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► **To cite this version:**

| Damien Bo. Governance of French Yachting Harbours : a case study. 2006. hal-00462487

**HAL Id: hal-00462487**

**<https://hal.univ-cotedazur.fr/hal-00462487>**

Preprint submitted on 9 Mar 2010

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# Governance of French Yachting Harbours : A Case Study

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## ***Abstract***

There is currently an increase in the media attention given to yachting harbour management. Some of these harbours have existed since the 1960s and yet, it is only recently that problems have arisen between public and private partners. This paper presents the case of leisure harbours and designs an initial model of their governance issues. An empirical analysis of a single case shows that the usual study of public-private opposition must take into account the agency relationship between local authority and its electors. The results, yet to be confirmed by a quantitative survey, indicate that traditional representations of the behaviour of public leaders are not totally relevant in a touristic context. Furthermore, the Harbour Council, the board which assembles public and private actors, tends to act more like a bureaucracy than a regulation organ with concern to stakeholders' management.

**Key Words:** Public-private partnerships, private finance initiatives, governance, tourism, local authorities, stakeholders, yachting harbours.

## 1. INTRODUCTION

Yachting first appeared in England at the end of the eighteenth-century and began developing exclusively in Anglo-Saxon countries. From 1800 to 1880 the number of Britannic yachts increased from 80 units to more than 2000 units (Bernard, 2000). In the beginning, yachting was an aristocratic leisure involving only royal families, but it was soon adopted by rich industrials. Yachts were beautiful sailboats steered by highly competent crews. In France, the first yacht club was *la Société des Régates du Havre*,

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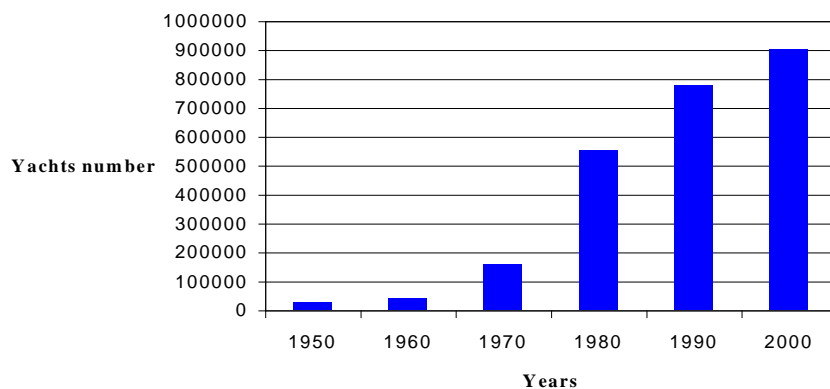
<sup>1</sup> Special thanks are addressed to Jessica Michel for helping me with translation issues.

the oldest yacht club in continental Europe. It was in charge of the organization of nautical events at the Paris Olympic Games in 1924. Soon after the founding of *Le Havre*, a number of French maritime towns and tourist stations created such clubs: Brest in 1847, Cannes in 1859 and Bordeaux in 1860. Yet, until the Second World War, yachting remained an activity for the privileged classes. Several factors led to its eventual democratisation:

- In 1936, the French left wing government created paid holidays in France which marked the beginning of a leisure society.
- New techniques and materials allowed for industrial production: polyester and plywood are said to be at the origin of the exponential growth in yachting in the 1960s.
- The victory of French navigator Eric Tabarly in the 1964's English transatlantic race helped the sport gain media exposure.

In France, the evolution in the sport's popularity has been spectacular (figure 1) : 25,000 yachts were registered in 1951; 40,000 in 1961; 552,000 in 1981; 775,000 in 1991 and; 900,000 today.

**Figure 1 – Growth in number of yachts**



Source: A.F.I.T

Until the mid-1960s no dedicated facilities for yachting existed. Yachts were on individual moorings set by the yachtsmen themselves. In the best cases, they were occupying moorings in fishing or commercial harbours where their presence was barely tolerated. Some tourist-oriented towns came to realise the interest in developing truly dedicated yachting harbours. The first strictly yachting harbour was made under a Private Finance Initiative : *Pierre Canto* harbour in Cannes, named after its initiator, became operational in 1964. It is still situated at the west end of *La Croisette*. This first initiative announced a fifteen year period of intense building that matches with the democratisation of yachting. The French Yachting Harbours Federation estimates their global turnover to be approximately 150 million euros. Furthermore, the French Nautical Industries Federation evaluates that the entire nautical sector, gathering 1200 enterprises, generates 8,500 jobs and a global turnover of 1.5 billion euros. This criteria sets it at the first rank in Europe and at the second rank worldwide. This sector has the particularity of having an export rate of 50 %.

