

Pros & Cons of Malaysian Flagging of Ships

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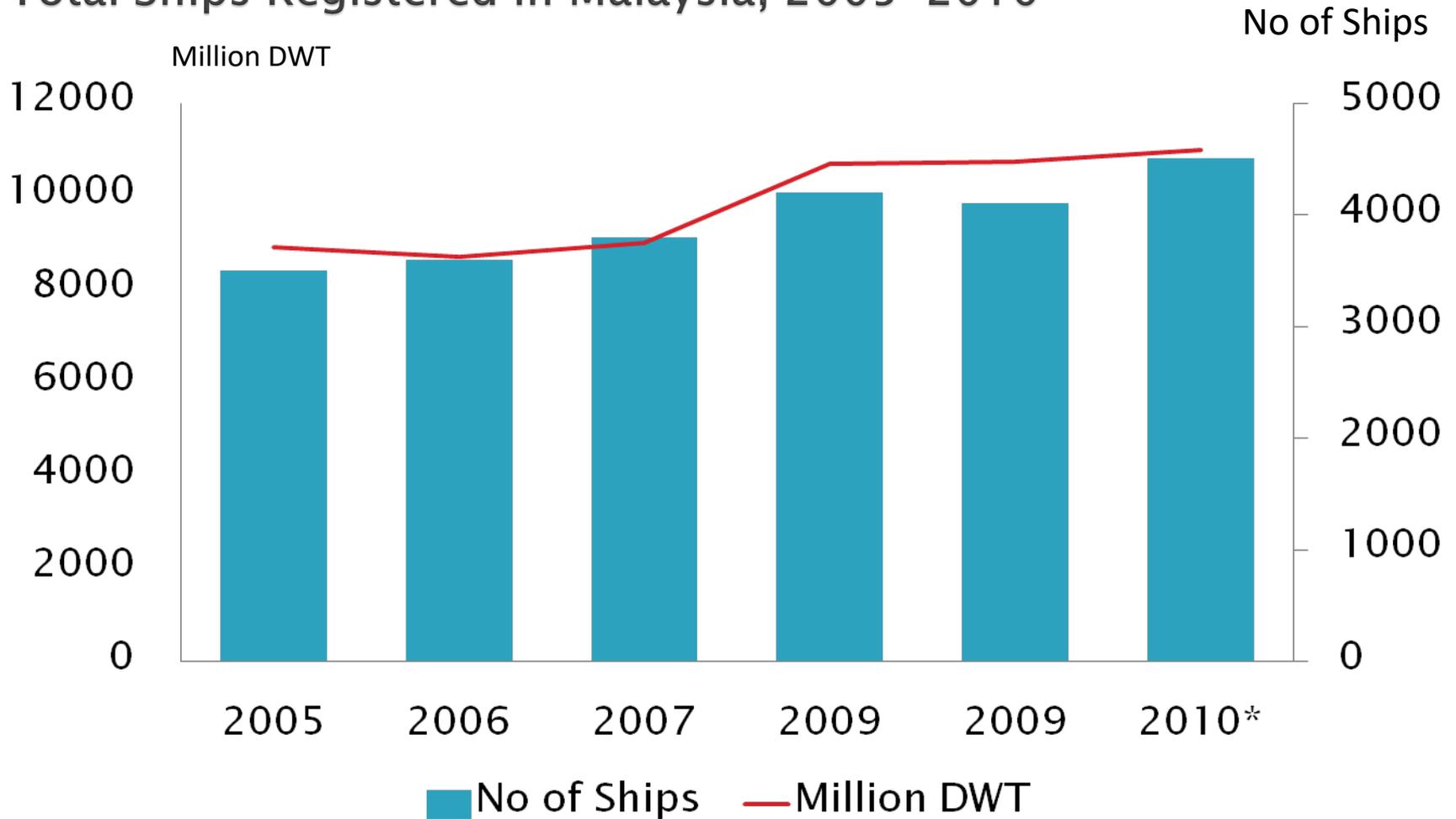
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Malaysian Fleet Size and Composition

