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WORLD MARITIME UNIVERSITY
Malmö, Sweden

**RATE SETTING MECHANISM
FOR THE
PHILIPPINE DOMESTIC SHIPPING**

By

ANICIA CRISELDA DEL ROSARIO-TOLEDO
Philippines

A dissertation submitted to the World Maritime University in partial
fulfilment of the requirements for the award of the degree of

MASTER OF SCIENCE

in

SHIPPING MANAGEMENT

2000

DECLARATION

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.



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ABSTRACT

Title of Dissertation: **Rate Setting Mechanism in the Philippine Interisland Shipping**

Degree: **MSc**

The Philippine domestic or interisland shipping probably is one of the few, if not the only, water transport in Asia that is subject to regulations. It is the protection of the public interest that the government, just like a few in the world, regulates public services or utilities, and one of these services is the water transportation.

Among the many areas of regulation is the setting and prescription of rates by the government, and by this, the procedure for rate setting is used and consistently applied to any rate restructuring or adjustment. The rate adjustment formula, however, gained criticisms and viewed by the users, i.e., shipowners and shippers, as obsolete and does not serve its purpose to which it was formulated, thus, needs revisiting and its possible reformulation, if indeed found to be ineffective.

The research work is an assessment of the rate setting procedure in the Philippine liner shipping which is currently being used by the authorized agency, the Maritime Industry Authority, in charge of regulations and development of the shipping industry in the Philippines.

A brief look is taken at the present rate adjustment procedure, its development from the time it was established and its evolution in the present structure. Guidelines and policies formulated and implemented by the authority relative to rates are also presented and reviewed to verify the history and how these issuances have effected changes in the structure of rates in the domestic liner shipping.

The evaluation procedure including the application/determination of rates with the methodology used is presented and evaluated whereby verification of the allegations/criticisms made by critics on the identified shortcomings in the rate setting procedure are drawn and thereafter, the proposal on what measures or solutions to take in order to rectify and improve the present rates system and procedure.

The final chapter concludes that deregulating fully the rate in the Philippine domestic or interisland trade is a better choice than to continue adopting/using the antiquated formula, which is now regarded as unrealistic and ineffective to its intents and purposes, due to its apparent flaws and defects.

KEYWORDS: Rate setting/evaluation, Adjustment, Regulation, Deregulation

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LIST OF ABBREVIATIONS

BIR	Bureau of Internal Revenue
BOT	Board of Transportation
CAB	Civil Aeronautics Board
COA	Commission on Audit
CPC	Certificate of Public Convenience
DOLE	Department of Labor and Employment
DOTC	Department of Transportation and Communications
DSA	Domestic Shipowners Association
EO	Executive Order
ERB	Energy Regulatory Board
LTC	Land Transportation Commission
LTFRB	Land Transportation Franchising and Regulatory Board
MARINA	Maritime Industry Authority
MC	Memorandum Circular
MRO	Maritime Regional Office
NAMRIA	National Mapping and Resource Information Authority
NM	Nautical Miles
PPA	Philippine Ports Authority
PSA	Public Service Act
PSC	Public Service Commission
RAD	Rates Analysis Division
RRM	Required Revenue Method
SMSA	Southern Mindanao Shipowners Association
VAFCSO	Visayan Association of Ferryboat and Coastwise Service Operators
VSIS	Vessel Safety Inspection System

CHAPTER 1

INTRODUCTION

Passenger and freight rates in the Philippine interisland liner shipping are still regulated by the Administration whereby a formula is currently in use whenever there is an adjustment in the level of rates. Rate regulation in the Philippine domestic or interisland trade can be traced way back in 1930's. The government believes that rate regulation in the liner shipping is necessary in order to protect the shippers and to ensure cooperation among otherwise unfriendly and uncooperative shipowners and operators, which will be to the best interest of the riding public.

While it may be true that the rate setting formula is accepted by the industry and still in use not only by the governing Authority but by other government agencies as well, it could not be denied that it needs assessment/revisiting due to its apparent deficiencies and defects.

There were numerous complaints from both the shipowners/operators and shippers as well, in every instance of rate adjustment, questioning the validity of the formula currently in use by the Authority, and thus, it is in this context that this study is undertaken – to assess if these contentions can be justified or not.

1.1 Statement of Problems and Objectives

Insofar as the shipowners/operators are concerned, their complaints primarily revolve around the conditions which allegedly inhibit them from delivering the

kind of services demanded/expected by the public. Foremost among these conditions is their lack of flexibility to immediately respond to business opportunities due to restrictive government regulations and the system within which the regulated rates are prescribed.

On the part of the general public, particularly those who have availed of domestic shipping services, the commonly cited complaint is inefficient operations including continued utilization of old and ageing vessels which are invariably associated with poor passenger and cargo service standards.

It is to my view the problems/complaints of the shipowners/operators that have to be addressed to, because given the right incentives and climate within which to operate, it will promote efficient operation, upgrading of quality service standards and eventually, the replacement of old and ageing vessels.

To acknowledge these problems, this paper shall be focused on the following objectives:

- To assess the present rate structure and to identify certain weaknesses, if any
- To determine if the current rate adjustment formula is still feasible and can carry out its intended usefulness.
- To propose and recommend improvements to the existing formula, if found to be still feasible, if not, to totally abandon the same and come up with better alternative.

1.2 Scope and Limitation of the Study

The scope of this study is limited to the domestic or interisland rates prevailing in the Philippines, the rate structure, the rate adjustment formula, and the method used.

Related literature and statistical information on rate setting and adjustment procedure is lacking, thus, the assessment is based on criticisms observed and often the cause of conflict between shippers and carriers.

Conclusions presented are based solely on the facts presented and especially applicable to liner operations in the interisland trade of the Philippines.

The paper shall not attempt to provide draft on any amendatory laws that might be necessary in the implementation of the result of this study.

CHAPTER 2

PROFILE OF THE PHILIPPINE DOMESTIC SHIPPING INDUSTRY

The significance of the domestic shipping sector in the Philippines can never be overemphasized owing to the archipelagic nature of the country which is composed of more than 7,000 islands. Shipping provides the cheapest means of transporting people, goods, and cargoes from one island to the other and carries a great majority of approximately 80% of the domestic cargo movement – an indication of how far reaching its contribution/implication to the national economy is.

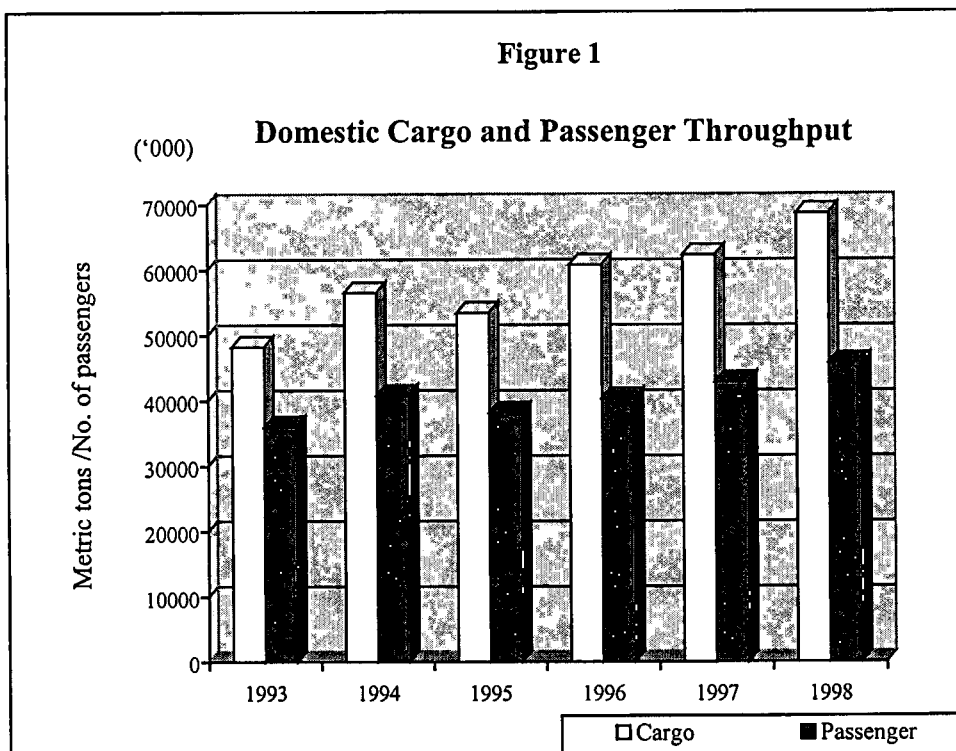
2.1 The Domestic Trade

The Philippines is mainly an agricultural country, with principal products as rice, coconut, sugar, abaca (Manila hemp), tobacco, corn and pineapple. Production of rice, however, is just enough for the country's consumption, but there are periods when there is low production affected by severe bad weather conditions. Thus, importation of such is sometimes necessary to augment the country's needs. Coconut ranks as the number one agricultural product exported. Fishing is one of the most important Filipino industries and canned tuna is the major fish exported. Large amounts of shrimp and prawn are also an important export.

Different products are produced in each region in the country, hence, it is a case where there is scarcity of one and excess of the other. The necessity to buy what is scarce and to sell what is in excess creates a need for transporting these commodities among the different islands.

The total domestic cargo movement from 1993 to 1998 based on port cargo throughput reports of the Philippine Ports Authority (PPA), except in 1995, had increased each year. The highest recorded increase is in 1994 and 1996 when cargo throughput increased by 14.68% and 12.13% respectively. In 1998, total cargo throughput was recorded at 65.361 million metric tons.

On the other hand, total passenger traffic based likewise on PPA statistics from 1993 to 1998 indicates an increase each year. The highest increases were registered in 1995 and 1998 with 9.13% and 9.83%, respectively. In 1998, a total of 46.148 million passengers were recorded to have passed through PPA ports. (PPA reports are based on reports of both origin/destination ports which results in double counting. Actual movements are approximately half of the reported figures). Figure 1 illustrates said results.



Source: Phil. Ports Authority Statistics (1999)

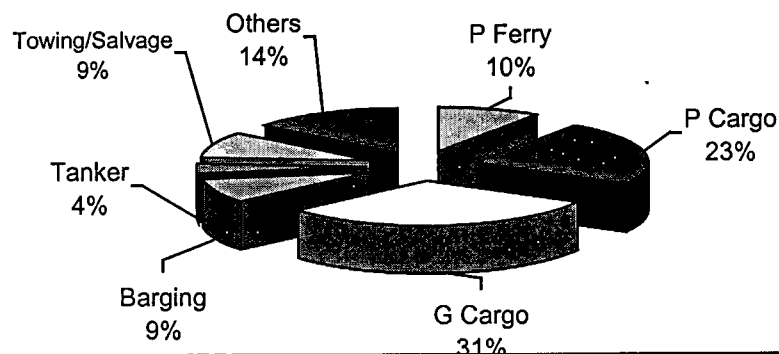
While the increase in cargo throughput is primarily a direct manifestation of increased production/economic activities in the various island-economies of the country, such may also be viewed as having been sustained, and even stimulated, by the provision of shipping services between and among such island-economies. Thus, the increase in the volume of cargo carriage for certain routes would have a strong correlation with the increasing growth and development of the areas/regions involved. Accordingly, the development of other urban centers throughout the country has resulted in the emergence of new route/link patterns, or the operation of new shipping services to cater to the subsequent increase in demand for such services. And the drive for growth and development of such urban centers largely depends on their being connected with the areas of consumption for their surplus products, as well as areas of production for their needed production inputs and other requirements.

2.2 The Domestic Fleet

The bulk of domestic merchant fleet in the Philippines is composed of general cargo vessels, passenger ferry, passenger cargo, container cargo vessels, barges and oil tankers.

The Domestic operating fleet inventory for 1998 shows that the approximate number of vessels operating in the local trade totalled 5,371 with a total gross tonnage of about 1.805 million. Proportion of the fleet by type of service is shown in Figure 2 below:

Figure 2
Percentage Distribution of Domestic Operating Merchant Fleet (1998)



Source: MARINA-MISO (1999)

Out of this number, 30.45% operate as tramp and the remaining 69.55% operate as liner. As shown in the above figure, there is a predominance of general cargo vessels and next to it is the passenger cargo vessels, which could be indicative of the extent of cargo being transported by break-bulk mode in the country's domestic trade. It may however, be noteworthy that there is a significant build up of passenger ferry vessels, with the corresponding implication that shipping services are being expanded in tertiary and ferry routes.

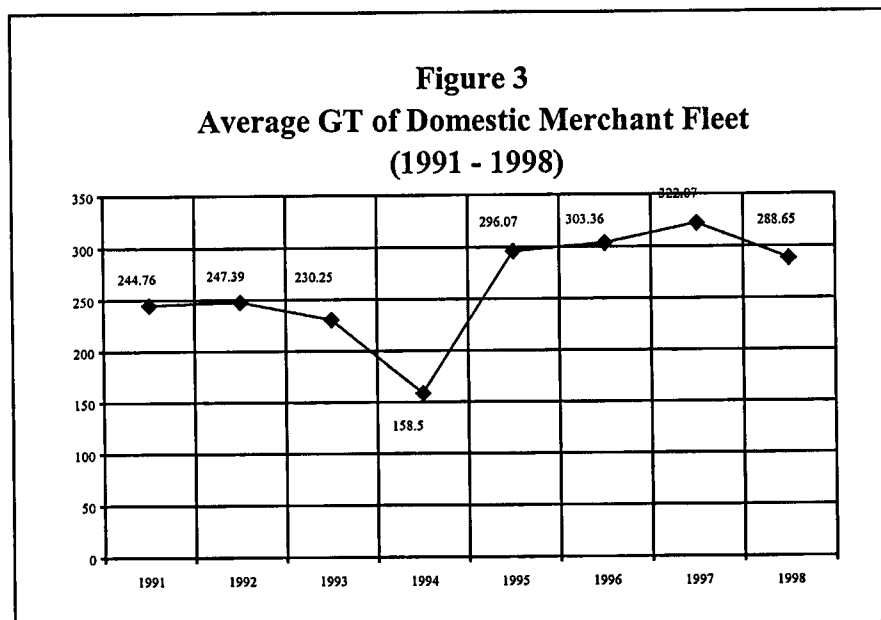
Liner operators/companies are the subject of the regulation scheme of the government, although tramps, to some extent are also regulated. To distinguish a liner operator from that of a tramp, it should be emphasized that there is a growing division between ownership, management and operation.

As what Gorton, et.al. (1995) put it, in liner shipping, the shipowner (carrier, operator) runs/trades on a regular service between more or less fixed ports and usually on a regular/fixed time schedule.

Liner vessels cater to transport needs/requirements of the public at large without discrimination (known as the common carrier), charging fares/freights which are already fixed and specified for the reference/guidance of the public.

Tramping, on the other hand, operate in different ports without fixed time schedule and route depending on where he finds suitable cargoes and provide services only on the basis of negotiations.

An average increase of 12.15% in size of domestic operating merchant fleet was recorded for the period 1991 – 1998. Such increase could be attributed to the liberalization / deregulation of the domestic shipping industry as shown in Figure 3.



