Chapter 5

MARITIME-RELATED INDUSTRIES

5. MARITIME-RELATED INDUSTRIES

5.1. Shipbuilding Industry Development in Indonesia

5.1.1. Historical Overview

Like other maritime countries in the world, shipbuilding in Indonesia started with the building of wooden canoes ("*perahus*"), and later building wooden sailboats. This can be observed in the reliefs featuring ancient sailing ships on the stonewall of the famous 8th century Borobudur temple in Central Java.

According to historians, Indonesian traders using sailing ships traded in southeast Asian countries and also in India and China, even sailing as far as to the east African coast (Madagascar island) and the central Pacific islands.

(1) 16th – 20th Century

The exploration by western nations aboard ships and sailing to various parts of the world, including Indonesia, first for trade purposes and later for colonization, hampered the development of Indonesian shipbuilding. Many restrictions were imposed upon colonized countries.

During that period, shipbuilding technology underwent significant developments in Europe particularly with the change of boat material from wood to steel and propulsion from sails to engines and propellers. But such developments were not experienced in Indonesia whose shipbuilding industry remained a backward industry producing wooden ships using traditional shipbuilding methods.

In the 19th and 20th centuries, modern shipbuilding using steel was introduced in Indonesia, but only through the establishment of ship repair yards. Building of new ships was still carried out in European shipyards. The first yard ever known to be operational in Indonesia dated back in 1849 with a floating dock for the repair of ships in Ujung Surabaya. It later became a government-owned repair facility called "Marine Establishment" for the repair and maintenance of naval vessels only.

In 1889, the second repair yard, a relatively large one established by a private Dutch company, was built in the harbor of Jakarta under the name of NV. Droogdok Maatshappij Tanjong Priok. In 1910, the third repair yard was established at Surabaya harbor, also as a private company called NV. Droogdok Maatschappij Soerabaja. Smaller yards followed founded either by private Dutch companies or by the Dutch government solely for their vessels. Educational institutions in the field of shipbuilding technology were non-existent then in Indonesia.

(2) World War II

During the Japanese occupation of Indonesia during World War II (1942-1945), the Japanese military government, making use of the abundant supply of teak on Java Island, built hundreds of modern motorized wooden cargo ships of about 300-400 DWT along the northern coast of Java Island. Engines were produced at machinery factories in Central and East Java. The ships were used to carry logistics supplies for their war machines and were sailing to far eastern, southeast Asian, and southwestern Pacific war zones. During that

time, a technical secondary school teaching shipbuilding was established in Semarang, Central Java. This could be recorded as the first educational institution in modern shipbuilding technology in Indonesia.

(3) Since Independence in 1945

(a) 1945-1960

After national independence was proclaimed in 1945 and recognized in 1949, some Indonesian nationals established a steel shipyard in 1951 (Carya Shipyard, Jakarta) and started to build steel ships of up to 500 DWT. Although this shipyard was small in size, its establishment was a milestone in the history of Indonesian shipbuilding.

In the years 1950-1955, many Indonesian students were sent to Holland, England, Germany, Sweden, Italy, Yugoslavia, Poland, Russia, and Japan to study science and technology, including modern naval architecture and marine engineering, among others. The first group of graduates returned to Indonesia in 1957.

(b) 1960-1990

In 1960, due to the Indonesia-Dutch political conflict, all Dutch companies including dockyards were nationalized by the Indonesian government and became state companies. They were then modernized, fitting them with additional facilities to enable them to build new ships. These companies were:

- Dok Tanjung Priok, Jakarta (established in 1889)
- Dok Surabaya, Surabaya (established in 1910)
- Pakin Shipyard, Jakarta (established in 1924)
- IPPA Shipyard, Semarang (established in 1926)
- Alir Menjaya Shipyard, Palembang (established in 1930)

Since then, the Government and the private sector established many new shipyards. They included the following:

- Menara Shipyard, Tegal, private (1961)
- Kapin Shipyard, Jakarta, private (1963), established under the aid program of the Yugoslav government, and later renamed Inggom Shipyard by the new management.
- Kodja Shipyard, Jakarta, state (1964)
- Waiame Shipyard, Ambon, state (1965)
- Adiguna Shipyard, Jakarta, private (1968)
- Pelita Bahari Shipyard, Jakarta, state (1971)
- Intan Sengkunyit Shipyard, Palembang, private (1974)
- Industri Kapal Indonesia (IKI Shipyard), Makasar, Bitung, state (1977)
- Jasa Marina Indah (JMI Shipyard), Semarang, private (1977)
- Dumas Shipyard, Surabaya, private (1978)
- Pabrik Kapal Indonesia (PAL Indonesia Shipyard), state (1980)

To meet the changing business environment and to upgrade the capability to enter the international market, the Government, in 1979 and 1992, merged state shipyards and dockyards located in the western part of Indonesia (Pakin, Alir Menjaya, Kodja, Dok Priok, Pelita Bahari, IPPA) into one company named Dok & Perkapalan Kodja Bahari (DKB Shipyard). DKB Shipyard's head office is in Jakarta with yards located in Sabang (North Sumatra), Padang (West Sumatra), Palembang (South Sumatra),

Banjarmasin (South Kalimantan), Jakarta (4 yards), Cirebon (West Java), and Semarang (Central Java).

Another shipyard, PAL Indonesia, was established on the former site of the naval shipyard in Surabaya and was designed to become the most advanced and modern shipyard in Indonesia, capable of building and repairing larger-size merchant ships, naval vessels, special type ships, and marine offshore structures. The shipyard was also planned to produce marine engines and machineries, equipment and components.

The agreement between the governments of Indonesia, Malaysia and Singapore on a joint regional development established the SIJORI (Singapore-Johor-Riau) Regional Development Area with special trade arrangements, i.e. exemption on import tax and value-added tax (VAT).

Since 1980, on Batam and Karimun islands of Indonesia, more than 40 joint-venture and domestic shipyards were established, mostly affiliated with Singaporean shipyards. Facilities include a 60,000-ton floating dock and a 7,500-ton synchro-lift. It is expected that more facilities will be built in the near future.

5.1.2. Facility, Capability and Achievement

Referring to the Ministry of Industry and Trade (MIT) documents, shipbuilding activities cover the following:

New ship construction of all types and sizes made of steel, wood, fiber reinforced plastic, and other metal or materials (ISIC – 35111);

Maintenance, repair, conversion, and recondition of ships (ISIC – 35113);

Fabrication of offshore structures (ISIC – 35115);

Manufacture and assembly of marine machinery, equipment and components (ISIC – 35112);

Ship breaking (ISIC – 35114); and,

Marine design, engineering, survey, inspection, and consultancy services.

(1) Facilities and Capabilities

Shipbuilding and Ship Repair:

Number of Companies Registered by MoIT:	240
New Building Berth:	153 units
Largest Capacity (new building berth):	50,000 DWT
Annual New Building Capacity:	180,000 GT
Graving Dock, Floating Dock, Slipway:	208 units
Maximum Dock Capacity:	65,000 DWT
Annual Docking Capacity:	3,600,000 GT

(2) Achievement

Since 1969, the Indonesian shipbuilding industry had built hundreds of ships of various types and sizes. These included:

- Passenger & Trailer Ro-ro Ferry, 18,900 GT (export)

- 90 m / 500 Pax / 4,000 GT Pure Passenger Ship (3 units)
- Passenger & Car Ro-ro Ferry, 5,000 GT
- Conventional Ship / Semi-container, 3,650 DWT (32 units)
- Container Carrier 208TEU / 4,200DWT, (out of 24 units, 9 units delivered)
- Container Carrier 400 TEU
- Container Carrier 1,600 TEU
- Log Carrier 8,000 DWT (3units)
- Bulk Carrier 42,000 DWT (export)
- Offshore Tin bucket Dredger 12,000 Ton
- White/Black Oil Tanker 1,500/3,500/6,500/17,500 DWT
- Chemical Tanker 16,000 DWT (export)
- LPG Carrier 5,600 m3 (export)
- Fire Fighting Tugboat 4,500 HP
- SAR Tugboat 7,500 HP
- Tuna Long-liner 300 GT
- Fast Patrol Boat 400 T / 57 m / 6,000 HP / 30 knots
- Fast Patrol Boat 60 T / 28 m / 3,600 HP / 28 knots
- Floating Dock 5,000 TLC

(a) Offshore Structure Fabrication

Since 1970, the Indonesian marine offshore structure fabrication industry has supported the rapid expanding oil and gas industry, especially in offshore exploration, exploitation and production. The range of products include jackets, platforms, accommodation modules, single point mooring buoys, crane barges, oil and gas process equipment (separators, heat exchangers, pressure vessels, well manifolds, etc.). Many have been exported. There are about 19 companies involved in this industry and located in Java, Sumatra, Batam, Sulawesi, and East Kalimantan.

(b) Ship Material, Machinery, Equipment, and Components

As more ships were built at domestic shipyards, a favorable condition existed for investment in the manufacture of shipbuilding material, machinery, equipment, and components. New factories were established beside existing ones to support the vibrant industry. The products included:

- steel plates, steel profile, welding electrode
- diesel main/auxiliary engine, shaft, stern tube, propeller
- generator, motor, pump, main switch board, panel, marine cable
- oil separator, heat exchanger, pressure vessel
- deck machinery, cargo handling gear, hatch cover, steering gear
- ventilating fan, blower, steel door, aluminum windows
- bollard, anchor, anchor chain, wire rope
- life boat, life raft, davit, fire extinguisher
- radio, telephone, radar, echo-sounder
- valve, pipe & fittings
- forging and casting products, zinc/aluminum anodes
- refrigeration machine, galley equipment
- paint

(c) Marine Design, Engineering, Survey, Inspection, and Consultancy Services

The demand for marine services in design, engineering, survey, inspection, supervision, and consultancy grew with the development of the domestic shipbuilding industry. In 1960, companies in these fields of activities began operating to serve the maritime industry. There were about 7 competent companies in this marine service business.

To support the activities mentioned above, the role of educational institutions was indispensable. A Faculty of Ocean Engineering was founded at Surabaya Institute of Technology and became the first higher educational institution in Indonesia offering programs on naval architecture, marine engineering, and marine offshore technology. In the years 1960-1990, many state and private universities established their respective faculties of Naval Architecture and Marine Engineering. These included:

- Pattimura University, Ambon (state)
- Hasanuddin University, Makasar (state)
- Hang Tuah University, Surabaya (private)
- Aditama Institute of Technology, Surabaya (private)
- Muhammadiyah University, Surabaya (private)
- Veteran University, Jakarta (private)
- Darma Persada University, Jakarta (private)
- Diponegoro University, Semarang (state)

5.1.3. Development of Shipbuilding Technology

In a developing country like Indonesia, the development level of shipbuilding can be observed by the delivery of newly built ships. After 1969 when the First Five Year Development Plan was launched, a rapid development occurred and Indonesia succeeded in building many ships of various sizes and types, from 100 DWT coastal cargo ships to 3,000/4,200 DWT inter-island cargo/semi-container ships; 42,000 DWT ocean-going bulk carriers for export; to 90-meter, 4,000 GT passenger ships able to accommodate 500 passengers. Domestic shipyards also built oil tankers, from simple small oil barges and double-hull oil tankers with 17,500 DWT, to LPG tankers with 5,600 m^3 and chemical tankers with 16,000 DWT.

Indonesian shipyards also built special type ships like fast patrol boats with 57 m/400 GT/30 knots; tin bucket dredgers with 12,000 tons; hopper trailing dredgers with 1,500 DWT; passenger trailer Ro-Ro ferries with 18,900 GT for export; floating docks with 5,000 landing craft tank (TLC). Modern fishing boats with up to 300 GT, such as fishery training ships, tuna long liners, and shrimp trawlers, were also built.

The development of shipbuilding technology in Indonesia could be attributed to the existence and support of the Faculty of Shipbuilding Technology at state and private universities, the Agency for Assessment and Application of Technology (BPPT) of the Ministry of Research and Technology and the ship classification society, the BKI. It is also the result of the continuous efforts of the shipbuilding industry to always keep abreast of the latest developments such as the application of Computer-aided Design/Computer-aided Manufacturing (CAD/CAM) in their production methods.

The development of shipbuilding/marine technology in Indonesia was likewise enhanced by the operation of the Indonesian Hydrodynamic Laboratory (LHI) which was inaugurated

in 1995 in Surabaya.

5.1.4. Historical Assessment of Japan's Cooperation Projects in Shipbuilding Sector

In the 1970s, the Japanese government extended funding assistance to the Indonesian shipbuilding industry. This section thus assesses the projects undertaken since that time in the context of Indonesia's shipping and shipbuilding development. There were three shipyard projects which received funding assistance from the then Overseas Economic Cooperation Fund (OECF now Japan International Cooperation Bank or JBIC). They are as follows:

(a) Rehabilitation Works on Domestic Cargo Ships for RLS (Regular Liner Services) at Dok Dan Perkapalan Surabaya Shipyard (373,000,000 Japanese Yen, 1971)

In 1971, Dok Dan Perkapalan Surabaya Shipyard undertook the above project by associating with Mitsui Shipyard of Japan. At that time, the biggest domestic shipping company for domestic freight service was RLS which was controlled by the Indonesian government. Before the rehabilitation project, RLS's cargo vessels were dilapidated and unreliable. After their rehabilitation, cargo operations became regular, greatly improving inter-island domestic freight shipping.

(b) Rehabilitation Works on Domestic Cargo Ships for RLS at Pelita Bahari Shipyard (119,000,000 Japanese Yen, 1977)

Also in 1977, Pelita Bahari Shipyard (now known as Kodja Bahari Unit 3 Jakarta) undertook the above rehabilitation works by associating with NKK (Nippon Koukan Kaisha) of Japan. This project also had the same scheme as the above rehabilitation project and produced the same positive impact on the domestic shipping industry.

(c) Construction of a New Graving Dock with a Capacity of 8,000 DWT (4,500,000,000 Japanese Yen, 1979)

Pelita Bahari Shipyard (presently Kodja Bahari Unit 3 in Jakarta) constructed the above dock with NKK of Japan, who transferred the technology in shipbuilding and ship repair to the management group of Pelita Bahari Shipyard. Since many old vessels required various repairs, the graving dock at Pelita Bahari Shipyard greatly benefited shipowners.

5.1.5. IPERINDO's Policy and Strategy for Future Development

In 2001, IPERINDO, the association of shipbuilding and offshore industry in Indonesia, expressed a clear statement regarding government policy and development strategy. It is worth quoting as a representative industrial view, to wit:

(1) Requested Policy to be taken by Government:

(i) To invite foreign investments in shipbuilding and related industries.

(ii) Present regulation permit to foreign investors to allow them to own 100% shares and 95% shares of joint-venture companies.

(iii) Simplification of licensing procedures.

(iv) Tax incentives for industrial restructuring.

(v) Promotion of Batam, Bintan, and Karimun Island as main alternative sites for the manufacturing base of foreign investors.

(vi) Exemption from VAT for new shipbuilding and repair/maintenance services.

(vii) Permission to import second-hand ships.

(2) Proposed Development Strategy:

(i) To increase shipbuilding and ship repair capacities to meet the demand of replacement and expansion of the national fleet (merchant vessels, fishing vessels, defense vessels, offshore oil and gas industry vessels, etc.).

(ii) To improve capability to enter the regional and international market.

(iii) To establish training centers to continuously upgrade skills and experience of human resources in maritime industry.

(iv) To upgrade and modernize production processes and technology.

