2015

Beyond Republic Act No. 10668:
Policy Considerations to Improve Coastwise Trade

Department of Trade and Industry
Sector Planning Bureau

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I. Introduction

The Cabotage Law in the Philippines has been identified as one of the constraints to Philippine economic growth.[1] The lack of efficiencies in the maritime sector is linked to inadequate competition due to barriers to entry, arising from the law's provision that allows only domestic shipping lines to serve domestic routes.[2] This has resulted to high domestic shipping costs, lack of meaningful competition and low service quality, which led to the clamor of the business sector to liberalize the shipping industry of the Philippines and lift cabotage.

Cabotage is defined as "trade or navigation in coastal waters." The provision in the Tariff and Customs Code of the Philippines (TCCP) which states that maritime transportation of goods and passengers within the country is reserved to Philippine-registered marine vessels is also generally regarded as the Cabotage Law.[3]

Lifting cabotage is widely viewed as an important measure to enhance competitiveness of the shipping industry as it will liberalize coastwise trade, improve the country's logistics and open our sea transport to international competition.

During the 2013 State of the Nation Address of President Benigno Aquino III, he called on Congress to "amend the Cabotage Law in order to foster greater competition and to lower the cost of transportation for our agricultural sector and other industries."

As a response to the call of the President, a legislative proposal entitled "An Act Allowing Foreign Vessels to Engage in Coastwise Trade in the Country," was refiled in both Houses during the 16th Congress.[4] The bill was eventually signed into law by President Aquino on 21 July 2015 as Republic Act No. 10668, otherwise known as the Foreign Ships Co-Loading Act, which relaxes the 50-year old Cabotage law. R.A.10668 allows foreign ships carrying imported cargo and cargo to be exported out of the country to dock in multiple ports within the Philippines. The law, however, does not cover carriage by foreign ships of domestic cargoes or domestic container vans whether loaded or empty within Philippine waters. Hence, domestic shipping or coastwise trade shall remain limited to domestic shippers.

The passage of this measure is expected to lower shipping costs for foreign cargoes and provide a fast, safe, reliable and cost efficient shipping industry that is capable of

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[1]Llanto, G. & Navarro A. (2014), Toward Relaxing the Cabotage Restrictions in Maritime Transport, PIDS Policy Notes No. 2014-03, February 2014
[2] Ibid
[3]Presentation by Dr. Enrico Basilio of USAID-COMPETE Project to the Joint Committee Meeting of NCC-Infrastructure Working Group and EDC-Networking Committee on Transport and Logistics.
[4] Cabotage bills have been filed since the 13th Congress

addressing the growing and developing demands of trade in both international and domestic fields, thus help in significantly boosting the country's competiveness.

II. Policy Environment: Philippine Laws and Regulations on Domestic Shipping

Full liberalization of coastwise trade in the country is impeded by several laws and regulations that are enshrined in the Constitution and in other statutes and policies in the country.

A. 1987 Philippine Constitution

- **Article XII Section 11** states that "no franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines, at least sixty per centum of whose capital is owned by such citizens; nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines."

B. Tariff and Customs Code of the Philippines (R.A. 1937)

- **Section 901. Ports Open to Coastwise Trade**. "All ports and places in the Philippines shall be open to vessels lawfully engaged in coastwise trade, subject to the provisions of law applicable in particular cases."

- **Section 902. Vessels Eligible for Coastwise Trade**. "The right to engage in the Philippine coastwise trade is limited to vessels carrying a certificate of Philippine registry."

- **Section 905. Transportation of Passengers and Articles between Philippine Ports**. "Passengers shall not be received at one Philippine port or any other port by a vessel not licensed for the coastwise trade, except upon a special permission granted by the Collector (Customs Commissioner); and subject to the same qualification, articles earmarked at a domestic port shall not be transported to any other port in the Philippines, either directly or by way of a voyage, in any other vessel than one licensed for the coastwise trade."

For example, the shipment of domestic cargoes from one domestic port (e.g., Davao) to another (e.g., Manila) should be carried only by **domestic** shipping lines (emphasis on the word "domestic").

C. Foreign Investments Act (R.A. 7042, R.A. 8179, E.O. 362 – Negative List A)

- The law restricts foreign equity to a maximum of 40% in areas of economic activities reserved for Filipinos by mandate of the Constitution and specific laws (R.A. 1937 or the Tariff and Customs Code of the Philippines, RA 9295 or the Domestic Shipping Development Act of 2004).

D. Public Service Act (Commonwealth Act 146, as amended by R.A. 2677 s. 1960)

- **Section 13 (b)** "**The term 'public service' includes** every person that now or hereafter may own, operate, manage, or control in the Philippines, for hire or compensation, with general or limited clientele, whether permanent, occasional or accidental, and done for general business purposes, any common carrier, railroad, street railway, traction railway, sub-way motor vehicle, either for freight or passenger, or both with or without fixed route and whatever may be its classification, freight or carrier service of any class, express service, steamboat, or steamship line, pontines, ferries, and water craft, engaged in the transportation of passengers or freight or both, shipyard, marine railway, marine repair shop, wharf or dock, ice plant, ice-refrigeration plant, canal, irrigation system, gas electric light, heat and power, water supply and power, petroleum, sewerage system, wire or wireless communications system, wire or wireless broadcasting stations and other similar public services: *Provided*, *however*, That a person engaged in agriculture, not otherwise a public service, who owns a motor vehicle and uses it personally and/or enters into a special contract whereby said motor vehicle is offered for hire or compensation to a third party or third engaged in agriculture, not itself or themselves a public service, for operation by the latter for a limited time and for a specific purpose directly connected with the cultivation of his or their farm, the transportation, processing, and marketing of agricultural products of such third party or third parties shall not be considered as operating a public service for the purposes of this Act."

