

THE PHILIPPINE OVERSEAS SHIPPING INDUSTRY: A SITUATION REPORT

I. INTRODUCTION

Shipping has long been recognized as one of the vital infrastructures of a country's economy. In the Philippines, the overseas shipping industry has played a most important role in the economic growth and development of the country in view of the following considerations:

- The sector has generated foreign exchange earnings and contributed to the strengthening of the balance of payments position of the country;
- Overseas shipping has provided substantial and attractive employment opportunities for the country's labor force;
- It has contributed much to the generation of government revenues through the taxes and fees paid on bareboat chartered vessels;
- Philippine-registered oceangoing vessels have helped in the carriage of the country's foreign trade and have helped enhance national integrity; and
- The sector has facilitated the transfer of technology from shipping operations to ship management.

Through the years, the Philippine merchant fleet has played a less active role in the carriage of the country's exports and imports as these ships have been mostly engaged in cross trading with other countries. This should be looked upon, however, as a business decision of the shipowners and operators given the alternative options for the employment of their vessels. Another reason is the trading arrangements prevalently governing Philippine foreign trade; CIF for imports and FOB for exports, where in both cases, it is the foreign trading partner who elects the vessel that will carry the cargoes. This situation may change in due time since the trend of economic development is now focused on the Asian region. The emerging thrusts on liberalization and facilitation of trade, globalization and regional cooperation have paved the way for greater trade opportunities and investments in various fields. The government, responding to the present challenges of global competitiveness and free trade, has to put in place policy reforms in support of liberalization and a more competitive outlook, geared towards making the overseas sector globally competitive in the near future. To realize this, the sector has to actively participate in regional cooperation schemes such as the BIMP-EAGA, AFTA, APEC and in forging international trade agreements like the GATT and the GATS; accede to international conventions and adhere to quality standards through the implementation of the ISO/ISM Code. It is foreseen that the sector's potential for growth is so vast that it has become imperative to act now to take maximum advantage of every opportunity that is available.

II. SECTOR PROFILE

A. Overseas Shipping Companies

Table 1
Number of Overseas Shipping Companies Accredited under MC # 33-A
1991 – 1998

Year	Number
1991	166
1992	158
1993	150
1994	150
1995	143
1996	153
1997	153
1998	152

The decision to restrict the bareboat chartering policy of the country led to the issuance of MC 33-A on 26 March 1990 providing a more stringent guideline for the accreditation of overseas shipping companies availing of the bareboat chartering program. As a result, as shown in Table 1

above, the number of accredited overseas shipping companies decreased by 7.8% from 166 in 1991 to 153 in 1996 and to 152 in 1998.

With the increase in the required minimum paid-up capitalization to P 7.0 million for every company applying for accreditation under MC 33-A, the total paid-up capital of these accredited shipping companies increased to P1,756.76 Million in 1998 from P1,566.77 Million in 1991. Compared with 1996 figures, however, a decrease by P48.00 Million in 1998 was reported consistent with the downtrend in chartering activities for the period. (Refer to Table 2)

Table 2
Paid-up Capital of Overseas Shipping Companies Accredited under MC# 33-A
1991 – 1998

Year	Paid-up Capital (in Million Pesos)
1991	1,566.77
1992	1,542.08
1993	1,587.95
1994	1,643.06
1995	1,618.41
1996	1,761.56
1997	1,754.06
1998	1,756.76

B. Fleet Structure

The country's total number of registered overseas fleet recorded a substantial decrease of 16.7% from 419 vessels with a combined capacity of 13.161 million DWT in 1991 to 349 vessels of 11.675 million DWT in 1996 and an even more significant decrease of 32.70% from 419 vessels in 1991 to 282 vessels of 8.213 million DWT in 1998 as shown in Table 3. This represents an average decrease of 2.8% for the years covered.

Table 3
Number & Tonnage of Philippine Registered Fleet
1991 - 1998
(in Million DWT)

Year	TOTAL No.	DWT
1991	419	13.161
1992	416	13.393
1993	384	13.452
1994	389	14.059
1995	360	12.425
1996	349	11.675
1997	320	10.246
1998	290	8.361
1999*	282	8.213

- The period covers January to March 1999 only

Table 4 below shows that as of March 1999, majority or 51.06% of the country's overseas fleet were bulk carriers while 23.05% were general cargo vessels. On the whole, the configuration of tonnage can be said to be highly varied. As of March 1999, about 56.37% of the Philippine overseas fleet was below 10 years old and this figure was comprised mostly of bulk carriers. Table 4 that follows shows the configuration of the overseas fleet as of March 1999.

