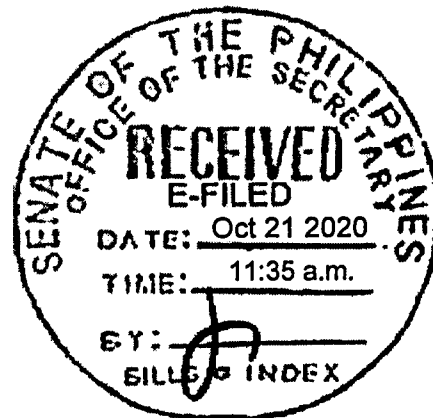


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S. No. 1890

Introduced by Senator Aquilino "Koko" Pimentel III

**AN ACT TO ESTABLISH THE ARCHIPELAGIC SEA LANES IN
PHILIPPINE ARCHIPELAGIC WATERS, PRESCRIBING THE
RIGHTS AND OBLIGATIONS OF FOREIGN SHIPS AND
AIRCRAFT EXERCISING THE RIGHT OF ARCHIPELAGIC
SEA LANES PASSAGE THROUGH THE DESIGNATED
ARCHIPELAGIC SEA LANES, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Republic Act No. 9522 entitled, "An Act to Amend Certain Provisions of Republic Act No. 3046, as Amended by Republic Act No. 5446, to Define the Archipelagic Baselines of the Philippines, and for Other Purposes," made the country's archipelagic baselines system conform with the 1982 United Nations on the Law of the Sea (UNCLOS) to which the Philippines is a state party. *R.A. No. 9522* attests to the continued commitment of the Philippines as an archipelagic State to harmonize its domestic legislation with UNCLOS.

Under UNCLOS, an archipelagic State has sovereignty over its archipelagic waters and the airspace above it, as well as its seabed and subsoil. All ships and aircraft, nevertheless, enjoy in the archipelagic waters the right of archipelagic sea lanes passage or the exercise in accordance with UNCLOS of the rights of navigation and overflight solely for the purpose of continuous, expeditious, and unobstructed transit between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. The archipelagic State may designate sea lanes and air routes suitable for the

continuous and expeditious passage of ships and aircraft through or over its archipelagic waters and the adjacent territorial sea. In case, however, that the archipelagic State does not designate archipelagic sea lanes, the right of archipelagic sea lanes passage may be exercised through the routes normally used for international navigation.

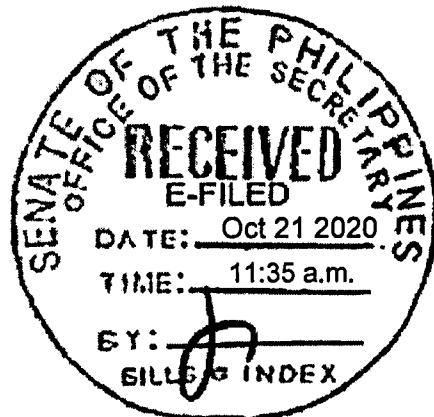
With its waters linked to important and busy navigational routes, it is imperative that the Philippines designate its archipelagic sea lanes in consideration of its own security, economic, and environmental interests. The exercise of the right of archipelagic sea lanes passage within the country's archipelagic waters can be rationalized by pursuing a balance between international maritime navigation and overflight requirements and domestic considerations. Non-designation of archipelagic sea lanes has the effect of waiving the right to designate in favor of other states who could freely exercise archipelagic sea lanes passage through Philippine archipelagic waters that they think are "the routes normally used for international navigation." This obviously is detrimental to the Philippines' interest.

This bill seeks to establish archipelagic sea lanes in Philippine archipelagic waters and the adjacent territorial sea, prescribing the rights and obligations of foreign ships, and aircraft exercising the right of archipelagic sea lanes passage through the established sea lanes and providing for the associated measures therein.

In view of the foregoing, the passage of this measure is earnestly requested.


