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October 21, 1981

PPA ADMINISTRATIVE ORDER  
NO. 12 - 81

T O : PORT MANAGERS, SHIPPERS,  
CARGO OWNERS, CONSIGNEES,  
ARRASTRE OPERATORS, BROKERS  
AND ALL OTHERS CONCERNED

SUBJECT : Guidelines in the Proper Disposition  
of Overstaying and/or Abandoned  
Domestic Cargoes Within the Port  
Premises

To ensure maximum utilization of port facilities, smooth flow of cargo movement, enable this Authority to collect port charges due from overstaying and/or abandoned domestic cargoes in the port premises and pursuant to Section 6(a) (x) and (b) (ix) (xv) of PD 857, Revised Charter of the Philippine Ports Authority (PPA) promulgated on December 23, 1975, as amended by Executive Order Nos. 513 and 546 dated November 16, 1978 and July 23, 1979, respectively, the following guidelines relating to the proper disposition of said cargoes are hereby issued for strict observance by all concerned.

I. - PRELIMINARY PROVISIONS

Section 1. Scope - This Order shall apply to overstaying and/or abandoned domestic cargo. However, this shall not apply to ports with sufficient back-up space for the establishment of warehouses or storage areas as may be determined by the Authority.

Section 2. Definition of Terms - For purposes of this Order the following terms shall be understood to mean as follows:

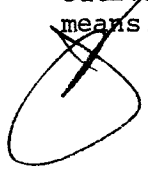
a) Overstaying Domestic Cargoes - refer to articles or cargo which have remained at the port premises after the free storage period until the same has been deemed abandoned.

b. Abandoned Domestic Cargoes - refer to overstaying cargoes which have remained at the port premises after forty-five (45) days from discharge of all consignments from the carrying vessel, or acceptance by arrastre operator in the case of outbound cargoes, and the owners/consignees have been notified but failed to claim the same or the owners have expressly abandoned the cargoes.

II. - DISPOSITION PROCEDURES

Section 3. Notice and Publication

- a. Notices to Known Owners - Known owners/consignees of overstaying cargoes shall be properly notified in writing by the Port Manager within the 45-day period after discharge or acceptance of the cargoes. Notices, (copies of sample forms attached marked as Annex A, B and C) must be served personally and receipted or by registered mail at least three (3) times allowing an interval of ten (10) days between each notice. The first notice must be sent on the 10th day after discharge or acceptance of the cargoes. Overstaying cargoes not withdrawn at the expiration of the prescribed 45-day period and after the last notice shall have been served, shall be inventoried and sold at public auction by the Port Manager in accordance with Section 8 of this Order.
- b. Notices to Unknown Owners - Notices to unknown owners/consignees of overstaying cargoes shall be effected by the Port Manager, as follows:
1. For articles/cargoes with an estimated value of ₱5,000 and below, notice shall be posted on the 10th day after discharge or acceptance involving such cargoes/articles, for fifteen (15) consecutive days within the 45-day period in a conspicuous place/premise of the Port Management Unit (PMU) Office where the unclaimed cargoes are located.
  2. For articles/cargoes with estimated value exceeding ₱5,000 - the Port Manager must publish, simultaneous with the posting, such notice for three (3) consecutive issues in a local newspaper or other effective means.



In both cases, if within ten (10) days after the prescribed posting and/or publication, no owner or agent can be found or appears before the Port Manager of the PMU, the abandoned domestic cargoes shall be inventoried and sold at public auction in accordance with Section 8 hereof.

Section 4. Option to Reclaim - Upon presentation to the Port Manager or his duly authorized representative of proof of ownership, the owner, shipper or consignee shall have the option to reclaim his abandoned cargo, a week before the actual auction takes place.

Any of the following authenticated documents shall be considered as proof of ownership:

1. Bill of Lading
2. Invoices
3. Official Receipt(s)
4. Or any other documents of probative value

The Port Manager or his duly authorized representative shall notify the Auction Committee of the intention of the owner, shipper or consignee to reclaim his cargo. Prior to the approval of the release of the cargo, the Port Manager shall see to it that charges and expenses such as:

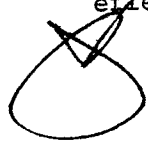
1. Taxes (if any)
2. Charges on cargo (wharfage and storage)
3. Arrastre/Stevedoring charges
4. Necessary and incidental expenses, like advertisement, transfer expenses, etc.

have been fully paid by the claimant in accordance with usual accounting and auditing procedures.

Section 5. Mode of Sale - Overstaying and/or abandoned cargoes are subject to disposal by auction or by private sale in accordance with Section 8 of this Order.

Section 6. Auction Committee - The auction sale shall be conducted by an Auction Committee created as follows:

- a. Composition - In each Port Management Unit (PMU), an Auction Committee shall be composed of four (4) regular members: The Port Manager or his authorized representative who shall act as Chairman, the Port Operations Officer, Finance Officer and Legal Officer or in his absence, the Administrative Officer as members. A representative from the Commission on Audit (COA) shall be invited to witness every auction proceeding.
- b. Functions - The duties/responsibilities of the Auction Committee shall be as follows:
  1. To conduct auction and/or private sale;
  2. Provide the necessary information to interested bidders;
  3. Assess/evaluate data and determine qualification of participants;
  4. Appraise the value of pre-determined charges and/or expenses such as, taxes/duties, bidding and port charges and keep the same confidential;
  5. Award sale lot numbers to winning bidders if the amount involved is less than ₱100,000.00;
  6. Recommend to the General Manager the awarding to winning bidders if the amount involved exceeds ₱100,000.00;
  7. Render reports to Head Office on every perfected sale;
  8. Keep records of its own proceedings; and
  9. Perform such other duties as maybe necessary in the effective discharge of their functions.



