

## [ EXECUTIVE ORDER NO. 212, November 28, 1994 ]

### **ACCELERATING THE DEMONOPOLIZATION AND PRIVATIZATION PROGRAM FOR GOVERNMENT PORTS IN THE COUNTRY**

**WHEREAS**, Article XII, Section 19 of the Constitution declares that “the State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed;”

**WHEREAS**, the Philippine Ports Authority (PPA) is mandated by Section 2 of its Charter, Presidential Decree No. 857, as amended, to optimize port financing and development to ensure the smooth flow of waterborne commerce passing thru the country’s ports;

**WHEREAS**, operation of cargo handling and port services by a single cargo handling or port service contractor tends to breed inefficiency; and

**WHEREAS**, there is a need to accelerate the demonopolization and privatization programs initiated by the Government for all ports under the administration of the PPA.

**NOW, THEREFORE, I, FIDEL V. RAMOS**, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

Section 1. ***Demonopolization Program.*** – The Department of Transportation and Communications (DOTC), through the PPA, shall accelerate the demonopolization and liberalization of all government ports in the country by allowing and encouraging competition in the provision of cargo handling and other port services in every government port or terminal facility, consistent with cargo volume, revenue and physical configuration of the port or terminal facility.

Under this program, shipowners, ship operators, charterers or other users shall have the option to contract or engage the services of the PPA-authorized cargo handler or port service contractor of their choice. Towards this end, the PPA shall:

- a. Respect all existing cargo handling or port service contracts with the PPA but shall not renew these upon their expiration including those contracts with a renewal option on the part of the PPA;
- b. Award or grant, through competitive public bidding, non-exclusive multi-year contracts of sufficient duration to allow the cargo handling or port service contractor to realize a reasonable return on its investments in equipment and other facilities; and
- c. Allow the participation of cooperatives as cargo handling or port service contractors in ports where manual labor is predominantly employed due to low volumes or the nature of cargo being handled.