IN-DEPTH

Shipping Law

THAILAND

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Contributing Editors

Bruce G Paulsen and **Brian P Maloney**

Seward & Kissel LLP

In-Depth: Shipping Law (formerly The Shipping Law Review) aims to provide those involved in handling cross-border shipping disputes with an overview of the key legal issues arising across multiple jurisdictions, including leading maritime nations and major shipbuilding centres. Among other things, it analyses the most noteworthy aspects of available dispute resolution procedures; shipbuilding contracts, contracts of carriage and cargo claims; limitation of liability; ship arrest procedures; and much more.

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Thailand

Nathee Silacharoen, **Pattaraphon Uthai** and **Chonlawat Rojanaparpal**
Chandler Mori Hamada Limited

Summary

Introduction

Commercial overview of the shipping industry

In 2024, the combined value of the export and import trade in Thailand was approximately US$600 billion,[1] with the majority of these transactions conducted through the carriage of goods by sea. Thailand currently boasts around 4,201 ports[2] and 1,033 cargo ships-[3] listed on the whitelist, underscoring the shipping industry's crucial role in Thailand's economy. In addition to the ongoing plan to establish a 'National Maritime Navigation Line' aimed at enhancing the carriage of goods by sea for Thai vessels and boosting export businesses in Thailand, the Thai government is pursuing the development of the 'Land bridge' project, which would connect the Gulf of Thailand with the Andaman Sea,[4] establishing a new, shorter trade route. This reflects the Thai government's commitment to promoting and enhancing the shipping industry in Thailand, as well as its ambition to position the country as South East Asia's strategic maritime hub.

General overview of the legislative framework

Thailand is a civil law jurisdiction where laws are enacted by Parliament and regulations are issued by administrative agencies deriving authority from the legislature.[5] Precedents set by the Supreme Court's judgments are not officially recognised in the same manner as those of common law countries. However, certain precedents are formally published and can be served as guidelines for the construction of the provisions of applicable laws.[6]

Provisions of treaties or international conventions to which Thailand is a party are not legally enforceable in court actions until such treaties are enacted as domestic legislation. As of 17 February 2025, the maritime conventions that Thailand has ratified include:[7]

1. the Convention on the International Maritime Organization (IMO), 1948;
2. the International Convention for the Safety of Life at Sea (SOLAS), 1974;
3. the International Convention on Load Lines (LL), 1966;
4. the International Convention on Tonnage Measurement of Ships (TONNAGE), 1969;
5. the Convention on the International Regulations for Preventing Collisions at Sea (COLREG), 1972;
6. the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978 as amended 1995;
7. the Convention on the International Maritime Satellite Organization (INMASAT), 1976;
8. the Convention on Facilitation of International Maritime Traffic (FAL), 1965;
9. the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973 as modified by the Protocol of 1978;
10. the International Convention on Civil Liability for Oil Pollution Damage (CLC), 1992;
11.

the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND), 1992;

12. the International Convention on Salvage (SALVAGE), 1989;
13. the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), 1990; and
14. the Maritime Labour Convention (MLC), 2006.

For several areas of maritime law that are covered by international conventions which Thailand has not ratified, including carriage of goods, arrest of ships and civil liability arising from collisions, Thai legislation partly resembles these relevant international conventions or combines local regulations with these international conventions. Notably, Thailand lacks domestic legislation for some aspects of maritime law, such as tonnage or global limitations, even though such long-established rules apply worldwide by virtue of the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976, and its Protocol of 1996. Thus, Thailand is, in some respects, a haven for maritime catastrophe claims that can involve large claim amounts.

Year in review

Apart from domestic guidelines and regulations introduced to implement international conventions and standards (e.g., the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 (ESP Code), as amended; SOLAS, as amended; and the International Maritime Dangerous Goods Code (IMDG Code)), there were no notable developments in case law, market trends, policy, or legal and regulatory frameworks in Thailand during 2024.

