CHAPTER 5: NATIONAL SHIPPING FLEETS AND ACCESS TO SHIPPING MARKETS

Promotion of national fleet(s)

National shipping fleets that are internationally competitive would contribute to the long-term stability and efficiency of shipping services and help promote trade and generate economic activity.

National shipping fleet(s) that are not internationally competitive and cannot match the freight rates or service levels of overseas shipping lines will not be able to survive in a free market unless:

- they are subsidized by governments to such an extent that they could offer freight rates below cost; or
- preferential treatment is provided through cargo reservation and other similar schemes.

Both measures would have short-term and long-term cost implications for the country, and would have to be considered carefully and policy positions determined before the next round of WTO negotiations on maritime services.

Protectionist measures may relate to favourable access to the international trade or its coastal trade by the national fleet(s).
Protectionist and other support measures: International trade

During the 1970s and early 1980s many developing countries adopted protectionist measures in the form of cargo preference policies and other measures to develop their national fleets with liner shipping conferences. As explained in Chapter 2, policies towards liberalization gathered strength in the 1980s. It brought with it national and international pressure on developing countries to move away from such protectionist measures as in most cases they were causing inefficiencies in the market, in particular, at the expense of exporters. In addition, globalization of markets accelerated by the establishment of WTO and requirements to further open up markets access and abolish barriers in trade are profoundly affecting the shipping policy trends of countries in the ESCAP region. This does not mean that strategies aimed at protecting the national fleet have disappeared from the shipping scene.

Table 5.1 contains a summary of the current scenario on shipping market access in countries in the ESCAP region. It is clear from the table that some countries still support the national fleet participation in the countries trade through enforcement of multilateral and bilateral instruments, administrative directives, and commercial arrangements.

Bilateral, cargo sharing agreements

Bilateral agreements are entered into between two countries and could deal with a range of topics including trade and transport. Some bilateral agreements contain specific policies reserving the carriage of foreign trade generated between the two countries to national tonnage.

Bilateral trade agreements were common in trade relations between countries with centrally planned economies and trade between centrally planned economies and market economy countries. The People’s Republic of China has concluded bilateral agreements with 51 countries including the United States, but only six agreements contain cargo sharing provisions. The bilateral agreement between China and the United States of America provide for parity in bilateral liner cargo, to (both export and import commercial cargo), with the rights to carry at least one-third of such cargo being given to national tonnage.
Table 5.1: Current situation on market access by the selected countries in the ESCAP region

<table>
<thead>
<tr>
<th>Country</th>
<th>Bilateral cargo reservation arrangements</th>
<th>Preferential policies for national lines</th>
<th>Differential pricing regimes against foreign vessels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>YES (Right to carry 50%)</td>
<td>UNCTAD Code of Conduct for Liner Conferences</td>
<td>None</td>
</tr>
<tr>
<td>China</td>
<td>YES</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Hongkong, China</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>India</td>
<td>YES</td>
<td>UNCTAD Code of Conduct for Liner Conferences - Cargo preference for the national flag carrier for shipment of crude oil on FOB basis only</td>
<td>None</td>
</tr>
<tr>
<td>Indonesia</td>
<td>None</td>
<td>Cargo reservation for government cargoes</td>
<td>YES (Details unknown)</td>
</tr>
<tr>
<td>Iran</td>
<td>None</td>
<td>None</td>
<td>YES (Details unknown)</td>
</tr>
<tr>
<td>Japan</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Republic of Korea</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Malaysia</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Myanmar</td>
<td>None</td>
<td>Imports by state owned agencies are purchased on FOB basis, Cargo reservation for the national flag carriers.</td>
<td>None</td>
</tr>
<tr>
<td>New Zealand</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Pakistan</td>
<td>None</td>
<td>First right of refusal for steel imports and government project cargoes</td>
<td>None</td>
</tr>
<tr>
<td>Philippines</td>
<td>YES</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>None</td>
<td>40-40-20 cargo sharing formula</td>
<td>Two tier pricing on port charges between overseas and national ship</td>
</tr>
</tbody>
</table>

Source: prepared by ESCAP based on questionnaire responses collected.
Bilateral cargo sharing agreements are in the process of being phased out. This is partly due to centrally planned economies moving towards market oriented economies. International policy trends, are also a deterring countries from entering into such bilateral agreements. For example, bilateral agreements reached between the People’s Republic of China and Thailand do not contain any cargo sharing agreements. Cargo sharing agreements between countries are also increasingly difficult to implement as policies of liberalization provide importers and exporters with the freedom to choose the carrier.