Section 7. Participants in Auction Sale - Any Filipino citizen of legal age or any domestic juridical entity duly represented by its authorized official may participate in the auction sale, provided, however, that PPA officials and employees and relatives of the Auction Committee members up to the second civil degree of consanguinity or affinity shall be disqualified from participating therein.

Section 8. Auction Procedures

- a) Notice of Sale - Notice of Sale (copy of sample form attached as Annex "D") shall be advertised by the Port Manager by printed notice in the Official Gazette, or for not less than three consecutive days in any newspaper of general circulation, or where the value of the property does not warrant the expense of publication, by notices posted for a like period in at least three public places in the locality where the property is to be sold.
- b) Auction Proceeding - At the date of the auction sale, the bidders shall register their names and addresses at the log book and drop the sealed bid containing the specific amount offered and the bidders bond equivalent to ten percent (10%) of the amount of bid in cash, cashier's or manager's check at the box made for the purpose prior to the time set for the opening of bid. No bid shall be accepted after the designated time for the opening of the bid whereupon submission of bids shall be declared "closed" by the Committee. Bid tender (see attached form - Annex E) will be opened and read one after the other by the Chairman, Bidding Committee at the exact time set and shall be signed by all members of the Committee and the COA representative.
- c) Determining the Winning Bid - After opening of all bids, the member-secretary shall prepare the Abstract of Bid (see attached form marked as Annex F) in three copies to determine the winning bidder. The highest price offered shall be the winning bid, provided, that the amount shall at least meet the estimated predetermined charges and other expenses. In case of a tie, the Committee shall exercise reasonable discretion in determining the winning bid.



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- d) Posting of Performance Bond - Immediately after the winning bidder has been determined by the Committee, he shall be required to post a performance bond in the form of cash, cashier's or manager's check, which in addition to the bidder's bond shall be equivalent to twenty percent (20%) of the bid price. Such total amount shall be considered partial payment of the bid price.

Failure of the winning bidder to post said bond will result in the automatic forfeiture of the bidder's bond.

- e) Award to Winning Bidder - Winning bid price of less than one hundred thousand pesos (₱100,000) in a single lot shall be awarded immediately by the Committee. Where the bid price is more than ₱100,000, the award shall be made by the General Manager upon the recommendation of the Committee.

In both cases the balance shall be paid within three (3) days from receipt of notice of award and the articles/cargoes shall be immediately withdrawn from the port premises upon full payment of the balance otherwise the twenty percent (20%) performance bond shall be forfeited in favor of this Authority. The bonds of losing bidders shall be retained by the Committee until the bid price has been fully paid by the winning bidder.

Section 9. Disposition of Proceeds - The following charges/expenses shall be paid from the proceeds of the sale in the Order named:

- a. Taxes, if any, due to the Government
- b. Expenses of appraisal, advertisement and sale
- c. Port charges due to the PPA
- d. Arrastre/stevedoring charges due to the PPA
- e. Freight, lighters or shipping expenses
- f. If there is surplus, person legally entitled thereto and/or unknown owners after presentation of satisfactory proof of ownership, upon demand within a period of one year from date of sale.



Section 10. Disposition of Overstaying/Abandoned Cargoes Unfit For Use or Sale or Injuries to Public Health - Any overstaying and/or abandoned cargo which in the opinion of the Port Manager is a menace to public health, shall, in coordination with health authorities and the Commission on Audit (COA) at the Port, be ordered destroyed in such manner as the case may warrant.

Section 11. Disposition of Unsold Cargoes/Articles for Want of Bidders - When any overstaying cargo remains unsold after at least two (2) public biddings for want of bidders or for lack of an acceptable bid and the cargo is perishable and/or suitable for official use, the Port Manager shall report the matter immediately to the General Manager or his designated assistant who may, subject to the approval of the Minister of the Ministry of Transportation and Communications (MOTC), authorize the official use of the cargo/article in the following order of priority: first, by the PPA and, second, by other offices of the government. If the cargo cannot be disposed of as provided above, the same may be sold at a private sale at a price to be fixed by the Auction Committee and approved by higher authority.


III. - FINAL PROVISIONS

Section 12. Special Provision - No cargo shall be disposed from the port premises unless the procedures in the preceding sections are complied with.

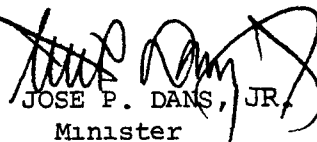
Nothing herein prescribed shall preclude the Authority from taking emergency measures in coordination with the Bureau of Customs when necessary to decongest the piers by removing import/export or domestic articles/cargoes from the port area to other secured places at the expense of the owner/consignee.

Section 13. Repealing Clause - All PPA orders, rules and regulations, circulars, guidelines or memoranda inconsistent herewith are hereby repealed or amended accordingly.

Section 14. Effectivity - This Order shall take effect upon publication in the Official Gazette or newspaper of general circulation.

  
E. S. BACLIG, JR.  
General Manager


APPROVED :

  
JOSE P. DANS, JR.  
Minister

Ministry of Transportation & Communications  
as Chairman, PPA Board of Directors

\* As confirmed by the PPA Board of Directors  
in its meeting on 4 December, 1981.

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