

# New Indonesian Maritime Law at a Glance

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## Under the Surface

On 28 October 2024, Law Number 66 of 2024 (the “**2024 Maritime Law**”) was enacted as the third amendment to Law Number 17 of 2008 on Maritime Affairs, which had previously been amended by Law Number 11 of 2020 on Job Creation, but that amendment was later repealed by Law Number 6 of 2023 on the enactment of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation as Law (the “**2008 Maritime Law**”).

The enactment of this new maritime law was driven by the rapid developments in maritime transportation, necessitating updates to align with the 2008 Maritime Law and address the evolving needs, challenges, and legal requirements and developments within the Indonesian maritime sector. The primary objectives of this amendment are to strengthen the cabotage principle including affirming Indonesia’s maritime sovereignty, to create an efficient and cost-effective logistics framework, to empower local shipping industries, to enhance competitiveness in the Indonesian shipping sector, to improve the Logistics Performance Index (LPI) within port operations, and to clarify institutional roles within the maritime sector.

The 2024 Maritime Law introduces significant changes, including the application of cabotage principles favouring national maritime transport, regulations on related service businesses, port service fees, cost efficiency in logistics, support for local shipping industries, pioneer shipping services, the fulfilment of public service obligations, the provision of infrastructure and facilities for pioneer shipping, maritime environmental protection, port operations, institutional oversight and law enforcement within the maritime sector, ship detention procedures at ports, strengthened criminal penalties, and provisions on transitional regulations.

## Highlights of the 2024 Maritime Law

The 2024 Maritime Law introduces amendments and incorporates new provisions impacting multiple aspects of the Indonesian maritime industry. For the purpose of this article, our discussion will be limited to select aspects, which we deem of critical importance:

### 1. Update on Applicability of Cabotage Law: Limitation on Foreign Maritime Transportation Activities in Indonesia

Article 29	
2008 Maritime Law	2024 Maritime Law
(1) In order to obtain a maritime transport business license as referred to in Article 28 paragraph (1), the Business Entity must own a vessel registered under the Indonesian flag with a minimum size of GT 175 (one hundred seventy-five Gross Tons).	(1) In order to obtain a business license for maritime transport as referred to in Article 28 paragraph (1), the Business Entity must own a vessel registered under the Indonesian flag with a size of GT 175 (one hundred seventy-five Gross Tons) at the lowest.

## Article 29

2008 Maritime Law	2024 Maritime Law
<p>(2) An individual Indonesian citizen or a Business Entity may cooperate with a foreign maritime transport company, a foreign legal entity, or a foreign citizen in the form of a joint venture by establishing a maritime transport company that owns at least 1 (one) vessel registered under the Indonesian flag with a minimum size of GT 5,000 (five thousand Gross Tons) and is staffed by a crew of Indonesian nationality.</p>	<p>(2) A Business Entity specifically established to conduct maritime transport activities, the shares in which are all owned by Indonesian citizens, may cooperate with foreign maritime transport companies and form a joint venture company for maritime transport activities, provided that the majority of the shares are held by the Business Entity specifically established for maritime transport activities. Additionally, the joint venture must own and operate vessels registered under the Indonesian flag with a size of GT 50,000 (fifty thousand Gross Tons) per vessel at the lowest and crewed by Indonesian nationals.</p>

- ### No Individuals and Limitation for Foreign Parties

Pursuant to the 2008 Maritime Law, Indonesian individuals and/or foreign nationals (individuals or foreign entities) were permitted to establish joint venture companies for conducting shipping business within Indonesia and could obtain the requisite Maritime Transport Business License (*Surat Izin Usaha Perusahaan Angkutan Laut*, or “**SIUPAL**”) (“**JV Shipping Company**”). However, under the provisions of the 2024 Maritime Law, such direct engagement by Indonesian individuals and/or foreign nationals (individuals or foreign entities) in the shipping sector within Indonesia is no longer permissible. Further, the 2024 Maritime Law expressly limits joint venture arrangements to foreign maritime companies, which may only form JV Shipping Companies in collaboration with Indonesian shipping businesses that have already acquired a SIUPAL. Regarding shareholding requirements,

the 2024 Maritime Law mandates that Indonesian shipping business entities must maintain majority ownership in the JV Shipping Company.

- ### New Size and Operating Requirement for Joint Venture Vessels

A more stringent limitation is reflected in the increased minimum vessel size requirement for JV Shipping Company. Under the 2008 Maritime Law, a JV Shipping Company was required to own at least one vessel with a minimum size of 5,000 GT. However, the 2024 Maritime Law now mandates that a JV Shipping Company must possess and operate vessels with an individual size of 50,000 GT at the lowest. In this regard, it is necessary to seek clarification from the government as to whether this provision effectively prohibits a JV Shipping Company from acquiring or operating vessels below the 50,000 GT threshold.

- ### Grandfather Clause

While the new restriction may seem challenging, the regulation includes an interesting “grandfather clause” whereby the abovementioned provisions come into effect 1 (one) year from the date of its promulgation, meaning that it will come into effect on 28 October 2025. It can be interpreted that during this grace period any existing JV companies engaged in the Indonesian shipping industry may retain their status quo status and perform necessary corporate actions including the purchase/acquisition of a new vessel measuring below 50,000 GT but above 5,000 GT.

