

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 8005



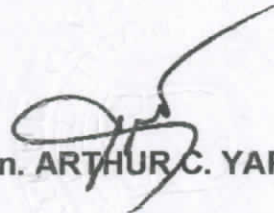
Introduced by Rep. Arthur Yap

Explanatory Note

In 1974, the Philippine Ports Authority (PPA) was created by virtue of Presidential Decree (PD) 857, as amended, to implement an integrated program for the planning, development, financing and operation of piers or port districts for the entire country.

Through the years, the port users (e.g., domestic shippers, exporters and importers) have complained of low service levels, inefficient port operations and ever-increasing port charges. They claim that the high cost of transport serves as an effective barrier to increased trade (both local and foreign) and undermines the country's overall competitiveness.

There is an urgent need to reform the country's ports administration by separating the regulatory and development functions of the Philippine Ports Authority (PPA) by converting it into a Philippine Ports Corporation and transferring its regulatory functions to the Maritime Industry Authority (MARINA).


Hon. ARTHUR C. YAP

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**AN ACT SEPARATING THE REGULATORY AND COMMERCIAL
FUNCTIONS OF THE PHILIPPINE PORTS AUTHORITY (PPA) BY
CONVERTING IT INTO PHILIPPINE PORTS CORPORATION FOR
DEVELOPMENT, MANAGEMENT AND OPERATION OF PUBLIC
PORTS WITHIN ITS SYSTEM AND TRANSFERRING THE
REGULATORY FUNCTIONS TO THE MARITIME INDUSTRY
AUTHORITY (MARINA)**

**Be it enacted by the Senate and the House of Representatives of the
Philippines in Congress assembled:**

1 **Section 1. Title.** This Act shall be known as the Philippine Ports
2 Corporation (PHILPORTS).

3 **Section 2. Declaration of Policies and Objectives.** It is hereby declared to
4 be the policy of the State to avoid conflict of interest arising from
5 regulatory agencies vested with both regulatory and development or
6 commercial functions. Under no circumstance should a regulatory agency
7 benefit from its own regulation and/or use its regulatory powers to protect
8 itself from competition at the expense of public interest. It is in this regard
9 that this Act separates the regulatory and development functions of the
10 Philippine Ports Authority (PPA) by converting it into a corporation solely
11 for commercial and development purposes and transferring its regulatory
12 functions and powers to the Maritime Industry Authority (MARINA).

13 **Section 3. The Philippine Ports Corporation –**
14

15 (a) The PPA shall converted into Philippine Ports Corporation
16 (PHILPORTS), a government-owned and controlled corporation
17 (GOCC) attached to the Department of Transport (DOTr) and
18 mandated to own, develop, manage and operate public ports within
19 the port system of the old PPA.

20 (b) All regulatory powers and functions of the old PPA shall be
21 transferred to the MARINA.
22

23 (c) While PHILPORTS is a public enterprise, it is not primarily a revenue-
24 generating entity but a service provider. As such, it shall always give
25 utmost priority and importance to public service delivery and
26 promotion of public interest over commercial/financial profit.
27

- 28 (d) PHILPORTS shall be governed by a Board with 15 members
29 composed of representatives from government agencies and
30 industry associations:
31

32 GOVERNMENT

- 33 1. Secretary of Transport (DOTr) as Chairman of the Board
34 2. Secretary of Trade and Industry (DTI)
35 3. Secretary of Agriculture (DA)
36 4. Socio-Economic Planning Secretary (NEDA)
37 5. Secretary of Public Works and Highways (DPWH)
38 6. Secretary of Tourism (DOT)
39 7. Secretary of Environment and Natural Resources (DENR)
40 8. President of PHILPORTS
41

42 PRIVATE SECTOR

- 43 9. BUSINESS: Representative from the Philippine Chamber of
44 Commerce and Industry (PCCI)
45 10. LOGISTICS: Representative from the Supply Chain Management
46 Association of the Philippines (SCMAP)
47 11. PORT USERS: Representative from the Port Users
48 Confederation (PUC)
49 12. EXPORTERS: Representative from the Philippine Exporters
50 Confederation (PHILEXPORT)
51 13. TOURISM: Representative from the National Tourism Congress
52 14. SHIPPING: Representative from the shipping industry (PISA)
53 15. CARGO HANDLERS: Philippine Chamber of Arrastre and
54 Stevedoring Operators (PCASO)
55

