



Article

# Public Policy, Private Capital, and Port Governance: Legal Assessment of the Gujarat Port Policy

## Article History:

### Name of Author:

Dr. Amit Kumar<sup>1</sup>, Dr. Anurag Kumar Srivastava<sup>2</sup>, Dr. Rupesh Kumar<sup>3</sup>

### Affiliation:

<sup>1</sup> Ph. D Scholar, School of Liberal Studies, Pandit Deendayal Energy University, Gandhinagar

<sup>2</sup> Associate Professor, School of Liberal Studies, Pandit Deendayal Energy University, Gandhinagar

<sup>3</sup> Institute of Advanced Research, Gandhinagar

### Corresponding Author:

Dr. Rupesh Kumar<sup>3</sup>

### How to cite this article:

A Kumar, A K Srivastava, R Kumar, Public Policy, Private Capital, and Port Governance: Legal Assessment of the Gujarat Port Policy, 2025:06 (1): 731-740

Received: 06-01-2026

Revised: 20-01-2026

Accepted: 02-02-2026

Published: 06-03-2026

©2026 the Author(s). This is an open access article distributed under the terms of the Creative Commons Attribution License (<http://creativecommons.org/licenses/by/4.0>)

**Abstract:** Ports are shaped by a close and continuing relationship between public authority and private enterprise, which makes port policy a decisive legal-institutional instrument in governing development and attracting private capital. Existing studies have examined port performance, efficiency, and investment patterns in considerable depth, yet far less attention has been paid to how port policy actually operates in practice as a framework for regulatory commitment, risk allocation, and governance discipline, particularly at the sub-national level. This study addresses that gap through a qualitative legal analysis of the Gujarat Port Policy, drawing on semi-structured interviews with stakeholders involved in port regulation, administration, private port development, and infrastructure finance. Instead of relying on output-based indicators, the analysis focuses on how informed actors interpret and experience policy implementation, with particular attention to policy credibility, administrative discretion, concession stability, and regulatory coordination. The findings suggest that policy effectiveness is shaped less by formal policy provisions and more by consistent regulatory behaviour, institutional restraint, and predictable governance over time. Risk allocation and concession stability are understood as outcomes of institutional practice and policy interpretation rather than purely contractual design. Environmental, social, and technological requirements form part of the governing conditions, where regulatory clarity and sequencing play a key role in sustaining investor confidence. The study contributes to commercial law and port governance by highlighting the value of qualitative legal inquiry in explaining how sub-national port policies influence private capital participation through everyday regulatory practice rather than visible performance outcomes alone.

**Keywords:** Port governance; public policy; Public-private partnerships; sustainability regulation; Gujarat port policy

## INTRODUCTION

### 1.1 Port governance as a legal-institutional configuration

The ports represent a specific type of commercial infrastructure the development of which is shaped by both legal-institutional frameworks and the market forces with the same power. As opposed to normal private assets, ports are at the intersection of state power and privatisation, as the ownership of land, access rights, environmental regulations, tariff regulation, and safety requirements are all subject to the regime of the public policy and regulations. As a result, port governance systems do not only exist as administrative systems; they are also legal-institutional patterns that determine

commercial behaviour, investment incentives and distribution of authority among the public and private actors (Brooks & Cullinane, 2006; Ng & Pallis, 2010).

It is widely understood in comparative scholarship that port governance frameworks are highly institutionalised based on legal traditions and institutional settings that result in path-dependent consequences across jurisdictions (Ng & Pallis, 2010). The regulatory frameworks ensure that autonomy, accountability, and market orientation are implemented, and not just a mere theory. There exists a significant difference in governance strategies in empirical studies. Iwuoha et al. (2022) show how regulatory arrangements that are

poorly crafted may provide loopholes to governance, allowing private operators to take advantage of institutional uncertainty. These results highlight the fact that the public policy is not an adjunct to the governance reform of port; it is a legal environment in which the governance results are created.

### 1.2 Private capital, concessions, and regulatory risk

The legal nature of port policy is especially consequential when the development of ports is based on the mobilisation of private capital in concession and the public-private partnership (PPP) schemes. The infrastructure of ports is characterised by a high level of capital intensity, long-term assets, and sunk costs, which makes the investment decision highly vulnerable to regulatory risk. Recurring concession studies have established that the allocation of risk is not entirely a technical, contractual practise, but it is a marker of underlying institutional capacity, disciplined governance and power distribution between government and financial investors (Schachler & Navare, 2010).

Evidence across countries also indicates that operational and commercial risks are frequently sold to the private partners, but the political and legal risks remain in the public sector, although practises of allocation differ widely across systems of governance (Ke et al., 2010). Such stability is particularly important in port concessions, where the contracts can last a number of decades (Cruz & Marques, 2012). In this regard, the credibility of the policy and regulatory behaviour is of central importance in determining investor confidence and long-term investment behaviour.

