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Evaluating The Impact and Legal Framework of The Cabotage Principle in Coastal State Shipping

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ABSTRACT

The Cabotage Principle grants coastal states the authority to exclusively regulate domestic shipping within their waters. This principle allows coastal nations to prohibit foreign vessels from navigating and trading along their coastlines without permission and for clear, justified reasons. In Indonesia, foreign vessels are restricted from entering its waters unless expressly authorized. The study aims to evaluate the impact on indigenous and foreign coastal shipping firms and explore how the policy can be leveraged to enhance business opportunities for local ship operators in the coastal shipping sector. Data was collected on the charter fees for numerous regional and foreign cabotage vessels for each year within the scope of this study, assuming comparable charter rates for ships from both groups. The resulting model proposes a legal framework for the cabotage principle that involves key stakeholders, including ports, local governments, legislatures, and academic institutions. The specific goal of this research is to inform policy-making, regional studies, and international law.

INTRODUCTION

The Coastal State government enacts cabotage laws to restrict foreign access to domestic coastal waters and limit the transportation of goods and passengers to vessels registered in the country. (Wong et al., 2019) These laws may prevent foreign ships from engaging in domestic transit, potentially creating challenges for international commerce. However, cabotage laws are also designed to foster the growth and stability of domestic maritime industries, which can support global trade by providing reliable and efficient transport services.(Maruf et al., 2024) Moreover, developing domestic maritime industries stimulates related sectors, such as shipbuilding and maritime services, thereby contributing to the broader framework of international commerce.(Olney, 2020) Additionally, certain countries incorporate exemptions or allowances within their cabotage laws, permitting specific types of foreign vessels or cargo, such as those involved in humanitarian aid or scientific research, to operate within their coastal waters.(Maruf & Abdullah, 2023) The Government seeks to protect the domestic maritime industry by restricting the transportation of goods and passenger ships in territorial waters, which must own, register, and fly the national flag. By limiting foreign competition, cabotage laws aim to create a level playing field for domestic maritime operators, thereby promoting the stability and growth of the local maritime sector.(Ahmad & Rachmawati, 2016)

Historically, Governments have viewed cabotage laws as economic measures and vital tools for national security. By ensuring that only domestic vessels can transport goods and passengers within a country's territorial waters, these laws help prevent unauthorized access to ports and waterways, thereby reducing the risk of illegal entry of personnel and goods. (Brooks, 2012) Beyond protecting domestic industries and enhancing national security, cabotage laws offer economic benefits by stimulating investment in the domestic maritime sector, generating employment, and fostering the growth of related industries such as shipbuilding and maritime services.

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Coastal states recognize the cabotage principle as the exclusive right of a nation to enforce its laws and regulations over land, water, and air within its territory. However, the regulation and application of the cabotage principle require scrutiny to determine whether the norms governing it cause vertical and horizontal conflicts that could lead to legal uncertainty. (Cavana*, 2004)It is crucial that even at the level of the Supreme Court and the Constitutional Court, the right to test evidence regarding violations of the cabotage principle is upheld to ensure the principle's proper

A liberalized market refers to an economic policy to liberalize international trade between nations and dismantle the barriers that prevent such work, particularly international maritime trade. The comparative advantage principle, which has contributed to the current industrial structure of the global economy, underpins the fundamental philosophy. (Brooks, 2012)Numerous economists have addressed market liberalization, and discussions have been ongoing for many years, initially by the General Agreement on Tariffs and Trade and, more recently, by the World Trade Organization.(Maruf & Supardi, 2019) All nations that have opened their markets to trade and foreign investment have experienced sustained economic growth. Numerous economic activities, including the shipping industries, have benefited economically from this strategy.

Economic activities that for many years adopted local and national monetary policies, which frequently entailed high production costs, have reached remote regions of the world either to produce or to sell their products and services and to benefit from scale economies, thereby reducing production costs and selling prices(Maruf, 2024). They have passed through various stages of evolution, from national to international to global, and participate in significant economic clusters that generate financial synergies and knowledge spillovers. However, Governments should take market liberalization measures on a multilateral basis and supplement them with appropriate employment, labor, and education policies to share trade benefits. (Beleya & Nadarajah, 2023)Numerous economic, legal, social, strategic, and cultural factors influence nations to adopt liberalized market policies rather than protectionist ones enforced by international treaties and organizations.

