

Protectionist vs liberalised maritime cabotage policies: a review

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Abstract

Purpose – The development of the current European economic area maritime cabotage market occurred when, at a policy level, the European Union forced the opening of its member-states cabotage markets to Community shipowners and extended this openness, in 1997, to the European free trade area countries. A two-tier cabotage market emerged, where a European economic area legislative framework co-exists with the legislative acts of each member-state. With such a unique background, this paper aims to investigate both the European economic area member-states and the rest of the world cabotage regimes and identify a list of reasons and policy measures used to implement cabotage policies.

Design/methodology/approach – By means of a desk research methodological approach, this paper analyses, from a geographical perspective, different countries' cabotage policies and classifies them, and identifies in a systematically way a set of reasons and policy instruments that support each of chosen policies approach.

Findings – The outcome indicates that only a few countries promote free liberalised cabotage services and that most countries favour protectionist cabotage policies, whose governments can control the number of foreign vessels participating in these trades. Cabotage regimes have been categorised and the reasons behind both policies and respective policy instruments have been identified.

Originality/value – Quite often, researchers only focus on the cabotage policies of the European economic area countries, the USA, Australia, Japan and South Korea. This paper value rests on its ability to incorporate cabotage policies from other African, Asian and Latin American countries and to update existing information on the subject. Overall, this paper paves the way to broaden the cabotage knowledge.

Keywords European Union, Liberalization, Policy, Protectionism, Cabotage, Rest of the world

Paper type General review

1. Introduction

Throughout the history, political, structural and economic forces have forced countries to choose their trade policies. While for many years, protectionist trade policies ruled the world, the decision of the British Government, in the beginning of 1650, to pursue a *mercantilist* policy opened the world to free trade even though the assumption behind *mercantilism* was that a country should export more than it imported. This change in policy has influenced the economic principles that rule many countries and promoted the



establishment of opened markets where goods and services are freely moved by decreasing trade barriers and increasing international cooperation among countries. The wave of globalisation that has been taking place is an ultimate consequence of such opened trade policies, as without them, countries' trade would still be limited from a geographical perspective. The body of literature on liberalised and protectionist market economies/policies is huge; however, a thorough analysis on both approaches is out of the scope of the present paper. They differ considerably and the next paragraphs address their main features.

A liberalised market means an economic policy that aims at freeing up world trade between countries and at breaking down the barriers that prevent such trade, in particular seaborne international trade. The basic philosophy rests on the principle of comparative advantage, which has contributed to the present industrial structure of the global economy. Many economists have addressed market liberalisation, and talks to achieve it have been ongoing for many years, initially by the General Agreement on Tariffs and Trade and recently by the World Trade Organisation. All the countries that opened up their markets to trade and foreign investment have had sustained growth and prosperity. By liberalising trade and capitalising on areas of comparative advantage, numerous economic activities, including the shipping industries, have benefitted economically from this approach.

Economic activities, that for many years adopted local and national economic policies, which often implied high production costs, have been able to reach remote areas of the globe either to produce or to sell their products and services and to benefit from scale economies, thus lowering both production costs and products and services selling prices. They have been able to go through different evolutionary stages, from national to international and from international to global, and participate in important economic clusters that create economic synergies and knowledge spillovers. However, [Theodoropoulos *et al.* \(2006\)](#) acknowledged that although market liberalisation measures should be taken on a multilateral basis they should be complemented by appropriate employment, labour and education policies, so that the benefits of trade can be shared. The reasons that lead countries to adopt liberalised market policies in detriment of protectionist ones through free trade policies enforced by international treaties and organisations are many, and generally, they fall within the scope of economic, legal, social, strategic and cultural perspectives.

However, there are reasons that prevent or delay the adoption of liberalised market policies. The disadvantages of liberalisation such as increased unemployment, dumping, loss of the domestic production, thus resulting in an increased dependence on foreign nations, are sufficiently valid reasons. Moreover, multilateral agreements are very difficult to achieve and implement among the different countries that have agreed with them. Usually, the implementation stage occurs at different speeds depending upon the particular interest of certain countries, which eventually affect the overall performance of the policy measures designed to promote and foster market liberalisation. Finally, free trade does not work in a global setting where capital does not flow and where trade partners are asymmetrical which prevents them from adopting more collaborative and cooperative strategies.

A protectionist market means an economic policy that restrains trade between countries through the implementation of tariffs, quotas and non-tariff barriers. Countries adopt protectionist policies for numerous economic, social, strategic and cultural reasons. All these reasons, which to a certain extent could be justifiable, have severe impacts on countries' economic development, and for this reason, they cannot be a solution for countries' economic and financial problems. They lead to isolationism and poverty levels, which will take eventually a long time to revert as they contribute among other issues to the development of

monopolies, high prices, products of lower quality, ineffective and inefficient production schemes, development of black economies and retaliation from other nations with which the country has established diplomatic and commercial relationships. Furthermore, the governmental subsidies and/or loans granted to economic activities for them to compete with their international counterparts, distort market competition.

In light of today's complex trading system, the definition of a trade policy, which falls within the scope of regulatory policies, is not straightforward and it is common to see mixed policies where both protectionist and liberalised policy elements co-exist. The definition of such a policy is a lengthy complex process and independently of the type of trade policy chosen (totally free, totally protected or a mix of the two), governments need to use any of the several existing policy making models (College of the Liberal Arts, 2017) and elaborate roadmaps, which identify the corresponding policy instruments that will help governments performing a thorough assessment of their policies success/failure; without them, no policy can evolve in the right direction.

2. Literature review

The concept of "maritime cabotage", often termed as "coastal navigation", "domestic shipping", "coastal shipping/trading", "coasting shipping/trade" and "coastwise" (hereinafter *cabotage*), depending upon the world geographical area, is not new. Cabotage, which means excluding foreign-flagged vessels (hereinafter "foreign vessels") from the domestic carriage of goods, is the oldest form of cargo preference (Aspinwall, 1987); its evolution appears to have started in the fifteenth century when shipping became a legal source of conflict among countries (Glisson and Jones, 1999). It is not clear when cabotage, as a legal principle, started as different authors refer to different dates; while Martin (2013) suggests that Portugal appears to have been the first country to implement cabotage laws in the fifteenth century; Woodward *et al.* (2015) indicate that the French promulgated the legal principle of cabotage in the sixteenth century. Independently of the dates, at that time, cabotage laws served to protect not only a country's coastal trade and to restrict its trade to its national vessels which were owned and operated by nationals or national shipping companies but also the trade performed between the metropolitan country and its colonies. Trade and, consequently, maritime operations were concentrated in the hands of a few and many wars and battles occurred to dominate this market in the quest for the dominion of the seas. This situation lasted until the end of the Second World War when the last European colonies became independent and established their own shipping companies. The cabotage concept known until so far changed and became far more restricted.

The loss of control over very important shipping markets that guaranteed the employment of European fleets led many European countries to consider their cabotage as a national strategic asset, and in one way or another their shipping policies have always incorporated policy measures that address it. Other worldwide countries have followed similar approaches and quite often countries' socio-economic and political interests and geographic characteristics influence the definition of the cabotage policies. Today, cabotage refers to shipping services performed within a restricted maritime area and includes:

- services among ports located along a country's coastline;
- island cabotage services; and
- off-shore supply services.

At a European Union (EU) level, the cabotage market represents a small part of the broad EU short sea shipping market almost 20 per cent in what concerns goods and 45 per cent in what concerns passengers (Commission of the European Communities, 2009).

Cabotage has been addressed within the body of literature. European cabotage has been addressed either from the scope of the EU short sea shipping concept or from a geographical perspective. For instance, [Giannopoulos and Aifandopoulou-Klimis \(2004\)](#) addressed the Greek cabotage before and after market liberalisation while [Chlomoudis *et al.* \(2007\)](#) analysed maritime liberalisation within the EU and its influence on the Greek Islands. On the other side of the world, [Boske \(2001\)](#) investigated cabotage policies in North and Latin Americas and [Brooks *et al.* \(2014\)](#) analysed the cabotage of six Latin American countries (Brazil, Uruguay, Argentine, Chile, Peru and Ecuador). Of the six countries, Brazil has drawn the attention of both national and international research communities; [Paixão Casaca *et al.* \(2017a\)](#) and [Paixão Casaca *et al.* \(2017b\)](#) investigated the Brazilian cabotage policy taking into account the demand and supply and the integration of cabotage within multimodal transport chains. [Brooks \(2009\)](#) reviewed the Australian, New Zealand, the European, Canadian, US, Japanese and Chinese cabotage markets. Each of these countries have also been analysed individually by several authors. The Australian cabotage has been analysed by [Bendall and Brooks \(2011\)](#), [Everett and Kittel \(2010\)](#) and [Brooks \(2014\)](#). [Aspinwall \(1987\)](#), [Magee \(2002\)](#) and [Michaeli \(2014\)](#) performed a detailed analysis of the US cabotage policy and [Hodgson and Brooks \(2012\)](#) investigated the Canadian cabotage. New Zealand cabotage was reviewed before and after the new cabotage regime had entered into force ([Cavana, 1994, 2004](#)). The Korean, Chinese and Japanese cabotage policies have also been the focus of [Park and Medda \(2015\)](#). Nevertheless, certain countries (such as Uruguay, Argentine, Panama and Bangladesh) and regions (such as Africa) are yet to be analysed.