AQUILINO "KOKO" PIMENTEL III

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

1 **SECTION 1. *Short Title.*** – This Act shall be known as the
2 “*Philippine Archipelagic Sea Lanes Act.*”

3
4 **SEC. 2. *State Policy.*** – The State in the exercise of its duty to
5 protect its maritime domain shall implement and adhere to the
6 provisions of the 1982 United Nations Convention on the Law of the Sea
7 (UNCLOS) and relevant international conventions to which the
8 Philippines is a party.

9
10 **SEC. 3. *Scope of Application.*** – This Act shall apply to foreign
11 ships and aircraft exercising the right of archipelagic sea lanes passage
12 through designated archipelagic sea lanes; *Provided*, pending the
13 designation of said archipelagic sea lanes, ships and aircraft passing
14 through routes normally used for international navigation shall be
15 subject to the prohibitions and obligations set out in this Act.

1 **SEC. 4. *Definition of Terms.*** – As used in this Act, the following
2 terms are defined in accordance with the UNCLOS:

3
4 (a) *Archipelagic sea lane* shall refer to the designated sea lanes
5 and air routes in the archipelagic waters through which foreign vessels
6 or aircraft may exercise the right of archipelagic sea lanes passage;

7
8 (b) *Archipelagic sea lanes passage* shall refer to the exercise, in
9 accordance with the UNCLOS, of the rights of navigation and overflight
10 in the normal mode solely for the purpose of continuous, expeditious,
11 and unobstructed transit between one part of the high seas or an
12 exclusive economic zone (EEZ) and another part of the high seas or an
13 EEZ;

14
15 (c) *Archipelagic waters* shall refer to the waters on the landward
16 side of the archipelagic baselines except as defined as Internal Waters;

17
18 (d) *Associated protective measure* shall refer to the measure that
19 a coastal State may adopt to regulate international maritime activities for
20 the protection of the area at risk;

21
22 (e) *Hydrographic survey* shall refer to a survey measuring and
23 describing the physical features of the navigable portion of the earth's
24 surface (seas) and adjoining coastal areas, with special reference to their
25 use for navigation;

26
27 (f) *Oceanographic survey* shall refer to a study or examination
28 of any physical, chemical, biological, geological, or geophysical
29 condition in the ocean, or any part of it;

30
31 (g) *Right of innocent passage* shall refer to the right of foreign
32 vessels to navigate through the territorial seas of all States for the
33 purpose of continuous and expeditious travel or for proceeding to or
34 from internal waters. The passage is innocent when it is not prejudicial
35 to the peace, good order, or security of the coastal State; and

36

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

4
5 **SEC. 5. *Right of Archipelagic Sea Lanes Passage of Foreign Ships***
6 ***and Aircraft.*** – Foreign ships and aircraft may exercise the right of
7 archipelagic sea lanes passage in accordance with the provisions of
8 UNCLOS in order to navigate or fly from one part of the high seas or an
9 EEZ to another part of the high seas or an EEZ through or over the
10 Philippine archipelagic waters and its adjacent territorial sea. Such sea
11 lanes shall be defined by a series of continuous axis lines from the entry
12 points of passage routes to the exit points.

13
14 The exercise of the right of archipelagic sea lanes shall be through
15 a sea lane, or through the air above a sea lane, which has been
16 determined to be an archipelagic sea lane that may be used for
17 exercising the right of archipelagic sea lanes passage as described in
18 Section 13 hereof.

19
20 **SEC. 6. *Obligations of Foreign Ships and Aircraft When***
21 ***Exercising the Right of Archipelagic Sea Lanes Passage.*** – (a) Foreign
22 ships and aircraft exercising the right of archipelagic sea lanes passage
23 shall pass through or above the archipelagic sea lane as quickly as
24 possible without delay and in the normal mode solely for the purpose of
25 continuous, expeditious and unobstructed transit.

