

Cabotage and its impact in Indonesia

March 4, 2015 | Written by Gerald Yee and Nazirah K. Din

Cabotage principles were implemented when the domestic shipping industry in Indonesia almost collapsed as a result of foreign vessels engaging in coastwise transportation. The Indonesian government implemented the Cabotage restrictions and Indonesia's shipping and offshore marine industry underwent major changes since the introduction of the Maritime Law No 17 of 2008 which was aimed at providing business opportunities and greater market share to Indonesian companies. Cabotage is the principle regulating shipping activities which takes place within a country's waters and recognises that a country is entitled to restrict the activities of foreign vessels operating within its waters.

Article 8 of the Maritime Law No 17 of 2008 sets out the following principles:-

- That activities relating to domestic sea transportation must be performed by an Indonesian Sea carriage company using an Indonesian flagged vessel which are manned by Indonesian crews; and
- Non-Indonesian sea flagged vessels are prohibited from carrying passengers and / or goods between island or ports in Indonesian waters.

The impact of the enactment of Maritime Law No 17 of 2008 also required Indonesian shipping companies with foreign shareholders to own at least one self-propelled vessel of more than 5000 gross tonnage. It is also a requirement that all vessels operating in Indonesian waters to observe the Cabotage principles whether or not they are engaged in domestic sea transportation activities. Companies are required by law to establish and licence themselves as "Indonesian Sea Carriage Companies" and is required to be incorporated in Indonesia and must observe the 49% foreign ownership limit. The implementation of the Cabotage restrictions also paved the way for liberalization of port management and private sector participation in port development.

When the rules were first introduced, oil and gas companies did not see a threat as they expected the Rules to apply only to passengers and goods. However the Indonesian government later changed the rules to bring oil and gas companies activities under the law. It was done to encourage Indonesia's shipbuilding industry to grow and protect member of companies of the Indonesian Shipowners Association. Cabotage policies are particularly significant for the oil and gas industry especially where the oil and gas fields are located offshore but still within a country's territorial waters.

With the lack of Indonesian vessels capable of servicing the needs of the oil and gas sectors, exemption tables were created in 2011 in order to avert production losses. Regulation No 22 of 2011 and Ministry of Transport ("MOT") Regulation No 48 of 2011 allowed foreign-flagged ships to continue to operating in Indonesian waters.

The first deadline was December 2012 for two types of offshore support vessels: platform supply vessels and anchor handling tug supply (AHTS) >5000BHP with dynamic positioning (DP2, DP3). The next deadline was December 2013 for offshore construction vessels and dredging vessels.

At the end of 2013, the MOT announced it would extend exemptions and MOT Regulation No. 10/2014 became the regulation of reference for offshore vessel Cabotage in March 2014. Exemptions for oil and gas survey vessels, offshore construction vessels, dredging, salvaging and underwater works expired in December 2014. In December 2015, the current exemptions for jackups, semisubmersibles, deepwater drill ships, tender-assist and swamp bridge rigs will also expire.

With the implementation of the Cabotage rules, the Indonesian shipbuilding industry is now able to construct 19 types of offshore vessels with its growing local expertise. The Indonesian amendment to its Cabotage principles is seen and can be interpreted as a measured strategy; one which is flexible enough to allow for a relaxation in deadline if domestic supply of offshore vessels fall short and yet strict enough to cease exemptions when the local industry has improved upon its production capabilities.

This policy clearly has had success in encouraging the development of the Indonesian shipbuilding industry but what remains to be seen are the capabilities of Indonesia's shipbuilding industry after December 2015.

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