

Maritime

REVIEW



A PUBLICATION OF THE MARITIME LEAGUE

March - April 2002

Steady commuters keep fast ferries sailing



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Mt Samat Ferry

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Chairman's Page

GOT this from a friend, retired USAF Col. Hank Papa who eventually became a Delta Air Lines command pilot.

In the heyday of the sailing ship, every vessel had to have cannons for protection. The cannons of the times required round iron cannon balls. Now, the ship's quartermaster wanted to store the cannon balls such that they could be of instant use when needed, yet not roll around the gun deck. The logical solution was to stack them in a square-based pyramid right next to the cannons. So, the top of the stack had one ball, the next level down had four, the next had nine, and finally the lowest had 16 balls. Thus, four levels comprised a stack of 30 cannon balls. The only real problem was how to keep the bottom balls from popping out from under the weight of the balls on higher levels. To do this, they devised a flat metal plate, called a "monkey", with sixteen rounded indentations, one for each cannon ball in the bottom layer. When iron metal was used to make this "monkey"-plate, eventually the cannon balls would rust to the plate, causing another problem. So, these plates came to be made of brass-alloy to prevent this rust problem—thus becoming named "brass-monkeys".

However, when temperatures drop in cold weather, brass contracts to a much greater degree than iron. So, as it got colder on the gun decks the indentations in the brass monkey would get smaller than the iron balls they were holding, and if the temperature got cold enough, the bottom layer of cannon-balls would pop out of the

shallow indentations, spilling the entire pyramid all over the deck. That moment was characterized, quite literally, as "Cold enough to freeze the balls off a brass monkey."

MARITIME SECURITY

The International Institute of Legal Studies (IILS) of the UP Law Center in early April conducted a National Conference-Workshop on Maritime Security. Prof. Jose Endriga, Vice President for Public Affairs of the UP, opened the event with NSC Secretary Roilo Golez giving the keynote speech.

I was privileged to provide the setting for the seminar by leading in the first section session, which concerned "Development of Maritime Security Concepts". Former Human Rights Commissioner Samuel Soriano (a former DND Assistant Secretary for Legal Affairs, former Judge Advocate General of the AFP and former member of the Philippine Delegation to UNCLOS III which was headed by then Senator Arturo Tolentino), who discussed "Maritime Security and the 1982 UNCLOS", followed my presentation.

The workshop brochure allows us to review some basic facts about our country:

- * 7,100 islands with 17,640-kilometer coastline.
- * Land to water ratio of 1:7.
- * Land area of some 300,000 square kilometers and 2.2 million of water area
- * 76.5 million population, 60% of whom live in coastal areas.
- * 12th among 54 top fish producing countries, with more than 2.6 million metric tons
- * Reef area of 13,000 SQ KM and 458 SQ KM of marine pro-

tected areas.

And may I add:

- * Number one in seafaring, with more than 250,000 seamen on board international vessels (the only one with more than 100,000).
- * Number 13 in ship tonnage, with about 8 million MT of international shipping.
- * Among the top 5 in number of maritime schools, and continuously improving their standards.
- * Among the top 15 in number of shipyards.

An example of how high a major power puts emphasis on maritime security can be shown from a 1999 statement from the Joint Naval Intelligence/US Coast Guard Intelligence Coordination Center: "Maritime Security will be of vital importance to the world of 2020, and particularly to maritime nations such as the United States. The oceans are, and will remain, a key source of food, energy, transportation, trade, and communications. It will be a continual challenge to ensure (that) the oceans remain a safe and stable source of these needs."

In a globally interdependent world, maritime security issues are broad and varied. These issues are likewise multifarious, multi-faceted and often multilateral. This is particularly true with respect to the marine environment where the legal boundaries put up by man may not be so clearly defined nor adequately enforced. Thus, the bulk of the job of ensuring the responsible use of the oceans and their resources must be shared among coastal and maritime states, and even non-state actors such as non-government organizations.

Maritime Update

PMMA officials face hazing charges

EIGHT officials and 27 midshipmen from the state-run Philippine Merchant Marine Academy face criminal charges resulting from an initiation ceremony that went tragically wrong. The National Bureau of Investigation, which filed the charges on April 1, included the academy's superintendent, Capt Virgilio Aris, among the individuals recommended for prosecution following the death last May of Fernando Balidoy. Initial investigation suggested that Balidoy died from cardio-respiratory arrest after entering the PMMA campus in Zambales. But a later autopsy by the police forensic service showed that he died from a massive pulmonary haemorrhage. Further examination revealed that he had also sustained injuries to his kidneys, spleen and pancreas. Witnesses later alleged that some probationary midshipmen experienced physical maltreatment during their supposed orientation and training, leading NBI investigators to suspect that 'hazing' was the real cause of Balidoy's death.

Mindanao-Brunei link inked

A MOVE to establish trade and shipping links between the ports of Mindanao and the oil rich country of Brunei Darussalam is being pursued with the signing of a memo of understanding between economic delegates between the two territories. An official of Southern Cotabato Integrated Port Services Inc (SCIPSI), which joined a Philippine contingent in a four-day working visit to Brunei from 29 January-01 February, said Mindanao's chances of developing a feeder hub in the East Asia Growth Area are high with expected volume from northeastern Indonesia. SCIPSI, a joint venture between ICTSI and Asian Terminals Inc, is the manager and operator of a port in General Santos City in Mindanao. "So far, the only port in Mindanao ready for a crane is SCIPSI's Makar Wharf in General Santos," said SCIPSI general manager Rico T Cruz. The signing of the trade and shipping memoranda is seen to boost between business relations between the Philippines and Brunei.

HHI passes 1,000 ship milestone

SOUTH Korean shipbuilder Hyundai Heavy Industries passed a significant

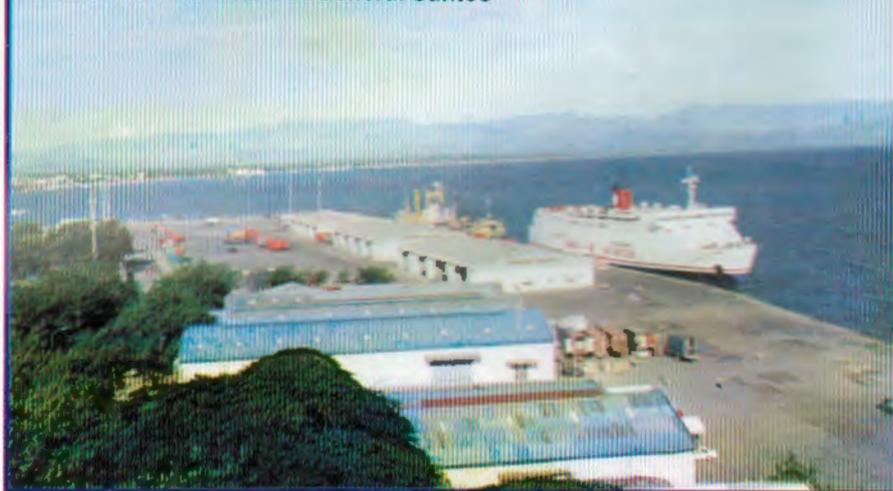
milestone on February 26 when it launched its 1,000 ship. The 113,000 DWT Aframax tanker Portland was built for Overseas Shipholding Group of the US. The vessel is expected to be formally delivered at a grand ceremony to be held the company's Ulsan yard on March 23 to celebrate its 30th anniversary. HHI started by building two 260,000 DWT VLCCs for a Greek owner along with its dry dock in 1972. The vessels were delivered in 1974. HHI surpassed the 10M DWT mark in ship production in 1984, 50M DWT in 1997, and 70M DWT in 2000, setting new world-record for ship production in the shortest period of time. Today it accounts for about 15 per cent share of the global shipbuilding market, having completed ships totalling over 73M DWT by the end of last year. HHI's

1970s, has made the cost of doing business higher for shippers. A DSA spokesman said it was only after several meetings and consultations with police authorities and local government representatives recently that President Arroyo issued a memorandum directing police authorities to do away with the unnecessary documentation. The memo requires shipping lines to submit a 'motor vehicle shipment report' to the Traffic Management Group of the Philippine National Police within seven days after shipment instead, as originally mandated by law.

Call for review of navigation

IMO secretary-general Bill O'Neil has suggested that mandatory VTS be extended

So far, the only port in Mindanao ready for a crane is SCIPSI's Makar Wharf in General Santos



performance is remarkable compared with Japanese and European shipyards over 100 years old. "It's probably the first time a shipbuilder has completed 1,000 ships in less than 30 years," a spokesman said.

Vehicle clearance shipment junked

GOVERNMENT has acceded to the appeal of ship operators to lift the stringent documentary requirements on the shipment of motor vehicles in the Philippines' domestic trade. The Domestic Shipping Association has long been pressing for the removal of clearance requirement and the necessary fees that go with it for all types of vehicles, including engines and chassis. The practice, which has been in place since

beyond territorial waters in a call for a re-examination of "current assumptions and practices" on navigation and traffic management. In a keynote address in Sydney at the International Association of Lighthouse Authorities' conference, O'Neil asked whether it was time to look again at permitting the use of mandatory VTS beyond "these artificial boundaries", especially in congested waterways. He said long-range automatic identification systems (AIS) and other technological advances made it feasible "to conceive of a global traffic management system, based on long-range AIS, feeding information into local traffic control systems responsible for ports, coastal sea lanes or straits". Of particular concern were strategic shipping lanes like the English Channel, the Straits of

Malacca and environmentally sensitive areas. O'Neil added that it was vital that marine VTS operators had the same standard of training as air traffic controllers, with a recognised certification system.

Joint border patrol pushed

BORDER patrol co-operation between the Philippines, Indonesia and Malaysia is being encouraged in a push to protect their waters from terrorist and pirate attacks. A recent meeting during the 9th Philippines-Malaysia Border-Patrol Coordinating Group underscored the expansion of the joint patrol mechanism with Indonesia to be discussed for implementation as to how it will affect existing bilateral relations. Though each country has existing bilateral border patrol cooperation, the expansion aims to enable the three countries to effectively monitor the movement of vessels plying their territorial waters. Problems on piracy, smuggling, illegal drugs and arms shipment and human smuggling have been identified as common to the joint border patrol with the three countries of the Philippines, Indonesia and Malaysia.

US bill targets foreign shipping

THE US House Transportation Committee is expected today to pass its version of a port security bill imposing sweeping new security requirements on foreign ports, shipping companies and seafarers. In an important change from current regulations, the Maritime Transportation Antiterrorism Act of 2002 bill requires operators of commercial vessels to provide cargo, passenger and crew manifests "by electronic

transmission" to US authorities 96 hours before entering a US port. Since September 11, Coast Guard and Customs officials have complained that information arriving from foreign vessels by fax has been

illegible. The bill also requires the US Department of Transportation to assess the effectiveness of anti-terrorism measures adopted by overseas ports and foreign vessels calling at US ports, including how they screen cargo and license their port and maritime personnel. If the measures were deemed unacceptable by US authorities, foreign governments would be given 90 days to conform with US standards before being subject to sanctions that could include denial of entry.

New customs chief vows for tougher laws

NEWLY installed commissioner of the Philippines' Bureau of Customs (BoC) Antonio Bernardo wants his bureau not just an impounding agency of smuggled goods entering the country but as agent who should run after smugglers and violators. Bernardo made the statement in the light of criticisms

that his predecessors had been lenient and made no substantial arrests or punished among those that had been caught—only to impound vessels and cargoes and auctioned them later. Speaking before a shippers' group meeting last week, Bernardo said: "We will not only seize, detain and auction these goods but we will likewise bring to justice all those involved." Many of those smuggled cargoes involved rice, sugar, luxury vehicles and counterfeit items. He urged the Department of Trade and Industry to come up with a definitive policy on the importation of used vehicles by resolving the gray areas specifically on right hand drive vehicles for conversion in Subic and their sale outside the freeport. Some importers have used the privilege of duty-free importation provided to companies in Subic freeport to skirt payment of duties and taxes of converted vehicles which they later sell outside the freeport.

Settlement reached over Thai spill

AN out of court settlement has been reached paving the way for the release of the Panamanian flagged tanker Eastern Fortitude, which spilled 240 tonnes of fuel oil after hitting a rock in Thai waters on

January 15. Sources close to the Thai harbor master's office and lawyers handling the claims confirmed that a "satisfactory solution" had been reached. This would allow Jesus Monserate, the vessel's Filipino master, sentenced to six months in prison by a Thai court, to be freed and the arrested tanker allowed to leave. In addition, the owner's representatives would make a payment as recommended by an ad hoc committee appointed by the Thai government, but this would be less than \$500,000. The vessel's P&I club would issue a letter of undertaking to pay for the alleged adverse impact on the environment. The harbor master office had earlier insisted on a bank guarantee. Claims are reported to run into millions of dollars.

