

THE CHILEAN PORT SYSTEM: COMPETITIVENESS IS SERIOUSLY ENDANGERED

- In the past, the port sector was a competitive advantage for our country but, in the last couple of years, it has become a threat because of the labor conflicts, which are even tainted by illegality.
- The objective behind protests is to go back to the trade union condition prior to 1981, a scenario characterized by the monopoly of port workers.
- Port occupations cannot turn into a legitimate pressure instrument. The signal sent is harmful to our strategy of foreign development and at the national level.

There is no doubt that Chile stands out for its openness to the world, which rather than being a good policy, it is a survival necessity. A development strategy with an unfavorable geographic situation puts the port system in the center of success or failure, and therefore, public discussion should give much more importance to this sector.

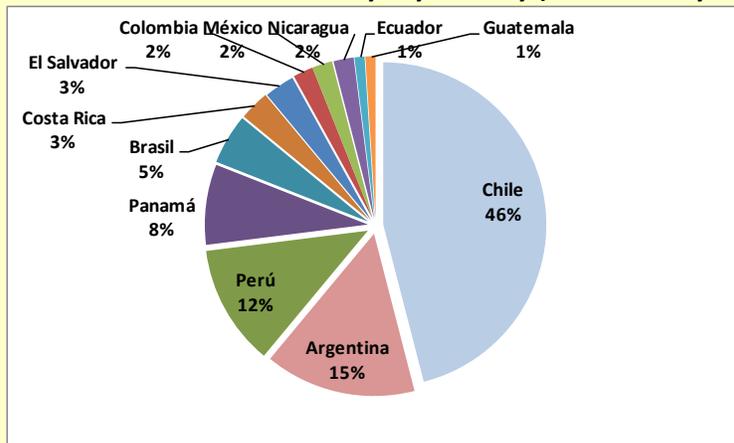
In this respect, a very significant datum is that 94% of the freight is mobilized through the maritime way, despite the fact that, from the geographical point of view, very few coast places have natural favorable conditions for developing this type of activity. We should consider that the transported cargo grew 80% in the last decade, which also speaks of an efficiency improvement.

This development has been possible due to positive indicators of efficiency and costs, and until not long ago, the port sector was a competitive advantage of Chile. In 2012, our country was ranked number one in the region in the WEO Trade Facilitation Index, and 14 at global level. It also showed lower logistic costs as a percentage of the value of products of the region, although surpassed in general by developed countries.

However, the port sector, once a competitive advantage of Chile, in the last years has turned into an increasing threat to our development. This situation is a result of labor conflicts that put at risk

the viability of the entire development model of the country, besides being tainted by illegality. No one can remain indifferent to the news published a couple of weeks ago regarding the negative regional record in terms of port strike days. Between 2010 and January 2014, Chile accounted for 46% of total port strike days in the region, followed by far by Argentine, who accounted for 15% of total strike days.

CHILE HOLDS 46% FOR WORKING DAYS LOST BY STRIKE
Chart 1: Distribution of Strike Days by Country (2010-January 2014)



Source: Press information, based on ECLAC report.

Still worse is the fact that these strikes are illegal. Actually, labor demands of trade union leaders were not taken to the Courts of Justice, since it would have resulted in their denial; instead, they were exercised through the illegal occupation of the ports.

THE RECENT CONFLICT

Standstills occurred in 2013 and early 2014ⁱ, and they were originated by workers’ demand for the compensation of unpaid half-hour meal break. From the legal point of view, it does not correspond, since the law explicitly defines port work as a continuous process. This does not mean that, in the regular practice, workers have an uninterrupted journey with no pause, but that daily labor presents ups and downs that do not necessarily adjust to a fixed labor interruption of half an hour in the middle of the journey. If activities stopped in this manner, it would generate high costs that would threaten the competitiveness of the external sector, since in the end this cost is incorporated to the port charges.

It is important to mention that the objective of the union leaders goes far beyond the half-hour payment, moreover retroactively demanded; instead, the aim is going back to the trade union condition prior to 1981, characterized by the monopoly of port workers. Union leaders seek to recover the power of the “*nombrada*”,ⁱⁱ which evidently infringes the freedom to undertake, and does not exist in any other productive sector.

