



HOUSE OF REPRESENTATIVES

H. No. 10575

BY REPRESENTATIVES HERRERA-DY, ONG (R.), SARMIENTO, GARIN (S.), ROBES, PANCHO, TIANGCO, PADIERNOS, PEÑA, GONZALEZ, ZARATE, ESCUDERO, DIMAPORO (A.), BARBA, MARQUEZ, DELOSO-MONTALLA, KHO (E.), CASTRO (F.L.), ALVAREZ (F.), BORDADO, SANCHEZ, CHIPECO, ONG (J.), DEFENSOR (L.), CUARESMA, LUSOTAN, PANOTES, NOLASCO, FARINAS (R.C.), VERGARA, DAGOOC, DALIPE AND VILLARICA, PER COMMITTEE REPORT NO. 1366

AN ACT

ENHANCING THE COMPETITIVENESS OF PHILIPPINE MARITIME TRADE BY STRENGTHENING THE OVERSIGHT FUNCTIONS OF RELEVANT GOVERNMENT AGENCIES OVER THE IMPOSITION OF SHIPPING CHARGES BY INTERNATIONAL SHIPPING LINES AND INSTITUTIONALIZING MECHANISMS FOR THE EFFICIENT MOVEMENT OF GOODS

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

1 **SECTION 1. Short Title.** – This Act shall be known as the “*International*
2 *Maritime Trade Competitiveness Act.*”

3

4 **SEC. 2. Declaration of Policy and Objectives.** – It is hereby declared the policy
5 of the State to promote industrialization through industries which are competitive in
6 both domestic and foreign markets. In pursuit of this policy, the State hereby recognizes
7 that providing access to an efficient and reliable transport and logistics services is a key
8 strategy towards enhancing the competitiveness of Philippine products

9

10 The State further recognizes the need to ensure a sound regulatory environment
11 that would promote competition among transport and logistics providers to improve
12 service quality and reduce cost. It is, likewise, cognizant of the need to maintain a
13 balance between transportation regulation and investment promotion and to ensure that
14 transport and logistics providers can obtain a reasonable return on their business
15 operations

1 The State also recognizes the sanctity of commercial contracts which lay down
2 the obligations and risks assumed by the parties to facilitate fair, harmonious and
3 convenient trade negotiations and movement of goods.

4
5 Towards this end, the following objectives shall be pursued:

- 6
7 a) Protect Filipinos against deceptive, unfair, and unconscionable acts and
8 practices;
9 b) Promote transparency in the transactions of international logistics service
10 providers, including international shipping lines;
11 c) Ensure proper government oversight over the imposition of domestic charges
12 by international shipping lines and related business practices;
13 d) Empower government institutions in their roles of promoting an efficient,
14 competitive, and reliable logistics services; and
15 e) Formulate policies and develop programs that would redound to the
16 development of the transport and logistics sector in support of domestic and
17 international trade.

18
19 **SEC. 3. Definition of Terms.** – As used in this Act:

- 20
21 a) *Anchorage* refers to a place with sufficient depth of water where vessels
22 berth within the harbor;
23 b) *Bill of Lading* refers to a document issued by a carrier that lists goods being
24 shipped and specifies the terms of their transport;
25 c) *Cargo throughput* refers to the total volume of cargo discharged and loaded
26 at the port. It includes breakbulk, liquid bulk, dry bulk, containerized cargo, transit
27 cargo, and transshipment;
28 d) *Consignee* refers to the party appearing in the transport document to whom
29 delivery may be lawfully made in accordance with the contract of carriage;
30 e) *Container deposit* refers to the amount posted with shipping lines, freight
31 forwarders, customs brokers and logistics operators or their collection agent upon the
32 pick up or withdrawal of the container from the port of container yard;
33 f) *Container yard* refers to a designated area where containers and chassis are
34 received, stacked, and dispatched;
35 g) *Containerized cargo* refers to a cargo packed in vans or containers for easy
36 handling and transporting of the same as a unit;
37 h) *Customs broker* refers to any person who is a bona fide holder of a valid
38 Certificate of Registration or Professional Identification Card issued by the Professional
39 Regulatory Board and Professional Regulation Commission pursuant to Republic Act
40 No. 9280, otherwise known as the “Customs Brokers Act of 2004, as amended;”
41 i) *Delivery order* refers to a document issued by the shipping line releasing
42 the cargo to the consignee mentioned in the Bill of Lading upon payment of all handling
43 charges;
44 j) *Demurrage fee* refers to the amount charged by the shipping lines, freight
45 forwarders, customs brokers, and logistics operators if full and loaded containers are
46 not collected by the customers and remain inside the port, terminal, or container yard
47 after the lapse of the allowable free time;
48 k) *Detention charges* refer to the amount charged by the shipping lines, freight
49 forwarders, customs brokers, and logistics operators per day once customers have
50 collected the empty containers from outside the port, but do not return the empty
51 containers to the depots after the specified free time,

