

## ENSURING COMPETITIVENESS OF THE PHILIPPINE SEAFARING INDUSTRY

President Benigno Aquino III signed into law Republic Act 10635 designating the Maritime Industry Authority (MARINA) as the sole agency responsible for the implementation and enforcement of the 1978 International Convention on the Standards of Training, Certification, and Watchkeeping for Seafarers (STCW Convention) and its subsequent amendments, as well as other related international agreements. For the purpose of achieving the law's goals of aligning Philippine seafaring standards to international benchmarks, a dedicated desk on SCTW Services, staffed by specialist personnel, will be established within MARINA.

MARINA will also be responsible for the issuance, validation, verification, correction, revocation, or cancellation of certificates of competency, endorsement, and proficiency, among others, which is required of all seafarers. Previously, the above functions were lodged across different government agencies, such as the Professional Regulatory Commission (PRC), Commission on Higher Education (CHED), Technical Education and Skills Development Authority, Department of Health, and the National Telecommunications Commission.

MARINA is also mandated to ensure that maritime education, including curricula and training programs, are aligned with the standards prescribed under the STCW Convention. As such, it shall review and harmonize the procedures for periodic evaluation, assessment and monitoring of all maritime education and training institutions. MARINA may also make recommendations to CHED on possible closure or phase-out of substandard institutions and programs.

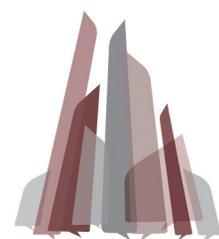
Ultimately, RA 10635 seeks to cement the Philippines' position in the global seafaring industry, which presently accounts for 25% of total crew requirements in international merchant marine vessels. On top of its massive contribution to global seafaring, the importance of the seafaring industry to the domestic economy cannot be underscored. Filipino seafarers, for instance, annually contribute over \$3 billion in foreign exchange earnings<sup>1</sup>, which in 2012 alone amounted to \$4.8 billion.<sup>2</sup> Furthermore, as of December 2011, there are an estimated 369,204 sea-based Filipino workers or over 3.5% of the 10,455,788 overseas Filipinos.<sup>3</sup>

The respective bills (SB 2043 and HB 3766) were approved on third reading by both Houses on February 10. The House of Representatives' adoption of the Senate's version greatly

<sup>1</sup>EO 75 s. 2012

<sup>2</sup>Mejia, M. (2013 June 7). *Message from MARINA Administrator during the Graduation Ceremony for Maritime Academy of Asia and the Pacific, Mariveles, Bataan.*

<sup>3</sup>Commission on Filipinos Overseas. (2012). *Compendium of Statistics on International Migration.*



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expedited the process as there was no more need for the law to undergo the bicameral committee process. It was eventually approved by the President last March 13.

Prior to the enactment of the law, the President issued Executive Order 75 (signed on 30 April 2012), designating the Department of Transportation and Communications, through the MARINA, as the single administration responsible only for overseeing the implementation of the STCW Convention. The EO, however, recognizes that Congress must institutionalize MARINA via legislation, emphasizing the need to revise the legal mandates of the PRC and of CHED.

### **Possible sanctions**

Senate President Franklin Drilon, the principal author of the measure, noted in a press release that the law will be especially relevant in light of the finalization of the European Maritime Safety Agency's (EMSA) audit report of the country's maritime administration, which is expected to be released soon. Based on a news report, the Department of Foreign Affairs said that the audit report was already submitted to the European Commission, who will eventually determine whether the country passed the EMSA audit.

For its part, the MARINA recently issued a Circular Letter on a draft EMSA audit report which was based on the final audit that was conducted on 8-24 October 2013. While it was not specifically mentioned whether the country passed or failed the assessment, the draft report contains findings or observations on three areas for improvement:

1. Quality standards system – Various government agencies have different quality standards systems. The audit team noted that these must first be aligned with the National Quality Standards System implemented by MARINA prior to the full implementation of the STCW Convention
2. Programme and course approval – The audit team mentioned that the “implementation of the management level courses could not be ensured”
3. Monitoring and evaluation of training and assessment – The team observed that MARINA and CHED could not demonstrate full implementation and uniformity in their monitoring of maritime education and training institutions. They further cited conflict of interest between the assessors and evaluators of maritime schools

Should the European Union find that the Philippines is non-compliant with the international standards, it may impose sanctions, such as the non-recognition of STCW Certificates issued by the government. This may, in turn, result to the displacement of about 80,000 Filipino seafarers aboard EU-flagged ships. MARINA, on the other hand, clarified that the focus of the EMSA inspection was on the continued recognition of Philippine officers' certificates, thus the affected seafarers could only be around 4,000.