In view of this illegality condition, the government of Sebastián Piñera opened to negotiation, setting a quite complex precedent for future conflicts in this sector and others. Finally, the situation ended with the Executive agreeing to pay this alleged debt with the workers, by means of a bill that was not introduced at the Congress, and remained pending for the current government. On the other hand, private port companies did not accept the acknowledgement of an inexistent debt, but agreed to pay a sum close to US\$25 million in the form of an end-of-conflict bonus, amounting to CLP\$1.5 million per worker.

The current administration has not sent the respective bill yet, in an atmosphere of increasing pressure from union leaders to fulfill the promise. This process, in addition to reverse practical complications regarding who would be the beneficiaries of this compensation and in what amount, is tremendously complex from the juridical point of view and the incentives it generates in the pressure groups from this sector and others. Probably, one of the most serious issues is that, even if these funds were allocated to the workers, nothing prevents a conflict of the dimensions seen in past January from repeating itself in the future.

PORTS' LABOR CONDITIONS

The Labor Code specifically regulates the labor conditions of port workers, stipulating that it is a continuous work, with daily contracts, given the temporary character of the workers. Wage conditions are quite favorable in comparative terms, only surpassed by those of the mining sector. The possibility of establishing indefinite contracts would not only entail a significant cost increase for a strongly cyclic activity, with peaks of activity even within a same day, but it is neither an aspiration of the workers themselves, who have the benefit of great work flexibility. Anyway, it is possible to analyze improvements of certain labor and contractual conditions.

Trade union demands often aim at unacceptable conditions for the company, such as control of hiring and the works. Many others focus on matters that are out of the sphere of the companies, such as legal changes in social security, retirement and others.

The improvement of the labor conditions of port workers in the last years does not only reflect in the favorable performance of the wages, but also in a strong reduction of the accidentability rate. In 1997, 96 accidents occurred per every million mobilized tons, a figure that dropped to 10.1 accidents in 2012.

THE BASIC PROBLEM

Beyond the legitimacy and legality of labor demands, the substantive point here is the respect of the Rule of Law and freedom to work. Occupying a port through violent acts cannot become a legitimate pressure instrument, which fulfills objectives for the agitators, since the signal sent is terribly harmful. In the last illegal standstill, the reaction of the authority in terms of maintaining public security was late, and non-effective, since workers were threatened when wanting to resume their jobs. Without question, the Rule of Law was notoriously absent during that period.

Still worse is the fact that illegitimate pressure was finally beneficial for workers who exercised it; therefore, it is highly probable that the situation will repeat itself in the near future. The government has now a very complex problem, since workers expect that it will fulfill the promise of the previous administration, and the current government could feel tempted to do so to avoid paying political costs in the short-run.

However, even if the government decides to spend public funds close to US\$30 million, neither the problem nor the serious risks involved will disappear. Regardless of the chosen reason, it has been demonstrated that if the government does not exercise its authority to adhere to the Rule of Law, port workers will have the power of pressure to paralyze the country, with unaffordable costs; so, the incentives are placed incorrectly. Thus, it seems positive that the idea of altering the initial conditions of the agreements with port leaders is gaining supporters within the government as well as among some parliament members, in a way that allows facing the basic problems.

WHAT IS THE SOLUTION?

Clearly, the problem is highly complex, because the external competitiveness of the country is at stake, which is the base of our development strategy. If we keep surrendering to group pressures, port charges will increase in a context with strong geographical restrictions and important growth challenges for this sector. In the end, the entire society will pay the cost, as it actually occurs in neighbor countries, which have port charges far above Chilean ones. This solution must be discarded in the short-run, and it should be highlighted in the bill that the government will send to pay an inexistent debt.

It is very probable that, in the future, we will need to modify the port institutional framework, far beyond its labor aspects. The port issue depends institutionally from the Ministry of Transport; it does not have an exclusive authority to deal with it. The problem is aggravated by the fact that this Ministry has given absolute priority to the urban transport problems in Santiago.

The growth projected for our foreign trade requires important infrastructure investments in the next few years, which are also an institutional challenge.

The method that Chile has commonly used to resolve significant institutional challenges is by forming expert commissions where stakeholders involved may also participate, in this case, port companies, workers, sectors related to foreign trade and the respective authorities. It would be important to advance in this or other similar way.

We do not exaggerate when we say that the country is living with “the Sword of Damocles” over the head concerning the port subject, and nevertheless, the problem is not in the public agenda as it should be.

ⁱ The standstill of the month of January lasted 23 days, generating losses for more than US\$300 million for the exporters.

ⁱⁱ It refers to the power of the leaders to appoint the workers.