

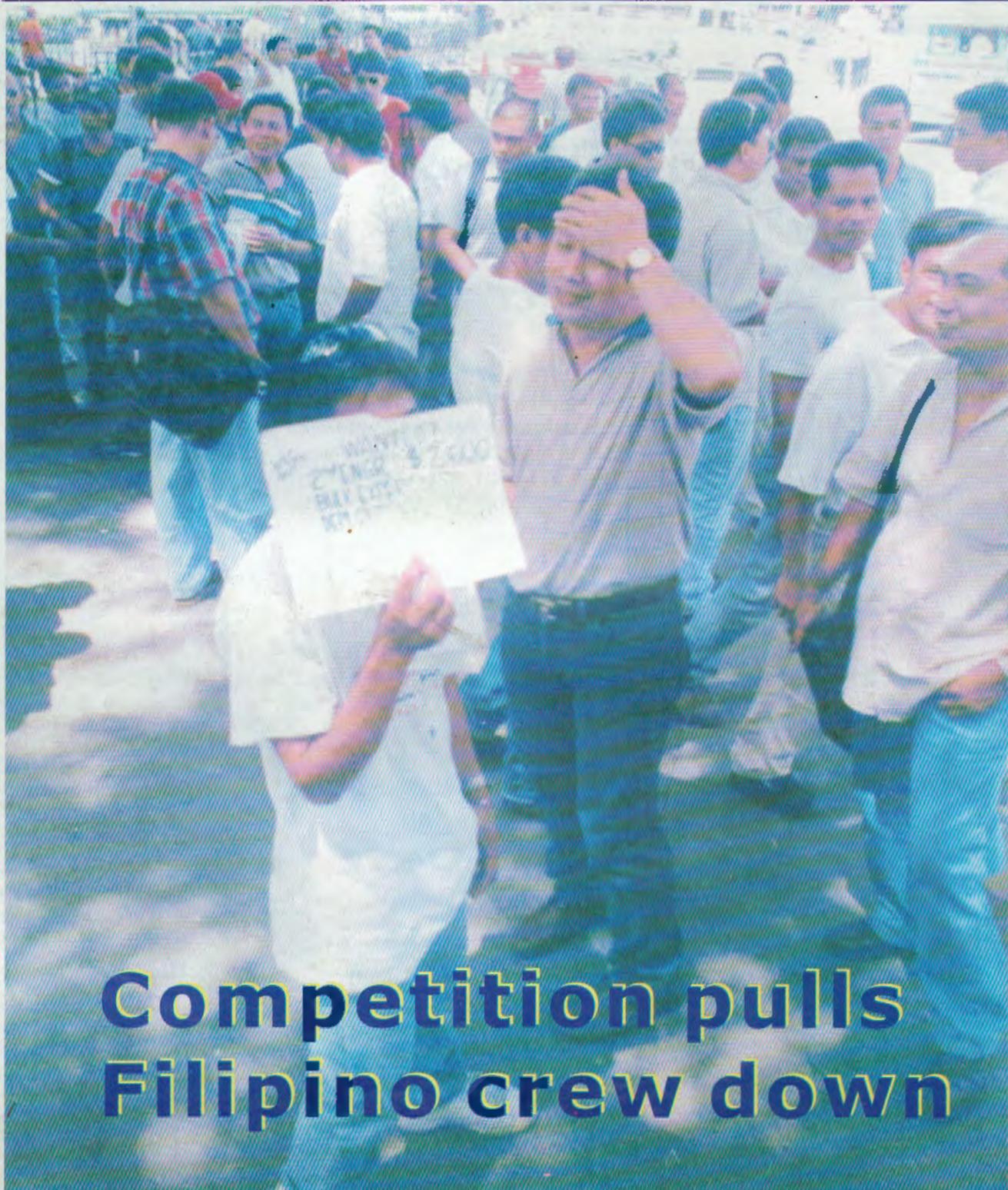
Maritime

REVIEW



A PUBLICATION OF THE MARITIME LEAGUE

November-December 2001



Competition pulls Filipino crew down

D S A



sailing across barriers

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Filipino seafarers waiting for jobs

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Maritime REVIEW

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Chairman's Page

REVIEWING my email after returning from Cebu on 16 September, I noted this one on the New York tragedy involving a Maritime League member, Vic Mamon, SBMA deputy administrator who I feel his former shipmates, his colleagues in the maritime community and those of you who know him would be glad to hear about. Vic had informed me, among others, about his plan to attend his 40th anniversary reunion at Annapolis in the first week of September.

I did not know about Vic's plans and had forgotten about his U.S. trip when I got an email message from Butch Aguenza, a former PN officer who now resides in Annapolis. Vic had stayed with him during the occasion. The message:

... I am happy to report that Vic Mamon, his wife and son, Dindi are all safe and in good condition. Vic attended his 40th reunion last week and went to NY Sunday. He was staying at the Marriott, which was between the 2 towers when all these happened. Knowing this we tried to get in touch with him yesterday and finally got through this morning. They are all in good spirit, although Vic lost all his belongings including the souvenirs he got from the Academy.

They were able to get out with just the clothes on his back and their wallets.

I talked to him for a couple of minutes and he was just happy to be alive. He saw the whole thing, including the second plane ramming to the building.

Right now, they have to go shopping for clothes and go to the Phil. Embassy for his passport replacement.

Batch 76

We're just happy that he and his family are all well.

The Great Loss of the Port Authority of New York & New Jersey

It's not commonly known that World Trade Centers in many countries are built, owned and managed by the local port authority. Such is the case in Manhattan, where the twin states of New York and New Jersey (under joint state laws) integrated the ports within their jurisdictions under one

Authority. Aside from the ports, the PA-NY/NJ also owns and operates the toll bridges within the area, as well as the New York subway system. You would notice the signs, as well as the fact that the policemen are the cops of the Transport Police, and not the famous NYPD.

The loss for PA-NY/ NJ must therefore run into many billions of dollars, including major offices of the PA-NY/NJ, not to mention the loss of its own personnel, many of whom I met at the World Trade Center during an official visit in 1995. Its like the Marsman Building of PPA being demolished, so you can imagine what effect it would have on the Port Authority.

If this happened here in 1998-2000, I'd know the culprit would be a certain terrorist named Abdul Jakul, who is a sleeper in the Maritime League, I am told. We must improve our intelligence network to be ahead of these guys.

Anti- terrorism spawns varied reactions and concepts

The events that occurred starting 11 Sept 2001 has spawned a lot of reactions, theories, conclusions and call for actions which vary from appeasement, caution, intensified intelligence operation and selective military action, to outright anti-Arabic or anti-Islamic war, a replay of the Crusades if you may.

I came across an email sent by a friend, which came from one Peter Varsanyi, a US Navy officer who survived the Pentagon attack on 11 September. His item was entitled, "How to stop Islamic terrorists... it worked once in our History" The item goes:

Once in U.S. history an episode of Islamic terrorism was very quickly stopped. It happened in the Philippines about 1911, when Gen. John J. Pershing was in command of the garrison. There had been numerous Islamic terrorist attacks, so "Black Jack" told his boys to catch the peeps and teach them a lesson.

Forced to dig their own graves, the terrorists were all tied to posts, execution style. The U.S. soldiers then brought in pigs and slaughtered them, rubbing their bullets in the blood and fat. Thus, the terrorists were terrorized; they saw that they would be contaminated with hog's blood.

This would mean that they could not enter Heaven, even if they died as terrorist martyrs.

All but one was shot, their bodies dumped into the grave, and the hog guts dumped atop the bodies. The lone survivor was allowed to escape back to the terrorist camp and tell his brethren what happened to the others. This brought a stop to terrorism in the Philippines for the next 50 years.

Pointing a gun into the face of Islamic terrorists won't make them flinch. They welcome the chance to die for Allah. Like Gen. Pershing, we must show them that they won't get to Muslim heaven (which they believe has an endless supply of virgins) but instead will die with the hated pigs of the devil.

I responded that the opinion is somewhat warped. Islam in Philippine history came just about after the Crusades, when many Islamic missionaries spread to the East, reaching as far out to China and the Philippines. Had Ferdinand Magellan not stumbled upon the Philippines in 1521, we would almost certainly have gone the way of Indonesia (the largest Islamic population in the world) and Malaysia. In short, as Magellan's chaplain started converting and Christianizing the new Muslims, a low profile reenactment of the Crusades had started, with Catholicism somehow winning, and pursuing Islam farther and farther south.

Now we have this fierce Tausug tribe in the Islands of the Sulu Sea, emanating from the Madjapahit Empire, and controlling Western Mindanao and Sabah in Borneo. Unfortunately they had been converted to Islam. They would have been fierce Christian warriors had the Imams not reached Sulu almost a century ahead of the Spaniards. In the 300 years of Spanish rule they had never really conquered the Moros (the term used by the Spaniards, in reference to the Moors that conquered Spain for two centuries before the Crusades).

The Philippines became a colony together with Guam (then part of the Philippines), Puerto Rico and Cuba as a result of the Spanish-American War. Both the Philippines and Cuba were in the height of their revolutions when Spain was defeated but for strategic reasons, we became a colony in late 1898 (although we had proclaimed independence on 12 June of that year and for a while operated jointly against the Spanish), while Cuba was allowed to become independent. When Black Jack Pershing came to the Philippines, he wanted complete subjugation of the territory, and "pacification" against the Christians in the Eastern Visayas and against the Muslims in Sulu had to be done.

TSUNEISHI CEBU BUILDS ITS BIGGEST SHIP YET

NORWEGIAN ship manager Ugland Marine Services and Japanese owner Mitsubishi Corp have taken delivery of the bulk carrier *Tamarita*, the biggest ship built so far by Tsuneishi Heavy Industries at its Cebu shipyard in the Philippines. The recent naming ceremony of the 52,300 DWT vessel has launched the ship with a full complement of 23 Filipino officers and crew from Philippine Transmarine Carriers (PTC), the manning agent of UMS in the Philippines.

The vessel, which is owned by Mitsubishi, is on time charter to UMS with option to purchase after two years. Eivend Rorvik, UMS fleet manager, said the sea trial of the vessel was "one of the best" that he has experienced, proving that Filipino craftsmanship has expanded into shipbuilding.

Tsuneishi's shipyard in Balamban, Cebu, which employs 3,000 Filipinos, has built a number of bulk carriers for various European and Japanese owners. The *Tamarita* is the 20th ship built by Tsuneishi Cebu, with another vessel scheduled for delivery in December this year.

During the vessel's construction, Filipinos were sent regularly to Japan for training, with four Filipinos forming part of the supervising team for the project.

FF CRUZ VENTURES INTO SHIP OPERATION

FILIPINO construction and engineering group F F Cruz & Co has ventured into ship owning and operations with the acquisition of two secondhand ro-ro vessels in the domestic trade. The group has formed F F Shipping to handle the inter-island shipping operations.

F F Shipping president Eric Cruz said the ships serve as "moving bridges to connect the three islands of Panay, Guimaras and Negros Occidental as the vessels regular routes. Cruz said the vessels will definitely spur economic activities in that (Visayas) region, "thus bringing about countryside development and growth."

The first ro-ro, named Felipe I, which has a capacity of 15 trucks, was deployed in the Iloilo- Jordan, Guimaras route. The other ship Felipe II, with a capacity of 30 trucks and cars, has taken the San Lorenzo, Guimaras to Pulupandan trade.

At present, there is no transportation by sea that connects the islands of Panay, Guimaras and Negros Occidental. The only

available means is limited to the Iloilo-Guimaras route using existing small motorised boats.

RP, US SIGN WASTE SHIPMENT ACCORD

THE Philippines and the United States have clinched an accord that would significantly reduce the cost of certain key industries by allowing the shipment of hazardous wastes from the Philippines. Under the agreement, the Philippines may now transport, for processing in US treatment facilities, toxic wastes generated by domestic industries particularly electronics and semi-conductor firms, which account for 70 per cent of the Philippines total exports.

Signed after five years of negotiations, the agreement will be a "tremendous boost to Philippine business in the Philippines," said Philippine Foreign Affairs secretary Teofisto Guingona Jr.

The Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal prevent countries, unless there is a bilateral agreement between the two countries involved.

NEW APPROACH NEEDED IN PIRACY FIGHT

DELEGATES at an international piracy conference in Tokyo have called for a 'new approach' to combat the growing incidence of piracy in the Malacca Straits. Armed attacks on merchant ships continue to rise despite efforts by national governments to curb the menace.

The two day conference, attended by government, police, coastguard and ship owners' representatives from over 20 countries, recently concluded with a consensus that developing a regional co-operation agreement is central to the effective implementation of counter-measures against attacks on ships.

