

Regional Shipping Update 2H 2024



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Overview

The second half of 2024 saw much activity in the shipping and international trade industry. Apart from market developments, jurisdictions in the Southeast Asia region have enacted changes to their legislative and regulatory framework, and have set out initiatives in their respective policy roadmaps. The courts have also seen significant cases being decided, impacting on the state of admiralty and maritime law.

In this update, we highlight some of the key developments in the region.

In the area of legislation and regulation, there have been new developments in a number of jurisdictions. In **Indonesia**, amendments to Law No. 17 of 2008 on Shipping have been enacted, effecting wide-ranging changes to Indonesia's shipping law framework. In the **Philippines**, the Magna Carta of Filipino Seafarers has been signed into law, enacting into law provisions setting out the rights of seafarers to decent conditions of work. In **Malaysia**, the government has implemented new subsidiary legislation setting out the exemption of cabotage policy for service of containerised transshipment cargo, as well as orders for exemption from income tax for Malaysian shipping businesses. In **Singapore**, amendments to the Customs Act 1960 were passed in Parliament, and an alternative net tonnage basis for taxation was introduced for shipping enterprises. In **Thailand**, legislation has introduced new requirements regarding the minimum ratio of Thai seafarers onboard Thai-flag vessels.

In the area of policy, shipping regulators have been observed to be setting out clearer directions in their initiatives and areas of focus. In **Singapore**, the Maritime and Port Authority has set out efforts that Singapore has been undertaking to develop and enhance its maritime sector, as well as upcoming initiatives that are set to be implemented, particularly in the fields of digitalisation, decarbonisation, and manpower development. Notably, this includes initiatives in the area of digital bunkering, with bunker suppliers required to provide digital bunkering services and issue electronic bunker delivery notes as a default from 1 April 2025, and the introduction of a centralised record verification facility. In **Malaysia**, the Ministry of Transport has stated that a new national shipping policy will be introduced to guide the local maritime sector. The government is also looking into the policy for subsea cable repairs with the aim of further developing its rapidly growing data centre industry. In **Thailand**, the country's largest deep-sea port is undergoing the third phase of a major expansion. In **Vietnam**, the Maritime Administration has been undertaking stricter oversight of container shipping service prices due to surges in freight rates.

These developments reflect the continued advancement of the shipping industry in the region. As countries continue to develop their framework for maritime law and to further define their policies, we will keep you updated on the latest happenings in the industry. Please feel free to reach out to us if you wish to discuss these developments.

Indonesia



1. New Amendments to Indonesia Shipping Law

*Legislation –
Amendments
to Shipping
Law*

On 28 October 2024, the Indonesian Government officially enacted Law No. 66 of 2024 ("**Third Amendment**"), amending Law No. 17 of 2008 on Shipping, as last amended by Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation ("**Shipping Law**").

The key issues addressed by the Third Amendment include, among others:

- Changes to the requirements for organising transportation in the shipping business, imposing new, and more restrictive, requirements for foreign joint venture shipping companies to operate in Indonesia, thereby strengthening Indonesia's cabotage laws. Such companies may now only own vessels that weigh at least 50,000 GT (Gross Tonnage). This is compared to the position under the previous regime under which such joint ventures could operate vessels of only 5,000 GT. Additionally, a foreign joint venture shipping company must be majority-owned by a wholly owned Indonesian company holding a shipping business licence (*Surat Izin Usaha Perusahaan Angkutan Laut* or SIUPAL). Restrictions have also been introduced on the foreign shareholder, appearing to limit eligibility to foreign corporate entities engaging in the shipping business.

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- Expansion of the functions of the admiralty court, including new powers to recommend administrative sanctions, such as suspension or revocation of business licences, against ship operators and ship owners and to mediate seafarer disputes. Prior to the amendments, the admiralty court's jurisdiction was largely limited to examination of accidents involving seagoing vessels to determine whether the seafarers involved, such as masters and officers of the vessels, had been negligent and/or failed to observe the applicable codes of conduct. In Indonesia, the admiralty court is an institution operating under the Ministry of Transportation separate from the Indonesian judiciary overseen by the Supreme Court of Indonesia.
- Removal of the requirement for a ministerial regulation to implement existing ship arrest provisions under the Indonesia Shipping Law provisions. The lack of such ministerial regulations had previously been an impediment to procuring orders for ship arrest in Indonesia. The amendment may pave the way for applications for ship arrest to be made on the basis of the provisions in the Shipping Law.
- Consolidation of port authority (*otoritas pelabuhan*) and port management unit (*unit penyelenggara pelabuhan*) into a single port organiser (*penyelenggara pelabuhan*).
- New obligations for port companies operating multipurpose and/or conventional terminals to partner with local stevedores.
- Broadening "compulsory pilotage area" to include nature reserves and conservation areas. Compulsory pilotage areas are designated maritime zone where a qualified pilot is required for safe navigation of vessels. Further, the management and operation of pilotage services, particularly in Special Terminal Areas, must now be carried out by a port business licence holder (where a Special Terminal licence holder could previously independently provide pilotage services for their own terminal).

