

COMPETITION POLICY RELATING TO LINER SHIPPING IN CANADA

APEC Training Course on Common Principles to Shipping Policy
 Doug O’Keefe
 Chief, International Marine Policy December 6-8, 2011



Canada

CONTENTS

1. Background
2. *Shipping Conference Exemption Act (SCEA)*
3. Liner Shipping in Canada – Conferences and Operational Agreements
4. APEC Guidelines Relating to Liner Shipping
5. Current Policy and Options

2

BACKGROUND

- **1902** – the North Atlantic Freight Conference established – Canada’s first shipping conference.
- **1923** – Shipping conferences became subject to the newly enacted *Combines Investigation Act* (now the *Competition Act*).
- **1970** – the *Shipping Conferences Exemption Act* enacted to regulate the anti-competitive practices of shipping conferences. The Act has since evolved with amendments in 1979, 1987 and 2002.

3

SHIPPING CONFERENCES EXEMPTION ACT

1. **Exempts conference agreements providing for certain collective activities from the provisions of the *Competition Act*.**
 - Examples: Common tariffs; Allocation of ports; Sharing cargo and revenues; Regulating sailings and service terms; Regulating admission and expulsion of members
2. **Protects shippers and encourages competition.**
 - Examples: Excluding predatory practices; provisions for “independent action” and confidential service contracts
3. **Specifies administrative procedures that liner shipping conferences must follow to avail of the exemption.**
 - Examples: File agreements/rates with the Canadian Transportation Agency (CTA) and Shippers organization; Maintain an office in Canada and provide public access to electronic copies of all documents and rates at all times (see <http://www.acs-fl.com/agree/agree.html>).

4

SHIPPING CONFERENCES EXEMPTION ACT

4. **Investigations.**
 - Canadian Transportation Agency can investigate complaints from shippers or Competition Bureau, where a conference agreement or practice causes unreasonable reduction in service or increase in costs.
 - Competition Bureau can investigate on own initiative where agreement has the effect of reducing/injuring trade or commerce in any goods.
5. **Enforcement.**
 - Canadian Transportation Agency can order a conference or its members to stop practice or revise agreement following a complaint.
 - Failure to comply with any provision can result in fine of \$10,000 per offense per day
6. **Role of Designated Shipping Association.**
 - Represent shippers, receive agreements, meet with conferences when necessary.

5

LINER SHIPPING IN CANADA: CONFERENCE AND OPERATIONAL AGREEMENTS

- **Conference Agreements**
 - 1970s 48 Conference Agreements with 104 lines; 1998 14 Conference Agreements with 19 lines; Today 5 Asia/Oceania, 3 Latin America;
 - Activities – ratemaking; cooperation on operational matters (e.g. capacity sharing, coordinated sailings.)
- **Operational Agreements**
 - At least 8 non-ratemaking agreements.
 - *Competition Act* applies.

6

THE COMPETITION ACT AND OPERATIONAL AGREEMENTS

- The Competition Act has provisions for agreements relating to collaboration between competitors.
- Most non-ratemaking agreements in liner shipping could be considered permissible under civil provisions of the Act provided the efficiency benefits of the agreement exceeds anti-competitive effects.
- Some agreements may be subject to criminal investigation if there appears to be a conspiracy to fix prices, allocate markets or restrict output.

(<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03177.html#ccg-1>)

7

APEC GUIDELINES RELATING TO LINER SHIPPING

- Voluntary, non-binding guidelines.
- Address non-ratemaking agreements only.
- Acknowledge the potential efficiency benefits and conflict with competition policy of such agreements.
- Propose exemption from competition law where:
 - Either, the provisions of general competition law prohibit the efficiency-enhancing behaviours that are typical of non-ratemaking agreements, or
 - The provisions of general competition law give rise to uncertainty as to whether, in a particular instance, these behaviours are or are not legal.

8

CURRENT POLICY AND OPTIONS

- Current Policy
 - Monitor developments in the legislation of its major trading partners to ensure that Canada’s liner shipping legislation remains in balance.
- Options for Canada to consider:
 - Status Quo.
 - Eliminate exemption from *Competition Act* for liner conferences similar to European repeal.
 - Amend *Shipping Conferences Exemption Act* to tighten regulation of conferences or encourage non-ratemaking agreements.


9

THANK YOU

10

APEC COMMON PRINCIPLES TO SHIPPING POLICY

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OUTLINE

- UN Code of Conduct for Liner Conferences
- OECD Common Principles of Shipping Policy
- EC Conference and Consortia Block Exemptions
- APEC Common Principles to Shipping Policy
 - Policy Item 2: Liner Shipping
- APEC Guidelines Related to Liner Shipping
- Possible questions for discussion

2

HISTORY (1)

UN Code of Conduct for Liner Conferences

- Adopted in 1974; which came into force in 1983;
- Complex convention with objectives to:
 - Facilitate orderly expansion of world seaborne trade;
 - Stimulate development of regular, efficient liner services;
 - Balance interests of suppliers and users of liner services;
 - Discourage discrimination against shipowners, shippers;
 - Encourage conferences to hold meaningful consultations with shippers and publish information on their activities.
- But seemed to encourage cargo sharing among national shipping lines (Article 2, paras. 4 (a)&(b))

3

HISTORY (2)

OECD Common Principles of Shipping Policy

- 1987 Recommendation of the Council, amended 2000;
- Sixteen Principles, based on desire to:
 - Safeguard and promote open trades, free competition on a fair and commercial basis in international shipping, and prevent abuse of dominant position by any commercial party;
- Identified role of Governments and Competition Policy in liner shipping and desirable/undesirable activities
 - Minimum intervention consistent with maintaining free competition.
 - Directed towards maintaining balance between interests of shippers and shipowners.

