

FOURTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

7 JUL -3 P3 64

SENATE

RECEIVED BY

S. No. 844

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Introduced by Senator Biazon

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### EXPLANATORY NOTE

From prehistory, our territorial seas and bodies of water have served as the natural highways that link the scattered islands of our vast archipelago. The archipelagic configuration of the Philippines justifies our heavy reliance on water transport as a major means of moving both people and cargo. Aside from this, it is more affordable than air transport. Despite the latest advances in air and land transport technology, our maritime sector has played a crucial role in our country's national integration by providing the main means of linkage between its various communities. In fact, as of latest count, our inter-island operating fleet comprised more than 10,000 ships of various sizes. Moreover, more than sixty percent (60%) of our population live in coastal communities, which to a large extent rely on our seas and marine resources for their subsistence and survival.

The maritime sector is expected to play an even greater role, not only in bringing closer our many islands and their diverse peoples and cultures, but also in ensuring the very survival of our nation in a highly competitive global regime. The fast and efficient transport of materials and goods to and from our industrial estates and centers of growth will naturally be conducted through our sea links.

At present, the current maritime administration functions of government are thinly spread among fourteen (14) bureaus and agencies under seven (7) departments. With this prevailing structure, the country's maritime administration has remained fragmented. This has resulted in bureaucratic entanglement, functional overlaps and conflicting maritime laws and regulations. These in turn have stymied the private sector's dynamism and virtually hamstrung the maritime industry. We realized then that, to fulfill the country's vision of maritime greatness, the restructuring of the maritime administration is *the* essential first step. This restructuring envisions the clustering of all the maritime-concerned bureaus and agencies, ideally under one superbody, in order to provide a coherent direction for maritime development.

The negative effect of the fragmentation and overlapping functions of the different maritime-concerned bureaus and agencies is the dismal and ineffective implementation of the safety standards and regulations mandated by our laws and international agreements which the Philippines is a signatory. The numerous sea accidents and tragedies in recent Philippine history is a testament to the failure of maritime administration in the country and the glaring effect of such fragmentation and overlapping of functions.

There are many problems faced by the maritime industry at present. First, aside from Executive Orders No. 125 and 125-A, there are other obsolete and unresponsive laws that continue to govern the maritime industry today. The Public Service Act, Code of Commerce, Tariff Code, Philippine Merchant Marine Rules and Regulations, and the charters of agencies involved, among others, have largely affected the country's maritime

administration, since these abound in ambiguities. These have also fostered *protectionism of turf among the concerned agencies*.

Second, the Philippine Coast Guard (PCG) no longer clears and inspects vessels for sailing, owing to MARINA's unilateral abrogation in November 1996 of the March 1996 Memorandum of Agreement (MOA) deputizing the former on the issuance of vessel safety certificates and the head counting of passengers. However, while tasked with the exercise of safety regulatory functions, the MARINA is neither organizationally designed nor adequately manned to attend to the innumerable vessel inspections and departures nationwide.

Third, the PCG, which was formally deputized to check vessel compliance with maritime communications regulations by virtue of a MOA with the National Telecommunications Commission (NTC), no longer exercises that deputized function. Executive Order No. 493 (1991) transferred this deputized function to the PPA. Meanwhile, the NTC, the agency responsible for regulating maritime communications in the country, has not formulated an update of communications requirements on all Philippine registered vessels *vis-a-vis* Safety of Life at Sea Convention.

Fourth, justice in the maritime sector has been compromised because of the absence of maritime admiralty courts in the Philippines. Numerous maritime-related cases in the past have not been properly adjudicated. What we have in the Philippines is only the Board of Marine Inquiry (BMI) that investigates maritime incidents. Unfortunately, the BMI is limited only to investigation and determination of fault. It possesses no punitive powers and is allowed only to recommend administrative sanctions.

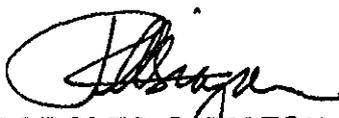
Fifth, there is an acute need for more search and rescue (SAR) vessels. The vessels of the PCG and the Philippine Navy do not carry basic provisions for SAR operations. At present there are only two (2) operational SAR-dedicated vessels used in SAR missions.

Sixth, the numerous sea disasters and tragedies the country has suffered demonstrate a lack of public awareness in maritime safety procedures as well as the utter disregard of ship owners of safety rules and regulations.

Lastly, there is an urgent need to upgrade the standards of Philippine maritime education and training.

This bill seeks to correct the problems identified herein that greatly affects the maritime sector. It is now time to put an end to the fragmentation and overlapping of functions of the different government agencies and create a body that will be the main and central agency concerned with maritime administration in this country. Hopefully, this bill will solve the multifarious problems plaguing the administration of the maritime sector.

In view of its noble objective, passage of the bill is an urgent priority.

  
RODOLFO G. BIAZON  
Senator

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AN ACT

CONSOLIDATING ADMIRALTY AND MARITIME LAWS TO MODERNIZE THE MARITIME INDUSTRY, PROMOTE AND REGULATE MERCHANT MARINE ACTIVITIES, RATIONALIZE THE ORGANIZATION AND FUNCTIONS OF GOVERNMENT AGENCIES RELATED TO ADMIRALTY AND MARITIME MATTERS, AND ENSURE THE PROTECTION OF THE MARINE WEALTH IN THE PHILIPPINE TERRITORY

*Be enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

**TITLE I — GENERAL PROVISIONS**

ARTICLE 1. *Short Title.* — This Act shall be known as the “*Maritime Administration Act of 2007.*”

ARTICLE 2. *Declaration of Policy.* — It is hereby declared the policy of the State:

- (a) To modernize the maritime industry by promoting, encouraging and ensuring the continued growth of the shipping industry, shipbuilding, ship repair; the planning, development, financing and operation of ports and port districts for the entire country, as well as other activities or industries which revolve around the water as a mode of transportation;
- (b) To foster the development and regulate merchant marine activities to keep pace with the country’s growth and economic development and taking into consideration the active participation of the private sector in the various areas on maritime commerce, industry and development. It is necessary for the national defense and development of its foreign and domestic commerce that the Republic of the Philippines shall have a merchant marine:
  - 1) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the Philippines and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times;
  - 2) capable of serving as a naval and military auxiliary in time of war or national emergency;

- 3) owned and operated under the Philippine flag by citizens of the Philippines insofar as may be practicable 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;
  - 4) composed of the best-equipped, safest, and most suitable types of modern vessels, constructed in the Philippines and manned by well-trained and efficient Filipino owners and crew; and
  - 5) supplemented by efficient facilities for shipbuilding and ship repair.
- (c) To set strict standards to produce young men well trained in other fields of the merchant marine service, like marine surveyors, port supervisors, shipping office personnel, shipping management and others;
  - (d) To rationalize, integrate, and coordinate the various agencies of the Government towards the promotion of safe and efficient transport of goods and people and the upliftment of the quality standards in shipping operations;
  - (e) To promote and insure the safety of life and property at sea, protect and conserve the marine environment and ecology within the country's territorial waters as defined by the UNCLOS, and prevent marine pollution and accident at sea by complying with the Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended in 1995, to which the Philippines is signatory; and
  - (f) To encourage the early and expeditious settlement of disputes in the Philippine maritime industry.

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

- (a) “*Maritime Industry*” in the broadest concept of the term, shall mean all enterprises engaged in the business of managing and/or operating shipping lines, management of ports, stevedoring arrastre, customs brokerage and cargo surveys; of ship brokering/chartering; of designing, constructing, manufacturing, acquiring, operating, supplying, repairing and/or maintaining vessels, or component parts thereof; of shipyards, dry-docks; of providing maritime services such as ship supplies, surveys, ship manning and training, maritime consultancy, ship repairs, machine shops, shipping agencies, freight forwarding and similar enterprises.
- (b) “*Vessel*” or “*Watercraft*” is a general term for all crafts capable of floating on water and larger than a rowboat. The term includes every description of artificial contrivance such as barges, dredges, scows and similar nondescript craft having no means of propulsion and depending entirely on external appliance for motive power designed, used or capable of being used as a means of transportation on water either as common contract carrier, including fishing vessels defined and covered under existing laws, except (1) those owned and/or operated by the Armed Forces of the Philippines and by foreign governments for military purposes, and (2) bancas, sailboats and other waterborne contrivance of less than three gross tons capacity and not motorized.

- (c) “**Philippine National**” is 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 per cent (60%) of the capital stock outstanding and entitled to vote is owned and held by Philippine citizens;
- (d) “**Philippine flag vessel(s)**” shall refer to vessel(s) or watercraft(s) which is duly registered under Philippine laws and is owned or controlled, or chartered by Philippine citizens or by a corporation or other entity owned or controlled by citizens of the Philippines.
- (e) “**Foreign flag vessel**” is a vessel or watercraft registered under the laws of a country other than the Philippines.
- (f) “**Philippines shipping companies**” shall refer to Philippine Nationals registered and licensed under the laws of the Philippines to engage in the business of overseas and/or domestic water transportation.
- (g) “**Commission**” shall refer to the Philippine Maritime Commission.
- (h) “**Secretary**” shall refer to the Secretary of the Department of Transportation and Communications.
- (i) “**Department**” shall refer to the Department of Transportation and Communications, unless otherwise specified under this Act.
- (j) “**NEDA**” shall refer to the National Economic and Development Authority.
- (k) “**UNCLOS**” shall refer to the *United Nations Convention on the Law of the Sea*, signed on 10 December 1982, and all its current amendments to date.
- (l) “**SOLAS**” shall refer to the *International Convention for the Safety of Life at Sea*.
- (m) “**STCW ‘95**” shall refer to the *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995*.
- (n) “**IMO**” shall refer to the *International Maritime Organization*.
- (o) “**ISM Code**” shall refer to the *International Safety Management Code for the safe Operation of Ships and for Pollution Prevention*, as adopted by the 18<sup>th</sup> session of the United Nations Assembly in 1993 as Resolution A. 741 (18).

## TITLE II – CREATION AND FUNCTIONS OF MARITIME AGENCIES

ARTICLE 4. *Statement of Objectives.* — It is hereby declared the policy of the State to accelerate the integrated development of maritime administration in the Philippines to attain the following objectives:

- (a) To create an efficient Philippine maritime administration by restructuring and rationalizing the current maritime administration structure, under the Department, in order to set a firm and coherent direction toward the development of the maritime industry, the effective command and control in order to eliminate the overlapping, redundant and conflicting maritime laws

and regulations and immediately pinpoint responsibilities among the different agencies;

- (b) To reduce operational inefficiency and unnecessary expenditures and costs to government and to interisland shipowners and operators, respectively;
- (c) To simplify the issuance of appropriate clearances, permits, authorization, reports, and other similar documents as part of the regulatory procedures required by the different maritime agencies, for the coordinated and cohesive administration of maritime affairs;
- (d) To monitor the implementation of SOLAS, ISM Code, other international conventions, national programs affecting maritime safety, marine environmental protection and maritime law enforcement in the domestic shipping industry; and
- (e) To develop and integrate a much-needed marine resource identification capability needed to fulfill the information requirements of other maritime agencies.

## CHAPTER 1. – PHILIPPINE MARITIME COMMISSION

### A. THE COMMISSION PROPER

ARTICLE 5. *Creation of the Philippine Maritime Commission.* – There is hereby created a **Philippine Maritime Commission**, which shall be an attached agency under the Department. It will be the lead government agency in charge of planning and coordination of maritime transportation, supervision of maritime business and ocean affairs, in general.

ARTICLE 6. *Powers and Functions.* – The Commission shall have the following powers, functions, and duties, among others:

- (a) To provide comprehensive policy guidance for the promotion, development, management, trade and utilization of marine transportation, port systems and other related activities under the maritime industry as provided for in this Act;
- (b) To approve such promotional and developmental 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 provide an effective and efficient mechanism for coordination, complementation and collaboration in the resolution of issues and concerns affecting the maritime industry in general;
- (d) To formulate a comprehensive and practicable Maritime Industry Development Program for a five-year period and review and update the same annually;
- (e) To assess and review a comprehensive and integrated program, for the protection and preservation of the nation's marine environment, consistent with national policies, the Philippine Constitution, pertinent laws of our country and the UNCLOS and other international agreements, in coordination with the Department of Environment and Natural Resources;

- (f) To assess, review and, in coordination with relevant government agencies, provide direction to research and development programs pertaining to the maritime industry, including identification of sources of marine resources and determination of their commercial feasibility for development and utilization;
- (g) To recommend measures to provide assistance to private sector for the improvement and upgrading of maritime transportation and infrastructure like ports, lighthouses, shipyards, fishports, refrigeration facilities, processing plants and other related facilities;
- (h) To prescribe specific policies in the determination of just and reasonable passenger fares, freight rates and other charges relative to the operation of inter-island vessels. Accordingly, the Maritime Industry and Development Authority shall exercise its rate fixing functions in accordance with such policies;
- (i) To increase or decrease port dues; adjust the schedule of port dues, the rates of storage and arrastre charges in all ports of the Philippines, as well as other dues, fees and charges in connection with the operation and maintenance of ports in the country, upon recommendation of the proper maritime agency;
- (j) 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;
- (k) To recommend to the President, through the NEDA, the grant of necessary incentives for the development of shipping and other related maritime enterprises;
- (l) To coordinate the formulation and implementation of policies and programs affecting maritime safety;
- (m) To recommend policies toward enhancing safety of lives and properties in the seas, including their implementing strategies;
- (n) To monitor the proper and adequate implementation of the UNCLOS, as well as other international conventions and national laws pertinent to maritime affairs;
- (o) To monitor the proper and adequate implementation of all IMO Conventions to which the Republic of the Philippines is, or in the future shall be, a Party;
- (p) To conduct in-depth studies on all policy areas and options with respect to the country's implementation of the UNCLOS, IMO Conventions and other pertinent international conventions and national laws;
- (q) To monitor foreign and domestic developments relative to the formulation and implementation of the country's strategy in implementing the provisions of the UNCLOS and other international conventions including the determination of the maritime area of the country and the protection and integrity of the said area;
- (r) To approve the organizational structure, staffing patterns, and budgets of all offices and agencies under the supervision and control of the Commission. In pursuit of this, the Commission shall endeavor to create a lean and efficient

bureaucracy and minimize, if not eradicate, any excesses in the creation and filling up of positions;

- (s) To approve all the rules and regulations that govern the proceedings of each office, entity or agency under the Commission, upon the proper recommendation of the head of each office or agency; and
- (t) Exercise all other powers, functions and duties necessary and proper to implement the provisions of this Act.

ARTICLE 7. *Authority to Delegate.* – (a) The Commission shall have the authority to delegate, by published order or rule, any of its functions to a department of the Commission, an individual Commissioner, a hearing officer, or an employee or any entity duly constituted, including functions with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter.

(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this Article, the Commission shall retain a discretionary right to review the action of any such department of the Commission, individual Commissioner, hearing officer, employee or entity, upon its own initiative or upon petition of a party to or an intervenor in such action, within such time and in such manner as the Commission shall by rule prescribe: *Provided, however,* That the vote of at least two (2) members of the Commission shall be sufficient to bring any such action before the Commission *en banc* for review.

(c) Should the right to exercise such discretionary review be declined, or should no such review be sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or entity shall, for all purposes, including appeal or review thereof, be deemed to be the action of the Commission.

ARTICLE 8. *Composition and Organization of the Commission* – The Commission shall be composed of a Chairman and four (4) Associate Commissioners, who shall be appointed by the President. The term of office of each member shall be seven (7) years: *Provided, however,* That the Chairman and the two (2) Associate Commissioners first appointed by the President shall serve for a period of seven (7) years; five (5) years and three (3) years, respectively, as fixed in their respective appointments and shall continue in office in accordance with the terms fixed in their current respective appointments, and the two (2) additional Associate Commissioners first appointed by the President under this Act, shall serve for five (5) years and three (3) years as fixed in their respective appointments; *Provided, further,* That upon the expiration of his term, a member shall serve as such until his successor shall have been appointed and qualified; *Provided, Finally,* That no vacancy shall be filled except for the unexpired portion of the term.

Each Commissioner shall be removed by the President for inefficiency, neglect of duty, malfeasance in office, or for any other legal cause: *Provided,* That the President shall appoint a successor within thirty (30) days of the vacancy.

A vacancy in the Commission, so long as there shall be three (3) Commissioners in office, shall not impair the power of the Commission to execute its functions. The Commission shall meet as often as may be necessary on such day or days as the Chairman may fix. The notice of the meeting shall be given to all members of the Commission and the presence any three (3) of the Commissioners shall constitute a quorum for the transaction of the business of the Commission. In the absence of the Chairman, the more Senior Associate Commissioner shall act as presiding officer of the

meeting. The affirmative votes of any three (3) Commissioners shall be sufficient for the disposition of any matter, which may come before the Commission.

In exercising and performing its powers and duties under the provisions of this Act, the Commission shall take into consideration the obligations assumed by the Republic of the Philippines in any treaty, international convention or agreement with foreign countries or matters affecting the maritime industry.

The Chairman shall have the general executive control, direction and supervision of the work and operation of the Commission and of its members, bodies, boards, personnel and all of its administrative business.

ARTICLE 9. *Jurisdiction.* – The Commission shall have absolute jurisdiction, supervision and control over all persons, corporations, firms or entities concerned with the maritime industry, who are the grantees of franchise and/or a license or permit issued by the government to operate in the Philippines; and in the exercise of its authority, it shall have the power to enlist the aid and support of and to deputize any and all enforcement agencies of the government, civil or military as well as any private institution, corporation, firm, association or person.

ARTICLE 10. *Qualification of the Members of the Commission.* – No member of the Commission shall be appointed unless he is a citizen and resident of the Philippines, of good moral character, and of proven competence in any of the following fields: (a) marine engineering sciences or maritime or admiralty courses; (b) public administration or economics; (c) management; or (d) law.

The Chairman and the Associate Commissioners shall be at least thirty-five (35) years of age on the date of their appointment, of good moral character, or recognized executive ability and competence in previous public or private employment. The Chairman must either be a Master Mariner or a member of the bar, with at least ten (10) years of experience in the practice of his profession. While the Associate Commissioners must have at least eight (8) years of experience in the practice of his profession.

No chairman, president, director, or officer of any private company or enterprise primarily engaged in the shipping industry shall be eligible for appointment as Chairman and Associate Commissioners, within two (2) years from his retirement, resignation, or separation therefrom.

ARTICLE 11. *Seal; Rules and Regulations.* – The Commission shall have an official seal which shall be judicially noticed, and shall adopt rules and regulations in regard to its procedure and the conduct of its business.

ARTICLE 12. *Secretariat; Records of Meetings.* – There shall be a Secretariat of the Commission, headed by the Secretary, who shall be a member of the bar and be of equal rank or level with that of a Director of a Department. The Secretariat shall be the recorder and official reporter of all its meetings and the yea-and-nay votes taken therein, on every action, order, contract, or financial transaction approved or disapproved by the Commission. The Secretary of the Commission and any of his representatives shall have the authority to administer oath in all matters coming under the jurisdiction of the Commission. He shall be the custodian of all records, profiles, reports, minutes and other documents and papers filed with the Commission or entrusted to his care and shall be responsible therefor to the Commission.

ARTICLE 13. *Executive Director of the Commission.* – There shall be an Executive Director of the Commission who shall be responsible for the effective implementation of the policies, rules and standards promulgated by the Commission, to coordinate and supervise the activities of the different operating units; to report to the

Chairman the operations of such units; to report to the Chairman the operations of such units; and to perform such functions as may be assigned to him by the Chairman and/or by Commission.

ARTICLE 14. *Departments under the Commission.* – The Commission shall have five (5) departments each to be headed by a director, namely: Monitoring and Enforcement; Policy Formulation and Coordinating; Administrative and Finance; Asset Management; and Legal Departments. The Commission shall determine the staffing pattern, and shall appoint the necessary personnel.

ARTICLE 15. *Staffing Pattern.* The Commission may reorganize and restructure its staff and personnel under this provision, as it deems necessary to carry out the provisions of this Act. The Commission shall appoint, prescribe the duties and fix the salaries of the Secretary, Executive Director, Directors for each of the departments; a clerk to each member of the Commission, with not more than two assistants; an assistant to each of the director, not more than a total of twenty naval architects or marine engineers, twenty special experts, twenty-two examiners, twelve attorneys, and two inspectors for each vessel at each shipyard at which vessels are being constructed by it or under its supervision: *Provided,* That except as to the technical staff and such other positions as the Commission may declare to be highly technical, policy-determining or primarily confidential, all positions in the Commission are subject to the Civil Service Law, Rules and Regulations. Finally, the Commission is further authorized to create additional positions, as it may deem necessary to carry out the provisions and intents of this Act.

ARTICLE 16. *Temporary personnel.* – The Commission may engage for temporary service such duly qualified marine practitioners and such other officers, engineers, inspectors, attorneys, examiners, and other employees entities or other qualified persons as are necessary, and fix the compensation of such practitioners, entities, or persons with regard to civil service rules and regulations.

ARTICLE 17. *Conflict of Interest.* – The members of the Commission and all its officers and employees are prohibited from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Commission may have business relations.

ARTICLE 18. *Maritime Industry Development Program.* — The Chairman of the Commission shall submit to the President and Congress a **Maritime Industry Development Program**, hereinafter referred to as “Program,” setting forth the Department of Transportation and Communication’s policies for the 5-year period beginning January 1, 2001, with respect to – (1) fostering and maintaining a Philippine merchant marine capable of meeting economic and national security requirements; (2) improving the vitality and competitiveness of the Philippine merchant marine and the maritime industrial base, including ship repairers, shipbuilders, ship manning, ship operators, and ship suppliers; (3) reversing the precipitous decrease in the number of ships in the Philippine-flag fleet and the Nation’s shipyard and repair capability; (4) stabilizing and eventually increasing the number of mariners available to crew Philippine merchant vessels; (5) achieving adequate manning of merchant vessels for national security needs during a mobilization; (6) ensuring that sufficient civil maritime resources will be available to meet defense deployment and essential economic requirements in support of our national security strategy; (7) ensuring that the Philippines maintains the capability to respond unilaterally to security threats in geographic areas not covered by alliance commitments and otherwise meets sealift requirements in the event of crisis or war; (8) ensuring that inter-national agreements and practices do not place Philippine maritime industries at an unfair competitive disadvantage in world markets; (9) ensuring that National agencies promote, through efficient application of laws and regulations, the

readiness of the Philippine merchant marine and supporting industries; and (10) any other relevant maritime policies.

