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CONSOLIDATING AND REVISING THE EXISTING RULES AND REGULATIONS GOVERNING THE ACCREDITATION AND REGULATION OF SEA FREIGHT FORWARDERS (INTERNATIONAL OR DOMESTIC), NON-VESSEL OPERAT...

PSB ADMINISTRATIVE ORDER NO. 2, April 19, 1996

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Pursuant to Sections 3 (h) and 4 (c) of Executive Order No. 514, Series of 1992 (Charter of PSB), the following rules and regulations are hereby prescribed and promulgated for the compliance, guidance, and information of all concerned:

Rule I
Short Title: Statement of Policy and Objectives; Definition of Terms

SECTION 1. Short Title. — This Order may be cited as: "PHILIPPINE SHIPPERS" BUREAU (PSB) — RULES ON FREIGHT FORWARDING".

SECTION 2. Statement of Policy and Objectives. — It is the declared policy of the State to facilitate and assist the development and growth of Philippine trade and the national economy by enhancing the legitimate interests of Philippine shippers (per Section 1, E.O. 514). Further, one of the ten (10) Key Operating Principles of the government in its export development drive is, that "urgent attention must be given to policies affecting infrastructure in order to ensure the adequate supply and quality of transportation (e.g. shipping and cargo handling) to support the flow of goods and services in the context of the national export drive". (per section 3 (f), R.A. 7844 — Export Development Act).

In pursuance of this policy and principle, the PSB shall maintain and operate a reasonable accreditation and regulation system for the covered firms, with the following objectives:

a. Lay down the minimum standards and requirements under which covered firms may legally do business;

b. Upgrade the quality of services, capabilities, resources and expertise of the covered firms in order that they may meet the demands of the Philippines' new global trade and upsurging domestic trade; and

c. Curtail acts and practices inimical to the fast growth of the freight forwarding industry and prejudicial to the interests of Philippine shippers.

SECTION 3. Definition of Terms. — Unless the context provides otherwise, the following terms shall have the meaning indicated for each term:

a. Certificate of Accreditation. — a document issued by PSB officially authorizing the firm named therein to engage in the freight forwarding operations specifically indicated in the document. Said Certificate may be original or renewal.

b. International Freight Forwarder — a cargo intermediary firm which directly or indirectly facilitates the transport of goods by sea on behalf of its customer by acceptance of cargo for delivery to an overseas destination, booking

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cargo space, negotiating freight rates, preparing documents, advancing freight payments, providing packing/crating, trucking and warehousing, and other related undertakings, without assuming the role of a carrier.

c. Domestic Freight Forwarder — a cargo intermediary firm, which directly or indirectly facilitates the transport of goods by sea on behalf of its customer by acceptance of cargo for delivery to a domestic destination, booking cargo space, negotiating freight rates, preparing documents, advancing freight payments, providing packing/crating, trucking and warehousing, and other related undertakings, without assuming the roles of a carrier.

d. Non-Vessel Operating Common Carrier (NVOCC) — a firm which publishes its own freight tariff, issues its own Bills of Lading, and assumes all the responsibilities of a common carrier without however operating its own vessels.

e. Cargo Consolidator — a firm which undertakes groupage of the small (LCL) shipments of/for single or various consignors/consignees by procuring vessel/container space from carriers and issuing its own Bills of Lading or equivalent using its own name and address.

f. Breakbulk/Cargo Consolidation Agent — the Philippine agent/representative of a freight forwarder/cargo consolidator named in a master Bill of Lading as shipper/consignee of a consolidated shipment.

g. Shipper — the person whose name appears in the Bill of Lading or other transport document as the party contracting with the carrier for the carriage of goods by sea, such as the exporter, importer, cargo owner, freight forwarder, and cargo consolidator.

h. Consignee — the person whose name appears in the Bill of lading or other transport document as the party to whom the goods are to be delivered by the carrier.

i. PSB — the Philippine Shippers' Bureau.

j. Director of PSB — includes the Officer-in-Charge of PSB.

k. RAD — Registration and Accreditation Division of PSB.

l. Person — a natural person or a juridical person.

m. This Order — this PSB Administrative Order.

n. Working days — working days of PSB.

o. Subsisting Certificate of Accreditation — one that is existing and has not expired, not cancelled, not under suspension, not automatically/deemed revoked, and not acquired by way of transfer/alienation/inheritance.

Rule II
Covered Firms; Standards and Documentary Requirements for Accreditation

SECTION 4. Covered Firms. — International Freight Forwarders, Domestic Freight Forwarders, NVOCCs, Cargo Consolidators, and Breakbulk Agents, as defined above, are covered by this Order, hence they must be accredited first as provided in this Order before they can legally engage in the said categories. For brevity, these five (5) categories shall be referred to in this Order as "covered firms".

SECTION 5. Standards and Documentary Requirements for Accreditation. — The standards for accreditation are stated hereunder. The applicant shall file with the PSB a written application under oath, in the prescribed form (in one copy only), together with a clear copy of each of the following documents;

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A. FOR CORPORATIONS AND PARTNERSHIPS:

1. List of Board of Directors and principal officers (including the Operations Manager or Chief Operating Officer or equivalent).