"Participants shared the view that multilateral regional co-operation is indispensable in fighting piracy, and that Asian nations should take the initiative in taking anti-piracy measures in Asia," said Chihiro Atsumi, conference chairman and deputy director general of the Japanese foreign affairs ministry's Asia/Oceania affairs bureau.

PHILSECO ROW ELEVATED TO SC EN BANC

THE Office of Solicitor General (OSG) has elevated its suit against a consortium to the

Supreme Court en banc, asking the high court to junk its own ruling that awarded the former semi state-owned Philippine Shipyard and Engineering Corp (Philseco, now Subic Shipyard of Keppel Group) to JG Summit Holdings.

Solicitor General Simeon V Marcelo said the case is so important that it should be discussed at the en banc level, explaining that it should reverse the ruling on the basis of "far reaching consequences to the government and the nation." He said in a 20-page motion that the government's privatization program would be severely impaired because bidding rules "could never be relied upon" even with the clearance of the Department of Justice.

The Supreme Court First Division has promulgated an order awarding Philseco's 87 per cent shares in November 2000 to JG Summit after the Committee on Privatization awarded the same shares to Philyard Holdings, a Keppel-led consortium. The Supreme Court ruling had upheld JG Summit's claim that Kawasaki Heavy Industries, a former Philseco shareholders, did not have the right to top JG Summit's bid for the Philseco shares.

ITF LAUNCHES CREW PHONE SERVICE

THE ITF has launched CrewLink, a worldwide telephone service designed specifically for seafarers. The network uses special Inmarsat-based satellite phone equipment that will be installed in crew areas and will use \$20, \$50 and \$100 prepaid phone cards available from seafarers' centres, missions and participating employers.

The equipment will enable seafarers to phone almost anywhere in the world for a single price. E-mail capability could be added next year.

ITF General Secretary David Cockcroft commented: "The purpose of this program is help break the boundaries of isolation for ships' crew members. Removing any connection with a ship's dedicated communications equipment will not only give seafarers privacy, it will free masters and ship operators from the administrative task of managing personal communications."

SC JUNKS BID ASSAILING CONTRACT

THE Supreme Court (SC) has dismissed the petition filed by a maritime lawyer to stop the implementation of a Labor Department order amending the standard employment contract of Filipino seafarers on board

oceangoing ships. The High Court third division, which trashed out the petition for certiorari assailing the legality of Department Order No. 04 approved in June last year, said the order issued by former Labor secretary Bienvenido Laguesma "is not within the ambit of a special action for certiorari."

Laguesma, who also then served as chair of the Philippine Overseas Employment Administration (POEA), approved the amendments to the Rules on the Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Oceangoing Vessels to protect ship owners from tort claims filed by seafarers and their lawyers in foreign courts like Panama and the US.

Pedro L. Linsangan, the maritime lawyer who filed the petition to suspend the implementation of the revised employment contract, contended that the amendment rules are unconstitutional and violate existing laws as they constitute diminution of seafarers' benefits. The same rules are likewise arbitrary and unreasonable, said Linsangan.

Ship owners have shelled out millions of dollars in crew claims over the last two to three years, which managers and crewing agents reckon as one of the reasons that dislodges the Philippines from its leading position as supplier of maritime labor. "Because of the

tort claims," the High Court said in its resolution dated 11 September 2001, "our seafarers were perceived as 'Filipinos who complain too much'." In fact, the SC noted, "foreign employers were no longer willing to hire Filipino seafarers in large scale unless the revised standard employment contract is amended in order that better terms and conditions in favor of employers' sector inserted."

The petition is one for certiorari under Rule 65 of the Rules of Civil Procedure as amended, which maybe filed in case the tribunal, board or officer exercising judicial or quasi-judicial function has acted without or in excess of its or his jurisdiction or with grave abuse of discretion. But in this case, the SC resolution said, "the Secretary of Labor did not act as a quasi-judicial officer. He promulgated a department order pursuant to his rule making or quasi

legislative power under Section 9 of Executive Order 247" as chairman of the governing board of the POEA.

RP BAHAMAS CLINCHED ACCORD

THE Department of Labor and Employment (DOLE) and the Bahamas Maritime Authority (BMA) have clinched an agreement that would assure and continue the employment of thousands of Filipino seafarers working on Bahamas-flagged ships. The accord signed between DOLE Secretary Patricia Sto. Tomas and Duncan Drummond of the BMA has been part of a series of bilateral agreement the Philippines, through DOLE's line agency Maritime Training Council (MTC), entered into countries employing Filipino seafarers.

At present, some 3,000 Filipino seafarers are working on Bahamian

Filipino seafarers, she said.

"Our commitment to total quality shall be the hallmark of our relationship with major flag administration like the common-wealth of the Bahamas," according to Sto. Tomas. One of the requirements stipulated in the agreement is that the certificate issuing party will make available to the administration the results of the external audit reports on the quality standards evaluation conducted in accordance with paragraph 3, Section A-1/8 of the STCW Code.

A committee has been formed to accelerate the preparation and completion of agreements with other labor-supplying countries for the recognition of Filipino seafarers certificates.

The committee is composed of the Department of Foreign Affairs, Professional Regulation Commission, Maritime Industry Authority, Philippine Overseas Employment Administration, MTC and the private sector.

KEPPEL SHIP-YARDS MERGED

SINGAPORE conglomerate Keppel Corp has announced the long-awaited consolidation of its shipbuilding yard. Under the 'restructure', Keppel Hitachi Zosen (KHZ) will be merged with Keppel



registered vessel whose agreement, Sto. Tomas said, "shall usher a new relationship that shall promote opportunities and at the time preserve the employment of Filipino seafarers." The agreement involves arrangements between the parties to allow recognition of certificates in accordance with the standards set by the revised STCW Convention.

Sto. Tomas said that in anticipation of the full implementation of the convention beginning February 2002, MTC has put in place the mechanisms that would address the certification needs of Filipino seafarers. Government agencies tasked with the function of issuing the required certificates for Filipino seafarers have instituted the needed reforms to eliminate the proliferation of fraudulent certificates and the negative image it has impinged on

Fels, the rig building and repair arm of Keppel Fels Energy and Infrastructure (KFEI).

"The restructuring of KHZ under Keppels Fels will strengthen Keppel's global presence through the combined business and operational network of 12 shipyards in strategic offshore markets and hubs of major sea routes around the world" KCL executive director Choo Chiau Beng said. Under the restructure, KCL will transfer the entire 61 per cent interest in KHZ to Keppel Fels in mid-November.

The transfer will follow the proposed privatization of KFEI, which has won shareholders' approval for de-listing. The completion of internal consolidation is expected to give a fresh impetus to the stalled merger talks with the other Singapore giant shipbuilder SembCorp.

Airfreight reels from global slowdown sans terrorism

By Windsor John C. Genova

THE hijacking and crashing of airplanes in New York and Washington last September 11 have caused a travel scare that weakened the businesses of US and foreign airlines. Fortunately, the flow of air cargo among nations was not hampered by the deadly terrorist attacks. And so far, Philippine airfreight forwarders are not adversely affected, except during the few days following the kamikaze attacks when all incoming and outgoing flights to the US were temporarily stopped for security reasons.

Some flights to and from major European cities were also temporarily cancelled causing delay in the delivery of cargoes. As of this writing, cargo operations

as January this year," said the officer, who declined to reveal his name and the name of his airline. He blamed the depressed air cargo market to the recession in the US. "There is no demand," he said. According to him, their freighter flies only 10 tons of incoming cargoes to and from Manila everyday. Most of the export shipments are destined for the US East Coast, Europe and Japan.

American Airlines (AA), which laid off thousands of its workers and drastically cut its business operation after two of its planes were hijacked and used by terrorists in attacking the US, has not been carrying cargoes since January. AA cargo officer Arman Hipolito said AA loads to JAL an

Ma. Theresa Antonio, president of the Intramuros-based forwarder Inland Corp., said there is still a slowdown in exports and imports caused by the Asian economic crisis that erupted in 1997. She estimated a 20-30 per cent decrease in some areas of the Philippine cargo market, particularly non-essentials such as electronics. Inter-Ocean Container Lines president Jovencio R. Abila confirmed the downturns in some industries such as electronics sector.

"The global demand for electronics is very small," he said. "Its down because the demand is less and the prices are lower. The semicon businessmen have already invested a lot but their returns are not much as technology quickly gets obsolete" said Armand S. Ng, president of another forwarder Pacific Air Express Inc. Ng added that there is slow down in export because local manufacturers are facing stiffer competition from their counterparts in China, Vietnam and Cambodia, which have cheaper labor cost and better kinds of products. Aggravating the forwarders' woes are cutthroat competition and cash bonds required by airlines. "The competition is fierce because the market is small. There are few clients and plenty of forwarders," Antonio said. And freight volume is spread out among the many existing forwarders.

The international airfreight forwarding industry is saturated. As of August 30, 2001 there are a total of 260 airfreight forwarders accredited by the CAB. Majority of these forwarders, 149, are classified as international. A total 99 forwarders handle both domestic and international air cargoes while only 12 forwarders handle purely domestic air cargoes. "Revenue-wise, the previous years were better for forwarders because the profit margins are better with fewer players, lesser competition and less price undercutting," Abila said. Domestic air cargo forwarders, however, enjoy better playing field because they are few in numbers so their profit margins are good, he said.

Antonio said the aircargo market is getting thinner because of the bigger forwarders. She claimed that such forwarders as Federal Express and Kuehne & Nagel are eating up the small locally-owned forwarders share of the market. Ng noted that there is no law that provides



Aggravating the forwarders' woes are cutthroat competition and cash bonds required by airlines

of international airlines are normal and there are no indications of a disruption in the global airborne trade. But carriers and forwarders have no reason to be glad. After all, they continue to reel from the impact of the US economic slowdown and the Asian economic crisis that erupted in 1997.

Prior to the Sept. 11 incident, carriers and forwarders were already suffering from volume shortages due to a shrunken global freight market caused by weak demand for goods. As carriers can't optimize their capacities, freight rates have dropped and so their revenues. Forwarders do not benefit from the low airline rates as they can't bring enough loads due to weak demand for exports.

A cargo officer of a Middle Eastern airline confirmed the situation "The rates are low because the market is down as early

average ten tons of Manila outbound cargoes, mostly garments, per month. Sometimes, AA can manage even less than five tons per month, he said Hipolito explained that the airline acts as a general sales agent and loads its cargoes to Japan Airlines (JAL) because shippers could not afford its high rates.

Civil Aeronautics Board (CAB) Economic and Planning Research chief Porvenir P. Porciuncula pointed to the liberalization of the Philippine Airline industry as another factor that affected the viability of the air cargo transport business. Porciuncula said that after the government allowed the opening of more international flights, the cargo capacity increased but forwarders failure to fill it up caused freight rates to drop. The economic slump also affected the forwarding business.

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incentives to small local forwarders and protects them from big international forwarders. The incentives are needed to enable the forwarders to compete squarely against multinational forwarders.

Abila said laws that will help forwarders generate more business or open up new opportunities for forwarders and carriers are also needed.

Ng also complained of the surety or cash bonds required by airlines. "Even if a forwarder is a member of IATA (International Air Transport Association), the airline still require it to put up bonds of P1 to P3 million. Since forwarders have no choice but to come up with the bonds, their IATA accreditation is becoming useless," he said.

Meanwhile, the immediate and long term effect of the US attacks to the air cargo business could not yet be felt. Major carriers described their aircargo operations and business as normal.

Thai Airways cargo supervisor Abelito Paras said there is no reduction in the number of flights nor adjustments in destinations or routes in response to the US terrorist attacks. Paras said the airline still transports Philippine exports to Los Angeles and major European cities daily through Bangkok. Transit time to Los Angeles is 18 to 19 hours while transit time to Europe is six to eight hours. Thai Airways handles an average 10 tons of transit cargoes per month, he said.

Pakistan Airlines' Airbus 300 plane still flies three tons of cargoes, mostly electronics and garments, twice a week to London, Tokyo and other major destination, said its cargo officer John Costelo.

EVA Air still has daily flights to Taipei but there is adjustment in transit time. One of the Airlines' cargo officers, Mart Chang, said the impact of the US attacks to their operation is the longer transit time for cargoes destined for the US. Normally, the transit time is one to two days. But now it is three to five days because of additional security checks for cargoes entering the US, he said. "The security is so tight. Each cargo are thoroughly checked," Chang said.

The effect of air cargo traffic of a military confrontation in the Indian Ocean and Persian Gulf between the US and Afghanistan, which is sheltering the suspected leader of the terrorist, could not also be determined as of yet. But carriers and forwarders are hopeful that there will be no major disruption in the transport of Philippine exports to destinations in the Middle East and South Asia.