Upon approval of the Program by the President, the Commission shall ensure that all persons, agencies or entities under its supervision and control are effectively implementing the approved Program. No government body or instrumentality shall adopt any policy or take course of action contrary to or inconsistent with the Program.

**ARTICLE 19. *Mobil Trade Fairs.*** – (a) **Use of Philippine flag vessels insofar as practicable.** The Commission, upon consultation or request of the Secretary of Trade and Industry, shall encourage and promote the development and use of mobile trade fairs which are designed to show and sell the products of Philippine business and agriculture at foreign ports and at other commercial centers throughout the world where the operator or operators of the mobile trade fairs use insofar as practicable Philippine flag vessels in the transportation of their exhibits.

(b) **Technical and financial assistance; exceptions.** The Secretary of Trade and Industry is authorized to provide to the operator or operators of such mobile trade fairs technical assistance and support as well as financial assistance for the purpose of defraying certain expenses incurred abroad (other than the cost of transportation on foreign-flag vessels), when the Secretary determines that such operations provide an economical and effective means of promoting export sales.

(c) **Use of foreign currencies.** In addition to any amounts appropriated to carry out trade promotion activities, the Bangko Sentral ng Pilipinas, upon the request and recommendation of the Commission shall make available the use foreign currencies to carry out this provision, subject to the regulations promulgated by the Bank.

(d) **Report to Congress.** The Commission shall include in its annual report the status and progress of implementation of this Article.

**ARTICLE 20. *Witnesses.*** – (a) **Summoning; oaths; production of books and papers.** For the purpose of any investigation which, in the opinion of the Commission, is necessary and proper in carrying out this Act, the Commission may subpoena witnesses, administer oaths and affirmations, take evidence, and require the production of books, papers, or other documents that are relevant to the matter under investigation. The attendance of witnesses and the production of books, papers, or other documents may be required from any place in the Philippine territory. Witnesses summoned before the Commission shall be paid their expenses for transportation if they reside outside fifty (50) kilometers from the place of hearing set by the Commission.

(b) **Refusal to obey subpoena; court orders; contempt.** Upon failure of any person to obey a subpoena issued by the Commission, the Commission may invoke the aid of any court of the Philippines, within the jurisdiction where the person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring the person to appear before the Commission, or an employee designated by the Commission, there to produce books, papers, or other documents, if so ordered, or to give testimony relevant to the matter under investigation. A failure to obey an order of the court may be punished by the competent court as contempt thereof.

**ARTICLE 21. *Annual Report.*** The Commission shall submit an annual report to the President and Congress, which shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the development of the maritime industry in accordance with the Program. It shall include such recommendations as to additional legislation relating thereto as the Commission may deem necessary.

SECTION 22. *Expenditures.* The Commission may make such expenditures as are necessary in the performance of their functions from funds made available to them by this Act or thereafter appropriated.

## B. MARITIME ATTACHÉ

ARTICLE 23. *Creation of Maritime Attaché Posts.* – There is hereby created under the Commission, Positions for Maritime Attaché that will serve in diplomatic missions or consular offices abroad. They shall be appointed by the President in accordance with the applicable provisions of Republic Act No. 7157, otherwise known as the “Philippine Foreign Service Act of 1991”, upon the joint recommendation of the Commission and the Department of Foreign Affairs.

ARTICLE 24. *Functions of the Maritime Attaché.* – The Maritime Attaché shall have the following functions:

(a) Provide advice and assistance to the Commission and other maritime agencies regarding vital shipping policies, development and current laws in other countries.

(b) Represent the Commission and other maritime agencies which may request to be so represented in international conventions and/or conferences concerning maritime matters, and assist appropriate higher authorities in the formulation of Philippine positions in such conventions or conferences.

(c) Advise and assist the Commission and other maritime agencies in the negotiation of bilateral maritime agreements.

(d) Coordinate, evaluate and recommend to the Commission technical assistance on maritime training.

(e) Advise and assist the Commission in the determination of reasonable price and charter hire levels and other technical information for the evaluation of ship acquisitions and/or chartering.

(f) Act as the implementing arm of the Freight Center of the Philippine Shippers Bureau, under the Department of Trade and Industry, in the issuance of waivers for the sea transport of exports and imports by Philippine Flag vessels when such vessels are not available and/or on the basis of other exempting conditions provided in this Act.

(g) Act as the designated agent of the Philippine Coast Guard in the endorsement and registration of preferred ship mortgages under the provisions of law regarding ship mortgages.

(h) Act as the deputized agent of the Maritime Industry and Development Administration (MARIDA) in the performance of vessel registration, licensing and documentation of ocean-going vessels and collection of the necessary fees therefor. For this purpose, he shall coordinate with the MARIDA-accredited international classification societies in the issuance of the necessary SOLAS Certificate.

(i) Advise and assist, whenever requested and in coordination with the labor attaché, the Maritime Manpower Administration in the provision of seamen welfare services abroad.

(j) Advise and assist, in coordination with and upon request by the Maritime Manpower Administration in the holding of professional examinations for marine officers abroad.

(k) Submit monthly reports of activities undertaken by him to the Commission.

(l) Perform such other functions as may be necessary to carry into effect the provisions and interest of this Act.

ARTICLE 25. *Organization and Implementing Guidelines.* – The Commission shall propose the staffing pattern and compensation for the various maritime attaché positions, which shall be considered pursuant to Republic Act No. 7157 and in consultation with the Department of Foreign Affairs. It shall coordinate with the Department of Foreign Affairs, Department of Trade and Industry, the Board of Investments, the Bangko Sentral ng Pilipinas, the Bureau of Customs, the Philippine Coast Guard, and other government agencies under its control and supervision in the formulation of implementing guidelines to govern the Maritime Attaché positions.

ARTICLE 26. *Authority to designate Maritime Attachés from Other Pertinent Government Entities.* – In the interest of the service and upon proper arrangement, the Commission may recommend the designation of maritime attachés from personnel of other pertinent government entities such as the Philippine Coast Guard under such terms and conditions as may be agreed upon, subject to existing laws, rules and regulations.

## CHAPTER 2. – MARITIME INDUSTRY AND DEVELOPMENT ADMINISTRATION

ARTICLE 27. *The Maritime Industry and Development Administration.* – The existing Maritime Industry Authority, together with its records, personnel, capital assets, equipment and existing budget is hereby renamed and reorganized as the **Maritime Industry and Development Administration**, hereinafter referred to as the “MARIDA”. It shall be under the supervision and control of the Philippine Maritime Commission.

The Commission shall determine the principal office of the MARIDA. Regional and branch offices may be established at such other place or places within the Philippines as may be deemed necessary by the Commission.

ARTICLE 28. *Objectives.* – The MARIDA shall have the following objectives:

- (a) To increase production, productivity and the economic activity 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; and
- (e) To generate new and more job opportunities.

ARTICLE 29. *Powers and Functions.* – The MARIDA shall have the following powers and functions:

- (a) To promote the growth and development of the commercial viability of the shipping industry;

- (b) Develop and formulate, plans, policies, programs, projects, standards, specifications and guidelines geared toward the promotion and development of the coastal passenger and cargo transport business, the effective regulation of maritime industries and other recreations on the seas, and for the national security objectives of the country;
- (c) Establish, prescribe and regulate routes, zones and/or areas of operation of particular operators of public water services;
- (d) Issue Certificates of Public Convenience for the operation of domestic and overseas water carriers;
- (e) Register all Philippine Merchant vessels as well as issue certificates, licenses or documents necessary or incident thereto;
- (f) Develop and formulate plans, policies as well as implement such policies relating to shipbuilding industries, ship safety standards, ship inspection and ship technology;
- (g) Approve plans for the construction, renovation, alteration or repair of vessels and approve materials, equipment and appliances for vessel use per IMO Convention requirements;
- (h) Issue and/or authorize concerned government agencies and recognized certification bodies to issue statutory certificates – like, International Loadline Certificate, International Safety Construction Certificate, International Safety Equipment Certificate, Radio-Telegraphy Certificate and International Oil Pollution Certificate, among others for vessels of international trade and the equivalent certificates for vessels of domestic trade.
- (i) Coordinate and extend assistance to the Coast Guard in the exercise of the latter's supervision and regulation on the safe operation of water transportation.
- (j) Determine, fix and/or prescribed charges and/or rates pertinent to the operation of public water transport utilities, facilities and services except in cases where charges or rates are established by international bodies or associations of which the Philippines is a participating member or by bodies or associations recognized by the Philippine Government as the proper arbiter if such charges or rates;
- (k) Accredite marine surveyors and maritime enterprises engaged in shipbuilding, ship repair and ship breaking;
- (l) Adopt and implement the practicable and coordinated Program which shall include (1) the early replacement of obsolescent and uneconomic vessels, (2) modernization and expansion of the Philippine merchant fleet, (3) enhancement of domestic capability for shipbuilding, repair and maintenance;
- (m) Help provide the necessary; (1) financial assistance to the industry through public and private financing institutions and instrumentalities; (2) technological assistance; and (3) in general, a favorable climate for expansion of domestic and foreign investments in shipping enterprises;

- (n) Provide for the effective supervision, regulation and rationalization of the organizational management, ownership and operations of all water transport utilities, and other maritime enterprises;
- (o) Establish and prescribe rules and regulations, standards and procedures for the efficient and effective discharge of the above functions; and
- (p) Perform such other functions as may now or hereafter be provided by law.

ARTICLE 30. *Composition and Organization.* – The MARIDA shall consist of the existing officials and employees of the Maritime Industry Authority, unless otherwise abolished, merged or transferred to other agencies under this Act. The Administrator shall head the management of the Authority. He shall be directly assisted by two (2) Deputy Administrators, one for Planning and the other for Operations.

ARTICLE 31. *The Administrator and Deputy Administrator.* – The Administrator and Deputy Administrators shall be appointed by the Secretary, upon the recommendation of the Commission, for a term of five (5) 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 shall appoint a successor within thirty (30) days of the vacancy.

The Commission may remove the Administrator and Deputy Administrators from office for cause after due notice and hearing conducted for such purpose.

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, or recognized executive ability and competence in previous public or private employment. The Administrator must be a Master Mariner with at least ten (10) years of experience in the practice of his profession. While the Deputy Administrator for Planning must likewise be a Master Mariner with at least ten (8) years of experience in the practice of his profession.

No chairman, president, director, or officer of any private company or enterprise primarily engaged in the shipping industry shall be eligible for appointment as Administrator and Deputy Administrator within two (2) years from his retirement, resignation, or separation therefrom. The current salaries and benefits being received by the Administrator and his Deputies shall remain subject to the Civil Service Laws.

The Administrator shall be directly responsible to the Commission, and shall exercise the powers, functions and duties as provided in this Act. The Deputy Administrators shall be directly responsible to the Administrator, and their respective powers, functions and duties shall be determined by the Administrator, upon approval of the Commission.

ARTICLE 32. *Authority to Administer Oath.* — 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.

ARTICLE 33. *General Powers and Functions of the Administrator.* — Subject to the general supervision and control of the Commission, the Administrator shall have the following general powers, functions 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 Commission pursuant to this Act;

- b) To undertake researches, studies, investigations and other activities and projects, on his own initiative or upon instructions of the Commission, and to submit comprehensive reports and appropriate recommendations to the Commission for its information and action;
- c) 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
- d) To manage the affairs of the MARIDA subject to the provisions of this Act and applicable laws, orders, rules and regulations of other appropriate government entities.
- e) To appoint, discipline and remove, and determine the composition of the MARIDA 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 Commission: *Provided, finally*, That Administrator may engage on contractual basis or other arrangements for the temporary services, and fix the compensation of highly qualified professionals, expert technical advisers or consulting firms;

ARTICLE 34. *Specific Powers and Functions of the Administrator.* — In addition to his general powers and functions, the Administrator shall:

- a) Issue Certificate of Philippine Registry for all vessels being used in Philippine waters, including fishing vessels, except transient civilian or commercial 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, pleasure boats, speed boats and other similar boats and watercraft which are not motorized, of less than three gross tons;
- b) 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, upon approval of the Commission;
- c) Impose, fix, collect and receive in accordance with the schedules approved by the Commission, from any shipping enterprise or other persons concerned, such fees and other charges for the payment of its services;
- d) Inspect, at least annually, the facilities of port and cargo operators and recommend measures for adherence to prescribed standards of safety, quality and operations and report its findings to the Commission;
- e) Approve the sale, lease or transfer of management of vessels owned by Philippine Nationals to foreign owned or controlled enterprises;

- f) 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;
- g) 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; and
- h) Compile and codify all maritime laws, orders, rules and regulations, decisions in leading court cases and the MARIDA's procedures and other requirements relative to shipping and other shipping enterprises, make them available to the public, and, whenever practicable to publish such materials;
- i) Perform such other duties as the Commission may assign, and such acts as may be necessary and proper to implement this Act.

ARTICLE 35. *Divisions under the MARIDA.* – The MARIDA shall have the following divisions, each to be headed by a director, who is a career official, namely:

1. *Administrative and Finance Division* – handling personnel administration of the MARIDA and their salaries, as well as the planning and coordination of maritime transport.

2. *Domestic Shipping Division* – handling all the policies regarding the coastal passenger and cargo transport business, and fare approval and other fees.

3. *International Shipping Division* – handling all policies regarding entities engaged in overseas shipping

4. *Franchising and Licensing Division* – handling the domestic franchising, licensing and registration of vessels and fixing their routes.

5. *Maritime Industries Division* – handling the financing and taxation of maritime industries, and the promotion of recreations on the sea.

6. *Inspection and Measurement Division* – handling ship inspection, tonnage measurement.

7. *Shipbuilding and Ship Repairing Division* – handling the development of the shipbuilding as well as the ship repairing industry.

8. *Ship Machinery Industries Division* – handling the development of the manufacturing and repairing of ship machinery and equipment.

9. *Technology and Safety Standards Division* – handling the development of ship technology, the planning of regulations for ship safety in accordance with IMO Convention standards.

ARTICLE 36. *Investigations, Studies, and Records, Etc.* – The Deputy Administrator for Planning is authorized and directed to investigate, determine, and keep current records of:

(a) **Suitable Ocean Routes and Lines to Foreign Ports; Vessels and Costs of Operation.** – The ocean services, routes, and lines from ports in the Philippines territory, to foreign markets, which are, or may be, determined by the Secretary of Trade and Industry to be essential for the promotion, development, expansion, and maintenance of

the foreign commerce of the Philippines. In reaching his determination the Secretary of Trade and Industry shall consider and give due weight to the cost of maintaining each of such vessel lines, the probability that any such line cannot be maintained except at a heavy loss disproportionate to the benefit accruing to foreign trade, the number of sailings and types of vessels that should be employed in such lines, and any other facts and conditions that a prudent business man would consider when dealing with his own business, with the added consideration, however, of the intangible benefit the maintenance of any such line may afford to the foreign commerce of the Philippines, to the national defense, and to other national interests;

(b) **Bulk Cargo Carrying Services.** – The bulk cargo carrying services that should, for the promotion, development, expansion, and maintenance of the foreign commerce of the Philippines and for the national defense or other national interests be provided by Philippine flag vessels whether or not operating on particular services, routes, or lines;

(c) **Vessels Required in Proposed Routes.** – The type, size, speed, method of propulsion, and other requirements of the vessels, including express-liner or super-liner vessels, which should be employed in such services or on such routes or lines, and the frequency and regularity of the sailings of such vessels, with a view to furnishing adequate, regular, certain, and permanent service, or which should be employed to provide the bulk cargo carrying services necessary to the promotion, maintenance, and expansion of the foreign commerce of the Philippines and its national defense or other national interests whether or not such vessels operate on a particular service, route, or line;

(d) **Cost of Construction in Philippines and Abroad.** – The relative cost of construction of comparable vessels in the Philippines and in foreign countries;

(e) **Relative Cost of Operation under laws of Philippines and Foreign Countries.** – The relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels under the laws, rules, and regulations of the Philippines and under those of the foreign countries whose vessels are substantial competitors of any such Philippine vessel;

(f) **Foreign Subsidies.** – The extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine;

(g) **Shipyards.** – The number, location, and efficiency of the shipyards existing on the date of the enactment of this Act or thereafter built in the Philippines;

(i) **Transportation to Foreign Ports of agricultural products, sugar and other products.** – The advisability of enactment of suitable legislation authorizing the Commission, in an economic or commercial emergency, to aid the farmers and sugar, corn, cement, and other producers anywhere in the Philippines in the transportation and landing of their products in any foreign port, which products can be carried in dry cargo vessels by reducing rates, by supplying additional tonnage to any Philippine operator, or by operation of vessels directly by the Secretary, until such time as the Commission shall deem such special rate reduction and operation unnecessary for the benefit of the Filipino farmers and such producers; and

(j) **New Designs of Vessels; Inter-coastal and Inland Water Transportation.** – New designs, new methods of construction, and new types of equipment for vessels; the possibilities of promoting the carrying of Philippine foreign trade in Philippine vessels; and inter-coastal and inland water transportation, including their relation to transportation by land and air.

ARTICLE 37. *Maritime Problems; Cooperation with Others; Cargo Carriage; Recommendations.* – The Deputy Administrator for Planning is, also, authorized and directed:

(a) **Study of Maritime Problems.** To study all maritime problems arising in the carrying out of the policy set forth in Title I of this Act;

(b) **Inducing Preferences for Philippine Vessels.** To study, and to cooperate with vessel owners in devising means by which the importers and exporters of the Philippines can be induced to give preference to vessels under Philippine registry.

(c) **Collaboration with Owners and Builders.** To collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized means of propulsion and taking into account the benefits accruing from standardized production where practicable and desirable;

(d) **Liaison with other Agencies and Trade Organizations.** To establish and maintain liaison with such other boards, commissions, independent establishments, and departments of the Philippine Government, and with such representative trade organizations through out the Philippines as may be concerned, directly or indirectly, with any movement of commodities in the water-borne export and import foreign commerce of the Philippines, for the purpose of securing preference to vessels of Philippine registry in the shipment of such commodities;

(e) **Development and Implementation of new methods of Cargo Carriage; preferences for cargo containers.** To study means and methods of encouraging the development and implementation of new concepts for the carriage of cargo in the domestic and foreign commerce of the Philippines, and to study the economic and technological aspects of the use of cargo containers as a method of carrying out the declaration of policy set forth in Title I of this Act, and in carrying out the provisions of this clause and such policy the Philippines shall not give preference as between carriers upon the basis of length, height, or width of cargo containers or length, height, or width of cargo container cells and this requirement shall be applicable to all existing container vessels and any container vessel to be constructed or rebuilt.

(f) **Recommendations for further Legislation.** To make recommendations to Congress, from time to time, for such further legislation as he deems necessary better to effectuate the purpose and policy of this Act.

ARTICLE 38. *Obsolete Tonnage; Tramp Service; Relative Costs at Yards.* The Deputy Administrator for Operations shall make studies of and make reports to the Administrator on:

(a) **Removal of obsolete tonnage.** The scrapping or removal from service of old or obsolete merchant tonnage owned by the Philippines or in use in the merchant marine;

(b) **Tramp shipping; participation in by Philippine Nationals.** Tramp shipping service and the advisability of Philippine Nationals participating in such service with vessels under Philippine registry.

(c) **Relative cost of construction at different yards; equalization.** The relative cost of construction or reconditioning of comparable ocean vessels in shipyards in the various coastal districts of the Philippines, together with recommendations as to how such shipyards may compete for work on an equalized basis; reports under this paragraph shall be made annually on the first day of March of each year.

ARTICLE 39. *Auditor.* – The Commission on Audit shall be the *ex-officio* Auditor of the MARIDA and it shall appoint its representative therein, who shall audit all accounts thereof.

### CHAPTER 3. – PHILIPPINE PORTS AND HARBORS ADMINISTRATION

#### A. GENERAL PROVISIONS

ARTICLE 40. *Statement of Objectives.* – It is hereby declared to be the policy of the State to formulate and implement a basic policy for port development, construction of ports, administration of Port Districts in the entire country and development of port construction technology in accordance with the following objectives:

- a) To coordinate, streamline, improve, and optimize the planning, development, financing, construction, maintenance and operation of ports, port facilities, port physical plants, all equipment used in connection with the operation of a Port;
- b) 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;
- c) To ensure the smooth flow of waterborne commerce passing through the country's Ports whether public or private, in the conduct of international and domestic trade;
- d) To promote regional development through the dispersal of industries and commercial activities throughout the different regions;
- e) To foster inter-island seaborne commerce and foreign trade;
- f) To redirect and reorganize port administration beyond its specific and traditional functions of harbor development and cargo handling operations to the broader function of total port district development, including encouraging the full and efficient utilization of the Port's hinterland and tributary areas;
- g) To ensure that all income and revenues accruing out of dues, rates, and charges for the use of facilities and services provided by the Philippine Ports and Harbors Administration are properly collected and accounted for by the it, that all such income and revenues will be adequate to defray the cost of providing the facilities and services (inclusive of operating and maintenance cost, administration and overhead) of the Port Districts, and to ensure that a reasonable return on the assets employed shall be realized;

ARTICLE 41. *Definition of Terms.* – The terms, as used in this Chapter, shall have the following meaning, unless the context of the particular usage of the term indicates otherwise:

- (a) “**Port District**” means the territorial jurisdiction under the control, supervision or ownership of the Philippine Ports and Harbors Administration over an area (land or sea), declared as such in accordance with Section 43 of this Act including but not limited to any Port within said District.

