



**ORIGINAL RESEARCH PAPER**

**Management**

**IMPACT OF CABOTAGE LAW RELAXATION ON COASTAL SHIPPING IN INDIA**

**KEY WORDS:** Merchant Shipping Act, Cabotage, Transshipment

**Kartik Mahajan**

Indian Maritime University

**ABSTRACT**

For long there has been a debate about the relaxation of Cabotage Law in India. It has often been referred to as a protectionist law prevalent in Indian coastal shipping business. On May 21st 2018 the government of India finally relaxed the law making it easy for foreign flagged vessels to carry coastal cargo in India. The international trade diaspora has recognized it as a positive move in a direction to boost coastal shipping in India. Though the move is focused on easing the coastal shipping business but least emphasis has been paid to the concern of existing domestic stakeholders like Major port trust and India ship-owner who don't feel synonymous to the larger view of cabotage relaxation helping the Indian coastal shipping. With many existing domestic stakeholders referring the move as neo-colonist there is a risk of foreign flag vessels forcing India owners to losses. This is an attempt to understand what will be the impact of Cabotage Law relaxation on coastal shipping in India.

**Introduction**

Coastal shipping in India has a huge potential owing to its vast coastline of 5560 Kilometers along with 12 major ports and 168 minor/intermediate ports. India lies in proximity to important shipping routes which gives it an advantage as a shipping hub. Shipping is no longer an isolated mode of transport but it forms a part of an intermodal transport chain linking other transport modes. National Shipping helps in making the nation more independent and gives it a competitive advantage in international trade. It likewise helps in expanding the asset base of the nation by empowering the outfitting of the abundance of the bordering seawater.(Directorate general of shipping)

Despite such huge potential the coastal shipping is still far from its glory days. Till date coastal shipping is yet to develop in terms of availability of small size of vessels/barges required for coastal sailing, infrastructure development for handling coastal goods and dredging requirements for making ports deep-draft to handle coastal vessels.

One of the main reasons behind non development of coastal shipping in India is a protectionist law called Cabotage Law. Shipping of goods within India's domestic jurisdiction, that is, from one Indian port to another, is known as "cabotage." It is governed in India by the Merchant Shipping Act (MSA) of 1958. Under Section 407 of the Act, only ships registered (or "flagged," in shipping parlance) in India, which follow Indian laws and pay taxes to the Indian government are permitted to engage in cabotage trades. Foreign-flagged ships can transport cargo within the country if they obtain a license from the Directorate General of Shipping (DGS) in the Union government. These licenses are meant to be granted only in a situation when there are no Indian ships available for moving a particular shipment from one port to another. The DGS is supposed to issue a license in this regard to a foreign ship after it obtains a no-objection certificate (NoC) from the Indian National Ship owners' Association (INSA), a Mumbai-based trade association and lobby group of domestic shipping companies. On its part, INSA issues a NoC to a foreign ship only if none of its members show an interest in carrying the consignment and/or are willing to match the rates of transportation offered by the foreign ships.(Abir Dasgupta, 2018)

Under the Cabotage Law(under Section 407 of the Merchant Shipping Act, 1958) a vessel can obtain 3 types of licenses. Three distinct types of license may be granted by the Director General:

- A general license;
- A license for the whole or any part of the coasting trade of India; or
- A license for a specified period or voyage

When granting a license the Director General has the power to prescribe a specified period of validity and license conditions (Directorate general of shipping)

On 21<sup>st</sup> May' 2018 the Government of India has decided to relax

the Cabotage Law for foreign flagged vessels to enable them to carry empty containers, fisheries, and animal husbandry, agriculture and horticulture products. With the change, effective immediately, foreign flagged carriers can transport laden export-import containers for transshipment and empty containers for repositioning between Indian ports without any special license. The cabotage relaxation is expected to bring greater competition to the feeder service market, which was restricted till date due to Cabotage Law restricting other flagged vessels to carry cargo .This is expected to benefit local importers and exporters. Indian ports are also expected to benefit as this change would allow them to compete for container traffic currently handled in adjacent regional hub ports.(JOC.com, 2018)

**Expected advantage to coastal shipping**

1. Ease of empty container haulage- Foreign flagged vessels will be able to carry empty containers helping the Indian ports decongest and also help in addressing container availability problem at India ports.
2. Cut in lag time -The relaxation of Cabotage Law will help reducing the supply chain lag time and transshipment cost.
3. Transshipment hub - Cabotage Law relaxation may enable Indian ports competing for container traffic from nearby hubs like Singapore and Colombo, raising the likelihood of India being developed as a transshipment hub.
4. Improved investment in the sector - The relaxation of Cabotage Law is expected to improve the overall throughput from coastal ports making it a lucrative sector from investor's point of view- both domestic and foreign. Such investments may help overcoming the issues of dredging requirements, port infrastructure and smaller vessels availability. (S&P global Platts, 2018)

Though the relaxation of Cabotage Law is being viewed across the globe as welcoming and trade centric decision. There are underlying issues which worries the Indian stakeholders including Major port trusts and Ship owners.