The Operations Manager or Chief Operating Officer or equivalent must have at least two (2) years experience in shipping, freight forwarding and/or related activities, subject to evaluation by the PSB.

2. Audited Financial Statement (latest Income Statement & Balance Sheet with supporting schedules), which must show a minimum paid-up capital as certified by the Securities and Exchange Commission (SEC) according to the category as follows:

Category	Minimum Paid-up Capital Requirement
a. NVOCC	P 500,000.00
b. Cargo Consolidator	400,000.00
c. International Freight Forwarder	300,000.00
d. Domestic Freight Forwarder	250,000.00
e. Breakbulk Agent	250,000.00

When the applicant is just a division of a company composed of two or more divisions, it shall submit, in addition to the financial statements applicable to the entire company, a statement of income and expenses applicable only to its freight forwarding operations as a separate Profit Center.

The applicant’s net equity shall be equal to or greater than the above-prescribed minimum paid-up capital for each category, and the amount shall not be impaired by the operating losses, the long-term liabilities, or other operating aspects affecting the net equity of the firm upon application for accreditation.

3. List of agents/principals/offices abroad, if any, and a copy of the existing contract and/or agency agreement

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(not applicable to Domestic Freight Forwarders).

4. Company profile documents, namely:

a. A photo copy of the SEC Certificate of Incorporation.

b. A photo copy of the Articles of Incorporation/Partnership.

c. A photo copy of the By-laws.

The category being applied for by the applicant must be specifically provided in the Primary Purpose portion of its Articles of Incorporation/Partnership. However, if the application is for NVOCC category and there is no specific provision in applicant's Articles of Incorporation/Partnership allowing it to engage in NVOCC operation, the applicant shall be required to file with SEC an amendment for that purpose. Upon submission to SEC of the application for amendment, an accreditation shall be granted by PSB subject to the condition that within ninety (90) days from issuance of the Certificate of Accreditation, a copy of the duly approved Amended Articles of Incorporation/Partnership shall be submitted by the applicant to PSB.

d. Bio-data of Board Directors and principal officers.

e. Two (2) recent passport-size ID pictures each of principal officers.

5. List of transport equipment and/or photo copies of contracts with trucking company/ies. For vehicles owned by the applicant, a photo copy each of the vehicle registration papers shall also be submitted.

6. List of major clients, stating their names and addresses (not applicable to newly-organized firms).

7. Proofs of cargo insurance coverage, namely, a photo copy each of the policy and the official receipt showing payment of the premium.

The type of cargo insurance required for accreditation under this Order is either the Merchandise in Transit (Floater) Insurance or the Through Transport Club insurance. The MIT (Floater) Insurance shall cover Truck Risks Plus Robbery and Hijacking (Standard Coverage) plus losses and damages due to loading and unloading, and losses and damages whilst the vehicles is on stop overnight at an allowed territory. The Through Transport Club Insurance is the standard comprehensive cargo liability insurance for freight forwarders and transport operators covering destinations between the Philippines and worldwide.

Category

Minimum Amount of Insurance

a. NVOCC

P 500,000.00

b. Cargo Consolidator

400,000.00

c. International Freight Forwarder

300,000.00

d. Breakbulk Agent

250,000.00

e. Domestic Freight Forwarder

100,000.00

8. A clearance each from the Bureau of Customs and Bureau of International Revenue, when required by the PSB.

9. In the prescribed form, (1) an authority to verify and inspect the applicant's office/s, warehouse/s, equipment, and documents/records; and to verify from whatever sources, even after the Certificate of Accreditation has been issued, the veracity of the entries/statements in the application form and supporting documents as well as the genuineness of the said documents; and (2) an authority to conduct the visitorial activities mentioned in Sections 34 and 35 hereof for the life-span of the Certificate of Accreditation.

10. Photo copy of the Permit to Operate (PTO) issued by the PPA) applicant only to firms doing or planning to do business within PPA premises.

11. Specimen of Bill of Lading or equivalent (applicable only to NVOCCs and Cargo Consolidators).

12. A copy of the freight tariff (applicable only to NVOCCs).

Notwithstanding the above, the PSB may require the submission of other documents as may be necessary in the evaluation of the application.

B. FOR SOLE PROPRIETORSHIPS:

1. List of principal officers (including the Operations Manager or Chief Operating Officer or equivalent).

The Operations Manager or Chief Operating Officer or equivalent must have at least two (2) years experience in shipping, freight forwarding, and/or related activities, subject to evaluation by the PSB. If the owner of the business is also the Operations Manager or Chief Operating Officer or equivalent, he must meet this standard.

2. Proofs of financial resources (e.g., a photo copy of Real Estate Title; a photo copy of the Bank Certificate of Cash Balance).

The capitalization must be equivalent to the minimum paid-up capital and net equity requirement stated in Subsection (A) (2) of this Section.

