





# CABOTAGE LAWS OF THE WORLD



SEAFARERS'  
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INTERNATIONAL

# **CABOTAGE LAWS OF THE WORLD**



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# FOREWORD

**T**he International Transport Workers' Federation (ITF) is a coalition of 670 trade unions representing 19.7 million workers from nearly 150 countries in all transport sectors. Two years ago, the ITF Seafarers' Section recognized the absence of an updated accounting of maritime cabotage laws around the world. The lack of such a recent, comprehensive study was a major impediment to thoughtful policy-making on this subject. Obviously, fact-based decision-making is highly dependent on accurate facts.

As a result, the ITF commissioned Seafarers' Rights International (SRI), a legal analytical organization, to undertake an unbiased and comprehensive study. This was a complex project, given language and cultural barriers. The

difficulty of a survey like this is almost surely the reason that no organization had done this kind of study for many years. The ITF limited the study to maritime cabotage, recognising that cabotage in other transportation modes is also common.

We are proud to release this study, one of the most complete cabotage studies ever endeavored and certainly the most current, titled "Cabotage Laws of the World." Its principal finding is that 91 countries within the United Nations employ a legal system that includes some form of maritime cabotage. In other words, it is quite common for countries around the globe to impose restrictions on access to their domestic shipping markets.

The ITF is grateful to SRI for its excellent work. We hope you will find it useful.

**David Heindel**  
**Chairman, Seafarers' Section**  
**International Transport Workers' Federation**

## PREFACE

**F**or many people, maritime cabotage or coasting, coastwise or coastal trade as it is sometimes referred to, is understood, if at all, only vaguely. This is not surprising since so little is published on the subject. But the subject is important. It affects a very wide range of trades, services and activities around the world, and with significant social and economic consequences. Policy makers especially may want to know more about the subject.

This Report aims to shed some light on the subject. It was written by lawyers, but not for lawyers. Technical jargon and heavy authoritative footnotes have been kept to a minimum. Beginning with the history of the subject, the Report traces some early rudimentary legal principles relevant to cabotage, and then sets out some examples of the many different definitions of cabotage that exist today at the national, regional and international levels. A reference to “cabotage”, “cabotage laws” or “cabotage legislation” in the Report is, unless the context indicates otherwise, a reference to the reservation of cabotage to national ships, as well as a reference to the restrictions on foreign flag ships from conducting cabotage.

**Deirdre Fitzpatrick**  
**Executive Director**  
**Seafarers' Rights International**

The Report sets out some previous research that identified states with cabotage laws before identifying 91 member states of the United Nations as described in the Report that have laws restricting foreign activity in their domestic coastal trades. This is a unique finding. It appears to be the first survey that has sought to consider comprehensively the cabotage laws of the world.

The work has been demanding. The relevant laws of 140 member states of the United Nations had to be identified with the assistance of independent professional advice from practising lawyers around the world. Many laws had to be translated. And not infrequently the analysis of the law evoked lively debates between lawyers. But the work has been very interesting and enjoyable. This Report discusses the conclusions that arise from the survey; but it does not enter the debate about the merits of cabotage which are well covered in many other publications many of which are identified in this Report.

I would like to thank the ITF for commissioning this research. And I hope that the Report is helpful.

## EDITORIAL BOARD

*(names listed in alphabetical order by surname)*

Deirdre Fitzpatrick, CEO of SRI  
Judge Kenneth Keith  
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## ACKNOWLEDGEMENTS

**S**RI conducts independent legal research on maritime related subjects under the guidance of a pan-industry Advisory Board consisting of judges, professors, lawyers and maritime industry representatives from around the world. SRI wishes to thank the members of its Advisory Board who provided advice and guidance during this project, and in particular the members of the Editorial Board for their scrutiny of the text. This Report is based on legislation and advice received from professional law firms in 140 member states of the United Nations. SRI wishes to thank each of those correspondent law firms, many of whom are part of SRI's independent network of lawyers worldwide. SRI also wishes to thank all other persons, companies and organisations that it consulted or who furnished information, formally or informally, during the course of the research.

## DISCLAIMER

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This Report is based on legislation and advice received from professional law firms in each member state of the United Nations selected for consideration. For readers, this Report does not constitute professional legal advice. Readers who require professional legal advice must consult relevant authorities and/or practising lawyers to obtain such advice. SRI does not accept any liability or any responsibility for any loss or any damages resulting from any use of this Report.





## EXECUTIVE SUMMARY

**T**his Report is the outcome of a survey that was undertaken of maritime cabotage laws around the world. The survey was conducted with the assistance of professional law firms in each of the states where inquiries were made. The survey appears to be unique. The key findings of this Report are as follows.

### **Cabotage exists in a majority of states**

The survey revealed that there are 91 member states of the United Nations with cabotage, that is 65% of states that could have cabotage do have cabotage.

### **Cabotage exists in every region of the world**

Cabotage is widespread. It exists in all geographic regions of the world including Africa, the Americas, Asia, Europe and Oceania.

### **Cabotage exists across all political, economic and legal systems**

Cabotage exists in states with substantially different political, economic and legal systems, and in developed and developing states. Despite these differences, states share similar cabotage principles.

### **Cabotage exists along a majority of the world's coastlines**

Cabotage exists along the coastlines of about 80% of the world when comparing the coastlines of states with cabotage as opposed to states without cabotage.

### **Cabotage exists in a substantial majority of IMO Council states**

Cabotage exists in 70% of states that are members of the Council of the IMO, that is 28 out of 40 states. IMO Council states are identified either in Category A as “states with the largest interest in providing international shipping services”; or in Category B as “states with the largest interest in international seaborne trade”; or in Category C as “states which have special interests in maritime transport or navigation”.



### **Cabotage laws have endured for centuries**

Cabotage laws are steeped in maritime history and have existed, in rudimentary form, in the laws of some states for centuries. Despite the great political, economic and legal changes that have historically occurred in those states, their cabotage principles have endured and evolved down the centuries.

### **Cabotage is not subject to a single definition**

There is no single definition of cabotage that is accepted as binding on all states under international law. Regional and national definitions of cabotage vary widely.

### **Cabotage laws are diverse**

In national laws, there is a rich variety of approaches taken by states regarding virtually every aspect of cabotage, and there is great diversity in the interpretation, administration and enforcement of cabotage.

### **Cabotage policy objectives are diverse**

Policy objectives underlying cabotage laws aim to: maintain national security; promote fair competition; develop human capacity; transfer maritime knowledge and technology to nationals; create jobs for nationals; increase ships on the national register; promote ship ownership, building and supply services; promote safety and security of ships in port; enhance marine environmental protection; encourage transportation by sea; and provide public services. The extent to which these objectives are successfully achieved is not determined in this Report.

### **Cabotage policies and laws are evolving**

A state's policies and laws may evolve and are subject to change. The list of states with cabotage is neither fixed nor closed. The list of states is open to different reasonable interpretations but a majority of states with cabotage will remain.

### **Exceptions, waivers and trade agreements affect cabotage to a greater or lesser extent**

Cabotage laws provide for exceptions, waivers and trade agreements. These affect the practice of cabotage to a greater or lesser extent and are often the subject of debate.



# CABOTAGE LAWS

The following are some primary cabotage laws. The references include the laws as amended and as supplemented by additional laws. The list of laws does not seek to trace all secondary legislation; nor does it cite regional laws that have direct effect in states in the region.

## **Albania**

Ligj Nr. 9251 datë 8.7.2004 Kodi Detar I Republikës Së Shqipërisë

## **Algeria**

Ordonnance N°. 76-80 du 23 Octobre 1976 portant Code Maritime  
Dècret Exècutif N°. 08-57 du 13 Fèvrier 2008

## **Angola**

Lei n.º 27/12 de 28 de Agosto Lei da Marinha Mercante, Portos e Actividades Conexas  
Decreto Presidencial n.º 54/14 de 28 de Fevereiro

## **Antigua and Barbuda**

The Antigua and Barbuda Merchant Shipping Act 2006

## **Argentina**

Decreto 19.492 del 25 de Julio de 1944 Régimen para la navegación, comunicación y comercio de cabotaje nacional  
Ley 27419 del 29 de noviembre de 2017 Desarrollo de la marina mercante nacional y la integración fluvial regional

## **Australia**

Coastal Trading (Revitalising Australian Shipping) Act No. 55, 2012

## **Bahrain**

مرسوم بقانون رقم (23) لسنة 1982 بإصدار القانون البحري

## **Bangladesh**

Bangladesh Merchant Shipping Ordinance 1983  
Bangladesh Flag (Protection) Ordinance 1982

## **Benin**

Loi N°. 2010-11 du 07 Mars 2011 portant code maritime Republique du Benin

## **Brazil**

Lei N°. 9.432 de 8 de Janeiro de 1997  
Resolução Normativa N° 01-ANTAQ, de 13 fevereiro de 2015  
Resolução Normativa N° 05-ANTAQ, de 23 fevereiro de 2016  
Resolução Normativa N° 18, de 21 de dezembro de 2017



### **Bulgaria**

Кодекс на търговското корабоплаване (Загл. изм. - ДВ, бр. 113 от 2002 г.)

Наредба № 10 от 10.02. 2003 г. за извършване на превози на пътници и товари между български пристанища от кораби, плаващи под чуждо знаме. Обн. - ДВ, бр. 18 от 25.02.2003 г

### **Cabo Verde**

Decreto-Legislativo 14/2010 (Código Marítimo) de 15.11.2010

### **Cameroon**

Communaute Economique et Monetaire de l'Afrique Centrale Code Communautaire de la Marine Marchande de 03 Aout 2011

### **Canada**

Coasting Trade Act S.C. 1992, c.31

Canada Shipping Act S.C. 2001, c.26

### **Chile**

Ley 6415 de 15.09.1939

Decreto Ley 3059 Ley de Fomento a la Marina Mercante de 21.12.1979

### **China**

中华人民共和国海商法

中华人民共和国国际海运条例

### **Colombia**

Ley 1 de 1991 (enero 10)

Decreto N° 804 de 2001 (mayo 8)

Decreto N° 390 de 2016 (marzo 7)

### **Congo**

Communaute Economique et Monetaire de l'Afrique Centrale Code Communautaire de la Marine Marchande de 03 Aout 2011

### **Costa Rica**

Código de Comercio de 1853 Comercio Maritimo Ley número 104 de 6 de junio

Código Fiscal Ley No. 8 de 31 de octubre de 1885

Ley de Servicio de Cabotaje de la República número 2220 de 20 junio de 1958

Ley de Incentivos para el Desarrollo Turístico número 6990 de 15 julio de 1985

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### **Côte D'Ivoire**

Le Code de la Marine Marchande (Loi numero 61-349 du 9 Novembre 1961)  
Decret numero 68-406 du 3 Septembre 1968

### **Croatia**

Pomorski zakonik "Narodne novine" 181/04, 76/07, 146/08, 61/11, 56/13 i 26/15

### **Cuba**

Ley no. 115 de la Navegación Marítima, Fluvial y Lacustre, 4 de noviembre de 2013  
Decreto no. 317, 6 de julio 2013

### **Democratic Republic of the Congo**

29 Janvier 1947 Ordonnance 33/AIMO Immatriculation des embarcations

### **Dominican Republic**

Ley N°. 180 de Protección y Desarrollo de la Marina Mercante Nacional 30.05.1975

### **Ecuador**

Reglamento a la Actividad Marítima Decreto Ejecutivo 168 numero 32 de 27 mar 1997

### **Egypt**

قانون رقم 63 لسنة 1961 بشأن النقل الساحلي

قانون 8 لسنة 1990 بشأن التجارة البحرية

بشأن إعطاء الأولوية في النقل الساحلي لحاويات الترانزيت بين الموانئ المصرية للسفن الرافعة للعلم المصري والحاصلة على ترخيص ملاحية ساحلية القرار رقم 132 لعام 2003 صدر بتاريخ 2003/3/16

### **Equatorial Guinea**

Communaute Economique et Monetaire de l'Afrique Centrale Code Communautaire de la Marine Marchande de 03 Aout 2011

### **Estonia**

Kaubandusliku meresõidu koodeks, Vastu võetud 09.12.1991

### **Fiji**

Maritime Transport Decree 2013 (Decree No. 20 of 2013)

### **Finland**

Laki Liikenteen palveluista 320 / 2107





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### **France**

Cod des Douanes version consolidée au 12 août 2018  
Loi n° 85-1404 du 30/12/1985  
Loi n° 2001-43 du 16/01/2001

### **Gabon**

Communaute Economique et Monetaire de l'Afrique Centrale Code Communautaire de la Marine  
Marchande de 03 Aout 2011  
Loi n° 10/63 du 12 Janvier 1963 portant Code de la Marine Merchande Gabonaise

### **Georgia**

1997 წლის 15 მაისის საქართველოს საზღვაო კოდექსი (კანონი N715)

### **Germany**

Verordnung über die Küstenschifffahrt 05.07.2002

### **Ghana**

Ghana Shipping Act 2003 (Act 645)

### **Greece**

NOMOS 2932 Δημοσιεύθηκε στο ΦΕΚ 145 στις 02.07.2001

### **Grenada**

Shipping Act Chapter 303 of the 2010 Revised Laws of Grenada

### **Guinea Bissau**

Decreto lei n.º 24.458 de 3 de Setembro de 1934

### **Guyana**

Guyana Shipping Act 1998

### **Haiti**

Décret relatif au Code Douanier du 13 juillet 1987

### **Honduras**

Ley Orgánica de la Marina Mercante Nacional, Decreto 167-94

### **India**

Merchant Shipping Act 1958 No. 44 of 1958  
General Order No. 1 of 2018  
General Order No. 2 of 2018

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### **Indonesia**

Undang-Undang Republik Indonesia Nomor 17 Tahun 2008 Tentang Pelayaran

### **Israel**

חוק ספנות חופית (היתר לכלי שיט זר), תשס"ו-2005

### **Italy**

Codice della Navigazione Regio decreto 30 marzo 1942 n. 327

### **Jamaica**

The Shipping Act 1998

### **Japan**

船舶法 明治三十二年

### **Jordan**

قانون التجارة البحرية رقم (12) لسنة 1972

### **Kazakhstan**

Закон Республики Казахстан от 17 января 2002 года № 284-ІІ “О торговом мореплавании”

### **Kenya**

The Merchant Shipping Act, 2009

### **Kuwait**

البحرية التجارة قانون بإصدار 1980 لسنة 28 رقم بالقانون مرسوم

### **Lebanon**

قانون التجارة البحرية قانون - صادر في 1947/2/18

### **Lithuania**

Lietuvos Respublikos Prekybines Laivybos Istatymas 1996 m. rugsėjo 12 d. Nr. I-1513

### **Madagascar**

Loi n°99-028 du 3 février 2000 portant refonte du Code maritime

### **Malaysia**

Ordinan Perkapalan Saudagar 1952





### **Mauritania**

Loi numero 2013 - 029 portant Code de la Marine marchande du 30 Juillet 2013

### **Mauritius**

Merchant Shipping Act 26 of 2007

### **Mexico**

Ley de Navegación y Comercio Marítimos, 1º de Junio de 2006

### **Montenegro**

Zakon o moru, Zakon je objavljen u "Službenom listu CG", br. 17/2007 i 6/2008. Vidi: čl. 55. Zakona - 40/2011-1

### **Morocco**

Code de commerce maritime du 31 mars 1919

### **Mozambique**

Decreto n.º 35/2007 de 14 Agosto

### **Nicaragua**

Ley numero 399 Ley de Transporte Acuático de 03.09.2001

### **Nigeria**

Coastal and Inland Shipping (Cabotage) Act No. 5 of 2003

### **Papua New Guinea**

The Merchant Shipping Act 1975 (Chapter 242)

### **Peru**

Ley número 28583 Ley de reactivación y promoción de la Marina Mercante Nacional

### **Philippines**

Foreign Ships Co-Loading Act (Republic Act No. 10668)

Domestic Shipping Act of 2004 (Republic Act No. 9295)

Tariff and Customs Code of the Philippines 1957 (Republic Act No. 1937)

Foreign Investment Act (Republic Act 7042, Republic Act 8179, E.O 367)

Public Service Act (Commonwealth Act 146)

### **Poland**

Ustawa z dnia 18 września 2001 Kodeks morski

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### **Portugal**

Decreto-Lei número 7/2006 de 4 de Janeiro

### **Qatar**

قانون رقم (15) لسنة 1980 بإصدار القانون البحري

قانون رقم (16) لسنة 1980 بشأن النقل البحري الساحلي

القانون رقم 8 لسنة 2017 بتنظيم مزاولة الأعمال البحرية في المياه التابعة لدولة قطر

### **Republic of Korea**

선박법, 법률 제 14476호, 2016.12.27

해운법, 법률 제14748호, 2017.3.21

### **Russian Federation**

Кодекс торгового мореплавания Российской Федерации от 30.04.1999 N 81-ФЗ

### **Saint Lucia**

Shipping Act (Chapter 13:27) 19.11.1994

### **Saint Vincent and the Grenadines**

Shipping Act Chapter 363 Act No. 11 of 2004

### **Samoa**

Shipping Act 1998, No. 31

### **Slovenia**

Pomorski zakonik (PZ-UPB5) objavljen v uradnem listu Republike Slovenije št. 26/2001

### **Solomon Islands**

The Shipping Act No. 5 of 1998

### **Spain**

Real Decreto 1516/2007

Real Decreto legislativo 2/2011

### **Sri Lanka**

Merchant Shipping Act No. 52 of 1971

### **Sweden**

Förordningen den 10 november 1724 angående De Fremmandes Fahrt på Sverige och Finland

Förklaringen den 28 februari 1726 ”öfwer förordningen af den 10. Nov. 1724, angående

de Främmandes Fahrt på Sverige och Finland

Förordning (1974:235) om tillstånd till sjöfart i inrikes trafik med utländskt fartyg m.m.





### **Syrian Arab Republic**

القانون التجاري البحري السوري رقم /٤٦/ لعام ٢٠٠٦ وتعليماته التنفيذية الصادرة بقرار وزير النقل رقم /٩٣٥/  
تاريخ ٢٠٠٦ / ٦ / ١٨

### **Thailand**

พระราชบัญญัติ เรือไทย พุทธศักราช ๒๔๘๑

### **Tunisia**

قانون عدد 34 لسنة 2008 مؤرخ في 2 جوان 2008 يتعلق بإصدار مجلة الديوانة.

### **Turkey**

Kanun No: 815 Kabul Tarihi 20 Nisan 1926

### **Ukraine**

Кодекс торговельного мореплавства України 09.12.94

### **United Arab Emirates**

القانون الاتحادي رقم 26 لسنة 1981 القانون التجاري البحري لدولة الإمارات العربية المتحدة 1981

### **United Republic of Tanzania**

The Merchant Shipping Act No. 21 of 2003

### **United States of America**

Title 46 of the United States Code

### **Uruguay**

Ley N° 12091 Ley sobre navegacion y comercio de cabotaje nacional: 05/01/1954

### **Venezuela, Bolivarian Republic of**

Ley Organica de los espacios acuaticos e insulares N° 37330 del 22 de Noviembre de 2001

### **Viet Nam**

Bộ luật Hàng hải Việt Nam số 95/2015/QH13 ngày 25 tháng 11 năm 2015

### **Yemen**

بشأن القانون البحري قرار جمهوري بالقانون رقم (15) لسنة 1994م



# ACRONYMS

AU	African Union
CARICOM	Caribbean Community
CBA	Collective Bargaining Agreement
ECLAC	Economic Commission for Latin America and the Caribbean
ESCAP	The United Nations Economic and Social Commission for Asia and the Pacific
EEA	European Economic Area
EFTA	European Free Trade Association
EU	European Union
IMO	International Maritime Organization
ITF	International Transport Workers' Federation
MERCOSUR	Mercado Comun del Sur
OECD	Organisation for Economic Co-operation and Development
SADC	Southern African Development Community
SRI	Seafarers' Rights International
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
US	United States of America
WTO	World Trade Organization



# CHAPTER 1

## INTRODUCTION

**C**abotage is the principle of reserving a nation's maritime and shipping trades, services and activities for its own citizens. The principle has a long legal history. Today cabotage is mostly restricted directly in maritime and shipping laws. But it may be encouraged and supported in other laws, for example laws relating to: ship registration, immigration, employment, taxation, customs, companies, licencing, subsidies for the operation and construction of vessels, and foreign direct investment.

Cabotage law is immensely variable from state to state in many respects: it reserves and restricts trades, services and activities in many different ways and it is closely adapted to national circumstances. It is also widespread across all regions of the world and exists in states with different political, economic and legal systems. Nonetheless, it is often a contested principle at international, regional, national and industry levels.

Before explaining the terms of reference and methodology of this Report, a very brief historical introduction to early cabotage principles sets the scene.

### HISTORICAL LAWS

The historical genesis of cabotage as a rudimentary legal principle is obscure. Some say that it was "first enunciated in the 16th century by the French. Navigation between ports on their coasts was restricted to French ships: this principle was later extended to apply to navigation between a metropolitan country and its overseas colonies."<sup>1</sup> Another view is that Portugal was the first nation to introduce the

direct regulation of cabotage in the 15th century to protect the sea trade of its empire and to "prevent other countries from dominating shipping along its coast."<sup>2</sup> Whatever the origin, the cabotage laws of some states are steeped in history.

In England in 1381 in the reign of King Richard II, in order to increase the navy which was declared to be greatly diminished, Parliament stipulated that "Subjects shall export or import merchandises in English ships only" and enacted:

"That none of our Lord the King's liege People do from henceforth caufe to be shipped any Manner of Merchandize going out of or coming into the Realm of *England*, in any Part, but only in Ships of our Lord the King's Liegance... shall forfeit to the King all his Merchandizes shipped in other Veffjels, wherefoever they be found hereafter or the Value of the fame..."<sup>3</sup>

Subsequently a series of laws which became known as the Navigation Acts were passed and then repeatedly extended and revised between the 1650s and the 1770s, but their essential thrust was to reserve all commerce between the colonies and Europe to British citizens.<sup>4</sup> In October 1651, the Rump Parliament led by Oliver Cromwell passed the first Navigation Act, long titled "An Act for increase of Shipping, and Encouragement of the Navigation of this Nation."<sup>5</sup> It authorised the Commonwealth to regulate England's international trade, as well as the trade with its colonies, and stated that:

“For the increase of the shipping and the encouragement of the navigation of this nation...no goods or commodities whatsoever of the growth, production or manufacture of Asia, Africa or America, or of any part thereof; or of any islands belonging to them ...shall be imported or brought into this Commonwealth of England, or into Ireland, or any other lands, islands, plantations, or territories to this Commonwealth ... in any other ship or ships, vessel or vessels whatsoever, but only in such as do truly and without fraud belong only to the people of this Commonwealth.”<sup>6</sup>

The Navigation Acts were repealed in 1849 under the influence of an emerging free trade philosophy which continues to prevail, and today there is no cabotage in the United Kingdom.<sup>7</sup>

Scholars still debate intensely the degree to which the English Navigation Acts played a role in triggering the American War of Independence.<sup>8</sup> In the United States, at its very first session on September 1, 1789, Congress enacted “An Act for Registering and Clearing Vessels, Regulating the Coasting Trade, and for other purposes” which imposed cabotage principles. In 1817, in an “Act Concerning the Navigation of the United States” it was provided that “no goods, wares or merchandise, shall be imported, under penalty of forfeiture therefore, from one port of the United States to another port of the United States, in a vessel belonging wholly or in part to a subject of any foreign power ...”.<sup>9</sup>

Then in 1886, the Passenger Vessel Service Act was passed to govern the carriage of passengers. It stated: “That foreign vessels found transporting passengers between places or ports in the United States, when such passengers have been taken on board in the United States, shall be liable to a fine of two dollars for every passenger landed”.

