

Maritime

REVIEW



A PUBLICATION OF THE MARITIME LEAGUE

March-April 2001

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AN YANG JIANG

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DOMESTIC SHIPPING

Owners renew bid for reforms

PORTS

Container port to rise in Mindanao

MARINE INSURANCE

The rule on vessel seaworthiness in cargo insurance policy

D S A



sailing across barriers

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FRONT COVER

A call to level the playing field

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Chairman's Page

CONGRATULATIONS. On behalf of the Board of Trustees and the membership of the League, I wish to express our sincerest congratulations to the newly appointed President's men in the League: Justice Secretary Hernani Perez (sorry, friend – forgot to mention last issue the first one appointed by PGMA), National Security Adviser Roy Golez (replacing ML member Alexander Aguirre), DND Secretary Angelo T Reyes, new PN Chief Victorino S Hingco and PPA General Manager Alfonso Cusi. Agustin Bengzon likewise continues to be an Undersecretary of DOTC joined by another Leaguer, Art Valdez (already mentioned last issue). We're proud of all of you.

The latest two appointments took a little time, as the failed designation of another Maritime League member, General Lisandro Abadia, was set aside because of certain issues that I thought were already settled. Well, I suppose that's how the ball bounces, so they say.

On Al Cusi. There was some murmuring of "conflict of interest" when the appointment of Alfonso Cusi was rumored for a few weeks. For those interested, herewith is a portion of Al's speech during the low-profile turnover rites at the Philippine Ports Authority on 28 February 2001:

...All my working life has been with the transportation industry and with the private sector. This is indeed a challenge, the beginning of a new chapter in my career.

I have no hidden agenda in joining the PPA. My objective is to be able to help the present administration and contribute whatever capabilities and expertise, if we may call it, which I may be able to offer.

The President herself has laid the ground work for the leadership style she wishes to be practiced and which I will follow in the course of my duties:

1. Leading by example. Our President starts work early. She is

business-like, on time for meetings and ends her working day after most people have gone to bed. I can not promise I will always stay late at night, but I will start my day early. I will be on time for meetings and it will be all business during my watch. There will be time for fun, but I intend to make work fun.

2. Being accountable. I have always made myself responsible for my actions. This will not change. And I hope you will do the same.

3. Being transparent. Because I have no hidden agenda, I will have nothing to hide. What you see is what you get and all I can promise you is that in the PPA there will be transparent management.

4. Being frugal. We have a national budget deficit of about P220 billion. The government will set a target of reducing this to P145 billion by the end of the fiscal year. We in the PPA must do our share to contribute to this target. I am sure that basic necessities and benefits due each and everyone of you will be satisfied but my management will be frugal. I am asking all of you to be frugal.

5. Consulting. I will welcome anybody who wants to discuss issues with me. We will set mutually acceptable schedules for these dialogues with you, with the shipping and port community and with any social grouping that may be affected by our intended policies and actions.

6. Empowerment. I would like our organizational structure to work. Each one of us has a role. That is why we are here. I can not do everything by myself. I cannot be everywhere at the same time. I do not think I can match the record of visitation and inspection of the nationwide ports established by GM Johnny. But if all of you believe that we can be the best that we can be, then, I do not think I have to check each and everyone of you.

7. Being truly God-fearing. We call God by many names. But whatever we call Him let us be truly prayerful. It does not matter what religion we turn to. But I believe we must do our best to go back to basics...let us rediscover our values.

Sounds good to me. For those of us who know Al quite well, we believe he will perform with flying colors.

Thanks. The scheduled Maritime League fellowship lunch meeting with the PCG hosted by the Commandant, PCG at the HPCG Wardroom on 28 Feb 2001 was a successful event with more than 100 attendees, including at least 83 members (some unfortunately failed to register). In addition we had 25 new inductees. Since the new honorary chairman, Sec Pantaleon Alvarez was out of town, he was represented as inducting officer and speaker by USEC Agustin Bengzon of DOTC, one of the original members of the League.

The PCG gave a detailed briefing about the PCG and its projects after which Commo Reuben Lista provided more information. One of the two original honorary co-chairmen of the League, former DOTC Sec Oscar Orbos, who was supposed to give the Closing Remarks, was tied up with ailing Cardinal Sin and arrived after the lunch meeting. The closing remarks was given in his stead by new National Security Adviser Roilo Golez, likewise a maritime person (former PES executive, DOTC assistant, MARINA Deputy Administrator, PNSC President, Postmaster General and 3-term Parañaque congressman).

Commo Lista, on suggestion of USEC Bengzon, agreed to make the occasion the annual anniversary fellowship meeting, since the League was formed on this month exactly 10 years ago.

Thanks again to the PCG and especially to Trustee Reuben Lista for the successful event.

Mindanao Container Terminal. While waiting to see Defense Secretary Eduardo Ermita at his Camp Aguinaldo office last 20 February, I chanced upon three long lost friends who surprisingly are in the business of ports development: Retired PC Brig Gen Triunfo P Agustin, retired Army Brig Gen Donato Quintos, and current Administrator Gabriel B Evangelista of the PHIVIDEC Industrial Authority (PIA). They briefed me on the things being done for their project, a JBIC-funded \$92.6 million port development for the PIA at its site in Tagoloan, Misamis Oriental, some 20 kms from the center of Cagayan de Oro City. This will definitely outshine the busy Cagayan de Oro port of the PPA.

Maritime update

OWNERS 'ERODE' SEAFARERS' RIGHTS

SHIP owners and flag states have eroded the oldest and most enduring traditional seafarer's right to 'maintenance and cure,' by cost-cutting to address tight margins, a leading US seafarers' advocacy group told the Connecticut Maritime Association conference. Cruise lines, open registries and the world's major supplier of seafarer labour, the Philippines, are bringing the right to free medical care into line with shore-based labour laws, said Centre for Seafarers' Rights director Douglas Stevenson. Changes to Panama's labour code in 1998 also changed seamen's rights, setting time limits on medical care provision. Stevenson also criticised the Philippines Overseas Employment Administration's new standard employment contract, which "wiped away centuries of maintenance and cure" and replaced it with workers' compensatory-based scheme. Stevenson's speech was part of a discussion on recruitment and retention of ocean-going officers and seafarers.

OWNERS ESCAPE PRE-PAID PILOTAGE

INTERNATIONAL shipping lines have won a temporary reprieve from paying a ten per cent pilotage fee direct to the Philippine Ports Authority, possibly even before pilot services have been performed. A court order temporarily stops the PPA from collecting its due share of gross pilotage fees direct from the owners, as proposed, rather than from a pilotage association. The PPA is legally entitled to ten per cent of the gross income of the pilots it contracted, but was reportedly having difficulty collecting payment. It had intended extracting the payment before or during docking, sources said.

E-BROKING CUTS COMMS COSTS CLAIM

SHIPBROKING via e-commerce can reduce current transaction communications by between 30 and 40 per cent, according to dot.com operator LevelSeas. Sales and marketing director Niels Conradsen told a sceptical but interested audience at the Connecticut Maritime Association Shipping 2001 conference that improved efficiency would allow brokers to add more value and free them up from "acting as a post office". Conradsen said initial studies at BP, a LevelSeas investor, showed the platform reduced the number of e-mails, phones, faxes and telexes from 450 to 300 in every voyage, from pre-fixture to post fixture. The LevelSeas is scheduled to go live in July. Delegates heard



Shipbroking via e-commerce can reduce current transaction communications by between 30 and 40 per cent

that the virtual Baltic would also be launched in July. Baltic Exchange CEO Jim Buckley said he "hoped" the system would work. "It would be arrogant to say now that it will," he commented.

WG&A GETS SLIP WAY CONTRACT

WG&A Philippines, the country's largest domestic shipping operator, has been awarded the contract to operate the marine slipway at the Manila North Harbour. The contract with the Philippine Ports Authority shall take effect until June or until the government turns over its operation of the domestic terminal to the winning bidder. But with the protest and delays that the modernisation that the port has encountered, it will take years before the project gets to start, giving WG&A an advantage to operate the facility indefinitely. Under the agreement, WGA will lease the area for a monthly fee of PhP12.15 per sq m (lower than the PhP18.50/month 10 years ago), or a total of PhP886,950 a month. Some years ago, PPA tried to enforce a PhP50/sq m rental rate at North Harbour, saying that surrounding real estate values indicate such a "reasonable" rental rate.

NO PROTECTION FOR BUNKER SALVORS

THE Convention on Civil Liability for Bunker Oil Pollution Damage will not give salvors immunity from prosecution. IMO delegates discussing the proposed convention in London decided instead to support an optional resolution that "urges states ... to consider the need to introduce legal provision [to protect] persons taking measures to prevent or minimise the effects of oil pollution." A French proposal to replace the word 'immunity' in the draft resolution with 'protection' was accepted by the meeting. Alfred Popp, who chaired the 'Committee of the Whole' - which is working through the convention's details - described

the outcome as a satisfactory compromise as it allows countries that want to include responder protection in their laws to do so without preventing others from ratifying the convention. Asked why this convention differed from others that do allow responder immunity, an IMO spokesman pointed out that those conventions were backed by compensation funds from which claimants could be paid. The bunker convention will not have a fund, so other sources of compensation must be available.

PPA URGED ON TRANSPARENCY

A GROUP of port users has urged the Philippine Ports Authority (PPA) to be more transparent in deliberating on petitions for cargo handling rate increases as the group pressed for a roll back of the 10 per cent hike it approved recently. The Coalition for Port Modernisation (CPM) said the increase that took effect last February was "railroaded by the PPA despite the objection from port users who were caught unaware." In its letter to PPA general manager Alfonso G. Cusi, the CPM said the "public hearing was a farce and the PPA Board approved the rate increases in cargo handling even before the formal opposition papers could be submitted." Port users from international lines, ship agents and shippers were not given enough time to state their opposition. "We urge you as PPA general manager to ensure that a more transparent process may be conducted whereby all the affected parties are allowed to ventilate their position," CPM requested Cusi.

ITF CHALLENGES EC OVER CREW PAY

THE ITF intervened last week after discovering that the crew of a ship chartered by the European Commission to deliver food aid was being paid below ILO-agreed rates. Some crewmen on the 1973-built, 34,093

DWT Maria M were receiving \$380 a month. A Goncalves of the EC's EuropeAid Co-operation Office, told the ITF: "If any international regulations are violated by the ship operator, there are adequate bodies to deal with that. It is not up to the Commission to control it." The ITF commented: "Thankfully, a little later someone else in the office agreed that providing [relief] shouldn't involve abusing the rights of seafarers." An ITF inspector will meet the Cyprus-registered, Greek-operated ship in Greece and seek to have the crew covered by an ITF agreement. The operators said that they would pay the ILO minimum until the end of March.

SINGAPORE PROPOSES JV FOR SUBIC

THE Philippine government is seriously considering an offer to form a multi-billion dollar joint venture to develop the seaports and airports of Clark and Subic into major logistics hub and transshipment point in southeast Asia. The offer, which was made by the Singapore government investment holding arm Temasek Holdings, has been dubbed as a signature project that can quickly transform the perception of the Philippines as a whole," according Rufo Colayco former chairman of Clark Development Corp. Temasek has been keen on developing and managing jointly the two former US naval bases with the Philippine government, including the highway network that would link the two special economic zones. Preliminary discussions with both government officials as well as private sector executives in Singapore indicate a high level of interest, according to Colayco in his letter to the Department of Trade and Industry.

IMO TO CONSULT GOVERNMENTS ON PIRACY

A regional agreement on co-operation against marine piracy and armed robbery has been mooted following IMO talks in Singapore with officials from 11 Asian and Pacific Rim countries. IMO has been invited to undertake consultations with regional governments. While not committing to a time frame, IMO maritime safety division director Efsthimios E Mitropoulos said that the mood suggested this should come about soon. The meeting identified lack of regional co-operation as one of the main factors hindering concerted action against piracy, which has led to escalation of attacks. According to IMO statistics, 55 people were killed last year in piracy attacks.

PANAMA REFORMS LICENSING ROLE

PANAMA Consulate in Manila has instituted a one-day processing in the application and release of licenses to thousands of Filipino seafarers serving on Panamanian-flag vessels. The scheme is intended to stave off accusations that the consulate had encouraged delays so as to favour a private firm set up by another

Panamanian to assume the function for higher fees. The consulate has also opened its office on Saturdays to accommodate application of crewmembers bound for a weekend flight to their ships. Panama ambassador to the Philippines Juan Carlos Escalona said that the office is now the only consulate in town that opens on weekend assisting seafarers. The seaman's license will be valid for five years instead of the former eight months to one year.

CRUISE LABOR TALKS HIT STALEMATE

TALKS between the ITF and two major Florida-based cruise lines on union representation on their ships have broken down. The ITF says Disney and Carnival cruise lines will not allow collective bargaining agreements similar to those at other lines. The ITF targeted Disney and Carnival, which together employ over 24,000 seafarers, when it first opened a Cruise Campaign Office at Port Canaveral in mid-2000. Most lines serving the North American market are registered in Liberia, Panama or the Bahamas and although they serve the US or Canada market, are not subject to US employment laws. ITF cruise campaign co-ordinator Jim Given says he wants to fight rampant exploitation that exists on many passenger ships, effectively turning crew into indentured labour. Cruise lines deny any suggestion that crew are exploited or mistreated.

SUAPE BOX TERMINAL GOES TO ICTSI

ICTSI has won the concession to operate the container terminal at Suape, Brazil, after tabling the winning bid of R\$350M (\$169M) for the 30-year deal. The Philippines-based operator's bid beat that of the favourite, a local consortium, by about \$27M. Suape, in the north-eastern state of Pernambuco, handled 62,500 TEU last year and is said to be capable of handling over 500,000 TEU within the next ten years. ICTSI must undertake to install two mobile cranes after year two and a Panamax crane after year six. The winning operator

would also have to pay the authority R\$8 per full box moved through the port, port authority president Sergio Kano said last month.

