

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3990



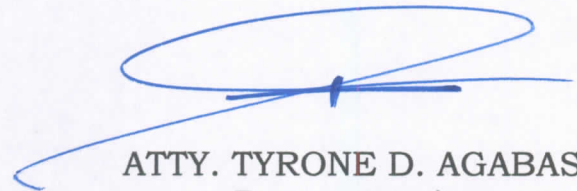
Introduced by Representative **TYRONE D AGABAS**

EXPLANATORY NOTE

This bill seeks to institute a magna carta of Filipino seafarers providing for its purpose the protection and improvement of seafarers' working conditions, terms of employment, repatriation and reintegration policies, rights, social welfare benefits, health protection and medical care, and other privileges. This bill has already been approved by the House of Representatives on its 3rd and final reading in the 17th Congress. However, it has not yet ripened into a law thereby necessitating the refiling of the same on account of the primordial role of our seafarers in nation building as formidable economic force.

We are fully cognizant of the fact that seafarers have accounted much to Philippine economy. Overseas Filipino seafarers constitute a huge bulk of the world's merchant marine fleet. In 2017 alone, seafarers have contributed \$5.87 billion in remittances to the country up by 21.4% from \$4.84 billion in 2012 (Maritime to triple contribution to economy, The Manila Times, December 25, 2018). Correlatively, it is the State's responsibility to equate the seafarers' indispensable contribution through legislative measures that will institutionalize the protection and advancement of their welfare and social well-being.

In full recognition of the contributions of our seafarers, the approval of this bill is earnestly sought.

A handwritten signature in blue ink, consisting of a large, stylized loop followed by a horizontal line and a small vertical stroke.

ATTY. TYRONE D. AGABAS
Representative
6th District, Pangasinan

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Introduced by Representative **TYRONE D. AGABAS**

AN ACT
INSTITUTING THE MAGNA CARTA OF FILIPINO SEAFARERS

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “Magna
2 Carta of Filipino Seafarers”.

3 SEC. 2. *Declaration of Policy.* – *It is hereby declared the policy of*
4 *the State:*

5 [a] to afford Filipino seafarers full protection before,
6 during and after employment by granting them certain
7 rights as maritime professionals, in recognition of
8 their role and contribution to national development;

9 b] To maintain and progressively develop a pool of
10 component world-class seafarers through a system of
11 education, training, accreditation and licensing;

12 [c] To establish mechanisms for the enhancement of
13 administrative, adjudicative, social as well as welfare
14 services for them and their families;

[d] To enact laws that adopt, and implement the standards set by international conventions and agreements on working and living conditions, and occupational safety and health, among others for seafarers particularly the Maritime Labour Convention, 2006 [MCL, 2006]; and

[e] To recognize shipowners, manning and recruitment entities as vital partners in promoting the skills and competences of Filipino seafarers.

Towards these ends, the state shall endeavor to improve the Filipino seafarers' working conditions, terms of employment, career prospect and provide them opportunities to harness their potentials to the fullest. The State shall further promulgate policies and programs to uplift the socioeconomic well-being of the families of Filipino seafarers.

Sec. 3. *Applicability.* – This Act shall cover Filipino seafarers engaged, employed, or working in any capacity on board Philippines registered ships operating domestically or internationally, as well as those on board foreign registered ships.

This Act shall not cover the following categories of ships:

[a] Warships and naval auxiliaries;

[b] Government ships not engaged in commercial operations;

[c] Ships of traditional build, as may be defined under existing rules and regulations; and

[d] Fishing vessels.

SEC. 4. *Definition of Terms.* – As used in this Act:

- [a] *Cadet* refers to a student of a maritime educational institution who is required to undergo training on board registered international ships or domestic ships to fulfill a maritime academic course;
- [b] *Domestic Shipping* refers to the transport of passenger or cargo, or both, by ships duly registered and licensed under Philippine law to engage in trade and commerce between Philippine ports and within Philippine territorial or internal waters for hire or compensation with general or limited clientele whether permanent, occasional or incidental, with or without fixed routes and undertaken for contractual or commercial purposes;
- [c] *International Maritime Convention or International Convention* refers to any written treaty or agreement, or any protocol or amendment thereto, affecting the maritime industry which has come into force and effect, including the MLC, 2006;
- [d] *License* refers to the document issued by the Department of Labor and Employment [DOLE] authorizing any person or entity to engage in the recruitment and placement of seafarers;
- [e] *Manning/Recruitment and Placement Agency* refers to any Filipino person, corporation, partnership, company, or other entity engaged in the canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring whether for profit or not, of seafarers whether domestic or international;

[f] *Maritime Industry stakeholders* refer to all private sector stakeholders, engaged in the business or owning, management, chartering or operating domestic and international ship[s] of Philippine or foreign registry, manning of ships, management of ports, stevedoring and arrastre services, ship brokering and chartering, shipbuilding and ship repair, providing maritime services such as ship supplies and provisions, maritime education and training, shipping agency, and other similar activities.

