



ALL YOU'VE EVER WANTED
TO KNOW ABOUT ...

MARITIME TRANSPORT



IN THE BEGINNING WAS

THE MERCANTILIST MODEL

- i.e a ship:
 - Nationally built;
 - Nationally owned;
 - Nationally flagged;
 - Nationally manned;
 - Serving the national trade;

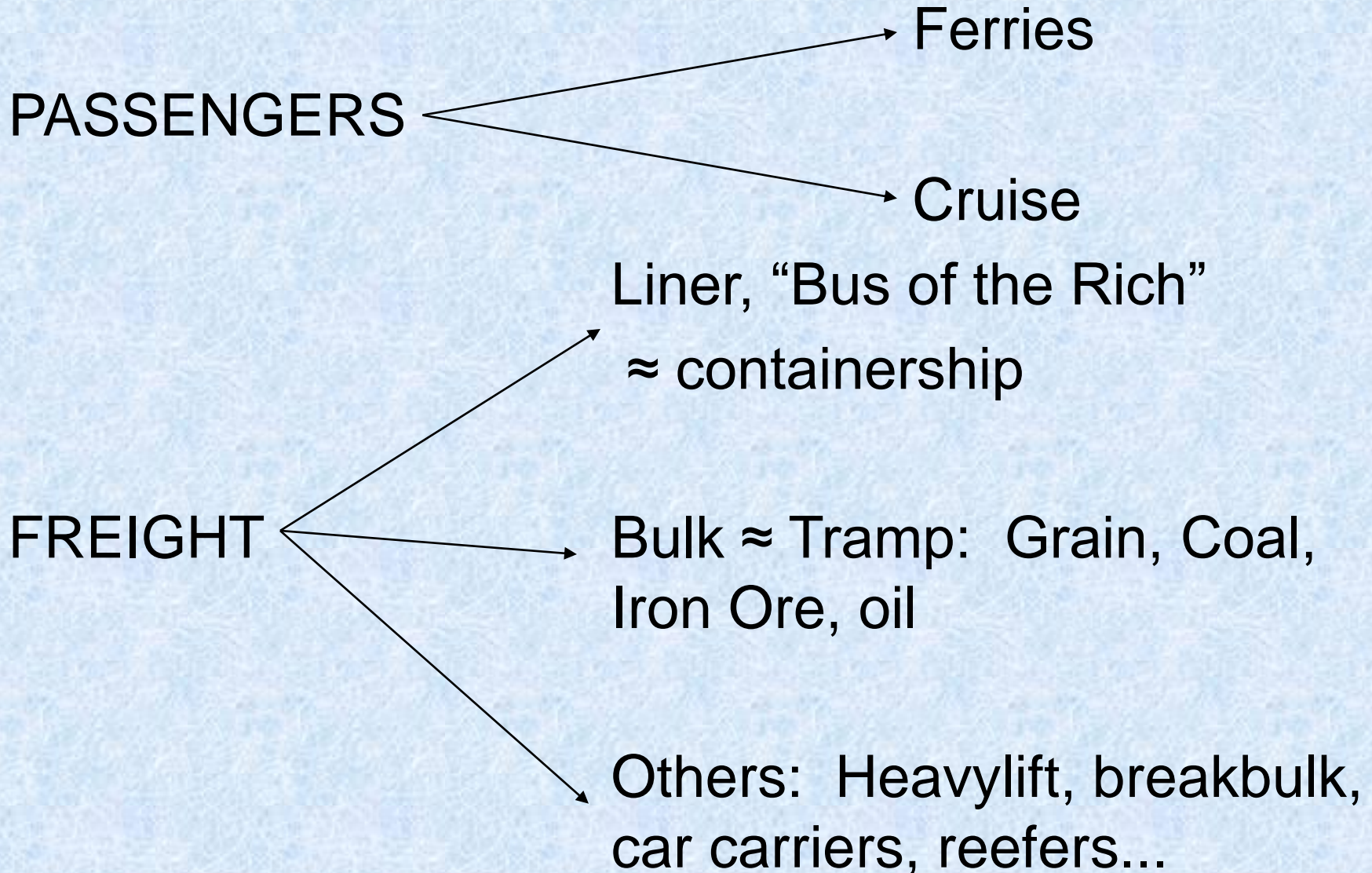
AND ADAM SMITH LOVED IT!!
- Is that reminiscent of a GATT provision?