4

HISTORY (3)

EU Conference and Consortia Block Exemptions

- 1986 European Council (EC) adopted Regulation 4056/86, block exemption for conferences from competition rules;
- 1995 EC adopted Regulation 870/95, block exemption for Consortia, renewed and amended in 2000, 2005 and in 2009 (R 906/2009) and extended until 2015.
- 2006 EC announced the repeal of Regulation 4056/86 effective October 2008.
- May 17, 2011 EC initiated investigations into suspected anticompetitive practices of liner shipping companies active in member states.

5

HISTORY (4)

APEC Common Principles to Shipping Policy

- Adopted by MEG at TPT-WG 24 in 2004;
- Nine policy items based on objectives of:
 - Coordination and harmonisation of shipping policies.
 - Free and fair competition
 - Equitable balance of interest between shipper and shipowner
 - No discrimination in access to cargoes, port facilities, investment or business opportunities in maritime auxiliary and intermodal services.
 - Measure of support for national shipping industries are delivered with minimal adverse consequence for the efficiency and flexibility of international maritime transport.

6

APEC COMMON PRINCIPLES TO SHIPPING POLICY

- Policy Item 1: Framework for Common Principles to Shipping Policy
- Policy Item 2: Liner Shipping
- Policy Item 3: Government Ownership of Shipping
- Policy Item 4: Cargo Preference
- Policy Item 5: Restrictions Applying to Specific Trades
- Policy Item 6: Access to Port Facilities
- Policy Item 7: Land-Based Ancillary Services
- Policy Item 8: Port Management
- Policy Item 9: Subsidies to National Flag Vessels

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POLICY ITEM 2: LINER SHIPPING

APEC member economies develop a set of guidelines relating to liner shipping.

Why:

“Harmonisation of liner shipping policies could lead to significant gains. Other things being equal, the greater the degree of harmonisation, the lower the cost of providing shipping services. Moreover, harmonisation of liner shipping policy in accordance with a set of agreed principles would minimise the possibility of disagreement between APEC member economies.”

(Meyrick and Associates, Facilitation of International Shipping Project, 2004, Vol 3, page 11)

8

POLICY ITEM 2: LINER SHIPPING (HISTORY)

- TPT-WG 24: MEG acknowledged the erosion of the ratemaking power of liner conferences and agreed to study “non-ratemaking” agreements.
- TPT-WG 28 (2006): MEG endorsed an APEC Project Proposal for a consultant’s study to develop guidelines for non-ratemaking agreements in liner shipping.
- TPT-WG 32 (2009): MEG discussed consultant’s study and draft guidelines and agreed to hold a workshop.
- TPT-WG 33 (2010): MEG workshop heard views of shippers, carriers, competition and regulatory agencies.
- TPT-WG 34 (2011): MEG adopted APEC Guidelines Related to Liner Shipping.

9

APEC GUIDELINES RELATED TO LINER SHIPPING

PREAMBLE recognizes:

- APEC Common Principles to Shipping Policy;
- Importance of reliable liner shipping to global trade;
- Potential efficiency benefits of non-ratemaking agreements in liner shipping;
- Potential conflicts with competition regulatory frameworks;
- Nature of APEC guidelines as non-binding and voluntary;
- Diverse circumstances of member economies and flexibility in implementing guidelines.

And adopts guidelines as recommended practices.

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APEC GUIDELINES RELATED TO LINER SHIPPING

Guideline 1:

Non-ratemaking agreements between ocean carriers may continue to be permitted as a positive form of supplier collaboration for efficiency-enhancement within APEC member economies’ competition regulations.

A formal exemption from the relevant provisions of general competition law may be provided for non-ratemaking agreements in those APEC member economies where:

Either, the provisions of general competition law prohibit the efficiency-enhancing behaviours that are typical of non-ratemaking agreements, or

The provisions of general competition law give rise to uncertainty as to whether, in a particular instance, these behaviours are or are not legal.

11

APEC GUIDELINES RELATED TO LINER SHIPPING

Guideline 2:

APEC member economies may collect such information for liner shipping non-ratemaking agreements that enjoy exemption from the application of general competition legislation as each economy deems appropriate for the effective oversight of the agreements. APEC member economies recognise the benefits of information sharing to foster effective oversight of non-ratemaking agreements and may cooperate bilaterally or as appropriate, in a manner compatible with their respective laws and interests, and subject to their availability of resources.

12

APEC GUIDELINES RELATED TO LINER SHIPPING

Guideline 3:

APEC member economies may wish to consider a separation of ratemaking and non-ratemaking agreements in the course of their oversight process.

13

APEC GUIDELINES RELATED TO LINER SHIPPING

Guideline 4:

Given the difficulty defining the relevant markets, APEC member economies do not subject non-ratemaking agreements to a market share test based on a pre-defined threshold level as a condition for a formal exemption from the relevant provisions of general competition law. However, APEC member economies may use a market share test when deciding the level of oversight to apply with respect to a particular agreement.

14

APEC GUIDELINES RELATED TO LINER SHIPPING

Guideline 5:

APEC member economies continue to allow ocean carriers to negotiate the duration of the non-ratemaking agreements to enable the carriers involved to achieve the commercial objectives of the agreements.

15

POSSIBLE QUESTIONS FOR DISCUSSION

1. Are the APEC Guidelines Relating to Liner Shipping consistent with your economy's current liner shipping legislation?
2. In your view, are they consistent with the UN Liner Code and the OECD Principles?
3. What are the possible options for APEC economies that wish to adopt the recommended practices, bearing in mind the costs to competent authorities and the industry?
4. What would be the possible roles for competent authorities, shippers and liner shipping carriers.