The Third Amendment is a pivotal part of Indonesia's shipping strategy, aiming to enhance the safety, security, and sustainability of the country's shipping industry.

Shipowners and other operators with vessels operating in and/or calling on Indonesia may wish to watch this space carefully. For more information, please see our Legal Update [here](#).

Malaysia



1. Reinstatement of Exemption of Cabotage Policy for Subsea Cable Repair

*Subsea cables
– Exemption of
cabotage*

The Malaysia Government had announced in March this year its intention to reinstate the cabotage policy exemption for non-Malaysian vessels to conduct subsea cable repairs. The reinstatement aims to attract more foreign investments in the data centre industry and to stimulate the growth of the digital economy.

Following the announcement above, the exemption was gazetted under subsidiary legislation P.U.(B) 199/2024 in the exercise of powers conferred by the Merchant Shipping Ordinance 1952 on 30 May 2024 ("**Exemption**") and came into effect on 1 June 2024.

While non-Malaysian cable laying vessels are now allowed to be engaged in the provision of the installation, maintenance and repair of submarine telecommunication cable landed at any submarine cable landing centre in Malaysian waters, these vessels will still be required to obtain a Domestic Shipping Licence when carrying out such activities in Malaysian waters.

The full Exemption is available [here](#).

2. New Exemption of Cabotage Policy for Service of Containerised Transshipment Cargo

Carriage of goods by sea – Containerised transshipment

On 30 May 2024, the following pieces of subsidiary legislation were gazetted under the Merchant Shipping Ordinance 1952:

- Revocation of Exemption under Section 65U ("**P.U.(B) 197/2024**");
- Revocation of Exemption under Section 65U ("**P.U.(B) 198/2024**"); and
- Exemption under Section 65U ("**P.U.(B) 200/2024**"),

(collectively, the "**Orders**").

Following the Orders, which came into effect on 1 June 2024, non-Malaysian vessels may now provide only the transport of cargo services limited to container ships for service of containerised transshipment cargo, in a non-stop single voyage, plying the following routes:

- from a port in Peninsular Malaysia to a port in Sabah and vice versa;
- from a port in Peninsular Malaysia to a port in Labuan and vice versa; and
- from a port in Sabah to another port in Sabah,

(hereinafter referred to as the "**Services**").

Note: Ports in Sarawak are excluded from the exemption under the Orders, hence non-Malaysian vessels are not allowed to provide cargo services, including the Services, to and from ports in Sarawak.

Non-Malaysian vessels are still required to obtain a Domestic Shipping Licence to provide the Services.

The full P.U.(B) 197/2024 is available [here](#), P.U.(B) 198/2024 [here](#) and P.U.(B) 200/2024 [here](#).

3. Extension of Income Tax Exemption for Malaysian Shipping Businesses

Tax – Exemption for shipping business

Malaysia has issued the Income Tax (Exemption for Malaysian Ship) Order 2024 ("**2024 Order**") on 5 July 2024. The 2024 Order grants exemption from the payment of income tax in respect of the statutory income derived from a source of business consisting of a Malaysian ship, for the year of assessment ("**YA**") 2024 to YA 2026.

The exemption had earlier been imposed for YA 2021 to YA 2023. The 2024 Order serves to extend this exemption for a further three years.

To qualify for the exemption, the person must fulfil the following criteria, among others:

- Be resident in Malaysia and carry on the business of: (i) transporting passengers or cargo by sea on a Malaysian ship; or (ii) letting out on charter a Malaysian ship owned by him on a voyage or time charter basis; and
- Obtain an annual verification from the Ministry of Transport that: (i) the person incurs annual operating expenditure of at least RM250,000 for each Malaysian ship; and (ii) he has an adequate number of full-time employees in Malaysia for each Malaysian ship.

The full 2024 Order is available [here](#).

4. New National Shipping Policy in Development

*Policy –
Development of
national policy*

Minister of Transport Anthony Loke, in a press conference on 4 July 2024, stated that a new national shipping policy will be introduced to guide the local maritime sector. The Minister stated that the proposal for the policy was raised during the meeting of the National Shipping and Port Council. It will undergo detailed discussion with various stakeholders and was set to be presented to Cabinet by the end of 2024. However, at present, there is no national shipping policy published by the Malaysian government yet.

