

## PRESIDENTIAL DECREE NO. 474

### PROVIDING FOR THE REORGANIZATION OF MARITIME FUNCTIONS IN THE PHILIPPINES, CREATING THE MARITIME INDUSTRY AUTHORITY, AND FOR OTHER PURPOSES.

WHEREAS, the efficient sea transport of raw materials, products, commodities and people is vital to the growth of the Philippine economy;

WHEREAS, the functions pertaining to the development and regulation of shipping enterprises are fragmented among various government agencies, resulting in inadequate and inefficient shipping facilities, dependence on external shipping interests, maldistribution of commodities, and piece-meal solutions;

WHEREAS, there is imperative need to modernize and expand the Philippine merchant fleet, and to rationalize and improve their operations in order to make them effective instruments in promoting domestic production, inter-island and overseas trade, price stabilization, and employment generation;

WHEREAS, it is urgently necessary to provide a strong organizational framework to effect the accelerated and integrated development and effective regulation of shipping enterprises;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, in order to effect the desired changes and reforms in the social, economic and political structure of our society, do hereby decree and order that the following be adopted and made part of the laws of the land:

Section 1. **Title.** - This Decree shall be known as the Maritime Industry Decree of 1974.

Section 2. **Declaration of Policies and Objectives.** - 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 vessels 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.

For the attainment of these objectives, the Government through the Maritime Industry Authority thereafter created 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.

Section 3. **Definition of Terms.** - The terms, as used, in this Decree, shall have the following meaning, unless the context of the particular usage of the term indicates otherwise:

- (a) “Maritime Industry”, briefly referred to as “industry” in the broadest concept of the term. - All enterprises engaged in the business of designing, constructing, manufacturing, acquiring, operating, supplying, repairing and/or maintaining vessels, or component parts thereof; of managing and/or operating shipping lines, stevedoring, arrastre and customs brokerage services, shipyards, drydocks, marine railways, marine repair shops, shipping and freight forwarding agencies and similar enterprises.
- (b) “Vessels” or Watercraft” – Any barge, lighter, bulk carrier, passenger ship, freighter, tanker, container ship, fishing boats or other artificial contrivance utilizing any source of motive power, designed, used or capable of being used as a means of water transportation operating either as common contract carrier, including fishing vessels covered under Presidential Decree No. 43, except (i) those owned and/or operated by the Armed Forces of the Philippines and by foreign governments for military

purposes, and (ii) bancas, sailboats and other waterborne contrivance of less than three gross tons capacity and not motorized.

- (c) “Philippine national” - A citizen of the Philippines; or a partnership or association wholly owned by and composed of citizens of the Philippines; or a corporation organized under the laws of the Philippines of which at least sixty percent of the capital stock outstanding and entitled to vote is owned and held by Philippines citizens; or a trustee of funds for pensions or other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty percent of the fund will accrue to the benefit of the Philippine nationals: Provided, That where a corporation and its non-Filipino stockholders own stock in an enterprise, at least sixty percent of the members of the governing board of both corporations must be Philippine nationals.
- (d) “Philippine flag vessel” - A vessel or watercraft registered under Philippine laws.
- (e) “Foreign flag vessels” - A vessel or watercraft registered under the laws of a country other than the Philippines.
- (f) “Philippine shipping companies” - Philippine nationals registered and licensed under the laws of the Philippines to engage in the business of overseas and/or domestic water transportation.

#### A. MARITIME INDUSTRY AUTHORITY

Section 4. **Maritime Industry Authority, Creation and Organization.** – There is hereby created a Maritime Industry Authority, hereinafter referred to as the “Authority”, under the Office of the President. It shall be composed of a governing board of directors to be known as Maritime Industry Board and Management.

The Authority shall have general jurisdiction and control over all persons, corporations, firms or entities in the maritime industry of the Philippines and shall supervise, regulate in accordance with this Decree.

The principal office of the Authority shall be in the Greater Manila Area. Regional or Branch offices may be established at such other place or places within the Philippines as may be deemed necessary by the Board.

Section 5. **Maritime Industry Development Program.** - The Authority shall prepare and annually update a Ten -Year Maritime Industry Development Program, hereinafter referred to as “Program” which shall contain a rational and

integrated development of the maritime industry. The Authority shall submit the same for approval by the President of the Philippines.

Upon approval of the Program by the President, all government departments, bureaus, agencies and instrumentalities shall implement the same within their respective jurisdictions. The Authority shall ensure that the approved program is being effectively implemented by the participating agencies. No government body or instrumentality shall adopt any policy or take course of action contrary to or inconsistent with the Program.

