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RULES AND REGULATIONS GOVERNING REGISTRATION/ACCREDITATION OF DOMESTIC FREIGHT FORWARDERS

DTI DEPARTMENT ADMINISTRATIVE ORDER NO. 5, S. 1995, May 22, 1995

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Pursuant to Section 4(c) of Executive Order No. 514, the following rules governing the registration/accreditation of domestic freight forwarders are hereby promulgated:

Rule I
Objectives

It shall be the policy of the state to promote and professionalize the domestic freight forwarding industry through a system of registration and accreditation; and establish an environment conducive to the growth of the industry.

Rule II
Coverage

All persons or entities engaged in domestic freight forwarding services as defined in this MOU; provided that the registration and accreditation of all persons or entities engaged in domestic air freight forwarding services shall remain vested with the CAB.

Rule III
Definition of Terms

- Memorandum of Understanding (MOU) - refers to the MOU entered into by and among the Philippine Ports Authority (PPA), the Maritime Industry Authority (MARINA), the Civil Aeronautics Board (CAB), the Philippine Shippers' Bureau (PSB), and the Philippine Domestic Freight Forwarders Association, Inc. (PHIDOFFA).

- Registration and Accreditation - a process whereby the applicant/entity is shown to have complied with the basic requirements as may be imposed by the implementing agency of the government, the PSB.

- Certificate of Registration and Accreditation - document issued by the PSB certifying to the registration and accreditation of an entity for the purpose of transacting business as a domestic freight forwarder.

- Domestic Freight Forwarder - cargo intermediary enterprise which facilitates the transport of goods on behalf of its customer and performs any or a combination of the domestic freight forwarding services as defined in these Rules.

- Domestic Freight Forwarding Services - shall include but not limited to the following: acceptance of cargo for delivery to domestic destination, documentation and processing, booking cargo space, negotiating freight rates, advancing freight payments, providing trucking and warehousing, packing/crating and other related undertakings.

- Shipper - means the person whose name appears in the Airwaybill, Bill of Lading or other transport documents as the party contracting with the carrier for the carriage of goods.

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- Consignee - the person whose name appears in the Airwaybill, Bill of Lading or other transport documents as the party to whom the goods are to be delivered by the carrier.

- Registration and Monitoring Committee (RMC) - a committee composed of duly designated government representatives from the PPA, MARINA, CAB, and the PSB as permanent members; and duly designated private representatives from the PHIDOFFA, and two (2) industry experts and by the Secretariat whose members shall be appointed by the PSB Director.

- Philippine Shippers' Bureau (PSB) - the lead agency in the implementation of the MOU.

Rule IV
Requirements for Registration/Accreditation

- Articles of Incorporation/partnership or business name registration;

- Biodata (with 2 passport size pictures) of the applicant's operations manager or chief operating officer who must have at least two (2) years experience in shipping, freight forwarding or other related fields of specialization;

- Latest audited financial statements;

- Certificate of paid-up capital issued by the Securities and Exchange Commission, which must show a total of at least P250,000.00. In lieu thereof, a single proprietorship shall submit bank certification as to its cash balance or certificate of ownership of other tangible properties;

- Specimen of Bill of Lading, Waybill or any equivalent transport document;

- Inventory of transport equipment or contract with a trucking company;

- Insurance with minimum coverage of at least P100,000.00 or equivalent to an amount to be determined by the RMC based on the nature of usual cargo handled by the applicant; and

- Authority to inspect offices/warehouse.

- Permit to operate (PTO) issued by the PPA as applicable.

Rule V
Processing of Application

SECTION 1. When Application for Registration/Accreditation is Considered Filed - An application for registration/accreditation shall be considered filed only, upon submission of all documentary requirements and payment of filing and processing fee in the amount of P3,000.00 per application.

SECTION 2. Action on the Application - Within fifteen (15) working days from receipt of the application, the PSB Registration and Accreditation Division shall evaluate pertinent documents and inspect the offices and equipment of the applicant.

SECTION 3. Inspection Procedures -

- Inspection shall be conducted by a team of at least two (2) members of the PSB Registration and Accreditation Division staff or its duly authorized representative, upon written instruction of the PSB Director.

- Inspection shall be conducted in the presence of the manager or any officer of the company-applicant.

- Inspection report (in accordance with the format herein appended[*]) shall be submitted to the PSB Director within twenty-four (24) hours after the inspection.