- (b) “**Port**” means a place where ships may anchor or tie up for the purpose of shelter, repair, loading or discharge of cargo, or for other such activities connected with water-borne commerce, and including all the land and water areas and the structures, equipment and facilities related to these functions.
- (c) “**Navigable waters**” means all navigable portions of the seas, estuaries, and inland waterways.
- (d) “**Anchorage**” means a place with sufficient depth of water where vessels anchor or may ride at anchor within the harbor.
- (e) “**Terminal Facility**” includes the seaport and its facilities of wharves, piers, slips, docks, dry docks, bulkheads, basins, warehouses, cold storage, and loading or unloading equipment.
- (f) “**Basin**” means a naturally or artificially enclosed or nearly enclosed body of water in free communication with the sea.
- (g) “**Dock**” includes locks, cuts, entrances, graving docks, inclined planes, slipways, quays, and other works and things appertaining to any dock.
- (h) “**Drydock**” means a dock from which the water can be temporarily excluded, in order to effect repairs to hulls and keels of ships or vessels.
- (i) “**Pier**” means any structure built into the sea but not parallel to the coast line and includes any stage, stair, landing place, landing stage, jetty, floating barge or pontoon, and any bridge or other works connected therewith.
- (j) “**Warehouse**” means a building or shed used for the storage of cargo.
- (k) “**Transit Shed**” means a building or shed, which is situated at or near a quay, wharf or pier, and is used, for the temporary or short-term storage of goods in transit, or to be shipped or discharge from a vessel.
- (l) “**Wharf**” means a continuous structure built parallel to along the margin of the sea or alongside riverbanks, canals or waterways where vessels may lie alongside to receive or discharge cargo, embark or disembark passengers, or lie at rest.
- (m) “**Transportation Facility**” includes rails and railcars, highways, wheeled vehicles, bridges, tunnels, tramways, subways, passenger or cargo vessels, ferry-boats, lighters, tugs, barges, scows, ramps, and any kind of facility in use or for use of the transportation, movement, or carriage of goods or passengers.
- (n) “**Lighter**” means a flat-bottomed boat or barge used in loading or unloading cargo to or from vessels.
- (o) “**Goods**” includes animals, carcasses, baggage, and any movable property of any kind.
- (p) “**Dues**” includes harbor fees, tonnage and wharfage dues, berthing charges, and port dues and any other dues or fees imposed by virtue of existing law or this Act.

- (q) “**Rates**” means any rates or charges including any toll or rent under existing law or imposed by the Philippine Ports and Harbors Administration by virtue of this Act for facilities used or services rendered.

## **B. ESTABLISHMENT, CONSTITUTION, POWERS and DUTIES**

ARTICLE 42. *The Philippine Ports and Harbors Administration.* – Pursuant to the foregoing policies and objectives, the existing Philippine Ports Authority, together with its records, personnel, capital assets, equipment and existing budget is hereby renamed and reorganized as the **Philippine Ports and Harbors Administration**, hereinafter referred to as “PPHA”. It shall be under the supervision and control of the Philippine Maritime Commission.

ARTICLE 43. *Port District.* – The PPHA may, from time to time, submit to the President, through the NEDA with the endorsement of the Commission, applications for the declaration of specific areas as Port Districts. Such applications shall be accompanied by a survey plan indicating the geographical location of the area or areas to be declared as Port Districts with their respective boundaries properly delineated.

ARTICLE 44. *Powers and Functions.* – The Philippine Ports and Harbors Administration shall have the following corporate duties and powers:

- (a) The corporate duties of the Philippine Ports and Harbors Administration shall be:
- (1) To formulate, in coordination with the NEDA and approval from the Commission, a comprehensive and practicable Port Development Plan for the State and to program its implementation, renew and update the same annually in coordination with other national agencies. Furthermore, it shall incorporate the National Port Transport Plan referred to in Executive Order 214, series 1994 in the formulation of the Port Development Plan;
  - (2) To supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in the ports vested in, or belonging to the PPHA;
  - (3) To prescribe rules and regulations, procedures, and guidelines governing the establishment, construction, maintenance, and operation of all other ports, including private ports in the country;
  - (4) To license, control, regulate, supervise any construction or structure within any Port District;
  - (5) To issue the arrival and departure clearance to vessels engaged in international shipping, and the departure clearance to domestic common carriers by water engaged in purely in the business of shipping cargo;
  - (6) To provide services (whether on its own, by contract, or otherwise) within the Port Districts and the approaches thereof, including but not limited to (i) berthing, towing, mooring, moving, slipping, or docking any vessel; (ii) loading or discharging any vessel; and (iii) sorting, weighing, measuring, storing, warehousing, or otherwise handling goods;
  - (7) To exercise control of or administer any foreshore rights or leases which may be vested in the PPHA from time to time;

- (8) To coordinate with the Bureau of Lands or any other government agency or corporation, in the development of any foreshore area;
  - (9) To control, regulate, and supervise pilotage and the conduct of pilots in any Port District;
  - (10) To provide or assist in the provision of training programs and training facilities for its staff or staff of port operators and users for the efficient discharge of its functions, duties, and responsibilities; and
  - (11) To perform such acts or provide such services as may be deemed proper or necessary to carry out and implement the provisions of this Act.
- (b) The corporate powers of the Philippine Ports and Harbors Administration shall be as follows:
- (1) To succeed in its corporate name;
  - (2) To sue and be sued in such corporate name;
  - (3) To adopt, and use a corporate seal which shall be juridically noticed;
  - (4) To adopt, amend and repeal its by-laws;
  - (5) To create or alter its own organization or any Port Management Unit, and staff such an organization or Port Management Unit with appropriate and qualified personnel in accordance with what may be deemed proper or necessary to achieve the objectives of the PPHA;
  - (6) To make or enter into contract of any kind or nature to enable it to discharge its functions under this Act;
  - (7) To acquire, purchase, own, operate, lease, mortgage, sell, or otherwise dispose of any land, port facility, wharf, quay, or property of any kind, whether movable or immovable;
  - (8) To exercise the right of eminent domain, by expropriating the land or areas surrounding the Port of harbor, which in the opinion of the PPHA, are vital or necessary for the total development of the Port District;
  - (9) To levy dues, rates, or charges for the use of the premises, works, appliances, facilities, or for services provided by or belonging to the PPHA, or any other organization concerned with port operations;
  - (10) To reclaim, excavate, enclose, or raise any part of the lands vested in the PPHA;
  - (11) To dredge or provide dredging services, within a Port District or elsewhere;
  - (12) To acquire any undertaking affording or intending to afford facilities for the loading and discharging or warehousing of goods in the Port Districts;
  - (13) To supply water or bunkers for ships;

- (14) To obtain insurance for or require the insurance of any property, movable or immovable, belonging to the PPHA, and/or goods in the custody of the PPHA;
- (15) To do all such other things and to transfer all such business directly or indirectly necessary, incidental or conducive to the attainment of the purposes of the PPHA; and
- (16) Generally, to exercise all the powers of a corporation under the Corporation Code insofar as they are not inconsistent with the provisions of this Act.

ARTICLE 45. *Board of Directors.* – The corporate powers of the PPA shall be vested in a Board of Directors, which shall consist of the following members:

- (1) Secretary of Transportation and Communications, who shall act as Chairman;
- (2) General Manager of the PPA, who shall act as Vice Chairman;
- (3) Director-General of the NEDA
- (4) Secretary of Finance;
- (5) Secretary of Environment and National Resources;
- (6) Secretary of Trade and Commerce; and
- (7) One (1) person representing the private sector.

The directors listed under (1) to (6) shall be *ex-officio* members of the Board of Directors: *Provided*, That in the absence of such directors appointed in (3) to (6), the director concerned shall designate the officer next in rank to him in his department or office to act on his behalf as a director.

The director from the private sector shall be appointed by the President of the Philippines, upon the recommendation by the Commission. The appointee shall be a Filipino citizen and a person of recognized integrity and probity. Such a director from the private sector shall hold office for a period of three (3) years from the date of his appointment. The President may reappoint such a director, as he may deem fit.

The members of the Board of Directors or their alternatives shall receive a per diem as it may approve for each board meeting actually attended by them: *Provided*, That, such per diems shall not exceed five thousand pesos during any one month for each member: *Provided further*, That no other allowance or any form of compensation shall be paid them, except actual expenses in travelling to or from their residences to attend board meetings.

### **C. ORGANIZATION and STAFF**

ARTICLE 46. *Management and Staff.* – The Secretary shall, upon the recommendation of the Commission, appoint the General Manager and the Assistant General Managers. All other officials and employees of the PPHA shall be selected and appointed on the basis of merit and fitness based on a comprehensive and progressive merit system to be established by the PPHA immediately upon its reorganization and consistent with Civil Service rules and regulations. The recruitment transfer, promotion, and dismissal of all personnel of the PPHA, including temporary workers, shall be governed by such merit system.

The General Manager shall, subject to the approval of the Commission, determine the staffing pattern and the number of personnel of the PPA, define their duties and responsibilities, and fix their salaries and emoluments. For professional and technical positions, the General Manager shall recommend salaries and emoluments that are comparable to those of similar positions in other government-owned and controlled corporations, the provisions of existing rules and regulations on wage and position classification notwithstanding.

The General Manager shall, subject to the approval by the Secretary, appoint and remove personnel below the rank of Assistant General Manager. The General Manager of the Port Authority shall receive a salary to be determined by the Board, and approved by the President. The number of Assistant General Managers of the PPHA shall in no case exceed three (3) who shall each receive a salary to be determined by the Board and approved by the Commission.

*ARTICLE 47. General Powers and Duties of the General Manager and Assistant General Managers. –*

(a) The General Manager shall be responsible to the Board, and shall have the following general powers, functions, and duties:

- (1) To implement, enforce and apply the policies, programs, guidelines, procedures, decisions, rules and regulations promulgated, prescribed, issued or adopted by the PPHA;
- (2) To manage the day to day affairs of the PPHA, and ensure the operational efficiency of the Ports under its jurisdiction and ownership;
- (3) To sign contracts, to approve expenditures and payments within the budget provisions, and generally to do any all acts or things for the proper operations of the PPHA or any of the Ports under its jurisdiction, control or ownership;
- (4) To submit an annual budget to the Board for Recurrent Income and Expenditure and the Estimated Capital Expenditure for its option not later than two months before the commencement of the ensuing fiscal year;
- (5) To undertake research, studies, investigations, and other activities and projects, and to submit comprehensive reports and appropriate recommendations to the Board for its information and approval;
- (6) To perform such other duties as the Board may assign from time to time.

(b) The Assistant General Managers shall be responsible to the General Manager of the PPHA, and shall have the following general powers, functions and duties:

- (1) To assist the General Manager in implementing, enforcing, and applying the policies, programs, guidelines, procedures, decisions, rules and regulations promulgated, prescribed, issued, or adopted by the PPHA;
- (2) To assist the General Manager in the performance of his other functions and duties; and
- (3) To perform such other duties as the General Manager may assign from time to time.

ARTICLE 48. *Divisions under the Philippine Ports and Harbors Authority.* – The PPHA shall have the following divisions, each to be headed by a director, namely:

1. *Administrative and Finance Division* – handling personnel administration of the PPHA and their salaries, as well as the adjustment of port charges, and the administration of the different Port Districts.

2. *Planning Division* – handling the formulation of port development plan and its implementation program.

3. *Development Division* – handling the formulation of long-term port development plan and the research of coastal zone development.

4. *Environment Division* – handling the planning and implementation for development of coastal recreation area and for improvement of port and marine environment.

5. *Disaster Prevention Division* – handling the administration, planning and implementation of port coastal work, disaster prevention work and restoration of damaged facilities.

6. *Engineering Division* – handling the development of port and harbor engineering, and establishment of technical standards.

7. *Port Services Division* – handling the all port services provided by the PPHA, the maintenance of equipment and facilities owned by the PPHA and the issuance of arrival and departure clearance to vessels engaged in international shipping, and the issuance of departure clearance to domestic common carriers of cargo by water.

#### **D. CAPITAL, FINANCE AND ACCOUNTS**

ARTICLE 49. *Capital.* – The authorized capital of the Philippine Ports and Harbors Administration is hereby increased to five billion (₱ 5,000,000,000.00) pesos. The amount increased shall be contributed by the Government on the request of the Board, upon the recommendation of the Commission, but subject to the availability of funds as certified by the Department of Budget and Management.

ARTICLE 50. *Creation of Reserves.* – The balance of any revenue or income of the PPHA remaining at the end of each year shall be applied to the creation of a general reserve or such other reserves as the PPHA may deem appropriate. In lieu, of such reserves, the PPHA shall be exempt from the operation of Section 3, Republic Act No. 7656.

ARTICLE 51. *Investment of Funds.* – The Authority may, from time to time, invest any of its funds not immediately required to be expended in meeting its obligations or in the discharge of the functions of the PPHA, in such government securities approved by the Board.

ARTICLE 52. *Borrowing Powers.* –

- (a) The PPHA may, after consultation with the Bangko Sentral ng Pilipinas and the Department of Finance, and with the approval of the Commission, raise funds, either from local or international sources, by way of loans, credits or indebtedness or issue bonds, notes, debentures, securities, and other borrowing instruments, including the power to create pledges, mortgages, and other voluntary liens or encumbrances on any of its assets or properties.

- (b) All loans contracted by the PPHA under this Article together with all interests and other sums payable in respect thereof, shall constitute a charge upon all the revenues and assets of the PPHA and shall rank *pari passu* with one another, but shall have priority over any other claim or charge on the revenue and assets of the PPHA; *Provided*, That this provision shall not be construed as a prohibition or restriction on the power of the PPHA to create pledges, mortgages and other voluntary liens or encumbrances on any property of the PPHA.
- (c) Except as expressly authorized by the Commission, the total outstanding indebtedness of the PPHA in the *principal amount in local and foreign* currency shall not at any time exceed the net worth of the PPHA at the relevant time.
- (d) The Commission is further hereby authorized to guarantee in the name and on behalf of the Republic of the Philippines, the payments of the loans or other indebtedness of the PPHA up to the amount herein authorized.
- (e) All interests paid or payable by the PPHA on its loans or other forms of indebtedness shall be exempt from taxes of whatsoever nature.

ARTICLE 53. *Annual Budget.* –

- (a) The Board shall every year cause to be prepared and shall adopt annual estimates of income and expenditures and estimates of capital expenditure of the PPHA for the ensuing year.
- (b) Supplementary estimates may be adopted at any of the meetings of the Board.

ARTICLE 54. *Annual Accounts.* –

- (a) The Board shall cause proper accounts and other records of the PPHA in relation thereto to be kept. An annual statement of account shall be rendered in respect to each year. The PPHA shall maintain such accounts and other records under a commercial system of accounting.
- (b) The accounts of the PPHA shall be kept and made up to 31 December in each year.
- (c) The annual statement of accounts of the PPHA shall present a true and fair value of the financial position of the PPHA and of the results of the operations of the PPHA for the year to which it relates.

ARTICLE 55. *Auditor.* –

- (a) In consonance with existing laws and regulations, the Commission on Audit shall be appointed to audit the accounts of the PPHA. In the fulfillment of international contractual commitments of the PPHA, however, the Board may engage the services of any person or firm duly authorized by law for the audit of accounts, to audit the accounts of the PPHA.
- (b) The Auditor shall be paid out of the revenue of the PPHA such remuneration, compensation or expenses as the Board may determine.

ARTICLE 56. *Auditor's Reports.* – The Auditor shall as soon as practicable, but not later than three months after the accounts have been submitted for audit, send an

annual report to the Board. The Auditor may also submit such periodical or special reports to the Board as may to him appear necessary.

ARTICLE 57. *Annual Report.* – The Board shall submit to the Commission together with the Auditor’s Report on the relevant accounts, an annual report generally dealing with the activities and operations of the PPHA during the preceding year and containing such information relating to the proceedings and policies of the PPHA.

#### E. DUES AND RATES

ARTICLE 58. *Dues.* – The Commission may, upon recommendation of the PPHA, increase or decrease such dues collectible by the PPHA to protect the interest of the Government and to provide a satisfactory return on the PPHA’s assets. Likewise, it may adjust the schedule of such dues so as to reflect the costs of providing the services; *Provided, however,* That the rates of dues on all the ports of the Philippines upon the effectivity of this Act shall be those the PPHA currently follows, until such time that the Commission, upon recommendation of the Board, may order that the adjusted schedule of dues are in effect.

ARTICLE 59. *Rates and Charges.* – (a) The PPHA may impose, fix, prescribe, increase or decrease such rates, charges or fees for the use of port premises, works, appliances or equipment belonging to the PPHA and port facilities provided, and for services rendered by the PPHA or by any organization within a Port District: *Provided,* That upon the effectivity of this Act, the rates of storage and arrastre charges in all ports of the Philippines shall be those currently used by the PPHA, until such time when the Commission, upon recommendation of the Board, may order that the revised rates, charges or fees are in effect.

(b) The PPHA shall regulate the rates or charges for port services or port related services so that taking one year with another, such rates or charges furnish adequate working capital and produce an adequate return on the assets of the PPHA. In regulating the rates or charges for individual ports the PPHA shall take into account the development needs of the port’s hinterland.

(c) All dues, fees, charges and other sums imposed and collected by the PPHA shall accrue to the PPHA and shall be disposed of in accordance with the provisions of this Act.

ARTICLE 60. *Remission of Dues, Rates, or Charges.* – No amount due in respect of dues, rates, or charges prescribed by the PPHA under this Act shall be waived or reduced except:

- (a) Where the State has arrangements with a foreign government in respect of vessels are not normally engaged in the conveyance of cargo or passengers; and
- (b) For vessels seeking shelter from inclement weather or entering the port for medical help and other maritime necessity.

ARTICLE 61. *Remedies for Nonpayment.* – If the master, owner or agent of any vessel refuses or neglects to pay on demand any dues, rates, or charges made under this Act or any part thereof, the PPHA may, in addition to any other remedy provided by law, detain or arrest on its own authority such vessel and tackle, apparel or furniture belonging to the vessel, and hold the same until the amount or amounts due have been paid.

ARTICLE 62. *When Rates Payable and Lien.* –

(a) Rates or charges with respect to goods to be landed become payable immediately upon landing such goods.

(b) Rates or charges with respect to goods to be shipped are payable before the goods are loaded.

(c) Rates or charges with respect to goods to be removed from the premises of the PPHA are payable on demand.

(d) For the amount of rates or charges leviable under this Act, with respect to goods, the PPHA shall have lien on such goods and is entitled to detain them until the amount of rates or charges is fully paid. Such lien shall have priority over all other liens and claims, except claims for duties and taxes due to the Government and expenses of the sale.

ARTICLE 63. *Recovery of Lien.* – Without prejudice to the authority and rights of the Bureau of Customs in the disposition of property in Customs custody as provided for in the Tariff and Customs Code, as amended, if any goods which have been placed in or on the premises of the PPHA are not removed therefrom within the prescribed period after the legal permit for their withdrawal and/or release from Customs custody, or the authority to load, in case of exports, has been issued by the Bureau of Customs, the PPHA, with the prior concurrence of the Bureau of Customs, may dispose of any such goods in the manner as it deems fit in order to recover the lien; *Provided*, That the proceeds of the sale shall be applied in the following manner:

- (a) Firstly, in the payment of duties and taxes due to the Government;
- (b) Secondly, in payment of expenses of the sale;
- (c) Thirdly, in payment of the rates, charges, and fees due to the PPHA with respect to the goods;
- (d) Fourthly, in payment of freight, lighterage or general average, on voyage of importation and in case of exports, in payment of domestic freight, lighterage and cartage, of which due notice shall have been given to the PPHA;
- (e) And finally in rendering on demand the surplus, if any, to the person legally entitled thereto: *Provided*, That in case no such demand is made within a period of one (1) year from the date of sale of the goods, the surplus, if any, shall become part of the general funds of the PPHA, whereupon all rights to the same by such person shall be extinguished.

ARTICLE 64. *Exemption from Realty Taxes.* – The Authority shall be exempt from the payment of real property taxes imposed by the Republic of the Philippines, its agencies, instrumentalities or political subdivisions; *Provided*, That no tax exemptions shall be extended to any subsidiaries of the PPHA that may be organized; *Provided, finally*, That investments in fixed assets shall be deductible for income tax purposes.

## **F. PORT REGULATIONS**

ARTICLE 65. *Power to Make Port Regulations.* –

(a) The PPHA may, in consultation with the Commission, make rules or regulations for the planning, development, construction, maintenance, control, supervision and management of any Port or Port District and the services to be provided therein, and for the maintenance of good order therein, and generally for carrying out the purposes of this Act.

(b) The PPHA may provide separate regulations for each category of ports or port districts.

ARTICLE 66. *Dangerous Cargo.* –

(a) The PPHA may make regulations for the conveyance, loading, discharging and storage of dangerous goods within any port, port district, and the approaches to the port.

(b) The PPHA may provide separate regulations for each category of ports or port districts.

ARTICLE 67. *Powers of Harbor Master* - Further to the provisions of any regulation under Article 65 and 66 of this Act, the PPHA thru the Harbor Master of a Port or Port District may:

(a) Direct where any vessel shall be berthed, moored, or anchored, and the method of anchoring within the port and the approaches to the port;

(b) Direct the removal of any vessel from any berth or anchorage to another berth or anchorage and the time within such removal is to be effected; and

(c) Regulate the mooring of vessels within the port and the approaches to the port.

ARTICLE 68. *Existing Regulations.* – Anything to the contrary notwithstanding and until new rules or regulations are promulgated by the PPHA under Articles 65 and 66 of this Act, the rules, regulations or orders promulgated by the Philippine Ports Authority shall continue to apply as if they were made under said Articles.

## G. CONSTRUCTION AND DREDGING WORKS

ARTICLE 69. *Construction and Dredging Works.* –

(a) The Department of Public Works and Highways (DPWH) shall be the executing agency of the PPHA for the execution and supervision construction works of port terminal facilities and port works, and the dredging of public ports vested in the PPHA; *Provided*, That the PPHA may accept unsolicited proposals or bid out projects in accordance with Republic Act No. 6957, as amended: *Provided, further*, That the PPHA shall perform rehabilitation or maintenance works (including maintenance dredging) by *its own personnel or private contractor*, whichever arrangement is more advantageous to port and shipping operations.