## B. MARITIME INDUSTRY BOARD

Section 6. **Powers and Functions of the Board.** - The Maritime Industry Board shall have the following powers, functions and duties, among others:

- (a) To provide comprehensive policy guidance for the promotion and development of the maritime industry as provided for in this Decree;
- (b) To promulgate and prescribe such promotional and development rules and regulations, standards, guidelines and procedures and recommend laws or measures as may be necessary for the growth and effective regulation of shipping enterprises;
- (c) To formulate a comprehensive and practicable Maritime Industry Development Program for a Ten – Year period and review and update the same annually;
- (d) To prescribe specific policies in the determination of just and reasonable passenger fees, freight rates and other charges relative to the operation of inter island vessels. Accordingly, the Board of Transportation shall exercise its rate fixing functions in accordance with such policies;
- (e) To recommend to the President that the State, through such agency or agencies as the President may designate, purchase, lease, manage, operate or requisition any vessel, ship or shipping enterprise, for national security purposes, to meet emergency situations or when the national interest so requires;
- (f) To approve contracts;
- (g) To approve the organizational structure, staffing pattern, and budget of the Authority upon the recommendation of the Administrator;

- (h) To appoint, discipline and remove, and determine the composition of the Authority technical staff and other personnel: Provided, That all regular professional and technical personnel in the Authority shall be permanent and career in status, but exempt from WAPCO and Civil Service rules and regulations: Provided, further, That the personnel shall be entitled to the benefits normally accorded to government employees, such as retirement, GSIS insurance, leave and similar matters: Provided, furthermore, That appointments of personnel in the management below the rank of Section chief shall be made by the Administrator, in accordance with the approved budget and staffing pattern and shall be noted by the Board: Provided, finally, That the Board of the Administrator may engage on contractual basis or other arrangements for the temporary services, and fix the compensation of highly qualified professionals, experts, technical advisers or consulting firms;
- (i) To adopt a common seal for the Authority which shall be juridically noticed, determine the exact location of its office, and prescribe the rules and regulations to govern its proceedings;
- (j) To recommend to the President , through the National Economic and Development Authority, the grant of necessary incentives for the development of shipping and other related maritime enterprises; and
- (k) To perform such acts as are proper and necessary to implement this Decree.

Section 7. **Composition and Organization.** - The Board shall be composed of eight members as follows; The Secretary of Trade, the Secretary of Public Works, Transportation and Communications, the Secretary of National Defense, the Executive Secretary, the Chairman of the Board of Investments, the Chairman of the Development Bank of the Philippines, the Chairman of the Board of Transportation and the Maritime Administrator. The Chairman of the Board shall be appointed by the President of the Philippines from among its members.

The officials next in rank to the regular members shall serve as permanent alternate members, except that, in the absence of the Chairman, the Board shall elect a temporary/presiding officer. The alternate members shall attend meetings of the Board and committee assigned to their principals and receive the corresponding per diems whenever their principal is absent or the said position is vacant.

The Board shall meet regularly once a month and may hold special meetings to consider urgent matters upon call of the Chairman or any three members thereof. A majority shall constitute a quorum for the transaction of business.

Each business shall receive a monthly commutable allowance of five hundred pesos and per diem of one hundred pesos for every meeting of the board or committee

thereof actually attended; Provided, That the total amount of per diems which each may receive shall not exceed five hundred pesos a month.

### C. MANAGEMENT

Section 8. **Management Head.** - The management of the Authority shall be vested in the Maritime Administrator who shall be directly assisted by the Deputy Administrator for Planning and a Deputy Administrator for Operations hereinafter referred to as “Deputy Administrators”.

Section 9. **The Maritime Administrator and Deputy Administrators.** - The Maritime Administrator and Deputy Administrators shall be appointed by the President for a term of six years: Provided, That upon the expiration of their respective terms, they shall continue to serve until their successor shall have been appointed and qualified: Provided, further, That no vacancy shall be filled except for the unexpired portion of the term: Provided, finally, That the President may remove the Administrator and Deputy Administrators from office for cause upon recommendation of the Board.

The Maritime Administrator and Deputy Administrators shall be citizens of the Philippines, at least thirty five years old on the date of their appointment, of good moral character, of recognized executive ability and competence in previous public or private employment, with adequate training experience in economics, technology, finance, law, management, public utility, or in other phases or aspects of the maritime industry. Until otherwise fixed by the Board, the Administrator shall receive an annual salary of fifty thousand pesos and a monthly commutable allowance of two thousand pesos. Each Deputy Administrator shall receive an annual salary of forty thousand pesos and a monthly allowance of one thousand five hundred pesos.

The Administrator shall be directly responsible to the Board, and shall have powers, functions and duties as provided in this Decree. The Deputy Administrator shall be directly responsible to the Administrator, and their respective powers, functions and duties shall be determined by the Board, upon recommendation of the Administrator.

Section 10. **Authority to Administer Oath.** - The Chairman of the Board, the Administrator, the Deputy Administrators, the Chief Legal Officer and heads of divisions of the Authority shall have the power to administer oaths for the transaction of official business.