Cebu port renews contract

THE Cebu Port Authority (CPA) has renewed the contract of its stevedoring contractor at the Cebu International Port. The 15-year contract of Oriental Port and Allied Services Corp (Opascor) is seen to pave the way for a new 'era of industrial peace' following several strikes in the past to push for its renewal. The conflict has already caused delays in the development of the port. The contract was signed during a visit to Cebu late last month of President Gloria Macapagal-Arroyo before 500 Opascor employees and stevedores. CPA general manager Joaquin Marques is said to be satisfied with the performance of Opascor as a reason to renew the contract, which supposed to have ended last January. But he shrugged off talks that President Arroyo pressured the CPA to renew the contract.

Bahamas opens largest drydock

THE Bahamas staked its claim to world maritime status with the opening of what the government called the largest drydock in the Americas and the northern hemisphere. Prime minister Hubert Ingraham officially opened Grand Bahama Shipyard's number 2 drydock in Freeport, 88 km east of Miami, saying the facility "secured the city's future as a major player in the global maritime industry." The drydock was built in Japan in 1979 and was transferred from Portland, Oregon. It has a lift capacity of 82,500 tonnes and can dock VLCCs and Voyager-class cruise ships. The dock would not fit through the Panama Canal so was towed to Freeport via Hawaii, the Philippines and the Suez Canal. Ingraham said the shipyard and its two 'partners', Carnival Corp and RCCL, have pledged to employ almost 400 Bahamians – representing 80 per cent of the eventual total workforce – at the yard by 2004. Germany's Lloyd Werft withdrew from the shipyard last year, leaving Grand Bahama Port Authority as the major stakeholder.

PCG takes over telecom facilities

THE Philippine Coast Guard (PCG) has taken over the facilities of the state-run Maritime Telecommunications Office in an attempt to improve its quick response and preparedness system. PCG commandant Reuben Lista said in a turnover ceremony last week that the acquisition of the MTO can now provide the PCG to act quickly on maritime tragedies and hasten relay of information to other coast guard districts and stations in the archipelago for its search and rescue operations. With the turnover, the MTO facilities in Metro Manila and Bulacan, which have not been operational since November 2000, will be repaired and integrated into the PCG's communications system. They will also be utilised to monitor distress voice signal, disseminate maritime information and report violations of marine environment laws.

Dutch to study boxship stability

THREE Dutch research institutes want to investigate the problem of containers lost overboard from ships during heavy weather and the lack of stability on small feeder vessels because of their often low depth, resulting in a minimal draught. The effect is thought possibly responsible for the capsizing of feeder vessel Dongedijk two years ago.

The Technical University of Delft, NO Delft and MARIN of Wageningen will study the average number of containers lost overboard each year, what can be done to reduce such losses and the need to require container vessels to have more depth.

Class war imperils fleet safety

WHILE the safety records of the country's major domestic shipping operators have generally improved, there is a new threat that is endangering to wipe out the gains made by the fleet in maritime safety- the increasing competition among local classification societies. Since the Maritime Industry Authority (Marina) opened the field of classification to competition by accrediting new locally established societies in April last year, there have been reports of cutting corners in the renewal and issuance of class certificates.

This has prompted the Philippine Register of Shipping (PRS), the first locally established society, to renew its appeal for consultation with the Marina Board through its chair Pantaleon Alvarez. PRS wants to nullify the accreditation guidelines Marina issued last year. Alvarez, whose appoint-

Drydocking makes it a necessity in class so that surveyors of the society could perform technical evaluation of the vessel's condition like electrical, hull and machinery, including compliance with relevant rules and regulations pertaining to design and safety. Ship owners who are cutting on costs have tended to be more inclined to adhere to a set of lax requirements. Some owners said competing class societies are lowering their rates to lure operators into their accounts, thereby giving them the tendency to ignore defects and relax safety of the ship.

Though Marina said it would monitor the local class societies performance by reviewing the documents being submitted, cutthroat competition in classification is putting a setback despite the operators' compliance with certification process with ISO and the local version of International Safety Management (ISM) Code. the

National Safety Management (NSM). Marina administrator Oscar M Sevilla said operators' compliance with these requirements is perhaps the reason why the industry has not encountered any major disaster recently. Though there have been mishaps involving small craft, the safety records of the major inter-island operators have generally improved.

For the ferry operators, ISO and NSM have also gained service improvements for passengers both ashore and afloat. However, PRS insisted that the government should maintain a single classification society similar to leading maritime nations such as US, UK, Norway, Italy, among others.

Since Alvarez has refused to act on PRS request, it is on the verge of bringing the case to court if Marina would not reconsider its Memo Circular 165, the guidelines for the accreditation of local classification societies. Prior to the issuance of the guidelines, Marina had failed to consult PRS to tackle policy and other basic issues to prevent the dilemma domestic ships are in now. PRS believes the business of safety is a function that should not be commercialized.

"We already want to file a court case to nullify MC 165," said Pascual. He said the appeal to Alvarez has been intended "to exhaust our administrative remedies" but the transport secretary seemed prefer not to take any action on the issue. Pascual said he wanted to "erase" the growing impression that Alvarez had not been privy to Marina's policy on the issue by giving them the chance for consultation and resolve the issues raised by PRS.

Cutthroat competition in classification is putting a setback despite the operators' Compliance with certification process with ISO and NSM Code



ment for his post as Department of Transport and Communications secretary has been stalled for months before the congressional Commission on Appointments due to charges over Terminal 3 of the NAIA contract, has still to respond to PRS appeal.

PRS president Jose Pascual said that Alvarez and other members of the board seemed to have not been "privy to what Marina management has unlawfully done" when Marina issued the class accreditation guidelines without consultation. Since then there have been three or four societies competing fiercely in the survey and class of inter-island ships. And there have been some instances that have seen major deviation in classing of ships such as to forego the required drydocking.

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IACS moves on bulker safety

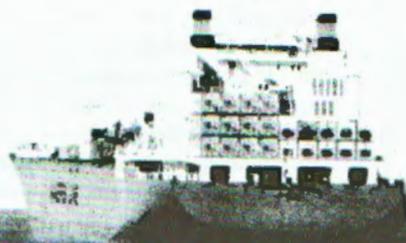
INTERNATIONAL class society umbrella group IACS is to speed up measures aimed at improving bulk carrier safety by introducing a series of eight measures, with the first three introduced with effect from January 1, 2003. Their effect is that the corrugated bulkhead between holds 1 and 2 and the double bottom of hold 1 must be reinforced when a ship reaches ten years old.

At enhanced survey procedures the second special survey will be repeated at the next intermediate survey. All existing

ships and newbuildings will be required to install water ingress detector and alarm systems.

The measures will apply to all newbuildings over 150 m and to existing ships that were less than five years old at January 1, 1998. This brings forward by five years an earlier programme IACS had agreed with ship owners. Five further measures are still under discussion at IACS and an announcement on their implementation is expected later this year.

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Regular commuters keep fleet sailing

By Windsor John C. Genova

A NOTICE posted on a cashier window at the CCP Bay Terminal says the ferry service of *m/v Kristen* has stopped because the owners had already sold the vessel. The *Kristen* made its last voyage on Jan. 21, 2001, according to the notice.

It was not long ago that another fast ferry operator at the said terminal sold one of its two ferries plying between Bataan and Manila to cut down on operational cost. Even the dominant player in the fast ferry passenger market disposed of some of its ferries to eliminate excess capacity.

But despite the ripples of the Asian economic crisis, the devaluation of the peso, rising fuel prices, political instability and poor peace and order situation, fast ferry operators managed to keep their head well above water through a steady number of commuters and tourists.

The Philippine Fast Ferry Corp. (PFFC), operator of the famed

SuperCats, Sea Angels and the Tricat 50, carried approximately three out of five million passengers last year, says its assistant vice president for operations Edgardo Nicolas. The product of the 1998 merger of the Aboitiz-Parkview Group's Universal Aboitiz Inc. and Negros Navigation's Sea Angels Corp., PFFC operates five of nine ferries. The SuperCat 7 plies the Batangas-Calapan route, the St. Rafael in the Bacolod-Iloilo route, the TriCat 50 in Cebu-Ormoc route, the SuperCat 2 in Cebu-Tagbilaran, Dumaguete-Siquijor route, and the SuperCat 3 in the Cebu-Tagbilaran, Dumaguete-Dapitan route.

Each SuperCat can carry 306 passengers. The TriCat carries 403 passengers, the St. Gabriel, 280 and the St. Rafael 360. PFFC makes seven trips between Batangas and Calapan, the busiest among its routes. With a service speed of 28 to 34 knots, the maximum travel time of the ferries is five hours and 30 minutes in the

Cebu-Dapitan route while the minimum travel time is 30 minutes in the Dumaguete-Larena (Cebu) route. Passengers are from the A and B class: businessmen, professionals, students and local and foreign tourists.

Faster, more comfortable, safer, bigger, more frequency, more reliable and better service make PFFC fast craft preferable than those of Viva Shipping Lines, Sto. Domingo Lines, Ocean Jet, Royal Ferry and Bullet Express.

Its own terminals and computerized ticketing system are plus factors,

and can match those of counterparts in the big shipping lines. The Cebu terminal alone is fully air-conditioned, equipped with TV sets for entertainment, food and *pasalubong* outlets, ATMs, a book shop, a dive shop, a cafeteria, a playground for kids, a massage section and "sweet" comfort rooms. Other terminals are in Ormoc, Bacolod and Calapan.

Price wise, fares are also affordable. Fares range from P220 on short routes, an average of P380 on medium routes and P700 for Mindanao.

Despite their popularity, Nicolas admits that PFFC still have excess capacity. "We sail at an average 50 per cent load factor during the lean months and as high as 75 per cent during peak months." Good months are January, March, April, May and December.

Actually, UAI and Sea Angels merged to have a synergy in their operations, to get the benefit from economies of scale and to carry on their heavy financial burden. The resulting PFFC's expectations were not met because the economy got even worse with the political uncertainties during the past administration and the dollar value went even higher than the peso.

Fortunately, the steady number of passengers kept the business viable. Nicolas stressed that it is very expensive to operate a fast ferry service because maintenance and labor cost is high for these types of ships compared to conventional ones.

Although new fast ferries are easier to maintain than conventional ships, all the spare parts of such vessels are imported from Europe, he says. Their hulls are also made of aluminum so special paints and anti-corrosives are applied.

Most of the SuperCats were built in Singapore in the early 90's. These were operated in the Hong Kong-Macau route before being sold to UAI in 1995. The Sea Angels were bought brand new from Singaporean shipyards. The TriCat 50, PFFC's flagship, was built by FBM/Aboitiz Shipyard in Balamban, Cebu in 1998. Each ferry cost from \$2 to \$8 million.

Labor cost is another major expense. "We pay a premium for our well-trained and experienced crew," according to



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FAST FERRIES

Nicolas. Each PFFC vessel has a complement of 12 to 20 crews, including cabin attendants.

Nicolas believes that the growth of fast ferry market will remain flat until more concrete economic growth reaches a bigger segment of the population. To help maintain its lead, PFFC offers packaged tours during the lean season. The tours help the Department of Tourism (DOT) bring in more tourists.

"Bohol attributed the increased tourist arrivals due to our fast crafts," notes Nicolas. He says that fast ferries have boosted local tourism by cutting travel time by half, allowing tourists to see more places in shorter time than the usual. Superb accommodation also helped attract more tourists.

"Tourists are very concerned with safety. Our company is ISM (International Safety Management)-accredited by Det Norske Veritas, the strictest classification society in the world when it comes to fast ferries. So they (tourists) have peace of mind when they ride with us," Nicolas adds.

Likewise, Manila's sole fast ferry operator, the Mt. Samat Ferry Express Inc., sails in the same predicament as PFFC. According to Noel G. Roque, MSFEL's Team Leader for Human Resources and Passenger Relations, passenger traffic in the two routes they serve has been stagnant since he joined the company in 1999.

"We don't earn much though we don't lose either. In this business, breaking even is fine," Roque says. Mt Samat currently operates three ferries. The *OK Ka Ferry I* carries commuters between Cavite and Manila while the *Mt. Samat 3* and *Mt. Samat 5* plies between Bataan and Manila.

The company started serving the Cavite-Manila route last year when the sole ferry operator in Bataan closed shop.

OK Ka Ferry I makes seven round trips per day with each 9.6-kilometer trip for 20 minutes. The ferry docks at the CCP Bay Terminal and at the Fort San Felipe in Cavite City. Fare costs P60 per passenger.

The two Mt. Samat ferries, built by the FBM/Aboitiz Shipyard and delivered in 2000 and 2001 respectively, make a total six round trips per day docking at Putting Buhangin in Orion. Each ferry carries 180 passengers and the 41.6-kilometer trip lasts for one hour at a speed of 25 knots. Fare costs P195 per passenger.