(b) The PPHA shall be responsible for the allocation and control of all funds for the execution of all construction, rehabilitation and maintenance works mentioned in the preceding paragraph.

## CHAPTER 4 – MARITIME MANPOWER ADMINISTRATION

ARTICLE 70. *Maritime Manpower Administration.* – There is hereby created a **Maritime Manpower Administration**, hereinafter referred to in this chapter as the “Administration”, in order to carry out the policies and purposes of promoting, developing, and monitoring the continuing education, training and qualification, certification, welfare and deployment of Filipino seafarers and other maritime workers, in local as well as foreign vessels, consistent with international practices, standards and conventions.

The officials and personnel of the Overseas Workers and Welfare Administration and the Philippine Overseas Employment Administration involved in the administration of Filipino seafarers and other maritime workers are hereby transferred to the Maritime Manpower Administration. Likewise, all equipment, records, and the existing budget of appertaining to such functions and duties will be transferred to the Administration.

The Administration shall be under the direct supervision and control of the Philippine Maritime Commission, as created in this Act.

ARTICLE 71. *Objectives.* – The Administration shall have the following objectives:

- (a) To develop, organize, maintain and operate an integrated and streamlined maritime manpower development system that shall undertake the education, training, qualification and certification of Filipino seafarers and other maritime workers in accordance with the STCW '95 and other IMO Regulations directed towards safer ships and cleaner oceans.
- (b) To establish and maintain a centralized government agency that shall attend to the needs of all maritime workers, providing them the necessary services, supervision, regulation and guidance in the pursuit of their career without saddling them with unnecessary bureaucratic and documentary requirements;
- (c) To promote improvements in the working conditions and terms of employment of the officers and crew of 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;
- (d) To assist in the settlement of disputes between the ship owners and ship operators and its officers and crew members and between the owner or manager of other shipping enterprises and their personnel;
- (e) To upgrade the knowledge and skills of all maritime workers in modern shipping technologies, including shore and off-shore management, so as to meet the increasing demand of domestic and foreign shipping companies for competent maritime workers and practitioners, particularly seafarers; and
- (f) To establish and support a system of maintaining and developing a reservoir of trained manpower, particularly officers and engineers, to meet the current and future needs of the maritime industry in coordination with the proper government agencies and training institutions.

ARTICLE 72. *Organization and Composition.* – The Administration shall have an Administrator and two (2) Deputy Administrators all appointed by the Secretary, from a list of appointees, upon the recommendation of the representatives of manning sector with the approval of the Commission.

The Administration shall be headed by the Administrator, who shall act as Chief Executive Officer, and assisted, by the Deputy Administrators who shall be career officials with proven tract record and versatility in the seafaring or manning sector. The Administration shall be composed of the Manpower Development Office, the Licensing, Accreditation and Placement Office, the Welfare Office, the Research, Standard and Marketing Development Office, and the Administrative Office. Career officials shall head all offices under the Administration.

ARTICLE 73. *Powers and Functions of the Administrator.* – The Administrator shall exercise overall administrative supervision over the Administration to insure the efficient policy and program implementations. He or she shall have the following functions:

- (a) Adopt and implement the practicable and coordinated program regarding the development of reservoir of trained manpower;
- (b) Develop and formulate plan, policies, programs and procedures for the education, training and qualification, certification, welfare and protection of the rights of all Filipino maritime workers, for local and overseas deployment with the approval of the Commission;
- (c) Evaluate the capability of maritime educational and training institutions and programs in the Philippines, including the Philippine Merchant Marine Academy, to supply shipping, shipyard , and port manpower needs;
- (d) Ensure that the requirements of pertinent international organizations and maritime conventions on the standards of training and qualifications of Filipino seafarers and other maritime workers are fully complied with;
- (e) Supervise maritime institutions and prescribe minimum requirements in the conduct of courses in navigation, seamanship, marine engineering, port administration, shipping management and other allied courses as prescribed by the IMO, and in coordination with the Commission on Higher Education;
- (f) Order the inspection and periodic evaluation of the standards, programs, facilities and performance of maritime educational and training institutions, both of government and private schools, in coordination with the Commission on Higher Education, and recommend such changes in the curriculum as may be necessary;
- (g) Provide accreditation and certification to maritime educational and training institutions to ensure proper compliance with the provision of this Chapter;
- (h) 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 the private sector and proper government agencies;
- (i) Provide incentives for education and training in shipping and shipbuilding fields, specially those which are not attractive to students such 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;
- (j) Sign licenses and certificates to qualified marine officers, pilots, major and minor patrons, and seamen as proof of their qualification, as well as suspend and revoke such licenses and certificates in accordance with provisions of this Act;
- (k) To prescribe rules and regulations for the training, qualification and certification of unlicensed merchant marine personnel including the selected skills in the shipbuilding industry;
- (l) Issue and register the continuous discharge book of Filipino seamen;

- (m) Regulate private sector participation in the recruitment and placement in the domestic and overseas market of maritime workers through effective licensing, regulation and monitoring system;
- (n) Maintain a proactive system of monitoring and addressing the welfare concerns of all maritime workers and their families;
- (o) Promote the marketability and competitive edge of Filipino maritime workers;
- (p) Secure the best terms and conditions of employment of Filipino maritime workers and ensure compliance therewith by all concerned;
- (q) Establish bilateral and/or multilateral arrangements with various States hiring Filipino maritime workers on issues affecting their employment opportunities, welfare and development; and
- (r) Perform such other duties and functions as may be necessary and proper to implement this Act.

ARTICLE 74. *Functions of the Executive Offices.* – For proper management and effective implementation of the purposes and objectives of the Administration, each executive office shall perform the following functions:

- (a) *The Manpower Development Office.* – The Manpower Development Office shall implement policies and guidelines toward the promotion of skills and professional competence of seafarers, and in furtherance thereof, the office shall:
  - (1) Develop and establish education and training standards for Filipino maritime workers;
  - (2) Accredite, regulate and supervise all maritime schools and training centers;
  - (3) Close down maritime schools and training centers or cancel the permit to conduct maritime programs on grounds of sub-standard operation and/or major non-conformity with international standards;
  - (4) Conduct examination, for Marine Deck/Engineer Officers, through the Board of Examiners mentioned in Chapter 4, Title III of this Act as well as qualify and issue licenses to harbor pilots and bay and river patrons through proper examination
  - (5) Issue Seafarers' Identity Document in accordance with ILO Convention No. 108;
  - (6) *To establish a proper and legal forum for the disciplining of errant maritime workers in order to protect the reputation and excellent image of the good Filipino maritime workers, both in local and overseas;*
  - (7) Establish and maintain a centralized registry of competent and certified seafarers and other maritime workers for domestic and overseas trade; and

- (8) Perform such other functions as may be directed by the Chairman.
- (b) *The Licensing, Accreditation and Placement Office.* – The Licensing, Accreditation and Placement Office shall undertake a systematic program of implementing the Administration’s policies of promoting, regulating and monitoring the employment of all maritime workers as well as the operation of private manning agencies. Pursuant thereto the office shall:
- (1) Establish, operate and maintain a licensing and accreditation system to regulate the recruitment, hiring and the placement of maritime workers in accordance with pertinent ILO Conventions;
  - (2) Process the application for licenses or authority to operate private manning agencies and, supervise and regulate the operation of said agencies;
  - (3) Prepare and implement an inspection program for effective supervision and evaluation of the activities of private manning or shipping agencies;
  - (4) Revoke the license and /or accreditation of domestic and overseas shipping management and manning agencies if they fail the minimum standard as required by the rules and regulations;
  - (5) Process all shipboard contracts and/or shipping articles, and secure the best possible terms and conditions of employment of our maritime workers;
  - (6) Hear cases involving violations of the rules and regulations on the recruitment and placement, violations of the conditions of licenses or authority including complaints for suspension, cancellation and revocation thereof, and recommend to the Chairman appropriate actions as deemed necessary; and
  - (7) Perform such other functions as may be directed by the Chairman.
- (c) *The Welfare Office.* – The Welfare Office shall undertake measures towards industrial peace and provide the necessary services to enhance the well being of maritime workers. In this regard, it shall perform the following functions:
- (1) Look into and promote improvements in the working conditions and terms of employment of the officers and crew of 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;
  - (2) Develop an effective system of monitoring and gathering welfare concerns through a pool of dedicated personnel for purposes of determining future welfare programs, monitoring existing welfare activities and addressing current welfare issues prioritized according to their urgency;

- (3) Conduct pre-departure orientation seminars or briefings to departing seafarers and other maritime workers scheduled for deployment. It shall also undertake studies and development materials for use in pre-departure orientation seminar of maritime workers and other related activities;
  - (4) Accredite, regulate and supervise pre-departure orientation seminars or briefings of authorized manning or shipping agencies;
  - (5) Formulate and undertake programs and projects for the effective and efficient utilization of the seafarer's welfare fund;
  - (6) Provide service to assist the maritime workers and their immediate dependents and families; and
  - (7) Perform such other duties as may be directed by the Chairman.
- (d) *The Research, Standard and Marketing Development Office.* – The Research, Standard and Marketing Development Office shall formulate, develop and implement a comprehensive maritime manpower export development strategy and market promotion geared towards enhancement of maritime worker's employment opportunities in domestic and overseas market. In furtherance thereto, it shall perform the following functions:
- (1) Conduct researches, studies and statistics on the trend and other data on both domestic and overseas shipping and manning industries for use as materials in policy formulation, market promotion/strategies and manpower development programs and other aspects of maritime affairs;
  - (2) Harness information technology to serve national maritime policy goals;
  - (3) Coordinate and share data with the Maritime Research and Development Institute;
  - (4) Provide support services and materials for the reproduction and publication of all printed materials of the Administration;
  - (5) Develop, establish and maintain a public information system and such facilities that would educate and orient seafarers and other maritime workers regarding the Administration's policies and programs;
  - (6) Develop, propagate and enhance national awareness of maritime issues through a comprehensive information program; and
  - (7) Perform such other functions as may be directed by the Chairman.
- (e) *The Administrative Office.* – The Administrative Office shall be responsible for providing the Administration with services relating to personnel information, records, supplies, equipment, collection and disbursements,

security and custodial work. It shall provide the Administration with staff, advice and assistance on budgetary, financial and management matters.

ARTICLE 75. *Staffing Pattern.* The Administrator, as endorsed by the Commission, shall approve the organizational framework and staffing pattern of the Administration.

## CHAPTER 5 – MARITIME INDUSTRY ARBITRATION ADMINISTRATION

ARTICLE 76. *Creation of the Maritime Industry Arbitration Administration.* – There is hereby established a body to be known as the **Maritime Industry Arbitration Administration** (MIAA), hereinafter referred to in this Chapter as the “Administration”. The Commission shall be under the administrative supervision of the Philippine Maritime Commission.

ARTICLE 77. *Objectives.* – The Administration shall have the following objectives:

- (a) To encourage the early and expeditious settlement of disputes in the Philippine maritime industry;
- (b) To provide a system, rules and regulations for the adjudication of complaints for violations of contracts or employer-employee relations dispute arising from the recruitment, placement and employment of maritime workers, both in local and overseas;
- (c) To assist in the settlement of disputes between the ship owners and ship operators and such officers and crew members and between the owner or manager of other shipping enterprises and their personnel by providing a system for voluntary arbitration or compromise; and
- (d) To establish an arbitral machinery to settle to such disputes expeditiously in order to maintain and promote a healthy partnership between the government and the private sector in the furtherance of national development goals.

ARTICLE 78. *Jurisdiction.* – The Administration shall have original and exclusive jurisdiction over disputes arising from, or connected with, contracts entered into by parties involved in the maritime industry in the Philippines, whether the dispute arises before or after the completion of the contract, or after the abandonment or breach thereof. These disputes may involve government or private contracts. For the Administration to acquire jurisdiction, the parties to a dispute must agree to submit the same to voluntary arbitration.

The jurisdiction of the Administration may include but is not limited to:

- (a) all matters or cases, including money claims, involving employer-employee relationship arising out of any law or employment contracts involving Filipino maritime workers employed both in local and overseas. The decision of the arbiter or Arbitral Tribunal shall be appealable to the National Labor Relations Administration within the same period and upon the same grounds provided in Article 223 of the Labor Code;
- (b) all disputes regarding the business of managing and/or operating of a shipping line, management of ports, stevedoring and arrastre, custom brokerage and cargo survey;

- (c) all disputes regarding the ship brokering/chartering;
- (d) violation of specifications for materials and workmanship in the design, construction, repair and/or maintenance of vessels or component parts thereof, as well as the services provided by shipyards and dry-docks;
- (e) all disputes arising out of providing maritime services such as ship supplies, surveys, ship manning and training, maritime consultancy, shipping agencies, freight forwarding and other similar enterprises;
- (f) all disputes regarding the accident and/or collision of vessels at sea or any other place where such an incident occurred;
- (g) all disputes arising out of the conduct of maritime trade and commerce; and
- (h) all such other disputes regarding the maritime industry that the parties may submit for voluntary arbitration.

In cases falling under (a) of this Article, once an aggrieved maritime worker or his beneficiaries had file a complaint against any local placement, manning or shipping agency or foreign-based employer-principal or the latter's authorized agent or representative, it shall automatically be placed under compulsory arbitration, if one or both parties refuse to settle the issue through voluntary arbitration. The same case would also apply when the employer or his representative was the one who filed a complaint against a worker for breach of the employment contract or for other violations of the terms and conditions of the employment contract.

ARTICLE 79. *Composition of the Administration.* – The Administration shall consist of a Chairman and two (2) members, all to be appointed by the Secretary upon the recommendation of the Commission. Upon their appointment, they shall choose who among themselves will be the Chairman.

ARTICLE 80. *Qualifications of the Members of the Administration.* – No person shall be appointed a member of the Administration unless he is a citizen and resident of the Philippines, a person of great integrity and probity, and proven competence. At least one (1) of the members of the Administration must be a Master Mariner with at least ten (10) years of experience in the practice of his profession.

No chairman, president, director, or officer of any private company or enterprise primarily engaged in the shipping industry shall be eligible for appointment as Administrator and Deputy Administrator within two (2) years from his retirement, resignation, or separation therefrom.

ARTICLE 81. *Powers and Functions.* – The Administration shall perform, among others that may be conferred by law, the following functions:

- (a) To formulate and adopt an arbitration program for the maritime industry;
- (b) To enunciate policies and prescribe rules and procedures for admiralty or maritime arbitration;
- (c) To establish and maintain speedy and efficient conciliation machinery for the settlement of disputes among and between the employers and employees;

- (d) To supervise the arbitration program, and exercise such authority related thereto as regards the appointment, replacement or challenging of arbitrators; and
- (e) To direct its officers and employees to perform such functions as may be assigned to them from time to time.

ARTICLE 82. *Compensation of the Administration.* – The members of the Administration shall receive such per diems and allowances as may be fixed by the Commission from time to time.

ARTICLE 83. *Term.* – The term of office of the members of the Administration shall be six (5) years. The appointment to any vacancy in the Administration shall only be for the unexpired portion of the term of the predecessor. The members may be re-appointed to serve another term of office.

ARTICLE 84. *Quorum.* – The presence of a majority of the members of the Administration shall constitute a quorum for the transaction of business.

ARTICLE 85. *Deliberations; Action of Complaint.* – The decisions of the Administration shall be arrived at by majority vote.

In the case of a contract dispute, referred to in Article 96 (a) the decision of a single arbiter shall be binding upon the party, unless the parties agreed to an Arbitral Tribunal. In which case, upon receipt of the complaint and the position papers of the parties, the arbiter shall immediately summon the parties for the purpose of conciliating the dispute. If the dispute is not settled within fifteen (15) days from the date of the first conciliation meeting, the hearing officer shall decide the case based on the documents already submitted.

ARTICLE 86. *Secretariat.* – The Administration shall have a Secretariat to be headed by an Executive Director who shall be responsible for receiving requests for arbitration, and other pleadings, for notifying the parties thereto; and, for fixing and receiving filing fees, deposits, costs of arbitration, administrative charges, and fees. It shall be the duty of the Executive Director to notify the parties of the awards made by the arbitrators.

The Secretariat shall have among others a Publication and a Training Division.

ARTICLE 87. *Authority to appoint.* – The Administration is hereby authorized to appoint the Executive Director, the consultants, the arbitrators, as well as personnel and staff. It shall also have the power to discipline and remove with cause all persons under its control and supervision.

ARTICLE 88. *Authority to Collect Fees.* – The Administration is empowered to determine and collect fees, deposits, costs of arbitration, as well as administrative and other charges as may be necessary in the performance of its functions and responsibilities. The Administration is also authorized to use its receipts and deposits of funds to finance its operations subject to the approval of the Commission, the provisions of any law to the contrary notwithstanding.

ARTICLE 89. *Arbitrators.* – A sole arbitrator or three arbitrators may settle a dispute. The term “arbiter” when used in this Act shall mean the same as arbitrators as understood herein.

Where the parties agree that a sole arbitrator shall settle the dispute, they may, by agreement, nominate him from the list of arbitrators accredited by the Administration for

appointment and confirmation. If the parties fail to agree as to the arbitrator, the Administration taking into consideration the complexities and intricacies of the dispute(s) has the option to appoint a single arbitrator or an Arbitral Tribunal.

If the Administration decides to appoint an Arbitral Tribunal, each party may nominate one (1) arbitrator from the list of arbitrators accredited by the Administration for appointment and for confirmation. The third arbitrator who is acceptable to both parties confirmed in writing shall be appointed by the Administration and shall preside over the Tribunal.

Arbitrators shall be men of distinction in whom the business sector and the government can have confidence. They shall not be permanently employed with the Administration. Instead, they shall render services only when called to arbitrate. For each dispute they settle, the arbiters shall be given fees.

ARTICLE 90. *Appointment of Experts.* – The services of technical or legal experts may be utilized in the settlement of disputes if requested by any of the parties or by the Arbitral Tribunal. If the request for an expert is done by either or by both of the parties, it is necessary that the Arbitral Tribunal confirm the appointment of the expert.

Whenever the parties request for the services of an expert, they shall equally shoulder the expert's fees and expenses, half of which shall be deposited with the Secretariat before the expert renders service. When only one party makes the request, it shall deposit the whole amount required.

ARTICLE 91. *Arbitration Expenses.* – Arbitration expenses shall include the filing fee; administrative charges, arbitrator's fees; fee and expenses of the expert, and others that may be imposed by the Administration.

The administrative charges and the arbitrator's fees shall be computed on the basis of percentage of the sum in dispute, and to be fixed in accordance with the Table of Administrative Charges and Arbitrator's Fees.

ARTICLE 92. *Deposit to Cover Arbitration Expenses.* – The Administration shall be authorized to fix the amount to be deposited, which must be equivalent to the expected arbitration expenses. The deposit shall be paid to the Secretariat before arbitration proceedings shall commence. Payment shall either be shared equally by the parties or be paid by any of them. If one party fails to contribute his share in the deposit, the other party must pay in full. If both parties fail to tender the required deposit, the case shall be considered dismissed but the parties shall still be liable to pay one-half (1/2) of the agreed administrative charge.

ARTICLE 93. *Reports.* – The Administration shall within three (3) months after the end of the fiscal year, submit its annual report to the Commission. It shall, likewise, submit such periodic reports, as it may be required from time to time.

ARTICLE 94. *Finality of Awards.* – The arbitral award shall be binding upon the parties. It shall be final and unappealable except on questions of law, which shall be appealable to the Supreme Court.

ARTICLE 95. *Execution and Enforcement of Awards.* – As soon as a decision, order to award has become final and executory, the Arbitral Tribunal or the single arbitrator with the concurrence of the Administration shall *motu proprio*, or on motion of any interested party, issue a writ of execution requiring any sheriff or other proper officer to execute said decision, order or award.

ARTICLE 96. *Rule-Making Power.* – The Administration shall formulate and adopt necessary rules and procedures for maritime arbitration.

### TITLE III. – MARITIME EDUCATION, TRAINING AND PRACTICE

#### CHAPTER 1 – PHILIPPINE MERCHANT MARINE ACADEMY

ARTICLE 97. *The Philippine Merchant Marine Academy.* – The Philippine Merchant Marine Academy, including all its personnel, records, equipment and other capital assets, and existing budget, is hereby placed under the administrative and operational control and supervision of the Maritime Manpower Administration. It will continue to offer a nautical curriculum leading to the degrees of Bachelor of Science in Marine Transportation, major in navigation and seamanship, and Bachelor of Science in Marine Transportation, major in steam engine and electrical engineering.

ARTICLE 98. *Objectives.* – The Philippine Merchant Marine Academy, hereinafter referred to as the “Academy,” shall have the following objectives:

- (a) To produce efficient and well-trained merchant marine officers who can favorably compare with marine officers of progressive maritime countries sufficient to carry the expanding international trade in times of peace and capable of serving as a naval and military auxiliary in times of war and national emergency.
- (b) To produce young men well trained in other fields of the merchant marine service, like marine surveyors, port supervisors, shipping office personnel, shipping management and others.
- (c) To produce well trained officers who will augment and support the needs of the Philippine Navy and the Philippine Coast Guard.

ARTICLE 99. *Organization and Composition.* – The head of this institution shall be known as the President of the Philippine Merchant Marine Academy. He must at least be a master mariner and shall be appointed by the President of the Philippines upon the recommendation of the Philippine Merchant Marine Academy Board. The powers and duties of the President, in addition to those specially provided for in this Act, should be those usually pertaining to the office of the president of a college.

