



**The Dynamics of Institutional Change:
A Comparative Analysis of Port Governance in Indonesia**

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List of Acronyms

ADB	The Asian Development Bank
BAPPEDA	The Regional Planning and Development Agency
BOT	Build-Operate-Transfer
DGCE	The Directorate General of Custom and Excise
LIS Ltd	Lamongan Integrated Shorebase Ltd
LoE	Local-owned Enterprise
MoSoE	The Ministry of State-owned Enterprise
MoT	The Ministry of Transportation
MP3EI	The Master Plan for Acceleration and Expansion of Indonesia's Economic Development
PBE	Port Business Entity
PMU	Port Management Unit
PNBP	Non-Tax State Revenue
PoLIS	Port of Lamongan Integrated Shorebase
PoTP	Port of Tanjung Perak
SoE	State-owned Enterprise
TPS	Container Terminal of Surabaya
TTL	Terminal of Teluk Lamong

Abstract

Little attention has been paid to analysing the ports sector as an important economic and development catalyst in Indonesia from the institutional approach. In fact, not only technical problems of dwelling time and port congestion exacerbate port performance, but also complex institutional problems seriously contribute to poorly functioning ports. Recent debates of institutional change concerning how and why it take places can be used as a theoretical framework to help unfold the complex situation in Indonesian port governance.

This research examines institutional change as occurred in two cases of port governance by using the institutional change model of Buitelaar et al. for the Port of Tanjung Perak and the Port of Lamongan Integrated Shorebase, East Java. Both cases are thus used to reflect on the ability of institutional change model by Buitelaar et al. to explain institutional changes in port governance. By employing a case-study design, the study attempts to investigate institutional problems in two distinctive ports between 1992 and 2015. A combination of field observation and in-depth interviews with various port actors were undertaken for data collection.

It is revealed that political lock-in and stalemates depict interactions among port actors. Strong pressures at the national and local levels inhibit institutional change from becoming effective. While both port operators tend to maintain the ‘status quo’ of port ownership and concessions, the Ministry of Transportation proposed a hegemonic discourse of the landlord port model that does not seem to be functionally implemented in Indonesia. Furthermore, parallel paths of sectoral and decentralization legislation have led to institutional incoherence in terms of clashing between the sectoral and territorial dimensions. Thus, path plasticity by restructuring the composition of Port Authority can be proposed as a solution. These findings enhance the understanding of institutional change process whereby power struggle strongly influence institutional change. It reflects the need of institutional political economy approach to examine institutional change in port governance.

Relevance to Development Studies

Recent studies in economic development emphasize both the importance and the complexity of institutional change. It is important to highlight this notion in various economic institutions, like ports, that possibly combine the discussion between economic geography and institutional analysis. Debates among scholars, such as how institutional change occurs whether by design or evolution, what mechanisms take place within various trajectories, what kind of the drivers of change whether the endogenous or exogenous factors, are intriguing to be explored. This study attempts to contribute to academic debates of institutional change theory by contrasting the model of Buitelaar et al. into complex empirical studies in port governance.

Keywords

Institutional change, port governance, Tanjung Perak, Lamongan, Indonesia

Chapter 1

Introduction

Ports play important roles as critical trade and transport infrastructure facilities, centre of logistic activities (De Langen 2014), also as economic and development catalysts for nations or port regions (Bichou 2013). However, a port is not simply an ‘abstract space’ for a range of economic activities, but is a ‘real life’ and ‘contextual place’ where interaction of various players creates development outcomes (Robinson 2002, Olivier and Slack 2006, Notteboom et al. 2013). It needs an efficient administrative and management framework in running the operation (Robinson 2002: 245).

It is interesting to put more ‘human character’ on the port as ‘places’ where various actors are involved in its governance. In recent years, there has been an increasing research interest in management, organizations, and economics of port as well as port governance (Pallis et al. 2010). De Langen (2006 in Vieira et al. 2014: 646) argues that port governance shows the interactions among stakeholders and coordination process in the port logistics chain. In institutional terms, port governance is seen as part of an institutional arrangement in which various actors engage in logistics chains and port investment.

Various studies discuss the evolutionary perspective in logistics connectivity that provide a relationship between economic geography and institutional economics in seaports. Notteboom et al. (2013) analyse path dependence in seaport governance in Rotterdam and Antwerp where institutional change proceeded in an unfavourable institutional environment. It shows that port authorities have different interests with local political actors where path plasticity allows them to accommodate their interests without breaking the existing path. Jacobs and Notteboom (2011) discuss evolution of seaports from an institutional change framework by using the windows of opportunity concept. They empirically examine different seaports in the Rheine-Scheldt Delta amidst the competitive evolution of regional port systems. A striking perspective is depicted by Ng and Pallis et al. (2010) in analysing port in political context and institutional frameworks in which institutional settings affect maritime policy evolution.

According to the literature overview above, institutional frameworks can be applied to analyse port sector evolution in various ways. However, there is no agreement among scholars on how to conceptualize institutional change processes. Citing from Kingston and Caballero (2009), institutional change can be seen as evolutionary process or deliberate design or a combination of these two. Collective-choice theorists draw the institutional change as centralized process by a collective political institution to implement change deliberately in a path dependent way (or not), while evolutionary theorists propose spontaneous change without coordinated adaptations and central mechanisms, and pay less attention to the role of collective action and political process (Kingston and Caballero 2009: 8). In the model of institutional change by Buitelaar et al. (2007), it is claimed that the model encompasses these two approaches of institutional design and institutional evolution.

Responding to a call for empirical and theoretical discussion between the transport sector and economic geography (Hall et al. 2006), the research aim is to contribute to the current academic debate on the role of territorial institutions and the dynamics of institutional change. The central thesis of this paper is to compare institutional change in two different instances of port governance and to critically review the existing model of institutional change presented in this research, then discuss whether it is adequate to deal with the new empirical realities in Indonesia. Another goal of this study is to explain problematic situations in port development by unravelling institutional problems in port governance.

To the author's knowledge there is no previous study that has investigated institutional change in port governance in Indonesia. Most of studies commonly focus on dealing with technical problems such as long dwelling time and high logistical cost (Sandee 2011, World Bank 2013, Arvis et al. 2014). In fact, recent investigations found that institutional problems contribute to a poorly functioning port whereby eighteen ministries involved in port mismanagement (Sundaryani 2015, Natahadibrata 2015).

This paper is composed of five chapters including the introduction that explains research objectives and methodology. The second chapter is concerned with conceptual and analytical framework, in particular looks at how institutional change has proceeded based on Buitelaar's model. Chapter 3 begins by laying out the research context of the port sector in Indonesia, followed by two chapters of analysis. Necessarily, a detailed picture of both cases could not be elaborated in the main paper for the purpose of clarity.¹ A synthesis of institutional change from both cases will be examined in Chapter 4 by contrasting findings with Buitelaar's model. The last Chapter 5 draws general conclusion and recommendations for future study by providing theoretical reflection of institutional change model.

1.1. Research Objectives and Questions

This research observes ports from an institutional angle in terms of how port governance evolved in the context of institutional change, such as how do ports accommodate different interests in port governance by actions of actors as well as internal and external drivers, and their impacts on the institutional arrangements. This institutional change can refer to either institutional arrangements or institutional environments in port governance.

The specific objective of this research is twofold. A first part provides a comparative analysis between two port governances using the institutional change model by Buitelaar et al. Illustrating a detailed empirical analysis of both cases is important before contesting institutional change model presented. A second part aims to make a theoretical contribution by reflecting upon the

¹ Elaboration of two cases are presented in Appendix 1 (Port of Tanjung Perak) and Appendix 2 (Port of Lamongan Integrated Shorebase).

relevance of the Buitelaar model in explaining institutional change in port governance. Thus, two research questions of this study are:

1. How does port governance evolve?
Sub-questions:
 - a. Who are the actors involved in port governance institutional arrangements?
 - b. What changes in the institutional environments trigger the change process in port governance institutional arrangements?
 - c. What internal and external factors explain the institutional change in port governance?
2. Can the Buitelaar model satisfactorily explain institutional change in port governance?

1.2. Methodology

This study used a qualitative method with the case study approach. The approach was adopted to allow a deeper insight by using multiple cases with a single unit of analysis of port governance. A multiple-case study allows the researcher to compare various cases as per theoretic reflection on different findings (Bryman 2012, Yin 2014). The study was undertaken in two distinctive port governances: first, the Port of Tanjung Perak (PoTP), the second largest port in Indonesia located in the Surabaya municipality and second, the Port of Lamongan Integrated Shorebase (PoLIS) in the Lamongan municipality. Both cases were not chosen for the purpose of case generalization, but to gain better insight of institutional complexity with regard to the number of actors and factors shaping institutional change (Lawson 2003 in Helmsing 2013). A comparative analysis is intended to capture institutional variety and diversity within various contexts, why it occurs and remains (Scott 2001: 207).

As an overview of two case studies, the first case of PoTP represents a port operated by a central actor of Pelindo. As a centre of logistic connectivity in eastern Indonesia with numerous core businesses, PoTP deals with the nation's notoriously long dwelling time, now taking up to 5-7 days (Wibowo 2015). In contrast, PoLIS is developed by local players. Despite struggles with long dwelling time, PoLIS deals with institutional problems across different levels of government. With its core business in oil and gas services, this port illustrates different port activities compared to the former port.

As regards observation of critical events, Campbell (2004) acknowledges the importance of timeframe in analysing institutional change. A longer timeframe will impact on higher level of analysis in the all variation and critical processes of change (Campbell 2004: 47). Similarly, Williamson (2000: 596-597) argues that timeframe and institutional functions are significant to determine institutional analysis level. It requires a minimum of 10 years to analyse changes in governance and institutional environment. Accordingly, this research analyses institutional change for the past 23 years between 1992 and 2015 under considerations of following critical events:

1. The Shipping Law was enacted in 1992 as the initial sectoral legislation that sets up the port sector. It was amended in 2008, hence it may show change of legislation framework.
2. The National Program of Master plan for Acceleration and Expansion of Indonesia's Economic Development (MP3EI) had been conducted since 2011 to promote maritime development, followed by Nawacita program since 2014.
3. Two terminals of PoTP which are Container Terminal of Surabaya and Terminal of Teluk Lamong, have been operated since 1999 and 2014 respectively as the solutions of poorly functioning ports, while PoLIS has been operated since 2006.
4. Indonesia's president expressed anger in 2015 after founding deep-rooted problem of dwelling time getting worse.

For data collection, field research was undertaken to obtain direct information from port stakeholders and observe ports situations. It was conducted over three weeks in two phases. The first phase was 5-10 July 2015, followed by a second phase of 26 July to 18 August 2015 by considering a national holiday in the middle of July 2015. Direct observations were conducted in two provinces of Jakarta and East Java with 26 semi-structured interviews undertaken in Bahasa Indonesia. These were recorded on digital audio recorder then transcribed into English. Key informants were selected from various level players through a 'snow-balling' method such as government entities in central and local levels, port users, port operators, and port authorities.² Retired employees of the Ministry of Transportation (MoT) and Pelindo were chosen to control for biased opinions of informants.

1.3. Methodological Limitations and Ethical Challenges

Several methodological and ethical challenges arose during the research process. First, as port governance involves various actors, it was difficult to conduct in-depth interviews with all of them. Therefore, interviews were conducted with key actors at both local and central levels. Selected key informants hopefully could be representative to meet research objectives.

Second, it was hard to investigate PoLIS users due to confidentiality issues. Thus, the author gathered the information through interviewing port authority staff who supervises PoLIS. It was conducted to triangulate complaints from the port operator due to limited infrastructure in the Lamongan municipality.

Lastly, there is a potential bias to determine critical events in institutional change in port governance. Therefore, the use of analytical framework of the Buitelaar's model could be sufficiently useful to make a constructive analysis. However, it was difficult to capture why institutional transformation occurs in the evolution of port governance as the Buitelaar model is only fruitful to un-

² Appendix 5 provides a list of key informants.

derstand how institutional change occurs. The last chapter thus provides a theoretical reflection about the usefulness of this model.

Chapter 2

Conceptual and Analytical Framework

The purpose of this chapter is to clarify the conceptual and analytical framework used in this research. The first five sections provide main concepts arising from concepts of institutions, port governance, path dependence, path creation, and path plasticity. The next two sections explain an analytical framework concerning institutional change and institutional transformation.

2.1. Institutions

There are varied definitions about institutions. North (1990: 3) defines institutions as “rules of the game in a society”, including sets of formal and informal rules that push humans to comply with the rules. Institutions thus could decrease uncertainty by setting a structure for human interactions. Meanwhile, Schotter (1981 in Hollingsworth 2002: 88) interpret institutions “are not rules of the game” where he emphasizes ‘actors do with rules, but not with what the rules are.’

Martin (2003: 79) notes different sorts of institutions that could influence spatial economy, namely institutional environment and institutional arrangement. Institutional environment refers to both informal rules and regulations such as conventions, norms and social routines, and formal legally enforced rules and regulations which restrain and determine socioeconomic behaviour (North 1990, Martin 2003: 80). For institutional arrangement, it indicates specific organizational forms which are controlled by institutional environments, such as firms, state bureaucracies, cooperative networks or governance system (Martin 2000: 80, Notteboom et al. 2013: 29), the state, and various types of hierarchies (Hollingsworth 2002: 94). Various actors, such as in industrial sectors, might not be coordinated by a single institutional arrangement, but a configuration of institutional arrangements (Hollingsworth 2002: 95). These two institutional regimes’ interactions could affect how institutions could be reinforced, reproduced, challenged and changed in the range of spaces. Martin (2003) adds that historical context is strongly embedded in this particular perspective where institutions are viewed as path dependent within incremental evolutionary process.

2.2. Port Governance

In the early 1990s, port governance studies became a considerable topic to be discussed from different perspectives (Vieira et al. 2014) alongside the widely adopted concept of governance (Debie et al. 2013). Geiger (2009 in Vieira et al. 2014: 646) proposes the definitions of governance as: “(i) it is a desired standard of corporate behaviour, particularly with respect to publicly traded companies with exchange trading; (ii) it is a concept associated with public policies, intermixed with the notion of ‘government’ or (iii) it is the coordination of actors of an organisation or business cluster.” These three meanings of gov-

ernance define port governance as interactions and coordination among stakeholders in port logistic chains as parts of business clusters and corporate governance while government also set policies in the port sector (De Langen 2004, De Langen 2006 in Vieira et al. 2014). In the context of institutions, port governance is seen as a set of institutional arrangements between actors in seaport logistics.

With regard to institutional framework, a study by Mintzberg and Waters (1985 in Debie et al. 2013: 64) shows that ports have a complex evolutionary process where changes in territorial trajectories could involve various responses from local to global levels. Debie et al. (2013) also highlight that port governance and port operation can be influenced by heterogeneous actors and regulatory frameworks, and relationship between public and private actors.

2.3. Path Dependence, Path Creation, and Path Plasticity

Path dependence and the co-evolution of institutions constitute a key concept to examine structural and institutional change of various degrees among firms, sectors and spatial scales (Strambach 2010: 406). Institutional economics defines path dependence from the institutional change perspective where historical events strongly influence change processes since decisions made in the past become actors' presumption for the future (North 1990 in Notteboom et al. 2013: 28). Then, it locks institutional change into particular development paths (Notteboom et al. 2013: 28). Path dependence thus highlights continuity of institutional function through stabilizing behaviour and directing action of actors. According to evolutionary economics, the concept of lock-in and path dependence is related with organizational routines, such as historically rooted firm routines, rigidity in economic activities, technological lock in (Martin and Stunley 2006: 406), as well as political (Pierson 2000 in Campbell 2010: 90) and social interactions (Aoki 2007 in Kingston and Caballero 2009). Both perspectives are adopted in economic geography approach.