16

THANK YOU

17

The Status of China's Shipping Legislation

Ministry of Transport of the People's Republic of China
Ye Yuhai
2011.12

Contents

- Development status of China's shipping industry
- Current status of legislations on China's shipping
- Incentives and approaches for the development of shipping industry

2

Development status of China's shipping industry

1.1 Port Throughput

Throughputs of the China's ports from 2006-2010

Foreign trade throughputs of the China's ports from 2006-2010

Source: Statistical Bulletin of Highway and Waterway Transportation Industry in 2010

3

Development status of China's shipping industry

1.2 Cargo Transport

Container throughputs of the China's ports from 2006-2010

China's cargo transport volumes from 2006-2010

Source: Statistical Bulletin of Highway and Waterway Transportation Industry in 2010

Source: China Shipping Development Annual Report 2010

4

Development status of China's shipping industry

1.3 Fleet Size

China's water transport ships statistics from 2006-2010

Percentage of China's merchant fleet in the world merchant fleet from 2006-2010

Source: Statistical Bulletin of Highway and Waterway Transportation Industry in 2010

Source: China Shipping Development Annual Report 2010

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Status of the China's shipping legislation

- Monitoring of the operation of shipping activities
- Responsibilities of carriers
- Treatment of conferences

6

Monitoring of the operation of shipping activities

2.1 Relevant laws and Legislations

- MARITIME TRAFFIC SAFETY LAW OF THE PEOPLE'S REPUBLIC OF CHINA
- MARITIME CODE OF THE PEOPLE'S REPUBLIC OF CHINA
- LAW OF PORT OF THE PEOPLE'S REPUBLIC OF CHINA
- REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE ADMINISTRATION OF WATER TRANSPORT
- REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON INTERNATIONAL MARITIME TRANSPORTATION

7

Monitoring of the operation of shipping activities

2.1 Relevant laws and Legislations (Continued)

- REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON SEAFARERS
- REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA GOVERNING THE REGISTRATION OF SHIPS
- REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON THE PREVENTION OF VESSEL- INDUCED SEA POLLUTION



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Monitoring of the operation of shipping activities

2.2 Main Purpose of the Regulations on Interantional Shipping

- Protect fair competition
- Maintian the order of the market
- Safeguard the lawful rights and interests of the relevant parts



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Responsibilities of Carriers

2.3 Main Requirements for Operators in International Shipping

- Have at least one national-flagged vessel;
- In compliance with the technical standards for maritime traffic safety;
- Have senior executives with the professional qualifications.



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Responsibilities of Carriers

2.4 Freight Filing

- Rules of the International Container Liner Freight Filing
(Issued by M.O.T.,P.R.C. on June 10, 2009)
- The Implementing Rules for NVOCC Freight Filing
(Issued by M.O.T.,P.R.C. on September 19, 2010)



11

Treatment of conferences

2.5 Filing Requirements

- Liner conference agreements, service operation agreements and freight rate agreements shall be filed with MOT within 15 days from the date of conclusion of such agreements.



12

Treatment of conferences

2.6 Investigations

- Liner conference agreements can be detrimental to fair competition;
- Service activities of the consortium, which involves a shipping volume exceeding 30% of the aggregate shipping volume for one consecutive year on one particular shipping line, can be detrimental to fair competition.



13

Incentives for the maritime industries

- The special case tax-free registration policy for Chinese-capital-yet-foreign-flagged ships involving international shipping.
- The approval by MOT of a new liability insurance as a alternative option for NVOCCs' guarantee deposit.
- The specific policies to accelerate the development of the ports of Shanghai and Tianjin as international shipping center.



14

Approaches for development of shipping industry

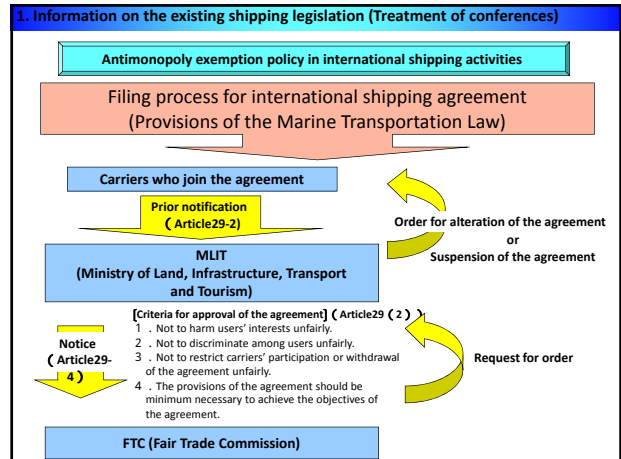
- Continue to strengthen the supervision and administration of the international shipping industry.
- Focus on the transformation of the development mode in order to speed up the modernization of maritime transportation.
- Actively promote the construction of the international shipping center and the large-scale integrated hub ports.
- Strengthen the bilateral and multilateral communication and cooperation with other economies and organisations in maritime field.

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Thank you !



