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WORLD MARITIME UNIVERSITY

Malmö, Sweden

A PERSPECTIVE ON MARITIME POLICY DEVELOPMENT

IN THAILAND

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Benja Pukkamaan

THAILAND

A paper submitted to the Faculty of the World Maritime University in partial satisfaction of the requirements for the award of a

MASTER OF SCIENCE DEGREE

in

GENERAL MARITIME ADMINISTRATION

The contents of this paper reflect my personal views and are not necessarily endorsed by the University

Signature : *B. Pukkamaan*

Date : *7 Nov '86*

Supervised and assessed by : Professor DR. E. Gold

Co-assessed by : Professor A. OS

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If there will be any good result deriving from this project of mine, I strongly dedicate it to my grandmother who brought me up and tried to make me a good person. My utmost gratitude and love go to her.

Malmo, Sweden

Abbreviations

ASEAN	Association of Southeast Asian Nations
Baselines	The low-water line along the coast as marked on large-scale charts officially recognized by the coastal states
B.E.	Buddhist Era
CLS	Convention on the Law of the Sea
DWT	deadweight ton
EEC	European Economic Community
EEZ	Exclusive Economic Zone
ESCAP	Economic and Social Commission for Asia and the Pacific
FEFC	Far Eastern Freight Conference
ILO	International Labour Organization
IMO	International Maritime Organization
Innocent passage	Passage is innocent as long as it is not prejudicial to the peace, good order or security of the coastal state
km	kilometers
MoU	Memorandum of Understanding
NEB	National Environmental Board
NESDP	National Economic and Social Development Plan
nmi	nautical miles
OECD	Organization for Economic Cooperation and Development
PSC	Port State Control

Introduction

In Thailand water and rice are highly respected as if they are our mothers. They even bear the name "MAE" (literally mother) in Thai language. Aside from rice, water is essential to human life, we use water for drinking, washing ; moreover we use it as a means of transport.

Located in Southeast Asia, Thailand has two means of access to the sea, the South China Sea in the East, and the Andaman Sea in the West. We have used those two seas for trade, naval warfare and fishing since ancient times.

In this century, Southeast Asia has become a core of maritime activities with oil and gas in the continental shelves, fisheries production and trade, oil tankers and foreign navies using the seas as major transit routes. Most of the nations of the region are now engaged in an effort to identify and pursue their national interests which derive from the seas.

Thailand as one of the littoral countries of the two seas has to have a national management policy to pursue its national interests as far as the maritime jurisdictions and shipping are concerned.

This project describes the importance of the issues concerning maritime and shipping activities, and also

gives specific proposals for each of those issues for the Thai government's consideration in dealing with them.

The historical background of Thailand's maritime activities will be discussed in Chapter One. It is also important to learn about Thai legislation since it reflects the government's overall policy about the maritime industry. The administrative frameworks and legislation concerning shipping will be described in Chapter Two. Before having the policy laid down in each important matter, it is also necessary to study the problems of the use of the sea in Southeast Asia region. Chapter 3, section 3.1 will contain the study of those problems which derive from the pursuit of the national interests of the littoral countries, at the same time proposing what should be the policy of the Thai government toward the extension of maritime jurisdictions, disputation, management and protection and preservation of the marine matters.

Shipping problems and a proposal for a remedy of the situation will also be mentioned in 3.2 of Chapter 3. In 3.3 of the same chapter concentration on certain new maritime functions by the maritime administration in order to develop and improve maritime safety of the country will be recommended.

The conclusion in the use of the sea will emphasize the importance of ratifying the Convention on the Law of the Sea 1982, while the conclusion about shipping will emphasize the need to have a micro-policy within the Thai Maritime Navigation Company especially a policy on the

performance of good service.

This project will be completed with additional annexes ; those are the introduction of transport systems in Thailand and the map of the country and the capital.

It is realized by the author that maritime matters concern many related aspects. It is impossible for the author who has limited experience in this field to cover everything in this project. Those topics not discussed here will be left to other Thai students who will have a chance to evaluate them when they come to study in this Institute.

A PERSPECTIVE ON MARITIME POLICY DEVELOPMENT

IN THAILAND

CHAPTER 1

Introduction to Maritime Activities in Thailand

1. Historical Background

It has been recorded that the first Thai argosy called at Nagasaki, Japan in 1612, which was in the Ayutthaya Age, 374 years ago. (1) This was the same period when the Thai merchant marine went to trade with Persia (Iran). The argosy was manned by both foreign master and crew in order to facilitate the trade. The marine administration was organized by two groups of foreigners : the Chinese and a group consisting of Arabs, Indians, and Malays. These two routes, one to the East (Japan) and the other to the West (Persia), represent Thai merchant marine trade at that time.

After the evolution of the steamship, the Thai merchant fleet was composed of nine seagoing vessels which were German merchant ships confiscated by Thai government during World War I. Because of a lack of mercantile experience, disloyalty of Thai officers and subversion by the Japanese, the government could not operate the fleet any more and sold all the ships to Japanese shipping companies between 1919 and 1920.

In 1940 the Thai government realized the importance of having its own national fleet again because of the increasing need to transport cargo within the region. Thai Maritime Navigation Company Limited was found in the

same year. The company received government assistance to acquire its fleet. But during World War II all ships belonging to the company were confiscated when calling at Allied ports.(2) That was the cause of an interruption in the company's trade after operating only a couple of years.

After World War II, the center of trade had been effectively shifted to the Western Hemisphere, The United States became the focusing, operating, financial and decision-making center of world trade. (3) The U.S. Merchant Marine Act of 1936 was the first comprehensive formulation of merchant marine policy anywhere. In the United States the act reworked and improved subsidy programs and became a model for all later shipping legislation. (4) Having good relations with the U.S., the Thai government was influenced by the American subsidy system, the result being that the government decided to take a more supportive role in shipping by providing 99.99% subsidisy to the only government owned shipping company (The Thai Maritime Navigation Company Ltd.)

The government bought three cargo ships and one war surplus ship from the United States by government loan. The war surplus ship, was transfered to the Navy because the company could not afford refitting of the cargo ship. The other two were put on route between Bangkok and neighbouring countries. However, the company continued to suffer a loss due to its high debt and interest payments and to impediments pose by the strong shipping conferences at the same time.

Nevertheless, in 1964 the government provided the company two budget subsidies in order to help pay off its

debt and to acquire two new ships. The two ships of 5600 DWT each were delivered in 1965 and were put into service on the Bangkok - Hong Kong - Japan route.

In 1985, the company operated only three ships on two routes, Bangkok - Hong Kong - Taiwan - Japan and another route plying among Southeast Asia countries. The status of the company remained unchanged while the world faced overtonnage, and the Thai shipping company still struggled to survive. In the last decade's period of recession, the government could no longer provide the subsidy. Only the clear-cut policy, together with reduced operating costs can ensure the company's survival.

The Maritime Navigation Company is not the only shipping company operating in the country; there are a number of private companies which are in a competitive positions. A supportive maritime policy of the country will encourage those Thai shipping companies to be able to compete efficiently in the world trade.

2. Government Maritime Organization

Thailand is governed by a democratic system; the exercise of state power has been assigned by the Constitution to legislative, executive and judiciary bodies. The head of the country is the King, while the head of the government is the Prime Minister.

The Ministry of Communications is one of fifteen ministries under the Thai government system. It is responsible for facilitating all modes of transport together with the Post and Telegraph, the Meteorology and the Highway Department. (Figure 1)

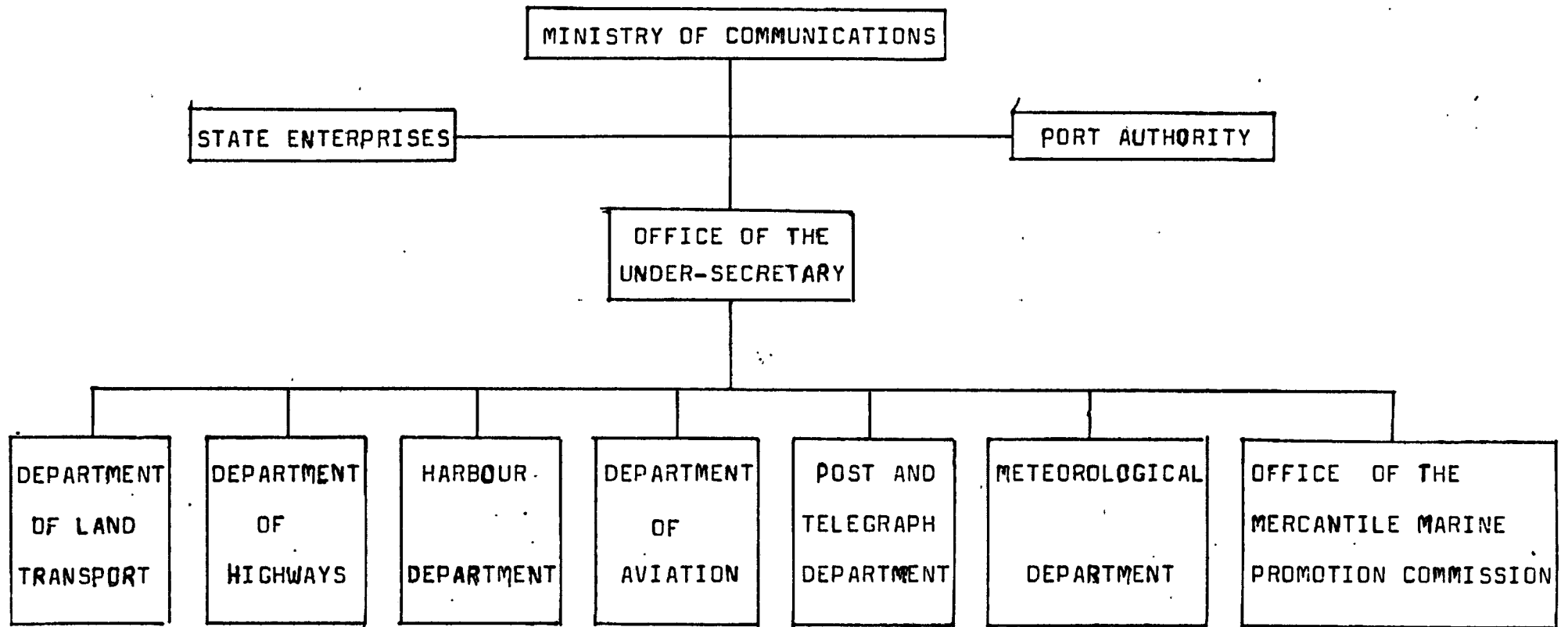


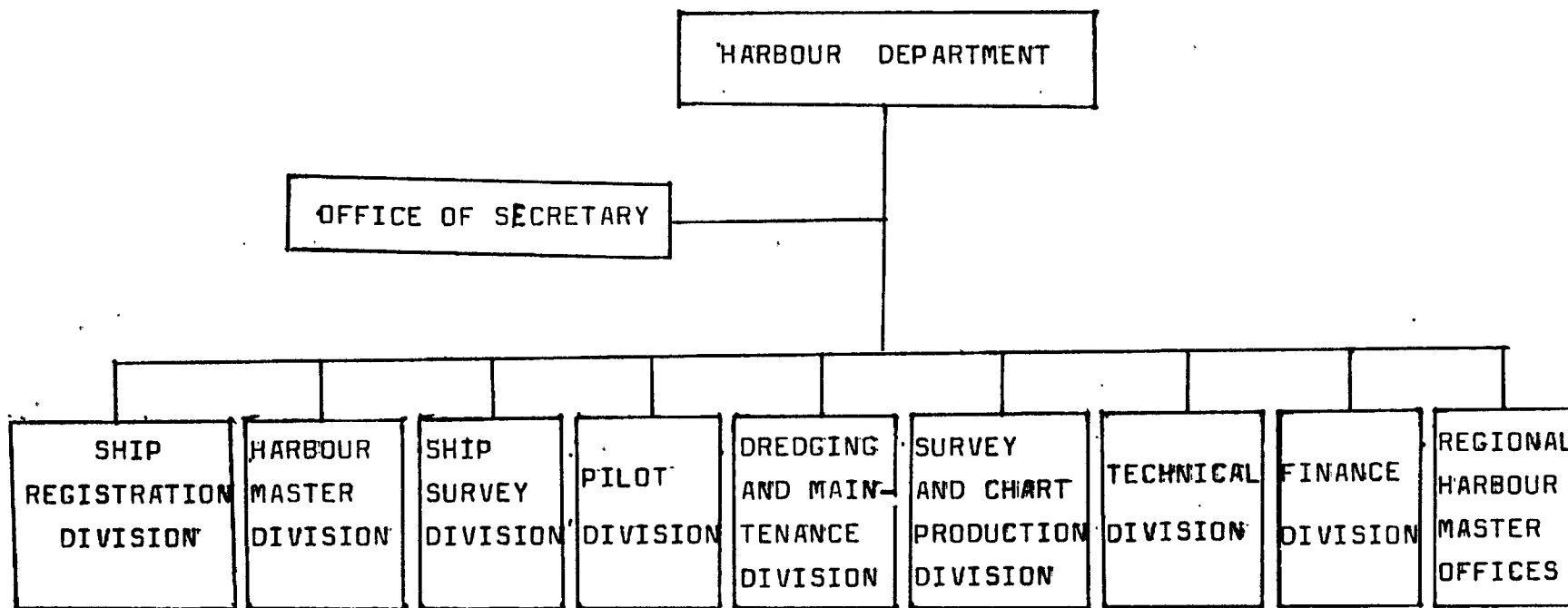
FIGURE 1

Development in the maritime field in Thailand can be categorized into two aspects, the commercial aspect and the safety aspect. The structure of the government organization indicates that the Office of the Mercantile Marine Promotion Commission is responsible for the development of the commercial aspect and the Harbour Department is responsible for the safety aspect.

