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TITLE : AN ACT TO PROMOTE THE DEVELOPMENT OF PHILIPPINE OVERSEAS
SHIPPING

TEXT :

H. No. 4251
S. No. 963

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fifth Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second day
of July, nineteen hundred and ninety-one.

[REPUBLIC ACT NO. 7471]

AN ACT TO PROMOTE THE DEVELOPMENT OF
PHILIPPINE OVERSEAS SHIPPING

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

SECTION 1. Title. - This Act shall be known and cited as the
"Philippine Overseas Shipping Development Act."

SEC. 2. Declaration of Policy. - It is hereby declared the
policy of the Government of the Philippines to:

(a) Develop and maintain a Philippine Merchant Marine
composed of well-equipped, safe and modern vessels most suited
for Philippines requirements and conditions, manned by qualified
Filipino officers and crew, and owned and operated under the

Philippine flag by citizens of the Philippines or by associations or corporations organized under the laws of the Philippines, at least sixty percent (60%) of the capital of which is owned by citizens of the Philippines;

(b) Assist in the development, recovery and expansion of Philippine overseas shipping capable of meeting the requirements of the expanding international trade of the Philippines;

(c) Provide assistance to Philippine shipping enterprises and encourage the long-range vessel acquisition, development, modernization and expansion through private investments without direct government financial assistance; and

(d) Create a healthy climate to attract private enterprises.

SEC. 3. Definitions. - As Lised in this Act:

(a) "Philippine overseas shipping" means the transport of goods and/or passengers by a ship owned and operated under the Philippine flag by a Philippine shipping enterprise, except when the ship is operated solely between ports in the Philippines;

(b) "Philippine shipping enterprise" means a citizen of the Philippines or an association or corporation organized under the laws of the Philippines, at least sixty percent (60%) of the capital of which is owned by citizens of the Philippines and engaged exclusively in Philippine overseas shipping;

(c) "MARINA" means the Maritime Industry Authority;

(d) "Monetary authority" means the Central Bank of the Philippines and any other agency in charge of foreign exchange controls; and

(e) "Regulations" means the rules and regulations promulgated pursuant to Section 10 hereof

SEC. 4. Foreign Exchange Requirements. - Foreign exchange requirements of Philippine shipping enterprises for the purchase of oceangoing vessels for registration under the Philippine flag, for repair or improvement of vessels, for importation of engines, spare parts, accessories, supplies, containers and for other expenses required for the operation of vessels in foreign ports or in the high seas, when recommended by the MARINA, shall be made available to the Philippine shipping enterprise subject to the regulations.

SEC. 5. Acquisition of Oceangoing Vessels. - Philippine shipping enterprises may likewise acquire oceangoing vessels for Philippine overseas shipping upon approval by the MARINA, subject to the guidelines prescribed in the regulations: Provided, That:

(a) The funds utilized in the acquisition of the vessel are

financed from sources other than the Philippine banking system;

(b) No guaranty of the monetary authority or of any Philippine government or private financial institution is granted or extended for the purpose;

(c) The vessel serves as sole collateral for the financing of the vessel and no other asset of the Philippine shipping enterprise is pledged, mortgaged, or used as security in case of default;

(d) All foreign exchange requirements for the servicing of the loan, the operation, maintenance and repair of the vessel, the purchase of supplies and related equipment shall be financed solely from earnings derived from the operation of the vessel and no foreign exchange shall be made available by the monetary authority and the Philippine banking system for these purposes;

(e) Mortgage documents and/or other financial agreements shall be filed with the monetary authority and such other government agencies in charge of such mortgage formalities; and

(f) Any excess foreign exchange earning shall be inwardly remitted and surrendered to the Philippine banking system.

SEC. 6. Exemption from Import Duties and Taxes. - The importation by a Philippine shipping enterprise of oceangoing vessels for registration under the Philippine flag shall be exempt from the payment of import duties and taxes. The spare parts for the repair and/or overhaul of vessels shall likewise be exempt from the payment of import duties and taxes: Provided, That such items are destined or consigned either to:

(a) A Philippine dry-docking or repair facility, accredited by the MARINA and registered as a customs-bonded warehouse, which will undertake the necessary repairs and works on the vessel; and

(b) The vessel in which the items are to be installed: Provided, That, if such items are found in locations other than the two (2) aforementioned ones or in places not authorized by customs, the person or entity in possession of such items shall be subject to full duties and taxes, including surcharges and penalties.