Forum and jurisdiction

Courts

Forums and procedure

The majority of shipping claims are heard in a specialised court, namely the Central Intellectual Property and International Trade (CIPIT) Court, where a panel consisting of a career judge and lay judge who have specific knowledge in the maritime industry oversees the proceedings. The proceedings are generally governed by the Civil Procedure Code (CPC) with some specific overriding rules prescribed in the Act for the Establishment of and Procedure for Intellectual Property and International Trade Court, BE 2539 (1996). Appeals against judgments rendered by the CIPIT Court can be filed with the Court of Appeals for Specialized Cases and the Supreme Court.

Claims that are outside the jurisdiction of the CIPIT Court, such as those claims on breach of contract for domestic carriage of goods by sea, claims on marine insurance covering domestic carriage of goods by sea or tort claims arising from a collision where both parties are not seagoing vessels or from allision (a seagoing vessel striking a stationary object), are heard in the ordinary courts of justice.[8] Appeals on judgments from these courts can be filed with the Court of Appeal and the Supreme Court.

Choice of law

In instances of conflict of law where the Conflict of Laws Act BE 2481 (1938) (CLA) directs the application of a law that appears to be foreign, the court will apply such substantive law of a foreign country instead of domestic laws, provided that it is presented by the parties and proven not to be contrary to the public order or good morals of Thailand.[9-] However, some legislation, such as the Carriage of Goods by Sea Act BE 2534 (1991) (COGSA), prohibits the application of foreign laws and international conventions under certain circumstances, specifically where one party in the dispute is of Thai nationality or is a juristic person established under the laws of Thailand.[10] Notably, marine insurance policies are not governed by Thai substantive law. This is because standard clauses in marine insurance policies usually provide for English law and practice.[11] Even in the absence of an English law clause, the Supreme Court will still apply English law as a general principle of law for marine insurance claims.[12]

Prescription and limitation periods

General limitation periods for maritime claims are listed below. Each limitation period has specific details and exceptions that require further interpretation:

1. cargo claims under the contract of carriage of goods by sea: one year from the date of delivery;[13]
2. cargo claims under multimodal transport: nine months from the date of delivery;[14]
3. sea passenger claims: 10 years from the date of incident;[15]
4. collision claims:
    - if one party is a seagoing vessel, two years from the date of the incident;[16] and
    - if no party is a seagoing vessel, one year from the date on which the tort and tortfeasor became known but not exceeding 10 years from the date of the incident;[17]
5. salvage claims: two years from the date on which the salvage operation finishes;[18]
6. general average claims:
    - claimed by the shipowner, one year from the date the amount of general average contribution is advised to the contributor but not exceeding five years from the date of the general average act; and
    -

claimed by another party, one year from the date the amount of general average contribution is advised to the contributor but not exceeding seven years from the date of the general average act;[19]

7. oil pollution from ship claims: three years from the date on which the damage appears but not exceeding six years from the first date of the incident;[20] and
8. ordinary tort claims: one year from the date on which the tort and the tortfeasor became known but not exceeding 10 years from the date of the incident.[21]

Notably, the limitation periods in (a) and (b) above are extendable by agreement between the parties under certain conditions set by law. Although these periods are not extendable by agreement, limitation periods may be interrupted by legal provisions in some circumstances.

Arbitration and ADR

Validity of arbitration clauses

It is common for a charterparty or bill of lading (or both) to contain an arbitration clause that specifies arbitration in London and other foreign forums. However, Thai courts seem to have been relatively conservative regarding the validation and application of arbitration clauses. In several cases, the Thai courts have ruled that arbitration clauses were not lawfully applicable. For disputes that solely involve a bill of lading and not a charterparty, many rulings have found the arbitration clause invalid because the consignee did not sign either the bill of lading or any other form of standard terms and conditions that contain an arbitration clause, as required by the Arbitration Act BE 2545 (2002) (AA).[22] Interestingly, where the charterer and shipowner properly signed a charterparty that contains the arbitration clause, the court has ruled that the arbitration clause does not bind a cargo insurer who has subrogated the charterer's rights (with the cargo insurer as the plaintiff in this case). The court reasoned that a third party would be bound by the arbitration clause in the charter party only if the rights under the charterparty were transferred from the charterer to the third party by way of an assignment of rights, namely through a juristic act, pursuant to a provision of the AA.[23] However, where rights are transferred by way of subrogation, namely a legal act, as in this mentioned case, the insurer is not bound by the arbitration clause. The claims must therefore be filed with the competent court.[24]