### Exemption for Joint Ventures Special-Purpose Marine Transportation in Industry and Mining

One notable feature of the new Indonesian maritime legislation is that the 2024 Maritime Law now has provisions expressly related to the industry and mining sectors holding a Special Operation Marine Business Permit (“**SIOPSUS**”). Under this law, SIOPSUS holders operating in these sectors must own and operate vessels with a size of 50,000 GT at the lowest.

However, the law grants an exemption, permitting existing companies engaged in those businesses to continue operations without being subject to the new requirements, provided they do not amend their articles of association, alter shareholding information, modify shareholder structure, or acquire new vessels following the law’s effective date.

## 2. Pioneer Shipping

Pioneer shipping refers to water transportation services on routes designated by the government for serving areas or regions that have yet to be served, are underserved, or are no longer commercially viable for water transportation. The 2024 Maritime Law introduces a new requirement for both central and regional governments (the “**Governments**”) to provide pioneer shipping services for passengers and/or goods, with all associated costs covered by the Governments. The implementation of pioneer shipping can be carried out by (a) assignment to state-owned enterprises or (b) through procurement involving national maritime transport companies. The national maritime transport companies will receive compensation from the Governments for providing pioneer shipping services and permitted to collaborate with local shipping businesses.

## 3. Related Services Business

Essentially, services related to water transport business encompass a wide range of activities: cargo loading and unloading, freight forwarding, port water transportation, leasing of maritime transport equipment, independent tally services, container depot management, ship management, brokerage for ship sale and rental, ship manning agencies, ship agency services, and ship repair and maintenance. The 2024 Maritime Law introduces a new concept, allowing these related services to be conducted in cooperation with foreign maritime transport companies, foreign legal entities, or foreign nationals.

## 4. Port

In relation to port operations, two key distinctions have been introduced under the 2024 Maritime Law. First, the previous structure of port management, which consisted of port authorities and port management units, has been revised. These two entities have now been consolidated into a single category referred to as the “Port Operator,” which is further divided into those managing commercial ports and those managing non-commercial ports.

Second, the determination of tariffs for port services provided by the government is now governed by a government regulation and classified as Non-Tax State Revenue

(*Penerimaan Negara Bukan Pajak*). Additionally, the tariff-setting process for port services operated by business entities will be governed by government regulation, while the tariff rates for such services will ultimately be determined through agreements between the business entity and the relevant associations. It is important to note that the government regulation outlining this tariff determination is still forthcoming.

## 5. Maritime Environmental Protection

The 2024 Maritime Law redefines maritime environmental protection as all efforts made to prevent and address pollution and/or environmental damage in marine waters caused by activities related to maritime operations. This provision also carries a more repressive tone, mandating that specific procedures and requirements must be met for activities including (a) port operations; (b) ship operations; (c) the transportation of waste, hazardous, and toxic materials in waters; (d) the disposal of waste into waters; and (e) ship dismantling. The responsibility for implementing maritime environmental protection remains with the government, but now includes the additional phrase “environmental damage” as part of its obligations in maritime environmental protection.

## 6. Ship Arrests

The 2024 Maritime Law retains the provision that a court order for ship arrests in civil matters related to **maritime claims** can be carried out without the need for a lawsuit process. However, it is noteworthy that the 2024 Maritime Law removes the provision which previously stated that ship arrests would be further regulated by a ministerial regulation. Additionally, new provisions clarify that ship arrests by the courts, in both criminal and civil matters, will be conducted in accordance with the applicable laws and regulations.

## 7. Maritime Court

While the Maritime Court was already established under the 2008 Maritime Law, the 2024 Maritime Law specifies its functions, which include: (a) conducting further investigations into maritime accidents; (b) enforcing the professional code of ethics and competencies of the captain and/or officers of the ship; (c) conducting investigations of operators, ship owners, and authorized officers who are connected to the causes of maritime accidents; (d) imposing administrative sanctions on the captain, officers, operators, ship owners, and/or officers found to be at fault or negligent in causing a maritime accident; and (e) mediating the resolution of disputes related to maritime labor agreements. Furthermore, the 2024 Maritime Law states that the Maritime Court has jurisdiction to conduct further investigations into maritime accidents involving Indonesian-flagged ships, whether they occur within or outside Indonesian waters, as well as foreign ships involved in accidents within Indonesian waters.

## 8. Maritime Supervision

Under the 2024 Maritime Law, the provisions regarding the roles of maritime and coast guards have been replaced by the Minister of Transportation, who is now responsible for overseeing and enforcing regulations within the maritime sector. In carrying out these duties, the Minister of Transportation performs the following functions: (a) supervising the implementation of regulations related to maritime safety and security; (b) supervising the implementation of regulations in the field of water transportation; (c) supervising the implementation of regulations related to port operations; (d) supervising, preventing, and addressing maritime pollution and/or environmental damage; (e) supervising and regulating salvage operations, underwater work, as well as the exploration and exploitation of marine resources related to maritime safety and security; (f) supporting search and rescue operations at sea; and (g) supporting law enforcement activities at sea by other agencies in accordance with applicable laws and regulations. The enforcement of regulations in the maritime sector will be carried out by civil servant investigators in the context of investigations.

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*The article above was prepared by Dentons HPRP's lawyers*

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