E. Domestic Shipping Act of 2004 (R.A. 9295)

- **Section 5. Authority to Operate**. –"No franchise, certificate or any other form authorization for the carriage of cargo or passenger, or both in the domestic trade, shall be granted except of domestic ship owners or operators."

- **Section 6. Foreign Vessels Engaged in Trade and Commerce in the Philippines Territorial Waters.**–"No foreign vessel shall be allowed to transport passengers or cargo between ports or place within the Philippine territorial waters, except upon the grant of Special Permit by the MARINA when no domestic vessel is available or suitable to provide the needed shipping service and public interest warrants the same.**”**

III. Issues, Concerns and Studies on Coastwise Shipping/Cabotage

Notwithstanding the passage of R.A. 10668 which allowed the partial liberalization of cabotage and whose positive effects may not necessarily be felt immediately, there remain several issues and concerns that continue to affect our local shipping industry and its stakeholders. These issues were identified based on existing literature and various consultations with stakeholders in the industry.

A. Low Logistics Performance

Logistics performance is at the core of our country’s policies to boost competitiveness, trade integration and enhance efficiency of our shipping industry by lowering trade costs. The World Bank publishes the Logistics Performance Index (LPI) every two years beginning 2007. The LPI summarizes the logistics performance based on six (6) logistics dimensions:

(1) Efficiency of customs and border clearance (“Customs”)
(2) Quality of trade and transport related infrastructure (“Infrastructure”)
(3) Ease of arranging competitively priced shipments (“Ease of arranging shipments”)
(4) Competence and quality of logistics services (“Quality of Logistics Services”)
(5) Tracking and tracing of consignments (“Tracking and Tracing”)
(6) Frequency with which shipments reach the consignee within the scheduled or expected time (“Timeliness”)[5]

Based on the 2010, 2012 and 2014 World Bank Logistics Performance Index, the Philippines emerged as one of the low performing countries among selected Asian countries -- one of the lowest in 2010 and 2012, with only a few points ahead of Vietnam and Indonesia, and the lowest in 2014 (Table 1). The data is indicative of the need to improve various components in the logistics index, which encompasses freight transportation, warehousing, border clearance and payment systems, among others. By doing so, concerns on high shipping costs and efficiencies in the shipping industry will also be addressed, hence contributing to our economic growth and competitiveness.

[5] University of Southern California Marshall School of Business ABAC team (2011) “APEC Supply Chains: Identifying Opportunities for Improvement.”

Table 1: Logistics Performance Index (2010, 2012 and 2014)

Country	2010	2012	2014
China	3.49	3.52	3.53
Hong Kong	3.88	4.12	3.83
Indonesia	2.76	2.94	3.08
Korea	3.64	3.70	3.67
Malaysia	3.44	3.49	3.59
Philippines	3.14	3.02	3.00
Singapore	4.09	4.13	4.00
Thailand	3.29	3.18	3.43
Vietnam	2.96	3.00	3.15

Sources: World Bank Logistics Performance Index (http://data.worldbank.org/indicator/LP.LPI.OVRL.XQ) and Connecting to Compete 2014, Trade Logistics in the Global Economy: The Logistics Performance Index and its Indicators

B. High Domestic Shipping Costs

A number of studies have been conducted on the issue of cabotage, in particular, and on the shipping industry in the Philippines, in general. According to a study by the Philippine Institute for Development Studies (PIDS), there is a close link between high shipping costs and the Philippine cabotage policy. The protection being enjoyed by the domestic shipping industry through cabotage restrictions results to high domestic shipping costs, lack of meaningful competition in the industry, and weak incentives for operators to modernize and become competitive.[6] Although the Philippines is considered as the fifth largest shipbuilder in the world next to China, Japan, Korea and Brazil, our domestic shipping industry continues to use smaller and even older vessels in transporting cargo, compared to those ships used by our foreign counterparts. Moreover, the average age of our cargo vessels is11 years old while the age of our passenger vessels range between 18 and 20 years old[7] with lack of incentives to modernize and upgrade their vessels. Other issues identified include inadequate port infrastructure, lack of economies of scale, and uneven level of taxes paid by local and foreign shipping companies.