Cabotage principles are now

comprehensively restated in the Merchant Marine Act of 1920, more commonly known as the Jones Act, where Congress declared: “It is necessary for the national defence and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine...”<sup>10</sup>

Cabotage continues today in Sweden from the time that an Ordinance entitled “Foreign Shipping to Sweden and Finland” was passed in 1724 and clarified in 1726.<sup>11</sup> In the clarification it was stated that:

“... for the support of Swedish Ship Owners and promotion of transport, ... ordain that foreign transport to Sweden and Finland, ... may not carry hither other than their own Country’s products in their own ships on pain of Confiscation of Ship and goods, half to Us and the Crown and half to the Sequestrator; ... Foreigners are not only barred from importing in their vessels goods other than the products of their own country in the manner that is stated above, but also that they may not seek cargo to take on any Swedish produce at one place in the realm and carry it to another either, ...”. (*SRI translation*).

After the passage of 300 years, this Ordinance is still valid, proclaiming cabotage principles that are confirmed by case law and by government regulation which refers to, and mandates exemptions from, the Ordinance in certain cases.<sup>12</sup>

In France, in a Decree of 1793 “Decret contenant l’acte de navigation 21 Septembre 1793”, it was stated that: “Foreign vessels shall not be allowed to carry from one French port to another French port any of the commodities, productions or commodities of the crops, products or manufactured goods of France, colonies or possessions of France, under the penalties laid down in Article 3”. (*SRI translation*). The Decree also provided that:

#### CABOTAGE LAWS OF THE WORLD



58

**A N A C T**  
 F O R  
 Increase of Shipping,  
 And Encouragement of the  
**N A V I G A T I O N**  
 O F T H I S  
**N A T I O N .**



Thursday the Ninth of October, 1651.

**O**rdere*d* by the Parliament, That this Act be forthwith  
 printed and published.

Hen: Scobell, Cleric. Parliamenti.

London, Printed by *John Field*, Printer to the Parliament  
 of England, 1651.

“No foreign goods, products or goods may be imported into France, from the colonies and possessions of France, except directly by French vessels, or belonging to the inhabitants of the country of the crops, products or manufactured goods, or the ordinary ports of France, sale and first export, the officers and three quarters of the foreign crews being from the country whose vessel bears the flag; all under pain of confiscation of the vessel and cargoes, and of three thousand pounds of fine, solidary and by body, against the proprietors, agents and agents of the vessel and cargoes, captain and lieutenant”. (*SRI translation*).<sup>13</sup>

In Greece, in 1836<sup>14</sup>, a law was passed to the effect that ships flying the national flag had the exclusive rights to carry native products from one port to another within the Kingdom, except where reciprocity treaties signed by Greece provided otherwise.

Costa Rica has two historic enactments regarding cabotage, with restrictions on nationality. In article 537 of the Code of Commerce of 1853, it is provided that: “Commerce between a port of Costa Rica and another port of the same Republic shall be made exclusively by ships registered by Costa Rica, save for the exceptions made or to be made in commercial treaties with foreign powers”. (*SRI translation*). The 1853 Code of Commerce appears to be the oldest statute currently in force in Costa Rica. And, in the Fiscal Code of 1885, which deals with taxes and tariffs, there are some cabotage provisions that mirror the earlier Code of Commerce.<sup>15</sup>

In Germany, a Law Concerning Coastal Freight was passed in 1881 and came into force in 1882. It provided that:

“Article 1 The right to load goods in a German seaport and to transport it to another German seaport in order to unload it there (coastal freight journey) is

reserved exclusively for German ships. Article 2 Foreign ships may be granted this right by a State Treaty or by Imperial Ordinance with the consent of the Bundesraths. Article 3 The leader of a foreign ship, which operates unauthorised coastal freights, will be punished with a fine of up to three thousand marks. In addition to the fine, the confiscation of the ship and the goods carried without authorization can be recognised, regardless of whether they belong to the condemned or not” ...”<sup>16</sup>. (*SRI translation*).

In Brazil, the Constitution of the Republic of the United States of Brazil of 1891 stated that it was within the exclusive competence of the Union to determine the rights of entry, exit and stay of vessels regarding the cabotage trade for domestic goods as well as foreign goods; and that inland navigation was to be conducted by national vessels.<sup>17</sup>

This was pre-dated by decrees in 1836 and 1860. The 1860 Decree No 2647 provided in article 486 that: “The transportation of goods and merchandise of any origin, from one to the other ports of the Empire, is the exclusive privilege of the national vessels”. (*SRI translation*).

Today in Japan an historic law continues to provide for cabotage. In section 3 of the Shipping Act 1899,<sup>18</sup> cabotage was mandated as follows:

“A foreign vessel shall not call at a place of a closed port or transport goods or passengers by water between ports within Japan. However, this restriction shall not apply when there is a special provision in a law or a treaty, when a vessel intends to avoid an accident at sea or a capture or when a special permission by the Minister of Land, Infrastructure, Transport and Tourism is obtained”. (*SRI translation*). Although the 1899 Act was last revised in 2014, article 3 of the earlier Act has

## CABOTAGE LAWS OF THE WORLD



# Reichs-Gesetzblatt.

## N<sup>o</sup> II.

**Inhalt:** Gesetz, betreffend die Küstenfrachtfahrt. S. 97. — Gesetz, betreffend die Oeffentlichkeit der Verhandlungen und die Geschäftssprache des Landesausschusses für Elsaß-Lothringen. S. 98. — Gesetz, betreffend die Besteuerung der Dienstwohnungen der Reichsbeamten. S. 99. — Gesetz, betreffend die Kontrolle des Reichshaushalts und des Landeshaushalts von Elsaß-Lothringen für das Etatsjahr 1880/81. S. 100.

(Nr. 1420.) Gesetz, betreffend die Küstenfrachtfahrt. Vom 22. Mai 1881.

Wir Wilhelm, von Gottes Gnaden Deutscher Kaiser, König von Preußen &c.

verordnen im Namen des Reichs, nach erfolgter Zustimmung des Bundesraths und des Reichstags, was folgt:

### §. 1.

Das Recht, Güter in einem deutschen Seehafen zu laden und nach einem anderen deutschen Seehafen zu befördern, um sie daselbst auszuladen (Küstenfrachtfahrt), steht ausschließlich deutschen Schiffen zu.

### §. 2.

Ausländischen Schiffen kann dieses Recht durch Staatsvertrag oder durch Kaiserliche Verordnung mit Zustimmung des Bundesraths eingeräumt werden.

### §. 3.

Der Führer eines ausländischen Schiffes, welcher unbefugt Küstenfrachtfahrt betreibt, wird mit Geldstrafe bis zu dreitausend Mark bestraft.

Neben der Geldstrafe kann auf Einziehung des Schiffes und der unbefugt beförderten Güter erkannt werden, ohne Unterschied, ob sie dem Verurtheilten gehören oder nicht.

Der §. 42 des Strafgesetzbuchs findet entsprechende Anwendung.

### §. 4.

Bestehende vertragsmäßige Bestimmungen über die Küstenfrachtfahrt werden durch dieses Gesetz nicht berührt.



Not every relevant cabotage law is cited in this Report. Where a single primary law demonstrated cabotage, there was simply no need to identify and interpret additional primary or secondary laws. But reference is also made to these additional laws when necessary.

Laws that in effect encourage or support cabotage but do not explicitly restrict cabotage were not surveyed. Such laws may for example provide for tonnage taxes, seafarer exemption from tax or taxation subsidies for the construction and operation of national ships, as well as government loans and guarantees for national shipyards and national shipping companies. Other laws might complement cabotage, such as laws relating to: ship registration, immigration, employment or licencing. There is a great range of such laws around the world and these also were not surveyed since this would not have been manageable within reasonable budget and time constraints. The precise extent to which any of these laws impact on cabotage would often be open to debate.

The Report is organised as follows:

- **Chapter 2** sets out some of the dictionary definitions, regional definitions and international definitions of cabotage. This highlights the very wide range of inconsistent and varied meanings that are accorded to cabotage. National definitions of cabotage are contained in Chapter 5.
- **Chapter 3** sets out the findings of three significant surveys that have identified states and territories with cabotage laws. The three surveys had different objectives and accordingly adopted different methodologies.

Other significant publications that have given some consideration to the number of states with cabotage are referred to in Chapter 6.

- **Chapter 4** sets out the states that were excluded from the survey. This was either on the grounds that the state was landlocked or with one port and not capable of having cabotage as traditionally or generally understood, or that the state had no cabotage laws or laws that were not considered to be sufficiently significant.
- **Chapter 5** sets out states identified as having cabotage laws deemed to be sufficiently significant. Further it discusses types of reservations and restrictions that typically exist in cabotage laws.
- **Chapter 6** discusses the policy objectives that underpin cabotage laws, either as set out publicly in government policies or as determined by inference from contemporary cabotage laws.
- **Chapter 7** discusses exceptions in cabotage laws, as well as waivers and trade agreements which impact on the operation of cabotage laws to a greater or lesser extent.
- **Chapter 8** concludes with the main findings emerging from the Report.



## CHAPTER 1 ENDNOTES

1. Encyclopaedia Britannica History of Ships (Cabotage) (contributors: James Joseph Stilwell, John B. Woodward and Others)
2. Stephen Mihm “Jones Act Descended From Centuries of Lazy Protectionism” October 17, 2017
3. See at Appendix 1.
4. See Ricardo, John Lewis The Anatomy of the Navigation Acts (London) 1847.
5. See Worden Blair, The Rump Parliament 1648-53. Cambridge UP (rev ed 2008).
6. See at Appendix 2 extracts from An Act for increase of Shipping, and Encouragement of the Navigation of this Nation 1651.
7. See Pestana, Carla Gardina. The English Atlantic in an Age of Revolution: 1640-1661. Cambridge, Massachusetts and London, England: Harvard University Press.
8. See Sawers L (1992) The Navigation Acts Revisited.
9. See at Appendix 3 extracts from An Act concerning the navigation of the United States 1817.
10. Section 50105 of the Jones Act.
11. See at appendix 4 the Declaration of 1726 on the Ordinance of 1724.
12. See exemption by Regulation 1974:235 and also exemption by Council Regulation (EEC) No 3577/92 of 7 December 1992. Exemption to the Ordinances of 1724 and 1726 are also provided by bilateral agreements.
13. See at Appendix 5 extracts from the Decree of 1793.
14. See at Appendix 6 extracts from the Royal Decree of 1836.
15. See at Appendix 7 extracts from the Fiscal Code of 1885.
16. Gesetz, betrefend die Kustenfrachtfahrt 22 mai 1881.
17. See at Appendix 8 extracts from the Constitution of Brazil 1891.
18. See at Appendix 9 extracts from Law No. 46, March 8, 1899.
19. For example the treaty of 6 August 1661 between Portugal and the Netherlands: article 13 permitted Dutch ships to conduct cabotage between Portuguese ports, subject to duties no higher than those due from Portuguese nationals.

## CHAPTER 2

# DEFINITIONS OF CABOTAGE

There are many different definitions of maritime cabotage. At the international level, there is no single legal definition of cabotage that is binding on all member states of the United Nations. However there are many regional and national definitions of cabotage that may be enforceable in different courts. The word “cabotage” is not always mentioned in national laws. Instead terms such as “coastal trade”, “coasting trade”, “coastwise trade” or “domestic trade” may be used in place of “cabotage”. In this Report, unless the context indicates otherwise, a reference to “cabotage”, “cabotage legislation” or “cabotage law” is a reference to the reservation of cabotage to national ships, as well as a reference to the restrictions on foreign flag ships from conducting cabotage.

In this Chapter, some of the dictionary definitions, regional definitions and international definitions of cabotage are set out. This contextualises the national definitions of cabotage that are considered in Chapter 5. The national definitions highlight the great variability of cabotage laws that exist in respect of a very wide range of matters.

### SOME DEFINITIONS IN DICTIONARIES

French dictionaries published in 1702 show that “cabotage” had already entered the French language by that time. Here is an example:<sup>20</sup>

*“CABOTER, Afen aan leggen, of houden; Hengelen*

*C'est aller de cap en cap, & de port en port; naviguer le long des côtes; ainfi il faudroit dire, Capoter, mais l'usage prévaut sur l'étimologie. Si cette barque ne peut servir*

*aux grandes traversées, on l'emploiera au cabotage. Ce bâtiment n'est propre qu'au cabotage. Nos galiotes, qui étoient acoutumées à caboter, ne perdirent point ces deux caps de vue. Les Corfaires ne font le plus souvent que caboter.”*

The translation of the French text is as follows:

*“CABOTER, mooring, wooden; Angling (in Dutch)*

*Going from point to point, & from port to port; navigating along the coast; one should say, Capoter, but usage takes precedent over etymology. If a boat cannot be used for long voyages, it will be used for cabotage. This vessel is only suitable for cabotage. Our galiots which were accustomed to caboter, did not lose sight of those two coastal points. Pirates more often than not only undertake cabotage.” (SRI translation).*

The Oxford English Dictionary reflects early uses of cabotage in English dating from 1831;<sup>21</sup> and, as regards the etymology of cabotage, it states that:

*“French cabotage (also Spanish cabotaje, in Italian cabotaggio) in same sense; French caboter to coast; whence French has also caboteur, cabotier, cabotin, cabotinage, cabotiner. Derivation uncertain. Originally a shipping term of the north of France: M. Paul Meyer rejects Littré's guess from Spanish cabo cape, headland, as if 'to sail from cape to cape', as untenable phonetically and historically, and thinks the verb must be from the name of a kind of boat. The gloss 'cabo, trabe, nave' occurs in (MS. Bibl. Nat. 1646 lf. 83 b) a 13th cent. copy of an older glossary; and Littré has cabot, chabot as*



north French equivalents of *sabot*, which is still applied to a small vessel running two or three knots an hour. (Brachet guesses that *caboter* may be from the surname Cabot; which may have had the same origin, but compare *cabot n.*)”

But whether cabotage in the English language means only a maritime trade; or the right to the maritime trade; or a restricted right to the maritime trade, is not clear.

The Oxford Living Dictionaries<sup>22</sup> states that cabotage is: “1 The right to operate sea, air, or other transport services within a particular territory. 1.1 Restriction of the operation of sea, air, or other transport services within or into a particular country to that country’s own transport services”. The Miriam-Webster Dictionary<sup>23</sup> defines cabotage more shortly as: “1: trade or transport in coastal waters or airspace or between two points within a country 2: the right to engage in cabotage”; while the Collins English Dictionary<sup>24</sup> defines cabotage as: “1. (Nautical terms) nautical coastal navigation or shipping, esp. within borders of one country”.

So, in the English language, “cabotage” may mean either an unrestricted right to conduct cabotage or a restriction of the right to conduct cabotage. The implications are however mutually exclusive.

Black’s Law Dictionary<sup>25</sup> defines cabotage as: “1. The carrying on of trade along a country’s coast; the transport of goods or passengers from one port or place to another in the same country. • The privilege to carry on this trade is usu. limited to vessels flying the flag of that country. 2. The privilege of carrying traffic between two ports in the same country. ... “Some writers maintain [that cabotage] should be applied only to maritime navigation; in this context one can distinguish between *petit cabotage* — transport between ports situated on the same sea (e.g. Bordeaux–Le Havre) — and *grand cabotage* — transport between ports situated on different seas (e.g.

Bordeaux–Marseille). However, the term is also properly applied to transport between two inland points on an international river within one State, although the term *grand cabotage* is sometimes incorrectly applied to transnational transport between the inland ports of different riparian States on the same waterway. River cabotage properly so called is sometimes also referred to as “local transport”.

### SOME REGIONAL DEFINITIONS

Some regional definitions of cabotage merit mention. In the EU,<sup>26</sup> in Council Regulation (EEC) No 3577/92 of 7 December 1992,<sup>27</sup> applying the principle of freedom to provide services to maritime transport within Member States, it is provided in article 2 that for the purposes of the Regulation:

“1. maritime transport services within a Member State (maritime cabotage) shall mean services normally provided for remuneration and shall in particular include:

- a) mainland cabotage: the carriage of passengers or goods by sea between ports situated on the mainland or the main territory of one and the same Member State without calls at islands;
- (b) off-shore supply services: the carriage of passengers or goods by sea between any port in a Member State and installations or structures situated on the continental shelf of that Member State;
- (c) island cabotage: the carriage of passengers or goods by sea between:
  - ports situated on the mainland and on one or more of the islands of one and the same Member State, — ports situated on the islands of one and the same Member State; Ceuta and Melilla shall be treated in the same way as island ports.”

This definition has been subject to extensive interpretation in a Communication from the European Commission,<sup>28</sup> amending and replacing the Commission’s interpretative communications of 2003<sup>29</sup> and 2006.<sup>30</sup>

### CABOTAGE LAWS OF THE WORLD

Eurostat defines cabotage as: “Sea transport between two ports of a national territory or one port sea transport within national territory;” and adds that: “National sea transport can be performed by a merchant ship registered in the Reporting country or in another country.”<sup>31</sup>

The Asean Framework Agreement on the Facilitation of Inter-state Transport<sup>32</sup> provides that, for the purpose of the agreement: “(a) ‘cabotage’ means the carriage of goods loaded in the territory of a contracting party for unloading at a place within the territory of the same contracting party.”

The United Nations Economic and Social Commission for Asia and the Pacific states that:

“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.”<sup>33</sup>

In some regional documents, reference is made to cabotage without any substantial definition of the word.

In article 15 of the Revised African Maritime Transport Charter it is stated that:

“1. States Parties shall promote cabotage and effective participation of private sector operators at national, regional and continental levels.  
2. To this end, the establishment of national and regional maritime cabotage shipping lines should be encouraged in order to promote intra-African trade and facilitate the economic and socioeconomic integration of the continent”.

Apart from a definition of “trans-African Cabotage,”<sup>34</sup> there is no definition of

cabotage in the Revised African Maritime Transport Charter. And, in southern Africa, in article 8.2 (2) of the Southern African Development Community (SADC) Protocol on Transport, Communications and Meteorology<sup>35</sup> it is provided that member states shall “progressively remove restrictions, if any, on cabotage by ships registered in a member state” and that “(3) member states permitting cabotage by ships registered in another member state, affirm their intention to maintain their current policy”. But cabotage is not otherwise defined in the Protocol.

### SOME INTERNATIONAL DEFINITIONS

It appears that no international convention defines and governs cabotage.<sup>36</sup> But according to the WTO Council for Trade in Services cabotage: “... means all kinds of traffic from port to port within a single State. Apparently only the European Union has laid down specific rules governing these particular forms of cooperation and traffic. The United States, for instance, treats or bans them, as the case may be, as it would treat any shipowner agreement.”<sup>37</sup>

In the WTO Glossary cabotage means: “In maritime transport, sea shipping between ports of the same country, usually along coasts,”<sup>38</sup> while in its 2017 Review of Maritime Transport, UNCTAD states that:

“Cabotage is defined as sea transport of passengers, goods and materials between two ports located in the same country, irrespective of the country in which the seagoing vessel is registered. Cabotage encompasses domestic shipping operations; these include domestic trade, as well as operations related to transshipment. Cabotage may involve tramp or liner operations and a variety of cargo-handling techniques.”<sup>39</sup>

And, in another publication associated with UNCTAD,<sup>40</sup> it is stated that maritime cabotage refers:

“to sea transport between two ports in the

### CABOTAGE LAWS OF THE WORLD











## CHAPTER 2 ENDNOTES

- 35.** SADC comprises the following states: Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Eswatini, United Republic of Tanzania, Zambia, and Zimbabwe.
- 36.** The Convention and Statute on the International Regime of Maritime Ports of 1923 provides for “equality of treatment” of vessels “as regards freedom of access to the port, the use of the port, and the full enjoyment of the benefits as regards navigation and commercial operations which it affords to vessels, their cargoes and passengers”. This would cover cabotage. But article 9 precludes any such construction and states: “This statute does not in any way apply to the maritime coasting trade”.
- 37.** Maritime Transport Services Background Note by the Secretariat Restricted S/C/W/315 7 June 2010 at page 27.
- 38.** [https://www.wto.org/english/thewto\\_e/glossary\\_e/cabotage\\_e.htm](https://www.wto.org/english/thewto_e/glossary_e/cabotage_e.htm),
- 39.** UNCTAD Review of Maritime Transport (2017) 35.
- 40.** “Rethinking Maritime Cabotage for Improved Connectivity UNCTAD”, Geneva, 2017 Transport and Facilitation Series” at page 6.
- 41.** Glossary for Transport Statistics, prepared by the Intersecretariat Working Group on Transport Statistics – Eurostat, European Conference of Ministers of Transport (ECMT), United Nations Economic Commission for Europe (UNECE).
- 42.** See League of Nations, Enquiry Concerning the Meaning Attached to the Term “Coasting Trade” in the Various Countries. League of Nations, 1930.
- 43.** “By the Capes Around the World. A Summary of World Cabotage Practices” (May 22, 1991).
- 44.** “Maritime Cabotage: A Global Analysis. Including Cabotage Campaigning Tools” (March, 2010) at page 6.
- 45.** “Maritime Cabotage: A Global Analysis. Including Cabotage Campaigning Tools” (March, 2010) at page 68.

conditions under which permission may be granted to ships not ordinarily authorised to trade. Most maritime cabotage regimes require ships to fly the national flag<sup>44</sup>

and

“a system of shipping laws and regulations that restrict access to maritime trade conducted exclusively between points within the territorial waters of a nation.

Cabotage laws can apply to marine cargo, passenger services and a wide range of maritime services including dredging, towing, offshore support for oil and gas exploration, floating offshore drilling rigs, seismic research and the laying of submarine cables. In some countries, maritime cabotage is referred to as the “coasting trade”.

...

Cabotage laws and regulations set out the conditions governing engagement in coastal trade. In almost all cases, cabotage laws require authorised ships to fly the national flag. These conditions can relate to a range of factors including: ship registration and ownership; citizenship and qualifications of the crew; vessel construction; conditions under which temporary permits may be granted to ships not ordinarily authorised to trade. Sometimes the involvement of foreign owned or crewed vessels, is allowed in clearly defined circumstances. The effect of these requirements is to limit access to coasting trade conferring restricted access rights to appropriately licensed vessels<sup>45</sup>.

The definitions set out above illustrate that a very wide range of inconsistent and varied meanings are accorded to cabotage. The sheer scope and range of these inconsistencies and variations emerges even more clearly in

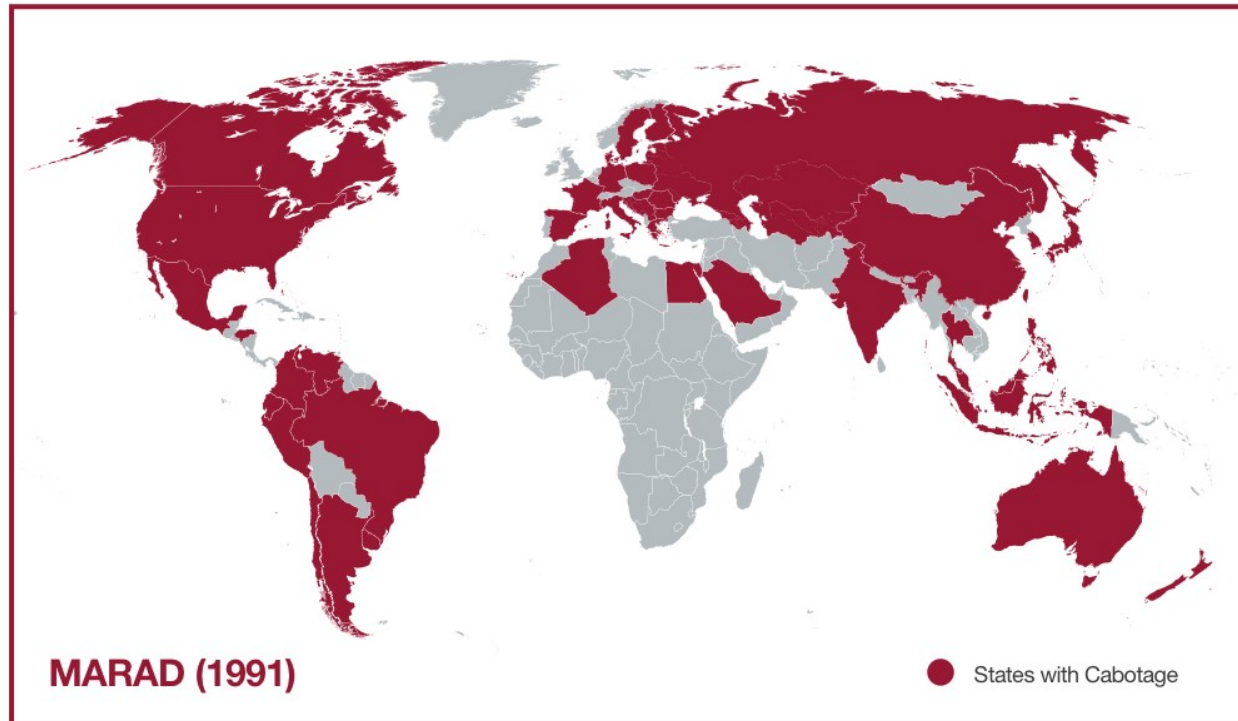
Chapter 5, which deals with many different definitions – and the lack of definitions – under national laws. This Report does not discriminate between definitions of cabotage at the national level and whatever the definition of cabotage in a particular state may be, provided the reservations or restrictions are deemed to be sufficiently significant, the state is recognised in this Report as having cabotage.