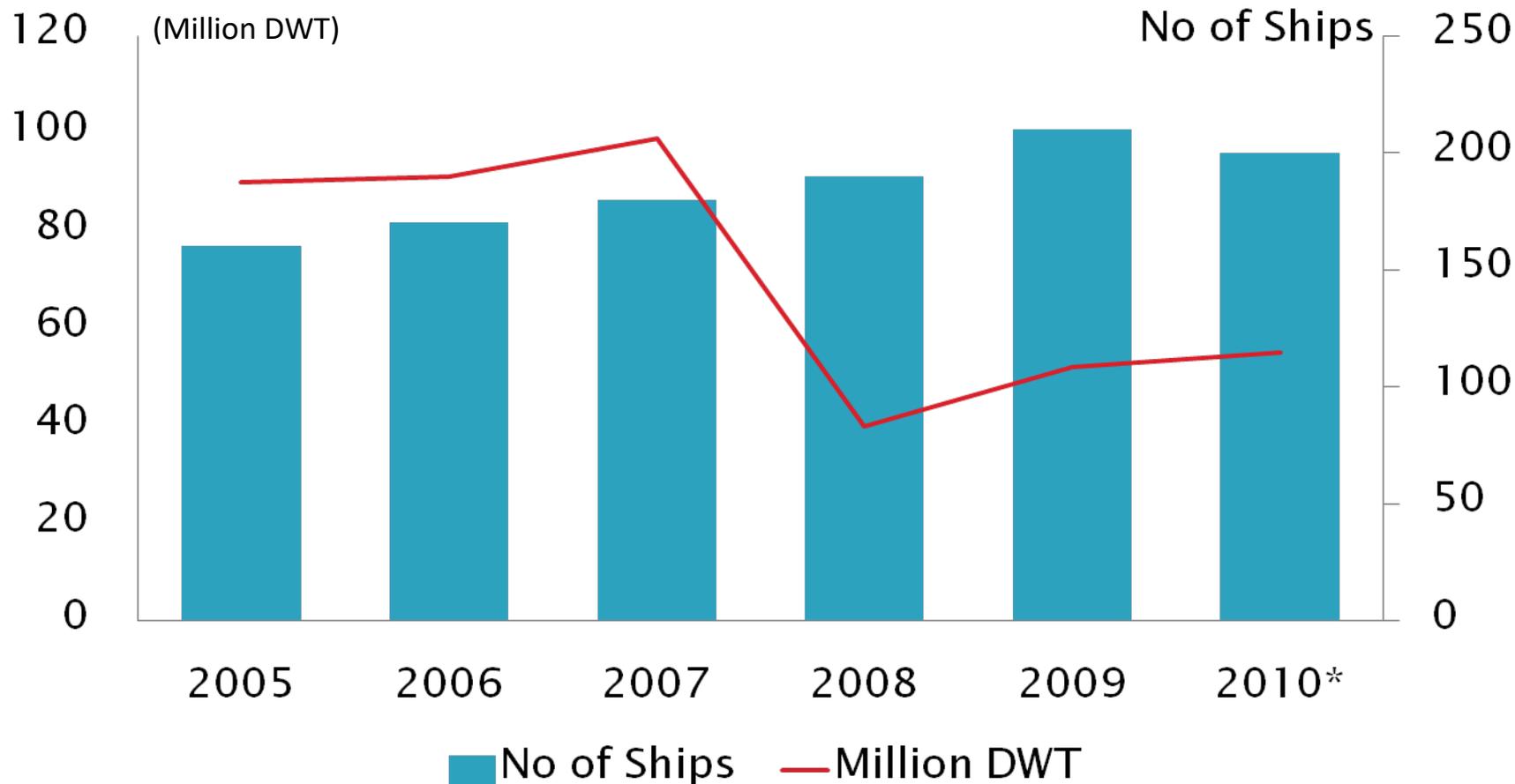
Total Ships Registered In Malaysia, 2005-2010



*Estimates
Source - MASA Maritime
Yearbook 2011 - 2012

Malaysian Fleet Size and Composition

Total Number of Anchor Handling, Standby, Supply Vessels Registered In Malaysia, 2005–2010



*Estimates
Source - MASA Maritime
Yearbook 2011 - 2012

Overview of Ship Registration In Malaysia

▶ **Malaysian International Ship Registry**

- ▶ Ownership: Majority foreign owned
- ▶ Corporation incorporated in Malaysia*
- ▶ An office in Malaysia
- ▶ Must appoint a ship manager who is a Malaysian citizen or a company incorporated in Malaysia
- ▶ Port of registry : Labuan
- ▶ Vessel > 1600 GT
- ▶ Vessel age:
 - < 15 years for tanker and bulk carrier
 - < 20 years for others

▶ **Note:**

- ▶ To qualify under LBATA, the shipping company must be incorporated or registered under Labuan Companies Act 1990.

