

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



24 MAR 13 P7:28

SENATE

S. No. 2606

RECEIVED BY

Introduced by **Senator Ronald "Bato" Dela Rosa**

AN ACT

ESTABLISHING 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 ESTABLISHED ARCHIPELAGIC SEA LANES AND PROVIDING FOR THE ASSOCIATED PROTECTED MEASURES THEREIN

EXPLANATORY NOTE

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) is a public international law that provides a legal framework for the use of oceans and seas. It governs the geographical maritime jurisdictions of coastal states and provides the rights, duties, and responsibilities of each state over such jurisdictions. Further, it provides the rules emphasizing the protection and exploitation of the marine environment and mechanism for dispute management arising from the usage of oceans and seas.

Under Article 53 of the said Convention, it provides that an "archipelagic state may designate sea lanes and air routes thereabove, suitable for the continuous and expeditious passage of foreign ships and aircraft through or over its archipelagic

waters and the adjacent territorial sea.” This provision in UNCLOS gives flexibility to an archipelagic state to establish their ASL.

As an archipelagic state, the Philippines has yet to institutionalize the legal framework for the establishment of the corresponding ASL since ratifying the UNCLOS in 1984. Thus, the proposed bill seeks to implement the provision

The designation of ASL is a timely response in confronting the challenges of the rules-based international order in the oceans in which our policies are anchored. With this proposed measure, the country can better assert its sovereignty, sovereign rights, and jurisdiction over waters — thus making our archipelagic status in order, consistent with the principle of *pacta sunt servanda* in relation to our treaty obligations under the UNCLOS.


In view of the foregoing, I earnestly urge the passage of this bill.


RONALD "BATO" DELA ROSA

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



24 MAR 13 P7:29

RECEIVED BY: 

SENATE

S.B. No. 2606

Introduced by Sen. Ronald "Bato" Dela Rosa

AN ACT

ESTABLISHING 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 ESTABLISHED ARCHIPELAGIC SEA LANES AND PROVIDING FOR THE ASSOCIATED PROTECTED MEASURES THEREIN

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

**ARTICLE I
GENERAL PROVISIONS**

1
2
3
4 Section 1. *Short Title.* – This Act shall be known as the "Philippine Archipelagic
5 Sea Lanes Act".

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

11
12 *Sec. 3. Scope of Application.* – This Act shall govern the exercise of archipelagic
13 sea lanes passage through the designated archipelagic sea lanes by foreign ships and
14 aircraft; Provided, that pending designation of the said archipelagic sea lanes, ships,
15 and aircraft passing through routes normally used for international navigation shall
16 comply with the provisions of this Act.

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

- 3 a) *Archipelagic sea lanes* shall refer to the designated sea lanes and air
4 routes in the archipelagic waters through which foreign ships or aircraft
5 may exercise archipelagic sea lanes passage;
- 6 b) *Archipelagic sea lanes passage* shall refer to the exercise of navigation
7 and overflight in the normal mode solely for the purpose of continuous,
8 expeditious, and unobstructed transit between one part of the high seas
9 or an exclusive economic zone (EEZ) and another part of the high seas
10 or an EEZ;
- 11 c) *Archipelagic waters* shall refer to the waters on the landward side of the
12 archipelagic baselines except those delineated as internal waters;
- 13 d) *Hydrographic survey* shall refer to a survey having for its principal
14 purpose the determination of data relating to bodies of water. A
15 hydrographic survey may consist of the determination of one or several
16 of the following classes of data: depth of water; configuration and nature
17 of bottom; directions and force of currents; heights and times of tides
18 and water stages; and location of topographic features and fixed objects
19 for survey and navigation purposes;
- 20 e) *Internal waters* shall refer to the waters inside the archipelagic baselines
21 which are delineated from the archipelagic waters based on Article 50, in
22 relation to Articles 9, 10, and 11 of the UNCLOS;
- 23 f) *Oceanographic survey* shall refer to a study or examination of any
24 physical, chemical, biological, geological, or geophysical condition in the
25 ocean, or any part of it;
- 26 g) *Right of innocent passage* shall refer to the right of continuous and
27 expeditious passage of foreign ships through the territorial seas that is
28 not prejudicial to the peace, good order, or security of the coastal State.
29 Passage includes stopping and anchoring, but only insofar as the same
30 are incidental to ordinary navigation or are rendered necessary by *force*
31 *majeure* or distress or for the purpose of rendering assistance to persons,
32 ships or aircraft in danger or in distress. Passage shall be considered as
33 prejudicial to the peace, good order, and security of the coastal State if
34 in the territorial sea, the ship engages in any of the activities enumerated
35 in Article 19 of the UNCLOS. This right of innocent passage applies to
36 archipelagic waters as provided in Article 52 of the UNCLOS; and
- 37 h) *Territorial sea* shall refer to the belt of sea measured twelve (12) nautical
38 miles from the baselines.