2.1 The Harbour Department

The Harbour Department, considered as a maritime safety administration, is a government agency attached to the Ministry of Communications. The organization of the Harbour Department is illustrated in Figure 2. Its functions and responsibilities can be summarized as follows :

- (1) survey and registration of vessels,
- (2) marine traffic control and pilotage,
- (3) training and certification of mariners,
- (4) development of channels, waterways and marine transportation, and
- (5) chart survey and reproduction.



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FIGURE 2 .

2.2 The Office of the Mercantile Marine Promotion Commission

The Office of the Mercantile Marine Promotion Commission was established in 1978. According to the Mercantile Marine Promotion Act, B.E. 2521 (5), Section 14, the functions of this office are stipulated as follows:

"There shall be an Office of the Mercantile Marine Promotion Commission in the Ministry of Communications. It shall have the following duties:

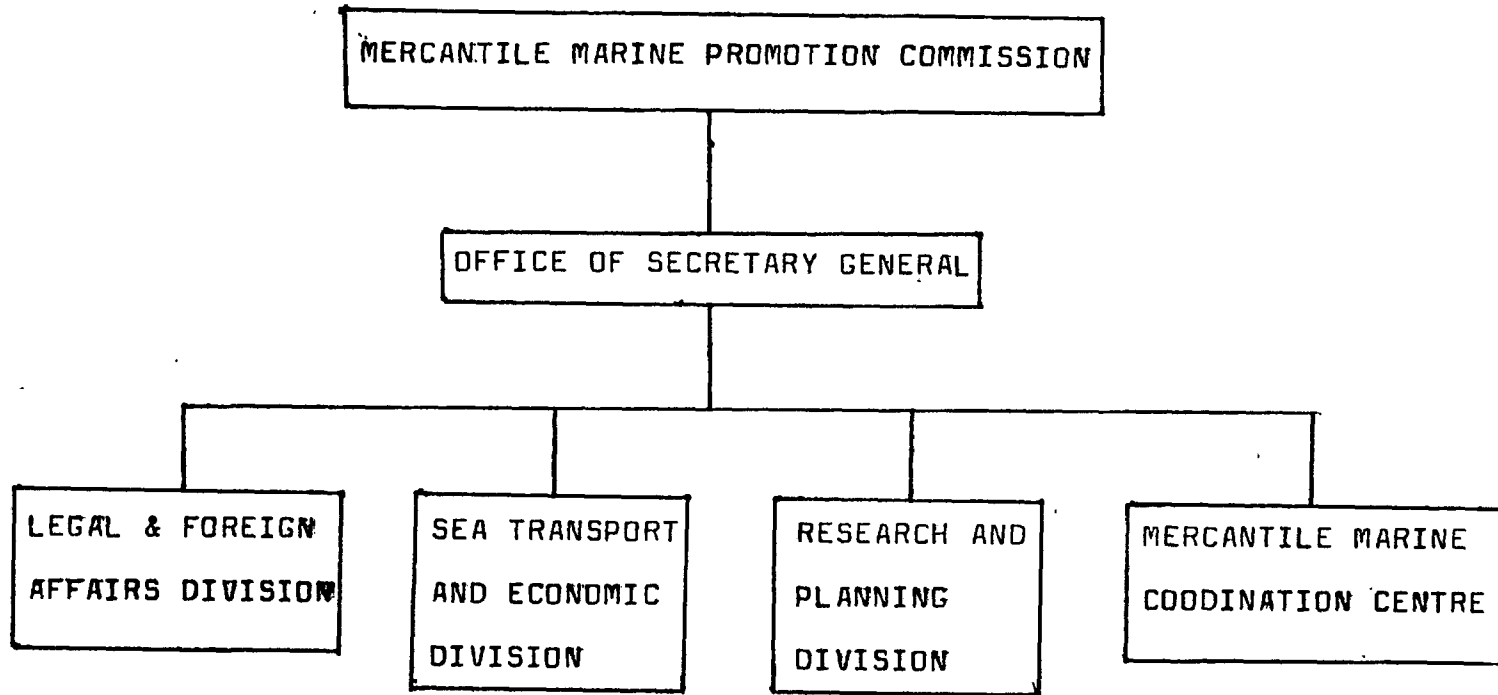
- (1) to act as a co-ordination centre of the merchant marine,
- (2) to study and assess projects, plans or measures relating to the mercantile marine so as to submit the results thereof to the commission,
- (3) to make a study and analyse, to co-ordinate the technical aspects of maritime transport, marine insurance matters, maritime navigation, telecommunications and navigational aids, shipyard and port business and to collect technical data for publications, including the exchange of information with other technical institutions,
- (4) to perform any duties assigned by the commission,
- (5) to carry out any other functions so as to fulfil the objectives of this act, or to perform other duties assigned to the office by this act or other laws." (6)

The aforementioned functions must be conducted under the direction of a commission called "the Mercantile Marine Promotion Commission". This commission is composed of :

- 1) the Minister of Communications as chairman
- 2) the Permanent Secretary for Communications
- 3) the Permanent Secretary for Commerce
- 4) the Permanent Secretary for Finance
- 5) the Permanent Secretary for Foreign Affairs
- 6) the Permanent Secretary for Industry
- 7) the Commander of the Royal Navy
- 8) the Secretary - General of the National Economics and Social Development Board
- 9) the Director Generals of the Departments of Foreign Trades of Local Administration and Customs
- 10) the President of the Board of Trade of Thailand
- 11) a number of qualified members (not more than four) appointed by the Cabinet from Thai nationals who are knowledgeable or are experienced in the field of mercantile marine economics, transport, law, foreign affairs, agriculture or industry.(7)

The organization chart of the Office of the Mercantile Marine Promotion Commission is illustrated in Figure 3.

The establishment of the Mercantile Marine Promotion Commission reflects the strong attitude of the Thai government in recognition of the importance of developing maritime affairs of the country. Although the office was formed recently, it has produced many important regulations including the drafting of the Carriage of Goods by Sea Act, which is now in the final stage of promulgation.



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FIGURE 3

- The important regulations and notifications are :
- Notification of the Ministry of Communications, Re. Specifying Shipping Routes Where Goods Ordered or Imported from Abroad are Required to be Carried by Thai Vessels,
 - Notification of the Ministry of Communications, Re. Practices Concerning Goods Ordered or Imported from Aboard Which are to be Carried by Thai Vessels,
 - Regulations of the Office of the Mercantile Marine Promotion Commission, Re. Rules and Procedures for Granting Permission to Government Units, Government Organizations, Government Agencies or State Enterprises Ordering or Importing Goods from Abroad to Ship Such Goods in Non-Thai Vessels,
 - Notification of the Ministry of Communications, Re. Rules on Application for Permission to Charter and Employ Non-Thai Vessels to Supplement Maritime Transport,
 - Notification of the Ministry of Communications , Re. Rule for Consideration in Granting Permission to a Maritime Transport Operator to Charter and Employ Non-Thai Vessels in Maritime Transport, and
 - Notification, Re. Entrusting the Power to Consider the Granting of Permission to a Maritime Transport Operator Owning Thai Vessels to Charter and Employ Non-Thai Vessels in Maritime Transport.

Notes

(1) Ayutthaya was the former capital of Thailand which was burnt down by Burmese in 1767, the Rattanakosin (Bangkok) was found fifteen years after.

(2) Thai Government declared war to the Allies during Japan troops exercised in Thai territory in WWII.

(3) E. Gold, "World Shipping in War and Peace" in-
Maritime Transport, D.C. Heath and Company, U.S.A.1981,

p.222

(4) Ibid p.195

(5) Published in the Government Gazette Vol.95, No. 143
Special Issue, Dated December 18, B.E. 2521 (1978)

(6) Ibid Section 14

(7) Ibid Section 5

(8) Act, Ministerial Regulations, Notifications and
Regulations Relating to Promotion of Mercantile Marine of
Thailand, Welfare Fund of Office of the Mercantile Marine
Promotion Commission, Bangkok 1981, p.19-75

.....

CHAPTER 2

The Examination of the Government's Former Policy

1. Maritime Policy in the Fourth and Fifth National Economic and Social Development Plans (Shipping and Environment)

1.1 The Fourth National Economic and Social Development Plans 1977-1981, (NECDP)

The fourth NECDP outlined the general strategies for developing international trade services as follows :

"(1) encouragement of the construction of a modern international commercial wharf, to facilitate transport services and other necessary elements,

(2) encouragement and promotion of investments for fleet expansion from the private sector, the opening new routes to other regions of the world for the Thai merchant marine fleet,

(3) development of ship building and ship repair yards,

(4) improvement of laws and regulations relating to merchant shipping especially those concerning crew manning, ship inspection and renewal of registration of ships." (1)

1.2 The Fifth National Economic and Social
Development Plan 1982 - 1986

The fifth NESDP outlined the general strategies for international sea trade and merchant marine activities reads as follows :

"(1) expansion of transport of imports and exports by Thai vessels to 15 percent per year, by estimating the increase of the portion of import and export cargo carried by the Thai shipping line, from 5% to 10% of the total regional cargo movement by sea,

(2) designing specifications and construction of the Merchant Marine Centre at the new site ; designing of specifications and building of a training ship for trainees,

(3) expansion and development of the Sattahip Commercial Port (S.C.P.) in the East, Songkla and Phuket Deep Sea Ports in the South,

(4) expansion and improvement of the State Enterprise Shipping Company,

(5) opening of new sea routes for the Thai fleet, especially with the United States and Australia,

(6) encouragement and promotion of the investment in ship repair yards to be able to handle the ship up to 20,000 DWT.

(7) education of on-shore personnel, both university and lower level, in shipping business and shipping economic, port management, ship engineering and naval architecture to meet the national shipping development plans." (2)

1.3 Environment protection strategy

Both the Fourth and Fifth NESDPs have the general strategies and measures for environment protection development. Especially in the Fifth NESDP, the strategies for improving the marine environment are directed to the environment protection in the upper part of the Gulf of Thailand. (3)

Both NESDPs' strategies are formed by the Board of National Economic and Social Development which is a government body. If one closely examines those strategies will find that they were written by the suitably qualified person who can easily identify what needs to be done. But to get things done requires a lot of supportive factors. First, the availability of financing must be considered. Second, the possibility and capability of national resources, including human resources, are important elements. Third, laws and regulations which are outdated need to be replaced by new ones. Finally, harmony between national and lower level policy is a must.

2. Legislative Framework

Every mode of transportation in Thailand is subject to some degree of regulation. Regulation may relate solely to safety matters or, may extend to economic issues, such as control over goods ordered or imported from abroad which are to be carried by Thai vessels.

Total jurisdiction over all modes of transportation rests with the central government. Thailand does not

have a Maritime Code or Shipping Act like other maritime countries. As far as merchant shipping is concern, Thailand has three Acts that apply ot it. Those are :

- The Navigation in Thai Water Act, B.E. 2456
- The Thai Vessels Act, B.E. 2481
- The Preventing Collision Act B.E. 2521

2.1 The Navigation in Thai Water Act, B.E. 2456

This Act was promulgated in 1913. It comprises 312 articles and is divided into three parts.

Part I - General Provision

Chapter 1 Limit of the Harbours etc

- " 2 Duties of Masters
- " 3 Anchorage
- " 4 Fairways
- " 5 Rafts, Floating Houses etc
- " 6 Miscellaneous

Part II - Provisions for the Licensing of Vessels

Chapter 1 General

- " 2 Survey
- " 3 Steam Vessels of Every Discription
- " 4 Sailing Vessels, Junks, ect.
- " 5 Cargo - boats and Boats

Part III - Special Provisions

Chapter 1 Vessels Carrying Dangerous Goods

- " 2 Petroleum in Bulk
- " 3 Anchoring Near to or Crossing
Electric Cables
- " 4 Light Dues
- " 5 Quarantine
- " 6 Proper Conduct and Guidance of Pilots

- Chapter 7 Employment and Discharging of Seamen;
Examination for Certificates
- " 8 Disciplinary Powers
- " 9 Penalties and Civil Liability
- " 10 General Provisions Regarding
Collisions

The act has been subsequently amended at various intervals but they were ad hoc amendments, not major changes.

There are many subsidiary legislations issued under this act but the significant ones are :

-Regulation on Ship Survey (1914)

-
- Part I - General Procedure of Survey
 - Survey of Hull and Equipment
 - Tonnage Measurement
 - Manning of ship

Part II - Survey of Engines and Boilers.

- Regulation on Certification of Competency to

Seafarers

It provides the qualification of applicants and curricula of all grades both deck and engineer fields.

2.2 Thai Vessels Act, B.E. 2481

This act was promulgated in 1938 and comprises nine chapters :

- Chapter 1 Registration of Thai Vessels
- " 2 Certificate of Registration for Thai
Vessels

Chapter 3 Transfer of Ownership of Registered Thai Vessels

- " 4 Mortgage and Preferential Rights Concerning Registered Thai Vessels
- " 5 Name of Vessel, Alteration of Vessel, Change of Port of Registration etc.
- " 6 Special Rights and Duties of Thai Vessels
- " 7 Miscellaneous
- " 8 Penalties
- " 9 Transitory Provisions

2.3 The Preventing Collision Act

Thailand is a contracting party to the Convention of the International Regulation for Preventing Collision at Sea, 1972. There are two Ministerial regulations issued under this act, namely :

- 1) Ministerial Regulation on Preventing Collision at Sea, and
- 2) Ministerial Regulation on Preventing Collision in Inland Waterways.