26
27 (b) Foreign ships and aircraft that are conducting archipelagic sea
28 lanes passage shall not deviate more than twenty-five (25) nautical miles
29 to either side of the axis line of the sea lane: *Provided*, That such ships
30 and aircraft shall not navigate closer to the coast more than ten percent
31 (10%) of the distance between the nearest points on islands bordering
32 the sea lane.

33
34 (c) Foreign ships and aircraft, while exercising the right of
35 archipelagic sea lanes passage, shall refrain from any threat or use of
36 force against the sovereignty, territorial integrity, or political

1 independence of the Republic of the Philippines, or in any other manner
2 in violation of the principles of international law embodied in the
3 Charter of the United Nations.

4

5 (d) No foreign ships and aircraft, including military aircraft and
6 warships, while exercising the right of archipelagic sea lanes passage,
7 shall perform any war game exercises or exercises using any type of
8 weapons, especially involving the use of ordnance.

9

10 (e) Except when rendered necessary by force majeure or by
11 distress, an aircraft exercising the right of archipelagic sea lanes passage
12 shall not land in the Philippine territory.

13

14 (f) No foreign ships exercising the right of archipelagic sea lanes
15 passage shall stop, drop anchor or loiter, except when rendered
16 necessary by force majeure or by distress in order to render assistance to
17 a person or persons or a ship or ships experiencing a disaster.

18

19 (g) No foreign ships or aircraft exercising the right of archipelagic
20 sea lanes passage shall make covert transmissions, interfere with
21 telecommunications systems, and communicate directly with an
22 unauthorized person or group of persons in Philippine territory.

23

24 **SEC. 7. *Permit to Conduct Oceanographic or Hydrographic***
25 ***Surveys.*** – Foreign ships or aircraft, including research or hydrographic
26 survey ships or aircraft, while exercising the right of archipelagic sea
27 lanes passage, shall not conduct oceanographic or hydrographic surveys,
28 whether with the use of detection equipment or sample gathering
29 equipment, unless they have obtained prior permission to do so from the
30 appropriate agency of the Government of the Republic of the
31 Philippines.

32

1 **SEC. 8. *Prohibition of Fishing, Loading, Unloading of Persons,***
2 *Goods or Currency.* – (a) Foreign ships, including fishing vessels, while
3 exercising the right of archipelagic sea lanes passage, shall not conduct
4 any fishing operation or exploitation of marine resources of the
5 Philippines.

6
7 (b) Foreign fishing vessels, while exercising the right of
8 archipelagic sea lanes passage, besides fulfilling their obligations under
9 paragraph (a), shall stow all their fishing equipment within the hold.

10
11 (c) Foreign ships and aircraft, while exercising the right of
12 archipelagic sea lanes passage, shall not load to a ship or unload from a
13 ship persons, goods or currency in a manner that contravenes the laws
14 and regulations concerning customs, immigration, fiscal matters and
15 health, except when rendered necessary by force majeure or by distress.

16
17 **SEC. 9. *Compliance with Navigational Regulations, Procedures,***
18 *and Traffic Scheme.* – (a) Foreign ships, while exercising the right of
19 archipelagic sea lanes passage, shall comply with the generally accepted
20 international regulations, procedures and practices concerning safety of
21 navigation, including regulations relating to the prevention of collisions
22 at sea.

23
24 (b) Foreign ships, while exercising the right of archipelagic sea
25 lanes passage in a sea lane where a traffic separation scheme has been
26 established for the regulation of navigation, shall comply with the
27 provisions of the traffic separation scheme.

28
29 (c) Foreign ships, while exercising the right of archipelagic sea
30 lanes passage, shall not cause disturbance or damage to navigational
31 facilities or submarine cables or pipes.

32
33 (d) Foreign ships, while exercising the right of archipelagic sea
34 lane passage, shall not sail too close to prohibited zones as determined
35 by concerned agencies.