The policy aims to guide the growth of the national shipping industry, encourage the use of Malaysian ships in import and export, especially in the area of oil and gas or major commodities, as well as create new job opportunities.

A national shipping policy would provide key insight and guidance on the direction of the maritime industry in Malaysia. Industry players should thus be alert to any developments in this regard.

Philippines



1. Philippines Enacts Magna Carta of Filipino Seafarers

*Maritime labour
– Magna Carta*

Enactment of Magna Carta

On 23 September 2024, Philippines President Ferdinand R. Marcos Jr. signed into law the Republic Act (RA) No. 12021 – the Magna Carta of Filipino Seafarers ("**Magna Carta**"). The Magna Carta enacts into law the provisions of the Maritime Labour Convention (MLC2006), which sets out the rights of seafarers to decent conditions of work. At the signing, President Marcos Jr. emphasised that the enactment is part of the government's collective acknowledgment of seafarers' sacrifices and contributions to the country. The Magna Carta took effect on 12 October 2024.

The Magna Carta aims to protect the rights and overall welfare of domestic and overseas Filipino seafarers, and to establish a framework that ensures that they receive secure contracts, just wages

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and fair benefits. It also seeks to promote the full employment of Filipino seafarers by improving their skills through education training and cadetship programmes.

The key features of the Magna Carta include the following:

- **Seafarer's rights** – This includes the right to just terms and conditions of work, access to educational advancement and training at reasonable and affordable costs, safe passage and safe travel, protection from discrimination, harassment and bullying, immediate and adequate medical attention, and a fair medical assessment in the event of injury.
- **Women in the maritime industry** – Women seafarers shall be protected from gender-based discriminatory practices.
- **Terms and conditions of employment** – The Magna Carta sets out the required provisions in a standard employment contract, including hours of work and rest, entitlement to leave, minimum wages, social welfare benefits, and sick leave and sickness benefits.
- **Facilities** – Ocean-going ships shall have the required accommodation and recreation facilities, sanitary facilities, and food and catering.
- **Medical care** – Shipowners shall provide adequate medical care, medical facilities, and insurance coverage.
- **Education and training** – The Magna Carta sets out an education and training framework, which includes education and shipboard training and a cadetship program. In this regard, the Maritime Industry Authority will be tasked with overseeing maritime education and empowered to accredit and regulate education and training institutions offering maritime degree programs and technical courses.

Implementing Rules and Regulations

The Implementing Rules and Regulations ("**IRR**") of the Magna Carta have since been signed on 8 January 2025. The IRR prescribes the procedures and guidelines for the implementation of the Magna Carta to facilitate compliance and achieve its objectives.

At the [signing of the IRR](#), President Marcos Jr. highlighted its key features, including the establishment of One-Stop Shop Centers for Seafarers, provisions ensuring fair medical treatment and access to free legal representation, and protection of women's rights in the maritime industry. President Marcos Jr. also stated that the IRR seeks to enhance access to advanced training and requires maritime education institutions to adopt cutting-edge facilities, equipping seafarers and cadets to compete globally.

Philippines stands as the largest supplier of seafarers in the world. The signing of the Magna Carta into law is a milestone in the protection of Filipino seafarers and their continuous employment. With the IRR signed, cooperation between government agencies, maritime stakeholders, and labour groups is expected to improve, facilitating progress towards a robust and sustainable seafaring workforce.

Singapore



1. MPA Sets Out Upcoming Initiatives in Maritime Digitalisation, Decarbonisation and Manpower Development

Policy – Digitalisation, sustainability and manpower

At the 23rd Singapore International Bunkering Conference, organised by the Maritime and Port Authority of Singapore ("MPA"), Dr Amy Khor, Senior Minister of State for the Ministry of Sustainability and the Environment and the Ministry of Transport, discussed efforts that Singapore has been undertaking to develop and enhance its maritime sector, as well as upcoming initiatives that are set to be implemented. These initiatives relate mainly to the areas of digitalisation, decarbonisation, and manpower development.

Some of the key initiatives announced are highlighted below:

Digital Bunkering

- All bunker suppliers will be required to provide digital bunkering services and issue electronic bunker delivery notes ("e-BDN") as a default from 1 April 2025.

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- MPA will introduce a centralised e-BDN record verification facility to enable key stakeholders to verify the e-BDN received against the information transmitted to MPA.
- Enterprise Singapore will launch a new Singapore Standard (SS) 709 Specification for Digital Bunkering Supply Chain Documentation, which targets data consistency and interoperability between digital systems.
- Enterprise Singapore has launched the revised Singapore Standard (SS) 648 Code of Practice for Bunker Mass Flow Metering to include data integrity and transmission requirements.

Reducing Business Costs and Rules Review

- From 1 April 2025, MPA will reduce the frequency for the verification of mass flow meters from twice to once a year.

