



MARITIME INDUSTRY AUTHORITY

MARINA CIRCULAR NO. 2017-02

TO : ALL DOMESTIC SHIPPING COMPANIES/OPERATORS/ CHARTERERS/ OIL COMPANIES/ SHIP AGENTS/ PRIVATE/ PUBLIC CORPORATION/ PARTNERSHIP/ ASSOCIATION AND OTHER MARITIME ENTITIES CONCERNED

SUBJECT : RULES ON THE TEMPORARY UTILIZATION OF FOREIGN-REGISTERED HIGHLY SPECIALIZED SHIPS WITHIN PHILIPPINE TERRITORIAL WATERS

Pursuant to Presidential Decree No. 474, Executive Order No. 125, as amended, Sec. 6, Chapter III of the Republic Act (R.A.) No. 9295 (Domestic Shipping Act of 2004) and Sec. 6, Rule III of its Revised Implementing Rules and Regulations (R-IRR), the following rules shall govern the temporary utilization of foreign-registered highly specialized ships within Philippine territorial waters.

I. OBJECTIVE

To provide rules on the temporary utilization of foreign-registered highly specialized ships within Philippine territorial waters.

II. COVERAGE

This Circular shall apply to all domestic shipping companies / operators / charterers / oil companies / ship agents / private/public corporation / partnership/association and other maritime entities, duly accredited by the MARINA under MARINA Circular No. 2006-003 and/or 186, and their subsequent amendments, whichever is applicable, intending to utilize foreign-registered highly specialized ships within Philippine territorial waters.

Ships owned by another sovereign entity performing any governmental function within Philippine territorial waters, pursuant to any treaty or agreement, including foreign ships used incidental to such functions, shall not be covered by this Circular. The movement of these ships in the Philippine territorial waters shall be in accordance with international customs and practice governing such ships. However, the same will

be covered by an implementing guidelines that may be issued by MARINA and the appropriate Government agency.

III. DEFINITION OF TERMS

1. **MARINA** – shall mean the Maritime Industry Authority.
2. **DATE OF LAUNCHING** – shall mean the date when the newly-built ship is released into the water.
3. **DOMESTIC SHIPPING** – shall mean the transport of passengers or cargo, or both, by ships duly registered and licensed under Philippine law to engage in trade and commerce between Philippine ports and within Philippine territorial waters, for hire or compensation, with general or limited clientele, whether permanent, occasional or incidental, with or without fixed routes, and done for contractual or commercial purposes.
4. **DOUBLE HULL SHIP** – shall mean a ship constructed with double bottom tank and with wing tanks that extend from the main deck to the inner bottom plate or bottom plate and arranged such that the cargo tanks are located inboard of the wing tank.
5. **FOREIGN-REGISTERED SHIP** – shall mean a ship owned and/or operated by a foreign national or company, registered under foreign flag.
6. **HIGHLY SPECIALIZED SHIP** – shall mean ships used in Petroleum Exploration and Operation such as: (a) seismic survey vessels, drilling rigs, construction support vessels, platform support vessels, platform supply vessels, floating production storage and offloading vessels (FPSO), vessels for condensate lifting and delivery; (b) floating storage and regasification unit (FSRU) used to receive liquefied natural gas (LNG) for offshore regasification; and (c) floating storage unit (FSU) used to receive liquefied natural gas (LNG) for onshore regasification, and (d) liquefied natural gas carrier (LNGC) used to transport LNG.

Other ships that have onboard machinery and equipment specifically designed for special purpose may be considered highly specialized ship as determined by the Authority

