



Modernising Trust Ports Guidance **Unite Submission – Apr 09**

Introduction

This submission is by Unite the Union. Unite is the UK's largest Trade Union with 2 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport and local government, food, agriculture, education, health, not for profit and of particular relevance to this guidance the docks, rail, ferries and waterways sectors.

The docks, rail, ferries and waterways sector has just under 19,000 members and is continuing to grow. Most port-based or coastal maritime activity, as well as the British Waterways canals, are all organised by Unite which by virtue of its dominance in this sector is actually the biggest maritime union in British waters, uniting masters and ratings.

Unite has members who are tug boat operatives and masters in companies like Svitzer. Unite also organises ferries in Scotland, Liverpool and Southampton, dredging companies and a host of port related maritime activity.

Therefore Unite is pleased to submit a response to the Department for Transport (DfT) on its revised guidance issued to the Trust Ports sector. However Unite is alarmed to hear that employers have seen this guidance before it was officially made available to the public. Unite urgently seeks clarification on this?

1. The Port & it's Stakeholders

1.1.4 – Unite would like to see 'Trade Unions' added to the list of stakeholders or beneficiaries of a Trust Port: As has already been stated in the introduction Unite represents some 19,000 docks, rail, ferries and waterways members. So clearly Unite should be considered as one of the major stakeholders in Trust Ports.

1.2.2 – Unite has some real concerns about target levels of return because it is a further privatisation technique being forced on Trust Ports. Unite believes strongly that Trust Ports should remain in public ownership more then ever at a time when we are seeing public ownership coming to the rescue of the banking sector during this economic downturn.

Some commentators have suggested that port privatisation in the UK was never about creating new and improved port infrastructure and facilities to benefit the economy locally and nationally, which was the aim in other countries; it was simply a mechanism used to remove port assets from public ownership. This raises issues related to the aims and objectives of seaports and the role of Government in this regard. The wider purpose of seaports in facilitating trade and generating economic and social benefits is best stressed by public-owned ports in other countries, whereas the narrower profit-making goal of private enterprise is paramount in the UK.¹

In addition ports can only be judged against ports that are the same and no two ports are. All of the 160 ports in the UK are different either by, size, trade routes, or by the degree of leisure they offer or whether they are a local site of special scientific interest for instance. How would these factors be considered into the value added that a Trust Ports offers in the current proposals?

There is also a security of borders argument for keeping ports in public ownership.

¹www.sciencedirect.com/science?_ob=ArticleURL&_udi=B8JHM-4RGFS66-5&_user=10&_rdoc=1&_fmt=&_orig=search&_sort=d&_view=c&_acct=C000050221&_version=1&_urlVersion=0&_userid=10&md5=1b5ce912d09818057442c674db80143e

1.2.8 – Unite would like to see ‘Trade Unions’ added so it reads “consulting all stakeholders (including staff and their ‘Trade Unions’) on current performance, options for improvement and suitable performance measures and targets.

1.3.3 – Unite believes that using financial ratios is again another demonstration of attempts to create a further culture of privatisation within Trust Ports, which as was previously stated Unite believes will not be in the best interests of our members or other important stakeholders.

The Labour productivity ratio is one that is typically used in the private sector. Unite has concerns of how this information would be used and would also question the effectiveness of a labour productivity ratio being used in a publicly owned Trust Port.

The intensity and quality of labour-effort and the creative activity involved in producing technical innovations are impossible to measure of a balance sheet. Management may be very preoccupied with the productivity of employees, but their own productivity gains are equally hard to monitor. Modern management literature emphasises the important effect of the overall work culture or organisational culture that a business has. However the specific effects of any particular culture on productivity may be unprovable.

1.4.3 – Unite is pleased to see the following listed as a potential stakeholder benefit “providing employee packages, including training, above the market rate, where this helps to build the local skills base.” Unite would like to state that pay and conditions should always be negotiated in accordance with the normal collective bargaining procedures.

1.5.2 – Trade Unions should be formally consulted on significant decisions as a main stakeholder.

2. Reporting & Compliance

2.1.1 – Unite believes that Trade Unions should also receive a copy of the annual report and accounts, together with a strategy document in the same way that it is proposed that key local and regional bodies (local authorities, devolved assemblies, RDA's and Government Officers) will do.

3. The Board

3.1.1 – This guidance seems to make no reference to the automatic seats that Trade Unions currently have on Trust Port boards. Trade Union's should continue to have seats on Trust Port boards because has already been stated Unite in particular is a key stakeholder who represent 19,000 members in the docks, rail, ferries and waterways sectors, who are working around the clock, seven days week to keep UK ports in operation. Trade Unions and Unite in particular bring considerable knowledge and experience to Trust Port boards, which must not be lost.