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SECTION 4. Approval of Application - All applications for registration/accreditation shall be submitted to the Registration and Monitoring Committee (RMC) for approval.

SECTION 5. Issuance of Registration/Accreditation Certificate and RMC ID - The RMC, through the PSB Director, shall issue the corresponding registration/accreditation certificate and RMC ID after the applicant's satisfactory compliance with the requirements set forth in these Rules.

Rule VI
Reglementary Periods

SECTION 1. Validity of Certificate of Registration/Accreditation - The Certificate of Registration/Accreditation issued pursuant to these Rules, shall be valid for two (2) years from the date of issue, unless sooner canceled or suspended by the Committee, upon recommendation by the PSB for violation of these Rules or non-compliance with certain requirements set forth in these Rules.

SECTION 2. Renewal of Registration - Forty-five (45) calendar days before the expiry date of the certificate, all covered entities shall submit an application for the renewal thereof, to the PSB Registration and Accreditation Division; such application shall be supported by a minimum requirement to be determined by the RMC. Renewal applications filed not later than fifteen (15) working days expiry date shall be charged P4,500.00; those applications filed after fifteen (15) days before expiry date and applications of entities which were previously delisted, shall be charged P6,000.00, instead of the usual P3,000.00 filing and processing fee.

SECTION 3. Automatic Registration/Accreditation - All applications for registration/accreditation, whether original or renewal, shall be processed within a period of twenty-one (21) working days, reckoned from the date of filing; after the lapse of the said period and 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 of certificate of registration/accreditation.

Rule VII
General Provisions

SECTION 1. Cancellation, Revocation or Suspension of Certificate of Registration/Accreditation - A certificate of Registration/Accreditation may be canceled, revoked or suspended for violation of these rules and regulations in accordance with Rule VIII.

Transfer or change of ownership of a single proprietorship duly registered pursuant to these Rules, shall cause the automatic revocation of the Certificate. The new owner shall be required to apply for a Registration in accordance with these Rules.

A change in the relationship of the partners in a partnership duly registered in accordance with these Rules, which materially interrupts the course of the business or results in the actual dissolution of the partnership, shall likewise cause the automatic revocation of the certificate.

SECTION 2. Non-Transferability of Certificate - No certificate shall be transferred, conveyed or assigned to any person, partnership or corporation. It shall not be used directly or indirectly by any person, partnership or corporation other than the one in whose favor it was issued.

SECTION 3. RMC Identification Cards - There shall be issued Personnel Identification Cards to official representatives of accredited entities, who are authorized to transact business in their behalf. Accredited freight forwarders shall submit the names and passport-size ID photos of their authorized representatives. Each ID Card, which will be valid for two (2) years, shall be charged by PSB a processing fee of P100.00.

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SECTION 4. Change of Directors and Company's Operations Manager or Chief Operating Officer - Every change in the composition of the Board of Directors of a corporation duly registered pursuant to these Rules, shall be registered with the PSB Registration and Accreditation Division within thirty (30) days from the date the change was decided or approved. Resignation or termination of services of company's operations manager or chief operating officer must be reported immediately to the PSB within five (5) days from the date the resignation or termination occurred.

SECTION 5. Failure to Renew - All covered entities, which fail to renew their registration shall, upon expiration and after proper notification, be immediately delisted and disallowed from conducting business as a domestic seafreight forwarder.

SECTION 6. Monthly List of Accredited Entities - The list of accredited entities shall be kept and updated in regular intervals by the Registration and Accreditation Division and shall be copy furnished the airlines, shipping lines, the party signatories to the MOU and other government agencies which need a copy of such list.

Rule VIII
Procedures in the Monitoring of Activities of Accredited Entities

This Rule shall apply to the monitoring of activities as well as in the suspension and/or cancellation of registration/accreditation of all PSB accredited domestic freight forwarders, non-vessel operating common carriers, cargo consolidators and breakbulk agents found to have violated this Rule.

SECTION 1. Gathering of Information/Data - The Registration and Accreditation Division (RAD) of PSB shall gather data and information relative to the activities of all accredited entities for the purpose of assessing their compliance with the requirements for registration/accreditation as provided for in the existing rules and regulations. The sources of data and information shall include, but not limited to, the following:

- Complaints filed by a shipper; freight forwarder; cargo handler; or any interested person;

- Existing data/information on file with the RAD; and

- Referral letter-complaint filed by any government agency.

