



ORGANIZATION OF AMERICAN STATES
Inter-American Council for Integral Development
Inter-American Committee on Ports



**NINTH MEETING OF THE INTER-AMERICAN
COMMITTEE ON PORTS**

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**ACTIVITY REPORT OF THE TECHNICAL ADVISORY GROUP (TAG)
ON PUBLIC POLICY, LEGISLATION, AND REGULATION**

(Presented by the Delegation of Uruguay)

2013-2014 Activity Report

I. Members

- i. Chair: Uruguay.
- ii. Member States: Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Nicaragua, Paraguay, Peru and the Bolivarian Republic of Venezuela.
- iii. Associate Members: Cruise Lines International Association (CLIA)

II. Work Plan to Implement the 2013-2015 Action Plan of Cartagena

1. Main Objective

In the framework of the action plan agreed upon at the VIII meeting of the Inter-American Committee on Ports (CIP), held in September 2013 in the city of Cartagena de Indias, Colombia, it was decided that under the 2014 action plan for the Technical Advisory Group (TAG) on Public Policy, Legislation and Regulation, this TAG would analyze and disseminate national and international legal and regulatory provisions governing day-to-day port activities, thus leveraging experiences and promoting greater alignment of national legislation with international standards. Additionally, this TAG would analyze the creation of port and port-related investment opportunities and contractual modalities that enable public and private investors to understand their benefits. Furthermore, it would also emphasize the conditions for obtaining these services, regulation of fees, and labor standards.

2. Measures Implemented and Parties Responsible

A questionnaire/survey with the following features was distributed:

Recipients: National Port Authorities of member countries and other public agencies involved in port activities.

Activity: Survey of topics approved in the action plan in order to gather information to be an input for presentation at the next CIP-OAS meeting.

Objective: Gather information that will be an input for subsequently requesting, compiling, and systematizing the contributions of Member States on those points that arouse the greatest interest in order to provide useful information.

Rationale: The intention is that the Group's work not merely be that of requesting information, rather that it address the needs of each State, in keeping with the different geographic and technical-operational realities of their ports, with a view to ordering such information.

Responsible Party: Uruguay in its capacity as the Chair of the TAG

3. Work Executed and Parties Responsible

The content of the questionnaire/survey under the responsibility of Uruguay was the following:

1. For purposes of preparing a thematic index that can be used as input when subsequently working on the content of a draft model law for ports, please state which topics are included in the law of each State (by way of example: port authority – system for using port areas – concessions – permits – authorizations – system of penalties, etc.)
2. For purposes of organizing information in a database and disseminating it among member states, please state what publications and/or literature exist with regard to port legislation, regulation, and public policy, identifying authors and publishing companies, and whether there are web pages that allow stakeholders to acquire these publications online.
3. In order to update the survey and monitor IMO and ILO international conventions, please indicate whether new instruments have been ratified or are in the processing of being approved or analyzed by States. The objective is to adapt and update legislation on port navigation and shipping activities in line with a global logistics scenario, particularly those that refer to inland navigation. If these are available online, please indicate the web address.
4. Please provide information on the main port infrastructure works States are planning or have underway, noting the sources of funding, as well as additional information regarding facilitation of port access and navigation along inland waterways.
5. On a different note, the TAG has discussed the possibility of organizing a workshop on topics regarding legislation, regulation, and public policy in the Oriental Republic of Uruguay, tentatively in September 2014. In order to analyze the feasibility of this idea, each Member State is asked whether it would be willing to send experts on such topics to participate in the workshop.

