE AGENCIES

As noted in the introduction to this chapter, the pronounced role of private organizations in the governance of the Ports of Philadelphia is a reflection of the haphazard development of the public governance agencies. Legislation ostensibly granting power to a public entity more often curtailed its power by imposing complex authorization requirements or by dividing responsibility for that power among several organizations. The existence of most of the following private governing entities can be traced, at least in part, to a perception that the public agencies failed to provide a necessary governance function.

#### A. Philadelphia Maritime Exchange

Established in 1875, the Maritime Exchange arose out of a perceived need for a regional organization to promote the interests of the entire Ports of Philadelphia community. As the organization notes in a pamphlet describing itself:

"The Maritime Exchange, because of the regional character of its membership and in the absence of a centralized port administration, is most singularly equipped to organize the Port Community's full regional strength to offset those influences detrimental to orderly and progressive port development."<sup>45</sup>

The lack of a unified port governance structure is thus a major reason for the Maritime Exchange's existence. A private non-profit corporation, the Exchange draws its membership from all elements of the port community that depend on the effective operation of the Ports for their livelihood, such as steamship companies, shipbuilders, terminal operators, oil marketing and refinery companies, and labor unions.

As a representative of the entire port community, the Maritime Exchange primarily maintains ship arrival and departure information, and serves ships by reporting weather and tide conditions to navigators. It collects a "port service" charge from all ships using the Ports, while drawing most of its funding from annual membership dues. As a secondary role, the Maritime Exchange keeps track of all legislative and administrative bodies on behalf of the port community. A nineteen-member board of directors oversees the work of the Maritime Exchange.<sup>46</sup>

#### B. Philadelphia Marine Trade Association

The primary function of the Philadelphia Marine Trade Association is to represent port management interests in their negotiations with the International Longshoremen's Association ("ILA") locals in the Philadelphia area. Its membership consists mostly of stevedoring firms, terminal and pier operators, shipowners, and other service firms. Since its formation in 1947, the Marine Trade Association has thus joined together firms served by ILA labor to negotiate an ILA contract for the region.

The Marine Trade Association's limited role in marketing the Ports reflects a judgment by private firms that the DRPA's marketing efforts are inadequate and must be augmented by private assistance.<sup>47</sup> The Marine Trade Association annually conducts a trade mission abroad to a single destination. Its marketing efforts, however, like those of the DRPA, are of limited thrust, and do not constitute the sustained, year-round effort at promotion evident in other ports.

In the absence of an effective security operation by any public agencies managing the Ports, the Marine Trade Association coordinates a detective service to limit cargo pilferage.

#### C. Joint Executive Committee for the Improvement and Development of the Philadelphia Port

The Joint Executive Committee, established in 1888, is another example of a regional port promotion organization created to fill the regional void in port governance. Its twenty-two member organizations, which include most of the major



public and private agencies involved in the governance of the Ports of Philadelphia, represent all elements of the port community. It primarily champions channel and harbor development in the tri-state region, testifying before the United States Congressional Subcommittee on Appropriations and other relevant governing bodies. A major concern of the Joint Executive Committee is insuring that the federal government budgets enough money for the dredging operations necessary to maintain the Delaware River channel's forty-foot depth. The Committee has no paid staff of its own and carries on its day-to-day business in the offices of its secretariat organization, the Philadelphia Maritime Exchange.<sup>48</sup>

#### D. Port Liaison Committee

The Port Liaison Committee was created in 1970 to give its member organizations a single voice for communicating with the Delaware River Port Authority's World Trade Division. It represents yet another attempt at unifying disparate elements of the port community in one centralized body, unification which the public agencies have failed to accomplish. Its membership includes governance organizations in Pennsylvania, New Jersey, and Delaware, as well as trade and labor associations, and other promotional bodies. Quite similar in structure and function to the Joint Executive Committee, it looks out for the general interests of the port community, paying special attention to regulatory matters. The Delaware River Port Authority acts as the secretariat of the Port Liaison Committee, which has no paid staff. The Committee meets quarterly.<sup>49</sup>

#### E. The Chamber of Commerce of Greater Philadelphia/The PENJERDEL Corporation

Despite the multitude of agencies apparently taking part in the promotion of the Ports, there is still the belief in the port community that the Ports could be much more prosperous. Because the Chamber of Commerce of Greater Philadelphia and its regional affiliate, PENJERDEL, have always sought ways to promote port commerce as part of their concern for the region's economic prosperity, the port community has looked for their assistance in bolstering port traffic. Accordingly, the Chamber of Commerce's most recent action was the formation of a Port Task Force in 1979 to study problems that are limiting port commerce. The need for such a Task Force reflects the lack of a centralized public agency that, within itself, has the ability to review the entire Ports' admin-

istrative structure. Since such an entity does not exist, an agency without any immediate role in port governance was needed to conduct the review. The Task Force Chairman's general conclusions with respect to the need for an improved governance structure are discussed above, in Chapter One of this study.

PENJERDEL, which in union with the Chamber of Commerce represents the business community in the eleven-county tri-state region, has also formed a Port Committee dealing with issues affecting port commerce, such as environmental regulation.

The Chamber of Commerce is formally linked to the port community by its authority to select nine members of the Board of Directors of the Philadelphia Port Corporation.<sup>50</sup>

#### F. Philadelphia Marine Terminal Association

The Marine Terminal Association brings together private terminal operators in the Ports of Philadelphia to agree on common rates for all services provided at their terminals. It sets rates for wharfage, dockage, railroad and truck loading and unloading, lighter loading and unloading, and free time and wharf demurrage. The agreed-upon rates are filed with and subject to the approval of the Federal Maritime Commission. Current members of the Marine Terminal Association are Atlantic and Gulf Stevedores, Inc.; Holt Marine Terminal, Inc.; Delaware Operating Company, a Division of Lavino Shipping Company; Independent Pier Company; and I.T.O. Corporation of Ameriport.<sup>51</sup>

### IV. FUNCTIONAL ANALYSIS OF GOVERNANCE IN THE PORT OF PHILADELPHIA

Sections II and III of this chapter have identified the principal agencies which either play or could play a substantial role in the governance of the Ports of Philadelphia. This section and the accompanying chart (pp. 28-29) focus on the Port of Philadelphia proper, identifying the particular governance functions which each agency presently performs—or could perform—in the Port.

The patchwork structure of agencies governing the Port of Philadelphia proper is further illustrated by the chart. By breaking down the concept of governance into four basic functions, the extent to which separate governance responsibilities are shared and overall governance responsibility is diffused can be graphically displayed. Furthermore, the chart demonstrates the degree to which private agencies have as-



sumed governance duties that were perceived to be inadequately handled by the public sector. The chart breaks down the concept of governance into four major functions: 1) marketing and promotion, which consists of activities designed to attract commerce or investment in the Ports, including government lobbying work; 2) basic administration: the day-to-day operations necessary to run a port, such as budgetary management, maintenance activities, and pier and terminal rental; 3) facilities planning and development: the projection of long-term port needs, the designing and construction of facilities, and the modification of operations to meet those needs; and 4) personnel management, which refers mainly to negotiation with the International Longshoremen's Association, the union which represents organized labor in the port district. What follows is an explanation of the chart examining each of these four governance functions separately. The agencies listed in the chart have been selected because they make the most significant impact on local port governance.

#### *A. Marketing/Promotion*

The World Trade Division of the Delaware River Port Authority carries out the bulk of the Port of Philadelphia's marketing work, as part of its legislative authorization to promote the entire Ports of Philadelphia region. Sharing that legal authority to promote the Port are the Philadelphia Department of Commerce, through the City's Home Rule Charter, and the Philadelphia Port Corporation, through its Articles of Incorporation. (The Port Corporation may additionally promote the port facilities in other Pennsylvania counties with Delaware River borders, if those counties request promotional assistance.) In practice, the Commerce Department has relinquished most of its promotional and marketing responsibilities since the formation of the World Trade Division and the Port Corporation. Meanwhile, the Port Corporation has attempted to bring about attractive shipping arrangements for current and potential Philadelphia Port users. The final public agency involved in Port marketing, the Philadelphia Industrial Development Corporation, does not have an explicit legal role in Port promotion. But in its effort to maintain and expand the City's tax base and increase the number of available jobs, PIDC promotes the Port by seeking related investment. Consequently, four public agencies can legitimately claim a role in Philadelphia Port promotion, without any agency holding ultimate responsibility for a coordinated marketing program.

Despite the existence of these four agencies, the private sector still strongly believes that supplemental promotional work is necessary. The Philadelphia Marine Trade Association conducts an annual overseas trade mission. The promotional activities of the Philadelphia Maritime Exchange, the Joint Executive Committee for the Improvement and Development of the Philadelphia Port, and the Port Liaison Committee have evolved mainly into lobbying with various governmental entities. Finally, the Chamber of Commerce and PENJERDEL currently promote the Ports by attempting to attract area firms using other port cities to ship through Philadelphia. The Chamber of Commerce also conducts reviews of the Port's economic situation in an attempt to determine strategies to improve port commerce. Combined with the activities of the public agencies, these private agencies contribute to the diffusion of responsibility for marketing and promotion in the City, increasing the likelihood of waste and inefficiency in governance.

#### *B. Basic Administration*

Since basic administration is a governance function that includes a variety of day-to-day duties, an overlap of responsibilities in this category is less obvious than the sharing of marketing responsibilities. Still, basic administrative tasks are split among several public and private entities, when a streamlining of these duties among fewer agencies might be possible. The Philadelphia Department of Commerce was given complete authority for basic administration of Philadelphia's port facilities by the City Charter. It was made responsible for maintenance, facilities leasing, and any necessary harbor cleaning, deepening, dredging, and ice-breaking. The Commerce Department, however, has delegated most of its administrative responsibility to the Philadelphia Port Corporation, which now leases and maintains the City's waterfront facilities. The Commerce Department limits its role to approval of certain Port Corporation expenditures for maintenance operations. While the Delaware River Port Authority has no actual responsibility for basic administration, it could legally become involved in this function if it were permitted to construct and operate the marine facilities contemplated in the DRPA's enabling legislation.



Private agencies also carry out basic administrative tasks. The Philadelphia Marine Trade Association provides a port security and safety program, in light of the perceived failure of the public sector to adequately meet these needs. The Philadelphia Marine Terminal Association agrees on rates for marine terminal services, and the Philadelphia Maritime Exchange provides various logging and informational services for which it assesses all incoming ships a "port services" charge.