Bilateral agreements which may give least developed countries the right to make cargo reservations do not have a practical impact on international carriage as these countries do not have the tonnage required to carry the trade generated.

The United Nations Code of Conduct for Liner Conferences

The UN liner code was developed by UNCTAD at the request of the international shipping community in the early 1970s at a time when there was growing consensus among the shipping community, particularly the developing countries that a code of practice was required for the liner conferences.

The following provides an overview of the development and workings of liner conferences:

1909 - The UK government set up a royal commission on shipping rings.

1913 - The US government formed the Alexander Committee and three years later enacted the US Shipping Act. The Act exempted liner conferences from anti trust legislation but imposed a separate set of rules to govern conferences. Shipping conferences operating in and out of the US are open conferences in that any shipping line that can demonstrate an ability to carry cargo has the right to join a conference.

1970 - The UK Rochdale Committee on Shipping examined liner conferences but no action was taken to control them.

1971 - The National Ship Owners of Europe and Japan formulated a code of practice for liner conferences (CENSA CODE) but the code was rejected by developing countries as being inadequate.
It was against this backdrop that UNCTAD undertook the task of formulating a multilateral instrument that would assist developing countries to participate in the carrying of cargo controlled by liner conferences. The liner code was adopted in 1974. Seventy two countries voted in favour of the code, seven countries voted against it and five countries abstained.

The code incorporated the following principles:

The right of countries to become members of the liner shipping conferences that serve the external trade of their country.

The right of participation by sharing the carriage of such cargo on an equal basis with the shipping lines of the trading partners.¹

Equal treatment as full members of liner conferences in the decision making process of the conferences.

The right of shipper organizations to full consultation with conference members on all matters of common interest and the rights of government to participate in such consultations.

A set of criteria for freight rate determination including currency and port surcharges and a procedure for general freight rate increases and surcharges.

A set of principles and a mechanism for the settlement of international disputes arising from the implementation of the code.

The UN Liner Code was adopted at a time when liner conferences dominated the major shipping routes and operated without a common framework. When the code came into force in April 1983 the environment had changed. Conferences no longer enjoyed an absolute monopolistic situation and the non-conference lines had begun to establish their presence.

Article 2 of the UN liner code:
(a) The group of national shipping lines of the two countries the foreign trade of which is carried by the conferences shall have equal rights to participate in the freight and volume of traffic generated by their mutual foreign trade and carried by the conference.
(b) Third country shipping lines if any, shall have the right to acquire a significant part, such as 20 per cent, in the freight and volume of traffic generated by that trade.
Nevertheless, the conference to review the liner code convened 1 May 1988 pursuant to article 52 of the liner code and continued at a resumed session in May and June 1991, unanimously recognized the validity of the convention for its 75 contracting states as an international legal instrument for the regulation of liner conference shipping, taking into account the special needs and problems of the developing countries.

The intervening years since the last review conference has seen further structural change in the liner shipping market that precludes the implementation of the UN convention. These changes relate to the fact that:

Containerization has paved the way for the participation of large and aggressive independent carriers in the liner shipping markets. These carriers have captured a large share of the trade on major ocean routes.

Developing countries for whom the convention was designed, have found difficulty in providing competitive liner shipping services even on routes where conference lines enjoy a reasonable share of cargo. Apart from a few countries, which include the People’s Republic of China, Singapore and the Republic of Korea and to some extent Malaysia, the large capital, managerial and technological expertise required have put participation in container shipping services on the major routes beyond the reach of developing country shipping lines.

The increasingly intense international competition has further aggravated the problems faced by developing countries shipping line.

The ESCAP survey findings indicate that some developing countries continue to apply cargo reservation measures in the liner trade, justifying these measures on the basis of the Liner Code.