Source: MARINA-MISO (1999)

MARINA-approved vessels acquired for domestic operation through importation and bareboat charter is shown in Table 1 below:

Table 1

MARINA-APPROVED VESSEL ACQUISITION PROJECTS

	<u>IMPORTATION</u>			<u>BAREBOAT CHARTER</u>			<u>TOTAL</u>	
	No of Vessel	Total GRT	Ave. Age	No. of Vessel	Total GRT	Ave. Age	No. of Vessel	Total GRT
1990	30	15,406	16.9	31	55,788	14.6	61	71,194
1991	39	42,115	16.8	34	53,191	16.6	73	95,306
1992	34	75,906	15.7	20	29,203	19.3	54	105,109
1993	62	82,700	17.8	16	21,180	15.9	78	103,880
1994	97	91,355	17.5	22	39,508	16.5	119	130,863
1995	131	123,212	16.5	28	39,467	15.7	159	162,679
1996	108	146,283	14.6	30	45,438	14.3	138	191,721
1997	95	242,835	16.4	28	58,112	12.2	123	300,947
1998	53	138754	15.2	15	36872	9.0	68	33,087
TOTAL	649	958566	-	224	378759	-	873	1,337325

Source: MARINA-MISO

What is apparent in the above table is the increase in the number of vessels being imported starting from 1993, which has been sustained up to 1995, although it decreased in the succeeding years, which may be brought about by the Asian crisis plus the problem of El Nino and La Nina.

Another notable trend was the emerging dominance of importation over bareboat charter as a mode of vessel acquisition since 1992, which could be a reflection of shipowners' greater confidence for long term investment.

2.3 The Maritime Industry Authority (MARINA)

To give a very brief overview of the regulatory framework that the Philippine domestic shipping is operating under, it is deemed necessary to mention the Authority tasked in the development, promotion and regulations of the shipping industry in the Philippines.

The Maritime Industry Authority was created in 01June1974 with the issuance of Presidential Decree No. 474 to integrate the development, promotion and regulations of the maritime industry in the Philippines. It was originally placed under the Office of the President. With the creation of the Ministry (now, Department) of Transportation and Communications by virtue of Executive Order No. 546 was attached to the DOTC for policy and program coordination on 23 July 1979.

The regulatory framework of MARINA was elevated with the issuance of EO No.1011 which abolished the Board of Transportation and transferred the quasi-judicial functions pertaining to water transportation to the MARINA.

On 30 January 1987, Executive Order No. 125 (amended by EO 125-A) was issued reorganizing the Department of Transportation and Communications. The powers and functions of the department and the agencies under its umbrella were defined which further increased the responsibility of the MARINA to the industry.

It has jurisdiction over the development, promotion and regulation of all enterprises engaged in the business of designing, constructing, manufacturing, acquiring, operating, supplying, repairing and/or maintaining vessels or component parts thereof, of managing and/or operating shipping lines, shipyards, drydocks, marine railways, marine repair shops, shipping and freight forwarding agencies and similar enterprises.

Basically, the Authority deals with four (4) major maritime sectors:

1. domestic shipping;
2. overseas shipping;
3. shipbuilding and ship repair; and
4. maritime manpower

Mandate

The MARINA is mandated to promote a favourable climate for economic activities through the provision and development of a safe, efficient, economical, adequate, reliable and responsive water transport services to the riding public with the following major thrusts:

- To adopt and implement a practicable and co-ordinated Maritime Industry Development Program in the four sectors of the industry.
- To create a healthy investment environment through feasible incentives and technical assistance programs;
- To provide for the effective supervision, regulation and rationalization of all water transport utilities and other maritime enterprises.

Management

The Authority is governed by the Maritime Industry Board, with the Secretary of Transportation and Communications as Chairman, and the MARINA Administrator as one of the members.

There are eleven staff and line offices. Regarding the economic, supervision and regulation of the domestic shipping sector, including the determination and setting of rates, the Domestic Shipping Office and the Franchising Office play major roles.

Among the powers and functions vested to the Board are the formulation of policies relative to passenger fares, freight rates, and other charges in the operation of interisland vessels.

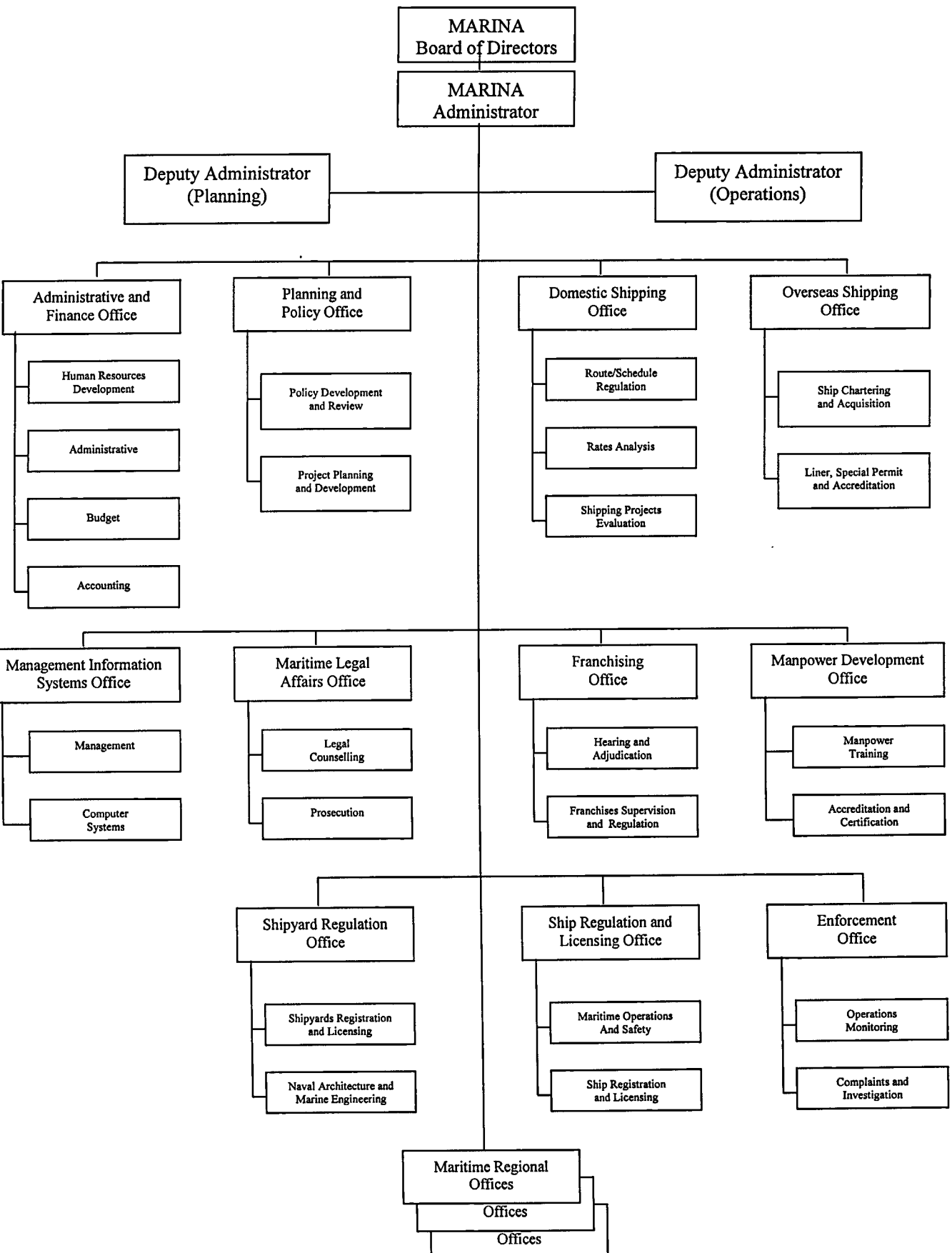
The Domestic Shipping Office formulates, recommends and implements policies and guidelines relative to the economic, supervision and regulation of the domestic shipping sector to continually upgrade and stimulate the development of the industry.

The Franchising Office hears applications for Certificate of Public Convenience, vessel re-routing positions, petitions for rate increase and route allocation in the exercise of quasi-judicial functions over all public water transportation services.

Presented below is the organization chart of the MARINA to give a whole perspective of the organization.

Figure 4

**MARITIME INDUSTRY AUTHORITY
ORGANIZATIONAL STRUCTURE**



CHAPTER 3

DEVELOPMENT OF THE PHILIPPINE RATE STRUCTURE

To have a better appreciation and understanding of the subject matter, provided hereunder are background information on the development of the existing rate structure, including the rules, regulations and guidelines set by the government on rates.

3.1 Legal Basis

The Philippine shipping industry particularly in the domestic interisland trading system has been, and still continuously being subjected to economic regulations, whereby the Government set and prescribe liner shipping rates and entry and exit into both the tramping and liner sectors of the industry are controlled.

Upon declaration by legislature and the courts, an industry acquires public utility status and/or when it is singled out for regulation by particular agency created for the purpose. One of the industries declared as public utility is transportation.

The government has to set up regulatory procedure that will serve as a look out to protect the shippers, the shipowners, the industry and the public in general. Such procedure should include the necessary guidelines to shield shippers from future abuses and discriminatory practices which shipowners might do in the face of tight competition and declining market as well as to protect shipowner's interests through minimum regulatory measures in the conduct of their operation.

Public services are invested with public interest. More than any other economic activity they are subject to strict economic control and regulation by the State especially as they enjoy status of monopolies. Therefore, to promote public interest, the State must intervene to protect consumers against exploitation at the hands of private monopolists, having in mind too that shipowners should also profit from their operation. In other words, the government has the duty to ensure maintenance of a safe and reliable service while in consideration of the financial soundness/strength of the shipowners.

Favouring only one segment of society, like favouring only the customers, the shippers, or only the shipowners/operators is not the purpose to which regulation in public utility industries is geared up to. Rather, it must favour the public good or well being and one of the mechanisms adopted by the government to regulate is through rate fixing.

The public Service Act (Commonwealth Act No. 146)

The domestic or interisland shipping industry has been declared by the National Assembly on November 1976 under Commonwealth Act No. 146 or what is known as the "Public Service Act" (public utility) subject to the jurisdiction, supervision and control of the Public Service Commission (PSC), a quasi-judicial body, which was created to discharge the regulatory function as provided for in the legislation.

Presidential Decree No. 1 (Reorganization Decree)

The PSC was abolished under this Decree of 1972 and transferred the regulatory functions of the transport industry to the Board of Transportation (BOT). The BOT is empowered to issue, amend, revise, suspend or cancel the Certificate of Public Convenience (CPC) and other licenses authorizing the operation of all

domestic public transportation services, including the prescription of appropriate terms and conditions.

Executive Order No. 1011

This decree was issued in 20 March 1985 by the then President F.E. Marcos to rationalize the administrative framework for the exercise of quasi-judicial functions and enforcement of functions in the regulation of transportation services.

The object of rationalization in this case, was land transportation and the executive order abolished the BOT and transferred its quasi-judicial and regulatory functions of domestic public land transportation services to the Land Transportation Commission (LTC) and of domestic water transportation services to the Maritime Industry Authority (MARINA).

3.2 Creation

As early as 1928 when the interisland liner shipping rates were established by the Public Service Commission (PSC). In 1936, it was updated in a resolution revising PSC Order No. 3. Section 16 (c) of said Public Service Act that empowers the Commission "to fix and determine individual or joint rates, tolls, charges, classifications, or schedules thereof, as well as commutations, mileage, kilometrage, and other special rates, which shall be imposed, observed and followed thereafter by a public service". Due process is essential to rate fixing and requires that a public hearing be conducted.

It is presumed that the rates fixed are reasonable, and it is conceded that the fixing of rates by government, through its authorized agents, involves the

exercise of reasonable discretion, and unless there is abuse in that discretion the courts will not interfere.

There are two areas in the domestic shipping industry whereby regulation is applied, and these are: control of entry and exit; and regulation of the level and structure of rates. There are some initiatives from the Government to liberalize entry and shipping rates, but up to this date, it has not come into full force.

3.3 Rates History/Rate levels

As previously mentioned, although there has been initiatives from the Government to liberalize entry and to deregulate rates in the interisland shipping, there were numerous level of rates that were regulated by the Authority.

The deregulation or liberalization of transportation was officially adopted as a state policy in the Medium-Term Philippine Development Plan for 1987-1992. In line with this, the MARINA, during the period from May 1989 to November 1993, has issued several memorandum circulars. These are largely influenced by recommendations of the Presidential task Force on Interisland shipping and are pursuant to the Department of Transportation and Communications (DOTC) Order No. 92-587, defining the general framework for the liberalization of the transport sector of the country, and also to the formulated Medium-Term Domestic Water Transport Policy Program for 1992 to 1996.

The 1936 revision of PSC Order No. 3, Section 17, provides that "Freight tariffs shall vary according to the classification of commodities, their weight or volume and the route over which they are transported". The most important aspects of the origins of the existing rate level and structure is highlighted in this statement.

Classification of Commodities

Commodities are classed into four major categories, classes A, B, C and D.

Class A: high-valued, fully processed goods

Class B: low-valued, semi-processed

Class C: low-valued, processed

D mainly logs and timber products

There are, however, some commodities, which do not fit into any of the four general classifications and are classified into multiples A, B or C, e.g., $\frac{1}{2}$ A, 3B or 2C.

Weight or Measurement

The standard unit of weight is the metric ton and the standard unit of volume is the cubic meter. In applying the rates, carriers use that unit, whether of weight or volume, which will produce the larger tariff.

Route length

For calculating the freight, Sec. 7 of the 1936 revised regulation prescribed a formula based on the mileage involved, as follows: (where: 100 centavos = P1.00; P = Philippine peso)

Class A: P 2.00 + 1 centavo/mile + 30%

Class B: P 1.50 + 1 centavo/mile + 30%

Class C: P 1.00 + $\frac{3}{4}$ centavo/mile + 30%

Class D: P 6.00 + 1 centavo/mile + 30%

To illustrate: for a Class D commodity shipped from Port A to Port B which has a distance of 100 NM; the freight charged is P9.10 (P6.00 + P1.00 x 1.30).

Ad Valorem Charges

The same 1936 regulation also provides that cargoes of value shall pay an ad valorem freight of ½ %. All cargoes or articles are considered as of value when the declared value of a case or package exceeds P1, 000.00 per ton of weight or per cubic meter of volume.

Special Rates

Livestock, transit and refrigerated cargoes are subject to special rates.

3.4 Modifications from 1936

Since the first revision of the interisland transportation rates, rules and regulations in 1936, records do not clearly show how the level and structure of rates evolved from that time.

Major changes, however, were noted insofar as level of rates were concerned, from 1976 to the first quarter of 1981, after a series of across-the board increases granted by the PSC and BOT in response to the escalating cost of shipping operations. Some primary commodities which are classified as Basic Class, like corn, rice, palay, fruits and vegetables were exempted from these increases. Livestock was likewise exempted from such increase.

In a BOT decision in October 1983, the first structural modification was recorded whereby a new freight rate class by distance grouping was introduced.

The BOT adopted a uniform distance related freight rate structure that provided different rates with respect to distance groupings as follows:

- 1) not exceeding 100 nautical miles
- 2) more than 100 but not exceeding 300 nautical miles; and
- 3) more than 300 nautical miles

It was also in said year that the original cost-based structure was modified with the current structure, which is predominantly value-based, i.e., high value cargoes are charged higher rates and low value cargoes lower rates. The new structure divided the rates into two components (computed in pesos per revenue ton): the sea/variable component and the port/fixed component.

The sea/variable component represents the cost of the vessel's time at sea, and the port/fixed component represents the cost of the vessel while loading and discharging in port.

In another BOT decision in November 1984, a further rate restructuring was decided upon with a formal separation of the class for Basic Commodities.