### C. Facilities Planning and Development

While the City Commerce Department once held complete responsibility for the planning and construction of Philadelphia's marine facilities, it has yielded much of this power to the Philadelphia Port Corporation. Since both the Port Corporation and the Commerce Department have legal authority for port planning, there is the possibility that diffused responsibility for planning could result in an inadequate port development program. Now, the Commerce Department has no employees actively charged with port planning; the Department only reviews plans that have been developed by

### Role of Principal Agencies In Port Of Philadelphia Governance:

FUNCTIONS	PUBLIC AGENCIES			
	Philadelphia Department of Commerce	Philadelphia Port Corporation	Delaware River Port Authority	Philadelphia Industrial Development Corp.
Marketing/ Promotion	Given responsibility by City Charter; now shared with Philadelphia Port Corp.	Legal and actual responsibility; shared with Dept. of Commerce.	Given regional responsibility by 1951 Compact; now carried out by World Trade Division.	Legally, generally responsible for Philadelphia industrial development; port role limited to attracting port investment.
Basic Administration	Given responsibility by City Charter; actual role now limited to budgetary oversight of PPC.	Legally and actually responsible for port maintenance, terminal and pier leasing.	Potential legal authority but never actually exercised.	No legal or actual responsibility.
Facilities Planning and Development	Given responsibility by City Charter; now only reviews projects developed by PPC.	Legal and actual responsibility; some projects subject to Commerce Department approval.	Has legal authority with approval of N.J. legislature; never actually existed.	No legal or actual responsibility.
Personnel Management	No legal or actual responsibility.	No legal or actual responsibility.	No legal or actual responsibility.	No legal or actual responsibility.



the Port Corporation. The Delaware River Port Authority, intended to be the region's primary port planner by the New Jersey and Pennsylvania Legislatures, has never exercised its statutory planning and development power because of the difficulty of receiving bi-state approval for port projects.

#### D. Personnel Management

As discussed in Chapter One, public administration of ports became necessary as the financing need of port projects began exceeding the means of private industry. Nevertheless, there is still significant private sector involvement in port

operations. In the Port of Philadelphia, private firms operate the terminal and pier facilities leased from the City, and most waterfront services, such as shipping and cargo loading and unloading, are performed by the private sector. Thus, most waterfront labor is employed by private industry, which is represented in labor negotiations by the Philadelphia Marine Trade Association. The Marine Trade Association is the only agency responsible for port personnel management.

PRIVATE AGENCIES					
Philadelphia Maritime Exchange	Philadelphia Marine Trade Association	Joint Executive Committee	Port Liaison Committee	Philadelphia Chamber of Commerce PENJERDEL	Port of Philadelphia Marine Terminal Association
General ports promotion; monitors legislative, regulatory matters.	Modest ports promotion; conducts annual overseas trip.	Primarily promotes regional channel and harbor development.	General ports promotion; monitors legislative, regulatory matters.	General ports promotion.	No role.
Logs ship arrivals and departures, provides navigation information; assesses "port service" charge.	Provides port security and safety program.	No role.	No role.	No role.	No role.
No role.	No role.	No role.	No role.	No role.	No role.
No role.	Primary personnel manager; negotiates with International Longshoremen's Association.	No role.	No role.	No role.	No role.



## NOTES

### to Chapter Two

1. Philadelphia Home Rule Charter, Section 4-500(a) (1951).
2. Philadelphia Home Rule Charter, Section 4-500(b) (1951).
3. Philadelphia Port Corporation, *Annual Report* (Philadelphia: Philadelphia Port Corporation, 1979), p. 14.
4. Philadelphia Port Corporation, Articles of Incorporation, Third Section (as amended March 7, 1980).
5. Philadelphia Port Corporation, By-Laws, Art. II (as amended August, 1972).
6. Philadelphia Home Rule Charter, Section 4-500(b) (1951).
7. Philadelphia Port Corporation, Articles of Incorporation, Ninth Section (as amended March 7, 1980).
8. Philadelphia Port Corporation, Articles of Incorporation, Third Section (as amended March 7, 1980).
9. Port Improvements and Lease Agreement, Section 1 (1965).
10. Information provided by John J. Malone, Director of Port Operations, Philadelphia Port Corporation, July 8, 1980.
11. Philadelphia, Pa., Ordinance of August 21, 1958, in accordance with Industrial Development Assistance Law, 73 Purdon's Pennsylvania Statutes Annotated Sections 351-358 (1971).
12. Philadelphia Industrial Development Corporation, *Annual Report* (Philadelphia: Philadelphia Industrial Development Corporation, 1979).
13. Camden, New Jersey, Ordinance of February, 1978, in accordance with Municipal Port Authorities Law, New Jersey Statutes Annotated Sections 40:68A-29 to 40:68A-69 (1967 & Supp. 1980).
14. Information provided by John Ober, Director of the Camden Municipal Port Authority, August 21, 1980.
15. *Ibid.*
16. *Ibid.*
17. *Ibid.*
18. The Delaware River Joint Commission Compact of 1931, 36 Purdon's Pennsylvania Statutes Annotated Sections 3503-3505 (1961 & Supp. 1979); New Jersey Statutes Annotated Sections 32:3-1 to 32:3-18 (1963 & Supp. 1980). Approved by United States Congress in the Delaware River Joint Commission Compact of 1931, Ch. 258, 47 Statutes at Large 308 (1932).
19. 36 Purdon's Pennsylvania Statutes Annotated Sections 3503-3505 (1961 & Supp. 1979); New Jersey Statutes Annotated Sections 32:3-1 to 32:3-18 (1963 & Supp. 1980). Approved by United States Congress, Act of June 14, 1932, Ch. 258, 47 Stat. 308, Act of July 17, 1952, Ch. 921, 66 Stat. 738.
20. 36 Purdon's Pennsylvania Statutes Annotated Section 3503, Art. XIII (Supp. 1979), New Jersey Statutes Annotated Section 32:3-13.23, Art. XIII (1963).
21. 36 Purdon's Pennsylvania Statutes Annotated Section 3503, Art. I (Supp. 1979), New Jersey Statutes Annotated Section 32:3-2, Art. I (Supp. 1980).
22. Delaware River Port Authority, *Annual Report*, (Delaware River Port Authority, 1978), pp. 3-4.
23. 36 Purdon's Pennsylvania Statutes Annotated Section 3503, Art. XII (Supp. 1979), New Jersey Statutes Annotated Section 32:3-13 Art. XII (1963).
24. 36 Purdon's Pennsylvania Statutes Annotated Section 3503 Art. III (Supp. 1979), New Jersey Statutes Annotated Section 32:3-4, Art. III (1963).
25. 36 Purdon's Pennsylvania Statutes Annotated Section 3503, Art. I (Supp. 1979), New Jersey Statutes Annotated Section 32:3-2, Art. I (Supp. 1980).
26. 36 Purdon's Pennsylvania Statutes Annotated Section 3502, Art. I (Supp. 1979), New Jersey Statutes Annotated Section 32:3-2, Art. I (Supp. 1980).
27. 36 Purdon's Pennsylvania Statutes Annotated Section 3503, Art. I (Supp. 1979), New Jersey Statutes Annotated Section 32:3-2, Art. I (Supp. 1980).
28. Delaware River Port Authority (World Trade Division), 1977 *Review; 1978 Objective Program* (Delaware River Port Authority, 1978); Delaware River Port Authority (World Trade Division), 1978 *Review; 1979 Objective Program* (Delaware River Port Authority, 1979).
29. 36 Purdon's Pennsylvania Statutes Annotated Section 3401 (1961 & Supp. 1979); New Jersey Statutes Annotated Sections 32:8-1 to 32:8-16 (1963). Approved by United States Congress, Act of Aug. 30, 1935, Ch. 833, Sec. 9, 1949 Stat. 1058; Act of Aug. 4, 1947, Ch. 480, 61 Stat. 753; Act of Mar. 31, 1952, Ch. 124, 66 Stat. 28.
30. 36 Purdon's Pennsylvania Statutes Annotated Section 3401, Art. I(a) and (f) (1961 & Supp. 1979); New Jersey Statutes Annotated Section 32:8-2 (1963).
31. Information provided by Janet R. Gross, Executive Assistant, Delaware River Joint Toll Bridge Commission, August, 1980.
32. 17 Delaware Code Annotated Sections 1701, 1711-1724, 1801-1808 (1975); New Jersey Statutes Annotated Sections 32:11E-1 to 32:11E-12 (1963). Approved by United States Congress, Act of Sept. 20, 1962, Public Law 87-678, 76 Stat. 560.



33. 17 Del. Code Annotated, Section 1701, Art. IV (1975).
34. Created by: 71 Purdon's Pennsylvania Statutes Annotated Sections 1707.1 et seq. (1962 & Supp. 1979). Transferred: Act of July 22, 1975, P.L. 575, No. 45, Sections 19, 20, 22.
35. Pennsylvania, Department of General Services, *The Pennsylvania Manual* (Pennsylvania: Department of General Services, 1979), p. 386.
36. 71 Purdon's Pennsylvania Statutes Annotated Section 1707.4 (1962 & Supp.).
37. Philadelphia, Pa., Ordinance of June 26, 1964.
38. Philadelphia, Pa., Ordinance of June 26, 1964.
39. New Jersey Statutes Annotated Sections 12:11A-1 to 12:11A-29 (1979).
40. Letter received from Robert L. Pettegrew, Executive Director, South Jersey Port Corporation, August 18, 1980.
41. Office of the Federal Register; National Archives and Records Service; General Services Administration, *United States Government Manual* (Washington, D.C.: U.S. Government Printing Office, 1980), pp. 218, 222.
42. *Ibid.*, pp. 448-51.
43. *Ibid.*, pp. 557-61.
44. *Ibid.*, pp. 163-64.
45. The Philadelphia Maritime Exchange, *The Philadelphia Maritime Exchange Today* (Philadelphia), p. 3.
46. *Ibid.*, pp. 1-4.
47. Philadelphia Marine Trade Association, *Ameriport!* (Kronberger Co., Inc.; Philadelphia Marine Trade Association By-Laws, Arts. I, II, III (as amended October 17, 1974).
48. The Joint Executive Committee for the Improvement and Development of the Philadelphia Port Area, Articles of Incorporation, Arts. I, II, III (as amended).
49. This section based on information provided by members of the port community.
50. Greater Philadelphia Chamber of Commerce, *Program of Work* (Philadelphia: Greater Philadelphia Chamber of Commerce, 1980); Philadelphia Port Corporation, By-Laws, Art. II (as amended August, 1972).
51. Port of Philadelphia Marine Terminal Association, Inc., Articles of Incorporation, Arts. I, II, III (October, 1979); Port of Philadelphia Marine Terminal Association, Inc., By-Laws, Arts. I, II, IV (December, 1979).



## I. INTRODUCTION

In 1978, the National Research Council released a study on port development in the United States. One of the stated purposes of that study was to determine the proper role of the federal government in the nation's port planning and development. A major conclusion was that a national port planning agency was neither "necessary nor desirable." Among the factors taken into consideration in reaching that conclusion was the particular structure of governance that has evolved in American ports:

"Unlike ports in other nations, those of the United States are characterized both by fragmentation of responsibility and by seemingly overlapping responsibilities. Harbor improvements, for example, including the dredging of channels, are a federal responsibility. The provision and operation of port terminals and associated infrastructure are, however, generally non-federal responsibilities. They involve state, regional, county, and local agencies as well as private industries and carriers. Many ports consist of a multiplicity of operating and controlling organizations, with varying degrees of coordination. Very commonly, a lack of coordination, particularly with respect to planning, exists."<sup>1</sup>

As we have seen in the previous sections of *this* study, port governance in Philadelphia and the Delaware Valley has certainly evolved into a "multiplicity of operating and controlling organizations." The National Research Council wisely decided that the last thing needed was the addition of another bureaucracy to the plethora of agencies already operating in the nation's ports.

The Council's study further concluded that port planning and operation are best conducted on the local level. Additionally, the study stated that, "Ports near each other can achieve greater effectiveness by some degree of coordination when . . . they share a common metropolitan location or co-exist on a single harbor or waterway."<sup>2</sup> In other words, organized regionalization was considered as still the best approach to effective port governance.