Private partners quickly came to realise the interest of including huge real estate structures in harbour projects. This gave birth to the “marina” generation. Harbours were generally financial successes. But, they are managed by private interests thru speculation and building real estate projects, which increase greatly the issue of public domain appropriation. Thus, the need to study the governance structures of these Public-Private Partnerships. The paper is organised as follows: The first section outlines the juridical aspects of harbour management modes. Then, in the section to follow, governance issues will be analysed. The third section describes the qualitative method adopted to begin this research. Finally, initial results are presented in the fourth section and, some paths of improvement are introduced in the conclusion.

## 2. YACHTING HARBOUR MANAGEMENT MODES

### 2.1 Juridical aspects

Maritime Public Domain is imprescriptible and inalienable. Any occupation of the seashore must be done under administrative authorisation. The foundations for these rules were laid out a long time ago, starting with the June 30<sup>th</sup> 1539 edict of François the First. Harbour concession generally has been set for 50 years. When a private society is in charge of a concession, someone wanting to occupy a mooring must buy stocks belonging to the society in proportion to the size of the mooring he wants to obtain. Otherwise, he can only get right of user for one year.

### 2.2 Institutional diversity

Harbour management is characterised, more than any other public sector, by an actual public-private *continuum* of institutions (Louart, 1997). Public organisations run more than half of all harbours; public-private organizations (e.g., Chamber of Commerce and Industry) and semi-public corporations run a quarter of them; private structures, including yacht clubs and private society run the final quarter.

Yacht clubs generally run small yachting structures regardless of whether these structures were made with public funds or under Private Finance Initiative. Our first interviews show that public-private organizations like the Chamber of Commerce and Industry are facing the same governance situation as private partners. The difference between clubs and private societies lies in the accounting method: A private society must amortize the depreciation of buildings while clubs and associations cannot. But, private societies such as associations do not make a profit.

In 1983 massive decentralization laws were voted in France. With regard to harbours, a multi-level decentralization was made:

- Central State authority on self-governing harbours (National Public Establishments having juridical and financial autonomy: *Dunkerque, Le Havre, Rouen, Nantes-Saint Nazaire, Bordeaux and Marseille*), on the 23 national interest harbours whose economic quotient is very important and on maritime harbours situated next to military facilities;
- *Département* authority (since 1790 France has been divided into 95 *départements* and four overseas ones) on fishing and commercial harbours;
- Municipality authority on yachting dedicated harbours.

### 3. GOVERNANCE ISSUES

The governance system covers, according to Gérard Charreaux, the body of organisational mechanisms that aim at determining powers and acting upon manager decisions (1998). In other words, mechanisms that govern behaviour and define the discretionary area. These mechanisms more fully integrate each person having an interest in the organisation: the stakeholders. In the case of a public-private institution this integration appears to be inevitable, yet the majority of academic works focuses only on the agency relationship between the two main contractors without regard for other stakeholders.

#### 3.1 Local authorities and the classic representation of their behaviour

Few academic works have studied the relations between local authorities and their private partners. In these works, the focus is made on public behaviour. By matching

general works to local leaders' behaviour in these classic studies three attitudes can be drawn out :

- complete indifference; Local leaders establishing the axiom that because they have *contracted out* they are no longer responsible for anything that happens. In this optic Public-Private Partnership is seen as a shield for local leaders to delegate their difficulties to the private sector.
- legal control; Facing complex activities, local leaders are only ensuring their non-responsibility in controlling the legality of acts and making sure that it respects the obligations of public service: continuity, adaptability and, overall, equality (Uhaldeborde, 1995). This attitude is explained by the control exercised over local leaders by central state organisms. Two kinds of controls co-exist: one is accomplished by regional chambers of public accounting and, for many observers, it is characterised by a lack of means of connecting with assigned goals since the 1983 decentralisation laws (Piolé and Piquin, 1996); the other is done by administrative courts of law (tribunal dealing with internal disputes in the French civil service).
- maximising electoral value-added; Inspired by the theory of Public Choice, this view says that local leaders are only interested in actions that are going to ensure their re-election (Tullock, 1978; Santo & Verrier, 1993 ). Following this path, local leaders are going to implicate themselves in a project, but not in monitoring the everyday management of services.