In addition to national frameworks, the role of sub-national governments has also been becoming more significant in the organisation of port investment and governance. In decentralised systems, sub-national authorities take up a significant portion of infrastructure expenditures and have a direct impact on regulatory practise, concession design, and strategic positioning (Allain-Dupré et al., 2025). Empirical data show that the expansion of port capacity and investment distribution depends on local political factors (Núñez-Sánchez & Hidalgo-Gallego, 2024), and performance results are directly connected to the features of sub-national governance and accountability (Wu et al., 2016). Additional studies that follow point at the active role played by the regional authorities in defining the port competitiveness by planning infrastructure, land-use, and integration in the broader development strategies (Xiao et al., 2012). The implications of these are that port policy should be looked at on the sub-national level where policy tools tend to act as ad-hoc regulatory models of private investment.

### 1.3 Sustainability, technological regulation, and the research gap

Concurrently, new tiers of legal complexity are emergent in the port governance due to environmental and technological regulation. Ports are becoming more vulnerable to conflicting economic, environmental, and sustainability imperatives to help them deal with

competition issues and react to climate and environmental externalities (Tovar & Wall, 2021). The recent studies show that the decarbonisation requirements also make ports invest in alternative fuels, emissions-reduction facilities, and digital infrastructure, which fundamentally changes the capital expenditure patterns and governance priorities (deManuel-López et al., 2024). It is also indicated that the quality of regulation can positively influence operational performance, and that the quality of regulation has a positive relationship with technical efficiency of ports (Jamain et al., 2023). Still, even the fragmented jurisdictions and the lack of institutional coordination create an uncertainty and compliance cost (Monios, 2020).

Although research is extensive, a significant part of it is rather outcome-focused and evaluates the policy effectiveness based on the throughput, efficiency, or investments. Although useful, these methods do not give much information on how port policies are construed, implemented, and lived by the major actors in practise. Specifically, the qualitative legal evidence that investigates the role of policy frameworks in the determination of investor confidence, regulatory expectations and governance discipline at the sub-national level is relatively underresearched. This difference is particularly evident in the case of the emerging economies, in which the role of the state-level port policies in the organisation of the participation of the private can be decisive.

It is with this in mind that the current research fills this gap by conducting a qualitative legal assessment of the Gujarat Port Policy based on interviews with experts as a means of analysing the functioning of the public policy as an investment governance framework. Instead of measuring the effectiveness of a policy by performance measures alone, the study examines the understanding of the policy by informed stakeholders, the influence of the policy on perceptions of regulatory risk and stability of concession, and the incorporation of environmental and technology commitments into the practise of governance. This way, the paper will add to the body of scholarship in commercial law and port governance by preempting the legal-institutional processes through which the sub-national policy of ports can shape the involvement of the private capital.

## 2. Conceptual and Legal Framework

This part presents the framework of the analysis that will be applied to the Gujarat Port Policy as a legal-institutional instrument that influences port governance and the involvement of the private capital. Instead of considering port policy as a sectoral development statement, the framework establishes it as an operational tool of economic governance whereby authority is organised, risks are distributed and regulatory behaviour is conditioned over time. The framework relies on the knowledge of commercial law, institutional economics, and port governance literature to inform the empirical study.

## **2.1 Port policy as an instrument of investment governance**

Policy frameworks tend to have quasi-regulatory functions in infrastructure sectors with high capital intensity, long-lasting assets and incurred irreversible sunk costs. Where statutory regimes are extensive or patchwork, policy documents often specify the working rules of concession design, land use, tariff control and administrative procedures. Research on port governance acknowledges that such tools determine the market organisation, investment incentives, and the extent of regulatory intervention, which in turn affect commercial behaviour in practice (Brooks & Cullinane, 2006; Notteboom et al., 2021b).

This role is specifically enhanced in sub-national port systems. Port policies at the state level are often used as the first point of reference by investors in evaluating regulatory intent, administrative credibility and institutional coherence. In the light of commercial law, the port policy is thus a form of investment governance framework whose transparency and integrity precondition the involvement of the private sector even without the extensive statutory codification of the policy. The paper takes this stance and considers the Gujarat Port Policy to be a legal-institutional device that organises the anticipations of regulatory behaviour and discipline in governance.

## **2.2 Credible commitment, governance discipline, and risk allocation**

One of the key ideas of infrastructure investment is credible commitment the capacity of the official authorities to maintain predictable and consistent rules in the long term. Institutional scholarship shows that, the confidence that the governments will not be either opportunistic in reversing policies after capital is committed is the basis of the dependence of private investment (North & Weingast, 1989). This insight is reflected in literature on infrastructure finance, which highlights that institutional and legal barriers to discretion are observed to be effective in fulfilling credible commitment, and not just contractual guarantees (Engel et al., 2014).

In port systems, the credible commitment is manifested in the discipline of governance at the interface between the public and the private. Legal structures usually entail socialisation of land and privatisation running under governmental control. These relationships are organised in policy frameworks, which define the institutional responsibilities and demarcate administrative discretion (Brooks & Cullinane, 2006). In the case of transparent and predictable discretion, it facilitates long-term private involvement; in the case of weakly constrained discretion, risk to regulation is elevated (Notteboom et al., 2021b).