Source : Labuan International Business & Financial Centre, www.labuanibfc.my

▶ **Malaysian Ship Registry**

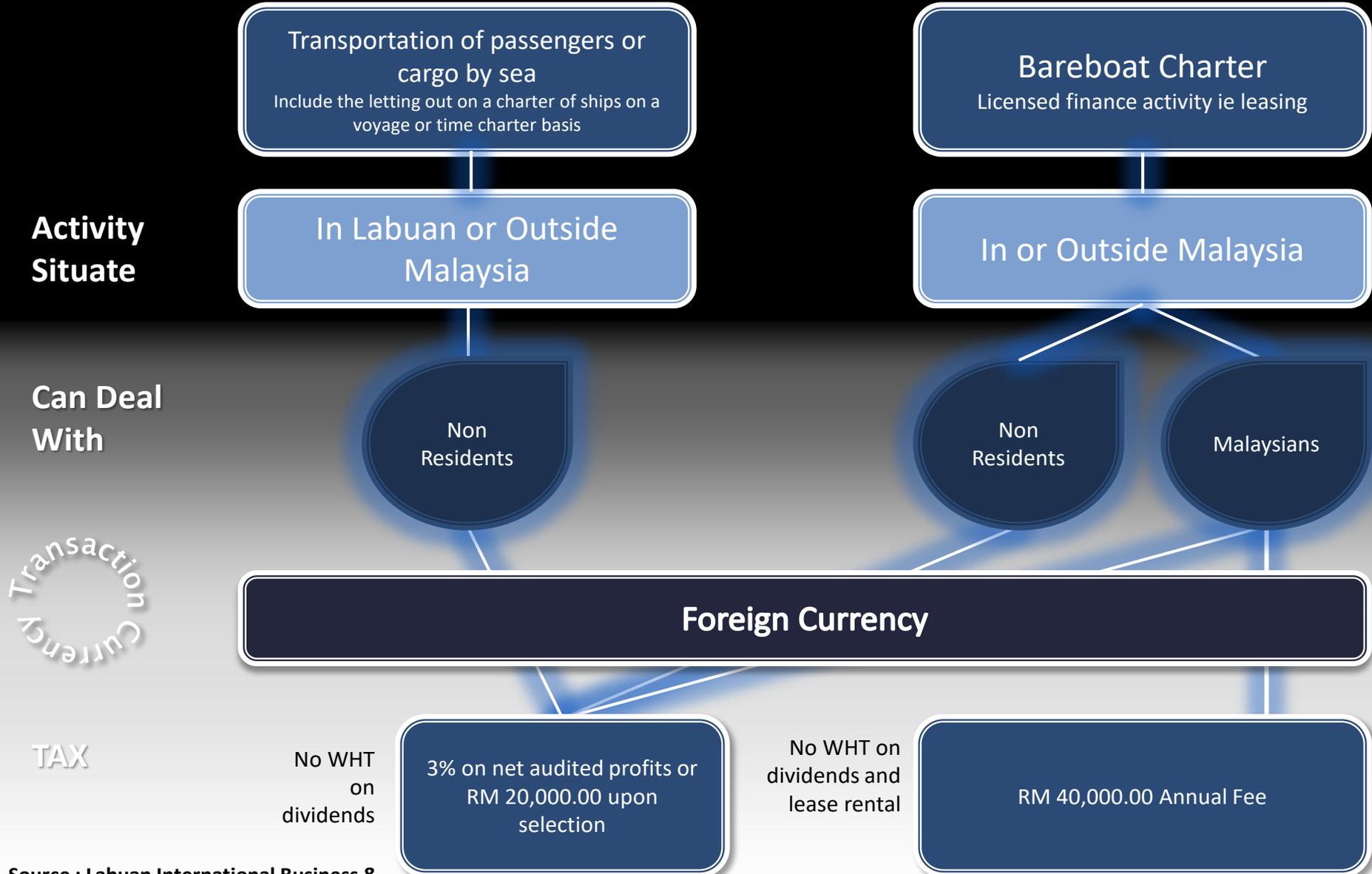
- ▶ S.11 MSO 1952
- ▶ Ownership: Majority Malaysian owned
- ▶ Corporation incorporated in Malaysia*
- ▶ Principal Office in Malaysia
- ▶ Management is mainly in Malaysia
- ▶ Majority Malaysian shareholders and directors
- ▶ Port of registry:
 - Port Klang, Penang, Kuching, Kota Kinabalu
- ▶ No restriction on tonnage (some are exempted from registration)
- ▶ No restriction on vessel's age except > 20 years need to submit additional reports.

