

法規名稱：AGREED MINUTES [OF THE 8TH ROUND OF JOINT MARITIME CONSULTATIVE COMMITTEE MEETING BETWEEN THE REPUBLIC OF CHINA AND THE REPUBLIC OF KOREA] (AD.1992.04.15)

簽訂日期：民國 81 年 04 月 15 日

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1. Delegations of The Republic of China and The Republic of Korea held the 8th round of Joint Maritime Consultative Committee Meeting in Taipei on April 15, 1992, in accordance with article 8 of the Agreement on Maritime Transport between The Government of The Republic of China and The Government of The Republic of Korea. (hereinafter called the "Shipping Agreement")
2. The Delegation of The Republic of China was headed by Mr. Lin , Chin Chuan, Deputy Director, Department of Navigation and Aviation, Ministry of Transportation and Communications, The delegation of The Republic of Korea was headed by Mr. Cho, Y-oung-Hoon, Director General, Marine Transport Bureau, Korea Maritime and Port Administration. The list of both delegations are attached as Annex A and B.
3. During the Meeting, both delegations exchanged views on a number of shipping related issues in an amicable and cordial atmosphere and highly evaluated the usefulness of the Joint Meeting.
4. The two delegations frankly and sincerely discussed issues of mutual interest and reached understandings as follows:
 - A. Discrimination on dockage and pilotage for the ROK carriers in Taiwan.

The R.O.K. side indicated that the R.O.C. carriers enjoy a thirty-three percent (33%) discount on pilotage in R.O.C. ports. In addition, Taichung Harbour Bureau offers a forty percent.(40%) discount of Dockage to the ROC Carriers. The R.O.K. side requested that the R.O.C. side should eliminate the above mentioned discrimination and provide the R.O.K. carriers equal treatment as with the R.O.C. carriers calling R.O.C ports.

The R.O.C. side explained that there is no discrimination on dockage between R.O.C. carriers and foreign carriers calling at Taichung port. After ROC explanation, the R.O.K. side realized that the Dockage discrimination at Taichung Port is caused due to R.O.K. side's misunderstanding.

Regarding the pilotage, the R.O.C. side explained that the current Taiwan international port Pilotage is paid according to draft and Gross Tonnage of vessel per National Pilot Association of R.O.C. The pertinent tariff of the pilotage is not guided by the R.O.C. Government but is concluded by mutual agreement between the Carrier and the National Pilot Association of R.O.C. Regarding to the subject matter, R.O.K. side requested R.O.C. side to provide information about any discriminations or any unfair treatment against foreign carriers calling R.O.C. ports. Furthermore, R.O.K. side requested that R.O.C. Government to give the R.O.K. carriers fair treatments in spirit of reciprocal cooperation between the two countries. R.O.C. side confirmed they would try to investigate whether the R.O.K. vessels have been unfairly treated on aforementioned issue.

B. The scope of application on the exemption of income tax for international sea transport.

The ROK delegation expressed that the enlargement of Agreement between the Government of the Republic of China and the Government of the Republic of Korea concerning the Tax Exemption on International Sea Transport Income have been in effect by the exchange of memorandum on December 10, 1991.

The ROK Delegation further stated that the coverage of exemption items of above Agreement was reduced by the interpretation of the R.O.C. Ministry of Finance ref. 800101859 dated May 13, 1991.

Subject interpretation declared the exemption items only applies to the Basic Ocean Freight Income derived from the operation and transportation of cargoes in international traffic of ships. Other incomes, such as income from the rental of s-

hips on time, voyage or bareboat basis, income from the rental of containers and related equipment which is incidental to the international operation of ships, income from the operation of space charter, demurrage, terminal handling charge are not included under the scope of coverage of exempted items.

The R.O.K. side indicated that the above mentioned items, detention and other surcharges like BAF, DDC, CAF, SOFA, which is related to the operation in international traffic of ships, should be included in the exemption items of the Agreement. The ROC delegation expressed that R.O.C. Government will refer to the OECD model and on the reciprocal basis to exempt income tax above mentioned incomes on ROK carriers. Further, the ROC delegation ask the ROK delegation of R.O.K. Government have been exempted income tax on R.O.C. carriers as above mentioned. The ROK delegation answered that they are not certain of this matter but they will check this matter after this meeting. On the request of R.O.C. side, R.O.K. side confirmed that the R.O.K. Government will also exempt income tax on R.O.C. carriers on the reciprocal basis, these items which the ROK side have requested as above mentioned.

