

# WORLD TRADE ORGANIZATION

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**Negotiating Group on Maritime Transport Services**

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## COMMUNICATION FROM THE REPUBLIC OF KOREA

### Response to Questionnaire on Maritime Transport Services

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

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**I. Market Structure****Vessels**

1.

(As of December 1994)

<b>STRUCTURE OF NATIONALLY-OWNED OR OPERATED FLEET</b>				
<b>Types of Vessels</b>	<b>Number of Vessels</b>		<b>Deadweight Tonnage</b>	
	<b>National Flag</b>	<b>Foreign Flag</b>	<b>National Flag</b>	<b>Foreign Flag</b>
Oil Tankers	41	8	928,564	988,081
Liquefied Gas Carriers	11	10	60,854	99,952
Chemical Tankers	31	7	149,534	109,883
Combination Carriers				
Ore/Bulk Carriers	96	23	6,077,324	3,155,294
General Cargo	48	11	273,364	71,623
Combination Ships	65	23	1,440,747	875,409
Refrigerated Carriers	4		21,306	
Specialized Cargo <sup>1</sup>	22	8	319,321	82,520
Ro-Ro	7	11	131,862	127,951
Ferries and Passengers	1	1	2,500	2,432
Other	128	6	544,406	303,695
All Vessels	454	108	9,949,781	5,816,840

- The statistics are based on vessels of over 1,000grt;
- In accordance with the Korean regulation, Bare Boat Charter with Hire Purchase option (BBC/HP) is included in the national flag ships, and thus has equal rights and obligations to national flag vessels;
- Foreign flag vessels are based on Bare Boat Charter (BBC) of national carriers for a period exceeding six months.

**Trade**

2.      Total               :       316,872,000 tons (99.7%)  
           Exports           :       71,245,000 tons (99.3%)  
           Imports          :       245,629,000 tons (99.8%)

\* Based on 1993 statistics.

3.      See answer to question No. 2.

4.      Total               :       92,210,000 tons (29.1%)  
           Exports           :       16,956,000 tons (23.8%)  
           Imports          :       76,144,000 tons (31.0%)

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<sup>1</sup>30 specialized cargo vessels are car carriers.

\* Based on 1993 statistics.

5. 24.9% (1993, in terms of quantity)

Organization of Cargo

6. liner shipping : 47,398 thousand tons  
dry bulk shipping : 185,276 thousand tons  
liquid bulk shipping : 122,435 thousand tons (LPG, LNG included)

7. (Unit: thousand TEU)

	1993 (January-December)	1994 (January-October)
Total	2,635	2,633
Shipping by Consortia (Share, %)	527 (19.9)	360 (13.7)

8. None.

9. None.

10. 100%.

11. Data on quantity and/or value not available.

Ports and Auxiliary Services

12. (Unit: thousand tons)

	Total Volume	Container Cargo	Container Share (%)
Total	316,872	23,820	7.5
Pusan Port	57,526	22,837	39.7
Inchon Port	40,621	794	2.0
Ulsan Port	72,252	185	0.3
Other Ports	146,473	4	-

\* Based on 1993 statistics

13. Container station and depot services : YES (2)  
Maritime Agency Services : YES (10)  
Maritime Freight Forwarding Services : YES (15)  
Maritime Cargo Handling Services : NO  
Storage and Warehousing Services : YES (6)  
Customs Clearance Services : NO  
Maintenance and repair of vessels : NO

14. None.

II. Regulatory Structure

General

1. Korea Maritime and Port Administration (KMPA) is the main authority which is in charge of the international maritime transport sector. Currently, Shipping Law, Shipping Industry Promotion Law, Seamen's Law, Vessel's Law and other related regulations apply to the maritime-related matters.
2. In principle, the following designated cargoes must be transported by Korean Flag Vessels.
  - Crude oil, iron ore, raw material for fertilizer, grain, coal, petrochemicals, LNG.
  - However, in the following cases, foreign flag vessels can also transport these cargoes after obtaining a waiver.
  - When the bidding rate of the national flag vessel exceeds the lowest bidding rate of the foreign flag vessel by more than 10%.
  - When Korean vessels cannot transport the cargo due to their lack of transport capacity.
  - When it is impossible or very difficult to have the cargo transported by Korean vessels due to special circumstances at certain places.
  - When the transportation by the Korean vessels is restricted because of the legislation of the trading country concerned, etc.

