



**Asia-Pacific
Economic Cooperation**

**Cargo Preference and Restrictions Applying to
Specific Trades (TPT06/12)**

Final Report

APEC Transportation Working Group

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Cargo Preference and Restrictions Applying to Specific Trades

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Chapter 1. Introduction

1. Background

APEC (Asia-Pacific Economic Cooperation), an economic cooperation organization that seeks economic growth and cooperation in the Asia-Pacific region, conducts research and studies on specific subjects regarding various fields each year through consultations between member economies. Its primary goals are to achieve continuous economic growth and overcome economic, social and cultural differences among APEC economies under three main pillars: “TILF (Trade and Investment Liberalization and Facilitation)”, “ECOTECH (Economic and Technological Cooperation)” and “BF (Business Facilitation).” The first pillar is critical for APEC’s ability to achieve its Bogor Goal of free trade in the APEC region by the year 2020. It works on the basis of unilateral liberalization, which means that each APEC member voluntarily agrees to liberalize in a particular area of trade and investment. The second pillar, ECOTECH, does not mean development assistance to developing APEC economies. Instead, ECOTECH is collectively the activities and programs of APEC aimed at achieving its overall goals of attaining sustainable growth, broadening the benefits of that growth to improve the economic and social well-being of all our people and deepen the spirit of community in APEC. The third pillar is aimed at making doing business in the region easier and less costly. The APEC Ministerial Meeting held in September 2013 covered core agendas, such as integration between APEC and growing economic regions, multilateral trading system support, achievement of Bogor Goal, connectivity improvement and sustainable development. These agendas are also closely linked with the three pillars of operation for APEC.

2. Objectives

The objective of this research is to meet the Bogor Goal, which is "facilitation of liberalization and openness" in the field of maritime transport, in particular, cargo preference and restrictions applying to specific trades of 9 APEC's policy elements in the maritime transport. This research will be conducted in two stages where stage 1 conducts investigations on cargo preferences and operation cases of specific trades among APEC member economies and stage 2 analyzes relevant information and measures, and provides policy suggestions. This interim report mainly covers the first stage.

APEC TPT-WG (Transportation Working Group) is a consultation organization set up to find out details discussed at Economic Leader’s Meeting and Ministerial Meeting and APEC’s mid- and long-term visions and goals, which are divided into 4 groups in the area of land, air, sea and combined transports. This research belongs to Maritime Expert Group (MEG).

In other words, this research aims to achieve trade and investment liberalization stated by Bogor Goal. It will conduct investigations on operation cases, including each APEC member’s cargo preference and restrictions applying to specific trades. Cargo preference restricts import and export cargoes to national fleets, which prevents other economies from entering into the market. This is seen as an inappropriate policy with free, fair trade philosophy. Also, regulation of specific trades is considered as contradicting the liberalization of the shipping market because it restricts other economies’ participation in specific sea routes or specific commodities, excluding other trading partners.

In the past, these policies were widely adopted and operated by many economies to protect and develop their own shipping industry. However, due to the international trend of deregulation and the advancement and liberalization of economic cooperation, the number of economies that operates these systems has gradually decreased. Therefore, this research intends to investigate existed and existing cargo preference and specific trade policies in APEC members, and analyze their implementation background and policy effect. Besides, this research will investigate background and reasons for abolition of these restrictive policies, and its influence on the shipping industry.

Chapter 2. Cargo Preference

1. Background

APEC was established in 1989 to promote open trade and economic cooperation among economies around the Pacific Rim. APEC members account for 40% of the world population, about 52% of GDP and 45% of trade volume. APEC has increased its member economies and economic sizes since it was established in 1989. As a group, APEC's GDP in Purchasing Power Parity (PPP) terms has increased almost three times from \$14.8 trillion in 1992 to \$46.6 trillion in 2012. In 2012, APEC accounted for 56% of the world's GDP in PPP terms compared with 53.2% in 1992. The APEC region is acting as a growth engine for the global economy and still showing dynamic growth trend compared to Europe under slow economic growth. APEC's population grew by an average 0.9% per annum from 2.2 billion (1992) to 2.8 billion (2012) compared with the world population which grew by an average 1.3% per annum for the same period. APEC accounted for 39.6% of world population in 2012. APEC's GDP has grown at an average 6% per annum since 1992 in PPP terms-faster than both non-APEC economies' average growth (5.6%) and the world's average growth (5.8%) over the same period. APEC's per capita GDP has risen from \$6,751 in 1992 to \$16,760 in 2012 in PPP terms-higher than both non-APEC economies' average GDP per capita of \$8,624 (up from \$4,008 in 1992) and the world's average GDP per capita of \$11,847 in 2012 (up from \$5,113 in 1992). Trade in the APEC region also show a dynamic growth trend compared to other economies. Goods and services exported by APEC members to the world have increased from \$2.1 trillion in 1992 to US\$10.3 trillion in 2012. Similarly, goods and services imported by APEC members have risen from \$2.0 trillion to \$10.8 trillion. Intra-regional merchandise exports and imports amongst APEC economies have been robust, growing at an average of 8.1% and 8.2% per annum respectively since 1992. In 2012, intra-regional merchandise exports accounted for 69.1% of APEC's total merchandise exports while intra-regional merchandise imports accounted for 68.5%. So the economic growth of APEC requires an efficient operating system within the region, as well as with other regions, and the maritime transport plays a key role in transporting cargoes between economies. The Ministerial Meeting held in September 2013 also emphasized promoting connectivity between various modes of transportation, strengthening supply chains, promoting of transporting high-quality goods, and so on.

The economic size or the level of national development among APEC member economies may be different, but they share the vision for achieving liberalization and economic development through exchanges and cooperation, which is also applied to the shipping industry. Currently, most of the economies have adopted and are operating liberal maritime transport policy, allowing not only import and export cargoes, but also vessels and crews to move freely without any restrictions. However, in the case of some member economies, they operate cargo preferences that still require cargoes from its own economy to be shipped by national flag vessels because of the lack of international competitiveness, the weakness of their own national shipping industry, the preference of national flag vessels for transporting strategic goods, and so on. Furthermore, in the case of some member economies, they implement measures that restrict the entry of other economies in specific sea routes or cargoes, excluding other trading partners. Since the establishment of APEC, cargo preferences and restrictions applying to specific trades have been greatly improved as a result of continuous liberalization, deregulation in the international shipping industry and strengthened economic cooperation between regions.

Below we will summarize details obtained from investigating past and present cases through literature survey, on-site visits, and interviews.

2. Cases

Cargo preference is a shipping regulation system that ensures more than a certain percentage of cargoes from government institutions, government-owned or government-financed institutions to be transported by the national flag vessels. In order to develop the national shipping industry, many economies implemented cargo preferences and some are still maintained until now, which can be divided into 4 categories to be more specific.

Table 2-1 Type of cargo preferences

| Category | Contents |
|--|--|
| Multilateral cargo reservation | In the 1960s and 1970s developing countries complained that their fleets were unable to compete on equal terms with the established shipping lines of developed countries. Developing countries argued that their shipping lines needed to receive some form of protection until they develop to a certain level. <ul style="list-style-type: none"> - UN Liner Code (40/40/20 formula) - Adopted in April 1974, and entered into force in October 1983 |
| Bilateral and unilateral cargo reservation | Bilateral and unilateral cargo reservation takes many forms. discussion of the nature of bilateral and unilateral cargo reservation policies is aided by the OECD distinction between: <ul style="list-style-type: none"> -direct government controls over cargo: cargo reservation(unilateral) or cargo sharing(bilateral) - indirect protectionist measures affecting cargo carriage: tax. etc |
| Quantitative restrictions on cargo carriage | Require a certain amount of cargoes to be transported by national vessels – China, Indonesia, Korea, Mexico, Chinese Taipei, United States, etc. |
| Reservation of the carriage of specific commodities | Some APEC economies (Indonesia, Philippines, and Singapore) mandated specific cargoes to be transported by national vessels. <ul style="list-style-type: none"> - Mostly applied to export cargoes - Items: coffee, cocoa bean, noodle, petroleum product, etc. |

Source: APEC (2010), Liner Shipping Competition Policy: Non-Ratemaking Agreements Study, Final Report, Project TPT, February 2007

1) Chile

With 6,000km of coastline, 30% of its GDP dependent on trade and 90% of its international trade going through Chile's ports. Before 1970s, Chile tent to implement closed economy policy, reserved economy to the state.

In 1939, the 6415 Act regulated that 100% of coastal trade and 50% of international trade should be transported by Chile-flag vessels. According to the DFL 290 Act in 1960, EMPORCHI was established to manage shipping operations. In 1974, the DL 466 Act amended the tributary exemptions, while the cargo preference of the 6415 Act was kept. Also, in 1974, the DL 617 Act proposed cargo sharing between Chile and Brazil and the DS 676 Act passed this proposal. According to Article 1, the two economies agreed to transport trade goods on

50:50 basis. However, in the case where there is a lack of flag vessels of both economies, the transportation right may be handed over to a third economy. If all transport quotas are being handed over, it may only be handed to a LAFTA (currently LAIA) member. Bulk cargoes, including minerals, petroleum and its derivatives, etc., were given exceptions to this Act. In 1978, the DL 2222 Act regulated the registration standard for flag vessels as follows:

- ① if the owner is a company, it should be established in Chile, that its president, manager and most of the directors and office workers must be Chilean, and that great part of the social capital belongs to Chilean natural or juridical persons;
- ② if the ship belongs to a community, it will be considered Chilean if most of the members of the community are Chilean, are domiciled and reside in Chile, that its administrators, are Chilean and that most of the rights in the community belong to Chilean natural or juridical persons;
- ③ based on a) and b) it will be considered that juridical persons of a society, or community, are Chilean if they fulfill the enunciated requirements.

The Chilean opening process went through different phases. The first occurred in the 1970s, with a unilateral liberalization. This process was interrupted after the 1982 crisis and resumed in 1985. Over the 1990s, however, the Chilean government decided that trade liberalization should be complemented by an active diplomacy based both on foreign policy and economic considerations. In other words, that low tariffs should be combined with a market access strategy of opening foreign markets through bilateral Free Trade Agreements (FTAs). In the end, Chile signed six Free Trade Agreements and seven Economic Complementation Agreements. Besides, Chile has also entered into 18 Agreements on Double Taxation (with five signed but not in force yet), and 52 Foreign Investment Protection Agreements (38 in force and 14 signed but not in force yet). The inspiration behind these agreements was to encourage foreign investors not only to invest in Chile but also to make use of its well-developed financial and banking systems as a platform to invest in other Latin American markets. Chile has the greatest access to world markets in the Latin American region.

The liberalization process in the maritime sector began with the Merchant Marine Development Law of 1979 (Ley de Fomento de Marina Mercante), known as the Decree Law DL 3059. With the exception of coastal trade and the bilateral traffic with Brazil, DL 3059 eliminated most cargo reservations as well as tax exemptions and national subsidies with the exception of those to the cabotage traffic. DL 3059 established that international carriage of goods by sea should be performed according to the principle of reciprocity. Therefore, 50 per cent of the cargo was reserved for Chilean ships on routes to or from Chile in those bilateral traffics where the other economies have reserved all or part of its cargo for itself. In the case of coastal trade, the service must be performed by a Chilean ship-owner or a Chilean shipping company as defined by DL 3059. In addition, the service has to be rendered through vessels registered in Chile and flying the Chilean flag. Finally, the vessel has to be owned by a Chilean ship-owner or be leased and/or chartered to his name.

In 1981, Law 18042 ended the exclusive operation of the National Port Company (Emporchi) inside ports. In addition, Law 18032 ended the license system for stowage; opening this activity to any worker, with a respective compensation for 2700 workers.

In 1990, Law 18966 definitively left stowage services, cargo transfer and berthing in the hands of the private sector. Emporchi only would be devoted to administer the infrastructure and to the storage in ports. Therefore, the property and administration were in state's hands and port services in private hands under a multi-operator system.

Finally, in 1997 the Law 19542 (called Emporchi Law) was promulgated to increase the participation of the private sector with a view of accelerating port modernization. Law DL

1954 established, on one hand, ten state-owned companies with public terminals, and, on the other hand, stipulated that the provision of port services be set up by concessions and bid. These ports are administrated by ten companies - Empresa Portuaria Arica (Arica's Port), Empresa Portuaria Iquique (Iquique's Port), Empresa Portuaria Antofagasta (Antofagasta's Port), Empresa Portuaria Coquimbo (Coquimbo's Port), Empresa Portuaria Valparaiso (Valparaíso's Port), Empresa Portuaria San Antonio (San Antonio's Port), Empresa Portuaria Talcahuano-San Vicente (Ports of Talcahuano-San Vicente), Empresa Portuaria Puerto Montt (Puerto Montt's Port and its Ferry Terminal), Empresa Portuaria Chacabuco (Chacabuco's Port and its Ferry Terminal), and Empresa Portuaria Austral (Ports of Punta Arenas and Puerto Natales). Foreign ships may participate in coastal trade where cargo volumes exceed 900 tones prior to public bid. When cargo volumes are less than 900 tones, and there are no ships available under the Chilean flag, foreign vessel may also participate with due authorization from the maritime authority.