C. Lack of Competition in the Industry

There is a high concentration of shipping companies and weak competition in the industry with only a few players (WG&A, Negros Navigation, Sulpicio Lines, Philippine Fast Ferry Corporation and Cebu Ferries Corporation).[8] In 2002, 50 percent of the primary routes in the country remained under a monopoly. Five shipping companies controlled 90 percent of passengers and markets and almost all of the primary and secondary routes in the country were serviced by these

[6]PIDS Policy Notes No. 2014-03, "Toward relaxing cabotage restrictions in maritime transport," (2014 February)
[7] Ibid.
[8] Austria (2003) as cited by Aldaba, R. (2013), Case Study on Ports and Shipping Services in the Philippines and Llanto R. & Navarro A. (2014), PIDS Policy Notes No. 2014-03, "Toward relaxing cabotage restrictions in maritime transport," February 2014

companies.[9] According to 2013 data by the Maritime Industry Authority (MARINA), the domestic fleet is being operated by 2,497 entities, 509 of which are corporate entities and 1,952 are single proprietors. However, only four major shipping companies serve the country's primary routes while 34 shipping companies serve the secondary routes.[10]

D. Inefficiency and Low Level of Productivity

Inefficiency in inter-island services (e.g., cargo handling, port and terminal handling and customs procedures) and the resulting low level of productivity of domestic ports likewise reduced the service quality for Philippine exports and affected the industry's competitiveness. Although substantial improvements have been made in terms of reducing costs of importing and exporting, the Philippines remains one of the highest in terms of export and import costs (Table 2). It can be gleaned from the data below that in 2011, the Philippines ranked among the highest in export and import costs among Asian countries and remained in that position in 2014.

Table 2: Cost to Export and Import (in US$/container)[11]

Country	Export Cost 20 TEU (twenty-foot equivalent)				Import Cost 20 TEU			
	2011	2012	2013	2014	2011	2012	2013	2014
China	500	580	823	823	545	615	800	800
Hong Kong SAR, China	575	575	590	590	565	565	565	565
Indonesia	644	644	595	572	660	660	647	647
Republic of Korea	680	665	670	670	695	695	695	695
Malaysia	450	435	450	525	435	420	485	560
Philippines	**630**	**585**	**585**	**755**	**730**	**660**	**660**	**915**
Singapore	456	456	460	460	439	439	440	440
Thailand	625	585	595	595	750	750	760	760
Vietnam	580	610	610	610	670	600	600	600

Source: IFC Doing Business 2011 – 2014 Ranking on Trading Across Borders

Cargo handling efficiency can also lead to high level of vessel productivity, which will translate into lower freight rates. MARINA has indicated that the productivity of our domestic ports is only about half of the productivity of foreign ports.[12] Our domestic

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[9]Austria (2003) as cited by Aldaba, R. (2013), Case Study on Ports and Shipping Services in the Philippines and Llanto R. & Navarro A. (2014), PIDS Policy Notes No. 2014-03, "Toward relaxing cabotage restrictions in maritime transport," February 2014
[10]Llanto , R. & Navarro A. (2014), PIDS Policy Notes No. 2014-03, "Toward relaxing cabotage restrictions in maritime transport," February 2014
[11] http://data.worldbank.org/indicator/IC.EXP.COST.CD. Cost measures fees levied on a 20-foot container in US$. Fees include cost for documents, administrative fees, custom clearance, technical control, custom broker fees, terminal handling charge and inland transport.
[12]Aldaba, Rafaelita (2013), Case Study on Ports and Shipping Services in the Philippines

ports' low productivity causes significant delays in loading and unloading cargoes which the Philippine Ports Authority (PPA) needs to address.[13] Basilio (2011), as cited by Aldaba (2013), also indicated that on the average, cargo handling costs account for around 30% of sea transport costs.[14] Table 3 shows that for 2013, among the seven Southeast and East Asian countries identified, the Philippines shares the second place with Thailand in terms of ports and terminal handling costs for exports and third place for imports. In 2014, the Philippines improved its ranking in ports and terminal handling costs placing 5th for exports and 4th for imports.

Table 3: Port and Terminal Handling Costs

Country	Export				Import			
	2013*		2014**		2013*		2014**	
	Time to Export (No. of Days)	Costs (US$)	Time to Export (No. of Days)	Costs (US$)	Time to Import (No. of Days)	Costs (US$)	Time to Import (No. of Days)	Costs (US$)
Singapore	6	456	6	460	4	439	4	440
Malaysia	11	435	11	450	8	420	8	485
Hong Kong	6	575	6	590	5	565	5	565
Taiwan	10	655	10	655	10	720	10	720
Indonesia	-	-	17	620[15]	-	-	23	673.7[16]
Thailand	14	585	14	595	13	750	13	760
Philippines	15	585	15	585	14	660	14	660

Sources: *Doing Business 2013 (http://www.doingbusiness.org)
**Doing Business 2014 (http://www.doingbusiness.org)

There are also <u>voluminous documents</u> that an exporter or importer in the country must file as part of customs procedures, with equivalent charges to be paid and a longer processing time.

Based on 2014 data as presented on Table 4, Malaysia has the most affordable cost for exports' customs procedures with Singapore charging the lowest amount for imports' customs procedures. China, Korea and Singapore require the least amount of documents which are three (3) each for exports and imports compared to the Philippines, which requires six (6) documents for exports, next to China's eight (8), and seven (7) documents for imports, the most number required.