Table 4
Philippine Registered Overseas Fleet
By Type of Service, DWT and Average Age
As of March 1999

Type of Service	Number	Percentage	DWT (in '000)	Average Age
Bulk Carrier	144	51.06	6,190.91	7.65
General Cargo	65	23.05	1,196.42	12.02
Car Carrier	12	4.26	123.01	13.25
Livestock Carrier	11	3.90	46.78	16.36
Container/ GC	8	2.84	207.89	13.25
Reefer	9	3.19	51.70	17.11
Multi-Purpose	9	3.19	99.75	13.44
Tanker	6	2.13	52.72	20.17
RO-RO	7	2.48	53.59	9.00
LPG Carrier	5	1.77	23.70	5.80
Log Carrier	3	1.06	112.94	6.00
Passenger	1	.36	8.71	47.00
Dry Cargo	1	.36	6.50	16.00
Vehicle Carrier	1	.35	38.38	11.00
TOTAL	282	100.00	8,213.00	14.86

III. SECTOR PERFORMANCE

A. Performance of the Philippine Registered Vessels in the Carriage of Philippine Trade

The country's seaborne exports decreased by 9.85% from 14.233 million tons in 1991 to 12.830 million tons in 1992 then gradually recovered and established a 10.70% increase to 14.202 million tons in 1994 from the 1992 figure. Exports increased by 9.21% from 1994 to 15.510 million tons in 1995. They dipped slightly by 2.88% or 15.063 million tons in 1996. On the other hand, the performance share of RP overseas fleet in the carriage of Philippine exports dropped from 3.679 million tons (25.85%) in 1991 to 1.786 million tons (13.18%) in 1993 and bounced back to 2.829 million tons (19.92%) in 1994. In terms of FOB value, Philippine exports carried on RP flag decreased from US\$ 718.321 in 1995 to US\$480.176. The significant drop may have been basically caused by the attrition in the Philippine merchant fleet as well as the cross trading or tramping operations characteristic of Philippine flag vessels documented for international trading which thus limits them from regularly calling at Philippine ports to service Philippine trade.

On the other hand, the country's seaborne imports registered a substantial increase of 24.49% from 30.145 million tons in 1991 to 37.527 million tons in 1994; to 45.078 million tons in 1995 and to 51.034 million tons in 1996. This represents an average increase of 7.64% for the covered period. In the year-to-year performance, however, the country's share in the carriage of import trade decreased from 2.718 million tons (9.02%) in 1991 to 2.200 million tons (6.13%) in 1993 but recovered to 2.679 (7.14%) in 1994. Sad to note, the volume of imports carried by the country's overseas vessels registered a 1.46% decrease from 2.718 million tons in 1991 to 2.679 million tons in 1994. Value-wise, imports carried on RP flag vessels decreased from US\$1,572.91 million in 1995 to US\$1,493.92 million in 1996.

Since the country's international cargoes offer very limited opportunities to overseas shipping companies, the performance of the RP overseas fleet in the carriage of foreign trade from 1991 to 1994 has steadily dwindled. From the total volume of 6.397 million tons (14.42%) in 1991, it dropped to 5.508 million tons (10.65%) in 1994. This trend will continue as long as Philippine

shipping companies will operate their vessels in specialized trading worldwide as tramp vessels and unless there is a bigger market to provide them more opportunities for growth.

Value-wise, however, it is interesting to note that trade carried by Philippine flag increased from US\$ 9.223 million from 1995 to US\$ 11.265 million.

B. Contributions of the Overseas Shipping Sector to the National Economy

Table 5
Revenues Derived from Philippine Registered Vessels
Collected by MARINA, BIR and CB
1991 - 1996
(in Million Pesos)

Particulars	1991	1992	1993	1994	1995	1996	1997	1998
MARINA collection on application fees	2.279	1.525	2.780	3.542	2.369	3.489	3.335	4.625
MARINA collection on penalties	1.527	1.022	1.335	0.495	1.663	0.105	0.813	0.478
BIR collection on the 4.5% withholding tax on charter hires for bareboat chartered vessels	157.283	144.020	150.954	137.681	140.078	124.831	121.619	159.932
Remittances from seafarers of RP flag vessels	1,466.975	1,459.875	2,275.000	2,184.000	2,528.000	3,971.448	5,239.586	4,451.960
TOTAL	1,628.064	1,606.442	2,430.069	2,325.718	2,672.110	4,099.873	5,365.353	4,616.995

Philippine-registered vessels are required by law to be completely manned by Filipinos. Basic salaries of seamen are comparatively much higher than those of workers employed locally. Foreign exchange inflows remitted to the seafarers' families is equivalent to 80% of their basic salaries., Dollar remittances from seafarers of Philippine-registered vessels amounted to P 3,971.45million P 5,239.59 million and P4,451.96 million in 1996, 1997 and 1998, respectively.

The Bureau of Internal Revenue collected P 124.831 million, P 121.619 and P 159.932 million for 1996, 1997 and 1998, respectively, from the 4.5% withholding tax imposed on overseas shipping companies on the charter hire of bareboat chartered vessels. Penalty fees collected by MARINA in the exercise of its regulatory and supervisory functions amounted to P 0.105 million, P 0.813 million and P 0.478 million, for 1996, 1997 and 1998, respectively. Meanwhile, application fees collected reached P 3.489 million, P 3.335 million and P 4.625, respectively for the same years. On the other hand, total revenues collected by the government for the same period aggregated P 4,099.87 million, P 5,365.353, and P 4,616.995, respectively. Details can be gleaned from Table 5 above.

IV. OBJECTIVES/THRUSTS OF THE MARINA CONCERNING THE SECTOR

The initial policies and programs instituted by the MARINA for the sector focused on further building up the country's oceangoing fleet which stood at 131 in 1975, and modernizing the same in view of the considerable number of vessels beyond ten (10) years old. The inception of MARINA in 1974 initiated the government's process of providing a directed and concerted program of development for the overseas shipping sector, taking into account its business dimension and its potential role in the country's development. In subsequent years, MARINA's efforts to perform its mandated tasks for the sector focused on providing financial support and incentives for vessel acquisitions and ownership, further enhancing the competitive position of Philippine-flag vessels in the carriage of world trade, increasing the sector's participation in the carriage of our own exports and imports, and protecting the integrity of the Philippine Registry.