4. Concrete Results

The following matrix, prepared by the CIP-OAS Secretariat, shows the current situation:

i. Preliminary Matrix of Responses: Argentina, Colombia and Ecuador

Topic	Argentina	Colombia	Ecuador
Main Content of Port Legislation	<p>Law No. 24.093, of June 26, 1992 and Decree N° 769 of April 19, 1993. Content: (a) scope of application and definition of ports;(b) authorization of existing ports or those to be created; (c) their classification; (d) functioning of public and private ports as regards management and operations; and (e) system of penalties all ports are subject to, providing for suspension of port operations, intervention in port management, and withdrawal of authorization.</p>	<p>The main topics contained in Colombian port legislation can be defined as follows;</p> <p>(a) Coastal areas, called public use areas made up of beaches, low-lying and access areas that are provided under a concession that generally spans a twenty-year renewable period. At the end of the concession all installations and facilities found in the public use area subject to concession are assigned free of charge to the State in good working order.</p> <p>(b) The ongoing creation, maintenance and functioning of ports is in the public interest, and it is the responsibility of the Republic's authorities to plan and streamline port activity.</p> <p>(c) Every two (2) years the port expansion plan is issued by decree, after approval by the National Council on Economic and Social Policy [<i>Consejo Nacional de Política Económica y Social – CONPES</i>]. Said plan is to contain:</p> <p>The advisability of making investments in new port installations to facilitate growth of foreign trade.</p> <p>The regions where it is advisable to establish ports in order to reduce the impact on the environment and tourism.</p> <p>Public investment to be made and private investment to be promoted.</p> <p>The methodology to be applied in a general manner in order to establish the amount to be paid by beneficiaries of port concessions for use and enjoyment of the public use areas.</p> <p>The methodology concessionaires are to follow in a general manner in order to set their rates.</p> <p>(d) The authority charged with planning and regulation of port activity is the Ministry of Transportation; the agency that is competent to grant public use areas in concession is the National Infrastructure Agency [<i>Agencia Nacional de Infraestructura -ANI</i>], and oversight, inspection and control of the provision of public services and infrastructure falls</p>	

Topic	Argentina	Colombia	Ecuador
		<p>under the Superintendency of Ports and Transportation [<i>Superintendencia de Puertos y Transporte – SUPERTRANSPORTE</i>] (e) Port concessions may be granted by means of an application presented directly by the interested party to ANI, in compliance with the requirements provided for this purpose, or through the bid announced by ANI to the public in general. (f) Violations of the port statute may be punished by fines, temporary suspension of the right to conduct activities in the ports, intervention of the port, or withdrawal of the concession.</p>	
<p>Main Projects and Work Being Conducted on Port Legislation, Regulation, and Public Policy</p>	<p>SEE: Dr. Diego Sepúlveda - OAS/CIP Consultant - Lima, June 2011. http://www.oas.org/CIP/docs/areas_tecnicas/15_leg_portuaria/ANP%20Legislaci%C3%B3n%20Portuaria.ppt</p>	<p>The latest port expansion plan, known as port policy for a modern country, [document] No. 3744 of April 15, 2013, can be found at: www.dnp.gov.co</p>	<p>We are requesting that the Ministry of Foreign Relations accede to STCW-F Convention. The provisions of this international instrument are already included in Resolution 041-13 that regulates the training, certification and watchkeeping for fishing vessel personnel. These Conventions are under consideration for accession: The International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances (HNS) by Sea of 1996. Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims of 1976 (Protocol of 1996) is being studied and analyzed together with the International Convention on Civil Liability for Bunker Oil Pollution Damage of 2001.</p>
<p>International Conventions</p>	<p>Instruments ratified by Argentina: http://www.prefecturanaval.gov.ar/web/es/doc/dpsn_estado_convenios_argentina_2014.pdf</p>	<p>National Infrastructure Agency [<i>Agencia Nacional de Infraestructura –ANI</i>], grants port concessions</p>	

