

EXECUTIVE ORDER NO. 212

**ACCELERATING THE DEMONOPOLIZATION AND PRIVATIZATION  
PROGRAM FOR GOVERNMENT PORTS IN THE COUNTRY**

**WHEREAS**, Article XII, Section 19 of the Constitution declares that "the State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed;"

**WHEREAS**, the Philippine Ports Authority (PPA) is mandated by Section 2 of its Charter, Presidential Decree No. 857, as amended, to optimize port financing and development and to ensure the smooth flow of waterborne commerce passing thru the country's ports;

**WHEREAS**, operation of cargo handling and port services by a single cargo handling or port service contractor tends to breed inefficiency; and

**WHEREAS**, there is a need to accelerate the demonopolization and privatization programs initiated by the Government for all ports under the administration of the PPA.

**NOW, THEREFORE**, I, **FIDEL V. RAMOS**, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

Section 1. *Demonopolization Program.* - The Department of Transportation and Communications (DOTC), through the PPA, shall accelerate the demonopolization and liberalization of all government ports in the country by allowing and encouraging competition in the provision of cargo handling and other port services in every government port or terminal facility, consistent with cargo volume, revenue and physical configuration of the port or terminal facility.

Under this program, shipowners, ship operators, charterers or other users shall have the option to contract or engage the services of the PPA-authorized cargo handler or port service contractor of their choice. Towards this end, the PPA shall:

- a. Respect all existing cargo handling or port service contracts with the PPA but shall not renew these

upon their expiration including those contracts with a renewal option on the part of PPA;

- b. Award or grant, through competitive public bidding, non-exclusive multi-year contracts of sufficient duration to allow the cargo handling or port service contractor to realize a reasonable return on its investments in equipment and other facilities; and
- c. Allow the participation of cooperatives as cargo handling or port service contractors in ports where manual labor is predominantly employed due to low volumes or the nature of cargo being handled.

Section 2. *Privatization Program.* - The DOTC, as the lead agency, through the PPA, shall encourage and expand the participation of the private sector in the operation, maintenance and development of all government ports in the country through the following:

- a. Capital leases to allow the private sector to operate, maintain and develop port facilities and to charge appropriate rates for services provided to users;
- b. Cargo licenses to private companies to undertake cargo handling services in ports which cannot be considered under the capital lease concept for strategic and economic reasons. Tariffs shall also be deregulated and shall be based on negotiations between cargo handling companies and users;
- c. Service contracts to private companies with the manpower, logistics and expertise to efficiently carry out dredging, port security, and other such services to the private sector in the ports;
- d. Tariff review to eliminate charges on private ports and promote private sector investment in the development of other private ports in the country.

In all of the above undertakings, the DOTC, through the PPA, shall ensure that the government shall realize a reasonable return on its investments.

Section 3. *Preparation of a National Port Transport Plan.* - The DOTC shall prepare a comprehensive National Port Transport Plan responsive to the needs of regional development and compatible with the Privatization Program, in coordination with the National Economic and Development Authority (NEDA) and the PPA, integrating



an intermodal transport network that will efficiently and effectively link road, rail, sea and air transport systems.

The National Port Transport Plan shall be maintained on a 15-year cycle and the initial plan shall be submitted to the Office of the President within one (1) year from the issuance of this Executive Order.

All local government units and national government agencies shall notify the PPA of all port projects undertaken pursuant to Republic Act No. 7718 for proper coordination and consolidation into the National Port Transport Plan.

**Section 4. *Cartels and Unfair Trade Practices.*** - In the implementation of the Demonopolization and Privatization Programs, the PPA shall ensure that free access to the ports is allowed to all sectors of the industry and that there shall be no discrimination in the provision and availment of services or contracts.

There shall be no interlocking stockholders, directors or officers or common management between or among cargo handlers, port service contractors or other port-related companies operating in the port or terminal facility. Circumstances indicating such discriminatory behavior, cartel or similar arrangements, or unfair trade practices that defeat the objectives of this Executive Order shall be a ground for the suspension or cancellation of any cargo handling or port service contract with the PPA.

**Section 5. *Redundancy Provision,*** - The PPA shall adopt appropriate measures to protect the interests of redundant and displaced PPA and port personnel resulting from the implementation of the Demonopolization and Privatization Programs. Towards this end, the PPA shall provide redundancy or separation benefits as may be authorized under existing laws. Likewise, the PPA shall ensure that the welfare and security of tenure of port workers are assured in every port that is privatized.

**Section 6. *Other Agencies Assistance.*** - All government departments, offices, agencies or instrumentalities, government-owned or controlled corporations, including but not limited to the Department of Trade and Industry, the Department of Finance, the Department of Public Works and Highways, the Department of Environment and Natural Resources, the NEDA, the Bureau of Customs and the Maritime Industry Authority are hereby ordered to assist and coordinate with the DOTC and the PPA in the implementation of this Executive Order.

**Section 7. *Implementing Rules.*** - The PPA, with the approval of the DOTC, shall prepare the necessary rules and regulations to implement this Executive Order.




Section 8. *Repealing Clause.* - This Executive Order repeals or amends all executive, department and other agency issuances or any provision thereof inconsistent herewith.

Section 9. *Effectivity.* - This Executive Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

DONE in the City of Manila, this 28th day of November in the year of Our Lord, Nineteen Hundred and Ninety-Four.



By the President:



TEOFISTO T. GUINGONA, JR.  
Executive Secretary



PMS LIBRARY BCODE006084

PMS LIBRARY

Received

DEC 26 1994 *jam*  
Date