ARTICLE 100. *The Board of Trustees.* – The Government of said Academy is hereby vested in the Philippine Merchant Marine Academy Board of Trustee, which shall be composed of the following:

- (1) The Administrator of the Maritime Manpower Administration, who shall be *ex-officio* Chairman of the Board;
- (2) A representative of the Philippine Navy;
- (3) The Chairman of the Board of Marine Inquiry;
- (4) The Chairman of the Board of Marine Examination for Deck Officers;
- (5) The Chairman of the Board of Marine Examination for Marine Engineers;
- (6) The President of the Academy;
- (7) The President of the PMMA Alumni Association, Inc.;

- (8) A Commissioner of the Commission on Higher Education (CHED);
- (9) The President of the Filipino Shipowners Association, and;
- (10) The President of an accredited association of marine deck officers and engineers.

Member of the Philippine Merchant Marine Academy Board shall serve without compensation, other than actual and necessary expenses incurred either in attendance upon meetings of the Board or upon official business authorized by a resolution of the Board.

ARTICLE 101. *Powers and Duties of the Board.* – The Philippine Merchant Marine Academy Board shall have the following powers and duties in addition to its general powers of administration:

- (a) To confer the degree of Bachelor of Science in Marine Transportation, major in navigation and seamanship, and Bachelor of Science in Marine Transportation, major in steam engine and electrical engineering to successful candidates for graduation;
- (b) To confer the degree of Master in Marine Transportation, Safety Administration and other post-graduate degrees as may be deemed necessary by the Board, upon the recommendation of the National Maritime Enhancement Institute (NMEI), as created hereunder.
- (c) To appoint, upon the recommendation of the President of the Academy, instructors, professors and other employees of the Academy and other entities under its supervision; to fix their compensation, hours of service and other duties as it may deem proper; to grant to them leaves of absence under existing laws and regulations; to remove them from office for cause after an investigation and hearing and after, in the opinion of the Board, there is just cause for his removal; and to extend with their consent the tenure of faculty members, whenever in its opinion their services are specially needed; *Provided, however*, that no extension of service shall be made beyond the age of seventy;
- (d) To approve the curricula and rules of discipline drawn up by the Academy Council and Executive Council of the NMEI, as hereunder provided; to fix the required tuition fees, fees for laboratory courses, graduation fees, and all special fees, to remit the same in special cases; and, to utilize the income derived therefrom for the maintenance of the Academy and entities under it.
- (e) To provide fellowships for faculty members and scholarships to students showing special evidence of merits;
- (f) To provide rules for its government, and to enact for the government of the Academy such general ordinances and regulations, not contrary to law, as are consistent with the purpose of the Academy as defined in Article 116 of this Act;
- (g) To receive in trust legacies, gifts, and donations of real and personal property of all kinds and to administer the same for the benefit of the Academy or for aid to any cadets, in accordance with the directions and instructions of the donor, and, in default thereof, in such manner as the Academy Board may, in its discretion, determine;

- (h) To receive and appropriate to the ends specified by law such sums as may be provided by law for the support of the college; and
- (i) Perform such other duties and functions as may be necessary and proper to implement this Act.

ARTICLE 102. *Quorum.* – A quorum of the Academy Board shall consist of a majority of all the members. All processes against the Academy Board shall be served on the President of the Academy or secretary thereof.

ARTICLE 103. *Annual Report.* – On or before the fifteenth of May of each year, the Academy Board shall file with the Commission a detailed report setting forth the progress, condition, and needs of the Academy.

ARTICLE 104. *The Academy Council.* – There shall be an Academy Council consisting of the President and all instructors and professors of the Academy. The Council shall have the power to prescribe the curricula and rules of discipline, subject to the approval of the Philippine Merchant Marine Academy Board. It shall fix the requirements for admission to the Academy as well as for graduation and the receiving of a degree. The Council alone shall have the power to recommend students or others to be recipients of degrees. Through the President it shall have disciplinary power over the students within the limits prescribed by rules of discipline approved by the Academy Board.

ARTICLE 105. *The Philippine Merchant Marine Academy Faculty.* – The body of instructors and professors of the Academy shall constitute the faculty of the Academy, with the President of the Academy as the presiding officer. In the appointment of professors or instructors of the Academy, no religious test shall be applied, nor shall the religious opinions or affiliations of the faculty of the Academy be made a matter of examination or inquiry; *Provided, however,* That no instructor or professor in the Academy shall inculcate sectarian tenets in any of the teachings, nor attempt either directly or indirectly, under penalty of dismissal by the Philippine Merchant Marine Academy Board, to influence students or attendants at the Academy for or against any particular church or religious sect.

ARTICLE 106. *Exemption of Professors.* – Professors and other regular instructors in the Academy shall be exempt as such from any civil service examinations or regulations as a requisite to appointment.

ARTICLE 107. *The Secretariat.* There shall be a Secretary of the Academy appointed by the Philippine Merchant Marine Academy Board. He shall be the Secretary of the Board as well as the Academy, and shall keep such records of the Academy as may be designated by the Board.

ARTICLE 108. *Privilege of Graduates* – Graduates of the Philippine Merchant Marine Academy who are holders of a Bachelor of Science degree in Marine Transportation, major in navigation and seamanship, shall be exempted from taking the third mate examination, as provided for in Chapter 4, Title III. Likewise, those who are holders of a Bachelor of Science degree in Marine Transportation, major in steam engine and electrical engineering, shall be exempted from taking the fourth steam engineer's examination, as provided for in Chapter 4, Title III.

ARTICLE 109. *Service of Graduates.* – All graduates of the PMMA, except those who opted to serve in the Philippine Navy or Philippine Coast Guard, shall be required to serve a staggered or continuous service of a minimum of twelve (12) months to a maximum of eighteen (18) months in any government agency, bureau, institution or

entity under the Philippine Maritime Commission or any other entity outside of government selected by the PMMA Board, as approved by the Commission. Said service shall begin two (2) years after graduation and must be completed on or before the fifth year after graduation.

ARTICLE 110. *Commissioned Corps of Officers.* – There shall be established in the Philippine Merchant Marine Academy a commissioned corps of officers distributed in the grades of Ensign, Lieutenant Junior Grade, Lieutenant, Lieutenant Commander, Commander, Captain, and above, as the organization of said academy may require.

The officers of the corps shall be citizens of the Philippines and shall be appointed by the Chairman of the Philippine Merchant Marine Academy Board: *Provided*, That appointments and promotions to the rank of captain and above shall be made with the consent of the Commission on Appointments of the Congress, upon the recommendation of the Commission.

ARTICLE 111. *Commissioning of Faculty.* – Upon the effective date of this Act, the President, through the recommendation of the Philippine Merchant Marine Academy Board, shall be authorized to appoint to commissioned grades the president, department heads, instructors, and other qualified personnel already serving in the Philippine Merchant Marine Academy to ranks commensurate with the salary they are presently receiving.

SECTION 112. *The Resident Auditor.* – The Chairman of the Commission on Audit (COA) shall be *ex-officio* Auditor of the Academy and shall designate his representative who must hold the regular office in the Academy to be able to perform his duties efficiently and satisfactorily as a regular official of the Academy. The designated representative shall have the civil service qualification and rank of a provincial auditor and shall have the power to appoint his subordinates; *Provided*, that they are civil service eligible. The size of the staff and compensation of the same shall be determined and fixed by the Board of Trustees. The Board of Trustees shall also fix the compensation of the COA representative, upon recommendation by its Chairman.

## CHAPTER 2. – NATIONAL MARITIME ENHANCEMENT INSTITUTE

ARTICLE 113. *The National Maritime Enhancement Institute.* – The National Maritime Polytechnic (NMP) is hereby renamed as the **National Maritime Enhancement Institute**. All the NMP personnel, faculty, records, capital assets, equipment, and existing budget is transferred to the National Maritime Enhancement Institute (NMEI). It shall continue to offer courses towards the improvement of Filipino merchant marines.

ARTICLE 114. *Objective of the Institute.* – The NMEI shall serve as the primary institution for the specialization and upgrading of skills of the licensed merchant marines and officers. It shall offer post-graduate courses in the field on maritime administration, law of the sea, marine environmental protection, maritime safety administration, admiralty law, shipping business and management, and other courses that the may be deemed necessary

ARTICLE 115. *Composition and Organization.* – The NMEI is hereby placed under the supervision and control of the Academy. It shall be headed by the Executive Director, who shall perform all the powers and functions in accordance with this Act. The administration of the Institute shall be vested in the Executive Director. The NMP Board of Trustees is hereby abolished and its powers and functions transferred to the Executive Director or the PMMA Board, as far as practicable, in accordance with the provisions of this Act.

ARTICLE 116. *Powers and Functions of the Executive Director.* – The Executive Director of the NMEI shall have the following powers and functions:

- (a) To negotiate for loans or accept donations of real estate and personal property of all kinds and to administer the proceeds for the benefit of the Institute or of a department thereof, or for aid to any student or students in accordance with the direction or instructions of the donor and/or in default thereof, in such manner as the Executive Director may in its discretion so determine;
- (b) To establish chairs in the college hereinafter mentioned and to provide for the maintenance or endowment of such chairs, as well as to provide for such other professors, assistant professors, instructors, tutors, lecturers as the program of instruction may make it necessary, and to fix the compensation pertaining to such positions;
- (c) To confer the usual honorary degrees upon persons other than graduates of the Academy and the Institute in recognition of learning, statesmanship or eminence in technology, literature, science or arts; *Provided*, That such degree shall not be conferred in consideration of the payment of money or other valuable consideration;
- (d) To file with the President of the Academy a detailed report, setting forth the progress, conditions and needs of the Institute on or before the thirty-first day of December of each year; and
- (e) Perform such other duties and functions as may be necessary and proper to implement this Act or may be assigned by the Board of the Academy.

SECTION 117. *The Executive Council; Its Powers* – There shall be a Executive Council, consisting of the Executive Director, the Assistant Executive Director, of the Institute and of all members of the faculty of the Institute holding the rank of professors, associate professors and assistant professors, subject to existing laws. The Council shall have the power to prescribe the courses of study and rules of discipline. It shall fix the requirements for admission to any department of the Institute as well as for graduation and the conferment of degrees. Through its Executive Director, it shall have the disciplinary powers over the students within the limits prescribed by the rules of discipline approved by the Council.

SECTION 118. *The Faculty of the Institute.* – The body of professors and instructors of each college shall constitute its faculty, and as presiding officer of each faculty there shall be a dean appointed by the Board of the Academy, upon the recommendation by the Administrator of the MMA. In appointment of Professors, instructors, and other personnel of the Institute, no religious test shall be required, nor shall their religious opinions or affiliations be made a matter of examinations of inquiry; *Provided, however*, that no professors or instructor or any other personnel in the Institute shall inculcate sectarian tenets in any of the teachings nor attempt either indirectly or directly under penalty of dismissal by the Board of the Academy to influence students attendance at the Institute for or against any particular church or religious sect.

SECTION 119. *Civil Service Requirements.* – The executive director, deans, professors, other instructors and other employees of the Institute shall be exempt from any civil service examination or regulations as a requisite to appointment except the representative of the Chairman of the COA; *Provided, however*, That all shall be entitled to the privileges and rights of security of tenure, promotion in positions and salaries for meritorious service, leaves and retirement benefits, as in the government service as now provided for by law.

### CHAPTER 3. – MARITIME RESEARCH AND DEVELOPMENT INSTITUTE

ARTICLE 120. *The Marine Research and Development Institute* – The **Maritime Research and Development Institute** (MRDI) is hereby created as an attached institution under the Philippine Merchant Marine Academy.

SECTION 121. *Objectives.* – The Maritime Research and Development Institute shall have the following objectives:

- (1) To become the Philippine's premier think tank, act as reservoir of useful concepts in the maritime field, lead in maritime doctrine formulation and produce problem-solving ideas;
- (2) To provide a continuous supply of rational and applicable propositions and ideas to policy-makers for effective formulation, creation or amendments of maritime legislation; and
- (3) To serve as the center of excellence in high level maritime research and planning in the Philippines as well as the ASEAN region, and as a breeding ground for maritime scholars and practitioners.

ARTICLE 122. *Composition and Organization.* – The MRDI shall be headed by an Executive Director, who shall perform all the powers and functions in accordance with this Act. The Executive Director shall run the day-to-day activities of the Institute. The PMMA Board, upon the approval of the Commission shall appoint the Executive Director and the Assistant Executive Director.

ARTICLE 123. *Powers and Functions.* – The Executive Director of the Maritime Research and Development Institute shall have the following functions, among others:

- (a) Conduct researches and studies on the latest maritime technologies and other related matters for the maritime industry, particularly specializing in the field of maritime administration, law of the sea, maritime economics, marine environmental protection, maritime safety administration, international maritime conventions, maritime law, shipping business and management, among others;
- (b) Specialize in strategic research and planning activities for the country's maritime development, which encompasses a wide spectrum of maritime areas of general interests;
- (c) Work closely with the Commission in preparing the Maritime Industry Development Program under Article 17 of this Act;
- (d) Harness, develop, and enhance the professional and technical expertise of maritime experts in the Philippines to be possible members of the MRDI, and constitute a list of such "maritime experts" with their corresponding specialized field of maritime interest, after a thorough screening process;
- (e) Appoint, upon the approval of the PMMA Board, professors, research associates, and other employees of the MRDI, to fix their compensation, hours of service and other duties as it may deem proper, to grant to them leaves of absence under existing laws and regulations and to remove them from office for cause after an investigation and hearing and after, in the opinion of the Board, there is just cause for his removal. Also, the Executive Director may organize and reorganize the organizational structure of the MRDI, as he deems fit, upon the approval of the PMMA Board; and

- (f) Perform other functions, duties and tasks as may be ordered or directed by the Commission, or any agency under its control and supervision, to effectively implement the provisions of this Act and achieve the national policies provided in Title I, hereof.

## CHAPTER 4. – THE PRACTICE OF THE MERCHANT MARINE PROFESSION

### A. OBJECTIVES AND DEFINITION OF TERMS

ARTICLE 124. *Objective.* – It is the objective of the State to institutionalize radical changes as required by international and national standards to insure that only qualified, competent and globally competitive Marine Deck/Engineer Officers as determined through licensure examinations shall be allowed entry to the practice of the Merchant Marine profession.

This Chapter provides for and shall govern (1) the examination, registration and issuance of Certificate of Competency to Merchant Marine Officers and (2) the supervision, control and regulation of the practice of Merchant Marine profession in the Philippines: *Provided*, That the above objective shall be attained through practice of the profession in the Philippines: *Provided, further*, That the above objective shall be attained through compliance with STCW '95.

ARTICLE 125. *Definition of Terms.* –

(a) “**Practice of Merchant Marine Profession**” – shall refer to the profession requiring the application of fundamental and known principles of navigation, seamanship and engineering to the peculiar condition and requirements of on board management, operation and maintenance of main propulsion and auxiliary engines, stability and trim of the vessel and cargo handling. It shall also cover but will not be limited to the following:

(1) The proper handling and stowage of cargoes on board ship which includes the safe carriage of passengers from port of origin to port of destination;

(2) The safe watchkeeping of the vessel’s navigation in accordance with the Rules of the Road at Sea;

(3) The Maritime Education and Training of Cadets and other Marine Professionals;

(4) Employment with government, provided such item or position requires the knowledge and expertise of a Merchant Marine Officer.

(b) “**Merchant Marine Vessel**” – shall apply only to the commercial ships, propelled by machinery, public or private, strictly engaged in maritime commerce, both seagoing and/or near-coastal trade, vessels engaged in the training of cadets for the merchant marine profession, and noncombatant vessels of the Philippine Government.

(c) “**Merchant Marine Officer**” – shall refer to marine deck or engineer officer.

(d) “**Merchant Marine Deck Officer**” – shall refer to a duly registered, certified and licensed master mariner, chief mate and officer-in-charge of a navigational watch.

(e) “**Merchant Marine Engineer Officer**” – shall refer to a duly registered, certified and licensed chief engineer, second engineer, and officer-in-charge of an

engineering watch in a manned engine-room or designated duty engineer in a periodically unmanned engine-room, and coastal engineer.

## **B. BOARDS FOR MARINE DECK OFFICERS AND MARINE ENGINEER OFFICERS**

ARTICLE 126. *Composition of the Boards.* –The Board of Marine Deck Officers and the Board of Marine Engineer Officers, hereinafter referred to as the “Board,” as created by R. A. 8544 are hereby retained. Each Board shall be composed of a Chairman and four (4) members who shall be appointed by the Secretary from a list of three (3) recommendees for each position recommended by the Maritime Manpower Administration, hereinafter referred to in this Chapter as the “Administration,” from a list of five (5) nominees for each position chosen and ranked by the integrated and accredited association of Marine Deck/Engineer Officers.

ARTICLE 127. *Qualifications of the Chairman and Members of the Board.* – The Chairman and members of the Board shall, at the time of the appointment, possess the following qualifications:

- (a) He must be a citizen and resident of the Philippines;
- (b) He must be of proven integrity and with high moral values as evidenced by his past professional conduct;
- (c) He must be a duly registered Marine Deck/Engineer Officer under this Act, with a valid certificate of registration and valid certificate of competency;
- (d) He must be a member in good standing of the integrated and accredited association of Marine Deck/Engineer Officers;
- (e) He must not have any pecuniary interest, directly or indirectly, in any school, academy, college, university or institution conferring an academic degree necessary for admission to the practice of merchant marine profession; or where review classes in preparation for the licensure examination are being offered or conducted, nor shall he be a member of the faculty or of the administration thereof at the time of his appointment to the Board;
- (f) For the Board of Marine Deck Officers, he must have navigated as master mariner for at least two (2) years on board sea-going vessel and with an aggregate total of at least seven (7) years of practice as Merchant Marine Officer;
- (g) For the Board of Marine Engineer Officers, he must have navigated as Marine Engineer Officer for at least two (2) years on board a sea-going vessel and with an aggregate total of at least seven (7) years practice as Merchant Marine Officer;
- (h) His last shipboard experience should not be less than one (1) year within a ten (10)-year period prior to appointment date; and
- (i) He must not have been convicted by any competent court of an offense involving moral turpitude.

ARTICLE 128. *Term of Office.* – The Chairman and members of the Board shall hold office for a term of three (3) years and until their successors shall have been appointed and duly qualified. Of the members of the Board first appointed under this Act, one (1) member shall be appointed and hold office as Chairman for three (3) years; two (2) members for two (2) years; and two (2) members for one (1) year.

The Chairman or member of the Board may be re-appointed for another term but in no case shall he serve continuously for more than six (6) years. Each member of the Board shall qualify by taking the proper oath of office prior to entering upon the performance of his duties.

ARTICLE 129. *Compensation and Allowances of the Board.* – The Chairman and members of the Board shall receive the same compensation and allowances they are entitled to under R.A. 8544.

ARTICLE 130. *Vacancy and Removal of Board Members.* – Any vacancy occurring in the membership of the Board shall be filled for the unexpired portion of the term only.

The Administration may remove any member of the Board on the following grounds:

- (a) Neglect of duty or incompetence;
- (b) Violation or tolerance of the violation of this Act or the Code of Ethics for Maritime Profession;
- (c) Final conviction of an offense involving moral turpitude.

He shall be given due notice and hearing where his right to be heard and to defend himself, assisted by counsel, shall be respected in a proper administrative investigation. The Administration's decision may be appealed within fifteen (15) days to the Commission whose decision shall be final and executory.

ARTICLE 131. *Powers and Duties of the Boards.* – The Boards shall exercise the following powers and duties:

- (a) To promulgate and adopt the rules and regulations necessary for carrying out the provisions of this Act;
- (b) To supervise and regulate the registration, certification of competency and practice of the Maritime Profession in the Philippines;
- (c) To issue certificates of competency and its corresponding endorsement in accordance with STCW '95 standards;
- (d) To administer oaths in connection with the implementation and administration of this Act;
- (e) To suspend, revoke or reinstate the Certificate of Competency for the practice of the Maritime Profession;
- (f) To adopt an official seal of the Board;
- (g) To look into the conditions affecting the practice of the Maritime Profession and whenever necessary, adopt, upon approval of the Administration, such measures as may be deemed proper for the enhancement and maintenance of high professional and ethical standards of the profession;
- (h) To prescribe and/or adopt a Code of Ethical and Professional Standards for the practice of the Maritime Profession;

(i) In coordination with the MIAA, to hear and try administrative cases involving violations of the Code of Ethics for Professional Maritime Officers and for this purpose, to issue subpoena and subpoena *duces tecum* to secure the appearance of witnesses and the production of documents in connection therewith;

(j) To prescribe guidelines for the Continuing Professional Education (CPE) program in coordination with the accredited and integrated association of Merchant Marine Officers;

(k) In accordance with the STCW '95, to prepare, adopt and issue the syllabi of the subjects for examinations by determining and preparing the questions which shall strictly be within the scope of the syllabus of the subjects for examination;

(l) To promulgate, administer and enforce rules and regulations necessary for carrying out the provisions of this Act, in accordance with this Chapter and the STCW '95: *Provided*, That in case of subsequent or future amendments to any international convention(s)/conference of which the Philippines is a signatory, the Board is empowered to amend/revise its rules and regulations to conform with the amendments of the said convention(s) without the need of amending this enabling Act;

(m) To approve, issue, limit or revoke the special dispensation to practice the Maritime Profession;

(n) To discharge such other powers and functions as the Board may deem necessary for the practice of the profession and the upgrading, enhancement, development and growth of merchant marine profession in the Philippines.

The policies, resolutions, rules and regulations, issued or promulgated by the Board shall be subject to the review and approval of the Administration. The decisions, resolutions or orders rendered by the Board shall be final and executory unless appealed to the Administration within fifteen (15) days from receipt of the decision.

ARTICLE 132. *Supervision of the Board, Custodian of its Records, Secretariat and Support Services.* – The Board shall be under the administrative control of the Administration. All records of the Board, including the applications for examination, examination papers and results, minutes of deliberation, administrative cases, and other investigations involving Marine Deck/Engineer Officers shall be kept by the Manpower Development Office under the Administration.

The Administrator shall designate the Secretary of the Board and shall provide the secretariat and other support services to implement the provisions of this Act.

