

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



23 SEP 12 P 6 :52

SENATE
S. No. 2438

RECEIVED BY: _____

Introduced by: Senator Raffy T. Tulfo

AN ACT
TO ESTABLISH THE ARCHIPELAGIC SEA LANES IN THE PHILIPPINE ARCHIPELAGIC WATERS, PRESCRIBING THE RIGHTS AND OBLIGATIONS OF FOREIGN SHIPS AND AIRCRAFT EXERCISING THE RIGHT OF ARCHIPELAGIC SEA LANES PASSAGE THROUGH THE ESTABLISHED ARCHIPELAGIC SEA LANES AND PROVIDING FOR THE ASSOCIATED PROTECTED MEASURES THEREIN

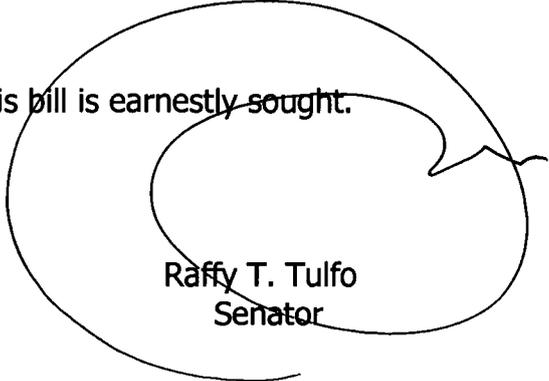
Explanatory Note

The United Nations Convention on the Law of the Sea (UNCLOS) is an international agreement that stipulates the legal framework for the seas and oceans by defining the rights and responsibilities of countries. Through this, it fundamentally recognizes that an archipelagic state, such as the Philippines, is comprised of a group of islands, interconnecting waters, and other natural features that form an intrinsic geographical, economic, and political entity. Based upon this international convention, an archipelagic state is allowed to draw straight baselines that join the outermost points of its outer islands and drying reefs.

In 2009, Republic Act No. 9522 was passed in the Philippines and effectively defined the archipelagic baselines of the Philippines. This measure would provide the delineation of the country's archipelagic baselines; however, it failed to institute the archipelagic sea lanes in the Philippines' archipelagic waters as adopted in Article 53 of the UNCLOS.

With this, the proposed bill seeks to establish the Philippines' archipelagic sea lanes within the archipelagic waters of the country. This measure would essentially institutionalize the rights and obligations of foreign ships and aircraft exercising the right of archipelagic sea lanes passage and provide adequate measures within this space.

In view of the foregoing, the approval of this bill is earnestly sought.



Raffy T. Tulfo
Senator

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PROTECTED MEASURES THEREIN

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

ARTICLE I.
GENERAL PROVISIONS

1 Section 1. *Short Title.* – This Act shall be known as the "*Philippine Archipelagic*
2 *Sea Lanes Act*".

3 Sec. 2. *Declaration of Policy.* – It is the policy of the State to ensure the
4 protection of its maritime domain and therefore shall implement and adhere to the
5 provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS)
6 and other relevant conventions to which the Philippines is a party.

7 Sec. 3. *Definition of Terms.* – For the purposes of this Act, the following terms
8 shall be defined as follows:

9 (a) *Archipelagic Sea Lane* shall refer to the designated sea lanes and air routes
10 in the archipelagic waters through which foreign vessels or aircraft may
11 exercise the right of archipeiagic sea lanes passage;

1 (b) *Archipelagic Sea Lane Passage* shall refer to the exercise in accordance with
2 the UNCLOS, of the rights of navigation and overflight in the normal mode
3 solely for the purpose of continuous, expeditious and unobstructed transit
4 between one part of the high seas or an exclusive economic zone (EEZ) and
5 another part of the high seas or an EEZ;

6 (c) *Archipelagic waters* shall refer to the waters on the landward side of the
7 archipelagic baselines except as defined as Internal Waters;

8 (d) *Associated protective measure* shall refer to a measure that a coastal State
9 may adopt to regulate international maritime activities for the protection of
10 the area at risk;

11 (e) *Hydrographic survey* shall refer to a survey measuring and describing the
12 physical features of the navigable portion of the earth's surface (seas) and
13 adjoining coastal areas, with special reference to their use for navigation;

14 (f) *Oceanographic survey* shall refer to a study or examination of any
15 physical, chemical, biological, geological or geophysical condition on the
16 ocean, or any part of it;

17 (g) *Right of innocent passage* shall refer to the right of foreign vessels to
18 navigate through the territorial seas of all States for the purpose of
19 continuous and expeditious travel or for proceeding to or from internal
20 waters. The passage is innocent when it is not prejudicial to the peace,
21 good order or security of the coastal State; and

22 (h) *Territorial sea* shall refer to the belt of sea measured twelve (12) nautical
23 miles from the baselines or from the low-water line, as the case may be.