SECTION 2. Evaluation of Information/Data - The data/information shall be evaluated to determine whether there exists a probable cause to proceed with the investigation.

SECTION 3. Grounds for Cancellation - Any of the following shall constitute as ground for cancellation of the certificate of registration/accreditation:

- Misrepresentation, false statement or fraud in connection with the submission of the requirements for registration/accreditation; or

- Violation of Trade and Industry Laws, Tariff and Customs Code and PPA Charter, and/or refusal to comply with lawful orders issued by the Philippine Shippers' Bureau.

SECTION 4. Grounds for Suspension - Any of the following shall constitute as ground for suspension of the certificate of registration/accreditation:

- Failure to submit proof of insurance coverage within thirty (30) days after the expiry date of the insurance policy required to be renewed;

- Failure to answer within thirty (30) days clarificatory statement required in the processing of application for registration/accreditation;

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- Failure to submit report on quarterly cargo statistics within thirty (30) days after the lapse of the quarter covered by the report for three (3) quarters; or

- Failure to submit annual financial statements within thirty (30) days after the closing of every fiscal year and misrepresentation, false entries or fraud in the preparation of the financial statements.

SECTION 5. Preliminary Conference/Meeting with Parties Concerned - Upon determination that a probable cause exists, a preliminary conference shall forthwith be conducted to be presided by the investigating officer assigned by the PSB Director. A notice of meeting shall be sent to all interested parties.

SECTION 6. Minutes of Proceedings/Meetings - Minutes of Meetings shall be prepared by the investigating officer and copy furnished the parties concerned.

SECTION 7. Recommendation - Within five (5) days after the preliminary conference, a recommendation containing the findings shall be submitted to the RMC for deliberation. The RMC shall decide the case by majority vote.

SECTION 8. Referral - Matters which are not within the jurisdiction of the PSB/RMC, shall be referred to the appropriate government agency for final ruling. If, upon referral and/or RMC deliberation, there exists probable cause to proceed against the respondent-entity, a formal charge shall be filed against it. The case shall be entitled: In the matter of cancellation and/or suspension of Certificate of Registration/Accreditation of (name of company).

SECTION 9. Notice to Respondent Entity - The case shall be docketed and a corresponding order, together with the copy of the complaint, shall be sent the respondent entity, requiring the latter to answer within ten (10) days, otherwise, judgment of default shall be issued against it.

SECTION 10. Filing of Answer - Within the period indicated in the preceding section, the respondent shall file a verified answer incorporating therein all pertinent documents in support of its defense.

SECTION 11. Waiver - If respondent fails to file its answer and pertinent documents within the specified period, or fails to appear during the preliminary conference, it is deemed to have waived its right to present evidence and the case shall be heard ex parte.

SECTION 12. Summary Judgment - If, on the basis of the pleadings/evidence on record, and after the preliminary conference, the RMC finds that there is sufficient ground to render judgment, it shall consider the case submitted for resolution.

SECTION 13. Judgment Based on Position Papers - Whenever summary judgment is not appropriate, the RMC shall refer the case to the investigating officer, who shall require the parties to simultaneously submit position papers and/or memoranda within (10) days from notice, after which, the case shall be considered submitted for resolution.

SECTION 14. Investigation Procedures - Where the investigating officer finds that there are complicated factual issues involved, which cannot be resolved through position papers and/or memoranda, he shall conduct the investigation by requiring the parties to submit affidavits. He may, if necessary, direct the parties to appear before him to answer clarificatory questions. For this purpose, he may allow the parties to submit suggested written clarificatory questions that may be propounded to the parties concerned.

SECTION 15. Resolution of the Case - The investigating officer, after evaluation of the evidence offered by the parties, shall submit his findings and recommendations to the RMC for resolution.

SECTION 16. Finality of Decision/Appeal - The decision shall become final and executory after fifteen (15) days

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from receipt thereof by the party adversely affected, unless an appeal is made to the Secretary of Trade and Industry within the said period. The decision of the Secretary may be appealable by administrative appeal to the President or by judicial review to the Court of Appeals within fifteen (15) days from receipt thereof by the party adversely affected.

Rule IX
Effectivity

These order shall take effect fifteen (15) days following its publication in a newspaper of general circulation.

Adopted: 22 May 1995

(SGD.) C.B. BAUTISTA
Acting Secretary

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[*] Not included here

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