Why MISR ?

- ▶ Shipping companies can form or incorporate a Labuan Company for the following purposes:
 - To conduct shipping operations through Labuan; or
 - Leasing business on a bareboat charter basis

Shipping Operations & Ship Registry

Shipping Operations Via Labuan (IBFC)



MISR

- ▶ Labuan is a free port island and was designated as Malaysia's International Business and Financial Centre ('IBFC') hub in 1990.
- ▶ The introduction of the Malaysian International Ship Registry ('MISR') is expected to develop Labuan's status as a major international business financial centre.
- ▶ The MISR is governed under Part IIC of the Malaysian Merchant Shipping Ordinance 1952. The Act provides the requirements for registering a ship or vessel under the MISR. The Labuan Marine Department, the regulated agency appointed by the government, is responsible for registration under the MISR.

MISR

- ▶ The Labuan Business Activity Tax Act ('LBATA'), 1990 recognises shipping operations as a Labuan business activity, provided the operations are carried out in Labuan and outside Malaysia. Therefore, any income derived from the shipping operations is eligible to be taxed at the preferential tax rate of three per cent from net audited profit or a flat rate of MYR20,000. In addition, all incentives under the income tax and stamp duty exemptions will be applicable to the Labuan company which carries out shipping operation activities.
- ▶ Section 2 of the Labuan Business Activity Tax Act ('LBATA'), 1990 recognise shipping operations in Labuan IBFC as the following:
 - a. the transportation of passengers or cargo by sea; or
 - b. the letting out on a charter of ships on a voyage or time charter basis;

Leasing Business

- ▶ Shipping companies may use the Labuan Company to conduct leasing business, provided the leasing business is conducted on a bareboat charter basis.
- ▶ Section 86 of the Labuan Financial Services and Securities Act ('LFFSA'), 2010 defines 'Leasing Business' as business of letting or sub-letting property on hire for the purpose of the use of such property by the hirer regardless of whether the letting is with or without an option to purchase the property, including charters of ships, and 'charters of ships' means bareboat charters only and does not include the transportation of passengers or cargo by sea or the charter of ships on a voyage or time charter.
- ▶ A Labuan Company carrying out leasing business can opt to pay three per cent tax from the net audited profit or a lump sum of MYR 20,000 for the taxation in Labuan.

Pros & Cons

▶ Pros

- Low registration fee including low initial registration fee and low annual tonnage fee.
- Low maintenance and operating cost.
- Shipping activities are exempted from paying income tax. Seafarers serving on board Malaysian vessels are also exempted from income tax.
- Ample financial facilities and other related shipping services are found in Malaysia or are easily accessible from Malaysia.
- Assurance of quality shipping standards.
- PSC Contracts. Petronas insists they will only use Malaysian flagged vessels.

▶ Cons

- Benefits do not extend to Tugs, Barges, OSV as s.54A(6) of the Income Tax Act 1967 excludes these vessels. Only sea-going vessels as defined by the MSO 1952 has the benefits.
- Salaries of Malaysian crew on board OSVs are not tax exempt, whereas their counterparts on ocean-going vessels are.