3.3.2 – Trust Ports are being encouraged to phase out any remaining reserved appointments from their constitution. Unite would take issue with this and obviously believe for instance that Trade Union seats should remain on Trust Port boards.

In addition, although it is commendable to try “to allow Trust Ports to range wider to locate the expertise that they need to function effectively.” This should not be achieved at the expense of excluding Trade Unions and other stakeholders who are representing the interests of particular groups.

3.3.3 Independence – Again Unite has concerns with the statement “No appointment will be made to any board to provide representational rights for specific groupings or interests.” Trade Union members have a right to represent their members in the workplace, it would be counter productive for all concerned for Trade Unions and other stakeholder groups to be deliberately omitted from

representing an interested party on a board in the pursuit of a so called open and fairer process.

3.3.5 – Unite notes that the Department for Transport will still continue to appoint chairmen to the boards of a handful of strategically important Trust Ports. The selection process for chairmen of the boards being proposed is inconsistent and Unite believes it would be more democratic if chairman are selected by the board from within the ranks of the existing experienced board members.

3.6.1 Professional Skills – Under the professional skills section Unite believes that relevant and current expertise in Trade Union Industrial Relations should be one of the prerequisite skills requirement.

3.8.4 – Where there is Trade Union recognition then pay and conditions should be negotiated in accordance with the normal collective bargaining practices.

With regards to the actual remuneration levels of board members, the chairman and senior executives should be appropriately paid for the skills that they bring to the role. In future negotiations they should never exceed the percentage increases that are given to the workers if they are going to be seen as creditable.

3.9.4. – Unite seeks some clarification with the statement that some members of the public believe that board members and executives are “not acting in an independent and impartial manner.” From Unites position, Trade Unions have a legal right where they have recognition to represent their members in the workplace and in so doing play a key role in expressing the democratic collective views of the workers at their workplace and would expect a Trade Union board member to do just that.

4. Looking Forward

4.1.1 – Unite is pleased to see the Government does not wish to use its powers under the Ports Act 1991 to force through privatisation of a port. As Unite has already stated it is clearly in the best interests of all stakeholders for ports to remain in public ownership.

However Unite feels that the way the guidance is written and the fact that it has even been asked for in the first place suggests that there is almost an inevitability within some parts of Government that Trust Ports will end up in private ownership, which Unite does not agree with and would vehemently oppose.

4.1.2 – The Department for Transport “strongly encourages Trust Ports to analyse their corporate structure and keep it under review” as well as “expects all Trust Ports with an annual turnover in excess of the 1991 Act threshold to have reported to it within the next 3 years on their analysis of structural change, and to explain and justify their intended course of action.”

This is despite the PwC report saying “We therefore see no empirical justification for introducing structural change across the board at this stage: we consider that, provided Trust Ports are continuing to demonstrate that they are working towards optimum accountability and efficiency, there is no need to instigate more fundamental governance, commercial or structural change.”

So with this in mind, why does the Department of Transport expect structural change?

4.1.3 – PwC Report – Again in keeping with PwC’s own conclusion Unite does not believe there is any evidence for structural change and again would like to put on record Unites support and believe that Trust Ports should be in public ownership. Therefore Unites main issue with the options for consideration is that they are basically proposing privatisation of Trust Ports to different degrees.

Option 1 a) proposes a two-tier management model, which on the face of it doesn't seem to be too controversial, however one of the proposed cons according to the PwC report is that it "may not make any difference in practice (e.g. directors may be common to both levels)". So if this is the case, why make this change in the first place.

Option 1 b) proposes setting up a separate operating subsidiary. This sounds like the first step to making the business model viable for private take over, which Unite is firmly opposed to. In addition according to the PwC report it "may not make any difference in practice (e.g. directors may be common to both levels)". So again if this is the case, why make this change in the first place.

Option 2 a) proposes the part privatisation of the sale of a separate operating subsidiary stake, which would create the perfect environment for a full private take over. If the separate operating subsidiary stake contained the finances of the Trust Port then the so called part privatisation would in effect be a full one because the Trust Port would have lost its financial power, which Unite oppose.

Option 2 b) proposes a long term concession, which again might as well be full privatisation because once a part of a Trust Port is given a long term concession then it is only a matter of time before that arrangement becomes permanent, which Unite is against.

Option 2 c) proposes full privatisation, which is totally unacceptable to Unite.

Conclusion

Unite believes that Trust Ports in the UK should be about creating new and improved port infrastructure and facilities to benefit the economy locally and nationally, which is the aim in other countries; not simply as a mechanism used to remove Trust Port assets from public ownership. The wider purpose of seaports in facilitating trade and generating economic and social benefits is best stressed by public-owned Trust Ports like it is in other countries. Unite does not believe there is evidence that Trust Ports should go into private ownership and never believes there will be.