Yet, the preceding chapters of this report demonstrate that true regionalization of port governance has yet to be achieved in the Delaware Valley. Nor has port governance in Philadelphia proper reached an optimum level. The same multiplicity of port organizations exists in the City of Philadelphia—with the same fragmentation and overlap of responsibility—as exists in the tri-state area. The problems of port governance

remain the same at both regional and municipal levels; only the scale differs.

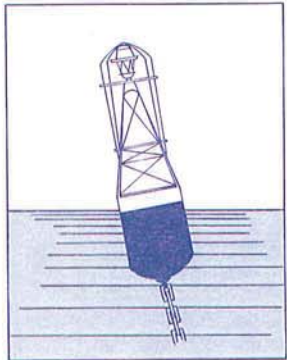
In this chapter, we identify more fully the problems which hinder port governance and development in Philadelphia and the Delaware Valley. We have divided these problems into four categories. No problem is distinct, however; one feeds upon and contributes to another. Still, it is hoped that by approaching the problems of port governance analytically, the reader will be able to better evaluate the proposals for improving port governance described in Chapter Four.

## II. PROBLEM NUMBER ONE: FRAGMENTATION OF RESPONSIBILITIES AMONG EXISTING PORT AGENCIES

At the heart of the shortcomings in the present governance of the Ports of Philadelphia is the problem which the National Research Council study identifies as plaguing many United States ports: fragmentation of responsibilities. Because this problem is a fundamental cause of the other problems discussed below, it is important to understand how it has arisen. A principal reason for the fragmentation was explained in Chapter One, the history section of this study. Port governance began as a totally private enterprise, controlled by the maritime industries. The entrance of federal, state, and local governments into port affairs occurred gradually over two centuries, as the need for regulation increased with changes in maritime technology and economics. Unfortunately, government intervention, particularly at the state and local levels, was usually an uncoordinated and piecemeal response to problems that sprang up along the way. The agencies created to meet those problems were rarely designed to anticipate and correct problems that might occur farther down the road. In the Delaware Valley, this unstructured method of legislative problem-solving was exacerbated by the fact that *three* states were contributing to the administrative clutter of port agencies asserting jurisdiction on the Delaware River. Furthermore, any bi-state agencies that arose to meet the regional needs of port governance, such as the Delaware River Port Authority and the Delaware River and Bay Authority, were burdened with stringent bi-state legislative oversight that effectively thwarted joint development of any marine facilities.

In order to understand this aspect of the problem, it is helpful to think of the Delaware River as a street. Private commerce in the tri-state area of Pennsylvania, New Jersey and Delaware rely heavily upon that "street." As long as cargo is moving in an efficient and regulated manner up and down it,

## CHAPTER THREE:



### PROBLEMS OF PORT GOVERNANCE



everyone is content. But if something hinders the movement of traffic through the ports, or if traffic declines, an important variable in the regional economy is negatively affected and the impact is felt throughout the tri-state area. For this reason, state and local governments are intensely concerned with the ports on the Delaware River. In a sense, these political entities "own" discrete sections of the "street." Since politicians answer to their constituencies for the economic health (or lack thereof) of their respective jurisdictions, they have a strong motivation to regulate and promote whatever port industries exist on their own street corners. In an ideal world of unlimited funding, the optimum and simple governance arrangement would be for the state, county, and municipal governments lining the Delaware River to work together to promote and administer the Ports for the mutual benefit of all public and private parties concerned. When funds are scarce, however, it is inevitable that the state and local governments will want port development money and the accompanying long-term economic benefits for their own "neighborhoods." Concerns that one "neighborhood" is getting more than its deserved share from a port development plan prevent any cooperative project from coming to fruition.

Commerce has never had the luxury of extra time to wait for government to catch up to the ports' legislative needs. With or without governmental help, traffic must continue to move up and down the street. Where government fails to provide effective regulation, a vacuum is created. Typically, commerce, of necessity, finds or creates a private administrative agency of its own to fill that vacuum. Thus, when shipping interests believe that the area's public agencies fail to exert sufficient pressure on the federal government to keep the region's channels dredged, the private sector asks a Joint Executive Committee to lobby in Congress. When local government does not provide an adequate ship reporting service for the entire region, commerce has a Philadelphia Maritime Exchange keep track of ship arrivals and departures. A cycle is established: government fails, commerce responds. Port governance activities become increasingly diffused among a growing body of organizations. Traffic continues to move up and down the "street," but each time the cycle is repeated—whenever a new need surfaces and goes unprovided for by the public agencies—port governance becomes a little more fragmented, efficiency is reduced, and greater amounts of time and money are wasted on needless duplication of effort.

### III. PROBLEM NUMBER TWO: LACK OF ACCOUNTABILITY AMONG EXISTING PORT AGENCIES

Responsibility for port governance in Philadelphia and the Delaware Valley has become fragmented among so many public and private agencies that accountability for their respective functions has become virtually impossible. Fixing accountability is the managerial technique of giving responsibility for a specific task to a particular individual or agency. If the task is not accomplished, or a problem arises in connection with that task, whoever delegated that responsibility knows exactly where to go when trouble occurs. Ultimate accountability, however, usually requires that the entity delegating the responsibility for the particular task be responsible for the overall project. Because there is no governmental entity with overall responsibility for the governance of either the Port or Ports of Philadelphia, accountability for the various functions of port operation does not lead upwards in an orderly fashion to an apex of authority; instead, it leads to a frustrating circle of confusion. Accountability also suffers when one particular function of port governance is delegated to, or assumed by, a number of agencies, especially when those agencies operate autonomously without a formal mechanism requiring them to coordinate their efforts. In both cases, fragmentation of responsibility and lack of accountability leave in their wake a structure of governance that moves toward chaos.

The problems which occur when there is no central agency with overall responsibility for port governance can be demonstrated by examining the current structure in the City of Philadelphia. The functions of port governance can be divided into four basic areas: marketing/promotion, basic administration, planning and development, and personnel management. In Philadelphia, these functions are divided among at least as many agencies, including the Department of Commerce, the Philadelphia Port Corporation, the Philadelphia Marine Trade Association, and the Delaware River Port Authority. (There are more agencies involved, but the bulk of power and responsibility has gravitated toward these four.) Current responsibility for the various functions of port governance has become divided essentially as follows: marketing/promotion is primarily in the hands of the DRPA; basic administration is provided by the Port Corporation; planning and development are carried out jointly by the Port Corporation and Department of Commerce; and personnel management is the province of the Philadelphia Marine Trade



Association. Each of these agencies pursues its chosen or assigned tasks according to its own policies and plans. Such a diffuse governance structure can only hinder the effective administration of the Port of Philadelphia. No agency or public figure is ultimately responsible for the Port's successful operation.

When problems develop in the port district, the source is not easily identified. In the absence of any central authority with the power to require the various agencies to account for themselves, the tendency could be for the agencies to blame each other for problems that arise. For example, a decline in cargo tonnage could be a result of poor planning, labor mismanagement, poor marketing, or a combination of all three factors. There is no way to ascertain the truth and formulate an effective solution so long as each independent agency can assert that it is fulfilling its duties and that another agency is not upholding its responsibilities.

There is a second related manner in which accountability is undermined: overlap of responsibility and uncoordinated duplication. One example occurs in the area of port marketing and promotion. In order to remain competitive in the national and international market, the Ports of Philadelphia must advertise and vigorously promote what they have to offer in the way of facilities and services. Attracting new business through the Ports is important not only to the business sector of the port community; increased commerce in the ports benefits the entire economic region. As stated above, primary responsibility for marketing/promotion has been exercised by the DRPA. However, the Philadelphia Department of Commerce also has the legal authority to promote its port and has delegated that same power to the Port Corporation. The Philadelphia Marine Trade Association, as a private organization, has also chosen to pursue this function. In the case of the Marine Trade Association, we see, once again, the familiar cycle of government failure followed by commercial response. If the private sector perceived the three public agencies as adequately performing the function of port promotion, it is less likely that it would feel the need to send its own trade delegations abroad in search of new business.

With four agencies "responsible" for port promotion, none of them is truly accountable — either to one another or to the general public — for the success or failure of the region's marketing efforts. Besides the confusion and enmity generated when accountability is not clearly defined or located, there is another unfortunate result: waste and inefficiency.

When so many public and private agencies undertake the same task without assuming ultimate responsibility, an excessive amount of time and money must be wasted. If the same amount of time and money were consolidated into one central agency, or at least into one coordinated effort by all the agencies, with fixed accountability, the net result would be a more carefully planned and executed promotional campaign.

In summary, accountability for the various functions of port governance is hindered by the current governance structure. The absence of a central port agency with overall responsibility bewilders the port user and leaves the agencies free to "pass the buck" when it comes time to identify the source of a particular problem in the port district. Too many agencies pursuing the same function of governance leads to waste, inefficiency and confusion. Accountability cannot exist while responsibility for the various port functions remains divided in uncoordinated fashion among so many public and private entities within the regional and local port community.

#### IV. PROBLEM NUMBER THREE: LACK OF COMPREHENSIVE PORT PLANNING AND DEVELOPMENT

One of the chief reasons for fragmentation and overlap of responsibility in port governance was the gradual and uncoordinated entrance of state and local governments into maritime affairs. As noted in our discussion of Problem Number One, government intervention was usually in response to pre-existing problems in the maritime industry (for example, the high cost of replacing obsolete port facilities). This patchwork approach to problem-solving gave rise to the fragmentation of responsibility and proliferation of agencies. Ideally, port governance should stay one step ahead of problems, rather than lag one step behind. Anticipating and providing for problems falls under the heading of planning and development. It would appear, however, that until port governance is brought together under a central agency with overall responsibility for port operations, effective planning and development will never be possible. The National Research Council study of port development defined planning as a three step process:

"The first step is research and analysis, including generation, collection, collation, and interpretation of data. The second stage, plan preparation, is concerned with physical, organizational, and financial matters, and the interrelationships among specific plans. The third stage is plan



effectuation, which includes public and community relations, intergovernmental and interagency coordination, public participation, and continuous monitoring of feedback as programs are implemented."<sup>3</sup>

Port planning must take into consideration every aspect which affects day-to-day operations of the maritime industries: economic growth trends in the port region and its hinterlands, changes in maritime technology, maintenance of piers and wharves, channel dredging, and labor relations. All of these factors are interrelated; a change in one can cause a significant change in another. For example, the advent of containerization has had a dramatic impact on labor relations in the port districts of this country. Containerized shipping requires substantially fewer laborers to load and unload cargo. The Longshoremen's Unions, recognizing that this trend in shipping technology was impossible to reverse, began renegotiating their contracts to guarantee minimum income levels. Where the money to pay for these guaranteed income levels ultimately comes from will, in turn, affect other aspects of port operations.

Assembling, collating, and interpreting the mass of data compiled on each area of port operations is a complex process. Simple management techniques suggest that one central agency to collect and analyze the data, and then formulate a comprehensive policy based on that data, would be the most efficient means of implementing necessary port development. It is not surprising that the National Research Council study cites the Port of New York Authority as the prototype organization which coordinates and executes port development under the direction of one planning staff.

