

Port and Harbor Act

(Act No. 218 of May 31, 1950)

Chapter I General Provisions

(Objective)

Article 1 With the aim of contributing to the development of transportation and suitable utilization and balanced growth of the national land, the purpose of this Act is to provide for orderly development and appropriate management of ports and harbors, together with the development and maintenance of waterways, while considering environmental conservation.

(Definitions)

Article 2 (1) In this Act, "Port Management Body" means a port authority which is established pursuant to the provisions of Section 1 of Chapter II or a local public entity set forth in the provisions of Article 33.

(2) In this Act, "Major Port" means those ports which shall be specified by a Cabinet Order as having great importance to the national interest including those serve as hubs of an international or domestic maritime transport network, "Special Major Port" means those ports which shall be specified by a Cabinet Order among the Major Ports as specially important as hubs of an international maritime transport network, and "Minor Port" means those ports other than Major Ports.

(3) In this Act, "Port Area" means a water area for which authorization has been given pursuant to the provisions of Article 4 paragraph (4) (including where these provisions apply mutatis mutandis to the provisions of Article 9 paragraph (2) and Article 33 paragraph (2)).

(4) In this Act, "Waterfront Area" means an area which has been designated as such pursuant to the provisions of Chapter II of the City Planning Act (Act No. 100 of 1968) or an area which has been designated by the Port Management Body pursuant to the provisions of Article 38.

(5) In this Act, "Port Facility" means the facilities located within a Port Area or Waterfront Area specified in item (i) through item (xi) and the facilities necessary for the utilization or management of a port specified in item (xii) through item (xiv):

(i) Waterways and basins: Waterways, basins for anchorage and basins for small craft

(ii) Protective facilities for harbors: Breakwaters, sediment control groins, seawalls, training jetties, sluices, locks, revetments, dikes, groins and

- parapets
- (iii) Mooring facilities: Wharves, mooring buoys, mooring piles, piled piers, floating piers, shallow draft wharves and dry docking yards
 - (iv) Port transport facilities: Roads, parking lots, bridges, railways, tramways, canals and heliports
 - (v) Navigation assistance facilities: Navigation aids and signaling, lighting and port communication facilities for the entry and clearance of ships
 - (vi) Cargo handling facilities: Stationary cargo handling equipment, rail-mounted cargo handling equipment, cargo handling areas and transit sheds
 - (vii) Passenger facilities: Fixed-type passenger boarding facilities, baggage check-in and pick-up areas, lounges and temporary living quarters
 - (viii) Storage facilities: Warehouses, open storage yards, timber yards and timber ponds, coal storage yards, dangerous goods storage facilities and oil storage facilities
 - (viii)-2 Facilities for ship services: Water supply facilities, bunkering facilities and coal supply facilities (excluding those facilities specified in item (xiii)), ship repair facilities, and ship storage facilities
 - (ix) Port pollution control facilities: Water supply facilities for the purification of contaminated waters, buffer zones for pollution control and other facilities designed for pollution control in a port
 - (ix)-2 Waste disposal facilities: Dikes for waste dumping area, waste receiving facilities, waste incinerators, waste crushers, waste oil disposal facilities and other facilities designed for waste disposal (excluding those facilities specified in item (xiii))
 - (ix)-3 Facilities for the improvement of the port and harbor environment: Beaches, green areas, open spaces, planting, resting areas and other facilities designed for the improvement of the port and harbor environment
 - (x) Port welfare facilities: Resting areas and temporary living quarters, clinics and other welfare and recreational facilities for ship's crew and harbor workers
 - (x)-2 Port management facilities: Port administration offices, warehouses to store port management related materials and other facilities necessary for port management (excluding those facilities specified in item (xiv))
 - (xi) Land for port facilities: Land for the facilities specified in each of the preceding items
 - (xii) Mobile facilities: Mobile cargo handling equipment and mobile passenger boarding facilities
 - (xiii) Mobile facilities for port services: Tugboats for assisting ship berthing and deberthing, vessels and vehicles for supplying water, fuel and coal to ships and vessels and vehicles for handling and transporting wastes
 - (xiv) Mobile facilities for port management: boats for waste recovery, traffic

- boats and other mobile facilities necessary for port management
- (6) Those facilities specified in item (i) through item (xi) of the preceding paragraph and located outside the Port Area or Waterfront Area, when authorized by the Minister of Land, Infrastructure, Transport and Tourism upon application by the Port Management Body, shall also be regarded as a Port Facility.
- (7) In this Act, "Port and Harbor Works" means construction, improvement, maintenance or rehabilitation of a Port Facility and other works necessary for the removal of deposits of wastes and other polluting materials in ports, the purification of contaminated seawater, the removal of floating materials and other works for the preservation of ports.
- (8) In this Act, "Waterways to be Developed and Preserved" means waterways which require development and preservation works in order to facilitate the transit of ships in water areas outside the Port Area and river areas specified in Article 3 paragraph (1) of the River Act (Act No. 167 of 1964) (hereinafter referred to as the "River Area") and includes the facilities necessary for the protection of the structures of waterways and the safety of navigation. The scope of the above waterways shall be specified by a Cabinet Order.
- (9) In this Act, "Port of Refuge" means those ports specified by a Cabinet Order which mainly give refuge to small craft in case of a storm and are not used for the loading and unloading of cargo or boarding of passengers under normal circumstances.

(Specification of Designated Special Major Port)

- Article 2-2 (1) The Minister of Land, Infrastructure, Transport and Tourism shall designate those ports, where promotion of the efficient operation of the port through the enhancement of the functions of international container wharves has special importance for the enhancement of international competitiveness, as Designated Special Major Ports based on their cargo volumes, scale of facilities and other conditions specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism. Designated Special Major Ports shall be designated from among the Special Major Ports with international container wharves for long distance international maritime container transport, which are of a scale exceeding that specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism and are composed of quaywalls and other mooring facilities, auxiliary cargo handling facilities and Port Facilities other than the mooring facilities specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism, and are operated or shall be operated by the same private operator as a unit.
- (2) The designation set forth in the preceding paragraph may be made for two or

more Special Major Ports as one unit when an effort of coordination between two or more port management bodies of Special Major Ports is acknowledged to contribute to the promotion of efficient operation.

- (3) The Minister of Land, Infrastructure, Transport and Tourism shall, when making the designation specified in paragraph (1), make it known to the public pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (4) The Minister of Land, Infrastructure, Transport and Tourism shall rescind the designation of a Designated Special Major Port set forth in paragraph (1) (hereunder referred to simply as the "Designated Special Major Port"), when the grounds of such designation are acknowledged to be lost.
- (5) The provisions of paragraph (3) above shall apply mutatis mutandis to the rescission of the designation set forth in the preceding paragraph.

(Provisions Concerning Fishery Ports)

Article 3 The provisions of this Act shall not apply to the ports which are designated by other Acts as ports for fishery purposes; provided, however, that this shall not apply to the ports which are designated otherwise by a Cabinet Order.

Chapter I-2 Port Plan etc.

(Basic Policy for the Development of Ports and Harbors and Waterways to be Developed and Preserved)

Article 3-2 (1) The Minister of Land, Infrastructure, Transport and Tourism shall formulate a basic policy for the development, utilization and preservation of ports and harbors and for the development of the Waterways to be Developed and Preserved (hereinafter referred to as the "Basic Policy").

- (2) The Basic Policy shall cover the following matters:
 - (i) Matters concerning the direction of the development, utilization and preservation of ports and harbors
 - (ii) Basic matters concerning the location, functions and capacities of ports and harbors
 - (iii) Basic matters concerning the location and development of the Waterways to be Developed and Preserved
 - (iv) Basic matters concerning the preservation of environment to be considered in the development, utilization and preservation of ports and the development of the Waterways to be Developed and Preserved
 - (v) Basic matters concerning the need to ensure cooperation among ports which have a close relationship from economic, natural or social viewpoints
- (3) The Basic Policy shall be formulated by taking into account the role to be

played by ports and harbors and the Waterways to be Developed and Preserved for the improvement of transport systems, appropriate utilization and balanced development of national land and for the enhancement of welfare of the nation.

- (4) The Minister of Land, Infrastructure, Transport and Tourism, when intending to formulate or revise the Basic Policy, shall consult with the heads of relevant administrative organs and also hear the opinions of the Transport Policy Council.
- (5) The Port Management Body may present its opinions concerning the Basic Policy to the Minister of Land, Infrastructure, Transport and Tourism.
- (6) The Minister of Land, Infrastructure, Transport and Tourism shall, after formulating or revising the Basic Policy, make it public without delay.

(Port Plan)

Article 3-3 (1) The Port Management Body of a Major Port shall formulate a plan for the development, utilization and preservation of the port and for the preservation of areas adjacent to the port (hereinafter referred to as the "Port Plan") as specified by a Cabinet Order.

- (2) The Port Plan shall conform to the Basic Policy and satisfy the standards specified in an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism regarding basic matters including the port capacity for cargo handling and others, the scale and layout of Port Facilities suitable for the capacity of the port, and improvement and preservation of the port environment.
- (3) The Port Management Body of a Major Port shall hear the opinions of the local port and harbor council when intending to formulate or revise the Port Plan.
- (4) The Port Management Body of a Major Port, after formulating or revising the Port Plan (with the exception of minor changes as specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism) shall submit it to the Minister of Land, Infrastructure, Transport and Tourism without delay.
- (5) The Minister of Land, Infrastructure, Transport and Tourism shall hear the opinions of the Transport Policy Council on the Port Plan submitted to him/her pursuant to the provisions of the preceding paragraph.
- (6) The Minister of Land, Infrastructure and Transport and Tourism may, when he /she finds the Port Plan submitted to him/her pursuant to the provisions of paragraph (4) not to be in conformity with the Basic Policy or the standards specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism set forth in paragraph (2) or to be extremely inappropriate for the development, utilization or preservation of the said port, request the said Port Management Body to revise the Port Plan.
- (7) The Minister of Land, Infrastructure, Transport and Tourism shall, when

he/she considers that there is no need to take steps specified in the preceding paragraph on the Port Plan submitted to him/her pursuant to the provisions of paragraph (4), notify the said Port Management Body to that effect.

- (8) The Port Management Body of a Major Port shall, after making a minor revision to the Port Plan specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism set forth in paragraph (4), send the said Port Plan to the Minister of Land, Infrastructure, Transport and Tourism without delay.
- (9) The Port Management Body of a Major Port shall, when receiving the notice set forth in the provisions of paragraph (7) or making a minor revision specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism set forth in the provisions of paragraph (4), make available an outline of the Port Plan to the public without delay pursuant to an Ordinance of the Ministry of Land, Infrastructure and Transport and Tourism.
- (10) The Port Management Body of a Minor Port shall, when formulating or revising the Port Plan, make available an outline of the Port Plan to the public without delay pursuant to an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (11) The provisions of paragraph (3) shall apply mutatis mutandis where the Port Management Body of a Minor Port formulates or revises the Port Plan.

Chapter II Port Authority

Section 1 Establishment of a Port Authority etc.

(Establishment)

- Article 4 (1) The local government which actually manages port and harbor facilities in a port or the local government which has borne the cost of construction, or maintenance and management of facilities in the said port or the local public government whose water area is scheduled to be designated as a Port Area (hereinafter referred to as the "relevant local government") may establish a port authority independently or jointly with other local governments after preparing the Articles of Incorporation.
- (2) The provisions set forth in the preceding paragraph shall not apply to the ports where all or most of the waterways and basins and protective facilities for the harbor are maintained and managed by a party or parties other than the national government or a local public government, except where such party or parties have requested any of the relevant local government to establish a port authority.
 - (3) The relevant local government which intends to establish a port authority shall, after the resolution of its assembly, make known to the public its intention to establish a port authority independently or jointly with other local

governments, the scope of the proposed port area and the period in which other relevant local governments are to give their opinions concerning the matter, and shall consult with any relevant local government which has expressed its opinions. The period in which relevant local governments are to give their opinions shall not be less than one month.

- (4) If, during the period set forth in the preceding paragraph, other relevant local governments have not expressed their opinions pursuant to the provisions of the said paragraph or when an agreement is reached between the relevant local governments after the resolution of their respective assemblies as provided for in the said paragraph, the relevant local governments intending to establish a port authority shall, with respect to the scope of the proposed Port Area of the port authority, obtain approval from the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor according to the following classification pursuant to the formalities specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism:
- (i) For Major Ports/ the Minister of Land, Infrastructure and Transport and Tourism
 - (ii) For Minor Ports where a prefecture is a party to the establishment of the port authority/ the Minister of Land, Infrastructure and Transport and Tourism
 - (iii) For ports other than those specified in the preceding two items/ the prefectural governor who has jurisdiction over the area bordering the proposed Port Area
- (5) The Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor shall, when intending to give approval set forth in the preceding paragraph for the River Area or the coastal preservation area specified in the provisions of Article 3 of the Coast Act (Act No. 101 of 1956), consult with the administrative agency for the said river or the administrative agency for the said coastal preservation area regarding the scope of the proposed Port Area.
- (6) The Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor may not give approval set forth in paragraph (4) unless the area scheduled to be a Port Area is the minimum area required for the economic operation and management of the said water area as an independent port and is not in conflict with the interest of the local government whose water area borders the proposed Port Area and does not exceed the physical limits of the port as provided for in the Act on Port Regulations (Act No. 174 of 1948); provided, however, that approval may be given for a Port Area that exceeds the physical limits of the port specified by the provisions of the same Act when it is unavoidable to exceed such limits to secure the minimum area necessary for the economical operation and management of the port as an

independent port.

- (7) If an agreement set forth in paragraph (3) has not been reached, the relevant local government may apply to the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor for mediation according to the classification specified in paragraph (4). In this case, "a party to the establishment of a port authority" in paragraph (4) item (ii) shall read "a party to the issue".
- (8) The application for mediation set forth in the preceding paragraph shall be substantiated by a full account of the negotiation between the parties concerned and the opinions of the relevant local governments.
- (9) When an application is made pursuant to paragraph (7), the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor shall undertake mediation while taking into account the background of the issue, financial positions of the relevant local governments, future development plans and the degree of utilization of the said port and the relationship between the proposed port and the relevant local governments. For Major Ports, consultation with the Minister of Internal Affairs and Communications is also required.
- (10) The prefectural governor shall, after taking action set forth in paragraph (4) or undertaking mediation set forth in the preceding paragraph, report to the Minister of Land, Infrastructure, Transport and Tourism to that effect without delay.

(Status of Juridical Person)

Article 5 The port authority shall be a non-profit juridical person in public law.

(Article of Incorporation)

Article 6 (1) The Articles of Incorporation of a port authority shall stipulate the following:

- (i) Title
- (ii) Names of the local government establishing the port authority
- (iii) Office address
- (iv) Functions
- (v) Scope of the Port Area
- (vi) Matters concerning the number, term of office, appointment and dismissal of and remuneration for the members of the board of directors and matters concerning the business of the board of directors
- (vii) Matters concerning the organization and staff of the secretariat
- (viii) Matters concerning the property and finance of the port authority
- (ix) Matters concerning the contribution or sharing of expenses by the local governments establishing the port authority

- (x) Matters concerning the appropriation of surplus and disposition of losses
 - (xi) Method of public notice
 - (xii) Matters concerning the dissolution of the port authority
- (2) The Articles of Incorporation or revision thereof shall not become effective unless approved by the assembly of the local governments establishing the port authority.

(Registration)

- Article 7 (1) A Port Authority shall, pursuant to the formalities specified in a Cabinet Order, register its establishment, changes in the address of its principal office and other matters specified by a Cabinet Order.
- (2) Any matters required to be registered concerning the port authority shall not have effect against a third party until they have been registered.

(Establishment)

- Article 8 Establishment of a port authority shall be effected when its establishment is registered.

(Public Notice on Port Area)

- Article 9 (1) The port authority shall, immediately after coming into being, give a public notice concerning its establishment and the scope of the Port Area. The same shall apply when changes are made in the scope of the Port Area.
- (2) The provisions of paragraph (4) through paragraph (6) of Article 4 shall apply mutatis mutandis where the port authority intends to change the scope of the Port Area.