INSURANCE POOLS WORRY ASIAN OWNERS

PROPOSED amendments to the Athens Convention could leave ship owners vulnerable to large P&I cash calls in the event of excessive passenger claims. A meeting of the Asian Shipowners Forum (ASF) Ship Insurance Committee in Hong Kong on March 12 highlighted the concerns. The possibility of P&I clubs forming pooling arrangements could leave owners exposed if passenger claims exceeded the current \$4.25Bn limit. "Because of the mutuality of the insurance, one passenger ship incident could result in additional calls from all other owners under P&I cover," according to Arthur Bowring, director, Hong Kong Shipowners' Association. The committee stressed the need for a solution meeting both the desire for proper passenger compensation and the availability of insurance.

APEC PUSHED ON ISM STANDARDS

TRANSPORT ministers from the APEC (Asia Pacific Economic Co-operation) countries will be asked to promote a "concentrated inspection campaign" on the ISM Code to a standard set of guidelines for a three-month period from July 1, 2002. The recommendations, by a port state control working group which met in Sydney in March, could be used as a model for ongoing ISM-focused port state control inspections in the Asia-Pacific region. The working group recommended that regional administrations encourage uniform inspections by APEC members and throughout all regional MOUs and also support standard inter-MOU data exchange systems. It also sought implementation of an assessment/audit programme to ensure uniformity within the Tokyo MOU and across MOU boundaries. APEC transport ministers support the concept of targeting vessels at high risk of being sub-standard.



Ship owners address issues anew

DOMESTIC shipping operators have renewed their efforts to address the industry's concerns with the assumption of the new administration. Representatives of the Philippine Inter-island Shipping Association, Domestic Shipowners Association, Philpesta and Lighterage Association of the Philippines presented their vision of the shipping industry geared toward globalization, leveling the playing field and the development of the country's port system.

The industry's recent meeting with Transportation and Communications secretary Pantaleon Alvarez and Undersecretary Art Valdez resulted in the formation of a working group composed of representatives from the private shipping group and government sector that would determine both immediate and long term concerns. The immediate concerns will cap the first 100 days of the Macapagal-Arroyo administration, which immediately buckled down to work as members of the Cabinet

were being completed. In determining workable solutions to their problems, the shipping lines have agreed to appoint representatives to the working group, which shall work closely with their government counterparts. The working group started by addressing the resolutions reached during the National Shipping Congress held in September 2000. They group has also been requested to determine the agencies of government that should be included in the existing Multi-sectoral Task Force on Inter-island Shipping so that solutions could be facilitated.



Shipowners ask for a level playing field

Vital concerns

A POSITION paper recently submitted by PISA and Filipino Shipowners Association notes the potential of Philippine shipping to become a "global player competing aggressively in domestic trades as well as in the region and world wide." They believe that through this potential the industry can achieve its viability and competitiveness once urgent action is undertaken jointly between the private sector and the government. Globalisation for the Philippine shipping industry should be interpreted as Filipino ship owners with high standards of safety, competing regionally and worldwide.

"Both private sector, ship owners and shippers, and government agencies must urgently work hand in hand towards creating an environment that will allow shipping companies to become more efficient and competitive in our domestic, regional and worldwide markets.

"It shall be vital all the ways necessary to level the playing field between the Philippine and its regional shipping competition. We realize that the country has adopted a policy of liberalisation and globalisation. We also realise that all export and manufacturing sectors are making efforts to improve their competitive advantage. A reliable, committed shipping service is an important component that needs to be available."

Higher operating costs such as taxes, fuel, import duty and lack of available financing

are some of the issues that confront the local shipping sector. Filipino ship owners are taxed on fuel, while foreign ship owners bunkering in the Philippines are not. Filipino ship owners must pay import duty for spare parts and steel plates, while foreign lines receiving spares in Philippine ports are duty free. Vessels imported into the Philippines are subjected to import duty.

Filipino owned vessels trading in Philippine waters pay 10 per cent VAT on gross freight revenue as well as a corporate income tax of 32 per cent. Foreign flag cargo vessels calling Philippine ports pay 2.5 per cent tax on gross Philippine billings covering export cargo and a three per cent common carriers tax.

Filipino ship owners can only avail of financing only from banks that have high cost for foreign currency. Foreign banks with access to low cost foreign currency would not lend to Filipino ship owners under the current Philippine Mortgage laws.

Successful maritime nations have clear policies supporting their shipping industry. The support comes in the form of clearly defined laws including those on foreign investment and mortgages, tax incentives, access to finance including equity, and simple delineation of jurisdiction by government.

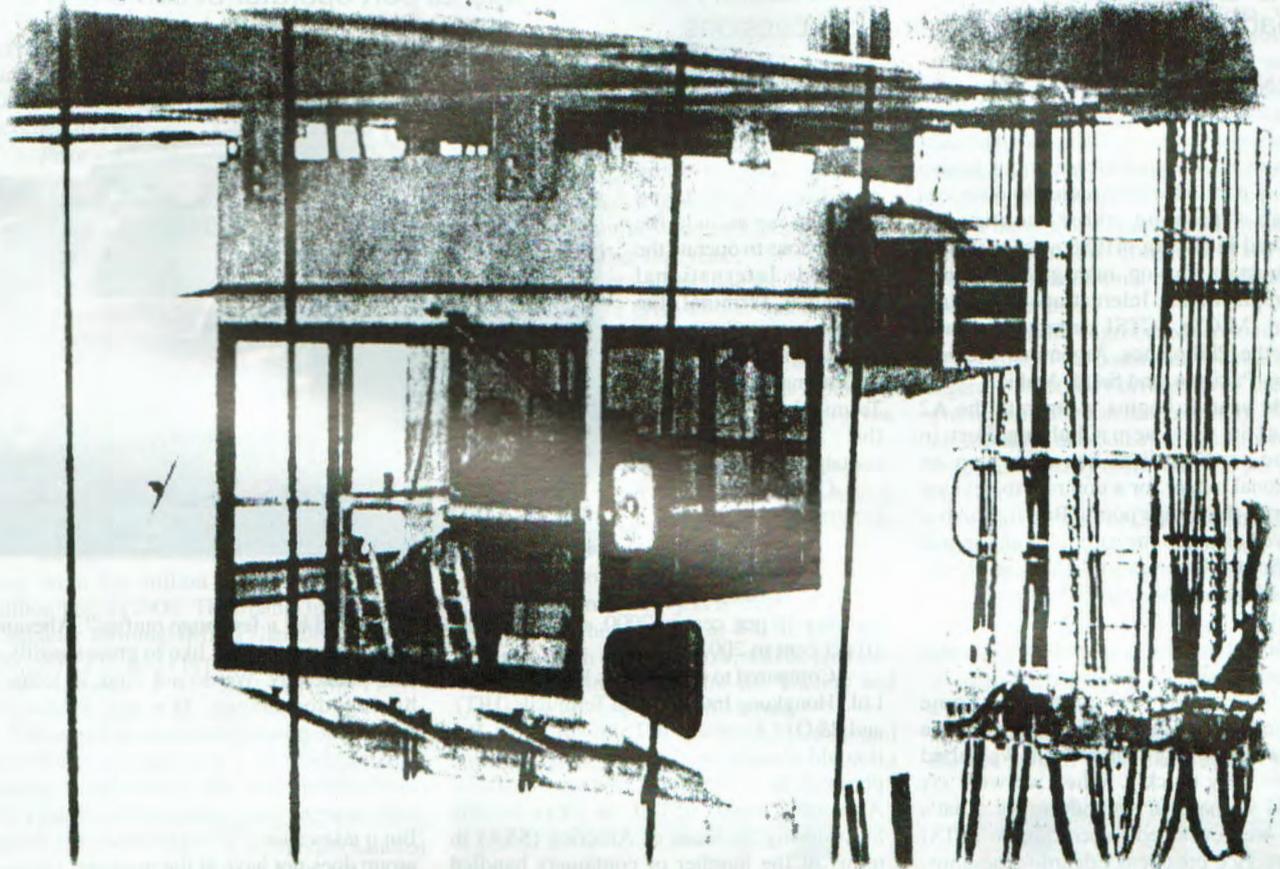
A clear policy is required that Philippine shipping is a vital industry that must be supported, say PISA and FSA.

Undersecretary Valdez suggested that the concerns be broken up into maritime administration, education and training, maritime convention and legislation, maritime safety and pollution. This is in accordance with the breakdown of working groups provided in the framework of the multi-sectoral task force for the maritime industry.

It is said that government representatives were keen to give priority to port modernization, which could be possibly achieved within the first 100 days of the present administration. PISA and DSA representatives suggested to secure the port area that would begin from the gates leading to the terminal, clearing the area and the access roads, and provide ample parking space for trucks and other vehicles. Government and private sector representatives agreed that in addition to what may be identified as a visible achievement for the first 100 days, the other concerns of the domestic shipping industry that be "doable within the first 100 days" shall likewise be addressed.

During the working group's meeting on February 22, 2001, DOTC instructed PPA to meet with the shipping lines to discuss issues involving clearing the area, securing the gates, fixing the traffic flow, and identifying parking areas and truck holding areas. This means that the Philippine National Police and the representatives of the City of Manila had to be involved to address the traffic problem. PPA officials believed that with proper coordination, new arrangement could be implemented and sustained so that congestion could be checked and port security could be enhanced.

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ICTSI: From Manila to the world

Cecilia Quiambao reports on how the country's first international port operator became one of the leading players in box terminal concessions

INTERNATIONAL Container Terminal Services Inc. (ICTSI) has succeeded in making an impression in the world's port container business as it expanded its operations from a stagnating port in the Philippines into various terminals spanning three continents. Established in Manila in 1988 after obtaining the contract to develop, manage and operate the decrepit Manila International Container Terminal (MICT), ICTSI currently operates ports in the Philippines, Argentina, Mexico, Tanzania, Pakistan, and Saudi Arabia.

This year, it begins to operate the A2 Terminal in the Laem Chabang Port in Thailand. The firm has also won an international tender for a contract to develop and operate the Swape port in Brazil, which is being eyed as a hub for cargoes going in and out of South America and the Caribbean. ICTSI's Mexican subsidiary has also submitted the highest bid of \$7.5 million for the concession of the Progreso container terminal in Yucatan, Mexico.

"It's true we've gone far. Some companies remain in their first project for a long time before they ventured out. We started going out very quickly. When we were six years old we had our second project. That's the way we developed," according to ICTSI executive vice president Edgardo Abesamis. In 1994, ICTSI won its first port terminal operations contract outside the Philippines in Argentina, where it now operates Terminal 5 in Puerto Nuevo. A year later, it bagged another terminal operations contract for the specialized container terminal in the port of Veracruz, Mexico.

In subsequent years, the previously

unknown ICTSI gained the approval of various governments, thereby getting its growing portfolio of managed ports. These include the concessions to operate the Karachi International Container Terminal, the Dammam Container Terminal in Saudi Arabia, the Ensenada International Terminal in Mexico and the Dar es Salaam container port in Tanzania.

Overall, ICTSI has reported handling 2.15 TEUS in 1999. Abesamis says the firm's container handling business should grow by 10 per cent in 2000, and by another 10 per cent in 2001.

Compared to competitors like PSA Corp. Ltd., Hongkong International Terminals (HIT), and P&O of Australia, ICTSI is still small. But it could already be classified as a mid-level player in the international container business. Abesamis says ICTSI is next to the Stevedoring Services of America (SSA) in terms of the number of containers handled annually, or is practically fifth in worldwide standing. SSA has cargo handling and related operations in the US, and like ICTSI, it has operations in Africa, Asia and Latin America, handling in excess of eight million boxes annually.

"We're a relatively small company as financial resources go because the industry is



dominated by a few huge outfits," Abesamis says. "But we would like to grow steadily, in size financially. We do not think in terms of having dominance. It's not within the immediate possibilities to be as big as HIT or anything like that." Abesamis is confident that their management can grasp what it takes to run a huge port or to have a series of huge ports. But it takes a lot of financial resources that the group does not have at the moment. Though ICTSI posted a PhP59.4 million net income in the first three quarters of 2000, this was 86% less compared to the income it posted in the same period last year. The firm said the decline was a result of its having to place a higher put premium accretion on its \$130 million convertible bonds floated in 1997.

Abesamis said the firm has reasons to believe that most bearers of the notes will not convert into equity as ICTSI stock value has fallen since 1997 compounded with a weak stock market. ICTSI outstanding debt now stands at \$153.4-million – reason enough for it to expand at a prudent pace. "We're slowing down expansion at this time by limiting ourselves to projects that require very little to start up," Abesamis explains. ICTSI recently turned its back on plans to participate in the international tender to develop and operate Japan's Hibeki port due to lack of funds and partners needed to undertake the terminal development that could run into in excess of \$100 million. But the firm also has another reason to expand cautiously. In 1999, ICTSI had to cut its losses by making the difficult decision to pull out of the second port privatization project it won in Argentina, the port of Rosario, after a series of violent labor strikes. It posted a consolidated loss of PhP1.3 billion that year.



ICTSI's Veracruz container terminal

...earnings despite forex losses

INTERNATIONAL Container Terminal Services, Inc. (ICTSI) reported a consolidated audited net income of PhP31.3 million for 2000, a reversal from the loss of PhP1.3 billion recorded in 1999.

