

[**MIA, November 17, 1992**]

**RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF
REPUBLIC ACT NO. 7471, THE PHILIPPINE OVERSEAS SHIPPING
DEVELOPMENT ACT**

Pursuant to the provisions of Sec. 10, thereof, these Rules and Regulations to Implement the Provisions of Republic Act No. 7471, the Philippine Overseas Shipping Development Act, are hereby promulgated:

Regulation I
Declaration of Policy and Definitions

SECTION 1.01 Declaration of Policy — It is hereby declared the policy of the Government of the Philippines to:

- a. Develop and maintain a Philippine Merchant Marine composed of well-equipped, safe, and modern vessels most suited for Philippine requirements and conditions, manned by qualified Filipino officers and crew, and owned and operated under the Philippine flag by citizens of the Philippines or by associations or corporations organized under the laws of the Philippines, at least sixty percent (60%) of the capital of which is owned by citizens of the Philippines;
- b. Assist in the development, recovery and expansion of Philippine Overseas Shipping capable of meeting the requirements of the expanding international trade of the Philippines;
- c. Provide assistance to Philippine Shipping Enterprises and encourage the long-range vessel acquisition, development, modernization and expansion through private investments without direct government financial assistance; and
- d. Create a healthy climate to attract private enterprises.

SECTION 1.02 Definitions — As used in Republic Act No. 7471 and these Rules and Regulations:

- a. **Act** means Republic Act No. 7471, the "Philippine Overseas Shipping Development Act";
- b. **Regulations** mean these Rules and Regulations promulgated pursuant to the provisions of Section 10 of the Act;
- c. **Philippine Overseas Shipping** means the transport of goods and/or passengers by a Philippine-registered vessel beneficially/disponently owned and operated by a Philippine Shipping Enterprise, except when the ship is operated solely between

ports in the Philippines.

d. **Philippine Shipping Enterprise** means a citizen of the Philippines or an association or corporation organized under the laws of the Philippines at least sixty percent (60%) of the capital of which is owned by citizens of the Philippines, and exclusively engaged in Philippine Overseas Shipping;

e. **MARINA** means the Maritime Industry Authority;

f. **Administrator** means the Administrator of the MARINA;

g. **Monetary Authority** means the Central Bank of the Philippines and any other agency in charge of foreign exchange controls;

h. **Governor** means the head of the Monetary Authority;

i. **DOF** means the Department of Finance;

j. **SecFinance** means the Secretary of Finance;

k. **BOC** means the Bureau of Customs;

l. **BIR** means the Bureau of Internal Revenue;

m. **Vessel** means a vessel built, or to be constructed, which will be operated for Philippine Overseas Shipping, complying with classification standards of internationally recognized classification societies;

n. **Spare Parts** shall refer to any equipment, machineries, parts, materials, and supplies necessary for the maintenance and operation of the vessel;

o. **Philippine registered vessel** means a vessel registered in accordance with Philippine laws and regulations. Philippine registration can be categorized into two:

(i) **Permanent registration** this refers to the registration of a vessel owned by a Philippine Shipping Enterprise;

(ii) **Temporary registration** this refers to the registration of a vessel operated by a Philippine Shipping Enterprise as a disponent owner or demise owner as duly approved by the MARINA.

p. **Acquisition of a vessel** means the purchase or importation of a vessel, including acquisition by lease-purchase arrangements.

Regulation II

Qualifications of Applicants

SECTION 2.01 Qualifications of Applicants — To avail of the incentives under the Act, as implemented by these Regulations, a Philippine Shipping Enterprise must comply with the accreditation/registration requirements specified under MARINA Memorandum Circular No. 33-A or 51 as an overseas shipping company and with

other qualifications as the MARINA may deem necessary.

Regulation III

Modes of Financing Vessel Acquisition

SECTION 3.01 Modes of Financing Vessel Acquisition — A Philippine Shipping Enterprise shall be allowed under this Act to acquire vessels to be financed under any of the following modes:

- a. Financing from the Philippine Banking System;
- b. Financing from sources other than the Philippine Banking System;
- c. Financing from both the Philippine Banking System and other sources; or
- d. Other acceptable modes of financing

Regulation IV

Incentives Under the Act

SECTION 4.01 Foreign Exchange Requirements Obtained from the Philippine Banking System — Foreign exchange requirements of Philippine Shipping Enterprises for:

- a. The purchase of vessels for registration under the Philippine flag;
- b. The payment of the costs of repairs, or drydocking, and refitting, reconditioning, repair, replacement of engines, auxiliary motors, generators, electrical machines and other charges for the operation and maintenance of the vessel, incurred in foreign countries;
- c. The importation of spare parts; and
- d. Other expenses required for the operation of the vessel in foreign ports or in the high seas;

when approved by the MARINA, shall be made available by the Philippine Banking System subject to the rules and regulations of the Monetary Authority.