High war risk cover justified

WAR risk cover for oceangoing ships has taken center stage in the marine insurance market in recent weeks, prompting ship owners and operators to view the market as an easy prey for a steep rise in premium areas brought by catastrophic losses from other sectors since the Gulf War. Responding to complaints from ship owners regarding imposition of substantial increases in annual war risk rates and the amended geographical coverage in risk trading warranties after the September 11 terrorist attacks in the US, underwriters explained that the insurance industry's "cautious" reaction was brought on by considerable changes in the industry in recent years.

Ship owners has sought explanation as to why an effective cash call was being requested during the course of the policy rather than on adjustments being sought on policy renewal for their fleet. And at the same time, what justification could be given for the introduction of a very broad range of additional premium areas.

"These very wide measures were considered to be unjustified in the present circumstances," Chris Horrocks, the secretary general of the International Shipping Federation (ISF) reported to members, voicing out owners' objection over the new policy. Ship owners feel that this gives out the impression that underwriters are using the marine sector to claw back catastrophic losses in the airline, property and life covers that the insurance sector suffered when terrorists flew hijacked airlines into the World Trade Center and Pentagon, killing more than 6,000 people.

But underwriters explained that major changes like consolidations have changed the landscape of the sector in imposing substantial increases. "Consolidations had taken place leaving fewer individual sources of cover and there was now far greater company involvement with the result that the marine sector could no longer stand apart as a distinct and separate section of the market not it could remain immune from losses in other sectors," the ISF said, quoting underwriters from their recent

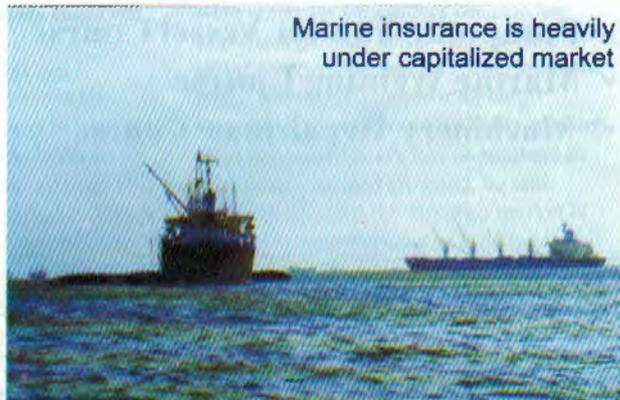
dialogues.

The marine market itself is said to have extremely sustained considerable losses particularly during the last four years. In underwriters' view, the ship owning community had enjoyed the benefit of this soft market and the swift reaction to recent events had been viewed as 'necessary medicine' for the considerable change in circumstances.

Underwriters pointed out in a recent meeting between the representatives of the international tanker owners Intertanko and International Chamber of Shipping together with the Joint War Committee and brokers of the London market, that such reinsurance as might still be available would be a dramatically increased cost, which would in turn further contract available capacity.

One of the leading owners and operators Cosco, for instance, raised its insurance premium by 0.05 per cent of the value of hull for oceangoing vessels anywhere in the world since September 29. The step was reportedly taken at the request of overseas re-insurers. Shipping sources said that more and more container ships and tankers are going to the Middle East for oil cargoes in anticipation of an oil price rise if the US embarks on military action. The Middle East war risk premium is 0.035 per cent and insurance cover is limited to seven days only.

Underwriters stressed that by not giving notice of cancellation and seeking instead "voluntary" increases in the basic rates, they were hoping to achieve a level of understanding with their client base through brokers in a heavily under capitalised market. According to them this would contribute in a way to redressing the situation to enable underwriters to attract the funds needed to provide adequate cover for the new climate of risk.



Marine insurance is heavily under capitalized market

Ferries sail for tourists' sake

DEPARTMENT of Tourism (DOT) Secretary Richard Gordon and Domestic Shipowners Association (DSA) Chairman Endika Aboitiz launched a tourism promotion tie-up on board the WG&A flagship SuperFerry 14 at the Manila North Harbor's Pier 4. WG&A, the country's biggest shipping line, hosted the event through a welcome fiesta for Gordon, other government officials and the media to emphasize its commitments and capability to vigorously support the domestic tourism program of the DOT. A cultural dance at the pier and a native food festival on board were presented and offered to guests. Among the visitors were DSA President Atty. Josephine Uranza, Interior

The WG&A fleet consists of *SuperFerry 1, 2, 5, 8, 9, 12 and 14 Our Lady of Lipa and Our Lady of Sacred Heart*. A direct support to DOT's domestic tourism promotion campaign is WG&A's accommodation and sight-seeing tour packages that brings people to the pristine beaches and historical sites in Cebu, Tagbilaran, Boracay, Iloilo, Dumaguete, Coron-Busuanga, Puerto Princesa, Cagayan de Oro, Camiguin, Davao and Zamboanga.

The Boracay tour package, for example, includes three days and two nights room accommodation with daily breakfast at any one of three choices of resorts. A tourist can choose a stateroom, cabin or tourist accommodation. There is a

tours of the Maquinit Hot Spring, Gutob Bay and Popototan Island. Additional optional tours either to Coron town or at Unson Island is also included in the tour package.

The shipping lines' marketing people work closely with travel operators and local tourism authorities in working out memorable tours that would make local and foreign tourists keep coming back. The company also prepared colorful brochures featuring each of the said tourist destinations. Reinforcing the sales force are WG&A's porters, who are tasked to invite foreigners and locals to see the beautiful places in the archipelago. "They will try to talk to different people to travel through WG&A," explained Gian Galvez, PR and special projects associate of WG&A.

The porters are actually WG&A's support to the DOT's Volunter 12 program. Under the program, a Filipino volunteer will bring one tourist to the country or invite anyone to travel every month of the year. Targeted as volunteers workers. Gordon came up with the idea because the DOT has limited fund. The DOT begun mobilizing an overseas network to push the project. If each porter can bring 12 tourists per year, we will increase tourist traffic, according to Galvez. He also revealed that WG&A working out the opening of a missionary route to Camiguin to promote travel to the island province north of Misamis Oriental. Camiguin boasts of a number of active volcanoes and may very well be considered a spa town due to its numerous hot springs and waterfalls. The island is presently a natural sanctuary under the protection of the Department of Environment and Natural Resources.

WG&A's support to the DOT is not limited to domestic tourism promotion. Galvez said the company also has marketing teams have been sent to the United States to aggressively market the different Philippine destinations. Americans are one of the major foreign tourists that come to the Philippines. Last year, 39,274 Americans visited the country. In 1999, 36,756 Americans toured the islands.

There is a need to market Philippine tourist spots in Europe as some travel agents there lack information on how to travel to the country such as direct flights

Aboitiz and Gordon lead a tourism promo



and Local Government assistant Secretary Marius Corpuz, Metro Manila Chair Benjamin Abalos, Maritime Industry Authority Oscar Sevilla, Nayong Pilipino executive Director Charito Planas, North Harbor Manager Carlos Sereno and Philippine Coast Guard Station Commander Romeo Rivera.

The WG&A is spearheading the DSA's drive to instill tourism consciousness among sea travelers and encourage island-hopping among locals through its fleet of fiesta-motif ships, cruise-like trip and Sail Away Holiday tour packages. SuperFerry 14 has been dubbed "Festivals of the Islands Ship", and its dining and other facilities have been named after the Philippine's colorful fiestas. The Sinulog videoke room, for example, is named after Cebu's grand Sto. Niño festival. All WG&A cargo-passenger ships also offer cruise sailing experience through spacious, clean and air-conditioned rooms and hotel-type service.

roundtrip land/ ferry transfer from Dumaguait to Boracay island. The one-way trip via Our Lady of Lipa includes meals on board. The Cagayan/ Camiguin tour package includes a one-way trip via SuperFerry 14 with specified meals onboard. There is a roundtrip land transfer between the hotel and the pier, an overnight stay in Cagayan de Oro with breakfast, three days and two nights in Camiguin with daily breakfast, and a whole day island hopping tour. There are two choices of hotels to stay in.

The four-day Coron Weekend Hide-away takes customers to the Divelink Beach Resort in Coron Island via the *Medjugorje*. The ship leaves North Harbor on a Friday (4 p.m.) and arrives at Coron pier the following morning. From the pier, the tourists are ferried to the resort via a visit to the crystal and calm water of the Twin Lagoon, a trek in one of the coves for a breathtaking view of the surrounding islands, a swim at Cayangan Lake, and

MARKETS

to Cebu and fast ferry services in Visayan islands.

"There are plenty of promotional activities WG&A will do in the future," Galvez said. The tourism support will not entail any cost to the DOT since the shipping line will treat it as its usual marketing campaign to get passengers, according to Galvez.

Sulpicio Lines Inc. and Negros Navigation Company (Nenaco) also have their own fleet of DOT-accredited vessels and tour promos. Nenaco's ferries consist of *St. Joseph the Worker, Mary Queen of Peace, St. Peter the Apostle, Princess of Negros, San Lorenzo Ruiz, San Ezequiel Moreno, San Paolo and Sta. Ana.*

Sulpicio has *Princess of the Universe, Princess of New Unity, Princess of Paradise, Princess of the World, Princess of the Pacific, Princess of the Caribbean, Princess of the Ocean, Pacific Princess, Cebu Princess, Palawan Princess, Dipolog Princess, Cagayan Princess, Cotabato Princess and Manila Princess.*

Nenaco relations manager Maan Gabriel said the company actively promotes travel to places where festivals are held, particularly in its home-base in Bacolod City. A good come-on is Nenaco's discounted tours for groups of 15 to 30 people. NNC

Nenaco actively promotes travel to places where festivals are held



porters are also tourism frontliners. One of the ways these baggage handlers project the trademark Filipino hospitality to encourage sea travel is the LA Walk square dance they perform for arriving and departing passengers at Pier 2. Gabriel said members of the NNC management join the dancing porters to say goodbye and hello to their passengers.

Last year, total tourist traffic in the Philippines increased by 9.64 per cent to 823,498 tourists from 751,076 in 1999. There were 527,311 domestic tourists and 296,187 foreign tourists who came to the

country last year. Compared to 1999, the number of local tourist was up 14.14% from 461,980 in 1999 while the number of foreign visitors rose 2.45% from 289,096 in 1999. Most of the foreign tourists were Japanese, Americans, Hong Kong Chinese, Koreans, Germans, Taiwanese and British. With the DSA-DOT tie-up, domestic liners are expected to further increase tourist, particularly the number of domestic tourists, in the coming years.

Windsor John C. Genova



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Time contract on the decline

Vicente F. Aldanese Jr., president of Filipino Association for Marine Employment (FAME), renders an assessment of the state the country's manning industry

THE Philippine seafaring industry is driven by a strong determination to enhance its premiere position in the supply of seafarers to the global shipping community. Supported by all stakeholders, we ensure globally competitive seafarers who are highly qualified, disciplined, team-spirited with high ethical standards consistent with the demand of the industry. We establish credible, fair, clear and internationally enforceable conditions of employment. We create a responsive, efficient, leading edge in the educational and deployment system.

Our success leads to total satisfaction of all stakeholders allowing the industry to increase its significant contribution to the economic well being of the Filipino seafarers, his family and the Filipino nation.

The Philippine seafaring industry contributes some P10 billion to the country's annual revenue. Either in the form of dollar remittances, government fees, direct or indirect taxes, airfare and other ancillary income-generating activities, the Philippines as a nation benefit from the deployment of Filipino seafarers to the world fleet. Had it not been for the remittances of this industry and its land based counterpart, one could just imagine how our country will survive the current global financial crisis.

According to government data, our biggest market is Panama, next is Liberia and followed by Norway, Greece and Bahamas. We man bulk carriers, general cargo, tankers container ships and other type of vessels. The Philippine Overseas Employment Administration (POEA) has reportedly enrolled 29,344 ships as of 1999.

The rough estimate prepared shows you the income components of this industry, which until today is not accurately monitored by the government agencies concerned. Considering that ours is an over regulated industry and failure to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Labor Secretary constitutes illegal recruitment as provided for by the Migrant Workers Act of 1995, we still experience the scarcity of information.

Nevertheless, setting aside management information-related issues, I will proceed with my discussion starting with the schools and training centers providing educational and training programs for our seafarers.

Education

There are more than 100 schools offering Bachelor of Science in Marine Transportation (BSMT) and Bachelor of Science in Marine Engineering (BSMarE). These schools graduated 22,083 in 1996. On top of this, we have 34 training centers graduating 298,033 in a year. India, our nearest competitor in the supply of officers and ratings has nine training institutes for deck officers, 37 schools inclusive of 22 workshops for engine officers and 12 for ratings or a total of 58 institutes and workshops providing maritime training programs. These institutions graduate 4,844 annually.