16

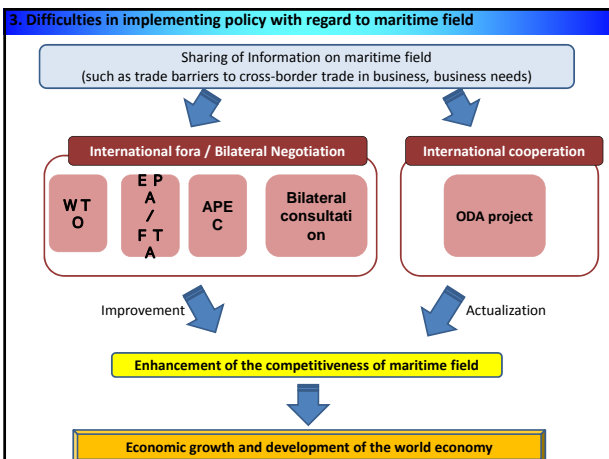


1. Information on the existing shipping legislation (Incentives for shipping companies)

List of Tax Reduction for Japanese International Shipping

Category	Tax Reduction	Content
Corporate Tax	Special depreciation for vessels	16% additional depreciation for the first year
	Exemption of taxation on replaced vessels	Reduction of 80% of the profit earned from the replacement of vessels
	Special deduction for future repair cost	Up to 3/4 of future repair cost is deductible in each fiscal year
Registration and License Tax	Tonnage tax to Japanese flagged vessels	Approved shipping companies are allowed to calculate its corporate tax based on the assumed profit per net tonnage of their Japanese flagged vessels
	Tax reduction on registration and mortgage of internationally competitive Japanese flagged vessels	Registration for possession / mortgage : 3/1000 of the ship value
Property Tax	Exemption of property tax on vessels	Reduction of property value to 1/6, 1/10 and 1/15
	Exemption of property tax on Containers	Reduction of property value to 4/5

- 2. Approaches in implementing the Common Principles to Shipping policy**
- Japanese efforts for the Policy item 1 of APEC Common Principles to Shipping Policy
- ✓ confirm “the OECD Code of Liberalization of Current Invisible Operation (so called CLIO)” and “the OECD Common Shipping Policy Principles”
 - ✓ actively participates in the harmonization of international maritime laws and policies at the International Maritime Organization (IMO)
 - ✓ play the lead role at WTO meetings and APEC TPT-WG meetings
 - ✓ shipping policy is based on “the principle of freedom of shipping”
 - ✓ never have any legislative or non-legislative measures to intervene in the international shipping market such as cargo sharing, preferential treatment to access to cargos and port facilities
 - ✓ has a direct support measure for Japanese vessels that limited to the minimum necessary to achieve the national goals as described in Policy Item 9.



Thank you for your kind attention !



DEPARTMENT OF TRANSPORT

1ST APEC TRAINING COURSE ON
COMMON PRINCIPLES TO SHIPPING
POLICY IN TOKYO 6TH – 8TH DECEMBER,
2011


PRESENTER: NELLIE KUNJIP KUP

Our Vision: To strive for excellence by working in partnership with the community to facilitate a well integrated and sustainable transport system for Papua New Guinea



OVERVIEW


1. MANDATED FUNCTION FOR DEPARTMENT OF TRANSPORT.
2. INTRODUCTION
3. THE MERCHANT SHIPPING ACT
4. APPLICATION OF LEGISLATION IN MARITIME SECTOR
5. INTERNATIONAL MARITIME CONVENTIONS
6. COASTAL TRADING LICENCES & PERMITS
7. TRAFFIC
8. CONCLUSION



1. DEPARTMENT OF TRANSPORT

The core functions are to:

- Provide transport policy, legislative/regulatory and planning advice across all three modes (Land, Water & Air) of transport;
- Develop transport Strategic Plans;
- Coordinate and monitor the implementation of Government policies, strategies and plans;
- Administer relevant legislation and enact new transport legislation; and
- Monitor and ensure the effective execution of delegated authorities and responsibilities implemented by sector agencies and stakeholders in the transport sector.




2. INTRODUCTION

- Shipping industry plays a vital role in ensuring the economic health of the nation. There are three (3) distinct sets of Shipping routes/activities in Papua New Guinea which are:
 - (1) International Transit routes;
 - (2) International Shipping between private and public PNG Ports and Foreign Ports and
 - (3) Domestic Commercial Shipping Routes



3. THE MERCHANT SHIPPING ACT

- The Department of Transport, under the Maritime Transport Division is mandated through the Merchant Shipping Act with the responsibility of dealing with waterborne transport.
- The Merchant Shipping Act (MSA) Chapter 242 includes provisions for the regulation and administration of Shipping in Papua New Guinea as follows:
 - (a) Registration of ships;
 - (b) Safety
 - (c) Crewmen;
 - (d) Navigational Aids;
 - (e) Coastal Trading Licence/Permit;
 - (f) Liability of Shipowners;
 - (g) Committees of advise;
 - (h) Pilotage



4. APPLICATION OF LEGISLATION IN MARITIME SECTOR

- Any vessels whether it be a new construction, purchased or chartered and is intended to be brought onto the coast of Papua New Guinea must meet these three (3) requirement before they can be registered:
 - (a) Owners must be a citizen of PNG;
 - (b) Corporate which are incorporated in PNG and has it's principal place of business in PNG and
 - (c) Has to be a corporation that is registered under Investment Promotion Authority (IPA) to carry out business as a Shipowner in PNG.

5. INTERNATIONAL MARITIME CONVENTIONS

- Papua New Guinea is signatory to a number of International Maritime Conventions including:
 - International Convention for Safety of life at Sea (SOLAS);
 - International Convention for the Prevention of Pollution from Ships (MARPOL) and the
 - Law of the Sea Treaty (Resolution of cargo and passenger claims)
 - International Maritime Organization (IMO)
- Two (2) other piece of Legislation are also taken into account are:
 - (1) The Organic Law of PNG and its incidence on the assignation of functions between National agencies and the Provincial and Local Level Governments.
 - (2) The Privatization Act 1999 which relates to the Privatization of the PNG Harbours Board which is known as PNG Ports Corporation Limited (PNGPCL) and its incidence on the assignation of functions of the National Maritime Safety Authority (NMSA).