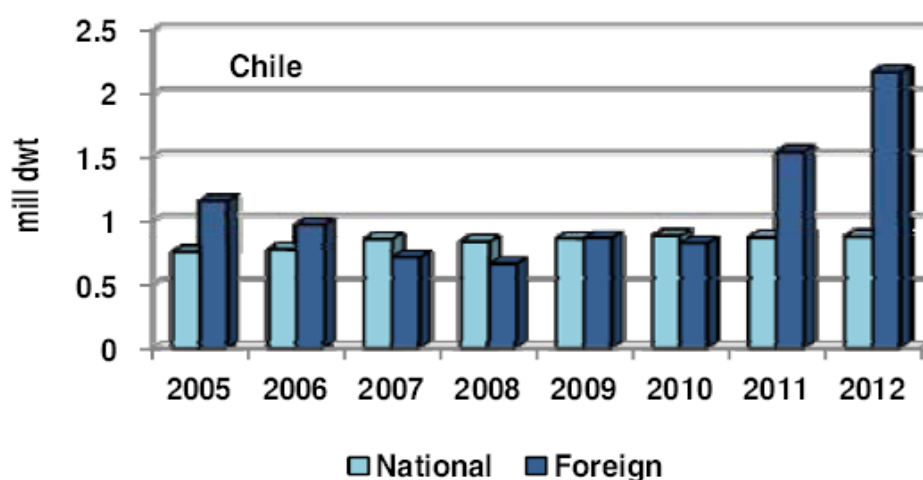


Figure 2-2 Controlled fleet by national and foreign flag registered tonnage ('05~'12)
Source: Shipping statistics yearbook, Institute of Shipping Economics and Logistics, 2012.

2) People's Republic of China

In 1980, China participated in the UNCTAD Code and in the bilateral agreements with United States, and several economies have also referred to the proportional allocation of these provisions. However, the Convention could not be implemented in China in fact because Chinese shipping representative did not attend in the Liner Conference.

Before the 1980s, because almost all cargoes should be transported by national flag vessels, Chinese shipping companies implemented transportation according to state mandatory plan. With the deepening of reform and opening up, China transformed its traditional planned economy and began to abolish "cargo preference" policy.

In 1984, "Circular of the State Council Regarding Reform of the Administration of International Ocean Shipping Industry" was issued. According to this principal, with the same shipping route, vessels and freight, national flag ships should be given priority to provision, and in the international trade, ships designated by China should be maintained at 60%~65%, and share of national flag ships should not be less than 80%.

Table 2-3 Percentages of trade goods transported by China's national fleets

| | International trade volume (10,000 ton) | Port international trade throughput(10,000 ton) | Percentage of transport by national fleets (%) |
|------|--|--|---|
| 2001 | 27,573 | 60,000 | 46.0 |
| 2002 | 29,896 | 76,000 | 39.3 |
| 2003 | 34,002 | 96,000 | 36.2 |
| 2004 | 39,469 | 115,000 | 34.3 |
| 2005 | 48,549 | 136,000 | 35.7 |
| 2006 | 54,416 | 157,000 | 34.7 |
| 2007 | 58,903 | 178,000 | 33.1 |
| 2008 | 42,352 | 192,000 | 22.1 |
| 2009 | 51,733 | 214,000 | 24.2 |
| 2010 | 58,054 | 246,000 | 23.6 |

Source: Huang Q. B. *Analysis of Policies on National Cargo Being Transported by Domestic Ships*. Journal of Dalian Maritime University. June, 2013

In 1988, with the start of China's entry into the WTO, China committed to open its shipping agency market gradually and in principle cancelled the quota system. In this year, "Circular of the State Council Regarding Further Reform of The Administration of International Ocean Shipping Industry" was declared to abolish cargo preference policy, only remaining cargo sharing clause in bilateral agreements with some economies.

In 1992, China and U.S. signed a Maritime Memorandum between China and U.S. agreeing to gradually open China's shipping market. In 1996, China stopped these bilateral agreements and would not adopt a cargo sharing clause in any new bilateral agreement. From then on, there is no cargo sharing and cargo preference policy in China. As a result, the percentage of transport by national flag vessels is continuing to decrease.

3) Indonesia

As the world's largest archipelagic state consisting of more than 17,000 islands, Indonesia's sea space is almost 4 times that of land. Due to such geographical conditions, Indonesia's trades depend mainly on marine transport and sea transport account for 2/3 of international trades.

In 1976, Indonesia-flag vessels transported 22% of dry goods and palm oil trade goods and 8% of crude oil. In order to strengthen the competitiveness of national flag vessels, the Indonesian government implemented a strict restriction system on marine transport and harbors. As a result, in the late 1990s, Indonesia's national flag vessels transported 60% of domestic goods and the number of Indonesia-flag vessels increased from 186 vessels in 1976 to 1,092 vessels in 2012.

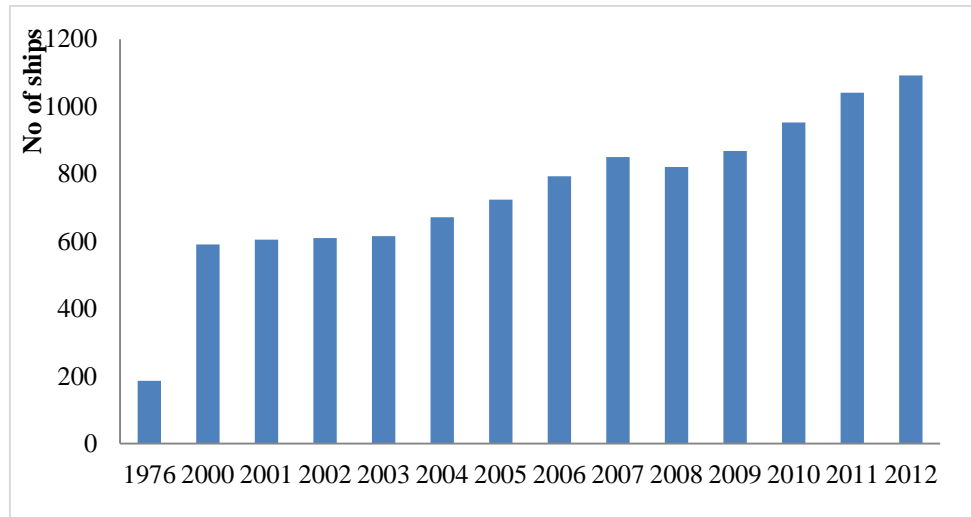


Figure 2-3 Fleet owned by Indonesia

Source: *Shipping Statistics Handbook*, Korea Maritime Institute, 2013.

(1) Multilateral cargo reservation

Since 1975, the Indonesian government adopted the UNCTAD Code for transporting national trade goods.

(2) Bilateral or unilateral cargo reservation

- Indirect measure

Indonesia's Ministry of Communication and Information Technology No. KM.16/PR. 302/Phb-82 (1982) gave "*the tariffs of harbor dues and berthage for national ocean going ships including ships chartered by national ocean shipping companies carrying nonoil and natural gas export commodities shall be granted relief to an amount of 80%, so that the tariffs becomes 20% of the tariffs of storage in Line.*"¹

The Indonesian government established various entry barriers to weaken the competitiveness of foreign shipping liners. For example, foreign shipping liners could only transport at the Indonesian harbor after designating a local company in Indonesia as their agent. However, since the National Overseas Liner Agency and the National Interisland Liner Agency were the only companies qualified to be agents for foreign shipping liners, it was difficult to find agents in Indonesia.² In addition, some port authorities restricted the port entry of foreign shipping liners to give more opportunities to Indonesia-flag vessels. The Indonesian government regulated all non-petroleum export goods to be transported through four ports, including Belawan, Tanjung Priok (Jakarta), Tanjung Perak (Surabaya) and Ujung Pandang. These policies created trade barriers for foreign shipping liners entering into Indonesia, making it difficult for them to enter into the market.

- Direct measure

In 1975, the Indonesian National Shipowners' Association (INSA) agreed on cargo sharing with the Singapore Shipowners' Association (SSA) to allow each side transport 55% of export cargoes and 45% of import cargoes in trades between them, excluding the transport of

¹ *The "January" export policy of 1982*. Indonesia. Department Penerangan.

² *The "January" export policy of 1982*. Indonesia. Department Penerangan.

petroleum supply equipment between the two economies. In 1984, the two economies amended this sharing agreement.³ Afterwards in 1981, Indonesia agreed on cargo sharing of 50:50 with Korea and signed an agreement with Chinese Taipei on general cargo transport.⁴ Also, in 1986, regarding the trade cargoes with Japan, Indonesia adopted the 43:43:14 Code to allow each side to transport 43% of trade goods, while the other vessels were only allowed to transport 14%.

Indonesia's Ministry of Maritime Affairs and Fisheries regulated transshipment cargoes to be transported by Indonesia-flag vessels and through national ports, but in the case where there are no national flag vessels, foreign shipping liners were allowed to transport the goods. The Presidential Decree No. 18-82 stipulated that cargoes of government institutions or government-owned institutions should be transported by national flag vessels. Also, the Indonesian Cargo Committee has the authorization to take measures to protect national flag vessels if they are in a disadvantageous situation.⁵

Furthermore, whenever the Indonesia flag ships were in a disadvantageous situation, the Indonesian Freight Board could take some measures or make specific regulations to help its own ships come out of the difficulties.

(3) Transport reservation on specific cargoes

100% of imported fertilizers under the contract of FOB terms and 50% of imported fertilizers under the contract of CIF terms were required to be transported by national flag vessels. Also, the shipping operators had to transport seasonal goods and specific cargoes by using national flag vessels, and in the case where it was not possible to transport by national flag vessels, they may use foreign-flag vessels.

Indonesia implemented the liberalization on the shipping industry starting from 1985, allowing foreign-flag vessels to enter ports without restrictions and transport trade goods. In 1988, the Government Regulation No. 17 amended the liberalization policies in marine transport. As a result, currently cargo preference has been abolished on cargoes, excluding coastal trade and specific government cargoes, which rapidly increased the number of shipping companies. In 2000, the number of shipping companies registered in Indonesia increased 568 companies to a total of 1,724 companies compared to 1,156 companies in 1996. After the implementation of liberalization policies, the percentage of transports by foreign-flag vessels increased. During 1996~2000, only 4% of international trade goods was transported by national vessels. While in the same time, about 65% of domestic cargoes were transported by national flag vessels.

Table 2-4 International trade goods transported by Indonesia's national and foreign fleets

³ U.S. Department of Commerce. *Maritime Subsidies 1978*. Washington, D.C.: Maritime Administration Office of International Activities, 1978, p.74

⁴ John Andelin. *An Assessment of maritime trade and technology*. Washington, D.C.: U.S. Congress, Office of Technology Assessment, OTA-O-220, 1983, p. 210.

⁵ John Andelin. *An Assessment of maritime trade and technology*. Washington, D.C.: U.S. Congress, Office of Technology Assessment, OTA-O-220, 1983, p. 211.

| (unit: tonne) | 1996 | 1997 | 1998 | 1999 | 2000 |
|----------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| National fleet | 22,074,736 (5.6%) | 7,063,234 (3.9%) | 9,381,171 (3.5%) | 16,080,989 (4.8%) | 16,680,570 (4.6%) |
| Foreign fleet | 343,559,544 (94.4%) | 250,455,427 (96.1%) | 257,405,305 (96.5%) | 318,678,400 (95.2%) | 342,964,827 (95.4%) |
| Total | 365,634,280 (100%) | 257,518,661 (100%) | 266,786,476 (100%) | 334,759,389 (100%) | 359,645,397 (100%) |

Source: Report of the regional seminar on liberalization of maritime transport services under WTO GATS, WTO, 11-13 Feb. 2002.

Table 2-5 Domestic trade goods transported by Indonesia's national and foreign fleets

| (units: tonne) | 1996 | 1997 | 1998 | 1999 | 2000 |
|----------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| National fleet | 54,142,669 (63%) | 28,030,904 (63%) | 27,257,441 (68%) | 58,547,802 (62%) | 39,994,170 (69%) |
| Foreign fleet | 31,643,597 (37%) | 15,859,124 (37%) | 12,586,350 (32%) | 34,723,742 (38%) | 17,647,844 (31%) |
| Total | 85,786,266 (100%) | 43,890,028 (100%) | 39,843,791 (100%) | 93,271,544 (100%) | 57,642,014 (100%) |

Source: Report of the regional seminar on liberalization of maritime transport services under WTO GATS, WTO, 11-13 Feb. 2002.

4) Japan

From 1965 to 1970, the Japanese economy recorded rapid growth of over an annual average 10%. Lots of facility investments were made in the heavy and chemical industries, including steel and petrochemical, etc., leading to massive production in mining and manufacturing industries to rapidly increase the marine trading volumes mainly with imported raw materials. The maritime policies during the Japanese economy's rapid growth period became the key objectives of economic policy, which is, acquiring ocean going vessels to provide stable transport of rapidly increasing imported raw materials that were lacking in domestic supply for Japan.

During the past 20 years, Japan's maritime traffic volume of imports and exports recorded 55%~65% levels which were transported by Japanese merchant fleet. Moreover, out of 3 cargoes with high dependency on imports and strategic goods, iron ore and coal which were carried by Japanese vessels recorded 90%, while petroleum reached 80%. The export loading share during the same period was 26%~39%. On the other hand, the loading share of imports recorded 65%~71%, showing a much higher load share compared to that of exports.

