

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

NINETEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 9769



Introduced by MARINO Party-list Representative
SANDRO L. GONZALEZ

**AN ACT PROVIDING FOR THE FULL AND EFFECTIVE
IMPLEMENTATION AND ENFORCEMENT OF INTERNATIONAL
MARITIME INSTRUMENTS OF WHICH THE PHILIPPINES IS A STATE
PARTY**

EXPLANATORY NOTE

The Filipino seafarers and ships represent the head and tail sides of the coin, respectively. Each side is dependent on the other. Without seafarers, traditional ships cannot voyage; without ships, there will be no seafarers.

Heads because the Philippines heads the rankings in terms of volume of seafarers supplied internationally. Today, the Philippines remains as the top supplier of Ratings in the world and second to China in deploying Officers.

Tails since the country's overseas shipping fleet registry tails almost all of those of our South East Asian counterparts' registry. In a short span of three decades, the number of the country's overseas shipping fleet declined from 467 ships in 1988 to 98 vessels at present.

Contributing to this steady decline is the risk faced by the country's overseas shipping fleet of being detained by other Port States brought about by the Philippine Government's inability to fully and effectively implement international maritime instruments which the Philippines have ratified or acceded to. Among these instruments are the mandatory conventions involving safety of life at sea (SOLAS 1974 and its 1988 Protocol); prevention of pollution from ships (MARPOL); load lines (LL 66 and its 1988 Protocol); tonnage measurement of ships (Tonnage 1969); and regulations for preventing collisions at sea (COLREG 1972).

As a Member State of the International Maritime Organization (IMO) which is the specialized agency of the United Nations that promotes safety, security and environmental performance in international shipping, it is the Philippines' obligation

under the principle of *pacta sunt servanda* to enact and enforce in good faith national legislations that will give effect to these Conventions and Instruments.

Thus, this proposed measure appoints MARINA as the lead government agency tasked to fully and effectively implement the provisions of the aforementioned conventions as well as all other future international maritime conventions.

In view of the foregoing, the early passage of this proposed measure is highly recommended.

A stylized, handwritten signature in black ink, featuring a large, sweeping loop at the top and a horizontal base with a small flourish on the right.

SANDRO L. GONZALEZ

Representative
MARINO Party-list

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AN ACT
PROVIDING FOR THE FULL AND EFFECTIVE IMPLEMENTATION AND
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WHICH THE PHILIPPINES IS A STATE PARTY

*Be it enacted by the Senate and the House of Representatives of the Philippines
in Congress assembled*

Chapter I
GENERAL PROVISIONS

Section 1. Short Title. – This Act shall be known as the “International Maritime Instruments Domestication Act of the Philippines

SEC. 2. Declaration of Policy. – The following are hereby declared to be the policies of the State:

- (a) The State shall provide for the full and effective implementation and enforcement of international maritime instruments and other international conventions to which the Philippines is a State party in the exercise of its flag state, port state, and coastal state authority, and for the safety, security, and protection of the marine environment of the Philippines;
- (b) The State shall provide for a platform for the adoption of rules, regulations, memorandum circulars, or orders implementing the provisions and requirements of international maritime instruments to which the Philippines is a State party. This platform shall include mechanism that will ensure the adoption of amendments to international maritime instruments when applicable;
- (c) The State shall comply with its duties and obligations to the international community as State party to these international maritime instruments by ensuring the effective exercise of its jurisdiction and control over ships flying its flag, and those who are responsible for the management and operation of a ship

registered in the Philippines including their duly-registered owners, to operate their ships responsibly; and

- (d) The State shall provide a mechanism for the full and effective implementation of port state control guidelines based on regional agreements or memoranda of understanding. Pursuant thereto, the State shall consistently carry out its obligation to conduct inspections on ships of other States, when these ships are within the territorial waters, ports, harbors and offshore terminals of the Philippines, or wherever applicable.

SEC. 3. *Scope of the Act.* – Unless otherwise indicated, this Act shall apply to:

- (a) All ships covered by international maritime instruments to which the Philippines is a State party; and
- (b) All persons, partnerships, corporations, firms or other entities duly-registered or licensed in the Philippines to engage in the business of shipping as shipowners, ship operators, charterers, or ship managers, or those acting on their behalf covered by international maritime instruments to which the Philippines is a State party.

SEC. 4. *Definition of Terms.* – As used in this Act:

- (a) *Domestication* refers to the Philippines' full and effective implementation of international maritime instruments to which the Philippines is a State party in the exercise of its flag state, port state and coastal state authority, and for the safety, security and protection of the marine environment within its jurisdiction. Domestication includes the exercise of the choices afforded under the international maritime instruments. It shall not include the application of the provisions of the international maritime instruments to purely domestic ships and industries not engaged in international trade, unless specifically herein stated or provided in existing laws;
- (b) *International maritime instruments* refer to all maritime conventions, protocols, annexes, regulations, codes, recommendations, procedures, guidelines, or other similar instruments duly adopted by the International Maritime Organization (IMO) or recognized international bodies or entities;
- (c) *Recognized organization* refers to an organization duly assessed as such by the flag state administration and have complied with the Code for Recognized Organizations (RO Code) in accordance with the provisions of the IMO Resolution A.739 (18) and IMO Resolution A.789 (19) and authorized to undertake statutory surveys and inspections and to issue certificates on its behalf.