#### CABOTAGE LAWS OF THE WORLD

## CHAPTER 2 ENDNOTES

- 20.** Dictionnaire de Marine Contenant Les Termes de la Navigation et de L'Architecture Navale Avec les Règles & Proportions qui doivent y être observées. Ouvrage Enrichi de Figures Représentant divers Vaisseaux, les principales Pièces servant à leur construction, les différents Pavillons des Nations, les Instrumens de Mathématique, Outils de Charpenterie & Menuiserie concernant la fabrique ; avec les diverses fonctions des Officiers. A Amsterdam, Chez Pierre Brunel, Marchand Libraire, sur le Dam. M.D.CCII. Avec Privilège de Noss. les Etats de Hollande & Westrise. See Appendix (10).
- 21.** The Oxford English Dictionary 2nd edition (2018) cites the following early uses of the word: “1831 J. Sinclair Corr. II. 186 The Cabotage, as they call it, or carrying trade. 1876 R. F. Burton Two Trips Gorilla Land I. 6 Small vessels belonging to foreigners, and employed in cabotage. 1885 Standard 2 Jan. (Article) The Cabotage in China. [From Shanghai correspondent]”.
- 22.** <https://en.oxforddictionaries.com/definition/cabotage>.
- 23.** <https://www.merriam-webster.com/dictionary/cabotage>.
- 24.** Complete and unabridged, 12th ed, 2014 at: <https://www.thefreedictionary.com/cabotage>.
- 25.** 8th ed, at p 605.
- 26.** The EU comprises the following member states: Austria; Belgium; Bulgaria; Croatia; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; Netherlands; Poland; Portugal; Romania; Slovakia; Slovenia; Spain; Sweden and the United Kingdom.
- 27.** Official Journal of the European Communities (O.J.) No L 364/7, 12.12.1992.
- 28.** Communication from the Commission on the interpretation of Council Regulation (EEC) No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) Brussels, 22.4.2014 COM(2014) 232.
- 29.** Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the interpretation of Council Regulation No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) of 22.12.2003, COM(2003)595.
- 30.** Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions updating and rectifying the Communication on the interpretation of Council Regulation No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) of 11.5.2006, COM(2006)196.
- 31.** <http://ec.europa.eu/eurostat/en/web/products-manuals-and-guidelines/-/KS-BI-03-002>.
- 32.** See, article 3 of the Agreement at <http://asean.org/storage/images/archive/documents/Inter-State%20Transport%20Agreement.pdf>.
- 33.** [https://www.unescap.org/sites/default/files/Pub\\_1988\\_Ch5.pdf](https://www.unescap.org/sites/default/files/Pub_1988_Ch5.pdf).
- 34.** Trans-African cabotage is defined in the Charter to mean “the exercise of maritime transport and related activities between ports of Member States”.





and 15 countries reported “reflagging restrictions.”<sup>53</sup>

States identified in the MARAD survey with exclusionary laws are depicted on the world map above. The states are:

Algeria, Argentina, Australia, Bahamas, Brazil, Bulgaria, Canada, Chile, China, Colombia, Ecuador, Egypt, Finland, France, Germany, Greece, Honduras, Hungary, India, Indonesia, Italy, Japan, Malaysia, Malta, Mexico, New Zealand, Peru, Philippines, Poland, Romania, Saudi Arabia, South Korea, Spain, Sweden, Taiwan, Thailand, Uruguay, USSR, Venezuela, Yugoslavia.

#### **MARITIME UNION OF AUSTRALIA AND THE ITF**

In March 2010, the Maritime Union of Australia and the ITF jointly produced a report: “Maritime Cabotage: A Global Analysis. Including Cabotage Campaigning Tools.”<sup>54</sup>

For the purposes of the report, cabotage systems were categorised according to five key features:

- “1. The strength and complexity of linkages between cabotage law and broader “cross cutting” national policy goals. ...
2. Restrictions governing the ship registration, licensing, ownership and who can crew aboard approved ships.
3. The extent to which regulations allow for the reflagging of foreign vessels and/or the use of vessels not normally authorised for cabotage.
4. The types of maritime activities covered by national cabotage systems: universal vs selective.
5. Strength of institutional and political support for cabotage.”<sup>55</sup>

In so far as the survey was concerned with the number of states with cabotage, it found that:

# CHAPTER 3

## PREVIOUS RESEARCH

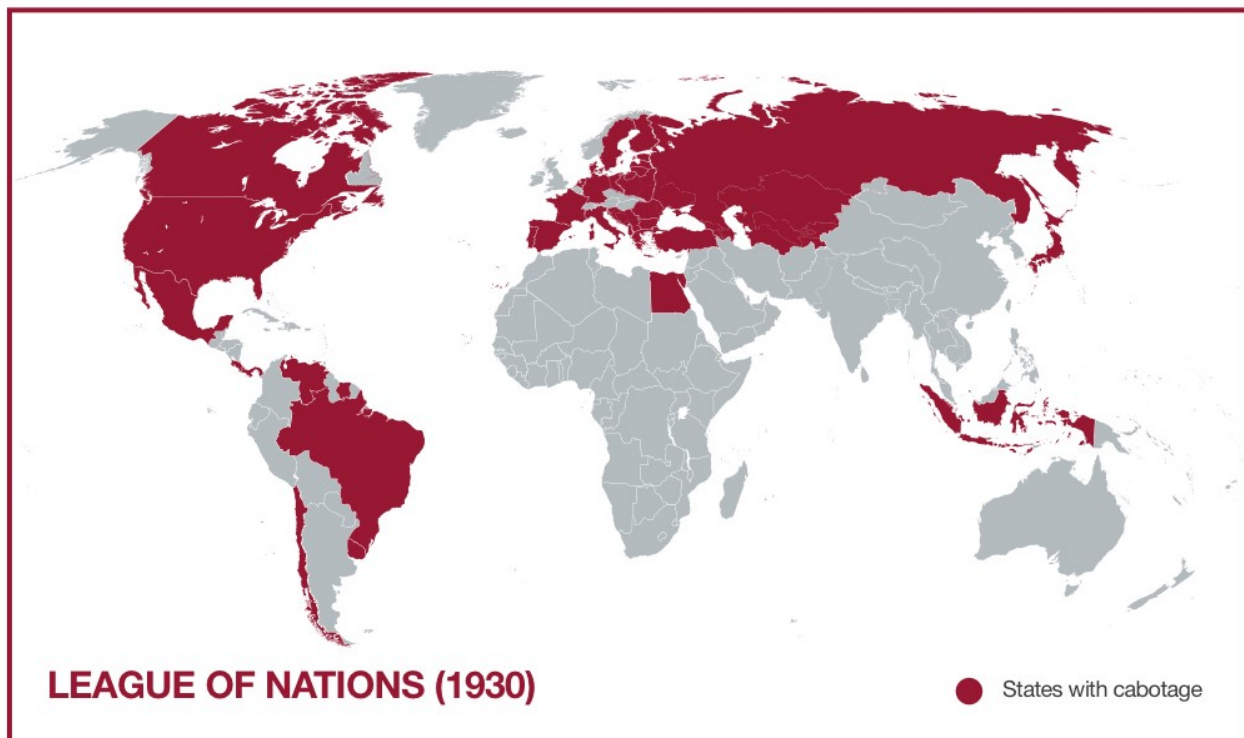
**S**ome previous publications have described states with cabotage. These publications typically refer to “some” states or “many” states having cabotage; occasionally the publications state actual numbers of states having cabotage.<sup>46</sup>

At least three significant surveys have identified states and territories with cabotage. These surveys were conducted by the League of Nations in 1930; the US Maritime Administration in 1991; and the Maritime Union of Australia and the ITF in 2010. The three surveys had different objectives and accordingly adopted different methodologies.

This Chapter sets out the findings of the three surveys, while reference is made in Chapter 6 to some other significant publications that also give some consideration to the number of states with cabotage.

### LEAGUE OF NATIONS

In 1930, the League of Nations through its Advisory and Technical Committee for Communications and Transit sent to Governments a circular letter dated January 17, 1930 containing an “Enquiry concerning the meaning attached to the term “coasting trade” in the various countries”, and the laws and practices relating thereto.<sup>47</sup>



CABOTAGE LAWS OF THE WORLD

42 [Distributed to the Council and the Members of the League.]

Official No. : C. 195. M. 78. 1931. VIII.  
[C.C.T.476.]  
[C.C.T./P. & M./48.]  
Geneva, April 8th, 1931.

LEAGUE OF NATIONS

Advisory and Technical Committee for Communications and Transit

SEAFARERS' RIGHTS INTERNATIONAL

PREVIOUS RESEARCH

PORTS AND MARITIME NAVIGATION

ENQUIRY CONCERNING THE MEANING ATTACHED TO THE TERM "COASTING TRADE" IN THE VARIOUS COUNTRIES.

In accordance with the request of the Advisory and Technical Committee for Communications and Transit, the Secretary-General of the League of Nations forwarded to Governments, under date of January 17th, 1930, a circular letter, as follows :

[C.L.5.1930.VIII.]

Geneva, January 17th, 1930.

At the request of the Chairman of the Advisory and Technical Committee for Communications and Transit, the Secretary-General has the honour to inform the . . . Government that the Advisory and Technical Committee, when examining the action to be taken on the work of the Third General Conference on Communications and Transit held at Geneva in August and September 1927, decided to refer for examination to its Permanent Committee on Ports and Maritime Navigation the question raised by the Japanese delegate in regard to the problem of maritime coasting trade. The Japanese delegate's proposal, as set forth in a subsequent memorandum addressed to the Chairman of the Advisory and Technical Committee, is that an enquiry should be made concerning the meaning which the different States attach to the term "coasting trade", and the laws and practices relating thereto.

In order to facilitate enquiries to be made by the Committee on Ports and Maritime Navigation, the Chairman of that Committee desires first to collect information, and, to this end, the Secretary-General has the honour to forward to the . . . Government a questionnaire on the subject of coasting trade. He would be very grateful if the reply could reach him before September 1st, 1930.

QUESTIONNAIRE.

- 1. What are the laws prescribing, limiting or defining the vessels that may be employed in the "coasting trade"? Could a summary be given of such laws, regulations or other rules as



same country. It involves different operations and different services serving the domestic, intra-regional and international markets. Service patterns vary depending on whether cabotage is part of a hubs-and-spoke network or a regional short sea service”.

The OECD glossary of statistical terms defines cabotage as:

“Sea transport between two ports (a port of loading/embarkment and a port of unloading/disembarkment) located in the same country irrespective of the country in which the seagoing vessel is registered. Cabotage (maritime context) can be performed by a seagoing vessel registered in the reporting country or in another country. One port transport is included.”<sup>41</sup>

Although the reference to “one port transport” is most unusual, there can be occasions, as explained later in Chapter 5, where a state with only one port can nonetheless reserve certain cabotage trades, services and activities.

### DEFINITIONS IN SOME PREVIOUS RESEARCH

Chapter 3 discusses three significant studies that have identified states and territories that restrict some, or all, foreign flagged ships from conducting cabotage.

In the survey conducted by the League of Nations in 1930, some of the difficulties in defining cabotage were avoided by referring to “coastal trade”. The questionnaire forwarded to governments was described as an “enquiry ... concerning the meaning which the different States attach to the term “coasting trade”, and the laws and practices relating thereto.”<sup>42</sup> The term “coasting trade” was not defined.

A different approach was adopted in the survey conducted by US Maritime

Administration in 1991. Here, it was stated that:

“The word CABOTAGE is derived from the French word ‘caboter’ which means to sail coastwise, or ‘by the capes.’ As it is used here, it refers to a body of law that deals with the right to trade or transport in coastal waters or between two points within a country. A country’s cabotage laws are designed primarily to guarantee the participation of its citizens in its own domestic trade. This is done to guarantee a strong national flag merchant marine for defense, employment, and general economic purposes. Where these protections are not provided by law, they are often a feature of the national business ethic.

These legal preferences are expressed in a variety of ways. In addition to traditional cabotage restrictions, many nations limit the transport of all or part of the cargo moving in their trade to national flag vessels. They also provide construction and operating subsidies, as well as government loans and loan guarantees to their shipyards and shipping companies. Special tax treatment is often allowed for vessels and operating equipment. Other benefits include free medical care and training for seamen.”<sup>43</sup>

In the Report produced by the Maritime Union of Australia and the ITF in 2010, maritime cabotage was defined as:

“the legal regulation of commercial shipping operating exclusively within the nation’s territorial waters. Cabotage laws and regulations set out the conditions governing which vessels may engage in coastal trade. These conditions can relate to a range of factors including: ship registration and ownership; composition of the crew; origin of the ships; and the

## CHAPTER 3 ENDNOTES

In accordance with the request of the Advisory and Technical Committee for Communications and Transit, the Secretary-General of the League of Nations forwarded to Governments, under date of January 17th, 1930, a circular letter, as follows :

**46.** Some other studies have also made mention of the number of states with restrictions on cabotage. See, for example, Torunn Kvinge and Anne Mette Odegard "Protectionism or legitimate protection? On public regulation of pay and working conditions in Norwegian maritime cabotage" 2010.

**47.** See League of Nations, Enquiry Concerning the Meaning Attached to the Term "Coasting Trade" in the Various Countries. League of Nations, 1930. The questionnaire contained the following questions: "1. What are the laws prescribing, limiting or defining the vessels that may be employed in the "coasting trade"? Could a summary be given of such laws, regulations or other rules as are in force? 2. If the coasting trade is reserved for the national flag: (a) Is it absolutely reserved? (b) Is the right to engage in the coasting trade granted in certain cases to other flags temporarily, or permanently? If so, to the flags of what States has it been granted and on what treaties or agreements is it based? And under what condition as to reciprocity? 3. Do vessels under the national flag employed in coasting trade enjoy preferential treatment? If so, in what form (for instance, reduction of harbour dues, towage charges, pilotage dues, lighthouse charges, etc.)? 4. Do goods carried in the coasting trade under the national flag enjoy preferential treatment? If so, on what routes and under what condition (for instance, reduction of Customs duties in cases where the coasting trade might include carriage of goods between separate Customs territories)?"

**48.** May 22, 1991.

**49.** June 1991.

**50.** By the Capes Around the World. A Summary of World Cabotage Practices, May 22, 1991

**51.** A Survey of World Cabotage Laws, Summary of Responses from Countries, June 1991, page 4.

**52.** *ibid*, page 8.

**53.** By the Capes Around the World. A Summary of World Cabotage Practices. How It's Done.

**54.** The report was created to highlight the prevalence of cabotage around the world and act as a campaign resource. As such, countries were included to highlight the variation in cabotage regimes and provide examples of the most successful/well supported. MARAD survey results were included; as well as WTO data; and interviews were conducted with the representatives of seafarers' unions in certain countries.

**55.** "Maritime Cabotage: A Global Analysis. Including Cabotage Campaigning Tools" (March, 2010) at page 9.

**56.** *ibid*, page 3.

**57.** *ibid*, page 72



# CHAPTER 4

## STATES WITHOUT CABOTAGE

The survey initially considered all 193 member states of the United Nations.<sup>58</sup> Various states were then excluded from the survey on geographical grounds, namely states that are landlocked and states that have only one port and are not capable of having cabotage as traditionally and most generally understood.

From the remaining 140 states, other states were also excluded on legal grounds if they had no cabotage laws or if their cabotage laws were deemed not to be sufficiently significant.

### STATES WITHOUT CABOTAGE ON GEOGRAPHICAL GROUNDS

States were excluded from the survey on the ground of being landlocked. Although cabotage can occur in inland waters, if a state is landlocked without a seaport, its actual or potential cabotage as generally understood was deemed insufficiently significant for the purposes of the survey.

States were also as a general rule excluded from the survey if they had only one port; although as mentioned earlier, some definitions of cabotage include one port cabotage and some cabotage trades, services and activities can be undertaken in or around one port. The decision to exclude a one port state depended on whether the state's cabotage laws and actual cabotage trade, services or activities were deemed to be sufficiently significant for the purpose of the survey. Views on whether

or not a state should be excluded may reasonably differ.

### STATES WITHOUT CABOTAGE ON LEGAL GROUNDS

Advice was sought from practising lawyers in each of the 140 states included in the survey for the purpose of identifying cabotage laws. States were considered not to have cabotage either if there were no relevant cabotage laws, or if cabotage laws existed but were deemed to be insufficiently significant. To deem cabotage laws insufficiently significant is a matter of judgment in respect of which lawyers and others may reasonably disagree. Here, a few examples of states excluded on legal grounds are mentioned in very brief and general terms.

In Norway cabotage exists to a very limited extent. Legislation requires a work permit for non-EEA nationals serving on board non-EEA registered ships in coastal cabotage for an uninterrupted period of more than three months without calling at a non-Norwegian port. Furthermore, a vessel must have a route permit if it carries more than 12 persons on regular routes between Norwegian ports;<sup>59</sup> and anyone awarded a permit through competition must ensure that those employees who work directly in fulfilling the contract receive wages and working conditions which are not worse than those that follow from current nationwide tariff agreements.<sup>60</sup> And, regarding wages and working conditions in public contracts,



Forty-five replies were received to the circular letter. The enquiry conducted by the League of Nations contains extracts from replies of the Governments and territories. There is no analysis of the contents of the extracts. It would appear however that 33 of the respondents to the enquiry reported that they reserved cabotage for national or regional flagged ships, while 12 respondents reported that they did not restrict their maritime cabotage trades.

States and territories identified in the League of Nations survey that reserved cabotage are:

Albania, Brazil, Bulgaria, Canada, Chile, Costa Rica, Danzig (under League of Nations protection), Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Italy, Japan, Latvia, Mexico, The Netherlands, The Netherlands Indies (Territory of the Netherlands), Surinam (Territory of the Netherlands), Panama, Poland, Portugal, Romania, Spain, Sweden, Turkey, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela, Yugoslavia.

### **MARITIME ADMINISTRATION OF THE US DEPARTMENT OF TRANSPORT**

In 1991, the Maritime Administration of the U.S. Department of Transportation (MARAD) published "By the Capes Around the World. A Summary of World Cabotage Practices"<sup>48</sup> and "A Survey of World Cabotage Laws: Summary of Responses from Countries."<sup>49</sup> These publications described a detailed study carried out by MARAD in order to find out as much information as possible about national flag preferences in regard to cabotage.

MARAD selected 56 countries as a basis for a detailed study of the nature and kind of national preferences and their legal provisions. Countries selected to be included in the survey met one or more of the following four criteria: "an oceangoing fleet of at least 50 national flag vessels of 1,000 deadweight tons or more; coastal shores connecting to international waters; an established government without a major armed conflict which maintains

diplomatic relations with the United States; and existence of MARAD political or commercial interest."<sup>50</sup>

MARAD, through the State Department, contacted foreign officials and solicited information on the various aspects of the cabotage laws of their countries including: extent of restrictions, agencies that enforce cabotage, provisions for waivers and reciprocity agreements, public policy objectives served, subsidies for operation and construction of vessels, crewing and ownership requirements, and reflagging provisions that might allow vessels to move into and out of a country's cabotage service in spite of a change in registry.

Fifty-three countries responded to MARAD's request. The MARAD survey stated that:

"Of the 53 respondents, 40 report that their countries have laws that use national preference as the basis for permitting entry into their domestic waterborne trades; that is, they have exclusionary laws comparable to the U.S. Jones Act. In addition, 7 report non-exclusionary laws that do not automatically exclude foreign vessels but do favour national-flag vessels to various degrees. The respondents of 6 countries report no restrictions whatsoever ... Countries with exclusionary restrictions are countries whose respondents indicated that cabotage laws are utilised to various degrees to exclude foreign nationals from domestic trade and thus maintain national control".<sup>51</sup> Countries with non-exclusionary restrictions "... disclaim the use of cabotage laws, but they nevertheless impose restrictions that limit, or ... have laws that may limit, entry of foreign vessels into coastwise trade."<sup>52</sup>

In addition, the survey reported that 17 countries "provide some sort of direct domestic fleet subsidy", 13 countries "provide indirect subsidies", 43 countries report some crewing restrictions, 37 countries "have ownership provisions", six countries have "domestic construction requirements",

### **CABOTAGE LAWS OF THE WORLD**

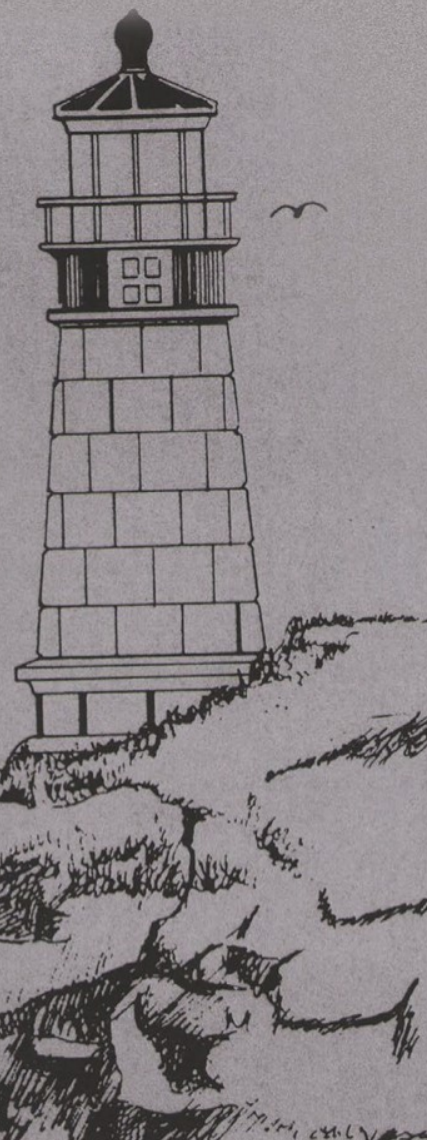


“Cabotage, in all its various forms, is widespread amongst the world’s maritime nations. Among the members of the World Trade Organisation, there are at least 30 maritime nations with well developed systems of cabotage.”<sup>56</sup> and ... “Maritime cabotage laws are found, in some form, in most of the world’s major maritime nations and in most nations with significant domestic coastal shipping trade”; ... “Excluding European nations ... at least 35 nations have in place some form of maritime cabotage. If we count in the EU, as a form of regional cabotage, there are most probably over 50 maritime nations where cabotage regimes affect the conduct of coastal shipping services.”<sup>57</sup>

The three surveys considered in this Chapter had, as mentioned above, different objectives and accordingly adopted different methodologies. It is therefore understandable that each survey determined a somewhat different list of states with cabotage. The surveys are now, to some extent, out of date.

Some laws have changed and some states have changed. In any event, any list of states with cabotage is inherently dynamic. The unique approach adopted in this Report has, for the reasons to be explained in Chapter 5, determined a different – and much longer – list of states with cabotage.