6. LICENSING OF SHIPS

- Policy for issuing Coastal Trading Licence is that:
 - (a) Qualified person has to be licensed in respect of ship registered in PNG;
 - (b) Foreign companies which are incorporated in PNG and has it's principle place of business in PNG;
 - (c) Has to be a corporation that is registered with the Investment Promotion Authority (IPA)
- Upon satisfaction the above qualification of ownership:
 - (a) Owners will then lodge a formal Application Form with a covering letter advising the Department of the Applicants proposed Shipping Activity in PNG and it's proposed trade route.
 - (b) Upon completion of the said documents by the applicant, the application for licence will then be considered by the Coastal Trading Committee and make recommendation to the Minister for his final decision.
 - (c) In the event that the application is approved by the Minister, the applicant will be advised accordingly of the Minister's decision to introduce the vessel onto the coast to provide a shipping service.

7. TRAFFIC

- Traffic is a great concern with the Shipping industry because of the increase in Shipping activities with regards to international transit, it is estimated that 2, 850 (must have gone up) vessels per year made voyages between Australia's east coast ports and Asian ports. The traffic is principally bulk carriers, container vessels and general cargo vessels.
- The following table presents the key features of Shipping in PNG.

TABLE 1: SHIPPING CHARACTERISTICS

FEATURES OF SHIPPING DEMAND PATTERNS AT PNG PORTS				
	11 YEARS AVERAGE CALL	HIGH	LOW	OBSERVATION
Total overseas & Coastal Ship calls	7, 674 calls	8, 400 calls	6, 625 calls	Overseas 32% Coastal 68%
Overseas Ships calls	2, 489 calls	3, 150 calls	1, 908 calls	Peak and low years
Overseas log Ships calls	787 calls	1, 050 calls	433 calls	32% of Overseas ship calls

TABLE 1.1: DIFFERENT CARRIERS

OTHER OVERSEAS VESSELS			
	HIGH	LOW	
* General Cargo	490	717	
* Container	326	430	
* Tanker	255	288	
* Fishing Vessels	207	623	
* Ro-Ro	96	145	
* Cruiser Ships	28	47	
*Others	299	781	
* Coastal Ship calls	5, 185	5, 435	Flat to declining pattern
*Coastal general cargo calls	2, 291	3, 678	44% of coastal ships calls
*Coastal "Others"	1, 711	2, 693	Includes 18m boats

TABLE 1.2: BUSY PORT CALLS

BUSIEST PORTS OVERSEAS AND COASTAL SHIP CALLS				
	11 YEAR AVERAGE	HIGH	LOW	
Madang	1,687	1,877	1,276	
Port Moresby	1,342	1,555	1,133	
Kimbe	1,117	1,343	845	
Lae	842	971	804	
BUSIEST PORTS OVERSEAS CALLS				
Port Moresby	547	736	468	
Lae	429	512	366	
Rabaul	389	454	288	
Madang	250	317	206	
International transit estimated 2, 850 per years				



8. CONCLUSION

- To conclude, Department of Transport is the lead agency for Policy formulation for all modes of transport (Land, Water, Air) in Papua New Guinea.
- Of the three (3) modes of transport, Coastal Shipping services under the Maritime Industry plays a significant role in providing direct access to rural/remote communities in Papua New Guinea for social and economical survival because of the geographical location with high mountain terrains.

REFERENCES

- The Merchant Shipping Act;
- Shipping Activities in PNG,
- Maritime Division.



THE END

EARLY CHRISTMAS
GREETINGS TO YOU
ALL FROM PAPUA NEW
GUINEA GOVERNMENT,
& A PROSPEROUS 2012.

THEME 2 : COMMON PRINCIPLES TO SHIPPING POLICY

The PHILIPPINES :

1. Adheres to the common principle of free trade as dictated by its national interest.
2. Participates in trade policy review regularly conducted by the WTO.
3. Advocates the conduct of a feasibility study of ASEAN RORO and Short-Sea Shipping pursuant to ASEAN connectivity.
4. Observes the cabotage principle as provided by its Tariff and Customs Code

THEME 2 : COMMON PRINCIPLES TO SHIPPING POLICY

The PHILIPPINES :

5. Maintains an incentive program for overseas shipping operation pursuant to Republic Act 7471, as amended by Republic Act 9301 by way of :
 - Exemption from payment of customs duties and taxes in the importation of vessels for overseas use and
 - Exemption from payment of income tax derived from overseas shipping operation for ten (10) years or until 27 July 2014
6. Promotes the Philippine Ship Registry

EXISTING SHIPPING LEGISLATIONS : Monitoring of the operation of shipping activities

Presidential Decree	Subject
PD 760 (July 31, 1975)	Allowing the temporary registration of foreign-owned vessels under time charter or lease to Philippine nationals for use in the Philippine coastwise trade subject to certain conditions
PD 866 (January 2, 1976)	Amending Presidential Decree No. 760 by reducing the term of the lease or charter period to not less than one year, deleting the word "Time" in the title and body of the decree, and allowing overseas shipping in certain cases
PD 1711 (August 21, 1980)	Further amending Presidential Decree No. 760, as amended by further encouraging the chartering of specialized ocean-going vessels and by extending the effectivity of the decree until 1999 Note : Executive Order No. 438 extended the effectivity of any charter or lease contract pursuant to PD 760, as amended, until 2009. (September 15, 1997) Executive Order No. 667 extended indefinitely the effectivity of any charter or lease contract pursuant to PD 760, as amended. (October 11, 2007)

EXISTING SHIPPING LEGISLATIONS : Monitoring of the operation of shipping activities