THE MODERN MODEL



- Now, in most instances, we have a ship
 - Built in China, Korea, or Japan;
 - Owned by a KG or an obscure “One Ship Society”;
 - Leased to a shipowner with main headquarters in Europe or Asia;
 - Flagged in an “open registry” (eg: Panama, Liberia, Marshall Island);
 - Manned by an “International” crew (Philipinos, Turks, Romanians, Indian);
 - Serving Cross Trade;
 - Is not that reminiscent of a GATS Provision?

Besides, ships and traffics have specialized



State Policies have evolved - though not everywhere and not for everything



- Protective policies: Subsidies/cargo reservation (navigation acts, bilateral, unilateral, UN Liner Code);
- “Minimalist” policies: maintain decision center and expertise in the north, off-shoring the rest: second registries, maritime cluster...
- Some areas remain largely closed: cabotage
- Some regions remain reluctant: Africa, US, South Asia
- The “battlefield” has moved inland.

Ports have seen a complete revolution in fifteen years

- From tools port to concessioned ports;
- From 12 to 25 moves/hour;
- From bilateral trade to hubbing;
- And on all that WTO is largely helpless and out of the loop.



A PARADOXICAL AND CONTORTED NEGOTIATING SITUATION

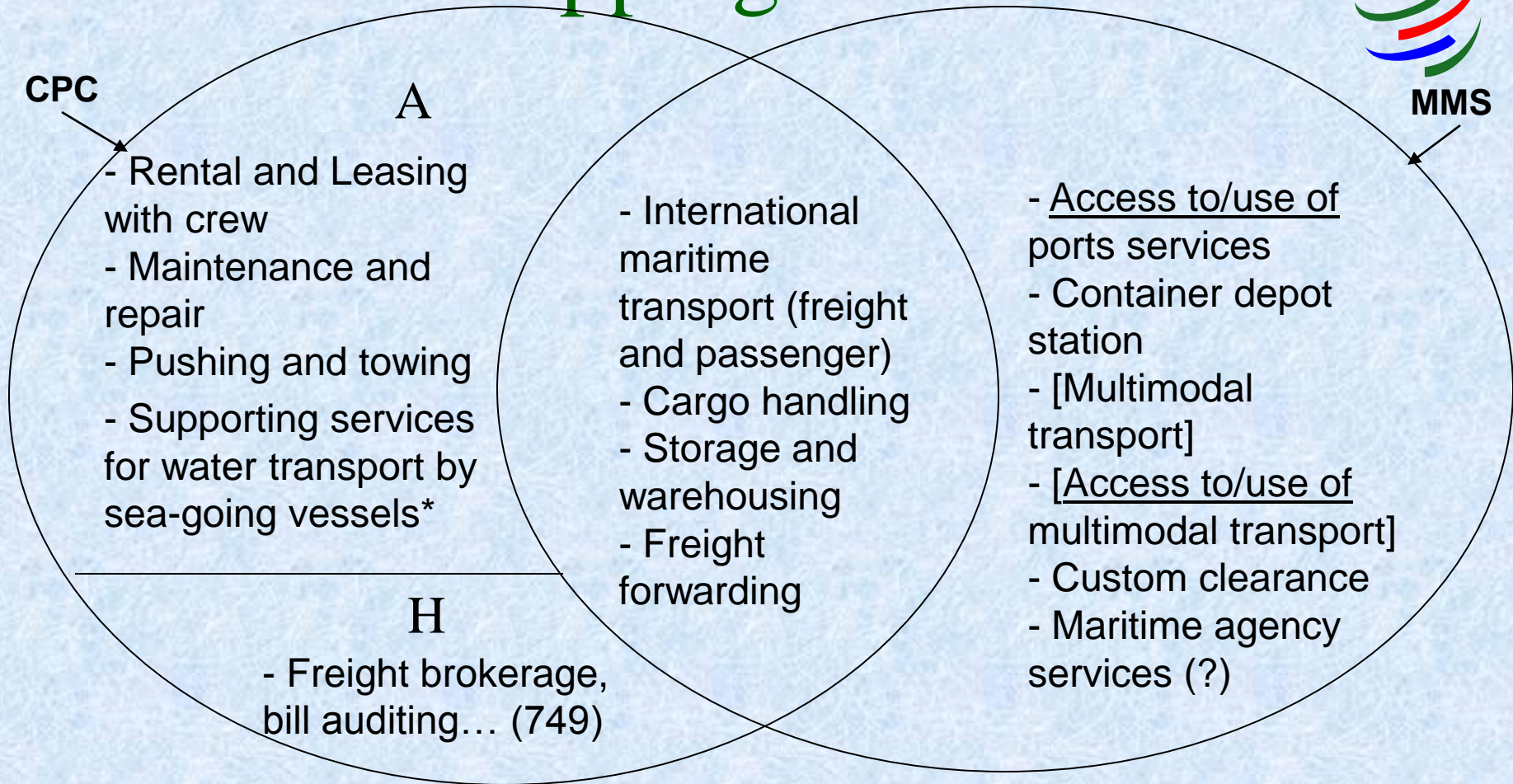
AND

COMPLEX AND PARTIALLY OUTDATED SCHEDULING RULES

WTO AND MARITIME TRANSPORT

- A never ending story :1993, 1996, 2000...
- actual legal base:S/L/24:
- -suspends (96-2000) and resume (2000-2004) negotiations on international maritime transport / auxiliary services/access to-use of port services
- -suspends MFN except for commitments already undertaken
- -allows to revisit commitments and mfn exemptions at the end of the negotiations
- -establishes a standstill not subject to dispute settlement
- -stipulates that negotiations will start on the basis of existing offers

Two overlapping classifications



*port and waterway operation, pilotage, navigation, aid, salvage, cleaning...

WTO and maritime transport

First option: CPC



11. TRANSPORT SERVICE

A. Maritime Transport Services

- | | | |
|---|--------|---|
| a. Passenger transportation | 7211 | } International maritime |
| b. Freight transportation | 7212 | } transport (exc for cabotage) |
| c. Rental of vessels with crew | 7213 | } Either |
| d. Maintenance and repair of vessels | 8868** | - int. mar transp. as part |