3. A photo copy of the subsisting Certificate of Business Name Registration.

4. A photo copy of the latest Income Tax Return for two (2) consecutive years (not applicable to newly-organized firms).

5. Bio-date of the owner and principal officers.

6. Two (2) recent passport-size ID pictures each of owner and principal officers.

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7. The following items of Subsection (A) of this Section shall be applicable to Sole Proprietorships:

item 3 — re-agents/principals/offices abroad contracts.

item 5 — re-equipment/contracts/vehicle registration papers.

item 6 — re- major clients.

item 7 — re-insurance

item 8 — re-clearances.

item 9 — re-authority to verify and inspect; authority to conduct visitorial activities.

item 10 — re- PTO.

item 11 — re- specimen.

item 12 — re-freight tariff.

Notwithstanding the above, the PSB may require the submission of other documents as may be necessary in the evaluation of the application.

SECTION 6. Additional Categories. — If the applicant is applying, on a single occasion, for more than one category, his main category shall be charged the filing and processing fee of P3,000.00, and every additional category shall be charged a filing and processing fee of P1,000.00 only. The same rules shall be applied when a firm which has already an accredited category later on applies for additional category/ries: Provided, however, That the live-span of the Certificates of Accreditation for the additional categories shall be coterminous with that of the main/first accredited category, and consequently all shall be renewed simultaneously and considered as one renewal application entitling the applicant to pay only a single filing and processing fee (including surcharge if applicable).

SECTION 7. Branch offices must be accredited. — Every branch of the covered firms must be accredited first before said branch can legally engage in business. For this purpose, the applicant shall file an application under oath, in the prescribed form (in one copy only), together with a clear copy of each of the following documentary requirements:

a. Information (in the prescribed form) regarding the branch office;

b. Bio-data of the Branch Manager (BM);

c. Two (2) recent passport-size ID pictures of the BM; and

d. Other documents as may be necessary in the evaluation of the application, when required by the PSB.

The BM should meet the experience requirements for Operations Manager as provided Section 5 hereof.

Rule III
Processing of Application for Accreditation
(Original or Renewal)

SECTION 8. When Application is Deemed Filed. — The application for accreditation (original or renewal) shall be deemed filed upon submission of all documentary requirements and payment of the filing and processing fee and surcharge (if applicable).

SECTION 9. Action on the Application. — Within fifteen (15) working days from the date of the application is

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deemed filed, the RAD shall: (1) verify, inspect and evaluate the office/s, warehouse/s, equipment, and pertinent documents of the applicant; and (2) recommend to the Director of PSB the approval or denial of the application, as the case may be. The latter, in his discretion, may refer the application to the RMC for comment.

SECTION 10. Automatic Accreditation. — The application shall be processed (including approval or denial) within a period of twenty-one (21) working days reckoned from the date it is deemed filed. After said period if no action has been taken on the application or the processing thereof has not been completed, the application shall be deemed approved and the applicant shall be entitled to the issuance and release of a Certificate of Accreditation upon payment of the Accreditation Certificate Fee.

SECTION 11. Suspension of the Running of the 21-Working Day Period. — During the processing of the application, clarificatory question/s may be posed by PSB to the applicant which must be answered in writing within five (5) days from receipt of notice thereof, or PSB may require the submission of additional document/s necessary in the evaluation of the application, which must be submitted by the applicant within five (5) days from receipt of notice thereof. The running of the 21-working day period shall be deemed suspended when said question/s are thus posed or when said additional document/s are required. The suspension shall begin being from the date said notice is actually received by the applicant and shall stop from the date PSB actually receives the written answer/s or document/s from the applicant.

SECTION 12. Ocular Inspection. — The inspection mentioned in Section 9 hereof shall be conducted by a duly authorized Inspection Team. It shall be conducted in the manner provided in Sections 34 and 35 hereof. An Inspection Report (in the prescribed form) shall be submitted to the PSB Director within twenty-four (24) hours after the inspection.

Rule IV
Renewal of the Accreditation

SECTION 13. Renewal Period; Renewal Applications Classified. — Renewal applications are hereby classified as follows:

a. Regular application — if filed at any time from the 45th day down to the 31st day before the expiry date of the Certificate of Accreditation.

b. Fast-track application — if filed at any time from the 30th down to the 15th day before the expiry date of the Certificate.

c. Late application — If filed at any time from the 14th down to the 1st day before the expiry date of the Certificate.

d. Very late application — If filed on or after the expiry date of the Certificate.

In case the processing time of a regular, fast-track, or late application reaches or goes beyond the expiry date of the Certificate being renewed, the Certificate being renewed shall be deemed existing during the said processing time and up to the date of release of the renewal certificate or date of actual receipt by the applicant of the written notice of denial of his application, as the case may be. This is in order to avoid a hiatus and disruption of private business (per Section 18, Book VII of the Administrative Code of 1987). And in case of approval of these three classes of applications, the effectivity of the renewal Certificate shall retroact to the expiry date of the Certificate being renewed.

