



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
KAGAWARAN NG KAPALIGIRAN AT LIKAS YAMAN



MEMORANDUM

FOR : **The Directors**
Legal Affairs Service
Policy and Planning Service

The Executive Director
Manila Bay Coordinating Office

The Bureau Directors
Environmental Management Bureau
Biodiversity Management Bureau
Land Management Bureau
Forest Management Bureau
Ecosystems Research and Development Bureau

The Officer-in-Charge
Mines and Geosciences Bureau

All Regional Executive Directors

FROM : **The Director**
Legislative Liaison Office

SUBJECT : **INVITATION TO TECHNICAL WORKING GROUP (TWG) MEETING ON HOUSE BILLS 1400 AND 8055 OR "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)" FROM THE COMMITTEE ON GOVERNMENT ENTERPRISES AND PRIVITIZATION (CGEP) AND COMMITTEE ON TRANSPORTATION (COTr) OF THE HOUSE OF REPRESENTATIVES**

DATE : 15 November 2023

In reference to the electronic letter dated 13 November 2023, the Committee on Government Enterprises Privatization a jointly with the Committee on Transportation of the House of Representatives is inviting the Department to the Technical Working Group

(TWG) meeting on 21 November 2023, Tuesday, at 10:00A.M., at the Commission on Appointments, 4th Floor, South Wing Annex (SWA) Bldg., House of Representatives to deliberate on the following measures:

- **House Bill No. 1400** - "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)" by Rep. Bernadette Herrera; and
- **House Bill No. 8055** - "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)" by Rep. Midy N. Cua.

In this regard, may we respectfully request for comments and recommendations on the abovementioned bills, in anticipation of the Committee meeting, as requested by the Committee. Kindly send them on or before **Monday, 20 November 2023, at 5PM** via email at denrlo@denr.gov.ph. Further, kindly inform us of the name/s of the representative/s from your office who will participate in the meeting so we may include him/her/them as resource person/s.

Attached herewith are the Letter Invitation, Agenda, and the House bills for your reference.


ROMIROSE B. PADIN

Cc: Undersecretary for Special Concerns and Legislative Affairs



COMMITTEE ON GOVERNMENT ENTERPRISES AND PRIVATIZATION

CTSS-I, Committee Affairs Department, 3rd Fl., RVM Building, House of Representatives, Constitution Hills, Quezon City
8931-5001 loc. 7727 • Direct: 8951-3028 • committee.governmententerprises@house.gov.ph • cgephrep@gmail.com

13 November 2023

HONORABLE MARIA ANTONIA YULO LOYZAGA

Secretary

Department of Environment & Natural Resources

Dear Sec. Loyzaga:

On *21 November 2023, Tuesday, at 10 A.M., at the Commission on Appointments, 4th floor, South Wing Annex (SWA) Bldg., House of Representatives*, the Committee on Government Enterprises and Privatization (CGEP), joint with the Committee on Transportation (COTr), will convene the Technical Working Group (TWG) tasked to consolidate and refine the following measures:

- **House Bill No. 1400** by Rep. Bernadette "BH" Herrera
- **House Bill No. 8055** by Rep. Midy N. Cua

"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)"

As one of the main stakeholders of the said measures, your assistance on the technicalities as we merge and polish the bills would be of great help.

Attached are the e-copies of the agenda and the abovementioned measures for your perusal.

Thank you very much.

Very truly yours,

EDWIN L. OLIVAREZ

Chairperson

For the Chair:

MARLON T. VALENCIA

Committee Secretary, CGEP

OIC Service Director, CTSS 1



NINETEENTH CONGRESS
Second Regular Session

TECHNICAL WORKING GROUP (TWG) MEETING

Committee on Government Enterprises and Privatization (CGEP)
and the
Committee on Transportation (COTr)

21 November 2023 (Tuesday), 10:00 A.M.
Commission on Appointments, SWA Bldg.

AGENDA

- I. CALL TO ORDER**
- II. ACKNOWLEDGMENT OF GUESTS/RESOURCE PERSONS**
- III. OPENING REMARKS**
REP. SALVADOR A. PLEYTO
TWG Chairperson
- IV. CONSOLIDATION & REFINEMENT OF THE FOLLOWING MEASURES**
 - **House Bill No. 1400** by *Rep. Bernadette "BH" Herrera*
 - **House Bill No. 8055** by *Rep. Midy N. Cua*

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)

- V. ADJOURNMENT**

Republic of the Philippines
House of Representatives
Quezon City

NINETEENTH CONGRESS
FIRST REGULAR SESSION

House Bill No. 1400



INTRODUCED BY REPRESENTATIVE BERNADETTE HERRERA-DY

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).