Among Japanese total freight revenue, if you look at the percentage of transport for national cargoes, in the case of bulk carriers and oil tankers that are responsible for transporting strategic goods, the transport of national cargoes accounted for 63% and 78% of freight for bulk carriers and oil tankers, respectively in 2012. Compared to this, container cargoes accounted for only 20%.

Table 2-6 Japanese vessels' transportation shares

(Unit: million ton, %)

| | Export | | | Import | | | Total of exports and imports | | |
|------|----------------|------------------------|----------------|----------------|------------------------|----------------|------------------------------|------------------------|----------------|
| | Seaborne trade | Japanese vessel's load | Load share (%) | Seaborne trade | Japanese vessel's load | Load share (%) | Seaborne trade | Japanese vessel's load | Load share (%) |
| 1990 | 84 | 33 | 39.3 | 712 | 470 | 66.0 | 796 | 503 | 63.1 |
| 1995 | 116 | 39 | 33.4 | 771 | 530 | 68.7 | 886 | 569 | 64.2 |
| 2000 | 130 | 35 | 26.9 | 807 | 539 | 66.8 | 937 | 574 | 61.2 |
| 2005 | 134 | 45 | 33.8 | 816 | 530 | 64.9 | 950 | 575 | 60.5 |
| 2010 | 156 | 45 | 28.7 | 759 | 466 | 61.4 | 925 | 511 | 55.8 |
| 2011 | 150 | 52 | 34.6 | 753 | 536 | 71.2 | 903 | 588 | 65.1 |
| 2012 | 161 | 42 | 26.0 | 799 | 522 | 65.3 | 960 | 564 | 58.7 |

Source: *Secret to Japanese Shipping Industries' Stable Growth*, Hyundai Research Institute, 2014.

The control on shipping companies was strengthened by adopting the scheme of nominated bidding contract that gave the opportunity for shipping companies registered with shippers to participate in bidding only so that the bidding opportunity was given only to national shipping companies. As a result, it was possible for Japanese shipping companies to continuously trade with shippers, while on the other hand, it was almost impossible for foreign-flag vessels to enter into Japan's strategic cargo transport market.

Japan's policies for acquiring vessels mostly established and operated starting from 1952 when the government implemented the policies by receiving suggestions and advices at the council meeting for the rationalization of marine and shipping industries. However, with Japan's participation to the OECD in 1964, Japan cancelled its governmental restrictions or made cargo preference regulations.

Starting from 1972, the number of Japanese merchant fleets decreased. The fleet decrease accelerated weakening of international competitiveness of Japanese merchant fleets by increasing the number of reserved crews. During the same period, the number of foreign-flag vessels rapidly increased so that the ratio of foreign chartered ships that accounted for 16% among Japan's merchant fleets in 1969 increased to 44% in 1975, resulting in charter ships and Shikumisen to be widely used to reduce the burden of crew costs. From the middle of the 1970s, Japan's marine industry changed in the direction of constructing merchant fleets for actual ship operation instead of just possessing vessels, which led to a decreasing trend in the load share of Japanese merchant fleets.

In the late 1990s, the shippers of Japan's large cargoes adopted the scheme of nominated bidding contract, which only gave shipping companies registered with them that met qualifications. As a result of the nominated bidding contract, shippers provided bidding opportunities only for Japan's shipping companies and possessed the control on shipping companies through allocating cargo volumes between shipping companies, enabling Japan's shipping companies to maintain long-term contracts with shippers.

On the other hand, it became impossible for foreign-flag vessels to enter into Japan's large cargo transport market. Among Japan's export cargoes, the percentage of goods transported by foreign-flag vessels increased to 70% from around 50% during the past 20 years, but in the case of imports of large cargoes, they continued to remain at around 30%.

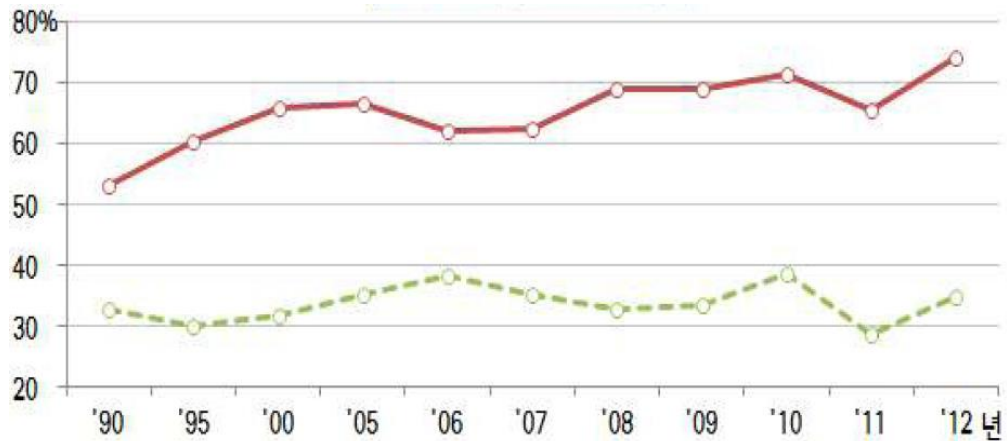


Figure 2-4 Transport share of foreign vessels in Japan's seaborne imports and exports
 Source: *Secret to Japanese Shipping Industries' Stable Growth*, Hyundai Research Institute, 2014.

5) Republic of Korea

The international trade had a remarkable impact on Korea's economic development. During the 1960s~1970s, international trade grew at a rate of 10% per year and achieved high growth despite the Asian financial crisis in 1997. More than 90% of Korea's international trade is transported by sea. Due to this reasons, starting from 1962, Korea government implemented various cargo preference to promote national flag vessel's development. As a result, national flag vessels grew from 191 vessels in 1967 to 1,323 vessels in 2012.

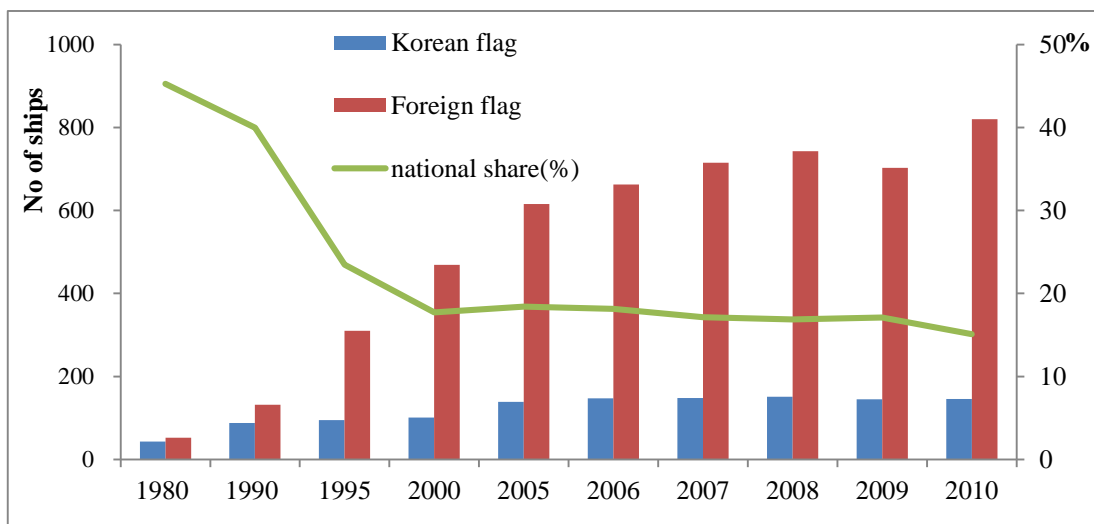


Figure 2-5 Cargo shipments by Korean flag and foreign flag
 Source: Shipping statistics yearbook, Korea Maritime Institute, 2012.

(1) Bilateral or unilateral cargo reservation

According to the Presidential Decree No. 4283 (1979), it is necessary to get approval on exemption beforehand when transporting cargoes by foreign-flag vessels in Korea. The Shipping Promotion Law ruled that exporters and importers should use only flag vessels for cargo carriage. If no Korean flag ships were available, cargoes can be transported by foreign flag ships. Also, Korea agreed to a cargo sharing scheme with U.S., West Germany, Japan and Denmark.

(2) Transport reservation on specific cargoes

According to the Maritime Promotion Act No. 1895 (1967), 100% of export and import cargoes from/to Korea were to be transported by national flag liner vessels. Importers of raw materials may receive preferential tariff rates if they transport by national flag vessels. In accordance with maritime legislations of the Korea Maritime and Port Administration's (the former maritime body of the Ministry of Land, Infrastructure and Transport) national flag vessels had priority rights of transporting imports of crude oil, iron ore, coal, timber, grain and fertilizers.

Table 2-7 Cargo shipment by Korean flag and foreign flag

Unit: million ton

| | Export | | | Import | | | Total | | |
|------|-------------|--------------|--------------------|-------------|--------------|--------------------|-------------|--------------|--------------------|
| | Korean flag | Foreign flag | National share (%) | Korean flag | Foreign flag | National share (%) | Korean flag | Foreign flag | National share (%) |
| 1980 | 12 | 11 | 52.17 | 31 | 41 | 43.06 | 43 | 52 | 45.26 |
| 1990 | 17 | 31 | 35.42 | 71 | 101 | 41.28 | 88 | 132 | 40.00 |
| 1995 | 18 | 71 | 20.22 | 77 | 239 | 24.37 | 95 | 310 | 23.46 |
| 2000 | 25 | 126 | 16.56 | 76 | 343 | 18.14 | 101 | 469 | 17.72 |
| 2005 | 40 | 202 | 16.53 | 99 | 414 | 19.30 | 139 | 616 | 18.41 |
| 2006 | 42 | 222 | 15.91 | 105 | 441 | 19.23 | 147 | 663 | 18.15 |
| 2007 | 45 | 241 | 15.73 | 103 | 474 | 17.85 | 148 | 715 | 17.15 |
| 2008 | 42 | 251 | 14.33 | 109 | 492 | 18.14 | 151 | 743 | 16.89 |
| 2009 | 41 | 241 | 14.54 | 104 | 462 | 18.37 | 145 | 703 | 17.10 |
| 2010 | 40 | 279 | 12.54 | 106 | 541 | 16.38 | 146 | 820 | 15.11 |

Source: *Shipping statistics yearbook*, Korea Maritime Institute, 2012.

After 1990, the Korean government implemented the liberalization policies of the shipping industry to follow the trend of globalization, which opened domestic market to foreign shipping companies. The liberalization policies were implemented as follows⁶:

- ① Foreign shipping companies are allowed to establish branch offices in Korea. (January 1989)

⁶ WTO. "Report of the regional seminar on liberalization of maritime transport services under WTO GATS". Bangkok, 11-13 Feb. 2002, p.106.

- ② Foreigners are able to invest in services supporting maritime, including shipping agency and freight forwarding. (June 1993)
- ③ Cargoes restricted under the cargo preference that are applied to non-liner cargoes were reduced to 3 cargoes from 11 before. (Cargoes that are no longer restricted: government-purchased cargoes, built-in structural products, cement, steel products, fertilizers, grain, coal and petrochemicals)
- ④ Exceptions on the transport of liner cargoes were abolished and foreign-flag vessels were allowed to enter into Korea's liner shipping market without discrimination. (January 1995)
- ⑤ In order to participate the OECD, in November 1995, Korea announced that it would gradually abolish the designated cargo scheme. 4 types of cargoes (raw materials for fertilizers, grain, petrochemical, crude oil) were to be abolished by the end of 1996 and other remaining restricted cargoes by the end of 1998.
- ⑥ The licensing system in the shipping industry was changed into a filing system. (1996)
- ⑦ The designated cargo system was completely abolished. (1999)

6) Malaysia

Over the period 1975 to 1981, Malaysia's total trade (imports and exports) in Special Drawing Rights grew from 6 billion to 19 billion SDRs, a significant increase in the cargo base available for national flag shipping. Over the same period, total freight charge grew from 260 million to 1.8 billion SDRs. Freight charges grew at a rate greater than the rate of trade growth giving the Malaysian Government further cause for concern, particularly as it was anticipated national flag shipping would stem rising freight costs as well as allowing Malaysians to share in the benefits of increased trade.

Although national flag carriers increased their share of the total freight bill from 10 to 15 percent over that period, this increased share was insufficient to solve the balance of payments difficulties attributed to the freight account deficit. Therefore, the government feels that the national share must be further improved.

Malaysia has adopted the UNCTAD Code of Conduct for Liner Conferences for government cargoes. Government departments are required to use the vessels of the Malaysian International Shipping Corporation Berhad (MISC), exemptions were given to cases where it is not possible for Malaysia's national flag vessels to operate. However, the level of government cargoes is relatively insignificant when compared with that of Malaysia's rubber, palm oil, timber and rubber exports, with these four commodities accounting for 77% of the 30 million metric tons exported in 1980. Total cargo imported and exported accounted for 51 million metric tons, far more than could possibly be carried by the existing Malaysian flag fleet. However, the imbalance in this trade plus the location of Malaysia on major sea routes spells difficulty for the carriage of Malaysian cargoes by a national flag fleet. The 1982 budget improved the tax benefits for Malaysian ship-owners, and was specifically directed towards promoting fleet expansion by the private sector. The 1984 budget has exempted income derived from the operation of Malaysian-registered vessels from the income tax and also the income received by Malaysian crews on Malaysian flag ships. As a result, Malaysian flag fleet showed a booming trend in 1970s and its flag fleets grew from 36 vessels in 1976 to 513 vessels in 2012.