The tourism sector exhibits some particularities. It is less a sector of conflict between private interest and public ones than, for example, the transportation sector.

Here, private actors can have large profits and public organisations need private funds in view of the amount of money necessary to develop tourist-oriented infrastructures, particularly in areas where nothing exists beforehand. Yet, since the end of the 1980s, issues have been arising to create discord in this public-private partnership apparently in symbiosis. These dysfunctions have an important echo in the media. One year of observation was enough to reveal: two national shows in prime time television were entirely devoted to the subject, two articles in “*Le Monde*”, France’s most-read newspaper; and more than ten articles in local newspapers.

Three periods can be analysed concerning the Central State attitudes towards seashore<sup>2</sup>. These three periods allow for a better understanding of the present situation :

- Before the 1960s, an almost total lack of concern outside of military issues, was generally noted. Tourism economy had not yet reached its full growth, the seashore and its management was not attracting the focused attention it does today. Maritime Public Domain concerns are left to actors in traditional activities which are mainly fishing and marine farming;
- From the 1960s to the end of the 1980s, the seashore was developed in an industrial way. France, facing exponential growth in the demand of leisure goods and activities, was to establish a politic of quantitative development. Its aim is to expand touristic infrastructures to their maximum capacity. Combined with architectural theories of the time, this politic gave birth to an industrial kind of development more than an equilibrated one. Furthermore, France supported this politic with private actors: in this perspective, central state and its local representatives were induced to give certain freedoms to private entrepreneurs

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<sup>2</sup> A similar analysis can be made concerning the development of mountain resorts.

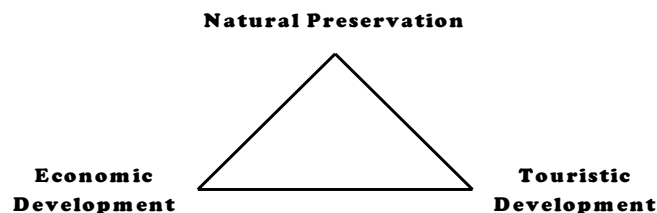


that was not quite admitted by the legal rules of today, nor by the rules of the time. The liberty gave by political power to private actors resulted in Public Domain decollectivisation;

- From the 1980s to nowadays, the collective will is for sustainable development. Two main elements can be found to explain this political change. The first, and perhaps the most important, is the growth of ecologist activism during the 1980s. This movement, in France, mainly focused on large touristic buildings in mountains or by the seashore. The second element is the demographic saturation of highly attractive regions. This overload which is found in known areas such as the Azores or the French Riviera, has led people and politicians to be more aware of a need for the regulation of natural sites.

Facing this new order, French legislation created the “Seashore Law” of 1986, which aimed to establish a balance between natural preservation, economic development and enhanced value for tourists (figure 2).

**Figure 2- “Seashore Law”: a difficult equilibrium.**



In reality, its application by administrative courts of law gave greater importance to the natural preservation side of the issue. This attitude was enforced by the body of Public Domain doctrines and the essential notion of inalienability. Thus, it is common that both public leaders and private promoters are sentenced by courts under the initiative of ecologist associations. After these legal proceedings, some public leasing contracts were broken. This was the case of *La Figarette*, *Port Canto* and *Saint Laurent du Var*.

This juridical situation led to the freezing of any new harbour projects, or even projects of simple expansion. For five years now, the French Federation of Yachting Harbours has been denouncing the existence of harbour saturation. Depending on estimations, 50,000 to 80,000 moorings are lacking.

Following a contagion model, administrative courts of law decisions have led to poison relationships in any harbour: private investors no longer trust public leaders and the risk of prosecution is making public actors very cautious. But, an analysis of public-private partner relations should not forget to take into account each and every stakeholder.