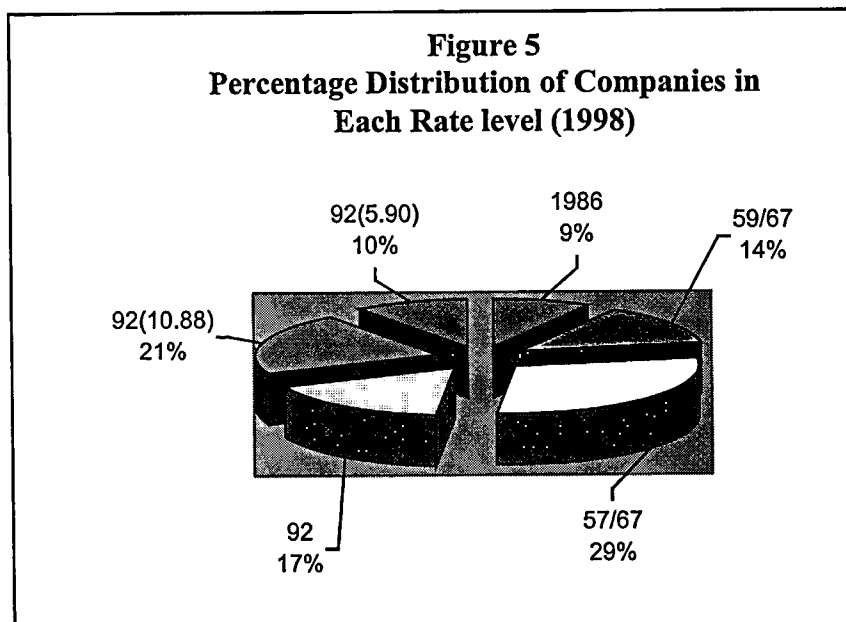
In March 1985, there also followed a series of restructuring in both passage and freight rates when MARINA took over the quasi-judicial and regulatory functions of the domestic public water transportation services from the defunct BOT.

In April 1986, there was an approved increase in passage and freight rate by 4% and 3%, respectively. A rollback in the ad valorem rate was also approved at 10%.

3.5 MARINA Memorandum Circulars Regarding Rates Restructuring

After the approved rate increase in 1986, the MARINA had issued various Memorandum Circulars since 1989, as shown in Table 2 that changed the level of rates.

Each rate level illustrated in Table 2 is unique and distinct to each shipping company, meaning, that liner shipping companies are not in the same level of rates. There are some companies who are within the 1986 level, some in the MC57 level, some in the highest level, etc. Figure 5 below shows the percentage distribution of domestic shipping companies in the corresponding rate level.



Source: MARINA-MISO (1999)

From the figure, it shows that from a total of seventy (70) operators which were chosen at random, there still exists 9% of the total sample in the 1986 rate level, 29% in the MC 57/67 level and the rest are distributed in different levels, which clearly shows that not all operators are in the highest rate level.

Table 2
HISTORY OF RATE LEVELS

DATE GRANTED	% INCREASE(DECREASE)		REMARKS
	Passage	Freight	
11 April 1986	(4%)	(3%)	<ul style="list-style-type: none"> Rollback (BASIC exempted; Rollback Ad Valorem by 10%)
12 May 1989 (MC 46)	22%	8%	<ul style="list-style-type: none"> Abolition of Ad Valorem and adopt of 3/10% valuation surcharge (excluding Basic Commodities) to cover insurance premiums; Deregulation of 2nd class passage rates Reclassification of Basic class (palay, rice, corn, corn grits, fruits, vegetables, and livestock) to Class C (next higher rate) after being protected from increase since January 1976.
26 Oct. 1990 (MC 57)	30%	20% for BASIC cargoes 25% for others	<ul style="list-style-type: none"> Abolition of 3/10% valuation surcharge; Deregulation of refrigerated, transit & livestock rates which were all under a special rate in the 1936 structure; Introduction of fork tariff system with a range of plus 5% (upper limit) and a minus 5% (lower limit) from the indicative rate for both passage and freight rates.
11 April 1991 (MC 59)	12%	8%	<ul style="list-style-type: none"> Continued adoption of the fork tariff system
23 Aug. 1991 (MC 62)		(5.5%)	<ul style="list-style-type: none"> Rollback of freight rates due to decrease in fuel prices
06 May 1992 (MC 66)		(6%)	<ul style="list-style-type: none"> Rollback of freight rates due to decrease in fuel prices

DATE GRANTED	% INCREASE(DECREASE)		REMARKS
	Passage	Freight	
06 May 1992 (MC 67)			<ul style="list-style-type: none"> Adoption of automatic fuel adjustment mechanism whereby rates are immediately adjusted whenever fuel prices, particularly marine diesel oil, bunker and special fuel oil (a blend of diesel and bunker oil) will increase/decrease by at least 10%. Increase of the upper/lower limit of the fork tariff to + 10% / - 15% in the indicative or reference rate in January 1993
01 Dec. 1994 (MC 92)	15%	10%	<ul style="list-style-type: none"> Continued adoption of fork tariff
02 Oct. 1996 (MC 117)			<ul style="list-style-type: none"> Deregulation (Implementing Rules and Regulations on EO 213)
01 March 1996	6%	6%	<ul style="list-style-type: none"> Automatic Fuel Adjustment
June 1996		6%	<ul style="list-style-type: none"> Implementation of EVAT
28 Nov. 1996		3%	<ul style="list-style-type: none"> Implementation of EVAT under RA 7716
19 Dec. 1996	3.25% from March 1, 1996 rate level or 9.25% from MC 92 rate level	3.25% from March 1, 1996 rate level or 9.25% from MC 92 rate level	<ul style="list-style-type: none"> Automatic Fuel Adjustment
16 Jan. 1996			<ul style="list-style-type: none"> Resolution on Fork Tariff
10 March 1997	13.14%	13.14%	<ul style="list-style-type: none">
10 Aug. 1999	5.28%	5.28%	<ul style="list-style-type: none"> Automatic Fuel Adjustment
01 Oct. 1999		10.88%	<ul style="list-style-type: none"> Provisional Order on Rate Adjustment
19 Oct. 1999	10.88%		<ul style="list-style-type: none"> Provisional Order on Rate Adjustment
07 March 2000	5.90%	5.90%	<ul style="list-style-type: none"> Automatic Fuel Adjustment

In every approved rate change, liner shipping companies who wish to charge the recently approved rate increase are required to file an application to the MARINA for a petition for rate increase, with a corresponding filing/processing fee. Thus, the latest rate increase are not applicable to all shipping companies but instead, only to those companies who are interested and filed their application for such rate change/increase to the Franchising Office of the MARINA. This system resulted in different level of rates among companies/operators.

One might be surprised of this condition that there are liner shipping companies/operators who are not interested in filing their application for rate change/restructuring. It has been observed that there are some reasons why shipping companies are still into this state of not availing such rate changes, and some of these reasons perceived are:

- **Excessive amount of filing/processing fee**

All fees, be it a processing fee, filing fee, surcharges and all other fees relating to transactions made with the MARINA is computed based on the schedule of fees under MC 119 (Appendix 1). For an application for rates increase, the rate is Php3,000.00 per vessel per link or a minimum of Php20,000.00.

The fee to be paid by the applicant is computed on a per link, thus, if an applicant has two (2) vessels operating in 6 route links, the amount to be paid is P36,000.00, which amount is quite heavy for small operators.

- **Long span of processing, so many procedures and steps to follow**

As shown in Figure 6 the process for the rate adjustment takes a considerable time before a decision would be done, from the filing of the application up to the approval/disapproval of such an application.

- **Operators, especially those smaller ones, just take the initiative of charging the rates they wish to charge.**

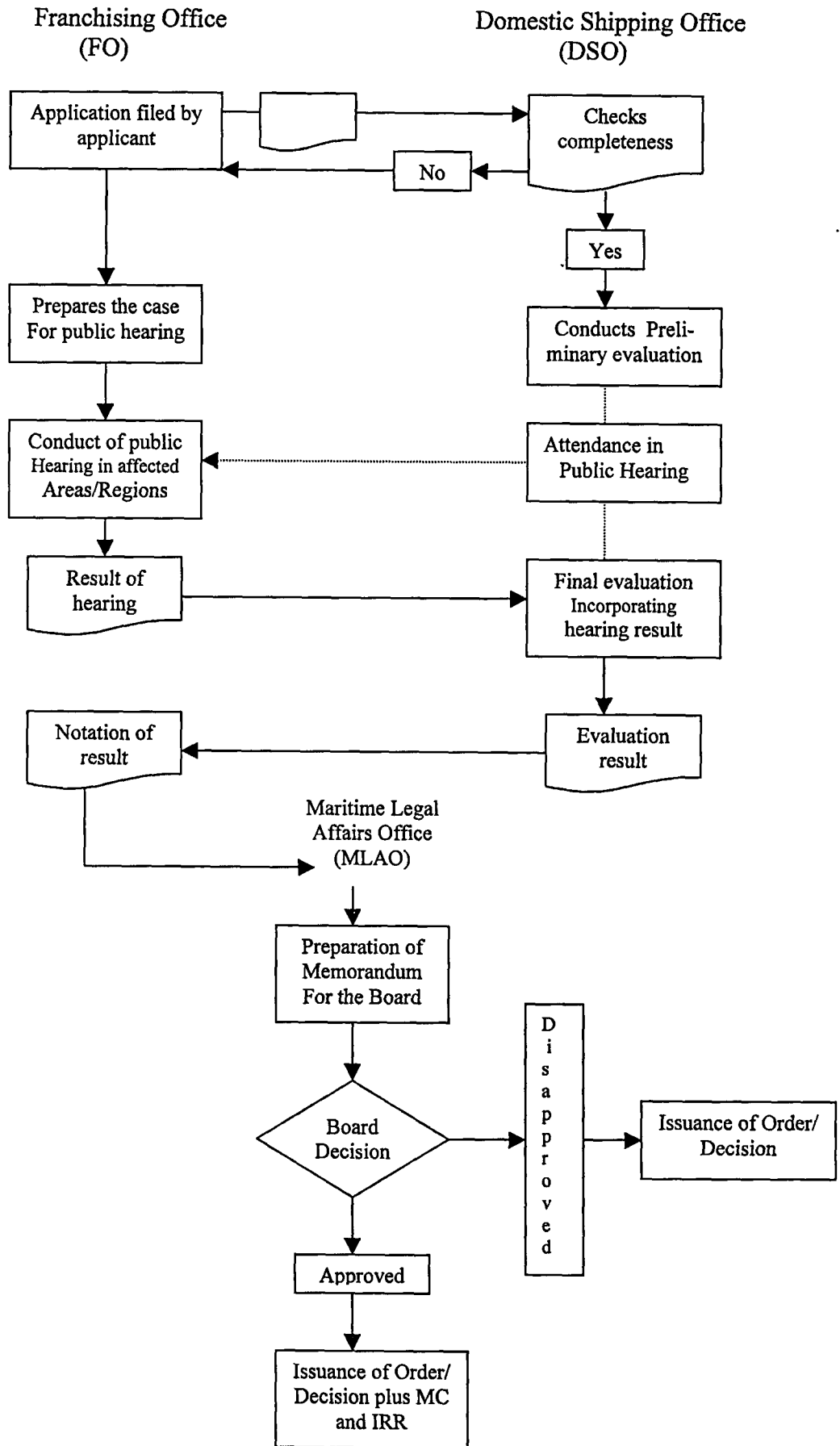
This is evident on the incidence of cases filed at the Maritime Regional Offices involving the legalization of rates, where an average of four (4) cases were filed yearly in each region (MRO Quarterly Report).

Operators who had already increased their rates without MARINA approval are allowed to file legalization of rates, but will still be subjected to public hearing process like the regular application for rates increase. If no oppositor to said "applied rate" has filed its opposition within the prescribed period of time allowed for filing, the unauthorized rates currently being charged will be legalized and deemed approved by the Authority.

This practice of small operators of not bothering to file a petition for rates increase might be because of the passive monitoring of MARINA in ensuring that companies do not overcharge rates that is authorized to them. Besides, the Authority acts on overcharging only when there is a formal complaint filed on the subject, that may come from the shippers, the government or non-government organizations, or any other user of the service provided by the shipping company in question.

Figure 6

Process Flow of Application for Rate Increase



CHAPTER 4

EVALUATION PROCEDURE FOR RATE ADJUSTMENT AND ITS APPLICATION

From the preceding chapter, it was discussed how rate regulations came into being, its structure and level and how it was formulated and modified to its present structure, it is in this Chapter that the detailed evaluation/examination of the rate application/determination and methodology used in adjusting the interisland liner rates in the Philippines, will be discussed. The procedure for rates adjustment, as well as the formulae and its application will also be presented/discussed.

4.1 Evaluation Procedure

To provide a better understanding and appreciation of the guidelines, it is believed that background information on what a basic rate structure and rate level means is necessary.

The term “basic rate structure” as contained in the MARINA Guidelines on Rates Prescription, refers to the general form of the rate formulae and the mechanics/system and criteria for determining the rates, which include the commodity classification, the passenger accommodation classes, and the distance

groupings. Any change in these basic components is referred herein as “rate restructuring”.

A component or feature of the rate structure is the “rate level” which changes every time the government grants any rate increase/decrease such as the across the board increases and the rollbacks in rates. Any such change would not alter the general form of the rate formulae but only the value of the coefficients in the passage and cargo rate formulae and of the constant in the cargo rate formulae.

The evaluation procedure for rate adjustment is done in five steps/stages, and these are:

- 1) Preliminary Evaluation
- 2) Consolidation of Financial Statements
- 3) Determination of Changes in Costs/Expense Items
- 4) Application of Changes in Expense Items
- 5) Estimation of Rate Adjustment

4.1.1 Preliminary Evaluation

When there is a significant increase in any or a combination of the major operating expenses of the shipowners/operators, they are bound to file for rates adjustment, while a decrease in said expenses would prompt the shippers to request for rates rollback. Upon the announcement of changes in prices of inputs (major expenses like bunker, port costs, manning, dry-docking, repairs and maintenance) which account for a significant share of the operating expenses of shipowners/operators, the regulatory authority takes note and/or undertakes a study, in anticipation of petition for changes in rates and in

consideration of applications requiring rates prescription, to determine the nature and extent of rate adjustment.

4.1.2 Consolidation of Financial Statement

The next stage in the procedure is the consolidation of the financial statements of sample operators to determine the revenue, operating expense levels, and the size of investment. Yearly financial statements of individual domestic companies are required to be submitted to the MARINA in a prescribed format (shown in Appendix 2) of annual report of finances and operations. However, the submission of the same is due every 30th of June of the succeeding year, to give time for filing with the Bureau of Internal Revenue (BIR) for tax purposes.

There are some considerations when choosing sample financial statements, and these are:

- 1) The availability of the latest audited financial statements that will be used
- 2) That the submitted sample statements is presented in a manner that can be consolidated
- 3) The operators of the sample statements should be the probable petitioners for rate changes.

The financial statements of the Domestic Shipowners Association (DSA)-members are chosen as samples in most instances because of the following considerations:

- 1) up-to-date submission of the required financial statements by all members;
- 2) members adopt the same reporting formats;
- 3) DSA has the biggest share in the total share in the market which accounts for 70% in the liner sector; and
- 4) they are the most probable applicants for petition for rate adjustment.