| e. Pushing and towing services | 7214 | } of A. |
| f. Supporting services for maritime transport | 745** | } - or aux services as they
are in reality |

H. Services auxiliary to all modes of transport

- | | | |
|--------------------------------------|-----|----------------------|
| a. Cargo-handling services | 741 | } |
| b. Storage and warehouse services | 742 | |
| c. Freight transport agency services | 748 | } Auxiliary services |
| d. Other | 749 | } |

WTO and maritime transport



PILLAR ONE

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
<p>MARITIME TRANSPORT SERVICES</p> <p>International Transport (freight and passengers) CPC 7211 and 7212 <u>less</u> cabotage transport (cont.)</p> <p><i>[Option 2A would replace the above by:</i></p> <p>International Transport (freight and passengers) <u>less</u> cabotage (as defined below) (cont.)]</p>	<p>1) [(a) <u>Liner Shipping</u>: None</p> <p>(b) <u>Bulk, tramp, and other international shipping, including passenger transportation</u>; 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: unbound]</p> <p>(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none</p> <p>4) [(a) Ships' crews: unbound]</p> <p>(b) Key personnel employed in relation to a commercial presence as defined under mode 3b) above</p>	<p>1) [(a) None</p> <p>(b) None]</p> <p>2) [None]</p> <p>3) [(a) Unbound]</p> <p>(b) None</p> <p>4) [(a) None]</p> <p>(b) None</p>	<p>1) See Note.</p> <p>3) (b) See Note</p>

WTO and maritime transport



PILLAR TWO

Maritime auxiliary services

6 services with proper definitions:

- cargo handling (excluding dockers)
- storage and warehousing
- custom clearance services
- container station and depot services
- maritime agency
- freight forwarding services

WTO and maritime transport



PILLAR THREE

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
<p>TRANSPORT SERVICES</p> <p>MARITIME TRANSPORT SERVICES</p> <p>International Transport (freight and passengers) CPC 7211 and 7212 <u>less</u> cabotage transport</p> <p><i>[Option 2A would replace the above by:</i></p> <p>International Transport (freight and passengers) <u>less</u> cabotage (as defined below)]</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 the 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 <p>[9. Anchorage, berth and berthing services]</p>