This same type of comprehensive planning certainly was intended by the framers of the 1951 Port Authority Compact to be done by the Delaware River Port Authority. Unfortunately, after almost thirty years, comprehensive port planning in the Delaware Valley remains little more than a good intention. Nor is it likely that the DRPA ever will be able to provide the organizational structure for port planning and development. It will not be able to provide this much-needed service for the same reason that it has never become the central port government for the Delaware Valley: bi-state political and commercial mistrust.

In Philadelphia, as throughout the Delaware Valley, comprehensive port planning has been hindered by a similar lack of any central agency with overall responsibility for port operations. As in the case of marketing, port planning has been divided among a number of separate agencies. The Philadelphia Port Corporation, the Philadelphia Industrial Develop-

ment Corporation, the Department of Commerce, and the Chamber of Commerce all have been intermittently involved in port planning. The direct users of the Ports of Philadelphia — the shippers, freight handlers, terminal operators — also have a considerable stake in the direction port planning takes, and undoubtedly could provide invaluable insight and suggestions to the process. But, again, as in the case of marketing, responsibility for port planning remains diffuse, resulting in wasted time and resources, and tragic reduction in efficiency.

#### V. PROBLEM NUMBER FOUR: INTRA-REGIONAL PORT COMPETITION AND CONFLICT

The problems identified and discussed to this point are symptomatic of a larger problem affecting port governance in Philadelphia and the Delaware Valley: intra-regional port competition and conflict. This problem, as manifested in the state and local political process, has contributed significantly to the diffuse and uncoordinated character of port governance. Fragmentation of responsibility and the lack of accountability and comprehensive planning remain as nagging impediments to efficient port governance because political and commercial rivalries within the Delaware River port community continue to block the best efforts to correct these problems. To date, the creation of the Delaware River Port Authority stands as the most concerted and most innovative attempt to assemble most functions of regional port operations under one responsible agency. The failure of the DRPA to achieve this purpose stands as the most obvious example of political and commercial factions putting their own isolated interests ahead of better port governance, and ahead of the enhancement of the Ports' competitive standing in the national and international markets.

Historically, our Ports have developed under the rules of free enterprise, with private industry providing both capital and control. While competition remains a key factor in port governance and development, it becomes increasingly important to make sure that competitive efforts are channeled in the right direction. As noted in the previous chapters of this study, individual port boundaries may be marked politically, but port economics are defined regionally. Moreover, due to advancement in transportation and maritime technology, port hinterlands overlap. Exporters and importers choose ports on the basis of what services and facilities a region, not



a city, have to offer. It is crucial that the entire port region remain an economically viable unit.

The history section of this study surveyed how local commercial rivalry between New York and Northern New Jersey so greatly disrupted port operations that the Port of New York Authority was deemed a necessity. Political and commercial cooperation within the regional port district became essential to the overall survival of the local maritime industries. Admittedly, the creation of the PNYA did not instantly solve all governance problems. It took the PNYA a number of years and several political battles to consolidate its power within its waterfront jurisdiction, and even today its relations with local governments are still often less than harmonious. Nevertheless, the PNYA remains unmatched as a model of what regional port governance can do *when sufficient political will is exercised*.

The reason that sufficient political will was exercised in the case of the PNYA, but not in that of the DRPA is, at least in part, geographical. The ports of New York and Northern New Jersey are bunched closely together on their common waterway. Local competition was much more visible and the fight over incoming shipping was much more intense. Close proximity also worked to an advantage when the need for mutual cooperation and coordination became clear: it was easier for political and commercial groups to keep an eye on one another. The ports of the Delaware Valley, on the other hand, share a common waterway stretching for 135 miles. Local competition is less visible and the economic interdependence of the ports is not as easy to perceive. The negative effects of intra-regional competition in the Delaware Valley have never caused a total breakdown in port operations such

as that which occurred in New York during World War I. Typically, problems resulting from intra-regional competition in the Delaware Valley occur in more subtle, gradual ways, making them hard to recognize and even harder to correct.

It is conceded that three hundred years of competitiveness among the Delaware River ports cannot be easily redirected. To the credit of private commerce in the Delaware Valley, some positive accomplishments toward tri- and bi-state cooperation have been achieved, such as the ship reporting service of the Philadelphia Maritime Exchange and the lobbying efforts of the Joint Executive Committee. These beginning steps, however, are over-shadowed by such actions as Pennsylvania refusing to fund DRPA port improvements in Camden, or the reluctance of New Jersey port interests to maintain equal funding of the World Trade Division. Until state legislatures in Pennsylvania, New Jersey, and Delaware recognize the need to discourage intra-regional competition and promote local cooperation, and until legislators are supported in their efforts by the Delaware River port community, efficient port governance based on sound management principles will remain unattainable. Intra-regional port competition is both a cause and effect of the current absence of a sound governance mechanism. Self-perpetuating cycles are never easy to break, but until intra-regional conflict is effectively dealt with, it will continue to impede both port governance in its current form and the implementation of regionalization.

## NOTES

to Chapter Three

1. The National Research Council, *Port Development in the United States*, Panel on Future Port Requirements of the United States (Washington, D.C.: National Academy of Sciences Press, 1976), p. 126.
2. *Ibid.*, p. 127.
3. *Ibid.*, pp. 126-127.



## I. INTRODUCTION

Quietly, almost imperceptibly, events presaging the decline of the Ports of Philadelphia have slipped by the attention of the general public. A stevedoring firm closes its doors and goes out of business. A major food corporation in Pennsylvania redirects its imports through Baltimore rather than Philadelphia. A marine terminal shuts down for lack of ships to service. To the casual observer, these events may seem minor; but to the port community they are disturbing indications of a steady erosion of the Ports' economic stability. Within the port community, there is a growing consensus that in order for the Ports to survive as a viable economic entity, substantial changes are needed. But there is also a growing recognition that the present structure of port governance cannot provide an adequate mechanism to implement these changes.

This chapter describes and critically evaluates proposals for modification of the present system of port governance. At the outset, it is essential that the reader recognize that the Committee of Seventy is *not* the author or proponent of these proposals. Rather, this chapter summarizes what the *port community* believes should be done to modify the existing governance structure. The proposals and critical evaluations described below have been prepared on the basis of information obtained from interviews with representatives of the port community, civic organizations, and officials in state and local governments.

Before proposals for modification of governance could be accurately assessed, it was necessary to evaluate the present condition of the Ports. We relied on those directly involved in the day-to-day operation of the Ports as our primary source for determining what the status quo is and whether or not change is indeed necessary. Representatives from a wide range of commercial activities and port agencies were solicited for their views and opinions. Included in this process of interviewing were:

- Terminal Operators
- Shipping Companies
- Freight Forwarders
- Marine Insurance Agents
- General Cargo Handlers
- Bulk Cargo Handlers
- Industrial Port Users
- Port Agencies (Public and Private)
- Civic and Commercial Development Organizations
- Public Officials in State and Local Governments.

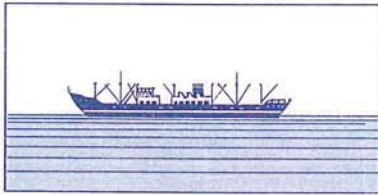
Altogether, twenty-eight interviews were conducted.

As the interviews progressed, it became clear that the participants were almost uniform in their assessment of the Ports' current status: the Ports of Philadelphia are not keeping pace with national and international economic growth, to the extent that survival of the Ports as a viable commercial entity is seriously threatened. Despite divergence of opinion concerning the type of modification needed in port governance, the port community almost unanimously agreed that the present situation is unacceptable. Additionally, change must be implemented rapidly.

A major reason cited for the Ports' slowed growth rate was a change in shipping strategy. In the late 1960s, a report was circulated in the private commercial sector advocating a two-port approach toward shipping on the eastern seaboard. Since ships were becoming larger and the cost of bringing a ship into a port was increasing, the report suggested that it was economically advantageous to select only two ports of call, one northern and one southern. The services and facilities in New York made it the obvious choice for the northern port. The choice of a southern port, however, was less obvious. Although no southern port has emerged as the clear choice, the report stimulated a number of the southern port communities to begin aggressive campaigns to update facilities and improve overall port services in an effort to attract the undecided shipping lines into their ports. Most notably, Baltimore, Norfolk, and Hampton Roads have had significant success in increasing their shares of the market. The success of these ports has had a detrimental effect on Philadelphia's Ports. Not only have the southern ports captured substantial portions of new cargo, but they have been able to attract cargoes formerly shipped via Philadelphia.

The port community generally agrees that the failure of Philadelphia's Ports to maintain their share of the market is *not* an inadequacy of facilities or services, as was the case in the 1960s. Instead, the declining number of ships moving up the Delaware River has been largely attributed to the fact that the Ports of Philadelphia cannot assemble an overall package of facilities and services attractive enough to convince shippers that the 135 mile trip up the river is economically worthwhile. The root of this problem is the present structure of port governance. The current governance system, because of its fragmented and uncoordinated nature, cannot effectively marshal the available resources into an efficient and economic unit of operation.

## CHAPTER FOUR:



### PROPOSALS FOR REFORM OF PORT GOVERNANCE



In order to discern the degree and direction of change in port governance desired by the port community, the interviews were structured so that participants would focus their attention primarily on two areas: what powers and scope the new port agency should have, and what form and jurisdictional level the agency should take. For clarity of discussion, the two areas will be presented separately. The issue of what specific powers the new port agency should exercise will be discussed first. Organizational form and jurisdictional level will be discussed thereafter.

## II. SCOPE AND POWERS

Interview participants agreed almost uniformly that the primary goal of any new port agency would be to curtail the further fragmentation of responsibility for functions of port governance, and that as many of those functions as possible should be brought under one roof. Participants were equally insistent that *the scope of such an agency be limited exclusively to matters concerning port operations, and no others*. In this section of the chapter, we present a discussion of the issues and conclusions expressed by the port community concerning the scope and powers they believed that any modified structure of port government ought to have in order to deal effectively with the problems confronting the Ports of Philadelphia.

### A. Scope

Nearly all those individuals interviewed repeatedly emphasized that the operational scope of any new port agency, regardless of its organizational form or jurisdictional level, should be limited to the Ports themselves. Although the Port of New York Authority stands out as perhaps the best example of a port-related authority successfully branching out into other quasi-governmental functions (for example, bridges, tunnels, airports, and transport systems), it should be remembered that the PNYA was operating these non-port-related activities long before it ever entered into direct port operations. The revenues derived from these operations provided a fiscal basis which permitted the eventual expansion of the PNYA into full-scale port governance. It should also be remembered that one of the *worst* examples of a port-related authority involved in other quasi-governmental functions is the Delaware River Port Authority. Those interviewed often pointed out that the title of that agency is essentially a misnomer. The DRPA is primarily a bridge and high speed line commission—a “people-mover.” Its role in port governance was generally considered too inconsequential for it to be called a port authority. It has been argued that, given time, the DRPA might develop a pool of excess revenue which could

be channeled into port development. Most port observers, however, expressed doubt that the success of the PNYA in accumulating and diverting revenues into port operations will ever be repeated by the DRPA. Over the past thirty years of operation, the DRPA has diverted its revenues into paying debt service of the bridges and building a High Speed Line (PATCO) between Philadelphia and New Jersey. Only a fraction of its revenues has been allocated for the World Trade Division. Although the bridges and trains are worthy endeavors, the DRPA has failed in its legislative mandate to perform the functions of a port authority. Indeed, the administrative and legislative restrictions imposed on the DRPA's ability to assume functions of port governance have made it virtually impossible for the DRPA to operate as a port authority.