4.1.3 *Determination of Changes in Costs/Expense Items*

The changes in the prices of major operating costs/expenses are determined based on documents issued or pronouncements made by concerned government agencies or regulatory bodies, such as the Energy Regulatory Board (ERB) for bunker/ fuel price increases, the PPA for increase in port charges, the Department of Labor and Employment (DOLE) for the increases in salaries and wages, just to name a few.

These changes in prices are then translated into percentage terms to facilitate computation. Meaning that, assuming the increase in the salaries and wages is proclaimed/announced to be P150.00, this amount is translated to percentage terms, computed from the previous base figure. These changes are then applied to previous costs and a schedule of projected operating expenses is prepared. It is from this figures that the rate base is calculated and not on the costs prior to the increase. (Rate base and its composition will be discussed in a separate section).

4.1.4 *Application of changes in Expense items*

The computed percentage changes in expense items are applied as inputs to the rate adjustment formula to determine the level of rate adjustment needed to maintain the 12% return on investment.

4.1.5 *Estimation of Rate Adjustment*

The total operating expenses for the subject year is adjusted to a level where all necessary/relevant increases or adjustments are applied to the affected individual accounts thereby resulting to projected operating expenses. The projected operating expenses and the size of investment are utilized as inputs to the rate adjustment formula referred to as the required revenue formula to determine the extent of rate adjustment needed.

Aside from the computation/evaluation being done, each adjustment in rate is conducted through a public hearing in different areas where the affected parties are invited to express their views, comments and/or oppositions to the proposed rates adjustment filed by applicant companies.

Depending on the proceedings of the public hearings, the basis and assumptions made in the computation may change with the presentation of evidence and the final outcome may be a result of several iterations.

4.2 Key Factors in Rate Determination

There are three key areas or factors considered in rate determination, where the Required Revenue Method (RRM) is used, in particular, these are: size of

investment, property and equipment, working capital portion, operating expenses, and rate of return.

4.2.1 *Size of Investment*

Sometimes known as the rate base and this refers to the investment entitled to a return. This means that the return on investment rate mandated by the regulatory authority is applied to this amount to arrive at the amount required to earn a return. The rate base is composed of the net property and equipment (fixed assets) and a portion of working capital.

4.2.2 *Property and Equipment*

This refers to fixed assets (operating assets) which are used and useful in the provision of shipping services. The value of operating assets considered in the computation is the net book value of the assets plus any appraisal increment, and only the serviceable portion of the assets is entitled to a return. Appraisals are subject to approval of the regulatory authority.

4.2.3 *Working Capital Portion*

This refers to a portion of operating expenses entitled to a return. The portion allowed is the equivalent of two-month operating expenses, which represent the amount of cash held assuming an average ageing of receivables of sixty days (two months). The operating expenses allowed in the computation of working capital are expenses necessary and essential to sustain shipping operations. This is exclusive of non-cash items.

4.2.4 *Operating Expenses*

This refers to expenses necessary and essential to initiate, maintain, and /or sustain the provision of shipping services/operations.

4.2.5 *Rate of Return*

This refers to the fair and reasonable return on investment accorded to the shipowners/operators, which is currently set at a maximum level of 12%¹. Theoretically, the rate of return is set at a level which attracts investment to the sector and/or which is equal to investment risks of comparable industries.

4.3 Rate Adjustment Formula

The Required Revenue Method (RRM) as commonly known is based on the same formula/method utilized by the Commission On Audit (COA) in their rate audit of public utilities as prescribed in Commonwealth Act No. 325. In summary, this method computes for the revenues required to be generated to sufficiently cover operating costs and to provide a reasonable return on investment, in this case 12%. The difference in required revenue and actual revenue determines the percent adjustment in rates necessary to maintain the authorized rates of return on investment. Presented as follows are the formulae used under the method.

¹ The allowable return on invested capital pegged at 12% that was decided upon by the regulatory bodies and the courts involving rate cases was back in 1936. Since then, this limit has been consistently regarded as a fair and just return accorded to public utilities and in the examination and analysis of their books of accounts in cases of petition for rate evaluation.

REQUIRED REVENUE METHOD

I. Required Revenue Adjustment (RRA) or Required Revenue Rate Adjustment

$$\text{RRA} = \frac{(\text{REQUIRED REVENUE} - \text{ACTUAL REVENUE})}{\text{ACTUAL REVENUE}} \times 100$$

II Required Revenue (RR)

$$\text{RR} = 12\% \times \text{RATE BASE} + \text{TOTAL OPERATING EXPENSES}$$

III. Required Base on Invested Capital Entitled to a Return

$$\text{RATE BASE} = \text{NET OPERATING ASSETS} + \text{WORKING CAPITAL}$$

WHERE:

$$\text{NET OPERATING ASSETS} = \text{NET BOOK VALUE OF OPERATING ASSETS} + \text{NET APPRAISAL INCREMENT}$$

$$\text{WORKING CAPITAL} = \frac{\text{NET OPERATING EXPENSES}}{\text{-----}}$$

6

WHERE:

$$\text{NET OPERATING EXPENSES} = \text{TOTAL OPERATING EXPENSES} - (\text{NON-CASH ITEMS AND TAXES} + \text{NET INTEREST EXPENSE} + \text{REPRESENTATION EXPENSES} + \text{CONTRIBUTIONS/DONATIONS})$$

IV. Total Operating Expenses (TOE)

$$\text{TOE} = \text{VESSEL OPERATING EXPENSES} + \text{TERMINAL OPERATING EXPENSES} + \text{GENERAL AND ADMINISTRATIVE EXPENSES} + \text{NET INTEREST EXPENSE.}$$

To illustrate how the rate adjustment formula is applied, Table 3 below were taken from the consolidated financial statements of DSA-member lines for the year 1998. All figures are in billion pesos.

Table 3

Summary of Financial Data of DSA-member Lines for the calendar year 1998 (in billion pesos)	
Property and equipment (net book value + any Appraisal increment)	P 13.72
Total operating expenses	10.13
Depreciation	1.30
Bad debts	.57
Contribution/donation	.005
Amortization	.003
Taxes, licenses and fees	.17
Representation	.27
Projected operating expenses (due to increase in prices of some expenses)	10.54
Actual revenue	10.06

Source: Annual Report of DSA-member lines

Applying the figures above, the required revenue adjustment would be that there is a need to increase/adjust the level of rates of the DSA-member lines by 21.32% across-the-board in order for the lines to attain a 12% return on their investment.

4.3.1 Application of the Rate Formula

The formula in the computation of freight rates for a particular commodity class in a particular link is expressed in linear equation as:

$$Y = aX + b; \text{ where}$$

Y = freight rate in pesos (P)

a = variable component coefficient multiplied by the actual distance (X)

X = actual distance of the link in nautical miles (NM)

B = fixed component constant

Likewise, the minimum and maximum rates for a particular link is expressed as:

$A_{\min/\max} = \min/\max (X)$; where

$A_{\min/\max}$ = minimum/maximum passenger rates

\min/\max = minimum/maximum coefficients

X = actual distance in nautical miles (NM)

The government entity tasked to certify the actual distance of the link is the National Mapping and Resource Information Authority (NAMRIA). All distances used in the evaluation of rates should be certified by NAMRIA to ensure its accuracy.

It should be recalled that the present structure of freight rates includes four commodity classifications, i.e., A, B, C and C(Basic). For passenger rates, 1st Class, 2nd Class, and 3rd Class (or the economy class). The three distance groupings 0-100 NM, 101-300 NM, and 301 and over. Applying the above formulae and under MC 92 rate level, the rates to be prescribed (in Philippine peso) for transporting Class A, Class B, and Class C cargoes in 150 nautical miles distance are as follows:

Class A		Class B		Class C	
<i>Minimum</i>	<i>Maximum</i>	<i>Minimum</i>	<i>Maximum</i>	<i>Minimum</i>	<i>Maximum</i>
169.02	218.73	135.19	174.95	110.00	142.34

For passenger rate in a 3rd Class (economy) accommodation under the same rate level shall be charged with a minimum rate of P145.35 and a maximum of P188.10.

It should be observed that minimum and maximum rates are prescribed instead of one uniform rate and the operator is allowed to charge any rate within the maximum and minimum limits. This system, known as the “fork tariff system” was introduced under MC 57 issued in 1990.

4.3.2 Fork Tariff System

By definition, a fork tariff system as defined by J.J. Evans and Benham, is the prescription and/or establishment of a passenger/commodity tariff or classification whereby rates are allowed to fluctuate between carefully selected/defined upper and lower limits. Under such a system, the individual shipowner could respond to changing demand by varying the basic rates set within the limits.

General Theoretical Advantages

Based on a study by J.J. Evans and A. Benham from the University of Wales, the fork tariff system has several advantages as follows, which hopefully will be realized after a considerable time of its adoption:

Requirement of Shippers

By allowing the use of the fork tariff, the shipowner/operator would have the opportunity to use different prices/rates according to different standards or level of quality of service. This would encourage them to provide services

that more adequately meet the requirements of individual shippers or group of shippers.

Consolidation of Shipments

The shipowner/operator could use the system to provide the necessary incentive to small shippers who would consolidate their cargoes before loading. If small shipowners of the same commodities could group together to present their shipments collectively rather than individually, then handling and documentation would be rationalized. This would enable the shipowner/operator to offer lower rates according to the size and regularity of the collective shipments of the shipper.

Efficiency of Shipowners

Under the fork tariff system, liner services could be rationalized, economies could be affected and shipowners/operators would be able to compete with each other, at least to a limited extent, unlike in the case of prescribing uniform rates. Consequently, the most efficient would be able to realize more profits by their efficiency and/or perhaps obtain a greater share of the trade. How this is brought about is better explained by Evans when he stated that: "it is envisaged that, initially, the freight rates offered would be identical; but as one line obtained, through quality, speed or efficiency, a greater share of the trade, it could increase its freight rates, while the less efficient lines would, in order to regain some of the lost traffic, be forced to reduce theirs".

Eventually, in this situation, an equilibrium position would be reached, and as the efficiency of the individual lines changed, so gradually would the freight

rates, which those lines charged. Shippers would, of course, need to be fully aware of the situation and act accordingly. Any line with lower costs than those of its competitors could afford to reduce rates in order to capture a larger percentage of the trade, and this might force others to follow. The long-term effect could be that the inefficient or high-cost operators would find that they were operating in conditions where their profit margins were too low, and they would be forced to reconsider the desirability of investing in liner shipping.

Efficiency of Shippers

If the shipowners/operators could not have most of the cargoes on the wharf or in the shed nearby when the vessel begins to load, then serious delays could occur and this would affect efficiency of operation and would tend to increase the over-all costs of loading. The fork tariff system could be used to provide a penalty through higher rates to shippers who tender their goods for shipment after the advertised closing date. On the other hand, shippers who present their goods for shipment on pallets could be offered incentives through lower rates under the same system.

4.4 Rate Setting Mechanism for Other Transport Modes

To compare this rate fixing currently in use by the MARINA with that of the other government agencies in the Philippines, the methods used in the Land Transportation Franchising and Regulatory Board (LTFRB) and Civil Aeronautics Board (CAB), which are under the Department of Transportation and Communications, were analysed for comparison which revealed the following:

The LTFRB's and CAB's Rate of Return computation is similar to the Required Revenue Method (RRM) which is based on the same formula/method utilized by the Commission on Audit in their rate audit of public utilities as prescribed in Commonwealth Act No. 325. This method computes for the revenues required to be generated to sufficiently cover operating costs and to provide a reasonable return on investments, which is 12% as set by jurisprudence. This is also the formula being used by MARINA in order to determine the percent adjustment in rates necessary to maintain the authorized rates of return on the investment.

The financial statements, statement of invested capital, and operating expenses of an operator serve as basis of the RRM computation.

CHAPTER 5

CRITICISMS IN THE PRESENT ADJUSTMENT PROCEDURE

After presentation/discussion on how the interisland liner rates in the Philippines is set/prescribed, it is the objective of this chapter to review/examine, evaluate and criticize shortcomings of the present method/system on rate setting.

5.1 Commodity Classification

At present, commodities are classified into four groups, there is no record however, on how the commodities were grouped as they are. According to R. Romero (1989), the commodity classification is simply a listing of articles and their classification with no regard for logic, consistency, or even a modicum of more effective regulation and that no explanation whatsoever as to the classification, itself.

It is for this reason that new areas of problems opened up rather than actually assisted in the formulation of an effective system of rate structure. Thus, even if said classification still exist today, its applicability in terms of an improved freight rate system will always be put to question. In addition, it gave too much discretion to the operator/ship owner since the shippers/cargo owners were, more often than not, not really in a position to question or at least be aware as to the basis of the commodity classification. It is in this light, therefore, that it leads to controversy, rather than acceptability.

Some pioneers in the RAD presumed that it was classified according to its value, but it has never been reviewed to date. An attempt was made sometime to

review the same because the Authority recognizes that there exist deficiencies in said classification, which, among others, can be listed as follows:

- The existing tariff structure failed to include numerous commodities which entered the trade since its classification sometime in the 20's but still included commodities which are no longer from the trade. New commodities are automatically included in the highest classification, i.e., Class A.
- The classification of many commodities did not follow their relative values which had changed, and therefore, not in proportion to the cost of production of the commodities.
- Considering that the tariff was never modified since its original classification, it is obvious that articles which were previously under a low-value class (if it was really classified according to value) would no longer be valued in the same class today and the same for other commodities, it may either be that they were undervalued or overvalued.

The move however, to update the mentioned classification, was never pursued due to the vagueness of its dimension. Accurate determination of the demand characteristics and figures for a single commodity is extremely difficult-what more for several thousand of commodities? Failure to consider the changes in the value of commodities means an inaccurate prescription of rates, specifically for freight because of its direct implication towards it.

5.2 Net Interest Expense

In the computation of rate adjustment, Net Interest Expense is added to Total Operating Expense, in due consideration of high interest rates which prevailed in the 1980s.

It was, however, mentioned in Memorandum to the MARINA Board, prepared by the RAD during one of the Board meetings, that the original contemplation of the Required Revenue Formula does not include Net Interest Expense as part of Total Operating Expenses, under the framework that the return on investment imputed into the formula would reasonably cover for the former.

From the point of view of public interest moreover, especially within the framework of current economic difficulties, the propriety of passing on the burden of interest to the public becomes even more essential. The resultant effect of the inclusion of the net interest expense in the total operating expense is the increase in the required revenue and thus, would increase the rate of required revenue adjustment. In is in this context that the ship owners and the shippers were into disagreement, because the shipper wants that the net interest should not be included and the ship owner wants the inclusion of the same.