According to economic geography approach, Martin and Stunley (2006: 412) propose regional path dependence concept that occurs in various circumstances, such as region-specific institutions, regulatory frameworks in other regions, at the national level or even beyond. Furthermore, Grabher (1993: 260-264) identifies three forms of lock-in in regional development: (1) 'functional lock-in' results from dependency between suppliers and customers that enlarge critical bounded-spanning market and technology observation (Morgan 2013: 320), (2) 'cognitive lock-in' sources from a collective decision making within uniformity and common orientations that produce limited innovations (Hassink and Klaerding 2011: 140), and (3) 'political lock-in' occurs where institutional actors in industry and government have a conservative culture of cooperation to preserve the status quo.

In contrast, path creation emphasizes breaking institutional stability out with 'creative destruction' which enables the creation of new institutions for the sake of innovation (Strambach 2010: 406). Garud and Karnøe (2001) as cited by Strambach (2010) propose path creation as intentional breakthrough

where actors may form a new path purposefully. In doing so, it requires the ability to create alternative approaches so that actors may escape lock-in.

From the perspective of evolutionary economic geography, Strambach introduces the concept of path plasticity which is different from the former paths. Path plasticity refers to “a broad range of possibilities for the creation of innovation within a dominant path of innovation systems” (Strambach 2010: 407). It demonstrates malleability of actors in understanding ‘elastic stretch’ of institutions and institutional arrangements. It does not require alteration of the path, but being flexible in accommodating incremental change in an institutional setting. Instead of ‘creative destruction’, path plasticity allows dynamic change within small degrees of innovation and establishment of new features in existing institutions (Strambach 2010: 412).

2.4. Institutional Change

The model of institutional change by Buitelaar et al. (2007) attempts to accommodate both approaches of institutional design and institutional evolution as shown in Figure 2.1. Dividing the model into two main stages, Buitelaar et al. adapt the concept of ‘bricolage’ in institutional path development, also concepts of critical moment and critical juncture to distinguish stages of institutional change that are commonly proposed by historical institutionalists (Thelen 1999: 387). Institutional bricolage means “the patching together of institutional arrangements from the cultural resources available to people in response to changing conditions” (Smith 2001 in Buitelaar et al. 2007: 895). This acknowledges that institutional change occurs as a result of an ongoing process of social-political manipulation, tireless tinkering between solutions proposal, and socially embedded process in institutional design (Buitelaar et al. 2007: 905).

According to Burch et al. (2003 in Buitelaar et al. 2007: 896), ‘bricoleurs’ could promote path breaking and path creation during period of ‘rupture’ in institutional path. It highlights internal drivers as impetus of change, while other historical institutionalists interpret rupture as externally driven (Hall and Taylor 1996). The drivers may produce incremental change as indicated by critical reflection of agencies, proposals for institutional design and action (Buitelaar et al. 2007: 896).

Buitelaar et al. (2007: 896) use Kingdon’s theory on policy agenda setting to distinguish critical moment and critical juncture by using three ‘streams’ of development, namely: “(a) the societal problems that are conceived important, (b) the policy solutions at hand or institutional design, and (c) political endorsement and action.” The three matching streams generate a critical juncture well-known as a ‘window of opportunity’. The first window of opportunity of institutional change is opened where external societal developments are determined to be incompatible with existing institutional arrangement reinforced by a discursive hegemony. Under such circumstances, institutional actors referred to as ‘bricoleurs’ reflect upon these interrelated developments by generating institutional design of alternative solutions and actions towards economically dysfunctional or societally institutional arrangements (Jacobs and Notteboom 2011: 1678). If institutional arrangements could be successfully changed under

pressure, a critical moment for change could emerge due to external and internal drivers (Buitelaar et al. 2007: 896).

A critical moment does not indicate institutional transformation will necessarily occur. Opponents to change may arise to challenge the solutions and actions that proposed by ‘bricoleurs’ (Buitelaar et al. 2007 in Jacobs and Notteboom 2011: 1678). A second window of opportunity thus should be unlocked which is called as a critical juncture, corresponding with Kingdon’s three matching streams. External societal developments have been acknowledged as important problems which are matched with policy solutions and suitable institutional design which are discursively, politically, and institutionally supported and endorsed (Jacobs and Notteboom 2011: 1679). Under three matching streams, institutional transformation will arrive subsequently.

Buitelaar et al. argue that institutional transformation tends to be incremental whereas path creation does not frequently emerge because institutional dynamics hamper degree of plasticity. It may happen due to constraints of existing dominant interests and investments made in the past. This particular argument shows that the model considers actions of institutional designs in the setting of institutional evolution approach (Buitelaar et al. 2007: 897, Jacobs and Notteboom 2011: 1679). Buitelaar et al. (2007: 897) claims that the model should be understood as an analytical model rather than a historical model. It also could be stylized since the reality of institutional change is more complex than the model suggests.

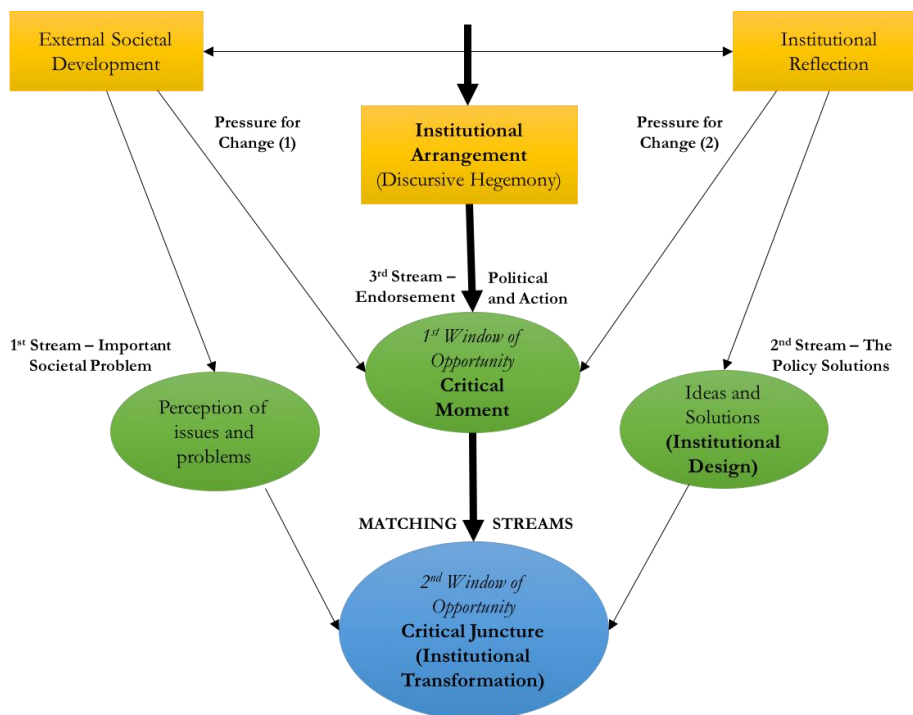


Figure 2.1. Model of Institutional Change

Source: Buitelaar et al. 2007: 897

2.5. Institutional Transformation

According to Buitelaar et al. (2007), most institutional transformation takes places incrementally rather than occurring radically by creating a new path of developments. Similarly, contemporary institutionalists argue that institutional transformation comes from gradual and incremental change rather than sudden and sporadic change (Streeck and Thelen 2005: 18). Relevant with Buitelaar et al. who propose an institutional change model that is politically, historically and socially influenced by crucial events of institutional settings, there are six typologies of transformative change as to gradual change in terms of historical sociology and political science, namely layering, conversion (Martin, 2010), drift, displacement, exhaustion (Streeck and Thelen 2005, Wood and Lane 2012), and stretching (Notteboom et al. 2013).

First, layering emerges through amendments, addition or revisions to existing institutions (Streeck and Thelen 2005: 22). In a layering process, incremental change may arise by means of adding new regulations, procedures, or arrangements to existing systems when change can occur gradually (Martin 2010: 14, Wood and Lane 2012: 19). A layering process could be accumulative generation of institutional transformation and path evolution ultimately from existing structure.

Second, stretching takes places when actors cannot alter existing arrangements, but use steady interactions and bargaining among diverse stakeholders (Notteboom et al. 2013: 29). Stretching process will not necessarily create formalized change, but may produce informal adaptation of routines or a new common understanding of roles and mutual relationship (Notteboom et al. 2013: 29).

Third, conversion constitutes “the reorientation of an institution in terms of form, function, or both” (Martin 2010: 14, Notteboom et al. 2013: 29). It may occur in two ways: first, by adding new layers including new rules and procedures as a result of request of new functions or roles in institutions, in a way which causes elimination of an old layer. Second, reorientation could convert existing institutions for the purpose of improvement, adjustment or realignment of established rules and procedures as well as accommodating external pressures (Martin 2010: 15, Streeck and Thelen 2005: 26).

Fourth, exhaustion occurs due to gradual collapse, instead of rapid collapse. It is called gradual ‘institutional breakdown’ rather than institutional change, in which behaviours are permitted under existing rules to undermine institutions deliberately (Streeck and Thelen 2005: 29). Fifth, institutional drift is the fact that an institution is intentionally disregarded in order to inhibit institutional adaptation in facing external pressure or changing situations due to improper resource uses (Streeck and Thelen 2005: 31).

Sixth, displacement occurs through emergence of subordinated institutions or a new model in comparison with dominant institutions within defection mechanism. Deviant behaviour creates institutional incoherence or new rationality in existing institutional settings, while allowing for realignment of potential institutional resources (Streeck and Thelen 2005: 19).

These six ways of institutional transformation have different impacts on institutional change. Notteboom et al. (2013) relate the process of stretching, layering, and conversion with path plasticity, where institutions change but still keep on 'the path' without breakage or creating a new path. However, these process may be distracted by external factors or institutional environment in a way that pushes institutions to converge within existing framework in a path dependent way. According to Streeck and Thelen (2005), other types of institutional transformation, namely displacement, drift and exhaustion may create a 'new path' in institutions that generates path creation.

In conclusion, this research will stick to the Buitelaar's model in analysing institutional change in port governance. The model accommodates contrasting notions of institutional design when change occurs deliberately, and institutional evolution that emphasizes historical factors influence institutional change. I will investigate which typical paths developed, drivers for change, and transformative mechanism in two ports. Also, I will consider institutional arrangements and institutional environments that may be influenced by various factors, such as political context, social routines, or historical factors. Thereafter, the research will examine whether this model is satisfactory in explaining institutional change in port governance.

Chapter 3

Port Sector in Indonesia

Prior to entering discussion of institutional change, this section illustrates the port sector in Indonesia according to the legal framework and port developments. This section is divided into three main parts, that explaining amendment of sectoral legislation in the beginning. It is followed by the description of decentralization setting in port governance and raising concerns in port development.

3.1. Legal Framework in the Port Sector

The port sector in Indonesia is regulated by the Shipping Law 2008 as an amendment of the Shipping Law 1992 while the details are fleshed out in subsidiary legislations. In addition to sectoral legislation, decentralization legislation influences port governance as mandated in the Decentralization Law 2014. Connection of both areas of legislation is illustrated in Figure 3.1.

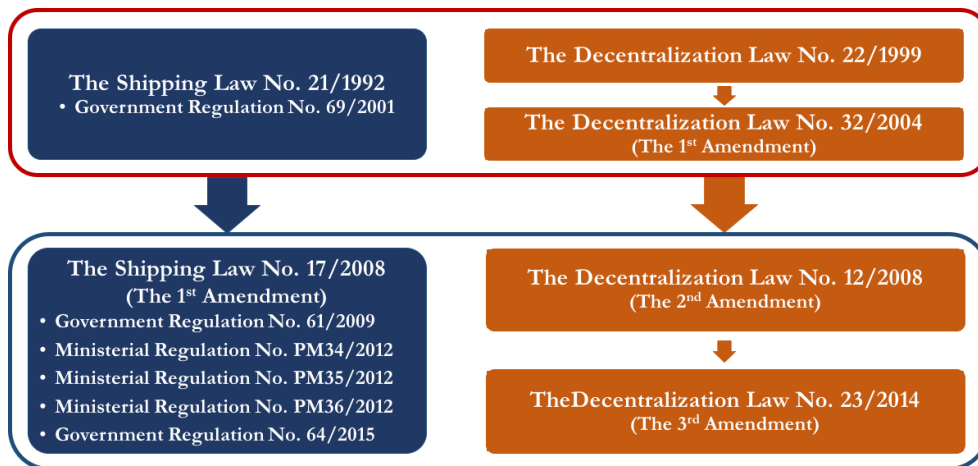


Figure 3.1. Linkage between Sectoral and Decentralization Legislations

Source: Compiled by author

3.1.1. The Shipping Law 1992

Prior to 2008, the framework of port governance was set by the Shipping Law 1992, whereby four port corporations were established both to operate and to regulate ports. Full authority was given to port corporations named Pelindo in developing port infrastructures and services. However, central government retained the authority to set port tariffs at a national level, ensuring cross-subsidization among ports, while Pelindo run commercial ports operation based in four different regions as set by central government.

As State-owned Enterprises (SoEs), Pelindo acted as both operator of port facilities and port landlord which are supervised by Ministry of SoE (Mo-

SoE). MoT is also responsible to lead Pelindo in terms of technical operation. In principle, Pelindo was established as limited-liability and profit-oriented companies. The following responsibilities were addressed by Pelindo, for instance regarding provision of port facilities, container and bulk terminals, passenger terminal, and the most important is land space for office buildings and industrial estates (OECD 2012: 14). In addition to Pelindo, the Shipping Law 1992 determined another Port Business Entity (PBE) to operate ports, namely Local-owned Enterprises (LoEs). In terms of land rights, Pelindo obtained land rights given by central government in order to exploit ports. However, this clause was not applied for LoEs.

As central government representation, the government established a Port Administrator that was assigned to govern ports as regards port safety and tariffs. Three types of Port Administrator were:

1. Main Port Administrator, only established in four particular ports, namely Tanjung Priok, Tanjung Perak, Belawan, and Makassar;
2. Harbour Master and Port Authority Office, established in other commercial ports under clustering systems which are excluded from supervision of Main Port Administrator;
3. Port Management Unit (PMU), established in non-commercial ports under clustering systems.

Table 3.1 outlines distribution of authority in port governance according to the Shipping Law 1992.

Table 3.1. Distribution of Authority in Port Governance According to the Shipping Law 1992

Institution(s)	Role(s)
Port Administrator	Port administrator for port safety and tariffs
Harbor Master and Port Authority Office	
PMUs	
Pelindo	a. Port regulator b. Port operator
LoEs	Port operator
Private operators	

Source: Author's elaboration

In terms of port classification, there were two main port types. First, general services ports to serve port services for public interest, and second, specific services ports, aimed at specific port users. In terms of port function, all ports were categorized into two hierarchies:

- a. Main ports, which handle “large” volumes of cargo, high frequency shipping, and serve both domestic and foreign trades;
- b. Feeder ports, which handle “limited” volumes of cargo and frequency of shipping, and serve domestic trades only.

These ports were further distinguished depending on operational level, whether international, national, regional or local level.