This context of governance is strongly associated with risk allocation. Policy is indirectly associated with distributing risk by affecting the model of concessions, regulatory roles, and interpretation of the contractual protection. According to the PPP scholarship,

transparency of the retained and transferred risks is the key to project bankability. In ports, where concession agreements are commonly long-term, risk allocation stability is most accurately perceived as the result of institutionalisation of policy practise, and not contract formulation (Yescombe & Farquharson, 2018a, 2018b).

## **2.3 Environmental, social, and technological conditions of governance**

Modern port governance is increasingly characterized by the integration of environmental, social, and technological responsibilities, which now serve as critical determinants of legal compliance and institutional investment decisions (Notteboom et al., 2021a). In this paradigm, international policy research underscores that investor confidence is predicated less on the existence of these obligations and more on their predictability, procedural coherence, and cross-institutional coordination (Debie et al., 2013). Policies that successfully synchronize these multi-dimensional demands with commercial operations, specifically through the logical sequencing of approvals and clearly defined regulatory mandates are essential for mitigating market uncertainty. Conversely, fragmented regulatory regimes frequently precipitate operational delays and heighten litigation risks, underscoring the necessity for a stable and transparent governance framework (Gracia et al., 2022).

This governance complexity is further amplified by rapid technological shifts, where automation, digital platforms, and sustainability-focused innovations challenge existing standards of liability and data management (Su et al., 2024). Studies in maritime policy advocate for principle-based frameworks that foster innovation while maintaining a stable regulatory landscape, a concept termed "legal adaptability" (Munim & Schramm, 2018). Applying this framework to the Gujarat Port Policy involves a multi-dimensional assessment of policy transparency, governance discipline, risk-sharing stability, regulatory consistency, and environmental responsiveness (Aslam et al., 2023). Ultimately, the effectiveness of such policies is contingent upon perceived institutional behavior and long-term regulatory consistency rather than the formal Debie policy text alone (Debie et al., 2013).

## **3. Review of Literature**

### **3.1 Port governance and legal-institutional design**

Studies consistently highlight the deterministic role of public policy and legal frameworks in shaping port governance outcomes (Notteboom et al., 2021a). These institutional structures dictate the distribution of power between state authorities and private operators, subsequently defining strategic autonomy, accountability, and investment behaviors (Verhoeven, 2009). Comparative analyses further establish that governance models are profoundly path-dependent, as localized legal traditions and administrative histories predetermine the extent of devolution and regulatory control (Debie et al., 2013; Ng & Pallis, 2010). Ng & Pallis (2010) unveil that the governance reforms

are not always uniform in the jurisdictions; the institutional structure formed in the past influences the practise of autonomy and market orientation. Brooks & Cullinane (2006) report a trend in the world moving towards non-direct state operation to devolved and mixed models of governance with fundamental changes in the interface between the state and the market in ports and growing dependence on policy tools to redistribute authority without compromising regulatory coherence. Through these studies, the main contribution is the centrality of policy frameworks in the organisation of governance behaviour beyond formal organisational design.

The recent literature has shifted to the lawful impacts of regulations design. Merkel & Munim (2022) explain the way the Norwegian port governance system balances financial autonomy and specific public intervention to realise strategic goals, such as investment in environmental infrastructure. In comparison, Iwuoha et al. (2022) prove that regulatory arrangements that are weakly articulated may create gaps in governance, and institutional ambiguity may allow the exploitation of the weakly articulated regulatory arrangements by the private operators. Taken altogether, this literature confirms that port policy is a legal-institutional structure in which rules, discretion, and inter-agency coordination determine the effects of governance.

### **3.2 Concession governance, regulatory risk, and investor confidence**

Modern port development is currently dominated by public-private partnerships (PPP) and concession models, especially for capital-intensive projects with extended payback periods (Notteboom et al., 2021a). Recent scholarship emphasizes that concession frameworks transcend mere contractual design, functioning as policy-based governance tools that strategically distribute rights, obligations, and risks between public and private stakeholders (Su et al., 2024). The efficacy of these models is fundamentally contingent upon the clarity of legal structures, the predictability of regulatory environments, and the alignment between high-level policy objectives and day-to-day administrative practices (Mazher, 2025; UNCTAD, 2025).

Ke et al. (2010) demonstrate that risk allocation preferences differ among jurisdictions with the public authorities usually retaining political, legal and social risks and passing operational and commercial risks to the private partners. Schachler & Navare (2010) also state that institutional power relations and governance capacity are the factors that risk allocation is based on instead of mere technical optimisation. According to Shrestha et al. (2019), structured risk allocation methods are suggested, with the primary focus on matching the risks to the parties that are the best to handle them to achieve the project sustainability. In port systems, the lack of policy guidance has been found to erode concession governance by creating a risk of renegotiation and eroding investor trust.

Regulatory risk is widely recognised as a key factor shaping private investment decisions in infrastructure finance, arising from policy uncertainty, discretionary intervention, and unpredictable approval processes that influence investor confidence and the cost of capital. Empirical evidence suggests that cost competitiveness alone is insufficient to attract private investment or drive modal shift; regulatory and institutional conditions are also decisive. Policy credibility, approval timelines, tariff regulation, and dispute resolution mechanisms define the investment environment (Kumar, 2025; Kumar et al., 2022).