However, several factors hinder or delay the implementation of liberalized market policies. The drawbacks of liberalization, including increased unemployment, dumping, and the decline in domestic production leading to greater reliance on foreign nations, provide compelling reasons to oppose it. Moreover, achieving and implementing multilateral agreements among the various signatory countries is inherently complex. The implementation process often proceeds at different rates, reflecting the particular interests of individual nations and affecting the overall effectiveness of policy measures designed to promote and foster market liberalization. Furthermore, free trade proves ineffective globally, where capital does not circulate freely, and trade partners are asymmetrical, preventing the adoption of more collaborative and cooperative strategies.(Cavana*, 2004)

A protectionist market is an economic policy restricting international trade by imposing tariffs, quotas, and non-tariff barriers. Numerous economic, social, strategic, and cultural factors lead nations to adopt protectionist policies. All of these are partially justifiable, have severe effects on the economic development of countries, and thus cannot be a solution to their economic and financial problems.

The cabotage principle is also applicable in the aviation sector. This principle fundamentally roots itself in the concept of state sovereignty. According to the cabotage principle, a state has the sovereign right to prohibit foreign vessels from operating between two or more locations within its territory. It grants a country the exclusive authority to enforce its laws and regulations on land, water, and air within its borders. However, the regulation and application of the cabotage principle require careful examination, as conflicts between vertical and horizontal norms may arise, leading to legal uncertainty. Therefore, ensuring the right to testify before the Supreme Court and the Constitutional Court regarding violations of the cabotage principle is essential.

Among the challenges nations face are monopolies, high costs, defective goods, ineffective and wasteful production methods, the growth of illicit economies, and retaliation from politically and economically linked countries. Furthermore, government subsidies and loans distort market competition by allowing domestic economic activities to compete unfairly with foreign counterparts. (Olney, 2020) Defining trade policy, a subset of regulatory policies, is increasingly complex in today's intricate trading system. One can expect to encounter hybrid policies where protectionist and liberalized elements coexist. Regardless of the trade policy adopted—whether entirely free, fully protected, or a blend of both—governments must employ one of the many existing policy-making models and detailed roadmaps. These tools help identify the appropriate policy instruments to evaluate a policy's success or failure. Without these models and instruments, one cannot accurately judge the effectiveness of any policy.

RESEARCH METHODS

The concept of "maritime cabotage," also known as "coastal navigation," "domestic shipping," "coastal shipping/trading," "coasting shipping/trade," and "coastwise" (cabotage), is not a recent development and varies across different geographical regions. Cabotage, the oldest form of cargo preference, prohibits foreign-flagged vessels from transporting goods domestically. (Okeke & Aniche, 2012) Its origins trace back to the fifteenth century, when nations used shipping as a legal justification for international conflict. While Portugal may have been the first country to implement cabotage laws in the fifteenth century, France promulgated the legal principle of cabotage in the sixteenth century. Due to varying historical accounts, the precise inception of cabotage as a legal principle remains unclear. (Casaca & Lyridis, 2018a)Nevertheless, Nations established cabotage laws to protect coastal trade, restrict such trade to national vessels owned and operated by nationals or national shipping companies, and control trade between the metropolitan nation and its colonies. Pursuing maritime dominance led to numerous wars and battles, with few controlling maritime activities. This situation persisted until the post-World War II era when the last European colonies gained independence and established their own shipping companies. This led to a significant shift in the previously understood concept of cabotage, which became much more constrained.

The Cabotage principle is a globally recognized legal doctrine in the law and practice of shipping. It embodies a nation's sovereignty by granting it the exclusive right to regulate domestic transportation, including land, sea, or air. This principle is more than protectionism; it represents a country's sovereign right to manage and control its internal transportation affairs. (Purba & Siregar, 2022)The Cabotage principle should not be misconstrued as merely providing unreasonable preferential treatment to domestic companies or creating unfair competition. (Azranda, n.d.) Instead, it is a strategic legal measure to preserve and enhance national interests.