7. **NATIONAL AND PUBLIC INTEREST** – shall mean the welfare of the public which warrants recognition, promotion and protection by the government and its agencies.
8. **PETROLEUM OPERATIONS** - means searching for and obtaining petroleum pursuant to a service contract with the Government of the Republic of the Philippines under Presidential Decree No. 87, as amended, through drilling and pressure or suction or the like, and all other operations incidental thereto.
9. **PETROLEUM SERVICE CONTRACTOR** – refers to the Contractor under a Service Contract executed by the Government of the Republic of the Philippines pursuant to Presidential Decree No. 87.
10. **PHILIPPINE TERRITORIAL WATERS** – shall refer to the internal waters, archipelagic waters, and territorial sea of the Philippines as defined in accordance with Article 50 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS).
11. **PROTECTION AND INDEMNITY INSURANCE** more commonly known as "P&I" insurance refers to a form of mutual maritime insurance provided by a P&I Club which provides cover for open-ended risks that traditional insurers are reluctant to insure such as, but not limited to, carrier's third-party risks for damage caused to cargo during carriage, war risks and risks of environmental damage such as oil spills and pollution.
12. **P&I Club** refers to a mutual insurance association that provides risk pooling, information and representation for its members.
13. **SPECIAL PERMIT** – shall mean the permit to be issued by the MARINA for the temporary utilization of foreign-registered ships within Philippine territorial waters.
14. **SHIP OR VESSEL** – which may be used interchangeably, shall mean any kind, class or type of craft or artificial contrivance capable of floating in water, designed to be used, or capable of being used, as a means of floating in water transport in the domestic trade for the carriage of passengers or cargo, or both, utilizing its own motive power or that of another.
15. **VESSEL AGE** – shall mean the age of the ship reckoned from ship's date of launching based on the Builder's Certificate or Certificate of Vessel Registry.

IV. GENERAL PROVISION

1. The issuance by the MARINA of a Special Permit to foreign registered highly specialized ship(s) to operate within the Philippine territorial waters shall be primarily predicated on the objective of insuring the provision of required shipping services where such is not readily available and suitable from the domestic fleet, so as not to prejudice efficient trade and commerce, delivery of critical services/commodities, and infrastructure and development projects.
2. Companies/ entities who intend to operate foreign registered highly specialized ships within the Philippine territorial waters must secure Special Permit from the MARINA in accordance with this Circular;
3. Applications for Special Permits provided under this Circular shall be filed with the Domestic Shipping Service (DSS), upon submission of all the documentary requirements, and payment of the corresponding processing fee, as specified in item VII and VIII hereof.
4. All applications filed under this Circular shall have a valid Contract/Fixture Note/Contract of Affreightment or Time/or Voyage Charter Contract.
5. All ships covered under this Circular, shall be classed by international organization recognized by their Flag Administration.
6. All ships covered under this Circular shall have the Mandatory Marine Insurance To Cover Liabilities Arising from Pollution and Wreck Removal from recognized International Protection and Indemnity Club.
7. All ships covered under this Circular shall have a valid safety and trading certificates for the duration of the Special Permit.
8. All concerned companies/entities shall submit to the MARINA the Entry and Exit Clearance documents issued by the Bureau of Customs (BOC) to prove the actual arrival/departure date of the vessel/rig to and from the Philippines.
9. All foreign-registered ships covered under this Circular shall submit to the MARINA the LRIT (Long Range Identification and Tracking) Conformance Test Result.
10. For purposes of promoting the development of Philippine-registered domestic ships, the MARINA shall, prior to accepting the application, make verification from the concerned shipping association(s) as to the availability of a suitable domestic ship which can provide the same

service before issuing a Special Permit to a foreign ship to operate within Philippine territorial waters. In the event that the concerned association(s) confirms the availability of suitable domestic ship to provide the same service, the MARINA shall deny the application. This confirmation should be immediately communicated to the MARINA, within seven (7) working days from date of receipt of MARINA's letter, providing the name and relevant particulars/ features of the ship(s), period of availability, and terms and conditions of hire. In the absence of such communication, the MARINA will proceed with the evaluation/issuance of the Special Permit to the concerned foreign ship(s) applied for.

11. In cases where a foreign ship(s) will operate within Philippine territorial waters by virtue of a contract entered into by the government or its instrumentalities, or that of a sovereign entity which has an agreement with the government, to operate a ship for commercial purposes, the Special Permit requirement will still apply, but the verification of availability of suitable Philippine-registered ships to provide the same service will no longer be necessary.