Section 11. **General Powers and Functions of the Administrator.** - Subject to the general supervision and control of the Board, the Administrator shall have the following general powers, function and duties:

- (a) To implement, enforce and apply the policies, programs, standards, guidelines, procedures, decisions and rules and regulations issued, prescribed or adopted by the Board pursuant to this Decree;
- (b) To undertake researches, studies, investigations and other activities and projects, on his own initiative or upon instructions of the Board, and to submit comprehensive reports and appropriate recommendations to the Board for its information and action;
- (c) To undertake studies to determine present and future requirements for port development including navigational aids, and improvement of waterways and navigable waters in consultation with appropriate agencies;
- (d) To pursue continuing research and developmental programs on expansion and modernization of the merchant fleet and supporting facilities taking into consideration the needs of the domestic trade and the need of regional economic cooperation schemes; and
- (e) To manage the affairs of the Authority subject to the provisions of this Decree and applicable laws, orders, rules and regulations of other appropriate government entities.

Section 12. **Specific Powers and Functions of the Administrator.** - In addition to his general power and functions, the Administrator shall:

- (a) Issue Certificate of Philippine Registry for all vessels being used in Philippine waters, including fishing vessels covered by Presidential Decree No. 43 except transient civilian vessels of foreign registry, vessels owned and/or operated by the Armed forces of the Philippines or by foreign governments for military purposes, and bancas, sailboats and other watercrafts which are not motorized, of less than three gross tons;
- (b) Provide a system of assisting various officers, professionals, technicians, skilled workers and seamen to be gainfully employed in shipping enterprises, priority being given to cosmetic needs;
- (c) In collaboration and coordination with the Department of Labor, to look into, and promote improvements in the working conditions and terms of employment of the officers and crew vessels of Philippine registry, and of such officers and crew members who are Philippine citizens and employed by foreign flag vessels, as well as of personnel of other shipping enterprises, and to assist in the settlement of disputes between the owner or manager of other shipping enterprises and their personnel;
- (d) To require any public water transport utility or Philippine flag vessels to provide shipping services to any coastal areas in the country where such

services are necessary for the development of the area, to meet emergency sealift requirements, or when public interest so requires;

- (e) Investigate by itself or with the assistance of other appropriate government agencies or officials, or experts from the private sector, any matter within its jurisdiction, except marine casualties or accidents which shall be undertaken by the Philippine Coast Guard;
- (f) Impose, fix, collect and receive in accordance with the schedules approved by the Board, from any shipping enterprise or other persons concerned, such fees and other charges for the payment of its service;
- (g) Inspect, at least annually, the facilities of port and cargo operators and recommend measures for adherence to prescribed standards of safety, quality and operations;
- (h) Approve the sale, lease or transfer of management of vessels owned by Philippine Nationals to foreign owned or controlled enterprises;
- (i) Prescribe and enforce rules and regulations for the prevention of marine pollution in bays, harbors and other navigable waters of the Philippines, in coordination with the government authorities concerned;
- (j) Establish and maintain, in coordination with the appropriate government offices and agencies, a system of regularly and promptly producing, collating, analyzing and disseminating traffic flows, port operations, marine insurance services and other information on maritime matters;
- (k) Recommend such measures as may be necessary for the regulation of the importation into and exportation from the Philippines of vessels, their equipment and spare parts;
- (l) Implement the rules and regulations issued by the Board of Transportation;
- (m) Compile and codify all maritime laws, orders rules and regulations, decisions in leading cases of courts and the Authority's procedures and other requirements relative to shipping and other shipping enterprises, make them available to the public and, and whenever practicable to publish such materials;
- (n) Delegate his powers in writing to either of the Deputy Administrators or any other ranking official of the Authority: Provided, That he informs the Board of such delegation promptly; and



- (o) Perform such other duties as the Board may assign, and such acts as the case may be necessary and proper to implement this Decree.

Section 13. **Maritime Industry Manpower Needs.** The Authority shall establish and support a system of maintaining and developing a reservoir of trained manpower to meet the current and future needs of the industry. For the attainment of this objective, it shall undertake the following:

- (a) Evaluate, in collaboration with the Department of Education and Culture, the capability of maritime educational and training institutions and programs in the Philippines, including the Philippine Merchant Marine Academy, herein placed under the administrative supervision of the Authority, to supply shipping and shipyard manpower needs.
- (b) Inspect and evaluate periodically the standards, facilities and performance of the maritime educational and training programs of government and private schools and enterprises and recommend to the Department of Education and Culture and other appropriate government agencies such changes in the curriculum as may be necessary.
- (c) Conduct or arrange for the holding of pre-employment, on-the-job and other training programs to provide and upgrade shipping skills and techniques, with the cooperation and support of private enterprises and government agencies.
- (d) Provide incentives for education and training in shipping and shipbuilding fields, especially those which are not attractive to students as naval architecture, including scholarships and fellowships, in the Philippines or abroad with liberal grants for the entire duration of the course, to be sponsored directly or arranged by the Administration.