Positive growth was a result of strong operational performances of container terminals operated by the company in the Philippines, Argentina, Mexico, Saudi Arabia, Pakistan and Tanzania. The loss in 1999 was largely the result of the non-recurring write off of the investment in Puerto Rosario, S. A. of PhP1.6 billion, and the accretion of the put premium for the USD130 million convertible notes from 1997 to 1999 amounting to PhP991 million.

The robust growth in volume, revenues and operating incomes from these terminals worked to buffer the negative effects of a weak Philippine peso against the US dollar.

Group wide volume increased by 24 per cent, from 2.1 million TEUs in 1999 to 2.7 million TEU in 2000. The Manila International Container Terminal (MICT) handled a total of 958,585 TEU, an 11 per cent increase from the 1999 volume of 865,819 million TEUs. Volumes handled by subsidiaries of ICTSI International Holdings Corp. (IIHC) increased by 22 per cent, from 1.3 million TEUs to 1.6 million TEUs.

Internacional de Contenedores Asociados de Veracruz, S. A. de C. V. in Mexico handled 488,001 TEUs, 17 per cent higher than the 1999 volume of 415,366. Buenos Aires Container Terminal Services, S. A. in Argentina handled 237,969 TEU, a 10 per cent decline from 263,999 TEU in 1999 mainly as a result of the Argentine economic slowdown. Volume handled by International Port Services Co. Ltd. in Saudi Arabia increased by eight per cent, from 422,341 the previous year to 454,640 TEU. In Pakistan, Karachi International Container Terminal Co. Ltd. handled 311,474 TEU, almost double the 1999 volume of 158,862 TEU. Volume handled by Ensenada International Terminal S. A. de C. V. in Mexico grew 36 per cent, from 21,191 to 28,859 TEU. Tanzania International Container Terminal Services Ltd. in Tanzania, which began operations in September, handled 43,106 TEU.

Volume handled in other Philippine operations (Subic and Gen. Santos) increased by 31 per cent, from 113,409 TEU to 148,914 TEU.

Primarily as a result of increased volumes, the company's consolidated gross revenues grew 32 per cent, from PhP9.5 billion in 1999 to PhP12.5 billion in 2000. Revenues from the MICT increased by 19 per cent, from PhP3.4 billion to PhP4.0 billion. Consolidated revenues of IIHC grew by 37 per cent, from PhP6.1 billion to PhP8.3 billion.

Japan to lead Mindanao box port

GOVERNMENT has begun promoting the development of the container port in Mindanao with an invitation to pre-qualify in the tender to undertake the project that will be funded by loan from Japan Bank for International Cooperation (JBIC). The project to build the Mindanao Container Terminal in Tagoloan, Misamis Oriental, expected to be undertaken by Japanese contractors, costs \$92.6 and will begin in December this year.

The contract will include the building of pier and onshore civil works, buildings and utilities, dredging and reclamation and procurement of container handling equipment and computers. Since the contract is Japanese-funded, Japanese contractors have been given priority.

State-run Phividec Industrial Authority, the agency that administers the project, has set May 10 as the deadline for pre-qualifications applications.

Scope of work for the Mindanao Container Terminal Project is set in two phases. The wharf, which will be at 400 m. long with berthing depth of 13 m below, will be provided with two gantry cranes for the loading and unloading of containerized cargoes.

It will be back up by facilities and equipment including container yard, road

networks, holding areas for lorries, weighing bridges, greeneries and provision of four container yards. Building facilities will house the port's administration, terminal operations, workshop, control towers, among others. The contract also involves dredging of about 350,000 cu. m. of spoils and filling/reclamation of about 500,000 cu. m.

Phase two of the project will include the expansion of the container yard and the provision of additional two gantry cranes and four yard-cranes.

Mindanao's agri-based economy provides 44 per cent of the domestic food market. With regard to exports, Phividec says, the region's overall contribution has grown by 20 per cent while foreign and domestic investments locally have increased by more than 150 per cent over the years.

The Cagayan de Oro Base Port is the most important gateway in Mindanao for both passengers and cargo at the northern coast of the "promised land." Due to the growth and of incoming and outgoing cargo and its location in a highly urbanized area, the port has become too congested, handling 2.6 million metric tons a year.

After doubling its designed capacity over the last several years, the limited capacity of



Consequently, the company's earnings before interest, taxes, depreciation and amortization rose by 30 per cent, from PhP3.4 billion to PhP4.5 billion.

ICTSI's 2000 consolidated income from operations grew by a hefty 45 per cent, from PhP2.4 billion in 1999 to PhP3.4 billion in 2000.

Net income was minimized by several factors, mostly arising from the 24 per cent deterioration of the Philippine peso against the US dollar.

Cagayan de Oro base port has restrained economic growth of Mindanao. It is for this reason that the provincial government of Misamis Oriental recognized the urgent need of constructing a modern port to complement the existing facilities of the area.

The shoreline facing Phividec Industrial Estate-Misamis Oriental, which was chosen as the preferred site for the container port project, is said to have an ideal deep-sea shoreline. Aside from being closed to an industrial park, the site has good access to the roads leading to Bukidnon, Davao and Cotabato provinces.

Cargo grows amidst crisis

PUBLICLY listed port operator and logistics provider Asian Terminals Inc. (ATI) reported a net income of P541 million from revenues of P2.93 billion in 2000. Last year's profit was 29 percent higher than the P418.22 million posted in 1999, while revenues grew 14 percent from the previous P2.56 billion.

In a statement, the company said that the "difficult business environment tempered an otherwise strong performance last year." ATI felt the combined effects of successive fuel price increases, high interest rates and the continuing peso depreciation. "Despite these pressures, however, the cargo handling business was still fundamentally driven by the growth of world trade as commerce expands and barriers to trade are reduced," the company said.

"The company remains ideally positioned to take advantage of this trading boom," it added. "Our committed long-term investments are expected to achieve strong levels of organic growth. Moreover, the close affiliation with the global network of P&O Ports, an ATI shareholder, fuels our continuing drive to attain world class productivity levels."

Full-year volume at South Harbor Container Terminal, the company's flagship business, hit a record 577,412 TEU, representing a 7.4 percent growth from the 537,439 TEUs handled in 1999. With improvements at South Harbor in full steam, the company's non-containerized cargo terminal is expected to strengthen its existing market share of about 88 percent of Port of Manila volume.

Other ATI-run ports followed this rising trend. At the Port of Batangas operated by ATI

subsidiary Aries Arrastre Service Inc., general cargo throughput rose 18 percent last year to 552,269 MT from 468,082 MT the year before. Batangas also booked 3,322 containers last year compared to 711 in 1999—its first year of container handling operations.

Meanwhile, bulk grain shipments passing through ATI's Mariveles Grains Terminal—the country's most efficient discharge point for wheat, soybean and corn imports—grew 19 percent last year to a record 2.23 million MT.

Although traditionally driven by Port of Manila revenues, ATI was able to maximize the potential contributions from its diversified business units. The four-year-old venture into third-party logistics generated significant new business last year from major multinational clients from ATI's strategy to integrate cargo handling and supply chain management services.

More companies saw the advantages of outsourcing their non-core activities, such as warehousing and inventory management, to ATI. Logistics likewise became the vehicle for ATI's participation in major industrial ventures.

Last May, ATI garnered one of its biggest logistics contracts to date for the management of the offshore supply base of Shell's \$4-billion Malampaya gas-to-power project. This is reputed to be the Philippines' biggest single foreign investment.

Affirming its commitment to provide superior service, ATI plans to invest about P1.2 billion in 2001 to further upgrade its facilities and meet growing demand. For improved container handling and stacking, it has placed an order valued at \$6 million for a new 40-ton

capacity ship-to-shore crane and two units of rubber-tyred gantry cranes. These equipment will be in operation by the middle of this year.

Last year's capital expenditures amounting to P470 million went into new facilities, pier rehabilitation and the expansion of storage areas. A spacious new South Harbor Operations Center building was also inaugurated, integrating the port's administrative and operating units as well as shipping line branch offices under a single facility. This, together with the new holding area for 250 trucks adjacent to it, further enhances customer convenience in the receipt and release of export and import cargoes.

In August 2000 ATI launched an online information service, ATI WebTrack, shifting the old electronic Client Access System from a dial-up to an Internet-based platform. This is the first cargo-tracking facility of its kind in the country, enabling South Harbor clients to monitor real-time vessel status and cargo movements via the Internet. WebTrack complements a previous e-commerce initiative in conjunction with the Bureau of Customs—the On Line Release System (OLRS) for computer-to-computer clearance of cargoes.

The company is expected to sustain the central role of information technology in the management of its terminals. Deployment of world class IT solutions in recent years has resulted in more productive and efficient operations—from vessel loading, container yard planning and equipment control to warehouse management and cargo monitoring.



Full-year volume at South Harbor Container Terminal hit a record 577,412 TEU in 2000

Is the reader aware?

The Philippine Overseas Employment Administration (POEA) has from 1984 to 1998 annually assessed the performance of licensed overseas recruitment agencies, both manning agencies and landbased providers, and in recognition of exceptional performance, various criteria and significant contribution to the national economy, presented the top performers with special awards. From 1998, the POEA management decided that the Technical Committee on Agency Performance Evaluation of the POEA would require a longer period to thoroughly evaluate the performance of the licensed overseas recruitment agencies and the awards are now presented every two years.

Of the 360 licensed manning agencies involved to one degree or another in the deployment of about 200,000 seafarers on international oceangoing vessels, below are the winners for the year 2000.

AGENCY RECOGNITION 2000

TOP PERFORMERS

1. Arpaphil Shipping Corp.
2. CF Sharp Crew Management, Inc.
3. Dolphin Ship Management, Inc.
4. Magsaysay-Mitsui O.S.K., Inc.
5. Orient Ship Management Phils., Inc.
6. Pacific Ocean Manning, Inc.
7. Sea Power Shipping Ent., Inc.

AWARDEES OF EXCELLENCE

1. Career Philippines Shipmanagement, Inc.
2. Magsaysay Maritime, Inc.
3. Micronesia Manpower Resources Corp.
4. NYK-Fil Ship Management, Inc.
5. Philippine Hanse Ship Agency, Inc.
6. Philippine Transmarine Carriers, Inc.

Congratulations to all thirteen awardees on their Agency Recognition achievement, on their demonstrated leadership in the recruitment of seabased personnel and on their role in the country's overseas employment programme.

Compliments of:
Pandiman Philippines, Inc.

Rising stowaway problems

BY BJORN FLAM, vice president of Skuld Bergen

IN July 1999, the *Maria Rosa* arrived at Genoa with a general cargo from Tunisia. Local police spotted eight stowaways trying to escape from a trailer just after it had been discharged. The police insisted that the stowaways be placed back on board the ship, although the ship was due to shift to dry dock in Genoa for routine maintenance.

The stowaways were locked in two cabins and three watchmen were hired. As the vessel was shifting under pilotage, the 2nd Mate saw smoke coming from the cabin containing five stowaways. The two guards were seen near the cabin but had their mind on the other things. One of them was talking on his mobile phone while the other was having a smoke and enjoying the view. Neither of them had the key to the cabin.

Eventually the key was found and the cabin was opened. The smoke spread rapidly up the stairway to the bridge, which then had to be evacuated. Tugs were called and fortunately managed to reach the vessel quickly and manoeuvre her into berth.

It seems that the fire may have been started as a risky attempt to gain attention or escape. If that was the plan, it went badly wrong. All five stowaways were found dead. This tragic and dramatic scenario attracted much publicity in the media throughout Europe. Blamed was placed on the crew, who was criticized for failing to take proper care of the stowaways. No one pointed out that they were trained as seamen, not prison guards. The police, who had refused to accept responsibility for the stowaways insisted on them being returned onboard, now showed a great deal of interest. The master was taken into custody and, although the authorities have still not completed their enquiries, the master still may face charges for manslaughter.

The surviving stowaways and the relatives of those who lost their lives are bringing claims against the shipowner.

P & I PERSPECTIVE

The cost in some stowaway cases can be alarming. Recently, a well-known US operator was asked how much the cost would be if five stowaways were found on one of the ships at a US port. The answer was \$20,000 per stowaway. If the stowaway seek asylum on arriving in the US, the owners can end up paying for support and security until the asylum application is processed. There have been several cases where final bill presented to the ship owner approached \$400,000. In addition, fines may be imposed on the carrier.

Many of the extra cost caused by the presence of stowaways on board are covered

by the owner's P&I Club. At Skuld, we have something like 150 stowaway cases each year, some of them involving many individuals.

Although the number of cases has not fluctuated much, the cost per case is steadily rising, from \$3,900 in 1997 to \$5,800 in 1998 and \$6,800 in 1999 - a rise of nearly 80% in two years.

However, it is not just the question of money. There are immediate practical problems - how are you to identify the stowaways? What nationality are they? Will the authorities allow them to disembark? Can guards be hired? The Clubs have built up a great deal of experience over the years and are able to provide a great deal of practical assistance. One of the first priorities after finding stowaways should therefore be to ensure that the Club is notified without delay.

