

PRESIDENTIAL DECREE NO. 857

**PROVIDING FOR THE REORGANIZATION OF PORT ADMINISTRATION
AND OPERATION FUNCTIONS IN THE PHILIPPINES, REVISING
PRESIDENTIAL DECREE NO. 505 DATED JULY 11, 1974, CREATING THE
PHILIPPINE PORT AUTHORITY, BY SUBSTITUTION, AND FOR OTHER
PURPOSES.**

WHEREAS, there is a recognized need to integrate and coordinate port planning, development, control and operations at the national level, and at the same time promote the growth of regional port bodies responsive to the needs of their individual localities;

WHEREAS, harbors and tributary areas have their own peculiar potentialities to be considered in port planning and development;

WHEREAS, hitherto, the concept of port administration in this country has been focused on the traditional functions of revenue collection, harbor maintenance and cargo handling, to the exclusion of the port's fuller utilization and development as a spur for regional growth;

WHEREAS, it was found necessary in the national interest to amend Presidential Decree No. 505 so as to enable the Philippine Port Authority to exercise all the proper powers and functions of a port authority and in order to better carry out the desired objectives:

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution in order to effect desired changes and reforms in the social, economic and political structure of our society, do hereby decree and order the revision of Presidential Decree No. 505 by substitution with this Decree which is hereby adopted and made part of the laws of the land;

ARTICLE I. TITLE

Section 1. Title. This Decree shall be known as the Revised Charter of the Philippine Ports Authority created under Presidential Decree No. 505 dated July 11, 1974.

ARTICLE II. DECLARATION OF POLICIES

Section 2. Declaration Of Policies and Objectives. It is hereby declared to be the policy of the State to implement an integrated program for the planning, development, financing, and operation of Ports or Port Districts for the entire country in accordance with the following objectives:

- (a) To coordinate, streamline, improve, and optimize the planning, development, financing, construction, maintenance and operation of Ports, port facilities, port physical plants, and all equipments used in connection with the operation of a Port.
- (b) To ensure the smooth flow of waterborne commerce passing through the country's Ports whether public or private, in the, in the conduct of international and domestic trade.
- (c) To promote regional development through the dispersal of industries and commercial activities throughout the different regions.
- (d) To foster inter-national and domestic trade.
- (e) To redirect and reorganize port administration beyond its specific and traditional functions of harbor development and cargo handling operations to the broader function of total port district development, including encouraging the full and efficient utilization of the Port's hinterland and tributary areas.
- (f) To ensure that all income and revenues accruing out of dues, rates, and charges for the use of facilities and services provided by the Authority and properly collected and accounted for by the Authority, that all such income and revenues will be adequate to defray the cost of providing the facilities and services (inclusive of operating and maintenance cost, administration and overhead) of the Port Districts, and to ensure that a reasonable return on the assets employed shall be realized.

ARTICLE III. DEFINITIONS

Section 3. Definitions - For the purpose of this Decree and of by-laws, regulations or rules promulgated thereunder, terms or words used herein shall, unless the context indicates otherwise, mean or be understood to mean, as follows:

- (a) "Authority" means the Board of Directors of the Authority appointed by this Decree

- (b) “Board” means the Board of Directors of the Authority appointed by the President under Section 7 of this Decree.
- (c) “Functions” includes powers and duties
- (d) “Port Districts” means the territorial jurisdiction under the control, supervision or ownership of the Authority over an area (land or sea), declared as such in accordance with Section 5 of this Decree including but not limited to any Port within said District.
- (e) “Port” means a place where ships may anchor or tie up for the purpose of shelter, repair, loading or discharge of cargo, or for other such activities connected with water-borne commerce, and including all the land and water areas and the structures, equipment and facilities related to these functions.
- (f) “Navigable waters” means all navigable portions of the seas, estuaries, and inland waterways.
- (g) “Anchorage” means a place with sufficient depth of water where vessels anchor or may ride at anchor within the harbor.
- (h) “Terminal Facility” includes the seaport and its facilities of wharves, piers, slips, docks, dry docks, bulkheads, basins, warehouses, cold storage, and loading or unloading equipment.
- (i) “Basin” means a naturally or artificially enclosed or overly enclosed body of water in free communication within the sea.
- (j) “Dock” includes locks, cuts, entrance, graving docks, inclined planes, slipways, quays, and other works and things appertaining to any dock.
- (k) “Drydock” means a dock from which the water can be temporarily excluded, in order to effect repairs to hulls and keels of ships or vessels.
- (l) “Pier” means any structure built into the sea but not parallel to the cost line and includes any stage, stairs, landing place, landing stage, jetty, floating barge or pentoon, and any bridge or other works connected therewith.
- (m) “Warehouse means a building or shed used for the storage of cargo.
- (n) “Transit Shed” means a building or shed which is situated at or near a quay, wharf or pier, and is used for the temporary or short-term storage of goods in transit, or to be shipped or discharged from a vessel.