Cargo preferences and government procured cargoes

In some countries preference is given to the national fleet for carriage of government procured cargoes. Typically the national fleet will have the first right of refusal and only then will foreign flagged ships be allowed to participate in the carriage of such cargoes under a waiver is granted to foreign flag ships registered with the maritime administration of the country concerned.
Government procured cargoes, normally comprise of the following:

- Military equipment and parts.
- Project cargoes financed by the government.
- Cargoes generated through government loan arrangements.
- Cargo generated by state owned companies and corporations - (state trading corporations).
- Relief/aid cargoes.

**Country positions**

**Developed maritime countries**

The U.S. economy benefits from the carriage of its goods to and from the U.S. in foreign vessels, at lower cost than would be possible in U.S. flagged vessels. However, as examined in Chapter 2, the U.S. has reserved government cargoes, such as all of its aid cargoes, project cargoes financed by Export and Import Bank of the United States (EXIM) and export of Alaskan oil, for its own ships.

This is a move that has caused concern amongst the developed maritime countries. The Consultative Shipping Group² (CSG) has expressed its concern over the introduction of a new cargo reservation policy as a move that runs counter to the global trend towards the liberalization of shipping.

The CSG has a mandate to initiate discussions and consultations between members to address specific problems arising from restrictive or discriminatory measures which non-members take and to create a favourable environment for the liberalization of liner shipping markets.

The CSG has a continuing dialogue within the Council of European and Japanese National Shippers’ Association (CENSA) and European Shippers’ Council (ESC).

Contracting countries of CSG are Belgium, Denmark, Finland, France, Germany, Greece, Italy, Japan, Netherlands, Norway, Portugal, Spain, Sweden, UK and EU.
Newly industrialized countries

In the past Korea has followed a designated cargo preference system for bulk cargoes and a waiver system for liner cargoes which has assisted the growth of its national fleet(s). The cargoes designated for priority shipment by national flag ships with regard to imports, include refrigerated cargoes, coal, iron ore, LNG, grain, crude oil, raw material for fertilizers and petrochemicals, and with regards to exports, cement and steel products. The Korean Government, however, abolished the waiver system in 1995 before its admission into the OECD in 1996. Korea has gradually reduced number of the designated cargoes to three (crude oil, iron ore and LNG) and this too is to be abolished by the end of 1998.

Market access: ESCAP Region

Developing countries in the ESCAP region are aware of the importance of ensuring free access to overseas shipping lines to carry the country’s overseas trade. Countries are conscious of the benefit of competitive shipping services to the trade and the need to conform to trends in liberalization of trade in services.

The following extracts from the country papers prepared by national resource persons from India and China convey the policy direction adopted by the respective governments.

Market Access - India

The Government of India has kept cargo reservation provisions under bilateral cargo arrangements and cargo sharing provisions under the U.N. Code of Conduct for Liner Conferences, outside the market access provisions of WTO. Few bilateral agreements in fact provide for cargo sharing, and presently even these agreements are not enforceable under liberalized trading condition. The absence of centralized cargo allocation machinery guarantees freedom to shippers to make their own shipping arrangements. Similarly exporters/importers are free to utilize shipping lines of their choice in the absence of enabling legislation for the Government of India, to reserve 40% cargo for national bottoms under the U.N. Code of Conduct for Liner Conferences.

Note: Country papers subject to limited editorial changes.
Market Access - China

Cargo reservation measures in China have been two fold. During the time of the planned economy, the Government encouraged shippers to utilize national carriers by way of certain administrative measures. Bilateral maritime agreements with a few countries also contained provisions of cargo sharing arrangements. These two measures were based on what was considered to be international picture, including the 40:40:20 formula in the UN Liner Code.

From the middle of 1980's, reform measures began to take place in the shipping services. In 1984, a decision was made by the state council, requiring reform of the existing administrative mechanism in the field of shipping. The measures focussed on the relaxation of the rigid administrative methods in freight transportation, and the introduction of competition to the shipping sector.

In 1988, another important reform measure was adopted, which completely opened up Chinese freight transport market to the outside world. According to this measure, the Government would no longer assign the share of foreign trade cargoes to carry domestic trade cargoes to any domestic or foreign carriers. Neither would it impose any cargo volumes on the national vessels through administrative measures. Carriers and cargo owners were encouraged to contact directly in respect of the carriage of cargoes based on normal commercial practices. As a result, China phased out all cargo reservation and preference practices.