It was the considered opinion of the majority of those interviewed that in order to deal quickly and efficiently with the problems confronting the Ports of Philadelphia, a new port government needs to be restricted in scope to the narrow purpose of developing and operating ports. It should not operate bridges, airports, train lines, or bus terminals. A port authority should design a master plan of port development. It should acquire a staff with professional maritime expertise. It should promote, protect, and develop the interests of the Ports. Nothing more, and nothing less.

Thirty years ago, protagonists of the DRPA looked at the multifunctional PNYA as the most desirable model of port governance. In the course of these interviews, it soon became obvious that New York was no longer favored. It was the single-purpose Maryland Port Authority to which participants continuously referred as the best example of how to design a port authority.

### B. Powers

#### 1. Marketing

Within the port community, there was almost uniform dissatisfaction concerning the current marketing situation. To capture new trade, the Ports need to be aggressively promoted: facilities and services must not only be advertised, but also fashioned into a “package deal” for specific customers. This type of marketing simply does not exist in the Ports of Philadelphia. Present promotional efforts have been described as “sporadic and inadequate.” In previous chapters of this study, marketing was used as a typical example of waste and inefficiency caused by fragmentation of responsi-



bility for the various functions of port governance. It was generally agreed by those interviewed that any new port governance structure should have full responsibility for marketing, and that all available funding and resources should be concentrated in one place instead of scattered among numerous port agencies.

Several agencies are presently involved to varying degrees in port promotion, but the most prominent is the World Trade Division of the Delaware River Port Authority. The general opinion in the port community, however, is that the WTD is inadequately funded and under-staffed. Although there is some cooperation between the WTD and other agencies in promotional efforts, the general feeling in the Ports is that, overall, marketing is currently insufficient.

Another disadvantage besetting the WTD in its marketing efforts is that it has no control over the commodity it advertises, the services and facilities in the Ports of Philadelphia. It operates no terminals, has no say in port operations, and makes no master plan for port development. The Port of New York Authority, by comparison, has some degree of control in all those areas. Therefore, the PNYA has more bargaining power than the WTD when it solicits prospective customers. Put simply, the PNYA can create a custom-made "package" of facilities and services for a particular port user because it controls the functions of port governance needed to grant these concessions. The WTD lacks such bargaining power. It cannot assure the availability of specialized port services because it controls none of those functions. The WTD can only advertise generally what is available in the Ports of Philadelphia; it can do nothing to create a more attractive package.

In the course of the interviews, the absence of effective marketing was the most frequently cited problem concerning the current structure of port governance. The port community indicated a strong preference that marketing be vested in one central agency with adequate funding and under the direction of a competent, professional staff. Further, it was generally felt that marketing should exist as an arm of a larger port government with control of enough port functions to permit structuring of services and facilities that would be responsive to the demands of the market place.

## 2. Labor

Of all the powers contemplated for a new, multi-function port agency, the port community generally felt that the power to negotiate a master labor contract with the International Longshoremen's Association should *not* be included. Representa-

tives of both labor and management organizations agreed that unless the new port agency were acting in the role of an employer (for example, by directly operating a port terminal), there was no compelling reason to depart from the standard industry practice of having the private commercial sector negotiate with organized labor. (Note: the possibility of a port agency directly operating marine terminals, and the implications for labor relations, are discussed below, under *Ownership and Operation of Facilities*.)

There was, however, a strong consensus that organized labor must be included in whatever representative directorship is established to oversee the operation of the new port agency.

## 3. Personnel

When asked who should run the proposed port government, the response from those interviewed was short and pointed: any new port agency, particularly one which contemplates assuming responsibility for numerous port functions, should be staffed by competent professionals who are experienced in maritime affairs. Interview participants were emphatic that the new port government should not become a haven for political appointees and patronage hacks who were strangers to the port community. Without qualified personnel, it was generally believed that the new agency would become just another layer of bureaucracy.

Deciding who would have control of personnel in the new port agency would depend on the governmental form adopted. Agencies under direct control of the legislative body that formed them are generally managed by appointees and staffed by civil servants. One of the features of an authority, however, is that its personnel are recruited by its executive director in accordance with hiring practices more akin to private industry. In other words, staff can be hired on the basis of technical expertise and experience, rather than on the basis of political connections. Further, authorities are usually outside the reach of city or state civil service. Employees may be advanced or demoted on the basis of displayed ability, or dismissed for non-productivity and/or incompetence without having to resort to extended bureaucratic proceedings.

## 4. Funding

Those interviewed indicated that in order to be most effective, a port government should have a wide range of funding possibilities and sufficient autonomy to spend those funds in the best interests of the Ports. The absence of an effective funding mechanism was frequently cited as the main reason



that, despite legislative power, the Delaware River Port Authority has never been able to function as anything other than a bridge commission.

A public port government can be funded by direct legislative appropriations, by having the agency issue its own debt instruments, or by a combination of both methods. The type of funding available to a port government usually depends on the corporate/administrative form it assumes. The port authority is the most common form of port government used in this country. Despite the negative example of the DRPA, the authority can prove the most flexible in affording itself a range of funding options.

Authorities are permitted by law to issue debt instruments, usually in the form of self-amortizing revenue bonds. For example, an authority could finance the construction of a new marine terminal by floating a bond issue, secured by the future revenues of the terminal itself. In addition to bonding power, authorities, as quasi-public corporations, are free to pursue subsidies and grants from municipal, state, and federal government sources. Further, as authorities are deemed to be non-profit corporations, they have tax-exempt status.

For the reasons listed above, those interviewed almost unanimously chose the authority as the optimum form of port governance. The issue of at what jurisdictional level the authority should be implemented will be discussed below.

## 5. Planning

Nowhere is the effect of fragmentation of responsibility for the functions of port governance more evident than in the area of planning. In the course of the interviews, representatives from every sector of the port community joined in a common refrain: "There is no plan!" Although several existing port agencies have a legislative mandate to develop a comprehensive port plan, none has followed through, primarily because no existing agency has had control of enough functions of port governance to effectively implement such a plan. The need for an agency to plan port development and coordinate port operations was emphatically stressed by most of the interview participants.

Planning, as a function of port governance, was briefly described in Chapter Three. It involves collecting data on every aspect of port operations, analyzing that data and then formulating policy, coordinating activities, and projecting growth and development based on the results. Most importantly, the planning agency must be in a position to exercise sufficient authority to actually implement its plan.

Interview participants generally agreed that a new port agency, to fully implement a comprehensive port plan, should be able to control land use and acquisition, that it should be responsible for collecting data and monitoring developments in industry or government that may affect the Ports, and that it should coordinate the port-related activities of the various state and local governments. In other words, what was judged as being needed was an agency with planning capabilities that permit it to anticipate change and then act accordingly, rather than merely react after the fact.

## 6. Tariffs

Tariffs are the port costs paid by shippers for berthing space and use of terminal facilities and services. Favorable tariff rates are one of the first things considered by shippers when deciding which port they will visit, particularly when general cargoes (break/bulk and container) are involved.

Because of the generally complex process by which tariffs are set, the port representatives did not express a clear consensus as to whether or not a port agency should have the authority to set tariffs. There was, however, the uniform belief that tariffs should not act as a disincentive for the use of the Ports of Philadelphia.

The question of who should set tariffs is closely linked to those of who owns the marine terminals and who runs them. In Philadelphia, tariffs are set by a private association of terminal operators. A substantial number of the terminals are, in turn, owned by the Philadelphia Port Corporation and leased back to the operators. Because the cost of the terminals and their expensive facilities is being amortized by annual rentals paid by these operators, tariffs must be set in accordance with the cost of what is required to pay the leases and meet operating expenses. These payments must be made whether or not ships are coming into port. Therefore, if fewer ships are using the Ports, they must pay higher tariffs; further, the terminal operators must continue to pay for the facilities, even when they are standing idle. As a result, tariffs in Philadelphia's Ports are not competitive because private operators cannot afford the losses required to make them so.



Interview participants often pointed to the Port Authority of Maryland, which owns the terminals in the Port of Baltimore, as an example of port government bringing down tariffs. The Port Authority of Maryland leases its terminals to operators on a *daily* basis, so that operators pay for the facility only when they have ships to load and unload. The Authority sets lower tariffs and pays for the "down time," in effect subsidizing local port industries. In this fashion, Baltimore has been able to attract more ships into its port, and the overall economic benefit to the port region has been deemed more important than the loss of tariff revenues.

Absent the adoption of a daily lease operation in the Ports of Philadelphia, it was suggested that a creative compromise might be struck by involving both private enterprise and the new port agency in the tariff-making process. Terminal operators would set tariffs in accordance with agency guidelines. This would leave open the possibility of working out other types of subsidy arrangements with various governmental entities in order to bring tariffs down to levels competitive with other ports.

#### 7. Ownership and Operation of Facilities

Interview participants indicated that the new port agency should have the authority to build or otherwise acquire marine terminals and facilities, and that it should be responsible for maintenance and improvement of those facilities. This position demonstrated that in the port community there exists widespread support for current maritime governance policy: state and/or local governments are in a better position than the private sector to absorb the high capital outlays needed to finance modern marine facilities, and it is in the public interest for them to do so. Opinions differed, however, as to whether or not the terminals should be *operated* directly by the port agency, or leased back to the private sector. Essentially, three options for terminal operation were discussed:

- Direct operation by the port agency;
- Long-term lease-back to one private operator; or
- Daily leasing to several private operators.

There was almost no support for the first option, direct operation of facilities by the port agency. It was asserted that, although the private sector usually cannot afford to construct terminals, they are run more efficiently and productively by free enterprise. This argument is directly related to a recurring theme evident in the interviews: a port government should supplement, not supplant, the local maritime industries.

The clear preference among those interviewed was a leasing arrangement that would leave terminal operation in the private sector. There was, however, little enthusiasm expressed for the present leasing policy in the Port of Philadelphia, under which city-owned terminals are leased on a long-term basis to a few operators. For reasons discussed above in the section on Tariffs, this circumstance has contributed to higher port costs and discouraged the use of the Ports. It was pointed out that terminal operators are not in the business of attracting ships up the river, but of servicing the ones that arrive. The tariffs include the cost of annual rentals, maintenance of facilities, and various capital improvements. These costs must be paid, whether or not ships arrive, which, in turn, means that the terminal operators must cover the cost of the terminals standing idle during slack periods.

Various segments of the port community expressed extreme dissatisfaction with the current leasing situation on the ground that it has resulted in closing out some commercial interests from the Ports' busiest terminals. This has had a chilling effect on growth in various port businesses. They would have preferred an arrangement that would open up the terminals to all members of the Ports' businesses.

