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Negotiating Group on Maritime Transport Services

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COMMUNICATION FROM THAILAND

Response to Questionnaire on Maritime Transport Services

The following communication is circulated at the request of Thailand to members of the Negotiating Group on Maritime Transport Services.

I. Market structure

Vessels

1. The structure of Thai fleet over 1,000 GRT, excluding fishing and other non-commercial vessels, as of January 1994.

STRUCTURE OF NATIONALLY-OWNED OR OPERATED FLEET (1993)				
Type of vessels ¹	Number of Vessels		Deadweight Tonnage	
	National Flag ²	Foreign Flag	National Flag ²	Foreign Flag
Oil Tankers	57	n.a.	283,419	n.a.
Liquified Gas Carriers	7	n.a.	8,470	n.a.
Chemical Tankers	-	n.a.	-	n.a.
Combination Carriers	12	n.a.	168,395	n.a.
Ore/Bulk Carriers	15	n.a.	192,624	n.a.
General Cargo	78	n.a.	607,677	n.a.
Container Ships	10	n.a.	124,656	n.a.
Refrigerated Carriers	5	n.a.	10,653	n.a.
Specialized Cargo	-	n.a.	-	n.a.
Ro-Ro	-	n.a.	-	n.a.
Ferries and Passenger	7	n.a.	9,628	n.a.
Other	-	n.a.	-	n.a.
All Vessels	191	n.a.	1,405,522	n.a.

¹Vessels of 1,000 grt and above, excluding fishing and other non-commercial vessels.

²Where applicable, separate data should be provided on vessels and tonnage registered under second or international registers.

Trade

2. The total international trade carried by sea of 1993 is as follows:

Quantity: 84,774,000 tons (94.40 per cent);

Value: 1,587,431 millions baht (75.20 per cent).

3. The cargo of 1993 carried by sea:

Export: 33,856,000 tons (92.3 per cent) or 689,510 millions baht (73.2 per cent);

Import: 50,918,000 tons (95.9 per cent) or 897,921 millions baht (76.8 per cent).

4. The estimated share of total international trade carried by sea in terms of quantity which is carried by Thai vessels is 9.50 per cent.

5. Not available.

Organization of cargo

6. Not available.

7. Not available.

8. The United Nations Code of Conduct for Liner Conferences is not applicable in Thailand.

9. Thailand has bilateral shipping agreements with China and Vietnam which contain clauses regarding cargo sharing between the respective contracting parties. However, the clauses have never been implemented and will be repealed in due course.

10. Not available.

11. Not available.

Port and auxiliary services

12. Following are the responses:

(1) Total national port traffic for international trade cargoes in 1993 was 84.7 million tons;

(2) Klong Toey and Laem Chabang Ports, in 1994, handled about 90 per cent of total liner cargo;

(3) In 1994, container throughput of international trade at all national ports was 1.98 million TEUs.

13. There are no foreign suppliers present in the market as regards the indicated auxiliary services. But a number of indicated services are jointly invested and/or operated with local partners.

14. None.

II. Regulatory structure

General

1. Two departments of the Ministry of Transport and Communications are responsible for the matters of maritime transport:

1. The Harbour Department.

The Harbour Department regulates and controls the matter of navigation, maritime safety, pilotage, ship registration including pollution from ships;

2. The Office of the Maritime Promotion Commission.

The Office is responsible for overall shipping policy.

2. None.

3. None.

4. None.

5. In Thailand there are Government-owned ports and private ports. Some Government-owned ports are operated by privates in the forms of leasing or concession. Private ports are required to have licence as stipulated in the Announcement of the National Executive Council No. 58.

Re: The Control of Public Utility Business

6. Thailand does not use the term "international maritime transport".

7. Thailand does not use the term "national shipping enterprise".

Market access

8(a) No.

8(b) No.

8(c) No.

8(d) As provided under the horizontal commitments. Please see Annex 1.

9(a) No.

9(b) Service suppliers of Inland Clearance Depot and Container Freight Station are required to be incorporated under Thai law with at least 60 per cent of equity owned by Thai and having business relating to international maritime transport.

10. Yes, as provided under the horizontal commitments. Please see Annex 1.

11. Thai Vessels Act B.E. 2481 (1938) stipulates that the shipowner must have the following qualifications:

1. Being incorporated under Thai law;

2. having its head office in Thailand;
3. meeting all of the three requirements as follows:
 - (a) The majority of its directors have Thai nationality;
 - (b) the company regulations do not allow its share certificate to be issued to bearer.
 - (c) proportion or equity in the capital is in accordance with either of the following formulations:
 - (i) not less than 51 per cent of the capital belong to natural persons of Thai nationality;
 - (ii) not less than 51 per cent of the capital belong to juristic persons established under Thai law with all share holders and directors being natural persons of Thai nationality;
 - (iii) all of the capital belong to two or more juristic persons which may by itself own a Thai vessel. In this case, whether there is a natural person owning part of such capital is immaterial.