Adoption of Maritime Artificial Intelligence

- MPA has been co-developing maritime artificial intelligence products to improve the accuracy and efficiency of renewals of Singapore-registered ship certificates.
- DocuMind, which reads information from various document formats, and DocuMatch, which verifies relevant data against internal databases and recommends application approvals, has been launched on 1 January 2025.

Multi-Fuel Bunkering

- MPA and the Energy Market Authority are considering proposals for the provision of a low- or zero-carbon ammonia solution on Jurong Island for power generation and bunkering.
- Enterprise Singapore and MPA have developed Singapore standards for methanol bunkering, and are developing Singapore standards for ammonia bunkering by 2025.

Maritime Singapore Green Initiative

- MPA will continue to facilitate global negotiations currently underway at the International Maritime Organisation.
- MPA has updated various green initiatives and incentives under the Maritime Singapore Green Initiative, for which MPA will commit S\$50 million to support their implementation.

Green and Digital Shipping Corridor Collaborations

- Singapore and Shandong province of the People's Republic of China have signed the Singapore-Shandong Green and Digital Shipping Corridor ("GDSC").
- Three major shipping lines are in early discussions to join the Singapore - Port of Los Angeles - Port of Long Beach GDSC.
- MPA and the Port of Rotterdam have discussed the potential demand for zero or low-emission fuels from all shipping lines within the Singapore-Port of Rotterdam Authority GDSC.

These initiatives highlight Singapore's strong commitment to advancing its maritime sector to keep it competitive and to keep apace with technological and market developments. The above efforts are expected to enhance the efficiency, security, and sustainability of Singapore's maritime processes.

2. Court of Appeal Sets Out Proper Approach to Anti-Suit Injunctions Based on Arbitration Agreements

Dispute resolution – Arbitration agreements

When choosing to arbitrate, parties often draft their arbitration agreement in broad terms with the aim of having any disputes heard together in one forum. In such cases, the arbitration agreement will usually state that any dispute "arising out of or in connection with [the underlying contract]" is to be resolved by arbitration.

However, what are the limits on the expansive scope intended by this phrase? If a tortious claim between the parties arises during the performance of contractual obligations, would such a claim be within the scope of the arbitration agreement?

In *COSCO Shipping Specialized Carriers Co., Ltd. v PT OKI PULP & PAPER MILLS & 2 Ors* [2024] SGCA 50, the appellant ("**CSSC**") entered into several contracts of carriage with the first respondent ("**PT**"), incorporating an arbitration agreement providing for arbitration in Singapore for "any dispute arising out of or in connection with this Contract". Following an allision between CSSC's vessel and a trestle bridge owned by PT, PT commenced a tortious claim against CSSC in Indonesia for losses arising out of the incident. In turn, CSSC applied for an anti-suit injunction to restrain the Indonesian proceedings, and commenced arbitral proceedings against PT.

The Singapore Court of Appeal found that a two-stage test should be applied to determine the scope of the phrase "arising out of or in connection with". First, the court should determine what the matters are or disputes which the parties have raised (or foreseeably will raise) in the foreign court proceedings. Second, it should ascertain whether such matters or disputes fall within the scope and ambit of the arbitration agreement. The Court emphasised that the key inquiry was to ascertain the nature of the competing claims and defences raised, but without determining the substantive merits of either claim or defence.

Applying the above test, the Court found that the parties must have contemplated that a pure tort claim for damage to the trestle bridge should be subject to the arbitration agreement. The Indonesian proceedings had therefore been commenced in breach of the arbitration agreement, and the Court granted the anti-suit injunction accordingly.

The appellant was successfully represented by [Toh Kian Sing, SC](#) (Senior Partner) and [Dedi Affandi](#) (Partner), together with Associates Hazel Cheah and Mu Muyu, of Rajah & Tann Singapore's [Shipping & International Trade Practice](#).

For more information, please see our Legal Update [here](#).

3. Maritime Disputes and Choice of Forum – Courts Considers Issues of Limitation Funds and Security

Admiralty jurisdiction – Limitation funds

Maritime disputes often involve parties from different countries, contracts governed by different laws, and events occurring in different jurisdictions. The choice of forum for the resolution of such disputes is thus of particular importance, potentially having significant impact on the outcome, costs, and enforceability of the claims.

The significance of forum was aptly demonstrated in the Singapore Court of Appeal decision of *The "Sea Justice"* [2024] SGCA 32. The case involved an application for a stay on the grounds of *forum non conveniens* and the return of a security to the owner of an arrested vessel. Notably, the dispute involved a consideration of the limitation fund regime in Singapore and in the PRC, the difference in the respective limits, and whether the higher security obtainable was tantamount to a legitimate juridical advantage.