A great deal of interest was displayed for the daily lease model, such as is presently used by the Port Authority of Maryland. This system calls for the port agency to build and maintain the marine terminals, and to lease them to private operators on a *per diem* basis. There are several advantages to this arrangement: the public agency can finance construction and capital improvements with revenue bonds, within a tax-free financial structure. Private operators pay only for the period of time they actually use the facilities, while the agency absorbs the cost of the "down time." Since the terminals are not tied up by one or two large operators, the growth potential of the smaller port businesses is stimulated by the access to larger and better facilities. The port agency is also in a better position to lower tariffs to a more competitive level. Although the *per diem* lease operation can result in the port agency absorbing a loss, as a matter of policy this is generally considered worthwhile. The greater volume of ships that can be attracted into the port tends to negate the loss through its beneficial impact on the overall regional economy.



## 8. Lobbying

The interests of the Ports are represented before various governmental entities by various groups within the port community. The Joint Executive Committee, for example, lobbies regularly before the federal government and its agencies for funding and legislation directed at keeping the channel of the Delaware and Schuylkill Rivers dredged and otherwise navigable. Other specialized port agencies, such as those to which terminal operators and pilots belong, usually watch out for their particular interests in Harrisburg and Washington, D.C. Each of these examples, however, involves port-related interests being represented by only one segment of the port community. Often these lobbying efforts are uncoordinated; time and resources are wasted when several groups are struggling separately for a common goal, or, even worse, are unknowingly working at cross-purposes. Interview participants generally agreed that lobbying for the Ports' best interests could be done more effectively if responsibility for that function were vested in one central port agency. By continually monitoring the activities of federal, state, and local governments (as well as their constituent agencies and quasi-public corporations), the port agency would be in a better position to coordinate and execute lobbying activities aimed at producing positive laws and combating detrimental ones, orchestrating intra-governmental projects, or obtaining grants and subsidies.

## III. JURISDICTION

### A. Introduction

In Section II of this chapter, we have described the scope and powers that our interview participants believed a new port government should possess. Participants also were asked at which jurisdictional level — for example, tri-state or municipal—the new port agency should operate. This section summarizes their responses to our inquiries relating to jurisdiction.

To the vast majority of those interviewed, the Ports of Philadelphia are in a condition of crisis requiring immediate installation of a powerful entity capable of reversing the Ports' steady decline. Therefore, to most of those interviewed, the question of jurisdiction was one of designing an entity which can be put into place quickly, and with enough power to save what they view as a dying port. Compelled by this sense of urgency, these port observers sought effective solutions which they considered to be immediately feasible politically. *The clear majority view was that the new port government should be a single-purpose authority within the boundaries of Pennsylvania.* Two

specific proposals emerged: One was an authority encompassing the port region on the Schuylkill and the Pennsylvania side of the Delaware River, including all port activities between Fairless and Marcus Hook. We will refer to this tri-county authority (Philadelphia, Delaware, and Bucks) as an Estuarian Authority. A second proposal was to establish a Municipal Authority with jurisdiction limited to the Port proper of Philadelphia.

In theory, the larger the geographical jurisdiction which an authority controls, the more power the enterprise can exert, both structurally and politically. In fact, however, the ability to implement any authority diminishes in direct proportion to the increase in the number of governmental units which that authority would encompass. *In the judgment of most of those interviewed, a confluence of the feasibility of implementation and sufficient political power occurs at the level of an Estuarian Authority.*

### B. Proposal One: Tri-State Authority

Among the members of the port community interviewed, there was general agreement that, *in the best of all possible worlds*, unhampered by political constraints and economic factionalism, a tri-state authority (Delaware, New Jersey, and Pennsylvania) could most effectively manage the maritime resources of the Delaware Valley. Clearly, then, the dream of a regional solution to port governance has not died. But the vast majority of those interviewed agreed that this dream is utterly unattainable, either now or in the near future. In fact, the tri-state authority was judged by far the *least* feasible proposal by the overwhelming majority of those interviewed.

The fundamental rationale behind regionalization is that, just as the river transcends political boundaries, so must the authority which governs activities along that river. The Ports involve the interests of three states; it is to their advantage to cooperate. With all three legislatures contributing funding and political influence, the Ports would, it was believed, prosper economically. Indeed, a number of the advocates of tri-state regionalization were motivated in part by the fear that it would be economically disastrous for Pennsylvania to turn its back on the tri-state approach, a movement which would seriously alienate both Southern New Jersey and Delaware. Others, though less disturbed by the proposition of concentrating on Pennsylvania alone, nevertheless opted for the tri-state approach as most preferable—in an ideal world.



The members of the port community who were interviewed adamantly insisted on shaping their answers in light of real-world considerations, and thus quickly abandoned the discussion of tri-state regionalization for more feasible proposals. In the real world of political constraints and regional jealousies, the port community overwhelmingly confirmed that regionalization will never happen in time to reverse the decline of the Ports of Philadelphia. In the first place, most of those interviewed considered that it would be impossible to get all three legislatures to agree to a tri-state authority. Further, even if such a compact were adopted, the requirement of United States Congressional approval would add years to the actual implementation of any authority.

As a number of those interviewed explained, Delaware has never expressed a strong feeling that it desires to become part of a regional port government; further, it was judged that Delaware is unlikely to change its position in the future. A small minority of the port community felt that the advent of a deep water port at Big Stone Beach might be a project capable of solidifying the tri-state bond. The clear majority, however, stressed that such a deep water port would not be a pivotal consideration with respect to tri-state economic development. Under that view, Delaware is more likely to pursue such a project alone.

### C. *Proposal Two: Bi-State Authority*

Without the possibility of developing a tri-state authority, the virtually unanimous view of the port community was that a bi-state authority between Pennsylvania and New Jersey would be the next most desirable solution for port governance modification—so long as it was *not* modeled after the present Delaware River Port Authority. The overwhelming majority regarded the DRPA as completely inadequate as a port governance entity, and supported only the notion of a new bi-state authority. In the judgment of this majority, the historical track record of the DRPA—nearly thirty years of failure to guide port governance—forecloses any suggestion that the DRPA suddenly can convert into an effective port authority. The almost unanimous opinion was that the new authority would have to be a single-purpose entity, devoted exclusively to port governance.

In general, the same reasons which make a tri-state authority an attractive concept support the formation of a bi-state authority. Thus, it would be in both states' interest to cooperate in operating their ports, given the economic vitality which

combined political influence and joint appropriations would foster. Energy which is now directed at competing for the same market could instead be channeled into attracting new port users.

A minority of those interviewed held that to establish any new port government at any jurisdictional level below that of a bi-state authority would be disastrous. This minority feared that Pennsylvania would suffer in both the short- and long-term by disregarding bi-state cooperation. As a separate point, this minority also felt that creating an authority at a smaller jurisdictional level would forever, or for too long, foreclose the possibility of a regional approach. Therefore, this minority preferred to endorse the bi-state authority as the optimum solution, and to forego alternative solutions covering less jurisdiction—while still acknowledging that a bi-state, single-function *port* authority shows few signs of crystallizing in the near future.

In searing rebuttal, the overwhelming majority of the port community argued that there simply is no choice but to abandon the dream of a bi-state authority. Convinced that the issue is the survival of the Ports, their view was that Pennsylvania must take steps which can be implemented immediately, regardless of the risk to eventual regionalization. Given the urgency of the Ports' dilemma, this majority believed that Philadelphia cannot afford to wait for two state legislatures to propose, design, re-design and, possibly, adopt a new bi-state compact, which could in turn be stymied by the requirement of Congressional approval.

To those who regarded bi-state regionalization as unrealistic in the real world, the major political constraint preventing such an authority from succeeding was New Jersey's dominance by northern port interests which have brought about the legislative starvation of the southern New Jersey ports—to the benefit of the Port of New York Authority. Since New Jersey is unwilling to assist its own southern ports, it certainly has no interest in working with Pennsylvania to promote the maritime economy of the Delaware Valley. Thus, the crux of the problem is that New Jersey's internal jealousies, coupled with regional jealousies between New Jersey and Pennsylvania, would stymie any movement towards, or operation of, a successful bi-state authority.



Viewing the creation of a new bi-state authority as politically infeasible, the great majority of those interviewed further concluded that the restructuring of the present bi-state authority—the DRPA—also is not a viable solution. The DRPA has steadily failed to function adequately with respect to the Ports for at least two reasons. First, the DRPA's internal priorities, which lie with PATCO and the bridges, are not advantageous to the development of the Ports. Indeed, the DRPA exemplifies the threat which a multi-purpose authority can pose to the Ports. It has functioned extremely effectively as a "people-moving" agency, and should, in the majority view, remain as such. So serious is the issue of survival to the Ports, however, that they can no longer endure being lost in a "port authority" that by its actions rejects its name.

Second, the DRPA is, to most of those interviewed, structurally unfit ever to utilize its port-related powers to the increased benefit of the Ports. The DRPA is hamstrung by having to seek legislative approval before it can undertake new projects. Moreover, elimination of this cumbersome approval process would require the approval of both legislatures, and possible subsequent ratification by the United States Congress. The DRPA, in short, was not generally considered to provide a solution to governance in the Ports of Philadelphia.

#### *D. Proposal Three: Pennsylvania Port Authority*

The creation of a Pennsylvania Port Authority was, almost without exception, opposed by interview participants. Such a governmental entity was deemed to be both infeasible and undesirable.

Although a statewide authority responsible for all port-related activities within Pennsylvania could lawfully be created, those individuals interviewed who are especially attuned to the political climate in Harrisburg observed that intra-state factionalism would prevent enabling legislation from ever passing both chambers of the General Assembly. Such an authority would probably be considered as being beneficial only to Philadelphia, and enabling legislation would be attacked by those delegations which consider their southeastern neighbor as little more than a drain on the Commonwealth's resources. (Participants making this assessment were sure that this would be the uniform reaction, even though they were equally sure that the economic benefits of developing Philadelphia's Ports would accrue to the entire state.) It was asserted that enabling legislation could be enacted in the General Assembly only through expensive and wasteful political compromise, which could result in a poorly designed authority. Partici-

pants cited as an example a recent bill appropriating funds to refurbish a coal pier in Philadelphia. The bill was blocked by the Erie delegation, which demanded an amendment providing a substantial amount of money for similar improvements in that city's port.

Members of Philadelphia's port community were skeptical of a statewide authority for two additional reasons. First, the focus of the authority would be diffuse: it would have to include supervision of port activities in Erie and Pittsburgh, rather than direct its full attention to the problems of Philadelphia's port. Secondly, participants were fearful that such an authority would merely add another layer of state bureaucracy to a governance structure already cluttered with an overabundance of agencies and administrations.

In sum, a Port Authority of Pennsylvania would not enjoy enough support either in Philadelphia or Harrisburg to make its creation a political reality.

#### *E. Proposal Four: Estuarian Port Authority*

An estuarian port authority would involve the three Pennsylvania counties of Philadelphia, Bucks, and Delaware which, in conjunction with state approval, would form a tri-county port government responsible for all port-related activities within the Delaware-Schuylkill estuaries. Unlike the other jurisdictional alternatives to port governance which have been considered in numerous studies over the past thirty years, the estuarian concept began to take shape as a new idea during the course of these interviews. In the final analysis, a substantial number of the interview participants came to consider it as one of the most attractive proposals made to date for modifying port governance.

