

**PORT OF EHOALA : NEW DEEP SEA MULTIPURPOSE PORT AND ECONOMIC TRADE ZONE IN MADAGASCAR
(FORT DAUPHIN)**

I. Description of the project

Port of Ehoala represents a 260 million dollars investment project both in port infrastructure and public services.

II. Development of the project: how the project exemplify progress and innovation in PPP development in this emerging market ?

1. Critical socio-economic infrastructure for the State of Madagascar and more particularly for alleviating poverty in the South East of the Country;
2. The State had no capacity to finance or to guarantee repayment of loans for such investment (more or less 260 million dollars)
3. Project not financially viable by private sector investor under traditional project finance models
4. However, a world class mining deposit of ilmenite has been discovered and evaluated by Rio Tinto / QMM with a potential of export of more or less 1 million tons per year for 40 to 60 years
5. Several options were possible for shipping the ilmenite including a buoy and a mineral wharf.
6. However, both State and Rio Tinto / QMM agreed to maximize the benefit of the project for the local population and the economic development of Madagascar. Two series of in depth studies were commissioned during the prefeasibility and feasibility phases prior to any investment:
 - ✓ An EISE based on international best practices and taking into account local ecosystem and socioeconomic situation,
 - ✓ An analysis of all the potential socio economic externalities of the project for the region, for Madagascar and for international shipping, fishing and cruising sector
7. Upon completion of the studies, the ingredients for a modern concession-PPP project emerged through an integrated and inclusive approach of the micro and macroeconomic potential taking into account socio environmental factors
8. Additional studies were commissioned to maximize the benefits of the project with the local institutions. The conclusions were to consider inter alia the development of a growth pole for a sustainable economic development of the region.

9. The State entered into negotiation with a subsidiary of Rio Tinto / QMM (Port d'Ehoala SA) in order to conclude a public service concession according to which Port of Ehoala SA would finance, build and operate the deep sea multipurpose port and the related economic zones for the duration of the Rio Tinto QMM mining titles.
10. Since the new port economic and financial model appeared at the same time essential for the economic development of Madagascar and not viable only through the port estimated revenues, an element of public subsidy for the investment in the port has been considered. The State obtained a soft loan from the World Bank which has been transformed in subsidy directly paid to the builder of the port.
11. The concession agreement concluded between the State and Port of Ehoala SA includes various performance criteria and clauses on tariff setting and tariff adaptation in order to maximize the activity of the port together with adjacent economic development zone of 400 hectares comprising an EPZ status.
12. The agreement also provides that the State may impose new investments if justified in the interest of the public service and it include various clauses for implementing the State decision based on structured exchanges and on its impact on the concession economic model which is annexed to the agreement and which includes the principle of economic equilibrium (this mechanic avoids hazardous renegotiations since it is regulated as from the origins through an agreement between the parties in the contract itself).
13. The Concession agreement also contain various clauses essential for long term investment such as stabilization clauses, detailed tax and custom regimes as well as a structured dispute avoidance mechanism through a contractual partnering system followed by structured conciliation and international arbitration.

III. Project outcome: the development of economic externalities

The port is in operation for three years and its perspective for the economic development for Madagascar as well as for the economic model already launched remains most promising in the particular context for the future.

✓ Employment creation

The World Bank has created at Madagascar an Economic Development Board.

According to the estimation of this Board, 57.000 jobs have been created within 3 years in the sub region thanks to the existence of the new port. This outcome is already a success while the roads and other infrastructures planned for maximizing the externalities have not been realized yet and while the export processing zone (EPZ) has not been internationally promoted yet.

✓ Continuous reference to the content of the convention

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Comments of Philippe Murcia, Director of the Concessionaire Company:

“Thanks to a high quality programming and to a very large exchanges and understanding of the fundamentals of the public-private partnership between the State, the national companies and the concessionaire (private company); and lastly thanks to the support of the World Bank, the project has been synthesized in a very balanced partnership agreement which is critical in several respect for smooth day to day operation.

It regulates various issues too often forgotten or considered as secondary at the stage of negotiation or of completion of the concession agreements questions which are in reality essential for the success of the project”.

Philippe Murcia indicates that he refers at least weekly to the concession agreement when discussing with the authorities or the operators. This permit to easily resolve the majority of the problems faced.

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▪ **ANNEX: MAIN ISSUES ADDRESSED THE CONCESSION AGREEMENT**

Chapter I: DEFINITIONS

Article 1: Definitions

Chapter II: PURPOSE, TERMS AND CONDITIONS OF THE CONCESSION

Article 2: purpose of the Concession

Article 3: General obligations incumbent on the Concessionaire

Article 4: Provision of public services

Article 5: Representative of each of the parties

Article 6 : Concession granted in consideration of concessionaire’s capacity

Chapter III : FINANCIAL PROVISIONS

Article 7: Operation fee

Article 8 : Public domain occupancy fee

Article 9: Duties and taxes

CHAPTER IV: TERM, EXPIRY AND TERMINATION

Article 10 : Term, effective date, date of port operation and rendez-vous clause

Article 11: Early termination

Article 12: Early termination of the concession on public interest grounds

Article 13: Redemption of concession

Article 14: Termination on grounds of force majeure

Article 15: Forfeiture

Article 16: Winding up, court ordered liquidation or insolvency

Article 17: Substitution in lieu of concession beneficiary

Article 18: Substitution in lieu of concession

CHAPTER V: PARTNERING – DISPUTE PREVENTION AND SETTLEMENT

Article 19: Partnering

Article 20: CONCILIATION

Article 21: Litigation – arbitration

CHAPTER VI: MISCELLANEOUS PROVISIONS

Article 22: Concession documents

Article 23: Notice

Article 24: Concessionaire's address for service

Article 25: Governing law

Article 26: Printing costs, stamp duties and registration costs