\* Share of designated cargoes transported by Korean flag vessels: 33.3% ('93).
3. Any person (including a foreigner) who desires to provide international liner services between domestic ports and foreign ports should file with the Administrator of KMPA at least 10 days in advance. The act of receiving an amount lower than the freight rates filed, or the act of rebating part of the freight rates already received in an attempt to receive an amount lower than the rates reported is prohibited.
4. Foreign carriers' commercial presence of inland trucking and freight forwarding for rail transport for the purpose of transporting export/import container cargo is allowed under certain conditions if the businesses meet the license requirements according to related laws and regulations.
  - Commercial presence for inland trucking business is permitted for businesses of countries that do not discriminate against Korean-flag vessels according to the principle of reciprocity.
  - Commercial presence for freight forwarding for rail transport may be limited (to foreigners and Koreans alike) according to economic demand.
  - Commercial presence for other auxiliary services related to multi-modal transportation is unrestricted.
5. In general, the government is solely responsible for port construction and management but in certain container ports (Pusan and Kwangyang), a separate corporation is established for management and operations.

If a pier or other port facility is constructed through private investment, the investor shall be granted exclusive usage rights for a certain period of time and the amount invested will be offset by port usage charges.

Of port auxiliary services available anchorage and berthing services (excluding certain ports) and navigation auxiliary services are exclusively provided by the government while other auxiliary services are provided by private firms. Commercial presence in port auxiliary services is allowed except for towing and tug assistance, sampan, fuelling and watering.

6. Transportation of passengers or cargoes by vessels between a domestic port and a foreign port or between foreign ports.
7. Person or entity that has acquired a sea transport business license issued by the Administrator of KMPA, in accordance with the Shipping Law.

#### Market Access

8. (a)-( c) No limitation  
(d) Refer to the commitments made in All Sectors and Maritime Transport Services Sector of the Korean Schedule with respect to the mode 4).

9. Yes.

- (a)(1) Shipping services (International shipping)

In the case of commercial presence for the purpose of operating a fleet under the national flag of Korea, it is allowed for a company engaging in transportation of LPG and LNG, cross-trading and transportation of container cargo by car ferry. For other transportation, the following conditions must be satisfied.

- Joint-venture with a Korean flag carrier
- The Administrator of KMPA recognizes the need for commercial presence to enhance international cooperation or to establish international routes, in accordance with the Shipping Industry Promotion Law.

Other forms of commercial presence is generally allowed.

- (2) Shipping auxiliary services

A joint-venture or 100% foreign ownership rendering maritime agency services, maritime freight forwarding services, shipping brokerage services or vessel maintenance and repair services must be incorporated as a Chusik Hoesa (a joint stock company).

- (3) Port auxiliary services

There is no limitation on commercial presence with the exception of towing and tug assistance, sampan, fuelling and watering.

- (b) See (1) and (2) under part (a) above.

10. None.
11. The following vessels can fly the national flag:
- (1) Government or public owned vessels
  - (2) Vessels owned by Korean nationals
  - (3) Vessels owned by trading entities established in accordance with Korean law under the following conditions:  
  
First, more than half the capitals put up by the entities concerned should be invested by Korean.  
  
Second, more than three fifths of the voting rights of the board of directors in the entities must belong to Koreans.  
  
Third, the representative directors of the entities must be Korean nationals.
  - (4) Vessels owned by entities other than those mentioned in No. 3 above which are headquartered in Korea and represented by Koreans.
- (In case the companies are co-represented, all representatives must be Koreans).

National Treatment

12. (a) None.
- (b) None.

Access to and Use of Port Facilities

13. The user at the port can use all services listed in the question.
14. The use of pilotage and towing and tug assistance are mandatory.
15. All services listed in the question are available on a non-discriminatory basis.
16. None.
17. None.
18. None.
19. None.

