

GOVERNMENT OF ANGUILLA

**MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS,
UTILITIES, HOUSING, AGRICULTURE & FISHERIES**

FINAL REPORT

**REPORT ON A STUDY OF
THE LEGISLATIVE
AND
INSTITUTIONAL REQUIREMENTS
FOR A
PORTS AUTHORITY**

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1.0 INTRODUCTION

1.1 Project Background

The Wallblake Airport and all seaports of Anguilla are currently Government owned entities and are operated as Government Departments under the Ministry of Infrastructure, Communications, Utilities, Housing, Agriculture and Fisheries (MICUHAF).

The Government of Anguilla (GOA) determined the benefit of creating a combined airport and seaport authority which for the purposes of this report we refer to as the Anguilla Air and Sea Ports Authority or the Authority. This consultancy was therefore instigated to conduct a study of the institutional and legislative development in the creation of the Authority to operate within sustainable financial arrangements.

Currently Wallblake Airport provides regular services to a number of Caribbean destinations by regional carriers and is accessed by international airports on the nearby islands of Puerto Rico, Antigua and St. Maarten. As an important part of the island infrastructure, and with the focus on the luxury tourism market, the GOA responded in developing the facility close to its runway limits based on existing constraints. The capacity for any future major development is also restricted within the confines of the existing environs.

Meanwhile St. Maarten has significantly upgraded their airport facility and with the growth in ferry passengers from St. Maarten the Government of Anguilla has embarked on a programme to substantially upgrade Blowing Point as a major point of entry for tourism passengers.

While the future expansion of Wallblake is restricted in the capacity for larger aircraft there is some limited scope for expansion of the runway, apron parking for private jet operations, improvement of terminal facilities and other rentable space.

With the committed expansion to Blowing Point, the future expansion of Wallblake must be considered in the light of such major investment and projected growth on passenger arrivals and ferry services.

With the commitment to Blowing Point, expansion has already commenced with the implementation of three new jetties that are linked with a cross walk.

In order to further emphasise the expansion at Blowing Point as a passenger facility, new facilities for berthing and discharging of cargo from small vessels plying between St. Maarten and Anguilla, that used to discharge at Blowing Point, have been constructed at Road Bay.

At the present time, depth limitations at Road Bay mean that large ships cannot dock, these vessels therefore tranship their cargo in St. Maarten and elsewhere and smaller vessels bring lesser loads to Anguilla. Construction of a deeper water port at Corito may result in a reduction in vessel arrivals as fewer large ships will be able to discharge the same volume of cargo now being handled at Road Bay. Some agencies are also keen to investigate transshipment as this has proven profitable in the past and may be so in the future. A current example of this is via the bulk purchase of a popular beer and the redistribution thereof to the other islands.

Proposals for the recently constructed jetty at Road Bay, to be used by tenders from cruise ships should enhance the interest in cruise ships visiting Road Bay after removal of the cargo handling operations. Further with respect to Road Bay, recent rehabilitation of the original cargo jetty can also be enhanced for use by visiting yachts, immigration and customs processes and provisioning purposes, which would encourage an increase in yacht arrivals.

Further studies and designs for the construction of the new Port at Corito are in progress and funding arrangements are under consideration and discussion with respect to Corito and Blowing Point expansions.

In the light of the foregoing it can be said that the GOA has established a sound base for its continuing development and expansion of its essential tourism base.

The GOA must however give due consideration to the integration and coordination process necessary in other sectors such as the ground transportation, land use, social services etc. needed to support planned increases in air and sea transport. There will also be other related sector growths that will occur to satisfy what will be essential population growth. In addition there will be the spin-off benefits in support of the expanding tourism sector that will bring about developments related to the tourism expansion, if Anguilla is to maintain its status and encourage repeat business.

A strategic choice decision making approach must therefore be established for continuity. The GOA has made positive steps in this respect by proposing and planning for the implementation of the Authority as one increment in the process.

1.2 Project Objectives

The Study was required to do the following.

- Provide a Policy Framework and Action Plan for the establishment of a combined Airport and Seaport Authority. Within this combined Authority it was envisaged that there should be autonomous operational and accounting agencies for both sea and air ports – each sea and air port will therefore have its own operational and accounting staff. Senior management will then be able to judge the performance and relative profitability of each.
- Provide an organisational transformation and institutional framework for the management and operation of the Authority.
- Provide Clauses of Particular Application for inclusion in legislation that will establish the Ports Authority as well as provide the required legislation for the operation of the Ports Authority.

In order to achieve this, DLN Consultants International (DLN) and its associates visited Anguilla, held numerous meetings and prepared an Inception Report during which period and subsequently they:-

- Reviewed existing policies, operations, financing and legislation related to the Airport and Seaports.
- Reviewed the present institutional framework for the management of the Airport and Seaports in Anguilla.
- Identified, planned and proposed activities and operations to be undertaken in future plans, and requirements by international organisations.
- Prepared this report to provide recommendations for the way forward in accordance with the Terms of Reference taking into account the Key Parameters and Variables outlined in the following sub-section prior to which the Project Manager and Lawyer made a further visit to collect and clarify information and discuss certain pertinent aspects of our preliminary draft report.

1.3 Key Parameters and Variables

Meeting the requirements of the project can only be achieved after a number of parameters and variables have been considered. Key amongst these are:

- Existing and proposed physical facilities.
- Existing and proposed capital, operations and maintenance costs.
- Existing and proposed institutional and organisational proposals.
- Existing and proposed financing arrangements.
- Existing and proposed legislation and regulations.

within which the following must be considered:-

- Core functions of the existing airport and seaports on which an improved organisation and management framework may be established.
- Port security and technical operation concerns.
- Development of an operations plan and its resource requirements.
- Policies for development, administration and operation.
- Enactment of laws and regulations.
- Business, strategic and human resource development review of the GOA in relation to the Authority needs.
- Human resource plan to provide Anguillans with the required training and experience to run the Authority.

2.0 EXISTING AND PROPOSED PHYSICAL FACILITIES

2.1 General

Anguilla's sea ports and airport fall within an arc out from the central Valley area with Road Bay to its west, Blowing Point to the south-west and Wallblake Airport and Corito Point immediately to the south.

Road Bay is linked to the central island spine road by a downhill branch into the southern end of the bay area. With Road Bay to be primarily for passenger services in the future, existing landside infrastructure facilities, except for upgrading the existing link from the branch road to the port, would be adequate. Note, dredging would be necessary if large cruise ships were to be accommodated at a dock.

Blowing Point is linked to the central island spine road by a road south down to the coastal location. Additionally Blowing Point is linked eastwards towards the Valley, Corito and Wallblake by a road system south of the central spine road. The principal concern for the future, with the increase in tourism arrivals and related increase in traffic movements, would be the linkage between the existing island central spine road and Blowing Point, as this traverses a residential area and passes a major school facility. Currently sleeping policemen are used to control traffic speed. Some upgrade to this road may be necessary for pedestrians by the provision of sidewalks and crossings as traffic flow increases.

Since the recently extended runway at Wallblake to the west and east, the road linking the main road around the Valley to Corito was realigned and the road down to the waterfront area at Corito paved. The linkage of this road to the west connects the recently constructed branch of the Little Harbour Road which links with the recently constructed road to Blowing Point.

Wallblake Airport is close to the main central spine road linkage immediately south of the Valley and hence is readily incorporated within the existing road network.

Based on the foregoing it would be noted that the areas on the southern side of the Valley area namely Blowing Point, Wallblake and Corito have the option of two linkages, those along the south and those off the central spine road, while Road Bay is dependent on the single linkage to the central spine road.

Other required infrastructure services are likely to be focused mainly on the Blowing Point and Corito development. The existing utility organisations are expected to satisfy the

requirements of these facilities by their own expansion process for meeting the growth demand for Anguilla as a whole.

While the foregoing outlines the limited infrastructure upgrades in the short term, the road system should be subject to a further ground transportation study.

The following sub-sections address the existing conditions at each facility and the proposed developments for the longer term future on which the institutional and legislative requirements are proposed.

2.2 Road Bay

2.2.1 Existing Conditions

Currently there are two jetties at Road Bay immediately adjacent to each other. The main jetty receives the majority of cargo entering Anguilla. The facility is stressed with respect to space at peak periods as well as structurally in relation to the heavy container and bulk loads in the importation of aggregates and the like.

The current operations clearly indicate the need for new cargo handling facilities.

Immediately to the north of the main jetty is a recently constructed smaller jetty with a lower level landing, the use of which is initially for receiving cargo from the smaller vessels that operated into Blowing Point from St. Maarten. The longer term need for this facility is to accommodate the landing of tenders from cruise ships berthing offshore Road Bay. Note, the recommendations in this Report with respect to cruise ship berthing are based on (i) the Anguilla Port Development and Management Study Final Report 2002 which stated “... *passengers are generally landed at the Road Bay Jetty by the ships own tenders, although some of the shallow drafted vessels may be able to moor alongside ...*” and (ii) our understanding that vessels serving the anticipated limited expansion of the industry would be expected to moor offshore.

The open storage shore area of the facility can be very congested at times, especially when handling bulk materials, including the import and export of concrete blocks, coincides with other peak cargo discharges.

Additionally there is a storage shed which stores break bulk items for delivery to consignees and office buildings for port staff, customs, immigration, health inspectors, security and related uses.

The main container handling takes place away from the port after discharge from vessels to local agents. Arrangements are in place with customs to ensure the required controls. Figures 2.1 and 2.2 outline the extent of the existing marine and shore areas.

2.2.2 Proposed Development

With the proposal to use the existing facilities primarily for cruise and yacht passengers, it would be necessary for the marine facilities to be tidied up and improved and the shore facilities to be considerably enhanced.

The more recently constructed jetty facility on the north side of the original will require minor repairs resulting from its use as a cargo facility, as well as the incorporation of items such as handrails and the like to assist with passenger movement and perimeter protection other than at the landing and boarding area.

With respect to the original facility, the new defined uses will have some impact on the extent of additional work. In any event, it is suggested that the facility be enhanced to permit more ready landing for yacht passengers, for processing and for provisioning. This may be done by construction of a low level platform on the southern side with access stairs periodically placed (ramps are an alternative). On the north side an option may be for stern to berths for yachts with an offshore mooring and access steps at the stern. It should be noted that this is not the ideal location for such a facility in an onshore wave climate. This would also have some impact on the use of the low level platform to the north by ships tender. There will however be the benefit of partial utilisation to improve on income generation.

With regards to the shore facilities, the open storage area should be enhanced with adequate circulation for vehicle movement. In particular, taxis would traverse the area to collect and drop off cruise passengers in an orderly manner minimising passenger vehicle conflict. In carrying out this exercise, greening of the area and construction of a passenger shelter, for use while awaiting taxis or tenders, should be implemented.

The existing transit shed could be converted into alternative uses such a tourism interpretation centre, retail shops, tourism office, hotel sales office, car rental agencies etc.



Figure 2.2

<p>1. This Drawing is to be read in conjunction with all other relevant drawings.</p>		NOTES	NO.	DATE	AMENDMENTS	REVISED
<p>DLN Consultants CONSULTANTS IN ARCHITECTURE, CIVIL ENGINEERING, ELECTRICAL ENGINEERING, MECHANICAL ENGINEERING, PLUMBING, SANITARY ENGINEERING, SURVEYING, STRUCTURAL ENGINEERING, TOWN PLANNING, TRAFFIC ENGINEERING, WATER ENGINEERING, AND LANDSCAPE ARCHITECTURE. Tel: (675) 622-5100 Fax: (675) 622-5100 E-mail: info@dlnc.com.au</p>		<p>THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES</p>	<p>STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p>		<p>PROJECT NO: 1915 DRAWING NO: 1915-01 SHEET NO: 1915-01-01</p>	<p>DATE: OCT 08</p>
<p>ROAD BAY PRE TENDER JETTY SITE PLAN</p>		<p>PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p>		<p>DRAWING TITLE: ROAD BAY PRE TENDER JETTY SITE PLAN</p>		<p>DESIGNER: DLN CHECKER: AS SHOWN</p>

The area could also be utilised as an entertainment area and show presentation area during major cruise ship visits. In addition shore changing and washroom facilities for tourists who would like to make use of the beach facility, should be considered. It would be recommended that some further detail consideration be given to the options in particular with respect to income generation by the Authority.

The existing office facilities will require some enhancement for port employees, customs and immigration. Figure 2.3 outlines a concept for development.

An allowance has therefore been made under the allocation for 'new assets' in the year 2012¹ for the upgrading shown.

2.2.3 Environmental Impacts

After removal of the cargo handling facility from Road Bay there should be significant improvements in the environment, especially after any upgrading of the area for passenger and personnel usage. On the other hand, the increase in people movement through the area could have adverse impacts on the quiet residential area. Most of that activity could however be channelled towards the beach area where the capacity is probably such that with the size of cruise ships that would visit Anguilla the numbers could be readily absorbed. This type of activity will encourage economic activity via the provision of water sports facilities and other marine related uses of the area that will impact the existing conditions. The overall nature of the activities should however be controllable within acceptable environmental limits.

Other normal impacts would be those caused due to the noise of the added activities and movement of tenders to and from shore. There will also be a significant increase in the volume of waste created.

In summary a planned approach would be necessary to sensitively develop the area for its future uses by adequate provision of facilities.

2.3 Blowing Point

2.3.1 Existing Conditions

The Port at Blowing Point primarily provides a terminal for a ferry service between Anguilla and the French side of St. Maarten and charter boats running between

¹ This is based on the assumption that Phase 1 of the New Port at Corito will be completed by that date and Road Bay will no longer handle cargo.

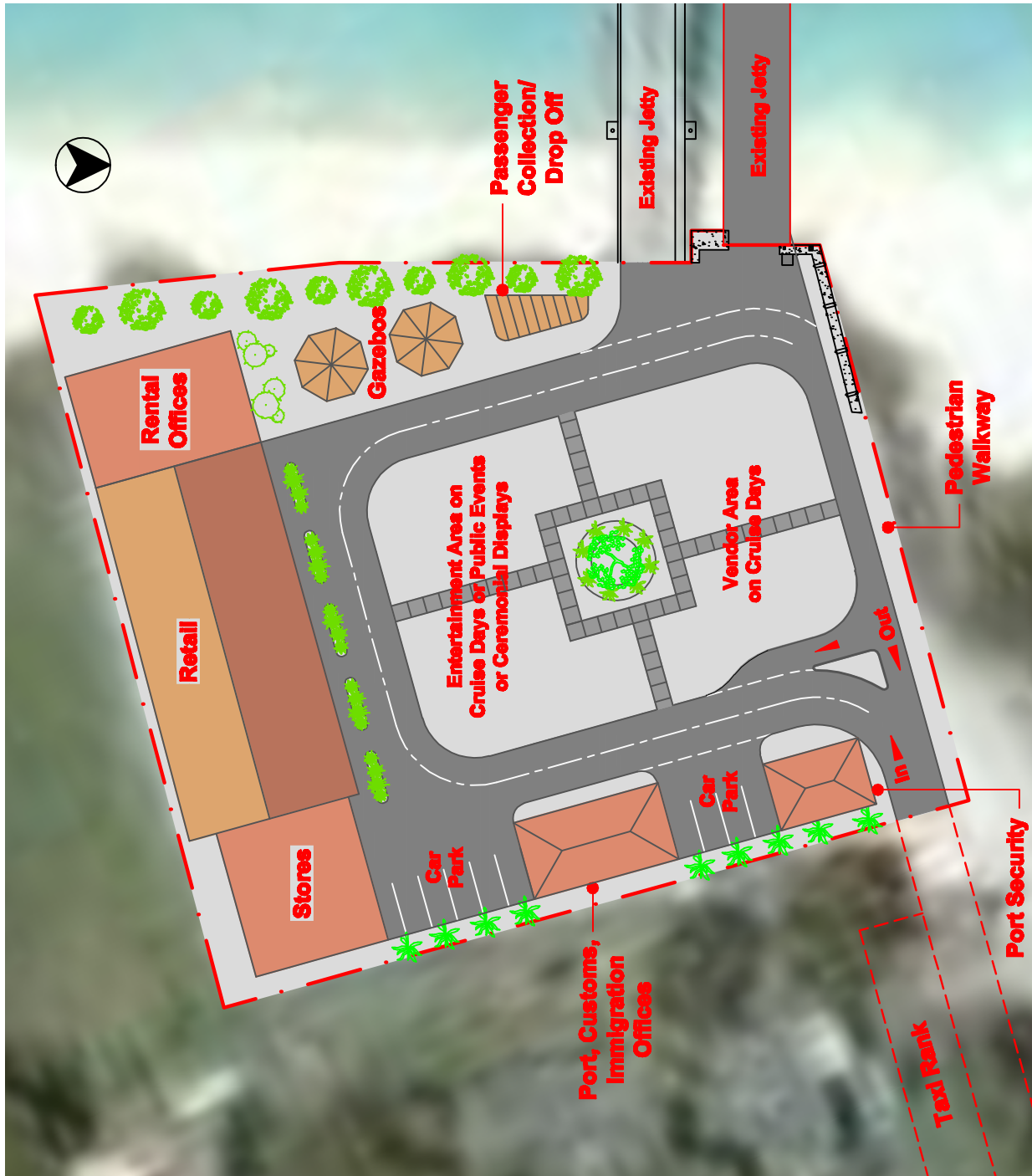




Figure 2.3

<p>1. This Drawing is to be read in conjunction with all other relevant Drawings.</p>	NOTES	AMENDMENTS	NO.	DATE	INITIALS	
	<p>  A: Detail number B: Drawing where detail is shown C: Drawing where detail is shown in plan D: Drawing where detail is shown in elevation </p>					
<p>  DLN Consultants CONSULTANTS FEDERAL, STATE, LOCAL & PRIVATE The City of Darwin Darwin (08) 252 5118 Fax (08) 252 5118 E-mail: Darwin@dlnc.com.au </p>		<p> CLIENT: THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES </p>		<p> PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY </p>		
<p> DATE: 1:400 SCALE: 1:400 DATE: OCT 08 </p>		<p> PROJECT NO: 2942 DRAWING NO.: REVISION NO.: DATE: </p>				
<p> CONCEPT FOR CRUISE PASSENGER PORT — POST PORT CORITO COMPLETION </p>						

Anguilla and the Dutch side of St. Maarten. The facilities at Blowing Point consist of a combined arrivals and departure terminal, a storage area with Police Station over, three jetties and paving with limited car parking. Plans showing the existing facility are given in Figures 2.4 and 2.5. An overview of the site is given in Figure 2.6. (Note: This ‘Google’ depiction of the area was taken pre redevelopment of the recently constructed jetties).

2.3.2 Proposed Development

Reference to the Master Plan for the Port of Blowing Point prepared by Jacobs Consultancy shows that phased development of the shore facilities that has been recommended to meet the Government’s commitment to a passenger processing level of service that has a direct impact on each and every aspect of port operations, i.e. “90% of arriving passengers will be processed through the terminal within 15 minutes of vessel arrival including immigration, baggage recovery and customs”. The proposals for Phase 1 are shown in Fig 2.7 and those for Phase 2B (Ultimate) are given in Fig 2.8.

What is not shown are any provisions for ‘off-site’ improvements which may be needed as a result of increased traffic through the adjacent residential area. We therefore recommend that the GOA look into this matter with a view to providing sidewalks, pedestrian crossings and pedestrian barriers – especially in the vicinity of the school.

2.3.3 Environmental Impacts

The Master Plan for the Port at Blowing Point prepared in March 2008 reviewed the effect on ecology, terrestrial habitats, terrestrial species, bird monitoring data, marine habitat, marine species and fisheries. Other issues included the following:-

Water Quality and Water Resources

Concerns regarding the current water quality are addressed in the Master Plan Report. This notes that the preferred source of water supply at the Terminal is via collection of rainwater from cisterns into holding tanks on the premises. While water storage in such a manner has been a tradition in Anguilla, use of such a facility without controlled treatment for use at a tourism related facility is not recommended.

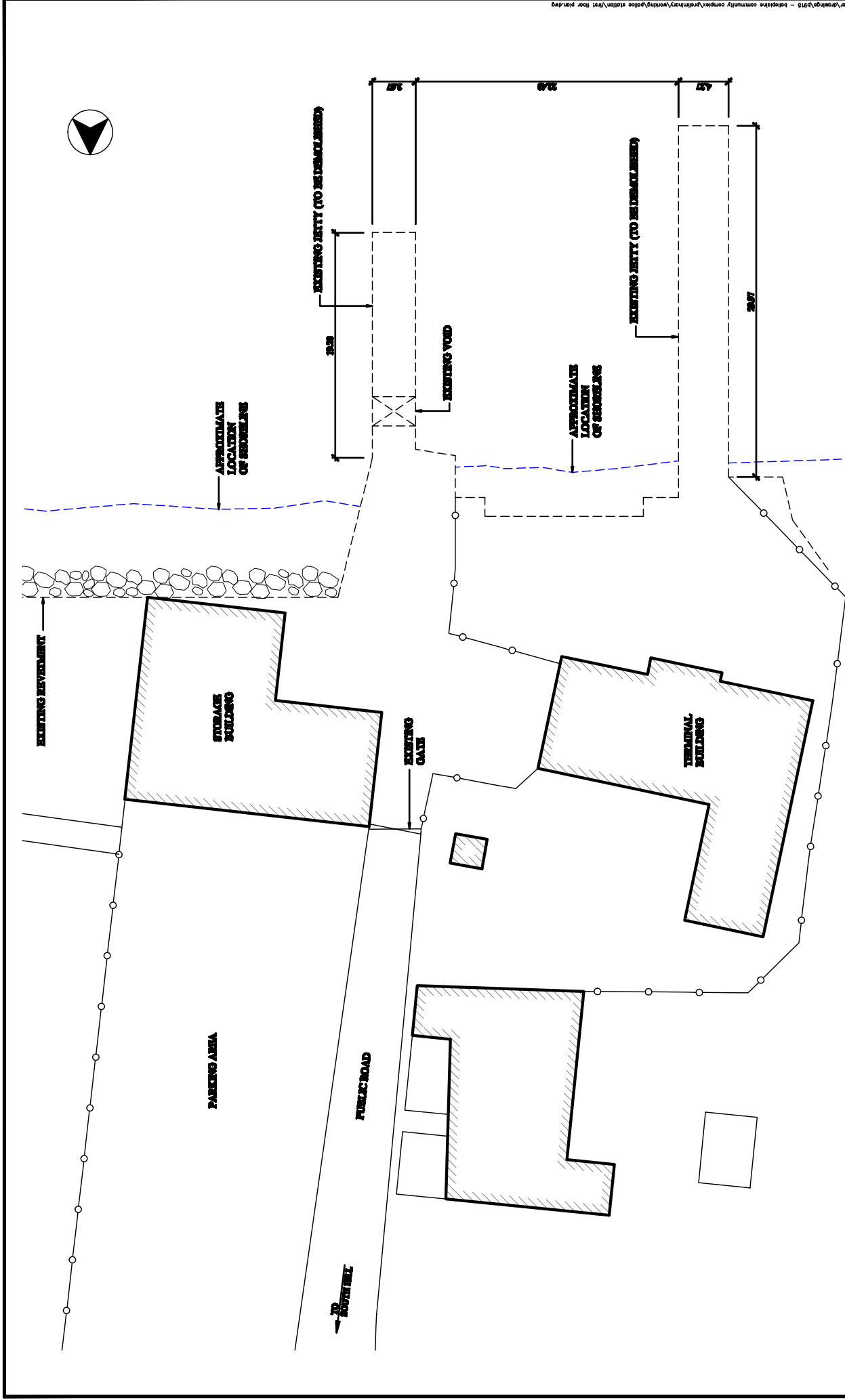


Figure 2.4

SITE PLAN
SCALE: 1:500

<p>1. This drawing is to be read in conjunction with the other drawings in the set.</p>		<p>NOTES</p>	<p>NO.</p>	<p>DATE</p>	<p>REVISIONS</p>	<p>DATE</p>
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<p>A.1 1/1</p>						
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<p>PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p>						
<p>DRAWING TITLE: BLOWING POINT SITE PLAN PRE JETTY IMPROVEMENT (2007)</p>						
<p>DESIGNED: DRAIN</p>	<p>PROJECT NO: 3942</p>	<p>DRAWN BY: DRAIN</p>	<p>CHECKED BY: DRAIN</p>	<p>DATE: AS SHOWN</p>	<p>SCALE: AS SHOWN</p>	<p>ISSUE NO: OCT 08</p>

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Figure 2.5

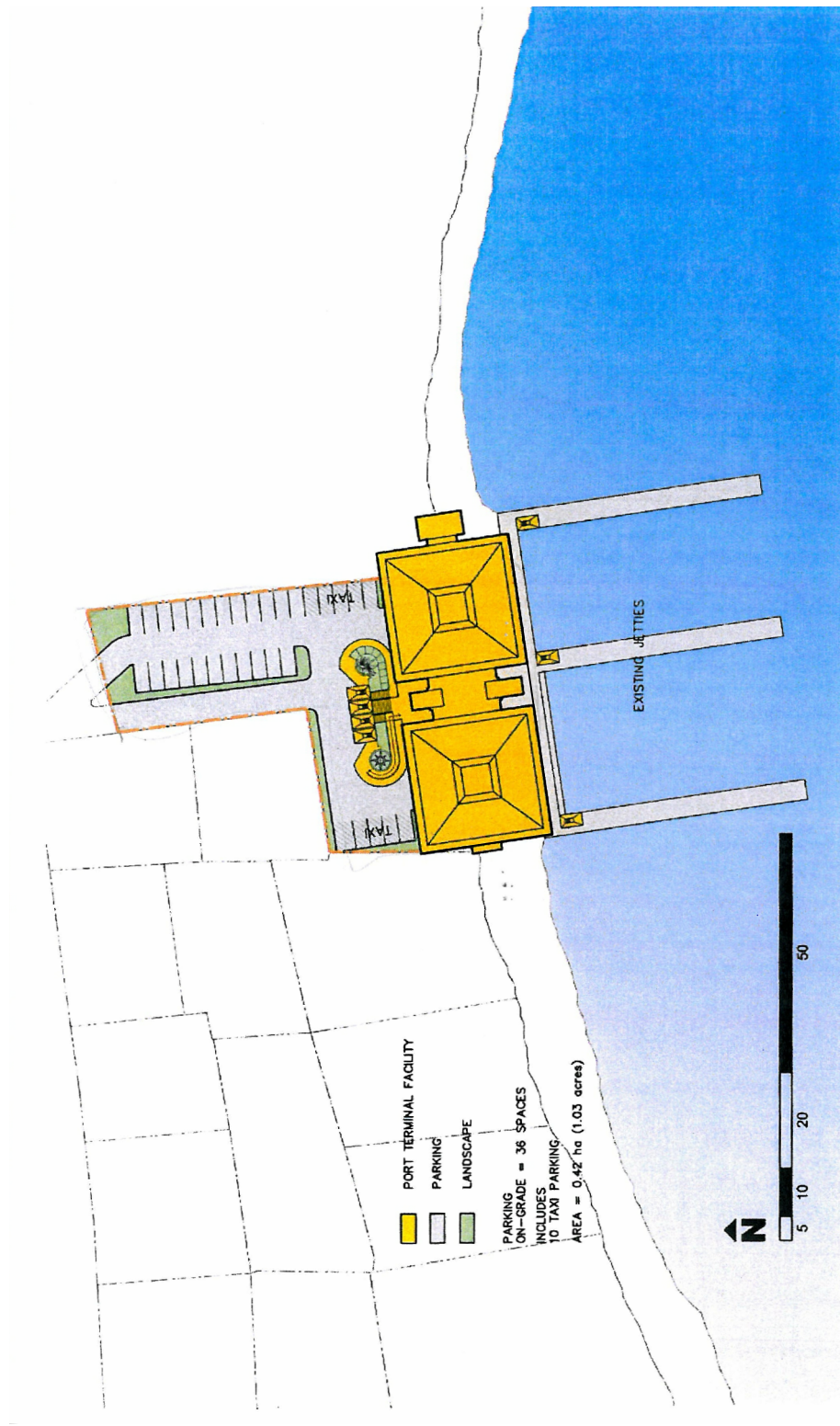
<p>PROJECT NO: 1942</p> <p>DATE: 10/08/15</p> <p>PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p> <p>DRAWING TITLE: BLOWING POINT NEW JETTIES</p>	<p>DATE: 10/08/15</p> <p>SCALE: AS SHOWN</p>
	<p>DATE: 10/08/15</p> <p>SCALE: AS SHOWN</p>
<p>CLIENT: THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES</p>	<p>PROJECT NO: 1942</p> <p>DATE: 10/08/15</p> <p>PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p> <p>DRAWING TITLE: BLOWING POINT NEW JETTIES</p>
<p>CONSULTANT: DLN Consultants ARCHITECTURAL, CIVIL, STRUCTURAL, MECHANICAL, ELECTRICAL, PLUMBING, AND ENVIRONMENTAL ENGINEERS 14, GUYANA STREET, ST. JOHN'S, ANGUILLA TEL: (869) 462-1100 FAX: (869) 462-1100 WWW.DLNCONSULTANTS.COM</p>	<p>DATE: 10/08/15</p> <p>SCALE: AS SHOWN</p>
<p>NOTES</p>	<p>DATE</p>
<p>NOTES</p>	<p>DATE</p>



Figure 2.6

<p>1. The Drawing is to be read in conjunction with all other relevant Drawings.</p>	<p>NOTES</p>	<p>NO. DATE</p>	<p>AMENDMENTS</p>	<p>INITIALS</p>	<p> A. Detail number B. Drawing where detail is shown C. Drawing reference to which detail applies Column 1 to 4 are optional</p>	<p>DLN Consultants CONSULTANTS 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000</p>	<p>CLIENT: THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES</p>	<p>PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p> <p>DRAWING TITLE: BLOWING POINT SITE PLAN - PRE 2007</p>	<p>PROJECT NO: 0942</p> <p>DRAWING NO.:</p> <p>REVISED:</p> <p>DATE:</p> <p>AS SHOWN: OCT 08</p>
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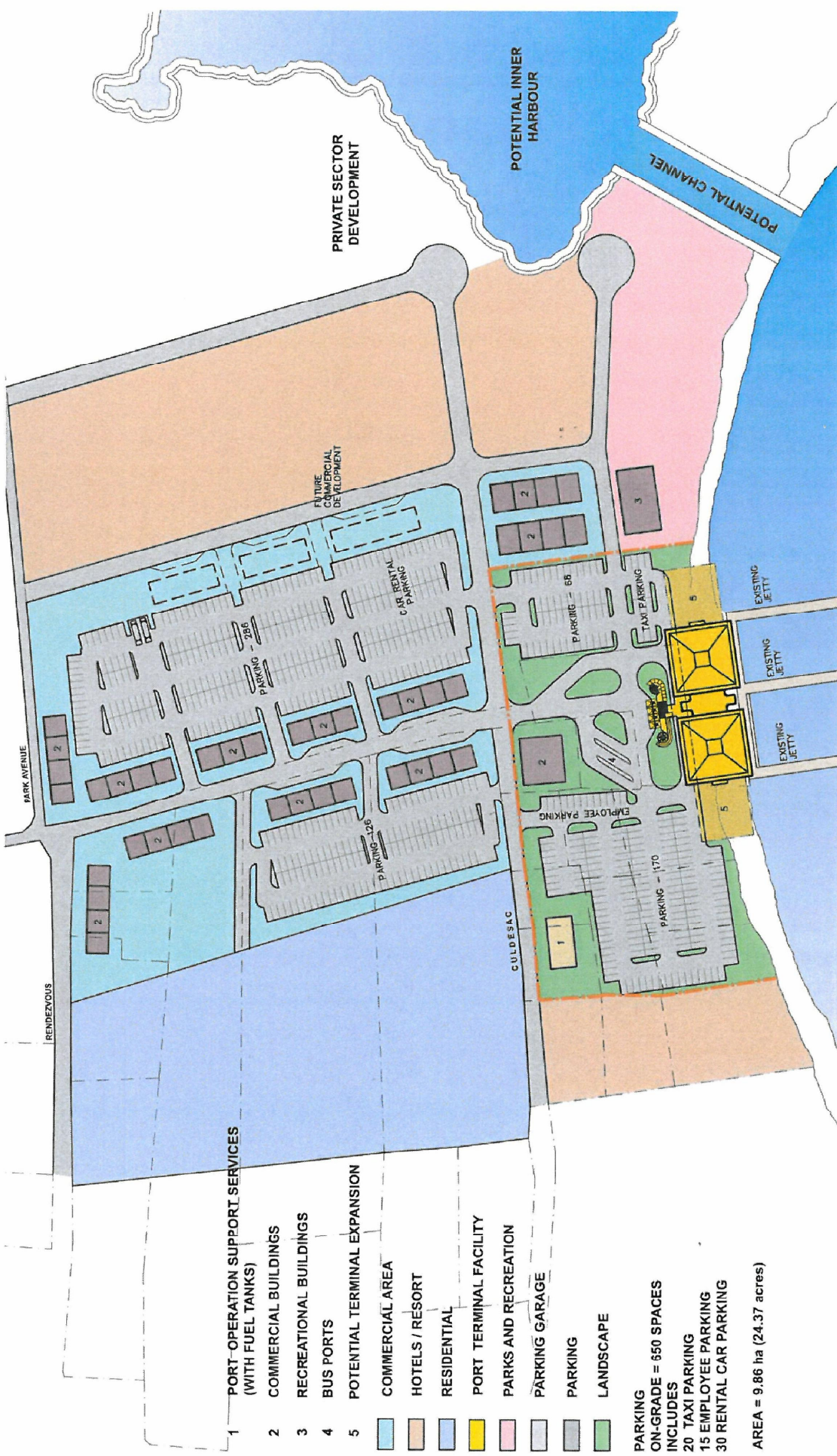
\\server\work\0915 - 014\014\community\angilla\angilla\work\angilla\site\pre 2007 plan.dwg



THIS DRAWING IS TAKEN FROM THE ANGUILLA, BLOWING POINT PORT MASTER PLAN - SITE DEVELOPMENT PLAN - PHASE I AS PREPARED BY JACOBS CONSULTANCY

Figure 2.7

1. This Drawing is to be used in conjunction with all other relevant drawings.	NOTES	NO. DATE AMENDMENTS	<p>PLN Consultants CONSULTANTS IN LANDSCAPE ARCHITECTURE, URBAN PLANNING, INFRASTRUCTURE, TRANSPORT & MARINE ENGINEERING</p> <p>TEL: (868) 422-5118 FAX: (868) 422-5112 E-MAIL: info@plnconsultants.com</p>	CLIENT: THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES	PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY DRAWING TITLE: BLOWING POINT PORT MASTER PLAN (PHASE I)	PROJECT NO: 0942 DRAWING NO: DESIGN NO: DECISION NO: DATE: AS SHOWN OCT 08
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- 1 PORT-OPERATION SUPPORT SERVICES (WITH FUEL TANKS)
 - 2 COMMERCIAL BUILDINGS
 - 3 RECREATIONAL BUILDINGS
 - 4 BUS PORTS
 - 5 POTENTIAL TERMINAL EXPANSION
- COMMERCIAL AREA
 - HOTELS / RESORT
 - RESIDENTIAL
 - PORT TERMINAL FACILITY
 - PARKS AND RECREATION
 - PARKING GARAGE
 - PARKING
 - LANDSCAPE
- PARKING ON-GRADE = 650 SPACES INCLUDES
 20 TAXI PARKING
 15 EMPLOYEE PARKING
 30 RENTAL CAR PARKING
- AREA = 9.86 ha (24.37 acres)

THIS DRAWING IS TAKEN FROM THE ANGUILLA BLOWING POINT PORT MASTER PLAN - SITE DEVELOPMENT PLAN - PHASE IIIb AS PREPARED BY JACOBS CONSULTANCY

<p>1. This drawing is to be read in conjunction with all other drawings.</p>	NO.	DATE	AMOUNTS	INITIALS
	NOTES			
<p>DLN Consultants PORTFOLIO: MARITIME, MARINE, AIR & AVIATION Tel: (849) 427-5198 Fax: (849) 427-5192 E-mail: info@dlncost.com</p>				
<p>CLIENT: THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES</p>				
<p>PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p>				
<p>DRAWING TITLE: BLOWING POINT PORT MASTER PLAN (PHASE IIIb)</p>				
<p>PROJECT NO: B942</p>	<p>DESIGNER: DLN</p>	<p>DATE: OCT 08</p>	<p>SCALE: AS SHOWN</p>	<p>DATE: OCT 08</p>

Figure 2.8

\\server\design\p015 - blawie\community\complex\ang\blow\port\p015\site\port_master_plan\fig 2.8

Noise and Air Quality

The presence of ferries and other boats along with vehicular traffic using the port produce exhaust emissions; however these are thought likely to be dispersed in the constant breeze. It is clear that the existing port activities produce noise, mainly from boat engines and increased noise levels are expected on days when there is a lot of passenger travel to and from St Martin – Saturdays, holidays etc.

There is no air quality monitoring carried out on the island (Karim Hodge, pers comms.) and there is no specific legislation or regulation relating to noise – other than that relating to the use of amplifiers or loudspeakers (the Sound Amplification (Restriction) Act).

Natural Hazards

Anguilla has a National Disaster Preparedness Committee and a plan in place to reduce the risk to life and property should a severe hurricane hit the island. The bill for the Disaster Management Act, 2007 seeks to provide for the effective organisation of the preparedness, management, mitigation of, response to and recovery from natural and man-made emergencies and disasters in Anguilla.

Waste Management

All wastes currently go to the island's only landfill site at Corito. The terminal currently disposes of garbage into waste collection bins on the outside of the terminal prior to transfer. It is anticipated that a more sanitary arrangement will be put in place when the new facility is developed. This is considered essential and in addition the security aspects in relation to the port must be addressed in the implementation of the waste disposal process.

2.4 Corito Bay

2.4.1 Existing Conditions

Corito Bay currently only serves the Shell and Delta fuel storage compounds. It is shallow and provides little shelter from the prevailing winds and waves. The oil tankers moor offshore to buoys anchored to the seabed. Corito is within the only coastal area on the island designated for industrial development. An overview of the Corito site is given in Fig 2.9.

2.4.2 Proposed Development

Marine

Reference to the Anguilla Port Development and Management Study produced in November 2002 by Halcrow Group Limited shows that proposed development is split into two phases. Phase 1 involves the construction of a breakwater from the shoreline across the shallow water on top of the reef at the eastern end of the bay into the deep water near the present tanker mooring. The Report recommends that “two block work quays could be constructed each 200m long, one for ro ro ships and the other for lo lo ships.” The orientation of the quays is shown on Figure 2.10.

Phase 2 would involve:

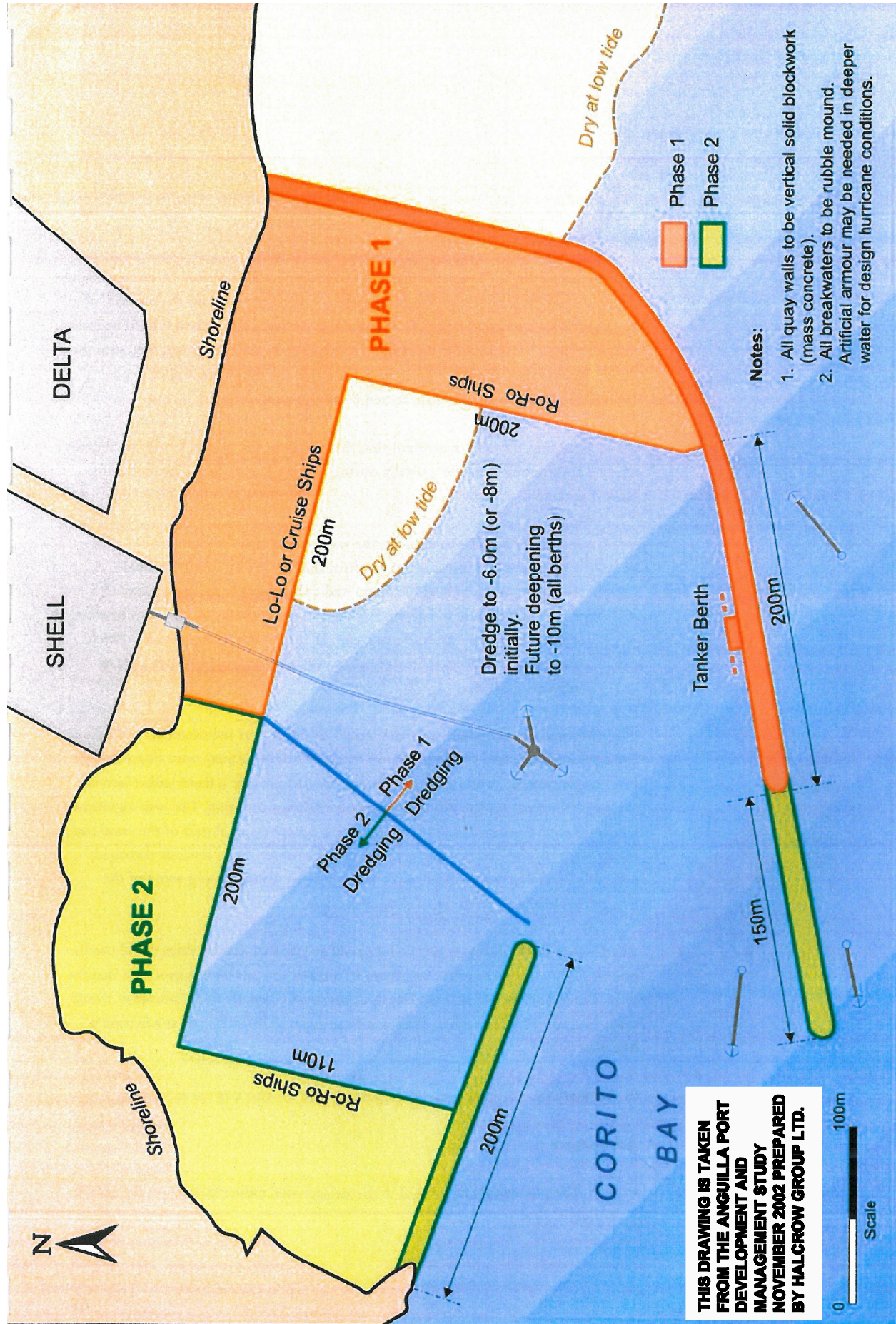
- Extending the Phase 1 breakwater
- Deepening the Phase 1 dredged area to minus 8m
- Constructing a second breakwater at the western end of the bay; and
- The construction of a further 310m of quay which would be dredged to 10m.

The Report also notes that “the proposed development at Corito would fulfil all port requirements in Phase 1 for berthing space and would provide a total of 710m of quay once Phase 2 had been implemented. In addition the scheme would provide a fixed tanker jetty in sheltered water, to replace the existing exposed buoy mooring. Other options to the offshore breakwater could permit for a greater length of berth in Phase 1 and delay the need for Phase 2 expansions.

Shore

The Report does not discuss the need for warehousing, goods handling or administration buildings, but it is clearly the Government of Anguilla’s intent to provide facilities for the Authority’s operations and rentable space for ships agents on the island. It has therefore been necessary to make certain assumptions with regard to these aspects during this study.

An alternative road alignment has been suggested, see Figure 2.11 to maximise the immediately available land area within the port. An allowance has been made in this study for approximately 3 acres to be made available for lease by warehouse



THIS DRAWING IS TAKEN FROM THE ANGUILLA PORT DEVELOPMENT AND MANAGEMENT STUDY NOVEMBER 2002 PREPARED BY HALCROW GROUP LTD.

Figure 2.10

PROJECT NO: 0942 DRAWING NO: 01 SHEET NO: 01 DATE: OCT 08	PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY	CLIENT: THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES	CONSULTANT: PLN Consultants <small>PORTS & MARITIME SERVICES</small> Tel: (849) 422-1118 Fax: (849) 422-5192 E-mail: pln@plnconsultants.com	A: detail number B: drawing where detail shown C: drawing reference to detail shown in other drawings	NOTES 1. This drawing is to be read in conjunction with all other relevant drawings.
	DRAWING TITLE: CORITO BAY FUTURE DEVELOPMENT PLAN	SCALE: AS SHOWN	DATE: OCT 08	REVISIONS NO. DATE	DETAILS

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Figure 2.11

<p>1. This Drawing is to be read in conjunction with all other relevant Drawings.</p>	NOTES	NO.	DATE	REVISIONS	DATE
<p>PLN Consultants PLANNING DESIGN ENGINEERING CONSTRUCTION Tel: (949) 472-5199 Fax: (949) 472-5192 E-mail: info@plnconsultants.com</p>		<p>CHEF:</p> <p>THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES</p>			
<p>PROJECT TITLE:</p> <p>STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p>		<p>REORDER:</p> <p>DRG</p>			
<p>DRAWING TITLE:</p> <p>CORITO BAY PROPOSED NEW ACCESS & ADDITIONAL PORT LAND</p>		<p>DATE:</p> <p>AS SHOWN</p>			
<p>PROJECT NO.:</p> <p>DRG</p>		<p>DATE:</p> <p>OCT 08</p>			

operatives, paved areas to facilitate container storage, (assuming containers stored 2 high as demand requires), and space for bulk external storage unstuffing of containers and discharge area from the warehouses. The added land space is proposed for the long term development of the port and options that may not currently be identified. It is unlikely that Anguilla may wish to consider a move from Corito in the foreseeable future and the greater area of land allocated at this time the less likely there will be a future need for alternative site developments and alternative land use could be considered in time as essential.

Port – Cargo Storage

Based on the equipment considerations, the alternative modes of operation and taking into account the increase in cargo volumes over the design period of the facility, it is anticipated that container handling equipment would be used so that the available space may be densified to allow stacking containers two high and above and the need for trailer storage would be reduced.

A separate area for the unstuffing of containers should be provided to reduce the operational conflicts that could take place in a combined storage and unstuffing area.

Similarly an area for bulk material should be allowed although it is expected that the utilisation of this area would be limited to relatively small bulk volumes since the major bulk items of gravel, sand, cement and lumber would be transported direct from the facility.

Port – Buildings

It has been assumed that in addition to warehousing requirements that the Port Development Study will include office space for the new Port Authority, Customs Department and Immigration. Other facilities to be provided should include a gatehouse to control port entry and exit and a building for workers facilities and public washrooms.

Operational Aspects

Because of the lack of information from the current Corito Port Development Study, it has been necessary to assume general operational and organisational characteristics e.g. operations involving gantry cranes in the long term have been ruled out as it is unlikely within the foreseeable future that volumes of cargo would warrant such a

crane. As cargo increases however, the need for other types of lifting equipment on the pier would be essential in particular for heavy individual loads. Further, as the increase in containerisation takes place, equipment for handling such containers for efficient port operations will require changing, and equipment such as straddle carriers, forklift trucks and stackers will have to be considered. The port would also have to consider the alternative of taking over the operation of any tractor-trailer operations within the port area or leaving these to the agents responsible as currently exists.

The extent of shore facilities and their inter-relationship are generally very dependent on the mode of operation of the port. The new port facility in its infancy would provide a very limited range of operational alternatives, but in time, it will be necessary to improve the equipment providing operational support and this could significantly affect the relationship of facilities on shore. Figure 2.12 shows a simplified incoming Cargo Flow Pattern

In the initial planning, a high degree of flexibility must be considered to ensure use of the early development within the overall context of the future port. The emphasis would be to provide a layout which can be best utilised in the long term by improving operations and not having to significantly change or relocate facilities for expansion.

Port equipment can improve the efficiency of a port and reduce the need for capital expansion by allowing vessels to load or discharge their cargo faster. Options which are possible in the future for the port facility at Corito are basically straddle carriers, side loaders, front lift trucks, stackers and tractor-tailor systems.

Straddle carriers are versatile pieces of equipment capable of lifting 40 ft containers over stacks two high. There are the more efficient types of equipment where travel distances from dock to container storage are longest. A straddle carrier however, is a relatively expensive piece of equipment, and generally requires higher maintenance than other pieces of equipment in its class. Designs have improved since the first generation which required larger maintenance facilities. Engines are most important moving parts are accessible from the ground, but this machine is relatively complex and would require a highly trained maintenance staff.

Fork lift trucks are relatively simple in construction and easier to maintain. Front lift trucks are also equipped with telescopic spreaders for handling containers.

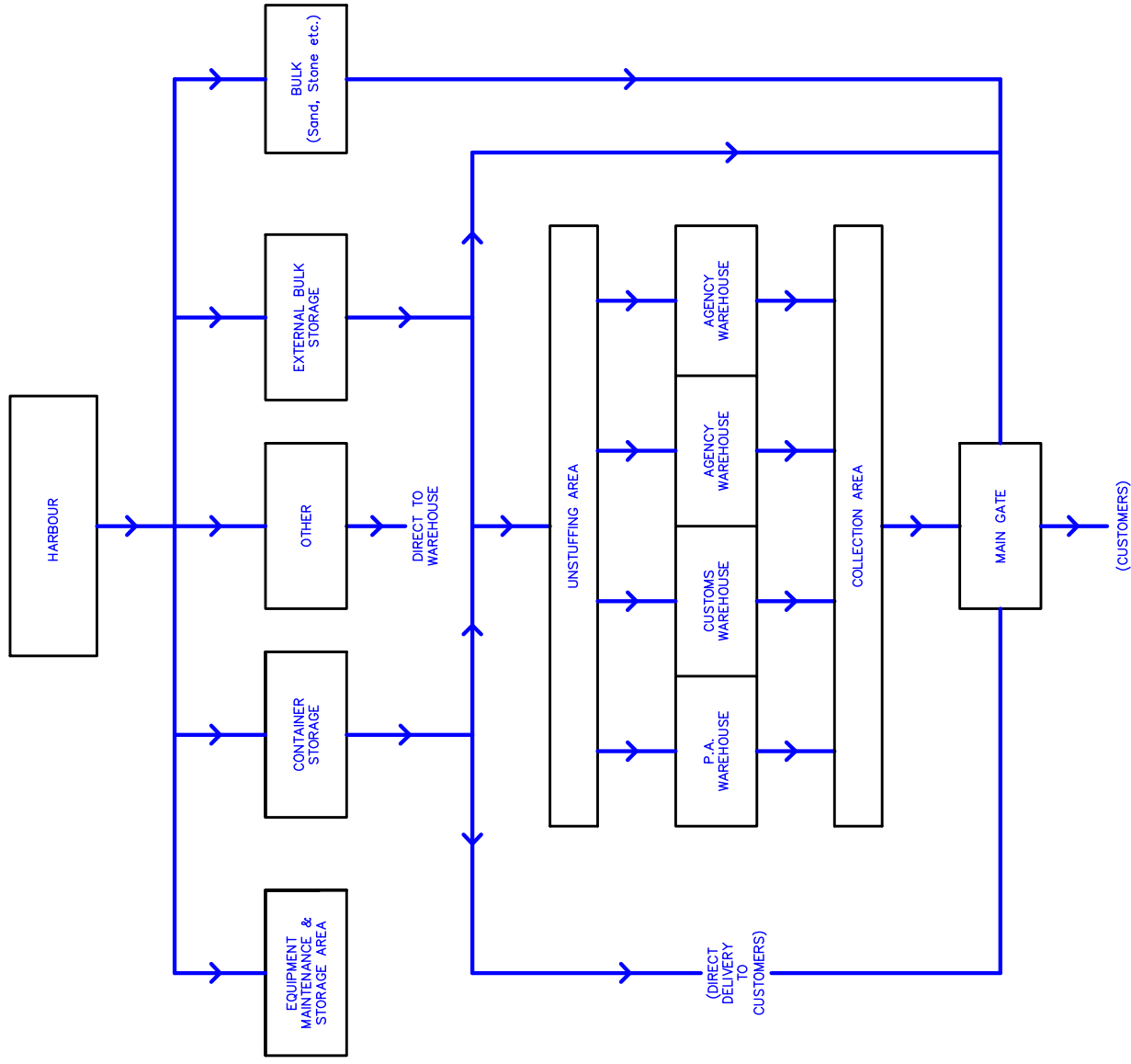


Figure 2.12

<p>PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p> <p>DRAWING TITLE: CORRITO BAY INCOMING CARGO FLOW PATTERN</p>		<p>PROJECT NO: B942</p> <p>DRAWING NO:</p> <p>ISSUE NO:</p> <p>DATE: OCT 08</p>
<p>CLIENT: THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES</p>		<p>DESIGNED: AS SHOWN</p> <p>CHECKED:</p> <p>DATE:</p>
<p>DATE: 15 OCT 2008</p>		<p>SCALE: AS SHOWN</p>
<p>1. This drawing is to be read in conjunction with all other relevant drawings.</p>		<p>NOTES:</p>
<p>REV. DATE</p>	<p>DESCRIPTIONS</p>	<p>INITIALS</p>

Reach stackers are similar to front lift trucks but they have the capability of placing containers in rows behind the isle and in theory should allow for denser stacking in the container storage area. They also have the ability to rotate the container while traveling to reduce the isle width required.

