

Globalisation and privatisation - a challenge to sustainable development? a case study

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I. Introduction

Santos is not only one of the oldest cities in Brazil and a pleasant tourism location, but the most important Port in South America. The XX century was, for the city, a continued cycle of prosperity based on four pillars - the port itself, coffee exports, tourism and the industrial pole of Cubatao[1]. Santos is not an industrial city, its profile being rather, that of services.

As of the very end of the Eighties, but with full force during the Nineties, Brazil as a whole underwent a dramatic cycle of economic transformation. Santos was hit with full force - coffee exports had already lost their importance in the country's balance of payments, but the Nineties brought privatisation and globalisation both to the Port and to the Industrial Pole.

In the name of competitiveness, reengineering led to the loss of jobs or reduction in salaries - which strongly affected demand for services.

So at the dawn of the XXI century Santos faces a challenge - that of reorienting its development towards sustainability. This involves planning, creativity, and the ability to perceive and make good use of new opportunities.

This paper

focuses on the legal aspects of the privatization of the Port and its consequences in terms of sustainable development. The legal framework and policies are analysed and alternatives proposed.

2. On the City of Santos

Santos claims to be the first village founded in Brazil by the Portuguese settlers,

circa 1510[2]. A small hamlet was founded at what was considered to be the mouth of the São Vicente river, but which in fact was the very sheltered bay in which the city now stands, in the Island of São Vicente[3]. The name Santos derives from a Hospital - the first ever in Brazil - which was founded in the hamlet in 1543 and named for All Saints. The hamlet is mentioned, under the name of Santos, in a letter written in 1553 by Tomé de Souza, then Governor-General of Brazil, to the Portuguese king.

The Port was at the very origin of the city; it gave it standing but also implied a threat to its security[4]. As a consequence, fortresses were built to defend city and port along the bay, as well as a military warehouse, and the population learnt to organise itself for defense.

For about 300 years Santos remained a hamlet, until, in 1839, it received the status of city. It counted then 5,000 inhabitants, mainly living around the port. During the XIX century the port bloomed (thanks to coffee exports[5]), with obvious effects upon the city - but no attention was paid to its peculiar environment, very hot and damp. As a result, for about 60 years the city suffered a series of epidemics that endangered the port's operation[6]. In 1889 the State Government, responding to pressure from the Trade Association, started a sanitation programme, which led to the reorganisation of the city itself.

Coffee exports kept growing all the while. In 1895 coffee exports exceeded 2 million bags. In 1909 exports accounted for 53.5% (and of these, coffee responded for 98.5%) of the port's movement. Population growth was dramatic, and resulted both from immigration and from the drop in mortality rates consequent to the sanitisation of the city[7]. Yellow fever was considered eradicated in 1904.

On the other hand, Santos established a tradition of fighting for freedom and rights. During slavery, the city's population often hid runaway slaves, and the abolitionist movement was very strong. As a consequence, many former slaves made it their home - as did many of the new European and Japanese

immigrants[8]. The city has long had a strong and diversified working class and turned into a focus for political and social agitation, becoming known as “the red city” or “ the Brazilian Barcelona”.

Santos was the first city in Brazil to celebrate May 1st as the Day of Workers; strikes took place as early as 1877, and in 1908 workers conquered the 8-hour journey. All the above factors, plus the very large number of workers in the port, favoured the organisation of workers’ unions. Over the years, workers (especially in the port) conquered good wages, which led to the establishment of a large middle class. And it was exactly this middle class that was hit by the effects of privatisation and globalisation[9].

The city now hosts a population of 417.477 inhabitants, with a high literacy rate; its GP is higher than the national average, and represents 3.8% of that of the State of Sao Paulo and 1.2% of the national one; 48.5% of the population is employed (there is a large percentage of youngsters and seniors); it ranked 3rd in private investments in Sao Paulo in 1995; and the Port reached a record 43.089.383tons in 2000[10].

3. Santos as Part of the Metropolitan Area of the Baixada Santista

In July 1996 the Governor of the State of Sao Paulo established the Baixada Santista Metropolitan Area[11], which functioning was disciplined in 1998 when the Metropolitan Agency for the Baixada Santista was installed[12]. The Metropolitan Area concept serves an administrative governance purpose - to combine the needs and efforts of the 7 municipalities it comprises, of which Santos is the leader - maximising resources and results, minimising costs. It is supposed to integrate the organisation, planning and execution of the public functions of common interest, and received, i. a., the attributions of:

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Collecting revenues, including fines and taxes for services;

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Controlling the execution of related law and applying, when necessary, sanctions;

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Establishing targets, plans, programmes and projects of common interest, as well as controlling and evaluating their execution;

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Expropriating assets which be declared of public utility given their interest to common interest;

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Keeping and divulging up-dated data, to be used i.a. for planning purposes.