Bernadette Herrera-Dy

Republic of the Philippines
House of Representatives
Quezon City

NINETEENTH CONGRESS
FIRST REGULAR SESSION

House Bill No. 1400

INTRODUCED BY REPRESENTATIVE BERNADETTE HERRERA-DY

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:

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

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

Section 3. The Philippine Potts Corporation —

- (a) The PPA shall be converted into Philippine Pons Corporation (PHILPORTS), a
government-owned and controlled corporation (GOCC) attached to the

Department of Transport (DOTr) and mandated to own, develop, manage and operate public ports within the port system of the old PPA.

- (b) All regulatory powers and functions of the defunct PPA shall be transferred to the MARINA.
- (c) While PHILPORTS is a public enterprise, it is not primarily a revenue generating entity but a service provider. As such, it shall always give utmost priority and importance to public service delivery and promotion of public interest over commercial/financial profit.
- (d) PHILPORTS shall be governed by a Board with fifteen (15) members composed of representatives from government agencies and industry associations:

GOVERNMENT

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

PRIVATE SECTOR

9. BUSINESS: Representative from the Philippine Chamber of Commerce and Industry (PCCI);
 10. LOGISTICS: Representative from the Supply Chain Management Association of the Philippines (SCMAP);
 11. PORT USERS: Representative from the Port Users Confederation (PUC);
 12. EXPORTERS: Representative from the Philippine Exporters Confederation (PHILEXPORT);
 13. TOURISM: Representative from the National Tourism Congress;
 14. SHIPPING: Representative from the shipping industry (PISA); and
 15. CARGO HANDLERS: Philippine Chamber of Arrastre and Stevedoring Operators (PCASO)
- (e) PHILPORTS shall prepare a long-term port system development plan — taking into consideration the needs and requirements of manufacturing, agro-fisheries, tourism, transport, and logistics sectors — that will be integrated into the overall transport plan of the DOTr and the road infrastructure development plan of the Department of Public Works and Highways (DPWH) to promote and ensure inter-modal seamless connectivity. The Plan shall likewise take into account the regional development thrusts of the National Economic and Development Authority (NEDA).

- (f) The Board shall formulate the necessary policies and guidelines for the implementation of the Port System Development Plan. These policies must be geared towards the enhancement of the country's overall competitiveness. Moreover, port operations and performance standards must be developed and used in the development, operations and maintenance of its ports.
- (g) PHILPORTS shall collect only the port fees and dues duly approved by the MARINA. PHILPORTS shall not -
 - i. Share from cargo handling revenues and/or any service providers contracted by PHILPORTS; or
 - ii. Share from any revenue generated by private commercial ports.
- (h) The revenues collected by PHILPORTS shall be used for the development, modernization, expansion, operation and maintenance of its ports. PHILPORTS shall be exempt from declaring corporate dividends to the National Treasury in order to provide adequate resources for port development and modernization.
- (i) Within one hundred and eighty (180) days from its constitution, in compliance with RA 10149 (GOCC Governance Act of 2011) and the rules and regulations of the Governance Commission for GOCCs (GCG), PHILPORTS shall adopt an ownership and operations manual and the government corporate standards governing GOCCs. The manual shall be consistent with the Medium-Term Philippine Development Plan issued by the National Economic and Development Authority (NEDA) and shall include —
 - i. Objectives of State ownership
 - ii. Role of national government in the governance of GOCCs
 - iii. Modes of implementation of the ownership policy
 - iv. Guidelines on the monitoring of the operations of all GOCCs including their Related Corporations. These shall include Strategy Maps, Charter Statements, Performance Commitments and such other mechanisms;
 - v. The roles, relationships and responsibilities of the State, the Government Agencies to which the GOCC is attached, and the GOCC
 - vi. Disclosure and transparency requirements
 - vii. Code of Ethics of Directors and Officers
 - viii. Creation of board committees and similar oversight bodies
 - ix. Integrated corporate reporting system
 - x. Statement of the social responsibilities of the GOCC, and
 - xi. Such other matters as the GCG may deem proper to include in the ownership policy
- (j) The Board of Directors as well as key officers of PHILPORTS shall be governed by the "fit and proper rule" guidelines stipulated by the Governance Commission for GOCCs (GCG).