A similar situation applies to the analysis of the reasons behind the chosen policies and to the analysis of the policy instruments within a cabotage context, which is limited. Much focus is given to countries shipping policy in general terms and quite often, the reasons behind them are drawn from the body of literature on protectionism and liberalisation trade policies. Moreover, only few papers refer to policy instruments, quite often referred to as policy measures. [Gardner *et al.* \(1984\)](#) considered different forms of investment incentives, namely tax and investment allowances, investment grants and favourable credit terms to promote the investment in the British fleet. [Heaver \(1993\)](#) presented a set of specific tax and financial measures to allow the expansion of the Canadian-flag deep-sea shipping. [Gardner *et al.* \(1996\)](#) acknowledged that shipping policy measures in the post-war era fell within the scope of three categories, namely, fiscal incentives and financial assistance measures, labour, manning and training issues measures and external shipping policy measures. [McConville and Glen \(1997\)](#) addressed fiscal issues when investigating the impacts that the declining British fleet had on employment. Financial policy instruments have also been the scope of [Yercan \(1998\)](#) when analysed the Turkish maritime policy. [Thanopoulou \(1998\)](#) refers to social and fiscal policy measures that the European fleet already benefits when investigated shipping competitiveness. In 2004, the Sjöfartens Analys Institut Research analysed, on a country basis, the implementation of the 2004 Community guidelines on state aid to maritime transport and identified the measures that EU Member-States have implemented which to a certain extent fall within the scope of policy instruments. More recently, [Slack and Notteboom \(2013\)](#) identified a set of transport policy instruments when addressing transport planning and policy from a generic perspective. An insight into these studies suggests that policy issues are analysed from a broad perspective, sometimes focussing on a particular aspect such as labour and flagging out, and that the identified policy instruments target the shipping industry as a whole and not specifically the cabotage market.

To overcome the gap in the literature, this paper analyses, from a geographical perspective, different countries' cabotage policies and classifies them and identifies in a

systematically way a set of reasons and policy instruments that support each of chosen policies approach.

3. Methodology

To achieve its objective, this paper adopts a desk research methodological approach, namely, the external desk research technique, because it allows access to a wide variety of information published in hardcopies and online although it does not guarantee the availability of the information needed. Quite often, it is necessary to send emails, perform surveys or interviews to obtain the missing information or even to check the information available, which results in a lengthy and time-consuming process to complete. The chosen methodological approach is structured into three stages (Figure 1).

Stage 1 divides the world into following seven geographical areas to facilitate the analysis; the identified geographic areas are:

- (1) the European Economic Area (EEA);
- (2) Africa;
- (3) Former Soviet Union and Middle East;
- (4) Asia;
- (5) Oceania;
- (6) North America; and
- (7) Latin America.

Stage 2 identifies potential sources of information and retrieves the information needed to perform the analysis. The analysis considered both offline and online sources of

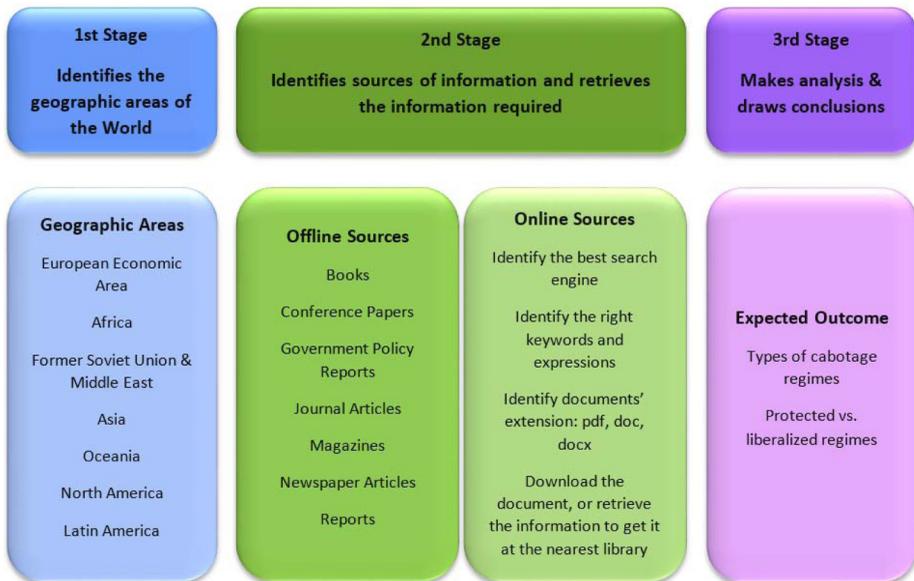


Figure 1.
Methodological approach

Source: Authors

information, and while the potential “offline sources of information” is clearly identified, the quest for “online sources of information” is a lengthy and time-consuming process. Concerning the latter, attention was drawn to the search engine and keywords used; the choice fell on Google because it visits as many websites pages as possible and indexes these pages, which assist researchers finding the information needed (Harris, 2003). As to the keywords, the choice fell on “maritime cabotage”, “domestic shipping”, “coastal shipping”, “coastal trading”, “coastal navigation”, “coasting shipping”, “coasting trade” and “coastwise”. Furthermore, to investigate the Portuguese and the Spanish speaking countries’ cabotage regimes, the terms “cabotagem” and “cabotaje” were used, respectively, because those countries’ legislative acts are written in their native language. Finally, Stage 3 discusses liberalised vs protectionist policies in the cabotage market, lists the reasons and policy instruments behind the existing cabotage policies and draws conclusions. The sections that follow address each of the geographic cabotage areas under study.

4. The European economic area cabotage

For many years, beyond the signing of the Treaty of Rome (TOR) in 1957 and the enlargements that took place in 1973, 1981 and 1986, national laws ruled the several EU member-states cabotage markets. Articles 81 to 86 and Articles 87 to 89 of the TOR only applied to the international shipping industry. The first step towards changing this situation occurred when the European Commission released the 1985 White Paper on “Completing the Internal Market” listing 300 measures destined to eliminate existing physical/border controls, technical/rules and regulations and fiscal/different tax rates, which prevented the completion of the Single European Market. Only then, has the cabotage market liberalisation been seen as an important step to achieve the Single European Market and therefore needed to be regulated according to the EU principles; however, the path taken to achieve this purpose was not a straightforward one.

The 1986 maritime package excluded cabotage. The Uruguay Round of the General Agreement on Trade and Services participating countries also adopted a similar approach when they eliminated cabotage from the negotiations on shipping matters. Cabotage had always been considered a very delicate subject in what concerns the application of EU competition rules. Southern member-states favoured the carriage of mainland cargo and inland passenger on board ships carrying their national flag (Greaves, 2011) even though the UK, Ireland, Denmark, The Netherlands and Belgium had liberalised their cabotage markets in accordance with Council Regulation (EEC) No. 4055/86. No further progress was made until 1989, when the Commission presented two Communications on different shipping matters, which included the removal of cabotage restrictions. It is understood that the cabotage negotiation process became a complex one because of disputes that mainly concerned manning rules, because some EU lawyers considered that the agreement reached, in December 1990, was in breach of the TOR (Paixão and Marlow, 2001).

The solution to overcome the barriers that prevented the liberalisation of the EU cabotage market would occur later in 1992 when the Council of the European Communities took action and released Council Regulation (EEC) No 3577/92 granting Community shipowners the freedom to provide cargo and passengers cabotage services within a member-state other than the member-state where their vessels were registered as long as these vessels complied with all the legal conditions for carrying out cabotage in member-state of the vessels’ flag. To meet the interests of the Southern European member-states, a schedule was established and the liberalisation of cabotage services was carried out in a phased way. However, this granting of freedom is not so straightforward in light of the three possible types of derogations foreseen in the Regulation. Freedom may be limited by:

- (1) the imposition of
 - manning rules which are the responsibility of the flag States and whose rules vary from one register to another; or
 - public service obligations to guarantee the quality and regularity of maritime transport services.
- (2) the temporary suspension of the Regulation provisions because of serious disturbances in the internal transport market.