Topic	Argentina	Colombia	Ecuador
<p>Port Infrastructure Projects Currently Underway or In the Planning Phase</p>	<p>Construction of a Container Terminal at Port La Plata with funds from the concessionaire TECPLATA.</p> <p>Dredging work in the Port Buenos Aires and its access channel are planned, with funds from the Port. The access channel at Port of Bahía Blanca was dredged with 55 feet of local navigation depth. Funding was from the Development Bank of Latin America (CAF).</p> <p>Last-generation Post Panamax cranes in the EXOLGÁN Terminal of Port Dock South, with their own funds.</p> <p>The Port of Quequén has begun dredging its port through a trust and Mar del Plata is dredging its access channel with government financing.</p> <p>The Port of Ibicuy in the Province of Entre Ríos and a Cereals and Container Port in the Province of Corrientes are in the planning phase.</p>	<p>Under the current concession system private parties assume all risks for investing in infrastructure and for financing.</p>	<p>(1) Guayaquil Port Authority Information on the investment project “implementation of VTS (vessel traffic service)”</p> <p>Project to dredge the access channel to the docks of the Port Authority of Port Bolivar.</p> <p>(2) Manta Port Authority project for general maintenance and additional works: an additional contract will be entered into to finish the patching and paving work of the roads and yards at the port of Manta for a total of US\$762,903.08.</p> <p>(3) Port Authority Port of Bolívar (APPB).</p> <p>Expansion project of the international maritime terminal called pier 5.</p> <p>Project to improve and expand the existing APPB installations.</p> <p>4) Port Authority of Esmeraldas Expansion of dock # 3, and the reinforcement of docks # 2 y #3.</p> <p>Construction of yard g2 and annexation of it to g3, yards for storage of: vehicles (c2) and containers (g9).</p>
<p>Port Infrastructure Projects Currently Underway or In the Planning Phase</p>	<p>Construction of a Container Terminal at Port La Plata with funds from the concessionaire TECPLATA.</p> <p>Dredging work in the Port Buenos Aires and its access channel are planned, with funds from the Port. The access channel at Port of Bahía Blanca was dredged with 55 feet of local navigation depth. Funding was from the Development Bank of Latin America (CAF).</p> <p>Last-generation Post Panamax cranes in the EXOLGÁN Terminal of Port Dock South, with their own funds.</p> <p>The Port of Quequén has begun dredging its port through a trust and Mar del Plata is dredging its access channel with government financing.</p> <p>The Port of Ibicuy in the Province of Entre Ríos and a Cereals and Container Port in the Province of Corrientes are in the planning phase.</p>	<p>Under the current concession system private parties assume all risks for investing in infrastructure and for financing.</p>	<p>(1) Guayaquil Port Authority Information on the investment project “implementation of VTS (vessel traffic service)”</p> <p>Project to dredge the access channel to the docks of the Port Authority of Port Bolivar.</p> <p>(2) Manta Port Authority project for general maintenance and additional works: an additional contract will be entered into to finish the patching and paving work of the roads and yards at the port of Manta for a total of US\$762,903.08.</p> <p>(3) Port Authority Port of Bolívar (APPB).</p> <p>Expansion project of the international maritime terminal called pier 5.</p> <p>Project to improve and expand the existing APPB installations.</p> <p>4) Port Authority of Esmeraldas Expansion of dock # 3, and the reinforcement of docks # 2 y #3.</p> <p>Construction of yard g2 and annexation of it to g3, yards for storage of: vehicles (c2) and containers (g9).</p>
<p>Availability for Seminar on Topics Regarding Legislation, Regulation and Public Policies – September 2014 in Uruguay</p>	<p>It is the intention of the National Port Authority to attend the seminar proposed by the Oriental Republic of Uruguay.</p>	<p>Port Authorities are state entities that in keeping with their competencies are charged with regulating port activity and securing, inspecting and overseeing such activities.</p>	

ii. **Preliminary Matrix of Responses: Panama, Paraguay, San Vincent and the Grenadines and Uruguay**