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<sup>4</sup> Senate of the Philippines. (2014 February 10). Senate passes bill to protect welfare of Filipino seafarers. Retrieved from [http://www.senate.gov.ph/press\\_release/2014/0210\\_prib1.asp](http://www.senate.gov.ph/press_release/2014/0210_prib1.asp).

<sup>5</sup> Cueto, F. (2014 March 30). Marina optimistic amid looming EMSA sanctions. *The Manila Times*. Retrieved from <http://www.manilatimes.net/marina-optimistic-amid-looming-ems-sanctions/86466/>.

However, a possible risk stemming for EU sanctions is illustrated in the case of Georgia, where other non-EU states followed suit in imposing penalties for non-compliance. The European Union only lifted the ban last November 2013, three years after it refused to recognize the STCW certificates of Georgian seafarers.

In the Philippine context, should such restrictions be imposed to its fullest extent, the almost 400,000 Filipino seafarers will be greatly reduced, negatively impacting the economy due to lower level of remittances. Manning agencies, maritime schools, review centers, training providers, medical facilities, doctors, and maritime lawyers, among others also stand to be adversely affected by such penalties.

**Last minute scramble**

EMSA had already raised their concerns in an inspection as early as 2006. In 2010, another audit noted persistent deficiencies in the areas previously stated: monitoring of maritime education and training institutions, the quality standard system, and management-level courses, among others. Continuing problems were still found during a follow-up inspection in 2012.

Due to these above developments, EMSA threatened to impose sanctions on the Philippines. As a response, CHED ordered the phase-out and closure of 123 out of 157 maritime training programs in the country. Officials claimed that 44 BS Marine Transportation (BS MT) and 34 BS Marine Engineering (BS MarE) programs were issued closure orders, while 21 other BS MT and 24 BS MarE programs were ordered for phase-out since they failed to meet quality standards. Despite these steps, however, deficiencies were still identified in the succeeding audits that were done in April and October 2013.

**CHED list of Maritime Higher Education Institutions (MHEIs) offering BS MT and BS MarE programs (as of March 2013)**

	<b>Number of MHEIs</b>	<b>BS MT Programs</b>	<b>BS MarE programs</b>
Private Higher Education Institutions	76	69	62
State Universities and Colleges	11	6	9
Under Permit/ Recognition	8	7	5
<b>Total</b>	<b>91</b>	<b>82</b>	<b>76</b>

Source: MARINA

The Philippines became a party to the STCW Convention of 1978 through an instrument of accession submitted to the International Maritime Organization on 11 January 1984. However, it took the

<sup>6</sup> Brago, P. and Flores, H. (2013 May 29). *PHI still fails to meet EU maritime education standards. The Philippine Star.* Retrieved from <http://www.philstar.com/headlines/2013/05/29/947538/phi-still-fails-meet-eu-maritime-education-standards>.

country 30 years and the risk of impending sanctions to enact RA 10635 as a means towards full compliance with the Convention. At present, the government is hoping that the European Commission will recognize the recently enacted measure, on top of other initiatives at reform being undertaken, in order for the Philippines to avoid the possible penalties.

Taking stock of the above facts, there appears to be good reason as to why the government has often been criticized for its tendency to scramble for reforms at the last minute, despite numerous opportunities to accomplish these at an earlier time. The apparent lack of urgency to adhere to certain international commitments seems to be a common ailment plaguing particular segments of the bureaucracy.

For instance, among other examples, the Philippines has acceded to the International Convention on the Simplification and Harmonization of Customs Procedures or the Revised Kyoto Convention last June 2010. Despite the mandated compliance period due for next year, Congress has yet to pass the Customs Modernization Act because of a slew of issues, mostly on the administrative side. While a definitive ruling on whether the Philippines will pass or fail the EMSA audit remains to be seen, the overall process of reforming the seafaring industry offers a key lesson in improving the country's economic sectors and international standing: proper and prior preparation is paramount.

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Project Coordinator  
**Patrick D.P. Chua**

Editors  
**Isabel A. Lopa**  
**Paolo B. Monteiro**

Design & Layout  
**Robi F. Del Rosario**