### **3.3 Environmental, social, and technological obligations as governance conditions**

Environmental, social, and technological requirements have been incorporated in modern port management, and are increasingly influencing the strategies of individual investment. The decarbonisation requirements, sustainability reporting, and technological requirements impose extra legal compliance measures into the project feasibility, the financing terms, and the risk assessment. deManuel-López et al. (2024) demonstrate that policies on maritime decarbonisation are transforming the way ports are invested, whereby alternative fuels and energy infrastructure meant to be financed by large amounts of private capital. According to Villabruna et al. (2024), regulatory complexity and fragmented standards are the obstacles to green investment that increase the uncertainty faced by the operators at the private level. At the same time, Jamain et al. (2023) establish that better regulatory quality is positively related to the technical efficiency of the port, which means that port regulation should be designed to ensure sustainability and performance at the same time. Additional legal complexity is in the technological change. The issues of data governance, cybersecurity, liability, and workforce adaptation are present due to digitalisation and automation and artificial intelligence, as noted in the article by Kumar on generative AI in maritime transport. These changes are a reminder that adaptive policy frameworks are necessary to incorporate innovation in the legal parameters.

## **4. Research Methodology**

The research design taken in this study is a qualitative, expert-based study to investigate the role of the public policy as a legal-institutional process that determines the involvement of the private capital and the operation of the port in the governance. The attention to policy credibility, regulatory interpretation and governance practise can only be approached qualitatively because these aspects cannot be easily observed using secondary data or performance indicators. Instead of quantifying the results, the methodology aims at creating interpretive knowledge of how the Gujarat Port Policy is being perceived, implemented, and lived in practise.

The study is situated as a qualitative institutional-legal evaluation based on the interpretive methodology that is frequently utilised in commercial and regulatory law studies. The study explores the functioning of the policy as an administrative behaviour and a practise of

institutions in the formation of regulatory expectations, risk perceptions, and investment choices over time, as opposed to a policy being treated as a fixed piece of law. This orientation is especially suited to the study of sub-national policy tools which have a regulatory effect without the comprehensive statutory codification.

To overcome the weakness of outcome oriented studies, the study uses expert interviews as a source of informed opinions about regulatory certainty, governance discipline, administrative discretion and stability of concessions. Scholars have a special place to evaluate the functioning of the policy provisions that are not recorded in official documents, such as how the regulatory behaviour changes and affects personal investment choices.

Semi-structured interviews of 17 experts in important components of the port and maritime governance ecosystem were used to gather data, such as policymakers, port authority officials, and private port developers, infrastructure finance and PPP specialists, and academics/consultants with relevant expertise. Purposive sampling was used to select experts who worked in the field based on professional experience and direct exposure to port policy or concession frameworks. This setting guaranteed the critical richness and thematic overload.

The thematic legal analysis based on the conceptual framework of the study was used in the analysis of interview data. A coding of responses was done based on the predefined dimensions of policy credibility, governance discipline, risk allocation, regulatory coordination and adaptability to environmental and technological change. Ethical requirements pertaining to informed consent, confidentiality, and data protection were observed to the letter. Although the results cannot be generalised, the research design is quite appropriate in developing policy-relevant conclusions of the legal and governance dynamics of port development.

## 5. Findings

This section summarises the results of the thematic analysis of interviews with 17 experts who were recruited based on the policy-making fields, port administration, port development, infrastructure finance, and maritime policy advisory domains. The interpretation is interpretive and not quantitative and it is concerned with the way the experts perceive the Gujarat Port Policy as a legal-institutional framework that influences the governance practise and private investment behaviour. Instead of presenting frequency-based outcomes, the results emphasise recurrent patterns of interpretations and points of intersection between expert narratives.

### 5.1 Policy credibility and regulatory predictability

In interviews, analysts repeatedly perceived the Gujarat Port Policy as not merely a policy document but rather, as a long-term indication of the regulatory intent. In this respect, policy effectiveness was linked to continuity and consistency in interpretation, and not with particular

incentives or formal terms. Analysts highlighted that private capital, especially long-run investment is more responsive to experience in regulation the manner in which the policy has been enforced over the years and not to written pledges.

The predictability of the regulations was found to be particularly valued in regard to access to the land, approval procedures, and the sustainability of concession agreements. Although analysts noted that regulatory processes are still complicated and are associated with a number of authorities, most of them pointed to the fact that comparatively stable administrative procedures have helped to reduce uncertainty. The credibility of the policy was thus interpreted as relational and incremental as a result of the recurrent engagement of the public authorities with the private actors as opposed to the credibility of the policy being based on the formal assurance.

### 5.2 Governance discipline and administrative practice

The second theme was the role of the policy structures in governing the discipline of governance in the way they define the boundaries of administrative discretion. Analysts typically characterised the way Gujarat was governed port-wise as being decentralised in its nature, and considerable freedom is given to the private port developers and operators, but strategic control is rooted in public hands. This arrangement was largely considered to be favourable to the involvement of the private in a sector that was highly capital-intensive with long payback times.