## *A Survey of World Cabotage Laws: Summary of Responses from Countries*



it is required that, when the Government enters into service contracts (including transport) that exceed specified threshold values, Norwegian working and living conditions set out in a national CBA shall apply, also for sub-contractors.<sup>61</sup>

In Panama, article 43 of Law No. 56 of 2008 provides as follows:

“The Maritime Authority of Panama shall authorise the issue of Operations Licences to any natural or legal person wishing to provide maritime services to ship, cargo or passengers, subject to the terms, conditions and procedures provided for in this Law and in the applicable regulations.

At least 90% of the crew of ships which provide auxiliary maritime services in territorial waters must be Panamanian”.  
(SRI translation).

The requirement that 90% of the crew of ships must be Panamanian appears to be the sole restriction for any ship whether national or foreign and is therefore not deemed to be a sufficiently significant restriction for the purposes of this Report.

In New Zealand, section 198 of the Maritime Transport Act 1994 provides that:

“(1) No ship shall carry coastal cargo, unless the ship is—  
(a) a New Zealand ship; or  
(b) a foreign ship on demise charter to a New Zealand-based operator who employs or engages a crew to work on board the ship under an employment agreement or contract for services governed by New Zealand law; or  
(c) a foreign ship—  
(i) that is passing through New Zealand waters while on a continuous journey from a foreign port to another foreign port, and is stopping in New Zealand to load or unload international cargo; and  
(ii) whose carriage of coastal cargo is incidental in relation to the carriage of the international cargo”.

That a foreign ship may carry coastal cargo incidental to the carriage of international cargo in practice only prevents foreign vessels and crews from being based in New Zealand to operate a purely domestic trade or service. That is a restriction; but it is deemed to be insufficiently significant for the purposes of this Report.

A further example of cabotage law deemed to be insufficiently significant is found in the Maldives. Here, under section 2(b) of the Regulation Governing Foreign Tourist Vessels Cruising and Harbours in Maldivian Waters,<sup>62</sup> “Foreign Tourist Vessels entering and harbouring in the Maldives shall obtain the required permits and authorisations from all relevant Government authorities and shall obtain the permission of the Ministry of Tourism, Arts and Culture as provided in this Regulation, prior to cruising or harbouring in Maldivian waters” (SRI translation). Although no such permit or authorisation appears to be required in respect of national vessels when cruising, harbouring or entering the Maldives, the implied reservation in respect of national vessels was deemed to be insufficiently significant.

States without cabotage on geographical grounds and/or legal grounds are depicted on the world map as follows:

The states are:

Afghanistan, Andorra, Armenia, Austria, Azerbaijan, Bahamas, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Denmark, Djibouti, Dominica, El Salvador, Eritrea, Eswatini (the Kingdom of), Ethiopia, Gambia (Republic of The), Guatemala, Guinea, Hungary, Iceland, Iran (Islamic Republic of), Iraq, Ireland, Kiribati, Kyrgyzstan, Lao People’s Democratic Republic, Latvia, Lesotho, Liberia, Libya, Liechtenstein, Luxembourg,

#### CABOTAGE LAWS OF THE WORLD





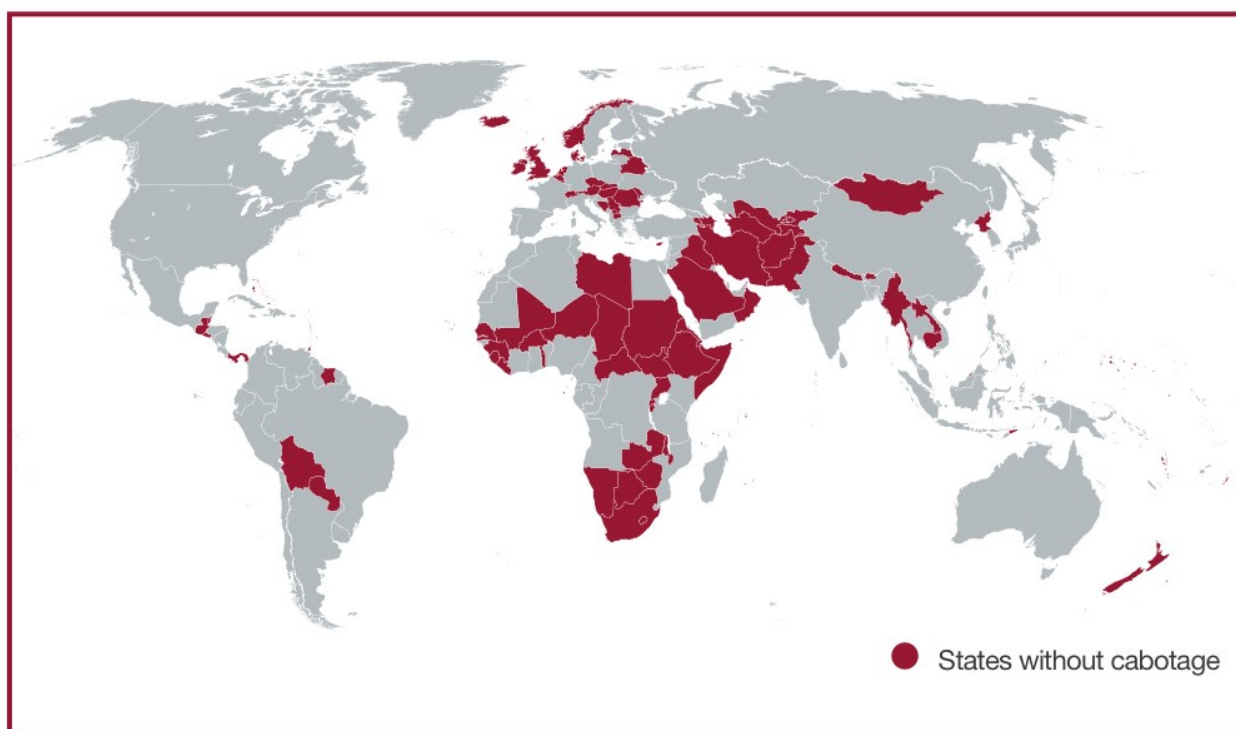
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**STATES WITHOUT  
CABOTAGE**



Malawi, Maldives, Mali, Malta, Marshall Islands, Micronesia (Federated States of), Monaco, Mongolia, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Niger, Norway, Oman, Pakistan, Palau, Panama, Paraguay, Republic of Moldova, Romania, Rwanda, Saint Kitts and Nevis, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra

Leone, Singapore, Slovakia, Somalia, South Africa, South Sudan, Sudan, Suriname, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Turkmenistan, Tuvalu, Uganda, United Kingdom of Great Britain and Northern Ireland, Uzbekistan, Vanuatu, Zambia, Zimbabwe.



## CHAPTER 4 ENDNOTES

**58.** The dependent territories of the states were not included.

**59.** See section 7 of the Law on professional transport by motor vehicle and vessel (Date LOV-2002-06-21-45); See also sections of the Rule on wages and working conditions in public contracts.

**60.** See section 8(5) of the Law on professional transport by motor vehicle and vessel (Date LOV-2002-06-21-45).

**61.** See § 5 of the Rule on wages and working conditions in public contracts (Date FOR-2008-02-08-112).

**62.** Implemented on 01 March 2008. This Regulation is enacted by the Ministry of Tourism, Arts and Culture pursuant to Section 24 of Law No. 2/99 (Maldives Tourism Act) in order to regulate Foreign Tourist Vessels cruising and harbouring in Maldivian waters.

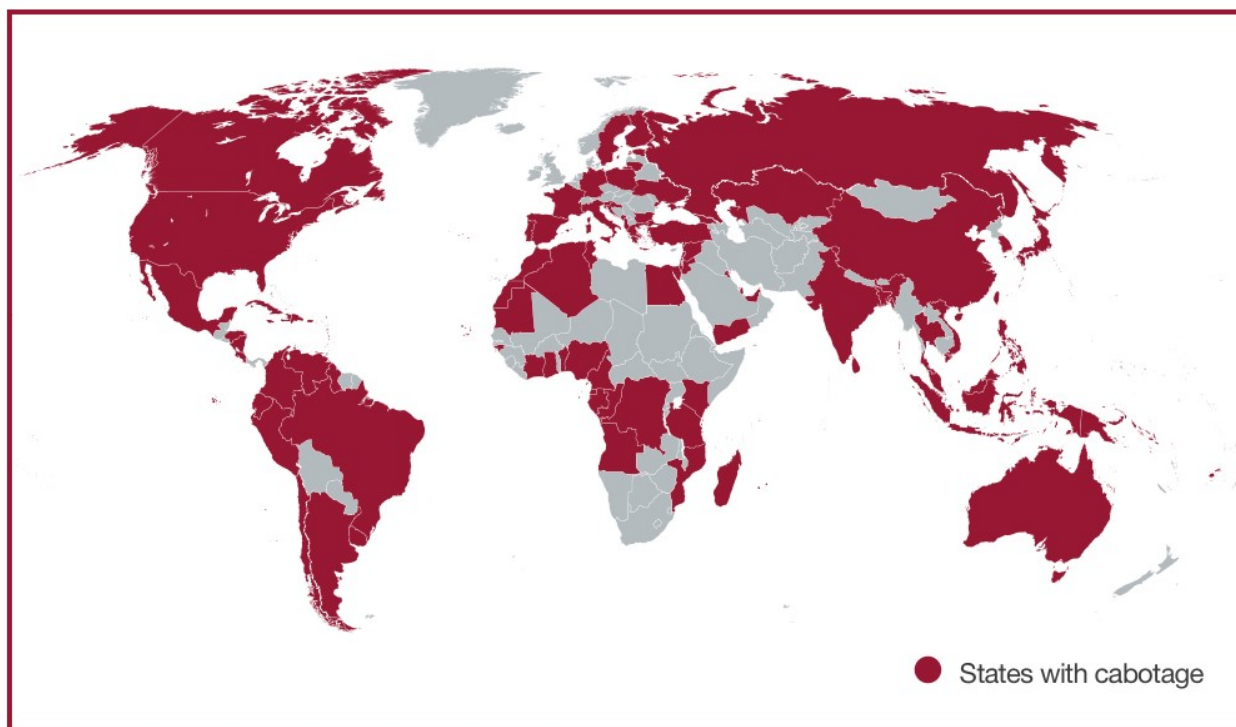
CABOTAGE LAWS OF THE WORLD



# CHAPTER 5 STATES WITH CABOTAGE

**O**f the states surveyed, 91 states were identified as having cabotage laws deemed to be sufficiently significant for the purposes of this Report. These states are depicted on the world map as follows:

Democratic Republic of the Congo, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Estonia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Grenada, Guinea Bissau, Guyana, Haiti, Honduras, India, Indonesia, Israel, Italy, Jamaica, Japan,



The states are:

Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Bahrain, Bangladesh, Benin, Brazil, Bulgaria, Cabo Verde, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte D'Ivoire, Croatia, Cuba,

Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Lithuania, Madagascar, Malaysia, Mauritania, Mauritius, Mexico, Montenegro, Morocco, Mozambique, Nicaragua, Nigeria, Papua New Guinea, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Russian Federation, Saint

CABOTAGE LAWS OF THE WORLD

Lucia, Saint Vincent and the Grenadines, Samoa, Slovenia, Solomon Islands, Spain, Sri Lanka, Sweden, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Yemen.

The map clearly illustrates the very wide geographic spread of cabotage around the world. Cabotage spans all geographic regions of the world, including Africa, the Americas, Asia, Europe and Oceania. The map also clearly illustrates that cabotage, being essentially concerned with coastwise trade, covers a substantial majority of the coastlines of the world. More specifically, cabotage exists along the coastlines of about 80% of the world when comparing the coastlines of states with cabotage as opposed to states without cabotage.<sup>63</sup>

Further cabotage exists in 70% of states that are members of the Council of the IMO, that is 28 out of 40 states. IMO Council states are identified either in Category A as “states with the largest interest in providing international shipping services”; or in Category B as “states with the largest interest in international seaborne trade”; or in Category C as “states which have special interests in maritime transport or navigation”.

A study of the 91 states with cabotage also illustrates that cabotage spans many political, economic and legal systems. Furthermore, there is great diversity amongst states regarding many aspects of cabotage. Diversity exists, for example, regarding definitions of cabotage; types of reservations and restrictions applied; types of vessels covered; maritime zones and areas covered; types of trades, services and activities covered; and the implementation and enforcement of cabotage laws. This diversity appears to be derived from the endeavours of states to tailor their cabotage laws very specifically to meet their own and

frequently unique national interests and needs. Some of the relevant laws in the 91 states with cabotage are set out at the front of this Report. The list of states with cabotage is neither fixed nor closed. A state’s policies and laws may evolve and are subject to change. And as already explained, it is always open to lawyers to disagree amongst themselves as to the interpretation of the laws discussed and listed in this Report.

## DIVERSE DEFINITIONS

National laws define cabotage or define other terms such as coastal trade, coasting trade, coastwise trade or domestic trade instead of cabotage. The definitions range from the simple to the sophisticated, each tailor made to suit the particular circumstances of the state concerned.

Definitions of cabotage are often determined partly in association with particular voyages. For example, in India, the “coasting trade” is defined as “the carriage by sea of passengers or goods from any port or place in India to any other port or place on the continent of India”.

Similarly, in Thailand, “trading in Thai waters” means “... transportation of passengers or objects or pulling objects from any port or place to other port(s) or place(s) within the Thai waters, for commercial purpose” (*SRI translation*).

“Cabotage” in Venezuela is “the navigation between two points and ports in which the Bolivarian Republic of Venezuela exercises its sovereign power and jurisdiction. Cabotage will be mandatorily performed in vessels registered in the Venezuelan Naval Registry, without prejudice to that established in the international conventions or treaties adopted by the Bolivarian Republic of Venezuela”. (*SRI translation*).

“Cabotage navigation and trade” is defined

## CABOTAGE LAWS OF THE WORLD









in Uruguay legislation as: "... trade carried out between ports of the Republic, as well as port and beach services, operations of salvage and lightening and those carried out by tugboats, launches and other smaller vessels in waters under Uruguayan jurisdiction, are reserved for national flag vessels". (*SRI translation*).

In Canada, section 2 of the Coasting Trade Act 1992 provides that:

"coasting trade" means (a) the carriage of goods by ship, or by ship and any other mode of transport, from one place in Canada or above the continental shelf of Canada to any other place in Canada or above the continental shelf of Canada, either directly or by way of a place outside Canada, but, with respect to waters above the continental shelf of Canada, includes the carriage of goods only in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada".

In Russia, pursuant to the Merchant Shipping Code, it is stated that: "4(1). Carriage and towing in the traffic between seaports of the Russian Federation (cabotage) shall be effected by ships sailing under the State Flag of the Russian Federation". (*SRI translation*). And article 4(2) goes on to specify that:

"The activities connected with icebreaker assistance, search, rescue and towing operations, salvage of property at sea, hydraulic engineering, underwater engineering and other similar works in the inland sea waters or in the territorial sea of the Russian Federation shall be exercised by ships sailing under the State Flag of the Russian Federation" (*SRI translation*).

And, in the Philippines, section 4 of the Republic Act No. 10668 law provides that:

"A foreign vessel:

(a) Arriving from a foreign port, shall be allowed to carry a foreign cargo to its Philippine port of final destination, after being cleared at its port of entry; (b) Arriving from a foreign port, shall be allowed to carry a foreign cargo by another foreign vessel calling at the same port of entry to the Philippine port of final destination of such foreign cargo; (c) Departing from a Philippine port of origin through another Philippine port to its foreign port of final destination, shall be allowed to carry a foreign cargo intended for export; and (d) Departing from a Philippine port of origin, shall be allowed to carry a foreign cargo by another foreign vessel through a domestic transshipment port and transferred at such domestic transshipment port to its foreign port of final destination".

Often national laws do not set out self-contained definitions in one section of the legislation but require a close interpretation of many different interrelated sections. In such cases, the meaning of cabotage must be constructed with reference, for example, to the types of reservations and restrictions; the types of vessels; the maritime zones and areas; the types of trades, services and activities; and the implementation and enforcement of cabotage.

## **TYPES OF RESERVATIONS AND RESTRICTIONS**

Cabotage laws typically "reserve" or "restrict" many diverse matters that states consider to be within their jurisdiction. Shipping services between domestic ports may, for example, be required to be carried out by national flagged, domestically owned, operated, built and/or crewed ships. Sometimes, the reservations or restrictions are said to be exclusively in favour of national ships. Alternatively, foreign ships may

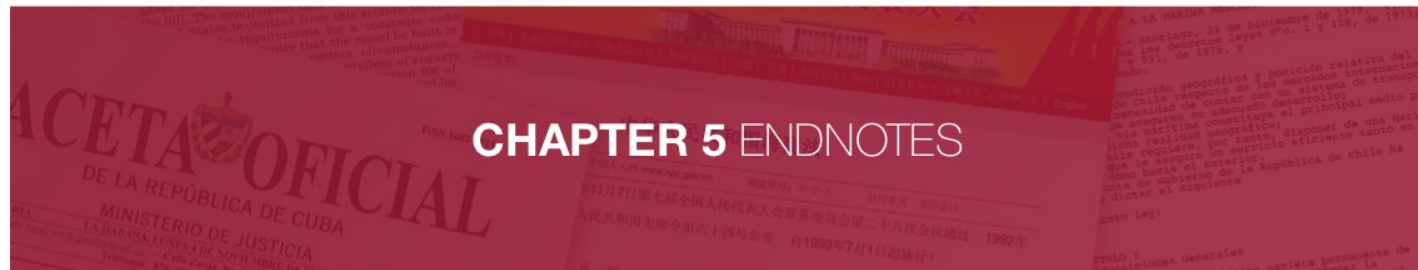


In China, enforcement may also take the form of an order to stop the conduct of cabotage; and if “illegal gains” (*SRI translation*) exist, they “shall be confiscated” (*SRI translation*); and, depending on the amount of the illegal gains, a fine of a certain amount may be imposed. Refusal to stop business operations will result in rejection from the port; and investigation for criminal liability may also ensue.

Insurance is also sometimes a requirement. Foreign ships trading in Antigua and Barbuda waters, for example, must carry insurance cover against risks of loss or damage to third parties. Similarly, every foreign ship trading in Grenadian waters, or Jamaican

waters, or Saint Lucian waters must provide evidence of financial responsibility against risks of damage to third parties, in such manner as may be prescribed.

Finally, interested third parties within a state may themselves take legal proceeding (in some states by way of a writ of mandamus), against the competent authority to compel proper and/or full enforcement of the cabotage laws. The jurisprudence of Brazil, for instance, provides examples of writs of mandamus, concerning the authorisation of foreign vessels to operate in Brazil and/or in relation to issues concerning the application of cabotage law.<sup>64</sup>



63. CIA World Factbook and the World Resources Institute.

64. See, for example, Writ of Mandamus no. 1009626-84.2016.4.01.3400 (5th Federal Court of the Federal District; Writ of Mandamus no. 1004259-79.2016.4.01.3400 (14th Federal Court of the Federal District; Proceedings no. 003.667/2018-9 at the Brazilian Federal Court of Audit; and Administrative Proceedings no. 08700.00678/2018-44 before the Brazilian Council of Economic Defence.



be prohibited from engaging in cabotage, or they may be permitted to conduct cabotage under certain conditions. In Brazil, for example, the law provides that: "... foreign vessels may only participate in freight transport in coastal shipping and the national route inland, as well as port support navigation and maritime support navigation, when chartered by Brazilian shipping companies". (*SRI translation*), subject to other provisions in the law.

Cabotage laws may strictly stipulate that cabotage will or shall be performed by national flagged ships. On other occasions, the trade, service or activity may be specified, but without indication as to the maritime zones or areas.

A very common reservation or restriction requires a ship to fly the flag of the state concerned and/or to be registered in the state. So, for example, maritime transport and towage services between the ports of China "shall be undertaken by ships flying the national flag of the People's Republic of China, ...". (*SRI translation*) and in another law, it is further stipulated that: "Foreign international shipping operators may not operate the shipping business between Chinese ports, neither may they operate the shipping business between Chinese ports in disguised forms such as using the rented Chinese ships or shipping space, or exchanging the shipping space, etc.". (*SRI translation*).

Carriage and towing between the seaports of the Russian Federation shall, as mentioned above, be effected by "ships sailing under the State Flag of the Russian Federation". (*SRI translation*). And in Argentina it is stipulated that: "National cabotage navigation, communication and trade shall be carried out solely by Argentine vessels". (*SRI translation*).

Similarly, in Lebanon, coastwide trading is reserved for "Lebanese vessels"; while in Algeria, commercial shipping between Algerian ports is also reserved

for "the national flag". (*SRI translation*).

Another common reservation or restriction is that ships employed in cabotage must be owned by citizens of the state concerned. In Nigeria, among other requirements, a vessel "other than a vessel wholly owned by a Nigerian citizen" shall not engage in cabotage.

Likewise, only Tanzanian ships may be engaged in local trade in Tanzanian waters and no ship may be registered in Tanzania unless it is "wholly owned by persons qualified to own a Tanzanian ship, namely -

- (a) nationals of Tanzania;
- (b) individuals or corporations owning ships hired out on bareboat Tanzanian charters to nationals of Tanzania;
- (c) individuals or corporations in bona fide joint venture shipping enterprise relationships with nationals of Tanzania as may be prescribed;
- (d) such other persons as the Minister may by Order, specify".

The "carriage of goods and passengers by sea between national ports, including in support of petroleum activities, in Angola, is exclusively reserved to national citizens". (*SRI translation*).

Reservations regarding the manning of vessels are also common. A percentage of nationals or residents of the state may be required to crew the vessels. A state may also require different percentages regarding officers and crew, while reference may also be made for the application of CBAs. In Nigeria, the vessel must be "wholly manned by Nigerians", which means that "... all the shipboard officers and crew employed aboard the vessel are exclusively of Nigerian citizenship". In Chile, the ship conducting cabotage must be Chilean "that is commanded by captain and Chilean officers and the crew at least three-quarters are Chilean". And, in Uruguay, a vessel flying the national flag must have a crew of Uruguayan citizens up to 90% including captain, chief engineer and radioman.

## CABOTAGE LAWS OF THE WORLD

# CHAPTER 6

## POLICY OBJECTIVES

**F**ew states set out publicly the policy objectives underpinning their cabotage laws. The approach adopted in this Chapter is first, to reflect the policy objectives that were found in some of the previous research; second, to set out some government policies that are publicly available; and finally, to draw reasonable inferences from contemporary cabotage laws regarding policy objectives and to summarise these policy objectives. This Report does not determine the extent to which states are successful in achieving the aims set out in their policy objectives.

### PREVIOUS RESEARCH

In the MARAD report it is stated that:

“The countries included in the survey were asked what policy (sic) was served by their maritime policies. The responses included statements such as, ‘to develop a merchant marine,’ ‘to give preference to Australian labor and industry,’ ‘to generate employment for Bahamian nationals,’ ‘to support national security,’ and ‘to protect the domestic economy.’ Clearly, these maritime nations value their merchant fleets and are not willing to turn this vital activity over to foreign hands.”<sup>65</sup>

The report jointly produced by the Maritime Union of Australia and the ITF provides that:

“Cabotage is capable of supporting a broad range of national policy goals. Some national cabotage systems have narrow policy focuses.

Other cabotage systems are part of more broader and integrated policy frameworks. Integrated Cabotage systems are used to support a broad range of policy goals such as: Development of maritime industry capacity, National Security & defence preparedness, Parity of employment conditions with the other industries operating within national borders and legal frameworks, National transport, Safety and environmental policy objectives, Merchant marine capability, Foreign reserve earning capacity and retention of revenues through seafarers taxation”.<sup>66</sup>

Criticism is frequently levelled against cabotage especially on the grounds of free trade, competition and connectivity between states. On the other hand, the criticism is refuted and cabotage promoted especially on the grounds of national fleet development, employment of nationals and national defence.<sup>67</sup> To enter this debate is not, as previously explained, within the terms of reference of this Report.