We then can say that our competitor's annual output is only 22 per cent of our yearly graduates and disparity in the number of schools is more or less 50 per cent. These figures would not have been an issue if all our graduates meet the established standards of competency.

Based on data covering 1994 and 1998, 75 per cent of those schools offering BSMT and 65 per cent of those providing BSMarE courses only account for less than 10 examinees in a year. As far as end users are concerned, there is no point prolonging the existence of these schools, since the yearly output of which is negligible. If we curb the number of schools, it will also mean more effective and less administrative cost for the government.

Six schools account for 1,000 or more candidates for licensure examination for deck officers and results indicate 18 to 35 per cent individual school performance ratings or an average of 28 per cent. For those sending 100 to 999 examinees, performance ratings range from 20 per cent to 46 per cent or an average of 30 per cent. Not even one managed to hurdled the 50 per cent passing rate.

The same lamentable situation is reflected in the examination results among schools producing future engine officers. Though the figures are better compared to the deck department results, the six schools with 1,000 or more examinees have performance ratings ranging from 34 per cent to 41 per cent or an average of 34 per cent. Those sending 100 to 999 examinees registered 21 per cent to 56 per cent performance ratings or an average of 36 per cent.

In the overall scenario, our national passing rate for 3rd mate, the entry for deck officers, is 29 per cent and 35 per cent for the 4th engineer, the entry point for engine officers.



Aldanese

We understand that CHED is now purging its roster of schools offering maritime programs by phasing out BSMT in 23 institutions and BSMarE in 21 schools. However, a lot of sub-standard institutions are still operating notwithstanding their dismal performance in the licensure examination.

Wages

Disparity in wage levels is one peculiar characteristics of international seafaring. Salaries vary not only in terms of nationality but also for reasons pertaining to the freedom of seafarers and principals to stipulate and the different collective bargaining agreement in place.

However, variance in wage rates is not a reason for us to be expensive. We are getting expensive though our national wage rate for an able seaman per DOLE Department Order No. 5, series of 2000 is only \$385. This is because majority of us are using salary levels higher than the minimum prescribed by the government to entice applicants. Secondly, existing collective bargaining agreements have enormous benchmark levels. If this is not reversed, we will lose the market to our East European and Asian competitors.

Legal

One out of four manning agencies and their principals are facing claims for separation, retirement, 13th month pay and other benefits applicable only to regular employees under the Labor Code of the Philippines. This is brought about by one decision of the Supreme Court declaring repeated re-hiring for several years among

other things as indication of regular employment. The case is still pending with the court by virtue of a motion for reconsideration but this early, claims are being filed.

From an average of 700 cases filed with the National Labor Relations Commissions (NLRC) in 1996, said number doubled to 1,407 in the year 2000. If this trend continues, the more it becomes expensive to hire Filipino seafarers since the risk of facing retirement and medical claims, the need to hire more lawyers and other logical effects of a highly litigious industry will mean added cost.

The multiplicity of government agencies involved in the deployment of seafarers does more harm than enhance industry potentials. Shipowners are turned off from doing business. They are unable to determine cost/ bottom line. As you can readily see, our seafarers have to brave the traffic from the point of Metro Manila to another just to comply with governmental requisites. Much worse, red tape and turf issues remain unresolved.

Trend

The industry is dying. Faced with a four per cent shortfall in the supply of officers in the world market or 12 per cent by the year 2010, our time contract frequencies are ironically declining. This means that principals are now sourcing their manpower requirements elsewhere.

From an overall growth rate of 15.45% in 1997, it went down to -77% in 1999. Our industry is in distress. If we are to save this industry, we have to move now. An action plan may be too late because we should have done our homework five years ago. Nevertheless, we have to take the necessary measures ASAP.

How satisfied are the owners?

By Reuben Romero, managing director of Southfield Agencies

STAKEHOLDER satisfaction can mean many things to different people. However, it's unanimous in our industry that with more Filipino seafarers employed, the higher the level of satisfaction across all sectors of society.

When I ask my colleagues how their companies have been faring lately, those who are manning cruise ships have seen an increase in deployment, obviously to their delight. But among my colleagues who are limited to supplying seafarers on cargo ships like my company, it is unfortunate that the most of the responses I get is that they have lost ships or positions to other labor supplying countries from the Far East or Eastern Europe.

This is not a good sign. I dare say that aside from the seafarer himself, the employers or principals are the most important stakeholders in our industry. While the numbers show that cruise vessel employers are satisfied with our hotel staff, the same cannot be said about cargo vessel employers who have shifted their employment from Filipinos to other nationalities.

Stakeholder satisfaction is not just a function of the increasing or dwindling numbers of jobs, but the quality of seafaring jobs available as well. In our company, I have two European principals who were in the process of replacing their British Senior Officers due to cost reasons. One principal opted to replace them with Croatians while our other principal hired Filipinos recruited by our

company instead. I am sure my colleagues in the industry who are in a similar position feel proud to employ Filipinos in the highest-ranking positions onboard and therefore the level of stakeholder satisfaction should be quite high.

On the other hand, I had to find out why my other principal chose Croatians instead of Filipinos. And in the industry, we need to survey the incidence and reasons why some Filipino senior positions have been replaced with other nationalities, as well as those situations in which the Filipino is not even being considered for management level posts at all. Maybe by working together, we as stakeholders can obtain more of the high-ranking jobs available in the market.

Furthermore, on the topic of quality of jobs, one may notice that the number of positions onboard the ship, especially on the engineering side, has dwindled because of advances in marine technology. The seafarer we are producing must keep abreast with the changing times. Nowadays, it is not uncommon to find ocean-going ships with a complement of only ten officers and crew who are more versatile, skillful and qualified than before. Having a workforce of this quality definitely enhances stakeholder satisfaction as well.

My Hong Kong Principal's manning requirements have been reduced over the years. Five years ago, my company would supply a ship with 21 Filipino officers and ratings. Three years ago, this number was reduced to 17. What happened was with the same pool of seafarer returning over the years, our officers and crew have learned and been trained to make use of the technology onboard thus making some positions redundant.

Others may argue that the labor hired may have been more than what was required in the first place, but it does drive home a point that we might not have the qualified shipboard labor to begin with. Last year, my Hong Kong Principal replaced the positions of 4/ Engr, Oiler and Wiper with mainland Chinese crew, and the feedback thus far is that the Chinese are turning out to be better than they had expected, but not yet at the level of the Filipino, if that's



Many agencies have lost ships or positions to other labor supplying countries

any consolidation to us. They tell me they are compelled and pressured by the market to be more cost effective and as a result, their annual cost savings by changing nationalities on these three positions is \$20,000.

It doesn't help that my Hong Kong Principal has ships flying the Hong Kong flag, which makes it easier to facilitate the replacement of Filipino seafarers with Chinese. Only time will tell if this happens.

I learned recently that the Hong Kong government would only give one year equivalent flag state licenses to our officers in spite of the fact that we have made it to the white list. Certainly my Principal is not at all pleased that their pool of Filipino officers with more than three years experience on their ships shall only be issued one-year licenses.

While our government is holding bilateral talks with their counterparts leading to the issuance of a five-year Hong Kong license, it does not speak well of how other flag states regard our certification and assessment systems. In other example, I have heard from a colleague that the Singapore Maritime Authority has questioned the certification of Filipino ratings as it is not in line with the STCW guidelines. In a third example, Filipino Masters and Chief Engineer who wish to be employed on Isle of Man Ships need to travel to the Isle of Man for oral and written testing before their administration can issue certificates. Which also brings a point on which other stakeholders are or might be flag states that have to certify Filipino officers and ratings under their respective regimes.

When we say we have 20 per cent share in the world market, how did that figure come about? Have we taken a year-on-year profile of the world tonnage classified into different type vis-à-vis the total jobs available? Have we studied the number of newbuildings that shall enter the world market and the type of positions required? Have we made an accurate head count of the number of graduates for the past five years and how many of them are or shall be gainfully employed as seafarers? The youth, represented by these students and graduates, represent a very important stakeholder group- we must take care of them.

Our last strategy is to benchmark against the best practices in the world. What are the certification, business, employment and educational processes

of other labor supplying countries? How much do other countries seafarers cost in terms of wage and mobilization? What laws are in place in other countries to protect both the laborer and the employer? How many seafarers from the industrialized countries such as Japan, Norway, Germany and the UK are retiring, while how many new entrants are coming out of China, India, our South East Asian neighbors and Eastern Europe?

We most probably know the reasons for the Filipino seafarer being the employer's choice and will remain so thus far, but what qualities do the seafarers from other countries have that make them attractive to employers? What are the changes in the technology that require our educational and training systems to follow suit? I am certain other countries have studied our systems and process and probably have copied some of them. It's high time we take a more systematic look at the way things are done elsewhere.

It is for this purpose that the manning agencies, through various associations, have been asked for contributions for the Philippine Seafarers Council. Do not misunderstand promotion to mean marketing the seafarer abroad, but to allow the private sector to create an institution which links up with the other stakeholders to achieve our vision of the future. All these need funding and personal sacrifice of time and effort from the private sector as well.

In this day and age of globalization, we in the industry, government, the labor sector, training institutions and the academe must work together for this purpose. The information gained from scientific data analysis, benchmarking and roundtable discussions can serve as a road map on where we want to go and how to get there.

Experts from a paper delivered during a visioning conference of the Philippine Seafarers Promotion Council.

Owners to fund crewing study

SHIP owners worldwide plan to fund a study in the Philippines covering the recruitment, selection of retention of Filipino seafarers. The International Shipping Federation (ISF), which will initiate the project with assistance from the Filipino Shipowners Association (FSA), said a feasibility study will have to be undertaken first involving detailed consideration of each of the three elements involved with regard to the particular experience in the Philippines.

The study will involve an analysis of existing published research concerning recruitment, selection and retention of Filipinos, both seafarers or other overseas contract workers, and other relevant nationalities. While Filipinos provide a high proportion of ratings and junior officers, previous study by BIMCO/ ISF indicated that they do not appear to fill senior officer positions in the number that they should be expected.

It suggested that a high proportion of Filipinos leave the industry at or around the age of 50, which the ISF said as the reason why they appear to fail to move into senior officer positions. However, that BIMCO/ ISF study was intended for worldwide application rather than a detailed research

project at national level.

The forthcoming study will determine the recruitment levels in the Philippines on a yearly basis, which include the number to be recruited to maintain current stocks, sufficient number of applicants for training and adequate educational standards, and wastage rates during training.

On the selection issues, the ISF study will attempt to answer the effectiveness and improvement of selection patterns of seafarers such as the criteria and expectations of manning agents and ship owners. This aspect involves factors leading to career progression and length of service of the recruited seafarers.

"What should be the image of the ideal Filipino officers that the industry should be seeking when recruiting young people; is the concept of an "ideal Filipino officer realistic?" the ISF asked.

With regard to the retention issues, the study plans to determine the annual wastage rate of qualified Filipino seafarers and what age do they usually decide to come ashore. A steering committee will be established by ISF to oversee and coordinate the research project, including putting in place for a counterpart in the Philippines that will manage the project.

Assessing Philippines' STCW compliance

IT is good to recall that as early as 1998, in a study of the World Maritime University, several major concerns on education, training and certification system and procedures of the Philippines have been identified. And serious doubts were raised during the IMO meetings on the state of readiness of the Philippines to comply with the STCW convention, considering our importance as the largest source of seafarers in the world.

But the government, despite the limited time and various constraints it has to face, showed strong determination to be in the 'White List' and we all succeeded. On December 6, 2000, the Philippines joined 72 other countries in the elite IMO white list. Knowing the country's predicament and the various odds that it faced, no less than the IMO Secretary General William O'Neil cited the Philippines on the occasion of its inclusion in the white list, as the only country which showed improvements in its efforts to fully comply with the STCW conventions.

Indeed, the next and more important question to ask is where are we now in the STCW implementation. In answering this question, one proposal that has been highlighted relevance of the need for a one-stop processing center. As we all know, there are numerous government agencies involved in the administration of the STCW Quality Standards Systems (QSS) in the Philippines. Compared to prior year, it is now clear what are the responsibilities and tasks of the different organizations involved in the maritime education, training and certification systems and procedures. Executive order No. 242, complementing Letter of Instruction 1404, was issued on May 12, 2000 to harmonize the framework in the administration of STCW Convention.

These agencies are the Commission on Higher Education (CHED), which supervises, monitors and regulates maritime degree programs; the Technical Education and Skills Development Authority (TESDA), which supervises, monitors and regulates programs for ratings and issues the corresponding certificates of competency; The National Telecommunication Commission (NTC), which assists MTC in

supervising, monitoring and regulating courses on GMDSS offered by training centers and the Maritime Training Council Secretariat (MTC) which is responsible for training centers that offer safety, upgrading and refresher courses and additional short courses to officers and ratings.