Nevertheless, scholars made an apparent distinction between formal delegation and the practise of governance. It was observed that effective governance was not achieved through strict procedural control but through institutional restraints, coordination and predictability. In instances where discretion was applied in a way that it was perceived to be steady and clear, the results of governance were considered favourable. On the other hand, ineffective inter-agency coordination or improvised intervention was found to be a possible source of regulatory risk that can destroy investor confidence even in a generally supportive policy environment.

### 5.3 Risk allocation, concession stability, and investment behaviour

Experts viewed risk allocation under the Gujarat Port Policy as dynamic and context-specific instead of being fixed. Although the policy was considered to give a general framework of how commercial and regulatory risks are distributed, the effect of the policy was moderated by concession design and administrative interpretation. Analysts have stressed that privately held investors pay special attention to the predictability of the concession agreements, particularly the absence of protection against the reinterpretation of policy in a retroactively manner.

Renegotiation of terms of concessions was not considered to be a problem in itself. Rather, it was acceptable based on procedural clarity, transparency and alignment with the original policy intent. Experts pointed out that uncertainty is not as much determined by the potential of change, but it is more about the manner in which change is dealt with. Policy credibility and concession stability in this regard were observed to have a reinforcing effect on each other and this influenced investor expectations about long-term regulatory behaviour even in the absence of explicit contractual protection.

#### **5.4 Environmental, social, and technological obligations**

Environmental, social, and technological requirements emerged as central themes in how professionals evaluate modern port governance. Across the board, analysts agreed that these obligations have shifted from optional considerations to fundamental prerequisites for port development. Interestingly, stakeholders didn't view these requirements as barriers to private investment. What mattered most was whether regulatory processes operated smoothly and coherently.

When approval pathways were clear and institutional responsibilities were well-defined, stakeholders found environmental and social compliance quite manageable. By contrast, fragmented regulatory structures created delays and uncertainty that genuinely concerned investors. Digitalization and automation presented a dual reality both promising opportunities and posing governance challenges. Analysts emphasized that policies need the flexibility to accommodate technological innovation while maintaining a stable regulatory environment that preserves investor confidence.

Environmental and social requirements are increasingly recognized as minimum governance conditions rather than optional considerations in Indian port development. Recent empirical evidence from Indian ports confirms that while stakeholders demonstrate awareness of green port concepts, significant barriers including budgetary restrictions, legal impediments, and institutional coordination challenges continue to impede implementation (Kumar, 2025).

### **6. Discussion**

The following is the analytical narrative that developed out of the study. The main research question was to investigate the functioning of port policy as a developmental or economic instrument but rather as a legal-institutional instrument that influences the practise of capital participation and governance. The empirical example of the Gujarat Port Policy was used to produce qualitative evidence that the effectiveness of the policy, as it has been viewed by informed stakeholders, is based on long run behaviour of regulation and institutional discipline in the long run. The following chapters tie the findings to the conceptual framework presented in the prior chapters, place them in the context of the current

literature, and comment on their implications to commercial law and port governance.

#### **6.1 Policy credibility as regulatory commitment**

Our findings reveal that policy credibility functions as a cornerstone of regulatory commitment, one that extends well beyond what's written in official statutes. Drawing on institutional theories of credible commitment (North & Weingast, 1989), we found that experts didn't evaluate the Gujarat Port Policy based on its stated incentives or formal objectives. Instead, they assessed it by its track record: how consistently the policy has been interpreted and how predictably administrators have behaved over time. This supports what researchers have long argued that private investment in infrastructure responds less to written guarantees and more to observable patterns of regulatory behavior. In-depth interviews showed that private investors pay closer attention to accumulated regulatory experience than to output numbers alone. In practical terms, this means policy credibility isn't something embedded in the policy document itself it's built continuously through ongoing interactions between government and business stakeholders. This finding is reinforced by recent quantitative evidence showing that stakeholder familiarity and engagement significantly enhance perceived effectiveness of sustainability initiatives (Kumar & Yadav, 2026) and reduce perceptions of implementation barriers, confirming that policy credibility grows stronger through consistent stakeholder interaction.

#### **6.2 Governance discipline beyond formal delegation**

The findings are also used in the current discussions on decentralisation and port autonomy. Despite the fact that the scholarship records a worldwide shift to devolved and corporatised forms of governance, the results testify to the fact that a formal transfer of power is not sufficient to describe the effectiveness of governance. Scholars always emphasised the relevance of the discipline of governance, especially predictable exercise of administrative discretion and effective coordination of institutions.

This is consistent with the comparative governance that warns against the tendency to equate autonomy with effectiveness (Kellerman, 2018). As demonstrated in the Gujarat case, institutional norms of restraint and coordination are the only way to facilitate the involvement of the privates in the governance of the country through decentralisation. A well-constructed set of policies might not be able to maintain investor confidence when such norms are destroyed. In this way, informal institutional constraints are considered to be key determinants of the regulatory results, which is also conspicuously understudied in the largely quantitative port-governance literature.