Most-favoured-nation Treatment

20. In the liner cargo sector, there is a measure that regulates cargo-sharing

- After acceding to the Convention of UN Liner Code in 1979, the Korean government accepted the 4:4:2 basis for cargo-sharing by stipulating it in the Shipping Industry Promotion Law. Korea also concluded the Maritime Transport Agreement with three countries (Pakistan, Malaysia and Nigeria) on the basis of 4:4:2 cargo-sharing.
  - However, Korea does not actually apply this provision because there are no measures in Korean laws that allow it to be implemented.
21. See answer to question 20.
22. See answer to question 20.
23. Part of all taxes are exempted for income derived from international traffic by individuals or companies of countries that have concluded the 'Convention for the Avoidance of Double Taxation with respect to Taxes on Income and Capital' or 'Understanding concerning the Reciprocal Exemption of Taxes on Income derived from the Operation of Ships and Aircraft in International Traffic' with the Republic of Korea.
- Countries which concluded the Convention for the Avoidance of Double Taxation with respect to Taxes on Income and Capital with the Republic of Korea  
  
Japan, Thailand, Germany, the United Kingdom, Denmark, Belgium, the United States, the Netherlands, France, Singapore, Canada, Switzerland, Finland, Sweden, Malaysia, New Zealand, Australia, Norway, Bangladesh, Turkey, Sri Lanka, India, the Philippines, Luxembourg, Mongolia, Brazil, Pakistan, Austria, Indonesia, Tunisia, Hungary, Ireland, Poland, Italy, Egypt, Vietnam, the People's Republic of China, Rumania, Spain.
  - Countries which exchanged the Understanding concerning the Reciprocal Exemption of Taxes on Income derived from the Operation of Ships and Aircraft in International Traffic with the Republic of Korea  
  
Taiwan, Kuwait, Thailand, Saudi Arabia.
  - Beneficiaries of tax exemption for income derived from international traffic, according to principle of reciprocity  
  
Chile, Mexico, Egypt, Panama.
24. None.
25. If Korean carriers are unfairly treated by foreign governments, foreign vessel operators' groups or foreign vessel operators who are members of the group, the Korean government may take the following measures:
- In the case of unfair treatment by a foreign government, necessary counter-measures will be taken against its vessels,
  - In the case of unfair treatment by foreign vessel operators' groups or foreign vessel operators, necessary counter-measures will be taken against the groups or operators.

More specifically, if a certain country discriminates against Korean carriers with regard to the establishment of branch offices, activities related to cargo solicitation and use of port facilities against the principle of equality and mutual benefit, the Korean government may take counter-measures against that country.

26. If the Korean government recognizes that a certain foreign vessel operator is hindering the development of Korea's shipping or is disrupting the order of trade routes, it can take measures to restrict the entry of the operator's vessels into Korean ports.

#### Government Procurement

27. None.

28. None.

#### Competition Law

29. In the case that ocean-going cargo carriers (including foreign cargo carriers) carry out joint-activities or sign contracts with regard to freight rates, allocation of vessels, cargo-sharing and other transportation conditions, they will be exempted from antitrust laws. However, limitations to participation in or withdrawal from the contract must not be included.

- (a) Block exemption;
- (b) In the case of multi modal transport services antitrust law is applied;
- (c) No related regulations;
- (d) No related regulations.

#### Shipping Conferences

30. None.

31. If a conference agreement is concluded, its contents must be notified in advance to the Administrator of KMPA. If the content imposes any unfair limitations relating to the participation in or withdrawal from the agreement, or if it is considered to hinder the development of Korea's shipping, the Korean government may take measures to suspend the agreement or revise/adjust the contents of the agreement.

32. See answer to question 31.

33. No related regulations.

34. (a) None.

- (b) None.

- (c) None.

#### Shipper/Carrier Relations



35. According to the related law, carriers and shippers can organize and administer a carrier/shipper consultative committee to ensure the smooth and uninterrupted transportation of cargo and the mutual exchange of information. However, this entity does not have responsibility for discussing matters such as rate settlement in advance.
36. No related regulations.