The launching of the Philippines 2000 under the administration of the President Fidel V. Ramos whose national goal was sufficiency, modernization, global competitiveness and regional development/integration, led MARINA to formulate its own vision called Maritime Vision 2000. The program provided the general framework for the development of the different sectors of the industry. In line with this, the overseas shipping sector has aimed to achieve the following basic objectives:

A. Foster a favorable investment climate to encourage the development of a viable overseas fleet

1. Implementation and Review/Assessment of the Bareboat Chartering Program

While the initial legislation issued establishing the country's bareboat chartering program, that is, Presidential Decree No. 474 issued on 01 June 1975 covered only vessels for domestic shipping operations, its subsequent amendment, Presidential Decree No. 866 issued on 02 January 1976, served to expand the coverage to vessels for overseas trade. Presidential Decree No. 1711 issued on 15 August 1980, extended the country's bareboat chartering program up to 1999.

In spite of the efforts of government to provide incentives for vessel acquisition, it still continued to pursue the extension of the bareboat chartering program which would have expired in 1999 hoping that the growth of the Philippine overseas fleet would be maintained. SB 575, sponsored by Sen. Mercado, sought to sustain the program without any expiry date, provided the maximum age for any vessel would be twenty four (24) years.

Complementary bills on the extension of the bareboat chartering program were passed in the Sub-Committee on Maritime Affairs of the Lower House as HB Nos. 5342 sponsored by Cong. Osmena; 7349 sponsored by Cong. Liban; and 7454 sponsored by Cong. Golez.

Finally, however, Executive Order No 438 issued on 15 September 1997 further extended bareboat chartering for another ten(10) years or until 2009. This development is expected to provide significant contributions to the socio-economic development of the country in terms of employment generation, foreign exchange earnings and shipping technology. It will also help meet the ever-increasing demand for ships to move water-borne trade.

Considering the great amount of investment involved to acquire vessels for overseas trade, the continuation of the program was certainly a big boost to the sector, and has actually maintained the country's oceangoing fleet over the years although the number of vessels has steadily dwindled in the last decade.

A review/assessment to determine the significant effects of the bareboat chartering program on the promotion and development of the sector was undertaken prior to the extension of the program under E.O 438. As an initial step, existing policies/guidelines on bareboat chartering were reviewed. Recommendations for some refinements in the requirements which would allow greater flexibility for companies desiring to bareboat charter vessels under the program were considered.

2. Review of MARINA Memorandum Circular Nos. 9, 27, 33-A, 42 and 42-A

Taking cognizance of the deregulation scenario in the domestic shipping industry, and being aware of the dilemma being encountered by the overseas shipowners with regards to the acquisition of vessels, the overseas sector decided to adopt a similar policy on lifting the age requirement for any type of vessel bareboat chartered for overseas use, the objective of which is to attract more investments on the part of the shipowners/charterers as they will have the opportunity to acquire vessels, regardless of age, available in the market at a reasonable price.

A memorandum circular to thus repeal the age restriction under Memorandum Circular No. 27-C for any type of vessel to be deployed in the overseas trade provided that the vessel is classed by an internationally recognized classification society was prepared. Subsequently, MC 116 was issued on 19 September 1996 for this purpose. Further, reduction of processing time leading to a more responsive and efficient service can be realized once this policy is institutionalized since the tedious process of approving meritorious cases for vessel

acquisition will be eliminated. However, such liberalized policy carries with it the responsibility of the shipowners that their vessels are classed by an internationally recognized classification society and are always class maintained. Should the shipowner fail to comply with this major requirement, the MARINA shall withdraw the Philippine registration of the vessel.

Prompted by the need to further support the bareboat chartering program of the government and to allow overseas shipping companies to avail of the bareboat chartering privilege, MARINA issued Memorandum Circular No. 33-B. This provides for the deletion of the dormancy provision and has allowed dormant companies to re-apply for accreditation to qualify them to exercise their chartering privilege on their replaceable vessels.

Companies accredited under Memorandum Circular No. 9 were also allowed to replace their deleted vessels provided the same were deleted after December 1985.

Another policy which was recently amended to relax certain provisions on bareboat chartering is MC 33-A, which prescribes the minimum management experience and financial capability requirements for accreditation of overseas shipping companies to allow them to avail of the bareboat chartering privilege and more importantly to avoid ITF interdiction on Philippine flag vessels. In this regard, MC 33-B was issued to delete the dormancy provision and allows dormant companies to re-apply for accreditation and exercise their chartering privilege on their replaceable vessels. Also another provision was added in the Circular to include companies accredited under MC 9 who are intending to replace their previously deleted vessels so long as the vessels were deleted after December 1985. The move was prompted with the need to support the bareboat chartering program of the government in order to counteract the negative effect (i.e., declining number of bareboat chartered vessels) of previous policies governing the implementation of the chartering program.