With regard to bilateral agreements, amongst the 51 bilateral agreements entered into by China, six contain cargo sharing agreements.

It is predictable that the cargo sharing agreements would be gradually phased out in due course, as demonstrated by elimination of the cargo sharing agreement between Thailand and China during the bilateral talks held in 1997.

Cargo preference or preferential treatments are powerful instruments because they put vessels from other countries at a disadvantage, by reducing or completely excluding them from participation in the external trade of the country. While such instruments can assist in the development of the national fleet in the short-term, such policies could have an adverse effect on the nation's economy by increasing the cost of transport and creating an inefficient and inflexible shipping service due to the lack of competition.

The present competitive shipping environment is pressuring even national flag carriers to match market rates quoted by foreign competitors. Shippers who are knowledgeable about prevailing freight rates demand comparative rates from the national flag carriers in order that their goods could be competitive in the world market.

If the national fleet is internationally competitive, market forces would operate to ensure that the fleet enjoys the support of the trade. If the national fleet is not internationally competitive, then, a policy that makes it compulsory for the
trade to ship on national tonnage would have a detrimental effect on the competitiveness of a country’s trade. Any economic gains made through the policy of cargo reservation would have to be assessed against these invisible costs.

***Developing countries in ESCAP region***

In Pakistan, the national flag carrier has first right of refusal on shipments of raw materials for Pakistan national Steel Corporation and Government project cargoes. The state run steel maker, can, however, conclude contracts with overseas carriers if no national flag tonnage is available.

Viet Nam is planning to increase the size of its fleet and maintain cargo reservation policy which, for example, is at the level of 20 per cent of crude oil shipments. There are cargo preference measures applicable to non-military governmental cargoes.

***Implementation of cargo reservation or preference schemes***

Cargo reservation and preference schemes have been implemented by countries in different ways including:

(a) A centralized freight booking system that gives the government the right to allocate cargo to national flag tonnage. The scheme can be implemented through legislation or by administrative directives. The freight booking scheme will have to be operated by a separate government entity (e.g. freight booking office or Freight Bureau) or by a government department.

(b) Terms of trade - countries may adopt a policy that encourages its exporters to sell CIF or C&F and for its importers to buy FOB. This scheme generally transfers the right to designate the carrying vessel to the local seller or buyer. This enables the government to then encourage the trader to allocate the carriage of such car go to national vessels. The requirement may be enforced through legislation or through administrative direction.

With regard to the terms of trade this policy enables a government to apply the cargo preference schemes to import as well as exports.
State owned agencies in Myanmar and crude oil buyers in India import on FOB basis to facilitate the application of cargo reservation policies.

The terms of trade are a matter for negotiation between the buyer and the seller and would usually depend on the bargaining position of the two parties. The question as to whether a cargo is to be bought or sold on FOB or C&F basis would also depend on who can obtain the most competitive freight rates.

(c) Contract of Affreightment (COA) and long term contracts

A contract of affreightment is basically a long-term agreement to carry a certain amount of non-liner cargo between two ports within a specified time period.

This form of contract is used to safeguard the stable carriage of large quantities of essential cargoes such as ore and coal for the carriage of material destined for the construction of a plant in a distant region.

In Korea, the government has encouraged both shipping companies and shippers who require stable carriage of large quantities of bulk cargoes to make a long-term contract. In this case the freight is normally determined on the basis of the actual cost incurred for the carriage of goods plus a certain level of profit agreed between the cargo owner and the carrier.

A policy of this nature would assist national shipowners to build new vessels without concerns relating to the availability of cargo. Shippers would be assured of new vessels equipped with modern technology to carry their cargo at stable rates over a long period of time. The duration of the contract is usually around 10 years. Shipping lines catering to the LNG trade are usually very reluctant to place new orders for a LNG tanker with ship building cost of more than US$ 100 million, unless there is an assurance of a long-term contract which is supported by government.
Other measures favourable to national flag ships

Differential pricing regimes can include port charges, pilotage or light dues which discriminate against foreign flag vessels. Viet Nam, for example, adopts a two tier port tariff system which favours the national fleet.

The supply of bunker fuel to national flag vessels at a lower price is another type of preferential treatment. Priority berthing and port handling are also used as effective tools to support national flag vessels.