Tractor-trailer systems for moving containers from the pier to the storage area are the cheapest systems because of the low initial cost of the equipment. Terminal tractors may appear to be like ordinary road going trucks, but there are very different. They are designed to operate on board ships and on crowded wharfs and therefore have small turning circles. To operate on a ship's ramp they have large engines and may even be four wheel drive units. The main disadvantage with the tractor trailer system is the fact that the container must be placed on the trailer by another piece of equipment, such as the ship's crane, and if the control spreader is not in use, the operation of placing the container on the trailer can be time consuming and dangerous.

Currently containers loaded on trailers on ro-ro vessels are removed by tractor units to store, but for storage area to be minimised, containers need to be stacked and hence trailers units will have to be discontinued except for transport outside the port.

Smaller forklifts will be required for use in unstuffing containers and in warehouse stacking.

Besides the smaller fork lifts to operate in the Authority's warehouse, based on the current operations and indicated preferences, it is expected that the ships agents will provide the remaining equipment for cargo handling. The Authority should however consider their options for the future when volumes warrant investment in larger port handling equipment, particularly for container handling and storage.

2.4.3 Environmental Impacts

Environmental issues are reviewed to assess whether they, or their mitigation, effect cost, organization or legislation. The Anguilla Port Development and Management Study dated November 2002 notes that development of Corito By as a dedicated industrial port handling all the cargo for the island, complies with the National Land Use Plan. It did not however address actual impacts and it noted that further studies should be undertaken to assess the impact of the preferred options on the local communities and the environment. These studies should include field surveys to collect base line data, further consultations and desk studies to evaluate impacts. The

report went on the state that once the environmental impacts had been identified, it will be necessary to develop programmes for mitigating the impacts and monitoring key indicators to evaluate the success of these measures. It may be necessary to identify environmental enhancement to improve upon existing conditions. Examples of suggested mitigation measures were:

- Variations in design and construction methodologies to avoid or lessen a particular impact.
- The phasing or sequencing of works to avoid seasonal constraints, national holidays or other important social events.
- The timing of work in relation to environmental or oceanographic conditions.
- The design of specific measures to limit damage on site.
- The choice of building materials and finishing and the mechanism for moving them to site.

Following the completion of the EIA, an Environmental Management Plan (EMP) may be required to interpret in greater detail how the proposals should be implemented in order to control potential adverse impacts.

Whilst it is too early to foresee the result of the proposed environmental impact assessment, it can be seen from the study that impact on the physical limitations of the site or the organisation and control of movement of goods would not be affected to a significant extent by environmental requirements. The exception to this may be the adverse affect of increased vehicular traffic on the access to and from the port as noise, fumes, and congestion may all contribute.

The road network from the port area should lead to distribution of the traffic reducing the concentration of the volume to any one area. However the traffic issue, along with the predicted national growth, warrants consideration of a national ground transportation study.

2.5 Wallblake Airport

2.5.1 Existing Conditions

Figures 2.13 and 2.14 show the results of the extensions to Wallblake Airport runway as contained in the Options and Funding Study prepared for the GOA by WS Atkins International Limited in April 2001.

2.5.2 Capacity for Expansion

Future lengthening of the runway is being considered, as is expansion of taxiways, parking areas and terminal buildings. Lengthening of the runway is however limited by the physical confines of the site as currently available 'width' limits the length to 6000 feet – it is presently at 5400 feet. Width, and consequently length, could of course be increased by purchase of land and reconstruction of buildings but this is most unlikely as one of the sites in question is that occupied by the electricity generating station. No such problems will be encountered for the enhancement of taxiways and parking areas for the numerous private planes which use the facility.


Space for expansion or reconstruction of the terminal is also available. An allowance has therefore been made for an increase in the value of airport assets between 2012 and 2016 to account for decoration refurbishment and minor expansions of the terminal and increase of 20,000 sq. feet of taxiway and parking.

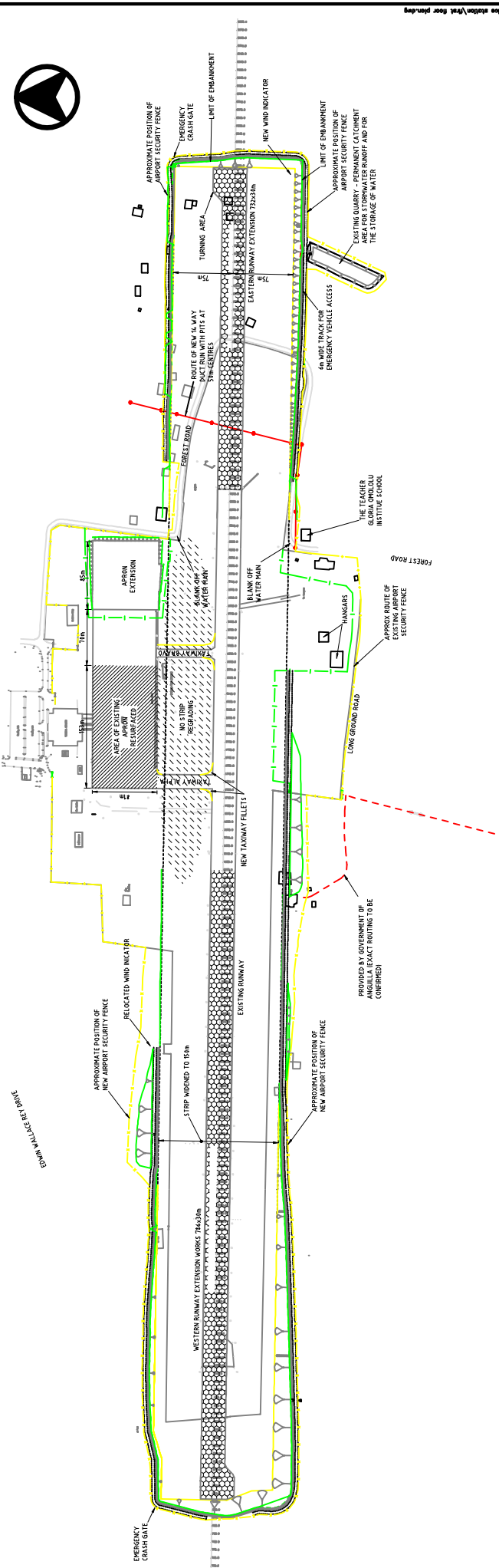
2.5.3 Institutional Notes

The KPMG: Functional and Efficiency Review : Implementation Report and Action Plan (1997) noted that virtually all operational functions with respect to building construction and maintenance work “were contracted out several years ago”. The strategic modelling exercise enabled the Ministry’s change management team to identify, in 1997, the need to shed operational functions and proposals were put forward to divest road maintenance, vehicle maintenance etc.



Figure 2.13

PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY	PROJECT NO: 2942	ISSUED: DATE:	PROJECT NO: 2942
	DRAWING NO: AS SHOWN	DECIDED: DATE:	DRAWING NO: AS SHOWN
CLIENT: THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES	PROJECT TITLE: ANGUILLA AIRPORT EXISTING SITE PLAN		
 DLN Consultants CONSULTANTS 100, THE SQUARE, ST. JOHN'S, ANGUILLA Tel: (849) 427-8112 E-mail: info@dlnc.com	A. detail number B. drawing where detail C. cross reference to drawing sheet Drawing sheet		
NOTES		NO.	DATE
NOTES		AMENDMENTS	INITIALS



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Figure 2.14

1. This Drawing is to be used in conjunction with all other relevant drawings.	NOTES	REV.	DATE	DESCRIPTIONS	INITIALS
<p>A: detail number B: starting where detail C: shows reference to drawing of same detail D: shows where detail drawing is used</p>	<p>DLN Consultants CONSULTANTS GENERAL BUILDING, INDUSTRIAL BUILDINGS, INFRASTRUCTURE, MARINE FACILITIES, POWER PLANTS, WATER SUPPLY TELECOMS, TRANSPORT & TRAVEL</p> <p>The City Centre Tel: (264) 422-1100 Fax: (264) 422-1100 E-mail: info@dlnc consultants.com</p>	<p>CLIENT: THE GOVERNMENT OF ANGUILLA MINISTRY OF INFRASTRUCTURE, COMMUNICATIONS, UTILITIES, HOUSING, AGRICULTURE & FISHERIES</p>	<p>PROJECT TITLE: STUDY OF THE LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY</p>	<p>PROJECT NO: 1942</p>	
				<p>DATE: 1:5000</p>	<p>ISSUE: OCT 08</p>
				<p>DRAWING TITLE: ANGUILLA AIRPORT OUTLINE OPTION FOR FUTURE EXPANSION WITH CURRENT CONSTRAINTS</p>	

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3.0 BUDGETARY CAPITAL, OPERATION AND MAINTENANCE COSTS

3.1 Introduction

Costs have been developed from a combination of estimates for capital works provided in previous reports, a review of recommendations contained in these reports, typical building costs pertaining to Anguilla, estimated operational and organizational demands and typical maintenance costs. While land costs have not been included in these estimates for financing purposes, as it is understood that all Ports lands are Crown Lands and may therefore not be vested in the Authority and it was noted during a site visit in later November 2008 that the Permanent Secretary in the Chief Minister's Office had just been given authority to negotiate for the purchase of land needed for the expansion at Blowing Point and the new port at Corito. We have based our estimate of land cost on the foregoing and other land cost information to estimate a value to assess the extent of value over which the new Authority will have control, so as to assess the capacity for the Authority.

3.2 Capital Costs

Budgetary Capital Costs on which the Financing Arrangements are based are shown in Table 3.1 while the estimates with land values are in Table 3.2.

The estimates for Blowing Point and Corito are based on the estimates for their phased development prepared by Jacob's and Halcrow respectively.

The estimate for Road Bay considers an option for upgrading into a cruise and yacht passenger port while the estimate for Wallblake take into account expansion limits considered by Atkins.

TABLE 3.1**Table 3.1: Estimated Capital Costs of Fixed Assets**

	2009	2012	2016
<u>ROAD BAY</u>			
Buildings/Infrastructure	2,140,000.00	8,000,000.00	8,000,000.00
Jetties	5,600,000.00	5,600,000.00	5,600,000.00
Other Assets	500,000.00	700,000.00	1,000,000.00
EC\$	8,240,000.00	14,300,000.00	14,600,000.00
<u>BLOWING POINT</u>			
Buildings/Infrastructure	2,500,000.00	39,750,000.00	51,500,000.00
Jetties	8,000,000.00	8,000,000.00	8,000,000.00
Other Assets	250,000.00	750,000.00	1,050,000.00
¹ Contingencies 10%		4,000,000.00	5,100,000.00
EC\$	10,750,000.00	52,500,000.00	65,650,000.00
<u>CORITO BAY</u>			
Buildings/Infrastructure	-	2,500,000.00	2,500,000.00
¹ Port	-	74,000,000.00	130,000,000.00
Other Assets	-	1,500,000.00	1,500,000.00
² EC\$	-	78,000,000.00	134,000,000.00
<u>WALLBLAKE AIRPORT</u>			
Buildings/Infrastructure	19,500,000.00	21,000,000.00	44,000,000.00
Other Assets	2,500,000.00	2,500,000.00	2,500,000.00
EC\$	22,000,000.00	23,500,000.00	46,500,000.00
Overall Totals EC\$	40,990,000.00	168,300,000.00	260,750,000.00
¹ 2002 figures from Port Development and Management Study Updated to 2009 at 5% per annum.			
² Assumes ships and agents provide all cargo handling equipment except in Port Warehouse.			

TABLE 3.2

Table 3.2: Schedule of Estimated Assets Values for Ports

	2009	2012	2016
<u>ROAD BAY</u>			
Land	4,800,000.00	4,800,000.00	4,800,000.00
Buildings/Infrastructure	2,140,000.00	8,000,000.00	8,000,000.00
Jetties	5,600,000.00	5,600,000.00	5,600,000.00
Other Assets	500,000.00	700,000.00	1,000,000.00
EC\$	13,040,000.00	19,100,000.00	19,400,000.00
<u>BLOWING POINT</u>			
Land	1,500,000.00	1,500,000.00	33,000,000.00
Buildings/Infrastructure	2,500,000.00	39,750,000.00	51,500,000.00
Jetties	8,000,000.00	8,000,000.00	8,000,000.00
Other Assets	250,000.00	750,000.00	1,050,000.00
¹ Contingencies 10%		4,000,000.00	5,100,000.00
EC\$	12,250,000.00	54,000,000.00	98,650,000.00
<u>CORITO BAY</u>			
Land	-	16,000,000.00	31,000,000.00
Buildings/Infrastructure	-	2,500,000.00	2,500,000.00
Port	-	74,000,000.00	130,000,000.00
Other Assets	-	1,500,000.00	1,500,000.00
EC\$	-	94,000,000.00	165,000,000.00
<u>WALLBLAKE AIRPORT</u>			
Land	127,000,000.00	127,000,000.00	127,000,000.00
Buildings/Infrastructure	19,500,000.00	21,000,000.00	44,000,000.00
Other Assets	2,500,000.00	2,500,000.00	2,500,000.00
EC\$	149,000,000.00	150,500,000.00	173,500,000.00
Overall Totals EC\$	174,290,000.00	317,600,000.00	456,550,000.00
¹ On Buildings/Infrastructure only			

3.3 Operational Costs of Ports

Historical GOA budget data indicated that operational costs are approximately 35% of Personnel Emoluments and have been assumed to continue at that proportion. A figure equal to 10% of Head Office emoluments has been included to cover rental of office space prior to construction of permanent facilities at Corito.

Number of personnel and their respective proposed grades are shown in Table 3.3.

3.4 Maintenance Costs of Port Assets

Maintenance costs for all of the facilities have been allowed for at 5% per annum of their total value. However, whether maintenance should be done in house, by contract or by a mixture of the two, has still to be decided.

The KPMG report of 22nd October 1997 makes it clear that the GOA wished to divest themselves of in-house maintenance and this general principal is accepted here. Some maintenance must, as a result of its magnitude or speciality, invariably be handled by contract. Examples of these would be runway re-paving and maintenance of navigation equipment (currently controlled by the OECS who have a technician in residence at Wallblake).

Senior management at both the air and sea ports, does however favour keeping some capacity 'in-house'. Both favour the employment of a maintenance foreman who would be supported by 2 or 3 'Handymen'.

Table 3.3

**GOVERNMENT OF ANGUILLA
LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS FOR A PORTS AUTHORITY**

EMOLUMENTS

	<u>No.</u>	<u>Grade</u>
<u>Head Office</u>		
Board	5	
CEO	1	A
Finance Manager	1	B
Operations Manager	1	B
Admin Sec	1	J
Admin Assistant	1	K
Accounts Supervisor	1	F
Accounts Clerks	2	K
Chief of Security	1	E
Dep Chief Security	1	F
Human Resource Officer	1	E
Information Technologist	1	E
<u>Road Bay / Corito</u>		
Port Supervisor	1	F
Port Operatives / Passenger Support	2	L
Cashiers / Accounts Clerks	2	K
Sergeants	2	G
Security Officers	2	L
Night Watchman	<u>1</u>	M
<u>Blowing Point</u>		
Port Supervisor	1	F
Port Operatives / Passenger Support	4	L
Cashiers / Accounts Clerks	2	K
Sergeants	2	G
Corporals	2	J
Security Officers	6	L
Night Watchman	<u>1</u>	M
<u>Corito Bay</u>		
Harbour Master	1	D
Port Operatives / Cargo Handlers	6	L
Cashiers / Accounts Clerks	2	K
Sergeants	2	G
Corporals	2	J
Security Officers	6	L
Night Watchman	1	M
<u>Wallblake</u>		
Airport Manager	1	C
Dep Airport Manager	1	D
Sr Air Traffic Control Officer	1	E
Air Traffic Control Officers	7	G/H
Meteorological Asst.	1	F
Aeronautical Info Officer	1	E
Maintenance Supervisor	1	J
Admin Assistant	1	K
Baggage Handlers / Support Staff	6	M
Cashiers/Clerks	2	K
Sergeants	2	G
Corporals	4	J
Security Officers	30	L
Night Watchman	<u>1</u>	M

Notes: Pay grades based on Job Regrading Results JRC 2007, GOA

4.0 INSTITUTIONAL AND ORGANISATIONAL PROPOSALS

4.1 Introduction

In the latter part of the 20th century the Government of Anguilla instigated a public sector development programme. KPMG was the company engaged to support this effort through a functional and efficiency review with the objective of improving value for money achieved in the public works, communications and public utilities sectors.

A strategic modelling exercise then enabled the Ministry's Change Management Team to conceptualise a Ministry which shed its operational functions to focus on planning, coordinating sustainable infrastructural development and monitoring and regulating communications and utilities services. As part of this exercise, it was recommended that the institution merging the port management with that of the airport, should be into a statutory authority or a state owned company. The organisational structure to satisfy the recommendations were outlined in the KPMG report which referenced the future structure of an airport and seaports authority. The proposed structure for the Airport and Seaport Authority, as given in the KPMG report, is shown in Figure 4.1.

The Terms of Reference for this Study call for the Consultants to review the organisational and operational demands of the improved facilities at the Airport and Seaports and plan for the creation of a business oriented Authority to run them. Particular reference is made to the need for the following:

- A review of the Airport and Seaports core functions and the making of recommendations for an improved organisation and management framework.
- An assessment of port security and technical operation concerns
- Development of a human resource plan to provide Anguillans with the knowledge and skills needed to efficiently and effectively run the Authority.

This present study prepares for the fruition of the institution by legislating for an Authority as provided in Appendix 2. The necessary organisational structure for operation of the Authority is addressed in the following and the Regulations in Appendix 3.

4.2 Core Functions

The core functions of the sea and air ports are to safely, efficiently, effectively and profitably, allow the movement of vessels, people and goods into and out of Anguilla. The primary centres for the movement of passengers (post the opening of Corito) will be Road Bay,

**GOVERNMENT OF ANGUILLA
LEGISLATIVE AND INSTITUTIONAL REQUIREMENT FOR PORTS AUTHORITY
AIRPORT AND SEAPORT AUTHORITY: KPMG PROPOSED STRUCTURE**

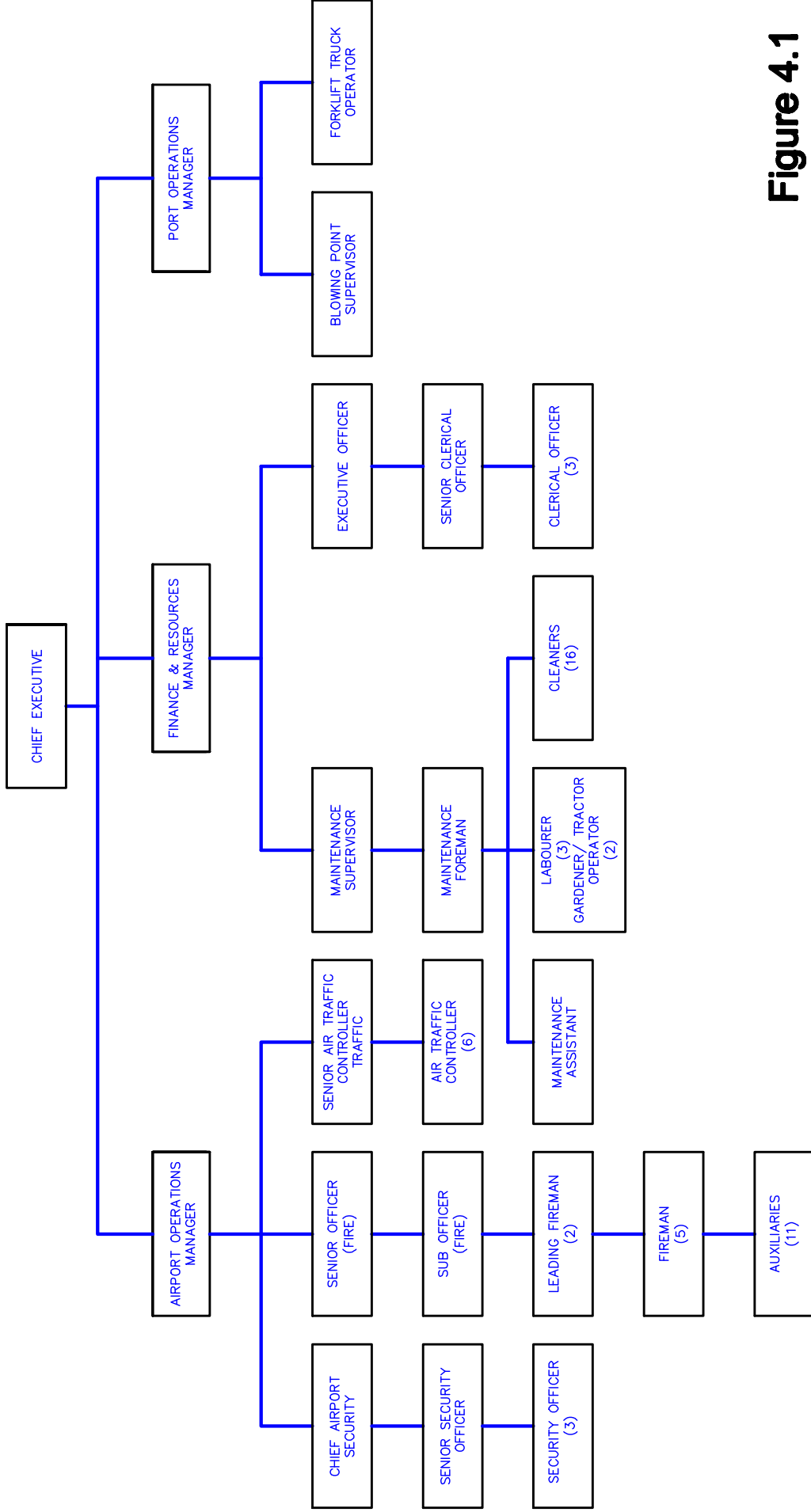


Figure 4.1

Blowing Point, and Wallblake. Cargo handling will be concentrated at Corito. In each case the object should be to ensure the comfort and well being of passengers transfer and safe transfer of cargo whilst ensuring adherence to all laws and regulations and the principle of profitability in providing efficient and effective service.

To a large extent physical constraints will affect the sense of comfort and well being but, in most cases, it is the attitude and efficiency of those working at the facilities that will leave the longest lasting impression. It is essential therefore that all members of the Authority understand their responsibilities in this regard and that they, in turn, are given satisfactory conditions and terms of service.

In summary, an organisation with sound direction, management, financial control, operational procedures, maintenance, human resource management and security is essential. General Policies must therefore be established.

4.3 Organisation General Policies

General

Prior to making recommendations for an improved organisation and management framework it is necessary to establish general policies within which the legislation and regulations can be developed to function within acceptable ranges allowing for expansion that will occur as the ports are further developed to meet growth demands.

Government

The Authority will commence as an Authority of the Government of Anguilla. The GOA is therefore responsible for setting the necessary policies for an effective and efficient Authority to operate. In this respect the constitution, organization and operations of the Authority are governed by the applicable legislation.

The airport and seaport operations by the Authority will form a vital part of the transportation sector of the economy of Anguilla. This makes it essential that operations are carried out in accordance with the general transportation policy set by the Government from time to time in the interest of the development of the economy of Anguilla.

The Government of Anguilla, through the Minister responsible, will have control over the decisions affecting the national interest which would include necessary policy decisions. For the purposes of continuity, the Minister may wish to maintain senior staff within the Ministry to advise on such policy matters as well as being responsible for processing applications and

submission from the Authority and acting as a liaison between the Minister and the Authority when the Minister needs advice on matters relating to National interest.

The Board

Within the above framework, the Authority will have full autonomy to operate the Ports in a business like manner. The principal of autonomy can be best expressed by the concept of responsibility through accountability.

The Authority will require direction in a number of areas of activities. In this respect individuals with recognised experience in areas such as shipping, airlines, labour relations, community services, finance, law, trade, science and tourism should be considered to reach a balanced Board. While other sectors may also be considered, it should be realized that individuals serving any one sector may have experience in other sectors and hence can represent more than one sector. Due consideration should be given to this aspect in making appointments, for too large a board can be unwieldy and lead to drawn out processes of decision making. It should also be borne in mind that the Board would have the opportunity to draw on special services on an as required basis to satisfy a particular issue. The judgment is that a Board should be a minimum of five and a maximum of ten persons. In order to make a better determination with time, it is recommended that a minimum of five be considered at the start up of the process with flexibility for increase in time if and when there is a demand.

General experiences indicate that the accepted term for a Board is three years with staggered appointments for continuity. Directors should be eligible for re-appointment, and while serving at pleasures should be dismissed only for cause. A quorum shall be a majority of Board members appointed at any particular time.

The Chairman

The Chairman of the Board should be appointed by the Governor in Council and will have a casting vote in any tie. This appointment will of course play a key role in the successful start-up and implementation of the Authority. Careful consideration should therefore be given to the Chairman's qualifications and experience, especially as it is anticipated that this person may be called upon to act in a part time executive role either before a CEO is chosen or, to a lesser degree, after, especially during the major development process at Blowing Point and Corito.

The anticipation is that it may be difficult to initially fill the CEO position with a qualified Anguillan and, even after appointment, the duties of setting up the Authority will be arduous

enough without having to control major ports development and improvement. The 'executive' Chairman should therefore bring special talents to the table. We recommend the Chairman at formation should:

- have worked in government in liaison with the private sector (preferably at the level of P.S. or equivalent) or vice versa (preferably at the level of a CEO and/or Chairman or equivalent);
- be knowledgeable about transportation and the development process;
- have a planning or engineering background;
- have some experience on other significant Boards of Directors;
- possess sound enough judgement to (i) know how much help the new CEO will need and (ii) when to withdraw.

The Organisation

The Authority shall have the prerequisite powers to operate the port as an efficient business including the following:-

- **Personnel**

The power to hire and dismiss all of its employees, to appoint and fix the salary of the Chief Executive Officer, should be at the discretion of the Board. The salaries of the other senior administrators of the Authority should be set by the Board. The Chief Executive Officer is to report to and be responsible to the Board only, the balance of the staff is to be responsible to the Chief Executive Officer.

No new personnel hired by the Authority should remain employees of the Government of Anguilla unless they are on secondment. A decision as to the maintenance of existing employees in port operations within the Authority needs to be determined. It is understood that the principal issue of pension rights is unlikely to be a factor. Other employer/employee issues may have to be clarified prior to any transfers. The issue of job security in a new Authority, as against employment directly in Government, is likely to be a main issue and will need to be given due consideration.

- **Labour Relations**

This is a vital area. Successful ports, almost without exception, are those which have developed a responsible labour policy and effective relationship with labour and its representatives. The Authority should have the power to act as principal in this matter. It should also be party to all negotiations affecting labour working in the port area. If the final decision is made elsewhere, then labour will not have any respect for or listen to the Authority. The Minister should be advised on labour matters which can affect the economy or the transportation policies of the country and the Government should give any assistance that it considers necessary.

- **Policing**

The Board should appoint a security force whose members will have the powers of search and arrest on the properties of the Authority. This includes all persons entering or leaving such properties. The security force should also have the right to control traffic within the areas defined as harbour land.

The general enforcement of the laws of Anguilla is the responsibility of the Royal Anguillan Police Force. However the Authority should have the power to pass by-laws for the protection of the people and property within the area under its jurisdiction and satisfy international requirements to which Anguilla is committed and should appoint a security force by law with the powers set forth above, after consultation between the Minister and other appropriate Ministers. Ministers should however be required to have due consultation with the Governor who holds overall responsibility for security with advice from the Regional Aviation and Maritime Security Advisor.

As would be indicated from Table 3.3 and shown later in Figure 5.2 the cost of security will form a significantly disproportionate part of total remuneration costs. It is therefore suggested that the experience of the new management team, particularly that of the CEO and his Finance and Operations Managers, allow for some rationalisation of the security forces when they prepare their security plans.

- **Engineering**

The Authority should have the power to appoint its own engineering staff to carry out its own maintenance. The decision should rest with the Board as to whether work is done with its own personnel or by using outside contractors.

Current policies in this respect indicate, based on operations at the sea ports and the airport, that this work will be sub-contracted in the first instance. The Board will then have the option for its incorporation as required. We propose that the responsibility for sub-contracting be under the Operations Department of the Authority in the interim.

- **Port Development**

The Authority should prepare long term plans and objectives for submission to the Minister. These will be considered by the advisors to the Minister, probably through the Ministry responsible for infrastructure, who would report to the Minister in keeping with the Government's development of its long range transportation objectives and priorities.

- **Operations**

The Authority has the power to carry out all activities necessary for the management and operation of the Ports. These include maintenance, control of traffic, terminal operations, stevedoring, operation of equipment and trucks, licensing and tariffs, as well as general administration. These powers apply to land and water areas set out in a Schedule to the Act.

The Authority need not carry out any of these works; the decision as to the desirability of entering into any of the operating fields is that of the Authority.

Initially, the operation of the terminals previously operated by MICUHAF will be incorporated as part of the establishment of the Authority.

The Authority has the power to undertake stevedoring if the Authority considers it in the best interest of a Port to do so. A stevedoring company is not allowed to operate within a port area unless granted a licence by the Authority. Such licence sets forth the terms and conditions of operation, including the payment of fees to the Authority and the approval of stevedoring rates.

Control of navigation in the area under its jurisdiction is essential. The Authority has the jurisdiction power to control, by by-law, the development of any land within the defined airport or seaport areas.

The Authority has the power to negotiate leases and recommend their approval to the Minister.

- **Regulatory Powers**

"The Authority shall have the right to pass by laws and regulations affecting operations within the Ports and to levy charges and rates. These by laws and regulations are subject to approval of the Minister, and shall comply with the directives of the Governor In Council. These by laws and regulations shall also comply with the provisions of the overseas territories orders pertaining to Air Navigation and Merchant Shipping that are included in the new Act and Regulations."

These rates applying to passenger, cargos, aircraft and ships throughout the seaport and airport area shall be as defined in the Tariff Schedule to the act. Rates and charges for services rendered by the Authority on airport and seaport lands as defined in the Tariff Schedules may, at the option of the Authority, be by such by law or by contract including through tariffs. The latter shall be filed with the Minister and become public documents.

- **Finances**

Annual business plans shall to be prepared and submitted to the Minister by the Authority 4 months prior to the commencement of each financial year. The obtaining of approval from other appropriate departments shall be the responsibility of the Minister. Once, approved, the Authority shall have the right to spend the global amount of capital without further reference. If outside financing is required then, prior to approval of the capital budget, the approval of the appropriate authorities should be obtained in order that the Authority can proceed with the necessary works immediately upon receiving these approvals.

Operating budgets shall be prepared and approved by the Authority and submitted to the Minister for information only.

4.4 Basis of Management Framework

Satisfying the prerequisites of the General Policies of the Authority requires a range of services from personnel with experience in the following:

- Management
- Labour Relations
- Policing
- Engineering
- Port Development

- Operations
- Regulatory Powers
- Finances

Such prerequisites would obviously be required at the head of the management levels of the Authority. Each of the activities are not however likely to be a full time commitment for an individual. In Ports of the sizes of Anguilla's it is therefore essential for other options to be considered in ensuring success of the operations within sound financial practices by a combination of management duties.

The principal sectors to be satisfied are those of:

- Executive Management
- Finance
- Operations

and it is proposed that the other sectors be placed within the foregoing sectors based on judgement in relation to the nature of the activities.

As a basic principal activities that are more office based would fall under Finance while those related to external activities would fall under Operations.

Labour Relations and training will be priorities at the establishment of the Authority. It is anticipated that these will require substantial external support as a major department will not warrant continuity. It is therefore proposed to place a human resources personnel in the Finance Department under the Finance Manager.

Security, while a major force in the operation of the Authority, is not as essential at principal level management. It is therefore proposed that security be placed in the Operations Department under the Operations Manager with the Chief of Security responsible to him.

The current and proposed start up operation of the Authority is based on support from the existing structure. Ships agents will continue to provide services and provide the major portion of equipment to satisfy the requirements until such time as the Authority is fully established and is in a position to consider options. This report suggests the need for Engineering is limited and does not warrant a full time employee. It is proposed that Engineering and related maintenance be contracted out, under the responsibility of the Operations Department. Similar would be the case for Port Development, albeit that the information systems shall be maintained by the Authority to guide the decision making

process for the timing of development. In this respect all departments would be involved, with the overall responsibility being that of the CEO.

Regulatory powers may include for by-laws under which the Authority operates. These will stem primarily from operational issues but will require some finance inputs, particularly with respect to rates and tariffs etc. The Authority will also have to play a major role in this respect and it will therefore be essential for the CEO to be involved with Finance and Operations.

In summary finance, accounting and systems are primarily under the purview of the Finance Department. In addition it is proposed that Human Resources and Administration fall under the Finance Department as office based operations. On the other hand, in order to limit the need for a wider top management requirement than would otherwise be necessary, it is proposed that the management responsibilities relating more to external operations should fall under the Operations Department. These should include Facility Management including Engineering, Passenger, Cargo and Vessel movement, Security and Maintenance.

Based on the foregoing the positions in the organisational structure should be developed taking into account certain basic principles that should establish the focus on a business oriented organisation.

The system of simply enacting the dictates of the Government via its Ministries without some source of organisational achievement based on goals will no longer suffice and everyone will have to understand their responsibilities with respect to safety, efficiency, effectiveness and profitability. Prime in this regard will be the Board, the Chief Executive Officer (CEO), the Finance Manager (FM) and Operations Manager (OM). They will have to ensure the success of the Authority with a sensitive and business focused Board making policy and choosing strategically. It is therefore essential that personnel for the above posts, managing an organisation with a starting asset value in the vicinity of \$174 million and annual revenue requirement of \$22.5 million, expected to reach \$456 million and \$65 million respectively in 15 years, be experienced to the required level and remunerated accordingly.

In addition to the foregoing, certain issues for start up of the Authority need to be addressed. Those related to Security, Human Resources and Training are addressed in the following sub-sections.

4.5 Port Security and Operational Concerns

During the initial phases of this Study, a number of concerns were raised by staff with regard to the interaction between Port Staff, Security, Customs and Immigration Officials. The fact that these 'issues' were focussed on one particular sea port indicated that they were of a personnel rather than procedural nature. It is also understood that the MICUHAF Permanent Secretary has been involved in dispute resolution and has issued a document which it is hoped will resolve these particular issues. This Report therefore concentrates on the broader issues of security within the Ports and the opinion offered by the Regional Aviation and Maritime Security Advisor are particularly pertinent in this regard, i.e. on 27th May 2008 he stated:

"It is strongly recommended at this stage that a small department within the airport and seaports security teams be formed to handle security training and the management of security standards at all of the facilities. I would recommend a team of two. They would need to be Security Level 3 (Managers Training) and Security Level 5 (Train the Trainer) qualified. It would be necessary to take them out of their current shift system for this work would be a full time engagement. When not conducting training they would need to be providing assistance to supervisors on the operations, particularly at the port facilities. Their main duties would be to deliver all the necessary training courses as well as the management of standards on both operations. The likely attendees would need some additional maritime security training, which I am proposing in Section 2 and 3.

2. Container Screening Training

This course is desperately needed for those security and customs staff involved in the screening of containers. Members of the training unit would also need to attend. Empty containers will need to be available for the practical element of this training which would last 3 days. Up to 20 people could be trained on this course. Prices for this and the PFSO course are listed in Section 3 below gives the pricing and assumes that a training consultant could deliver both courses back to back to save on airfares and administration costs.

3. PFSO Training

This course would last 4 days. The maximum number of attendees on this course would be 8.

There is a very real need to increase the number of PFSO qualified staff at the ports and also to provide maritime security training for the training and management staff from the airport,

on maritime security issues. Those that should attend are the port managers, training team and if possible, a small cadre of security supervisors.

I contacted one of our approved training organisations in the UK for this and the price, fully inclusive of accommodation and airfares, would be approximately US\$18600 for both courses, assuming they can be delivered back to back.”

With enhancement of training it would be suggested that further consideration be given to the extent and number of personnel required for security, for observations have indicated that there could be some degree of over supply and the cost of security is significant in relation to the total remuneration costs. Taking into account the principle of efficiency and effectiveness for a profitable Authority costs should be minimised to acceptable levels. In this respect prior to set up of the operations at Corito Management should give due consideration to the matter prior to any increase in the extent of security personnel.

4.6 Human Resource Planning

Developing and maintaining a cadre of well trained staff will be key to successful operation of the new Authority.

While it may not be practical to stipulate specific qualifications for the senior personnel suggested for the Board, this limitation does not apply to Senior Management of the Authority. With the loss of senior management personnel in Government (e.g. P.S. level) to the Ports when the Authority takes over senior managers must have the capacity to act in a business as well as a technical environment. Whether a suitable Anguillan is currently available to take up the position of CEO or other principal management positions is questionable and it may be necessary to look for the requisite skills in the greater West Indian Diaspora or elsewhere. If this proves to be the case, it will highlight a key function of the Human Resource Planning function, i.e., the need for training of suitable Anguillans to take over the management positions in time. We therefore recommend that appointment of a Human Resource/Training Officer who will be tasked with ensuring that training programmes are developed and adhered to at all levels. The duties of the Human Resource/Training Officer should also cover oversight of performance indicators while utilising external resources to provide the required training in particular for Anguillans who may not be at the level for major management positions but who have been identified as having the potential.

¹ The wearing of I.D. and Port Passes was one such issue which it is hoped will be resolved by the new Regulations, i.e. these state – Any person employed within or habitually visiting a Port Area shall carry and exhibit such means of I.D. or pass as may be prescribed by the Authority.

With the emphasis on providing Anguillans to satisfy the requirements of the Authority in time, particularly for service management, training for positions is unlikely to be completely satisfactory if left in 'understudy' positions only, as the principal in the position is unlikely to have the time for training and maybe not have the experience in training. As a result it is more than likely, and would be recommended, that personnel training be external to the Authority by postings in courses and positions in larger related organisations that would include a training division prior to returning to an understudy position for a period prior to an appointment. Anguilla has had success in this process previously

With a major development of the nature proposed and the need to move rapidly to an improved management structure, it will be necessary for the new port management to assist in formulating policy while ensuring adequate levels of operations.

During the period prior to the start of operations and as soon as practical after the start of construction of the new facility at Corito, it is proposed that the Chief Executive Officer (CEO), the Financial Manager (FM), the Operations Manager (OM), Harbour Master (HM) and a Human Resource/Training Officer (HR) be appointed to assist in policy development and commence on the job training, for those below top management level, to satisfy the immediate needs for administration, financial control, operations and maintenance of the facilities.

Further training needs would be developed in time based on personnel availability and capability. It is suggested that short term training assignments within regional institutions and seaport and airport facilities be the next stage of training to improve on the basic needs in management, accounting, operations and maintenance.

Organisations such as BIMAP in Barbados can provide courses in management and accounting and regional ports with well established operational and maintenance facilities should be approached with requests for attachments for on the job experience.

Computerisation is now an essential in any efficient and effective organization, computer literacy should therefore be a condition of employment for senior personnel in accounting and operations. The need for further training in this area should be identified and organized as necessary during the period of establishment of the Authority taking into account established programmes in port practices with adaptation to suit the Authority.

Higher levels of training would depend on policy and the extent to which it may influence any significant growth in port operations. The United Nations and International Maritime Organisation both have facilities for training in port administration and operations. There are

also other specialized courses at higher level institutions of learning related to ports. Initially, this level of training is recommended for Anguillans identified for future top management posts.

In summary, on the job training is considered a preferable initial approach, for those below top management level, if experienced senior management, with support from accounting and systems personnel, are available. This should be followed by more formal short courses in specific areas if needed after assessment of personnel and identification of those needs.

4.7. Staffing

Figures 4.2 and 4.3 show the existing staff structures for the sea and air ports. The fact that they function at all can only be explained by the dedication of staff who are willing to take on more than one job and by the support of the other services. Principal amongst these are the Customs Department who undertake collection of dues etc., the security forces who are willing to lend a hand as general port workers and the marine division of the police who are not beyond providing a ferry service or boat pilots.

Figures 4.4, 4.5, 4.6 and 4.7 provide organisation charts which identify the extent of staff requirements based on the proposed operation at the air and seaports at commencement of the Authority. Note, although these envisage there will be sufficient staff so that security forces can concentrate on security etc., the spirit of cooperation should not be lost.

The intent is for the airport and the sea ports to be run as separate entities by the Ports Authority in a business oriented manner.

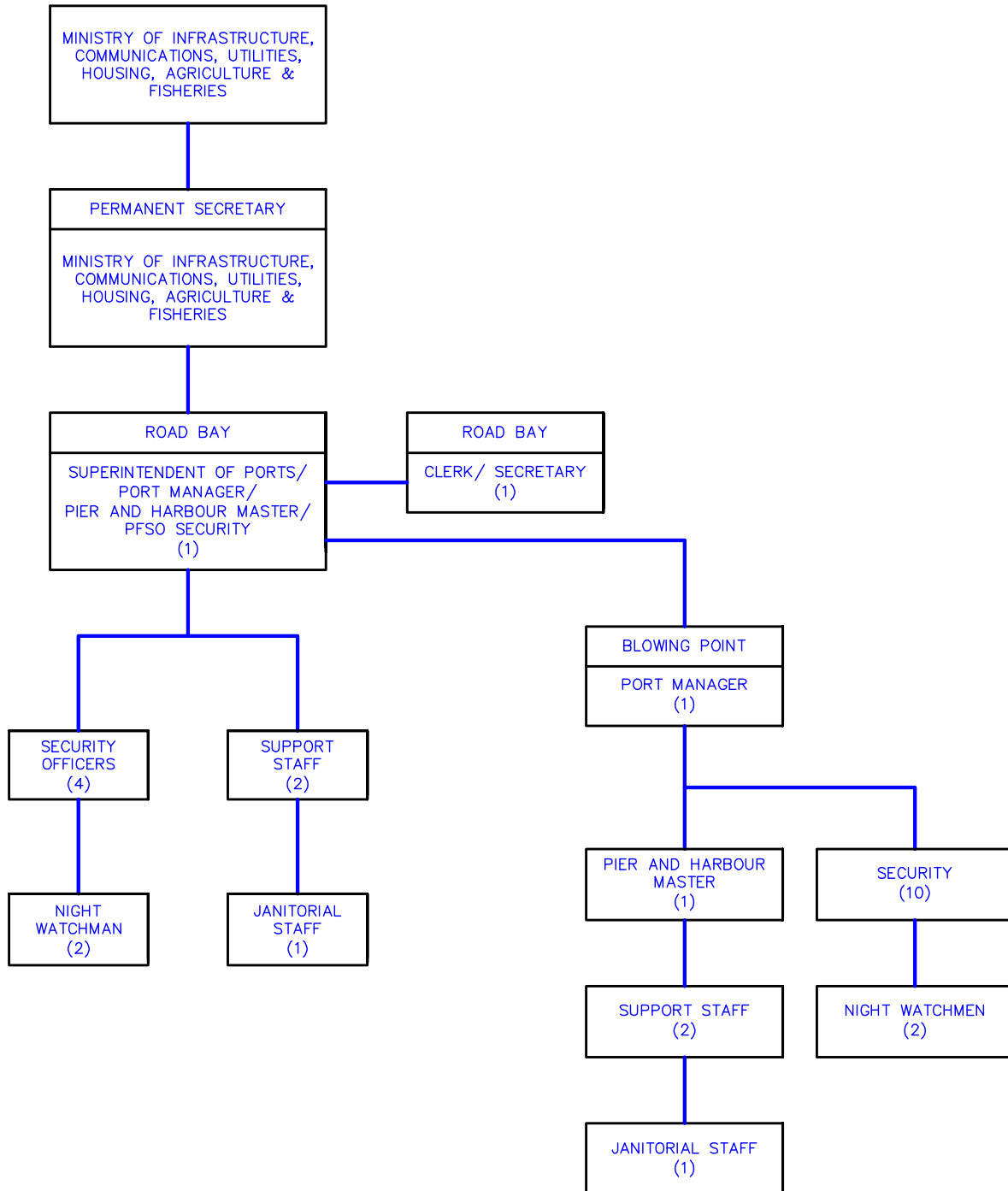
With the establishment of the Board and appointment of a Chief Executive Officer overseeing the departments of Finance and Operations under Financial and Operations Managers, the intent is for each of the Port entities to be staffed and operated independently. Reporting will be in accordance with the policies and procedures established by the foregoing management team to ensure that the entities operate efficiently and effectively within the required standards. Performance evaluation will allow the Management and Board to make adjustments and refinements as necessary. Each facility will therefore operate as a separate entity or profit center with a proportion of the head office expenses allocated relative to services provided; the manner of which is outlined in the financing arrangement section of this report.