(Causes of Dissolution of Port Authority)

- Article 9-2 The port authority shall be dissolved upon the occurrence of any of the reasons for dissolution specified in the Articles of Incorporation.

(Special Provisions for Dissolution)

- Article 10 (1) Dissolution of a port authority shall not become effective until the local government becomes the Port Management Body for the said port pursuant to the provisions in the second sentence of paragraph (1) of Article 33; provided, however, that this shall not apply where the local government which established the port authority has obtained approval of the Minister of Land, Infrastructure, Transport and Tourism for the dissolution of the said Port Authority.
- (2) The local governments which established the port authority shall, when there is any obligation on the bonds set forth in Article 30 paragraph (1) or any other liabilities specified by a Cabinet Order at the time of its dissolution, perform

their obligation jointly pursuant to the provisions of the Articles of Incorporation.

(Capacity of Port Authority under Liquidation)

Article 10-2 A port authority which has dissolved shall be deemed to exist until the completion of its liquidation procedure within the purpose of the liquidation.

(Liquidator)

Article 10-3 When a port authority is dissolved, a member of the board of directors shall become the liquidator. However, this shall not apply when otherwise provided for in the Articles of Incorporation, or when the heads of the local governments establishing the port authority appoint parties other than a member of the board of directors with the consent of the assembly of the respective local government.

(Appointment of Liquidator by Court)

Article 10-4 The court may appoint liquidators upon a request from an interested party or a public prosecutor or by the court's own authority, if there is no liquidator pursuant to the provisions of the preceding Article, or if there is a risk of damage due to a vacancy of the liquidator.

(Dismissal of Liquidator)

Article 10-5 The court can dismiss liquidators upon a request from an interested party or a public prosecutor or by the court's own authority, if there are significant reasons.

(Liquidator and Report of Dissolution)

Article 10-6 (1) The liquidators shall report their name and address, and the cause and the date of the dissolution to the assembly of the local governments establishing the port authority.

(2) A liquidator who has assumed his/her office during the course of the liquidation shall report his/her name and address to the assembly of the local governments establishing the port authority.

(Duties and Authority of Liquidator)

Article 10-7 (1) The duties of the liquidator shall be as follows:

- (i) to conclude the current business
- (ii) to collect debts and perform obligations
- (iii) to deliver the residual assets

(2) A liquidator may perform any and all acts in order to perform his/her duties

listed in the items of the preceding paragraph.

(Demand for Filing of Claims)

- Article 10-8 (1) A liquidator shall, within two months from the day on which he/she assumed his/her office, by giving public notice on at least three occasions, demand the relevant creditors to file their claims within a stated period. In this case, the notice period may not be less than two months.
- (2) The public notice set forth in the preceding paragraph shall show that any claim of a creditor shall be excluded from the liquidation procedure unless he/she files his/her claim within the stated period; provided, however, that a liquidator may not exclude any known creditors.
- (3) A liquidator shall demand that the claim should be filed with each of the known creditors.
- (4) The public notice set forth in paragraph (1) shall be given by publishing it in the official gazette.

(Filing of Claims after Lapse of the Stated Period)

Article 10-9 Any creditor who has filed his/her claim after the lapse of the period set forth in paragraph (1) in the preceding Article shall be entitled to file his/her claim only with regard to the assets which, after all debts of the port authority have been paid off, have not yet been delivered to the persons with vested rights.

(Vesting of Residual Assets)

- Article 10-10 (1) The assets of a dissolved port authority shall vest in the person who is designated in the Articles of Incorporation.
- (2) If the Articles of Incorporation does not designate any person with whom the right should be vested, or does not provide the manner to designate such person, the liquidator may, with the consent of the assembly of the local governments establishing the port authority, dispose of the assets of the relevant port authority for any purpose which is similar to that of such port authority.
- (3) The assets which can not be disposed of pursuant to the provisions of the preceding two paragraphs shall vest in the local governments establishing the port authority.

(Supervision by the Court)

- Article 10-11 (1) The liquidation and the dissolution of a port authority shall be subject to the supervision of the court.
- (2) The court may conduct any inspection which may be necessary for the supervision set forth in the preceding paragraph, by the court's own authority.

(Notification of Conclusion of Liquidation)

Article 10-12 When any liquidation procedure has been concluded, the liquidator shall notify the assembly of the local governments establishing the port authority to that effect.

(Jurisdiction of Cases Concerning Appointment of Special Agent etc.)

Article 10-13 The following cases shall be under the exclusive jurisdiction of the district court having jurisdiction over the location of its principal office of the port authority:

- (i) Cases concerning the appointment of a special agent
- (ii) Cases concerning the supervision of the liquidation and the dissolution of the port authority
- (iii) Cases concerning the liquidator

(Restriction on Appeal)

Article 10-14 No appeal may be entered against a judicial decision on the appointment of the liquidators.

(Remuneration for Liquidators Elected by the Court)

Article 10-15 When the court has appointed a liquidator pursuant to the provisions of Article 10-4, it may specify the amount of the remuneration to be paid by the port authority to such liquidator. In this case, the court shall hear a statement from such liquidator (in the case of a port authority with auditors, from such liquidator and the auditors).

(Immediate Appeal)

Article 10-16 An immediate appeal may be entered against a judicial decision on the dismissal of the liquidator and a judicial decision pursuant to the provision of the preceding Article.

(Application Mutatis Mutandis of the Act Concerning General Corporations and General Foundations)

Article 11 The provisions of Article 4 and 78 of the Act Concerning General Corporations and General Foundations (Act No. 48 of 2006) shall apply mutatis mutandis to the port authority.

Section 2 Functions of a Port Authority

(Functions)

Article 12 (1) Functions of a port authority shall be as follows:

- (i) to prepare the Port Plan
- (ii) to maintain the Port Area and Port Facilities under the management of the port authority in good operating condition (including the removal of floating materials, abandoned ships and other materials which may hinder the navigation of ships in the Port Area, cleaning water areas and preventing pollution within the Port Area)
- (iii) to execute the Port and Harbor Works for the construction and improvement of Port Facilities (excluding waste disposal facilities other than those listed in item (xi)-3) necessary for the development, utilization and preservation of the port and for preserving the area adjacent to the Port Area
- (iii)-2 to create or improve land in the Port Area or Waterfront Area through reclamation of the water area, raising or leveling of ground or other works in addition to the works specified in the preceding item
- (iv) to be entrusted with the management of Port Facilities for public use (including the land necessary for the operation of the port) owned by the National Government or local governments
- (iv)-2 to enforce necessary regulations on the use of waterways and basins
- (v) to operate by itself mooring facilities for public use which are needed to promote the convenience of the general public, and to impose necessary regulations on ships utilizing these facilities including the assignment of mooring facilities
- (v)-2 to accept entrance notice and clearance notice received from ships entering or clearing the port
- (vi) to install facilities necessary for fire-fighting, rescue and security and to provide oil fences, chemicals and other materials necessary for the removal of oil spills in the Port Area
- (vii) to conduct surveys and studies and compile statistics necessary for the development, utilization and preservation of the port, and publicize the said port
- (viii) to provide services to ships, including water supply, assistance in docking and undocking of ships and treatment of waste oils generated by ships and other services when these services are not provided properly and adequately by others
- (ix) to lease out Port Facilities under its management which are not required for public use or are not appropriate for operation by itself
- (x) to impose regulations regarding the use of Port Facilities on those who render services necessary for the port operation using transit shed, cargo handling equipment and other Port Facilities managed by the Port Authority in order to ensure the smooth flow of cargo traffic and effective use of the said Port Facilities
- (xi) to arrange services necessary for the operation of the port

- (xi)-2 to facilitate loading and unloading, storage, sorting and transportation of cargo in the Port Area and Waterfront Area in addition to the services specified in the preceding item
 - (xi)-3 to manage and operate dikes for waste disposal areas, marine waste treatment facilities (meaning facilities for the treatment of waste materials generated by ships or offshore facilities provided for in Article 3, item (x) of the Act on Prevention of Marine Pollution and Maritime Disaster (Act No. 136 of 1970) (including toxic liquid waste provided by Article 44 of the same Act) or waste materials generated as a result of the works as listed in item (ii) or the measures taken for the prevention of marine pollution other than dikes for waste disposal areas; the same shall apply hereinafter), waste oil disposal facilities (meaning those set forth in Article 3, item (xiv) of the same Act) and emission treatment facilities (meaning those provided for Article 44 of the same Act)
 - (xii) to establish or manage such facilities as resting areas or temporary living quarters for ships' crew and harbor workers for the promotion of their welfare
 - (xiii) to prepare and publicize the latest tariff showing the rates and charges for the services and facilities necessary for the utilization of the port
 - (xiv) Other activities necessary for providing the services set forth in the preceding items
- (2) Necessary matters concerning the entrance or clearance notice provided for in item (v)-2 of the preceding paragraph shall be specified by an Ordinance of the local government constituting the Port Authority which is specified in the Articles of Incorporation.
 - (3) The ordinance of the local government set forth in the preceding paragraph shall be legislated while paying due respect to the original draft prepared by the said port authority.
 - (4) The tariff set forth in paragraph (1) item (xiii) shall include the rates provided for in Article 45 which have been reported to the port authority or have been made known to the port authority, in addition to the rates determined by the port authority itself.
 - (5) A port authority shall make an outline of the Port Facilities under its management known to the public pursuant to an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Regulations)

Article 12-2 A port authority may establish regulations concerning the matters within its authority insofar as they do not conflict with laws and regulations or ordinances of the local governments which established the port authority.

(Non-Intervention with Private Enterprises)

- Article 13 (1) A port authority shall not obstruct or interfere with the fair activities of private enterprises in the port transportation business, warehousing business and other businesses related to transportation and storage of goods nor shall it operate a business in competition therewith.
- (2) A port authority shall not give discriminatory treatment to any party with respect to the use of facilities and the management and operation of the port.

Section 3 Organization of a Port Authority

(Board of Directors)

Article 14 A port authority shall have a board of directors.

(Authority and Responsibility of the Board of Directors)

Article 15 The board of directors shall be responsible for the formulation of policies of the port authority and shall direct and regulate the administration of the port authority.

(Organization of the Board of Directors and Appointment of Members)

- Article 16 (1) The board of directors shall be composed of not more than seven members pursuant to the Articles of Incorporation.
- (2) The number of members may be increased up to eleven for the board of directors of a port authority which is established by more than three local governments, regardless of the provisions of the preceding paragraph.
- (3) The head of the local government establishing a port authority shall appoint the members of the board of directors set forth in the preceding two paragraphs from among persons with extensive knowledge and wide experience in matters relating to ports and harbors or persons of high reputation with the consent of the assembly of the respective local government.
- (4) The total number of members of the board of directors provided in paragraph (1) and (2) shall be more than twice the number of members set forth in the proviso to item (ii) of paragraph (1) of the following Article.

(Persons not Eligible as Members)

- Article 17 (1) The following persons shall not be eligible as a member of the board of directors:
- (i) Member of the National Diet
 - (ii) A member of the assembly of the local government; provided, however, that this shall not apply when only one member is appointed for each local government from among assemblymen recommended by the assembly of the local government establishing the port authority

- (iii) A contractor engaged in construction works of the port authority, or in case the contractor is a juridical person, officer or any person, regardless of his/her title, who has authority or power equivalent to or exceeding that of the officer (including those who fell under this category during the period of one year prior to the appointment)
- (iv) An officer of an organization of contractors listed in the preceding item or any person, regardless of his/her title, who has authority or power equivalent to or exceeding that of the officer (including those who fell under this category during the period of one year prior to the date of appointment)
- (2) Any member of the board of directors who, during his/her term of office, has fallen under any of the items of the preceding paragraph shall resign.

(Term of Office for Members)

Article 18 (1) The term of office of a member of the board of directors shall not exceed three years; provided, however, that the term of office of a member who has filled a vacancy shall be for the remainder of his/her predecessor's term of office.

- (2) A member of the board of directors may be reappointed.
- (3) The term of office of the members first taking office following the establishment of the port authority shall be determined by the head of the local government establishing the port authority at the time of their appointment in such a manner as to prevent the expiration of the term of office of many members at the same time.

(Dismissal of Members)

Article 19 The head of the local governments establishing the port authority may dismiss any member of the board of directors with the consent of its assembly when he/she considers the said member is unable to perform his/her duties owing to a mental or physical disorder or when he/she considers the said member has acted contrary to his/her duties or the behavior of the said member is not acceptable as a member of the board of directors.

(Chairman)

Article 20 (1) The board of directors shall have a chairman who shall be elected from among the members.

- (2) The chairman shall preside over the meetings of the board of directors.

(Method of Decision-making)

Article 21 (1) All decisions of the board of directors shall be made by a majority vote of its members.

- (2) No member of the board of directors shall exercise their vote in a decision of

the board of directors on a matter in which he/she has special interest as determined by the board.

(Auditors)

Article 22 (1) A port authority may have an auditor or auditors pursuant to the provisions of the Articles of Incorporation.

(2) The provisions of Article 16 paragraph (3) and Article 17 and 19 shall apply mutatis mutandis to the appointment and dismissal of auditors.

(Duties and Authority of Chairman)

Article 23 (1) The chairman, on behalf of the port authority, shall preside over the functions of the port authority as the head thereof and shall conduct business related to the development, utilization, preservation and management of the port placed under his/her authority by laws and regulations or the ordinance of the local government set forth in Article 45-2.

(2) Members of the board of directors other than the chairman shall represent the port authority, assist the chairman in directing the functions of the port authority, and act on behalf of the chairman when he/she is unable to attend to his/her duties or when the post is vacant pursuant to the provisions of the Articles of Incorporation.

(3) Auditors shall audit the business of the port authority.

(Limitation of the Authority of the Board of Directors)

Article 23-2 Restrictions on the right of representation of a member may not be asserted against a third party without his/her knowledge.

(Acts in Conflict of Interest)

Article 23-3 A member does not have the authority of representation with regard to matters for which his/her interest and the interest of the port authority conflict with each other. In this case, the court shall appoint a special agent upon a request from an interested party or a public prosecutor.

(Secretariat)

Article 24 A port authority shall have a secretariat with the necessary staff to perform administrative works pursuant to the provisions of the Articles of Incorporation.

(Local Port and Harbor Council)

Article 24-2 (1) A local port and harbor council shall be established within the port authority of a Major Port for the purpose of investigating and deliberating important matters related to the said port upon a request from the chairman of

the board of directors and a local port and harbor council shall be established within the port authority of a Minor Port as necessary pursuant to the regulations set forth in Article 12-2.

- (2) The matters concerning the title, organization and management of the local port and harbor council shall be provided for by the regulations set forth in Article 12-2.

(Remuneration for the Chairman)

Article 25 (1) A port authority shall pay a salary to the members of the board of directors, auditors and its employees who are in full-time service.

- (2) The amount of salary set forth in the preceding paragraph shall be determined based on the nature and responsibilities of the assignments and on standards adopted for persons engaged in similar works in the local area; provided, however, that it shall not exceed the amount of salary of the head of the local government establishing the port authority (or whichever the higher remuneration when two or more persons come under this category).

- (3) Members of the board of directors and auditors who receive a salary set forth in paragraph (1) shall not engage in other work for remuneration.

(Status as Public Service Personnel)

Article 26 Members of the board of directors, auditors and employees of a port authority shall be deemed as public service personnel in accordance with laws and regulations insofar as the application of penal laws is concerned.

(Appointment and Dismissal of Members of the Board of Directors etc. when a Port Authority is Established by more than Two Local Governments)

Article 27 When a port authority is established by more than two local governments, the matters concerning the execution of authority by the head of the local government and the assembly on the appointment and dismissal of the members of the board of directors set forth in Article 16 paragraph (3), proviso to item (ii) of paragraph (1) of Article 17, Article 18 paragraph (3), Article 19 and Article 22 paragraph (2) shall be provided for in the Articles of Incorporation of the port authority.

Section 4 Finance of a Port Authority

(Investment)

Article 28 No party other than the local governments establishing a port authority shall be entitled to invest in the said Port Authority.

(Principles of Finance)

Article 29 All expenses incurred by a port authority for the performance of its functions (excluding the cost of Port and Harbor Works) shall be covered by charges and rent of the Port Facilities under its management, charges for such services as water supply provided by the port authority and other incomes derived from the management and operation of the port.