This term shall also include bona fide maritime labor organizations and professional associations of seafarers;

[g] *Master* refers to a person having command of a ship;

[h] *Maritime Labour Certificate* refers to the document that certifies that working and living conditions of the seafarers on the ship have been inspected and are compliant with the requirements of the Philippines laws and regulations;

[i] *Officer* refers to a member of the crew other than the master who has been designated as such by national law or regulation or, in the absence of such designation, by collective agreement or custom;

[j] *Deck Officer* refers to an officer qualified in accordance with Chapter II of the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978 [STCW, 1978], as amended;

- 99 [k] *Engine Officer* refers to an officer qualified in
100 accordance with Chapter III of the International
101 Convention on the STCW, 1978, as amended;
- 102 [l] *Philippine National* refers to any individual who is
103 citizen of the Philippines, or a commercial partnership
104 or corporation organized under the laws of the
105 Philippines, at least sixty percent [60%] of the capital
106 of which is owned by citizens of the Philippines;
- 107 [m] *Philippine Seafarers' One Stop Processing Center*
108 *[PSOC]* refers to the facility created under DOLE
109 Administrative Order No. 56, Series of 2003, which
110 houses multiple offices or agencies involved in
111 providing services to seafarers, in one place;
- 112 [n] *Point of Hire* refers to the place where the contract of
113 employment was executed;
- 114 [o] *Recognized Organizations* refer to organizations
115 recognized by DOLE to carry out inspections or issue
116 the Maritime Labour Certificate in accordance with the
117 scope of activities covered by their authorizations;
- 118 [p] *Repatriation* refers to the process of returning a
119 seafarer to the point of hire;
- 120 [q] *Seafarer* refers to a person who is employed or is
121 engaged to work in any capacity on board a ship to
122 which the Act applies;
- 123 [r] *Ship or Vessel* refers to any kind, class or type of craft
124 or artificial contrivance capable of floating in water,
125 whether publicly or privately owned, ordinarily

engaged in commercial activities and offshore operations, except fixed platform;

[s] *Seagoing Ship* refers to a ship other than those which navigate exclusively in inland water or water within or closely adjacent to sheltered water, or areas where port regulations apply;

[t] *Shipowner* refers to the owner of the ship employing Filipino seafarers to work on board domestic ships and ship engaged in international trade, or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for operation and management of the ship, and who, in assuming such responsibilities, has agreed to take over all the attendant duties and responsibilities of shipowner under this Act, regardless of whether any other organization or person fulfill certain of the duties or responsibilities on behalf of the shipowner.

CHAPERT II

SEAFARERS' RIGHTS

SEC. 5. *Right to Just Terms and Conditions of Work.* – Seafarers shall have the right to:

[a] Safe and secure workplace that complies with safety standards;

[b] Decent working and living conditions on board a ship;

[c] Medical care, welfare measures and other forms of health and social protection; and

[d] Fair terms and conditions of employment including salary commensurate to their rank, hours of work, and other relevant basis for wage computation, minimum number or working hours, rest period consistent with Philippine laws or international maritime conventions, when applicable.

SEC. 6. *Right to Self-organization, to Engage in Collective Bargaining and to Participate in Democratic Exercises.* - Seafarers shall enjoy their right to self-organization, to collective bargaining and to participate in the deliberation of issues and in the formulation of the policies that affect them, including the guarantee of representation in governing boards or appointment in government instrumentalities.

SEC. 7. *Right to Educational Advancement and Training at Reasonable and Affordable Cost.* - Seafarers shall have access to educational advancement and training at reasonable and affordable costs.

No fee or other charges shall be imposed on cadets, interns, apprentices, on-the-job-trainees or other persons similarly situated.

Towards this end, relevant government agencies shall:

[a] Regulate the operation of all educational and training institutions offering courses related to seafaring;

[b] Pursue grant programs such as scholarships, subsidies, loan assistance and other measures that will harness the skill of Filipino seafarers toward greater competitiveness given the new demands in the industry; and

181 [c] Promote quality maritime education and training that
182 respond to the needs of the industry and in
183 accordance with minimum international maritime
184 standards of competency.

185 SEC. 8. *Right to Relevant Information.* – Shipowners, manning
186 agencies, and other organizations responsible for the recruitment
187 and placement of Filipino seafarers shall be mandated to provide
188 seafarers relevant information, including the terms and conditions
189 of employment and company policies affecting seafarers. This right
190 shall include the right of seafarers’ organizations to relevant
191 information affecting the terms and conditions of employment of
192 their members.

193 All ships covered by this Act shall have a copy of the MLC,
194 2006 and the grievance procedures observed on board.

195 SEC. 9. *Right to Consultation.* – Seafarers, shipowners and
196 legitimate seafarers’ and shipowners’ organizations, as well as
197 other relevant stakeholders, shall be adequately consulted before
198 any maritime policy, executive issuance, rule or regulation
199 affecting seafarers and their families is promulgated, or before any
200 maritime law that may directly affect them is enacted.

201 SEC. 10. *Right Against Discrimination.* – Upon employment,
202 seafarers shall have the right against discrimination by sole reason
203 of race, sex, religion and political opinion. Career opportunities
204 shall be promoted and appropriate working and living conditions
205 shall be guaranteed equally among male and female seafarers.