Each of the port entities would supervise their respective daily operations and provide the relevant information to the Finance and Operations Departments who would prepare the

**GOVERNMENT OF ANGUILLA
LEGISLATIVE AND INSTITUTIONAL REQUIREMENT FOR PORT'S AUTHORITY**

SEA PORTS

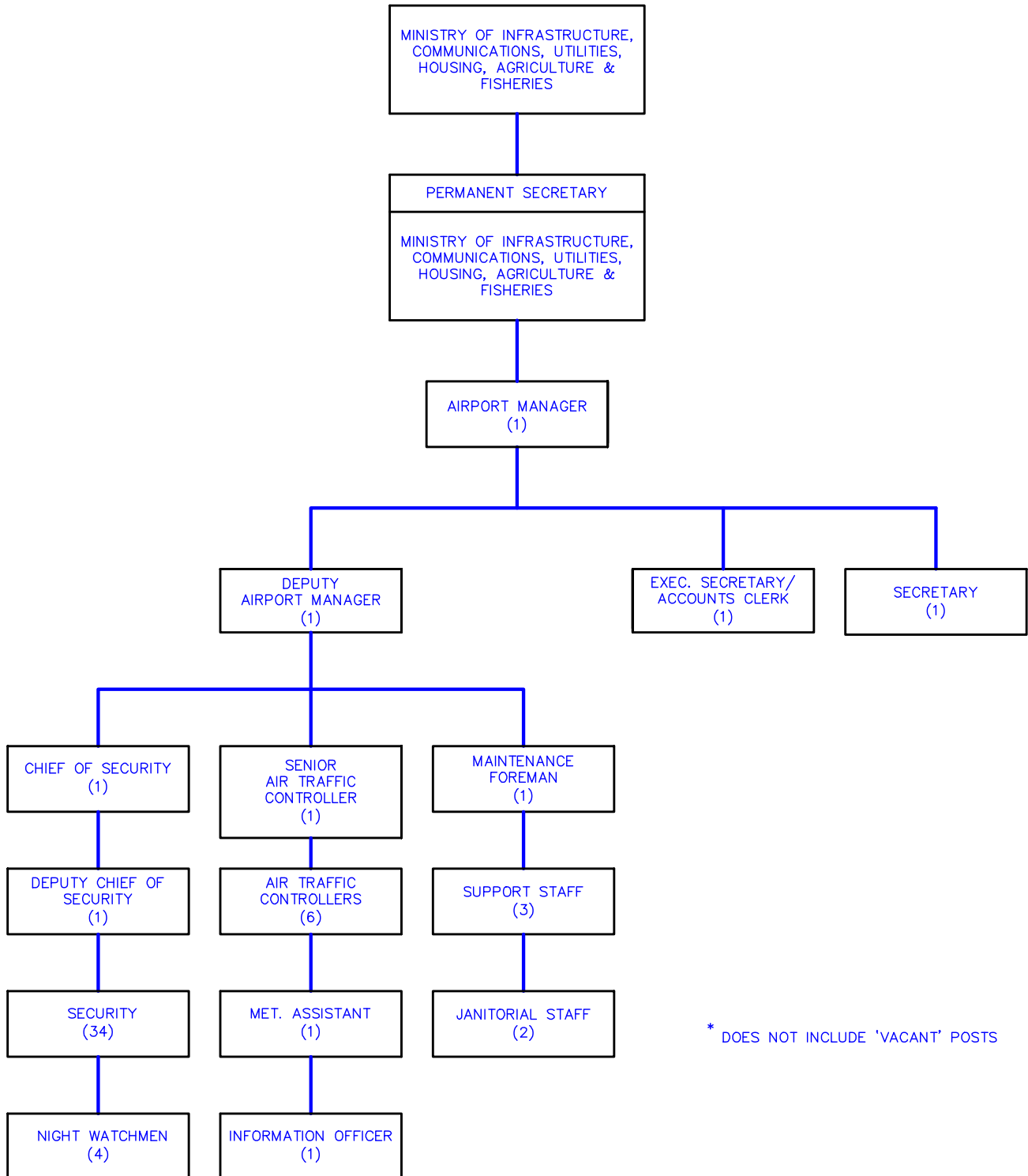
*** CURRENTLY FUNCTIONING ORGANISATION CHART**



* DOES NOT INCLUDE 'VACANT' POSTS

Figure 4.2

**GOVERNMENT OF ANGUILLA
 LEGISLATIVE AND INSTITUTIONAL REQUIREMENT FOR PORT'S AUTHORITY
 AIRPORT
 * CURRENTLY FUNCTIONING ORGANISATION CHART**



* DOES NOT INCLUDE 'VACANT' POSTS

Figure 4.3

**GOVERNMENT OF ANGUILLA
 LEGISLATIVE AND INSTITUTIONAL REQUIREMENT FOR PORT'S AUTHORITY
 PROPOSED ORGANISATION / STAFFING - BOARD & SENIOR MANAGEMENT**

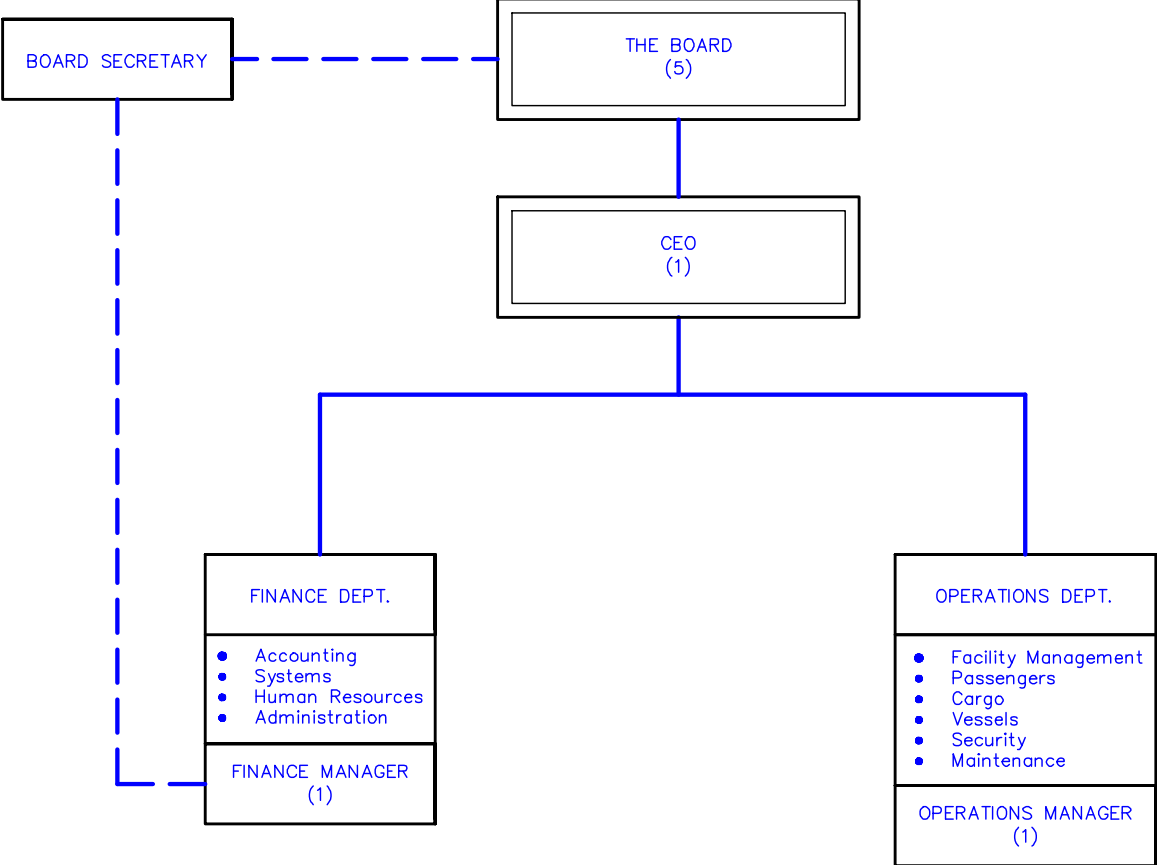


Figure 4.4

**GOVERNMENT OF ANGUILLA
 LEGISLATIVE AND INSTITUTIONAL REQUIREMENT FOR PORT'S AUTHORITY
 PROPOSED ORGANISATION / STAFFING - FINANCE MANAGEMENT/ ADMINISTRATION**

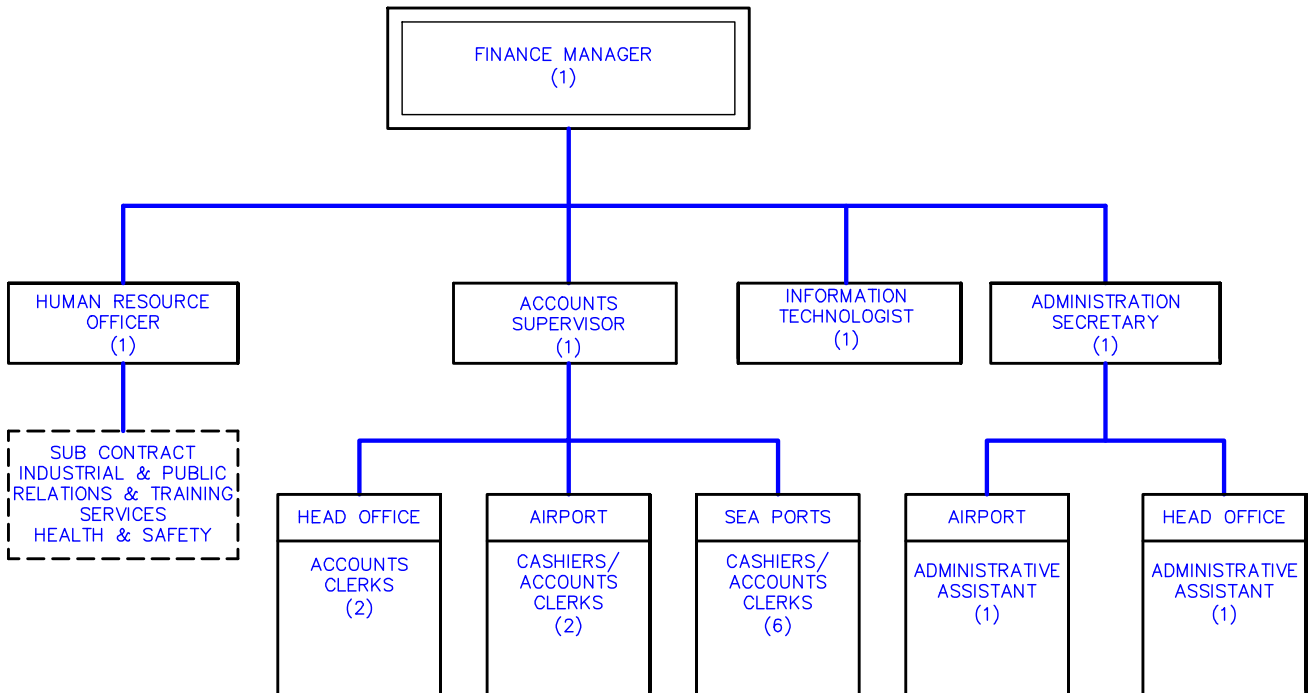
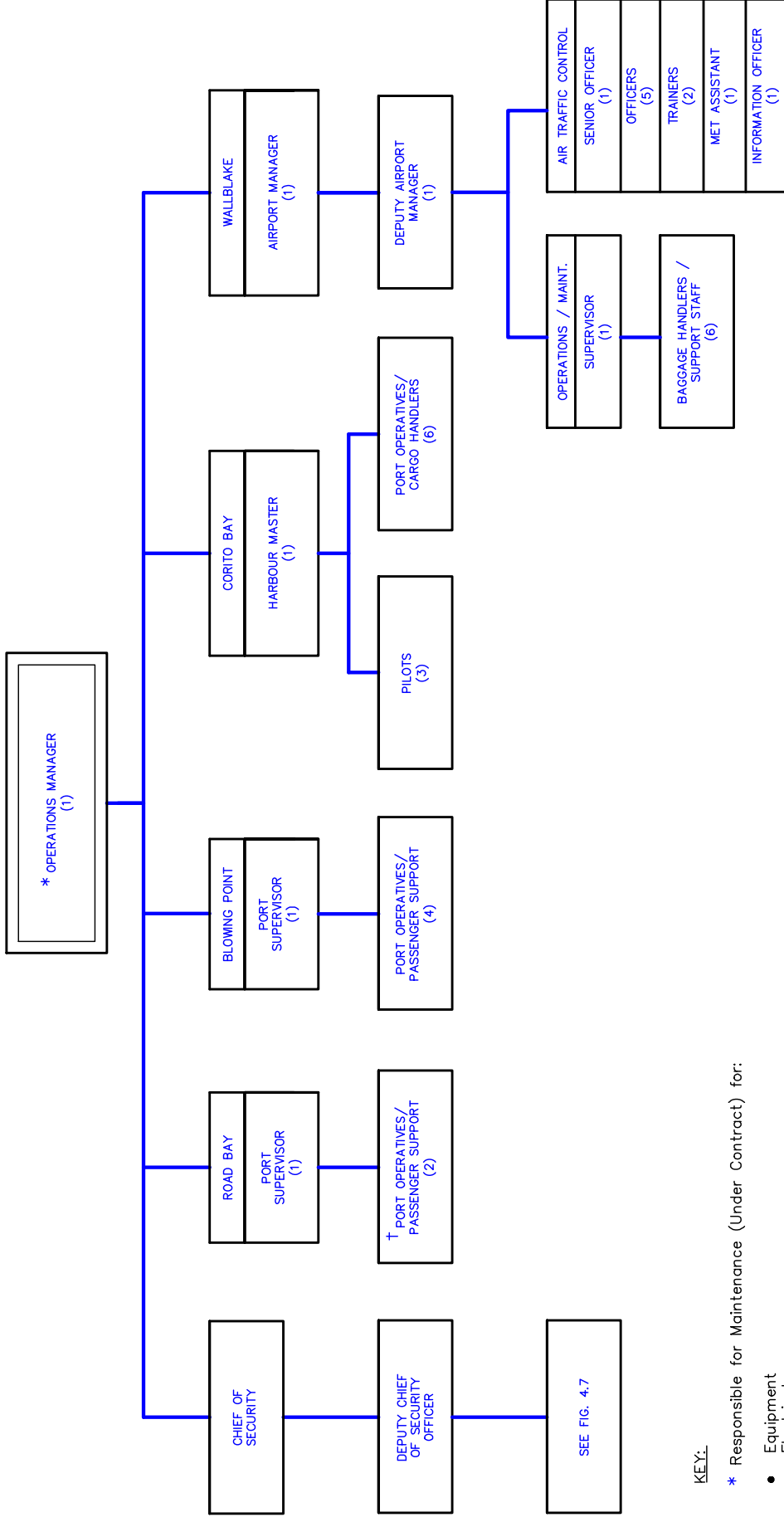


Figure 4.5

**GOVERNMENT OF ANGUILLA
LEGISLATIVE AND INSTITUTIONAL REQUIREMENT FOR PORTS AUTHORITY
WALLBLAKE AIRPORT**

PROPOSED ORGANISATION / STAFFING - OPERATIONS MANAGEMENT (2012)



KEY:

* Responsible for Maintenance (Under Contract) for:

- Equipment
- Electrical
- Plumbing
- Buildings
- Infrastructure
- Cleaning etc

† Port Operatives are general staff responsible for:

- Equipment / Boat Handling
- Moorings
- General Labour etc.

Figure 4.6

**GOVERNMENT OF ANGUILLA
 LEGISLATIVE AND INSTITUTIONAL REQUIREMENT FOR PORT'S AUTHORITY
 PROPOSED ORGANISATION / STAFFING - SECURITY**

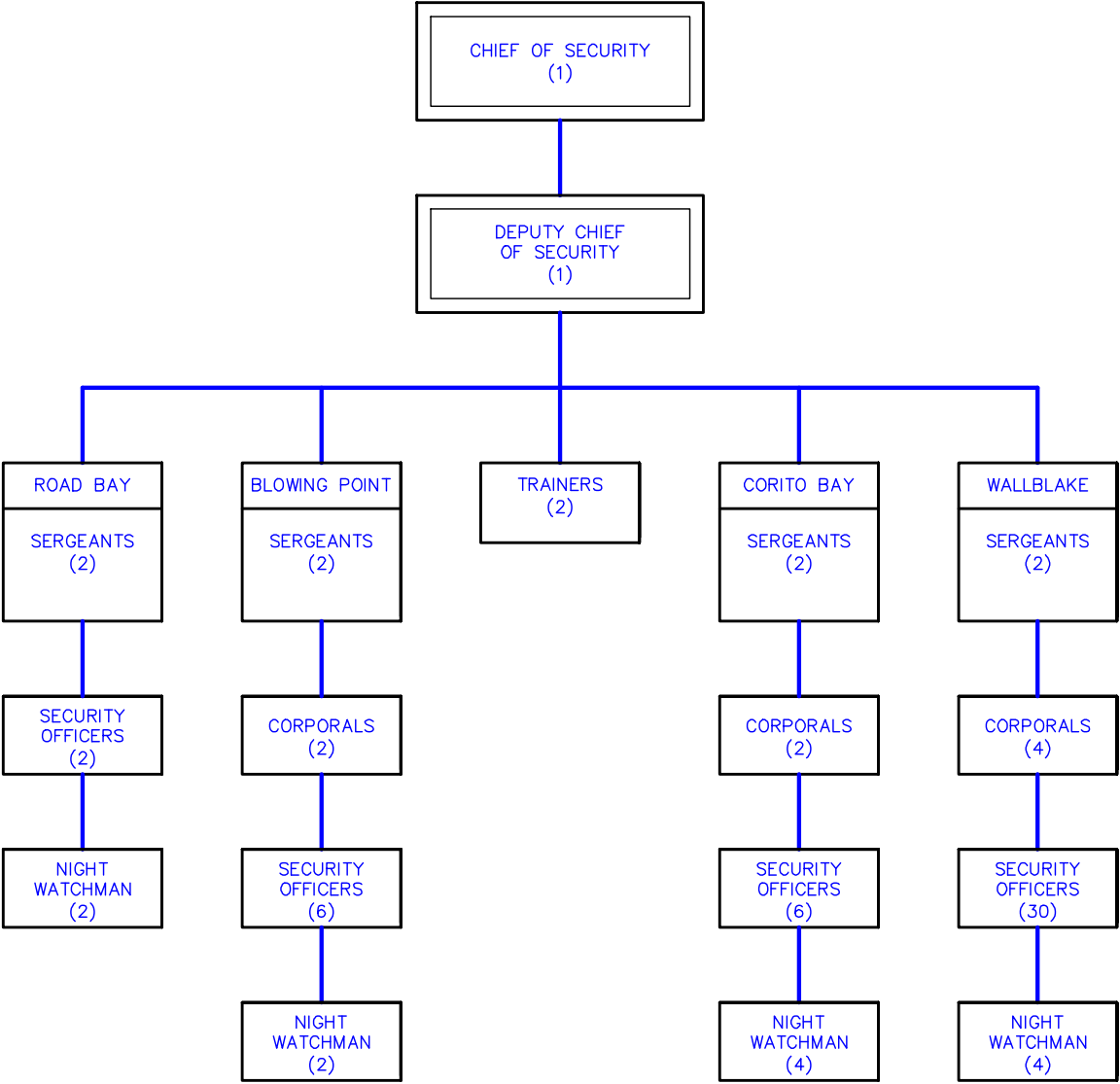


Figure 4.7

accounting and performance records for advice to each entity. This process would also help management in decision making.

The principle is that each sector of each entity would report directly to their respective head office department. Each of the sector personnel at each of the ports would cooperate on the day to day functions to satisfy the smooth running of each port.

The major changes in operations will be the seaports due to the significant expansion expected at Blowing Point and Corito and the upgrading of Road Bay after termination of its cargo facilities. The major change in staffing under the Authority will therefore relate to the seaport operations.

The airport staffing will not change significantly. The most major shift would be reporting to the Authority as against reporting to a Ministry.

With the Board and senior management established as outlined in Figure 4.4, the remainder of staff will fall under the two departments of Finance and Operations headed by the Finance and Operations Managers respectively. The actual locations of the respective staffs will vary between the airport and seaports and the head office.

Figure 4.5 outlines the staff falling under the Finance Manager. Figure 4.6 does similar for the staff falling under the Operations Manager.

The major staff compliment of Security, while falling under Operations, is outlined separately under Figure 4.7.

While it is expected that staff below the head office management levels will be drawn from that in the existing air and sea port operations, it is suggested that the Management and Board be in place sufficiently early to make their own selections to fulfill the various positions as it will be the Authority's responsibility to meet its remits. As a result, may wish to adjust the proposed staffing structure depending of the relative qualifications and experience of available personnel. In this respect the definition of services by personnel below that upper level management should be defined by the Board and Management. In general however, it is anticipated that job descriptions will be drawn from the equivalent within the government system. The head office and individual port management principal personnel duties are outlined to clearly identify the limitation on the human resource base that needs to be upgraded if they are to overcome the current basic problems.

Outline duties for the principal personnel listed below are provided as a guide.

- Chief Executive Officer

¹ This is exemplified by the Superintendent of Ports who acts as Port Manager, Pier and Harbour Master and PFSO of the Security Services at Road Bay.

- Finance Manager
- Operations Manager
- Harbour Master
- Human Resource / Training Officer
- Accounts Supervisor
- Airport Manager
- Deputy Airports Manager
- Port Manager / Supervisor

It is proposed that specific pro formas be developed to show reporting structures, working relationships, major functions, duties and responsibilities etc. in a Policies and Procedures Manual after establishment of the Authority and appointment of the Board and Senior Management prior to the taking over of the port assets and operations.

4.8 Principal Personnel Duties

4.8.1 Chief Executive Officer (CEO)

The CEO will manage the airport and seaports of the Authority to provide safe and effective air and sea communications which meet the needs of Anguilla and through efficient and effective management to ensure that the Air and Sea Ports Authority is financially viable and well established. The CEO will:

- Manage the operations and plan the development of the Airport and Seaports to meet the economic and social needs of Anguilla.
- Develop policy, programmes, finance and operations procedures and ensure that the airport and seaports function efficiently, effectively and safe.
- Monitor standards and quality assurance systems and ensure their achievement; ensuring that the Authority fulfil its requirements in reporting performance information to the Governor, UK CAA and Ministry of Infrastructure, Communications and Utilities and implement financial plans which enable the Air and Sea Ports Authority to meet its recurrent and capital expense requirements.
- Establish and levee appropriate levels of fees and charges to enable cost to be recovered and ensure the revenue is collected.

- Ensure plans and budgets are prepared and approved in order to address the key business priorities and achieve value for money within the resources available.
- Ensure that effective management systems, procedures and financial controls are in place, to make most efficient and effective use of resources.
- Ensure the Authority's manpower needs are met through appointment, promotions, training and staff development.
- Make plans for long term development of the airport and seaport, to increase business and improve revenue generation.
- Take the Air and Sea Ports Authority forward in designing and implementing changes and development programmes which will lead to performance improvements.

4.8.2 Finance Manager

The Finance Manager (FM) will develop policies to enable the Authority to achieve its objectives through appropriate deployment and development of human resources and efficient and effective management of its finances. The FM will:

- Prepare, analyse and interpret financial information, including budgets, which are necessary for the efficient and effective delivery of airport and seaport's operations in Anguilla.
- Ensure effective management system, procedures and financial controls to make the most efficient and effective use of resources.
- Liaise with CEO.
- Act as Board Secretary.
- Ascertain cost of services delivered and propose appropriate levels of charges to enable adequate revenue to meet recurrent and development costs.
- Manage the process of billings and revenue collections to recover the appropriate levels of charges from customers.

- Establish appropriate operating procedures in finance and administrative areas to ensure the efficient and effective management of the Authority.
- Develop and implement effective personnel systems, including – training and development plans – appointments and promotions – appraisal review.
- Oversee employee relations including developing and supervising the administration of rules and procedures concerning conditions of service, affective employee communication and the handling of grievances and disciplinary issues.
- Ensure staffing for financial administration, clerical and training areas in order that priorities are met, required outputs are achieved and appropriate support is provided for staff in both the airport and seaports.

4.8.3 Operations Manager

The Operations Manager (OM) will manage all aspects of operations at the seaports and airport to ensure that terminal operations services are provided which enable those who travel by sea and air to do so in a safe and orderly environment, and an efficient and comfortable manner and to ensure safe and efficient movement of goods. The OM will:

- Manage the sea and airports facilities in accordance with national and international standards and regulations as a safe and efficient operation.
- Develop and implement safety and security policies and programmes to ensure international standards are maintained.
- Ensure that effective management systems and operating procedures are in place to enable seaports and airport operations to make most efficient and effective use of resources.
- Liaise with Chief Executive Officer and private sector organisations to ensure effective co-ordination of all policies and services affecting the ports.
- Contribute to service related initiatives for improving port operations and customer satisfaction.
- Co-ordinate service provided to users of the ports and develop service related initiatives for improving port operations and customer satisfaction.

- Advise on and develop policies, plans and programmes in order to improve services and develop the ports.

4.8.4 Airport Manager

The Airport Manager (AM) will manage all aspects of daily operations at the Airport, to ensure that the civil aviation and terminal operations services are provided which enable those who travel by air to do so in a safe and orderly environment, and an efficient and comfortable manner. The AM will:

- Manage the Airport in accordance with national and international standards and regulations as a safe and efficient operation.
- Implement safety and security policies and programmes to ensure international standards are maintained.
- Ensure that effective management systems and operating procedures are in place to enable airport operations to make most efficient and effective use of resources.
- Liaise with the OM to ensure that government and private sector organisations are effectively coordinated with the policies and services affecting the airport.
- Contribute to service related initiatives for improving airport operations and customer satisfaction.
- Provide a service to users of the airport and develop service related initiatives for improving airport operations and customer satisfaction.
- Advise on and assist in developing policies, plans and programmes in order to improve services and develop the airport in accordance with management procedures.

4.8.5 Deputy Airport Manager

The Deputy Airport Manager (DAM) will support the Airport Manager in the management of all aspects of operation at the airport, to ensure that appropriate navigation, freight handling, and terminal operations services are provided which enable freight to move freely and passengers to travel in a safe, efficient and comfortable manner. The DAM will:

- Manage the airport in accordance with national and international standards and regulations as a safe and efficient operation.
- Maintain and repair the airport infrastructure, to enable efficient and effective operations by all users.
- Ensure that effective management systems and operating procedures are in place to enable airport operation to make most efficient and effective use of resources.
- Liaise with Government and private sector organisations working at the airport to ensure improving airport operations and increasing customer satisfaction.
- Develop facilities and services provided at the airport in such a way as to increase revenue within the policies and procedures of the Authority.
- Advise on developing policies, plans and programmes in order to improve services and developing an airport in Anguilla.

4.8.6 Port Supervisor

The Port Supervisor (PS) will be responsible for the general daily supervision and co-ordination of all the particular Ports operations under his control, including assistance in planning for future development. The (PS) will also:

- Develop and recommend to the Operations Manager specific policies and objectives to be pursued by the port in achieving its stated goals.
- Be responsible for the performance of direct subordinates and reviews the performance of such subordinates at least annually on a formal basis.
- Ensure that the Authority's labour relations requirements are met, including analysis and development of management's proposals; the observance of the terms of any collective agreement.
- Execute a public relations program to project a favourable image of the Port and its services to the local community and to the maritime industry.

- Act as a goodwill ambassador in this regard in day-to-day dealings with the business community and port users. Encourage other senior personnel to similarly market port services.
- Perform other such duties as may be assigned by the Operations Manager.

4.8.7 Harbour Master

The Harbour Master (HM) shall direct and control the provision of piloting, berthing, tugboats, and mooring gangs to service any ships wishing to use the port facilities. Ensure that pilots, crews, and mooring gangs are properly trained and provide their respective services in a competent manner. The HM shall also:

- Ensure that signalmen are adequately trained in all currently used marine communication systems, and that all signals, lights, buoys, markers, etc. are regularly inspected and kept in perfect operating order and position.
- Ensure that all fees and any other charges owed to the Authority for use of the port facilities and services are collected (or satisfactory arrangements have been made for the collection thereof) before the ship is allowed to leave.
- Ensure that all marine equipment such as boats, mooring launches, pilot launches, etc., are maintained in proper functioning order and that, where applicable, they meet classification standards.
- Ensure that any damage sustained by wharfs, berthing facilities, or any marine equipment is reported to the Chief Executive Officer and that corrective action is taken.
- Be responsible for ensuring that any navigational hazards and changes in aids to navigation are reported to the proper authorities for publication.
- Perform other such duties as may be assigned by the Operations Manager.

4.8.8 Accounting Supervisor

The Accounting Supervisor (AS) shall be responsible for the daily supervision of all Authority accounting functions including billing, payroll, cash receipts and expenditures. The AS shall also be responsible for:

- Supervising the staff and operation of the Accounting offices.

- Supervising the preparation of invoices for the use of ports facilities and services, ensuring that all billable items are included and that complete accounting records are maintained for all transactions.
- Liaising as required with the Airport Manager and Port Supervisor at each Port to ensure that all services rendered are being billed and that appropriate notice is provided to the Accounting Department.
- Supervising the receipt of cash deposits made by planes, ships or their agents for use of port services and facilities. Ensuring that all monies received are deposited promptly in the Authority's commercial bank account in accordance with port policy.
- Following up on outstanding accounts receivable.
- Reconciling bank statements at the end of each month and makes adjustments as necessary.
- Performing other such duties as may be assigned by the Finance Manager.

4.8.9 Human Resource/Training Officer

The Human Resource/Training Officer (HR/TO) shall be responsible for both, assessing the development potential of all staff transferred to the new Authority and recommending individual development programmes. Other functions under the guidance of the HR/TO will include:

- Training and Development
- Performance Evaluation
- Promotions
- Redundancy
- Industrial and Employee Relationships
- Record Keeping of personal data
- Career Development

4.9 Performance Indicators for the Authority

The objective of developing performance indicators is to develop a results orientated performance monitoring system to reflect the outputs of the Authority. This will be based on a set of clear targets that will allow for the monitoring of achievements through:

- Establishing the key outputs of each functional area and establishing the relationship between those outputs.
- The key efficiency and effectiveness questions to which the Authority will need answers in order to plan, coordinate, monitor and regulate its operations.
- Develop performance indicators which provide the means of answering these questions.
- The action plan for implementing these reporting systems which will need to be in place in order for the Authority to move to a monitoring and regulatory role.

4.10 Policies and Procedures

Along with the respective Legislation and Regulations, it would be suggested that the Authority develops a 'Policies and Procedures Manual'. Such manuals would relate to each of the Ports and establish a basis by which the various interested parties would interact e.g. Port Management, Customs, Immigration, Security and the various private agencies who might rent space and/or operate within the Port.

In principle, these Manuals would include:

- Organisational and Personnel Policies and Procedures
 - General Policies
 - Personnel Policies
 - Administrative Procedures
 - Position Descriptions
- Accounting Procedures
 - Revenue System
 - Cargo Handling Staff Payroll
 - Weekly and Monthly Rated Staff Payroll Systems

- Expenditures System
- Stores and Inventory Control
- Budgeting and Tariffs
- Other Accounting Functions
- General Ledger and Financial Statements

- Maintenance Policies and Procedures
 - Maintenance Policies and Guidelines
 - Motor Vehicle Maintenance
 - Marine Vessel Maintenance
 - Maintenance Cost Control System
 - Grounds and Building Maintenance

- Terminal Operations Procedures.
 - Cargo Landing Procedures
 - Cargo Delivery Procedures
 - Exporting Cargo
 - Cargo Reporting Procedures
 - Passenger Landing Procedures
 - Passenger Departing Procedures
 - Claims Policies and Procedures
 - Container Handling Procedures.

5.0 FINANCING ARRANGEMENTS

5.1 Introduction

During this first decade of the 21st Century, Anguilla embarked on a program of significant improvements to its air and sea ports.

At Wallblake Airport, the currently phased improvements to the length of the runway as well as new lighting are complete. However, further runway extension projects, as well as terminal upgrading and expansion are being considered and airport management must deal with ever more stringent demands for security. The Government of Anguilla determined that the Airport Department structure is not conducive to the enhanced role that is required of a combined authority.

The Government is undertaking project design for the re-development of Blowing Point which is the passenger terminal for ferries to and from St. Martin and is the main passenger port of entry to Anguilla. The Government has also embarked on the construction of a major new cargo port and facility at Corito Bay; this will eventually replace the existing limited facility at Road Bay. It is proposed that Road Bay will, after Corito's opening, become the port of entry for yachts and tenders from cruise vessels.

At present, the financial aspects of sea ports are largely run by Customs, who collect all port dues and fees, operate the warehouses and prepare annual budget reports. The consultants who developed the Corito port plan recommended the management of ports by a separate Authority and the Government of Anguilla agreed.

Thus, as noted in then Terms of Reference to this study:

“The Government of Anguilla wishes to establish a single ports authority with a view to mitigating management and institutional costs. With the single authority, the airport and sea ports should be established as autonomous operational and accounting entities. The overall objective is to establish a commercial environment and, where possible, self-financing development.”

The UNCTAD Handbook for Port Planners¹ describes the powers of a Ports Authority as follows:

- Investment – to approve proposals for port investments

¹ As quoted in the report: World Bank Port Reform Tool Kit – Module 3: Alternative Port Management Structures and Ownership Models, undated

- Financial Policy – to set financial objectives
- Tariff policy – to regulate and set rates and charges
- Labour Policy – to set common recruitment standards, a common wage structure and common qualification for promotion
- Licensing – to establish principles for licensing of port employees, agents, etc.
- Information and Research – to collect, analyze and disseminate information on port activity
- Legal – to undertake legal actions so as to maintain the Authority’s rights and interests.

Further, the Handbook goes on to state that a Port Authority should have as a *principle objective the full recovery of all port-related costs including capital costs plus an adequate return on capital*. The full recovery of costs will help a Port Authority to:

- Maintain internal cost discipline
- Generate internal cash flows needed to replace and expand port facilities and infrastructure
- Put limits on cross-subsidization of operating units, which can undermine financial performance
- Avoid dissipation of the Port Authority’s asset base to satisfy the objectives of third parties (e.g. port users).

5.2 Traffic Forecasts

5.2.1 Planning

In order to plan both physically and financially, the Authority must maintain a rolling forecast of traffic. By rolling, it is meant that rather than sticking to forecasts made by consultants in years leading up to new projects, the Authority must, as part of its information function, develop and up-date information on all traffic in its various ports: vessels, passengers, cargo.

This emphasis on continued forecasting is made plain by events that have occurred during the undertaking of this very study: for example, oil prices have leaped from approximately US\$100/bbl early in 2008 to US\$145/bbl in August to US\$60 at this writing. A crush of new investment in hotel and resort facilities in Anguilla has met the face of a global financial crisis that again, as of this writing, would seem to indicate that some development may be put on hold for some years.

Even traffic forecasts made as late as 2002 did not foresee the incredible jump in cargo arrivals in Anguilla, as tonnages quadrupled from 2003 to 2007 as opposed to the forecast 33% increase (see Fig. 5.1)

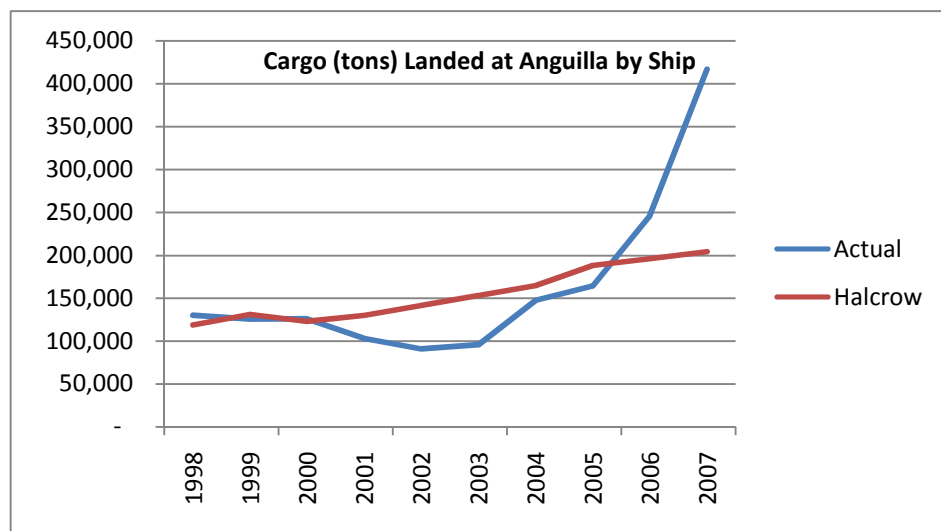


Fig. 5.1: Cargo Landed at Anguilla by Ship, 1998 to 2007

Thus the strong recommendation that statistics concerning all elements of port traffic be updated monthly and that management develop a system of leading indicators to help prepare better forecasts. Such leading indicators may include building permits issued, US tourism forecasts and other information that may help management to avoid operating on forecasts that are no longer valid.

It is for this reason that the traffic and financial forecasts prepared for this report extend only 15 years into the future (to the year 2023). The current and likely future speed of global change makes even the last two-thirds of the period suspect to great inaccuracies.

The following paragraphs will present traffic forecasts on a port by port basis.

5.2.2 Airport

Forecasts of airplane, passenger and cargo movements were developed for Wallblake Airport.

The following illustrates the forecasts made by WS Atkins in its airport expansion study in 2000.

	Passenger Movements – Wallblake							
	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Atkins - Low	97.0	101.4	105.8	110.2	114.6	119.0	124.2	129.3
Atkins - Central	97.6	103.4	109.3	115.1	121.0	126.8	133.5	140.3
Actual Records	92.6	96.9	92.8	87.5	73.8	78.9	102.4	104.6

These records indicate that air *passenger movements* are lower than forecast, partially due to periods of closure of the airport during the runway extension. Based on an update of historical data, three forecasts were made for air passenger movements:

	<u>Annual Increase</u>	<u>Source</u>
Low Forecast	4.00%	WS Atkins - Low
MidRange Forecast	4.80%	WS Atkins - Central
High Forecast	6.03%	Jacobs - tourists Base Case

Based on current arrivals splits between the Airport and Blowing Point, it seems likely at this point that the High Forecast is not likely to be met as Blowing Point serves as the main gateway to Anguilla. Indeed, with implementation of the Blowing Point Master Plan and the potential for increased charter boat service from St. Martin airport, Wallblake’s share of visitor arrivals will likely be reduced. The Mid Range forecast has thus been used.

In terms of *aircraft movements*, three forecasts were prepared:

- based on actual aircraft movement data through 2007 and increasing thereafter by 3.5% annually (see figure below for “actual + 3.5%”)
- based on the WS Atkins “Low” forecast of 2.5% annual increase
- and based on the WS Atkins “Central “ forecast of 3.5% annual increase

These forecast are shown in Fig. 5.2. The “Actual + 3.5%” forecast was selected as being neither overly cautious nor overly optimistic. In light of current opinion that St.

Martin’s airport combined with charter service directly to and from it will likely continue to draw potential air arrivals from Wallblake, this forecast seems reasonable.

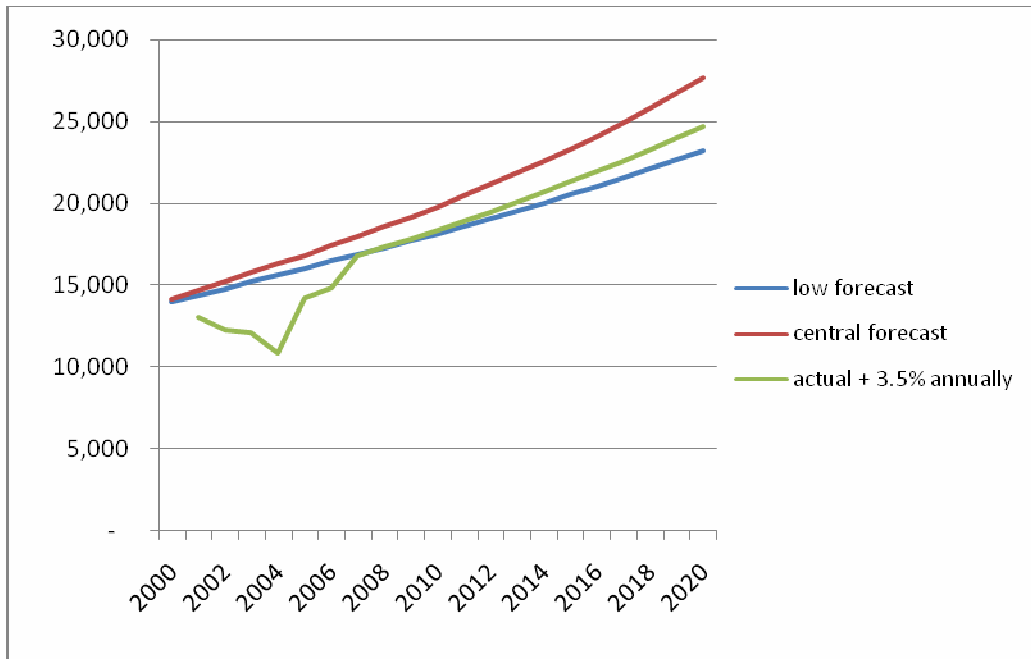


Fig. 5.2: Forecast Aircraft Movement at Wallblake

In terms of *air cargo*, these numbers are quite small (e.g. 220 tons in 2007). The forecast of air cargo is based on the forecast trend in general cargo arriving by sea.

5.2.3 Cargo Sea Port

The term cargo sea port here refers to current cargo operations at Road Bay and then, in approximately 2012, at the new facility at Corito. It is assumed that once Corito opens, the Road Bay facility will become a port of entry for yachts and tenders from cruise vessels and that all cargo (other than air cargo) will be handled at Corito.

Forecasting cargo movements has proved difficult – see Fig. 5.3 and its accompanying text. Thus, effort was expended during this study to identify a better basis for cargo forecasting. The results of this analysis indicate that the data that most closely matches historical cargo trends are that of tourist arrivals¹.

This is illustrated in the Fig. 5.3.

¹ The correlation coefficient between the historical data for cargo and tourist arrivals was calculated at 0.91.

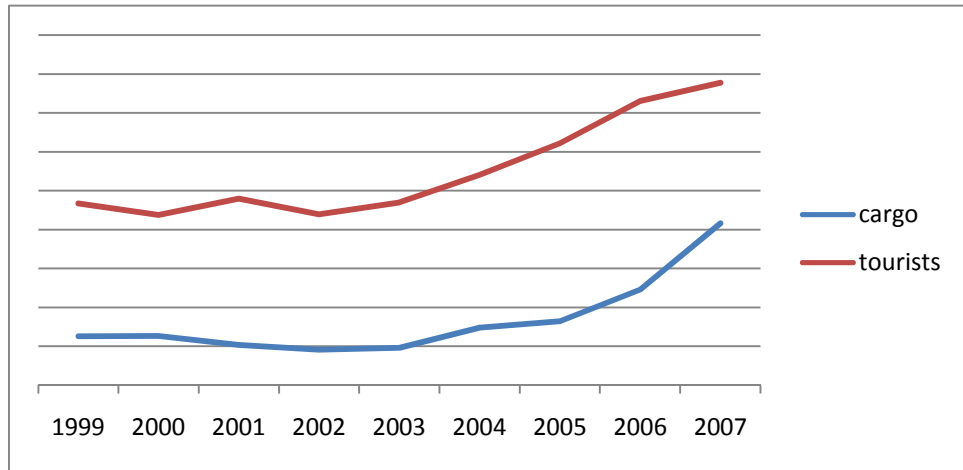


Fig. 5.3: Trends in Cargo and Tourist Arrivals

Thus, the forecast of tourist arrivals at Blowing Point prepared this year by Jacobs is used as the basis for cargo forecasts. This is compared to two Halcrow 2002 forecasts in Fig. 5.4.

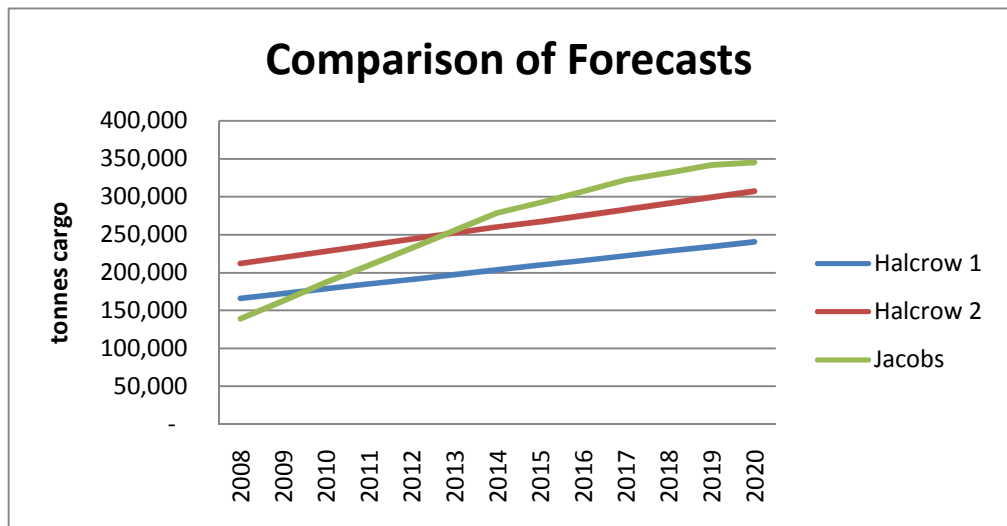


Fig. 5.4: Comparison of Cargo Forecasts

In so far as *cargo vessel traffic* is concerned, the number of vessel arriving is forecast on the same basis as the forecast increases in cargo tonnage.

5.2.4 Blowing Point

Blowing Point has become the main port of entry for visitors and excursionists (day trippers from St. Martin). The recently completed Blowing Point Master Plan (Jacobs, 2008) and its acceptance by the Government means that within several years, the

landside facilities will become more attractive and expansive, attracting more excursionists and more spending by tourists.

For planning purposes, the Jacobs' "Base Case Scenario" (without further development at Wallblake) has been adopted for forecasts of excursionists, tourists and residents arriving at Blowing Point as well as for ferry vessel movements.

5.2.5 Road Bay

Once Corito is open to cargo traffic, Road Bay is expected to remain as a port of entry for yachts, excursion boats from St. Martin and cruise ships (passengers landing by tender). For planning purposes, the number of yachts and cruise ships as well as passengers on them is forecast to grow at the same rate as for tourist arrivals at Blowing Point.

These forecasts are presented in Table 5.1.

Table 5.1

TRAFFIC FORECASTS

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Airport Passengers (No.)	Actual																
	104,608	110,257	116,211	121,789	127,635	133,761	140,182	146,910	153,962	161,352	169,097	177,214	185,720	194,635	200,474	206,488	212,683
	16,848	17,353	17,874	18,410	18,963	19,531	20,117	20,721	21,343	21,983	22,642	23,322	24,021	24,742	25,484	26,249	27,036
Planes Arrivals and Departures (No.)		266	311	358	400	444	489	533	560	588	617	635	655	661	681	701	722
Cargo (tons)																	
Blowing Point Resident Passengers (No.)	209,783	224,467	237,187	249,189	261,798	275,045	285,221	295,774	306,718	318,067	329,835	337,949	346,263	354,781	363,508	372,451	381,613
	114,687	138,772	162,363	186,717	209,123	232,127	255,339	278,320	292,236	306,848	322,190	331,856	341,811	345,230	355,587	366,255	377,242
	127,672	131,502	135,447	139,510	143,696	148,007	152,447	157,020	161,731	166,583	171,580	176,728	182,029	187,490	193,115	198,908	204,876
	14,266	15,610	16,880	18,151	19,304	20,466	21,621	22,753	23,506	24,288	25,101	25,712	26,338	26,733	27,135	27,545	27,963
Road Bay (Post-Corito) Yachts (No.)	4,460	4,881	5,278	5,675	6,036	6,399	6,760	7,114	7,349	7,594	7,848	8,039	8,235	8,358	8,484	8,612	8,743
	78,727	86,144	93,154	100,167	106,532	112,941	119,314	125,562	129,717	134,035	138,523	141,890	145,347	147,524	149,744	152,006	154,312
Yacht Passengers (No.)																	
Corito Vessels (No.)	1,210	1,464	1,713	1,970	2,206	2,449	2,694	2,936	3,083	3,237	3,399	3,501	3,606	3,642	3,752	3,864	3,980
	416,653	503,000	588,933	677,272	758,544	841,986	926,182	1,009,540	1,060,017	1,113,019	1,168,668	1,203,729	1,239,839	1,252,240	1,289,807	1,328,502	1,368,357
Cargo (tons)																	

5.3 Revenue Requirements

Revenue requirements are the amount of revenue that must be earned by the Authority to meet its expenditure requirements. There are various ways to calculate these requirements, but the following approach is based on past experience with CDB loan policies. These requirements may be summarized as comprising:

- Operating costs (including emoluments and fire services)
- Depreciation
- Debt payment (principal and interest)
- Reserves (for future asset purchases as well as contingencies)
- Return on Investment

Staffing and Emolument Costs are shown in Table 5.2.

Operating costs, depreciation and debt service costs are shown on Table 5.3 (Expenditures). It is noted that a nominal amount has been set for “Rent Land from GoA”, which refers to payment by the Authority for long term rental of land vested in the Government.

Debt payment, as shown in Table 5.4 (Investment Financing), is based on the supposition by Government that funding of the Blowing Point Phases 1 and 2; Corito port development; Road Bay Improvements; and Wallblake Expansion will be available on terms currently available through CDB: that is, 70% of the full project costs will be borrowed at the current rate of 5.5% over 17 years (with a five year grace period on principal repayment). It should be noted that the 30% cost share to be provided by Anguilla totals EC\$68.4 million; this is treated in this analysis as an equity investment. ¹Table 5.5 (Depreciation Schedule) provides details on asset depreciation.

As shown on Table 5.6 (Revenue Requirements), reserves have been set at:

- For future asset purchase @ 1% of assets
- For Contingencies @ 20% of cash operating costs

¹ Note that at the time of preparing this draft, the Government had not indicated whether it intends to pass current debt charges for the new jetty and the airport upgrading to the new Ports Authority. If the Government so intends, these interest and principal payments would have to be added to the revenue requirements of the Authority.

Table 5.3 : Operating Expenditures (EC\$)

	2007 Actual	2008 GoA Budget Forecast	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
Operating Costs																		
Emoluments	4,347,411	5,872,420	8,763,614	10,124,900	11,486,187	12,847,473	13,436,571	14,025,669	14,614,767	15,203,865	15,659,981	16,129,781	16,613,674	17,112,084	17,625,447	18,154,210	18,698,836	
Fire Services	2,351,770	3,855,832	3,971,507	4,090,652	4,213,372	4,339,773	4,469,966	4,604,065	4,742,187	4,884,453	5,030,986	5,181,916	5,337,373	5,497,494	5,662,419	5,832,292	6,007,261	
Maintenance Costs	-	-	976,074	1,944,065	2,912,056	3,810,216	4,371,710	4,933,203	5,494,696	5,513,648	5,532,600	5,551,552	5,366,338	5,181,123	4,995,908	4,810,694	4,625,479	
Rent Land from Goa	-	-	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
Operating Costs	1,911,026	2,008,576	3,067,265	3,543,715	4,020,165	4,496,616	4,702,800	4,908,984	5,115,169	5,321,353	5,480,993	5,645,423	5,814,786	5,989,229	6,168,906	6,353,974	6,544,593	
Sub-Total	8,610,207	11,736,828	16,778,560	19,703,433	22,631,880	25,494,178	26,981,147	28,472,021	29,966,919	30,923,419	31,704,661	32,508,772	33,132,271	33,780,031	34,452,781	35,151,269	35,876,269	
Depreciation	-	-	1,947,026	1,947,027	1,947,028	4,740,267	4,740,268	4,740,269	4,740,270	7,408,583	7,408,584	7,408,585	7,408,586	7,408,587	7,408,588	7,408,589	7,408,590	
Debt Charges																		
Interest & Fees	-	-	-	-	2,135,000	3,416,000	4,697,000	6,087,667	6,963,133	7,447,183	7,484,517	7,350,350	6,954,383	6,301,167	5,647,950	4,916,129	4,184,308	
Principal	-	-	-	-	-	-	-	-	-	7,116,667	7,116,667	7,116,667	8,610,000	8,610,000	8,610,000	8,610,000	8,610,000	
Sub-Total	-	-	-	-	2,135,000	3,416,000	4,697,000	6,087,667	6,963,133	14,563,850	14,601,183	14,467,017	15,564,383	14,911,167	14,257,950	13,526,129	12,794,308	
Total	8,610,207	11,736,828	18,725,586	21,650,460	26,713,908	33,650,445	36,418,414	39,299,957	41,670,322	52,895,852	53,714,428	54,384,374	56,105,240	56,099,785	56,119,319	56,085,987	56,079,167	
Capital Investment	-	-	-	12,200,000	12,200,000	12,200,000	8,160,000	8,160,000	8,160,000	2,450,000	2,450,000	2,450,000	2,450,000	-	-	-	-	-

TABLE 5.5: DEPRECIATION SCHEDULE (EC\$)

Depreciation	EC \$	Period (Years)	2009	2010	2011	2009	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
					Salvage Value													
Airport		20	22,000,000		1,100,000													
Road Bay		20	8,240,000		412,000													
Blowing Point		20	10,750,000		537,500													
New									24,500,000									
Airport		40			1,225,000			6,060,000										
Road Bay		40			303,000			41,750,000										
Blowing Point		40			2,087,500			78,000,000										
Blowing Point		40			1,155,000													
Corito		40			3,900,000													
Corito		40			2,800,000													
Existing Assets																		
Airport		1,045,000		1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000	1,045,000
Road Bay		391,400		391,400	391,400	391,400	391,400	391,400	391,400	391,400	391,400	391,400	391,400	391,400	391,400	391,400	391,400	391,400
Blowing Point		510,625		510,625	510,625	510,625	510,625	510,625	510,625	510,625	510,625	510,625	510,625	510,625	510,625	510,625	510,625	510,625
New Assets																		
Airport					581,875	143,925	143,925	143,925	143,925	143,925	143,925	143,925	143,925	143,925	143,925	143,925	143,925	143,925
Road Bay					991,563	991,563	991,563	991,563	991,563	991,563	991,563	991,563	991,563	991,563	991,563	991,563	991,563	991,563
Blowing Point					1,852,500	1,852,500	1,852,500	1,852,500	1,852,500	1,852,500	1,852,500	1,852,500	1,852,500	1,852,500	1,852,500	1,852,500	1,852,500	1,852,500
Corito					1,330,000	1,330,000	1,330,000	1,330,000	1,330,000	1,330,000	1,330,000	1,330,000	1,330,000	1,330,000	1,330,000	1,330,000	1,330,000	1,330,000
Corito					1,947,028	1,947,027	1,947,027	1,947,027	1,947,027	1,947,027	1,947,027	1,947,027	1,947,027	1,947,027	1,947,027	1,947,027	1,947,027	1,947,027
Total Depreciation			1,947,026	1,947,027	1,947,028	4,935,017	4,935,018	4,935,019	4,935,020	4,935,521	7,395,522	7,395,523	7,395,524	7,395,526	7,395,527	7,395,528	7,395,528	7,395,528

Table 5.6: Revenue Requirements (EC\$)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Operating Expenses	16,778,560	19,703,433	22,631,880	25,494,178	26,981,147	28,472,021	29,966,919	30,923,419	31,704,661	32,508,772	33,132,271	33,780,031	34,452,781	35,151,269	35,876,269
+ Reserve for Asset Replacement (Depreciation)	1,947,026	1,947,027	1,947,028	4,740,267	4,740,268	4,740,269	4,740,270	7,408,583	7,408,584	7,408,585	7,408,586	7,408,587	7,408,588	7,408,589	7,408,590
+ Interest Expense	-	-	2,135,000	3,416,000	4,697,000	6,087,667	6,963,133	7,447,183	7,484,517	7,350,350	6,954,383	6,301,167	5,647,950	4,916,129	4,184,308
+ Debt Repayment	-	-	-	-	-	-	-	7,116,667	7,116,667	7,116,667	8,610,000	8,610,000	8,610,000	8,610,000	8,610,000
Reserves	390,430	777,626	1,164,823	1,524,087	1,748,684	1,973,281	2,197,878	2,205,459	2,213,040	2,220,621	2,146,535	2,072,449	1,998,363	1,924,277	1,850,192
Future Expansion Contingencies	3,355,712	3,940,687	4,526,376	5,098,836	5,396,229	5,694,404	5,993,384	6,184,684	6,340,932	6,501,754	6,626,454	6,756,006	6,890,556	7,030,254	7,175,254
= Revenue Requirements	22,471,728	26,368,773	32,405,107	40,273,367	43,563,328	46,967,642	49,861,584	61,285,995	62,268,401	63,106,749	64,878,230	64,928,240	65,008,238	65,040,519	65,104,612
Rate of Return on Asset	10%	6%	7%	7%	7%	7%	7%	10%	10%	10%	11%	11%	12%	12%	12%

These revenue requirements yield annual returns on assets growing from 6% in 2010 to 12% in 2023.