Furthermore, the provisions made for the establishment of public service contracts may promote unfair competition practices because they may lead to the implementation of defensive measures if these public service contracts are not addressed from a non-discriminatory basis.

From a policy perspective, a two-tier cabotage market emerged, where an EU legislative framework co-exists with the legislative acts of each member-state. It is clear that Community shipowners can immediately offer cabotage services, but their participation in the cabotage markets very much depends upon their vessels registries. From the legislation in force, vessels registered in member-state's first register have unrestricted access to cabotage in other member-states; however, this principle of freedom does not apply to all vessels registered in the EU member-states second registers. Vessels registered under the Spanish Canary Islands, the Portuguese Madeira and the Gibraltar registries have unrestricted access to cabotage. Cargo vessels registered in the Danish International Ship Register have access to cabotage while passenger vessels do not. Vessels registered in the German International Register and in the Finnish list of cargo vessels in foreign traffic have no access to regular cabotage but on a case-by-case basis only. Vessels under the Italian second register are allowed on a case-by-case basis up to six cabotage journeys per month or up to unlimited cabotage journeys, if these are over 100 nautical miles. Finally, limited access to cabotage also applies to vessels flying the flag of the French International Register.

Norway and Iceland also benefit from the principle of freedom to provide cabotage services by Decision 70/97 of 4 October of the EEA Joint Committee to extend Council Regulation (EEC) No 3577/92 to the European Free Trade Area countries. Iceland transposed into its national legislation the EU Regulations on the freedom to provide maritime services, on maritime cabotage, on the transfer of cargo and passenger ships between registers and on the free access to cargoes in ocean-going trades ([European Commission, 2012](#)). The situation with Norway was more complex because of its Norwegian International Ship Registry. Although Norway does not impose cabotage restrictions and different flagged vessels can provide services in its cabotage trades, all vessels registered under the Norwegian International Ship Registry (NIS) were prevented from participating in the EEA cabotage market. The exception being those cabotage markets with whom Norway had negotiated bilateral agreements and in countries, which had adopted full-liberalised cabotage policies. However, as from 1 January and 1 March 2016 onwards, the legislative changes taken place have allowed NIS registered cargo vessels to be employed in the cabotage market (Ernest and Young, 2016). Five reports have been drawn to evaluate its implementation and the status of cabotage liberalisation; the last one dates from 2014 ([Commission of the European Communities, 2014](#)).

Figure 2 provides an overview of the EEA cabotage current situation for vessels registered in member-states' first register. EEA member-states are still able to decide the extent to which vessels registered in the EEA member-states second registers and vessels registered in non-EEA member-states and operated by non-EEA member-states shipowners can participate in their cabotage. Changes are expected to occur in the future with the exit of

Country	Liberalized to EEA Member States	Liberalized to Non-EEA Member States	Fully liberalized	Country	Liberalized to EEA Member States	Liberalized to Non-EEA Member States	Fully liberalized
Belgium	Yes	Yes	Yes	Norway	Yes	Yes	Yes
France	Yes	No	No	Iceland	Yes	Yes	Yes
Germany	Yes	No	No	Malta	Yes	Yes	Yes
Italy	Yes	No	No	Cyprus	Yes	Yes	Yes
Luxembourg	No maritime cabotage			Estonia	Yes	No	No
Netherlands	Yes	Yes	Yes	Latvia	Yes	Yes	Yes
Denmark	Yes	Yes	Yes	Lithuania	Yes	No	No
Ireland	Yes	Yes	Yes	Poland	Yes	Yes	Yes
United Kingdom	Yes	Yes	Yes	Czech Republic	No maritime cabotage		
Greece	Yes	No	No	Slovakia	No maritime cabotage		
Portugal	Yes	No	No	Hungary	No maritime cabotage		
Spain	Yes	No	No	Slovenia	Yes	No	No
Finland	Yes	No	No	Bulgaria	Yes	No	No
Sweden	Yes	No	No	Romania	Yes	No	No
Austria	No maritime cabotage			Croatia	Yes	No	No

Source: Authors

Figure 2.
Overview of the
cabotage legislation
in the EEA for
vessels registered in
member-states' first
register

the UK from the EU, as the country will be prevented from having access to the EU-27 cabotage market. Therefore, to acknowledge that the EEA cabotage market is fully liberalised is a wrong assumption, as different degrees of freedom exist.

5. Cabotage in the rest of the world

5.1 African cabotage

Unlike other regions, the literature on African cabotage is limited, and the information gathered shows that the region favours protected cabotage regimes, despite the World Economic Forum having suggested that they impose numerous restrictions on international trade (Van, 2013). The enforcement of protected cabotage regimes is highlighted by the cabotage provisions established under Article 11 of the African Maritime Transport Charter enacted in 1993 (Faculty of Law, 2016). This enforcement was reinforced by the 2010 African Union's Revised African Maritime Transport Charter, which not only supports the establishing of national cabotage shipping companies but also of regional maritime cabotage shipping lines to promote intra-African trade and facilitate the African economic and socio-economic integration (African Union, 2010). The introduction of cabotage laws along the 38 African coastline nations appears to be taking place at different speeds and the development of an African cabotage area is far from being a reality.

Cabotage between two Moroccan ports is reserved exclusively for vessels flying the Moroccan pavilion because of national security reasons (Centro de Navegacion Argentina, 2015). The same principle applies to Libya and Tanzania. Nigerian cabotage is ruled by the "Coastal and Inland Shipping (Cabotage) Act, 2003" (Houses of the National Assembly of Nigeria, 2003). It aims at giving Nigerian shipping companies a competitive edge over their foreign counterparts that are still doing business in Nigerian waters, even though the Act foresees the granting of waivers whenever the market lacks:

- Nigerian flagged vessels to provide cabotage services;
- capacity to build and repair cabotage vessels; and
- capacity to supply crews.

However, the Act is yet to be implemented and the Cabotage Vessel Financing Fund is yet to be spent among the six local shipping companies selected by the Ministry of Transport ([Footprint to Africa, 2016](#)). Nigerian cabotage regime remains liberalised.

Angola, South Africa and Mozambique have long coastlines, which offer great potential for developing cabotage. Angolan cabotage can only be performed by Angolan shipowners who can either use national registered or chart-in foreign vessels ([Presidente da República de Angola, 2014](#); [Assembleia Nacional Angolana, 2012](#)). Angolan specific laws on cabotage were revoked but cabotage cargo still benefits from special port charges ([Ministério dos Transportes e Comunicações de Angola, 1989a, 1989b](#); [Ministérios das Finanças e dos Transportes de Angola, 2008](#)). Namibia has no cabotage restrictions; all vessels, including the foreign ones, can engage in cabotage trades without operational permits, but seaworthiness permits apply. South Africa has one of the world's most liberal maritime policy regimes ([Chasomeris, 2006](#)). The country allows local and foreign vessels on international trades to carry its cabotage cargo because it completely lost its domestic flagged vessels and the existing national shipping companies were bought by international ones ([South African Department Transport, 2008](#); [Shipping Position, 2012](#)).

Mozambican cabotage follows an approach similar to the Angolan one. The government determined that only nationals could operate cabotage services although waivers could be granted to foreign vessels whenever necessary ([Ministério dos Transportes e das Comunicações de Moçambique, 1996](#); [Conselho de Ministros de Moçambique, 2007](#)). Recently, in an attempt to revitalise the cabotage market and to reduce existing competitiveness disparities and commodity prices, the government created a special ship's registry granting foreign vessels the possibility to offer cabotage services subject to a set of conditions, one of which is flying the Mozambican flag ([MacauHub, 2017](#); [Conselho de Ministros de Moçambique, 2016](#)). In Kenya, cabotage is restricted to vessels flying the Kenyan flag, but foreign-owned vessels can enter the cabotage market as long as the Minister of Transport approves the issuance of licences and the granting of waivers. Finally, Egypt allows private ownership and foreign ownership in the provision of cabotage services but no limits are placed on the companies' shares. However, vessels flying the Egyptian flag and holding coastal navigation licences have priority over the other cabotage services when carrying containers; foreign vessels will only be temporarily allowed in the container carriage if no Egyptian flag capacity is available ([Togan, 2009](#)).