Moreover, the high fuel cost, high interest rates, high insurance premium (protection and indemnity and hull and machinery insurance of vessels) and higher taxes for domestic shipping also contributed to the high shipping cost in the country.[17] In fact, it is cheaper to transport cargoes from Manila to Cagayan de Oro via Hong Kong or

[13] Philippine Agribusiness Competitiveness and Benchmarking Study, Component on Competition and Transport Services, International Finance Corporation , Draft (April 2012)
[14] Ibid
[15]Deflated US$ per container
[16]Deflated US$ per container
[17]Aldaba, Rafaelita (2013), Case Study on Ports and Shipping Services in the Philippines
Philippine Agribusiness Competitiveness and Benchmarking Study, Component on Competition and Transport Services, International Finance Corporation , Draft (April 2012)

Kaohsiung in Taiwan than to transport cargoes directly from Manila to Cagayan De Oro.[18] Based on 2010 data from the Joint Foreign Chambers of Commerce in the Philippines, a 20-footer shipped from Manila to Cagayan De Oro via Hong Kong costs US$644 while shipping directly from Manila to Cagayan de Oro costs US$1,120,[19] nearly double to go direct.

Table 4: Estimated Cost for Customs Procedures

Country	Exports		Imports	
	No. of Documents	Cost in US$	No. of Documents	Cost in US$
China	8	620	5	615
Hong Kong, China	3	590	3	565
Indonesia	4	615	8	660
Republic of Korea	3	670	3	695
Malaysia	4	450	4	485
Philippines	6	585	7	660
Singapore	3	460	3	440
Thailand	5	595	5	760
Vietnam	5	610	8	600

Source: World Historical Data 2014, Doing Business Report 2014

E. Inadequate Port Infrastructure

In a 2012 study, the International Finance Corporation (IFC) likewise determined that inadequate port infrastructure and facilities have also been detrimental in attaining high vessel productivity due to longer period of unloading/loading of cargo at berth. The current infrastructure is found to be inadequate to meet the number of ship calls and cargo volume and this results to congestion and delays. As such, shipping lines may impose higher shipping rates to recover cost of delays.[20] In the World Economic Forum Competitiveness Ranking on the quality of port infrastructure, the Philippines' rank deteriorated from 112 in 2009-2010 to 116 in 2013-2014 indicating the lack of competitiveness of the country's ports.

Table 5: Quality of Port Infrastructure
Ranking in the Global Competitiveness Report 2009-2010 and 2013-2014

Country	2009-2010	2013-2014	Country	2009-2010	2013-2014
Singapore	1	2	South Korea	36	21
Hong Kong	2	3	Thailand	47	56
Taiwan	16	29	Indonesia	95	89
Malaysia	19	24	Philippines	112	116

Source: Global Competitiveness Reports 2009-2010 / 2013-2014 as cited by Aldaba, 2013

[18]Llanto R. & Navarro A. (2014), PIDS Policy Notes No. 2014-03, "Toward Relaxing Cabotage Restrictions in Maritime Transport, February 2014
[19] Ibid
[20]International Finance Corporation (2012), Philippine Agribusiness Competitiveness and Benchmarking Study: Component on Trade Facilitation and Logistics

According to Gamboa (2013), the country's ports also lack facilities such as warehouses and silos that will speed up the process of loading and unloading bulk cargoes. He added that our ports need new equipment like cranes, conveyor belts, bulldozers and other gears that will speed up the loading and discharging operations of the carriers. It will take 10 days to load 5000 tons of corn in Mindanao whereas if there is a silo, it will only take a day to load the same amount to the carriers which will save both time and money. Modern suction equipment or grabs will also speed up the discharging which will only take two (2) days.[21]

Efficiency is a vital component in this industry, especially since shipping is an integral part of the logistics/supply chain. Efficient service will result to lesser spoilage, reduced fees caused by delays and more turnaround for the ships for vibrant intra and inter-regional trade.

F. Congestion of Manila Ports

The Port of Manila is considered as the largest seaport in the Philippines, with three main ports, the Manila North Harbor, Manila South Harbor and the Manila International Container Terminal (MICT). The Manila Port is considered one of the busiest ports in the world accounting for approximately 2.7 million TEU international cargo traffic per year (JICA, 2013a).[22] In 2012, it was also ranked as the 38th busiest port in the world with shipping lines completing an average of 20 to 30 ship calls per week.[23]

To decongest the Port of Manila, JICA funded the development of Ports of Batangas and Subic in 2007, to complement the Port of Manila. However, the utilization of Batangas and Subic have remained low. In a study conducted by JICA on the port utilization of Batangas and Subic, it was noted that these ports were utilized at a mere 4.2 and 5.6 percent of their capacities, respectively. The Port of Manila, on the other hand, continuously expands, with the completion of Berth 6 in 2012. Despite further development of facilities and lowering of port charges, majority of the shippers and shipping lines still prefer using the Port of Manila due to the availability of service providers, reliability of shipping schedule, accessibility and efficiency of cargo acceptance and release.[24] The concentration of shipping activities, especially during weekdays and the rush hours, has added to the problematic traffic in Manila.