Arbitration institutions and procedures

There are no specific maritime arbitration institutes or procedures in Thailand. Maritime disputes in Thailand are heard by the following arbitration institutes:

1. the Thai Arbitration Institute (for ordinary maritime disputes);
2. the Arbitration Institute of the Office of Insurance Commission (for disputes between an insured and an insurer under a marine insurance contract); and
3.

the Arbitration Institute of the Thai General Insurance Association (most non-life insurance companies in Thailand have entered into compulsory arbitration agreements for disputes on recourse claims between insurance companies to be submitted to this institute).

All institutes adhere to their own specific procedural rules but are still under the overarching framework of the AA.

Mediation

Generally, where the claim is submitted to court, the court will try to mediate between the parties to have the dispute settled amicably before a trial, or as soon as possible. In addition to court-supervised mediation, out-of-court mediation is also available, although it is generally not automatically recognised or enforceable by Thai courts. When a party fails to comply with any obligations set forth in an out-of-court settlement agreement, the non-defaulting party must file a lawsuit with the competent court for a judgment to enforce the performance of the obligations under the settlement agreement.

At the end of 2020, the CPC was amended making it possible for disputing parties to request court-supervised mediation without having to start litigation proceedings. Upon receiving a request made by a party's motion for mediation, the court will seek the other party's consent to commence mediation. If mediation leads to an amicable settlement, a compromise agreement may be drafted and endorsed by a judgment. Such judgment is enforceable in the same manner as a court judgment rendered through litigation. No court fees are charged for the mediation process.[25]

Enforcement of foreign judgments and arbitral awards

Judgments

Currently, a judgment rendered by a court of a foreign country is not automatically enforceable in Thailand. At best, the foreign court judgment may serve as persuasive evidence during litigation in a Thai court regarding the same claim.

Arbitral awards

Thailand is a contracting state to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (the New York Convention). As such, an arbitral award rendered in a foreign country that is also a contracting state to the New York Convention will be recognised and enforced by Thai courts. The AA provides that an arbitral award rendered in any country is binding on the parties concerned, and that enforcement can be sought in Thai courts. The AA does not only ratify the New York Convention, it also allows for the enforcement of arbitral awards rendered in a foreign country that is not a signatory to the New York Convention in accordance with international treaties and agreements to which Thailand is a signatory.[26]

Shipping contracts

Shipbuilding

Thailand is not a key player in the global shipbuilding industry. Shipbuilding activities in Thailand mainly involve the building of small to mid-sized or special purpose ships. As a result, there are neither specific laws nor standard forms of contract in this area.

If a ship is built in a foreign country and the buyer is a Thai entity, it is likely that the shipbuilding contract will be governed by a foreign law as agreed to by the parties, following standard forms widely used in that jurisdiction. Where the shipbuilding contract is governed by Thai law, the Civil and Commercial Code (CCC) will play a crucial role in imposing rights and obligations on the parties. However, parties have the freedom to agree to deviate from the default law, and this agreed term will be held enforceable in so far as such default law does not relate to public order or good morals.[27]

Contracts of carriage

Key legislation, rules and conventions

Thailand is not a contracting state to the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, 1924 (the Hague Rules), the Protocol to Amend the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading, 1968 (the Hague-Visby Rules), the United Nations Convention on the Carriage of Goods by Sea, 1978 (the Hamburg Rules) and the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, 2009 (the Rotterdam Rules). However, under certain circumstances, such rules may still be applicable through a 'paramount clause' in a bill of lading or a charterparty.

