

Republican Decree No. (62) for 2007

Regarding the Establishment of Yemen Arabian Sea Ports Corporation

President of the Republic

After reviewing the constitution of the Republic of Yemen, And, Law No. (3), for 2004, concerning Council of Ministers, And, Law No. (35), for 1991, concerning Public Authorities, Corporations, Companies and its Amendments, And Republican Decree No. (50), for 2007, concerning formation of the Cabinet and nominating its members

And after the approval of the Council of Ministers

Decree....

Establishment of the Yemen Arabian Sea Ports Corporation

Chapter One

Establishment, Nomination & Definitions :

Article (1): Pursuant to this Decree, a corporation called “Yemen Arabian Sea Ports Corporation” shall be established to replace “Yemen Ports Department in Aden” in Mukalla , Nashtoon and Socotra .

Article (2): For the purposes of application of this Decree, the following words and expressions shall have the meanings set out before each of them, unless the context otherwise requires:-

Ministry : Ministry of Transport

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Corporation : “ Yemen Arabian Sea Ports Corporation ”

Ports: : Ports and components affiliated to the corporation as per defined in Article (4) of this Decree .

Board of Directors : The Corporation’s Board of Directors .

Article(3) : The corporation shall enjoy the independent legal personality and financial responsibility and shall be under the supervision of the Minister.

Article(4) : pursuant to this Decree, the following entities shall be passed into and be components of the corporation:-

Port of Mukalla .

Port of Nashtoon .

Port of Socotra .

Any other ports that the corporation would establish and a decree shall be issued in this respect upon presentation of the Minister.

Article (5): The corporation’s Head Office will be in Mukalla City and it will practice its activities through the ports and its affiliates.

Chapter Two

Purposes, Assignments & Authorities

Article (6):The Corporation aims at efficient contribution to the realization of the State's plans and to execute its assignments in the field of creation, development and facilitating its entities and ports operate them and improve level of their services by adopting modern methods of economical and commercial management, and it shall have the right in the framework of the State's general policy and applicable laws :-

- 1- Set out the comprehensive and detailed plans for creations, development and facilitating its components and ports, in all aspects.
- 2- Expand, clean, deepen its ports and construct, and maintains ship berths, waves barriers and navigation passages.
- 3- Coordinate with the relative authorities to secure and safeguard ports and their marine environments, in accordance with the rules, criteria, technical provisions and the accepted international standards.
- 4- Carryout loading and unloading process, internal transportation within the ports frame work, whether directly or through companies specialized in I this field, according to the terms and situations to be proposed by the Board of Directors and approved by the Minister.
- 5- Mange and arrange navigation traffic, pilotage within the activities related to entering and exiting of ships.
- 6- -Set out the inner legislations in the field of ports and navigation in them.
- 7- Establish, operate, and maintain the necessary wireless communications to secure navigation within the ports.
- 8- Grant licenses for participating navigation agencies and different services activities inside the ports and supervise them, according to the terms and situations to be proposed by the Board of Directors and approved by a decree from the Minister.
- 9 - Establish, mange, and utilize stores, warehouses, and storage yards in the ports or to license others to undertake the same, according to the terms and situations to be proposed by the Board of Directors and approved by the Minister.
- 10- Maintenance and repair of the ports equipment and facilities, such as berths, warehouses, yards, buildings, ship locks, buoys, cables, workshops, etc.
- 11- Set out a tariff for services, wages, revenues and facilities provided by the corporation, which shall be decided by the Board of Directors and approved by the Minister.
- 12- Operate ports equipment and facilities concerned with receiving vessels and provide services to them.
- 13- Establish lighthouses, light buoys and else of the navigation assistances that serves navigation leading to the harbors.
- 14- Adopt new systems for information and statistics that cover the entire activities of the corporation and would provide information and statistics about movement of vessels, cargo, security, safety, economical aspects and else.

15- Prepare executive plan and programs to train the cadre and necessary skills to manage the corporation, operate its facilities and manage its various operations.

16-Conclude contracts and agreement in connection with the corporation's activities, according to the approved plans and the rules of the applicable laws, by-laws, and decrees.

17- Request legal seizure according to applicable laws.

18-Take proceedings before the local and international courts and arbitration bodies to ensure that the corporation is fully fulfilling practices of its assignments and to receive its dues with the others by coordination with the complement authorities.

19-Any other tasks requisite by the nature of its activities and stipulated in applicable in applicable and regulations.