This Agency is funded by the State budget, by the Union, by FUNDO[13], by the member cities or other public or private institutions, by revenues originating from concessions, permissions or any other form of onerous permissions for use of its assets, by the product of collection of fines, surveillance fees or tariffs concerning services rendered, i.a.. Its administrative structure comprises a Deliberative and Normative Council, also called the Development Council of the Baixada Santista, and an Executive Direction, which is on its turn composed of Technical and Administrative Directions.

The Technical Direction harbours three different groups: optimisation and institutional relations, analysis of plans and projects, and collection and optimisation of resources.

The Metropolitan Area is still taking off; but in its context, the Port of Santos has not only been privatised, but also regionalised.

4. On the Port of Santos[14]

In the last quarter of the XIX century a railroad was built to transport goods - especially coffee - from the producing areas in the State of São Paulo to the port. This resulted in increased exports and in the need of building wharfs.

Brazil was then a very centralised Monarchy; twice [15] the Emperor granted private persons privileges to exploit the port (and build the wharfs), to no avail. In 1888 a successful contract was signed with a private group of businessmen[16] - later known as the Cia. Docas de Santos - for 39 the duration of years. This contract was confirmed and its duration extended to 90 years by the Republican Government in 1890.

The first stretch of the wharf (260m.) was inaugurated in 1892. To place into perspective the importance of this Company in the city of Santos during the late XIX and XX centuries, the capital subscribed by the owners, in cash, in 1897 was almost twice the revenue of the State of São Paulo and nearly 17 times their initial investment in 1888.

The initial concession covered a length of 4,719 m., and the first phase of the project was concluded in 1909[17]. The next step was the building of a private power plant at Itatinga, which nominal power output of 15,000 kva was very significant at the time of its inauguration in 1910 and proved an asset during the energy crisis faced by Brazil in 2001.

The port kept expanding until it became the most important port in South America, with separate wharfs for liquid products, containers, general cargo, grains, sugar and forestry products and passengers. On the other hand, the worker' s organisation being extremely powerful led to it becoming much too expensive and subject to strikes which further endeared products. At the same time, other ports, modern and private, were rising in Brazil, and the State of Sao Paulo had to do something to counterattack this.

The Cia. Docas concession expired in 1990. Port management returned to the Federal Government and has, since then, been undergoing constant transformation. In 1993 the Federal Government issued new legislation on the exploitation of Ports and their facilities[18]. This legislation defines:

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Organised Port as that constructed and equipped to comply with the requirements of navigation and of the movement and storage of goods, whether conceded or exploited by the Union, which traffic and port operations be under the jurisdiction of a Port Authority;

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Port Operation as the movement and storage of goods destined to or originating from sea or river transportation, carried out in the Port by port operators;

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Port Operator as the legal person pre-qualified for the performance of port operations in the area of the Organised Port;

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Organised Port Area as that comprising port installations, be them wharfs, anchorages, docks, quays, bridges and piers for anchoring or approaching, land properties, warehouses, buildings and internal circulation ways, as well as the infrastructure of protection and access by water to Port such as driving chains, breakwaters, flood gates, channels, evolution basins and anchoring areas which be maintained by the Port Administration;

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Port Installation for Private Usage as that exploited by a legal person of private law, within or without the port area, used to move and or store goods destined to or originating from transport by water.

Organised Port Concessions will be granted by public contest, in accordance with

the Law that rules the regime of grants and permissions for use of public services, and the Port Authority shall carry out its functions in an “integrated and harmonious way” with Customs, Maritime, Sanitary Health and Maritime Police Authorities.

As a result of this legislation, the Port of Santos was “sliced” into several

concessions, awarded to different companies, each of which is free to hire workers. Each organised port constitutes a body - known as the OGMO[19] - for the management of the hiring of independent port workers. This results an effective means of breaking up the power of workers’ unions - previously in charge of the hiring/scheduling, and is expected to contribute towards solving the political and economic problems that made Santos a much too expensive Port and contribute to its sustainable development. On the other hand and in the first moments, however, it has led to impoverishment of workers, with consequent effects upon the city of Santos’ commerce and services[20].

This is a transitional moment in the Port of Santos - its regionalisation, consequent to the establishment of the Metropolitan Area, followed shortly after the multiplication of concessions. This means that part of its operations will take place in cities other than Santos -Cubatao, Guarujá.

The OGMO and the Port Authority are still taking charge of the situation - thus, a time of non-definitions and uncertainties, with the usual consequences.

