

[EXECUTIVE ORDER NO. 59, December 28, 1998]

DIRECTING THE PHILIPPINE PORTS AUTHORITY TO ADOPT AND IMPLEMENT A PROGRAM FOR FURTHER RATIONALIZATION, MODERNIZATION AND IMPROVEMENT OF PORT SERVICES AND FACILITIES IN GOVERNMENT PORTS

WHEREAS, the government recognizes the vital role which sea transport plays to provide livelihood, ensure more economical means of transportation to the public, encourage travel and tourism and spur regional development and inter-island trade and commerce;

WHEREAS, Section 2 of Presidential Decree No. 857, otherwise known as the revised charter of the Philippine Ports Authority, mandates the Philippine Ports Authority (PPA) to implement an integrated program for the planning, development, financing and operation of ports;

WHEREAS, despite this mandate of the PPA, the limited resources of the government has prevented the provision of world class facilities in government ports;

WHEREAS, the private sector has manifested its willingness and capability to invest in the modernization and improvement of port services and facilities in government ports;

WHEREAS, the present state of major and vital government ports adversely affects the poor sector of society and the general public as well as impedes the rapid development and promotion of ports for coastwise and international trade and commerce;

WHEREAS, there is now a pressing need to immediately implement effective government policies and focus the efforts of government agencies concerned to achieve the desired rationalization, modernization and improvement of port services and facilities within the framework of Presidential Decree No. 857;

NOW, THEREFORE, I, JOSEPH EJERCITO ESTRADA, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Policy on port facilities and services.

It is the policy of the government to pursue an accelerated program for the modernization and development of government ports in partnership with the private sector, especially those presently providing facilities and services in the ports.

Towards this end, the PPA shall effect the unification and rationalization of facility operators and service providers in government ports, encourage a more aggressive investment in port infrastructure, equipment and facilities and for labor to share in

the benefits of the development and modernization of the port.

SECTION 2. Unification and rationalization of all facility operators and service providers.

Pursuant to the policy above stated, the PPA shall immediately adopt and implement a program for integration, unification and rationalization of all facility operators and service providers in ports initially with high passenger and cargo volume, including the North Harbor in the Port of Manila. Toward this end, the PPA shall:

(a) Require all existing facility operators and service providers such as cargo handling operators, shipping companies and port workers and labor to unify into one corporation by merger, consolidation, buyout, joint venture, or by any other similar means;

(b) Allow other qualified facility operators and service providers to invest in and join the unified contractor, provided that (i) these other contractors shall provide needed technical or management expertise, or contribute capital equipment or financial resources for the operation and development of port services and facilities or generate significant transshipment traffic, and (ii) no single corporation shall be allowed to own more than 30% of the outstanding capital stock of a unified operator in a port, except in the port where such corporation has an existing permit, cargo handling license, or operating contract from the PPA or where the vessels of the investor shipping company regularly call;

(c) Exercise its authority under its charter to grant the unified contractor a contract to manage, operate and develop the entire government port without need of a public bidding;

(d) Require the unified contractor to adopt and approve the terms and conditions of a stock option plan which shall reserve for labor and employees of the unified contractor, including those who may be retrenched due to redundancy five percent (5%) of its total outstanding capital stock;

Not later than the beginning of the fifth year of its contract, the unified contractor shall start a divestment program offering at least 30% of its authorized capital stock to the public.

(e) Complete the unification of facility operators and service providers as set forth in this executive order within twelve (12) months from the time the port is declared by PPA for modernization;

SECTION 3. Functions and responsibilities of the unified contractor.

The unified contractor shall have, among others, the following functions and responsibilities under its contract to manage, operate and develop an entire government port:

(a) Provide all the port services such as the allocation of berths to vessels and the management of berths, tug assistance, cargo and passenger handling, craning, marshalling, yard and transit storage, warehousing,

weighing, checking and surveying, portage, port security, supply of fuel and water, bunker and candling supply, and others required by the users and clients of the port, including the supply of necessary equipment and materials, and collect such corresponding fees and charges as may be approved by PPA.

(b) Grant subleases of port areas and buildings to various port users, clients and service companies or in general, undertake overall management of the port real estate and other port facilities, and collect rents due therefrom.

(c) Undertake repairs and maintenance (including maintenance dredging of its immediate berthing areas and turning basin) of all existing and future facilities, fixtures and equipment at its own account.

(d) Finance and physically develop, subject to approval by the authority, the horizontal and vertical infrastructure of the port, including capital dredging at its own account.

In every case where PPA determines a need for passenger terminal facilities, construction thereof shall commence within six (6) months from the effectivity of its contract and must be operational within the second year of said contract.

(e) Undertake activities to attract new port clients and promote additional business for the port.

(f) Provide personnel, equipment and systems for the security of cargoes, equipment and facilities, as well as control the entry and exit of vehicles and persons in its delineated operational area.

SECTION 4. Functions retained by PPA.

Notwithstanding the award of management, operation and development of the port to the unified contractor, the PPA shall continue to perform therein its regulatory functions and exercise the following inherent duties:

(a) Approve the master and development plan of the ports in support to the national port planning and development thrusts;

(b) Prescribe and enforce operating service and safety standards;

(c) Maintain its tariff setting functions;

(d) Be responsible for harbor traffic management and the regulation of pilotage services;

(e) Collect port and vessel charges due to the government;

(f) Conduct periodic audit of the operations of the operator;

(g) Monitor compliance with the terms and conditions of the contract;