Insofar as the assessment and certification of our seafarers is concerned, we have the Professional and Regulatory Commission (PRC) tasked to register and issue certificates of competency for officers and, together with MARINA, revalidates COC endorsements. Lastly, the National Assessment Center (NAC), which is tasked primarily to process the revalidation of the training certificates of the Filipino seafarers serving on board vessels for the last five years. There are eight certificates under Chapter V and six certificates under Chapter VI that are revalidated by the 40 NAC assessors which consist of basic safety training and tanker certificates.

Where are they now in meeting the deadline of February 2002? TESDA, through the expert panel for maritime sector, has developed the appropriate IMO assessment instruments for ratings and has identified, trained and qualified 115 assessors to undertake other portfolio and performance assessment. To date out of an estimated 130,000 certificate of competency (COC), it has already issued 31,041 certificates to desk ratings and 17,981 engine ratings. Principally, COCs are issued to able-bodied seamen forming part of the navigational watch and oilers forming part of the engine watch.

NTC, with its 36 assessors, has issued 38,848 certificates to general operators and 3,165 to radio operators. MTC, through the 40 assessors of the NAC, has issued 59,207 certificates to 144 requesting manning agencies.

PRC, which issues certificates of competency for officers and, together with



MARINA, revalidates COC endorsements, has approved, as July 11, 2001, the certificates of 11,839 Deck Officers and 14,781 Engine Officers. Its pool of assessors, numbering 10, still have to process the remaining renumbered certificates totaling 34,400.

The processing of the certificates is prioritized in the following order: first priority is given to those who have secured new contracts of employment, second to our seafarers on board and whose contracts will expire after 2002 to ensure that prior to the deadline their revalidated certificates will be made available to parties requiring it. There are already 101,000 seafarers who were deployed as of June 2001, an increase of 1.96% over last year's figure of 99,161. In close cooperation with the manning agencies, out of the 101,100 seafarers whose certificates need to be revalidated has been certified in accordance with STCW requirements. The last priorities are those who are in manpower pool of manning agencies.

We are fully cognizant that all our efforts of complying with the '95 STCW Convention on maritime education, training, assessment and certification will be rendered worthless if we are unable to secure the authenticity of these instruments. There are two ways of achieving this: first is the adoption of security measures to ensure that our certificates are fraud-free; and second, the publication through the Internet the updated registry of our certified seafarers.

The security measures undertaken to protect the integrity of the certificates

issued are as follows 1) The adoption of a uniform format in the certificate; and 2) use of a special paper for printing the certificates. This paper has the same features used by our Central Bank in printing our National Currency. In addition there are also other security features found in the printed certificate that will aid in the detection of the fraudulent documents. Rest assured that with our security measures, fraudulent certificates will easily be detected and those in possession thereof will not be able to board ocean going vessels come February 2002.

A vital component of the verification procedure is the creation by the Maritime Training Council (MTC) of a centralized Internet based on-line registry of our seafarers. The system, which is scheduled to be operational by November of this year, is linked with the database of TESDA, NAC, PRC and NTC and other certifying bodies. This will ensure a complete and through verification of the seafarer's identity, background and competence. An on-line certificate verification system shall allow direct verification of the authenticity of certificates on a round-the-clock basis.

It includes the digitized image of the certificates issued to ratings that will enable the instant comparison between the actual certificate and the store-digitized image of the certificate in the database. The system will guarantee that the embarkation of seafarers who carry fraudulent certificates of competency will be practically eliminated since the manning agencies can quickly verify the authenticity of certificates submitted at the point of job application.

To complement these agencies' efforts of ensuring the Philippine's coveted position of being the largest supplier of seafarers, the Department of Foreign Affairs (DFA), the lead agency for bilateral agreement with countries wanting to sign an undertaking with the Philippines, in compliance with regulation 1/10 of the convention, has entered into bilateral agreement regarding recognition of certificates with Japan, Netherlands and Denmark Bahamas, Singapore and Hong Kong and Brunei.

On the issue of convergence among government agencies to closely work together in order to ensure that government provides efficient delivery of services and optimizes the gain of overseas employment for our workers and our country, I am preparing a cabinet presentation on overseas employment that focuses on the need to the time needed and the cost that it entails.

We have identified, for authentication

New sea-based rules crafted

THE Philippine Overseas Employment Administration (POEA) crafted a completely separate set of rules for sea-based manpower. POEA administrator Rosalinda D. Baldoz said the move is in recognition of the distinct nature of the seafaring requirements and the need to conform with international laws and conventions.

The POEA expanded the coverage to include cruise ship personnel, fishermen and those serving on mobile offshore and drilling units. Baldoz said the expanded coverage would finally settle the issue on the entitlement of those workers to the benefits and welfare afforded to seafarers on oceangoing ships.

The new rules will also affect the licensing and operations of manning agencies, processing of seafarers' employment contracts and the disposition and penalty of administrative cases filed against agencies, ship owners and seafarers. Apart from highlighting policy declaration with the revised STCW Convention, according to Baldoz, the new rules affirmed the indispensable roles of all industry stakeholders by

requirement alone of the documents that need to be submitted to POEA, through 12 stop-overs that OFWs have to go through and these are: the local civil registry, the university/ school, the DECS, the PRC, the DOH, the NBI, the Municipal/ Regional Trial Courts, the NSO, Malacañang, the DFA, the Foreign Embassy and then to POEA. Indeed, you are correct in advocating for the setting up of one-stop processing center or link of all the data base systems of these institutions to facilitate the fast tracking of the documents for deployment of OFWs. And that is exactly what my advocacy is all about in the Cabinet. My immediate obligation is to establish one-stop processing centers, to be managed by DOLE, in key cities to simplify the documentation process. Maybe you can fund a pilot project for the seafarers as a joint project with government.

Streamlining of system and procedures for these agencies and establishing quality standards system should be a priority. POEA is already moving towards its ISO Certification by the end of the year and more manning agencies are lined up for the transfer of the contract processing to their

incorporating a proviso for closer cooperation.

The new rules also afford more protection to seafarers by making sure that only legitimate entrepreneurs can apply for or renew licenses as the POEA now imposes stringent requirements on investments. The new requirements for crewing agents include an increase in required capitalisation to PhP5 million from PhP1 million, escrow deposit of PhP1 million from only PhP200,000 and surety bond of PhP100,000 from PhP50,000.

Commensurate to the increase in capital, the POEA has extended validity of the license to four years. In the accreditation of principal like ship owners and ship managers, the state body is to require the inclusion of the IMO number in the list of vessel particulars to ensure the ship seaworthiness. The revision of sea-based employment rules coincides with the private sector initiative to push for a "one-stop shop" division that will house a dozen state bodies involved in the processing of seafarers contract, which the POEA has agreed to implement.

in-house facilities. QSS is also required by the STCW Convention for all agencies involved in the issuance of certificates and I have discussed it as part of the anti-fraud mechanism.

In our efforts to promote our seafarers and maintain our competitiveness in the International seafaring market, the DOLE and the private sector together with the representatives from the unions will embark on a high-level marketing missions as our approach to keep our market niches and ensure the continuous employment of Filipino seafarers.

All these efforts of the government are geared towards the promotion of the welfare and interest of our Filipino seafarers. Our vision to maintain our current position in the world ship manning industry can only be achieved through the support and cooperation of all the stakeholders in the industry.

Excerpts from a speech delivered by Patricia A. Sto. Tomas, Secretary of the Department of Labor and Employment, during a conference of the Philippine Seafarers' Promotion Council.

PPA revises contracts of cargo handlers

By Ruth G. Mercado

THE Philippine Ports Authority is granting not more than 10 years of long-term contracts to cargo handling service providers who have "serious plans and commitments to invest and improve the quality of services in the ports," thwarting teetering insecurities over contract negotiations and bidding between government and cargo handling service providers. Contained in PPA Administrative Order No. 1-2001, entitled "Guidelines for the Issuance of Probationary and Long-Term Contracts For Expired and Expiring CH Contracts," the Order has taken effect for almost months now. Even so, The Philippine Chamber of Arrastre and Stevedoring Operators (PCASO) seemed silent over the new guidelines, including PCASO chair Benjamin Akol.

Created under the initiatives of PPA general manager Alfonso Cusi, the Guidelines—first of Cusi pro-poor-inspired administration—aligns with President Arroyo's thrust at "enhancing and promoting economic growth by providing a heal and build atmosphere* [in carrying on] a social responsibility to the poor and marginalized port communities nationwide." Cusi puts lavish attention this time on social improvement simultaneously with port development—a practice that his predecessors only made pretense of doing. Wrote Cusi in his memorandum to the President, the Order aims to get the "best deal" for government in the quality of services for cargo handling service providers.

Major components

Among others, the Guidelines require cargo handling service providers with expired and expiring contracts within the next two years to undergo a two-year probationary period first, before a long-term contract of ten years is awarded. Under the two-year probationary contract, the cargo handling operator submits a viable Business Development Plan and People Development Program.

These comprise the major components in determining whether a cargo-handling operator will qualify a long term contract of not more than 10 years. As a way of

thwarting insecurities and anxieties that often come if there were a bidding process, the two-year probationary period serves as a gauge whether a cargo handling operator is serious with their plans and commitments to invest in and improve the quality of services while proving if they have a capital structure to support these plans and commitments.

The Business Development Plan will contain such information as traffic projection and analysis, cargo handling equipment requirements, productivity commitment to efficiency handle cargo and passengers, capitalization structure, safety and security program and marketing strategies. But numbers alone won't guarantee a long-term contract as Cusi has taken a special heart for the "faceless and nameless people in our port communities." The People Development Program—a component that may well become one of his centerpieces—provides for compliance to labor laws, availability of a port labor trust fund for the retirement and separation of port workers, and a human development program for workers and employees.

The Port Labor Trust Fund, something like the still controversial Port Workers Social Amelioration Fund (PSAF), will be an amount deposited in authorized banks sufficient to be used for the retirement and separation benefits of port workers to be secured through the accredited cargo handling service provider.

No pretense

Performance and commitment seems to be the religion of the Cusi Guidelines that after the two-year probationary contract expires, a committee evaluates the performance of the cargo handling contractor at least five months prior to the expiry of the probationary contract. Seasoned by many years of port and cargo handling operations, Cusi's approaches are definitely a far cry from the heretical juggernauts of previous port managers where politicians tended to get in the way.

This time if the operator successfully meets the requirements of the contract and gamers at least a rating of "Very Satisfactory" in performance during the two-year

contract term, the operator may be issued a long-term, the operator may be issued a long-term contract of not more than ten years. Should the cargo-handling operator fail to comply however, the Authority shall take over the cargo handling services and conduct a public bidding consistent with existing regulations.

Happy, sad or scared

The PCASO is silent over the new guidelines does not mean they are happy, sad or scared about it. They have reason to: one, the Guidelines does not protect small and medium-scale cargo handling service providers from the encroachments of shipping and cargo handling cartels. Two, the Order is vague about policies for operators of foreign cargoes. Three, generally the expressions by which the Order was penned are subjective. Words like "desired service," so whose desire? Or offer a "positive image" of the company, to please whom? Or "concerned stakeholders," who are they?

And the port trust fund as "sufficient" to be used for retirement and Separation benefits, how is sufficiency quantified? Four, since the formulation of business plans is highly technical, wouldn't these discriminate small and medium scale operators of sub ports who need to be empowered on the technicalities and intricacies of business plan writing?

Five, evaluation procedures are ambiguous on format, systems and independent arbitration that would make it acceptable to both cargo handler and the government. For instance, should PPA takeover "management and operations" in the event of non-compliance, what happens of the assets? Six, the port trust fund is a labor issue that continues to be fractious and heated.

Just now, there is silence at the waterfront. But that does not mean violence is over at the port either. That's something for Cusi to work on the next level. He was not on a trial and error stage when he made pronouncements about restructuring port operations during a cargo-handling summit in Cebu last April. He has convincingly demonstrated smart moves ever since. It's still early. With these Guidelines, his grand plans for healing and building the ports is off to a good start.

Gov't assures to resume Batangas port dev't

CONSTRUCTION of phase II of the P4.5 billion Batangas Port project will be implemented soon after the Philippine Ports Authority (PPA) decided to pursue the original design of the project in consideration of some developments within the port. Batangas Governor Herminigildo Mandanas gave this assurance as the PPA is said to have tried considering an alternative design for the proposed project due to the problems being encountered like conflict in land valuation in the light of project's viability.

