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TIJARA PROVINCIAL ECONOMIC GROWTH PROGRAM

MARITIME SERVICES IN IRAQ AND GATS NEGOTIATIONS RECOMMENDATIONS AND IMPACT



July 2009

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ACRONYMS

CERP	Commander's Emergency Response Program
COLREG	Convention on the International Regulations for preventing collisions at sea
DWT	Deadweight Tonnage
EDI	Electronic Data Interchange
EU	European Union
FDI	Foreign Direct Investment
GATS	General Agreement on Trade in Services
GATT	General Agreement on Trade and Tariffs
GDP	Gross Domestic Product
GOI	Government of Iraq
ICT	Information and Communication Technologies
ILO	International Labor Organization
IMO	International Maritime Organization
IQR	Iraqi Dinar
ISM	International Safety Management
ISO	International Organization for Standardization
ISPS	International Ship and Port Facility Security Code
JV	Joint Venture
LRIT	long Range Tracking System
MARPOL	International Convention for Prevention of Pollution from Ships
MFN	Most Favored Nation
MENA	Middle East and North Africa
MLC	Maritime Labor Convention
MTS	Maritime Transport Services
NGMTS	Negotiating Group on Maritime Transport Services
OECD	Organization for Economic Co-operation and Development
OSRA	Ocean Shipping Reform Act
SOLAS	International Convention for Safety Of Life At Sea
STCW	International Convention on Standards of Training
TCN	Transnational Corporations
TEU	Twenty foot Equivalent Unit
UAE	United Arab Emirates
UK	United Kingdom
UNCTAD	United Conference on Trade and Development
UNDP	United Nations for Development Programs
UR	Uruguay Round
US	United States
USD	US Dollar
WEF	World Economic Forum
WTO	World Trade Organization

1. INTRODUCTION AND METHODOLOGY

The purpose of this series of documents on various sub-sectors under services is to prepare the Government of Iraq (GOI) for the submission of the services chapter to the World Trade Organization (WTO). It also seeks to assist the GOI to better understand the context in which each sub-sector operates in the economy. WTO accession is hardly an end in itself. Instead, WTO Accession is the beginning of a process of serious economic reform. Accession to the “club” of WTO requires serious commitments to liberalization, as well as an understanding of the impact of these commitments on the economy at large and its broader benefits.

Each of the sub-sector reports is broken into five parts:

1. Introduction and methodology – the key analytical elements applicable to the sub-sector;
2. Sub-Sector Context within the General Agreement on Trade in Services (GATS) and Value Chain Development – the sub-sector in the context of GATS, international best practices, and value chain development of the sub-sector;
3. Iraq and the role of the specific sub-sector, including the regulatory environment, data, and the role of the private sector in WTO negotiations;
4. Recommendations for Iraq in the negotiations of the sub-sector;
5. A general discussion of the impact of the proposed liberalization commitments on Iraq in the sub-sector.

Section 2 describes the framework, or the “lens” through which the Iraqi Government Services Committee should consider in the analysis of their sector. The WTO framework, its modes, horizontal commitments and value chain underpin the essence of preparation, and are the main content of impact analysis.

Sections 3-5 provide a more detailed analysis of the sub-sector itself and its role and overall impact on the Iraqi economy.

There are five key methodological tools and concepts used to analyze the role of services in Iraq. These include:

- a. WTO framework (definition of “modes”);
- b. International best practices;
- c. Regulation;
- d. Mode analysis;
- e. Most Favored Nation (MFN) status, National Treatment and Market Access.

In each case we need to make sure that the GOI clearly understands the framework and context of the sub-sector analyzed and its relationship to the Four Modes contained in GATS.

Iraq applied for WTO accession in December 2004 and submitted a Memorandum on the Foreign Trade Regime in September 2005. The Working Party met for a second time in April 2008 to continue the examination of Iraq's foreign trade regime, however Services negotiations did not commence.

This study has been prepared as a background paper supporting Iraq's accession to the WTO. As part of the WTO accession process, Iraq must negotiate offers/commitments for Trade in Goods and for Trade in Services. The Iraqi Services sector is likely to be of particular interest to WTO members, due to its significant economic potential. An extensive consultation process underpins this study, which involved attending relevant meetings to make presentations and exchange information, meeting with experts in the government and civil society, and undertaking dialogue in an electronic discussion.

This study will be presented at various meetings of the GOI Services Committee. In addition to this paper, there are several lengthy presentation materials prepared by the Trade Division that will discuss various aspects of this paper in greater detail. Working Committee meetings will include members of civil society, as well as trade negotiators from Iraq. In the writing of this paper, consultation was undertaken in the form of face-to-face meetings with a range of stakeholders representing national and regional organizations.

2. SUB-SECTOR CONTEXT IN GATS

2.1 WTO DEFINITION AND FRAMEWORK

For most WTO Members, the focus of negotiations with respect to transport services is on Maritime Transport Services (MTS), since this is a sensitive sub-sector of most concern to many WTO members. However, few countries make commitments in maritime transport. Negotiations on Maritime Transport Services proved to be very difficult because of the complex and diverse nature of this sector, which involves several different kinds of services, from shipping to port facilities, each organised in completely different ways. The pace of negotiation for trade liberalization in these areas is hindered by many members' desire to protect the domestic maritime transport sub-sector.

The results of the Uruguay Round for maritime transport were disappointing. By late 1993, members had not been successful in reaching a consensus on the modalities for the process of liberalizing maritime transport services; no agreement had been concluded. The Ministerial Meeting of December 1993 determined that talks would be continued under a specialized Negotiating Group on Maritime Transport Services (NGMTS), which was to conclude negotiations no later than June 1996. However, negotiations conducted under NGMTS were likewise unfruitful and finished without producing substantial consensus among members.

In 1996, a decision of the Council for Trade in Service suspended the Maritime Transport Sector negotiations without conclusion. It was decided that negotiations would resume with the beginning of the next comprehensive negotiating round on services, and that the Most Favored Nation Treatment for maritime transport will not apply until an agreement is reached. This ruling was in accordance with Article XIX of the GATS, which requires Members to enter into successive rounds of negotiations beginning no later than 5 years from the entry into force of the WTO agreement (September 1996 for most member countries).

From early 2000, negotiations on services, including maritime transport services, were resumed as the so-called Built-in-Agenda, and continued under the 4th Ministerial Conference in Doha. The Ministerial Declaration of November 2001 launched a new round of WTO negotiations, stipulating that "Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003 (paragraph 15 for Services)" and that "The negotiations to be pursued under the terms of this Declaration shall be conducted not later than 1 January 2005" (paragraph 45).

In the Special Session of Council for Trade in Service on March 3 2003, 52 WTO members who had interests in Maritime Transport Service liberalization have submitted the Joint Statement on the Negotiations on Maritime Transport Sector, which called for active participation by all WTO members in the ongoing negotiations with a view to achieve meaningful progress.

It is also encouraging that, since the NGMTS, a number of new member countries, such as China, Ukraine, Vietnam and Saudi Arabia have included commitments on maritime transport in their schedules.

2.1.1 Content of the Negotiations on Maritime Services

Negotiations in the Maritime Transport Services sector cover three pillars¹:

1. International maritime transport: transporting passengers or freight between ports in different countries (excluding cabotage);
2. Maritime auxiliary services: cargo-handling, storage and warehousing, stevedoring, freight forwarding, customs clearance services, container station and depot services; and
3. Access to and use of port services: pilotage, towing and tug assistance, garbage collection, provisioning, port captain's services and anchorage.

As most countries continue to reserve cabotage for national-flag vessels, this sub-sector was excluded from negotiations within the GATS.

2.1.2 Definition of Maritime Transport

Transport accounts for 30% of all trade in services and represents between 4 and 8% of GDP and between 2 and 4% of total employment in developed countries². Of all modes of transport, maritime is most important.

The maritime sector covers a range of services: the building/repair, feeder and ancillary services, ports services, movement and repositioning of empty containers, manning (seafaring), multimodal and logistics services etc. Internationally competitive providers in these services support the local industries, and are also service exporters, bringing in much-needed foreign exchange earnings and investment.

Although essentially supporting other industries and services, the shipping industry is itself a growing market. Around 90% of world trade is carried by the international shipping industry. Without shipping, the import and export of goods on the scale necessary for the modern world would not be possible³.

Seaborne trade continues to expand, bringing benefits for consumers across the world through competitive freight costs. Thanks to the growing efficiency of shipping as a mode of transport and increased economic liberalization, the prospects for the industry's further growth continue to be strong.

There are around 50,000 merchant ships trading internationally, transporting every kind of cargo. The world fleet is registered in over 150 nations, and manned by over a million seafarers of virtually every nationality.

2.1.3 Scope and Coverage of the Maritime Model Schedule

The schedules of the Maritime Transport Services during the Uruguay round spanned three pillars: (1) international maritime transport, (2) maritime auxiliary services and (3) access to and use of port services. The first pillar, international maritime transport, was recognised as relatively liberal, although some important aspects remained to be addressed in negotiation – such as national cargo reservation and unilateral retaliatory measures.

The second pillar, maritime auxiliary services, received considerable attention at Uruguay. These adjuncts to the primary sea leg had by then become much more important, as carriers

¹ <http://www.wto.org>

² Parameswaran, Benjamin. "Maritime Transport Services within the WTO/ GATS Framework," International Max Planck Research School for Maritime Affairs, Hamburg, Germany. 2005

³ Shipping facts: <http://www.marisec.org/shippingfacts/>

had begun to integrate their services to a much greater degree, and could see scope in being able to participate in the provision of services such as cargo handling and storage services, and providing services to ships while in their berths.

In general, there was recognition that this was a sector with considerable scope for liberalisation, and quite a few of the offers contained at least some auxiliary services. This would clearly remain one of the main elements to be considered in any renewed negotiations, even though there has been considerable unilateral liberalisation of this sector, as more and more countries have moved to corporatize or privatise a range of maritime related auxiliary services.

The third pillar, access to and use of port services, covered all other services provided to ships while accessing and berthing in ports, for example towage. This was considered as indispensable to ensure the effectiveness of any liberalisation undertaken in other sectors. Because these port services were at the time thought to be beyond the negotiations for access, they were only covered in terms of guaranteeing access to and use of on a non-discriminatory basis. Further, in the schedules this section was listed under the "Additional Commitments" column, instead of being covered in the schedule proper.

Furthermore, during the Uruguay Round there was considerable discussion as to whether multimodal transport should be added to the negotiations as a shadow "fourth pillar". However, while there was interest in the inclusion of multimodal transport, this was never carried through formally, and the sector has remained at the periphery of maritime transport services negotiations.

The negotiations have not dealt with domestic coastal shipping known as cabotage (i.e. shipping between ports in the same country), a highly protected sector. Most countries reserve this kind of transportation for national-flag ships. Economists argue that the costs of cabotage protection are extremely high.

This categorization into three pillars should not necessarily be seen as a reflection of how the sector works, but rather as a tool to facilitate negotiations⁴.

2.1.4 Joint Statement on the Negotiation on Maritime Transport Services

The Joint Statement on the Negotiation on Maritime Transport Services was issued on 3 March 2003 by 52 members, which included a substantial number of developing countries. The Joint Statement called for active participation, meaningful liberalization and broad coverage of this sector in the negotiation and in the WTO/ GATS framework.

⁴ Ramesh Chaitoo and Jan Yves Remy: Overview of International Negotiations on Maritime Services; Background brief for Caribbean Shipping Association Executive Conference, 2005.

2.1.5 WTO Classification

In this report, the following WTO sub-sectors will be analyzed⁵:

Schedule	Services Sectoral Classification (GNS/W/120)
<p>MARITIME TRANSPORT SERVICES</p> <p>International Transport (freight and passengers)</p> <p>CPC 7211 and 7212 less cabotage transport</p>	<p>11A. MARITIME TRANSPORT SERVICES</p> <p>Aa. Passenger transportation CPC 7211</p> <p>Ab. Freight transportation CPC 7212</p> <p>Ac. Rental of vessels with crew CPC 7213</p> <p>Ad. Maintenance and repair of vessels CPC 8868*</p> <p>Ae. Pushing and towing services CPC 7214</p> <p>Af. Supporting services for maritime transport CPC 745**</p> <p>(Af) Port and waterway operation CPC 7451</p> <p>(Af) Pilotage and berthing CPC 7452</p> <p>(Af) Navigation aids CPC7453</p> <p>(Af) Vessel salvage and refloating CPC 7454</p> <p>(Af) Other supporting services for water transport CPC 7459</p>
<p>MARITIME AUXILIARY SERVICES</p> <ul style="list-style-type: none"> - Maritime Cargo Handling Services (not including direct activities of independently organised dockers) - Storage and Warehousing Services CPC 742 (as amended) - Customs Clearance Services - Container Station and Depot Services - Maritime Agency Services - Maritime Freight Forwarding Services 	<p>11H. SERVICES AUXILIARY TO ALL MODES OF TRANSPORT</p> <p>Ha. Cargo-handling services CPC 741</p> <p>Hb. Storage and warehouse services CPC 742</p> <p>Hc. Freight transport agency services CPC 748</p> <p>Hd. Other CPC 749</p>
<p>PORT SERVICES</p> <p>1. Pilotage</p> <p>3. Provisioning, fuelling and watering</p> <p>5. Port Captain's services</p> <p>7. Shore-based operational services essential to ship operations, including communications, water and electrical supplies</p> <p>9. Anchorage, berth and berthing services</p>	<p>2. Towing and tug assistance</p> <p>4. Garbage collecting and ballast waste disposal</p> <p>6. Navigation aids</p> <p>8. Emergency repair facilities</p>

2.1.6 The Four Modes of Supply

Trade in services is defined by reference to four modes of supply.

- **Mode 1/ Cross-border supply:** the service, not the service supplier, crosses the national border (e.g. movement of cargo or passengers from the territory of one country to the territory of another).

⁵ WTO, Council of Services: Maritime Transport Services, background note by the Secretariat, S/C/W/62, November 1998

- **Mode 2/ Consumption abroad:** involves the consumption of a service abroad (e.g., US vessels using ship repair services in Iraq).
- **Mode 3/ Commercial presence:** supplier from one country establishes the commercial presence in the jurisdiction of another country (e.g., Foreign companies providing ship building and repair services in Iraq).
- **Mode 4/ Presence of natural persons:** the services are provided by suppliers through the (temporary) presence of natural persons (e.g., foreign seafarers deployed in Iraq).

2.2 WTO MEMBERS AND THE AGREEMENT ON MARITIME TRANSPORT SERVICES

Commitments in existing schedules and offers in the key area for the maritime transport sector – Mode 1 / Cross border maritime transport of goods and passengers – show that 58 of the 147 Member States have undertaken commitments in 2004, by the entry of "None" in the Market Access and National Treatment Columns⁶. As of September 2005, the total number of initial offers presented was 68, representing 92 Members⁷.