#### **6.3 Risk allocation as an institutional process**

The risk allocation analysis also adds to the current body of research on the topic of public-private partnerships and concessions by restructuring risk not only as a contractual allocation issue, but as an institutional

process that is defined by the interpretation of policy and regulatory behaviour. Special attention was given by experts to the stability of concessions and the resistance to retrospective reinterpretation, indicating that the contractual protection is not sufficient when it is not guaranteed by the credible commitment of the policy.

This view resonates the viewpoint that infrastructure risk is also regulatory in nature and commercial (G. Hodge et al., 2008; G. A. Hodge & Greve, 2019). The acceptability of renegotiation, as outlined by the experts, was based not on whether it happened or not, but on the transparency and consistency of the procedure. As a result, simplified accounts that postulate renegotiation to be an inherently bad thing are put into question; rather, the quality of governance comes into focus as what shapes investor confidence.

#### **6.4 Environmental, social, and technological obligations as governance conditions**

The results also shed some light on the sustainability and technological change debate on port governance. Instead of considering environmental and social requirements as deterrents in the investment, experts have seen them as minimum governance requirements. This is consistent with the new data that regulatory predictability, as opposed to strictness, increases the attractiveness of the infrastructure sectors to investment.

Technological change presents new forms of governance problems as it requires new forms of policy structures that can adapt to innovations without causing a breakdown in the existing expectations. The focus of experts on flexibility in the certain limits of regulations is an indication of governance logic that values flexibility as well as predictability. Legally, this highlights the significance of the principle-based regulatory structures that can address the change in technology and still maintain investor confidence.

#### **6.5 Reframing port policy effectiveness**

The combination of the discussion is that port policy effectiveness cannot be sufficiently evaluated using output metrics alone. The policy is assessed by the stakeholders in institutional behaviour: the uniformity of application of the rules, the discretion, and the ways of how conflicts are managed over time. This supports the analytical framing followed in Section 2 which sees port policy as an investment governance structure and not a planning or promotion tool.

To the scholarship of commercial law, this re-conceptualization underscores the importance of qualitative legal research in understanding the workings of policy instruments in practise. The study offers a complementary piece to performance-based studies and helps to understand fully how the government influences individuals to engage in infrastructural investment through foregrounding governance behaviour and regulatory discipline.

### **7. Conclusion and Policy Implications**

This paper has discussed the functioning of port policy as a legal-institutional instrument that influences the mode of participation by private capital and governance practise based on the empirical example of Gujarat Port Policy. With the aid of expert interviews, the discussion skimmed above the outcome-based measures of port performance to examine the way in which the credibility of the policy, the regulatory behaviour and the institutional coordination affect investment behaviour in reality. The results show that the best way of comprehending the effectiveness of port policies lies in the governance behaviour rather than in the formal provisions and incentive structures in isolation.

The Gujarat Port Policy was continuously assessed by experts in terms of the experience of the regulatory practise, and they stressed that it should be more continuous, predictable, and restrained. The credibility of the policy turned out to be a kind of regulatory commitment, which had been established over years and was achieved due to the ability to interpret and apply the policy consistently instead of the legal text. This supports the perception that investor belief in capital-intensive infrastructure markets is shaped by anticipations of regulatory consistency and disciplined management. The research also demonstrates that the effectiveness of governance is based on the interplay between formal delegation and informal institutional norms. Decentralised governance and private involvement can be regarded as the main focus of modern port development and is more likely to be successful in case of the administrative practise coordination and predictable discretion use. The idea of risk allocation and concession stability was also perceived as institutional result of policy behaviour and regulatory behaviour instead of contractual design issues.

Environmental, social, and technological requirements were viewed as part and parcel of governance conditions as opposed to external limitations of investment. Scholars emphasised that the clarity of regulations, the order in which they are granted, and clearly institutionalised institutional responsibilities are the determinants of whether these obligations help or obstruct private participation. All these results support the necessity to assess port policy in a legal-institutional manner that predicts governance practise rather than observable outputs.

A number of policy implications are, therefore, forthcoming. Policymakers need to be aware of the fact that policy credibility is accrual-based and closely tied to consistency in meaning and administrative behaviour. Procedural rigidity should be subordinated to governance discipline, which sets the limits of discretion and open decision-making procedures. The concession governance should be regarded as a continuation of policy, with principled and predictable strategies of renegotiation. The port policy frameworks should incorporate environmental, social, and technological requirements in a coherent manner to minimise

compliance ambiguity. In a wider context, the research implies that sub-national port policies have the ability to mobilise the use of private capital with the help of a regular practise of regulations.

The research is qualitative and contextual in nature, it is based on professional judgement as opposed to numerical data. Future studies may use comparative or longitudinal designs to determine the effect of regulatory behaviour changes on investment choices between jurisdictions and may integrate qualitative legal analysis and quantitative evidence to gain further insight into policy credibility and governmental effectiveness.

## Declaration

“Grammarly was used to check grammar, spelling, and readability. The authors reviewed and approved all suggestions and remain fully responsible for the content and accuracy of this manuscript.”