In order to translate into practical realities the policy of encouraging investments in the acquisition of vessels for overseas operations through importation and local purchase thereby stimulating the development and growth of bonafide shipowning, Memorandum Circular nos. 42 and 42-A were thoroughly reviewed and consequently amended with the issuance of Memorandum Circular No. 111.

The issuance of MC 111 has allowed a duly accredited overseas shipping company or any of its affiliate companies to enjoy the right to bareboat charter a maximum of five (5) additional vessels for every vessel acquired through lease-irrevocable-purchase (LIP), provided that 50% of the total purchase price has been paid.

3. Provision of Incentives for Shipowning

The government has always envisioned developing and maintaining a truly owned Philippine merchant fleet for international trade. It has instituted various mechanisms in order to encourage the development of a beneficially-owned Philippine merchant fleet. But the need for financial assistance for purposes of acquiring vessels may not have been as critical in the overseas shipping sector, in view of the wider latitude of options and arrangements available from which to source the required financing. But still incentives towards promoting shipowning in the overseas shipping sector have been instituted in the hope of propelling the industry to higher levels of growth and development. Thus, the following programs were adopted or undertaken:

1). Investment Priorities Plan (IPP)

The Plan, as contained in the Omnibus Investment Code of 1987, provides tax and duty exemptions to Board of Investments (BOI) – registered imports of vessels to be used in the overseas trade, as well as accompanying machinery, spare parts and equipment.

2). Republic Act No. 7471: “An Act to Promote the Development of Philippine Overseas Shipping”

Signed into law on 05 May 1992, with the Implementing Rules and Regulations issued on 17 November 1992, R.A. No. 7471 provides companies engaged in overseas shipping exemptions from income taxes and import duties and taxes on vessels and spare parts, as well as machinery, equipment and materials to be used for shipbuilding, ship repair or alteration of vessels owned and/or operated by them. The same law also allows less stringent conditions as to source/mode of financing vessel acquisitions vis-a-vis existing regulations on such transactions.

3). Moves to amend R.A. 7471

Because of the Bureau of Internal Revenue's limited interpretation of "overseas shipping" as mentioned in the Act, R.A. 7471 seemingly did not encourage nor promote shipowning among overseas shipping companies as expected, despite the incentives it offered. The need to amend the law then became of paramount importance. Since 1995, various steps have been taken towards this end. House Bill No. 7591 which would have amended R.A. 7471 was filed in Congress. An aide-memoire for the President to certify H.B. 7591 as an urgent Administration bill was prepared by the Overseas Shipping Consultative Council. A draft Presidential Memorandum Order creating a Task Force/Ad Hoc Committee to undertake a study on the proper definition of Philippine overseas shipping was likewise prepared by the Council.

Recently, the MARINA has requested the Department of Finance to hand down a more rational definition/interpretation of "overseas shipping".

4. Development of a Ship Financing Program

The lack of viable loan facilities has long been keenly felt by the private sector, which has often been discouraged from pioneering ventures or expanding maritime enterprises by steep interest rates and/or unrealistic and unresponsive financing portfolios.

Shipowning in overseas shipping has been severely hampered by the dearth of ship financing on the one hand. On the other hand, offshore financing institutions have been deterred from approving financing proposals and applications from Philippine companies desirous of buying vessels for registration under Philippine flag because of a deficient ship mortgage law inscribed under Presidential Decree No. 1521 otherwise known as the Ship Mortgage Decree of the Philippines.

These deficiencies consisting basically of the nebulous ranking of claims secured by maritime liens in Presidential Decree No. 1521, have been addressed, through the efforts of MARINA, by various legislation in Congress – specifically, House Bill No. 1041 and Senate Bill No. 161. MARINA had undertaken reviews of these bills but their passage in Congress have not materialized.

MARINA, in close consultation with the various maritime associations in the overseas shipping sector, has recently translated its efforts into drafting another bill to be known as "The Maritime Lien and Ship Mortgage Act of 1999" which is expected to encourage investments toward the acquisition of vessels to be deployed in the overseas trade.

The Maritime Summit, which will coincide with the Silver Anniversary celebration of founding of the Maritime Industry Authority on June 1, 1999, will witness the certification by the President of the Republic of the Philippines, Joseph Ejercito Estrada, of the bill as a priority bill for passage in Congress.

5. Moves to Ratify the United Nations Conference on Trade and Development (UNCTAD) Convention on Maritime Liens and Mortgages

In aid of moves to amend Presidential Decree No. 1521, MARINA has also exerted efforts to ratify the UNCTAD Convention on Maritime Liens and Mortgages. In fact, it has patterned its

proposed draft of the "Maritime Lien and Mortgage Act of the Philippines" after this UNCTAD Convention.

This move to subscribe to the international legislation covering maritime liens and ship mortgage is likewise expected to bolster the promotion of investments for the acquisition of vessels for deployment in the overseas trade, as it will convince the international maritime community, particularly, ship financing institutions abroad, of the security of their investments in the Philippines.

6. Support for the Moves of the Multi-Sectoral Task Force on Maritime Development to Push for the Ratification of the United Nations Convention on the Conditions for the Registration of Ships

One of the important strategies to strengthen the country's merchant marine fleet which was identified during the National Development Summit in 1997 has been the ratification by the Philippines of the United Nations Convention on the Conditions for the Registration of Ships. The Convention is seen to be in full support of the bareboat chartering program of the Philippines and thus serves to protect the integrity of the Philippine Ship Registry.