MARINA Memorandum Circular No.	Subject
116	Lifting of age restriction of vessels registered under PD 760/866/1711
122	Implementation of the International Safety Management (ISM) Code
137	Amendments to Chapter XVIII of the Philippine Merchant Marine Rules and Regulations (PMMRR) of 1997 on minimum safe manning for seagoing ships for international trade.
166	Rules in the utilization of domestic ships in overseas trade/operation
168	Mandatory ship reporting system
181	Rules in the accreditation of overseas shipping companies
182	Rules in the acquisition of ships under PD 760, as amended, and providing the implementing rules under Chapter XV of the 1997 PMMRR on registration, documentation and licensing of ships for international voyage.
193	Rules in the implementation of maritime security measures for Philippine-registered ships engaged in international voyages.
194	Rules in the provision /installation of ship security equipment
200	Rules in the issuance and maintenance of continuous synopsis record for Philippine-registered overseas vessels

THEME 2 : COMMON PRINCIPLES TO SHIPPING POLICY

EXISTING SHIPPING LEGISLATIONS : Treatment of Conferences

THEME 2 : COMMON PRINCIPLES TO SHIPPING POLICY

EXISTING SHIPPING LEGISLATIONS : Responsibilities of Carriers

EXISTING SHIPPING LEGISLATIONS :
Incentives for Overseas Shipping Operators

Republic Act No. 7471, as amended by Republic Act No. 9301

- Exemption from Import Duties and Taxes - on the importation of oceangoing vessels including spare parts for the repair and/or overhaul of such vessels.
- Exemption from payment of Income tax – for a period of ten (10) years from date of approval of RA 9301 or up to 27 July 2014.

EXISTING SHIPPING LEGISLATIONS :
Incentives for Overseas Shipping Operators

Republic Act No. 9337 [Sec. 7]

- Exemption from Value –Added Tax (VAT) for the following transactions :
x x x

“(S) Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations;

“(T) Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations;

THEME 2 :
COMMON PRINCIPLES TO SHIPPING POLICY

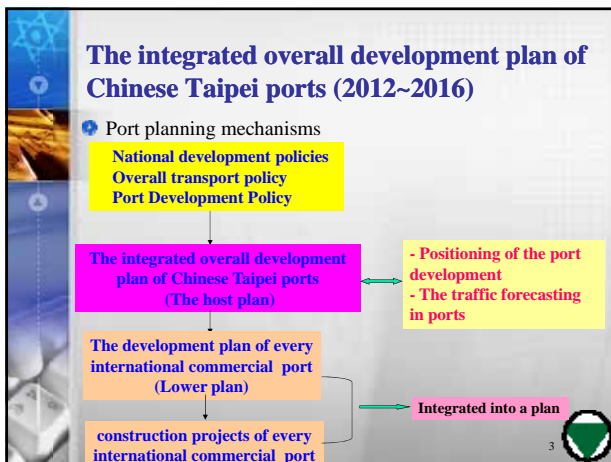
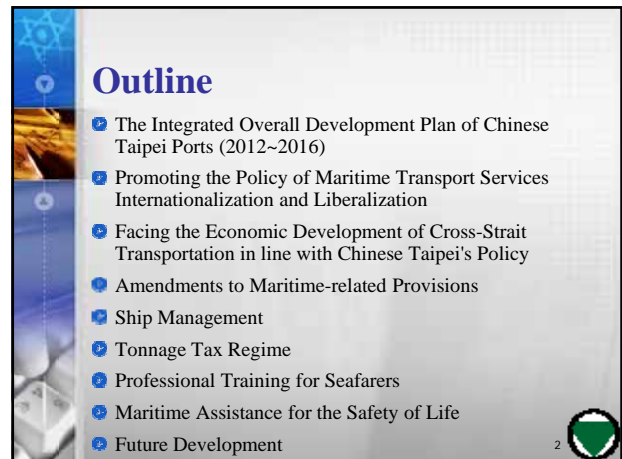
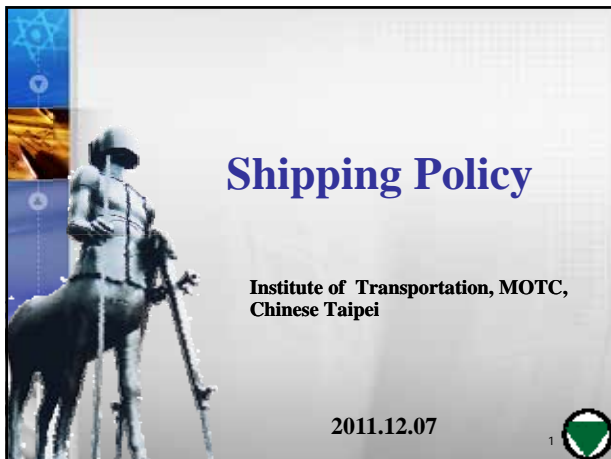
APPROACHES IN IMPLEMENTING THE COMMON PRINCIPLES TO SHIPPING POLICY

THEME 2 :
COMMON PRINCIPLES TO SHIPPING POLICY

DIFFICULTIES ENCOUNTERED IN IMPLEMENTING THE COMMON PRINCIPLES TO SHIPPING POLICY

THANK YOU &

Mabuhay!



Facing the Economic Development of Cross-Strait Transportation in line with Chinese Taipei's Policy

- Due to the policy of liberalization, the people of Chinese Taipei and of Mainland China have been able to travel each other through using the "Mini-Three-Links" since June 19, 2008.
- Following the signing of the Cross-strait Sea Transport Agreement on Nov. 4, 2008, direct shipping across the strait was inaugurated on Dec. 15, 2008; this is expected to greatly reduce operating costs for shipping companies, and to create a favorable operating environment.