206 SEC. 11. *Right to Free Legal Representation.* – Seafarers who are
207 victims of violations of the provisions of this Act and who cannot
208 afford the services of a competent and independent counsel shall

the right to free legal assistance and protection at government's expense, subject to existing rules and regulations.

SEC. 12. *Right Access to Communication.* – Seafarers, especially during their free time or when they are not on duty, shall have reasonable access to ship-to-shore telephone communications, and email and internet facilities, where available.

CHAPTER III

DUTIES OF SEAFARERS

SEC. 13. Seafarers shall have the following duties:

- (a) To comply with and observe the terms and condition of the employment contract;
- (b) To abide by lawful and reasonable company personnel policies;
- (c) To be obedient to the lawful commands of the Master or the Master's lawful successor, and to comply with the shipowner's/principal's policy on safety and operational procedures and instructions given in connection therewith;
- (d) To be diligent in the performance of duties relating to the ship, its stores, equipment and cargo, whether on board, in transit or ashore;
- (e) To be, at all times, orderly and respectful to the shipmates, passengers, shippers, stevedores, port authorities, and other persons who have official business with the ship; and

- (f) To be personally responsible for maintaining a healthy lifestyle .

CHAPTER IV

MINIMUM REQUIEREMENTS FOR SEAFARERS

SEC. 14. *Minimum Age.* – No person below eighteen (18) years old, other than a cadet, shall be employed, engaged, or otherwise allowed to work on board Philippine registered ships operating domestically or internationally, as well as on board foreign registered ships.

SEC. 15. *Medical Certificates.* – No seafarer shall be employed, engaged, or otherwise allowed to work on board a domestic or ocean-going ship unless a medical certificate has been issued declaring the seafarer to be fit to work.

The seafarer shall hold a valid medical certificate issued by a medical facility duly accredited by the Department of Health (DOH) in accordance with its existing rules and regulations.

The medical certificate shall certify that the person is expected to be able to meet the minimum requirements for performing the duty specific to the person's post at sea safely and effectively during the period of the validity of the certificate.

For the purpose of this section, a medical certificate issued in accordance with the requirements of STCW shall be accepted.

SEC. 16. *Training and Qualifications.* – Only seafarers certified by appropriate government agencies shall work, be employed or be engaged on board a ship.

SEC. 17. *Recruitment and Placement.* – Only duly licensed manning or placement and recruitment agency shall be allowed to operate and engage in the recruitment and placement of seafarers, in accordance with the rules and regulations as may be issued by the Secretary of Labor and Employment.

No amount or fee shall be charged to the seafarer for their recruitment and placement.

SEC. 18. *Contracting or Subcontracting of Services.* – The contracting or subcontracting of seafarers of for work on board domestic ships shall be governed by existing rules and regulations issued by the DOLE.

CHAPTER V

CADETSHIP

SEC. 19. *Applicability.* – The shipboard training of cadets shall be governed by Sections 5 to 12 of Chapter II; Section 13 of Chapter III; Section 15 of Chapter IV; Sections 22 to 23 of Chapter VI; Sections 25 to 27 of Chapter VII; Sections 31 to 35 Chapter IX; Section 36 of Chapter X; and Section 42 of Chapter XIV hereof.

SEC. 20. *Shipboard Training Agreement for Cadets.* – There shall be a written agreement between the shipowner on one hand, and the cadet and the maritime institution or school on the other hand, and which shall include the following information, terms and conditions:

- (a) Cadet's full name, date of birth, birthplace and age.
which should be at least sixteen (16) years old;

- 284 (b) Name and address of the maritime institution of
285 school;
- 286 (c) Name and address of the shipowner, if applicable;
- 287 (d) Place and date when the cadet's agreement is entered
288 into;
- 289 (e) Capacity in which the cadet is to be trained;
- 290 (f) Amount of the cadet's allowance or stipend;
- 291 (g) Required number of hours of training and rest, which
292 shall not be less than the prescribed hours of work
293 and rest in Section 21 of this Act;
- 294 (h) Duties and responsibilities of the sponsoring
295 company, Maritime Higher Education Institutions
296 (MHEIs), and cadets, as may be provided under the
297 Standard Cadet Training Agreement on Ships Engaged
298 in International Voyage of the Philippine Overseas
299 Employment Administration (POEA); and
- 300 (i) Other benefits in accordance with law, company policy
301 or agreements .

302 The foregoing agreement shall be written in a working
303 language or in English, executed in three (3) original copies before
304 the commencement of the shipboard training. The shipowner,
305 cadet and the maritime institution/school shall each have a signed
306 original of the agreement and an electronic copy thereof shall be
307 submitted to the DOLE, through the Bureau of Working
308 Conditions (BWC). A signed original copy shall also be made
309 available on board the ship.