The idea of an estuarian authority emerged initially when members of the local port community pointed out that although they shared the view that a regional (bi- or tri-state) or state-wide authority was impracticable, their own port operations were located outside the city limits of Philadelphia. Therefore, these members of the port community would not be able to directly enjoy the benefits of a municipal port authority. Was it possible to form a port government which could include the port activities in the counties to the north



and south of Philadelphia without going to a state-wide authority? The answer was yes. Under the Pennsylvania Municipal Authorities Act, counties are permitted to create, by mutual agreement, an authority to perform governmental functions such as those which would be exercised by a port government. Given the legality of such an authority, the next question was whether or not such an entity would be practical. As this question was explored, a number of advantages became apparent to those interviewed.

Many interview participants believed that an estuarian port authority would bring under the control of one port government a manageable port complex containing the most important maritime facilities and resources on the Pennsylvania side of the Delaware River. Such a port complex, in fact, would be the most important in the Delaware Valley. Nearly all the powers defined in the second section of this chapter could be incorporated into this new authority. Further, the resources within the jurisdictional control of an estuarian authority could be effectively "packaged" and marketed, thus enhancing the competitive position of the Ports. It was further emphasized that there is available land in Delaware County suitable for port development purposes. (Supporters of the estuarian alternative noted that those reluctant to abandon regional port government often overlook this land, emphasizing instead the existence of undeveloped property in southern New Jersey.) The inclusion of Delaware County also would provide an estuarian authority with developable land closer to the mouth of the Delaware River, which is a significant advantage when future expansion of port facilities is considered.

Some doubt was expressed concerning the likelihood that such an entity could be created in the light of political considerations. Intra-state factionalism, it will be recalled, was cited as one of the principal reasons why a state port authority would not be feasible. Those advocating the estuarian concept, however, pointed out that their proposal would *not* invoke the classic Philadelphia versus Pennsylvania confrontation in the General Assembly; rather, three Pennsylvania counties would be working together, each in its respective self-interest. It was explained that an estuarian port authority could represent a large step forward in defusing disruptive political animosities by fostering productive cooperation among the participating counties.

Although there possibly would be initial difficulties in implementing an estuarian port authority, a significant segment of the port community felt that such a governmental entity

could effectively address the immediate problems confronting the Ports of Philadelphia.

#### *F. Proposal Five: Municipal Port Authority (Philadelphia)*

A significant portion of those interviewed judged the creation of a Philadelphia Municipal Port Authority to be one of the two most attractive proposals for port governance. The strongest feature of such an authority is that it could be implemented quickly in an effort to reverse the declining trend within the Ports. A substantial number of marine services and operators in the Delaware Valley fall within the City of Philadelphia's limits, and thus would be within the jurisdiction of a Philadelphia Port Authority. Additionally, such an authority could best remedy the dichotomy of responsibility presently existing between the Department of Commerce and the Philadelphia Port Corporation. By consolidating all responsibility for the Port within a Philadelphia Port Authority, the City would no longer be concerned with a lack of accountability and with a cumbersome approval mechanism for its port projects.

A number of the port community members interviewed endorsed merging the functions of the Philadelphia Port Corporation and the Philadelphia Industrial Development Corporation into a municipal authority which could effectively plan and develop the Port of Philadelphia. Such a merger, it was felt, could catalyze the port promotion program Philadelphia is viewed as so desperately needing.

Port critics of the municipal authority proposal, however, argued that there are several important drawbacks to a municipal port authority. Since the City would be acting alone, it would have significantly reduced influence on legislative decision-making at the state and federal levels. Further, it would be unable to eliminate the Delaware River Port Authority, whose operational and policy-making powers are derived from the States, not the City. Finally, those interviewed conceded that a municipal authority would be unable to control all of the important functions of port governance: those functions which, of necessity, must operate at greater than a municipal level — for example, ship-reporting and navigation — would necessarily remain under the control of other agencies.



In sum, the greatest support for the municipal authority alternative came from those port observers who felt that immediate measures are called for, and that the municipal authority is the most likely to be implemented in the near future. So great was these individuals' sense of urgency that they did not consider the limited jurisdictional reach of such an authority as sufficient reason to reject that alternative.

*G. Proposal Six: Philadelphia Department of Commerce*

Those interviewed were virtually unanimous in their opposition to having Philadelphia's Department of Commerce assume direct control of the City's port operations. Although the 1951 Philadelphia Home Rule Charter gives the Department of Commerce responsibility for managing and promoting the City's port facilities, the Department has chosen to delegate these responsibilities to the Philadelphia Port Corporation, thereby reducing its involvement in port affairs to a minimum. There is no doubt, however, that the City could reassert control over the Port if that approach were deemed desirable.

Representatives of the port community opposed this proposal because they feared that the Department of Commerce, which is a multi-function agency, would overlook or lower the priority of port operations. This view was consistent with the theme which emerged continually throughout the interviews: whatever organizational form or jurisdictional level a modified structure of port governance might take, it *must* be a single-purpose agency, devoted exclusively to the administration of ports.

Those interviewed also were concerned that direct departmental control might interfere with the organizational continuity needed to focus on long-term port development. Under the present structure of municipal government, the Department of Commerce is operated in accordance with the policies and priorities set by the Executive Administration currently in power. Mayors and their Directors of Commerce (along with their policies and priorities) change too often from the standpoint of port planning and development. It was generally agreed that the direct control of port operations by the Department of Commerce might adversely disturb the kind of continuity needed to assure the Port's efficient operation.

In the eyes of the port community, creating a Division of Ports under the direction of the Department of Commerce offered no apparent advantages, and a legion of potential risks. Of all the proposals considered, only the reversion of port operations to a City department was almost uniformly viewed as being *worse* than the status quo. In fact, this proposal recalled to many of those interviewed their bitter experience under the now-defunct Department of Wharves, Docks, and Ferries.



## APPENDIX A:

### ADDITIONAL AGENCIES AFFECTING GOVERNANCE IN THE PORTS OF PHILADELPHIA

In addition to the agencies identified in Chapter Two, the following agencies have varying degrees of influence on the governance of the Ports of Philadelphia.

#### I. PUBLIC AGENCIES

##### A. *Municipal Agencies*

###### 1. Department of Commerce (Wilmington, Delaware)

The Port of Wilmington, while included in the Ports of Philadelphia, is outside the jurisdiction of the Delaware River Port Authority. Under the Wilmington Home Rule Charter, the port was run, until recently, by the Board of Harbor Commissioners, a departmental board in the Department of Commerce. The Board has been eliminated, but the Director of Commerce is still responsible for promoting the port.

The Wilmington Home Rule Charter is similar to Philadelphia's with respect to the provisions for wharf, dock, and harbor facilities. The Commerce Department is empowered to maintain (by itself or by contract) existing facilities and, when authorized by Council, to acquire or construct additional facilities. These facilities may be leased out by the Department. Further, the Department must maintain equipment to conduct harbor cleaning and ice-breaking operations. The Division of the Port of Wilmington deals with the port's daily operation.<sup>1</sup>

##### B. *Interstate Agencies*

###### 1. Delaware River Basin Commission

While not directly involved with port governance, the Delaware River Basin Commission is directly involved in actions affecting the "basin," or area of drainage into the Delaware River and its tributaries, including Delaware Bay. The Basin Commission was created by a joint compact between the states of Pennsylvania, New Jersey, New York, and Delaware, with Congressional approval in 1961. At that time, it replaced INCODEL, an advisory committee created in 1936 as a sub-committee of the four states' separate water conservation commissions. The Basin Commission is empowered to plan and implement policies for water conservation. Such authorization thus includes plans for water supply, pollution control, flood protection, watershed management, recreation, hydroelectric power and the regulation of withdrawals and divisions. The Basin Commission can therefore review or intercede in port development activity which it considers detrimental to the safety of the basin.<sup>2</sup>

###### 2. Delaware Valley Regional Planning Commission

The Delaware Valley Regional Planning Commission ("DVRPC") was created in 1965 as a regional planning agency under the terms of a contract between Pennsylvania and New Jersey, succeeding the Penn-Jersey Transportation Study (an agency formed in 1959 which was responsible for regional transportation planning). In 1967, DVRPC was formally established by an interstate compact and given increased responsibility and jurisdiction. It is now responsible for regional planning for highways and public transportation, sewerage and water supply systems, housing, land use, open space, and air quality control in the nine-county Delaware Valley region (Philadelphia, Bucks, Chester, Delaware, Montgomery, Burlington, Camden, Gloucester and Mercer).

Although not directly responsible for port governance, DVRPC, like the Delaware River Basin Commission, can review or intercede in port development activity which it considers to be inconsistent with its purposes. Despite its role as an advisory agency, DVRPC is not to be underestimated, for it can influence the federal funding of any project (e.g., the construction of grain containers or subsidizing of railroads or shipbuilding facilities) found to be inconsistent with regional development priorities. Thus, the DVRPC can both foster and deter the growth of a port.<sup>3</sup>

##### C. *Single-State Agencies (Pennsylvania)*

###### 1. The Pennsylvania Department of Transportation

Pennsylvania's Department of Transportation ("PennDOT") was created in 1970 to develop programs for safe and efficient public transportation services at the lowest reasonable cost. Although PennDOT has no authority to operate the Ports of Philadelphia, it is authorized to finance projects for the technological development of water transportation (except recreational boating and ferry licensing), often in cooperation with public and private agencies similarly interested.<sup>4</sup>

###### 2. The Pennsylvania State Planning Board

The Pennsylvania State Planning Board is now an advisory board in the Governor's Office. The Board is empowered to research and prepare plans or programs for the physical and economic development of the Commonwealth, thus including plans for bridges, waterways, and port facilities. The Board can only advise various state and local authorities with similar interests.<sup>5</sup>



3. The Pennsylvania Department of Commerce — Navigation Commission for the Delaware River and Its Navigable Tributaries

The Navigation Commission has recently been placed under Pennsylvania's Department of Commerce. Four of the nine Commission members represent Philadelphia: one representative is a resident of Philadelphia appointed by the Governor; two representatives are appointed by Philadelphia's Mayor; and the fourth member is Philadelphia's Director of Commerce.

A 1976 statute, recently amended, reactivated the Commission. Presently, the duties of the Commission provide for the licensing and regulation of pilots, the maintaining of con-

struction permits, and the regulation of navigation in the Delaware River and Bay.<sup>6</sup>

## II. PRIVATE AGENCIES

### A. *The Pilots' Association*

Founded in 1896, the Pilots' Association is a tri-state organization whose membership consists of Pennsylvania, Delaware, and Southern New Jersey pilots specially skilled in the navigation of the Delaware River and Bay. Under the Compulsory Pilot System, all foreign vessels or American ships with foreign cargo must take one of these pilots aboard before navigating the Delaware.

## NOTES

to Appendix A

1. Wilmington Home Rule Charter, Section 4-400 (1959).
2. Pennsylvania: 32 P.S. Section 815.101 (1967). Delaware: 7 Del. C. Ann. Sections 6501, 6511 to 6513 (1975). New Jersey: NJSA Sections 32:11D-1 through 32:11D-110 (1963). New York: NY Conservation Law, Sections 801-812 (McKinney 1967). United States: Act of Sept. 27, 1961, Pub. L. 87-328, 75 Stat. 688.
3. Delaware Valley Regional Planning Commission, *Annual Report 1978-1979* (Delaware Valley Regional Planning Commission, 1979), pp. 1-5.
4. 71 P.S. Sections 511 et seq. (1962 & Supp. 1979).
5. State Planning Code, 71 P.S. Sections 1049.1 et seq. (1962 & Supp. 1979). Under Reorganization Plan No. 1 of 1955, the State Planning Board is transferred to the Governor's office with the status of an advisory board.
6. Act 197, July 9, 1976, as found in Pennsylvania, Department of General Services, *The Pennsylvania Manual* (Pennsylvania: Department of General Services, 1980), p. 371.