3.1.2. Restructuring Port Sector: The Enactment of the Shipping Law 2008

The Shipping Law 2008 proposed significant changes to Indonesian port governance. The law separates functions of port operators and port regulators into two institutions. The establishment of port authorities takes over several functions of Pelindo, as prior port regulator. The law also rearranges the port sector based on the landlord model that is commonly practiced in Northern Europe and Australia, which is promoted by many advocates of port reform, including the World Bank and the Asian Development Bank (ADB) (OECD 2012: 15, Debie et al. 2013).³ As cited from der Veer (2001 in Kessides 2004), a landlord port is a model of port organizations in which the public sector owns the land and infrastructure, while the private sector delivers port services through concessions or Build-Operate-Transfer (BOT) schemes during a long timeframe.

Initiated by MoT, the landlord model is a means to reform port governance and to eliminate Pelindo monopoly by opening sector up to local and private operators.⁴ Apparently, it proposes a distribution of roles between government and private actors, in addition to government needing private investment to support the infrastructure financing gap. Although the model can be claimed as the most successful port model at the global level, it very much seems as though that the model is implemented without seriously considering institutional complexity of Indonesian port sector. Therefore, it is not surprising if the model does not quite perform as expected.

3.1.2.1. Port Planning and Development

One important initiative proposed by the Shipping Law 2008 is integrated port planning and development referring to National Port Master Plan that is part of the Directorate General of Sea Transportation, an MoT area of responsibility. As regards the national master plan, the law categorizes ports into two main types: marine port, and river and lake port. The former port is divided into three hierarchies of:

- a. Main port, which serves domestic and foreign trades, “large” volumes of cargo, and domestic and international transport;
- b. Collector port, which serves domestic trades, “middle” volumes of cargo, interprovincial transport;
- c. Feeder port, which serves domestic trades, “limited” volumes of cargo, provincial transport.

Furthermore, the law distinguishes ports into two types, commercial and non-commercial, related to types of Port Authority established in port governance.

³ There is a study indicates technical assistance from the ADB to Indonesian government in facilitating private sector participations through landlord model (ADB 2005).

⁴ Interviews with Port Authority, MoT.

3.1.2.2. New Layering of Port Authority

Prior to this law, there were no Port Authorities established, despite Port Administrators that were responsible for port safety and administration. The main Port Administrator was later separated into two institutions, namely Port Authority and Harbour Master. Harbour Masters are concerned with port safety while Port Authorities represent MoT as the main coordinator in port governance. Meanwhile, structure of Harbour Master and Port Authority Office, and PMUs remain the same.

Classification of commercial and non-commercial ports is relevant with definition of Port Authorities and PMUs. Both institutions have taken over the role of Pelindo as port regulator. Therefore, Port Authorities are established as the regulator of commercial ports, while PMUs are for non-commercial ports. Port Authorities can be established by national governments whereas PMUs can be formed either at the national level as PMUs or local level as Regional PMUs. Both governments have authority to establish the units.

In general, there are commonalities between the responsibilities of Port Authorities and PMUs, namely providing and maintaining port facilities such as wave breakers, shipping lanes, and access roads; making port master plans; and concerning port safety. If PMUs are only responsible to yield port facilities, Port Authorities are charged with land provision and proposing port tariffs to be approved by MoT. Port land and port facilities should be owned by MoT and port authority. However, the land use rights can be given to local governments and port operators for the sake of port operation.

In accordance with the landlord model, Port Authorities or PMUs serve as port regulators and set concessions with port operators to run the port. Port operators should be listed as PBEs, either Pelindo (SoE), LoE, or private operators. Accordingly, Pelindos have not been acting as port regulator, so they are assigned as port operators only. The new port organization according to the Shipping Law 2008 is depicted in Figure 3.2.

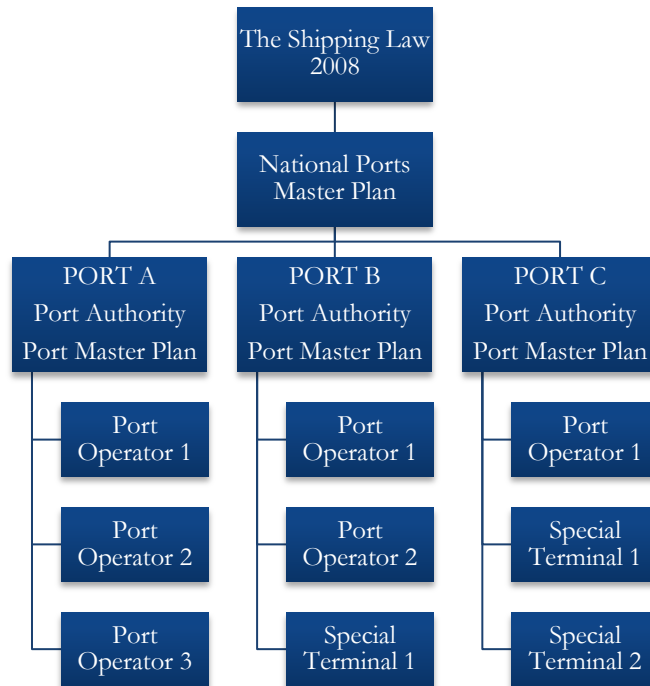


Figure 3.2. Port Organization in the Shipping Law 2008

Source: OECD 2012: 15

Compared to the prior law, the Shipping Law 2008 changes the structure of port governance by centralizing authority to Port Authorities and MoT. This reform re-delineates power and authority structures, especially between Pelindo and Port Authorities. Table 3.2 maps out changing structure of port governance under sectoral legislation.

Table 3.2. A Comparison of Port Governance Structure

The Shipping Law 1992		The Shipping Law 2008	
Institution(s)	Role(s)	Institution(s)	Role(s)
Port Administrator	Port administrator for port safety and tariffs	Port Authority	Port regulator for commercial ports
Harbour Master and Port Authority Office		Harbour Master and Port Authority Office	Port regulator
PMUs		Harbour Master	Port regulator for port safety
		PMUs	Port regulator for non-commercial ports
Pelindo	a. Port regulator b. Port operator	Pelindo	Port operator
LoEs	Port operator	LoEs	
Private operators		Private operators	

Source: Author's elaboration

3.1.2.3. Relationship between Port Authorities and PBEs: Concession and Assets Ownership

Under the landlord model, Port Authorities and PMUs could set concessions for port operations. According to Government Regulation No. 64/2015, the concession is determined through either the auction system or direct selection by Port Authority. Port Authority can assign a port operator directly under several requirements, namely: (1) the land should be owned by PBEs, and (2) PBEs should fully cover port investment without using state budget. For the implementation, they should coordinate with local governments.

This law also introduces assets transfer scheme after the concession period is finished. Article 344 in the Shipping Law 2008 states that port assets should be under Port Authorities ownership, instead of PBEs. Furthermore, all assets should be transferred within three years after the law enacted as per May 2011. This transition period aimed for a process of assets audit, with evaluation handled by MoT and the Indonesia Audit Board.

3.2. Decentralization Setting in Port Governance

The passing of the Shipping Law 2008 creates polemics through elimination of Pelindo's monopoly. However, the problem become more complex when local actors are involved in the port operation. Local actors have started to claim their rights to develop and operate ports since the enactment of the Decentralization Law 1999. It can be argued that the Shipping Law amendment interface with the Decentralization Law during the same period. Figure 3.3 illustrates parallel paths between sectoral and decentralization legislations in port governance. Sectoral legislation was amended once in 2008 while decentralization legislation was amended three times in 2004, 2008 and 2014. Both legislations set decentralization implementation in port governance simultaneously by increasing local actors' involvement.

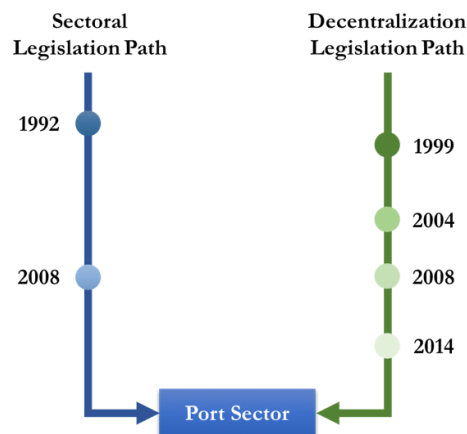


Figure 3.3. Parallel Path of Sectoral and Decentralization Legislations

Source: Author's elaboration

Indonesia has implemented local autonomy since 2001 that transfers central authority to local level including in the port sector. In the Shipping Law

1992, issue of decentralization was not clearly stated, however it was fleshed out in Government Regulation No. 69/2001 that local actors come under port governance. The regulation considered local actors' involvement alongside decentralization implementation. In terms of port operation, LoEs were allowed to develop and operate either general or specific services ports. Yet, the functions of regulation and controlling remain under supervision of central government. Furthermore, either SoEs or private players could cooperate with local actors in governing ports.

After seven years of decentralization, the Shipping Law 2008 takes more account of local actors' involvement in port governance. Similar with prior law, local actors could enter port governance as port developers and port operators, but not as regulator. Chapter 6 of the law specifically discusses local government roles such as:

- a. concerning with environmental issue and port safety
- b. providing supporting infrastructure for port activities
- c. providing building permits on the land side
- d. providing recommendations for port locations.

These roles are assigned to support central government and to reinforce port development. Local governments are also responsible to coordinate with central government regarding the concession. In addition, local government is granted to establish Regional PMUs. These PMUs are developed and directed by local government, however they have similar roles with PMUs or Port Authorities as those established by MoT.

At the same time, the Decentralization Law strengthens local government involvement in the port sector. The predecessor clearly stated that ports belong to local autonomy, hence local governments could take part in the operation. Although there is no change regarding local involvement in the first and second amendment, the third amendment fleshes out division of authority between central and local level in the port sector. In general, both roles are similar, such as issuing building and operating permits, developing ports, and preparing port master plans. Yet the difference is each level of government operating different types of port. Table 3.3 summarizes comparison between sectoral and decentralization legislations in setting local actors involvements.

Table 3.3. Decentralization Setting in the Sectoral and Decentralization Legislations

The Shipping Law		The Decentralization Law		
1992	2008	1999	2004 and 2008	2014
<ul style="list-style-type: none"> - LoEs could develop and operate ports. - SoEs and private operators could cooperate with 	<ul style="list-style-type: none"> - Local actors can develop and operate ports. - Detailed roles of local government in port governance. 	<ul style="list-style-type: none"> - Port was part of local autonomy region. - Local government could 	<ul style="list-style-type: none"> Port was part of local autonomy region. 	<ul style="list-style-type: none"> - Port is part of local autonomy region. - Detailed division of authority among various level of government: <ul style="list-style-type: none"> a. National Level - Interprovincial transport

The Shipping Law		The Decentralization Law		
1992	2008	1999	2004 and 2008	2014
local operators.	<ul style="list-style-type: none"> - Local government can establish regional PMUs. - Local government is responsible to cooperate with central government in developing ports. 	govern regional port.		<ul style="list-style-type: none"> - International transport - Main ports - Collector ports <p>b. Provincial Level</p> <ul style="list-style-type: none"> - Inter-municipal transport - Provincial transport - Regional feeder ports <p>c. Municipal Level</p> <ul style="list-style-type: none"> - Municipal transport - Local feeder ports - Local collector ports

Source: Compiled by author based on relevant regulations and Appendix 3.

3.3. Raising Concerns in Port Development

Reflecting on lack of performance of the port sector, national concern regarding port development has been rising during two consecutive presidencies since 2011. The rank of 53rd of Indonesia among 160 countries in the Logistic Performance Index in 2014 (Arvis et al. 2014) and increasing dwelling time from 4.8 days in 2010 to 6.4 days in 2013 (World Bank 2014) also became strong pressures to reform port sector. However, a financing gap hinders development of hard infrastructure in the ports.

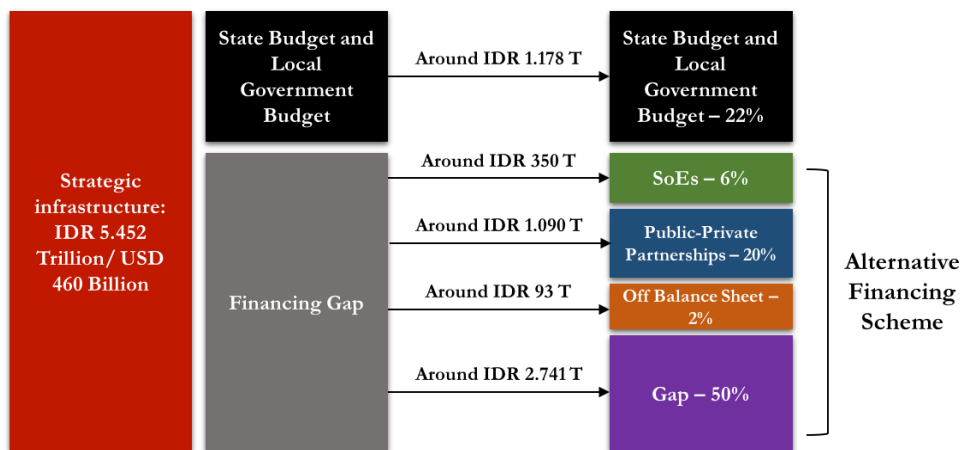


Figure 3.4. Source of Infrastructure Financing (2015-2019)

Source: Salahuddin 2015

Figure 3.4 reveals that central government encounter a financing gap in its infrastructure investment for the period of 2015-2019 whereby state budget

only covers 22% of all infrastructure financing, including the port sector. This financing gap is a crucial constraint to accelerating port development.

In 2011, MP3EI program aimed to improve national connectivity. It was expected that nodes of transport, such as ports and distribution centres could be well integrated (Cabinet Secretary 2014). In 2014, MP3EI program was replaced by Nawacita program when President Joko Widodo emphasised in maritime development policy to transform Indonesia into a global maritime axis (Gindarsah and Priamarizki 2015). It aims to reinforce marine infrastructure, and to foster national connectivity and logistic performance (Witular 2014). The program has been actualized by establishing a new ministry named the Coordinating Ministry of Maritime Affairs and restructuring the Ministry of Maritime and Fisheries to specifically handle maritime sector. The former ministry is assigned to assist the President in coordinating policy planning, also to synchronize policy implementation in the maritime sector (Shekhar and Liow 2015).

This raising national concern is strongly related to increasing concern of port users as regards high logistic costs and its impacts on economy activities. Currently, Indonesian logistics costs reach around 24% of Gross Domestic Product which ultimately affects cost of production and selling price of goods and services (World Bank 2015). For instance, many basic commodities in eastern Indonesia can be twice as expensive as in Java, a central area. Even it could be cheaper to import oranges from China than to buy from regional markets in Indonesia (World Bank 2015). These facts show that port development is not only part of government concerns, but is also a broader societal problem.

Chapter 4

Comparative Analysis of Institutional Change in Two Cases

For the purpose of analysis, Appendices 1 and 2 are provided to elaborate on empirical analysis of institutional changes occurring in PoTP and PoLIS. Based on both appendices, Chapter 4 explains a synthesis of institutional change in both cases by referring to the Buitelaar model in Figure 4.1. The analysis will be set sequentially to answer the first research question by highlighting which actors are involved at which level in institutional arrangements, followed by interaction among actors with regard to institutional environments, including its drivers and effects of change. Thereafter, an analysis of critical moment and critical juncture will be depicted before discussing institutional transformation.