Under the Cabotage principle, a nation grants special rights to vessels flying its flag to transport goods and people between domestic ports. This principle mandates that citizens or businesses established under the country's laws must own or operate the ship. Like many other coastal states, including Malaysia, Nigeria, the United States, Brazil, Canada, Japan, India, China, Australia, and the Philippines, Indonesia has implemented the Cabotage principle as part of its maritime transportation policy. (Churul Aini, 2016)By doing so, these countries assert their sovereignty over domestic shipping and seek to protect and promote their national shipping industries.

The primary goal is to establish an efficient and effective sea transportation system that supports economic growth, regional development, and the reinforcement of national sovereignty.(Rifai et al., 2017). Governments employ tariffs, quotas, and other non-tariff trade barriers to restrict international commerce in a protectionist market. Nations adopt protectionist policies for various fiscal, social, strategic, and cultural reasons. While these factors may sometimes be justifiable, they ultimately hinder economic growth. Such policies fail to address these nations' underlying economic and financial challenges. Instead, they often lead to poverty and isolationism, which are difficult to reverse and have a lasting impact, including on the formulation of maritime cabotage policies.

Maritime transport played a vital role in the nation's economic development through the lubrication of import and export trade and the facilitation of exploration and exploitation of natural resources located offshore. The importance of shipping, whether coastal liner shipping in the economic and socio-political development and the sovereignty of nations, remains a major causal factor for qualitative but radical maritime policy formulation and its diligent implementation by traditional maritime nations worldwide. (Rachmawati & Rastuti, 2023)Most of the time, these policies aim to attract massive foreign and local investment in shipping, empowerment, and development of local ship operators. The Government is still achieving maritime technology transfer and advancement, maritime human resource training and assignment, expansion in national fleet sizes, radical seaport facility development, and port technology advancement. The strategy of the national shipping industry and fleet for domestic and global seaborne trade carriage through the formation of the shipping trade (Maruf, 2023)

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RESULTS AND DISCUSSION

1. The implementation of the Cabotage principle in Indonesia

The Cabotage Principle in Indonesia is a strategic policy formulated by the government due to its crucial implications for the country's shipping industry. The core of the Cabotage Principle, which restricts foreign vessels from operating in Indonesia, has the potential to reshape the market structure of the shipping industry.(Delayori, 2022) Implementing the Cabotage Principle, which began in 2005, created barriers for foreign vessels entering Indonesia's shipping market. This is regulated under Law No. 17 of 2008, Article 8, Paragraph 2, which governs the operation of foreign vessels in Indonesia. The law stipulates that foreign vessels are prohibited from transporting goods and passengers within Indonesian waters and that Indonesian-flagged ships operating in these waters must be crewed by Indonesian citizens. Applying the cabotage principle in Indonesia is not entirely feasible due to certain exceptions, particularly for foreign ships involved in oil and gas production rather than transportation. (Churul Aini, 2016)This highlights the complexity of fully implementing the cabotage principle across all maritime industry sectors. Additionally, one of the significant challenges is that the cabotage principle does not necessarily substantially impact the domestic shipyard industry. (Annalisa et al., 2021)This is primarily because many shipping companies purchase used ships from abroad, which are significantly cheaper, rather than investing in new boats built within the country.

Developing the shipyard support industry is crucial to support the successful implementation of the cabotage principle. The principle mandates that vessels operating within Indonesian waters must be Indonesian-flagged. (Anita, 2020)With the increasing number of Indonesian-flagged ships, which have reached approximately 10,000 units with a total capacity of 13 million gross tons, there is a growing demand for ship maintenance and docking services. (Rifai et al., 2017)However, the current capacity of the national shipyards, which stands at 6 million gross tons per year, falls short of the required 7.8 million gross tons, leading to a potential shortfall of 1.8 million gross tons per year in docking facilities. This shortfall represents a significant potential loss for the industry.