Contracts for international carriage of goods by sea are usually governed by COGSA, which is said to be a combination of the Hague-Visby Rules and Hamburg Rules with certain variations. COGSA applies to the international carriage of goods by sea where the port of loading is in Thailand and a port of discharge is in a foreign country and vice versa.-[28] However, COGSA provides that it does not apply to any type of charterparty. This is because the parties to a charterparty contract, which are supposed to be firm business entities, have equal power of negotiation. Therefore, the law intends to leave the parties to an agreement to decide their own rights and obligations under the principle of freedom of contract without state intervention through legislation. Nevertheless, if a bill of lading is issued under a charterparty, and it is transferred to a consignee who is not one of the original parties to the charterparty contract, the relationship between the carrier and the consignee will be governed by COGSA.[29]

An agreement to apply foreign law or convention as the governing law for a contract of carriage of goods by sea (not including a charter party) will be void if one party to the contract has Thai nationality or is an entity established under Thai law. If neither party is of Thai nationality nor established under Thai law, the agreement will be valid and enforceable.

For domestic carriage of goods by sea or river, the contract is usually governed by the CCC, which has significant differences from COGSA. Notably, parties to a domestic carriage of goods can agree to apply COGSA to their contract as the governing law.[30]

Main duties

The main duties of the carrier under COGSA are as follows:

1. exercising due diligence to ensure seaworthiness of a vessel;[31]
2. handling the cargo with proper care;[32]
3. issuing a bill of lading as requested by the shipper;[33]
4. proceeding with reasonable dispatch;[34] and
5. delivering the cargo to the holder of the bill of lading after it is surrendered to the carrier.[35]

The shipper's main duties are as follows:

1. marking and labelling dangerous cargo as specified in the International Maritime Dangerous Goods Code (IMDG);
2. declaring dangerous cargo characteristics to the contractual or actual carrier (or both) upon handing over the cargo to them;[36] and
3. making a payment for the freight.[37]

The person who is obliged to make a payment for the freight, whether it be the shipper or the consignee, depends on the applicable trade terms, such as INCOTERMS, in the sale of goods contract and the agreement between the shipper and the carrier.

Unlike the Hague-Visby Rules, liability of the carrier under COGSA for loss of or damage to cargo is not restricted to 'tackle to tackle'. The liability extends for as long as the cargo is in the custody of the carrier,[38] similar to the Hamburg Rules. Unlike the Hamburg Rules, COGSA contains a long list of exclusions of liability for the carrier, some of which are the same as those in the Hague-Visby Rules. Details of cargo claims, including relevant common terms in a bill of lading, will be further discussed below.

Liens

In the context of the carriage of goods, where the freight is not duly paid to the carrier, the carrier is entitled to exercise a possessory lien on the cargo and detain it until the freight is paid or the shipper or consignee provides adequate security.[39] Thailand lacks specific legislation regarding liens on sub-freights and sub-hires under a charterparty, thus general provisions of the CCC apply. If the time charter does not pay the hire to the shipowner (or disponent shipowner), the shipowner may exercise a lien on sub-hire or sub-freight, provided that the relevant terms in the charterparty are properly drafted and a written notice is properly served[40] on the sub-charterer responsible for paying the sub-hire or sub-freight.

Multimodal transport

Multimodal transport is governed by the Multimodal Transport Act BE 2548 (2005) (the MTA). The main duties under the MTA are relatively similar to those under COGSA with some variations, such as claims against the actual carrier, exclusion of liability, limits of liability, time limitations or prescription periods, and agreement on choice of forum. A common misunderstanding among foreign and Thai lawyers is the application of the MTA when the loss can be specifically localised and identifiable as occurring during sea, land or air transport and may involve a specific piece of legislation, namely COGSA, the CCC, the International Carriage of Goods by Roads Act BE 2556 (2013) (ICOGRA) and the International Carriage by Air Act BE 2558 (2015) (ICAA). There is no issue when the loss or damage cannot be localised because the MTA will undoubtedly govern the dispute in question. However, when the loss or damage can be localised, it does not mean that the MTA will be entirely substituted by legislation specific to a leg of transport. In such cases, the MTA still predominantly governs the dispute in question and specific legislation will merely be applied to address the issue of limit of liability.[41] In other words, the MTA continues to play a predominant role in addressing most issues, such as the liable party, exclusion of liability, limitation or prescription period and choice of forum, except for the limit of liability.

