POSITION PAPER ON SALVAGE OF WRECKS

Introduction

The Philippines is an archipelagic state. The country derives its existence from the seas, with a maritime area of 2.8M SQ KM which dwarfs its land area of 299,000 SQ KM, by a ratio of 9 is to 1.

Its coastline is 35,000 KM, which is twice as long as that of the US and covers 27,000 SQ KM of precious coral reefs and mangrove forests in the size of 150,000 hectares.

The Philippines has 58 out of 77 provinces and 914 out of 1,385 municipalities and more than 11,000 barangays being considered as maritime zones with their economy primarily based on the sea.

The Philippines depends on its water transport system to facilitate the movement of people, goods and services. The vast archipelago is connected by a domestic shipping industry which is vital to trade and communication within the country's dispersed region.

In addition, the Philippines is the Pacific Gate of Asia and is located at the strategic crossroad of commerce in South East Asia.

Problems facing the shipping industry

Like all industries, the Philippine shipping industry is plagued with problems. The country, unfortunately, has one of the highest records of maritime disasters and deaths at sea. This is caused by inadequate maritime policies and regulations, the prevalence of shipping violations, and operational hazards such as perennial overloading of vessels.

Other factors affecting water transport include the tides and currents, weather disturbances and the lack of clearly defined sea lanes to facilitate vessel traffic.

A. Tides and Currents

The Philippine Seas are generally characterized by varying tides and currents that are mostly influenced by wind strength and velocity. Tides in inland waters and west coasts are tropic tides, which are tidal movements that are affected by the declination of the moon.

On the east coast and other points linked to the Pacific Ocean, the effects of tides are less visible. The greatest range of tides occurs in June and December, while the least range of tides could be observed during March and September.

B. Weather Disturbances

In terms of weather disturbances, the country is often visited by storms and typhoons. More than twenty storms of considerable intensities visit the country every year. Fortunately, only a few of these are really destructive.

Local tempests accompanied by thunder and lightning are frequent during the rainy season of May to October, while very few weather disturbances occur during the dry months of January to April.

Typhoons visiting the country may be classified into five groups. This is based on its trajectory with respect to Manila. They are classified as (1) typhoons that cross north of Manila, (2) typhoons that cross south of Manila, (3) typhoons which recurve into the Pacific to the East, (4) typhoons formed in China Sea to the Philippines, and (5) typhoons which recurve in the China Sea

From 1970 to present, there were 218 destructive tropical cyclones and typhoons that visited the country, which affected more than 46,000 people and caused the destruction of PHP139 M worth of crops and properties.

C. Sea Lanes

Despite shipping being one of the oldest modes of transportation in the Philippines, the country has no established sea lanes that serve as traffic guides to inter-island vessels. The PCG has proposed to establish navigational sea lanes within Philippine waters to ensure safety of navigation in converging areas and in areas where the density of traffic is great.

There are 35 proposed sea lanes. These are located in major routes plied by local vessels. The creation of sea lanes comes with the proposed rules of passage that must be observed by all types of fishing and merchant vessels. The rules of passage provide the major guidelines in managing traffic within the sea lanes.

Maritime Accidents

Maritime accidents are an inevitable part of the water transport industry, owing to the unpredictable nature of the elements at sea. A JICA sponsored study tabulated all maritime accidents, as reported to the PCG-BMI and investigated by the same for the periods 1970 to the present.

These accidents involve all kinds of vessels from small, indigenous boats to large merchant vessels such as container carriers, tankers and cargo and passenger vessels.

The accidents experienced by these vessels are diverse, ranging from minor mishaps such as ramming of fishnets, to major accidents that cost thousands of lives such as the infamous collision between MV Dona Paz and MT Vector in 1987 which resulted in 1,840 deaths – the largest accident ever recorded in Philippine history.

In summary, within the 33-year period from 1970 to 2003, cargo vessels and passenger-cargo vessels encountered the most number of accidents, comprising 20% and 18% of the total recorded accidents, respectively. Small, indigenous boats with outriggers (*Banca*) are the third highest, comprising 15% of the total recorded accidents.

The number of accidents involving cargo and passenger-cargo vessels may be attributed to the deregulation of the water transport industry and the liberalization of vessel importation by the government in the mid-1990s. The deregulation and liberalization of the domestic water transport industry resulted to the heavy acquisition of second-hand vessels by local shipping companies which peaked in 1997.

In addition, passenger-cargo and cargo vessels are seen to be prone to maritime accidents because most of them are bought second hand with an average age of 12.83 years upon importation. The local water transport industry has been plagued by the proliferation of old and obsolete vessels that continue to ply Philippine waters, which are a great deterrent to maritime safety.

A number of cases also go unreported. Fisher folk acknowledge that even though they are often involved in maritime accidents, they no longer bother to report the same because besides being time-consuming, they have to pay P200.00 just to file a marine protest.

Season and climate are also crucial factors in safe navigation. Weather conditions that come with the season are attributable factors for maritime accidents especially in the Philippines where weather disturbances are mostly seasonal. In the Philippines, the wet or rainy season occurs from July to December, while the dry season occurs from January to June.

Within the 30-year period, maritime accidents were more prevalent during the rainy season. However, in 2000 maritime accidents during the dry or summer season were unusually high due to typhoons “Caloy” and “Norming” that struck the country in March and caused several maritime accidents.