- (o) “Wharf” means a continuous structure built parallel to along the margin of the sea or alongside river-banks, canals, or waterways where vessel may lie alongside to receive or discharge cargo, embark or disembark passengers, or lie at rest.
- (p) “Transportation Facility” includes rails and railcars, highways, wheeled vehicles, bridges, tunnels, tramways, passenger or cargo vessels, ferryboats, lighters, tugs, barges, scows, ramps, and any other kind of facility in use or for use of the transportation, movement, or carriage, of goods or passengers.
- (q) “Lighter” means a flat-bottomed boat or barge used in loading or unloading cargo to or from vessels.
- (r) “Vessel” includes any ship or boat, or any description of a vessel or a boat.
- (s) “Goods” includes animals, carcasses, baggage, and any movable property of any kind.
- (t) “Dues” includes harbor fees, tonnage and wharfage dues, berthing charges, and port dues and any other dues or fees imposed by virtue of the existing law or this Decree.
- (u) “Rates” means any rates or charges including any toll or rent under existing law or imposed by the Authority by virtue of this Decree for facilities used or services rendered.

ARTICLE IV. ESTABLISHMENT, CONSTITUTION, POWERS AND DUTIES

Section 4. Creation of Philippine Ports Authority –

- (a) There is hereby established a body corporate to be known as the Philippine Ports Authority (hereinafter called the Authority), which shall be attached to the Department of Public Works, Transportation and Communications.
- (b) The principal office of the Authority shall be located in Metropolitan Manila, but it may establish port management units and other offices elsewhere in the Philippines as may become necessary for the proper conduct of its business.

Section 5. Port district – The Authority may, from time to time, submit to the President, through the National Economic and Development Authority, applications for

the declaration of specific areas as Port Districts. Such application shall be accompanied by survey plan indicating the geographical location if the area or areas to be declared as Port Districts with their respective boundaries properly delineated.

Section 6. Corporate Powers and Duties -

(a) The corporate duties of the Authority shall be:

- (1) To formulate in coordination with the National Economic and Development Authority a comprehensive and practicable Port Development plan for the State and to program its implementation, renew and update the same annually in coordination with other national agencies.
- (2) To supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in the ports vested in , or belonging to the Authority.
- (3) To prescribe rules and regulations, procedures, and guidelines governing the establishment, construction, maintenance, and operation of all other ports, including private ports in the country.
- (4) To license, control, regulate, supervise any construction or structure within any Port District.
- (5) To provide services (whether on its own, by contract, or otherwise) within the Port districts and the approaches thereof, including but not limited to –
 - berthing, towing, mooring, moving, slipping, or docking, any vessel;
 - loading or discharging any vessel;
 - sorting, weighing, measuring, storing, warehousing, or otherwise handling goods.
- (6) To exercise control of or administer any foreshore rights or leases which may be vested in the authority from time to time.
- (7) To coordinate with the Bureau of Lands or any other government agencies or corporation, in the development of any foreshore area.
- (8) To control, regulate and supervise pilotage and the conduct of pilots in any Port Districts.