SEC. 5. Powers and Functions. – For purposes of this Act, the Maritime Industry Authority (MARINA) shall have the following powers and functions which shall be in addition to its mandate under Presidential Decree No. 474, Executive Orders Nos. 125 and 125-A Series of 1987 as amended, and Republic Act No. 10635:

- (a) Act as the primary and central maritime administration relative to the compliance with, and effective implementation and enforcement of international maritime instruments, codes, recommendations, procedures, and guidelines to which the Philippines is a State party;
- (b) Exercise oversight functions over the following powers and functions of the relevant agencies to:
 - (1) Prescribe, fix, issue, revise, amend, update or repeal rules and regulations from time to time to ensure the full and effective implementation and enforcement of relevant international maritime instruments;
 - (2) Determine which ships may be exempted as allowed by the provisions of the applicable international maritime instruments;
 - (3) Assess and determine the qualification of any recognized organization, execute the corollary written agreement to evidence the terms and conditions by which such recognized organization shall act on its behalf, and the extent of the powers delegated to such recognized organization in carrying out initial and periodic inspections and surveys, including the capacity to issue ship certificates on its behalf in accordance with relevant international maritime instruments;
 - (4) Require the master or, in the master's absence, the owner, charterer, manager or operator to submit, without delay, a full written report of any incident involving a ship that may endanger the safety of the ship, its crew, passengers, or cargo, or pose a threat to the marine environment;
 - (5) Following any marine casualty, accident or incident involving a ship of Philippine registry wherever located, or a foreign-flagged ship located in the Philippine maritime zone, undertake, on its own or through a duly-constituted independent group of suitably qualified safety inspectors, a marine casualty safety investigation which is independent from any other form of investigation and is not intended to apportion or blame or determine liability, but is conducted to determine the cause of the accident and the identification of measures to prevent the occurrence of similar marine casualties, accidents or incidents in the future;
 - (6) Receive the report of any violation from another State and conduct any other investigation on a ship in the Philippine registry to protect public interest and impose such penalties, sanctions, and levy such fines

commensurate to the gravity of the offense to ensure effective implementation, compliance and enforcement of maritime conventions and upon completion of the investigation, inform the State submitting the report of the action taken to address the violation; and

- (7) Establish rules and regulations for the effective exercise of flag state, port state and coastal state functions mentioned in international maritime instruments to which the Philippine is a State party. This authority shall include the levying of administrative fees, fines, penalties and sanctions.
- (8) Ensure that all Maritime Higher Education Institutions (MHEIs), are compliant with international standards as prescribed under the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) and shall likewise ensure compliance with European Maritime Safety Agency (EMSA) requirements. Further, MARINA shall have the power to recommend to the CHED *en banc* the closure/phase-out of substandard maritime education institutions, in accordance with the rules and regulations, as well as recommend alternative schemes or options for the affected maritime educational institution;

The foregoing functions shall be pursuant to the existing functions and mandates of the relevant agencies provided under the law or their respective charters in furtherance of the objectives of this Act.

- (c) Act as the designated point of contact to the IMO and other international bodies with respect to all matters related to the implementation of international maritime instruments to which the Philippines is a State party; and
- (d) Exercise such other powers and functions as may be necessary to implement the provisions of this Act.

SEC. 6. *Adoption of International Maritime Instruments to which the Philippines is not yet a State Party and Power to Amend Regulations to Conform to Amendments to International Maritime Conventions.* – The MARINA, with the concurrence of the Secretary of the DOTr, shall recommend to the Department of Foreign Affairs the adoption of international maritime instruments which the Philippines is not yet a party to, so that the appropriate recommendation can be made, the relevant instrument of ratification or accession may be issued by the President, and the concurrence of the Senate of the Philippines may be obtained: *Provided*, That in the case of any subsequent amendment to any technical annex of any existing international convention or treaty to which the Philippines is already a party and which is deemed accepted by the State parties after the lapse of the specified time, the appropriate government agencies are hereby empowered and authorized to amend and revise its rules and regulations to

conform with the amendments to the relevant convention or treaty without need of further legislative or executive authorization.

SEC. 7. *Coordination Among Regulatory Agencies.* – The Secretary of Transportation shall direct, oversee and document the creation, maintenance and management of the appropriate coordinative framework and structure among all government agencies mandated by law to supervise and regulate all parties referred to in Section 3 of this Act in order to ensure the harmonized implementation and enforcement of the international maritime instruments covered by this Act.

The Secretary of Transportation, as needed, shall coordinate with other executive departments whose line or attached agencies likewise exercise relevant functions or provide technical services in ensuring the safety of the ship, its crew, passengers and cargo and in protecting the marine environment.

SEC. 8. *Implementing Rules and Regulations.* – Within six (6) months from the effectivity of this Act, the DOTr shall, in coordination with the relevant agencies, issue the necessary rules and regulations to implement the provisions of this Act.

The rules and regulations shall clearly identify the processes and procedures to be followed by the different regulatory agencies given their respective mandates, technical competence and expertise, organizational structure and capabilities for carrying out the obligations of the Philippines under the relevant international maritime instruments. The rules and regulations shall further clarify functions and tasks which require:

- (a) Execution directly by the agency;
- (b) Execution indirectly by an agency acting on behalf of another;
- (c) Coordination of several agencies by a lead agency;
- (d) Cooperation by agencies acting independently of each other; or
- (e) Monitoring and reporting to another agency.

SEC. 9. *Separability Clause.* – If, for any reason, any section, subsection, clause or term of this Act is held invalid or unconstitutional, such parts not affected by such declaration shall remain in full force and effect.

SEC. 10. *Repealing Clause.* – All existing laws, orders, decrees, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby amended, modified or repealed accordingly.

SEC. 11. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,