1 l) *Dwell time* refers to the number of hours spent by a vessel from waiting
2 time to berthing, and until the time of completion of the un-berthing process on final
3 departure;

4 m) *Freight forwarder* refers to an entity that acts as a cargo intermediary and
5 facilitates transport of goods on behalf of its client without assuming the role of a
6 carrier, or assuming such role in the case of non-vessel owning common carrier
7 (NVOCC), which can also perform other forwarding services, such as booking cargo
8 space, negotiating rates, preparing documents, advancing freight payments, providing
9 packing or crating, trucking and warehousing, engaging as an agent or representative
10 of a foreign non-vessel operating as a common carrier or cargo consolidator named in
11 a master bill of lading (BL) as consignee of a consolidated shipment, and other related
12 undertakings;

13 n) *Inland container depot* refers to an intermodal transport terminal, situated
14 outside the ports and equipped for handling and temporary storage of cargo, which is
15 authorized by the Bureau of Customs (BOC) to handle the processing, examination, and
16 clearance of arriving laden containers;

17 o) *International commercial terms* refer to a set of internationally-recognized
18 rules which define the responsibilities of sellers and buyers. These specify who is
19 responsible for paying for and managing the shipment, insurance, documentation,
20 customs clearance, and other logistical activities,

21 p) *International shipping line or carrier* refers to person or entity who, in a
22 contract of carriage, undertakes to perform or to procure the performance of carriage of
23 goods by sea, or inland waterway or by a combination of such modes by issuing its own
24 BL and assuming responsibilities for the shipments that call at the international ports of
25 the Philippines;

26 q) *Last Mile logistics* refers to the final step of the delivery process from a
27 distribution center or facility to the end-user;

28 r) *Logistics service providers* refers to third-party logistics providers who are
29 outsourced to manage a company's warehousing, distribution and transportation of
30 freight;

31 s) *Non-containerized cargo* refers to goods shipped in pieces separately
32 without the use of a container that include goods that are shipped in crates, bags, boxes,
33 drums, and barrels and which come in extremely large sizes or dimensions;

34 t) *Non-vessel operating common carrier* refers to an entity that provides a
35 point-to-point service, without owning a vessel, and which may include several modes
36 of transport of full container load (FCL) shipments or undertakes groupage of less than
37 container load (LCL) shipments issues its own BL, and assumes responsibilities for the
38 shipments;

39 u) *Port congestion* refers to a situation at the port, as determined by the
40 Philippine Ports Authority (PPA) based on the guidelines and parameters set by the
41 MARINA Board (Board), that effectively stalls the movement of cargoes leading to
42 adverse economic consequences;

43 v) *Service contract* refers to a contract between a shipper and a carrier or
44 conference which contains the terms and conditions respecting the transport of goods
45 from a foreign port to a Philippine port or vice-versa;

46 w) *Shipper* refers to the person or company named in the shipping documents
47 as the party responsible for initiating the shipment and entering into a transport contract
48 with the carrier;

49 x) *Port or terminal operator* refers to an entity that owns or leases ports or
50 terminals and is involved in managing the movement of cargo containers between cargo
51 ships, trucks and freight trains, and in optimizing the flow of goods through customs to

1 minimize the amount of time a ship spends in port. A port or terminal operator may be
2 a public or private entity.