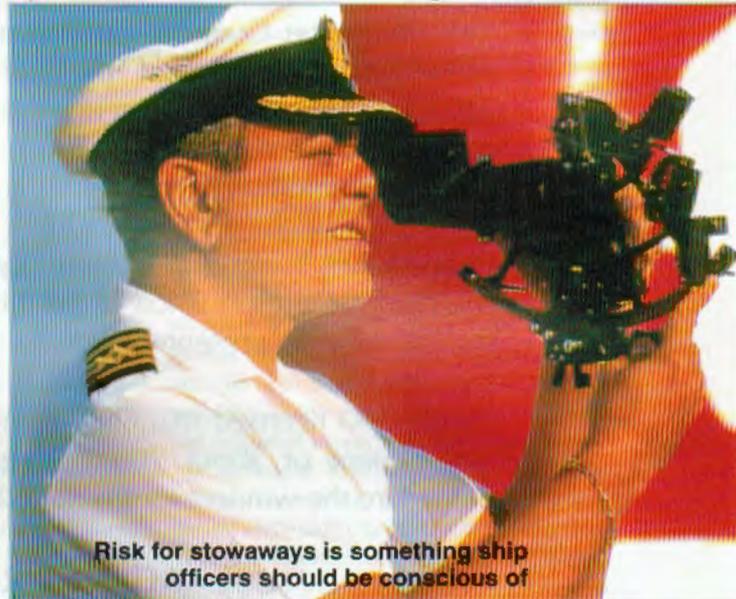
STOWAWAY BUSINESS

Nowhere is immune from the risk of stowaways, but there are some definite hot spots. These say something about the nature of the trade in stowaways - and sometimes trade is very big business.

Firstly, let's look at the "traditional" stowaways. Africa remains the main problem area. There are some variations in the pattern, according to the positioning of refugee camps, civil unrest (such as that seen in Sierra Leone), freedom of travel and drug traffic routes to Europe. On the east coast, Tanzania, Mozambique, and Kenya are the main problem areas at the moment, while on the West coast, the danger is spread from Nigeria all the way up to Morocco. South Africa has recently also developed into problem area. However, the risk for stowaways is something ship officers should be conscious of in all African ports.

This is pretty much the traditional stowaway trade, with young men escaping from poverty and dreaming of a better life in the west. They make their own way alone or in small groups, with no outside help and take their chances without much planning. It has something in common with poor migrants from Europe in the last century, who could not afford the price of a \$5 ticket to take them to America.

However, there are altogether different trades which spring up when unscrupulous individuals see that there is money to be earned



Risk for stowaways is something ship officers should be conscious of

in the trade of human beings.

Chinese triads are behind a growing operation that typically involves setting up false shipping company which ship sealed container in Hongkong or Mainland China. Inside will be between 15 to 25 stowaways, usually from Fujian province, who will have paid an advance of around \$15,000 each. For preference the containers will be soft topped, so the stowaways can cut their way out on arrival. Some are well equipped for their two-week journey with beds, food, water, toilets, radios and even mobile phones. Most are not so lucky and deaths occur.

Many have been found in the Long Beach, Seattle and Vancouver areas. Many are thought to end up in the East Broadway area of Manhattan. In January this year, the US authorities reported one consignment of 246 stowaways back in China where they await jail sentences.

For those that avoid detection, life is still hard. They probably still have to find the remainder of their fare, which may be as much as \$40,000 or \$50,000. If they have problems in paying, their families in China may well suffer the consequences. It is hard business made even uglier by the use of stowaways as couriers to smuggle drugs.

Australia and New Zealand also suffer the same organised smuggling from the Far East countries such as Vietnam.

IMO GUIDELINES

The P&I Clubs have built up a great deal of experience and information. They share data which is now being channeled by the Clubs, BIMCO and the International Chamber of

Shipping (ICS) to the International Maritime Organisation (IMO).

The IMO has recognized the problem of stowaways for a long time and passed a Stowaway Convention as long ago as 1957. The problem of stowaways is an international one. The country in which the stowaways embarked, where they are found, the vessel's flag state, the country of which they are citizens, may all be involved. This international problem really needs international solution. The problem is that individual governments faced with stowaways on a boat in on their ports often have only one concern—to get rid of them as soon as possible. Perhaps we should therefore not be surprised that the 1957 Convention did not receive support and has never come into force.

However, IMO continues its efforts. With support from BIMCO and the International Chamber of Shipping, stowaway cases are being reported, with 509 cases recorded in 1999, the latest year where figures are available. A survey is being carried out of national laws as well as the practical ways in which different countries handle the problem. The aim is that another attempt will be made to introduce a convention, and established common standards for port security.

In the meantime, in 1997 the IMO introduced guidelines, setting out the

responsibilities of the various parties involved. The problem is that these are only guidelines, they have no legal force. However, they do set out a clear allocation of responsibilities of the parties involved such as the Master, shipowner or operator, the country of the first scheduled port of call after discovery of the stowaway, the country where the stowaway embarked, the country of which the stowaway is (or claims to be) a national, the vessel's flag state and

The problem is that individual governments faced with stowaways on a boat in on their ports often have only one concern—to get rid of them as soon as possible.

countries of transit during repatriation. The responsibilities of the first three are also discussed here.

LOSS PREVENTION

While in port. Be aware of high-risk ports and cargoes and plan ahead. In watchkeeping identify possible entry points such as gangway, anchor chains & mooring lines from small boats or canoes. Lock-up! Close and lock door areas where access is not required.

Don't rely on shore guards. Illuminate and watch shore gangs/stevedores. Consider issuing identification (badges, passes, arm bands). Watch during loading cargo. Seek and listen to local advice. Do not advertise attractive destinations.

Before sailing do search thoroughly. Places to watch are cargo areas, lockers, crane housing, bilges, lifeboats, funnel, among others. Collect and count identification issued to visitors.

Container operations. Be aware of high-risk trades (especially Far East to U.S./Canadian West Coast). Seek local information and liaise with local agents and terminal operators. Be careful about containers collected from/loaded in insecure areas. Be wary of unknown shippers (if necessary, seek references and make enquiries). Pay particular attention to soft top containers, Reefers with high temperature and watch out for containers arriving at the last minute. Check seals carefully. Investigate differences in declared and actual weights. Use whatever special aids are available locally.

During the voyage. Just after sailing, search again – it may be an option to return to disembark them if you've just left. Ensure regular patrols are made. Watch out for suspicious signs like food missing, lifeboat, stores raided, noise, smells.

Special aids that can be used are X-ray machines, Guards (don't automatically trust local security personnel), dogs, CCTV, Heat



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seeking cameras, carbon dioxide, microphones. But the best protection is a diligent, motivated and well-trained crew!

If you find stowaways, first priorities are to isolate/separate, search, confine, deal with urgent medical needs (e.g. if dehydrated). Afterwards, search the ships-pay particular attention to the areas where stowaways already found (docs & drugs).

Notify the P&I Club or correspondents (it is important to get specialist help), owners, agents at port where embarked (this maybe relevant to establishing identity), agents at next port, authorities, check stowaway's documents.

Treatment of stowaways. Do not put to work. Provide adequate food and water. Be humane but not friendly. Do not use force unless necessary. Remember they maybe violent – take care. Remember- they may have drugs. Remember – making them too comfortable may lead to suspicion you are an accomplice; if they appear in a bad way, you may face allegations of mistreatment.

The Interview. A questionnaire should be completed. (Contents can be provided by the Club). The stowaway should complete the questionnaire himself- persist even if he claims to be illiterate. Take a photograph- needed for identification and travel documents. If possible take fingerprints- these can be sent by e-mail as a very effective method of identifications. Repeat the interview a few days later- see what changes. Remember they may be trying to build up asylum status, not just economic refugees.

Once in port, make sure the P&I Club correspondent is ready for your arrival. Co-operate with the authorities, ensure an extra close guard is kept. Attitude of the authorities: generally they should help, accept the stowaways being landed. Do not always in practice – as the Italian case illustrates.

IMO GUIDELINES

The Master's responsibilities are to make every effort to determine immediately the port of embarkation of the stowaway. To make every effort to establish the identity, including the nationality/citizenship of the stowaway. To prepare statement containing all information relevant to the stowaway, in accordance with information specified in the standard document annexed to these Guidelines, for presentation to the appropriate authorities. To notify the existence of a stowaway and any relevant details to his shipowner and appropriate authorities at the port of embarkation, the next port of call and the flag state. Not to depart from his planned voyage to seek the disembarkation of a stowaway to any country unless repatriation has been arranged with sufficient documentation and permission for disembarkation or unless there are extenuating security or compassionate reasons. To ensure that the stowaway is presented to appropriate authorities at the next port of call in accordance with their requirements. To take appropriate measures to ensure the security, general health,

Be careful about containers collected from/loaded in insecure areas



welfare and safety of the stowaway until embarkation.

The ship owner's responsibilities are to ensure that the existence of, and any relevant information on, the stowaway has been notified to the appropriate authorities at the port of embarkation, the next port of call and the flag state. To comply with any removal directions made by the competent national authorities at the port of disembarkation.

Responsibilities of the country of first scheduled port of call after discovery of the stowaway (port of disembarkation) are:

1) To accept the stowaway for examination in accordance with the national

identification of the stowaway and the establishment of his or her nationality/citizenship

4) To assist, as necessary, in establishing the validity and authenticity of a stowaway's documents;

5) To give directions for the removal of the stowaway to port embarkation, country of nationality/citizenship or to some other country to which lawful directions may be made, in co-operation with the ship owner and his nominated representative;

6) In co-operation with the shipowner and his representative to discuss repatriation or removal arrangements or directions with the master/shipowner or their appointed representatives, keeping them informed, as far as practicable, of the level of detention costs while keeping these to a minimum;

7) To consider mitigation of charges that might otherwise be applicable when shipowners have co-operated with the control authorities to the satisfaction of those authorities in measures designed to prevent the transportation of stowaways;

8) To issue, if necessary, in the event that the stowaway has no identification and/or travel documents, a document attesting to the circumstances of embarkation and arrival to enable the return of the stowaway either to his country of origin, to the country of the port of embarkation, or to any country to which lawful directions can be made, by any means of transport;

9) To hand over the letter to transport operator effecting the removal of the stowaway;

10) To take proper account of the interest of, and implications for, the shipowner or agent when directing detention and setting removal directions, so far as is consistent with the maintenance of control, its duties or obligations to the stowaway under the law.

Remember stowaways may be trying to build up asylum status, not just economic refugees.

laws of that country and, where the competent national authority considers that it would facilitate matters, to allow shipowner and his named representative and the competent or appointed P&I Club correspondent to have access to the stowaway.

2) To consider allowing disembarkation and provide, as necessary and in accordance with the national law, secure accommodation which may be at the expense of the shipowners or agents where: (1) a case under 3.1 is unresolved at the time of sailing, or (2) national authorities are satisfied that arrangements have been made and will be effected for the early return or repatriation of the stowaway by other means (which may be at the expense of the shipowner or agents), or (3) presence on board would endanger the safe operation of the vessel;

3) To assist, as necessary, in the

Requirement to prove disability claims

AT issue before the NLRC is the kind of evidence required to prove a claim for disability benefits under the POEA Standard Contract. The NLRC held that claims for compensation under the contract are to be established by substantial evidence, particularly, in the instant case, by a medical report or certification issued by the company designated physician who treated the seaman of his injury or illness, or that the injured seaman is rendered disabled as a result of his injury or illness contracted while in the performance of his duty. Absent such report or certification, there can be no claim for benefits.

Facts

Complainant was employed as a second engineer in the *MV Big G*. While the vessel was in Shanghai, China and while it was being transferred to another shipyard, the engine of the vessel malfunctioned. While the complainant was repairing said engine, he seriously injured his left hand. Complainant was hospitalized at Shanghai's Seaman's Hospital and was later repatriated. In the Philippines, seafarer was medically attended at the expense of the manning agency. However, he failed to complete his required treatment with the company-designated physician but allegedly completed his treatment in the province. He later filed a complaint before the NLRC seeking disability benefits, unpaid wages, and sickness benefits, damages and attorneys fees. Labor Arbiter dismissed the complaint for lack of merit.

The main issue of the case before the NLRC is the kind of evidence required proving a claim for disability under the POEA standard contract for seafarer.

NLRC affirmed the decision of the Labor Arbiter and held that a disability claim under the POEA Standard Contract for seafarer must be proved by substantial evidence, particularly the certification issued by the company designated position.

The NLRC held that: "It must be emphasized, however, that although clearly stipulated in the aforesaid contract (POEA approved Revised Standard Employment Contract Governing the Employment of Filipino Seafarers On Board Ocean-Going-Vessels) claims for compensation under the contract are subject to be established by substantial evidence, particularly in the instant case, by a medical report or certification issued by a company-designated physician who treated the seamen, of his injury or illness, categorically stating the recent status of the seaman's injury or illness, or that the injured seaman in (sic) rendered disabled as a result of his injury or

illness contracted while in the performance of his duty. Absent these pertinent evidence there is no basis to award the claims provided in the aforesaid contract provision".

The seaman never presented a medical certificate or report to prove his illness or disability grading. In fact, he failed to complete his treatment with the company-designated physician, which disqualified him from receiving any benefit.

Further, the NLRC also held the validity of "Receipt and Quitclaim" signed by the parties based on the principle of presumption of regularity of its execution

being a notarized document. The denial made by the complainant of the validity of the documents in the form of Affidavit of Denial is a weak form of defense. In addition to said affidavit of denial, there must be presented clear and convincing evidence substantiating said denial. None was presented in this case. The complaint is therefore dismissed for lack of merit.

Eugenio Aguviva, Jr. vs. Var Orient Shipping Agency and Great Marvel Marine Co. Ltd., September 18, 2000. NLRC NCR CA No. 023058-00 NLRC-NCR OFW (M) 98-07-0791

Charterer: No liability on coa

ON 19 December 1987, *MT Vector*, a tramping motor tanker owned and operated by Vector Shipping Corporation, left Limay, Bataan at about 8:00 p.m. enroute to Masbate, loaded with 8,800 barrels of petroleum products owned and shipped by Caltex Phippines Inc. under a charter party contract between them.