The National Coastal and Inland Shipping Act, or the Cabotage Policy, was enacted in 2003 and became effective in 2004, primarily reserving shipping and inland water transportation for Indonesian nationals. (Churul Aini, 2016)The Cabotage Policy ensures that all existing coastal shipping business opportunities are reserved for Indonesian ship operators and their legitimate business partners. This policy is essential for fostering the growth of the domestic maritime industry and ensuring that the economic benefits of coastal shipping remain within Indonesia.

The excerpt outlines that the Indonesian Cabotage policy is based on four fundamental requirements designed to strengthen and protect the domestic maritime industry. These pillars include (Ratnawati et al., 2023) Ownership: Cabotage vessels must be wholly owned by Indonesian citizens. This requirement ensures that the benefits of domestic shipping operations remain within the country and contribute to the local economy. Registration: Cabotage vessels must be registered in Indonesia. By mandating that vessels are registered domestically, the policy ensures that they are subject to Indonesian laws and regulations, further reinforcing national sovereignty over maritime activities. Crewing: Cabotage vessels must be crewed by Indonesian citizens. This pillar aims to provide employment opportunities to Indonesian seafarers and ensure the domestic maritime industry workforce is locally sourced. Construction: Cabotage vessels must be built by Indonesian shipyards. This requirement supports the domestic shipbuilding industry, promoting local craftsmanship and industrial development within the country. These pillars collectively aim to promote the growth of Indonesia's domestic maritime sector by ensuring Indonesians control crucial aspects of vessel ownership, operation, and construction, thereby limiting foreign influence and increasing economic self-reliance.

The cabotage law, coming into force in 2004, became an instrument for regulating Indonesia's domestic shipping and determining the level of local ship operator's involvement in shipping services supply to the oil and gas industry, indigenous maritime human resources involvement in manning of coastal vessels and overall development of Indonesian's shipping industry. (Delayori, 2022) The number of coastal shipping businesses there will measure the success of the cabotage policy implementation. People have secured opportunities, and contracts with local and joint venture operators have been secured compared to their foreign competitors.

A critical causal factor to the derailment of the cabotage policy implementation in favor of foreign-non-Indonesian operators is pressure on the implementation agency from foreign interest through public authorities, politicians, top public servants, and the Ministry of Transport, which oversees cabotage

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implementation. (Ratnawati et al., 2023) As a result, the local content development objective of the Government using cabotage as a tool to increase indigenous fleet ownership and throughput, shipbuilding technology transfer, maritime human resources development, and employment may fail in the long run.

The joint venture (Merger between Indonesian and non-Indonesian companies) provided for in Part IV of the police identified as authorities corruptibly granting waivers to foreign ship operators arbitrarily. These foreigners prefer the corrupt acquisition of waivers to joint venture arrangements based on 60% and 40% shareholding for Indonesians and foreigners, respectively, as provided in the policy. (Delayori, 2022)

Applying this principle aims to protect the country's sovereignty and provide national sea transportation companies with the most comprehensive business opportunities. The Cabotage Principle's purpose is that domestic sea transportation is fundamental to Indonesian shipping. It has a strategic role in national development and the economic, social, cultural, political, defense, and security fields. It is related to mobility, social interaction, and the culture of Indonesia.(Purba & Siregar, 2022) The cabotage principle also encourages investment in ship procurement. Businesses expect it to procure ships for national shipping entrepreneurs to make in domestic shipyards. Domestic shipyards in Indonesia likely make the fleet of vessels., along with ship components that are also domestic production. (Churul Aini, 2016). This rule improves domestic ship production since ships that sail in domestic sea areas must belong to Indonesian vessels. For Indonesia, the cabotage principle protects its sovereignty as a maritime country.