5.2 Cabotage in the former Soviet Union and Middle East

Russian cabotage is reserved to Russian Federation flagged vessels ([Federation Council of Russia, 1999](#)); as per its Merchant Shipping Code, foreign vessels can only enter the cabotage market if they have been authorised by an international treaty with Russia or if the government has granted waivers in specific cases. Turkish cabotage services are restricted to Turkish flagged and to Turkish International Ship Registry (TISR) registered vessels, which in the latter case extends the cabotage market to foreign shipowners ([Ministry of Trade and Justice of Turkey, 1926](#); [Maritime Advocate, 2000](#)); however, vessels under the TISR need to comply with Article 940 of the Turkish Commercial Code to benefit from cabotage rights ([Ernest and Young, 2016](#)). Under the TISR, foreign direct investment is possible in cabotage shipping companies, but nationals need to control 51 per cent of the company's capital. The TISR is more relaxed; Turkish and foreigner shipowners just have to domicile in Turkey and foreign companies need to be incorporated under the Turkish Law ([University of Antwerp, 2015](#)). No cabotage regulations are enforced in Lebanon but in

what concerns cargo declarations vessels are requested to comply with the local customs regulations. Jordan cabotage is closed to both private and foreign ownership ([Centro de Navegacion Argentina, 2015](#)). Finally, foreign vessels are allowed to move cargo between ports of the UAE.

5.3 Cabotage in Asia

Asian cabotage is a unique market made up of different policy approaches, some of which very dynamic and very interesting from the policy perspective. The analysis covers several countries, but focuses mainly on India, Malaysia, Indonesia, the Philippines, China, South Korea and Japan.

Indian cabotage is ruled by the 2016 Merchant Shipping Bill, which replaces both the 1838 Coasting Vessels Act and the 1958 Merchant Shipping Act ([Ministry of Road Transport, Highways and Shipping, 2016](#)). The 2016 Act has widened the scope of cabotage to include services/activities performed within Indian territorial waters, continental shelf, exclusive economic zones and other maritime zones of India. Indian registered vessels have immediate access to cabotage trades without having to apply for a licence; a licencing regime, which comprehends three types of licences, applies to foreign vessels, which is to be granted by the Director-General. Furthermore, cabotage vessels are exempted from having to present trading licence or other statutory certificates to obtain their port clearance.

The Malaysian cabotage market has witnessed an interesting evolutionary path where the market went from a liberalised situation to a protectionist one ending on a situation where particular cabotage market segments are being opened to foreign vessels. In January 1980, the Malaysian Government implemented a national cabotage policy to protect and promote a strong national shipping-owning industry to minimise Malaysia's dependence on foreign vessels and outflow of foreign currency because of the incurred payments of freight, and to help developing Malaysia's trade and logistics domestic capacity ([Parliament of Malaysia, 1952](#)). The Ordinance defines cabotage, states that only Malaysian flagged vessels can engage in cabotage trades, and determines the conditions that qualify a vessel as a Malaysian one; furthermore, it indicates that vessels need a licence granted by the Domestic Shipping Licencing Board for a period ranging from six up to 24 months to engage in cabotage services. Foreign vessels can engage in cabotage trades as long as the available number of Malaysian vessels is insufficient to meet the existing demand, which often happens in the offshore support vessels industry, where they are granted temporary licences for a maximum period of three months. Since June 2009, changes have taken place; foreign shipowners have been allowed to carry transhipped containers between certain ports in the Peninsula Malaysia and East Malaysia without having cabotage licences and later, in 2012, passenger cruise vessels were exempted from cabotage law ([Metcalf and David, 2015](#)). More recently, the states of Sabah and Sarawak in East Malaysia as well Labuan have been exempted from the cabotage law because of the high shipping costs between east and west Malaysia ([Hand, 2017](#)).

To revitalise its cabotage industry, the Indonesian Government implemented cabotage restrictions granting Indonesian companies with greater business opportunities and market share and cabotage became available only for Indonesian flagged vessels, manned by nationals ([President of the Republic of Indonesia, 2008](#)). Shipping companies must be classified as "Indonesian Sea Carriage Companies" and be incorporated under Indonesian legislation; foreign companies are allowed to participate in cabotage activities but they need to establish joint ventures with Indonesian partners and their direct investment cannot overcome 49 per cent of the overall capital. Initially, the 2008 legislation exempted foreign-owned offshore floating units from the cabotage rules, but since the activities performed by

the oil and gas companies fell under the scope of cabotage (Yee and Din, 2015), exemption tables were created, in 2011, to encourage Indonesia's shipbuilding industry, and to meet the needs of the oil and gas sectors to avoid production losses. In 2015, in an effort to boost the tourism sector, Indonesia relaxed its cabotage rules imposed on the cruise industry by allowing foreign cruise ships to call at five of the country's largest ports (World Maritime News, 2015).

The existing Philippine cabotage policy, designed to build a robust domestic shipping industry, prevented foreign shipowners from participating in cargo and passengers cabotage trades, unless they were granted a special permit by the Maritime Industry Authority on the condition that no national vessels were available to perform those trades (Government of the Philippines, 1957; Congress of the Philippines, 2004). Moreover, the same legislation determined that 60 per cent of companies' capital should be in the hands of nationals. However, the divergences between an emerging liberalised economic policy and the existing cabotage policy end up causing severe economic bottlenecks at the same time that retarded the national fleet development, limited competition and encouraged inefficiency among local vessel operators (Manila Times, 2015). To support the liberalisation of the Philippine economy and to keep pace with the reforms that were taking place in the Asian region, the Aquino administration forced the introduction of amendments into the Philippine shipping industry and opened up its coastal trade to foreign vessels allowing them to carry intra-trade cargo and foreign cargo for domestic transshipment (Congress of the Philippines, 2015).

The 1992 Maritime Code rules the Chinese cabotage and determines that cabotage services are to be performed by vessels registered in China (Ministry of Commerce People's Republic of China, 1992). Foreign ships could only enter the cabotage market if permissions were granted from the competent authorities. Moreover, Chinese authorities had to grant permission for foreign companies to invest into Chinese-foreign equity joint ventures or contractual joint ventures and that the investment proportion to be made would be limited to 49 per cent (Ministry of Commerce People's Republic of China, 1992; People's Republic of China State Council, 2013; Park and Medda, 2015). As from September 2013, the Chinese Government decided to relax slowly its cabotage regime by allowing foreign container ships to carry containers on the trade routes between Shanghai Free Trade Zone and other coastal Chinese ports, even though the actual relaxation only occurred in December 2014 (Yan, 2014). From April 2015 onwards, additional changes occurred in the cabotage (Yan, 2015). The Chinese cabotage finds itself in a transition period, and the extent of the Chinese cabotage relaxation is unknown.

Ever since the 1982 South Korean "Ship Act" was enacted, non-Korean vessels have been prevented from operating in the cabotage market, even though the Korean Government has relaxed its cabotage regime from time to time (Minister of Land, Transport and Maritime Affairs, 1982). Currently, only Korean ships are allowed to operate cabotage services although in specific cases they can be performed by non-Korean vessels and that cabotage services are subject to a licence issued by the Minister of Oceans and Fisheries (Ministry of Oceans and Fisheries, 2015; Ministry of Oceans and Fisheries, 2014). Foreigners are allowed to invest directly in coastal shipping operations but the controlling share of the investment made must be in the hands of the Korean partners (Park and Medda, 2015).

Japan has the strictest cabotage regime of all Asian countries, despite having a geography that favours the development of cabotage. According to the Japanese Ships Act, cabotage trade may only be carried on Japanese flagged vessels, built in Japan and manned by a Japanese crew, which implies a high cost workforce when compared to other

nationalities ([Japan Federation of Coastal shipping Associations, 2011](#)). Foreign vessels are allowed:

- if they avoid capture or a marine accident;
- if there are provisions established in the law or in treaties;
- if a permit has been granted by the Ministry of Land, Instructure, Transport and Tourism; and
- if there are measures of friendship, of commerce and of navigation with Japan, as long as the participation of foreign vessels does not affect the Japanese cabotage industry, and if the principle of reciprocity applies ([Japan Federation of Coastal shipping Associations, 2011](#); [Park and Medda, 2015](#)); the permission being granted to foreign vessels is valid for a certain voyage, port and period.

Cabotage is protected in many other Asian countries. Bangladeshi cabotage is only entitled to Bangladeshi flagged vessels can provide cabotage services, unless waivers are granted by the responsible authority ([Bangladeshi Ministry of Law, Justice and Parliamentary Affairs, 1982](#)). Myanmar reserves coastal cargoes to ships registered domestically and Thai cabotage follows the same approach under the Vessels Act 1938. Transport of cargoes between Vietnamese ports and harbours is wholly reserved for vessels, which are Vietnamese owned and registered, and manned by Vietnamese crews (except for some specialised officer positions). Taiwanese cabotage legislation also restricts the carriage of goods between Taiwanese ports to domestic vessels ([Ministry of Justice, 2014](#)). On the opposite side, Brunei and Cambodia have no cabotage restrictions and the geography of Singapore makes the reservation of coastal trade to domestic flagged shipping a non-issue ([Law Revision Commission, 1996](#)).