These commitments cover a major part of international maritime transport, and constitute a good basis for further expansion of commitments in the final stages of the negotiating process. Commitments for market access to transport cargo and passengers are required in order for any commitments in the two other pillars of the so-called "model schedule", auxiliary services area and the access to and use of services in harbors, to have any real value.

In order to increase their potential benefit from the service negotiations, developing countries have focused on commitments in Mode 4 / presence of natural persons. It is worth emphasizing that the international maritime transport sector has, to a very large extent, already liberalized the presence of natural persons. This is due to the fact that more than two thirds of the world fleet is registered in open or international registers, with no or very few nationality requirements with respect to manning.

Another topic in the negotiations is how to address relevant commitments in multimodal transport services. Transport providers, including maritime transport companies, are increasingly interested in offering door-to-door transport services in order to serve the needs of their customers and as a business opportunity. In order to limit risks and vulnerability with respect to the price and quality offered by domestic service providers, a maritime transport company needs to be able to establish and operate a domestic company on national treatment terms, for onward transportation of cargo. The most relevant commitment to search for in WTO to cover this need is the entry of "None" in Mode 3 / Commercial Presence for domestic road transport and in some cases domestic maritime and rail transport.

Most of the new acceding countries have made commitments on maritime transport. This is the case for China, Vietnam, Ukraine, Saudi Arabia, and Jordan for example.

⁶ OECD Workshop on Maritime Transport: "Developments at the WTO Negotiations on Maritime Transport Services," November 2004

⁷ UNCTAD, "Negotiations on Transports and Logistics Services: Issues to Consider," Geneva, 2006

3. THE MARITIME TRANSPORT SECTOR

3.1 DEFINITIONS

The **maritime transport services sector** covers a range of services: the building/repair, feeder and ancillary services, ports services, movement and repositioning of empty containers, manning (seafaring), multimodal and logistics services etc.

The maritime trade involves two major maritime transport sectors: **liner shipping** provides shippers with transport services (mostly by ships designed to carry modular containers) involving regularly scheduled arrivals and departures from advertised ports. On the other hand, **bulk shipping** operations are undertaken by vessels designed to carry homogeneous unpacked dry cargoes (for example grain, iron ore and coal) or liquid cargoes (such as oil, liquefied gas or chemicals). Bulk shipping operations are ordinarily carried out for individual shippers on non-scheduled routes⁸.

Multimodal transport: the carriage of goods by at least two different modes of transport by the multimodal transport operator on the basis of a single through multimodal transport contract from a point of loading in one country to a point of delivery in another country.

Logistics: the process of planning, implementing, and controlling the efficient, effective flow and storage of goods, services and related information from point of origin to point of consumption for the purpose of conforming to customer requirements.⁹

Cabotage: sea shipping between ports of the same country, usually along the coasts.

Maritime shipping conferences are one of the oldest remaining cartel systems in the world, dating back to the East Indian tea trade in the 1870s. Since that time, conferences have enjoyed immunity, albeit steadily decreasing, from competition regulations around the world and have been allowed to undertake activities such as forms of price fixing and control of shipping capacity¹⁰.

Consortia are agreements/ arrangements between liner shipping companies aimed primarily at supplying jointly organized services by means of various technical, operational or commercial arrangements (joint use of vessels, port installations, marketing organizations, etc.). In many cases, members of a consortium are also members of a conference.

Ports can be divided into two types:

1. The **landlord ports:** port authorities limit their role to the building and owning of infrastructure, leaving superstructure, pilotage, cargo operations and towage to be conducted by private operators.

The landlord model involves three institutional layers where the government defines the sector policy, port authorities are in charge of regulation and private companies compete in the provision of port services. The private operator invests in infrastructure and owns

⁸ OECD, *Competition Policy in Liner Shipping* (Final Report), 16 April 2002

⁹ Council of Logistics Management in UNCTAD, 2006: 6

¹⁰ ICF Consulting, "Economic Assistance Study on Liner Shipping," May 2005 for the DG for Energy and Transport, European Commission.

The United States took a major step to begin opening up its maritime regulations to more pro-competitive measures first with the Shipping Act of 1984 by providing for service contracts between shippers and ocean common carriers and then more recently with the US Ocean Shipping Reform Act (OSRA) of 1998

and operates the superstructure. The landlord scheme tends to be called a “mono-operating” system because the same operator who has the concession is also usually the only company that provides the stevedoring services on a given terminal.

The main alternative system is the “tool port” usually applied as “multi-operator” (open access stevedoring) system, which implies that the public sector provides the infrastructure and superstructure and different private stevedoring companies use these under hourly or daily rental schemes. Mono-operator is not to be confused with a monopolist.

2. The **service ports**: all operations are integrated and conducted by the port authority itself.

3.2 TRANSPORTATION IN THE WORLD ECONOMY AND AT THE WTO

3.2.1 Transportation Data

The existence of shipping and the efficient transport of goods across the oceans and seas with its intermodal connections are often taken for granted by the consumer, manufacturing industry and government decision makers alike. With over 90% of world merchandise trade by volume being carried by sea, maritime transport remains the backbone supporting international trade and globalization¹¹. Indeed, during the past three decades, the annual average growth rate of world seaborne trade is estimated at 3.1%. International shipping is one of the most globalize industries in terms of markets, technology, capital and employment.

The world merchant fleet expanded by 7.2% during 2007 to 1.12 billion deadweight tons (dwt) at the beginning of 2008. Vessel orders are at their highest level ever, reaching 10,053 ships with a total tonnage of 495 million dwt, including 222 million dwt of dry bulk carriers. The tonnage of dry bulk ships on order at the end of 2007 is 12 times higher than it was in June 2002.

As of January 2008, nationals of the top 35 ship owning countries together controlled 95.35% of the world fleet, a slight increase over the previous year figure. Greece continues to maintain its predominant position, followed by Japan, Germany, China, and Norway. Together, these five countries hold a market share of 54.2%¹².

World container port throughput grew by an estimated 11.7% to reach 485 million TEUs in 2007. Chinese ports accounted for approximately 28.4% of the total world container port throughput¹³.

Developments in China are now considered to be one of the most important stimulus to growth for the tanker, chemical, bulk and container trades. The impact on nominal trade flows differed sharply by region. The most dynamic trading regions in 2007 were Asia and the transition economies with import and export expansion of their merchandise trade of around 10% a year. China, Brazil, India, Mexico, South Africa, the Republic of Korea and the Russian Federation are propelling South-South trade and cooperation. The share of these countries in world exports was 17% in 1997, 18% in 2000 and 23% in 2007.

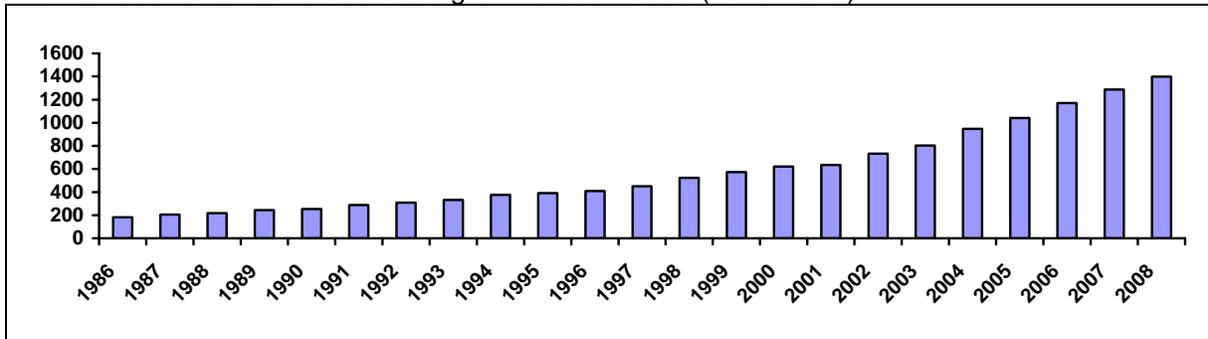
¹¹ UNCTAD: Review of Maritime Transport 2008

¹² UNCTAD: Review of Maritime Transport 2008

¹³ UNCTAD: Review of Maritime Transport 2008

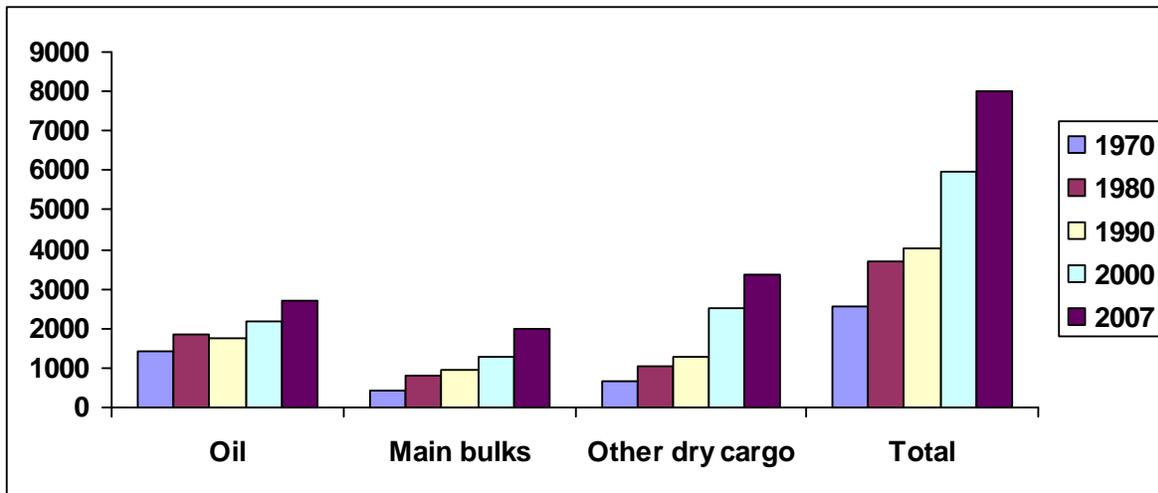
In 2007, international seaborne trade was estimated at 8.02 billion tons of goods loaded, a volume increase of 4.8% over the previous year. Dry cargo, including bulk, break-bulk and containerized cargo, accounted for the largest share of the loaded goods (66.6%), while oil made up the balance.

International containerized trade growth 1986 – 2008 (million tons)



Source: Clarkson Research services, Shipping review database, Spring 2008

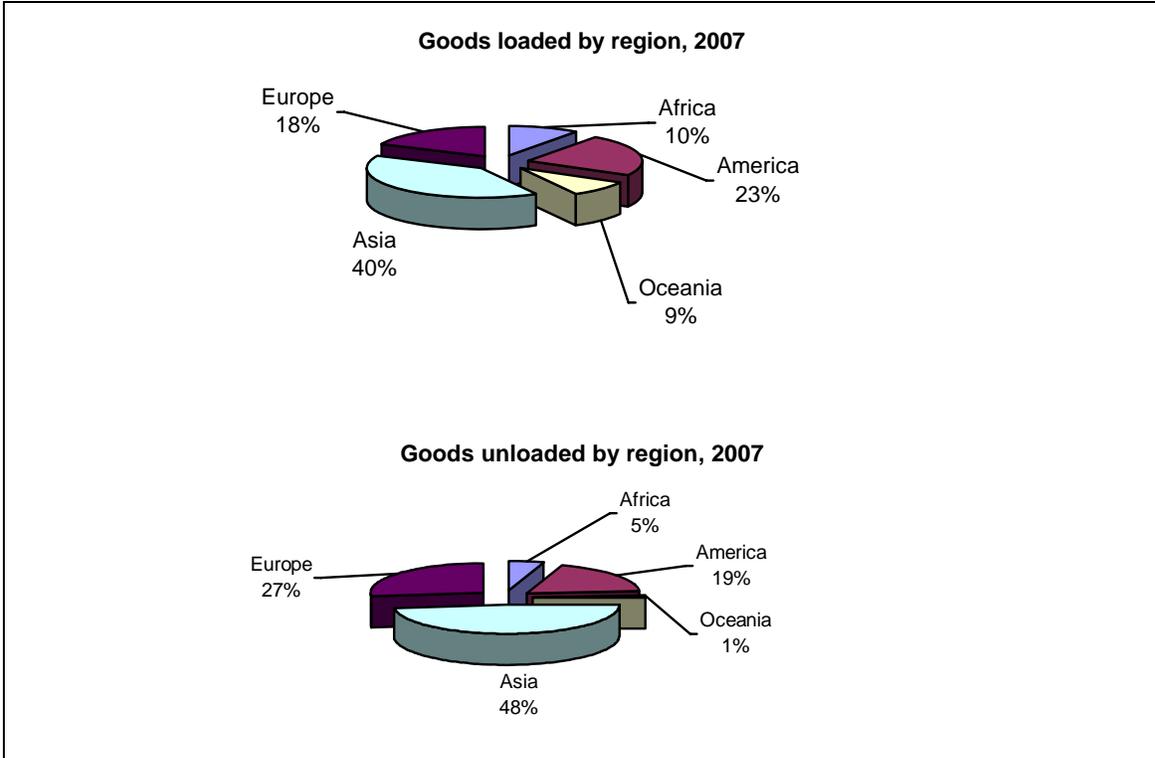
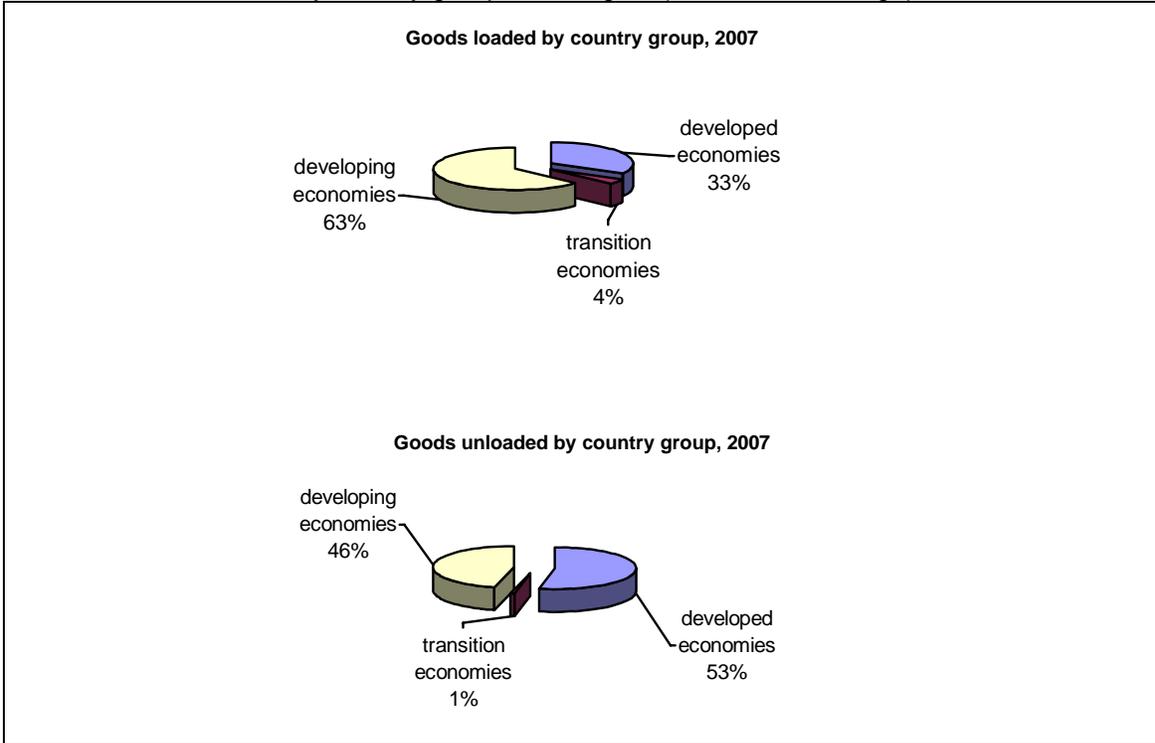
Development of international seaborne trade, millions of tons loaded