Cargo claims

Cargo claims account for approximately 70 per cent of maritime disputes in Thailand.

Title to sue

The CPC provides a very broad prescription on the title to sue, which reads 'where there is a dispute involving the rights or duties of any person under the civil law, . . . , that person must submit the case to the court',[42] and there is no specific provision under COGSA to deal with this issue. Where there is no transfer of risks during transit, for example where company A ships its own cargo from country X to Thailand, the cargo owner, who is also the shipper and consignee, will have the title to sue the carrier for any loss.

Most cargo claims involve an underlying contract of international sale of goods, which unavoidably entails transfer of risks during transit. In theory, the person who has the title to sue should be the person who suffers loss and bears the risks at the time of the loss. To determine who, between the seller and buyer, holds the risks at the time of the loss, it is necessary to consider the trade terms, such as INCOTERMS, to which the parties to the contract of sale agree. For instance, if they agree on free on board (FOB) and the loss takes place before the cargo is shipped on board the vessel at the port of loading, the seller is the person who has suffered the loss and holds the title to sue. If the loss takes place during the sea voyage after the cargo has been shipped on board, the buyer is the person who has suffered loss and has the title to sue. Nevertheless, in practice, the court may not strictly follow this approach. There is a case where the FOB seller was held entitled to sue even though the loss occurred after the cargo had been shipped on board the vessel. In that case, the facts show that the seller had sent new cargo in substitution for the damaged cargo to the buyer.

Another point to note is a situation where a cargo insurer indemnifies the cargo owner. In this case, the title to sue will pass on to the subrogated insurer. This differs from the approach followed in some jurisdictions where the cargo owner retains the title to sue and the subrogated insurer merely has controlling power.

Who can be sued?

COGSA provides that a cargo interest is entitled to sue both a contractual and actual carrier for the part of the carriage they are responsible for, or they have actually handled.[43] Conversely, the MTA differs slightly: the cargo interest is entitled to sue only the multimodal transport operator, namely the contractual carrier, under the MTA,[44] but the title to sue the actual carrier will be determined by tort law under the CCC. However, the actual carrier under a multimodal transport arrangement can avail itself of immunities, such as, exclusion of liability, limit of liability and limitation or prescription period as prescribed in the MTA.

An action *in rem* is not recognised under Thai law, and this sometimes results in difficulty in determining who can be sued. There is no doubt that the carrier can be sued, but the problem lies in identifying who the carrier is. Identification of the carrier is straightforward in cases of liner trades where the carrier's name is clearly specified in the bill of lading. However, it often becomes challenging in claims for bulk cargo carried under a charterparty, where the bill of lading is usually signed 'on behalf of the master of vessel X' without stating the name of the carrier. In such cases, it is essential to further examine the sub- and head charterparty to determine who, whether the shipowner or charterer, has navigational control of the vessel, which depends on the type of charterparty involved in each particular shipment.

In addition to the above-mentioned, the CCC provides that an agent (in Thailand) of a carrier (in a foreign country) who enters into a contract of carriage on behalf of the carrier can also be sued as a co-defendant, provided that the contract of carriage does not explicitly exclude this agent's liability.[45]

Exclusions of liability

A long list of exclusions of liability in COGSA and the MTA are similar to those in the Hague-Visby Rules. A notable difference is that COGSA merely provides an exclusion for errors in navigation resulting from a deficiency in any act performed in duty or in accordance with the pilot's instructions,[46] while the MTA provides a much broader exclusion in relation to the faults in navigation, that is, a wilful act, negligence or error in navigation or in ship management whether committed by the master, mariner, pilot, or any of the carrier's employees.[47] Therefore, it is significantly easier for the multimodal transport operator to escape from liability when compared to a carrier under COGSA.

