

**MARITIME PROMOTION ACT,
B.E. 2521 (1978)****

BHUMIBOL ADULYADEJ, REX;
Given on the 11th Day of December B.E. 2521;
Being the 33rd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:
Whereas it is expedient to have a law on maritime promotion;
Be it, therefore, enacted by the King by and with the advice and consent of
the National Legislative Assembly, as follows:

Section 1. This Act is called the “Maritime Promotion Act, B.E. 2521 (1978)”.

Section 2¹. This Act shall come into force as from the day following the date
of its publication in the Government Gazette.

Section 3. The Announcement of the Revolutionary Council No. 215, dated
20 September B.E. 2515 (1972) shall be repealed.

Section 4. In this Act:

“maritime” means carriage by sea, marine insurance, navigation, dockyard
business and port business and includes other businesses directly relating to or being a part
of such businesses as prescribed by Ministerial Regulations;

“carriage by sea”² means the carriage of goods or passengers by ships from
Thailand to another country or from another country to Thailand, or from one place to

* Translated by Ms. Mattanee Kaewpanya under contract for the Office of the Council of
State of Thailand’s Law for ASEAN project. – Initial Version – pending review and approval by the Office of
the Council of State.

** As amended up to the Maritime Promotion Act (No. 2), B.E. 2548 (2005).

¹ Published in the Government Gazette, Vol. 95, Part 143, Special Edition, Page 1, dated
18th December 2521 (1978).

another outside of the Kingdom, and shall include carriage of goods or passengers by seacoasts within the Kingdom by ships from the size of two hundred and fifty ton gross;

“ship” means sea-going vessels used in carriage by sea;

“Thai ship” means a Thai ship under the law on Thai ships used in carriage by sea;

“sea carriage operators” means carriage by sea business operators who are in Thailand and are operating carriage by sea and includes the branches and agents of the sea carriage operators whose head offices are abroad and who are operating carriage by sea in Thailand, including those who act as brokers seeking and preparing goods in Thailand for carriage by sea;

“shipper” means the owners of the goods or agents who send goods to or order or bring goods from another country by sea;

“goods” means merchandise, objects or live animals;

“port” means a place providing services for ships to anchor, moor, load or unload goods;

“port business” means business concerning ports, and includes other business directly relating to or being a part of ports as prescribed by the Ministerial Regulations;

“Commission” means the Maritime Promotion Commission;

“Office” means the Marine Department;

“officer” means a person appointed by the Ministry to perform under this Act;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 5³. There shall be a Commission called the “Maritime Promotion Commission” consisting of:

- (1) the Prime Minister as the Chairperson;
- (2) the Minister of Transport as the Deputy Chairperson;
- (3) the Minister of Finance, the Minister of Foreign Affairs, the Minister of Commerce, the Minister of Industry, the Permanent Secretary of the Ministry of Sports and Tourism, the Permanent Secretary of the Ministry of Transport, the Permanent Secretary of the Ministry of Natural Resources and the Environment, the Permanent Secretary of the Ministry of Interior, the Permanent Secretary of the Ministry of Labour, the Permanent Secretary of the Ministry of Education, the Commander-in-Chief of the Royal Thai Navy, the Director of the Office of the Bureau of the Budget, the Secretary-General of the Office of the

² Section 4, the definition of “carriage by sea” was amended by the Maritime Promotion Act (No. 2), B.E. 2548 (2005).

³ Section 5 was amended by the Maritime Promotion Act (No. 2), B.E. 2548 (2005).

Council of State, the Secretary-General of the Office of the National Economics and Social Development Board and the Secretary-General of the Board of Investment as members;

(4) the chairperson of the Thai National's Shipper Council, the chairperson of the Board of Trade of Thailand, the chairperson of the Federation of Thai Industries and the chairperson of the Thai Bankers' Association as members;

(5) nine qualified members appointed by the Council of Ministers from persons of Thai nationals who have knowledge or experience in the areas of international carriage by sea, water transportation, port business, Thai navigation business, dockyard business, maritime law, marine insurance, international trade and the environment, one qualified member for each of the areas.

The Director-General of the Marine Department shall be a member and a secretary.

