

ASEAN AND AUSTRALIAN SHIPPING POLICIES

KEITH TRACE
Senior Lecturer
Faculty of Economics and Politics
Monash University

ABSTRACT: *Australia and the ASEAN countries depend on seaborne trade as well as on shipping services provided by developed maritime nations. By the late 1960s both the ASEAN countries and Australia were asking whether the cost of this traditional pattern of shipping ownership outweighed the benefits. That questioning led to the growth of national fleets and the development of explicit national shipping policies. The study explores the new policy objectives and the means chosen to attain these objectives. We also focus on differences in the chosen means of attaining the objectives as between the ASEAN countries. In particular, the study documents the growth of cargo reservation, cabotage and fiscal devices to promote national merchant marines.*

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INTRODUCTION: A COMMON HERITAGE

The economies of the ASEAN countries and Australia alike depend on seaborne trade. Maritime transportation provides access to the markets of Europe, North America and Japan for the primary and semi-processed goods of both the ASEAN countries and Australia; vessels returning with the imports of manufactured goods essential to economic development. Around 80 per cent of ASEAN's external trade is reliant on maritime transport. In addition, a relatively high proportion of intra-ASEAN trade is transported by sea.⁽¹⁾ Having no land borders, Australia is even more dependent than ASEAN countries on the shipping industry. In Australia's international trade the modal split between sea and air overwhelmingly favours sea: over 96 per cent of Australian exports by value are consigned by sea, whilst in volume terms over 99 per cent is handled by ships.

Australia and the majority of ASEAN countries also share a common colonial heritage: a high degree of dependence on shipping services provided by developed maritime nations is surely a legacy of empire.⁽²⁾ For at least two centuries, the seaborne trade of the ASEAN countries and Australia has been dominated by vessels owned and operated by the traditional maritime countries of Western Europe and, more recently, Japan;⁽³⁾ a domination symbolised by the power of the region's shipping conferences. The comparative advantage enjoyed by the developed maritime countries - based on relatively plentiful capital, advanced technology, and on shipping expertise developed over a long period - enabled this domination to be maintained until the 1970s, indeed some would argue that the dominance remains today. Natural barriers to entry effectively thwarted the growth of indigenous shipping companies, at least in the deep-sea trades. Institutional barriers - especially the power of closed conferences to raise the cost of entry - also hampered the expansion of local fleets.

Regional liner services provide an important exception to this pattern of domination by overseas shipping interests. A substantial proportion of the Singapore owned and registered fleet consists of privately owned vessels engaged in regional liner services, owners having historically concentrated on the Indonesian and China trades. The departure of the Dutch, who had dominated Indonesia's seaborne trade, left a vacuum which was promptly occupied by Singaporean owners. During the 1960s and 1970s Singapore functioned as a transshipment port for Indonesia: ships leaving Belawan and Palembang for Singapore twice or three times weekly whilst Tanjung Priok had daily sailings (*Maritime Asia*, June 1983). These services are now threatened by the Indonesian government's attempts to develop its own ports as transshipment centres (q.v.). Links between

1. Judging from combined ASEAN foreign trade totals, 15 per cent of total trade was intra-ASEAN. In 1975, intra-ASEAN seaborne dry cargo amounted to 6.4 million tons.
2. Thailand is the one ASEAN country never occupied by a colonial power.
3. We are not concerned with the "traditional shipping" which historically carried so much of the inter-island trade.

Singaporean owners and the People's Republic of China also developed during the 1950s and the Chinese are reportedly maintaining their support for such services. Such regional shipping services are typically operated by older vessels, especially "tweendeckers" built in the late 1950s and 1960s. Regional companies concentrate on the Gulf and Indian Oceans, China and Hong Kong. Such middle sized companies are said to represent a genuinely "Singaporean" style of operating (Maritime Asia, June 1983).

During the 1950s and 1960s shipping did not rank high in the list of national priorities in either the ASEAN countries or Australia, with the result that traditional patterns of ownership and control changed relatively slowly. The Malaysian government, for example, did not grant shipping any substantial support in the early post-independence years. Instead, the development of inland transport facilities, particularly road, took precedence. Malaysia's "open-seas" policy meant the continued domination of overseas shipping by the developed maritime countries. Malaysia's coastal trade was similarly dominated by foreign shipping: the Shipping Ordinances of Peninsular Malaysia and Sabah and Sarawak, which were essentially devised during the colonial era, allowed foreign registered vessels to participate in Malaysia's coastal trade. Singapore's government also followed an "open-seas" policy designed to encourage efficient, competitive shipping services. The government, believing in the free play of market forces, followed a non-interventionist policy. Indonesian shipping policy was based on the pre-war Dutch Commercial Code: the 1936 Dutch Indies Shipping Law forming the basis of post-independence Indonesian shipping regulation.

Given this historical pattern of dependence as well as the relative lack of interest in the shipping industry shown by ASEAN governments in the 1950s and 1960s, it is hardly surprising that the ASEAN fleet remained very limited in size. As late as 1970 the combined ASEAN fleet totalled only slightly over 2 mill g.r.t. (3 mill dwt) and the ASEAN share of world shipping tonnage was a miniscule 0.94 per cent [Table 1]. The ASEAN fleet was overwhelmingly composed of conventional general cargo vessels and there were very few specialist vessels such as bulk carriers. It has been estimated that at the start of the 1970s ASEAN registered vessels had the capacity to handle around 13 per cent of the region's dry bulk cargoes and upwards of 24 per cent of semi-bulk cargoes (Chia & Lim, 1981). Actual cargo carried appears to have been significantly less than the available capacity.

TABLE 1

DEVELOPMENT AND COMPOSITION OF ASEAN FLEET, BY TYPE OF VESSEL, 1970-82
(all vessels of over 100 grt)

Type of Vessel	1970		1972		1974		1976		1978		1982	
	'000 grt	% of total	'000 grt	% of total	'000 grt	% of total	'000 grt	% of total	'000 grt	% of total	'000 grt	% of total
Tankers	324	15.1	407	15.2	1,057	21.3	3,196	39.0	3,719	34.1	4,062	30.2
Ore/Oil/Bulk Carriers	120	5.6	152	5.7	980	19.8	1,347	16.5	2,211	20.2	3,443	25.6
General Cargo (inc. fully cellular)	1,564	73.0	1,956	73.2	2,706	54.5	3,301	40.3	4,101	37.6	5,263	39.1
Others	136	6.3	157	5.9	217	4.4	341	4.2	884	8.1	692	5.1
ASEAN Total	2,144	100.0	2,672	100.0	4,960	100.0	8,185	100.0	10,915	100.0	13,460	100.0
World Total	227,490		268,340		311,323		372,000		406,002		424,742	
ASEAN Share (%)	0.94		1.00		1.58		2.20		2.69		3.2	

Source: 1970-78 from Chia Lim Sien and Teresa Lim, *Shipping Development in ASEAN: Problems and Prospects*, in Chia Lim Sien and Colin MacAndrews (eds.), *Southeast Asian Seas: Frontiers for Development* (Singapore: McGraw Hill, 1981).
1982 from Lloyd's Register, *Statistical Tables*, 1982.

THE 1970s: QUESTIONING THE TRADITIONAL PATTERN

By the late 1960s the ASEAN countries were individually and collectively asking whether the costs of the traditional pattern of shipping ownership and control outweighed its benefits. They were not of course alone in doing so and it would be mistaken to assume that their reasons for questioning the value of the shipping services provided by developed maritime countries were to be found solely within the shipping sector. Rather it seems more realistic to regard the criticism as stemming primarily from the broad questioning of the role of the developing countries in the world economy. In this connection one should stress Malaysia's drive to win thirty per cent of the economic assets of the country for the Bumiputra (sons of the soil) and the Indonesian concept of "Nusantara" which considers the waters surrounding the island an integral part of the country and hence places great importance on shipping. The attempts of the developing countries to create a new international economic order included as one small part of the total support for the rights of the cargo generator, that is the right to carry the cargo generated as a result of a country's foreign trade in ships belonging to that country.

It was perhaps the effects of the violent swings in both commodity and shipping markets in the 1970s that intensified the struggle to achieve the new economic order in shipping. Certainly the 1970s was a decade of violently changing fortunes in the bulk trades. The decade began with the 1970-71 recession, mild in comparison with that experienced later yet sufficiently deep to increase the tonnage laid-up and give rise to a sharp fall in time and voyage charter rates. Then the strong upswing of major economies in 1972-73, associated with excessive monetary expansion as well as with hedging and speculation in commodity markets, led to a rapid growth of seaborne cargo. By early 1973 tonnage laid-up had dropped to less than 1 per cent of the world fleet, the excess demand leading to an unprecedented boom in freight rates.