### DECLARED POLICY

In the US, the preamble to the Jones Act states:

“That it is necessary for the national defence and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or





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undermining of small and medium-sized national cargo transport companies; preserving the variation of the nation's logistics system and national security; and ensuring fair treatment on a reciprocal basis for Korean flagged ships where cabotage is prohibited in other countries.<sup>70</sup>

In Russia, it appears that the policy is prescribed in two main acts: the "Maritime doctrine of the Russian Federation for the period until 2020"<sup>71</sup> and a Resolution of the Government of the Russian Federation<sup>72</sup> "On the special federal program Russian transport system development for the period 2010-2020."<sup>73</sup> The first document states that the main objectives of the national marine policy of the Russian Federation are:

"... preservation of sovereignty in the internal sea waters, territorial sea and airspace above them, on the bottom and in the subsoil thereof; realisation of jurisdiction and protection of sovereign rights in the exclusive economic zone for exploration, development and conservation of natural resources, both living and inanimate, on the bottom, in its subsoil and in the covering waters, the management of these resources, production of energy using water currents and wind, creation and use of artificial islands, installations and structures, marine scientific research and preservation of the marine environment; realisation and protection of sovereign rights on the continental shelf of the Russian Federation for the exploration and development of its resources; realisation and protection of the freedom of the high seas including freedom of navigation, flights, fishing, scientific research, freedom to lay submarine cables and pipelines; and protection of the territory of the Russian Federation sea areas, the protection and safeguarding of the State border of the Russian

Federation of the sea and airspace above it". (SRI translation).

The policy objectives of Turkey have their roots in the Ottoman Empire that had granted certain rights and privileges (that is, capitulations) to some foreign countries in respect of maritime commerce and transportation. The capitulations and the cabotage rights of foreigners were gradually terminated following the Lausanne Peace Treaty dated 24 July 1923. In 1926, Law No. 815 was introduced to provide Turkish citizens with rights to maritime transportation. And, the policy objective was, and is, to develop the Turkish maritime sector and to contribute to the Turkish economy.<sup>74</sup>

Today, National Maritime and Cabotage Day celebrations take place in most big coastal cities of Turkey on July 1, every year. In 2018, on Cabotage Day, the Prime Minister Binali Yıldırım stated that: "Our government provides all kinds of facilities to increase the opportunities provided by our seas. We are undergoing reforms that will further improve our maritime business by optimally utilising the geopolitical position of our country, surrounded by three seas, enclosing two major straits within the borders and linking the continents." (SRI translation). And the Minister of Transport, Maritime Affairs and Communications said that:

"We pay great importance to the hoisting of the Turkish flag in commercial vessels. As a result of the adjustments we have made, we have determined the target of 6,000 vessels to hoist the Turkish flag. Today, 5,850 commercial vessels successfully carry the Turkish flag all over the world. We will continue to provide top-notch training to raise sailors for the world and to make the necessary adjustments in order to



Sometimes the reservations and restrictions are to be read conjunctively and are therefore cumulative requirements. In Nigeria, for example, the vessel must be wholly owned by a Nigerian citizen; and manned by Nigerians citizens; and built in Nigeria; and registered in Nigeria. Similarly, in Argentina, it is required that a ship, if it is to be authorised to engage in cabotage: must be registered in the national register; and must be crewed by an Argentinian captain and officers with Argentine qualifications; and a proportion of at least 25% of the crew on the log must be Argentinian; and the national official language must be used for verbal and written orders of command and for service of the vessel and for some other documents.

Finally, it should be observed that there may be reservations or restrictions explicitly regarding cabotage as well as other types of maritime activities - not defined as cabotage - that are also reserved or restricted. In Venezuela, there is “cabotage” and also “domestic navigation”. Cabotage is the “transport of merchandise, national or not, and the transport of persons between Venezuelan ports” (*SRI translation*), while domestic navigation is “every activity, other than cabotage, performed in jurisdictional waters of the Republic, such as fishing, dredging, sport recreational and tourist navigation, scientific activities” (*SRI translation*). Cabotage is compulsorily carried out by vessels registered before the Venezuelan Naval Registry; but the National Institute of the Aquatic Spaces may exceptionally grant, if required by an interested party, a “special license for vessels of foreign flag to perform cabotage or domestic navigation” (*SRI translation*)

### TYPES OF VESSELS

The types of vessels covered by cabotage are generally very broadly defined. Some states apply cabotage

to different types of vessels, employing closed lists or open lists of vessels. Australia appears to employ a mostly closed list. In the Coastal Trading (Revitalising Australian Shipping) Act 2012, section 10, it is stipulated that:

“This Act does not apply to or in relation to the following kinds of vessels:

- (a) a vessel belonging to, or operated by:
  - (i) the Australian Defence Force; or
  - (ii) the naval, military or air forces of a country other than Australia;
- (b) a Commonwealth vessel that is used wholly or primarily for non-commercial activities;
- (c) a fishing vessel or fishing fleet support vessel;
- (d) an inland waterways vessel;
- (e) an offshore industry vessel;
- (f) a recreational vessel;
- (g) a salvage vessel;
- (h) a tugboat”.

Other states, including Nigerian and Canada employ open lists of vessels. In Nigeria, for example, reference is made to:

“any description of vessel, ship, boat, hovercraft or craft, including air cushion vehicles and dynamically supported craft, designed, used or capable of being used solely or partly for marine navigation and used for the carriage on through or under water of persons or property without regard to method or lack of propulsion”, while in Canada, a cabotage vessel means: “... a boat, ship or craft designed, used or capable of being used solely or partly for navigation in, on, through or immediately above water, without regard to method or lack of propulsion, and includes such a vessel that is under construction. It does not include a floating object of a prescribed class”.

In Thailand, a “sea vessel” simply

waters of the Bolivarian Republic of Venezuela such as fishing, dredging, sport navigation, recreational or activities of scientific investigation”. (SRI translation).

Towage is a trade that is also very frequently covered by cabotage. In China, Lebanon, Nigeria, and Sri Lanka, for example, cabotage includes towage. And, a trade that may also be subject to cabotage is fishing. Lebanon is example of cabotage covering “coastwise fishing”; while in Turkey fishing is extensively defined as “the right to catch or obtain fish, oysters, mussels, sponges, pearls, coral, mother-of-pearl and the like, ...” (SRI translation).

Sometimes, highly specialised services are covered by cabotage. In Russia, for example, cabotage includes icebreaker assistance, hydraulic engineering, and underwater engineering.

Finally, the trade, service or activity may also appear to be without any clear restriction, save for the requirement of profit or reward. In Jamaica, “local trade in Jamaican waters” means the “transport locally of passengers or goods or the carrying out of any other operation or activity locally, within Jamaican waters, for purposes of trade, profit or reward”. Similarly, “local trade in Saint Lucian waters means the transport locally of passengers or goods or the carrying out of any other operation or activity locally, within Saint Lucian waters for profit or reward; ...”.

#### **IMPLEMENTATION AND ENFORCEMENT OF CABOTAGE**

Cabotage laws are implemented and enforced in different ways. Occasionally a state may arrange for the competent authority to be advised by stakeholders and role

players in the administration of the cabotage laws. In Papua New Guinea, for example, a Coasting Trade Committee may advise the Minister on any matter relating to the coasting trade.

Enforcement of cabotage by way of penalties, fines and/or detentions is common. There may be administrative fines (imposed by a civil authority); or criminal fines; and/or detention of the ship; and/or imprisonment. In the Philippines, the Bureau of Customs, on due notice, hearing and determination of the existence of any breach or violation of the Act Allowing Foreign Vessels to Transport and Co-load Foreign Cargoes for Domestic Transshipment and for Other Purposes “shall impose a penalty or fine on any erring foreign ship operator in accordance with the applicable provisions of the Tariff and Customs Code of the Philippines ...”.

Albania is an example where a foreign ship engaged in cabotage without permission is apparently punished by way of a fine, while in Turkey the violation of cabotage law may result in an administrative fine and the detention of the ship.

In Antigua and Barbuda, contravention of the reservation of cabotage is a criminal offence and liability on conviction carries not only a fine but also the detention of the ship. Similarly, in Sri Lanka, any person or body, contravening the cabotage law, shall be guilty of an offence and on conviction be liable to a fine and in addition any ship involved in such an offence shall be liable to be detained.

And, sometimes, violation of a cabotage law may lead to imprisonment. Prosecutions may be directed, as in Ghana and Grenada, against the master, owner or agent of the ship concerned.



national emergency, ultimately to be owned by private citizens of the United States; and it is hereby declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine, and, insofar as may not be inconsistent with the express provisions of this Act, the Secretary of Transportation shall, in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws keep always in view this purpose and object as the primary end to be attained”.

And, in the Philippines, the national cabotage policy is also publicly declared. It is found in Chapter 1, section 2 of the Domestic Shipping Development Act of 2004. This provides as follows:

“Declaration of Policy. - The State recognize that shipping is a necessary infrastructure, which is vital to the economic development of our country. The Philippines needs a strong and competitive domestic merchant fleet owned and controlled by Filipinos or by corporations at least sixty percent (60%) of the capital of which is owned by Filipinos and manned by qualified Filipino officers and crew which shall: (a) bridge our islands by ensuring safe, reliable, efficient, adequate and economic passenger and cargo services; (b) encourage the dispersal of industry and the economic development of our regional communities by ensuring the availability of regular, reliable and efficient shipping services; (c) ensure the growth of exports by providing necessary, competitive and economical domestic sea linkage; (d) serve as a naval and military auxiliary in times of war and other national emergencies; and (e) function as an employment support base for our Filipino seafarers.

To attain these objectives, it is hereby declared to the policy of the State to; (a) promote Filipino ownership of vessels operated under the Philippine flag; (b) attract private capital to invest in the

shipping industry by creating a healthy and competitive investment and operating environment; (c) provide necessary assistance and incentives for the continued growth of the Philippine domestic merchant marine fleet; (d) encourage the improvement and upgrading of the existing domestic merchant marine fleet and Filipino crew to meet international standards; (e) ensure the continued viability of domestic shipping operations; and (f) encourage the development of a viable shipbuilding and ship repair industry to support the expansion and modernization of the Philippine domestic merchant marine fleet and its strict adherence to safety standards which will ensure the seaworthiness of all sea-borne structures”.

This declaration is now to be read with a subsequent countervailing policy in Republic Act No. 10668, an “Act Allowing Foreign Vessels to Transport and Co-load Foreign Cargoes for Domestic Transshipment and for Other Purposes” of 2014. Section 1 states: “Declaration of Policy. – It is the policy of the State: (a) To assist importers and exporters in enhancing their competitiveness in light of intensifying international trade; and (b) To lower the cost of shipping export cargoes from Philippine ports to international ports and import cargoes from international ports for the benefit of the consumers”.

In China, the policy may be traced back to the Temporary Customs Law 1963 which did not allow foreign ships to engage in coastal transport. The policy objectives appear to be national security; economic security; and promotion of the national merchant fleet.<sup>68</sup> Somewhat different policy objectives apply in Japan. In the 3rd Basic Plan on Ocean Policy, the objectives that seem to relate to cabotage are, among others, to “secure stable maritime transportation”; to “enhance the business base of coastal shipping”; and “to secure and train Japanese seafarers effectively and stably and maintain cabotage”. (*SRI translation*).<sup>69</sup> And in the Republic of South Korea, the policy objectives of cabotage appear to be aimed at: preventing the

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“means a vessel the structure of which is for sailing in the sea” (*SRI translation*).

On the other hand, the definition of vessels in Turkey is very specific, suggesting a closed list; but then it also includes some generic descriptions that connote an open list:

“The right to perform trade in rivers and lakes, in the Marmara Sea and the Straits, in continental waters, and in gulfs, ports, bays and the like within continental waters, by means of fixed or floating vessels such as ships, tugboats, steamboats, motorboats, barges, lighters, rowboats and, in brief, all types or large or small vessels driven by machinery, sail or oars, and/or dredges, cranes, crane barges, flat-bottomed boats, transport and water boats, salvage vessels, buoys, pontoons, rafts or the like, and by performing navigation and transportation using the same, shall belong exclusively to Turkish nationals” (*SRI translation*).

### **MARITIME ZONES AND AREAS**

Cabotage laws are applied in a wide range of maritime zones, sometimes called “areas” in cabotage legislation. Cabotage is most frequently applied to internal waters and territorial waters. In some states, the maritime zones are defined in terms of specific maritime trades, services and activities; while in other states, some maritime zones are explicitly excluded from cabotage in respect of specified trades, services and activities.

The way in which cabotage is applied to internal waters and territorial waters varies widely. Some states apply cabotage to inland waters with reference to separate legislation demarcating maritime zones and areas of the state concerned. In other cases, cabotage is, in effect, applied to inland waters without reference to the phrase. In Ghana and Nigeria, reference is made to inland waters; and in Guyana the legislation mentions internal waters. In Turkey, cabotage in inland waters is expressly applied in respect of rivers, lakes, ports and bays.

Many states expressly also apply cabotage laws to territorial waters, using terms such as coastal trade, or coastwise trade, or coastline trade, or trade along the shores. For example, in Antigua and Barbuda reference is made to coastal trade; in Lebanon coastwise fishing and trade is mentioned; and in Costa Rica the law refers to traffic on the ocean coastline. In Turkey reference is made in the cabotage law to “The right to transport goods and passengers from one point to another along Turkish shores and to perform towing and piloting and all other port services of any type whatsoever within or between Turkish ports and shores ...”. (*SRI translation*).

Some states also apply cabotage laws to voyages between islands. Examples of states having cabotage in relation to islands include Mauritius, Nigeria and Greece. Associated with trade between islands is trade in archipelagic waters. And the cabotage laws of some states extend to archipelagic waters. There is, for example, cabotage in the archipelagic waters of Indonesia; Fiji; Jamaica and the Philippines.

Cabotage is sometimes also extended to the exclusive economic zone and/or the continental shelf. Here, petroleum activities are often significant activities. Nigeria is an example of a state that provides explicitly that a foreign ship shall not engage in the carriage of cargo or passengers at “any point within the waters of the Exclusive Economic Zone of Nigeria”.

In Turkey, the “right to perform trade ... in continental waters, and in gulfs, ports, bays and the like within continental waters, by means of fixed or floating vessels ... shall belong exclusively to Turkish nationals”, while “The right to catch ... fish, ... extract sand, gravel and the like, extract and salvage sunken ships ... perform diving, searching, piloting and maritime supply, work as captain, engineer, secretary, crew or workman or in another capacity on

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preventing illegitimate competition; developing human capacity and retaining skills in the national workforce and/or promoting the transfer of maritime knowledge and technology to nationals; creating jobs for nationals; increasing ships on the national register and/or promoting ship ownership, ship building and ship supply services; promoting seaworthiness, safety of ships and life at sea and the security of ships and ports; enhancing marine environmental protection and compliance with conventions relating to prevention of marine pollution as well as encouraging transportation by sea instead of transportation by

other more polluting and expensive transportation modes; and providing necessary public services where transport services (by land or sea) would be inadequate if left to foreign market forces and especially to ensure principles of universality, equality, continuity, regularity and price accessibility.

Taken as a whole, the policy objectives appear to be tailored to the specific national needs of each state; although regional cabotage tends to enhance consistency in policy objectives.





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effectively benefit from Turkey's location. We are doing a lot of activities for the new generation to love the sea and learn about it, and we will continue to do so". (SRI translation).

In Thailand, in the Mercantile Maritime Promotion Act, the policy appears to aim to develop the economy of the state by bringing foreign currency to Thailand. And, in the archipelago island nation of Indonesia, in Law No. 17 of 2008, the preamble to the Law refers to national goals based on the Constitution and states:

"Considering: a. that the Republic of Indonesia is characterized archipelago island nation united by very wide waters with boundaries, rights, and sovereignty defined by the Act; b. that in order to achieve national goals based on Pancasila and the Constitution of the Republic of Indonesia Year 1945, realizing Archipelago and strengthen national resilience needed national transportation system to support economic growth, regional development, and strengthen the sovereignty of the country; c. that consists of freight shipping in the waters, ports, safety and security of shipping and maritime environmental protection, are part of the national transportation system must be developed to realize the potential and role of the transport system that effectively and efficiently, and help create a stable national distribution pattern and dynamic; d. that the development of national and international strategic environment requires the implementation of the cruise line with the development of science and technology, private sector participation and competition, autonomy, and accountability of state officials, while maintaining the safety and security of shipping in the national interest; e. that Act No. 21 of 1992 on the voyage is no longer appropriate to the needs of today's cruise organizing so it needs to be replaced with new legislation; f. that based on the considerations set forth in paragraphs a, b, c, d, and e, it is necessary to form the Law on the voyage...". (SRI translation).

The policy of Antigua and Barbuda touches on the benefits of cabotage for national ships and is set out in the Merchant Shipping Act covering matters such as: bilateral agreements with neighbouring countries for the sharing of the export and import trade exclusively by the national shipping lines of the two countries; tax concessions for exporters and importers who patronise national shipping; and control of the terms of sale and purchase of commodities moving in the export and import to channel as many commodities as possible to national ships.

Finally, in South Africa the transport policy of the Government states that: "The Government is committed to the promotion and development of coastal trade, and the continued maintenance of regular shipping services (and related infrastructural requirements) between South Africa and its trading partners within a well-defined regulatory framework."<sup>75</sup>

In other states such as Canada, the most detailed discussions of the policy objectives underpinning cabotage, or that should underpin cabotage, are set out in various reports.<sup>76</sup>

### **POLICY INFERRED**

Reasonable inferences regarding policy objectives can also be drawn from cabotage laws where these are not set out publicly. The policies in developing states sometimes appear to be aimed at the development of specific maritime sectors. In Algeria, for example, the restrictions on cabotage appear to preserve the state monopoly in respect of, for example, the chartering of ships, marine pilotage, ship brokerage, port handling and towing at the entrance and at the exit of Algerian ports and coastal shipping between Algerian ports.

To summarise, policy objectives appear in general to be aimed at: maintaining national security and defence capabilities through national merchant fleets; promoting fair competition and

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# Articulen van Vrede ende Confoederatie,

Ghesloten tusschen den

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**EXCEPTIONS, WAIVERS  
AND TRADE AGREEMENTS**

Portugael/

ter eenre / Ende de Hoogh Hogende Heeren  
Staten Generael der Vereenighde Neder-  
landen / ter andere zyde.



IN 'sGRAVEN-HAGE,  
By Hillebrandt van Wouw, Ordinaris Drucker vande Ho: Mo.  
Heeren Staten Generael der Vereenighde Nederlanden.  
Anno 1663. Met Privilegie.



## CHAPTER 6 ENDNOTES

- 65.** “By the Capes Around the World. A Summary of World Cabotage Practices” (May 22, 1991).
- 66.** “Maritime Cabotage: A Global Analysis. Including Cabotage Campaigning Tools” (March, 2010) at page 10.
- 67.** See, for example OECD 2001, Regulatory issues in international maritime transport, DST1/DOT (2001); Keith Trace, Barend Frielink, Denis Hew, Southeast Asia Working Paper Series Maritime Connectivity in Archipelagic Southeast Asia: An Overview, No. 1 August 2009; Hodgson JRF and Brooks MR (2007) Towards a North American Cabotage Regime: A Canadian Perspective, Canadian Journal of Transportation Volume 1, Part 1 March 2007 pp 19-35; The World Bank and International Finance Corporation Philippine Country Office East Asia and Pacific Region, Policy Options for liberalizing Philippine maritime cabotage Restrictions, July 2014; Zainnal Ajamain, 33 years of Discrimination, Disfranchising and Marginalizing Malaysians in Sabah National Cabotage Policy, 7/2/2013; Martha Cordero, Logistics and trade facilitation between CARICOM and Central America United Nations (United Nations) July 2014; UNCTAD, Rethinking Maritime Cabotage for Improved Connectivity, Transport and Facilitation Series, Geneva, 2017; the website of the International Chamber of ship, A Maritime Nation: UK Shipping and the EU; Gilberto M. Llanto G.M and Navarro A.M., Relaxing the Cabotage Restrictions in Maritime Transport; UK Chamber of Shipping. On the other hand, see for example the website of the American Maritime Partnership at <http://www.americanmaritimepartnership.com>; the website of the U.S. Customs and Border Protection website at [http://www.cbp.gov/sites/default/files/documents/pvsa\\_icp\\_3.pdf](http://www.cbp.gov/sites/default/files/documents/pvsa_icp_3.pdf); the website of the Japan Federation of Coastal Shipping Associations at <http://www.naiko-kaiun.or.jp/e/>; the website of the International Transport workers' Federation at <http://www.itfglobal.org>; and the Maritime Union of Australia and the ITF joint report: “Maritime Cabotage: A Global Analysis. Including Cabotage Campaigning Tools, March 2010; Conley, Joseph M. (2012) The Jones Act: Its Effect on the U.S. Response to the 2010 BP Deepwater Horizon Oil Spill and Its Relevance in International Law, Washington University Global Studies Law Review Volume 11 Issue 1, January 2012.
- 68.** See K X Li and C W M Ingram Maritime Law and Policy in China 2002 (Cavendish Publishing) at 27.
- 69.** As to the 3rd Basic Plan on Ocean Policy.
- 70.** See the Report submitted to the Regulatory Reform Committee by the Minister of Land, Transport and Maritime Affairs.
- 71.** Approved by the Decree of the President of the Russian Federation of July 27, 2001.
- 72.** Resolution of the Government of the Russian Federation No. 848, dated December 5, 2001.
- 73.** According to Resolution No. 848 the program of Russian transport system development is targeted towards: “increasing the availability of services of a transport complex for people; improving the competitiveness of the transport system of the Russian Federation and realization of the transit potential of the state; improving the safety and sustainability of the transport system”.
- 74.** With the aim of joining the EU, Law No.815 has been reviewed during EU membership negotiations and identified as an issue.
- 75.** See Draft Revised White Paper on National Transport Policy 2017 Department of Transport, Pretoria at p26. Legislation to give effect to the policy is not yet in force.
- 76.** For example, in Canada, see the Royal Commission on the Coasting Trade (The Spence Report – 1957); The Coasting Trade of Canada and Related Marine Activity (The Darling Report – 1970) ; The Coasting Trade Act – A position paper dealing with the policy implications of a proposed Bill on the Coasting Trade of Canada (1977; Transport Canada Background Paper – A New Coasting Trade Policy (1982).







having cabotage, all are members of the WTO, save for Algeria, Equatorial Guinea, Lebanon and Syria.

Cabotage laws, as mentioned above, often provide for, and control, the application of a trade agreement. For example, a trade agreement may – subject to and in terms of the law – temporarily lift the reservation for the duration of the trade agreement in favour of a foreign flag, as in Algeria; or the cabotage law itself may be made subject to a trade agreement, as in Sri Lanka. Sometimes, it may be more simply provided that foreign ships may perform cabotage operations in compliance with international agreements, as in Georgia. In Albania, a foreign ship may be allowed cabotage when, inter alia, “an obligation arises from international law”; although no apparent indication is given of such

an obligation under international law. Sometimes, cabotage law may allow foreign ships to conduct cabotage on the basis of a reciprocal trade agreement.

In conclusion, exceptions, waivers and/or trade agreements flexibly affect the practice of cabotage in the state concerned, and as between states and regions, to a greater or lesser extent in many different ways. But the practice of cabotage ultimately remains subject to control by the law.

## CHAPTER 7 ENDNOTES

**77.** The following number of authorisations are reported: 2,615 in 2013; 3,590 in 2014; 2,472 in 2015; 2014 in 2016; and 2,559 in 2017.







Turkish maritime vessels, and carry out wharf portorage or any type of maritime business, within Turkish continental waters, shall belong exclusively to Turkish nationals. However, foreigners holding petroleum rights can carry out petroleum explorations and production activities within Turkish territorial waters”.

In Canada, the coasting trade means “(a) the carriage of goods by ship, or by ship and any other mode of transport, from one place in Canada or above the continental shelf of Canada to any other place in Canada or above the continental shelf of Canada, either directly or by way of a place outside Canada, but, with respect to waters above the continental shelf of Canada, includes the carriage of goods only in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada ... (f) the engaging, by ship, in any other marine activity of a commercial nature in Canadian waters and, with respect to waters above the continental shelf of Canada, in such other marine activities of a commercial nature that are in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada ...”.