It should be noted that the revenue requirements and the financial projections in following sections are based on financial rather than economic analysis. Economic analysis views investments from the perspective of the society as a whole; it thus shows investments as lump sums (rather than showing them amortized over the term of the actual loan as one does in a financial analysis) and it presents costs and benefits in terms of “shadow” prices (the “real” economic value) rather than the actual costs paid and revenues received (as one does in a financial assessment).

It is possible for a project to be economically viable from society’s perspective but to be not financially viable due to cash flow difficulties and so on. Thus, this report assumes that the Corito and Blowing Point investment projects have been deemed economically viable in previous studies and accepted as such by potential funding agencies. This report aims to identify the cost and revenue measures needed to ensure that the Authority is financially viable.

5.4 Rates and Tariffs

5.4.1 Sources of Revenue

Having set the Authority’s revenue requirements in the previous section of this report, it is now necessary to determine how these revenues will be earned.

There are essentially four main sources of revenue:

1. People – passengers arriving and departing from the air or sea ports
2. Cargo – goods arriving at air or sea ports
3. Vessels – the planes, ferries and ships that carry the people and cargo
4. Assets – lease of land and buildings

Two tariff/revenue cases have been developed:

- In Case 1, rate increases fall mainly on cargo and Blowing Point users as these two centres will have new facility investment costs. The rates have been set so as to produce a surplus to revenue requirements in each year. The result of these settings was to create a cross-subsidization of Airport costs by Blowing Point revenues.

- In Case 2, tariffs were adjusted to reduce subsidization of one profit centre by another.

Table 5.7 presents the results of the two tariff cases on a profit centre basis (Head Office costs were allocated to the four profit centres based on number of staff). The year 2015 was selected to illustrate the impact of investment, including some Airport expansion. The Table shows that under Case 1, the Airport runs a deficit of \$8.45 million while Blowing Point runs a surplus of \$13.282 million. Road Bay and Corito are relatively neutral. By adjusting the tariff rates to reduce the subsidization, the resulting Airport deficit drops to \$1.831 million and the Blowing Point surplus drops to \$4.079 million. Further tariff adjustments can produce any desired result and while strategic choices have been made in selecting the proposed tariffs there are options that may relate to other policies of Government or the Authority that may require adjustment that can be carried out by them prior to finalising tariffs.

Case 2 tariffs and rates, which minimize cross subsidization of one part of the Ports operations by another are put forward for consideration in the following paragraphs.

Table 5.7 : Profit Centre Perspective			
Case 1, 2015	Revenues	Costs	Surplus (Deficit)
Profit Centre			
Airport	11,363,000	19,813,000	(8,450,000)
Blowing Point	23,685,000	10,403,000	13,282,000
Road Bay	1,606,000	3,548,000	(1,942,000)
Corito	16,142,000	15,900,000	242,000
TOTAL APA	52,796,000	49,664,000	3,132,000
Case 2, 2015	Revenues	Costs	Surplus (Deficit)
Profit Centre			
Airport	17,982,000	19,813,000	(1,831,000)
Blowing Point	14,482,000	10,403,000	4,079,000
Road Bay	2,039,000	3,548,000	(1,509,000)
Corito	20,382,000	15,900,000	4,482,000
TOTAL APA	54,885,000	49,664,000	5,221,000
Head Office costs allocated to profit centres based on no. of personnel			

5.4.2 People

The airport currently levies a EC\$53 departure tax on all embarking travelers. The sea ports (Blowing Point and Road Bay) also charge departure taxes at the rate of EC\$13 per person. As indicated in the table below, in order to meet revenue requirements, it is recommended that these departure taxes be increased as follows:

Airport departure tax:

- to EC\$65 in 2011, EC\$70 in 2012 and EC\$75 in 2016

Blowing Point departure tax:

- For Anguilla residents to EC\$15 in 2010
- For visitors to EC\$15 in 2010
- For excursionists to EC\$15 in 2010

Road Bay departure tax:

- To EC\$15 in 2010, EC\$20 in 2011, EC\$25 in 2012, EC\$35 in 2013 and EC\$50 in 2016

5.4.3 Cargo

The sea port charges pier and tonnage dues on incoming cargo. At present, pier dues amount to approximately EC\$6 to EC\$7 per ton based on 2007 and 2008 data while tonnage dues are EC\$5.50 per ton excluding sand.

As noted in Halcrow 2002, "Pier dues should be abolished and reflected in increased tonnage dues". This study agrees with that recommendation but goes further to apply the dues to all cargo including sand. Thus, it is recommended that:

- Piers Dues be abolished at the end of 2009
- Tonnage Dues be placed on all incoming cargo (including sand) and be increased to EC\$8/ton in 2010 rising to EC\$16/ton by 2013

The sea port also charges warehouse rent (averaging EC\$0.43/ton). It is understood that the Government intends to lease land in the Corito port area to companies

wishing to operate warehousing services. This is discussed below in the sub-section dealing with Assets.

Containers charges are currently EC\$100 per 20 ft container and EC\$150 per 40 ft. container. It is recommended that:

- Container fees be increased in to EC\$250 per 20 ft container and EC\$350 per 40 ft container in 2011

It has not yet been determined whether the Authority will operate the proposed storage facilities or whether they will contract private companies. In either case it is anticipated that charges will be structured to allow for covered, container and bulk storage and be on an escalating time scale.

The airport charges a EC\$13 baggage holding charge which is for the security inspection of outgoing luggage. It is recommended that:

- The baggage holding charge be increased to EC\$15 in 2010 and to EC\$20 in 2015
- A baggage holding charge of EC\$15 per departing passenger be placed on passengers arriving at Blowing Point starting in 2010 (increasing to EC\$20 in 2015) and that current Blowing Point cargo handling charges be dropped.

5.4.4 Vessels

At Wallblake, current charges and fees for aircraft comprise:

- Landing fees averaging EC\$28.80 per landing
- Fuel Flow Surcharges averaging EC\$24.20 per landing
- Civil Aviation Fees averaging EC\$6.05 per landing.

This report recommends increasing these charges annually by the rate of inflation except for increase in 2016 to coincide with airport expansion.

At the sea cargo terminal, presently at Road Bay and in a few years at Corito, vessels are charged Port Dues based on the Gross Registered Tonnage of the vessel. These port dues average EC\$366 per vessel.

As noted in the Halcrow 2002 report, “The Authority should amend the port tariff so that port dues are paid on the length of the vessel and by the hour at the berth. Port Dues should be renamed Ships Dues to make it clear that they relate to the vessel rather than the cargo.”

This report agrees with the above recommendation. A preliminary assessment using the length of the vessel as the basis for the Ship Dues has been carried out and is shown in Table 5.8. Under this regime, the following Ship Dues are suggested:

Vessel Length	Ships Dues for 24 hours on berth
Less than 50 ft	EC\$1.50/ft
50 to less than 100 ft	EC\$1.75/ft
100 to less than 150 ft	EC\$1.75/ft
150 to less than 200 ft	EC\$2.00/ft
200 to less than 250 ft	EC\$2.00/ft
250 ft or more	EC\$2.00/ft

Under these Ship Dues, some vessels will pay more than present, some less than present but the overall average per vessel will increase from EC\$366 to EC\$381. It is recommended that the Ship Dues be increased to coincide with the opening of Corito, by a factor of approximately 2 (to EC\$750 per vessel on average).

Vessels are also subject to fees at Blowing Point and at Road Bay. At Road Bay, visiting yachts and cruise vessels pay cruise permits based on length of stay. For 2007 and 2008, yachts paid an average of EC\$102.50 each for such permits. As well, yachts visiting marine parks are required to pay a mooring permit fee which averages \$36.75 per vessel. This report recommends that:

- Cruise permits be increased to an average of EC\$115/vessel 2010, to EC\$150 in 2013 and to EC\$175 in 2015
- Mooring fees be increased to an average of EC\$35/vessel in 2013, EC\$40 in 2014 and EC\$50 in 2016

At Blowing Point, ferries are the primary users of the facilities. As noted in the Halcrow 2002 report, “Under the user pays principle, the Blowing Point ferry terminal should be regarded as a profit centre and charges should be levied for its use. This means that the ferry operators should be charged directly for the use of the jetty based on the ferry’s length and the time it spends at the berth.

Table 5.8**Comparison of Port Dues vs. Ship Dues for Current Vessels**

<u>Vessel</u>	length (ft)	GRT (tons)	current port dues	proposed ship dues	\$ change	% change
mv kato	38	30	\$ 50	\$ 57	\$ 7	14%
lady mitchelle	51	60	\$ 90	\$ 89	\$ (1)	-1%
mr ray	77	84	\$ 90	\$ 135	\$ 45	50%
dalmazia	85	178	\$ 180	\$ 149	\$ (31)	-17%
storm/caribbean provider	92	264	\$ 240	\$ 162	\$ (78)	-33%
tug jane	93	143	\$ 180	\$ 162	\$ (18)	-10%
eliet	97	95	\$ 90	\$ 170	\$ 80	89%
lady susan	101	97	\$ 90	\$ 177	\$ 87	96%
saga moon	105	248	\$ 180	\$ 184	\$ 4	2%
saga sun	105	249	\$ 180	\$ 184	\$ 4	2%
taurus	106	212	\$ 180	\$ 185	\$ 5	3%
mv elita 1	130	116	\$ 180	\$ 228	\$ 48	26%
me sally hawk	152	194	\$ 180	\$ 304	\$ 124	69%
point alert	155	449	\$ 240	\$ 310	\$ 70	29%
tortolas pride	161	568	\$ 350	\$ 322	\$ (28)	-8%
mv anina	162	885	\$ 350	\$ 324	\$ (26)	-7%
lady romney	170	785	\$ 350	\$ 340	\$ (10)	-3%
warrens pride	172	801	\$ 350	\$ 344	\$ (6)	-2%
midnight coast	176	633	\$ 350	\$ 352	\$ 2	0%
midnight chief	176	756	\$ 350	\$ 353	\$ 3	1%
pacific seal	177	489	\$ 240	\$ 354	\$ 114	48%
goncalo	178	499	\$ 240	\$ 356	\$ 116	48%
muttys pride	180	651	\$ 350	\$ 360	\$ 10	3%
vi pride	180	198	\$ 180	\$ 360	\$ 180	100%
midnight tide	186	670	\$ 350	\$ 372	\$ 22	6%
amelia	187	498	\$ 240	\$ 374	\$ 134	56%
mv belle	197	1081	\$ 500	\$ 394	\$ (106)	-21%
altamar	214	1590	\$ 500	\$ 428	\$ (72)	-14%
laura	214	1619	\$ 500	\$ 428	\$ (72)	-14%
keres	220	1155	\$ 500	\$ 440	\$ (60)	-12%
ludenes	232	1731	\$ 500	\$ 464	\$ (36)	-7%
deneb	233	1152	\$ 500	\$ 466	\$ (34)	-7%
combi trader	233	1618	\$ 500	\$ 466	\$ (34)	-7%
maravello	244	1913	\$ 500	\$ 489	\$ (11)	-2%
carib palm	246	1467	\$ 500	\$ 493	\$ (7)	-1%
sea mist	249	371	\$ 240	\$ 499	\$ 259	108%
mv commander	250	983	\$ 350	\$ 500	\$ 150	43%
johny lambros	255	1642	\$ 500	\$ 509	\$ 9	2%
mv krishna p	257	1374	\$ 500	\$ 515	\$ 15	3%
kikui montduber	260	2167	\$ 800	\$ 520	\$ (280)	-35%
hyber trader	267	1414	\$ 500	\$ 534	\$ 34	7%
tropic jade	295	1827	\$ 500	\$ 590	\$ 90	18%
christopher dean	295	1827	\$ 500	\$ 590	\$ 90	18%
tropic mist	295	1827	\$ 500	\$ 590	\$ 90	18%
el rama	297	2472	\$ 800	\$ 594	\$ (206)	-26%
tropic palm	330	1471	\$ 500	\$ 660	\$ 160	32%
sunshine spirit	333	4177	\$ 800	\$ 666	\$ (134)	-17%
Average per Vessel --->>>			\$ 366	\$ 381	\$ 15	

This report is in full agreement that charges should be levied for the ferries use of the facilities. This report recommends that:

- Ferry Dues be implemented and set at the rate of EC\$5 per arrival at the jetty, commencing in 2010
- That forming the first impression of most visitors to Anguilla and that the safety of these ferry passengers is a necessity, it is recommended that the ferry license fee be raised from EC\$5,000 to EC\$7,500 per year and that standards of safety, performance, cleanliness and crew qualifications be set by the Authority and that ferry operators be issued licenses only if their vessels meet these standards.

5.4.5 Assets

The Authority may also earn revenue by leasing assets to others. For example, the development at Blowing Point is forecast to earn revenues from leases and concessions of approximately EC\$1,000,000 annually from 2015.

Similarly, the Authority may wish to lease land at Corito for warehousing enterprises. This report assumes that with perhaps 3 acres leased, revenues averaging EC\$2 per sq ft may be achieved. Here the option of financing construction of warehouses by agents operating the facility could be given consideration to minimise capital requirements by the Authority. This option will however be restrictive in considering the Authority's future control on stevedoring

It is also recommended that with Airport expansion in 2016, revenues from leases and parking could increase from the current EC\$0.86 per passenger to EC\$3 per passenger.

5.4.6 Results

Table 5.9 presents (1) the recommended tariffs for the period to 2023 and (2) the resulting revenues accruing to the Authority under these rates and for the traffic volumes previously presented. These tariffs and rates result in a cumulative surplus of EC\$36.7 million by the year 2023. It should be noted that these revenues include amounts set aside for reserves in case of revenue shortfalls (ranging from EC\$3.9 million in 2010 to EC\$7.1 million in 2023), thus providing some insurance for low traffic periods.

It is of course possible that the traffic forecasts presented above will not be met. We live in very uncertain times. The Case 2 rates and tariffs were re-run with a traffic forecast set at 0% (zero) growth over 2008 for the period to 2023, a most negative assumption. As shown in Table 5.10, the results would be extremely poor. However, under no or low growth conditions, we may assume that the Authority would postpone or cancel investment plans for Blowing Point, Road Bay, Corito and Wallblake and that therefore such negative income positions would not arise.

For interest, the results of Case 1 tariffs and rates are presented in Table 5.11.

As an indication of a breakeven position and considering Blowing Point as the major growth and profit centre at the rates given in the Jacob's report varying from 21% to 1%, scenarios varying average growth rates were computed and an average growth rate at 5.5% met a break even condition retaining the Future Expansion and Contingencies Reserves.

5.5 Financial Projections

In the previous section of this report, the financial basis for revenue requirements and recommended tariffs (Case 2) have been presented along with the resulting revenues for the Authority for the 15 year the period to 2023. The financial results can be seen in the financial pro formas developed for the first 5 years of Authority activity.

The income statements, balance sheets and cash flow statements for Case 2 are presented in Table 5.12. These statements indicate that if forecast revenue levels are achieved, the Authority will be financially viable. The Corito, Blowing Point, Road Bay and Wallblake projects are assumed to be funded by a combination of bank loans and by Government of Anguilla contributions stated as equity. Retained earnings indicate the ability of the Authority to pay dividends if desired to its equity holders (the Government).

Table 5.12**Table 5.12: Financial Pro Formas (EC\$)****Case 2**

INCOME STATEMENT					
	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Revenues	22,869,563	25,856,901	35,598,668	39,649,044	46,285,262
Operating Costs	16,778,560	19,703,433	22,631,880	25,494,178	26,981,147
Depreciation	1,947,026	1,947,027	1,947,028	4,740,267	4,740,268
Operating Income	4,143,976	4,206,441	11,019,759	9,414,599	14,563,848
Interest	-	-	1,565,667	3,131,333	4,697,000
Net Income	4,143,976	4,206,441	9,454,093	6,283,266	9,866,848
Dividends	-	-	-	-	-
Retained Earnings	4,143,976	4,206,441	9,454,093	6,283,266	9,866,848

BALANCE SHEET					
	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
<u>Assets</u>					
Current Assets	6,091,002	12,244,471	23,645,591	34,669,124	49,276,239
Net Fixed Assets	39,042,974	77,762,614	116,482,252	152,408,653	174,868,385
	45,133,976	90,007,084	140,127,844	187,077,776	224,144,624
<u>Liabilities</u>					
Current Liabilities					
Debt	0	28,466,667	56,933,333	85,400,000	104,440,000
Equity	40,990,000	53,190,000	65,390,000	77,590,000	85,750,000
Retained Earnings	4,143,976	8,350,418	17,804,510	24,087,776	33,954,624
	45,133,976	90,007,084	140,127,844	187,077,776	224,144,624

CASH FLOW STATEMENT					
	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
+Net Income	4,143,976	4,206,441	11,019,759	9,414,599	14,563,848
+Depreciation	1,947,026	1,947,027	1,947,028	4,740,267	4,740,268
	6,091,002	6,153,468	12,966,787	14,154,866	19,304,116
Investment					
-Asset Purchase	-	(40,666,667)	(40,666,667)	(40,666,667)	(27,200,000)
+Asset Sale	0	0	0	0	0
	-	(40,666,667)	(40,666,667)	(40,666,667)	(27,200,000)
Finance					
+New Debt	0	28,466,667	28,466,667	28,466,667	19,040,000
-Interest Pmt	-	-	(1,565,667)	(3,131,333)	(4,697,000)
-Principal Pmt	0	0	0	0	0
+New Equity	-	12,200,000	12,200,000	12,200,000	8,160,000
	-	40,666,667	39,101,000	37,535,333	22,503,000
Net Cash Flow	6,091,002	6,153,468	11,401,121	11,023,532	14,607,116

6.0 LEGISLATION

6.1 Introduction

This proposed Legislation in Appendix 3 seeks to encapsulate in one legislative framework the various and necessary protocols for the legally efficient and safe functioning of Anguilla's air and sea ports. It takes cognisance of Anguilla's legal status with the United Kingdom while operating within a social and legal framework which is essentially Caribbean in character.

Central to the proposed legislation is the establishment of an authority which will govern the activities of both the air and sea ports. Its' wide but specific powers will allow for the myriad of functions which are legally essential for the smooth operations of the air and sea ports.

Provision is also made for the Regulations in Appendix 4 which will be promulgated pursuant to the Act and it recognises the importance of that feature.

In the penalties area, the legislation provides suggested levels of fines which are hopefully consistent with the economic and cultural framework prevailing in the jurisdiction.

Conceptually, the legislation and regulations takes into account similar Caribbean experiences but still remains as an authentic Anguillan product.

6.2 Action Plan

The draft Action Plan following has been prepared and discussed with senior government staff. It is however only a guide and change can be anticipated following consideration by the Government.

Legislative and Institutional Requirements for Ports Authority

Draft Action Plan

Action	Evidence of Completion	Responsibility	Timescale
<u>Legislation</u>			
Pass Draft Legislation to Attorney General's Chambers	Draft Report submitted	DLN/MICUHAF	Dec 2008
Pass Comments to Consultants	Receipt by Consultants	MICHUHAF	Feb 2009
Issue of Final Report	Final Report submitted	DLN/MICUHAF	March 2009
Pass Draft Legislation to EXCO	Legislation agreed and passed to EXCO	Attorney General	April 2009
Establish review mechanism for fees and charges for inclusion as addendum to Regulations	Review mechanism agreed and Board members identified	Governor, Permanent Secretary MICUHAF	April 2009
Appointment Board Members	Appropriate Appointments made	Minister of MICUHAF	May 2009
Establish Anguilla Air & Sea Ports Authority	Notice in Gazette	PS MICUHAF	June 2009
<u>Authority Performance Management</u>			
Agree timescales for reporting on performance (monthly/quarterly, annually) and agree mechanisms for gathering information	Reporting mechanisms established	CEO	Sept 2009
Structure Authority's budget to enable reporting against efficiency indicators	Performance indicators provided	FM	Dec 2009
Establish performance management systems	Agreed performance information provided to Ministry	CEO	March 2010

Legislative and Institutional requirements for Ports Authority

Airport & Seaport's Authority Establishment

Action Plan

Action	Evidence of Completion	Responsibility	Timescale
<u>Staffing</u>			
Sensitize staff to impending changes	Meetings held with all staff likely to be affected	PS MICUHAF	Feb 2009
Advertise for CEO	Advertisement Published	PS MICUHAF	June 2009
Appoint CEO	Appointment made	Minister MICUHAF	Sept 2009
Advertise for Finance Manager (FM)	Advertisement Published	PS MICUHAF	June 2009
Appoint FM	Appointment made	Minister MICUHAF	Sept 2009
Advertise for Operations Manager (OM)	Advertisement Published	PS MICUHAF	June 2009
Appoint OM	Appointment made	Minister MICUHAF	Sept 2009
Advertise for Human Resource Officer (HRO)	Advertisement Published	PS MICUHAF	June 2009
Appoint HRO	Appointment made	Minister MICUHAF	Sept 2009
Agree Staff Transfer Policy	Policy Statement agreed with Employer Representative and communicated to staff	PS - PA Director of Finance	June 2009
Transfer Staff to new posts	Transfer plans agreed and communicated to staff	PS – PA	Oct 2009
Recruit Staff to vacant position	Appointments made	PS MICUHAF	Oct 2009
Review Training needs of Staff, in particular for professional and technical areas	Training needs analysis and plans for training and development prepared	CEO and Head of Human Resources	Sept 2009

APPENDIX 1

TERMS OF REFERENCE

GOVERNMENT OF ANGUILLA
PORTS AUTHORITY
STUDY OF LEGISLATIVE AND INSTITUTIONAL REQUIREMENTS
TERMS OF REFERENCE

1. Background Information

The Wallblake Airport and all Seaports of Anguilla are Government owned entities and are operated as Government Departments under the Ministry of Infrastructure, Communications, Utilities, Housing, Agriculture and Fisheries (MICUHAF).

1.1 AIRPORT

- 1.1.1 As the only airfield serving the island of Anguilla, Wallblake Airport provides regular services to a number of Caribbean destinations by regional carriers and is accessed via international airports on the nearby islands of Puerto Rico, Antigua and St Maarten. The airport facility consists of: (a) Navigational and Landing Aids System; (b) Runway System; (c) Terminal System; (d) Ground Transportation System; (e) Support Services System; (f) Operation Services System; and a Private Jet Operation or Fixed Base Operation with refuelling facilities. See Annex 1.
- 1.1.2 The air transport sector has evolved as one of the most important concerns for the Government of Anguilla, mainly as a result of the high importance of Anguilla's tourism sector in relation to the island's economy. The focus on the luxury tourism market, the growing demand for air travel services by the resident population and the trend of growth in the air transport sector serving Anguilla, have all meant that the air transportation links, facilities and services must be continually upgraded. They must also be effectively and efficiently delivered to a high standard that is consistent with the expectations and standards of the affluent traveller, the resident population and international aviation authorities.
- 1.1.3 Beginning in the late 1970s Anguilla embarked on developing a tourism-based economy. This led to rapid growth in tourism, leading to improved economic well being, which in turn led to increased air travel by local Anguillians. Consequently, passenger movements increased by 62% from 19,900 in 1977 to 32,200 in 1986 or an average annual growth of 6.2% during this period .
- 1.1.4 By 1986 it was apparent that the terminal facilities were insufficient to meet the demands and consequently work on a new terminal building, new tower control and apron parking was started and completed in 1987 with funding from the UK Government and the Government of Canada.

- 1.1.5 Over the next decade with the expanding tourism industry and increased travel by the local population Wallblake Airport continued to see increased usage with total passenger movements increased by 142% from 36,127 in 1987 to 87,385 in 1996 or an average annual growth of 14.2% during this period.
- 1.1.6 This growing demand for travel services raised the question of whether Government should continue to expand the facilities at the existing Wallblake Airport or move to a green field site elsewhere. Government therefore commissioned a study to examine options for either the provision of new airport facilities for Anguilla or the maintenance and development of the existing facility at Wallblake. On the basis of the study, Comparative Airport Study: Anguilla (2000) W S Atkins, the Government of Anguilla chose to redevelop and expand the existing facilities at Wallblake Airport rather than embark on the development of facilities at a new site. A further study, Extension to Wallblake Airport Runway – Options and Funding Study: Anguilla (2001), W S Atkins detailed 3 options for expansion of Wallblake Airport.
- 1.1.7 A variation of Option 3 was chosen and undertaken as the Wallblake Airport Expansion Project (WAEP) Phase I, which, inter alia, extended the runway to 5440 ft over the period May 2004 to February 2005. Other components included in the WAEP Phase I were: the construction of additional apron parking; the upgrade of existing terminal building; the establishment of a fixed base operation (FBO) for private jets; the provision of refuelling services by the FBO operator to meet also the needs of scheduled carriers and charter aircraft; new tower control equipment; new and improved navigation lighting; and, new and improved fire fighting equipment.
- 1.1.8 The total investment cost of the WAEP Phase I (including land acquisition and resettlement costs but excluding costs associated with the FBO) over the period 2004 – 2005 amounted to approximately EC\$55.8 million of which EC\$40.5m was financed through loan funding from Scotiabank Anguilla Limited. The remainder was funded from recurrent surpluses and capital revenue of the Government of Anguilla and grant funding from the UK Government through its Department for International Development (DfID). The Government of Anguilla is repaying the Scotia Bank loan with the proceeds of its grant allocation under the 9th EDF.
- 1.1.9 Extensive research, analysis and consultation have been carried out to arrive at Government policy for the future development of air transport and the provision of facilities and services. To this end, the Government of Anguilla has developed a Medium Term Air Transport Sector Plan (MTASP), which covers the period 2004-2008. It documents the ongoing process by which the air transport sector identifies both targets to achieve its goals and a plan of action to achieve them. Further development of air transport facilities and services as it relates to runway extension, terminal upgrade and expansion, private jet facility, refuelling facilities, expansion of fire and rescue services are scheduled as well as the focus on air access improvement and expansion
- 1.1.10 The expanded facilities and services to be provided at Wallblake Airport will generate new organisational, technical and operational demands that must be

addressed on a sustained basis. The strengthening of Airport Security has also emerged at the forefront of Airport Operations and will require greater attention. In addition, organisational changes must be made that will support and enhance the revenue raising potential of Wallblake Airport.

- 1.1.11 The present Airport Departmental Structure is not conducive to the enhanced role that is required of the management organisation and the Government has identified the need for a study to identify the optimum institutional structure for airport management in a commercial environment.

1.2 SEAPORTS

- 1.2.1 Existing seaport facilities within Anguilla consist of three main ports. Road Bay, which is the main commercial cargo port that handles all containerised cargo for Anguilla, dry bulk and conventional cargo traffic from other Caribbean countries. Corito Bay is used by two oil companies for the import of petroleum products and propane from small multi-parcel product tankers. Cargoes imported here are unleaded gasoline, gas oil and propane for bottling. Blowing Point Port is the passenger terminal for ferries between Anguilla and St. Martin, it is the main port of entry into Anguilla and accounts for approximately 75% of total passengers into the island. Small cruise ships call on a limited basis and would call at the Marine Base Jetty at Sandy Ground.
- 1.2.2 In 2001 a Government-commissioned study by Halcrow on the long term port development needs recommended the upgrade of facilities at Blowing Point ferry Port, the construction of a new cargo port at Corito Bay and the conversion of Road Bay into a small scale marine tourism facility. The report also recommended the need for a commercially oriented organisation to run the national port system. To date these proposals are underway with the repair and construction of new jetties at both Road Bay (to temporarily handle cargo) and Blowing Point Port which is now a passenger-only port. A further study has also been commissioned for a Master Plan for the Blowing Point Port which includes the design for the landside development of Blowing Point Ferry terminal and the development of related facilities. Funding for the study at Blowing Point has been secured from the Caribbean Development Bank and negotiations are presently underway with selected consultants.
- 1.2.3 In practice the ports are largely run by the Customs who collect all ports, pier and tonnage dues and warehouse rents, operate the warehouses at Road Bay and Blowing Point, collect port statistics and manage the port out of official hours. They also prepare the annual reports budget. As such, this structure is ineffective and the Study by Halcrow recommends the management of the ports by a separate Authority in the form of a Statutory Corporation with the requisite supporting legislation.

1.3 PORTS AUTHORITY

- 1.3.1 The Single Programming Document (SPD) highlights the need to create an airport and seaports authority to achieve profit maximisation. Divestment of air and seaport operations has been a growing trend in the region as their operation as core Government Departments has constrained them from operating in a more commercial manner and the Government of Anguilla took the decision as part of their Public Sector Development Programme that they should be divested and a combined air and seaport authority formed for their operation and management.
- 1.3.2 A review by KPMG in 1997 looked in particular at the options for divestment, determination of roles and responsibilities for the organisation and the government and the likely running costs and future investment needs. It determined that out of the four options of full privatisation, a statutory corporation, a state-owned company and a government agency, the most appropriate option for divestment was considered to be a statutory corporation which would retain the control of Government but be free from bureaucratic government procedures.
- 1.3.3 The KPMG report reviewed the roles and responsibilities for civil aviation and maritime matters and stated the need to review operational performance at seaports and airports as well as the review of functions, services, structure of fees and charges with autonomy given to the authority to address these issues through legislation. A review of the organisational structure was also recommended in order to contribute to financial planning and to enable the new authority to plan for recruitment and staff development.
- 1.3.4 The Government of Anguilla wishes to establish a single ports authority with a view to mitigating management and institutional costs. Within the single authority the airports and the seaports should be established as autonomous operational and accounting entities. The overall objective is to establish a commercial environment and, where possible, self financing development.

2. Overall Objectives

- 2.1 The objective of this consultancy is to conduct a study of the institutional and legislative needs necessary to the creation of a combined Airport and Seaports Authority.

The Study is required to do the following:

- Provide a policy framework and action plan for the establishment of a combined Airport and Seaport Authority.
- Provide an organisational transformation and institutional framework for the management and operation of the Authority.
- Provide clauses of particular application for inclusion in legislation that will establish the Ports Authority.

3. Requirements of the Consultancy

3.1. PART A: PLANNING METHODOLOGY

- **Review all existing operations, policies and legislation relating to the operations and management of the Airport and Seaports**
- **Review the present institutional framework for the management of the airport and seaports in Anguilla**
- **Identify all planned and proposed activities or operations to be undertaken either in future plans or requirements by international organisations**

3.1.1. The planning process will include identification and confirmation of the objectives of airport and seaports and the Government of Anguilla's strategic objectives, prior to engaging in the Airport Master plan. The basic documents will be the Medium Term Air Transport Sector Plan (MTASP) 2004-2008, the Anguilla Port Development and Management Study by Halcrow Group Limited, 2002 and the Functional and Efficiency Review by KPMG, 1997.

3.1.2. Stakeholders' input will be required to consolidate the objectives of airport and seaports in relation to the issues and aspects affecting the development and operation of each port.

3.1.3. The Consultant shall identify, meet and obtain data and information from all relevant officials from the Government of Anguilla and other stake-holders including – but not limited to - the airport and seaports users, concerned Government departments, statutory and non statutory planning and Transport Authorities), community groups representing individuals that may be affected by any subsequent development as well as private sector organizations that have significant influence on the Airport and Seaports, especially the airlines, tourism, shipping and business sectors. Consideration should be given to stakeholder requirements, their future growth patterns and involvement in, and interaction with all ports.

3.1.4. The Ministry of Finance, Economic Development, Investment Commerce and Tourism (FEDICT) and the Ministry of Infrastructure, Communications, Utilities, Housing, Agriculture and Fisheries (MICUHAF) will be jointly responsible for liaison with the consultant. The first point of formal contact will be the Permanent Secretary of MICUHAF. MICUHAF and MOFEDICT will provide all the documents, data, reports, statistics, and information at the disposal of the Government that the consultant may require. The consultant should give as much notice as is possible to the Permanent Secretary MICUHAF or Permanent Secretaries of FEDICT when making arrangements to use the above facilities and services.

3.2. PART B: SCOPE OF THE STUDY

Institutional and Organisational Development

Carry out a Port Operation Study into the organisational and operational demands of the improved facility at the Airport and Seaports and plan for the creation of a business-oriented, Ports Authority to run the airport and the seaports as separate entities.

- Review the Airport and Seaports core functions and make recommendations for an improved organisation and management framework.
- Assess in particular port security and technical operation concerns.
- Develop an operations plan and its resource requirements.
- Examine management structure options and make recommendations
- Write policies for the development, administration and operation of the Authority.
- Address enactment of laws and regulations for operating a Ports Authority to the highest standard.
- Review the Business, Strategic and Human Resource Development Plans of the GoA and amend or recommend improvements as appropriate.
- Develop a human resource plan to provide Anguillians with the knowledge and skills needed to efficiently and effectively run the Authority.

Financing Arrangements

Develop a sustainable financing model for the operations of the Authority.

4. DURATION OF THE CONSULTANCY

- 4.1 The Study shall be completed in draft form in 8 weeks from the date of appointment. The consultant will be expected to spend a minimum of 2 weeks in Anguilla during which time they will be briefed, accumulate the necessary documentation, programme of meetings, data gathering and consultations.

5. REPORTING AND DOCUMENTATION

- 5.1 The consultant will be required to produce and submit three reports in total. They are an Inception Report, a Draft Final Report and a Final Report.
- 5.2 The Inception Report shall be submitted within 2 weeks of appointment and will be based on findings and preliminary discussions with representatives of the GoA. It will serve as a discussion document and must include the detailed definition of the scope of work and the implementation schedule.
- 5.3 The draft final report shall be submitted by the end of the 8th week.
- 5.4 The final report shall be submitted within 3 weeks of the receipt of comments on the Draft Final Report from the Government of Anguilla.

- 5.5 The Inception Report, and the Draft Final Reports shall be submitted in 6 printed copies and 2 electronic copies on compact disks. The Final Report shall be submitted in 8 printed copies and 2 electronic copies on compact disks.
- 5.6 The written reports shall be bound and shall provide comprehensive coverage of the requirements of these Terms of Reference.
- 5.7 All correspondence and reports will be addressed to the Permanent Secretary ICUHAF and copied to Permanent Secretary of Economic Development in the Ministry of Finance, Economic Development, Investment, Commerce and Tourism and the EC Delegation to Barbados and the Eastern Caribbean.

6 FEES AND PAYMENT

Payment Schedule

- 15% advance payment
- 20% upon submission of the Inception Report
- 30% upon submission of the Draft Final Report
- 35% upon acceptance of the Draft Final Report and submission of the Final

APPENDIX 2

PROPOSED LEGISLATION



Anguilla

Bill for

ANGUILLA AIR AND SEA PORTS AUTHORITY ACT, 2009

Published by Authority

ANGUILLA AIR AND SEA PORTS AUTHORITY BILL, 2009

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Assent

Governor in Council

ANGUILLA

NO. /2009

A BILL FOR

THE ANGUILLA AIR AND SEA PORTS AUTHORITY ACT, 2009

AN ACT to establish an Authority to be known as the Anguilla Air and Sea Ports Authority; to provide for coordinated and integrated systems of airports, seaports and port services; to transfer to and vest in the Authority the relevant assets, liabilities and functions of the Ministry of the Government of Anguilla with responsibility for airports and seaports, and for other connected and related matters.

ENACTED by the Legislature of Anguilla

PART 1

PRELIMINARY

Short Title and Interpretation

Short Title

1. This Act may be cited as the Anguilla Air and Sea Ports Authority Act.

Interpretation

2. In this Act—

“**aircraft**” means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon;

“**airport**” means the airport at Wallblake described in Part 1 of Schedule 1, an aerodrome within the meaning of the Air Navigation (Overseas Territories) Order, 2007 No. 3468 and any amendments thereto, and includes all Crown property where any such aerodrome is situated, and any other airport deemed by the Governor in Council as an aerodrome;

“**animal**” means any animate thing of any kind except a human being;

“**Authority**” means the Anguilla Air and Sea Ports Authority established under Section 3;

“**Authority Pilot**” means a person licensed to act as an Authority Pilot under section 56 and employed by the Authority under section 61

“**beacon**” means any light, mark or sign used as an aid to navigation other than a buoy, and includes aeronautical beacons and such other aids as are commonly used in aviation;

“**buoy**” means any anchored float and includes any floating light, mark or sign used as an aid to navigation;

“**Board**” means the Board of the Authority established under section 4(1);

“**business plan**”, in relation to a financial year, means—

- (a) the business plan approved under section 16; and
- (b) all amendments to the business plan approved under that section, for the financial year;

“**Chairperson**” means the person designated under section 6(1) as Chairperson;

“**charges**” mean any charges, dues or rates levied by the Authority under this Act;

“**Chief Auditor**” has the same meaning as assigned to it in the Financial Administration and Audit Act;

“**Chief Executive Officer**” means the person appointed as such under section 10 as Chief Executive Officer and any person deputising for or acting under the authority of the Chief Executive officer;

“**container**” means a non-expendable receptacle which is capable of being securely fastened and sealed and which is designed for transportation of goods in bulk;

“Court” means the Magistrate’s Court or the High Court as applicable;

“customer” means a customer of the Authority and includes a potential customer;

“Deputy Chairperson” means the person designated under section 6(1) as Deputy Chairperson;

“dollar” means Eastern Caribbean Dollar

“dues” include pilotage dues, ship dues and cargo dues levied under this Act;

“Expansion Reserve Fund” means the fund referred to in section 24(2);

“foreshore” means that part of the coast and the sea contiguous thereto from the mean of the highest and lowest tides to the seaward edge of the furthest reef within the territorial waters of Anguilla or 1,000 yards seawards of the above mean where no such reef exists;

“financial year” means the 12 month period ending on the 31st December in each year;

“goods” means all kinds of moveable property including animals

“Government” means the Government of Anguilla;

“harbour” means a prescribed area of land and sea used by vessels for the embarkation of goods and passengers;

“interim chairperson” means the interim chairperson designated under section 6(3);

“land” means land as defined in the Registered Land Act;

“master” means the captain or other person in charge of a ship or aircraft and any agent appointed by him in writing;

“member” means a member of the Board appointed under section 4(1);

“Minister” means the member of Executive Council responsible for ports;

“Ministry” means the Ministry responsible for ports;

“owner” when used in relation to—

- (a) goods, includes any consignor, consignee, shipper or agent of the owner for the sale, custody, loading, handling, unloading or delivery of such goods;
- (b) any ship or aircraft, includes any part owner, charterer, operator, consignee or mortgagee in possession thereof or any duly authorised agent of such person;

whether or not such goods or vessels are subject to any lien;

“perishable goods” mean goods liable to rapid deterioration and, in particular, includes fish, fruit, vegetables, meat, poultry, game, butter, eggs, milk, cheese, plants, and small animals.

“prescribed” means prescribed by regulation under Section 89;

“person in charge” in relation to an aircraft means the pilot or other person having charge, command or control of the aircraft, and in relation to a ship the master or other person (other than an Authority Pilot) having charge, command or control of the ship;

“pier” means any artificial structure built over or alongside the sea not being part of any sea port;

“Pilotage Committee” means the Pilotage Committee appointed under section 57;

“port” means an airport or a seaport;

“premises” include any immovable property whether open or enclosed, whether built on or not, whether public or private and whether maintained or not under statutory authority;

“public officer” means public officer within the meaning of Section 73(1) of the Constitution of Anguilla;

“repealed Act” means the Ports Harbours and Piers Act 2000;

“regulations” means the regulations made under this Act;

“roadstead” means any part of the territorial sea of Anguilla, not being a port or harbour, where a vessel may ride at anchor;

“sea port” means the Port of Road Bay or the Port of Blowing Point described in Part 2 and 3 of Schedule 1 and includes any other place that may be declared by the Minister by order as a seaport;

“ship” includes any ship, vessel, tug or boat of any kind whatsoever whether the same is propelled by steam or otherwise or is towed;

“summary conviction” means conviction before the Magistrate in accordance with the provisions of the Magistrate’s Code of Procedure Act and includes any order made by the Magistrate’s Court on any matter brought before him on complaint or information;

“Tariff Book” means the Tariff Book prepared and published under section 54(4) of this Act;

“vehicle” means any vehicle towed or propelled by any means whatsoever for the portage of goods or persons otherwise than by sea or air;

“vessel” means any description of watercraft including air-cushion craft used or capable of being used as a means of transportation.

PART 2

ESTABLISHMENT, COMPOSITION AND OPERATION

Establishment of the Anguilla Air and Sea Ports Authority

3. (1) The Anguilla Air and Sea Ports Authority is established with an exclusive right to manage the ports of Anguilla.
- (2) The Authority is a body corporate with perpetual succession and a common seal and may sue and be sued in its name.
- (3) The Authority has an exclusive right to the use of its name.
- (4) The common seal shall be kept in such custody as the Board directs and shall be authenticated by the Chairperson or Deputy Chairperson or by any member duly designated by the Chairman.
- (5) Contracts and instruments made by the Board, other than those required by law to be under seal, and resolutions of the Board may be authenticated under the hand of the Chairperson or Deputy Chairperson.

The Board and its Operation

The Composition and Operation of the Board

4. (1) The affairs of the Authority shall be managed by a Board consisting of not more than 10 members appointed by the Governor in Council from among persons experienced or engaged in business management, industrial relations, engineering, shipping, airport management, import and export operations, tourism or law; areas such as shipping, airlines, labour relations, community services, finance, law, trade, science and tourism but no more than 2 members shall be public officers.
- (2) Each member shall be appointed for a term not exceeding 3 years.
- (3) A person is disqualified from being appointed and from remaining a member if the person—
 - (a) is under the age of 18 years;
 - (b) is a member of the House of Assembly;
 - (c) is an officer or employee of the Authority;
 - (d) is an undischarged bankrupt;
 - (e) is of unsound mind; or
 - (f) has been convicted of an offence involving dishonesty, whether in Anguilla or outside, or a contravention of this Act or the regulations.
- (4) A previous appointment as a member does not affect a person's eligibility to be re-appointed as a member.

- (5) A notice of the appointment of a member shall be published without delay in the *Gazette* after the appointment.
- (6) The Board is deemed to be properly constituted notwithstanding that there is a vacancy on the Board or a defect in the appointment of a member, other than a disqualification referred to in subsection (3).
- (7) If a member is—
 - (a) absent from Anguilla; or
 - (b) unable to act,

the Minister may appoint a person who is eligible to be so appointed to act during the member's absence or inability to act.

Liability of Members

5. No action for damages may be commenced against a member or a committee member who is not a member for anything done or not done in good faith by the member or committee member who is not a member while carrying out his or her responsibilities or exercising his or her powers under this Act.

Chairperson, Deputy Chairperson and Interim Chairperson

6.
 - (1) The Governor in Council shall designate, from among the members who are not public officers, one person to be Chairperson and another to be Deputy Chairperson of the Board.
 - (2) The Deputy Chairperson may act in place of the Chairperson if the Chairperson is absent or unable to act or the office of Chairperson is vacant.
 - (3) If, by reason of the absence or incapacity of the Chairperson or Deputy Chairperson or a vacancy in either of those offices, the Board does not have a chairperson, the Board may designate one of the members as an interim chairperson.

Remuneration, Expenses and Allowances of Members

7.
 - (1) The members shall be paid such remuneration as may be determined by the Governor in Council.
 - (2) The Board may—
 - (a) reimburse the reasonable expenses of members; or
 - (b) establish allowances for the reimbursement of reasonable expenses of members,incurred in the course of the carrying out of their responsibilities as members.

Resignation and Removal of Members

8.
 - (1) A member may at any time resign by giving written notice to the Minister and a resignation is effective upon receipt of the notice by the Minister.

- (2) The Governor in Council may, by written notice, remove a member from office if the Governor in Council is satisfied that—
 - (a) the member has, without the consent of the Board, been absent from 3 or more consecutive meetings of the Board;
 - (b) the member is or becomes disqualified under Section 4(3) from being appointed or from remaining as a member;
 - (c) the member has an interest that is likely to affect prejudicially the exercise and performance of his or her responsibilities as a member;
 - (d) the member is unable or unfit to carry out his or her responsibilities as a member; or
 - (e) it is in the public interest to do so.
- (3) If a member resigns, is removed from his or her office or his or her office is vacated by death prior to the expiry of the term for which he or she has been appointed, the Governor in Council may appoint a new member to replace him or her.
- (4) An appointment of a member under subsection (3) may be for the unexpired period of the term of office of the member in whose place he or she is appointed.
- (5) A notice of the resignation or removal or the vacating of office by death of a member shall be published in the *Gazette* without delay after such resignation, removal or death, as may be the case.

Procedures of Board

9. Schedule 2 has effect with respect to procedures of the Board.

Officers and Employees

Appointment of Chief Executive Officer

10. (1) The Board shall, at such remuneration and on such terms and conditions as it considers appropriate, appoint a Chief Executive Officer of the Authority, who shall be a full-time officer of the Authority and shall not engage in any other trade, profession, occupation or business without the consent of the Board.
- (2) Without prejudice to the generality of subsection (1), the Chief Executive Officer shall—
 - (a) attend meetings of the Board;
 - (b) carry out the directives of the Board; and
 - (c) perform such other functions in accordance with this Act and the terms and conditions of his or her contract of employment.

- (3) Under the direction of the Board, the Chief Executive Officer is responsible for—
 - (a) the management of the Authority; and
 - (b) providing technical advice and guidance to the Board on matters of policy.
- (4) Whenever the office of Chief Executive Officer is vacant or the Chief Executive Officer is absent from Anguilla or is unable to act, the Board may appoint an officer of the Authority to act on his or her behalf.

Appointment of other Officers and Employees

11. (1) The Board shall, in addition to the Chief Executive Officer, appoint at such remuneration and on such terms and conditions as it considers appropriate a Finance Manager and such other officers and employees as are necessary for the proper carrying out of the responsibilities and the exercise of the powers of the Authority.
 - (2) No officer or employee of the Authority appointed under subsection (1) shall engage in any other trade, profession, occupation or business without the consent of the Board.
 - (3) Whenever the office of Finance Manager is vacant or the Finance Manager is absent from Anguilla or is unable to act, the Chief Executive Officer may appoint an officer of the Authority to act on his or her behalf.
 - (4) The Board may delegate to the Chief Executive Officer the power—
 - (a) to appoint employees or classes of employees; and
 - (b) to consent on behalf of the Board to any such employee engaging in any trade, profession, occupation or business.

Exclusive Authority of Board over Officers and Employees

12. (1) Except in respect of public officers who are seconded to the Authority, the Board has final authority in respect to the appointment, termination, promotion or discipline of its officers or employees.
 - (2) The Board may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under this Act with respect to termination of employment or discipline of its officers or employees to any one or more members of the Board, or with the approval of the Governor in Council, to the Chief Executive Officer.

Secondment of Public Officers

13. (1) The Governor in Council may approve the secondment of such public officers for service with the Authority as appears necessary for the proper carrying out of its responsibilities and the exercise of its powers.
 - (2) A public officer seconded under subsection (1) shall, in relation to payment of salary, pension, gratuity and the like and to other rights and to discipline, be treated as if the public officer were not so seconded.

Transfer of Services of Public Officers and Preservation of Pensions, Allowances and Other Benefits

14. (1) All those public officers who are employed in the service of the Ministry of the Government of Anguilla with responsibility for air ports, sea ports and other connected and related matters who are transferred, on the coming into force of this Act, to the service of the Authority will be transferred at a remuneration and on terms and conditions of service that are not less favourable than the remuneration and terms and conditions of service that were enjoyed by the public officer immediately before this Act came into force.
- (2) The Board may, after the day on which this Act comes into operation—
- (a) terminate the employment; or
 - (b) vary the terms and conditions of service;
- of any person referred to in subsection (1) in the same manner and to the same extent as before that date.
- (3) The rights of a person referred to in subsection (1) to a pension, allowance or gratuity for which he or she would have been eligible had he or she remained in the public service are preserved, and his or her service with the Authority shall be pensionable under the Pensions Act as if the person had not been so transferred.

PART 3

POWERS AND DUTIES, PROVISIONS RELATING TO LAND, PROPERTY AND UNDERTAKINGS OF THE AUTHORITY

Powers and Duties of the Anguilla Air and Sea Ports Authority

15. The objects of the Authority are to engage in activities such as to—
- (a) manage and operate the ports of Anguilla, and related facilities in such a manner that the public has access to services that are reliable, efficient, safe and economic;
 - (b) maintain and from time to time to repair, alter or replace, in whole or in part, the ports of Anguilla, and related facilities;
 - (c) upgrade and extend the ports and related facilities in all parts of Anguilla to the extent that it is reasonable for the Authority to do so; and
 - (d) regulate and control the use of any foreshore and roadstead;

General Powers of Authority

16. In addition to the other powers conferred upon the Authority in this Act and the regulations, the Authority has the power to do all things necessary for, or ancillary or incidental to, the carrying out of its objects, including the power to—

- (1)
 - (a) co-ordinate and integrate systems of airports, seaports and port services and to levy charges and dues for the use of the facilities and services provided.
 - (b) design, construct, acquire by purchase, lease or otherwise and operate facilities relating to the ports;
 - (c) and enter into any transaction which in the opinion of the Authority, is necessary to ensure the proper performance of its functions.
 - (d) in particular and without prejudice to the generality of the provisions of subsections (a, b and c) , it is the duty of the Authority to—
 - (i) manage and operate the ports as appears to be best calculated to serve the public interest;
 - (ii) regulate and control navigation within the limits of such ports and their approaches;
 - (iii) maintain, improve and regulate the use of such ports and the services and facilities therein as it considers necessary or desirable;
 - (iv) provide for such ports and the approaches thereto such pilotage services, air traffic control services, beacons, buoys and other navigational services and aids as it considers necessary or desirable;
 - (v) exercise the duties and functions in any enactment relating to shipping, aviation and navigation formerly exercisable by the Ministry of the Government of Anguilla with responsibility for ports;
 - (vi) carry out exclusively the loading, unloading, landing and carrying of all goods to and from all ships and aircraft in a Port.
 - (vi) administer the Merchant Shipping Act(CAP M82);
 - (e) open, maintain or close an account with any bank in Anguilla that holds a licence under the Banking Act;
 - (f) write off debts; and
 - (g) make reasonable contributions to charitable or philanthropic causes by way of sponsorship or otherwise.
- (2) The Authority may, with the approval of the Minister, authorise in writing any person, corporation or other body to carry out the functions stated in this paragraph subject to such conditions and restrictions as the Authority may consider desirable.

Immunity from Distress, of Property of the Authority on Premises other than those of Authority

17. Notwithstanding any other Act, except where the Authority otherwise agrees, all property of the Authority in, on, under, through or over land registered in the name of a person, other than the Authority—
 - (a) are and remain the property of the Authority;
 - (b) are not fixtures in relation to the land; and

- (c) are not liable—
 - (i) to distress, seizure, attachment or execution under any process of any court or otherwise, or
 - (ii) to proceedings in insolvency, bankruptcy, liquidation, receivership or otherwise,

against the person in whose name the land is registered.