Section 6⁴. The qualified members appointed by the Council of Ministers shall hold office for a term of two years. A member who vacates office upon the expiration of the term may be reappointed, but may not be appointed for more than two consecutive terms.

Upon expiration of the term of office under paragraph one, a new member shall be appointed within sixty days. During the time where a new member has not yet been appointed, the member whose term of office has expired shall be in office to continue to perform his or her duties until a new member has been appointed.

Section 7. A person having one of the following prohibitions is prohibited from being a qualified member:

- (1) being an incompetent or quasi-incompetent;
- (2) having been sentenced by a final judgment to imprisonment, except for a petty offence;
- (3) being bankrupt;
- (4) being a political official;
- (5) being a director or an official of a political party.

Section 8. In addition to vacating office on the expiration of term under section 6, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers;
- (4) being under any of the prohibitions under section 7.

⁴ Section 6 was amended by the Maritime Promotion Act (No. 2), B.E. 2548 (2005).

Where a qualified member vacates office before term, the Council of Ministers may appoint another as a replacement.

The member appointed under paragraph two shall be in office for the term of office of the member he or she replaces.

Section 9. At a meeting of the Commission, if the Chairperson does not attend the meeting or is unable to perform the duties, the Deputy Chairperson assigned by the Chairperson shall preside over the meeting. If the Chairperson and the Deputy Chairperson do not attend the meeting or are unable to perform the duties, the meeting shall elect one among themselves to preside over the meeting instead.

Section 10. At a meeting of the Commission, the presence of not less than one-half of members is required to constitute a quorum.

The decision of the meeting shall be made by a majority of votes. In casting a vote, each member shall have one vote. In the case of the votes being tie, the presiding member shall have an additional vote as the casting vote.

A member having interest in a matter is prohibited from voting on the matter⁵.

Section 11. The Commission shall have the following duties:

(1) to give advice to the Council of Ministers concerning maritime matters as requested by the Council of Minister;

(1/1)⁶ to submit to the Council of Minister policies and plans for maritime development, including the plans for multi-modal transports and administrative plan on the management of transportation system connecting to carriage by sea with emphasis on strengthening Thai maritime activities;

(1/2)⁷ to submit opinions to the Council of Ministers for their consideration to prescribe appropriate areas or locations for the establishment of various types of ports in accordance with the characteristics of carriage by sea while taking into consideration the maximum benefits from the use of resources, the impacts on the economy, society, security, conservation of the environment and safety of navigation;

(2) to submit opinions to the Council of Ministers concerning maritime development, promotion, control, protection and co-ordination, particularly to submit opinions concerning the prescription of measures:

⁵ Section 10 paragraph three was added by the Maritime Promotion Act (No. 2), B.E. 2548 (2005).

⁶ Section 11 (1/1) was added by the Maritime Promotion Act (No. 2), B.E. 2548 (2005).

⁷ Section 11 (1/2) was added by the Maritime Promotion Act (No. 2), B.E. 2548 (2005).

(a) in support of the higher number and ability of Thai ships for carriage by sea operations;

(b) for the establishment or promotion of training centres for officers and seafarers, as well as maritime business operators, to sufficiently meet the demands of the country and to be of international standards;

(c) in the promotion and control of carriage by sea, marine insurance, navigation, dockyard business and port business, including communications and navigation tools; and

(d) for the promotion and protection of carriage by sea operators who are able to hold propriety rights to Thai ships and shippers who are in Thailand;

(3) to prepare suggestions to the Council of Ministers by consulting with government agencies of the Central Administration, Regional Administration, State institutions, State agencies or State enterprises on the establishment, merge, separation and ceasing of operation of port and port business, as well as the structure and plans for the expansion, investment, planning and development of port and port business of government agencies of the Central Administration, Regional Administration, State institutions, State agencies or State enterprises;

(4) to submit opinions or give advice to the Council of Ministers in passing legislation for maritime development, promotion, control, protection and co-ordination;

(5) to submit opinions to the Council of Ministers for maritime international agreements to be complied with;

(6) to submit opinion or give advice to the Council of Ministers in prescribing Ministerial Regulations, notification and order under this Act;

(7) to prescribe criteria and conditions to be complied with by those gaining rights and benefits in order to control the application of such rights and benefit to be in compliance with this Act;

(8) to co-ordinate projects and plans concerning maritime matters and to control navigations between government agencies of the Central Administration, Regional Administration, State institutions, State agencies or State enterprises and the private sector;

(9) to perform other acts prescribed in this Act or other laws as the duties of the Commission or as prescribed by the Council of Ministers.⁸

The Commission may entrust the duties under (8) and (9) for the Office to perform in its place.