24 **ARTICLE II**

25 **RIGHTS AND OBLIGATIONS OF FOREIGN SHIPS AND AIRCRAFT WHEN** 26 **EXERCISING THE RIGHT OF ARCHIPELAGIC SEA LANES**

27 *Sec. 4. Right of Archipelagic Sea Lanes Passage of Foreign Ships and Aircraft.*

28 – Foreign ships and aircraft may exercise the right of archipelagic sea lanes passage
29 in accordance with the provisions of UNCLOS in order to navigate or fly from one part
30 of the high seas or an EEZ to another part of the high seas or an EEZ through or over

1 the Philippine archipelagic waters and its adjacent territorial sea. Such sea lanes shall
2 be defined by a series of continuous axis lines from the entry points of passage routes
3 to the exit points. The exercise of the right of archipelagic sea lanes shall be through
4 a sea lane, or through the air above a sea lane, which has been determined to be an
5 archipelagic sea lane that may be used for exercising the right of archipelagic sea
6 lanes passage as described in Section 12 hereof.

7 *Sec. 5. Obligations of Foreign Ships and Aircraft When Exercising the Right of*
8 *Archipelagic Sea Lanes Passage. –*

9 (a) Foreign ships and aircraft exercising the right of archipelagic sea lanes
10 passage shall pass through or above the archipelagic sea lane as quickly as
11 possible without delay and in the normal mode solely for the purpose of
12 continuous, expeditious, and unobstructed transit;

13 (b) Foreign ships and aircraft that are conducting archipelagic sea lanes
14 passage shall not deviate more than twenty-five (25) nautical miles to either
15 side of the axis line of the sea lane: Provided, That such ships and aircraft
16 shall not navigate closer to the coast more than ten percent (10%) of the
17 distance between the nearest points on the islands bordering the sea lane;

18 (c) Foreign ships and aircraft, while exercising the right of archipelagic sea
19 lanes passage shall refrain from any threat or use of force against the
20 sovereignty, territorial integrity, or political independence of the Republic of
21 the Philippines, or in any other manner in violation of the principles of
22 international law embodied in the Charter of the United Nations;

23 (d) Foreign ships and aircraft, including military aircraft and warships, while
24 exercising the right of archipelagic sea lanes passage, shall refrain from any
25 war game exercises or exercises using any type of weapons, especially
26 involving the use of ordinance;

27 (e) Except when rendered necessary by the force majeure or by distress, an
28 aircraft exercising the right of archipelagic sea lanes passage shall not land
29 in Philippine territory;

30 (f) All foreign ships exercising the right of archipelagic sea lanes passage shall
31 refrain from stopping, dropping anchor, or loitering, except when rendered

1 necessary by force majeure or by distress in order to render assistance to
2 a person or persons or a ship or ships experiencing distress; and

3 (g) Foreign ships or aircraft exercising the right of archipelagic sea lanes
4 passage shall refrain from making covert transmissions, interfering with
5 telecommunications systems, and communicating directly with an
6 unauthorized person or group of persons in Philippine territory.

7 *Sec. 6. Permit to Conduct Oceanographic or Hydrographic Surveys.* – Foreign
8 ships or aircraft, including research or hydrographic survey ships or aircraft, while
9 exercising the right of archipelagic sea lanes passage, shall not conduct oceanographic
10 or hydrographic surveys, whether with the use of detection equipment or sample
11 gathering equipment, unless they have obtained prior permission to do so from the
12 appropriate agency of the Government of the Republic of the Philippines.

13 *Sec. 7. Prohibition of Fishing, Loading, Unloading of Persons, Goods, or*
14 *Currency.* –

15 (a) Foreign ships, including fishing vessels, while exercising the right of
16 archipelagic sea lanes passage, shall not conduct any fishing operation or
17 exploitation of marine resources of the marine resources of the Philippines;
18 and

19 (b) Foreign fishing vessels, while exercising the right of archipelagic sea lanes
20 passage, besides fulfilling their obligations under paragraph (a), shall stow
21 all fishing equipment within hold.

22
23 Foreign ships and aircraft, while exercising the right of archipelagic sea lanes
24 passage, shall not load a ship or unload from a ship, persons, goods or currency in a
25 manner that contravenes the laws and regulations concerning customs, immigration,
26 fiscal matters and health, except when rendered necessary by force majeure or by
27 distress.

28 *Sec. 8. Compliance with Navigational Regulations, Procedures, and Traffic*
29 *Scheme.* –

30 (a) Foreign ships, while exercising the right of archipelagic sea lanes passage,
31 shall comply with the generally accepted international regulations,

1 procedures and practices concerning safety of navigation, including
2 regulations relating to the prevention of the collisions at sea;

3 (b) Foreign ships, while exercising the right of archipelagic sea lanes passage
4 in a sea lane where a traffic separation scheme has been established for
5 the regulation of navigation, shall comply with the provisions of the traffic
6 separation scheme;

7 (c) Foreign ships, while exercising the right of archipelagic sea lanes
8 passage, shall not cause disturbance or damage to navigational facilities
9 or submarine cables or pipes; and

10 (d) Foreign ships, while exercising the right of archipelagic sea lanes passage,
11 shall not sail too close to prohibited zones as determined by concerned
12 agencies.