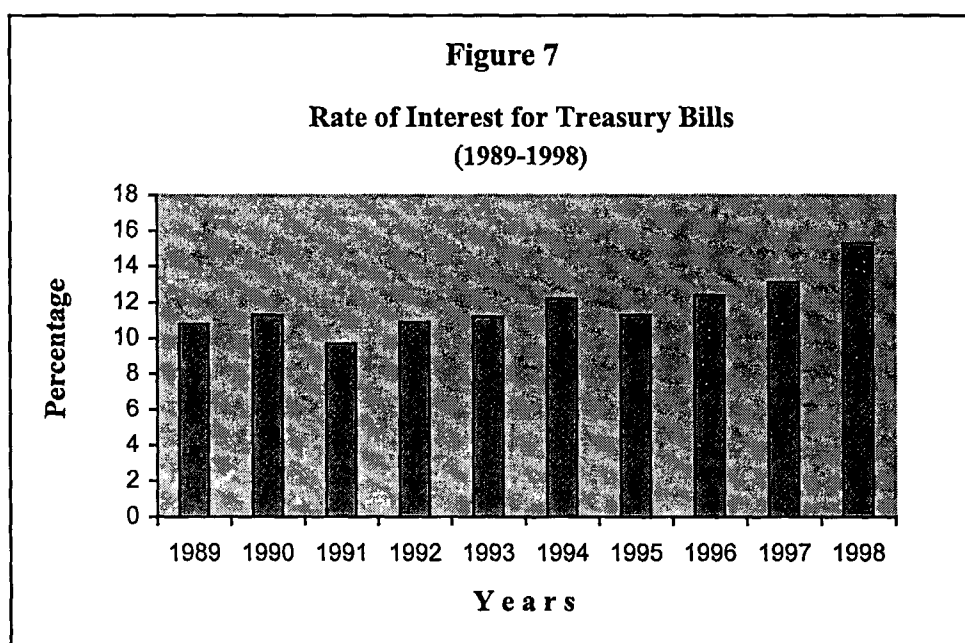
This criticism is almost always the issue/comment raised from the shippers' side, as well as other agencies and become the subject of discussion among the shipping companies/operators, the shippers, other interest groups, and the Authority in charge of regulating the shipping industry.

5.3 Rate of Return

The motivating factor for an investor to put money into a business is the expectation for profit or return at some future period. With this expectation, the service rendered is put at its best quality to be commercially competitive. As viewed by the ship owners/operators in the Philippines, the attainment of these objectives deemed not to be at its peak level because of the restriction on their return on investment to twelve percent as mandated by law. Although at the same time, they concur that transportation is a public utility and therefore, the interest of the public should not be overlooked by commercial concern.

From Jones (1996), it was mentioned that the major determinant in the reasonable rate of return that a company should have is such that the return should be higher than the rate offered by the bank for government bonds.

From figure 7 below, it shows that the rate of Philippine Treasury Bills from the period 1989 to 1998 ranges from 9.7% to 15.3% which is not far beyond the set limit allowed to shipping companies/operators.



Source: Central Bank of the Philippines (1999)

This means that an investor would be better off putting his investment in a risk-free investment. No investor is obliged to take risk. They can put money in banks or government bonds and earn an interest with virtually zero risk especially in more advanced nations.

As what Lorange and Norman (1971) puts it, many investors, are willing to take some risks in expectation that they will earn return above the "risk free" type investment.

The Philippine Bank lending rates from 1989 up to 1998 also ranges from 14.6% to as high as 24%, as shown in Table 4. This means that at 12% return, companies/operators whose equity is partly or wholly financed by banks would end up paying a much higher interest than the return earned in their investment.

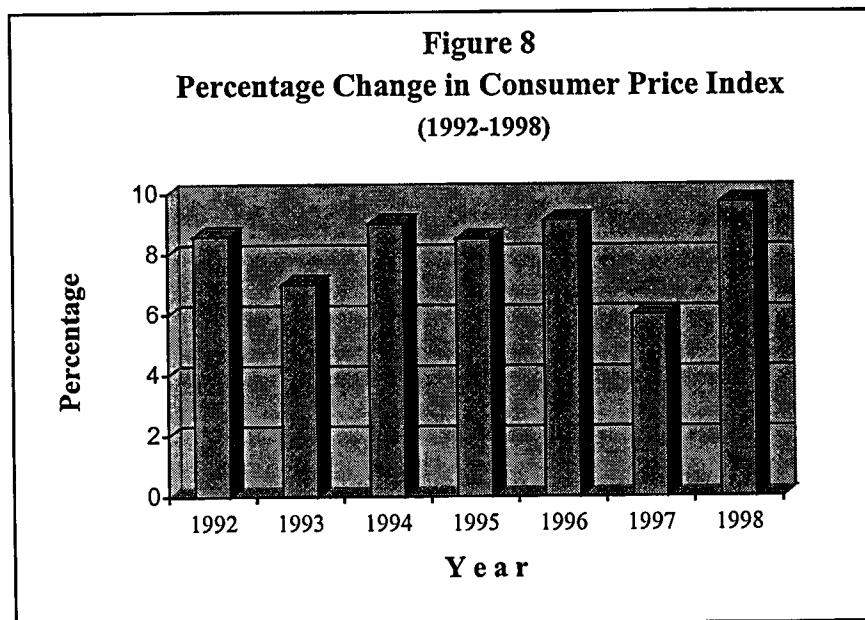
Table 4

Philippine Bank Average Lending Rates (1989-1998)		
Year	Rate (%)	% Change
1989	19.5	
1990	24.3	25
1991	23.5	-02
1992	19.4	-17
1993	14.6	-25
1994	15.0	3
1995	14.6	-3
1996	16.1	10
1997	17.6	10
1998	22.0	25

Source: Central Bank of the Philippines (1999)

In a country where prices increase from year to year, it is necessary to pay attention on the impact of inflation in any investment undertaking. This holds true in the Philippines, and thus necessary to consider inflation in assessing if the return on investment accorded to operators/ship owners is sufficient enough to cover all costs to sustain the company's day-to-day operations.

From Figure 8 inflation was higher at 9.0 percent and 9.1 percent in 1994 and 1995, respectively, and the highest for the period is at 9.7 per cent in 1998. These percentages, when translated into its real term, i.e., in terms of its real purchasing power, and applied to the limit of 12%, is far below the actual returns of the shipping companies. Moreso that when compared to the interest rates on Treasury Bills, investors would think twice to invest into the business of interisland shipping.



Source: Central Bank of the Philippines (1999)

From Spur (1976), it is said that the question of the reasonableness of the return cannot be determined without reference to the interest of the public; that the value of the service and the financial condition of locality served must be taken into account.

The return should be reasonably sufficient to assure confidence in the financial soundness of the company and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise money necessary for the proper discharge of its public duties/activities.

5.4 Rate Base

The rate base consisted of the appraised value of floating assets (net property and equipment plus any appraisal increments) and two months working capital, i.e., total operating expenses less non-cash items/transactions, which is used to assess the magnitude of the allowable return.

In a situation report prepared by MARINA (1976), it was mentioned that the reason why fixed assets plus appraisals are made as part of the rate base is to allow ship owners/operators to yield sufficient funds for vessel replacement. This is, however, prejudicial to companies operating chartered vessels, since the rate base for the charterers would consist only of working capital or capitalized leased assets, the marginal return might discourage chartering of ships.

There are some areas of concern regarding the application of rate base. The existing rate evaluation procedure appeared to lack any safeguard against unscrupulous appraisers who might report excessive valuations, which would result to high rate increases. Usually, asset appraisals are conducted for the purpose of securing loans from financial institutions/companies, and if the same appraised valued will be used in the evaluation for rates increase, then the amount reported would be overstated.

Any ship owner would be very much interested in having a higher rate adjustment. To achieve this, he can play with either any or all of the factors that may affect the rise in the required revenue. One of the components in arriving at the required revenue figure is the rate base, and thus, overstatement of this account will result to a higher rate adjustment. The ship owner/operator can adjust in any of the accounts that may change and affect the required revenue, and these are through the property and equipment account, accounts in the operating expenses and the non-cash items.

An increase in the fixed asset and total operating expense will result to a higher rate base, and consequently, a decrease in the amount of non-cash items would give higher base as well.

Why then give the ship owners/operators the "temptation" of trying to conceal the true/actual result of its operation? Definitely, it cannot be discounted the fact

that the person who signs the required annual report of finances shall be liable for any entries made therein, but it should be borne in mind that there exists what we call "internal" and "external" auditors/financial experts.

5.5 Financial Statements

There are some points that can be raised in the use of the financial statements. Foremost is the use of only the latest financial statements. In Chapter 4, it was mentioned that the financial statement used in evaluating applications for rate changes is the latest audited statement, which is the statement for the preceding year and may even extend up to more than a year. Financial statements covering the calendar year 1997 are submitted in June of the following year. These statements shall be used for any application for rates adjustment filed from July 1998 up to June 1999. Thus, any changes in the financial position of the company under evaluation would not be reflected in the financial statements used and therefore will not give the true picture/position of the company and definitely will result into a distorted rate of adjustment.

If in the subject year, actual revenue is low due to low traffic which may be a result of inefficiency, then the possible upward adjustment will be high. On the contrary, if the revenue is high because of peak season overloading, the adjustment will be low. This system would seem to support inefficiency at the expense of the shippers, and failed to take consideration on the variations in demand and supply of tonnage.

Another area of concern is the consolidation of the financial statements of a number of domestic shipping operators that represent the industry, and more often than not, the financial statements of DSA-members. It should be noted that each company's performance is unique and distinct from one another, the size of each company differs from the other, as well as the cost of operations, management style, earns profit or return more than the other, has their own

business strategies, etc. Consolidation therefore is only effective when more or less the subject companies have the same level of performance. What more of averaging their costs? Averaging costs which may not be representative of individual companies' expenses would result to inaccurate adjustments. Cost effective and efficient operators' costs will be overstated and the reverse for inefficient ones.

Aside from the defects and deficiencies in the procedure for rate setting, it is also worth mentioning that the process flow in every rate restructuring has added to the problem faced by shipowners and operators because of too much documentation and procedural requirements as illustrated in Figure 6.

CHAPTER 6

PROPOSED ALTERNATIVES, IMPROVEMENTS AND CHANGES

It was presented in the previous Chapter the defects/deficiencies in the present system in rates evaluation, it is in this Chapter that the writer deemed it proper to attempt to propose measures or solutions on how to improve, if not totally eradicate the one presently in use by the Authority.

There are two options available regarding the issue at hand, one is to continue using the formula but with continued appraisal/adjustment of its usefulness with the present condition. The other option is to implement full deregulation in the industry particularly the setting of rates.

6.1 Option 1: Continued adoption of the present system

As to the deficiencies mentioned on the classification of commodities, perhaps an improvement, if not total revision/reclassification for a more meaningful and useful classification of commodities would be the answer. In the absence of such a workable classification, the shippers will always be left at the mercy of the carriers without the presence of regulatory officers during the time of loading to assure that goods carried on board were valued as to its correct classification or not. Almost always, the rates were determined by the carriers and accepted by the shippers at the loading point, following no regulations but perhaps using the previous rates which were consistently used or may be guidelines that they remember as basis for the rates agreed upon.

The attempt to update the classification should be pursued to ensure workability of the commodity classification, although it is accepted that the accurate determination of the figures for all possible commodities carried on board is really a difficult pursuit considering several thousand commodities.

In the issue whether to include or exclude the interest expense in the Total Operating Expenses, it is felt that if the Government is inclined to the belief that public services are invested with public interest, then, the exclusion of the interest expense is thus proposed, which is, in the first place is the original intention of the RRM. But if consideration is on the part of the shipowners/operators, then the inclusion of the same is being proposed.

On the 12 percent cap on investment return:

The rate adjustment process appeared to be based on the assumption that:

- a 12 percent rate of return would still induce qualified investors to provide and maintain an efficient shipping service;
- there was no change in the average utilization rate before and after the rate adjustment; and
- the financial statements used in the calculations for adjustment were accurate and factual.

The rate of return equivalent to 12 percent had been considered to be a "reasonable rate" and this rate had been consistently applied to every petition for rate restructuring in spite of the increase of cost of capital. This discrepancy between the prevailing opportunity cost rate and the said "reasonable rate" had

long been an issue brought up by shipowners/operators in their discussion with the Authority's officials.

It is pretty obvious that the limitation on the return to twelve percent has become ineffective and that the Authority should lift this limit. It is well settled that the rate of return depends upon existing conditions, and there are so many factors that has to be taken into consideration to determine its reasonableness, which are, among others:

- the risks to which the principal and income from it are subjected;
- the character of the business;
- the market value of money;
- the size and comparative financial strength of the company;
- demand for money; and
- the prevailing rate of interest in the community in which the enterprise is located.

As an alternative way of adjusting the rates, the applicant, upon application for rates adjustment, should be required to propose/submit the intended rates with appropriate justifications. The burden of proof, therefore, should be with the applicant-operator.

As to the defect in the rate base - If the Government, due to its low foreign exchange reserves, would depend on chartering as the necessary and most practical mode of securing the future tonnage requirements, it should be necessary that the use of the rate base be reviewed for companies with chartered vessels. In the determination of the invested capital, the inclusion of reserve funds or the capitalization of leased assets is one alternative. Further, since the valuation reports were normally prepared without prejudice to the appraisers, some appraisers have no hesitation in simply making their clients happy. Thus,

it is believed that it is imperative to accredit appraisal companies and that the reports should be reviewed more closely by the Authority.

Owing to the numerous elements and factors influencing the behavior of shipping rates, it is practically impossible to have any kind of regulation over this. Vessels are of various kinds and types with different costs of operation and sailing in changing market conditions. There are no definite determinants in fixing price creating an ambiguity which can result to differences of opinions as to what is a reasonable rate; and it is possible that government's determination of the reasonability of profits of shipowners could drive many carriers out of business.

Further, the need for sophisticated demand analysis is extremely difficult to meet. In considering a single rate classification there is at least a specific market on which to focus, (not to mention the difficulty to capture demand data for even one product); but in analyzing an across the board increase, research is limited to "general feeling". Admittedly, the latter case is what is usually happening in MARINA. Across the board increases are determined based on "general indications" gathered from data sources where separate figures for each type of service or trade needed for a sophisticated analysis are impossible to obtain. Furthermore, since different rates for different commodities are usually prescribed, then government would also have to continuously update and rationalize its commodity classification that is an insurmountable task with thousands and thousands of product/commodities.

The charging of identical/uniform rates, although providing stable liner rates in the short term, restricts competition that tends in the longer term to increase costs, and thereby rates, through inefficiency and lack of coordination.

Since entry/exit were previously controlled by MARINA and rates were regulated to an identical level, competition was restricted thereby creating and sustaining monopoly and undertonnage in some routes in the Philippines.

6.2 Option 2: Full deregulation

Although MARINA recognizes the merits of deregulation and demerits of regulation, it could not have fully deregulated the rates then because of the imperfect market and the imbalance of supply and demand. Further, MARINA had to consider the possibility of creating rates war, confusion, and destructive environment that might be brought about by the drastic change of fully deregulating rates. There was then a need to provide a price mechanism which would create a certain level of competition that would encourage/cause shipowners/operators to adjust the supply of vessel and at the same time provide control for tendencies to increase rates to an unreasonable or monopolistic level due to the imperfect market existing (that is, where there is no free play of supply and demand). Of course, entry and exit of operators into routes have likewise been liberalized but adjustment of supply and demand and rates is not yet expected in the short run owing to the fact that it takes considerable lag-time (say, between 1 to 4 or 5 years) before supply gets in equilibrium with demand. The relationship between the price and that of the demand and supply was briefly discussed by S. Ma (1999) where he mentioned how to analyze demand and supply in the market and what pricing has to do with it. He stated that "it is through pricing system that the demand communicates with the supply".

Now that there is substantial manifestations/indications of a perfect/competitive market as seen in the Philippine domestic shipping scene – i.e., demonopolized routes, non-existence of undertonnage routes and free and effective play of competition among operators, can deregulation of rates take off, - but what implications it might have?

As what Frankel, E. (1982) mentioned, “no nation has jurisdiction to impose comprehensive regulation on the ocean shipping industry because the seas are open to navigation by all, and as a result, the industry is largely self-regulated through conferences which sets rates and may influence the number of sailings over a given route”.

If full deregulation is the desired goal for the Philippine domestic shipping industry, some critics say that it might have implications as to the competitiveness in the industry, that safety aspect and threat to the environment might be overlooked upon and also the quality of service to be accorded to the public.