V. SPECIFIC PROVISIONS

1. The issuance by the MARINA of a Special Permit to foreign-registered highly specialized ship shall be primarily predicated on the objective of ensuring the provision of required shipping services where such is not readily available and suitable from the domestic fleet, so as not to prejudice efficient trade and commerce, delivery of critical services/commodities, and infrastructure and development projects. MARINA will issue the Special Permit based on the following conditions:
 - a. There is no readily available and suitable Philippine-registered ship operating within Philippine territorial waters for domestic trade to meet the specific shipping requirements of the shipper or consignee, as verified from the concerned shipping association and organization; and
 - b. When public interest warrants.
2. Only companies/entities duly accredited by the MARINA under MARINA Circular No. 2006-003 and/or 186, and their subsequent amendments, whichever is applicable, may apply for issuance of Special Permit.

3. Applicants shall indicate in their application for issuance of Special Permit the service(s) they proposed to offer and the routes or location, particularly, the project(s) or contract(s) for which the service will be rendered, the area(s) of operation, the charterer(s), the nature of the service(s) to be rendered and the relevant particulars/features of the ship(s);
4. There is no age requirement for Foreign-registered highly specialized ships securing a Special Permit
5. Cognizance is specifically given to projects for the development of the Liquefied Natural Gas (LNG) Industry and Petroleum Operations which require highly specialized ships not normally available from the domestic fleet. In view of the capital-intensive investment requirements for such ships, the grant of Special Permit, as well as the period of operation within Philippine territorial waters, shall primarily take into account the vital importance that they play in the country's economic development.
6. Companies/entities that intend to secure Special Permit to operate foreign-registered highly specialized ships within Philippine territorial waters includes, but not limited to, the operation of the following ships used in Petroleum Exploration and Operation: (a) seismic survey vessels, drilling rigs, construction support vessels, platform support vessels, platform supply vessels, floating production storage and offloading vessels (FPSO), vessels for condensate lifting and delivery; (b) floating storage and regasification unit (FSRU) used to receive liquefied natural gas (LNG) for offshore regasification; and (c) floating storage unit (FSU) used to receive liquefied natural gas (LNG) for onshore regasification, and (d) liquefied natural gas carrier (LNGC) used to transport LNG.
7. The Special Permit shall be valid for a minimum period of one (1) month, and is renewable. The maximum period of the Special Permit shall be co-terminus with the period of the charter contract, and may be renewed upon submission of a new charter contract and other documentary requirements as stated in Item VI hereof, particularly the verification from the shipping associations as to the non-availability of a similar type of ship. Foreign-registered ships are not required to convert to Philippine registry as a condition for the renewal of the Special Permit.
8. Companies/entities which were issued Special Permit under this circular shall present proof of payment of taxes for the company itself, as well as to its crew, every six (6) months as a pre-condition in the renewal of the special permit.

9. If any LNG project proponent or Petroleum Service Contractor intends to issue invitations to tender for the charter of a Foreign-registered ships for a period of more than one hundred eighty (180) days, the said LNG project proponent or Petroleum Service Contractor shall notify the MARINA and the Department of Energy (DOE) of such tender, at least thirty (30) calendar days before the issuance of said invitations to tender. The MARINA shall inform the concerned shipping association(s) as to the receipt of such notice.

VI. DOCUMENTARY REQUIREMENTS

The following documentary requirements are to be submitted:

1. Application for Special Permit – Letter of Application indicating the service(s) they proposed to offer and the routes or location, particularly, the project(s) or contract(s) for which the service will be rendered, the area(s) of operation, the charterer(s), the nature of the service(s) to be rendered and the relevant particulars/features of the ship(s);
2. Duly notarized Fixture Note or Contract of Affreightment or duly Authenticated and notarized Time or Voyage Charter Agreement duly signed by the ship's registered owners and charterers or their duly authorized representative with names of signatories printed on the Agreement;
3. Duly notarized Resolution of the company's Board of Directors, certified by the Board Secretary, authorizing the filing of the application, and designating the officials/authorized representative(s) to sign the duly authenticated/notarized Time or Voyage Charter, for and in behalf of the applicant-company and the registered owners;
4. If the application for the issuance of Special Permit is filed by an agent, the said agent shall submit an authorization, in a form of a Special Power of Attorney or an Appointment Letter, authorizing such agent to file the application for and in behalf of the applicant-company or charterer
5. Ship's valid Certificate of Registry/Nationality;
6. Ship's valid Class Certificate and Latest Survey Report for the last six (6) months issued by members of the International Class Organization recognized by their Flag Administration;