Instead of the gradual easing of demand pressures forecast for late 1973 and early 1974, the October war and ensuing oil crisis produced a sudden, dramatic reversal of trend in both the tanker and dry bulk market. Time charter rates collapsed in 1974 and 1975. By 1977 rates had returned to levels comparable in money terms with those of the mid 1960s. When due allowance is made for inflation, rates were clearly at "poverty" levels in the late 1970s.

In the liner trades too the 1970s was a decade of instability. Although liner conferences ultimately proved capable of weathering the storms they came under heavy criticism for the frequency and size of the freight rate increases "imposed" on trades. Faced with more vocal shipper bodies and by the late 1970s with more serious "outsider" competition than at any time since the 1930s conference lines undoubtedly felt themselves under very great pressure.

One of the earliest manifestations of the new ASEAN nationalism was the creation of national shipping lines. In Singapore, the government set up its national shipping line, Neptune Orient Line (NOL), in December 1968. Malaysia also established its national shipping line - the Malaysian International Shipping Corporation (MISC) - in the same year. According to the Malaysian Ministry of Transport, MISC was set up with the primary aim

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of minimising the nation's dependence on foreign shipping although it was also intended as a hedge against "the arbitrary freight rate increases imposed by the cartel liner conferences". Indonesia already had its state-owned line, P.N. Djakarta Lloyd, which had been founded as early as 1950. By comparison, the Philippines and Thailand were slow to establish national lines. The Philippines, whose fleet had stagnated in the early 1970s, formed the Philippine International Shipping Corporation (PISC) in 1976. PISC's ships have been chartered out to private shipping companies. Thailand's ocean-going fleet has not grown as rapidly as those of its ASEAN partners. The country's national shipping line, the United Thai Shipping Corporation (Unithai), a joint venture of the state-owned Thai Maritime Navigation, Jutha Maritime Enterprise, and Thai International Maritime Enterprise, was formed in 1977 (Chia & Lim, 1981).

ASEAN bloc shipping tonnage grew rapidly during the 1970s. At the beginning of the decade, the combined ASEAN fleet amounted to only 3 mill. dwt. By 1980, the fleet had grown to almost 19 mill. dwt [Table 2]. This rapid growth owed much to the Singapore fleet which under the twin influence of Singapore's "open registry" and the rapid development of NOL, increased from 0.8 mill. dwt in 1971 to 12 mill. in 1980. Malaysian and Indonesian tonnage also increased substantially, whilst the Philippine fleet grew rapidly in the latter part of the decade. Only the Thai fleet remained relatively small and poorly equipped at the end of the 1970s.

In three ASEAN countries, national lines were at the forefront of growth. MISC expanded very rapidly in the early 1970s. Although the expansion slowed late in the decade the line owned 33 vessels (1.2 mill. dwt) in 1981. For all practical purposes, MISC was Malaysia's only overseas shipping line. By the early 1980s, NOL owned 31 vessels, totalling more than 1.1 mill. dwt. Both lines had chosen to expand through the purchase of new tonnage. The Philippine National Lines, established by Presidential Decree No. 900 in March 1976, heralded a renewed growth of Philippine flag fleet. With the exception of vessels owned by national shipping lines, a high proportion of the ASEAN fleet - especially those vessels engaged in coastal and regional trading - were old and small. We should also note that cross-traders remained active throughout the 1970s. More recently, there have been signs that the importance of cross-traders may be declining; the recent takeover of Straits Shipping (formerly owned by UK interests) by Singapore's Keppel Shipyard may prove a watershed in this process.

Although the new shipping lines aimed to capture a significant share of export and import cargoes they did not in practice challenge the institutional structure of the shipping industry. In particular, most of the major ASEAN lines including MISC and NOL chose to join shipping conferences rather than compete as outsiders.

This new nationalism in the maritime policies of the ASEAN countries led however to governmental support for a revised framework of international agreements, most notably UNCTAD's Code of Conduct for Liner Conferences (see below), as well as to legislation and policy initiatives within the individual ASEAN countries. At its most extreme the aim was to reserve as large a share as possible of foreign trade for ships flying the national flag. Under direct or indirect state influence, the policy of apportioning the volume of cargo between flags according to set formulae

became widespread in the 1970s and early 1980s, and has led to a degree of fragmentation in freight markets. The ASEAN countries however differed widely in the extent to which they were influenced by the new nationalism. Singapore and to a lesser extent Malaysia remained committed to outward-looking "open seas" policies. At the other extreme Philippines and Indonesia have adopted policies aimed at fleet development and cargo reservation, while Thailand is proceeding cautiously, the formulation of shipping policies having been hampered by frequent changes in government.

By the late 1970s the developing countries were much more vocal in their criticism of the institutional features of the shipping industry than they had been in the late 1960s. UNCTAD's Code of Conduct threatened the traditional maritime countries' dominance of the liner trades, there was criticism of vertically integrated companies operating in the bulk trades and above all there was growing criticism of flags of convenience. It is against this background that we look at current ASEAN and Australian shipping policies.

TABLE 2

FLEET GROWTH: ASEAN COUNTRIES AND AUSTRALIA, 1971-83
(^{'000} dwt)

Year	Indonesia	Malaysia	Phillipines	Singapore	Thailand	Total ASEAN	Australia
1971	727	92	1,338	771	115	3,043	1,451
1972	718	181	1,312	1,191	144	3,546	1,566
1973	792	255	1,312	3,020	276	5,655	1,531
1974	929	463	1,017	4,396	268	7,073	1,577
1975	1,058	497	1,211	6,215	277	9,258	1,621
1976	1,310	629	1,419	9,139	291	12,788	1,681
1977	1,463	815	1,640	11,352	402	15,672	1,910
1978	1,644	811	1,778	12,398	505	17,136	2,230
1979	1,699	909	2,380	12,924	535	18,447	2,404
1980	1,864	1,012	2,910	12,548	577	18,911	2,408
1981	2,446	1,210	4,034	11,547	607	19,844	2,648
1982	2,633	1,634	4,405	12,195	650	21,517	2,825
1983	2,802	2,075	4,719	12,028	868	22,492	3,014

Source: Lloyd's Register of Shipping, Statistical Tables.

TABLE 3

NATIONAL FLEETS OF AUSTRALIA AND THE ASEAN COUNTRIES AS AT 30 JUNE 1982
(all vessels of over 100 grt)

	Oil, LPG, Chemical & Other Tankers		Bulk Ore/Oil Carriers		Ore & Bulk Carriers		Fully Cellular Container Vessels		General Cargo Carriers ⁽¹⁾		Vehicle Carriers		Other		Total	
	No	'000 grt	No	'000 grt	No	'000 grt	No	'000 grt	No	'000 grt	No	'000 grt	No	'000 grt	No	'000 grt
Australia	20	392	-	-	30	980	3	93	45	245	-	-	460	165	558	1,875
<u>ASEAN</u>																
Indonesia	141	331	-	-	12	219	2	31	648	1,016	2	2	514	247	1,319	1,846
Malaysia	46	368	1	81	14	315	6	117	151	268	1	1	110	45	329	1,195
Philippines	81	611	5	243	43	718	1	3	328	935	4	38	420	226	882	2,774
Singapore	152	2,604	4	148	78	1,719	39	553	354	1,988	5	42	217	129	849	7,183
Thailand	68	148	-	-	-	-	2	7	86	262	-	-	41	45	197	442
Total ASEAN	488	4,062	10	472	147	2,971	50	711	1,567	4,469	12	83	1,302	692	3,576	13,460

Notes: 1. General Cargo Carriers includes ro-ro vessels.

Source: Lloyd's Register of Shipping, Statistical Tables, 1982.

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THE 1980s: NEW OBJECTIVES

Two diametrically opposed philosophies of shipping compete in the 1980s. Within the OECD countries, shipping is generally regarded as one of the sectors of the economy in which services will be provided by private shipowners of varying flags on the basis of comparative advantage. Government's role is that of referee, ensuring that the rules of the game are observed and a competitive balance maintained. The centrally planned economies, on the other hand, subordinate shipping to broader economic aims. Vessels may be employed on overseas trade routes with the primary aim of earning foreign currency rather than profits, a practice that has led to accusations of "unfair competition" by western shipowners, and bilateral cargo sharing agreements may be concluded to ensure return cargoes for vessels carrying foreign aid. "Least cost" rather than "profitability" becomes the operational criteria (Humphrey, 1982).

The developing countries cover the spectrum between these two extremes. National shipping policies vary widely between nations, not least in the ASEAN bloc. However there appear to be five strands common to the shipping policies of many developing countries, including ASEAN nations:

- the need to exercise some control over the cost and competitiveness of imports and exports has led some governments to play a role in freight rate determination. An alternative policy has been to increase the supply of ships through fleet expansion schemes and the setting up of national shipping lines with direct government assistance;
- employment creation has been of particular importance to Indonesia and the Philippines and was one of the reasons for opening the Singapore register to foreign shipowners;
- balance of payments considerations have been seen as a justification for national shipping lines;
- in turn the desire to help national shipping lines, either private or state owned, has led to discriminatory provisions in favour of national flag shipping;
- the attitude, more emotional than economic, that the cargo generator is entitled to transport his own cargo, regardless of his ability to compete commercially, has given rise to the concept of bilateral cargo sharing and to discrimination against foreign flag shipping.