MHEIs shall demonstrate that over the last three (3) years, an average of at least the minimum percentage of the target number of cadets, as per updated relevant Commission on Higher Education (CHED) Memorandum Order are able to secure berths in connection with their studies, which minimum percentage, however, shall not be lower than sixty percent (60%) of students enrolled in their Bachelor of Science in Marine Transportation (BSMT) or Bachelor of Science in Marine Engineering (BSMarE) programs. The CHED, in coordination with the Maritime Industry Authority (MARINA), shall ensure that only BSMT or BSMarE programs in MHEIs that meet the above requirement are conferred approved or accredited.

CHAPTER VI

TERMS AND CONDITION OF EMPLOYMENT

SEC. 21. *Standard Employment Agreement for Seafarers.* – There shall be an agreement in writing between the shipowner and the seafarer, which shall include the following information and terms:

- (a) Seafarer's full name, date of birth or age, and birthplace;
- (b) Shipowner's name and address;
- (c) place where and date when the seafarer's employment agreement is entered into;
- (d) Capacity in which the seafarer is to be employed;
- (e) Amount of seafarers' salary, and the formula used for calculating the same;
- (f) Hours of work and hours of rest;

- (g) Wages and wage-related benefits, which include the following: overtime pay, holiday pay, premium pay, paid leaves, 13th month pay, if applicable;
- (h) Social security and welfare benefits;
- (i) Stipulation on repatriation or similar undertakings;
- (j) Separation pay and retirement pay, if applicable;
- (k) Reference to the collective bargaining agreement, if applicable; and
- (l) Other benefits in accordance with law, company policy or agreements.

The foregoing employment agreement shall be in a working language or in English, executed in three (3) original copies before the commencement of the employment. The shipowner and the seafarer shall each have a signed original of the agreement. A signed original shall be made available on board the ship.

The Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) approved by the DOLE shall be observed in the employment of Filipino seafarers on board foreign registered ships.

SEC 22. *Wages.* – Upon effectivity of this Act, the Regional Tripartite Wages and Productivity Boards shall set the minimum wage rates of the seafarers on board ships engaged in domestic shipping, taking into account the particularities of the employment arrangement of seafarers and the criteria as determined pursuant to Republic Act No. 6727, otherwise known as “Wage Rationalization Act”; *Provided*, That wages for actual work hours and days shall not be lower than the applicable minimum wage

363 rates in the domicile or head office of the employer. Wages shall be
364 paid at least one every two (2) weeks or twice a month, at intervals
365 not exceeding sixteen (16) days.

366 Trainees, probationary crew members and other similarly
367 situated persons shall be paid full minimum wage in accordance
368 with the services rendered.

369 Cadets, on the job trainees, apprentices and other similarly
370 situated persons who are on board vessels as part of the
371 completion of their academic or training program, shall be
372 provided with stipends or allowances, which shall not be less than
373 fifty percent (50%) of the existing minimum wage of regular
374 seafarers.

375 SEC. 23. *Hours of Work and Hours of Rest.* – The normal hours or
376 work of every seafarer shall not exceed beyond eight (8) hours a
377 day. If the seafarer is allowed to work eight (8) hours, the
378 maximum hours of work shall not exceed fourteen (14) hours in
379 any twenty four (24) hour period, and seventy-two (72) hours in
380 any seven (7)-day period.

381 The minimum hours of rest for every seafarer shall not be
382 less than ten (10) hours. Hours of rest may be divided into not
383 more than two (2) periods, one of which shall be at least six (6)
384 hours in length, and the interval between consecutive periods of
385 rest shall not exceed fourteen (14) hours.

386 In exceptional cases, seafarers in watchkeeping duties may
387 be required to work beyond fourteen (14) hours; *Provided*, That the
388 rest period is not less than seventy (70) hours in any seven (7)-day
389 period. This exception shall not be allowed for more than two (2)
390 consecutive weeks. The intervals between two (2) periods of

exception shall not be less than twice the duration of the exception.

SEC. 24. *Paid Annual Leave.* – Whenever applicable, the seafarers shall be paid an annual leave to be calculated on the basis of a minimum of 2.5 calendar days per month of employment.

For ships licensed to engage in domestic shipping, the provisions on “Holidays, Service Incentive Leaves and Service Charges” of Presidential Decree No. 442, or the Labor Code of the Philippines, as amended, shall continue to apply unless higher annual leave is already provided under the collective bargaining agreement (CBA) or by the shipowner as company practice or policy.

CHAPTER VII

REPATRIATION

SEC. 25. *Seafarers Shall Be Entitled To Repatriation.* – All costs related to the repatriation or transport of the personal effects of a seafarer shall be done by or charged to the shipowner and the manning agency concerned. The expenses of repatriation shall include the transportation charges, pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination, the accommodation and the food of the seafarer during the journey and transportation of thirty kilograms (30 kgs.) of the seafarers’ personal luggage to the repatriation destination. The primary responsibility to repatriate entails the obligation on the part of the shipowner or agency to advance the repatriation and other attendant costs, including plane fare, deployment cost of the principal and immigration fines and penalties, to immediately repatriate the seafarer should the need for it arise, without a prior determination of the cause of the

420 termination of the seafarer's employment. However, after the
421 worker has returned to the country, the shipowner or agency may
422 recover the cost of repatriation from the seafarer if the termination
423 of the employment was solely to the seafarer's fault.