(Issuance of Bonds)

Article 30 (1) A port authority may issue bonds to raise funds for the construction, improvement or rehabilitation of the Port Facilities.

(2) The provisions of paragraph (1), (2) and (6) of Article 5-3 of the Local Government Finance Act (Act No. 109 of 1948) (limited to the parts pertaining to necessary norms for judgment of permission), and Article 5-4 paragraph (1) (excluding item (i) and (ii)), paragraph (2) and (6) (limited to the part pertaining to the proviso of the paragraph (1) of Article 5-3 of the same Act) shall apply mutatis mutandis to the case set forth in the preceding paragraph. In this case, "the following local government" in the part other than those listed in each item of paragraph (1) of Article 5-4 of the same Act shall read "the following port authority and a port authority which compensated its losses of the preceding year pursuant to the provisions of paragraph (2) of Article 31 of Port and Harbor Act (Act No. 218 of 1950)".

(3) A port authority shall, pursuant to the provisions of the Articles of Incorporation, put aside in each business year a reserve fund to be appropriated for the redemption of bonds issued pursuant to the provisions of paragraph (1).

(4) The reserve fund set forth in the preceding paragraph shall not be used for any purpose other than the redemption of bonds.

(Disposition of Profit and Loss)

Article 31 (1) When there is still a balance after appropriation of surplus for the redemption reserve as stipulated in the preceding Article and the reserve for future loss, a port authority shall transfer the balance to the local governments which established the port authority pursuant to the provisions of the Articles of Incorporation.

(2) When a loss incurred by a port authority cannot be covered adequately by the reserve set forth in the preceding paragraph, the local government which established the port authority shall compensate the loss pursuant to the provisions of the Articles of Incorporation.

(Inventory of Assets)

Article 32 A port authority shall prepare an inventory of assets, a balance sheet and a statement of profit and loss and submit them to the local governments

which established the port authority within two months following the end of each business year.

Chapter III The Local Government as a Port Management Body

(Establishment of a Local Public Entity as the Port Management Body)

Article 33 (1) For a port where no port authority has been established, the relevant local government may become a Port Management Body by itself or establish a local public entity set forth in paragraph (2) or (3) of Article 284 of the Local Autonomy Act (Act No. 67 of 1947) as the Port Management Body. The same shall apply when a port authority is to be dissolved pursuant to the provisions of the Articles of Incorporation in the port.

(2) The provisions of paragraph (2) through (10) of Article 4 shall apply mutatis mutandis to the case set forth in the preceding paragraph, the provisions of paragraphs (4) through (6) of the same Article to the case where the local government as the Port Management Body makes changes in the scope of the Port Area, and the provisions of paragraph (1) of Article 9 to the case where the local government as the Port Management Body obtains approval for the designation of or changes in the scope of the Port Area. In these cases, "the relevant local government which proposes the establishment of a port authority" shall read "the relevant local government which intends to become a Port Management Body or proposes the establishment of a local public entity set forth in paragraph (2) or paragraph (3) of Article 284 of the Local Autonomy Act to act as the Port Management Body".

(Functions)

Article 34 The provisions of Article 12 and 13 shall apply mutatis mutandis to the functions of the local government which acts as the Port Management Body.

(Board of Directors)

Article 35 (1) A local government which acts as the Port Management Body may establish a board of directors as the organ to carry out the functions set forth in the provisions of the preceding Article.

(2) The title, organization and authority of the board of the directors shall be provided for in an ordinance of the local government.

(3) When the board of directors set forth in paragraph (1) is established, the local government which acts as the Port Management Body shall notify the Minister of Land, Infrastructure, Transport and Tourism to that effect.

(Local Port and Harbor Council)

Article 35-2 (1) A local port and harbor council shall be established within the

local government acting as the Port Management Body of a Major Port for the purpose of investigating and deliberating important matters related to the said port upon a request by the head of the local government acting as the Port Management Body or the board of directors set forth in paragraph (1) of the preceding Article if such is established within the local government and a local port and harbor council shall be established within the local government as the Port Management Body of a Minor Port, as necessary, pursuant to the provisions of an ordinance of the local government.

- (2) The matters concerning the title, organization and management of the local port and harbor council shall be provided for in an ordinance of the local government.

(Effects of the Establishment of a Port Authority)

Article 36 (1) When a port authority is established or the local government becomes the Port Management Body pursuant to the provisions of Article 33 in the port where another local government has been the Port Management Body pursuant to the provisions of the same Article, the local government which has hitherto been the Port Management Body shall lose its position as the Port Management Body insofar as the Port Area is under the jurisdiction of the new Port Management Body.

- (2) The provisions of the preceding paragraph shall apply mutatis mutandis where the local government becomes the Port Management Body pursuant to the provisions in the second sentence of paragraph (1) of Article 33 for the port where a port authority has hitherto been the Port Management Body.

Chapter IV Port Area and Waterfront Area

(Approval of Works within the Port Area)

Article 37 (1) Any party who intends to engage in the works listed in any of the following items within the Port Area or the area adjacent to the Port Area as designated by the Port Management Body (hereinafter referred to as "the Area adjacent to the Port Area") shall obtain approval from the Port Management Body; provided, however, that this shall not apply when a party who has obtained authorization set forth in the provisions of paragraph (1) of Article 2 of the Public Water Body Reclamation Act (Act No. 57 of 1921) engages in the said work within the authorized water area:

- (i) Proprietary use of a water area (including the space above and the sea bottom as provided for by a Cabinet Order; the same shall apply hereinafter) or public-owned open spaces within the Port Area
- (ii) Mining of sand and earth in the water area or public-owned open spaces within the Port Area

- (iii) Construction or improvement of waterways and basins, protective facilities for harbors, mooring facilities, canals and irrigation ditches or drainage ditches (excluding those facilities associated with the proprietary use set forth in item (i))
 - (iv) Such acts as provided for by a Cabinet Order which may seriously obstruct the development, utilization or preservation of the port, with the exception of those acts listed in each of the preceding items
- (2) When the acts set forth in the preceding paragraph are of the nature which seriously obstruct the utilization or preservation of the port or seriously impede the implementation of the Port Plan made public pursuant to the provisions of paragraph (9) or (10) of Article 3-3, or otherwise considerably interfere with the development of the port, the Port Management Body shall not give approval to such acts nor shall it give approval to the proprietary use of the water area set forth in item (i) or the act set forth in item (iv) of the preceding paragraph with regard to the waterways and basins under the management of the Port Management Body, except when otherwise provided for in a Cabinet Order.
- (3) When the acts set forth in paragraph (1) are contemplated by the national government or the local government, "shall obtain approval of the Port Management Body" in paragraph (1) shall read "shall consult with the Port Management Body" and "nor shall it give approval" in the preceding paragraph shall read "shall agree to the proposal for negotiation".
- (4) The Port Management Body may collect charges for the proprietary use or mining of sand and earth from the party who obtained authorization set forth in paragraph (1) item (i) or item (ii) for the water area within the Port Area or public-owned open spaces pursuant to an ordinance of the local government or the regulations set forth in Article 12-2; provided, however, that this shall not apply to the act performed as a result of negotiations between the parties concerned provided for in the preceding paragraph.
- (5) The Port Management Body may, pursuant to an ordinance of the local government or the regulations set forth in Article 12-2, impose on the party who has evaded the charges for the proprietary use or for mining of sand and earth set forth in the preceding paragraph by fraud or other illegal means a penalty not exceeding five times the amount evaded.
- (6) The proceeds from the charges for the proprietary use and mining of sand and earth set forth in paragraph (4) and the penalty set forth in the preceding paragraph shall be treated as an income of the said Port Management Body.

(Area Adjacent to Port Area)

Article 37-2 (1) Designation of the Area adjacent to the Port Area set forth in the provisions of paragraph (1) of the preceding Article shall be limited to the

minimum required area for the preservation of the Port Area and the area adjacent thereto within a radius of one hundred meters outside the Port Area.

(2) The Port Management Body, in designating the Area adjacent to the Port Area, shall hold a public hearing to give the parties who have interests in the proposed area an opportunity to express their views concerning the intended designation after giving in advance a public notice indicating the date and place of the public hearing and the scope of the area proposed for such designation. The same shall apply when changes are made in the scope of the area.

(3) When the designation of the Area adjacent to the Port Area is made, the Port Management Body shall give public notice concerning the designated area and notify the Minister of Land, Infrastructure, Transport and Tourism to that effect.

(Prohibited Acts)

Article 37-3 (1) No party shall dispose of or leave vessels or other objects specified by the Port Management Body without due cause in the Port Area, the Area adjacent to the Port Area and Waterfront Area or the area for a Port Facility acknowledged by the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of paragraph (6) of the Article 2 (limited to the area acknowledged as especially necessary for the development, utilization and preservation of the port considering the condition of the utilization, location and others of the Port Facilities and specified as such by the Port Management Body).

(2) The Port Management Body shall make it known to the public pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism when specifying the area or object set forth in the provisions of the preceding paragraph. The same shall apply to the rescissions of the specification.

(3) Specification or rescission set forth in the preceding paragraph shall become effective by a public notice set forth in the same paragraph.

(Waterfront Area)

Article 38 (1) The Port Management Body may designate the Waterfront Area in areas other than the city planning area designated pursuant to the provisions of Article 5 of the City Planning Act.

(2) The Waterfront Area set forth in the preceding paragraph shall be limited to the minimum for the management and operation of the port in the area bordering the Port Area.

(3) The Port Management Body shall make it known to the public in advance pursuant to the provisions of an Ordinance of the Ministry of Land,

Infrastructure, Transport and Tourism when it intends to designate the Waterfront Area set forth in the paragraph (1) and make the proposed Waterfront Area available for public inspection for two weeks from the day of the public notice.

- (4) Any interested party who considers that the proposed area for the Waterfront Area does not comply with the provisions of paragraph (2), may bring the matter to the attention of the Minister of Land, Infrastructure, Transport and Tourism and request him/her to instruct the Port Management Body to change the proposed area for the Waterfront Area prior to the expiration of the period for public inspection set forth in the preceding paragraph.
- (5) The Minister of Land, Infrastructure, Transport and Tourism may, when such a request set forth in the preceding paragraph is made and he/she finds such a request to be reasonable, after giving the Port Management Body an adequate opportunity to show that the proposed Waterfront Area is in compliance with the provisions of paragraph (2) at the public hearing to be held by the Transport Council at the said port, instruct the Port Management Body to change the proposed Waterfront Area indicating the reason.
- (6) When the Minister of Land, Infrastructure, Transport and Tourism finds that the measures set forth in the preceding paragraph on the proposed Waterfront Area set forth in paragraph (3) need not to be taken, he/she shall notify the said Port Management Body to that effect.
- (7) When a request set forth in paragraph (5) is made, the Port Management Body shall not specify the Waterfront Area set forth in paragraph (1) before it makes necessary changes to the proposed Waterfront Area or it receives the notice set forth in the paragraph (6).
- (8) The Port Management Body shall, when it specifies the Waterfront Area set forth in paragraph (1), make it known to the public and shall make the scope of the Waterfront Area available for public inspection pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (9) The specification of the Waterfront Area set forth in paragraph (1) shall come into effect following the public notification set forth in the preceding paragraph.

(Reporting of Acts in a Waterfront Area)

Article 38-2 (1) Any party who intends to engage in any of the acts listed in the following items within the Waterfront Area shall report to the relevant Port Management Body to that effect not later than sixty (60) days prior to the start of the said activity pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism; provided, however, that this shall not apply when a party who has been granted permission set forth in the provisions of Article 37 paragraph (1) is engaged in the authorized activity or

when a party listed in paragraph (3) of the same Article is engaged in the activity set forth in the provisions of the same paragraph which is agreed upon by the Port Management Body:

- (i) Construction or improvement of waterways and basins, canals, irrigation ditches or drainage ditches
 - (ii) Construction or improvement of waste disposal facilities specified by a Cabinet Order other than those provided in the premises of factories and others provided for in the following item (limited to those facilities which are used exclusively for the treatment of waste generated in the said factories and others)
 - (iii) Construction or expansion of a factory or a workplace in which the total floor area of the workshops or the total ground area of the factory or the workplace (hereinafter referred to as the "Factories etc.") located within one industrial complex which exceeds the area specified by a Cabinet Order
 - (iv) Construction or improvement of facilities specified by a Cabinet Order which may seriously obstruct the development, utilization or preservation of the port, except for those facilities listed in the preceding three items
- (2) Any party who intends to make a report pursuant to the provisions of the preceding paragraph shall submit a written report containing the following information to the Port Management Body:
- (i) Name or title and address of the party or name of the representative in case of a juridical person
 - (ii) Such information as prescribed below for acts listed in items (i) and (ii) of the preceding paragraph:
 - (a) Location, type and structure of the said facilities
 - (b) Plans for the use of the said facilities
 - (iii) Such information as prescribed below for acts listed in item (iii) of the preceding paragraph:
 - (a) Location, type and ground area of factories etc. and floor area of work shops
 - (b) Approximate quantity of incoming and outgoing cargo associated with the operation of the factories etc. and the transport plan thereof
 - (c) Approximate quantity of waste generated by the operation of the factories etc. and disposal plan thereof
 - (iv) Other matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism
- (3) Work specifications of the facilities related to the reported acts set forth in the preceding paragraph and other documents specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism shall be attached to the said report.
- (4) Any party who has made a report pursuant to the provisions of paragraph (1),

- when intending to make changes in the matters listed in items (ii) through (iv) of paragraph (2) in relation to the acts for which he/she has made a report, shall notify the Port Management Body to that effect not later than sixty (60) days prior to the start of the work necessitated by the said change, pursuant to an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (5) Any party who has made a report pursuant to the provisions of paragraph (1) shall, if any change occurs related to the matters listed in item (i) of paragraph (2) while the said work is in progress, report that to the Port Management Body without delay.
- (6) The provisions of paragraph (3) shall apply mutatis mutandis to the reporting set forth in the provisions of paragraph (4).
- (7) When the Port Management Body receives a report set forth in the provisions of paragraph (1) or (4) and finds that the reported act does not conform to the standards listed in the following items (items (iii) and (iv) for the acts listed in items (i), (ii) and (iv) of paragraph (1); the same shall apply to the following paragraph and paragraph (10)), the said Port Management Body may recommend within sixty days from the receipt of the said report that the party who made the report should change the plan or take necessary measures in relation to the said act:
- (i) That the transportation plan for the incoming and outgoing cargo of the factories etc. to be constructed or expanded is appropriate in light of the capacity of Port Facilities in the said Port and the Port Plan made public pursuant to the provisions of paragraph (9) or (10) of Article 3-3
 - (ii) That the quantity and type of waste to be generated from the construction or expansion of factories etc. and to be disposed of within the said Port Area or Waterfront Area (excluding the premises of the said factories etc.) is appropriate in light of the waste disposal plan specified in the Port Plan made public pursuant to the provisions of paragraph (9) or (10) of Article 3-3
 - (iii) That the said act will not seriously obstruct the implementation of the Port Plan made public pursuant to the provisions of paragraph (9) or (10) of Article 3-3
 - (iv) That the said act will not seriously obstruct the utilization and preservation of the port
- (8) When the Port Management Body receives a report set forth in the provisions of paragraph (1) or (4) and finds that the reported act (excluding the acts listed in item (ii) and (iv) of paragraph (1)) does not conform to the standards listed in the items of the preceding paragraph and makes it difficult to manage and operate the port unless major changes are made in the Port Plan regarding the development of waterways and basins, protective facilities for harbors, mooring facilities and port transport facilities, the said Port Management Body may, within sixty days from the receipt of the report, order the party who made the

report to change the plan.

- (9) When the party listed in Article 37 paragraph (3) intends to engage in any of the acts listed in paragraph (1) (excluding acts provided for in the proviso of the same paragraph), he/she shall notify the Port Management Body according to the formalities set forth in the same paragraph, and when intending to make changes in the matters already reported, shall notify the Port Management Body to that effect according to the formalities set forth in the provisions of paragraph (4).
- (10) When the Port Management Body receives a notification set forth in the provisions of the preceding paragraph and finds that the notified act does not conform to the standards listed in the items of the paragraph (7), the said Port Management Body may, within sixty days from the receipt of the notification, request the party who made the notification to change the plan or take necessary measures.