At one extreme among the ASEAN countries is Singapore, with its emphasis on open competition and free trade. Although the Singapore government has modified its "open registry" facilities,⁽⁴⁾ it has continued

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4. There is no requirement that companies registered in Singapore be Singapore-owned. The only requirement for these companies is that management should operate out of Singapore. See below.

to pursue an "open-seas" or "hands-off" shipping policy. Indeed there have been very few policy pronouncements regarding shipping: shipping policy must be inferred by reference to a general economic policy which favours free enterprise and minimal government interference (Chia & Lim, 1981). In contrast to policies adopted in other ASEAN countries, the Singapore government does not directly participate in or give aid to such local shipping organisations as the Singapore National Shippers' Council or the Singapore Shipping Association (SSA).⁵⁾ A partial exception to this general rule is the Trade Department (now Trade Promotion Board) of the Ministry of Trade and Industry which has a Freight Studies unit that monitors freight rates and formulates strategies on trade-related shipping matters. A further exception to the general rule of non-intervention is found in the monopoly powers granted to the Port of Singapore. In so far as the Singapore Government intervenes it is through NOL. NOL plays a key role in the Singapore National Shipowners' Association (SNSA). Members of SSA are also members of SNSA.

At the other extreme, at least on the ASEAN scale of protection, is the Philippines with its emphasis on the rights of the cargo generator, government support for bilateral shipping agreements and financial incentives for Philippine flag operators. Since the early 1970s the Philippine government has pursued an active shipping policy designed to develop national flag shipping. The Maritime Industry Authority (MARINA) was established by Presidential Decree No. 474 of 1974 "to accelerate the integrated development of the maritime industry of the Philippines". MARINA is specifically charged with the responsibility of enhancing the competitive power of Philippine flag vessels engaged in foreign trade. It is also required to pursue policies designed to strengthen the balance of payments position by minimising the outflow of foreign exchange, increase US dollar earnings, and generate new job opportunities. Overseas shipping is listed as a preferred area of investment under the Investment Priorities Plan of the Board of Investments, a status which entitles Philippine shipowners to various financial incentives (see below).

The Philippines government has also taken a stronger stand in respect of cargo reservation than is the norm in the ASEAN countries. Government controlled cargo is required to be shipped in Philippine flag vessels and any person granted a loan or credit by the government, or whose obligation is guaranteed by the government, is required to use Philippine flag vessels. Non-government cargoes are expected to be shared according to UNCTAD criteria (see below).

5. We should note that Singapore has a shipping agreement with Indonesia governing the ownership of ships operating between the two countries. The agreement is now however on a government to government basis but is between the Singapore Shipping Association and the Indonesian National Shipowners' Association. The Singapore Shipping Association is a private group consisting for the most part of shipowners trading with Indonesia. Many members are non-Singaporeans.

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Indonesia too has pursued a policy of merchant marine development and has actively intervened in shipping markets. The Indonesian government requires that all foreign liner vessels calling at Indonesian ports be registered with a designated shipping agency. Such agencies are required to provide the government with full details of services operated by their clients, including name and type of vessel, ports of call and cargo volumes. Foreign flag vessels require a permit to engage in Indonesian foreign trade.⁶⁾ Such permits are issued for limited time periods, one year in the case of liner shipping. Tramps engaged in the log trade can only obtain a permit valid for six months while tramps carrying other cargoes are given a permit for only three months.

In another recent policy move, the Indonesian government has ruled that shipping companies chartering vessels to handle seasonal cargo overflows or specific project cargo must first look for Indonesian ships. Only after a cumbersome process of making sure no appropriate Indonesian vessels are available at the right time - and convincing the Indonesian authorities of this - can shipping companies get clearance to hire foreign-flag vessels.

Thailand is amongst the most recent of the ASEAN converts to the doctrine that a strong merchant marine conveys substantial economic and social benefits. The very small proportion of the country's seaborne trade handled by Thai vessels, less than 4 per cent by volume of Thai seaborne trade being shipped in Thai flag vessels in the mid 1970s, led directly to legislation designed to strengthen the Thai shipping industry. The Merchant Marine Act of 1978 had the twin objective of fostering the development of a national fleet and ensuring the maintenance of an efficient mercantile marine. The Act created a Merchant Marine Promotion Committee charged with the implementation of national shipping policy. A Shipping Development Fund was created and long term loans at concessional rates of interest made available (see below). The Merchant Marine Act also included general powers to reserve Thai cargoes to Thai vessels. Cargo reservation, subject to waiver, applies to exports and imports under the control of government departments and agencies and of shippers benefitting from state loans or state contracts, in this respect Thailand is essentially pursuing a parallel policy to Indonesia and the Philippines. In addition to such administrative controls the law empowers the Government to attract Thai export and import cargoes by the offer of fiscal inducement in the form of tax relief on the equivalent of one-half of the shipper's freight bill. We should note that the expansion the Thai fleet has in practice been hampered by non-availability of finance, partly because of

6. But note that companies already in operation in 1980 were automatically granted a permit.

the rapid changes of government. The Fifth Plan however envisages a relatively rapid expansion of the Thai fleet.

Recent changes in Malaysian shipping policy appear to have been strongly influenced by balance of payments considerations. During the 1960s and early 1970s a healthy balance of merchandise account was sufficient to offset a net outflow on services, including shipping. However by the late 1970s the deficit on invisibles became of greater concern for two reasons. First, it was forecast that reduced prices of key export commodities such as rubber, tin, timber and palm oil would give rise to a deficit in the trade balance amounting to M\$1.27 billion in 1981, compared to a surplus of M\$4.6 billion in 1980 (Treasury Economic Report, 1981-82). Second, the magnitude of the deficits on service account, which had risen to M\$2.3 billion in 1980, had become unacceptable, politically and economically. In October 1980 the Prime Minister announced the formation of a Committee on Invisibles, charged with co-ordinating the drive towards greater self-sufficiency in invisibles and the development of a long-term strategy of import substitution. The new strategy called for the partial replacement of foreign by domestic shipping. It was fortunate that MISC's record in the seventies suggested that "given the proper backing, both financial and managerial, Malaysian owned vessels could contribute actively and positively" to the balance of payments.

The primary policy objective of the Malaysian government is to make Malaysia a maritime nation (Malaysian Ministry of Transport, 1982). The Ministry of Transport sees this primary objective as involving

- (i) a reduction in the country's dependence on foreign ships by increasing the level of participation of Malaysians in international and coastal shipping;
- (ii) entering into shipping commitments through bilateral, regional and other trade agreements;
- (iii) the training and development of Malaysians in the technical, professional and commercial aspects of shipping, involving especially the Malaysianization of vessel crews and support for higher educational institutions;

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7. The Fifth Plan's Targets (1982-86) for the Development of the Thai Merchant Marine include:
- a. expanding the volume of exports and imports transported by Thai vessels at an annual rate of 15%. The proportion of international trade carried in Thai vessels is planned to rise from 5% to 10%;
 - b. inception of a merchant marine training centre;
 - c. development of Sattahip as a deep sea port. Completion of construction of deep sea ports at Songkhla and Phuket;
 - d. expansion of the state owned fleet;
 - e. development of shipping routes as yet having no Thai vessels, especially the American and Australian trades;
 - f. encouragement of investment in ship repair facilities.

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- (iv) the development of other sectors of the maritime industry such as shipbuilding and repairing and shipping insurance.

(Malaysian Ministry of Transport, 1982)

The administration of shipping policy in Malaysia is divided between several Ministries and Departments, a fact that perhaps explains the failure to formulate a comprehensive and integrated approach. The development of the shipping sector is nominally the responsibility of the Ministry of Transport, which has recently created a specialist Maritime Division. The Ministry's power and responsibilities are however limited. First, MISC no longer comes under the Ministry of Transport but under the Prime Minister's Department. Second, issues related to freight and shipper's problems are the responsibility of the Freight Study Unit of the Ministry of Trade. Third, the technical enforcement agency empowered to implement the Merchant Shipping Ordinance of 1952 is the Marine Department. Malaysia and Singapore appear to be the only ASEAN members without a separate agency responsible for the broad shipping area: the Directorate of Sea Communications is responsible for Indonesian shipping policy; the Maritime Industry Authority (MARINA) in the Philippines; and the Mercantile Marine Promotions Commission in Thailand. Reviewing the present administration of shipping in Malaysia, the Maritime Division of the Ministry of Transport concluded that "whilst the Ministry plays a co-ordinating and policy-making role and the Marine Department an enforcement role, no particular agency is actively concerned with the development of shipping as such". Nor is there a single body formulating Singapore's shipping policy, although the newly formed Trade Promotions Board may in time fulfil that role. Several agencies currently play a role in policy formulation including the Port of Singapore Authority (PSA), the Marine Department (previously under the Ministry of Transport and Communications but now under the aegis of PSA), and the National Maritime Board which is primarily concerned with the training and welfare of seamen.