- (9) To provide or assists in the provision of training programs and training facilities for its staff, or staff of port operators and users for the efficient discharge of its functions, duties, and responsibilities.
 - (10) To perform such acts or provide such services as may be deemed proper or necessary to carry out and implement the provision of this Decree.
- (b) The corporate powers of the Authority shall be as follows:
- (1) To succeed in its corporate name
 - (2) To sue and be sued
 - (3) To adopt, alter, and use a corporate seal which shall be judicially noticed.
 - (4) To adopt, amend its by-laws.
 - (5) To create or alter its own organization or any Port Management Unit, and staff such as an organization or Port Manager unit with appropriate and qualified personnel in accordance with what may be deemed proper or necessary to achieve the objectives of the Authority.
 - (6) To make or enter contracts of any kind or nature to enable it to discharge its functions under this Decree.
 - (7) To acquire, purchase, own lease, mortgage, sell, or otherwise, dispose of any land, port facility, wharf, quay, or property of any kind, whether movable or immovable.
 - (8) To exercise the right of eminent domain, by expropriating the land or areas surrounding the Port or harbor, which in the opinion of the Authority, are vital or necessary for the total development of the Port District.
 - (9) To levy dues, rates, or charges for the use of the premises, works, appliances, facilities, or for services provided by or belonging to the Authority, or any other reorganization concerning with port operations.
 - (10) To reclaim, excavate, enclose, or raise any part of the lands vested in the Authority.

- (11) To acquire any undertaking affording or intending to afford facilities for the loading and discharging or warehousing of goods in the Port Districts.
- (12) To acquire any undertaking affording or intending to afford facilities for the loading and discharging or warehousing of goods in the Port Districts.
- (13) To supply water or bunkers for ship.
- (14) To obtain insurance for or require the insurance of any property, movable or immovable, belonging to the Authority and/or goods in the custody of the Authority.
- (15) To do all such other things and to transact all such business directly or indirectly necessary, incidental or conducive to the attainment of the purposes of the Authority.
- (16) Generally, to exercise all the powers of a corporation under the Corporation Law insofar as they are not inconsistent with the provisions of this Decree.

Section 7. Board of Directors –

- (a) The corporate power of the Authority shall be vested in a Board of Directors, which shall consist of the following members:
 - (1) The Secretary of Public Works, Transportation and Communications, who shall act as Chairman.
 - (2) The General Manager of the Authority, who shall act as Vice-Chairman.
 - (3) The Director-General of National Economic and Development Authority.
 - (4) The Secretary of Finance.
 - (5) The Secretary of Natural Resources.
 - (6) The Secretary of Trade.

The Directors listed under subsections (a)(1) to (6) shall be ex-officio members of the Board of Directors.

- (7) One (1) other person who shall be appointed by the President of the Philippines, representing the private sector, who by reason of his knowledge or expertise, is, in the opinion of the President, fit and proper person to be Director of the Board. Provided, That, in the absence of the Director appointed in subsections (3) to (6), the Director concerned shall designate the officer next in rank to him in his department or office to act on his behalf as Director.
- (b) The Director from the private sector shall hold office for a period of three years from the date of his appointment and shall be eligible for reappointment upon the completion of such period.
- (c) The members of the Board of their respective alternates shall receive a per diem as it may approve for each Board meeting actually attended by them: Provided, That, such per diems shall not exceed one thousand pesos during any one month for each member: Provided, further, That no other allowances or any form of compensation shall be paid them, except actual expenses in travelling to or from their residences to attend Board Meetings.

ARTICLE V. ORGANIZATION AND STAFF

Section 8. Management and Staff

- (a) The President shall, upon the recommendation of the board, appoint the General manager and the Assistant General Managers.
- (b) All other officials and employees of the Authority shall be selected and appointed on the basis of merit and fitness based on comprehensive and progressive merit system to be established by the Authority immediately upon its organization and consistent with Civil Service rules and regulations. The recruitment, transfer, promotion, and dismissal of all personnel of the Authority, including temporary workers, shall be governed by such merit system.
- (c) The General Manager shall, subject to the approval of the Board, determine the staffing pattern and the number of personnel of the Authority, define their duties and responsibilities, and fix their salaries and emoluments. For professional and technical positions, the General Manager shall recommend salaries and emoluments that are comparable to those of similar positions in other government-owned corporations, the provisions of existing rules and regulations on wage and position classification notwithstanding.