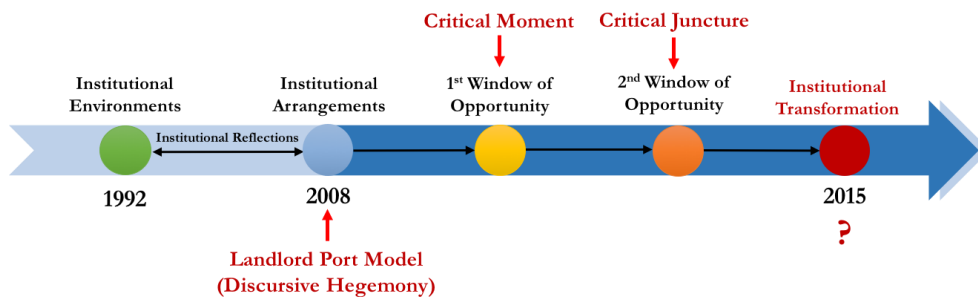


Figure 4.1. Model of Institutional Change

Source: Modified by author based on Buitelaar et al. (2007)

4.1. Inter-governmental Framework as Institutional Arrangement

Institutional arrangements reflect port governance where many actors interact in the port logistic chains. Both cases show particular key actors presented in the form of port regulator, port operator, port users, and ministerial institutions, working under inter-governmental framework that is set by sectoral and decentralization legislation. First, PoTP illustrates a heavy-handed state case where central actors are dominantly involved in conflictual port governance. Meanwhile, local actors involve in terms of permission process and political motivation to be port operators. In contrast, PoLIS presents a peculiar case where local actors play important roles as port developer and port operator. However, central actors have a strong hand in the arrangement through radical means of sectoral legislation.

There are commonalities and differences between two institutional arrangements as regards key actors' interactions. For the commonalities, key in-

stitutions are comprised of central actors and local actors with the following details:

- (1) governmental institutions at the ministerial level which are MoT and MoSoE.
- (2) governmental institutions at the local level which are provincial governments, municipal governments, and Department of Transportation.
- (3) port regulator which is port authority, under supervision of MoT.
- (4) port operators which are listed as PBEs.
- (5) port users which are varied and represented in the form of business associations.

For the differences, it is highlighted that both cases have different types of port operators and port regulators. PoTP is operated by Pelindo III, an SoE that has been assigned since the 1960s to govern commercial ports with its subsidiaries. It presents a 'traditional model' of port governance where Pelindo III was acting as both port operator and port regulator, becoming an institutional catalyst with its long experience in handling ports. In contrast, the PoLIS arrangement shows vigorous involvement of local actors as principal drivers for port development, whereby it is operated by LIS Ltd in cooperation with Eastern Logistics Ltd within concessions.

Regarding port regulators, PoTP is controlled by Port Authority that is appointed to lead commercial ports. As the main port authority in East Java, its structure is separated from Harbour Master, which focuses on handling port safety. Thus, there are two new layers of port institutions in PoTP. By contrast, PoLIS is governed by PMU Brondong, after its conversion from the role of Port Administrator to PMU.

Another difference comes from involvement of the Customs and Excise Office. PoTP focuses on several business fields, such as stevedoring and cargo handling related to either domestic trade or international trade. For international trade, the Customs and Excise Office becomes an important actor in issuing import permits which are critical in terms of dwelling time. In contrast, PoLIS basic function is servicing the oil and gas industry where dwelling time is less critical of an issue than in PoTP. Due to this difference, the Customs and Excise Office is not considered as a key actor in PoLIS governance.

Although both ports are located in similar province, difference emerges in terms of local governmental coverage. Most of the PoTP area is located in the Surabaya municipality, hence the port is under the authority of Surabaya government. However, PoLIS is located in the Lamongan municipality, thus it is under the authority of Lamongan government. Different bureaucratic behaviour also occurs in both cases that will be explained in next section.

4.2. Institutional Environments: Leading to Societal Problems in Port Governance

Institutional environments in both cases comprise formal regulations that drive and control political economy in port governance as well as societal problems in port activities. The formal legislation consists of sectoral and decentralization legislations that have been passed at the same time. As a result,

the interaction between two pieces of legislation generates radical change by creating a new substantial path of institutional arrangements, particularly after the passing of the Shipping Law 2008.

As sectoral legislation, the Shipping Law 2008 plays a fundamental role in shaping institutional arrangements in both instances. As part of centrally planned policy, it proposed the landlord model as radical reform in institutional arrangements. Ultimately, it causes enormous conflicts among stakeholders, either central or local government, or with private players. It can be argued that the landlord model become discursively hegemonic in institutional arrangements because it comes from national legislation under dominance of MoT. However, as we will see below this discursive hegemony is not accepted by all players due to political power plays at various levels. This institutional environment of formal regulation triggers conflicts situated among stakeholders due to legal disputes.

In line with sectoral legislation, decentralization legislation becomes formal regulation that determines institutional arrangements at the local level. Decentralization Law amendments enhance power and authority of local actors taking part in port governance. It thus constitutes a rival discourse introduced by the Ministry of Home Affairs that stands in conflict with the hegemony discourse of MoT. As power holders, local actors could take advantage of their authority to be more involved in port activities. Therefore, both sets of legislation direct institutional change by contrasting different interests between central and local actors.

As a result, institutional environment of both legislations generate societal problems which is part of three streams of Kingdon's theory (in Buitelaar et al. 2007) that explain second stage of institutional change. The two other streams, which are institutional design and political endorsement, will be explained after discussion of societal problems. Societal problems arise from legislative framework affects port governance that put port stakeholders under pressures. Several commonalities are found within different circumstances in both cases. First, both cases have similar concern with port infrastructure. Second, the 'new' emergence of port authority occurs in both cases, while it contrasts with the capacity of port operator as the third societal problems. Fourth, two cases have strong concerns with legal disputes of the Shipping Law 2008 that create resistances from various stakeholders as the fifth area of societal problem.

As operational problems, port activities are illustrated by poorly functioning ports. First, it is revealed from limited infrastructures to support port activities. Different core business between two cases influence different technical problems addressed by port actors. In PoTP, long dwelling time constitutes both a PoTP concern and a national concern, although port expansion is continuously undertaken by Pelindo III. By contrast, PoLIS struggles with road infrastructure problems which affect port productivity. It causes complaints from port operators, local governments, and port users.

Second, technical port problems get worse when institutional problems become more complex with Port Authority existence. This new layering generates resistance from port operators, especially regarding port ownership and concession problems. In fact, Port Authority has limited capacity to handle

many stakeholders. Most port stakeholders indicate that Port Authority is supposed to be more powerful in conducting their authority. Port Authority may raise political power based on its legal basis, however it requires bureaucratic power, importantly, such as qualified human resources and a sufficient budget. Even in PoTP, Port Authority does not have its own office space, hence they should rent offices from Pelindo III, as illustrated below.

“...even Port Authority rents offices from Pelindo.” (Interview with Forwarders Association, Port Authority)

“...Port Authority is supposed to control port infrastructure, shipping, and port trading, instead of focus on technical matters.” (Interview with Ship-owners Associations)

Third, a commonality is shown within the capacity of port operators compared to port authorities. In fact, new layering of Port Authority and conversion of PMU Brondong could not replace the prior dominant roles of the port operator. Before Port Authorities were established, port operators have played vital roles to develop ports. With its experience, the institutional capacity of Pelindo III has generated many improvements in PoTP, while PoLIS development has also been initiated by local actors.

Fourth, the existence of port authority and port operator have relevance to legal disputes in port ownership and concession. It is surprisingly found that both cases have commonalities in this problem. According to landlord model, port assets should be transferred to Port Authority or PMU and MoT, then they will set a concession to run the port. Ultimately, it generates resistance from port actors from various angles and sources.

Fifth, legal dispute mentioned above trigger resistance from related actors by claiming different power and authority. ‘Port assets’ represents ‘power’ for port operators for running business and seeking profits. If the assets should be given to MoT, they will lose their income streams that may imperil institutional stability in port operations. Especially in PoLIS, the absence of central government in port development explains local actors’ opposition to transfer of assets. Although they may have limited capacity, partnership with private players could complete their capacity especially in terms of financing. Missing ‘power’ could jeopardize legal certainty for port investment, while local actors also would maintain income streams from PoLIS as local revenue. Similar conditions occur in PoTP whereby resistance is not only grounded in the political context to retain Pelindo’s authority, but also in an economic context where port operators want to improve their business operation as expressed in following opinions.

“...we build the port with our own funding, loan, land acquisition, then we should sign concession. Under this condition, investors will not cooperate with us.” (Interview with Pelindo III)

“...there is no legal certainty, for investment, whereas we (local government) should save our local revenue.” (Interviews with Regional Planning and Development Agency (BAPPEDA) and Lamongan government)

It is not surprising if port operators are strongly against the law since they have to deal with ‘performance targets’ set by MoT after losing authorities in terms of port ownership and concession, namely: (1) increasing Non-Tax State Revenue (PNBP), (2) sharing profit amounting to 2.5% of gross profit annually, (3) profit limitation up to 25% for ports that are operated by Pelindo.⁵ Furthermore, conflictual relations between port operators and port authorities also expanded to the ministerial level when article 344 of the Shipping Law 2008 results in political lock-in between MoT and MoSoE. It becomes more of a dead-lock in a conflict without resolution that generates a stalemate in terms of institutional change.

Concerning land ownership, local players could work hand in hand with private players in the PoLIS case. As ports are located under local territory, it will be easier for local governments to conduct land acquisition as they have more power to prevail with respect to land. Insufficient port financing could be supported through partnerships under concession agreement with private investors. Contrastingly, PoTP should encounter bureaucratic process of port permits from Surabaya government. At least, PoTP development requires 14 of 23 permits from local government. It shows that local actors as power holder also could exploit their advantage in port governance. Although central government could conduct land acquisition as implemented in PoTP, it tends to be land acquisition by degree from local level to central level as the land is originally owned by local governments.

“...it should involve local government since the port is located under local government authority. Why they are difficult to issue the permits? They are less engaged in port governance.” (Interview with Department of Transportation)

The above statement also indicates political legitimacy of local actors in port governance. In 2011, it is surprisingly found that provincial government and Port Authority requested a PoTP terminal to be operated by either local actors or private actors. Both sectoral and decentralization legislations shift more power to local actors to claim their place in port governance. On the other hand, Pelindo III also resists with their position as authorized port operator as expressed further.

⁵ Point 1 is regulated in Government Regulation No. 11/2015. Although MoT has not released official regulation regarding the 2.5% profit sharing, this point is possibly implemented soon as informed by PoLIS and PoTP operators. For the remaining point, MoT argued that it is still debatable while TTL and Forwarders association denied it.

“Otherwise being a ‘free rider’, local government should take part in port development. We will welcome them if they have a budget to support Pelindo” (Interview with Pelindo III)

In general, societal problems of both cases reveal strong countermeasures from port operators due to incompatibility between sectoral and decentralization legislations. Furthermore, local governments also have political legitimacy to be involved in port governance, although their roles are still limited. Power struggles and political stalemates imply conflictual relations among port actors. These conflicts intermesh with different technical problems of two ports that creating more complex institutional developments.

4.3. Matching the Three Streams: Entering Critical Moment and Critical Juncture in Port Governance

In depicting critical moment and critical juncture of institutional change, the three streams of Kingdon are used to classify complex circumstances, namely: (1) societal problems, (2) institutional design as a stream of policy and solution, and (3) political endorsement and action. According to the Buitelaar model, interaction between institutional environments and institutional arrangements could impact on how institutions interact. This sort of interaction becomes a first stage of institutional change that will open a first window of opportunity by entering a critical moment.

The previous discussion of societal problems underlies the entering discussion of critical moment, while institutional environment generates complex societal problems due to discursive hegemony of landlord model. A critical moment is denoted by responses of port stakeholders to societal problems in the form of institutional design. In completing the picture of the first stage of institutional change, this part will explain institutional design and political endorsement in both cases. Subsequently, I will put political endorsement together with societal problems and institutional design in order to explain the second stage of institutional change. In this stage, institutional change is institutionally, politically, and discursively contested by three streams which may open a second window of opportunity. Table 4.1 gives an overview of the three streams in both cases.

The year 2008 became a point of departure when the Shipping Law 2008 was proposing discursive hegemony of landlord model that created strong rupture in the institutional path while port societal problems are getting worse. As a critical moment, it is found that institutional design between both cases are quite similar, originating from resistances and countermeasures from different levels of government. These institutional responses could be depicted generally as follows: (1) countermeasures from port operators and local actors, (2) dynamic change of port hierarchy and legal status of port operators, and (3) continuous port developments.

First, countermeasures from port stakeholders become focal points of institutional reflection in both instances. In PoTP, political lock-in appears between MoSoE and MoT to clarify issues of port ownership and concessions. This circumstance shows bureaucratic logic when organizations tend to perform well in economic terms. Typically, organizations consider budgets and power first rather than public goals, namely handling dwelling time and developing port infrastructure. Long-standing disputes of assets transfers and concessions as well as the passing of Government Regulation No. 64/2015 may reveal bureaucratic logic. In this law, MoT only compromises with dispute relating to concessions, but still controls port ownerships. Thus it generates continuous conflict between ministries.

Similarly, the decentralization path gives substantial roles to local actors to operate and develop ports. As was mentioned earlier, the parallel paths of sectoral and decentralization legislations cause institutional incoherence. In PoLIS, MoT recentralize major authority of port governance to PMU, although both legislations are concerned with local players' involvement. Finally, institutional incoherence could open a first window of opportunity while LoE counters PMU Brondong as MoT representation by opposing transfer of port assets as they have not contributed to PoLIS development.

“In fact, port operators provide the land by themselves, with high investment, and building the port as well. It would not be fair if they should sign a concession in the end after building the port with their funding.” (Interview with Department of Transportation)

“Central government would like to take over all assets and set concessions, while there is a lack of a state budget given to develop the port.” (Interview with BAPPEDA of Lamongan)

Both cases have commonalities in responding to societal problems where countermeasures and resistances concerning assets transfer and concession representing power asymmetries and stalemates between port regulators and port operators. However, both LIS Ltd and Pelindo III counteract from different angles. In PoTP, conflict between Port Authority and Pelindo III influence the ministerial level between MoT and MoSoE. In PoLIS, port operator and local governments do lobbying as an institutional approach to MoT. When the demand of external environment of asset transfers and concessions could not be compatible with institutional arrangement of port operators, it creates a stalemate to accommodate new regulation in port operation.

Table 4.1. Matching the Three Streams of Kingdon’s Theory

Main Issue	PoTP			PoLIS		
	1 st Stream	2 nd Stream	3 rd Stream	1 st Stream	2 nd Stream	3 rd Stream
	Societal Problems	Institutional Design	Political Endorsement	Societal Problems	Institutional Design	Political Endorsement
Operational problem	Problems of high dwelling time and road infrastructure.	Continuous PoTP development.	1. National concern of port development in MP3EI and Nawacita programs. 2. President’s concern of long dwelling time.	Problem of road infrastructure.	Continuous PoLIS development.	1. National concern of port development in MP3EI program. 2. Support from local governments.
The existence of Port Authority	New layering of Port Authority.	1. ‘Incomplete’ changing status of Pelindo III.		Conversion of PMU Brondong.	1. The dynamic change of PoLIS hierarchy and operator status.	
Port operator capacity	Powerful Pelindo III as port operator.	2. Countermeasure from Pelindo III and MoSoE to Port Authority and MoT regarding concession and assets transfer.		Important roles of local actors.	2. Lobbying from local actors to MoT.	
Legal dispute	Dispute in the Shipping Law 2008: problems of assets transfer and concession.	3. Countermeasure from local governments to Pelindo III regarding port permits.		Dispute in the Shipping Law 2008: problems of assets transfer and concession.		
Resistances	1. Resistance from central government: conflict between MoT and MoSoE. 2. Resistance from local government in giving port permits. 3. A trial of taking over port operation from Pelindo III.			Resistance from local government and the absence of MoT and PMU Brondong roles.		