Himalaya clause and covenant not to sue

The *Himalaya* clause in a bill of lading that provides employees, crew, stevedores, terminal operators, actual carriers and other independent subcontractors, among others, with exclusions and limits of liability in line with the contractual carrier should be held valid

in so far as the standards are not lower than the standards set out in COGSA[48] and the MTA.[49] However, in most circumstances, a covenant not to sue is unlikely to be valid, as it leads to standards lower than those in COGSA and the MTA. This covenant can only be effective if its wording is carefully crafted to exclude the liability of an agent (in Thailand) of a carrier (in a foreign country) who enters into a contract of carriage on behalf of the carrier.[50]

Incorporation of charterparty terms

Charterparty terms can be incorporated into a bill of lading without any issue where the same parties are involved. However, complications may arise if the consignee named on the bill of lading is not a party to the charterparty.

A Thai court addressed this very issue, namely incorporation of an arbitration clause from the charterparty into the bill of lading, in one case. Nonetheless, the logic narrated in the judgment of the said case could not be applied to other situations. Thus, we do not consider the legal principle discussed in such case as a binding precedent, and this issue remains unsettled under the eyes of Thai courts.

With reference to the Arbitration Act BE 2545 (2002), it is conceivable that the incorporation of an arbitration clause from a charterparty into a bill of lading has been established in certain instances. This includes cases where the arbitration clause was agreed by the parties to the charterparty through wet ink or electronic signatures; the charterparty was specifically referred to in a bill of lading; an arbitration clause was expressly incorporated into a bill of lading; or a copy of charterparty or fixture note, or other documentation of similar nature, was sent to a consignee.

Limitation or prescription periods

The limitation or prescription period for claims for loss of, damage to or delay of cargo is one year under COGSA[51] and nine months under the MTA.[52] Agreements to extend the limitation or prescription period are allowed under both frameworks, subject to certain conditions.[53]

Limitation of liability

Thailand is not a signatory to the LLMC and lacks domestic legislation on tonnage or global limitation; only package limitations under COGSA, the MTA and other legislation on the carriage of goods are available. Consequently, claimants are likely to benefit from this regime if the claim arising from a huge catastrophe is heard by a Thai court under Thai law. This has been proven and demonstrated in a case where two claimants made different decisions on forum shopping. The first claimant, who decided to opt for the limitation funds and proceedings in a foreign country where the LLMC applies, was eventually awarded 10 per cent of the claimed amount, while the second claimant who decided to file a lawsuit with a Thai court was awarded nearly 100 per cent of the claimed amount.

Remedies

Ship arrest

Grounds

The grounds for ship arrest are prescribed in the Arrest of Ships Act, BE 2534 (1991) (the ASA). In brief, these cover claims for loss of life, personal injury or property damage due to the operation of a ship, salvage, a contract relating to the use or hire of a ship or other similar contracts, including a charterparty, a contract of carriage of goods by sea under a bill of lading, general average, damage to cargo, towage and pilotage, supply of any materials to a ship, shipbuilding, repair or shipyard fees, port charges and dues, stevedoring, master's or crew's wages, ship expenses, ownership of the ship, and disputes between co-owners and ship mortgages.[54]

Notably, not every claimant with a maritime claim is entitled to arrest a ship in Thailand; only the claimant who has domicile in Thailand is entitled to do so.[55]

Procedures

A claimant is required to apply for a ship arrest to the CIPIT Court with prima facie evidence on the grounds for the arrest; a deed of a lawyer appointment signed by an authorised representative of the claimant is required to be submitted together with an application. The Court will then hold an *ex parte* witness examination. If the Court is satisfied with the evidence, it will grant the arrest and issue a warrant of arrest of a ship on condition that the claimant has deposited counter security as specified in the court's order. A claimant must then bring the warrant of arrest to the relevant legal execution office and request the executing officer to lead and proceed on to the target ship to serve the warrant of arrest. Where the ship is not at berth, the claimant and executing officer may use any means to get on to the ship. This may be carried out by boat or even helicopter provided that the ship is in territorial waters. This process typically takes around two to three days after the lawyer has obtained all the required documents from the claimant. It is possible for the ship to be rearrested by other parties who also have sufficient grounds.

Sister and associated ships

The ASA permits the arrest of a sister ship under certain conditions and specifically if the debtor was the owner, demise charterer or in possession of the sister ship at the time when the cause of action arose and at the time of the application for arrest.[56] Unlike in some jurisdictions, Thailand does not have appropriate measures to deal with single ship companies. The concept of piercing the corporate veil or beneficial ownership (or both) is not currently recognised in Thailand; therefore, the arrest of an associated ship would likely be unsuccessful in Thailand.