⁸ Section 11 (9) was amended by the Maritime Promotion Act (No. 2), B.E. 2548 (2005).

Section 12. The Commission may appoint persons as a committee on a specific matter or a sub-committee to consider or perform any task as entrusted by the Council of Ministers.

Section 9 and section 10 shall apply to the meeting of the committee on a specific matter or the sub-committee, *mutatis mutandis*.

Section 13. The Commission or the Office shall have the power to issue a written request for appearance for a person to give facts or to send a document concerning maritime matters.

Section 14. There shall be the Marine Department* under the Ministry of Transport and shall have the following duties:

- (1) to act as the centre for co-ordination in maritime matters;
- (2) to conduct studies and analyse projects, plans or measures concerning maritime to be submitted to the Commission;
- (3) to conduct academic studies and research on carriage by sea, marine insurance, navigation, communication and navigation tools, dockyard business and port business and to compile academic information for distribution, including to exchange such information with other academic institutions;
- (4) to perform acts as prescribed by the Commission;
- (5) to perform other acts for the execution of the objectives of this Act or to perform as prescribed by this Act or other laws to be the duties of the Office.

Section 15. There shall be a Director-General for the Marine Department with the duties to instruct and take responsibility for the operation of the Office. There may also be a Deputy Director-General to assist with the operation.

Section 16. In the promotion of maritime, the Government may prescribe measures and or grant rights and benefits as follows:

- (1) to prescribe for carriage of goods by sea between Thailand and other countries where each country must use the services for carriage by Thai ships for no less than the ratio of the volume of goods and the freight of the carriage as prescribed in the Royal Decree;
- (2) by passing a Royal Decree under the Tax Code, for the shareholders of legal persons who operate carriage by sea and who hold propriety rights to Thai ships or who operate dockyard business as prescribed, the dividend received from such legal persons shall be exempt from income tax or reduced under income tax rates;

(3) by passing a Royal Decree under the Tax Code, for shippers who ship goods which are the fruits or products from Thailand to other countries using Thai ships, or order or import goods from other countries to Thailand by Thai ships to have the rights to deduct no more than fifty per cent of the freight or other money normally paid in the carriage of such goods from the net income or net profit, as the case may be.

The Royal Decree under (1) (2) and (3) may prescribe the criteria, methods and conditions concerning the use of measures and the granting of such rights and benefits.

Section 17. The Minister shall have the power to issue Ministerial Regulations on all or some of the following matters:

(1) the prescription that goods ordered or imported by the State, State institutions, State agencies or State enterprise from other countries by ship in the route that Thai ships navigate and are able to provide the carriage service must be carried by Thai ships;

(2) the prescription that goods that the shipper order or import from other countries using a loan from State lending source, State institutions or the Industrial Finance Corporation of Thailand under the conditions of the loan, or goods ordered or imported from another countries by persons who are contracting parties of the State, State institutions, State agencies or State enterprise, for the performance of such contracts by ship in the route that Thai ships navigate and are able to provide the carriage service, must be carried by Thai ships;

(3) the prescription of goods by types and categories that the shippers shall export to another country or order or import from another country by ship in the route that Thai ships navigate and are able to provide the carriage service in any prescribed period of time must be carried by Thai ships for the volume no less than the prescribed ratio.

Section 18. For the performance of the Ministerial Regulations issued under section 17, the Minister shall have the power to publish matters in the Government Gazette as follows:

(1) the prescription of any necessary criteria, methods and conditions for the prescribed carriage of goods by Thai ships;

(2) the prescription concerning the notification by the shipper on the export to other countries or the order or import from another countries of goods by types and categories prescribed to be carried by Thai ships;

(3) the prescription of various necessary measures for the acknowledgement of the volume of goods prescribed to be carried by Thai ships and the volume of service by Thai ship used by the shipper within the prescribed period of time.