### 3.2 Stakeholders.

The harbour board is made to represent every stakeholders of a harbour. Under the presidency of the mayor, the board examines the price list, investment projects and accounts in an advisory capacity. It can be seen as a summary of all stakeholders on the seashore ; Decisions presented at the board are later discussed at the town Council :

- The Mayor: Given the responsibility of the public-private partnership in 1983, the Mayor inherited a complex situation, at the boundaries of

legality, that the State has not settled. Furthermore, he must ensure general interest. The general interest is a two-sided notion: In an top-down approach it can be seen in the town's economic development, living environment and image; In a bottom-up approach it is the assurance that no interests are damaged. The compatibility of these two approaches varies according to the stakeholder being considered.

- Community facilities authority: This is the central state representative. They were in charge of harbour regulation before decentralisation laws. Today, they are on the harbour board as juridical and technical experts. They often shoulder an arbiter status in conflicts between local authorities and stakeholders.
- The harbour manager: Like the mayor, the harbour manager is in an awkward position of being a multi-principals agent. He has to satisfy shareholders, public authorities and yachtsmen first, but must also manage the other stakeholders.
- Shareholders representative: The Shareholders representative is on the board to directly express the interests of the people who invested in the harbour. In the case of a private society running the harbour, he repeats the decisions which were made by the board of directors.
- Traditional activities representative: These representatives are generally opposed to tourism development. Even if they are few in number in yachting harbours their power is great for two main reasons. First, they generally belong to large families in the town so they represent an

important electoral leadership. Secondly, history has shown that their action modes can be quite violent.

- Local Chamber of Commerce representative: He should represent the general economic interest, but some political science works have shown that the Chamber of Commerce belongs to the political arena (half of the directors are named by the *département*) more than the economic one.

#### 4. METHOD AND PRESENTATION OF THE IDIOSYNCRATIC CASE

##### 4.1 A qualitative approach

To study governance is to study the formal and informal mechanisms of regulation. To fully describe these mechanisms, a quantitative approach would be incomplete. When a researcher wants to describe a complex phenomenon by taking into account a large number of factors, and follow a “comprehensive” reasoning, he must enrich his vision. Paths described by researchers using a quantitative method are relatively preset. Their reasoning is based on a linear sequence of hypothesis and inferences. In the case of a qualitative method, the searcher is allowed a more do-it-yourself approach, mixing methods and empirical data sources. The reasoning is generally made by induction even if deduction is not ruled out (Giordano, 2003).

This case study is based on an experience as a consultant in quality and environmental management during an 18-month period that gave me the opportunity to have full access to all internal documents of the society. The legal obligation to keep all documents relating to public domain management helped to gain an understanding of the partnership history. This experience was completed by three observations of the

harbour board, informal interviews with key actors at a regional level and everyday monitoring of the media.

The real risk of this approach is to espouse the actors' point of view and abandon a critical eye. To avoid this gap, multiple informal relationships were made over the year with stakeholders, especially the stakeholders who were in conflict with the harbour management and the mayor's team.

#### 4.2 The case of a French Riviera harbour

Located between Nice and Monte-Carlo, the bay of Beaulieu-sur-mer is shaped by the Ferrat Cape and the Ail Cape. The powerful *New York Herald Tribune* owner, Gordon Bennett, was the first to have the idea of building a yachting harbour in this location with his own resources. It was in 1968 that his project was brought to a successful conclusion as an extension of a little fishing harbour. It now has a capacity of 736 moorings and is managed by a private society. Today only 10 fishermen remain in the harbour.

Beaulieu-sur-mer is a town of 4,000 inhabitants. In the summer this number is doubled. It is the first mandate of the mayor; as he is a young man, he has not yet built a strong political network. As with every yachting harbour, most of the site attendance is made by tourists. For this reason harbour promotion is more and more oriented toward animation.

## 5. FIRST RESULTS

### 5.1 A new conception of mayor behaviour

During the negotiation with the mayor for which I was to be accepted as an observer to the harbour board, his first comments seemed to validate the hypothesis of a public leader merely monitoring the legality of the harbour management. One of his first statements was: *“I am only signing the documents that are given to me”*. Later I came to understand the difference made by the mayor between the strictly speaking monitoring and the more informal monitoring. In fact, I could observe a true partnership between the harbour manager and public actors built on trust: *“We built trust gradually by trying to collaborate with the concessionary society”*. At first sight I thought there was a double agency relationship: public actors-harbour manager-stakeholders. In reality, after many observations I understood that the line of conflicts was between the stakeholders and the public and private management team.