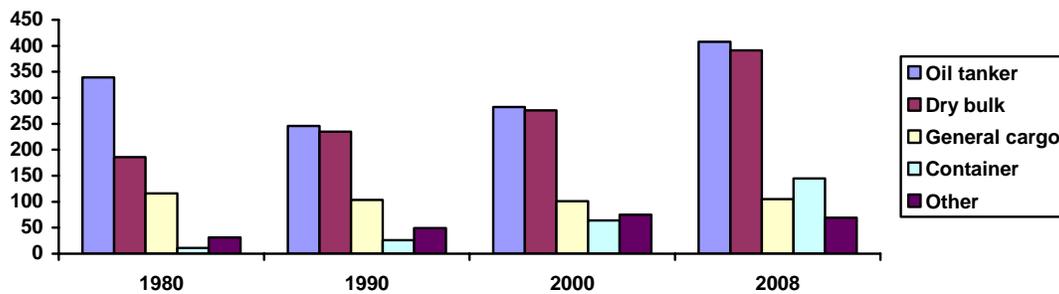
Main bulks: iron ore, coal, bauxite/ alumina and phosphate

Source: UNCTAD

World seaborne trade, by country groups and region (% share in tonnage)



World fleet by principal vessel types, millions of dwt*



*Cargo carrying vessels of 100 GT and above

Source: Compiled by UNCTAD secretariat on the basis of data supplied by Lloyd's register – Fairplay

Top 35 countries and territories with the largest controlled fleets, as of 1 January 2008

Country	Nb of vessels with national flag	Nb of vessels with foreign flag	Total Nb of vessels	% of the world total dwt
Greece	736	2379	3115	16.81
Japan	714	2801	3515	15.58
Germany	404	2804	3208	9.07
China	1900	1403	3303	8.18
Norway	792	1035	1827	4.51
United States	855	914	1769	3.84
Korea, Rep of	756	384	1140	3.63
Hong Kong, China	311	346	657	3.22
Singapore	536	333	869	2.76
Denmark	317	544	861	2.64
Taiwan	93	497	590	2.52
UK	394	482	876	2.50
Canada	206	213	419	1.81
Russian Federation	1532	579	2111	1.74
Italy	559	214	773	1.71
India	474	60	534	1.55
Turkey	495	531	1026	1.27
Saudi Arabia	61	103	164	1.25
Belgium	87	146	233	1.17
Malaysia	314	78	392	1.08
Iran	116	63	179	0.99
UAE	54	370	424	0.86
Netherlands	503	259	762	0.83
Cyprus	111	144	255	0.70
Indonesia	728	122	850	0.70
Sweden	154	211	365	0.67
France	182	176	358	0.63
Kuwait	40	29	69	0.51
Viet Nam	358	50	408	0.44
Spain	190	192	382	0.43
Brazil	130	14	144	0.43
Thailand	302	39	341	0.39
Switzerland	29	129	158	0.34

Country	Nb of vessels with national flag	Nb of vessels with foreign flag	Total Nb of vessels	% of the world total dwt
Bermuda	0	62	62	n/a
Croatia	78	39	117	n/a
Total 35	14511	17745	32256	95.33
World total	16798	19515	36313	100

Source: Compiled by UNCTAD secretariat on the basis of data supplied by Lloyd's register- Fairplay

The 35 flags of registration with the largest registered deadweight tonnage (as of 1 January 2008*)

Country	Nb of vessels	Share of world total vessels	Deadweight tonnage, 1000 dwt	Share of world total dwt
Panama	7,616	7.81	252,564	22.6
Liberia	2,173	2.23	117,519	10.51
Greece	1,477	1.52	61,384	5.49
Bahamas	1,422	1.46	59,744	5.34
Marshall Islands	1,097	1.13	59,600	5.33
HongKong	1,238	1.27	59,210	5.3
Singapore	2,243	2.3	55,550	4.97
Malta	1,442	1.48	45,218	4.05
China	3,816	3.91	37,124	3.32
Cyprus	982	1.01	29,431	2.63
Korea, Rep of	2,962	3.04	21,141	1.89
Norway	595	0.61	20,501	1.83
India	1,420	1.46	15,041	1.35
Germany	881	0.90	15,031	1.34
Japan	6,447	6.61	14,810	1.32
Isle of Man	339	0.35	13,850	1.24
UK	1,631	1.67	13,840	1.24
Italy	1,559	1.60	13,267	1.19
United States	6,419	6.58	12,139	1.09
Antigua and Barbuda	1,124	1.15	11,183	1.00
Denmark	438	0.45	10,904	0.98
Bermuda	153	0.16	9,870	0.88
Malaysia	1,150	1.18	9,448	0.85
St Vincent and the Grenadines	1,043	1.07	8,503	0.76
France	164	0.17	7,413	0.66
Turkey	1,251	1.28	7,300	0.65
Russian Fed	3,461	3.55	7,135	0.64
Indonesia	4,477	4.59	6,859	0.61
Philippines	1,778	1.82	6,659	0.60
Belgium	243	0.25	6,467	0.60
Netherlands	1,248	1.28	6,217	0.56
Iran	495	0.51	5,222	0.47
Cayman Islands	142	0.15	4,358	0.39
Taiwan	632	0.65	4,308	0.39
Thailand	860	0.88	4,224	0.38
Total 35 flags	64,418	66.08	1,033,035	92.42
World total	97,481	100	1,117,779	100

* Ships of 100 GT and above

Source: Compiled by UNCTAD secretariat on the basis of data supplied by Lloyd's register- Fairplay

In 1993, 42% of world container throughput passed through State-owned terminals, but by 2006 this figure decreased to 19%.

Top 20 container terminals in 2007 (TEUs)

Country	2007 - TEU
Singapore	27 932 000
Shanghai	26 150 000
Hong Kong	23 881 000
Shenzhen	21 099 000
Busan	13 270 000
Rotterdam	10 790 604
Dubai	10 653 026
Kaohsiung	10 256 829
Hamburg	9 900 000
Qingdao	9 462 000
Ningbo	9 360 000
Guangzhou	9 200 000
Los Angeles	8 355 039
Antwerp	8 176 614
Long Beach	7 312 465
Port Klang	7 120 000
Tianjin	7 103 000
Tanjung Pelepas	5 500 000
New York/ New Jersey	5 400 000
Bremen/ Bremerhaven	4 892 239
Total top 20	235 813 816

Source: UNCTAD secretariat: *Containerization International, May 2008*

3.2.2 Transportation Market Trends

The globalization of the world economy has brought about tremendous increases in the worldwide exchange of goods and services. In pursuit of economical and competitive manufacturing, industry production centres have rapidly shifted their basis beyond national borders. There was a rapid growth of consumer demand, especially in the developed countries, for agricultural and manufactured goods produced all over the world, provided that the price and quality of these goods remain within reasonable ranges. With further globalization, the world trade and in particular seaborne trade will continue to grow in the foreseeable years¹⁴.

Global seaborne trade would be expected to increase by 44% in 2020 and double by 2031, potentially reaching 11.5 billion tons and 16.04 billion tons, respectively¹⁵.

The vast majority of the world fleet is owned by developed countries. Around 60% of the world-wide capacity is controlled by the 20 leading carriers, which have established trade sharing, price fixing and vessel pooling arrangements undermining free competition in the shipping industry. Shipping lines of developing countries have less access to technologies, know-how and capital than those of developed countries. Under this uncompetitive situation,

¹⁴ The International Association of Ports and Harbors: <http://www.iaphworldports.org/>

¹⁵ UNCTAD: Review of Maritime Transport 2008

a number of them have been relegated to slot charterers and thus to marginal participants in the liner shipping markets.

Technological progress in the form of containerization and e-commerce has also enabled greater volumes to be traded and at a faster rate. The advances in ICT require concomitant improvements in ports facilities, and overland transport.

The expansion of the transport sector, while vital to trade, can carry large environmental costs. There is already a visible trend towards better environmental regulations in the international maritime sector, translating into greater demand for specialized shipping services (building of different types of ships, training of officers, and repair requirements). While this may lead to higher costs for the maritime industry, it also creates possibilities for innovations and niche markets.

Ports are also faced with challenges, related not only to the quantity but also the quality of services they provide. Expanding trade flows result in the growing pressures on ports to reduce terminal cost and improve operational efficiency. Moreover, the international transport management has been rapidly changing from a fragmented approach with many players to a more unified, integrated logistics systems¹⁶. These changes require ports to assume a more active role in the integration of logistics, while continuously improving terminal services and controlling costs. Ports are expected to be not just a transferring point between different modes but an integrated logistics centre in the seamless transport chains. In particular, recent advancement of information technology, such as the Electronic Data Interfaces (EDI) and e-commerce, is accelerating the far-reaching integration of transport systems.

3.2.3 Role of Transportation in Economic Development

Transportation plays an extremely important role in the socio-economic development of countries in general. Transportation meets the demand for material and semi-product delivery to production facilities, and brings goods where they can be consumed, providing the vital connecting link between supply and demand. Passenger transportation meets the demand for travel of people and contributes significantly to tourism service development. In a country where commercial production is developed, with a large volume of exports and imports, transportation plays an important role in trade promotion for the country. The transportation sector accounts for 30% of all trade in services worldwide. In the developing economies, it often represents around 4-8% of GDP and accounts for 2-4% of total employment.

Transport plays a crucial role as an input into almost all economic sectors. It is also a means of globally moving all trade in goods, as well as passengers, and is a sector characterised by particularly intricate domestic and international regulations and institutions that have accumulate over time¹⁷.

Transport is a key sector for international trade, for regional integration and for ensuring a balanced national development. Shipping is the mode of transport carrying by far the largest share of world trade.

There is a close link between shipping, trade and economic growth. The lower the transport costs, the lower the overall production costs of goods and services and the more profitable trade becomes for both importing and exporting parties. The efficiency of transport is therefore a key determinant of a country's competitiveness.

¹⁶ The International Association of Ports and Harbors: <http://www.iaphworldports.org/>

¹⁷ OECD: Competition Policy in liner shipping, final report, 16 April 2002.

Inefficient border measures related to logistics increase transaction costs for traders and can also result in loss of business opportunities and impose inventory holding costs on traders. Technological advances and infrastructure modernization including containerization, usage of e-commerce and global manufacturing and production processes such as the implementation of supply chain management techniques and just in-time production processes have increased the interest WTO Members in maritime, logistics and multimodal services since they act as determinant variables in affecting their competitiveness. As a result, there have been increasing calls from WTO Members to include logistics and multimodal services under the GATS.

3.2.4 Linkages Transportation/ Other Sectors

Transports are needed for any merchandise sold in the world and facilitate the movement of workers.

As the clearinghouses for a major portion of the world's rapidly increasing international trade flows, ocean ports and the efficiency with which they process cargo have become an ever more important topic. Poorly-performing ports may reduce trade volumes, particularly for small, less-developed countries.

Improving the efficiency of the maritime sector and related logistics services can have significant positive spillover effects on encouraging private investments, promoting trade flows and subsequently enhancing production and job creation in a large number of sectors that are strongly linked to exports and imports.

Apart from the GATS, another set of negotiations having an impact on shipping and maritime issues are those related to Trade Facilitation. It has relevance for the maritime sector because it is concerned with the improvement of customs and related processes, simplification and streamlining of documents and procedures for border crossings, as well as creating an environment for transport operations that benefit stakeholders.

3.2.5 Regulations and Their Importance: Elements to Consider

Merchant shipping is one of the most heavily regulated industries and was amongst the first to adopt widely implemented international safety standards.

Regulations concerning shipping are developed at the global level. Because shipping is inherently international, it is vital that shipping is subject to uniform regulations on matters such as construction standards, navigational rules and standards of crew competence. The alternative would be a plethora of conflicting national regulations resulting in commercial distortion and administrative confusion which would compromise the efficiency of world trade¹⁸.

The shipping industry is principally regulated by the International Maritime Organization¹⁹ (IMO), the London-based United Nations agency responsible for the safety of life at sea and the protection of the marine environment. The International Labor Organization (ILO)²⁰ is also responsible for the development of labor standards applicable to seafarers worldwide.

IMO has adopted a comprehensive framework of detailed technical regulations, in the form of international diplomatic conventions which govern the safety of ships and protection of the

¹⁸ Shipping Facts: <http://www.marisec.org/shippingfacts>

¹⁹ International Maritime Organization: <http://www.imo.org>

²⁰ International Labor Organization: <http://www.ilo.org>

marine environment. National governments, which form the membership of IMO, are required to implement and enforce these international rules, and ensure that the ships which are registered under their national flags comply.

The level of ratification and enforcement of IMO Conventions is generally very high in comparison with international rules adopted for shore based industries.

The principal responsibility for enforcing IMO regulations concerning ship safety and environmental protection rests with the flag states (i.e. the countries in which merchant ships are registered – which may be different to the country in which they are owned).

Flag states enforce IMO requirements through inspections of ships conducted by a network of international surveyors. Much of this work is delegated to bodies called classification societies²¹.

However, flag state enforcement is supplemented by what is known as Port State Control²², whereby officials in any country which a ship may visit can inspect foreign flag ships to ensure that they comply with international requirements. Port State Control officers have the power to detain foreign ships in port if they do not conform to international standards. As a consequence, most IMO regulations are enforced on a more or less global basis.

The following are major international shipping conventions, adopted by the International Maritime Organization (and the International Labor Organization) concerning the safety and pollution prevention. However, many other maritime instruments concerning more specific issues are also in force worldwide.