The dispute arose from a ship collision between two vessels. The Appellant managed to obtain the arrest of the Respondent's vessel in Singapore, and the vessel was released after the Respondent furnished the security to the Appellant. In the meantime, several sets of proceedings were commenced in the Qingdao Maritime Court, including the constitution of limitation funds by both the Appellant and Respondent.

The Respondent successfully obtained a stay of the Singapore proceedings and the return of the security. The Court of Appeal denied the Appellant's attempts to avoid the stay and to retain the security, rejecting the Appellant's argument that it would lose a juridical advantage in the form of the security if proceedings were stayed. The Court was of the view that this was an attempt to undermine the Respondent's choice of the PRC as its limitation forum, on the ground that the limits of liability under the PRC's limitation regime are lower than the Singapore limits.

As this decision illustrates, the choice of forum for dispute resolution in maritime cases is a crucial and strategic decision. This requires careful analysis of the legal, commercial, and practical factors involved. Parties should seek professional advice and draft clear and comprehensive dispute resolution clauses in their contracts, to avoid uncertainty and conflict in the event of a dispute.

4. Amendments to Customs Act to Strengthen Customs' Regulatory and Enforcement Regime Passed in Parliament

*International
trade –
Customs Act
1960*

The Customs (Amendment) Bill ("**Bill**") was introduced for Second Reading and passed in Parliament on 8 January 2025. The Bill seeks to amend the Customs Act 1960 ("**Customs Act**") to (i) improve the effectiveness of Singapore Customs' regulatory and enforcement operations regime; and (ii) introduce new offence provisions and increase the maximum penalties for specified offences, for greater deterrent effect.

The key amendments to the Customs Act include the following:

- Customs will be provided with additional legal powers to perform its regulatory and enforcement operations, including: (i) managing non-compliant licensed warehouse licensees; (ii) seizing computers, associated devices, mobile communication devices and cash proceeds; and (iii) conducting searches on belongings of persons that are reasonably suspected to be committing or to have committed offences.
- The Director-General of Customs will be empowered to authorise Auxiliary Police Officers to exercise certain powers of search, arrest, and seizure.
- Two new offence provisions will be introduced to: (i) deter individuals from taking actions that may assist others in committing offences under the Customs Act; and (ii) penalise acts of altering, suppressing, concealing, or destroying records with the intent of obstructing investigations under the Customs Act.

For offences under the Customs Act involving the evasion of duties, where the amount of customs duty or excise duty cannot be ascertained, the maximum fine for conviction will be increased from S\$5,000 to S\$10,000. Further, for specified offences under Section 128 of the Customs Act, such as those related to fraudulent evasion, and possession or storage of uncustomed or prohibited goods, an option will be provided for the courts to impose an imprisonment term.

5. Updates on Implementation of Revised Free Trade Zones Regime Relating to Submission of Bill of Lading Data for Sea Cargo

International trade – Free Trade Zones

On 1 March 2024, the revised Free Trade Zones ("FTZ") regime took effect. Customs has now issued [Circular No. 03/2024: Updates on the Implementation of the Revised Free Trade Zones \(FTZ\) Regime](#) ("**Circular**") which provides updates and more information on the submission requirements of Bill of Lading ("BL") data for both containerised and non-containerised sea cargo, and clarifications to FAQs pertaining to the submission of BL data.

The Circular sets out the adjustment periods for submission of BL data by shipping agents to two specified FTZ cargo handlers, Jurong Port Pte Ltd and PSA Shipping Pte Ltd:

- 31 August 2024 for Non-Containerised cargo
- 31 March 2025 for Containerised cargo

The Circular includes a table summarising the information to be provided by shipping agents from the BLs for both non-containerised and containerised cargo.

Annex A of the Circular includes a set of FAQs pertaining to the submission of BL data and the revised FTZ regime. Questions include the following:

- Who is the prescribed class of shipping agents who are required to submit BL data to the specified FTZ Cargo Handlers (i.e. Jurong Port Pte Ltd and/or PSA Corporation Ltd)?
- Are the submission requirements applicable on weekends and public holidays?
- What are the requirements for the submission of the required data fields from the BL, as detailed in Annex B of the Circular?
- Is BL data required to be submitted for transit cargoes?

6. Introduction of Alternative Net Tonnage Basis of Taxation

Tax – Alternative net tonnage basis

As part of the tax-related initiatives announced in Singapore's Budget 2024, an [alternative net tonnage basis of taxation](#) ("**NTT basis**") is now available for shipping enterprises under Section 13A of the Income Tax Act 1947, approved international shipping enterprises under Section 13E and approved shipping investment enterprises under Section 13P with effect from Year of Assessment ("**YA**") 2024. This move aims to align Singapore's tax regime for shipping entities with common international practices.