Section 19. In a case where the carriage of goods as prescribed under section 17 cannot be done by Thai ships, the shipper shall submit an application for a written permission for such carriage to be done by other ships to the Office in accordance with the criteria and methods prescribed by the Office.

For the permission or the denial of permission for the carriage of goods to be done by other ships, the Office shall notify the person submitting the request within five days from the date the request is received. If the person submitting the request does not receive a notification within the time period of five days, it shall be deemed that the permission for the carriage of goods by other ships has been granted.

Section 20. The Office shall issue a written permission in accordance with the application for the written permission under section 19 for the shipper to carry goods by other ships when it appears that:

- (1) during the specific time period for the loading of goods onto ships, there is no Thai ship which could accept the carriage of goods from the port that the goods are to be loaded or that there is a Thai ship but the hold of the ship is insufficient for the goods;
- (2) there is a treaty or an agreement that the Thai government has specifically made with the government of another country;
- (3) there is a special circumstance requiring the relief.

Section 21. A ship that is not a Thai ship that a carriage by sea operator who holds propriety right to a Thai ship has rented in order to increase the numbers of ships on the route that he or she has ships normally navigating for carriage may receive the same rights and benefits under this Act as a Thai ship throughout the rental period if the carriage by sea operator notifies and show evidence of the rental to the Office and is granted a permission from the Minister or the person entrusted by the Minister for such ship to be used in his or her carriage by sea business. In this connection, the Minister or the person entrusted by the Minister shall prescribe the criteria in considering granting the permission for the carriage by sea operator to rent and use the ship for the carriage by sea.

The criteria, methods and conditions for the notification, as well as the evidence for the ship rental which must be shown under paragraph one shall be as prescribed by the Minister as published in the Government Gazette.

Section 22. Where there is a Ministerial Regulation prescribing for the carriage by ships that must be carried by Thai ships under section 17, if a shipper does not carry the goods as prescribed by Thai ships or ships which have been granted the rights and benefit under section 21 or carry goods by types and categories as prescribed by Thai ships, or the ships which have been granted the rights and benefits under section 21 in the volume that is

less than the prescribed ratio and who was not given a permission to carry goods by other ships under section 20, the shipper shall be liable to a special fee which is the equivalent of twice the freight for that carriage or twice the freight for the carriage in the part where the shipper does not ship to the prescribed ratio by Thai ships.

The calculation of freight for the purpose of the liability for the special fee under paragraph one shall be in accordance with the criteria prescribed in Ministerial Regulations.

It shall be deemed that the responsibility for the liability of the special fee arises on the date that the shipper ships the goods by other ships or from the date that the competent official states in the order for the special fee to be paid in a case where the shipper send goods by Thai ships or by ships which have been granted the rights and benefit under section 21 in the volume that is less than the prescribed ratio. When the date of payment is reached and the fee is not paid, the special fee shall be deemed to be in arrears.

The special fees shall be paid to the competent official and shall be in accordance with the criteria, methods and conditions as prescribed in the Ministerial Regulations.

Section 23. In order for the special fee in arrears to be paid, the competent official shall have the power to issue an order in writing for the person liable for the payment of the special fee to pay for such special fee, as well as have the power to order for the seizure and auction of assets of the person liable for the payment of the special fee without having to submit a request for the Court to issue a writ of seizure or an order.

The seizure and auction of assets under paragraph one shall be performed in accordance with the Civil Procedure Code, *mutatis mutandis*. After the deduction of fees and expenses incurred in the seizure and auction and the special fees, the remainder from the money received from such auction, if any, shall be returned to the owner of the assets.