Serious misgivings have been expressed on the technical and financial viability of the proposed PPA alternative design like the orientation of the proposed berthing facilities, which will expose ships and the pier structures (pier) to the on-coming waves and, therefore, pose big hazards on the safety of ships and pier structures, especially during adverse weather conditions. The other concern the sea bed, which in the proposed area of reclamation is steeply sloping, thereby having an "unattainable" back up area for the operation of the container terminal. Under the proposed alternative design, the needed back-up area will have to be reclaimed. Unlike the original scheme wherein the dredge materials will be used for reclamation of the back-up areas, the fill materials for the proposed scheme would have to come from other sources, thus adding tremendous cost to the project.

There is a doubt too whether all the procedural and technical requirements such as the hiring of the consultants, preparation of the detailed engineering studies for the alternative design, as well as the bidding of project could all be accomplished within the limited timeframe required by the Japan Bank for International Cooperation (JBIC). The validity of the loan for the Batangas port project will expire on January 1, 2004.

The multilateral financing agencies World Bank, Asian Development Bank and JBIC, which granted soft loans to the Philippines, have expressed alarm and disappointment over the way the Philippine government has been handling its portfolio for overseas development assistance (ODA). These lenders are very much

concerned about the very slow pace the country has been utilizing its ODA funds because apparently the multilateral lending agency is forced to set aside this money until the borrower acts to draw from the loan or abandon it altogether. These multilateral financing agencies, however, penalize a borrower that fails to use the committee funds on schedule.

Sources said that of the 10 developing countries that borrow for ADB, the Philippines is noted to have the slowest disbursement ration of 4.63 per cent for January-August 2001. The next slowest is India (8.08 per cent), followed by Indonesia (9.70%). It is feared that if JBIC withdraws the Batangas International Seaport Phase II construction due to the inability of the Philippine government to implement the project, it will be a big blow to the international standing of our country. The cancellation of flagship project will undoubtedly have very serious repercussions on the capability of the government to handle and implement foreign-funded

dated August 27, 2001 directing the RTC to issue the *Writ of Possession* to enable the government to enter into possession of the property and implement the much-delayed port project. Accordingly, the RTC of Batangas issued the writ of possession on September 11, 2001 to pave the way for the construction of the project.

It will be recalled that the project is envisioned to serve as an alternative to the port of Manila, which is expected to reach its full capacity in the coming years. The project will serve to spur and complement the expected economic activities and growth in the Cavite-Laguna-Batangas area (CALABARZON) where various firms and industries have relocated their warehouses and manufacturing plants, away from the worsening traffic and road congestion of the metropolis. The government has implemented the South Luzon Expressway extension project that connects Metro Manila to Batangas seaport via the Star Projects.

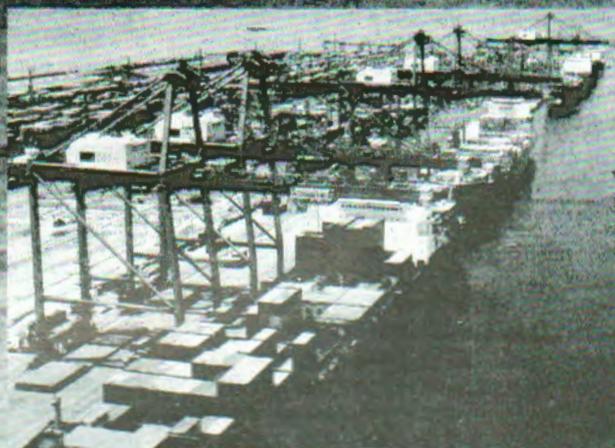


projects, which would result in embarrassment for the country before the international community.

On July 30, 2001, the Court of Appeals (CA) decided to set aside the decision of the Regional Trial Court (RTC) of Batangas setting the P5,500 per sq m as the price of land and open the door for the hearing of the appropriate valuation of the affected properties subject of expropriation proceedings. In addition, the CA promulgated a resolution

Assuming that the project will start immediately, barring any other obstacles, the project is expected to be completed in early 2005. Governor Mandanas said the operation of the envisioned modern container terminal and port facility will contribute significantly to the economic growth of Southern Luzon region. Mandanas appealed to all the sectors concerned to support and work together for the early implementation and construction of the port.

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North Harbor woes first to be resolved



Continued existence of STU will be an obstacle for organized labor

THE Philippine Ports Authority (PPA) must resolve the problems and issues that had been left by the failed attempt to facilitate a monopoly of services at the Manila North Harbor if it wants its alternative modernization plan to succeed, according to a leading critic of port operations and modernization. These unresolved issues, which have been excluded in the so-called Alternative Master Plan of PPA general manager Alfonso Cusi, include the relocation of slum dwellers, the continued existence of special takeover unit group of stevedores, and the settlement of liabilities that arose from the forced takeover of port operations in April 2000, among others.

Coalition of Ports Modernization (CPM) spokesman Vicente Gambito points out that the PPA's own participation in trying to promote a monopoly at the North Harbor is "the main reason for the delay of the modernization and privatization of the port." In pursuit of such responsibility, the PPA through its former chief and his people "allowed the use of (their) organization and resources to pursue an unacceptable project," Gambito told in an Internet-based maritime forum called *Newsberths*, which he moderates.

He explained that the squatters and their relocation that was presented as a major cost component to justify only a single terminal operator came only as an afterthought and was never a major hindrance to the implementation of the project. Under the new master plan,

relocation of those informal settlers and related issues have ignored mentions of how they could be accomplished, whose majority members of the CPM believe should be included as part of the conditions for the planned modernization.

The previous plan, however, even inserted a specified

cost of the squatter relocation. "The squatter problem cannot be solved by ignoring it. Its resolution must be part of the conditions for the privatization."

With regard to the Special Takeover Unit, Gambito says the continued existence of this group will be an obstacle for organized labor to pursue or renew any collective bargaining agreement since PPA cannot bind itself to such an accord. "Then there are the liabilities arising from the forced takeover of port operations which have to be settled," Gambito says.

The PPA's illegal takeover of the North Harbor stevedoring operations took almost a year, which ended last April after the legitimate incumbent operator won a court battle to get the facility back. Pier 8 Arrastre & Stevedoring Services Inc

(PASSI) still wages an ongoing legal tussle against PPA for the damages PPA created due to lost income when the port authority forcibly eased out PASSI as one of the harbor's contractors.

The obligations incurred from the PPA as a result of payment for retirement benefits to the workers after the takeover are still one of the remaining issues that needs to be resolved. The port agency paid at least in millions, an obligation the privately owned outfits should be responsible of.

For the project to succeed this time, Gambito says the PPA must unequivocally state that it will vigorously pursue the provision for competition in cargo handling and terminal services as the most equitable means to attain efficiency of the port. "It has to do after PPA cleans up the mess left by the previous administration. Without doing this, it would be difficult to start any modernization plan," he warns.



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In eye of pirate storm

By Craig Simons

CHONG Choo Ha doesn't look like a pirate chaser. Standing aboard one of the 20 or so "3G" command boats the Singapore Coast Guard bought last year, he wears a white button-down shirt and shiny black leather shoes.

Chong smiles and talks of international cooperation as clouds drift across a clear sky. It's hardly the stuff of sea tales. So when he says Singapore takes piracy seriously, adding "our boats are out all day patrolling," it seems vaguely comical, like an excuse for overgrown boys to play with high-tech gadgets.

The need for the city state's third-generation fleet seems even more dubious when he says Singapore has not had a pirate attack since 1990. And even then it was nothing more than a camera stolen off a ship. But piracy is increasing at alarming rates in Southeast Asian waters and Chong takes his job, as quiet as it's been, seriously.

Rising regional piracy

Piracy, the bane of 17th and 18th century shipping, has re-emerged from the history books. According to the London-based International Maritime Bureau (IMB), there were 469 cases of piracy on the high seas and armed robbery of ships in territorial waters last year – a 57 percent rise from 1999 and nearly four and a half times those in 1991.

And Indonesia is the world's leading pirate lair. According to the IMB, Indonesia's 17,500 islands recorded the largest number of pirate attacks of any country last year at 119 – almost one quarter of the world's total. The level of violence also jumped, with 72 seafarers killed in 2000 versus just three in 1999.

Countries in the region are taking the threat seriously. Officials from 27 nations met in Tokyo recently to develop new guidelines to combat the scourge. Piracy was also likely to be on the agenda at an Association of South East Asian Nations (ASEAN) conference on transnational crime in Singapore that began on October 11.

Singapore, a tiny island at the end of the Malaya Peninsula, is the calm at the middle of a washbuckling storm. The IMB says 195 pirate attacks and robberies were reported last year in the Singapore Strait,

Malacca Strait and Indonesian waters.

"The waters around Indonesian, Malaysia and Singapore are some of the most dangerous in the world," Noel Choong, manager of the IMB piracy center in Kuala Lumpur, told Reuters. "But that only

Singapore is the world's busiest port in tonnage terms and the state's dependence on shipping to prop up its import-heavy economy makes piracy a serious concern.

happened after the 1997 economic crisis."

With Singapore's economy in recession and talk of a long-term global economic slowdown, Choong is concerned piracy may spread. "For an Indonesian layman without work, piracy looks like a good option because it's harder to rob a bank than to rob a ship," he said, "Robbing a ship can be done at night in the dark, far from shore, in small, fast escape boats."

Industry concerned

Singapore is the world's busiest port in tonnage terms and the state's dependence on shipping to prop up its import-heavy economy makes piracy a serious concern.

If shippers decided to steer clear of Southeast Asian waters, where narrow channels, shallow reefs and heavy traffic force boats to move slowly and thousands of tiny islands make pirate getaways easy, Singapore's economy would suffer a massive blow. Sarah Lockie, a spokeswoman at the Singapore office of Neptune Orient Lines, told Reuters the company is worried about the increase in the number of pirate attacks, especially in the Malacca and Singapore straits. "Apart from the losses and injuries which could result, and the trauma which follows such incidents, there is a real risk of a major accident if the ships' officers are distracted or prevented from carrying out their navigational duties," she said.

Such an incident happened several years ago, when pirates let a fully laden tanker steam captainless down the Malacca Strait for 20 minutes. On the bridge of the Sandy

Ray, one of Singapore's 3G boats, Chong points to two large radar screens full of yellow, blue and red blips.

"Here's where we can see the good guys and the bad guys," he says. Every boat in Singapore's waters, which radiate about five miles from the country, appears on the terminals and is identified by routine calls as friend, neutral or enemy.

If pirates try to ply their trade in Singapore waters, the fleet of 3G boats, backed up by the navy, are meant to outgun them with powerful inboard engines, radar, electro-optic cameras that judge exact distances – and more traditional weapons like machine guns.

Singapore has also stepped up coordination with its neighbors. Members of ASEAN hold to the principle of noninterference in the internal affairs of other countries, including pursuing pirates into territorial waters, but Singapore and Indonesia have signed an agreement on joint patrols and crossboarders pursuits.

So far Singapore's 3G boats, used to patrol for contraband and illegal immigrants as well as pirates, have done the trick. "Singapore is doing a better job than most countries in policing pirating," Choong of the IMB said.

But the island state's initiatives have done little to curb piracy outside its waters. South of the Sandy Ray, beyond hundreds of mammoth cargo ships with names like the Kota Indah and the Panco 3, the Indonesian island of Batam rises from the flat sea horizon.

A tropical escape for harried Singaporeans little more than 10 miles offshore, Batam and the islands around it have been called a pirate's haven.

Choong dismissed the idea that an unusual number of pirates live there. But a few months ago pirates hijacked a ship and crew off the western Indonesian state of Aceh and demanded a ransom. The money was paid and the crew released, but the Choong worries kidnapping could become a new trend in piracy.

Sitting on the bridge of the Sandy Ray in the middle of a clear afternoon, pirates seemed a distant thought. But Chief Investigation Officer Choong thought otherwise. "Singapore takes piracy very seriously," he repeated.

Failure to declare previous mental illness

Seafarer did not declare in his pre-employment medical examination (PEME) that he was previously suffering from mental illness and was in fact previously repatriated for such cause. When the seafarer was again repatriated for the same reason, the NLRC denied his claim for disability benefits on the rationalization that had complainant disclosed the said illness to the respondents, then the latter would have made the complainant undergo a more thorough and rigid examination to determine his fitness for work. No employer would in his right mind engage the services of a mental case knowing fully well that such illness may cost him thousands of dollars.

THIS is an appeal interposed by complainant Roland Venturanza questioning the decision of Labor Arbiter Teresita Lora dismissing the Complaint for lack of merit.

Complainant before joining the vessel *Ocean Dawn* was required to undergo the usual pre-employment medical examination (PEME). During PEME, complainant manifested no illness that in the medical examination report in which he was required to provide his medical history, complainant stated that he

had not suffered from or told that he suffered from mental disorder. In his personal data sheet, the complainant stated that the most serious illness he had incurred was "lagnat laki" or fever normally experienced by growing infants.