It is also interesting to note that, based on the JICA study, accidents occurred just as frequently during night time as during day time.

During the 30 year period, 16.6% of the total accidents were of sinking in nature. It could also be noted that the lack of vessel traffic management and navigational aids such as sea lanes contributed to the high rate of traffic related accidents.

Fifty-nine percent (59%) of the total natural-caused accidents were composed of strong winds and big waves and rough sea conditions. This implies that unpredictable and abrupt changes in weather and sea conditions greatly affect the safety of navigation. On the other hand, typhoon-caused accidents were much smaller than the abovementioned. It can be said that most domestic vessels, regardless of size and tonnage, were unfit for navigating rough seas.

During this period, the bulk of human-error related incidents were mostly due to the negligence of the vessel's master/captain or patron in exercising their duties. It comprised 18.3% of the total human-error related accidents recorded. This can be attributed to the lack of training of these seafarers.

For the past thirty years, maritime accidents have resulted in 16,314 victims, 3,382 of whom were found dead, 1,390 missing, and the rest saved.

The accidents which occurred are heavily concentrated in certain areas of the country. Cebu, an island in the central part of the country, contributed the most number of accidents, with 22.3% reported incidents. Zamboanga, located in the southen portion of the country followed (10.4%). Batangas, a province near the capital city of Manila, as well as Mindoro Occidental also had a high rate of accidents (10.2% and 7.3%, respectively). These areas are characterized as having high concentrations of vessel traffic.

History of Salvage Operations

Three types of wrecks may be found in Philippine Waters. These include wrecks of ships plying the Philippine Seas during the Galleon Trade. These are Spanish ships which plied the seas between Manila and Acapulco, Mexico loaded with trading goods and, in some instances, gold and other precious metals.

During World War II, Japanese and U.S. warships also lay in the deep waters of the Philippines, having been sunk during the war.

In most cases, however, the wrecks are often that of commercial vessels which have sunk as a result of a variety of reasons.

The wrecks that result from maritime incidents lead to a need for salvage laws that would help foster a safe navigation environment. Due to the prevalence of maritime incidents, including the recent incidents involving the M/V Princess of the Orient and the M/V Superferry, which pose a threat to safe navigation, the Philippine Coast Guard was tasked to supervise salvage operations.

Salvage Laws and Regulations

The authority to salvage granted to the PCG is found primarily with the Philippine Coast Guard Law.

The PCG Law grants to the PCG the function of issuing permits for the salvage of vessels and the supervision of all marine salvage operations. The PCG is also authorized to prescribe and enforce rules and regulations governing salvage operations. The PCG is empowered to promulgate and administer regulations in the conduct of salvage vessels, wrecks or objects and other hazards to navigation

In line with the PCG Law, the PCG formulated a circular to govern salvage operations. The circular prescribes guidelines on the salvage of vessels, including cargoes thereof, wrecks, derelicts, and other hazards to navigation.

It applies to all salvage operations on sunken, floating or grounded vessels, wrecks, or objects and other hazards to navigation within the territorial waters of the Philippines.

The circular lists down the authorized entities who may conduct salvage operations. These are the citizens of the Philippines, Government-owned and controlled corporations, private corporations wholly owned and controlled by Filipinos, and corporations which are at least 75% Filipino-owned.

To conduct salvage operations, a permit from the PCG is required. The permit may only be granted for the salvage of wrecks and derelicts which have become hazards to maritime navigation, may hamper the development of ports and harbors, which are under emergency conditions for the safety of life and property at sea, and, for the value of the cargo.

The Salvor, in the conduct of salvage operations, is responsible for ensuring the smooth and safe salvage operation with due regard to safety of person and the marine environment; ensuring the complete removal of all wrecks, derelicts or other hazard to navigation as stipulated in the salvage contract; and submitting After Salvage Operation Report to the PCG. Currently,there are twelve regular salvors and an additional twelve provisional salvors. Provisional status is granted to first time applicants for a period of one year.

The duties of the PCG, on the other hand, include issuance of Salvor Certificate of Registration, evaluation of survey report submitted by the Salvor for the proposed Salvage Operation, issuance Emergency Salvage Permit for the immediate removal of vessel or wreck that poses immediate/extreme danger to life and property, issuance of Salvage Certificate of Inspection if the object to be salved is a hazard to navigation, or in case such object poses danger to life and property, issuance of Salvage Permit, monitoring/inspecting the progress of

salvage operation, and cancel/suspend salvage permit for violation of any condition provided thereof.

Procedure in Salvage Operations

In conducting salvage operations, a survey report on the salvage site which include the salvage plan is first submitted to the PCG for evaluation before a salvage permit is issued. If explosives are to be used, a permit from the Philippine National Police must be obtained. Cargo may be salvaged with a salvage permit for cargo from PCG. Salved cargo may then be transported after securing a Permit to Transport from PCG. The PCG then conducts site operations prior to submitting a completion report. After the PCG issues a completion report, the salvor submits After Salvage Operation Report to CPCG

Future Plans

For the future, the PCG seeks to institute legislative reforms for the following:

a. Allowing foreign salvage companies to operate;
b. Allowing shipowners to conduct salvage operations on their own; and
c. Providing tax incentives for purchase of salvage equipment

The PCG also hopes that a Salvage Treaty within ASEAN and EAGA be established.

Such plans would help ensure an environment of safe navigation in Philippine Seas.