RECENT AMENDMENTS IN MERCHANT MARINE POLICY

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It is fact that the Pakistan Merchant Marine Policy 2001 provided a good base for the attraction of private investment in Shipping Sector. But, it remained challenging to attract private investment in shipping sector due to many reasons. Recently, the Government of Pakistan has extended exemptions from general sales tax and customs duty on import of ships from 2020 to 2030, along with some other amendments vide ***S.R.O No.2(5)/2017.Estt.*** dated 15 November 2019. Majority of these amendments are good to promote home shipping under Pakistani Flag. Whereas, there are still some outstanding issues which need to be addressed.

As per amendments, now the new Pakistan resident ship-owning companies would pay tonnage tax of $0.75 per gross register tonnage (GRT) annually for the first five years of the shipping operations. No direct and indirect taxes would be levied on ship-owning companies during the exemption period and Pakistan flag vessels have got priority berthing facility at all Pakistani ports. PNSC's interests are protected regarding cargo preference in accordance with Section 77 of the Merchant Shipping Ordinance 2001, Para 8 of the Pakistan Merchant Marine Policy 2001 and in light of the Cabinet and ECC decisions made from time to time. For this, more or less all government related imports of hydrocarbon cargoes (including Mogas, HSFO, ISFO, HSD, LPG, Crude Oil and Coal) will now be on FOB basis through PNSC owned vessels or PNSC chartered vessels except for existing Government to Government (G2G) bilateral import agreements on C&F basis. Now, as per UN's mandated 40:40:20 rule, at least 40 percent of the cargo need to be shipped through PNSC owned or PNSC chartered vessels against these existing G2G agreements, and all renewed as well as new G2G bilateral LNG imports will be negotiated on FOB basis.

The most significant amendment is the FOB instrument which will definitely help Pakistan in saving Foreign Exchange (FE) as there are examples of many Governments who tried to assist their home shipping by requiring imports be FOB and Exports be shipped CIF. However, this is difficult to implement as too much restriction to freedom of choice of carrier is likely to discourage trade. Many governments support their shipping through affirmative action. Biggest champion of capitalism USA protects its Merchant Marine through Jones Acts which mandates all Merchant ships employed in internal trade be on US flagged and built ships and with American crew. Japan has recently given tax breaks to its Shipping, Korea has provided US$ 5.7B, Taiwan 1.7B and China 1.3B to their respective sectors. In this backdrop, a success story is of Ethiopia which is a Land locked country and has now a bigger fleet than Pakistan. Some of the details are; a FOB directive was issued by the National Bank of Ethiopia in May 2000 that Sea Transport for every import should be done by the country's carrier. In Ethiopia, It is the buyer that pays the freight. But the directive applies to those imports for which FE is paid. For those imports for which FE is not paid, importer is free to engage any shipping line. This FOB directive has helped to save FE in Ethiopia.

However, these policy based incentives and FOB requirement need to be safeguarded in the context of annual practice of Finance Bill and ECC's time to time decisions. It is a bitter truth that the Government of Pakistan re-adjusted some of the incentives in 2013 thus it had a negative effect on induction of new ships even by PNSC also. This change in duties promised as incentives for 20 years in capital intensive industry was harmful to Pakistan's Maritime Industry as a whole. That is why, there has been no induction of any new tonnage in the national maritime fleet by private sector. Many stakeholders attribute the lack of interest on the part of the private sector as changing policies hardly ever materialized in the whole-hearted manner, and S.R.O. is very weak instrument.

The GRT based taxation is being considered irrational particularly in the context of a small company with limited annual operations. Ship registry procedure still has outstanding issues of close register and cumbersome process. Like Flag of Convenience (FOC) states, Pakistan needs to put in place an open registry which would be critically important for the attraction of private sector and foreign investment as the existing ship registry doesn't allow foreign individual to get registered a ship with his/her name in Pakistan and requires Pakistan based principal / head office for the companies.

To conclude, recent amendments are satisfactory to an extent and largely effective in the context of government owned shipping operations. But, for private ship owning, it would be wise step by Government of Pakistan to promulgate new versions of the Pakistan Merchant Marine Policy 2001, the Merchant Shipping (Registration of Ships) Rules 2002 vide S.R.O. 30 (KE)/2003 and Pakistan Merchant Shipping Ordinance 2001 (MSO, LII of 2001) by taking into account all outstanding issues.

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