Protectionist and other support measures: Coastal trade and cabotage

Cabotage is commonly defined as the reservation of the transport task within a country’s territory to the surface (land and water) and air transport industries and the labour of that country.

It is the area of water transport with which cabotage is usually associated and indeed the term is derived from the French word caboter, meaning to coast and is one of the most widely practiced measures of protectionism in shipping.

Most countries of the world with a coastal shipping trade of any significance have for many years reserved those trades for the national fleet under a cabotage regime. It is only in recent years that the combination of an increasing liberalization of international trade in services and the loss of competitiveness of the fleets of developed countries has seen such reservation policies challenged.

Cabotage policy can be effected in a number of ways and should be regarded as any measure which has the effect of excluding foreign shipping or crews from engaging in a country’s coastal trades.

Cabotage regimes

United States of America

One of the clearest examples of cabotage is provided in the USA. The Jones Act and associated legislation require that ships used to carry cargoes and passengers between ports in the USA must be owned by USA citizens, built in USA shipyards and manned by USA crews.
Australia

Australian maritime legislation by comparison does not refer to a ship's flag, its country of build, or the nationality of its crew, when prescribing which shipping may engage in Australia's coastal trades. The only restriction is that any ship wishing to engage in the coasting trade must have a licence issued under the Navigation Act 1912.

In 1996, there were 42 ships in the Australian coastal fleet over 2000 dwt. Four of these ships were registered outside Australia (two with a home port of Douglas, the others from Bergen and St. John's).

Licences are issued subject to the following conditions:

- the crew must be paid the Australian wage rates current at the time the ship is engaged in the coastal trades;
- the ship must not be in receipt of a subsidy from a foreign government; and
- (curiously) where a library is provided for the use of passengers, that the crew must have access to the library in the absence of a separate crew library.

The restriction that Australian wage rates (which are relatively high by international standards) must be paid by any ship operating on the coast can significantly reduce cost benefits associated with the use of foreign shipping. The outcome is a disincentive to engage foreign shipping resulting in another form of cabotage.

New Zealand

New Zealand maritime law by comparison allows foreign ships in transit (i.e. carrying international cargo into New Zealand) to carry coastal cargo. However the time that a foreign ship can spend on the New Zealand coast as an extension of an international voyage is limited by migration laws which impose a 28 day limit on the period that foreign seafarers can work in New Zealand.

European Union

From 1 January 1993 the EU adopted a common cabotage regime, with ships from any Member State recognized by other Member States as national ships. This freedom to provide maritime transport within a Member State applies to EU shipowners who have their ships registered in, and flying the flag of any Member State, provided that the ships comply with all conditions for carrying out cabotage in the Member State. This does not, however, preclude individual Member States from removing or strengthening their own cabotage laws.

The size and nature of the coastal shipping task in the ESCAP Region

The role that coastal shipping will play in any country’s transport chain, and the extent of development of coastal shipping as a industry in its own right, will be dependent on a number of factors including its topography, the nature and location of its natural resources and the state of its economic and infrastructure development. Table 5.1 below shows the size of the coastal shipping task reported by a number of ESCAP countries for the latest year for which they have statistics available.

Table 5.1: ESCAP region, coastal shipping task in selected countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Coastal Cargo (million tonnes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>47.8</td>
</tr>
<tr>
<td>China</td>
<td></td>
</tr>
<tr>
<td>India</td>
<td></td>
</tr>
<tr>
<td>Indonesia</td>
<td></td>
</tr>
<tr>
<td>Vietnam</td>
<td>2.3</td>
</tr>
</tbody>
</table>

Source: Prepared by ESCAP on the basis of questionnaire responses from selected countries (Latest year for which statistics available, prior to 1998)

Archipelagic nations such as Indonesia, and the Philippines are heavily reliant on coastal shipping to provide essential services to wide spread communities with no effective alternative means of transport. For these nations coastal shipping is essential for carrying passengers as well as cargo. In 1996 there were 40 million passengers carried on Philippines coastal shipping.

