

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2863



Introduced by **REP. MARCELINO "MARCY" R. TEODORO**

EXPLANATORY NOTE

The State recognizes that the shipping industry plays a vital role in the economic expansion and prosperity of our country. That we are an archipelago hugely dependent on agriculture and exports makes the case for an efficient and competitive shipping infrastructure even more compelling and immediate.

This bill allows for a reasonable liberalization of present restrictions on foreign vessels to engage in the coastwise trade. It seeks to permit foreign-built, foreign-owned, and foreign-crewed or operated vessels to transport cargo between ports within Philippine territorial waters, subject to:

- (a) Equitable regulatory requirements for Certificate of Public Convenience, Provisional Authority or Special Permits to Operate.
- (b) Reasonable clearance requirements by the Commissioner of Customs granting authority for the transshipment of export or import cargo upon such vessels, which shall be covered by the similar rules being observed by domestic shipping companies.
- (c) Phased-in entry of foreign vessels to domestic shipping routes by allowing them only access to major Philippine ports for the first three (3) years following the passage of this bill.

It seeks to amend and repeal earlier restrictions laid down in Republic Act 9295, known as The Domestic Shipping Development Act of 2004, and Republic Act 1937, known as The Tariff and Customs Code:

- (a) Sections 5, 6 and 7 of Republic Act 9295, known as The Domestic Shipping Development Act of 2004, as follows:

"SEC. 5. *Authority To Operate.* - No franchise, certificate or any other form authorization for the carriage of cargo or passenger, or both in the domestic trade, shall be granted except of domestic ship owners or operators."

"SEC. 6. *Foreign Vessels Engaged in Trade and Commerce in the Philippines Territorial Waters.* - No foreign vessel shall be allowed to transport passengers or cargo between ports or place within the Philippine territorial waters, except upon the grant of Special Permit by the MARINA when no domestic vessels is available or suitable to provide the needed shipping service and public interest warrants the same."

"SEC. 7. *Issuance of Authority To Operate.* - The MARINA shall have the power and authority to issue certificates of public convenience to qualified domestic ship operators, taking into consideration the economic and beneficial effect which the proposed services shall have to the port, province or region which it proposes to serve, and the financial capacity of the domestic ship operator to provide and sustain safe, reliable, adequate, efficient and economic service in accordance with the standards set by government regulation.

"Every domestic ship operator shall state in its application the route it proposes to serve, and the service it proposes to offer. Domestic ship operators who do not intend to operate in a fixed route shall nevertheless state in its application the service it proposes to offer."

- (b) Sec. 902 and 1009 of Republic Act No. 1937, known as The Tariff and Customs Code of the Philippines.

"Sec. 902. *Vessels Eligible For Coastwise Trade.* - The right to engage in the Philippines coastwise trade is limited to vessels carrying a certificate of Philippine Registry."

"Sec. 1009. *Clearance of Foreign Vessels To and From Coastwise Ports.* - Passengers or articles arriving from abroad upon a foreign vessel may be carried by the same vessel through any port of entry to the port of destination in the Philippines; and passengers departing from the Philippines or articles intended for export may be carried in a foreign vessel through a Philippine port.

"Upon such reasonable condition as he may impose, the Commissioner may clear foreign vessels for any port and authorize the conveyance therein of either articles or passengers brought from abroad upon such vessels; and he may likewise, upon such conditions as he may impose, allow a foreign vessel to take cargo and passengers at any port and convey the same upon such vessel to a foreign port."

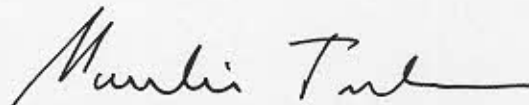
- (c) All Relevant Implementing Rules and Regulations, circulars and Flag Administration Advisories.

With the lifting of these restrictions insofar as transport and movement of cargo are concerned, it is hoped the following economic gains will be achieved in a short span of time:

- Intensify trade liberalization by creating an environment of maritime transport without barriers;
- Foster a culture of mutuality and equal exchange of privileges
- Increase efficiency as a result of open market competition and level playing field.
- Enable ship owners and operators to be globally competitive
- Encourage the entry of foreign investors or players which, in turn, spur jobs creation, spike government revenues, and promote tourism
- Spur modernization of port and navigational infrastructure

Improvement in the economic fundamentals of the country remain unfelt by the marginalized sectors. This bill, when enacted, aims to lower significantly transport base costs, and make prices of domestic goods reasonable and affordable. It envisions a spur in growth of our export industries as their prices become competitive, bringing with them more jobs and livelihood. Our country's economic gains then become all-inclusive.