36

1 **SEC. 10. *Obligations of Foreign Aircraft.*** – (A) Foreign civil
2 aircraft exercising the right of archipelagic sea lanes passage shall:

3
4 (1) observe the Rules of the Air established by the International
5 Civil Aviation Organization (ICAO); and

6
7 (2) monitor the radio frequency assigned by the competent
8 internationally designated air traffic control authority or the appropriate
9 international distress radio frequency at all times.

10
11 **(B)** Foreign national aircraft exercising the right of archipelagic
12 sea lanes passage shall:

13
14 (1) respect the regulations concerning flight safety as detailed in
15 Section 10(A) hereof and at all times operate with due regard for the
16 safety of navigation; and,

17
18 (2) fulfill their obligations as detailed in Section 10(A)(2) hereof.

19
20 **SEC.11. *Prevention of Marine Pollution and Nuclear Weapon.*** –

21 (a) Foreign ships exercising the right of archipelagic sea lanes
22 passage shall not expel oil, oily wastes or other noxious substances into
23 the marine environment, or conduct other activities in contravention of
24 international regulations and standards for the prevention, reduction and
25 control of marine pollution that originates from ships.

26
27 (b) Foreign ships exercising the right of archipelagic sea lanes
28 passage shall not dump waste in Philippine waters.

29
30 (c) Consistent with the national interest, the exercise of the right of
31 archipelagic sea lanes passage by all foreign ships must be consistent
32 with the constitutional mandate of freedom from nuclear weapons in
33 Philippine territory.

34
35 **SEC. 12. *Liability for Damage.*** – (a) The person or legal body
36 responsible for the operation or cargo of foreign commercial ships or

1 aircraft or foreign government ships or aircraft operated for commercial
2 purposes shall be liable for any loss or damage suffered by the
3 Philippines or any third party as a result of noncompliance with any of
4 the provisions of this Act while exercising the right of archipelagic sea
5 lanes passage.

6

7 (b) The flag State shall bear international responsibility for any
8 loss or damage suffered by the Philippines or any third party as a result
9 of non-compliance with any of the provisions of this Act by a foreign
10 warship or aircraft or other government ship operated for
11 noncommercial purposes while exercising the right of archipelagic sea
12 lanes passage in Philippine waters.

13

14 **SEC. 13. *Power to Designate Archipelagic Sea Lanes.*** – The
15 Department of Foreign Affairs (DFA), taking into account relevant
16 provisions of the 1987 Constitution and existing laws, shall be the lead
17 agency tasked to implement the provisions of this Act. For purposes of
18 achieving the objectives of this Act, the DFA shall:

19

- 20 1. Establish a mechanism for the designation of archipelagic sea
21 lanes;
- 22 2. Determine appropriate measures for the protection of areas
23 along said sea lanes in accordance with international
24 conventions and agreements to which the Philippines is a
25 party; and
- 26 3. Coordinate with the Philippine Coast Guard (PCG), National
27 Mapping and Resource Information Authority (NAMRIA),
28 and other concerned agencies for the effective
29 implementation of this Act.

30

31 **SEC. 14. *Implementing Rules and Regulations.*** – Within one (1)
32 year from the effectivity of this Act, the Department of Foreign Affairs
33 (DFA) shall, in consultation with the Philippine Coast Guard (PCG),
34 National Mapping and Resource Information Authority (NAMRIA), and
35 other concerned agencies, promulgate the implementing rules and

1 regulations necessary to ensure the efficient and effective
2 implementation of this Act.

3

4 **SEC. 15. *Right of Innocent Passage.*** – The provisions of this Act
5 shall not diminish the rights of foreign ships to exercise the right of
6 innocent passage in archipelagic sea lanes.

7

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

12

13 **SEC. 17. *Repealing Clause.*** – All laws inconsistent with or
14 contrary to the provisions of this Act are deemed amended, modified or
15 repealed accordingly.

16

17 **SEC. 18. *Effectivity.*** – This Act shall take effect fifteen (15) days
18 after its publication in the Official Gazette or in two (2) newspapers of
19 general circulation

Approved,