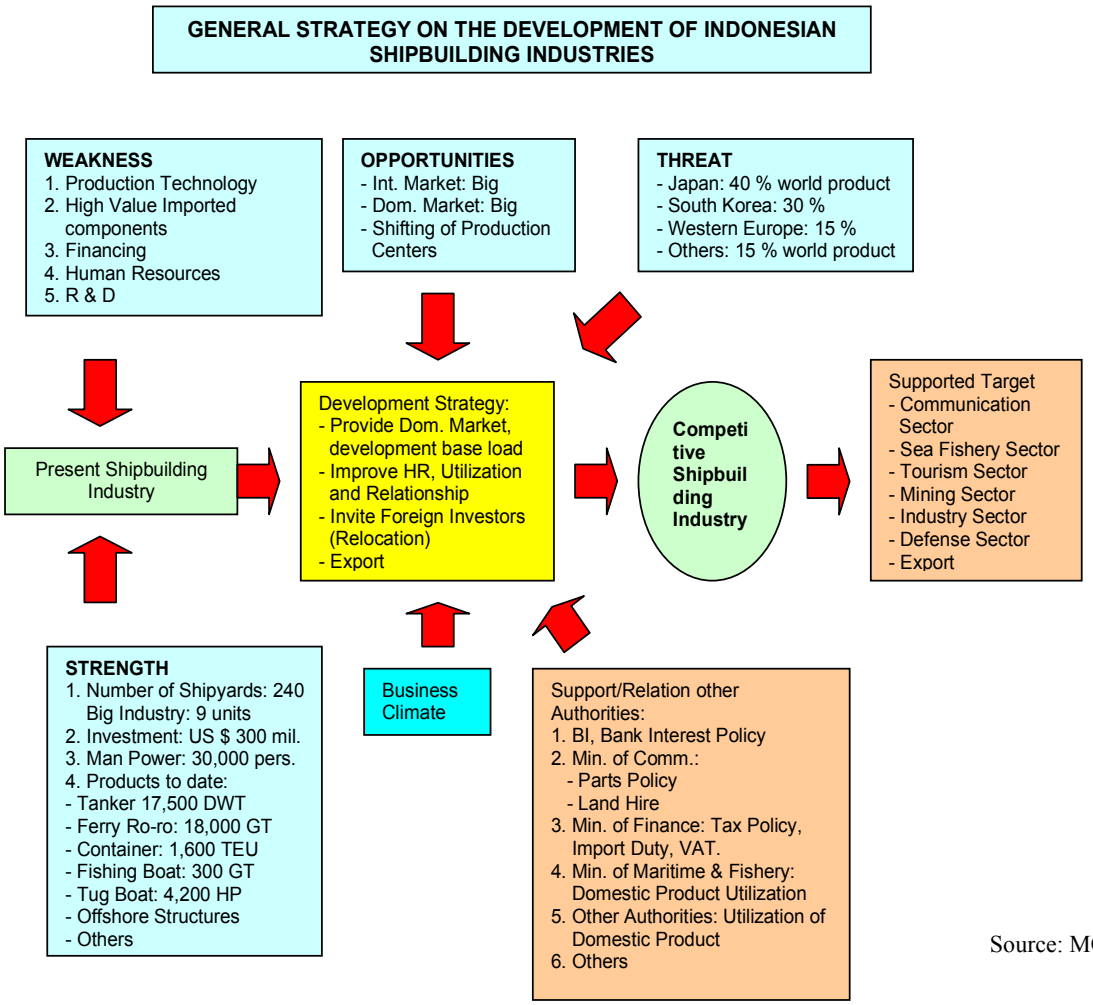
(v) To upgrade managerial skills in all levels especially for the middle level.

(vi) To offer loans to shipowners for new vessel acquisitions and to shipbuilding companies as investment and working capital.

(vii) To enhance research and development activities in shipbuilding technology.

(viii) To enhance strategic cooperation with foreign shipbuilding industries.

Figure 5.1.1 Paradigm of Shipbuilding Industries Development



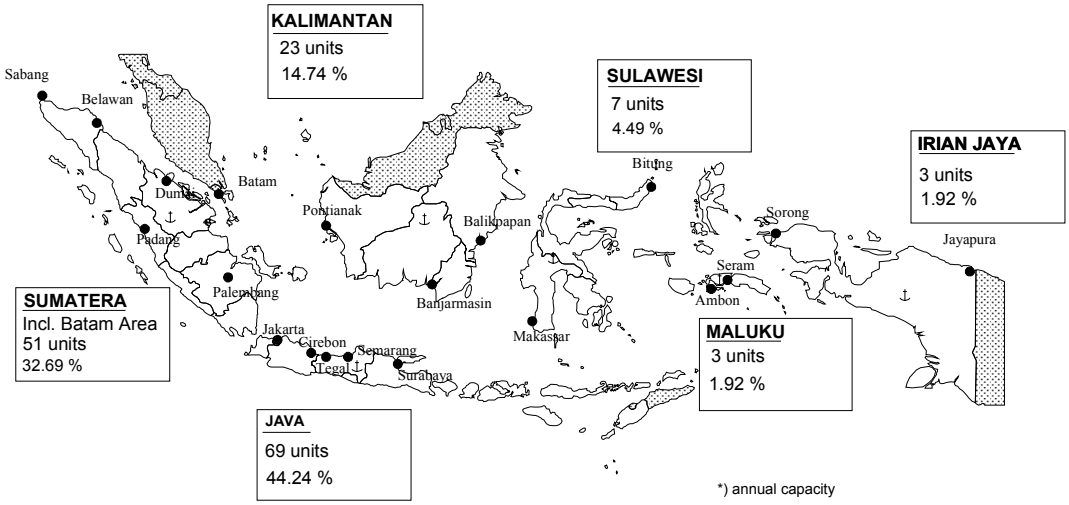
Source: MOIT

5.2. Shipyards in Indonesia

5.2.1. Selection of the Study's Target Shipyards

The data used for the study were checked with those from the MIT. Documents showed that in 1994-1995 the number of major shipyards all over Indonesia, excluding Jakarta, was about 194. But including Jakarta the number would reach to 240. Of the total number of steel shipyards, 156 shipyards with annual capacity of over 300 GT were selected. Although the selected shipyards are mostly located in Java, Sumatra and Batam, some are located in other regions as well (Refer to Figure 5.2.1).

Figure 5.2.1 Number of Major Shipyards in Indonesia



Note: Major Shipyard: Shipyard for Steel Ships (more than 300GT), exclude Wooden and FRP. Total Number of Shipyards are 156.

5.2.2. Detailed Shipyard Analysis

(1) Surveyed Shipyards and Their Qualification

The Study Team surveyed 25 shipyards nationwide. The shipyards along with their official qualifications from the IPERINDO are shown in Table 5.2.1. They consist of 5 state-owned and 13 privately owned shipyards. Their qualifications vary from B1 to M for shipbuilding and from B1 to K1 for ship repairing. Detailed shipyard information is shown in Appendix 5.1.

Table 5.2.1 25 Surveyed Shipyards for Detailed Analysis

No	Name of Shipyard	Ownership	Qualification*		Location
			SB	SR	
1	Pt. Pal Indonesia	State	(B1)	(B1)	Surabaya
2	Pt. Dok & Perkapalan Kodja Bahari	State	(B1)	(B1)	Jakarta
3	Pt. Dok Dan Perkapalan Surabaya	State	(B2)	(B2)	Surabaya
4	Pt. Jasa marina Indah	Private	(B2)	(B2)	Semarang
5	Pt. Industri Kapal Indonesia	State	(B2)	(B2)	Makassar
6	Pt. Intan Sengkunyit	Private	(B2)	(M)	Palembang
7	Pt. Inggom Shipyard	Private	(B2)	(M)	Jakarta
8	Pt. Dumas Tanjung Perak Shipyard	Private	(B2)	(B2)	Surabaya
9	Pt. Adiluhung Sarana Segara	Private	(B2)	(K1)	Madura
10	Pt. Sanur Marindo	Private	(B2)	(M)	Tegal
11	Pt. Daya Radar Utama	Private	(B2)	(M)	Jakarta
12	Pt. Mariana Sahagia	Private	(B2)	(M)	Palembang
13	Pt. Ben Santosa	Private	(B2)	(M)	Surabaya
14	Pt. Galangan Balikpapan Utama	Private	(M)	(K1)	Balikpapan
15	Pt. Dok & perkapalan kodja bahari Unit Galangan i	State	(M)	(K1)	Jakarta
16	Pt. Dok & Perkapalan kodja Bahari Unit Galangan ii	State	(B2)	(B2)	Jakarta
17	Pt. Dok & Perkapalan kodja Bahari Unit Galangan iii	State	(B2)	(B2)	Jakarta
18	Pt. Dok & Perkapalan Kodja Bahari Unit Galangan Semarang	State	(M)	(M)	Semarang
19	Pt. Dok & perkapalan Kodja Bahari Cirebon	State	(M)	(M)	Cirebon
20	Pt. Dok & Perkapalan Kodja Bahari Unit Banjarmasin	State	(K1)	(K1)	Banjarmasin
21	Pt. Dok & Perkapalan Kodja Bahari Unit Palembang	State	(M)	(K1)	Palembang
22	Pt. Menumbar Kaltim	Private	(M)	(K1)	Samarinda
23	Pt. Sarana Daya Hutama	Private	(K1)	(K2)	Balikpapan
24	Pt. Yasa Wahana Tirta Samodra	Private	(K1)	(K1)	Semarang
25	Pt. Patra Dok Dumai	State	-	(B2)	Dumai

IPERINDO is accredited by the accreditation body of the Indonesian Chamber of Commerce as a certification body (License No 000300.010215.019) that issues certificates to members on standards of competence. With this mandate, the Certification Body of IPERINDO (CBI) has prepared a Qualification and Competence Standard to qualify and classify its members.

Shipyards are divided into three main qualifications:

1. Major Shipyard: with a notation of **B**
2. Medium Shipyard with a notation of **M**
3. Minor Shipyard with a notation of **K**

Based on the following 5 criteria, qualification is done according to the type of capability, i.e. (1) new shipbuilding or (2) ship repairing including docking and maintenance (Refer to Table 5.2.2 and Table 5.2.3):

1. Legality
2. Manpower
3. Main Facility
4. Production Record
5. Financial Status

Table 5.2.2 Shipbuilding Industry (New-ship Building)

Qualification / Criteria		Minor		Medium	Major	
		(K2)	(K1)	(M)	(B2)	(B1)
1	Legality (Possessing SIUP)	Available	Available	Available	Available	Available
2	Manpower					
	2.1. Number of Manpower	Up to 10	10 – 20	21 - 200	201 - 500	> 500
	2.2. Management	1	>1	>1 (S1)*	>2(S1)*	>3(S1)*
	2.3. Design Section					
	2.3.1. Naval Architect	-	1 – 2	3 – 5	6 – 10	> 10
	2.3.2. Marine Engineer	-	1	2 – 3	4 – 5	> 5
	2.3.3. Mechanical Engineer	-	1	2 – 3	4 – 5	> 5
	2.3.4. Electrical Engineer	-	1	2 – 3	4 – 5	>5
	2.4. Field Section					
	2.4.1. Field Engr & Supervisor		1	2 – 5	6 – 10	> 10
	2.4.2. Foremen & Worker	-	4 – 10	11 – 30	31 - 60	> 60
3	Main Facility					
	3.1. Building Berth (GT)	< 20 GT	20 – 500	501-3,000	3,001-10,000	>10,000
	3.2. Crane (Ton)	< 2 T	2 – 5	6 – 20	21-100	>100
	3.3. Berthing/Wharf (meter)	< 11 m	11 – 30	31 – 60	61-120	>120
4	Production Record					
	4.1. Biggest Ship Built (GT)	< 11 GT	11 – 250	250- 1500	1,501-5,000	>5,000
	4.2. Biggest Contract Price (Rp)	<400 M**	400-1 B***	1-15 B	16-100B	>100B
5	Financial Status					
	5.1. Total Asset (Rp.)	< 100 M	100 – 10B	11B-50B	51-100B	>200B
	5.2. Equity (last year) (Rp.)	< 20 M	20- 500M	600M-10B	11-40B	>40B
	5.3. Biggest Sales (last 3 years)	< 500 M	500 – 1 B	1B-50B	51-500B	>500B

Note: (S1)* = University Graduate or equivalent
M** = Million Rupiah
B *** = Billion Rupiah

Table 5.2.3 Ship Repairing Industry (Docking, Repair and Maintenance of Ships)

Qualification / Criteria		Minor		Medium	Major	
		K2	K1	M	B2	B1
1	Legality (Possessing SIUP)	Available	Available	Available	Available	Available
2	Manpower					
	2.1. Number of Manpower	< 10	11-20	21-200	201-500	> 500
	2.2. Management	1	>1	>1(S1)	>2(S1)	>3(S1)
	2.3. Design Section					
	2.3.1. Naval Architect	-	1 - 2	3 - 4	5 - 6	>6
	2.3.2. Marine Engineer	-	1	2	3 - 4	>4
	2.3.3. Mechanical Engineer	-	1	2	3 - 4	>4
	2.3.4. Electrical Engineer	-	1	2	3 - 4	>4
	2.4. Field Section					
	2.4.1.Field Engin.& Supervisor	-	1	2 - 3	4 - 10	>10
	2.4.2. Foremen & Worker	-	4 - 10	11 - 30	31 - 60	>60
3	Main Facility					
	3.1. Dock (GT)	< 20	20-500	501-3,000	3,001-10,000	>10,000
	3.2. Crane (Ton)	< 2	2-3	4-10	11-20	>20
	3.3. Berthing/Wharf (Meter)	< 11	11-30	31-60	61-120	>120
4	Production Record					
	4.1. Biggest Ship Docked (GT)	< 11	11-250	251-1,500	1,501-10,000	>10,000
	4.2. Biggest Contract Price (Rp.)	< 200 M	200-500 M	500M-4B	4B-25B	> 25B
5	Financial					
	5.1. Total Asset (RP.)	< 100 M	100M-10B	11B-50B	51B-500B	> 500B
	5.2. Equity (last year) (RP.)	< 20 M	20M-500M	500M-10B	11B-40B	> 40B
	5.3. Biggest Sales (last 3 year)	< 100 M	200-500M	500M-50B	51B-500B	> 500B

Note: (S1)* = University Graduate or equivalent
M** = Million Rupiah
B *** = Billion Rupiah

(2) Shipyard Repairing Capability and Productivity

Fifteen (15) shipyards were visited to study current situations. Questionnaires were distributed to each shipyard from February to March 2003. Eight (8) completed responses were received which included detailed management and operation data. Although the samples were limited, they were worth analyzing to gauge ship repairing capabilities and productivity in a comparative manner.

(a) Ship Repairing Works in the Past Three Years

Shipyards have particular clientele segments which are broadly determined by their location, capacity, and marketing strategies. During the past three years, from 2000 to 2002, each shipyard received different ship repair orders as follows (Refer to Figure 5.2.2):

East Java Shipyard (A): repairing record – 258 vessels
This shipyard can repair any kind of vessel especially navy, cargo, and container ships. It is also targeting passenger ships. The shipyard is located at a convenient site with no significant limitations from the surrounding natural environment in case of expansion.

East Java Shipyard (B): repairing record – 360 vessels
This shipyard can repair any kind of vessel especially cargo, ferry/ro-ro, and container ships. It is also targeting passenger ships. The shipyard is located at a convenient site with no significant limitations from the surrounding natural environment in case of expansion.

East Java Shipyard (C): repairing record – 84 vessels
This shipyard has limitations such as shallow water depth and poor facilities. It caters to small ferry/ro-ro ships as well as barges and tugboats.

North Sulawesi Shipyard (D): repairing record – 111 vessels
This is a small shipyard, and in the past 3 years repaired 111 vessels only. However, it is located in an area where there is high demand for fishing boats and LCTs. Its regular customers include LCTs, tugboats, fishing boats, and ferry/ro-ro ships. It is also eyeing cargo and passenger ships as future clients. Some of the shipyard's disadvantages are its shallow water depth, poor facilities, and difficult transport to/from the main city.

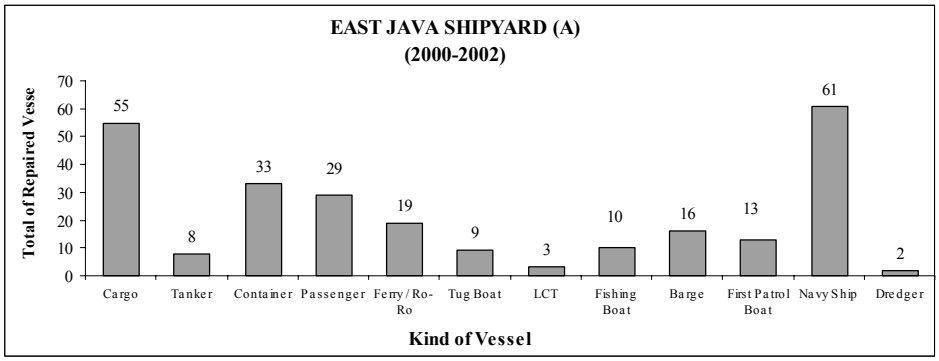
East Kalimantan Shipyard (E): repairing record – 234 vessels
This is a small shipyard with poor facilities and shallow water depth. Its clients are mainly barges and tugboats.

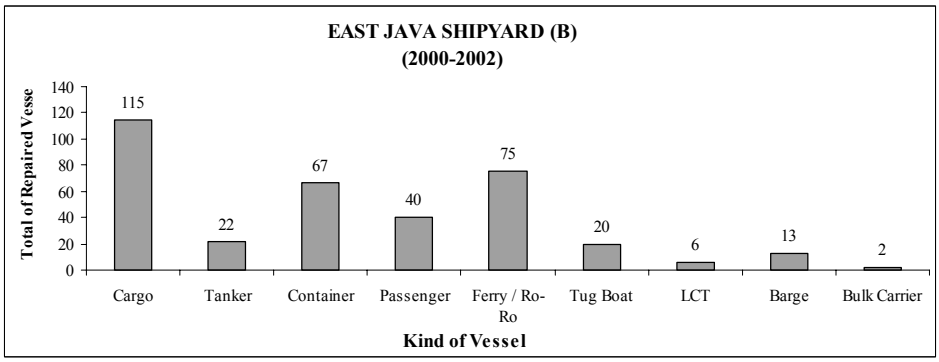
South Sumatra Shipyard (F): repairing record – 141 vessels
This shipyard can repair many kinds of vessel. At present, however, it does repair services mainly for tugboats and barges. It has to overcome some problems, such as difficult transport to there from the shore side and shallow water depth, to enable it to effectively carry out dock operations.