- (d) The General Manager shall, subject to the approval by the Board, appoint and remove, personnel below the rank of assistant General Manager.
- (e) The General Manager of the Authority shall receive a salary to be determined by the Board, and approved by the President.
- (f) The number of Assistant General Managers of the Authority shall in no case exceed Three(3) who shall each receive a salary to be determined by the Board and approved by the President.

Section 9. General Powers and Duties of the General Manager and Assistant General Managers.

(a) General Powers and Duties of General Manager

The General Manager shall be responsible to the Board, and shall have the following general powers, functions, and duties:

- (1) To implement, enforce and apply the policies, programs, guidelines, procedures, decisions, rules and regulations promulgated, prescribed, issued or adopted by the Authority.
- (2) To manage the day to day affairs of the Authority, and ensure the operational efficiency of the Ports under the jurisdiction and ownership of the Authority.
- (3) To sign contracts, to approve expenditures and payments within the budget provisions, and generally to do any all acts or things for the proper operations of the Authority or any of the Ports under the jurisdiction, control or ownership of the Authority.
- (4) To submit an annual budget to the Board for Recurrent Income and Expenditures and the Estimated Capital Expenditures for its option not later than two months before the commencement of the ensuing fiscal year.
- (5) To undertake research, studies, investigations, and other activities and projects, and to submit comprehensive reports and appropriate recommendations to the Board for its information and approval.
- (6) To perform such other duties as the Board may assign from time to time.

(b) General Powers and Duties of the Assistant General Managers

The Assistant General Managers shall be responsible to the General Managers of the Authority, and shall have the following general powers, functions and duties:

- (1) To assist the General Manager in implementing, enforcing, and applying the policies, programs, guidelines, procedures, decisions, rules and regulations promulgated, prescribed, issued, or adopted by the Authority.
- (2) To assist the General Manager in the Performance of his other functions and duties.
- (3) To perform such other duties as the General Manager may assign from time to time.

ARTICLE VI. CAPITAL, FINANCE AND ACCOUNTS

Section 10. Capital

- (a) The authorized capital of the Authority shall be three billion pesos
- (b) The initial paid up capital shall consist of:
 - (1) The value of assets (including port facilities, quays, wharves, and equipment) and such other properties, movable and immovable as may be contributed by the Government or transferred by the Government or any of its agencies as valued at the date of such contribution or transfer and after deducting or taking into account the loans and other liabilities of the Authority at the time of the takeover of the assets and other properties.
 - (2) The initial cash appropriation of P2 million out of the funds of the National Treasury and such further sums, including working capital, as may be contributed by the Government.

Section 11. Creation of Reserves - The balance of any revenue or income of the Authority remaining at the end of each year shall be applied to the creation of a general reserve or such other reserves as the Authority in such government securities approved by the Board.

Section 12. Investments of Funds - The Authority may, from time to time, invest any of its funds not immediately required to be expended in meeting its obligations or in the discharge of the functions of the Authority may deem appropriate.

Section 13. Borrowing Powers-

- (a) The Authority may after consultation with the Central Bank and the Department of Finance, and the approval of the President of the Philippines, raise funds, either from local or international sources, by law of loans , credits, or issue bonds, notes, debentures, securities, and other borrowings, and other voluntary liens or encumbrances on any of its assets or properties.
- (b) All loans contracted by the Authority under this Section together with all interest and other sum payable in respect thereof, shall constitute a charge upon all the revenue and assets of the Authority and shall rank pari passu with one another, but shall have priority over any other claim or charge on the revenue and assets of the Authority: Provided, That this provision shall not be construed as a prohibition or restriction on the power of the Authority to create pledges, mortgage and other voluntary liens or encumbrances on any property of the Authority.
- (c) Except as expressly authorized by the President of the Philippines, the total outstanding indebtedness of the Authority of the Authority in the principal amount in local and foreign currency shall not at any time exceed the network of the Authority at the relevant time.
- (d) The president of the Philippines, by himself or through his duly authorized representative, is further hereby authorized to guarantee in the name and on behalf of the Republic of the Philippines, the payments of the loans or other indebtedness of the Authority up to the amount herein authorized.
- (e) All interest to paid or payable by the Authority on its loans or other forms of indebtedness shall be exempt from taxes of whatsoever nature.