ARTICLE 133. *Annual Report.* – The Board shall, at the close of each calendar year, submit an annual report to the Commission, through the Administration, giving a detailed account of its proceeding and accomplishments during the year and making recommendations for the adoption of measures that will upgrade and improve the conditions affecting the practice of the Maritime Profession in the Philippines.

### **C. EXAMINATION, REGISTRATION AND CERTIFICATE OF COMPETENCY**

ARTICLE 134. *Examination Required.* – All applicants for registration for the practice of the Maritime Profession, except those referred to under Article 108 of this Act, shall be required to undergo and pass a written technical examination as provided for in this Chapter. When conditions and circumstances warrant, the Board may give walk-in examinations, subject to the approval of the Administration.

ARTICLE 135. *Qualifications of Applicant for Examination.* – Every applicant for examination shall establish the following requisites:

(a) Filipino citizenship;

(b) Good moral character;

(c) He or she has met standards of medical fitness, particularly with good eyesight and hearing as certified by a Department of Health (DOH) accredited medical institution conducting physical and medical examinations for seafarers;

(d) In the case of Marine Deck/Engineer Officer, he or she must be a graduate of Bachelor of Science in Maritime Transportation or Bachelor of Science in Marine Engineering in a school, academy, institute, college or university duly recognized by the Commission on Higher Education (CHED);

(e) For an applicant taking the examination, other than that for the Marine Deck/Engineer Officer, he or she must have completed a course approved by the appropriate government agency, as defined in the rules and regulations implementing this Act.

ARTICLE 136. *Fraudulent Application.* – The Board may suspend or revoke any Certificate of Registration obtained through misrepresentation made in the application for examination.

ARTICLE 137. *Scope of Examination.* – The subjects that shall be included in the examination for Marine Deck/Engineer Officer shall include, among others, the following major functions:

(1) Navigation;

(2) Seamanship and Cargo Handling;

(3) Shipboard Management

(4) Marine Engineering

(5) Electrical, Electronic and Control Engineering

(6) Maintenance and Repair

(7) Radio Communications at the following levels of responsibility:

(a) Management Level

(b) Operation Level

The said subjects and their syllabi may be amended by the Board so as to conform to technological changes brought about by continuing trends in the profession.

ARTICLE 138. *Rating in the Board Examinations.* – To be qualified as having passed the Board examination for Marine Deck/Engineer Officer, a candidate must obtain a weighted general average of seventy-five percent (75%), with no grade lower than sixty percent (60%) in any given subject. An examinee who obtains a weighted general average rating of seventy-five percent (75%) but obtains a rating below sixty percent (60%) in any given subject must take the examination in the subject or subjects where he obtained a grade below sixty percent (60%).

ARTICLE 139. *Report of Ratings.* – The Board shall submit to the Administration the ratings obtained by each candidate within fifteen (15) days after the examination, unless extended for just cause. Upon the release of the results of the examination, the Board shall send by mail the rating received by each examinee at his given address using the mailing envelope submitted during the examination.

ARTICLE 140. *Re-Examination.* – An applicant who fails to pass the examination for the third time shall be allowed to take another examination only after the lapse of one (1) year.

ARTICLE 141. *Oath.* – All successful candidates in the examination shall be required to take an oath of profession before the Board or any government official authorized to administer oaths, prior to entering upon the practice of the Maritime Profession.

ARTICLE 142. *Certificate of Registration and Certificate of Competency.* – A Certificate of Registration shall be issued to applicants who pass the examination for Marine Deck/Engineer Officer, subject to payment of registration fees.

The Certificate of Registration of a marine professional shall bear the signature of the Chairman of the Board stamped with the official seal and signature of the Administrator of the Maritime Manpower Administration indicating that the person named therein is a registered Marine Deck/Engineer Officer.

A Certificate of Competency, bearing the registration number, date of issuance and expiry date duly signed by the Chairman of the Board, shall likewise be issued to every registrant, provided that the professional fees have been paid. No person shall practice as Marine Deck/Engineer Officer in this country unless such person shall have secured a Certificate of Competency to practice as Marine Deck/Engineer Officer in the manner herein provided. A holder of a Certificate of Competency is entitled to practice the profession with all the privileges appurtenant thereto until the expiration of the validity of his Certificate of Competency.

ARTICLE 143. *Indication of Certificate of Competency and Professional Tax Receipt.* – The Marine Deck/Engineer Officer shall be required to indicate his Certificate of Competency number, the duration of validity, including the professional tax receipt number on the documents he signs, uses or issues in connection with the practice of his profession.

ARTICLE 144. *Refusal to Register.* – The Board shall not register any successful examinee who has been convicted by a court of competent jurisdiction of any criminal offense involving moral turpitude or has been found guilty of immoral or dishonorable conduct after investigation by the Board, or has been declared to be of unsound mind. The reason for refusal shall be set forth in writing.

ARTICLE 145. *Grounds for Suspension and Revocation of Certificate of Registration and Certificate of Competency, Cancellation of Special Dispensation.* – The Board shall have the power, upon due notice and hearing, to revoke or suspend the Certificate of Competency of a Marine Deck/Engineer Officer, or to cancel a Special Dispensation for cause, which includes but shall not be limited to: the use or perpetration of any fraud or deceit in obtaining a Certificate of Registration, or for incompetence, negligence, or for the illegal practice of a Marine Deck/Engineer Officer; violation of the provisions of this Act, its implementing Rules and Regulations and/or violations of Policies of the Board, including the Code of Ethics for Marine Deck/Engineer Officers. The action of the Board shall be final and executory without prejudice to the right of the

aggrieved party to appeal the same within fifteen (15) days from written notice, to the Administration.

ARTICLE 146. *Reinstatement, Re-issuance or Replacement of Certificate of Competency.* – The Board may, upon application and for reasons deemed proper and sufficient, reinstate any revoked Certificate of Competency or reissue any suspended Certificate of Competency, and in so doing, may, in its discretion, exempt the applicant from taking another examination.

New Certificates of Competency to replace lost, destroyed or mutilated ones may be issued subject to the rules as implemented by the Board.

ARTICLE 147. *Renewal of Certificate of Competency.* – The Certificate of Competency shall be renewed upon satisfying the requirements imposed by the Board, and payment of the corresponding fees prescribed by the Board in accordance with the schedule of fees fixed by the Administration.

#### **D. PRACTICE OF MARINE DECK AND ENGINEER OFFICER**

ARTICLE 148. *Practice of Merchant Marine Profession.* – No person shall practice or offer to practice the merchant marine profession in the Philippines or offer himself as a marine deck/engineer officer, or use the title, word, letter, figure or any sign tending to convey the impression that he is a marine deck/engineer officer, or advertise or indicate in any manner whatsoever that he is qualified to perform the work of a marine deck/engineer officer unless he has satisfactorily passed the licensure examination given by the Board and is a holder of a valid Certificate of Registration and Certificate of Competency duly issued to him by the Board of Marine Deck/Engineer Officers.

In compliance with the STCW '95, the person holding senior merchant marine licenses namely, the master, chief officer, chief engineer and second engineers must be able to function under the management level of responsibility while the officers-in-charge of navigational and engineering watch must be able to function under the operational level of responsibility.

ARTICLE 149. *Recognition of Certificates.* – A foreigner holding a Certificate of Competency issued by his national administration in accordance with STCW '95 requirements shall be issued special dispensation to serve on board a Philippine registered vessel engaged in the international trade: *Provided,* That the Philippine Certificate of Competency issued and endorsed by the Board shall be reciprocally recognized by the said foreign national administration to allow the Filipino merchant marine to practice his profession on board the foreigner's flag vessel.

ARTICLE 150. *Quality Standards.* – The Boards shall establish a system of standards that shall be subject to external management assessment or audit in accordance with the STCW '95.

ARTICLE 151. *Integration of Marine Deck/Engineer Officers.* – All marine deck/engineer officers shall be integrated into one (1) national organization which shall be recognized by the Board and by the Administration as the one and only integrated and accredited association of Marine Deck/Engineer Officers. A Marine Deck/Engineer Officer duly registered with the Board shall automatically become a member of the integrated and accredited association of Marine Deck/Engineer Officers, and shall receive the benefits and privileges appurtenant thereto upon payment of the required fees and dues. Membership in the integrated and accredited association shall not be a bar to membership in other associations of marine deck/engineer officers.

ARTICLE 152. *Code of Ethics for Marine Deck/Engineer Officers.* – The Board shall adopt and approve the Code of Ethics for Marine Deck/Engineer Officers prescribed by the integrated and accredited national association of Marine Deck/Engineer Officers.

ARTICLE 153. *Implementing Rules and Regulations.* – Subject to the approval of the Administration, the Board shall adopt and promulgate such rules and regulations, including the Code of Ethics for Marine Deck/Engineer Officers, to carry out the provisions of this Chapter.

ARTICLE 154. *Enforcement.* – The Maritime Manpower Administration shall be the enforcement agency of the Board. As such, the Administration shall implement the concerned provisions of this Chapter, enforce its Implementing Rules and Regulations as adopted by the Board, conduct investigations on complaints including violations of the Code of Conduct of the profession and recommend prosecution when so warranted. If necessary the Administration may seek the assistance of other duly constituted authorities in the enforcement of the law.

#### **TITLE IV. – MARITIME SAFETY AND MARINE ENVIRONMENT PRESERVATION AND PROTECTION**

##### **CHAPTER 1. – MARITIME SAFETY**

ARTICLE 155. *Scope.* – The provisions of this Chapter shall apply to all vessels engaged in the carriage of passengers and goods for hire, regardless of tonnage, including vessels of foreign registry temporarily used in Philippine waters, and all types of vessels required to be registered in the Philippines under existing laws.

Warships, naval vessels, non-motorized bancas, sailboats and other watercrafts of less than three (3) gross registered tonnage (GRT) shall not be covered by the provisions of this Chapter. The MARIDA will provide separate safety standards and guidelines to cover those vessels excluded from the coverage of this Chapter, except warships and naval vessels.

ARTICLE 156. *Mandatory Minimum Safety Standards and Measures.* – All vessels covered by the provisions of this Chapter shall strictly observe the following:

(1) The showing of a film, at least of ten (10) minutes length in the place where the passengers wait before boarding the vessel and in such places in the vessel, in such times that will ensure that most if not all of the passengers on board have effectively seen and heard the same. The film shall pertain to the ship's safety procedures, health and sanitation facilities. It shall be dubbed in the local dialects of points of origin and destination of the vessel, as well as in Filipino and English.

(2) All watertight doors, portholes, ramps and manholes shall be securely locked and checked prior to leaving port and must be regularly inspected during the voyage.

(3) During any emergency, the posting of the crew members and other personnel of the vessel on strategic areas or points in the vessel as may be indicated in its Safety Management System (SMS) for the purpose of assisting the passengers to, or prioritizing and ensuring their safety.

(4) The clearing at all times of all passageways of any obstructions. Safe and convenient storage for passengers' hand carried luggages must be provided.

(5) The wearing of the prescribed uniform and identification cards by the ship's officers and crew, including security personnel, while they are on duty.

ARTICLE 157. *Provision of Standard Safety Equipment.* – All vessels covered by the provisions of this Chapter shall at all times be provided with:

(1) Lifejackets or vests on board the vessel in the quantity of twenty (20) units or pieces more than the passenger load capacity of such vessel as determined and authorized by the Maritime Industry and Development Administration, imprinted with the vessel's name, conspicuously stored in any locker, and readily accessible for use in any case of emergency.

(2) Lifeboats or rubber boats on board the vessel in the quantity of two (2) units more than what is sufficient to accommodate the passenger load capacity of such vessels, including crew members of the vessels, imprinted with the vessel's name, conspicuously located in strategic places or areas of the vessel, and must be readily accessible for use in any case of emergency.

(3) At least two (2) accessible emergency exits or escape openings in all general areas, and the location of such shall be indicated by luminous signs visible in all passenger areas showing the proper direction thereto.

(4) Independent red blinking lights as a part of, and indicating each emergency exit or escape opening for the purpose of assisting the passengers in identifying such exits in cases of emergency.

(5) Emergency lights, in good working conditions, in all passenger accommodations, passageways and stairways, that shall automatically switch on in any case of power failure in the vessel.

(6) Sketches of the vessel indicating the locations of lifejackets and lifeboats, fire fighting equipment, emergency exits, and the major sections of the vessel, passageways and stairways, including the vessel's general evacuation plan, must be conspicuously displayed in the passenger lounges, cafeteria, and inside cabins and suites.

ARTICLE 158. *Passenger Overloading.* – The following measures shall also be strictly complied with to avoid passenger overloading of the vessel:

(1) No vessel shall leave port unless its manifest or passenger list shall have been prepared and made available by the concerned officer of the vessel to the representatives of the Philippine Coast Guard (PCG).

(2) No vessel, under any circumstances, carrying more than or in excess of its authorized passenger load capacity shall be allowed to leave port after proper determination of the PCG representatives.

(3) No person or passenger without a ticket issued by the ship owner or its authorized agent shall be allowed to board the vessel.

(4) No ship owner or its agents, or any of its authorized employees shall issue tickets on board the vessel.

ARTICLE 159. *Vessel Standards.* – (a) **Certificate of Inspection.** A vessel used to provide transportation service, as a common carrier by water shall be eligible for a certificate of inspection if the MARIDA and the PCG determines that:

(1) the vessel is classed by and designed in accordance with the safety rules and regulations promulgated by the MARIDA or a classification society accredited by the MARIDA;

(2) the vessel strictly complies with applicable international agreements (like the SOLAS and the ISM Code) and associated guidelines; and, as determined by the country in which the vessel was documented immediately before becoming a documented vessel in the Philippines, if acquired internationally; and

(3) that country has not been identified by the MARIDA as inadequately enforcing international vessel safety regulations as to that vessel.

Upon compliance with the requirements set forth in the requirements above-mentioned, the MARIDA, with the consent of the PCG, shall issue a certificate of inspection that is valid for a period of one (1) year. The certificate is a *prima facie* proof of the seaworthiness of the vessel. The certificate shall not be valid with the consent of the PCG or any of its representatives duly authorized to inspect the seaworthiness of the vessel.

(b) **Non-issuance of Certificate; Effects thereof.** A vessel shall not be issued a certificate of inspection by the MARIDA if it fails to meet the standards set by SOLAS and the ISM Code as well as the rules and regulations issued by the MARIDA. The vessel cannot engage in the service or business as a common carrier by water without the certificate of inspection. Any vessel reported or discovered to have engaged in the business as a common carrier by water without the requisite certificate of inspection shall be immediately ordered to cease and desist from conducting any business as a common carrier by water. Consequently, the owners or the ship agent of the said vessel shall be fined a sum of Five Hundred Thousand Pesos (₱ 500,000.00), after due notice and hearing. Subsequent infractions of this provision shall merit a fine of One Million Pesos (₱ 1,000,000.00) for every succeeding instance and a possible revocation of the vessel's Certificate of Public Convenience, after due notice and hearing.

(c) **Reliance on Classification Society.** (1) The MARIDA may solely rely on the endorsement of its inspectors or members of the PCG, or sole to a classification society accredited by the MARIDA to establish that a vessel is in compliance with the requirements of subsection (a). The MARIDA shall promulgate the rules and regulations on the proper accreditation of a classification society;

(2) **Foreign Classification Society.** The MARIDA may accept endorsement from a foreign classification society under paragraph (1) only if the foreign classification society has offices and maintains records in the Philippines and is duly accredited by the MARIDA.

ARTICLE 160. *Delineation of Functions.* – The MARIDA, pursuant to its powers and functions, shall promulgate rules and regulations for the effective implementation of the provisions of this Chapter.

The Philippine Coast Guard shall be the lead enforcement agency of the provisions of this Chapter and its implementing rules and regulations. The PCG shall be primarily responsible for issuing departure clearance for domestic common carriers of passengers, and whenever allowed by law or, when necessary in the interest of the safety of the passengers, order the return of any such vessel, if it has already departed and currently at sea.

ARTICLE 161. *Penalties.* – Violations of the provisions of this Chapter shall be punished as follows:

(1) Any violation of the provisions of Article 156, except paragraphs (4) and (5), shall be punished with a fine not less than Fifty Thousand Pesos (₱ 50,000.00) but not more than One Hundred Thousand Pesos (₱ 100,000.00) to be paid by the ship agent or

owner of the vessel, whether a natural or a juridical person. For the third violation of the same provisions, the ship agent or ship owner, and in case of a juridical person, the president and other responsible officers, as the case may be, shall be punished by an imprisonment of six (6) months and one (1) day to two (2) years.

(2) Any violation of the provisions of Article 157, shall be punished with a fine not less than Two Hundred Fifty Thousand Pesos (₱ 250,000.00) but not more than Five Hundred Thousand Pesos (₱ 500,000.00) to be paid by the ship agent or owner of the vessel, whether a natural or a juridical person. For the third violation of the same provisions, the ship agent or ship owner, and in case of a juridical person, the president and other responsible officers, as the case may be, shall be punished by an imprisonment of three (3) years and one (1) day to five (5) years.

(3) Any violation of paragraph (4) of Article 156, shall be punished with a fine not less than Ten Thousand Pesos (₱ 10,000.00) but not more than Twenty Thousand Pesos (₱ 20,000.00) to be paid by the ship agent or owner of the vessel, whether a natural or a juridical person.

(4) Any violation of paragraph (5) of Article 156, by any person enumerated therein shall be punished with an automatic suspension for the first two infractions, and with summary dismissal from the service of the vessel upon the third infraction: *Provided*, That due process was properly observed.

(5) Any violation of the provisions of Article 158, shall be punished with a fine not less than Five Hundred Thousand Pesos (₱ 500,000.00) but not more than Seven Hundred Fifty Thousand Pesos (₱ 750,000.00) to be paid by the ship agent or owner of the vessel, whether a natural or a juridical person. For the third violation of the same provisions, the ship agent or ship owner, and in case of a juridical person, the president and other responsible officers, as the case may be, shall be punished by an imprisonment of three (3) years and one (1) day to five (5) years.

ARTICLE 162. *When Injuries or Deaths Occur.* – Whenever less grave or serious physical injuries or death of any passenger occur as a direct result of any violation of Articles 156, 157 and 158 of this Act, as may be shown by evidence in a judicial proceeding, the following persons shall be punished with an imprisonment of not less than six (6) years but not more than twelve (12) years, without prejudice to the penalties imposed in the above mentioned articles:

(1) The captain of the ship and/or any crew member, except upon a showing that they have exercised extraordinary diligence in the discharge of their respective duties and functions to avert the same given the particular circumstances attending the occurrence of the incident.

(2) The ship agent or ship owner, and in case of a juridical person, the president and any responsible officers, as the case may be, upon showing that they induced, facilitated, tolerated or allowed the commission of any violation of this Chapter that effectively caused the death or injuries suffered by any of the passengers; or had actual or constructive knowledge of the same and failed to take responsible steps to restrain the violation, or avert the occurrence of the resulting death or injuries.

Nothing in this Article shall be construed to prejudice the existing causes of action of affected passengers against the vessel's owners and crew members arising from the breach of their contracts of carriage under pertinent provisions of law.

ARTICLE 163. *Jurisdiction over Violations.* – The Board of Marine Inquiry (BMI), as established under this Act, shall have the original and exclusive jurisdiction to investigate and impose the fines provided for under Articles 159 and 161 of this Chapter.

However, the BMI is not authorized to impose the penalty of imprisonment as provided for in this Chapter. However, its findings regarding the imposition of imprisonment for the repeat violators shall be given utmost respect by the proper judge or court of jurisdiction. The decision of the BMI shall be appealable to the Commission within fifteen (15) days upon receipt of the decision. The decision of the Commission shall be final and executory.

Any passenger or interested person may file a complaint against any ship agent or ship owner who knowingly or unknowingly violates the provisions under this Chapter. Upon receipt of the complaint, the BMI shall, within fifteen (15) days, order the proper party to answer the complaint. The BMI shall promulgate additional rules and procedures to govern the disposition and resolutions of the violations committed under this Chapter.

ARTICLE 164. *Failure to Pay the Fines.* – Upon the finality of the decision of the BMI, it shall issue a writ of execution requiring any sheriff or proper officer to execute the said decision. Failure of the losing party to pay the fine shall constitute a lien on the vessel, and will be duly registered in the registry of vessels. Moreover, the BMI shall order the temporary suspension of the permit to operate of the vessel that violated the provisions of this Chapter, until the said fine is fully paid.

## CHAPTER 2. – MARINE POLLUTION

ARTICLE 165. *Definition of Terms.* – For the purposes of this Chapter the following terms are defined as follows:

(a) “**Discharge**” includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping but does not include discharge of effluents from industrial or manufacturing establishments, or mill of any kind.

(b) “**Dumping**” means any deliberate disposal at sea and into navigable waters of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea, including the disposal of wastes or other matter directly arising from or related to the exploration, exploitation and associated off-shore processing of sea bed mineral resources unless the same is permitted and/or regulated under this Act: *Provided*, That it does not mean a disposition of any effluent from any outfall structure to the extent that such disposition is regulated under the provisions of Presidential Decree No. 984, otherwise known as the “National Pollution Control Decree of 1976,” nor does it mean a routine discharge of effluent or other matter incidental to the propulsion of, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment.

(c) “**Oil**” means oil of any kind or in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredge spoil.

(d) “**Navigable Waters**” means the waters of the Philippines, including the territorial sea and inland waters which are presently, or be in the future susceptible for use by watercraft.

(e) “**Refuse**” means garbage, waste, wood residues, sand, lime cinders ashes, offal, night soil, tar, dye stuffs, acids, chemicals and substances other than sewage and industrial wastes that may cause pollution.