To ease the burden caused by the traffic, City Ordinance 7570 was implemented by the City of Manila in early 2014 banning trucks to ply Manila from 5:00 am to 9:00 pm, Monday to Saturday. The Ordinance expanded truck ban prohibiting certain classes of vehicles from transiting the also city from 5:00 am to 9:00 pm. Various stakeholders and interest groups strongly expressed reservations on this policy which

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[21]Gamboa R. (2013). Will change in Cabotage Law bring down shipping costs? BizLinks, Philippine Star, September 10, 2013
[22]Patalinghug, Epictetus et.al (2015), System-Wide Study of the Logistics Industry in the Greater Capital Region, Discussion Paper Series 2015-24, Philippine Institute for Development Studies
[23]Ibid
[24]Ibid

was eventually relaxed and temporary concession was allowed for transport groups to transit between 10:00am and 3:00pm.

The ban has resulted to delays in the delivery of goods, accumulation of containers at the port which aggravated the current port congestion, and reduced the number of trucks available for hauling, which in turn increased trucking and costs and shipping line charges.[25] During the onset of the truck ban, a study by Citi Research economist Jun Trinidad stated that the policy had adverse effects on the Philippine economy as a whole. The analysis outlined that as a result of the truck ban policy, approximately a million manufacturing jobs would be greatly affected, with the lack of alternative transport linkage between the economic zones of the CALABARZON and the Port of Manila. The report further stated that the Manila ordinance could cost the economy from PhP61.2 billion to as much as PhP320 billion (US$1.4 billion to US$7.1 billion) and reduce the GDP by about one (1) to five (5) percent.[26]

On 13 September 2014, the truck ban in Manila was lifted indefinitely but the problems on port congestion, high trucking cost, and surcharge imposed by shipping lines to remove large quantities of empty containers continue to loom in the background. This was further compounded by the road repairs and rehabilitation works being done by the Department of Public Works and Highways (DPWH) in areas near the Port of Manila. The economic cost of the port congestion during the seven-month period was pegged at PhP43.85 billion due to the decrease in the Bureau of Customs (BOC) revenues, output and productivity losses and vehicle operating costs.[27]

Moreover, during the consultative workshop on Trucking, Ports and Shipping Logistics organized by the National Competitiveness Council (NCC) on 27 October 2015, the participants expressed that the presence of informal settlers along the roads leading to and coming from the ports also cause delays in transporting goods by trucking companies.

G. Concerns and Issues of Stakeholders

To better understand and gain perspective on the problems besetting the industry, consultations have also been conducted with key stakeholders. The following are the concerns that emerged during the consultations that should also be considered prior to fully liberalizing coastwise shipping in the country:

- <u>Economies of scale and balance of trade</u> are very important factors to achieve lower freight cost. Most ports in the country receive smaller volume of goods which are serviced by small shipping lines. A larger ship would be cheaper per unit volume than a small one. It is worth noting, though, that some ports in the

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[25]Patalinghug, Epictetus et.al, Port congestion and underutilization in the Greater Capital Region: Unpacking the issues, PIDS Policy Notes, March 2015
[26]Patlinghug, Epictetus et.al (2015), System-Wide Study of the Logistics Industry in the Greater Capital Region, Discussion Paper Series 2015-24, Philippine Institute for Development Studies
[27]Patalinghug, Epictetus et.al, Port congestion and underutilization in the Greater Capital Region: Unpacking the issues, PIDS Policy Notes, March 2015

country have smaller berthing capacity that cannot accommodate foreign and/or larger ships. Aside from this, lack of trade in many ports that need and can accommodate larger ships is also brought about by the scattered modes of the supply chain, i.e., industries are not clustered.[28] This is an area that the DTI is aggressively working on through the industry clustering program.

- Taxes paid by domestic and foreign vessels are not on a level playing field. Domestic shipping lines pay corporate income taxes and 12 percent VAT on fuel and generator while foreign vessels are only subjected to three (3) percent common carriers tax. This disparity alone clearly shows that foreign ships enjoy benefits not accorded to ships in the domestic trade. If cabotage is lifted, it may result to domestic shipping companies choosing to transfer their registration to other countries and returning as foreign shipping lines to eliminate payment of income taxes and taxes on fuel imposed on domestic vessels. The uneven playing field might result to complete decimation of the Philippine flag.[29]

- Threat to National Security. For an archipelagic country like the Philippines which highly depends on its inter-island navigation infrastructure, lifting cabotage will place the country at risk if it does not have a strong domestic Philippine flag sector committed to serving Philippine commercial and passenger trade. Caution should also be taken into consideration so that foreign vessels do not dominate the Philippine coastwise trade as this might result to alien control of inter-island navigation.[30]

IV. Recommendations

The above findings confirm that there are other critical issues that affect the Philippine shipping industry and which need to be urgently addressed apart from cabotage. Much as we would like to present more current and detailed data, we are, unfortunately, constrained by the limited access to information.