Section 14. Annual Budget

- (a) The Board shall every year cause to be prepared and shall adopt annual budget estimates of income and expenditures and estimates of capital expenditure of the Authority for the ensuing year.
- (b) Supplementary estimates may be adopted at any of the meetings of the Board.

Section 15. Annual Accounts

- (a) The Board shall cause proper accounts and other records of the Authority in relation thereto to be kept. An annual statement of account shall be rendered in respect to each year. The Authority shall maintain such accounts and other records under a commercial system of accounting.
- (b) The accounts of the Authority shall be kept and made up to 31 December in each year.
- (c) The annual statement of accounts of the Authority shall present a true and fair value of the financial position of the Authority for the year to which it relates.

Section 16. Auditor

- (a) In consonance with existing laws and regulations, the Commission on audit shall be appointed to audit the accounts of the authority. In the fulfillment of international contractual commitments of the Authority, however, the Board may engage the service of any person or firm duly authorized by law for the audit of accounts of the Authority.
- (b) The Auditor shall be paid out of the revenue of the Authority such remuneration, compensation or expenses, compensation or expenses as the Board may determine.

Section 17. Auditor's Report – The Auditor shall as soon as practicable, but not later than three months after the accounts have been submitted for audit, send an annual report to the Board. The Auditor may also submit such periodical or special reports to the Board as may to him appear necessary.

Section 18. The Board shall submit to the President of the Philippines together with the Auditor's Report on the relevant accounts, an annual report generally dealing with the activities and operations of the Authority during the preceding year and containing such information relating to the proceedings and policies of the Authority.

ARTICLE VII. DUES AND RATES

Section 19. Dues. The President of the Philippines may upon the recommendation of the Authority increase or decrease such dues, collectible by the Authority to protect the interest of the Government and to provide a satisfactory return on the Authority's assets, and may adjust the schedule of such dues so as to reflect the costs of providing the services; Provided, however, that the rates of dues on all the ports

of the Philippines upon the coming into operation of this Decree shall be those new provided under Parts 1, 2, 3, and 6 of the Title VII of Book II and Customs Code, until such time that the President upon recommendation of the Board may order that the adjusted schedule of dues are in effect.

Section 20. Rates and Charges.

- (a) The Authority may impose, fix prescribe, increase such rates, charges or faces for the use of port premises, works, appliances or equipment belonging to the Authority and port facilities provided, and for services rendered by the Authority or by any private organization within a Port District.
- (b) The Authority shall regulate the rates or charges for port related services so that taking on year with another, such rates or charges furnish adequate working capital and produce an adequate return on the assets of the Authority. In regulating the rate or charges for individual ports the Authority shall take into account the development needs of the port's hinterland.
- (c) All dues, fees and charges and other sums imposed and collected by the Authority shall accrue to the Authority and shall be disposed of in accordance with the provisions of this Decree.

Section 21. Remission of Dues, Rates and Charges – No amount due in respect of dues, rates and charges prescribed by the Authority under this Decree shall be waived or reduced except:

- (a) Where the State has arrangements with a foreign government in respect of vessels to that foreign government and such vessels are not normally engaged in the conveyance of cargo or passengers; and
- (b) For vessels seeking shelter from inclement weather or entering the port for medical help and other marine necessity.

Section 22. Remedies for Nonpayment - If the master, owner, or agent of any vessel refuses or neglect to pay on demand any dues, rates, or charges made under this Decree or any part thereof, the Authority may, in addition to any other remedy provided by law, distrain or arrest on its own authority such vessel and tackle, apparel or furniture belonging to the vessel, and detain the same until the amount due have been paid.