- **Conventions pertaining to the ship**

- **SOLAS (International Convention for the Safety of Life at Sea, 1974)**: lays down a comprehensive range of minimum standards for the safe construction of ships and the basic safety equipment (e.g. fire protection, navigation, lifesaving and radio) to be carried on board. SOLAS also requires regular ship surveys and the issue by flag states of certificates of compliance.
- **MARPOL (International Convention for the Prevention of Pollution from Ships, 1973/1978)**: contains requirements to prevent pollution that may be caused both accidentally and in the course of routine operations. MARPOL concerns the prevention of pollution from oil, bulk chemicals, dangerous goods, sewage, garbage and atmospheric pollution, and includes provisions such as those which require certain oil tankers to have double hulls.
- **COLREG (Convention on the International Regulations for Preventing Collisions at Sea, 1972)**: lays down the basic "rules of the road", such as rights of way and actions to avoid collisions.
- **LOADLINE (International Convention on Loadlines, 1966)**: sets the minimum permissible free board, according to the season of the year and the ship's trading pattern.
- **ISPS (The International Ship and Port Facility Security Code, 2002)**: includes mandatory requirements to ensure ships and port facilities are secured at all stages during a voyage.

²¹ International Association of Classification Societies: <http://www.iacs.org.uk/>

²² The Paris Memorandum of Understanding on Port State Controls: <http://www.parismou.org>

- **Conventions pertaining to the shipping company**
 - **ISM (The International Safety Management Code, 1993)** effectively requires shipping companies to have a license to operate. Companies and their ships must undergo regular audits to ensure that a safety management system is in place, including adequate procedures and lines of communication between ships and their managers ashore.
- **Conventions pertaining to the seafarer**
 - **STCW (International Convention on Standards of Training, Certification and Watch keeping for Seafarers, 1978/1995):** it establishes uniform standards of competence for seafarers.
 - **ILO 147 (The ILO Merchant Shipping Convention, 1976)** requires national administrations to have effective legislation on labor issues such as hours of work, medical fitness and seafarers' working conditions. This is superseded by MLC, 2006 (The ILO Maritime Labor Convention, 2006).

3.2.6 Infrastructures

Public sector involvement and regulation play a significant role in port management. In 90% of the major ports, basic infrastructure is publicly owned, while private companies own facilities like cranes and warehouses and employ the labor force for cargo handling²³.

Modernized port facilities today must incorporate sophisticated software management programs, whose lack can make the port prohibitively expensive and difficult to manage. However, the globalization of ports and the creation of port transnational corporations bring many opportunities for developing economies, such as knowledge sharing in the areas of management and operations, infrastructure planning, methods of international finance, computer software, the replication of success factors and fine tuning of new equipment tested in other locations.

- **Role of the Port Authority²⁴**

The recent trend in port management is to shift the provision of port services from the public port authority to the private sector for improved efficiency of port operations. This trend is expected to continue through port privatization and deregulation. However, it cannot be overlooked that the effective and farsighted management of a port as an integrated system is the prerequisite for active involvement of the private sector in port development and operations.

A public port authority is able to effectively manage and coordinate the diverse aspects of a modern port. With respect to physical development, a port encompasses not only terminals but also approach channels, breakwaters, access roads and many others, which inevitably requires large investment costs and long-term payback. Ports also require close coordination with decision-making authorities and planners of the city development under the shared long-range policy and planning.

In addition, a whole range of port activities rests on an institutional complex involving governmental agencies and maritime organizations, leading to a constant need for

²³ International Transport Workers Federation: What is Port Privatization? 2003.

²⁴ The International Association of Ports and Harbors: <http://www.iaphworldports.org/>

integrated coordination. This task can only be done by the public port authority, allowing the private sector to take advantage of well-coordinated institutional set-up for their business.

An additional consideration is the fact that ports are developed using public goods and resources – namely coastal water and land areas. And in turn the port generates wider economic and social benefits to the community by creating jobs and providing logistics infrastructure for the region's economic activities. Unlike other private industries, the port as a whole needs to be managed in the interest of the local community.

It is therefore appropriate for the public port authority focus on the following:

1. Landlord function such as long-term planning, infrastructure development, asset management and coordination with city development;
2. Regulatory function such as maritime safety, environment protection and fair competition; and
3. Facilitation/promotion function such as provision of port EDI, inter-port cooperation and strategic marketing.

All these roles call for the development of new partnerships between public and private sectors in the port, between the port and its users, and between the port authority and terminal operators.

3.3 EXAMPLES OF WTO MEMBERS

Different countries were chosen for the purpose of this benchmarking study for the following reasons:

Country	Neighborhood	New WTO member	Transition countries	Advanced countries
Egypt	•			
Jordan	•	•		
Saudi Arabia	•	•		
Ukraine		•	•	
United Arab Emirates	•			•
Vietnam		•	•	

Dates of WTO accession of the benchmarked countries:

Country	Neighborhood
Egypt	30 June 1995
Jordan	11 April 2000
Saudi Arabia	11 December 2005
Ukraine	16 May 2008
United Arab Emirates	10 April 1996
Vietnam	11 January 2007

Among the countries benchmarked, it has to be noted that all of them are new WTO members – except Egypt and UAE. They all undertook large commitments on maritime transport except the United Arab Emirates who did not take any.

Jordan, Saudi Arabia, Ukraine and Vietnam undertook additional commitments. Some of the following services at the ports of those countries are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions. Additional commitments undertaken by the benchmarked countries are summarized below:

	Jordan	Saudi Arabia	Ukraine	Vietnam
Pilotage		•	•	•
Towing and tug assistance	•		•	•
Provisioning, fuelling and watering	•		•	•
Garbage collecting and ballast waste disposal	•		•	•
Port captain's services	•		•	•
Navigation aids	•	•	•	•
Shore-based operational services essential to ship operation, including communications, water and electrical supplies	•		•	•
Emergency repair facilities	•		•	•
Anchorage, berth and berthing services	•		•	•
Port and waterways operation services - excluding cargo handling		•		
Vessel salvage and re-floating services		•		

Source: WTO services database

3.3.1 Maritime Transport Services

3.3.1.1. 1st Sub-sector: Passenger Transportation (A)

The first sub-sector on maritime transport relates to “passenger transportation” (section 11 A.a.), where few limitations on market access remain. Most of the countries took full commitments under Mode 1 – “none” for Saudi Arabia and Ukraine. Egypt and Vietnam did not take any commitment under mode 1 (‘unbound’). Jordan selected “none” for bulk, tramp and other international shipping. For liner shipping, Jordan also selected “none”, but specified that all ships docking in Jordan must have a local Port agent.

On mode 2, all the benchmarked countries chose “none” (Egypt, Jordan, Saudi Arabia, Ukraine and Vietnam).

On mode 3, only Saudi Arabia and Ukraine took full commitments with no limitations on market access (“none”). For other countries, limitations on market access pertained to foreign equity limitation, the form of companies, staff requirements and activities launched by foreign companies. For countries that defined limitations under mode 3, national commitments are summarized in the chart below. Important to note, under this mode, only Jordan defined some limitations on national treatment: those limitations are related to fees for pilotage, berthing and docking, and to port dues.

MODE 3	A: Passenger transportation Limitations on market access
Egypt	• Commercial presence is only allowed for JV

MODE 3	A: Passenger transportation Limitations on market access
	<ul style="list-style-type: none"> • Foreign capital equity should not exceed 49% • Registration is a prerequisite to fly the Egyptian flag
Jordan	None – except commercial presence is subject to 50% foreign equity limitation
Vietnam	<p>A/ Establishment of registered companies for the purpose of operating a fleet under the national flag of Vietnam:</p> <ul style="list-style-type: none"> • Commercial presence is allowed for JV with foreign capital equity not exceeding 49% • Foreign seafarers are permitted to work in ships under national flag of Vietnam owned by JV in Vietnam but not exceeding 1/3 of total employees of the ships. The Master or first chief executive must be Vietnamese citizen. <p>B/ Other forms of commercial presence for the supply of international maritime transport:</p> <ul style="list-style-type: none"> • Foreign shipping companies can establish JV with 51% foreign ownership. After 5 years from the date of accession: 100% • Foreign invested companies are only permitted to carry out activities from 1 to 5: <ol style="list-style-type: none"> 1. Marketing and sales maritime transport services through direct contact with customers, from quotation to invoicing 2. Acting on behalf of the cargo owners 3. Provision of required business information 4. Preparation of documentation concerning transport documents including customs documents related to the origin and character of the goods transported 5. Provision of maritime transport services including cabotage services by Vietnamese flagged vessels for the supply of integrated transport services <p>After 5 years from the date of accession, activities 6 and 7 shall be allowed:</p> <ol style="list-style-type: none"> 6. Acting on behalf of the company, organizing the call of the ship or taking over cargoes when required 7. Negotiate and sign contracts for road, rail, inland waterways transportation related to cargoes transported by the company <ul style="list-style-type: none"> • The number of JV by foreign shipping companies will be limited to 5 companies upon accession. 3 additional companies will be allowed every 2 years thereafter. After 5 years from the date of accession, no limitation on the number of JV.

On mode 4 / movement of natural persons, most of the positions are “unbound except as indicated in the horizontal section.” Egypt required that 95% of the crew should be national, and that their wages and salaries should not be less than 90% of the total paid-up wages and salaries. Also, the chairman and the majority of the Board of Directors must be nationals. In Jordan, 1/5 of crew on Jordanian ships should be Jordanian.

3.3.1.2. 2nd Sub-sector: Freight Transportation (B)

The second sub-sector on maritime transport relates to “freight transportation” (section 11 A.b.). Commitments of the benchmarked countries are the same than those of the first sub-sector on ‘passenger transportation’.

3.3.1.3. 3rd Sub-sector: Rental of Vessels with Crew (C)

Only two of the six benchmarked countries took commitments on this sub-sector: Jordan and Saudi Arabia. On modes 1 and 2, both selected “none”. On mode 3, Saudi Arabia defined no limitation on market access and on national treatment (“none”).

MODE 3	C: Rental of vessels with crew Limitations on market access
Jordan	<ul style="list-style-type: none"> Commercial presence is subject to 50% foreign equity limitation

On mode 4, both countries defined 'unbound except as indicated in horizontal section'.

3.3.1.4. 4th Sub-sector: Maintenance and Repair of Vessels (D)

Only two of the six benchmarked countries took commitments on this sub-sector: Jordan and Saudi Arabia. On modes 1 and 2, both put "none". On mode 3, Saudi Arabia defined no limitation on market access and on national treatment ("none").

MODE 3	D: Maintenance and repair of vessels Limitations on market access
Jordan	<ul style="list-style-type: none"> Access restricted to Jordanian or juridical entities Commercial presence is subject to 50% foreign equity limitation

On mode 4, both countries chose "unbound except as indicated in horizontal section".

3.3.1.5. 5th Sub-sector: Pushing and Towing Services (E)

None of the benchmarked countries took any commitments on this sub-sector.

3.3.1.6. 6th Sub-sector: Supporting Services for Maritime Transport (F)

Only Egypt undertook commitments on this sub-sector but limited to 'port dredging'. On Modes 1 and 2, the position is "unbound".

MODE 3	F: Supporting services for maritime transport Limitations on market access
Egypt	<ul style="list-style-type: none"> Commercial presence is only allowed for JV companies Foreign capital equity should not exceed 75%

On mode 4, Egypt specified that as main limitation on market access, "at least 25% of both the personnel and members of the Board of Directors must be nationals".

3.3.2 Services Auxiliary to All Modes of Transport

3.3.2.1. 1st Sub-sector: Cargo Handling (A)

Only 3 countries among the benchmarked countries undertook commitments on cargo handling (also called container handling): Saudi Arabia, Ukraine and Vietnam.

On Mode 1, Saudi Arabia defined no limitation on market access and national treatment ("none") while Ukraine and Vietnam put 'unbound'. On mode 2, Saudi Arabia selected "none"

and Ukraine and Vietnam put “none but public utility concessions or licensing procedures may apply in case of occupation of the public domain”.

On mode 3, Saudi Arabia and Ukraine did not define limitations to market access and national treatment. The position of Vietnam is copied below:

MODE 3	A: Cargo handling Limitations on market access
Vietnam	<ul style="list-style-type: none"> •None except that upon accession JV with foreign capital contribution not exceeding 50% can be established.

On mode 4, all countries defined “unbound except as indicated in horizontal section”.

3.3.2.2. 2nd Sub-sector: Storage and Warehouse Services (B)

On mode 1, the position defined should be “unbound” due to the lack of feasibility. On Mode 2, Jordan, Saudi Arabia and Vietnam defined no limitation to market access (“none”) while Ukraine puts “none but public utility concession or licensing procedures may apply in case of occupation for the public domain”.

On Mode 3, Saudi Arabia and Ukraine put “none” while Jordan and Vietnam defined the following limitations to market access:

MODE 3	B: Storage and warehouse services Limitations on market access
Jordan	<ul style="list-style-type: none"> •None except: public utility concession or licensing procedures may apply in case of occupation of the public domain •Commercial presence is subject to 50% foreign equity limitation
Vietnam	<ul style="list-style-type: none"> •None, except that upon accession JV with foreign capital contribution not exceeding 51% can be established. 7 years after accession: none

On mode 4, all countries defined “unbound except as indicated in horizontal section”.

3.3.2.3. 3rd Sub-sector: Freight Transport Agency Services (C)

On mode 1, the position defined should be “unbound” due to the lack of feasibility. On mode 2, all the benchmarked countries who took commitments put “none” on limitation on market access or on national treatment. On mode 3, Ukraine and Saudi Arabia did not define any limitation (“none”) and Jordan and Vietnam specified the restrictions below:

MODE 3	C: Freight transport agency services Limitations on market access
Jordan	<ul style="list-style-type: none"> •Access restricted to Jordanian natural or juridical entities •Commercial presence is subject to 50% foreign equity limitation
Vietnam	<ul style="list-style-type: none"> •None except that upon accession JV with foreign capital contribution not exceeding 51% can be established. •7 years after accession: none

On mode 4, all countries stated "unbound except as indicated in horizontal section".

3.3.2.4. 4th Sub-sector: Customs Clearance (D)

Only Ukraine and Vietnam took commitments on this sub sector. On mode 1, the position defined should be "unbound" due to the lack of feasibility. On mode 2, both countries put "none". On mode 3, it is also the case of Ukraine, while Vietnam defined the following limitation:

MODE 3	D: Customs clearance Limitations on market access
Vietnam	<ul style="list-style-type: none"> •None except that upon accession JV with foreign capital contribution not exceeding 51% can be established. After 5 years, JV can be established with no foreign ownership limitation.

On mode 4, both countries defined 'unbound except as indicated in horizontal section'.

3.3.2.5. 5th Sub-sector: Container Station and Depot Services (E)

Only Ukraine and Vietnam took commitments on this sub sector. On mode 1, positions should be "unbound" due to the lack of feasibility. On mode 2, both countries put "none". On mode 3, it is also the case of Ukraine, while Vietnam defined the following limitation:

MODE 3	E: Customs clearance Limitations on market access
Vietnam	<ul style="list-style-type: none"> •None except that upon accession JV with foreign capital contribution not exceeding 51% can be established. •7 years upon accession: none

On mode 4, both countries defined 'unbound except as indicated in horizontal section'.

3.3.2.6. 6th Sub-sector: Other (F)

'Other' includes the following activities: freight inspection, bill auditing, freight brokerage services, weighting and sampling services, freight receiving and acceptance services, transportation document preparation services.