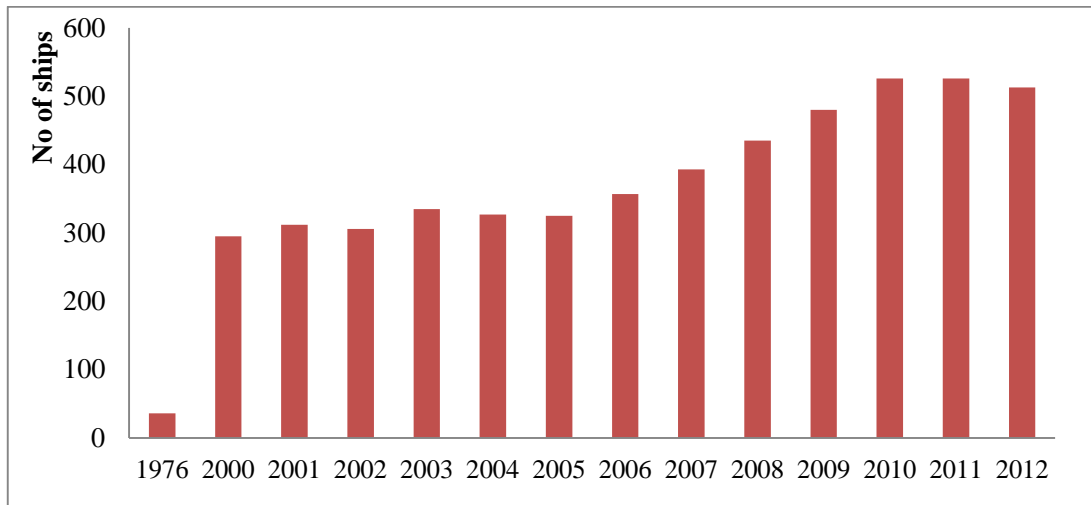


Figure 2-6 Fleet owned by Malaysia

Source: Shipping Statistics Handbook, Korea Maritime Institute

In Malaysia, the liberalization of the services sector which include port services was announced by the Prime Minister Dato' Mohd Najib Tun Abd Razak in the mini-budget for the Second Stimulus Package on 10 March 2009. Malaysia has offered its commitments including in areas such as international transport of goods and passengers, vessel salvage and access to and use of nine types of harbor services (ranging from pilotage, towing, bunker/water, navigation aids, shore-based operational services and anchorage/berthing)⁷. Malaysia's Transport & Logistics commitments under AFAS and the WTO are primarily focused on transport and logistics. In addition to commitments made in trade agreements, five sub-sectors under Transport & Logistics have been autonomously liberalized to allow foreign equity participation since 22 April 2009:

- ① Class C Freight Transportation
- ② Rental/Leasing services of ships that excludes cabotage and offshore trades
- ③ Rental of cargo vessels without crew (Bareboat Charter) for international shipping
- ④ Maritime Agency services
- ⑤ Vessel Salvage and Refloating services

However, the Malaysia government believes that "The Malaysian maritime transport related operators still do not have the capacity, skill and technological capabilities to compete in the so-called level playing field. Liberalization therefore may not allow for a free-for-all situation."⁸

7) Mexico

From the 1940s until the second half of the 1970s, Mexico's economic development was based on strong state intervention to foster industrialization through import substitution. The policy regime focused on the provision of moderate levels of effective protection to manufacturing with a limited, albeit ad-hoc and increasing, dispersion of tariff rates across industries. These policies were complemented by intervention from state-owned companies to carry out

⁷ WTO. "Maritime transport services," WTO S/C/W/62 16 Nov, 1998. p.13.

⁸ WTO. "Report of the regional seminar on liberalization of maritime transport services under WTO GATS", Bangkok, 11-13 Feb. 2002.p.67

investment projects that the private sector could not or would not undertake, such as the supply of strategic or basic intermediate inputs. In transport service sector, Mexico also implemented protective policies in this stage.

(1) Multilateral cargo reservation

Mexico maintained trade cargoes to be transported under the UNCTAD terms (40:40:20) of 1974.⁹

(2) Bilateral or unilateral cargo reservation

- *Indirect measure*

Mexico managed the import of certain goods with quota allocation and gave exceptions to quota allocation if cargoes were transported by Mexico flag vessels.

According to a bill on January 1, 1966, subsidies were provided on imported cargoes using Mexico flag vessels. "50 percent of the railroad freight rate for manufactured products and 25 percent of the rate for semi-manufactured products or manufactured products not for end consumption, when such products are shipped by sea, the subsidy can only be given when either a Mexican flag vessel or a foreign flag vessel under charter to a Mexican shipping company is used."¹⁰

According to a bill in January 1985, importers who used Mexico-flag vessels were given back 10% of related tariffs.

- *Direct measure*

According to a law in 1981, 100% of government cargoes, 50% of general cargoes and 50% of bulk cargoes were required to transport by Mexico flag vessels, while Petroleos Mexicanos (PEMEX) was only allowed to transport by Mexico flag vessels¹¹. Mexico signed agreements with Brazil, Russia (the former U.S.S.R.) and Bulgaria, allocating cargoes on a 50/50 basis.

(3) Transport reservation on specific cargoes

According to the legislation in 1963, in the case of exporting honey, only a 1% tariff was imposed when transported by Mexico flag vessels, but a 3% tariff was imposed when transported by foreign flag vessels.

Starting from December 1982, the Miguel De La Madrid government gradually abolished the import aid system that has been implemented since 1940 and facilitated a liberalized economy. In 1985, most of the public institutions were sold and the monopolized management of transportation, communication and financial institutions as private properties were abolished. Also, the licensing system for foreign investment on import and export was abolished. In 1984, import licenses covered 92% of national production, average tariffs were 24%, and there were export controls on 85% of non-petroleum exports. By the end of 1987, the Mexican government had abolished export controls, reduced import-license coverage to 25% of production, and cut average tariffs to 12%.

After joining GATT in 1986, in order to facilitate trade liberalization, Mexico agreed

⁹ Ademuni-Odeke. *Bareboat and Charter (Ship) Registration*. The Netherlands: Kluwer Law International, 1998, p.231

¹⁰ John Andelin. *An Assessment of maritime trade and technology*. Washington, D.C.: U.S. Congress, Office of Technology Assessment, OTA-O-220, 1983, p. 212.

¹¹ Ademuni-Odeke. *Shipping in International Trade Relations*. Brookfield, Vt.: Gower Publishing, 1988, p.269.

to trade deals with many economies. In 1989, Mexico extended liberalization to foreign investment by easing restrictions on the rights of foreigners to own assets. In 1994, Mexico joined the OECD, and at the same time, NAFTA was implemented. As a result, Mexico evolved from a closed economy to an open economy.¹²

Mexico's amount of export increased at a rate of 7% on average per year between 1980 and 2000, which is a 2% increase compared to 1940~1982. Exports changed from mostly minerals and petroleum to manufactured goods in 2004.

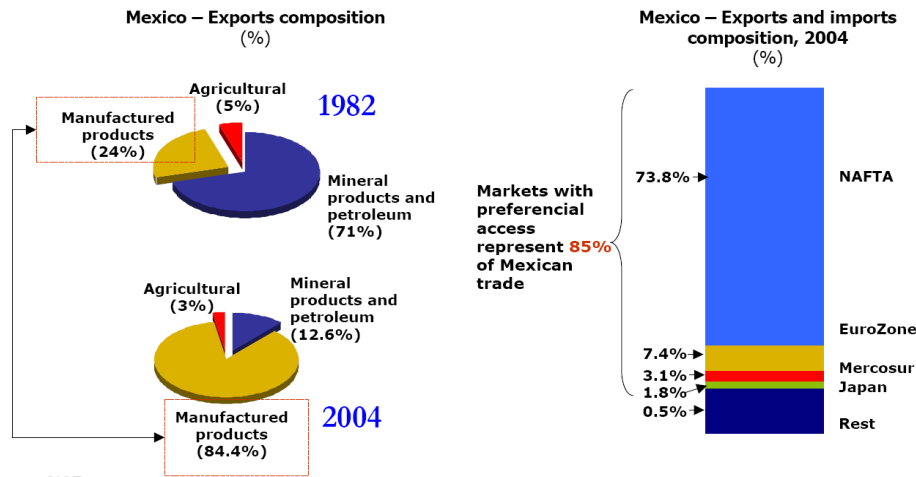


Figure 2-7 Composition of Mexico's export and trading composition

Source: Roberto Abusada Salah. *Peru-US FTA and Trade Liberalization*, 2006.

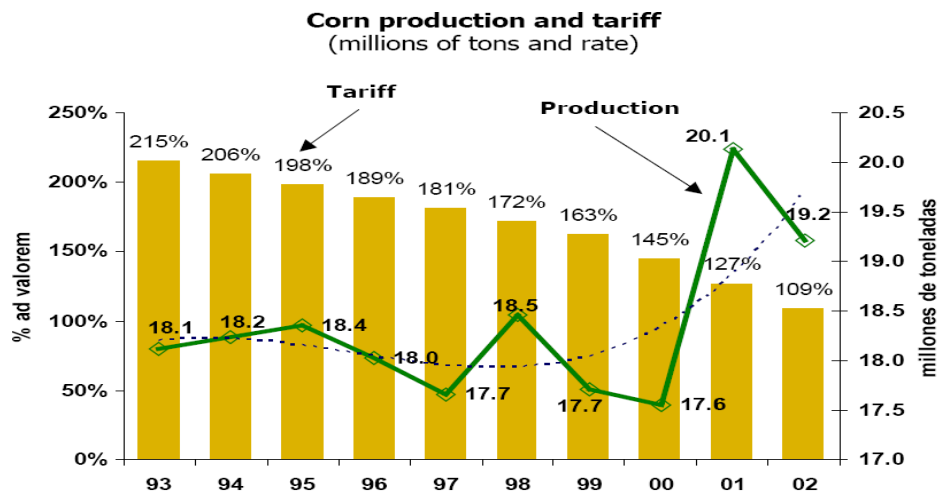


Figure 2-8 FTA's impact on Mexico's agricultural industry

Source: TLCAN, Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación; Jaime Serra

¹² Olajide S. Oladipo. "Does Trade Liberalization Cause Long Run Economic Growth in Mexico? An Empirical Investigation". *International Journal of Economics and Finance*. Vol. 3, No. 3, August 2011.

8) Peru

From 1969 to 1990, Peru provided more favorable operating conditions to Peru flag vessels compared to foreign flag vessels and implemented the cargo preference on imported cargoes of government or public institutions.

(1) Bilateral or unilateral cargo reservation

- *Indirect measure*

According to legislation on December 30, 1969, tariffs were exempted for imported cargoes transported by the following vessels: (a) Peru flag vessels, (b) foreign flag vessels chartered to Peru shipping companies, and (c) foreign flag vessels related to Peru companies.

Also, the low costs were levied on Peru flag vessels, including anchoring, pier, fuel supply, repair, etc., to be more than 40% lower than foreign flag vessels. For example, dry docking fees of Peru flag vessels were imposed with 5 cents per ton, compared to 15 cents levied on foreign flag vessels.

- *Direct measure*

According to the legislation on June 2, 1970, 50% of international trade goods were transported by Peru flag vessels. The Ordinance No. 20759 (October 15, 1974) regulated that public institutions that transport imported cargoes should use Peru's state-owned shipping company (CPV) as a priority. According to the Supreme Decree (March 26, 1976), government cargoes had to use Peru state-owned shipping company (Compania Peruana de Vapores) and Peru flag vessels (the State flag line) as a priority. The Ordinance No. 22067 (January 11, 1978) regulated that cargoes owned by public institutions that are not applied with the UNCTAD terms should use Peru flag vessels. Peru agreed on cargo sharing for 50:50 with Argentina and Brazil.¹³

In 1990, Peru began economic reform, including trade liberalization, unification of currency, abolition of restrictions on floating capitals, reduction of government expenditures, privatization of state-owned companies, etc., and as a result, Peru was able to promote a free economy. In addition, Peru abolished all restrictions on the shipping industry by agreeing to the shipping regulations of international organizations, including the Andean Community (CAN), the APEC and the International Maritime Organization, while ships that complied with the IMO regulations were allowed to enter into all Peru's ports.

In May 1999, in order to facilitate the privatization of ports, the Peru government abolished the restrictions on port operation in the National Port System Law (Law 27943) and the Peruvian Port Development Plan. As shown in Fig. 2-9, after the implementation of trade liberalization, Peru's GDP and Total Factor Productivity (TFP) increased by two times.

¹³ John Andelin. *An Assessment of maritime trade and technology*. Washington, D.C.: U.S. Congress, Office of Technology Assessment, OTA-O-220, 1983, p. 214.

