

THE BANGLADESH SHIPPING CORPORATION ORDER, 1972

(PRESIDENT'S ORDER NO. 10 OF 1972).

[5th February, 1972]

WHEREAS it is expedient to provide for the establishment of a Corporation for the purpose of ensuring better operation and development of shipping and ocean transport services and for purposes connected therewith;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:-

1. (1) This Order may be called the Bangladesh Shipping Corporation Order, 1972.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force at once.

2. In this Order, unless there is anything repugnant in the subject or context, -
 - (a) "Board" means the Board of Directors of the Corporation;
 - (b) "Corporation" means the Bangladesh Shipping Corporation established under Article 3;
 - 1[(bb) "Chairman" means the Chairman of the Board;]
 - (c) "Director" means a Director of the Corporation;
 - (d) "Government" means Government of the People's Republic of Bangladesh;
 - (e) "Managing Director" means Managing Director of the Corporation;
 - (f) "regulations" means regulations made under this Order;
 - (g) "rules" means rules made under this Order.

3. (1) As soon as may be after the commencement of this Order, the Government shall establish a corporation to be called the Bangladesh Shipping Corporation.
- (2) The Corporation shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Order, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

2[(3) All assets and properties, movable and immovable and all funds of the National Shipping Corporation established under section 3 of the National Shipping Corporation Ordinance, 1963 (IV of 1963), shall vest in the Corporation.

(4) All employees of the aforesaid National Shipping Corporation shall, subject to such scrutiny or screening as the Government may determine, be employed in the Corporation:

Provided that no such employee who is not a citizen of Bangladesh shall be employed:

Provided further that the employment shall be subject to the requirements of the Corporation.]

4. (1) It shall be the function of the Corporation to provide safe and efficient shipping services on international routes and to carry out all forms of activities connected with or ancillary to shipping, including taking over of the undertaking, movable or immovable assets or properties of any corporation engaged in such activities, upon a notification being published by the Government in the official Gazette vesting such undertaking, or assets, or properties in the Corporation.

(2) Without prejudice to the generality of the foregoing provisions, the Corporation shall, in particular, have power-

(a) to acquire, charter, hold or dispose of ships or crafts;

(b) to promote any organisation, in or outside Bangladesh, for the purpose of engaging in any activity falling within the function of the Corporation, or to associate with any such organisation;

(c) to undertake the repairs, overhaul, construction, reconditioning or assembly of ships, vessels and other vehicles;

(d) to assemble, manufacture, recondition, overhaul and repair machines, parts, accessories and instruments pertaining to ships, vessels and other vehicles;

(e) to establish institutes or make other arrangements for the instruction and training of persons engaged or likely to be engaged in any activities connected with or ancillary to shipping;

(f) to acquire, hold or dispose of any property, whether movable or immovable;

(g) to do all other things connected with or ancillary to any of the matters referred to in sub-clauses (a) to (f); and

(h) to carry out any other function as may be notified by the Government in the official Gazette.

3[5. (1) The amount of the authorised capital of the Corporation may, from time to time, be determined by the Government by order published in the Official Gazette, but the amount shall not be less than 400 (four hundred) core taka, and the capital shall be divided into fully paid up equal shares of 100 (one hundred) taka each.

(2) The amount of the subscribed capital of the Corporation may, from time to time, be determined by the Government by order published in the Official Gazette, but the amount shall not be less than 350 (three hundred and fifty) core taka, and the capital shall be divided into fully paid up equal shares of 100 (one hundred) taka each.

(3) Not less than fifty one per cent shares of the subscribed capital shall be subscribed to by the Government and the remaining shares shall be offered for public subscription in such manner and at such time as the Government may determine.]

6. The shares of the Corporation shall be deemed to be included among the securities enumerated in the Trust Act, 1882 (Act II of 1882) and to be approved securities and approved investments for the purpose of the Insurance Act, 1938 (IV of 1938).

7. (1) Subject to the rules and regulations, the general direction and superintendence of the affairs and business of the Corporation shall vest in a Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Corporation.

(2) The Board shall act on commercial considerations having due regard to public interest generally.

(3) In discharging its functions the Board shall be guided by such instructions on questions of policy involving national interest as may be given to it from time to time by the Government.

4[8. 5[(1) The Board of Directors shall consist of the following Directors, namely:-

(a) Minister-in-Charge of the Ministry or Division dealing with shipping, ex-officio, who shall also be its Chairman;

(b) Secretary of the Ministry or Division dealing with shipping, ex-officio;

(c) Joint Secretary (Statutory bodies wing), Finance Division, ex-officio;

(d) Managing Director of the Corporation, ex-officio;

(e) Executive Director (Finance) of the Corporation, ex-officio;

(f) Executive Director (Technical) of the Corporation, ex-officio;

(g) Executive Director (Commercial) of the Corporation, ex-officio;

(h) Shareholders elected under clause (2).]