3
4 **SEC. 4. Coverage.** – This Act shall apply to all aspects affecting the imposition
5 of shipping charges by international carriers arriving at or originating from Philippine
6 ports.

7
8 **SEC. 5. Transparency of Freight and Other Charges.** – Upon the effectivity of
9 this Act, all port or terminal operators, international carriers, NVOCCs and forwarders
10 shall inform the Maritime Industry Authority (MARINA) of their regular shipping
11 charges and fees and publish the same in a newspaper of general circulation. *Provided,*
12 That the publication requirement is deemed complied with by the establishment and
13 management of a real-time online website accessible to the public. No charges or fees
14 shall be imposed beyond the published rates.

15
16 No new or initial rate or change in an existing rate that results in an increased cost
17 to the shipper may become effective earlier than thirty (30) days after the submission
18 to the MARINA of such new shipping rates, except when allowed by MARINA for
19 reasonable or good cause: *Provided,* That a change in an existing rate resulting in a
20 decreased cost to the shipper may become effective upon publication and filing.

21
22 **SEC. 6. Imposition of Local Shipping Charges by International Carriers.** – No
23 local charges or surcharges, except for internationally-accepted surcharges, fees for
24 value-added services, and behavioral charges such as late payment fee, container
25 insurance, shall be charged by international shipping lines or their agents, freight
26 forwarders and NVOCCs to Philippine consignees and shippers. The imposition and
27 parameters of such imposition must be clearly defined in the contract of carriage and
28 subscribed by the shipper or consignee.

29
30 **SEC. 7. Agreements.** – Within ninety (90) days after the effectivity of this Act,
31 certified copies of all existing agreements between and among international carriers
32 operating in Philippine ports and agreements among Philippine port or terminal
33 operators as well as among one or more Philippine port or terminal operators and one
34 or more international carriers operating in Philippine ports that affect Philippine
35 maritime trade, shall be submitted to the MARINA.

36
37 Any agreement or any amendment thereto shall become effective thirty (30) days
38 after such submission: *Provided,* That, during the effectivity of such agreement, if the
39 MARINA determines that the same is likely to produce an unreasonable reduction in
40 transportation services or an unreasonable increase in transportation cost, it may refer
41 the same to the Philippine Competition Commission (PCC) for appropriate action.

42
43 **SEC. 8. Detention Charges and Demurrage Fees.** – No detention charges in the
44 return of empty containers shall be imposed by shipping lines when the delay is caused
45 by them. For this purpose, international shipping lines must ensure that the delivery
46 order always indicates the container depot where the empty container owned by the
47 shipping lines must be returned.

48
49 Any demurrage fee or detention charge shall not constitute a direct or indirect
50 lien on container deposits or on other cargoes or shipments covered by a separate
51 transaction of the same shipper or consignee.

1 **SEC. 9. Container Deposits.** – The MARINA may allow the imposition of
2 container deposits only if:

3 a) the forwarders or agents of international shipping lines implement an
4 expeditious procedure in refunding the same within a non-extendible period of fifteen
5 (15) days from the return of the container;

6 b) there are clear and fair standards for deductions made known by such
7 forwarders or agents to the other party prior to engagement; and

8 c) there is actual proof that a container deposit has been paid before any
9 deduction is made.

10
11 **SEC. 10. Role of Government Agencies.** – To effectively implement and carry out
12 the objectives of this Act the following agencies shall exercise and enforce the
13 following functions in addition to their existing mandates:

14
15 a) Department of Transportation – The DOTr shall facilitate the expansion of
16 port system capacity of port authorities and the expansion of the Philippine freight
17 transport system to facilitate the movement of containers to and from the ports.