Australian shipping policy has historically been dominated by a concern with the benefits and costs of shipping conference. As early as 1930 the Australia to Europe Conference was granted exemption from the anti-monopoly provisions of the Australian Industries Preservation Acts, being allowed to close its ranks in return for its agreement to work closely with shipper groups in an effort to "rationalise" the trade.

The shipping provisions of the Trade Practices Act, introduced in 1966 and subsequently amended in 1971 and 1974, give all outward⁽⁸⁾ conferences the right to close their membership and use dual-rate contracts, subject to the safeguard that they undertake to negotiate with designated shipper groups and have due regard to the "adequacy, economy and

8. Unlike United States shipping policy, Australian policy has always accepted that Government powers in relation to inwards shipping are limited: conference offices are overseas, contracts are frequently entered into by overseas shippers and foreign governments take an active interest in their outward trade.

efficiency" of their services. The shipping provisions of the 1966 Act undoubtedly reflect the Australian Government's view that closed conferences operating rationalised services are in the nation's best interest.

Conference agreements in outward trades are registered under the Trade Practices Act. Such agreements may be examined by the Government and the Trade Practices Tribunal, and the Governor-General may disapprove, and hence deregister, an agreement.

The main provisions of Part X of the Trade Practices Act recognise the importance of the shipping industry for Australian overseas trade and implicitly accord conferences a key role by exempting shipowners in outward trades from complying with Australian restrictive trade practices legislation. Thus, the outstanding feature of the existing Part X of the Trade Practices Act is that it provides for a general exception to the whole of the Act's other provisions for persons engaged in overseas cargo shipping. Part X substitutes for the general Trade Practices legislation a regime of disclosure of restrictive agreements and surveillance and control by the Minister.

As we have seen, the liner shipping policy of the Australian government has been based on the belief that the nation's interest is best served if liner services are provided by closed conferences. The Government expects the monopoly powers thereby conferred on shipowners to be countered by the bargaining power of government-backed shipper groups. Australia's agricultural products are marketed by a host of statutory boards - such as the Australian Wool Corporation and the Australian Meat and Live-Stock Corporation - which, in varying degrees, regulate or perform marketing functions. Exporters of those mineral ores and metals transported by liner have formed the Metals and Minerals Shippers Association of Australia (MAMSAAL) to safeguard their interests whilst manufacturers are represented by the Australian Manufacturers Export Council.

These and other major shipper groups have combined to form the Australian Shippers' Council (ASC). Under Part X of the Trade Practices Act shipping conferences are required to negotiate with a shipper body designated by the Minister. The ASC, formed in 1972, is the shipper body currently charged with the task of representing the diverse interests of shippers. Concerned exclusively with outwards liner shipping (i.e. with Australian exports), the ASC has a membership composed of 25 national exporter bodies. On a day-to-day basis ASC operates through area sub-committees responsible for bargaining with the relevant conferences. The South East Asia Sub-Committee, for example, is responsible for bargaining with shipping lines linking Australia with Singapore, Malaysia, Indonesia and Thailand. The Sub-Committee thus negotiates with three Conferences: Australia-Singapore and West Malaysia Outwards Shipping Conference; Australia-Indonesia Outward Shipping Conferences; and the Australia-Thailand Outward Shipping Conference (see Australian SP01).

Australia's major political parties have historically differed in their attitude towards the Australian shipping industry. The Australian Labor Party has traditionally favoured an expansion of the Australian flag fleet. Under the Whitlam Labor Government (1972-75) the Australian

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National Line (ANL) was viewed as a "pacesetter", being encouraged to expand both its overseas bulk and liner services. The present Hawke Government is also committed to an expansion of Australian flag shipping.

In contrast, the Liberal Party, and Liberal-National Party coalition governments, have typically adopted a cautious policy towards Australian flag shipping. Their attitude is exemplified by the former Minister for Transport, the Hon. Peter Nixon, in an address to the Australian Chamber of Shipping

The Government would, of course, like to see more Australian participation in the overseas trade where it is financially feasible to do so. The Government expects the use of Australian ships on overseas trades to be on an internationally commercial basis and in this respect we see a clear distinction between coastal shipping services and international shipping.

However, the coalition's attitude to the shipping industry appeared to change in 1980. A new Minister for Transport, the Hon. Ralph J. Hunt, clearly favoured a more positive attitude towards Australian flag shipping:

The Australian industry must secure a substantial place in overseas shipping. This must not be done in any superficial fashion by either union action of simply passing on the costs to Australian consumers, producers or taxpayers. The industry must achieve its place in overseas services by providing reliable services at competitive freight rates ... Australian flag carriers should be transporting a substantial share of Australian trade in the future at internationally competitive freight rates.

In May 1980, following the discussions with maritime industry representatives, Minister Hunt announced the setting up of the Crawford Committee charged with examining ways of "revitalising" the Australian shipping industry.

Crawford's Report, Revitalisation of Australia's Shipping: An Overview, was accepted by the Government in 1982. The Government is now committed to making the following financial incentives available to Australian shipowners:

- (i) allowing new vessels to be depreciated over a five year period at 20 per cent per annum, with depreciation to commence in the year prior to commissioning provided that the equivalent sum has been spent on the ship;
- (ii) abolishing the 2 per cent duty on imported ships;
- (iii) extending the investment allowance to all Australian ships regardless of their geographical pattern of operation;

KEITH TRACE

- (iv) extending the financial benefits to existing ships less than five years old providing that a reduced manning scale is agreed and introduced.

The Crawford proposals were accepted by all political parties. Under the Hawke Labor Government we are therefore likely to see a modest expansion of the Australian flag fleet.

ASEAN AND AUSTRALIAN SHIPPING POLICIES

ACHIEVING THE NEW OBJECTIVES: SHIPPING POLICY IN THE 1980s

Cabotage

Cabotage, the reservation of coastal trades for domestic flag vessels, is in force in both Australia and the ASEAN countries. In the ASEAN countries, in particular, the coastal trades are seen as a training ground for both shipowners and crews. For example, Malaysia introduced its Cabotage Law in January 1980 as one plank of a policy aimed at increasing Malaysian participation in the shipping industry. All vessels engaged in the coastal trades, including those trading between Peninsular Malaysia and Sabah and Sarawak, are required to be licensed by the Domestic Shipping Licensing Board (DSLBS). The DSLBS at present grants three types of licences:

- (i) unconditional (permanent) licences are granted to Malaysian-owned and registered vessels with a 100 per cent Malaysian crew;
- (ii) conditional (provisional) licences are granted to vessels which have met some but not all the conditions;
- (iii) temporary licences are granted to foreign operators where there is inadequate capacity in coastal trades.

The long term aim is the restriction of the carriage of coastal trade to Malaysian vessels.

Indonesia, the Philippines and Thailand have also adopted cabotage policies. In Indonesia, inter-island shipping is of major importance, occupying the bulk of the Indonesian-flag merchant fleet. The government owned Indonesian National Shipping Company (PELNI) operates an inter-island fleet accounting for more than half of Indonesia's flag tonnage. Most recently, the Indonesian government has been concerned at the "leakage" of coastal trade as a result of transshipment at Singapore; the Minister of Sea Communications ruling that transshipment of goods for Indonesia must be in Indonesian-owned ships using Indonesian transshipment ports. The Minister has also foreshadowed the use of Indonesian coastal vessels for transshipment from Bangkok and Kompongson (Cambodia). In short, Indonesia would appear to be attempting to extend its cabotage policy to inter-regional trade. The Philippines too has reserved its coastal and inter-island trade for its own shipowners. Distance from Hong Kong makes transshipment less of a problem and Marina's main concern is to upgrade the quality of the coastal fleet.

Under Section 51(1) of the Australian Constitution the Commonwealth Government has the power to legislate in respect of trade and commerce with other countries and among the States. These powers are extended to navigation and shipping in Section 98. Under the Navigation Act, which came into operation in 1921, the Commonwealth Government used these powers to regulate coastal shipping, reserving the coastal trades for ships on the Australian register or ships conforming to Australian conditions of pay, manning levels and accommodation. Since few foreign vessels meet these standards the effect is to reserve the coastal trades for Australian flag vessels. It is however recognised that there may be times when no licensed

vessel is available or when Australian flag vessels are unsuitable for a particular trade. In such circumstances the Act provides that unlicensed vessels be permitted to carry cargo under a single voyage permit. Whereas the number of single voyage permits declined through the 1970s, more recently the number of permits issued has increased. This increase reflects primarily the growth in carriage of liquid petroleum gas (LPG) prior to the commissioning of an Australian flag carrier (Stubbs, 1982).