424 SEC. 26. *Emergency Repatriation for Seafarers on Board Foreign*
425 *Registered Ships.* – In cases of war, epidemics, abandonment of
426 ship by shipowners, disasters, calamities, natural or man-made,
427 and other similar events, the Department of Foreign Affairs (DFA)
428 in coordination with the POEA and the Overseas Workers Welfare
429 Administration (OWWA), shall undertake the repatriation of
430 seafarers. The DFA shall draw from the Emergency Repatriation
431 Fund (ERF) provided under the General Appropriations Act (GAA)
432 to defray the expenses involved in the repatriation of
433 undocumented seafarers, while the POEA shall require manning
434 agencies to effect the repatriation of seafarers within forty-eight
435 (48) hours or suffer the penalty of suspension. In case of failure of
436 the manning agency to provide for the repatriation within the
437 prescribed time, the POEA shall coordinate with the OWWA to
438 advance the cost of the repatriation of the seafarer without
439 prejudice to reimbursement from the concerned manning agency.

440 The DFA shall take the lead in repatriation of the affected
441 seafarers in areas where there is no Philippine Overseas Labor
442 Office (POLO).

443 SEC. 27. *Repatriation for Seafarers On Board Domestic Ships.* -
444 The provisions on repatriation shall also apply to seafarers
445 working on domestic ships. Seafarers on board domestic ships
446 shall be entitled to emergency repatriation in cases of war,
447 epidemics, abandonment of ship by shipowners, disasters or

calamities, whether natural or man-made, and other similar events.

CHAPTER VIII

MANNING REQUIREMENT

SEC. 28. *Manning Levels.* – All ships of Philippine registry shall observe the required minimum manning levels in accordance with the requirements prescribed by the MARINA.

Every ship shall be manned by a crew that is adequate in terms of size and qualifications taking into the account the need to operate the vessel safely and efficiently.

SEC. 29. *Crew Competence.* – The crew members of a ship of Philippine registry shall possess the appropriate certificate of competency, which sets forth their competence to serve and perform the functions involved at the level of responsibility, for the position held, for the type, tonnage, power, means of propulsion, and trading patterns of the ships concerned.

The certificate or competency shall attest to the fact that the seafarer to whom it is issued meets requirements for service, age, qualification, and has successfully passed the examinations conducted to determine the seafarers' proficiency and level of expertise for the position.

SEC. 30. *Registry of Seafarers.* – To better respond to the manning requirements of oceangoing ships of foreign registry, and domestic and oceangoing ships of Philippine registry, the POEA and the MARINA, respectively, shall maintain a registry of all seafarers in the Philippines. The registry shall contain the relevant information or data to promote employment opportunities for seafarers whether on board or ashore, and allow for the appropriate learning

for and implementation of additional training, skills and competency development programs for seafarers.

CHAPTER IX

ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING

SEC. 31. *Accommodation Facilities.* – Unless otherwise exempted herein or by appropriate regulations, all ships of Philippine registry shall have safe, decent and adequate accommodations for seafarers taking into account the need to protect the health and safety of seafarers working or living on board.

SEC. 32. *Requirements for Sanitation.* – All ships of Philippine registry shall have sanitation facilities that meet the minimum standards for health and hygiene and are accessible to seafarers on board. The sanitation facilities shall be located at convenient places, allowing for easy access to work stations. Separate facilities shall be provided for male and female crew.

SEC. 33. *Recreational Facilities.* – Unless otherwise exempted herein or by appropriate regulations, all ships of Philippine registry shall have recreational facilities, amenities, and services that are appropriate and accessible to seafarers.

Domestic ships shall be exempted from this requirement considering that their trading patterns and length of voyages allow their crew to go home or to make use of comparable facilities on land.

SEC. 34. *Food and Catering.* – The shipowner shall ensure the protection and promotion of health of seafarers. Whenever applicable, a shipowner shall ensure that a ship serves food and drinking water of appropriate quality, quantity and nutritional

value that adequately cover the requirements of the ship and take into consideration the differing cultural and religious backgrounds of seafarers. All foods and drinks and the preparation thereof shall be in accordance with the standards of the Sanitation Code of the Philippines and pertinent laws, rules and regulations.

SEC. 35. *Application.* – The requirements of this chapter for crew accommodation and recreational facilities covering ships of Philippine registry shall be applicable to the following:

- (a) All oceangoing ships and domestic ships constructed on or after the date when the MLC, 2006 comes into force;
- (b) All second-hand ships, whether oceangoing or domestic, acquired or leased, and entered in the Philippine registry after the entry date into force of the said Convention unless provided exemption by the relevant Philippine government agency; and
- (c) All ships constructed prior to the entry into force of the MLC, 2006 which have undergone major or substantial structural alterations after the entry into force of the Convention, unless provided exemption by the relevant Philippine government agency.