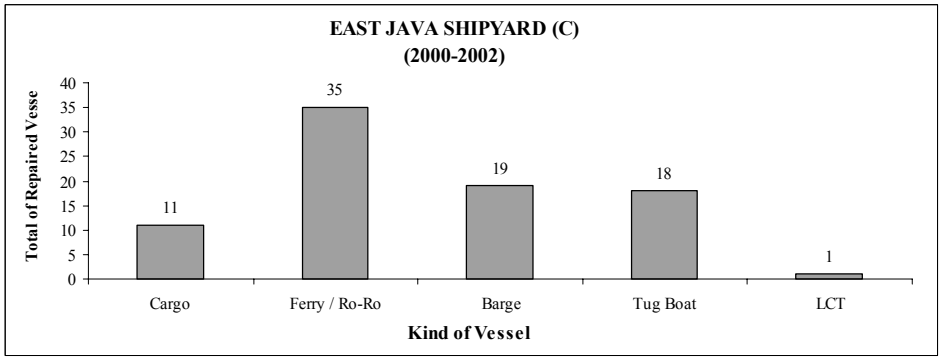
South Sumatra Shipyard (G): repairing record – 111 vessels
This is a small shipyard and its target vessels are tugboats and barges. It is aiming to service small passenger ships. It has a shallow water depth.

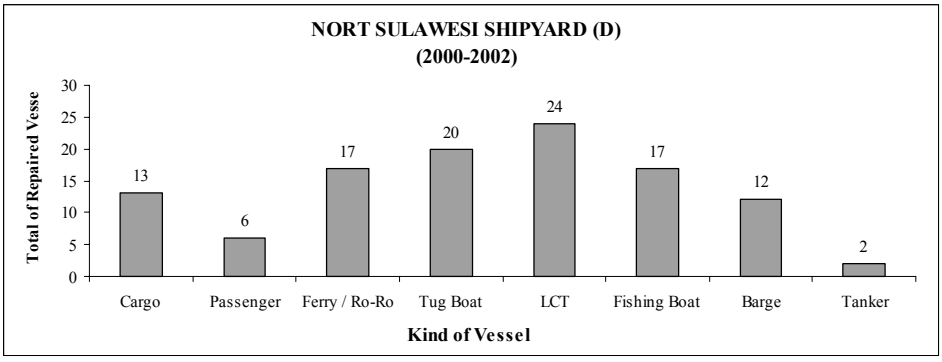
South Sumatra Shipyard (H): repairing record – 77 vessels
This is a small shipyard with poor, old facilities and a shallow water depth. Its target vessels are cargo ships. Dock repair works were stopped but those in floating repair continued.

Figure 5.2.2 Total Number of Repaired Vessels by Type









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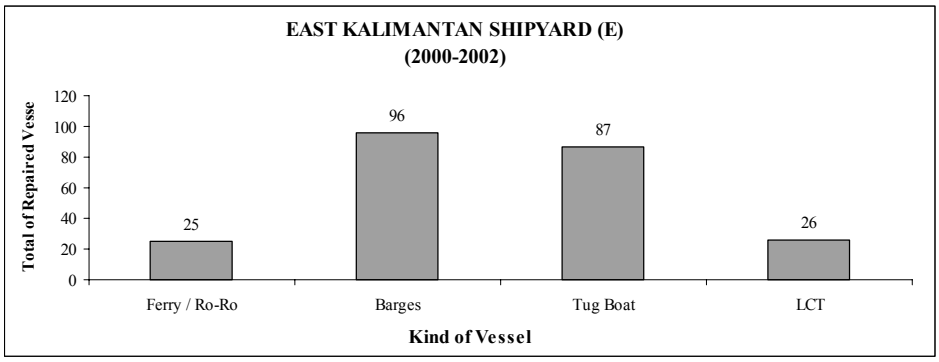
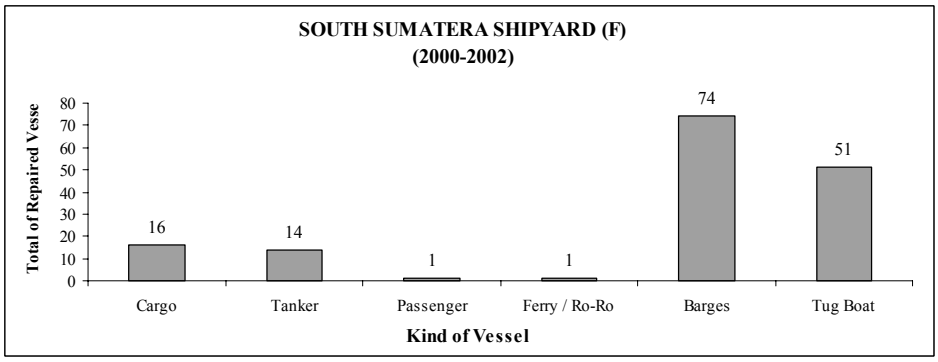
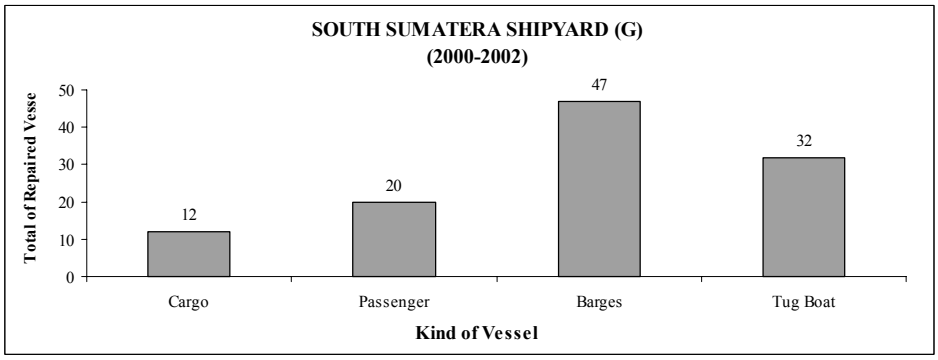
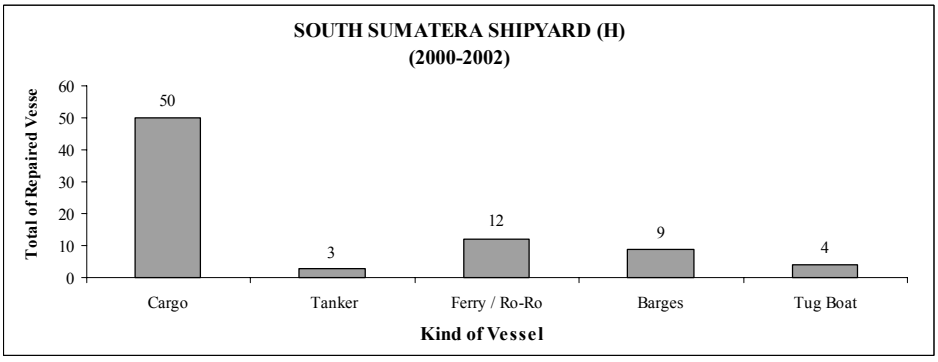

EAST KALIMANTAN SHIPYARD (E)
(2000-2002)
Total of Repaired Vesse
120
100
80
60
40
20
0
25
96
87
26
Ferry / Ro-Ro
Barges
Tug Boat
LCT
Kind of Vessel


SOUTH SUMATERA SHIPYARD (F)
(2000-2002)
Total of Repaired Vesse
80
70
60
50
40
30
20
10
0
16
14
1
1
74
51
Cargo
Tanker
Passenger
Ferry / Ro-Ro
Barges
Tug Boat
Kind of Vessel


SOUTH SUMATERA SHIPYARD (G)
(2000-2002)
Total of Repaired Vesse
50
40
30
20
10
0
12
20
47
32
Cargo
Passenger
Barges
Tug Boat
Kind of Vessel


SOUTH SUMATERA SHIPYARD (H)
(2000-2002)
Total of Repaired Vesse
60
50
40
30
20
10
0
50
3
12
9
4
Cargo
Tanker
Ferry / Ro-Ro
Barges
Tug Boat
Kind of Vessel

(b) Ship Repairing Costs

The Study analyzed the total ship repairing costs in terms of ship type. It further broke this down to unit repairing cost per GT.

The analysis clearly showed that each shipyard has offered competitive prices to targeted ship types in terms of unit repairing cost per GT. For example, East Java Shipyard (A) and East Java Shipyard (B) have gotten many repairing orders from cargo shipowners at competitive unit prices. The same situation has prevailed at East Kalimantan Shipyard (E) and South Sumatra Shipyard (F) whose targets are barges.

The cost analysis revealed the common ranges of repair costs per GT across the 8 shipyards as follows:

- Cargo ships: from 72,000 to 115,000 rupiah per GT
- Tankers: from 75,000 to 166,000 rupiah per GT
- Container ships: from 59,000 to 67,000 rupiah per GT
- Passenger ships: from 56,000 to 179,000 rupiah per GT
- Ferry/Ro-Ro boats: from 135,000 to 310,000 rupiah per GT
- Tugboats: from 65,000 to 423,000 rupiah per GT
- LCTs: from 148,000 to 751,000 rupiah per GT
- Barges: from 36,000 to 324,000 rupiah per GT

(c) Repair Period

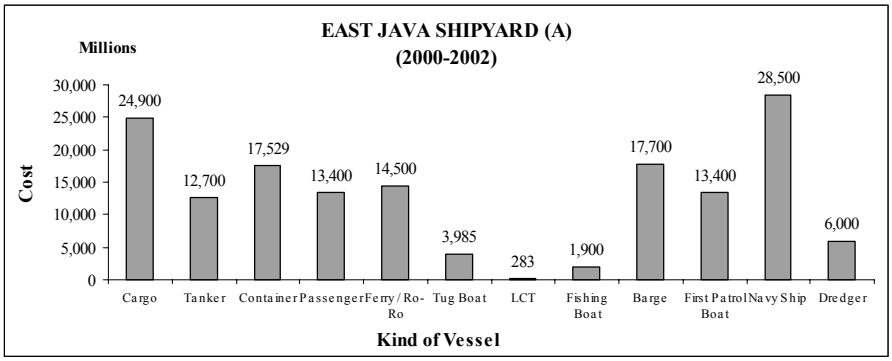
Generally, Indonesian shipyards need a long repair time; thus, they have lost international competitiveness despite a reasonable costing structure. The Study calculated the average repair period per ship type. It found out that a repair work of less than 10 days is exceptional. In many other cases, local shipyards need over 20 days.

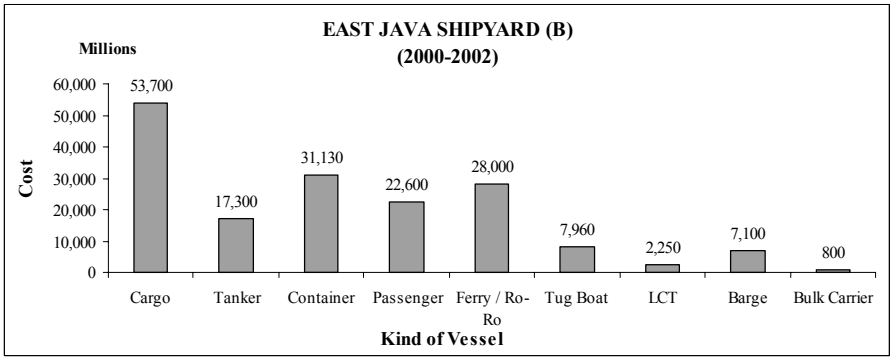
Table 5.2.4 Average Repair Days by Ship Type and Shipyard

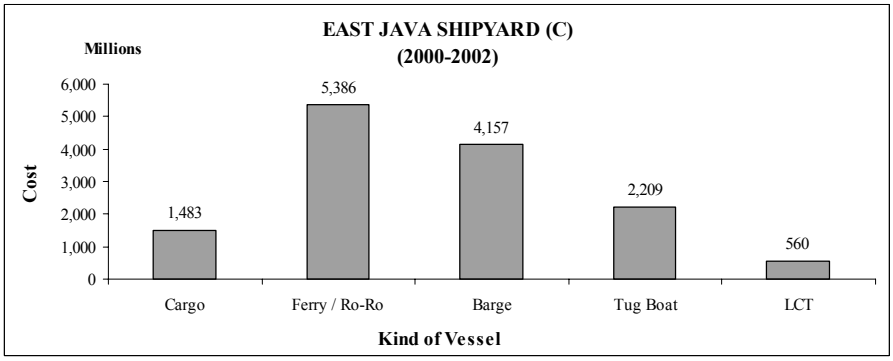
Ship Type	A Yard	B Yard	C Yard	D Yard	E Yard	F Yard	G Yard	H Yard
Cargo	25.5	18.5	26.3	31.6	n.a.	55.6	22.1	5.5
Tanker	40.8	18.9	n.a.	18.5	n.a.	39.4	n.a.	31.7
Container	29.4	19.8	n.a.	n.a.	n.a.	n.a.	n.a.	n.a
Bulk Carrier	n.a.	20.0	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Passenger	13.4	9.6	n.a.	40.8	n.a.	21.0	12.3	n.a.
Ferry/RORO	23.7	17.9	26.0	23.9	16.0	68.0	n.a.	27.3
Tug Boat	33.6	19.6	34.1	27.1	13.5	18.0	20.3	26.3
LCT	17.0	17.7	282.0	32.3	17.6	n.a.	n.a.	n.a.
Barge	121.0	14.5	50.6	31.7	23.6	24.5	27.1	1.8

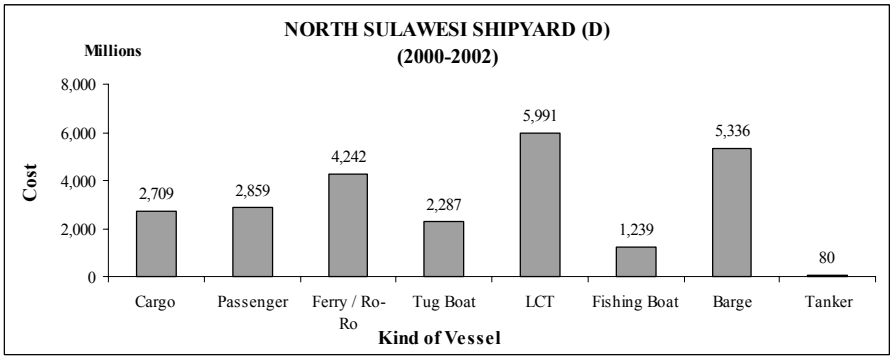
Source: STRAMINDO

Figure 5.2.3 Total Repair Costs by Ship Type and Shipyard









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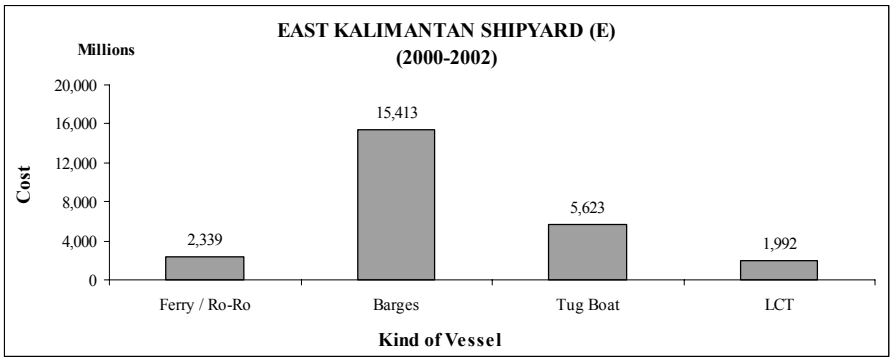
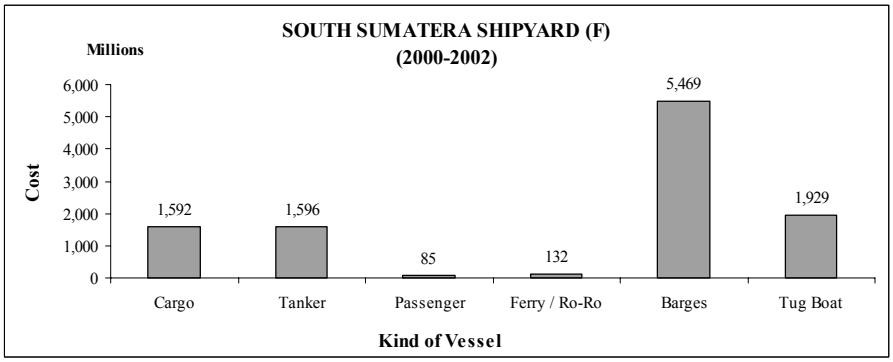
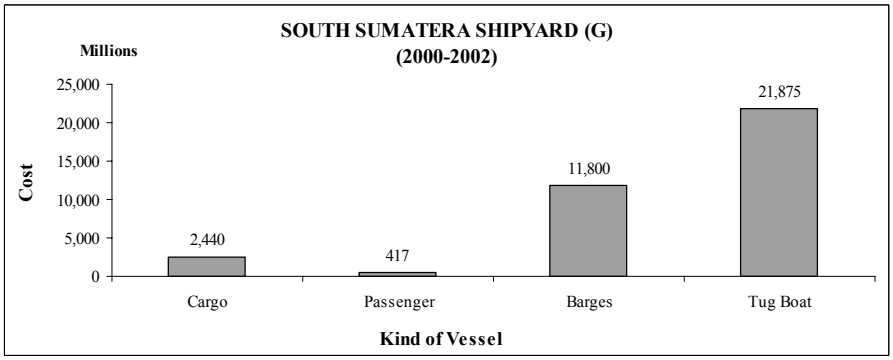
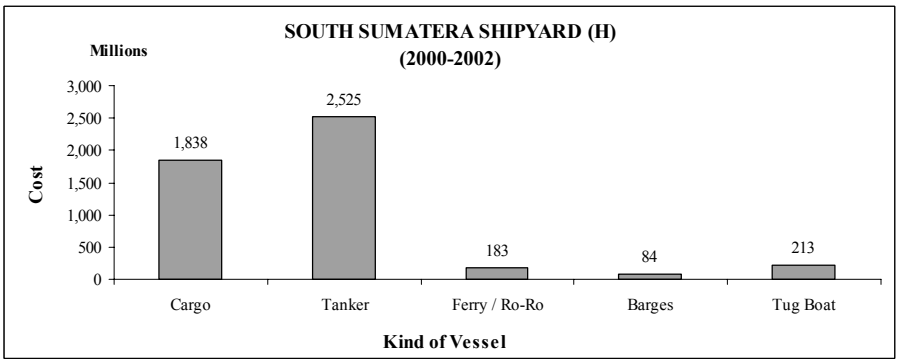