- 56 (e) PHILPORTS shall prepare a long-term port system development plan
57 – taking into consideration the needs and requirements of
58 manufacturing, agr-fisheries, tourism, transport, and logistics sectors
59 – that will be integrated into the overall transport plan of the DOTr
60 and the road infrastructure development plan of the Department of
61 Public Works and Highways (DPWH) to promote and ensure inter-
62 modal seamless connectivity. The Plan shall likewise take into
63 account the regional development thrusts of the NEDA.
64
65 (f) The Board of Directors shall formulate the necessary policies and
66 guidelines for the implementation of the Port System Development
67 Plan. These policies must be geared towards the enhancement of
68 the country's overall competitiveness. Moreover, port operations and
69 performance standards must be developed and used in the
70 development, operations and maintenance of its ports.
71
72 (g) PHILPORTS shall collect only the port fees and dues duly approved
73 by the MARINA. PHILPORTS shall not –
74
75 i. Share from cargo handling revenues and/or any service
76 providers contracted by PHILPORTS
77 ii. Share from any revenue generated by private commercial ports
78
79 (h) The revenues collected by PHILPORTS shall be used for the
80 development, modernization, expansion, operation and maintenance
81 of its ports. PHILPORTS shall be exempt from declaring corporate
82 dividends to the National Treasury in order to provide adequate
83 resources for port development and modernization.

- 84
85 (i) Within 180 days from its constitution, in compliance with RA 10149
86 (GOCC Governance Act of 2011) and the rules and regulations of
87 the Governance Commission for GOCCs (GCG), PHILPOST shall
88 adopt an ownership and operations manual and the government
89 corporate standards governing GOCCs. The manual shall be
90 consistent with the Medium-Term Philippine Development Plan
91 issued by the National Economic and Development Authority (NEDA)
92 and shall include –
93
94 i. Objectives of State ownership
95 ii. Role of national government in the governance of GOCCs
96 iii. Modes of implementation of the ownership policy
97 iv. Guidelines on the monitoring of the operations of all GOCCs
98 including their Related Corporations. These shall include
99 Strategy Maps, Charter Statements, Performance Commitments
100 and such other mechanisms;
101 v. The roles, relationships and responsibilities of the State, the
102 Government Agencies to which the GOCC is attached, and the
103 GOCC
104 vi. Disclosure and transparency requirements
105 vii. Code of Ethics of Directors and Officers
106 viii. Creation of board committees and similar oversight bodies
107 ix. Integrated corporate reporting system
108 x. Statement of the social responsibilities of the GOCC, and
109 xi. Such other matters as the GCG may deem proper to include in
110 the ownership policy
111
112 (j) The Board of Directors as well as key officers of PHILPOST shall be
113 governed by the “*fit and proper rule*” guidelines stipulated by the
114 Governance Commission for GOCCs (GCG).
115
116 (k) PHILPOST shall likewise
117
118 i. establish performance evaluation systems including
119 performance scorecards and conduct periodic study,
120 examination, evaluation and assessment of its performance
121 ii. conduct compensation studies and develop a competitive
122 compensation and remuneration system which shall attract and
123 retain talent, at the same time allowing the GOCC to be
124 financially sound and sustainable
125 iii. maintain a website and post therein for unrestricted public
126 access, in compliance with GCG’s full disclosure requirements,
127 PHILPORTS’ (a) annual audited financial statements for the last
128 5 years, (b) performance report, (c) quarterly, annual reports
129 and trial balance, (d) current corporate operating budget, (e)
130 complete compensation package of all the board members and
131 officers, including travel, representation, transportation and any
132 other form of expenses or allowances, (f) local and foreign
133 borrowings, (g) performance scorecards and strategy maps, (h)
134 government subsidies and net lending among others.
135

136 (l) PHILPORTS, with approval from the Board, may issue bonds and
137 incur indebtedness, if necessary, to carry out its Programs. It may
138 also enter into joint venture arrangements with the private sector in
139 the development and operation of its ports.

140
141 (m) PHILPORTS shall develop a port privatization program in keeping
142 with the principles of New Public Management that posits greater
143 private sector participation in the delivery of public services.

144
145 **Section 4. Repealing and Separability Clauses.** PD 505, PD 857, LOI
146 1005-A, and all laws, decrees, orders, rules and regulations, policies,
147 programs or parts thereof, which are inconsistent with any of the
148 provisions of this Decree, are hereby repealed or modified accordingly.

149 If for any reason any section or provision of this Law is declared to be
150 unconstitutional or invalid, the other sections or provisions hereof, which
151 are not affected thereby, shall continue in full force and effect.

152 **Section 5. Effectivity.** This Law shall take effect upon ...

153
154

155 **Section 4. Repealing Clause.** PD 505, 857, LOI 1005-A and all laws,
156 decrees, Letter of Instruction, executive orders, rules and regulations,
157 policies, programs, or parts thereof, inconsistent with or contrary to any of
158 the provisions of this Act are hereby repealed or modified accordingly.

159

160 **Section 5. Separability Clause.** If, for any reason, any section or provision
161 of this Act is declared to be unconstitutional or invalid, the other sections
162 or provisions of this Act which are not affected thereby shall continue to be
163 in full force and effect.

164

165 **Section 6. Effectivity Clause.** This Act shall take effect fifteen (15) days
166 after its publication in the Official Gazette or a newspaper of general
167 circulation.

168

169

170 Approved.