

# WORLD TRADE ORGANIZATION

RESTRICTED

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**Negotiating Group on Maritime Transport Services**

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## COMMUNICATION FROM JAPAN

### Response to Questionnaire on Maritime Transport Services

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

#### **I. Market structure**

##### Vessels

1.

STRUCTURE OF NATIONALLY-OWNED OR OPERATED FLEET (AS OF MID 1993)				
Types of vessels <sup>1</sup>	Number of vessels		Deadweight Tonnage	
	National Flag	Foreign Flag <sup>2</sup>	National Flag	Foreign Flag <sup>2</sup>
Oil Tankers	100	309	13,018,414	24,031,047
Ore Carriers	60	23	10,038,150	3,132,758
Coal Carrier	6	0	556,372	0
Ore/Oil Carrier	4	4	748,380	749,003
Other Dry Cargo	170	1,372	5,083,409	40,153,095
All vessels	340	1,708	29,444,725	68,065,903

<sup>1</sup>Vessels of 2,000 grt and above, excluding passenger, fishing and other non-commercial vessels.

<sup>2</sup>Foreign flag vessels chartered by Japanese service suppliers.

##### Trade

2. **Cargoes (1993)**  
795,886,000 ton (99.8%), or ¥ 52,658 billion (80.0%)

**Passengers (1993)**  
187,000 persons (1.2%)

3. Cargoes (1993)  
 Exports 91,019,000 ton (99.2%), or ¥ 31,875 billion (81.7%)  
 Imports 704,867,000 ton (99.9%), or ¥ 20,783 billion (77.7%)

Passengers (1993)  
 Japanese 102,000 persons (0.9%)  
 Foreigners 85,000 persons (2.3%)

4. (1993, in quantity)  
 Total 23.6%  
 Exports 4.7%  
 Imports 26.0%

\* No data available in terms of value.

5. (1993, in quantity)  
 11.4% (Cross-trading by national-flag vessels/Total trade carried by national-flag vessels)

\* No data available in terms of value.

#### Organization of cargo

6. (1993)
- |              | <u>Quantity</u>     | <u>Value</u>     |
|--------------|---------------------|------------------|
| Dry cargo    | 494,173,000 ton, or | ¥ 47,886 billion |
| Liquid cargo | 301,713,000 ton, or | ¥ 4,773 billion  |

\* Dry cargo includes liner cargo.  
 There is no data available on liner shipping.

7. No data available.

8. Not applicable.

\* Japan is not a contracting party to the United Nations Code of Conduct for Liner Conferences.

9. Not applicable.

\* The Government of Japan has not entered into any bilateral agreements on cargo-sharing.

10. (1993, in quantity)  
 86.8% (Containerized liner cargo/Total liner cargo)

\* No data available in terms of value.

11. No data available.

Ports and auxiliary services

12. The total volume of international trade cargoes loaded or unloaded at the national ports is 1,002.3 million freight ton, of which the share of containerized cargo is 12.9%. (1992)

- |   |                                 |
|---|---------------------------------|
| 13. Container station and depot services: | There are no foreign suppliers. |
| Maritime Agency Services:                 | There are foreign suppliers.    |
| Maritime Freight Forwarding Services:     | There are foreign suppliers.    |
| Maritime Cargo Handling Services:         | There are no foreign suppliers. |
| Storage and Warehousing Services:         | There are no foreign suppliers. |
| Customs Clearance Services:               | There are foreign suppliers.    |
| Maintenance and repair of vessels:        | There are foreign suppliers.    |

\* Foreign suppliers: More than 50 per cent of the equity interest is owned by foreign persons.

14. No.

**II. Regulatory structure**

General

1. The Ministry of Transport is the sole authority which is in charge of the international maritime transport sector.

2. The Marine Transportation Law requires any person who supplies international tramp services including international passenger tramp services to file with the Minister of Transport within 30 days after the date of the commencement of the services.

However, foreign persons, firms or organizations are not subject to the requirement.

3. The Marine Transportation Law requires any person who intends to supply international liner services, either cargo or passenger, to file with the Minister of Transport at least ten days prior to the commencement of the services.

However, foreign persons, firms or organizations are not subject to the requirement.

4. The Freight Forwarding Business Law requires any person who intends to supply freight forwarding services to obtain permission of the Minister of Transport.

5. The Port Transportation Business Law is the regulatory basis for port transportation services in the 96 major ports in Japan specified in a Cabinet Order such as loading cargoes onto a ship or unloading cargoes from a ship, carriage of cargoes into/from a cargo handling place, handling or safekeeping of cargoes at a cargo handling place.

The law requires any person who intends to carry out port transportation business to obtain permission of the Minister of Transport.