Roque says most of the Cavite

Fast ferries have boosted local tourism by cutting travel time by half, allowing tourists to see more places in shorter time than the usual



passengers are workers. The Bataan commuters are mostly businessmen, suppliers and contractors of factories and export zones in the peninsula. There are also many students of the Maritime Academy of Asia and the Pacific in Mariveles.

The company initially operated *OK Ka Ferry I* and *II* in 1997, one for the Manila-Cavite route and the other for the Manila-Bataan route. The Australian-made ferries were not suitable for long-distance travel so the company sold one and bought the Mt. Samats for \$1.5 million each. *OK Ka Ferry I* was retained to serve the Manila-Cavite route and the two Samats for the Bataan-Manila routes.

The *OK Ka Ferry I* earns better during weekdays while the Samats during weekends. So Mt Samat let its vessels chartered by tourists going to nearby beach resorts and Corregidor Island. The Corregidor Island Foundation regularly charters the ferries to bring tourists to Corregidor Island at a tour price of P500 per passenger.

Like the PFFC, Mt Samat spends a lot in maintenance and crew. Roque says the company is not frugal in maintenance, which is very important in their operation. "We invest in maintenance of the fleet," he stressed, saying what ISM manual requires should be followed.

In terms of labor, Mt Samat hires three officers (one captain, one chief mate and one chief engineer) and eight cabin crews and stewards per ferry. There are two batches of crews getting on a shift every two days.

Since there is no formal training on fast ferries offered locally, Roque says they are the ones who train officers on how to run the vessels. Roque says the company doesn't conduct marketing

promotions to attract more passengers. One way of coping with rising operational cost is adjusting fares. He said the company increased the fare for the Manila-Bataan trips last year from P180 to P198 due to the series of rises in fuel prices.

He adds that they sometimes cut the frequency of trips, especially during rainy days, when people don't want to ride their vessels. "When signal No. 1 is up, no vessel is allowed to take a voyage. Two-meter waves would cancel the trip," he noted.

Roque is optimistic that passenger traffic for its fast ferries in Manila will grow as people will tend to shop in the metropolis and more workers are needed in new factories to be built in Bataan.

More domestic tourists are also expected to ride fast ferries. In fact, the Sun Cruises, which brings tourists to Corregidor Island daily through its boat *m/v Sun Cruiser*, is now shopping for a catamaran ferry in Hong Kong to compete against the Mt. Samats.

Sun Cruises Sales Manager Annie Santiago-Pancho says the *m/v Sun Cruiser* recorded a 10% increase in tourist passengers from January to February this year. She expects her travel agency to get more customers because of the cheaper fare they now offered. From P1,690 per passenger, Sun Cruises lowered the tour package price to P650 per person. The package includes roundtrip transfers, shrine and terminal fees and guided island tour.

To accommodate the anticipated traffic, a new 300-seat ferry is being acquired to serve daily the Manila-Corregidor route. The *m/v Sun Cruiser* will be retained for chartering purpose.

As long as passengers keep coming, fast ferries are here to stay.

Ferry operators square up to airlines

THE dismal performance of the economy last year gave the country's major domestic shipping operators no alternative but to hold onto their plans of acquiring additional tonnage for expansion.

Instead, most of the lines have to contend with rationalised operations by selling older ships and pursuing more dialogues with government to give them much-needed incentives, such as tax breaks for the renewal of the fleet. Among the major lines, only Negros Navigation Co managed to buy a ship, launching it in November. Like the liner sector, tanker owners in the domestic trade have also sold a number of their ships to foreign owners. The attitude among the local owners is to wait for the market to stabilise and for government to approve a financing and incentive scheme.

But the domestic owners seem to have no choice. Even with no assurance of getting any subsidy or incentives, major lines such as

WG&A Philippines, Sulpicio Lines and Negros Navigation Co have committed themselves to pursuing the purchase of newer second-hand ships this year to replace ageing tonnage. Instead of incurring the high costs of maintenance or allowing the productivity of the ships to suffer, the operators believe they will gain more by disposing of or scrapping old ships and replacing them with new ones. Encouraged by the prospect of the economy recovering this year and the tourism authorities starting a drive to boost domestic travel, the owners are pushing ahead with their acquisition plans.

Now domestic airlines see the ships eating up the passenger market that they have dominated up to now. And it has come to a point where competition works both ways between the two types of carrier. This means that ships need to respond by creating their own marketing gimmicks, such as discounted

fares, to attract airline passengers whenever airline companies hatch their own plans, especially during the lean season, and retain old rates at peak periods during the summer and holidays.

Some of the services where competition between the two modes of transports is fiercest are the major routes from Manila to destinations like Cebu, Davao, Cagayan de Oro and General Santos. Following the September 11 attack in the US, when people repeatedly saw aeroplanes slammed the World Trade Center and the crash on Pentagon on their TV screens, domestic ships are said to have gained a considerable number of nervous passengers. Competition among inter-island shipping operators has become more friendly. Problems in the industry, such as the imposition of new charges on passengers and freight, are threshed out in different committees within the group's Domestic Shipping Association.

Sulpicio renovates terminal

THE newly renovated pre-departure area of Sulpicio Lines' Terminal boasts of a relaxing facility, fully equipped and laid out for the ease and comfort of its patrons. With a new air-conditioned ticketing office, a lounge for the exclusive use of First Class (suite and cabin) passengers, spacious and well-ventilated waiting area, several vending machines, customers can sit comfortably and watch television while they wait to be served.

It also has a dining saloon and a lounge where you can get a reflexology massage, get your nails done by trained individuals and a private corner where breast-feeding mothers can tend to take care of their infants. For any kind of assistance, there is a passenger-assistance counter where an SLI personnel is always ready to extend help.

The Ticketing Office is fully air-conditioned and is equipped with an electronic sign-board which displays the number of the customer ready to be served, eliminating the need for queues to purchase tickets. A vending machine provided where customers can purchase hot and cold drinks. There is also a running message board to give an update to the passengers relative to the vessel's sailing schedules as well as other pertinent informa-

tion for their guidance.

Ana Riviera is a fully air-conditioned First Class Lounge, which can accommodate at least 40 persons. Passengers billeted in suite and cabin accommodations can enjoy free snacks and their choice of bottomless flavored coffee, hot choco or iced tea, fruit juices compliments of Sulpicio Lines. Inside the lounge are comfort rooms for the exclusive use of first-class passengers. There are reading materials and television sets to entertain passengers while they wait to board their vessel. A hot and cold water dispenser is also available in the lounge.

The dining saloon is likewise air-conditioned and is as stylish as today's contemporary restaurants. You can choose from the wide range of menu and have it served to you by the Café's courteous staff. This dining saloon is for the exclusive use of Sulpicio Lines' ticket-holding customers.

The pre-departure area for the second and third class passengers can seat about 500 persons and is provided with television sets and ceiling fans for their convenience. Refreshment



Sulpicio's well-ventilated waiting area

counter is similarly strategically situated wherein passengers can avail of a complimentary drink of their choice. It is also equipped with an electronic running message board, which informs the passengers of their vessel's boarding time, departure time and other information updates. A weather chart is similarly installed to give information on any weather disturbances. Reading materials relative to health and sanitation are made available through a Quarantine corner. There are hot and cold water dispensers readily available to Sulpicio Lines' customers. Clean and well-maintained comfort rooms, all of which are equipped with soap and tissue dispensers plus hand dryers, are readily accessible to passengers. The ladies' room for physically disabled passengers are specially designed for their convenience.

Roro shipping development gathers momentum

While fleet expansion among the domestic lines had ground to a halt over the past one or two years, they have now seized this unexpected opportunity to focus on improving services afloat and ashore through compliance with the requirements of ISO and ISM. It also has also given the companies a chance to renovate passenger terminals, logistics support and cargo-holding areas in major ports. Oscar M Sevilla, the Maritime Industry Authority (Marina) administrator, said that operators' compliance with these requirements is perhaps the reason why the industry has not encountered any major disaster recently. Though there have been mishaps involving small craft, the safety records of the major inter-island operators have generally improved.

Domestic lines subscribe to the local version of ISM, known as the National Safety Management (NSM), which Marina implements in co-operation with accredited classification societies. Though NSM sometimes deviates in procedure and cost from ISM, Sevilla says that domestic operators abide by the standards required. He stresses that the unscheduled inspections of ships and periodic audits being done by Marina-accredited class societies have improved the safety of the fleet and the services on board and ashore.

However, local operators – big and small – at first had a hard time complying with NSM, finding it a painful process to adapt to the new safety regime. They struggled with the additional cost and work involved, such as hiring a quality assurance manager, documenting office procedures to address higher levels of standards and preparing and issuing company manuals throughout their organisations, not to mention implementing them.

Now, traditional operators like Sulpicio Lines testify to the benefits of the standards imposed by ISO and NSM. "It has improved our system a lot," admits Sulpicio vice president Sally Buaron, pointing out that corrective measures can easily be taken if operations deviate from the standard. Minor details such as passenger complaints – from an abusive porter to providing assistance for ticketing services at the counter – are being dealt with in the name of service improvement. Industry observers predict that, as time passes, a company like Sulpicio, whose ships have been involved in several tragedies in the past resulting from violations of safety requirements, can shed its old image by adhering to the new standards. The company now owns and operates a fleet with almost the same number of ships as WG&A Philippines, the country's largest domestic shipping operator.

A MOVE to promote and develop ro-ro shipping is gathering a new pace in the country's domestic trade as an attempt to reduce transport cost and to accelerate flow of goods within the islands. A proposed administrative order drafted for the Department of Transportation and Communications (DOTC) has targeted the exemption of lorries carrying cargoes on ro-ro ships from stevedoring charges as a way also to enhance government efforts to provide for food security, apart from achieving efficient and competitive shipping cost. To accomplish this measure, shipping regulatory bodies like the Maritime Industry Authority, Philippine Ports Authority and Cebu Port Authority are about to develop guidelines for the operations of ro-ro vessels based on the recommendations made by previous studies funded by Norwegian and Japanese agencies.

"Ro-ro links are (supposed) to be considered part of the national road network system such that vehicles passing through these 'floating island bridges' are not necessarily burdened with transport procedures not required of them elsewhere in the system," according to the draft DOTC administrative order. Vehicles transporting goods through ro-ro vessels are proposed to be charged a tariff based on a per lane-meter length of the vehicle and not on the type of commodity class of cargo carried. Though policy makers anticipate the reluctance from labour and stevedoring firms to forego collection of fees from ro-ro cargo, they see private investment in ro-ro berthing facilities as the answer.

The renewed confidence to promote ro-ro shipping was based on the socio-economic pact signed by government, business, labour and civil society leaders headed by President Arroyo which convened in December last year. Under the issue of Food Security from the Working Panel for Agriculture and Rural Development of the Summit, the DOTC has been tasked to implement the project. Implementation of ro-ro shipping has long been overdue since the government accepted the studies

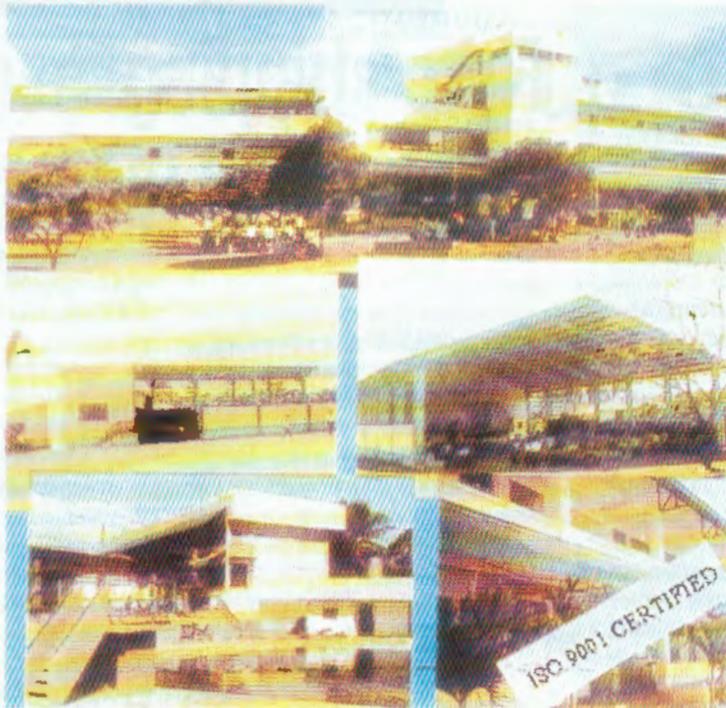
conducted and findings made by the Oslo-based Shipdeco and JICA of Tokyo that ro-ro services would provide the country with efficient and cheaper links.