Local manufacturers or dealers who sell machinery, equipment, materials and spare parts to a Philippine shipping enterprise shall be entitled to tax credits for the full amount of import duties and taxes actually paid thereon, or on parts or components thereof, subject to the approval of the Secretary of Finance, upon the recommendation of the MARINA.

SEC. 7. Exemption from Income Tax. - A Philippine shipping enterprise shall be exempt from payment of income tax on income derived from Philippine overseas shipping for a period of ten (10)

years from the date of approval of this Act: Provided, That:

(a) The entire net income, after deducting not more than ten percent (10%) thereof for distribution of profits or declaration of dividends, which would otherwise be taxable under the provisions of Title 11 of the National Internal Revenue Code, is reinvested for the construction, purchase, or acquisition of vessels and related equipment and/or in the improvement or modernization of its vessels and related equipment in accordance with the regulations; and

(b) The cumulative amount so reinvested shall not be withdrawn for a period of ten (10) years after the expiration of the period of income tax exemption or until the vessel or related equipment so acquired have been fully paid, whichever date comes earlier.

Any amount not so invested or withdrawn prior to the expiration of the period stipulated herein shall be subject to the corresponding income tax, including penalties, surcharges and interests.

SEC. 8. Registration and Deletion of Vessels. - All vessels owned by Philippine shipping enterprises and availing of the incentives under this Act shall be registered under the Philippine flag. Said vessels can only be deleted from the Philippine registry after the MARINA has determined that:

(a) No other Philippine shipping enterprise is interested in acquiring the vessel; or

(b) The vessel has to be scrapped.

SEC. 9. Requisition of Vessels. - The President of the Philippines may, in times of war and other national emergency, requisition, absolutely or temporarily, for any naval or military purpose, any and all vessels of Philippine registry. The Government shall pay the owner or operator of the vessel, based on normal conditions at the time of requisition:

(a) The fair market value, if the vessel is taken absolutely; or

(b) The fair charter value, if the vessel is taken temporarily.

In case of disagreement, such fair value shall be determined by an arbitration committee composed of:

(a) One (1) member to be appointed by the MARINA;

(b) One (1) member to be appointed by the owner or operator of the vessel; and

(c) One (1) member to be appointed by the two (2) members so appointed.

The decision of the arbitration committee shall be final and binding on both parties.

SEC. 10. Rules and Regulations. - The MARINA, in consultation with the monetary authority and the Department of Finance, shall jointly formulate and promulgate the rules and regulation necessary for the implementation of this Act taking into consideration the policies and programs of the Government for the development of the Philippines overseas shipping.

SEC. 11. Annual Report. - The MARINA, in coordination with the monetary authority and the Department of Finance, shall submit an annual report to the President of the Philippines and the Congress of the Philippines on the implementation of this Act, which report shall include:

(a) The amount of foreign exchange earned, acquired and spent by Philippine shipping enterprises;

(b) The amount of income tax and import duties and taxes for which exemptions have been granted;

(c) The additional oceangoing vessels constructed, purchased or acquired; the improvements made thereon and the additional related equipment procured; and

(d) Such other information as the MARINA may deem necessary or the President of the Philippines may require.

SEC. 12. Penal Provisions. - Violation of the provisions of this Act or the rules and regulations promulgated to implement the same shall be punished by a fine of not more than Ten thousand pesos (P 10,000) or imprisonment for not more than five (5) years, or both such fine and imprisonment, at the discretion of the court.

If the violation is committed by an association or corporation, the penalties prescribed hereunder shall be imposed on the president, the chief executive officer and the other officials and employees responsible for the violation.

If the violation is committed by a government official or employee, he shall, in addition to the penalties prescribed hereunder, be dismissed from the government service with all the administrative penalties accessory thereto.

SEC. 13. Repeating Clause. - All laws, executive orders, regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 14. Effectivity Clause. - This Act shall take effect

fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,

NEPTALI A. GONZALES
President of the Senate

RAMON V. MITRA
Speaker of the House
of Representatives

This Act which is a consolidation of House Bill No. 4251 and Senate Bill No. 963 was finally passed by the House of Representatives and the Senate on December 12, 1991 and January 23, 1992, respectively.

ANACLETO D. BADOY, JR.
Secretary of the Senate

CAMILO L. SABIO
Secretary General
House of Representatives

Approved: May 05, 1992

CORAZON C. AQUINO
President of the Philippines