

“SHIP OWNING AND LEGISLATION”

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The shipping industry is an international business which knows no frontiers. It is highly regulated and embraced by elaborate legislation covering every aspect of the business. The Merchant Shipping Acts, Admiralty Laws, Carriage of Goods by Sea Act and the United Nations Laws of the Sea are a few examples of a plethora of legislation which govern shipping operations. Maritime law is one of the few legal areas where there has been extensive international cooperation to harmonize worldwide shipping legislation.

It is impossible to cover all aspects of ship owning and legislation in a 15 minute presentation. I am therefore restricting my discourse to focus on salient features of Ship Owning and Legislation in Pakistan.

Shipping has a particular importance in Pakistan because of our dependence on sea transport for international trade, for the sustainable environmental benefit it offers, to supply our requirement for maritime skills in many sectors of the economy, and not the least for our national security.

Shipping is an expanding global business and the opportunity to share in this growth offers Pakistan significant inward investment opportunities and wider economic growth, provided investor friendly policies are implemented by GoP and a change in attitude of Pakistani maritime officials is introduced.

The present trend in Pakistani Shipping is one of continuing erosion since the last three decades, which will if not arrested, result in complete extinction of Pakistan registered merchant fleet and of skills pool of qualified Pakistani seafarers.

The reasons for this decline are manifold and include ineffective policies of GoP, lack of management professionalism, globalization, negative attitude of officials, unfair competition from subsidized shipping and regulatory costs.

In order to salvage Pakistani merchant shipping from complete extinction in the near future, GoP must sincerely and effectively implement investor friendly regulatory and fiscal policies, without further delay. It is unfortunate that a progressive shipping policy evolved through consensus amongst the industry and government regulators in 1997, has not yet been implemented in earnest.

It is now normal for countries, including European countries, to create a substantially tax-free environment to retain and attract shipping investment. The industry believes that the tax uncertainty inherent in the Pakistani system, tends to deter Pakistani and foreign investors. An appropriate fiscal environment is an important element in attracting investment in Pakistan-flag shipping.

Most traditional shipping nations have modified their fiscal regimes in order to attract and retain shipping investment.

An approach increasingly adopted is to offer shipping companies some form of a tonnage-based system of tax. GoP needs to emulate such fiscal policies.

Many countries have developed significant merchant fleets supported by an efficient international services infrastructure, attracting ship owners with a conducive fiscal climate. Low tax environment is an incentive for many companies to flag out their vessels (from high tax regime countries) and also consider corporate relocation. We must take notice of the fact that 80% of shipping companies worldwide do not pay any tax.

Such fiscal measures will safeguard high quality employment in the on-shore maritime sector, such as management directly related to shipping and also associated activities: insurance, brokerage, finance, pilotage and port management.

Nil Custom duty should be charged on imported new or secondhand vessels and shipping companies should be exempted from paying Withholding Tax.

In terms of Pakistan ship registration, whilst it is clear that the maintenance of high professional standards is paramount, it is essential that the administration of the Register is efficient, consistent and user-friendly. Unrealistic restrictions on the import of secondhand ship must be removed.

FUTURE TRADING PROSPECTS FOR PAKISTANI SHIPPING:-

It is obvious that Pakistani shipping has lost the race in transportation of liner cargoes which are now almost entirely containerized. In 1985, the national shipping line lost a tremendous opportunity of building 3 new 1200 TEU capacity containerships for USD 19 million per vessel, at a Shanghai shipyard with 80% PRC financing and low interest rate. This marked the decline in Pakistani liner operations, which are now serviced using very large and expensive containerships. PNSC's few containerships are only suitable for feeder operations and its liner service has almost ceased to exist. With high investment now required in competitive containerships and a long gestation period for break-even liner service, it almost impossible for a newcomer to launch a viable Pakistan based container operations.

The trading areas which do offer a reasonable opportunity for Pakistan-flag merchant shipping are:-

- 1- Handysize bulk carrier operations for transportation of bulk coal, iron ore, wheat.
- 2- 90,000/100,000 DWT tankers for transportation of crude oil.
- 3- 35,000/40,000 DWT tankers for carriage of POL products palm oil and molasses.
- 4- 25,000/35,000 DWT tweendecker vessels for transportation of cement, fertilizers, sugar, rice, steel and project cargoes.
- 5- 500/600 passenger capacity quality ferries or cruise ships for Karachi – Dubai – Mumbai – Karachi ferry service and passenger cruise ships for winter cruises (November to April) in the Persian/Arabian Gulf.

Potential Pakistani ship-owners should closely examine these trading opportunities and commission professional feasibility studies for their preferred trade routes.

The industry is aware that under the new WTO regime coming into force in January 2005, it would not be possible to provide subsidies or cargo reservation privileges to Pakistan-flag vessels. Pakistani shipowners do not want any grants or subsidies, but they do want a favorable fiscal regime and a level playing field to develop competitively in the international market.

The recent policy of GoP to provide a long-term contract to PNSC for exclusive transportation of crude oil is indeed discriminatory and has discouraged private sector shipowners. GoP must ensure that private sector and state-owned shipping companies are treated at par for award of employment opportunities. Pakistani shippers and consignee must not be deprived of competitive freight rates which will only emerge from free and fair competition amongst shipowners.

One important issue which inhibits the operations of Pakistan-flag vessels is their inability to call at Indian ports for discharging and loading cross-trade cargoes. Indian ports are the origin of many cross-trade bulk cargoes, loading of which would provide much needed employment opportunities for Pakistan-flag vessels and thus make their operations viable. The India-Pakistan Bilateral Shipping Agreement needs urgent revision to enable both Pakistani and Indian flag vessels to call at each other's ports for discharging/loading cross-trade cargoes.

One of the major factors which detract entrepreneurs from investing substantial capital in Pakistani-flag tonnage is the cumbersome/bureaucratic procedures and consequent harassment experienced at the hands of Mercantile Marine Department, Shipping Office, Customs, Immigration and Port Officials.

The other important area of concern is the uncertainty and lack of continuity in Government policies.

The accumulated effect of these problems makes Pakistan a high risk and low capital return market.

This is precisely why Pakistani and foreign shipowners are reluctant to operate Pakistan registered ships.