The firm whose application for renewal is filed on or after the expiry date (but not later than six months from the

expiry date) shall be delisted from the monthly list mentioned in Section 28 hereof until a renewal of Certificate is issued and released to the applicant. If said application is approved, the effectivity of the renewal Certificate shall retroact to the expiry date of the Certificate being renewed.

The firm whose application for renewal is filed beyond the six-month period mentioned in the preceding paragraph shall also be delisted from the monthly list mentioned in Section 28 hereof until a renewal Certificate is issued and released to the applicant, if the application is approved, the date of effectivity of the renewal Certificate shall not so retroact.

SECTION 14. Processing of the Renewal Application. — The renewal application shall be subject to the standards and documentary requirements provided in Rule II hereof, and shall undergo the processing procedure provided in Rule III hereof.

Rule V
Certificate of Accreditation

SECTION 15. Certificate of Accreditation when Issued and Released. — When the applicant meets all the standards and requirements for accreditation, and has paid the prescribed filing and processing fee (including surcharge if applicable), the Director of PSB shall approve the application and issue the Certificate.

The Certificate shall be signed by the Director of PSB, sealed with the seal of PSB, and shall state:

a. The name of the accredited firm, stating whether it is the main/sole/branch office, and stating its address;

b. The specific freight forwarding operations it is authorized by the PSB to engage in;

c. The date of issue;

d. The life-span of the Certificate, and the exact inception date (date the Certificate shall start to be effective) and the exact expiry date;

e. The statement that it is non-transferable and cannot be used by another;

f. The statement that the original copy of the Certificate must be displayed in a conspicuous place in the accredited firm’s main/sole/branch office, as the case may be;

g. The Certificate Number;

h. The number and date of the Official Receipt of the Accreditation Certificate Fee; and

i. Other pertinent data as may be required by the PSB.

The original copy of the Certificate shall be released to the applicant upon payment of the Accreditation Certificate Fee. A photo copy of thereof shall be kept by PSB for record purposes.

SECTION 16. Life-span of the Certificate. — The certificate of Accreditation shall have a life-span of two (2) years unless sooner cancelled under Rule XI hereof. Its life-span may also be cut short when it is automatically/deemed revoked.

SECTION 17. Non-Transferability of the Certificate. — The Certificate of Accreditation is issued only after carefully evaluating the technical, financial. and other qualifications of the applicant vis-a-vis the standards herein. Hence, the grantee of said Certificate shall not transfer or alienate in whatever manner, nor authorize another to use, said Certificate. Neither can the Certificate be inherited.

SECTION 18. Display of the Certificate. — The original copy of the subsisting Certificate of Accreditation shall

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be displayed in a conspicuous place in the accredited firm's main/sole/branch office, as the case may be.

However, when the original copy is lost or destroyed, the grantee shall file an application under oath for the issuance of a substitute certified copy of the Certificate. Said substitute copy shall be displayed as provided in this Section.

SECTION 19. Right of Accredited Firms. — Firms with subsisting Certificate of Accreditation shall have the right to state in their advertisements through the print media, television, radio, brochures, posters, and the like and in its letters, contracts, bills of lading, receipts, signboards, stickers or signs in their vehicles the term —

"ACCREDITED BY PSB, CERTIFICATE OF ACCREDITATION NO.____,

EXPIRING (state expiry date)".

Rule VI
Schedule of Fees Payable

SECTION 20. Accreditation Fees. — The following fees shall be paid to PSB:

A. FOR THE MAIN/SOLE OFFICE:

1. Original application for accreditation:

a. Filing and Processing Fee

P3,000.00

b. Accreditation Certificate Fee

100.00

2. Renewal application for accreditation:

Filing and

Processing Fee

Surcharge

a. Regular application

P3,000.00

P0.00

b. Fast-track application

3,000.00

1,500.00

c. Late application

3,000.00

3,000.00

d. Very late application:

1. If filed on or after the

expiry date of the

Certificate of Accreditation

but not later than 6 months

from the expiry date

3,000.00

6,000.00

2. If filed beyond said

6-month period

3,000.00

9,000.00

Accreditation Certificate

100.00

Fee (Whether regular,

fast-track, late, or very

late application)

B. FOR THE BRANCH OFFICE:

1. Filing and Processing Fee — shall be 25 % of the Filing and Processing Fee stated in (A) (1) or (A)(2) above, as the case may be, plus 25% of the corresponding surcharge if applicable.

2. Accreditation Certificate Fee

P100.00

(Whether original or renewal - regular, fast-track, late or very late)

SECTION 21. Other Fees. — The following fees shall also be paid to PSB:

a. For the issuance of a substitute certified copy of a lost or destroyed Certificate of Accreditation

P100.00

b. For the issuance of a PSB ID

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100.00

c. For the issuance of a substitute PSB ID (in case of loss or destruction)

100.00

d. For the issuance of a Certification that a certain firm has or has no pending case with PSB

100.00

e. For the issuance of any other Certification

100.00

SECTION 22. Crediting of Money Paid by Mistake. — Money paid to PSB by mistake, such as payment in excess, shall be credited to payor's account for future financial obligations to PSB.