(2) Where the Government permits public subscription, the public share-holders may elect-

(a) one Director, when the capital subscribed for by the public exceeds 20% but does not exceed 34% of the total shares subscribed;

(b) two Directors, when the capital subscribed for by the public exceeds 34% of the total shares subscribed;

(3) The Directors under clause (2) shall be elected in such manner as may be prescribed.

(4) A Director other than an ex-officio Director, shall hold office for a period of two years from the date of the notification of his election or, as the case may be, appointment:

Provided that notwithstanding the expiration of his term, a Director shall continue to hold office until his successor enters upon his office.]

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10. (1) A casual vacancy in the office of a Director shall be filled by appointment or election, as the case may be, and a Director elected to fill a vacancy shall hold office for the unexpired period of the terms of his predecessor:

Provided that it shall not be necessary to fill in a casual vacancy in the office of a Director for a period of less than three months.

(2) If a Director is unable to attend the meeting of the Corporation for a period of three months or more, a person shall be appointed to act for such Director during his absence and the person so acting shall be deemed for all purposes to be a Director.

11. 7[* * *] No person shall be or shall continue to be a Director who-

(a) is or at any time has been adjudged insolvent;

(b) is found to be a lunatic or of unsound mind;

(c) is or at any time has been convicted of an offence involving moral turpitude;

(d) is a minor; or

(e) absents himself from three consecutive meetings of the Board without leave of absence granted by the Chairman, or in the case of the Chairman granted by the Government.

8[12. (1) There shall be a Managing Director and such of Executive Directors, not less than three and not more than seven, as the Government may determine.

(2) The Managing Director and the Executive Directors shall be appointed by the Government on such terms and conditions as may be determined by the Government.

(3) The Managing Director and the Executive Directors shall be whole time officers of the Corporation and shall exercise such powers and perform such functions as may be prescribed or as may be assigned to them by the Board from time to time.

12A. (1) There shall be an Executive Committee consisting of the Managing Director and the Executive Directors.

(2) The Managing Director shall preside over all meetings of the Executive Committee.

(3) The Executive Committee shall be responsible for carrying out the decisions of the Board.]

13. The Corporation may appoint such officers, consultants, advisers, auditors and employees as it considers necessary for the efficient performance of its functions, on such terms and conditions as it may deem fit.

14. The Board may delegate such of its powers and duties as it may deem necessary for the efficient carrying on of its day-to-day administration to-

- (a) the Managing Director or any 9[executive Director]; or
- (b) any committee appointed under Article 16; or
- (c) any other officer or servant of the Corporation.

15. (1) The meetings of the Board shall be held at such times, and at such places, as may be prescribed by regulations:

Provided that a meeting may also be otherwise convened by the Chairman when he so thinks fit.

(2) To constitute a quorum at a meeting of the Board not less than 10[five] Directors including the Chairman shall be present:

Provided that no quorum shall be necessary for a meeting previously adjourned for want of quorum or in the case of a meeting certified by the Chairman to be urgent.

(3) Each Director, including the Chairman, shall have one vote, and in the event of an equality of votes, the Chairman shall have a casting or a second vote.

(4) If, for any reason, the Chairman is unable to preside over a meeting, it shall be presided over by a Director nominated by the Chairman for the purpose, and in default of such nomination, by such Director as the Directors present may choose.

16. The Board may from time to time appoint such committees as may be necessary from amongst the 11[Directors and Executive Directors] to discharge such functions as may be assigned to them by the Board or to assist the Board in the performance of its functions.

17. No act or proceedings of the Board shall be invalid by reason only of the existence of any vacancy in, or any defect in the constitution of the Board, or any defect in the appointment or qualification of a Director.

18. The Corporation shall have its head office at 12[Chittagong] and may establish such other offices in Bangladesh and abroad, as the Board thinks fit.

19. The Corporation may invest its funds in any securities of the Government and may make such other investments as may be approved by the Board.

20. The Corporation may, with the previous sanction of the Government and on such terms and conditions as the Government may approve of, borrow money in Bangladesh or foreign currency.

21. (1) The accounts of the Corporation shall be audited by not less than two Auditors who shall be chartered accountants and appointed for the purpose by the Corporation.

(2) Every auditor appointed under clause (1) shall be given a copy of the annual balance sheet of the Corporation and shall examine it together with the accounts and vouchers relating thereto, and shall have a list delivered to him of all books kept by the Corporation and shall, at all reasonable times, have access to the books of accounts and other documents of the Corporation, and may in relation to such accounts examine any 13[Director, Executive Director] or officer of the Corporation.

(3) The auditors shall report to the shareholders upon the annual balance sheet and accounts and in the report they shall state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Corporation's affairs, and in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(4) The Board, may at any time, issue directions to the auditors requiring them to report it upon the adequacy of measures taken by the Corporation for the protection of the interest of its shareholders and creditors or upon the sufficiency of the information and other means placed at the disposal of the auditors in auditing the accounts of the Corporation.