These two regulations are always amended to keep up with the amended convention.

The Thai Civil and Commercial Code 1928 states that carriage of goods by sea and marine insurances shall be enforced by maritime law. But until now, no such maritime law has ever been enacted. Legislation pertaining to other maritime matters has never existed either.

After the Office of Mercantile Marine Promotion Commission was formed, attempts were made to draft the absent maritime laws. A drafted act on the Carriage of Goods by Sea is under process. An attempt has also been made by the Harbour Department to draft an act concerning marine transport. This act shall only apply to transportation carried out within Thai Waters. This is not yet completed.

In 1983 the House of Representatives passed the Navigation in Thai Waters Act (Amendment) B.E. 2526. It came into force on the first of April 1983. The act empowers the Harbour Department to make Regulations on Ship Survey and the Regulation on Certification for Seafarers. These two regulations are being drafted by the Harbour Department. (4)

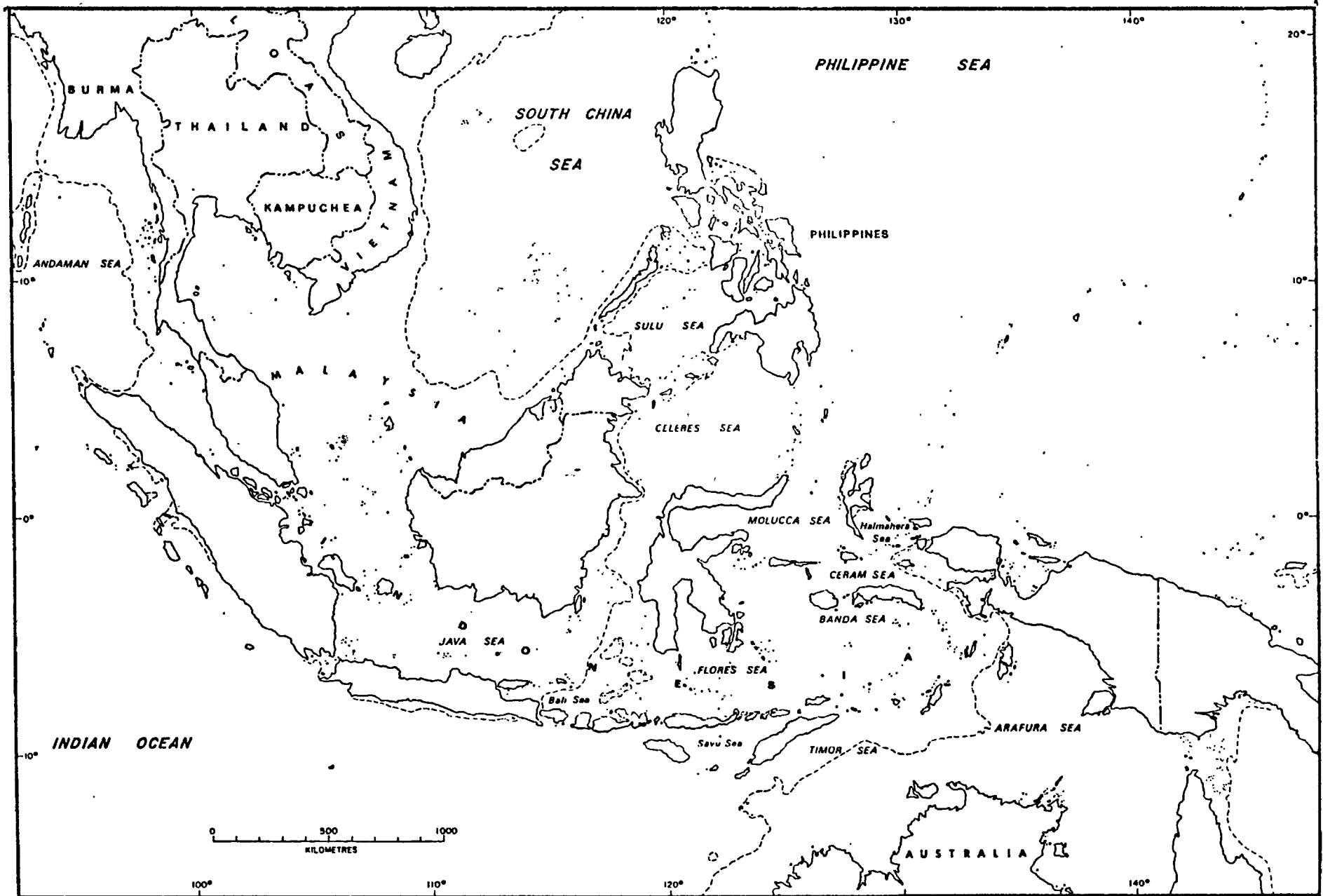
Notes

(1) Fourth National Economic and Social Development Plan, National Economic and Social Development Board, Bangkok 1977, p. 265

(2) Fifth National Economic and Social Development Plan, National Economic and Social Development Board, Bangkok 1982, p. 110-111

(3) Twesukdi Piyakanchana, Some Thailand Strategies on Marine Pollution, International Symposium on the New Law of the Sea in Southeast Asia, Bangkok 1981, p.113

(4) Udomdej Attanand, Activities of the harbour Department, Harbour Department Bangkok, 1978



Map 1: The Seas of Southeast Asia

CHAPTER 3

Maritime Policy

3.1 Maritime Policy (The use of the sea)

Since the convention on the Law of the Sea came into existence, Thailand like many of its Southeast Asian neighbours has increased its awareness of the important of the use of the ocean. Now it is essential for Thailand to issue a maritime policy especially on the use of the sea. The policy proposed here can serve as a guideline for the government bodies concerned as they perform their duties. The new Convention on the Law of the Sea (CLS), particularly the extension of maritime jurisdiction, will be discussed. It is also the intention here to point out what should be done about this issue at both the government and international level. This topic will consist of :

- 3.1.1 Extension of maritime jurisdictions
- 3.1.2 Disputed areas : Thailand and neighbours
- 3.1.3 Management of natural resources from the sea
- 3.1.4 Protection and preservation of the marine environment

3.1.1 The extension of maritime jurisdiction

Thailand, unlike some other Southeast Asian countries, the Philippines and Indonesia, for example, has not ratified the Convention on the Law of the Sea (CLS) but reserves the right to claim the maritime areas that are designated in it. According to the convention a state may claim five maritime zones: inland waters, a territorial sea, a contiguous zone, an exclusive economic zone (EEZ), and a continental shelf.

Internal waters lie landward to the baselines that have been proclaimed by the governments. The next three zones are all measured seaward from the baselines. Territorial seas may be up to 12 nautical miles (nmi) wide, and the contiguous zone may extend for an additional 12 nmi. The EEZ occupies the area between the outer end of the territorial sea and a line 200 nmi seaward of the baseline.

The continental shelf may vary with the structure of the geophysical continental margin. There will be a special rule for measuring the outer limit of any country's claim. This rule will apply only to continental shelf margins that are wider than 200 nmi.

The right of state to exercise authority depends on the zone concerned. A state's rights in its internal waters are the same as its rights on land. The right of innocent passage is the only restriction of the coastal state in its territorial waters. The contiguous zone enables a coastal state to control its customs, fiscal, immigration and sanitary regulations.

In the EEZ, states have complete authority over the economic use of resources in the water and under the seabed. For example, no foreigners may fish or mine without the agreement of the coastal state. However, a vessel may navigate through the EEZ and airplanes may fly over it.

In May 1980 Thailand has claimed three of the five possible zones: inland water, territorial sea and exclusive economic zone (EEZ). Thailand did not claim a contiguous zone as it is included in its EEZ.

In May 1973 Thailand claimed seabed areas underlying the western part of the Gulf of Thailand. This claim was most likely in response to those claims made to parts of the Gulf's seabed by South Vietnam in June 1971 and by Kampuchea in July 1972 (1)

The proposal

- to make use of the three zones with the awareness of preserving and reserving the national resources both living and nonliving.
- ratify the CLS 1982 in order to gain full rights to enforce national vigilance in the territorial sea as well as in the Thai EEZ to preserve national interests.
- to have the efficient maritime human resources by providing them with maritime education together with the precise information about the national maritime regime.

3.1.2 The areas disputed : Thailand and neighbours

The CLS does not require states to draw any maritime boundaries, but most of the countries find it convenient to do so. If the maritime claims of states are known and a chart of their coasts is available, it is possible to identify the specific maritime boundaries that each state needs to draw with its neighbours. Since the CLS codifies states' rights concerning resource management under several maritime jurisdictional regimes each state in Southeast Asia wants to make maximum use of the resources found in their offshore jurisdictions. Therefore, they have declared maritime boundaries unilaterally, but those unilateral claims overlap each other.

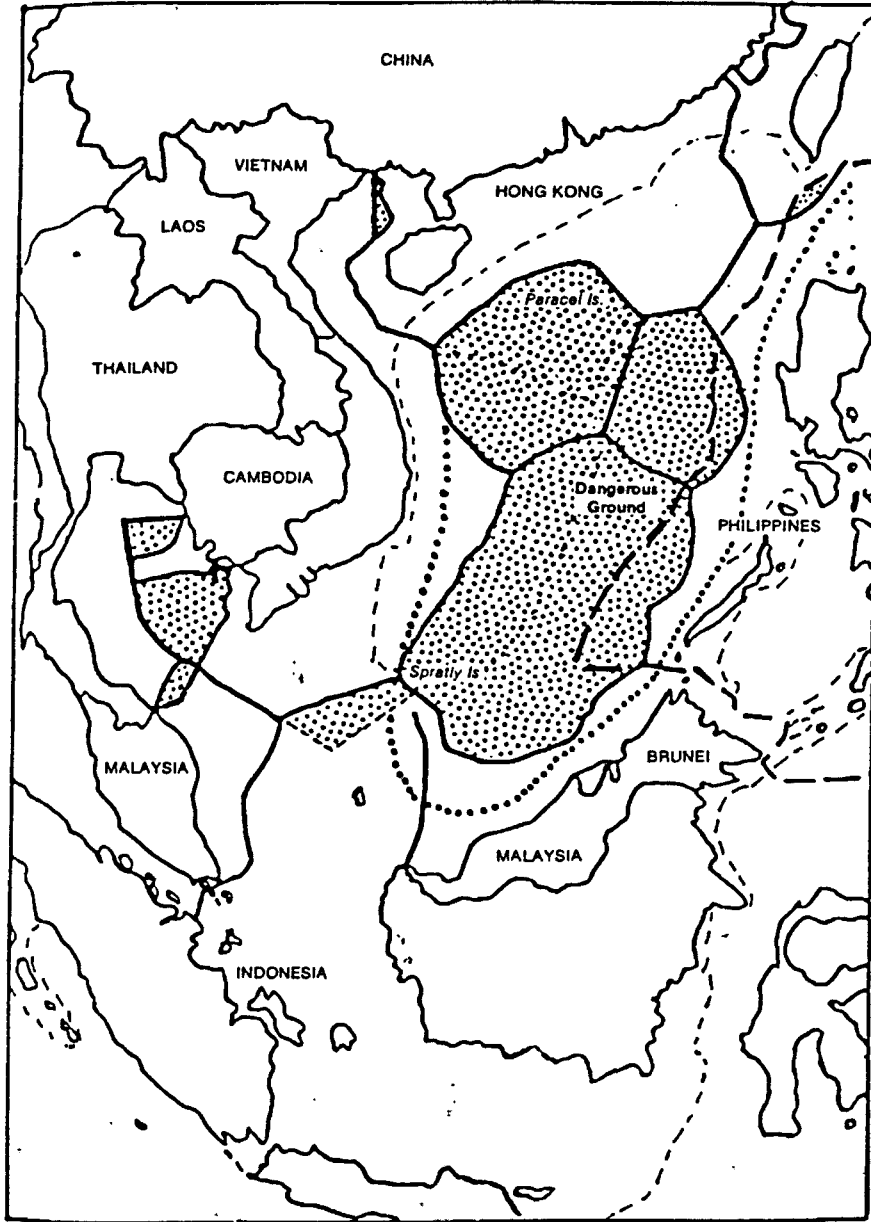
The following areas illustrate where Thailand's maritime boundaries need to be drawn in cooperation with its neighbours : (figure 5)

- Malaysia - Thailand

In the southwestern Gulf of Thailand there is a quasi-triangular - shaped area resulting from disagreement over the drawing of an equidistant line, although the two countries signed a memorandum of understanding on 12 February 1979 recognizing the overlapping claims and agreeing to establish a joint authority for the exploitation of seabed resources in the disputed area.

(2)

Figure 5 Disputed Areas in the South China Sea



Extracted from M.J. Valencia

-  AREAS IN DISPUTE
-  CHINA'S HISTORICAL CLAIMS
-  200 METER ISOBATH
-  ESTIMATED PHILIPPINES E.E.Z.

- Thailand - Kampuchea - Vietnam

Between 1971 and 1973, South Vietnam, Kampuchea and Thailand made unilateral claims to overlapping portion of the seabed in the Gulf of Thailand. In making these unilateral claims each state chose an interpretation of lines of equidistance that gave the maximum area of the seabed to the claimant. Thailand has drawn its boundary as a line of equidistance between the Thai mainland and large islands that are close to the Kampuchean and Vietnamese coasts, that made the boundary eastward. The boundaries proclaimed for Kampuchea and South Vietnam ignored the Thai islands, and this moved the boundaries westward to Thailand's disadvantage. Those claims created disputed areas in the Gulf of Thailand.