EAST KALIMANTAN SHIPYARD (E)
(2000-2002)
Millions
Cost
20,000
16,000
12,000
8,000
4,000
0
2,339
15,413
5,623
1,992
Ferry / Ro-Ro
Barges
Tug Boat
LCT
Kind of Vessel


SOUTH SUMATERA SHIPYARD (F)
(2000-2002)
Millions
Cost
6,000
5,000
4,000
3,000
2,000
1,000
0
1,592
1,596
85
132
5,469
1,929
Cargo
Tanker
Passenger
Ferry / Ro-Ro
Barges
Tug Boat
Kind of Vessel


SOUTH SUMATERA SHIPYARD (G)
(2000-2002)
Millions
Cost
25,000
20,000
15,000
10,000
5,000
0
2,440
417
11,800
21,875
Cargo
Passenger
Barges
Tug Boat
Kind of Vessel


SOUTH SUMATERA SHIPYARD (H)
(2000-2002)
Millions
Cost
3,000
2,500
2,000
1,500
1,000
500
0
1,838
2,525
183
84
213
Cargo
Tanker
Ferry / Ro-Ro
Barges
Tug Boat
Kind of Vessel

(d) Manpower Productivity

Several indicative figures were used to analyze manpower productivity at shipyards.

Total Repaired GT / No. of Workers (Figure 5.2.4)

This shows one worker's yearly workload in terms of GT. Capable workers at a busy shipyard can record high performance levels like the workers at East Java Shipyard (B). However, South Sumatra Shipyard (H) workers cannot be compared with others on an equal footing since many repairing works were done afloat.

Total Repaired GT / No. of Working Days (Figure 5.2.5)

This shows repairing productivity per day. In this sense, again, East Java Shipyard (B) workers showed an outstanding performance.

Figure 5.2.4 Total Repaired GT / No. of Workers

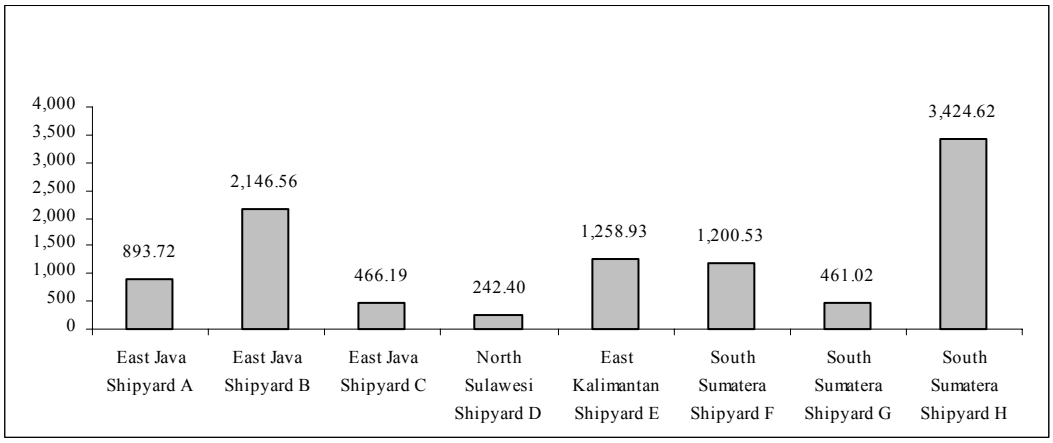
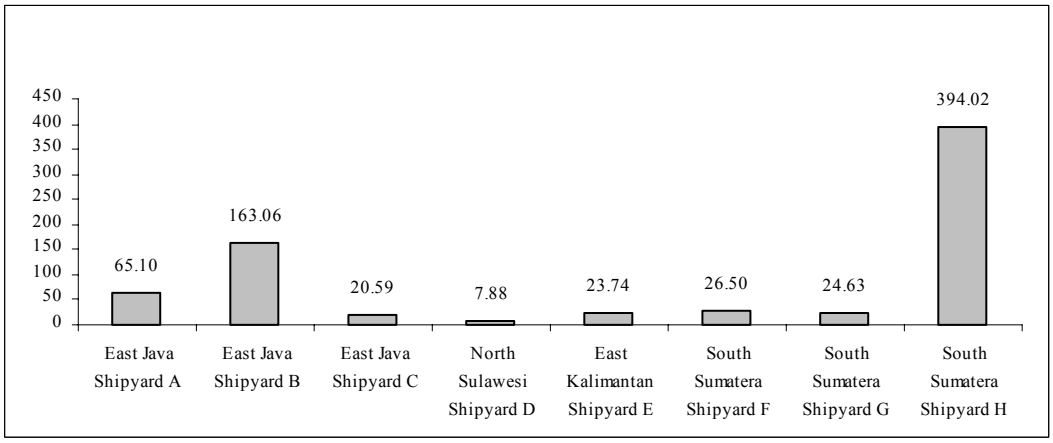


Figure 5.2.5 Total Repaired GT / No. of Working Days



(e) Other Shipyard Problems

Except for some favored shipyards with sufficient investment opportunities, others share similar problems such as limitation on water depth at entrance, long docking term, and limited skilled labor.

Shallow Water Depth at Entrance

It was confirmed that shallow water depth at entrance has limited the operations of many shipyards. The following pictures show this problem.

PT. Dumas Tg. Perak Shipyard in Surabaya: At the opposite side of its graving dock, reclamation has been carried out since 1996 for the future site of the new container terminal planned by the PELINDO. For this reason, the water depth in front of the graving dock has become shallower day by day because earth and sand from the reclamation site flow out into the sea. The distance from the reclamation site to their shipyard is less than 100 meters. The capacity of the graving dock is 6,000 DWT (requires around 6-meter draft), but they are unable to optimize its capacity because customers cannot get in due to shallow water depth. At present, water depth is 2 meters at low tide and 3.5 meters at high tide.

The shipyard's management has requested PELINDO to dredge the area to improve the situation.

Figure 5.2.6 PT Dumas Tg. Perak and Its Surroundings

The pictures in the following page show inner places in rivers or channels where water depth is shallow, making shipyards un-accessible. This has prompted shipyards to request concerned authorities to make the mouth of rivers or the shallow locations deeper with dredging to improve their operations. This is probably the reason why the shipyards mostly did repairs on tugs and barges.

Under such circumstances, there are two possible interventions for the Government to implement in easing the shipyards' poor operations. These are periodical dredging to maintain access to rivers/channels and promoting shallow draft ships such as LCTs.

Figure 5.2.7 Inland Shipyards Suffering from Shallow Water Depth

Long Docking Terms

There is a strong need to shorten the dock terms for repair works to compete with other countries. Possible measures are as follows:

- Agreement on Improvement with Shipowners: At present, before docking at shipyards many shipowners do not check the availability of spare parts to be used in the repair works. As a result, docking terms lengthen because the necessary spare parts are only requested after the vessels have entered the dock.
- Regulation Improvement on Customs Clearances for Spare Parts: Spare parts imported from other countries are tax-free. But, to avail themselves of this benefit, it is necessary to get permission from the Tax Department.
- Working System Improvement: When compared with other advanced countries, the quality of work during official holidays including Saturdays and Sundays drops badly. The introduction of good management and the training of employees are thus necessary.

- Management System Improvement: This is linked to the above. Good communication and cooperation between the ship's administration and the site will shorten docking term. For example, if the administration side is unable to know about the site situation, such as the need for spare parts, etc., this will cause long docking terms.

Training of Skilled Human Resources

It was confirmed that the technical quality of general workers, such as in welding, is not far behind that of other advanced countries. But, regretfully, there is a lack of skilled engineers who could instruct the general workers on job details. Therefore, there is inability to grasp work flows and to judge the quality of work. This is another possible area where the Government can provide training programs with the cooperation of a possible donor country or an international organization.

5.2.3. Supplemental Shipyard Analysis in Batam and Karimun

Karimun Island provides vast lands and great opportunities for internationally competitive shipyards. However, shipbuilding is not an old industry for this island: the first shipyard was established in 1981 and accelerated investment occurred only in the 1990s. Batam, on the other hand, is a unique island complex for the shipbuilding industry. There are 43 shipyards and dockyard companies registered with the Batam Industrial Development Authority (BIDA) during 1981-1999 (Table 5.2.5). Less than half can be categorized as actual shipyards/dockyards with space and facilities, while the rest are subcontractors or shipbuilding-related companies. Most of the yards are located at the southwestern coast of Batam Island (Tanjung Uncang area).

Due to time constraints, the Study Team did not visit Batam and Karimun during the site survey. This section is therefore owes much to IPERINDO's report entitled "Batam Area And Its Shipbuilding Industries" dated March 2001.

The main facilities among existing shipyards in Batam are:

(a)	Repair Facilities:		
	Floating Dock:	5 units	1 x 10,000 DWT
			1 x 15,000 DWT
			1 x 40,000 DWT
			2 x 65,000 DWT
	Graving Dock:	1 unit	1 x 15,000 DWT
	Synchrolift:	1 unit	15 x 20,000 DWT
			(15 tracks for repair or new-building)
(b)	New-building Facilities:		
	Building Berth:	10 units	1 x 8,000 DWT
			7 x 15,000 DWT
			1 x 40,000 DWT
			1 x 65,000 DWT
	Synchrolift:	1 unit	15 x 20,000 DWT
			(15 tracks for new building or repair)

(c) New-building record:

- Floating docks with 40,000 DWT and 65,000 DWT
- Oil tanker with 1,500 DWT and 3,800 DWT
- Cable installation barge, 60 m
- Pusher tug, 2,400 HP
- Anchor handling and supply boat, 5,200 HP
- Accommodation barge, 100 m/198 berth/helipad

From the listed shipyard companies at BIDA, 10 were selected representing the PMA (foreign capital investment) and the PMDN (domestic capital investment) projects as follows:

1. PT Nanindah Mutiara Shipyard (Menber of Labroy Group) - PMA
2. PT Pan United Shipyard Indonesia (Group of Pan United Shipyard Pte. Ltd, Singapore (80% Singapore, 20% Indonesia)
3. PT Batamec (PT.Batamas Jala Nusantara) Group of Otto Industrial Co Pte. Ltd, Singapore (internal management problem) - PMA
4. PT Jaya Asiatic Shipyard (Subsidiary of Jaya Holding Limited, Singapore) – PMA
5. PT Pandan Bahari Shipyard (Eastern Navigation Group, Singapore) – PMA
6. PT ASL Shipyard Indonesia (Group of ASL Shipyard Pte. Ltd. Singapore) – PMA
7. PT Palma Progress Shipyard – PMDN
8. PT Bandar Victory Shipyard – PMDN
9. PT Kunangan Marindo Laksana Shipyard – PMDN
10. PT Karimun Sembawang Shipyard – Joint venture between Sembawang Corporation and Salim Group

Table 5.2.5 BIDA's Shipyard List

No.	Year Established	Company Name	Activities	Address	Status
1	1981	PT Bandar Victory Shipyard	Steel shipbuilding & repair offshore facilities repair ship-breaking	Sekupang	PMDN
2	1985	PT Supraco Rekabaja Pratama	Ship repair	Tanjung Uncang	Non PMA/ PMDN
3	1987	PT Batamas Jala Nusantara	Shipbuilding, steel fabrication, steel treatment, construction contractor, maintenance and rental of heavy equipments	Tanjung Uncang	PMDN
4	1988	PT Batam Indah Simpal Shipyard	Ship's docking and repair	Sekupang	PMDN
5	1990	PT Kacaba Marga Marina	Ship repair, ships, tugs and barges builder	Tanjung Uncang	Non PMA / PMDN
6	1990	PT Palma Progress Shipyard	Ship-repair, shipbuilding, ship-breaking, FRP boat	Sagulung	PMDN
7	1991	PT Nutrans Maritim Service	Ship repair	Tanjung Uncang	Non PMA / PMDN
8	1991	PT Sentosa Multi Shipyard	Barge builder, ship's docking and repair	Tanjung Uncang	PMA
9	1992	PT Jaya Asiatic Shipyard	Barge builder, ship's docking and repair	Tanjung Uncang	PMA
10	1993	PT Kunangan Marindo Laksana	Ship repair, Barge, Tug boat builder, Machinery shop	Tanjung Uncang	Non PMA / PMDN
11	1993	PT Nanindah Mutiara Shipyard	Ship repair, shipbuilding, ship conversion	Tanjung Uncang	PMA
12	1994	PT Pan Island Shipyard	Barge builder, ship repair	Tanjung Uncang	PMA
13	1994	PT Pioneer Offshore Enterprises Shipyard	Offshore facilities fabricator, ship-repair, barge builder	Tanjung Uncang	PMA
14	1995	PT Shopidak Shipyard	Marine contractor, offshore steel structure, piping	Tanjung Uncang	Non PMA / PMDN
15	1995	PT Pandan Bahari Shipyard	Barge builder, ship's docking and repair	Tanjung Uncang	PMA
16	1996	PT Asl Shipyard Indonesia	Barge builder, ship's docking and repair	Tanjung Uncang	PMA
17	1996	PT Wanamas Puspita	Barge builder, ship-repair	Tanjung Uncang	PMA
18	1996	PT Pan Jaya	Barge builder, steel construction, ship-repair	Tanjung Uncang	PMA
19	1996	PT Teraoka Batam	Barge builder, ship's docking and repair	Tanjung Uncang	PMA
20	1996	PT Shintai I ndustri Shipyard	No data	Tanjung Uncang	PMDN
21	1996	PT Shipindo Raya	Ship's docking and repair	Tanjung Uncang	PMDN
22	1997	PT Jan Sanjaya Pusaka	Ship's repair, steel construction	Tanjung Uncang	Non PMA / PMDN
23	1997	PT Sekip Hilir S hipyard	Aluminum passenger ferry, tug boat, pontoon, ship's docking and repair	Tanjung Uncang	Non PMA / PMDN
24	1997	PT Batam Tanjung Uncang Shipyard	Ship repair, barge builder, marine contractor, offshore steel structure	Tanjung Uncang	Non PMA / PMDN
25	1997	PT Trikarya Alam	Shipyard Industry	Tanjung Uncang	Non PMA / PMDN
26	1997	PT Pan United Shipyard	Shipbuilding and ship-repair	Tanjung Uncang	PMA

(Continued)

No.	Year Established	Company Name	Activities	Address	Status
27	1997	PT Dev International Shipbuilder	Shipbuilding and ship-repair, repair and maintenance of marine engines and heavy equipments	Tanjung Uncang	PMA
28	1997	PT Karly Engineering & Construction I ndonesia	Steel construction and shipbuilding	Tanjung Uncang	PMA
29	1997	PT Kunangan Asipac Marine	Shipbuilding and ship-repair	Tanjung Uncang	PMA
30	1997	PT Pan Batam Island Shipyard	Barge builder and ship-repair	Tanjung Uncang	PMA
31	1998	PT Bandar Samak Sagulung	Shipbuilding and ship-repair	Tanjung Uncang	Non PMA / PMDN
32	1998	PT Faseco Batamarine	Shipbuilding and ship-repair, ship's design	Tanjung Uncang	Non PMA / PMDN
33	1998	PT Takwin do Batam	Repair on ships, barges and sea equipment construction	Tanjung Uncang	Non PMA / PMDN
34	1998	PT Shl Marina Batam	Ship's, barge's repair and engineering contractor	Tanjung Uncang	Non PMA / PMDN
35	1998	PT Glory Utama Indonesia Shipyard	Barge builder, shipbuilding and repair	Tanjung Uncang	PMA
36	1999	PT Cesindo Nusantara	Ship construction's contractor	Tanjung Uncang	Non PMA / PMDN
37	1999	PT Dunia Marindo	Barge's repair	Tanjung Uncang	Non PMA / PMDN
38	1999	PT Ensure Engineering	Barge builder, steel construction	Tanjung Uncang	Non PMA / PMDN
39	1999	PT Esprit Engineering	Barge builder, ship-repair	Tanjung Uncang	PMA
40		PT Britoil Offshore Indonesia	Ship and Barge's docking and repair	Tanjung Uncang	PMA
41		PT Luo Shipyard	Barge builder and ship repair	Tanjung Uncang	PMA
42		PT Riau Pan Jaya	Barge builder and ship-repair	Tanjung Uncang	PMA
43		PT Sabang Raya Indah	Shipbuilding and ship-repair	Tanjung Uncang	PMDN