CHAPTER X

HEALTH PROTECTION AND MEDICAL CARE

SEC. 36. *Medical Care on Board Ships and Ashore.* – The shipowner shall provide adequate equipment, paraphernalia and medical supplies, including medicines on board, and shall ensure access to shore facilities for the health of seafarers, as well as the corresponding medical or trained personnel who shall provide first aid and medical care pursuant to the Maritime Occupational

Safety and Health Standards and other pertinent laws, rules and regulations.

The ship-owner shall ensure that seafarers have access to medical treatment for any illness or injury, hospitalization and dental treatment.

A seafarer shall have the right to consult a qualified physician or dentist without delay in ports of call, where practicable.

A seafarer shall have the right to material assistance and financial support from the shipowner with respect to the expenses incurred during and as a result of medical treatment for sickness, injury or death occurring while they are serving under a valid employment contract or those which arise from their employment, without prejudice to any other legal remedies that a seafarer may seek.

CHAPTER XI

WELFARE AND SOCIAL SECURITY PROTECTION

SEC. *Social Welfare Benefits.* – Without prejudice to established policy, CBA or other applicable social agreement, all seafarers shall become members of the Social Security System (SSS), Employees' Compensation and State Insurance Fund, PhilHealth, Home Development Mutual Fund (or Pag-IBIG Fund) and shall enjoy the benefits afforded pursuant to membership thereof.

CHAPTER XII

COMPLIANCE AND ENFORCEMENT

SEC. 38. *Compliance and Certification.* – All ships of Philippine registry shall comply with the provisions of this Act. The

560 shipowner or master shall ensure the compliance of the ship with
561 the provisions of this Act and its implementing rules and
562 regulations.

563 The shipowner and master, as acting shipowner's
564 representative, shall be made principally liable for any violation of
565 the provisions of this Act and its implementing rules and
566 regulations.

567 For this purpose, a maritime labour certificate or a
568 certificate of compliance, as applicable, shall be issued in
569 accordance with the implementing rules and regulations. The
570 DOLE, the DFA and the MARINA, in consultation with shipowners
571 and seafarers' organizations, shall formulate the said
572 implementing rules and regulations.

573 SEC. 39. Inspection and Enforcement. – The Secretary of Labor
574 and Employment or the duly authorized representative shall have
575 the sole and exclusive authority to inspect all Philippine ships,
576 domestic or oceangoing, to ensure compliance with the provisions
577 of this Act. The duly authorized representative shall have the
578 power to board ships and carry out any examination, test or
579 inquiry in order to ensure that the standards established under
580 this Act and its implementing rules and regulations are strictly
581 observed.

582 The Secretary of Labor and Employment may authorize
583 other government agencies or duly recognized organizations to
584 conduct inspection and issue certification in accordance with the
585 provisions of this Act and its implementing rules and regulations.

586 The Secretary of Labor and Employment or the duly
587 authorized representative shall have the power to order immediate

588 restitution of differences, and impose fines for violations of this
589 Act.

590 If the violation or deficiency constitutes serious breach of the
591 requirement of this Act and its implementing rules and
592 regulations, or poses imminent danger to the ships or to the life or
593 limb of the seafarer, the Secretary of Labor and Employment or the
594 duly authorized representative may immediately order the
595 detention of the ship until the violation or deficiency is corrected.

596 SEC. 40. *Recognized Organization.* – Recognized organizations may
597 be authorized by the Secretary of Labor and Employment to
598 conduct the inspection of ship's premises and issue the maritime
599 labour certificate or the certificate of compliance with, as
600 appropriate, in accordance with the provisions of this Act and its
601 implementing rules and regulations.

602 A recognized organization must have the necessary
603 knowledge of the requirements of this Act and its implementing
604 rules and regulations, the MLC, 2006 and other relevant
605 international treaty or convention.

606 Likewise, to be recognized and authorized to inspect a ship,
607 it must also have the necessary and qualified professional and
608 technical expertise to conduct the inspection and certify to the
609 ship's compliance with established standards.

610 611 CHAPTER XIII

612 TERMINATION OF EMPLOYMENT

613 SEC. 41. *Termination of Employment.* –

(a) The employment of Filipino seafarers on board Philippine-registered ships operating internationally, as well as those on board foreign-registered ships shall cease when the seafarers complete their period of contractual service aboard the ship, sign off from the ship, and arrive at the point of hire.

The employment is also terminated effective upon arrival at the point of hire for any of the following reasons:

- (1) When the seafarer signs off and is disembarked for medical reasons in the event the seafarer is declared: (i) fit for repatriation; or (ii) when after an illness the seafarer is declared fit to work, but the employer is unable to find employment for the seafarer on board the ship originally boarded or on another ship of the employer;
- (2) When the seafarer signs off due to the sale of the ship, lay-up of ship, discontinuance of voyage or change of ship principal;
- (3) When the seafarer voluntarily resigns in writing and signs off prior to the expiration of contract within a reasonable period as may be prescribed in the implementing rules and regulations of this Act; or
- (4) When the seafarer is discharged for just causes in accordance with the provision of the POEA-SEC.

(b) The termination of employment of a seafarer on board domestic ships shall be governed by the provisions of the Labor Code of the Philippines, as amended, on domestic shipping.