Respondents then engaged the complainant to board their vessel *Ocean Dawn* for a nine month period under a POEA approved employment contract. Complainant was deployed on 9 April 1998. Just 10 days on board the vessel,

complainant started to exhibit bizarre behavior, which prompted the Master to send the complainant to a doctor in Port Misurata, Libya. During this time, the Captain found from the belongings of complainant the latter's allegedly lost seaman's book which shows that he was repatriated before due to sickness or hospitalization. On 22 April 1998, complainant was repatriated due to psychiatric

illness.

Complainant now asks for payment of full disability benefits, which is being contested by the respondents.

The Labor Arbiter ruled in favor of vessel. The National Labor Relations Commission in upholding the Labor Arbiter's decision ruled:

The crucial test on the entitlement to disability benefit by any overseas Filipino seafarer therefore is whether or not the seafarer suffers

It would be grossly unfair for the respondent to pay complainant disability benefits not arising from illness suffered during its employ.

injury or illness during the term of his contract.

Complainant already suffered the illness before that start of his employment contract. Thus, the illness was pre-existing. As such, it would be grossly unfair for the respondent to pay complainant disability benefits not arising from illness suffered during its employ. The disability is not compensable pursuant to Section 20 of the POEA Standard Employment Contract.

The contention of the complainant that the respondent was aware of the mental disorder as he had been employed by them for eight years is not convincing. The contention of respondent is more convincing. Had the mental condition been disclosed, they would have required a more extensive medical and psychological test. No employer in his right mind will hire a mental case especially for overseas employment, where injuries to or death of a seafarer can cost them a thousands of dollars.

Roland Venturanza vs. Inter Orient Maritime Enterprises, Inc., Andiamar Shipping Valetta Malta [NLRC NCR CA NO.021347-99, June 08, 2001]



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Disability from loss of earning capacity

In this case, the Supreme Court explained the meaning of permanent total disability: "(Permanent total) disability should not be understood more on its medical significance but on the loss of earning capacity. Permanent total disability means disablement of an employee to earn wages in the same kind of work. Or work of similar nature that [he] was trained for or accustomed to perform, or in any kind of work, which a person of [his] mentality and attainment could do. It does not mean absolute helplessness. In disability compensation, (we likewise held) it is not injury which is compensated, but rather it is the capacity to work resulting in the impairment of one's earning capacity."

COMPLAINANT was employed as Master of the *MV Ma. Rosario* from 11 April 1990 to 17 May 1990. From 10 May 1990 up to 17 May 1990, he was hospitalized at the Moji Hospital, Japan, at the instance of the vessel's owners. Upon his arrival in the Philippines he was instructed by agents Philippine Transmarine Carriers (PTC) and his union AMOSUP to report to the Seaman's Hospital, a hospital owned and operated by AMOSUP.

On 19 May 1990, Dr. George Matti of the Seaman's Hospital issued a medical certification that he was unfit for work and was instructed to continue treatment/medication. When he was refused admission at the Seaman's Hospital, he was forced to secure medical treatment at the Sto. Niño Medical Specialist and Emergency Clinic as an out-patient. His attending physician Dra. Geraldine B. Emperor diagnosis showed that he was unfit to work as Master of the vessel. Complainant filed a complaint at the Philippine Overseas Employment Administration (POEA) for disability benefits, reimbursement of medical expenses and attorney's fees.

The POEA ruled in favor of the complainant and awarded disability benefits.

Above decision was appealed to the National Labor Relations Commission, which affirmed the decision of the POEA. One of the issues brought before the Supreme Court is whether the award of permanent disability benefit is proper considering the absence of proof of permanent disability.

The Supreme Court affirmed the decision of the NLRC: "In effect, the

complainant has substantially complied with the POEA Standard Employment Contract for Seamen when he submitted himself to the Seaman's hospital three days after his repatriation from Japan. He was diagnosed by Dr. Matti, a company-accredited physician three days after his repatriation from Japan. He was diagnosed at the seaman's hospital and was found to be suffering from congestive heart failure and cardiomyopathy, so that he was declared unfit to work by no less than a

It is not injury which is compensated, but rather it is the capacity to work resulting in the impairment of one's earning capacity.

company-accredited physician. Agent PTC was aware of seafarer's private hospitalization in Moji, as well as his repatriation to Manila and treatment at the Seaman's Hospital.

"Strict rules of evidence, it must be remembered, are not applicable in claims for compensation and disability benefits. Private respondents having substantially established the causative circumstances leading to his permanent total disability to have transpired during his employment, we find the NLRC to have acted in the exercise of its sound discretion in awarding permanent total disability benefits to private respondent.

"Probability and not the ultimate degree of certainty is the test of proof in compensation proceedings.

"Consistently, the Court has ruled,

'disability should not be understood more on its medical significance but on the loss of earning capacity. Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of similar nature that [he] was trained for or accustomed to perform, or in any kind of work, which a person of [his] mentality and attainment could do. It does not mean absolute helplessness.

"In disability compensation, we likewise held, it is not injury which is compensated, but rather it is the capacity to work resulting in the impairment of one's earning capacity.

".... only after he was refused admission thereat was he compelled to seek medical assistance elsewhere. His life and health being at stake, private respondent did not have the luxury to scout for a company-accredited physician nor was it fair at this stage for his employer to deny him of such refund for medical services that previously he was admittedly entitled to.

"The POEA Standard Employment Contract for Seaman is designed primarily for the protection and benefit of Filipino seaman in pursuit of their employment on board ocean going vessels. Its provisions must, therefore, be construed and applied fairly and reasonably and liberally in their favor. Only then can its beneficent provisions be fully carried into effect."

Philippine Transmarine Carriers, Inc. Vs. National Labor Relations Commission, Philippine Overseas Employment Administration & Carlos Nietes G.R. No. 123891, February 28, 2001.

Ruben T. Del Rosario is managing partner of Del Rosario and Del Rosario Law Offices and of its PANDIPHIL Claims Department. He is former president of the Maritime Law Association of the Philippines and is president of the Philippine Maritime Voluntary Arbitrators Association. Del Rosario is correspondent of several P & I Clubs.

Reducing accidents at sea

IN 1986, the worst peacetime sea disaster since the sinking of the Titanic happened when MV Doña Paz collided with MT Vector with at least 2,903 persons dead or missing brought about by the raging fire when MT Vector spilled 8,800 barrels of oil off the strait of Tabias. The Guinness Book of Records even considered this accident as the worst disaster surpassing Titanic and giving an estimate of 4,500 dead or missing. In 1994, MV Kota Suria collided with MV Cebu City off Manila Bay with around 150 persons dead or missing. In 1998, MV Princess of the Orient sank during inclement weather with an estimated 150 persons dead or missing.

As per Philippine Coast Guard (PCG) statistics, the following recorded sea accidents comprising of large passenger/cargo vessels, fishing vessels, fishing bancas and motorboats, took place from 1996 to 2000.

	1996	1997	1998	1999	2000
Number of Accidents	119	59	210	263	161
Casualties/Missing Persons	120	68	335	350	279
Persons Rescued	1,434	347	1,389	3,828	2,771

Based on the above statistics, an average of one sea accident occurs every two days. Last year, a total of 3,050 persons figured in 161 sea accidents. This means that in every accident, an average of 19 persons, either crew or passenger, are involved. Considering the rescue percentage, an average of 90 per cent of persons involved in sea accidents are rescued and 10 per cent are casualties or missing persons.

These incidents clearly show that the PCG should and will play an important role in Maritime Administration, particularly, on maritime safety.

Safety affairs office

The office of CG-8, known as the Maritime Safety Affairs Office, formulates and implements maritime safety policies, rules and regulations pertaining to the implementation of existing safety standards for all Philippine-registered vessels engaged in the coastwise trade; provides type-approval of lifesaving appliances (LSA) and firefighting equipment (FSE); accredits manufacturers, suppliers and distributors of

PCG type-approved LSA, FEE and of life-raft service stations; and extends support to the administration of maritime education and training institutions through the Maritime Council. All of these functions are for the promotions of safety of life and property at sea. Further, based on the issuance of DOTC Department Order No. 98-1180, the Coast Guard was deputized on the registration and documentation of all domestic vessels.

Maritime Safety Accomplishments

Besides the accomplishments on registration and documentation of domestic vessels in compliance to various maritime safety regulations enforced by the PCG, it has also performed a number of safety-related measures.

The PCG implemented DOTC Department Order 2000-25 on Guidelines

for Checking Unauthorized Passengers Onboard Domestic Vessels. In the major sea accidents mentioned earlier, although overcrowding of passengers or passengers in excess of the "authorized capacity", may not be a primary reason for the occurrence of sea accidents, it has contributed to the number of casualties. This is because a vessel will not be able to provide the

number of lifesaving devices for passengers in excess of the authorized capacity. The blame falls with the shipowners for allowing such a practice, and in part, with the riding public. Last-minute passengers by tickets abroad the vessel or from scalpers, persistent passengers beg ship operators to allow them to board even when the vessel is full. These passengers are not in the ship's manifest and are not qualified for insurance benefits when an accident happens. It is for this reason that the PCG strictly adheres to the policies and procedures provided by the DOTC Department Order.

This year the Philippine Coast Guard embarked on a campaign to register motorboats three gross tons and below. The Commandant, Rear Admiral Reuben S. Lista, has directed all District Commanders to comply within six months the registration of all undocumented vessels in their area of responsibility. Coastal teams were created to scour the outlying coastal areas and register undocumented motorboats within six months. This action brings public service direct to the homes of the people rather than expect these marginalized motorboat owners to come to the PCG for the needed registration of their craft.

There have been instances when small vessels used to carry passengers even though such vessels are only authorized for carrying cargo or for fishing. The riding public being deceived by vessel owners to use their vessels for passenger transport even through such are not authorized for the purpose. The PCG is now embarking on changing the markings of motorboats (i.e. "F" for fishing, "P" for passengers),

PCG's search and rescue vessel



especially those below three gross tons to ensure that proper markings would indicate to a paying passenger if needed a vessel is authorized to carry passengers. This ensures that only those passenger vessels are used for passenger transport as these are equipped with the proper number of lifesaving appliances.

The PCG conducted emergency Readiness Evaluation (ERE) on domestic vessels, particularly on passenger vessels, to ensure that the crew aboard are properly trained and well versed on the various ship emergency such as abandonment, emergency steering, man overboard, fire at sea/port and collisions at sea/port. This procedure entails the creation of an ERE Team that will board the vessel and conduct ERE while the vessel is *en route* to its destinations.

The PCG conducted Vessel Safety Evaluation of all domestic vessels ensuring that all maritime safety regulations are strictly adhered to. Vessel Safety and Evaluation Teams are created to board and inspect the vessel on compliance to vessel on compliance to vessel safety regulations, competence of officers and crew and other vessel safety requirements to ensure that the vessel is seaworthy.

For year 2000 and 2001 (1st Half), the PCG has accredited thirteen companies for type-approval, manufacturer, supplier, distributor and service station of lifesaving and eight companies for type-approval, manufacturer, supplier and distributor of firefighting equipment.

Being a member of the Tokyo Memorandum of Understanding on Port State Control in the Asia Pacific Region (Tokyo MOU), the PCG for CY 2000 conducted Port State Control inspections to 126 foreign vessels calling at various ports in the Philippines, resulting to 1,480 deficiencies and the detention of 16 foreign vessels. For the first half of CY 2001, the PCG conducted PSC inspection to 161 foreign vessels resulting to 828 deficiencies and six detentions. The increase in the number of PSC seminars for officers, enlisted personnel and Coast Guard Auxiliary, and the creation of 32 port state control centers and divisions.

Government Responsibility

Government agencies in maritime safety have the equal responsibility of providing for regulations and guidelines that will ensure the safety of the ship, crew, cargo and the riding public. In 1998, after the sinking of MV Princess of the Orient, the DOTC, in response to the Senate Blue

ISSUANCE	CY 2000	CY 2001 (1 ST half)	TOTAL
Certificate of Inspection	9,100	4,416	13,516
Interim Certificate of Inspection	2,127	797	2,924
Coastwise License	1,842	991	2,833
Bay and River License	1,458	783	2,241
Pleasure Yacht License	256	61	317
Special Permit to Navigate	689	225	914
Special Permit for Unlicensed Officers	12,404	6,549	18,953
Motorboat Operators License	13,198	5,296	18,494
Certificate of Number	12,022	4,726	16,748
Dispensation Permit	1,172	332	1,504
Deck/ Engine Logbook	3,563	1,738	5,301
Special Permit to Load Dangerous Cargo	7,409	3,020	10,429
Permit to Operate	8,222	6,661	14,883

Ribbon Committee, which conducting the probe, issued Department Order 1180 deputizing Coast Guard, specifically on the registration and documentation of all domestic vessels. This, however, proved inadequate in providing for a safer marine transport environment. Problems cropped up on PCG not being able to regulate any changes in existing regulations.