In Papua New Guinea, cabotage is deemed to include a ship that is an “offshore ship”, which means a ship that is “ (a) engaged in the exploration or exploitation of the continental shelf of the country; (b) operating to, or from, or is based at, a port or place in the country”.

### **TYPES OF TRADES, SERVICES AND ACTIVITIES**

Cabotage laws cover a very wide range of trades, services and/or activities. The carriage of goods and passengers is most common. And, the goods that may be carried under cabotage are mostly not defined; although sometimes specified goods may be excluded from cabotage restrictions (and by implication goods not excluded are generally included). Sometimes many different

types of trades, services and activities are specifically listed. As a matter of interpretation, the lists may appear to be either closed or open. Occasionally, cabotage appears to cover virtually any type of trade, service or activity.

In Lebanon, cabotage also covers “trading” between the ports of the state; in Haiti, cabotage covers the carriage of goods by vessels, without restriction as to the nature of the goods covered by cabotage; in Ghana, cabotage regulates “local trade in Ghanaian waters” which means the transportation of goods or passengers “for profit or reward”; and, similarly, in Guyana “local trade in Guyana waters” means the transport locally of passengers or goods or the carrying out of any other operation or activity locally, within Guyana waters, for profit or reward.

In Peru, the transport of hydrocarbons in national traffic or cabotage is reserved up to 25% for ships of the Peruvian Navy, for reasons of national security and defence, high public interest and national interest. By contrast, in India, the carriage of some specified goods is recently no longer subject to cabotage restrictions. Previously a foreign ship could load cargo from one place or port in India and discharge at another place or port in India only under a license issued by the Director General under section 407 of the Merchant Shipping Act 1958. But now a foreign ship is not required to obtain a license for the carriage of “agricultural, fisheries, animal husbandry and horticultural commodities”. The provisions of section 407 also no longer apply to “foreign flag ships engaged, in full or in part, for the transportation of EXIM laden containers for transshipment; and foreign flag ships engaged, in full or in part, for transportation of empty containers”.

In Venezuela, “domestic navigation” (as described above) is “performed within the scope of the circumscription of a determined port captaincy or in jurisdictional

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# CHAPTER 7

## EXCEPTIONS, WAIVERS AND TRADE AGREEMENTS

**C**abotage laws often contain exceptions or provide for the operation of waivers, and sometimes provide for trade agreements. It is beyond the remit of this Report to analyse the use and impact of exceptions, waivers and/or trade agreements.

### EXCEPTIONS

Exceptions generally apply to a very limited set of specified circumstances. Although “exceptions” and “exemptions” are words that are often used interchangeably, they can be distinguished. Where there are exceptions from cabotage reservations or restrictions, no application is, in general, required to obtain an authorisation for a foreign ship to take advantage of an exception. An exception may be stated to apply, for example, where there exists a relevant trade agreement between two states, then generally it appears that no application needs to be made for a relevant foreign ship to avail itself of the exception.

But an exemption generally requires an application to be made for a waiver of reservations or restrictions on foreign ships. In this sense, exemptions are much more common than exceptions. Sometimes, however, the distinction between an exception and exemption is far from clear and whether an application needs to be made is not readily discernible.

Albania provides an example of a rather wide but apparently closed range of exceptions; although each exception may be variously interpreted regarding its scope and whether an application is required. In Argentina, the cabotage law provides that: “The exception from the restrictions of the preceding article are the vessels engaged in cross-border cabotage in accordance with international treaties, conventions or agreements”. (*SRI translation*).

### WAIVERS

It is very common for cabotage laws to contain provisions that allow for foreign ships to participate in cabotage based on derogations or dispensations from the law. Terms such as “waivers”, “concessions”, “authorisations”, “permits”, “licences”, “exemptions”, “ministerial orders”, or “ministerial decrees” are frequently employed. Sometimes, waivers are even called exceptions. For convenience, the word “waiver” is used to encompass all these terms. Generally, the laws specify that waivers must be applied for, as well as the terms and conditions for the operation of such waivers and to this extent, the law controls the operation of waivers.

There are many different types of waivers, providing for flexibility in the enforcement of cabotage laws. This is generally because states have different capacities to fulfil their



cabotage needs in their national interests; the capacity of each state may grow and develop over time; and /or their capacity may vary from time to time. However, as a general rule, waivers are not granted if national flagged ships are available to conduct the cabotage. Further, they are not transferrable; they are subject to revocation; they are temporary; they are subject to reciprocity; and they are granted on fulfilment of certain conditions in most cases.

In Japan, for example, the restrictions on cabotage would appear, relatively speaking, to be lifted very rarely. The Ship Act in article 3 provides as follows: "A foreign vessel shall not call at a place of a closed port or transport goods or passengers by water between ports within Japan. However this restriction shall not apply when there is a special provision in a law or a treaty, when a vessel intends to avoid an accident at sea or a capture or when a special permission by the Minister of Land, Infrastructure, Transport and Tourism is obtained". (*SRI translation*).

In Brazil, on the other hand, according to the management information system of the National Agency for Water Transportation, a large number of authorisations have been issued.<sup>77</sup>

Cabotage is occasionally described as a "state monopoly" and/or "public property". In such cases, a concession may nonetheless be afforded to a natural person or legal entity. Algeria provides an example of coastal shipping as a "state monopoly", and "public property", subject to concession: "The state monopoly is imposed on ... coastal shipping between all Algerian ports" and "Maritime transport is a public property. It can be a concession" (*SRI translation*).

In Bahrain, the competent minister may issue orders authorising foreign ships to undertake cabotage. Sometimes the discretion to grant a waiver is mandatorily limited, providing for the fulfilment of specified conditions before the waiver can

be granted. Israel is such an example. In Venezuela, if foreign flagged vessels are to perform cabotage they must obtain a certificate evidencing that the foreign vessel complies with the maritime safety requirements under national and international laws and proof of lack of national tonnage is required.

In other cases, a waiver may only be possible in a case of extreme necessity and only for a specific duration. Thus, in Kuwait, foreign ships may only be authorised to undertake cabotage in extreme necessity in respect of limited services and activities and only for a limited period. In other instances, such as Syria, a waiver may only be granted to a foreign ship on condition that no national ship is available. Sometimes, as in the case of Finland, before a waiver is granted by the Ministry it will hear interested parties, subject to the nature or urgency of the matter.

In Ecuador, it is only "In exceptional cases, the Directorate General for Merchant Shipping, at the request of the interested party, may authorise the provision of these services on foreign vessels. The Authority must make a decision on the request within eight days and, if it does not do this within this time, it shall be assumed that the request has been approved". (*SRI translation*). In the Ivory Coast, the reservation of cabotage to Ivorian ships is subject to reciprocity to ships from other countries.

## TRADE AGREEMENTS

Intergovernmental trade agreements or treaties, whether regional or bilateral, are common in international trade relations (hereafter referred to trade agreements). Trade agreements are said to be increasing in number, detail and complexity. Some of these trade agreements are relevant to cabotage. According to the WTO, as of 2016, all WTO members (164 members) have a trade agreement in force. Of the 91 states listed in Chapter 5 of this survey as

## CABOTAGE LAWS OF THE WORLD

# CHAPTER 8

## CONCLUSION

The findings of this Report may be welcomed by some and opposed by others, especially within the context of the debate for extending or reducing cabotage. But the Report itself does not join the debate.

It begins by tracing some of the history of cabotage laws that were enforced by empires and within their colonies, although today cabotage is associated with the exercise of sovereign powers by independent states. The Report also sets out some previous survey findings before excluding states without cabotage and including states with cabotage, finding that 91 member states of the United Nations as described in the Report have laws restricting foreign activity in their domestic coastal trades; that is, 65% of states that could have cabotage do have cabotage as it is usually understood.

Lawyers on either side of the debate may not agree on every exclusion or inclusion. And different interpretations of some complex and unclear laws are certainly possible. But the laws are generally clear enough and even allowing for some reasonable disagreements of interpretation, a majority of states with cabotage will remain.

This is a unique finding. It appears to be the first survey that has sought to consider comprehensively the cabotage laws of the world. Also unique are the consequential and additional findings that cabotage exists in every major geographical region of the world; across many political, economic and legal systems; along the majority of the world's coastlines where cabotage could exist; and in the majority of states that are members of the IMO Council.

Cabotage is therefore very common. One reason for this may lie in the many common cabotage policy objectives set out in the Report, although the extent to which these objectives are successfully achieved is not determined in this Report.

But cabotage laws, despite some uniformity in reservations and restriction, are also very diverse. They vary from state to state, often in many different respects, and the laws are enforced to a greater or lesser extent in states by way of exceptions, waivers, trade agreements, fines and even imprisonment. The limited extent of uniformity that does exist (also due to regional cabotage regimes), is however dwarfed by diversity.

So great is the diversity of cabotage laws that they defy meaningful universal definition, save for bland and generalised descriptions. One reason for the diversity may lie in the way each cabotage law is tailored to meet the national interests of an individual state. Paradoxically, it is this very diversity that may also constitute another reason why cabotage laws are so very common.

Cabotage policies and laws have evolved over time; and, like all policies and laws, they will be subject to further change. The list of states with cabotage is therefore neither fixed nor closed.

But whatever the implications of this Report might be for the future of cabotage, they are left for consideration and debate by other parties with an interest in these issues.

It is to be hoped that this Report may be helpful.



## Appendix 1

Anno 5 Ric. II Cap III A.D 1381 (page 1 of 2)

A.D. 1381. Anno 5<sup>o</sup> Ric. II. R. I. c. 2, 3.

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personne soit de force dueement atteint qil avera fait envoier ou emporter de par dela or ou argent aucun, encontre cesles detens et ordonnance, forface devers le Roi mesme la somme illist emportez ou envoiez.

II. Et le Roi nostre Seigneur de sa roiale majestee defende la passage oultrement a toutes maneres des gentz, s'ibien clerics come autres, en chescun port et autre ville et lieu sur la coste del mee, sur paine de forfaiture de toutz leurs biens; hospita tantoulement a les seignurs et autres grantz persones de roialme et verrois et notables marchantz et les foldeours le Roi. Et queleconque persone, autre qe dessus ne sont exceptz, apres la publication de celle ordonnance faite, passe hors del dit roialme sanz especial congrie le Roi (quele licence le Roy vort et comande qe ne soit fait de force, sinou tantoulement en un des portz dessouz escriptz, cestlavoir Londres Sandewiz Dovorr Southampton Plymmuth Drestemuth Brissuit Jernemuth Seint Bothulph Kyngellon sur Hull Noef Chastell sur Tyne, et les autres portz et passages vers Irlande et les isles appartenantz al roialme d'Engleterre) forface devers le Roi quanqe il ad en biens, come dessus est dit; et jademains le maistre ou marinier de la nef ou dautre vessel, en quele il avera amefnez de par dela aucuns persone, forsqe ceux seulement qe par dessus sont exceptz, sanz la dite licence dont il soit coovict dueement forface devers le Roi le dit vessel.

III. Et si comande le Roi a touz gardeins et sercheours de les portz et passages parmy Engleterre qils usent de force diligement leurs offices et facent bone serche et estroit. Et si nully sercheour ou gardein des portz et passages parmy le dit roialme, par negligence ou en autre manere, face ou soestre scientement chose fait en aucun point le contraire de les ditz deux articles, touchantz la monie or et argent et le dit passage des gentz, et de ce il soit coovict dueement, forface devers le Roy son dit office et toutz ses biens aversq, et soit son corps commis a la prison a y demorer par un an entier sanz redemption. Et sur ce queconque persone qi espiera, et prouvera dueement, qe rienz soit fait contre l'entencion des ditz deux derrains articles, par ont la dite forfaiture devra eschere daucune persone, eit il la moitee dicell forfaiture pur son travail, del don le Roi.

P. 1, P.

## C A P. III.

Subjects shall export or import Merchandizes in English Ships only.

ALSO, to increase the Navy of England, which is now greatly diminished: It is assented and accorded, That none of our Lord the King's liege People do from henceforth cause to be shipped any Manner of Merchandize going out of or coming into the Realm of England, in any Part, but only in Ships of our Lord the King's Liegance. And every Person of the said Liegance, who after the Feast of *Easter* next ensuing (at which Feast this Ordinance shall first begin to hold place), do cause to be shipped any Merchandize in any other Ships or Vessels upon the Sea, than of the said Liegance, shall forfeit to the King all his Merchandizes shipped in other Vessels, wherefover they be found hereafter, or the

[Explained  
6 R. 2. p. 1. c. 2.  
12 R. 2. c. 6.  
13 R. 2. c. 6.  
13 R. 2. c. 6.  
13 R. 2. c. 6.]

No Subject shall  
export or import  
Goods but in  
Subjects' Ships.

## Appendix 1

Anno 5 Ric. II Cap III A.D 1381 (page 2 of 2)

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Anno 5<sup>o</sup> Ric. II. R. I. c. 3—6. A.D. 1381.

the Value of the same: of which Forfeitures the King willeth and granteth, that he that shall duly espy and duly prove that any Person hath any Thing forfeited against this Ordinance, shall have the Third Part thereof for his Labour of the King's Gift.

**I**TEM pur ecorect la navie d'Engleterre quel est ore moelt grandement ameneuz, est assentuz et accordez que nul lige persone del Roi nostre Seigneur face desore eskipper aucunes maneres des marchandises, en alantz hors ou venantz dedeinz le roialme d'Engleterre, aucune part, forsque soulement en niefs de la ligeance nostre Seigneur le Roy: Et queleconque persone de la dite ligeance apres la feste de Pasqe prochain venant, a quele feste comencera primerement ceste ordinance tenir lieu, face eskipper marchandises en autres niefs ou vesselx sur la mer, que de la dite ligeance, forsface devers le Roy toutes ses marchandises es autry vesselx eskippez, en queleconque place que celles seront en apres trouvez, ou la value dicelles; des quelles forfaitures le Roi voet et grante que celui qui espiera et dument prouvera quecune persone avera encontre ceste ordinance rienz forfait, ent ait la tierce partie pur son travail del Jour le Roi.

## C A P. IV.

"The several Prices of several Sorts of Wines to be sold in Gros or by Retail, viz. the best Wine of *Gascony, Osey,* and *Spain,* One hundred Shillings the Tun, and by Retail at Sixpence the Gallon; and other Wines in proportion."

[Repealed by 7 Ric. 2. c. 11.]

In several Editions this makes Part of Cap. 4.]

## C A P. V.

"Sweet Wines and Claret shall not be sold by Retail in England."

[Repealed 6 R. 2. c. 7. and see 7 R. 2. c. 11.]

See Note to preceding Chapter.

## C A P. VI. [or V.\*]

Pardon and Indemnity to those that repressed or punished Rebels.

**A**LSO our Sovereign Lord the King, perceiving that many Lords and Gentlemen of his Realm, and other with them (in the Rumour and Insurrection of the Villeins, and of other Offenders, who now of late did traiterously rise by Assemblies in outrageous Number, in divers Parts of the Realm, against God, good Faith, and Reason, and against the Dignity of our Sovereign Lord the King and his Crown, and the Laws of his Land), did make divers Punishments upon the said Villeins and other Traitors without due Process of Law, and otherwise than the Laws and Usages of the Realm required, although they did this of no Malice preposed, but only to withstand them, and appease and cease the apparent Mischief; and considering the great Diligence and Loyalty of the said Lords and Gentlemen in this Behalf, which were not learned in the said Laws and Usages, and though they had so been, none could at that Time, upon those Punishments have tarried





## Appendix 6

ΕΦΗΜΕΡΙΣ ΤΗΣ ΚΥΒΕΡΝΗΣΕΩΣ ΤΟΥ ΒΑΣΙΛΕΙΟΥ ΤΗΣ ΕΛΛΑΔΟΣ  
Αριθ. 68, 1836, Εν Αθήναις, 3 Νοεμβρίου (page 1 of 2)



ΕΦΗΜΕΡΙΣ ΤΗΣ ΚΥΒΕΡΝΗΣΕΩΣ  
ΤΟΥ ΒΑΣΙΛΕΙΟΥ ΤΗΣ ΕΛΛΑΔΟΣ.

ΑΡΙΘ. 68. 1836. ΕΝ ΑΘΗΝΑΙΣ, 3 Νοεμβρίου.

ΣΥΝΟΧΕΣ ΤΩΝ ΕΜΠΕΡΙΧΟΜΕΝΩΝ.  
Δικταγμ. Περὶ ἑμπορίας ναυτίαις.

Ο Θ Ω Ν

Ε Λ Λ Ω Θ Ε Ο Υ  
ΒΑΣΙΛΕΥΣ ΤΗΣ ΕΛΛΑΔΟΣ.

Διά να περιζωμην πλειότερα εύκολια εις την ἑλληνικὴν ἑμπορικὴν ναυτίαν, καὶ νὰ συντελέσωμεν, ὅσον τὸ ἔρ' ἡμῶν εις τὴν πρόβδον καὶ τὴν ἀνάπτυξιν αὐτῆς, καὶ πεποιθέντες ἐκ τῆς πέρας, ὅτι τινὲς ὅροι τοῦ ἀπὸ 15 (17) Ὀκτωβρίου 1833 Διατάγματος περὶ ἑμπορικῆς ναυτίαις εἶναι δυσετέρευστοι, ἀπερσιώσωμεν, προελθόντες καὶ τὴν γνώμην τοῦ ἡμετέρου Συμβουλίου τῆς ἑπικρατείας, καὶ ἐπὶ τῆς προτάσει τῆς ἐπι τῶν Ναυτικῶν Γραμματείας, νὰ ἀκυρωσωμεν τὸ ρηθὲν διάταγμα, καὶ ν' ἀντικαταστήσωμεν αὐτὸ διὰ τοῦ παρόντος.

Διαταττομην ὅθεν τὰ ἑξῆς:

Ἄρθρ. I.

Ὅλα τὰ ἑλληνικὰ ἑμπορικὰ πλοῖα ἐρείδουν νὰ φέρωσι τὴν ἰδικὴν ἑμπορίαν.

Ἄρθρ. α.

Ὡς ἑλληνικὰ ἑμπορικὰ πλοῖα ἀναγνωρίζονται μόνον ἃ. Τὰ ναυπηγόμενα εἰς τὴν Ἑλλάδα.

β'. Τὰ κρηνηόμενα ἀπὸ ναυτικῶν Ἑλλήνων εἰς ἀγῶνας ὑπὲρ πατρίδος, ἢ εἰς κατὰ περαιτῶν συμπλοκάς, καὶ ἀναγνωρίζόμενα ὡς καλὰ λεία.

γ'. Τὰ δομιζόμενα διὰ παρέβασιν τῶν νόμων τοῦ Βασιλείου.

δ'. Τὰ ναυαγῶντα εἰς ἑλληνικὰ παράλια, καὶ ὡς ἀδικακα πρὸς παρατίρω πλοῖον πωλούμενα καὶ ἐπισκευάζόμενα ἐντὸς τοῦ Βασιλείου.

ε'. Τὰ ἀνέκοντα εἰς Ἑλλάδα, ἕτερι μεταναστεύον ἀπὸ ξένων εἰς τὴν ἑλληνικὴν ἑπικρατείαν, συμπαραλαμβάνεται αὐτὰ εἰς τὸν νῆον τῶν ἐξ ἐπικρατείας τοῦ.

ς'. Ὅσα, χωρὶς νὰ ἐπάρηται εἰς μίαν τῶν ἀνωτέρω κατηγοριῶν, εἰρήθωσαν εἰς τὴν ἡμέραν τῆς δημοσίευσος τοῦ ἀπὸ 15 (17) Ὀκτωβρίου 1833 Διατάγματος ἀνέκοντα εἰς ἐπικρατίαν Ἑλλήνων.

ζ'. Τὰ ἀγοραζόμενα ἐντὸς ἡ ἐκτὸς τῆς Ἑλλάδος ἕ-



CONCLUSION





## Appendix 5

Decret contenant l'acte de navigation 21 Septembre 1793

CONVENTION NATIONALE. — 21 SEPTEMBRE 1793.	179
indemnité pour leur déplacement, et ils jouiront de tous les avantages déterminés par le décret en pareil cas.	aux privilèges des bâtimens français, s'il n'a pas été construit en France ou dans les colonies ou autres possessions de France, ou déclaré de bonne prise faite sur l'ennemi, ou confisqué pour contravention aux lois de la République, s'il n'appartient pas entièrement à des Français, et si les officiers et trois quarts de l'équipage ne sont pas Français.
21 SEPTEMBRE 1793. — Décret relatif aux congés des bâtimens sous pavillon français. (L. 16, 5; B. 34, 219.)	3. Aucunes denrées, productions ou marchandises étrangères, ne pourront être importées en France, dans les colonies et possessions de France, que directement par des bâtimens français, ou appartenant aux habitans du pays des crûs, produits ou manufactures, ou des ports ordinaires de vente et première exportation, les officiers et trois quarts des équipages étrangers étant du pays dont le bâtiment porte le pavillon; le tout sous peine de confiscation des bâtimens et cargaisons, et de trois mille livres d'amende, solidairement et par corps, contre les propriétaires, consignataires et agens des bâtimens et cargaisons, capitaine et lieutenant.
Foy. loi du 29 DÉCEMBRE 1791 = 18 JANVIER 1792. Foy. aussi l'acte de navigation ci-après.	4. Les bâtimens étrangers ne pourront transporter d'un port français à un autre port français aucunes denrées, productions ou marchandises des crûs, produits ou manufactures de France, colonies ou possessions de France, sous les peines portées par l'article 3.
Art. 1 <sup>er</sup> . Les congés des bâtimens sous pavillon français seront, dans trois jours à compter de celui de la publication du présent décret pour ceux qui seront dans les ports, et dans huit jours de l'arrivée de ceux qui entreront, rapportés et déposés au bureau des douanes nationales, avec les titres de propriété. Tout déchargement et départ des bâtimens sera différé jusqu'après la délivrance d'un acte de francisation.	5. Le tarif des douanes nationales sera refait, et combiné avec l'acte de navigation et le décret qui abolit les douanes entre la France et les colonies.
2. Tout armateur, en présentant congé et titres de propriété du bâtiment, sera tenu de déclarer en présence d'un juge-de-peace, et signer sur le registre des bâtimens français, qu'il est propriétaire du bâtiment, qu'aucun étranger n'y est intéressé directement ni indirectement, et que sa dernière cargaison d'arrivée des colonies ou comptoirs des Français, ou sa cargaison actuelle de sortie pour les colonies ou comptoirs des Français, n'est point un armement en commission ni propriété étrangère.	6. Le présent décret sera, sans délai, proclamé solennellement dans tous les ports et villes de commerce de la République, et notifié par le ministre des affaires étrangères aux puissances avec lesquelles la nation française est en paix.
3. Si l'armateur ne réside pas dans le port où est le bâtiment, le consignataire et le capitaine donneront conjointement et solidairement caution de rapporter, dans un délai convenable, les actes de propriété et la déclaration affirmée et signée par le vrai propriétaire des bâtimens et cargaisons.	21 SEPTEMBRE 1793. — Décret qui distrait les matières de commerce extérieur des ministères de l'intérieur et de la marine, et les attribue aux douanes. (L. 16, 8; B. 34, 221.)
4. Si la propriété du bâtiment, et même celle des cargaisons pour le commerce entre la France, ses colonies et comptoirs, n'est pas prouvée française par titres et par serment, les bâtimens et cargaisons seront saisis, confisqués, vendus, et moitié du produit donné à tout dénonciateur.	La Convention nationale distrait du ministère de l'intérieur les archives et balance du commerce, les primes et encouragemens, le commerce d'oultre-mer, le remboursement des droits pour l'exportation des marchandises de l'Inde, et tout ce qui est commerce extérieur par mer et par terre; ordonne que les papiers et correspondances y relatifs seront réunis et déposés au bureau central des douanes à Paris.
21 SEPTEMBRE 1793. — Décret contenant l'acte de navigation. (L. 16, 7; B. 34, 218; Mon. des 23 et 24 septembre 1793. Rapp. Barrère.)	La délivrance des congés, les rapports et déclarations pour manifestes, jaugeage, propriété, entrée et sortie des navires, sont également distraits du ministère de la marine et des bureaux des classes, et attribués aux douanes extérieures.
Foy. lois du 9 = 13 AOÛT 1791; du 21 SEPTEMBRE = 12 OCTOBRE 1791; du 27 VENDÉMIARE AN 2.	Le comité de marine se réunira au comité d'instruction publique, pour présenter, dans
Art. 1 <sup>er</sup> . Les traités de navigation et de commerce existant entre la France et les puissances avec lesquelles elle est en paix, seront exécutés selon leur forme et teneur, sans qu'il y soit apporté aucun changement par le présent décret.	
2. Après le 1 <sup>er</sup> janvier 1794, aucun bâtiment ne sera réputé français, n'aura droit	



