AMENDED RULES AND REGULATIONS ACCREDITATION/REGISTRATION OF FREIGHT FORWARDERS, NVOCCS, CARGO CONSOLIDATORS AND BREAKBULK AGENTS

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Pursuant to Section 4(c) of Executive Order No. 514, the following rules are hereby promulgated governing the accreditation/registration of freight forwarders, non-vessel operating common carriers, cargo consolidator and breakbulk agents.

Statement of Policy - It shall be the 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.

For this purpose, the Department of Trade and Industry (DTI) through the Philippine Shippers' Bureau shall be tasked to undertake the following measures:

1. promote and professionalize the freight forwarding industry through a system of registration and accreditation.

2. establish an environment conducive to the growth of free competition in the freight forwarding industry in order to promote better services to exporters/shippers.

In the furtherance of these tasks, the PSB as a lead agency shall coordinate the implementation of the Memorandum of Understanding (MOU) entered into with the Bureau of Customs (BOC), Maritime Industry Authority (MARINA) and the Civil Aeronautics Board (CAB).

Rule 1.
Definition of Terms

1. Memorandum of Understanding - Refers to the Memorandum of Understanding entered into among the Philippine Shippers' Bureau (PSB), Bureau of Customs (BOC), Maritime Industry Authority (MARINA) and the Civil Aeronautics Board (CAB).

2. Registration - An act whereby the applicant/enterprise is certified to have complied with the basic requirements of the industry and has shown its professional and financial competence in its operations and is therefore reliable and capable to service the export and import trades.

3. Certificate of Registration - Document issued by PSB certifying to the registration of an entity for the purpose of transacting business with all the parties to this Memorandum of Understanding.

4. Registration and Monitoring Committee (RMC) - A committee composed of a regular representative each from MARINA, BOC, CAB and PSB to be assisted by a representative each from DTI recognized freight forwarding industry association and from an association of exporters/shippers, by an industry expert and by the Secretariat whose members shall be appointed by the PSB Director.

5. Freight Forwarder - Cargo intermediary enterprise which directly or indirectly procures the transport of goods on behalf of its customer by booking ship space, negotiating freight rates, preparing documents, advancing freight payments, providing trucking and warehousing and related undertakings, without himself assuming the role of

carrier.

6. Non-Vessel Operating Common Carrier (NVOCC) - A transport enterprise which publishes its own freight tariff, issues its own bills of lading and assumes all responsibilities of a common carrier without operating its own vessels.

7. Cargo Consolidator - A company or person who undertakes groupage of the small (LCL) shipments for single or various consignors/consignees by procuring vessel/container space from carriers and issuing its own bills of lading or its equivalent.

8. Shipper - Exporter/importer, cargo owner, freight forwarder, cargo consolidator.

9. Breakbulk/Consolidation Agent - The Philippine agent representative of a freight forwarder/consolidator named in a master bill of lading as shipper/consignee of consolidated shipment.

10. Philippine Shippers' Bureau (PSB) - Party signatory to the Memorandum of Understanding which shall act as the implementing agency.

11. PISFA - Philippine International Seafreight Forwarders' Association - the national association of international seafreight forwarders recognized by the Department of Trade and Industry (DTI) and the Philippine Shippers' Bureau. It is a member of the Federation of International Freight Forwarders' Association (FIATA) based in Zurich, Switzerland.

12. Minimum Paid-Up Capital - The amount of capital required for each category of registration/accreditation and classification of the firms in the industry as prescribed in these Rules. The paid-up capital of the applicant firm (corporation or single proprietorship) shall be defined as unimpaired, i.e., the net equity shall be equal to or greater than the prescribed minimum paid-up capital in each category, and the amount shall not be impaired by either the operating losses or the long-term liabilities and or other operating aspects affecting the net equity of the firm upon application for registration.

13. RMC Identification Card - An identification card to be issued by the RMC through PISFA, to duly authorized representatives of accredited entities which shall serve as proof that the person whose signature and picture appearing thereon, is duly authorized to transact business with the BOC.

Rule II.
Functions of the Registration and Monitoring Committee

The Registration and Monitoring Committee should have the following powers and functions:

- Monitor and periodically review the implementation of the MOU and formulate policies and programs for the professionalization of the freight forwarding industry.