MARINA has endorsed the ratification of the Convention, and, in collaboration with the Department of Foreign Affairs, has started working towards the facilitation of the same through the issuance of R.A. 7471 otherwise known as the "Philippine Overseas Development Act" which was envisioned to extend the necessary assistance and investment climate to encourage long-range vessel acquisition, still the age old problem of financing the acquisition of vessels whether new or secondhand has remained unresolved. There has to be a complementary financing scheme already in place to make the above incentive scheme work. On top of these, the existing Ship Mortgage Act of 1978 is inadequate with respect to certain provisions, which would ensure repayment of loan to financiers. It is therefore envisioned that with the passage of the Ship Mortgage Act into law under HB 1041, known as "the Maritime Lien and Ship Mortgage Act of 1992", amending HB 8762, the problems on maritime liens, ship mortgages, right of retention, forced sale, priority between claims and claims governed by foreign laws would be properly addressed.

B. Ensure the availability of shipping services to transport the country's export and import trade

Regional developments in the ASEAN have prompted the government to give incentives to shipping companies that will provide shipping services in the Brunei-Indonesia-Malaysia-Philippines - East ASEAN Growth Area. In this regard, MC 86 was amended, granting interisland/ coastwise vessels an EAGA Special Permit with a maximum duration of five (5) years. It also contains provisions exempting EAGA vessels from the requirement for domestic vessels to serve the domestic trade for at least one (1) year and the limitation on the duration of the Special Permit which should not exceed one-half (1/2) of the charter period. The amending MC, which is MC 86-A, however, requires strict compliance for vessels to undergo the annual dry-docking requirement. The vessels have also been required to comply with the ISM Code.

With the creation of the BIMP-EAGA, the Philippines, together with the other member countries, has recommended various proposals that would develop transport and shipping services in the region, to include the following:

- Study of potential markets in the region
- Cargo consolidation centers
- Government incentives and special treatment
- Safety of routes
- Participation of private sector
- Multimodal operations
- Competitive prices of commodities
- Bilateral arrangements

- Passenger movements/ tourism
- Harmonization of rules and procedures

In a span of two (2) years, important developments in the shipping sector such as the following have been noted:

- Establishment of regional shipping lines in the Zamboanga -Sandakan (Malaysia), General Santos City - Bitung (Indonesia) and Davao - Muara (Brunei) shipping routes.
- Issuance of a Port Tariff Policy under Resolution No. 1470 which declared that ships trading in the BIMP-EAGA will be treated as domestic ships and will pay the equivalent of a domestic usage fee when they call the country's southern ports.
- Issuance of Memorandum Order No. 237 which provides exemption from payment of travel tax to all passengers by sea originating from all international ports in Mindanao.
- Adoption of the ASEAN Port Authorities Associations (APAA) FAL Forms (for ship and cargo clearance); and
- Harmonization of customs and immigration rules and procedures.

A more liberal interpretation of the Cabotage Law upon the initiative of the Export Development Council was likewise studied for purposes of stimulating our export trade consistent with the national policy thrust to sustain economic growth and development.

Geared towards said objective, a resolution was passed during the 18th National Summit on Export Development to prepare a Memorandum of Agreement (MOA) between the MARINA and the Bureau of Customs (BOC) to liberalize the rules on Cabotage specifically to allow foreign vessels engaged in foreign trade to expand their operations to include the picking up and unloading of export/import cargoes in local ports other than the vessels' final port of destination abroad but at the same time putting in place safety nets to ensure that the interests of domestic shipping operators are not unduly jeopardized. The main objective of the said MOA is to define the functions and jurisdiction of the BOC and MARINA and reduce into formal and explicit terms their positions on the Cabotage Law.

C. Enhance the competitiveness and increase the market opportunities of Philippine flag vessels in the carriage of Philippine trade.

1. Pursuance of and active participation in negotiations for bilateral shipping agreements

The Philippines , through the initiatives of MARINA, has exerted efforts to enter into bilateral shipping agreements with other countries. The more notably active negotiations for these bilateral shipping agreements have been the following:

- RP-Chile Tax Reduction Agreement
- RP-Bangladesh Merchant Shipping Agreement
- RP-Vietnam Merchant Shipping Agreement
- RP-Greece Merchant Shipping Agreement
- RP-France Merchant Shipping Agreement
- RP-Russia Marine Agreement
- RP-Brunei Shipping Agreement
- RP-Norway Merchant Shipping Agreement
- RP-Netherlands Merchant Shipping Agreement
- RP-Panama Merchant Shipping Agreement
- RP-Brazil Merchant Shipping Agreement
- RP-Qatar Merchant Shipping Agreement
- RP-Germany Merchant Shipping Agreement
- RP-South Africa Merchant Shipping Agreement
- RP-Slovenia Merchant Shipping Agreement
- RP-Italy Merchant Shipping Agreement

The RP-Cyprus Merchant Shipping Agreement, which was already signed, is presently being reviewed and will be subject to a re-negotiation between the bilateral partners.

The RP-Norway Agreement is expected to be signed in June 1999.

The Philippine Model Bilateral Shipping Agreement was prepared through the efforts of MARINA. The NEDA Cabinet Committee approved this. It is meant to serve as a basis for any shipping agreement that the Philippines may later decide to forge with any country and is expected to facilitate consideration of the same.

