RULES GOVERNING NON-VESSEL-OPERATING COMMON CARRIERS AND OCEAN FREIGHT FORWARDERS

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Pursuant to the pertinent provisions of Presidential Decree No. 474, otherwise known as the Charter of the Maritime Industry Authority, the following rules are hereby promulgated:

SECTION 1. No person, natural or juridical, shall engage in the Philippines in the business of a non-vessel operating common carrier or an ocean freight forwarder without a valid license for this purpose from the Maritime Industry Authority.

SECTION 2. Definition of Terms. — For purposes of this Rules, the terms below shall have the following meaning, unless the context indicates otherwise:

1. Authority — Maritime Industry Authority created under Presidential Decree No. 474.

2. Non-vessel-operating common carrier or NVOCC — a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean carrier, but which issues bills of lading in its name to shippers under its solicitation to whom it directly assumes the liabilities and responsibilities of a carrier.

3. Ocean Freight Forwarders

A. Is any person which holds himself out to the general public:

a. to procure transportation of property for compensation, and to assemble and consolidate shipment of such property;

b. to undertake breakbulk and distributing operations with respect to such consolidated shipments; and

c. to perform ancillary services in connection with services mentioned in A and B.

B. If a freight forwarder

a. Issues his own transport document, and not merely as an agent; or

b. Undertakes liability for the performance of the transport, e.g., by offering a fixed price without the obligation to give account to the customer for his actual cost, he will become a non-vessel operating carrier as defined in paragraph 2, above, of this section and shall be subjected to the applicable law relating to carriage of goods.

4. Ocean common carrier — is a vessel operating common carrier; but the term does not include one engaged in tramping.

5. Shipper — shall mean the owner or person for whose account the ocean transportation of cargo is provided.

6. Consignee — to whom delivery may be lawfully made in accordance with the contract of carriage.

SECTION 3. Specific Requirements . — No license shall be issued by the Authority unless the applicant meets all the following requirements:

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a. The applicant must be a Filipino citizen or corporation/partnership at least 60% of the authorized capital of which is owned by Filipino citizens, except for joint ventures with foreign equity which are duly registered with the Board of Investments.

b. The applicant for license must have been registered by the Authority as a maritime enterprise under Memorandum Circular No. 9, s. 1976.

c. That in the case of non-vessel operating carrier, the applicant shall present a Certificate of Insurance Cover for its liability to cargoes, provided that, in lieu hereof, a performance bond in the amount of P150,000.00 [is] secured from a surety company duly registered with the Insurance Commission, and acceptable to the Authority.

SECTION 4. Application for a License . — All applications shall be filed with the Authority in forms prescribed for this purpose. The applicant for a license shall submit one (1) copy each of the following documents in support of the applications:

1. Resolution of the applicant Board of Director/letter of partners/proprietor authorizing the filing of the application.

2. The Articles of Incorporation and By-Laws or Articles of Partnership in case of partnership or registered Business Name and Style of the proprietor in case of proprietorship.

3. List of Directors and of the principal officers showing at least a minimum of three (3) years experience in shipping together with their respective bio-data.

SECTION 5. Exemption from License . — A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without a license.

SECTION 6. Filing. - Every application shall be filed with the authority after payment of the corresponding filing fee. The name of the applicant and the filing date and hour of its application shall be entered in the application Entry book in the order in which the applications are received.

SECTION 7. Renewal of License . — The license issued pursuant hereto shall be renewed annually with the Authority upon satisfaction of all relevant Authority requirements for a licensed enterprise; failure to renew the license on time shall subject the license to a surcharge equivalent to 25% of the filing fee for every month of delay or fraction thereof and shall cause the suspension of its operation. The deadline for renewal of license shall be reckoned from the date of its issuance.

SECTION 8. Cancellation of License . — The Authority may, after due notice and hearing, cancel the license to operate as a licensed-NVOCC or ocean-freight forwarder on the following grounds:

a. Failure to maintain the qualifications and requirements for licensing as herein required;

b. Willful or grossly negligent violation of any of the general and specific terms and conditions for a licensed enterprise or any provision of this circular;

c. Willful or grossly negligent violation of any law, order, or regulation pertinent to its operation as such.

SECTION 9. Operation Without License. — Any person, natural or juridical, who in violation of Section 1 hereof, shall engage in the business of a NVOCC or ocean freight forwarder, without a valid license for the purpose from the Authority shall be subject to a fine of not more than five thousand pesos (P5 ,000.00); provided, however, that in addition to the imposition of such fine, the business establishment of any such person shall be subject to temporary closure, until and unless he shall have secured the required license.

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Any carrier, shipper, or person who shall deal with, accommodate, or transact business with a NVOCC or ocean freight forwarder who is not duly licensed by the Authority shall be subject to a fine of not more than three thousand pesos (P3 ,000.00).

SECTION 10. Enforcement . — For the effective enforcement of the provisions of this Circular, a Memorandum of Agreement will be entered into by and among the Maritime Industry Authority, the Bureau of Customs, Philippine Ports Authority, Philippine Coast Guard, and other relevant agencies.

SECTION 11. Effectivity . — These rules shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation in the Philippines.

Approved by the Maritime Industry Board in its meeting on August 23, 1984 .

Manila, Philippines.

Adopted: 23 Aug. 1984

(SGD.) VICTORINO A. BASCO
Administrator

(SGD.) JOSE P. DANS, JR.
Minister of Transportation and Communications

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