Over the years, the carriage of Indonesian trade, both domestic and global waterborne trade, was dominated by foreign-registered vessels to the extent that there exists a near-total lack of indigenous operators throughout noted that Indonesia adopted the cabotage policy in 2008 to reverse the effect of foreign domination of its coastal shipping market and empower local companies.(Ratnawati et al., 2023) Cabotage principles require acquiring maritime skills through employment training, increasing the national fleet size (throughout), and transferring shipbuilding technology. The principle will enhance the development of the maritime transport subsector to contribute more to the local economy, using more indigenous human resources and operators as drivers than foreigners. Indonesian Government must secure domestic participation in the carriage of their global trade by adopting and complying with the International Conference. (Churul Aini, 2016)

Indonesia has continued to seek a better policy framework and approach to develop its shipping industry from within, using local ship operators and human resources, since 2005, when the shipping law promulgated the Cabotade Principles. The policy initially produced numerous local shipping companies involved in the carriage of Indonesia's share of sea cargo. Furthermore, the intense competition from the heavily capitalized and experienced foreign firms against the poorly funded new Indigenous companies hindered many forces from minimizing foreign domination (Rifai et al., 2017)

2. Implementation of cabotage Principle in Malaysia

The Malaysian shipping industry operates under the Malaysian Shipping Ordinance 1952 (MSO), which includes the Cabotage policy in Part 2(B) under the title "The Domestic Shipping Licensing Board."(Idris & Idris, 2017) This policy functions as a non-tariff barrier designed to limit foreign participation in Malaysia's domestic trade and simultaneously promote the growth of the local shipping industry. However, despite its intentions, the Cabotage policy has sparked considerable debate and controversy regarding its effectiveness. This approach would ensure that the policy remains relevant and practical in response to changing market conditions, whether through reinforcing or liberalizing the policy as needed. (Ezeoke, 2017)

The Cabotage policy, often seen as a barrier to trade, is designed to protect and foster the growth of the local shipping industry by limiting foreign competition. In the context of Malaysia, the policy was intended to support the development of national shipping entities such as the Malaysia International Shipping Corporation (MISC) and members of the Malaysia Shipowner Association (MASA). The underlying goal was to create a self-sufficient domestic maritime sector.(Suffian et al., 2015) However, after more than three decades, the policy appears to have become outdated, failing to enhance the competitiveness of the Malaysian shipping industry. Instead, it has contributed to stagnation in domestic growth and distorted competition within the local maritime sector.

One of the critical issues raised is the inefficiency in resource allocation caused by the Cabotage policy, which prevents the industry from mobilizing capital according to comparative advantage. This inefficiency has stunted the industry's ability to achieve economies of scale and, consequently, has not resulted in welfare gains. In particular, the policy has been a significant bottleneck for Sabah's economic growth, limiting market access and contributing to the high cost of goods in the region. (Idris & Idris, 2017)While some argue that the high cost of goods cannot be solely attributed to freight charges, the policy's restrictive nature limits participation in economic activities, leading to unfair competition and price distortions in the market.

Moreover, the Cabotage policy has led to a form of 'natural monopoly' within Malaysia's shipping industry, benefiting large players like MISC and MASA. Rather than fostering competition and innovation, this monopoly has resulted in inefficiencies and limited the expansion of the domestic shipping sector, especially in increasing the number of vessels carrying goods between West and East Malaysia.(Suffian et al., 2015) The policy's protectionist intent, which should theoretically allow for internal competition and growth, seems to have entrenched a system that benefits a select few at the expense of broader industry development and economic efficiency.

The cabotage principle gives legal power to those carrying out shipping business in the home country fully to the coastal states, which means that the coastal countries have the right to forbid foreign ships from sailing or trading in and around the country's waters. International maritime law supports applying the principle concerning sovereignty and jurisdiction of the country for its seas.(Casaca & Lyridis, 2018b) Therefore, foreign ships cannot be around or enter the country's sea area without permission and a distinct reason or purpose.

3. Implementation of the Cabotage Principle in Nigeria

For Nigerian shipping companies, a similar trend of increasing demand for fleet expansion could be anticipated, especially given the strategic importance of maritime trade. Nigerian businesses would need to focus on funding ship acquisitions while mitigating the risks inherent in maritime ventures. One way to manage these risks, as demonstrated in the Indonesian context, is through forming Protection and Indemnity (P&I) Clubs. These clubs serve as mutual insurance associations, providing coverage for risks related to ship operations, including environmental pollution from accidents.