Establishment of National Shipping Registers

Whilst the establishment of a national register of ships clearly has a symbolic importance, marking the end of the colonial era and of reliance on shipping services provided by the metropolitan power, a national register may also provide a convenient administrative device for encouraging the growth of a domestically owned shipping industry. More specifically, the granting of various types of fiscal incentive may be made conditional on local registration.

The earliest ASEAN initiative regarding shipping registration came from the government of Singapore which in August 1966 passed the Merchant Shipping (Amendment) Act setting up a local register. Under the Act, Singapore registry was limited to vessels owned by Singapore citizens or companies. However, in the late 1960s the Singapore government, concerned at the high level of unemployment, opened the register to foreign nationals. Registration fees and tonnage taxes were set at modest levels, partial exemptions from tonnage taxes being granted to vessels employing Singaporean crew members, and profits were not taxed. These incentives proved highly successful and the Singapore fleet size increased dramatically in the 1970s [Table 2]. By the 1970s unemployment was no longer a problem in Singapore whilst Third World criticism of countries offering open registry facilities was increasing. Subsequently, the government decided to phase out its open registry and upgrade the quality of the Singapore fleet by exercising more stringent controls over shipowners. In 1981 the government introduced the Merchant Shipping (Amendment) Act which limits registration to vessels owned by citizens, permanent residents, and companies incorporated in Singapore. These regulations led to a decline in the Singapore fleet between mid-1980 and 1981 of nearly 800,000 grt, although fleet growth resumed in 1982 [see Table 2].

Malaysia and the Philippines have also encouraged the growth of their domestic shipping industries by making local registration attractive. Under the Merchant Shipping (Amendment and Extension) Act of 1977 all Malaysian-owned vessels automatically qualify for the Malaysian register. Vessels jointly owned by Malaysian and overseas interests may also be registered providing:

- (i) the principal place of business of the corporation is in Malaysia;
- (ii) the majority shareholding, including the voting share, of the corporation is held by Malaysian citizens free from any trust or obligation in favour of a non-Malaysian; and

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- (iii) at least three-fifths of the total number of directors of the corporation are Malaysian citizens.

The procedure for registration and the levy imposed have been set so as to attract shipowners.

In considering the possibility of opening its register to foreign operators provided that a substantial proportion of Philippine nationals are used on board, the Philippines government has emphasised employment creation.

Australia is a very recent addition to the list of nations with their own registry. The Shipping Registration Act (1981) became operative in January 1982. Prior to the Act, ships registered in Australia were listed as British ships under the United Kingdom Merchant Shipping Act 1894. The new Act creates a genuinely Australian Shipping Register. In future every Australian-owned commercial vessel over 12 metres in length, other than Government ships, fishing vessels and pleasure craft, will be required to be listed in the Australian register.

The Act requires an Australian registered ship to be owned by an Australian national or by a number of Australian nationals or in the case of being owned by a company (or companies) the predominant share must be owned by Australian nationals. Foreign-owned ships demise chartered to Australian interests may be registered. No vessel which is registered elsewhere in the world may be registered in Australia. We should note that the new Australian legislation is more restrictive in its terms of ownership than the British legislation it replaces. The new Australian registry is hardly designed as a flag of convenience! The recent Crawford inquiry into the Revitalisation of Australian Shipping adopted the criteria of inclusion on the Australian register to determine the eligibility of owners to receive the financial benefits recommended.

Financial Incentives

Both the ASEAN countries and Australia have recently extended the range of financial incentives available to their domestic shipowners. In so doing their policies are in accord with those of many shipowning and would be shipowning countries.

Among the most common forms of financial assistance given to ASEAN shipowners are loans for the purchase of vessels [Table 4 and Appendix A]. Malaysia, the Philippines, Singapore and Thailand each provide loans at concessional rates of interest. In Malaysia, public sector shipowners not only receive loans from the government at concessional rates of interest but also enjoy government guarantees on private sector loans. In contrast, private sector owners have historically faced difficulties in funding ship purchase. With only three private banks interested in advancing funds for ship purchase private sector finance was severely limited. Recognising the problem Malaysian entrepreneurs faced in obtaining funds, the government established the Industrial Development Bank (IDB) in August 1979. The IDB provides loans at concessional rates of interest to shipowners, shipbuilders and ship-repairers, allocating M\$220 million to the maritime sector in its first year of operation. The tying of IDB loans to local ship construction was however an early source of grievance, shipowners

arguing that the high cost of construction in Malaysia compare to, say, Japan, largely negated the benefit of the concessional rate of interest. The IDB now offers ship financing for both local and foreign purchases.

The Singapore government initiated its Ship Financing Scheme, operated through the Development Bank of Singapore, in 1971. This scheme, offering owners low interest rate loans, was designed to help shipowners wishing to build or undertake major conversions in Singapore shipyards. Loans of up to 85 per cent of the contract value, repayable over a maximum of ten years were only provided for locally registered companies. By 1980, the Development Bank of Singapore had loans some \$1.2 billion. The line of credit was increased in 1981 but the scheme has since been abandoned.

In the Philippines, overseas shipping is listed as a preferred area of investment under the Investment Priorities Plan of the Board of Investment. The Philippines Overseas Shipping Act of 1955 provides government-financed, low interest loans for the purchase of vessels, whilst Presidential Decree No. 214 of 1973 encouraged local banks and financial institutions to grant mortgage loans to shipowners. Under Article 16(2) of Thailand's Merchant Marine Act of 1978 long-term loans at concessional rates of interest were to be made available from a revolving fund. But in practice requests for low interest finance have been turned down by the Ministry of Finance (Maritime Asia, August 1983) and Thai shipowners have been forced to pay 14.5 per cent per year as funds from the Industrial Finance Corporation of Thailand or 18 per cent from commercial banks. Thai shipping finance is clearly expensive relative to that available to other owners in the regions or in OECD countries.

A second major form of assistance to ASEAN shipowners is that given via the tax system. Malaysia, the Philippines and Thailand grant their shipping companies significant tax relief. Additionally tax advantages may accrue to shippers using domestic flag carriers and to the crew manning vessels engaged in foreign trade.

In the 1982 Malaysian budget income tax relief was granted to all Malaysian shipping companies for a period of 24 years commencing from the year of assessment 1982 or the date of incorporation, whichever is later. Such tax relief is subject to two conditions:

- (a) the companies can declare tax free dividends of up to 15 per cent of their paid-up capital provided that the balance of the profit after the payment of the dividend is credited to a fleet acquisition reserve;
- (b) the companies are required to spend 75 per cent of this fleet acquisition reserve on the purchase of ships on the following basis:
 - (i) during the first twelve years, full tax exemption will be given if the 75 per cent condition is achieved at the end of every four years of operation, failing which the companies are allowed to satisfy the 75 per cent condition at the end of the twelfth year.

Country	Operating Subsidy	Loan Guarantee Interest Subsidies	Taxation Measures				Modernisation Grants or Credits	Cargo Reservation		Other	Assistance to Shipbuilder	Exemption from Customs Duty
			Accelerated Depreciation	Investment Allowance	Deferment of Tax on Sale Proceeds	Other		Foreign Trade	Coastal			
<u>ASEAN</u>												
Indonesia						*		*	*			
Malaysia		*		*		*			*			*
Philippines		*				*	*	*	*		*	*
Singapore		*				*						
Thailand						*		*	*			
Australia	*		*	*					*		*	*
<u>Selected OECD</u>												
Germany		*	*		*	*	*		*		*	
Japan	*	*	*				*			*		
U.K.	*	*	*	*		*				*	*	
U.S.A.	*	*	*		*	*		*	*	*	*	

See Appendix A for more detailed comments on individual items.

Source: U.S. Department of Commerce, Maritime Subsidy, 1978.
supplemented by more recent published and unpublished sources.

- (ii) during the next twelve years, companies will be examined every four years to ensure both that they are complying with the 75 per cent rule and that dividends are limited to 15 per cent. If these conditions are fulfilled companies will be granted tax exemption in respect of 50 per cent of their chargeable income.

In the Philippines the Overseas Shipping Act grants any citizen or corporation with at least 60 per cent Philippine equity which is engaged in overseas shipping exemption from the payment of income tax on all income earned prior to September 1985. There is a caveat that there shall be a 10 per cent deduction from net income for distribution to shareholders and the Act also stipulates that funds built up in this way shall not be withdrawn from the shipping industry for a period of 30 years or until after the vessels and equipment so acquired shall be fully paid for (Republic Act No. 1407, Sec. 2 [1955]).

Under the Thai Merchant Marine Promotion Act of 1978, Article 16(2) a shipping company operating Thai flag vessels is allowed to deduct for tax purposes up to 50 per cent of its freight revenue.

Malaysia also grants tax exemption for ships' crews. Under the 1981 budget, trained seamen serving on Malaysian registered vessels operating in international waters were exempt from paying tax.