“Authors declare no conflict of interest.”

- Aslam, B., Iqbal, K. M. J., Akhtar, N., Mottaeva, A. B., Fedorovna, T. T., Barykin, S., & Khan, M. I. (2023). Coherence Analysis of National Maritime Policy of Pakistan across Shipping Sector Governance Framework in the Context of Sustainability. *Sustainability*, 15(9), 7665. <https://doi.org/10.3390/su15097665>
- Brooks, M. R., & Cullinane, K. (2006). *Devolution, Port Governance and Port Performance*. JAI Press. <https://books.google.co.in/books?id=ColSwHoWKn4C>
- Cruz, C. O., & Marques, R. C. (2012). Risk-Sharing in Seaport Terminal Concessions. *Transport Reviews*, 32(4), 455–471. <https://doi.org/10.1080/01441647.2012.664576>
- Debrie, J., Lavaud-Letilleul, V., & Parola, F. (2013). Shaping port governance: the territorial trajectories of reform. *Journal of Transport Geography*, 27, 56–65.
- deManuel-López, F., Díaz-Gutiérrez, D., Camarero-Orive, A., & Parra-Santiago, J. I. (2024). Iberian Ports as a Funnel for Regulations on the Decarbonization of Maritime Transport. *Sustainability*, 16(2), 862. <https://doi.org/10.3390/su16020862>
- Engel, E., Fischer, R., & Galetovic, A. (2014). Finance and public-private partnerships. *Financial Flows and Infrastructure Financing*, 193–223.
- Gracia, M. D., González-Ramírez, R. G., Ascencio, L. M., & Mar-Ortiz, J. (2022). Assessing the implementation of governance best practices by Latin American ports. *Maritime Economics & Logistics*, 24(4), 806–834. <https://doi.org/10.1057/s41278-022-00224-y>
- Hodge, G. A., & Greve, C. (2019). *The logic of public-private partnerships*. Edward Elgar Publishing.
- Hodge, G., Campus, C., & Greve, C. (2008). The public-private partnership debate: taking stock of the issues and renewing the research agenda. *International Research Society for Public Management Annual Conference, Brisbane, Australia*.
- Iwuoha, V. C., Okafor, N. I., & Ifeadike, E. (2022). State regulation of Nigeria’s maritime ports: Exploring the impact of port concession on both the regulator and the operators. *Politics & Policy*, 50(5), 1032–1052. <https://doi.org/10.1111/polp.12495>
- Jamain, R. E., Zakaria, R. H., & Mohd Satar, N. H. (2023). The Effect of Regulations on Port Efficiency: An Empirical Study using Regulatory Quality and Control of Corruption Index. *Social and Management Research Journal*, 20(1), 135–150. <https://doi.org/10.24191/smrj.v20i1.21891>
- Ke, Y., Wang, S., & Chan, A. P. C. (2010). Risk Allocation in Public-Private Partnership Infrastructure Projects: Comparative Study. *Journal of Infrastructure Systems*, 16(4), 343–351. [https://doi.org/10.1061/\(ASCE\)IS.1943-555X.0000030](https://doi.org/10.1061/(ASCE)IS.1943-555X.0000030)
- Kellerman, B. (2018). *Professionalizing leadership*. Oxford University Press.
- Kumar, R. (2025). Green Port Initiatives, Policies and Stakeholder Engagement in India. *Accountancy Business and the Public Interest*.
- Kumar, R., & Yadav, C. L. (2026). Advancing India’s green port agenda: The role of stakeholder engagement through structural equation modelling. *Transportation Research Interdisciplinary Perspectives*, 35, 101796. <https://doi.org/10.1016/j.trip.2025.101796>
- Kumar, R., Kumar, S., & Bhamidimarri, R. (2022). A REVIEW ON COST COMPETITIVENESS OF NATIONAL WATERWAY 1 OF INDIA. *Manager - The British Journal of Administrative Management*, 58(146).
- Mazher, K. M. (2025). Review of studies on risk allocation and sharing in public-private partnership projects for infrastructure delivery. *Frontiers in Built Environment*, 11. <https://doi.org/10.3389/fbuil.2025.1505891>
- Merkel, A., & Munim, Z. H. (2022). *Regulation and Finance in the Norwegian Port Sector* (pp. 283–298). [https://doi.org/10.1007/978-3-030-83985-7\\_17](https://doi.org/10.1007/978-3-030-83985-7_17)
- Monios, J. (2020). Environmental governance in shipping and ports: Sustainability and scale challenges. In *Maritime Transport and Regional Sustainability* (pp. 13–29). Elsevier. <https://doi.org/10.1016/B978-0-12-819134-7.00002-2>
- Munim, Z. H., & Schramm, H.-J. (2018). The impacts of port infrastructure and logistics performance on economic growth: the mediating role of seaborne trade. *Journal of Shipping and Trade*, 3(1), 1–19.
- Ng, A. K. Y., & Pallis, A. A. (2010). Port Governance Reforms in Diversified Institutional Frameworks: Generic Solutions, Implementation Asymmetries. *Environment and Planning A: Economy and Space*, 42(9), 2147–2167. <https://doi.org/10.1068/a42514>
- North, D. C., & Weingast, B. R. (1989). Constitutions and commitment: the evolution of institutions governing public choice in seventeenth-century England. *The Journal of Economic History*, 49(4), 803–832.

