

**[MIA MEMORANDUM CIRCULAR NO. 153,
December 16, 1999]**

**REVISED RULES AND REGULATIONS IMPLEMENTING
DEREGULATION OF DOMESTIC SHIPPING RATES**

Pursuant to PD 474, and E.O. 125/125A, and consistent with the domestic shipping deregulation policy of the government as embodied under EO Nos. 185 and 213, the Board of Directors of the Maritime Industry Authority (MARINA) in its 151st Regular Meeting held on 16 December 1999 approved the following rules and regulations to implement the deregulation of domestic shipping rates:

I. OBJECTIVES

1. To deregulate domestic shipping rates in line with the general policy direction of deregulation;
2. To create an investment climate designed to attract more and new players in the domestic shipping industry under the environment of free market competition; and,
3. To foster the deregulation of domestic shipping by way of lesser government intervention.

II. COVERAGE

This Circular shall apply to all persons, partnerships, corporations, firms and entities engaged in the operation of domestic shipping liner service, for compensation, commercial or public use, involving the carriage of passengers and/or cargoes between various ports and places in the Philippines, as well as the users/recipients of such services.

III. DEFINITION OF TERMS

1. **Liner Service** — The operation of domestic water transportation which publicly offers its services without discrimination to any user, has regular ports of call/destination and has fixed sailing schedule and frequency.
2. **Monopolized Route/Link** — When a market or route/link is served either by only one (1) franchised operator, by a group of franchised operators beneficially owned by a single individual, or by a family/corporation, or by a cartel, which results in the absence of competition, or lack of effective competition, or exclusion of competition.
3. **Cartelized Route/Link** — When a market or route/link is served by a group of individuals/operators which enters into an informal agreement, arrangement or understanding among themselves, whereby such consenting parties by concerted action or in conspiracy with each other, shall commit acts or practices constituting combinations in restraint of trade or shall by any artificial means restrict

trade or prevent free competition, including any act allocating markets or customers, pooling returns or profits, charging unreasonably high rates to the detriment of public interest or engaging in cutthroat or ruinous competition to the detriment of other shipowners or operators in a particular route, or other similar acts.

4. **Cost-effective/Competitive Shipping Service** — When two or more operators in a given route are charging rates commensurate to the level and quality of shipping service being provided, such that any variation in the level and quality of shipping service provided among the operators will result in corresponding variations in rates being charged by each operator.

Lack of effective competition is deemed existing if the rates charged are unreasonably high and prejudicial to public welfare and interest as determined by MARINA or the service rendered is at the minimum level of the prescribed standards and not commensurate with, the rates being charged and other similar cases.

In such cases, effective competition would be fostered by the entry of new operator which can offer either of the following:

- a) better service at the given prevailing rate; or
- b) lower rates at the same level of service being provided.

5. **Basic Commodities** — Refers to rice, palay, corn, corngrits, fruits, and vegetables.

6. **Transit Cargoes** — Cargoes intended for import or export carried by vessels engaged in the domestic inter-island trade between ports of the Philippines.

7. **Pioneering Route/Link** — When a market or route/link is not presently served by any operator.

The meaning of other terms/phrases used herein is as defined in relevant Memorandum Circulars or as generally understood in maritime industry practice.

IV. GENERAL PROVISIONS

1. All vessels, whether DOT or non-DOT accredited, shall comply with the MARINA-prescribed service standards.

2. Adjustments in passage and freight rates due to increases/decreases in fuel prices shall continue to be governed by the provisions of Memorandum Circular No. 67 or its subsequent amendments.

3. Shipowners/operators who intend to adopt an upward adjustment of their regulated rates shall continue to be governed by the relevant provisions of Memorandum Circular No. 74/74A/74B or its subsequent amendments.

V. DEREGULATION OF PASSAGE RATES

1. *Non-DOT Accredited Vessels.* All non-DOT accredited passenger-carrying vessels are hereby required to reserve and allocate at least fifty percent (50%) of their total authorized passenger capacity for third class accommodations in accordance with the MARINA-prescribed service standards. The rates for these accommodations shall continue to be regulated by the MARINA.

The rates for first and second class accommodations of Non-DOT accredited passenger-carrying vessels shall continue to be deregulated provided that such accommodations meet the MARINA-prescribed service standards.

2. *DOT-Accredited Vessels.* All passenger-carrying vessels catering to tourism as duly certified by the Department of Tourism, or vessels of any size or type serving DOT-identified priority links or areas, are hereby exempt from the requirement of allocating fifty percent (50%) of its total authorized passenger capacity for third class accommodation. The rates for first and second class accommodations of all passenger-carrying DOT-accredited vessels shall continue to be deregulated provided that such accommodations meet the MARINA-prescribed standards.

3. Route/s or Link/s determined by the MARINA as pioneering subject to the provisions of Section VIII (1.a) hereof.

VI. DEREGULATION OF CARGO/FREIGHT RATES

The following cargoes shall be deregulated:

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| 1. Class "A", "B" and "C", whether containerized or non-containerized | 4. Unitized cargoes |
| 2. Transit Cargoes | 5. Those carried in a pioneering route/link as determined by the MARINA subject to the provisions of Section VIII (1.a) hereof. |
| 3. Livestocks | |

VII. INSTANCES WHERE REGULATED RATES WILL APPLY

1. Third Class accommodation, whether DOT or non-DOT accredited vessel
2. Second Class accommodation under any of the following:
 - a) Non-DOT accredited vessel which offers only First and Second Class accommodations under the MARINA-prescribed service standards.
 - b) Non-DOT accredited vessel which offers Third Class accommodation of less than 50% of the total authorized passenger capacity.
3. Tourism-oriented vessels whose owners opt to have their passage rates rationalized/prescribed by the MARINA.
4. Non-Containerized/Non-Unitized Basic Commodities
5. Monopolized or Cartelized Route/Link — The passage and freight rates where a route/link is still monopolized or cartelized shall remain regulated until such time that a new operator offering the same-type of service is authorized to provide cost-effective/competitive shipping service.
6. Lack of effective competition in the route/link

VIII. GUIDELINES FOR ADOPTION OF DEREGULATED RATES AND RATE ADJUSTMENTS

1. *Adoption of Deregulated Rates*