- Deliberate and act on applications for registration referred to it by the Philippine Shippers' Bureau for final action.

- The Committee and its Secretariat shall meet regularly to assess the overall implementation of the MOU.

Rule III.
Requirements for the Issuance of Certificate of Registration

No non-vessel operating common carriers, cargo consolidators, freight forwarders and breakbulk agents shall be permitted to transact business with the Bureau of Customs without first being registered by the PSB. All freight forwarders, non-vessel operating common carriers (NVOCC), cargo consolidators including breakbulk agents

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who are actually engaged in cargo forwarding business shall apply for registration with the PSB Registration and Accreditation Division upon the effectivity of the Memorandum of Understanding, and shall apply for a renewal of their registration in accordance with these Rules. Every applicant for registration whether or not a member of PISFA shall submit a written application together with the following requirements:

SECTION 1. Corporation and Partnership -

- List of company officers/directors and their residential addresses.

The Chief operating officer or the operations manager of the company should have at least two (2) years experience in shipping, freight forwarding and/or related activities subject to the evaluation of the RMC.

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

Nature of Transport Operation

Paid-in Capital Requirement

a. Non-Vessel Operating Common Carrier (NVOCC)

P500,000.00

b. Cargo Consolidator

P400,000.00

c. Freight Forwarder

P300,000.00

d. Breakbulk Agent

P250,000.00

- List of Agents/Offices abroad and a copy of their existing contract and/or agency agreement.

- Company profile which shall include the following:

a. Certificate of SEC incorporation;

b. Articles of Incorporation and by-laws: the nature of business operation being applied for by the applicant must be specifically provided for in the primary purpose of its Articles of Incorporation/Partnership. Provided, that in the case of applicant applying for NVOCC category with no specific provision in the Articles of Incorporation that it is allowed to engage in NVOCC operations, the applicant shall be required to file with the Securities and Exchange Commission (SEC) an amendment to that effect. Upon submission of the application for amendment, an accreditation shall be granted without waiting for the final approval by the SEC, subject to the condition that within ninety (90) calendar days the duly approved amended Articles of Incorporation shall be submitted by the applicant.

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c. Bio-data/personal sheet of Directors and principal officers; 2 passport size ID pictures each of principal officers.

d. Inventory of transport equipment, or contracts with trucking company/ies; and

e. List of major clients.

- The applicant must submit proofs of insurance coverage (e.g. Proof of payment of premiums) in the following amounts:

Nature of Transport Operation

Amount of Insurance

a. Non-Vessel Operating Common Carrier (NVOCC)

P500,000.00

b. Cargo Consolidator

P400,000.00

c. Freight Forwarder

P300,000.00

d. Breakbulk Agent

P250,000.00

SECTION 2. Single Proprietorship

1. Bio-data/personal data sheet of applicant and 2 passport size ID pictures of applicant and his principal officers. The applicant should have at least two (2) years experience in shipping freight forwarding and/or related activities subject to the evaluation of the Registration and Monitoring Committee.

2. List of equipment and facilities.

3. Latest Income Tax Return for two (2) consecutive years

4. Proof of Financial resources (e.g. Real Estate Title/Certificate

5. Vehicle Registration Papers

6. List of Agents/Principals

7. Certificate of Business Name Registration.

8. A single proprietor with at least 80% of the paid-in capital requirement may still apply for registration provided that a performance surety bond equivalent to two (2) times the amount of deficiency is posted with PSB as the assignee; provided further that the bond is good only for one year upon the lapse of this period the single

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proprietor (applicant/entity) must have met the paid-in capital requirement. A partnership or corporation shall not be allowed to post a bond to cover their capital deficiencies.

9. The applicant must submit proofs of insurance coverage (e.g. Proof of payment of premiums) in the following amounts:

Nature of Transport Operation

Amount of Insurance

a. Non-Vessel Operating Common Carrier (NVOCC)

P500,000.00

b. Cargo Consolidator

P400,000.00

c. Freight Forwarder

P300,000.00

d. Breakbulk Agent

P250,000.00

SECTION 3. Requirements for Branch Office - A duly accredited entity may establish a branch office in any part of the country and such branch office shall automatically be accredited upon payment of filing fee equivalent to twenty-five percent (25%) of the filing fee required for its mother office; and submission of information regarding the branch office's and the bio-data with two (2) passport-size pictures of its manager, provided that the latter meets the experience requirements for managers as provided for by these Rules.