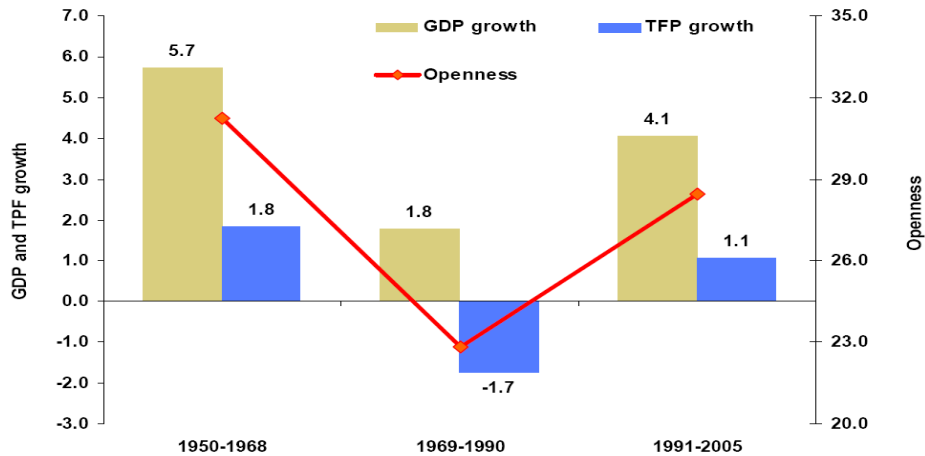


Figure 2-9 GDP, Total Factor Productivity (TFP) and trade openness for 1950~2005

Source: Roberto Abusada Salah. *Peru-US FTA and Trade Liberalization*, 2006.

9) The Republic of the Philippines

With about 7,100 islands and 350 harbors, the shipping industry has a significant impact on the economic development of Philippines. In 1970, Philippines-flag vessels accounted for 22% of international trade goods, 24.3% of imports and 19.4% of exports. In order to strengthen the competitiveness of national flag vessels, the Philippines government established “Maritime Industry Authority (MARINA)” in 1975 and enacted a series of Presidential Decrees and legislations

(1) Multilateral cargo reservation

On March 2, 1975, Philippines adopted the UNCTAD code, which was 8 years ahead of the international society. Philippines Government has stretched the tenets of the Code to justify cargo allocation practices for more than just liner conference cargoes. The government believed that Filipino ships should carry at least 40% of its trade.¹⁴

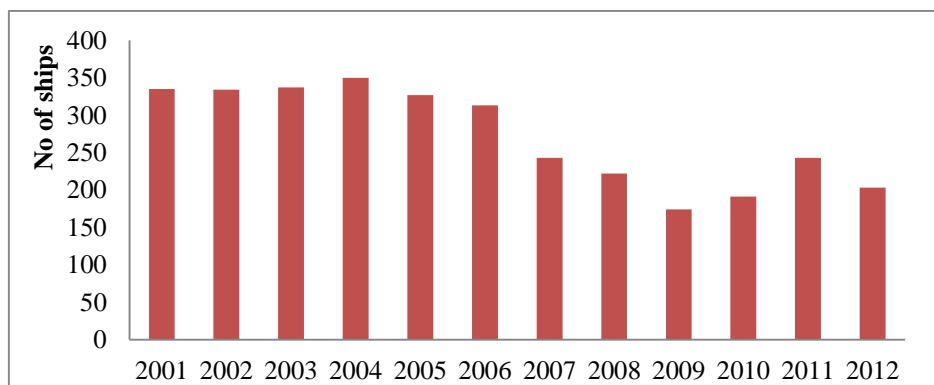


Figure 2-10 Fleet controlled by the Philippines

Source: *Shipping statistics yearbook*, Institute of Shipping Economics and Logistics, 2001~2012

¹⁴ Mary R. Brooks. *Fleet Development and the Control of Shipping in Southeast Asia*. Singapore: Institute of Southeast Asian Studies, 1985, p.21.

(2) Bilateral or unilateral cargo reservation

Prior to 1976, the Philippines government supported its national flag vessels by using indirect methods, such as restricting cargo transport by trade protection, etc. However, after 1976, Philippines used direct measures such as enacting the Cargo Sharing Act.

- Indirect measure

On March 5, 1975, the Philippines government declared a decree (Presidential Decree 667, or PD 667) with the objective of providing incentives to the shipping industry by granting income tax deductions to shippers who utilize Philippines flag vessels for their shipments.

“Section 1. Exporters of Philippines products will be allowed to deduct from their taxable income to the extent of 150% of the amount of overseas freight expenses and charges in Philippines ports, provided that shipments are made on board vessels of Philippines registry.

Section 2. Importers of goods that are to be utilized as raw materials, intermediate products or for further manufacturing or for resale will be allowed to deduct from their taxable income to the extent of 150% of the amount of overseas freight expenses and charges in Philippines ports on goods shipped from port of source to the Philippines, provided that shipments are made on board vessels of Philippines registry.

Section 3. Enterprises that are registered with the Board of Investments shall be allowed to deduct from their taxable income 200% of shipping costs incurred in the transport of their product and raw materials to or from foreign ports, provided that shipments are made on board vessels of Philippines registry.”¹⁵

The Philippines government decided that direct measures had more advantages than indirect forms of support for the shipping industry under the Presidential Decree No. 667 and declared the Presidential Decree No. 806 on October 3, 1975. The details of No. 806 include providing incentives directly to the Philippines-flag vessels and shipping companies, allowing the government to oversee all procedures. As a result, the percentage of national cargo transport in the global trade increased, while the Philippines-flag vessels strived for the increase and modernization of national fleets. About transporting international cargoes between Philippines and other economies, the Philippines-flag vessels and government-owned vessels were regulated to a percentage of 50:50 with the same amount of cargoes as foreign-flag vessels.¹⁶

The government cargoes to be imported were allowed to be transported only by Philippines-flag vessels, but when the Philippines-flag vessel is not available, it is possible to use foreign-flag vessels. In other words, under a Philippines licensing regulation, import licenses will be issued for government cargo only when such import is to be transported on Philippines-flag ships. However, import licenses may be issued if no Philippines-flag vessel is available at the port of shipment. In practice, considerable shipments go to foreign liners due to the unavailability of Philippines ships.

In accordance with the Presidential Decree No. 37, importers should enter into contracts under FOB trade conditions and preferentially use Philippines-flag vessels for transport and costs that arise from trading should be paid in Philippines currency.¹⁷

In accordance with the Philippines Shipping Development Act (Republic Act No. 7471) of May 5, 1992, import cargoes transported by the Philippines-flag vessels were exempt from

¹⁵ <http://lawlist.chanrobles.com/>

¹⁶ <http://www.chanrobles.com/presidentialdecrees/presidentialdecreeno806.html#.UwQwMppWGMY>

¹⁷ U.S. Department of Commerce. *Maritime Subsidies 1978*. Washington, D.C.: Maritime Administration Office of International Activities, 1978, p.135.

the payment of import duties and taxes.¹⁸

- *Direct measure*

The Philippines government declared its first direct cargo reservation regulation (Presidential Decree No. 894) on February 26 1976. At that time, the Philippines government's foreign exchange reserves substantially decreased due to paying lots of freight costs to foreign shipping companies. In addition, the government believed that in most economies of the world, the policy of granting preference to national shipping lines over foreign shipping lines has either been adopted and implemented or is in the process of being adopted and implemented.

Therefore, the Philippines government also announced details in the Presidential Decree No. 894 requiring that all government cargoes should be transported by national flag vessels. Any cargoes from any person, partnership, association or corporation, contractor and subcontractor who were granted and enjoying any tax exemption, subsidy or incentive from the government, with a loan by the government were included here.

The Philippines government announced Presidential Decree No. 1466. It limited the scope of government cargo only to those cargoes paid for with loans, credits or guarantees from the government or any of its financial institutions to be carried by Philippine flag vessels.

When the effect of these systematized cargo preference policies failed to meet the initial expectations, the Philippines government needed a more effective system to achieve the goals of the Presidential Decree No. 806 and No. 894. To achieve these policy goals, the government announced Executive Order No. 769 on January 19, 1983. According to Executive Order No. 769, the institution (organization) overlooking the shipping industry may enact rules and regulations needed to apply the cargo sharing system of UNCTAD Liner Code on more than 80% of import and export cargo volumes not included in the Presidential Decree No. 1466. Through this, the national flag vessels and partners were each allocated with 40%.¹⁹

For the development of national flag vessels, the Philippines Ordinance No. 9495 (2004) allowed contracts to be signed with favorable trade terms for Philippines-flag vessels or required national trade goods to be transported by national flag vessels.²⁰

(3) Transport reservation of specific cargoes

In 1984, together with Japan, Korea and Chinese Taipei, the Philippines government announced the Memorandum Order No. 6 for log trades to transport 50% of timber trades by Philippines-flag vessels²¹.

According to the U.S. Government Mutual Security Act and the U.S. Public Law No. 480, when importing applicable agricultural goods, it is possible to transport them by using the Philippines-flag vessels.²²

Recently, Philippines abolished the shipping restrictions applying to specific trades, including the transport of international trades.²³ The cargo sharing system signed with Bangladesh and U.S. during the past 20 years had no remarkable impact on the transport by Philippines-flag vessels. As a consequence, the Philippines's shipping companies received no

¹⁸ <http://www.chanrobles.com/republicacts/republicactno7471.html#.UwRhMZpWGMYY>

¹⁹ <http://www.chanrobles.com/executiveorders/1982/executiveorderno769-1982.html#.UwRIHJpWGMYY>

²⁰ <http://lawlist.chanrobles.com/index.php/lawlist-chanrobles-virtual-law-library/alpha/t.php>

²¹ Meyrick. *Facilitation of International Shipping Project: Volume 1: Impact of Maritime Policy Reforms April*. APEC Transport Working Group, 2010, p.70.

²² U.S. Department of Commerce. *Maritime Subsidies 1978*. Washington, D.C.: Maritime Administration Office of International Activities, 1978, p.133.

²³ WTO, "Maritime transport services," WTO S/C/W/62 16 Nov, 1998. p.14.

benefits such as governmental subsidies, and when national flag vessels provided maritime transport services, they received the same treatment as foreign-flag vessels.²⁴

10) Singapore

The Singapore government established the “flag of convenience” system to facilitate the development of Singapore-flag vessels and implemented free port policy minimizing government intervention. According to the Shipping Act 1968, foreign shipping companies were allowed to register ships freely in Singapore, while vessels with more than 25% of crews from Singapore got 50% exemptions on income taxes and tonnage taxes. As a result, Singapore’s national flag vessels continuously increased to rank the world’s number one position for a long time in port traffic volume.

Excluding the agreement signed with Indonesia on cargo transport, Singapore did not implement any other restrictions. In 1975, the Singapore Shipowners’ Association (SSA) agreed cargo sharing with the Indonesian National Shipowners’ Association (INSA) to allow each side to transport 55% of export cargoes and 45% of import cargoes in trades between the two economies, excluding the transport of petroleum supply equipment between the two economies. And in 1984, the two economies amended this sharing agreement. But actually this agreement was not implemented. And in 1982, the two economies agreed to abolish this agreement officially.

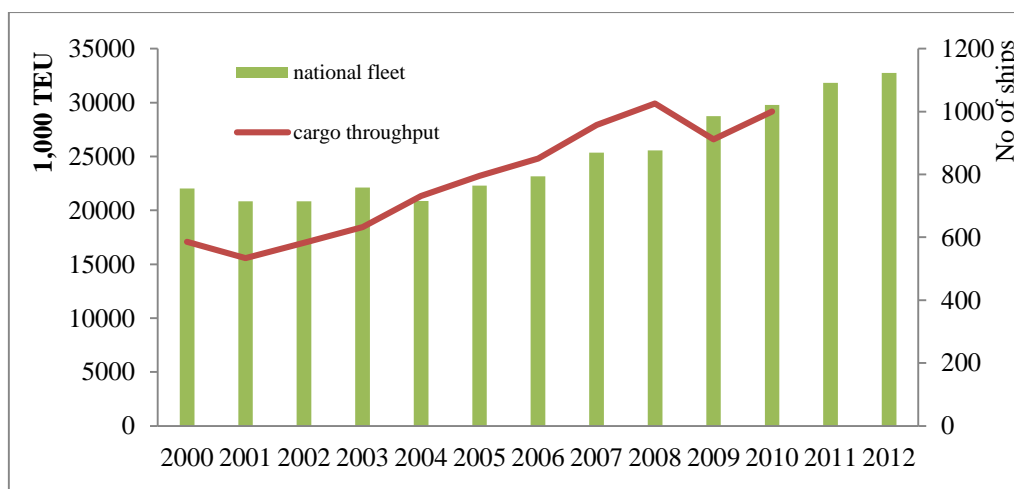


Figure 2-11 Container throughput and Fleet owned by Singapore

Source: *Shipping Statistics Handbook*, Korea Maritime Institute, 2013.

11) Chinese Taipei

To encourage development of domestic fleet Chinese Taipei Authority has enforced a series of shipping policies such as cargo reservation system, domestic fleet built by domestic scheme, and cooperative development scheme, it enabled to increase domestic fleet numbers from over 5millions DWT in 1950s to 10 million DWT in 1980s.

²⁴ WTO. “Report of the regional seminar on liberalization of maritime transport services under WTO GATS”, Bangkok, 11-13 Feb. 2002, pp.93-96.