6.2.1 Competition

To assess whether there still exists a free play of market forces, it should be important to determine the existence of competition – whether actual or potential –since it keeps rates at a reasonable level and it forces quality of service up.

Internal Forces

Pure monopolistic status would not be possible even in an environment where a conference or association like the DSA, VAFCSO and SMSA, has complete monopoly of a particular trade route because safeguards against monopoly abuses are natural/inherent within the association itself.

The reason for this is the fact that each member of the conference/association is different from the other - the types and conditions of vessels, operating costs and management style, strategies, which give rise to competition among themselves.

Threats do exist within the associations, like the threat of abandonment by a member when participation in the association is perceived to be not paying-off or when he feels that he can exist independently due to the size of his share, which is the name of the game. Those left in the association cannot do otherwise but to improve services and might be forced to lower/reduce rates. An attempt to eliminate fellow operators within the association, and the shippers' choice of a carrier from among the members could also be regarded as threats and may activate rivalry within the group.

Member lines are racing for faster, bigger, better-equipped ships as well as for other means of attracting shippers. Actually, other means of attracting customers have gone beyond fair play rules and in breach of conference/association contract as rate cutting, secret rebates, among others.

External Forces

The associations previously mentioned, unlike national cartels or cartels in other industries, cannot and will not be able to monopolize the route(s) over which they operate. As stated by L. Javier (1995) that the reasons for this are the following:

- The presence of independent liners which is considered as the strongest and most direct competition to these associations. In spite of the existence of these associations, shippers cannot be prevented and will always have the option to send their cargoes with independents.
- The existence of tramps. Tramps will compete with these associations not only in terms of occasional carriage done in backhauls but on a

much wider scale if the charter market is weak and the rates in the liner business are attractive.

- The lack of a right or license or privilege to serve exclusively the trade. Liberalization of routes does not restrict new entries, thus, exclusion from the association does not bar any shipowner/operator from plying and carrying out business on the route.
- The existence of alternative sources of transportation. Air transportation competes heavily with shipping especially for high value goods and also from inland transportation.
- Alternative routes. Other associations and/or independent liners operating on adjacent or alternative routes compete with each other.
- Alternative suppliers and goods. Potential competitions are posed by the possibility of similar cargoes being shipped from different origins and also by the possibility of the production of goods being initiated in a local market, which cannot afford the cost of sea transport.

If these associations were to be given the privilege to set their rates, consideration of the aforementioned actual and potential competition factors including the bargaining power of shipper's councils will be made. They will not charge high monopolistic or unreasonably high rates since this would immediately attract newcomers/outsideers.

6.2.2 Safety and Service Quality

Since the advent of deregulation in some areas of the industry, the government has formulated policies to safeguard and assure confidence for a climate of full deregulation.

Worthy to mention is the Government's serious attention to the improvement of maritime safety in the domestic shipping operations.

Government programs in this regard were guided by the need to address the attendant concerns related to vessel seaworthiness, the need to insure crew competence, and the provision of essential aids-to-navigation.

As to vessel seaworthiness, the requirement for certain vessels to be classed remained as a basic policy, and was subsequently complemented by the coverage of other vessel types with the Vessel Safety Inspection System (VSIS) pursuant to MARINA M.C. No. 124. In addition to these policies, compliance with the pertinent provisions of the STCW Convention as it applies to domestic seafarers (to correspond to the requirements for vessel seaworthiness) has likewise been enforced gradually since 1994, even as several foreign-assisted projects are being implemented to improve the quality of education and training for seafarers, including their certification, were all designed to address the need to insure crew competence in vessel operations.

In order to address specific concerns on maritime safety and pollution prevention, other policy measures were likewise instituted as embodied in certain MARINA Circulars. The range of such concerns include, among others, safety measures during a vessel's voyage (M.C. No. 114), safety measures for motorbanca passengers (M.C. No. 123), passenger advisory on vessel safety through on-board film showing or voice tape recording (M.C. No. 72, M.C. No. 135 and M.C. No. 136).

The government's commitment for the importance of maritime safety culture in the country, is further highlighted by officially adopting the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) for implementation to domestic vessels required to be classed and for certain sizes. Compliance with the ISM Code by affected operators and their vessels will entail the development,

implementation and maintenance of the prescribed Safety Management System, which will serve to: (1) provide safe practices in ship operation and a safe working environment; (2) establish safeguards against all identified risks; and (3) continuously improve safety management skills of personnel ashore and on board, including preparing for emergencies relating both to safety and environmental protection.

Thus, it could be said that with all these steps taken by the Authority to create a liberalise atmosphere at the same time ensuring that safety aspect should not be ignored, avoidance of unhealthy competition, and ensuring “quality service” standards, the industry is now ready for full deregulation-both in the entry/exit into routes and domestic shipping rates.

6.2.3 *Perceived Deregulation benefits*

If deregulation can be pursued to its full swing, the beneficiaries would be the shippers, cargo owners, the carriers and the Authority as well. However, the government should ensure that Authorities could intervene in case the supposed aim of deregulation is not being worked out. The following could be envisaged as benefits of full deregulation:

- Restrictions on the contents of contracts between shippers and carriers would be eliminated
- Laws related to unfair trade practices of some shipping lines and the government as well would be strengthened
- DSA-member lines who were once regarded as a “conference” would not be able to prevent any of their members from making individual lower-cost contracts with the shippers
- Tariff filing and regulation by the MARINA would be eliminated

- Tariff rates would be allowed to become effective immediately, rather than after waiting for a considerable period of time after filing the petition for rate increase
- Deregulating the rates would be parallel to the MARINA's initiative to liberalize entry and exit in the domestic routes

CHAPTER 7

CONCLUSIONS AND RECOMMENDATIONS

As shown from the previous chapters, it could be said that there are really apparent flaws in the present rate adjustment procedure/evaluation currently in used by the Authority. That the major accounts/components of the formula itself contains contingent items that needs to be revisited, modified and improved to make it useful.

The computation for required rate increase merely checked if the 12 percent rate of return could be realized, if not, an adjustment to attain the 12 percent rate of return would be granted. The whole idea of the Required Revenue Formula is based on the premise that the applicant-company's profitability status should be up to the level of revenue where the 12 percent return on investment could be achieved. In other words, the process of adjusting rates initially involved a perceived return below the "reasonable rate" and attempts were then made to restore this level of profitability.

Revenues earned by a company should be enough to compensate investors of both debt and equity capital. These payments would be in the form of interest and profits, which could be expressed in the form of dividends or retained earnings. If a company would not be able to reward capital, then it would become a reason for investors to seek alternative investments due to lack of profit opportunity. Eventually, when the investment base is eroded due to unattractive investment, the firm would be compelled to reduce the level of service it offers to the public.

The twelve (12%) percent return set by jurisprudence has become unrealistic and unreasonable in the present condition. Shipowners and operators were compelled to generate/produce and submit non-factual financial statements because of the continuous use of the 12 percent antiquated rate of return. If this rate of return is now found to be unrealistic, and the proposal to logically lift this rate of return, what more has the formula to be based upon?

With the whole procedure, it is not the formula alone which has the defects and deficiencies but rather, the whole process for the evaluation of rate adjustment, including the process flow within which the filing of the application up to its approval/disapproval.

Due to its numerous defects and deficiencies which can be regarded as being not useful to its intended purpose, then it is definitely more appropriate to totally abandon the use of said formula. The reclassification of commodities alone has never materialized since the first attempt to reclassify the same, thus, it seems impossible now to ever make a success in revising said classification.

Recommendations:

With the advent of deregulation, however, it could be said that the best and most logical approach or alternative should be to let the shipowners and operators have their own rate setting mechanism and prescribed their own rates whether it be a conference or independent rate. It should, however be the Authority's thrust to continuously monitor the reasonableness of rates to be charged by conference members, particularly those belonging to the biggest association which captures the biggest share of the market, as well as the independent lines.

The purpose of deregulation in most industries, and this is also true to the shipping industry, is to allow competitive market forces to decide for the industry and replace

the role of government regulations. Deregulation changes relax controls of shipping cartel which is alleged to be present within the conference or association, and government oversight over rates. With full deregulation, customers would be able to enter into confidential contracts with individual carriers.

The shipowners, would be the very first supporter of this move, for the reason that ship owners/operators, complain primarily around conditions which allegedly inhibit them from delivering the kind of services demanded/expected by the public. Foremost among these conditions is their lack of flexibility to immediately respond to business opportunities due to restrictive government regulations and the attendant bureaucracy involved. Thus, the lifting of these government regulations will definitely be welcomed.

Based from the aforementioned observations and conclusions, it is therefore recommended that full deregulation of rates in the domestic shipping sector be implemented. Further, that the Authority's diligent monitoring of the reasonableness of the rates to be prescribed by the shipowners and operators should be its concern to make a balance of public interest and public service, in due consideration of course, of the shipowners and operators predicament.

This recommendation entails the formation of Committees in the MARINA Regional Offices to take charge of any activity that may arise as a consequence of the advent of full deregulation like complaints that might be brought about by the shippers or the public and affected parties. The Committee shall compose of the following:

Representatives from the: shipowners, operators and shipping associations

shippers and shippers organization, like the Distributors Management Association of the Philippines (DMAP)

regulatory body like the Philippine Shippers Bureau and Department of Trade and Industry

Authority, the MARINA

The Committee meetings shall serve as fora for any agreement or actions, decisions and recommendations adopted, which shall be binding to all sectors represented therein.

To avoid undue increase in rates of essential commodities, it would be necessary that full deregulation should be done gradually to safeguard public interest. If it is adopted, its application should be slightly delayed to have ample time to organize and prepare the necessary arrangements for the successful implementation of the same.

Parallel to the creation of Committees in different regions, the MARINA shall cause the preparation of relevant guidelines and procedures or Circular for the implementation of the proposed full deregulation of rates.

It has to be borne in mind, however, that full deregulation cannot be implemented in an instant, and that there are, and will always be parties in disagreement to such a move. Thus, the authority has to put in place the intended purpose with due regard to all affected parties.

BIBLIOGRAPHY

- Almario, G. (1977). Transportation and the Public Service Law. Phoenix Press, Inc. Quezon City, Philippines.
- Bennathan, E. and Walters, A. The Economics of Ocean Freight Rates. Pall Mall Press.
- Bennathan, Escobar and Panagakos (1989). Deregulation of Shipping: What is to be learned from Chile. (World Bank Discussion Papers). Washington DC: The World Bank
- Beth, H. (1984). Economics of Regulation in Shipping. Lectures and Contribution No. 37. Institute of Shipping Economics, Bremen.
- Branch, A. (1989). Elements of Shipping. Chapman and Hall.
- Brodie, P. (3rd Ed. (1997) Dictionary of shipping Terms. LLP Ltd. London..
- Clark, C. (1992). World Dictionary of Freight Conferences. Croners Publication, Ltd., Surrey.
- Cooper, R., Kaplan, R. (1991). The Design and Cost Management Systems. Prentice-Hall International Inc., New Jersey.
- Davies, J. E. (1984). Pricing in the Liner Shipping Industry: A Survey of Conceptual Models. Canadian Transport Commission, Canada.
- Domestic Shipowners Association (1998). Annual Report of Finances and Operations.
- Evans, J. and Marlow P. (2nd Ed. 1990). Quantitative Methods in Maritime Economics. Fairplay Publications, Ltd. Surrey, London.
- Evans, J.J. and Benham, A. (1995). A Fork Tariff System for Liner Freight Rates. Report

- Frankel, E. (1982). Regulation and Policies of American shipping. Auburn House Publishing Company, Boston, Massachusetts.
- Herman, A. (1983). Shipping Conferences. Lloyd's of London Press, Ltd., London Information Paper
- Ma, S. (1999). Maritime Economics. Lecture handbook. World Maritime University, Malmo, Sweden.
- MARINA (1995). The Maritime Industry Authority 1974-1994: Milestones and Visions. Manila: Maritime Industry Authority.
- MARINA (1999). Maritime Industry Authority Statistical Yearbook 1998. Manila: Maritime Industry Authority.
- MARINA(1999). Maritime Industry Authority Annual Accomplishment Report. Manila: Maritime Industry Authority.
- Martin, T.C. (1981). Commentaries and Jurisprudence on the Philippine Commercial Laws. Central Book Supply, Manila.
- Mottram, D. (1999). Shipping & Project Finance. Unpublished lecture handout, World Maritime University, Malmo, Sweden.
- Mottram, D. (1999). Shipping Management Strategy: Strategic management Concept Applied to Shipping. Unpublished lecture handout, World maritime University, Malmo, Sweden.
- Pace, M.H. (1979). Determination of Freight Rates Towards a New Formula. Institute of Shipping Logistics and Economics, Bremen.
- Parker, R.H. (1988). Understanding Company Financial Statements. Penguin Business. England
- PPA (1998). Philippine Ports Authority Statistical Yearbook 1998. Manila: Philippine Ports Authority.
- Romero, R. (1996). Domestic Shipping Policy to Promote NICHood: A Comprehensive Policy on Deregulation. Unpublished master's thesis, National Defence College of the Philippines, Manila, Philippines.
- Smithson, C. & Smith, C. with Wilford, D. (1995). Managing Financial Risk. A Guide to Derivative Products, Financial Engineering, and Value Maximization, Professional Publishing, Chicago.

Stopford, M. (2nd Ed. 1997). Maritime Economics. Routledge, London.

Supreme Court Reports Annotated. Vol. 18 Manila Electric Co. vs. Public Service Commission. November 14, 1966

U.K. Department of Transport (1986). Liner Shipping and Freight Rates: A United Kingdom-Northern Europe Comparison. UK Department of Transport.

UNCTAD (1995). Comparative analysis of deregulation, commercialisation and privatisation of ports. Report published by the UNCTAD Secretariat.

White, G., Sondhi, A. & Fried, D. (1998). The Analysis and Use of Financial Statements. John Wiley & sons, Inc., New York.

MEMORANDUM CIRCULAR NO. 119

TO : ALL SHIPPING COMPANIES, SHIPOWNERS / SHIOPERATORS, CHARTERERS, PUBLIC SERVICE OPERATORS, SHIPBUILDING / SHIP REPAIR YARDS / OPERATORS, SEAFARERS, MANNING AGENTS, OTHER MARITIME ENTITIES AND OTHERS CONCERNED

SUBJECT : REVISED SCHEDULE OF FEES AND CHARGES

Pursuant to the provision of Presidential Decree No. 474 the Public Service Act Executive Order No. 125 as amended. Executive Order No. 292 (Administrative Code 1987) Batas Pambansa Blg. 325, the General Provisions of the General Appropriations Act and Executive Order No. 159, s. 1994, the Maritime Industry Board approved on 30th of May 1997 the Management's recommendation on a revised schedule of fees and charges listed in "ANNEX A", which shall be imposed and collected by the Maritime Industry Authority.

This Circular shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Manila, Philippines 30th of May 1997

RADM PIO H. GARRIDO JR. AFP (RET)
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the foregoing Memorandum Circular No. 119 was approved by the MARINA Board on 30th May 1997.

PURITA C. CENTENO
Corporate Board Secretary

Date of Publication : 22 June 1997, Malaya Newspaper.

