

## Abstract

Nowadays international trade increases its significant and expands rapidly. Now international Trade of Thailand is expanding constantly and affects the expansion of transportation business to respond to the demand of import and export trade. The most common and vital transportation is a carriage of goods by sea. Since the transportation by sea is popular, vessel is also important since vessel is main vehicle in sea transportation. The issues like utility of a vessel, loading capacity, sea worthiness is greatly significant.

In some case when sea vessel is unable to be moved or unable to cruise by itself since the vessel has no sufficient energy or lighter has no engine so it is unable to transport the goods to the destinations or the vessel is unable to entry in or out port or wharf safely. With the above causes, the service of high horse-power ship to help towing the sea vessel namely "Towage". The transaction is called towage contract which is towing service for sea vessel or any object by sea from one place to another and both parties will agree on remuneration.

There are 2 types of towage in Thailand. The first is towage in wharf area which is a towing that the towing operator will safely tow the cargo vessel in or out water way (canal) or wharf according to the instruction of the navigator. The second type is a towage in the sea which the towing ship will tow other ship (or vessel) or sea object from one place to another which the towing operator has authority to control and give a command.

For towage in other countries for example China, Croatia, Vietnam, France laws of towage of those countries are codified in Maritime Code which gather all relevant laws concerning maritime entirely for instance carriage of goods by sea, sea vessel, collision of vessel, salvage, maritime insurance, general average and other topics related to maritime business entirely. For the United Kingdom, provision related to towage is in Standard Form of contract which is designed unilaterally by the party who has superior bargaining power. So the other party with inferior bargaining power is incapable to bargain the contract term.

Presently, Thailand has laws related to towage. However such laws are scattered in several Acts and there is no provision about the liability in this issue in particular. Besides, the towage is the business which starts to influence in international trade. Therefore, it is important and necessary to have a specific law on the towage in order to have unified law which contains every issues corresponding to the towage business without spending a long time for amending other laws. The strategy to move forward only one draft law is easier than amendment several laws and it is more efficient and economy to process so since there is one draft law to be considered.

Although the towage has limit legal content, it has vital effect to maritime business. If the towage issue is defined as a chapter in some existing Act, it will not be according to the principle of towage and purpose of that Act. Moreover, Thailand has no Maritime Code as same as other countries which codified the towage issue. The draft law on this issue should contain details concerning the towage. In order to have appropriate and complete content, the draft law should contain following factors:

1. Having content covering the essence of towage for all categories of ship and having detail scope of application that which type of ship that the law will be applied precisely. Having the content about right and duty between the person who accepts the service and the tolling service provider including liability of each party so that all concerned parties are able to be acknowledged and understand the essential content of the towage.

2. Having internationality which is acceptable among other countries and considering the custom of towage that corresponding to the condition of Thai economy, social and culture.

3. Having legal content which can fulfill the loophole which is unable to be applied by Thai law.

From the studying, the writer is of the opinion that if Thailand has specific law for the towage, it will be development the system of towage in Thailand to be more certain for benefit of studying and research. In addition, it will support the parties concerning with

towage business to understand their right and duty and liability profoundly before they will enter into Towage Contract. Besides, Thailand will be more international and acceptable by other countries and this is also a mean to protect Thailand's benefit in maritime business.