Article (7): The Corporation shall have the right to:

a: Possession of lands, real estates institutions and facilities necessary for management and to facilitate its activities and to disburse them in accordance with the applicable laws and regulations.

b: Conclude concession agreement and/or contracts for management and/or operations and/or development of any of its ports or entities, with the private sector after approval of the minister. In such cases, the concluded agreements or contracts shall organize and adjust mutual relationships and obligations between the corporation and the body (bodies) signed with it those agreements or contracts. The Chairman shall raise periodical evaluation reports to the minister about the execution of those agreements or contracts.

c: Establish joint liability companies with another partner or partners, in accordance with the applicable laws.

Chapter Three

Corporation financial system

Article (8): The corporation capital consists of the following:

a- Funds that the State allocates to the corporation.

b- Assets, properties, funds of Yemen Ports Department in Mukalla , Nashtoon and Socotra.

c- Value of the other fixed pilotage that the State puts at disposal of corporation.

d- Credits or funds which are accounted in the approved budget for the Corporation for the purposes of supporting the financial position and increasing the capital.

Article (9): the corporation's funding resources consist of the following:

a- The corporation's capital.

b- Legal credit loans and facilities.

c- The special resources come from the corporation's activities or for the works and services, which it provides them to others.

d- Its allocation from the net profits of what it may establish as companies or contributes in their establishments with others.

e- Support payments, donations and endowments that the corporation obtains and the Minister accepts.

f- The financial support the State provides to the corporation with because of shortage in the revenues for the expenditures and that is in the frame of the corporation's annual budget.

g- Any other different resources approved by the Board of Directors.

Article (10): The Corporation practices its activity according to the fair economical basics, thus sponsors its progress.

Article (11): The Corporation shall have an independent planning budget to be set out in a manner of the commercial budgets, and the corporation's funds are to be considered as funds completely possessed by the State.

Article (12): The Corporation's financial year is the financial year of the State.

Article (13): The Corporation shall have accounting system pursuant to the unified accounting system.

Article (14): The Corporation shall be subject to the accounting financial control and auditing by the Ministry of Finance and Central Organization of Control and Auditing.

Chapter Four

Corporation Administration :

Article (15):

a- the Board of Directors shall manage the corporation Administration to be formed as follows:

1-Chairman of Board / Executive President President

2-Vice-Chairman Member

3-Representative for Ministry nominated by the Minister Member

4-Representative for Ministry of Finance Member

5-Representative for the Local Authority in Hadramout Governorate nominated by the Governor
Member

6- Representative for the Local Authority in Almahra Governorate nominated by the Governor
Member

7 -Representative for the P. Authority for Maritime Affairs Member

8 -Representative for the Coasts Guards Authority nominated by the Authority President Member

b- Premier's Decision to be issued by naming the representatives of the authorities which stated for in clauses No. (3 To 8) of the past provision according to the Minister's demand.

Article (16): Board of Directors is the higher administrative authority in the corporation. So it has full authorities to supervision, directing, planning the policies and authorization plans and programs which aim to achieving ration's objects within limits of effective laws. And particularly has practice the following duties:

- 1- Planning and ratification the corporation's plans, policies and annual agendas and controlling it.**
- 2-Study and ratifying the annual budget for the corporation.**
- 3- Study and ratifying the final account and results of annual inventory for the corporation.**
- 4- Studying and determine the technical and economical researches which aimed to advancement the corporation's activity and administration according to the successful practical experiments in way warrants ensuring the real competition and the qualified economical administration.**
- 5-Studying the reports which concerned of progress the processes in the corporation in all fields and adapting the necessary decisions to improvement the work..**
- 6-Studying and ratifying the administrative and financial lists which organized to the corporation's activity according to rules of effective laws.**
- 7-Studying the reports which prepare by the competent authority and which concerned of safe and security of the port and its institutes. And adapt the necessary decisions to improvement its levels according to the international recorded rules for the safe of ships and port's utilities.**
- 8-Study and ratifying the public annual evaluative reports to the corporation's employee work.**
- 9-Study and ratifying plans of training and rehabilitation the corporation's employee.**
- 10-Ratifying list's project to definition fees, incomings, services and facilitations for the services which the corporation offer and submitting it to the Minister due to certifying it.**
- 11- Suggestion to adjustment the corporation capital.**

Article (17): The Board of Directors hold its ordinary meetings as far as one meeting every month at least, the Board can held exceptional meetings in accidental states, when the Minister or the chairman or third of members see the necessity of its hold.

Article (18): The meetings of Board of Directors not be correct just by attendance majority of Board members, decisions and suggestions issued by majority of the attendance members and when the votes equality ,give preference to the side of the chairman.

Article (19): Board of directors, on necessity, can ask one committee or more to do some works or studies or limited jobs and submitting the results which they attain it to the Board.

Article (20): Board of directors, on necessity, can call for its meeting or get help from the suited of experts and the specialists in the field of corporation's activity without they have depended vote in the decisions which the Board adapt it.

Article (21): The Board appoints its reporter out of its members and has no right of voting.