Section 23. When Rates Payable and Lien.

- (a) Rates or charges in respect of goods to be landed become payable immediately on loading such goods.

- (b) Rates or charges in respect of goods to be shipped are payable before the goods are loaded.
- (c) Rates or charges in respect of goods to be removed from the premises of the Authority are payable on demand.
- (d) For the Amount of rates of charges leviable under this Decree in respect of goods, the Authority shall have a lien on such goods and is entitled to detain them until the amount of rates or charges is fully paid. Such lien shall have priority over all other liens and claims, except claims for duties and taxes due to the Government and expenses of the sale.

Section 24. Recovery of Lien - Without prejudice to the authority and rights of the Bureau of Customs on the disposition of property in Customs custody as provided for in the Tariff and Customs Code, as amended, if any goods which have been placed in or on the premises of the Authority are not removed therefrom within the prescribed period after the legal permit for their withdrawal and/or release from Customs custody, or the authority to load, in case of exports, has been issued by the Bureau of Customs, may dispose of any such goods in the manner as it deems fit in order to recover the lien; Provided, That the proceeds of the sale shall be applied in the following manner:

- (a) Firstly, in payment of duties and taxes due to the Government;
- (b) Secondly, in payment of expenses of the sale;
- (c) Thirdly, in payment of the rates, charges, and fees due to the Authority in respect of the goods;
- (d) Fourthly, in payment of freight, lighterage or general average, on the voyage of importation and in case of exports, in payment of domestic freights, lighterage and cartage, of which due notice shall have been given to the Authority;
- (e) And finally, in rendering on demand the surplus, if any, to the person legally entitled thereto: Provided, That in case no such demand is made between a period of one year from the date of sale of the goods, the surplus, if any, shall become part of the general funds of the Authority, whereupon all rights to the same by such person shall be extinguished.

Section 25. Exemption from Realty Taxes. - The Authority shall be exempt from the payment of real property taxes imposed by the Republic of the Philippines, its agencies, instrumentalities or political subdivisions; Provided, That no tax exemptions shall be extended to any subsidiaries of the Authority that may be organized; Provided, finally, That investments in fixed assets shall be deductible for income tax purposes.

ARTICLE VIII. PORT REGULATIONS

Section 26. Power to make Port Regulation

- (a) The Authority may, after consultation with relevant Governing agencies, make rules or regulations for the planning, development, construction, maintenance, control, supervision and management of any Port or Port District and the services to be provided therein, and for the maintenance of good order therein, and generally for carrying out the maintenance of good order therein, and generally for carrying out the process of this Decree.
- (b) The Authority may provide separate regulations for each category of ports or port districts.

Section 27. Dangerous Cargo

- (a) The Authority may make regulations for the conveyance, loading, discharging and storage of the dangerous goods within any port, port district, and the approaches to the port.
- (b) The Authority may provide separate regulations for each category of ports or port districts.

Section 28. Powers of Harbor Master - Further to the provisions of any regulation under Section 26 and 27 of this Decree, the Authority thru the Harbor Master of a Port or Port Districts may:

- (a) Direct where any vessel shall be berthed, moored, or anchored, and the method of anchoring within the port and the approaches to the port;
- (b) Direct and removal of any vessel from any berth or anchorage to another berth or anchorage and the time within which such removal is to be affected; and
- (c) Regulate the mooring of vessels within the port and the approaches to the port.

Section 29. Existing Regulations - Anything to the contrary notwithstanding and until new rules or regulations are promulgated by the Authority under Sections 26 and 27 of this Decree, the rules, regulations or orders made under the Customs Code or any other law of the Philippines relating to the matters covered by Sections 26, 27 and 28 shall continue to apply as if they were made under said sections and any reference to a customs official or any other officials under any law of the Philippines shall be deemed a reference to an equivalent official of the authority.

ARTICLE IX. TRANSFER OF ASSETS AND LIABILITIES

Section 30. Transfer of Existing and Completed Physical facilities. - In accordance with the transitory provisions of this Decree, there shall be transferred to the Authority all existing and completed public port facilities, quays, wharves, docks, lands, buildings and other property, movable or immovable, belonging to those ports declares as Port Districts for purposes of this Decree.