**Maritime Industry Authority
1997 Fees and Charges**

Type of Application	New Fees
7. Change of company/ vessel name	
• Change of company's name	P 1, 000.00
• Change of vessel's name	
* Steel-Hulled Vessels	P 1, 500.00/ vessel
* Aluminum-Hulled or Fiber Glass Hulled vessels, or combination of both, or any other type of hull	P 1, 500.00
* Wooden-Hulled Vessels	
- For vessels 35 GT & above	P 1, 000.00/ vessel
- For vessels below 35 GT	P 500.00/ vessels
8. Petitions	
• Sale, Lease, Mortgage & Transfer of Franchise and/or Public Water Transport Utilities or Vessels	
* Steel-Hulled Vessels	P 4, 000.00/ vessel/ applicant/ operator
* Aluminum-Hulled or Fiber Glass Hulled vessels, or combination of both, or any other type of hull	P 4, 000.00/ vessel/ applicant/ operator
* Wooden-Hulled Vessels	
- For vessels 35 GT & above	P 2, 000.00/ vessel/ applicant/ operator
- For vessels below 35 GT	P 500.00/ vessel/ applicant/ operator
• Petition for rate increase	P 3, 000.00/ vessel/ link or minimum of P20,000.00
• Suspension/ withdrawal of operation by operator	
* Permanent	
- Steel-Hulled Vessels	P 2, 000.00/ vessel
- Aluminum-Hulled or Fiber Glass Hulled Vessels, or combination of both, or any other type of hull	P 2, 000.00/ vessel
- Wooden-Hulled Vessels	
For vessels 35 GT & above	P 1, 000.00/ vessel
For vessels below 35 GT	P 500.00/ vessel

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**DOMESTIC SHIPOWNERS ASSOCIATION
CONSOLIDATED INCOME STATEMENT
FOR THE YEAR ENDED _____
(IN THOUSAND PESOS)**

	Previous Year	This Year
OPERATING REVENUES		
Freight Revenue		
Passenger Revenue		
Revenue from Vessel Charter		
Other Vessel Revenue		
TOTAL OPERATING REVENUE		
VESSEL OPERATING EXPENSES		
Fuel		
Bunker Fuel		
Diesel Fuel		
Special Fuel Oil		
Lubricants		
Vessel Depreciation on Cost		
Vessel Depreciation on Appraisal Increment		
Drydocking, Repairs & Maintenance		
Stevedoring & Wharf Labor		
Salaries & Wages		
Food & Subsistence		
Commission Expense		
Insurance (Others)		
Protection & Indemnity Premiums		
Hull Insurance Premiums		
Supplies Used		
Deck & Engine Supplies		
Steward Supplies		
Water		
Pilotage		
Port Charges		
Charter Hire Expense		
Claims and Damages		
Taxes, Licenses & Fees		
Common Carrier's Tax		
Other Taxes & Licenses		
Employee's Benefits		
Allowances		
Other Benefits		
Miscellaneous Vessel Operating Expense		
Rent and Advertising		
TOTAL VESSEL OPERATING EXPENSES		
TERMINAL OPERATING EXPENSES		
Depreciation on Cost of-Container Vans		
Terminal Equipment & Facilities		
Depreciation on Appraisal Increment of:		
Terminal Equipment & Facilities		
Container Vans		

**DOMESTIC SHIPOWNERS ASSOCIATION
CONSOLIDATED INCOME STATEMENT
FOR THE YEAR ENDED _____
(IN THOUSAND PESOS)**

Previous Year This Year

Rentals - Container Vans
 Other Rentals
Repairs & Maintenance Container Vans
 Terminal Equipment & Facilities
Salaries & Wages
Fuel & Lubricants
Storage & Other Cargo Charges
Taxes & Licenses & Fees
Insurance - Container Vans
 Terminal Equipment & Facilities
Employee's Benefits- Allowances
 Other Benefits
Miscellaneous Terminal Operating Expenses
TOTAL TERMINAL OPERATING EXPENSE
GENERAL & ADMINISTRATIVE EXPENSES
Salaries & Wages
Rentals
Employee's Benefits- Allowances
 Other Benefits
Depreciation on Cost
Depreciation on Appraisal Increment
Transportation & Travel
Power, Light & Water
Advertising
Professional & Legal Fees
Insurance & Others
Taxes, Licenses & Fees
 MARINA Supervision Fees
 Other Taxes & Licenses
Communications
Office Supplies Used
Representation Expense
Bank Charges
Repairs & Maintenance
Membership & Assessment Dues
Bad Debts
Contributions & Donations
Security & Janitorial Services
Miscellaneous General & Administrative Expenses
Amort. on Leasehold Improv'ts.
TOTAL GENERAL & ADMINISTRATIVE EXPENSES
TOTAL OPERATING EXPENSES

**DOMESTIC SHIPOWNERS ASSOCIATION
CONSOLIDATED INCOME STATEMENT
FOR THE YEAR ENDED _____
(IN THOUSAND PESOS)**

Previous Year This Year

NET OPERATING INCOME (LOSS)
OTHER INCOME (EXPENSES)
 Rent Income
 Dividend Income
 Interest Income
 Miscellaneous Income
 Interest Expense
 Foreign Exchange Gain/Loss
 Gain/Loss on Sale of Asset
 Miscellaneous Expenses
 Net Other Income (Expenses)
NET INCOME (LOSS) BEFORE TAXES
LESS: Provision for Income Tax
NET INCOME (LOSS) FOR THE YEAR
ADD: BOI Credit Memo
NET INCOME (LOSS) FOR THE YEAR (Adj.)
 Add BOI Tax Debit Memo
 Deduction under special law
RETAINED EARNINGS, BEGINNING
 ADDITIONS APPROP. FOR HIGHER
 COST OF PROPERTY & EQUIPT.
 EQUITY OF NET EARNINGS (LOSSES) SUBSIDIARIES
 DIVIDEND PAID
 PRIOR YEARS' ADJUSTMENT
RETAINED EARNINGS END

BALANCE SHEET
As of _____
(In Thousand Pesos)

Previous Year This Year

CURRENT ASSETS

Cash
Depreciation Fund
Marketable Securities
Notes Receivable
Trade Accounts Receivable
Other Accounts Receivable
Spare Parts Materials & Supp.
Prepaid Expenses
Subscription Receivables
Other Current Assets

Total Current Assets

INVESTMENT IN SHARES OF STOCK

PROPERTY AND EQUIPMENT (NET)

Cost
Appraisal Increment
Construction in Progress
Total Property & Equipment

OTHER ASSETS

TOTAL ASSETS

LIABILITIES & STOCKHOLDERS EQUITY

CURRENT LIABILITIES

Accounts Payable & Accrued Expense
Bank Loans
Income Tax Payable
Advances from Stockholders
Current Portion of Long Term Debt
Due to Affiliated Companies
Dividends Payable
Other Current Liabilities

Total Current Liabilities

LONG-TERM LIABILITIES

Funded Debt Outstanding
Long-Term Loan from Aff. Cos.

OTHER LIABILITIES

Deferred Credits
Reserves
Other Liabilities

TOTAL LIABILITIES

STOCKHOLDERS' EQUITY

Authorized Capital Stock

Capital Stock
Subscribed Capital Stock
Less: Subscription Receivable
Premium on Paid-up Capital
Paid-up Capital
Less: Treasury Stock
Additional Paid In Capital
Deposits for Future Subscriptions
Common Shares
Preferred Shares

Total Capital Stock

REVALUATION SURPLUS

DEPOSITS ON STOCK SUBSCRIPTION

REVALUATION SURPLUS

RETAINED EARNINGS

Retained Earnings, Appropriated
Retained Earnings, Unappropriated

TOTAL STOCKHOLDERS' EQUITY

TOTAL LIAB. & STKHOLDERS' EQUITY

MEMORANDUM CIRCULAR NO. 72

TO : ALL OWNERS/OPERATORS OF INTERISLAND PASSENGER/CARGO VESSELS OF 250 GRT AND ABOVE.

SUBJECT : GUIDELINES ON THE IMPLEMENTATION OF AT LEAST 10-MINUTE FILM ON THE SAFETY FEATURES OF EACH SPECIFIC PASSENGER/PASSENGER-CARGO VESSELS.

Pursuant to the provisions of Executive Order Nos. 125 and 125-A and the Public Service Act, the following guidelines are hereby prescribed to implement the required film-showing of (at least) Ten (10) minutes pertaining to the vessel's safety, health, and sanitation, to be shown on each passenger/passenger-cargo vessel of 250 GRT and above, which was approved by the MARINA Board during its 100th Regular Meeting held on 12 July 1991.

Section 1. OBJECTIVES. The 10-Minute Film on the safety/health/sanitation of the vessel is geared towards the attainment of the following objectives.

- 1.1 To ensure preparedness and alertness of passengers in case of maritime emergencies/accidents, so as to minimize if not prevent casualties.
- 1.2 To maintain and promote health and sanitation on-board the vessel.

Section 2. COVERAGE. Compliance with this Circular shall be mandatory for all passenger/passenger-cargo vessels of 250 GRT and above.

Section 3. CONTENTS OF THE FILM. The film shall be primarily in local dialects in the ports of origin and destination of the vessel, and in English and Pilipino and shall contain features on the vessel's safety, health and sanitation, more particularly described as follows:

- 3.1 General Information:
 - 3.1.1 Names/Number of the vessel's officer and crew
 - 3.1.2 Speed/Routes/Expected Time of Arrival (ETA)
 - 3.1.3 Amenities/Services offered on-board
- 3.2 Safety Features

- 3.2.1 Location and use of exits, lifejackets, lifeboats, fire extinguishers
- 3.2.2 Do's and don'ts during emergency situations and other precautionary measures.
- 3.2.3 Abandon ship procedure/drills
- 3.2.4 Proper storage of dangerous or inflammable goods.
- 3.3 Health/Sanitation Features
 - 3.3.1 Location of comfort rooms, mess halls, medical room
 - 3.3.2 Garbage/waste disposal
- 3.4 Miscellaneous Features
 - 3.4.1 The company may include commercial ads at the end of the film which should not exceed five (5) minutes.

Section 4. PLACE AND TIME OF EXHIBITION.

- 4.1 The installation of at least one TV screen in the mess hall/cafeteria, lobby/lounge, and economy class passengers' area, where the approved film must be shown shall be compulsory.
- 4.2 The film must be shown at the time provided hereunder:
 - 4.2.1 Mess Hall/Cafeteria – the film-showing to coincide with every batch of passenger who will take their meals.
 - 4.2.2 Lobby/lounge and passenger deck area – immediately upon the vessel's departure and once every three hours thereafter between 7:00 a.m. and 7:00 p.m.

Section 5. IMPLEMENTING/MONITORING OFFICE

The Maritime Industry Authority (MARINA) shall approve the contents of the ten (10) – minute film feature.

The Philippine Coast Guard (PCG), and National Quarantine Office (NQO), in coordination with MARINA, shall monitor compliance with this circular.

Section 6. PENALTIES AND SANCTIONS

6.1 The MARINA shall include the 10-minute film feature as a prerequisites to the issuance, renewal or extension of the Certificates of Public Convenience (CPC), Provisional Authority (PA), Special Permit (SP).

6.2 All vessels covered by these Guidelines shall have three (3) months from effectivity to comply.

6.3 Failure to comply with any of the provisions of this Memorandum Circular shall be subject to the following penalties and sanctions:

6.3.1 Violation of Section IV.1

First Offense - Fine of ten thousand (P10,000) Pesos

Second Offense - Fine of twenty thousand (P20,000) Pesos

Third and Succeeding
Offense - Fine of twenty five thousand (P25,000)
Pesos

6.3.2 Violation of Section IV.2

First Offense - Fine of two thousand (P2,000) Pesos

Second Offense - Fine of four thousand (P4,000) Pesos

Third and Succeeding
Offense - Fine of double the amount last paid but
not to exceed twenty five thousand
(P25,000) Pesos.

Section 8. EFFECTIVITY

This Memorandum Circular shall take effect fifteen (15) days after its publication once in a newspaper of general circulation.

10 December 1992, at Manila, Philippines.

PHILIP S. TUAZON
Administrator

MEMORANDUM CIRCULAR NO. 114

TO : ALL SHIPOWNERS/OPERATORS OF PASSENGER LINER VESSELS AND OTHERS CONCERNED

SUBJECT : PREVENTIVE SAFETY MEASURES AND OTHER CONCERNS

In line with declared national policy to enhance the safety and quality of shipping services in the interisland trade, and consistent with the mandate to provide for the effective supervision, regulation and rationalization of the organizational management, ownership and operation of all water transport utilities, as set forth under P.D. 474 and enunciated further in E.O 125/125-A and E.O 185, Philippine-registered vessels duly documented to carry passengers in the domestic trade are hereby directed to observe strictly the following:

I. AREAS OF CONCERN

1. MEANS OF ESCAPE/EMERGENCY EXITS:

- a. Two means of escape/emergency exits, accessible to the passengers, must be provided in all general areas. Pre-designated crew member(s) must be assigned purposely to ensure unobstructed passage to the escape/exits, in case of emergency.
- b. No locking doors giving access to the two identified means of escape under (1) above shall be employed, except crash doors or locking devices capable of being easily forced open in an emergency, and a permanent/conspicuous notice to this effect shall be posted at both sides of the door(s) exits.
- c. Locking of alley/door ways during ticket inspection/passenger counting is absolutely prohibited. Passageways must, at all times, be cleared of any obstruction of loose cargoes, handcarried luggage or furniture.
- d. Segregation, through permanent closure of access door(s) between different types of accommodation, i.e., first, second and third classes, shall likewise be prohibited.

2. HANDLING/STORAGE OF HANDCARRIED LUGGAGE:

- a. Safe and convenient storage for passengers' handcarried luggage must be provided.

- b. The luggage must not, at all times, be permitted to block the stairways, means of escape /exits, passageways and lifesaving and firefighting equipment.
- c. At least one (1) crew member shall be assigned/stationed, during passenger embarkation and disembarkation, to caution / handle/supervise the storage/retrieval of handcarried luggage.

3. STORAGE OF LIFEVESTS/LIFEJACKETS

All lifevests /lifejackets, imprinted with the vessel's name, must be conspicuously stored in a locker capable of being forced open, and must be readily accessible for use, in case of emergency.

4. CLOSURE OF WATERTIGHT DOORS, PORTHOLES, RAMPS AND MANHOLES

The master shall ensure that all watertight doors, portholes, ramps and manholes shall be securely fastened/locked/checked prior to leaving port and during the voyage.

5. WEARING OF THE PROPER PRESCRIBED UNIFORM BY THE SHIP'S OFFICERS AND CREW.

For the purpose of easy identification and ready access by passengers needing information/assistance, the wearing of proper prescribed uniform and IDs by the ship's officers and crew, including security personnel, while they are on duty, is strictly enjoined.

6. OTHER SAFETY MEASURES:

- a. Shipping companies are directed to institutionalize a crew and passenger safety awareness program. For this purpose, all shipping companies/ship owners/operators are hereby required to submit to MARINA, within 90 days from effectivity of this Circular, their vessel emergency safety plan.
- b. Vessel sketches showing the location of the liferafts/boats and lifejackets/lifevests should be displayed in conspicuous places in the passenger lounge (for third class accommodation) and inside the cabin/suites (in the case of first and second class accommodations).

The liferafts/boats, imprinted with the vessel's name, must be properly secured and readily accessible for use, in case of emergency

- c. The prescribed location of firefighting equipment like the fire hose, fire ax and fire extinguisher shall not be obstructed.
- d. Luminous stickers indicating direction to the different exits, which are visible in all passenger areas, shall be provided.
- e. Emergency lights in all passengers accommodations, passageways, alleyways, and stairways, which should automatically switch on in case of power/generator failure, must be installed.
- f. Emergency exits must be provided with the independent red blinking lights to guide/assist the passengers on their way out, in case of emergency.

