UK trust ports caught up in political manoeuvring

THE maritime sector is being buffeted severely by the financial hurricanes sweeping through the international community.

Ports and shipping lines have been engaged in a battle for survival and politics and parliament seem remote from the day-to-day struggle.

However, over the past six months, a bitter war has been waged over the revaluation of port rates and the full strength of the port constituency members of parliament has been devoted to try to undo the unbending incompetence of the revenue's valuation office in its disastrous backdating of huge rate demands on many port tenants. Now a huge increase proposed in light dues has angered the international shipping community.

But turning away for a moment from the higher-profile matters being debated in parliament, I want to focus on the more obscure, some would say backwaters of government ports policy; the production of Edition 2 — Modernising trust ports, which emanated from the Department for Transport's ports division in January and is now subject to public consultation until Tuesday, April 7.

In publishing this consultation document, the DfT is honouring a commitment given many moons ago, in days when the economy was stable, to review the position of trust ports. I will wager that very few port managements have read Edition 2, although it was circulated within the British Ports Association and UK Major Ports Group.

Trust ports are neither private nor public and there lies the problem. Generally speaking, the government's dislike of further privatisation and the trust ports liking for their own independent status, have combined to produce a virtuous rallying point for the benefits of such a unique status. We have the best of all worlds. A not-for-profit organisation where all the surpluses rolled back for the benefit of the stakeholder; where inconvenient private sector company accounts and rapacious pursuit of profit was eschewed; but where the remote and restrictive rules of public ownership were equally absent. Altogether a virtuous circle.

But the party was rather spoilt by the Office for National Statistics demanding reclassification as public corporations of the top seven or eight trust ports including ports like Dover, Tyne, and in the devolved administrations, Belfast, Aberdeen and Milford Haven. Despite a rearguard action by the DfT, these ports were reclassified as public corporations, like the Post Office, mainly on the grounds that the state could exercise controls over their ports by virtue of appointments to boards and compulsory privatisation.

The fact that the DfT wished to do neither was of no consequence. The immediate effect of reclassification was to create an alliance between the DfT and the major trust ports, which focused minds on an escape formula.

But that plan crash-landed when the Conservatives and the major private sector ports said that they would oppose any Harbour Revision orders seeking to amend the privatisation clauses in the Ports Act 1991.

After a respectable pause, and in an attempt to get some fresh thinking into providing the solution, the DfT commissioned PriceWaterhouseCoopers to look into the status and management of trust ports and report back to them, which it did in August 2007.

Nothing much new emerged of any practical benefit but they did flirt with the idea for a stakeholder dividend, in the process displaying a considerable lack of judgement. Regrettably, this proposal for a stakeholder dividend has metamorphosed into a desperately unsatisfactory formula for providing stakeholder benefits.

The DfT, too decent to admit its disappointment with the PWC report (and ignoring much of the negative feedback) pressed on with its Ports Policy Agenda and some months later than intended came out with Edition 2 — Modernising trust ports.

It is this document that is now the subject of consultation. What factors, if any, might influence the consolidation of the trust ports status or perhaps, more imaginatively their transformation into a more exciting and more productive economic model?

There are signs of new thinking in the constitutional area but a fundamental lack of clarity about what the government wants to happen. This is not a surprise.

Faced with a complex agenda and the integration of ports policy into the wider national (and international) networks agenda and the changes to the planning laws, the DfT has very limited resources and wants to keep away from supervisory and regulatory responsibilities.

It knows that harbour law is now a complex nightmare, with a vast array of remote statutes dating back to the mid-19th century.

For the most part, trust ports are well managed and do not have disputes with their customers. But there are notable exceptions in England and the devolved administrations, most particularly Dover and Cromarty Firth, where users and tenants have grown increasingly concerned about competence and governance. Where is the incentive for change and most particularly how on earth could the DfT resource such change?

But a new and unexpected disruption to the current status quo is approaching.

The government is desperate for asset sales. Why else would it be upsetting its own backbenchers and the trade unions by part-privatising the Post Office? Step forward the major trust ports, after the next election of course!

Official policy remains frozen in the wake of the PWC report with its convoluted and impractical proposals for stakeholder benefits now enshrined in the draft guidance note.

There will be no change before the result of the next election is known. Some marginal seats are in the way. But who would put any money on the status of trust ports, particularly the larger ones remaining the same in 2011?

Whatever government is in power will be even more desperate to find sources of money just to fund essential services.

One way or another by way of a dividend to the state or a capital sale (and leaseback), they will not remain constitutionally untouched.

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