**Underlying issues raised by Indian stakeholders**

**1. Unfair competition** - Cabotage Law has been relaxed with a view of creating a level playing field for both Indian and foreign companies, But this is only partially true. Indian shipping companies feel that they will find it impossible to match the tariff rates and the scale of operation if foreign companies. The result will be migration of tonnage from Indian ships to foreign ships.

**2. Foreign investment imbalance and predatory pricing** –The foreign investment which is expected to be one of the upside of relaxation of Cabotage Law may be unevenly distributed. The foreign investors will concentrate their investment into non-India flagged vessels. This could lead to a scenario where lack of carriage of EXIM cargo by Indian ships can expose Indian clients to predatory pricing, forcing the Indian owners to leave the business. This could happen in case of foreign flag vessels offering rock bottom freight v/s Indian ships.

**3. Impact on cost of movement of cargo** – The relaxation of Cabotage Law will lead to diversion of cargo from the taxpaying Indian vessels to non-tax contributing foreign vessel. This will lead to diversion of cargo from government port to private ports which don't fall under TAMP (Tariff Authority of Major Ports) and will impact the cost of movement of EXIM containers.

**4. Loss of revenue to major ports**– The relaxation of Cabotage Law will lead to revenue loss for Indian ports. At present when a liner vessel calls western coast Indian ports of JNPT and Mundra, they have to individually call each port. With the relaxation of Cabotage Law the liners are likely to berth at only Mundra port and send a feeder to the JNPT port which will bring the cargo to Mundra port. Such arrangement is possible now as foreign flagged feeders can call one coastal port from another. This arrangement could cause loss to major ports on account of loss of vessel related charges like berthing charges as such charges differ for a main line vessel (mother vessel) and feeder vessel.

**5. Switching of flag** – If the Indian ship owners continue to be in disadvantageous position for a long time they may consider the option of switching to a flag which offers lower operational cost coupled with unrestricted access to Indian cargo. This could further result to decrease the number of tonnage registered under Indian flag. (Abir Dasgupta, 2018)

### Conclusion

The judgment for relaxation of Cabotage Law is a landmark decision which reflects India's stand on embracing globalization. The new law allows foreign companies to offer their coastal shipping services without any need of licensing. Though Cabotage Law relaxation has been done in good faith but not much thought has gone in determining its effect on major ports in India and domestic ship-owners. The government needs to restructure its tariff and taxation policy for Indian flagged vessels to put them in a position of level with their foreign counterparts. Government should make efforts on their behalf to make sure that the government ports don't loose on their revenue due to Cabotage Law relaxation. These steps will go a long way in restoring the trust in Indian ship owners who may otherwise consider the option of switching their flag.

### References

1. Abir Dasgupta, P. G. (2018, May 25). Change in Shipping Policy Promises Large Benefits to Adani Group and Foreign Shipping Firms – Could Ring Death-Knell for JNPT. Retrieved from [www.newsclick.in: https://newsclick.in/change-shipping-policy-promises-large-benefits-adani-group-and-foreign-shipping-firms-could-ring](https://newsclick.in/change-shipping-policy-promises-large-benefits-adani-group-and-foreign-shipping-firms-could-ring)
2. Directorate general of shipping. (n.d.). CONTROL OF INDIAN SHIPS - STATUTORY AND EXECUTIVE ORDERS - LIBERALIZATION IN SHIPPING. Retrieved from [http://www.dgshipping.gov.in: http://www.dgshipping.gov.in/ Content/ PageUrl.aspx?page\\_name=ShipManualChap22](http://www.dgshipping.gov.in: http://www.dgshipping.gov.in/Content/ PageUrl.aspx?page_name=ShipManualChap22)
3. India, M. s. New Delhi: Ministry of Shipping.
4. JOC.com. (2018, May 23). India scraps cabotage rule, opens domestic freight to foreign ocean carriers. Retrieved from JOC.com: [https://www.joc.com/maritime-news/container-lines/india-scraps-cabotage-rule-opens-domestic-freight-foreign-ocean-carriers\\_20180523.html](https://www.joc.com/maritime-news/container-lines/india-scraps-cabotage-rule-opens-domestic-freight-foreign-ocean-carriers_20180523.html)
5. S&P global Platts. (2018, June 19). India's new cabotage law positive for shipping, bunkering; hurdles remain. Retrieved from [www.platts.com: https://www.platts.com/ latest-news/shipping/singapore/indias-new-cabotage-law-positive-for-shipping-27999005](http://www.platts.com: https://www.platts.com/ latest-news/shipping/singapore/indias-new-cabotage-law-positive-for-shipping-27999005)