Ukraine took commitments only on "freight inspection services". Ukraine put "none" under modes 1, 2 and 3 and "unbound except as indicated in the horizontal section" under mode 4.

Vietnam took commitments on the whole "other" sub sector. For mode 1, Vietnam put "unbound except freight brokerage services – none after 5 years from the date of accession". Under mode 2, Vietnam puts "none". Under Mode 3, limitations on market access for Vietnam are the following:

MODE 3	F: Other Limitations on market access
Vietnam	<ul style="list-style-type: none"> •Upon accession, foreign services suppliers are only permitted to provide services through the establishment of JV with Vietnamese partners with the capital contribution of foreign side not exceeding 49%. After 3 years from the

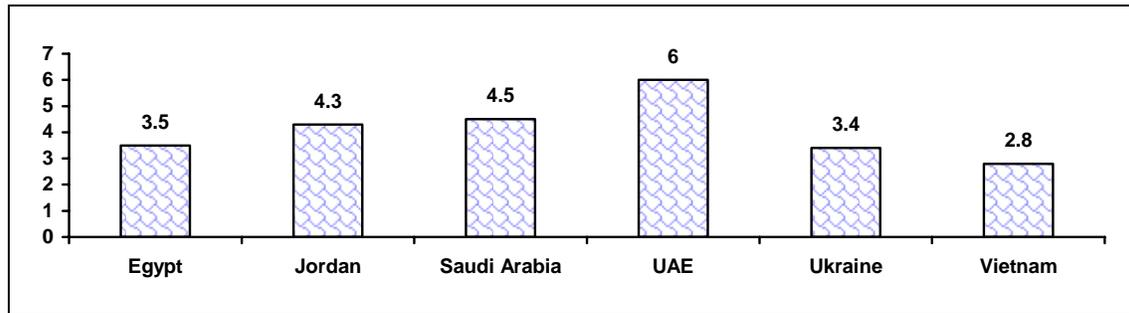
	date of accession, this limitation shall be 51%. 4 years thereon, this capital limitation shall be abolished
--	--------------------------------------------------------------------------------------------------------------

On mode 4, Vietnam defined 'unbound except as indicated in horizontal section'.

3.3.3 State of Play of the Transportation Sector in the Benchmarked Countries

- Data**

Quality of port infrastructure, 2007

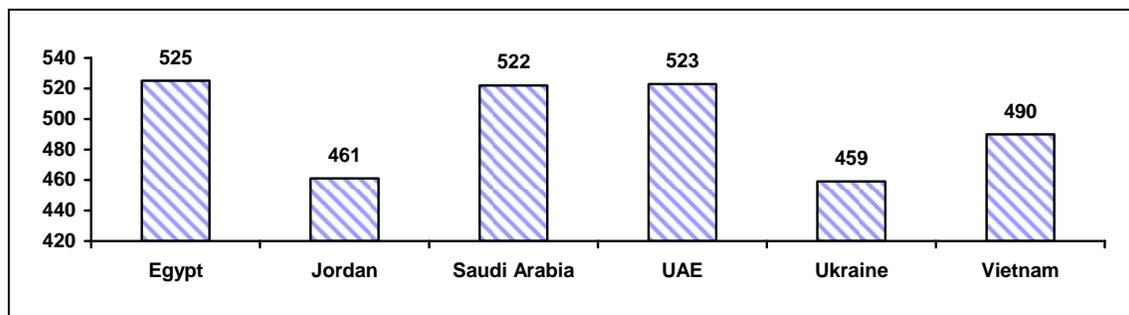


Source: World Economic Forum

To read this chart: Port facilities and inland waterways in a country: 1 = underdeveloped, 7 = as developed as the world best

The UAE are considered to be the 8th out of 118 countries on port infrastructures, when Saudi Arabia is 39^h and Vietnam 96th.

Transshipment connectivity index (hard data), 2006

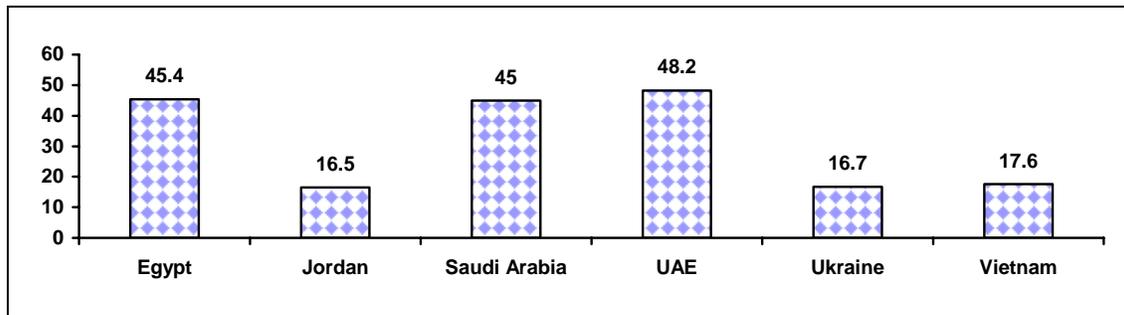


Source: World Economic Forum

To read this chart: Type of transshipment connections available to shippers from each country/ economy on bilateral routes, 2006

On transshipment, Egypt ranks best (16th out of 118 benchmarked countries in the WEF report), followed by the UAE (17th) and Saudi Arabia (20th).

Liner shipping connectivity index (hard data), 2007

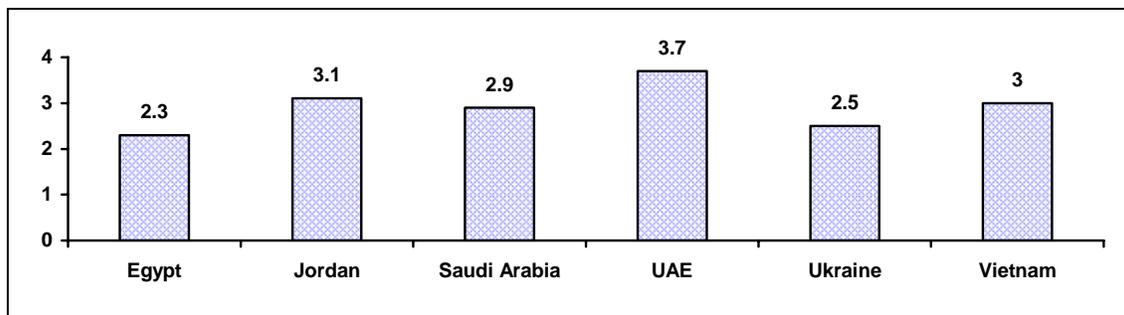


Source: World Economic Forum

To read this chart: Quantity of services provided by liner companies.

On liner shipping connectivity, UAE rank 16^h, Egypt 17th and Saudi Arabia 18th.

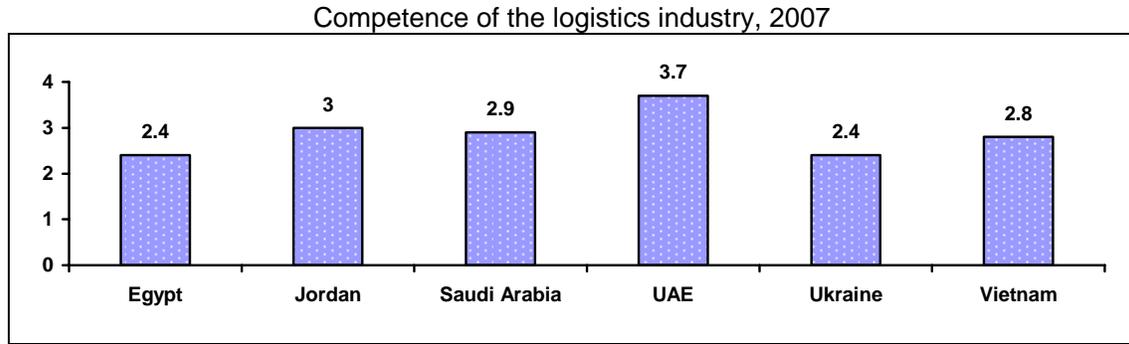
Ease and affordability of shipment, 2007



Source: World Economic Forum

To read this chart: Ease and affordability of arranging international shipments (1= very low, 5= very high)sd

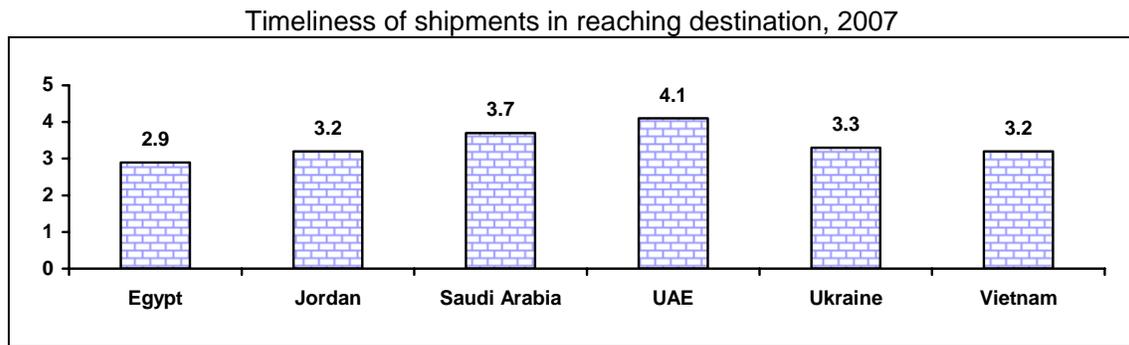
On this issue, UAE rank 13th out of 118 countries benchmarked in the WEF report. Jordan is 38th, Vietnam 44th and Saudi Arabia 49th.



Source: World Economic Forum

To read this chart: Competence of the local industry (e.g. transport operators, customs brokers, etc.). 1= very low, 5= very high

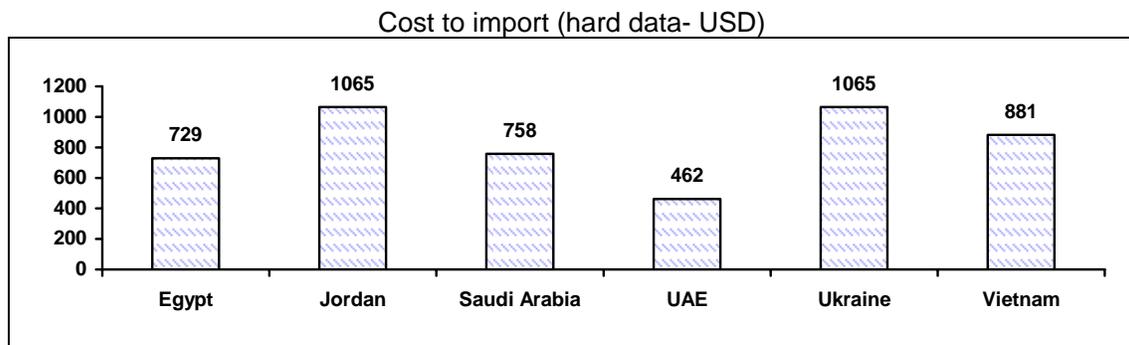
UAE rank 20th, Jordan 39th and Saudi Arabia 49th on the competence of their logistic industry.



Source: World Economic Forum

To read this chart: Timeliness of shipments in reaching the consignee within the schedule delivery time (1= very low, 5= very high)

UAE are the most efficient on this issue: they rank 17th while Saudi Arabia ranks 39th and Ukraine 59th.

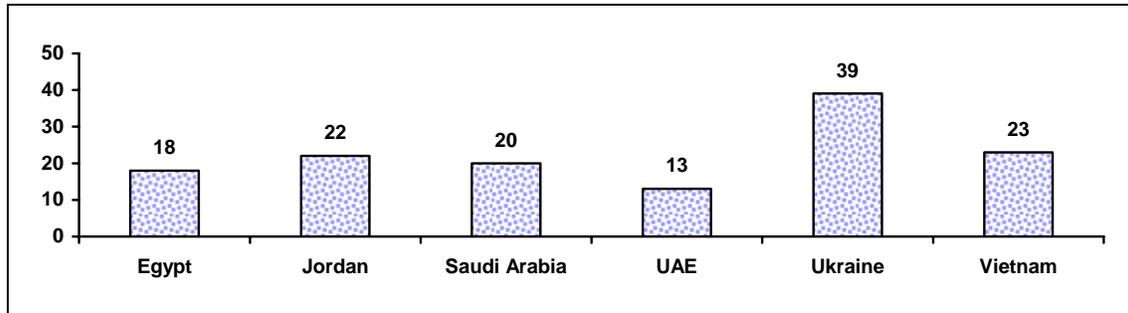


Source: World Economic Forum

To read this chart: Total official cost associated with importing, excluding tariffs and trade taxes

UAE are some of the most performing countries on this issue. They rank 5th out of the 118 benchmarked countries analyzed in the WEF report. Egypt ranks 18th and Saudi Arabia 22nd.

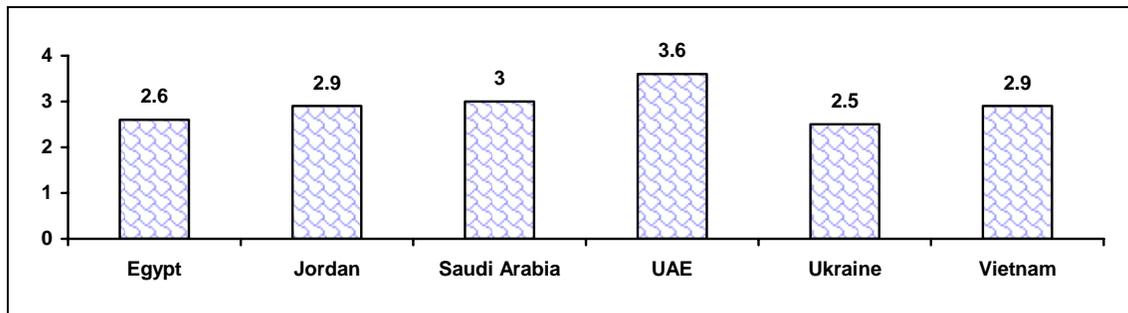
Time to import (number of days required to import), 2007



Source: World Economic Forum

UAE demonstrates best performance (rank: 27th), followed by Egypt (40^h) and Saudi Arabia (49^h).