13 **Sec. 9. Obligations of Foreign Civil Aircraft. –**

14 (a) Foreign civil aircraft exercising the rights or archipelagic sea lanes shall:

15 (1) Observe the Rules of the Air established by the International Civil
16 Aviation Organization (ICAO); and

17 (2) Monitor the radio frequency assigned by the competent internationally
18 designated air traffic control authority or the appropriate international
19 distress radio frequency at all times.

20 (b) Foreign national aircraft exercising the right of archipelagic sea lanes
21 passage shall:

22 (1) Respect the regulations concerning flight safety as detailed in Section 9
23 (a) hereof and at all times operate with due regard for the safety of
24 navigation; and

25 (2) Fulfill their obligations as detailed in Section 9 (a)(2) hereof.

26 **Sec. 10. *Prevention of Marine Pollution and Nuclear Weapons.* –**

27 (a) Foreign ships exercising the right of archipelagic sea lanes passage shall not
28 expel oil, oily wastes or other noxious substances into the marine
29 environment, or conduct other activities in contravention of international
30 regulations and standards for the prevention reduction and control of
31 marine pollution that originate from ships;

1 (b) Foreign ships while exercising the right of archipelagic sea lanes passage
2 shall not dump waste in Philippine waters; and

3 (c) Consistent with the national interest, the exercise of the right of archipelagic
4 sea lanes passage by all foreign ships must be consistent with the
5 constitutional mandate of freedom from nuclear weapons in Philippine
6 territory.

7 *Sec. 11. Liability for Damage. –*

8 (a) The person or legal body responsible for the operation or cargo of foreign
9 commercial ships or aircraft or foreign government ships or aircraft
10 operated for commercial purposes shall be liable for any loss or damage
11 suffered by the Philippines or any third party as a result of noncompliance
12 with any of the provisions of this Act while exercising the right of
13 archipelagic sea lanes passage.

14 (b) The flag State shall bear international responsibility for any loss or damage
15 suffered by the Philippines or any third party as a result of noncompliance
16 with any of the provisions of this Act by a foreign warship or aircraft or
17 other government ship operated for noncommercial purposes while
18 exercising the right of archipelagic sea lanes passage in the Philippine
19 waters.

20 **ARTICLE III**

21 **THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES TO DESIGNATE**
22 **THE ARCHIPELAGIC SEA LANES FOR THE RIGHT OF ARCHIPELAGIC SEA**
23 **LANES PASSAGE AND TO INSTITUTE THE ASSOCIATED MEASURES**
24 **THERE TO**

25 *Sec. 12. Designation by the President of Archipelagic Sea Lanes. –* In pursuit
26 of the Philippine National Policy, the President shall promulgate, through an Executive
27 Issuance, the archipelagic sea lanes which may be used for the right of archipelagic
28 sea lanes passage and the rules and regulations relating to Associated Protective
29 Measures to be prescribed within areas along the archipelagic sea lanes in accordance
30 with the International Maritime Organization (IMO) Conventions and Regulations and
31 other relevant international agreements.

1 **ARTICLE IV**

2 **FINAL PROVISIONS**

3 *Sec. 13. Right of Innocent Passage.* – The provisions of this Act shall not
4 diminish the rights of foreign ships to exercise the right of innocent passage in
5 archipelagic sea lanes.

6 *Sec. 14. National West Coast Watch System (NCWS).* – The NCWS, created
7 by the virtue of Executive Order 57, series of 2011, under the control and supervision
8 of the Office of the President, shall serve as the authority to institute coordinating
9 mechanisms for the implementation of this Act and shall continue to operate in
10 accordance with its present organizational structure.

11 In addition to its powers, functions, and duties, the National Coast Watch
12 Council (NCWC) shall provide technical and advisory support to the President in
13 designating the archipelagic sea lanes. Further, the National West Coast Watch Center
14 (NCW Center) shall establish, monitor, and implement Associated Protective Measures
15 for the designated archipelagic sea lanes.

16 *Sec. 15. Separability Clause.* – If any portion or provision of this Act is declared
17 unconstitutional or invalid, the other portions or provisions hereof which are not
18 affected thereby shall continue to be in full force and effect.

19 *Sec. 16. Repealing Clause.* – All laws inconsistent with or contrary to the
20 provisions of this Act are deemed amended, modified or repealed accordingly.

21 *Sec. 17. Effectivity.* – This Act shall take effect fifteen (15) days after its
22 publication in the Official Gazette in two (2) newspapers of general circulation.

Approved,