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Refinements of existing concessions will go some way in anchoring S'pore's position as a leading global maritime hub

By TAN LEE KHOON and SANDEE SAW

Staying on top: *Singapore, which is one of the world's busiest ports, has managed to attract a diverse range of maritime businesses to establish operations here and its port continued to register good growth last year. The sector even achieved a few record highs in container throughput, cargo throughput and bunker sales volume*

THE depressed economies in many of the Western markets have impacted many industries, and the maritime sector is no exception. An industry driven by demand in export, the global shipping sector is feeling the squeeze from the slump in trade volumes.

A forecast by shipping consultancy Alphaliner states that growth in the Europe-to-Far East container fleet will slow to 1.5 per cent in 2012. Contrast this against container capacity – it is estimated that container vessel fleet will grow by 8.3 per cent in the same period. While the shipping industry has seen a slight increase in freight rates this year, the oversupply of capacity has kept rates low, and any profits would likely be eroded by the rising fuel cost. The overall less-than-buoyant outlook for the shipping sector means that maritime hubs such as Singapore will be facing stiffer competition for reduced shipping traffic and volumes.

In reality, Singapore is already one of the world's busiest ports. The maritime ecosystem here comprises over 5,000 companies and employs some 170,000 people, and contributes about 7 per cent to our economy. While Singapore is being recognised as one of the world's premier hub ports and international maritime centre, it is also up against the low-tax jurisdictions such as Bermuda, British Virgin Islands, Panama and Liberia, which do not impose tax on shipping profits and are thus popular locations for international shipping companies.

Yet, Singapore has managed to attract a diverse range of maritime businesses to establish operations here and its port continued to register good growth in 2011. The sector even achieved a few record highs in container throughput, cargo throughput and bunker sales volume.

All these did not happen without a vision or a plan, and there are several reasons Singapore maintains its appeal.

First, Singapore is strategically located with well-integrated and sophisticated maritime infrastructure and excellent physical connectivity, and is in close proximity to the growing Asian market. Ernst & Young's *Trading places – The emergence of new patterns of international trade* report highlighted that the Asia-Pacific region is set to experience the fastest growth in trade to 2020, and intra-regional trade will continue to be in demand.

Secondly, it has an extensive network of tax treaties, which the tax-haven countries do not have. Shipping is an international, highly mobile and capital-intensive business. The ability to access and claim tax treaty protection is an important factor in deciding the location of companies with international shipping operations.

Thirdly, Singapore has specific maritime tax incentives aimed at enticing those in this industry. These tax incentives have been continually enhanced and refined over the years to keep up with changing market conditions and business needs. In fact, it is a common trend in recent years for tax incentive schemes to have a sunset clause so as to provide an opportunity to review and refresh these incentives after a prescribed time frame. These enduring strengths are by no means reasons for complacency.

In the Budget announcement this year, the government introduced three new measures – or refinements to existing schemes – aimed at enhancing Singapore shipping industry.

Exemption of charter fees for use of ships from withholding tax:

Before 2012 Budget announcement, payments of time, voyage and bareboat charter fees to non-resident persons of Singapore for the use of ships were subject to withholding tax at rates ranging from 0 per cent to 2 per cent of the gross fee payable. Only companies enjoying the Maritime Sector Incentive-Approved International Shipping Enterprise (MSI-AIS) status were not required to account for withholding tax on such payments.

From Feb 17, 2012, payers of such fees will no longer be required to withhold tax, thus resulting in cost savings to the ship charterers as the tax if due is more often than not borne, directly or indirectly, by them. The exemption also removes the administrative burden of having to account for the withholding tax on a timely basis so as to avoid late payment penalties. The latter can go up to 20 per cent of the tax due.

Exemption of vessel disposal gains derived by qualifying shipping companies:

Singapore does not have a capital gains tax regime. What constitutes capital gains is, however, not statutorily defined. Therefore, whether a receipt is capital or revenue in nature is determined based on the facts and circumstances of each case.

Up to May 31, 2011, qualifying shipping companies may enjoy tax exemption on the gains from disposal of their vessels provided they opt in for the concession and abide by the conditions imposed. This concession, however, does not apply to all such gains and as far as is relevant in this context, gains from new building contracts or from vessels under construction, which are without provisional registration, are excluded.

With the 2012 Budget enhancement, qualifying shipping companies will automatically enjoy the tax exemption on the gains without having to opt for it as this will be covered under the Maritime Sector Incentives (MSI). More importantly, the scope of the exemption is extended to include gains from disposal of vessels under construction, including new building contracts. However, for a shipping company whose main business is that of a vessels trader, this exemption remains out of reach.

The enhancement removes the concern on the taxability of the gains on disposal of vessels under the prescribed circumstances.

Enhancement of the MSI-Maritime Leasing (Container) [MSI-ML (Container)] Award:

The above award has been further enhanced in the following ways:

◆ Automatic withholding tax exemption on interest and related payments on loans entered into to finance qualifying containers and intermodal equipment.

◆ Extension of the concessionary tax rate of 5 per cent or 10 per cent to income from the leasing of intermodal equipment (for example, trailers) which is incidental to the leasing of qualifying containers.

◆ Extension of the definition of "qualifying containers".

With the above enhancements, the MSI-ML (Container) Award is now on a par with other MSI schemes for international shipping operations and ship leasing. The certainty of withholding tax treatment will provide MSI-ML (Container) companies a level of assurance with respect to cash-flow projections and viability of their business while the extension of the types of qualifying income and qualifying containers would help promote the growth of container leasing business in Singapore.

Market watchers may be disappointed with the lack of significant tax changes for the industry. Ultimately, it's really a question of necessity. Perhaps it's a reflection of the confidence in the country's shipping sector. What is for certain is that these refinements of existing concessions will go some way in anchoring Singapore's position as a leading international maritime centre.

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