5.4 Cabotage in Oceania

Australian cabotage policy has drawn the attention of the research community because of its unique licencing regime. Cabotage is governed by the “Coastal Trading (Revitalising Australian Shipping) Act 2012” that implemented a new licencing regime to regulate the access to cabotage trades despite the attempts made in 2015 to amend it. The 2012 legislation replaced the licence and permit systems envisaged in the Navigation Act 1912 to overcome the negative impact that the latter had on the Australian fleet ([Government of Australia, 2011](#); [Cauchi, 2014](#)), but it was not sufficiently robust to protect Australian registered vessels from foreign vessels’ competition, which have been benefitting from unlimited access to foreign trade ([McHugh, 2016](#)). A new legislation, the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017, is being evaluated by the different governmental institutions. The 2017 Bill aims to extend the geographical scope of the coastal trading definition to include voyages to and from places in Australian waters, to reduce industry’s bureaucracy and to simplify the coastal trading regime administration. If the Bill passes, the new legislation is certain to promote critical changes in the existing legislation ([Hetherington, 2017](#)); however, the actual impacts of these changes are unknown. New Zealand cabotage has been relaxed under the Section 198 of the 1994 Maritime Transport Act ([New Zealand Ministry of Transport, 2016](#)). The liberalisation of cabotage came into effect on 1 February 1995, within the scope of a very comprehensive reform of the New Zealand’s international trade, industrial, transport, and fiscal policy. Under Section 198, cabotage can be performed by a New Zealand ship, by a foreign ship on demise charter to a New Zealand operator, which has to employ her crew in accordance with the New Zealand Law and by a foreign ship passing through New Zealand in its international voyage and

whose carriage of coastal cargo is negligible relatively to the overall amount of international cargo being carried ([New Zealand Ministry of Transport, 2016](#)).

5.5 North American cabotage

Canadian cabotage is ruled by the Coasting Trade Act 1992 ([Canadian Transportation Agency, 2016](#)), which aims at promoting a level playing field by protecting Canadian shipowners from others that benefit from lower wage crews and/or lower safety standards. Foreign and non-duty paid ships are prevented from operating in the cabotage market unless a licence has been granted ([Canadian Transportation Agency, 2016](#)), which means that only Canadian flagged and duty paid vessels are allowed in the cabotage trades and on top of this they must be manned by Canadian crews. The Minister of Public Safety and Emergency Preparedness can grant waivers to Canadian-registered, non-duty paid vessels and foreign vessels to conduct a commercial activity in Canadian waters for a maximum period of 12 months whenever the Canadian Transportation Agency identifies that there are no suitable Canadian-registered, duty paid vessels. Relative to the US cabotage legislation, the Canadian one is more relaxed since vessels can be built abroad in foreign shipyards, although at the expense of a 25 per cent tax payment on the imported ship's value and of additional registration costs ([Hodgson and Brooks, 2012](#)). Changes in the Canadian cabotage market are expected to occur in light of the Comprehensive Economic and Trade Agreement signed between Canada and the EU. From April 2017, certain marine activities such as the repositioning of empty containers, dredging activities, and feeder services became exempted from licence and are opened to both EU and Canadian entities ([Goeteyn and Pamel, 2016](#)).

Like Japan, the US maintains very strict cabotage legislation. Cabotage is ruled by the US Merchant Marine Act (1920) ("the Jones Act"), which is incorporated under Title 46 Appendix on Shipping, Chapters 24 § 883 and 27 of US Code ([Cornell University Law School, 2016a](#)). The Act was enacted to protect US cargo vessels from the competition of low cost or subsidised foreign vessels, to allow the application of the Federal Employers Liability Act to seamen and to support a wide range of American Industries ([Vaughn, 2016](#); [Transportation Institute, 2016](#)); more recently, the Act was also considered a matter of national security. The last revision of the Act occurred in 2006 which results from a recodification of the US Code. Cabotage is also ruled by the Vessel Documentation Act (1980), which determines the type of vessel that may be used in the cabotage trades (Congress of the USA, 1980) even though the concept of "coastwise trade" had never been defined by any statute or regulation ([Aspinwall, 1987](#)). Such definition can be inferred from the Merchant Marine Act (1920) ([Cornell University Law School, 2016b](#)), the Passenger Ship Act (1986) ([Cornell University Law School, 2016c](#)) and Section 4370 on towing of the 1878 Revised Statutes, and whose last update took place in 1996 ([Cornell University Law School, 2016d](#)). Cargo between two US ports, i.e. within all territories and possessions of the US, the exceptions being the American Samoa, the Northern Mariana Islands and the Virgin Islands, must be carried by vessels built (or rebuilt) and registered in the US, owned by US companies, which are controlled by at least 75 per cent of US citizens, and whose crew is made up of at least 75 per cent of the US citizens, and which are defined as qualified "coastwise vessels". Operators willing to engage in cabotage trades are requested to apply for a permit, which grants them the right to operate in these trades. Requests for waivers under the Jones Act are difficult to obtain and they are allowed only for reasons of national defence ([Waldron, 2014](#)). Waldron goes on saying that there are only two types of waivers: the one requested by the Secretary of Defence, which is granted automatically; the other granted by the Secretary of the Department of Homeland Security if the Maritime Administration indicates that there are no US-flagged vessels available. Only very short temporary waivers have been granted in cases

of national emergencies, such as the grounding of the Exxon Valdez in 1989, Hurricane Sandy in 2002 and Hurricanes Katrina and Rita in 2005, or upon the request of the Secretary of Defence. There have been attempts to change the Jones Act but all of them have been unsuccessful (Maritime Trades Department, 2015; Maritime Trades Department, 2016). According to Hodgson and Brooks (2007), cabotage trade protection ends up being contrary to the overall liberalised trade intentions established in the two primary trade agreements, the Canada–US Trade Agreement and the North American Free Trade Agreement, as the USA has decided to keep its strict cabotage restrictions. This situation created an enormous surcharge on the domestic shipping trade and has prevented coastal shipping solutions, taking cargoes off the clogged highways of the US East coast (Slater, 2016).

Mexican cabotage is restricted to Mexican shipping companies which are exempted from licences issued by the Communications and Transport Secretary and whose vessels are flagged under the Mexican pavilion (Cámara de Diputados del H. Congreso de la Unión de México, 2006). However, the Communications and Transport Secretary can issue temporary licences that allow the use of foreign vessels by Mexican shipping companies in case Mexican vessels holding special features are unavailable, or if public interest is invoked. Foreign shipowners wishing to apply for a special cabotage navigation permit need to file a petition before the Merchant Marine Direction (Lopez, 2015). A temporary licence is not applicable to foreign vessels that wish to engage in cabotage operations related to touristic and nautical services, port construction and maintenance, and dredging if the reciprocity principle applies. Only Mexican shipping companies holding 51 per cent of the overall investment capital are allowed to register Mexican flagged vessels that operate in the cabotage trades (Cámara de Diputados del H. Congreso de la Unión de México, 2015; Lopez, 2015); foreign investment in Mexican shipping companies that operate cabotage trades are therefore limited to 49 per cent.

5.6 Latin American cabotage

The Latin American cabotage framework is well defined. Countries within this region have chosen to adopt protectionist policies albeit differences exist among the different legislative acts. This section reviews the cabotage policies of numerous countries located in the Caribbean/South Atlantic coast and then moves into the Pacific.

Cuban cabotage is restricted to vessels flying the Cuban pavilion and manned by Cuban crews (Asamblea Nacional del Poder Popular de Cuba, 2013). If no Cuban-flagged vessels are available to provide such services or if the services to be performed demand specific vessels, foreign vessels can be used subject to an authorisation issued by the National Maritime Authority. The concept of public service can be applied to cabotage services that need to be operated regularly to guarantee the service frequency (Asamblea Nacional del Poder Popular de Cuba, 2013).

Only Honduran-flagged vessels owned by Honduran shipping companies are entitled to cabotage trades (Congreso Nacional de Honduras, 2004); however, Dirección General de la Marina Mercante Nacional may authorise foreign vessels (particularly the Centro American flagged ones) to service these trades if no Honduran flagged vessels are available. The legal framework requests that Honduran shipowners or legal established entities incorporated under the Honduran law own 51 per cent of the vessels, and consequently of the company's capital, and apply for a licence granted by Dirección General de la Marina Mercante (Congreso Nacional de Honduras, 2004). Vessels must be manned by a crew made up, if possible, of at least 90 per cent of Honduran citizens (Secoff, 2016).

Nicaraguan legislation determines that cabotage is to be performed by nationals, i.e. Nicaraguan shipowners or Nicaraguan legal entities, only and that they control 51 per cent

of the company's capital, which means that these vessels must be registered in Nicaragua ([Consejo de Ministros de Nicaragua, 1972](#)). Centro American fleets can engage in these trades if no Nicaraguan vessels are available, if the same ownership principle applies, and if a reciprocity principle has been established between Nicaragua and the country where the foreign vessel is registered. Dirección General de Transporte Acuático can allow that national shipowners use foreign vessels temporarily whenever no Nicaraguan or Central American vessels are available to perform the service ([Asamblea Nacional de la República de Nicaragua, 2001](#)). To offer cabotage services, nationals must apply for a licence granted by Ministerio de Economía.