Although major domestic shipping operators in the liner sector operate this type of vessel, maintaining a fleet of ro-ro ships is not the same as providing ro-ro services in inter-island shipping. Vicente Gambito, spokesman of the Coalition of ports and Shipping Modernisation has told Fairplay that most ro-ro vessels in the country do not operate to dispense ro-ro services. "They are more often deployed on conventional container services using forklifts to discharge containers instead of cranes, derricks or onboard vessel equipment," he said.

Besides, the PPA discouraged ro-ro operations for several years because cargo handlers would lose revenues as shown by the absence of ro-ro ramps for loading and discharging cargo. The PPA would consequently lose significant income in a number of ports as ro-ro demands minimal levels of stevedoring services. There is only one route that has proved successful for ro-ro operations—the Batangas-Calapan trade. The route has served as a model for the type of service that has benefited both big and small shippers. Though the government has shown support for ro-ro shipping in the modernisation of Pan Philippine Highway ferry terminals, which link the country's major road from Luzon to Mindanao, facilities for ro-ro in primary ports have still to be seen.

Under the new guidelines, the "port usage tariff must be increased to provide enough incentive for the fast turnaround of ro-ro vessels and to discourage the use of scarce berthing facilities for the repair of ships. Lashing and securing vehicles on decks of ro-ro vessels will be the responsibility of the ship officers and may be done by the vehicle drivers or ship's personnel, it said. The guidelines being prepared for the promotion of ro-ro, to be in place and operational before July 2002, will be subjected to public consultations with ship owners, shippers, truckers and other affected port users.

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'Aggressive participation in Asian shipping'

By Doris Magsaysay Ho

WHEN I was a child, I had a favorite gospel song called, "He's got the whole world in His hands". Standing here in front of you, I recall the same feeling that someone, in this case, all of you have the future of the Asia Pacific region maritime industry in your hands.

Therefore, as you prepare for the next ministerial meetings, we are very grateful to have this opportunity to brief you further on the efforts that are being made by the private sector stakeholders of the maritime industry in the Philippines. We hope that you will consider them in your plans.

The effects of globalization have made an indelible impact on our economy affecting many sectors. Some have benefited positively, others have been irreparably forced out of business, while most others are urgently working on reinventing themselves. Since the maritime

Asian maritime community to work together to identify individual areas of competitive advantage as well as to discover collective areas of strength.

As such, the Philippines has a great opportunity. We are a nation of over 7,000 islands that require efficient transport and distribution. We have a robust and young population who are educated and comfortable with English and who offer the best service in the world. We have a developed maritime education system that has graduated excellent marine officers and engineers. Today the Philippines' over 200,000 seafarers serve on 20 percent of the world's fleet. We have excellent ship repair facilities and yards building ships for export.

Our maritime cluster vision is simply for the Philippines to take its seat as one of Asia's



Trade on reengineering the structure and environment to improve our ability to compete. We are working with our legislators to urgently pass new legislation to put us on a level playing field with the best of our competition in the ASEAN region. We are determined to make this to succeed not only to participate in our national effort to improve the cost of doing business in the Philippines but also to become a more aggressive and competitive participant in the future opportunities for ASIAN and ASEAN shipping and maritime services in fulfilling the transport needs of the region and the world.

It is tempting and easier to liberalize restrictions on domestic trades imposed by each nation's respective cabotage laws. However, a more difficult task is to roll up our sleeves, and with political will, "strengthen the ship" to provide the Philippines maritime industry's ability to improve our competitiveness and to meet the challenges of international competition. Until such time that a regional security program like NATO is in place, perhaps marking an end to the need for national security provided by national fleets, the Philippines as well as other ASEAN developing economies must work quickly on maximizing and managing the opportunities to develop their maritime programs. For is it not true, from APEC's view, that the success of a future ASEAN economic community will lie in the strength of its individual parts?

We hope that our Maritime Industry Development Action Strategy, which we call MIDAS, receives your full support and consideration in your overall plans for the region especially since you hold the world in your hands.

Excerpts from a speech delivered during the APEC Transportation Committee Meeting held at the Philippine Plaza Hotel on 07th March 2002



Asia today controls over 50 percent of the world's shipping fleet

industry has been a global industry before the word globalization became a household word, the Philippine maritime industry sees great opportunities, not just for the Philippines but also for ASEAN and the Asian region as a whole.

Asia today controls over 50 percent of the world's shipping fleet. It has competent and trained manpower resources for seafarers, surveyors, repairers, ship builders and ship management personnel, and the potential to train many more. Asia's shipyards remain the most globally competitive, receiving very little, if no subsidy from governments. The maritime industry, comprising of shipping, seafaring, shipbuilding, ship repair and other support services, are vital engines for the growth of nations, as have been proven in the developed countries of the world. There is a great opportunity for the

maritime players – building up our shipping fleet to competitively serve domestic, regional and global cross trades. We aim to remain the number one supplier of trained seafarers and skilled personnel serving the maritime industry and as such have a mission to become a ship management center offering skilled management personnel developed from excellent Filipino officers. We aim to be in a position to compete for the carriage of our country's imports and exports as well as to become more present on the ASEAN shipping trade. We aim to offer excellent and competitive ship repair and ship building utilizing great workers with added value skills.

To achieve these goals, we are working with the MARINA and the Department of Transportation as well as the Department of

Japanese reassure Filipino crews

JAPANESE ship owners have assured the Philippines that they will retain the services of Filipino seafarers despite strong competition from other labour-supplying Asian countries. The assurance was given during a visit to Manila by a Japan Shipowners' Association (JSA) delegation on March 10 when delegates met the Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP) and officials of the Philippine-Japan Manning Consultative Council (PJMC).

Amosup president Gregorio Oca conveyed to the JSA delegation that the union's current thrust is towards the sustainability of employment for Filipino crew by making them both highly competent and competitive. The move is to

counteract the recent encroachment of seafarers from China, other Asian countries, and Eastern Europe on shipboard positions normally given to Filipinos.

The loss of those berths is attributed to the high cost of employing Filipinos, which is way above their closest competitors Chinese seafarers. Over 25,000 Filipino officers and ratings work on more than 1,000 Japanese-controlled ships, making Japan one of the biggest employers of Filipino crew.

The owners' association also supports the stability provided by Filipino seafarers' employment on their ships and competitiveness in terms of skills and costs under existing collective agreements, says PJMC president Eduardo Manese. Apart from

assuring employment, Manese said, JSA members support a freeze of the current wage scale at the minimum \$1,300 benchmark for ABs, having received backing from the Japanese union late last year.

The All Japan Seamen's Union was the first to declare support for a moratorium on the increase of seafarers' wage scale covered by AJSU-Amosup collective bargaining agreements following a lobbying of Filipino ship managers and crewing agents to resist an ITF-led wage hike campaign.

The four-man delegation from JSA includes Hiroshi Sugiura, chairman of the seafarers ad-hoc subcommittee, and subcommittee members Ko Hyodo and Kiyokazu Arai, with Capt. K Adachi of JSA secretariat.

MAAP: New way of training

IT is the first of its kind and the only maritime school that is literally the product of shipping and seafarers' money.

Capitalised and developed by the country's largest maritime union Amosup, the Maritime Academy of Asia and the Pacific (MAAP) has ambitions to produce a legion of world-class seafarers that the international shipping industry can rely on when sourcing a new generation of officers for its fleets.

Not only is the academy headed and run by the union, but it also has a governing board composed of representatives from the Filipino Association for Mariners' Employment, International Transport Workers' Federation, the All Japan Seamen's Union, the International Maritime Employers Council and the Danish, Norwegian and Japanese ship owners' associations.

Associated Marine Officers' and Seamen's Union of the Philippines (Amosup) president Gregorio S Oca, who heads the academy's board of governors, says the full backing of the international shipping community gives the school the state-of-the-art equipment and facilities that are making MAAP the Philippines' leading maritime institution.

The academy, which stands on an 11-hectare property in Kamaya Point, Mariveles, Bataan, was established in January 1998. The first batch of graduates consisting of 130 cadets, whittled down from around 170, is set to march for their



diplomas next year Oca stressed that the need for quality education and training provided the impetus for the establishment of MAAP, after the shipping industry put the country in the spotlight, criticising the existence of so-called 'diploma-mill schools'. As an answer to the problem of sub-standard education, MAAP has apparently started with a clean slate to produce a new generation of deck and engineer officers.

The academy gives priority to dependants of Amosup members in accepting applicants, but they are not exempted from taking the entrance examination for the courses. The cadets are entitled to free tuition and board and lodging. They receive up-to-date and well-rounded education designed by the US Merchant

Marine Academy.

The school offers two main programmes leading to the four-year BS Marine Transportation and BS Marine Engineering. The academy's faculty consists of licensed merchant marine officers and highly qualified instructors for general education subjects; a number of them with doctorates and master's degrees.

MAAP also owns a training ship, the 5,020 DWT *Kapitan Felix Oca*, which the midshipmen use for their shipboard apprenticeship. The vessel, which Amosup acquired from Japan in 1997, can accommodate 180 midshipmen and nine instructors. Apart from the comprehensive standard navigation equipment, the ship is equipped with automatic radar plotting, ECDIS and GMDSS.

Review

Your shipboard companion

WHEN information technology entered the maritime world, communication system has taken a step forward to improve safety of life at sea. One of the fruits of this technological revolution was the Global Maritime Distress and Safety System (GMDSS). Developed to improve the limitations of the 1974 SOLAS Convention, it guarantees efficient communication between ships in distress and shore-based search and rescue authorities or other ships in the vicinity of the casualty.

The *GMDSS Shipboard Companion* is a valuable – and ‘user friendly’ – resource for all those who need to understand communication procedures and equipment on board GMDSS-equipped vessels.

The book explains radio safety measures, including the effects of radiation and radio frequency hazards. It also discusses false alerts: their effect, how to cancel them and how to prevent them, with general guidance

IMO adopts guidelines on claims

TO ensure payment of compensation for personal injury to and death of seafarers, the International Maritime Organisation (IMO) has adopted the guidelines on ship owners’ responsibilities regarding contractual claims. It has requested member governments to ensure that owners comply with the guidelines, which took effect January this year.

In considering the guidelines, the IMO said owners’ responsibilities did not directly address contractual claims for personal injury

on working with coast guard personnel and radio inspectors/surveyors.

The author, Jose V Banzuelo, based the book on his experiences aboard 12 oceangoing merchant ships as a radio/communication officer. He has also been involved in GMDSS installation and also testing and officer training, amassing 20 years experience in the field.

GMDSS Shipboard Companion, by Jose V Banzuelo. Published by Joedith Publishing, 9 Jasmine Drive, Villa Magdalena, Camarin Road, Novaliches, Caloocan City 1117, Philippines. Price: PhP450, plus postage.

or death, but was only “concerned to ensure that ship owners have effective insurance cover or other effective forms of financial security for maritime claims.” The guidelines, according to IMO, represent a “valuable contribution to the objectives of eliminating substandard ships and enhancing the social protection of seafarers.”

The IMO is also concerned that “if ship owners do not have effective insurance cover, seafarers are most unlikely to obtain full and prompt compensation,” noting that such compensation “should be paid without prejudice to any other legal rights that seafarers or their next of kin may have.” The guidelines urged that all valid claims should be paid in full. “There should be no pressure, by their representative or by the representative of their insurers, for a payment less than the contractual amount or for a payment which in any way conflicts with these guidelines.”

The guidelines, however, do not apply to any warship, naval auxiliary or other ship owned operated by a State and used, for the time being, only on government non-commercial service, unless that State decides otherwise.

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SC rules on right of subrogation

The right of subrogation is designed to promote and to accomplish justice and is the mode, which equity adopts to compel the ultimate payment of a debt by one, who in justice and good conscience ought to pay. It is not dependent upon, nor does it grow out of, any privity of contract or upon written assignment of claim. It accrues simply upon payment by the insurance company of the insurance claim. The presentation of the marine insurance policy in evidence is not indispensable before the insurer may recover from the common carrier the insured value of the lost cargo in the exercise of its subrogatory right. The subrogation receipt, by itself, is sufficient to establish not only the relationship of insurer and insured but also the amount paid to settle the insurance claim.

CALTEX Philippines entered into a contract of affreightment with petitioner Delsan Transport Lines for a period of one year. The common carrier agreed to transport Caltex's industrial fuel oil from the Batangas-Bataan Refinery to different parts of the country. Under the contract, petitioner took on board its vessel *mt Maysun*, 2,277.314 kiloliters of industrial fuel oil of Caltex to be delivered to the Caltex oil terminal in Zamboanga City. The shipment was insured with the private respondent, American Home Assurance Corporation.