The high domestic shipping costs are directly related to the inefficiencies in our local shipping services which result to higher costs of export and import costs, cargo handling, lack of productivity and delays in the transport of goods. Port congestion in Manila ports and inefficiencies in ports outside Manila have also become concerns that have caused losses in government revenues and incomes for our local businesses. There are also constitutional and legal impediments in fully lifting cabotage in the country. However, it is noteworthy that relaxation of cabotage was made possible with the enactment of Republic Act No. 10668 or the Foreign Ships Co-Loading Act. *(See Box 1 for the Illustration of Potential Impact of RA No. 10668 on the No. of Days and Shipping Costs for the Manila-Cebu Route and Box 2 for the Comparative Breakdown of Time and Cost in the Domestic Transshipment – Manila-Cebu Route)*

[28] Export Development Council – Networking Committee on Transport and Logistics (2013). Policy Brief on Cabotage. Paper prepared for the DTI Excom.
[29] Ibid
[30] Ibid

Box 1

Projected Reduction with the
Enactment of Republic Act No. 10668 on the
Domestic Transshipment of a Twenty Equivalent Unit (TEU) or Twenty Foot Container
Manila-Cebu Route

Route	No. of Days			Shipping Cost		
	Before RA 10668	***After RA 10668***	***Reduction in # of Days***	***Before RA 10668***	***After RA 10668***	***% Change***
Mla-Cebu	9 days	4 days	5 days	PhP 55,600	PhP 29,830	46%

Note: The reduction in cost and time will come from the eliminated trucking expenses, customs-related expenses during transit of TWU from foreign terminal to domestic terminal.

Computations made by USAID Advancing Philippine Competitiveness (COMPETE) Project

Source: USAID-COMPETE

With this newly-enacted law, foreign vessels will now be able to transport cargoes to the final port of destination in the Philippines after being cleared at the Philippine port of entry. They may also carry foreign cargoes intended for export from a Philippine port of origin through another port to its foreign port of final destination. Moreover, foreign vessels may also enter into co-loading schemes or arrangements with foreign vessels for the carriage or transportation of foreign cargo within the Philippines. Hence, our businesses would have more options in the transshipment of foreign cargoes from one port to another in the Philippines.

This will help enhance the competitiveness of our exporters and importers and reduce shipping costs of imported and exported cargoes for the benefit of consumers. Several government agencies, such as the Department of Finance (DoF), Bureau of Customs (BOC), Department of Trade and Industry (DTI), Bureau of Immigration (BI) and all Port Authorities are currently drafting the law's implementing rules and regulations.

It is also important to mention that R.A. 10668 will be further strengthened by the passage of R.A. 10667 or the Philippine Competition Act which levels the playing field for all sectors operating in the country and addresses anti-competitive acts such as abuse of dominant position and anti-competitive agreements.

Box 2

Comparative Breakdown of Time and Cost in the Domestic Transshipment of a Twenty Equivalent Unit (TEU) or Twenty Foot Container Manila-Cebu Route

MANILA –CEBU: BEFORE CO-LOADING LAW

FOREIGN VESSEL	
MANILA INTERNATIONAL PORT	• 1 day • PhP 4,200
CUSTOMS	• 2 days •PhP 3,200 + 1,400
INTERNATIONAL TERMINAL TRUCKING	•1 day •PhP 5,000
MANILA DOMESTIC AIRPORT	•1 day •PhP 1,900
DOMESTIC SHIPPING	•1 day •PhP 30,000
CEBU DOMESTIC PORT	•1 day •PhP 1,900
INTER-TERMINAL TRUCKING	•1 day •PhP 3,000
CEBU INTERNATIONAL PORT	•1 day •----
CUSTOMS	•--- •To be Determined by Bureau of Customs
TRUCKING	•--- •PhP 5,000
PEZA	•--- •---

MANILA-CEBU: AFTER CO-LOADING LAW

FOREIGN VESSEL	
MANILA INTERNATIONAL PORT	• 1 day • PhP 4,200
MANILA INTERNATIONAL PORT	• 1 day • PhP 4,200
MANILA - CEBU	• 1 day • PhP 15,000
CEBU INTERNATIONAL PORT	• 1 day • PhP 1,430
CUSTOMS	• To be Determined
TRUCKING	• PhP 5,000
PEZA	

Source: USAID-COMPETE

We also wish to suggest other feasible and doable initiatives to address constraints in our shipping industry, as follows:

- Scrutinize other aspects in the shipping environment such as transparency and rationalization of fees (i.e., unbundling all charges for freight, taxes, fees and cargo handling as a first step), domestic regulations, port infrastructure and cargo handling improvements, and harmonizing taxes. These are the issues identified by some of the studies conducted on Philippine shipping services.[31]

- It may also be worthwhile to review the current tax structure specifically on the imposition of taxes for transport contractors and common carriers of cargoes to even out the playing field of both local and foreign players in the shipping industry.

- Fast-track passage of the bill Modernizing the Customs and Tariff Administration that would amend Section 1009 of the Tariff and Customs Code of the Philippines to allow transshipment by simply adding the phrase <u>“or another foreign vessel”</u> would substantially solve the need to liberalize cabotage principle. Section 1009 of the law would then be read as “Passengers or articles arriving from abroad upon a foreign vessel may be carried by the same <u>**or another foreign**</u> vessel through any port of entry to the port of destination in the Philippines; and passengers departing from the Philippines or articles intended for export may be carried in a foreign vessel through a Philippine port.”