(c) The termination of employment of a seafarer on board a foreign vessel or foreign-registered ships shall be governed by the POEA-SEC or applicable CBA.

CHAPTER XIV

SETTLEMENT OF DISPUTES

SEC. 42. *On Board and Onshore Grievance Machinery.* – All ships of Philippine registry shall prescribe and observe fair, effective and expeditious on board and onshore methods and procedures to handle grievance at no cost to the seafarer, in accordance with the implementing rules and regulations of this Act.

In case where a seafarer is a member of a legitimate trade union organization, any grievance shall, as a condition precedent to conciliation-mediation, undergo the grievance machinery with the involvement of the union as established in its CBA. Without prejudice to any existing law, any agreement reached by the parties during the grievance negotiation shall be final and binding.

SEC. 43. *Mandatory Conciliation-Mediation and Arbitration.* – Seafarer, whether engaged, employed or working on board ships of Philippine registry or other registries, shall avail of the conciliation-mediation services of the DOLE pursuant to Republic Act No. 10396 and its implementing rules and regulations, by filing a request for assistance before the conciliation-mediation desks at the Regional/Field/Provincial Offices of the DOLE or its attached agencies.

669 In case of failure of conciliation-mediation in cases where
670 seafarers are covered by the CBA, the case shall be submitted for
671 Voluntary Arbitration in accordance with Articles 261 and 262 of
672 the Labor Code, as amended. In cases where seafarers are not
673 covered by the CBA, the seafarer shall have the option to submit
674 the case to Compulsory Arbitration or Voluntary Arbitration.

675 CHAPTER XV

676 REINTEGRATION FOR OVERSEAS FILIPINO SEAFARERS

677 SEC. 44. *Reintegration.* – Returning or unemployed overseas
678 Filipino seafarers may avail of the livelihood development and
679 training programs, placements and other services offered by
680 concerned government agencies, including the OWWA, the
681 Technical Education and Skills Development Authority (TESDA),
682 the Technology and Livelihood Resource Center (TLRC), the
683 Cooperative Development Authority (CDA), the National Maritime
684 Polytechnic (NMP) and the CHED.

685 These agencies shall formulate skills upgrading or retraining
686 curricula to meet the needs of returning or unemployed seafarers.
687 The participation of the maritime sector, in particular, port and
688 shipping industry, and maritime educational institutions shall be
689 likewise solicited by the DOLE in devising the appropriate
690 retraining and local job placement programs for unemployed
691 seafarers.

692 The National Reintegration Center for OFWs (NRCO) shall
693 attend to the needs of returning seafarers. The Center shall
694 provide mechanisms for their reintegration into the Philippine
695 society, serve as a promotion house for their local employment,
696 and tap their skills and potential for national development.

697 CHAPTER XVI

698 INCENTIVES AND AWARDS GRANTED TO THE MARITIME
699 INDUSTRY

700 SEC. 45 *Incentives and Awards.* – There shall be established an
701 incentives and awards system for the maritime industry
702 stakeholders which shall be developed and administered by the
703 concerned government agency in consultation with the Maritime
704 Industry Tripartite Council (MITC).

705 Under such rules and regulations that may promulgated,
706 deserving shipowners, seafarers, manning and other organizations
707 or entities, shall be commended or awarded for their outstanding
708 performance in upholding the rights of seafarers and complying
709 with this Act.

710 CHAPTER XVII

711 GOVERNMENT AGENCIES

712 SEC. 46. *Role of Government Agencies.* – The following government
713 agencies shall perform the following functions to promote the
714 welfare and protect the rights of Filipino seafarers:

- 715 (a) Department of Labor and Employment (DOLE). – The
716 DOLE shall exercise sole and exclusive jurisdiction in
717 implementing the provisions of this Act and ensure
718 that the standards set forth herein, under Presidential
719 Decree No. 442, as amended, and other laws, the
720 MLC, 2006 and other international treaties and
721 conventions to which the Philippines is a signatory are
722 faithfully complied with and fairly applied to Filipino
723 seafarers.

724 The DOLE shall likewise determine and set
725 appropriate benchmarks consistent with the MLC,
726 2006, this Act and other applicable laws employment
727 conditions and other labor standards and regulations.

728 (b) Department of Foreign Affairs (DFA). – the DFA,
729 through its home offices or foreign posts, shall give
730 paramount importance to the safety and well-being of
731 Filipino seafarers, by providing adequate and timely
732 intervention and assistance, such as representing
733 their interests with foreign authorities concerned and
734 facilitating their repatriation when they are distressed
735 or beleaguered.

736 (c) Department of Health (DOH) -. The DOH shall regulate
737 the activities and operations of all clinics which
738 conduct physical, optical, dental, psychological and
739 other similar examinations, hereinafter referred to as
740 health examinations, on Filipino seafarers.

741 The DOH shall determine and prescribed the
742 nature of the health examination that shall be
743 required of a seafarer, ensuring that such examination
744 will genuinely determine the seafarer's state of health,
745 considering the duties that the seafarer shall be
746 required to perform on board. The DOH shall likewise
747 prescribe the contents of the medical certificate to
748 ensure that such certification will genuinely reflect the
749 seafarer's state of health.