On 20 December 1987, at about 6:30 a.m., the passenger ship *MV Doña Paz*, a passenger and cargo vessel owned and operated by Sulpicio Lines Inc, left the port of Tacloban headed for Manila with a complement of 59 crew members and passengers totaling 1,493 as indicated in the Coast Guard Clearance.

At about 10:30 p.m. of 20 December 1987, the two vessels collided in the open sea within the vicinity of Dumali Point

between Marinduque and Oriental Mindoro. All the crew members of *MV Doña Paz* died. Only 24 of an estimated 4,000 passengers, many of whom, were not in the passenger manifest, survived after having been rescued from the burning waters by vessels that responded to the distress calls. Among those who perished were Sebastian Cañezal, 47, and his daughter, Corazon Cañezal, 11, both unmanifested passengers but proved to be on board the vessel.

On 22 March 1988, the board of marine inquiry in BMI Case No. 653-87 after investigation found that the *MT Vector*, its registered operator Francisco Soriano, and its owner and actual operator Vector Shipping Corporation, were at fault and responsible for the collision with *MV Doña Paz*.



Complainant: Unmanifested passengers but proved to be on board the vessel

Panama begins to revert claims suit

A PANAMANIAN law firm has persuaded the Maritime Court of Panama to revert a claims suit to the Philippines that was filed by a Filipino seafarer against a foreign ship owner, signaling the start of all other cases of Filipino seamen pending before Panama to face the same fate.

De Castro & Robles, the Panamanian law firm that successfully persuaded to try and settle the claims suit before the National Labour Relations Commission (NLRC) of the Philippines, declined to identify the parties in the case. But it says the first of such case involves a suit against the vessel in rem for personal injuries suffered onboard.

Lawyers representing Filipino seafarers had argued that tort claims from seafarers fell outside the jurisdiction of the Philippines despite having the contracts approved by the Philippine Overseas Employment Administration (POEA).

Panama court has become one of the most sought forums in settling those claims from Filipino crewmembers who have suffered illness, injury or death onboard because of the amount involved which is usually five to ten times than the contractual benefits stipulated in the POEA approved contract. Other than the famous Panama Canal,

where ships transit to trade and get to be arrested once a complaint is filed, Panama finds no other cause to assume jurisdiction on the claims suit.

Panama Maritime Court's declining to hear the case also follows a landmark Panama Supreme Court decision last December that recognised the validity of a release executed by a Filipino crewmember or his heirs. The High Court ruling found the release valid for the totality of the claim, and therefore no new claim can be brought in Panama.

"We were able to persuade the Court that the NLRC had been created for the purpose of providing a speedy resolution to all claims by (Filipino) crewmembers against their employers," says De Castro & Robles.

The law firm has argued that the

Philippine government is in "solidarity" between the manning agent and the employer, making the agent liable for the employers' actions to protect the Filipino crewmembers.

The latter may therefore bring their claims against the local agent before the NLRC without the foreign ship owner being summoned, it says quoting the Maritime Court decision.

Moreover, the manning agents are required to post a performance bond corresponding to the amount of the claims suit. If the bond is not sufficient, the award could be executed against the property of the crewing agency and/or property of their directors and partners who are also liable with the agency.

The Panama Maritime Court imposed some conditions before agreeing to transfer the case, to wit: that a time bar defense is not pursued; that defendants appear voluntarily; and that the matter resolves on the merits, not on technicalities.

"The court will retain the bond posted in Panama, and if the conditions are not met, it will 'retake' jurisdiction of the matter and hear the case," according to the order. It stated that the motions regarding 'forum non conveniens' will be heard on a "case to case" basis.

The first of such case involves a suit against the vessel in rem for personal injuries suffered onboard



On February 13, Teresita Cañezal and Sotera A. Cañezal, Sebastian Cañezal's wife and mother, respectively, filed with the Regional Trial Court, Branch 8, Manila, a complaint for "Damages Arising from Breach of Contract of Carriage" against Sulpicio Lines. Sulpicio Lines, in turn, filed a third party complaint against Francisco Soriano, Vector Shipping Corporation and Caltex.

On 15 September 1992, the trial court rendered a decision dismissing the third party complaint against Caltex. On appeal to the Court of Appeals interposed by Sulpicio Lines on 15 April 1997, The Court of Appeals modified the trial court's ruling and included Caltex as one of those liable for damages.

In this petition for certiorari to the Supreme Court, petitioner Caltex seeks to reverse the Court of Appeals decision, holding petitioner jointly liable with the operator of *MT Vector* for damages.

DECISION

The charterer has no liability for damages under Philippine maritime laws.

Caltex and Vector entered into a contract of affreightment. A coa may be either a time charter, wherein the leased vessel is leased to the charterer for a fixed period of time, or voyage charter, wherein the ship is leased for a single voyage. In both cases, the charter-party provides for the hire of the vessel only, either for a determinate period of time or for a single or consecutive voyage. In both cases, it is the ship owner who will supply the ship's store, pay for the wages of the master of the crew, and defray the expenses for the maintenance of the ship. If the charter is a contract of affreightment, which leaves the general owner in possession of the ship as owner for the voyage, the rights and responsibilities of ownership rest on the owner. The charterer is free from liability to third persons in respect of the ship.

The charterer of a vessel has no obligation before transporting its cargo to ensure that the vessel it chartered complied with all legal requirements. The duty rests upon the common carrier simply for being engaged in "public service". Clearly, as a mere voyage charterer, Caltex had the right to presume that the ship was seaworthy as even the Philippine Coast Guard itself was

convinced of its seaworthiness.

MT Vector is a common carrier. In this case, the charter party agreement did not convert the common carrier into a private carrier. The parties entered into a voyage charter, which retains the character of the vessel as a common carrier. Thus, the carriers are deemed to warrant impliedly the seaworthiness of the ship. For a vessel to be seaworthy, it must be adequately equipped for the voyage and manned with a sufficient number of competent officers and crew. The failure of the common carrier (*MT Vector*) to maintain in seaworthy condition the vessel involved in its contract of carriage is a clear breach of its duty prescribed in Article 1755 of the Civil Code.

Ruben T. Del Rosario is a managing partner of Del Rosario & Del Rosario Law Offices and of its PANDIPHIL Claims Department. He is former president of the Maritime Law Association of the Philippines and is an accredited maritime arbitrator. Del Rosario is correspondent of several P & I Clubs.

Implied warranty of seaworthiness

Imelda A. Cerillo, partner of Del Rosario & Del Rosario, explains how the rule of vessel seaworthiness has always been attached to the assured of a marine insurance policy over cargo

SECTION 113 of the Insurance Code of the Philippines provides: "In every marine insurance upon a ship or freight, or upon anything which is the subject of marine insurance, a warranty is implied that the ship is seaworthy."

In general, every voyage policy of marine insurance carries an implied warranty that the ship is in all respects seaworthy, and such warranty can be excluded only by clear provisions of the policy. If the policy contains a waiver of this implied warranty, the matter of seaworthiness cannot be raised by the insurer without showing concealment or misrepresentation by the assured. In a voyage policy, the assured is the shipowner.

CARGO AS INSURED

Section 99 (1) (a) states that goods, cargoes and merchandise are included in marine insurance. Where cargo is the subject of marine insurance, the implied warranty of seaworthiness attaches to whosoever is insuring the cargo, whether he be the shipowner or not. The fact that the unseaworthiness of the ship was unknown to the assured (particularly when the assured is not the shipowner) is immaterial. This is because the law provides for an implied warranty of seaworthiness in every ordinary marine insurance policy. Thus, it becomes the responsibility of the cargo owner-assured to look for a reliable common carrier that keeps its vessels in seaworthy condition. While the cargo owner-assured may have no control over the vessel, he nonetheless, has full control in the choice of the common carrier that will transport his goods.

Case 1

The case of *Roque v. Intermediate Appellate Court*, 139 SCRA 596, (Nov. 11, 1985) is the landmark case that put to rest any doubts on the binding effect of the implied warranty of seaworthiness of the vessel in a policy of marine insurance where the property insured is cargo.

In that case, a common carrier entered into a contract of carriage to load and carry on board the barge "Mable 10" about 422.18 cubic meters of logs from Malampaya Sound, Palawan to North Harbor, Manila. The cargo owners insured the logs. 811 pieces of logs were loaded. The shipment never reached its destination because the Mable 10 sank with the 811 pieces of logs.

The assured-cargo owner filed suit against the carrier and the insurer to recover the lost shipment and lost profits. The trial court held the carrier and the owner jointly and severally

liable for the insured value of the lost shipment.

On appeal, the Court of Appeals absolved the insurer of its liability after finding that there was a breach of the implied warranty of seaworthiness by the cargo owner-assured. The appellate court said that the insured cargo was lost due to "perils of the ship" and not "perils of the sea." "Perils of the ship" was not a risk covered by the marine insurance policy in issue. The Court of Appeals agreed with the trial court and found that the Mable 10 was not seaworthy because she had a leak. The Court of Appeals further found that one of the hatches of the barge and as the barge was not provided with the necessary cover or tarpaulin, the ordinary splash of sea waves brought more water inside her, sinking the barge.

The cargo owner appealed to the Supreme Court against the decision of the Court of Appeals to absolve the insurer of liability. They contended the implied warranty of seaworthiness in the Insurance Code applied only to the shipowner-assured who must see to it that his barge was reasonably fit to complete the voyage. As a mere user of the carrier's services, they contended that they had no control over the barge and had no knowledge of its unseaworthiness.

The Supreme Court rejected the argument of the cargo owner-assured. The Supreme Court ruled that the implied warranty of seaworthiness in marine insurance attached to whoever was insuring the cargo whether he is the shipowner or not. The Supreme Court further said that the fact that the unseaworthiness of the ship was unknown to the insured was immaterial in ordinary marine insurance. It was held that the cargo owner had an obligation to comply with the implied warranty of seaworthiness in a marine

insurance, and was required to look for a reliable common carrier that kept its vessels seaworthy. The cargo owner might have no control over the vessel but he has full control in the choice of the common carrier that will transport his goods.

The Supreme Court commented that in marine insurance cases, what was insured was perils of the sea which extended only to losses caused by sea damage or by the violence of the elements, the purpose of marine insurance was to protect against such contingencies and foreseeable damages. In the present case, however, the Supreme Court found that the cause of the loss was the unseaworthiness of the ship, which was a peril of the ship. The marine insurance policy in the present case did not provide for coverage of perils of the ship.

Case 2

In a more recent case entitled *The Philippine American General Insurance Co. Inc. v. Court of Appeals and Felman Shipping Lines*, 273 SCRA 262 (1997), the Supreme Court again was asked to rule on whether the implied warranty of seaworthiness applies to marine insurance over cargo.

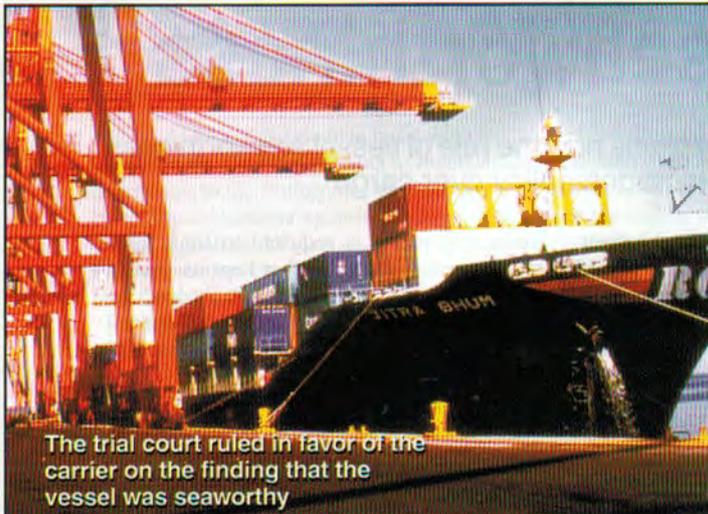
In this case, cargo owners loaded on board the *MV Asilda* soft drink bottles to be transported from Zamboanga City to Cebu City. The shipment was insured under a marine cargo insurance policy. The vessel left port in fine weather. She sank the following day bringing down with her the entire cargo.

The cargo owner-assured was able to recover from its insurer who in turn filed suit against the carrier under the principle of subrogation. The insurer alleged that the sinking of the vessel was due to its unseaworthiness as she was put to sea in an unstable condition.



In marine insurance cases, what was insured was perils of the sea which extended only to losses caused by sea damage or by the violence of the elements

MARINE INSURANCE



The trial court ruled in favor of the carrier on the finding that the vessel was seaworthy

The trial court ruled in favor of the carrier on the finding that the vessel was seaworthy. Moreover, the trial court opined that even assuming the vessel was unseaworthy, there was a breach of the implied warranty of seaworthiness by the cargo owner-assured, hence payment was mistakenly made by the insurer to the cargo owner-assured. The insurer naturally appealed against the decision of the trial court. On appeal, the appellate court reversed the trial court's decision by finding that the vessel was unseaworthy. Notwithstanding this finding, the Court of Appeals

dismissed the appeal thereby sustaining the finding of the trial court that there was a breach of the implied warranty of seaworthiness by the cargo owner-assured. The basis for the finding of the Court of Appeals of the unseaworthiness of the vessel was that improper distribution or stowage of cargo had caused the vessel to be in a top-heavy condition which rendered her unstable and unseaworthy for that particular voyage. The Court found that the vessel was designed as a fishing vessel and was not designed to carry a substantial amount or quantity of cargo on deck. Therefore, when she was laden with heavy cargo on deck, the weight of the deck cargo decreased the vessel's metacentric height and rendered her unstable and unseaworthy for the purpose of carrying the cargo. Therefore, there was a breach of the implied warranty of seaworthiness.