Source: Field interviews

The difference in both cases reflects on bureaucratic conduct concerning decentralization issues. PoLIS illustrates cooperation among local actors, although it ultimately affects relationships between central and local actors. Conversely, implementation of decentralization in PoTP generates conflicts between Pelindo III and local governments concerning land rights and port permits.

As regards the second point, the Shipping Law 2008 creates a dynamic change of port operators' status in both cases. However, it also changes port hierarchy that occurred in PoLIS during 2006 to 2014. In PoTP, bureaucratic behaviour is depicted when Pelindo III should realize that the role of port regulator has been taken over by Port Authority. In fact, Pelindo III is still too powerful to be handled by Port Authority as a new actor in port governance. In PoLIS, the Shipping Law 2008 initiated dynamic change in the legal status of LIS Ltd and PoLIS hierarchy. Without changing its legal status, LIS Ltd could not be legitimate to operate and develop the port. Furthermore, PoLIS hierarchy has been changed three times during nine years of operations due to the amendment of sectoral legislation. This centrally-mandated institutional environment generates institutional adaptation while PoLIS actors lobbied MoT to upgrade port hierarchy in 2014.

A third point is the following situation occurring in port governance. Apart from institutional responses mentioned above, port development should be continuously undertaken while several technical and institutional problems arise in port operation. In PoTP, port expansion is continuously conducted by Pelindo III through the second stage of TTL development, while Eastern Logistics Ltd continuously developed PoLIS under concession with LIS Ltd. Both cases show the needs of planning adjustment in executing port development by considering complex problems in port governance.

Alongside with institutional design, political endorsement also influences institutional change. The third stream of political endorsement in both cases is shown in terms of a national concern regarding port development. As part of MP3EI program, it is supposed to lead significant development in both cases. In fact, Pelindo III still has difficulties in conducting TTL development, while MP3EI program in Lamongan was only concerned with road infrastructure. Then, Nawacita program came in 2014 where the second stage of TTL development was included therein. Simultaneously, the government also established new layering at the national level by creating the Coordinating Ministry of Maritime Affairs to support Nawacita program. However, this layering is seen as a bureaucratic response in order to accelerate program realization. In fact, institutional problems in terms of power struggle between MoT, MoSoE and local actors have not been addressed. By contrast, different political endorsement is delivered to PoLIS. Strong local government support legitimates the existence of local actors in port governance, while limited road infrastructure and institutional problems remains complex and ongoing.

Although the third stream of political endorsement has not strongly affected port governance, it can be said that three streams are possibly matched, thereby opening the second window of opportunity. 'Technical and institutional problems' become societal problems that generate 'resistances and counter-measures' of institutional designs. These two streams complementing political

endorsement at both national and local levels may then open the second window of opportunity. However, this window of opportunity does not have strong pressure on the critical juncture, thus institutional transformation cannot arise completely as discussed in the following section.

4.4. Political Juncture in Port Governance

It can be argued that bureaucratic fights between ministries at the central level and conflictual relations among port actors could prevent effective institutional change. Throughout institutional problems and continuous resistances between actors, port governance would be difficult to transform regardless of political endorsements of MP3EI and Nawacita programs. However, another political support is seen when President Widodo established task force in August 2015 to evaluate long dwelling time and institutional problems.⁶

“...**Once the President was angry**, dwelling time could be one day, possibly...” (Interview with Ship-owners Association)

“...**When the President came**, suddenly local government concern with our permits...” (Interview with TTL)

Previous statements show that the President’s concern could be politically powerful to mitigate bureaucratic procedures. The President’s anger regarding the long-standing dwelling time generates more responsiveness from governmental institutions to handle the problem. However, this political juncture has not critically created institutional transformation under ineffective institutional change within ongoing processes. In fact, dwelling time remains high and upcoming solutions have not solved port problems.

Different with PoTP, where the President’s political juncture is strong enough to influence port actors, PoLIS reaches a critical juncture within lobbying processes from local actors to MoT. Judicial review of the Shipping Law 2008 will possibly come later on if the intended political juncture of lobbying fails. The situation is similar with PoTP, in that the transformation could be unaccomplished under ongoing processes.

⁶ In June 2015, President Joko Widodo expressed anger in the Port of Tanjung Perak, the first largest port in Indonesia. It is found that eighteen ministries are responsible in long-standing problem of dwelling time, such as MoT, Ministry of Trade, and Custom and Excise Office. This fact leads to the president’s outrage related to port institutions, then establishing a task force for further investigation.

4.5. Incomplete Institutional Transformation: Constructing Port Authority Elements

Comparing two cases, it reveals that the legislative framework in port governance becomes a problematic institutional environment. Two strong pieces of evidence show that the discursive hegemony of the landlord model very much alter the set of institutional arrangements through new layering of Port Authority. This model produces radical change that could not allow incremental change or plasticity in port governance. Countermeasures are addressed by various actors, namely Pelindo III, LoEs, local governments, including inter-ministerial countermeasures within a context of a greater role of central government. As port operator, Pelindo III has considerable power with their prior authority and experience, while Pelindo interests run parallel to MoSoE. Meanwhile, MoT also has central power under sectoral legislation, centrally imposing new arrangement of Port Authority as port regulator. Institutional incoherence occurs when decentralization legislation gives more power to local players involved. It illustrates power struggle generate resistance among stakeholders. This enormous resistance creates more institutional complexity in a reality where dwelling time and limited port infrastructure constitute societal problems. Conflicts from various angles and sources lead to the question: how to distribute power and authority in port governance among different level of government and stakeholders?

Responding to the question, it is necessary to empower Port Authorities if the landlord model is to be implemented properly. Political juncture from the presidential level could be a pushing factor to improve stakeholders' coordination. Under the new layering ministry that aims to accelerate maritime reform, it is supposed to conduct capacity development in Port Authority, for instance the Coordinating Ministry of Maritime could be assigned to supervise and handle inter-ministerial conflicts.

Creating a new path of the landlord model could be not effective as it only represents centralized power in MoT, while other stakeholders' interests are not represented, such as Pelindo as prior port operator and local actors within decentralization processes. In fact, key actors of Port Authority, Pelindo and local actors, have complementary capacities that could be combined into a partnership model of Port Authority. Path creation of the landlord model could be redirected by making path plasticity in Port Authority's arrangements. Port Authority modification could be comprised of a PBE, either Pelindo (SoE) or LoE, local government, and central government that could be represented by MoT.

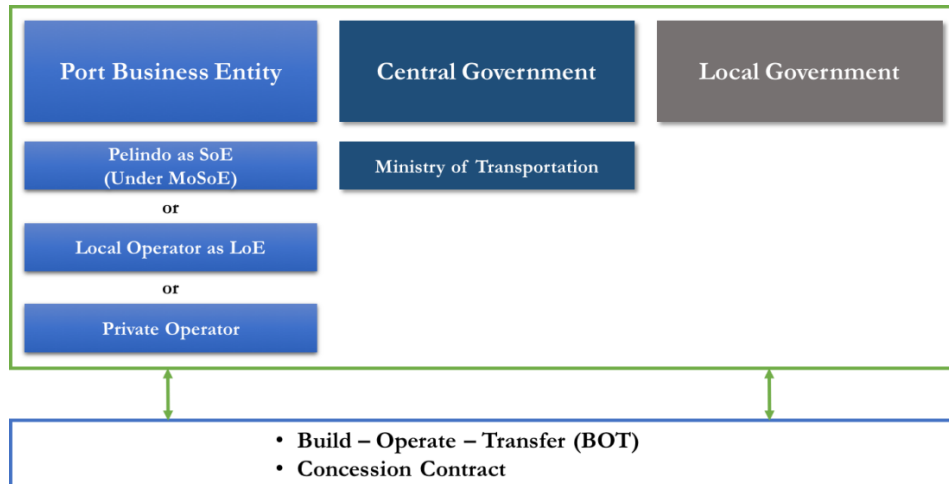


Figure 4.2. Modification of Port Authority Model

Source: Author's elaboration

Figure 4.2 shows that three key actors could be partnered on each capacity in addressing port societal problems. This model could be modified depending on circumstances. Within the model, Pelindo as SoE, LoE or private operator could participate to operate ports professionally in the form of PBE. They could be dominant shareholders but not left to control all authorities. Major shareholdings become a guarantee in terms of assets ownership, so that it will be easier for them to expand port investment. It would likely decrease the financing gap in developing ports. Furthermore, concession could be applied to set an operation period within a BOT scheme, as an instrument to solve insufficient state budget via cooperation with private actors.

If involved in the partnership, local governments could assist land acquisition as implemented in PoLIS, in the sense of local actors having more authority to handle local territory as compared to central government. As port co-owner, local governments could more easily allow Port Authority to take the land for developing a port. Actually, decentralization and local government can strengthen the resource mobilization vastly for port expansion and efficiency, also reducing pressures on central government in addressing financing gaps, especially in the rich regions. For central government, MoT could represent a central actor that has the capacity to control and regulate ports. Thus, central government also owns the land and port infrastructure based on the landlord model. When all these different level of interests are combined under one institution, it may reduce institutional incoherence in port governance.

Chapter 5

Theoretical Reflections

This section is intended to summarize given the context as well the dynamics in two cases. After having attempted to apply the Buitelaar et al. model, this chapter will discuss the relevance of this model in unfolding institutional change in my empirical cases.

This study has shown that the institutional environment of formal regulations creates resistance and countermeasures from various levels and sources in institutional arrangements of port governance. A hegemonic discourse of the landlord model comes from sectoral legislation that is contradictory with a rival discourse of decentralization legislation. Ultimately, radical change of the landlord model creates political lock-in and stalemates due to institutional incoherence. Although a political juncture comes from the national level, it cannot generate institutional change efficiently. As economic institutions, ports have multifaceted roles embedded in port governance. They are not only playing economic roles but also political and social roles (Wood and Lane 2012: 8).

There are major approaches in conducting institutional analysis, such as rational choice, sociological, and historical institutionalism. These three approaches have distinctive definitions of institutions. Rational choice institutionalism frames institutions as governance or rule systems or structures which reflect efficiency and rationality established by people for the purpose of their interest (Djelic 2010: 25, Scott 1991: 34). Historical institutionalism views institutions as formal and informal rules and procedures that form conduct while individual tendencies are unpredictable and historically constructed (Scott 2001: 33-34). Furthermore, sociological institutionalism defines institutions more broadly, not only formal rules or norms, but also informal conventions and collective scripts that guide human behaviour (Hall and Taylor 1996).

They also have different lenses in analysing institutional change. Most rational choice theorists are concerned with path dependence in which institutions evolve in incremental ways with exogenous drivers (Mahoney and Thelen 2010: 6), although many of them argue that change possibly occurs in an evolutionary way (Campbell 2004: 15). Similarly, sociological institutionalism focuses on exogenous shocks in portraying institutional change (Mahoney and Thelen 2010: 5), while many of them adopt an evolutionary pattern of change (Campbell 2004: 20). Some historical institutionalists mostly agree with the notion of path dependence and pay attention to 'critical junctures' or such episodes that relates to explanation and opportunities of changes (Mahoney and Thelen 2010: 7). Summarizing, these approaches mainly distinguish institutional change as taking place either by design or by evolution that is accommodated in the Buitelaar et al. model (2007).

The Buitelaar model is appropriate to understand how institutional change proceeds in an analytical way. This is also a useful tool for analysing the process of institutional change by investigating external societal problems and capturing the three streams of Kingdon's theory of policy agenda settings as well the use of institutional design and institutional evolution approach. I agree that

the model could be stylized since the reality of change is more complex than the model suggests, thus I see possibilities for further sophistication of its application.

Meanwhile, in the case of two ports mentioned above, the Buitelaar approach is indeed inadequate. First, the context of two ports is more complicated than anticipated by the Buitelaar model, especially in the political context. This is actually acknowledged in the 'Institutionalist Political Economy' approach by Chang (2002), who mention that institutional change involves power struggle from different interest groups to influence institutional design processes. The political economy context could strongly influence the direction of institutional change where institutional design could be either promoted or impeded. Pre-existing institutions have set structures of rights and obligations that give authoritative resources to particular groups while disregarding others (Helmsing 2013: 10). Therefore, this approach is not a voluntary and rational process but represents power struggles between groups that may create pressures and frictions (Helmsing 2013: 10). Although Buitelaar et al. state institutional change may occur under social-political motivations and the second window of opportunity could be opened politically, the model does not strongly emphasize power struggle and different interests in a context of institutional change.

Reflecting on my cases, it revealed that the institutional environment of formal regulations creates conflictual relations which presents power struggles from various level and sources in institutional arrangements of port governance. Resistances and countermeasures come from port operators concerning port ownerships and concession settings, as MoT promulgates the landlord model as an institutional design from the central level. Conflict continues up to the ministerial level between MoT and MoSoE, while local government legitimizes their involvement through decentralization.

Second, other scholars warn on what can be a drawback of using the Buitelaar model with regard to institutional complementarity. Although external societal developments become pressures for change, the processes of reflections and change are limited in particular society and jurisdictional boundaries, hence institutional transformations are restricted to particular places and times (Jacobs and Notteboom 2011: 1680). It could be problematic if it applies in a complex, multi-level and interconnected institutional setting.

In the model, the arrow only leads to linear processes of change, pointing in one direction to institutional transformation. However, both cases show cyclical processes of change as many port actors are involved in conflicts of interest, bureaucratic fights, and power struggles from multiple resources. Port governance is set by multiple levels of formal regulations (sectoral and decentralization legislations), involving multiple layers of actors (central government: MoT, MoSoE; business entities: port operators, port users; and local governments) by which they have different resources of power and various interests to achieve different goals. Parallel path legislations show different interests coming from different dimensions with different strategies that influence one another in an interconnected way, not in one single direction.

Institutional complementarity could generate institutional reproduction whereby these institutions will develop that functionally complement each other in the direction of institutional stability in port governance (Campbell 2010: 91; Wood and Lane 2012: 11). These processes generate interrelatedness of institutions, reciprocity, and complementary that will make it difficult to change an institution as it will affect other institutions. The institutional complementarity could hinder institutional change as illustrated with resistances and countermeasures among port actors.

Third, two cases show that institutional change occurs by design with the hegemonic discourse of the landlord model. But it is not actually a hegemony because at the same time there is decentralization reform that does not refer to this landlord model, thereby creating institutional incoherence. This leads to questions on how the Buitelaar model mentions that institutional change is a deliberate process by design rather than a spontaneous one (Buitelaar et al. 2007, Jacobs and Notteboom 2011). Both cases show that even 'by design' it is difficult to control the institutional change. Political relations and power struggles appear spontaneously and direct institutional change.

Fourth, Buitelaar et al. (2007) argue that institutional transformation will come after the second window of opportunity which will then be opened by the critical juncture. However, it may not emerge without adequate pressure of three matching streams. In my cases, distributional power and political turbulence among port actors could hamper institutional change. It is relevant with the institutional political economy approach that points out how power struggles and different interests could control institutional change direction where institutional design in port governance is controlled by different interests of groups. This circumstance also shows institutional inertia, where existing strategy, structure, and power distribution contribute to inhibiting change (Fligstein 1991: 311, Hollingsworth 2002: 105).