39 **ARTICLE II**
40 **RIGHTS AND OBLIGATIONS OF FOREIGN SHIPS AND AIRCRAFT WHEN**
41 **EXERCISING THE RIGHT OF ARCHIPELAGIC SEA LANES**
42

43 Sec. 5. *Right of Archipelagic Sea Lanes Passage of Foreign Ships and Aircraft.*
44 – Foreign ships and aircraft may exercise archipelagic sea lanes passage in accordance

1 with the provisions of UNCLOS in order to navigate or fly from one part of the high
2 seas or an EEZ to another part of the high seas or an EEZ through or over the Philippine
3 archipelagic waters and its adjacent territorial sea. Such sea lanes shall be defined by
4 a series of continuous axis lines from the entry points of routes to the exit points. The
5 exercise of archipelagic sea lanes passage shall be through these sea lanes, or through
6 the air above these sea lanes, as designated pursuant to this Act.
7

8 *Sec. 6. Designation of Archipelagic Sea Lanes.* – The President of the Philippines is
9 hereby authorized to designate the archipelagic sea lanes of the Philippines and, if
10 appropriate, establish traffic separation schemes for the safe passage of ships through
11 narrow channels in such sea lanes; *Provided*, that no more than three (3) archipelagic
12 sea lanes shall be designated absent clear and compelling reasons to the contrary;
13

14 *Provided further*, that in the identification of archipelagic sea lanes, the following
15 factors shall be considered:
16

- 17 a) National interest;
- 18 b) Particularly sensitive sea areas (PSSAs);
- 19 c) Marine Protected Areas (MPAs);
- 20 d) Key biodiversity areas (KBAs);
- 21 e) Safety of navigation; and
- 22 f) Risk of pollution.
23

24 *Provided furthermore*, that the requirements under UNCLOS in the designation of
25 archipelagic sea lanes shall be complied with; *Provided finally*, that the designation of
26 the archipelagic sea lanes shall be given due publicity.

27 Ninety (90) days after the archipelagic sea lanes are designated and, if appropriate,
28 traffic separation schemes are prescribed in accordance with this Section, foreign ships
29 and aircraft can exercise archipelagic sea lane passage only through the designated
30 archipelagic sea lanes and foreign ships must follow the prescribe traffic separation
31 schemes.

32 When circumstances require, the President may substitute other sea lanes or traffic
33 separation schemes for any sea lanes or traffic separation schemes previously
34 designated; *Provided*, that in the designation of substitute sea lanes and traffic
35 separation schemes, the requirements under the preceding paragraphs of this section
36 shall be complied with.
37

38 *Sec. 7. Exercise of Archipelagic Sea Lanes Passage.* – Foreign ships and aircraft
39 exercising archipelagic sea lanes passage shall be governed by the following rules:
40

- 41 a) Foreign ships and aircraft exercising the right of archipelagic sea lanes passage

1 shall pass through or above the archipelagic sea lane as quickly as possible
2 without delay and in the normal mode solely for the purpose of continuous,
3 expeditious and unobstructed transit;
4

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

11 c) Foreign ships and aircraft, while exercising the right of archipelagic sea lanes
12 passage shall refrain from any threat or use of force against the sovereignty,
13 territorial integrity, or political independence of the Republic of the Philippines,
14 or in any other manner in violation of the principles of international law
15 embodied in the Charter of the United Nations;
16

17 d) Foreign ships and aircraft, including military aircraft and warships, while
18 exercising the right of archipelagic sea lanes passage, shall refrain from any
19 war game exercises or exercises using any type of weapons, especially involving
20 the use of ordinance;
21

22 e) Except when rendered necessary by the force majeure or by distress, an aircraft
23 exercising the right of archipelagic sea lanes passage shall not land in Philippine
24 territory;
25

26 f) All foreign ships exercising the right of archipelagic sea lanes passage shall
27 refrain from stopping, dropping anchor, or loitering, except when rendered
28 necessary by force majeure or by distress in order to render assistance to a
29 person or persons or a ship or ships experiencing distress; and
30

31 g) Foreign ships and aircraft exercising the right of archipelagic sea lanes passage
32 shall refrain from making covert transmissions, interfering with
33 telecommunications systems, and communicating directly with an unauthorized
34 person or group of persons in Philippine territory.
35

36 *Sec. 8. Prohibition Against Unauthorized Research and Survey Activities.* -Foreign
37 ships or aircraft, including marine scientific research or survey ships or aircraft, while
38 exercising archipelagic sea lanes passage, shall not conduct oceanographic or
39 hydrographic surveys or any other research or survey activities, whether with the use
40 of detection equipment or sample gathering equipment, unless they have obtained
41 prior permission to do so from the appropriate agency of the government of the
42 Republic of the Philippines.
43

1 *Sec. 9. Prohibition of Fishing, Loading, Unloading of Persons, Goods, or Currency.*

- 2 –
- 3
- 4 a) Foreign ships, including fishing vessels, while exercising the right of archipelagic
- 5 sea lanes passage, shall not conduct any fishing operation or exploitation of
- 6 marine resources of the marine resources of the Philippines; and
- 7
- 8 b) Foreign fishing vessels, while exercising the right of archipelagic sea lanes
- 9 passage, besides fulfilling their obligations under paragraph (a), shall stow all
- 10 fishing equipment within hold.
- 11

12 Foreign ships and aircraft, while exercising the right of archipelagic sea lanes

13 passage, shall not load a ship or unload from a ship, persons, goods or currency in a

14 manner that contravenes the laws and regulations concerning customs, immigration,

15 fiscal matters and health, except when rendered necessary by force majeure or by

16 distress.