750 (d) Philippine Overseas Employment Administration
751 (POEA). – The POEA shall look into the contracts of
752 employment and the working conditions of the officers

and crew of vessels of Philippine registry operating internationally, and of such officers and crew members who are Filipino citizens and employed by foreign vessels to ensure that these comply with the prescribed standards.

- (e) Overseas Workers Welfare Administration (OWWA). – The OWWA, through its welfare officers or coordinating officers, shall provide the Filipino seafarers and their families all the assistance they may need in the enforcement of contractual obligations by agencies and their principals.

The OWWA shall likewise formulate and implement welfare programs for overseas Filipino seafarers and their families while they are abroad and upon their return. It shall ensure the awareness by the overseas Filipino seafarers and their families of these programs and other related governmental programs.

- (f) Maritime Industry Authority (MARINA). – The MARINA shall ensure that all maritime education including the curricula and training programs are structured and delivered in accordance with written programs, methods and media of delivery, procedures and course materials, international standards as prescribed under the STCW Convention and other applicable laws.

- (g) Philippine Coast Guard (PCG). – The PCG, in line with its function to assist in the enforcement of applicable laws within the maritime jurisdiction of the Philippines, shall assist the DOLE in the enforcement

of Department Orders and other issuances implementing the MLC, 2006, including orders to detain vessels found in gross violation of pertinent laws, rules and regulations.

Unless otherwise provided in this Act, the mandate, power and function of all existing departments, agencies or instrumentalities of the government, including government-owned and controlled corporations, shall remain and continue to be recognized in accordance with the law or order creating them.

SEC. 47. *Philippine Seafarer's One Stop Processing Center (PSOC).*

– The PSOC shall operationalize and make available to the public an integrated document processing center for the seafarers and the general public to conduct official transactions. The agencies that are mandated to provide services in the PSOC are as follows:

- (a) Department of Labor and Employment;
- b) Department of Foreign Affairs;
- (c) Commission on Higher Education;
- (d) Professional Regulation Commission;
- (e) National Telecommunications Commissions;
- (f) Philippine Overseas Employment Administration;
- (g) Overseas Workers Welfare Administration;
- (h) Technical Education and Skills Development Authority;
- (i) Maritime Industry Authority;

- (j) National Bureau of Investigation;
- (k) Social Security System;
- (l) Philippine Health Insurance Corporation;
- (m) Philippine Statistics Authority;
- (n) Home Development Mutual fund; and
- (o) Such other government agencies that the Secretary of Labor and Employment may deem appropriate to be included in the PSOC.

CHAPTER XVIII

FINAL PROVISIONS

SC. 48. *Administrative Fines and Penalties.* – Any shipowner, master, their representative or other person who fails or refuses to present employment records, such as payrolls, daily time records, payslip or other documents, when required by the Secretary of Labor and Employment, or the duly authorized representative of the Secretary of Labor and Employment, or the duly authorized representative of a recognized organization, shall be imposed administrative fines and penalties in accordance with the implementing rules and regulations promulgated to implement this Act.

SEC. 49. – *Penalties for Violations of Sections 38 and 39.* – Any person who, without proper authorization, exercises the authority granted to the Secretary of Labor and Employment under Section 38 and 39 of this Act, shall be punished with a fine of not less than one hundred thousand pesos (P100,000.00) nor more than four hundred thousand pesos (P400,000.00), or imprisonment of not less than one (1) year nor more than four (4) years, or both at

835 the discretion of the court. The foregoing offense shall prescribe
836 after five (5) years from its commission, or upon discovery of the
837 violation by competent authorities.

838 SEC. 50. *Transitory Provision.* – All rights, privileges and benefits
839 previously enjoyed by Filipino seafarers before the effectivity of this
840 Act, including those set forth in Presidential Decree No. 442,
841 otherwise known as the Labor Code of the Philippines, as
842 amended, and Republic Act No. 8042, otherwise known as the
843 "Migrant Workers and Overseas Filipinos Act of 1995", as
844 amended, shall continue to be recognized and shall not be
845 diminished.

846 SEC. 51. *Implementing Rules and Regulations.* – The DOLE, in
847 coordination with the DFA, the MARINA and other concerned
848 agencies, shall formulate the rules and regulations to implement
849 this Act within ninety (90) days after its effectivity.

850 SEC. 52. *Separability Clause.* – If for any reason, any section,
851 clause or term of this Act is held to be illegal, invalid, or
852 unconstitutional, such parts not affected by such declaration shall
853 remain in full force and effect.

854 SEC. 53. *Repealing Clause.* – All laws, presidential decrees,
855 issuances, executive orders, letters of instruction, rules and
856 regulations inconsistent with the provisions of this Act are hereby
857 repealed or modified accordingly.

858 SEC. 54. *Effectivity.* – This Act shall take effect fifteen (15) days
859 after its publication in the *Official Gazette* or in a newspaper of
860 general circulation.

861 Approved,