These bilateral merchant shipping agreements, if finally signed, will provide advantages for the country's merchant fleet and its crew, and will increase the opportunities where Philippine flag vessels could operate more competitively in international trades.

2. Active Participation in International Cooperation Initiatives on Trade Opportunities (BIMP-EAGA, ASEAN, GATS, GATT, AFTA, APEC)

The importance of sub-regional groupings such as the Brunei, Indonesia, Malaysia, Philippines-East ASEAN Growth Area or BIMP-EAGA, has proven to be a viable move in enhancing the shipping services between and among the Southern Philippines, specifically Mindanao, and Brunei, as well as nearby islands of Indonesia and Malaysia. MARINA has been at the forefront of this government initiative particularly with respect to sea linkages, transportation and shipping services.

The issue on harmonization of policy, rules and regulations on vessel cargo and passenger clearance was resolved with the adoption of Uniform Port Tariff (dockage fees and port dues) based on the proposed bilateral agreement between the Philippines and Indonesia. As a result, then Pres. Fidel V. Ramos approved the lowering of port charges for vessels servicing the BIMP-EAGA by 50% pursuant to the Presidential directive to the Philippine Ports Authority (PPA) dated 19 June 1997. The operationalization of the BIMP-EAGA Ship Operators Association (SOA), through the efforts of the Domestic Shipowners Association (DSA), was set with the Philippines to draft the charter, and the operationalization of the proposed Davao (Philippines)-Muara (Brunei) sea linkage through a joint venture scheme. With this goes the acceptance of the STCW '95 as the standards for purposes of cross-recognition of certificates and the networking of maritime training centers in the BIMP-EAGA. Likewise, the bilateral agreement between the government of Malaysia on the adoption of the Seaman's Book as travel document within the BIMP-EAGA for purposes of joining a vessel and for repatriation.

To date, the regional cooperation has been moving in the direction as envisioned and oriented toward concrete activities and achievements. Shipping services in the region have yielded fruits with the opening of new routes connecting the East ASEAN regions.

As a result of this sub-regionalism efforts, statistics have shown significant increases in both passenger and cargo traffic. The increases can be attributed to various activities such as the holding of inter-regional trade affairs.

Both incoming and outgoing passengers in the General Santos, Philippines-Bitung, Indonesia sea route have been increasing. The same has been true for the Zamboanga, Philippines-Sandakan, Malaysia route which is now being served by four vessels of two Philippine shipping lines.

MARINA reviewed the Paper on the Acceleration of AFTA as it affects shipping, specifically on the acceleration of the implementation of the CEPT.

The sector has participated in various meetings for the APEC, GATS, GATT-WTO, ASEAN and has prepared several position papers on matters discussed by or under these aggrupations or agreements.

3. International Operations of Domestic Vessels

Another mechanism that MARINA has utilized or instituted in order to enhance the competitive position of Philippine flag vessels in the carriage of foreign trade has been the

granting of a special permit or the authority for the temporary utilization of domestic vessels in overseas shipping. This has provided domestic vessels opportunities to participate in the carriage of the country's exports or imports through the short-term deployment in international operations of tramping vessels normally utilized in the interisland trade by way of charter contracts or contracts of affreightment. This has additionally enabled the operators of such vessels to gain management experience and competence.

4. Implementation of the Liner Code

MARINA implemented the Liner Code from 1982 to 1984 through Executive Order No. 769. Although this had only limited success, it somehow helped Philippine flag vessels have a fair share of carriage of Philippine trade.

There is an ongoing review of the UNCTAD Convention on Code for Liner Conferences and MARINA has submitted its position to the Department of Foreign Affairs.

5. Promotion of Multimodal Transport Operations (MTO) in the country to Enhance foreign trade

MARINA has made extensive studies on the Hamburg Rules and has actively pushed for the ratification of the same by the Philippine Congress. The Multimodal Transport Convention has been recommended by MARINA for accession.

It has coordinated with the Department of Transportation and Communications and the National Economic Development Authority in the establishment of the National Multimodal Committee.

6. Review of Presidential Decree No. 1466

Maritime consultations with the private sector and discussions and recommendations in several fora and conventions brought to the fore the need to review and take a very close look at Presidential Decree No. 1466 and the interventionist policy enunciated therein to enhance the share of overseas vessels and perhaps entice them to serve Philippine trade instead of going into cross trades.

The sector has recently undertaken extensive research on the matter and will recommend certain measures to support and realize the objectives of this law.

C. Strengthening of the Maritime Administration and Promotion of the Integrity of the Philippine Registry

Cognizant of the need to promote the integrity of the Philippine Registry so as to sustain the planned development of the overseas shipping sector, MARINA has endeavored to evolve policies and guidelines designed to upgrade overseas shipping operations and foster dependability and credibility of the Philippine flag, especially with respect to bareboat chartered vessels. Specifically, MARINA has prescribed minimum management experience and financial capability for companies applying for accreditation with MARINA prior to bareboat chartering vessels for overseas operations. Cash and surety bonds have been required in order to ensure payments of withholding taxes as well as fines and other penalties in case of non-compliance and other obligations. MARINA has also required proofs of full management and control over bareboat chartered vessels plus the submission of other prescribed documents involving the vessel to be chartered and the vessel's registered owners, all designed to further establish the credibility of the country's bareboat chartering program.