- (k) PHILPORTS shall likewise
- i. establish performance evaluation systems including performance scorecards and conduct periodic study, examination, evaluation and assessment of its performance
 - ii. conduct compensation studies and develop a competitive compensation and remuneration system which shall attract and retain talent, at the same time allowing the GOCC to be financially sound and sustainable
 - iii. maintain a website and post therein for unrestricted public access, in compliance with GCG's full disclosure requirements, PHILPORTS'
- (a) annual audited financial statements for the last 5 years,
 - (b) performance report,
 - (c) quarterly, annual reports and trial balance,
 - (d) current corporate operating budget,
 - (e) complete compensation package of all the board members and officers, including travel, representation, transportation and any other form of expenses or allowances,
 - (f) local and foreign borrowings,
 - (g) performance scorecards and strategy maps,
 - (h) government subsidies and net lending among others.
- (l) PHILPORTS, with approval from the Board, may issue bonds and incur indebtedness, if necessary, to carry out its Programs. It may also enter into joint venture arrangements with the private sector in the development and operation of its ports.
- (m) PHILPORTS shall develop a port privatization program in keeping with the principles of New Public Management that posits greater private sector participation in the delivery of public services.

Section 4. Implementing Rules and Regulations. Within ninety (90) days from the effectivity of this Act, the government agencies that will serve as members of the Board shall promulgate the necessary rules and regulations to implement this Act.

Section 5. Repealing and Separability Clauses. PD 505, PD 857, LOI 1005-A, and all laws, decrees, orders, rules and regulations, policies, programs or parts thereof, which are inconsistent with any of the provisions of this Decree, are hereby repealed or modified accordingly.

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

Section 6. Repealing Clause. PD 505, 857, LOI 1005-A and all laws, decrees, Letter of Instruction, executive orders, rules and regulations, policies, programs, or parts thereof, inconsistent with or contrary to any of the provisions of this Act are hereby repealed or modified accordingly.

Section 7. Separability Clause. If, for any reason, any section or provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions of this Act which are not affected thereby shall continue to be in full force and effect.

Section 8. Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or a newspaper of general circulation.

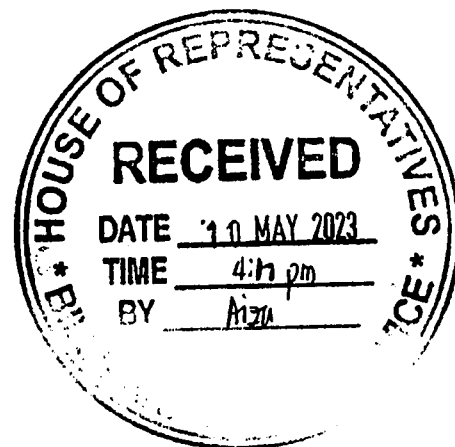
Approved,



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. **8055**



Introduced by Representative Midy N. Cua
Lone District, Quirino

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)

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).

In view of the foregoing, approval of this measure is earnestly sought.


MIDY N. CUA
Representative
Lone District, Quirino



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session
8055
House Bill No. _____

Introduced by Representative Midy N. Cua
Lone District, Quirino

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 House of Representatives of the Philippines in Congress assembled:

- 1 **SECTION 1. Title.** – This Act shall be known as the “Philippine Ports Corporation (PHILPORTS)
2 Act.”
3
- 4 **SEC. 2. Declaration of Policies and Objectives** – It is hereby declared to be the policy of the State to
5 avoid conflict of interest arising from regulatory agencies vested with both regulatory and
6 development or commercial functions. Under no circumstance should a regulatory agency benefit from
7 its own regulation and/or use its regulatory powers to protect itself from competition at the expense of
8 public interest. It is in this regard that this Act separates the regulatory and development functions of
9 the Philippine Ports Authority (PPA) by converting it into a corporation solely for commercial and
10 development purposes and transferring its regulatory functions and powers to the Maritime Industry
11 Authority (MARINA).
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- 13 **SEC. 3. The Philippine Ports Corporation** –
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- 15 a) The PPA shall be converted into Philippine Pons Corporation (PHILPORTS), a
16 government-owned and controlled corporation (GOCC) attached to the Department of
17 Transport (DOTr) and mandated to own, develop, manage and operate public ports within
18 the port system of the old PPA
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- 20 b) All regulatory powers and functions of the defunct PPA shall be transferred to the
21 MARINA.
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- 23 c) While PHILPORTS is a public enterprise, it is not primarily a revenue generating entity
24 but a service provider. As such, it shall always give utmost priority and importance to
25 public service delivery and promotion of public interest over commercial/financial profit.
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- 27 d) PHILPORTS shall be governed by a Board with fifteen (15) members composed of
28 representatives from government agencies and industry associations:

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GOVERNMENT

1. Secretary of Transport (DOTr) as Chairman of the Board;
2. Secretary of Trade and Industry (DTI);
3. Secretary of Agriculture (DA);
4. Socio-Economic Planning Secretary (NEDA);
5. Secretary of Public Works and Highways (DPWH);
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8. President of PHILPORTS;