The key features of the NTT basis include the following:

- A qualifying shipping entity that elects the NTT basis must apply the NTT basis to all qualifying ships that they own or operate.
- The entity's income tax base for a YA is the total sum of the income for each qualifying ship computed by reference to the net tonnage of that ship, a deemed daily income per

net ton and the number of days that the ship was in operation during the basis period of a YA.

- Once an entity elects the NTT basis, the decision is irrevocable.

In computing the relevant corporate income tax under the NTT basis, the following should be noted:

- Partial tax exemption, tax exemption for new start-up companies, and deductions do not apply to the income computed;
- Any unutilised capital allowances, trade losses and donations cannot be deducted against the income computed;
- Carry-back of capital allowances and losses or group relief cannot be claimed against the income computed;
- Foreign tax credit can be claimed, provided the entity meets all qualifying conditions under existing tax rules and double taxation agreements; and
- Corporate income tax rebate is applicable for that YA.

The Ministry of Finance had earlier conducted a public consultation on the Income Tax (Amendment) Bill 2024 ("**ITA Bill**"), which included the introduction of the NTT basis. The ITA Bill was introduced in Parliament on 9 September 2024, and passed on 15 October 2024.

7. Block Exemption Order Renewed for Certain Liner Shipping Agreements for Five Years

**Competition –
Liner shipping
agreements**

On 28 October 2024, the Ministry of Trade and Industry ("**MTI**") announced that, pursuant to the Competition and Consumer Commission of Singapore's ("**CCCS**") recommendations, MTI had renewed the Competition (Block Exemption for Liner Shipping Agreements) Order ("**Renewed LSA BEO**") for five years, from 1 January 2025 to 31 December 2029. CCCS' recommendations follow from its assessment that these liner shipping agreements ("**LSAs**") will generate net economic benefits for Singapore, e.g. by anchoring Singapore as a leading transshipment hub.

A block exemption is the exemption of a category of agreements from the prohibition against anti-competitive agreements. In the context of the Renewed LSA BEO, this means that the categories of LSAs listed in the Renewed LSA BEO would be exempted from the prohibition against anti-competitive agreements.

In particular:

- The Renewed LSA BEO would continue to apply to the following categories of LSAs: (i) vessel sharing agreements for liner shipping services; and (ii) price discussion agreements for feeder services.
- The earlier LSA BEO, which expired on 31 December 2024, covered cooperation among liners on liner shipping services, including for transport of goods *between ports* and for *inland carriage* of goods occurring as part of through transport ("**Inland Carriage**"). However, from 1 January 2025, the Renewed LSA BEO will cover only cooperation among liners on liner shipping services for the transport of goods *between ports* and will not include *Inland Carriage*, to reflect the current industry practice. The Renewed LSA BEO also includes a transitional provision to allow any current LSAs, which involve Inland

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Carriage and which have been signed on or before 31 December 2024, to continue to benefit from the LSA BEO for one more year from 1 January to 31 December 2025.

For more information, please see our Legal Update [here](#).

Thailand



1. Requirement for Minimum Ratio of Thai Seafarers Onboard Thai-Flag Vessels in International Carriage

*Maritime labour
– International
carriage*

On 15 August 2024, the Ministerial Regulation re: the Ratio of Thai Seafarers for Thai-Flag Vessels Engaged in International Carriage B.E. 2567 (2024) ("**Ministerial Regulation**") was published in the Government Gazette and came into effect on the same day. This legislation introduces new requirements regarding the minimum ratio of Thai seafarers onboard Thai-flag vessels specifically engaged in international carriage.

Under the Thai Vessel Act B.E. 2481 (1938) (as amended) and the Ministerial Regulation, Thai-flag vessels registered for international marine transport must employ seafarers of Thai nationality. Under the Ministerial Regulation, at least 50% of the crew onboard Thai-flag vessels engaged in international carriage must be Thai nationals ("**50% requirement**"). However, Clause 3 of the Ministerial Regulation provides a grace period and exemption for oil tankers with a gross tonnage exceeding 20,000 tons that are registered as Thai vessels and engaged exclusively for international marine transport ("**exempted vessels**"). For the first four years from the date of the

Ministerial Regulation takes effect, the 50% requirement will not apply to these vessels. Instead, vessel owners or operators must gradually increase the proportion of Thai seafarers as follows:

- First year: At least 20% of the crew must be Thai seafarers.
- Second year: At least 30% of the crew must be Thai seafarers.
- Third and fourth years: At least 40% of the crew must be Thai seafarers.