SECTION 4. Additional requirements for Cargo Consolidator (CC) and Non-Vessel Operating Common Carrier (NVOCC). An applicant applying as cargo consolidator and non-vessel operating common carrier categories must have their own bill of lading using their own name and address.

SECTION 5. Proof of Insurance Requirement - Proof of insurance requirement shall be satisfied by submitting the original copy of the policy and the official receipt covering the payment of premium. T/T Club policy holders shall be required to submit certified copy of the policy and official receipt in lieu of its original copy.

SECTION 6. Additional Requirement for Big Companies Composed of Several Divisions - Whenever an applicant is a division of a big company which is composed of several divisions, it shall be required to submit, in addition to the financial statements applicable to the entire company, a statement of income and expenses applicable to its freight forwarding operations as a separate Profit Center.

SECTION 7. Clearance from the Bureau of Customs and the Bureau of Internal Revenue - An applicant for accreditation must have no pending case with the Bureau of Customs nor unpaid taxes to the government. In order to satisfy these requirements, a clearance issued by the Bureau of Customs and the Bureau of Internal Revenue

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shall be required from all applicants for accreditation.

SECTION 8. Filing and Processing Fee - Every applicant for Registration shall pay a filing and processing fee in the amount of P3,000.00. An additional P1,000.00 fee will be collected for every new category applied for.

Rule IV.
Processing of Application

SECTION 1. When application for Accreditation is Deemed Filed - An application shall be deemed filed, upon payment of the filing fee and submission of all documentary requirements.

SECTION 2. Action on the Application - Within fifteen (15) working days from receipt of application and all the requirements including proof of payment of filing and processing fee, the PSB Registration and Accreditation Division shall evaluate, inspect the offices, equipment and pertinent documents of the applicant and recommend to the RMC the approval or denial of the application.

SECTION 3. Suspension of the Running of Reglementary Period - During the evaluation of the documentary requirements, clarificatory statements may be asked of the applicant which must be answered in writing within five (5) calendar days from receipt of notice thereof. The running of the reglementary period for the processing of application shall be deemed suspended when a clarificatory statement has been required from the applicant and no answer has been submitted by the latter, upon submission of the answer, it shall resume to run.

SECTION 4. Issuance of Certificate of Registration - The Committee through the Director of PSB shall issue and sign the corresponding Certificate of Registration upon payment in full of the required fees and satisfactory compliance with all the necessary requirements.

SECTION 5. Inspection - 1) Before approval of application for registration/renewal thereof, an inspection of the premises and pertinent documents of the applicant shall be conducted by PSB Inspection Team. The PSB Inspection Team may also conduct inspection, whenever necessary, after approval of application to monitor performance of the Non-Vessel Operating Common Carriers (NVOCCs)/Cargo Consolidators (CC)/Freight Forwarders (FF)/Breakbulk Agents (BBA).

2. Inspection shall be conducted by a team of at least two (2) members of the PSB staff upon written instruction/authorization of the PSB Director or his duly authorized representative. During the inspection of the necessary documents, records and premises of the applicant may be required.

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

4. Inspection report shall be submitted to the PSB Director within twenty-four (24) hours after the inspection.

SECTION 6. Violation Found in the Course of Inspection - Any violation found in the course of inspection such as non-compliance with these Rules and other applicable issuances may be ground for the imposition of appropriate sanctions or for the denial of application for registration.

SECTION 7. Paid-up Capital and Equity Requirement - The paid-up capital and stockholder's or owner's equity requirements must be met by the applicant at the time of filing of original as well as renewal application for accreditation. The stockholder's or owners' equity of the applicant must at least be equal to the paid-up or invested capital as provided by the Rules.

SECTION 8. Cargo Insurance Coverage/Policy - The appropriate type of insurance required for registration/accreditation for each category/classification of the firms in the industry shall be either the Merchandise in Transit (Floater) or the through Transport Club Insurance.

The Merchandise in Transit (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 vehicle is on stop overnight at an allowed territory.

The Through Transport (TT) Club Insurance is the standard comprehensive cargo liability insurance for freight forwarders and transport operators covering destinations between the Philippines and worldwide.