In the early 1970s, the Asian economies' exports rapidly increased because of the world's increased demand for primary commodities, which also increased Chinese Taipei's export by 7.84 times. Chinese Taipei Authority decided that there would be a lack of own flag vessels if this increasing trend in export continued, which was why the authority increased investment on the marine industry starting from 1977²⁵. Chinese Taipei Authority made an effort to plan shipping development policy concerning to deregulate the entering barrier of investment from only public shipping enterprise to public and private shipping. Ministry of Transportation and Communication Together with the Financial Industry Department and the External Trade Development Council, the Ministry of Transportation and Communication (so called MOTC) had enacted "cooperative development plan for foreign trade, shipping and shipbuilding industries" and laid out three fundamental policy guidelines of cargo reservation system in 1977. Under this scheme three shipbuilding programs including "construction of domestic shipping industry", "repair of domestic flag vessels" and "possession of cargoes" were established to be the developing foundation of domestic fleet in the future, whereas this scheme was abolished in 1988. After the Authority cancelled cooperative development plan without further substantial incentives for ship carriers, it made domestic companies start to transfer their vessels into FOC for lessening operating cost and heavy taxes to keep the competitive advantage in the world. Chinese Taipei flag vessels were not allowed to anchor on any commercial ports of Mainland China according to legal restriction of Across Strait people relationship act. Domestic general mobilization act stipulated that Chinese Taipei flag vessels belonged to one of main traffic means at the emergency time, hence many international banks usually increased debt interest or refused to provide domestic carriers some capital loan. As a result, the number of vessels owned by Chinese Taipei rapidly increased in the 1980s, but fell in 1990 and showed almost no change during the past 10 years. The percentage of transport by Chinese Taipei's flag vessels recorded 46.3% in 1961, 41.8% in 1971, 29.4% in 1982, 39% in 1985 and 27.8% in 1989, showing a decreasing trend.

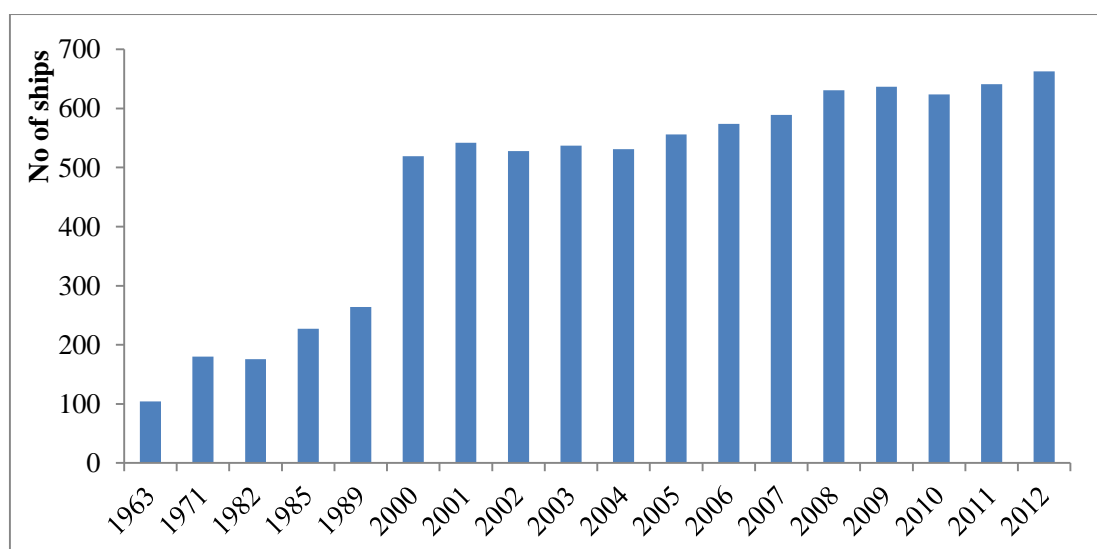


Figure 2-1 Trend of Chinese Taipei flag vessels

²⁵ Peter C.Y. Chow. *Trade and Industrial Development in East Asia: Catching Up Or Falling Behind*. MA: Edward Elgar Pub, May 30, 2012, p.196.

(1) Bilateral or unilateral cargo reservation

- Direct measure

Cargoes imported by authority institutions and authority-owned institutions had to be transported by its own flag vessels. Besides, Chinese Taipei signed cargo sharing with Japan and Tanzania and agreed to transport 50% of trade goods by respective flag vessels.

(2) Transport reservation on specific cargoes

In order to acquire the imported cotton cargoes to be transported by its own flag vessels, Chinese Taipei's shipping companies established the Joint Overseas Shipping Association (JOSA). Before importing cottons, cotton importers had to first get confirmation on whether or not it is being transported by Chinese Taipei's flag vessels from the JOSA through pre-procedures, including confirmation on the shipping company, shipping schedules, etc. Also, bulk cargoes being imported had to use its own flag vessels as a priority and vessels of flag of convenience had to be used as a second priority.

In order to protect and facilitate Chinese Taipei's shipping industry, the authority enacted the Shipping Act in 1981, which was amended 6 times (August 9, 1995, February 3, 1999, January 30, 2002, January 30, 2013, June 19, 2013 and January 20, 2014), and it is still being applied until today.

Table 2-2 Major regulations related to cargo transportation in the Shipping Act

| | |
|------------|--|
| Article 1 | The present Act is prescribed for the purpose of strengthening the shipping system so as to develop the shipping industry and economy of Chinese Taipei. |
| Article 16 | MOTC may, depending on the need, designate ROC vessel carriers to conduct transportation of passengers and cargoes in specific routes; any loss incurred there from shall be compensated by the government. Approach as to condition, scope, manner and supervision and accreditation in the aforementioned compensation shall be prescribed by MOTC on discussion with related authorities. |
| Article 17 | For the purpose of developing the economy of the nation as a whole, materials and instruments imported by government and public sectors shall be provided at reasonable prices and in compliance with open and fair contest principles by appropriate vessel carriers who are recommended by the dedicated institutes approved by MOTC. |
| Article 28 | The description, conditions applying to the procurement, procedures of approval and recommendation from the authority, public sector and dedicated institutes, as well as management of such aforementioned materials and instruments shall be prescribed by MOTC in discussion with related authorities. Unless a foreign vessel carrier establishes a branch by law or commissions a ROC shipping agency as its agent, no foreign vessel carrier shall solicit passengers and cargoes in ROC territory. |

Article 33 MOTC shall develop regulations pertaining to the applications of organizations, issuance and reissuance of permits, management of registering changes, fundraising for operations, collection of certificate fees or commissioning shipping agencies in soliciting passengers and cargos for any foreign vessel carrier having a branch in ROC.

Source: <http://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCode=K0070001>

On January 11, 1993, the Chinese Taipei authority enacted cooperative measures for operating ships to transport imported goods for authority institutions and public institutions in accordance with the Shipping Act. Since then, it has been amended once. As a result, imported goods for authority institutions or public institutions are applied with this Act. However, exceptions are given to economies that signed cargo sharing with Chinese Taipei. Imported goods are divided into bulk goods and general miscellaneous goods. If the authority institution wants to import bulk goods of more than 5,000 tons or general miscellaneous goods worth more than US\$200, it has to sign contracts under the FOB trade terms and use the ships designated by the Ministry of Transportation and Communication.

After the establishment of the WTO on December 1, 1995, Chinese Taipei applied to become a member as “advanced economic regime” and entered into discussions with 30 members that requested bilateral meetings. Even though the purchasing amount of Chinese Taipei’s authority institution was large, each member economy asked for the Chinese Taipei to sign the ‘government procurement agreement’ because foreign vessels were not able to be in charge of transporting government cargoes due to many restrictions on the shipping industry. On May 17, 1998, in order to facilitate its entry into the WTO, Chinese Taipei’s Ministry of Finance announced that it would implement the ‘government procurement agreement’ one year later. After enactment, it was amended 4 times (January 10, 2001, February 6, 2002, June 4, 2007 and January 26, 2011), and it is still being applied until today.²⁶

12) Thailand

During the past 20 years, Thailand’s international trades continuously increased, but because of the small size of national flag vessels, only 10%~12% of trade goods were transported by national flag vessels. In 1981, there were 133 national flag vessels with the transport capacity of 585,873DWT. In order to improve the transport of national flag vessels, the government implemented the cargo preference, but the result is not satisfying. In 2000, national flag vessels increased to 390 vessels and transport capacity to 3,529,299DWT, an increase of only 257 vessels during the past 20 years. In 2013, Thailand has commercial vessels the size of which over 500 GRT number 513 vessels with the carrying capacity of 5,748,329 DWT under its flag registration. Nearly all of them are owned by private companies.

(1) Bilateral or unilateral cargo reservation

- *Indirect-measure*

① Financial Support

Periodical Financial loans programs has been initiated by the government from time to time when there are strong requested from Thai ship operators.

²⁶ <http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=A0030057>

Thailand's Mercantile Marine Promotion Act of 1978 gave exemptions on tariffs of up to 50% for importers and exporters who transport cargoes, while providing "packing credits" to trading companies. The Bank of Thailand provided 10% "packing credits" to exporters who transport export cargoes by using national vessels, which reduced the transaction costs of exporters from 18% to 8%.²⁷ With the adoption of economic liberalization, this act and credit policies were abolished.

No Permanent funds have been provided, although there are proposals for the establishments of a 'revolving fund for Maritime Development'. Final decisions over the creation of a revolving fund have yet to be taken.

② TAX incentives

The government has enforced some tax incentive measures to reduce the investment burden of Thai shipping operators to a certain extent

Cabinet resolution dated 15th July, 1997 supported exemption of corporate income tax for shipping operations for operators who have vessels of their own.

Grant additional promotional privileges under the Board of Investment Act, with exemption from import duties and corporate income tax for up to eight years were given to Thai shipping operators.

Exemption of import duty for ships over 1,000 GRT, effective as of 11th September, 1996.

Reduce withholding tax on charter hire payments to owners of Thai ships used for international freight transportation from 5 % to 1 %.

Exemption from corporate tax on income derived from the sale of sea-going ships used for international freight transport, provided such income is allocated for acquisition of replacement ships, effective as of 25th September, 1996.

Reduce withholding tax on charter hire payments to foreign shipowners to 1 %, but this is a temporary measure and need to extend from time to time.

Exemption from income tax on the income earned by either Thai or foreign seamen working aboard Thai ships used for international freight transportation, effective as of 4th October, 1996.

- *Direct measure*

① unilateral measure

Thailand's Mercantile Marine Promotion Act B.E. 2521 of October 1978 stipulated that government cargoes should be transported by national flag vessels. However, exceptions were given to regions where national flag vessels did not operate. In 1984, the government amended this Act and maintained it only for trades between Thailand and Europe, Japan, Singapore, Hong Kong and Korea.

The Ministerial Regulation No. 2527 adopted in July 1984 required companies with business relationships with the government to import by using national flag vessels, while exceptions were given to regions where Thailand's national flag vessels did not operate.²⁸

Since the Thai Shipowners' Association complained that "all the choice freight is carried under waiver by foreign lines", the Ministerial Regulation No. 2527 was adopted in 1984 to require that imports by state companies or private companies who engaged in business with

²⁷ Keith Trace, et al. *Handmaiden of Trade: A Study on ASEAN-Australia Shipping*. Singapore: Singapore University Press, 1988, p.72.

²⁸ John Andelin. *An Assessment of maritime trade and technology*. Washington, D.C.: U.S. Congress, Office of Technology Assessment, OTA-O-220, 1983, p. 216.

h government agencies should use Thai-flag ships for their cargo carriage.

These regulations are still in force, but are proved little help for the expansion of the national shipping fleet despite having much burdensome for Government Procurement process. There are plans to abolish some reserved routes on which too few Thai vessels are operating particularly the routes of Eastern Europe - Thailand and United States - Thailand.

② bilateral measure

In 1979, Thailand signed bilateral shipping agreements with China and Vietnam which contain clauses regarding the share of cargo traded by governmental organization of the respective contracting party. However, the clauses have never been implemented. In late 1983, Thailand and Korea signed an agreement to adopt 40:40:20 cargo allocation rules to the trade between them. Before the signature of this agreement, Thai flag ships only accounted 1.3% carriage of trade cargoes while Korea flag ships made up a 46% share.²⁹ In 1984, Thailand agreed to transport 50% of trade goods with ASEAN by national flag vessels.³⁰

Afterwards, Thailand decided that it was necessary to prepare for trade liberalization to be competitive in the global shipping industry and face the pressure of advanced economies for global environmental change, technological development and trade liberalization. During the Uruguay Round, Thailand participated in Maritime Transport Services Meeting regularly and strived to abolish MFN exemptions. As a result, the cargo sharing systems that Thailand signed with China and Vietnam were abolished on May 30, 1995 and September 14, 1999, respectively. According to the Value Added Tax (VAT) Act amended in 1998, all shipping companies are able to provide maritime transport services in Thailand without discrimination. However, cargoes that are purchased by government institutions or public institutions in certain economies (Europe, Japan, Singapore, Hong Kong, Korea) may be transported only by national flag vessels. ("There are no restrictions on access to cargoes to and from Thailand, except only the transport of goods from certain economies to Thailand which is required to be serviced by Thai flag vessels if such goods are purchased either directly or indirectly by the government agencies or public enterprises.") Also, in order to maintain fair and free competition on the trade of cargoes and services, the government implemented the "Price of Goods and Services Act B.E. 2542" and "Trade Competition Act B.E. 2542" in 1999. However, these two legislations have no special rules on international trades.^{31,32}

In addition, Thailand signed the Preferential Trade Agreement with Australia to allow Australia to make investments of up to 60% in Thailand's maritime transport services starting from January 2005.³³

13) United States

After the Second World War, the U.S. government decided as shown below:

²⁹ WTO. "Report of the regional seminar on liberalization of maritime transport services under WTO GATS", Bangkok, 11-13 Feb. 2002.

