

[MIA MEMORANDUM CIRCULAR NO. 26, September 01, 1982]

RATIONALIZATION OF THE INTER-ISLAND SHIPPING OPERATIONS

Pursuant to the MARINA-BOT Memorandum of Agreement dated 26 February 1982, and the MARINA-BOT-PPA-PCG Memorandum of Agreement dated 17 March 1982, and in line with the government program on the rationalization of inter-island shipping operations, the following policy guidelines are hereby adopted:

1. *Scope of Coverage* — The concept of rationalization shall be limited to persons, corporations, firms, or associations owning or operating vessels which:

- a. offer their services to the public indiscriminately;
- b. have regular ports of call/destination;
- c. have fixed sailing schedule (arrival-departure pattern) and sailing frequency; and
- d. charge fees fixed by the Board of Transportation.

2. *Definitions* — For purposes of this Circular, the following terms or phases shall have the meanings/definitions as hereinbelow:

- a. **Authorized route:** the pattern of ports of call starting and ending on the same port, indicated in an existing PA or CPC granted by BOT to a vessel.
- b. **Deviation from authorized route:** the unauthorized deletion of a regular port or ports of call from a vessel's authorized itinerary; the unauthorized call at a port or ports not included in a vessel's authorized route; or any change in the sequence by which the ports of call are serviced.
- c. **Authorized sailing frequency:** — the number of round trips a vessel can make at a given period of time as indicated in its PA/CPC.
- d. **Sailing frequency deviation:** the increase or reduction in the vessel's authorized sailing frequency for a specific period of time.
- e. **Sailing schedule deviation:** any change in the vessel's departure by more than two (2) hours for short trips (less than 12 hours voyage) and three (3) hours for long trips (more than 12 hours voyage) vis-a-vis the vessel's schedule

authorized by BOT or as published by the shipowner or ship-operator.

f. **Withdrawal from service:** the suspension of a vessel's services in its authorized route or portions thereof

g. **Abandonment of service:** the unauthorized suspension of a vessel's services by the ship-operator/ shipowner in its authorized route or portions thereof for a period of four (4) months or more.

h. **Rerouting:** changing the authorized routing pattern of a vessel.

i. **Replacement:** the substitution of lost, obsolete, overaged, inefficient, or unseaworthy tonnage to be sold abroad or scrapped, the replacement of which should not exceed 150% of the replaced vessel's rated capacity.

j. **Addition/ Expansion :** the introduction of an additional vessel in a given route, or alternatively, the deployment of a replacement vessel the size of which exceeds the replaced vessel's rated capacity by more than 50%.

k. **Scrapping:** the permanent withdrawal of a vessel from all forms of shipping services for purposes of breaking it up or selling it to foreign buyers.

l. **Lay-up:** the withdrawal of a vessel and trying it up on anchor for a period of one month or more and where only a skeleton crew is retained to maintain the equipment and machinery on board.

m. **Modernization:** the introduction of later-built tonnage which provides an innovative and a more efficient method of cargo loading and stowage or type of service.

n. **Prior operator:** the priority of an existing authorized operator in a route and in each of the segments of the route by virtue of a PA/CPC.

3. Policy Statements on Change or Deviation from Authorized Routes, Sailing Frequency and Schedules.

All persons, partnerships, corporations, or other entities owning or operating vessels engaged in coastwise shipping within the contemplation of this Circular shall observe their authorized routes, sailing frequency, and schedules. Any vessel that deviates from its authorized route, sailing frequency; or schedules without appropriate authority shall be penalized in accordance with the Public Service Law. Any service disruptions shall be avoided as much as possible.

4. Policy Statement on Abandonment/Withdrawal/Suspension of Service. — Abandonment/withdrawal/suspension of service shall not be allowed without authority from the BOT. MARINA may, in the interest of the

public, recommend that the shipowner/ship-operator continue the service for a month after notification of such abandonment/withdrawal/suspension of service or even for a longer period of time, as it may deem necessary to avoid disruption of service.

A vessel withdrawn from its authorized route due to market conditions therein may not be deployed in any other liner route unless authority to do so has been acquired from the BOT. The MARINA shall, whenever practicable, prevent a liner operator from reserving the right to re-service a liner route when market conditions improve since the government protects only those that are vigilant in serving the public interest.

In the case of a liner operator that does not altogether cease operations in his authorized route(s) or portions thereof but fails to provide regular services therein, the MARINA may require such operator to maintain a minimum service level, failing which, another operator may be allowed to service the route to enable the public to receive adequate service.

5. *Policy Statement on Vessel Rerouting* — Vessel rerouting is discouraged and becomes illegal if such rerouting is pursued without the corresponding amendment of the vessel CPC/PA. In order to protect the public interest, the government shall limit the frequency of applications for vessel's CPC/PA or amendment thereof for re-routing purposes. To facilitate the determination of supply and demand level of shipping services, the government may seek the assistance of the shipping association or conference. Any or all links omitted by a shipping company as a result of its rerouting scheme shall be declared open for market entry and applications from other operators shall be entertained on a case-to-case basis and on a first-come-first-served basis. Priority shall be given to the other existing authorized operators over new entrants.

6. *Policy Statement on Vessel Replacement and Modernization* — In order to protect the interest of existing operators, the government shall regulate vessel acquisitions for purposes of modernization.

The first option to introduce modern tonnage for modernization or replacement rests with prior operators in the route.

Approval for the acquisition by an existing operator of modern tonnage to replace an existing vessel shall be granted provided that:

- a. The replacement a vessel's rated capacity should not exceed the replaced vessel's rated capacity by more than 50%. (Beyond this, the vessel is considered as an expansion.)
- b. Vessels to be replaced with ages beyond thirty (30) years shall be scrapped/sold to foreign buyers.
- c. Vessels to be replaced but not scrapped may be rerouted to a MARINA-approved route.

The replacement vessel shall not be replaced by another vessel within a period of three (3) years. A vessel acquisition application is supported by long-range operational plans, 5-year cash flow, etc.; hence, the vessel