Rule VII
Certain Obligations of Accredited Firms

SECTION 23. Manifest of Consolidated Shipments. — Accredited firms shall submit to PSB photo copies of all inward and outward manifests covering consolidated shipments, when required by PSB in protecting the interest of shippers and consignee.

SECTION 24. Change in the List of Directors. — Every change in the List of Board Directors shall be reported in writing to PSB within fifteen (15) days from the date the change occurred (e.g., death) or was decided or approved.

SECTION 25. Change of Operations Manager or Chief Operating Officer or Equivalent or Branch Manager. — The resignation, termination of services, or appointment of the accredited firm's Operations Manager or Chief Operating Officer or equivalent or Branch Manager in Chief Operating Officer or equivalent or Branch Manager shall be reported in writing to PSB within fifteen (15) days from the date the resignation/termination/appointment was made.

SECTION 26. Change of Overseas/Agents/Key Personnel. — Every change of officers/agents/key personnel abroad shall be reported in writing to PSB within thirty (30) days from the date the resignation/termination/appointment was made.

SECTION 27. Other Obligations of Accredited Firms. — In addition to the obligations stated above and elsewhere in this Order, every accredited firm shall have the following obligations:

a. To renew without delay its cargo insurance coverage, and submit to PSB the proofs of said renewal Subsection A(7) of Section 5 hereof is applicable) within thirty (30) days from receipt of the renewal policy.

b. To submit to PSB a quarterly cargo statistics report within thirty (30) days after the lapse of the quarter covered by the report.

c. To submit to PSB annual financial statements within thirty (30) days after the closing of every fiscal year.

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d. To submit to PSB a copy of the Amended Articles of Incorporation/Partnership (if any) within thirty (30) days from the date the firm received from SEC the said document.

e. To report in writing to PSB the change of address of the office or warehouse of the firm, within five (5) days from the date the change was made.

Rule VIII
Sundry Provisions

SECTION 28. Register: Monthly List. — (a) The PSB shall establish, maintain and operate a Register of accredited firms.

b. PSB shall also issue monthly an updated list of accredited firms containing the following data:

1. The names of said firms;
2. The expiry date of their respective Certificate of Accreditation; and
3. Other pertinent data as may be required by PSB.

c. PSB shall furnish with copies of said list the Bureau of Customs and government and private entities needing copies thereof.

d. Firms not included in the said list or which have been delisted therefrom shall not be allowed by the Bureau of Customs, Philippine Ports Authority, and other government agencies to transact business with them.

e. It shall be the duty of delisted firms to surrender their PSB IDs to PSB within five (5) days from receipt of notice of delisting.

SECTION 29. PSB Identification Cards. — PSB shall issue Identification Cards to official representatives of the accredited firm who are authorized to transact business in its behalf. For this purpose, the accredited firm shall file an application under oath (in the prescribed form) stating the name, position in the firm, and other pertinent data as may be required by the PSB, together with photo copies of records proving that the said representative is really an employee of the accredited firm (e.g., SSS remittance records, and bio-data and two (2) recent passport-size ID pictures of said representative, and pay the PSB ID Fee provided in Section 21 (b) hereof.

A maximum of three (3) IDs shall be issued for every category. The ID shall state/contain:

a. The name, position in the firm, signature, and picture of the person to whom the ID is issued;

b. The name and address of the accredited firm he is representing.

c. The ID number;

d. The exact inception and expiry dates;

e. The signatures of the Director of PSB and RMC members from the government; and

f. Other-pertinent data as may be required by the PSB.

The life-span of the PSB ID shall be coterminus with the life-span of the Certificate of Accreditation. Thus, the cancellation, suspension, expiration, or automatic/deemed revocation of the Certificate of Accreditation shall result in the automatic cancellation, suspension, expiration, or revocation of the PSB ID.

SECTION 30. Initialling of applications and documents. — When an application for accreditation, or an application for the issuance of a PSB ID or any other application is filed with PSB, the very person signing the

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application shall also initial every page of the application (except the page where his signature is) and every page of all supporting documents, on the lower margin of said application and documents.

SECTION 31. Bio-data. — PSB shall prescribe the form of the bio-data for Board Directors, principal officers (including the Operations Manager or Chief Operating Officer or equivalent), Sole Proprietors, Branch Managers, and authorized representatives to be issued PSB IDs. Every person mentioned in this Section must disclose in the sworn bio-data all of his present residential addresses in the Philippines as well as the names of the province and municipality of which is a native, and any conviction in a criminal case involving dishonesty (e.g. estafa) and any pending criminal case against him involving dishonesty.

SECTION 32. Automatic revocation of Certificate. — The Certificate of Accreditation is automatically revoked in case of a change in the relationship of the partners in a partnership which materially interrupts the course of business or results in the actual dissolution of the partnership.