While Australia is well endowed with national resources for steel production most of its coal is on its east coast and the iron ore on the west coast, thousands of kilometers away. Coastal shipping is the only cost effective means of bring together large quantities of these commodities at Australian east coast steel mills. Dry bulk cargoes in the form of iron ore, coal and bauxite account for around 60% of Australia’s coastal cargoes.
Coastal cargo in India is also oriented towards bulk cargoes. While there used to be significant carriage of general cargo such as food grains, tea and jute in the 1960s these trades are in substantial decline, probably as a result of the development of more efficient land transport services.

The highly industrialized nature of the economy of the Republic of Korea is also reflected in its very substantial coastal shipping task with petroleum accounting for 40% of the trade, iron ore 33% and cement 12%.

A feature of transport in Japanese is that while the coastal shipping task at 549 million tonnes was the second largest in the region, it only represented 8% of the total tonnage of cargo carried by the Japanese domestic transport system. When viewed in tonne-kilometers, however, coastal shipping accounted for 43% of the task implying that most land transport cargo in Japan is only carried short distances.

Cabotage is widely practiced in the countries of the ESCAP region. Table 5.2 below shows countries which have indicated that cabotage regimes are currently in place.

Table 5.2: Restrictions in coasting trades in countries of the ESCAP region

<table>
<thead>
<tr>
<th>Country</th>
<th>Restriction:</th>
<th>Dispensation for foreign Ships</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Registered ships</td>
<td>Other</td>
</tr>
<tr>
<td>Australia</td>
<td>Yes</td>
<td>Yes(1)</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>China</td>
<td>Yes</td>
<td>Yes (2)</td>
</tr>
<tr>
<td>India</td>
<td>Yes</td>
<td>No statistics</td>
</tr>
<tr>
<td>Indonesia</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Iran</td>
<td>Yes</td>
<td>No Statistics</td>
</tr>
<tr>
<td>Japan</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Republic of Korea</td>
<td>Yes</td>
<td>No Statistics</td>
</tr>
<tr>
<td>Malaysia</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Myanmar</td>
<td>Yes</td>
<td>No Statistics</td>
</tr>
<tr>
<td>New Zealand</td>
<td>Partly(2)</td>
<td>Yes</td>
</tr>
<tr>
<td>Pakistan</td>
<td></td>
<td>No Statistics</td>
</tr>
</tbody>
</table>

(1) Restricted to ships holding coasting trade licences which must pay wages at the Australian award rate.
(2) Except for international ships operating in transit trades and ships under demise charter to New Zealand operators.
(3) Coasting trades are restricted to licensed ships with national flags receiving licence preference.
Restrictive Regulations

National laws relating to migration, employment, customs and taxation can also impact on the ability of, or attractiveness for, foreign ships or crews to operate on national coasts.

National migration and employment laws often contain clauses restricting the occupations that foreign workers can engage in or the period of time they are allowed to engage in such work, or specify the wage rates that are payable.

Customs laws may regard a foreign ship operating on the coast as an import and liable for duty.

Taxation laws may require the payment of commercial taxation on income or wages derived on the national coast or similarly may bring the ship within the liability of local indirect taxes such as fuel excise.

Any of these areas of law either individually or in combination, can act as an impediment to foreign shipping engaging in coastal trades.

Dispensation from cabotage

It is not unusual for the cabotage regimes of countries to provide for foreign shipping to participate in their coastal trades under specified circumstances. Most commonly this is when specialized types of shipping (e.g. heavy lift) are required, or when ships from the national fleet are either not available or suitable for the coastal task at hand.

The Australian Navigation Act 1912, for example, provides that unlicenced ships may carry coastal cargoes under single or continuing voyage permits when:

- no licensed ship is available for the service;
- the service as carried out by licensed shipping is inadequate to meet the needs of the relevant port; and
- the Minister is satisfied that is desirable in the public interest that unlicenced ships be allowed to engage in that trade.
In 1996/97 there were 571 single voyage permits issued to unlicensed ships which carried over 4 million tonnes of Australian coastal cargo (around 10% of the Australian coastal shipping task).

The cabotage debate

The cabotage debate, i.e. should cabotage be retained or eliminated, is most vigorous in developed countries where the cost of national shipping is high relative to the world fleet and domestic shippers can perceive an economic advantage from access to lower cost shipping services. The debate is particularly vigorous in countries such as the USA and Australia with large coast lines and substantial coastal freight tasks.