Manpower and Training

The expansion of domestic shipping naturally calls for a significant increase in the numbers of both shipboard and shore-based personnel, not to mention the need to enhance skills. Manpower development policies therefore operate in most ASEAN countries. The nature of these policies may be illustrated by referring to those of Malaysia and the Philippines.

Malaysia has experienced a serious shortage of trained manpower, especially seagoing personnel. To overcome these shortages, the government has set up a Maritime Training Centre in Malacca which will eventually train all levels of seagoing personnel. In the immediate future, however, Malacca will be unable to train sufficient seamen and steps have therefore been taken to develop courses in regional training centres. Simultaneously, courses in marine engineering are being developed by Ungku Omar Polytechnic in Ipoh. To ensure common standards across training institutions, the government has established a Malaysian Marine Examinations Board.

The Philippines is already a major supplier of seamen to the world's fleet, although Filipino seamen are not especially noted for the level of their skills. The Philippines has some 35,000 seafarers crewing flag of convenience vessels and the industry is the country's sixth largest foreign currency earner. MARINA and the Philippine National Seamen's Board are currently attempting, through a programme of maritime training, to lift the quality of Filipino seamen. MARINA has also foreshadowed a considerable increase in demand for Filipino seamen by the Philippine fleet.

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The acceptance by the Australian government of the Crawford proposals for revitalisation of the Australian shipping industry has long-run man-power implications. Crawford insisted that the granting of financial incentives be tied to a reduction in manning levels, but argued that reductions in manning levels would have to be accompanied by the introduction of training programmes designed to equip officers and ratings with the skills needed to handle automated vessels and ensure interchangeability between crew categories. Crawford also argued that the age profile of the existing seagoing labour force, 25 per cent of whom were over 50, meant that the shipping industry would require a substantial recruitment and training programme simply to maintain its existing size let alone expand by the 2,000 or so seagoing jobs envisaged over the next decade if his proposals were adopted. Crawford recommended that the Australian Maritime College at Launceston (Tasmania) be used as the core institution for a training programme for both officers and ratings.

THE INTERNATIONAL REGULATION OF SHIPPING: UNCTAD, 40:40:20 AND CARGO RESERVATION

The significant changes in the political structure of the shipping industry which took place in the 1970s and the early 1980s would appear to foreshadow further dramatic shifts in patterns of ownership and control in the mid and late 1980s. We live in an era of substantially increasing government intervention in shipping. The principle of state intervention in shipping is not new, but the global scale on which it is currently being attempted is. The aspirations of developing countries, coupled with delays in implementing the United Nations Code of Conduct, has led many countries to adopt measures aimed at protecting and promoting national fleets and domestic shipper interests.

The most prevalent of these measures has been cargo reservation. the spread of cargo reservation has been the concept of the rights of the cargo generator: the philosophy that countries that produce or consume a commodity are, by that fact alone, entitled to a significant or even exclusive share of the carriage of that commodity. Whilst cargo reservation may take many forms it is convenient for our purposes to distinguish between multilateral, bilateral and unilateral policies.

The attitude towards cargo reservation varies widely in ASEAN countries. Singapore is "non-codist", pursuing an open-seas policy. Malaysia has acceded to the UNCTAD Code of Conduct but has not sought to develop its shipping industry through unilateral or bilateral shipping treaties. Thailand too has acceded to the Code, but remains wary of the implications. Whilst reservation would clearly assist Thai shipowners, the Merchant Marine Promotions Commission (MMPC) has stated that it will not impose total reservation. Chairat Chaimankong, director of MMPC's Sea Transport Economics Division has argued

We must think of the welfare of our people ... and comprehensive cargo reservation would make them suffer. There would not be enough competition, no free market, and freight rates would rise.

(Maritime Asia, August 1983)

In contrast, the Philippines and Indonesia have not only accepted the UNCTAD Code but have implemented bilateral and unilateral cargo sharing policies in certain trades.

The best known of the multilateral cargo sharing schemes is UNCTAD's Convention on a Code of Conduct for Liner Conferences; the first attempt at international regulation of the conference system. The Code, which was

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accepted in principle in 1974, was declared to have "come into force" in October 1973.⁽⁹⁾ Wijkman has argued that the Code has three basic aims:

1. To increase the developing countries' (LDC's) share in world shipping tonnage to a more "equitable" level as part of the New International Order.
2. To increase the LDC's share of income generated by world liner shipping and, in particular, to redistribute monopoly profits where they exist from rich to poor countries.
3. To improve the LDC's balance of payments through substituting domestic production of shipping services for imports.

(Wijkman, 1980, p.4).

The Code proposes to achieve these aims in two ways. First, by reserving cargo for national flag shipping lines (public and/or private sector); a provision that is commonly, if somewhat inaccurately, referred to as the 40:40:20 formula. The Code does not in fact require a 40:40:20 cargo split, although the intention is clearly to increase the share of the liner trades held by flag carriers of the LDC's as their fleets acquire tonnage. The result will be the displacement of cross-traders and a reduction in the trade shares currently held by the major shipowning nations. Second, the aim is to regulate by having shippers and/or governments represented in new institutional arrangements for rate formation. The Code's basic concerns are thus with the relations between member lines within a conference (Chapters II and VI) and relations between conferences and their customers (Chapters III and IV).

We should note that many developing countries, including some ASEAN members, have signalled their intention of applying the principle of the rights of the cargo generator not only to the cargo carried by members of liner conferences but to all general cargo and even to the bulk trades. The question of its adoption in the bulk trades surfaced at UNCTAD V in Manila in 1979 when developing countries sought acceptance of the principle that regular bulk cargo movements between a pair of exporting and importing countries should be transported on an equitable basis by vessels of the respective trading countries (i.e. bilateralism). The acceptance of the arguments developed in Manila would open the way for cargo reservation in the bulk trades. Whilst we appear to be some years away from the formal adoption of a Code of Conduct in the bulk trades, the 1980s will surely see an intensification of pressure for the de facto reservation of cargo by the governments of developing countries.

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9. The UNCTAD Convention on a Code of Conduct for Liner Conferences came into force on 6 October 1983 following ratification by the German Federal Republic and accession by the Netherlands. Although 58 countries are now contracting parties to the Code, the significance of the German and Dutch moves is that they enable the proportion of world liner tonnage to span the 25 per cent threshold.

Amongst other multilateral agreements providing for cargo sharing are the Latin American Free Trade Association (LAFTA) Agreement which reserves intra-region sea trade for its members; the European Community's "Brussels Package"; shipping agreements of COMECON (Council of Mutual Economic Assistance) involving the Communist nations of Eastern Europe. The ASEAN countries have also recently raised the possibility of introducing a common shipping regime (see below).

With the exception of Singapore all ASEAN countries either have adopted or intend to adopt the UNCTAD Code of Conduct. Malaysia has signalled its intention of adopting the Code (Ministry of Transport, May 1982). The Philippines ratified the Code of Conduct in January 1982, implementing the provision through a presidential decree. Thailand and Indonesia are already implementing policies based on the Code.

To date Australia's attitude to the UNCTAD Code of Conduct is best characterised as that of a trading rather than a shipowning nation. The Australian government has not considered that the Code offers adequate protection to shippers in their dealings with conferences. Moreover it has considered acceptance of the Code would involve cargo sharing on a national basis without adequate safeguards for efficiency, and would also set up a dispute conciliation apparatus that would probably be costly, time consuming and ultimately ineffectual.

The Australian Government, in common with the governments of New Zealand and Canada, has also expressed its concern with the common European Community approach to the Code that may be adopted as the basis of OECD accession. The European Community's approach involved disapplying the Code's cargo-sharing arrangements and setting aside the decision-making dominance of national flag lines, removing restrictions on the timing of freight rate increases and dispensing with the Code's international conciliation procedures in trade among OECD members.

Against this background of difficulties with the Code, the former Liberal-National Party Coalition Government decided not to accede at this stage, preferring to keep in place the existing national legislative framework which gives it the power to act on behalf of shippers should the need arise. It is likely that the recently elected Hawke Labor Government will take a second look at Australian policy: the former Whitlam Labor Government (1972-75) supported the Code and the present Minister for Transport apparently favours its introduction.

Bilateral shipping agreements are normally signed between two governments, often as a clause in a bilateral trade agreement. The carriage of all or part of the cargo is typically reserved for ships owned by the participating government and/or for vessels registered in the two countries. Humphrey has argued that bilateral shipping agreements follow logically from the sale of commodities on a government-to-government basis (OECD Observer, May 1982). Where, as in the Eastern European countries, the governments concerned view shipping as an adjunct to trade, the transport of cargo will almost inevitably be undertaken by vessels owned by enterprises of the importing and exporting nations. In almost all shipping agreements between state trading and developing countries, a 50/50 cargo-sharing arrangement has been incorporated as it has in the, as yet, more limited trades between developing countries. Haji has argued that the

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logic behind the bilateral agreements is that "balanced trade and rationalised bilateral shipping arrangements can be an efficient way of organising a country's overseas trade transportation" (Haji, 1976).