It is probable that any solution of the boundary issue between Kampuchea and Thailand will have to wait until Kampuchea's domestic problems have been settled and good relations have been restored between the two countries again. Thailand and Vietnam negotiated an agreement to settle those claims in 1978, but to date there has been no enforcement of the resolution because of political uncertainty in Vietnam.

There were also disagreements about access to the Andaman Sea by Thailand, Burma, Malaysia and Indonesia when they pursued their national interests in that sea. The fact that the countries have decided to engage in negotiations has involved them in international agreements, among which are the agreements on maritime boundaries in the Andaman Sea between Indonesia - Malaysia - Thailand also on continental shelf boundaries. It is noticeable that Burma has not yet demonstrated its

intention to conclude maritime boundary agreement with its neighbours.

The proposal

Aware that the resources from the sea are available for exploitation, Thailand should make the greatest effort to coordinate with the neighbouring countries to dissolve the disputes which hamper the use of the Gulf of Thailand. To achieve that objective the following measures should be issued :

- Thailand - Malaysia dispute

Ratify the joint zone agreement of 1979, and enforce the agreement in order to prepare for further cooperation between the two countries,

- Thailand - Kampuchea - Vietnam dispute

Make the utmost effort to bring the three parties to draw all the necessary maritime boundaries at the same time. The reasons are that first, at the time of agreement teams of experts will have assembled, mastered the technical facts, and often agreed on a common point of view. If new teams have to be reformed later much work may have to be done again. Second, if the total package of boundaries is considered, more scope is provided for exchanging mutual advantages in different areas rather than only one area being considered.

- Make an effort to conclude agreements with neighbouring countries to undertake joint exploitation of the continental shelf regardless of other problems that remain unsolved.

- Ratify the CLS 1982, making use of its provisions dissolving the disputed areas among the neighbouring countries.

3.1.3 The managing of natural resources from the

sea

According to article 56.1(a) of the CLS, the exclusive economic zone shall not extend beyond 200 nmi from the baselines. In the zone the coastal state has sovereign rights over the exploration and exploitation, conservation and management of the natural resources, whether living or nonliving of the seabed and subsoil and the superjacent waters. It also has the right to exploit and explore this zone for economic purposes such as the production of energy from the water, currents and winds.

In exploiting, conserving and managing the natural resources inside the zones, the coastal states have the right to determine the allowable catch of the living resources, their own capacity to harvest and the surplus to be allocated to other states through an arrangement such as licensing. The rights of neighbouring states to exploit any surplusses are also stated in the Convention on the Law of the Sea 1982.

Fishery

The principle of an exclusive economic zone (EEZ) has become universally accepted since the United Nations Conference on the Law of the Sea concluded in 1973. Many coastal states have unilaterally declared exclusive economic zones which extend national jurisdiction over fisheries out to 200 nmi seaward of the baselines of territorial seas.

The majority of the sea regimes will provide the coastal state the opportunity to develop their fishing industries and to manage the fishery resources with a view to get maximum benefit from the area of their jurisdiction.

The claims of archipelagic states and the extension of the 200 nmi EEZ would be positive factors in the conservation and development of fisheries. Because of the unlimited entry to fishing grounds, until now high seas have tended to be overexploited. Under these circumstances all fishing grounds in the region would be put under national jurisdiction and no high sea would remain for the common exploitation by the litt^oral states. This would give the coastal states both the incentive and legal rights to regulate the intensity of fishing efforts in various fishing grounds and thus prevent overfishing. Some countries are not pleased with the change as the development affects their fishing industries. In both cases, there will be an urgent need for countries to make adjustments under the new sea regime, especially in the management of living resources in the EEZ, in the modernization of fishing industry, as well as the strengthening of fisheries administration. These will require careful consideration of policy planning and implementation of fisheries management and development plans for the countries concerned.

Issues for fisheries management and development

As already known the sea has a limited capacity and its wealth can become exhausted. Free access to the fishery resources will lead to the depletion of those resources and result in overfishing and

overcapitalization, as has happened with trawl fishery in the Gulf of Thailand. It is time for the state to consider suitable strategies for managing these limited resources in the EEZ. One possible measure which could be taken would be to prohibit or atleast reduce the number of trawlers operating in the EEZ. The banned trawlers can be modified to accomodate other types of fishing gear which do not destroy the underwater environment. Furthermore they should be required to operate only in the offshore waters outside the fishing areas where the small scale coastal fishermen do ^{or} their fishing.

In general, the management and development of fisheries in the EEZ will depend on the priority and objectives set by the government body concerned. With the change in the sea regime, the adjustment made by each country in proper management and development of the living resources from the sea will require improved knowledge of the resources under its jurisdiction, new institutional arrangements, increased manpower and financial resources, and other assistance.

The above issues involved in fishery management are rather complex as fishing is an economic activity. To make these changes in national fishing practices will take time because of the limited funds allocated to fisheries in the country.

The impact and the proposal to overcome the problems

for the Thai fishery industry.

- The impact

Fishery development in Thailand has progressed continuously for many years. However, recent developments in the Law of the Sea, particularly the extension of the exclusive economic zone concept, have created significant obstacles to Thai fisheries. The establishment of EEZs by the neighbouring countries has decreased Thailand's fishing areas. It is estimated that the creation of EEZs by neighbouring countries will result in Thailand losing about 300,000 square kilometers of fishing grounds, with the implication of a decrease of at least 30-35 percent of total annual catch.(3)

- Policy proposal

To overcome the situation, the government should advise Thai fishermen to fish only in zones under the jurisdiction of Thailand. Other measures should be taken by the Thai Government to eliminate or at least mitigate the impact of the extension of EEZs of neighbouring countries. The following measures should be considered as the remedy:

- 1) Seek bilateral agreements with neighbouring countries for joint ventures in fishery development,
- 2) Update the laws and regulations concerning fishing activities,
- 3) Provide short courses to the fishermen so they can expand their knowledge relating to their careers,
- 4) Assist fishermen in their fishing operation by setting up 24 hour monitoring radio communication

stations along the coast, in order to prevent them from straying into the EEZs of other states.

The regulations relating to the management of fisheries in Thailand will alleviate the risk of loss caused by the creation of EEZ by the neighbouring countries.

Thailand should consider ratifying the Convention on the Law of the Sea and make use of the provisions under it. Furthermore the government should lay down policy concerning cooperation of states bordering the Gulf of Thailand, a semi-enclosed seas, as suggested in article 123. This policy should consist of plans for:

- a) the coordination of management, conservation, exploration and exploitation of the living resources of the sea,
- b) the coordination of the implementation of their rights and duties with respect to the protection and preservation of the marine environment,
- c) the coordination of scientific research policy and undertaking of joint programmes of scientific research in the region where appropriate, and
- d) the invitation as appropriate, other interested states or international organizations to cooperate with them in furtherance of the activities of this aspect.

Non-living Resources

In Southeast Asia "marine awareness" has increased significantly in recent years because of oil and gas

discoveries in the Gulf of Thailand as well as in other areas of the South China Sea.

In a number of areas where oil/gas potential is high, there are overlapping jurisdiction claims. The presence of oil/gas deposits tends to harden the negotiating positions and make resolution of any problem more difficult. Potential of oil/gas depositing areas with overlapping claims include the eastern Gulf of Thailand (Thailand, Kampuchea and Vietnam), and the southwestern Gulf of Thailand (Thailand, Malaysia and Vietnam).

At the eastern part of the Gulf, nearly 6,000 square miles of EEZs form an area of overlap between Thailand and Kampuchea.(4) A joint agreement between the two countries may not be easily reached due to political instability in Kampuchea.

At the northwestern end of the Malay Basin, although both Thailand and Malaysia agree on their boundaries extending some 31 miles from their respective boundaries claims diverge south and north, making the disputed area a total of about 2,700 square miles.(5) In 1979, both governments recognized that it was in their best interests to exploit the resources of the seabed in the area of overlapping claims as soon as possible and to agree to jointly explore and exploit the non-living seabed and subsoil resources in a defined so-called joint development area for fifty years and to share the costs incurred and the benefits derived equally.

The Thai - Malaysia Memorandum of Understanding of

February 1979 is an example of good cooperation between two countries with overlapping claims. Setting aside the actual boundary question. It is an agreement on the extent of the disputed area. It is the first of its kind in the South China Sea.

-The proposal

Since the disputes related to the management and exploitation of the living and non-living resources are excluded from the judicial settlement under the Convention on the Law of the Sea, whenever there is a possibility for negotiation, the government should make an effort to approach Kampuchea's government to conclude the bilateral agreement for the exploitation and exploration of the resources in the disputed area under consideration.

Thailand should :

- Enter into force the Thai - Malaysia Memorandum of Understanding for the Joint Development Area by concluding the major issues including :

- 1) the constitution for the Joint Authority
- 2) the production sharing contract to be adopted
- 3) the production sharing contract to be adopted
- 4) the tax system

- Another priority of Thailand should be to contribute toward regional friendship and regional cooperation and maintenance of all kinds of interaction in order to achieve the peaceful use of the sea.

- The government should also support the establishment of an East Asian Offshore Training Center which will be opened for the region in order to provide local personnel with training in relevant fields such as drilling, production, survival training and environmental protection.

3.1.4 Protection and preservation of the marine ----- environment -----

Environmental protection basically means the protection of the resources of the environment or the resources that compose the environment. The two groups of resources from the sea we have to deal with are the living and the non-living. In the first group, living resources, would be the fisheries and other living things which will only survive in the sea or near the sea. Oil, gas and other mineral resources comprise the group of non-living resources which littoral states have been exploiting through offshore activities in recent years.

According to the Convention on the Law of the Sea (CLS), pollution of the marine environment means "the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, - hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities." The convention also says that "states shall take, individually or jointly as appropriate, all measures

consistent with the convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection." Also, "states shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with the convention." (6)

In the Gulf of Thailand, with the extension of jurisdictions, national responsibility for environmental protection also extends out to 200 nmi from shore. The 200 nmi EEZs limitation of the litt^oral states will presumably meet in the inner area of the Gulf of Thailand. The prevention of pollution harmful to natural resources in the Gulf area should be made under multilateral agreement between the litt^oral states.

The Gulf is under the influence of the monsoon wind systems; winds are generally easterly during the winter months and southwesterly in the summer months. Surface currents ~~are~~ flow slowly during both seasons. Consequently, there is little flushing pollutants out of the Gulf, and the large outflow of polluting matters from almost all large cities along the Gulf's frame is slowly polluting the marine environment.

In Thailand itself, one of the problems facing Thai

government is the increasing deterioration of the natural environment to the point that it affects human life and natural resources. The factors which are considered to be the main causes of marine pollution in Thailand are the domestic wastes from the cities and industrial deposits. In some areas, water pollution is caused by the agriculture activities such as siltation and the accumulation of insecticide residues in the water and soil.(7)

In 1976, the legislature passed a bill called "The National Environment Promotion Bill" in order to protect, reduce and control pollution of the environment within the country and over the areas under Thai jurisdiction. By virtue of this law, the government has established the National Environmental Board (NEB), also in 1976, to deal with environment as a whole. The responsibility of the NEB are to :

- 1) propose policy and give opinions to the Cabinet concerning the promotion and protection of the natural environment ;
- 2) lay out plans to be carried out for the protection of the natural environment ;
- 3) give its opinions on the environmental impact of plans presented by the government, by state enterprises and by private sectors ;
- 4) propose a development project for the protection of the natural environment ;

- 5) propose measures to be taken to analyse the different problems of the natural environment ;
- 6) present reports on the conditions of the natural environment to the Cabinet ;
- 7) serve as public relation function among government sectors, state enterprises and private sectors relating to the natural environment ;
- 8) study other matters related to the natural environment at the request of the Prime Minister or cabinet ; and
- 9) undertake other activities within the power vested in it.

Under the NEB, the National Marine Science Committee set up a subcommittee to study marine pollution. A committee on the quality of water and living marine resources in Thai water was also set up in 1976. The results of the studies of these committees were used for marine pollution control in national jurisdictional areas.

Thailand also participated in a pilot project on marine pollution by hydrocarbons and petroleum. Furthermore, the NEB participate in an urgent plan for the protection and development of the marine environment in coastal areas of the east Asian region.

In addition, the Ministry of Education has introduced environmental education into the school curricula at all levels.

The proposal

The Thai government has recognized the vital need to protect the environment, reduce and control pollution. Further action by the government as outline below should be considered.

- 1) Adoption of laws and regulations in accordance with the International Convention on the Law of the Sea, enforcing such laws and regulations seriously.
- 2) Cooperation on a regional basis in formulating and elaborating international rules, standards and recommended practices and procedures consistent with the Convention on the Law of the Sea for the protection and preservation of the marine environment.
- 3) Development and promotion of contingency plans together with neighbouring countries for responding to pollution incidents in the marine environment.
- 4) Adoption of Laws and regulations to prevent, reduce and control pollution of the marine environment from land - based sources, including river, pipelines and outfall structures, taking into account internationally agreed upon rules, standards and recommended practices and procedures.
- 5) Consideration of ratification of the International Convention for the Prevention of Pollution from Ships, 1973/1978, with the capabilities of the country and to the extent possible of the marine industries. This Convention deals with reports on

incidents involving harmful substances and arbitration, and five annexes which contain regulations for the prevention of various forms of pollution.

3.2 Maritime policy (Shipping)

As early as 470 years ago, Thailand was involved in international trade in such commodities as rice and other agricultural products. Although it has huge natural resources to transport as export cargoes, the lack of both an efficient fleet and good management have not allowed shipping activity in Thailand to develop well. Other important problems are improper development and functioning of the country's major ports. They have never been fully utilized due to lack of planning and proper decision making from the top level. Since Thailand is a busy market for natural resources , and the volume and quantity of export cargoes, there is an inevitable demand for transport by sea. In parallel, the acquisition of ships requires intensive investment, however the private sector alone is unable to manage without support by the government.