(Designation of Zones)

Article 39 (1) The Port Management Body may designate zones as listed in the following items within the Waterfront Area.

- (i) Commercial zone: a zone designated for handling passengers or general cargo
 - (ii) Special cargo zone: a zone designated for handling coal, ores and other cargo which are normally handled in bulk
 - (iii) Industrial zone: a zone designated for the establishment of factories and other industrial facilities
 - (iv) Railway connection zone: a zone designated for railway connection with ferryboats
 - (v) Fishery zone: a zone designated for handling marine products or for necessary preparations by fishing boats for sailing out
 - (vi) Bunker zone: a zone designated for storage and supply of ship fuel.
 - (vii) Hazardous materials zone: a zone designated for handling explosives and other hazardous materials
 - (viii) Marina zone: a zone designated for yachts, motor boats and other craft for sporting and recreational purposes
 - (ix) Scenic and recreation zone: a zone designated for the preservation of scenery and the promotion of the welfare of harbor workers and persons visiting the port
- (2) Designation of zones set forth in the preceding paragraph shall be limited to the area under the jurisdiction of the local government acting as the Port Management Body (the local government constituting the port authority where a port authority is already established).

(Restrictions within zones)

- Article 40 (1) No building or structure specified by an ordinance of the local government acting as the Port Management Body (the local government which constitutes a port authority and has jurisdiction over the zone and is specified by the Articles of Incorporation when the port authority is the Port Management Body) shall be constructed if it will seriously impede the intended use of the zones listed in the preceding Article. And no building or structure shall be remodeled or undergo a change in use that causes it to be classified as a structure specified by the said ordinance.
- (2) In legislating the ordinance of the local public government set forth in the preceding paragraph, the local public government establishing the port authority shall respect the draft bill prepared by the said port authority.
- (3) The local public government set forth in paragraph (1) may include a provision in its ordinance for the imposition of a fine of not more than 300,000 yen on any party who has violated the provisions of the same paragraph.

(Measures Against Illegal Structures)

- Article 40-2 (1) The Port Management Body may order the owner or occupant of a building or other structure which was constructed in violation of paragraph (1) of the preceding Article or those which have undergone a change in the use or remodeling and become a structure in violation of the same paragraph to remove, relocate, remodel or change the use of the said structure.
- (2) The Port Management Body shall, when intending to give orders set forth in the preceding paragraph, hold a hearing regardless of the classification of the procedure of hearings set forth in the provisions of paragraph (1) of Article 13 of the Administrative Procedure Act (Act No. 88 of 1993).
- (3) The Port Management Body who holds a hearing set forth in the preceding paragraph shall permit any party to participate in the procedure for the said hearing when the party has interests in the said order and requests to participate in the procedure pursuant to the provisions of paragraph (1) of Article 17 of the Administrative Procedure Act.

(Alteration of Undesirable Structures)

- Article 41 (1) The Port Management Body may order the owner or occupant of a building or structure to remodel, relocate or remove the said structure, when a building or other structures within the zone comes under the category specified in the ordinance set forth in Article 40 paragraph (1) following its enforcement and seriously impedes the intended use of the said zone.
- (2) The provisions of paragraph (2) and (3) of the preceding Article shall apply mutatis mutandis when the Port Management Body intends to give orders set forth in the preceding paragraph.

- (3) The Port Management Body shall, in relation to the loss resulting from the orders set forth in the provisions of paragraph (1), compensate the owner or occupant of the structure for a loss which would have been normally avoided under ordinary circumstances and a loss of profits which would have been normally gained under ordinary circumstances but for the order.
- (4) When the party who is entitled to receive compensation pursuant to the provisions of the preceding paragraph is dissatisfied with the amount of compensation determined by the Port Management Body, he/she may bring a suit against the Port Management Body for an increase in the amount of compensation, within six months from the day on which the notice indicating the amount of compensation is received.

Chapter V Cost of Port and Harbor Works

(Sharing of Cost)

- Article 42 (1) When major works such as construction or improvement of waterways and basins, protective facilities for harbors or mooring facilities in Major Ports (excluding those of small scale specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism) are undertaken by the Port Management Body for the purpose of public use, the cost of such works shall be shared between the National Government and Port Management Body, with each bearing a half (1/2) of the total cost.
- (2) When works such as construction or improvement of waterways and basins or protective facilities for harbors in Ports of Refuge are undertaken by the Port Management Body, the cost of such works shall be shared between the National Government and the Port Management Body, with each bearing a half (1/2) of the total cost.
 - (3) The provisions of the preceding two paragraphs shall not apply if the amount to be borne by the National Government is not reported to the Minister of Land, Infrastructure, Transport and Tourism in advance and incorporated in the budget approved by the National Diet.
 - (4) The provisions of Article 17 and paragraph (1) of Article 19 of the Local Government Finance Act shall apply mutatis mutandis to the case of the port authority set forth in paragraph (1). In this case, "a local government" in the said Act shall read "a port authority".

(Subsidies for Cost)

- Article 43 The National Government may, when it finds it particularly necessary, provide a subsidy, other than that specified under the provisions of the preceding Article, within the limit of the budget, to help finance Port and Harbor Works for public use undertaken by the Port Management Body

(excluding Port Facilities listed in item (iv)) pursuant to the following standards:

- (i) Up to four tenths (4/10) of the cost of Port and Harbor Works for the construction or improvement of small scale facilities specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism set forth in paragraph (1) of the preceding Article among waterways and basins, protective facilities or mooring facilities for harbors in Major Ports
- (ii) Up to a half (1/2) of the cost of Port and Harbor Works for the construction or improvement of port transport facilities in Major Ports
- (iii) Up to four tenths (4/10) of the cost of Port and Harbor Works for the construction or improvement of waterways and basins, protective facilities for harbors, mooring facilities or port transport facilities in Minor Ports
- (iv) Up to a half (1/2) of the cost of Port and Harbor Works for the construction or improvement of port pollution control facilities or facilities for the improvement of the port and harbor environment
- (v) Up to one third (1/3) of the cost of Port and Harbor Works for the construction or improvement of dikes for waste dumping areas or marine waste treatment facilities

(Execution of Port and Harbor Works for Port Facilities Undertaken Concurrently with Other Structures and the Sharing of Cost)

Article 43-2 Execution of Port and Harbor Works for Port Facilities undertaken concurrently with other structures and the sharing of the cost shall be determined by consultation between the Port Management Body and the administrator of the said structure.

(Sharing of Cost by Other Parties)

Article 43-3 (1) When Port and Harbor Works are necessitated as a result of a construction work or an act of a party other than the Port Management Body, the Port Management Body may order the party to bear all or part of the cost to the extent the said Port and Harbor Works is necessitated.

(2) The parties to bear the cost and the method of their collection in the case set forth in the preceding paragraph shall be stipulated by an ordinance of the local government acting as the Port Management Body (the local government specified by the Articles of Incorporation from among the local governments constituting the port authority when the Port Management Body is a port authority).

(Obligation of Beneficiary)

Article 43-4 (1) In the event a party shall gain substantial benefits from Port and Harbor Works, the Port Management Body may order the beneficiary to

bear part of the cost up to the amount of benefits gained.

- (2) The provisions of paragraph (2) of the preceding Article shall apply mutatis mutandis to the case set forth in the preceding paragraph.

(Sharing of Cost for Port Environment Improvement Works)

Article 43-5 (1) The Minister of Land, Infrastructure, Transport and Tourism or the Port Management Body may, pursuant to the standards specified by a Cabinet Order and by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism for the Minister or an ordinance for the Port Management Body respectively, order the relevant business operator to bear part of the expenses for Port and Harbor Works (limited to the construction or improvement of Port Facilities in case of the Port and Harbor Works executed by the Minister) undertaken by them to improve or preserve the port environment (excluding the pollution control works set forth in Article 2 paragraph (2) of the Environmental Pollution Control Expense Sharing Act (Act No. 133 of 1970)), when the said work contributes to the preservation of the environment of factories or business operators within the Port Area or Waterfront Area, or prevents or alleviates the deterioration of the living environment of the surrounding areas resulting from their establishment or business activities.

- (2) The Minister of Land, Infrastructure, Transport and Tourism or the Port Management Body shall, when intending to order the party to bear the cost pursuant to the provisions of the preceding paragraph, hear in advance the opinions of the Transport Policy Council for the Minister of Land, Infrastructure, Transport and Tourism or the opinions of the local port and harbor council for the Port Management Body.

- (3) The Minister of Land, Infrastructure, Transport and Tourism shall reimburse the Port Management Body which shared the cost pursuant to the provisions of paragraph (2) of Article 52 for the amount equivalent to the burden charge paid pursuant to the provisions of paragraph (1) multiplied by the rate of share specified by paragraph (2) of Article 52.

Chapter VI Waterways to be Developed and Preserved

(Development and Preservation)

Article 43-6 The development and preservation of the Waterways to be Developed and Preserved shall be undertaken by the Minister of Land, Infrastructure, Transport and Tourism.

Article 43-7 The provisions of Articles 55-2, 55-4 and 55-5 shall apply mutatis mutandis to the works for the Waterways to be Developed and Preserved.

(Prohibitions)

- Article 43-8 (1) No party shall dump or leave unattended ships, soils and stones, and other objects specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism in the Waterways to be Developed and Preserved without good reason.
- (2) Any party desiring proprietary use of a specific water area for the installation of structures or mining of sand and earth in the Waterways to be Developed and Preserved shall obtain the approval of the Minister of Land, Infrastructure, Transport and Tourism.
- (3) The Minister of Land, Infrastructure, Transport and Tourism shall not, when the act set forth in the preceding paragraph may seriously obstruct the navigation of ships or otherwise seriously impede the development or preservation of the Waterways to be Developed and Preserved, give approval to such act.
- (4) The provisions of Article 37 paragraph (3) shall apply mutatis mutandis to the case under the preceding two paragraphs.

(Sharing of Cost)

- Article 43-9 (1) The cost of development and preservation of the Waterways to be Developed and Preserved shall be borne by the National Government except for the case set forth in the following paragraph and the subsequent Article.
- (2) The provisions of Article 43-2, Article 43-3 paragraph (1) and Article 43-4 paragraph (1) shall apply mutatis mutandis to the cost of works for the Waterways to be Developed and Preserved.
- (3) The parties to bear the cost and the method of its collection pursuant to the provisions of Article 43-3 paragraph (1) or Article 43-4 paragraph (1), which apply mutatis mutandis to the preceding paragraph shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Execution of Works Requested by Business Operators)

- Article 43-10 The provisions of Article 8 paragraph (1) and (2) of the Enterprise Rationalization Promotion Act (Act No. 5 of 1952) shall apply mutatis mutandis to the works for the Waterways to be Developed and Preserved.

Chapter VII Miscellaneous Provisions

(Charges Collected by the Port Management Body)

- Article 44 (1) The Port Management Body shall, when intending to collect charges from a beneficiary of the facilities or the services it provides (excluding port dues set forth in paragraph (1) of the following Article), prepare the tariff

in advance and make it public at least thirty days prior to the date on which it takes effect. The same shall apply to a change in the tariff.

- (2) The Port Management Body shall not collect charges set forth in the preceding paragraph for use of waterways and basins (excluding basins for anchorage) or protective facilities for harbors.
- (3) Any interested party may, when it finds the tariff determined by the Port Management Body pursuant to the provisions of paragraph (1) to be unreasonable or in violation of this Act, bring the matter to the attention of the Minister of Land, Infrastructure, Transport and Tourism by the date on which the tariff takes effect and request him/her to instruct the Port Management Body to revise the tariff.
- (4) When the request is made pursuant to the preceding paragraph, the Minister of Land, Infrastructure, Transport and Tourism may, if he/she finds the said request justifiable after giving the Port Management Body a sufficient opportunity to explain the appropriateness of the tariff and its conformity to the Act at a public hearing to be held by the Transport Council at the said port, request the Port Management Body to revise the tariff indicating the reason for the revision.
- (5) The Port Management Body shall make necessary revisions to the tariff without delay when requested pursuant to the provisions of the preceding paragraph by the Minister of Land, Infrastructure, Transport and Tourism.
- (6) A port authority may impose on the party who has evaded the payment of charges set forth in paragraph (1) by fraud or other illegal means a penalty in the amount not exceeding five times the amount evaded, pursuant to the regulations set forth in Article 12-2.

(Port Dues)

- Article 44-2 (1) The Port Management Body may collect port dues from ships entering the port for the utilization of the port; provided, however, that no port dues shall be collected from ships engaged in maritime safety and rescue, hydrographic or meteorological observation, or monitoring of fishing activities and other ships specified by a Cabinet Order.
- (2) The Port Management Body of a Major Port specified by a Cabinet Order shall, when intending to collect port dues set forth in the preceding paragraph, prepare a ceiling for the tariff and consult with and obtain approval from the Minister of Land, Infrastructure, Transport and Tourism in advance pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism. The same shall apply in the case of revision.
 - (3) The Port Management Body set forth in the preceding paragraph shall set the tariff within the ceiling approved pursuant to the same paragraph and submit it to the Minister of Land, Infrastructure, Transport and Tourism in advance

pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism. The same shall apply in the case of revision.

- (4) The provisions of paragraphs (1), (3), (4) and (5) of the preceding Article shall apply mutatis mutandis to the port dues to be collected by a Port Management Body other than those specified in paragraph (2) and the provisions of paragraph (6) of the preceding Article shall apply mutatis mutandis to the port dues to be collected by a port authority.

(Disposition of Delinquency)

Article 44-3 (1) The provisions of paragraph (1) and (2) and the first sentence of paragraph (3) of Article 231-3 of the Local Autonomy Act shall apply mutatis mutandis to port dues and other incomes, penalties and other revenues of a port authority. In this case, "the ordinance of the local public entity" in paragraph (2) of the same Article shall read "the regulations set forth in Article 12-2 of the Port and Harbor Act".

- (2) The income set forth in the preceding paragraph and the charges and arrears set forth in the provisions of Article 231-3 paragraph (2) of the Local Autonomy Act which apply mutatis mutandis to the preceding paragraph shall hold prior rights next to the national taxes and local taxes and the provisions of Articles 18 through 18-3 of the Local Tax Act (Act No. 226 of 1950) shall apply mutatis mutandis to the prescription thereof and the provisions of Article 17 through 17-4 of the same Act to the handling thereof.

- (3) The regulations set forth in Article 231-3 paragraph (2) of the Local Autonomy Act which apply mutatis mutandis under paragraph (1) shall not take effect until approved by the assembly of the local government establishing the port authority.

(Charges Collected by Parties Other than the Port Management Body)

Article 45 (1) Any party other than the Port Management Body who intends to collect charges for facilities and services it provides in the port shall prepare the tariff and submit a statement showing the rates to the said Port Management Body.

- (2) The provisions set forth in the preceding paragraph shall not apply to the facilities and services provided under contract on a case by case basis.

(Delegation of Administrative Works)

Article 45-2 The local government which has established a port authority may delegate administrative works related to the development, utilization, preservation and management of the port (excluding administrative works to be handled by the said local government as specified by a law or Cabinet

Order) to the chairman of the board of directors of the port authority; provided, however, that it shall be based on an ordinance of the local government to impose obligations or delegate administrative works which limit rights.

(Request to be Made in Case of Congestion)

Article 45-3 The Port Management Body may, when he/she finds the smooth operation of the port is seriously hindered by a shortage of mooring facilities due to a large number of ship calls, request the party managing the mooring facilities other than the Port Management Body to make such facilities available to the ships calling the port to the greatest extent possible.

(Transfer of Port Facility Established with the National Funds or Subsidies)

Article 46 (1) The Port Management Body shall, when intending to transfer, mortgage or lease out a Port Facility established with national funds or subsidies, obtain approval from the Minister of Land, Infrastructure, Transport and Tourism; provided, however, that this shall not apply when the amount equal to the national funds or subsidies has been reimbursed to the National Government or when the lessee offers such facilities for public use and the term of lease is less than three years.

(2) The Port Management Body shall not take any action which may lead to the unavailability of the Port Facility under its management for public use except when the approval of the Minister of Land, Infrastructure, Transport and Tourism is obtained pursuant to the provisions of the main clause of the preceding paragraph or for the case specified in the proviso of the same paragraph.