Amendments to Maritime-related Provisions

- To conform with the international trends-liberalization, facilitation, multi-model and door-to door transport—the Commercial Port Act, Ships Act, Seafarer Act and Navigation Business Act are amended continually.
- The objectives of the measures above include accelerating the development of commercial ports, meeting the international conventions on inspection of ships as well as seafarer welfare, providing a sounder business operation environment for business, and improving the economy.

Ship Management

- In 2009, Chinese Taipei's shipping fleet of over 100 gross tonnages was joined by 18 newly built or purchased vessels, while 7 old ships were eliminated.
- The new port security measures have been promoted since July 1, 2004(to meet the regulation of SOLAS and ISPS). The purpose of this Code is to enhance the international ship and port facility security, as well as to safeguard the international peace and security of the maritime industry.
- Furthermore, MOTC has established a navigation safety examination panel for passenger ships for random inspections in order to protect passenger safety. In 2010, a total of 1,104 voyages had been inspected.

Tonnage tax regime

- The proportion of FOC Ships up to 87% in Chinese Taipei.
- In order to enhance the international maritime competitiveness, recovery of the domestic shipping industry and the development of peripheral industries, and conform to international trends in the implementation of the tonnage tax, we promote tonnage tax regime.
- The implementation date of the tonnage tax was January 26, 2011, shippers can apply for the new tonnage tax regime by 2012.
- Tax calculated in accordance with the following:
 - Ships with a net tonnage of 1,000 tons or less, derived profit will be set at NT\$67 per 100 tons per day.
 - Ships with a net tonnage of 1,000 tons to 10,000 tons, daily derived profit per 100 tons will be NT\$49.
 - Ships with a net tonnage of 10,000 tons to 25,000 tons, daily derived profit per 100 tons will be NT\$32.
 - Ships over 25,000 tons, it will be NT\$14.

Tonnage tax regime

- NT dollar per 100 tons per day:

Country \ ton.	<1000	1000 - 10000	10000 - 25000	>25000	Income tax rate	Tax period(years)
Netherlands	34	26	17	9	40%	10
U.K.	32	24	16	8	28%	10
Denmark	37	27	16	11	25%	10
Ireland	38	28	19	9	12.50%	10
Korea	40	31	20	11	25%	5
Japan	38	28	18	8	30%	10
Chinese Taipei	67	49	32	14	20%	10

Tonnage tax regime

- According to the questionnaire survey, there are 8 shipping companies are willing to apply the tonnage tax, and another three shipping companies are still under evaluation
- It's expected to increase 33~38 ships, with the net tonnage of about 947,000 tons in 5 years.
- Expected performance:
 - Increase Chinese Taipei's Ships
 - Increase the professional training opportunities for students and seafarers, and the employment opportunities
 - Encourage the establishment of shipping companies and related industries, business management headquarters,
 - Recovery of the domestic shipping industry and the development of peripheral industries

Professional Training for Seafarers

- To strengthen professional training for Chinese Taipei’s seafarers and raise their standards, high-quality guidance was provided in accordance with the International Convention on Standards of Training, Certification, and Watch-keeping (STCW) for Seafarers, 1978, as amended on faculty, curricula, instructional materials, and facilities. A total of 3,912 seafarers completed professional training in 2008.
- The seafarers’ upgrade training was implemented since 2004 that continuously ensures the competence of Chinese Taipei’s seafarers qualifies complying with STCW Convention. It also raises the international competitiveness of the shipping industry.
- In 2010, 731 seafarers participated in upgrade training and 276 of them successfully qualified—the rate was 37.76%. (In 2008, 327 seafarers participated in upgrade training and 124 of them successfully qualified).

Maritime Assistance for the Safety of Life

- Chinese Taipei is a Grand Segment Operator of the International Satellite System for Search and Rescue (Cospas-Sarsat). In accordance with the implementation of Global Maritime Distress and Safety System (GMDSS), Chinese Taipei has established the Local User Terminal (LUT) and organized the Mission Control Center (MCC) to actively implement related works.

Future Development

- MOTC has taken several measures to continuously improve shipping environment and raise world competitiveness of shipping operators.
- Relevant measures include offering preferential port service, as well as the cross-strait shipping convenience, developing the shipping industries, and formulating or revising related legislation.
- Additionally, we make every effort to implement the cargo maritime transportation regulations of government agencies for offering more cargoes to the foregoing industries.
- Also, budgets are being allocated each year for professional maritime training to enhance local seafarers’ expertise and thereby meet the needs of the shipping industry.

Thank you for your attention






Thailand Shipping Policy Formation


Present by Veera Puripanyawong
Maritime Promotion Bureau
Marine Department, THAILAND
7 December 2011




The Thai government has realized the importance of maritime transportation as key factor to enhance competitive logistics for Thailand's international trade. Also it conforms to energy strategy that has a goal to reduce energy consumption and for further aim to reduce effect of climate change. Realizing that water transport is the most effective mode of energy saving and by developing connectivity of water transport with other mode of transport will enhance multimodal transport and logistics for improving efficiency of transportation system.



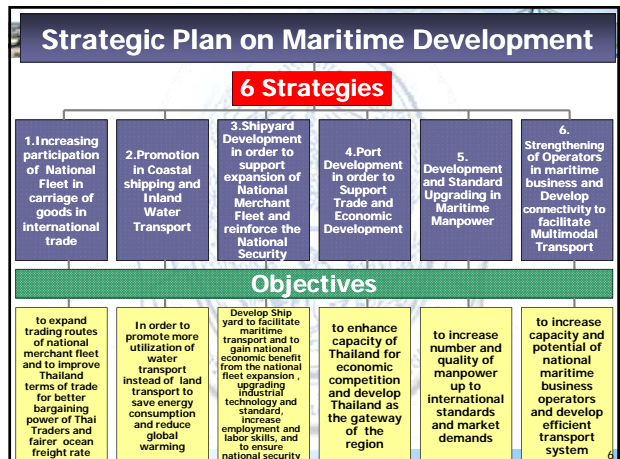
Maritime transportation would take into consideration the activities, infrastructure and system which are involved in the movement of cargos from the point of origin to the point of destination involving the sea mode of transportation. It therefore encompasses a broad system linking the ports and shipping sectors with a vast network of logistics service providers in the supply chain including transport, distribution, freight logistics and specialist services such as IT, communications, legal, banking and finance, insurance and education/training.



