

[EXECUTIVE ORDER NO. 185, June 28, 1994]

OPENING THE DOMESTIC WATER TRANSPORT INDUSTRY TO NEW OPERATORS AND INVESTORS

WHEREAS, Section 19, Article XII of the Constitution declares that “[t]he 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, Presidential Decree No. 474, otherwise known as the Maritime Industry Decree of 1974, provides that:

“It is hereby declared the policy of the State to accelerate the integrated development of the maritime industry of the Philippines to attain the following objectives: (a) To increase production and productivity in the various islands and regions of the archipelago through the provision of effective sea linkage; (b) To provide for the economical, safe, adequate and efficient shipment of raw materials, products, commodities and people; (c) To enhance the competitive position of Philippine flag vessel in the carriage of foreign trade; (d) To strengthen the balance of payments position by minimizing the outflow of foreign exchange and increasing dollar earnings; (e) To generate new and more job opportunities;”

WHEREAS, Presidential Decree No. 474 likewise states that to attain the foregoing objectives, the Government, through the Maritime Industry Authority (MARINA), shall:

“(a) Adopt and implement a practicable and coordinated Maritime Industry Development Program which shall include, among others, the early replacement of obsolescent and uneconomic vessels; modernization and expansion of the Philippine merchant fleet, enhancement of domestic capability for shipbuilding, repair and maintenance; and the development of reservoir of trained manpower;

(b) Provide and help provide the necessary; (i) financial assistance to the industry through public and private financing institutions and instrumentalities; (ii) technological assistance; and (iii) in general, a favorable climate for expansion of domestic and foreign investments in shipping enterprises; and

(c) Provide for the effective supervision, regulation and rationalization of the organizational management, ownership and operations of all water transport utilities, and other maritime enterprises.”

WHEREAS, the growth of the national economy on a sustained basis required an efficient water transport industry to ferry passengers and cargo at reasonable and competitive rates.

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:

1. The entry of new operators into the domestic water transport industry shall be liberalized to enhance the level of competition and bring about reasonable rates and improved quality of services.

1.1. Opening-up of all Routes

Public interest and public convenience call for the levelling of the playing field for all existing and new operators in the domestic water transport industry. Competition, provided it is not ruinous, should be the norm to open-up the industry to new investments and to stimulate further economic activity.

1.1.1. All routes/links shall have a minimum of two (2) operators. Routes/links presently serviced by only one (1) operator, or monopolized or cartelized as determined by MARINA, shall be open for entry to additional operators.

1.1.2. All routes/links which have been serviced by any operator for an aggregate period of at least five (5) years shall be open for entry to additional operators without limit.

1.2. Encouraging Entry Into Developmental Routes

The entry of operators in developmental routes as determined by MARINA shall be encouraged. An operator who pioneers in the provision of a certain technological level/type of shipping service in a developmental route shall be authorized to charge market-accepted freight and passage rates differing from the authorized fork-tariff, if availed of; *Provided*, that the operator shall apply with MARINA for the adjustment in or adoption of such rates, the approval of which shall be accordingly granted; and *Provided, further*, that after five (5) years of such operation, the continued authorization of such rates, or adjustments thereof, shall be dependent on an evaluation undertaken by MARINA.

1.3. Deregulating Entry of Newly-Acquired Vessels Into Routes Already Served By Franchised Operators

1.3.1. An existing or new operator who acquires a vessel through importation, bareboat charter with option to purchase, lease-purchase, or local construction, shall be granted a Certificate of Public Convenience (CPC)/Provisional Authority (PA) and allowed to operate such vessel in any route, even if already being served by existing franchised operators for less than five (5) years, including developmental routes; *Provided*, that the prescribed application for CPC has been filed, and the basic requisites prior to issuance thereof have been complied with; *Provided, further*, that upon filing of the application for CPC, the presumption of public need shall be accorded in favor of the applicant, especially but not necessarily when any of the following conditions shall be shown to obtain:

1.3.1.1. The proposed operation shall introduce innovative, technologically-advanced, or pioneering shipping services in the route applied for, such as, but not limited to, the deployment of fast ferries, cruise vessels, container vessels and RoRo vessels, or the employment of modern and efficient on-board cargo handling equipment as an integral part of the vessels operation;

1.3.1.2. The proposed operation shall introduce improvements in the quality of service being provided in the applied route/link;