- To address the operational concerns of our local shipping industry, the BOC will need to continue speeding up its operations in order to institutionalize and implement reforms necessary to support the thrust of government to improve Philippine trade. The BOC’s Code of Regulations and Manuals compiling various BOC’s regulations and processes are being drafted for publication to provide stakeholders with a single reference for BOC transactions. Measures to enhance the use of digital and information technology in Customs offices nationwide need to be accelerated.[32]

- To anticipate concerns that would be brought about by the enactment of R.A. 10668 to our domestic shippers, the government may need to rationalize processes of granting tax incentives to ensure that our local shipping industry is positioned to effectively compete with their foreign counterparts.[33]

- Additionally, we propose the following executive reforms/initiatives to improve the country’s competitiveness:

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[31] Aldaba, R. M., Case Study on Ports and Shipping Services in the Philippines, ITC
[32] Nava, Stephanie E., Sink or Swim: Liberalizing Philippine Cabotage, Suites the C-Suite, SGV, accessed at http://www.sgv.ph/sink-or-swim-liberalizing-philippine-cabotage-by-stephanie-v-nava-august-10-2015/
[33] Ibid

A. Amending E.O. 170 series of 2003 to expand coverage to Chassis-RORO (CHA-RO) as part of the RO-RO Service

RO-RO shipping in the country has helped improve service efficiency and service quality in the industry. According to Basilio (2011), the implementation of the RO-RO Transport System has led to a more cost-effective transport of cargoes as it eliminated other costs associated with traditional shipping such as cargo handling costs and wharfage dues.[34]However, the existing RO-RO policy in the Philippines under Executive Order (E.O.) 170 limits the RO-RO service definition only to *self-powered* rolling cargoes like cars, jeeps, trucks and buses. As a result, the benefits and incentives (e.g., elimination of cargo handling and wharfage fees, etc.) provided for under E.O. 170 will not apply to CHA-RO (cargo containers without trucks loaded in ships). This will support and complement the establishment of the ASEAN RO-RO project network and address issues related to the movement of natural persons, Customs, Immigration and Quarantine Systems (CIQS), and technical operations. CHA-RO are cargo containers without trucks, loaded in ships.

B. Issuance of an Executive Order directing the Philippine Ports Authority (PPA) to shift cargoes originating from and destined for South Luzon (CALABARZON Region) to the International Port of Batangas

A number of studies have shown that the Port of Manila is operating beyond its rated capacity. Metro Manila itself is also congested by truck container traffic which results to the delay of delivery of export goods. Moreover, with the recent imposition of a full truck ban by the City of Manila,[35] there is a need to gradually shift foreign cargoes from Manila to the newly-developed Batangas International Port. This move will not only decongest Metro Manila but will: (a) maximize the utilization of the port of Batangas; (b) reduce transport cost due to proximity of the port to manufacturing sites in Southern Luzon; and (c) lead industries that are operating in Metro Manila (and gravitating around the Port in Manila) to relocate to CALABARZON.[36]

Thus, efficient and optimal utilization of the Batangas International Port will automatically reduce transport cost especially for shippers within the CALABARZON region, significantly increase port revenue generation, and will notably reduce its impact on the wear and tear of the roads in the Metro Manila.

Moreover, to encourage shifting of cargoes from Manila Port to Subic and Batangas, the government may also adopt a fine and price discount policy and/or impose a volume restriction policy.[37] The former proposal would help solve the problem in decongesting Manila ports while the latter will improve utilization of Subic and

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[34]Basilio, E. (2011). A Market-Oriented Policy Reform Option: the Philippines' Roll-On/Roll-Off (RO-RO) Experience. In Fabella, et.al. (Eds.), Built in Dreams, Grounded in Reality: Economic Policy Reform in the Philippines (pp. 19- 37), Makati City, Philippines, Asia Foundation Philippines.
[35]Ordinance No. 7570, Amending Certain Provisions of Ordinance 8092, Otherwise known as the "Traffic Management Code of the City of Manila" effective February 2014
[36]Export Development Council – Networking Committee on Transport and Logistics (2013). Policy brief on cabotage. Paper prepared for the DTI Excom.
[37]Patalinghug, Epictetus et.al, Port congestion and underutilization in the Greater Capital Region: Unpacking the issues, PIDS Policy Notes, March 2015

Batangas ports. However, this proposal should be complemented by staffing these two ports with sufficient BOC and PPA personnel, as well as the provision of necessary equipment, berth capacity and container yard capacity commensurate to the volume of cargo and transaction.[38]

Relatedly, shifting of cargoes from Manila to Subic Container Port may be another viable option for our shipping companies. With the use of the Subic-Clark-Tarlac Expressway (SCTEX) and the Clark International Airport, the Subic Port can be made a logistics hub and international gateway for Central Luzon. This would give an edge to locators at the Subic-Clark corridor in terms of on-time production and delivery to the global market. Nevertheless, to maximize efficient utilization of this port, it may be important to study provision of incentives to shippers and cargoes to decrease vessel costs such as consolidation, granting Subic Port tariff incentives, enticement of low cost carriers (common feeder) and construction of needed infrastructure.[39]

C. An Executive Issuance amending the Letter of Instruction No. 1005-A by deleting Instructions 3 and 4 thereof, relating to the collection of the share of government from cargo-handling revenues generated by cargo-handling contractors and port-related service operations

PPA oversees both public and private ports whether commercial or non-commercial. LOI 1005-A allows conflict of interest because PPA acts as both port operator and regulator. As a regulator, it has the power to approve port fees. As operator, it receives 10-20% share from Cargo Handling Revenues.