³⁰ Mary R. Brooks. *Fleet Development and the Control of Shipping in Southeast Asia*. Singapore: Institute of Southeast Asian Studies, 1985, p.4.

³¹ PDP Australia Pty Ltd/Meyrick and Associates. "Promoting Efficient and Competitive Intra-ASEAN Shipping Services-Thailand Country Report", March 2005, p.4

³² PDP Australia Pty Ltd/Meyrick and Associates. "Promoting Efficient and Competitive Intra-ASEAN Shipping Services-Thailand Country Report", March 2005, p.4

³³ WTO. "Services liberalization in the New Generation of Preferential Trade Agreements (PTAs)", WTO Economic Research and Statistics Division. September 2006.

“...without some form of assurance of participation by United States-flag vessels in the transportation of relief and aid cargoes the shipping of the recipient and other maritime nations with lower operating costs would be able to underbid American-flag vessels and eventually transport much, if not all, of these cargoes to the irreparable detriment of the American merchant marine.”³⁴

Actually, foreign vessels transported 65% of U.S.’s foreign aid cargoes starting from 1948, which led to criticism that national flag vessels would decrease if the U.S. government did not support them politically. The reasons for such criticism were because of the aging of national flag vessels and the restrictions on type of vessels, and most importantly, the high costs of national flag vessels compared to foreign vessels. In 1956, national flag vessels transported 21% of dry cargoes, which was a drop of 20% compared to the percentage of transport in 1951 at 41%. In 1967, national flag vessels accounted for 22% of U.S. trade on average, while only in the trade with Africa, U.S.’s national flag vessels accounted for half. However, in the case of trade cargoes transported to Northern Europe, Japan and Korea, only 12% was transported by national flag vessels, therefore, the U.S. government implemented various cargo preferences. As a result, in 1981, U.S.’s national flag vessels transported 27% of cargoes, which continuously increased in terms of the size of national flag vessels.

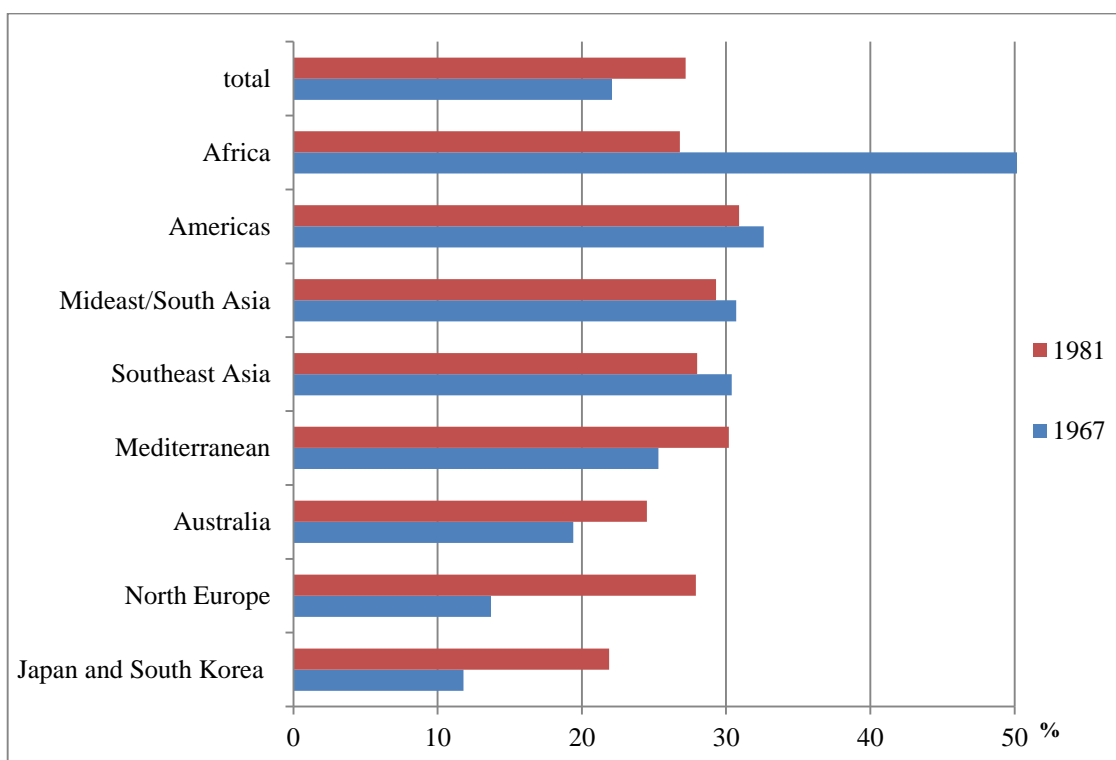


Figure 2-12 Percentages of U.S.’s national flag vessels in the global trade
 Source: *Shipping Statistics Handbook*, Korea Maritime Institute

³⁴ United States. Congress House. Committee on Merchant Marine and Fisheries. “*Administration of Cargo Preference Act*”. 1955.

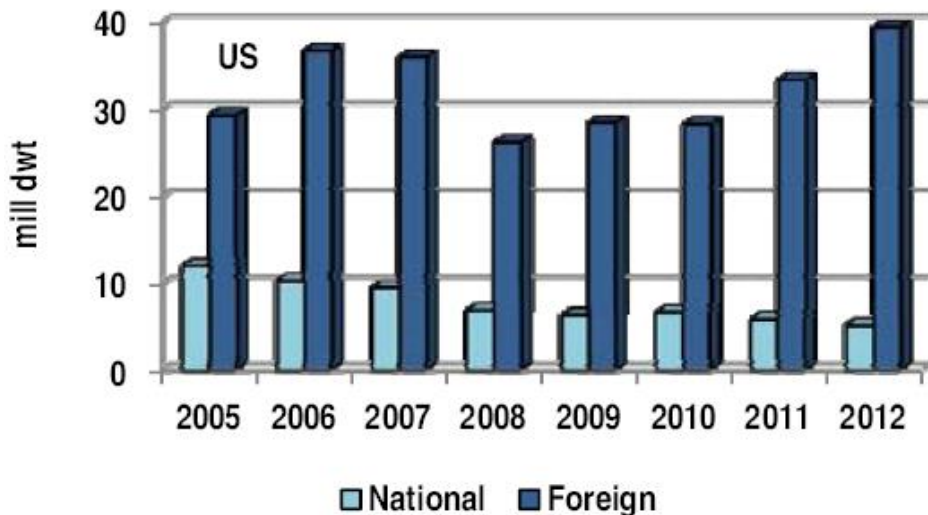


Figure 2-13 Controlled fleet by national and foreign flag registered tonnage ('05~'12)
 Source: *Shipping statistics yearbook*, Institute of Shipping Economics and Logistics, 2012.

(1) Bilateral or unilateral cargo reservation

- *Direct measure*

During the past 50 years, the U.S. government implemented many cargo preferences on government cargoes. The Military Transport Act of 1904 required that *"Only vessels of the United States or belonging to the United States may be used in the transportation by sea of supplies bought for the Army, Navy, Air Force, or Marine Corps. However, if the President finds that the freight charged by those vessels is excessive or otherwise unreasonable, contracts for transportation may be made as otherwise provided by law. Charges made for the transportation of those supplies by those vessels may not be higher than the charges made for transporting like goods for private persons."*

In 1920, the Merchant Marine Act of 1920 stipulated that cargoes being transported within U.S. "should be transported only by U.S. built, U.S. owned and U.S. flag vessels". However, there were no regulations on government cargoes.

In 1934, in order to encourage the use of U.S. flag vessels also in exporting agricultural goods, the U.S. Congress announced that *"agricultural exports by foreign loans shall be carried exclusively in vessels of United States, unless the United States Maritime Commission, after investigation, shall certify that vessels of the United States are not available."* In 1934, the Public Resolution No. 17 regulated that products bought with loans administered by U.S.'s government institutions (including import and export bank) should be transported by U.S. flag vessels. However, if the U.S. Maritime Commission decides that U.S.'s merchant fleets cannot provide adequate freight due to lack of shipping and loading abilities, a beneficiary loan may be allowed to load up to 50%.

In 1936, according to the Shipping Act of 1936, it was regulated that moving cargoes of government officials should be transported by U.S. flag vessels.

This Shipping Act had a significant effect on transporting trade goods, but it did not regulate on important cargoes (stockpile materials, offshore procurement, surplus agricultural commodities), which was why purchasing cargoes of government institutions mainly used foreign-flag vessels. Therefore, in order to apply cargo preferences on cargoes financially supported by government institutions, the U.S. Congress announced the Cargo Preference Act (1954), which is an amendment of the Shipping Act of 1936. In accordance with this Act, cargo preferences are postponed for government cargoes that are owned or financially supported by

government institutions so that up to 50% are transported by U.S. flag vessels.

“whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities.....is transported on privately-owned commercial vessels of the United States, to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a matter that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas”

In 1961, the Public Law No. 664 (1961) regulated that at least 50% of government cargoes should be transported by U.S. flag vessels if U.S. flag vessels are able to provide adequate freights. In 1962, U.S. President Kennedy announced an order that 50% in the Cargo Preference Act of 1954 was a low figure for transportation costs of trade goods by U.S. flag vessels, which is why all possible government cargoes should be transported by using U.S. flag vessels. Afterwards, the amended Food Security Act of 1985 stipulated that at least 75% of foreign aid goods, including agricultural products, etc., should be transported by U.S. flag vessels.

Table 2-8 U.S. Cargo Preference Act of 1954

| | | |
|---|--|--|
| 1 | Short title | This Act may be cited as the Cargo Preference Act. |
| 2 | Interpretation | <p>In this Act-</p> <p>"cargo" includes goods of any kind carried or to be carried in or on a ship or other vessel;</p> <p>"liner cargo" means cargo that normally moves, in liner ships, in parcels, any one of which does not constitute a substantial portion of a vessel's cargo capacity, shipped and consigned by a number of shippers to a number of consignees under arrangements whereby the cost of loading and discharging such cargo is included in the freight charges;</p> <p>"liner ship" means a ship, not being a tramp vessel, which plies along fixed routes on pre-announced schedules carrying general cargo, whether packaged or containerized, at scheduled rates;</p> <p>"tramp vessel" means a ship which, at any time when the description is relevant to a distinction from a liner ship-</p> <ul style="list-style-type: none"> (a) caters for full shiploads of homogeneous cargo; or (b) if chartered, operates mainly for the use of the charter; or (c) while not plying along fixed routes or on pre-announced schedules, caters for general cargo, whether packaged or containerized. |
| 3 | Certain cargoes to be carried only in Government ships | <p>(1) Subject to the provisions of subsection (5), and to section 4, no person shall import or export from Jamaica, as the case may be, any of the cargoes specified in subsection (2) except in ships owned, chartered or operated by the Government and approved for the purpose by the Minister.</p> <p>(2) The cargoes referred to in subsection (1) are-</p> <ul style="list-style-type: none"> (a) bauxite, alumina and such other natural resources of Jamaica and their by-products, as may be prescribed; (b) such agricultural products, to be exported from Jamaica as may be prescribed; |

| | |
|---|---|
| | <p>(c) such government-controlled goods, to be exported from or imported into Jamaica, as may be prescribed.</p> <p>(3) For the purposes of this Act a ship is deemed to be owned by the Government if the Government or an agency of the Government owns the majority of shares of such ship or the company or companies owning, chartering or operating such ship.</p> <p>(4) The Minister shall not approve a ship for the purpose of subsection (1) unless he is satisfied that the freight charged by such ship is not unreasonable.</p> <p>(5) The provisions of this section shall not apply to the carriage of liner cargoes.</p> <p>(6) In this section-</p> <p>"agricultural product" includes livestock, poultry, fish and the product of my plant or animal;</p> <p>"government-controlled goods" means goods purchased or sold by the Government or an agency of the Government or an enterprise owned or controlled by the Government and includes goods moving in commerce following a transaction to which the Government is a party.</p> |
| 4 Waiver of the requirement in section 3 | <p>The requirement in section 3 that the cargoes specified in that section shall be imported into or exported from Jamaica, as the case may be, only in ships owned, chartered or operated by the Government may be waived by the Minister in the following circumstances and to the following extent-</p> <p>(a) where the country to which such cargoes are exported or from which such cargoes are imported, as the case may be, has expressed its desire to participate in the transportation of such cargoes, the Minister may allow a maximum of fifty percent of such cargoes to be carried in ships belonging to or flying the flag of such country, so, however, that where such ships are unable to carry the cargoes so allowed the whole of such cargoes shall be carried in ships owned, chartered or operated by the Government;</p> <p>(b) where the Minister is of the opinion that it is in the national interest so to do, he may allow the whole or any part of the cargoes specified in section 3 to be carried in ships of the shipper's choice.</p> |
| 5 regulations | <p>(1) The Minister may make regulations generally for giving effect to the purpose of this Act.</p> <p>(2) In particular and without prejudice to the generality of subsection (1), any such regulations may prescribe anything required or authorized to be prescribed under this Act.</p> |
| 6 Penalty | <p>Any person who contravenes the provisions of this Act or any regulations there under shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine of fifty thousand dollars or an amount estimated by the Court to be equal to the value of the freight lost as a result of such contravention, whichever is the greater, and in default thereof to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.</p> |

The United States and the Brazil government firstly signed a bilateral agreement in a 1970 Memorandum of Consultation. It granted equal access for the two economies' flag ships to the government-controlled cargoes. The United States government granted a waiver of Public Res. 17 for the Brazil, allowing Brazilian flag ships to carry up to 50% of all trade cargoes between two economies. Brazilian flag carriers are also entitled, under the agreement, to participate in the carriage of reserved liner cargo moving under the Cargo Preference Act of

1954. After that, the governments have extended several times, most recently through December 31, 1985.

(3) Transport reservation on specific cargoes

The U.S. Congress introduced many bills to improve the percentage of transport by U.S. flag vessels in petroleum and bulk cargo trades. For example, it was regulated that 50% of all imported petroleum (1972), 30% of imported petroleum (1974), 9.5% of imported petroleum (1977), 40% of imported bulk cargoes (1981) and 20% of imported and exported bulk cargoes (1982, 1983) had to be transported by U.S. flag vessels. In the case of government-related agricultural goods, in accordance with the amendment of the Food Security Act in 1985, the share of transports was increased from 50% to 75%.