(Prohibition of Discriminatory Treatment)

Article 47 (1) The Minister of Land, Infrastructure, Transport and Tourism may, when he/she finds an act of the Port Management Body to be in violation of the provisions of Article 13 (including where the same provisions apply mutatis mutandis to the provisions of Article 34), instruct the Port Management Body to suspend or amend the said act.

(2) The Port Management Body shall suspend the said act or take necessary procedures to amend the said act without delay when the request of the Minister of Land, Infrastructure, Transport and Tourism set forth in the preceding paragraph is made.

Article 48 Deleted

(Report on Settlement of Account)

Article 49 The Port Management Body of a Major Port shall prepare and make

public reports on the settlement of account in relation to the performance of its business and other matters concerning the port on an annual basis and submit copies thereof to the Minister of Land, Infrastructure, Transport and Tourism in accordance with the formalities specified in an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Port Ledger)

Article 49-2 (1) The Port Management Body shall maintain a port ledger for the port under its management.

(2) Necessary matters concerning the port ledger shall be provided by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Standardization of Reports on Ships Entry and Departure)

Article 50 (1) The form of an application to use a Port Facility for public use pursuant to an ordinance of the local government set forth in the provisions of paragraph (2) of Article 12 (including when it is applied mutatis mutandis in Article 34, and hereinafter the same in this paragraph and paragraph (4) of the next Article) and other ordinances of the local government or the regulations set forth in the provisions of Article 12-2, and of entrance or clearance notices set forth in item (v)-2 of paragraph (1) of Article 12 and other notices to the Port Management Body (hereinafter referred to as "Applications etc.") provided for by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism (excluding the applications etc. to be made through the electronic data processing systems pursuant to the provisions of paragraph (4) of the next Article) shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism regardless of the provisions of paragraph (2) of Article 12.

(2) The Minister of Land, Infrastructure, Transport and Tourism may give necessary instructions other than those listed in the preceding paragraph to the Port Management Body in order to standardize the format of reports on ships' entry and departure to be received by the Port Management Body.

(Establishment and Management of Electronic Data Processing System)

Article 50-2 (1) The Minister of Land, Infrastructure, Transport and Tourism may establish and manage electronic data processing systems as follows:

(i) a system to quickly and correctly process applications specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism and notices of disposition of the said Applications, notices of receipt and other notices made by the Port Management Body specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism (hereinafter referred to as the "Disposition Notice" in this Article)

- (ii) a system to efficiently implement Port and Harbor Works by collecting, analyzing and providing information concerning waves and other information specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism (hereinafter referred to as the "Wave Information" in this Article)
 - (iii) a system to reliably and smoothly conduct access control of the restricted zone by checking, by the means specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism, personal identification information (meaning photographs or other information with which the person can be distinguished and shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism. Hereinafter the same shall apply in this Article) of those who enter and exit the restricted zone (meaning the zone designated and managed pursuant to the provisions of the same Article paragraph (1)) for important international terminal facilities (meaning the important international terminal facility set forth in paragraph (1) of Article 29 of the Act for Securing Security of International Navigational Ships and International Port Facility (Act No. 31 of 2004), the same shall apply in the following paragraph)
- (2) The Port Management Body who uses the electronic data processing system set forth in item (i) of the preceding paragraph, the recipient of the Wave Information by the electronic data processing system set forth in item (ii) of the same paragraph (excluding the National Government and Port Management Body) and the administrator who uses the electronic data processing system set forth in item (iii) of the same paragraph or the person whose personal identification information shall be checked by the said electronic data processing system shall pay a user's fee pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (3) The Minister of Land, Infrastructure, Transport and Tourism shall make a public notice of the Port Management Body set forth in the preceding paragraph in the official gazette.
- (4) The form for Applications and Disposal Notices through the electronic data processing system shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism regardless of the provisions of paragraph (2) of the Article 12.
- (5) Necessary matters concerning the establishment and management of the electronic data processing systems other than those specified in the preceding paragraphs shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (6) The electronic data processing system set forth in the preceding paragraphs (excluding paragraph (3)) means the electronic data processing system listed in the following items respectively:

- (i) a system listed in paragraph (1) item (i): the electronic data processing system which connects the computer designated by the Minister of Land, Infrastructure, Transport and Tourism (including input-output apparatuses; hereinafter the same shall apply in this paragraph) with computers used by the Port Management Body and the parties who submit Applications and receive Disposal Notices through a telecommunications line
- (ii) a system listed in paragraph (1) item (ii): the electronic data processing system which connects the apparatus for the collection of the Wave Information designated by the Minister of Land, Infrastructure, Transport and Tourism with computers used by the parties who receive the Wave Information through a telecommunications line
- (iii) a system listed in paragraph (1) item (iii): the electronic data processing system which connects computers designated by the Minister of Land, Infrastructure, Transport and Tourism with the apparatuses for checking personal identification information through a telecommunications line

(Establishment of the Joint Committee of Port Management Bodies)

Article 50-3 (1) The Minister of Land, Infrastructure, Transport and Tourism may, when he/she finds it necessary from a comprehensive and broad-based perspective to promote the development, utilization and preservation of two or more ports under separate management, recommend the Port Management Bodies of these ports to deliberate on rules, and establish a joint committee as a means of communicating and coordinating views between them on such matters as the preparation of the Port Plan, utilization of the ports, improvement of the port environment and other important matters related to the development, utilization and preservation of ports.

- (2) When the Minister of Land, Infrastructure, Transport and Tourism is to make a recommendation pursuant to the provisions of the preceding paragraph, he/she shall consult with the Minister of International Affairs and Communications if the said recommendation aims at the Port Management Bodies which are concurrently the local public government.
- (3) Port Management Bodies shall notify the Minister of Land, Infrastructure, Transport and Tourism without delay, when the rules of the joint committee set forth in the provisions of paragraph (1) are set down or changed.
- (4) When a Port Management Body which is concurrently a local public government joins a joint committee set forth in paragraph (1), the provisions of Article 252-2 paragraph (2) and (6), Article 252-3, Article 252-4 paragraph (1) and Article 252-6 (limited to the provisions related to Article 252-2 paragraph (2)) of the Local Autonomy Act shall be applied. In this case, a port authority participating in the said joint committee shall be regarded as an ordinary local public government insofar as the application of these provisions are concerned.

(5) The provisions of Article 252-2 paragraph (6), Article 252-3 and Article 252-4 paragraph (1) of the Local Autonomy Act shall apply mutatis mutandis to the joint committee set forth in paragraph (1) which is comprised of only port authorities.

(Authorization of the Operator of Designated International Container Wharf)
Article 50-4 (1) The party who operates or intends to operate an international container wharf set forth in the provisions of paragraph (1) of Article 2-2 at the Designated Special Major Port (hereinafter referred to as the "Designated International Container Wharf") may apply to the Port Management Body of the Designated Special Major Port (hereinafter referred to as the "Designated Port Management Body") for the authorization that the business of operating the Designated International Container Wharf complies with the following requirements pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism:

- (i) to be in compliance with the Port Plan of the Designated Special Major Port
 - (ii) to greatly contribute to the efficient operation of the Designated Special Major Port and not to hinder the proper operation of the said Designated Special Major Port in view of its proper management
 - (iii) to have a sound economic base and anticipated to be operated smoothly and reliably
 - (iv) to be in compliance with other requirements specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism
- (2) The Designated Port Management Body shall, when an application for authorization set forth in the preceding paragraph is made, authorize the said application of the Designated International Container Warf operation business, when it finds the business to be in compliance with the requirements listed in each item of the preceding paragraph.
- (3) The Designated Port Management Body shall, when intending to give authorization set forth in the preceding paragraph, obtain the consent of the Minister of Land, Infrastructure, Transport and Tourism in advance.
- (4) When the Designated Port Management Body gives the authorization listed in paragraph (2), it shall make available to public inspection for a period of two weeks the contents of the application for the said authorization pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure and Transport and Tourism.
- (5) Any party interested in the contents of the application for the authorization under public inspection pursuant to the provisions of the preceding paragraph may submit written opinions to the said Designated Port Management Body by the expiration date of the public inspection period.
- (6) The Designated Port Management Body shall, after giving authorization

under paragraph (2), make public the name or title of such authorized party (hereinafter referred to as the "Authorized Operator"), a description of the Specific International Container Wharf operation business, the progress of the processing of written opinions submitted pursuant to the provisions of the preceding paragraph and other matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism without delay.

- (7) The Designated Port Management Body may, when it finds the Specific International Container Wharf operation business fails to comply with any of the requirements listed in each item of paragraph (1), recommend the Authorized Operator to take necessary measures.
- (8) The Designated Port Management Body may rescind the authorization, when the Authorized Operator who received the recommendation set forth in the preceding paragraph does not take necessary measures according to the said recommendation. In this case, the Designated Port Management Body shall notify this to the Minister of Land, Infrastructure, Transport and Tourism in advance.
- (9) The Minister of Land, Infrastructure, Transport and Tourism may state his/her opinion he/she considers necessary on such rescission set forth in the first sentence of the preceding paragraph to the Designated Port Management Body.

(Joint Committee for the Sophistication of the Functions of Designated International Container Wharves)

Article 50-5 (1) The Designated Port Management Body may establish within each Designated Special Major Port a joint committee (hereinafter referred to in this Article as the "Joint Committee") to make necessary coordination for the promotion of efficient operation of the Designated Special Major Port through the enhancement of functions of Designated International Container Wharves.

- (2) The Joint Committee shall consist of the head of the Designated Port Management Body, the Minister of Land, Infrastructure, Transport and Tourism, heads of other relevant administrative organs or officials appointed by them, and the Authorized Operator.
- (3) The Joint Committee may, when it finds it necessary, request relevant administrative organs other than its members and business operators to provide materials, offer opinions, explanations and other necessary cooperation.
- (4) Members of the Joint Committee shall respect the results of the coordination of the matters agreed to in the committee meeting set forth in paragraph (1).
- (5) In addition to what is provided for in the preceding paragraphs, the Joint Committee shall specify necessary matters for its management.

(Recommendations)

Article 51 The Minister of Land, Infrastructure, Transport and Tourism may, when he/she finds it especially necessary for the development, utilization and preservation of a Major Port, recommend the relevant local government to establish a Port Management Body.

(Port and Harbor Works Implemented by the National Government)

Article 52 (1) The Minister of Land, Infrastructure, Transport and Tourism may undertake the following Port and Harbor Works within the limits of the budget when such works are necessary for the betterment of public transport, prevention of pollution or improvement of the environment of a Major Port or for the betterment of public transport in a Port of Refuge provided that an agreement is reached between the National Government and the Port Management Body:

- (i) Port and Harbor Works on waterways and basins, protective facilities for harbor, mooring facilities or port transport facilities specified as necessary by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism for a Major Port to function as a hub of an international or domestic maritime transport network
 - (ii) Large scale Port and Harbor Works specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism among port pollution control facilities, facilities for the improvement of the port and harbor environment, dikes for a waste dumping area or maritime waste disposal facilities necessary for a Major Port to function as a hub of a transport network specified in the preceding item
 - (iii) Large scale Port and Harbor Works specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism among waterways and basins or protective facilities for harbor in a Port of Refuge
 - (iv) Port and Harbor Works which require sophisticated technology and other works which are difficult to be undertaken by the Port Management Body itself other than those listed in the preceding three items
- (2) The cost of construction or improvement of facilities listed in the following items which are included in the Port and Harbor Works undertaken by the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of the preceding paragraph shall be borne by the Port Management Body of the said port at the rate listed in each of the following items:
- (i) waterways and basins, protective facilities for harbor or mooring facilities (limited to those necessary for a port to function as a hub of an international maritime transport network and specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism) or port transport facilities (excluding those listed in item (vi)) of a Special Major Port: one third (1/3) of

the cost

- (ii) waterways and basins, protective facilities for harbor, mooring facilities or port transport facilities (excluding those listed in the preceding item and item (vi)) of a Major Port: four point five tenths (4.5/10) of the cost
 - (iii) port pollution control facilities or facilities for the improvement of the port and harbor environment of a Major Port: one half (1/2) of the cost
 - (iv) dikes for waste disposal areas or marine waste treatment facilities of a Major Port: two thirds (2/3) of the cost
 - (v) waterways and basins or protective facilities of harbor in a Port of Refuge (excluding those listed in the following item): one third (1/3) of the cost
 - (vi) waterways and basins, protective facilities for harbor or port transport facilities (limited to the Port and Harbor Works listed in item (iv) of the preceding paragraph): one half (1/2) of the cost
- (3) The provisions of paragraph (1) of Article 17-2 and paragraph (2) of Article 19 of the Local Government Finance Act shall apply mutatis mutandis to the case set forth in the preceding paragraph for a port authority. In this case, "a local public entity" shall read "a port authority".

(Transfer of Land or Structures)

Article 53 The Minister of Land, Infrastructure, Transport and Tourism may transfer a tract of land or a structure created by Port and Harbor Works pursuant to the provisions of the preceding Article to the Port Management Body. The transfer in this case shall be without charge with respect to the cost shared by the Port Management Body.

(Lease of Port Facilities)

Article 54 (1) Except for the case set forth in the preceding Article, the Minister of Land, Infrastructure, Transport and Tourism (the Minister of Finance for ordinary property set forth in the provisions of Article 3 of the National Property Act (Act No. 73 of 1948)) shall lease out Port Facilities (including land necessary for the management and operation of the port) created by Port and Harbor Works, pursuant to the provisions of Article 52 or entrust the management of them to the Port Management Body.

(2) The Port Management Body shall bear the cost of management for the Port Facility which has been placed under its management pursuant to the provisions of the preceding paragraph. In this case, the charges and rent derived from the said Port Facility shall be the income of the Port Management Body.

(3) In addition to what is specified in the preceding paragraph, necessary matters related to entrusting the management of the Port Facility shall be specified by a Cabinet Order.

Article 54-2 (1) When a Port Management Body is established, the Port Facility which is owned by or under the management of the National Government and which is necessary for public use (excluding navigation aids) shall be transferred or leased out to the Port Management Body or the management thereof shall be entrusted to the Port Management Body.

(2) The provisions of the preceding two Articles shall apply mutatis mutandis to the case set forth in the preceding paragraph. In this case, "Port Management Body" in the last sentence of Article 53 shall read "the local government acting as the Port Management Body (in the case when the said local government is the local public entity specified in Article 284 paragraph (2) or (3) of the Local Autonomy Act, the local government which organizes the said local public entity) or the local government establishing a port authority".

(Lease of the Administrative Property which Forms Designated Specific Piers)

Article 54-3 (1) A party who operates or intends to operate a specified wharf (meaning a Port Facility composed of quay walls, other mooring facilities and attached cargo handling facilities, and Port Facilities other than mooring facilities specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism (excluding the Designated International Container Wharf) at a Major Port and operated by the same party as one unit hereinafter the same in this Article) may apply for authorization that the specified wharf operation business conforms with the Port Plan of the said port and with other requirements specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism to the Port Management Body of the said port (hereinafter referred to simply as the "Port Management Body" in this Article) pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(2) The Port Management Body shall, when the application for authorization set forth in the preceding paragraph is made, authorize the specified wharf operation regarding the said application when it finds it in compliance with the requirements of the same paragraph.

(3) The Port Management Body shall, in advance, obtain the consent of the Minister of Land, Infrastructure, Transport and Tourism when intending to give the authorization set forth in the preceding paragraph.

(4) The Port Management Body shall, when it gives authorization set forth in paragraph (2), take necessary measures pursuant to an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism to ensure the lease set forth in paragraph (6) is implemented through fair procedures including making available for public inspection the contents of the said application for authorization.