Despite its shortcomings, the PCG tries its best and comes up with its regulations to further enhance the enforcement activities on maritime safety. Innovations are made such as the creation of coastal teams that would scour the outlying coastal areas and register undocumented motorboats within six months; changing the markings of motorboats, especially those below three gross tons, to ensure that proper marking would indicate to a paying passenger if indeed a vessel is authorized to carry passengers; and the information drive campaigns.

Maritime safety has to be measured not by the number of casualty statistics

but by the degree of safety nets and safety consciousness of all the key players (government agencies, shipowners/ operators, independent surveyors, vessel crew and the riding public) involved in the industry. Being the pioneer on maritime safety, rest assured that the Philippine Coast Guard adheres to the principle of "Safer Ships and Cleaner Seas" and is confident that maritime safety will be properly addressed in the realization of the PCG's goal of "Zero Accidents" in Philippine waters.



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Tough med test brings reduced claims

A GROWING number of rejections of seafarers deemed unfit for work under a tougher medical test program has brought savings in millions of dollars in reduced claims levels among ship owners subscribing to the program. The UK P&I Club reported that Filipino seafarers have constituted over half of the 32,500 examinations that have been carried out in the last five years since the club implemented its Crew Risk Management Program.

The program, which in the past 12 months alone examined 17,500 applicants including those in other labor supplying countries, is enjoying the process of substantial expansion. The UK Club says more clinics are being enlisted to cope with the job as more owners are joining the program, which is designed to protect them from claims arising from medical conditions existing prior to crews' employment. It also provides crew with a first rate health check before going to sea.

First began in the Philippines in 1996, the UK Club decided to tackle suspected huge inconsistencies in the standards used by clinics for pre-employment medical examinations. It started with accrediting three clinics in Manila whereby several hundred crew applicants were examined in behalf of four owners.

Initial investigation indicated that clinics generally adhered to the minimum standard required by the national authority in providing 'fit for duty' medical certificates to seafarers to obtain exit visas. But the clinics were not accountable to ship owners for failing to screen out medical defects that the UK Club believed should have been apparent.

Undiscovered or undeclared pre-existing defects could still result in ship owners' liability to pay medical and repatriation costs plus compensation, sometimes running into hundreds of thousands of dollars and occasionally more. Consequently, the Club decided to retain and expand the program. The cornerstone for the required standards and for clinics are the UK department of Transport's Merchant Shipping notice 1712M and ILO C73 on seafarers' medical examinations.

Participating clinics have to be satisfied that no disease or defect is present in crew applicants which could be aggravated by working at sea or which represents an unacceptable health risk to the individuals or

to others. Prospective seafarers are deemed unfit if suffering from infectious diseases, malignant neoplasms, endocrine and metabolic diseases, diseases of the blood, tropical diseases, mental disorders, skin conditions, eyesight deficiencies, disorders of the nervous, cardiovascular, respiratory, digestive, urinary and musculo-skeletal systems.

Accredited clinics are accountable to the Club and its members for their performance. The Club has its own internal systems, augmented by regular independent external audit, to monitor quality and to require



Crew Risk Management Program also provides crew with a first rate health check

clinics to review their procedures where necessary.

Today, some 28 UK Club ship owner members subscribe to the program, representing a wide range of fleet types. There is now a well-developed network of 18 accredited clinics: five in Manila; two each in Mumbai, Zagreb and Australia; and one each in Jakarta, Bangkok, Dublin, London, Leeds, Las Vegas and Johannesburg. Others are planned for Myanmar, Romania, Hungary and Poland later in the year.

The volume of inquiries to join the programme from UK Club members has encouraged the managers to look at clinics in several other countries, including Singapore, China and the Ukraine. Some 1,023 examinees have been found unfit for service over the

five years. The main rejection conditions were:

Hepatitis B	200
Heart disease	180
Hearing loss	159
Liver diseases	140
Pulmonary tuberculosis	88
Diabetes	61
Lung disease	47

Drug test failures, sight defects, kidney disease, HIV positive diagnoses, blood disorders and venereal disease each accounted for 10 to 25 rejections. Over time, the rejection rate has tumbled. The average figure of just over three per cent encompasses a considerable drop from nearly 10 per cent at the start of the program and just over five per cent a year ago.

The 31,520 passed fit for sea duty yielded just 62 repatriation cases. With only one exception, these stemmed from conditions that could not be related to pre-existing defects.

The Clubs' project team believes that the percentage fall in rejections and the limited number of repatriations are testimony to the program achieving its primary aim of screening out a significantly higher proportion of pre-existing medical defects. The very existence of a more rigorous regime has almost certainly discouraged crew applicants, aware of their unfitness, from being examined at all.

"We must emphasize that the whole undertaking has considerable personnel advantages," says Project Director Daniel Lee. "An unfit crew member can be a danger to himself and others if unable to carry out duties in difficult situations. Sudden unavailability on tightly-manned ships inevitably puts pressure on colleagues to cover his duties."

While it is difficult to be specific about the monetary benefits derived from the program, the Club managers have no doubt they are considerable. The average cost of illness, treatment and repatriation claims is between \$10,000 and \$25,000. If all 1,023 rejected candidates had subsequently made claims, the cost could have been between \$25 million over five years.

"The feedback provides a perspective on crew candidates not subject to such a regime. If a well-controlled system rejects three per cent as unfit for duty because of pre-existing

medical conditions, an controlled environment will undoubtedly yield a significantly higher figure," says Lee. "Unfortunately, many of these people would be passed fit for employment. Taken overall, the risk of defects leading to repatriation, operational disruption and safety problems remains greater than it should be."

The Club is extending the program to a second phase, involving the management of repatriation cases with a view to speedier and effective treatment. The problems commonly experienced by members include, inappropriate choice of clinics, poor supervision of treatment, excessive leave granted by attending doctors/clinics, lack of agreed specialist panels, with some doctors consulted on areas outside their expertise, delays in treatment because of delays in payment to hospitals who variously insist on money before treatment, delays in operations because of inadequate clearance procedures at Club level.

"The second phase will help to provide UK Club members with an appropriate cost effective system of managing repatriation cases," adds Lee. "Most important, it will help to ensure their seafarers receive proper medical care and return to full fitness as soon as possible."

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other countries whose own exports depend on cheap labor. Already, China exports not just garments and shoes but also low-end consumer durables such as refrigerators, air conditioners, television sets and microwave ovens.

Our unique strengths

President Arroyo in her first "State of the Nation Address" (S.O.N.A.) correctly identified, in my view, the urgent priorities for our fight against poverty in the form of jobs, housing, education and food. Clearly, we Filipinos and our new government face severe challenges over this next decade. But we also have unique strengths which we as a people can draw upon.

Politically, we Filipinos have emerged from our cluster of crisis situations more confident in our ability to govern ourselves in a truly democratic way. Our country is being cleansed by its constitutional ordeal. We need leaders in both the public and private sectors to help heal the cleavages in national society — the income gap between rich and poor, the opportunity gap between majority and minority ethnic groups, the digital gap between the "smart" and the "not-so-smart."

Fortunately, we have a multitude of people's organizations which today enlivens Philippine civil society — the overseas Filipino communities not the least among them. Our NGOs, people's organizations, cooperatives and voluntary associations promote their sectoral interests — such as those of women, the youth, cultural communities, the senior citizens, and the handicapped, the farmers and fisherfolk, the environmentalists, the workers and, especially, the poor.

I never cease to enjoin Filipinos everywhere to stop thinking of ourselves as representatives of particular "special interests, or groups" instead — let us think of the Philippines as our people's joint-venture corporation.

And each corporate leader must take up the responsibility of helping to manage and to lead our country — applying the best of knowledge and experience to deal with problems that affect not only specific business interests, but also the concerns of our communities, and more importantly, those of our children and their children.

Experts from a speech delivered during the European Chamber of Commerce of the Philippines membership meeting in Mandarin Oriental Hotel, Makati City on 1200H 21 August 2001

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Leading back to growth

NOT too long ago, we put ourselves back on the right road to economic recovery, democratic governance, and sustainable development. Hopefully, our joint strivings — those of government and the private sector, with the support of the foreign business community like you — will usher in a new era of stability and accomplishment. And by invoking the collective “team spirit” we once had, we can become happy and self-confident again.

The Philippines needs a prolonged period of political stability — so that our workers and business people can again create new material wealth, and our leaders can reinforce our social cohesion. It needs no repeating that political stability is the bedrock of our economic recovery and sustainable development. Our central task as a people is to build strong political institutions — to build an effective and efficient state. For the ruling elite, politics had historically been a game of protecting “special interests” and pursuing factional rivalries, rather than being a tool for nation-building and economic development. That is why president Arroyo has identified as among her basic goals that of improving moral standards in government. And this is fitting and proper, since any democracy needs strong ethical foundations.

But we may never have such stability for as long as civil society must intervene in yet another people power movement to repudiate a specific administration or overthrow a government, as Filipinos had done twice in the last decade and a half. We must make such future revolutions unnecessary. Filipinos must not allow their political processes, their political institutions and the government leadership ever to fail again. We must put a stop — once and for all — to the periodic crises that corruption, extravagance, cronyism, irresponsibility, and incompetence inflict on our national society. Surely, we Filipinos are justified in celebrating

“People Power” (Philippine style). But people power cannot again and again substitute for strong democratic institutions.

Urgent tasks for high growth

The president needs to spell out challenging national goals — not only for the political leadership and the administrative bureaucracy but also for business, labor, and the whole of civil society. She must also keep alive — and turn into a positive purpose — our inherent national pride and the cautious return of investor confidence.

The urgent tasks of the Arroyo government can be summarized in what I call the four “C’S” namely:

- *consolidation - of the leadership — (within and among the cabinet, legislature, bureaucracy, AFP-PNP, civil society, citizenry);
- *confidence and trust - restore and strengthen, especially in regard to investments inflow, leadership capability, and the rule of law; and the respect of the international community;
- *continuity of reforms - in the economy, pro-poor programs, leveling the playing field, (transparency, predictability, accountability); and in strategic interventions;
- *competitiveness - improvement of production efficiency and quality; and exploiting our I.C.T. potential, and our God-given advantages in terms of being a key Asia-Pacific gateway, talented human assets and bountiful natural resources.

Political stability must be restored urgently — and that is why the Arroyo administration has begun talking peace with the M.I.L.F. (Muslim Separatists) and the Communist Party of the Philippines and its military arm, the N.P.A. On the other hand, the Abu Sayyaf who are plain terrorists and bandits, must be dealt with forcefully and their armed capabilities reduced to insignificance. The criminal prosecution for economic plunder of Mr. Estrada and his cronies which has already begun, must be brought to an expeditious and just conclusion under the rule of law.

In the economy, these next two years must be spent in managing the deficit, restoring business confidence, and completing structural reform with the constant cooperation of congress, as much as the

support of our leading civic organizations. Government’s most pressing need is to raise its revenues so that it could increase public spending on infrastructure and on developing our human capital. Not only must public expenditures be well-managed; tax programs simplified and fiscal incentives rationalized.

In a recent analysis of the new challenges to the recovery of East Asia’s economy, the International Herald Tribune (18-19 August 2001 issue) observes:

“From the shadow of the global downturn, China has emerged as the sole beacon of rising economic power in East Asia as the rest of the region struggles to escape recession.

“But an increasing number of observers fear that China’s rise harbors a dangerous paradox: rather than helping to pull East Asia out of the doldrums, as it did during the 1997-1998 financial crisis, the world’s most populous country is instead developing into a major business competitor, depressing growth in nearby countries.

“During the previous crisis, neighbors looked to China, as well as the United States, as locomotives to pull them out of trouble. This time, with the U.S. economy out of steam and Japan stalled as it has been for a decade, China’s growth is blamed for drawing investment, business and jobs away from countries as far apart in distance and development as Japan is from Indonesia.”

China’s growing economic power fuels its rising military clout and expanding ambitions. Over these past 20 years, China’s economy has multiplied four times; and Beijing has just announced another program to double the \$1.1 trillion economy over the period 2001-2010. In the process, China has resolutely interconnected with the world and has so transformed its command economy that state-owned industries now produce only 28% of total output.

Since 1988, cumulative Foreign Direct Investment (FDI) has reached \$350 billion. Last year alone, China received \$41 billion in FDI, second only to the United States itself. The outside capital China sucks in accordingly curtails very severely the flow of foreign investment to the rest of developing Asia. China’s enormous pool of workers — who make do on wages of less than \$2 a day — will devastate Indonesia, Bangladesh and

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