On 14 August 1986, MT *Maysun* set sail from Batangas for Zamboanga City. Unfortunately, the vessel sank in the early morning of 16 August 1986 near Panay Gulf in the Visayas taking with it the entire cargo of fuel oil. Private respondent paid Caltex the sum of P5,096,635.67 representing the insured value of the cargo. Exercising its right of subrogation, private respondent demanded of petitioner the same amount it paid to Caltex. Petitioner claims that the payment made by the private respondent to Caltex for the insured value of the lost cargo amounted to an admission that the vessel was seaworthy, thus precluding any action for recovery against the petitioner.

Due to failure on the part of private respondent to collect the amount it paid, it instituted a case before the Regional Trial Court of Makati. The trial court dismissed the complaint. On appeal, the appellate court reversed the decision of the trial court. Hence this petition.

Decision:

De Leon, Jr., J. The petition was denied. The payment made by the private respondent for the insured value of the lost cargo operates as a waiver of its right to enforce the term of the implied warranty against Caltex under the marine insurance policy. However, the same cannot be validly interpreted as an automatic admission of the vessel's seaworthiness by the private respondent as to foreclose recourse against the petitioner for any liability under its contractual obligation as a

common carrier.

The fact of payment grants the private respondent subrogatory right, which enables it to exercise legal remedies that would otherwise be available to Caltex as owner of the lost cargo against the petitioner common carrier. The right of subrogation accrues simply upon payment by the insurance company of the insurance claim. Consequently, the payment made by the private respondent to Caltex operates as an equitable assignment to the former of all the remedies, which the latter may have against the petitioner.

Petitioner cannot escape liability by alleging force majeure. The appellate court correctly ruled that the vessel *mt Maysun* sank for the reason that it was not seaworthy. According to Pagasa, there was no squall or bad weather or extremely poor sea condition in the vicinity when the vessel sank. Petitioner cannot also escape liability by presenting in evidence certificates that tend to show that at the time of dry-docking and inspection by the Philippine Coast

Guard, the vessel *mt Maysun* was fit for voyage. These pieces of evidence do not necessarily take into account the actual condition of the vessel at the time of commencement of the voyage.

Additionally, the exoneration of *mt Maysun's* officers and crew by the board of Maritime Inquiry merely concerns their respective administrative liabilities. It does not in any way operate to absolve the petitioner from its civil liability arising from its failure to observe extraordinary diligence in the vigilance over the goods and for the negligent acts of its employees, the determination of which properly belongs to the courts.

Lastly, the presentation of the marine insurance policy in evidence is not indispensable before the insurer may recover from the common carrier the insured value of the lost cargo in the exercise of its subrogatory right. The subrogation receipt, by itself, is sufficient to establish not only the relationship of herein private respondent as insurer and Caltex, as the assured shipper of the lost cargo of industrial fuel oil, but also the amount paid to settle the insurance claim. The right of subrogation accrues simply upon payment by the insurance company of the insurance claim. The decision of the Court of Appeals is affirmed.

Delsan Transport Lines v. Court of Appeals and American Home Assurance Corporation, G.R. No. 127897, 15 November 2001.

Vessel held for pier damage

Vessel allegedly hit a pier causing damage. Vessel denied hitting the pier alleging the damage was due to wear and tear or was pre-existing. Vessel was held liable under the doctrine of "res ipsa loquitur" which states: "Where the thing which causes injury is shown to be under the management of the defendant, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of an explanation by the defendant, that the accident arose from want of care."

THE doctrine recognizes that parties may establish prima facie negligence without direct proof and allows the principle to substitute for specific proof of negligence. This is invoked when under the circumstances, direct evidence is absent and not readily available.

Petitioner Ludo & Luym Corporation is a domestic corporation engaged in copra processing with plant and business offices in Cebu City. Private respondent Gabisan

Shipping Lines was the registered owner and operator of the motor vessel *MV Miguela*, while the other private respondent, Anselmo Olasiman, was its captain.

Petitioner owns and operates a private wharf used by vessels for loading and unloading of copra and other processed products. Among its wharf facilities are fender pile clusters for docking and mooring.

On May 21, 1990, at around 1:30 p.m., while *MV Miguela* was docking at

petitioner's wharf, it rammed and destroyed a fender pile cluster. Petitioner demanded damages from private respondents. The latter refused. Hence, petitioner filed a complaint for damages before the Regional Trial Court of Cebu.

Private respondent denied the incident and the damage. Their witnesses claim that the damage, if any, must have occurred prior to their arrival and caused by another vessel or by ordinary wear and tear.

On May 14, 1993, the trial court ruled in favor of the petitioner. However, on appeal, the Court of Appeals reversed and set aside the decision of the lower court. Hence, the instant petition.

Decision:

Quisumbing, J.

The petition was granted.

The doctrine of *res ipsa loquitur* was explained in *Batiquin vs. Court of Appeals*, 58 SCRA 334 (1996), thus:

Where the thing which causes injury is shown to be under the management of the defendant, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of an explanation by the defendant, that the accident arose from want of care.

The doctrine recognizes that parties may establish *prima facie* negligence without direct proof and allows the principle to

substitute for specific proof of negligence. This is invoked when under the circumstances, direct evidence is absent and not readily available.

In our view, all the requisites for recourse to this doctrine exist. First, MV *Miguela* was under the exclusive control of its officers and crew. Petitioner did not have direct evidence on what transpired within as the officers and crew maneuvered the vessel to its berthing place. We note the Court of Appeals' finding that Naval and Espina were not knowledgeable on the vessel's maneuverings, and could not testify on the negligence of the officers and crew. Second, aside from the testimony that MV *Miguela* rammed the cluster pile, private respondent did not show persuasively other possible causes of the damage.

Applying now the above, there exists a presumption of negligence against private respondents which we opine the latter failed to overcome. Additionally, presented tangible proof that demonstrated private respondent's negligence. As testified by Capt. Olasiman, from command of "slow ahead" to "stop engine", the vessel will still travel 100 meters before it finally stops. However, he ordered "stop engine" when the vessel was only 50 meters from the pier. Further, he testified that before the vessel is put to slow astern, the engine has to be restarted. However, Olasiman can not

estimate how long it takes before the engine goes to slow astern after the engine is restarted. From these declarations, the conclusion is that it was already too late when the captain ordered reverse. By then, the vessel was only four meters from the pier, and thus rammed it.

Respondent company's negligence consists in allowing incompetent crew to man its vessel. As shown also by petitioner, both Captain Olasiman and Chief Mate Gabisan did not have a formal training in marine navigation. The former was a mere elementary graduate while the latter is a high school graduate. Their experience in navigation was only as a watchman and a quartermaster, respectively.

The decision and resolution of the Court of Appeals are annulled and set aside, and the decision of the Regional Trial Court of Cebu City is reinstated.

Ludo and Luym Corporation vs. Court of Appeals, Gabisan Shipping Lines, Inc., and/or Anselmo Olasiman, G.R. No. 125483, February 1, 2001

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Preventing and suppressing acts of piracy

LAST February 7-6, 2002, the Philippine Center on Transnational Crime (PCTC) conducted a National Conference on Transnational Crime at the Westin Philippine Plaza, Roxas Blvd. Manila. I was lucky to have the opportunity to participate in this conference. I believed that the conference was the first transnational crime held in the Philippines on a national level. It is my contention that this move by the PCTC is undoubtedly a progressive step towards addressing the threats posed by organized transnational crime groups. The PCTC, under the leadership of Police Director Clyde Fernandez, indubitably deserves commendation.

The Conference started at 8:00 a.m. with the registration of participants and formally opened at 9:00 o'clock. Police Director Clyde L. Fernandez, Executive Director of the Philippine Center on Transnational Crime, welcomed the participants to the conference. National Security Adviser Roilo S. Golez delivered an inspirational speech as the guest speaker during the first day of the conference. His inspirational message was followed with the paper presentation of invited resource speakers.

Ms. Ma Bernadette S. Lopes, executive director of the National Intelligence Coordinating Agency (NICA), presented a paper on 'Terrorism.' Ms. Aida F. Santos of the Coalition Against Trafficking in Women-Asia Pacific and Capt. Alberto R. Arajo presented papers on Trafficking in Persons and Piracy on the High Seas and Armed Robbery Against Ships, respectively. The paper presentation in the afternoon includes the presentation of PSSUPT Jhonny H. Salvana on Drug Trafficking, Atty. Vicente S. Aquino on Money Laundering, and PSUPT Felizardo M. Serapio Jr. on Illicit Trafficking of Fire Arms. The syndicate-groups workshop on the six transnational crimes immediately followed the paper presentations.

The Workshop Proper

During the workshop proper, I joined the Syndicate Group tasked to craft the national plan of action to prevent and suppress acts of piracy and armed robbery against ships. This is because this particular transnational crime is of special interest to the members of the Maritime Breakfast Forum.

The syndicate group decided to simply adopt the proposed 'National Action Plan on Preventing and Suppressing Acts of Piracy

and Armed Robbery Against Ships' which was crafted through an interagency cooperation led by the Department of Foreign Affairs. After a very quick scrutiny of the document, certain recommendations were forwarded and several amendments were proposed.

On the appropriate title of the national plan of action, it was decided to change the title "National Plan of Action against Piracy on the High Seas and Armed Robbery Against Ships" with "National Action Plan on Preventing and Suppressing Acts of Piracy and Armed Robbery Against Ships." It was contended that the term "high seas" is limiting. It was explained that piracy as defined in the UNCLOS which limits acts of piracy to those committed only in the seas

action points were also proposed. The members of the syndicate group contemplated on the possibility of including acts of piracy and armed robbery against ships to the definition or scope of terrorism. Several members of the Group suggested to conduct a study to identify the types of ships, which should be required to use Automatic Tracking Device for purposes of issuance of license to operate.

In the area of information exchange, access of relevant data, including operation and research studies from the International Maritime Organization and International Maritime Bureau were proposed to be undertaken. The Department of Foreign Affairs (DFA), through the Maritime Oceans Affairs Center (MOAC), was suggested to



will not cover acts of piracy and armed robbery against ships committed in the internal waters of the Philippines, which is believed to be a more frequent occurrence.

The Philippine Rescue Coordinating Center of the Air Transportation Office (ATO) of the Department of Transportation and Communication (DOTC) was proposed to be included in the list of agencies involved in the prevention and suppression of acts of piracy and armed robbery against ships.

The Philippine Rescue Coordinating Center, with telephone numbers 832-3013 and 759-9502 to 03, the NAIA Airport Operator Center, with telephone number 877-110 and extns. 3030 and 3444, and the Philippine Ports Authority, with telephone number 301-9061 were proposed to be included in the DIRECTORY OF ACTION AGENCIES AGAINST PIRACY.

Several specific recommendations and

serve as the primary repository and agent for the dissemination of data to all government agencies, including exploring the identification of other areas of research on piracy.

On legal matters, the Department of Justice was tasked to compile, reproduce, and disseminate relevant laws and legal instruments on piracy to all government agencies. The Institute for International and Legal Studies (IILS) and the Department of Justice (DOJ) were advised to study the possibility of harmonizing procedures with regard to the prosecution of pirates. A study on the factors, which hinder prosecution of pirates such as factors that discourage witnesses of crimes of piracy to testify in courts was proposed to be conducted.

On law enforcement concerns, regular evaluation and updating of current operation procedures, SOP's, and ROE's was recommended.

The Department of Justice was designated to design training on investigation and proper handling of evidences for law enforcers. A seminar-workshop designed to identify available equipment and technology, including database technology, needed by action agencies was proposed to be conducted with the end view of enhancing the capacity of action agencies in responding to threats of piracy. The assistance of National Telecommunication Company for this undertaking was highlighted. It was noted that officers who are sent abroad do not echo their training to their fellow officers, thus, it was suggested that officers who are sent abroad for advance training and education conduct echo training. Regular updating of training, preparedness plans and other related program were also forwarded by some members of the Syndicate Group. These were proposed to enhance the capacity of the agencies in responding to threats of piracy.

Institutionalization of inter-agency cooperation on law enforcement and the conduct of research and training and simulation exercises through MOA's and MOU's were suggested.

The Philippine Coast Guard was assigned to design communication plan and advocacy program aimed at enhancing public awareness on piracy. The assistance of the Philippine Information Agency was noted to be important in this regard. The Philippine Center on Transnational Crime was tasked to establish a reward system to motivate the public to provide pertinent information which could contribute to the solution to the problem of piracy. Further, the creation of anti-piracy public awareness website was recommended.

The Syndicate Group noted that while it has decided to adopt the proposed plan of action, it was acknowledged that further refinements of the plan have to be made. The identification of the specific roles of action agencies involved in anti-piracy activities and programs is one of the immediate concerns, which the Syndicated Group noted. The Group emphasized that proper delineation of functions/ roles of the different agencies is imperative for more concentrated efforts and a more cost-effective action for the prevention and suppression of acts of piracy and armed robbery against ships.

On the second day of the conference, the results of the workshops were presented at plenary. The Conference was closed formally with the speech delivered by the Guest of Honor and Speaker, Hon. Jose D. Lina, Jr., Secretary of the Department of Interior and Local Government.