- (5) The Port Management Body shall, when it has given the authorization set forth in paragraph (2), make public the name or title of the party authorized and a description of the specified wharf operation and other matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism without delay.
- (6) The Port Management Body may lease the administrative property (meaning the administrative property set forth in paragraph (2) of Article 3 of the National Property Act or paragraph (4) of Article 238 of the Local Autonomy Act) which forms the specified wharf to the party authorized pursuant to the provisions of paragraph (2) regardless of the provisions of paragraph (1) of Article 18 of the National Property Act or paragraph (1) of Article 238-4 of the Local Autonomy Act.
- (7) The provisions of Article 604 of the Civil Code (Act No. 89 of 1896) and Article 3 and 4 of the Act on Land and Building Lease (Act No. 90 of 1991) shall not apply to the lease set forth in the preceding paragraph.
- (8) The Provisions of Article 21, 23 and 24 of the National Property Act and the provisions of paragraph (2) of Article 238-2 and paragraph (4) through (6) of Article 238-5 of the Local Autonomy Act shall apply mutatis mutandis to the lease set forth in the provisions of paragraph (6).
- (9) In the application of the provisions of paragraph (1) of Article 46 to the lease of the administrative property pursuant to the provisions of paragraph (6) by the Port Management Body to the party authorized pursuant to the provisions of paragraph (2), "or when" and "less than three years" in the proviso of the same paragraph shall read as "and when" and as "less than three years or when leased pursuant to the provisions of paragraph (6) of Article 54-3" respectively.
- (10) The Port Management Body shall, when it finds that the specified wharf operation does not comply with the requirements set forth in paragraph (1), recommend that the party authorized pursuant to the provisions of paragraph (2) take necessary measures.
- (11) The Port Management Body may, when the party who received the recommendation set forth in the provisions of the preceding paragraph does not take necessary measures according to the said recommendation, rescind the authorization set forth in paragraph (2). In this case, the Port Management Body shall promptly notify the Minister of Land, Infrastructure, Transport and Tourism to that effect.
- (12) In addition to what is specified in the preceding paragraphs, necessary matters for the lease of the specified wharf shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Lease of the Administrative Property Forming a Designated International

Container Wharf)

- Article 55 (1) The Minister of Land, Infrastructure, Transport and Tourism may lease to the Authorized Operator a Port Facility created by Port and Harbor Works set forth in Article 52 which is the administrative property set forth in paragraph (2) of Article 3 of the National Property Act forming a Designated International Container Wharf regardless of the provisions of paragraph (1) of Article 54 and the provisions of paragraph (1) of Article 18 of the National Property Act.
- (2) The Minister of Land, Infrastructure shall, Transport and Tourism, when he/she intends to lease the Port Facility set forth in the preceding paragraph, obtain consent from the Designated Port Management Body on the location and name of the Port Facility pertaining to the said lease, the lease period and other matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism in advance.
- (3) The Minister of Land, Infrastructure, Transport and Tourism shall consult with the Minister of Finance prior to leasing set forth in the provisions of paragraph (1).
- (4) The Designated Port Management Body may lease the administrative property set forth in paragraph (4) of Article 238 of the Local Autonomy Act forming the Designated International Container Wharf to the Authorized Operator regardless of the provisions of paragraph (1) of Article 238-4 of the same Act.
- (5) The Provisions of Article 604 of the Civil Code and Article 3 and 4 of the Act on Land and Building Lease shall not apply to the lease set forth in the provisions of paragraph (1) and the preceding paragraph.
- (6) The Provisions of Article 21 and Article 23 through 25 of the National Property Act, and the provisions of paragraph (2) of Article 238-2 and paragraph (4) through (6) of the Article 238-5 of the Local Autonomy Act shall apply mutatis mutandis to the lease set forth in the provisions of paragraph (1) and to the lease set forth in the provisions of paragraph (4) respectively.
- (7) In the application of the provisions of paragraph (1) of Article 46 to the leasing of the administrative property set forth in paragraph (4) by the Designated Port Management Body to the Authorized Operator, "or when" and "less than three years" in the proviso of the same paragraph shall read "when" and as "less than three years or when leased pursuant to the provisions of paragraph (4) of Article 55" respectively.
- (8) In addition to what is specified in the preceding paragraphs, necessary matters on the lease of the Designated International Container Wharf shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Entry to Land Owned by Others)

Article 55-2 (1) When entry to the land owned by others is indispensable for field investigations and surveying for Port and Harbor Works, the Minister of Land, Infrastructure, Transport and Tourism or the Port Management Body may allow his/her staff engaged in such works access to the said land.

(2) The Minister of Land, Infrastructure, Transport and Tourism or the Port Management Body shall, when intending to allow his/her staff access to the land owned by others pursuant to the provisions of the preceding paragraph, notify the owner or the occupant of the said land to that effect at least five days prior to the date on which the staff is to enter the said land; provided, however, that this shall not apply when such notification is not practical.

(3) The entry set forth in paragraph (1) shall not be made before sunrise or after sunset except when the consent of the owner or the occupant of the said land is obtained.

(4) The staff set forth in paragraph (1) shall, when entering into land owned by others pursuant to the provisions of the same paragraph, have in his/her possession an identification card and produce it upon request of the parties concerned.

(Temporary Use of Land Owned by Others in case of Emergency)

Article 55-3 (1) The Port Management Body may, when it is essential to protect a Port Facility from immediate danger in case of emergency, order any person present at the scene or any resident in the vicinity to engage in works to protect the Port Facility or use temporarily the land owned by others or use, expropriate or dispose of soils and stones, bamboo and wood, and other materials.

(2) The provisions of Chapter III of the Administrative Procedure Act shall not apply to the order set forth in the preceding paragraph.

(Management of Port Facilities for Wide Area Disaster Management by the Minister of Land, Infrastructure, Transport and Tourism)

Article 55-3-2 (1) The Minister of Land, Infrastructure, Transport and Tourism may, when he/she finds it necessary for the implementation of emergency measures for a wide area disaster (measures such as emergency transportation outside of the area of a prefecture and others (specified in Article 50 paragraph (1) of the Basic Act on Disaster Control Measures (Act No. 223 of 1961)) and others implemented using Port Facilities and specified in an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism; hereinafter the same shall apply in this Article), determine a period of time to manage by himself/herself the Port Facility deemed necessary to implement emergency measures for a wide area disaster and specified by an Ordinance of the

Ministry of Land, Infrastructure, Transport and Tourism among Port Facilities created by Port and Harbor Works pursuant to Article 52 in the wide area disaster management zone of ports (meaning the zones which the Minister of Land, Infrastructure, Transport and Tourism has publicly notified in advance as a zone especially necessary for the implementation of emergency measures for wide area disasters in consideration of the utilization, layout and other factors of Port Facilities within a Port Area, Waterfront Area and other area for a Port Facility which the Minister of Land, Infrastructure, Transport and Tourism has designated pursuant to the provisions of Article 2 paragraph (6); hereinafter the same shall apply in this Article), regardless of the provisions of Article 54 paragraph (1) (referred to as the "Port Facility for Wide Area Disaster Management" in this Article).

- (2) The Minister of Land, Infrastructure, Transport and Tourism shall, when intending to designate the wide area disaster management zone of a port, consult with and obtain the consent of the Port Management Body of the port where the Port Facility for Wide Area Disaster Management is located in advance.
- (3) The Minister of Land, Infrastructure, Transport and Tourism shall, when designating the wide area disaster management zone of a port, make public the area of the said zone without delay.
- (4) The provisions of the preceding two paragraphs shall apply mutatis mutandis to the revision and abolition of the wide area disaster management zone of a port.
- (5) The Minister of Land, Infrastructure, Transport and Tourism shall, when he has commenced the management of a Port Facility for Wide Area Disaster Management pursuant to the provisions of paragraph (1), publicize the period during which he/she shall manage the Port Facility for Wide Area Disaster Management and other matters specified in an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism without delay.
- (6) The Minister of Land, Infrastructure, Transport and Tourism may, when he/she manages a Port Facility for Wide Area Disaster Management pursuant to the provisions of paragraph (1), request the Port Management Body of the port where the said Port Facility is located to take necessary measures (excluding those specified in the following paragraph) for the implementation of emergency measures for a wide area disaster.
- (7) When managing a Port Facility for Wide Area Disaster Management pursuant to the provisions of paragraph (1), the Minister of Land, Infrastructure, Transport and Tourism may use temporarily the land owned by others or use, expropriate or dispose of soils and stones, bamboo and wood, and other materials in the wide area disaster management zone of a port when it is essential to implement emergency measures for a wide area disaster.

(Compensation for Loss)

Article 55-4 (1) The National Government or the Port Management Body shall compensate the party who has suffered losses from the acts set forth in Article 55-2 paragraph (1), Article 55-3 paragraph (1) or the preceding Article paragraph (7).

(2) The provisions of Article 41 paragraphs (3) and (4) shall apply mutatis mutandis to the case set forth in the preceding paragraph. In this case, "Port Management Body" in paragraph (4) of the same Article shall read "the National Government or the Port Management Body".

(Compensation for Works Necessitated by Port and Harbor Works)

Article 55-5 (1) When Port and Harbor Works undertaken by the Minister of Land, Infrastructure and Transport and Tourism or a Port Management Body have caused a party other than the Port Management Body to undertake work, the National Government or the Port Management Body shall reimburse the cost to the extent the work is necessitated. Provided that, however, in the event the party derives large profits from the work that is necessitated, the National Government or the Port Management Body shall not reimburse the cost to the extent the profit is derived.

(2) The provisions of Article 41 paragraph (4) shall apply mutatis mutandis to the case set forth in the preceding paragraph. In this case, "Port Management Body" in the same paragraph shall read "the National Government or the Port Management Body".

(Special Provisions for State Financing pertaining to Port and Harbor Works
When the Cost is Borne by Business Operators)

Article 55-6 When Port and Harbor Works undertaken by the Minister of Land, Infrastructure, Transport and Tourism or the Port Management Body have been requested by a business operator pursuant to the provisions of Article 8 paragraph (1) of the Enterprise Rationalization Promotion Act, the cost of the said work less the amount to be borne by the business operator pursuant to the provisions of paragraph (2) or (4) of the same Article or when Port and Harbor Works undertaken by them is the pollution control work specified in Article 2 paragraph (2) of the Environmental Pollution Control Expense Sharing Act, the cost of the said work less the amount to be borne by the business operator pursuant to the provisions of the said Act, shall be shared between the National Government and the Port Management Body, or shall be subsidized by the National Government in accordance with the ratio of cost sharing or the rate of subsidy for Port and Harbor Works set forth in this Act and other laws and regulations concerning Port and Harbor Works.

(Loan for the Construction and Improvement of Port Facilities with Specific Uses)

- Article 55-7 (1) When the Port Management Body of a Major Port extends an interest-free loan to a party other than a Port Management Body (excluding the National Government), whom the Minister of Land, Infrastructure, Transport and Tourism considers to conform with the requirements specified by a Cabinet Order, for the construction or improvement of the port facilities with specific uses and the conditions of the said loan are in conformity with the requirements set by a Cabinet Order set forth in paragraph (5) in addition to the requirements set forth in the provisions of paragraph (3), the National Government may extend, to cover the said loan, an interest-free loan of the amount specified by a Cabinet Order to the said Port Management Body up to the amount of the loan extended by the Port Management Body.
- (2) The port facility with specific uses set forth in the preceding paragraph shall be Port Facilities for which a construction plan or an improvement plan has been established in the Port Plan made public pursuant to the provisions of Article 3-3 paragraph (9) and listed as follows:
- (i) Quay walls or piled piers provided for the usage specified by a Cabinet Order and cargo handling facilities and other Port Facilities attached to them specified by a Cabinet Order.
 - (ii) Cargo handling facilities located nearby a wharf provided for the usage specified by a Cabinet Order and roads and other Port Facilities attached to them specified by a Cabinet Order.
- (3) The Port Management Body shall, in extending a loan pertaining to the loan extended by the National Government set forth in paragraph (1), specify in the terms of the loan that, in the event the beneficiary has used the loan for any purpose other than the intended, or has infringed on the terms of loan, the Port Management Body may collect a surcharge from the beneficiary pursuant to the provisions of a Cabinet Order.
- (4) When the Port Management Body collects a surcharge in accordance with the conditions of the loan pursuant to the provisions of the preceding paragraph, the said surcharge in whole or in part shall be remitted to the National Government pursuant to the provisions of a Cabinet Order.
- (5) In addition to what is specified in the preceding two paragraphs, such matters as the method of redemption, shortening and extending of the loan redemption period, collection of fines and other necessary conditions for the terms of loans extended by the national government set forth in paragraph (1) and loans extended by the Port Management Body pertaining to the loan extended by the National Government set forth in the same paragraph, shall be specified by a Cabinet Order.

(Loan for the Construction and Improvement of the Port Facility Forming a Designated International Container Wharf)

- Article 55-8 (1) When a Designated Port Management Body extends an interest-free loan to an Authorized Operator for the construction or improvement of cargo handling facilities and other Port Facilities specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism which form a Designated International Container Wharf and the conditions of the said loan are in conformity with the provisions of the preceding Article paragraph (3) as applied mutatis mutandis to the next paragraph and the requirements specified by a Cabinet Order set forth in the same Article paragraph (5) as applied mutatis mutandis to the next paragraph, the National Government may extend, to cover the said loan, an interest-free loan of the amount specified by a Cabinet Order to the said Designated Port Management Body up to the amount of the said loan.
- (2) The provisions of paragraph (3) through (5) of the preceding Article shall be applied mutatis mutandis to the loan extended by the National Government set forth in the preceding paragraph and the loan extended by the Designated Port Management Body pertaining to the loan extended by the National Government set forth in the same paragraph. In this case, "Port Management Body" in these provisions shall read "Designated Port Management Body" and "beneficiary" in the provisions of paragraph (3) of the same Article shall read "benefited Authorized Operator".

(Ports Without a Designated Port Area)

- Article 56 (1) When a water area has been designated and made public by a prefectural governor who has jurisdiction over the area bordering the said water area in a port without a designated Port Area, any party who intends to construct waterways and basins, protective facilities or mooring facilities in this water area (excluding Waterways to be Developed and Preserved), make proprietary use of a part of the water area (excluding reclamation of public-owned water area), or obtain sand and earth or engage in any other act which may obstruct the utilization or preservation of the port as specified by a Cabinet Order, shall obtain approval from the prefectural governor.
- (2) The provisions of Article 4 paragraph (5) and (6) shall apply mutatis mutandis where the prefectural governor designates a water area pursuant to the provisions of the preceding paragraph.
- (3) The provisions of paragraph (2) through (6) of Article 37 shall apply mutatis mutandis to the case referred to in paragraph (1).

Article 56-2 (1) No party shall be allowed to dump or leave unattended ships or

other objects specified by the prefectural governor without good reason in the water area pursuant to the provisions of paragraph (1) of the preceding Article (limited to the area specified by the prefectural governor and found especially necessary for the utilization and preservation of the port in view of such factors as the utilization and location of the Port Facilities (excluding the area of Waterways to be Developed and Preserved)).

- (2) The provisions of paragraph (2) and (3) of the Article 37-3 shall apply mutatis mutandis where the prefectural governor specifies an area or objects, or rescinds the specification pursuant to the provisions of the preceding paragraph.

(Technical Standards for Port Facilities)

Article 56-2-2 (1) Waterways and basins, protective facilities, mooring facilities and other Port Facilities specified by a Cabinet Order (hereinafter referred to as the "Port Facilities Subject to the Technical Standards" in this and the next paragraph), in addition to the provisions of other regulations which are applied to Port and Harbor Facilities, shall be constructed, improved and maintained in compliance with the technical standards (hereinafter referred to as the "Technical Standards") provided by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism regarding the necessary performance required by Port Facilities Subject to the Technical Standards.

- (2) A party (except the National Government) who intends to construct or improve a Facility Subject to the Technical Standards recognized as having substantial influence on public safety and other national interests specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism shall obtain the confirmation that the Facility Subject to the Technical Standard to be constructed or improved is in compliance with the Technical Standards from the Minister of Land, Infrastructure, Transport and Tourism or parties who have registered with the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of the next Article (hereinafter referred to as the "Registered Confirmation Agency"). However, this shall not apply to the construction or improvement using design methods set by the Minister of Land, Infrastructure, Transport and Tourism.

- (3) A party who intends to obtain the confirmation set forth in the preceding paragraph may apply for the confirmation from the Minister of Land, Infrastructure, Transport and Tourism or a Registered Confirmation Agency pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

- (4) In addition to what is prescribed in the preceding two paragraphs, the written application form and other necessary matters in relation to the confirmation shall be provided by an Ordinance of the Ministry of Land, Infrastructure,

Transport and Tourism.