Effects on the Industry

The four-year grace period for the exempted vessels allows shipowners to retain the flexibility in selecting seafarers competitively. This exemption also benefits major oil companies in Thailand by allowing them to negotiate lower freight charges. The grace period reflects the Thai government's efforts to support the oil industry while enhancing the efficiency and competitiveness of Thailand's commercial fleet in international maritime transport.

2. Failure by Shipper to Pre-Cool Perishable Cargo Before Stuffing into Refrigerated Container Can Amount to Insufficient Packing

Carriage of goods by sea – Insufficient packing

A shipper in Thailand shipped fresh ginger in a refrigerated container (aka reefer container) to the United States of America under the CY/CY terms. Upon arrival at the destination port, the cargo was found to be mouldy and partly rotten. Consequently, the cargo interest filed a lawsuit against the carrier at the Central Intellectual Property and International Trade Court, claiming that the carrier was liable for the damage that occurred while the cargo was in their care and custody.

Judgment

On 27 January 2025, the Court delivered its judgment. Expert witnesses and evidence presented during the trial convinced the Court that the refrigerated container is designed to maintain a temperature pre-set by the shipper, but not to lower the cargo's temperature. Therefore, the shipper is required to pre-cool the cargo before stuffing the cargo into the container to avoid temperature fluctuations and maintain the cargo's quality and freshness. The shipper's failure to arrange for such pre-cooling amounts to "insufficient packing" under Section 52 (9) of the Carriage of Goods by Sea Act B.E. 2534 (A.D. 1991). As a result, the carrier was held exempt from liability.

Key Takeaways

Many exporters in Thailand, particularly those dealing with fresh fruits and vegetables, often omit pre-cooling for various reasons, such as time constraints, lack of appropriate equipment, or past shipments not suffering damage. This judgment clarifies that under the CY/CY terms, the shipper has a duty to properly pre-cool the cargo before stuffing the cargo into the refrigerated container. Exporters of agricultural or other perishable products should ensure that pre-cooling is properly conducted and documented. Failure to do so can lead to the exoneration of the carrier's and cargo insurer's liability, leaving exporters to bear the loss at their own risk.

3. Phase 3 Expansion of Laem Chabang Port to Enhance its Port Capabilities to Become Leading Logistics Hub

Policy – Port development

Laem Chabang Port, Thailand's largest deep-sea port and a key hub for containerised cargo since 1991, is undergoing the third phase of a major expansion ("**Phase 3 Expansion**"). This project is

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a key part of the Eastern Economic Corridor (EEC) development plan, which aims to increase the port's capacity, enhance logistics efficiency, and accommodate the growing international maritime trade. Additionally, the project seeks to position Laem Chabang as a leading logistics hub for the Indochina region (Hub Port) and establish it as one of the world's top ports.

Key Developments in the Phase 3 Expansion

Phase 3 Expansion will increase the port's container handling capacity from 11 million to 18 million TEUs per year and vehicle handling capacity from 2 million to 3 million units per year.

Key developments include:

- New deep-sea berths to accommodate larger cargo volumes.
- Improved rail connectivity through the Single Rail Transfer Operator (SRTO), boosting rail freight from 7% to 30%.
- A fully integrated e-Port system with automated cargo handling to enhance logistics management and reduce operational costs.

The Phase 3 Expansion will be carried out in four parts. As of Q4 2024, the first part is approximately 45% complete. The project is expected to be operational by 2027.

Vietnam



1. Vietnam Maritime Administration Demands Oversight of Container Shipping Service Prices Due to Sudden Surge in Freight Rates

Carriage of goods by sea – Container shipping services

Almost all ocean freight services in Vietnam are handled by foreign shipping lines, who have to date been able to adjust fees/surcharges with minimal regulatory oversight. Under the "price listing" regime in Decree 146/2016/ND-CP (issued by Government, dated 2 November 2016, effective from 1 July 2017), these lines are required to disclose their proposed price adjustments 15 days before they take effect – after which, they will come into effect without the need for further approval by the regulators.

Since early 2024, there have been reports of surcharges skyrocketing continuously by 10-20%. Given the lack of price control mechanisms (with prices being dictated by the market), the Vietnam Maritime Administration ("VMA") had noted that Vietnamese customers were left with little recourse against these price increases and had no choice but to accept them. To tackle such sudden escalations, VMA has recently undertaken stricter oversight on container shipping service prices. From June 2024, VMA has required shipping lines to update all price changes, including spot rates, on a continuous basis to ensure transparency. VMA's directive (Official letter No. 2510/CHHVN-VTDVHH dated 10 June 2024, Vietnam Maritime Administration) mandates detailed justifications for rate increases to ensure transparency and prevent price manipulation. The

administration aims to align rate adjustments with actual operational costs as part of its broader effort to stabilise the shipping market and protect the interests of stakeholders in Vietnam's maritime industry (see Official letter No. 2510/CHHVN-VTDVHH dated 10 June 2024, Vietnam Maritime Administration; Official letter No. 4244/CHHVN-VTDVHH regarding container shipping freights, surcharges and seaport charges dated 10 September 2024).