In Nigeria, a robust P&I Club would be crucial for the shipping industry, as it would help enhance trust in local classification bodies and improve the overall safety standards of Nigerian vessels. Just as the Indonesian Ship Grade Arranger faces challenges due to its non-membership in the International Association of Classification Societies (IACS), Nigerian classification bodies could also benefit from striving to meet international standards. This would boost confidence among foreign guarantors and ensure that Nigerian ships are well-equipped to compete globally. By joining a P&I Club, ships would be better protected and able to secure the necessary sea-worthy documentation, thereby elevating the safety and competitiveness of the country's maritime industry on the international stage.(Abdullah & Rachmawati, 2023). One of the significant challenges with implementing the cabotage policy by the Nigerian Maritime Administration and Safety Agency (NIMASA) is the agency's failure to effectively disburse ship acquisition and shipbuilding funds to local operators as stipulated in the policy. This failure hinders local operators from purchasing new vessels and expanding their capacity to compete with foreign competitors in the maritime industry.

To address these issues and ensure the successful implementation of the cabotage policy, NIMASA has identified several key partners, including the Nigeria National Petroleum Corporation (NNPC), Nigeria Liquefied Natural Gas (NLNG), the Department of Petroleum Resources (DPR), and the Pipeline Products Marketing and Distribution Company. These partnerships are intended to strengthen the enforcement of the cabotage policy and support the growth of the local maritime industry.

Given these challenges, Ajiye (2013) suggests a critical need to analyze the cabotage policy's implementation over the next ten years. This analysis should focus on improving coastal shipping business opportunities for local operators and joint ventures in Nigeria. By addressing the shortcomings in the policy's execution, it is hoped that the cabotage regime will better support the development of the Nigerian maritime industry, allowing it to compete more effectively on both a regional and global scale. The principle of cabotage means the sovereignty of the state (sovereign of the country) related to the marine transportation sector's role in maintaining the country's security and defense from possible attacks by foreign governments. The cabotage principle policy aims to strengthen the country's sovereignty from security and defense aspects while encouraging national economic growth.

Implementing the Cabotage Principle is also related to the restrictiveness index by the Organization for Economic Co-operation and Development (OECD). The OECD explains that restrictions on foreign vessels in applying the Cabotage Principle can be classified into two categories: first, foreign-flagged vessels are entirely excluded from the Cabotage Principle without exception, or second, partially excluded. (Delayori, 2022) The tier shown in the Figure below at Indonesia and Malaysia imposes a country that entirely excludes foreign vessels in its application of the Cabotage Principle. Additionally, Indonesia and Malaysia impose requirements for vessels to be registered in the national registry or restrict the provision of coastal shipping (Cabotage). Meanwhile, Nigeria applied Fully Liberalised Cabotage Policies.

Type of cabotage policy	Definition	Countries
Fully Protected Cabotage Policies	Policies that fully protect the maritime cabotage industry and which do not allow foreign shipowners. When they do, stringent conditions apply for very short periods.	Japan, United States, Peru.
Controlled Protectionist Cabotage Policies	Policies that protect the maritime cabotage industry. However, they allow the entrance of foreign owners under controlled conditions by granting permits or licenses.	France, Germany, Italy, Greece, Portugal, Spain, Finland, Sweden, Lithuania, Slovenia, Bulgaria, Romania, Croatia, Angola, Morocco, Libya, Tanzania, Kenya, Turkey, Russia, Jordan, India, South Korea, Myanmar, Thailand, Vietnamese, Taiwan, Canada, Mexico, Cuba, Honduras, Nicaragua, Costa Rica, Panama, Venezuela, Brazil, Uruguay, Argentine, Chile, Colombia, Ecuador, The Philippines, New Zealand.
Partially Protected Cabotage Policies	Policies that protect the maritime cabotage industry, but which have adopted liberalised measures in specific cabotage market segments.	Mozambique, Malaysia, Indonesia, China, Egypt.
Controlled Liberalized Cabotage Policies	Policies that allow the entrance of foreigner shipowners into the maritime cabotage industry at the expense of a licensing system.	Australia.
Fully Liberalised Cabotage Policies	Policies that allow the entrance of foreigner shipowners into the maritime trades. No limitations exist.	Belgium, The Netherlands, Denmark, Ireland, United Kingdom, Norway, Iceland, Malta, Cyprus, Estonia, Latvia, Poland, Nigeria[a], South Africa, Namibia, United Arab Emirates, Lebanon, Brunei, Cambodia, Singapore.