Ability and ease of tracking, 2007

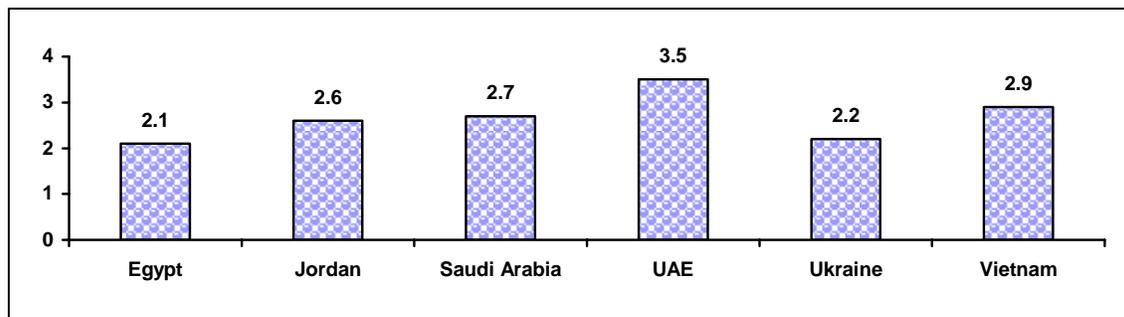


Source: World Economic Forum

To read this chart: Ability to track and trace international shipments (1= very low, 5= very high)

Among the benchmarked countries, those who developed the best tracking system are UAE (23rd out of the 118 countries analyzed in the WEF report), Saudi Arabia (43rd), Vietnam (51st) and Jordan (55^h).

Effectiveness and efficiency of clearance, 2007



Source: World Economic Forum

To read this chart: Effectiveness and efficiency of clearance process by customs and border control agencies (1= very low, 5= very high)

Customs clearance is efficient in UAE (19th out of 118 countries), Vietnam (37th) and Saudi Arabia (45th). Jordan ranks 53rd, Ukraine 84th and Egypt 100th.

3.3.4 GATS Commitments on Transportation Versus Services Efficiency

A myriad of factors contribute to port and maritime transport efficiency. Some of the more obvious factors include dock facilities, connections to rail and trucking lines, harbor characteristics (including channel depth and ocean/tidal movements), time to clear customs, and labor relations²⁵.

The UAE did not take any commitments on maritime transport. However among the countries benchmarked in this report, they have the best maritime infrastructure and high quality services – logistics, etc. Dubai port is of the best port in the world in terms of efficiency.

Egypt's GATS commitments in the maritime sector and related logistics are rather modest. They are confined to maritime passenger and freight transport and port dredging, subject to a number of restrictions²⁶. Domestic rules and regulations – notably, Investment Law 8 of 1997 – have opened several related fields to the private sector without any type of commitments. Moreover, laws and regulations related to the maritime sector and related logistics services – namely, Law 1 of 1996 and Law 1 of 1998 – opened up port and port services to the private sector. Nevertheless, several regulatory and policy problems such as price fixing and port authorities' ownership of firms providing logistics services negatively affect the private sector's engagement in such services.

Performance indicators reveal that maritime transport and related logistics services in Egypt are inefficient in comparison to those provided in other countries and to acceptable benchmarks.

Jordan made several commitments, though it maintains several restrictions related to the participation of Jordanian agents and discriminating in favor of Jordanian vessels.

²⁵ The Navigation Economic Technologies Program: Port efficiency and trade flows, November 2006

²⁶ ICTSD: Maritime transport and related logistic services in Egypt, December 2007

Saudi Arabia defined strong commitments as well as Ukraine. They are some of the last WTO members to join. Vietnam defined strong commitments as well with transition periods to implement them.

It has to be noted that for best port performance, port infrastructure should be developed, the role of the state and the private sector should be clearly defined, customs clearance should be expedited, and trade facilitation should receive targeted consideration. These factors allow for the development of the multimodal transport.

Port operations benefit from external support, which may include a full transfer of operations to freely operating private entities. The following are successful examples of ports in the region which have followed this trend²⁷:

- The port of Aqaba successfully outsourced the management of its container terminal to APM Terminals, a private container terminal operations and management firm.
- APM Terminals have also run the Salalah port in Oman for many years and recently secured a contract to run the new port in Bahrain.
- The ports of Dubai were, in their early stages, run by foreign companies in cooperation with the local government. Gradually, the capacity of the local management increased to the point where the Dubai Ports Authority was able to take over as the sole operator of both ports. The expertise acquired by the Dubai operator has since been used for global expansion under Dubai Ports International.
- Gulftainer has been operating Khorfakkan port in the United Arab Emirates for many years. It holds the record for crane productivity, averaging 170 moves per hour for mainline vessels, utilizing four or five cranes. Another option is outsourcing specific operations such as dredging, crane operation, and warehouse management, to private management units.

²⁷ UNDP, Iraq Country Office: Iraqi Ports Study, 2006

4. THE IRAQI MARITIME TRANSPORT SECTOR

4.1 ECONOMIC, SOCIAL AND REGULATORY ENVIRONMENT

Iraq Key Indicators:

Population: 28 million	GDP, Composition by sector:
GDP in 2006(PPP): USD 94.1 billion ¹	• Agriculture: 5%
GDP real growth rate 2007: 5% (est.)	• Industry: 68%
GDP per capita (PPP) 2007: USD 3,600 (est.)	• Services: 27%

The past five years have been extremely difficult for the Iraqi economy, but during the course of 2007 some encouraging signs of improvement began to emerge. The level of violence decreased, and this was accompanied by a number of successes on the economic front.

The authorities responded with a policy package including exchange rate appreciation, monetary tightening, and fiscal discipline. These policies, together with measures to reduce fuel shortages, brought inflation down to less than 5% by December 2007. Core inflation – which excludes fuel and transportation prices – fell to about 12% in 2007, from 32% in 2006.

Despite the achievements in 2007, much remains to be done to consolidate macroeconomic stability and put the economy on a higher growth path. Public confidence remains very low and violence is still widespread. Corruption and governance problems continue to impede the functioning of the public and private sectors.

4.2 THE IRAQI MARITIME TRANSPORT SECTOR

4.2.1 Background

The Iraqi transportation sector faces significant challenges. Key elements, such as ports, are obsolete and littered with the debris of neglect, war, and looting.

The ports of Basra and Umm Qasr are Iraq's commercial gateways, connected to all ports of the world major ports by various ocean routes.

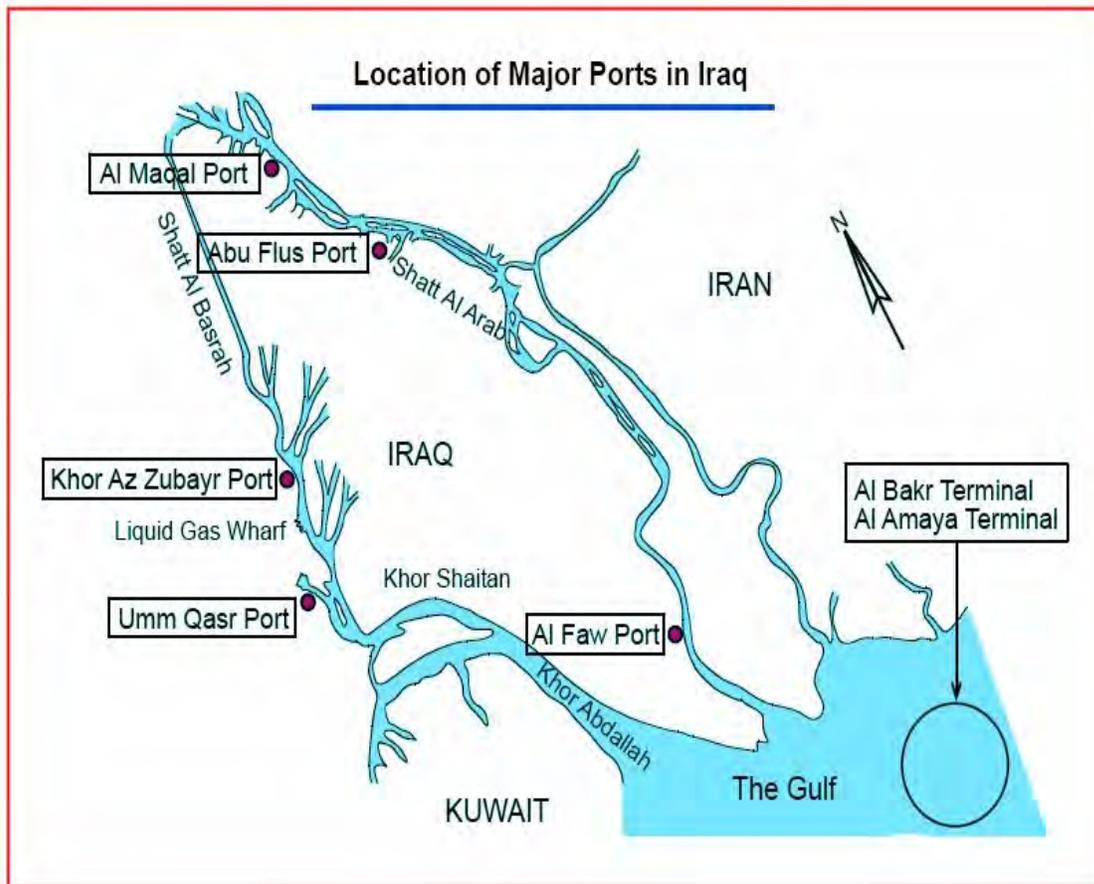
The Umm Qasr port has been the main port of Iraq for over 30 years, and is the major entry port for Iraqi food imports, as well as other bulk, break bulk, and containerized cargoes²⁸. It is located near the Arabian Gulf at a distance 75 km from the Western entrance of Basra (see map on the following page). Umm Qasr is administered by the General Company for Iraqi Ports, with the Umm Qasr Port Manager reporting to the Iraqi Director General of Ports, who in turn reports to the Iraqi Minister of Transportation.

The current port of Umm Qasr is divided into a relatively well developed North Port area with container, general cargo, and passenger operations, and a less developed South Port area with general cargo, bulk, and container facilities.²⁹ The port consists of 22 operational berths with a draft range of 4-10.5 meters, depending on berth and

²⁸ UNDP, Iraq Country Office: Iraqi Ports Study, 2006

²⁹ General Company of Ports of Iraq: UQP's database, May 2008. <http://www.portsofiraq.com>

conditions. Container berths have a stated capacity to unload 15 containers per hour or 120 containers per 8 hour shift.



Source: The General Company of Ports of Iraq: www.portsofiraq.com

Frequent delays in cargo clearance are reported from operators serving Umm Qasr. Ships are unable to maintain a weekly schedule and at times must wait at anchorage for days. A ship of 300 TEUs costs approximately USD 6,000 a day. Extra costs for the container trade are estimated at USD 120,000 per month³⁰. Container operation underperforms in spite of sufficient resources (yard space, equipment). The bottlenecks in performance could also be addressed by improving the management of the available resources.

The Iraqi government has sought to improve the efficiency of the docks at its southern ports following a campaign to reclaim the Umm Qasr port from Shia militias. Since then, Iraq has tried to open the port to foreign operators. However, the Ministry of Transportation has been reluctant to finalize the privatization of the port. (Contract finalization with the US Cornell Group, which was provisionally selected to oversee the development of Umm Qasr in late 2008, has not taken place.) Instead, a series of short-term leases are being put in place, granting foreign shipping groups temporary control of individual berths. In February 2009, the State Company for Iraqi Ports issued tenders inviting foreign shipping companies to run three new berths at Umm Qasr. One berth at the site has been leased to the French shipping group CMA CGM on a one-year contract from September 2008.

³⁰ UNDP, Iraq Country Office: Iraqi Ports Study, 2006

Italy's Ciite has been appointed to begin work on a study and master plan for a port city at Ras al Bisha on Iraq's Gulf coast. The new Ras al Bisha port will link operations from the Shatt al Arab waterway with those at Umm Qasr and will include a container terminal, a free zone and possibly a dry dock, as well as multiple shipping berths and other facilities for tourism³¹. The project is led by Mr Josef Hanna, an Iraqi entrepreneur based in Abu Dhabi who has previously proposed a USD 15 billion overhaul of the main existing deep sea port nearby Umm Qasr.

At the same time, a plan is in place to build a double track railway from Baghdad to the southern city of Douaniya, via Musait and Karbala. The Arc Line will cost more than USD 1 billion and link up with the existing railway between Baghdad and Basra.

In April 2009, Iraq has signed an agreement with an Italian consortium to construct a 2.8-billion-euro (\$ 3.7 billion) port on the Gulf (the "Great Basra Port"), near Basra. The site of the project is a small harbour currently being used by fishing boats. The project would take three years to complete, and that work would begin soon, without setting a precise date.

4.2.2 Data

To date, the Iraqi fleet is quite limited as the following charts illustrate.

Merchant fleet of Iraq, 1 January 2008³²

	Total fleet	Oil tankers	Bulk Carriers	General cargo	Container ships	Other types
In thousands of GT	159	48	0	39	0	72
In thousands of DWT	202	78	0	54	0	70

Source: UNCTAD, *Review of Maritime transport 2008*

Estimated annual throughput includes some 180,000 TEUs (90,000+ containers) and approximately three million metric tons of wheat imports.

Handling cargoes activities (import & export) in Iraqi Port, 2007³³

No. of cargoes
5289

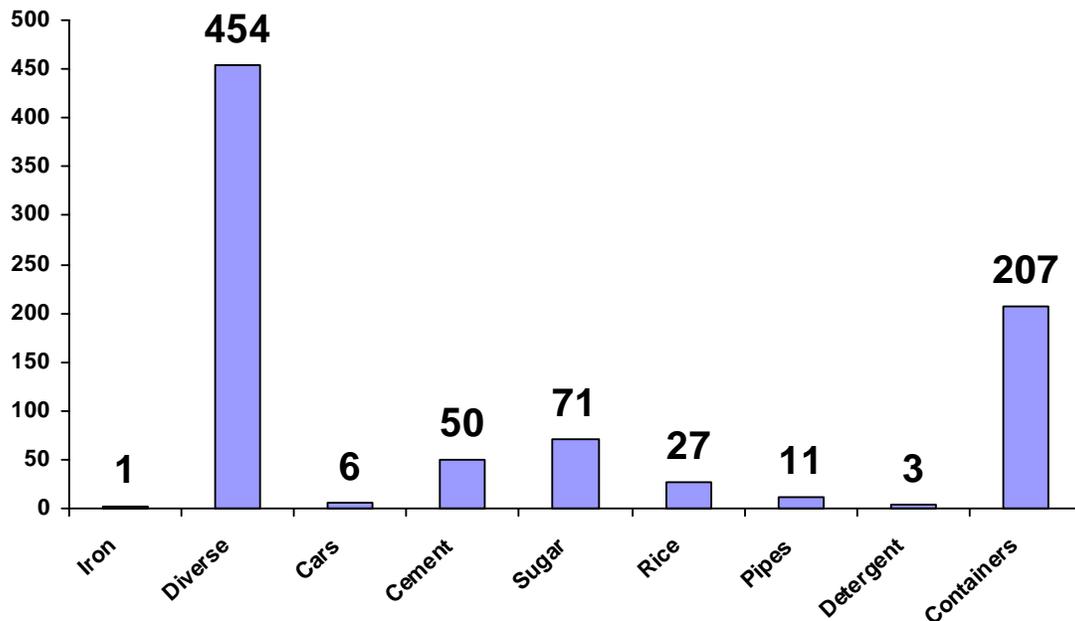
³¹

[http://steelguru.com/news/index/2008/11/25/NzI1OTI%3D/Iraq to overhaul transport projects.html](http://steelguru.com/news/index/2008/11/25/NzI1OTI%3D/Iraq%20to%20overhaul%20transport%20projects.html), 25 November 2008

