Competition Policy and Regulation in Ports and Shipping

Dr. Gilberto M. Llanto, PIDS
Enrico L. Basilio, UA&P-CRC
Leilanie Basilio, PIDS

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Outline

PORT SECTOR
• Port Structure and Regulatory Framework
• Flaws in Port Policy
• Port Deregulation, Privatization and Modernization Policies
• Areas for Policy and Regulatory Reform

SHIPPING INDUSTRY
The Philippine Port Structure

**PHILIPPINE PORT SYSTEM**

- **PPA**
  - Public Ports
  - 115 PPA ports
- **IPA**
  - Private Ports
  - 30 comm.
  - 370 non-comm.
- **DOTC**
  - CPA, SBMA, CEZA
  - PHIVIDEC, ARMM
  - 10 ports
  - 427 ports
- **RRTS**
  - Municipal Ports/
  - Fishing Wharves
  - Private RORO
  - Terminals
  - LGU RORO
  - Terminals
  - 30 PPA & 5 Private RORO ports
The Philippine Port Sector

- Port administration is highly centralized; leaves no or little room for inter-port/intra-port competition
- Independent port authorities offer no or very little competition
- Port policy is flawed and port operations is biased towards multiple cargo handling system
  - PPA benefits from its own regulation
  - Regulates against competition
- Weak private sector participation in port policy formulation (1 out of 9 Board Directors)
- Regulatory capture
Regulatory Framework

PPA Port System
• PPA is the main port authority
• Owns, develops, maintains, operates public ports
• Regulates both public and private ports
  – ENTRY & OPERATION. Issues permit to construct and operate private ports
  – RATE INCREASES. Approves rate increases in port charges and cargo handling tariff
  – PRIVATIZATION. Awards contracts to the private sector
    • Terminal Operation (ICTSI for MICT; ATI for SH)
    • Cargo Handling Services (Cargo handling companies for each port)
## Regulatory Framework

**PPA Port System**

- Shares from revenues generated by private ports (50% of port charges) and cargo handlers (10-20%)

- Revenue
  - >P5 billion annually
  - Net Income of P1.8 billion (of which 50% is remitted to the Treasury as “corporate dividends”)
  - Bulk of income comes from cargo handling and MICT/SH concession fees
Major Flaws in Port Policy

Port Policy (PPA Charter – PD 857)

- Conflict of interest
  - Development vs. regulatory functions
  - Benefits from its regulation
    - PPA shares from cargo handling revenues
    - Biased in favor of multiple cargo handling
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<th>Year</th>
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<th>Domestic Stevedoring</th>
<th>Foreign Arrastre</th>
<th>Foreign Stevedoring</th>
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<tbody>
<tr>
<td>1998</td>
<td>12%</td>
<td>40%</td>
<td>8%</td>
<td>40%</td>
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<td>1999</td>
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<td>2005</td>
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<td>2006</td>
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Flaws in Port Policy

Port Policy (PPA Charter – PD 857)

• Conflict of interest
  – Development vs. regulatory functions
  – Benefits from its regulation
    • PPA shares from cargo handling revenues
    • Biased in favor of multiple cargo handling
  • **Regulates against competition to protect its own interest** (Harbour Centre case)
  – In 2003, PPA issued a permit to handle foreign break bulk cargoes (80% of South Harbor traffic transferred to HC due to (a) more efficient operation and lower cost (by 50%))
  – PPA has yet to issue HCPT the permit to handle foreign containerized traffic
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tr>
<td>1987</td>
<td>Privatization of MICT (terminal operation); South Harbor was privatized years later</td>
</tr>
<tr>
<td>1994</td>
<td>EO 212 Port Privatization (rescinded by EO 410)</td>
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<tr>
<td>1998</td>
<td>EO 59 Private Port Monopolization (rescinded by EO 308)</td>
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<td>2001</td>
<td>Modernization of the North Harbor was put on hold</td>
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<td>2002</td>
<td>Harbour Centre, a private commercial port, was given a permit to operate. Was allowed in 2003 to compete against South Harbor (foreign break-bulk) but not against MICT (foreign containerized).</td>
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<td>2003</td>
<td>EO 170 Promoting Private Investments in the Road RORO Terminal System (RRTS) as a parallel port system (to PPA)</td>
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<td>2004</td>
<td>Completion of Mindanao Container Port (PHIVIDEC); TRO finally lifted February 2005</td>
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Philippine Shipping Industry Structure

- PHILIPPINE SHIPPING INDUSTRY
  - SHIPBUILDING, SHIP REPAIR AND DRYDOCKING
  - SHIPPING
  - SEAFARING
    - Domestic
      - Inter-Island
    - Ocean-Going
  - Liners
  - Trampers
  - Tankers
  - Ferry, Fastcrafts, Wooden Boats
  - RORO
  - Tugs/Lighterage
  - Industrial Carriers
Inter-Island Shipping Industry Structure

- The inter-island liner shipping industry is highly concentrated. At present, only 5 shipping companies account for more than 90% of the industry.
- Entry remains rather closed. The de-monopolization of shipping routes was designed to increase competition. However, the 10-year implementation of the policy indicates that entry was not that free as evidenced by the fact that only 15% of the total routes have effective competition (PIDS, 2002)
- RA 9295 grants shipping companies to fix their own rates
- Under existing laws, foreign shipping companies cannot operate domestically (Cabotage)
Regulatory Framework

- MARINA is the industry regulator
- EO 185 (s. 1994) de-monopolized shipping routes
- EO 213 (s. 1994) deregulated the freight and 1st/2nd class passenger fares
  - (3rd class still regulated and 50% of capacity should be allocated to 3rd class passengers)
- MARINA MC 153 abolished DOSCON
  - Venue for discussing proposed rate increases
- RA 9295 Development of Domestic Shipping Act
  - Shipping companies have the right to fix their rates (deregulated rates)
  - Incentives for vessel importation and raw materials/equipment for shipbuilding/repair (10-year VAT exemption)
Areas for Policy and Regulatory Reforms
Areas for Policy and Regulatory Reforms

1. Executive
   • Issuance of an Executive Order (EO) amending EO 170
Proposed Executive Order

- PPA and CPA to allow and encourage the conversion of private non-commercial ports into commercial ports under the RRTS network.
  - Existing Commercial Port Network: 115 PPA ports, 30 private ports
  - Non-commercial private ports: 370 private ports

- The expansion of the coverage of the RRTS services to include ChaRO (Containers on Chassis)

- Program for affected portworkers (safety net)
Expected Benefits

- Expansion of the country’s commercial port network at no cost or minimal cost
- Reduction in port investment requirements
- Coverage of more RRTS routes
- Shorter and faster travel time
- Transport cost reduction
- Reduced quality and volume losses
- Increased competition
## Areas for Policy and Regulatory Reforms

### PORTS

1. **Executive (President)**
   - Issuance of an Executive Order (EO) amending EO 170

2. **Legislation (Congress)**
   - PPA Charter Change
     - Separate the regulatory and development functions
     - Delete provision allowing PPA to share from cargo handling revenues
     - Increase private sector representation in the PPA Board (majority)
   - Promote RORO (RORO Law)
Areas for Policy and Regulatory Reforms

3. Administrative (PPA)
   - Issue Harbour Centre the permit to handle foreign containerized cargoes to promote port competition and private sector initiative

SHIPPING (MARINA)

- Review its policies and regulations to uphold competition and the protection of consumers from the exercise of market power
- Clear and transparent procedures for route licensing
- Strictly enforce maritime safety regulations and inspection of vessels to check seaworthiness and provide effective training programs on maritime safety
Thank You.