(Registration)

- Article 56-2-3 (1) The registration in paragraph (2) of the preceding Article (hereinafter referred to as "Registration") shall be made by way of an application from a party who intends to engage in confirmation services provided in the same paragraph (hereinafter referred to as the "Confirmation Services").
- (2) The Minister of Land, Infrastructure, Transport and Tourism shall register those applicants satisfying all of the following requirements who applied pursuant to the provisions of the preceding paragraph (hereinafter referred to as the "Applicant"). Necessary procedures for registration shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism:
- (i) Uses a comprehensive evaluation method on facility performance for judging whether the facilities to be constructed or improved are in conformity with the Technical Standards (hereinafter referred to as the "Judgment of Conformity")
 - (ii) Has confirmation personnel as specified in Article 56-2-8 paragraph (1) that conduct the Judgment of Conformity, and the number of personnel shall be not less than two
 - (iii) An Applicant under the control of a party who shall obtain confirmation under the provisions of paragraph (2) of the preceding Article or a party undertaking the design or construction of a Port Facility (referred to as the "Party Related to Port Facility Construction" in this item and paragraph (2) of Article 56-2-10) shall not fall under any of the following:
 - (a) The Party Related to Port Facility Construction is the parent company (as provided in Article 879 paragraph (1) of the Companies Act (Act No. 86 of 2005)) of the Applicant, when the Applicant is a stock company.
 - (b) More than one half of the board members (partners executing business for a membership company (as provided in Article 575 paragraph (1) of the Companies Act)) of the Applicant are board members or employees of the Party Related to Port Facility Construction (including those who were board members or employees of the said Party in the last two years).
 - (c) The Applicant (a board member with authority of representation for a juridical person) is a board member or employee (including those who were the board members or employees in the last two years) of the Party Related to Port Facility Construction.
- (3) The following parties are not eligible to register:
- (i) A person who has been sentenced to a fine or severer punishment by violating this Act or any order pursuant to this Act, and two years have not passed from the date on which the enforcement of such punishment has been

- completed or has become not applicable
- (ii) A party for whom two years have not passed since their Registration was canceled pursuant to the provisions of Article 56-2-15
 - (iii) A juridical person having board members who fall under any of the provisions of the preceding two items
- (4) The following items shall be described in the registration book of a Registered Confirmation Agency:
- (i) Registration date and registration number
 - (ii) Name or title and address of the Registered Confirmation Agency, and for a juridical person, as well as the name of its representative
 - (iii) Address of workplace where the Registered Confirmation Agency conducts the Confirmation Services
 - (iv) Matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism other than those listed in the preceding three items
- (5) The Minister of Land, Infrastructure, Transport and Tourism shall not conduct the Confirmation Services which Registered Confirmation Agencies are able to do.

(Renewal of Registration)

- Article 56-2-4 (1) Registrations not renewed at least once every three years as provided by a Cabinet Order will cease to be effective after that period lapses.
- (2) The provisions of the preceding Article (except paragraph (5)) shall be applied mutatis mutandis to the renewal of the Registration set forth in the preceding paragraph.

(Duty of Confirmation)

- Article 56-2-5 (1) A Registered Confirmation Agency shall, when requested to conduct the Confirmation Services, do so without delay unless there is just cause.
- (2) A Registered Confirmation Agency shall perform the Confirmation Services fairly and in line with the procedure prescribed by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Notification on Change of Registration)

- Article 56-2-6 A Registered Confirmation Agency who intends to change the items listed in Article 56-2-3 paragraph (4) item (ii) through item (iv) shall notify the Minister of Land, Infrastructure, Transport and Tourism no later than two weeks before the date of the change.

(Confirmation Services Regulations)

- Article 56-2-7 (1) A Registered Confirmation Agency shall, prior to the

commencement of the Confirmation Services, set up the regulations regarding the implementation of the Confirmation Services (hereinafter referred to as the "Confirmation Service Regulations") and obtain the approval of the Minister of Land, Infrastructure, Transport and Tourism. The same shall apply for its modification.

- (2) The Minister of Land, Infrastructure, Transport and Tourism may order the modification of the Confirmation Service Regulations when he/she finds that the Confirmation Service Regulations approved in the preceding paragraph have become impractical for the proper and reliable implementation of the Confirmation Services.
- (3) The Confirmation Services Regulations shall provide for the implementation method of the Confirmation Services, fees for the Confirmation Services and other items prescribed by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Confirmation Personnel)

- Article 56-2-8 (1) Confirmation personnel shall be elected from those who are graduates from a university or a college of technology prescribed in the School Education Act (Act No. 26 of 1947) pursuing a degree in civil engineering or another field related to Port Facility construction or those acknowledged to have equivalent academic qualifications as prescribed by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism and have more than ten years of experience in the research and development of methods of comprehensive evaluation of the performance of Port Facilities (limited to the work prescribed by an Ordinance by the Ministry of Land, Infrastructure, Transport and Tourism) at a research and development institute prescribed by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (2) A Registered Confirmation Agency shall notify the Minister of Land, Infrastructure, Transport and Tourism no later than 15 days after appointing confirmation personnel. The same shall apply to any changes in confirmation personnel.
 - (3) The Minister of Land, Infrastructure, Transport and Tourism may order the Registered Confirmation Agency to dismiss the confirmation personnel when the confirmation personnel has violated this Act, an order or disposition based on this Act, or the Confirmation Services Regulations, or displays highly improper behavior in relation to the Confirmation Services.
 - (4) Those dismissed as confirmation personnel under the provisions set forth in the preceding paragraph are not eligible to become confirmation personnel for two years from the date of dismissal.

(Duty of Non-disclosure)

Article 56-2-9 (1) A Registered Confirmation Agency (board members for a juridical person; the same applies in the next paragraph) and its employees (including confirmation personnel; the same applies in the next paragraph), and persons formerly acting in such positions shall not disclose any confidential information obtained through the Confirmation Services, nor use it for their own benefit.

(2) A Registered Confirmation Agency and its employees engaged in Confirmation Services shall be deemed as officials engaged in public service by law with regard to the application of the Penal Code (Act No. 45 of 1907) and other penal provisions.

(Maintenance and Inspection of Financial Statements)

Article 56-2-10 (1) A Registered Confirmation Agency shall, within three months after the end of each business year, prepare a fixed asset register, balance sheet and profit and loss statement; or an income and expenditure statement, and business report (referred to as the "Financial Statement etc." in the next paragraph and Article 63 paragraph (1) including the electromagnetic record if the electromagnetic record (a record made by electronic form, magnetic form or any other form not recognizable to human perception and used in information processing by computers; hereinafter the same applies) is produced in lieu of paper documents). These documents shall be submitted to the Minister of Land, Infrastructure, Transport and Tourism and retained at their office for the duration of 5 years.

(2) A Party Related to Port Facility Construction or other interested parties may make the following requests during business hours of the Registered Confirmation Agency; provided, however, that requests of item (ii) or item (iv) shall be accompanied with the fee designated by the Registered Confirmation Agency:

(i) Request an inspection or copies of the Financial Statements etc.

(ii) Request a transcript or extract of the documents of the preceding item

(iii) When the Financial Statements etc. are prepared as electromagnetic records, request and inspection or copies of matters recorded in such electromagnetic records displayed in a manner prescribed by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism

(iv) Request the contents recorded in electromagnetic records set forth in the preceding item provided by means of an electromagnetic system (by use of an electronic data processing system or other means using information and communications technology prescribed by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism), or request the delivery of documents covering the said data

(Suspension or Abolition of the Confirmation Services)

Article 56-2-11 A Registered Confirmation Agency may not suspend or abolish all or a part of the Confirmation Services without approval from the Minister of Land, Infrastructure, Transport and Tourism.

(Compliance Order)

Article 56-2-12 The Minister of Land, Infrastructure, Transport and Tourism may, when a Registered Confirmation Agency fails to satisfy the qualifications prescribed in each item of paragraph (2) of Article 56-2-3, order the Registered Confirmation Agency to take necessary measures in order to satisfy the provisions in these items.

(Order of Improvement)

Article 56-2-13 The Minister of Land, Infrastructure, Transport and Tourism may, when he/she finds the Registered Confirmation Agency in violation of Article 56-2-5, order the Registered Confirmation Agency to take necessary measures to perform the Confirmation Services pursuant to the provisions of the same Article or to improve the way it conducts the Confirmation Services and other works.

(Report and Inspection)

Article 56-2-14 (1) The Minister of Land, Infrastructure, Transport and Tourism may, within the limit necessary for the enforcement of this Act, make a Registered Confirmation Agency report the status of the Confirmation Services or accounting, or order his/her officers to enter the office and other workplaces to inspect the progress of the Confirmation Services books and records or any other property.

(2) The officer who enters and inspects the office pursuant to the preceding paragraph shall carry an identification card and produce it to the relevant person.

(3) The authority given for the entry and inspection set forth in the provisions of paragraph (1) shall not be construed as authorization for a criminal investigation.

(Revocation of Registration)

Article 56-2-15 The Minister of Land, Infrastructure, Transport and Tourism may revoke the registration or order suspension of all or part of the Confirmation Services for a fixed period of time when a Registered Confirmation Agency falls under any of the following items:

(i) When a Registered Confirmation Agency falls under the situation set forth in Article 56-2-3 paragraph (3) item (i) or item (iii)

- (ii) When a Registered Confirmation Agency violates the provisions of Article 56-2-6, Article 56-2-8 paragraph (2) Article 56-2-10 paragraph (1), Article 56-2-11 or the following Article
- (iii) When a Registered Confirmation Agency performs the Confirmation Services without the approval set forth in Article 56-2-7 paragraph (1) or performs the Confirmation Services not in compliance with the Confirmation Service Regulations approved pursuant to the same paragraph
- (iv) When a Registered Confirmation Agency violates the orders set forth in the provisions of Article 56-2-7, paragraph (2), Article 56-2-8 paragraph (3), Article 56-2-12 or Article 56-2-13
- (v) When a Registered Confirmation Agency without just cause rejects a request based on the provisions of each item of Article 56-2-10 paragraph (2)
- (vi) When a Registered Confirmation Agency obtains Registration by unlawful means

(Bookkeeping)

Article 56-2-16 A Registered Confirmation Agency shall keep books and record the matters prescribed by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism on the Confirmation Services and keep the said books pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Public Notice)

Article 56-2-17 The Minister of Land, Infrastructure, Transport and Tourism shall make the following known to the public in the official gazette:

- (i) Registration
- (ii) Notification set forth in Article 56-2-6
- (iii) Approval set forth in Article 56-2-11
- (iv) Revocation of the registration or order for suspension of all or part of the Confirmation Services pursuant to Article 56-2-15
- (v) When the Minister of Land, Infrastructure, Transport and Tourism intends to handle all or part of the Confirmation Services by himself/herself pursuant to the provision of Article 56-2-19 paragraph (1) or withdraw from all or part of the Confirmation Services formerly handled by himself/herself.

(Application for Examination)

Article 56-2-18 Request for examination based on the Administrative Appeal Act (Act No. 160 of 1962) may be made to the Minister of Land, Infrastructure, Transport and Tourism with regards to the disposition or inaction of the Confirmation Services provided by a Registered Confirmation Agency.

(Handling of the Confirmation Services by the Minister of Land, Infrastructure, Transport and Tourism etc.)

Article 56-2-19 (1) The Minister of Land, Infrastructure, Transport and Tourism handles all or part of the Confirmation Services by himself/herself when a Registered Confirmation Agency has suspended all or part of the Confirmation Services with permission set forth in Article 56-2-11, when a Registered Confirmation Agency has been ordered to suspend all or part of the Confirmation Services pursuant to Article 56-2-15, or when a Registered Confirmation Agency has been unable to perform all or part of the Confirmation Services due to a natural disaster or other reasons, and when the Minister of Land, Infrastructure, Transport and Tourism has judged it necessary to take over the Confirmation Services by himself/herself.

(2) The transferring of Confirmation Services and other necessary procedures shall be prescribed by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism in case the Minister of Land, Infrastructure, Transport and Tourism handles all or part of Confirmation Services by himself/herself pursuant to the provisions of the preceding paragraph, a Registered Confirmation Agency suspends all or part of Confirmation Services with permission set forth in Article 56-2-11 or the Minister of Land, Infrastructure, Transport and Tourism revokes Registration pursuant to the provisions of Article 56-2-15.

(Payment of Fee)

Article 56-2-20 (1) A party (except an independent administrative agency provided in paragraph (1) of Article 2 of the Act on General Rules for Independent Administrative Agency (Act No. 103 of 1999) and provided by a Cabinet Order considering the duties of the agency and other conditions) who intends to apply for the confirmation (limited to cases handled by the Minister of Land, Infrastructure, Transport and Tourism) pursuant to Article 56-2-2 paragraph (2) shall, considering the actual cost, pay a fee to the National Government in an amount provided by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(2) Payment of the fee in the preceding paragraph shall be made by revenue stamp. However, for an application for confirmation in the preceding paragraph through the electronic information processing system set forth in paragraph (1) of Article 3 of the Act on Use of Information and Communication Technology in Administrative Procedure (Act No. 151 of 2002), payment shall be made in cash as specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Construction or Improvement of Waterways and Basins)

- Article 56-3 (1) Any party intending to construct or improve waterways and basins, protective facilities for harbors or mooring facilities specified by a Cabinet Order (hereinafter referred to as the "Waterways and Basins etc.") in a water area (excluding the Port Area and water areas made public under the provisions of Article 56 paragraph (1); hereinafter the same shall apply in this Article) shall submit to the relevant prefectural governor a report describing the design of the said Waterways and Basins etc., the boundaries of the water area in which such facilities are located and other matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism sixty (60) days prior to the start of the said work, pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism. The same shall apply where changes are made to the content of the report; provided, however, that, in the event works are not required as a result of such changes, a report shall be submitted without delay following the change.
- (2) The prefectural governor may, when he/she considers upon receipt of a report set forth in the provisions of the preceding paragraph that the Waterways and Basins etc. pertaining to the said report are not in conformity with the Technical Standards, prohibit or restrict the party who made the report from constructing or improving the said Waterways and Basins etc., or order the said party to take necessary measures within sixty (60) days from the date on which the report is received.
- (3) The party listed in Article 37 paragraph (3) shall, when intending to construct or improve the Waterways and Basins etc. in a water area, notify the prefectural governor to that effect pursuant to the formalities for notification set forth in the provisions of paragraph (1), and when intending to make changes to the content of the notification, notify the prefectural governor to that effect pursuant to the formalities for notification set forth in the provisions of the same paragraph.
- (4) The prefectural governor may, when he/she finds upon receipt of a notice set forth in the provisions of the preceding paragraph that the Waterways and Basins etc. pertaining to the said notice are not in conformity with the Technical Standards, request the party who made the notification to take necessary measures within sixty (60) days from the receipt of the notice.
- (5) The prefectural governor shall, upon receipt of a report set forth in the provisions of paragraph (1) or a notification set forth in the provisions of paragraph (3), make the content of the report or notification known to the public in accordance with the provisions specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Disciplinary Actions)

Article 56-4 (1) The Minister of Land, Infrastructure, Transport and Tourism,

the prefectural governor or the Port Management Body may order a party coming under item (i) (The Minister of Land, Infrastructure, Transport and Tourism for those coming under category (a), the prefectural governor for those coming under category (b) and the Port Management Body for those coming under category (c)) or a party coming under item (ii) or item (iii) to suspend works and other acts, alter, relocate or remove structures or vessels and other property (hereinafter referred to as the "Structures etc."), to eliminate obstructions which have resulted or may result from the works and other acts or the Structures etc., or provide necessary facilities or take necessary measures to eliminate such obstructions, or restore them to their original state; and may revoke or suspend the approval given under item (i) or alter the conditions attached to the approval or make new conditions to the approval for a party coming under item (ii) or item (iii):

- (i) Any party who has violated the following provisions:
 - (a) The provisions of Article 43-8 paragraph (1) or (2)
 - (b) The provisions of Article 56 paragraph (1) or Article 56-2 paragraph (1)
 - (c) The provisions of Article 37 paragraph (1) or Article 37-3 paragraph (1)
 - (ii) Any party who has infringed upon the conditions attached to the approval set forth in the provisions of Article 37 paragraph (1), Article 43-8 paragraph (2) or Article 56 paragraph (1)
 - (iii) Any party who has obtained approval set forth in the provisions of Article 37 paragraph (1), Article 43-8 paragraph (2) or Article 56 paragraph (1) by fraud or other illegal means
- (2) When the Minister of Land, Infrastructure, Transport and Tourism, the prefectural governor or the Port Management Body, intending to order necessary steps to be taken pursuant to the provisions of Article 40-2 paragraph (1), Article 41 paragraph (1) or the preceding paragraph, is unable to identify the party to whom the orders are to be given without negligence on his/her part, he/she may take necessary measures by himself/herself or have the party designated or commissioned take necessary measures. In this case, public notice shall be given in advance to the effect that the Minister of Land, Infrastructure, Transport and Tourism, the prefectural governor or Port Management Body, or the party designated or commissioned will take necessary measures if such measures are not taken within a reasonably set period of time.
- (3) The Minister of Land, Infrastructure, Transport and Tourism, the prefectural governor or the Port Management Body shall, when he/she removes or orders the removal of the Structures etc. pursuant to the provisions of the preceding paragraph, retain the said structures.
- (4) The Minister of Land, Infrastructure, Transport and Tourism, the prefectural governor or the Port Management Body shall, when he/she retains the

Structures etc. pursuant to the provisions of the preceding paragraph, publicly notify the particulars specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism for the return of the said Structures etc. to the owner, the possessor or the proprietor of the said Structures etc. (hereinafter referred to as the "Owner etc.") pursuant to an Ordinance of the Ministry of Infrastructure and Transport.