And the R.O.K. side requested that all over-paid tax portion shall be refunded to respective carriers retroactively since the effective date of said initial tax exemption agreement, December 10, 1991. And the ROC side expressed that they will inform the ROK side this matter after ROK confirmation on exemption items for ROC carriers operating in Korea.

C. Discussion Agreement on Taiwan/Korean Services.

The ROK side stated that the cargo sharing ratio is 37% and 54% for the R.O.K. carriers and R.O.C. carriers respectively. Obviously, the cargo share for R.O.C. and R.O.K. carriers is not balanced. On the basis of mutual benefit and reciprocity, the R.O.K. side requested R.O.C. side to improve the situation.

The ROC side stated that according to the R.O.C. statistics, the cargo sharing ratio is 40% for both R.O.C. and R.O.K. ca-

riers respectively, the unbalance seems due to the capacity and the scale of carriers. The government should not interfere with this commercial affair.

The both sides agreed that the problem will be solved in the meeting of the association of shipowners between the R.O.K. and the R.O.C. If there is any difficulty remained, it can be put to be discussed at the next joint Maritime Consultative Committee Meeting.

D. Lease of exclusive container terminal to ROK Carriers in the Kaohsiung Port.

The ROK side stated that the lease agreement of pier 64 in the Kaohsiung port was nearly concluded between Kaohsiung Harbor Bureau and the Hanjin Shipping Co., Ltd. However, there has been sudden declaration made by Kaohsiung Harbor Bureau, without any clear explanation, at the time, it was known the sudden change of decision was caused by protest of a ROC carrier.

It was also stated by the ROK side that Hanjin Shipping Co., Ltd. deserves to secure one exclusive terminal berth in view of fact that said company has been ranked 2nd in volume handled of containers in the R.O.C.

The R.O.K. side expressed serious concern above matter and requested R.O.C. side implement the commitment to render best assistance to enable Hanjin Shipping Co., Ltd. to secure one exclusive terminal berth in Kaohsiung Harbor.

The MOTC confirmed to assist and consult with the Taiwan Provincial Government, with their utmost, in leasing a suitable terminal berth and the Kaohsiung Harbor Bureau also agreed to report to their governing authority, Taiwan Provincial Government, about ROK above serious concern and suggest Taiwan Provincial Government review the whole leasing policy in Kaohsiung Harbor Bureau as soon as possible .

The R.O.K. side maintained that, by the Agreement, national treatment for R.O.K. carriers must be applied in utilization of facilities at R.O.C. ports.

E. Assistance for R.O.C. on GATT and GATS

The R.O.C. side expressed that the R.O.C. Government is now applying to join the GATT. The draft of GATS (General Agreement on Trade in Services) has been proposed by the Service Group of Uruguay Round negotiations of GATT in November, 1990. In order to learn from some experience and measures that R.O.K. Government has taken on shipping industries in respect to GATT, R.O.C. side requested the ROK side to provide related information and materials by the R.O.K. government for R.O.C. reference in order to participate in the Uruguay Round Negotiations on matters involving General Agreement on Trade in Services. The ROK side stated that they are pleased to provide all materials concerning the Uruguay Round Negotiations of GATT and GATS in specific to the shipping industries. If the R.O.C. side needs any other specific information or material, the R.O.K. side requested detail list to be provided and the R.O.K. side will assist and provide as best as possible. Meanwhile, R.O.C. side may assign staff(s) who are in charge of the affairs of GATT to R.O.K., and the R.O.K. side will do their best to render the R.O.C. side necessary assistance accordingly.

F. Regulate ROK ocean-going carriers operating interport services and dumping soliciting cargo.

The ROC side stated that according to the 7th round of Joint Maritime Consultative Committee Meeting in Seoul, the ROK side had expressed that it would take actions against ROK ocean-going liners while violated the R.O.K. laws about interport services in the near asea route of the R.O.C. if the R.O.C. side hands in evidence materials to tell any ROK shipping company had violated the rules, however, as the ROC side understanding, The Hanjin company still operated interport services in the near sea route in 1991. This unlawful act have been informed to R.O.K. authorities by R.O.C. and R.O.K. Shipping Company, but R.O.K. Government didn't take any action. In addition, according to R.O.C. shipping company, Hanjin Shipping

Company is alleged to make a dumping on its Middle-East and Red Sea services, the R.O.C. side requested the R.O.K. Government to regulate it immediately.