With the concrete gains in our coastwise trade, undertaking improvement in port infrastructure is also envisioned as an effect of the proposed measure; hence earliest passage of this bill is earnestly sought.



MARCELINO "MARCY" R. TEODORO

Representative

1st District, Marikina City

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Introduced by REP. MARCELINO "MARCY" R. TEODORO

AN ACT
ORDAINING REFORMS IN PHILIPPINE DOMESTIC SHIPPING TRADE BY
ALLOWING FOREIGN VESSELS TO ENGAGE IN THE TRANSPORT OF
CARGOES, AND FOR OTHER PURPOSES

SECTION 1. *Short Title.* – This Act shall be known as the "Liberalization of Domestic Shipping Cargo Trade Act of 2013."

SEC. 2. *Declaration of Policy.* It is the policy of the State to:

- (1) To promote a liberalized policy by allowing entry of foreign vessels to engage in the domestic shipping trade for transport of cargoes.
- (2) To enhance competitiveness of the Philippine domestic shipping industry by modernization of fleet and development of ports and other maritime infrastructure.
- (3) To promote investment, trade and employment generation.
- (4) To enhance efficiencies as well lower transportation costs for the greater economic benefit.

SEC. 3. *Authority to Operate.* – A franchise, certificate or any other form of authorization for the carriage of cargo or passengers, or both, in the domestic trade shall be granted to domestic ship owners or operators.

SEC. 4. *Foreign Vessels Engaged in Trade and Commerce in Philippine Territorial Waters.* – Foreign vessels shall be allowed to transport cargoes between ports or places within the Philippine Territorial waters, subject to the following:

(1) They shall secure a Certificate of Public Convenience from MARINA to operate in the domestic shipping trade.

(2) The foreign vessels and its foreign crew complement shall be subject to Philippine laws on shipping, ports, taxation, customs, immigration, quarantine, labor, penal and other applicable laws, rules and regulations.

SEC. 5. *Issuance of Certificate of Public Convenience and Authority to Operate.* – The MARINA shall have the power to issue a certificate of Philippine Registry and certificate of public convenience to qualified domestic and foreign ship operators, taking into consideration the economic and beneficial effect which the proposed service shall have to the port, province or region which it proposed to serve, and the financial capacity of the ship operator to provide and sustain safe, reliable, adequate, efficient and economic service in accordance with the standards set by government regulation.

Each ship operator shall state in its application the route it proposes to serve, and the service it proposes to offer. Ship operators who do not intend to operate in a fixed route shall nevertheless state in its application the service it proposes to offer.

SEC. 6. *Phased-In Entry of A Foreign Vessel to Domestic Shipping Routes.* – For the first three (3) years from the effectivity of this Act, the foreign vessel shall only be allowed to operate in primary routes, involving the following major ports:

- (1) Port of Manila in Luzon,
- (2) Port of Batangas in Luzon,
- (3) Port of Subic in Luzon
- (4) Port of Cebu In Visayas,
- (5) Port of Iloilo in Visayas,
- (6) Port of Cagayan De oro in Mindanao,
- (7) Port of Davao in Mindanao,
- (8) Port General Santos in Mindanao,
- (9) Port of Zamboanga in Mindanao
- (10) Other major ports as may be later determined by MARINA.

Thereafter, the foreign vessel shall be allowed to operate also in secondary and tertiary routes as established by MARINA.

Sec. 7. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the Secretary of Finance and Secretary of Transportation and Communication, jointly, in coordination with Maritime Industry Authority (MARINA), Philippine Ports Authority (PPA)/Cebu Ports Authority (CPA), Bureau of Customs, Bureau of Internal

Revenue, Bureau of Immigration and Deportation, Bureau of Quarantine, Philippine Coast Guard, shall promulgate such rules and regulation necessary for the effective implementation of this Act.

Sec. 8. *Separability Clause.* – If, for any reason, any section, subsection, sentence, clause or term of this Act is held to be illegal, valid or unconstitutional, such parts not affected by such declaration shall remain in full force and effect.

SEC. 9. *Repealing Clause.* – Sections 5, 6 and 7 of Republic Act 9295, otherwise known as the “Domestic Shipping Development Act of 2004”, and Sections 902 and 1009 of Republic Act No. 1937, otherwise known as the “Tariff and Customs Code of the Philippines”, and all laws, decrees, executive orders, rules and regulations or other issuances, or part thereof, inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 10. *Effectivity.* – This Act shall take effect fifteen days after its publication in two (2) national newspapers of general circulation.

Approved .