MARINA has also extensively encouraged shipowning in order to develop a fleet that is more beneficially owned rather than chartered or leased.

In the light of more recent developments in global shipping more particularly the more strict implementation by the International Maritime Organization (IMO) of maritime conventions such as the STCW '95, the ISM Code, SOLAS and MARPOL, it has become imperative for the MARINA to ensure conformance with the technical requirements of these international maritime legislation and the global acceptability of Philippine standards in terms of quality, efficiency and economy. Aside from the Conventions mentioned, the sector is also taking the lead in the review of shipping-related international conventions, in close consultation with the private sector and the Department of Foreign Affairs (DFA).

The Philippines, through the sector, has implemented the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) as adopted by IMO Resolution A (741)18, which became mandatory on 01 July 1998. All overseas-going passenger vessels and bulk carriers have safety management certificates in compliance with the ISM Code.

The Overseas Shipping sector, as part of its mandate to monitor and steer the sector in the light of international developments in the maritime industry, took the lead and coordinated the drafting of the Action Plan for the implementation of the STCW '95. MARINA, through the Manpower Development sector has since taken over the cudgels, despite the institutional setbacks and the wrangling among various government agencies tasked to handle the affairs of the seafaring profession, if only to assure the chances of the Philippines getting into the so-called 'white list'. MARINA has thus been vigilant to secure the shipboard employment of almost 200,000 Filipino seafarers and ensure the continuity of an industry that has been tagged as the "goose that lays the golden eggs" for the Philippines since it has consistently performed as the sixth top dollar earner for the government.

The sector also took the lead in formulating the Memorandum of Agreement between MARINA and the International Association of Classification Societies (IACS) by which the former has authorized the members of the latter to perform statutory services (conduct the surveys of Philippine flag oceangoing vessels and to issue the statutory certificates) in its behalf, in accordance with the provisions of the SOLAS Convention.

The Overseas Shipping sector has also started reviewing its functions and responsibilities with the objective of assessing its performance to date vis-à-vis the requirements of a strong and effective maritime administration that is at par with those of well-developed maritime nations.

V. PROBLEMS/ISSUES OF THE SECTOR

The major problems confronting the overseas sector are as follows:

A. Stringent Bareboat Chartering Program

Philippine bareboat chartered vessels are often interdicted by the International Transport Workers Federation (ITF). This action has been considered as a downgrading of the Philippine registry into a flag-of-convenience (FOC). As a consequence, the government through MARINA issued MC No. 33-A providing more stringent guidelines for the accreditation of overseas shipping companies availing of the bareboat chartering program to limit the number of the country's bareboat chartered vessels. In effect, the country's overseas fleet decreased by 16.7% from 419 vessels in 1991 to 349 vessels in 1996, and to 282 as of March 1999. Representations by the overseas shipping sector were made to liberalize the chartering program of the country to allow the overseas shipping companies/owners to explore and exhaust possible vessel chartering opportunities available in the market.

The tightening of the screws on the chartering program has spawned the proliferation of business arrangements, which do not support the objectives of the program other than profit-oriented motives.

B. Poor Carriage Performance

The Philippine share in the carriage of the country's total trade continued to decline from 6.397 million tons (14.42%) in 1991 to 5.508 million tons (10.65%) in 1994. This can be attributed to the nature of employment of our overseas fleet whereby they are largely employed in specialized trading worldwide as tramp vessels. These vessels hardly call on Philippine ports such that they are able to carry only an insignificant volume of Philippine cargoes or even none at all.

Such carriage pattern has resulted from the operational and business realities of our fleet, but there is a need to reckon with the conservation of forex earnings which should somehow balance the government's objectives relative to efficient and economical transport of our foreign trade and the strengthening of the balance of payments position of the country.

C. Lack of Financing Programs for Vessel Acquisition

Overseas shipping, specifically, shipowning is a capital-intensive industry and owing to the keen competition offered by other economy sectors, capital resources have always been scarce for the industry. Overseas shipping has unique characteristics poised against land-based industries; however, uniform regulations and government on all industries to the utter disadvantage of the oceangoing transport sector imposes controls. Because of this unresponsiveness of government regulatory measures, plus the ever-increasing cost of money and the resultant stiff competition for funds placement and allocation, a built-in bias for overseas shipping projects has always been something to contend with. It has, in fact, given rise to alternate ship acquisition schemes like barefoot chartering and ship leasing and the resultant unfavorable balance between owned tonnage and chartered/leased tonnage in the Philippine merchant marine fleet.

The increasing cost of vessel acquisition side by side with the dearth in local financing has hindered the acquisition of vessels, whether new or secondhand.

Another concern is the high prevailing rate of interest on borrowed capital. This has also deterred initiatives towards ship acquisition.

D. Lack of support programs and/or inadequacies in existing interventionist policies

Apart from the poor carriage participation of the overseas fleet of the country's foreign trade, there has also been the lack of a support program to realize the objectives of the policy enunciated under Presidential Decree No. 1466 which mandates the use of Philippine flag vessels for government-financed and guaranteed cargoes.