Figure 1 The Implementations of the Cabotage Principle
Source (Casaca & Lyridis, 2018; Delayori, 2022)

From the picture above, Fully liberalized cabotage policies refer to policies that allow foreign vessels to participate in a country's domestic maritime trade. Typically, cabotage laws are designed to restrict domestic trade routes to national ships to protect the local shipping industry. These restrictions often ensure that only vessels registered under a country's flag, owned by its citizens, and crewed by its nationals can transport goods and passengers between domestic ports. However, under fully liberalized cabotage policies, these restrictions are lifted, allowing foreign-owned and foreign-flagged ships to operate freely within the domestic market.

The aim of fully liberalized cabotage policies is usually to enhance competition, reduce costs, and improve the efficiency of maritime trade by opening up the market to international shipping companies. Proponents of such policies argue that they encourage investment, lower freight costs, and improve consumer service quality. On the other hand, critics fear that opening up the domestic maritime trade to foreign competition could undermine local shipping industries, lead to job losses for local workers, and reduce national control over critical maritime infrastructure. Implementing such policies requires carefully balancing the potential economic benefits with the need to protect national interests and industries.

The picture above shows that Indonesia partially implements cabotage policy restrictions, meaning it does not fully liberalize its domestic maritime market for foreign vessels. This aligns with the Service Trade Restrictiveness Index (STRI) issued by the OECD, which quantifies restrictions in the trade of services into five main categories. (Delayori, 2022) These categories include restrictions on foreign entry, movement of people, barriers to competition, regulatory transparency, and other discriminatory measures that impact the ease of business.

Indonesia and Malaysia enforce various levels of restrictions in each of these categories to strike a balance between opening up the market and protecting its domestic industries. For example, in the cabotage policy, restrictions on foreign vessels are intended to safeguard the domestic maritime sector from foreign competition that could threaten national shipping companies' survival. On the other hand, efforts to enhance regulatory transparency and reduce excessive competition barriers can improve operational efficiency and increase the competitiveness of the national maritime industry in the global market.

Understanding the studies of shipping policies reveals that policy issues are often examined in a broad context, occasionally focusing on specific aspects like labor and flagging. The policy instruments identified tend to target the entire shipping industry rather than just the cabotage market. In countries like Indonesia, Malaysia, and Nigeria, shipping policies have gained significant attention, and policymakers often draw justifications from literature related to protectionism and trade liberalization. However, discussions surrounding specific policy instruments or measures are less frequent.

Within the context of free trade, there is ongoing debate, particularly in the shipping industry, about whether implementing the cabotage principle contradicts trade liberalization. Despite this, maritime law globally supports the cabotage principle, and even developed countries like the United States, known for pioneering trade liberalization, have long applied it.

For Indonesia, the urgency of implementing the cabotage principle stems from domestic sea transportation's strategic and critical role in national development across legal, economic, social, cultural, and security sectors. The cabotage principle also boosts the Indonesian economy by creating opportunities for local and national businesses, ensuring that domestic maritime activities contribute significantly to national growth.

CONCLUSION

Cabotage refers to transporting goods or passengers between two points within the same country by a foreign vessel or aircraft, often regulated to protect domestic industries. The analysis of these policies is essential because they are usually based on broader trade policy debates around protectionism (shielding domestic industries from foreign competition) and liberalization (opening markets to foreign competitors).

The passage highlights that shipping policies receive significant attention due to their impact on national economies and industries. However, the instruments or tools used to implement these policies—referred to as policy measures—are less frequently discussed. These instruments can include laws, regulations, tariffs, or other mechanisms to enforce cabotage restrictions or promote specific shipping practices within the country's border. While shipping policies are often justified by drawing on protectionist or liberal trade theories, the specific measures or instruments that enforce these policies are less commonly examined in detail.

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