Foreign exchange requirements for the servicing of foreign currency denominated obligation incurred to finance the acquisition of vessels under (a) above shall likewise be made available by the Philippine Banking System, provided that the said obligation has been duly approved by and registered with the Monetary Authority pursuant to existing regulations.

SECTION 4.02 Acquisition of Oceangoing Vessels Financed from Sources Other than the Philippine Banking System — A Philippine Shipping Enterprise may likewise acquire vessels for Philippine Overseas Shipping without securing the foreign exchange requirements therefor from the Philippine Banking System pursuant to Section 5 of this Act and in accordance with CB Circular 1353.

SECTION 4.03 Exemption from Import Duties and Taxes — The following

importations by a Philippine Shipping Enterprise, when recommended by the MARINA, shall be exempt from import duties and taxes:

- a. Vessels for registration under the Philippine flag;
- b. Spare parts for the repair or overhaul of vessels, provided that such items are destined to either:
 - (i) a Philippine-drydocking or repair facility accredited by the MARINA and registered as a customs-bonded warehouse, which will undertake the necessary repairs and works on the vessel, or
 - (ii) the vessel in which the items are to be installed; provided, that if such imported items are found in locations other than the two (2) mentioned in (i) and (ii) above, or in places not authorized by the BOC, the person or entity found in possession of any of these items shall be liable for the full duties and taxes due thereof, and the applicable surcharges and other penalties.

SECTION 4.04 Suppliers' Tax Credit — Local manufacturers or dealers who sell machinery, equipment, materials, and spare parts to a Philippine Shipping Enterprise shall be entitled to a tax credit for the full amount of the import duties and taxes that had been actually paid thereon, subject to the approval of the SecFinance, upon the recommendation of the MARINA.

SECTION 4.05 Exemption from Income Tax — A Philippine Shipping Enterprise shall be exempt from payment of income tax on income derived directly from Philippine Overseas Shipping up to 5 May 2002, Provided, that:

- a. The entire net income, after deducting not more than ten percent (10%) thereof for distribution of profits or declaration of dividends, which would otherwise be taxable under the provision of Title II of the National Internal Revenue Code, is actually reinvested in accordance with these Regulations not later than 5 May 2005 for:
 - (i) the construction, purchase, or acquisition of vessel and related equipment; and/or
 - (ii) the improvement or modernization of its vessels and related equipment.
- b. The cumulative amount so reinvested shall not be distributed as profits or dividends until after 5 May 2012 or until the vessel or related equipment so acquired have been fully paid, whichever date comes earlier.
- c. Any amount not so reinvested, or withdrawn prior to the expiration of the period stipulated in paragraphs (a) and (b) hereof, respectively, shall be subject to the payment of the corresponding income tax due thereon, including penalties, surcharges, and interests, as provided for in the National Internal Revenue code.
- d. The income derived from Philippine Overseas Shipping entitled to exemption from the payment of income tax hereunder, is limited to income from the transport of goods and/or passengers overseas. It does not include income not directly related to

transport of goods and passengers overseas.

e. A Philippine Shipping Enterprise availing itself of this incentive shall submit to the BIR reports and other documents that shall be prescribed in revenue regulations that shall be issued for this purpose.

Regulation V Applications

SECTION 5.01 Application — All applications for incentives provided in the Act shall be filed in writing with the MARINA.

SECTION 5.02 Requirements for Acquisition and Importation of Vessels — For the acquisition of vessels, the application must be supported by the following:

a. *On the Vessel*

1. General Arrangement and Capacity Plan;
2. Latest Class Survey Report;
3. Certificate of Class for Hull and Machinery;
4. Current Certificate of Registry.

b. *On the Applicant:*

1. Resolution of the Board of Directors, certified by the Board Secretary, authorizing the filing of the application and designating the officials/authorized representatives to represent the Applicant.

c. *On the Registered Owners/Seller:*

1. Duly notarized/authenticated original copy of the Certificate of Good Standing (in English) recently issued by the State of Registry;
2. Board Resolution of the registered owner/seller, authorizing the sale of the vessel and designating the officials/authorized representatives to represent the registered owners/seller. The resolution must be notarized in the State where the document was issued/executed and verified/authenticated by the Philippine Embassy/Consulate concerned;
3. *Pro-forma* Loan Agreement; if any;
4. Memorandum of Agreement executed by and between the parties concerned;
5. Approval by the Monetary Authority of the lease-purchase agreement/contract where the lease payments will be sourced from the Philippine Banking System;
6. Other documents as the MARINA may require.

Upon approval by the MARINA of the acquisition/importation of the vessel, the following documents shall be submitted to the Agency within such period as may be