For these reasons the government is entitled to be actively involved in shipping activities. Some ideas for improved shipping management by a country such as Thailand which does not recognize shipping as a priority matter will be proposed. Sub-topics which will be discussed hereafter are :

- 3.2.1 The objective of shipping policy adopted by the government
- 3.2.2 Strengthen the activity of ^{the} shipping company
- 3.2.3 Application of Code of Conduct for Liner Conference
- 3.2.4 The management of Port development

3.2.1 The objective of shipping policy

There are two main types of policy practiced in the shipping world, liberalist and protectionist shipping policies.

3.2.1.1 Liberalism ✓

Shipping liberalism is the principle of free and fair competition in sea transport irrespective of the flag the ship is flying. There are no official and universally accepted rules of shipping liberalism only the Code of Liberalisation of the Organization of Economic Cooperation and Development (OECD) concerning shipping has laid down certain principles which mention it. The liberalism which appears in the Code can be summarised as follows :

- (1) A government should apply no pressure on shippers as to the choice of ship to carry their cargoes; this choice should be a matter of a normal commercial consideration.
- (2) A government should restrain from discriminating against ~~those~~ ^{importers} of their importers/exporters who wish to "ship foreign" by imposing export/import licenses, refusing to grant them foreign exchange or force them to

employ home-flag vessels.

- (3) Even the government controlled organizations should conduct their business on the basis of normal commercial principles . (8)

Although today's shipping liberalism has lost its active character and is mainly limited to the protestation against any sign of shipping protectionism, the principles of liberal policy in shipping still have meaning and the countries which advocate these principles, even if only half of the world's maritime nations, control a major part of the world's shipping tonnage.

3.2.1.2 Protectionism

Protectionism is a policy aimed at protecting the internal industries from external competition. The objectives of a protectionist policy in shipping are based on two aims :

- i) to maintain the already established position of a country's merchant marine, or
- ii) to expand the merchant fleet to the size and structure desired and determined by the needs of the national economy of that country.

There are numerous forms of protectionism; the three basic forms are :

- (1) direct or indirect financial assistance/- subsidies by the state for private shipowners,
- (2) other forms of active support for shipping in the form of administrative and legal measures

which, while bringing definite advantages for the shipowners, do not take the form of financial assistance, and

- (3) the government's direct involvement in shipping.

(1) Financial assistance for shipping

There are many forms of financing subsidies. Some of them are aimed at the development of shipping activities, while others are used to maintain the achieved level of development of the merchant fleet. Among the many forms of subsidies the most often used is based on direct and indirect subsidies. The direct financing subsidies may appear in the form of :

1. construction subsidies,
2. operating subsidies,
3. scrap and build subsidies,
4. credit facilities,
5. guarantee of profits, share of loss, etc.,
6. subsidies of special marine insurance,
7. lease of ship belonging to the state to private companies, and
8. sale of ships belonging to the state to private companies.

The indirect financing subsidies may appear in the form of :

1. subsidies to the shipbuilding industries,
2. customs reductions,
3. tax and depreciation allowances,
4. subsidies to immigrant's fares, and

5. reduction in port and other charges.

(2) Other forms of government support for shipping

There are three forms of government support namely:

1. preferential treatment of own ship in domestic ports,
2. cargo reservation, and
3. control of foreign exchange..

The preferential treatment may appear in the form of higher duties and tariffs charged on foreign ships or on cargoes carried on foreign vessels, or discrimination of foreign ships as far as availability of berths is concerned.

Cargo reservations are aimed at reserving for the domestic carriers the largest possible share of the country's seaborne trade. Cargo preferences are used when a country adopts various forms of economic and non-economic measures which create better form of conditions for its own ships to carry the country's trade. These cargo preference measures do not eliminate foreign shipping if it creates better form of conditions for its own ships to carry the country's trade. These cargo preference measures do not eliminate foreign shipping which can compete for the cargoes.

Control of foreign exchange may appear in ^{the} form of the country's monetary policy. Nearly all countries try to reduce the outflow of foreign exchange ^{by} introducing export of import licences restricting the availability of foreign exchange. The state can force its importers or exporters to use the country's ships

exclusively to move its cargoes.

(3) Government's direct involvement in shipping

The principal reason for the state involvement in shipping in developing countries is the weakness of the private sector and its reluctance to go into an industry which is believed to give a low rate of return on invested capital. Since shipping is capital intensive and profits are modest, it does not attract private operators who have other options. Therefore, the governments, aware of the role of shipping for the national economics, have to support capital invested in shipping tonnage. Whatever the reason and scope of government involvement in shipping, the governments are increasingly present in this field of economic activity.

Shipping policies for particular countries vary according to their overall concept and specific measures adopted. Many measurements adopted by the Thai government recently such as cargo reservation, leasing exempt from tax and application of packing credit reflect a protectionist policy.

Objective adopted

It is important for every country to identify and apply one of those two shipping objectives, liberalism or protectionism, before having a specific shipping policy laid down as the means to achieve the goal.

Theoretically, liberalism has its merit in the process of economic development in sea transport. But the new maritime countries have learned that it is

difficult for them to run their ships on the basis of free competition because a competitive fleet requires high ability and other relevant supports. And it is obvious that some of OECD member countries, which are basically pro-liberalism, adopted numerous official and unofficial measures of shipping protectionism such as operating subsidies, profit tax reduction, customs reduction, government participation in shipping companies etc..

In the case of Thailand, the government's attitude toward shipping clearly identifies protectionism as the objective of its shipping policy. The government has adopted some measures to support its fleet. These measures are :

- prolongation the time of inspection of ships in order to renew the licences of ships biennially,
 - reservation of government cargoes for national flags,
 - leasing ships exempt from taxation,
 - offering of "packing credit" to an exporter who specifies a Thai carrier for his shipment. A 10 % "packing credit" is provide by the Bank of Thailand
 - tax incentive granted for the development of a ship repair yard,
 - draft legislation to limit the liability of shipowners for cargo damage is being developed.
- This measurement aims at alleviating some of the financial difficulties facing Thai shipowners to date.

Furthermore, in the past few years, the Thai government has been more actively promoting the Thai

fleet. The creation of the Office of the Mercantile Marine Promotion Commission (MMPC) is of particular note. Although some support has been provided through government equity participation, the extent of support for fleet promotion has been limited by largely economic considerations and has been legislative in nature.

The proposal

Being one of the developing maritime countries, the Thai government has never had a specific shipping policy laid down to supervise the national shipping industry. None of the previous governments gave priority attention to the promotion of the shipping activities. In 1978 the Mercantile Marine Promotion Commission (MMPC) was established in order to cope with the fluctuation of the world shipping business. The MMPC then plays its important role especially in drafting the Carriage of Goods by Sea Act and issuing the measures to support the national flag such as cargo reservation and other shipper incentives. D. 1
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Those measures will encourage the shipping companies both state-owned and privately owned to earn more foreign exchange.

Moreover the government's responsible body should encourage the exporter/importer to sell on an CIF and buy on an FOB basis. By this system it will help inflow of foreign exchange to the country's balance of payment.

In case of provision of labour, in the past, the government has given low priority to training. The Merchant Marine Training Centre the only maritime

academy in Thailand was established 15 years ago, but its training quantity is unknown. In order to comply with the conditions of the 1978 STCW Convention, the quality of Maritime Training in Thailand has to be improved.

As already said before, although the government has issued some protectionist measures, the shipping industries in the country still need more protection. Before any decision will be made, the government should carry on studies and research in the field of shipping activities of the country so that the support from the government will be directed at the points that need remedy. For example, in case of recession the shipping companies may be interested in advice concerning rationalisation and the reduction of costs. The research then should carry on with regard to the possible cost savings in the fuel consumption and the reduction of crew costs. At the same time the studies should also aim at the improvement of the management of the companies and their relations with trading partners. The results of research and studies will lead the government to issue any measures to support the national shipping companies in the fields they need.

3.2.2 Strengthening the activities of a shipping company

The most natural purpose of a national fleet is to carry international trade, but a fleet also contributes to a nation's economy by contributing to employment, encouraging subordinate industries and

ensuring that shipping services are available to support other industries. In times of war it also can serve to keep the lifeline open.

Shipping is an industry characterized by great complexity and by a magnitude of interests and activities. This complex of activities and interests involves ship management, ship navigation, ship building, ship repair, port authorities, ship chandlers' business, financing and banking, marine insurance, brokerage, etc.. The shipping industry is always associated with the following important people: the shipowner, the cargo owner, the consignor, the consignee. For shipping to be remunerative and efficient all or most of these activities have to be efficient and cooperative.

For a developing country to succeed in establishing efficient shipping services, that country must give importance to all aspects of shipping without neglecting any of them.

3.2.2.1 Government strategy

The shipping industry is different from others; it needs more support but less control. The government's role in shipping should be limited to some extent. For example, the government should not involve itself in the micro-policy of a shipping company, but give it freedom to make its own decisions for its own plans and strategies. The government should also allow the company to utilize its income earning in a way which will promote and expand its business. The government's

role then should be limited to having the country's overall policy laid down to promote its shipping company by establishing clear-cut targets for promoting and fostering its national fleet and carrying out specific measures to obtain those targets.

The government should consider applying the Code of Conduct for Liner Conferences. It will guarantee national fleet a substantial share in cargo carriage and freight earnings and reduce the after-effects of overtonnaging.

3.2.2.2 Business strategy

Recognizing that shipping is a capital intensive industry but that it has a crucial position in relation to international trade, a developing country like Thailand should focus its long term economic development plans on the establishment of an efficient and effective national shipping line with the objectives of foreign currency conservation and with special emphasis on improvement of its balance of payments.

To strengthen the national shipping line, it is not only the government which must establish a clear-cut policy, but also the shipping company itself which has to have its own micro-policy to uphold the main policy of the government.

The micro-policy may aim at the following strategies :

- Horizontal and vertical integration,
- Innovation after research and development efforts,
- Investments in new technology,
- Internationalization of shipping activities, and
- Diversification of specialization.(9)

Horizontal and vertical intergration

Horizontal integration is a type of cooperation, which may appear in the form of a group of shipping companies which operate the same type of shipping activities, combining their capital investments into a large pool of centralized capital giving rise to the concentration of the capital.

Vertical integration concentrates more on cooperation between the shipping industries and other related industries such as industries engaged in the exploitation of marine living and non-living resources and other industries boosting maximum income ~~of~~ profit in exportation of national products, such as in operating offshore supply vessels for offshore oil and gas exploitation, or having joint venture investment in large export business companies.

Innovations after Research and Development

With the advancement of technology regarding future ships of tomorrow, the shipping company should have foresight into long term planning regarding its future activities, such as marketing, improvement of the organization, finance, and future investment in the acquisition of new or second-hand vessels. The company

should carry out research on its duties performance within a certain period of time in order to improve its activities stated above. The company should also take into consideration the important factors in gathering more information, improving for external communication and feedback data, providing for manpower availability so as to be able to determine the impact on its future development.

Investment in new technology

As the world shipping activities are fluctuating, the shipping company should be in line with new technology development so as to be able to compete with other shipping competitors. The new technological trends which should be considered are :

- 1) acquisition of new cellular type and ro/ro type vessels,
- 2) use of optimum speed engines,
- 3) optimisation of fuel consumption,
- 4) adoption of new technics to manage a port operational system to reduce queues and congestion, and
- 5) application of an artificial intelligence system for communications purposes between ships, within the shipping organization and with international contacts.

Internationalization

Without international trade, shipping cannot exist. And the preliminary requisite for the establishment of a national shipping line is to compete in international

trade and to ensure the inflow of foreign currency so as to reduce the burden on the balance of payment of the national economy.

The afore-mentioned acquisition cannot be effective unless the following international actions have been fulfilled by the national shipping company :

- 1) maintaining good external information sources both nationally and internationally,
- 2) keeping proper contact with the development of international trade,
- 3) carrying out survey and research in new international future technology development in shipping,
- 4) making information concerning fluctuation of foreign currencies available, and
- 5) monitoring day-to-day information about international oil price movements.

Diversification or specialization

It is the responsibility of the decision maker of a shipping company to consider diversification when it is necessary for fulfillment of the strategies in its micro-policy.

In a competitive business such as shipping, the company may consider diversifying its activities as follows :

- 1) including related business such as consignor-consignee, cargo forwarding, and canvassing business in the new functions of its operation section,

- 2) diversifying its vessels to facilitate the trade,
- 3) operating the loading-unloading machines such as conveyor belts which are not yet available at the ports etc., and
- 4) operating a ship repair yard to give services not only to its own vessels but to foreign and private vessels as well.

Recently more and more shipowners and businessmen have been convinced of the danger by concentrating all assets and activities on one specialized market or type of vessel only.

But in the shipping business the decision maker should consider concentrating on one or another activity such as operating only with cellular type vessels, concentrating on space chartering and cabotage shipping, as the case may be in order to achieve the goal of maximum internal rate of return.

Specialization has both advantages and disadvantages. The disadvantages can be inefficient operation which may derive because of operating only one type of vessel or concentrating on only one market as stated above. At the same time, it may be advantageous to specialize in one activity as it may bring substantial production increase and also prosperity to the company.

Another two important factors are involved in strengthening the activities of shipping. They are :

- manning the ship with qualified officers and crew members, and
- performance of good service.

Minimizing running costs is one of the micro-policies of every shipping company. Having its ships manned with an efficient crew will help the shipping company minimize the operation cost and reduce the risk of the occurrence at the same time. The government may get involved in this case by establishing a seafarer's training institute to facilitate the efficient operation of the national shipping company in this aspect.