## APPENDIX B:

### A SUMMARY OF THE STRUCTURE AND POWERS OF AUTHORITIES

(Most of the information provided in this Appendix has been summarized from the following source: Department of Community Affairs, Bureau of Local Government Services. *Municipal Authorities in Pennsylvania*. Harrisburg: Department of Community Affairs, 1977.)

An authority is a special type of public corporation generally created to perform some specific function outside the regular structure of government. Although authorities are usually operated at the municipal or county level, they may also operate at the state or inter-state level.

An authority combines characteristics of a private business and a state or local government. The following reasons justify choosing an authority to perform a particular function of government:

1. *Jurisdictional* — Authorities can operate efficiently across political boundaries on behalf of two or more governmental units. For example, three counties may rely on one physical source for their water supply. To avoid potential waste of time and money in operating three separate water supply systems, an authority might be organized to operate one system for the benefit of all three counties.
2. *Financial* — When authorities began to become popular in the United States (around the turn of the Century) one of their most attractive features was that they helped state and local governments avoid constitutional debt limitations. Since authorities were considered legally separate from the governmental units that created them, necessary public works or services could be provided without illegal budgetary over-runs. Although most of these constitutional debt limitations have since been removed (in Pennsylvania, since 1968), authorities still provide attractive financial features. These features include the tax-exempt status which authorities enjoy, and, depending on the function performed, their ability to be financially autonomous, that is, to pay for themselves.
3. *Administrative* — Some governmental functions are best operated as if they were a business venture, particularly if they are entrepreneurial in nature. Authorities are able to manage their operations much like private corporations, and at the same time take advantage of powers which are normally governmental. Listed below are the similarities and differences between authorities and business, on the one hand, and authorities and government, on the other.

## The Authority as a Business

### Similarities to a Business

*Corporate Status* — An authority may adopt a corporate seal, contract debts or issue debt instruments, sue or be sued, acquire property, adopt by-laws, and appoint officers, agents, or employees.

*Services* — An authority may perform services which are entrepreneurial in nature.

*Finances* — Functions undertaken by an authority usually contemplate user charges to pay expenses and service debts.

*Administration* — Authorities are invaluable where the function performed requires business-like decisions.

### Differences from a Business

*Profit* — An authority has no profit motive outside of that needed to maintain the service it performs.

*Life Span* — Authorities may have a fixed life span within their charters; private corporations generally have an unlimited life span.

*Stockholders* — Unlike many business organizations, an authority has no stockholders.

*Competition* — Authorities generally engage in non-competitive enterprises.



## The Authority as a Government

### Similarities to a Government

*Taxation*— Authorities are tax exempt.

*Assessments* — Authorities may levy assessments for any improvements to property.

*Land Acquisition* — Authorities may exercise the power of eminent domain.

*Board of Directors*—Authority directors are usually appointed by elected officials.

### Differences from a Government

*Electorate* — Authorities are removed from direct voter pressure.

*Finance* — Authorities have no direct taxing power. Initial capital is usually obtained by issuing revenue bonds, that is, debt instruments secured by the future revenues to be derived from the project being financed.

*Planning* — Finance, construction, and operations may be planned by an authority much in the same way that a corporation plans its own growth, whereas governments often have to operate responsively to immediate voter pressure.

*Focus* — Authorities are free to concentrate their efforts (and expertise) on one single project or service; governments are responsible for a wide range of activities.

It should be noted that an authority's mandate is as narrow or as broad as the legislation which creates it. Authorities are designed to be limited in scope and flexible by nature. Thus, a governmental unit (or units) may, in effect, tailor the powers and limitations of an authority to the particular function it is to perform. At the same time, however, an authority is able to perform its function in an efficient, business-like manner. It is relatively free to operate autonomously, with limited political interference.



## BIBLIOGRAPHY

### Consultant Reports

- Booz-Allen and Hamilton, Inc. *A Presentation to the Delaware River Port Authority*. Philadelphia: Booz-Allen and Hamilton, Inc., 1980.
- Buckley, Inc. *Port Progress in Philadelphia*. New York: Buckley, Inc., 1956.
- Bureau of Municipal Research. *City Representative – Director of Commerce*. Philadelphia: Bureau of Municipal Research, 1954.
- City of Philadelphia. *The City of Philadelphia: An Urban Strategy*. Philadelphia: City of Philadelphia, 1964.
- Department of Commerce, City of Philadelphia. *The General Cargo Situation in Philadelphia*. Philadelphia: Department of Commerce, 1964.
- Greater Philadelphia Chamber of Commerce. *Regional Plan of the Philadelphia Tri-State District: Findings and Proposals*. Philadelphia: Greater Philadelphia Chamber of Commerce, 1932.
- . *Task Force — Port of Philadelphia: Reports to the Chamber of Commerce*. Philadelphia: Greater Philadelphia Chamber of Commerce, 1980.
- Knappen-Tippets-Abbett, Co. *Delaware River Port Development Plan*. New York: Knappen-Tippets-Abbett, Co., 1948.
- McKinsey and Co. *Meeting the Threat of Containerization in Philadelphia*. Washington, D.C.: McKinsey and Co., 1968.
- New York City Planning Commission. *Port of New York: Proposals for Development*. New York: New York City Planning Commission, 1964.
- Northrup, Herbert. *The Ports of Philadelphia — Meeting the Challenge*. Philadelphia: The Wharton School of Business, University of Pennsylvania, 1968.
- Pennsylvania/New Jersey/Delaware Committee on Regional Development. *TRIPACT: A Report to the Three Governors on the Need for a Tri-State Authority for Air Related Transportation in the Delaware Valley*. Philadelphia: Pennsylvania/New Jersey/Delaware Committee on Regional Development, 1971.
- Pennsylvania Economy League (Eastern Division). *Fact Book . . .* (Report No. 352). Philadelphia: Pennsylvania Economy League, 1969.
- Philadelphia Port Corporation. *Financial Forecast*. Philadelphia: Philadelphia Port Corporation, 1969.

Swindell-Dressler Co. *Facilities, Equipment and User Charges for Handling Containers in Marine Terminals*. New York: Swindell-Dressler Co., 1967.

Tippets-Abbett-McCarthy-Stratton, Co. *Port Facilities Study: City of Philadelphia*. New York: Tippets-Abbett-McCarthy-Stratton, Co., 1968.

———. *Port Facilities Study: City of Philadelphia*. New York: Tippets-Abbett-McCarthy-Stratton, Co., 1978.

### Agency and Organizational Documents

- Army Corps of Engineers. *Ports of Philadelphia, Pennsylvania, Camden, New Jersey, Wilmington, Delaware, and Ports on Delaware River, Port Series, No. 7*. Fort Belvoir, Va.: U.S. Army Corps of Engineers, 1947.
- . *Ports of Philadelphia, Pennsylvania, Camden, New Jersey, Wilmington, Delaware, and Ports on Delaware River, Port Series, No. 8*. Fort Belvoir, Va.: U.S. Army Corps of Engineers, 1978.
- Delaware River Port Authority. *Articles of Incorporation and Corporate Bylaws*. Philadelphia: Delaware River Port Authority.
- . *Ameriport: Ports of Philadelphia*. Philadelphia: Delaware River Port Authority, 1977.
- . *Ports of Philadelphia — Waterfront Facilities*. Philadelphia: Delaware River Port Authority, 1979.
- Delaware River Port Authority (World Trade Division). *1976 Review — 1977 Objective Program*. Philadelphia: Delaware River Port Authority (World Trade Division), 1977.
- . *1977 Review — 1978 Objective Program*. Philadelphia: Delaware River Port Authority (World Trade Division), 1978.
- . *1978 Review — 1979 Objective Program*. Philadelphia: Delaware River Port Authority (World Trade Division), 1979.
- Department of Community Affairs, Bureau of Local Government Services. *Municipal Authorities in Pennsylvania*. Harrisburg: Department of Community Affairs, 1977.
- Department of Wharves, Docks, and Ferries, City of Philadelphia. *Fourth Annual Report*. Philadelphia: City of Philadelphia, 1911.
- . *Laws, Rules and Regulations for the Port of Philadelphia*. Philadelphia: City of Philadelphia, 1911.



Greater Philadelphia Chamber of Commerce. *Program of Work: Fiscal 1980-1981*. Philadelphia: Greater Philadelphia Chamber of Commerce, 1980.

PENJERDEL. *World Trade Directory*. Philadelphia: PENJERDEL, 1980.

Philadelphia Industrial Development Corporation. *Corporate Bylaws*. Philadelphia: Philadelphia Industrial Development Corporation.

Philadelphia Maritime Exchange. *Annual Reports*. Philadelphia: Philadelphia Maritime Exchange, 1948-1976.

———. *Port Directory*. Philadelphia: Philadelphia Maritime Exchange, 1980.

Philadelphia Maritime Trade Association. *Corporate Bylaws and Membership List*. Philadelphia: Philadelphia Maritime Trade Association.

———. *Ameriport!* Philadelphia: Philadelphia Maritime Trade Association, 1978.

Philadelphia Port Corporation. *Articles of Incorporation and Corporate Bylaws*. Philadelphia: Philadelphia Port Corporation.

———. *Annual Reports*. Philadelphia: Philadelphia Port Corporation, 1965-1970, 1972, 1973.

———. *Background Statement*. Philadelphia: Philadelphia Port Corporation, 1971.

———. *Destination: Philadelphia* (World Trade Issue) (May/June, 1978).

Port of New York Authority. *Annual Report*. New York: Port of New York Authority, 1978.

U.S. Department of Commerce. *MarAd '77: The Annual Report of The Maritime Administration for Fiscal Year 1977*. Washington, D.C.: U.S. Department of Commerce, 1978.

## Related Reports, Studies and Symposiums

Dworkis, Martin B. (ed.). *The Port of New York and the Management of its Waterfront*. New York: New York University, Graduate School of Public Administration and Social Service, 1959.

Fair, Marvin (ed.). "Coordinated Transportation — Problems and Requirements." (Symposium, 1966).

Hedden, Walter. *Mission: Port Development . . . with Case Studies*. Washington, D.C.: American Association of Port Authorities, 1967.

National Academy of Sciences. *Port Development in the United States*. Washington, D.C.: National Academy of Sciences, 1976.

New York Assembly Committee on Corporations, Authorities, and Commissions. *Public Authorities in New York State: Their Legal and Financial Status*. Albany: State of New York, 1972.

Randall, Willard. "The River Pirates." *Philadelphia Magazine* (July, 1971).

Smith, Robert G. *Public Authorities in Urban Areas: A Case Study of Special District Governments*. Washington, D.C.: National Association of Counties, 1969.

Strickland, H. B. *Inside the Trojan Horse: Understanding the Specialized Units of Local Government — Municipal Corporations*. Clarks Summit, PA.: Logo Publishing and Research, Inc., 1969.

Williams, Lynn. *A History of the Delaware River Port Authority and Its Predecessor Agencies*. Annville, PA.: Lebanon Valley College Press, 1962.