There are two main hypotheses for this state of affairs :

- As a key actor at a regional level told me: *“Today, there is not a single yachting harbour standing in perfect legality”*. This is explained in the words of community facilities authority ex-chief: *“We wanted to build yachting facilities; we were technicians not lawyers. We built harbours, we were happy. We have our share of responsibility.”* Today, because there is a growing number of administrative courts lawsuits, both public and private leaders are trying to avoid juridical risk. For example, contracts of public leasing theoretically delivered by the concessionary society to give the right to occupy the Maritime Public Domain to a shareholder were only established one year ago. Until five years

ago, there were still private societies, not having any concession and selling moorings, i.e., making profit from a public good. When the contracts of public leasing were made, many shareholders only then became aware of the fact that they cannot literally own the moorings. The complexity of the Maritime Public Domain is a great obstacle for mutual comprehension; even the shareholders' lawyers made errors of judgment.

- The physical impossibility of further development probably induces the harbour manager to act more in the political arena than in the economic one.

The partnership between the harbour staff and the mayor is very clear concerning the animations. These animations are made to improve the liveliness of the harbour and generally disturb the yachtsmen because of noise and the car parking problems involved. This close collaboration on animations with the harbour encouraged the mayor to state: *“There is not a town and its harbour, but a town that has a harbour!”*

More so than trying to maximise his electoral value, the mayor, like the CEO in the agency theory, seems to seek personal prestige. This hypothesis became apparent with the harbour redevelopment project. This project tends to favour big yachts and yet, Beaulieu residents, who are also the electors, have small boats. Instead, small boat moorings are removed to make room for larger ones. Yet, one can tell that it is the pursuit of town economic development that pushes the mayor to accept that the harbour manager adopts this profitable strategy. Except for the mooring fees, the economic impact is far from being defined. The only real impact is that the town image increases, but the question remains as to whether the mayor can develop tourism against public service, i.e., against the benefit of his electors. The least I can say is that mayor does care more about the concession than is written in academic works. As my observations

showed, he is ready to come into conflict with his electors by supporting long-term development against short-term electoral value maximisation.

## 5.2 The need for performance monitoring and stakeholders management

The main cases of public-private partnership contract cancellation are showing a lack of everyday operational performance monitoring. In these cases, the public authorities were more focused on projects than on everyday issues so they found themselves having difficulties when the administrative courts heavily penalized both public and private actors for illegal operations.

The recent increase in the number of conflicts between any kind of stakeholder and ecological associations, the “*right to access the seashore*” association, is showing that the harbour board is not such an effective way to regulate conflicts. It appears more so to be a means for imposing the projects of the public-private leaders. These projects having been defined prior to the board meeting. I propose to develop the board role of *ex-ante* mediation, otherwise the advantages of public-private partnerships are largely missed. More than that, the future potential investors of the future will not trust the commitments of the public actors.

## 6. CONCLUSION: Some paths to improvement

Yachting harbour development has been a true success over the years. Without them, local authorities would never have had the financial resources to make such touristic infrastructure investments. Today, ecological issues and growing questioning of public action have led to difficulties. These difficulties must not lead to the



cancellation of public-private partnerships because they are not only a form of financing public goods, but are also a great form of regulation. To be effective, this regulation has to take place in the framework of good monitoring by public leaders. The harbour board should also be enriched by the presence of ecological associations.

During my job as a consultant in quality and environmental management, I saw the powerful use of quantitative surveys on yachtsmen satisfaction being applied by public actors. For them it was a way to have a more truthful portrait of their customers, because they habitually receive only complaints in their office. ISO 9000:2000 standards are also a way, for the public leader who does not have technical expertise in this field, to ensure a minimum level of competence performed by the harbour manager. It is the main explanation for harbours getting involved in the process even if it is not a very competitive sector, and therefore having limiting customers to attract.

The last idea is more general about Public-Private Partnerships. The idea according to which PPP avoid the risk of public contractors being both the judge and the judged is partly wrong. This case shows that the state has the capacity to interpret laws in several ways according to its own intentions and that this interpretation can damage private partner interests.

## LIST OF FIGURES

Figure 1 - Growth in number of yachts

Figure 2 - “Seashore Law” : a difficult equilibrium

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