Topics	Panama	Paraguay	Saint Vincent and the Grenadines	Uruguay
Main Content of Port Legislation	<p>The General Directorate of Ports and Auxiliary Maritime Industries of the Maritime Authority of Panama [<i>Dirección General de Puertos e Industrias Marítimas Auxiliares de la Autoridad Marítima de Panamá</i>] is responsible for port-related matters, pursuant to Decree Law 7 of February 10, 1998, “By which the Maritime Authority of Panama is created, unifying the different maritime competencies of public administration, and other provisions are set forth,” and in keeping with Law 56 of August 6, 2008, General Law on Ports of Panama, which sets forth general provisions on port activity applicable to maritime installations that exist or are built in the Republic of Panama, the use of the maritime areas granted in concession and provisions of maritime services, be they of a public or private nature.</p>	<p>Law No. 1066/1965 creates the National Administration of Navigation and Ports [<i>Administración Nacional de Navegación y Puertos</i>], the port authority. Law No. 419/1994 authorizes the construction and functioning of private ports. Decree No. 14.402/2001 designates the Department of Ports of the Merchant Marines [<i>Departamento de Puertos de la Marina Mercante</i>], which is part of the Ministry of Public Works and Communications, as the authority charged with applying Law No. 419/1994, mentioned above.</p>	<p>Authority is governed by the Port Authority, in keeping with CAP 362 of the laws of Saint Vincent and the Grenadines of 2009. The Saint Vincent and the Grenadines Port Authority (SVGPA) has been in contact with the Authority of Uruguay and they have reached an agreement in order to provide assistance in preparing a new legislative bill that would allow the SVGPA to tackle the port dynamics of the 21st century.</p>	<p>Law No. 16246, known as “the law on ports” established the regulatory framework for providing port services and [the] state apparatus responsible in these matters. Basically, this law regulates:</p> <p>Organization and port services. System for circulation of goods (free port). Competency of the executive branch to set forth sectoral policies. System for provision for port services by private companies. Responsibilities of the National Administration of Ports. Competency assigned to the Directorate of the National Administration of Ports. Principles that govern contracting in port-related matters. Authorization of private companies to provide port services. System for the Harbor Master at the Port of Montevideo. Organization of the Ports in the country’s interior. Content of the regulations of this law may be found on the following web page:</p> <p>http://www.anp.com.uy/inicio/institucional/marco_legal/</p>
Main Projects and Work Being Conducted on Port Legislation, Regulation, and Public Policy	<p>These documents may be found on the web page of the Maritime Authority of Panama (www.amp.gob.pa) and the database of the web page of the Office of the Solicitor of the Government of Panama [<i>Procuraduría de la Administración de Panamá</i>] (http://infojuridica.procuraduria-admon.gob.pa/Infojuridica/index.htm).</p>	<p>Paraguay is signatory of the IMO, but has not ratified any standard regarding security at sea, on vessels, or port installations, which make up more than fifty provisions that were presented for ratification. www.armadaparaguay.mil.py Treaties and Conventions www.mre.gov.py International Instruments (GATT - HIDROVIA).- www.mjt.gov.py</p>		<p>In response to the request made, see the work and publications referred to in the following catalogues:</p> <p>FOUNDATION FOR UNIVERSITY CULTURE [<i>FUNDACION DE CULTURA UNIVERSITARIA</i>]: http://www.fcu.com.uy/</p> <p>URUGUAYAN LAW [<i>LA LEY URUGUAY</i>]: http://www.laley.com.uy/</p>

Topics	Panama	Paraguay	Saint Vincent and the Grenadines	Uruguay
		<p>Regulations www.mic.gov.py Regulations</p>		<p>Furthermore, it is worthwhile noting the publication of the collective work entitled "Port Law", coordinated by Dr. José Antonio Pejovés Macedo (published by Fondo Editorial – University of Lima, Peru) with contributions from experts from Argentina, Chile, Spain, Peru, Uruguay, and Venezuela. (www.ulima.edu.pe)</p>
<p>International Conventions</p>	<p>Currently, The International Convention for the Control and Management of Ships' Ballast Water and Sediments of 2004, is being studied for possible ratification.</p>	<p>Public ports receive government financing and private ports receive private sector investment. As regards projects, a table with infrastructure projects and their respective details will be sent in a subsequent communication.</p>		<p>Provisions included in domestic legislation during this last period, including those approving international treaties:</p> <p>Law 19.046. Authorization of a deep-water port in the Department of Rocha.- Law 19.078 – Regulations on tenders or bids for national and binational works or by national or international conventions, in the jurisdictional and territorial waters of the Republic. Law 19.101 – Approval of the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1972. Law 19.117 – Approval of the International Convention for Safe Containers of 1972, as amended (CSC, 1972, as amended). Law 19.142 – Replacing Article 34 of the Decree-Law 14.157 regarding scope of jurisdiction of the National Navy. Law 19.204 – Approval of the 1997 Protocol to the International Convention for the Prevention of Pollution from Ships of 1973, signed in London on the date that is determined. The provisions cited may be found at the following web page: http://www.parlamento.gub.uy/IndexDB/Leyes/ConsultaLeyesSIPXXI.asp</p>