Vesting of Property Relating to the Authority

18. (1) Property in connection with or in relation to the Authority that, immediately before the coming into force of this Act, was vested in the Crown or the Government, remains vested in the Crown or Government.
- (2) All wayleaves, easements and other rights in relation to land of whatsoever nature that, immediately before the coming into force of this Act, were enjoyed by the Crown or the Government in, on, through, under or over any land in connection with or in relation to the property of the Authority, remain to be enjoyed by the Crown or the Government.
- (3) Any wharf, dock, or other public work constructed by the Government along, across or extending out from the foreshore within the limits of a port and the land on which the same is constructed, any land reclaimed from the sea, and any part of the foreshore situate within these limits, may be vested in the Authority by the Governor in Council upon such terms and conditions as he or she may determine.
- (4) This section does not derogate from or interfere with the use of private rights and the payment of adequate compensation under any enactment providing for compensation

Foreshores

19. (1) The Chief Executive Officer shall have a general responsibility for the management and protection of the foreshores and may—
- (a) order the removal of or remove at the owner's expense any obstruction or construction thereon or therein; and
 - (b) take any necessary action to prevent the pollution thereof and remove any pollution therefrom.
- (2) The Governor in Council may by regulation—
- (a) restrict or prohibit access to any part thereof;
 - (b) prohibit the removal of sand, gravel or stone from any part thereof; or
 - (c) restrict any part thereof to a particular use.

Permission to Construct on Foreshores

20. Notwithstanding the provisions of any other written law, no person shall construct or install any pier, boat servicing or boat handling facility on any part of the foreshore without the written permission of the Minister.

Licensing of Piers, etc.

21. The owner of any private pier or permanent construction or installation on any foreshore, shall apply to the Chief Executive Officer in the prescribed form for a licence therefor. Such licence shall be issued annually on the first Tuesday of April of each year upon payment of the prescribed annual licence fee.

Malicious Interference with Rights of Authority

22. (1) Notwithstanding anything in this Act or the regulations, if a person wilfully or maliciously places or permits another person to place on any land anything that obstructs, hinders or interferes with the exercise by the Authority of any of its rights or powers under this Act or the regulations, the Authority may remove the thing in question at the cost of the person who placed the thing or permitted the thing to be placed on the land, and the Authority shall not be required to reinstate the land or pay compensation for any damage caused by the removal.
- (2) If a disagreement arises with respect to a matter under subsection (1), the Authority or person who placed the thing or permitted the thing to be placed on the land may apply to the Minister for an order respecting the Authority's duty to reinstate the land or pay compensation under that subsection, and the Minister may, after consultation with the Executive Council, make such order as he sees fit.

Judicial Review

23. A person aggrieved by an order of the Minister made under section 20, 21 or 22 has a right to have the order reviewed by the High Court.

PART 4

FINANCIAL

Financial Provisions

Annual Business Plan

24. (1) The Authority shall, not later than 4 months before the commencement of each financial year and in such form as the Minister requires, prepare in respect of the financial year, and submit to the Minister, a proposal for a business plan for the financial year in accordance with the regulations.
- (2) The Authority shall in each financial year set aside in a fund, to be called the Expansion Reserve Fund, an amount that is not less than 1% of the gross recurrent revenue of the Authority in the previous financial year and not more than the amount, if any, set by the Minister.
- (3) The Minister may, on the request of the Authority, extend the time for submitting a proposal for a business plan.
- (4) The estimated expenditure of the Authority shall include an amount for the reserves of the Authority.

- (5) The Minister shall, as soon as practicable, consider the proposal for a business plan and may—
 - (a) approve the proposal as submitted;
 - (b) with the approval of the Authority, amend the proposal and approve it as amended; or
 - (c) refer the proposal back to the Authority with directions that the Authority take any further action on it that the Minister considers appropriate.
- (6) Where the Minister refers the proposal for a business plan back to the Authority under paragraph (6)(c), he or she shall provide the Authority with his or her reasons for not approving it.
- (7) A proposal for a business plan that is referred back to the Authority under paragraph (5)(c) must be resubmitted to the Minister as directed by the Minister, and, when it is resubmitted, subsections (3) and (6) apply.
- (8) When a proposal in relation to a financial year is approved, it becomes the business plan for that financial year.
- (9) The Authority—
 - (a) may, of its own motion, submit to the Minister a proposal to amend an approved business plan; and
 - (b) shall, on request of the Minister and within the time required by the Minister, submit to the Minister a proposal to amend an approved business plan.
- (10) Subsections (4), (7), (8) and (9) apply to a proposal submitted to the Minister under subsection (10).
- (11) Notwithstanding anything in this section, when—
 - (a) the proposal for a business plan for a financial year is not approved 1 month before the commencement of the financial year; and
 - (b) it appears to the Minister and the Authority that the business plan is not likely to be approved before the commencement of the business year,

the Minister and the Authority may agree on an interim business plan for the first quarter of the financial year pending the approval of the proposal for a business plan for the financial year, and that interim business plan is the business plan of the Authority until the proposal for a business plan for the financial year is approved under this section.

- (12) The Authority shall in each financial year implement the business plan for that financial year.

Funds and Resources of the Authority and their Application

25. (1) The funds and resources of the Authority are—
- (a) the sums received by the Authority in respect of dues and charges levied and payable under the provisions of this Act and any regulations; and
 - (b) all other sums other than loans that may become payable to or vested in the Authority in respect of any matter incidental to its powers and duties.
 - (c) money appropriated by the House of Assembly for the purposes of the Authority;
 - (d) interest and dividends from the investment of the Authority's funds;
 - (e) money borrowed by the Authority under this or any other Act;
 - (f) personal property of the Authority and money derived from the dealing with or disposal of the personal property held by the Authority; and
 - (g) all other money lawfully received or made available to the Authority.
- (2) The funds and resources of the Authority shall be applied for the purposes of the Authority.

Recovery of Sums

26. In addition to any other remedy given under this Act, all dues, charges, compensation, damages, costs, expenses or other sums due to the Authority under the provisions of this Act may be recovered by the Authority as a civil debt.

Application of Revenue of the Authority

27. The revenue of the Authority in any financial year shall be applied in payment of the following charges—
- (a) the interest and other charges on, and provisions for repayment of, any loan payable by the Authority;
 - (b) the sums required to be paid towards the repayment of any loan made to the Authority;
 - (c) the remuneration, fees and allowances payable under this Act;
 - (d) the salaries, remuneration, allowances, pensions, gratuities, provident fund and other superannuation benefits of the officers and staff, employed in or in connection with the activities carried on by the Authority;
 - (e) the working and establishment expenses of, and the expenditure on, or provision for the maintenance of the property and installations of the Authority, and the discharge of the functions of the Authority properly chargeable to revenue account;
 - (f) such sums as the Authority may consider appropriate to set aside in respect of obsolescence and depreciation or renewal of the property or installations of the Authority;

- (g) the cost, or any portion thereof, of any new works, plant, or appliances not being a renewal of property of the Authority, which the Authority may determine to charge to revenue;
- (h) sums to be appropriated to the Expansion Reserve Fund established under section 24;
- (i) any other expenditure authorised by the Authority and properly chargeable to revenue.

Borrowing Powers

28. (1) The Authority may, with the approval of the Minister and to the extent that it considers it necessary to carry out its objects—
- (a) borrow money by way of loan, advance or overdraft;
 - (b) obtain goods and services on credit; or
 - (c) do both the things referred to in paragraphs (a) and (b).
- (2) Notwithstanding subsection (1), the approval of the Minister is not required if, in a financial year—
- (a) the total money borrowed by way of loan, advance or overdraft; and
 - (b) the total value of goods and services, other than goods and services obtained on credit by the Authority that are paid for in less than 30 days after the end of the financial year or such greater time as may be prescribed, do not exceed 1,000,000 dollars or such greater amount as may be prescribed for the purposes of this subsection.
- (3) The Government, with the approval by resolution of the House of Assembly, may act as guarantor in respect of a loan or the payment of goods and services obtained on credit by the Authority.

Guarantee of Borrowing of the Authority

29. With the approval of the House of Assembly the Minister may guarantee, in such manner and on such conditions as he or she may think fit, the repayments of the principal of and the payments of interest and other charges on any authorised borrowing by the Authority.

Monies Recovered to be Paid into Account of the Authority

30. All fines, compensation, damages, costs or other sums directed to be paid in respect of any offence, proceeding or matter arising out of the performance of the duties powers and functions of this Act or any regulations shall be paid into the account of the Authority.

Investment of Surplus Funds

31. Subject to the written instructions of the Minister, the Board may invest any of its funds not immediately required for carrying out the responsibilities or exercising the powers of the Authority.

Accounts and Audit

32. (1) The Authority shall—
- (a) keep proper books of account of its income and other receipts and expenditures; and
 - (b) ensure that—
 - (i) all money received is promptly and properly brought to account,
 - (ii) all payments out of its money are correctly made and properly authorised, and
 - (iii) adequate control is maintained over its property and over the incurring of liabilities by the Authority.
- (2) The books of account kept under subsection (1) shall—
- (a) be sufficient to record and explain the Authority's transactions;
 - (b) enable the Authority's financial position to be determined with reasonable accuracy at any time; and
 - (c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.
- (3) Within 3 months after the end of each financial year, the Authority shall prepare accounts containing—
- (a) a statement of the assets and liabilities of the Authority at the end of the financial year;
 - (b) a statement of the revenue and expenditure of the Authority during the financial year;
 - (c) such other financial statements for the financial year as may be specified in writing by the Minister; and
 - (d) proper and adequate explanatory notes to the statements,
- and the accounts shall be audited by an external auditor appointed by the Board with the approval of the Chief Auditor.
- (4) The external auditor shall be a qualified accountant.
- (5) The Authority shall not appoint as an external auditor, and no person shall act as an external auditor of the Authority, if, in the financial year in which the appointment is made or in the preceding financial year, the person—
- (a) is or was a member;
 - (b) has or had a direct or indirect interest in a contract with the Authority, other than the contract respecting the external audit; or
 - (c) is or was employed by the Authority in a capacity other than as external auditor.

Audit or Acceptance of Accounts by Chief Auditor

33. Without delay after the completion of the audit by the auditor appointed by the Board, the Board shall submit the accounts to the Chief Auditor, who—
- (a) may audit the accounts; or
 - (b) may accept the audit of the external auditor appointed by the Board with the approval of the Chief Auditor,

and, not later than 3 months after receipt of the accounts, forward to the Board a report on the examination and audit of the accounts of the Authority or a report evidencing his or her acceptance of the audit of the external auditor appointed by the Board.

Annual Accounts and Report

34. (1) Within 3 months after the receipt of the report of the Chief Auditor, the Board shall submit to the Minister—
- (a) its audited accounts and a copy of the report of the Chief Auditor; and
 - (b) an annual report of its operations and activities for that financial year.
- (2) The annual report shall contain such matters as the Minister may require.
- (3) The Minister shall, without delay after receipt, table the audited accounts of the Authority, the report of the Chief Auditor and its annual report before the House of Assembly, if it is sitting, and, if it is not then sitting, without delay after it next sits.
- (4) As soon as reasonably practicable after the audited accounts of the Authority, the report of the Chief Auditor and the annual report of the Authority have been tabled before the House of Assembly, the Authority shall cause its audited accounts, the report of the Chief Auditor and its annual report to be published in the *Gazette*.

Exemption from Duties and Taxes

35. Notwithstanding any provision contained in any other law the Authority is not liable to pay any import duty, stamp duty, income tax, municipal tax, rate or any other duty or tax whatsoever.

PART 5

RESPONSIBILITY OF THE AUTHORITY AS A WAREHOUSER

Liability for Loss of Goods

36. (1) Subject to the provisions of this Act or any regulations or of any contract, , the Authority is not liable for the loss, misdelivery or detention of, or damage to goods—

- (a) delivered to or in the possession of the Authority, otherwise than for the purposes of carriage and warehousing except where such loss, misdelivery, detention or damage is caused by lack of reasonable foresight and care on the part of any person employed by or on behalf of the Authority;
- (b) accepted by the Authority for carriage or warehousing where such loss, misdelivery, detention or damage occurs otherwise than while the goods are in transit or being warehoused and is not caused by the want of reasonable foresight and care on the part of any person employed by or on behalf of the Authority.

However, the Authority shall in no case be liable for such loss, misdelivery, detention or damage arising from—

- (i) act of God,
- (ii) act of war or the Queen's enemies,
- (iii) act or omission of the consignor, consignee, or depositor, or of the servant or agent of any such person,
- (iv) fire, flood, tempest, riots, civil commotion, strikes, lockouts, stoppage or restraint of labour from whatever cause, whether partial or general,
- (v) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration or vermin,
- (vi) deficiency in the contents of unbroken packages,
- (vii) unprotected cargo, insufficiency or improper packing or leakage from defective drums, containers or packages.

Further, where such loss, misdelivery, detention or damage occurs in relation to goods accepted by the Authority for carriage or for warehousing the limitation contained in Section 37 shall apply. Any claim in respect of a single package shall not exceed 1,000 dollars.

Bonded Warehouse

37. (1) If any warehouse of the Authority is approved and appointed under any enactment relating to customs, the Authority may give general security by bond or otherwise for the payment of the customs duties payable in respect of goods stored in such bonded warehouse or for the due exportation of such goods.
- (2) When such security has been given by the Authority, a further security shall not be required by the Comptroller of Customs from any other person to the same effect.
- (3) This section shall not be taken however to absolve any person who is liable to pay duties from paying any such duty as he or she would be compelled to pay in respect of any such goods.

Limitation of Liability for Loss

38. The liability of the Authority in respect of any goods accepted by the Authority for carriage or warehousing and in relation to which an account, false in any material particular, has been given under Section 50, shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

Burden of Proof in Proceedings Under Section 36

39. In any proceedings to which the provisions of Section 36 apply, it shall not be necessary for the person claiming damages or compensation to prove how the loss, misdelivery, detention or damage to goods was caused.

PART 6

SHIP AND AIRCRAFT DUES AND CHARGES, TARIFF BOOK

Dues and Charges

40. Subject to the provisions of this Act and the regulations—
- (a) every ship which enters a port for the purpose of loading or unloading cargo or embarking or disembarking passengers or which occupies an anchorage or berth within a port; and
 - (b) every aircraft which uses a port,
- shall pay to the Authority the dues and charges in respect of such ship or aircraft and for any service performed or facility provided in respect of such ship or aircraft in accordance with the regulations under this Part.

Payment of Dues and Charges

41. All dues and charges payable under this Part shall be paid at the prescribed time, and where no such time is prescribed such dues and charges shall be paid on demand; all dues and charges are considered to have been demanded when they become payable.

Appointment of Agent

42. Every ship and aircraft shall appoint an agent who shall be responsible for the payment of the dues and charges without prejudice to the recovery by the agent from the owner or person in charge of the ship or aircraft of such sums paid on behalf of any such ship or aircraft.

Security for Charges

43. An agent who intends to incur a liability in respect of any of the sums mentioned in Section 39 may deposit with the Authority, or guarantee such sums as are in the opinion of the Authority reasonable, having regard to the amount or probable amount of the sums which such agent is liable to pay to the Authority.

Detention by Authorised Officer

44. (1) Where any sums mentioned in Section 40 are owing in respect of any ship or aircraft, any officer authorised by the Chief Executive Officer may with such assistance as he or she considers necessary enter such ship or aircraft and may arrest the ship or aircraft and the furniture, fixtures and equipment, and may detain it until the said sums are paid.
- (2) Where, after such arrest, such sums remain unpaid for a period of 7 days an officer authorised by the Chief Executive Officer may cause the ship or aircraft and the furniture, fixtures and equipment thereof arrested to be sold, and out of the proceeds of such sale he or she shall retain the amount necessary to meet the expenses of the detention and sale and shall after paying the amount of any sums which are owing to the Authority, deliver the balance to the agent.
- (3) Where any ship or aircraft in respect of which the sums mentioned in section 40 are owing and have not been secured as provided in section 42 leaves a port and enters or is in any other port, then such ship or aircraft may be dealt with as if such sums so owing and not secured as aforesaid were sums owing in respect of such other port.

Certificate of Authorised Officer Required Before Clearance Requested

45. Before the person in charge of a ship or aircraft in a port shall obtain outward clearance from that port he or she shall first obtain from an officer authorised by the Chief Executive Officer a certificate stating that—
- (a) all dues and charges in respect of the ship or aircraft and all penalties and expenses to which the ship or aircraft and the person in charge are liable under this Act or regulations have been paid or secured to the satisfaction of the person authorised by the Chief Executive Officer; and
- (b) he or she has complied with the provisions of this Act and the regulations.
- (c) without prejudice to any proceedings which may be instituted under this Act, the proper officer within the meaning of the Customs Act may withhold clearance under the Customs Act of any vessel in respect of whom fees, dues and charges are payable if he is notified by the Accountant General or authorised public officer that adequate arrangements for the payment of such fees, dues and charges have not been made.

All Goods Considered to be in Custody of Authority

46. Notwithstanding any provisions which may be enacted in the Customs Act or in any other enactment all goods except the goods mentioned in Section 137 of that Act shall on importation or exportation by sea or air be considered to be in the custody of the Authority.

Power to Determine Conditions and Carriage or Warehousing of Goods or Other Service or Facility

47. The Authority may subject to the provisions of this Act and any regulations determine—
- (a) the conditions upon which goods shall be carried or warehoused and different conditions may be determined in different cases;
 - (b) the charges for the carriage or warehousing of goods by the Authority and for any other service or facility performed or provided by the Authority.

The Authority May Retain Goods until Freight is Paid

48. (1) Where the agent of a ship or aircraft from which any goods have been landed at a port and accepted by the Authority for carriage or warehousing or for delivery to the consignee, notifies the Chief Executive Officer in writing that the freight or other charges in respect of such goods remain unpaid, the Chief Executive Officer shall retain the goods and refuse delivery of them to the consignee or any other person until—
- (a) the payment of such freight or other charges in respect of such goods; or
 - (b) the production of a receipt for, or a release from, the payment of such amount signed, or purporting to be signed by or on behalf of the agent.
- (2) Where the Authority causes to be delivered any goods in respect of which a notice is given under subsection (1) to a person making such payment or producing such receipt or release as is referred to in paragraphs (a) or (b) of that subsection, the Authority shall be freed from all liability to any person in respect of the goods.
- (3) This section shall not be construed as requiring any person to take into the custody of the Authority any goods which would not otherwise be receivable by the Authority under the provisions of this Act or any regulation or as requiring the Authority to inquire into the validity of any claim made for freight or any other sums mentioned in any notice given by an agent under subsection (1).

Consignor or Consignee Liable for Payment of Carriage or Warehousing

49. The consignor of or the person tendering any goods for carriage or warehousing by the Authority, or the consignee of or person receiving any goods which have been carried or warehoused by the Authority, is liable in accordance with the regulations under this Part for the charges of such carriage or warehousing and any other services performed or facility provided by the Authority in respect of the goods.

Duty to Deliver Description of Goods

50. (1) The consignor of or the person tendering any goods for carriage or warehousing by the Authority, and, on request by the Chief Executive Officer, the consignee of or person receiving any goods which have been carried or warehoused by the Authority, shall deliver to the Chief Executive

Officer the documents as prescribed in the regulations under this Part to enable him or her to determine the charges payable in respect of the carriage or warehousing or any other service performed or facility provided in respect of the goods.

- (2) The Chief Executive Officer may, for the purpose of verifying the documents delivered under subsection (1) require such consignor, person or consignee, as the case may be, to permit him or her to examine such goods.
- (3) If such consignor, person or consignee fails to deliver the documents referred to in subsection (1) or to permit such goods to be examined as required in subsection (2), the Chief Executive Officer may, in respect of the goods which are tendered for carriage or warehousing by the Authority, refuse to accept the goods for such carriage or warehousing unless in respect thereof a charge not exceeding the highest payable for any class of goods is paid.
- (4) If in respect of goods which have been carried or warehoused by the Authority, any document delivered under subsection (1) is found to be false in any material particular with respect to the description of any goods to which it purports to relate, the Chief Executive Officer may refuse to deliver such goods unless in respect of warehousing or carriage of the goods, a charge not exceeding double the highest charge payable for any class of goods is paid without prejudice to any penalty that may be imposed under any other section of this Act.

Power to Levy Charges

51. In respect of all goods in custody of the Authority under Section 46, the Chief Executive Officer is entitled to levy such charges as may be determined in accordance with the regulations made under this Act, and he or she may do all such reasonable acts and incur such reasonable expenses as are necessary for the proper custody and preservation of the goods, and the Authority shall have a lien on the goods for such charges and any other expenses and shall be entitled to seize and detain the goods until such charges are fully paid.

Effect of Non-Removal of Goods

52. (1) Subject to the provisions of this section and without prejudice to the provisions of section 50 where any goods in the custody of the Authority and on any premises of the Authority are not removed therefrom within a period of 15 days from the time when the goods were placed in or on such premises the Chief Executive Officer shall cause a notice to be served on the owner requiring him or her to remove the goods.
- (2) Where—
 - (a) the owner of any goods in the possession of the Authority is not known;
 - (b) the notice referred to in subsection (1) cannot for any reason be served; or
 - (c) there has been a non-compliance with the provisions of any notice served under subsection (1),

the Chief Executive Officer, may within a reasonable time not being less than 6 weeks sell the goods by public auction after giving 7 days notice in the Gazette before the sale.

- (3) Where the goods are perishable the Chief Executive Officer may require the removal of these perishable goods within a shorter period, not being less than 24 hours after the landing thereof or he or she may sell the goods without giving the said notice but shall as soon as practicable inform the owner of the action that has been taken.

Application of the Proceeds of Sale

53. The proceeds of any sale under Section 52 shall be applied by the Authority as follows, and in the following order—
 - (a) in the payment of any duty payable in respect of the goods;
 - (b) in the payment of the expenses of sale;
 - (c) in payment of the sums due to the Authority in respect of the carriage or warehousing and other service performed or facility provided in respect of the goods;
 - (d) in payment of freight and other claims of which notice under the provisions of this Act has been given,

and by rendering the surplus, if any to the owner on demand, and if no such demand is made within one year from the date of the sale of the goods, by paying the surplus into the funds of the Authority, whereupon all rights to the same of the owner shall be extinguished.

Compilation of Dues and Charges and Tariff Book

54.
 - (1) Subject to the provisions of this Act, the dues, charges and conditions for any service or facility performed or provided by the Authority when determined, shall be in the form of regulations, and shall be first submitted to and approved by the Minister.
 - (2) Such regulations shall have effect from the date of their publication or from such later date as may be specified therein.
 - (3) Subject to the approval of the Minister, and without prejudice to subsection (1) and (2), the regulations shall be considered to have been made and be embodied in the Tariff Book as provided in accordance with subsection (4).
 - (4) The Authority shall cause to be prepared and published in such manner as it may think fit—a “Tariff Book” containing all matters which under this Act or any regulation are required to be contained therein, together with such other matters as the Authority may determine.

PART 7

PILOTAGE

Compulsory Pilotage

55. (1) Seaports are compulsory pilotage ports and all ships other than exempted ships, navigating whether by entering, leaving or moving within their limits shall be under the pilotage of an Authority pilot.
- (2) For the purposes of this section the following ships are exempted ships—
- (a) ships belonging to Her Majesty;
 - (b) ships owned or operated by the Authority;
 - (c) pleasure yachts or fishing vessels;
 - (d) ferrying boats plying as such exclusively within the limits of a port;
 - (e) ships of less than 100 tons gross register;
 - (f) ships trading exclusively between seaports and other parts of the State;
 - (g) tugs, dredges, barges or similar vessels whose ordinary course of navigation does not extend beyond the limits of the State.
- (3) The Chief Executive Officer may exempt from compulsory pilotage any ship in any particular case.

Authority to Employ Pilots

56. (1) Subject to the provisions of this Act, the Authority may employ such number of Authority Pilots as it considers necessary or expedient for the purpose of providing an adequate and efficient pilotage service.
- (2) A person shall not be employed as an Authority Pilot unless he or she is in possession of a valid licence to act as an Authority Pilot issued under the provisions of Section 61.
- (3) The Authority may require an Authority pilot to give a bond in favour of the Authority for the proper performance of his or her duties in such amount as the Authority determines.

Appointment and Functions of the Pilotage Committee

57. The Authority shall appoint a Pilotage Committee for the purpose of—
- (a) holding examinations and issuing, on behalf of the Authority, licences to act as an Authority Pilot;
 - (b) holding inquiries concerning the conduct of Authority Pilots in the discharge of their duties;
 - (c) making such arrangements as may be necessary for the training of persons selected for or in the pilotage service of the Authority;

- (d) investigating and advising on such matters as may be referred to the Committee by the Authority; and
- (e) carrying out such other functions as are conferred on the Pilotage Committee by this Act.

Constitution of Pilotage Committee

58. (1) The Pilotage Committee shall consist of—
- (a) the Chief Executive Officer who shall be the chairperson of the Committee; and
 - (b) four other persons who by reason of their knowledge of or experience in nautical matters, are, in the opinion of the Authority, fit and proper persons to be members of the Committee.
- (2) The appointment of a member of the Pilotage Committee shall be for any period not exceeding 3 years but such member shall be eligible for re-appointment on completion of every such period.
- (3) Three members of the Pilotage Committee constitute a quorum at any meeting of the Committee.
- (4) The chairperson of the Pilotage Committee shall preside at all meetings.
- However, if the chairperson is absent from a meeting or any part of it, such member as the members of the Pilotage Committee present shall choose, shall preside in his or her place.
- (5) The chairperson or member presiding at any meeting of the Pilotage Committee shall have a vote and, in the case of an equality of votes, a second or casting vote.
- (6) Members of the Pilotage Committee who are not employees of the Government or of the Authority may be paid, out of the funds of the Authority, such fees and allowances as the Authority may determine.

Members Considered to be Public Officials

59. The members of the Pilotage Committee are considered to be public officials within the meaning of the relevant legislation.

Rules

60. Subject to the provisions of this Act, the Authority may, make, vary or revoke rules for the purpose of regulating the meetings and proceedings of the Pilotage Committee.

Examination for Licence

61. (1) The Pilotage Committee shall examine candidates for employment by the Authority as pilots and on being satisfied as to a candidate's general fitness and competency, including physical fitness, to act as an Authority Pilot may, on behalf of the Authority, issue to him or her a licence to act as such, and

such licence may contain such conditions as the Pilotage Committee may consider fit.

- (2) Every Authority pilot shall whenever the Pilotage Committee considers that, owing to changed conditions or for any other sufficient reason, the further testing of the knowledge, efficiency or physical fitness of any such pilot is necessary, present himself or herself for further examination, and shall in every such case first deposit with the Pilotage Committee his or her licence issued by the said Committee on behalf of the Authority to be returned or cancelled by the said Committee on behalf of the Authority as the result of such examination determines.
- (3) The Authority shall not continue to employ as an Authority pilot any Pilot whose licence to act as such is cancelled as the result of any examination carried out or held under the provisions of subsection (2).
- (4) Any licence issued under the provisions of this section shall cease to be valid upon the termination of any Authority Pilot's employment with the Authority.

Enquiries by Pilotage Committee

62. (1) The Pilotage Committee may, and when directed by the Authority shall, hold an inquiry into the conduct of an Authority Pilot where it appears that he or she commits misconduct affecting his or her capability or has failed in or neglected his or her duty or has otherwise become incompetent to act as an Authority Pilot.
- (2) For the purposes of such inquiry, the Pilotage Committee may summon any person in the State to attend any meeting of the said Committee to give evidence on oath or produce any document or other thing in his or her possession and to examine him or her as a witness or require him or her to produce any document or other thing in his or her possession relative to the matters which are the subject matter of such inquiry.
- (3) Any person who—
 - (a) being summoned to attend any such inquiry, fails to do so;
 - (b) offers any act of disrespect or any insult or threat to the Pilotage Committee or any member during an inquiry; or
 - (c) being required by the Pilotage Committee to give evidence on oath or affirmation or to produce a document or other thing, refuses to do so,commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108..

Submission of Pilotage Committee's Findings and Recommendations to Authority

63. (1) Where the Pilotage Committee, after due inquiry in accordance with the provisions of this Part, and after hearing any statement that may be offered in defence, finds that an Authority pilot commits misconduct affecting his or her capability or has failed in or neglected his or her duty or has otherwise become incompetent to act as an Authority pilot, it shall submit to the

Authority a copy of the record of the inquiry and its findings and recommendations in respect of the inquiry.

- (2) The Authority may, after considering the findings and recommendations of the Pilotage Committee, suspend or cancel the licence of such Authority pilot, or impose such other punishment as the Authority may think fit.
- (3) Any Authority Pilot who is aggrieved by any decision of the Authority made under the provisions of subsection (2) may, within 14 days from the date of such decision, appeal to the Minister whose decision shall be final.

Liability of the Owner and Person in Charge

64. The owner and the person in charge of a ship, navigating in circumstances in which pilotage is compulsory shall be answerable jointly and severally for any loss or damage caused by the ship or by any fault of the navigation of the ship in the same manner as it would if pilotage were not compulsory.

Pilotage Committee and Authority not Liable for Loss or Damage Occasioned by Pilots

65. (1) The issue of a licence to an Authority pilot by the Pilotage Committee on behalf of the Authority under section 60 shall not impose any liability on the Pilotage Committee for any loss or damage occasioned by any act, omission or default of such Authority pilot.
- (2) Any Authority Pilot whilst engaged in any pilotage act shall, although he or she may be employed at a salary by the Authority, be considered to be the servant only of the person in charge and owner of the ship under pilotage and neither the Authority nor the Authority Pilot is liable for any loss or damage occasioned by any act, omission or default of such Authority Pilot.

PART 8

GENERAL RULES AND SPECIAL EMERGENCY PROVISIONS

Supply of Information

66. The person in charge of any ship or aircraft arriving in or departing from a port shall produce to the Authority such documents and supply such information in relation to the ship or aircraft, and the persons and goods carried on it, as the Authority may reasonably require.

Power of Chief Executive Officer

67. (1) Despite the provisions of any regulations made under Section 89 the Chief Executive Officer may—
 - (a) direct where any ship or aircraft shall be berthed, moored, anchored or parked and the method of anchoring of ships and parking of aircraft within a port and the approaches to a port;
 - (b) direct the removal of any ship or aircraft from any berth, station, anchorage or position to another berth, station, anchorage or position,

and the time within which such removal is to be effected, within a port and the approaches to a port; and

- (c) regulate the moving of ships and aircraft within a port and the approaches to a port.
- (2) In case of any refusal or neglect or of any failure to comply with any direction given under subsection (1), the Authority may, without prejudice to any proceedings being instituted against any person, cause to be done all such acts as are in its opinion reasonable or necessary for the purpose of carrying out such direction and may hire and employ such persons as it considers proper and necessary for such purpose.
- (3) All expenses incurred in doing such acts shall be paid and borne by the person or persons so offending.

Disorderly Conduct

- 68. (1) A person shall not use indecent language or commit any disorderly, obscene or indecent act or cause any nuisance at a port.
- (2) Any person who contravenes subregulation (1) of this regulation commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108..

Gambling

- 69. (1) A person shall not engage in any form of gambling or operate or cause to be operated any gambling device anywhere at a port.
- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Sanitation

- 70. (1) A person shall not—
 - (a) dispose of garbage, papers, refuse or other material at any port except in the receptacles provided for that purpose;
 - (b) use a sanitary convenience otherwise than in a clean and sanitary manner.
- (2) Any person who contravenes subsection (1) of this section commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Preservation of Property

- 71. (1) A person shall not at a port—
 - (a) destroy, damage, deface or disturb in any way any building, sign, equipment, structure or other public property at a port;

- (b) obstruct any person acting in the execution of his or her duty in relation to any port;
 - (c) remain at a port or on any part thereof after having been required by the Chief Executive Officer or a police officer to depart therefrom;
 - (d) load or attempt to load any aircraft or ship without the authority of the person in charge;
 - (e) smoke in or otherwise bring any naked light into—
 - (i) any place where any such act is prohibited by notice,
 - (ii) any place within 50 feet of an aircraft or a store of liquid fuel or explosives;
 - (f) fill or discharge from any container (including any part of a vehicle) liquid fuel elsewhere than in a place approved for that purpose;
 - (g) light any fire elsewhere than in a place provided for that purpose;
 - (h) use radio transmitting or receiving equipment that is intended for transmission or reception on the frequencies allocated for use at the port;
 - (i) throw, leave or drop anything capable of causing injury or damage to any person or property.
- (2) A person shall not, without the permission in writing of the Chief Executive Officer in addition to any other permission (if any) that may be lawfully required—
- (a) erect, alter, move, paint, distemper any building, sign, maps or other structures forming part of or provided for in connection with a port;
 - (b) lay any cable, wire or pipe or dig any part of a port;
- (3) A person shall not—
- (a) climb a wall, fence, barrier, railing or post of any port;
 - (b) walk on any flowering bed planted area or anything growing thereon or any lawn on which walking is prohibited by notice; or
 - (c) remove, disturb, pull or damage any tree or plant growing at a port.
- (4) Any person who contravenes this section commits an offence and is liable on summary conviction in respect of subsections (1) and (2) to a fine and or imprisonment in accordance with Section 108.

Firearms Explosives and Inflammable Material

72. (1) Subject to subsection (2) a person other than a customs or immigration officer, or a police officer on official duty shall not carry any firearms, explosives or inflammable materials at a port without the written permission of the Chief Executive Officer.
- (2) Where a police officer desires to carry explosives or inflammable materials at a port, he or she shall first inform the Chief Executive Officer who shall

make such arrangements for the carriage of such explosives or inflammable materials as he or she may consider proper.

- (3) All persons other than the exempted classes mentioned in this section shall surrender all firearms explosives and inflammable materials in their possession to the Chief Executive Officer or a police officer at a port.
- (4) Any person who contravenes subsection (1) or (3) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Power in Respect to Wrecks

73. (1) The Chief Executive Officer may—
- (a) remove any wreck in or other obstruction to a port or its approaches, or any timber, raft or other thing floating or lying in a port, which endangers, or obstructs, or is likely to endanger or obstruct, the free navigation of the port or the use of any facility therein;
 - (b) in the case of urgent necessity take any action in a port which in his or her opinion may be necessary to prevent any danger to life or limb or damage to goods or premises;
 - (c) enter upon any ship or aircraft or into any building in a port if it is necessary for him or her to do so in the performance of any duty under this Act or any regulation or if he or she has reasonable grounds for believing that an offence against this Act or any regulation has been, or is about to be committed.

However, this section shall not apply to accidents to aircraft in a port.

- (2) The owner of any wreck or other thing removed by the Chief Executive Officer under the provisions of subsection (1)(a), without prejudice to any other action which may be taken against him or her, is liable to pay the reasonable expenses of such removal; such wreck or other thing shall be detained by the Chief Executive Officer until such expenses and customs duties, dues or charges payable in respect thereof are paid.
- (3) Where any wreck or thing is removed under the provisions of subsection (1)(a) and the expenses of removal have not been paid within 7 days of such removal, the Chief Executive Officer may cause such wreck or thing to be sold by public auction and shall out of the proceeds of sale retain the amount necessary to meet the expenses of such removal, detention and sale and any customs duties, dues or charges payable and shall retain the balance, if any, for the person appearing to him or her to be entitled.

Fire on Board Ship or Aircraft

74. (1) In the event of fire breaking out on board any ship or aircraft in a port, the Chief Executive Officer may proceed on board such ship or aircraft with such assistance and persons as to him or her seem fit, and may give such orders as to him or her seem necessary for scuttling such ship or destroying such aircraft, or for removing such ship or aircraft or any other ship or aircraft, to such place as to him or her seems proper to prevent in either case danger to

other ships or aircraft and for the taking of any other measures that appear to him or her expedient for the protection of life and property.

- (2) If such orders are not carried out by the person in charge of such ship or aircraft the Chief Executive Officer may himself or herself proceed to carry them into effect.
- (3) Any expenses incurred in the exercise of the powers conferred by subsection (1) and (2) shall be recoverable from the person in charge or the owner of the ship or aircraft concerned as a civil debt.

Fires at Premises of Lessee or Occupier at a Port

75. (1) The lessee or occupier of any premises at a port where a fire has occurred shall, within 24 hours of its occurrence, submit to the Chief Executive Officer a report in writing, stating the circumstances of the fire.
- (2) Any lessee or occupier as aforesaid who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Accidents in Ports

76. (1) Where any accident occurs in any port, then if that accident—
 - (a) is attended, or is of a kind usually attended, with loss of human life or with serious injury to person or property;
 - (b) involves any collision between ships or aircraft;
 - (c) is of such other kind as the Governor in Council may specify, the Authority shall, as soon as practicable, give notice of the occurrence of the accident to the Governor in Council.
- (2) The Authority may order such enquiry into any accident which occurs in any port as it may think fit and shall order an enquiry into any such accident when so required by the Governor in Council.
- (3) The Authority shall present a report on any accident inquired into, setting out, inter alia, the probable cause of such accident and the steps if any, which have been taken or it has directed shall be taken with a view to avoiding a repetition thereof.
- (4) The Authority shall make to the Governor in Council a return, in such form and at such intervals as the Governor in Council may direct, of all accidents, occurring in any port, whether or not such accident is attended with injury to any person.
- (5) The provisions of the Air Navigation (Overseas Territories) Order 2007 No. 3468:
 - (a) at article 56
 - (b) at articles 139 to 140
 - (c) at Schedule 10 Part 3 article 4(3); and
 - (d) at Schedule 10 Part 3 article 17

as stated in Schedule 3 of this Act apply herein *mutatis mutandis*

Liability for Demurrage or Other Charges

77. The Authority is not liable for any demurrage or other charge which may occur or be due on any ship or aircraft, howsoever such charge may have been caused.

Power to Kill Animals Found Trespassing

78. Notwithstanding any law in force to the contrary, it is lawful for any police officer or any other person authorised in writing on that behalf by the Chief Executive Officer to destroy by shooting any animal found trespassing on any port.

Delegation of Authority

79. (1) All acts, orders or directions under this Part or regulations under it authorised to be done or given by a particular officer of the Authority may be done or given by any other officer of the Authority authorised in writing on that behalf by the Authority or the Chief Executive Officer.
- (2) Any person authorised to do any such act may call to his or her aid such assistance as is necessary.

Non-Liability of Authority

80. The authority is not liable for any *mala fide* act, omission or default of the Chief Executive Officer

PART 9

MOTOR VEHICLES AT THE PORTS

Traffic Signs

81. (1) The Chief Executive Officer may place, erect or display or may cause to be placed, erected or displayed at a port such traffic signs as he or she may consider necessary for the proper control and regulation of vehicular traffic at a port.
- (2) All traffic signs placed, erected or displayed at a port shall be considered for the purposes of this section to have been placed, erected or displayed in accordance with subsection (1).
- (3) Any person who operates or causes to be operated a motor vehicle contrary to any direction of a sign placed, erected or displayed at a port commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Permits

82. (1) A driver of a public service vehicle shall not at a port ply for hire or attempt to ply for hire from that port unless he or she is the holder of a permit granted by the Chief Executive Officer.
- (2) The Chief Executive Officer may upon application made on the proper form grant a permit to the driver of a public service vehicle for the purposes of this regulation.
- (3) The Chief Executive Officer may refuse for good cause to grant a permit to any applicant.
- (4) The Chief Executive Officer may cancel any permit granted by him or her under this regulation if the holder is found guilty of an offence under any of these regulations.
- (5) Cancellation of a permit may be effected by notice to the holder and on such cancellation the holder shall surrender his or her permit to the Chief Executive Officer. The permit of a driver of a public service vehicle shall not be valid during any period in which the holder is not the holder of a driving permit under the Motor Vehicles and Road Traffic Act.
- (6) Notwithstanding anything contained in this regulation the Chief Executive Officer may at any time suspend for a period not exceeding 6 months or cancel any permit granted by him or her if it appears to him or her, after giving the holder an opportunity of being heard, that he or she has committed any offence under these Regulations. Any person whose permit has been suspended or cancelled shall have a right of appeal to the Minister.
- (7) When a permit has been suspended or cancelled under this regulation it shall be in the discretion of the Chief Executive Officer to refuse to grant any further permit under this regulation to that person during a period of 6 months commencing from the date of suspension or cancellation.
- (8) A driver who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Passenger Vehicles

83. (1) A person shall not operate any taxi, omnibus or other vehicle for the purpose of carrying passengers within a port otherwise than in accordance with any order or directions of the Chief Executive Officer.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Public Service Vehicles

84. (1) Drivers of public service vehicles shall on arrival at a port park their vehicles in the parking area provided for that class of vehicle, or if so directed by the Chief Executive Officer or a police officer they shall park such vehicles in accordance with any directions given.

- (2) Drivers of public service vehicles shall remain with their vehicles in the place where such vehicles are parked or in the area designated for them when passengers are passing through immigration and customs.
- (3) Drivers of public service vehicles shall not pick up or set down passengers or passengers' baggage except at such place and in such manner as the Chief Executive Officer or a police officer may direct.
- (4) Drivers of public service vehicles shall, when picking up or setting down passengers comply with any direction given to them by the Chief Executive Officer, or a police officer.
- (5) A driver of a motor vehicle other than a public service vehicle or a driver of a public service vehicle not plying for hire shall on arrival at an airport park his or her vehicle in an area provided for private motor vehicles or public service vehicles not for hire or as directed by the Chief Executive Officer or a police officer.

Motor Vehicles Generally

85. A driver of a motor vehicle who—
- (a) without the permission of the Chief Executive Officer or a police officer leaves his or her vehicle at a port longer than is reasonably necessary for the transaction of the business for the purpose of which it was brought there;
 - (b) picks up or sets down passengers or passengers' baggage elsewhere than at such places as the Chief Executive Officer or a police officer may direct;
 - (c) drives a motor lorry or a vehicle into the port except for the purpose of delivering passengers' baggage or other goods to the port or of collecting the same therefrom;
 - (d) when picking up or setting down passengers or passengers' baggage, fails to comply with any directions given to him or her by the Chief Executive Officer or a police officer;
 - (e) drives or places his or her vehicle carelessly or dangerously or without due consideration for other persons using the port;
 - (f) fails or refuses to stop when required so to do by the Chief Executive Officer or a police officer;
 - (g) fails to comply with any traffic direction given by the Chief Executive Officer or a police officer;
 - (h) fails or refuses to move his or her vehicle from any parking area when required by the Chief Executive Officer or a police officer so to do;
 - (i) without the permission of the Chief Executive Officer or a police officer takes a vehicle into a place other than a place provided for passengers or accommodation of that vehicle;

commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Intoxication While Operating a Vehicle

86. (1) A person shall not, while under the influence of liquor or narcotic drugs, operate a vehicle of any kind at a port.
- (2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Omnibuses

87. (1) A carrier by motor omnibus for hire shall not load or unload passengers in a port at any place other than that designated by the Chief Executive Officer.
- (2) Any person who fails to comply with the provisions of subsection (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

PART 10

RETURNS OF INFORMATION AND, REGULATIONS

Minister May Require Returns

88. The Authority shall without delay furnish the returns of information that the Minister may, by written notice to the Authority, require.

Regulations

89. (1) The Governor in Council may make regulations for the better carrying out of this Act, including regulations—
- (a) prescribing anything that under this Act may be prescribed;
 - (b) exempting persons or operations, or classes of persons or operations, for the purposes of this Act;
 - (c) prohibiting and regulating the resale of services supplied to a customer by the Authority;
 - (d) respecting the giving of notices for which no provision is made under this Act;
 - (e) respecting the giving of notices, other than notices of request, under any or all the provisions of this Act;
 - (f) providing that penalties be imposed in accordance with Section 108 for a contravention of a provision of the regulations, and for the making of orders against a convicted person by the Court for the purpose of preventing further contraventions in addition to convicting him or her.
- (2) The Minister on the recommendation of the Government of Anguilla may by regulation—
- (a) amend, add to or repeal and replace Schedule 1;

- (b) provide for transitional matters when Schedule 1 is amended, added to or repealed and replaced.
- (3) The Governor in Council will, on the recommendation of the Authority, make regulations generally with respect to the maintenance, supervision, control and management of the ports and the approaches, and the services performed and the communication navigation and other facilities provided by the Authority and for the maintenance of order on any premises or in any ship, aircraft or vehicle in a port and the approaches and for the carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, regulations made under this section may contain provisions with respect to—
- (a) the proper control and management of the foreshores of any port and the entrances thereof, the prevention and removal of obstructions therein and the regulation of any work, service or facility performed or provided thereat;
 - (b) the control of all persons and vehicles on such premises, the maintenance of order thereon and the admission or exclusion of persons therefrom and the charges, if any, to be made for such admission;
 - (c) regulating, controlling and prohibiting the doing or omission of any thing or class of thing within the boundaries of any port or any specified part or parts of any port either at all times and on all occasions or at any time or times or on any occasion or occasions;
 - (d) the regulation, restriction and control (without prejudice to the conduct of navigation) of the depositing of any substance, solid matter, article or thing polluting or likely to cause pollution of the waters of any port;
 - (e) the regulation of traffic and navigation of ships and aircraft within the limits and approaches to any port and all matters relating to the protection of life and property;
 - (f) the regulation of the mode and place of mooring, anchoring and berthing of ships and the parking of aircraft and the removal of ships and aircraft from a mooring, anchorage, berth or position to another mooring, anchorage, berth or position and the time within which the removal shall be effected;
 - (g) the protection of ships and aircraft and their cargoes and the removal, destruction, sale or abandonment of stranded ships, aircraft and their cargoes and appurtenances which obstruct or are likely to obstruct the fairway or runway of any port, the payment of expenses including salvage incurred in connection therewith and the levy and recovery of a charge for the right of a hulk or wreck or wreckage to lie in any port;
 - (h) the examination, licensing, duties and obligations, and the conduct and discipline of Authority pilots and the charges to be paid for pilotage;
 - (i) the regulating of the times, places, order and mode of loading, unloading, warehousing, storing and the depositing of goods;

- (j) the fixing of dues and charges payable in respect of any ship or aircraft, with different dues or charges being applicable in respect of different ships or aircraft or classes of ships or aircraft, the exemption or the remission thereof or part thereof;
 - (k) the fixing of the dues and charges payable in connection with the loading, unloading, carrying or warehousing of goods and for any service or facility performed or provided by the Authority including the exemption, refunding or remission of any such charges;
 - (l) the fixing of the dues and charges payable in respect of any other service or facility performed or provided by the Authority;
 - (m) the licensing of shipping agents, customs brokers, landing agents, forwarding agents, baggage and parcel agents, porters, contractors for supplies and victualling, and other persons concerned in or engaged in or performing any service or work in connection with the ports;
 - (n) anything required to be prescribed by this Act and any matter or thing in respect of which it may be necessary or expedient to make regulations to give effect to the purposes of this Act.
- (4) The Governor in Council will, on the recommendation of the Authority, make regulations generally for the conveyance, loading, unloading and storage of dangerous goods within the limits of the ports, and without prejudice to the generality of the foregoing, may make regulations with respect to—
- (a) the classification of goods as dangerous goods;
 - (b) the regulation of the navigation and place of berthing of ships and parking of aircraft carrying dangerous goods;
 - (c) the regulation and control of loading and unloading dangerous goods;
 - (d) the prohibition or subjection to conditions and restrictions of the conveyance of any kind of dangerous goods with any other kind of goods;
 - (e) the prohibition of the loading or unloading of dangerous goods at places where such loading or unloading appears dangerous to the public;
 - (f) the fixing of places and times at which dangerous goods are to be loaded and the quantity to be loaded or unloaded at any one time;
 - (g) the regulation of the mode and the precautions to be observed in conveying or keeping dangerous goods and in the loading or unloading of the same;
 - (h) the protection, whether by means similar to those abovementioned or not, of persons and property from danger generally.
- (5) Subject to the provisions of any enactment relating to merchant shipping, or air navigation, the Governor in Council will, on the recommendation of the Authority, make regulations with respect to—
- (a) the taking of measures for the prevention of ships or aircraft from leaving any port if overloaded, improperly loaded, found insufficiently manned or without qualified officers or engineers or with a number of passengers in excess of the number that can be

- carried with reasonable safety; or if otherwise not seaworthy or airworthy, as the case may be;
- (b) the examination, certification and licensing of masters, mates and engineers of ships and of pilots of aircraft, and the licence fees payable in respect thereof;
 - (c) the inspection, licensing, registration or certification of ships and aircraft the charges to be paid therefor and the number of passengers to be carried therein.
- (6) Regulations made under this section in relation to the use of roadways in any port, shall take effect although such roadways may be roads which are subject to the Vehicles and Road Traffic Act, and regulations thereunder.
 - (7) Despite anything enacted in the Interpretation and General Clauses Act, regulations may provide that any breach or contravention of any such regulations shall be punishable on summary conviction by a fine and or by imprisonment in accordance with Section 108.
 - (8) All regulations made under this Act shall be subject to negative resolution of House of Assembly within 6 weeks.

PART 11

OFFENCES

Damaging Property Likely to Endanger Life

90. Any person who unlawfully damages or in any way interferes with any lighthouse, buoy, beacon, ground light or other property of the Authority in such manner as to endanger, or as might endanger, the life of any person, commits an offence and is liable on conviction to a fine and or imprisonment in accordance with Section 108.

Endangering Safety of Other Persons

91. Any person, whether on duty or lawfully employed or not, who on any premises of the Authority or upon any ship aircraft or vehicle in a port, endangers the safety of any other person by—
- (a) contravening any of the provisions of this Act or of any regulations;
 - (b) contravening any lawful order, direction or rule given to such person, or made in respect of his or her service;
 - (c) being under the influence of alcohol or drugs; or
 - (d) any rash or negligent act,

commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Failure to Comply Under Directions of Section 67

92. Any person who, without lawful excuse refuses or neglects to obey any direction given under Section 67 or under any regulation made under Part 8 commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Failure to Employ Authority Pilot

93. If any ship is navigated in circumstances in which pilotage is compulsory and such ship is not under the control of an Authority pilot, the person in charge of it commits an offence and is liable on summary conviction to a fine not exceeding to a fine and or imprisonment in accordance with Section 108.

Failure to Comply with Section 66

94. Any person in charge of a ship or an aircraft who fails to comply with the provisions of Section 66 or gives any information which is false in any material particular, commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Offence where Authorised Officer Refused Entry

95. Any person in charge of a ship or an aircraft who without lawful excuse refuses to allow an officer authorised by the Chief Executive Officer to enter his or her ship or aircraft in contravention of Section 73(1)(c) commits an offence and on summary is liable to a fine and or imprisonment in accordance with Section 108.

False Returns

96. Any person who, in any return, claim or other document required or authorised to be made under this Act or any regulations, makes, either knowingly or recklessly, any statement which is false in any material particular commits an offence and is liable on conviction to a fine and or imprisonment in accordance with Section 108.

Evasion of Dues and Charges

97. A person, who by any means whatsoever eludes or evades or attempts to elude or evade any dues or charges leviable under this Act or regulations, commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Demanding Improper Amount

98. Any person who, with intent to defraud, demands or receives from any person delivering goods for carriage or warehousing by the Authority, or from any other person making use of the facilities provided by the Authority, any greater or lesser amount than he or she should demand or receive on summary conviction is liable to a fine and or imprisonment in accordance with Section 108.