Performing a good service is another important way to strengthen the activities of a shipping company. The national shipping line can compete in a competitive shipping atmosphere only when the company has a policy of performance of good service for the users.

To conclude, to strengthen the shipping activities by making a choice among the above strategies is the biggest task for the executives of a shipping company or for the shipowners. It seems that the integration and new technology strategies would make the maritime transport industry an extremely capitalistic sector. As far as the internationalization strategy is concerned, it is the task of the developing countries to improve the activities of their national lines to the extent that their experience and financing will permit. The four strategies stated above have already been tried in shipping companies of some developed countries and the feedback from these experiments has been acceptable. Imitating the same approach will probably not be too risky for developing countries.

3.2.3 Application of the UNCTAD Liner Code of Conduct

3.2.3.1 The Origin of the Need for the Code

The demand for setting control on the activities of liner conferences in order to prevent abuses (misuse) of shipping and trade grew parallel to the existence of the liner conference system itself.

The traditional criticism against conferences is that they misuse their dominant market power, so as to :

- a) effectively prevent the entrance of new carriers in their trades and control the supply of tonnage at levels decided by themselves, without the shipper's cooperation and irrespective of their requirements regarding frequency, type of service etc.,
- b) apply pressures and restrictive practices to secure the exclusive loyalty of shippers to their services,
- c) fix their tariffs at levels significantly higher than those which might exist under competitive conditions. This means raising the freight rate to cover the operating costs of the less efficient of the conference carrier.(10)

In case of developing countries, an additional reason for making governments introduce measures of control over conference activities has been the discrimination treatment which national lines were given by conferences, once they had been admitted as members. Limited sailing and loading rights, and no rights to serve wayports's traffic have been included in such discriminatory practices.

The Code of Conduct attempts to be a concerted intergovernmental action to prevent continued abuse by liner conferences, rather than individual and perhaps less effective control legislation on a national level.

3.2.3.2 UNCTAD concluded Code of Conduct for Liner Conferences

The common Measure of Understanding on shipping questions, adopted in 1964 at UNCTAD 1, reflecting the realization that although the conference system was necessary to secure stable rates and regular services, certain aspects of conference operations bring uneasiness. The Secretariat of UNCTAD submitted a report on conference practices for the 1970 meeting of the Committee on Shipping, which had been set up as part of the permanent machinery of UNCTAD. Following UNCTAD III in 1972, the decision was taken to create a Code of Conduct for Liner Conferences. This code was adopted in 1974 and entered into force in October 1983.

The Code was needed because it was thought that in light of the current shipping situation at the moment the following steps need to be taken :

- a) "remove from the conferences the power to decide arbitrarily on the admission of new liners and thus whether or not shipping lines could operate in particular trades,
- b) provide that the allocation of cargoes within conferences should take place on an internationally agreed basis rather than through the private arrangements by which shares were traditionally determined,
- c) bring into the open levels of conference freight rate and the process of conference decision-making,
- d) restrict the powers of cartels formed of lines, usually foreign to the country concerned, to take unilateral decisions on matters vitally affecting the trade and economic development of those countries, and
- e) establish an independent tribunal to which parties with complaints about the operation of the system could have recourse" (11)

Although the code was adopted by developing countries, socialist countries and certain EEC member countries, it was clearly opposed by the United States and other Western countries.

The most controversial clause of cargo sharing provided for the allocation of cargo in the ratio 40:40:20. Other clauses included a rule of a 12-month interval between two successive tariff increases which would require 90 days notice, introduction of the principle of compulsory arbitration, an obligation to maintain a reasonable level of tariff, etc..

Concerning government participation in shipping, while the drafters of the code tried to keep government away from the centre of the stage as far as the operation under the code is concerned, in three areas only national authorities can act and cannot be excluded. The first area concerns the entry into force of the code. Even if little has happened since October 1983, the convention is in force and further ratifications are expected in Europe. The second area concerns implementing legislation which each country has to deposit with the Secretary-General of the United Nations. The third area relates to denunciation.

With regards to denunciation, any contracting party approved or acceded to the convention may denounce it " at any time after the expiration of a period of two years from the date on which the convention has entered into force " (article 50). The question of denunciation is that a state which has entered into the implementation of the code, if it finds itself disappointed by the results and is unable to obtain any satisfaction from its trading partner, may apparently denounce the Code and so escape from its agreements under it without a long delay.

The situation in ASEAN and proposal

It is well known that most developing countries are at a disadvantage in shipping business. The powerful conferences fix their own freight rates, preventing weak shipping lines from becoming members and so on. Thailand as one of developing countries in Southeast Asia region has also faced those mentioned situations.

The Far Eastern Freight Conference (FEFC) is a huge shipping cartel operating in Asia. It is known as a classic closed conference. Membership is obtained through selection by existing members. ASEAN countries have sought ways to counter the power of the conferences serving the area, by for example establishing shippers' council. These councils seem to be central to the shipping policies of Asean countries and cooperation has been evident in this area. Cooperation between councils was formalised with the establishment of the Federation of ASEAN shippers' councils (FASC) in Manila in October 1974. Although the FASC has not been influential in preventing the frequent FEFC rate increases, it expresses hope for the future. If the countries represented in the FASC ratify the code, the FASC will be in a stronger position with regard to the control of freight rates.

Two other means considered to counter conference strength are the development of cargo affreightment/consolidation agencies and the establishment of freight study units. The former enables shippers, via these agencies, to negotiate from a position of strength; sufficient cargo may even lead to the ability to charter vessels thereby bypassing the conference structure altogether. Freight study units, on the other hand,

provide the information necessary to successful negotiation : the volume, seasonality and vagaries of cargo flows into and out of a particular country. The United Nations' Economic and Social Commission for Asia and the Pacific (ESCAP) has been active in promoting the latter method, having developed a specific data collection scheme for this purpose.

In this connection the Thai Government's attitude toward liner conferences should be based on the provisions of the UNCTAD Code of Conduct for Liner Conferences. In other words, as one of developing countries, the Thai Government should consider ratifying the Code of Conduct for Liner Conference 1983, because the Code was elaborated in response to the needs of developing countries and equally the needs of world trade.

It is important to note that the code also has a second objective "...to stimulate the development of regular and efficient liner services..." (12) The government should also consider having the national shipping policy comply with the code in order to pave the way for the development of shipping activities in the country.

The Thai Government should nominate one of its subordinate bodies to work closely with the Thai shippers' council, helping it select the suitability of existing services and the possibilities of more economical alternatives.

Ratifying and enforcing the Code of Conduct for Liner Conferences will help the government remedy shipping

problems facing Thai shipping companies now. Any delay in the application of the provisions of the code may jeopardize the whole idea behind it, which in its essence and in the long run is a healthy one, not only for the developing countries but for world trade as a whole as well.

3.2.4 The management of port development

The need to transport overseas trade compels a country to have at least one port. Once established, ports have to respond to changes in the size and type of ships, forms of cargo and hinterland transport. Although nowadays, there are many alternative modes to transport, transport through ports is still needed especially for the transport of cargoes huge in size and quantity. So that port development is one of the responsibilities which the government in any country should not neglect.

The ports should be well planned and developed and they should be well run. The former requires action at the national level, while the latter requires action at the individual ports.

3.2.4.1 The action at the national level

In developing countries the ports are usually controlled by the state. State ports are administered centrally for the entire nation with a local administration in each port concerned. Decisions as to investments and other matters of major importance are made centrally ; direct operation is attended to locally. Generally, state ports have responsibility for planning

future port development, control of capital investment, statistics, control of charges, research, management training, standardization of port profit and loss accounts, balance sheets and a review of port statutes and constitution.

Only port development within the framework of a national ports plan is discussed here. Other responsibilities of state ports mentioned above will not be discussed in this topic.

The primary objective of port development should be to provide cargo handling facilities that are adequate for present and future national needs but at the lowest cost, taking full account of costs to the port and to its users and of potential costs of inadequacy. The secondary objective is to handle the traffic of other countries by way of transshipment.

Port development plans have to be based on traffic forecasts which must be derived from the country's development plans for agriculture, industry and commerce. The port project may take from six to eight years, and for a period of this length the errors in forecasting can be made. So plans should be flexible and they should provide for more capacity than the requirement on a regular basis in order to minimize the risk of congestion, a sudden change of traffic and overcome any incident due to natural hazards, strikes, etc..

It is essential for governments to find the resources necessary to implement the plans. The resources include human resources, for example expertise both from inside

and outside of the country. A constructive measure would be the approval of port tariffs which permit ports to be financially viable. National port policy has to consider the development of port capacity in close relation to the parallel expansion of inland transport links to or from the ports. Employment policies also need to be considered. The transfer of advanced cargo-handling technology from developed countries to many of developing countries has occurred rapidly. The current loss of jobs represents a problem for many developing countries. So that the labour generating development should be sought out by developing countries. To improve all the situations related to ports, the central decision makers should consider these aspects when issuing plans or policies for the ports.

3.2.4.2 The action at the port level

The port has a national role and many decisions concerning the port will need to be taken at the national level. Therefore, one role of port management is to provide the government with the information necessary for correct and timely decisions.

The main responsibility of port management is to ensure efficient operation under all conditions. To carry out this responsibility, the port should do the following :

improve efficiency through the utilization of

existing resources so that more capacity is
created, costs are reduced and service is
improved;

develop technological awareness by taking close

look ^{at} ~~of~~ developments in trade and shipping which
will change the nature of services required by
port users,

coordinate by promoting good relationships with

port users, organizations operating within the
port and official bodies, to ensure that they
all contribute to the common aim of port
efficiency and that port operations and
development are meeting users' needs,

develop contingency plans by preparing plans to

meet all conceivable traffic developments and
hazards, and

manage financial activities by controlling

financial affairs so that development and
operations do not lack funds.

Port management is not an easy role when dealing with local and operational problems. One of the UNCTAD documents concerning "port problems", recommends that a separate study group devote the time necessary to ensure that each port's national function is continuously reviewed. This group could advise management on matters requiring national attention or action, and provide the detailed information necessary for liaison with government bodies.

The proposal

The above mentioned activities need to be formulated in an overall policy for the ports of the country. Apart

from the need to formulate policy, there is considerable scope for research work and for the development of statistical systems that will produce data needed in both port and shipping sectors.

Port pricing systems should also be the subject of joint discussion in order to ensure the equitable distribution of the benefits of port improvements. Furthermore, there is scope for cooperation at the practical working level, where adjustments to shipping operations and port procedures can lead to improvements in day-to-day functions.

3.3 Proposal for new maritime administration development

In Thailand, the Harbour Department, situated in Bangkok, is responsible for both the general maritime and maritime safety administration of the maritime sector of the country. At present the Harbour Department is in charge of the following functions :

- 1) survey and registration of vessels,
- 2) marine traffic control and pilotage,
- 3) training and certification of mariners,
- 4) development of channels, waterways and marine transportation, and
- 5) chart survey and reproduction.

It is true that the responsibilities of the Harbour Department, as mentioned above, comply to the international practise. But the virtual exercise of the

Harbour Department emphasizes inland rather sea navigation. Domestic legislation also aims at enforcing regulations regarding the traffic coming through Thai territorial waters. It is also the aim of this topic to propose a new maritime administration of the country. In this connection, port state control, casualty investigation and maritime training are the three aspects being discussed.

✓ 3.3.1 Port State Control

Port state control has been practiced in West European countries especially among the members of the EEC countries. The conducted regulation is known as the Paris Memorandum of Understanding on Port State Control. The objective to have port state control have derived from different cases. Those are :

1) In 1933, the International Labour Organization (ILO) began to deal with the problem of working conditions of seafarers. The ILO focussed on ships where the shipowners had their ships registered in countries where working conditions did not correspond to those in their own countries, that led to deterioration of working conditions of national seafarers.

2) As international shipping traffic grew more and more, so did the number of marine casualties that caused loss of lives. The International Maritime Organization (IMO) then took a set of initiatives to improve existing standards for the safety of life at sea which became the International Convention for the Safety of Life at Sea, 1974 and the Protocol 1978.

3) Great emphasis was given following the Amoco Cadiz casualty in 1978, which caused an unbelievable amount of pollution to the marine environment, thus the European countries felt that preventive action against substandard ships should have top priority.

It is obvious that all in the cases concerning the matter of substandard ships, it is important to clarify what is meant by the term "substandard ship".

Substandard ship

A report on the ILO seminar for Senior Government Officials from Asian Countries on Maritime Labour Standards held in Bangkok in September 1983 has given the definition of the term "substandard ship" :

" A ship shall be deemed to be " substandard " if and when she has such deficiencies as are clearly hazardous to safety, health, or the environment on account of the non-compliance with relevant technical, social, or other safety standards applicable to the ship or her crew" (13)

In a study and report conducted in the Netherlands on its exercise port state control between July 1984 and June 1985, no spectacular changes can be observed in the range of deficiencies during the twelve month period. Deficiencies in life saving appliances, fire fighting appliances and navigational equipment still form the bulk of all deficiencies. A remarkable number of deficiencies are found in ship's certificates which is mainly caused by the absence of an International Oil Pollution Prevention Certificate. Considering the major deficiencies

it appears that in all categories most deficiencies are observed in those appliances that require regular maintenance. (14)

The reasons for the phenomenon of substandard ships include the following :

- old age of the ship (older than 15 years),
- lack of (or no) operational control by the shipowner,
- lack of (or no) training of officers and/or crew,
- lack of (or no) supervision on the part of the flag state.