The contentiousness of the Jones Act in the USA is such that two lobby groups have been formed to represent the views of retaining and abolishing cabotage, being the Maritime Cabotage Task Force and the Jones Act Reform Coalition respectively. This has resulted in an extensive and well documented public debate which is accessible to the general public on the Internet. Many of the arguments in this debate are equally relevant to other countries with a coastal shipping task.

It is important that countries examining their coastal shipping policies and regulatory arrangements should take into account the full range of factors relevant to their particular coastal shipping task and options available.

Policy makers should bear in mind that the entry of foreign ships to the coast can occur at two levels, through a long term presence on the coast as a dedicated coastal resource, or by cross trading on international voyages. Similarly, the impact of cabotage relaxation will vary across the different shipping trades and each trade will need to be considered for impact. Such trades include:

- coastal liner shipping;
- dedicated bulk shipping (often shipper owned); and
- tramp and general user trades.

The various issues arising in reviewing cabotage are discussed more fully in Annex I.

Cabotage developments

While there has been substantial debate internationally on the merits of cabotage, most notably in Denmark, New Zealand and the United States, the debate has yet to lead to any significant relaxation of cabotage regimes in countries with a coastal shipping industry of significance. Those few nations which do not have a cabotage regime, such as the United Kingdom and Belgium, do not in general have a coastal shipping task of note.

One country where some liberalization has occurred is New Zealand which has introduced initiatives allowing foreign ships transiting New Zealand to carry cargoes between New Zealand ports. The initiative, however, still leaves much of the New Zealand coastal shipping task reserved for New Zealand registered or operated ships.

The Australian Government, which has a policy platform which includes eliminating cabotage, appointed a Shipping Reform Group in 1996 to examine, amongst other things, options for the removal of cabotage. The Groups report, completed in March 1997, suggested an approach to shipping reform which included increasing exposure of the home fleet to competitive pressures via the wind back of cabotage. The Government has yet to act on the report.

While some countries are considering removing cabotage Canada has gone in the other direction and has reaffirmed cabotage, removing some elements of foreign competition in the process. In late 1992 Canada implemented legislation which formalized existing practices and reserved Canadian coasting trades to Canadian registered or constructed ships. The same legislation revoked preferential rights granted to British Commonwealth ships, which permitted those ships to engage in the coasting trade of Canada.

In Malaysia, the Government has lifted the cabotage policy for Penang and port Klang route whereby foreign shipping lines are allowed to carry cargo between two Malaysian ports as part of its international legislation. The move is designed to allow shipping lines to tranship cargo at local ports.

Apart from Australia and New Zealand, only one other country appears to be reviewing its current coastal shipping policy with a view to possible liberalization. The Philippines, which has been gradually deregulating coastal shipping through the 1990s, is contemplating the relaxation of cabotage restrictions.
Coastal shipping services: India

Till 1960's general cargo, namely food grains, fertilizers, jute, tin, etc. were prominently moved in coastal trade. Such trade has, however, witnessed a gradual decline and has particularly disappeared.

Today the bulk of the coastal traffic comprises of coal (9 million tonnes), clinker, cement, iron ore, crude oil (12 million tonnes) and petroleum products (4.5 million tonnes).

At the end of 1997, the coastal fleet consisted of 112 ships aggregating 554,226 GRT. In addition, there are 121 ships of less than 1,000 GRT.

The slow growth of the coastal trade is attributed to cumbersome customs procedures, high manning scales on ships, lack of infrastructural facilities, competition from road transport with trucks that use heavily subsidized diesel.

Coastal shipping services: China

China has by far the largest coastal trade in the ESCAP region, with 870 million tons of cargo being carried in coastal vessels. By the end of 1997, China had a merchant coastal shipping fleet of 320,000 ships, with a total carrying capacity of 30 million dwt which had been issued transport business licenses to engage in domestic and inland water transport.

A prerequisite for participation in the China coastal trade is a licence of the shipping enterprise and a licence of a ship issued under the regulations of Water Transport Administration of People’s Republic of China. Ships of Chinese flag with crew of Chinese nationality may apply for a licence. The ship has to be owned by a Chinese shipping company or a joint venture enterprise.