Other scholars argue that the term of critical junctures is typically used by historical institutionalism scholars who see institutional change as a path dependent process whereby change occurs due to major exogenous drivers which disturb the status quo (Campbell 2010: 92). My cases show that critical junctures could not effectively generate institutional change due to political stalemates. The key problem with this term is regarding the origins of change. First, critical juncture here only focus on exogenous shocks as change drivers, but little recognition is given to endogenous drivers, such as internal inconsistencies and conflicts of institutional arrangements (Campbell 2010: 92, Wood and Lane 2012: 8). In my cases, endogenous shocks come from political conflicts between layers of port stakeholders that are framed in existing institutions, while the exogenous shock of the landlord model disrupts institutional paths. Second, this approach likely focuses on 'key events' that force change, but not on the complex search process where actors could control the emergence of institutional change or not (Campbell 2010: 92). Institutional complexity in port governance should not be oversimplified by mapping out 'key events' of critical juncture or critical moment only, but we should look in depth to understand why institutional change could not arise effectively due to distributional conflicts.

Fifth, it is important to emphasize historical aspects in conducting the institutional change approach. Although Buitelaar et al. claim that this model considers the institutional evolution approach, I felt it was not easy to determine which events represent which parts of institutional change for both ongoing cases. So, it could be better to go backward in analysing institutional change for capturing change as a full picture. In understanding the change, we need to look at historical aspects of two ports. Both cases reveal multiple levels of institutions, parallel legislative path and amendment, prior dominance of Pelindo III as port operator, the new layering of Port Authority and other factors. Therefore, many dimensions and historical aspects should be noted where these together create a historical process of institutional change.

Apart from the Buitelaar model, I also felt that both cases show that path creation could not lead to certain innovations in institutional arrangement as argued by Garud and Karnøe 2001 (in Strambach 2010). In fact, innovation is not automatic; stalemates and resistances to new institutions could result in a political lock-in. These two cases indicate a drawback within a new institutional path. It leads to strong resistances and countermeasures from different stakeholders alongside poorly functioning ports. Thus, strategies to enhance the landlord model might modify port authority elements by means of partnership modelling between port actors in terms of path plasticity.

Furthermore, it is difficult to define mechanisms of institutional change in port governance by using six terms of institutional transformation. As mentioned earlier, the six terms of institutional transformation consist of: (1) layering occurs by adding new arrangements or procedures on top or alongside existing institutions (Martin 2010); (2) stretching take places by creating informal adaptation without changing existing institutions (Notteboom et al. 2013); (3) conversion generates institutional reorientation in terms of form or function in existing institutions; (4) exhaustion appears where institutions break down and get weak; (5) displacement occurs by removing existing institutions and establish the new one; and (6) drift creates the change of institutional impact due to external pressures while existing institutions remain (Streeck and Thelen 2005, Lane and Wood 2012).

My cases show interface problem occurring between territorial and sectoral dimensions of institutional change. These different sectors in the government propose contradictory arrangements. MoT establishes Port Authority to centralize port ownership and concession while local government strives to take a greater role in port governance by decentralization means. The interface between two arrangements cause incompatibility between sectoral and decentralization dimensions. Ultimately, it generates permanent resistances and countermeasures among port actors as different levels of government agencies put forward different frameworks that do not match.

The six terms above might not represent institutional transformation in both cases. Thus it might be called as 'clashing', as a new variety of institutional transformation proposed in this study. Clashing means that these institutions of parallel legislations simultaneously set existing institution of port governance in different frameworks that are mismatched, which create dynamics and institutional incoherence in port governance.

In general, further research is needed to determine institutional change from institutional political economy approach in other ports in Indonesia. It is important to look in depth at the political context in port governance as economic institutions.

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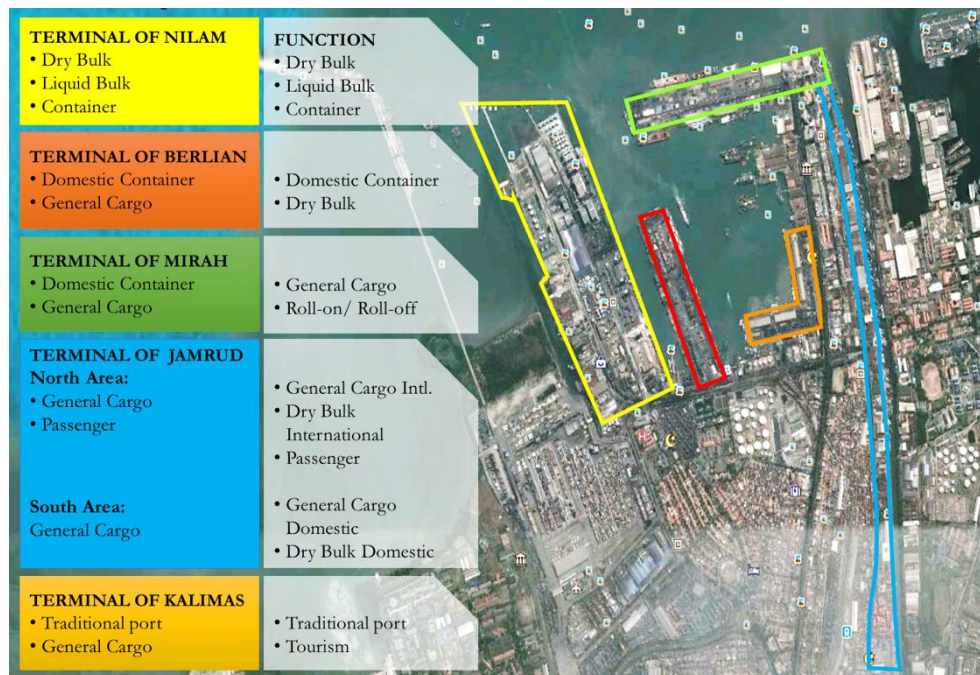
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Appendix 1: Port of Tanjung Perak in a Nutshell

The appendix is concerned with PoTP governance. It begins by the structure of PoTP discussion. It will then discuss PoTP institutional arrangements and societal problems in PoTP.

A1.1. PoTP Structure in Preventing Port Stagnation

As the second largest port, PoTP is the main shipping centre in eastern Indonesia. As the inheritance of Dutch colonization, the government took over the operation by establishing State-owned companies in the 1960s. Ultimately, the companies were diverted to State-owned Enterprises (SoEs) in 1991, attributed by region, when Pelindo III was assigned to manage PoTP in region III ('The History' 2011). Several terminals are utilized to provide stevedoring and other port services based on clustering system as shown in Map A1.1.



Map A1.1. Clustering System in PoTP

Source: Pelindo III 2015

As the pillar of distribution lines in eastern Indonesia, these five existing terminals are increasingly congested with port activities ('Press Release' n.d.). For instance, berthing and stevedoring processes reach approximately 2-4 days, so it becomes a source of high logistic cost and dwelling time. Furthermore, port infrastructure is increasingly inadequate to serve trading activity, for example the current depth of terminal cannot be used for vessels with capacity of

more than 2,000 containers (Purnomo 2013). Responding to these situations, port developments are continuously undertaken by Pelindo III through port expansions. The two newest terminals, which are the Container Terminal of Surabaya (TPS) and the Terminal of Teluk Lamong (TTL), are built to enhance port capacity ('Clustering' 2014).

TPS has been operated since 1999. Regardless of well-established infrastructure, port congestion in TPS has reached 50% of port capacity by 2009. It is estimated to be "too congested" in 2022 when port congestion will reach 73.39% of port capacity (Supriyono 2014: 96). In order to overcome foreseen problems, Pelindo III is developing TTL that has been operated since 2014, as part of MP3EI program in 2011. For financing the first phase of TTL development, Pelindo III spent internal cash, foreign loans, and global bonds due to limited state budget. At present, the second stage of development is being undertaken as part of Nawacita program in 2014 (Pelindo III 2015: 6). The current development focuses on improving road infrastructure and the railway network. In order to easily navigate PoTP developments, Table A1.1 presents timeline of PoTP events that will be further explained in the following parts.

Table A1.1. Timeline of PoTP Events

Year	PoTP
1991	Pelindo III conversion to SoE.
1992-2010 (since 1960s in fact)	Pelindo III acted as both port operator and port regulator.
1994	Start of TTL development planning.
1999	First operation of TPS.
2010	Port Authority establishment.
	Harbour Master separation from Port Administrator.
	Start of TTL first phase construction.
2011	Pelindo III conversion becoming port operator as PBE.
	MP3EI program implementation.
	Conflict of ownership between Pelindo III, provincial government, and Port Authority.
2014	First operation of TTL.
	Nawacita program implementation.
June 2015	President expresses anger in Port of Tanjung Priok due to high dwelling time problems.

Source: Interviews and secondary documents.

A1.2. Typical Institutional Arrangements in Port Governance: Pelindo as Port Operator

Several key actors in PoTP governance is shown in Figure A1.1 which classifies groups of key actors followed by their supervising ministry. PoTP arrangements mostly consist of private actors and governmental institutions from different levels. As PoTP is located in the Surabaya municipality, hence Surabaya government plays important roles to enable port planning and operations as does provincial government.

Governmental Institutions (National Level)	Governmental Institutions (Local Level)	Business Associations/ Port Users	Port Business Entity
<ul style="list-style-type: none"> • Port Authority (MoT) • Harbour Master (MoT) • Custom and Excise Office (Ministry of Finance) 	<ul style="list-style-type: none"> • Provincial Government of East Java (including Department of Transportation) • Municipal Government of Surabaya 	<ul style="list-style-type: none"> • Importers • Exporters • Logistic and Forwarding Companies • Land Transportation Owners • Stevedoring Companies • Others 	<ul style="list-style-type: none"> • Pelindo III (SoE, under supervision of MoSoE, while MoT guides in terms of technical operations)

Figure A1.1. Institutional Arrangements in PoTP

Source: Field interviews

Listed as PBE, Pelindo III acts as port operator under technical supervision of MoT and management supervision of MoSoE. In the existing institutional arrangements, Port Administrator was replaced by the new institutions of Port Authority and Harbour Master. Furthermore, Harbour Master is removed from Port Administrator to specifically handle port safety, whereas Port Authority has a central role as port regulator. There is also a port integrated facility that involves several institutions, such as the Customs and Excise Office. As a governmental institution, the Customs and Excise Office has important roles in controlling import activities and dwelling time in terms of custom and excise matters. In the end, several Business Associations are also actively involved as port users that usually give inputs for PoTP development.

A1.3. Institutional Environments: Stalemates in PoTP Governance

This section is divided into three different parts. First, it discusses the new layering of Port Authority due to institutional environment of the Shipping Law 2008 and its impacts on PoTP governance. Thereafter, countermeasures from local players and dwelling time problems will be discussed in the following parts.

A1.3.1. New Layering of Port Authority: Leading to Dispute in Port Assets and Concession

The Shipping Law 2008 generates a radical change in port institutional arrangements, notably regarding port assets and concessions. Prior to the enactment of the law, Pelindo III was acting as both port operator and port regulator, while currently Pelindo III become port operator only. By adding new layering of Port Authority, the law generates institutional complexity whereby Port Authority takes over the role of regulation, supervision, and controlling that was previously handled by Pelindo III. However, different interests and

interpretation of legal framework trigger dilemmas and conflictual relations in the legislation implementation.

As regards the landlord model, Port Authority is supposed to accommodate basic port infrastructure, such as docks, inland areas, and reclamation areas. Although some facilities were built using a State Budget, most port facilities are built and maintained by Pelindo III to date,⁷ which is supposed to be excluded from Pelindo III responsibility. For instance, the role of TTL land provision is still handled by Pelindo III without a contribution of Port Authority.⁸ The fact that Port Authority rents office from Pelindo also indicates Pelindo's domination as the land use rights are given to Pelindo.⁹ These circumstances however are not aligned with landlord model whereby port land should be provided and owned by Port Authority. The emergence of Port Authority is also debatable due to its limited capacity and insufficient State Budget to maintain around 1,300 ports in Indonesia. Since 2008, this extreme centralization has become problematic as Port Authority mostly handles administrative aspects without more concern to port development issues.

Regarding the concession and port ownership, legal disputes relating to Article 344 in the Shipping Law 2008 do not only cause conflictual relations between Port Authority and Pelindo III, but also between ministries of Mo-SoE and MoT. In June 2015, the Minister of SoE sent an official statement to the Ministry of Home Affairs and MoT arguing that existing port facilities are part of Pelindo ownership and concessions, except for new terminals.¹⁰ A conflict of interest appears when MoT claims that all port assets should be audited and classified between Pelindo investment and government ownership. Ultimately, port assets should be owned and under concession set by Port Authority, including the land ('Suspected' 2011, 'Raising' 2011).¹¹ However, another concern also relates to how to distinguish these sorts of investment, where most of existing terminals are inheritances of Dutch colonization but continuously developed by Pelindo III. In fact, the audit process has not shown any progress at present.¹²

According to Article 344, port operators are supposed to transfer existing assets to MoT by May 2011. The height of conflictual relations occurred towards May 2011 between Pelindo III, provincial government, and Port Authority. Port Authority requested permission to MoT and MoSoE for taking over the Berlian Terminal to be operated by private operators or provincial government. Although this attempt failed, it shows provincial governmental interest to manage ports assets in their territory under legitimation of the Decentralization Law, while Port Authority claims legitimation under sectoral leg-

⁷ Interviews with Pelindo III, BAPPEDA of East Java, Ship-owners Association, Forwarders Association.

⁸ Interviews with Pelindo III, BAPPEDA of East Java, Ship-owners Association, Forwarders Association.

⁹ Interview with Port Authority.

¹⁰ Interviews with Port Authority, MoSoE.

¹¹ Interviews with MoT, Port Authority.

¹² Interviews with Port Authority, Pelindo III, Department of Transportation.

islation.¹³ Meanwhile, Government Regulation No. 64/2015 is enacted in attempt to alleviate the disputes. However, it implies a half-hearted legislation which overlooks the issue of ownership.¹⁴ Although the legislation offers two alternatives in concession set either through auction or direct arrangement from Port Authority, the law consistently set that all port facilities should be under Port Authority and MoT ownership after concessions ended.

Pelindo III also has to deal with ‘charges’ imposed by MoT. At present, MoT urges Pelindo III to limit the profit up to 25% so that Pelindo could improve port services and set competitive tariffs.¹⁵ Furthermore, MoT recently increase PNBP tariffs imposed to Pelindo,¹⁶ beside sharing of 2.5% of gross profits due to the concession.¹⁷ These regulations are debatable as Pelindo is required to improve port services, while MoT increases port charges.¹⁸

Summarizing, landlord model allows MoT and Port Authority to possess port assets then set concessions. In fact, limited capacity of Port Authorities leads to resistance from Pelindo III. Removal of Pelindo III roles in terms of assets ownership could threaten the possibility of Pelindo to get loans due to legal uncertainty and limited income streams. It may result in more constraints for Pelindo III to expand the port with limited support from MoT. On the other hand, additional burdens are faced by Pelindo III within profit limitation and port charges.

A1.5.3 Countermeasures from Local Actors

It is argued that radical reform from sectoral legislation takes place in parallel with decentralization reform then creating institutional incoherence between the roles of central and local actors. Both legislations give more authority to local governments, however, the implementation imply ‘limited’ rooms for them to take part. Consequently, Surabaya government is likely reluctant to issue port permits, for instance, complicating bureaucratic processes in TTL development permits.¹⁹ It spent around 16 years to commence the first stage of TTL construction in 2010 while the development has been planned in 1994 (Pelindo III 2015: 8).

Furthermore, layering permission from different levels in central and local levels impacts the number of permits required to develop ports. According to Pelindo III recent project, at least 23 permits are required to develop a new port, including from 6 permits from MoT, 14 permits from the provincial government and the municipal government, and 3 permits from Port Authority and Harbour Master.²⁰ This constraint may impact private actors ability to

¹³ Interviews with Pelindo III, Port Authority.

¹⁴ Interviews with Pelindo III, BAPPEDA and Lamongan Government.