In Costa Rica, cabotage is restricted to Costa Rica flagged vessels and to nationals or legal entities incorporated under Costa Rica laws, which own 60 per cent of the shipping company's capital ([Ministerio de Obras Públicas y Transportes de Costa Rica, 1958](#)). Shipping companies must apply for a cabotage licence granted by Ministerio de Seguridad Pública; the regular cabotage services are considered of national interest and therefore seen as public services ([Ministerio de Obras Públicas y Transportes de Costa Rica, 1960](#)).

Before June 2013, the Panamanian cabotage used to be liberalised ([Presidente de la República de Panamá, 1998](#)) and was under the control of many foreigner operators, which accounted for about 80 per cent of all cabotage companies. From June 2013 onwards, the Panamanian Government enforced new rules to protect the national industry against unfair competition and to limit the participation of foreign investment in Panamanian cabotage companies ([Asamblea Nacional de Diputados de Panamá, 2013](#); [Critica, 2013](#)). Vessels involved in the cabotage market need to be manned by a crew made up of 90 per cent nationals and 75 per cent of shipping companies' capital needs to be in the hands of Panamanians, even though it was expected that 80 per cent of cabotage shipping companies would still be owned by foreigners ([Berrocal and Rojas, 2013](#)).

Venezuelan cabotage services can only be provided by Venezuelan flagged vessels ([Ministerio del Poder Popular para Transporte Acuático y Aéreo de Venezuela, 2014](#)). To operate in the cabotage market, shipowners and shipping companies incorporated under the Venezuelan law need to apply for a permit granted by the Instituto Nacional de los Espacios Acuáticos independently of operating national or foreign vessels. Venezuelan flagged vessels must be manned by a crew where the Captain, 50 per cent of the officers and 50 per cent of the ratings are Venezuelan citizens. Foreign vessels need to incorporate in their crew Venezuelan students during the time they operate in the cabotage market.

Brazilian cabotage is legally defined and is seen as an alternative mode of transport within the scope of port modernisation, waterborne traffic safety and within the Brazilian trade liberalisation framework established under the Mercosur Agreement ([Presidência da República do Brasil, 1997a](#); [Paixão Casaca et al., 2017a](#)). Subject to the 1988 Constitution, only shipping companies incorporated under the Brazilian law can serve the cabotage market even if they have been constituted with foreign capital, meaning that cabotage vessels must fly the Brazilian pavilion ([Presidência da República do Brasil, 1988](#)). Cabotage has been slightly relaxed through the introduction of two measures. The first one allows Brazilian shipping companies to charter-in foreign vessels, and the second one allows shipping companies with foreign vessels to use part of their slots to move cabotage cargoes ([Presidência da República do Brasil, 1995](#); [1997a](#); [1997b](#)). In both cases, the legislative acts determine the conditions under which the allowances apply.

Uruguayan cabotage is reserved to Uruguayan flagged vessels, i.e. vessels that fulfil with the rules that govern cabotage and are manned by crews where at least 75 per cent of their members are nationals, including the captain, the chief engineer and the radio officer ([Ministerio de Defensa Nacional de Uruguay, 1954](#); [Ministerio de Transporte y Obras](#)

[Públicas de Uruguay, 1993](#)). The participation of foreign investment in cabotage shipping companies is limited, as Uruguayan citizens need to control 51 per cent of shipping companies' capital ([Ministerio de Transporte y Obras Públicas de Uruguay, 1977](#)).

Argentinean legislation on cabotage dates back from 1944 ([Dirección Nacional del Sistema Argentino de Información Jurídica, 1944](#)) and has been subject to several amendments, the last of which occurred in 2013. Cabotage can only be performed by Argentinean vessels that are registered under the Argentinean flag and manned by a crew, made up by at least 25 per cent of Argentineans including the captain and officers. Subject to Law No. 12.980, the national executive is authorised to grant temporary permits to foreign vessels when they are needed for special undertakings, which the existing domestic vessels are not able to serve. In case foreign vessels operate the cabotage trades for period above 30 days, they must be manned by an Argentinean crew ([Ministerio de Trabajo, Empleo y Seguridad Social de la Nación de Argentina, 2004](#)). Argentinean shipping companies may engage in coastal trades without permission ([CEPAL, 2001](#)).

Similar to Brazil, the Chilean cabotage concept is legally defined ([Ministerio de Transportes y Telecomunicaciones de Chile, 1979](#); [Ministerio de Hacienda de Chile, 2005](#)). Cabotage is reserved to Chilean flagged vessels and Chilean companies do not need to apply for a cabotage permit ([CEPAL, 2001](#)). Foreign vessels can participate in cabotage trades when cargo volumes are above 900 tons and as long as public bidding has taken place in due time. For cargo volumes equal or lower than 900 tons and if no Chilean vessels are available, the maritime authority may allow the participation of foreign vessels. A vessel or a shipping company is considered Chilean, if nationals or legal entities hold more than 50 per cent of the shipping company ([Boske, 2001](#)). Boske goes on saying that Chile has not adopted an operational subsidy policy but subsidies are granted to shipments destined to remote areas, which are not served regularly by any cabotage or passenger service.

Peru enforces a very strict cabotage regime ([Congreso de la Republica de Peru, 2005, 2009; 2011](#)); only Peruvian flagged vessels can carry cargo between two national ports, as the law prohibits the employment of foreign vessels. These vessels must be built in Peru, manned by a crew made up of at least 85 per cent of Peruvian nationals and at least 51 per cent owned by a Peruvian citizens or by Peruvian legal entities incorporated under the Peruvian law, with their head office in Peru, operating vessels either under financial leaseings or bareboat chartering arrangements with mandatory purchasing options ([International Business Publications, 2015](#)). Such restrictions exist because the Peruvian government wants to protect and promote the development of national transport facilities to which should be added the limited traffic that exists between the main Peruvian generating and receiving centres and the competition from road transport, which offers a much more flexible service ([Boske, 2001](#)). Peruvian shipowners or legal entities must apply for operating permits and no special rates apply for cabotage, and when no Peruvian vessels are available to move cargo between Peruvian ports, they can charter-in foreign vessels for a period not exceeding six months. Cabotage trades can also be performed by member-states of the Andean Community in accordance with the international conventions as long as the reciprocity principle applies. According to [Boske \(2001\)](#), Peru has traditionally subsidised shipping companies operating in the cabotage trades through below-market fuel prices.

The Colombian cabotage market is restricted either to national shipowners or to legal entities incorporated under Colombian law, whose main domicile is located in Colombia ([Republica de Colombia, 2001](#)). They must apply for a licence, need to have at least one vessel registered under the Colombian flag and control at least 60 per cent of its ownership, which means that foreign capital cannot be over 40 per cent ([Boske, 2001](#); [Ministerio de Comercio, Industria y Turismo de Colombia, 2006](#)). Cabotage is to be serviced by Colombian

flagged vessels, although foreign vessels can be temporarily used albeit subject to an authorisation issued by Dirección General Marítima. Both national shipowners and legal entities incorporated under the Colombian law can charter foreign-in vessels for certain voyages whenever they are allowed to. Colombian flagged vessels need to be crewed by a Colombian crew (captain, officers and ratings). Shipping companies operating in the cabotage market are prevented from providing services in the international market.

In Ecuador, cargo and passenger cabotage is restricted to Ecuadorian flagged vessels, which are registered under the Ecuadorian flag, even though Ecuadorian shipowners are granted the freedom to use any foreign vessel under any chartering agreement in accordance with the characteristics of the trade, if authorisation has been granted by Dirección General de la Marina Mercante (Congreso Nacional de Ecuador, 1992; Dirección General de La Marina Mercante y del Litoral de Ecuador, 2001; Congreso Nacional de Ecuador, 1992; Presidente Constitucional Interino de La República de Ecuador, 1997). Like in Peru, cabotage trades can be performed by Member-States of the Andean Community in accordance with the international conventions as long as the reciprocity principle applies. The exception applies the transport of oil, which is granted only to Ecuadorian shipping companies in which the state holds 51 per cent of the capital (Congreso Nacional de Ecuador, 1992; Comision de la Comunidad Andina, 2006). Vessels must be owned by Ecuadorian citizens and companies with their head offices domiciled in Ecuador and incorporated under Ecuadorian law and manned by an Ecuadorian crew, whose captain must always be of an Ecuadorian nationality (Moncayo, 2011); however, Dirección General de la Marina Mercante may authorise foreigner officers and ratings if this need is duly justified (Presidente Constitucional Interino de La República de Ecuador, 1997). Similar to Peru, Ecuador has traditionally subsidised firms engaged in cabotage trade through below-market fuel prices (Boske, 2001).

