



16 March 2015

HON. MARK A. VILLAR

Chairman

Committee on Trade and Industry

House of Representative

Attention: **Mr. Valentino R. Palanca**
Committee Secretary

Dear **Congressman Villar**:

Thank you for inviting us at the Philippine Institute for Development Studies to submit comments.

I am pleased to submit to your committee the attached "Comments on the Proposed House Bills concerning Coastwise trade/cabotage." Please accept my apologies for not being able to be physically present in the hearing. A previously set appointment prevented it.

Should you have any queries, please do not hesitate to get in touch with us. Thank you and best regards.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Llanto', is written above the typed name.

Gilberto M. Llanto
President, PIDS

Comments on the Proposed House Bills related to Coastwise Trade¹

1. The House Bills presented for comments/discussion of the Committees on Trade and Industry and Ways and Means address the present cabotage law, considered one of the bottlenecks to trade and growth. PIDS sees this as a welcome development in light of intensifying global trade, which the country has not fully benefitted from due to different factors, one of which is the existing laws restricting the movement of foreign ships within domestic sea routes. This results in lower revenues for importers and exporters arising from high operational costs in the transport of goods.
2. Among the eight House Bills for discussion, House Bills 5109, 5126, and 5222, which exempts foreign container vans and import/export cargoes carried in foreign container vans by foreign vessels from Section 1009 of the Tariff and Customs Code call for the gradual easing up of restrictions to movement of foreign vessels, not the outright removal of cabotage restrictions, which is proposed in House Bills 1789, 2146, 2563, 2623, and 2863. The former bills [HBs 5109, 5126, and 5122] seem to provide a politically acceptable compromise. Outright removal of the cabotage restriction seems ideal but may not be a feasible solution given the political economy of this reform.
3. A recent Policy Note prepared by Llanto and Navarro [2014]² has the following observations:
 - a. While recognizing that high domestic shipping cost and the country's cabotage policy is related, the immediate removal of restrictions from all routes could have disruptive impacts. The proposal for immediate lifting of such restrictions, particularly the effects on domestic shipping, trade, and movement of passengers and cargo should be studied and discussed thoroughly and more extensively with stakeholders,

¹ Submitted by Gilberto Llanto, Philippine Institute for Development Studies

² Gilberto Llanto & Adoracion Navarro, 'Towards relaxing the cabotage restrictions in maritime transport', *PIDS Policy Notes*, No. 2014-03.

- b. Domestic shipping players pointed out the importance of cabotage not only as protection of the local industry, but more importantly, as a national security measure. They pointed out that at present, the Philippines is unable to effectively police its shores and territorial waters to counteract smuggling³, movement of persons and other illegal activities, which could be exacerbated should the domestic ports be opened to all foreign vessels. While these concerns remain valid, opportunities for reform exist. Llanto and Navarro emphasized the need to align the degree and manner of cabotage liberalization with the country's development objectives, taking into consideration the interests not only of the national ship operators, but also those of the traders, the labor sector, and consumers⁴.
- c. The proposals contained in HB 5109, 5126 and 5222 are a prudent step in relaxing restrictions. By limiting the exemption to foreign container vans and import/export cargoes, and the explicit prohibition of foreign vessels to carry domestic cargoes, local shipping operators can be ensured that inter-island trade remains within their domain, while providing exporters and importers with more cost-effective shipping options.
- d. In terms of acceptability of the proposal, the Philippine Inter-Island Shipping Association (PISA, a non-stock non-profit organization composed of shipping lines, mostly cargo containers that cater to the domestic market), considers a similar bill filed in the Senate (SB 2364, "An Act Exempting the Carriage of Container Vans from the Provisions of Section 1009 of Presidential Decree No. 1464, Otherwise Known as the Tariff and Customs Code of 1978, and for Other Purposes") as a "good compromise". In an interview with PISA conducted on September 24, 2014, they argued that allowing foreign vessels to tranship

³ 'Shippers warn against lifting cabotage', *Manila Standard*, 11 Dec. 2001, p. 15

⁴ Llanto and Navarro, 'Toward relaxing the cabotage restrictions in maritime transport'

import/export cargoes in or out of the country would lessen cargoes carried by domestic liners, but its impact would be minimal as transshipment is not their main business activity. Moreover, port infrastructure and other limitations would actually prevent foreign shipping operators to dock in a number of domestic ports; much less transship products to another foreign vessel. These would force importers and exporters to use domestic shipping lines. Consequently, the limitations faced by foreign shipping operators give their domestic counterparts more time to modernize their fleet and operations and compete with foreign vessels in the future.

4. There is sense in consolidating and harmonizing the different House Bills on the subject matter for consistency of policy objectives and strategy to achieve the stated policy objectives.
5. Protection of traders in case of loss or damage of goods should be seriously considered. The proposed legislation should ensure that local traders would not be unduly disadvantaged when claiming for damages should there be disputes between them and their selected foreign shipping vessel. The provision prohibiting foreign vessels to carry domestic cargo is important. HB 5126 and 5222 give the Bureau of Customs the power to sanction erring foreign vessel operators who violate the provisions, which is absent in HB 5109. However, penalties should be specified in the law. There should also be sanctions and penalties for domestic traders who would pass their cargoes off as export/import goods.
6. High transport costs cannot be attributed solely to the inefficiency of local port operators. Inadequate port facilities, inefficient port practices, even inland transport, also contribute to the problem of high transport cost. The discussion of shipping and the cabotage restriction presents an opportunity to also examine the many challenges surrounding the objective of lowering cost of doing business and improving trade facilitation.