³² UNCTAD: *Review of Maritime Transport 2008*

³³ General Company for Ports of Iraq: UQP's database, May 2008. <http://www.iraqports.com>

Arriving ships to Umm-Qasr Port in 2007



Source: General Company for Ports of Iraq: UQP's database, May 2008. www.iraqports.com

UNDP, in a 2006 report entitled "Iraqi Ports Study", estimated handling and storage space in Iraq. The table below summarized those estimates:

	2010	2015	2020	2025	2030
TEU's/1000 heads	13	18	22	26	30
Population Millions	30.6	33.7	37.3	41.1	45.3
Total TEUs into Iraq	397,800	606,600	820,600	1,068,600	1,362,000
TEUs through Iraqi Ports	280,000	425,000	575,000	750,000	950,000
Crane moves in and out	420,000	640,000	860,000	1,120,000	1,420,000
Berths	2	3	4	5	6
Ship to shore cranes	4	6	8	10	12
Handling & storage area (m ²)	175,000	270,000	360,000	440,000	550,000

Several foreign companies have already established operations in Iraqi ports:

Company name	Specialization
Parwel	Containers, general cargo, special ships
Anshkeep	Sacked rice, Bulk cargo, General cargo
PWC	Supplying equipments to governmental establishments
Eamar Al-Iraq	Import vehicles and equipments for the Iraqi army and civil
CMA	Container import and export
Nector	Discharging wheat and bulk grains for Ministry of Commerce
Naïf	Passenger ships, Ro Ro, containers
Naran	Maintaining and rehabilitating berth No 5
Marco	Passenger ships, Ro Ro
APL	Container import and export

Source: General Company for Ports of Iraq: UQP's database, May 2008. www.iraqports.com

The expansion of commercial operations in the Port of Umm Qasr should be a key objective in the reconstruction and economic recovery of Iraq. A revitalized Port of Umm Qasr will create jobs and opportunity for Iraqi citizens and ensure a reliable entry point for food imports. A modernized port is also the key to development of a modern intermodal transportation system all modes of transport.

4.2.3 Recent Projects Developed to Improve the Iraqi Maritime Transport Sector

To date, the US have spent more than USD 110 million in direct investment to restore and improve Iraqi port operations, principally in Umm Qasr and Kor Az Zubayr ports. This work has included dredging, wreck removal, infrastructure repair, and construction operations.

Recent projects include the 2007-2008 initiative to dedicate over USD 7 million in Commander's Emergency Response Program funding to support the survey and possible removal of seven priority shipwrecks in the Umm Qasr area. The US also completed construction of a new, USD 2.8 million Roll-on/Roll-off (Ro-Ro) pier at Berth 22 in the Port of Umm Qasr.

During 2009, the US will spend some USD 53 million in additional funds for port improvements in Iraq, including approximately USD 52 million for construction of a new pier and seawall in the port.

Direct Japanese investment in Iraqi port recovery operations to date has included more than USD 27.5 million in assistance, including USD 25 million for surveying and channel dredging in the approaches to Umm Qasr, and USD 2.5 million in emergency dredging to recover port accessibility. In addition, as part of a USD 3.0 billion low interest loan package for Iraq, the Japan Bank for International Cooperation will provide around USD 260 million in funding for Iraqi port recovery. This includes an estimated USD 55 million to remove wrecks

to improve navigability in the approaches to Umm Qasr and Kor Az Zubayr, over USD 3 million for Civil Works improvements, including pier and bulkhead repairs, machinery, and workshop construction, USD 34.5 million for dredging operations, and USD 146 million to purchase dredges and marine cranes for the Government of Iraq.

Along with funding of other projects, Denmark had committed funds for the Sustainable System of Navigational Aids Project to provide Iraq with an effective buoy replacement and maintenance capability. These funds were not expended prior to their expiration in September 2007.

4.2.4 Legal Framework

On maritime transport, the legal framework is composed of the following laws:

- Transportation Law No. 80 of 1983
- State Company Law No.22 of 1997
- Maritime Agencies Law No.56 of 1985

4.2.5 Role of the Private Iraqi Sector

Private operators are those who primarily face the obstacles resulting from the lack of transportation efficiency. A weak and inefficient maritime sector has far-reaching consequences for their competitiveness and profitability due to the costs associated with logistical delays.

Private sector representatives should play a major role in transportation reform in Iraq as well as in the consultation process preceding the WTO negotiations, and should acquire the ability to understand trade policy rules and to define trade position.

Generally speaking, trade ministries defend national business position at the WTO level. Therefore, trade policy definition in Iraq should not take place without accounting for the point of view of Iraqi businesses, and increasing its capacity in this field should be a major issue.

5. RECOMMENDATIONS ON IRAQI POSITIONS ON GATS/ MARITIME TRANSPORT SERVICES NEGOTIATIONS

5.1 RECOMMENDATIONS ON MARITIME TRANSPORT SECTOR UNDER GATS

Commitments to insurance are needed in areas where further investment is required from trading partners, such as large companies, or in areas where access to high quality services is required by other sectors. In WTO terms, a commitment of “none” is necessary to free up investment potential in Iraq.

The chart below has several parts to it that are necessary to understand for ease of reading³⁴:

- **Modes:**
 - Mode 1: Cross-border supply
 - Mode 2: Consumption abroad
 - Mode 3: Commercial presence
 - Mode 4: Presence of natural persons

- **Commitment Categories:**
 - “Unbound”: No commitment is defined by the country, giving it the right to change its domestic policy at any time.
 - “None”: The country fully opens its service to foreign competition at the multilateral level, without specifying any limitations.

Important options when scheduling GATS commitments include the opportunity to phase in the obligations over time, such as over a period of 5-10 years. This gradual phasing-in gives both the foreign and the domestic investors sufficient time to prepare and adapt, while fully indicating the seriousness of government policy intentions.

Other possible GATS options include limiting the number of foreign suppliers, adding joint-venture requirements, foreign-equity limitations, training requirements, etc.

³⁴ For a full explanation on reading the services charts expanded across five sectors see: Lewarne, Stephen, Iraq Services Liberalization Study, USAID/Iraq IZDIHAR, November 2007

Position defined by the sub-committee on Transport services, July 2009

3. Sector or Sub-sector	4. Limitations on Market Access	5. Limitations on National Treatment	6. Additional Commitments
<p>IRAQ 11. Transport Services</p>			
<p>7. A. MARITIME TRANSPORT SERVICES</p>			
<p>a. Passenger transportation 7211</p>	<p>1) None 2) None 3) None except commercial presence is allowed only to JV 4) None</p>	<p>1) None 2) None 3) None except 60% of the staff should be Iraqi nationals 4) Unbound</p>	<p>TO BE AGREED OR NOT: The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions:</p> <ol style="list-style-type: none"> 1. Pilotage 2. Towing and tug assistance 3. Provisioning, fuelling and watering 4. Garbage collecting and ballast waste disposal 5. Port Captain's services 6. Navigation aids 7. Shore-based operational services, essential to ship operations including communications, water and electricity supplies 8. Emergency repair facilities 9. Anchorage, berth and berthing services 10. Port waterways operation services – excluding cargo handling <p>Vessel salvage and re-floating services</p>
<p>b. Freight transportation 7212</p>	<p>1) Unbound 2) Unbound 3) Unbound 4) Unbound</p>	<p>1) Unbound 2) Unbound 3) Unbound 4) Unbound</p>	
<p>c. Rental of vessels with crew 7213</p>	<p>1) None 2) None</p>	<p>1) None 2) None</p>	

	3) Unbound 4) Unbound	3) Unbound 4) Unbound	
d. Maintenance and repair of vessels 8868**	1) Unbound 2) None 3) Unbound 4) None	1) Unbound 2) None 3) Unbound 4) None	
e. Pushing and towing services 7214	1) Unbound 2) Unbound 3) Unbound 4) Unbound	1) Unbound 2) Unbound 3) Unbound 4) Unbound	
f. Supporting services for maritime transport 745**	1) Unbound 2) Unbound 3) Unbound 4) Unbound	1) Unbound 2) Unbound 3) Unbound 4) Unbound	

H. SERVICES AUXILIARY TO ALL MODES OF TRANSPORT			
a. Cargo handling services 741	1) Unbound 2) Unbound 3) Unbound 4) Unbound	1) Unbound 2) Unbound 3) Unbound 4) Unbound	
b. Storage and warehouse services 742	1) Unbound 2) Unbound 3) Unbound 4) Unbound	1) Unbound 2) Unbound 3) Unbound 4) Unbound	
c. Freight transport agency services 748	1) Unbound 2) Unbound 3) Unbound 4) Unbound	1) Unbound 2) Unbound 3) Unbound 4) Unbound	
d. Other 749	1) Unbound 2) Unbound 3) Unbound 4) Unbound	1) Unbound 2) Unbound 3) Unbound 4) Unbound	

5.2 PRECONDITIONS TO TRANSPORT LIBERALIZATION

5.2.1 Liberalization and Regulation

Over the last few decades, the transport industry has been transformed by the demands of an increasingly integrated global economy. Maritime transport services are no longer associated with strictly port-to-port movements, but rather are an integral component of comprehensive door-to-door transport services.

Several elements have contributed to this evolution, including advances in technology (e.g. containerization and information and communication technologies), infrastructure modernization, and globalization of production and manufacturing processes.

Many developing countries already practice liberal policies in the transportation sector. Indeed, autonomous liberalization and privatisation have been the two main pillars of shipping policy reform programs of most developing countries. However, such liberalization has not brought them clear gains, mainly due to the lack of a competitive environment in the sector. Today's costs of shipping services for developing countries remain approximately twice as high as those of developed countries.

This evidence suggests that eliminating restrictions to trade in maritime transport services is not enough to produce the benefits that trade liberalization is meant to bring (mainly in terms of lower costs created by increased competition)³⁵. Only the effective dismantling of price fixing, trade sharing, and vessel pooling arrangements would create a more level playing field permitting developing countries to penetrate the market. Indeed, only the abolition of price fixing would allow improved competition through a more effective bargaining process between shippers and the shipping lines. Future negotiations in this sector should ensure the establishment of fair competition rules, as well as mechanisms to prevent the already *de facto* monopolistic lines from moving into the provision of auxiliary services on land to avoid the formation of powerful cartels in this area.

As importers of shipping and cargo services, developing countries may have interest in promoting investment and transfer of technologies. Therefore, efforts to develop appropriate domestic regulation should be fostered.

It is recommended to establish an effective independent regulator for the maritime sector, fixing the pricing systems of logistics services while enhancing the financial autonomy of port authorities, accelerating automation procedures of ports, overcoming the scarcity and inconsistency of data, creating an efficient regulatory framework for multimodal operations and upgrading the ports' infrastructure by activating regional initiatives, enhancing co-operation with international institutions and promoting public private partnerships in this field.

5.2.2 Linkages Between Transport Liberalization and Other Trade Policy Issues

The WTO negotiations, apart from GATS issues, are aimed at clarifying and improving the relevant aspects of General Agreement on Tariffs and Trade (GATT) articles V, VIII and X (respectively, freedom of transit, fees and formalities, and publication and administration of trade regulations), with a view to further expediting the movement, release and clearance of goods, including goods in transit.

The concept of the Authorized Economic Operator (AEO) is more and more known all around the world. It is defined as "party involved in the international movement of goods ...

³⁵ UNCTAD, Trade in Services Section: Maritime transport services, May 2001

that has been approved by or on behalf of national customs administrations as complying with the World Customs Organization (WCO) or equivalent supply chain security standards. Authorized Economic Operators include, inter alia, manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors”.

These elements include:

- a. Demonstrated compliance with customs requirements;
- b. Satisfactory system for management of commercial records;
- c. Financial viability;
- d. Consultation, cooperation and communication;
- e. Education, training and awareness;
- f. Information exchange, access and confidentiality;
- g. Cargo security;
- h. Conveyance security;
- i. Premises security;
- j. Personnel security;
- k. Trading partner security;
- l. Crisis management and incident recovery; and
- m. Measurement, analyses and improvement.

5.2.3 Other Issues to Be Considered

Since 2005, IMO has participated in the implementation of the United Nations Global Counter-Terrorism Strategy (contained in General Assembly Resolution A/Res/60/288) and has been fully committed to the work of the United Nations Counter Terrorism Implementation Task Force. SOLAS³⁶ regulation V/19-1 on a Long-Range Identification and Tracking System (LRIT), which had been adopted in 2006, entered into force on 1 January 2008. The regulation applies to ships over 500 GT constructed on or after 31 December 2008, with a phased-in implementation schedule for ships constructed before 31 December 2008. The purpose of the regulation is to allow for continuous monitoring of all vessels over 500 GT in order to help combat any threats to global security.

International Organization for Standardization (ISO) has developed a range of voluntary international industry standards on supply chain management systems. In 2005, the ISO/PAS 28000 series *Specification for security management systems for the supply chain* was adopted. This series of international standards is intended for application by organizations involved in manufacturing, service, storage or transportation by all modes of transport at any stage of the production or supply process. The aim is to facilitate and improve controls of flows of transport, to fight smuggling, to deal with the threats of piracy and terrorism, and to enable secure management of supply chains.

Other legal instruments relating to environment were developed by the IMO. Therefore, there are a number of international conventions affecting the commercial and technical activities of maritime transport, such as:

³⁶ SOLAS: Safety Of Life at Sea

- The United Nations Convention on a Code of Conduct for Liner Conferences, 1974
- The United Nations Convention on Carriage of Goods by Sea, 1978
- The International Convention on Maritime Liens and Mortgages, 1993
- The United Nations Convention on International Multimodal Transport of Goods, 1980
- The United Nations Convention on Conditions for Registration of Ships, 1986
- International Convention on Arrest of Ships, 1999

6. IMPACT OF GATS/ MARITIME TRANSPORT SERVICES IN IRAQ

6.1 ECONOMIC IMPACT

Increasing the potential for trade in transport services has positive effects when managed properly. Allowing greater market access can increase competition, lead to greater investments and to an improvement in the quality and quantity of transport services provided. Trade can facilitate knowledge and technology transfers, thus allowing services to maintain globally competitive standards. A more competitive transport sector will result in lower costs, producing a beneficial effect on the productivity of local industries. Such gains from trade can be substantial.

The WTO and GATS framework offers through enforceable rules an instrument for liberalization and roll back of restrictions, as well as predictability and transparency for market operators. These are important benefits, in particular for the smaller economies, giving everyone with a stake in the sector, such as shipping companies, investors, seafarers and shippers, a clear idea of the rules of the game.

Planning for the future can be done with greater certainty, which in turn will encourage long-term investment.