Topics	Panama	Paraguay	Saint Vincent and the Grenadines	Uruguay
<p>Port Infrastructure Projects Currently Underway or In the Planning Phase</p>		<p>PORT OF ASUNCION General repair of existing installations TERMINAL PORT ITA ENRAMADA Expansion of marshalling yard for trucks and construction of bathrooms for truck drivers TERMINAL PORT VILLETA Maintenance of gravel on yards and fire-fighting system Construction of administrative building, platform for machines and workshops, construction for warehouse and other sections (STAGE 01); Structural replacement of broken concrete piles (north dock) TERMINAL PORT OF FALCON General maintenance of civil installations, fire-fighting system, graveling and paving of marshalling yards, and improvement of entrances and exits General renovation of the water treatment plant Consultancy work on environmental impact and renovation and operation of wastewater treatment Construction of main entry portico and residential buildings CONTAINER TERMINAL OF JOSE A. FALCON (CHACOÌ) Repairs to the reinforced concrete pavement at the entrance Repair and renovation of guard house at entrance Repair and maintenance of installations for water run-off, outflow channels, rain gauges General maintenance of the platform for the import inspection area General maintenance of the platform for the export inspection area General renovation of the sewage system at the container terminal. Renovation of the waste water treatment plant General maintenance of</p>	<p>SVGPA, together with the Caribbean Development (CDB), is currently conducting a study of a program for port streamlining over the next 20 years. The study is being carried out by the consulting firm Mott McDonald and the provisional report has been received. The study is being broadened to include a new potential site that was not available when the report was undertaken.</p>	<p>Currently, under the purview of the National Port Administration [ANP], the following port infrastructure projects are underway:</p> <ul style="list-style-type: none"> • Construction of a new public dock – Dock “C” • Inclusion of areas to the port and north access construction • Port of Nueva Palmira. Dock downriver and dock for barges • Forest Products Terminal • Fishing Terminal – Port Capurro. • Feasibility study for building new docks and operational areas in Port Colonia, towards the East Logistical Port • New dock and pier at Port Sauce. • Reengineering of access control • Provision of boarding bridges for Port Colonia • Development of the Port of Fray Bentos • Rivera dry port terminal

Topics	Panama	Paraguay	Saint Vincent and the Grenadines	Uruguay
		<p>the potable water system of the container terminal</p> <p>Repairs to the reinforced concrete pavement – marshalling yard</p> <p>TERMINAL PORT OF CIUDAD DEL ESTE</p> <p>Repairs to the reinforced concrete pavement in yards A, B, and other sectors</p> <p>Renovation of the firefighting system and running water provision system</p> <p>TERMINAL PORT OF PILAR</p> <p>Repairs to the stone paving in the marshalling yard.</p> <p>Construction of warehouse for agrochemicals and paving stones</p> <p>TERMINAL PORT OF ENCARNACION</p> <p>Repairs to paving stone pavement, repairs to toilets, and several municipal installations</p> <p>Paving of the sector adjacent to the export area and construction of truck driver facilities</p> <p>TERMINAL PORT OF PEDRO JUAN CABALLERO</p> <p>Maintenance of truck driver toilets and inspection platform</p> <p>Construction of firefighting system, parking for employees, expansion of the marshalling yard with rigid pavement made of reinforced concrete, guard booth for entry and exit inspection, guard booth for weighing station, construction of artesian well</p> <p>TERMINAL PORT OF SALTOS DEL GUAIRA</p> <p>Repairs to rigid pavement made of reinforced concrete at marshalling yard A and paving stones of marshalling yard B</p> <p>Warehouse for storing hazardous goods, residential building, firefighting system, stone paving for yard C,</p>		