6. Protectionist vs liberalised cabotage policies

The analysis on worldwide cabotage policies shows that even if one tries to split the world in geographical areas, the analysis ends up being performed from a country's perspective; for this reason, the discussion is presented from regional and country's perspectives.

From a regional perspective, the analysis suggests that countries belonging to the same region in the world, as is the cases of the North and Latin Americas, tend to adopt very similar cabotage regimes. While such a choice could be based on countries' economic development that cannot be the case, as the North and Latin American countries' economic development differs greatly. Out of seven regional areas, the most advanced one in what concerns the development of cabotage policies is the EEA. The region's has managed to implement a two-tier legal framework because of the principles and values that govern this economic region. The region benefits from a stable policy framework that was devised to support the development of the internal market and which will continue to exist after the UK leaves officially the EU. However, the impact of this exit on the UK shipowners, which currently have access to the EU cabotage market, is unknown.

The political changes that have taken place in some African countries since they have been granted independence had almost no or very little impact in terms of cabotage laws and operations. Trade along the African coastal waters is still dominated by non-African shipping companies to the extent that African commodities and raw materials, which are often exchanged for low quality, over-priced, foreign-manufactured goods, are still carried on board foreign vessels (Ezeanya, 2013). Ezeanya goes on saying that African coastal waters remain largely unregulated which explains why this freedom of sailing from one coast of the continent to another exists.

Asian cabotage also presents a wide range of well-established cabotage policies, which highlights the difference of opinion on the subject matter. While some of them have been stagnant, as is the case of the Japanese cabotage regime, others have evolved with time to accommodate market changes; this is the case of India, Malaysia, Indonesia and China; in fact, the Malaysia and Indonesia cabotage policies are two noteworthy case studies. Within the Asian cabotage context, certain countries are willing to go one-step further and promote the development of their cabotage services albeit at an international level as a means to increase economic and trade activities between countries. This is the case of the Coastal Shipping Treaty, a bilateral agreement signed between Bangladesh and India in 2015. Another example is the development of Coastal Shipping connecting Thailand–Cambodia–Vietnam. Whether this is a first step to create an Asian short sea shipping area, is too early to tell although the potential does exist.

The analysis also suggests that from a regional perspective, North and Latin Americas adopted very similar protected cabotage regimes and are stable. Out of these countries, Canada appears to be the only one that shows a potential for changes to occur in light of the Comprehensive Economic and Trade Agreement signed between Canada and the EU. Moreover, the analysis suggests that the assumption that protected cabotage regimes constitute the pillar towards the development of national shipping industries is a formula that works for some countries (Malaysia and Indonesia) but certainly not for others (Brazil). In the latter case, the connection between the maritime industry and the shipbuilding industry did not work, and the research performed by [Paixão Casaca et al. \(2017a, 2017b\)](#) provides some insights into the reasons for this failure.

Cabotage in Oceania has been dominated by Australia. Since 2012, Australia has been trying to find the right policy, but whether it will succeed is unknown in light of the strict working conditions that prevent Australian flagged vessels to compete with their foreign counterparts. Despite this turbulence, its neighbouring country, i.e. New Zealand, benefits from a stable cabotage environment, assuming that stable environments do exist in this industry. In the remaining geographic areas of the globe, there is a mix of protected and liberalised cabotage policies regimes, namely the EEA and the Former Soviet Union and Middle East.

From a country's perspective, the analysis shows that that most countries tend to adopt protectionist cabotage policies either under cargo reservation schemes, through the implementation of specific cabotage legislation, under the countries' commercial/trade codes, or within the scope of the laws that govern their maritime transport activity. The analysis also indicates that the different countries have implemented their cabotage regimes in different ways.

A reduced number of countries such as Japan, the USA and Peru have adopted strict cabotage policies. More recently, Nigeria, which for many years has operated cabotage services in a liberalised environment, also adopted a strict cabotage regime. The problem with Nigeria is that the act enforcing the new regime is far from being implemented and so market liberalisation is still in force. Strict cabotage policies imply that:

- The controlling shares of shipping companies must be, at least 51 per cent, in hands of nationals.
- The vessel ownership must be, at least 51 per cent, in hands of nationals so that vessels bought by those companies belong to a national fleet.
- Shipbuilding and repairs are performed by national companies.
- Vessels are obliged to be registered under the national flag and crewed in total or partially by nationals.

Malaysia and Indonesia at a point in time also adopted strict cabotage policies to revitalise their domestic shipping industries after having liberalised policies for a number of years. However, at a later stage, both countries' governments have revoked those policies in certain segments of the cabotage market in order that both economies did not suffer from any bottlenecks that could affect their growth, even though this openness is clearer in Malaysia than in Indonesia.

The ability to change the direction of the policy is a lesson to be learnt; because of these changes, these countries fall today within the scope of partially protected cabotage policies (Table II). Other countries falling within the scope of these policies include Mozambique, China and Egypt. Mozambique has created a special shipping registry to allow foreign vessels in their cabotage markets. The Chinese liberalisation of cabotage falls within the scope of the container shipping market to ease the movement of containers and to foster movement, the government has allowed certain ports to relax their cabotage trades. The question that follows concerns the impact that this policy measure will have on the existing maritime routes and what will be the role of Hong-Kong as a hub port since worse case scenarios expectations indicate that it could lose about 14 per cent of its throughput (Mooney, 2017).

Controlled protectionist cabotage policies have been the scope of a wide range of countries as is the case of South Korea, Myanmar, Thailand, Vietnam, Taiwan, Canada and Mexico among many other countries; they allow the participation of foreign vessels in their cabotage trades whenever necessary. A recent example is Panama, which introduced a cabotage law mainly for market and employment control purposes after having in place a liberalised cabotage policy for many years.

It is also clear from the analysis that countries, which have adopted protected cabotage policies, tend to incorporate within their legislation a set of policy elements that are very similar to each other. These include:

- the nationality of the shipping company;
- the ownership structure of the shipping company;
- the limitation to foreign investment;
- the flag under which vessels operating in cabotage are registered;
- the percentage of nationals within the crew that man the vessels;
- the necessity or not to apply for a licence;
- the possibility to charter in foreign-flagged vessels if no national vessels are available; and
- if the principle of reciprocity applies.

Australia falls within the scope of controlled liberalised cabotage policies because of its unique licence scheme. Finally, numerous countries have chosen to adopt liberalised cabotage regimes; they include the UK, South Africa, Namibia, UAE and Lebanon. The result of this long and complex analytical process is summarised in Table I, which allocates the different cabotage policies within the scope of one of the five categories of cabotage policies.

Based on the liberalised and protectionist trade policies assumptions and taking into account:

- the maritime industry body of literature; and
- the policy documents used in the analysis performed in Sections 4 and 5, the analysis lists the potential reasons that lead decision makers choose liberalised or protectionist cabotage policies.

Type of 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, very strict conditions apply for very short periods	Japan, the USA, Peru
Controlled protectionist cabotage policies	Policies that protect the maritime cabotage industry, but which allow the entrance of foreign owners under controlled condition through the granting of permits or licences	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 liberalized measures in certain 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 licencing 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, South Africa, Namibia, United Arab Emirates, Lebanon, Brunei, Cambodia, Singapore

Source: Authors

Table I.
Classification of
countries' cabotage
policies

Table II lists the reasons for adopting liberalised cabotage policies; the outcome suggests that they fall within the scope of strategy, economy, operations, marketing, education and environment. An insight into the list of economic, strategic operational and marketing reasons shows that they are related to the economy of the country and to the economy of vessel. Liberalised cabotage policies can support the competitiveness of economic activities, which results in an increasing market share at regional, international and global levels. From the perspective of the vessel's economy, they can contribute to find new ways of operation that contribute to lower freight rates as ship operators will be able to outsource their supplies worldwide. In the end, only the most effective and efficient companies will survive.