18
19 b) Maritime Industry Authority – The MARINA shall ensure competitive and
20 efficient international maritime transportation services for the shipping public by:

21
22 1. Reviewing and monitoring agreements among international shipping
23 lines and port operators serving Philippine ports to ensure that they do not cause
24 substantial increases in transportation costs or reduction in transportation services. In
25 applicable cases, the MARINA may endorse any agreement that it finds anti-
26 competitive to the Philippine Competition Commission for appropriate action;

27 2. Investigating, hearing and adjudicating complaints regarding the
28 imposition of rates and charges, and practices of international shipping lines, NVOCCs,
29 and other logistics service providers that impede efficient commerce;

30 3. Imposing fines and charges in the exercise of its adjudicatory functions;

31 4. Ensuring that the international shipping lines' tariff rates and charges
32 are published, and automated tariff systems are electronically available;

33 5. Accrediting sea freight forwarders such as NVOCC, international
34 freight forwarders and other similar maritime enterprises; and

35 6. Exercising supervision over sea freight forwarders, domestic freight
36 forwarders, and other similar maritime enterprises including the ship agents and their
37 representatives, branches, offices or subsidiaries of international shipping lines to
38 ensure the reasonableness of their rate-setting mechanism for local fees and charges,
39 and compliance with existing laws, rules and regulations relating to standards of safety,
40 quality and efficiency of operation.

41
42 c) Department of Trade and Industry – The DTI shall:

43
44 1. In coordination with the DOTr, the National Economic and
45 Development Authority (NEDA), the DPWH, the MARINA, and the PPA, develop a
46 long-term National Logistics Strategy that will establish an integrated transport and
47 logistics sector that shall facilitate the efficient and timely movement of goods. The
48 National Logistics Strategy shall include the identification of international gateway and
49 secondary airports and seaports, development of new Roll On – Roll Off (RORO) ports
50 and facilities, rail development, warehousing improvement, and connectivity
51 enhancement.

52 2. Ensure efficiency and competitiveness of the logistics services sector;

1 3. Coordinate with other agencies to ensure the efficient movement of
2 goods and empty containers and lower logistics cost;

3 4. Encourage investment in the logistics services sector particularly in
4 trucking service, freight forwarders, container yards and depot, dry and cold
5 warehouses, and last mile logistics; and

6 5. Monitor matters relating to transparency of local charges to implement
7 to the full extent existing consumer trade laws to curb unconscionable business
8 practices, excessive and unnecessary fees, charges and surcharges imposed as local
9 charges by international shipping lines, their agents or forwarders.

10
11 d) Philippine Ports Authority and other port authorities – The PPA and other
12 port authorities shall:

13
14 1. In case of urgent need, ensure as far as practicable that international
15 shipping lines are given ample berthing space to facilitate the safe loading and
16 unloading of empty containers in coordination with the port or terminal operator;

17 2. Hasten the provision of the necessary infrastructure facilities by
18 expanding the capacity of government-owned ports with existing contracts for handling
19 of foreign vessels and foreign cargoes and facilitate the building of additional ports by
20 the private sector;

21 3. Oversee the strict enforcement of the regulations on overstaying foreign
22 containers, whether laden or empty. For this purpose, the PPA and other port authorities
23 shall review the effectiveness of current storage charges imposed on overstaying
24 containers to improve port efficiency and prevent congestion;

25 4. Determine the existence of port congestion. Towards this end, the PPA
26 shall, within ninety (90) days from the effectivity of this Act, formulate and issue a Port
27 Congestion Contingency Plan, in consultation with the Board. The Port Congestion
28 Contingency Plan shall be implemented by the relevant agencies upon the declaration
29 of an imminent port congestion;

30 5. Promulgate rules and regulations to maximize the use and further
31 development of the Ports of Batangas, Subic and other ports and terminals deemed
32 appropriate as alternates to the Port of Manila (POM) and the Manila International
33 Container Port (MICP). Further, the PPA and Subic Bay Metropolitan Authority
34 (SBMA) shall facilitate the expansion of the Ports of Batangas and Subic to
35 accommodate shipments originally bound for POM and MICP and the development of
36 other inland container depots (ICDs);

37 6. Require all international port operators to maintain an online portal
38 accessible to the DTI, BOC, DOTr, MARINA, PPA, and other port authorities that will
39 provide information regarding daily summary of cargo throughput (volume and value),
40 port dwell time of ships, dwell time of cargoes (containerized and non-containerized),
41 average vessel waiting time at anchorage, and container yard utilization to facilitate the
42 monitoring of port utilization; and

43 7. Implement the Port Development Master Plan to support economic
44 growth.

