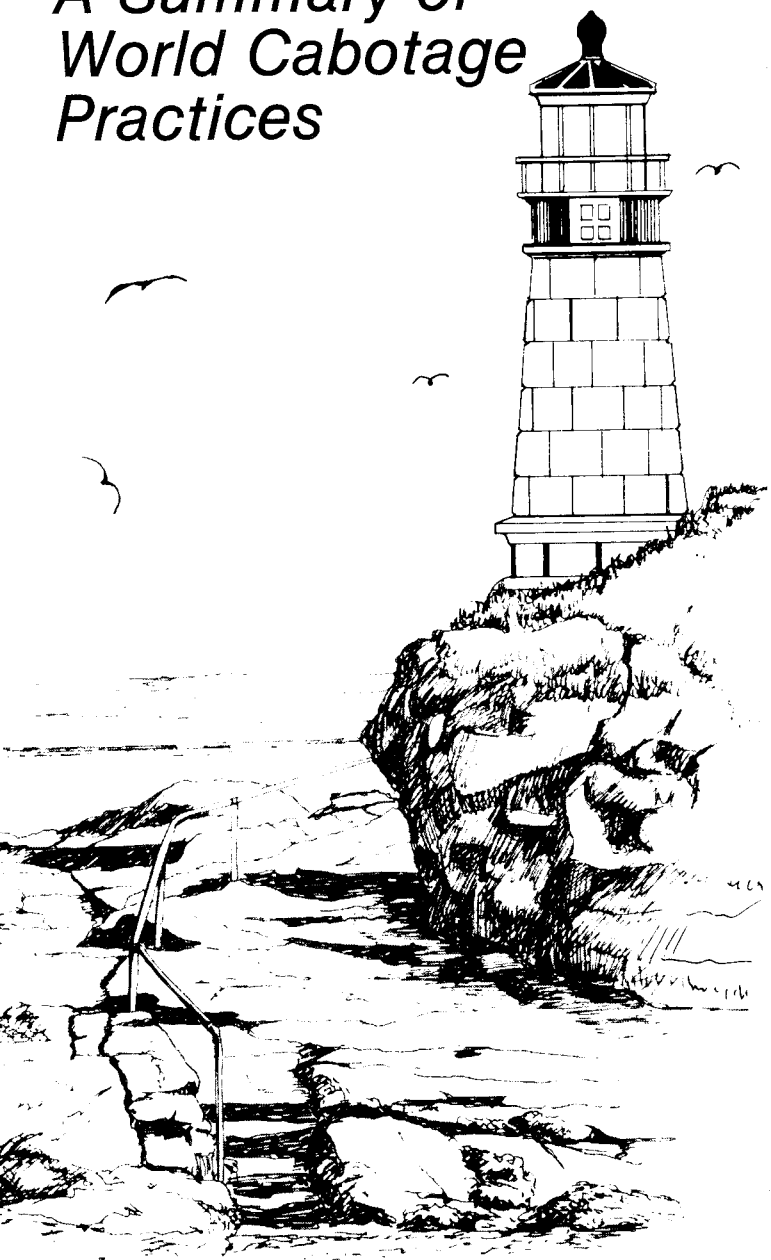


# **BY THE CAPES AROUND THE WORLD**

## *A Summary of World Cabotage Practices*



## **INTRODUCTION**

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.

## **EXPRESSIONS OF PREFERENCE**

It would be safe to say that virtually every ton of cargo moving within the boundaries of any nation is subject to preference of some kind, if only a marked preference to deal with a countryman. In many ways this informal preference, since it tends to be self-enforcing, is not only more effective, but also more difficult to identify.

These restrictions are a generally pervasive and diverse feature of the social structure of virtually all countries. They are so varied that a detailed listing of the many approaches taken around the world is a significant task. Such listings are also subject to interpretation since the legal approaches taken by each country having these restrictions are invariably different. Even though this variety makes straightforward classification of the legal provisions as well as comparisons difficult, such listings do give us a great deal of qualitative information about the many approaches taken by the world community.

## **A SURVEY OF PREFERENCES**

The Maritime Administration (MARAD), in order to gather as much information as possible about national flag preference, selected 56 countries as a basis for a detailed study of the nature and kind of national preferences and their legal provisions. Countries selected met one or more of the following four criteria:

- A. An oceangoing fleet of at least 50 national flag vessels of 1,000 deadweight tons or more,
- B. Coastal shores connecting to international waters,
- C. An established government without a major armed conflict which maintains diplomatic relations with the United States and,
- D. Existence of MARAD political or commercial interest.