Miscellaneous Offences

99. Any person who—

- (a) being on any premises of the Authority or on any ship, aircraft or vehicle in a port—
 - (i) refuses when called upon by an officer authorised by the Chief Executive Officer or police officer, to give his or her name and address or gives a false name or address for the purpose of avoiding prosecution,
 - (ii) without lawful excuse the proof of which lies on him or her, discharges any firearm or does anything which may cause injury to any person on such premises, or upon such ship, aircraft or vehicle,
 - (iii) without lawful excuse contravenes any direction given by any officer authorised by the Chief Executive Officer;
- (b) defaces the writing on any board or notice authorised to be maintained upon any premises of the Authority or upon any ship, aircraft or vehicle in a port;
- (c) damages or interferes with any property of, or goods in the custody of, the Authority;
- (d) wilfully obstructs or impedes any other person in the discharge of his or her duties arising out of his or her employment with the Authority; or
- (e) gives or offers to any other person any inducement in cash or otherwise for the purpose of avoiding payment of any sum due to the Authority,

commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 108.

Removal of Persons and Things

100. Any provision of or regulation made under this Act, and any vehicle, animal or thing found in the area in contravention of any such provision or regulation, may be removed from the area to which the provision or regulation applies by a police officer or by any other person authorised in that behalf in writing by the Chief Executive Officer; and upon conviction for any such contravention before a magistrate, the owner or person in charge of any such vehicle, animal or thing may in addition to any other penalty be ordered by the magistrate to pay the cost of such removal.

Chief Executive Officer's Fiat

101. Proceedings for offences arising out of the provisions of this Act shall be instituted in writing by the Chief Executive Officer or by any officer duly authorised by him or her in writing.

Proof

102. In any proceedings for any offence, the averment that such offence was committed within the limits of a port is sufficient without proof of such limits, unless the contrary is proved.

Powers of Arrest

103. (1) Any person who commits any offence mentioned in Sections 90, 91 or 99 may be arrested without warrant by any officer authorised by the Chief Executive Officer or a police officer.
- (2) Any person who commits any offence against this Act or regulations other than an offence mentioned in subsection (1) may be arrested by any officer authorised by the Chief Executive Officer or a police officer if—
- (a) there is reason to believe that such person will abscond;
 - (b) he or she refuses on demand to give his or her name or address; or
 - (c) there is reason to believe that the name or address given by him or her is incorrect.

However, where there is reason to believe that such person will not abscond, he or she shall, if his or her true name and address are ascertained, be released on his or her executing a bond for his or her appearance before a magistrate when required.

Place of Trial

104. Any person charged with any offence against this Act other than an offence mentioned in section 90 or 96, may be proceeded against, tried and punished in any place in which he or she may be in custody for that offence as if the offence had been committed in such place; and the offence shall for the purposes incidental to, or consequent upon, the prosecution, trial or punishment thereof, be considered to be committed in that place.

However this section does not preclude the prosecution, trial and punishment of such person in any place in which, but for the provisions of this section, such person might have been prosecuted, tried and punished.

Chief Executive Officer May Confer Power on Officers

105. The Chief Executive Officer may, by notice in writing authorise any officer of the Authority to maintain order upon any premises used by the Authority or on any ship, aircraft or vehicle in a port and any officer so authorised shall, in the performance of such duty, have all the powers, rights, privileges and protection of a police officer

Obstruction of Person Authorised by Authority

106. No person shall intentionally or recklessly obstruct, molest, hinder or interfere with a person authorised by the Authority, or with any person who is reasonably required by that authorised person to assist him or her, in the carrying out of a responsibility or the exercise of a power under this Act or the regulations.

Offences by Directors, Officers or Agents of the Authority

107. When the Authority commits an offence under this Act, any director, officer or agent of the Authority who directed, authorised, assented to, acquiesced or participated in the commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the Authority has been prosecuted for or convicted of the offence.

Offences and Penalties

108. (1) Any person who commits an offence under this Act or the regulations is liable on the conviction for that offence—
- (a) on indictment, to a fine not exceeding 200,000 dollars or to imprisonment for a term of not more than 5 years, or to both; or
 - (b) on summary conviction to a fine not exceeding 50,000 dollars or to imprisonment for a term of not more than 2 years, or to both.
- (2) Any person who commits an offence under this Act or the regulations is liable on the second or any subsequent conviction for that offence—
- (a) on indictment, to a fine not exceeding 400,000 dollars or to imprisonment for a term of not more than 5 years, or to both; or
 - (b) on summary conviction to a fine not exceeding 100,000 dollars or to imprisonment for a term of not more than 2 years, or to both.
- (3) The offences and penalties provisions at sections 125 to 134 inclusive of the Air Navigation (Overseas Territories) Order 2007 No. 3468 as stated in Schedule 4 of this Act apply *mutatis mutandis*

Notice

109. (1) A notice may be given to the Minister –
- (a) personally;
 - (b) by registered mail addressed to the Minister's office;
 - (c) by leaving it during normal business hours with a person in charge of the Minister's office; or
 - (d) as prescribed.
- (2) A notice, other than a notice under Part 6, may be given to the Authority-
- (a) by giving it personally to the Chief Executive Officer;
 - (b) by sending it by registered mail to the Chief Executive Officer's office;
 - (c) by leaving it during normal business hours with a person in charge of the Chief Executive Officer's office; or
 - (d) as prescribed.

- (3) A notice to the Authority under Part 6 may be given—
 - (a) by sending it by registered mail to the Authority’s business office;
 - (b) by leaving it during normal business hours with a person designated to receive notices in the Authority’s business office or, if no such person is designated, with the person in charge of the Authority’s business office; or
 - (c) as prescribed .
- (4) A notice to the Commissioner of Police other than in the case of an emergency may be given—
 - (a) personally;
 - (b) by sending it by registered mail to the Commissioner of Police;
 - (c) by leaving it during normal business hours with a person in charge of the office of the Commissioner of Police;
 - (d) by facsimile transmission to the office of the Commissioner of Police; or
 - (e) as prescribed.
- (5) A notice under Part 3 may be given to an owner of land, as defined in that Part, or to his or her executor or administrator—
 - (a) personally, if the owner of land or his or her executor or administrator is an individual;
 - (b) if the owner of land or his or her executor or administrator is a partnership, any one of the partners of which is an individual, by giving the notice personally to one of the partners who is an individual;
 - (c) if the owner of land or his or her executor or administrator is an Authority, by giving the notice personally to a director or officer of the Authority;
 - (d) if the owner of land or his or her executor or administrator is a partnership, any one of the partners of which is an Authority, by giving the notice personally to a director or officer of the Authority that is a partner;
 - (e) by registered mail addressed to the last known address of the owner or his or her executor or administrator; or
 - (f) as prescribed.
- (6) A notice may be given to a customer by the Authority—
 - (a) by sending it by ordinary mail to the customer at his or her last known address;
 - (b) by leaving it with an adult in charge of the premises of the customer; or
 - (c) as prescribed.

- (7) A notice under paragraph (6)(a) is deemed to have been received by the customer in the ordinary course of mail.
- (8) This section does not apply when a provision of this Act or the regulations provides that a notice may be given in another manner or that such notice shall be given as is reasonably practicable in the circumstances.

Appeals

110. Appeals regarding summary conviction may be made from the Magistrate to the Court of Appeal in accordance with the provisions of the Magistrate's Code of Procedure Act –
- (a) Where the Magistrate refuses to make a conviction, the complainant may appeal to the Court of Appeal against the decision.
 - (b) Where the Magistrate makes a conviction, the party against whom the conviction is made may appeal to the Court of Appeal against the decision.
 - (c) There shall be a right of appeal to the Court of Appeal from any judgment or order of the Magistrate in any civil proceedings where the sum claimed and the costs, if any, exceed 25 dollars and in a matter relating to salvage or the title to wreck where the sum in dispute exceeds 500 dollars.

PART 12

LEGAL PROVISIONS

Notice of Claims

111. Notwithstanding anything contained in any enactment—
- (a) a person is not entitled to compensation or damages for non-delivery of the whole of a consignment of goods, or of any separate package forming part of such consignment, accepted by the Authority for carriage or warehousing unless a claim in writing, giving such particulars as may reasonably be necessary is given to the Chief Executive Officer within 6 months of the date upon which such goods were accepted by the Authority;
 - (b) a person is not entitled to compensation or damages for any goods missing from a packed or unpacked consignment or for misdelivery or detention of, or damage or delay to any goods accepted by the Authority for carriage or warehousing unless—
 - (i) the Chief Executive Officer is notified of such fact in writing within 7 days of the date upon which such goods were delivered to the consignee or person entitled to take delivery of them, and

- (ii) a claim in writing, giving such particulars as may reasonably be necessary, is given to the Chief Executive Officer within one month of such date.

Limitation

112. Where, after the commencement of this Act, any legal proceeding is commenced against the Authority for any act done under, or execution or intended execution of this Act, or regulations or of any public duty or authority imposed or conferred by this Act or any regulations, or in respect of any alleged neglect or default in the execution of this Act, such regulations or of any such duty or authority, the following provisions shall have effect despite anything contained in any enactment, that is to say—
- (a) the legal proceeding shall not be commenced until at least one month after written notice containing the particulars of the claim, and of the intention to commence legal proceeding, has been served upon the Chief Executive Officer by the plaintiff or his or her agent;
 - (b) the legal proceeding shall not lie or be instituted unless it is commenced within 12 months next after the act, neglect or default or damage complained of, or in the case of a continuing injury or damage within 6 months next after the cessation.

Restriction on Execution Against Property of the Authority

113. Despite anything to the contrary in this Act or any regulations or in any other enactment or in regulations made under any other enactment, where any judgment or order of any Court or any award of an arbitration tribunal has been obtained against the Authority for or in respect of anything done or omitted to be done under the provisions of this Act, and any regulation, any contract or otherwise for or in respect of the Authority or its purposes—
- (a) execution or attachment or process in the nature thereof shall not be issued against the Authority, but such amounts as may by the judgment or order, be awarded against the Authority shall be paid by the Authority from its funds to the person entitled.
 - (b) property of the Authority shall not be seized or taken by any person having by law power to attach or distrain property.

Overpayment or Underpayment of Dues and Charges

114. Where the amount paid in respect of any dues or charges, is found to be incorrect, then if such amount is—
- (a) overpaid, the person who overpaid any such amount then is entitled to a refund of the amount so overpaid;
 - (b) underpaid, the amount of such underpayment may be collected from the person who made such payment.

However, despite anything contained in any enactment such overpayment or underpayment shall not be refunded, or collected, as the case may be, unless notice in writing containing such particulars as may reasonably be given—

- (a) by the person claiming such overpayment, to the Chief Executive Officer; or
- (b) by the Chief Executive Officer, to the person against whom the underpayment is claimed,

within 6 months after the goods were accepted or the the services rendered, as the case may be, by the Authority so, however, that where such underpayment is caused by information or description subsequently found to be incorrect, such period of 6 months shall commence from the date of the discovery by the Chief Executive Officer of the correct information or description.

PART 13

CITATION, COMING INTO FORCE, REPEAL, TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

Citation and Commencement

115. This Act may be cited as the Anguilla Air and Sea Ports Authority Act, 2008 and shall come into force on the day appointed by notice of the Governor in Council published in the *Gazette*.

Repeal

116. The xxxxx Act, R.S.A. and the xxx Regulations are repealed.

Transitional: Regulations

117. Notwithstanding Sections 116 and 117, the Governor in Council may make regulations providing for any transitional matter not dealt with or not sufficiently dealt with by this Act.

Transitional: Rates, Terms and Conditions of Service and Charges

118. (1) Notwithstanding anything in this Act but, subject to subsection (3) and any regulations made under Section 115, the Authority may, after the coming into force of this Act—
- (a) continue to charge the rates for service and other charges imposed by the Government;
 - (b) continue to charge interest provided by or under the Financial Administration and Audit Act; and
 - (c) provide service on the terms and conditions of service,

as those charges and terms and conditions stood immediately before the coming into force of this Act, and the following provisions apply to those charges and terms and conditions—

- (d) until fixed by the Minister, the charges referred to in paragraph (a) are deemed to have been fixed in accordance with Sections 40 and 54(1);
 - (e) until approved by the Minister, the charges referred to in paragraph (b) are deemed to have been approved for the purposes of Section 43;
 - (f) until approved by Minister, the terms and conditions referred to in paragraph (c) are deemed to have been approved in accordance with Section 54 (1).
- (2) The Authority is the successor of all the rights and responsibilities that the Government had in relation to its customers immediately before the coming into force of this Act, including the rights and responsibilities in relation to estimated costs of services appropriate for ports and other similar matters as if those rights and responsibilities had been those of the Authority, and those rights and responsibilities shall be exercised as nearly as possible in accordance with this Act.
 - (3) The Authority shall, to the satisfaction of the Minister of Finance, do an accounting of the money owing to and by the Government under subsection (2) in respect of the existing ports on the coming into force of this Act and shall deal with any revenue or deficit revealed thereby in the business plan.
 - (4) A contract or arrangement between the Government and a person for the supply of services at a special rate and on special terms and condition that is in existence immediately before the coming into force of this Act is binding on the Authority according to its terms and is deemed to be a special agreement and to have had the prior consent of the Minister.

Transitional: Lease of Land, Vesting of Personal Property and Assignment of Contracts

119. (1) On the coming into force of this Act—
- (a) the Government shall enter into a lease with the Authority of the land occupied by the existing ports;
 - (b) the personal property of the Government associated with the operations of the existing ports vests in the Authority; and
 - (c) the contracts for the supply of goods and services in relation to the existing ports are assigned to the Authority and shall be enforceable as fully and effectually as if the Authority had been a party to the contract instead of the Government.
- (2) The Authority and the Minister shall, as soon as possible after the coming into force of this Act, prepare an inventory of personal property and contracts referred to in paragraphs (1)(b) and (c) respectively and, when it is signed, it is conclusive evidence of the effect of those paragraphs.

Speaker

Passed by the House of Assembly this day of , 2009

Clerk of the House of Assembly

SCHEDULE 1

LIMITS OF PORTS

PART 1

The limits for WallBlake Airport are defined as follows—

To define

PART 2

The limits of the Seaport of Road Bay are defined as follows—

All that area of sea and land commencing at the mean of the highest and lowest water mark at Road Bay beach extending on both sides of the main pier to the extremities of the beach and proceeding seawards along the coast to an imaginary straight line 1000 yards seawards from the mean shore line where no reef exists or to the seawards edge of the furthest reef and shall include the harbour and piers situated within such area.

PART 3

The limits of the Seaport of Blowing Point are defined as follows—

All that area of sea and land commencing at the mean of the highest and lowest water mark at Blowing Point beach extending on both sides of the piers to the extremities of the beach and proceeding seawards to the seawards edge of the furthest reef or to a distance of 1000 yards seawards from the mean shore line where no reef exists and shall include the harbour and the piers situated within such area.

PART 4

The limits of the Seaport of Corito are defined as follows—

To define

(Definitions to all above need to be enhanced)

SCHEDULE 2

PROCEDURES OF THE BOARD

Frequency, Place, Day and Time of Meetings of the Board

1. (1) The Board shall meet as often as may be necessary to carry out its responsibilities and exercise its powers expeditiously and shall in any event meet not less than 6 times in any calendar year.
- (2) Meetings of the Board shall be held at such place in Anguilla on such days and at such times as the Chairperson may determine.

Notice of Meeting of the Board

2. (1) Notice of the place, day, time and agenda of each meeting of the Board shall be given to each member and the Chief Executive Officer in writing not less than 72 hours before the time the meeting is to be held, unless the member waives notice of the meeting in writing.
- (2) Notice shall be given to a person mentioned in subsection (1) by—
 - (a) handing a copy to such person;
 - (b) mailing a copy to such person by prepaid post at the mailing address of such person last shown on the records of the Authority;
 - (c) emailing or faxing to such person at the email address or fax number last shown on the records of the Authority; or
 - (d) any other means approved by the Board.
- (3) A copy of a notice given by mail is deemed to have been received by such person to whom it is addressed 3 days after it is mailed.
- (4) If a meeting is adjourned for less than 14 days, it is not necessary to give notice of the place, day and time to which the meeting is adjourned if the place, day and time are announced at the earlier meeting.

Waiver of Notice

3. A member may in writing waive notice of a meeting of the Board.

Requisitioning Meeting

4. (1) Any 3 members may, by written requisition signed by each requisitioning member and given to the Chairperson, require him or her to call a meeting of the Board for the purposes stated in the requisition.
- (2) The Chairperson shall, without delay but in any event not later than 7 days after being given the requisition, give notice of a meeting of the Board for the purposes stated in the requisition, to be held not later than 14 days after being given the requisition.

Chairperson to Preside

5. (1) The Chairperson is the presiding officer at meetings of the Board.
- (2) In the event of a tie vote on a matter, the Chairperson has a second or casting vote.
- (3) The decision of the Chairperson is final on the following matters—
 - (a) subject to section 4 of this Schedule, the agenda for a meeting;
 - (b) the conduct of the meeting on questions of order and relevance;
 - (c) the procedure for handling motions.

Quorum

6. A quorum of the Board shall be a majority of the number of Board members appointed at any particular time.

Voting

7. (1) Voting at a meeting of the Board shall be by show of hands except when a ballot is demanded by a member.
- (2) All matters before a meeting of the Board shall be decided by a simple majority of the members present and eligible to vote.

Participation by Telephone or Other Form of Communication

8. A member may, if all members present consent, participate in a meeting of the Board by means of a telephone or other form of communication that permits all persons participating in the meeting to hear each other.

Resolution in Lieu of Meeting

9. (1) When a resolution in writing is signed by all members entitled to vote on the resolution at a meeting, the resolution is as valid as if it were passed at a meeting of the Board.
- (2) A copy of each resolution referred to in subsection (1) shall be kept in minute book of the Authority.

Disclosure of Pecuniary Interest

10. A member who has a direct or indirect pecuniary interest in any matter that comes before a meeting of the Board shall—
 - (a) declare the nature of his or her interest in the matter;
 - (b) withdraw from the meeting while the matter is under consideration; and
 - (c) refrain from influencing or voting on the matter.

Minutes of Board Meetings

11. (1) The Board shall appoint an employee of the Authority as secretary to the Board, who shall keep accurate and complete minutes of each meeting of the Board, including particulars of—
 - (a) the notice of the meeting given to each member and the Chief Executive Officer and any waiver of notice by a member;
 - (b) the members in attendance and members not in attendance and whether the member's absence was consented to by the Board for the purpose of section 8(2)(a) of the Act;
 - (c) any non-members in attendance;
 - (d) each resolution moved, the number of members present and voting for and against it or abstaining from voting on it, whether the resolution was passed or defeated and whether the vote was by show of hands or by ballot;
 - (e) when a member participates in a meeting by telephone or other means of communication under section 8 of this Schedule, the name of the member and particulars of the telephone or other means of communication; and
 - (f) the nature of any declaration by a member of a direct or indirect pecuniary interest in any matter under section 10 of this Schedule and particulars of his or her withdrawal and return to the meeting.
- (2) A copy of the minutes shall be tabled at the next meeting of the Board for approval.
- (3) The minutes shall be filed in the minute book of the Authority.

Committees

12. (1) The Board may establish any committees that it considers appropriate to advise it on the furtherance of the objects of the Authority.
- (2) A committee may consist of members or persons who are not members or both.

SCHEDULE 3

RECORDERS AND REPORTING OF ACCIDENTS RELATING TO AIRCRAFT

Use of Flight Recording Systems and Preservation of Records

1. (1) On any flight on which a flight data recorder, a cockpit voice recorder or a combined cockpit voice recorder/flight data recorder is required in accordance with article 15 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 to be carried in an aeroplane, it shall be operated continuously from the time the first engine is started for the purpose of making a flight until the time the last engine is shut down after landing.
- (2) On any flight on which a cockpit voice recorder, a flight data recorder or a combined cockpit voice recorder/flight data recorder is required under article 15 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 to be carried in a helicopter, it shall be operated continuously from the time the rotors first turn for the purpose of making a flight until the rotors are next stopped.
- (3) In the event of an incident or accident the pilot-in-command and the operator of the aircraft shall ensure that flight recorders are de-activated and shall, subject to article 120 the Air Navigation (Overseas Territories) Order 2007 No. 3468, preserve the flight recorder and records in accordance with such requirements as may be prescribed or as directed by the Governor in Council.
- (4) The operator of the aircraft shall ensure that operational checks and evaluations of recordings from the flight data recorder and cockpit voice recorder systems are conducted in accordance with requirements made under articles 7 and 10 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 to ensure the continued serviceability of the recorders.

Mandatory Reporting

2. (1) The objective of this Schedule is to contribute to the improvement of air safety by ensuring that the relevant information on safety is reported, collected, stored, protected and disseminated.
- (2) The sole objective of occurrence reporting is the prevention of accidents and incidents and not to attribute blame or liability.
- (3) Every person listed below shall report to the Governor in Council any event which constitutes an occurrence for the purposes of paragraph (4) and which comes to his attention in the exercise of his functions—
 - (a) the operator and the pilot-in-command of an aircraft which has a certificate of airworthiness or permit to fly issued by the Governor in Council
 - (b) the operator and the pilot-in-command of an aircraft operated under an air operator's certificate granted by the Governor in Council
 - (c) a person who carries on in the Territory the business of manufacturing, repairing or overhauling an aircraft referred to in subparagraphs (a) or (b), or any equipment or part thereof;

- (d) a person who carries on the business of maintaining or modifying an aircraft that has a certificate of airworthiness or permit to fly issued by the Governor in Council and a person who carries on the business of maintaining or modifying any equipment or part of such an aircraft;
 - (e) a person who carries on the business of maintaining or modifying an aircraft, operated under an air operator's certificate granted by the Governor in Council, and a person who carries on the business of maintaining or modifying any equipment or part of such an aircraft;
 - (f) a person who signs an airworthiness report or a certificate of release to service in respect of such an aircraft, part or equipment;
 - (g) a person who performs a function for which he requires an air traffic controller's licence or to be authorised as a flight information service officer;
 - (h) an aerodrome certificate holder, operator or manager of a certificated or licensed aerodrome;
 - (i) a person who performs a function connected with the installation, modification, maintenance, repair, overhaul, flight checking or inspection of air navigation facilities which are utilised by a person who provides an air traffic control service under an approval issued by the Governor in Council;
 - (j) a person who performs a function in respect of the ground-handling of aircraft, including fuelling, servicing, load sheet preparation, de-icing and towing.
- (4) In this Schedule 'reportable occurrence' means—
- (a)] any incident relating to such an aircraft or any defect in or malfunctioning of such an aircraft or any part or equipment of such an aircraft, being an incident, malfunctioning or defect endangering, or which if not corrected would endanger, the aircraft, its occupants or any other person; and
 - (b) any defect in or malfunctioning of any facility on the ground used or intended to be used for purposes of or in connection with the operation of such an aircraft, being a defect or malfunctioning endangering, or which if not corrected would endanger, such an aircraft or its occupants.
- (5) Any accident or serious incident notified to the Governor in Council in pursuance of regulations made under section 75 of the Civil Aviation Act 1982(7) shall not constitute a reportable occurrence for purposes of this Schedule
- (6) Reports of occurrences shall be made within such time, by such means and containing such information as may be specified by the Governor in Council and shall be presented in such form as the Governor in Council may in any particular case approve.
- (7) Nothing in this Schedule shall require a person to report any occurrence which he has reason to believe has been or will be reported by another person to the Governor in Council in accordance with this Schedule.

- (8) A person shall not make any report under this Schedule if he knows or has reason to believe that the report is false in any particular.
- (9) Without prejudice to article 56 and subject to article 120 and paragraph 10 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 , the operator of an aircraft shall, if he has reason to believe that a report has been or will be made in pursuance of this article, reserve any data from a flight data recorder or a combined cockpit voice recorder/flight data recorder relevant to the reportable occurrence for 14 days from the date on which a report of that occurrence is made to the Governor in Council or for such longer period as the Governor in Council may in a particular case direct.
- (10) The record referred to in paragraph 9 may be erased if the aircraft is outside the Territory and it is not reasonably practicable to preserve the record until the aircraft reaches the Territory.

Mandatory Reporting of Bird-Strikes

3. (1) The pilot-in-command of an aircraft shall make a report to the Governor in Council of any bird-strike occurrence which occurs whilst the aircraft is in flight within the Territory.
- (2) The report shall be made within such time, by such means and shall contain such information as may be specified by the Governor in Council and it shall be presented in such form as the Governor in Council may in a particular case approve.
- (3) Nothing in this Schedule shall require a person to report any occurrence which he has reported under article 139 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 or which he has reason to believe has been or will be reported by another person to the Governor in Council in accordance with that article.
- (4) A person shall not make any report under this article if he knows or has reason to believe that the report is false in any particular.

Mandatory Reporting of Accidents Involving Dangerous Goods

4. (1) The operator of an aircraft which is involved --
 - (a) in an aircraft accident whilst carrying any dangerous goods as cargo on the aircraft; or
 - (b) a serious incident in which, in the reasonable opinion of the operator, dangerous goods carried as cargo on the aircraft may be involved; shall notify the Governor in Council and a police officer for the area where the accident or serious incident occurred of any dangerous goods carried as cargo on the aircraft.
- (2) For the purposes of this section “serious incident” means an incident involving circumstances indicating that an accident nearly occurred.

Occurrence Reporting

5. (1) A Territory operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or mis-declared dangerous goods in cargo or passenger's baggage, wherever it occurs, is reported to the Governor in Council.
- (2) A non-Territory operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or mis-declared dangerous goods in cargo or passenger's baggage which occurred in the Territory is reported to the Governor in Council.
- (3) A report required under paragraph (1) or (2) shall contain such of the following information as is appropriate to the occurrence—
 - (a) date of the occurrence;
 - (b) location of the occurrence, flight number and flight date;
 - (c) description of the goods and the reference number of the air waybill, pouch, baggage tag and ticket;
 - (d) proper shipping name (including the technical name, if applicable);
 - (e) UN/ID number;
 - (f) class or division in accordance with the Technical Instructions and any subsidiary risk(s);
 - (g) type of packaging and the packaging specification marking;
 - (h) quantity of dangerous goods;
 - (i) name and address of the shipper or passenger;
 - (j) suspected cause of the occurrence;
 - (k) action taken;
 - (l) any other reporting action taken;
 - (m) name, title, address and contact number of the reporter;
 - (n) any other relevant details.
- (4)
 - (a) Subject to sub-paragraph (b) a report containing as much of the information referred to above as is in his possession shall be despatched in writing, or in such other form as the Governor in Council may approve, and by the quickest available means to the Governor in Council within 72 hours of the occurrence coming to the knowledge of the person making the report.
 - (b) If at that time any of the said information is not in the possession of that person, he shall despatch the information to the Governor in Council in writing, or in such other form as the Governor in Council may approve, and by the quickest available means within 72 hours of the information coming into his possession.
- (5) Nothing in this regulation shall require a person to report any occurrence which he has reported under article 139 of the Air Navigation (Overseas Territories) Order No. 3468 or which he has reason to believe has been or will be reported by another person to the Governor in Council in accordance with that article.

SCHEDULE 4

OFFENCES AND PENALTIES RELATING TO AIRCRAFT

Endangering Safety of Aircraft

1. A person shall not recklessly or negligently act in a manner likely to endanger an aircraft, or any person therein.

Endangering Safety of any Person or Property

2. A person shall not recklessly or negligently cause or permit an aircraft to endanger any person or property.

Drunkenness in Aircraft

3. (1) A person shall not enter any aircraft when drunk, or be drunk in any aircraft.
(2) A person shall not, when acting as a member of the crew of any aircraft or being carried in any aircraft for the purpose of so acting, be under the influence of alcohol, any drug or any psychoactive substance, including prescribed or proprietary medication, so as to render that person unable safely and properly so to act or so as to create a risk to that person or any other person.

Smoking in Aircraft

4. (1) Notices indicating when smoking is prohibited shall be exhibited in every aircraft registered in the Territory so as to be visible from each passenger seat.
(2) A person shall not smoke in any compartment of an aircraft registered in the Territory at a time when smoking is prohibited in that compartment by a notice to that effect exhibited by or on behalf of the pilot-in-command of the aircraft.

Authority of Pilot-in-Command and Members of the Crew of an Aircraft

5. (1) Every person in an aircraft must obey all lawful commands which the pilot-in-command or a member of the crew of that aircraft may give for the purpose of securing the safety of the aircraft and of the persons or property carried on board, or the safety, efficiency or regularity of air navigation.
(2) No person may operate on any aircraft any mobile or cell phone, computer or other electronic device that is designed to transmit or capable of transmitting electromagnetic energy otherwise than in accordance with the permission of the pilot-in-command of that aircraft.
(3) Paragraph (2) of this article does not apply to—
 - (a) hearing aids; or
 - (b) heart pacemakers; or
 - (c) portable voice recorders; or
 - (d) electric shavers; or

- (e) electronic watches; and
- (f) any other portable electronic device if the operator or pilot-in-command of the aircraft has determined that the said portable electronic device to be used will not cause interference with any aircraft system or equipment of the aircraft on which it is used.

Acting in a Disruptive Manner

6. No person shall while in an aircraft—
- (a) use any threatening, abusive or insulting words towards a member of the crew of the aircraft;
 - (b) behave in a threatening, abusive, insulting or disorderly manner towards a member of the crew of the aircraft; or
 - (c) intentionally interfere with the performance by a member of the crew of the aircraft of his duties.

Obstruction of Persons

7. A person shall not intentionally obstruct or impede any person acting in the exercise of his powers or the performance of his duties under this Schedule.

Enforcement of Directions

8. Any person who without reasonable excuse fails to comply with any direction given to him under any provision of this Schedule or any regulations made thereunder shall be deemed for the purposes of this Schedule to have contravened that provision.

Stowaways

9. A person shall not secrete himself for the purpose of being carried in an aircraft without the consent of either the operator or the pilot-in-command or of any other person entitled to give consent to his being carried in the aircraft.

Penalties

10. (1) If any provision of this Schedule or of any regulations made or instructions given thereunder is contravened in relation to an aircraft, the operator of that aircraft and the pilot-in-command and, in the case of a contravention of article 135 of the Air Navigation (overseas Territories) Order, the charterer of that aircraft, shall (without prejudice to the liability of any other person for that contravention) be deemed for the purposes of the following provisions of this Schedule to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention.
- (2) If it is proved that an act or omission of any person which would otherwise have been a contravention by that person of a provision of this Schedule or of any regulations made hereunder was due to any cause not avoidable by the exercise of reasonable care by that person the act or omission shall be deemed not to be a contravention by that person of that provision.
- (3) Where a person is charged with contravening a provision of this Schedule or of any regulations made thereunder by reason of his having been a member of

the flight crew of an aircraft on a flight for the purpose of commercial air transport or aerial work the flight shall be treated (without prejudice to the liability of any other person under this Schedule) as not having been for that purpose if he proves that he neither knew nor suspected that the flight was for that purpose.

- (4) If any person contravenes any provision of this Schedule or of any regulations made thereunder not being a provision referred to in paragraphs (5) or (6), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding 4 thousand dollars or imprisonment for a term not exceeding two years or both.
- (5) If any person contravenes any provision specified in Part A of Schedule 5 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding 10 thousand dollars
- (6) If any person contravenes any provision specified in Part B of Schedule 5 shall be guilty of an offence and liable on summary conviction to a fine not exceeding 20 thousand dollars and on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both.

SCHEDULE 5

PENALTIES

From Schedule 7 of the Air Navigation (Overseas Territories) Order

Provisions Referred to in Article 134 (5) and 134 (6) of the Air Navigation (Overseas Territories) Order

PART A

Provisions Referred to in Article 134(5)

Article of order Subject matter

- 3 Aircraft flying unregistered
- 5 Aircraft flying with false or incorrect markings
- 10(1)(a) Flight without appropriate maintenance
- 11 Failure to keep a technical log or other log books
- 12 Flight without a certificate of release to service issued under the Order
- 13(7) and (8) Exercise of privileges of aircraft maintenance engineer's licence whilst unfit
- 15 Flight without required equipment
- 16 Flight without required radio equipment
- 17 Minimum equipment requirements
- 18 Requirement to weigh aircraft and keep weight schedule
- 20 Crew requirements
- 21 Requirement for appropriate licence
- 23(1), (3) and(4) Requirement for appropriate certificate of test or experience
- 24 Requirement for appropriate certificate of test
- 25(1) Flight without valid medical certificate
- 25(5) Flight in unfit condition
- 26(1) Prohibition of flight after failure of test

29 Instruction in flying without appropriate licence and rating

Article of order Subject matter

- 32(3) Operator's obligation to obtain flight time records of flight crew
 - 33(2) Flight crew member's obligation to inform operator of flight times
 - 34 Flight time limitations
 - 37 Breach of the Rules of the Air
 - 38 Flight in contravention of restriction of flying regulations
 - 39 Flight by balloons, kites, airships, gliders and parascending parachutes
 - 40 Flight by small aircraft
 - 42 Aerodrome operating minima – non-commercial air transport aircraft
 - 43 Requirement for pilot to remain at controls
 - 45 Pre-flight action by pilot-in-command of aircraft
 - 46 Requirement for passenger briefing
 - 49 Requirements for radio station in aircraft to be licensed and for operation of same
 - 50 Requirement for minimum navigation performance equipment
 - 51 Requirement for height keeping performance equipment – aircraft registered in the Territory
 - 52 Requirement for height keeping performance equipment – aircraft registered elsewhere than in the Territory
 - 53 Requirement for area navigation equipment – aircraft registered in the Territory
 - 54 Requirement for area navigation equipment – aircraft registered elsewhere than in the Territory
 - 55 Requirement for an airborne collision avoidance system
 - 56 Use of flight recording systems and presentation of records
 - 60 Carriage of persons in or on any part of an aircraft not designed for that purpose
 - 61 and 62 Requirement for exits and break-in markings
 - 63 Flying displays
 - 66 Operations manual requirement
 - 67 Police operations manual requirement
 - 68 Training programme requirement
 - 70 Operator's responsibilities in connection with crew
 - 71 Requirements for loading aircraft
 - 72 and 73 Operational restrictions on aeroplanes and helicopters
 - 74 Prohibition on commercial air transport flights at night or in Instrument Meteorological Conditions by single-engined aeroplanes
 - 75 Aerodrome operating minima – commercial air transport aircraft registered in the Territory
 - 76 Aerodrome operating minima – commercial air transport aircraft registered elsewhere than in the Territory
 - 77 Carriage of passengers – additional duties of pilot-in-command.
 - 78 Requirement for aerial work certificate
 - 79 Towing of gliders
 - 80 Towing, picking up and raising of persons and articles by aircraft
 - 81 Dropping of articles and animals from aircraft
 - 82 Dropping of persons
 - 84 Requirement for approval
 - 87 Duty of person in charge to satisfy himself as to competence of controllers
 - 89 Provision of air traffic services
 - 90 Use of radio call signs at aerodromes
 - 91 Requirement for licensing of air traffic controllers
 - 98 Requirement for licensing of flight information service officers
 - 139
- Article of order Subject matter*
- 100 Requirement for aerodrome information service manual
 - 101 Use of aeronautical telecommunications service
 - 102 Requirement to keep aeronautical telecommunications service records
 - 103 Requirement for certificated aerodrome

- 105(5) Contravention of conditions of aerodrome certificate
- 110 Use of aeronautical lights
- 112(1) Prohibition of dangerous lights
- 112(2) Failure to extinguish or screen dangerous lights
- 114(1) and (3) Management of aviation fuel at aerodromes
- 128 Prohibition of smoking in aircraft
- 129 Requirement to obey lawful commands of aircraft pilot-in-command
- 130 (a) and (b) Acting in a disruptive manner
- 131 Obstruction of persons performing duties under the Order
- 133 Prohibition of stowaways
- 139(3), (6) and (9) Requirement to report occurrences

PART B

Provisions Referred to in Article 134(6)

Article of order Subject matter

- 7 Flight without a certificate of airworthiness
- 32(1) Operator's obligation to regulate flight times of flight crew
- 32(2) Operator's obligation not to allow flight by crew in dangerous state of fatigue
- 33(1) Crew's obligation not to fly in dangerous state of fatigue
- 35 Protection of air crew from cosmic radiation
- 36 Keeping and production of records of exposure to cosmic radiation
- 41 Operation of aircraft
- 57 Prohibition of carriage of weapons and munitions of war
- 58 Prohibition of carriage of dangerous goods
- 64 Flight for the purpose of commercial air transport without an air operator's certificate
- 65 Flight in the service of a police authority without a police air operator's certificate
- 86 Provision of an air traffic control service without an approval
- 96 Prohibition of drunkenness etc of controllers
- 97 Controller's obligation not to act in a dangerous state of fatigue
- 114(4) Use of aviation fuel which is unfit for use in aircraft
- 124 (except(3)) Use of false or unauthorised documents and records
- 125 Endangering safety of aircraft
- 126 Endangering safety of persons or property
- 127 Prohibition of drunkenness in aircraft
- 130(c) Acting in disruptive manner and intentional interference
- 135 Restriction of flights for valuable consideration by aircraft registered elsewhere than in the Territory
- 137 Restriction of flights for aerial photography, aerial survey and aerial work by aircraft registered elsewhere than in the Territory
- 138 Operators' or pilot-in-commands' obligations in respect of flights over any foreign country
- 139(8) Making false reports
- 141 Flight in contravention of direction not to fly

APPENDIX 3

PROPOSED REGULATIONS

ANGUILLA AIR & SEA PORTS AUTHORITY AIRPORT REGULATIONS

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ANGUILLA AIR & SEA PORTS AUTHORITY

AIR PORT REGULATIONS

PART 1

PRELIMINARY

Short Title

1. These Regulations may be cited as the Anguilla Air and Sea Ports Authority - Airport Regulations.

Interpretation

2. In these Regulations—

“**Airport**” means Wallblake Airport, and any other area declared to be an airport;

“**Chief Executive Officer**” means the person appointed as such under section 10 of the Act and any person deputising for or acting under the authority of the Chief Executive Officer;

“**Customs area**” has the meaning assigned to it in the Customs Act or any other Act which amends or replaces the same;

“**Police officer**” means a member of the Royal Anguilla Police Force established by the Police Act;

“**Minister**” means the Minister charged with the responsibility for Air and Sea Ports

“**Parking area**” means a place defined by metal studs or lines on the ground provided for the purpose of parking any class or description of vehicle;

PART 2

CONTROL OF AIR PORTS

Application of Regulations

3. These Regulations apply to all persons who are at any time in any part of an airport.

General Control

4. (1) A person entering or remaining in a port area and every aircraft and every person on board in a port shall be subject to the general control and direction of the Chief Executive Officer. For securing the safety or protection of goods in a port area and for the prevention of crime or any contravention of these regulations the Chief Executive Officer may refuse to grant permission to any person wishing to enter or remain in a port or port area without assigning any reason for such refusal and may at any time revoke any permission granted earlier to any person.

- (2) The Chief Executive Officer may authorise any person to carry out any or all of these functions under these regulations and may in a like manner revoke any such authorisation at any time.
- (3) The Chief Executive Officer may whenever it is necessary in his or her opinion to do so close any port or part thereof to the public at such times and for such periods as he or she sees fit and may in a like manner restrict access to a port area to such persons of vehicles or such classes of persons of vehicles as the Chief Executive Officer may determine.

General Restrictions on Persons Entering or Leaving A Port

5. (1) The Chief Executive Officer reserves the right of admission to a port area and may restrict entry to any person unless he or she has legitimate business in a port area.
- (2) Every person entering into within or leaving a port area shall when so requested by an authorised person state his or her true name, address and the nature of his or her business and produce any written permission or authority to that authorised person.
- (3) All persons entering or leaving a port area shall do so only through the entrances or exits provided and designated for that purpose.
- (4) Any authorised person may stop the entry of any person to a port area or eject any person from a port area unless he or she has legitimate business.
- (5) The port area shall be open for such hours and on such days as the Chief Executive Officer determines.
- (6) Any person wishing to enter a port area for a legitimate purpose between the hours of 6:00 p.m. and 6:00 a.m. may apply to the Chief Executive Officer who may allow such entry subject to the condition that the Authority is not liable for personal injury whether fatal or otherwise to any such person and/or loss of or damage to his or her property howsoever caused.

Entry into Restricted Areas

6. (1) The following buildings and areas in an airport are hereby declared to be restricted areas—
 - (a) the control tower
 - (b) air traffic services rooms;
 - (c) the aeronautical radio stations;
 - (d) the radio transmitter and receiver buildings;
 - (e) the over-runs
 - (f) the parking apron
 - (g) the fuel installations;
 - (h) the Government storage buildings;
 - (i) the aerodrome landing area;
 - (j) the runways;
 - (k) the strips

- (l) the stopways;
 - (m) the clearways;
 - (n) the taxiways;
 - (o) the aircraft parking apron;
 - (p) the hanger compound;
 - (q) the maintenance garage;
 - (r) the old terminal building;
 - (s) the generator building
 - (t) the fire stations; and
 - (u) all lands on the airport reserve enclosed on the airside of the perimeter fence
- (2) A person shall not enter any restricted area except with the general or specific written permission of the Chief Executive Officer and subject to such conditions as may be attached to such permission.
- (3) Any person who contravenes subregulation (2) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Customs Area Not to Be Entered

7. No person shall enter or be upon any part of the airport (including any part of the terminal building) appointed by the Comptroller of Customs by notice in writing to be a customs area for the purposes of these Regulations except —
- (a) persons assigned to duty in the customs area;
 - (b) authorised representatives of the Government;
 - (c) persons authorised by the Chief Executive Officer;
 - (d) persons authorised by the Comptroller of Customs or his representative; or
 - (e) passengers entering the customs area for the purposes of immigration and customs control.

Entry on Apron Restricted to Certain Persons

8. (1) A person shall not enter the apron of an airport or any customs area, except—
- (a) a person assigned to duty therein;
 - (b) subject to paragraph (e) of this subregulation, a public officer designated in writing by the Chief Executive Officer or other person approved by the Chief Executive Officer, as the case may require;
 - (c) a person authorised by the Chief Executive Officer;
 - (d) a passenger entering the apron or the customs area for purposes of embarkation or disembarkation;
 - (e) a person authorised by the Comptroller of Customs or his or her duly authorised representative.

- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Port Passes

9. (1) Any person employed within or habitually visiting a port area shall carry and exhibit such means of identification or pass as may be prescribed by the Authority.
- (2) Any person who seeks to enter a port area shall first apply for and obtain an entry pass or identification disc which may be restricted to such parts in a port area as the Authority may designate in the pass.
- (3) The Chief Executive Officer without stated reasons may delay or refuse to issue any pass or identification disc or withdraw any pass or identification disc already issued under paragraphs (1) and (2).
- (4) A pass or identification disc referred to in paragraphs (1) and (2) is not transferable and is valid only for the person named therein and for the purpose and period of time stated therein.
- (5) Every person who has obtained a pass and/or identification disc referred to in paragraphs (1) and (2) shall—
 - (a) be considered to have read and understood it and to have agreed to abide by such terms and conditions as may be written or printed on the pass or endorsed thereon;
 - (b) keep the pass and identification disc in his or her possession whilst in the port area.
 - (c) comply with every direction given by an authorised person;
 - (d) at the request of an authorised person produce the pass;
 - (e) surrender the pass to the Authority when the need for the pass no longer exists or when the pass has expired.

General Restrictions on the Entry of Vehicles into a Port Area

10. (1) The Vehicles and Road Traffic Act and regulations made under it shall apply to vehicles in a port area.
- (2) Before operating or parking a vehicle in a port area a person shall first obtain a permit from an authorised person for that purpose.
- (3) Where any vehicle is driven into a port area with the knowledge and consent, expressed or implied, of the registered owner any violation or contravention of these Regulations by the operator of the vehicle shall constitute a violation or contravention of these regulations by the registered owner.
- (4) The entry of vehicles into a port area shall be subject to the control and direction of the Chief Executive Officer and any vehicles entering a port area for the purpose of delivery, depositing or collecting goods or passengers therein shall not be permitted to remain in a port area after the goods or passengers as the case may be have been so delivered, deposited, or collected.

General Restrictions on the Use of Vehicles in a Port Area

11. (1) Any person driving or using or in charge of a vehicle shall at all times when arriving at an entrance to a port area for the purpose of entering or whilst within a port area or when leaving a port area shall conduct himself or herself in an orderly manner and shall comply with—
 - (a) such directions as may be issued generally or specially by the Chief Executive Officer in respect of driving, parking or the use of vehicles in the port area or at any entrance to or exit from a port area;
 - (b) the terms of all notices or signs relating to the driving, parking or use of vehicles exhibited in a port area by the Authority.
- (2) Where a vehicle is operated or parked in a port area in contravention of these regulations the Chief Executive Officer may remove that vehicle at the risk and expense of the owner.

Restrictions on the Use of Vehicles in a Port Area

12. A person shall not while in a port area—
 - (a) drive any vehicle in a manner which is dangerous to other vehicles, persons or property in a port area;
 - (b) drive any vehicle at a speed exceeding 10 miles per hour or any other speed as may be prescribed by the Authority;
 - (c) when driving or in charge of a vehicle disregard any danger signal given or refuse to stop when so required by an authorised person;
 - (d) park any vehicle at any place or in a manner otherwise than in accordance with the general or special directions of the Chief Executive Officer . In this connection a vehicle considered to be parked wherever it is stopped other than required by traffic control whether or not the driver remains in the vehicle and whether or not the engine of the vehicle is running;
 - (e) leave any vehicle unattended in any place in a port area in such a manner as to cause or be likely to cause an obstruction to other persons or vehicles using or passing the place;
 - (f) ride any bicycle in any transit shed or along the quay front in a port area;
 - (g) allow gasoline oil or other substance likely to be dangerous or constitutes nuisance to drip from a vehicle;
 - (h) allow a vehicle to be loaded in excess of the load limits specified for that vehicle;
 - (i) allow a vehicle to be loaded improperly or in such a way that it is likely to cause damage to roadways or other property or goods in a port area;
 - (j) supply to, receive into or discharge from any vehicle any gasoline or other fuel or oil except at locations and times approved by the Chief Executive Officer .

Motor Vehicle in Hangars

13. A driver of a motor vehicle who—
- (j) without the permission of the Chief Executive Officer or a police officer, takes his or her motor vehicle into a hangar used for the maintenance and storage of aircraft, commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Report of an Accident Involving a Vehicle

14. When any accident occurs within a port area involving a vehicle the driver shall stop the vehicle and report the accident to any authorised person and shall give his or her name and address and the name and address of the owner of the vehicle.

Removal of Goods

15. (1) A person shall not knowingly or otherwise remove or attempt to remove any goods from a port area unless he or she—
- (a) is in possession of a written permit issued by an authorised person permitting the removal thereof;
 - (b) has satisfied customs requirements in connection with the goods;
 - (c) has paid or secured to the satisfaction of the Chief Executive Officer all port dues, rates, rents and charges which may have accrued on the goods.
- (2) Every person in a port area removing or about to remove any goods from a port area shall produce the written permit in paragraph (1)(a) on demand to any authorised person and shall if requested by the authorised person permit such authorised person to inspect the goods at such place in the port area as the authorised person may direct.
- (3) Any person or vehicle in a port area entering within or leaving a port area may be searched by an authorised person.
- (4) A person shall not tamper or interfere with goods or other property in a port area.

Lost Property

16. (1) Any person who finds any property at an airport shall immediately hand it in the state in which he or she finds it to the office of the Chief Executive Officer.
- (2) The Chief Executive Officer shall retain the property in safe keeping until the owner is ascertained or the property disposed of in accordance with this regulation.
- (3) If the owner of any property so retained by the Chief Executive Officer is not ascertained within 3 months of the date when it was handed over to his or her office, it shall thereupon vest in the Chief Executive Officer who shall, without undue delay, sell such property and from the proceeds of the sale pay such award as he or she sees fit not exceeding ½ to the finder and the balance into the funds of the Authority..

- (4) If any property so retained by the Chief Executive Officer appears to him or her to be of a perishable nature or is or becomes objectionable, and the owner thereof be not ascertained within 48 hours from the time when it was handed in at the office of the Chief Executive Officer, the Chief Executive Officer may thereupon destroy or otherwise dispose of it as he or she sees fit.
- (5) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Animals

- 17. (1) A person except with the permission of the Chief Executive Officer shall not bring or cause to be brought into a port area any animal except a guide dog for the blind.
- (2) It shall be lawful for the Chief Executive Officer and any person authorised by the Chief Executive officer or a police officer to seize and impound any livestock found straying or tethered in a port area.
- (3) Any animal found at large in a port area may be destroyed by an authorised person and the carcass disposed of by the Authority without compensation to the owner.
- (4) Any animal on board an aircraft in a port shall be properly secured thereon and only allowed ashore with the permission of the veterinary authority.

Burials

- 18. (1) A dead body of any kind shall not be buried within a port area.
- (2) A dead animal shall not be deposited in a port.

Admission of Children

- 19. A child under the age of 16 years shall not be allowed into a port area unless accompanied by an adult who shall be responsible for the child.

Carrying on Trade or Business

- 20. (1) A person shall not carry on any trade or business on an airport except with the approval of the Chief Executive Officer or other person approved by the Chief Executive Officer and under such terms and conditions as he or she may determine.
- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Soliciting

- 21. (1) A person shall not solicit for any purpose whatever in an airport without the permission of the Chief Executive Officer.
- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Advertisements

22. (1) A person shall not post signs, advertisements, circulars, printed or written matter at an airport without the approval of the Chief Executive Officer and except in such manner as he or she may determine.
- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Photography

23. (1) A person shall not take still, motion or sound pictures on any restricted area of airport without the permission of the Chief Executive Officer.
- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Pedestrians

24. (1) Pedestrians within pedestrian lane markings have the right of way over vehicular traffic.
- (2) A person shall not cross any runway except at such place and subject to such conditions as the Chief Executive Officer may consider fit, or by the special permission of the air traffic control officer on duty at the control tower.
- (3) Any person who contravenes subregulation (2) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Use of Roads and Paths

25. (1) A person shall not—
- (a) travel on an airport, other than on the roads, paths, or places provided for the particular class of traffic;
 - (b) occupy the roads or paths in such manner as to obstruct their proper use;
 - (c) operate any type of vehicle for the disposal of garbage, ashes or other waste materials without the approval of the Chief Executive Officer.
- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

In the Event of Fire in a Port Area

26. In the event of a fire in a port area persons shall proceed according to Sections 74 and 75 of the Anguilla Air and Sea Ports Act.

Accidents in an Air Port

27. (1) Every person involved in an accident which causes the death or injury to any person or loss or damage to goods or property in a port shall deliver to the authorised officer a written report giving details of the accident.
- (2) The master of any aircraft involved in any accident or incident on the port causing personal injury or property damage shall make to the Governor in Council a full report of the accident or incident within 24 hours of the occurrence of the accident or, as the case may be, the incident.
- (3) Notwithstanding subsection (1), where the master of an aircraft referred in that subsection is disabled so as to be incapable of making such report, any other person acting as his representative shall make the report on his behalf.
- (4) The master of an aircraft or his agent or assign shall be responsible for the prompt removal of any wrecked or disabled aircraft from the port and its parts as directed by the Governor in Council.
- (5) Where the master of an aircraft or his agent or assign fails to comply with such directions, the Governor in Council may remove or cause to be removed such wrecked or disabled vessel and its parts at the master's expense and without liability for damage which may result from such removal in accordance with Section 73 of the Act.
- (6) Any goods or property in a port that is damaged or destroyed by any person, aircraft or vehicle may be replaced or repaired as the case may be by that person, aircraft or vehicle without prejudice to any other penalty at law.