7. Contract or endorsement from the appropriate government Agency stating the need for the employment of special purpose ships to carry out the approved Work Program or agreement/contract and for the period required by such work program

Petroleum : Department of Energy
Operations, FSRU, (DOE)
FSU, LNGC

8. Proof of verification from the concerned shipping association(s) as to the availability of a suitable domestic ship which can provide the same service before issuing a Special Permit to a foreign registered highly specialized ship to operate within Philippine territorial waters.
9. International Safety Management (ISM) related certificates;
10. International Ship and Port Facility Security (ISPS) Certificates;
11. Valid Safety Certificates, as follows (as applicable):
- Cargo Ship Safety Certificate;
 - Cargo Ship Safety Equipment Certificate;
 - Cargo Ship Safety Construction Certificate;
 - Passenger Ship Safety Certificate;
 - Certificate of Fitness (Chemical or Gas Carrier);
 - Manning Certificate;
 - International Oil Pollution Prevention Certificate;
 - International Tonnage Certificate;
 - International Loadline Certificate;
 - International Oil Pollution Prevention Certificate
 - International Sewage Pollution Prevention Certificate
 - Conformance Test Report (for Long Range Identification Tracking [LRIT] System)
 - Continuous Synopsis Record
12. Crew list indicating STCW certificates (number and validity) of the crew;
13. Copy of the Mandatory Marine Insurance to Cover Liabilities Arising from Pollution and Wreck Removal from recognized International Protection and Indemnity Club
14. Applicant's SEC registration (for branch offices of foreign owners/charterers/ship representative(s));

15. MARINA Accreditation under MARINA Circular No. 2006-003 and/or 186, and their subsequent amendments, whichever is applicable;
16. Contract of ongoing or awarded project with government instrumentalities/agencies (as applicable);
17. Proof of payment of payment of taxes for the company itself, as well as to its crew, every six (6) months as a pre-condition in the renewal of the special permit (as applicable); and
18. Other related documents/contracts that would trace the operation/project involving the utilization of the ship (if there are two or more other companies involved in the project).

Note: For renewal/extension of Special Permit, only documentary requirements that have expired shall be submitted.

VII. FEES AND CHARGES

Special Permit Fee / Processing Fee	Php600,000.00 minimum/month/ship or Php1,200.00/50 GRT or fraction thereof, whichever is higher
Any amendment of Special Permit	Php300,000.00/ amendment

VIII. SANCTIONS AND PENALTIES

The following fines shall be imposed against the owner, charterer and/or agent for violation of this Circular after due notice and hearing:

1. Operation of foreign-registered ship within Philippine territorial waters without Special Permit	Php5,000,000.00 per ship plus Php100,000.00 per day of operation
2. Operation of foreign-registered ship within Philippine territorial waters with expired Special Permit	Php3,000,000.00 per ship plus Php75,000.00 per day of operation
3. Violation of any provision or non-compliance with the post-approval conditions/documents stated in the Special Permit	Php1,000,000.00 and revocation plus Php50,000.00 per day of operation

IX. REPEALING CLAUSE

Any provisions of existing MARINA Circulars, and its amendments, or Rules and Regulations, Orders or Decisions and other issuances or parts thereof which are inconsistent with this Circular are hereby repealed, amended or modified accordingly.

X. SEPARABILITY CLAUSE

Should any provision or part of this Circular be declared by competent Authority to be invalid or unconstitutional, the remaining provisions or parts hereof shall remain in full force and effect and shall continue to be valid and effective.

XI. EFFECTIVITY

This Circular shall take effect fifteen (15) calendar days after its publication once in a newspaper of general circulation.

Manila, Philippines, APR 18 2017

BY AUTHORITY OF THE BOARD:


MARCIAL Q.C. AMARON III, PhD
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the foregoing MARINA Circular No. 2017-02
has been approved by the MARINA Board in its 245th Regular Board
Meeting held on 30 March 2017.


ATTY. EUSEBIA CADLUM-BOCO
Corporate Board Secretary

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