Section 31. Transfer of Intangible Assets - In accordance with the transitory provisions of this Decree, there shall be transferred to the Authority all intangible assets, powers, rights, foreshore rights, interest and privileges belonging to the Bureau of Customs, and Bureau of Public Works and other agencies relating to port works or port operations, subject to terms to be arranged by and between the Authority and agencies concerned. Any disagreement relating to such transfer shall be elevated to the President for decision.

Section 32. Projects in Progress - In accordance with the transitory provisions of this Decree, all ongoing projects relating to the construction of ports and port facilities shall be continued by the agency or agencies involved until completion. After completion, such projects shall be transferred to the Authority in accordance with the agreement among agencies concerned. Any disagreement relating to such transfer shall be elevated to the President for decision.

Section 33. Transfer of Liabilities and Debts - Upon the transfer and acceptance by the Authority of the existing physical facilities, intangible assets, and completed projects referred to in the Sections immediately preceding, all debts, liabilities, and obligations of the Bureau of Customs, the Bureau of Public Works, and other government agencies or entities concerned in respect of such physical facilities, intangible assets and completed projects within the Port Districts shall likewise be transferred to or deemed incurred by the Authority.

Section 34. The Philippine Coast Guard shall retain ownership of its properties and facilities which are necessary for the enforcement of laws, rules and regulations pertaining to safety of life and property at sea (SOLAS) found within ports and port districts and shall continue to administer, operate and maintain the same as well as assume the obligations and liabilities pertaining to such properties and facilities. All other properties and facilities of the Philippine Coast Guard found within ports and port districts, including all obligations and liabilities related thereto shall be deemed transferred to the Authority in accordance with Section 33 of this Decrees.

Section 35. Transfer of Staff - Officials and employees of existing offices or agencies, or their subordinate units, which are abolished or reorganized under this Decree may be absorbed by the Authority on the basis of merit and fitness: Provided, That those officials and employees who are deemed qualified under both the Authority and the reorganized office, agency or unit shall have the option to either transfer or

remain in their present office, agency unit, or alect to be separated from the service with all the benefits they may be entitled to under existing laws: Provided, further, That those who do not qualify under the Authority shall be retained in the office or agency in which the unit was abolished.

Section 36. Gratuity and other Benefits - All officials and employees whose service are terminated as a result of this Decree shall be given gratuities equivalent to one month's salary for every year of continuous satisfactory service rendered but not exceeding twelve months on the basis of highest salary received, in addition to whatever benefits accorded to them by existing laws.

ARTICLE X. CONSTRUCTION AND DREDGING WORKS

Section 37. Construction and Dredging Works

- (a) The Bureau of Public Works shall be the executing agency of the Authority for the detailed design, contract document preparation and advertisement, construction supervision of port terminal facilities and port works, and the dredging of public ports vested in the Authority; Provided, That when there are no qualified bidders and for projects less than two hundred thousand pesos(P200,000.00), the Bureau of Public Works may undertake the construction through force account: Provided, further, That the Authority shall perform rehabilitation or maintenance works (including maintenance dredging) by its own personnel or private contractor, whichever arrangements is more advantageous to port and shipping operations.
- (b) The authority shall be responsible for the allocation and control of all funds for the execution of all construction, rehabilitation and maintenance works mentioned in the preceding paragraph.

Section 38. Transitory Provisions

- (a) Until the President declares the Authority to be fully operational, the Bureau of Customs and the Division of Ports and Harbors of the Bureau of Public Works may continue to perform, in coordination with the Authority, such port operations and port works as may be deemed necessary by the Authority: Provided, always, That the Authority may else, at any time as it deems necessary, undertake the phased or gradual takeover of such port operations or port works.
- (b) The budget for staff operations and other expenses relating to port operations or port works of the Bureau of Customs or the Bureau of Public Works, as the case maybe, during such transition period, shall be

submitted by them to the Authority for information and guidance before implementation.