Fuelling of Aircraft Engine

28. (1) The engine of an aircraft shall not be heated or running while the aircraft is being fuelled.
- (2) Aircraft fuel storage and fuel handling shall be conducted only in areas designated for that purpose.
- (3) No engine of any aircraft shall be fuelled unless the person supplying the fuel provides and makes available for immediate use in connection therewith fire extinguishers of a capacity of 15 lbs. or larger.
- (4) Smoking is prohibited in or about such aircraft during fuel handling.
- (5) Only personnel engaged in the fuel handling shall be permitted within 25 feet of the fuel tanks of such aircraft during the fuel handling operations.
- (6) No person shall start the engine or engines of any aircraft when there is gasoline, or any fuel under or about the aircraft. In the event of the spillage of gasoline or any type of fuel in any area in the port, no person shall start an aircraft engine in that area, unless permission has been granted for the starting of engines in the area by the Governor in Council or a person authorised by him for that purpose.
- (7) All persons responsible for or engaged in fuelling operations shall take care to avoid spillage of fuel.

Accident Reports

29. (1) All persons involved in any accident on an airport and all witnesses thereto shall report the same without delay, to the Governor in Council, or to the air traffic control officer on duty at the control tower, or to a police officer.
- (2) Any person who fails to comply with subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Radio Operation

30. (1) A person shall not operate any radio equipment in any aircraft while such aircraft is in a hangar without the prior approval of the Chief Executive Officer.
- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Motorised Equipment

31. (1) A person shall not operate any motorised equipment on the taxi tracks or apron or the aircraft landing area, except—
- (a) a person assigned to duty therein;
 - (b) a person so authorised by the Chief Executive Officer or the air traffic control officer on duty at the control tower.
- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

General Restrictions on Activities of a Person in a Port

32. A person without the permission of the Chief Executive Officer shall not—
- (a) interfere with any board used or intended for use for the purposes of the publication in a port area of public notices issued by the Authority;
 - (b) stick or post up any bill, placard or other notice on any surface in a port area;
 - (c) write, draw or place any marking whatever on any surface in a port area;
 - (d) except in an emergency move or interfere with any life saving equipment, first aid equipment or any light signal, fire hydrant or other appliance provided for use in a port area for the protection or safety of persons or property;
 - (e) interfere with or obstruct or impede the use of any crane, forklift truck or other machinery or gear used in a port area by or on behalf of the Authority;
 - (f) deposit or cause to be deposited any refuse, rubbish or waste sweepings in or upon any place in a port area other than a place approved by the Chief Executive Officer by public notice;

- (g) climb upon the roof of any building or upon any crane, mechanical equipment, lighthouse, signal station or navigation mark;
- (h) remove any timber, wood, vegetation or growth from any land of the Authority used by or for the purposes of the Authority;
- (i) cause or participate in any disturbance on port property;
- (j) without lawful excuse, the onus of proving which shall lie upon him or her, loiter in a port area;
- (k) convey or cause to be conveyed intoxicating liquor or dangerous drugs into, within or from a port area;
- (l) remain in a port area while suffering from any infectious or contagious disease;
- (m) use or ignite any inflammable or explosive substance in a port;
- (n) distribute circulars, leaflets or advertising matter;
- (o) bring into a port area any plant, machinery equipment or appliance;
- (p) place any structures in a port whether submerged or not and whether under construction or not;
- (q) remove from a port any sand, stone or gravel.

General Restrictions on Conduct of a Person in a Port Area

33. A person shall not—

- (a) organise or openly call or gather together with other persons at any meeting in a port area unless approved by the Chief Executive Officer;
- (b) gather together with other persons in a port area in such a manner as to cause or be likely to cause a breach of the peace;
- (c) engage in or carry on in a port area any gambling, betting or wagering with playing cards or other device or means whatsoever;
- (d) use any threatening, abusive, indecent, obscene or offensive language in a port area;
- (e) conduct himself or herself in a port area in a riotous, disorderly indecent or offensive manner or in a manner likely to cause a breach of the peace;
- (f) molest or wilfully cause alarm to any other person in a port area;
- (g) engage in smoking in any place in a port area where smoking is prohibited by the Authority;
- (h) kindle a fire in a port area;
- (i) be in possession of any loaded firearm or discharge any firearm or catapult or throw any missile in a port area;
- (j) be or remain in a port area while intoxicated by alcohol or drugs. Have in possession or consume intoxicating liquor or dangerous drugs in a port area;
- (k) urinate or defecate in any place in a port area other than a place provided for use as a urinal or toilet;

- (l) break down or make his or her way through or under or over any fence surrounding a port area;
- (m) spit within a port area;
- (n) undertake personal solicitation or beg in a port area.

Power to Eject

34. Despite anything contained in these Regulations, the Chief Executive Officer, or any police officer may at any time eject or remove any person from any part of an airport for committing any breach of any of these regulations.

Penalties

35. Any person who contravenes or attempts to contravene any of the provisions of this part commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

PART 3

OBLIGATIONS OF LESSEES AND TENANTS

Signs and Bulletin Boards

36. (1) The lessees of hangars shall maintain bulletin boards in a conspicuous place for the purpose of posting all notices issued by the Chief Executive Officer.
- (2) All lessees of hangars or lessees of shop facilities on an airport shall provide in such hangars or shop facilities accessible first aid kits and fire appliances approved by the Chief Executive Officer.
- (3) A lessee of any hangar, or lessee of any shop facility on an airport shall not store or stock material or equipment in such a manner as to constitute a hazard to personnel or property.
- (4) Any lessee or tenant who contravenes subregulations (1), (2) or (3) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

PART 4

AIRCRAFT

Parking of Aircraft

37. (1) A person shall not park any aircraft in any area on an airport other than that determined by, and with the consent of, the Chief Executive Officer or the air traffic control officer on duty at the control tower.
- (2) Any person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Interfering and Tampering with Aircraft

38. (1) A person shall not interfere or tamper with any aircraft or put in motion the engines of any aircraft without the permission of the owner or master.
- (2) Any person who contravenes subregulation (1) of this regulation commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Running of Engines

39. (1) A person shall not start or run any engine in any aircraft unless a competent person is in the aircraft attending the engine controls. Before starting the engine or engines in any aircraft, the wheels shall be adequately scotched.
- (2) Any person who contravenes subregulation (1) of this regulation commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

Repair and Testing of Aircraft

40. (1) No aircraft, aircraft engine, propellers or any other appliances thereof, shall be repaired in any area of an airport other than that specifically designated by the Chief Executive Officer or the air traffic control officer on duty at the control tower.
- (2) Except with the permission of the Chief Executive Officer or the air traffic control officer on duty at the control tower, a person shall not repair any aircraft or run up aircraft engines for test purposes on the parking apron.
- (3) A person shall not test radar equipment on the parking apron without the permission of the Chief Executive Officer or the air traffic control officer on duty at the control tower.
- (4) Any person who contravenes subregulation (1), (2) or (3) commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 59.

PART 5

DANGEROUS GOODS

General

41. (a) The provisions of the Air Navigation (Dangerous Goods) Regulations of the Air Navigation (Overseas Territories) Order 2007 No. 3468 as stated in Schedule 1 of these Regulations apply herein *mutatis mutandis* except otherwise herein provided.
- (b) The provisions of Section 57 of the Air Navigation (Overseas Territories) Order 2007 No. 3468

Authority to Supervise

42. Dangerous goods shall not be landed, shipped, or brought into any port except under the direction and superintendence of the Chief Executive Officer whose orders shall be implicitly obeyed.

Liability for Expenses

43. Any expense incurred by or on behalf of the Authority in superintendence, the provision of watchmen or other facility in connection with the handling of dangerous goods shall, except where otherwise provided in these regulations, be borne by the consignee, consignor, or agent, as the case may be.

Master or Agent to Give Notice of Dangerous Goods on Board

44. The master or agent of every aircraft having on board any dangerous goods shall give notice thereof to the Chief Executive Officer 24 hours before arrival.

If without permission any such goods are landed the Chief Executive Officer may order the same to be placed on board the aircraft whence they came or otherwise deal or destroy them as he or she considers necessary at the risk and expense of the aircraft from whence they were discharged.

Carriage of Dangerous Goods

45. (1) It is an offence to contravene or permit the contravention of or fail to comply with any of the regulations set out in Schedule 1.
- (2) The Chief Executive Officer may, with the approval of the Governor in Council, make regulations that supplement, amend or replace the regulations set out in Schedule 1, and which prescribe—
- (a) the classification of certain articles and substances as dangerous goods;
 - (b) the categories of dangerous goods which an aircraft may not carry;
 - (c) the conditions which apply to the loading on, suspension beneath and carriage by an aircraft of dangerous goods;
 - (d) the manner in which dangerous goods must be packed, marked, labelled and consigned before being loaded on, suspended beneath or carried by an aircraft;
 - (e) any other provisions for securing the safety of aircraft and any apparatus attached thereto and the safety of persons and property on the surface in relation to the loading on, suspension beneath or carriage by an aircraft of dangerous goods;
 - (f) the persons to whom information about the carriage of dangerous goods must be provided;
 - (g) the documents relating to the carriage by an aircraft of dangerous goods which must be produced to the Governor in Council or an authorised person on request;
 - (h) the powers to be conferred on an authorised person relating to the enforcement of the regulations made hereunder.

- (3) The provisions of this article and of any regulations supplementing, amending or replacing the regulations set out in Schedule 1 shall be additional to and not in derogation from the provisions of Section 44.

Carriage of Weapons and of Munitions of War

46. (1) An aircraft shall not carry any munition of war unless—
- (a) such munition of war is carried with the written permission of the Governor in Council and in accordance with any conditions relating thereto;
 - (b) the pilot-in-command of the aircraft is informed in writing by the operator before the flight commences of the type, weight or quantity and location of any such munition of war on board or suspended beneath the aircraft and any conditions of the permission of the Governor in Council.
- (2) In the case of an aircraft which is flying under and in accordance with the terms of a police air operator's certificate the pilot-in-command of the aircraft shall be informed of the matters referred to in sub-paragraph (1)(b) but he need not be so informed in writing.
- (3) It shall be unlawful for an aircraft to carry any sporting weapon or munition of war in any compartment or apparatus to which passengers have access.
- (4) It shall be unlawful for a person to carry or have in his possession or take or cause to be taken on board an aircraft, to suspend or cause to be suspended beneath an aircraft or to deliver or cause to be delivered for carriage thereon any sporting weapon or munition of war unless—
- (a) the sporting weapon or munition of war—
 - (i) is either part of the baggage of a passenger on the aircraft or consigned as cargo to be carried thereby;
 - (ii) is carried in a part of the aircraft, or in any apparatus attached to the aircraft inaccessible to passengers; and
 - (iii) in the case of a firearm, is unloaded.
 - (b) particulars of the sporting weapon or munition of war have been furnished by that passenger or by the consignor to the operator before the flight commences; and
 - (c) without prejudice to paragraph (1) the operator consents to the carriage of such sporting weapon or munition of war by the aircraft.
- (5) Paragraphs (3) and (4) do not apply to or in relation to an aircraft which is flying under and in accordance with the terms of a police air operator's certificate.
- (6) Nothing in this article applies to any sporting weapon or munition of war taken or carried on board an aircraft registered in a country other than the Territory if the sporting weapon or munition of war, as the case may be, may under the law of the country in which the aircraft is registered be lawfully

taken or carried on board for the purpose of ensuring the safety of the aircraft or of persons on board.

- (7) For the purposes of this article—
- (a) ‘munition of war’ means—
 - (i) any weapon or ammunition;
 - (ii) any article containing an explosive, noxious liquid or gas; or
 - (iii) any other thing which is designed or made for use in warfare or against persons, including parts, whether components or accessories, for such weapon, ammunition or article;
 - (b) ‘sporting weapon’ means—
 - (i) any weapon or ammunition;
 - (ii) any article containing an explosive, noxious liquid or gas; or
 - (iii) any other thing, including parts, whether components or accessories, for such weapon, ammunition or article; which is not a munition of war.

Exemptions for Aircraft and Transport

45. (1) Aircrafts of war and military transports may be exempted from this Part subject to such terms and conditions as the Authority may consider fit.
- (2) Every aircraft having the following dangerous goods on board shall be exempt from this Part and such dangerous goods may be landed and dealt with at such places and under such conditions as the Chief Executive Officer may direct—
- (a) safety-cartridges, safety-fuses, percussion caps fireworks, and any other dangerous goods, specially exempted by the Minister;
 - (b) any other dangerous goods of the nature of any explosives which do not exceed 50 pounds in weight and are properly stored in an approved magazine.

Parking of Aircrafts Carrying Dangerous Goods

46. Every aircraft carrying, or about to carry, dangerous goods shall be parked only in the position assigned to it by the Chief Executive Officer and shall not be moved therefrom without the written order or permission of the Chief Executive Officer.

Red Flag to be Exhibited

47. The master of every aircraft having dangerous goods on board shall, whilst within the limits of a port, keep conspicuously exhibited at the fore of the aircraft by day a red flag ‘B’ (International Code) in size not less than 4 feet by 3 feet, and at night in addition to the lights ordinarily required and above them a red light showing a clear uniform unbroken light all round the horizon, visible on a clear night at a distance of one nautical mile from such aircraft.

Fires and Fire Fighting

48. (1) A person, when in or upon any aircraft in a port, where dangerous goods or highly flammable goods are located, shall not smoke or have in his or her

possession any match or fire-producing device or have in his or her possession any article or substance that may cause explosion or fire. For the purpose of enforcing this section, the Chief Executive Officer may search any person who in his or her opinion is in possession of any such article or device.

- (2) Artificial lights or other activities which in the opinion of the Chief Executive Officer may cause either explosion or fire shall not be permitted in a port where dangerous goods are being loaded, unloaded, or handled.

However, this regulation—

- (a) shall not prevent the use of an electric lighting installation or a safety lamp of a construction approved by the Authority or of an aircraft's signal lights so disposed as to prevent any risk of fire or explosion;
- (3) Sufficient fire-extinguishing equipment of a type for coping with incipient fires while dangerous goods are on port property, or being loaded, unloaded or handled in a port shall be provided by the owner or agent of such dangerous goods and shall be in readiness for immediate use.
- (4) Every aircraft having on board explosives or dangerous goods shall display "No smoking" signs in prominent places on board the aircraft.

Only Dangerous Goods to be Handled at One Time

49. (1) During the time any dangerous goods are being handled other goods shall not be dealt with at or near the place thereof.
- (2) Persons other than those actually engaged in or superintending the work of handling shall not be allowed access to the aircraft without permission of the Chief Executive Officer.

Permits to Land Dangerous Goods

50. Dangerous goods shall not be landed from any port except on production of a certificate on oath of a duly qualified chemist to the effect that the dangerous goods have been transported in good order and condition, properly packed and labelled, and safe to be transported through the tropics and handled in a warm climate.

Licence for Special Small Craft

51. (1) A small aircraft shall not be used for the storage of dangerous goods except under a special licence granted on a certificate from the Chief Executive Officer and subject to such condition as it may impose.
- (2) Such small aircraft shall exhibit a red flag by day and a red light in an elevated position at night.
- (3) A dangerous cargo shall not be carried on board of a small aircraft licenced to carry dangerous cargo and hatches shall be properly secured.

Inspection and Examination

52. Every person in control of any dangerous goods or of any aircraft or vehicle containing such goods shall when so required by the Chief Executive Officer show all such goods under his or her control and shall afford every reasonable facility to

enable inspection and examination of such goods so as to ascertain whether these Regulations are being duly observed.

Petroleum

53. For the avoidance of doubt it is hereby declared that in the case of petroleum and all other inflammable liquids including turpentine, these Regulations shall apply in addition to and not in derogation of any relevant legislation of Anguilla.

Offences and Penalties

54. (1) Any person who commits an offence under these regulations is liable on the conviction for that offence—
- (a) on indictment, to a fine not exceeding 200,000 dollars or to imprisonment for a term of not more than 5 years, or to both; or
 - (b) on summary conviction to a fine not exceeding 50,000 dollars or to imprisonment for a term of not more than 2 years, or to both.
- (2) Any person who commits an offence under these regulations is liable on the second or any subsequent conviction for that offence—
- (a) on indictment, to a fine not exceeding 400,000 dollars or to imprisonment for a term of not more than 5 years, or to both; or
 - (b) on summary conviction to a fine not exceeding 100,000 dollars or to imprisonment for a term of not more than 2 years, or to both.

SCHEDULE 1

THE AIR NAVIGATION (DANGEROUS GOODS) REGULATIONS

PART I

Interpretation

Interpretation

1. (1) In these Regulations—

“**acceptance check list**” means a document used to assist in carrying out a check on the external appearance of packages of dangerous goods and their associated documents to determine that all appropriate requirements have been met;

“**cargo aircraft**” means any aircraft which is carrying goods or property but not passengers and for the purposes of these Regulations the following are not considered to be passengers—

- (a) a crew member;
- (b) an operator’s employee permitted to be carried by, and carried in accordance with, the instructions contained in the operations manual
- (c) an authorised representative of a competent national aviation authority;
- (d) a person with duties in respect of a particular shipment on board;

“**dangerous goods**” means any article or substance which is identified as such in the Technical Instructions for the Safe Transport of Goods by Air of the International Civil Aviation Organisation ;

“**dangerous goods accident**” means an occurrence associated with and related to the carriage of dangerous goods by air which results in fatal or serious injury to a person or major property damage;

“**dangerous goods incident**” means an occurrence, other than a dangerous goods accident, which—

- (e) is associated with and related to the carriage of dangerous goods by air, not necessarily occurring on board an aircraft, which results in injury to a person, property damage, fire, breakage, spillage, leakage of fluid or radiation or other evidence that the integrity of the packaging has not been maintained; or
- (f) relates to the carriage of dangerous goods and which seriously jeopardises the aircraft or its occupants;

“**dangerous goods transport document**” means a document which is specified by the Technical Instructions for the Safe Transport of

Goods by Air of the International Civil Aviation Organisation and contains information about those dangerous goods;

“freight container” means an article of transport equipment for radioactive materials, designed to facilitate the carriage of such materials, either packaged or unpackaged, by one or more modes of transport, but does not include a unit load device;

“handling agent” means an agent who performs on behalf of the operator some or all of the functions of the latter including receiving, loading, unloading, transferring or other processing of passengers or cargo;

“ID number” means an identification number specified in the Technical Instructions for an item of dangerous goods which has not been assigned a UN number;

“non-Territory operator” means an aircraft operator who holds an air operator’s certificate issued otherwise than by the Governor in Council;

“overpack” means an enclosure used by a single shipper to contain one or more packages and to form one handling unit for convenience of handling and stowage, but does not include a unit load device;

“package” means the complete product of the packing operation consisting of the packaging and its contents prepared for carriage;

“packaging” means the receptacles and any other components or materials necessary for the receptacle to perform its containment function;

“proper shipping name” means the name to be used to describe a particular article or substance in all shipping documents and notifications and, where appropriate, on packagings;

“serious injury” means an injury which is sustained by a person in an accident and which—

- (g) requires hospitalisation for more than 48 hours, commencing within seven days from the date the injury was received; or
- (h) results in a fracture of any bone (except simple fractures of fingers, toes or nose); or
- (i) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage; or
- (j) involves injury to any internal organ; or
- (k) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface; or
- (l) involves verified exposure to infectious substances or injurious radiation.

“Technical Instructions” means the 2009-2010 English language edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air approved and published by decision of the Council of the International Civil Aviation Organisation;

“UN number” means the four-digit number assigned by the United Nations Committee of Experts on the Transport of Dangerous Goods to identify a substance or a particular group of substances;

“unit load device” means any type of container or pallet designed for loading onto an aircraft but does not include a freight container for radioactive materials or an overpack; and

“Territory operator” means an aircraft operator who holds an air operator’s certificate issued by the Governor in Council.

- (2) Other expressions used in these Regulations shall have the same respective meanings as in the Air Navigation (Overseas Territories) Order No. 3468
- (3) For the avoidance of doubt any reference in the Technical Instructions or these Regulations to the taking on board, loading onto or carriage of dangerous goods in or on an aircraft shall for the purpose of these Regulations be interpreted as applying also to the placing, suspending or carriage of such goods beneath an aircraft unless the context makes it otherwise apparent.

PART II

REQUIREMENT FOR APPROVAL OF OPERATOR

Requirement for Approval of Operator

2. (1) An aircraft shall not carry or have loaded onto it any dangerous goods unless—
 - (a) the operator is approved under this regulation; and
 - (b) such goods are carried or loaded in accordance with—
 - (i) any conditions to which such approval may be subject; and
 - (ii) in accordance with the Technical Instructions.
- (2) An approval under this regulation—
 - (a) shall be granted by the Governor in Council if he is satisfied the operator is competent to carry dangerous goods safely;
 - (b) shall be in writing; and
 - (c) may be subject to such conditions as the Governor in Council thinks fit.

Prohibition of Carriage of Dangerous Goods

3. (1) Subject to paragraphs (2) and (3) a person shall not—
- (a) deliver or cause to be delivered for carriage in, or
 - (b) take or cause to be taken on board;
- an aircraft any dangerous goods, which he knows or ought to know or suspect to be goods capable of posing a risk to health, safety, property or the environment when carried by air, unless the Technical Instructions have been complied with and the package of those goods is in a fit condition for carriage by air.
- (2) Subject to paragraph (3), these Regulations shall not apply to those dangerous goods specified in the Technical Instructions as being—
- (a) for the proper navigation or safety of flight;
 - (b) to provide, during flight, medical aid to a patient;
 - (c) to provide, during flight, veterinary aid or a humane killer for an animal;
 - (d) to provide, during flight, aid in connection with search and rescue operations;
 - (e) permitted for carriage by passengers or crew members; or
 - (f) intended for use or sale during the flight in question.
- (3) (a) The goods specified in paragraph (2) shall only be carried provided they comply with the following sub-paragraphs and Part 8 and the applicable provisions in paragraphs 1.1.3 and 2.2 of Part 1 of the Technical Instructions.
- (b) The goods specified in sub-paragraph (2)(a) shall only be carried if—
- (i) they are required to be carried on an aircraft by or under this Order or are otherwise intended for use on an aircraft for the purpose of the good order of the flight in accordance with the normal practice whether or not, in either case, such goods are required to be carried or intended to be used on that particular flight;
 - (ii) when they are intended as replacements or have been removed for replacement, they comply with paragraph 2.2.2 of Part 1 of the Technical Instructions;
- (c) The goods specified in sub-paragraph (2)(b) and (2)(c) shall only be carried if—
- (i) they are or may be required for use during the flight;
 - (ii) they are or may be required for use during a subsequent flight by the same aircraft and it will not be practicable to load the goods onto the

aircraft in the intervening period before the commencement of that subsequent flight; or

- (iii) they were used or might have been required for use during a previous flight by the same aircraft and it has not been practicable to unload them from the aircraft since that flight;
- (d) The goods specified in sub-paragraph (2)(e) shall only be carried by passengers or crew members if they comply with the provisions in Part 8 of the Technical Instructions;
- (e) The goods specified in sub-paragraph (2)(f) shall only be carried if the Technical Instructions identify them as being items which can be carried on an aircraft for sale or use during a flight or, when they are intended as replacements for such items or have been removed for replacement, they are carried in accordance with paragraph 2.2.3 of Part 1 of the Technical Instructions.

PART III

OPERATOR'S OBLIGATIONS

Provision of information by the Operator to Crew etc.

4. (1)
- (a) The operator of an aircraft flying for the purposes of commercial air transport shall ensure that all appropriate manuals, including the operations manual, contain information about dangerous goods so that ground staff and crew members can carry out their responsibilities in regard to the carriage of dangerous goods, including the actions to be taken in the event of emergencies involving dangerous goods.
 - (b) Where applicable, the operator shall ensure such information is also provided to his handling agent.
- (2) The operator of an aircraft in which dangerous goods are to be carried as cargo shall ensure that, before the flight begins, the pilot-in-command of the aircraft is provided with—
- (a) written information about the dangerous goods as specified in paragraph 4.1 of Part 7 of the Technical Instructions; and
 - (b) information for use in responding to an in-flight emergency as specified in paragraph 4.8 of Part 7 of the Technical Instructions.
- (3) The operator of an aircraft which is involved—
- (a) in an aircraft accident whilst carrying any dangerous goods as cargo on the aircraft; or
 - (b) a serious incident in which, in the reasonable opinion of the operator, dangerous goods carried as cargo on the aircraft may be involved;
- shall notify the Governor in Council and a police officer for the area where the accident or serious incident occurred of any dangerous goods carried as cargo on the aircraft.
- (4) For the purposes of this article “serious incident” means an incident involving circumstances indicating that an accident nearly occurred.

Acceptance of Dangerous Goods by the Operator

5. (1) The operator of an aircraft in which dangerous goods are to be carried shall ensure that no package, overpack or freight container which contains dangerous goods is accepted for carriage in an aircraft until such package, overpack or freight container has been inspected to determine that—
- (a) insofar as it is reasonable to ascertain, the goods are not forbidden for carriage by air in any circumstances by the provisions of the Technical Instructions;

- (b) insofar as it is reasonable to ascertain, the goods are classified as required by the Technical Instructions;
 - (c) insofar as it is reasonable to ascertain, the goods are packed as required by the Technical Instructions;
 - (d) the package, overpack or freight container is marked and labelled in accordance with the provisions of Chapters 2 and 3 of Part 5 of the Technical Instructions;
 - (e) the package, overpack or freight container is not leaking or damaged so that the contents may escape.
- (2) The operator of an aircraft in which dangerous goods are to be carried shall ensure that no package, overpack or freight container which contains dangerous goods is accepted for carriage in that aircraft unless it is accompanied by a dangerous goods transport document, except where the Technical Instructions indicate that such a document is not required, and shall inspect such a document to determine that it complies with the provisions of the Technical Instructions.
- (3) (a) For the purpose of each of the inspections required by paragraphs (1) and (2) an acceptance check list shall be used and the results of the inspection shall be recorded thereon.
- (b) The acceptance check list shall be in such form and shall provide for the entry of such details as will enable the relevant inspection to be fully and accurately made by reference to the completion of that list.

Method of Loading by the Operator

6. (1) The operator of an aircraft in which dangerous goods are to be carried as cargo shall ensure that dangerous goods are not carried in any compartment occupied by passengers or on the flight deck, except in circumstances permitted by the provisions in paragraph 2.1 of Part 7 of the Technical Instructions.
- (2) The operator of an aircraft in which dangerous goods are to be carried shall ensure that any package, overpack or freight container which contains dangerous goods is loaded, segregated, stowed and secured on an aircraft in accordance with the provisions in Chapter 2 of Part 7 of the Technical Instructions.
- (3) The operator of an aircraft in which dangerous goods are to be carried shall ensure that packages, overpacks or freight containers bearing an indication that they can only be carried on a cargo aircraft are loaded and stowed in accordance with the provisions in paragraph 2.4.1 of Part 7 of the Technical Instructions and are not loaded on an aircraft carrying passengers.

Inspections by the Operator for Damage, Leakage or Contamination

7. (1) The operator of an aircraft in which dangerous goods are to be carried shall ensure packages, overpacks or freight containers which contain dangerous goods are inspected for evidence of damage or leakage before being loaded on an aircraft or placed in a unit load device.

- (2) The operator of an aircraft in which dangerous goods are to be carried shall ensure a unit load device containing dangerous goods is not loaded unless it has been inspected and found free from any evidence of leakage from or damage to the packages, overpacks or freight containers contained in it.
- (3) The operator of an aircraft in which dangerous goods are to be carried shall ensure that any package, overpack or freight container which contains dangerous goods which appears to be leaking or damaged is not loaded on an aircraft.
- (4) The operator of an aircraft in which dangerous goods are to be carried shall ensure that any package, overpack or freight container which contains dangerous goods which is found to be leaking or damaged on an aircraft is removed and that other cargo or baggage loaded on that aircraft is in a fit state for carriage by air and has not been contaminated.
- (5) The operator of an aircraft in which dangerous goods have been carried shall ensure after unloading that all packages, overpacks or freight containers which contain dangerous goods are inspected for signs of damage or leakage and if there is such evidence shall ensure that any part of the aircraft where the package, overpack or freight container was stowed, or any sling or other apparatus which has been used to suspend goods beneath the aircraft is inspected for damage or contamination.

Removal of Contamination by the Operator

8. (1) The operator of an aircraft in which dangerous goods are to be carried shall ensure that any contamination found as a result of leaking or damaged packages, overpacks or freight containers is removed without delay.
- (2) The operator of an aircraft shall ensure that an aircraft is not permitted to fly for the purpose of carrying passengers or cargo if it is known or suspected that radioactive materials have leaked in or contaminated the aircraft, unless the radiation level resulting from the fixed contamination at any accessible surface and the non-fixed contamination are not more than the values specified in paragraph 3.2 of Part 7 of the Technical Instructions.

PART IV

SHIPPER'S RESPONSIBILITIES

Shipper's Responsibilities

9. Before consigning any dangerous goods for carriage by air the shipper shall ensure that—
- (a) the goods are not forbidden for carriage by air in any circumstances under the provisions in paragraph 2.1 of Part 1 of the Technical Instructions;
 - (b) if the goods are forbidden for carriage by air without approval, all such approvals have been obtained where the Technical Instructions indicate it is the responsibility of the shipper to so obtain them;
 - (c) the goods are classified according to the classification criteria contained in Part 2 of the Technical Instructions;
 - (d) the goods are packed according to paragraphs 2.2 and 2.4 of Part 1, Part 2, chapters 2 and 3 and paragraphs 4.2, 4.3 and 4.4 of Part 3 and Part 4 of the Technical Instructions and the packagings used are in accordance with such provisions of those paragraphs, chapters and Parts and Part 6 of the Technical Instructions as apply to those goods;
 - (e) the package is marked and labelled in English in addition to any other language required by the State of Origin as specified for those goods in paragraph 2.4 of Part 1, chapters 2 and 3 and paragraph 4.5 of Part 3, chapters 2 and 3 of Part 5 and chapter 2 of Part 6 of the Technical Instructions;
 - (f) the package is in a fit condition for carriage by air;
 - (g) when one or more packages are placed in an overpack, the overpack only contains packages of goods permitted to be carried by paragraph 1.1 of Part 5 of the Technical Instructions and the overpack is marked and labelled as required by paragraphs 2.4 and 3.2 of Part 5 of the Technical Instructions;
 - (h) a dangerous goods transport document—
 - (i) has been completed in English in addition to any other language required by the State of Origin as required by paragraph 4.1 of Part 5 of the Technical Instructions; and
 - (ii) contains a declaration signed by or on behalf of the shipper stating that the Technical Instructions have been complied with in that the dangerous goods—
 - (aa) are fully and accurately described;
 - (bb) are correctly classified, packed, marked and labelled; and

- (cc) are in a proper condition for carriage by air;
- (i) the operator of the aircraft has been furnished with the dangerous goods transport document required by paragraph (h) and such other documents in respect of dangerous goods as are required by Part 4 and paragraphs 4.3 and 4.4 of Part 5 of the Technical Instructions.

PART V

PILOT IN-COMMAND'S DUTY TO INFORM AIR TRAFFIC SERVICES

Pilot-in-command's Duty to Inform Air Traffic Services

10. The pilot-in-command of an aircraft carrying dangerous goods as cargo shall, in the event of an in-flight emergency and as soon as the situation permits, inform the appropriate air traffic services unit of those dangerous goods in detail or as a summary or by reference to the location from where the detailed information can be obtained immediately.

PART VI

TRAINING

Provision of Information and Training Programmes by Operators and Shippers

11. (1) The operator of an aircraft in which dangerous goods are to be carried shall, before the flight begins, provide the pilot-in-command of the aircraft with written information specifying the matters required by the provisions of Chapter 4.1 of Part 5 of the Technical Instructions and shall preserve a copy thereof for not less than six months.
- (2) The operator of an aircraft and a shipper of dangerous goods by air and, in each case, any agent thereof shall inform any of their respective employees whose duties include a function connected with the carriage of passengers or cargo by air of the provisions of the Technical Instructions and for the purpose shall establish and undertake training programmes, as required by Chapter 4 of Part 1 of the Technical Instructions, which shall be submitted to the Governor in Council for approval on such occasions as the Governor in Council may require and which shall be amended as the Governor in Council may require.

PART VII

PROVISION OF INFORMATION TO PASSENGERS AND IN RESPECT OF CARGO

Provision of Information to Passengers

12. (1) An airport operator and the operator of an aircraft flying for the purpose of commercial air transport of passengers or his agent shall ensure that persons who are or may become passengers on an aircraft flying for the purposes of commercial air transport are warned as to the types of dangerous goods which they are forbidden from carrying on an aircraft as checked baggage or with them by displaying notices sufficient in number and prominence for this purpose—
- (a) at each of the places at an airport where tickets are issued;
 - (b) at each of the areas at an airport maintained to assemble passengers to board an aircraft; and
 - (c) at any location where a passenger may be checked in.
- (2) The operator of an aircraft flying for the purpose of the commercial air transport of passengers or his agent shall ensure that passengers are warned as to the type of dangerous goods which they are forbidden from carrying on an aircraft as checked baggage or with them either by providing information with each passenger ticket, sufficient in prominence for this purpose, or by some other appropriate means such that passengers receive a warning in addition to that required by paragraph (1).
- (3) Any person who, in the Territory, makes available flight accommodation shall ensure that persons who are or may become passengers on an aircraft flying for the purposes of commercial air transport are warned as to the types of dangerous goods which they are forbidden from carrying on an aircraft as checked baggage or with them by displaying notices sufficient in number and prominence for this purpose at any place where flight accommodation is offered for sale.

Provision of Information in Respect of Cargo

13. The operator of an aircraft in which cargo is to be carried and any agent thereof shall ensure that notices giving information about the carriage of dangerous goods are displayed in sufficient number and prominence for this purpose at those places where cargo is accepted for carriage.

PART VIII

DOCUMENTS AND RECORDS, ENFORCEMENT POWERS AND GENERAL

Keeping of Documents and Records

14. (1) The operator of an aircraft carrying dangerous goods as cargo shall ensure that a copy of the dangerous goods transport document required by regulation 5(2) and the written information to the pilot-in-command required by regulation 4(2)(a) are retained at a readily accessible location until after the full period of the flight on which the goods were carried.
- (2) The operator of an aircraft in which dangerous goods are carried shall preserve for not less than three months—
 - (a) any dangerous goods transport document or other document in respect of dangerous goods which has been furnished to him by the shipper in accordance with regulation 5(2);
 - (b) the record of any acceptance check list completed in accordance with regulation 5(3); and
 - (c) the written information to the pilot-in-command as required by regulation 4(2)(a).
- (3) The record referred to in paragraph (2)(b) may be in a legible or a non-legible form so long as the recording is capable of being reproduced in a legible form.

Production of Documents and Records

15. (1) The operator of an aircraft on which dangerous goods are to be or have been carried and any agent thereof shall, within a reasonable time after being requested so to do by an authorised person, cause to be produced to that person such of the following documents as may have been requested by that person—
 - (a) the written approval referred to in regulation 2(1);
 - (b) the dangerous goods transport document or other document in respect of any dangerous goods, referred to in regulation 5(2);
 - (c) the completed acceptance check list in a legible form in respect of any dangerous goods, referred to in regulation 5(3); and
 - (d) a copy of the written information provided to the pilot-in-command of the aircraft in respect of any dangerous goods, referred to in regulation 4(2)(a).
- (2) The aircraft operator, shipper and any agent of either of them shall, within a reasonable time after being requested so to do by an authorised person, cause to be produced to that person any document which relates to goods which the authorised person has reasonable grounds to suspect may be dangerous goods in respect of which the provisions of these Regulations have not been complied with.

Powers in Relation to Enforcement of the Regulations

16. (1) An authorised person may examine, take samples of and seize any goods which the authorised person has reasonable grounds to suspect may be dangerous goods in respect of which the provisions of these Regulations have not been complied with.
- (2) An authorised person may open or require to be opened any baggage or package which the authorised person has reasonable grounds to suspect may contain dangerous goods in respect of which the provisions of these Regulations have not been complied with.
- (3) (a) Subject to paragraph (5), any sample taken or goods seized by an authorised person under this regulation shall be retained or detained respectively for so long as the Governor in Council considers necessary in all the circumstances and shall be disposed of in such manner as the Governor in Council considers appropriate in all the circumstances.
- (b) Without prejudice to the generality of sub-paragraph (a) any sample taken or goods seized under this regulation may be retained or detained respectively—
- (i) for use as evidence at a trial for an offence; or
- (ii) for forensic examination or for investigation in connection with an offence.
- (4) (a) The person from whom any goods have been seized by an authorised person under this regulation may apply to the Governor in Council for the item to be released to him.
- (b) An application under this paragraph shall be made in writing and shall be accompanied by evidence of ownership by the applicant.
- (c) Where the Governor in Council is satisfied that the applicant is the owner of the item concerned and that further retention of the item is not necessary for the purposes of any criminal proceedings he shall arrange for the goods concerned to be returned to the applicant.
- (5) Where further retention of goods is, in the opinion of the Governor in Council, no longer necessary and no application has been made under paragraph (4) or any such application has been unsuccessful the goods shall be destroyed or otherwise disposed of in accordance with the directions of the Governor in Council.

Occurrence Reporting

17. (1) A Territory operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or misdeclared dangerous goods in cargo or passenger's baggage, wherever it occurs, is reported to the Governor in Council.
- (2) A non-Territory operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or misdeclared

dangerous goods in cargo or passenger's baggage which occurred in the Territory is reported to the Governor in Council.

- (3) A report required under paragraph (1) or (2) shall contain such of the following information as is appropriate to the occurrence—
- (a) date of the occurrence;
 - (b) location of the occurrence, flight number and flight date;
 - (c) description of the goods and the reference number of the air waybill, pouch, baggage tag and ticket;
 - (d) proper shipping name (including the technical name, if applicable);
 - (e) UN/ID number;
 - (f) class or division in accordance with the Technical Instructions and any subsidiary risk(s);
 - (g) type of packaging and the packaging specification marking;
 - (h) quantity of dangerous goods;
 - (i) name and address of the shipper or passenger;
 - (j) suspected cause of the occurrence;
 - (k) action taken;
 - (l) any other reporting action taken;
 - (m) name, title, address and contact number of the reporter;
 - (n) any other relevant details.
- (4) (a) Subject to sub-paragraph (b) a report containing as much of the information referred to above as is in his possession shall be despatched in writing, or in such other form as the Governor in Council may approve, and by the quickest available means to the Governor in Council within 72 hours of the occurrence coming to the knowledge of the person making the report.
- (b) If at that time any of the said information is not in the possession of that person, he shall despatch the information to the Governor in Council in writing, or in such other form as the Governor in Council may approve, and by the quickest available means within 72 hours of the information coming into his possession.
- (5) Nothing in this regulation shall require a person to report any occurrence which he has reported under article 139 or which he has reason to believe has been or will be reported by another person to the Governor in Council in accordance with that article.

Dropping Articles for Agricultural, Horticultural, Forestry or Pollution Control Purposes

18. Subject to the provisions of regulation 4(1)(a) nothing in these Regulations shall apply to any aircraft flying solely for the purpose of dropping articles for the purpose of agriculture, horticulture, forestry or pollution control.

Police Aircraft

19. Nothing in these Regulations other than regulation 2(1)(a) shall apply to the carriage of dangerous goods by an aircraft flying under and in accordance with the terms of a police air operator's certificate.

ANGUILLA AIR & SEA PORTS AUTHORITY SEAPORTS REGULATIONS

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ANGUILLA AIR AND SEA PORTS AUTHORITY

SEAPORTS REGULATIONS

**PART 1
PRELIMINARY**

Short Title

1. These Regulations may be cited as the Anguilla Air and Sea Ports Authority – Seaports Regulations.

Interpretation

2. In these Regulations unless the context otherwise requires—

“**Act**” means the Anguilla Air and Sea Ports Authority Act;

“**animal**” means any animate of any kind whatsoever except a human being;

“**authorised person**” means a person authorised by the Chief Executive Officer to exercise the powers or perform the duties in respect of which the expression is used;

“**Authority**” means the Anguilla Air and Sea Ports Authority established under Section 3 of the Act;

“**Authority Pilot**” means a person licensed to act as an Authority Pilot under Section 56 and employed by the Authority under Section 61 of the Act

“**customs officer**” means the Comptroller of Customs or any officer authorised by him or her to exercise the powers or perform the duties in respect of which the expression is used;

“**dangerous goods**” means the goods listed in the International Maritime Dangerous Goods Code for the Transportation of Explosives and Other Dangerous Goods published by the Intergovernmental Maritime Organisation in London with index of substances their supplements or to successive issues;

“**exports**” mean goods loaded or intended to be loaded in a ship in a port;

“**fairway**” means the whole of the navigable channel or channels of a port;

“**Chief Executive Officer**” means the Chief Executive Officer appointed as such under Section 10 of the Act, and any person deputising for or acting under the authority of the Chief Executive Officer

“**goods**” include all kinds of movable property including animals;

“immigration officer” means the Chief Immigration Officer or any officer authorised by him or her to exercise the powers or perform the duties in respect of which the expression is used;

“imports” means goods other than transshipment goods or overlanded goods discharged at a port from a ship;

“lifting machinery” means cranes, winches, derricks, hawsers, derrick booms derrick and mast bands, goose necks, eyebolts and all other permanent attachments to the derricks, masts, and decks used in hoisting or lowering in connection with the processes;

“master” means the captain or other person in charge of a ship or aircraft and any agent appointed by him in writing;

“normal working hours” means the normal hours of work as prescribed by the Chief Executive Officer ;

“overtime” means work carried on outside normal working hours;

“owner” means when used in relation to—

- (a) goods, includes any consignee, consignor, shipper or agent of the owner for the sale, custody, loading, handling, discharge or delivery of such goods;
- (b) any ship, includes any part owner, charterer, operator, consignee or mortgagee in possession thereof or any duly authorised agent of such a person;
- (c) any vehicle, the registered owner of the vehicle.

“passenger” means a person other than a stowaway being carried on a ship who is not a member of the crew of that ship;

“passenger baggage” means the baggage carried on a ship by a passenger as personal property and does not include trade goods;

“pleasure craft” means any small craft used for recreation but not plying for hire or reward;

“port” means a seaport in these seaport regulations

“port area” means the fenced area in a port approved by Customs for the manipulation and storage of goods and any other premise or property owned or used by the Authority;

“ship” includes every description of water craft in the water used or capable of being used as a means of transportation on water and shall include in its meaning master, owner or agent;

“small craft” means any tug, launch, barge, lighter, rowing boat, sailing-boat, or similar craft under 100GRT but does not include schooners or ships engaged in international trade;

“**tariff**” means the Tariff Book and Regulations prepared and promulgated under Section 54 of the Act;

“**transhipment goods**” means goods declared as such in a port and brought in by a ship from a foreign place for the purpose of re-shipment.

“**transit shed**” means a warehouse approved by the Comptroller of Customs or used as a transit shed or any premise used by the Authority to store goods;

“**tug**” means a tug owned or chartered by or otherwise under the control of the Authority;

“**vehicle**” means any vehicle towed or propelled by any means whatsoever for the portage of goods or passengers otherwise than by sea.

PART 2 CONTROL OF PORTS

Application of Regulations

3. These Regulations apply to all persons who are at any time in any part of a seaport.

General Control

4. (1) A person entering or remaining in a port area and every ship and every person on board in a port shall be subject to the general control and direction of the Chief Executive Officer. For securing the safety or protection of goods in a port area and for the prevention of crime or any contravention of these regulations the Chief Executive Officer may refuse to grant permission to any person wishing to enter or remain in a port or port area without assigning any reason for such refusal and may at any time revoke any permission granted earlier to any person.
- (2) The Chief Executive Officer may authorise any person to carry out any or all of these functions under these regulations and may in a like manner revoke any such authorisation at any time.
- (3) The Chief Executive Officer may whenever it is necessary in his or her opinion to do so close any port or part thereof to the public at such times and for such periods as he or she sees fit and may in a like manner restrict access to a port area to such persons or vehicles or such classes of persons or vehicles as the Chief Executive Officer may determine.

General Restrictions on Persons Entering or Leaving a Port

5. (1) The Chief Executive Officer reserves the right of admission to a port area and may restrict entry to any person unless he or she has legitimate business in a port area.
- (2) Every person entering into within or leaving a port area shall when so requested by an authorised person state his or her true name, address and the

nature of his or her business and produce any written permission or authority to that authorised person.

- (3) All persons entering or leaving a port area shall do so only through the entrances or exits provided and designated for that purpose.
- (4) Any authorised person may stop the entry of any person to a port area or eject any person from a port area unless he or she has legitimate business.
- (5) The port area shall be open for such hours and on such days as the Chief Executive Officer determines.
- (6) Any person wishing to enter a port area for a legitimate purpose between the hours of 6:00 p.m. and 6:00 a.m. may apply to the Chief Executive Officer who may allow such entry subject to the condition that the Authority is not liable for personal injury whether fatal or otherwise to any such person and/or loss of or damage to his or her property howsoever caused.

Restricted Areas, etc., Not to Be Entered

6. (1) The following areas and places are hereby declared to be restricted—
 - (a) the customs areas;
 - (b) the port terminal facility including the departure area and the arrival area;
 - (c) the pier;
 - (d) the storage areas; and
 - (d) the harbour.
- 2) No person shall enter or be in any restricted area or place except with the express permission of the Chief Executive Officer.

Customs Area

7. No person shall enter or be upon any part of the port, including any part of the terminal building, appointed by the Comptroller of Customs by notice in writing to be a customs area for the purposes of these Regulations unless the person belongs to one of the following classes of persons—
 - (a) persons assigned to duty in the customs area;
 - (b) authorised representatives of the Government;
 - (c) persons authorised by the Chief Executive Officer;
 - (d) persons authorised by the Comptroller of Customs or his representative; or
 - (e) passengers entering the customs area for the purposes of immigration and customs control.

Port Passes

8. (1) Any person employed within or habitually visiting a port area shall carry and exhibit such means of identification or pass as may be prescribed by the Authority.
- (2) Any person who seeks to enter a port area shall first apply for and obtain an entry pass or identification disc which may be restricted to such parts in a port area as the Authority may designate in the pass.
- (3) The Chief Executive Officer without stated reasons may delay or refuse to issue any pass or identification disc or withdraw any pass or identification disc already issued under paragraphs (1) and (2).
- (4) A pass or identification disc referred to in paragraphs (1) and (2) is not transferable and is valid only for the person named therein and for the purpose and period of time stated therein.
- (5) Every person who has obtained a pass and/or identification disc referred to in paragraphs (1) and (2) shall—
 - (a) be considered to have read and understood it and to have agreed to abide by such terms and conditions as may be written or printed on the pass or endorsed thereon;
 - (b) keep the pass and identification disc in his or her possession whilst in the port area.
 - (c) comply with every direction given by an authorised person;
 - (d) at the request of an authorised person produce the pass;
 - (e) surrender the pass to the Authority when the need for the pass no longer exists or when the pass has expired.

General Restrictions on the Entry of Vehicles into a Port Area

9. (1) The Vehicles and Road Traffic Act and regulations made under it shall apply to vehicles in a port area.
- (2) Before operating or parking a vehicle in a port area a person shall first obtain a permit from an authorised person for that purpose.
- (3) Where any vehicle is driven into a port area with the knowledge and consent, expressed or implied, of the registered owner any violation or contravention of these Regulations by the operator of the vehicle shall constitute a violation or contravention of these regulations by the registered owner.
- (4) The entry of vehicles into a port area shall be subject to the control and direction of the Chief Executive Officer and any vehicles entering a port area for the purpose of delivery, depositing or collecting goods or passengers therein shall not be permitted to remain in a port area after the goods or passengers as the case may be have been so delivered, deposited, or collected.

General Restrictions on the Use of Vehicles in a Port Area

10. (1) Any person driving or using or in charge of a vehicle shall at all times when arriving at an entrance to a port area for the purpose of entering or whilst

within a port area or when leaving a port area shall conduct himself or herself in an orderly manner and shall comply with—

- (a) such directions as may be issued generally or specially by the Chief Executive Officer in respect of driving, parking or the use of vehicles in the port area or at any entrance to or exit from a port area;
 - (b) the terms of all notices or signs relating to the driving, parking or use of vehicles exhibited in a port area by the Authority.
- (2) Where a vehicle is operated or parked in a port area in contravention of these regulations the Chief Executive Officer may remove that vehicle at the risk and expense of the owner.

Restrictions on the Use of Vehicles in a Port Area

11. A person shall not while in a port area—

- (a) drive any vehicle in a manner which is dangerous to other vehicles, persons or property in a port area;
- (b) drive any vehicle at a speed exceeding 10 miles per hour or any other speed as may be prescribed by the Authority;
- (c) when driving or in charge of a vehicle disregard any danger signal given or refuse to stop when so required by an authorised person;
- (d) park any vehicle at any place or in a manner otherwise than in accordance with the general or special directions of the Chief Executive Officer . In this connection a vehicle considered to be parked wherever it is stopped other than required by traffic control whether or not the driver remains in the vehicle and whether or not the engine of the vehicle is running;
- (e) leave any vehicle unattended in any place in a port area in such a manner as to cause or be likely to cause an obstruction to other persons or vehicles using or passing the place;
- (f) ride any bicycle in any transit shed or along the quay front in a port area;
- (g) allow gasoline oil or other substance likely to be dangerous or constitutes nuisance to drip from a vehicle;
- (h) allow a vehicle or structure bearing the load to be loaded in excess of the load limits specified for that vehicle or structure;
- (i) allow a vehicle to be loaded improperly or in such a way that it is likely to cause damage to roadways or other property or goods in a port area;
- (j) supply to, receive into or discharge from any vehicle any gasoline or other fuel or oil except at locations and times approved by the Chief Executive Officer .

Report of an Accident Involving a Vehicle

12. When any accident occurs within a port area involving a vehicle the driver shall stop the vehicle and report the accident to any authorised person and shall give his or her name and address and the name and address of the owner of the vehicle.

Removal of Goods

13. (1) A person shall not knowingly or otherwise remove or attempt to remove any goods from a port area unless he or she—
- (a) is in possession of a written permit issued by an authorised person permitting the removal thereof;
 - (b) has satisfied customs requirements in connection with the goods;
 - (c) has paid or secured to the satisfaction of the Chief Executive Officer all port dues, rates, rents and charges which may have accrued on the goods.
- (2) Every person in a port area removing or about to remove any goods from a port area shall produce the written permit in paragraph (1)(a) on demand to any authorised person and shall if requested by the authorised person permit such authorised person to inspect the goods at such place in the port area as the authorised person may direct.
- (3) Any person or vehicle in a port area entering within or leaving a port area may be searched by an authorised person.
- (4) A person shall not tamper or interfere with goods or other property in a port area.

Deposit of Lost Article

14. Any person finding any lost article at the port shall deposit it at the office of the Chief Executive Officer or at the nearest Police Station.

Animals

15. (1) A person except with the permission of the Chief Executive Officer shall not bring or cause to be brought into a port area any animal except a guide dog for the blind.
- (2) It shall be lawful for the Chief executive Officer and any person authorised by the Chief Executive officer or a police officer to seize and impound any livestock found straying or tethered in a port area.
- (3) Any animal found at large in a port area may be destroyed by an authorised person and the carcass disposed of by the Authority without compensation to the owner.
- (4) Any animal on board a ship in a port shall be properly secured thereon and only allowed ashore with the permission of the veterinary authority.