3.3.1.1 Instruments under international law against substandard ships

A. The Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (ILO)

The most important aspect of the convention in respect of combating the phenomenon of substandard ships is the right of contracting parties embodied in Article 4 to inspect all foreign flag ships calling at their ports and to take all measures necessary to eliminate any deficiency aboard posing a clear hazard to safety or health. The text of the Convention implies that this right includes ships the flag states²¹ which have not yet ratified the convention.

B. The International Convention for the Safety of Life at Sea, 1974, and the Protocol 1978

The convention came into force on 25 May 1980 (its

protocol 1 May 1981) and incorporates in Regulation 19 of Chapter I the right of port states to verify that there are valid safety certificates on board foreign flag ships in their ports. When there are clear grounds for believing that the condition of a ship or of its equipment does not correspond substantially with the relevant certificate, the controlling officer may take all necessary steps to ensure that the ship will not leave port until deficiencies which could pose a danger to the passengers or the crew are eliminated.

C. The IMO resolution A. 466 (XII) of 19 November 1981 entitled "Procedures for the Control of Ships"

Resolution A. 446 (XII) stipulates in item 1.5 of its introduction that "port states should carry out control of ships of non-convention countries and of ships below Convention size, but deficiency reports should be submitted to the administration of the country concerned and not to the organization".

This resolution is the first to include a list of addresses of administrations and inspection services, which is of great importance to the practical application of the control procedures described in the document.

D. The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978

Article 10 of the convention confers upon contracting parties the right to control all ships while

in their ports - including ships from non-contracting parties - to verify that the ship's crew comply with the standards set forth in the convention. In the event that the controlling officer finds that the master or the ship's officers do not hold the certificates required under the convention or that the navigational or engine--room watch cannot be kept in accordance with the requirements of the convention, the controlling officer is obliged to inform, in writing, the master and the nearest diplomatic representative of the flag state and to ask for remedial action. If the deficiencies are not corrected and it is determined that this fact poses a danger to persons, property, or the environment, port states have the right to detain the ship until the deficiencies have been eliminated.

E. IMO Resolution A. 481 (XII) dated 19 November 1981 entitled "Principles of Safe Manning"

This resolution calls upon member governments to ensure that every ship to which the 1978 STCW Convention applies will carry on board at all times a Minimum Safe Manning Document, issued by the administration of the flag state and specifying the minimum safe manning required for the ship concerned. Member governments are also urged, when exercising port state control functions in respect of foreign flag ships, to consider the accordance between the actual circumstances aboard and the information given in the ship's Minimum Safe Manning Document as evidence that the ship is safely manned.

F. The International Convention for the Prevention of Pollution from Ships, 1973, and the Protocol 1978

Article 5 of the Convention authorises port states to verify that there is a relevant certificate issued by the respective flag states on board any ships in ports or offshore terminals under their jurisdiction. If a ship does not carry a valid certificate, or if the condition of the ship does not correspond substantially with the particulars of that certificate, the port state is authorised to take appropriate steps (such as imposing restrictions or detaining the ship) with a view to preventing an unreasonable threat of harm to the marine environment. The consul or another competent authority of the flag state must be informed of any such measures. Article 5(4) of the convention contains a "no more favourable treatment" clause, whereby ships from non-parties to the convention must be given the same treatment as those from parties to the convention.

G. The 1982 Paris Memorandum of Understanding on Port State Control and its Annexes

This Memorandum of Understanding (MoU) is now enforced in West European countries. Every ship entering European ports will be inspected by a controlling officer according to the regulation on Port State Control.

The principal item of the MoU on Port State Control, which was signed on 26 January 1982, is the understanding by signatory States to achieve, within a period of three years from the coming into effect of the MoU, an annual total of inspections comprising 25 percent of foreign flag merchant ships staying in their ports. The MoU specifies that such inspection should verify the compliance of those ships with the technical and social minimum standards laid down in the relevant international

conventions. (IMO and ILO Conventions stated above)

In applying a relevant instrument for the purposes of Port State Control, the authorities would ensure that no more favorable treatment was given to non-convention ships.

3.3.1.2 Implication for Asian Countries

The Asian countries, at least the countries whose ships call at European ports, are automatically involved with the international action on substandard ships. The Asian countries are all member states of IMO and ILO and are affected by the international minimum standards adopted by those two organizations with regard to the safety of life and property at sea, the health of seafarers and the prevention of marine pollution. Consequently, it is important for the Asian countries to ratify the relevant Conventions at the earliest possible opportunity and to assume their responsibilities as flag states for the compliance of ships flying their flag with the pertinent minimum standards. This applies in ILO Convention No. 147, which none of ¹³ Asian countries ^{have} ~~has~~ ratified.

3.3.1.3 Proposal and Implementation in Thailand

It has been reported by the Netherlands' Port State Control that a number of inspections were carried out on board Thai ships during the years 1983 to 1985. But the report did not reveal what kind of deficiencies they found on board specific ships because that has to be kept confidential.

Having the ships fly its flag, the Thai marine

administration has responsibilities for eliminating substandard ships. To be more specific, both the maritime administration and shipping companies should collaborate in order to avoid having substandard ships in their fleets.

The Thai government should consider ratifying the instruments under international laws against substandard ships, those conventions are :

- the International Convention on Load Lines 1966,LL
- the International Convention for the Safety of Life at Sea,1974 (the Thai government has already ratified this) and its Protocol 1978,
- the International Convention for the Prevention of Pollution from Ships, 1973 and its Protocol 1978, (MARPOL 73/78),
- the International Convention on Standards of Training Certification and Watchkeeping for Seafarers, 1978 (STCW),
- the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG) and (Thai government has already ratified this), and
- the Merchant Shipping (Minimum Standards) Convention, 1976, ILO Convention No. 147.

Having ratify these instruments the maritime administration has to exercise port state control procedure to the extent that it must ensure that substandard ships may not depart from its ports unless they have had the deficiencies corrected, until they are safe from hazards to safety, health, or the marine environment.

On the shipping company side, responsibility must

also be shared with the shipowner. They must ensure the safe and seaworthy condition of their ships as well as man them safely with well-trained officers and crew.

On board the ship, the responsibilities should be shared by the master as well as all crew when it comes to combating the phenomenon of substandard ships.

Before ratifying an international convention, the maritime administration of the country has to produce national laws complying with those conventions; otherwise they will have no legal force. The national laws will govern the behavior of the shipowner, master and crew and also guide the controlling officers in performing their duties.

3.3.2 Casualty investigation

Although there has never been a navigational catastrophe in the South China Sea, minor navigational incidents are reported rather often especially in Thai territorial waters. In 1982 there were 23 cases of marine accidents reported to the Harbour Department. Among other causes is port geography; the major port of the country is a river port and the navigating channel always suffers from silting sometimes causing ships entering or departing the river port to run aground. The Thai fishing fleet consists mainly of small scale fishing boats those sometimes cause incidents with sea going vessels while navigating in Thai waters.

The provisions in the Navigation in Thai Waters Act B.E. 2456 (1913) states in a general way that the master of a ship should use his utmost care and diligence to

avoid any kind of accident or damage, either to the vessel he is navigating or to any vessel or property of whatever kind and if the accident happens he has to report in writing to the authority. None of the act's provisions, however, mentions casualty investigation procedures.

This project then tries to point out the importance of having in the maritime administration a profile of casualty investigation procedures. Before giving the primary purpose of casualty investigation, some definitions concerning marine occurrences will be defined for common understanding.

Definition

a) "Marine Occurrence" a generic expression that includes casualties to ships, accidents to persons resulting from the operation of ships, incidents and safety hazards, as well as marine related accidents or incidents involving oil rigs.

b) "Casualty" an accident related to the use or operation of a ship and resulting in damage to or incapacitation of the ship, its machinery or equipment, or resulting in damage to other property.

c) "Boating Accident" an accident related to the use or operation of a vessel or floating apparatus other than a commercial ship or a fishing vessel.

d) "Ship Related Accident" an accident other than a casualty related to the use or operation of a ship and resulting in the injury or death of a person. (For

greater certainty the term includes commercial diving accidents.)

e) "Incident" an event that has occurred which could have, but did not, result in a casualty, a boating accident or ship related accident.

f) "Safety Hazard" a situation or condition that could if left unattended, induce a casualty, a boating accident, a ship related accident or an incident.

g) "Investigation" any search for the facts and their analysis to whatever extent, whether conducted formally or informally or whether using the public hearing process or not.

h) "Public Inquiry" a process whereby a part or the whole of an investigation is carried out in public.

These expressions have their origin from the book titled "Study on Marine Casualty Investigations in Canada". (15)

3.3.2.1 Primary purpose of marine occurrence investigation

The primary purpose of casualty and other occurrence investigation is to improve the safety of life and property in this mode of transport. These investigations are seen as a form of preventive method through the process of finding out the causes of the occurrences, acquiring knowledge therefrom and recommending or imposing ways to prevent recurrences.

Such investigations have resulted in major improvements

in areas such as ship construction, lifesaving and fire fighting equipment, navigational aids and equipment, levels of competence of seamen, search and rescue, traffic and other rules, such as the International Regulations for the Prevention of Collisions at Sea, 1972.

3.3.2.2 Instruments under international law

- 1) The Merchant Shipping (Minimum Standards) Convention, 1976. (ILO No. 147)

The most important aspect in respect of obligations of the state in marine casualty is embodied in Article 2(g). Each member which ratifies the convention is obliged to hold an official inquiry into any serious marine casualty involving ships registered in its territory, particularly those involving injury and/or loss of life, and also states that the report of such inquiry is to be made public.

- 2) International Convention on the Safety of Life at Sea 1974/1978

The convention incorporates in Regulation 21 Chapter I the role of the administration of a state to undertake an investigation of any casualty occurring to any of its ships subject to the provisions of the present convention. The information concerning the findings of such investigations has to be submitted to the Organization.

- 3) Convention on the Law of the Sea 1982 (CLS)

Although the Convention has not yet come into

force, in practice every state has taken actions to the extent the convention has provided. Concerning marine casualties, Article 94 (7) of the convention stipulates that jurisdiction to perform investigation is that of the port state. In each state an inquiry shall be held by suitably qualified persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another state or serious damage to ships or installations of another state or to the marine environment. The flag states and the other State shall cooperate in the conduct of any inquiry held by that other state into any such marine casualty or incident of navigation.

3.3.2.3 Proposal and implementation in Thailand

The marine accident can happen at any time and to any place, although it is avoidable. It is worthwhile having jurisdiction which governs it. Dealing with occurrence investigations, the state has to have at least one regulation to guide investigation and a manual for investigators to be used when the inquiry is being conducted.

It is then proposed in this project that the maritime administration of the Thai government work out a regulation for marine casualty investigations and an operation manual complying with it.

Regulations concerning marine investigation should be composed of the following items :

- 1) Authority and purpose and definition
- 2) General provisions

- 3) Cooperation of shipowners and mariners
- 4) Formal investigation and administrative hearing
- 5) Report

The operation manual should include these items :

- 1) Preliminary inquiries
- 2) Preliminary report
- 3) Investigation report
- 4) Form of report
- 5) etc.

3.3.3 Maritime training facilities

In the previous sub-topic, when talking about the strengthening of Thai shipping companies, the importance of having ships manned with well-trained personnel was also mentioned. Well-trained officers and crew will play a part in strengthening ship operations. The Thai maritime administration realized the significance of having well-trained officers and crew, and consequently established the Merchant Marine Training Centre under the governance of the Harbour Department. For some reason the Merchant Marine Training Centre has not yet met international standards. It is possible that it needs more attention from the government, especially in the form of a specific policy being formulated about its function and operation.

It is worthwhile learning from the experiences of other countries. For example the far-sightedness of Indian national leaders in the early part of this century has made it possible for India to have a self-reliant and efficient merchant navy and a navy of defence. (16)

India appointed a Merchant Navy Training Committee in 1947, on which both the government and the shipowners

were represented. This committee was given broad terms of reference which included an examination of the availability of maritime personnel (navigating officers, engineer officers, deck and engine room crew) in the context of the country's available tonnage and a future protection based on the planned expansion of shipping. The committee was also required to deal with the pre-sea training of merchant navy ratings. As time has passed, the quality of the personnel has been recognized to be of a high order. The trainees have already built up an impressive reputation for loyalty, efficiency and adaptability to the latest developments on ships.(17)

3.3.3.1 The relevance of the International Convention on the Standards of Training, Certification and Watch Keeping of Seafarers (STCW 1978)

The International Convention on the Standards of Training, Certification and Watchkeeping 1978, embodies a number of regulations and resolutions which affect the training of ratings as well as masters and officers.

Since the STCW Convention has come into force, the countries which have training facilities have taken steps to introduce suitable courses for seafarers to meet the new requirements affecting their duties on board ship.

As far as the pattern of education is concerned, countries may adopt systems which they find to be suitable to their individual conditions and requirements. The ultimate aim of any pattern of training should be to produce well qualified sea going personnel who have followed a well planned programme of training leading to

the issue of appropriate certificates of competency in their respective fields.

3.3.3.2 Proposal and application in Thailand

Thailand has not yet ratified the STCW 1978 Convention, although it has training facilities in the country. In the past, the government has given low priority to training and the Merchant Marine Training Centre is the only marine academy in Thailand. Enrolment in 1983 totalled 129 cadets ; of the 59 cadets who have previously graduated, 55 are working in the Thai merchant fleet.(18) It is clear that the quality of the training have to be improved if Thailand is to comply with the conditions of the STCW 1978 Convention.

The proposal in this connection is directed to the merchant marine training policy. Learning from the experience of other countries, the national authority should have strong intentions to support national merchant marine training by appointing an advisory group to study and make recommendations for the improvement and promotion of the efficiency of the existing training centre.