Security and counter security

Generally, the CIPIT Court requires security from the shipowner (for release of the vessel) and counter security from the claimant (for issuing the warrant of arrest) in the form

of cash or a cashier cheque. Other forms of security might also be accepted at judicial discretion.

Wrongful arrest

The test for wrongful arrest is not well established in Thailand. There is no doubt that bad faith constitutes a wrongful arrest. However, it is still uncertain as to what degree of negligence will amount to a wrongful arrest. According to some academic writings, wrongful arrest should be decided by relying on ordinary tort law under the CCC, where actions ranging from wilfulness down to an ordinary degree of negligence is required.[57]

Bunker arrest

The ASA does not contain any provisions that entitle a claimant to arrest a bunker. Nevertheless, the claimant may request the court to seize a bunker under the CPC, which involves different requirements and is more complicated.

Requirements on pursuing substantive claims

An arrested ship or security in lieu may be released if the claimant does not commence legal proceedings for the substantive claim within 30 days from the date on which the warrant of arrest is served on board the ship.[58] However, in circumstances where the claimant does not wish to file a lawsuit for the substantive claim within 30 days, but is still interested in obtaining a certain form of security, the claimant may negotiate with the shipowner out of court, requesting a bank guarantee or letter of understanding with some discounts as an incentive. The claimant may then request the court to release the ship after the security is provided directly to it.

Court orders for sale of a vessel

Thailand does not have a specific law on the judicial sale of a vessel. The proceedings will be governed by the CPC in the same manner as a sale in execution for other kinds of property.

Regulation

Safety

Thailand is a signatory to SOLAS, the COLREGs, the Load Lines Convention and the STCW Convention. These conventions are implemented in the Navigation in Thai Waters Act, BE 2456 (1913), Prevention of Collision of Ships Act, BE 2522 (1979) and bylaws. The IMDG Code is well recognised by Thai authorities and courts as a manual on identification and the handling dangerous cargo.

The Marine Department is the key authority responsible for maritime safety. The Marine Department has its main mission to support and develop water transportation and

maritime activities to meet international standards as well as to implement related laws on navigation in Thai territorial waters.

Port state control

Thailand has entered into the Memorandum of Understanding on Port State Control in the Asia-Pacific Region (the Tokyo MOU), with its implementation in the Navigation in Thai Waters Act, BE 2456 (1913) and bylaws. These regulations grant authorities a wide range of powers, including the power to detain foreign vessels that do not meet standards. Nevertheless, there is a proposal to amend the laws in this respect for greater clarity and efficiency.

The main authority for port state control in Thailand is the Marine Department.

Registration and classification

Registration

To have a ship registered as a Thai vessel, the shipowner must be one of the following:

1. a natural person of Thai nationality;
2. an ordinary partnership with all partners being natural persons of Thai nationality;
3. a state enterprise under Thai law; or
4. a juristic person under Thai law, subject to specific conditions.

Thai-flagged vessels can enjoy the benefits under the Thai Revenue Code and are eligible to carry goods for the Thai government. Registration applications are submitted to, and considered by, the Marine Department under the Thai Vessel Act BE 2481 (1938).

Classification

A classification society recognised by the Marine Department must fulfil the following conditions:

1. meet the standards of the Code for Recognized Organization of IMO;
2. be a full member of the International Association of Classification Societies (IACS); and
3. have its office and have at least one exclusive surveyor based in Thailand.

A classification society that fulfils the above criteria can submit an application to the Marine Department for recognition to inspect vessels and issue certificates on behalf of the Marine Department.

Environmental regulation

Thailand is a signatory to MARPOL and OPRC. These conventions are implemented in the Navigation in Thai Waters Act, BE 2456 (1913) and bylaws.