Despite the rationale behind the directive, the reality is that shipping lines have faced difficulties in being able to accommodate the real-time nature of spot rates and market fluctuations. To date, VMA has yet to provide detailed guidance on the practical manner by which shipping lines are able to comply with the directives in view of the price fluctuations. We will continue to monitor developments in this area, including any relevant guidelines that may be issued.

2. Decrease in Freight Rates and Amendments to Regulations on Port Services Pricing Management

*Port services –
Price
management*

According to a report from the Vietnam Maritime Administration ("VMA"), by mid-August of 2024, all routes of global freight rates experienced a decline. The report indicated that the rates of the west coast Asia-US and Europe routes showed the biggest drops (down roughly 20–30%), while other shipping routes experienced reductions of roughly 15–25% as well.

Despite these positive developments, VMA has implemented strategies to prevent abrupt increases in prices and to ensure the stability of service costs. To support shippers during fluctuations in global shipping rates, VMA has deployed inspection teams to monitor service prices, surcharges, and the empty container market in collaboration with shipping lines and operations at various seaports in both Northern and Southern Vietnam. Additionally, the Ministry of Transport ("MOT") has been working to consolidate a Draft Circular amending and supplementing certain articles of Circular No. 12/2024 (Circular No. 12/2024/TT-BGTVT dated 15 May 2024 of the Ministry of Transport on mechanisms and policies for management of service charges at Vietnamese seaports), which governs the mechanisms and policies for managing service charges at Vietnamese seaports. A noteworthy feature of the Draft Circular is the inclusion of a list of shipping services subject to price declaration (for instance, *inter alia*, the terminal handling charge service). This initiative aims to provide accurate pricing information, enabling VMA to assess price plans and submit them for MOT's consideration regarding potential price adjustments.

As of now, neither VMA nor MOT has issued an official notice regarding the amendments in the Draft Circular. We will continue to monitor developments in this area and provide updates as new information becomes available, including any relevant recommendations.

Our Regional Contacts

Cambodia

Rajah & Tann Sok & Heng Law Office

Prom Savada

D +855 23 963 112 / 113

E prom.savada@rajahtann.com

Indonesia

Assegaf Hamzah & Partners

Eri Hertiawan

D +62 21 2555 7883

E eri.hertiawan@ahp.id

Wildan Lukman

D +62 21 2555 9981

E wildan.lukman@ahp.id

Malaysia

Christopher & Lee Ong

Por Chuei Ying

D +60 3 2273 1919 / +60 3 2267 2662

E chuei.ying.por@christopherleeong.com

Clive Selvapandian

D +60 3 2273 1919 / +60 3 2267 2692

E clive.selvapandian@christopherleeong.com

Myanmar

Rajah & Tann Myanmar Company Limited

Dr Min Thein

D +959 7304 0763

E min.thein@rajahtann.com

Lester Chua

D +65 62320562 / +959 979 524 285

E lester.chua@rajahtann.com

Philippines

Gatmaytan Yap Patacsil Gutierrez & Protacio
(C&G Law)

Vladi Miguel Lazaro

D +632 8248 5250

E vmslazaro@cagatlaw.com

Singapore

Rajah & Tann Singapore LLP

Kendall Tan

D +65 6232 0634

E kendall.tan@rajahtann.com

Jonathan Oon

D +65 6232 0604

E jonathan.oon@rajahtann.com

Ting Yong Hong

D +65 6232 0655

E yong.hong.ting@rajahtann.com

Dedi Affandi Bin Ahmad

D +65 6232 0706

E dedi.affandi.ahmad@rajahtann.com

Aleksandar Georgiev

D +65 6232 0194

E aleksgeo@rajahtann.com

Yu Zheng

D +65 6232 0613

E yu.zheng@rajahtann.com

Thailand

Rajah & Tann (Thailand) Limited

Saroj Jongsaritwang

D +66 2 656 1991

E saroj.jongsaritwang@rajahtann.com

Krida Phoonwathu

D +66 2 656 1991

E krida.phoonwathu@rajahtann.com

Ittirote Klinboon

D +66 2 656 1991

E ittirote.k@rajahtann.com

Rawi Meckvichai

D +66 2 656 1991

E rawi.m@rajahtann.com

Vietnam

Rajah & Tann LCT Lawyers

Logan Leung

D +84 28 3821 2382

E logan.leung@rajahtannlct.com

Regional Shipping Update

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