- (5) The Minister of Land, Infrastructure, Transport and Tourism, the prefectural governor or the Port Management Body shall, when there is a risk of loss or damage to the Structures etc. retained pursuant to the provisions of paragraph (3), or when the said Structure are not returned after three months from the date of the public notice set forth in the provisions of the preceding paragraph and an unreasonable cost or burden is needed for storing it in comparison with the value of the said Structure etc. evaluated pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism, sell the said Structure etc. and retain the proceeds pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (6) The Minister of Land, Infrastructure, Transport and Tourism, the prefectural governor or the Port Management Body shall dispose of the said Structures etc. when there is no purchaser of the said Structures etc. pursuant to the provisions of the preceding paragraph and their value set forth in the provisions of the same paragraph is extremely low.
- (7) The charge paid for the Structure etc. sold pursuant to the provisions of paragraph (5) may be allocated to the expense involved in selling it.
- (8) The expense involved in the removal, storage, sales, public notification and other measures taken pursuant to the provisions of paragraph (2) through (5) shall be borne by the owner etc. to whom the said Structure etc. and others is to be returned and parties mandated to take the said measures set forth in the provisions of paragraph (2).
- (9) When the Structures etc. stored pursuant to the provisions of paragraph (3) (including the charge paid pursuant to the provisions of paragraph (5). Hereinafter the same shall apply) cannot be returned even after six months from the date of public notification set forth in the provisions of paragraph (4), the ownership right of the said Structures etc. shall pass to the National Government for those stored by the Minister of Land, Infrastructure, Transport and Tourism, to the prefecture for those stored in a prefecture under the ambit of the prefectural governor, and to the Port Management Body for those stored by the Port Management Body.

(Obligation of Reporting)

Article 56-5 (1) The Minister of Land, Infrastructure, Transport and Tourism, the prefectural governor or the Port Management Body may, to the extent

necessary for the enforcement of this Act, request the party who obtained approval set forth in the provisions of Article 37 paragraph (1), Article 43-8 paragraph (2) or Article 56 paragraph (1) to submit necessary reports or have his/her officials enter the workplace or office or the business establishment of the party who has obtained approval for inspection of activities, or structures, records, documents and other necessary items pertaining to the said approval pursuant to an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

- (2) The official who enters and inspects pursuant to the provisions of the preceding paragraph shall carry an identification card and produce it to persons concerned.
- (3) The authority given for entry and inspection set forth in the provisions of paragraph (1) shall not be construed as authorization for a criminal investigation.

(Compulsory Collection)

Article 56-6 (1) The Minister of Land, Infrastructure, Transport and Tourism shall, by serving a written demand designating a deadline for the payment, demand a party who fails to pay their contribution by the due date pertaining to the disposition pursuant to the provisions of Article 43-5 paragraph (1) (limited to those pertaining to the Minister of Land, Infrastructure, Transport and Tourism), the disposition pursuant to the provisions of Article 43-2, Article 43-3 paragraph (1) or Article 43-4 paragraph (1), which apply mutatis mutandis to Article 43-9 paragraph (2), the disposition pursuant to the provisions of Article 8 paragraph (2) of the Enterprise Rationalization Promotion Act which apply mutatis mutandis to Article 43-10, the disposition concerning Port and Harbor Works, pursuant to the provisions of paragraph (4) of the same Article or the disposition pursuant to Article 56-4 paragraph (8) (limited to those pertaining to the Minister of Land, Infrastructure, Transport and Tourism). In this case, the deadline to be specified in the written demand shall be a date more than twenty (20) days from the day when the written demand is issued.

- (2) The Minister of Land, Infrastructure, Transport and Tourism may, after serving a written demand set forth in the provisions of the preceding paragraph, levy penal interest pursuant to the provisions of a Cabinet Order. In this case, the amount of penal interest shall be not more than the amount calculated at a rate of 14.5% per annum.
- (3) The Minister of Land, Infrastructure, Transport and Tourism may, when the party to whom the demand was made pursuant to the provisions of paragraph (1) fails to fulfill their obligations by the deadline, levy the contribution set forth in paragraph (1) or penal interest set forth in the preceding paragraph

pursuant to the formalities for the disposition of the default of payment of national taxes. The statutory lien of the contribution and penal interest in this case shall follow that of the national taxes and local taxes.

(4) The penal interest shall take precedence over the contribution.

(Consultation with the Heads of Relevant Administrative Organs)

Article 57 (1) The Minister of Land, Infrastructure, Transport and Tourism shall, when intending to give approval set forth in Article 46 paragraph (1) for the facilities which are provided mainly for fishery or make a request set forth in Article 3-3 paragraph (6) or Article 47 concerning the matters of great importance for the fisheries industry, consult with the Minister of Agriculture and Forestry and Fisheries.

(2) The Minister of Land, Infrastructure, Transport and Tourism shall, in carrying out construction or improvement of waterways and basins, protective facilities for harbors or mooring facilities in a Major Port pursuant to the provisions of Article 8 paragraph (4) of the Enterprise Rationalization Promotion Act, consult with the Minister of Economy, Trade and Industry when the amount of the contribution set forth in the same paragraph exceeds one half of the total cost of the said work.

(Relationship with Other Laws and Regulations)

Article 58 (1) The provisions of Article 48 and 49 of the Building Standard Act (Act No. 201 of 1950) shall not apply to the zones designated pursuant to the provisions of Article 39.

(2) The authority of the prefectural governor set forth in the provisions of the Public Water Body Reclamation Act shall be exercised by the Port Management Body insofar as the Port Area or the land reclaimed from the public water body within the Port Area is concerned (jointly by the prefectural governor and the Port Management Body for a Port Area located within a River Area or the land reclaimed from the public water body within the Port Area).

(3) When a Port Management Body finds that the whole or a part of the land reclaimed from the public water body in the port that it manages and for which an authorization for completion is already made known to the public pursuant to the provisions of paragraph (2) of the Article 22 of the Public Water Body Reclamation Act has not been provided for the usage specified in the public notice pursuant to the provisions of Article 11 or the provisions of paragraph (2) of Article 13-2 of the said Act for a reasonable period of time or is considered to be without any prospect of being used for the said usage in the future and recognize that there is a need to promote its effective and proper utilization, and has publicized the whole or a part of the area of the reclaimed land and other matters specified by an Ordinance of the Ministry of Land,

Infrastructure, Transport and Tourism, "ten years" in the provisions of paragraph (1) of Article 27 of the said Act shall read "five years" and "within ten years" in the provisions of paragraph (1) of Article 29 of the said Act shall read "within five years" from the date of the said notification. In this case, when the said area is the whole or a part of the reclaimed land approved by the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of paragraph (1) of Article 47 of the said Act, the Port Management Body shall consult with the Minister of Land, Infrastructure, Transport and Tourism in advance.

(4) Special provisions pertaining to the fishing port zone shall be specified by the Act pertinent to fishing ports.

(Evaluation Agency)

Article 58-2 The application for a review of the authority exercised by a mayor of a municipality as the Port Management Body set forth in the Public Water Body Reclamation Act pursuant to the provisions of paragraph (2) of the preceding Article (limited to the legally delegated affairs of item (i) set forth in the item (i) of paragraph (9) of Article 2 of the Local Autonomy Act) shall be made to the Minister of Land, Infrastructure, Transport and Tourism.

(Application of the Administrative Case Litigation Act)

Article 59 (1) In applying the Utilization of Land for Public Use Managed by Public Entities Act to a Port Facility designated for public use under the management of a port authority, the chairman of the board of directors of the port authority shall be deemed as an administrative agency.

(2) In applying the Administrative Execution by Proxy Act (Act No. 43 of 1948) to the orders set forth in Article 38-2 paragraph (8), Article 40-2 paragraph (1), Article 41 paragraph (1) and Article 56-4 paragraph (1), the exercise of authority set forth in the Public Water Body Reclamation Act pursuant to the provisions of Article 58 paragraph (2) and the orders set forth in Article 1 of the Utilization of Land for Public Use Managed by Public Entities Act, the chairman of the board of directors of a port authority shall be deemed as an administrative agency.

(3) In applying the Administrative Case Litigation Act (Act No. 139 of 1962) to the exercise of authority set forth in this Act, the exercise of authority by delegation set forth in the provisions of Article 45-2, the exercise of authority set forth in the Public Water Body Reclamation Act and the Utilization of Land for Public Use Managed by Public Entities Act under the Management of Public Entities pursuant to the provisions of Article 58 paragraph (2), the exercise of authority pertaining to the collection of the contribution set forth in the provisions of the Enterprise Rationalization Promotion Act or the

Environmental Pollution Control Expense Sharing Act and the petition pertaining to the application of the Administrative Execution by Proxy Act, the chairman of the board of directors of a port authority shall be deemed as an administrative agency.

(Consultation with the Transport Council)

Article 60 The Minister of Land, Infrastructure, Transport and Tourism shall consult with the Transport Council on the following matters:

- (i) Approval of a Port Area set forth in the provisions of Article 4 paragraph (4) item (i) (including where these provisions apply mutatis mutandis to Article 9 paragraph (2) and Article 33 paragraph (2))
- (ii) Mediation set forth in the provisions of Article 4 paragraph (9) (including where these provisions apply mutatis mutandis to Article 33 paragraph (2))
- (ii)-2 Approval set forth in the proviso of paragraph (1) of Article 10
- (iii) Matters pertaining to a request to alter the area for the Waterfront Area set forth in the provisions of Article 38
- (iv) Matters pertaining to a request for revision of the tariff set forth in Article 44 (including where these provisions apply mutatis mutandis to Article 44-2 paragraph (4))
- (iv)-2 Consent to port dues set forth in Article 44-2
- (v) Recommendations for the establishment of a Port Management Body pursuant to the provisions of Article 51

(Conditions for Approval)

Article 60-2 (1) The Minister of Land, Infrastructure, Transport and Tourism, the prefectural governor or the Port Management Body may attach necessary conditions to the approval given pursuant to the provisions of this Act.

(2) The conditions set forth in the preceding paragraph shall be limited to the minimum required for the execution of the work being approved and shall not place the party who has obtained approval under an undue obligation.

(Transitional Measures)

Article 60-3 In the event of legislation or revisions or abolition of a Cabinet Order or an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism pursuant to the provisions of this Act, the necessary transitional measures (including measures concerning penal provisions) may be established by a Cabinet Order or an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism to the extent necessary following the said legislation, revision or abolition.

(Delegation of Authority)

Article 60-4 A part of the authority of the Minister of Land, Infrastructure, Transport and Tourism set forth in this Act may be delegated to the Regional Development Bureau Director General or the Hokkaido Development Bureau Director General as specified by a Cabinet Order.

(Classification of Administrative Works)

Article 60-5 The Administrative work to be dealt with by a prefecture set forth in the provisions of Article 4 paragraph (4) (including where it is applied mutatis mutandis to Article 9 paragraph (2) and Article 33 paragraph (2), the same shall apply hereinafter), paragraph (5) (including where it is applied mutatis mutandis to Article 9 paragraph (2), Article 33 paragraph (2) and Article 56 paragraph (2), the same shall apply hereinafter), and paragraph (9) and (10) (including where these provisions are applied mutatis mutandis to Article 33 paragraph (2)), and Article 56 paragraph (1) (limited to the part of administrative work pertaining to the designation of water areas) (limited to the work regarding to the approval by the prefectural governor set forth in Article 4 paragraph (4) for what is dealt with pursuant to the same paragraph and the coordination by the prefectural governor set forth in paragraph (5) of the same Article for what is to be dealt with pursuant to the same paragraph) shall be the legally delegated affairs of item (i) specified in the item (i) of paragraph (9) of Article 2 of the Local Autonomy Act.

(Penal Provisions)

Article 61 (1) Any person falling under any of the following items shall be punished by imprisonment with work of not more than one year or a fine of not more than 1,000,000 yen:

(i) Any person who has violated the provisions of Article 56-2-9 paragraph (1)

(ii) Any person who has violated an order of suspension of business set forth in the provisions of Article 56-2-15

(2) Any person falling under any of the following items shall be punished by imprisonment with work of not more than one year or a fine of not more than 500,000 yen:

(i) Any person who has violated the provisions of Article 37 paragraph (1), Article 43-8 paragraph (2) or Article 56 paragraph (1)

(ii) Any person who has violated the provisions of Article 37-3 paragraph (1), Article 43-8 paragraph (1) or Article 56-2 paragraph (1)

(3) Any person who has violated the dispositions set forth in Article 38-2 paragraph (8), Article 56-3 paragraph (2) or Article 56-4 paragraph (1) shall be punished by a fine of not more than 500,000 yen.

(4) Any person falling under any of the following items shall be punished by a fine of not more than 300,000 yen:

- (i) Any person who has failed to submit a report or has submitted false reports set forth in the provisions of Article 38-2 paragraph (1) or (4) or the first sentence or second sentence of Article 56-3 paragraph (1)
 - (ii) Any person who has discontinued all Confirmation Services without approval set forth in Article 56-2-11
 - (iii) Any person who fails to submit a report, submits false reports, or has refused, interfered with or evaded the inspections set forth in Article 56-2-14 paragraph (1)
 - (iv) Any person who has failed to provide or maintain books, has failed to record on books, or has recorded false items in violation of the provisions of Article 56-2-16
 - (v) Any person who fails to submit a report set forth in the provisions of Article 56-5 paragraph (1), submits false reports or has refused, interfered with or evaded the inspection set forth in the provisions of the same paragraph
- (5) Any member of the board of directors, who, while being remunerated pursuant to the provisions of Article 25 paragraph (1), becomes an officer of a commercial organization or undertakes a profit-making enterprise, shall be liable to imprisonment with work of not more than six months or a fine of not more than 30,000 yen.

Article 62 When the representative of a juridical person or an agent, employee or other worker of a juridical person or of a person has violated the provisions of paragraph (1) through paragraph (4) of the preceding Article in relation to the performance of business of the said juridical person or person, not only the offender but the juridical person or person concerned shall also be liable to a fine set forth in each paragraph.

Article 63 (1) Any person who has failed to prepare or maintain Financial Statements etc., or has stated false matters violating the provisions of Article 56-2-10 paragraph (1), or rejects requests set forth in each item of the paragraph (2) of the same Article without just cause shall be punished by a non-penal fine of not more than 200,000 yen.

(2) Any person who has failed to submit a report or has submitted a false report set forth in the provisions of Article 38-2 paragraph (5) or the proviso of the last sentence of Article 56-3 paragraph (1) shall be punished by a non-penal fine of not more than 100,000 yen.