WTO and maritime transport

PILLAR FOUR



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
<p>MARITIME TRANSPORT SERVICES</p> <p>International Transport (freight and passengers) CPC 7211 and 7212 <u>less</u> cabotage transport (cont.)</p> <p><i>[Option 2A would replace the above by:</i></p> <p>International Transport (freight and passengers) <u>less</u> cabotage (as defined below) (cont.)]</p>			<p><i>[Option 1 would replace the Note to the Schedule by the following:</i></p> <p>Where road, rail, inland waterways [and][coastal and inland shipping] [and related auxiliary] services are not otherwise fully covered in this schedule, a multimodal transport operator shall have the ability to rent, hire or charter trucks, railway carriages [ships] or barges and related equipment, for the purpose of onward forwarding of international cargoes carried by sea, or have access to and use of these forms of transport services for the purpose of providing multimodal transport services.]</p>

WTO and maritime transport



- Besides those first and fourth column subtleties ...
- so far scheduling of restrictions in maritime has been relatively straight forward (none/unbound)
- It has some specificities (manning, flag, unilateral and bilateral cargo reservation)
- But resorts for the rest to classical restrictions (ownership, nationality clause, residency requirement)
- It is the only area (except accession) where negotiators can draft new MFN exemptions
- You may also face request on new items: offshore activities, feeder, repositioning of empty containers

WTO and maritime transport



- 17 offers on 38 contains maritime elements
- All members that had a better NGMTS offer and made offers have reinstated NGMTS offer except ...
- One member that did simply maintained its existing commitments
- And two members that put maritime offers in between existing commitments and NGMTS offers
- Two recently acceded (post NGMTS) and major maritime players put maritime offers
- There was 38 signatories representing 53 members to a declaration (T/N/S/W11) in favour of maritime liberalization including China, India , Pakistan and Nigeria



WHAT CAN RESEARCH BRING IN THE MARITIME TRANSPORT FIELD?

DATA, DATA, DATA.

ECONOMIC DATA ON THE FLEET

- Economic data:
 - Size and evolution of the merchant fleet (number of vessels and tonnage distinguishing liner/bulk and other) under the national register(s);
 - Size of the controlled merchant fleet (meaning owned but nationals, but registered under foreign flags.

ECONOMIC DATA ON THE MARITIME TRADE



- Size of the cabotage trade in volume and /or value
- Size of the international maritime trade (in value) as compared to total trade;and within it
- Volume of maritime containers (in TEU Twenty foot Equivalent Units),
- volume of each of the main bulk traffic: grains, iron ore, coal crude oil and refined products, in tons
- volume of passengers traffic– distinguishing cruise and ferries ;
- Volume of container transshipment (as opposed to bilateral trade);
- Share of the main harbours for those traffics;

REGULATORY DATA ON THE FLAG AND THE PRIVILEGES ATTACHED TO IT



- Is cabotage reserved to national flag? are there waivers? if so criteria and number of waivers granted;
- what are the conditions of registration under the national flag(s)/register(s) (ownership/nationality requirements, residency requirements, etc.)?
- What are the conditions of employment attached to the flag (classically employment of national seafarers)?
- Does the flag give access to specific subsidies or to specific cargoes (government cargo, exim bank financed projects, food aid, specific import or export cargo)?, are there waivers to these cargo reservations? if so criteria of the waivers, number and volume;
- Does the national flag give access to better port treatment than the one granted to foreigners (access to berths, ports dues, non compulsory pilotage, pilotage fees, etc.)

REGULATORY DATA ON SHIPPING ON SHORE ACTIVITIES



- Are there specific sectoral limitations on the exercise by foreigners of maritime activities on-shore?
- Are harbours publicly managed or is there a degree of private management? Are there concessions? If so where? for how long? of what type? (renovation, greenfield BOT, simple management, in monopoly, in competition with several other terminal operators within the same harbour) and under which basic conditions and which type of selection process (tender? Discretionary?). What are the nationalities of the concessionaries?



AND IF YOU WANT MORE :
See the maritime sectoral paper
S/C/W/315