The Supreme Court sustained the finding of the Court of Appeals that the vessel was unseaworthy and held that there was breach of the implied warranty of seaworthiness. However, upon further review of the marine insurance policy, the Supreme Court found that

the usual implied warranty of seaworthiness clauses had been waived to wit: "the seaworthiness of the vessel as between the Assured and the Underwriters is hereby admitted." The Supreme Court said that this admission of seaworthiness by the insurer might mean one or two things: (a) that the warranty of seaworthiness was to be taken as fulfilled; or (b) that the risk of unseaworthiness was assumed by the insurer. The insertion of such waiver clauses in cargo policies was in recognition of the reality that cargo owners could not control the state of the vessel. Thus, it could be said that the insurer had accepted the risk of unseaworthiness by virtue of such a categorical waiver. Accordingly, if the ship should sink by reason of its unseaworthiness, the insurer was liable to the assured, with a subrogated right of recovery against the tortfeasor, in this case, the carrier.

In summary, the state of jurisprudence in the Philippines on the rule of the implied warranty of seaworthiness in a marine insurance policy over cargo has not changed. The rule remains that the implied warranty of seaworthiness attaches to the assured of a marine insurance policy over cargo. However, when the terms of the insurance policy include an expressed waiver of that implied warranty, the insurance company assumes the risk of unseaworthiness by virtue of such categorical waiver.



PHILIPPINE INTERISLAND SHIPPING ASSOCIATION

PISA held its Annual General Membership Meeting on 29 March 2001. The following were elected as the new Officers and members of the Board of Directors for the year 2001-2003:

Ms. Doris Magsaysay Ho - President/ Chairman	President & Chief Operating Officer National Marine Corporation	Mr. Cornelius C. De Guzman - Board Director	General Manager Batangas Bay Carriers, Inc.
Ms. Josephine G. Uranza - VP- Liners	President Domestic Shipowners Association	Mr. Berthram C. Tan Board Director	Chief Operating Officer Negros Navigation Co., Inc.
Mr. Celso Reyes VP- Lighterage	President Lighterage Association of the Philippines	Ms. Aines Librodo Board Director	Manager- Pricing & Yield Management William, Gothong & Aboitiz Phils., Inc.
Mr. Gerardo M. Santos - VP- Specialized Carriers	Chairman Phil. Petroleum Sea Transport Association	Mr. Lawrence N. Leonio Board Director	Vice President Petrofitt Classed Carriers
Ms. Kaye B. Lorenzana - VP- Fast Ferry/ Auditor	Operations Manager El Greco Jet Ferries, Inc.	Capt. Romeo L. Malig Board Director	President Lorenza Shipping Corporation
Mr. Joaquin C. Garcia, Jr. - Corporate Secretary	Assistant Operations Manager Island Integrated Offshore Services	Mr. Carl F. Fontanilla Board Director	Senior Vice President Sealoader Shipping Corporation
Mr. Quirimon A. Tan, Jr. - Treasurer	General Manager Solid Shipping Lines, Inc.	Mr. Eduardo G. Ente Board Director	President Manila Marine Traders Carriers, Inc.
Mr. Edgardo G. Lacaon P.R.O.	Member, Advocacy Committee Phil. Petroleum Sea Transport Ass.		

The members approved the recommendation to create an Executive Committee and the following were elected as members of the Executive Committee:

Ms. Doris Magsaysay Ho - President/ Chairman	President & Chief Operating Officer National Marine Corporation	Mr. Celso L. Reyes VP- Lighterage	President Lighterage Association of the Philippines
Ms. Josephine G. Uranza - VP- Liners	President Domestic Shipowners Association	Mr. Gerardo M. Santos VP- Specialized Carriers	Chairman Phil. Petroleum Sea Transport Association
Ms. Kaye B. Lorenzana - VP- Fast Ferry	Operations Manager El Greco Jet Ferries, Inc.		

The immediate past Chairman, Mr. Carlos A. Buenaflor, was appointed Advisor to the Board and to the President/ Chairman in recognition of his invaluable service to the association.

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Geared for a mission

The Philippine Coast Guard presents its development program and deployment plan in the midst of threats confronting the country's maritime trade

THE Philippines is an archipelagic state lying at the crossroads of Asia and the Pacific. The United Nations Convention on the Law of the Sea or UNCLOS, has expanded our sovereign waters to about nine times our land area. Our provinces, municipalities and barangays share the blessings of our lengthy coastlines.

More than a million vessels traverse our coastal waters and sea-lanes. Approximately 98 per cent of domestic trade depends on sea transport.

The Philippines is 12th in the world in terms of fish production. Sixty per cent of our protein requirement comes from fish and other aquatic resources. The fishing industry likewise provides many of our countrymen their means of livelihood. The constitution mandates the state to protect our vast marine wealth and to reserve its use for the Filipino people.

Given these bountiful blessings, however, our country has to contend with a host of maritime threats.

The Philippines lies in what is called the typhoon alley of the world, which makes our country vulnerable to maritime accidents as indicated by the following statistics in year 2000.

Our marine environment is also prone to oil spills. Destructive methods of fishing such as dynamite and cyanide fishing are being wantonly perpetrated in our waters. Coral destruction, if not effectively addressed, will continue to destabilize the marine ecological balance.

Compounding this is the rapid depletion of mangrove forest, which serves as spawning habitat for various species. Foreign fishing boats continue to encroach and feast in our waters.

Various maritime law infringements deprive our country of substantial revenues and hamper the growth of our local industries.

Piracy in the high seas can put the country in great humiliation if such crime can go scot free in our own waters. By conservative estimate, our country stands to lose more than PhP25 billion annually if these concerns or issues are not effectively addressed. This estimate is exclusive of unquantified caused by marine pollution, piracy, and drug trafficking, among others.

The Philippine Coast Guard strongly promotes the government *Flagship Programs* particularly in the areas of economic development, environmental protection, and

food security.

Contemporaneous developments such as economic globalization, technological advances in water transport, and the increasing demand for sea transport and marine resources likewise point to the need for a more credible coast guard that is capable of upholding our national marine policy.

HISTORY

With these as a background, we want to proceed and relate about the humble beginning of the coast guard so we can see where we were before, where we are now and where we want to be.

Sometime in 1901, the Bureau of Coast Guard and Transportation was created under the American occupancy pursuant to Philippine Commission Act No. 266. Initially, it was placed under the Department of Commerce with mission to administer shipping and promote sea safety. In 1905, it was renamed the Bureau of Navigation pursuant to Philippine Commission Act No. 147.

In 1945, the Bureau of Navigation was abolished by virtue of the Philippine Commission Act No. 2308 with its function divided between the Bureau of Public works and the Bureau of Customs.

The advent of industrialization and accelerated influx of maritime trade in the country called for the creation of Maritime Safety Agency. Hence, in October 10, 1967, congress passed and enacted into law Republic Act 5173, creating the Philippine Coast Guard. The PCG was placed under the Philippine Navy as one of its major units. The lighthouse service was also placed under the PCG.

Through the years, it was evident that the PCG was organizationally misplaced under the Department of National Defense. Its professional and capability development as a maritime safety organization was hard to come under an establishment where the obvious thrust and priority is military. Time and again, the need to separate and professionalize the coast guard has brought so many initiatives and discussions. So, on March 30, 1998, then President Fidel V. Ramos signed Executive Order No. 475 transferring the PCG to the

SAR 002, the EDSA II



Office of the President and subsequently issued Executive Order No. 477 on April 15, 1998 transferring the Coast Guard to the Department of Transportation and Communication (DOTC).

MISSION, FUNCTION AND ORGANIZATION

The mission of the Coast Guard is "to promote safety of life and property at sea; safeguard the marine environment and resources; enforce all applicable maritime laws and undertake other activities in support of the DOTC Mission."

To accomplish the mission, the coast guard, with an authorized manpower of 3,986 personnel, seeks to improve its performance in five functional areas, namely: Maritime Safety Administration wherein our goal is to prevent or substantially reduce the loss of lives and property at sea by ensuring seaworthiness of vessels and their compliance to safety regulatory standards, and maintaining aids to navigation, among others; Maritime Search and Rescue wherein our objective is to be able to effectively monitor distress signals and respond to maritime accidents and disasters immediately after distress notification; Marine Environmental Protection which seeks to eliminate environmental damage and natural resources degradation by preventing or containing the discharge of oil, toxic substances, garbage and non-biodegradable materials into our waters; Maritime Law Enforcement whereby the coast guard acts as a deputized agency to other government instrumentalities in containing the flow of illegal drugs, aliens, and contraband, suppressing illegal fishing, and enforcing all other applicable maritime laws; and Maritime Operation which is virtually the conduct of security operations in imports, harbors and vital waterways on one hand and the development of community relations thru the involvement

of volunteers in the coast guard auxiliary and non-government organizations in the humanitarian undertakings of the coast guard, on the other.

The Coast Guard is organized into 10 coast guard districts, which serve as the primary operating units. Fifty-two coast guard stations serve as the districts' principal working arms. Under the coast guard stations are 181 detachments.

The operating units include Coast Guard Operating Forces which operates, trains, equips, and maintains coast guard surface, air and subsurface assets; *Aids to Navigation Command* which develops, establishes, operates and maintains maritime aids to Navigation for the promotion of safety of life at sea; *Marine Environmental Protection Command* which prevents and investigates pollution of the sea, rivers and tributaries.

The other units of the PCG include the *Coast Guard Training Center* which conducts individual training and education to provide uniformed and civilian personnel with the knowledge, skills and aptitude essential to the accomplishment of the mission; *Coast Guard Support Facility* which provides logistics,

are ready for sea while other three are conducting repairs. Just added to this inventory is the second of two 56-m Osprey class search and rescue vessel from Australia. These two SAR vessels (*SAR 001 and SAR 002*) have the same special features- a helipad to accommodate comfortably, a B-105 type helicopter, it has a decompression chamber, a survivor area that can accommodate up to 400 survivors and an Astern Ramp with five rescue boats. Except for the two new SAR vessels and one buoy tender, the other ships are relatively very old, only 17 of 36 small craft and two of four aircraft are operational.

On-going projects include the various maritime safety improvement projects and policies being formulated toward the designation of sea-lanes as shipping routes, and the ships reporting system.

ACQUISITION PLAN

To be responsive to the needs of the maritime community, the PCG formulated its capability development plan that is based on thorough study of both national and international maritime environment and the provisions of the national marine policy. Under

acquisition until year 2010. The acquisition plan also includes one hundred 182 units of 6-8-mr harbor rescue and patrol craft, which will greatly enhance the coast guard's in-shore capability. Two multi-purpose ocean tugs and 10 MAPOL/ATN vessels are also needed. The phasing out of the six relatively very old coast guard vessels will commence this year.

The PCG capability development likewise calls for a strong air component, which is relevant to coast guard maritime operations in providing support and response capability. A total of 24 aircraft are projected for acquisition within the period of 15 years commencing 2001 that includes six fixed-wing maritime patrol aircraft, eight fixed-wing multi-role amphibious aircraft, one fixed-wing training aircraft, eight multi-role helicopters, and one training helicopter.

DEPLOYMENT PLAN

The objective of vessel deployment plan is to strategically position vessels at the different coast guard districts, stations and detachments based on the density of maritime traf fic.

The three 80-125-m vessels will be strategically deployed in Northern Luzon, Palawan, and Southeastern Mindanao.

Ten 55-65-m multi-role response vessels shall be deployed in the coast guards districts.

The 35-45m multi-role response vessels will be distributed to all stations. The same distribution applies to the 15-25-m vessels. All coast guard detachments shall have the 6-8 meter harbor rescue craft for use in minor maritime incidents within the harbor area. They will also be utilized for maritime law. Enforcement operations particularly against illegal fishing activities will be done within the municipal waters.

The PCG has also planned for 10 MARPOL and aids to navigation vessels to be deployed to the districts. The ocean tugs, on the other hand shall be deployed where its service will be most needed.

On human resource development, the PCG plans to expand the current PCG personnel strength to 9,177 in the long term. This requires additional training facility to provide the recruits with the necessary training.

The PCG being a technical service requires specialized competent and skilled personnel. Enlisted men on the other hand will be required to undertake the essential courses.

Indeed organization and development has to be dynamic for the coast guard to be responsive to the ever-changing needs of the maritime community. The 15-year development plan is a key to the realization of our vision. Then and only then can we really move onward and be able to attain our thrust, which we see fit for the time being to reasonably carry out the coast guard mandate in making our ships safer and the glass cleaner in support to the country's national interest.



As deputized agents to other government instrumentalities

administrative and other support services to the command, *Coast Guard Investigation and Intelligence Force* which conducts intelligence and security operations and assist in the conduct of maritime investigations and *Coast Guard Finance Center* which administers the pay and allowances of personnel and various claims of creditors.

STATUS OF AIR AND FLOATING ASSETS

Sad to say, the PCG today has very meager capability to address the challenges, opportunities, uncertainties and risks in the maritime environment. At present, PCG has only nine vessels comprised of four lighthouse tenders, two patrol gunboats and three search and rescue vessels. Of the nine vessels, six

this framework, the following are the capabilities to be developed; the development/strategy has the following components or pillars.

Our 15-year material acquisition and deployment plan is comprised of the following basic elements.

The PCG needs to develop an integrated forces structure so that capability will be linked to mission accomplishment. This can be achieved by acquiring a balanced mix of multi-role response force comprising a fleet of vessels supported by air assets.