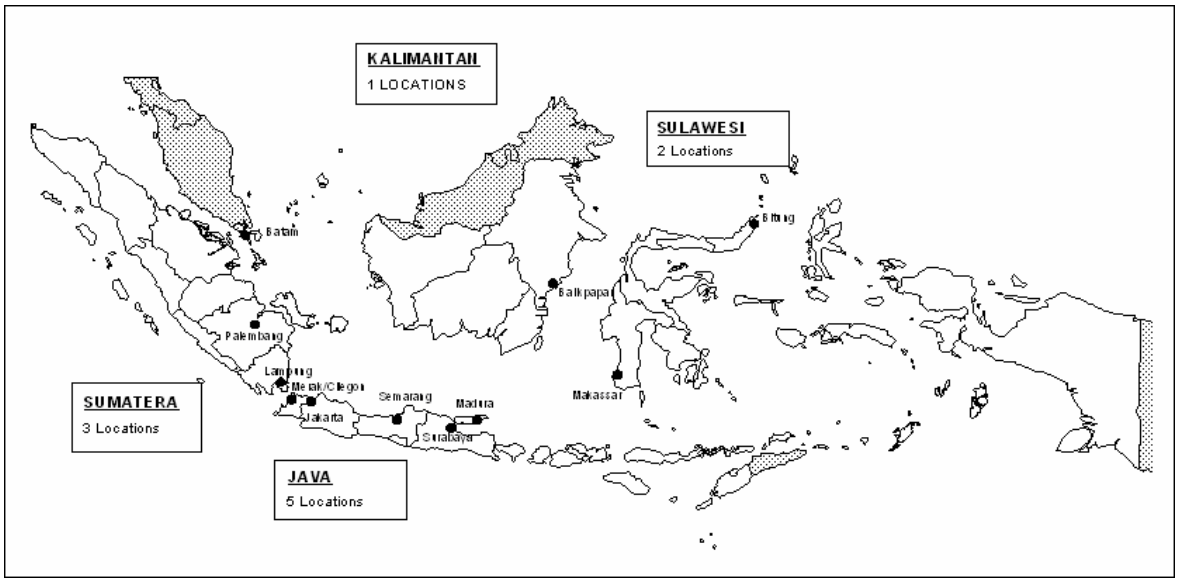
Notes: PMA = Penanaman Modal Asing = Foreign Capital Investment
PMDN= Penanaman Modal Dalam Negeri = Domestic Capital Investment
Non-PMA/PMDN = Investment not according to PMA/PMDN regulation

5.3. Ship Breaking Yards

The Study acknowledges the existence of at least 11 ship breaking yards all over the country. Although detailed information is not available, the nationwide distribution protects domestic shipowners from paying excessive ship haulage costs. The locations of these yards are as follows:

- In Sumatra: Palembang, Lampung, Batam
- In Java: Jakarta, Merak / Cilegon, Semarang, Surabaya, Madura
- In Kalimantan: Balikpapan
- In Sulawesi: Makassar, Bitung

Figure 5.3.1 Locations of Ship Breaking Yards



Chapter 6

INSTITUTIONAL DEVELOPMENT IN THE MARITIME TRANSPORT SECTOR

6. Institutional Development in the Maritime Transport Sector

Institutional development in the maritime transport sector must enable reliable and safe shipping. Therefore responsible maritime administration sets standards by itself and/or accedes to relevant international conventions and monitors them. It covers maritime safety, security, seafarers, environmental protection, and liability, among others. Maritime administration practice in Indonesia is broadly reviewed in Section 6.1 while particular analysis is given to ship registration and inspection in Section 6.2.

Besides setting those technical and economical norms, it is understood that Indonesia's maritime administration is mandated to ensure necessary shipping services to be provided by the shipping industry and to strengthen the industry especially in terms of national tonnage. However it is difficult to satisfy both the demand and supply sides at once. Section 6.3 reviews the historical policy changes from the country's independence to present times, and identifies contemporary and specific Indonesian issues.

Today, it is obvious that maritime institutional framework, even when it focuses on domestic shipping, cannot develop independently under the era of globalization and regional economic integration such as AFTA. There is a need for policy coordination and technical harmonization with global maritime communities, particularly with its neighboring countries. Section 6.4 presents a comparative view of the other ASEAN countries' recent maritime framework development.

6.1. Legal Framework

6.1.3. The Commercial Code

The Indonesian maritime (shipping) private law forms part of the Indonesian Commercial Code which dates back to 1848, and which was originally identical to the Dutch Commercial Code of 1838. As far as the maritime law is concerned, the latest revision was made in 1934 following the Dutch revision. The 1945 Constitution stipulates that, in order to prevent a vacuum in law, all existing laws and regulations shall continue to be in effect until a new law has been drafted in conformity with the Constitution. Thus, the maritime law portion of the Indonesian Commercial Code remains unaltered until now.

Carriage of goods is regulated in Title V A of the Commercial Code. The law makes no distinction for international and purely domestic carriage, although some of their respective regulations and practice may differ accordingly. The only exception to this is that in cases of shipments into Indonesia from other countries, limitations of or exclusions from liability permitted in the jurisdiction of the port of loading will usually apply.

(1) Main Features of the Indonesian Maritime Law

(a) Jurisdiction and Law Enforcement

The general court in Indonesia can deal with all admiralty cases. A suit can be filed either at the place where the defendant is having his domicile, at the place where he is actually residing or at the place where the plaintiff is residing. The suit can also be brought before the court at the place where the ship in question is to be found. As mentioned, the Indonesian Commercial Code provides legal provisions concerning the responsibility and liability of the carrier.

However, most of the provisions, particularly those on carrier's liabilities and limitation, are out-dated. The inclusion of the provisions of the Hague Rules (which were drafted in 1952) in the Dutch Commercial Code was not adopted by Indonesia. In fact, Indonesia has not ratified any of the conventions on carriage of goods at sea. However, international shipping regulations such as The Hague or Visby Rules could be made applicable to the Indonesian international / foreign trade through the implementation of the concept of choice of law, if specifically so provided in a bill of lading. The Indonesian private international law largely respects the respective parties' autonomy in the choice of law. The parties concerned or the contracting parties are free to decide on the governing law, which could be the law of a third country which may have nothing to do with the interests of the parties.

As already mentioned, the Indonesian Commercial Code provides legal provisions regarding the carriage of goods by sea, including provisions concerning the responsibility and liability of the carrier. However, questions have been raised in several cases on whether Indonesia constitutes a suitable (alternative) forum as compared with other countries such as Hong Kong, Singapore, London, etc. With the provisions of Indonesian law on the limitation of liabilities being regarded as outdated, foreign parties as well as foreign courts may have considered the Indonesian court an unsuitable court forum. Thus, quite a number of cases have been brought and decided in foreign forums. This prejudice is mainly based upon the fact that there has been no precedent wherein the Indonesian court has dealt with significant maritime cases.

(b) Mortgage and Arrest of Vessels

The general provisions concerning hypothec (mortgage) are applicable to ship hypothec. The legal procedure for the arrest of ships is similar to the legal procedure concerning the attachment of goods or properties through the court. It may take some time until arrest could be executed since the court may hold hearing sessions with the parties concerned before the decision on the arrest is made.

In addition, there are ad hoc laws or regulations which the Commercial Code adheres to, such as the regulations concerned with registration of ships and right on ships and the regulations pertaining to the nationality of ships. Under the Indonesian law, only ships owned by Indonesian citizens or Indonesian companies can be registered in Indonesia. Ship hypothec or mortgage in Indonesia is only eligible for ships which are registered in Indonesia.

Art.757 of the Law on Legal Procedures provides a basis which could be used in the arrest of foreign vessels. According to Art.758, the procedure of arrest is the same as the procedure for conservatory attachment of movable goods. This provision is intended for vessels that have no clear or definite address (in Indonesia), which could be effectively applied to foreign vessels. In practice, however, it is quite difficult to implement the arrest of vessels because of the procedures to be followed such as in the case of the normal conservatory attachment on goods. Moreover, the court may only impose the so-called "sailing attachment" which would not allow the vessel to be held in port, if such action will hamper the normal operation or the existence of the owner company. This may however be not fair for the creditor, since the purpose of the arrest of the vessel is in fact to force the debtor to fulfill his obligations, towards the creditor.

Thus, it would be more practical for Indonesia to consider the creation of an arresting

institution like an admiralty court, whereby stipulated or statutory maritime claims could be subjected to the competence of such court. The International Convention for the Unification of Certain Rules relating to the Arrest of Sea-going ships, 1952, stipulates the types of (maritime) claims that could be subjected to such court. More specifically, the International Convention for Unification of Certain Rules Relating to Maritime Liens and Mortgages, 1967, stipulates the legal aspects of liens and mortgages and their legal implications on third parties and their registration. Thus, Ratification of these Conventions may therefore require Indonesia's urgent consideration.

(c) Transport Documents and Carrier's Liability

Carrier's responsibility and liability are the most important issues in transport document. According to the Indonesian law, the carrier is responsible for the goods from the time they are received until they are delivered at the port of destination. More specifically, the Hague Rules provide that the carrier is responsible for the goods from the loading until the unloading of the goods.

The Indonesian Commercial Code provides a package liability limit of Rp.600, an amount already considered to be very low and obsolete at present since the provision was created during the time Indonesia was still under the Dutch administration. In addition, compared with the Hague Rules or Hague Visby Rules which have been widely accepted internationally, the Code's provisions are considered obsolete particularly with respect to the carrier's period of responsibility and the extremely low amount of the financial limit of package liability. The package liability limitations, however, is not always upheld by carriers. Shipping companies trading in the domestic trade put a somewhat higher sum in their bills of lading, but it is still unrealistically low. The actual practice however is that claims are settled through negotiations. Indonesian shipping companies in overseas trade generally issue international bills of lading which include package liability limit in conformity with the Hague Rules. As already mentioned, foreign parties however generally think that Indonesian court is not a suitable forum. Thus, it is necessary that the national maritime law framework be amended based in accordance with various international standards.

6.1.4. Economic Regulation (Law No. 21 / 1992 on Shipping)

As discussed in the previous subsection, Indonesian laws particularly that of the maritime sector have been in effect and unchanged since the Dutch administration. Law No.21 / 1992 on Shipping (Shipping Act 1992 hereinafter), however、has laid the basis for the review of the Indonesian maritime laws and regulations to better respond to the needs of the Indonesian shipping as well as the latest developments in the international sea transport.

The Shipping Act 1992 embodies regulation principles in the important aspects of shipping, including nautical, technical, as well as economic aspects.

The Act comprises chapters on:

1) Principles and aims (Chapter II, IV);
2) Navigation affairs (Chapter V: Auxiliary facilities of navigation, Navigational telecommunications, Path and crossway, Ship's framework, Salvage and underwater work);

3) Harbour Affairs (Chapter VI: Types of harbours, Harbours open to foreign trade, tariffs, responsibility);

4) Provisions pertaining to ships (Chapter VII: Seaworthiness of a ship, Containers, Measurement, Registration and nationality of a ship, Sea captain, Ship's leader and ship's crew);

5) Marine pollution control (Chapter VIII);

6) Sea-transportation including transportation on inland waterways (Chapter IX: Transportation auxiliary business, Domestic sea transportation, Overseas sea transportation, Traditional shipping, Transportation on rivers and lakes and transportation for crossing, Pioneer shipping),

7) Accidents at sea, search and rescue (Chapter X);

8) Manpower development (Chapter XI); and

9) Enforcement of law (Chapter XII, XIII).

Under this Shipping Act, five separate Government Regulations have been issued, as follows: (i) water transportation, (ii) ports and harbours, (iii) maritime affairs, (iv) navigation affairs, and (v) the establishment of the Board of Investigation of Maritime Casualties. As for the registration of ships and rights on ships and the regulations pertaining to the nationality of ships, there are ad hoc laws and regulation which the Commercial Code refers to (refer to Table 6.1.1).

Table 6.1.1 List of Government Regulation

No. of Government Regulation	Contents
No. 1/1998	on Inspection of Ship Accident
No. 82/1999	on Water Transportation
No. 7/2000	on Maritime Affairs
No. 81/2000	on Navigation Affairs
No. 69/2001	on Harbour Affairs

Source: DGSC

6.1.5. Introduction of International Regimes

Generally speaking, Indonesia has already ratified most of the essential international conventions on ships, seamen and navigation accompanied by relevant internal regulations. However, it must be noted that Indonesia has not ratified any of the conventions related to commercial operations such as carriage of goods by sea, limitation of liability and responsibility of ship owners or ship operators and procedures in enforcing debtor's fulfillment of liabilities through liens and mortgages. The following tables below (Tables 6.1.2 to 6.1.5) present a summary of the present status of Indonesia's ratification of major international conventions.

Table 6.1.2 International Convention Relevant to Ship/Ship Safety

Name of Convention	Status
International Convention on Load Lines,1966	Ratified
International Convention on Tonnage Measurement of Ships, 1969	Ratified
Passenger Ships Safety 1971/1973 (Ships transporting collective pilgrims to Mecca)	Ratified
International Convention for Safe Containers, 1972	Ratified
SOLAS 1974 (International Convention for the Safety of Life at Sea, 1974)	Ratified
International Convention for the Safety of Fishing Vessels, 1977 (SOLAS for fishing vessels)	Not yet
Protocol of 1978 relating to SOLAS Convention 74 (Safety of tankers)	Not yet

Source: DGSC

Table 6.1.3 International Conventions Relevant to Seamen

Name of Convention	Status
International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)	Ratified

Source: DGSC

Table 6.1.4 International Conventions Relevant to Navigation/Protection of Environment

Name of Convention	Status
Convention on the International Regulations for Prevention of Collisions at Sea, 1972	Ratified
MARPOL, 1973/1978 (International Convention for the Prevention of Pollution from Ships, 1973 and the Protocol of 1978)	Ratified
Convention on the International Maritime Satellite Organization, 1976	Ratified
Basel Convention on the Control of Transboundary Movements of Wastes and their Disposal, 1991	Ratified
International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969	Not yet
MARPOL 73/78 Annex III, Annex IV, Annex V, (regulation for chemical goods, waste/residues from ship operation, and dumping garbage from ships)	Not yet
International Convention on Maritime Search and Rescue, 1979	Not yet

Source: DGSC

Table 6.1.5 International Conventions Relevant to Responsibility/Liability of Ship Owners, Ship Operators or Carriers

Name of Convention	Status
International Convention on Civil Liability for Oil Pollution Damage,1969	Ratified
International Convention for Unification of Certain Rules of Law relating to Collision between Vessels and Protocol of Signature, 1910 (rules on the civil aspects in case of ship accidents)	Not yet
International Convention for the Unification of Certain Rules of Law relating to Bills of Lading and Protocol of Signature, 1924 (Hague Rules, 1924)	Not yet
Protocol of 1968 to Amend the Hague Rules, 1968 (Hague Visby Rules, 1968)	Not yet
United Nations Convention on a Carriage of Goods by Sea, 1978 (Hamburg Rules)	Not yet
International Convention for the Unification of the Liability of Owners of Sea-going Vessels and Protocol of Signature, 1924 (Maximum amount equal to selling value of the ship, etc.)	Not yet
International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages and Protocol of Signature, 1926	Not yet
International Convention for Unification of Certain Rules relating to Maritime Liens and Mortgages, 1967 (LIENS AND MORTGAGES, revised, 1967)	Not yet
International Convention for Unification on Certain Rules relating to Jurisdiction in Matters of Collision or Other Incidents of Navigation, 1952	Not yet
International Convention for Unification on Certain Rules Relating to Arrest of Sea-going Ships, 1952 (Procedures for arresting ships in legal actions)	Not yet
International Convention relating to the Limitation of Liability of Owners of Sea-going Ships and Protocol of Signature, 1957 (for claims arising from losses of life and properties and losses for removing sunk ship hulls)	Not yet
Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC)	Not yet
United Nations Convention on Multi modal Transport, 1980	Not yet
United Nations Convention on Registration of Ships, 1986 (Genuine link between the ships and their owners)	Not yet
International Convention on Salvage, 1988	Not yet

Source: DGSC

6.2. Ship Registration and Ship Inspection

6.2.3. Registration

(1) Ship Measurement

Ship registration is closely connected with ship measuring and ship nationality. The procedure for registration is as follows:

- A ship is required to be measured before it is used in shipping. If a ship registers a gross size of at least $20m^3$, a measurement letter for the ship is published. It will then be listed in Indonesia's registrar functionary and ship transfer ownership recorder. A ship that is registered in Indonesia can then obtain a certification of Indonesian ship nationality.