45
46 e) Bureau of Customs – The BOC shall:

47
48 1. Expedite the accreditation and activation of ICDs;

49 2. Establish and manage a centralized database to facilitate a real-time
50 inventory and monitor the movement of containers;

51 3. Promulgate rules and regulations for the container yard utilization of
52 ICDs,

1 4. Together with MARINA, establish a one-stop shop or satellite office
2 inside the customs premises, housing all representatives of international shipping lines,
3 their forwarders and agents, for easier coordination in the implementation of this Act;

4 5. In coordination with the PPA, Cebu Ports Authority, SBMA,
5 PHIVIDECA Industrial Authority, Cagayan Economic Zone Authority, Regional Ports
6 Management Authority, Bases Conversion Development Authority, Authority of the
7 Freeport Bataan and other port authorities, promulgate, review and revise the
8 guidelines, regulations and standards on such matters as:

9
10 i. Ensuring the availability of inland container depot space for their
11 empty containers;

12 ii. Coordination with operators of designated container yards and
13 inland container depots with sufficient capacity to accommodate the volume of
14 containers per shipment;

15 iii. Disposition of seized and abandoned cargoes to facilitate the
16 decongestion of port terminals;

17 iv. Ensuring the swift processing of laden containers and loading of
18 empty containers from the port to avoid congestion.

19
20 f) Philippine Competition Commission – The PCC shall:

21
22 1. *Motu proprio* or upon a verified complaint of any interested party,
23 investigate cases involving violations of competition laws and regulations in relation to
24 maritime trade;

25 2. Review and take necessary actions on findings of anti-competitive
26 behavior that are endorsed to the Commission by the MARINA; and

27 3. Coordinate with MARINA and DTI in the implementation of
28 competition policies in the maritime sector.

29
30 **SEC. 11. Additional Members of the MARINA Board.** – To effectively implement
31 the objectives of this Act, the following shall be made members of the Board in addition
32 to its existing membership:

33
34 a) Secretary of Foreign Affairs,

35 b) Secretary of Agriculture;

36 c) Secretary of Public Works and Highways;

37 d) Secretary of NEDA,

38 e) Commissioner of Customs;

39 f) Chairperson of the PCC;

40 g) Chairperson of the Land Transportation Franchising and Regulatory Board;

41 and

42 h) One representative from each of the following private sector groups who shall
43 be appointed as non-voting members:

44
45 1. Association of domestic shipping lines;

46 2. Association of international shipping lines;

47 3. Association of exporters;

48 4. Association of importers;

49 5. Largest national association of business entities;

50 6. Association of supply chain and logistics companies;

51 7. Association of freight forwarders;

52 8. Association of ship agents;

- 1 9. Association of container depot operators; and
- 2 10. Association of trucking operators

3
4 The private sector representatives for each of the private sector groups shall be
5 appointed by the President of the Philippines from the nominees submitted by the
6 aforementioned entities or associations for a term of three (3) years, and may be
7 reappointed only once.

8
9 Upon the expiration of their terms, the private sector members of the Board shall
10 serve in a hold-over capacity until their successors shall have been qualified and
11 appointed. Any vacancy in the Board pertaining to the representatives of the private
12 sector shall be replaced by a person belonging to the same group represented by the
13 member who left the position vacant. The successor, who shall act in a permanent
14 capacity, shall only serve for the unexpired portion of the term vacated unless
15 reappointed.

16
17 **SEC. 12. *Additional Powers and Functions of the Board.*** – In addition to its
18 existing powers and functions, the Board shall:

- 19 a) Advise the MARINA on policies relating to the competitiveness, reliability,
20 integrity, and fairness of the maritime freight delivery system;
- 21 b) Provide MARINA with information, insight, and expertise pertaining to
22 conditions in the maritime freight delivery system;
- 23 c) Make recommendations to enhance the existing policies relating to maritime
24 freight delivery system or to adopt additional policies;
- 25 d) Provide MARINA with the guidelines necessary in the determination of the
26 basis and reasonableness of local charges being imposed by international shipping lines;
27 and
- 28 e) Encourage relevant government agencies and affected local government
29 units to take appropriate actions on matters and issues affecting Philippine trade and
30 transport logistics

31
32
33 **SEC. 13. *National Logistics Efficiency Policy.*** – The Board shall formulate a
34 National Logistics Efficiency Policy (NLEP) to ensure the efficiency of customs and
35 border management, quality of trade and transport infrastructure, competence of
36 logistics services, their ability to track and trace consignments, and the competitiveness
37 of shipping prices. The NLEP shall serve as a guide in the formulation and issuance of
38 the rules, regulations, and programs of the implementing agencies specified in this Act.