PRIVATE SECTOR

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- 1 g) PHILPORTS shall collect only the port fees and dues duly approved by the MARINA.
2 PHILPORTS shall not –
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- 4 (i) Share from cargo handling revenues and/or any service providers contracted by
5 PHILPORTS; or
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- 7 (ii) Share from any revenue generated by private commercial ports.
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- 9 h) The revenues collected by PHILPORTS shall be used for the development,
10 modernization, expansion, operation and maintenance of its ports. PHILPORTS shall be
11 exempt from declaring corporate dividends to the National Treasury in order to provide
12 adequate resources for port development and modernization.
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- 14 i) Within one hundred and eighty (180) days from its constitution, in compliance with RA
15 10149 (GOCC Governance Act of 2011) and the rules and regulations of the Governance
16 Commission for GOCCs (GCG), PHILPORTS shall adopt an ownership and operations
17 manual and the government corporate standards governing GOCCs. The manual shall be
18 consistent with the Medium-Term Philippine Development Plan issued by the National
19 Economic and Development Authority (NEDA) and shall include –
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- 21 (i) Objectives of State ownership;
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- 23 (ii) Role of national government in the governance of GOCCs;
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- 25 (iii) Modes of implementation of the ownership policy;
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- 27 (iv) Guidelines on the monitoring of the operations of all GOCCs including their
28 Related Corporations. These shall include Strategy Maps, Charter Statements,
29 Performance Commitments and such other mechanisms;
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- 31 (v) The roles, relationships and responsibilities of the State, the Government
32 Agencies to which the GOCC is attached, and the GOCC;
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- 34 (vi) Disclosure and transparency requirements
35 vii. Code of Ethics of Directors and
36 Officers;
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- 38 (vii) Creation of board committees and similar oversight bodies;
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- 40 (viii) Integrated corporate reporting system;
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- 42 (ix) Statement of the social responsibilities of the GOCC; and
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- 44 (x) Such other matters as the GCG may deem proper to include in the ownership
45 policy.
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- 47 j) The Board of Directors as well as key officers of PHILPORTS shall be governed by the
48 "fit and proper rule" guidelines stipulated by the Governance Commission for GOCCs
49 (GCG).
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- 51 k) PHILPORTS shall likewise

- 1 (i) establish performance evaluation systems including performance scorecards and
2 conduct periodic study, examination, evaluation and assessment of its
3 performance
4
5 (ii) conduct compensation studies and develop a competitive compensation and
6 remuneration system which shall attract and retain talent, at the same time
7 allowing the GOCC to be financially sound and sustainable
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9 (iii) maintain a website and post therein for unrestricted public access, in compliance
10 with GCG's full disclosure requirements, PHILPORTS'
11
12 (a) annual audited financial statements for the last 5 years,
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14 (b) performance report,
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16 (c) quarterly, annual reports and trial balance,
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18 (d) current corporate operating budget,
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20 (e) complete compensation package of all the board members and officers,
21 including travel, representation, transportation and any other form of
22 expenses or allowances,
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24 (f) local and foreign borrowings,
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26 (g) performance scorecards and strategy maps,
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28 (h) government subsidies and net lending among others.
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30 l) PHILPORTS, with approval from the Board, may issue bonds and incur indebtedness, if
31 necessary, to carry out its Programs. It may also enter into joint venture arrangements
32 with the private sector in the development and operation of its ports.
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34 m) PHILPORTS shall develop a port privatization program in keeping with the principles of
35 New Public Management that posits greater private sector participation in the delivery of
36 public services.
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38 **SEC. 4. *Implementing Rules and Regulations.*** – Within ninety (90) days from the effectivity of this
39 Act, the government agencies that will serve as members of the Board shall promulgate the necessary
40 rules and regulations to implement this Act.
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42 **SEC. 5. *Repealing and Separability Clauses.*** – PD 505, PD 857, LOI 1005-A, and all laws, decrees,
43 orders, rules and regulations, policies, programs or parts thereof, which are inconsistent with any of the
44 provisions of this Decree, are hereby repealed or modified accordingly.
45

46 **SEC. 6. *Repealing Clause.*** – PD 505, 857, LOI 1005-A and all laws, decrees, Letter of Instruction,
47 executive orders, rules and regulations, policies, programs, or parts thereof, inconsistent with or
48 contrary to any of the provisions of this Act are hereby repealed or modified accordingly.
49

50 **SEC. 7. *Separability Clause.*** – If, for any reason, any section or provision of this Act is declared to be
51 unconstitutional or invalid, the other sections or provisions of this Act which are not affected thereby
52 shall continue to be in full force and effect.
53

1 **SEC. 8. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the Official
2 Gazette or a newspaper of general circulation.

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4 **Approved,**