### Appendix 9

船舶法 明治三十二年

明治三十二年三月 法律 第四十六號 船舶法

朕帝國議會ノ協贊ヲ經タル船舶法ヲ裁可シ茲ニ之ヲ公布セシム

**御名 御璽**

明治三十二年三月七日

内閣總理大臣 侯爵山縣有朋  
逕信大臣 子爵芳川顯正

法律第四十六號 (官報 三月八日)

**船舶法**

第一條 左ノ船舶ヲ以テ日本船舶トス

一 日本ノ官廳又ハ公署ノ所有ニ屬スル船舶

二 日本臣民ノ所有ニ屬スル船舶

三 日本ニ本店ヲ有スル商會社ニシテ合名會社ニ在リテハ社員ノ全員、合資會社及ヒ株式合資會社ニ在リテハ無限責任社員ノ全員、株式會社ニ在リテハ取締役ノ全員カ日本臣民ナルモノノ所有ニ屬スル船舶

四 日本ニ主タル事務所ヲ有スル法人ニシテ其代表者ノ全員カ日本臣民ナルモノノ所有ニ屬スル船舶

舊商法ノ規定ニ從ヒテ設立シタル合資會社ニ在リテハ業務擔當社員ノ全員カ日本臣民ナルモノノ所有ニ屬スル船舶ヲ以テ日本船舶トス

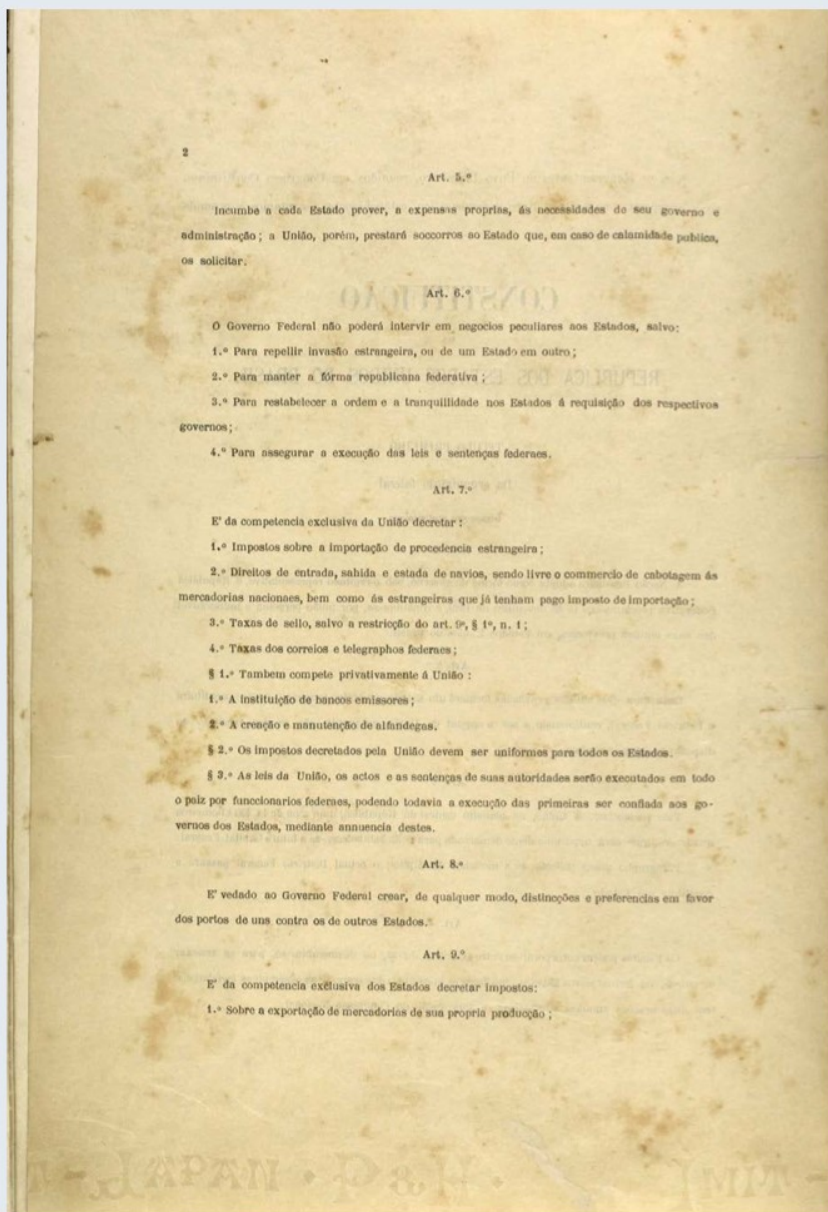
第二條 日本船舶ニ非サレハ日本ノ國旗ヲ掲クルコトヲ得ス

第三條 日本船舶ニ非サレハ不開港場ニ寄港シ又ハ日本各港ノ間ニ於テ物品又ハ旅客ノ運送ヲ爲

一一八

## Appendix 8

Constituição da República dos Estados Unidos do Brasil 1891 (page 2 of 3)





# Appendix 7

Código Fiscal de 31 de octubre de 1885

AÑO 8.<sup>o</sup> REPUBLICA DE COSTA-RICA.—AMERICA CENTRAL. TRIM. 4.<sup>o</sup>

# LA GACETA.

DIARIO OFICIAL.

VALE 5 cs. } San José, jueves 22 de octubre de 1885. } NUMERO 217.

<p><b>ADMINISTRACION.</b> IMPRESA NACIONAL.—CALLE DE LA MUJERD.</p> <p><b>CALENDARIO.</b> Octubre de 1885. ESTE MES TIENE 31 DIAS.</p> <p>Miércoles 31.—Santa Úrsula y 31,600 vírgenes marítimas San Hilario, abad. Santa Otilia.</p> <p>Jueves 22.—Santa María Salomé, una de las santas mártires del Evangelio, madre de las Agnolitas Juan y Santiago, Santa Úrsula y Santa, vírgenes y mártires.</p> <p><b>CONTENIDO.</b> <b>SECCION OFICIAL.</b> Poder Legislativo. Decreto. Secretaría de Hacienda. Asesorías.—Oficio. Secretaría de Guerra. Mortificacio marítimas. Administración Judicial. Minutas de la Suprema Corte de Justicia. —Éditos. Régimen Municipal. Providencias de las Municipalidades y Gobernaciones. Anuncios. FOLLETIN.</p> <p><b>SECCION OFICIAL.</b> PODER LEGISLATIVO. N. 8. EL CONGRESO CONSTITUCIONAL DE LA REPUBLICA DE COSTA-RICA, Examinadas las disposiciones que comprende la nueva legislación fiscal, y en uso de la atribución que le confiere la fracción 4.<sup>a</sup> del artículo 94 de la Constitución,</p> <p style="text-align: center;"><i>Decreto:</i></p> <p>Artículo único.—Apruébase el Código de Hacienda emitido por la Comisión Permanente el día ocho de marzo del presente año, el cual, con las modificaciones y enmiendas introducidas, quedó aceptado en los términos siguientes:</p> <p>“LA COMISION PERMANENTE, En uso de la facultad que le confiere la fracción 4.<sup>a</sup> del artículo 94 de la Constitución, y á iniciativa del Poder Ejecutivo,</p>	<p style="text-align: center;">DECRETA el siguiente <b>CODIGO FISCAL.</b> <b>LIBRO PRIMERO.</b> De la Hacienda Pública. <b>PRELIMINARES.</b></p> <p>Art. 1.<sup>o</sup>—Forman las entradas del Tesoro Nacional: 1.<sup>o</sup>—El producto de los impuestos aduaneros, de papel sellado y timbre, de destace de ganado, de patente para el expendio de licencias y tabacos y el de derechos sobre el registro público. 2.<sup>o</sup>—El producto de los telégrafos, correos y ferro-carriles nacionales, y el de los monopolios de tabacos, licores y acuñación de moneda. 3.<sup>o</sup>—El producto de la venta de terrenos baldíos, del arrendamiento de bienes nacionales, venta de impresos, explotación de la imprenta nacional y otros bienes nacionales, y el de las multas, comisos y otras eventualidades.</p> <p style="text-align: center;"><b>TITULO I.</b> <i>Del impuesto aduanero.</i> <b>CAPITULO I.</b> <i>Del Comercio Marítimo.</i> <b>SECCION ÚNICA.</b> <i>Comercio que es permitido hacer por los puertos de la República.</i></p> <p>Art. 2.<sup>o</sup>—Los puertos habilitados para el comercio de altura son: en el golfo de Nicoya, Puntarenas; y en el mar Caribe, el puerto de Limón.</p> <p>Art. 3.<sup>o</sup>—Por los puertos de Limón y Puntarenas y por los demás que en adelante se habiliten para el comercio de altura, es permitido á todo buque mercante de cualquiera nación que sea: 1.<sup>o</sup>—Importar toda clase de mercancías, con excepción de las expresamente prohibidas. 2.<sup>o</sup>—Entrar con cualquiera clase de mercancías de tránsito para otro puerto extranjero. 3.<sup>o</sup>—Trasbordar el todo ó parte de su carga, con especial permiso de la autoridad competente. 4.<sup>o</sup>—Exportar toda clase de mercancías y productos del país. Art. 4.<sup>o</sup>—Durante el tiempo que alguna nación se encuentre en guerra con la República, los buques de dicha nación no gozarán de la libertad á que se refiere el artículo anterior.—En decreto del Poder Ejecutivo fijará en cada caso la interdicción, que durará hasta que otro decreto la levante.</p>	<p>Art. 5.<sup>o</sup>—Por los puertos menores y lugares no habilitados, solamente se podrá—con previo permiso del Administrador de la Aduana del puerto habilitado para comercio de altura, á que corresponde el puerto menor ó lugar no habilitado—exportar los productos del país ó importar del extranjero las mercancías siguientes: alambre para cercas, anclas y andarives, bombas para minas, pozos, incendio ó de riesgo, carbón mineral, casca de madera ó de hierro, caños para acueductos, carros ó carretas para transporte, cartón, piedra y pizarra para techos, duelas, estopa para calafatear, guano y demás abonos, hierro en barras y planchas, jarca para buques, ladrillos, láminas de hierro, plomo y zinc para techos, lanchas y sus útiles, maquinaria para la agricultura y minería, molinos para azúcar, sacos vacíos, toneles y barriles vacíos. Art. 6.<sup>o</sup>—Los buques mercantes extranjeros y las mercancías que conduzcan, así como los capitanes, sobrecargos y tripulaciones, quedan sujetos al pago de los derechos fijados por la ley, á las reglas y penas que en ella se establecen; y á todas las disposiciones que rijan al tiempo de su arribo. Se considerarán arribados los buques desde el momento en que entren en las aguas territoriales de la República. Art. 7.<sup>o</sup>—El tráfico del cabotaje no puede hacerse más que por buques nacionales, y éstos no podrán dedicarse á dicho tráfico, cuando hubieren traído mercancías del extranjero, sin haber concluído su total descarga en el puerto á que hayan venido destinados. Art. 8.<sup>o</sup>—Los buques nacionales y extranjeros, después de haber concluído su descarga en el puerto á que hayan venido destinados, podrán pasar á cualquier punto de la costa, aun cuando no haya en él aduana ni tráfico de cabotaje, con objeto de cargar efectos nacionales, previo permiso del Administrador de la Aduana marítima correspondiente, y con sujeción á los reglamentos respectivos. Art. 9.<sup>o</sup>—Es prohibida la introducción de armas, municiones y equipo de guerra, dinamita y nitroglicerina; la de comestibles cuya corrupción ó mala calidad los haga dañosos á la salud pública; y la de especies fiscales estancadas ó que en adelante se estancaren. Art. 10.—Al capitán de todo buque nacional ó extranjero que</p>	<p>arribe trayendo á bordo especies prohibidas ó estancadas, puede el Administrador de la Aduana obligarle á admitir á bordo uno ó más guardas vigilantes, que serán mantenidos á costa del buque.</p> <p style="text-align: center;"><b>CAPITULO II.</b> <i>Derechos que deben pagar los buques.</i></p> <p>Art. 11.—Los buques extranjeros que no sean de vapor y que traigan mercancías, pagarán: 1.<sup>o</sup>—Como derecho de puerto, aplicable á los gastos del Hospital de Marina, veinticinco centavos por tonelada de registro, con facultad el Administrador de Aduana de rectificar la medida del buque en caso conveniente. 2.<sup>o</sup>—Diez pesos por entrada y salida, como derecho de fero. Art. 12.—Los buques de vela que vengán cargados con sólo carbón de piedra, quedan exceptuados del pago del derecho de toneladas y sólo sujetos al de fero. En caso de traer carbón de piedra y mercancías, la excepción del pago del derecho de toneladas será por las que ocupe el carbón. Art. 13.—Los vapores, aun cuando vengán cargados de mercancías, quedan exceptuados del derecho de toneladas; pero pagarán como derecho de fero, por entrada y salida, veinticinco pesos. Art. 14.—Una vez que los capitanes de buque hayan pagado los derechos que quedan mencionados, no se les podrá cobrar contribución ni gratificación de ninguna clase, ni por los marineros de las capitánías de puerto, ni por los oficiales de sanidad, ni por los guardas ó dependientes de las Aduanas; salvo el justo valor del servicio de gobierno cuando hubieren pedido práctico. Art. 15.—Se exceptúa del pago de los derechos de toneladas y fero, á los buques nacionales: á los de guerra; á los vapores obligados á tocar periódica y regularmente en cualquiera de los puertos; á los buques halleneros ó de largo curso que arriben con el objeto de invernar, hacer agua, refrescar víveres ó reparar averías; y á los que vinieren en lastre á llevar mercancías ó productos nacionales.</p> <p style="text-align: center;"><b>CAPITULO III.</b> <i>Obligaciones de los cargadores ó remitentes.</i></p> <p>Art. 16.—Cualquiera que de país extranjero envíe objetos de comercio á la República, aun cuando fueren libres de derechos, formará facturas por triplicado de</p>
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## Appendix 8

Constituição da República dos Estados Unidos do Brasil 1891 (page 1 of 3)





## Appendix 2

An Act for increase of Shipping, and Encouragement of the Navigation of this Nation, 1651 (page 2 of 2)

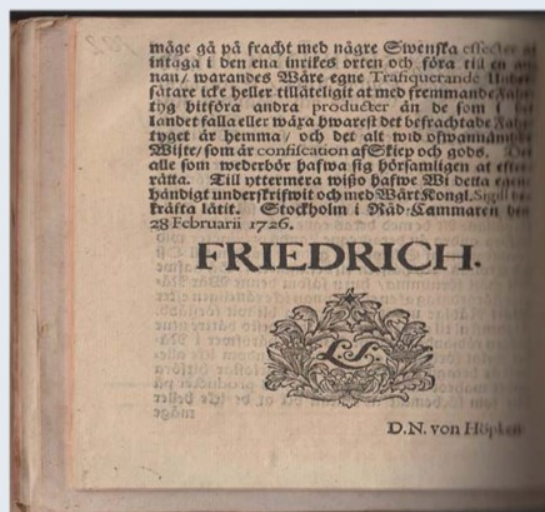
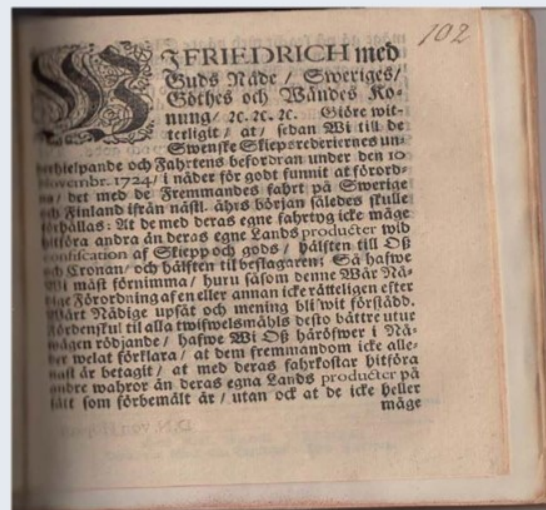
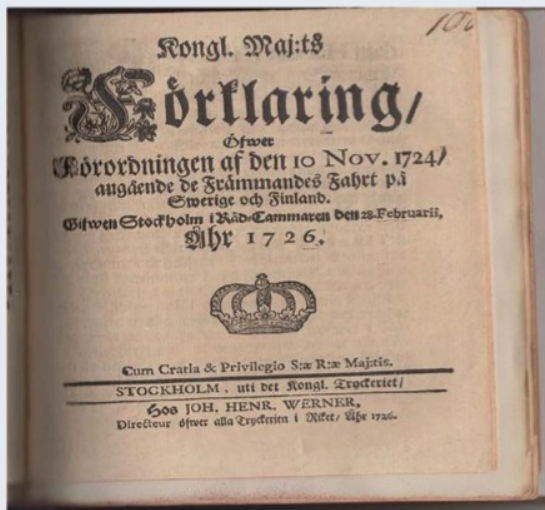
(1450)

Commonwealth of England, or into Ireland, or any other Lands, Islands, Plantations or Territories to this Commonwealth belonging, or in their Posselston, in any other Ship or Ships, Vessel or Vessels whatsoever, but only in such as do truly and without fraud belong only to the People of this Commonwealth, or the Plantations thereof, as the Proprietors or right Owners thereof: And whereof the Master and Partners are also for the most part of them, of the People of this Commonwealth, under the penalty of the forfeiture and loss of all the Goods that shall be Imported contrary to this Act; as also of the Ship (with all her Tackle, Guns and Apparel) in which the said Goods or Commodities shall be so brought in and Imported, The one moiety to the use of the Commonwealth, and the other moiety to the use and behoof of any person or persons who shall seize the said Goods or Commodities, and shall prosecute the same in any Court of Record within this Commonwealth. And it is further Enacted by the Authority aforesaid, That no Goods or Commodities of the Growth, Production or Manufacture of Europe, or of any part thereof, shall after the first day of December, One thousand six hundred fifty and one, be Imported or brought into this Commonwealth of England, or into Ireland, or any other Lands, Islands, Plantations or Territories to this Commonwealth belonging, or in their possession, in any Ship or Ships, Vessel or Vessels whatsoever, but in such as do truly and without fraud belong onely to the people of this Commonwealth, as the true Owners and proprietors thereof, and in no other, except onely such Foreign Ships and Vessels

### Appendix 4

Förklaringen den 28 februari 1726 "öfwer förordningen af den 10. Nov. 1724, angående de Främmandes Fahrt på Swerige och Finland

The Declaration of 1726 on the Ordinance of 1724





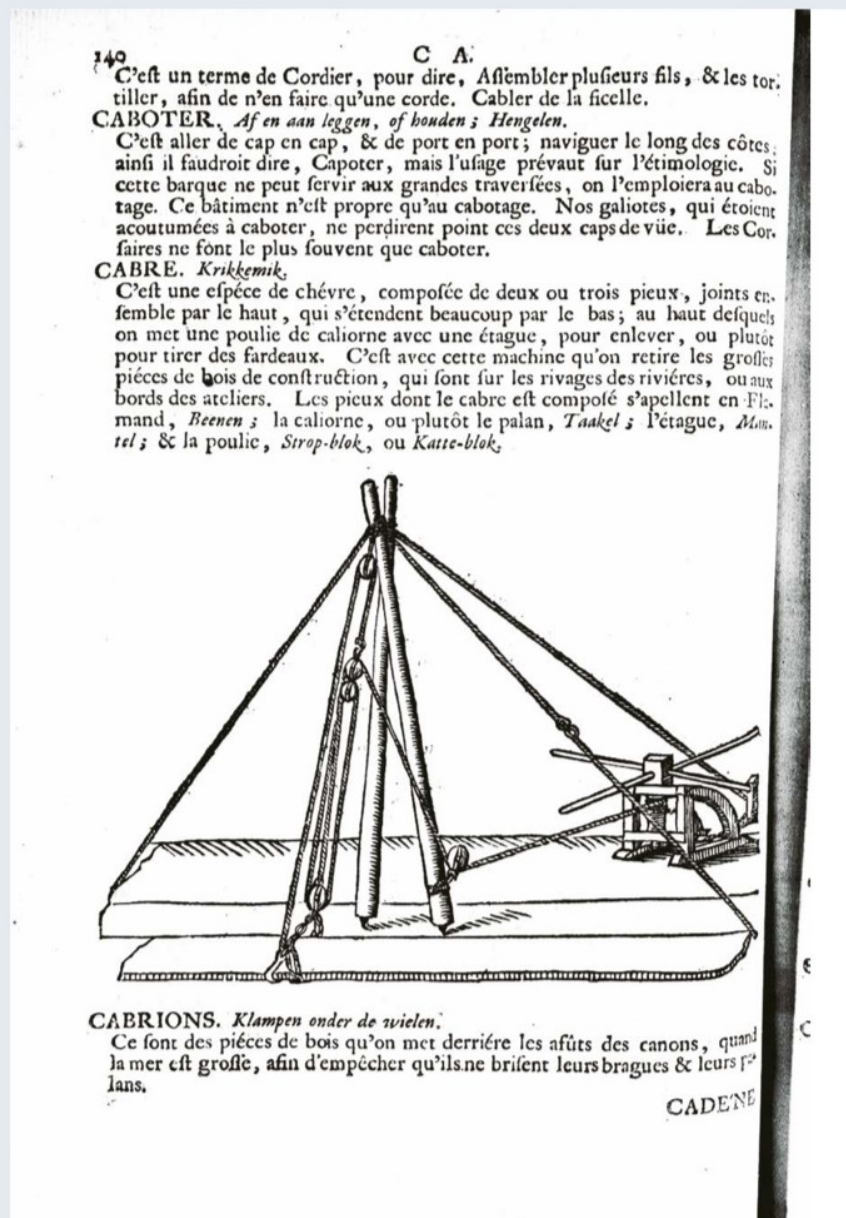
# ILLUSTRATIONS

Pages 10,11	WAGHENAER ,Lucas Janszoon, Spieghel der Zeevaerdt, Antwerp, 1584
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Page 27	Gesetz, betreffend die Küstenfrachtfahrt 22 Mai 1881
Page 30	DE BRY, Theodor, America sive Novus Orbis respectu Europaeorum inferior globi terrestres pars, Frankfurt, 1596
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Page 39	KEPLER, Johannes, Tabulae Rudolphinae, quibus Astronomicae scientiae, temporum longinquitate collapsae Restauratio continetur, Ulmae : Saurius, 1627
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Page 46	Maritime Administration of the U.S. Department of Transportation (MARAD), "A Survey of World Cabotage Laws: Summary of Responses from Countries" June 1991
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Page 69	DE BRY, Theodor, Occidentalis Americae Partis, Vel Earum Regionum Quas Christophorus Columbus Primu[m] Detexit ... Praesertim Vero Ex Hieronymi Benzoni (qui Totis XIII Annis Eas Provincias Diligenter Perlustravit), Frankfurt, 1594
Page 70	MURILLO VELARDE, Pedro, Carta hydrographica y chorographica de las Yslas Filipinas : dedicada al Rey Nuestro Señor por el Mariscal d. Campo D. Fernando Valdes Tamon Cavallo del Orden de Santiago de Govor. Y Capn, Manila, 1734
Page 72	The Treaty of The Hague (also known as the Treaty of Den Haag), 1661
Page 76	WAGHENAER, Lucas Janszoon, Spieghel der Zeevaerdt, Antwerp, 1584

All other images composites/courtesy Shutterstock

## Appendix 10

NICOLAS, Aubin, Dictionnaire de marine contenant les termes de la navigation et de l'architecture navale, Amsterdam: P.Brunel, 1702





remained substantially unchanged. So, in this sense, the 1899 Act is still in force. It is of note that in the Republic of South Korea, the historical origin of the contemporary cabotage laws can be traced to Japanese colonial statutes of 1914.