The governments of the selected countries were contacted and asked to provide information regarding the existence of flag preference laws. Fifty-three countries responded to MARAD's request. These countries and a compilation of their responses are contained in the table shown on the back of this page.

## **HOW IT'S DONE**

The majority of the countries that responded have some type of restrictive legislation protecting their merchant marine. This includes 40 that indicate strong cabotage restrictions, 17 that provide some sort of direct domestic fleet subsidy, 13 that provide indirect subsidies, 43 that report some crewing restrictions, 37 that have ownership provisions, 6 with domestic construction requirements, and 15 reporting reflagging restrictions.

## **WHY IT'S DONE**

The countries included in the survey were asked what policy 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.

**SUMMARY OF NATIONAL FLAG PREFERENCES IN DOMESTIC TRADE**

Reflagging Restrictions						NOTES
Domestic Construction Provisions						
Ownership Restrictions						
Crewing Requirements						
Fleet Subsidies						
Cabotage						
United States	X		X	X	X	Title 46 U.S.C. App. 883 (Jones Act) and Sec. 289
Algeria	X	1	X	X		Ordinance 68-83 (4/16/68) and Ordinance 76-80 (10/23/76)
Argentina	X	4	X	X		Decree 19492 (1944) ratified by law 12980
Australia	X	4	X			Navigation Act of 1912
Bahamas	X	X	X	X		Boat Registration Act and Merchant Shipping Act
Belgium		X	X			
Brazil	X	X	X	X	X	Shipping Law of 1967
Bulgaria	X	4	X	X		Code for Commercial Navigation, Issue 55
Canada	X		X	3		Canadian Shipping Act, Part X
Chile	X	4	X	X	X	Maritime Transportation Laws; Decree Law 600
China	X	4	X	X	X	Water Transportation Management and Registration Regulations
Colombia	X		X	X		Decree 2451, July 31, 1986, Articles 55-62
Cyprus						1
Denmark	2	4	X	X		Danish Merchant Marine Act, Part I, Section I
Ecuador	X	4	X	X		Cargo Reserve Law
Egypt	X		X	X	3	Law Number 63 (1961) and Egyptian Company Law 158 (1981)
Finland	X		X	X		Section 4 of the Right to Pursue Business Legislation
France	X	X	X	3		Customs Code, Articles 257 and 258
Germany	X	X	3			Coastal Shipping Act (7/26/57)
Greece	X		X	X		Legislative Decree 187/33, Articles 164 to 180
Honduras	X		X	X		Commercial Code (1948) and Merchant Fleet Law (1950)
Hungary	X	X	X	X		Belgrade Agreement of 1948
India	X		X	X		Merchant Shipping Act
Indonesia	X	4	X	X	X	Regulation PP 17 (1988)
Israel						1
Italy	X	4	3			5
Ivory Coast	2	4	X	X		National Shipping Policy
Japan	X	X	X	X		Japan Ship Law, Articles 1,3,4,5 (1988)
Kenya						1
Malaysia	X	4	X	X		Merchant Shipping Ordinance of 1952
Malta	X		3			5
Mexico	X	X	X	X		General Law of Means of Communication
Netherlands	2	X	3	X		1
New Zealand	X		X	X		Shipping and Seaman Act
Nigeria	2	X	X	X		1
Norway	2	X		X		1
Panama	2					Law 56 (1979) and Law 2 (1980)
Peru	X	X	X	X	X	5
Philippines	X		X	X		1
Poland	X			X		5
Romania	X	X	X	X		5
Saudi Arabia	X			X		1
Singapore						1
South Africa						1
South Korea	X	X		X	X	Korea Maritime and Port Administration Guidelines
Spain	X	4	X	1	X	1
Sweden	X		3	X		Ordinances dated November 10, 1724 and February 28, 1726
Taiwan	X	1	X	1	1	1
Thailand	X		X	X		5
United Kingdom	2	4	X			Merchant Shipping Act of 1988, Sec. 33
Uruguay	X		X			1
USSR	X	X	X	X	1	1
Venezuela	X	X	X	X		5
Yugoslavia	X	X	X			5

**CABOTAGE AND RELATED LAWS**

- NOTES**
- X-Yes      (Blank)-No
- No information provided.
  - Countries that do not exclude foreign vessels but do have certain restrictions.
  - No formal requirement, but some minor restrictions.
  - Indirect benefits provided.
  - Reflagging allowable, but controlled.