Several ASEAN countries are known to participate in bilateral agreements. The Indonesian National Shipowners' Association (INSA) has bilateral agreements regarding the transport of logs with trade groups in Japan, Taiwan and South Korea. Bilateral agreements are also in force in the general cargo (liner) trades between Indonesia and both Taiwan and Singapore. In the case of the Singapore trade, INSA has an agreement with the Singapore Shipowners' Association, the Singapore government having chosen not to intervene in what appears to be a breach of its "open-seas" policy. Indonesia and Malaysia have also concluded a bilateral shipping agreement, although it is yet to be implemented. It is understood that talks have been held between INSA and the Malaysian Shipowners' Association regarding implementation.

The Australian government has viewed the development of bilateralism with "some misgivings" (Department of Transport, 1981). In the government's view such arrangements introduce a series of barriers to the movement of international shipping which could adversely effect the efficiency of services. Moreover, for many countries - including Australia - the bilateral movement of cargo in both bulk and liner trades is seriously unbalanced. Cargo movements on a bilateral rather than a multilateral basis would therefore result in more voyaging in ballast with a resulting loss in efficiency. It is also recognised that Australia's role as a major exporter of agricultural commodities and minerals requires that freight rates be kept to a minimum. In view of these factors the Australian government has sided with the Maritime Transport Committee of the OECD in opposing cargo reservations in bulk trades. Australia has continued to argue in favour of commercially determined shipping services and against the reservation of cargoes to national flag carriers.

Where Australia has been approached to enter bilateral agreements it has indicated a preference for an exchange of letters that establish a basis for consultation between governments at each end of the trade on matters affecting their common interest. A number of such exchanges have reportedly taken place (Department of Transport, 1981).

The concept of unilateral cargo reservation relates to measures being introduced without the consent of the state at the other end of the trade. In the last two decades many countries have introduced unilateral cargo sharing decrees aimed at diverting cargo from foreign to national flag vessels, often in cases in which the national fleet is uncompetitive. Most unilateral decrees place cargo under direct legislative control and many include waivers. Unilateral cargo reservation policies may be of varying strictness: a common stance is to reserve 100 per cent of government or semi-government and 50 per cent of other cargo for domestic vessels.

Several ASEAN countries have pursued unilateral cargo sharing policies. The Philippines and Indonesia appear to have travelled furthest down the path. In 1981, Philippine Presidential Decree No. 1466 required all government cargo, including that generated by government-owned or controlled corporations for which freight was paid by the government, to be

carried by Philippine flag vessels. Moreover all local shippers who had been granted a loan or credit by government, or whose obligations had been guaranteed by government, were also required to ship their cargo in Philippine flag vessels. This policy effectively raised the "non-tariff barrier" protecting the local shipping industry at a time when trade barriers generally were being reduced. However, as enforcement of these stringent provisions created difficulties they were subsequently relaxed; shippers receiving incentives and/or concessions from government are now exempt from the obligation to ship in Philippine flag vessels. The Philippine Shippers' Council is also authorised to waive the obligation in the event of non-availability of suitable Philippine flag tonnage.

The Indonesian government has also decreed that exports and imports under its control shall be carried by Indonesian flag shipping. A 1982 Presidential decree laid down that exports and imports belonging to the government, including imports financed by the state budget and trade generated by state-run commercial operations, must be carried by domestically owned shipping. Since state-run companies dominate the export trade in primary products and budget-financed projects account for some of the largest import flows the decree is of great significance to foreign shipowners. The decree also lays down that if space on Indonesian flag vessels is inadequate, shipment may be switched to "other vessels chartered by Indonesian shipping companies" (as quoted Far Eastern Economic Review, 28 May 1982). This presumably means that vessels chartered by Indonesians have priority over foreign-owned and operated vessels.

In another recent policy move, the Indonesian Government has ruled that shipping companies chartering vessels to handle seasonal cargo overflows or specific project cargo must first look for Indonesian ships. Only after a cumbersome process of making sure that no appropriate Indonesian vessels are available at the right time - and convincing the Indonesian authorities of this - can shipping companies obtain clearance to hire foreign flag vessels.

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THE DEVELOPMENT OF ASEAN BLOC SHIPPING POLICIES

Attempts to develop an integrated shipping policy for the ASEAN bloc began in the late 1960s. To date the story is one of limited but growing co-operation between countries hitherto following disparate maritime policies. Whilst political and bureaucratic schemes for cooperation have already borne some fruit, the problems of reconciling substantial differences in national shipping policies together with difficulties stemming from the nature of the sea transport task in the ASEAN bloc have so far prevented the full implementation of schemes for regional co-operation.

As Tee has noted, there has been a tendency for ASEAN governments to provide a relatively strong guiding hand in shipping matters (Tee, 1977). Certainly a range of governmental and quasi-governmental bodies have been set up to oversee the development of ASEAN shipping policy. The earliest of these, the ASEAN Permanent Committee on Shipping (PCS), was set up in 1968 by the ASEAN Ministerial Conference. One of the main functions of PCS, which met annually, was that of identifying common problem areas in shipping and recommending actions to be taken on a co-operative basis to overcome these disabilities. The PCS directly or indirectly led to the formation of the Federation of ASEAN Shipowners' Associations, the Federation of ASEAN Shippers' Councils and the ASEAN Port Authorities' Association.

The ASEAN Committee on Trade and Communications (COTAC) is the body currently charged with implementing the policy of ASEAN governments "... to attain greater efficiency and economy in the carriage of ASEAN trade by promoting and strengthening ASEAN self-reliance and co-operation in shipping" (ASEAN Integrated Work Programme in Shipping, 1982). Reporting to COTAC are the ASEAN sub-committee on Shipping and Ports and the Joint Ad Hoc Working Group on Shipping, the latter including members of the Sub-Committee on Shipping and Ports as well as representatives of shippers, shipowners and port authorities. There is also a Co-ordinating Committee of Southeast Asian Senior Officials on Transport and Communications (SEATAC), including members from Indonesia, Malaysia, the Philippines and Thailand (Chia and Lim, 1981).

The Federation of ASEAN Shipowners' Associations (FASA) is said to be a "project based" organisation (Maritime Asia, September 1982). FASA has a number of projects underway, the most important of which relate to ship financing, a possible ASEAN P & I Club and crew training and manpower. FASA's interest in ship financing stems from the comparative inexperience of ASEAN bankers in marine finance and the consequent difficulty of raising commercial funds for ship finance. It should be noted that the ASEAN Integrated Work Programme in Shipping has singled out ship financing as a high priority area for research, the proposed study including an investigation of the possibility and practicability of an ASEAN Common Fund for shipping development. FASA has also given high priority to investigating the feasibility of an ASEAN Protection and Indemnity (P & I) Club. Few P & I organisations operate in the region and some regional lines have apparently found it difficult to obtain commercial cover (Maritime Asia, September 1982). FASA's third major project relates to the crew training and manpower, areas of special interest to the Philippines and Malaysia.

The Federation of ASEAN Shippers' Councils (FASC) first priority has been education. Formed in 1975 FASC is - like FASA - a confederation of national councils. Together with the national shipping line, the freight-study units and freight booking centres, FASC activities are designed to influence conference behaviour. FASC has attempted to raise the level of understanding of the economics of the shipping industry, encouraging shippers to develop their expertise and present more reasoned and plausible arguments. There in remains - in ASEAN as in Australia - a divergence in interest between shipper and shipping conference that is unlikely to be bridged.

Despite these and other efforts at regional co-operation, it is hard to quarrel with Chia and Lim's judgement that efforts towards that goal are still hampered by the lack of co-ordination of maritime policies between the ASEAN countries (Chia and Lim, 1981). Thus the Indonesian government's 1978 "tug-and-barge" law banning all Singapore tugs and barges from Indonesian waters protected its fleet at the expense of that of another ASEAN country. Similarly the Malaysian government's cabotage law, aimed at ensuring that all domestic trade is carried by Malaysian registered vessels, may indeed ensure that all trade between Peninsular Malaysia and East Malaysia is carried by Malaysian vessels but only at the expense of the economics of a joint ASEAN liner service.

The nature of the intra-ASEAN trade pattern may also create problems for joint ventures. Proposals to found intra-ASEAN liner service have reportedly fallen foul of geography and economics (*Maritime Asia*, September 1982). Although foreign lines have in general only lightly penetrated the intra-ASEAN trades (except in the case of Thai rice and Filipino cement) a recent assessment suggests that the flow of liner cargo is at present too light to support a viable two-way liner service between ASEAN countries. A joint ASEAN bulk pool is however reportedly more plausible.