The R.O.K. side stated that criteria of dumping is very vague to get clear picture. Therefore, if R.O.C. side can submit the evidence of dumping to the R.O.K. side, they will investigate such kind of alleged dumping case in due course and take proper action. In Korea, the R.O.K. side also have got information of R.O.C. shipping company's dumping cases through various channels. Both sides agreed as far as dumping matter is concerned, both sides do utmost effort to stabilize R.O.K./R.O.C. service route with mutual cooperation.

The R.O.K. also expressed that if the R.O.C. request to prevent ROK ocean-going carriers from operating prevent ROK ocean-going carriers from operating R.O.K./R.O.C. route, current imbalanced lifting share between R.O.K./R.O.C. shipping company should be improved in favor of R.O.K. shipping company in advance. As for participation of Hanjin Shipping Company in interpret services, the R.O.K. side understand it is inevitable for Hanjin Shipping Company to carry some of its cargoes via ocean-going vessel due to service structure as worldwide service carrier.

The R.O.K. side have never received any complaints from the Korean interpret carriers for the above mentioned Hanjin Shipping company's case because handling volume of Hanjin Shipping Company in the interpret service can not give any impact to other Korean near sea shipping companies. If the R.O.C. side submit any evidence, the R.O.K. will investigate such kind of case in detail and if it is necessary, the R.O.K. side restrict ocean going carrier interpret services from/to R.O.K.

Both sides agreed that it may be discussed common issues in the meeting in the friendship of both countries.

The R.O.C. side gave some evidence after meeting for the violating such as Hanjin's advertisement on near-sea services a-

nd the statistics of cargo share on R.O.C./R.O.K. route.

G. Restriction on cargo solicitation for the ROC carriers in Korea.

The ROC side stated that ROK side promised that the ROC carriers shall be able to participate in the feeder services on the Korea-Japan route once the Japanese carriers are allowed to engage in services during the 7th round meeting in Seoul. However, the ROC carriers still haven't been permitted to participate the above services. Therefore, the ROC side requested that ROK inform the ROC side about the result of Korea/Japan meeting. In order that the ROC carriers can enjoy the same treatment as Japanese carriers have. The ROK side explained that two Korea-Japan Maritime meeting will be held in May of this year, respectively for Government and private sector. If the ROK side promises the Japanese carriers to engage Korea-Japan route on the conclusions of the Korea-Japan shipping company meeting, the ROC carriers should be allowed to enjoy the same treatment as Japanese carriers have. The ROK side further explained that only feeder services in Korea/Japan route will be discussed at the following Korea/Japan meeting and the ROK side will inform ROC side result of the ROWJAPAN shipping company meeting through the ROWROC shipping company channel as soon as possible.

The ROC side further requested that the ROK side explained the current situation of the integrating of Korea-Japan and Korea-Southeast Asian routes.

The R.O.K. side explained that actual integration still have not been implemented due to decrease of cargoes in the Korea-Japan routes. As the R.O.C. requested, the R.O.K. side stated that the law of waiver system will be revised in 1993 and the related regulations shall be streamlined by 1995.

H. Restriction on changing general agent and establishing branch office.

The R.O.C. side stated that the R.O.K. Shipping Act stipulates that the shipowner should acquire the agreement from the e-

xisting general agent before the shipowner applies for changing their general agent or establishing their branch office in Korea. Therefore, the R.O.C. carriers faced difficulty when they applied for changing their general agent and establishing branch office in Korea. The agency transfer usually can not be completed until the shipowner paid much compensation. The ROK side explained, as far as the ROK Shipping Act is concerned, that the implement regulation of the R.O.K. Shipping Act stipulates that a new applicant for international shipping agent should acquire the agreement from the existing shipping agent in case the shipowner have already contract with the existing international agent. If the agency contract has expired, the agreement from the original general agent is not necessary for the shipowner. In addition, an application for establishing the branch office is not necessary to acquire agreement from the general agent. However, if the existing general contract is still valid, the shipowner should acquire the said agreement.

5. Both delegations reached the same conclusion that the 8th Joint Meeting was constructive and it would contribute to strengthen the traditional relationship and mutual cooperation in the Maritime field between the two countries.
6. Both delegation agreed that the 9th round of Consultative Meeting will be held in Seoul next year, and the date will be determined through the formal diplomatic channels.

April 15, 1992

(Signed)

Mr. Lin, Chin-Chuan

Chief Delegate

The Republic of China

(Signed)

Mr. Cho, Young-Hoon

Chief Delegate

The Republic of Korea