SECTION 33. Transfer/Change of Ownership of a Sole Proprietorship. — When the ownership of an accredited firm, which is a sole proprietorship, is transferred or changed, the new owner must apply for the transfer in his name of the Certificate of Accreditation and submit requirements which are necessary for the adjustment of the records of the accredited firm on file with PSB. Said application must be filed within thirty (3) days from the date the transfer/change of ownership took effect, otherwise the Certificate of Accreditation shall be deemed revoked provided that the new owner is given the opportunity to show cause why it should not be deemed revoked.

Rule IX

Visitorial Power

SECTION 34. Purposes and Extent of Visitorial Power. — In order that PSB can effectively enforce and check compliance with this Order and the circulars and orders which may be issued under this Order, it may exercise, through a duly authorized Inspection Team, its inherent and necessary visitorial power to enter, whenever necessary, any establishment, office, and premises which is being used by a covered firm, accredited or not, as its office, warehouse, garage, or for any of its business operations, and conduct therein one or more of the following visitorial activities:

a. Require the presentation of and inspect any pertinent books of account, record, document, paper, drawing, sketch, contract, and the like;

b. Inspect any pertinent facility, equipment, vehicle, furniture, and the like;

c. Inspect any pertinent work/activity being undertaken thereat;

d. Take pictures/video recordings or make sketches of the premises or of any of the real or personal properties and of the work/activity mentioned above;

e. Secure photo copies of the things mentioned in paragraph (a) above; and

f. Interview any person who may be found at the premises entered.

SECTION 35. Manner of Conducting Visitorial Activities. — The Inspection Team duly authorized to conduct any of the visitorial activities mentioned in the preceding Section shall conduct the same in the following manner:

a. Before entering the property, the Inspection Team shall exhibit their Mission order and Office IDs to the owner or person who has charge of said property at the time entrance is to made, or to the lawful occupant thereof. The Inspection Team shall ascertain the danger areas in that place (e.g., high voltage area, no smoking area, dangerous equipment area, toxic area, etc.) for their safety.

b. The visitorial activities shall be conducted in the presence of the owner, or person who has charge of said property at the time entrance is to be made, or lawful occupant thereof, or their respective authorized representative.

c. The visitorial activities shall be conducted at reasonable hours, with promptness, in a professional manner, and without undue disturbance to any legitimate work/activity being undertaken thereat.

d. A receipt shall be issued for photo copies of the things mentioned in paragraph (a) of Section 34 hereof which are taken by the Team.

e. After conducting the visitorial activities, the witness to said conduct shall sign a certificate as to the manner the visitorial activities were conducted. Said certificate, in the prescribed form, shall contain a space where the witness can write briefly his complaints, if any, regarding the manner the visitorial activities were conducted (e.g., irregularities, discourtesy, things damaged, and things taken for personal purposes). Said certificate shall state/contain: a brief description of the premises, its address, name of witness and whether he is owner, occupant, etc., the date the visitorial activities were conducted and the precise time of entrance and egress. The Team Leader shall also sign it. A copy of the certificate shall be furnished said witness.

Rule X
PSB Functions

SECTION 36. Functions Relative to Accreditation. — PSB may perform the following functions, to the extent necessary and as far as PSB resources may allow:

a. To conduct studies on the Sea Freight Forwarding Industry to determine or verify the state of the Industry; its resources, problems, and prospects; number of people dependent on it for livelihood; extent of foreign participation in the capital and management; governmental assistance needed; the practices, acts, methods, schemes, arrangements, and modus operandi used in the Industry; and the Industry's desires and recommendations; and recommend to DTI the taking of promotional/developmental/ remedial/facilitation measures for the Industry.

b. To prepare the drafts policies, measures, Memoranda of Agreement, letters, Administrative Orders, Executive Orders, and Congressional Bills which may be necessary to effectuate its recommendations mentioned in the preceding paragraph, or which may be needed by PSB to carry out the objectives declared in Section 2 hereof.

c. To prescribe and promulgate Circulars.

d. To enforce and check compliance with this Order and the Circulars and orders which may be issued by PSB hereunder;

e. To prescribe and enforce a Code of Ethics for the covered firms. It shall be embodied in this Order by way of an amendatory PSB Administrative Order.

f. To perform other functions authorized by law or delegated/assigned by DTI or other government agencies.

SECTION 37. Means of Securing Data and Evidence. — The data and evidence which may be necessary in the performance of the functions listed in the preceding Section may be secured by PSB through one or more of the following three (3) means:

a. Voluntary means:

1. Consultative meetings; and/or

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2. Written/verbal requests.

b. Through the conduct of fact-finding investigation, hearing, and inquiry. The official/s authorized by the Director of PSB to conduct same shall have the power:

1. To administer oaths and affirmations;

2. To issue subpoena and subpoena duces tecum to compel the attendance of witnesses and the giving of testimony, and the production of the relevant and necessary data, records, documents, papers and the like; and

3. To take data, testimony, and evidence.

c. Require the submission to PSB periodically or otherwise, of any pertinent report, data, document, paper, and the like.