11(a) No.

11(b) No.

11(c) No.

National treatment

12(a) None.

12(b) None.

Access to and use of port facilities

13. Except ballast waste disposal and emergency repair facilities, all of the indicated services are available to the user of Government-owned ports.

14. Pilotage, garbage collecting at port, navigation aids and anchorage, berth and berthing services.

15. All of the services are available on non-discriminatory basis.

16. There are no discriminatory measures restricting access to seaports on the same terms as national services suppliers. Similarly, there is no port involved in international traffic which is closed or restricted for entrance of vessels owned or operated by foreign nationals.

17. No.

18. There are measures mandating the use of port handling equipment facilities without discrimination.

19. No.

Most-favoured-nation treatment

20. The bilateral shipping agreements between Thailand-China and Thailand-Vietnam have clauses as regards the share of cargo traded by governmental organization of the respective contracting party. However, the clauses have never been implemented and will be repealed in due course.

21. As in 20.

22. No.

23. No.

24. According to bilateral shipping agreements, Thailand grants most-favoured-nation treatment to the vessels of China and Vietnam when they are engaged in entering, leaving or berthing at Thai ports. Similarly, port facilities, including those for loading, discharging, stacking and storage purposes on wharf, shore and water as well as navigation aids and pilotage services at Thai ports are furnished to the vessels of both countries under the terms of most-favoured-nation treatment. However, in practice, no preferential treatment has actually been given to ships of any country.

25. No.

26. No.

Government procurement

27. Imported government cargoes are required to be carried by Thai flag ship.

28. No.

Competition law

29. The Thai anti-trust laws are not applicable to maritime transport sector.

(a) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) Not applicable.

Shipping conferences

30. There is no legislation dealing with shipping conference.

31. Not applicable.

32. Not applicable.

33. Not applicable.

34. Not applicable.

Shipper/carrier relations

35. No arrangement exists.

36. Not applicable.

THAILAND - SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply:		(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4)	Presence of natural persons
Sector or sub-sector		Limitations of market access			Limitations on national treatment	Additional commitments
I. HORIZONTAL COMMITMENTS						
ALL SECTORS INCLUDED IN THIS SCHEDULE		(3) Unless otherwise specified, commercial presence in sectors or subsectors in this schedule is permitted only through a limited liability company which is registered in Thailand and which meets the following conditions: (a) Foreign equity participation must not exceed 49 per cent of the registered capital; and (b) The number of foreign shareholders must be less than half of the total number of shareholders of the company concerned.			(3) Unless otherwise specified, national treatment for this mode of delivery is unbound.	
		(4) Unless otherwise specified, temporary movement of natural persons is <u>unbound except</u> in the following categories:				

Note: The scope and classification of subsectors contained in this schedule, unless otherwise specified, corresponds to the explanatory notes for services listed in the 1991 Central Product Classification (CPC) of the United Nations Statistical Office, while the ordering is based on the Services Sectoral Classification List set out in document MTN.GNS/W/120 dated 10 July 1991.

THAILAND (continued)

Modes of supply:		(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4)	Presence of natural persons
Sector or sub-sector	Limitations of market access	Limitations on national treatment	Additional commitments			
	<p>(a) A natural person who stays in Thailand for not more than 90 days for the purpose of participating in business meetings or contacts, entering into contract to sell or purchase services, visiting of business establishments or other similar activities;</p> <p>(b) A corporate transferee of the managerial or executive level or a specialist, provided that such person has been employed by the company concerned outside Thailand for a period of not less than one year immediately preceding the date of his or her application for admission and has satisfied the criteria for management needs¹ stipulated by the Department of Employment. Temporary entry is limited to a one-year period and may be extended for a further two terms of not more than one year each.</p>					

¹In considering managerial needs, the following facts shall be taken into consideration by the relevant authority, namely: 1. Size of fully paid-up capital; 2. Employment creation; 3. Extent of foreign investment; 4. Export promotion; 5. Transfer of technology; 6. Special needs of the management.

THAILAND (continued)

Modes of supply:		(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	(4)	Presence of natural persons
Sector or sub-sector		Limitations of market access (3), (4)	Limitations of market access of land according to the Land Code of Thailand, foreign nationals or domestic companies which are deemed foreigners are not allowed to purchase or own land in Thailand. However, they may lease land and own buildings. Foreigners are also allowed to own part of condominium units under the laws and regulations governing the ownership of condominiums.	Limitations on national treatment		Additional commitments