- Further stipulations regarding the ship measuring method other than those referred to below will be stipulated by Decree of the Minister.

Each ship that is used for sailing must be measured. Ship measuring can be conducted according to 3 (three) methods:

- domestic measuring to determine ship tonnage for ships which has length of less than 24m
- international measuring for ships with length of 24m and longer
- special measuring for ships which will sail through a certain canal

Ship measurement is carried out by a Government official that has met the qualifications of a ship measuring expert.

A ship with length of less than 24m shall be measured by domestic method. A ship which has a determined tonnage of $20m^3$ (7 GT) or greater can be issued a certificate.

The following are guidelines in connection with the validity of the certificate:

- The measurement certificate is effective for an indefinite period of time.
- A certificate becomes invalid when the ship encounters any of the following conditions: (i) scrapped, (ii) has sunk, (iii) has been destroyed, (iv) has caught fire, or (v) has been declared lost.

The official as representative of the Republic of Indonesia can issue the measurement certificate for a ship which has been completely constructed or for a foreign ship that has changed flag into the Indonesian flag abroad. The certificate is of a provisional nature; that is, effective only until the ship enters into an Indonesian port (in case of direct voyage) and within three months for indirect voyages. The certificate is issued on the basis of the result of measurement carried out by recognized classification body.

A repeat measurement must be made if conversion has been made to a ship that results in the change of the specifications contained in the measurement certificate.

(2) Items to be Registered

Registration of a ship includes the registration of ownership right and title, mortgaging and other materials right to the ship and is recorded in a book, consisting of daily and master register which are administered at each ship registration location and central register, which is administered centrally in the location determined by the Minister. Location of ship registration is determined by the Minister.

The ship is written off the register if it is either requested, sunk, has been seized by sea pirates or by the enemy, scrapped, ownership transferred to foreigners, among others.

(3) Ship Nationality and Forms of Certificate

A ship that has been registered in Indonesia can be given a ship national identity document as evidence of its nationality.

The national identity document is given in any of the following forms:

1) sea document (surat laut) for ships that sail on sea waters with a gross tonnage of 175 (GT. 175) or more;
2) annual pass permit (pas tahunan), for ships 7GT through 175GT;
3) small pas permit (pas kecil), for less than 7GT; and
4) inland waters pass permit (pas perairan daratan) for ships that sail in inland water.

The ship national identity document is effective for a period of 5 years.

The national identity document must at all times be kept on the ship if it is sailing.

To establish identity, a ship must hoist the Indonesian flag, affix the ship's name and location of registration.

A provisional national identity document is issued in the form of a provisional sea document or provisional annual permit and is effective for three months. These certificates are applicable to ships over 175GT and over 7GT up to 175GT.

Table 6.2.1 Summary of Ship Total Listed until Year 2001

Year	Type of Ship				Total
	Motor	Fishing	Sailing Motor	Barge	
1991	298	218	84	113	713
1992	216	302	147	88	753
1993	173	155	90	75	493
1994	154	186	148	90	578
1995	159	217	64	70	510
1996	309	193	126	153	781
1997	418	263	100	195	976
1998	198	262	50	78	588
1999	223	298	67	83	671
2000	490	419	181	121	1,211
2001	105	90	7	39	241
Total	2,743	2,603	1,064	1,105	7,515

Source: DGSC

The Government ratified the "Tonnage Measurement 1969" on 14 June 1989. Since 1991, re-measurement for all relevant ships has been carried out with a 90% completion rate of currently registered ships. Thus, the most well estimated number of registered ships in service will be those re-measured from 1990. The total number of ships therefore at present is 8,270 units, 10% more than that shown in Table 6.2.1. Gross tonnage (GT) breakdown is not available.

6.2.4. Inspection, Classification, Certification

(1) General View

Inspections on ships are carried out by both the Marine Inspectors of Directorate General of Sea Communication, Department of Communication and Surveyors to Classification Societies recognized by the Government such as BKI (Biro Klasifikasi Indonesia) and

other 7 IACS Members.

The Government Inspectors carry out inspections on the safety aspects, except on Load Line that concerns the International Convention, and upon completion of inspection issue the respective certificates.

On the other hand, Surveyors to classification society survey the Hull, Machinery, Cargo Gear, and Load Line related to both Domestic and International Convention 1966. Upon completion of survey, they issue the respective class certificate and Interim Load Line Certificate.

In addition, ships with length over 24m were then required by a decree of the Directorate General of Sea Communication to enter into BKI class. This decree however has been rendered obsolete as the new Shipping Act No.21/1992 and Shipping Regulations No.51/2002 have taken into effect.

For the implementation of these new Act and Regulations, Ministerial Decrees concerning Shipping Safety are being processed, contents of which are SOLAS, LL, TMS, and STCW '95. Upon completion, the Government is ready to ratify the latest Ship Safety-related International Convention Codes.

(2) Ship Safety Requirements

As discussed in the above-mentioned Shipping Regulation, each ship of Indonesian flag and foreign ships operating in Indonesian waters must meet the requirements on ship safety. Ships which are not subject to these requirements are as follows:

1) ships constructed in a traditional manner;
2) motorized ship with a gross tonnage of less than 35 (GT);
3) fish catching ships;
4) ships that do not have their own generating capacity and have no crew;
5) luxury ships that are not used for commercial activities; and
6) ships that are used for sailing on inland waters.

In certain situations, the Minister can give exemptions taking into account ship safety aspects on construction, machines and electricity, ship safety equipments, and ship radio communications instruments.

Even with the availability of the new Shipping Act and Regulations, there is still a need for more detailed Ministerial Decrees, Directorate General- or Directorate-issued Guidelines, Instructions and Circulars which are indispensable for its uniform implementation and application.

Until the completion of the Ministerial Decrees which are being prepared based on the newly issued Shipping Act and Regulations, existing decrees issued under the old Act and Regulations are still in effect.

Table 6.2.2 Ship Inspection-Related Governmental Documents

	Regulations/ Decrees	Instruction/ Guidelines/ Circulars	Applicable to
P.P. No. 51/2002	✓		All Ships
SK. Menhub. No. KM. 86/90	✓		Domestic
Keputusan DIRJENLA No.PY. 66/1/13, 1983	✓		Domestic
Keputusan DIRJENLA No. DRP. 44/1/13, 1983	✓		Domestic
General Instruction of Ships Inspection		✓	Domestic
Guidance of Ships Instruction		✓	Domestic
Pengumuman Pengawasan Kapal2 huruh A to J		✓	Domestic
Pengumuman Pengawasan Kapal2 huruh K, L, M, N		✓	Domestic
Guidance of Ships Inspection No. 1 dan 11		✓	Domestic

Note: the application of these regulations is dependant on the ship's size and its navigation areas.
Source: DGSC

On the basis of the geographical and meteorological conditions, the ship sailing areas are determined based on the following order:

a) Ship Sailing Area in All Sea;

b) Ship Sailing Area within the Territory of Indonesia;

c) Local Shipping Area;

d) Limited Ship Sailing Area;

e) Port Ship Sailing Area; and

f) Inland Waters Ship Sailing Area.

(3) Inspection

The Official for Ship Safety Inspection conducts assessment through inspection and testing activities to implement ship safety from the time the ship was designed, constructed, operated until it is no longer used.

The Official must inspect and test technical condition and safety of ships in service and if necessary, is authorized to go on board the ship for the inspection and testing of the ship.

The types of ship safety inspection consist of:

1) Initial inspection;

2) annual inspection;

3) renewal inspection;

4) intermediate inspection;

5) unscheduled inspection; and

6) inspection due to damages or repairs.

However, this is not the case at present where further stipulation regarding the types of inspection, procedure and directives of inspection will be stipulated by a Decree of the Minister.

(4) Number of Marine Inspectors

Table 6.2.3 indicates the number and kind of inspectors deployed throughout the archipelago.

Table 6.2.3 Numbers of Marine Inspectors, their Classes and Scope of Work

Marine Inspector	No.	Scope of Work	Remark
A	127	All ships	All Sizes
B	274	Domestic Ships	< 500 GT
Others	unclear	Domestic Ships	< 175 GT
Radio	65	All Ships	
ISM Auditors	111	All Ships	
Tonnage Inspectors	75	All Ships	

Note: Harbor Master in KANPEL and ADPEL offices are in charge of PSC.

(5) Number of Port Administration Offices and Port Offices for Respective Classes

In 2002, the Decree for Port Office Organization and Administration Nos.62 and 63 were completed to increase efficiency and effectiveness of government function in Port.

The Decree stipulates the following provisions:

(a) Class of Port Administration Offices and Port Offices: The Decrees KM No.62/2002 stipulates that the Port Administration Office is the technical organizing unit which functions to implement Sea Traffic and transportation services, shipping security and safety in Port area for accelerating sea transportation, and that their position, duty and functions vary depend on their class.

(b) The Decrees KM No.63/2002 stipulates that the Port Office is the technical organizing unit which functions to control sea transportation traffic services, port affairs, shipping security and safety for accelerating sea transportation, and that their position, duty and functions vary depend on their class.

(6) Ship Classification

For the purpose of the ship safety requirement, ships must be classified by either the national or the recognized foreign classification body which can be designated for implementing the inspection and testing related to meeting the ship safety requirements.

The Minister can use results of the inspections as basis for issuing the ship safety certificate.

The designation and recognition of the classification are made by the Minister and at present, the Recognized Organizations (RO) are as follows:

- National R.O.: Biro Klasifikasi Indonesia (BKI)
- International R.O.: American Bureau of Shipping (ABS), Bureau Veritas (BV), Det Norske Veritas (DNV), Germanischer Lloyd (GL), Lloyd's Register of Shipping (LR), Nippon Kaiji Kyokai (NK), Registro Italiano Navale (RINA)

(7) Demarcation between Government and RO

DGSC Marine Inspectors carry out Inspection with regard to ship safety while BKI or other RO surveyors do classification survey, LL and ISM related surveys.

Table 6.2.4 Demarcation between Government and RO

Kind of Inspection/Survey	Government	BKI and Other RO
Safety Construction	√	
Safety Equipment	√	
Safety Radio	√	
Seaworthiness	√	
Hull, Machinery and fitting		√
Load Line	√ (less than 24m)	√ (over 24m)
ISM	√	√

(8) Certificates

Each ship which meets requirements on ship safety can be certified in terms of relevant ship safety standards. A ship for sailing all sea areas must have certificates in accordance with the international convention stipulations. The types of certificates the Government issues are as follows:

International certificates:

1) Passenger ship safety certificate
2) Cargo ship safety construction certificate
3) Cargo ship safety equipment certificate
4) Cargo ship safety radiotelegraphy/ radiotelephony certificate
5) International load line certificate (ILLC ‘66)
6) International tonnage certificate
7) Certificate of inspection
8) International oil/NLS pollution prevention certificate
9) Exemption certificate

Certificates for ships in domestic service:

1) Ship Safety Certificate
2) Radio Safety Certificate
3) Load Line Certificate
4) Passengers Ship Safety Certificate (for ships sailing Indonesian waters only)

Classification certificates:

1) Provisional certificate
2) Initial certificate
3) Renewal certificate

(9) Identified Administrative Issue

Despite the existence of new Shipping Act and Regulations, it is still necessary to have more specific Ministerial Decrees, Directorate General- or Directorate-issued Guidelines, Instructions and Circulars, which are indispensable for a uniform and standard implementation and application of shipping laws.

But at this stage where Ministerial Decrees based on the newly issued Act and Regulations are still under preparation, those issued under the old Act and Regulations are still being observed. This situation may bring conflict as well as cause controversial issues to arise

due to the possibility of difference in understanding of respective definitions.

Given this situation, the earliest completion of the aforementioned Ministerial Decrees is very much anticipated. This may even require that DGSC officials in charge of preparing the Decree should be solely dedicated to this role, thus the need to reduce their current work load. However, this may not be possible because of the limitation in number of technically capable officials in DGSC. Next option is to tap technical assistance outside the agency.

Thus, in case the Government Officials are too tied up with their daily responsibilities, it might be a good idea to share their responsibilities with BKI. Although BKI is not yet internationally recognized, it has the advantage of being of having a countrywide service network as compared with the other members of the Classification Society. After the newly formulated Ministerial Decrees become in effect, BKI will no longer be a monopoly in the country and instead, Indonesia, as the key member country of ASENA, shall maintain the only national classification organization.

6.3. Government Interventions to the Shipping Industry

6.3.3. Review of the Interventions / Regulations

(1) 40 Years after Independence

Over the past half century, like the other ASEAN countries, Indonesian maritime policy has had several changes in its orientation. The departure of the Dutch, who had dominated Indonesia's seaborne trade, left a vacuum. As already discussed in Section 6.1, Indonesia's shipping policy was based on the pre-war Dutch Commercial Code, with the 1936 Dutch Indies Shipping Law forming the basis of post-independence Indonesian shipping regulation. During the 1950s and 1960s, the shipping sector did not rank high in the list of national priorities in the ASEAN countries, therefore traditional patterns of ownership and control of ships changed relatively slow in the region. Under such circumstances, Indonesia was quick to start questioning the value of traditional pattern of shipping ownership and control. Indonesia already had its state-owned line, PT Djakarta Lloyd, as early as the 1950s, whereas the Neptune Orient Line (NOL) of Singapore and the Malaysian International Shipping Corporation (MISC) of Malaysia were both founded in 1968.

The 1970s was a volatile decade with the Middle East War and oil crisis in its midst. It would however be interesting to note that it was during this period that Indonesia achieved the rapid expansion of its national fleet. Since the beginning of the 70s, the country started to purchase second-hand vessels in large quantities making use of the World Bank loan. It goes without saying that UNCTAD's Code of Conduct for Liner Conferences and the sharp increase in foreign exchange income following the two times rise of oil prices in 1973 and 1979 each favorably complemented this government action. At that time, employment creation was, as was in the case of the Philippines and Singapore, of particular importance to Indonesia. In addition, just like the other developing countries, balance of payment considerations was also regarded as a justification to introduce discriminatory provisions in favor of national flag shipping lines.

Given this context, Indonesia pursued a policy of merchant marine development in which the state actively intervened in shipping matters. The Indonesian government required that all foreign liner vessels calling at Indonesian ports be registered with a designated shipping

agency. Such agencies were required to provide the government with the complete details of services operated by their clients, including name and type of vessel, ports of call and cargo volumes. Foreign flag vessels are required a permit to engage in Indonesian foreign trade. Such permits were issued for a limited time period, one year in the case of line shipping. Tramps in the log trade could only obtain a permit valid for six months, while tramps carrying other cargoes were given a permit for only three months. In addition, the Indonesian government ruled that shipping companies chartering vessels to handle seasonal cargo overflows or specific project cargo must prioritize the use of Indonesian ships. Only after conducting a rigid search process for the possible Indonesian vessel available at the right time, and convincing the Indonesian Authorities of this, shipping companies could get clearance to foreign-flag vessels.

(2) Government's surprise move on the red tape (1984 - 85)

In 1984, the Government issues Presidential Instruction or INPRES No. 5/1984 on streamlining the licensing requirement in shipping business. In addition in the same year, the government through the Minister of Communications' Decree No. 57/1984 issued policy prohibition to operate old vessels, they are:

- For 30 year old more since May 1, 1984
- For 25 year old more since Jan 1, 1985

In 1985, in the Government's determined efforts to boost the Indonesian economy, then President issued sweeping policy changes aimed at cutting shipping and ports costs, reducing red tape and, according to them, removing corruption. The government had been stressing the needs for the country to increase its non-oil exports in the face of an uncertain future for oil and natural gas. Presidential Instruction No.4 gave substance to this declaration. As a first step in streamlining customs and port procedures, port charges were reduced. In particular, those for anchoring, towing, mooring, and use of pilot boats were reduced. Port storage cost also went down.

This Presidential Decree contained an equally surprising decision－the immediate removal of the SKU (shipping permits to allow foreign carriers to call at Indonesian ports). Inter-island, special shipping and ocean-going liner operators were able to act as general agents for foreign flag shipping company. There was no limitation on the nature and size of goods a foreign carrier could load or unload.

By this sudden deregulation, the so called Inpres 4 port reforms, the shape of the country's major maritime trades was altered radically. The location and nature of the nation's ports became the anvil for the hammer of foreign competition: based not at the domestic ports, but at the regional maritime fulcrum of Singapore. With 127 ports in what used to be one of the most regulated countries in Asia flung open towards the outside, Indonesian carriers were exposed to competitors such as feeder operators which swept off cargoes at freight-rates that reflected their needs to build up volume out of Singapore, rather than producing margin in the Indonesian markets. This possibility (now a reality) had been a traditional problem for Indonesia's maritime policy and a major reason why Indonesia formerly had to adopt the closed door policies.