The increasing cost of vessels, the prevailing high rates of interest and the dearth of local financing – all deterrents to vessel acquisition – have been exacerbated by an inadequate ship mortgage legislation embodied under Presidential Decree No 1521, spawning apprehension of lending and financial institutions both here and abroad, to provide loans for the acquisition of vessels due to inadequate guarantees to ensure repayment of loan and the uncertainty of protection for vessels under temporary registration under Philippine flag.

Republic Act No. 7471, which provides an incentive scheme to support the shipowning objectives of the sector, has not proven to be effective after all if the number of vessels as well as the pace by which vessels were acquired under the law were to serve as the gauge. The private sector noted and brought to the attention of MARINA that the delimitation inherent in the interpretation of the Bureau of Internal Revenue of "overseas shipping", given the operational pattern of these vessels, has constricted the opportunities for owning vessels, contrary to the purpose for which the law was passed in the first place.

VI. PROSPECTS FOR THE SECTOR

Certain opportunities for the development of the Philippine overseas shipping industry have become discernible as of late. These are the following:

A. Regionalism and Bilateral Shipping Agreements

The Philippines is in the midst of a changing world economy and has to cope with the challenges of the times for her to partake of a piece of the global pie. The General Agreement on Tariffs and Trade (GATT) operationalized by the World Trade Organization (WTO), has been one of the major international trading arrangements in modern times. The GATT acts as a mechanism for settling trade disputes between countries and a forum for negotiating the reduction of trade barriers. GATT economies account for more than 80% of world trade. With the conclusion of the GATT - Uruguay Round of Agreements, after four (4) decades, emerged the World Trade Organization which is now fully implementing the Uruguay Round accords. The inaugural meeting of the WTO was held in Singapore in December 1996.

The ASEAN Free Trade Agreement (AFTA) has already started working for the integration of the markets of the six ASEAN states into a single market. The main tool for integration is the Common Effective Preferential Tariff or CEPT. Through CEPT, tariff rates in the ASEAN will be gradually reduced over a ten to fifteen year period. By 2003 all tariff rates are expected to be zero.

Similarly, the Asia Pacific Economic Cooperation (APEC), composed of eighteen (18) member countries to include the Philippines, aims to promote trade and investment liberalization by enhancing the flow of services, capital and technical know-how and encouraging cooperation in various economic and technical projects. In this cooperation, the Philippines commits to reduce its tariff by 5% on all imported products by the year 2004 which is a big leap from the current 15.57% average tariff. Moreover, the government promises to open all sectors to foreign investors under the Foreign Investments Act currently being implemented. Expected major investors in the country are the U.S., Japan, Malaysia, Hongkong and Singapore, which are also the Philippines's major trading partners.

Working towards ensuring the availability of shipping services, regional cooperation provides opportunities to cater to the country's need to transport foreign trade. The creation of growth polygons as exemplified by the East ASEAN Growth Area (EAGA) provided our shipping fleet the opportunity to effectively compete and operate within lucrative trade between and among the Philippines, Indonesia, Malaysia and Brunei Darussalam.

The government through the efforts of MARINA has been vigorously pursuing an active participation in the country's negotiation for bilateral agreements with other countries. This affords the beneficial affects of reciprocity as contained in the most-favored-nation clause incorporated in bilateral shipping agreements. Under this arrangement our ocean carriers are accorded with the same rights and privileges being extended by the second party to its flag carrier.

The world economy will never be the same again once it is open for free trade. This implies equal opportunities for any country to participate in the open trade at their own risk. For the Philippines, this means more markets for our products and more opportunity for investments. There is however a strong urgency for the country to prepare itself in its battle in the world of free trade or open competition. The transport sector specifically shipping has to contribute its part in making Philippine exports competitive in the world market. It is identified that some obstacles affecting our competitiveness is that of the high cost of doing business like those related to raw materials, interest rates, power and transportation costs. In answer to this demand, the shipping sector has to provide more efficient and more economical shipping services granting that the government has provided the proper mechanism and the complementary incentives they need. Facilitation, globalization and regional integration are inevitable. The sector will have to face the challenges as this will spell the difference between getting by and getting ahead.

B. Multimodal Transport System

Multimodalism as a shipping operation strategy is considered one of the most efficient and cost-effective transportation schemes particularly in international trade. The MARINA is pursuing a number of positive steps to allow us to reap the economic benefits of multimodal transport operations. Under MARINA's plan, the institutionalization of the Interagency National Multimodal Transport Committee via the TRM Sub-committee on Shipping and the review of the Hamburg Rules for possible ratification have been on stream.

C. Major Transshipment Hub in the Asian-Pacific Region

With the emergence of Asia as one of the key players in the development of world seaborne trade, many countries including Japan, Hongkong and South Korea aspire to become a transport hub in the region. The Philippines enjoys comparative advantages over other countries not only attributable solely to its strategic presence in the East Asian trading hemisphere with respect to Japan, China and South East Asia but because of a unique combination of locational and national characteristics like being close to the equator, having an English-speaking population, democratic traditions, liberalized and deregulated telecommunications, interisland shipping and air transport, to name just a few. All these spell out the positive direction in store for the sector in the coming years.

In consonance with the maritime vision for the Philippines, the sector would like to take the initiative in conducting a comprehensive study as proposed by the Multi-sectoral Task Force on Maritime Development on the establishment of the Philippines as a major transshipment hub in the Asia-Pacific Region.