According to the Maritime Promotion Commission Act B.E. 2521(1978) and B.E. 2548 (2005), Marine Department has, as its role as the secretariat of the Maritime Promotion Commission, been conducting in both the direct responsibility and works in the spear of safe, clean and effective water transport development also keep coordination with other agencies according to the proposed plans, measures under maritime development strategy approved by the Maritime Promotion Commission.



The Maritime Promotion Commission, according to the Maritime Promotion Commission Act B.E. 2548 (2005) has been set up and chaired by the prime minister. The board consists of ministers from various Ministry and has Director General of Marine Department as a committee and secretary of the board.





Maritime Promotion Commission has set up 6 steering committees to look into detail the plans, projects, and measures for each strategy. Those are

1. Steering Committee on increase participation of Thai flagged vessels in sea transport,
2. Steering Committee on promotion of coastal and river transport,
3. Steering Committee on port development,
4. Steering Committee on shipbuilding development,
5. Steering Committee on maritime man power development,
6. Steering Committee on strengthening capacity building of maritime enterprises and development of business network for multimodal transport.

7




Plans, Projects and Measures are set according to short term, medium term and long term plans of implementation, consisting various measures and projects as infrastructures, financial or tax incentives for maritime business operators, development of human resource in the related field, upgrading safety and environment standard, facilitation of research and development and transfer of technology, est.

8



Marine Department has as its role as secretariat of Maritime Promotion Commission, to study, recommend plans, projects, and measures for the development of maritime industry as well as coordinate with private sector, business enterprises, various government agencies concerned, foreign economies and international organizations for the sake of Maritime transport and maritime related business development. Marine Department take a leading role as a key agency to supervise and oversee Steering Committee no. 1 (increase participation of Thai flagged vessels), 2 (promotion of coastal and river transport), 3 (port development) and 5 (maritime man power development) and has its Director General chaired those Steering Committee. While Steering Committee no. 4 (shipbuilding development) is supervise and oversee by Office of Industrial Policy, Ministry of Industry.

9



Some Shipping Policy Issues (Thailand cases)

- Subsidies to National Flag Vessels
- Government Ownership of Shipping
- Cargo Preference
- Liner Shipping
- Access to Port Facilities

10



Thailand Merchant Fleets

- Thai merchant fleets of over 500 Grt. In 2011 reach 480 vessels with cargo carrying capacity of 4.4 million DWT. They are dry cargo vessel number 200 vessels of 2.3 million DWT and Liquid cargo vessel number 280 vessels with carrying capacity of 2.1 million DWT
- All is private shipping company.
- Major Shipping Operators are:
Regional Container Line (RCL) : operates as regional container feeder operator and container line of the region.

11



- Precious Shipping (Public) COMPANY Ltd.
- Thoresen (Public) COMPANY Ltd.



12



Common Principles on Shipping Policy

COMMON PRINCIPLES ON SHIPPING POLICY

1. Information on the existing shipping legislation

Monitoring of the operation of shipping activities:

- + To guide the implementation of the provisions of law on maritime transport and maritime services
- + To organize the implementation of statistics, research and forecasts of marine and evaluate the quality of maritime services
- + Develop legal documents on the development of maritime and support shipping services, business conditions in maritime transport services

COMMON PRINCIPLES ON SHIPPING POLICY

1. Information on the existing shipping legislation

Treatment of conferences:

Every year, VINAMARINE held meetings shipping to synthesize ideas from companies related to shipping, including: ship owners, shippers, shipping agents and other providers support services to shipping thereby determining the issues to be addressed to support business of maritime.

COMMON PRINCIPLES ON SHIPPING POLICY

1. Information on the existing shipping legislation

Responsibilities of carriers

Report specialized management agencies on the situation of shipping and maritime services.

COMMON PRINCIPLES ON SHIPPING POLICY

1. Information on the existing shipping legislation
 - Incentives for the maritime industries
 - + Protect the rights of inland transport
 - + Priority to shipping of goods has national resources
 - + For loans to purchase vessel for shipping, shipping company is exempt from income tax in the first 02 years after taxable income and 50% of tax payable in the next 02 years

COMMON PRINCIPLES ON SHIPPING POLICY

2. The approaches in implementing the Common Principles to Shipping Policy in Viet Nam:
 - Commitment to join the World Trade Organization (WTO) for maritime transport services and maritime transport support
 - ASEAN commitments in maritime transport and support services shipping
 - Vietnam Maritime Code 2005
 - Investment Law in Vietnam 2005
 - And Master Plans of Shipping and Seaport (as above)

COMMON PRINCIPLES ON SHIPPING POLICY

3. The difficulties in implementing the policies with regard to maritime field in Viet Nam.
 - Vietnamese Fleet is not a big fleet with high age, poor technical condition
 - The rate of general cargo vessel in the fleet remain high percentage in terms of quantity and tonnage/deadweight
 - Container ships, crude oil, LPG vessels and tonnage quantities are limited, the level of development did not meet the requirements and planning objectives set out

7

THANK YOU VERY MUCH
FOR YOUR ATTENTION



8