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APPENDIX A

SUMMARY OF GOVERNMENT MEASURES TO ASSIST SHIPPING AND
SHIPBUILDING INDUSTRIES

1. Operating Subsidies:

- Indonesia: The government grants no subsidies to its maritime industries.
- Australia: Bass Strait passenger service = \$2.3 mill p.a. ANL's Darwin service = \$1.5 mill p.a.
- Japan: Inter-island services.
- U.K.: "Essential services" to Scottish Islands. \$U.S. 2 mill p.a.
- U.S.: Operating differential subsidy to give U.S. flag vessels parity with foreign flag competitors. c \$U.S. 300 mill+ p.a.

2. Loan Guarantees and/or Subsidised Interest:

- Indonesia: No guarantees.
- Malaysia: Industrial Development Bank (IDB) established 1979 to provide loans at concessional rates of interest. Bank allocated \$220 mill to maritime sector. Early insistence that loans should be used to finance locally built vessels. IDB loans now available for both local and foreign purchases.
- Philippines: The Philippine Overseas Shipping Act of 1955 provides government-financed, low interest loans for the purchase of vessels. Presidential Decree No. 214 (1973) encourages local banking and financial institutions to grant mortgage loans to Philippine flag vessels.
- Singapore: Ship financing scheme initiated 1971. Operated through Development Bank of Singapore. Loans available to local registered companies to a maximum of 85% of contract price, repayable over (max) 15 year period.
- Thailand: Under Article 16(2) of Merchant Marine Act of 1978 long term loans at concessional rates of interest available from revolving fund.
- Australia: No concessional loans available to Australian shipowners. No loan guarantees are offered except on borrowings by ANL.

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- Japan: Japanese crewed ocean-going container and LNG vessels may be 75% financed by Development Bank and commercial loans. D.B. loan for 10 years (3 yr holding) @ 2.55% p.a. interest. Other vessels attract 65% financing with subsidised interest rates of 3-3.5% p.a.
- U.K.: For domestic buildings, guarantees comparable to OECD terms.
- U.S.: Guarantees up to 87.5% for coastal and foreign-going vessels.

3. Taxation Incentives:

a. Accelerated Depreciation:

- Australia: Depreciation over 5 years at 20% p.a. Depreciation may commence in year prior to commissioning provided an equivalent amount has been spent on the vessel.
- Germany: Depreciation over 12 years. Depreciation of 40% allowed over years 1-5.
- Japan: Accelerated depreciation at 45% plus special depreciation of 20% in year 1.
- U.K.: Up to 100% in first year.
- U.S.: Choice of three methods.

b. Investment Allowance:

- Australia: 20% for use within Australia.
- U.K.: 20%.

c. Deferment of Tax on Proceeds from Sale of Vessels:

- Germany: 2 year deferment unless used for new construction or conversion.
- U.S.: Construction Reserve Fund provides tax deferment if proceeds used for construction, reconstruction or acquisition.

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d. Other:

- Malaysia: Under 1982 budget. Income tax relief granted to all Malaysian shipping companies for a period of 24 years commencing from 1982 or the date of incorporation, whichever is later. Two conditions:
- (a) dividends limited to 15%. Dividends tax exempt so far as shareholders are concerned.
 - (b) the companies are required to use at least 75% of their fleet acquisitions reserve for the purchase of ships on the following basis.
 - (i) for the first 12 years under this scheme, full exemption will be given if the 75% utilization condition is fulfilled at the end of every four years of operation, failing which they are allowed to satisfy the 75% condition at the end of the 12th year.
 - (ii) during the next 12 years, companies will be examined every 12 years for compliance to the 75% fleet acquisition condition and the dividend limit. If such conditions fulfilled, the companies will be allowed an abatement of 50% of chargeable income from tax.
- Trained seamen serving on Malaysian registered vessels operating in international waters exempt from income tax.
- Philippines: Ten years' tax exemption for income derived from shipping providing firm is engaged exclusively in overseas shipping and net profits are reinvested in the business. Ocean going tonnage exempt from corporation tax until 1985. Exporters can deduct 150% of overseas freight charges and Philippine port charges provided that they use Philippine flag vessels.
- Thailand: Under Merchant Marine Promotion Act of 1978, Article 16(2) a shipping company operating Thai flag vessels is allowed to deduct for tax purposes up to 50% of freight revenue.
- Germany: Shipping exempt from VAT. Lower tax rate on revenue from international operations.
- Japan: Tax credits on foreign earnings.
- U.K.: Shipping exempt from VAT.

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4. Modernisation Grants or Credits:

- Philippines: Development Bank loans for rehabilitating and replacing inter-island fleet vessels. Loans granted of up to 80% of assessed value of new vessel, 60% of value of 12 year old vessel, 40% of value of 12-16 year old vessel. Interest charged 12% p.a.
- Germany: Grant of up to 12.5% payable towards modernisation of German registered, foreign going vessels.
- Japan: Credit under "scrap-and-build" programme. 70% @ 8.9% over 7-12 years.

5. Cargo Reservation for National Flag:

- Indonesia: Coastal trade reserved. Indonesia has acceded to the UNCTAD Code. All state owned cargo to be shipped in domestic flag vessels. Bilateral agreement between the Indonesian Shipowners' Association and the Singapore Shipowners' Association. Bilateral agreement with Japan with regard to timber trade. Indonesian reserves 45% of European trade for its own vessels.
- Malaysia: Coastal trade reserved (1981). Malaysia has acceded to the UNCTAD Code. Expansion of national merchant marine to become Malaysian share. Bilateral agreement with Indonesia, yet to be implemented. Government agencies are currently required, via Treasury Circular 8/82, to use only MISC vessels. A waiver system applies.
- Philippines: Presidential Decree No. 894 of 1976 required that government cargo, cargo of government-controlled corporations, and cargo controlled by persons enjoying tax exemptions to be carried by Philippine flag vessels. P.D. No. 1466 of 1978 amends P.D. No. 894 by providing that only cargoes financed or guaranteed by the Govt. or its financial institutions have to be carried in Philippine flag vessels. The Philippines has acceded to the UNCTAD Code. Bilateral agreements in force. Coastal trade reserved.
- Singapore: Singapore Shipping Association and the Indonesian Shipowners' Association agreement relating to sharing of cargo on 50:50 basis.
- Thailand: Thailand has acceded to the UNCTAD Code. MMPC has however stated that Thai goal is not total reservation. Cargo control, subject to waiver, applies to exports and imports under the control of government.
- Australia: Coastal trade. Non codist.

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- Germany: Limited reservation of coastal trade. Bilateral agreement with Ivory Coast.
- U.S.: Coastal trade. Reservation of government and foreign aid cargoes. Bilateral agreements.

6. Other Benefits to Shipowners:

- Malaysia: No import duty on vessels. Vessels above 26 dwt exempted from surtax of 5%.
- Philippines: Importation of ocean-going vessels exempted from payment of 15% customs duty and 7% compensating tax. All dollar earnings of ocean going vessels available for spare-part purchases.
- Australia: 2% import duty on vessels abolished by recent acceptance of Crawford Committee proposals.
- Japan: Special loans to prevent bankruptcy e.g. Japan Line Ltd. Funds for shipping research.
- U.K.: Research grants. Moratorium on loan repayments to owners in financial difficulties.
- U.S.: Government acquisition of obsolete vessels.

7. Assistance Directed Primarily to Shipbuilding Industry:

- Philippines: Machinery, equipment, raw materials and spare parts for ship construction and repair are exempt from import duties and taxes.
- Australia: Construction bounty. Up to 25% of cost as from January 1981.
- Germany: Interest free loans to yards. Subsidy of up to 15% of contract price from January 1981.
- U.K.: Subsidy of up to 25% of contract price to enable yards to compete. Cost escalation insurance. Research grants.
- U.S.: Construction differential subsidy of up to 50% for vessels in foreign trade deemed suitable for military purposes. Approx \$U.S. 125 mill p.a.

S.E. ASIA - AUSTRALIA LINER SHIPPING SERVICES:
A COST BASED SIMULATION ANALYSIS

FRANK GALLAGHER
Senior Economist
Office of the Co-ordinator
General of Transport
Western Australia

STEVE MEYRICK
Transport Policy Adviser
Office of the Co-ordinator
General of Transport
Western Australia

ABSTRACT:

The authors believe the simulation model can be, if it appropriately mirrors cargo allocation decisions, a powerful tool for analysing economic behaviour in the complex world of containerised liner shipping. In this paper, they describe the development of such a model and how it has been used to analyse technical or cost efficiency of the system of liner shipping services linking Australia to South East Asia. The paper also illustrates how a cost based simulation model can provide quantitative evidence to support analyses of the various economic characteristics of liner shipping. Those economic characteristics subjected to analysis in this paper are: the extent of excess shipping capacity in the trades (the problem of overtonnaging); the impact of costs and delays on the Australian waterfront; the way the system responds to overall increases in ships' speed; and the costs of using Australian crewed ships.