

Terminal XXI Awarding Audit – Port of Sines

1. The Terminal XXI awarding procedures date back to the second half of the 1990s, with the award of the respective preparatory studies and technical projects, with one the objectives being to make use of the natural conditions and the privileged geographical location of the Port of Sines, which were underutilized up to that time.
2. The Terminal XXI was awarded, by APS - Administração do Porto de Sines, SA, under a 'BOT – Build Operate and Transfer' public service concession, for a thirty-year period to PSA – Sines Container Terminal, S.A., held by PSA - Port of Singapore Authority, an international operator of container terminals in various countries.
3. Nevertheless, the concession contract lacked robustness, which was induced by an asymmetry of information on the market, unfavourable to the public awarding authority. By the way, this was expressly assumed subsequently in an amendment to the initial contract.
4. The effects of this asymmetry have been aggravated by the lack of a competitive tendering procedure. In fact, after a request for tenders, which was aimed at launching the foundations for a competitive tendering procedure, the contract was entered into through a process of negotiation, exclusively with a single entity.
5. The contract weaknesses are, among others: the lack of a strong commitment regarding the beginning of the operation phase; the lack of specification of minimum cargo movements; the absence of provisions regarding the quality of services; the inefficiency of the clauses that were aimed at following up compliance with the investment goals; the difficulty in applying the penalty system.
6. The contract also features positive aspects, such as the lack of guarantees of minimum revenue for the concessionaire to be borne by the awarding authority, or the flexibility to adapt the investments to the market conditions, thus avoiding anticipation of investments – and perhaps even unnecessary - with all costs involved, including financial costs, for the parties. Nevertheless, the previously mentioned flexibility has basically benefitted the concessionaire, since the awarding authority immediately decided to carry out, at the beginning, a larger than expected pier extension for a second investment phase (called 1B).
7. At the beginning, the investment of the awarding authority edged up to 65.8 million Euros. Until 31-12-2009, investments in the amount of approximately 70 million Euros were made, relying on Community funds and the State Budget (nearly 49%), through borrowing from banks (42%) and own funds portfolio (4%). The total investment of the awarding authority is estimated at roughly 110 million Euros.
8. The total investment of the concessionaire would be, at first, of nearly 182 million Euros. 74.9 million Euros have already been spent and the investment of the concessionaire until 2014 is expected to reach 230.4 million Euros.
9. Thus, until 31/12/2009, 137 million Euros were invested, of which 45.5% by the awarding authority and 54.5% by the concessionaire¹, i.e., the APS had invested 1 Euro per each 1.2 Euros invested by the concessionaire.

¹ With reference to corrected amounts from the compensations paid by the concessionaires in the investments, for which the awarding authority is responsible.