Before the changes brought about by the Inpres 4, Indonesia's geography had been the reason for having a strong shipping industry. Nusantara, the generic designation of

inter-island traffic, was also a political term with strong connotation of national unity in this huge country. It had been likewise recognized that, without a strong shipping policy, geography would betray any attempt to create a coherent shipping industry.

Looking back at history, it may safely be said that if Indonesia's size and sprawl did not always help Singapore become the region's entrepot, it was because the colonial Dutch made it sure that the country had a powerful system of domestic transshipment based on a monopoly-holding inter-island shipping company. And when Indonesia looked for a national maritime policy of its own, through the gateway system, Indonesia's shipping and ports were closely bound up with a view to building a national hub and feeder system of its own.

The gateway system was simply the nomination of four of Indonesia's major ports as domestic transshipment centers, allowing Indonesian shipping to overcome the problems resulting from long distances between ports and low level of cargo volume at each port, by creating a closed system behind which inter-island and deep-sea shipping could gather up, consolidate and transship worthwhile size of loads.

However, while the gateways might have been a logical system, on the other hand, it would be fair to point out that at that time, they avoided the crucial cost comparisons that only competition could bring in. For example, slow cargo building-up at the ports resulted not only in insufficient national export performances but also to poor return in shipping investment.

(3) "Paknov 21" deregulation where the Government dropped its tight control of domestic shipping market (1988)

Paknov 21 liberalization of the inter-island trade came as an even bigger surprise than the 1985 deep-sea deregulation. From 1 January 1989, the Government dropped its tight central control of its domestic market and established new regulations, as follows:

- In establishing new shipping company, possession of national flag ship was not anymore an absolute requirement. Formerly, ownership of a minimum of 2 national flag vessels was required to establish new shipping company. The new regulation required only possession or control – bareboat charter of minimum one year-of 1 national flag vessel.

- In the former regulation (PP No.2/1969), there were five types of undertakings: ocean shipping, inter-island shipping, local shipping, special shipping, and small-holders shipping. In the new regulation, there were only two types of license, namely domestic and foreign shipping undertakings, and small-holders shipping undertakings. Also, the old regulation required an operating permit on top of business permit whereas in the new regulation, operating permit was deemed attached to business license.

- Former regulation stipulated that the pattern of domestic shipping routes is determined by the government each year, and that the placement of ships on the relevant routes required permits following 3-months prior application. Under the new regulation, shipping lines were able to determine by themselves their routes and deployment of ships on the basis of just 1-month prior notice.

- Formerly, obtaining dispensation for using a foreign flag vessel in domestic trade was a quite lengthy procedure. Under the new regulation, however, national shipping companies could use foreign flag vessels in domestic trade on the basis of charter, lease or other agreements. The obligation of national shipping companies in this regard was merely to give the government, i.e. the Directorate General of Sea Communications, prior notice.

The Government expressed that it wanted to upgrade the efficiency of domestic and ocean-going shipping lines and to create healthy and powerful shipping lines. The new policy intended to achieve its domestic maritime aims support to the smooth flow of goods—through a free market for Indonesian operators, even including the effective opening of the market to foreign-owned tonnage under nominal Indonesian control. The outcome the Government wanted to achieve was to improve the competitiveness of Indonesian exports. All that was expected from this shipping deregulation was firstly to let market forces redistribute tonnage around the islands more effectively than the traditional rigid, compulsory service network of the RLS (Regular Liner System) allowed exporters, and secondly, to make foreign tonnage available if needed by Indonesian carriers to cover shortfalls.

The deregulation marked the end of a long history of official promotion of inter-island shipping in both colonial and independent Indonesia. To many domestic shipowners, this came as a profound shock. In the past, through an elaborate inter-island route licensing system the government had long attempted to keep a benign watch on the shipping industry and supply and demand in the inter-island trades. This Regular Liner System (RLS) had been set up since 1969 as an attempt to give a structure to the industry and correct the over-expansion which followed in the early post-1965 New Order years. After all of the Government's previous efforts to control the economy of the industry, few of Indonesia's owners in the inter-island trade had the capital base left to keep up even basic corporate capabilities like renewing their fleets. It should be noted that, at the same time, such situation was not surprising given the 35% input of borrower's own equity that Indonesian banks require before giving long-term credit, or the interest rate of over 20% that went with the loans. (The state-owned ship lessor PT PANN had to cover requirements in the fishing, ferry and industrial carrier sectors.)

(4) Shipping Act 1992 led to de-fact opening of cabotage trade

As discussed in Section 6.1.2, the Shipping Act 1992 is an important law which laid the broad basis in reviewing overall aspects of shipping regulation, including the nautical-technical aspects.

In one aspect, however, this new law made it easy for foreign companies to participate in Indonesia's cabotage trade. The law stipulated that domestic trade should be handled by domestic shipping lines. But if the Indonesian flag is not available, companies were allowed to charter in tonnage－so long as it was controlled by an Indonesian company. But for foreign companies, entering into a joint venture with an Indonesian partner was their means to get into the trade, with foreign interests allowed up to 95% of the venture. (In 1994, Indonesia has raised the limit of share percentage of foreign investment in general from 49% to 95%, shipping business included.) At least in terms of the fleet serving domestic trade, the domestic flag vessel tonnage and the number both increased by 1995 compared to the figures in 1983. On the other hand, in terms of ocean-going shipping, the figure decreased. There were 32 ocean-going Indonesian flag vessels in 1989 as compared

to only a total of 20 vessels (some 234,000 dwt.) in 1995. Figures were not available as to how much tonnage was owned by Indonesian companies and flagged offshore, but at that time, there was an estimate that it could be as much as 1 million to 1.5 million dwt, and such development was in general attributed to stringent taxation.

(5) Taxation greatly altered in favor of shipowners (1996)

In view of the mounting pressure from the Indonesian shipowning community, in 1996, the Government dropped VAT (Value Added Tax) from 10% to zero. Previously, this was applicable to all matters relating to vessel purchase, operation and maintenance. Thus owners were required to pay 10% VAT upon buying the vessel, 10% VAT upon putting it into port, 10% to drydock, and so on. This tax regime was abolished effective January 1996. Furthermore, when buying a vessel before, shipowners had to pay an advance tax of 5% of the price.

(Note)

Through the Presidential Decree No.37/1998, the government obliged the Indonesian shipping industry to pay (again) value-added tax (VAT) for imported ships, leasing, spare parts, and port services.

However in the autumn of the same year, during a speech to the Indonesian National Shipowners' Association (INSA), the then President promised that the government would re-evaluate the regulation since the shipping industry was considered a strategic business. VAT has been abolished as for shipowners along this line of judgment.

Corporate tax system was also a cause of dissatisfaction among Indonesian shipowners wherein corporate tax previously amounted to as much as 35% of taxable income for shipowners. In response to the pleas from the National Shipowners Association (INSA), the Indonesian government decided in 1996 to base the tax not on income but on gross earning, thus setting the rate at 1.2%.

Together with this tax reform, the government implemented another deregulation measure that is concerned with the importation of new or second-hand ships. Before, shipowners had to have a permit to sell their own ships and import new ones, thus it was difficult to take advantage of sale and purchase for capital gain. In 1996, the Government freed this and shipowners were able to buy any vessel as long as it was seaworthy. In addition, government inspectors previously had to survey the ship before the deal was closed, which is no longer the case at present. The registration fee used to be 0.1%, but this became zero.

Taxes before were not the only reason for the steady decline of national flag vessels. Payment of exorbitant taxes, requirement for owners of Indonesian flag vessels to drydock, repair and conduct of annual survey at home were also some of the reasons for this decline. But responding to pressure from the domestic shipowning community, the Government, by this time, had abolished some of these expensive and restrictive policies.

This was a period of deregulation which made a much more liberalized environment for shipowners. Although at present, Indonesian shipowners think that the corporate revenue tax of 1.2% places them in inferior position as compared with other ASEAN shipowners, at

that time at least, only remaining cause of clamor of shipowners seemed to be capital gain tax which went as much as 30%. Shipowners' plea was that they should not be charged tax on capital gain if they invest the gain in another vessel.

(6) Government Regulation 82/1999 on Water Transportation: Setting out on a New Industrial Policy

By this new regulation, the government has revised previous laissez faire attitude, adopting a little stricter criteria in shipping companies' qualification standards, as follows:

- This new regulation stipulated that an Indonesian shipping company must own at least 175 gross tons of vessel capacity, accumulating all the national flag vessels of its own. (in the case of Traditional Shipping, 7 gross tons). This was a big regulatory change compared to the 1988 condition, under which shipping companies were not needed to own ships and business operation relying only on the use of foreign ships were allowed.

- This new regulation confirmed that domestic sea transportation is carried out by national sea transportation companies, and by using Indonesian flag ships. And "a certain period of time" and "directly operated by national sea transportation companies" are added as required conditions in terms of the use of foreign flag ships by national companies. In practice, this "certain period of time", i.e. the term of validity of the government permission for the use of foreign flag ship is 3 months.

- A general agent for a foreign shipping company was newly required to own at least 5000 gross tons of vessel capacity, accumulating all the national flag vessels of its own.

- A joint venture shipping company was newly required to own at least one Indonesian flag ship of minimum 5000 gross tons. (Under 1988 regulation, this requirement was for 2500 DWT.)

- In terms of domestic liner service, the concept of route network consisting of "main route", "feeder route" and "pioneer route" was newly introduced. Relevant operating license is issued separately on each of the passengers, general cargo and container services, and also per each route pattern. While placement of ships can be made by the relevant shipping company, this company must file a report on its transportation and operational activities with the government every 6 months. The report is required to be filed within 14 days after the end of each 6-month period. (In the case of a tramp operator, the same kind of report is required within 1 month after the end of each 6-month period.)

One of the aims of the government in introducing these new regulations, particularly the 5000 gross tons condition for the general agent, was to apply stricter control on foreign shipping companies' activities on Indonesian water and thus promote a level of merger / concentration of smaller domestic shipping companies together with the owning of ships by those companies. However, in view of the strong protest from companies currently acting as the general agents, application of this 5000 gross tons condition has been postponed up to the autumn of 2003.

On the other hand, regulation 33/2001 provided conditions which liner service operators should satisfy, i.e. deployment of substantial number of vessels, regular/fixed schedule, etc. Coupled with regular reports by those companies, these new regulations are expected to contribute to the establishment of route network mentioned.

6.3.4. Regulatory Dilemma Currently Overshadowing Administrative Structure in Shipping

(1) Stabilization of route networks vis-à-vis deregulation

"Strategic Plan : Sea Transportation Development 2000–2004" of Directorate General of Sea Communications describes its policy and strategy, among other things, as follows :

- to "implement route arrangement in order to extend sea transportation service coverage whether commercial or pioneer---";
- to "maintain arrangement of commercial routes and pioneering according to supply and demand and extension of service coverage selectively based on effectiveness and efficiency principle in order to improve accessibility";
- to "maintain restructuring of conductive tariff policy for fair competition atmosphere in providing nautical transportation service"; and
- to "reposition central government role from regulator to facilitator and controller in managing nautical transportation service through issuance of standards, recommendation and implementation guidelines."

This manifestation of policy clearly indicates that the government (DGSC) intends to establish a new system where the government can take responsible actions for the development and stabilization of the regular route network.

But, after more than 10 years of the laissez-faire period following "Paknov 21" deregulation, this may be more difficult than can be said. Government department in charge seems to be at a loss with their inability in countering the over-capacity situation on particular routes, though such is very often the case at present. DGSC draws and decides each of the regular routes, referring to relevant suggestions from the Indonesian Shipowners' Association (INSA), and issue operating license on the particular route for a certain number of domestic shipping companies. But the placement of ships is left for the shipping companies' discretion. This however results to overcapacity as the norm of the day. Liner freight rates are depressed everywhere and the DGSC department in charge has to receive letters of complaint rebuking the government's inaction against this lamentable situation. The department in charge is well aware that the global trend of the times is deregulation, but as an authority responsible for the development of the regular route network for the development and the unity and integrity of the nation, they are looking for a way by which healthy demand and supply balance could be brought about to some extent.

In this connection, it is reflected that economic theory dictates the optimum allocation of scarce resources. Competition is, and has always been, one of the finest market regulators available for society to allocate its resources. But there are areas where competition does not always work for the benefit of society. And maritime transportation is thought to be one of them.

The Coastal Shipping Act of Japan is so-called the "twin coastal law", coupled with the Coastal Shipping Association Law. The former aims at promoting sound development of coastal shipping. The licensing and approval systems and the system of setting an appropriate level of fleet tonnage constitute main pillars of this law. These systems are incorporated in the law as measures to cope with disorderly entries of many small scale operators and consequent over tonnage from which the coastal shipping industry in Japan had been suffering for a long period. In accordance with this law, every year, the Minister in charge of transportation decides appropriate fleet tonnages for the next five years. The latter law is designed to enable coastal shipping operators to establish associations in order to improve their economic position. The associations are allowed to resort to cartel practices such as the adjustment of the tonnage of ships owned by their members, among others.

(2) Cabotage vis-à-vis free trade concept

It may be said that the share percentage of Indonesian flag vessels in domestic cargo transport in 2001 is satisfactorily high as the performance in this huge territorial waters, except for dry bulk's 56% and liquid bulk's 50% (Conventional 86%, Container 99%). Still, the unsatisfactory condition in cabotage regime is often discussed in this country, to such an extent that a high official is reported to have said at some ASEAN meeting that "we cannot limit the operation of foreign liners to carry our freight from and to both domestic and foreign ports, since there is not any regulation prohibiting them to operate here." (Indonesia Shipping Gazette, October 21, 2002)

The Traditional Shipping Association's desire is for the government, in terms of foreign shipping companies' activities in their domain, to have a "strict enforcement of regulation". Although the exact background of this sentiment is not clear for the Study Team, it will be worthy to take note of their sentiment that "if foreign ships were not there, things would not occur."

DGSC is understood that it has already started to review its policy to open 140 ports for international trade. Most countries of the world with a domestic shipping trade of any significance have for many years reserved those trade for the national fleet under a cabotage regime. The role that domestic shipping will play in any country's transport chain, and the extent of development of domestic shipping as an industry in its own right, will be dependent on a number of factors including its topography, the nature and location of its natural resources and the state of its economic and infrastructure development. Archipelago nations such as Indonesia and the Philippines are heavily reliant on inter-island shipping to provide essential services to wide spread communities with no other effective alternative means of transport. It is important that countries examining their inter-island shipping policies and regulatory arrangements should take into account the full range of factors relevant to their particular inter-island shipping and options available.

It should also be kept in mind that, even with this international tendency toward free trade driven by such organizations as WTO or AFTA, cabotage is widely practiced in the world and those few nations which do not have a cabotage regime, such as the United Kingdom and Belgium, do not in general have a domestic shipping task of note. Also, it may safely be said that Indonesia is quite a rare case in the world in that the country has opened a great number of ports, a total of 140, to international trade. In 15 or 20 years time, Asian regional shipping may become borderless under AFTA regime, but until such time, Indonesia still has the time to pursue its own development policy on inter-island shipping.

(3) Agency vis-à-vis shipping industry

As mentioned earlier, 82/1999 regulation required a general agent for a foreign ship operator to own cumulatively at least 5000 gross tons vessel capacity within the grace period of 4 years until this Autumn. It is however a common knowledge in the local shipping circle that only less than 250 agency companies, i.e. approximately 20% of total, would be able to satisfy this condition if it is actually implemented.

While agency side is still challenging the implementation of this article, INSA's (shipping side) official position is that the article should be implemented only after the grace period.

DGSC's department in charge seems to be groping for a compromise where only real shipping companies are allowed to remain as general agents. This may be a logical solution in the light of the article 9(1) of 1999 regulation, which reads that "foreign sea transportation companies - for international trade must designate national sea transportation companies - as general agents".

6.3.5. Main Problems

The followings are the main problems presently being attended by the DGSC:

Table 6.3.1 List of Main Problems Presently Being Attended by the DGSC

Main Problems	Possible Counter Measures
Lack of capital	-
Not sufficient fiscal and credit incentives	Fiscal incentives: ・ Exemption of corporate revenue tax ・ Exemption of ship crew's revenue tax ・ Tax reduction to exporters and exporters which use Indonesian flag vessels
	Credit incentives ・ Provision of low/special loan for merchant fleet development ・ Provision of investment credit for foreign exchange producing industry.
Shipping industry not supported by banks	Establishment of non-bank financing/funding institution to provide and distribute low lending rate for national merchant fleet development
Terms of trade	Export: C&F / CIF, Import: FOB
Ship cannot be used as collateral in the ship procurement process through lease or hire purchase scheme.	Ratification of Int'l Convention on Mortgage Law.
No partnership between shippers/cargo owners and carriers /shipowners.	Realization of long tern contract
Misperception: shipping is only a supporting business to trade	Develop perception : an industry that has to be sustained and developed
Too many ports (140) open for int'l trade : an obstacle in implementing cabotage principle	Review policy to open 140 ports.
Limited port facilities / services	Develop facilities, improve services

6.4. Comparative Study on ASEAN Shipping

(1) Ship Registration

Ship registration has been understood as a vehicle for pursuing national shipping policy

objectives. And for this reason, certain level of differences are observed on a per country basis in the regulatory requirements related to ownership, crew nationality and in such policies such as second register and bare-boat chartering with purchase option.