The focus on education and environmental reasons is particularly relevant. First, liberalised cabotage policies allow ship operators to be innovative through the operation of more technological advanced units, which may require a specific maritime expertise, i.e. highly qualified personnel that possess skills and competencies that are hard to imitate, and who are prepared to deal with new technologies. This comes up as an opportunity to nautical schools to update their training programmes to meet market needs and to engage

Category	
<i>3A: Reasons for adopting liberalised cabotage policies</i>	
Strategic	Contribute to the development of a robust national logistics strategy Overcome the inefficiencies of a protected cabotage market
Economic	Support the internationalisation and the globalisation of economic activities Support the development of the national and of the international economy Support the development of national economic activities Support a country's export-oriented industrial strategy Promote intra-regional trade Promote foreign direct investment within the national cabotage industry Get access to international financing Get access to the international shipbuilding industry/Allow the ordering of vessels in the foreign market
Operational	Removing import duties on foreign built vessels and on 2nd hand vessels Promote the development of maritime logistics Promote the use of new innovative technologies Lower the overall costs of cabotage operations Lower vessels operating costs particularly those related to crewing Lower maritime cabotage freight rates
Marketing	Promote competition among the different transport modes Contribute to a level playing field among the different transport modes Avoid the destruction of the commercial freedom of the seas Eliminate cabotage market distortions Promote and enhance the cooperation among the different transport modes operators Promote competition among the different cabotage companies Enlarge the freedom of shippers' choice Enlarge the range of services offered by cabotage vessels
Educational	Contribute to the development of the nautical/maritime education and training Promote R&D at different maritime levels
Environmental	Promote the development of integrated transport operations Promote the development of multimodality/intermodality/co-modality Contribute to modal shift from road to sea Promote the development of an integrated and environmentally friendly transport policy
<i>3B: Reasons for adopting protectionist cabotage policies</i>	
Strategic	Cabotage is seen as a strategic industry and for this reason needs to be protected Develop a policy of nationalism where the cabotage fleet is built up for prestige and strategic considerations Control the quality of vessels employed in the provision of cabotage services Protect the national flag, national fleet and national owners Support cabotage for reasons of national security/defence purposes
Legal	Enforce the compliance of national and internationalisation legislation Guarantee that cabotage vessels fulfil with the international and national legislation
Economic	Increase the value of the cabotage contribution to the balance of payments Guarantee the viability of national cabotage companies Promote the development of the national shipbuilding industry Protect an infant cabotage industry until it is sufficiently strong to compete in the international market Protect a mature cabotage industry from international competition Protect the cabotage industry against dumping (predatory pricing) Protect the domestic industry from foreign competition Support cargo reservation schemes Modernize the cabotage fleet in order to make it more competitive

Table II.
Reasons for adopting
liberalised and
protectionist
cabotage policies

(continued)

Category	
	Save hard currency which would be spent if cargo is conveyed in foreign registered ships
Social	Make cabotage services available to remote areas in a country's territory, which otherwise would not be commercially viable
	Protect the employment of national crew/preserve maritime jobs
	Support cabotage to serve certain trades such as those serving the islands
Cultural	Secure maritime and shipbuilding know-how
Environmental	Develop an environmentally friendly cabotage industry
	Support cabotage for reasons of public safety

Source: Authors

Table II.

into research and development activities. Second, and despite the environmental pressures that the industry has been subject to lower the percentage of gases emissions going into the atmosphere, shipping is still environmentally friendly and in this regard liberalised cabotage policies may allow a better relation between the different modes of transport, particularly a better integration of the sea and road modes. Liberalised cabotage policies will always support maritime logistics, improved port operations, streamlined port procedures that promote both the vessels and ports operational performance.

However, the focus of the policy changes when countries move into protectionist cabotage regimes. Table II lists the reasons for adopting protectionist cabotage policies and indicates that they fall within the scope of six categories (strategic, legal, economic, social, cultural and environmental). An insight into them suggests that, independently of the category, the reasons' background is of an economic nature as protectionist cabotage policies mainly focus on cost and market control issues. Research and innovation related reasons are non-existent, and in this regard, protectionist cabotage policies target at maintaining the industry's status-quo. The willingness to develop a competitive cabotage market is very low, as the industry takes for granted some form of "subsidies" to keep it afloat. While it is a fact that such reasons contributed to the flourishing of Malaysian and Indonesian cabotage markets that is not the rule but the exception as both countries are archipelagos and therefore 100 per cent dependent on maritime transport.

To support the above policies, Table list a set of potential policy instruments that decision makers may use when choosing liberalised and protectionist cabotage policies.

In presence of liberalised cabotage trades (Table III), policy instruments fall within the scope of general policy instruments, economic incentives to cabotage companies, port policy and logistics policy instruments as they contribute to foster the competitiveness of the maritime sector. However, a shift occurs in the type of policy instruments used when protectionist policy instruments are used (Table III); apart from the general policy instruments concerning public ownership and flag discrimination instruments, the remaining are of a fiscal and financial nature, which prevents the integration of a country's economy with the rest of the world. Instead of being a facilitator, cabotage becomes a bottleneck.

However, the information provided in Tables II and III neither indicates which of these reasons influence more the decision makers when they have to choose a cabotage policy to foster the development of their domestic shipping industry nor which policy instruments are more adequate to implement either protectionist or liberalised cabotage policies. Also within

Class of instrument

4A: Policy instruments for implementing liberalised cabotage policies

General policy instruments	<ul style="list-style-type: none"> Enact and enforce legislation towards liberalization of cabotage services Enact and enforce national modern systems of law to deal with the cabotage market Compliance with the international maritime legislation Enforce safety and operating/technical standards on cabotage vessels Provide an efficient and widely accepted nautical/maritime education and training for the cabotage market Subject to the Maritime Labour Convention establish labour regulations pertaining to conditions of employment, training and certification Regulate market entry conditions to ensure a level playing field Allow the cabotage market to be run by a range of companies with different organisational structures Set up a cabotage observatory/agency to regulate competition and to control monopolistic tendencies Promote R&D of maritime economics at different levels including implementing governmental research laboratories, supporting industry R&D, and supporting university R&D
Economic incentives to cabotage companies	<ul style="list-style-type: none"> Tonnage tax schemes Reduction of crew size Offer more attractive employment opportunities to officers and seafarers
Port policy instruments	<ul style="list-style-type: none"> Expansion of main and secondary ports Provision of dedicated terminals for cabotage services Reduce port charges for all cabotage operators Implement pilot exemption certificates
Logistics policies instruments	<ul style="list-style-type: none"> Establish a well-defined logistics plan supported by a strong economic strategy Provide for connectivity between ports and the road/rail network Simplify procedures for cabotage services

4B: Policy instruments for implementing protectionist cabotage policies

General policy instruments	<ul style="list-style-type: none"> Full public ownership of cabotage companies Ownership of cabotage companies under public private partnerships Flag discrimination policies (allocation of quotas) Define foreign participation rules in the cabotage market
Economic incentives to cabotage companies	<ul style="list-style-type: none"> Enforce cargo reservation schemes Operating subsidies
Fiscal incentives to cabotage companies	<ul style="list-style-type: none"> Tax exemptions on the import of new buildings and 2nd hand vessels Zero or low corporation tax (i.e. tax exemptions on the income of cabotage companies) Exempt customs duties on spares and bunker fuel Favourable tax treatment of individuals and partnerships investing into shipping
Financial incentives to cabotage companies	<ul style="list-style-type: none"> Accelerated depreciation allowances Direct investment grants given to cabotage companies for new and/or second hand ships Direct subsidies given to shipyard Interest free or low interest loans to shipowners for new tonnage Subventions Subsidise the national shipbuilding industry in what concerns the construction of cabotage vessels
Port policy instruments	<ul style="list-style-type: none"> Public expansion of main and secondary ports Public provision of dedicated terminals for cabotage services

Table III.
Policy instruments
for implementing
liberalised and
protectionist
cabotage policies

Source: Authors

the scope of the analysis performed and if it is assumed that governments have adopted any of the several existing policy making models (College of the Liberal Arts, 2017), to define their cabotage policies, it is clear from the information gathered that there is no evidence about the policy instruments that governments/public authorities have been using to implement their cabotage policies. A negative issue since it prevents from performing a thorough assessment of the success/failure of the different maritime cabotage policies' implementation.

7. Conclusions

The paper achieved its objectives. It investigated the analyses, from a geographical perspective, different countries' cabotage policies and classified them and identified in a systematically way a set of reasons and policy instruments that support each of chosen policies approach. An immediate conclusion to be drawn is that only very few countries promote liberalised cabotage polices; the majority of them, as per the analysis, chose a protectionist regime. The reasons that lead decision makers to support both policy approaches and the policy instruments used in each of the policies have also been listed. Although the lists are comprehensive, they fail to identify which of them are more relevant to decision makers. Therefore, the following questions are valid.

- Q1. What reasons influence the decision makers when deciding on a protectionist or liberalised cabotage policy?
- Q2. Which policy instruments suit better either the protected or the liberalised cabotage market?

Such information may help policymakers to better sustain the design of new policies and to better promote possible changes in existing policies using the most adequate policy instruments that contribute to the successful implementation of the chosen policies. The limitation of this study falls on the numerous countries that were not addressed because no information was gathered given the limited scope of time to carry out the research and length of the paper.

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