- (c) All expenses and charges relating to port operations and port works during the transitional period shall be paid out of the funds of the Authority or such other funds as may be allocated to the Authority in the Annual Appropriations Act or other sources. For this purpose, the current budget provisions, funds and allocations of the Bureau of Customs, the Bureau of Public Works and other government agencies concerned, pertaining to the expenses, including retirement funds, for personnel involved in port planning, maintenance and operations, the outlays for port works and port development, the existing balance as well as subsequent collections from port operations shall be transferred to the Authority in accordance with the transfer arrangements to be negotiated by and among the agencies concerned: Provided, however, That in case of disagreement relating to such transfer, the same shall be elevated to the President for decision: Provided, further, That all transitional arrangements including transfer of property, funds, rights, powers and liabilities under this Decree shall not extend beyond Fiscal Year 1997.

Section 39. Bureau of Customs - The Tariff and Customs Code is hereby modified or amended to the extent that all the powers, duties and jurisdictions of the Bureau of Customs concerning the following matters shall be transferred to and be vested in the Authority:

- (a) All dues, fees and rates collection under Title VII but excluding Part VII of the Code;
- (b) The general supervision, control and regulation of all matters and affairs that pertain to the operation of and the issuance of permits or licenses to construct ports, port facilities, warehouses, and other facilities within port districts;
- (c) All such other powers, duties and jurisdiction vested in the Bureau of Customs pertaining to every matter concerning port facilities, port operations or port works.

Section 40. Other Laws - Any and all other powers and rights, duties and functions and jurisdictions vested in and all properties and appropriations of any government agency, authority or instrumentality pertaining to every matter concerning port facilities, port operations, or port works shall be transferred to and be vested in the Authority.

Section 41. Repeal - All laws, decrees, Letters of Instructions, orders, rules and regulations, policies, programs or parts thereof inconsistent with or contrary to

any of the provisions of this Decree are hereby repealed or modified, including but not limited to the following:

- (a) R.A. No. 4567 creating the San Fernando Port Authority and R.A. No. 4663 as amended by R.A. No. 6086 creating the Cagayan de Oro Port Authority.
- (b) Section 26 and 27 of Presidential Decree No. 458.
- (c) Act No. 3592 as amended, creating the Port Work fund.
- (d) Presidential Decree No. 505
- (e) Section 711 as far as Port Administration is concerned, Section 3304 and such other inconsistent provisions of the Tariff and Customs Code without Prejudice to the provisions of Section 38 of this Decree.
- (f) Section 3(a) as far as it concerns stevedoring, arrastre and customs brokerage services and the whole of Section 11(c) of Presidential Decree No 474 creating the Maritime Industry authority.

Section 42. Separability Clause - If, for any reason, any section or provision of this Decree is Declared to be unconstitutional or invalid, the other sections or provisions of this Decree which are not affected thereby shall continue in full force and effect.

Section 43. Penalties

- (a) Any person who violates any of the provisions of this Decree or any of the rules and regulations issued or promulgated by the Authority, shall be punished by imprisonment for not less one day but not more than six years, and pay a fine of not less than two hundred pesos but not more than one hundred thousand pesos. If the offender is a government official or employee he shall, in addition to imprisonment and fine be perpetually disqualified to hold any public office. If the offender is a judicial person, the penalty of imprisonment and fine shall be imposed upon its manager, director, representative or employee thereof responsible for the violation. If the offender is an alien he shall be deported immediately without further proceedings, after serving his sentence and paying the fine.
- (b) Any license, franchise, authority or permit to exercise any right or privilege, which have been issued by the Authority in accordance with this Decree or the rules and regulations issued or promulgated pursuant to this Decree, shall be deemed withdrawn and revoked upon conviction of the holder thereof.

Section 44. Effectivity - This Decree shall take effect immediately upon its promulgation.

Done in the City of Manila, Philippines, this 23rd day of December, in the year of our Lord, Nineteen Hundred and Seventy – Five.

(SGD.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(SGD.) J.C. TUVERA
Presidential Assistant