Indeed the conference demonstrates the government's serious effort to address the different transnational crimes confronting the

Philippines and the world. The conference was very significant as it served as a venue for concerned agencies and individuals to give inputs to the National Plan of Action Against Transnational Crimes. The Conference also served as a means to inform the public about the threats posed by TNC's.

National Action Plan on Preventing and Suppressing Acts of Piracy and Armed Robbery Against Ships

The Syndicate Group tasked to design the national action plan on preventing and suppressing acts of piracy and Armed robbery against Ships adopted the proposed plan of ction crafted through an interagency cooperation with the following amendments and recommendations:

Piracy as defined in the UNCLOS which limits acts of piracy to those committed only in the high seas will not cover acts of piracy and armed robbery against ships committed in the internal waters of the Philippines, which is believed to be a more common occurrence.

A portion of the proposed plan of action was decided to be deleted to avoid possible confusion.

On specific recommendations, the following actions were proposed:

- 1) The possibility of including acts of piracy and armed robbery against ships to the definition or scope of terrorism must be looked into.
- 2) Identify the types of ships which should be required to use Automatic Tracking Device before a license to operate is issued to ship owners.
- 3) On information Exchange:
 - a) Access of relevant data, including operation and research studies, should be accessed from the IMO/IMB. The DFA, through MOAC, which has access to the data of IMO/IMB, must serve as the repository and primary agent for the dissemination of data to all government agencies.
 - b) Identification of other areas of research on piracy must be explored.
- 4) On legal matters:
 - a) The Department of Justice shall compile, reproduce, and disseminate relevant laws and legal instruments to all government agencies which would need them.
 - b) The institute for International and Legal Studies (IILS) and the Department of Justice (DOJ) should study the possibility of harmonizing procedures with regard to the prosecution of pirates.
 - c) A study on the factors which hinders prosecution of pirates, such as factors which discourage witnesses of crimes of piracy to testify in courts should be conducted.
- 5) On law enforcement matters, current

operation procedures, SOP's, and ROE, should be evaluated and regularly reviewed and updated.

6) On Capacity Building

a) The Department of Justice shall design training on investigation and proper handling of evidence for law enforcers.

b) A seminar- workshop designed to identify available equipment and technology, including database technology, needed by action agencies must be conducted. The assistance of National Telecommunication Company must be solicited in this regard.

c) Officers who are sent abroad for training must be required to echo their training to fellow officers.

d) Regularly update training program, preparedness plan and other related programs.

7) On Inter-agency cooperation

a) Institutionalization of inter-agency cooperation on law enforcement, conduct of research and training, and on the conduct of stimulation exercises through MOA's and MOU's should be undertaken.

b) Tap the assistance of NGO's and PO's for purposes of anti-piracy information and operations.

8) On Database development

a) MOAC will convene an inter-agency meeting to discuss the MOU on data-basing which it has crafted, for further improvement and subsequent adoption.

b) Conduct Seminar- Workshop on data-basing

c) Identify existing systems for data-basing

d) Seek assistance of government and non-government agencies which have the technology and expertise on dash your hopes

9) On Public Awareness

a) The Philippine Coast Guard must design a communication plan and advocacy program aimed at enhancing public awareness on piracy.

b) The Philippine Information Agency must be consulted to assist in the implementation of public awareness programs which will be designed by concerned agencies.

c) The Philippine Center on Transnational Crime must establish a reward system to motivate the public to provide pertinent information which contribute to the solution of the problems of piracy. The possibility of creating a trust fund for this purpose must be explored.

d) Create an anti-piracy public awareness website.

ICTSI builds MICT empty container depot

INTERNATIONAL Container Terminal Services Inc. (ICTSI) recently started constructing an empty container depot (ECD) at the Manila International Container Terminal (MICT) to respond to clients' demand for storage as well as to improve efficiency at the terminal. When completed in June this year, the 50,000-sq m ECD will have ground slots for 1,148 TEU or a total of 9,184 TEU using a maximum eight-tier stacking arrangement. Capacity could be increased to 10,000 TEU if demand requires. The ECD will be operational by July this year.

Francis Andrews, MICT general manager and ICTSI senior vice president, explained that the construction of the ECD is twofold. First, the expanded MICT area will enable ICTSI to handle the anticipated increase in container volume. Second, the ECD will decongest the MICT container yard to empty containers, paving the way for increased efficiency overall at the terminal. "We have to decongest the container yard of empty containers. We will relocate them to a location near the terminal that is exclusive for

empties. Aside from decongesting the container yard, we will also be improving operational efficiency in the terminal," said Mr. Andrews.

"With the Philippine economy on its way to recovery, ICTSI is expecting increased container traffic in the coming years. When that time comes, the MICT will be ready. In the last two months, there are already signs of improved TEU throughput." Complementing the imminent increase in MICT throughput is the continuing improvement in quay crane productivity. Mr. Andrews revealed that quay crane productivity at the MICT has been improving, from 23.98 moves per hour in November 2001 to 26.26 moves per hour in December 2001.

Meanwhile, Pablo Peñalba, MICT Special Projects Manager, explained that there is a growing demand for empty container parking space in the Port of Manila. "The ECD will also respond to the need of our clients for other services, specifically the demand for storage space of empty boxes closer to the port area and the safer handling of containers using correct and modern

container handling equipment."

Many of the shipping lines calling at the Port of Manila are currently storing empty containers in depots located in Caloocan, about 10 to 15 kilometers away from the MICT. "The area is prone to traffic problems especially during peak hours. We also learned that most of the depots are now running to their capacity. The MICT ECD will surely benefit the shipping lines," Mr. Peñalba added.

The ECD is located in a reclaimed area at the Manila International Port Basin of the Manila Bay east of the MICT main terminal. The reclaimed area protrudes eastward between the North Harbor and MICT. ICTSI is investing a total of PhP150 million to develop the ECD, which includes the purchase of equipment, civil works and manpower development.

ICTSI has already put in orders for the handling equipment to be used in the ECD. These include reach stackers, prime movers and trailers. ICTSI will also be providing other related services such as maintenance and repair of containers, chassis and reefers.



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Subic makes bid as cruise hub

AMONG the fall-outs of September 11 has been the search for alternative cruise destinations. Travel and tourism interests in South-East Asia have seized the opportunity to promote their respective home ports as attractive destinations for cruise lines operating in the region.

One destination that fits into the category is the Subic Freeport. After spurning many an opportunity, Subic is finally making a concerted bid to attract cruise ships. Boasting newly developed, world-class facilities ranging from an international airport to hotels and from industrial parks to ecological tourism parks, promoters of the freeport are confident that Subic is ready to serve as a regular home port for passengers joining or disembarking from cruise lines.

Subic can accommodate at least five cruise ships at one time, giving it an edge over the country's major ports such as Manila, which has lost out because of security concerns and through its inability to develop facilities such as passenger terminals. Meanwhile Subic Bay Metropolitan Authority (SBMA) continues to develop its central business district by devoting its 181-ha area to commerce and tourism.

Subic will soon boast theme parks designed for recreation and entertainment. According to a brochure released by the SBMA, these theme parks will also be ideal sites for education and eco-tourism activities featuring Subic's forests, swamps and marine life.

Among the proposed attractions are monorail tours over its triple canopy and forests inhabited by birds, bats, monkeys, etc. Other planned attractions include a theme park devoted to the harbour's marine life. World-class hotels and convention centres along the waterfront area are other attractions.

SBMA's bid to promote the freeport as a cruise home port in Asia has been bolstered by the formation of a group of ship chandlers, who have agreed to market the destination in a big way. Shipchandlers Philippines recently met SBMA chairman Felicito Payumo and took part in the Seatrade Cruise convention in Miami, Florida this month to promote the freeport as a preferred destination for cruise lines and their customers.

SPI spokesman Rolanda Galara told *Fairplay* that this was the first time that the

There are also plans to float the Subic Cruise Club



Philippines had had its own booth at Seatrade. Galara said that focusing on Subic was a logical move, given the fact that it boasts all the major tourist attractions such as beaches, hotels and casinos. Subic is also "cost effective and has traffic-free access" to most of the facilities, he pointed out.

There are also plans to float the Subic Cruise Club, through which membership of international bodies such as the International Council of Cruise Lines (ICCL) can be obtained. The cruise club will include members who hold significant stakes in the Subic Freeport project such as travel agencies, ship agents, hotels and ship chandlers. Associate member status would suffice to elicit the support of major cruise operators within the 17-member ICCL. There are plans to invite ICCL members to visit the freeport after the Miami convention.

Promotion of the freeport comes at a time when the government has finally recognised that its plunging receipts from tourism might have something to do with its lack of investment in the sector – a fact acknowledged by Department of Tourism secretary Richard Gordon in a recent assessment. "I don't believe that it is by accident that tourism has grown in neighbouring countries," said Gordon, who was the former chairman of Subic Freeport.

He explained that Thailand, Malaysia and Singapore have realised the importance of tourism as a "highly viable part of economic growth, and have acted; Something that we have not done very effectively." In the year 2000 the Philippines' promotional budget was a measly \$700,000 against Thailand's \$45M, Malaysia's \$70M and Singapore's \$70M.

Cruise lines demand more from ports

CRUISE lines have told port authorities there is no longer any point in "knocking on our doors" seeking cruise ship calls unless they have more to offer than just good facilities, rates and tourist attractions.

The advice, from a panel of executives representing the world's three largest cruise companies, was given to delegates at the recent Seatrade cruise conference in Miami as they evaluated the industry's future.

RCCL VP John Tercek said, "we're not in the business of selling ports," and cited southern California in San Diego as an example of how a port can win cruise calls by adding value.

"They came to us and offered a joint marketing campaign and frankly they're going to spend more in marketing than we pay them in mooring fees." As a result, RCCL will put its first ship into San Diego later this year.

APC gears up for laid up tonnage

WITH no signs of quick recovery and contracts signed at a slower pace, many of the big ships in various parts of Asia have been heading to be laid up waiting for their turns to move for further trading. Such an occasion normally leads ship owners to ponder on an account to reduce maintenance costs including insurance premiums while the vessels have remained unutilized. For this reason there is facility that would secure and maintain laid up fleet that has been established and in existence to serve those vessels which are not yet heading for the breaker's yard.

Asia-Pacific Chartering Philippines Inc

(APC), the region's leading firm in protective lay up services for all types of ships, has geared up its marketing effort to attract more VLCC and other ships at its facilities. APC president Teofilo Eugenio said that their facilities in Malalag Bay, Davao provides an alternative for owners to reduce costs when their vessels have remained unused due to slack in trade.

Situated at the western side of Davao Gulf in southern Philippines, APC's lay-up services have been considered Asia's most secure and strategic typhoon-free lay-up facility for ships with no size limit. It has been accepted by Lloyds Underwriters to

qualify for rebate in the ship's hull premium following a survey conducted by the London Salvage Association.

"Using the facility reduces nearly 75 per cent insurance cost for the ship but still 100 per cent insured," Eugenio said. APC has laid up over 100 vessels during the more than 25 years of its existence, with a 100 per cent safety record. Apart from its typhoon-free location, APC claims that its Malalag Bay facilities have deep water, minimal ocean currents, superior-holding grounds, ready onsite engineering and logistical services, making them an ideal laid up sanctuaries.

ATI steps up box-handling efficiency

MULTI-MILLION investments to increase storage capacity at the South Harbor, Port of Manila are further reinforcing container-handling efficiencies for ports and logistics operator Asian Terminals Inc.

Commencing a ten-year master plan to develop South Harbor's container and general stevedoring terminals, Asian Terminals last year embarked on a P566.06-million, two-year

770,000 TEUs in one year and a substantial improvement in gantry crane productivity and truck turnaround inside the Container Terminal.

Construction for the reefer gantry section has also been completed for 360 additional reefer outlets. New entry and exit gates were also built and are now operational, giving better mobility for container yard manage-

high-capacity container handling equipment. In 2001, the company acquired and immediately commissioned a brand-new Post-Panamax Mitsui-Paceco quay crane for ship-to-shore container transfer. ATI also deployed two transtainers or rubber-tyred gantry cranes, one additional reachstacker and two brand-new sideloaders for improved yard management during the year.

All equipment are now fully utilized in the Terminal. Further advancements in information technology for the South Harbor Container Terminal have been implemented. ATI has upgraded to version 2.8 of Navis SPARCS (Synchronous Planning and Real-time Control System), the graphical user interface software for vessel planning, yard planning and equipment control.

The Terminal Control System (TCS), which is the main back-end database engine for SPARCS, was further enhanced with advanced modules for transshipment and restow, Ships Working Log/Vessel Onboard Activity Report and Electronic Vessel Recapitulation modules linked to the Billing system for electronic vessel invoicing, a Bayplan generator program to assist shipping lines without electronic data interchange capability and an online electronic bills presentment facility.