From 2001 up to 2005, the plan is to acquire three 80-125-meter multi-role response vessels to compliment SAR 001 and SAR 002. Fifty-two 35-45-m multi-role response vessels and likewise another set of 15-25 meter multi-role response vessels are planned for



PRS: Class society as a symbol of sovereignty

BY ATTY. VERGEL DE DIOS

THE Philippine Register of Shipping (PRS) is what Lloyd's Register of Shipping is for the United Kingdom, the American Bureau of Shipping for the United States, Bureau Veritas for France, Nippon Kaiji Kyokai for Japan, etc. Each state, which considers itself a maritime country, has its own national classification society.

As an archipelagic country that depends on sea transport to connect its more than 7,000 islands, the Philippines is certainly a maritime country and has to have its own national classification society. In the context of the development of national merchant marines of developing countries, the establishment of a national classification society is a matter of sentiment regarded as a symbol of sovereignty, just like the right to a maritime flag.

This is the reason why in 1975, the government through the Maritime Industry Authority (MARINA) proposed a project called "Establishment of a Philippine Classification Society". Somehow, for lack of adequate support, it did not push through. Realizing that government recognition is crucial to the establishment and continued patronage of a Philippine classification society, industry leaders thought that the best way to initiate such a project is to legislate its creation before its eventual spin-off into a private classification society.

Thus, in 1987, the Senate, introducing a bill creating a Maritime Industry Commission, included a provision for the Maritime Safety Office to serve as the nucleus of the classification society that will spin-off into a private classification society. The bill provided for a two-year transition period within such the government would train the nucleus team, through foreign-assisted training grants, in preparation for the jobs they would assume in the private classification society.

Realizing the slow legislative grind, the private sector, through the initiative of a group of naval architects and marine engineers, went ahead in 1989 with the incorporation of a non-stock, non-profit classification society called the Philippine Register of Shipping (PRS).

The PRS is governed by a Board of Trustees, the composition of which is fairly representative of the cross-section of the maritime community, to wit: the technical professionals consisting of naval architects, marine engineers, mechanical engineers, maritime lawyers, marine underwriters, shipbuilders and shiprepairers, shipowners, and the government through the MARINA and Philippine Coast Guard (PCG).

In 1992, PRS was accredited by the PCG as a classification society for the domestic fleet and a Loadline Assigning Authority in 1994. It is also accredited to do MARPOL survey for oil pollution prevention. When the safety regulatory functions were transferred to MARINA in November 1994, the latter continued to recognize PRS. Through various circulars governing importation of vessels, MARINA has required classification of vessels as a prerequisite to obtaining a CPC/PA.

PRS is still young compared to its foreign counterparts but since its formal launching in 1991, the PRS has proven itself worthy of a true classification society. The MARINA has granted a substantial number of authorities to operate on the basis of class certificates issued by the PRS.

In its desire to continually improve the quality of the service, the PRS has applied for and was awarded ISO 9001 certificate last March 2000. PRS is currently gearing itself to become a certifying body for ISM Code compliance by

shipping companies and their ships.

The success of PRS as the first and only accredited national classification society is now in danger of being jeopardized. Other local classification societies have been formed and organized and are being accredited by MARINA to compete with PRS.

Whatever happened to the policy of having only one national classification society similar to that of other states? Thus, no state in the world has more than one national classification society. The reason therefore is very obvious- classification of vessels is a function of safety and safety cannot be compromised. Once competitors do succumb to the pressures of shipowners to cut on costs, this may lead to disastrous consequences!



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Fax No: 282-7376

PORTS OF CALL	DEPARTURE MANILA
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MANILA TO GEN. SANTOS (2 X weekly direct service)	Every Tuesday & Friday 10:00 P.M.
MANILA TO CAGAYAN DE ORO (2 X weekly direct service)	Every Wednesday & Saturday 10:00 P.M.

Names of Vessels:

Solid Ace
Solid Bay
Solid Gold
Solid Jade

Solid Link
Solid Moon
Solid Pearl

Solid Sky
Solid Star
Solid Sun

In absence of government help

Ruth G. Mercado tells how NGOs and Church apostolate are taking the lead in the cause of seafarers' welfare

NON-GOVERNMENT organizations and church-based apostolate are responding to the needs and plight of seafarers where government is remiss or just plain indifferent. The phenomenon is ironic as it is insulting. Incongruous as it is preposterous. Yet while government enjoys foreign exchange earnings from dollar remittances of seafarers constituting a big share in the maintenance of the country's dollar reserves, they are stoical over the seafarers' social, emotional and economic well-being. In contrast, non-government organizations and apostolate, who don't stand to gain anything, not even financially, from seafarers are the ones working on social programs aimed at genuine humane growth for seafarers' and their families'.

The other incongruity is that

services, dormitories, training centers, e-mail or communication centers, family centers, recreation centers and commercial centers. It could be used as a one-stop-shop for all seafarers."

Ideally it should have been that way long ago. Apparently the maritime industry has been quite lethargic, preferring to move in an easy, drifting pace that not even a draft of a comprehensive program for seafarers has been made. Surprisingly, it is only now that focused approaches at addressing the issues of seafarers has been done with the formation of a Maritime Party. A baby step yes, but rather procrastinated and delayed.

DEFYING THE CODE OF SILENCE

Observes Santiago, "Church groups like the Apostleship of the Sea would always be responsive to the plight of seafarers because this is their mission. On the other hand, government will always pay lip service because they may or may not have the resources to support seafarers or that these are political decisions affected by several

factors. If only the seafarers are organized in the truest sense of self-help association by honest seafarer leaders, then we can hope that their welfare would be better handled by the seafarers themselves."

Self-help may seem the best help, sure. However, an intrinsic ethos in the industry may be its biggest stumbling block. Stella Maris Seaman's Center port chaplain Fr. Roland Doriol calls this the "code of silence." A seafarer for almost 22 years, Doriol found that seafarers are generally alienated from their jobs. Adventures of voyages may sound romantic to those who have not taken to life at sea, but seafarers hardly talk about these adventures at all. They seldom talk about their failures and successes and this absence of sharing among experienced seafarers and apprentice mates has caught

most nautical cadets unprepared to tackle the initiation of life at sea.

Over the years, there is little sign that seafarers are concerned, much less aware, that this culture of silence is hurting the industry and themselves real bad. Time and again, they have spied dark clouds, gale winds and swells at sea, but they are unable to adapt to a survival instinct of grappling with loneliness, of fighting a lonely battle with deprived companionships, of exposing exploitation and of keeping up with the tall demands of the job.

This same culture of silence has dented yawning fissures among family members of seafarers that those who are unable to cope with emotional trauma actually find their families fractured for good. Doriol illustrated a classic scenario. When a seafarer departs and is far from his family for several months, he expects warmth and the genuine feel of being welcomed back when he returns. To a seafarer, there is nothing like the *pasalubong* of a safe return and renewed companionships.

Instead the first thing his wife or sweetheart would greet him is looking for the "*pasalubong*." It is as if himself and the safety of his return are not as important as presents from travel. Companionship binds marriages and relationships and if after he returns even that is lost, the *pasalubong* ultimately won't mean anything. Doriol, who has counseled several seafarers families, underscored, "it is usually on the return that the crisis begins."

Breaking the culture of silence entails counseling — something that non-government organizations and church-based apostolate have responded to with admirable tenacity — and venues to share their ideas and experiences no matter how casual. Forums such as newsletters like the Apostleship of the Sea, published by the Stella Maris Seaman's Center are all part of the solution. So far, no one is saying there will be easy resolutions, but optimists hope to put up a Maritime Party and an International Seaman's Center to bring the seafarer's issue to the limelight.

In coming close to home, Santiago sounded off a more down-to-earth and urgent call to seafarers asking them to "help themselves or the sector to empower itself. Urged Santiago, "it is easy to say we need unity. Sad to say, the seafarers are the most disunited sector in this part of the world. For the sake of seafarers, let us unite and empower ourselves." Finally, that should be the kickoff we have been watching for all these years.



Self-help may seem the best help for seafarers

government, while saying they are proud that Filipino seafarers are among those nationals preferred by foreign principals, does not have a government-run Seaman's Center to speak of. Disgraceful and humiliating even, the Philippines is one of the few countries in the world that does not have its own Seaman's Center. Says Maritime Party national chair Leo Santiago in an online interview, "OWWA has attempted to provide a seaman's house and center but it is not comparable to those available overseas. Government has been remiss of its duty to local and overseas seafarers, something that speaks for itself."

Asked what he thinks an ideal Seaman's Center should be, Santiago said, "I am espousing for the establishment of a Center where all the amenities will be housed. These include: ecumenical

League's new members sworn in

A NEW batch of members of the Maritime League has sworn in during the recent joint fellowship between the League and the Philippine Coast Guard (PCG) held at the latter's headquarters on February 28.

The new members, include 11 officers from the PCG, six individual life members, four corporate, one regular and associate member. The six individual members are Atty. Eliodoro Cruz, vice president and general manager of Pier 8 Arrastre & Stevedoring Inc.; Usec. Crisostomo F. Abanes; Wil-Mar A. Agalos, police senior superintendent-PNP maritime group; Capt. Octavio S. Maloles, Chairman & Pres.-O.S. Maloles II Real Estate; Capt. Eutiquio R. Reyes, Jr., vice pres. for academic affairs-PMMS; and Mr. Clifford M. Compas, vice pres. for Operations-PMMS.

PHILMAR, Pioneer Insurance & Surety Corp., BIS Manila, Inc. and Smith Bell & Co. Inc. were the companies that recently join in the list of the League's corporate membership.

PCG officers include Commo. Danilo A. Abinoja, chief of staff, district commander-Batangas; Commo. Herby F. Escutin, district commander-Cebu; Commo. Domingo T. Estera, acting deputy commandant; Capt. Isidro P. Banaria, assistant director-project management office PCG-DOTC; Capt. Ernesto S. Caballero, support command; Capt. Reynaldo D. Generillo, superintendent, Training Center; Capt. Antonio C. Lalisan, acting commander-Operation; Capt. Noel D. Monte, project manager, PCG-DOTC; Capt. Elpidio B. Padama, commander-Maritime Environmental Command; Capt. Reynaldo

Trajano, commander-operating forces; Capt. Rosendo C. Roque, commander-Finance.

Cdr. Desiderio G. Yupano, pres./lead auditor of Quality & Safety Management Systems joined as regular member while Chief Engr. Christopher P. Maambong, pres. of Brilliant Seas Shipping was sworn as an associate member of the League.

Also, Engr. Alfredo V. Gomez, pres.-Albatross Foundation Academy, son of the late Capt. Arturo G. Gomez and Mr. James T. Pahati, pres.-Philsin Marine Technology Colleges Foundation, son of the late Engr. Benjamin A. Pahati received their certificate of life membership. Pursuant to the League's by-laws life membership is transferrable once and only once to a surviving spouse or child.



Transport and Communications Undersecretary Agustin Bengzon (extreme right) administers the oath

Mail, Fax, or E-Mail membership application to our address at:

The Marine League
201 Marine Technology Center
Aduana cor. Arzobispo Street
Intramuros, Manila 1004

Tel/Fax: (632) 527-9049
E-Mail: mleague@compass.com.ph

Membership Application Form

I hereby apply for membership to **The Maritime League** as indicated below and enjoy the privileges of membership, including a free subscription to **The Marine Review**.

Member:

Life Membership (P10,000.00 one time dues for those aged 60 and above, or as follows):

Age	50 & below	51	52	53	54	55	56	57	58	59	60 & above
Amount	P20,000	19,000	18,000	17,000	16,000	15,000	14,000	13,000	12,000	11,000	10,000

Corporate (P10,000 initial and P 1,000 annual dues)*

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Enclosed is my checked payment for P _____

Hereunder are my personal data for your reference.

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Position/Title: _____ Office/Company: _____

Business Address: _____ Tel. No.: _____ Fax No.: _____

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Preferred mailing address: Office Home

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ISF issues 'good' employment practice

THE International Shipping Federation has issued a set of guidelines on good employment practice that will help maritime employers in developing and maintaining employment standards consistent with recognized good practice.

"There is a major focus in shipping today on the so called 'human element' issues, such as training and safety management," the ISF says.

As "society at large demands high standards of performance from the entire transport sector, ISF says, "the adoption and implementation of good employment practice is a necessary part of meeting those demands."

It has been known that the shipping industry was first to adopt comprehensive international employment standards following the establishment of the International Labour Organisation in 1919.

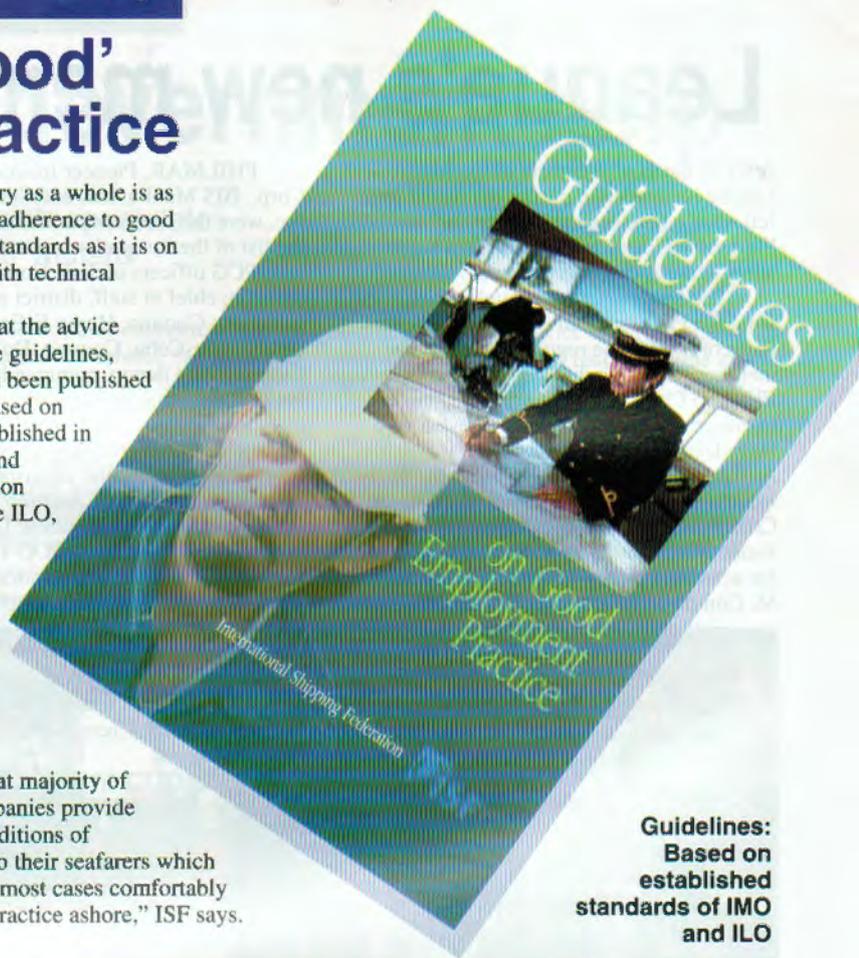
Maritime employers coordinated by ISF have actively participated in the development of these standards since the first ILO conference, and has continuously done so.