Article (22): Minutes and reports of Board of Directors submit to the Minister during 15 days from the date of its issuing, if the Minister notes any breach to law, rules and regulations, he has the right of reexamination it during a period as a maximum one month, and if the period passed without objection from the Minister, regards as certified.

B-If the Board of Directors insist on these decisions despite objection on it according to the provided for in provision (A), should the Minister submitting the matter to the Premier enclosed his opinion and the opinion of Board of Directors to determine it.

C- The Board force to implement what issuing from the Premier about these decisions, which not disagrees with Law of Public Companies, Corporations and Departments No.(35) for 1991 which amended by the Law No.(7) for 1997.

Article (23): Bonuses of members of Board of Directors limits by Minister's decision.

Article (24): The chairman is the executive chief for the corporation who appointed by republican decision according to the Minister's demand, and be in charge of corporation's administration and management its affairs in all fields and particularly has practice the following duties:

1-Management affairs of corporation, ratification the contracts and doing all what concern achievement the objects which the corporation establishing due to it.

2- Preside of the Board of Directors meetings and prepare its agenda and call them for the hold.

3- Pursuit to implementing all the Board's decisions and preparing reports with disclosure the delay's reasons and justifications or the un implementing.

4- Informing the Minister by copy of decisions and meetings minutes during 15 days from the date of ratifying it in the Board.

5- Submit the Board's periodical reports about the operative works and the implementing level for the planning plans and programs.

6- .Implementing duties and responsibilities which demanding from him or which the Minister or the Board ask him to do it

7-Represent the corporation before the judicial authorities and in front of all authorities, and he has the right to authorize his vice or one of Board's members to do that.

8- .Suggest appointing Directors of administration and terminating them duties and carrying out disciplinary punishing on them according to the provisions of effective laws, regulations and rules.

9- .Presenting the interested authorities in the country by the data about the corporation which they demand it.

10- Adapt the necessary steps to ensure implementing the effective laws, regulations and rules by the corporation's employees.

11-Putting and organizing plans of corporation's activity and follow up its ratifying and implementing.

12-Issuing leaflets and detailed instructions to organize the corporation's activity as such decisions, orders and directions to the Directors of administrations and the employees in it by their chairmen.

13- Suggest programs to training and rehabilitation the employees to what require corporations needs.

14- Hold periodical meeting with the employees to discuss the corporations plans and any matters and duties relating with corporation's activity.

15- Adapt the necessary measures and steps to ensure fulfillment the commitments which deriving from the corporation for the benefit of the other authorities and getting the corporation's rights upon the other.

16-Supervision and controlling all the effective works and preparing the periodical reports to the Minister about the duty's levels and the problems that delay progress of duty and suggestion the appropriate solutions.

17-Submit the financial plan, the public budget, and the final accounts and any other reports which he responsible to submitted it to the Board and the competent authorities in the limited dates which agree with effective regulations.

18- Any other duties which nature of his work required it or which asked him to do it by the Minister or the Board of Directors or the effective laws and regulations stated at it.

Article (25):The vice- chairman of Board of Directors appointed by republican decision according to the Minister's offer and after the consent of the council of Ministers, the vice be in charge of cooperation the chairman of Board in doing his duties and responsibilities in what he asked him to do of duties, and replace him on his absence by doing all his duties and authorities.

Chapter Five

Final Rules

Article (26): The Public Corporation for Yemen Arabian Ports which established according this decision takes the place of Yemeni Ports Department in Mukalla , Nashtoon and Socotra .

Article (27): All founds and the fixed and transferred belongings which the Yemeni Ports Department in Mukalla , Nashtoon and Socotra , transfer to the possess of the corporation which established by this decision, and transfer for it all rights and commitments which were on responsibility of Yemeni ports Department which mentioned at the time of issuing this decision.

Article (28): All Employees of the Yemeni Ports Department in Mukalla , Nashtoon and Socotra transfer to the corporation in them actual situations at the time of issuing this decision.

Article (29): Evaluating, the fixed and transferred belongings and founds for the corporation which established according to this decision, by committee preside by Minister of transportation or by who delegates him including in its membership representatives of Financial Ministry and of Central Authority for control and accountant and of the corporation, in condition the committee submit results of its duties to the Premier to approval and certifying.

Article (30): The Corporation's organizing list issues by Minister's decision after Board of Directors consent collaboration with Ministry of Civil Service and Insurances.

Article (31): The Corporation enjoy by all merits and exemptions, which stated in Investment Law.

Article (32): All which not mentioned about it provision in this decision attributed to the rules of Public Companies and corporation and Bodies Law and its amendments and the rules of effective rules and regulations.

Article (33): This decision be effective and work by it from the date of its issuing and publish it in official newspaper.