The persons or firms who are covered by these three (3) means are the following:

a. Voluntary means: any person or firm, private or governmental.

b. Persons who can be subpoenaed: any person, private or governmental, who may have knowledge or be in possession of data or evidence pertinent to the matter being investigated, heard, or inquired into.

c. Persons who can be required to submit reports, data, etc.: Any covered firm, accredited or not.

Rule XI
Administrative Adjudication of Offenses Under this Order

SECTION 38. Governing System. — The following offenses shall be subject to the existing DTI Administrative Adjudication System provided under E.O. No. 913, Series of 1983 and DTI Ministry Order No. 69, Series of 1983 as amended, and to the special adjudication rules provided in Sections 42 to 48 hereof, without prejudice to criminal and civil actions:

a. Unlawful acts and omissions, listed in Section 39 hereof;

b. Unlawful acts and omissions relative to the visitorial power, listed in Section 40 hereof;

c. Unlawful acts and omissions relative to the gathering of data/evidence, listed in Section 41 hereto; and

d. Other violations of this Order which are not specifically included in Sections 39, 40 and 41.

SECTION 39. Unlawful Acts and Omissions. — The following acts and omissions are unlawful under this Order:

a. Engaging in or transacting business by a covered firm, operating either as a main, sole, or branch office, without having a subsisting Certificate of Accreditation.

b. Misrepresentation (by any means, express or implied), here or abroad, willfully made or by negligence, by a covered firm, to anybody, that it has a subsisting Certificate of Accreditation.

c. Misrepresentation by the applicant, willfully made or by negligence, of a material fact in obtaining the Certificate of Accreditation, or any other certificate, or any permit, or the PSB ID mentioned in Section 29 hereof.

d. Transferring/alienating in whatever manner the Certificate of Accreditation; or authorizing another firm to use the Certificate of Accreditation.

e. Using a Certificate of Accreditation upon the authorization of the firm to whom the Certificate was issued by PSB.

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f. Failure to display the original copy or substitute certified copy, as the case may be, of the subsisting Certificate of Accreditation as required by Section 18 hereof.

g. Transacting business through an authorized representative who does not have the PSB ID provided in Section 29 hereof.

h. Refusal/failure of a covered firm to comply with lawful orders of PSB.

i. Violation by a covered firm of any Circular which may be issued by PSB under this Order.

j. Refusal/failure to comply with any of the obligations mentioned in Rule VII hereof, or the submission under said Rules or report/s, document/s or paper/s which are false, or which contain false/misleading data on a material respect.

k. Unfair or unethical act/omission of a covered firm to and against another covered firm.

l. Fraudulent solicitation of business by a covered firm.

m. Violation by covered firm of the Code of Ethics mentioned in Section 36 (e) hereof.

SECTION 40. Unlawful Acts and Omissions Relative to the Visitorial Power. — It shall be unlawful for any person, even though he is not a Board Director, officer, employee, owner, or agent of the covered firm (accredited or not) —

a. to refuse/prevent/obstruct/harass/delay the entrance, presentation, inspection, taking of pictures/video recordings, making of sketches, taking of copies; mentioned in Section 34 (a), (b), (c), (d), and (e) hereof; or

b. to refuse/prevent/obstruct/harass/delay the interview of himself or of another person; mentioned in Section 34 (f) hereof; or

c. to refuse/prevent/obstruct/harass/delay the signing, by himself or another person, of the certificate as to the manner the visitorial activities were conducted; mentioned in Section 35 (e) hereof.

SECTION 41. Unlawful Acts and Omissions Relative to the Gathering of Data/Evidence. — It shall be unlawful. —

a. for any person to whom a subpoena or subpoena duces tecum has been issued, to refuse/fail to comply with the subpoena or subpoena duces tecum issued by the authorized official of PSB; or to refuse to be sworn to prior to giving of testimony; or to refuse to answer pertinent questions; or to give false or misleading testimony; or to produce records, documents, papers and the like which are false, or which contain false/misleading data on a material respect; mentioned in Section 37 (b) hereof; or

b. for any covered firm to refuse/fail to submit on time, the required report, data, document, paper or the like; or to submit a report, document, paper or the like which is false/incomplete/blurred, or which contains a false/misleading data on a material respect; mentioned in Section 37 (c) hereof.

SECTION 42. PSB to prepare a Schedule of Sanctions/Penalties. — PSB shall prepare a Schedule of Offenses and Sanctions/Penalties which shall contain a detailed listing of the various offenses mentioned in Section 38 hereof with their corresponding sanctions/penalties taken from E.O. 913 and Ministry Order No. 69. Said Schedule may be used by PSB when conducting the Mediation Stage of an administrative case, and by the DTI Office of Legal Affairs (OLA) when conducting the Hearing and Decision Stage of the administrative case.