Comparison with Singapore Ship Registration

- ▶ Currently, the Singapore Register of Ships is the largest register on Asia and fourth largest in the world. Singapore is also the leading builder of oil rigs in the world.
- ▶ The Maritime Port Authority of Singapore, which oversees the development and promotion of the Singapore maritime industry, works closely with the local tax authorities to provide attractive tax incentives for the local shipping and oil rig industry

Source : Solutions for shipping companies
Opportunities in Singapore,
Pricewaterhousecoopers

Singapore Tax Regime

- ▶ The applicable corporate tax rate on a Singapore company's profits is 20%.
- ▶ Singapore has attractive tax incentives available to the shipping industry that exempt shipping income from tax.

Source : Solutions for shipping companies
Opportunities in Singapore,
Pricewaterhousecoopers

Tax incentives for the shipping and oil rigs industry

- ▶ **Automatic tax exemption for Singapore – flagged ships**
- ▶ Broadly, an owner or operator of a Singapore-registered ship is exempt from tax on qualifying income derived from the operating of chartering of such in international waters.
- ▶ There is no expiry date of this incentive as long as the ships continue to be Singapore-flagged and there is no requirement to apply for this incentive.

Tax exemption for foreign – flagged ships

- ▶ The Approved International Shipping Incentive (“AIS”) is a tax incentive to be applied for and available to resident companies which own or operate foreign flagged ships. To qualify for the AIS scheme, a company must substantiate that the control and management of its Singapore fleet will be based in Singapore and meet other quantitative qualifying criteria such as fleet size, head count and Singapore business spending.
- ▶ Under the AIS scheme, qualifying income from the international operation and chartering of foreign ships is exempt from tax for up to 10 years (with possibility of extension up to 30 years). In addition, withholding tax exemption is also available on charter payments to non-residents.

Ship leasing company

- ▶ Leasing income received by a qualifying ship leasing company will also be tax exempt.

Source : Solutions for shipping companies
Opportunities in Singapore,
Pricewaterhousecoopers

Marine Finance Incentive

- ▶ To further boost the ship financing sector, the Marine Finance Incentive (“MFI”) was introduced in the 2006 Singapore Budget.
- ▶ From financial year 2006, tax exemption will be granted on qualifying income for the ship investment vehicle (such as a ship leasing company, shipping fund or shipping trust), while the qualifying fee income of the ship investment manager (such as a fund management company or a trustee manager) will be taxed at 10%. Dividends distributed by the ship investment vehicle to both corporate and individual investor will be tax exempt.

Approved Shipping Logistics Scheme

- ▶ The Approved Shipping Logistics Enterprise scheme was launched in 2004 to encourage freight management and logistics companies to use Singapore as a base for the provision of ancillary logistic services.
- ▶ Approved companies would enjoy a concessionary tax rate of not less than 10% on incremental income from qualifying activities

Source : Solutions for shipping companies
Opportunities in Singapore,
Pricewaterhousecoopers

Block Transfer Scheme

- ▶ To encourage the flagging of foreign flagged ships as a fleet under the Singapore flag, the Block Transfer Scheme (“BTS”) was introduced as a volume discount scheme for ship registration fees, provided their primary registry elsewhere is suspended.
- ▶ BTS also provides for automatic exemption from withholding tax on interest paid on an overseas loan taken to finance those ships.

Oil Rigs

- ▶ Oil rigs involved in the exploratory work can now be registered as Singapore-flagged ships, thereby entitling the income from operating of chartering such rigs to Singapore tax exempt.
- ▶ Oil rigs to be used for production work which cannot be Singapore-flagged can benefit from the AIS tax incentive mentioned earlier for foreign ships.

Conclusion

- ▶ Malaysian Ship Registration seems to benefit only certain vessels. Unfortunately, OSVs are excluded, which makes no business sense especially when Malaysia is an Oil and Gas country and OSVs ought to benefit as well.
- ▶ Although MISR has extended this to foreign company ownership but main benefit is the Petronas requirement
- ▶ Singapore appears to be very competitive. Not surprisingly many Malaysian companies are looking at other registries. With the recent disposal of the MISC inner fleet, the Malaysian tonnage for 2011/2012 has reduced by 2 million dwt. Malaysian government should take shipping seriously.

Thank you for listening

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