U.S. GAO (United States General Accounting Office) announced that U.S. flag vessels and workers increased to 21~33 vessels and 1,400~2,200 persons, respectively, due to the effect of the cargo preference in 1984, while the transportation costs of U.S. flag vessels for food aids increased to about 50% compared to foreign-flag vessels.³⁵ ³⁶ Among a total of 371 U.S. flag vessels, 134 vessels are in charge of transporting domestic cargoes and 165 vessels are in charge of transporting international cargoes, mainly responsible for transporting restricted cargoes under cargo preferences.³⁷ U.S. GAO (GAO/RCED-95-34, Nov.1994) decided that about US\$578 million increased per year between 1989 and 1993 because of government expenditure on transportation costs due to the Cargo Preference Act. This is because U.S. flag vessels requested for a much higher transportation cost compared to foreign-flag vessels. U.S. GAO contended that if there was no Cargo Preference Act, 165 U.S. flag vessels in charge of international trades could disappear and that most U.S. flag vessels may change nationality or give up transport to reduce costs. This could have an effect on about 6,000 jobs.³⁸ Promar International (2010) said that 37% of U.S. flag vessels could decrease if there were no aid cargoes.³⁹

³⁵ United States General Accounting Office Report to Congressional Requesters. “*Economic effects of cargo preference laws*”, Washington, D.C.: GAO/OCE-84-3, Jan. 31, 1984.

³⁶ United States General Accounting Office Report to Congressional Requesters. “*Economic effects of cargo preference laws*”, Washington, D.C.: GAO/NSIAD-90-174, June 19, 1990.

³⁷ The maritime Administration (MARAD, 1993)

³⁸ United States General Accounting Office Report to Congressional Requesters. “*Maritime Industry: Cargo Preference Laws—Estimated Costs and Effects*”, Washington, D.C.: GAO/RCED-95-34, Nov.1994.

³⁹ Promar International. “Impacts on the U.S. Economy of Shipping International Food Aid”. *Promar International*, June 2010.

Table 2-9 Cargo preference of APEC economies

| | Implementation cases | | | Present status | |
|----------------------------|----------------------|---|--|---|--|
| | UNCTAD | Indirect method | Direct method | | Specific cargoes |
| Chile | / | - Exemption system - System for managing registered Chile-flag vessels | - Cargo sharing: Brazil (50:50) | / | - Trade liberalization since 1970 - Abolish restrictions in 1978 |
| People's Republic of China | / | / | - All cargoes - China-flag vessels as a priority | / | - Abolish restrictions in 1988 - Abolish cargo sharing in 1995 |
| Indonesia | 1975 | - Exempt costs of using ports - Restrictions on port entry | - Government cargoes - Cargo sharing: Singapore (55:45), Korea (50:50) and Japan (43:43:14) | - Seasonal cargoes - Fertilizers | - Implement liberalization since 1985 - Maintain restrictions on specific cargoes |
| Japan | / | - nominated bidding contract | / | - tobacco | - abolish restriction since join into OECD in 1964 |
| Republic of Korea | / | - Exemption system | - Cargo sharing: U.S., West Germany, Japan, Denmark | - Imported and exported cargoes by regular liners - Raw materials (crude oil, iron ore, timber, grain) | - Implement liberalization since 1989 - Abolish restrictions in 1999 |

| | | | | | |
|---------------------------------|--------------------|---|---|--|---|
| Malaysia | government cargoes | / | - Government cargoes | / | - 1998 WTO commitments |
| Mexico | 1974 | - Provide subsidies - Tax break | - Government cargoes - Cargo sharing: Argentina and Brazil (50:50) | - Honey exports | - Abolish subsidy system (Dec. 1982) - GATT(1986) - OECD, NAFTA (1994) |
| Peru | / | - Tariff exemptions - Preferential treatment on port service costs | - Government cargoes - Cargo sharing: Argentina and Brazil (50:50) | / | - Trade liberalization since 1990 - Abolish restrictions on port operation in 1999 |
| The Republic of the Philippines | March 2, 1975 | Tax break | - Government cargoes | -Timber -Agricultural goods | - 1998 WTO commitments - Maintain restrictions only on government cargoes |
| Singapore | / | / | - Cargo sharing: Indonesia (55:45) | / | Free trade port |
| Chinese Taipei | / | / | - Authority cargoes - Cargo sharing: Japan and Tanzania (50:50) | - Timber imports - Bulk cargoes - Bulk goods | - Implement liberalization policies to join WTO in 1995 - Abolish restrictions on authority cargoes on May 27, 1999 |
| Thailand | / | - Exemption system - Provide packing credits | - Government cargoes - Cargo sharing: China, Vietnam (1979) and Korea (1983) | / | - Abolish cargo sharing: China (May 30, 1995) and Vietnam (Sep. 14, 1999) - Maintain restrictions only on government cargoes in 1998 |
| United States | / | / | - Military supply cargoes - Government cargoes - Cargo sharing: Argentina (40:40:20) and Brazil (50:50) | - Petroleum - Bulk cargoes - Aid cargoes | - Maintain restrictions on military supply cargoes, government cargoes and aid cargoes |

Chapter 3. Restrictions Applying to Specific Trades

Historically, some APEC member economies put restrictions on specific trade routes so that national-flag vessels were to be in charge of transporting international trade cargoes between the origin and destination. An example of restrictions applying to specific trades within APEC economies is government-led restrictions applied to entry of the shipping market. Also, another example is the restriction applied to the entry of trade because of enforcement by the private sector, including shipowners, unions, etc. A representative example is the Trans-Tasman trade. Until recently, the Trans-Tasman trade received restrictions on the entry of trade from Australia and New Zealand's shipowners and labor unions.

1. Government-led restrictions on specific trades

Government-led restrictions on specific trades refer to cases where the government led the restriction on entry for specific routes. Example of government-led restrictions on specific trades within APEC member economies is Japan-Chinese Taipei.

1) Japan-Chinese Taipei's case

Currently, the Korean shipping companies' participation in the Japan-Chinese Taipei route is restricted. In 1983, after signing the shipping agreement between Korea and Chinese Taipei, both flag vessels freely operated in this route and there was close cooperation between them. However, after the diplomatic establishment between Korea and China, Chinese Taipei (Ministry of Transportation and Communication) prohibited loading of cargoes by Korea's shipping companies. Moreover, the Chinese Taipei Power Company also restricted the participation of Korea-flag vessels during the bidding for transporting its goods.

The total container trading volume for the Japan-Chinese Taipei sea route was 557,000 TEU, where it is estimated that Chinese Taipei's shipping companies transported 390,000 TEU (70%) and other shipping companies transported 167,000 TEU (30%).

The trading volume of the Japan-Chinese Taipei sea route showed a decreasing trend since 2006, especially after the global crisis in 2008, but showed a recovery trend from 2010. Of the trading volume in the Japan-Chinese Taipei sea route, Chinese Taipei's shipping companies are transporting about 70% of total trading volume. And it is estimated that more than 50% of the trading volume is transported by Wanhai.

Table 3-1 Container traffic: Japan-Chinese Taipei sea route

| | Japan→Chinese Taipei | Chinese Taipei→Japan | Total(TEU) |
|------|----------------------|----------------------|------------|
| 2006 | 363367 | 182135 | 545502 |
| 2007 | 347066 | 175113 | 522179 |
| 2008 | 337432 | 181414 | 518846 |
| 2009 | 286550 | 158539 | 445089 |
| 2010 | 368101 | 189079 | 557180 |

Table 3-2 Japan-Chinese Taipei container traffic (2010)

| | Chinese Taipei ships | Others | Total |
|------------|----------------------|--------|--------|
| Traffic | 390 | 167 | 557 |
| (1,000TEU) | (70%) | (30%) | (100%) |

2. Privately-led restrictions on specific trades

Privately-led restrictions on specific trades refer to cases where restrictions are applied to transactions and port entries in trades between economies by labor unions, trade associations, etc. Example of privately-led restrictions on specific trades within APEC member economies is the Trans-Tasman (Australia-New Zealand) trade, etc.

1) Trans-Tasman (Australia-New Zealand)'s case

Until recently the entry of foreign shipping companies has been restricted for the Trans-Tasman route, which is a main route between Australia and New Zealand, due to oppositions from the Shipowners' Associations and labor unions of Australia and New Zealand. In other words, only

vessels of the two economies had to be used according to an agreement reached in 1931, but it was abolished in 1991 to allow entry of foreign shipping companies.

Chapter 4. Conclusion

1. Summary

Cargo preference policy was adopted in many economies to protect and develop the national shipping industry. Along with progress in trade liberalization and agreements of various international conventions, many economies have abolished cargo preference policy while few economies still maintain it until now.

Cargo preference policy can be divided into 4 categories, that is, multilateral cargo reservation, bilateral and unilateral cargo reservation, quantitative restrictions on cargo carriage and reservation of the carriage of specific commodities.

Through cargo preference policy, the economies ensure that flag vessels are given priority for cargo transportation to have an advantage in the competition with foreign flag vessels.

Usually, in the economies which have implemented cargo preference policy, cargoes can be transported by foreign flag ships when no flag ships were available or flag ships ability was not enough.

In order to reduce the diversion of foreign currency, some economies stipulated that cargoes should be transported by national flag vessels or freight rates should be paid in its currency. Most of the economies which have implemented cargo preference policy experienced an increase of its flag vessels, but it is believed that this is a combined result from cargo preference policy and economy & trade development.

According to the investigation on APEC economies, cargo preference policy was implemented as a method to strength national flag vessels' competitiveness, to foster and protect shipping industry. That is, due to insufficient historical experience and marine forces, emerging and developing economies considered shipping industry as an infant industry which needs specific treatment. So these economies implemented cargo preference policy to give priority to national flag ships until its shipping industry get ready for competitiveness in world market. Some developing economies stipulated that specific goods such as energy and strategic cargoes should be transported by national flag ships to accomplish political goals. Although most economies had different background and detailed reasons for implementing cargo preference policy, all of them have a common, that is, national cargoes should be transported by national flag ships.

However, through the survey on members, we concluded that there is a clear trend of cargo preference policy alleviation or abolition along with global trade liberalization, and expansion of multilateral, regional and bilateral economic cooperation system. In many economies, related regulations were abolished or only apply to some government cargoes. In private level, few priority policies for national flags are still running now. That is, over the worldwide, cargo preference on shipping industry has been alleviated or abolished, even the one left is implemented to a minimum in these days.

Restrictions applying to specific trades are to put restrictions on specific trade routes so that only specific flag vessels can transport cargoes in this trade route. A representative example was the Trans-Tasman trade, but today almost no more existed. In the past, only specific vessels had the right to transport cargoes in the trade route between China and Chinese Taipei. However, the restrictions were already abolished today, and direct calling ports between them were enlarged a lot, it should be seen that there is no restriction on trade and shipping in this route. In one word, restrictions applying to specific trade can be seen as a temporarily,

partly implemented policy, and almost no more restrictions today.

2. Conclusion

Cargo preference policy was actively applied for protecting and fostering each economy's own shipping industries, but the cargo preference policy has been abolished or relaxed since joining WTO or other free trade agreements. As a result of the efforts in continuous liberalization and deregulation in the international shipping industry, only a few economies in APEC region is currently holding the cargo preference policy with the limited type of cargos. In other words, when considering current economic size and growth trend in the international shipping industry, the regulations such as the cargo preferences operated by some economies in APEC region may not be critical factor to stunt the economic growth in the shipping industry because only a few economies in the APEC region is holding the regulation with the limited number of cargos. In most economies surveyed didn't raise serious concern for cargo preference policy which may harmful fair shipping industry. And also they didn't submit specific case related cargo preference policy during field survey and circulation the interim report among experts of TWG members.

This study initially planned two phases: the first phase is to collect the data and information associated with cargo preference policy and restrictions applying to specific trades, and the second phase is to suggest alternatives for facilitating the liberalization and openness in the shipping industry based on the data collected in the phase 1. However, as shown in data collection phase, only limited numbers of economies are currently operating the cargo preference policy. In addition, collecting the data associated with the regulations from each APEC economy is difficult, and the information is very limited even if the data from a economy is collected. Based on these reasons, it may not be beneficial for APEC economies to suggest policies related to the liberalization and openness in the shipping industry.

For analyzing the impacts on the deregulation of cargo preference policy, time-series data including trade volumes by item, trade structures, changes in flag vessels, and so on is required. However, as addressed in the previous, collecting the required data listed above may not be feasible.

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