ARTICLE 166. *Prohibited Acts.* – Except in cases of emergency imperiling life or property, or unavoidable accident, collision, or stranding or in any cases which constitute danger to human life or property or a real threat to vessels, aircraft, platforms, or other man-made structure, or if dumping appears to be the only way of averting the threat and if there is probability that the damage consequent upon such dumping will be less than

would otherwise occur, and except as otherwise permitted by regulations prescribed by the Pollution Adjudication Board or the Philippine Coast Guard, it shall be unlawful for any person to:

(a) Discharge, dump or suffer, permit the discharge of oil, noxious gaseous and liquid substances and other harmful substances from or out of any ship, vessel, barge, or any other floating craft, or other man-made structures at sea, by any method, means or manner, into or upon the territorial and inland navigable waters of the Philippines;

(b) Throw, discharge or deposit, dump, or cause suffer or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of vessel of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state into tributary of any navigable water from which the same shall float or be washed into such navigable water; and

(c) Deposit or cause, suffer or procure to be deposited material of any kind in any place on the bank of any navigable water or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed or increased the level of pollution of such water.

ARTICLE 167. *Policy-making.* – It shall be the primary responsibility of the Pollution Adjudication Board and the Environmental Management Bureau to promulgate national rules and policies governing marine pollution, including but not limited to the discharge of effluents from any outfall structure, industrial and manufacturing establishments or mill of any kind to the extent that it is regulated under the provisions of existing law, rules and regulations, and to issue the appropriate rules and regulations upon consultation with the Philippine Coast Guard.

The Philippine Coast Guard shall promulgate its own rules and regulations in accordance with the national rules and policies set by the Pollution Adjudication Board upon consultation with the latter, for the effective implementation and enforcement of this Chapter and other applicable laws, rules and regulations promulgated by the government.

The rules and regulations issued by the Pollution Adjudication Board or the Philippine Coast Guard shall not include deposit of oyster, shells, or other materials when such deposit is made for the purpose of developing, maintaining or harvesting fisheries resources and is otherwise regulated by law or occurs pursuant to an authorized government program: *Provided,* That the Philippine Coast Guard, whenever in its judgment navigation will not be injured thereby and upon consultation with and concurrence of the Pollution Adjudication Board, may permit the deposit of any of the materials above-mentioned in navigable waters, and whenever any permit is so granted, the conditions thereof shall be strictly complied with.

ARTICLE 168. *Enforcement and Implementation.* – The Philippine Coast Guard shall have the primary responsibility of enforcing the laws, rules and regulations governing marine pollution. However, it shall be the joint responsibility of the Philippine Coast Guard and the Pollution Adjudication Board to coordinate and cooperate with each other in the enforcement of the provisions of this Chapter and its implementing rules and regulations, and may call upon any other government office, instrumentality or agency to extend every assistance in this respect.

ARTICLE 169. *Responsibility and Liability on Oil Spills.* – Any ship, tank vessel, tank barge or any other watercraft which accidentally or otherwise discharged oil or oily mixture on waters subject to the jurisdiction of the Philippines, the person in charge of

the vessel shall immediately notify the Philippine Coast Guard, giving particulars of the name of the ship and company, location of spill, type of oil spilled, and quantity. In addition, the weather, tide, sea conditions and cause of spill shall be reported. Any person in charge of a vessel who fails to notify the Coast Guard of any oil or oily mixture discharged from his vessel is liable for a fine of Ten Thousand Pesos (₱ 10,000.00) and shall not exceed the Fifteen Thousand Pesos (₱ 15,000.00). The ship agent or owner of a vessel or facility that discharged the oil or oily mixture shall be liable to pay for any clean-up costs, and shall be ordered by the appropriate agency to deposit with it a sum equal to twenty percent (20%) of the total estimated cost of the clean-up, as a form of performance bond.

ARTICLE 170. *Penalties for Violations.* – Any person who violates Article 166 or any regulations prescribed in pursuance thereof, shall be liable for a fine of not less than Two Hundred Thousand Pesos (₱ 200,000.00) nor more than Five Hundred Thousand Pesos (₱ 500,000.00) or by imprisonment of not less than three (3) years and one (1) day but not more than five (5) years or both such fine and imprisonment, for each offense, without prejudice to the civil liability of the offender in accordance with other existing laws.

Any vessel from which oil or other harmful substances are discharged in violation of Article 167 or any regulation prescribed in pursuance thereof, shall be liable for the penalty of fine specified in this Article, and clearance of such vessel from the port of the Philippines may be withheld until the fine is paid.

ARTICLE 171. *Jurisdiction over Violations.* – The Board of Marine Inquiry (BMI), as established under this Act, shall have the original and exclusive jurisdiction to investigate and impose the fines provided for under Articles 169 and 170 of this Chapter. However, the BMI is not authorized to impose the penalty of imprisonment as provided for in this Chapter. However, its findings regarding the imposition of imprisonment for the repeat violators shall be given utmost respect by the proper judge or court of jurisdiction. The decision of the BMI shall be appealable to the Commission within fifteen (15) days upon receipt of the decision. The decision of the Commission shall be final and executory.

Any government agency or any interested person may file a complaint against any ship agent or ship owner who knowingly or unknowingly violates the provisions under this Chapter. Upon receipt of the complaint, the BMI shall, within fifteen (15) days, order the proper party to answer the complaint. The BMI shall promulgate additional rules and procedures to govern the disposition and resolutions of the violations committed under this Chapter.

ARTICLE 172. *Containment and Recovery System.* – The Philippine Coast Guard shall develop an adequate capability for containment and recovery of spilled oil for inland waters and high seas use. An amount of Ten Million Pesos (₱ 10,000,000.00) is hereby appropriated for the procurement of necessary equipment for this purpose. For the succeeding fiscal years, the appropriation for the development of such capability shall be included in the Philippine Coast Guard portion of the General Appropriation Act.

ARTICLE 173. *Rules and Regulations.* – The Commandant, Philippine Coast Guard is authorized and empowered to prescribe rules and regulations in pursuance of the purposes of this Chapter, to include but not limited to, vessel design and equipment, oil transfer procedures, oil transfer operations, communications requirement, supervision of operations, equipment test and inspection. Moreover, he shall provide in the rules and regulations such reasonable administrative penalties as may be necessary for the effective implementation of this Chapter.

## TITLE V. – PROMOTION AND DEVELOPMENT OF MARITIME INDUSTRIES

### CHAPTER 1. – PHILIPPINE SHIPPING INDUSTRY

ARTICLE 174. *Objectives.* – It is the declared policy of the State to provide a balance and total development of the country's entire shipping industry. The realization of the policy should be done in pursuit of the following objectives:

(a) To encourage and assist vessels of Philippine registry engaged in the domestic and international trade;

(b) To provide financial aid and assistance in long-range ship-building program, and at all times, to promote shipping in such other respects as may be required to attract private capital and enterprise to the shipping industry and create a healthy climate to attract private enterprise to invest in the overseas transportation;

(c) To develop the country's local shipbuilding and ship repair capability to ensure the self-sufficiency of this maritime sector;

(d) To provide adequate incentives to the shipbuilding and ship repair industry, with the end view of promoting industrialization and full employment;

(e) To ensure that, as far as practicable, all activities relating to the repairs, alteration, improvement, modification, re-conditioning, conversion or dry-docking of Philippine owned and/or registered vessels be undertaken by local shipyards; and

(f) To do whatever may be necessary, from time to time, to attain these objectives.

ARTICLE 175. *Definition of Terms.* – For the purposes of this title the following terms are defined as follows:

(a) “**Philippine overseas shipping**” means the transport of goods and/or passengers by a ship owned and operated under the Philippine flag by a Philippine shipping enterprise, except when the ship is operated solely between ports in the Philippines;

(b) “**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 engaged exclusively in Philippine overseas shipping or in the construction of modern boats for overseas service;

(d) “**Domestic ownership**” as used in this title means ownership vested in citizens of the Philippines or corporations or associations organized under the laws of the Philippines at least sixty per cent (60%) of the capital stock or capital of which is wholly owned by citizens of the Philippines, and, in the case of corporations or associations which engage in coastwise trade the president or managing directors thereof shall be such citizens: *Provided*, That the members of the crew of the vessel, except specialized vessels, shall all be citizens of the Philippines, *Provided, further*, That the certificate of Philippine registry issued to a vessel prior to the approval of this Act shall not be affected;

(e) “**Monetary authority**” means the Bangko Sentral ng Pilipinas and any other agency in charge of foreign exchange controls; and

(f) “**Regulation**” means the rules and regulations promulgated pursuant to Section 205 hereof.

ARTICLE 176. *Duty of MARIDA.* – The MARIDA is authorized and directed (a) to study and devise means by which importers and exporters of the Philippines can be induced to give preference to vessels of Philippine registry and those owned or controlled, or chartered by Philippine nationals, with assistance of other government offices, agencies and instrumentalities as well as Philippine shipping lines and (b) To recommend such measures as it may deem necessary to the appropriate government authorities to implement the policies and objectives herein set forth;

ARTICLE 177. *Freight Center.* – The Freight Center, of the Philippine Shippers' Bureau as reorganized by Executive Order No. 514 and now under the Department of Trade and Industry, shall have the following duties, functions and powers:

(a) To encourage, facilitate and assist Philippine shippers in, and effect the consolidation of their cargoes, in order to achieve economy and efficiency in bulk shipments;

(b) To provide systematic vessel chartering services or charter vessels for the benefit of Philippine shippers;

(c) To secure adequate shipping services for the carriage of Philippine overseas trade and book cargoes, at reasonable freight rates;

(d) To serve as the central implementing authority for the utilization of Philippine shipping lines for the seaborne transport of Philippine export and import cargoes; and

(e) To foster cooperation among, and enter into suitable arrangements with relevant private and public sectors in the Association of Southeast Asian Nations (ASEAN) for these purposes and projects.

ARTICLE 178. *Freight Center Fees.* – The Freight Center is hereby authorized to collect reasonable fees for its services, which shall be utilized for the training and development of its services, as the Director of the Philippine Shippers' Bureau may authorize.

#### **A. DOMESTIC and OVERSEAS SHIPPING**

ARTICLE 179. *Direct Assistance to the Shipping Industry.* – The State shall extend assistance to the shipping industry by adopting the following schemes:

(a) Vessels which are duly registered in the Philippines and which are owned or controlled, or chartered by Philippine nationals shall have at least equal shares as vessels of another country in the carriage of international cargo between the Philippines and other country.

(b) Shipping lines of third-countries shall be accorded opportunities to carry the balance of the international cargo on such bilateral trade, which cannot be carried by such vessels of the Philippines and of the second country.

ARTICLE 180. *Mandatory Transportation Services by Government.* – Whenever any office, agency, or instrumentality of the government, including all government-owned or controlled corporations, shall procure, contract for, or otherwise obtain any transportation of persons or export and import cargoes by water between the Philippines and a place outside thereof, the payment for which is made or will ultimately be made from funds of the Republic of the Philippines or such instrumentalities or corporations, the head of the government office, agency, instrumentality, or government-owned or

controlled corporation concerned shall obtain such transportation services from Philippine flag vessels.

ARTICLE 181. *Mandatory Transportation Services by Private Sector.* – Any persons, partnership, corporation or entity granted a loan or credit or whose obligation is guaranteed by the government or any of its financial institutions, shall, upon the effectivity of this Act, utilize the services of Philippine flag vessels in the transportation of persons and export and import cargoes between the Philippines and a place outside thereof whenever such transportation and/or cargo are paid from the proceeds of such loans, credit, and/or guarantee.

ARTICLE 182. *Exemptions from Mandatory Transportation Service.* – The requirements on the use of Philippine flag vessels as prescribed in Articles 180 and 181 hereof may be waived in whole or in part and or for specified period of time not exceeding one year by the Freight Center in any of the following instances:

- (a) when the services of a suitable Philippine flag vessel are not available at reasonable freight rates, and within a reasonable period of time;
- (b) when a relevant international agreement entered into, or an international convention adhered to by the Philippine government provides otherwise;
- (c) on the basis of reciprocity, when the government of a foreign country or any of its instrumentalities grants similar treatment in the utilization of Philippine flag carriers or vessels as the flag carriers or vessels of the said country in the transport of persons and cargoes;
- (d) in the case of export commodity groups, determined as exempted by the governing council of the Philippine Export Council; and
- (e) when their judgment, the national interest so requires: *Provided*, that the Freight Center may delegate the granting of waivers to the Maritime Attaché or any Philippine consular offices abroad through the Department of Foreign Affairs, or to any authorized organization.

ARTICLE 183. *Implementing Agency.* – The Freight Center shall serve as the central implementing agency for the implementation of Articles 179 to 182 of this Act. The Director of the Philippine Shippers' Bureau, in consultation with the MARIDA, Department of Foreign Affairs, the Commission on Audit, the Philippine Export Council, and other appropriate government agencies, shall within ninety (90) days from the approval of this Act, promulgate the necessary implementing rules and regulations to assure the smooth and efficient implementation of the provisions of this Chapter, as well as to ensure faithful compliance therewith by all parties concerned.

ARTICLE 184. *Role of the Commission on Audit.* The Chairman of the Commission on Audit shall disallow the payment of passenger fare or cargo freight on any foreign flag vessel; as the case may be, in the absence of a waiver procured from the Freight Center, or the duly authorized consular office, as the case may be.

ARTICLE 185. *Vessel Construction Fund.* – There is hereby appropriated or from loans which may be contracted locally or internationally, the sum of **Five Billion Pesos (₱ 5,000,000,000.00)** by the Philippine Maritime Commission to be used for the construction, purchase, or acquisition of inter-island vessels for the purpose of resale, lease, or charter to persons, associations or corporations engaged in Philippine inter-island shipping: *Provided*, That, only Philippines Nationals may be qualified under the provisions of this Act. The fund may also be invested in loans to such citizens, associations or corporations for the purpose of financing the construction, purchase, or

acquisition and operation by such citizens, associations or corporations of inter-island vessels. The amount mentioned herein shall be known as the "Vessel Construction Fund" and hereinafter shall be referred to as the "Fund."

ARTICLE 186. *Exclusivity Rule.* – All vessels acquired and/or financed under the Fund shall be constructed only by local ship builders registered with the MARIDA and the Board of Investments.

ARTICLE 187. *Revolving Fund.* – All moneys representing payments of rental, purchase price of vessels, and payments of principal and interest of loans made from the Fund shall constitute a revolving fund to be used exclusively to carry out the provisions of this Act.

ARTICLE 188. *Administration of the Fund.* – The administration and investment of the Fund, shall be vested in the Commission, which is hereby authorized and empowered to acquire ocean-going vessels for resale upon an irrevocable contract to purchase such vessels; to make from the said sums the loans referred to above; to make or cause to be made studies and investigations of the person or entity applying for the loan of the shipping service to be established; and to determine the advisability of making said loan.

ARTICLE 189. *Assistance of Other Agencies.* – For the purpose of making the studies and investigations herein provided for, the Commission may request and utilize, with the approval of the proper heads of departments, free of charge, such services of national officers and employees and of officers and employees of any government-owned or controlled corporation as are available, and such services shall be considered to have been rendered to the departments, bureaus or offices in which they are employed.

ARTICLE 190. *Loans Secured by Preferred Mortgage.* – All loans authorized under the Fund shall be upon the security of a preferred mortgage on the vessel for the acquisition of which such loans are made, including its equipment, and the certificate or any other form of authorization for the operation of such vessels and the shipping service of the borrower. All said loans shall be self-liquidating within a period not to exceed twenty (20) years and shall bear interest at the rate of not more than fourteen percent (14%) per annum: *Provided, however,* That such loans shall not exceed seventy-five per cent (75%) of the cost of the vessels: *Provided, further,* That such vessels shall be fully insured: *Provided, finally,* That no rights acquired under this Act by the vendee, lessee or charterer of the vessel shall, during the existence of the contractual agreement, be transferred or otherwise encumbered in favor of third parties without the consent of the Commission.

ARTICLE 191. *Foreign Exchange Requirements.* – Foreign exchange requirements of Philippine shipping enterprises for the purchase of oceangoing vessels for registration under the Philippine flag, for repair or improvement of vessels, for importation of engines, spare parts, accessories, supplies, containers and for other expenses required for the operation of vessels in foreign ports or in the high seas, when recommended by the MARIDA, shall be made available to the Philippine shipping enterprise subject to the regulations: *Provided,* That the MARIDA shall ascertain that the abovementioned vessels' repair and improvement, engines, spare parts, accessories and supplies cannot be furnished by local firms. All dollars acquired or spent by the owners of said vessels shall be properly accounted for to the Bangko Sentral ng Pilipinas or to any other agency in charge of dollar controls.

ARTICLE 192. *Acquisition of Oceangoing Vessels.* – Philippine shipping enterprises may likewise acquire oceangoing vessels for Philippine overseas shipping upon approval by the MARIDA, subject to the guidelines prescribed in the regulations:

*Provided, That:*

(a) The funds utilized in the acquisition of the vessel are financed from sources other than the Philippine banking system;

(b) No guaranty of the monetary authority or of any entity of the Philippine government or private financial institution is granted or extended for the purpose;

(c) The vessel serves as sole collateral for the financing of the vessel and no other asset of the Philippine shipping enterprise is pledge, mortgaged, or used as security in case of default;

(d) All foreign exchange requirements for the servicing of the loan, the operation, maintenance and repair of the vessel, the purchase of supplies and related equipment shall be financed solely from earnings derived from the operation of the vessel and no foreign exchange shall be made available by the monetary authority and the Philippine banking system for these purposes;

(e) Mortgage documents and/or other financial agreements shall be filed with the monetary authority and such other government agencies in charge of such mortgage formalities; and

(f) Any excess foreign exchange earning shall be inwardly remitted and surrendered to the Philippine banking system.

ARTICLE 193. *Exemption from Import Duties and Taxes.* – The importation by a Philippine shipping enterprise of oceangoing vessels for registration under the Philippine flag shall be exempt from the payment of import duties and taxes, including value-added tax (VAT). The spare parts for the repair and/or overhaul of vessels shall likewise be exempt from the payment of import duties and taxes: *Provided, That* such items are destined or consigned either to:

(a) A Philippine dry-docking or repair facility, accredited by the MARIDA and registered as a customs-bonded warehouse, which will undertake the necessary repairs and works on the vessel; and

(b) The vessel in which the items are to be installed: *Provided, further, That*, if such items are found in locations other than the two (2) aforementioned ones or in places not authorized by customs, the person or entity in possession of such items shall be subject to full duties and taxes, including surcharges and penalties.

Local manufactures or dealers who sell machinery, equipment, materials and spare parts to a Philippine shipping enterprise shall be entitled to tax credits for the full amount of import duties and taxes actually paid thereon, or on parts or components thereof, subject to the approval of the Secretary of Finance, upon the recommendation of the MARIDA.

ARTICLE 194. *Exemption from Income Tax.* – A Philippine shipping enterprise shall be exempt from payment of income tax on income derived from Philippine overseas shipping business for a period of ten (10) years from the date of approval of this Act: *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 provisions of Title II of the Tax Reform Act of 1997, is reinvested for the construction, purchase, or acquisition of vessels and related equipment and/or in the

improvement or modernization of its vessels and related equipment in accordance with the regulations; and

(b) The cumulative amount so reinvested shall not be withdrawn for a period of five (5) years after the expiration of the period of income tax exemption or until the vessel or related equipment so acquired have been fully paid, whichever date comes earlier.

Any amount not so invested or withdrawn prior to the expiration of the period stipulated herein shall subject to the corresponding income tax, including penalties, surcharges and interests.

Any taxpayer wishing to take advantage of the tax exemption in the preceding paragraph shall file annually a regular income tax return with the Bureau of Internal Revenue, together with such information and supporting documents as the Bureau may require, indicating the net income exempt under this Act.

ARTICLE 195. *Registration and Deletion of Vessels.* – All vessels owned by Philippine shipping enterprises and availing of the incentives under this Act shall be registered under the Philippine flag. Said vessels can only be deleted from the Philippine registry after the MARIDA has determined that:

(a) No other Philippine shipping enterprise is interested in acquiring the vessel; or

(b) The vessel has to be scrapped.

ARTICLE 196. *Requisition of Vessels.* – The President of the Philippines may, in times of war and other national emergency, requisition absolutely or temporarily, for any naval or military purpose, any and all vessels of the Philippine registry. The Government shall pay the owner or operator of the vessel, based on normal conditions at the time of requisition:

(a) The fair market value, if the vessel is taken absolutely, or

(b) The fair charter value, if the vessel is taken temporarily.

In case of disagreement, such fair value shall be resolved through arbitration under the jurisdiction of the Maritime Industry Arbitration Administration. The decision of the arbiter or Arbitral Tribunal shall be final and binding on both parties.

ARTICLE 197. *Foreclosure; Acquisition.* – The Commission is authorized and empowered to bid for and purchase at any foreclosure or other sale, or otherwise to acquire the vessels, including all other equipment, certificate or authorization, for the operation of such vessels, pledged or mortgaged to secure any loan made pursuant to this Act; to pay the purchase price and any costs and expenses incurred in connection therewith from the sums authorized in section three of this Act; to accept title to any vessel, including all its property and equipment, certificate or authorization for its operation, so purchased or acquired in the name of the Government of the Philippines; to lease or charter on bareboat basis for an amount which, if computed annually, shall not exceed ten per cent (10%) of the total cost of such vessel and equipment and for such period as may be deemed necessary or advisable to protect the investment therein; and to sell such vessel and all its property, certificate or authorization for its operation, so acquired, upon such terms and for such consideration as the Commission shall determine to be reasonable. The sale of vessels shall be made only to responsible persons who are Philippines Nationals, who agree to maintain such lines upon such terms of payment and other conditions as may be deemed just and necessary to secure and maintain the service of said lines.

ARTICLE 198. *Rules and Regulations.* – The MARIDA, in consultation with the monetary authority and the Department of Finance, shall jointly formulate and promulgate the rules and regulations necessary for the implementation of this Act taking into consideration the policies and programs of the Government for the development of the Philippine overseas shipping. The Commission shall subsequently approve such rules and regulations.

ARTICLE 199. *Annual Report.* – The MARIDA, in coordination with the monetary authority and the Department of Finance, shall submit an annual report to the Philippine Maritime Commission, which report shall include:

(a) The amount of foreign exchange earned, acquired and spent by Philippine shipping enterprises;

(b) The amount of income tax and import duties and VAT and other taxes for which exemption have been granted;

(c) The additional oceangoing vessels constructed, purchased or acquired, the improvement made thereon and the additional related equipment procured; and

(d) Such other information as the MARIDA may deem necessary or the Commission may require.