The advisory group should be composed of representative of the maritime administration, the education authority, shipowners and seafarers.

Finally, the government should consider ratifying the STCW 1978 Convention as soon as possible and make full use of its provisions to improve maritime training in order to meet international standards.

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CHAPTER 4

CONCLUSION

The Use of the Sea -----

The policy towards the use of the sea in Chapter 3 describes Thailand's experience in marine matters and suggests that Thailand should have the national policy to ratify the Convention on the Law of the Sea.

The extension of maritime jurisdictions by neighbouring countries compels Thailand to face two inevitable situations. First, Thailand cannot extend its exclusive economic zone to the full 200 nmi. At this point, Thailand has become a zone-locked country. Second, there are significant areas of overlapping claims between Thailand and the surrounding neighbour countries.

These two situations put Thailand in the disadvantageous position in managing full use of the sea. As long as the conflicts over disputed areas remain unresolved, Thailand cannot utilize the natural resources abundant in such areas.

As a distant-water fishing nation, Thailand tried to join the landlocked and geographically disadvantaged states group at the conference of United Nations Conference on the Law of the Sea III (UNCLOS III). This group was struggling to have its entitlement to special

consideration regarding the resources of the expanded Zone recognized. It would be ⁱⁿ a better position regarding negotiations on continued access to the living resources within the neighbouring countries's zones if Thailand were considered a member of this group. Thailand was not accepted as a member of this group and its claim of being a geographically disadvantaged state has not been recognized.

Regarding the matter of protection of the marine environment, Thailand is taking some action to check marine pollution entering the Gulf of Thailand through research, monitoring, establishment of water quality standards, and the building of treatment plants, but efforts are at the early stage.

In the area of vessel-source marine environmental pollution, Thailand gives a rather low response to the international conventions completed and promoted by the International Maritime Organization (IMO). Thai legislation regarding this source of pollution is rare, although consideration is being given to the adoption of the 1973 International Convention for the Prevention of Pollution from Ships (MARPOL) and its protocol 1978.

It is necessary for the Thai government's responsible bodies to study the problems regarding the development of the management of the sea. One solution suggested here is the ratification of the Convention on the Law of the Sea as soon as possible.

The suggestion is made not only because Thailand is the only ASEAN member state which has not yet ratified the convention, but also because the nation is one of the

littoral countries of the South China Sea which is now of interest to outside nations. If Thailand were not to ratify the CLS it would be a terribly wrong decision. Thailand will not be able to persue the rights and obligations pertaining ^{to} the availability of the CLS while other littoral countries of the South China Sea who ratify it will fully exercise theirs. Although Thailand would not lose its status in ASEAN itself, being the organization's only member which is non-party to CLS would reduce the possibility of ASEAN reaching a consensus in pursuit of its interests on matters concerning the use of the sea in the region.

Shipping

An individual shipping company's competitive position depends to a certain extent on the government's engagement in the shipping industry through the development of a national shipping policy. At the same time, however, for a shipping company to compete, it should set out its own policy regarding the management and operation of its vessels in order to provide good service and to be self-sufficient.

The performance of good services is a product of good managerial abilities, which must be flexible enough to accept new changes and developments in the international market. Such changes and developments become standards through time and usage. These standards, which are determining factors of the quality and efficiency of the service, are :

- a well stipulated tariff system,
- the frequency of the line, meaning the number of

- times the vessels are scheduled to call at certain ports on the trading route,
- the regularity of the service, which must be constant without any interruptions in accordance with previously advertised schedule,
 - the quality of cargo stowage and handling which can contribute to improvement of turn-round time in ports as well as to the good reputation of a line,
 - the efficiency of agents on the route performing several functions and providing services to the customers,
 - the acquisition of vessels that best suit the requirements of traders and cargoes on the route served in sufficient numbers to receive all booked cargoes, cargo is accepted whether attractive or not unless it may affect the safety of ships or other cargoes, and
 - the efficiency of crew members plays an important role on board the ship while the administration is important for shore side, having well-trained personnel for both is the best policy.

Since the Thai Maritime Navigation Company Limited was established in 1940, the company has not been a commercial success. One important factor is the inefficient management which causes other related problems. To this extent, the important point which the managerial body of the company should concentrate on in order to strengthen the company is the performance of good service as stated above.

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Thailand and Transport Systems

Thailand, one of the six ASEAN countries, has its mainland connected with the Asia Continent, while the long southern part of the country is exposed to the seas. Within the area of 514,000 sq.km., the communication for its 49 million inhabitants varies among every mode of transportations. Those means of transport are as follows : railways of 3,825 km., roads of 30,016 km. and cabotage along the coastline of 3,219 km.

Thailand has five main routes for railways toward the east, northeast, north, west and south. Highways and roads connect 72 provinces like a fishing net. Each province in which consists of many "Tambon"(towns) and "Mooban"(villages), the digest hierarchies for decentralization connected each other highways, gravel roads and dirt roads which made the total length of 30,016 km.

On the streets of big towns like Bangkok and many other provinces several kind of vehicles have been brought into use depending on the need and the purpose of transportation. Animal drawn vehicles are used only in those areas near the fields. Anyhow, as the advancement of technology has been progressing the farmers prefer to use small or medium pick-ups than carts nowadays. As well as the coastal provinces the

fishermen use such pick-up or small trucks for transporting their sea products to the markets.

To speed up the transport of either passengers or cargo, there are more than two dozen airfields in Thailand ; four of them are capable of receiving international flight services.

Thailand has one main port and one international airport located in metropolitan Bangkok. Aside from air cargo, all import cargoes from sea-going vessels have to pass through Bangkok Port. Within the port, the customs authority randomly investigates in order to levy the appropriate customs duties. As soon as the cargo arrives in the port the consignees receive the sea-waybills. After the custom formalities, the consignees are allowed to move their cargo to their warehouses by their own trucks. Generally, warehouses are in Bangkok. There are two choices to send the cargo to the customers. First, the customer who lives within Bangkok will be contracted to pick up the cargo by his own arrangement. Second, the consignee can transport the cargo to the customer's door by trucks or train and truck whatever the distances concerned.

If the customer is living 500 miles away from Bangkok, there are three possible means to send the cargo, either by road, air or train. Sending cargo by air is the fastest and costliest too. Most of the customers prefer train or roads which required the same period of time (8-10 hours). Road transport is more convenient because the cargo can be delivered directly to the customer s door without changing the means of transport as in the case of rail transport.

The cargo which is big in size or transported in huge amounts such as grain, iron/ore and coal, as well as general cargo is usually carried by ship. Approximately 2.2 million tons of import and 1.4 million tons of export cargoes were moved to and from Bangkok Port in 1984.

Vessels carrying cargoes and/or passengers from foreign countries which cross the Bangkok bar and proceed into the Chao Phraya River must be berthed at the Bangkok Port operated by the Port Authority of Thailand only. Vessels of between 10,000 and 12,000 DWT, 172 metres in length and 8.2 metres in draught are allowed to navigate through the channel for berthing. With the arrival of a vessel at the mouth of the Chao Phraya River, the Port Authority of Thailand operators will communicate with the pilot on the vessel by radio to give berth and other information.

Known for centuries by outsiders as Siam, Thailand is approximately the size of France and shares borders with Burma to the West and North, Laos to the North and Northeast, Kampuchea to the East, and Malaysia to the South. Thailand is a Buddhist Kingdom where the past and present mingle in perfect harmony. It has a traditional culture delicately attuned to the Buddhist ideals of charity, tolerance and loving kindness.

Note

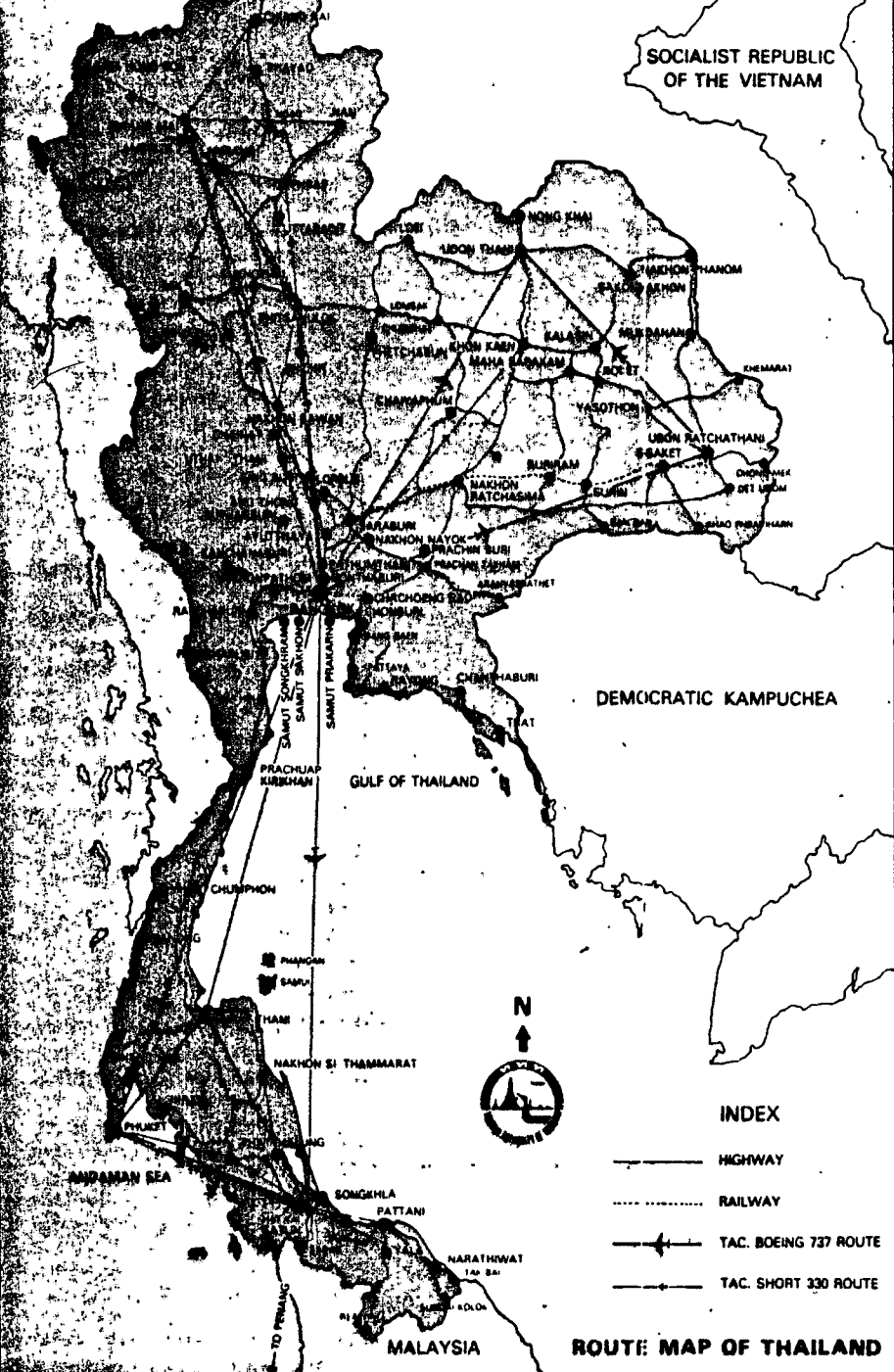
Sources : Tourist Authority of Thailand, Port Authority of Thailand and Highway Department, Bangkok, Thailand

(ANNEX 2)

MAP OF THAILAND
AND
BANGKOK METROPOLIS

SOCIALIST REPUBLIC OF THE UNION OF BURMA DEMOCRATIC PEOPLE'S REPUBLIC OF LAOS

SOCIALIST REPUBLIC OF THE VIETNAM



ROUTE MAP OF THAILAND

Road distance in kilometres from Bangkok

Ayutthaya	77
(Rail Time 1 20 hrs.)	
Bang Saen	104
Chanthaburi	319
Chiang Mai	697
(Rail Time 14 hrs.)	
(Flying Time 1 hr)	
Chiang Rai	823
Chumphon	460
(Rail Time 9 hrs.)	
Hat Yai	1247
(Rail Time 19 hrs)	
(Flying Time 1.15 hr)	
Hua Hin	230
(Rail Time 4 hrs)	
Kanchanaburi	126
(Rail Time 2.30 hrs.)	
Khon Kaen	445
(Rail Time 8 30 hrs.)	
(Flying Time 1 hr)	
Lampang	604
(Rail Time 11 30 hrs)	
Lamphun	667
(Rail Time 13 30 hrs)	
Lop Buri	153
(Rail Time 2 30 hrs.)	
Nakhon Pathom	58
(Rail Time 1 40 hrs)	
Nakhon Phanom	735
Nakhon Ratchasima	256
(Rail Time 5 hrs)	
Nakhon Si Thammarat	1137
(Rail Time 16 45 hrs)	
Nan	745
Pattaya	147
Phetchaburi	126
(Rail Time 4 hrs)	
Phitsanulok	498
(Rail Time 7 hrs)	
(Flying Time 40 minutes)	
Phuket	867
(Flying Time 1 10 hrs)	
Rayong	208
Sakon Nakhon	641
Songkhla	1274
Sukhothai	440
Trat	387
Ubon Ratchathani	647
(Rail Time 10 30 hrs.)	
(Flying Time 1 45 hrs.)	
Udon Thani	562
(Rail Time 10 30 hrs)	
(Flying Time 1.35 hrs.)	
Yala	1395
(Rail Time 20 hrs.)	

Thai Airways
Bangkok Reservations
Tel. 281-1633

State Railway of Thailand
Rail Travel Aids
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