6.2 SOCIAL IMPACT

More investments and increase of trade volumes should have an impact on the employment rate not only in the maritime transport itself but in the transportation sector at large and sectors that will benefit directly or indirectly from better and cheaper services of transport.

Foreign Direct Investments should improve the quality of management of shipping services and benefit to consumers.

6.3 ENVIRONMENTAL IMPACT

International transport by land, air and sea is one of the world's largest service sectors. The environmental damage from transport emissions is already substantial; 95% of all goods are transported by sea, and this contributes as much as one-sixth the global carbon, nitrogen and sulfur emissions from petroleum.

Liberalizing transport services, particularly in conjunction with increased trade flows in goods, will expand transport operations and increase the resulting emissions-related damage to the environment. At the same time, GATS rules may increasingly constrain environmental protection efforts in the transport sector³⁷.

Market access commitments in maritime transport could force unlimited access to ports for ships, with worrying potential for increased environmental damage due to increased coastal pollution and port dredging.

³⁷ Friends of the Earth: GATS primer, November 2002

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WTO, Council of Services: Maritime Transport Services, background note by the Secretariat, S/C/W/62, November 1998

Annex: Commitments of benchmarked countries

Egypt
Jordan
Saudi Arabia
United Arab Emirates
Ukraine
Vietnam

EGYPT**SECTOR SPECIFIC COMMITMENTS**

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Egypt				
11.A. Maritime Transport Services				
A) Passenger Transportation ¹⁾	Unbound	1)	Unbound	
B) Freight Transportation				
	2) None	2)	None	
	3) Commercial presence is only allowed for joint-venture companies. - Foreign capital equity should not exceed 49 per cent; - All ships owned by the established companies should be registered at the Egyptian ship register as a pre-requisite to fly the Egyptian flag	3)	None	
	4) - 95 per cent of the crew should be national and their wages and salaries should not be less than 90 per cent of the total paid up wages and salaries - The Chairman and majority of the Board of Directors must be Nationals	4)	None	
Supporting services for Maritime Transport: Port dredging	1) Unbound*	1)	Unbound*	
	2) Unbound	2)	Unbound	

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	3) Commercial Presence is only allowed for joint-venture companies. - Foreign Capital equity should not exceed 75 per cent	3) None		
	4) At least 25 per cent of both the personnel and members of the Board of Directors must be Nationals	4) None		

JORDAN

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
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Jordan

11.A. Maritime Transport Services

a) Passenger transportation 1) (CPC 7211)

(a) Liner Shipping: None, but all ships 1) docking in Jordan must have a local Port Agent.

None

b) Freight transportation (CPC 7212)

(b) Bulk, tramp, and other international shipping, including passenger transportation: None

The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions:
 1. Pilotage (excluded)
 2. Towing and tug assistance
 3. Provisioning, fuelling, and watering.
 4. Garbage collecting and ballast waste disposal.
 5. Port Captain's services.
 6. Navigation aids.
 7. Shore-based operational services, essential to ship operations including communications, water and electrical supplies.
 8. Emergency repair facilities.
 9. Anchorage, berth and berthing services(excluded).

Please note that Pilotage and anchorage services have been excluded due to the national treatment limitation as seen from commitments under the national treatment column.

2) None

2) None

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of Jordan: None (b) Other forms of commercial presence for the supply of international maritime transport services: None Commercial presence (in mode 3) is subject to 50% foreign equity limitation.	3) Service fees for pilotage, berthing and docking are 10% less for Jordanian ships. Jordanian ships are exempt from any Port dues when anchoring in Jordanian territorial waters. Jordanian ships enjoy preferential treatment in prices of bunker provided at the Aqaba Port.		
	4) Unbound, except as indicated in horizontal section. 1/5 of crew on Jordanian ships must be Jordanian.	4) Unbound, except as indicated in the horizontal section.		
Maritime Auxiliary Services	1) None	1) None		
c) Rental services of sea-going vessels with operator (CPC 7213)	2) None	2) None		
	3) Commercial presence (in mode 3) is subject to 50% foreign equity limitation.	3) None		
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		
d) Maintenance and repair of vessels (CPC 8868)	1) None	1) None		
	2) None	2) None		
	3) Access restricted to Jordanian natural or juridical entities. Commercial presence (in mode 3) is subject to 50% foreign equity limitation.	3) None		
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Jordan				
11.H. Services Auxiliary to All Modes of Transport				
Storage and warehousing services (CPC 742)	1) Unbound*	1) Unbound*		* A commitment on this mode of delivery is not feasible. #1 Public utility concession or licensing procedures may apply in case of occupation of the public domain
	2) None	2) None		
	3) None#1 Commercial presence (in mode 3) is subject to 50% foreign equity limitation.	3) None#1		
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		
Shipping Agents Maritime Freight Forwarding Services (CPC 748) Maritime Freight Inspection services (CPC 749) Food Supply Catering (Provisioning)	1) Unbound.	1) Unbound.		
	2) None	2) None		
	3) Access restricted to Jordanian natural or juridical entities. Commercial presence (in mode 3) is subject to 50% foreign equity limitation.	3) None		
	4) Unbound except as indicated in the horizontal section.	4) Unbound except as indicated in the horizontal section.		

SAUDI ARABIA

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply : 1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
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Saudi Arabia

11.A. Maritime Transport Services

A. Maritime Transport Services	1) None	1) None		The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions: -port and waterway operation services (excluding cargo handling) -pilotage and perthing services; -navigation aid services; -vessel salvage and re-floating services; -all other supporting services for water transport.
a. Passenger transportation (CPC 7211)				
b. Freight transportation (CPC 7212)				
c. Rental of vessels with crew (CPC 72130)				
d. Maintenance and repair of vessels				
	2) None	2) None		
	3) None	3) None		
	4) Unbound, except as indicated in the horizontal section	4) Unbound, except as indicated in the horizontal section		

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
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Saudi Arabia

11.H. Services Auxiliary to All Modes of Transport

(limited to maritime, rail, and air transport services in accordance with the Annex on Air Transport Services)
 a. Cargo handling services (CPC 741)
 b. Storage and warehouse services (CPC 742)
 c. Freight transport agency services (CPC 748)

1) None 1) None

The services related to CPC 749 are currently provided by the public sector. As far as market access to services included in CPC 749 become open under the Saudi legislation to private entities, national treatment will be granted.

2) None 2) None
 3) None 3) None
 4) Unbound, except as indicated in the horizontal section 4) Unbound, except as indicated in the horizontal section

UAE

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
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UKRAINE

1. MARITIME TRANSPORT SERVICES				
International Transport (freight and passengers) (CPC 7211 and 7212 less cabotage transport)	<p>(1) (a) Liner Shipping: none. (b) Bulk, tramp, and other international shipping, including passenger transportation; none.</p> <p>(2) None.</p> <p>(3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: none. (b) Other forms of commercial presence for the supply of international maritime transport services: none.</p> <p>(4) (a) Ships' crews: unbound. (b) Key personnel employed in relation to a commercial presence as defined under mode 3b) above:</p>	<p>(1) (a) None. (b) None.</p> <p>(2) None.</p> <p>(3) (a) None. (b) None.</p> <p>(4) (a) Unbound, except as indicated in the horizontal section. (b) Unbound, except as indicated in the horizontal section.</p>	<p>(1) (a) None. (b) None.</p> <p>(2) None.</p> <p>(3) (a) None. (b) None.</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non discriminatory terms and conditions</p> <ol style="list-style-type: none"> 1. Pilotage 2. Towing and tug assistance 3. Provisioning, fuelling and watering 4. Garbage collecting and ballast waste disposal 5. Port Captain's services 6. Navigation aids 7. Shore-based operational services essential to ship operations, including communications, water and electrical supplies 8. Emergency repair facilities 9. Anchorage, berth and

	Unbound, except as indicated in the horizontal section		berthing services
- Maritime Cargo Handling Services (CPC 741)	(1) Unbound. (2) None. (3) None ³⁸ . (4) Unbound, except as indicated in the horizontal section.	(1) Unbound. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	
- Storage and warehousing Services (CPC 742)			
- Customs Clearance Services for Maritime Transport Services	(1) None. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	(1) None. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	
- Container Station and Depot Services			
- Maritime Agency Services			
- (Maritime) Freight Forwarding Services			
3. 8. Services auxiliary to all modes of transport			
(a) Cargo handling services (CPC741)	(1) Unbound* (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	(1) Unbound* (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	
(b) Storage and warehouse services (CPC 742)	(1) Unbound* (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	(1) Unbound* (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	

³⁸ Public utility concession or licensing procedures may apply in case of occupation of the public domain.

(c) Freight transport agency services (CPC 748)	(1) None. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	(1) None. (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	
(d) Other - Freight Inspection (Part of CPC 749)	(1) Unbound* (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	(1) Unbound* (2) None. (3) None. (4) Unbound, except as indicated in the horizontal section.	

VIETNAM

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
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Viet Nam

11.A. Maritime Transport Services

11. TRANSPORT SERVICES 1)

Unbound, except international freight transportation: None.

Unbound, except international freight transportation: None.

The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions:

#27 With respect to the access to and use of maritime agency services mentioned in the Additional Commitments column, where road, rail, inland waterways, coastal and inland shipping, and related auxiliary services are not otherwise fully covered in the schedule, a multimodal transport operator shall have the ability to access Vietnamese maritime agency services suppliers to rent, hire or charter trucks, railway carriages, or barges and related equipment, for the purpose of onward forwarding of international cargoes carried by sea.

A. Maritime Transport Services

(a) Passenger transportation less cabotage (CPC 7211)

(b) Freight transportation less cabotage (CPC 7212)

1. Pilotage;
2. Towing and tug assistance;
3. Provisioning, fuelling and watering
4. Garbage collecting and ballast waste disposal;
5. Port, Captain's/Harbour Master's services;
6. Navigation aids;
7. Shore-based operational services essential to ship operations, including communications, water and electrical supplies;
8. Emergency repair facilities;
9. Anchorage, berth and berthing services;
10. Access to maritime agency services. #27

#28 "Other forms of commercial presence for the supply of international maritime transport services" means the ability for foreign shipping companies to undertake locally activities which are related to the cargoes carried by them and necessary for the supply of the integrated transport service to their customers, within which the international maritime transport constitutes a substantial elements and is supplied by the concerned foreign shipping company.

2) None.

2) None.

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
3)	<p data-bbox="443 326 716 592">(a) Establishment of registered companies for the purpose of operating a fleet under the national flag of Viet Nam: After 2 years from the date of accession, foreign service suppliers are permitted to establish joint-ventures with foreign capital contribution not exceeding 49% of total legal capital. Foreign seafarers may be permitted to work in ships under the national flag of Viet Nam (or registered in Viet Nam) owned by joint-ventures in Viet Nam but not exceeding 1/3 of total employees of the ships. The Master or first chief executive must be Vietnamese citizen.</p> <p data-bbox="443 609 716 779">(b) Other forms of commercial presence for the supply of international maritime transport services #28: Upon accession, foreign shipping companies can establish joint ventures with 51% foreign ownership. After 5 years from the date of accession, foreign shipping companies can establish 100% foreign-invested enterprises.</p> <p data-bbox="443 795 716 852">Upon accession, foreign-invested enterprises are only permitted to carry out activities from (1) to (5) as indicated below:</p> <ol data-bbox="443 868 716 1209" style="list-style-type: none"> 1. Marketing and sales maritime transport services through direct contact with customers, from quotation to invoicing; 2. Acting on behalf of the cargo owners; 3. Provision of required business information; 4. Preparation of documentation concerning transport documents including customs documents, or other documents related to the origin and character of the goods transported; and 5. Provision of maritime transport services including cabotage services by Vietnamese flagged vessels for the supply of integrated transport services. <p data-bbox="443 1161 716 1209">After 5 years from the date of accession, activities from (6) to (7) shall be allowed.</p> <ol data-bbox="443 1226 716 1321" style="list-style-type: none"> 6. Acting on behalf of the company, organising the call of the ship or taking over cargoes when required; 7. Negotiate and sign contracts for road, rail, inland waterways transportation related to cargoes 	3)	None.	

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	transported by the company. The number of joint ventures by foreign shipping companies will be limited to 5 companies upon accession. Three additional companies will be allowed every two years thereafter. After 5 years from the date of accession, no limitation on the number of joint ventures.			
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		
- Container Station and Depot Services #31	1) Unbound*.	1) Unbound*.		#31 "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments. * A commitment on this mode of delivery is not feasible.

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	2) None.	2) None.		
	3) None, except that upon accession joint ventures with foreign capital contribution not exceeding 51% can be established. Seven years upon accession, none.	3) None.		
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Viet Nam				
11. Transport Services				
Maritime Auxiliary Services	1) Unbound.	1) Unbound.		#29 Public utility concession or licensing procedures may apply in case of occupation of the public domain.
- Container handling services (CPC 7411) #29	2) None.	2) None.		
	3) None, except that upon accession joint ventures with foreign capital contribution not exceeding 50% can be established.	3) None.		
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		
11.H. Services Auxiliary to All Modes of Transport				
- Customs Clearance Services #30	1) Unbound*.	1) Unbound*.		#30 "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity. * A commitment on this mode of delivery is not feasible.
	2) None.	2) None.		
	3) None, except that upon accession joint ventures with foreign capital contribution not exceeding 51% can be established. After 5 years, joint ventures can be established with no foreign ownership limitation.	3) None.		

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		
(a) Container handling services, except services provided at airports (part of CPC 7411)	1) Unbound.	1) Unbound.		
	2) None.	2) None.		
	3) Upon accession, foreign service suppliers are only permitted to provide services through the establishment of joint ventures with Vietnamese partners with the capital contribution of foreign side not exceeding 50%.	3) None.		
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		
(b) Storage and warehouse services (CPC 742)	1) Unbound. *	1) Unbound.		#33 Including freight forwarding services. These services mean the activities consisting of organizing and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. * A commitment on this mode of delivery is not feasible.
(c) Freight transport agency services (CPC 748) #33				
	2) None.	2) None.		
	3) None, except that upon accession joint ventures with foreign capital contribution not exceeding 51% can be established. Seven years after accession, none.	3) None.		
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		
(d) Other (part of CPC 749) #34	1) Unbound, except freight brokerage services: None after 5 years from the date of accession.	1) Unbound, except freight brokerage services: None after 5 years from the date of accession.		#34 Include the following activities: bill auditing; freight brokerage services; freight inspection, weighing and sampling services; freight receiving and acceptance services; transportation document preparation services. These services are provided on behalf of cargo owners.

SECTOR SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	2) None.	2) None.		
	3) Upon accession, foreign service suppliers are only permitted to provide services through the establishment of joint ventures with Vietnamese partners with the capital contribution of foreign side not exceeding 49%. After 3 years from the date of accession, this limitation shall be 51%. Four years thereon, this capital limitation shall be abolished.	3) None.		
	4) Unbound, except as indicated in the horizontal section.	4) Unbound, except as indicated in the horizontal section.		