5. Does Santos have a Sustainable Development Strategy?

As said before, the Port is an important, but not the only, source of income for Santos. Santos has long had a tradition in trade and services, offered not only to its citizens and tourists but also to citizens of the Baixada Santista area. We would like to focus, here, on the situation in 2001, and later compare this to 2008.

Another point to be taken into account is that the industrial pole of Cubatao (within the Metropolitan Region), a second source of income for Santos, was also badly hit by privatisation. Its most important steel mill, Cosipa, was privatised in the 90' s, and salaries as well as employees reduced to a third[21]. One can argue that the company has become more competitive, thus another factor for sustainable development of the region - in the long term. But what was the city doing **in 2001** to ensure its sustainable development?

The city's home page in the web[22] states data on tourism - of the 44 hotels in had in 1999, 37 remained in 2001[23]. The four Convention Centres can accommodate up to 3,840 persons, and the five Auditoriums another for 1,510. There are nine companies specialised in organising business tourism.

The eight tourism attractions listed in the home page received 10,674 visitors in 2001. Ecotourism was timid, though the city has over 90% of its area in the continent, and more specifically mostly in forest preservation areas.

More importantly, the word "sustainable development" was not easily found in documents of the 2001/2004 administration[24]. A search on the city administration's legislation web site[25] resulted in 69 documents which featured either the word "sustainable" or "development" - none of them associating the two words.

Santos was one of the first cities in Brazil - if not the first - to establish a Municipal Council for Environmental Defence, back in 1975[26], which had the highest hierarchic status. The Law that created it defined pollution, forbade land based pollution of waters, and provided for environmental education. In 1984 and in 1996 new laws better defined its functions and composition. The number of members was increased, and sufficient public participation was provided.

The Mayor in power in 2001 nominated members for this Council, but until December 2001 had not given them office. By the end of 2001 the Mayor called on the press to announce the establishment of “one of the most modern instruments for political action”[27], that of the Santos Council for Economic Development, which should both propose alternatives for the city’ s development and subsidise the Metropolitan Area’ s Council for Development mentioned in point 3.

In an interview, the Deputy Mayor and Secretary for Planning of Santos, when asked what would be the position of this Council vis a vis the Metropolitan one, answered that they would complete each other and that the Administration’ s proposal had the objective of organising the Santos society for permanent discussion of the local economy and development - which should greatly contribute to regional development. Not a word about sustainable nor environmental considerations throughout the interview.

In all fairness it should be said that the city did have a Secretariat for the Environment, which offered courses to train monitors for ecotourism and ran a few programs. But this was not considered enough. The city of Santos qualifies for grants within the PPG7 Programme[28], originally conceived for the Amazon Rainforest but which had then been extended to the Mata Atlantica - the Atlantic Forest in which Santos has the largest part of its territory.

Santos still had no Agenda 21, although a group of well meaning individuals and associations had held a meeting to discuss projects on 6 December 2001, based on several success stories. The ecologic-economic zoning of the Metropolitan Region's portion of the country's exclusive economic zone was under way, which was important if the region wanted to make the most of the opportunities offered by United Nations Convention on the Law of the Sea[29]. Santos seats the very respected Fisheries Institute, which had presented alternative ideas to the State Government's project (the eco-economic zoning is within State competence). This institute has a representative in the Agenda 21 group..

Some conclusions

Santos has some very active ecological NGOs, which put pressure upon the government. In 2001, local government seemed more inclined to increase building capacities (with noxious environmental effects) than to foster environmental projects, but was beginning to give indications of change in conduct. In 2008, one can see this strategy proved right. Not only has the city administration become more accountable, adhering to e-government[30], but also worked towards diversifying economic activities - maximising, for instance, the use of its infrastructure and natural vocation for seating conferences of all sorts and business meetings [31].

The Metropolitan Region is finally taking off; gradually; ecotourism has received a boost, selective waste collection is in place - an indication that sustainable development policies seem to have been incorporated into government policies. The Region has a fair share of the Exclusive Economic Zone and strives to establish policies to attract sustainable development oriented businesses to it - and the fact that it offers a good educational structure is certainly an attiring feature[32].

The correct application of federal law on the organisation of cities (Statute of the City) has been fundamental. Given Santos' limited area (the city corresponds to 2% of the municipal area, and is saturated with buildings; the remaining 98% are in the continent and mainly forest preservation area), there is an ever present temptation, on the part of the Administration, to increase building permissions (allowing for taller buildings), which would be detrimental to the quality of life and even public health.

Administration has been working to restore the city to its past glory. Jobs have been created, income generated. If in 2001 some feared decline was inevitable, in 2008 this has definitely changed, even if the challenge to convince all involved of the viability of sustainable development - and that the city' s environment is in fact a capital, an economic resource which use must be planned carefully - remains,.