In Portugal, article 5 of the Decree of January 23, 1905 contained the following provisions:

“The following are reserved to Portuguese shipping, when the latter fully complies with the conditions laid down in Article 4 of the Decree of July 8th, 1863, with regard to the complete nationalisation of merchant vessels: (1) Maritime traffic between ports on the mainland of Portugal, between these ports and the ports of the Azores archipelago, and between the ports of the latter ; (2) Maritime traffic between the Portuguese Atlantic possessions and the ports on the mainland of Portugal and of the islands of the Azores and Madeira; (3) Maritime traffic between the ports of each of the Portuguese possessions in the Atlantic”.

Article 4 of the Decree of 1863 mentioned above stated that: “A vessel is not considered a Portuguese vessel even if of Portuguese construction, if its ownership is not held in its entirety by Portuguese nationals or foreign nationals naturalised as Portuguese”. (*SRI translation*).

The historic laws demonstrate that cabotage principles have existed before and at the dawn of the 20th century in some states, and that despite subsequent political, economic and legal changes, cabotage principles have endured and evolved to a greater or lesser extent. Closely associated with the early cabotage principles were concurrent treaties, foreshadowing the current relationship between cabotage laws and trade agreements today.<sup>19</sup>

## TERMS OF REFERENCE AND METHODOLOGY

SRI was commissioned by the ITF to conduct a survey of the member states of the United Nations to determine how many of those states have cabotage. The survey was conducted through cooperation with independent law firms in each of the states selected for study. Advice was sought and debated, and foreign language laws were translated and read as needed. This Report is based on the advice received. The Report does not enter into the debate on the merits of cabotage which is well covered in other publications, many of which are identified in this Report.

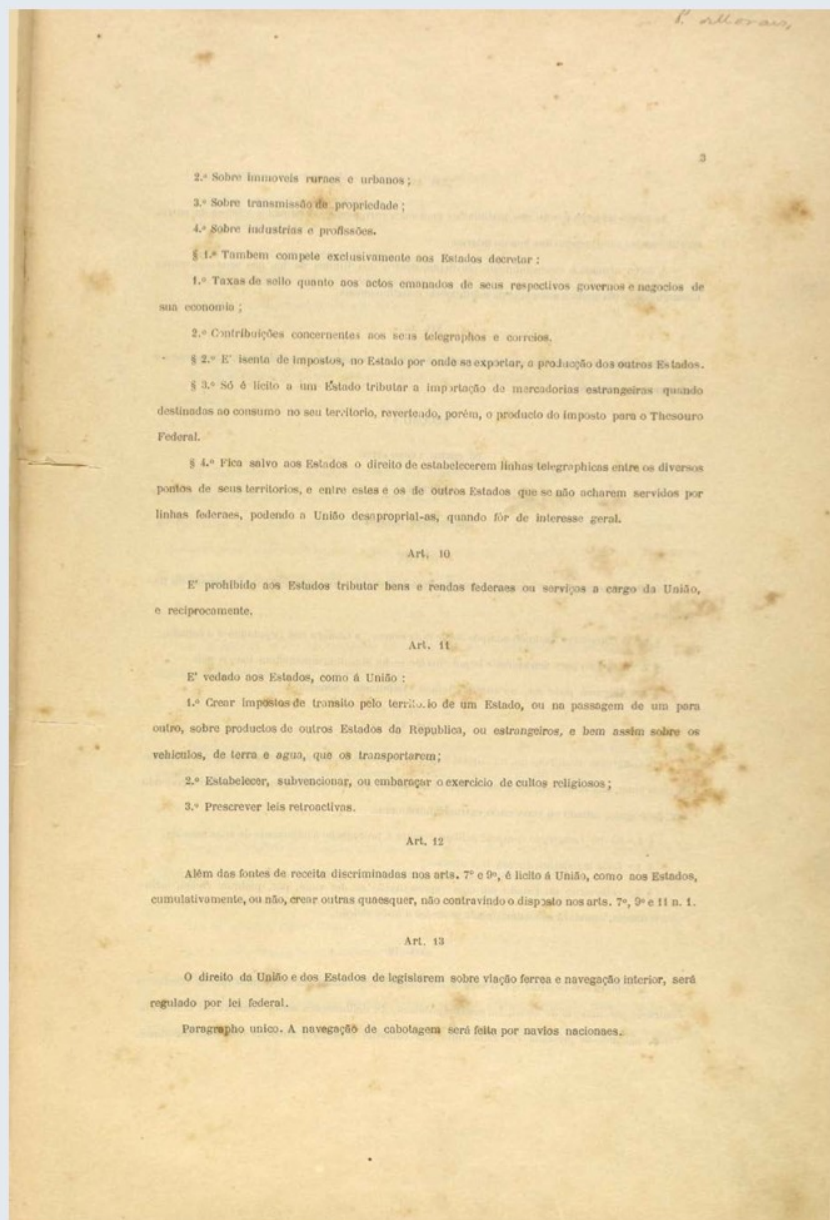
The laws surveyed are mostly maritime and shipping laws that explicitly restrict cabotage. Closely related to the maritime and shipping laws are other laws such as marine transport laws, marine trade laws, navigation laws and customs laws that may also restrict cabotage. These laws were also surveyed. So the reference to maritime law and shipping law in this Report should also be understood to include closely related laws.

Cabotage laws are mostly in primary acts, decrees, ordinances or maritime codes. Sometimes cabotage laws comprise several separate but related legal instruments that raise difficult issues of interpretation regarding the interrelationship and/or hierarchy of the laws; difficulties exacerbated by different rules of statutory interpretation around the world as well as ambiguous laws and frequent translation issues. Unless SRI was advised to the contrary by the lawyers from whom it sought advice, a literal interpretation of cabotage laws was adopted; of course it is always open to lawyers to disagree amongst themselves as to the interpretation of the laws discussed and listed in this Report.

## CABOTAGE LAWS OF THE WORLD

## Appendix 8

Constituição da República dos Estados Unidos do Brasil 1891 (page 3 of 3)





US Customs Border Protection, The Passenger Vessel Services Act, April 2010

US Department of Transportation, Maritime Administration, A Survey of World Cabotage Laws: Summary of Responses from Countries US Maritime Administration (June, 1990)

US Department of Transportation, Maritime Administration, By the Capes Around the World: A Summary of World Cabotage Practices. US Maritime Administration (May 22, 1991)

Worden, B. The Rump Parliament 1648-53. Cambridge University Press (rev ed 2008)

Writ of Mandamus no. 1004259-79.2016.4.01.3400 (14th Federal Court of the Federal District, Brazil)

Writ of Mandamus no. 1009626-84.2016.4.01.3400 (5th Federal Court of the Federal District, Brazil)

WTO, Council for Trade in Services - Maritime Transport Services - Background Note by the Secretariat. Restricted S/C/W/315, 7 June 2010

# APPENDICES



SEAFARERS'  
RIGHTS  
INTERNATIONAL

# BIBLIOGRAPHY

Ajamain, Z. 33 years of Discrimination, Disfranchising and Marginalizing Malaysians in Sabah: National Cabotage Policy. July 2013

American Maritime Partnership website at <http://www.americanmaritimepartnership.com>

Asean Framework Agreement on the Facilitation of Inter-state Transport

C-251/04 Commission of the European Communities v Hellenic Republic. 11 January 2007

C-323/03 Commission of the European Communities v Kingdom of Spain. 9 March 2006

Canada, Report of the Royal Commission on Coasting Trade, 9 December 1957: The Spence Report – 1957

Canada, The Coasting Trade Act – A position paper dealing with the policy implications of a proposed Bill on the Coasting Trade of Canada 1977, Transport Canada, Marine

Canada, The Coasting Trade of Canada and Related Marine Activity: The Darling Report – 1970

Canada, Transport Canada Background Paper – A New Coasting Trade Policy, 1982

Cole, M. Maritime Cabotage: A Global Analysis Including Cabotage Campaigning Tools. Maritime Union of Australia (MUA) and the International Transport Workers' Federation (ITF), March 2010

Collins English Dictionary: Complete and Unabridged edition 12th Edition, 2014

Communication from the Commission to the European Parliament, the Council, the

European Economic and Social Committee and the Committee of the Regions on the interpretation of Council Regulation No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) of 22.12.2003, COM (2003) 595

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions updating and rectifying the Communication on the interpretation of Council Regulation No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) of 11.5.2006, COM (2006) 196

Communication from the Commission on the interpretation of Council Regulation (EEC) No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) Brussels, 22.4.2014 COM (2014) 232

Conley, J. M. The Jones Act: Its Effect on the U.S. Response to the 2010 BP Deepwater Horizon Oil Spill and Its Relevance in International Law, Washington University Global Studies Law Review. Vol. 11, Issue 1, January 2012

Cordero, M. Logistics and trade facilitation between CARICOM and Central America. United Nations, July 2014

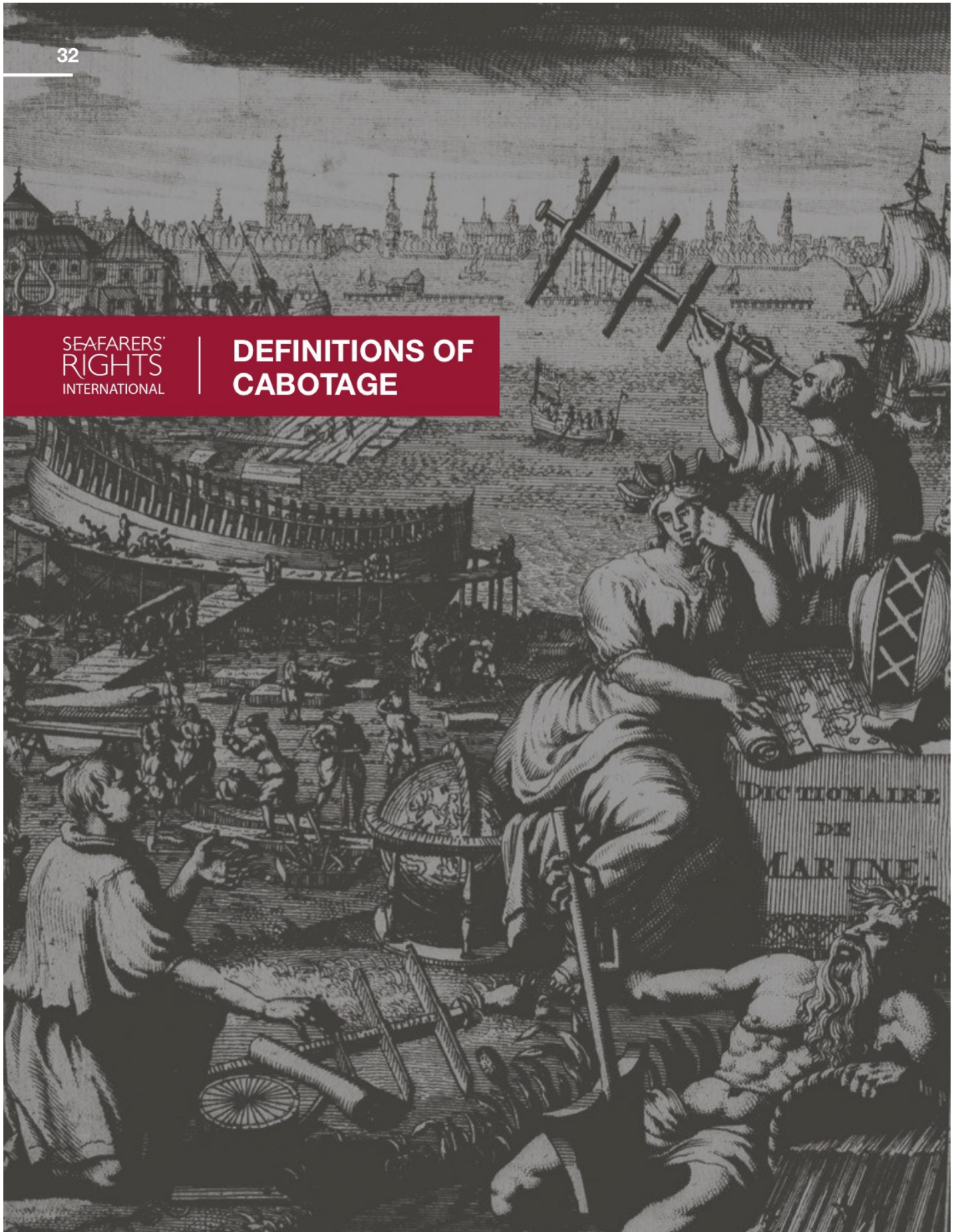
Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage). Official Journal of The European Communities (OJ) OJ L 364, 12.12.1992, p. 7–10



- Norway, Law on professional transport by motor vehicle and vessel (Date LOV-2002-06-21-45)
- Norway, Rule on wages and working conditions in public contracts (Date FOR-2008-02-08-112)
- OECD, Regulatory issues in international maritime transport. OECD. DST1/DOT (2001) 3
- Pestana, C. G. The English Atlantic in an Age of Revolution: 1640-1661. Cambridge, Massachusetts and London, England: Harvard University Press 2007
- Proceedings no. 003.667/2018-9 at the Brazilian Federal Court of Audit
- Revised African Maritime Transport Charter, Adopted by the fifteenth ordinary session of the Assembly, held in Kampala, Uganda, 26 July 2010
- Ricardo, J. L. (1847) The Anatomy of the Navigation Laws. London: Charles Gilpin
- Russian Federation, Maritime Doctrine of the Russian Federation for the period until 2020, approved by the Decree of the President of the Russian Federation of 27 July 2001
- Russian Federation, Resolution of the Government of the Russian Federation No. 848, dated 5 December 2001
- Sawers, L. The Navigation Acts Revisited. The Economic History Review, New Series, Vol. 45, No. 2 (May, 1992), pp. 262-284
- Selden, J. (1652) Of the Dominion or Ownership of the Sea: two books. London: William Du-Gard
- South Africa, Draft Revised White Paper on National Transport Policy 2017, Department of Transport, Pretoria
- The Oxford English Dictionary. 2nd Edition 2018
- The World Bank and International Finance Corporation, Policy Options for Liberalizing Philippine Maritime Cabotage Restrictions. The World Bank and International Finance Corporation Philippine Country Office, East Asia and Pacific Region Report No. 105364-PH, July 2014
- Trace, K., Frielink, B., and Hew, D. Maritime Connectivity in Archipelagic Southeast Asia: An Overview. Southeast Asia Working Paper Series, no. 1. Asian Development Bank, August 2009.
- UK Chamber of Shipping, A Maritime Nation: UK Shipping and the EU. UK Chamber of Shipping. January 2016
- UNCTAD Rethinking Maritime Cabotage for Improved Connectivity. UNCTAD Transport and Trade Facilitation, Series No 9 (UNCTAD/DTL/TLB/2017/1) Geneva, 2017
- UNCTAD Review of Maritime Transport 2017 (UNCTAD/RMT/2017)
- UNESCAP (1999) 'National Shipping Fleets and Access to Shipping Markets' in Framework for the Development of National Shipping Policies. UNESCAP, August 1999
- United Nations Economic Commission for Europe (2002) Glossary for Transport Statistics, prepared by the Intersecretariat Working Group on Transport Statistics. Eurostat, European Conference of Ministers of Transport (ECMT), United Nations Economic Commission for Europe (UNECE).
- United Nations Economic Commission for Europe (2003) (3rd Ed.) Glossary for transport statistics: Document prepared by the Intersecretariat Working Group on Transport Statistics. European Communities (2003), United Nations Economic Commission for Europe (2003), European Conference of Ministers of Transport (2003)

SEAFARERS'  
RIGHTS  
INTERNATIONAL

## DEFINITIONS OF CABOTAGE









Cowie, J. and Ison, S. (ed.) (2018) *The Routledge Handbook of Transport Economics*. London and New York: Routledge

Encyclopedia Britannica History of Ships (Cabotage) (contributors: James Joseph Stilwell, John B. Woodward and Others) May 15, 2018

Findlay, C. *The Impacts and Benefits of Structural Reforms in the Transport, Energy and Telecommunications Sectors in APEC Economies*. APEC Policy Support Unit, January 2011

Garner, B. and Black, H. C. (ed.), *Black's Law Dictionary*. 8th Edition 2004

Geloso Grosso, M. et al. *Services Trade Restrictiveness Index (STRI): Transport and Courier Services*. OECD Trade Policy Papers, No. 176, 2014

Grotius, H. (1609) *The Free Sea*, translated by Richard Hakluyt, with William Welwod's Critique and Grotius's Reply, ed. David Armitage. Indianapolis: Liberty Fund, 2004

Hodgson, J.R.F. and Brooks, M. R. *Canada's Maritime Cabotage Policy: A Report for Transport Canada, Marine Affairs Program*, Dalhousie University 2004

Hodgson, J.R.F. and Brooks, M.R. *Towards a North American Cabotage Regime: A Canadian Perspective*, *Canadian Journal of Transportation*. Vol.1, Part 1, March 2007

Hunt, F. (ed.) (1841) *British Navigation Act*. *The Merchants' Magazine and Commercial Review*, Vol. IV, No. V, pp 393-414. New York: Freeman Hunt

Japan Federation of Coastal Shipping Association's website at <http://www.naikokaiun.or.jp/e/>

Japan's Third Basic Plan on Ocean Policy

Joined Cases C-128/10 and C-129/10 *Navtiliaki Etairia Thasou AE and Amalithia I Navtiki Etairia v Ipourgos Emborikis Navtilias Kvinge, T. and Odegard, A. M.* *Protectionism or legitimate protection? On public regulation of pay and working conditions in Norwegian maritime cabotage* 2010

League of Nations, *Enquiry Concerning the Meaning Attached to the Term "Coasting Trade" in the Various Countries*. League of Nations, 1930

Llanto, G. M. and Navarro A.M., (2014) *Relaxing the Cabotage Restrictions in Maritime Transport*.

Li, K. X. and Ingram, C. W. M. *Maritime Law and Policy in China*. London: Cavendish Publishing 2002

Maldives, *Regulation Governing Foreign Tourist Vessels Cruising and Harbours in Maldivian Waters*. Ministry of Tourism, Arts and Culture

Maldives, *Tourism Act (Law No. 2/99)*

Maritime Administration of the U.S. Department of Transportation (MARAD), "By the Capes Around the World. A Summary of World Cabotage Practices" May 22, 1991

Maritime Administration of the U.S. Department of Transportation (MARAD), "A Survey of World Cabotage Laws: Summary of Responses from Countries" June 1991

Merriam-Webster Dictionary

Mihm, S. (2017) *Jones Act Descended From Centuries of Lazy Protectionism*. Bloomberg Opinion. 14 October 2017

New Zealand, *Maritime Transport Act 1994*

## CABOTAGE LAWS OF THE WORLD



DICTIONNAIRE  
 DE  
 MARINE  
 CONTENANT  
 LES TERMES DE LA  
 NAVIGATION  
 ET DE  
 L'ARCHITECTURE NAVALE

*Avec les Règles & Proportions qui doivent y être observées.*

OUVRAGE ENRICHIE DE FIGURES

Représentant divers Vaisseaux, les principales Pièces servant à leur construction, les différens Pavillons des Nations, les Instrumens de Mathématique, Outils de Charpenterie & Menuiserie concernant la fabrique; avec les diverses fonctions des Officiers.



AMSTERDAM,

Chez PIERRE BRUNEL, Marchand Libraire, sur le Dam. M. D. CCII,

*Avec Privilège de Noss. les Etats de Hollande & Westfrise.*

V.

V. 1654.

9714

## Appendix 3

## An Act concerning the navigation of the United States 1817

FOURTEENTH CONGRESS. SESS. II. CH. 31. 1817.

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## STATUTE II.

March 1, 1817.

CHAP. XXXI.—*An Act concerning the navigation of the United States.*

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That after the thirtieth day of September next no goods, wares, or merchandise, shall be imported into the United States from any foreign port or place, except in vessels of the United States, or in such foreign vessels as truly and wholly belong to the citizens or subjects of that country of which the goods are the growth, production, or manufacture; or from which such goods, wares, or merchandise, can only be, or most usually are, first shipped for transportation: *Provided, nevertheless,* That this regulation shall not extend to the vessels of any foreign nation which has not adopted, and which shall not adopt, a similar regulation.

SEC. 2. *And be it further enacted,* That all goods, wares, or merchandise, imported into the United States contrary to the true intent and meaning of this act, and the ship or vessel wherein the same shall be imported, together with her cargo, tackle, apparel, and furniture, shall be forfeited to the United States; and such goods, wares, or merchandise, ship, or vessel, and cargo, shall be liable to be seized, prosecuted, and condemned, in like manner, and under the same regulations, restrictions, and provisions, as have been heretofore established for the recovery, collection, distribution, and remission, of forfeitures to the United States by the several revenue laws.

SEC. 3. *And be it further enacted,* That after the thirtieth day of September next, the bounties and allowances now granted by law to the owners of boats or vessels engaged in the fisheries, shall be paid only on boats or vessels, the officers and at least three-fourths of the crews of which shall be proved to the satisfaction of the collector of the district where such boat or vessel shall belong, to be citizens of the United States, or persons not the subjects of any foreign prince or state.

SEC. 4. *And be it further enacted,* That no goods, wares, or merchandise, shall be imported, under penalty of forfeiture thereof, from one port of the United States to another port of the United States, in a vessel belonging wholly or in part to a subject of any foreign power; but this clause shall not be construed to prohibit the sailing of any foreign vessel from one to another port of the United States, provided no goods, wares, or merchandise, other than those imported in such vessel from some foreign port, and which shall not have been unladen, shall be carried from one port or place to another in the United States.

SEC. 5. *And be it further enacted,* That after the thirtieth day of September next, there shall be paid a duty of fifty cents per ton upon every ship or vessel of the United States, which shall be entered in a district in one state from a district in another state, except it be an adjoining state on the sea coast, or on a navigable river or lake, and except also it be a coasting vessel going from Long Island, in the state of New York, to the state of Rhode Island, or from the state of Rhode Island to the said Long Island, having on board goods, wares, and merchandise, taken in one state, to be delivered in another state: *Provided,* That it shall not be paid on any ship or vessel having a license to trade between the different districts of the United States, or to carry on the bank or whale fisheries, more than once a year; *And provided also,* That if the owner of any such vessel, or his agent, shall prove, to the satisfaction of the collector, that three-fourths at least of the crew thereof are American citizens, or persons not the subjects of any foreign prince or state, the duty to be paid in such case shall be only at the rate of six cents per ton; but nothing in this section shall be construed to repeal or affect any exemption from tonnage duty given by the eighth section of the act, entitled "An act to provide for the establishment of certain districts, and therein to

Restriction of importations to vessels of a particular character.

Proviso: the regulation not to extend to foreign vessels of a certain description.

Merchandise imported contrary to this act, vessel, &c., forfeited.

Bounties on vessels employed in the fisheries restricted to such whose officers and 3-4ths of the crews are citizens, &c.

Regulations with respect to importation of goods from one port of the United States to another, &c.

Regulations in relation to tonnage duty on vessels entering from a district in one to a district in another state.

Proviso: as to licensed vessels.

Proviso: as to diminution of duty where 3-4ths of the crew are citizens, &c.

Act of May 1, 1802, ch. 45.





## Appendix 2

An Act for increase of Shipping, and Encouragement of the Navigation of this Nation, 1651 (page 1 of 2)