Regarding compensation arising from oil pollution caused by ships, Thailand is a member state of the CLC and FUND. The local legislation that implement the aforementioned conventions are the Civil Liability for Oil Pollution Damage Caused by Ships Act BE 2560 (2017) and the Requirement of Contributions to the International Fund for Compensation for Oil Pollution Damage Caused by Ships Act BE 2560 (2017).

The Marine Department, Pollution Control Department and Royal Thai Navy are the key authorities that are responsible for addressing marine oil pollution.

Collisions, salvage and wrecks

Collisions

Thailand is a signatory to the COLREGs, which are implemented in the Prevention of Collision of Ships Act, BE 2522 (1979) and its Ministerial Regulations.

Regarding liability arising from a collision, even though Thailand is not a member state of the Convention for the Unification of Certain Rules of Law with respect to Collisions between Vessels, 1910, Thai local law, the Civil Liability and Damages Arising from Collision of Vessels Act, BE 2548 (2005) is similar to the Convention for the Unification of Certain Rules of Law but include additional details on calculations of damages. The Civil Liability and Damages Arising from Collision of Vessels Act only applies to collisions where at least one party is a seagoing ship.

Salvages and wreck removals

Thailand is a signatory to the SALVAGE, which is implemented in the Marine Salvage Act, BE 2550 (2007). The industry lacks domestic standard agreements for salvage operations; therefore, the industry tends to use tailor-made agreements for minor operations and the Lloyd's Open Form for significant ones.

The Marine Department is the key authority that has the power to oversee and control salvage and wreck removal operations.

Passengers' rights

Thailand has not ratified the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, nor does it have specific legislation concerning the carriage of passengers by sea. Passengers' rights are provided under the general law of carriage under Sections 634–639 of the CCC. The main concept is that the carrier of passengers is liable to passengers for personal injuries and for damage resulting from delays caused by transportation, unless the injury or delay is caused by *force majeure* or by the fault of the passenger.[59]

Seafarers' rights

The MLC was ratified in Thailand in June 2017 and is incorporated in the Maritime Labour Act BC 2558 (2015), which was enacted to elevate and set minimum standards for Thai maritime labour to be in line with international standards. The Maritime Labour Act requires a shipowner to provide employees with good working and welfare conditions (e.g., living accommodation, food and working hours limits). The shipowner also has duties to provide medical care on board to ensure the health and safety of all employees on the vessel.

Outlook and conclusions

Despite the fact that there have been unsuccessful attempts to introduce local legislation for marine insurance over the course of nearly 20 years, a marine insurance bill, which is a bill closely reflecting English law, is currently under review by the Council of State. Given the newly formed government, it is expected that this bill will not be enacted in a couple of years.

Under the new government, the Ministry of Transport is proceeding with the plans developed by the previous government to launch a national shipping line, the 'National Maritime Navigation Line'. For enhanced business flexibility, although not officially confirmed, reports suggest that the Port Authority of Thailand prefers that the shipping line runs under a public-private investment model.[60] The national shipping line is expected to enhance Thailand's competitiveness by helping to boost Thai exports and reducing shipping costs.[61] The National Maritime Navigation Line was originally planned to start operations in 2023. However, following the inauguration of the new government in August 2023, the timeline for this national shipping line has yet to be concluded.

Additionally, the Thai government views Thailand as a key strategic hub for both production and transportation, owing to its favourable location at the heart of the Indo-Chinese Peninsula and its geographical link between the Pacific Ocean and the Indian Ocean. Although the 'Land bridge' project has been widely debated for decades, the current government is actively promoting it as a key initiative to support maritime transport by offering a more cost-effective, faster and safer alternative route. The project also offers a potential solution to challenges associated with the long, narrow and congested Malacca Strait,[62] which has experienced numerous incidents of piracy over the past decade. While the detailed plan for the Land bridge project has yet to be finalised, its successful implementation could significantly boost shipping and logistics activities and strengthen the broader shipping and logistics sector in Thailand.

Endnotes

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CHANDLER
MORI HAMADA

Nathee Silacharoen nathee.s@morihamada.com
Pattaraphon Uthai Pattaraphon.u@morihamada.com
Chonlawat Rojanaparpal chonlawat.r@morihamada.com

Chandler Mori Hamada Limited