ARTICLE 200. *Penal Provisions.* – (a) Any violation of the provisions contained in Articles 180 and 181 hereof, as well as any provisions of the implementing rules and regulations to be issued in connection therewith, shall be punished by a fine not to exceed the cost of the freight of the shipment, but which shall not be less than fifty thousand pesos (₱50,000.00) In addition, the government offices and financing institutions and implementing agencies concerned, shall adopt and implement such administrative sanctions and measures as may be necessary to assure faithful compliance with the said provisions of this Chapter.

(b) Violation of the other provisions of this Chapter or the rules and regulations promulgated to implement the same shall be punished by a fine of not more than Ten Thousand Pesos (₱ 10,000) or imprisonment for not more than five (5) years, or both such fine and imprisonment, at the discretion of the court.

If the violation is committed by an association or corporation, the penalties prescribed hereunder shall be imposed on the president the chief executive officer and the other officials and employees responsible for the violation.

If the violation is committed by a government official or employee, he shall, in addition to the penalties prescribed hereunder, be dismissed from the government service with all administrative penalties accessory thereto.

ARTICLE 201. *Vessel Utilization And Performance Reports; Filing; Civil Penalty; Lien Upon Vessel; Remission Or Mitigation Of.* The operator of a vessel in waterborne domestic and foreign commerce of the Philippines shall file at such times and in such manner as the MARIDA may prescribe by regulations, such report, account, record, or memorandum relating to the utilization and performance of such vessel in commerce of the Philippines, as the MARIDA may determine to be necessary or desirable in order to carry out the purposes and provisions of this Act. Such report, account, record, or memorandum shall be signed and verified in accordance with regulations prescribed by the MARIDA. An operator who does not file the report, account, record, or memorandum as required by this Article and the regulations issued hereunder, shall be liable to the MARIDA in a penalty of One Thousand Pesos (₱

1,000.00) for each day of such violation. The amount of any penalty imposed for any violation of this Article upon the operator of any vessel shall constitute a lien upon the vessel involved in the violation, and such vessel may be libeled therefor in the Regional Trial Court of the Philippines in the place in which it may be found. The Administrator of MARIDA may, in his discretion, remit or mitigate any penalty imposed under this Article on such terms, as he may deem proper.

## **B. SHIP BUILDING and SHIP REPAIR**

ARTICLE 202. *Regulation of Operations.* – In pursuance of such policy and objectives, the MARIDA is hereby empowered to exercise the following functions and responsibilities:

1. It shall undertake the approval of the plans of shipbuilding and/or ship repair facilities and the plans and specifications for the construction, repair, improvement, alteration and/or reconditioning of any watercraft shipyards in the country.

2. It shall regulate the activities of the shipbuilding and ship repair yards by determining the minimum and maximum capacity of the shipbuilding and/or ship repair facilities of all shipyards which will be the basis of a classification to be undertaken by the MARIDA for purposes of ascertaining the allowable shipbuilding and/or ship repair capacity of every shipyard.

3. To ensure equitable participation among all registered shipyards, to preclude destructive competition among them, and to provide ample protection to those already existing and duly registered, it shall see to it that newly registered shipyards shall only be allowed to accept shipbuilding and/or ship repair contracts that are beyond the capacity of prior registered shipyards; *Provided*, that in case of shipbuilding and/or ship repair contracts which cannot be accommodated by such prior registered shipyards on time on account of existing prior commitments, of or inadequacy or lack of the required shipbuilding and/or ship repair facilities, the ship owner, agent or operator shall be allowed to engage the services of the shipyard of his choice upon proof and after determination by the MARIDA of the non-availability of the needed services by any prior registered shipyard.

ARTICLE 203. *Mandatory Rule.* – All Philippine-owned and/or registered vessels shall undertake all repairs, improvement, alteration, reconditioning, conversion or dry-docking with MARIDA-registered ship repair yards, provided that the MARIDA may exempt any such vessel from this requirement in any of the following cases:

1. When as a result of collision, grounding, heavy weather, breakdowns and other perils of the sea occurring abroad, the vessel suffers damages necessitating emergency and/or extraordinary repairs, and it is impracticable that such vessel be brought to the Philippines for the needed repairs;

2. When on account of existing prior commitments or due to inadequacy or lack of service facilities of MARIDA-registered ship repair yards, as determined by the MARIDA, the repairs or works sought to be undertaken on the vessel cannot be accommodated by such ship repair yards;

3. When the Philippines is not one of the vessel's ports of call, in which case a waiver from the said requirement must be obtained from the MARIDA;

4. All other meritorious cases as may be determined by the MARIDA.

ARTICLE 204. *Incentives.* – Shipbuilding and ship repair yards duly registered with the Maritime Industry Authority shall be entitled to the following incentive benefits:

a) *Exemption from import duties and taxes.* – The importation of machinery, equipment and materials for shipbuilding, ship repair and/or alteration, as well as replacement and spare parts for the repair and overhaul of vessels such as steel plates, electrical machinery and electronics parts, shall be exempt from the payment of customs duties: *Provided, however,* That the MARIDA certifies that the item or items imported are not produced locally in sufficient quantity and acceptable quantity at reasonable prices, and that the importation is directly and actually needed and will be used exclusively for the construction, repair, alteration, or overhaul of merchant vessels and other watercrafts; *Provided, further,* That if the above machinery, equipment, materials and spare parts are sold to non-tax exempt persons or entities, the corresponding duties and taxes shall be paid by the original importer; *Provided, finally,* That local dealers and/or agents who sell machinery, equipment, materials and accessories to shipyards for shipbuilding and ship repair are entitled to tax credits, subject to approval by the MARIDA, equivalent to the total tariff duties and other taxes paid for said machinery, equipment, materials and accessories.

b) *Exemption from Value-Added Tax (VAT).* – The gross receipts derived by shipbuilders and ship repairers from shipbuilding and ship repairing activities in the ordinary course of business shall be exempt from the Value-Added Tax (VAT) as provided in Section 105 of Republic Act No. 8424, during the effectivity of their registration with the MARIDA: *Provided,* That any and all amounts which would otherwise have been paid as VAT shall be set aside to be added to the Fund, by the taxpayer for the purpose of expansion, modernization and/or improvement of the contractors own shipbuilding or ship repairing facilities; *Provided, further,* That, for this purpose, the taxpayer shall remit the said amount and submit an annual statement of its receipts to the MARIDA; and *Provided, finally,* That any disbursements from such fund by the MARIDA, for any of the purposes herein above stated shall be subject to approval of the Commission;

c) *Accelerated depreciation.* – Industrial plant and equipment may, at the option of the shipbuilder and ship repair, be depreciated for any number of years between five years and the expected economic life.

d) *Registration required but not as Public Utility.* – The business of constructing and repairing vessels or parts thereof shall not be considered a public utility and no Certificate of Public Convenience shall be required therefor. *However, no shipyard, graving dock, marine railways or marine repair shop and no person or enterprise shall engage in the construction and/or repair of any vessel, or any phase or part thereof, without a valid Certificate of Registration and license for this purpose from the MARIDA, except those owned or operated by the Armed Forces of the Philippines or by foreign governments pursuant to a treaty or agreement.*

ARTICLE 205. *Loans to Shipbuilding and Ship Repair Industry.* – The funds provided in Articles 195 and 197 of this Act shall be available in the form of loans to Philippines Nationals engaged in shipbuilding and ship repair and registered with the Board of Investments and MARIDA, for the purpose of financing and construction of shipbuilding structures and facilities and for the purchase or acquisition of necessary equipment needed for shipbuilding purposes.

ARTICLE 206. *Rules and Regulations.* – The MARIDA shall, in consultation with the Board of Investments and the Department of Finance, promulgate rules and regulations together with the procedures and guidelines for the proper and efficient implementation of the above provisions.

ARTICLE 207. *Penalties.* – (a) Any violation of Article 203 or the Rules and Regulations which shall be issued pursuant thereto shall result in the cancellation of the

Certificate of Philippine Registry of the vessels or payment of a minimum fine of Twenty Thousand Pesos (₱ 20,000.00) not exceeding Fifty Thousand Pesos (₱ 50,000.00), for vessels engaged in domestic trade; and a minimum of Fifty Thousand Pesos (₱ 50,000.00) not exceeding One Hundred Thousand Pesos (₱ 100,000.00), for vessels engaged in overseas trade, or both such cancellation and fine, at the discretion of the MARIDA.

(b) Any violation of the tax exemption privileges or incentives provided for in Article 204, as well as the terms and conditions for the grant thereof, shall result in forfeiture of all the tax exemptions and incentives granted herein and the shipbuilder, ship repairer, or the original importer shall be subject to two hundred percent (200%) surcharge of all the taxes affected by the particular violation.

ARTICLE 208. *Temporary Registration of Foreign-Owned Vessels.* – Any foreign-owned vessel under charter or lease to a Philippine National may be issued a temporary certificate of Philippine registry by the MARIDA: *Provided*, That the said charter or lease (1) has the prior written approval of the MARIDA; (2) shall be valid and effective for a period of not less than one year; and (3) shall be used exclusively in the coastwise trade in the Philippines, unless otherwise permitted by the MARIDA to be used for overseas trade subject to terms and conditions it may impose: *Provided, further*, That the operation of the vessel shall be entirely in the hands of Philippine nationals and free from any participation or interference from the alien owner, except insofar as such action shall be to directly protect his rights as owner thereof: *Provided, finally*, That the registered vessel shall be manned completely by a Filipino crew, except in the case of specialized vessels and subject to rules and regulations MARINA may prescribe in relation thereto

The effectivity of any charter or lease contract entered into pursuant to this provision shall not extend beyond the year 2020, unless otherwise extended by the President of the Republic of the Philippines, upon recommendation of the Commission.

ARTICLE 209. *Privilege of Temporary Registration.* – Any vessel issued a temporary certificate of Philippine registry as provided for in the section immediately preceding shall be entitled to all the rights and privileges of a vessel of a Philippine registry, as well as the protection of Philippine law so long as its temporary certificate of registration is valid and subsisting. Correspondingly, the vessel shall also be subject to all requirements, limitations and all the duties and obligations imposed upon vessels of Philippine registry.

## CHAPTER 2. – CABOTAGE

ARTICLE 210. – *Transportation of Cargo between Points in Philippines.* No foreign vessel shall transport cargo, including cargo owned by the Government of the Philippine, or any of its political subdivision, agency, instrumentality, and government owned and controlled corporation, by water, or by land and water between points in the Philippine either directly or via a foreign port, or for any part of the transportation. Only vessels registered and documented under the laws of the Philippines and owned by Philippines Nationals shall engage in the business of transporting cargo between points within the territory of the Philippines. Foreign vessels may engage in the coastwise shipping of cargo within the Philippine territory only upon the following exceptions:

- (1) That the government of the nation of registry of the vessel extends reciprocal privileges to vessels registered and owned by Philippine Nationals;
- (2) That the shipment of the foreign vessel is advantageous to the Philippine government as determined by the MARIDA; and

- (3) Upon permission given by the MARIDA to the owner of the foreign vessel due to humanitarian and crisis- or disaster-mitigation reasons.

ARTICLE 211. – *Transportation of Passengers.* No foreign vessel shall transport passengers by water, between ports or places in the Philippines, either directly or by way of a foreign port, under a penalty provided hereunder. Only vessels registered and documented under the laws of the Philippines and owned by Philippines Nationals shall engage in the business of transporting passengers between points within the territory of the Philippines. Foreign vessels may engage in the coastwise shipping of passengers within the Philippine territory subject to the exceptions under Article 210.

ARTICLE 212. – *Penalties.* (a) For violation of Article 210 of this Act, the penalty of forfeiture of the merchandise, or a monetary amount up to the value thereof as determined by the proper government agency, or the actual cost of the transportation, whichever is greater. The penalty shall be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported.

(b) Ship owner or ship agent transporting or causing to be transported passengers in violation of Article 211 of this Act shall be penalized by a sum of Ten Thousand Pesos (₱ 10,000.00) for each passenger so transported and landed.

## TITLE VII. – FINAL PROVISIONS

### CHAPTER 1. – MISCELLANEOUS PROVISIONS

ARTICLE 213. *Disclosure and Divestment of Financial Interest.* – Before assumption of office, the Commission, Head of the Agencies created by this Act shall submit to the Civil Service Commission a list of all companies, partnerships, or business enterprises, including nonprofit organizations, in which they or any immediate member of their families within the second degree of consanguinity or affinity have any form of financial interest or employment relationship, including consultancy: *Provided, however,* That all other forms of employment relationship held by the heads of the offices of the entities or agencies shall be immediately terminated upon assumption of office.

Within thirty (30) days thereafter, complete divestment of financial interests in any institution, firm, or company that fall under the supervisory or regulatory jurisdiction of the Commission shall be made. The divestment provided herein shall likewise apply to the members of the immediate family within the second degree of consanguinity having interest in any institution or activity which falls under the regulatory jurisdiction or supervision of the Commission and its attached agencies.

ARTICLE 214. *Support Agencies.* – The Commission and its attached agencies shall enjoy preferential attention from other government agencies with functions relative to the implementation of the provisions of this Act.

The Maritime Manpower Administration shall coordinate with the Commission on Higher Education and the Profession Regulatory Commission in the exercise of its pertinent functions that have relation to the functions of the abovementioned agencies, particularly in the supervision and regulation of maritime schools and the conduct of appropriate board examinations for maritime workers. Moreover, the Department of Foreign Affairs, Department of Labor and Employment shall provide assistance and support to the Commission, the MARIDA in the appointment of Maritime Attachés and other pertinent matters.

Lastly, the Department of National Defense and the Coast and Geodetic Survey, under the Department of Environment and Natural Resources shall provide valuable assistance and support to the Philippine Coast Guard, particularly in the enforcement of Philippine laws regarding the protection and preservation of our marine resources, patrol of our territorial waters (including the Exclusive Economic Zone), the conduct of hydrographic surveys as well as other pertinent matters towards the effective implementation of the provisions of this Act. Moreover, the PCG shall coordinate with the National Telecommunications Commission (NTC) in updating the regulations regarding the communications requirement for all Philippine registered vessels *vis-à-vis* the SOLAS requirements.

ARTICLE 215. *Visitorial Powers.* – The Commission or any of its representatives shall have visitorial and examining authority over non-government entities with contracts for the development or improvement of the maritime industry, particularly ship building, ship repair and others, in order to determine the share of the Government in the revenue or product thereof, and to ascertain all funds collectible and products due the Government, and that all such funds collectible and products due the Government, have actually been collected or delivered.

During such examination, the non-government entity concerned shall produce all the reports, records, books of accounts, and other papers that may be required.

The refusal by any such non-government entity to allow an examination of its books of accounts and pertinent records or its concealment of any material information concerning its financial status shall be a breach of its contract with the Government and shall constitute a legal ground for the cancellation thereof.

## CHAPTER 2. – TRANSITORY PROVISIONS

ARTICLE 216. *Structure and Staffing Pattern.* – The organizational framework and staffing pattern of the Commission and all agencies under its control and supervision shall be prescribed and approved by the Secretary within ninety (90) days after the approval of this Act. The authorized positions created therein shall be filled by the proper appointing power as the case may be: *Provided*, That, in the filling of positions created, preference shall be given to the personnel of the existing offices, agencies, and other entities mentioned in this Act: *Provided, however*, That such individuals comply with the qualification standards set by the Civil Service Commission for the positions that they shall be appointed to: *Provided, finally*, That, if such individuals possess the same qualifications, seniority shall be given priority.

ARTICLE 217. *Separation from Service.* – All officials and employees separated from the service as a result of this reorganization shall, within six (6) months from their separation from the service, receive the retirement benefits to which they may be entitled under existing laws, rules, and regulations.

ARTICLE 218. *Survey of Existing Merchant Marine for Creation of Adequate Philippine-Owned Fleet.* – Upon approval of this Act, it shall be the duty of the Commission to make an immediate survey of the Philippine merchant marine, as it now exists, to determine what additions and replacements are required to carry forward the national policy declared in Title I of this Act, and the Commission is directed to study, perfect, and adopt a long-range program for replacements and additions to the Philippine merchant marine, so that as soon as practicable the following objectives may be accomplished:

First, the creation of an adequate and well-balanced merchant fleet, including vessels of all types, to provide shipping service essential for maintaining the flow of the

foreign commerce of the Philippines, the vessels in such fleet to be so designed as to be readily and quickly convertible into transport and supply vessels in a time of national emergency. In planning the development of such a fleet the Chairman of the Commission is directed to cooperate closely with the Philippine Navy as to national-defense needs and the possible speedy adaptation of the merchant fleet to national-defense requirements.

Second, the ownership and the operation of such a merchant fleet by Philippine Nations insofar, as may be practicable.

Third, the planning of vessels designed to afford the best and most complete protection for passengers and crew against fire and all marine perils.

Fourth, the creation and maintenance of efficient shipbuilding and repair capacity in the Philippines with adequate numbers of skilled personnel to provide an adequate mobilization base.

The results of such survey and study shall be used by the Commission and the agencies under its control and supervision, as a starting point in the process of the overall development of the maritime industry and the effective implementation of the safety standards and guidelines towards the promotion of safety of life and goods at sea, as well as the protection of the country's marine resources.

*ARTICLE 219. Abolishing of the Cabinet Committee on Maritime and Ocean Affairs.* – The existing Cabinet Committee on Maritime and Ocean Affairs created under Executive Order No. 186, dated 12 July 1994, is hereby abolished. Its records, personnel, equipment, existing budget as well as other powers, functions and privileges given it under Executive Orders No. 738 (1981), 1034 (1985), 328 (1988), and 186 (1994) are hereby transferred to the Philippine Maritime Commission.

With regard the personnel so transferred, the Commission shall determine which of them will be employed to perform the functions provided by the executive orders and the provisions of this Act. Other personnel not needed by the Commission, as determined in its staffing pattern, shall stay with their respective offices or agencies.

*ARTICLE 220. Continued Deregulation of the Shipping Industry.* – The Maritime Industry and Development Administration shall continue to implement Executive Order No. 213, dated 28 November 1994 as far as practicable and not inconsistent with the provisions of this Act.

*ARTICLE 221. Continued Deregulation of Ports.* – The Philippine Ports and Harbors Administration shall continue to implement, enforce and apply all existing rules and regulations not inconsistent with the provisions of this Act. In particular, the PPHA shall implement Executive Order No. 212, dated 11 November 1994 including its rules and regulations. Moreover, the PPHA will have control and jurisdiction over tour boat terminal at the CCP. The Philippine Tourism Authority is tasked to coordinate with the PPHA for the efficient transfer of control of the said terminal, as covered by the proper presidential memorandum.

### **CHAPTER 3. – PENAL PROVISIONS**

*ARTICLE 222.* Any person who violates any of the provisions of this Act or any of the rules and regulations issued or promulgated by the Commission or any of the agencies mentioned herein, shall be punished by imprisonment for not less than thirty (30) days but not more than six (6) years, and pay a fine of not less than Two Hundred Pesos (₱ 200.00) but not more than One Hundred Thousand Pesos (₱ 100,000.00): *Provided,* That nothing in this Act shall prevent the appropriate agency mentioned herein

from providing administrative penalties for violation of any regulation that it promulgates.

If the offender is a government official or employee he shall, in addition to *imprisonment and fine*, be perpetually disqualified to hold any public office. If the offender is a juridical person, the penalty of imprisonment and fine shall be imposed upon its president, manager, director, representative or employee thereof responsible for the violation. If the offender is an alien he shall be deported immediately without further proceedings, after serving his sentence and paying the fine.

Any license, franchise, authority or permit to exercise any right or privilege, which may have been issued by the Commission or any of the agencies mentioned herein, in accordance with this Act or the rules and regulations issued or promulgated pursuant to this Act, shall be deemed withdrawn and revoked upon conviction of the holder thereof.

ARTICLE 223. 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 Act, shall be punished with imprisonment or not less than two (2) years and one (1) day but not more than six (6) years and with a fine of not less than Fifty Thousand Pesos (₱ 50,000.00) but not more than One Hundred Thousand Pesos (₱ 100,000.00): *Provided, however*, That if 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.

ARTICLE 224. A fine of not less than Twenty Thousand Pesos (₱ 20,000.00) nor more than One Hundred Thousand Pesos (₱ 100,000.00) or imprisonment for a period of not less than one (1) year nor more than six (6) years or both such fine and imprisonment, at the discretion of the court shall be imposed upon:

(a) Any person who engages in the practice of merchant marine profession or represents himself as a Marine Deck or Engineer Officer without holding a valid certificate of registration and/or certificate of competency;

(b) Any person who represents or uses the certificate of registration and/or certificate of competency of another person;

(c) Any person who shall give any false or forged documents for the purpose of obtaining a certificate of registration and/or certificate of competency;

(d) Any person who shall use a revoked or suspended certificate of registration and/or invalid or expired professional license;

(e) Any person who shall assume, use or advertise the title of Marine Deck/Engineer Officer under his name, or any description to convey the impression that he is a professional marine deck/engineer officer without holding a valid certificate of registration and/or certificate of competency; and

(f) Any person who shall violate the provisions of this Act, its Implementing Rules and Regulations, and the Code of Ethics for Marine Deck/Engineer Officers.

#### **CHAPTER 4. – APPLICATION OF PROVISIONS**

ARTICLE 225. *Repealing Clause.* – All laws, presidential decrees, executive orders, Letters of Instructions and rules and regulations, or parts thereof, inconsistent with or contrary to any of the provisions of this Act are hereby repealed or modified.

ARTICLE 226. *Separability Clause.* – If, for any reason, any provision of this Act is held unconstitutional or invalid, all the other provisions not affected thereby shall remain valid.

ARTICLE 227. *Retroactivity Clause.* – This Act shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other pertinent laws.

ARTICLE 228. *Effectivity Clause.* – This Act shall take effect six (6) months after its complete publication in at least two (2) national newspapers of general circulation.

Approved.