II. RESPONSIBILITY OF THE MASTER

It shall be the duty and responsibility of the Master of the vessel to ensure strict adherence to the directives of this Circular, at all times and under penalty, as herein prescribed.

III. SANCTIONS/PENALTIES

Violations of any of the provisions(s) of this Circular shall be subject to the following fines and penalties, after due notice and hearing consistent with the provisions of Memorandum Circular 74-A, series of 1995:

1. The Master shall be liable, as follows:

First Infraction - Five Thousand(P5,000.00) pesos

Second Infraction - Ten Thousand(P10,000.00)pesos

Third Infraction - Twenty-five Thousand(P25,000.00) Pesos and/or suspension/revocation of his Seafarer's Identification And Record Book(SIRB) and/or STCW Endorsement Certificate

2. The shipowner/operator/agent shall likewise be liable, as follows:

First Infraction - Ten Thousand(P10,000.00) Pesos/vessel

Second Infraction - Twenty Thousand(P20,000.00) Pesos/vessel

Third Infraction - Twenty-five Thousand(P25,000.00) Pesos/vessel and/or cancellation of the Provisional Authority (PA) or Certificate of Public Convenience (CPC) to operate the vessel

IV. ENFORCEMENT

The Enforcement Office(EO) and the Maritime Regional Offices(MROs) are directed to strictly monitor compliance with this Circular. Any findings of non-compliance shall be reported within 48 hours to the Franchising Office/MROs, for appropriate action.

It is hereby enjoined that the enforcers shall not be obstructed or hindered from lawfully boarding vessels and inspecting the same, purposely to determine compliance or non-compliance with this Circular.

V. REPEALING CLAUSE

Any provisions of existing MARINA rules and regulations, circulars or orders which are inconsistent with this Circular are hereby repealed or modified accordingly.

VI. EFFECTIVITY

This Memorandum Circular shall take effect fifteen(15) days after its publication once in a newspaper of general circulation in the Philippines.

Manila, Philippines, 19 December 1995.

BY AUTHORITY OF THE BOARD:

PACIENCIO M. BALBON, JR.
Administrator

SECRETARY'S CERTIFICATE

This is to certify this Memorandum Circular has been approved in the 129th meeting of the Maritime Industry Board held on 23 November 1995.

EMERSON M. LORENZO
Deputy Corporate Board Secretary

Published in the Malaya Newspaper on 21 December 1995
Submitted to the U.P. Law Center on 21 December 1995

MEMORANDUM CIRCULAR NO. 123

TO : ALL SHIPOWNERS/OPERATORS OF PASSENGER VESSELS AND ALL CONCERNED

SUBJECT : WEARING OF LIFEJACKETS DURING BOARDING AND/OR PRIOR TO DEPARTURE BY ALL PASSENGER VESSELS WITH OPEN-DECK ACCOMMODATION

In line with the national policy to enhance safety and pursuant to the provisions of P. D. 474 and E.O 125/125-A, all ship owners/operators, and/or their officials or agents, of passenger vessels with open-deck accommodation or directly exposed to the weather, shall require every passenger on board such type of vessel to wear lifejacket during boarding and/or prior to departure at the port/s of origin and at all times during the voyage.

A crew member shall be assigned to demonstrate the use of lifejackets within the first five (5) minutes after departure of the vessel, as well as to inform the passengers of the do's and dont's during emergency situations and other precautionary measures.

It shall be the duty and responsibility of the Master of the vessel to ensure strict adherence to this circular, at all times, and any violation of the provisions thereof shall be subject to the following administrative fines, and/or penalties, after due notice and hearing, without prejudice to the institution of criminal and/or civil action with regular courts against the responsible corporate officers, the company and/or responsible officer/s of the vessel:

	SHIPOWNER/OPERATOR	MASTER/CREW
1. First Violation	P200.00 for every passenger Found to be without lifejacket plus warning	Suspension of seafarers Identification and Record Book (SIRB) issued MARINA
2. Second Violation	P500.00 for every passenger found to be without lifejacket and/or suspension of Certificate/ of Public Convenience/ Provisional Authority/ Special Permit	Suspension of SIRB issued by Marina and/or recommendation for suspension of License issued by the Professional Regulations Commission (PRC)
3. Third Violation	P1,000.00 for every passenger found to be without lifejacket and/or cancellation of Certificate of Public Convenience/ Provisional Authority/ Special Permit	Cancellation of SIRB issued by MARINA and/or recommendation for cancellation of license by PRC

This Memorandum Circular shall be effective upon its publication once in a newspaper of general circulation in the Philippines

Manila, Philippines, 26 August 1997

BY THE AUTHORITY OF THE MARINA BOARD:

(SGD.) RADM PIO GARRIDO JR AFP (Ret)
Administrator

Secretary's Certificate

This is to certify that the above-mentioned Memorandum Circular No. 123 has been approved by the MARINA Board in its 86th quasi-judicial meeting held on 26 August 1997.

(SGD.) Atty. Gloria J. Victoria- Banas
Deputy Corporate Board Secretary

Published on 05 September 1997 at Malaya Newspaper copy filed with UP Law Center on 05 September 1997.

MEMORANDUM CIRCULAR NO. 124

TO : DOMESTIC SHIPPING OPERATORS AND MARITIME ENTITIES CONCERNED

SUBJECT : REVISED CLASSIFICATION REQUIREMENTS FOR VESSEL IN THE DOMESTIC TRADE

Pursuant to PD 474 and Executive Order Nos. 125/125-A, and in consonance with the government's policy to further strengthen maritime safety, the following revised guidelines in the classification of vessels to be operated in the domestic trade are hereby adopted:

I. VESSEL TO BE ACQUIRED UNDER MEMO CIRCULAR 104:

The following vessels intended for acquisition under Memorandum Circular No. 104 must be classed or classed by an internationally accredited classification society as of the time of their acquisition;

- a. Passenger and/or cargo vessels 500 GT and above; and,
- b. Tankers and barges hauling petroleum, petroleum by-products, chemicals and other hazardous cargoes.

Vessels falling under the foregoing categories, including High Speed Craft, which are to be acquired through local construction shall be built to class.

It is further understood that the aforementioned vessels shall be class-maintained at all times during their operation in the domestic trade.

II. EXEMPT VESSELS

Vessels approved for acquisition commencing 1 January 1997 and those intended for acquisition under MC 104, not falling within the categories in Section (I), *in lieu* of the *classification requirement*, must be in seaworthy condition, without outstanding recommendations, as shown in the latest survey report prepared by a marine surveyor in the country of origin of the vessel, and as attested to or confirmed by actual MARINA survey and inspection to be conducted prior to the release of the vessel from the custody of the Bureau of Customs.

III. VESSELS ACQUIRED/DELIVERED commencing 1 January 1997:

Vessels required to be classed under Section (I) which were approved for acquisition and/or delivered commencing 1 January 1997 until the effectivity of this Circular on 15 September 1997, shall strictly comply with MARINA Office Order No. 014-93/93A, series of 1993, which provides for the guidelines on the strict

implementation of the classification requirement for imported/bareboat chartered vessels intended for domestic operations.

IV. EXISTING/OPERATING VESSELS AS OF 31 DEC. 1996:

The classification requirement for vessels operating in the domestic trade prior to 1 January 1997, except High Speed Crafts and tankers and barges hauling petroleum, petroleum by-products, chemicals and other hazardous cargoes required to be classed under MC Nos. 56/56A, 104 and 121, shall be optional; provided, the following conditions are complied with:

- a. The vessel shall undergo survey and inspection by MARINA surveyor prior to the extension/renewal of the Certificate of Inspection; and,
- b. All vessel safety documents/certificates must be valid prior to the extension/renewal of the Certificate of Public Convenience (CPC)/Provisional Authority(PA)/Special Permit(SP).

V. VOLUNTARY/ OPTIONAL CLASSIFICATION BY OWNER/OPERATOR:

The foregoing provisions, notwithstanding, the owner/operator of a vessel exempted from mandatory classification is not precluded from having the vessel classed.

VI. SANCTIONS/PENALTIES:

Any violation of or failure to comply with the provisions of this Circular shall be subject to the administrative sanctions prescribed under Memorandum Circular No. 120, s. 1997.

VII. REPEALING CLAUSE:

Any provisions of existing orders, circulars or rules and regulations otherwise inconsistent hereby modified/amended accordingly.

VIII. SAVING CLAUSE

The relevant provisions of Memorandum Circular No. 121, s.1997, providing for specific guidelines on the classification of High Speed Crafts are hereby reiterated.

IX. EFFECTIVITY CLAUSE:

This Memorandum Circular shall take effect on 15 September 1997 after its publication in a newspaper of general circulation.

Manila, Philippines, 26 August 1997.

BY THE AUTHORITY OF THE MARINA BOARD:

(SGD.) RADM PIO GARRIDO JR AFP (Ret)
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the foregoing Memorandum Circular No. 124 was approved by the MARINA Board in its 137th Regular Meeting dated August 26, 1997.

(SGD.) Atty. Gloria J. Victoria- Banas
Deputy Corporate Board Secretary

Published on 05 September 1997 at Malaya Newspaper copy filed with UP Law Center on 05 September 1997.

MEMORANDUM CIRCULAR NO. 135

TO : ALL OWNERS/OPERATORS PASSENGER / PASSENGER
CARGO VESSEL OPERATING IN COSTAL AND/OR
RIVERINE AREAS

SUBJECT : RULES ON THE IMPLEMENTATION OF VOICE TAPE ON
THE SAFETY FEATURES OF A VESSEL

Pursuant to the provisions of Executive Order 125, as amended and the Public Service Act, as amended, the following rules are hereby prescribed to implement the playing of voice tape pertaining to vessel safety, health and sanitation, on board passenger and passenger cargo vessel of 20 to less than 150 Gross Tons (GT) operating in coastal and/or riverine areas:

I. OBJECTIVES

1. To ensure the preparedness and alertness of passengers in case of maritime emergencies and accidents; and,
2. To maintain and promote health and sanitation onboard.

II. COVERAGE

All passenger and passenger-cargo vessels of 20 to less than 150 GT operating within riverine and coastal areas shall be covered under this Circular.

III. CONTENTS OF THE VOICE TAPE

The voice tape shall be primarily in local dialect or Filipino, as applicable, with English version and shall contain the following :

1. General Information:
 - 1.1. Purpose of the voice tape
 - 1.2. The number of crew onboard and name of the Captain
 - 1.3. Number of passengers allowed and covered with insurance
 - 1.4. Destination and Travel time
2. Safety Features and Health/Sanitation
 - 2.1. Number and location of life jackets... ..
 - 2.2. Number, location and capacity of liferafts, when applicable
 - 2.3. Location of emergency exits, when applicable
 - 2.4. Do's and don'ts during emergency situations and
Other precautionary measures.
 - 2.5. Demonstration on how to use the life jackets, rafts and fire
extinguishers

- 2.6. Location of comfort rooms, if applicable
- 2.7. Garbage/waste disposal, if applicable
- 2.8. Location of smoking areas, if allowed

IV. IMPLEMENTATION

1. The voice tape shall be submitted to MARINA for review.
2. The voice tape must be played on board after each departure.
3. At least one (1) crewmember for every one hundred (100) passengers, or a fraction thereof, must be designated to demonstrate how to use the life jacket while the tape is being played.
4. All existing vessels covered by these rules shall be given one (1) month from the effectivity of this Circular to comply.

V. PENALTIES AND SANCTIONS

Failure to comply with this Circular shall be subject to the following penalties and sanctions after due notice and hearing:

First Offense	-	Fine of Five Thousand (P5,000) Pesos per vessel and warning
Second Offense	-	Fine of Ten Thousand (P10,000) Pesos per vessel and/or suspension of existing authority to operate (CPC/PA/SP)
Third Offense	-	Fine of Twenty Five Thousand (P25,000) Pesos per vessel and/or revocation/cancellation of existing authority to operate (CPC/PA/SP)

VI. REPEALING CLAUSE

Any provision of existing MARINA circulars and rules and regulations inconsistent herewith is hereby repealed/amended accordingly.

VII. EFFECTIVITY

This Memorandum Circular shall take effect fifteen (15) day after its publication once in a newspaper of general circulation.

BY THE AUTHORITY OF THE MARINA BOARD:

AGUSTIN R. BENGZON
Administrator

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. 135 has been approved in the 143rd Regular Meeting of the Maritime Industry Board of Directors held on 17 September 1998.

ATTY. GLORIA J. VICTORIA -BANAS
Acting Corporate Board Secretary

Date of Publication :October 01, 1998, Malaya Newspaper
Date of Submission to the UP Law Center: October 5, 1998

MEMORANDUM CIRCULAR NO. 136

TO : ALL OWNER / OPERATORS OF INTERISLAND PASSENGER / PASSENGER-CARGO VESSELS OF 150 GROSS TONS (GT) AND ABOVE AND HIGH SPEED CRAFT

SUBJECT : AMENDMENT OF MEMORANDUM CIRCULAR NO. 72 ON THE RULES ON THE IMPLEMENTATION OF 10-MINUTE FILM ON THE SAFETY FEATURES OF A VESSEL

MEMORANDUM CIRCULAR NO. 72, S. 1992, IS HEREBY AMENDED, AS FOLLOWS:

1. Section 2 shall read:

COVERAGE – Compliance with this Circular shall be mandatory for all passenger/passenger-cargo vessels of 150 GT and above. High Speed Craft (HSC) as defined and governed under MARINA Memorandum Circular No. 121, s. 1997, regardless of size of vessel and travel time, shall likewise be governed by this Circular.

2. Section 5 shall read:

IMPLEMENTATION AND MONITORING:

1. The MARINA shall review the contents of the ten (10) minute film feature.
2. New vessels covered under this Circular, i.e. 150 up to 249 GT and high speed crafts regardless of size and travelling time shall have six (6) months from the effectivity of this Circular to comply.

3. Section 6 shall read:

PENALTIES AND SANCTIONS

Failure to comply with the provision of this Circular shall be subject to the following penalties and sanctions after due notice and hearing:

First Offense - Fine of Ten Thousand (10,000) Pesos and warning
Second Offense - Fine of Fifteen Thousand (P15,000) Pesos and/or suspension of existing authority to operate (CPC/PA/SP)

Third Offense - Fine of Twenty Five Thousand (P25,000) Pesos and/
or cancellation/revocation of existing authority to
operate (CPC/PA/SP)

4. A new section is hereby added as Section 8 and shall read:

REPEALING CLAUSE

Section VI, Item 8 of Memorandum Circular No. 121 is hereby amended accordingly. Likewise, any other provision of existing MARINA circulars, rules and regulations inconsistent herewith is hereby repealed/amended accordingly.

5. Section 8 thereof is numbered as section 9 and shall read:

EFFECTIVITY

This Circular shall take effect fifteen (15) days after its publication once in newspaper of general circulation.

BY THE AUTHORITY OF THE MARINA BOARD:

AGUSTIN R. BENGZON
Administrator

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. 136 has been approved in the 143rd Regular Meeting of the Maritime Industry Board of Directors held on 17 September 1998.

ATTY. GLORIA J. VICTORIA -BANAS
Acting Corporate Board Secretary

Date of Publication: October 01, 1998, Malaya Newspaper
Date of Submission to the UP Law Center :October 05, 1998.