Being a Port as of its inception, Santos has always been a globalised city. It has, however, for most of its life, lived off public services. This time is gone, and the city was forced to adjust to privatisation.

Rubens RICUPERO says Brazil lives a tension between integrating with itself or with the world, and in fact we must do both at the same time if we want to have what is called a “virtuous” insertion into the globalised economy[33]. Translating, if we want to direct our globalisation, we must prepare for it, establish goals and policies. We must learn to use our comparative advantages, such as our richness in terms of natural resources, the youth and adaptability of our population. We must abandon past (and comfortable!) patterns and dare. Prepare for new challenges.

Santos is, excluding the capital, one of the most important cities in the state of São Paulo and still the leading port of Brazil; its reasonable income distribution (in terms of Brazil), educated population, natural resources, added to the opportunities offered by the port and its insertion into the Metropolitan Region, makes the case for an experiment in laboratory in democracy and good governance practices for sustainable development... if only all the actors involved become conscious of their and its importance.

Susana Camargo Vieira[34]

[1] A separate city, but in what is called the “ Baixada Santista” , geo-economic area led by Santos.

[2] For an interesting study on the city from a political science perspective see Alcindo Gonçalves (1995), *Lutas e Sonhos*.

[3] Which the indigenous peoples called Guaiaó. The island is now shared by two cities - Santos and São Vicente.

[4] Santos was prey to several pirates: in 1583 the Englishman Edward Fenton was repelled by the Spanish navy; in 1590 Thomas Cavendish, another English one, ransacked the island; in 1615 the dutch Joris Van Spilbergen, and in 1710 the French François Duclerc.

[5] Between 1866-67 alone 2,304 million arrobas (one = 15kg) of coffee were exported from Santos (Gonçalves, 195, p.33)

[6] Yellow Fever as of 1844; pox and cough in 1860; impalludism in 1890 - plus typhoid fever, measles and tuberculosis The situation got to be so bad that sailors of incoming ships were held in quarantine in a nearby island -now a very beautiful club - to avoid contact with the local population.

[7] In 1872 Santos counted 9,151 souls, against 50, 389 in 1900 and 88,967 in 1913 (Gonçalves, 1995).

[8] In 1913, immigrants accounted for 42.5% of the population. It has been said that in every 100 inhabitants 25 were Portuguese,
9 Spanish,
3 Italian, 1 Turkish or Japanese (idem, p. 42).

[9] For an economic study of the subject, see Gonçalves et al, in www.nese.stcecilia.br/

[10] See www.santos-sp.gov .

[11] Complementary (State of Sao Paulo) Law 815 of 30 July 1996.

[12] Law (State of Sao Paulo) 853 of 24 December 1998.

[13] The Baixada Santista Metropolitan Development Fund, established by the Law that instituted the Metropolitan Area, see Note 10.

[14] For updated information, available in English, see www.portodesantos.com.br

[15] In 1870 and in 1882.

[16] These gentlemen created the company Gaffree, Guinle & Companhia, which later became the Companhia Docas de Santos.

[17] Huge stone and cement wall standing 1.50m above the highest tide level and with a depth of 7 m. The wharf and related property occupied a 35-meter strip, bordered by a public road 20m wide.

[18] Law 8630 of 23 February 1993.

[19] Orgao Gestor de Mao de Obra.

[20] For further information (economy implications) see article by Guimarães et al at www.nese.stcecilia.br.

[21] Idem.

[22] www.santos.sp.gov.br .

[23] The availability of a large number of privately owned apartments for short term rentals should (and the custom of renting them on the part of tourists), however, be taken into account.

[24] Which finishes office in 2004 and has been in power since 1996.

[25] www.santos.sp.gov.br/legislacao

[26] City Law nr. 3994 of 20 November 1975.

[27] Press release of the city administration, Santos, November 20 2001, concerning Law 1954, published in the Official Journal of July 20 2001, that establishes the Council.

[28] The Pilot Plan to Conserve the Brazilian Rainforest - for more on the subject see Susana Vieira, Brazil Report, in Yearbook of International Environmental Law, Vol. 10 p. 422 and Vol. 11 p. 398.

[29] Which came into force in Brazil in 1996.

[30] See www.santos.sp.gov.br for e-government as well as for environmental and other legislation.

[31] For more information please see www.santoscidade.com.br .

[32] The city has 7 Universities and quite a few separate Faculties and Technical Schools, and is the centre for education in the Metropolitan Area. This is compatible with attracting industries - or rather, services - that use qualified manpower.

[33] Celso LAFER, while still Minister for Foreign Affairs, said we must globalise ourselves, in order to avoid being globalised.

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