¹⁵ Interview with Forwarders Association.

¹⁶ Interviews with Pelindo III, Forwarders Association, MoSoE.

¹⁷ Interviews with Pelindo III, TTL, PoLIS operator, MoT.

¹⁸ Interview with MoSoE.

¹⁹ Interviews with Pelindo III, TTL, BAPPEDA of East Java, Forwarders Association, Department of Transportation.

²⁰ See Appendix 4 for the detail.

build a new port. The fact that no new ports have been built by private actors in Indonesia since 2008 shows bureaucratic process and legal uncertainty could inhibit new port investments.²¹

These circumstances reflect societal problems at the local level that affect port development. Some modification of port development have been undertaken by Pelindo III to adapt with the problems.²² Nonetheless, Surabaya government has a capacity to resist since the land is actually owned by them. As PoTP is located in provincial area, it could be better if the process of port development could involve local government to ease permit processes.

A1.5.2 Dwelling Time in PoTP: Between the Problem and National Concern

The main operational problem in PoTP is long dwelling time. Similar with the President's anger due to dwelling time at the Port of Tanjung Priok recently,²³ it also occurs in PoTP where of the issuing of Import Permits still takes too long. In this particular case, Port Authority has no authority to impose punishment to related stakeholders involved, as they have different sectoral legislations.²⁴ For instance, the Customs and Excise Office works based on the Customs and Excise Law, so Port Authority cannot intervene in their work process. Thus it needs a synchronization in the legal issues as many stakeholders are involved in port sector.²⁵

Preliminary processes of issuing import permits show bureaucratic processes that affect to longer dwelling time. The situation in PoTP is worse than the Port of Tanjung Priok because it requires coordination of eighteen ministries in issuing permits. If it takes three days in Tanjung Priok, it will be four days in Tanjung Perak as every documents should be completed in the capital city of Jakarta, instead of Surabaya as the case for PoTP.²⁶

²¹ Interviews with MoT, MoSoE, Department of Transportation, Academicians.

²² Interview with TTL.

²³ Port of Tanjung Perak is the largest main port in Indonesia, while PoTP is the second largest one.

²⁴ Interviews with MoT, Department of Transportation, Custom and Excise Office, Directorate General of Custom and Excise (DGCE).

²⁵ Interview with DGCE.

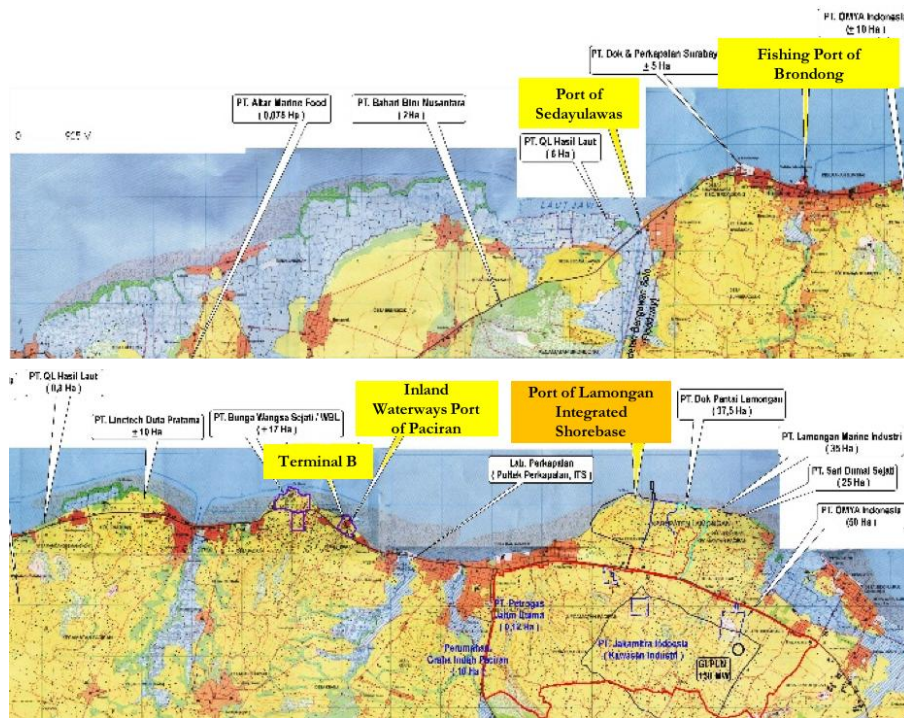
²⁶ Interviews with DGCE, Custom and Excise Office.

Appendix 2: Peculiar Case of Port of Lamongan Integrated Shorebase

This appendix explains particular case of PoLIS with port background in the beginning, followed by PoLIS development discussion. Thereafter, several parts including the impact of regulatory frameworks and conflicts of interest in PoLIS will be discussed.

A2.1. General Background

As a Regency Strategic Area, there are many ports established to support trade and port industries in the Lamongan municipality, such as PoLIS, Fishing Port of Brondong and Port of Gresik as shown in Map A2.1 (Lamongan Government 2012).



Map A2.1. Map of Lamongan Municipality

Source: Lamongan Government

The purpose of PoLIS development is to support the need of infrastructure for oil and gas drilling in Lamongan in order to decrease high dependency on logistics centres in Singapore and western Indonesia (MoT 2006). To easily navigate further discussions of PoLIS, Table A2.1 shows timeline of PoLIS events.

Table A2.1. Timeline of PoLIS Events

Year	Event(s)
2003	Land acquisition conducted by local government and LIS Ltd (2003-2007).
	LWJ Ltd establishment (LoE).
	PMU Brondong become Port Administrator.
2004	LIS Ltd establishment as private company.
	Commencing period of cooperation between LIS Ltd and Eastern Logistics Ltd.
2006	Starting period of port construction.
	Starting period of port operation (oil and gas services).
	PoLIS was main port.
2007	LIS Ltd conversion from private company to LoE.
2008	The enactment of the Shipping Law 2008.
	Raising issue of assets transfer and concession.
2010	PMU Brondong conversion from Port Administrator to Port Authority.
2011	MP3EI program implementation.
2013	Port hierarchy downgrade being regional feeder port.
	Sembayat Bridge cannot be operated normally.
2014	LIS Ltd proposed amelioration of PoLIS hierarchy to central government, resulted in upgraded hierarchy from feeder port becoming a collecting port.
	LIS Ltd is listed as PBE.
2015	Initiation of LIS Ltd and local government's audience to MoT in discussing assets transfer and concession problems.

Source: Field interviews

A2.2. Institutional Arrangements in PoLIS

A2.2.1. The Shipping Law 1992: LoE as Port Operator

PoLIS constitutes one of the main ports that is owned and operated by local players with high level of support from provincial government of East Java and Lamongan government.²⁷ Prior to the development, both local governments developed Lamongan Wira Jatim Ltd (LWJ Ltd) in 2003, a LoE of Lamongan government and Petrogas Wira Jatim Ltd, a LoE of provincial government. Furthermore, central government took part in PoLIS governance through PMU Brondong to handle port administration and safety.

For the operation, local governments established Lamongan Integrated Shorebase Ltd (LIS Ltd) as private company with joint venture scheme in 2004, with shareholders' composition consisting of LWJ Ltd (55%) and Eastlog Holding Pte Ltd (45%), a foreign company from Singapore. Due to limited funding, LIS Ltd then cooperates with Eastern Logistics Ltd, a foreign capital investment company of Eastern Holding Ltd, which is responsible to build the port while LIS Ltd has to provide port land. Under the BOT scheme of 50 years of concession, Eastern Logistics Ltd shares profits to LIS Ltd amounting

²⁷ Interviews with BAPPEDA and Lamongan Government.

to 13-2.5% of gross income annually.²⁸ For port development, LIS Ltd successfully conducted land acquisition of 140 acres in 2003 and 2007, followed by port construction and operation since 2006 by Eastern Logistics Ltd.²⁹

During port operation, the shareholders realized that status of LIS Ltd was not in line with the Shipping Law 1992 that required LoE establishment as both port operator and port developer. As a result, LIS Ltd was converted into a LoE in 2007 with shareholders' composition comprising LWJ Ltd (55%) and Panca Wira Usaha Ltd (45%).³⁰ In advance of the restructuration, LWJ Ltd was also restructured to be fully owned by the Lamongan government. In short, Figure A2.1 shows the process of LIS Ltd restructuration.

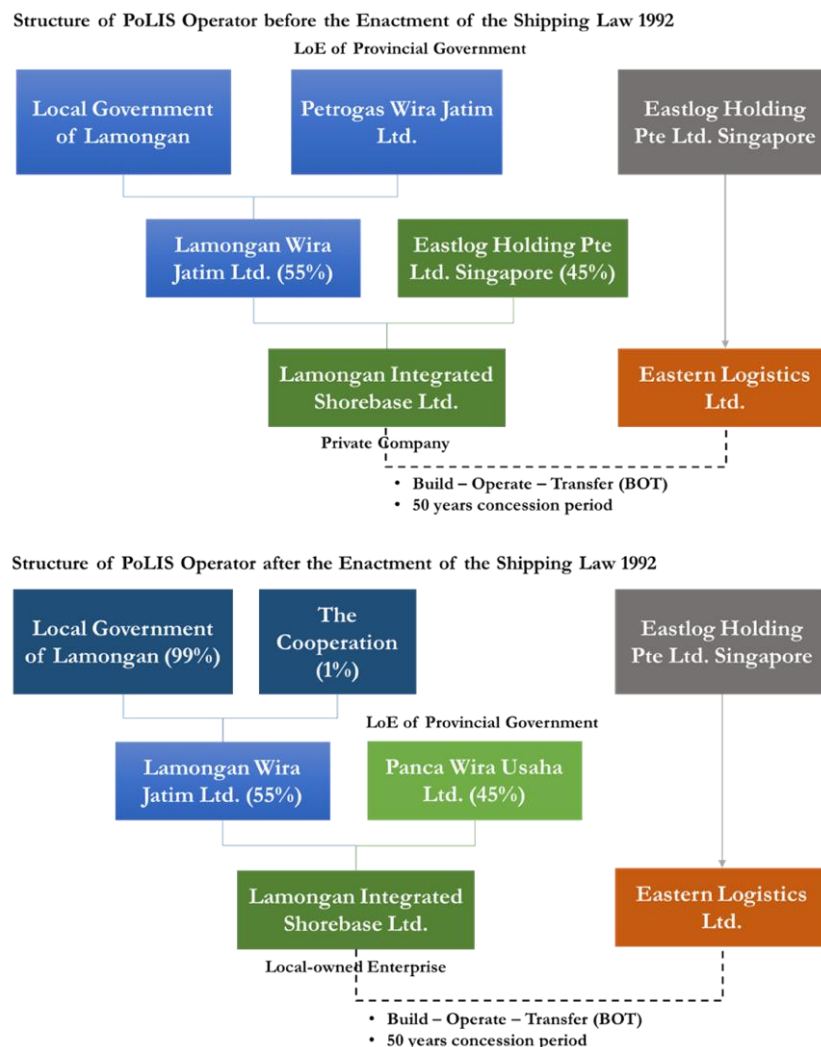


Figure A2.1. Restructuration of LIS Ltd

Source: Field interviews

²⁸ Interviews with LIS Ltd and Eastern Logistics Ltd (PoLIS operator).

²⁹ Interviews with BAPPEDA and Lamongan Government.

³⁰ Interviews with BAPPEDA and Lamongan Government.

A2.2.2. The Shipping Law 2008: Conversion of PMU Brondong

The enactment of the Shipping Law 2008 impacts the reshaping of institutional arrangements in PoLIS governance. Since the beginning of establishment, local actors have had important roles. Both provincial and municipal governments contribute to port development and promoting LIS Ltd as port operator, that was transformed into PBE in 2014. Otherwise, LIS Ltd could not be legitimate to operate the port.³¹

In the current institutional arrangement, PMU Brondong is appointed as Port Authority since 2010. Actually, it is assigned to govern non-commercial ports in Lamongan, while PoLIS is for commercial ports. Accordingly, this implementation is not aligned with the Shipping Law 2008 as PoLIS should be supervised by Port Authority, instead of PMU. It is found that a lack of human resources and the number of port authorities cannot accommodate the need of port authorities to govern commercial ports.³²

Since PoLIS delivers port services for the oil and gas sector, most port users are oil and gas companies which use cargo handling services. Different from PoTP, the existence of Customs and Excise Office is not considered as a key actor since port main services are not object of customs and excise. Summarizing, Figure A2.2 lists group of key actors in PoLIS.

Governmental Institutions (National Level)	Governmental Institutions (Local Level)	Port Users	Port Business Entity
<ul style="list-style-type: none"> • PMU of Brondong (MoT) 	<ul style="list-style-type: none"> • Provincial Government of East Java (including Department of Transportation) • Municipal Government of Lamongan 	<ul style="list-style-type: none"> • Oil and gas company, i.e. Pertamina, Exxon MCL, Petronas • Non-oil and gas company, i.e. Civi Kimia Ltd., Bahari Sindo, Ltd. 	<ul style="list-style-type: none"> • LIS Ltd (LoE) • Eastern Logistics Ltd (partner of LoE)

Figure A2.2. Institutional Arrangement in PoLIS

Source: Field Interviews

A2.4. Societal Problems in PoLIS

The following discussion elaborates on societal problems due to the Shipping Law amendment. Similar with the PoTP case, the Shipping Law 2008 generates fundamental change in PoLIS governance, resulting in dynamic change of port hierarchy, conflictual relations of port ownership and concession, as well technical port problems.

³¹ Interviews with BAPPEDA and Lamongan Government, PoLIS operator.

³² Interviews with Port Authority, PMU Brondong, Lamongan government.

A.2.4.1. The Dynamic Change of Port Hierarchy

As discussed earlier, the port was originally aimed for the oil and gas industry. In line with an increasing of port activity and adjustment with the Shipping Law 2008, PoLIS has been developed into a public terminal. The port then is developed to provide additional services, such as loading and unloading of dry bulk, liquid bulk, and cargo yards (MoT 2014).

The new Shipping Law also impacts PoLIS hierarchy. PoLIS was designated as a regional feeder port until 2015, to then become a collector port in 2020. Previously, PoLIS was main port that served both domestic and international trade services. Consequently, the port could not cope with international trading, foreign shipping, or even inter-provincial port services under the changing port hierarchy.³³

Referring to the downgraded hierarchy, LIS Ltd, supported by the provincial and Lamongan governments, and PMU Brondong responded by proposing the hierarchy upgrading to MoT as the new hierarchy restricted port services while the infrastructure has been expanded (MoT 2014). Subsequently, PoLIS became a collector port in 2015 but still this hierarchy is lower than the initial one. In general, the Shipping Law amendment lead to dynamic change in PoLIS hierarchy that affects restrictions to port services.

Raising the national concern of port development also impacts PoLIS development. As part of a national program of MP3EI, central government conducted road widening between Lamongan and Tuban municipalities as regards enhancing port accessibility. Other massive infrastructure developments were also undertaken that led to significant changes to seaports development (MoT 2014).

A.2.4.2. Conflict of Ownership and Limited Infrastructure

The emergence of PMU Brondong as port authority depicts institutional conversion in PoLIS institutional arrangement. PMU Brondong is assigned to operate, regulate and finance the ports. Previously, this MoT representation was responsible as Port Administrator. The conflict of ownership arises when MoT desire to take port assets over from LIS Ltd and set concession on behalf of LIS Ltd. In fact, PoLIS has been built and operated by local players.