Amending the Letter of Instruction 1005-A will eliminate the power of PPA to collect its shares from the cargo handling revenues. Therefore, PPA can focus its efforts more on improving port operations and thus lessen the cost of doing business in the ports.
Following are Instructions 3 and 4 that are proposed to be deleted:

"(3) To intensify the collection of all port charges including the government share from all cargo-handling contractors and port-related service operators, all back accounts, in order for them to share the burden of the accelerated development, construction and maintenance of the government facilities they utilize. The government share for all cargo-handling contractors and port-related service operators shall be at a rate not less than 10% taken from their gross income earned from such services.

(4) In order to ensure the collection of said government share, to conduct spot audit either on its own or in coordination with such other government agencies under the visitorial power of the state."

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[38] Ibid.
[39] Payumo, F. (2014), Can Subic and Batangas Ports help decongest Metro Manila?, Philippine Daily Inquirer, March 24, 2014, accessed from http://business.inquirer.net/166774/can-subic-and-batangas-ports-help-decongest-metro-manila

D. Development of New Ports

There is also a need to design and construct new large and deep-sea ports that have complete/world-class facilities and can sufficiently accommodate a much larger volume of container flow in the Port of Manila. Our ports have already exceeded their full capacity and are no longer able to adequately support increasing operations brought forth by our rapid economic growth. With such growth projected to continue over the next decade, this long-term solution is seen as a permanent redress to the port congestion in Metro Manila. This should be accompanied by the implementation of a multi-modal transport and logistics plan with emphasis on connecting the Subic-Clark-Manila-Batangas corridor to the rest of the country.[40]

E. Industry Clustering Program

One of the most significant contributors to lowering transport and logistics cost is economies of scale which can be achieved through the industry clustering program. Industry clustering, being a value chain-based approach, has been proven to effectively contribute to competitiveness of products as they can focus on market-driven production.[41] By clustering together the whole supply chain – providers of raw materials, manufacturing and production processes, warehousing and storage in one location- transport and logistics costs will be minimized, if not totally eliminated. This value-chain approach also promotes and leads to innovation.

In addition, instead of transporting raw materials or agricultural products directly from their source such as corn, feeds or livestocks, to the manufacturing site, value-adding finished products such as dressed or processed poultry products will be delivered directly to consumers and retailers, hence eliminating additional logistics cost and enabling our products to be more competitive in the export market.

V. Conclusion

Absolute lifting of cabotage would certainly lower shipping costs and liberalize coastwise trade in the country, thereby improving the country's logistics performance, enhancing the supply chain, and promoting inter- and intra-regional and foreign trade. Moreover, lifting cabotage restrictions will also facilitate realization of the planned ASEAN Single Shipping Market, which is part of the Master Plan on ASEAN Connectivity under the ASEAN Economic Community 2015. The ASEAN Single Shipping Market will progressively integrate and intensify development of the maritime network infrastructure that will lead towards a stronger ASEAN maritime sector, operating efficiently and delivering quality goods and services at competitive prices.[42] However, it is essential to carefully examine and study issues and concerns

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[40]Patalinghug, Epictetus et.al, Port congestion and underutilization in the Greater Capital Region: Unpacking the issues, PIDS Policy Notes, March 2015
[41]Presentation of Doris Magsaysay-Ho on Corn Production and Logistics Competitiveness Philippines. Presented during the National Competitiveness Council – TWG Meeting on Agri-Trade and Logistics, 13 April 2013
[42] Strategy 4- Key Strategies to Enhance Institutional Connectivity, Master Plan on ASEAN Connectivity, 2010

other than cabotage that contribute to the country's high shipping costs and the shipping industry's lack of competitiveness.

High domestic shipping costs remain to be a primary concern that needs to be urgently addressed. With the passage of R.A. 10668 which will address concerns on the prices of goods for import and export, there may be a need to pursue other feasible and doable options that will further lower shipping costs such as looking into other aspects of the overall shipping environment (e.g., transparency and rationalization of fees, domestic deregulations, port infrastructure and cargo handling improvements, and harmonizing taxes. It is, therefore, proposed that the enactment of executive reforms/initiatives to address constraints in domestic shipping and improve our competitiveness, as well as legislation to amend the TCCP under the bill Modernizing the Customs and Tariff Administration be made.

By realizing these reforms and ensuring their prompt and strict implementation, we can expect to lower domestic and marine transport costs, improve domestic shipping services, revitalize the domestic shipping industry, increase trade flows and improve supply chain, thus making our shipping industry more efficient and competitive and sustain our economic growth.

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