17

18 *Sec. 10. Compliance with Navigational Regulations, Procedures, and Traffic*

19 *Scheme. –*

- 20 a) Foreign ships, while exercising the right of archipelagic sea lanes passage, shall
- 21 comply with the generally accepted international regulations, procedures and
- 22 practices concerning safety of navigation, including regulations relating to the
- 23 prevention of the collisions at sea;
- 24 b) Foreign ships, while exercising the right of archipelagic sea lanes passage in a
- 25 sea lane where a traffic separation scheme has been established for the
- 26 regulation of navigation, shall comply with the provisions of the traffic
- 27 separation scheme;
- 28 c) Foreign ships, while exercising the right of archipelagic sea lanes passage, shall
- 29 not cause disturbance or damage to navigational facilities or submarine cables
- 30 or pipes; and
- 31 d) Foreign ships, while exercising the right of archipelagic sea lanes passage, shall
- 32 not sail too close to prohibited zones as determined by concerned agencies.
- 33

34 *Sec. 11. Obligations of Foreign Civil Aircraft. –*

35

- 36 a) Foreign civil aircraft exercising the right of archipelagic sea lanes passage shall:
- 37
- 38
- 39 1) Observe the Rules of the Air established by the International Civil Aviation
- 40 Organization (ICAO); and
- 41 2) Monitor the radio frequency assigned by the competent internationally

1 designated air traffic control authority or the appropriate international
2 distress radio frequency at all times.

3
4 (b) Foreign national aircraft exercising the right of archipelagic sea lanes passage
5 shall:

- 6
7 1) Respect the regulations concerning flight safety as detailed in Section 9 (a)
8 hereof and at all times operate with due regard for the safety of navigation;
9 and
10 2) Fulfill their obligations as detailed in Section 9 (a)(2) hereof.

11
12 *Sec. 12. Prevention of Marine Pollution and Nuclear Weapons. –*
13

- 14 a) Foreign ships exercising the right of archipelagic sea lanes passage shall not
15 expel oil, oily wastes or other noxious substances into the marine environment,
16 or conduct other activities in contravention of international regulations and
17 standards for the prevention reduction and control of marine pollution that
18 originate from ships;
19 b) Foreign ships while exercising the right of archipelagic sea lanes passage shall
20 not dump waste in Philippine waters; and
21 c) Consistent with the national interest, the exercise of the right of archipelagic
22 sea lanes passage by all foreign ships must be consistent with the constitutional
23 mandate of freedom from nuclear weapons in Philippine territory.

24
25 *Sec. 13. Liability for Damage. –*
26

- 27 a) The person or legal body responsible for the operation or cargo of foreign
28 commercial ships or aircraft or foreign government ships or aircraft operated
29 for commercial purposes shall be liable for any loss or damage suffered by the
30 Philippines or any third party as a result of non-compliance with any of the
31 provisions of this Act while exercising the right of archipelagic sea lanes
32 passage.

1 b) The flag State shall bear international responsibility for any loss or damage
2 suffered by the Philippines or any third party as a result of non-compliance with
3 any of the provisions of this Act by a foreign warship or aircraft or other
4 government ship operated for non-commercial purposes while exercising the
5 right of archipelagic sea lanes passage in the Philippine waters.

6
7 **ARTICLE III**

8
9 **FINAL PROVISIONS**
10

11 Sec. 14. *Right of Innocent Passage.* – The provisions of this Act shall not
12 diminish the rights of foreign ships to exercise the right of innocent passage in
13 archipelagic sea lanes.
14

15 Sec. 15. *National West Coast Watch System (NCWS).* – The NCWS, created by
16 virtue of Executive Order 57, series of 2011, under the control and supervision of the
17 Office of the President, shall serve as the authority to institute coordinating
18 mechanisms for the implementation of this Act and shall continue to operate in
19 accordance with its present original structure.
20

21 In addition to its power, functions, and duties, the National Coast Watch Council
22 (NCWC) shall provide technical and advisory support to the President in designating
23 the archipelagic sea lanes. Further, the National Coast Watch Center (NCW Center)
24 shall establish, monitor, and implement Associated Protective Measures for the
25 designated archipelagic sea lanes.
26

27 Sec. 16. *Separability Clause.* – Should any provision or part of this Act be
28 declared unconstitutional or invalid, the other provisions and parts hereof, insofar as
29 they are separable from the invalid ones, shall remain in full force and effect.
30

31 Sec. 17. *Repealing Clause.* – All laws, decrees, orders, issuances, rules and
32 regulations or parts thereof which are inconsistent with this Act are hereby repealed
33 or modified accordingly.
34

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

Approved,