Societal problems also originate from infrastructure constraints. Building new port is not merely building port construction, but also supporting infrastructure, such as roads and bridges for access to ports. Although PoLIS infrastructures meet international standards, port access is still limited. For instance, due to bad functioning of Sembayat Bridge since 2013, it entangles access from PoLIS to industrial areas. Consequently, Civi Kimia Ltd, the most important customer, could not use port services, thus changed to using PoTP services.³⁴

³³ Interviews with BAPPEDA and Lamongan Government, PoLIS operator.

³⁴ Interview with PoLIS operator.

A2.5. Institutional Design in PoLIS

All societal problems mentioned above provoke policy solutions as responses. Relating to concession scheme, the new Shipping Law mandates that concessions should be set by PMU Brondong instead of LIS Ltd. As the investor, Eastern Logistics Ltd encounters legal uncertainty in running the business. Accordingly, LIS Ltd has to convince the investor that port operation can be continued amidst this institutional complexity.³⁵

The concession also brings another consequence to PoLIS. Similar with PoTP, several ‘charges’ have been imposed on LIS Ltd, namely sharing 2.5% of profits to MoT and higher rates of PNB. ³⁶ Consequently, local governments and LIS Ltd should ensure their local revenue from PoLIS could be achieved amidst these payment obligations. Even PMU Brondong has targeted to achieve IDR 105 Billion of PNB in 2015 while it was only IDR 13 Billion in 2014.³⁷

As a response, both local governments are proposing MoT to revisit the plan in taking over PoLIS ownership and concession setting.³⁸ The establishment of a task force, comprising PoLIS operator and local governments, aims to discuss these problems with MoT. For the worst case, the task force yearns for conducting judicial review of the Shipping Law 2008 if intended results will not appear.³⁹ In fact, PoLIS circumstance contrasts with PoTP in that port hierarchy remains clear as the main port where Pelindo acts as SoE under central government supervision. By contrast, the implementation of the Shipping Law seems to overlook involvement of local actors in port governance.⁴⁰ It shows incoherence in the institutional environment between sectoral and decentralization legislations. By design, both legislations clearly states that authority has been given to local actors in conducting and building ports, although the legislations limit local players which only operate particular ports.

³⁵ Interviews with BAPPEDA and Lamongan Government.

³⁶ Interviews with PoLIS operator, PMU Brondong, MoT.

³⁷ Interview with PMU Brondong.

³⁸ Interviews with BAPPEDA and Lamongan Government.

³⁹ Interviews with PoLIS operator, Lamongan Government.

⁴⁰ Interviews with BAPPEDA and Lamongan Government

Other Appendices

Appendix 3

Distribution of Affairs and Authorities in the Port Sector according to the Decentralization Law 2014

National Government	Provincial Government	Municipal Government
<ol style="list-style-type: none"> 1. Issuing business license of the sea transport for the Business Entities that provide interprovincial and international transport. 2. Issuing route permits of the river and lake transport for interprovincial and/ or international route. 3. Determining operation approval of the vessel which is located on the national network, national railway network and/ or international or interprovincial regions. 4. Determining crossing area and approval of the ships operation in the international and interprovincial route. 5. Issuing business licenses for ship management, intermediaries buying and selling, and/or rental boats, the ship agency and crew. 6. Determining domestic sea transport fares for the economy class passengers. 7. Determining ferry transport fare of economy class for passengers as well as cargo and vehicles in the international and interprovincial route. 8. Determining port lo- 	<ol style="list-style-type: none"> 1. Issuing business license of the sea transport for the Business Entities for the inter-municipal route in the province. 2. Issuing traditional shipping license for individual or the Business Entities that are domiciled and operated in the inter-municipal, interprovincial, and international ports in the province. 3. Issuing route permits of the river and lake transport for the inter-municipal route in the province. 4. Determining operation approval of the vessel which is located on the provincial network and/ or railroad network of the province. 5. Determining crossing area and approval for the ships operation for the inter-municipal networks in the province. 6. Issuing business licenses for stevedoring, transportation management services, port transportation, seaport equipment leasing or equipment associated with sea transport services, independent tally, 	<ol style="list-style-type: none"> 1. Issuing business license of the sea transport for the Business Entities which are domiciled in the municipal level and conducting transport port across the municipalities. 2. Issuing traditional shipping license for individual or the Business Entities that are domiciled and operated in the ports across the municipalities. 3. Issuing traditional shipping license for individual as Indonesia citizen or the Business Entities. 4. Issuing route permits of the river and lake transport in the municipal level. 5. Issuing business permits transport operation for the Business Entities accordance with the domicile. 6. Determining operation approval of the vessel which is located on the road network and/ or the railway network in the municipal level. 7. Determining crossing area and approvals for the ships operation in the municipal level.

National Government	Provincial Government	Municipal Government
<p>cation.</p> <ol style="list-style-type: none"> 9. Determining the master plan, the Work Authority Area, and the Interest Authority Area of the main and collector port. 10. Developing port, issuing operation permit for the main and collector port. 11. Developing port and issuing operation permit for the river and lake port that serve international and interprovincial transport. 12. Issuing location permit, building and operation permit for the Private Interest Terminal. 13. Issuing business permits for the Business Entities to operate the main and collector port. 14. Issuing development permit for the main and collector ports. 15. Issuing licenses of 24-hour operation for the main and collector ports. 16. Issuing dredging work permit in the seaside of the main and collector ports. 17. Issuing reclamation work permits in the seaside of the main and collector ports. 18. Issuing terminal managing licenses for the Private Interest Terminal in the Work Authority Area and the Interest Authority Area of the main and collector ports. 19. Implementing shipping safety and secu- 	<p>and container depot.</p> <ol style="list-style-type: none"> 7. Determining ferry transport fare for economy class passengers as well as cargo and vehicles for the inter-municipal networks in the province. 8. Determining the master plan, the Work Authority Area and the Interest Authority Area of the regional feeder port. 9. Developing port, and issuing operation permit for the regional feeder port. 10. Developing port, issuing operation permit for the river and lake port that serve inter-municipal transport in the province. 11. Issuing business licenses for the Business Entities in the regional feeder port. 12. Issuing development permits of the regional feeder port. 13. Issuing licenses for 24-hour operation for the regional feeder port. 14. Issuing dredging work permit in the seaside of the regional feeder port. 15. Issuing reclamation work permits in the seaside of the regional feeder ports. 16. Issuing terminal managing licenses for the Private Interest Terminal in the Work Authority Area and the Interest Authority Area of the regional feeder port. 	<ol style="list-style-type: none"> 8. Issuing business licenses related to maintenance services and ship repair. 9. Determining ferry transport fare for economy class passengers and vehicles as well as discharge in the municipal level. 10. Determining the master plan, the Work Authority Area and the Interest Authority Area of the local feeder ports. 11. Determining the master plan, the Work Authority Area and the Interest Authority Area of the river and lake ports. 12. Developing ports, and issuing construction, and operation permits for the local feeder ports. 13. Developing ports and issuing construction, and operation permits for the river and lake ports. 14. Issuing business license for the Business Entities in the local collector port. 15. Issuing development permits for the local feeder port. 16. Issuing licenses for 24-hour operation for the local feeder port. 17. Issuing dredging work permit in the seaside of the local feeder port. 18. Issuing reclamation work permits in the seaside of the local feeder ports. 19. Issuing terminal

National Government	Provincial Government	Municipal Government
rity. 20. Implementing maritime environment protection.		managing licenses for Private Interest Terminal in Work Authority Area and Interest Authority Area of the local feeder port.

Source: Compiled by author based on the Decentralization Law 2014

Appendix 4

A List of Java Integrated Industrial and Port Estate (JIPE) Permits in the Port of Tanjung Perak

No	Sort of Permit(s)	Sub-Permit(s)/ Recommendation(s)	Requirement(s)	Governmental Agency	
1.	Port Location Permits	Port Location Permit	1.	Application to the Minister of Transportation by the Municipal/ Provincial Government	The Ministry of Transportation
			2.	Recommendation from the Governor	The Provincial Government of East Java
			3.	Recommendation from the Mayor	The Municipal Government of Gresik
		Seaside Port Location Permit	4.	Spatial Utilization Permit based on Spatial Planning	The Municipal Government of Gresik
			5.	Business Trade Licenses	The Ministry of Transportation
			6.	Investment Principle Permit	The Investment Board of Gresik Municipality
			7.	Mainland Location Permit	The Municipal Government of Gresik
			8.	Spatial Utilization Permit	The Municipal Government of Gresik
			9.	Land Technical Considerations	The Land Affairs Agency of Gresik Municipality
			10.	Recommendation of waters coordinates point of the planned location of the dock	The Department of Transportation of The Municipal Government of Gresik
		Reclamation Permit	11.	Reclamation Permit	The Ministry of Transportation
		Environmental Permit	12.	Environmental permit	The Investment Board of East Java Province
			13.	Environmental permit request (Eligibility Approval Letter)	The Environment Unit Investment Board of East Java Province
			14.	Recommendation letter from Head of Environment Agency of East Java Province	The Environmental Agency of East Java Province
			15.	Approval of Environmental Feasibility	Unit of Integrated Licensing Services, the Investment Board of Gresik Municipal

No	Sort of Permit(s)	Sub-Permit(s)/ Recommendation(s)	Requirement(s)	Governmental Agency
			16. Recommendations from the local Harbour Master in coordination with the local District Office Navigation on the safety aspects of shipping after receiving the consideration of the Chief District Office of local navigation.	The Harbour Master and Port Authority Level II, Gresik Municipality
			17. Recommendations from Port Authority or Port Management Unit concerning appropriateness of reclamation activities with Port Master Plan	The Harbour Master and Port Authority Level II, Gresik Municipality
			18. Recommendations from the Regent/ Mayor concerning appropriateness of reclamation activities with municipal spatial planning in the seaside territorial of a special terminal	The Municipal Government of Gresik
			19. Recommendation of seaside point coordinates for reclamation plan	The Municipal Government of Gresik
2.	Port Construction/ Development Permits		20. Port Development Permit	The Ministry of Transportation
			21. Agreement on Traffic Impact Analysis	The Directorate of Land Transportation, the Ministry of Transportation
			22. Concessions grant or other forms of grant from Port Authority	The Harbour Master and Port Authority Level II, Gresik Municipality
3.	Port Operating Permit		23. Port Operating Permit	The Ministry of Transportation

Source: Compiled by author based on Pelindo III data

Appendix 5

A List of Key Informants

DKI Jakarta

No.	Date	Level	Institution(s)	Informant(s)
1	03/08/2015 05/08/2015	Central government	The Ministry of Transportation	Directorate of Port and Dredging, Directorate General of Sea Transportation: 1. Aries Wibowo, Head of Port Management and Evaluation Division 2. Nugroho Budi Satriawan, Staff of Port Management and Evaluation Division 3. Gus Rional, Head of Port Development Division
2	14/08/2015		The Ministry of State-owned Enterprise	1. Sabar Wicaksono, Head of Transportation Facilities Division in the Group IIA 2. Khairul Anam, Staff of Transportation Facilities Division in the Group IB
3	10/10/2015, 21/10/2015	Other	World Bank Indonesia	Daniel Alexander Van Tuijll, Maritime Specialist

Port of Tanjung Perak, East Java

No.	Date	Level	Institution(s)	Informant(s)
1	27/07/2015	Port Business Entities	Pelindo III	Edi Priyanto, Assistant of Corporate Secretary and Public Relations
2	10/08/2015		Terminal Petikemas Surabaya, Ltd. (The Subsidiary of Pelindo III)	Ardiansyah, Public Relation Superintendent
3	30/07/2015		Terminal Teluk Lamong, Ltd. (The Subsidiary of Pelindo III)	Joni Irawan, Risk Management
4	27/07/2015	Port Authority	Port Authority of Tanjung Perak	1. Mauritz Sibarani, Head of Port Authority 2. Arif Toha, Head of Development and Planning Division 3. Hernadi Tri Cahyanto, Head of Sea Traffic, Operational and Port Services Division 4. Melfin, Head of Controlling Port Facilities 5. Suprayitno, Head of Sea Traffic and Transportation

No.	Date	Level	Institution(s)	Informant(s)
				6. Wahyudi, Head of Port Business Assistance
5	27/07/2015		Harbour Master of Tanjung Perak	1. Fathoniyah, Head of Administration 2. Two staffs from port safety division
6	12/08/2015	Local government	Regional Planning and Development Agency (BAPPEDA) of East Java	Tiat S. Suwardi, Head of Spatial Planning Division
7	13/08/2015		Department of Transportation of East Java Province	1. Bambang Djatmiko, Head of Sea Transportation Division 2. Nyono, Head of Port Division
8	11/08/2015	Port Users	Indonesian National Ship-owners' Association of Surabaya (INSA Surabaya)	Stevens H. Lesawengen, Head of INSA Surabaya
9	31/07/2015		Exporters Association of Indonesia of East Java Province (GPEI)	Isdarmawan Asrikan, Head of GPEI of East Java Province
10	31/07/2015		Importers Association of Indonesia of East Java Province (GINSI)	Setyobudi, Executive Secretary
11	30/07/2015		Indonesian Logistics and Forwarders Association (ILFA) of East Java Province	N. Hengky Pratoko, Head of ILFA
12	09/08/2015	Governmental Institution	Control and Service Office of the Customs and Excise of Tanjung Perak	1. Ircham Habib, former Head of Control and Service Office of Customs and Excise of Tanjung Perak (2012-2014) – he initiated to establish TPFIT system during his leadership. 2. Bagus Sulistijono, Head of Custom and Excise Services Division of Tanjung Perak
13	11/08/2015, 06/08/2015	Other	Retired employee of Pelindo	Anonymity

Port of Lamongan Integrated Shorebase, East Java

No.	Date	Level	Institution(s)	Informant(s)
1	08/07/2015	Port Business Entities	Lamongan Integrated Shorebase, Ltd. (LIS Ltd)	1. Joko Suranto, Director of LIS Ltd. 2. Budi Rahardjo, Wira Jatim Group

No.	Date	Level	Institution(s)	Informant(s)
2			Eastern Logistics, Ltd.	3. Wiryo Prambono, Director of Sales of Eastern Logistics Ltd.
3	09/07/2015	Port Authority	Port Management Unit of Brondong	Misngadi, Head of Port Facilities Division
4	10/07/2015	Local government	Regional Planning and Development Agency (BAPPEDA) of Lamongan	1. Mochammad Faiz Junaidi, Division Head of Economy and Development 2. Agust Kusnawijaya, Head of Regional Infrastructure and Transportation Division
5			Lamongan government	1. Ahmad Farikh, Head of Law Division (he has handled port development process in PoLIS since 2003, starting from land acquisition) 2. Joko Nursianto, Staff of Law Division
6	Correspondence through email and message	Port Users	Port users in Port of Lamongan Integrated Shorebase: a. Oil and gas company, i.e. Pertamina, Exxon MCL, Petronas. b. Non-oil and gas company, i.e. Civi Kimia Ltd., Bahari Sindo, Ltd.	No Access – Interview was conducted with Lutfi A, Staff of PMU Brondong who supervise PoLIS operator.

Academicians

No.	Date	Informant
1	22/07/2015	Dr. Ir. Tri Tjahjono, M.Sc., Faculty of Engineering, Naval and Transportation, Universitas Indonesia
2	12/08/2015	Firmanto Hadi, S.T., M.Sc., Faculty of Marine Technology, Institute of Technology Sepuluh November, Surabaya
3	04/08/2015	Dr. Ir. Sunaryo, M.Sc., Faculty of Engineering, Civil Engineering, Universitas Indonesia
4	Correspondence through email	Dr. Machfud Sidik, M.Sc., Faculty of Administration Science, Universitas Indonesia