(a) Ownership

Ownership restriction has taken many forms. Prescribing the maximum level of foreign equity is one way. The Philippine register, for example, requires a ship to be owned or chartered by Philippine citizens or by a corporation with a minimum of 60% national ownership.

In the case of Malaysia, a corporation is required to fulfill the following conditions in registering its ship as of Malaysian flag:

- The corporation's principal place of business is in Malaysia,
- The majority shareholding including the voting share of the corporation is held by Malaysian citizens free from any trust or obligation in favor of a non-Malaysian.
- At least three-fifth of the total number of directors in the corporation are Malaysian.

In the case of Singapore, citizens / permanent residents of Singapore and companies incorporated in Singapore can be registered as owners of Singapore vessels. There is no restriction on the share of foreign ownership at all. In the case of a corporation in which more than 50% of its equity is owned by non-citizens of Singapore (i.e., "foreign owned company"), the corporation must have a paid-up capital of a minimum sum of S$50,000 or at least 10% of the value of the first vessel registered under its ownership, whichever is higher.

In the case of Indonesia, the Decree of the Minister of Communications stipulates that "Vessels which can be registered in Indonesia shall be either those owned by Indonesian citizens or Indonesian statutory bodies."

(b) Crew nationality

The registration of the Philippines (and of India, Pakistan, Viet Nam) provides for crewing only by its nationals. (Islamic Republic of Iran requires a minimum of 50% of the crew to be Iranian after the fourth year of registration.)

Malaysia allows foreign nationals to serve on Malaysian ships provided they have a permit obtained from the Marine Department. In Malaysia's case, the foreign crew dispensation reflects a severe shortage of seamen.

Singapore regulation stipulates that owners may engage officers and crews of any nationality on board a Singapore ship so long as they meet the standards laid down in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended.

In Thailand, Minister Regulation No.8 of 1997 stipulates that more than 50% of crew members on board a Thai-flag vessel for oceangoing shipping should be Thai-nationals. However, for a period of 5 years after the effective date of this

regulation (October 21, 1997), the ship owners who are unable to satisfy this condition, may be given the Minister's permission to continue the operation of the vessels with minimum 10% of national crew on board.

Indonesia flag ship has to be manned by Indonesian citizens, though the government may permit exception.

(c) Vessel age

Malaysia has set age limit for vessels that may be registered as a Malaysian flag anew. Namely, the age limit for tankers is set as "15 years and below", and for non-tankers "20 years and below".

(d) Second (or International) Register

Second register arose as a response by developed countries to such development that their fleets were flagged out to open registries in pursuit of better competitiveness. Second register generally has most of the characteristics of open register, i.e. crew flexibility and access to more beneficial taxation regime. The two largest second registers are the Norwegian International Ship Registry and the Danish International Ship Registry, followed by the registries of Germany, the United Kingdom, France, and Portugal.

In Asia, there are two countries that have introduced second register, i.e. Republic of Korea and Malaysia.

The Republic of Korea passed legislation for the second register in 1997 with the object of improving the competitiveness of Korean shipping.

Malaysia also passed legislation introducing the Malaysian second register in 1997. The features of the Malaysian second register are as follows:

- The corporation owning the vessel must be incorporated in and have an office in Malaysia.
- The corporation can be foreign owned, but if listed on the Kuala Lumpur stock exchange, then 30% of shares must be reserved for Malaysian nationals.
- The ship manager must be a Malaysian citizen or corporation.
- The corporation must have a paid up capital share of 10% of the value of the ship or RM one million, whichever is higher.
- Tankers or bulk ships must be less than 15 years old, and other ships less than 20 years.

(e) Bare-boat charter with purchase option

In the Philippines, any foreign-owned vessel under charter or lease to a Philippine national and satisfying certain criteria may be issued with a temporary certificate of registration, on the following conditions:

- The charter or lease is valid for a period not less than one year.
- The registered vessel is manned entirely by Philippine crew.

- The ship operator can charter up to 7 vessels for each owned vessel.
- The ship owner is required to increase the paid up capital and produce proof of management and operational control of the bare-boat chartered vessels.

Singapore Merchant Shipping (Registration of Ships) Regulations (Part IV) provides for the registry of bareboat charter ship. Any person (company) who is qualified to own Singapore ship can apply for the registry of bareboat charter ship just by showing a certified copy of the charter party showing:

- the name of the ship,
- the name of the charterer and the name of the owner of the ship,
- the date of the charter party, and
- the charter period.

There is no restriction on crew nationality or duration of the charter.

(2) Fiscal Regimes to Promote Fleet Development

Fiscal support measures can relate to the acquisition of tonnage and to the operation of such tonnage. Governments in Asia and elsewhere have used fiscal support measures as policy tools for the development of national fleets, and each country has its own justification in doing so.

The followings are some of the methods of ship financing schemes.

- Soft loan from a state-run bank or a quasi-governmental financial institution
- Commercial banks
- Loan guarantee
- Subsidies and shipyard credit for acquisition and construction of a ship
- Bareboat chartering program with purchase option
- Leasing (Finance lease)

Countries in Asia-Pacific region are often confronted with scarcity of funds and relatively weak financial infrastructure. Private shipping companies in the region are often unable to raise funds in the local market and have to look for overseas loans to finance purchasing ships.

(a) Soft loans

Countries in ASEAN region have shown interest in the establishment of a quasi-governmental development bank or a maritime bank. Malaysia, Philippines and Thailand each have this kind of soft loan system in various forms.

Malaysia. Malaysia has adopted a policy position that the country needs to quickly increase its national fleet with the view to reduce its dependence on foreign flag vessels. In the effort to achieve this policy objective, two strategies have been applied. One is the setting up of a bank, Bank Industri, to offer loans to local shipowners at a reasonable interest rate. The other is the establishment of the Shipping Fund.

Bank Industri was the first bank in Malaysia to move into financing related to shipping industry. Its core business is the financing of ships, shipyards and maritime-related activities. The government allocates funds to Bank Industri through its 5-year plan.

The government created a National Shipping Fund in 1992 with an allocation of RM 800 million in the form of a Shipping Venture Facility (RM 500 million) and a Shipping Finance Facility (RM 300 million).

The Fund received a further allocation of RM 400 million in 1996 bringing the total fund provided by the government to RM 1.1 billion.

A further allocation of RM 1 billion was announced by the government in October 2000 for the 2001 budget. In terms of this last RM 1 billion, in February 2001, Bank Industri proposed on its own initiative that allocation be made as follows:

Table 6.4.1 Bank Industry's Fund Allocation

Fund for	Year			Total
	2001	2002	2003	
Shipping	300 m	300 m	300 m	900 m
Shipyard	50 m	50 m	-	100 m
Total	350 m	350 m	300 m	1 bn

Source: Lloyd's List Maritime Asia, October 2001

Other features of the proposal by the Bank are that shipping companies seeking loans from the Bank must be 100% Malaysian-controlled, or if public listed, at least 70% Malaysian controlled. Bank Industri has also proposed that borrowers be categorized into three groups based on financial risks and related factors. For vessels built locally, companies rated with "A" risk will pay interest at 5.5%, while those rated "B" pay 6% and the "C" rated pay 6.5%. For vessels built overseas, the interest rates will be 6% for "A", 6.5% for "B" and 7% for "C". Terms of loan are extended to borrowers up to 75% of project cost.

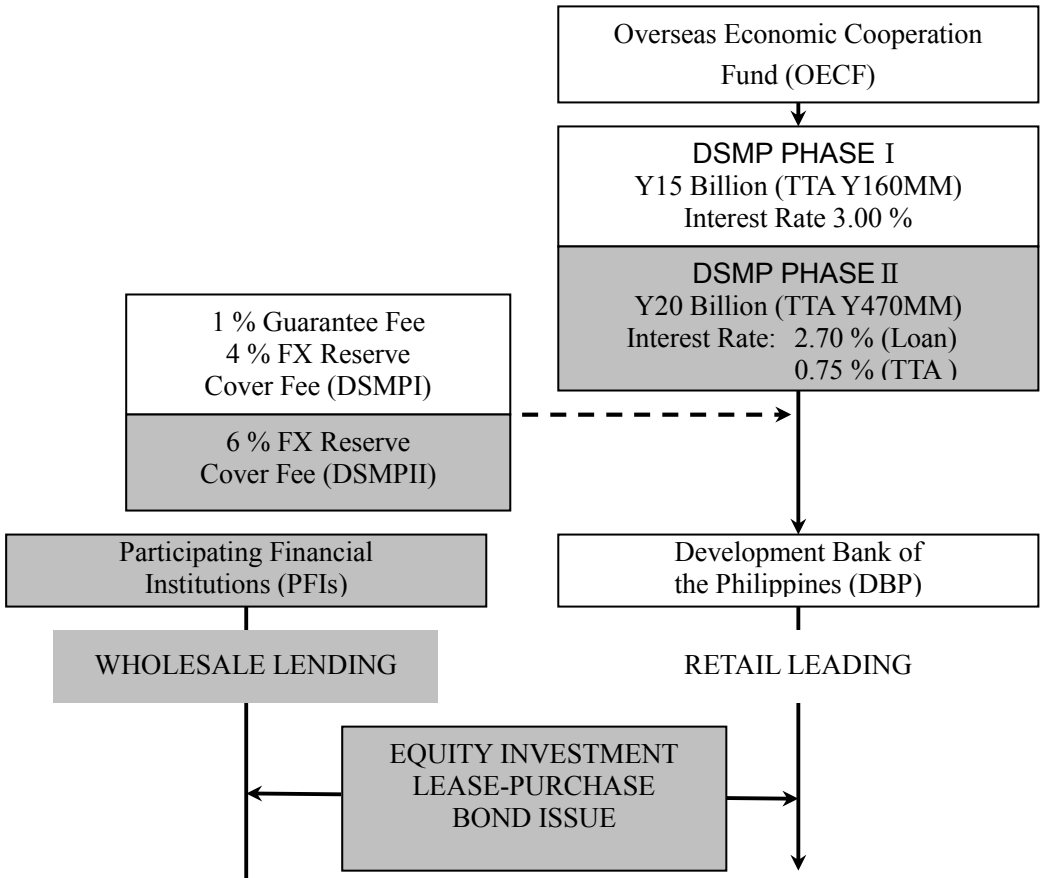
Shipyard loans will be offered at 6%. The Bank has indicated that the financial assistance will be for the acquisition of new and second-hand vessels registered in Malaysia and plying domestic and foreign trades. Considerations will be given to specialized vessels and those constructed at local yards. For second-hand vessel financing, the age of the vessel must not exceed 17 years at the end of the payment period.

Philippines (Two-step loan based on OECF fund). The domestic shipping modernization programme in the Philippines is a financing scheme to promote the efficiency and safety in the domestic shipping industry through the Development Bank of the Philippines (DBP), the executing agency of the programme.

The programme is designed to support investment in domestic shipping and shipping related companies which intend to modernize their operations through the replacement of their aged vessels and the renewal of related equipment. The loans are provided through a credit facility established by the Overseas Economic Cooperation Fund (OECF), a Japanese quasi-governmental institution. (The OECF has been reorganized

into the Japan Bank for International Cooperation, or JBIC.) The OECF (JBIC) has extended a credit facility denominated in Japanese yen to the DBP as the re-lending bank, which in turn lends to eligible borrowers. Such borrowers would be companies engaged in domestic shipping and shipping-related industries. Although the OECF (JBIC) lends the money to the DBP in Japanese yen, the DBP lends to the Philippine borrowers in Philippine Pesos. Thus the scheme is dubbed the two-step loan. (Refer to Figure 6.4.1)

Figure 6.4.1 Overall Framework of Philippines' DSMP



END USER (Maritime Enterprises)	INTEREST RATE TO END USER
• Domestic Shipping • Shipbuilding and Repair • Port Facility Excluding Construction of Wharf	**PHASE Ⅰ** • WAIR – 2 % but not less than 12 % Fixed • WAIR – 2 % but not less than 12 % Variable (for OIP)
• Developmental Projects in Rural Areas • Construction or Rehabilitation of Wharf • Maritime Education and Training Institutes	**PHASE Ⅱ** • 14 % for Developmental Projects • 16 % for Other Projects

Source: DBP 2000

Thailand. The shipping fund established by the Government of Thailand totaling Bahts 8 billion has helped shipowners to purchase eight ships. The loan facility is provided by the Bank of Thailand and the two managing authority of this loan are the Export and Import Bank of Thailand (EXIM Bank) and IFCT (Industrial Finance Corporation of Thailand). The interest rate of the loan has been set at 7.0%. It is reported that the fund has been used up as of the end of 2000.

(b) Commercial bank loans

In the case of a commercial loan, a bank usually demands the first mortgage on the ship as collateral or security for the loan. The loan amount would normally not exceed 80% of the purchase price of a new vessel and is often around 50%. The loan period is around 8–15 years with a certain grace period and semi-annual repayments. In introducing finance from overseas banks, ratification by the borrowers' country of the international convention on liens and mortgages may prove a necessary prerequisite.

(c) Bare-boat charter with purchase options

Bare-boat charter may be a less expensive option in vessel acquisition, particularly for developing countries. Local operators may require governmental support by way of guarantees if purchase option is included in the charter party. For example, in the Republic of Korea, bare-boat charter with purchase option contributed to the increase of the number of vessels in the national fleet in 1970s and 80s.

In the Philippines, the development and maintenance of a national fleet which could participate in international trade of the country has been hampered by the problem in financing the acquisition of ships. In 1976, the government extended its bare-boat chartering program applicable to domestic shipping to international shipping.

Here again, ratification of international convention(s) of liens and mortgages would prove necessary prerequisite in realizing the contract of bare-boat charter with purchase option.

(3) Taxation

(a) Corporate income tax

In Singapore, profits derived from the operation of a Singapore ship are exempt from Singapore income tax. The exemption applies to income derived from the carriage in the international waters of passengers, mails, livestock or goods, and includes income derived from the charter of the ship. These profits are available for declaring dividends and the exemption carries through to the shareholders of the holding company.

Also in Malaysia, shipping companies in international business are exempt from corporate income tax, and dividends paid out of the exempt income are also tax free.

In Thailand, corporate income derived from the operation of Thai-flag vessels in the international trade is exempt from income tax.. (Since 1997, this exemption has been introduced.)

In the Philippines, exemption from income tax is applied on income derived from oceangoing shipping for ten years (May 1992-May 2002) subject to the following conditions:

- If 90% of the net income is reinvested for the building, purchase, or acquisition of ships and related equipment and/or improvement of the ships or related equipment.
- The said investments are not withdrawn for a period of 10 years after the expiration of income tax exemption.

(b) Import duties

Import duty can significantly affect the initial acquisition cost of a ship. Import duty concession is, therefore, one of the major fiscal measures utilized by developing countries where there is limited capability of shipyards in building new vessels. Some of the examples of the duty concession are as follows:

- Thailand: Exempt for the import of a vessel over 1000 gross tons. (In October 1996, the government decided to introduce this exemption.)
- Malaysia: Exempt for the import of a vessel over 4000 gross tons. (30% levied on a ship less than 26 gross tons, 10% levied on a ship of 26 – 4000 gross tons.)
- Philippines: Exempt for the import of a ship for oceangoing shipping.

And the exemption from import duties has been extended to the domestic shipping industry under the Investment Priorities Plan of the Omnibus Investment Code of 1987.

(4) Cabotage policies

Malaysia has retained Cabotage, but, from a strategic stand point, the government has lifted the cabotage policy for Penang and Port Klang route so that foreign shipping lines are allowed to carry cargoes between the two ports as a part of its international carriage. The move is designed to allow foreign shipping lines to transship cargoes at the local ports.

In Thailand, domestic shipping is reserved for domestic service suppliers. A vessel to be used in domestic shipping must be owned either by a Thai national or a juristic person incorporated under Thai law with at least 70% of Thai equity. The ship duly registered under this category may also be employed in international shipping if it meets safety standards and other standards relevant to international shipping. Thai vessels engaging in domestic trade must be 100% Thai citizens. Employing foreign vessels in domestic shipping may be allowed under certain conditions on a case-to-case basis.

The Philippines also has retained cabotage regime. Although the movements to liberalize the cabotage laws had been persistent for more than a decade, local shipping operators have been stubbornly resistant against them. Citing the 40-year old law that defines domestic shipping as a public utility service reserved solely for Filipinos, local shipowners were able to prevent any relaxation of the cabotage laws.

In 1998 and 1999 Congress, there occurred movement to have the old Public Service Act amended to make it consistent with the Philippine's policy of trade liberalization. And even in the middle of 2000, the Foreign Chamber of Commerce of the Philippines called for the lifting of the Philippine's cabotage laws to lower the costs of shipping in the country. Philippine Inter-island Shipping Association (PISA) countered this movement by urging the government to grant them the same tax incentives enjoyed by foreign shipping firms if local cargo rates were to be competitive. The Association asserted the groups proposing the entry of foreign vessels in the local trade misled the public by comparing domestic shipping costs with the international routes' without explaining the factors that pushed up rates in the Philippines.