Section 24. When it appears that, in the operation of carriage by sea business, a carriage by sea operator gives special rights or benefits to a shipper or receives special rights or benefits, whether directly or indirectly, which constitute taking an advantage and causing damages to other carriage by sea operators who hold propriety rights in Thai ships, the Minister shall have the power to issue an order, by the advice of the Commission, for one of the following actions:

(1) for money to be collected to prevent the taking of an advantage in the operation of carriage by sea business from the carriage by sea operator, who causes the notice for the money to be collected to prevent the taking of an advantage in the operation of carriage by sea, for the goods that the carriage by sea operator carries, within the period of

time stated in the order, at a rate deems appropriate but not exceeding the freight for the carriage;

(2) or the prohibition to carry or load and unload goods at a port in the Kingdom within a specific period of time for all or some of the ships of the carriage by sea operator who takes advantage in the carriage by sea operation.

The calculation of the freight for the money to be collected to prevent the taking of an advantage in the operation of carriage by sea under (1) shall be in accordance with the criteria prescribed by the Ministerial Regulations.

The collection of money to prevent the taking of an advantage in the operation of carriage by sea under (1) shall be the power and duties of the Customs Department and the law on customs shall apply *mutatis mutandis*. It shall be deems as if the money to prevent the taking of an advantage in the operation of carriage by sea is an import tax or export tax in accordance with the law on customs tariff. For the benefit of the collection of money to prevent the taking of an advantage in the operation of carriage, the competent official under the law on customs shall have the power to detain the ship carrying the goods until the carriage by sea operator pays for the money to prevent the taking of an advantage in full or that a collateral has been deposited to the official's satisfaction.

The order under paragraph one and the amendment or revocation of such order shall be published in the Government Gazette.

Section 25⁹. Carriage by sea operator and dockyard business operator providing services of building, fixing or maintaining the ships from sixty ton gross upwards must register as carriage by sea operator or dockyard business operator, as the case may be, to the competent official.

The application and registration under paragraph one shall be in accordance with the criteria and methods prescribed in the Ministerial Regulations.

Section 26. The Office may request the government agencies of the Central Administration, Regional Administration, State institutions, State agencies or State enterprises to submit projects or plan, as well as academic details, finance and statistics necessary for the studies on maritime situations as a part of the consideration by the Commission or the Office.

Section 27. For the benefit of survey and collaboration of information and statistics concerning maritime matters, the maritime operators shall notify information,

⁹ Section 25 was amended by the Maritime Promotion Act (No. 2), B.E. 2548 (2005).

statistics and other contents necessary to the Office, in accordance with the criteria, methods and conditions prescribed in the Ministerial Regulations.

Section 28. A person is prohibited from revealing any information, statistics or content acquired under section 13 or section 27 as should commonly be restricted and protected, except where the revelation is in accordance with the State duties or for the benefits of the examination, investigation or hearing of a case.

Section 29. A person who does not comply with the written request for appearance under section 13 shall be liable to a fine of no more than five thousand baht.

Section 30. A person who gives false facts or false document under section 13 or does not comply with section 27 or the Ministerial Regulations prescribed under section 27 or states false information, statistics or content shall be liable to imprisonment for a term of no more than six month or to a fine of no more than ten thousand baht or to both.

Section 31. A person who violates or does not comply with the notification issued under section 18 shall be liable to a fine of no more than ten thousand baht and an additional fine of no more than two thousand baht per day throughout the time of the violation or non-compliance.

Section 32. A person who does not comply with section 25 shall be liable to a fine of no more than fifty thousand baht and to an additional fine of no more than two thousand baht per day throughout the period of non-compliance.

Section 33. A person who violates section 28 shall be liable to imprisonment for a term of no more than one year or to a fine or no more than twenty thousand baht or to both.

Section 34. A person who operates such carriage by sea business, port business or dockyard business under section 25 at the time that this Act enters into force may continue to operate the business for a further one hundred and eighty days from the date this Act enters into force. However, if he or she wishes to continue such business operations, the person must register under section 25.

Section 35. The Minister of Transport shall have charge and control of the execution of this Act and shall have the power to prescribe Ministerial Regulations, appoint competent officials and prescribe other operations for the execution of this Act.

The Ministerial Regulations shall enter into force upon the publication in the Government Gazette.

Countersigned by

General Kriangsak Jamananda

Prime Minister

Office of the Council of State