39
40 The policy shall institutionalize the use of information technology to enhance
41 connectivity among relevant government agencies to facilitate efficient business
42 transaction consistent with the objectives of Republic Act No. 11032 or the Ease of
43 Doing Business and Efficient Government Service Delivery Act.

44
45 **SEC. 14. *Prohibited Acts.*** – It shall be unlawful for any international carrier or
46 its agent, port or terminal operator, NVOCC, or logistics service provider to perform
47 the following acts:

- 48 a) Operate under an agreement that has been suspended by virtue an order of a
49 proper authority, or a temporary restraining order or rendered ineffective by injunction
50 issued by the court;
- 51 b) Charge, demand, collect, or receive greater, less, or different compensation
52 for the transportation of property or for any service in connection therewith than the

1 rates and charges provided in the service contract or those published and filed with the
2 MARINA;

3 c) Engage in any anti-competitive practice prohibited under Republic Act No.
4 10667 or the Philippine Competition Act.

5
6 **SEC. 15. Penalties.** – The violation of the provisions of this Act or its guidelines
7 shall be sanctioned by the penalties as may be determined by the MARINA such as
8 fines, cancellation of the accreditation, or the blacklisting of any forwarder, agent or
9 international shipping line, or both.

10
11 In fixing the amount of fines, the MARINA shall take into consideration the
12 gravity of the violation, based on a criteria to be prescribed in the rules and regulations
13 to be issued to implement this Act.

14
15 The imposition of penalties and other sanctions under this Act shall not preclude
16 any aggrieved party or government agency from filing a criminal, civil or administrative
17 case for violation of existing laws, rules and regulations by reason of the same act or
18 omission.

19
20 **SEC. 16. Education Campaign.** – The MARINA and the DTI shall, in
21 coordination with private stakeholders, develop a program to educate all Philippine
22 shippers and consignees on how to negotiate using the INCOTERMS, the freight, and
23 other shipping charges imposed by forwarders and agents of international shipping
24 lines, the best practices to manage or control the supply chain and updates in the
25 implementation of this Act

26
27 **SEC. 17. Submission of Annual Report.** – The Board shall, not later than the first
28 quarter of the succeeding year, submit to the President of the Philippines and both
29 Houses of Congress an annual report containing the summary of all transactions
30 pertaining to international shipping operations as well as the issues and concerns of the
31 industry and recommend, if necessary, measures that require legislative action.

32
33 **SEC. 18. Implementing Rules and Regulations.** – The Board shall, within sixty
34 (60) working days from the effectivity of this Act, issue such rules and regulations as
35 may be necessary to implement the provisions of this Act.

36
37 **SEC. 19. Suppletory Application of Related Laws.** – The applicable provisions of
38 Presidential Decree No. 474, Executive Order Nos. 125 and 125-A, s. 1987, Republic
39 Act No. 7394 or the Consumer Act of the Philippines, Republic Act No. 10863 or the
40 Customs Modernization and Tariff Act, Republic Act No. 10667 or the Philippine
41 Competition Act and all other related laws, rules and regulations, insofar as they are not
42 inconsistent, shall supplement in the implementation of the provisions of this Act

43
44 **SEC. 20. Separability Clause.** – If any provision of this Act is declared invalid
45 or unconstitutional, such parts not affected by such declaration shall remain in full force
46 and effect.

47
48 **SEC. 21. Repealing Clause.** – All laws, orders, rules and regulations and other
49 issuances, or parts thereof, which are inconsistent with this Act are hereby repealed,
50 amended or modified accordingly.

1 **SEC. 22. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
2 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,