Topics	Panama	Paraguay	Saint Vincent and the Grenadines	Uruguay
		reinforced concrete pavement SMALLER PORT TERMINALS AND AREAS : Miscellaneous maintenance and repairs		
Availability for Seminar on Topics Regarding Legislation, Regulation and Public Policies – September 2014 in Uruguay	In this respect, we would like to express the interest of the General Directorate of Port and Auxiliary Maritime Industries of the Maritime Authority of Panama regarding these topics. Once this communication is sent the respective steps will be taken.	In this regard, we would like to express the interest of the General Directorate of Port and Auxiliary Maritime Industries of the Maritime Authority of Panama on these issues. Once this communication is sent, the respective steps will be taken.		The delegation of Uruguay, in its capacity of the President of the TAG, is coordinating with the OAS-CIP Secretariat to organize the event. It is awaiting the responses of the Member States in order to make the event possible, provided there are enough States interested in participating.

5. Impact

Given how close the upcoming meeting in June is to the one that took place in Cartagena in September 2013, there has not been enough time for a considerable number of responses to be sent in by Member States. In light of this, the activities originally proposed will have to be continued.

III. 2014-2015 Work Plan and Activities To Be Carried Out

For purposes of preparing the draft 2014-2015 Work Plan, the short timeframe of the former Plan was specifically taken into account, given that the last OAS-CIP meeting took place in September 2013 (less than a year ago). For this reason, some proposed activities from the 2013-2014 plan will have to be carried over.

1. Main Objective

The action plan agreed upon at the VIII meeting of the CIP held in Cartagena de Indias, Colombia, with regard to the TAG on Public Policy, Legislation, and Regulation will continue to be deepened. In this regard the TAG will analyze and disseminate national and international legal and regulatory provisions governing day-to-day port activities and leveraging experiences and promoting greater alignment of national legislation with international standards. The TAG will analyze the creation of port and port-related investment opportunities and contractual modalities that enable public and private investors to understand their benefits. It will also emphasize the conditions for obtaining said services, regulation of fees, and labor standards.

2. Measures Planned and Parties Responsible

Basically, the measures planned are the following:

- a. Prepare a thematic index with the contribution of all States, in order to develop content for a draft model port law.

- b. Develop a database on legal provisions, to be included on the CIP-OAS web page.
- c. Hold the First Hemispheric Conference on Port Legislation in Montevideo, Uruguay in September 2014.
- d. Continue gathering information from the Questionnaire on Port Legislation.
- e. Update the survey and monitoring of IMO and ILO international conventions.
- f. Gather information on the main port infrastructure works planned and implemented by the States.

3. Work to Be Done and Parties Responsible

- a. fill out questionnaire which will highlight the most significant aspects regulating State's respective port legislation (by way of example, description of the model adopted, the role of public authorities and institutional position, system of port area use, etc.). (TAG Chair and CIP Secretariat).
- b. database to provide online information access (TAG Chair and CIP Secretariat).
- c. organize event to establish a forum for analysis, discussion, and exchange of experiences. (TAG Chair and CIP Secretariat).
- d. Obtain responses from CIP Member States based on the questionnaire States filled out. (TAG Chair and CIP Secretariat).
- e. Obtain responses based on information provided by States, harmonizing and updating all data regarding international conventions (TAG Chair and CIP Secretariat).
- f. Gather information in order to analyze generation of port investment opportunities with their different contractual modalities. (TAG Chair and CIP Secretariat).

4. Concrete Results Expected

The expected results are documents that can be distributed to disseminate information gathered, thus enabling insight to be gained on successful port-related experiences, as well as difficult situations, and how they were overcome.

5. Expected Impact

To prepare technical documents that are useful in implementing policies for developing a sustainable and solid port sector through the strengthening of Inter-American cooperation, a community of practice, and institutional technical capacity.

IV. Annexes

At the discretion of the Secretariat, documents sent by the member states may be included, or, as appropriate, a link will be provided where documents can be downloaded from the Internet.