(5) A statement of the accounts audited by the auditors and a report of the Board thereon shall be furnished to the Government by the Corporation as soon as possible after the end of every financial year.

22. (1) The annual general meeting of the shareholders shall be held at the head office of the Corporation within six months from the date on which the annual accounts of the Corporation are closed.

(2) Any other general meeting of the shareholders may be convened by the Board at any time.

(3) The shareholders present at the annual general meeting shall be entitled to discuss and adopt or make recommendations to the Board with regard to annual accounts, the annual report of the Board on the working of the Corporation and the auditors report on the annual balance sheet and accounts.

23. The Corporation shall furnish to the Government at such time, after the end of every financial year, in such forms and in such manner as may be prescribed by rules an annual report on the conduct of its affairs for that year.

24. (1) Out of its earnings, the Corporation shall establish a general reserve fund and create from time to time such other special reserves as the Board may determine.

(2) After making provision for interest, taxes, bad and doubtful debts, depreciation of assets, maintenance of reserves and any other matter determined by the Board, the Corporation may declare a dividend out of the profits accruing in a year.

25. No provision of law relating to the winding up of companies or corporations shall apply to the Corporation and the Corporation shall not be wound up save by an order of the Government and in such manner as the Government may direct.

26. The Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Order.

27. The Board may with the previous sanction of the Government make regulations, not inconsistent with the provisions of this Order and the rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Order.

28. (1) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A Director shall not be held responsible for the acts, omissions or inefficiency of any other Director or of any officer or employees of the Corporation resulting in any loss or expense to the Corporation or in deficiency in the value of title to any property or security required or taken on behalf of the Corporation or for anything done by himself in good faith in the execution of the duties of his office.

14[29. The National Shipping Corporation Ordinance, 1963 (IV of 1963), is hereby repealed.]

15[30. For removal of doubt, it is declared that notwithstanding anything contained in this Order or in any other law for the time being in force,-

(a) no debt or liability incurred, obligation undertaken, contract entered into or agreement made by or with the National Shipping Corporation established under the National Shipping Corporation Ordinance, 1963 (IV of 1963), shall be deemed to have been transferred to, or incurred, undertaken, entered into or made by or with the Corporation or the Government and no suit or other legal proceeding shall lie against the Corporation or the Government in respect of such debt, liability, obligation, contract or agreement; and

(b) no suit, appeal or other proceeding pending against the aforesaid National Shipping Corporation shall be deemed to be suit, appeal or proceeding pending or continuing against the Corporation or the Government and no order or decree made in any suit, appeal or other proceeding instituted against the

aforesaid Shipping Corporation shall be enforceable against, or binding on, the Corporation or the Government.]

1 Clause (bb) was inserted by section 2 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1983 (Ordinance No. XXIII of 1983)

2 Clauses (3) and (4) were added by Article 2 of the Bangladesh Shipping Corporation (Amendment) Order, 1972 (President's Order No. 33 of 1972)

3 Article 5 was substituted by section 2 of the Bangladesh Shipping Corporation (Amendment) Act, 2006 (Act No. 35 of 2006)

4 Article 8 was substituted for the former Articles 8 and 9 by section 3 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1983 (Ordinance No. XXIII of 1983)

5 Clause (1) was substituted by section 2 of the Bangladesh Shipping Corporation (Amendment) Act, 1990 (Act No. II of 1990)

6 Articles 8 was substituted for the previous Articles 8 and 9 by section 3 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1983 (Ordinance No. XXIII of 1983)

7 The brackets and figure “(1)” was omitted by section 4 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1983 (Ordinance No. XXIII of 1983)

8 Article 12 was substituted by section 5 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1983 (Ordinance No. XXIII of 1983)

9 The words “executive Director” were substituted for the word “Director” by section 6 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1983 (Ordinance No. XXIII of 1983)

10 The word “five” was substituted for the word “three” by section 7 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1983 (Ordinance No. XXIII of 1983)

11 The words “Directors and Executive Directors” were substituted for the word “Directors” by section 8 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1983 (Ordinance No. XXIII of 1983)

12 The word “Chittagong” was substituted for the word “Dacca” by section 3 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1982 (Ordinance No. XXXVI of 1982)

13 The words and comma “Directors, Executive Directors” were substituted for the word “Director” by section 8 of the Bangladesh Shipping Corporation (Amendment) Ordinance, 1983 (Ordinance No. XXIII of 1983)

14 Article 29 was added by Article 2 of the Bangladesh Shipping Corporation (Amendment) Order, 1972 (President's Order No. 33 of 1972)

15 Article 30 was added by section 2 of the Bangladesh Shipping Corporation (Amendment) Act, 1973 (Act No. XVIII of 1973)