The ISF says the performance of individual seafarers, shipping companies

and the industry as a whole is as dependent on adherence to good employment standards as it is on compliance with technical regulations.

It says that the advice contained in the guidelines, which has just been published this year, is based on standards established in conventions and recommendation adopted by the ILO, the IMO and existing ISF policies covering industrial relations and recruitment services.

"The great majority of shipping companies provide terms and conditions of employment to their seafarers which match, and in most cases comfortably exceed, best practice ashore," ISF says.



Guidelines:
Based on
established
standards of IMO
and ILO



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so that others
may live to sail.*



Why the need for maritime party

In 1998, we established a Maritime Party to promote the well being of millions of Filipino seafarers, their families and their counterparts in the maritime sector. Why a seafarers' party in Congress?

Do you recall how many times our seafarers were humbled and taken for granted by our politicians and bureaucrats? Seafarers, much like the OFWs, have been living in abnormal life on board ships. Worse, on land, they get a roundabout ride in this bureaucracy that welcomes their billion dollar remittances but ignores their plight.

While 600,000 Pinoy seafarers can face up to the challenges of the seas, they are no match to the challenges of bad politics without a strong party. Thus, the birth of the Maritime Party through joint efforts of mostly mariners and allied professionals. Only if we succeed in empowering ourselves can we hope to better our standing and our welfare in this society.

Remember that we must also elect into office people who come from the seafarers' ranks or those that have proven to be on the side of the seafarers and the maritime industry.

Vote wisely! Always remember our mission in getting our maritime legislative agenda into completion is premised on our having our representatives in Congress through the party-list elections. With your votes, there

are sure seats for our representatives in congress. We would probably need 300,000 to 500,000 votes per seat. Never belittle the power of our would-be Party representatives as they would advance the security of our jobs, the development of our industry, protection and well-being of our workers, and that of their families.

We, of the Maritime Party, pledge you these and exhort you and your families and friends to get more votes. Together, let's ensure that the votes of our Maritime Party are counted. Remember, don't fail to write Maritime Party or simply Maritime in your ballots this May 14, 2001 elections.

For more information, please call or contact: MARITIME PARTY, Room 303, YIC Bldg., UN Avenue corner San Marcelino St., Ermita, Manila; telefax: 526-0006, 338-4836 or cellphone 0919-318-0992 email: "leo j. santiago" <stj@philonline.com.ph.

- Leo J Santiago

Leo Santiago is the National Chairman of the Maritime Party. According to him the nominees for Congress are Vince Aldanese, Capt. Butch Romillo, Mrs. Linda Subang, Atty. ruben delRosario and Capt. Rodolfo Estampador. The latest addition are supposed to be two merchant captains, one seaman's wife, one maritime lawyer and one captain of the industry - ed.

Sorting out the port

It has been reported that new DOTC Secretary Pantaleon Alvarez has issued an order to the PPA to incorporate anti-monopoly provisions and open competition in the North Harbor development plans. The Maritime Party had issued a statement supporting the move of the DOTC head as the latter called for "transparency" in public bidding and strict adherence to open market competition principles.

Secretary Alvarez informed the leaders of the group, Coalition for Port Modernization which called on him recently, that his department has been fast-tracking the proposed changes in the controversial EO 59.

According to him, the proposed

amendments would open the North Harbor to public bidding, where the winners would be allowed to operate cargo handling services of the various piers.

A relevant question now would be: is DOTC or the new management going to take issue against the former administration for the corruption, the wasted time and effort, the alleged irregular payments to labor from government funds, and the abuse inflicted upon the Pier 8 operator, which includes ignoring lawful court orders?

-Name withheld on request

This would be an interesting issue to watch. The new PPA General Manager, we hear, is a straight-shooter. - ed.

Glad to be aboard

I am honored to be a member of the Maritime League and will surely do my share to establish the League as the country's premier maritime organization, and meet the goals for which it was established.

-Alberto A Encomienda

Secretary General,
Center for Marine and Ocean Affairs
Department of Foreign Affairs

Ambassador Encomienda is given much of his time toward improving the DFA's capability to administer our maritime commitments as well as contribute in developing the country's maritime resources. As the Board of Trustees indicate, he is certainly a welcome addition to the League. We need more members like him - ed.

IMO should receive the Review

Thank you very much for providing the Embassy with copies of The Maritime Review, the publication of the Maritime League. The Embassy refers to this publication for information on the Philippine shipping industry especially in aid of its representation in the International Maritime Organization. It looks forward to receiving the succeeding editions of The Maritime Review.

In the meantime, the Embassy suggests that the previous and succeeding editions of The Maritime Review be furnished the Library Section of the International Maritime Organization, which has a section on publications by individual Member countries. I noticed recently that there are no maritime publications from the Philippines in the IMO Library. The Maritime League may wish to make itself accessible to the IMO Library through regulation transmittal of its publication. Should this suggestion favor your consideration, The Maritime Review may be transmitted directly to:

Mrs. M. Harvey
Librarian

International Maritime Organization
4 Albert Embankment
London SE1 7SR
United Kingdom.

-Gilberto Asuque

Minister and Deputy Permanent
Representative of the Philippines to
IMO

We appreciate this comment from an active player for the Philippines at IMO. Our League President has a good impression about the involvement of Minister Asuque, a former radio personality in Manila. We used to send a regular copy to IMO but cost of mailing has made us stop it. We are making arrangements with DFA to send a copy together with those we send to Philippine embassies abroad - ed.

Thanks from Capt Gomez's family

The family of the late Capt. Arturo G Gomez would like to express its sincerest thanks and appreciation for your sympathy and condolence.

-Alfredo V Gomez

Mr. Alfredo Gomez has received the Life Membership of the late Capt Gomez in accordance with the By-Laws - ed.

Is seamen's center needed?

FORUM Host Leo J Santiago of the Traders Maritime Forum has the following note on the topic "Building International Seamen's Center: Issues and Implications" during its 9th March 2001 breakfast forum at the Traders' Hotel.

While the Philippines has continued to be the biggest supplier of seafarers worldwide (read: Pinoy seafarers roaming various ports overseas), the Philippines also continues to be remiss of its duty to its own seafarers and that of other countries. Reports had it that while there is not even one that remotely resembles an international seamen's center here in Manila or elsewhere. To correct this anomaly, a church-based group is pushing for a seaman's center in the most convenient and accessible place in the city – the Rizal Park or near it. The project is getting a lot of foreign support but not many support from the Philippines' maritime and government sectors yet. Is there really a need for such seamen's center?

The answer to the above can be both in the affirmative and the negative.

First of all, however, the premise of this exercise that "there is not even one that remotely resembles an international seamen's center here in Manila or elsewhere" is not entirely correct.

Since many seafarers come from the provinces, it has been worthwhile having a facility to administer to their needs. However, because of the inherent nature of our seafarers recruiting system, which is almost unique to this country, many agencies have seen fit to provide facilities for their own seamen.

One of the largest Seamen's Centers in Manila is that operated and administered for its members by the AMOSUP right at Intramuros. It would be interesting to see the reaction and a report, if possible, from Capt Gregorio Oca on the status of their Center, which appears well organized and running quite smoothly.

Years ago we had occasion to do a seafarer's mission to Tokyo, Japan. Together with Secretary Leonardo Quisumbing and officials of POEA, OWWA, the Maritime Training Council, AMOSUP and DOLE, we conducted a meeting at the Seamen's Center of the All Japan Seamen's Union in Tokyo, whose facilities were quite excellent. From this point of view, it therefore appears that the AMOSUP approach is a well-founded and correct one.

In the United States, seamen avail of Centers organized by the religious, mostly Catholic priests (there were many seamen of Irish, Polish, Greek, French and German nationalities, and in those days majority overall were Catholics). Also in many US cities, they have Young Men's Christian Association (YMCA) hostels, which even

navy sailors use if there are no navy transient facilities located nearby. When I was enroute reporting to the US Naval Academy at Annapolis in 1956, the Navy Air Transport Coordinating Officer at the Federal Building introduced me to the YMCA in downtown San Francisco, where I stayed for three days to wait for a MATS flight from Travis AFB to Baltimore.

Here in Manila, the United Seamen's Service Inc. of New York, a non-stock, non-profit charitable corporation organized in the State of New York, operates a Seamen's Center near the Philippine National Red Cross headquarters in Port Area. This Center was run previously by Scandinavian countries (Denmark, Sweden and Norway) but turned over to the United Seamen's Service after the building burned down in 1986, when the Scandinavians decided to abandon the place.

The lease of the property from the Philippine Ports Authority is explicit as to its

land-based workers, which was turned down. If seafarers are not satisfied with the OWWA facilities, does this mean that perhaps the proposal should be revived, and OWWA should support a separate seamen's center?

With the premise and statements highlighted by the Forum Host, it would seem that neither OWWA, the United Seamen's Center and the various agencies which established their own Centers, such as AMOSUP, has not been widely disseminating their capabilities.

Upon receiving the notice for the TMF meeting, I thought that the Traders Maritime Forum may well come out with a proper resolution to address this beneficial aspect of supporting our present-day heroes. The proponent, Fr Sabino Bernardi came well prepared, together with a complete position paper on "The Need for an International and Ecumenical Seafarers' Center in Manila." The meeting turned out to be full of support



Since many seafarers come from the provinces, it has been worthwhile having a facility to administer to their needs

purpose: to operate "a Seafarer's Center to provide wholesome facilities and recreation to seamen and port personnel of all nationalities."

The Overseas Workers Welfare Administration was organized several years ago to address the needs of our overseas workers. Seafarers are part of this group, and do contribute a lot. After the EDSA I Revolution, OWWA acquired a faltering hotel in Pasay City and refurbished it as an OWWA Center. Its size and extent will dwarf most seamen's centers in any country (the biggest one I've seen was in Odessa, in the Ukraine, which was part of a venue for an international IMO-organized and UNDP/ USSR-supported seminar on maritime safety and pollution prevention). There was an effort before in splitting the contribution and support mechanism between seafarers and

for the proposal, with some suggestions on improving the draft "resolution" prepared by Fr Bernardi.

Perhaps it is high time to revive the proposal to remove the seafarers from OWWA and place them under a separate fund, since the contribution of seafarers to the economy is much more pronounced in spite of their lesser number, in terms of warm bodies, than the overseas workers. Likewise, I suggested that the sites to look at should be either at Intramuros facing the Luneta (since the seafarers seem prone to ask for T. M. Kalaw Street) or the South Harbor area. The lease for the United Seamen's Service Center should be looked at also.

This could certainly be something that the Maritime Party can look at, if the Party gets off the ground.

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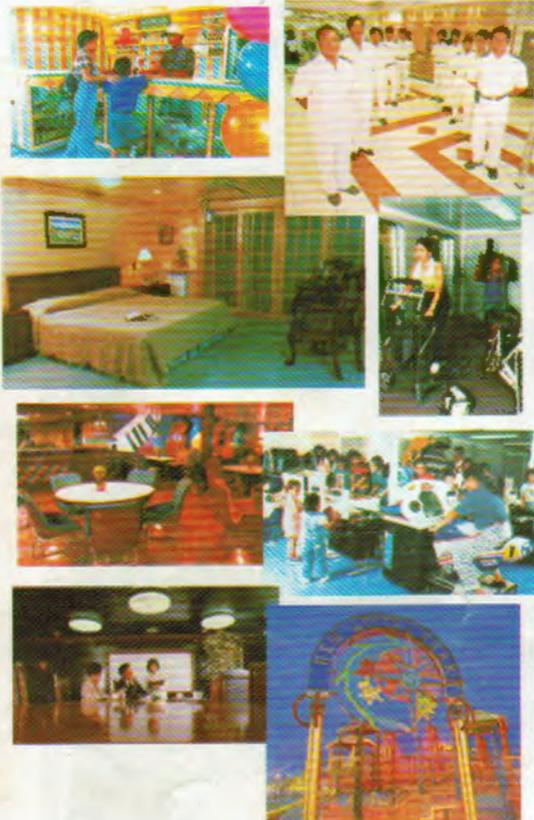


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Each of the company's luxury liners has superb facilities that offer utmost comfort and convenience to passengers as well as efficient handling of cargo to and from points in the nation. Traveling on board any of the latest addition fleet has been, a matter of fact, likened to almost like traveling on ocean liners and cruise ships abroad.

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- Mr. Carlos Go
Executive Vice President
and Chief Executive Officer