Recently, the Company also opened up WebTrack to customs brokers. WebTrack, an in-house developed internet-based cargo monitoring service, generates real-time information on the status of cargoes and vessel schedules at the South Harbor. Registered importers, exporters, shipping lines, shipping agents and now brokers may access WebTrack at www.asianterminals.com.ph.



The increase in container yard capacity complements the company's acquisition of high-capacity container handling equipment

program for the upgrade of South Harbor's 20-hectare container yard space and rehabilitation of one container pier.

The expansion of the northern portion of the main container yard resulted to an additional 3,060 twenty equivalent units (TEUs) full stacking capacity, increasing storage capacity at the South Harbor to

ment. Programmed for 2002 are reclamation of additional land area for a further 4,080 TEUs stacking capacity, the upgrading and expansion of the empty container depot, and the conversion of available land area for additional yard space.

The increase in container yard capacity complements the company's acquisition of



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Tariff fails cement dumping

DESPITE government's imposition of additional tariff on imported cement as safety net against surge in imports, the Philippines continues to be flooded with imported cement. Two new shipments totalling 25,000 metric tons of the commodity from Japan and Indonesia recently unloaded at the port of Manila have been almost equal in monthly production capacity of three of the Philippines' big cement producers. Five of the major producers have already shut down operations.

The Board of Investments says 15 shipments have brought to roughly 152,800 metric tons the volume of cement imports since the additional tariff of Php20.60 per bag took effect in December last year. The tariff was imposed to provide relief to local cement industry, which has lost to imports more than a quarter of the local market. From a virtually nil share in 1998, imports of the commodity ate up a bigger pie of the market through lower pricing. Importers would brought in imported cement at 50-60 per cent lower than the existing local price then dumped them in at the same price of the local commodity.

The Tariff Commission, which has been

hearing the industry's petition against the import surge, has to issue a decision. It will be setting the final level of the safeguard measure on tariff based on the facts it has gathered from the cement industry such as the producers and customs bureau. Though

cement producers in Indonesia, Japan and Thailand. The Thai's recent cement export to the Philippines, the first in over four years, have created an alarm in cement-producing parts of Luzon and Visayas.

Industry officials said Thailand cement



From a virtually nil share in 1998, imports of the commodity ate up a bigger pie of the market through lower pricing.

the provisional tariff seems to have addressed certain imports with a higher landed cost, shippers are finding ways to circumvent the deterrent nature of the tariff by sourcing cement from lower cost suppliers. These suppliers are said to be

sector has an excess capacity of 32.9M metric tons (MT) compared to Indonesia's 26.6M MT, Japan's 15.6M MT, and Taiwan's 11.8M MT. In comparison, the total market for the Philippines was placed at roughly 11.9M MT.

Fruit trades: Carriers wait and see

DESPITE a government drive to increase the country's production of fresh and processed fruits and vegetables beginning this year, carriers are not optimistic about the impact on their liftings. APL and Maersk Sealand, the two major carriers servicing the rich banana and pineapple plantations of Mindanao, agree that success will depend on the investment climate. The main concern is security, with kidnappings and ambushes from Moro bandits and a secessionist war that has already driven other investors.

The Department of Trade and Industry (DTI) has sought to raise by over 40 per cent the value of exports of fresh and processed fruits and vegetables to \$1.25 billion. It will give priority to the development of fields for bananas, mangoes, pineapples, asparagus and onions, and processed food items. Fruits and processed items such as preservatives, dried goods, juices and concen-

trates have been considered as export winners because of the country's strategic location, closer to major markets in Japan and China than rivals in Latin America.

While major growers like Dole and Del Monte have poured in considerable investments, carriers are hesitating before re-positioning vessels and containers. "It would still depend on the orders of the shipper," says a source from Maersk Sealand, which has two dedicated vessels calling at General Santos and Davao in Mindanao.

More than half of the lifting of the two weekly 844-TEU feeders is exported via Kaohsiung to the US, where imports of fresh and processed fruits are withering. A souring US economy has been souring fruit imports along the US Pacific Coast.

Like Maersk Sealand, APL has two dedicated feeders, the *Northern Happiness* and *New Confidence*, carrying the produce

of major exporter Del Monte and other independent fruit growers in the province. "We still don't expect much if any changes in our current capacity, since Mindanao is still on the watch list as a hot spot for growers and manufacturers," says an APL reefer executive.

However, he hopes that the recent stationing of US troops in Mindanao to help train soldiers to fight Moro bandits might shore up investors' confidence. There have been at least 20-30 growers in Mindanao supplying fruit for Del Monte.

In an attempt to boost the confidence of fruit and vegetable sector, which accounts for two-thirds of food exports, a new law is granting favourable duties on farm equipment and other aids to agricultural productivity. Fresh fruit and vegetable exports achieved earnings of more than \$800 million last year, with bananas remaining the country's top fruit export, valued at \$301 million in 2001, or 82 per cent of total fruit exports.

Question behind cabotage

By Atty. Jay Batongbacal

Cabotage is not an express rule or law; at best it can be characterized as a practice or principle. The right of a state to enact laws that preserve cabotage is recognized in international law. Presently, cabotage is in effect in the Philippines through the provisions of the Tariff and Customs Code, which essentially limit the right to engage in coastwise trade to vessels of Philippine registry.

This brief study contemplates the cabotage issue as it affects the export and the domestic shipping lines sectors, respectively. The study was conducted in accordance with the request of the domestic shipping lines for assistance in delineating, analyzing and presenting the cabotage issue as a matter of prime importance to the various sectors concerned in the whole maritime industry, including government.

Essentially, the issue revolves around the question of whether or not cabotage adversely affects the export sector's competitiveness in the world market. It is not a direct relationship, but the export sector sees cabotage as a constraint to their access to the services of foreign shipping lines. The foreign shipping lines, they insist, shall be restricted to transporting export and/or import cargoes only to and from any port in the country. On the other hand, the transshipment of such cargoes within the country by domestic shipping lines in accordance with the cabotage principle, the exporters feel, is costly and inefficient. Hence, their preference for foreign shipping to do the job instead.

For the domestic shipping lines, this development presages the replication in the Philippines of the Indonesian experience in the lifting of cabotage. It would mean an end to the domestic shipping industry. The Philippines being an archipelagic country, they feel that the maritime industry in general and the domestic shipping sector in particular are primordial concerns that the State cannot expediently relinquish. It is their wish, in fact, for the State to strengthen cabotage and the domestic shipping industry's capacity so as to enable it to contribute more effectively to the national growth and development, towards an even more outward-looking and competitive Philippines in the next millennium.

The clamor for changes in the application and practice of cabotage emanates from the Export Sector enunciated through the

Philippine Exporters Confederation. Essentially, exporters advocate the liberal interpretation of cabotage,¹ and from time to time proposals or calls to lift cabotage send waves of concern through the shipping sector. Citing the high costs of inefficient transshipment by domestic shipping lines of their export cargoes, the Exporters believe that their competitiveness on the global market is being undermined as higher transport costs translate into higher prices.

Specific proposals have revealed that the exporters wish for two things: (a) for an international trade vessel to be allowed to reposition empty containers of any foreign line, if said vessel regularly calls at Manila and proceeds to Philippine outports; and (b) for an international vessel to be allowed to transship cargo coming from or headed for a foreign port, to and from any Philippine port.² They contend that the law should be interpreted to allow the Bureau of Customs (BoC) to permit these practices, subject to such conditions or restrictions as it may deem appropriate. With such changes in their favor, they feel that Philippine exports will be more competitive, allowing for an improved balance of payments (BOP) position and helping to mitigate the current regional economic crisis.

After the issue of whether such an interpretation was legally tenable was referred to the Department of Justice, the latter opined that it was in violation of the law, which limited coastwise trade to only vessels of Philippine registry. This has not, in any way, blunted the reform efforts of the Export Sector; the Congressional Planning and Budget Office has included among its lists of proposed legislative measures under the heading "enhancing the efficiency of the economy," a bill specifically designed for "relaxation of cabotage law." Still another measure which may have an impact on cabotage is a proposed "tariff liberalization" bill.

Exports and Domestic Ships as Major Players

The concern of the export sector with cabotage, and the apparent importance being given to it to the extent that the domestic shipping industry is now faced with the prospect of losing its only exclusive market, is understandable in the light of the vital role of the export sector in the national economy. Philippine exports

constitute a major portion of the country's economic production. Figures from the *Banko Sentral ng Pilipinas* (BSP) indicate that in 1997, export goods accounted for \$25.228 billion in total earnings, or 50.3% of Gross National Product (GNP) that totaled \$50.157 billion (all in 1985 prices). However, although impressive, this is rather undermined by the fact that imports during the same year were registered at \$36.355 billion, resulting in a Balance of Payments (trade deficit) of US\$ 11.127 Billion.

In any case, both Exports and Imports have been growing through the years, posting large jumps since 1994. Imports have consistently outpaced exports, although government interventions have recently resulted in so-called 'Export Winners' that have been gaining ground on imports. Since 1992, the country's two top export markets have been the United States and Japan. The U.S. accounted for 34% share in 1996 while Japan carries 17% of total Philippine exports to the world. The next top trading partner is the European market, followed by other Asian countries. The overwhelming bulk of this trade is carried by maritime transportation, which is still the cheapest means of long-range transport.

The domestic shipping industry also plays a major role in the national economy, although it appears that this role is not well understood by other economic sectors. Trade cannot take place without transportation, and in the Philippines transportation of trade goods is largely undertaken by the domestic shipping industry. Statistics indicate that that total cargo throughput for 1997 reached 143,583,066 metric tons (MT), posting a 3.24% increase over the 1996 level of 139,069,735 MT. Of these figures, domestic cargo accounted for 52.4% or 75,239,603 MT, while foreign cargo comprised 47.6% of overall cargo traffic, increasing from 67,516,800 MT in 1996 to 68,343,463 MT or an incremental increase of 1.22%.

What these indicate is that (1) domestic and foreign trade are increasing, with the former growing a little more than the latter, (2) both are borne by the shipping industry, and (3) any movement in either domestic trade or foreign trade will affect all related stakeholders, specially the shipping Industry and the export Sector. Both the shipping industry and the export sector are major players in the Philippine economy,

REGULATIONS

and any improvement or deterioration in one's situation will have direct and indirect impacts on the other.

Cabotage and the Changing International Trade Environment

The pressure to change cabotage policy is not merely traceable to exporters' desire to reduce costs. It is also an offshoot of the globalization of economies, brought about by two major factors: economic forces and the onset of the Information Age. Geopolitical shifts have tended only to follow the dictates of these two influences, and indeed have only reinforced their effects.

Globalization and the GATT

In recognition of the global effects of these two factors particularly in the second half of this century, a worldwide coalition around international trade issues and economic concerns resulted in the global community adopting the General Agreement on Tariffs and Trade or GATT. The GATT actually refers to a treaty and international trade organization that began in 1948. Its member-countries worked to minimize tariffs, quotas, preferential trade agreements, and other perceived barriers to international trade. This long process culminated in the Uruguay Round (the eighth in a series of trade negotiations, conducted from 1986 to 1994) with a set of international prescriptions to be ratified by individual countries. The World Trade Organization (WTO) took over the GATT functions in 1995. The WTO is an international body with some 123 member-countries, established to administer trade laws and provide a forum for settling disputes among nations. The Philippines officially joined the WTO in 1995.

In the 1950s and 1960s, the import-substitution strategy in the country's industrialization drive failed to result in efficient local manufacturing capability and industries, instead giving rise to monopolies and cartels. In addition, the Philippines did not embark on aggressive export promotion, unlike its Asian neighbors, notably Japan, South Korea and Taiwan. Rallying in late 1960s, the Philippines briefly made its mark, but by then the dragon economies of Asia began to leave the Philippines further behind. The onset of the Marcos dictatorship further stifled economic development as the fruits of production were channeled to benefit only the very few. World recession in the early 1980s soon worsened the economic situation.

In terms of export performance, from 1966 to 1970 the Philippines ranked third in the world. At the start of the 1980s, however, the country slid to eighth rank and

has stayed there ever since. Compared with other Asian countries, the Philippines has lagged behind in export performance. It registered the lowest export sale in 1991 at \$8.8 billion, about one-tenth the export value of Hong Kong and one-third of that of Thailand and Indonesia over the same period.

Export-oriented Economic Strategy and Liberalization

In an effort to regain lost ground, the Philippines intends to make exporting as a major part of the centerpiece drive to gain a globally competitive economy, and therefore has set out to fully participate in international trade under an export-oriented strategy. This entailed liberalization of the country's economy, which was started in

stems from its realization that it is a pivotal sector in order to achieve the general objective of securing for the Philippines a beneficial position in the emerging international economic order.