- Notteboom, T., Pallis, A., & Rodrigue, J.-P. (2021a). *Port Economics, Management and Policy*. Routledge. <https://doi.org/10.4324/9780429318184>
- Notteboom, T., Pallis, T., & Rodrigue, J.-P. (2021b). Disruptions and resilience in global container shipping and ports: the COVID-19 pandemic versus the 2008–2009 financial crisis. *Maritime Economics & Logistics*, 23(2), 179.
- Núñez-Sánchez, R., & Hidalgo-Gallego, S. (2024). Determinants of public investment for port authorities using port-level data: An analysis of the Spanish port system. *Transportation Research Procedia*, 78, 483–490. <https://doi.org/10.1016/j.trpro.2024.02.060>
- Schachler, M. H., & Navare, J. (2010). Port risk management and Public Private Partnerships: factors relating to risk allocation and risk sustainability. *World Review of Intermodal Transportation Research*, 3(1/2), 150. <https://doi.org/10.1504/WRITR.2010.031585>
- Shrestha, A., Tamošaitienė, J., Martek, I., Hosseini, M. R., & Edwards, D. J. (2019). A Principal-Agent Theory Perspective on PPP Risk Allocation. *Sustainability*, 11(22), 6455. <https://doi.org/10.3390/su11226455>
- Su, Z., Liu, Y., Gao, Y., Park, K.-S., & Su, M. (2024). Critical Success Factors for Green Port Transformation Using Digital Technology. *Journal of Marine Science and Engineering*, 12(12), 2128. <https://doi.org/10.3390/jmse12122128>
- Tovar, B., & Wall, A. (2021). Economic and Environmental Regulation in the Port Sector. In *International Encyclopedia of Transportation* (pp. 563–569). Elsevier. <https://doi.org/10.1016/B978-0-08-102671-7.10484-1>
- Trade, U. N., & (UNCTAD), D. (2025). *Review of Maritime Transport 2025: Staying the Course in Turbulent Waters*. Stylus Publishing, LLC.
- Verhoeven, P. (2009). European ports policy: meeting contemporary governance challenges. *Maritime Policy & Management*, 36(1), 79–101. <https://doi.org/10.1080/03088830802652320>
- Wu, S., Li, K. X., Shi, W., & Yang, Z. (2016). Influence of local government on port investment: implications of China's decentralized port governance system. *Maritime Policy & Management*, 43(7), 777–797. <https://doi.org/10.1080/03088839.2016.1163431>
- Xiao, Y., Ng, A. K. Y., Yang, H., & Fu, X. (2012). An Analysis of the Dynamics of Ownership, Capacity Investments and Pricing Structure of Ports. *Transport Reviews*, 32(5), 629–652. <https://doi.org/10.1080/01441647.2012.709888>
- Yescombe, E. R., & Farquharson, E. (2018a). Public-private partnerships. *Public-Private Partnerships for Infrastructure*, 7–24.
- Yescombe, E. R., & Farquharson, E. (2018b). *Public-private partnerships for infrastructure: Principles of policy and finance*. Butterworth-Heinemann.

## Appendix A

### Expert Interview Questions

#### Theme 1: Policy Design and Legal Architecture

1. How clearly does the Gujarat Port Policy define the roles and powers of public authorities?
2. Does the policy provide sufficient legal certainty for long-term private investment?
3. How stable has the interpretation of the policy been over time?
4. In practice, how predictable are regulatory approvals under the policy?

#### Theme 2: Private Capital and Investment Decisions

5. How does the policy influence investor confidence in port projects?
6. Which legal provisions of the policy most affect private investment decisions?
7. Have policy changes or reinterpretations altered investment appetite?
8. How does Gujarat's port policy compare with other Indian port regimes from an investor's perspective?

#### Theme 3: Risk Allocation and Concession Governance

9. How effectively does the policy allocate risk between the public sector and private operators?
10. Are concession agreements sufficiently protected from discretionary intervention?
11. How do termination, renegotiation, or force majeure provisions affect investor perceptions?
12. How credible are dispute resolution mechanisms under the policy?

#### Theme 4: Governance and Institutional Coordination

13. How effective is coordination between port authorities, environmental regulators, and other agencies?
14. Does administrative discretion under the policy create legal uncertainty?
15. How transparent are tariff setting and revision mechanisms?

**Theme 5: Environmental, Social, and Technological Dimensions**

16. How well does the policy integrate environmental compliance with commercial realities?
17. Do social and community obligations under the policy affect project bankability?

18. Is the policy legally equipped to accommodate technological change in ports?

**Theme 6: Overall Assessment and Reform**

19. In your view, what is the strongest legal feature of the Gujarat Port Policy?
20. What specific legal or regulatory reforms would most improve its effectiveness in attracting private capital?