The application for the permission, according to the law, will be examined in light of whether the following are met:

- (1) The commencement of the business shall not cause oversupply of the port transportation services,
- (2) the applicant has such facilities and labours as prescribed in a Ministry of Transport Ordinance,
- (3) the business plan is appropriate to conduct the business,
- (4) the scope of the responsibility of the person who carries out the business is clear,
- (5) the business has a sound financial base.

6. There is no national definition. In this response, the term "international maritime transport" is defined as the carriage of cargo or passenger by a vessel between a Japanese port and a foreign port or between foreign ports.

7. There is no national definition.

#### Market access

8.(a) The Port of Transportation Business Law is the regulatory basis for port transportation services in the 96 major ports in Japan specified in a Cabinet Order such as loading cargoes onto a ship or unloading cargoes from a ship, carriage of cargoes into/from a cargo handling place, handling or safekeeping or cargoes at a cargo handling place.

The law requires any person who intends to carry out port transportation business to obtain permission of the Minister of Transport.

The application for the permission, according to the law, will be examined in light of whether the following are met:

- (1) The commencement of the business shall not cause oversupply of the port transportation services;
- (2) the applicant has such facilities and labours as prescribed in a Ministry of Transport Ordinance;
- (3) the business plan is appropriate to conduct the business;
- (4) the scope of the responsibility of the person who carries out the business is clear,
- (5) the business has a sound financial base.  
(Please see the answer to question 1.5.)

8.(b) No.

8.(c) Not applicable.

8.(d) (i) No.  
(ii) No.

9.(a) No.

9.(b) No.

10. No.

11. The following ships are defined as Japanese vessels, which are granted the right to fly the Japanese flag:

- (1) Ships owned by the Government of Japan or a Japanese public office;
- (2) ships owned by a Japanese national;
- (3) ships owned by a juridical person whose principal office is located in Japan, and all of whose representatives are Japanese nationals.

11.(a) No.

11.(b) No.

11.(c) No other than above-mentioned.

National treatment

12.(a) No.

12.(b) No.

Access to and use of port facilities

13. All of the services listed are available to the user at all ports in Japan.

14. Only the pilotage services within some areas of the Pilotage-Districts designated by a Cabinet Order are mandatory.

15. All of those are available on a non-discriminatory basis.

16. According to Article 3 of the Ship Law, none other than Japanese vessels are allowed to call at any port which is not open to foreign commerce and navigation, except where she has obtained permission of the competent Minister.

17. No.

18. No.

19. No.

Most-favoured-nation treatment

20. No.

21. Not applicable.

22. Not applicable.

23. No.

24. No.

25. According to the Law on Special Measure Against Unfavourable Treatment to Japanese Oceangoing Ship Operators by Foreign Government and Others, restriction or prohibition of (a) entry in Japanese ports and (b) loading or unloading of cargoes in Japanese ports for a designated period may be imposed as a countermeasure on vessels' operators who belong to a country in which, despite prior notification of taking such measures, interests of Japanese operators continue to be substantially damaged under unfavourable treatment imposed on them by that country or by local authorities or similar entities of that country.

26. According to the Freight Forwarding Business Law, an operation permit or governmental registration for international freight forwarding services is granted only to those firms of the countries in which Japanese firms are eligible for such permit or qualified for such registration.

#### Government procurement

27. No.

28. No.

#### Competition Law

29. Article 28 of the Marine Transportation Law provides that an agreement between ship-operators on freight rates or other conditions of transportation, routes, sailing and/or loading shall be exempted from the provisions of the Act Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade, unless ship-operators apply unfair method of transaction or unduly increase freight rates or other charges by substantively restricting competition in any particular fields of transaction.

Article 29 of the law stipulates that a ship-operator who intends to enter into or modify the agreement prescribed in Article 28 is obliged to file the agreement in advance with the Minister of Transport.

Article 30 of the law prohibits ship-operators from doing the following:

- (1) To give unfair or unjustly discriminatory treatment on the basis of the volume of cargo;
- (2) to give unduly preferential or disadvantageous treatment to particular persons, areas, or means of transportation;
- (3) to carry goods at a rate higher or lower than the filed tariff using false billing, false classification, false weighing, false report of the quantity, or any other unjust means;
- (4) to enter into any agreement that is unduly discriminatory on the terms of admission;
- (5) to enter into any agreement that establishes unduly discriminatory freight rates against certain shippers or ports, or against Japanese exporters;
- (6) to bind a shipper unduly by means of deferred rebate, or to enter into any agreement that unduly binds a shipper by means of deferred rebate.

#### Shipping conferences

30. There is no such regulation concerning admission to or withdrawal from a particular conference.

31. Please see the answer to question 29.

- 32. Please see paragraphs 2 and 3 of the answer to question 29.
- 33. There is no such requirement.
- 34. There are no such institutional arrangements and measures. (See the answer to question 29.)

Shipper/carrier relations

- 35. No special arrangements exist.
- 36. There are no specific requirements.