SECTION 43. Modes of Commencing Administrative Adjudication Proceedings. — Administrative adjudication proceedings for offenses under this Order shall be commenced either:

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a. by PSB motu propio, by issuing a Formal Charge to and against the offender; or

b. by any other person, by filing with the PSB a sworn/verified Complaint.

SECTION 44. Mediation: Three (3) Types of Decision Renderable by the Director of PSB. — In either of the two (2) modes above, the PSB shall conduct a Mediation of the case. During the Mediation Stage, the Director of PSB may render the following types of Decision:

a. Decision based on a Compromise Agreement between the Complainant (PSB or any person) and the Respondent. This type of Decision is immediately executory and cannot be appealed.

b. Decision based on a Voluntary Undertaking. In this particular situation, the Respondent offers a written Voluntary Undertaking to the Director of PSB. If the latter finds the same to be meritorious, he may render a decision quoting therein the Voluntary Undertaking, stating that it is accepted by PSB under Section 6 (b) of E.O. 913, and stating further that judgment is rendered in accordance with the terms and conditions of the Voluntary Undertaking. This type of decision is immediately executory and cannot be appealed.

c. Decision based on admission by the Respondent of all the allegations of the Formal Charge/Complaint. Here, the Director of PSB shall impose appropriate and reasonable sanctions/penalties provided in E.O. 913 and M.O. 69. This type of decision shall be final unless appealed to the DTI Adjudication Officer within ten (10) days from receipt of the decision. The execution of this decision shall be as provided in M.O. 69 as amended.

SECTION 45. Elevation of Case. — If Mediation fails or the Respondent does not admit all the allegations in the Formal Charge/Complaint, the PSB shall elevate the case, through a Memorandum of Transmittal to OLA for the conduct of the second stage (Hearing and decision Stage) of the System. In elevating the case, there is no need of filing with OLA a Statement of Violation.

SECTION 46. When Summons not Necessary. — When the Respondent has appeared in the Mediation Stage, either in compliance with the directive in the Formal Charge/Notice of Hearing or voluntarily even without receiving the Formal Charge/Notice of Hearing, jurisdiction over his person is already acquired, hence there is no more need for OLA to send summons to the Respondent when the case is thus elevated.

SECTION 47. Probable Cause Rule. — In Section 16 of M.O. 69, the "probable cause" rule shall be followed in lieu of the prima facie case rule.

SECTION 48. Additional Powers. — In addition to the powers already vested in Bureau of Directors and Mediation Officers under M.O. 69, the Director of PSB and PSB Mediation Officers shall have the power provided in Section 59 (re-contempt) of M.O. 69 and the powers to administer oaths and affirmations and issue subpoena and subpoena duces tecum.

Rule XII
Transitory Provisions; RMC; Secretary’s Approval; Repealing and Effectivity Clauses

SECTION 49. Transitory Provisions. — (a) All existing Certificates of Accreditation and PSB IDs issued under Department Administrative Order No. 2, Series of 1995 shall continue to be effective until they reach their respective expiry date. However, they shall henceforth be governed by this Order as to other matters.

(b) All applications for accreditation pending on the date this Order takes effect shall be processed on the bases of the criteria/standards, documentary requirements, and fees provided under D.A.O. Nos 2 and 5, both Series of 1995. But the processing procedure that shall be followed is that provided in Rule III of this Order. None of said applicants shall be deemed accredited already under the "automatic accreditation" provisions of DAOs 2 and 5.

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SECTION 50. RMC. — The Registration and Monitoring Committee (RMC) shall continue to exist pending the creation by Executive Order of an advisory committee with a membership coming from both the public and private sectors: Provided, however, That the RMC shall henceforth perform only purely advisory/consultative/recommendatory duties.

SECTION 51. Secretary's Approval. — Section 36, Book IV of the Administrative Code of 1987 requires that administrative orders of line bureaus like PSB shall be submitted to the Secretary concerned for approval in order that said orders shall be effective. With the Secretary of Trade and Industry's approval of this Order, it shall be deemed that the delegations contained in Sections 42 to 48 of this Order are his delegations, and that said Sections 42 to 48 are his amendments to M.O. 69, and in view thereof, this Order shall be published in two newspapers of general circulation in compliance with Sections 3 of E.O. 913, and not in just one newspapers as provided in Section 18, Book I of the Adm. Code of 1987.

SECTION 52. Repealing Clause. — DTI Department Administrative Order (DAO) No. 2, Series of 1995 and DAO No. 5, Series of 1995 and DAO No. 5, Series of 1995 are hereby repealed. All other issuances or parts thereof which are inconsistent with this Order are hereby repealed or amended accordingly.

SECTION 53. Effectivity. — This Order shall take effect fifteen (15) days after its publication in full in two (2) newspapers of general circulation.

Adopted: 19 April 1996

(SGD.) ANTONIO R. REYES
Officer-in-Charge

Recommending Approval:

(SGD.) CESAR B. BAUSTISTA
Undersecretary
Trade Group, DTI

Approved:

(SGD.) R.S. NAVARRO
Secretary

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