The liberalization thrust engendered by the GATT and efforts to improve the Export Sector led the exporters to identify the shipping industry as an area needing reform, albeit using a limited perspective as will be subsequently shown in this paper. Specifically, the Export Development Council (EDC) institutionalized by Republic Act 7844 (Export Development Act of 1994) saw the need to bring down transport costs in order to improve the competitive prices of exports. And the solution that has been proposed is to allow foreign shipping lines to operate within the



Philippines intends to make exporting as a major part of the centerpiece drive to gain a globally competitive economy

1993 with the Social Pact for Empowered Economic Development (SPEED) of the Ramos administration. The SPEED's economic and structural reforms were aimed at enhancing international trade and competitiveness; local monopolies in various sectors were dismantled, including those in domestic shipping. The policy interventions in general were aimed at improving the pricing structures to benefit the general public, as well as to open up the various industries concerned to new players, expand or establish new service coverage areas, to level the playing field and encourage modernization. However, the liberalization of cabotage was not among the demands resulting from GATT itself, but as stated, from the influential Export Sector. The influence of the Export Sector in turn,

Philippines and compete with domestic shipping companies in the coastwise trade, thereby forcing domestic shipping to either lower its freight rates in order to compete with lower rates expected to be offered by foreign lines, or allowing exporters to directly avail of expected lower freight costs to be offered by foreign lines. It is under this framework that the liberalization of cabotage restrictions has become part of the overall export development strategy.

The Asian Currency Crisis

From the public pronouncements of BSP Governor Gabriel Singson, the Philippine economy was "doing reasonably well in the first half of 1997." Inflation was less than 5%, the fiscal position was in surplus, and trade deficit was progressively

League Forum updates

THE 21st Maritime Breakfast Forum (MBF) of the Maritime League was held on 15 March 2002 at the Multipurpose Hall of the Philippine Navy being the host agency of the forum. Vice Adm. Victorino Hingco, FOIC PN welcomed the participants of the forum. He mentioned in his remarks policies of the Navy to help solve the PN Modernization Program. He stated their support to the private sector especially the shipbuilding and ship repair industry. He also emphasized the support the Navy is giving to maritime schools wherein competent and highly qualified naval officers are being produced by these institutions. VAdm. Hingco expressed his pleasure in hosting the forum and committed to host again in the near future.

The following items were taken up during the event:

1) Philippine Navy presentation - on its mission, vision and objectives. 2) Maritime Telecommunications Facilities - Cdr. Luis Imperial of the Philippine Coast Guard briefed the participants of the functions of the PCG Communications Network, its mode of operation as well as

narrowing as exports continued to grow strongly and imports substantially slowed down. The peso was steady, with official international reserves in excess of \$11 billion, and external debt service was just 11% of exports of goods and services.

The effects of the regional currency turmoil were nothing short of massive. The Indonesian rupiah dropped by 252% compared to year-before levels, the Thai baht also dropped by 107.4%, and the South Korean won by 107.1%, the most affected currencies. In comparison, the Malaysian ringgit depreciated by 88.5%, the Singapore dollar by 27.9% and Taiwan dollar 26.3%, respectively. Singson describes the beginning of the financial crunch in the Philippines as a massive investor pullout starting on July 11, 1997, which eventually led to the depreciation of the Philippine peso by about 72.7%.

In the Philippines, the local borrowers in foreign currency rushed to pre-pay or hedge their rapidly increasing exposures. This, according to Singson, was the major element that sharply accelerated the depreciation of the peso in the last weeks of December 1997 and beginning of 1998. Singson further acknowledged that the Philippines was a "contagion victim of a

background of the GMDSS inception in the Philippines. He cited the following benefits of the project: prompt and reliable communication to request assistance with SAR authorities, expedient search and rescue activities, automatic transmission and dissemination of maritime safety information to help in preventing accidents. Most of all, the project will help save lives exposed to danger at sea, reduce probability of oil spills, reduce the cost of combating against oil pollution, and reduce the economic impact on fisheries and tourism industry.

3) GMDSS Seminar for Marine Officers - The seminar was held on 22 February 2002. According to Mr. Leo Santiago, the seminar had been designed to orient and refresh participants on the following: basic concepts and functions of GMDSS, operational procedures, distress, urgency and safety communications, terrestrial communication system through digital selective calling and satellite communication system-Inmarsat A,B,C and M terminals among others. Also, the book-manual *GMDSS Shipboard Companion* was also launched during the seminar. Seafarers are encouraged to have copies of this book, which will be very useful for them when they are on board.

sharp shift in market sentiment... in a globalized economy."

The Export Sector is normally among the few that are able to take advantage of the peso's depreciation. With a higher peso-dollar exchange rate or lower peso value, resulting prices of goods manufactured in the Philippines automatically become lower in other countries. With the perception that things were going to get even worse, however, the exporters have focused their energies on maximizing their competitiveness. The brunt of their advocacy thus falls on reducing their overhead costs, particularly on the transshipment of export goods on domestic shipping lines.

The domestic shipping industry, on the other hand, suffers greatly from the devaluation of the peso on account of many companies' exposure to debts in foreign currencies. After the deregulation of domestic shipping in 1994,¹ many shipping ventures financed the purchase or lease of newer ships by means of dollar loans, which at the time were financially more attractive because of interest rates that were relatively lower than those for peso loans. Now these loans have suddenly become inordinately burdensome

4) Workshop on Updating Nautical Charts - This MBF project will be a useful aid in navigation especially for the chart users. The secretariat hopes to get feedback from PN, PCG, PISA and other concerned agencies so as to come up with updated nautical charts. 5) Update on the Regional Piracy Meeting - Amb. Alberto Encomienda reported that the 1st ASEAN-EU Experts Group Meeting on Maritime Security took place earlier. He is glad to note that the Maritime League is continuing to monitor update on Anti-Piracy, which now covers robbery, transnational crimes among others. The recently held piracy meeting was an offshoot of a decision of ASEAN-EU ministers in Laos on November 2000. It was a group of experts meeting on addressing topic on anti-piracy. As of now, there have been a proliferation of anti-piracy meetings. He mentioned that the ASEAN-EU itself should take the lead in combating piracy. Accordingly, bilateral arrangement between ASEAN countries will continue but in a regional setting. The ASEAN-EU is composed only of 10 countries so it hopes to create regional agreement for 17 countries. There is no mutual agreement yet as to format. The Philippines is taking a very active role on anti-piracy campaign considering the fact that piracy is endemic in the country, said Amb. Encomienda.

on the companies despite the lower interest rates, as they have to be paid in dollars, and whatever amounts they thought they may have saved initially have now been effectively wiped out by devaluation. Therefore, many domestic shipping companies face a very real prospect of closure on account of failure to repay their foreign currency loans.² Even the largest and well-established operators are not spared.³

Points of Inquiry

Given the foregoing background on the importance of the two apparently opposing sectors on the issue of cabotage and their roles in the present economic situation of the Philippines, the questions that need to be asked, and which this paper hopes to enlighten the reader on, are as follows:

1. Will liberalization or abolition of cabotage result in enhanced competitiveness of Philippine exports?
2. What are the other impacts of the proposal to liberalize or abolish cabotage, outside of the Export Sector?
3. Are the potential benefits of liberalization or abolition of cabotage really worth the potential costs?

To be continued



A NEW MOMENTUM FOR ECONOMIC INTEGRATION

The impetus for economic integration in East Asia is building up, encouraged by the region's steady recovery from the financial crisis of mid-1997. Asean-plus-China would easily become the world's largest free-trade area — a potential market of some 1.7 billion people, a combined GNP of some \$1.7 trillion, and external trade valued at some \$1.3 trillion. Almost unnoticed because of the drama of the Asean-China accord was the inaugural — on new year's day of 2002 — of the first phase of the Asean Free Trade Area (Afta).

For the Southeast Asian states, "Asean-plus-one" is a good stepping-stone on the way to "asean-plus-three".

Asean-plus-one mitigates china's competitive impact on Southeast Asia's already frail labor-intensive economies — a challenge bound to intensify with china's accession to the WTO. No country has expanded its foreign trade as fast as China has done over these last 20 years. Already it is the seventh-largest trading economy. In 1999, its exports to the united states rose to over 24% of all east asia's exports, up from 22% in 1997. Meanwhile, Asean's own share fell to 20% from 23%.

Outside of Indonesia, China's labor costs are the lowest in East Asia. Already it has become the pre-eminent producer of labor-intensive manufacturing goods in the world. The only long-term salvation for its developing competitors is for them to move up the high-technology ladder — ahead of china's lower-cost manufacturing.

Given the downturn in Asean's traditional markets, China is also emerging as an engine of growth for Southeast Asia. Trade between China and the six older Asean member-states has multiplied from less than \$9 billion in 1993 to more than \$32 billion in mid-2001. And china's accession to the WTO should make it a huge and, in many cases, new export market for Asean.

Asean-plus-one also offers the possibility of increased investment from china's new multinationals. already china's biggest corporations are beginning to locate their plants in southeast asia as export bases, taking advantage of Afta preferences. Given Asean's

Essential transformations in Asia

strong linkages to the global overseas Chinese networks, we may expect Southeast Asia to be a prime destination of China's growing foreign investments.

JAPAN'S PROPOSAL FOR A PACIFIC ECONOMIC BLOC

Can Japan afford to stay out of an Asean-China free trade area? Or, to put it alternatively, can Asean and China afford to keep Japan out?

The November 2001 agreement forged in Brunei between Asean and China to negotiate a free trade agreement may have sent a shock wave through Japan, with many observers thinking that Tokyo would block this renewed initiative by premier Zhu Rongji. But the Koizumi government professed to welcome closer relations between Asean and China; soon afterward it posed its own free trade arrangements with the Southeast Asian states. Even if Japan's economy has been stagnant for a decade, Japan's economy still dwarfs all of east Asia's. Its economy of \$4.7 trillion is eight times larger than all the Asean economies combined; it is almost five times larger than china's economy.

Even after a decade of slowdown, Japanese firms still invested \$2 billion in Asean economies in 2000.

Japan is also still southeast Asia's most important trading partner and official development assistance (ODA) benefactor. In the face of a stronger and more assertive China, Japan will continue to be a key player in the Asia-Pacific balance of power.

Given the global scale of its own economy, japan's approach to regionalism cannot be anything else but broader and more open, to include developing synergetic interdependence with the Americas and the European Union.

Visiting key Asean states early in the new year, prime minister junichiro koizumi was able to react to the asean-plus-one agreement between China and the Southeast Asian states. Speaking in Singapore — his last stop — Koizumi took care to stress the merits of using global agreements, rather than regional blocks, to lower trade barriers. After signing an essentially free-trade agreement with Singapore, Koizumi sketched his vision of a wider trading system he calls the "pacific economic bloc."

This Koizumi defines as a broad partnership based on democracy and economic openness that would immediately bring in Australia and New Zealand and South Korea — and the United States and Canada sometime later.

That an east asian power balance without the united states being part of the equation will not work is a principle of Japan's strategic view of the region. The alliance with the foremost maritime power is, therefore, vital for Japan — whose first priority must be to preserve it.

Tokyo has also launched what it calls an "initiative for development in East Asia (i.d.e.a.), which would focus on reducing regional disparities and stimulating regional cooperation — not only within an asean-plus-three grouping, but also with its "development partners" — Australia, New Zealand, the United States and Canada.

ALTERNATIVE TO REGIONALISM

Of course, it will take sometime for region-wide institutions to move beyond pious political statements of intent. The spirit of competition still seems stronger than the impulse to cooperate.

But we can be sure the impetus toward regionalism will continue. All the East Asian capitals are acutely aware that the alternative to regional unity is to become marginalized in global competition.

The smaller economies of East Asia, particularly, must seek not only global niches which will enable them to focus on their core competencies. They must also create scale for themselves by forming regional blocs.

Throughout the world, regionalism continues. Already, the North American free trade area (Nafta) is preparing to encompass south America in a grand "free trade area of the Americas."

In western Europe, as much as 80% of total trade is now carried on within the Euro zone of 12 countries, and the EU is also adding an armed force to its political attributes — a step being made urgent by increasing signs of Republican Washington's trend toward military unilateralism.

Even while it is completing the first phase of Afta, by lowering tariffs on almost all trade items to no more than 5%, Asean is speeding up its effort to reach out to the northeast Asian powers — realizing that the alternative to regional integration is to be left out in the cold — as Europe and North America consolidate powerful trading and negotiating blocs.

Excerpts from a Speech delivered by the author during the "Fifth Annual Presidents Forum" in Asia in Jakarta, Indonesia 1715H 5 March 2002

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A photograph of a large, complex marine engine, likely a Caterpillar model, shown from a side-on perspective. The engine is white and black, with various components like the cooling fan and exhaust manifold visible. It is set against a dark, circular background that looks like a tunnel or a large pipe.

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