Section 14. **Penalties.** Any person who gives false or misleading data or information or willfully or through gross negligence, conceals, or falsifies a material fact, in any investigation, inquiry or hearing, or other proceedings held pursuant to this Decree, shall be punished with imprisonment of not less than two or more than six months and with a fine of not less than five hundred nor the false or misleading data or information shall have been given under oath, the maximum penalty for giving false testimony or perjury shall be imposed.

## D. MISCELLANEOUS PROVISIONS

Section 15. **Auditor.** - The Commission on Audit shall be the ex-officio Auditor of the Authority and it shall appoint its representative therein, who shall audit the accounts thereof.

### Section 16. **Reorganizational Changes.**

- (a) **Department of Trade.** - The shipping and Freight Study Unit of the Department of Trade is hereby transferred to the Authority together with its applicable appropriations, records, equipment, property and such personnel as may be necessary.
- (b) **Bureau of Transportation.** - the powers and functions pertaining to the development and supervision of maritime shipping of the Bureau of Transportation for Water are hereby transferred to the Authority. Accordingly the Water Transportation Division of the Bureau is hereby abolished.
- (c) **National Development Company.** - The powers and functions of the National Development Company relative to ship acquisition under Republic Act No. 1407, as amended, (Philippine Overseas Act of 1995) are hereby transferred to the Authority together with its applicable records, equipment and property.

In addition to the powers and functions herein transferred, balances of all appropriations, funds, accounts and notes receivables derived from shipping companies, equipment, records and supplies are likewise transferred to the Authority.

Section 17. **Retention of the Functions and Powers of the Philippine Coast Guard.** - Nothing in this Decree shall be constructed to affect or delimit the present functions and powers of the Philippine Coast Guard relative to maritime affairs. All such functions and powers of the Philippine Coast Guard are retained by it. Furthermore in the performance of its functions, especially in the classification and inspection of vessels, the Philippine Coast Guard will assisted by the Authority. **Provided,** That within two years from the issuance of this Decree, the President may transfer to the authority such regulatory maritime affairs as may be necessary for the achievement of the aims and purposes of the Authority. The Authority shall coordinate with the Philippine Coast guard in the exercise of supervision and regulation of the operations of water transport utilities.

Section 18. **Coordination with other Agencies.** - The Authority shall coordinate with the Department of Labor, the Department of Education and Culture and the National Manpower and youth Council in the exercise of its pertinent functions that

have relation to the functions of the above-mentioned agencies, particularly as these pertain to the development of trained and qualified seamen for Philippine vessels.

In order to strengthen its coordinative functions, the Authority shall hire and train appropriate technical personnel which may be assigned to other government agencies involved in the implementation of laws, rules and regulations relative to maritime affairs.

Section 19. **Transitory Provision.** - Officials and employees of all existing offices or agencies which are abolished or reorganized under this Decree may be absorbed into the Authority on the basis of merit and fitness; Provided, That employees who shall be laid off by reason of this Decree shall be given gratuity equivalent to one month's salary, in addition to all benefits to which they are entitled under existing laws and regulations.

To carry out provisions of this Section there is hereby appropriated the sum of Five-Hundred Thousand Pesos out of the unappropriated funds in the National Treasury.

Section 20. **Appropriations.** - To carry out the provisions of this Decree, there is hereby appropriated the sum of two million pesos out of the funds in the National Treasury not otherwise appropriated. Thereafter, the succeeding appropriations of the Authority shall be included in the Annual Appropriations Act.

In addition to the above, the Authority is hereby authorized to retain fifty per cent of its collection from fees, charges and fines to defray any deficiency in annual appropriations and to finance its other projects.

Section 21. **Repealing and Separability Clauses.** - All laws, decrees, orders, rules and regulation, policies, programs or parts thereof, which are inconsistent with any of the provisions of this Decree, are hereby repealed or modified accordingly.

If for any reason any section of provision of this Decree is declared to be unconstitutional or invalid, the other sections or provision hereof, which are not affected hereby, shall continue in full force and effect.

Section 22. **Effectivity.** - This Decree shall take effect upon its promulgation: Provided, That these portions hereof which may require a transition period to assure the orderly transfer of powers and functions shall take effect as stated in the implementing details; Provided, further, That such implementing details shall be prepared by the Board, in consultation with the government agency heads concerned, and submitted to the President for approval within four months after issuance of this Decree.

Done in the city of Manila, this 1<sup>st</sup> day of June, in the year of our Lord, nineteen hundred and seventy-four.