The amount of insurance coverage/policy shall be the amount prescribed in Rule III Section 1 par. 5 and Section 2 par. 9 herein which applies to both corporation and single proprietorship.

Rule V.
Reglementary Periods

SECTION 1. Validity of Certificate of Accreditation - The Certificate of Accreditation issued pursuant to these Rules shall be valid for two (2) years from the date of issue unless sooner cancelled 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 the same requirements required for original application.

SECTION 3. Automatic Accreditation - All applications for 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 accreditation.

SECTION 4. Express Lane Unit - All application for renewal should be submitted not later than forty-five (45) working days before the expiration of accreditation. Those who file not later than fifteen (15) working days prior to expiration of their accreditation will fall under the "express lane unit" which will be charged P4,500.00 instead of the usual P3,000.00. Applications of those entities with expired accreditation shall be considered as late and shall be charged P6,000.00.

SECTION 5. Action on Renewal of Registration - Within fifteen (15) working days from receipt of the application for renewal, the PSB Registration and Accreditation Division shall undertake evaluation and inspection and thereafter recommend the grant or denial of the application to the Committee.

Rule VI.
General Provisions

SECTION 1. Certificates of Accreditation to be Issued - One (1) Certificate shall be issued for each category of business operation applied for by a qualified applicant. Provided, that no certificate may be issued until all the requirements shall have been submitted.

SECTION 2. Cancellation, Revocation or Suspension of Certificate of Accreditation - A Certificate of Accreditation may be cancelled, revoked or suspended for violation of the rules and regulations after due notice and hearing.

SECTION 3. Non-Transferability of Certificate - No certificate shall be transferred, conveyed or assigned to any person, partnership or corporation. Is shall not be used directly or indirectly by any person, partnership or corporation other than the one in whose favor it was issued.

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SECTION 4. RMC Identification Cards - There shall be issued Personnel Identification Cards to official representatives of accredited entities who are authorized to transact business with the Bureau of Customs. Accredited freight forwarders shall submit the names and passport-size ID photos of their authorized representatives (a maximum of three (3) each per category of operations). A processing fee of P150.00 per ID Card shall be charged by PSB which will be valid for two (2) years.

SECTION 5. Change of Ownership of Business - 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 6. Change of Directors of Corporations - 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.

SECTION 7. Change of Other Officers and Agents - Every change of officers or agents abroad and termination or appointment of key personnel shall be registered with the Philippine Shippers' Bureau within 30 days from the date the change, appointment or termination occurred.

SECTION 8. Failure to Renew - All covered entities who fail to renew their registration shall upon expiration thereof, be immediately delisted and disallowed from conducting business with the government signatory to the MOU.

SECTION 9. 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 Bureau of Customs, the Philippine Embassies abroad and other government which need a copy of such list.

SECTION 10. Evaluation of Performance - The Committee through the PSB Registration and Accreditation Division shall evaluate the performance of NVOCCs, cargo consolidators, accredited freight forwarders, and breakbulk agents for purposes of monitoring their activities.

SECTION 11. Submission of Manifest of Consolidated Shipments - The PSB, in protecting the interest of shippers and consignees, may require freight forwarders, non-vessel operating common carriers, cargo consolidators and break bulk agents to submit to PSB copies of all inward and outward manifests covering consolidated shipments.

SECTION 12. Procedures for Cancellation, Revocation and Suspension of Accredited Entities - There shall be rules of procedures to be followed in the cancellation, revocation, suspension and filing of appeals of accredited entities.

Rule VII.
Repealing Clause

The provisions of the Revised Rules and Regulations Accreditation/Registration of Freight Forwarders, NVOCCs, Cargo Consolidators and Breakbulk Agents issued by the Philippine Shippers' Bureau on 27 November 1992 and which are inconsistent with the provisions of these rules are hereby revoked and/or amended accordingly.

Rule VIII.
Effectivity

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These amended rules and regulations shall take effect fifteen (15) days following the completion of its publication in the newspaper of general circulation.

Adopted: 22 Feb. 1995

(SGD.) C.B. BAUTISTA
Undersecretary
International Trade Group

Approved:

(SGD.) RIZALINO S. NAVARRO
Secretary

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