Burials

16. (1) A dead body of any kind shall not be buried within a port area.
- (2) The body of a dead person shall not be buried at sea within 3 nautical miles seaward of the limits of a port.
- (3) A dead animal shall not be deposited in a port.

Admission of Children

17. A child under the age of 16 years shall not be allowed into a port area unless accompanied by an adult who shall be responsible for the child.

Restriction on Trading Activities in a Port Area

18. (1) A person shall not sell or expose or offer for sale any goods or refreshments or exchange any money or hold any auction or solicit any customer in a port area or from a ship alongside close to or occupying a berth in a port unless that person holds a licence issued in that behalf by the Chief Executive Officer.
- (2) The holder of a licence issued under paragraph (1) shall—
- (a) produce the licence when requested to do so by an authorised person;
 - (b) not transfer or lend such a licence to any other person for use by that person;
 - (c) not employ any person in a port area without the written permission of the Authority;
 - (d) not trade in any commodity other than that specified in the licence.
- (3) The licence may be subject to such terms and conditions as the Chief Executive Officer may see fit and may be revoked by the Chief Executive Officer at any time.

In the Event of Fire in a Port Area

19. In the event of a fire in a port area persons shall proceed according to Sections 74 and 75 of the Act.

Accidents in a Port

20. (1) Every person involved in an accident which causes the death or injury to any person or loss or damage to goods or property in a port shall deliver to the authorised officer a written report giving details of the accident.
- (2) The master of any vessel involved in any accident or incident on the port causing personal injury or property damage shall make to the Chief Executive Officer a full report of the accident or incident within 24 hours of the occurrence of the accident or, as the case may be, the incident.
- (3) Notwithstanding subsection (1), where the master of a vessel referred in that subsection is disabled so as to be incapable of making such report, any other person acting as his representative shall make the report on his behalf.
- (4) The master of a vessel or his agent or assign shall be responsible for the prompt removal of any wrecked or disabled vessel from the port and its parts as directed by the Chief Executive Officer.
- (5) Where the master of a vessel or his agent or assign fails to comply with such directions, the Chief Executive Officer may remove or cause to be removed

such wrecked or disabled vessel and its parts at the master's expense and without liability for damage which may result from such removal. In accordance with Section 73 of the Act.

- (6) Any goods or property in a port that is damaged or destroyed by any person, ship or vehicle may be replaced or repaired as the case may be by that person, ship or vehicle without prejudice to any other penalty at law.

Fuelling of Vessel Engine

21. (1) The engine of a vessel shall not be running while the vessel is being fuelled.
- (2) Vessel fuel storage and fuel handling shall be conducted only in areas designated for that purpose.
- (3) No engine of any vessel shall be fuelled unless the person supplying the fuel provides and makes available for immediate use in connection therewith fire extinguishers of a capacity of 15 lbs. or larger.
- (4) During fuel handling in connection with any vessel, no passenger or passengers shall be permitted to remain in the vessel.
- (5) Smoking is prohibited in or about such vessel during fuel handling.
- (6) Only personnel engaged in the fuel handling shall be permitted within 25 feet of the fuel tanks of such vessel during the fuel handling operations.
- (7) No person shall start the engine or engines of any vessel when there is gasoline, or any fuel under or about the vessel. In the event of the spillage of gasoline or any type of fuel in any area in the port, no person shall start a vessel engine in that area, unless permission has been granted for the starting of engines in the area by the Chief Executive Officer or a person authorised by him for that purpose.
- (8) All persons responsible for or engaged in fuelling operations shall take care to avoid spillage of fuel.

Aquatic Sports

22. (1) A person shall not conduct or participate in a yacht or boat race or other aquatic sport or in any other activity that is liable to interfere with navigation or operations in a port except with the written permission of the Chief Executive Officer.
- (2) Liability shall not be incurred by the Authority in respect of injury or loss of life or of damage or loss to goods or property resulting from an activity referred to in paragraph (1) whether or not the Chief Executive Officer has given permission for such activity.
- (3) A person in control of any small craft in a port shall not operate in such a manner as to interfere with any other small craft or persons swimming or in the water.

General Restrictions on Activities of a Person in a Port

23. A person without the permission of the Chief Executive Officer shall not—
- (a) interfere with any board used or intended for use for the purposes of the publication in a port area of public notices issued by the Authority;
 - (b) stick or post up any bill, placard or other notice on any surface in a port area;
 - (c) write, draw or place any marking whatever on any surface in a port area;
 - (d) except in an emergency move or interfere with any life saving equipment, first aid equipment or any light signal, fire hydrant or other appliance provided for use in a port area for the protection or safety of persons or property;
 - (e) interfere with or obstruct or impede the use of any crane, forklift truck or other machinery or gear used in a port area by or on behalf of the Authority;
 - (f) deposit or cause to be deposited any refuse, rubbish or waste sweepings in or upon any place in a port area other than a place approved by the Chief Executive Officer by public notice;
 - (g) climb upon the roof of any building or upon any crane, mechanical equipment, lighthouse, signal station or navigation mark;
 - (h) remove any timber, wood, vegetation or growth from any land of the Authority used by or for the purposes of the Authority;
 - (i) cause or participate in any disturbance on port property;
 - (j) without lawful excuse, the onus of proving which shall lie upon him or her, loiter in a port area;
 - (k) convey or cause to be conveyed intoxicating liquor or dangerous drugs into, within or from a port area;
 - (l) fish in or from a port area;
 - (m) remain in a port area while suffering from any infectious or contagious disease;
 - (n) use or ignite any inflammable or explosive substance in a port;
 - (o) distribute circulars, leaflets or advertising matter;
 - (p) bring into a port area any plant, machinery equipment or appliance;
 - (q) place any structures in a port whether submerged or not and whether under construction or not;
 - (r) remove from a port any sand, stone or gravel.

General Restrictions on Conduct of a Person in a Port Area

24. A person shall not—
- (a) organise or openly call or gather together with other persons at any meeting in a port area unless approved by the Chief Executive Officer;

- (b) gather together with other persons in a port area in such a manner as to cause or be likely to cause a breach of the peace;
- (c) engage in or carry on in a port area any gambling, betting or wagering with playing cards or other device or means whatsoever;
- (d) use any threatening, abusive, indecent, obscene or offensive language in a port area;
- (e) conduct himself or herself in a port area in a riotous, disorderly indecent or offensive manner or in a manner likely to cause a breach of the peace;
- (f) molest or wilfully cause alarm to any other person in a port area;
- (g) engage in smoking in any place in a port area where smoking is prohibited by the Authority;
- (h) kindle a fire in a port area;
- (i) be in possession of any loaded firearm or discharge any firearm or catapult or throw any missile in a port area;
- (j) engage in recreational swimming in a port;
- (k) be or remain in a port area while intoxicated by alcohol or drugs. Have in possession or consume intoxicating liquor or dangerous drugs in a port area;
- (l) urinate or defecate in any place in a port area other than a place provided for use as a urinal or toilet;
- (m) break down or make his or her way through or under or over any fence surrounding a port area;
- (n) spit within a port area;
- (o) undertake personal solicitation or beg in a port area.

Removal of a Person from a Port Area

25. A person who commits a breach of regulation 21 or 22 may without prejudice to his or her liability to other penalty at law be removed from the port area by an authorised person.

Penalties

26. Any person who contravenes or attempts to contravene any of the provisions of this part commits an offence and is liable on summary conviction to a fine and or imprisonment in accordance with Section 164.

PART 3

PILOTAGE AND TOWAGE

General Compulsory Pilotage

27. (1) The attention of masters, owners or agents of ships is drawn to Part 7 of the Act.
- (2) A ship other than an exempted ship shall not enter, leave, moor, move or berth in a port unless an Authority Pilot is on board.
- (3) The only persons who may serve as pilots shall be those persons in possession of a valid pilotage licence.

Exemption from Pilotage

28. (1) In addition to ships listed in section 55(2) of the Act the Chief Executive Officer may exempt from compulsory pilotage any ship in any particular case.
- (2) The Chief Executive Officer may issue a certificate of exemption to the master of a particular ship. This certificate shall be returned to the Authority when the master relinquishes command of that particular ship.

Signals to be Shown by an Exempt Ship

29. A ship which is exempt from pilotage shall hoist the following when entering or leaving any port—
 - (a) by day, the International ‘H’ flag at the dip and in the case of small craft hoisted as high as possible;
 - (b) by night, 3 lights visible all round the horizon hoisted in a vertical line 6 feet apart where they can best be seen, the upper light red and the lower ones white. In the case of small craft if the 6 foot spacing is impracticable the 3 lights should be as far apart as possible.

Approach and Boarding of Pilot

30. (1) Ships shall in order to avoid delay or accident take way off when the pilot launch is approaching and shall await the arrival of the pilot launch about half mile to one mile off a location designated by the Chief Executive Officer in respect of the sea ports of Anguilla.
- (2) All pilot ladders shall be in good repair and of modern pattern, be provided with reliable man ropes and be brightly illuminated at and after dusk and shall conform to the International Rules for Safety of Life at Sea.

Only Authority Pilots May Pilot Ships or Fly Pilot Flags

31. (1) A person other than an Authority Pilot shall not offer his or her services to pilot ships.

- (2) A person who is not an Authority Pilot on board and on duty shall not hoist a pilot flag on a ship nor shall a ship display such a flag unless there is an Authority Pilot on board and on duty.

Ship to Occupy Assigned Berth

32. Any ship not taking the berth assigned to it by the Chief Executive Officer or which is observed to be or likely to be dangerous to any work, buoy or other ship, due to having made a slack mooring or other cause, may be moved or removed under the direction of the Chief Executive Officer at the risk and expense of the ship.

Removal of Ship Anchored in Fairway

33. (1) A ship shall not be anchored in any fairway without the permission of the Chief Executive Officer.
- (2) A ship which anchors in any fairway in contravention of paragraph (1) shall in addition to any penalty is liable to be removed at the risk and expense of the ship.

The Authority Not Liable for Non-Availability of an Authority Pilot

34. The Authority shall not be held liable for any demurrage or consequential expenses to any ship arising from non-availability or delay in providing an Authority Pilot howsoever caused.

Towage

35. A tug may be provided by the Authority to assist in berthing, unberthing or moving ships.

Liability for Towage

36. The Authority shall not accept any liability in respect of any injury or loss or damage to a ship howsoever caused arising out of—
- (a) the use of a tug or its towing gear; or
- (b) the failure or inability on the part of the Authority to provide a tug.

Condition Applying to Towage

37. It shall be a condition on the attendance of a tug that the ship requiring such attendance shall indemnify the Authority against all or any injury or loss or damage incurred in connection therewith.

PART 4

SHIPS REPORT, MOVEMENT, BERTHING

Application for a Berth

38. An “application for berth” as prescribed in the tariff shall be completed by a ship desiring a berth in a port.

Ships Signals on Entering

39. Before entering a port every ship which has arrived in Anguilla from a foreign place shall hoist the following flags in a conspicuous position—
- (a) the national flag of Anguilla from 0800 hours to 1800 hours;
 - (b) the ship's national flag which it shall fly from 0800 hours to 1800 hours;
 - (c) the ships signal letters;
 - (d) the Q flag International Code until pratique is given;
 - (e) if carrying passengers, the I flag International Code until the immigration clearance is given;
 - (f) if animals are on board the N flag International Code; and
 - (g) if carrying dangerous goods the B flag International Code.

Signals

40. The following are prescribed signals in the ports of Anguilla and shall be displayed from the flag staff designated by the Chief Executive Officer—
- (a) signifying that a ship is about to enter the port—
 - (i) signal by day, International Code flag E,
 - (ii) signal by night, one red light;
 - (b) signifying that a ship is about to leave the port—
 - (i) Signal by day, International Code flag D,
 - (ii) signal by night, 3 red lights displayed vertically one above the other.

Whenever one of these signals is displayed all other traffic inwards or outwards at or near the entrance vicinity is forbidden.

Speed in a Port

41. All ships shall proceed at a moderate speed within the limits of a port as set by the Chief Operating Officer.

Due Notice of Departure

42. A ship requiring a pilot and intending to leave a port shall during normal working hours, give notice thereof to the Chief Executive Officer at least 4 hours before the ship intends to leave. Special arrangements shall be made for any move outside the normal working hours.

Anchors and Gear to be in Readiness

43. (1) Every ship entering or leaving a port shall have both bow anchors and cables clear and ready for use as required.
- (2) Ships intending to load or discharge cargo shall have their derricks hoisted when weather permits.

Port Health Requirements

44. All ships entering a port from a foreign place shall await the granting of pratique before having any communication with the shore or with any other ship.

Customs and Immigration Requirements

45. (1) After pratique has been granted to a ship the Customs and Immigration Departments shall commence clearance formalities.
- (2) A person shall not leave a ship prior to the completion of the clearance formalities required by paragraph (1) without the permission of the customs and immigration officers.
- (3) A person other than a health officer, an Authority Pilot, a customs officer, an immigration officer, shall not board any ship until the I flag is lowered or until permission to do so has been granted by customs and immigration officers.

Ships Arrival Report

46. The master of every ship which has arrived in a port shall complete the vessel arrival report prescribed in the Schedule and shall append his or her signature thereto and hand the form to the pilot before the latter leaves the ship. However, in the case of a ship which is berthed without the assistance of an Authority Pilot the master shall ensure that a completed vessel arrival report correct in all particulars is sent to the Chief Executive Officer by him or her or his or her agent within one hour of his or her anchoring or berthing.

Master Responsible for Erroneous Declaration

47. The master shall be responsible for all damage or consequence resulting from an erroneous declaration made by himself or herself or his or her agent as to the draft or dimensions of his or her ship or any other information on the ships arrival report.

Ships Tonnage

48. The tonnage of a ship shall be the maximum GRT as shown in the certificate of registration which if requested shall be produced by the master to an authorised officer.

Ship to be Kept Fit to Move

49. (1) Ships entering, leaving, or shifting berth within a port shall be provided with sufficient crew for the purpose and shall at all times be kept in a fit condition for removal in default of which the work may be done by the Chief Executive Officer at the risk and expense of the ship.
- (2) A ship shall not immobilise its engines without first obtaining written permission from the Chief Executive Officer.

Ships to be Moored Properly

50. (1) Ships berthing at a port shall be provided with good and sufficient warps to the satisfaction of the Chief Executive Officer and a warp shall not be cast off for any reason unless so ordered or authorised.

- (2) In case of ships without the necessary gear, warps may when so ordered by the Chief Executive Officer be supplied at the risk and expense of the ship.
- (3) Every ship within a compulsory pilotage port, shall have sufficient crew on board to attend to her moorings and to cause them to be slackened or hove in as may be necessary.
- (4) A rope shall not be made fast except to moorings and bollards placed for the purpose, and a wire rope shall not be used unless the bollards and the edge of the coping of the wharf or jetty are protected from chafe to the satisfaction of the Chief Executive Officer.
- (5) A chain cable shall not be used for mooring alongside except with the special permission of the Chief Executive Officer.
- (6) All ships shall anchor, moor and berth to the satisfaction of the Chief Executive Officer, and shall take such additional precaution in adverse weather as may be ordered by the Chief Executive Officer.
- (7) All ships alongside quays shall affix efficient rat guards on every line and wire connected to or reaching the shore.
- (8) Where any direction of the Chief Executive Officer as to anchoring, mooring, unmooring, placing or removal of a ship is not obeyed the Chief Executive Officer shall cause the ship to be anchored, moored, unmoored, placed or removed as the Chief Executive Officer thinks fit and for that purpose he or she may cast off, unloosen or cut the moorings of the ship at its risk and expense.
- (9) Penalties to insert.

Authority to Assign and Control

51. (1) The Chief Executive Officer shall have the right to determine the place in a port at which a ship shall berth or anchor and to assign a berth whether at a quay or elsewhere to any ship and where a berth is so assigned to a ship the ship shall occupy that berth and may at the discretion of the Chief Executive Officer be removed to any other berth. All masters or persons in charge of ships shall obey the directions of the Chief Executive Officer. Where such directions are not obeyed, the Chief Executive Officer may move the ship by any means at his or her disposal at the risk and expense of the ship.
- (2) A ship assigned a berth by the Chief Executive Officer shall not drift or change the assigned berth without permission.

Ships Moored to Other Ships

52. (1) A ship shall not make fast to or tie alongside another ship without the prior permission of the Chief Executive Officer.
- (2) The master or owner of a ship shall, when ordered so to do by the Chief Executive Officer, permit the other ship to make fast to or tie alongside his or her ship.
- (3) Whenever any ship is made fast to or is tied alongside another ship, a free and unencumbered passage over the inner ships shall be allowed to the outer ships for loading and unloading and for access to and from the shore.
- (4) Whenever any ship is made fast to or is tied alongside another ship, the lines of the ship that is so made fast or tied shall not, except in an emergency, be

cut or cast off without the prior permission of the Chief Executive Officer and prior notice of the intention to do so having been given to the master or owner of the vessel that is so made fast or tied.

Unseaworthy Ships may be Detained

53. The Chief Executive Officer may detain a ship which in his or her opinion is in an unsafe condition to proceed to sea until the ship is made seaworthy to his or her satisfaction.

Lights on Ships and Collision Regulations

54. All ships whether under way or at anchor shall, save as otherwise provided by these Regulations, between the hours of sunset and sunrise, exhibit the lights required by and shall obey the rules of the road for preventing collisions at sea.

Watch to be Kept

55. (1) All ships other than small craft in a port shall maintain a watch of at least one man to be kept constantly upon the open deck by night and day.
- (2) A small craft shall not be left unattended when alongside any berth of the Authority.

Liability for Damage

56. (1) A ship is liable to the Authority for any damage done to any port works, plant, machinery, goods or other property used by or for the purposes of the Authority.
- (2) The Chief Executive Officer may detain any ship damaging property referred to in paragraph (1) until sufficient security is given to his or her satisfaction for the damage so occasioned.

Use of Buoys and Private Moorings

57. (1) A ship shall not use any buoy which is the property of the Authority without the sanction of the Chief Executive Officer in writing.
- (2) A buoy shall not be laid down for any purpose whatsoever and no leading marks shall be erected without the prior permission of the Chief Executive Officer.
- (3) A charge as determined by the Authority shall be levied in respect of any mooring or buoys laid within a port on the owner of such a buoy or mooring.
- (4) Such buoys and moorings may be removed by the Chief Executive Officer at the expense of the owner if at any time the Chief Executive Officer so desires.
- (5) The Authority may use any private moorings or buoys.

PART 5 WORKING OF SHIPS

General Control of Landing and Shipping Cargo

58. The landing of cargo or the shipment of cargo or the landing or embarking of passengers in a port shall be subject to the control and direction of the Chief Executive Officer.

Manifests

59. (1) Any ship which has arrived in Anguilla with cargo from a foreign place or which has loaded cargo in Anguilla shall furnish the Chief Executive Officer copies of the inward and outward manifests and other documents as may reasonably be required by the Chief Executive Officer in such a manner and time as may be stipulated by the Chief Executive Officer.
- (2) A ship shall notify the Chief Executive Officer as soon as possible of subsequent amendment to the documents required under paragraph (1).

Working of Ships

60. (1) As far as may be practicable, cargo shall be discharged from and loaded into ships in the order of their arrival and readiness to work in a port but subject always to the direction of the Chief Executive Officer.
- (2) A ship which has arrived from a foreign place shall not break bulk until its cargo has been duly reported to customs or special authority has been obtained from customs.
- (3) The Chief Executive Officer may refuse to permit cargo to be landed from any ship until suitable accommodation is available for such cargo.
- (4) The use of lighters to or from a ship in a port area for the purpose of loading or discharging any cargo shall be subject to the general or special directions of the Chief Executive Officer and lighters shall be used as directed by the Chief Executive Officer .
- (5) The Chief Executive Officer may refuse to allow timber or iron and steel work of all kinds to be landed unless properly marked. If permission to land such cargo is given the Authority is not liable for any loss, damage, delay or misdelivery howsoever caused.
- (6) The landing of animals from any ship shall be prohibited unless a veterinary or other certificate or document required by any law in respect thereof is produced to the proper authority.
- (7) The landing of plants or plant matter shall be prohibited unless any certificate or document required by any law in respect thereof is produced to the proper authority.
- (8) The loading and discharge of petroleum products or other dangerous and hazardous cargo shall be prohibited outside normal working hours save with the written permission of the Chief Executive Officer.

- (9) In the case of ships from other places in Anguilla the loading or discharge of cargo or the embarking or landing of passengers shall be prohibited in a port area save with the written permission of the Chief Executive Officer .
- (10) The Chief Executive Officer may direct that the discharge of cargo from any ship alongside a port shall cease or shall proceed at a slower rate if in his or her opinion such discharge obstructs or is likely to obstruct any other operation. The Chief Executive Officer may so direct the cessation or slower discharge of cargo at the risk and expense of the ship
- (11) If a ship fails to take in or discharge cargo with such despatch as appears reasonable to the Chief Executive Officer the said ship shall after due notice lose its turn to take in or discharge cargo. If it is occupying a quay berth it may be removed at the risk and expense of the ship or the Chief Executive Officer may take whatever action he or she considers necessary for expeditiously taking in or discharging any cargo from the said ship.
- (12) If any plant, labour or staff engaged as requested by a ship for landing shipping or transhipping any cargo is not fully employed on such a ship the expenses incurred thereby by the Authority shall be paid by the ship.
- (13) A responsible person authorised by the master shall remain on board a ship whilst loading or discharging cargo, for the purpose of superintending such loading or discharging.
- (14) Any goods or ships gear dropped overboard shall be reported at once by the ship concerned to the Chief Executive Officer and shall be immediately recovered by the ship if it is reasonably possible. Failing that it may be recovered by the Chief Executive Officer at the risk and expense of the ship.
- (15) The Chief Executive Officer may direct that certain goods being loaded or landed should be handled directly between the ship and vehicles. Such goods may not be deposited on the quay.

Overtime

61. (1) Work afloat and ashore in connection with the landing, shipping and transhipment of cargo outside normal working hours shall be charged at overtime rates at ships expense.
- (2) Overtime working may be allowed by the Chief Executive Officer either on a written request from the agent of a ship or otherwise.
- (3) Every port shall normally be closed on Good Friday, Easter Sunday, May Day and Christmas Day. However, in exceptional circumstances at the sole discretion of the Chief Executive Officer services may be performed subject to the payment of such time rates if labour and staff are available as may be determined by the Chief Executive Officer.

Payment of Dues, Rates and Charges

62. All port dues and other rates and charges for every ship shall be paid to the Authority as prescribed by relevant Tariff.

Receipt for Cargo

63. (1) Unless otherwise specially agreed between the Chief Executive Officer and the ship the Authority shall give a receipt to the ship for all cargo received

subject to each item being properly marked and being discharged in an orderly manner.

Where in the opinion of the Chief Executive Officer an accurate tally cannot be made at discharge a receipt shall be given only when sorting and stacking has been carried out to the satisfaction of the Chief Executive Officer.

- (2) A receipt shall be given by the ship to the Chief Executive Officer for each separate consignment received by the ship.

When Cargo is Considered Landed

64. Cargo shall only be considered delivered to or in the possession of the Authority and the authorised agents when it has have been removed from the cargo gear used to land the cargo from the ship.

When Cargo is Considered Shipped

65. Cargo for shipment will be considered delivered to a ship in good condition when it is placed by the Chief Executive Officer in the cargo gear provided for loading the ship, unless such cargo is declined by the ship as damaged or in a bad condition.

PART 6 SHIPS GENERAL

Fire on Ships

66. (1) In the event of a fire occurring on board a ship in a port the master shall at once give the alarm and take such steps towards the protection of property subject to such directions as may be given by the Chief Executive Officer in the interest of protecting the port.
- (2) The alarm signal for ships (other than small craft) on fire shall be as follows—

Ships shall hoist 'N.Q.' flags of the International Code and at the same time shall sound one long and 3 short blasts in quick succession on the siren. The signal 'N.Q.' shall be kept hoisted until the fire on board has been extinguished.
- (3) In addition to the signals the master shall report the fire immediately to the Chief Executive Officer.

Prevention of Nuisance in Ports

67. All ships in a port shall ensure that—
 - (a) all outlets or scuppers in the sides of the ship are fitted with adequate shields to prevent any obnoxious fluids or other matter from falling on the quay;
 - (b) exhaust pipes shall be so equipped as to prevent exhaust from inconveniencing other ships or traffic in the port or on the quay;
 - (c) thick smoke is not made; and
 - (d) excessive noise of chipping or sirens is not made.

Ships to be Open for Inspection

68. An authorised person may in the execution of his or her duty at any time a ship is in a port, board such a ship and inspect it or any part of it.

Boarding or Leaving Ships

69. (1) A person shall not board or leave a ship whilst such a ship is in motion except with the permission of the Chief Executive Officer.
- (2) All persons shall board or leave a ship by means of the gangway or an efficient pilot ladder.

Refuse Not to be Deposited in a Port

70. (1) Ropes, wires, dunnage mats, wood, dirt, ballast, ashes, stone, offal or rubbish of any sort whatsoever shall not be thrown or allowed to fall or drift into the water at a port. Any ship from which such articles or refuse have been allowed to fall shall make good all loss, damage and expenses which the Authority or any other person may sustain or incur in consequence thereof.
- (2) A dead animal shall not be thrown into a port from any ship. Dead animals on board a ship unless permitted by the appropriate Authority to be buried ashore, shall be taken not less than 3 nautical miles outside port limits at the expense of the ship.
- (3) Oil or any similar substances of any description shall not be discharged into or allowed to escape into the water at a port.
- (4) A ship shall not pump out or clean their tanks or bilges within 200 nautical miles of Anguilla.
- (5) All articles which have fallen or drifted into the water in a port shall at once be recovered by the person responsible therefor failing which the Authority may recover them at the risk and expense of the person concerned.
- (6) Every ship whilst loading or discharging any cargo shall provide adequate safeguard to prevent it from falling into a port.
- (5) Without prejudice to any proceedings which may be instituted under the Anguilla Air and Sea Ports Authority Act, the regulations pertaining to prevention of pollution by sewage and garbage within the meaning of the Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 and any amendments of these Regulations apply herein *mutatis mutandis*

Goods Not allowed to Float in a Port

71. Goods shall not be permitted to float in a port unless previous permission in writing has been obtained from the Chief Executive Officer and handling charges at the same rate as if it had been landed have been paid. The ship or consignee shall be responsible for any damage caused by such goods and for the payment of charges and other losses which may result therefrom.

Removal of Ships with Offensive Matter on Board

72. The Chief Executive Officer may order the removal from a port of any ship which has cargo or other matter which in the opinion of the Chief Executive Officer is injurious to health or offensive or dangerous in any respect.

Protection of Hatchways

73. Except when discharging or loading cargo or otherwise working in a hold, ships in port shall have their hatches closed or well protected.

Fumigation

74. A ship shall not be fumigated in a port except with the written consent of the Chief Executive Officer and subject to such conditions as he or she may impose.

Repairs to Ships

75. (1) Structural repairs of ships shall not be made in a port except with the written consent of the Chief Executive Officer and subject to the following conditions—
- (a) before any repairs are commenced the ship shall take such precautions as the Chief Executive Officer may direct to prevent dirt or other material falling into the water; and
 - (b) the ship shall observe such other conditions as may be imposed by the Chief Executive Officer .
- (2) If the ship contravenes or fails to comply with the provisions of paragraph (1) the work may be stopped by the Chief Executive Officer.

Restriction on Use of Flame Apparatus in Port

76. (1) Flame or welding equipment shall be used only by a qualified operator.
- (2) Construction, repair or maintenance work entailing use of any flame apparatus, or any apparatus which produces extreme heat, shall not be carried out on any ship in a port without written permission of the Chief Executive Officer.
- (3) Where it is proposed to do any work in respect of which permission is required under paragraph (1), the master or other person in charge or agent of the ship shall make application in writing for that purpose to the Chief Executive Officer. Where such application relates to a petroleum ship, the application shall be accompanied by a certificate from a person, approved by the Authority that such ship is at the time of the application free from any inflammable liquid or gas.

Placing on Wharf or Quay any Ships Boat, Ships Gear etc.

77. Any boat, gangway, spar, anchor, cable, dunnage, cattle fittings, horse box or other ships gear shall only be allowed to remain upon any wharf, jetty or quay of the Authority with the permission of the Chief Executive Officer and subject to the payment of such charges as may be determined by him or her.

Explosives May Not be Used or Guns Fired

78. (1) A gun or explosive device shall not be fired or exploded in a port without the permission of the Government of Anguilla.
- (2) A rocket shall not be fired or signal light burned on board a ship in a port without the permission of the Chief Executive Officer unless the ship is in actual distress or in need of assistance.

Propellers May Not be Turned Without Warning and Permission

79. Ships shall not otherwise for an approved movement, turn their propellers without the permission of the Chief Executive Officer and without giving sufficient warning of their intention to all concerned in the vicinity.

Displaced Moorings or Mark to be Reported

80. (1) If any mooring or marker buoy is dragged from its position or damaged by a ship, the cost of replacing or repairing it shall be borne by the ship.
- (2) Any ship getting foul of any mooring laid by the Authority shall not, except in case of emergency, lift the buoy for the purpose of getting clear, but shall immediately report the occurrence to the Chief Executive Officer and await instructions.

Submarine Cables

81. Any ship which damages any underwater construction within a port is liable to the Authority for any expense incurred therefrom.

Crew of Ships to Take Lines

82. (1) All ships anchored, moored or berthed in a port shall receive on board, make fast or cast off lines or warps from any other ship when required so to do by the Chief Executive Officer.
- (2) Lines or warps shall not be stretched across the waters of a port without the permission of the Chief Executive Officer.
- (3) The Chief Executive Officer may, in case of urgent necessity cause to be cut any warps, ropes, cable or hawser endangering the safety of any ship in a port.

Animals

83. (1) Animals when ashore or afloat in a port area and when landed, discharged or shipped therein shall be treated in a humane manner, and in accordance with veterinary practice.
- (2) The Chief Executive Officer may in his or her discretion refuse to land or ship animals if such landing or shipping would in his or her opinion entail unnecessary suffering to any animal.

PART 7

DANGEROUS GOODS

General

84. Except otherwise herein provided the classification method of handling packing and magazine requirements and all other matters pertaining to dangerous goods shall be in accordance with the recommendations made by the Inter-Governmental Maritime Organisation.

Authority to Supervise

85. Dangerous goods shall not be landed, shipped, or brought into any port except under the direction and superintendence of the Chief Executive Officer whose orders shall be implicitly obeyed.

Liability for Expenses

86. Any expense incurred by or on behalf of the Authority in superintendence, the provision of watchmen or other facility in connection with the handling of dangerous goods shall, except where otherwise provided in these regulations, be borne by the consignee, consignor, or agent, as the case may be.

Master or Agent to Give Notice of Dangerous Goods on Board

87. The master or agent of every ship having on board any dangerous goods shall give notice thereof to the Chief Executive Officer 24 hours before arrival.

If without permission any such goods are landed the Chief Executive Officer may order the same to be placed on board the ship whence they came or otherwise deal or destroy them as he or she considers necessary at the risk and expense of the ship from whence they were discharged.

Exemptions for Warships and Transport and Other Ships

88. (1) Ships of war and military transports may be exempted from this Part subject to such terms and conditions as the Authority may consider fit.
- (2) Every ship having the following dangerous goods on board shall be exempt from this Part and such dangerous goods may be landed and dealt with at such places and under such conditions as the Chief Executive Officer may direct—
- (a) safety-cartridges, safety-fuses, percussion caps fireworks, and any other dangerous goods, specially exempted by the Minister;
 - (b) any other dangerous goods of the nature of any explosives which does not exceed 50 pounds in weight and is properly stored in an approved magazine.

Berthing of Ships Carrying Dangerous Goods

89. Every ship carrying, or about to carry, dangerous goods shall be anchored or berthed only in the position assigned to it by the Chief Executive Officer and shall not be moved therefrom without the written order or permission of the Chief Executive Officer.

Red Flag to be Exhibited

90. The master of every ship having dangerous goods on board shall, whilst within the limits of a port, keep conspicuously exhibited at the fore by day a red flag 'B' (International Code) in size not less than 4 feet by 3 feet, and at night at the mast head in addition to the lights ordinarily required and above them a red light showing a clear uniform unbroken light all round the horizon, visible on a clear night at a distance of one nautical mile from such ship.

Fires and Fire Fighting

91. (1) A person, when in or upon any vessel in a port, where dangerous goods or highly flammable goods are located, shall not smoke or have in his or her possession any match or fire-producing device or have in his or her possession any article or substance that may cause explosion or fire. For the purpose of enforcing this section, the Chief Executive Officer may search any person who in his or her opinion is in possession of any such article or device.

- (2) Artificial lights or other activities which in the opinion of the Chief Executive Officer may cause either explosion or fire shall not be permitted in a port where dangerous goods are being loaded, unloaded, or handled.

However, this regulation shall not prevent the use of an electric lighting installation or a safety lamp of a construction approved by the Authority or of a ship's riding or signal lights so disposed as to prevent any risk of fire or explosion.

- (3) Sufficient fire-extinguishing equipment of a type for coping with incipient fires while dangerous goods are on port property, or being loaded, unloaded or handled in a port shall be provided by the owner or agent of such dangerous goods and shall be in readiness for immediate use.

- (4) Every ship having on board explosives or dangerous goods shall display "No smoking" signs in prominent places on board the ship.

Only Dangerous Goods to be Handled at One Time

92. (1) During the time any dangerous goods are being handled other goods shall not be dealt with at or near the place thereof.

- (2) Persons other than those actually engaged in or superintending the work of handling shall not be allowed access to the ship without permission of the Chief Executive Officer.

Permits to Land Dangerous Goods

93. Dangerous goods shall not be landed from any port except on production of a certificate on oath of a duly qualified chemist to the effect that the dangerous goods have been shipped in good order and condition, properly packed and labelled, and safe to be shipped through the tropics and handled in a warm climate.

Licence for Special Small Craft

94. (1) A small craft shall not be used for the storage of dangerous goods except under a special licence granted on a certificate from the Chief Executive Officer and subject to such condition as it may impose.
- (2) Such small craft shall—
- (a) at all times remain afloat;
 - (b) be moored only at places approved by the Chief Executive Officer ;
 - (c) exhibit a red flag by day and a red light in an elevated position at night.
- (3) A dangerous cargo shall not be carried on the deck of a small craft licenced to carry dangerous cargo and hatches shall be properly secured.
- (4) A small craft propelled by gasoline shall not carry dangerous goods.

Vessels to Have Tow Line

95. Every vessel that has explosives or dangerous goods on board shall, when moored or anchored in the port, have at all times at both bow and stern, a suitable tow line of steel wire securely fastened on deck one end and hanging over the offshore side of the vessel so that the other end, which shall be equipped with an eye, is suspended at a point not more than 4 feet from the water's surface.

Inspection and Examination

96. Every person in control of any dangerous goods or of any ship or vehicle containing such goods shall when so required by the Chief Executive Officer show all such goods under his or her control and shall afford every reasonable facility to enable inspection and examination of such goods so as to ascertain whether these Regulations are being duly observed.

Petroleum

97. For the avoidance of doubt it is hereby declared that in the case of petroleum and all other inflammable liquids including turpentine, these Regulations shall apply in addition to and not in derogation of any relevant legislation of Anguilla.

Penalty

98. In the event of any breach of any regulation in this part, without prejudice to any action taken under regulation 163, all or any part of the dangerous goods in a port may be forfeited and disposed of at the discretion of the Chief Executive Officer at the risk and expense of the owner of the ship, vehicle or goods involved.

PART 8
FERRY SERVICE

Roster of Ferries

99. (1) The Chief Executive Officer shall prepare the daily roster of ferries scheduled to—
- (a) depart from the port to such other port or ports outside Anguilla; and
 - (b) travel to the port from such port or other ports outside Anguilla;
- on which shall be shown, against the name of each ferry, the times for each such departure from and travel to the port and the master of that ferry.
- (2) For the purposes of subsection (1), the Chief Executive Officer may, at such times and place as he considers necessary, consult with the appropriate representative organizations of owners and charterers of ferries providing ferry services to and from the port.
- (3) The master of every ferry whose name appears on the roster of ferries for the day shall provide the ferry services in accordance with that roster and such directions and orders as the Chief Executive Officer may issue.
- (4) Where a ferry which is scheduled on a day to depart from or travel to the port is unable due to no fault of the master of the ferry to so depart or travel, that master shall promptly inform the Chief Executive Officer of the inability to depart from or travel to the port and furnish that information in writing.
- (5) Where the master of a ferry, at the time of informing the Chief Executive Officer of the inability to depart from or travel to the port, is unable to furnish such information, the master shall as soon as practicable furnish the written information.

Transportation Fees

100. (1) There is payable by a passenger the applicable transportation fee specified in the Tariff Book.
- (2) Every owner, master or charterer of a ferry or passenger vessel shall appoint an agent for the collection of such transportation fees.
- (3) Every passenger who pays such transportation fee shall be issued a ticket evidencing payment of such fee.

PART 9
SMALL CRAFT

Small Craft to Give Way

101. Small craft within the limits of a port shall at all times make way for ocean-going ships under way or tugs engaged in towing.

Row Boats to Give Way to Sailing Boats

102. When 2 boats are being propelled, one by sails and the other by oars and are proceeding on a course, which, if continued, would involve the risk of collision the boat propelled by oars shall keep out of the way of the other, and the boat under sail shall use every precaution to avoid accident and if so close that collision cannot be avoided by the action of the vessel giving way alone, she also shall take such action as will best aid to avoid collision.

Small Craft to Carry Lights

103. (1) Subject to the provision of paragraph 2, small craft when under way between sunset and sunrise shall have ready at hand a lantern showing a white light, which shall be temporarily exhibited in sufficient time to prevent collision.
- (2) Powered launches and fishing boats shall carry the lights prescribed for their class.

Approaches to Wharves, Landing Places and Ship's Ladders to be Kept Clear

104. (1) Free passages shall be kept to all jetties, landing places, wharves and moorings, and small craft shall, when directed by an authorised person, move so as to clear such passages.
- (2) A small craft shall not lie alongside any of the passenger landing places or ship's accommodation ladders longer than necessary to embark or land passengers and their luggage, and when waiting, shall lie off at a distance of at least 20 yards from such landing place or ship's accommodation ladder in order not to obstruct the approach thereto.
- (3) A person in charge of a small craft, a member of the crew of such craft and baggage clearing agent shall not loiter on any pontoon or landing step or accost passengers thereon.

Mooring of Small Craft

105. A small craft shall not except with the permission of an authorised person be secured to any wharf, jetty, quay, mooring, post, pile, bollard or buoy belonging to the Authority. Under no circumstances shall such a craft be left unattended.

Small Craft Sunk in Port to be Reported

106. The sinking of any small craft in a port shall be reported by the master or owner to the Authority as soon as possible.

Boats Not to Go Alongside Ships Under Way

107. A small craft, other than a small craft carrying any person authorised by regulation 43(3) to board a ship before the 'I' flag is lowered shall not go alongside a ship which has arrived in Anguilla from a foreign place until such ship is at anchor or made fast alongside and has been granted pratique.

Passengers and Goods to be Landed at Place Appointed

108. Every small craft leaving the side of a ship shall proceed to a place approved by the customs officer and shall not land passengers or goods elsewhere.

Small Craft Plying for Hire to be Surveyed Before Granting Certificate of Fitness

109. Any person who desires to ply for hire with or let for hire any small craft, shall apply to the Chief Executive Officer for a licence. The Chief Executive Officer is hereby empowered to appoint inspectors who shall inspect such small craft and issue a certificate to the effect that the craft is in a suitable condition and fit for the purpose for which it is intended.

Method of Obtaining a Licence for Small Craft Plying for Hire

110. Upon the production of a certificate granted under regulation 104 and upon payment of the licence fee prescribed in the Tariff Book, a licence may be issued by the Chief Executive Officer to the holder of the said certificate authorising him or her, subject to such terms and conditions as may be specified in the licence, to ply for hire or let for hire the small craft to which such certificate relates.

Duration of Licence of Small Craft Plying for Hire

111. (1) A licence under regulation 110 shall, unless previously cancelled, expire on the day of expiration of the certificate to which such licence relates.
- (2) A person shall not ply for hire or let for hire any small craft without a licence.

Transfer of Licenced Craft

112. The transfer by sale or otherwise of any licenced small craft may be approved by the Chief Executive Officer and shall not affect the licence already granted.

Persons Carried Not to Exceed Authorised Number

113. (1) A licenced small craft shall not carry more than the number of persons such craft is licenced to carry.
- (2) A notice showing the number of persons authorised to be carried shall be painted on or affixed to some conspicuous part of such craft. A person shall not board a craft containing its full licenced complement.
- (3) The master of a vessel or his agent or assign shall be responsible for ensuring that the number of persons authorised to be carried shall not be exceeded.

Goods Carried Not to Exceed Authorised Load

114. (1) A small craft, licenced to carry passengers only, shall not carry any goods other than passengers' baggage.

- (2) A small craft licenced for the carriage of goods shall not carry a greater load of goods than such craft is licenced to carry.
- (3) A small craft licenced to carry goods only shall not carry passengers.

Unclaimed Property to be Taken to Customs

115. The person in charge of a small craft licenced to carry passengers shall be responsible for all unclaimed property left on his or her boat, and he or she shall take or cause to be taken all such unclaimed property to the customs officer.

Expired Licence to be Returned

116. On the expiration or other determination of any licence, the owner of the licenced small craft in question shall return the licence to the Chief Executive Officer.

Life-saving and Fire-Extinguishing Apparatus

117. Every licenced small craft shall be equipped with such radio, life-saving and fire-extinguishing appliances as may be considered necessary by the Chief Executive Officer and shall be kept so as to be at all times fit and ready for use.

When Holder of Licence Made to Cease to Use Craft

118. (1) Any inspector appointed under regulation 110 may and is hereby empowered and authorised at any time to enter upon any small craft licenced under regulation 111 and inspect and examine the hull equipment or machinery of any craft. If in his or her opinion the said hull, equipment or machinery is not in a condition suitable and fit for the purpose for which it is being used, he or she shall notify the same to the Chief Executive Officer. The Chief Executive Officer shall instruct in writing the holder of the licence to discontinue the usage of the said craft until the defects are remedied.
- (2) In the event of the removal of defects after further inspection, the inspector shall report the fact to the Chief Executive Officer who shall make an endorsement to that effect upon the licence and the date thereof, and from such date the holder of the licence shall be entitled to continue to ply for hire or let for hire the said craft for the unexpired period of the currency of the licence.

Penalty for Non Observance of Notice

119. Any holder of a licence who uses or causes to be used any small craft in contravention of regulation 118, and any person who refuses to allow or obstructs an inspector to enter upon, inspect or examine any such craft or its machinery or equipment commits an offence and the licence granted in respect of such a craft may be cancelled.

Person in Charge of Small Craft Licenced to Ply for Hire to be Capable

120. A holder of a licence issued under regulation 111 shall not permit his or her small craft to be used for hire unless sufficiently manned by competent persons.

Person in Charge of Small Craft Plying for Hire May Not Refuse Engagement

121. A person in charge of a licenced small craft that is plying for hire of passengers shall not refuse without good reason to accept an engagement, or shall attempt to extort fares in excess of the authorised tariff charge.

Quantity of luggage that may be carried

122. The Chief Executive Officer may regulate the quantity of luggage which may be carried consistent with the safety and convenience of the passengers conveyed in any small craft. The owner or person in charge shall abide by the orders of the Chief Executive Officer in this respect.

Liability

123. This Part shall not be considered to impose any liability or responsibility upon the Authority for any loss or injury caused by the acts or negligence of any owner or person in charge of or member of the crew of any licenced small craft.

Small Craft Prohibited from Conveying Liquor to Ship's Crew

124. (1) An owner or person in charge of any small craft, or a boatman or any person employed by such owner shall not supply, convey or deliver any intoxicating liquor to any of the crew of or to any other person on board any ship at anchor or moored in a port, except—
- (a) such liquor as may be purchased with the consent of the master of the ship from a person duly licenced to sell the same; or
 - (b) such liquor as may be allowed under the Customs law.
- (2) Where any such owner is convicted of a contravention of this regulation, the licence, if any, of the small craft used in connection with the commission of such offence shall be cancelled without prejudice to any other penalty provided by the law.

Penalty for Breach of Small Craft Regulations

125. If the owner or person in charge of any small craft licenced under regulation 111 commits a breach of this part he or she shall in addition to the penalty under any other law is liable to a fine and or imprisonment in accordance with Section 164.

Control of Small Craft

126. (1) A person shall not operate a vessel in the port—
- (a) recklessly or negligently, or at a speed or in a manner dangerous to the public;
 - (b) while drunk;
 - (c) without due care and attention or without reasonable consideration for other persons using the port;
 - (d) when it is overloaded with passengers or cargo;
 - (e) when it is not seaworthy or safe.

- (2) Without restricting the generality of the term where it appears in paragraph (1), 'Recklessly or Negligently' includes the operation of a small craft that unreasonably interferes with the free and proper use of the waters by other ships, or persons or that endangers other or any person upon any other ship or in the water or upon the small craft itself.
- (3) The International Rules of the Road shall be strictly observed by all small craft in a port and in the event of conflict between these Regulations and the International Rules of the Road the latter shall apply.

Control of Speed Boats

127. Without prejudice to the generality of regulation 121 every speed boat when within 200 yards of the waters edge shall travel at a slow speed not greater than that specified by the Chief Executive Officer and shall keep well clear of all bathers.

Duty of Person in Charge of a Speed Boat

128. If the person in charge of a speed boat shall fail to comply with the provisions of regulation 121 or shall fail to ensure that the speed boat of which he or she has charge and any water skier being towed by such boat do not cause any inconvenience to bathers he or she commits an offence and the licence, if any, of the small craft used in connection with the commission of such offence may be cancelled.

Suspension of Licence for Misconduct

129. The Chief Executive Officer may suspend or revoke the licence of any small craft whose owner or any member of whose crew is guilty of misconduct or a breach or neglect of any regulation in this Part or of any order of the Chief Executive Officer.

PART 10

GENERAL HEALTH AND SAFETY REGULATIONS

Application

130. The Regulations contained in this Part shall apply to the processes of loading, moving and handling goods in or at a port area and to the processes of loading, unloading and restowing any ship in a port.

General Health and Safety at the Sea Ports

131. Without prejudice to any proceedings which may be instituted under the Anguilla Air and Sea Ports Authority Act, the regulations pertaining to ship and port facility safety within the meaning of the Merchant Shipping (Health And Safety: General Duties) Regulations 1991 enabled under section 22 of the Merchant Shipping Act 1979 [title 31 item 16] and brought into operation on 1 February 1991 and any amendments apply *mutatis mutandis*.

Duties of Masters and Others

132. (1) It is the duty of the owner, master or other person in charge of a ship to comply with such regulations as are applicable to that ship including those relating to machinery and plant used in the processes.

- (2) In order cases it shall be the duty of the owner of machinery and plant used in the processes to comply with the regulations.
- (3) If the persons concerned with paragraphs (1) and (2) fail to comply with these Regulations the employer of such persons shall stop the said processes until these Regulations are complied with.

Safe Means of Access

133. A ship in a port for the purpose of carrying out any process shall have a safe means of access for the use of employees passing from the ship to the shore or from the shore to the ship.

Disembarking and Embarking Passengers

134. (1) When passengers disembark from or embark on any ship in a port a sound gangway shall be provided and one of the crew of the ship shall be in attendance at the ship's end of the gangway to attend to the security of the gangway and the safety of the passengers over it.
- (2) When any ship is in port a lifebuoy with a line attached thereto shall be placed in proper order for immediate use near the head of each gangway.
- (3) Suitable safety nets shall be applied beneath every gangway.
- (4) Every gangway shall be illuminated at night.
- (5) A process shall not be undertaken over a gangway.

Safe Means of Access to Other Ships to be Provided

135. If a ship is alongside any other ship, and persons employed have to pass from one to the other, safe means of access shall be provided for their use. If one of such ships has a relatively low freeboard the means of access shall be provided by the ship which has the high freeboard.

Safe Means of Access from Deck to Hold

136. (1) If the depth from the level of the deck to the bottom of the hold exceeds 5 feet, there shall be maintained safe means of access from the deck to the hold.
- (2) Every person employed shall use the means of access in paragraph (1).

Efficient Lighting to be Provided

137. All parts of a ship where processes are carried on and for which access is required shall be sufficiently lighted with due regard to the safety of the ship to goods onboard, and persons employed therein also the navigation of other ships.

Beams and Hatches

138. (1) Hatches and coverings in a ship shall be so constructed to allow persons to open and close them without risk.

- (2) All fore and aft beams and thwartship beams used for hatch coverings shall have suitable gear for lifting them on and off without it being necessary for any person to go upon them to adjust such gear.
- (3) All hatch coverings and beams shall be plainly marked to indicate the deck and hatch to which they belong and their position therein.
- (4) All fore and aft beams and thwartship beams used for hatch coverings and all hatch coverings shall be maintained in good condition.
- (5) Adequate handgrips shall be provided on all hatch coverings, unless the construction of the hatch or the hatch coverings renders the provision of handgrips unnecessary.
- (6) When the working space around a hatch is less than 2 feet, provision shall be made to remove and replace in safety all fore and aft beams thwartship beams used for hatch coverings and all hatch coverings.
- (7) The beams of any hatch in use for the processes shall, if not removed, be adequately secured to prevent displacement.

Lifting Machinery

139. (1) Lifting machinery of all kinds, chains, blocks, wire ropes, ropes and any other attachments or gear used or provided for use in processes shall be maintained in good order, in the event of any doubt concerning the serviceability of any item the authorised person may prevent its use until tested by a competent person at the risk and expense of the owner.
- (2) All lifting machinery including ship's derricks shall be clearly marked with the safe working load of such appliances.
- (3) Means shall be provided to enable any person using a pulley block, chain or wire rope sling to ascertain the safe working load for such items.

Lifts Not to Exceed Safe Working Load

140. Lifting machinery or items of cargo handling gear shall not be used to lift more than its safe working load.

Fire Prevention

141. (1) Every person in a port and every ship in a port shall comply with all such standards of fire prevention and protection against fire as, in the opinion of the Chief Executive Officer are necessary or advisable for the protection of persons and property.
- (2) Before welding or burning equipment which is used in a port, all flammables shall be moved to such a distance from the equipment as will render them safe from fire and, where such movement is impossible, the flammables shall be adequately shielded.
- (3) Suitable fire-extinguishing equipment, ready for instant use in case of fire, shall be placed near each unit of welding or burning equipment.

- (4) Every compressor or generator used in connection with welding or burning equipment shall be placed securely and in such a manner as not to interfere with any other operations carried on in the port or on port property.
- (5) An operator of welding or burning equipment shall not do any act that may cause explosion or fire.
- (6) A person shall not smoke or have in his or her possession any lighted match or other lighted fire-producing device, in, or at any shed, warehouse.
- (7) Artificial light by which fire may be ignited shall not be used on port property without permission of the Chief Executive Officer.
- (8) An article substance shall not be burned, boiled or heated by fire on port property except with the permission of the Chief Executive Officer.
- (9) Every ship in a port shall have suitable fire-extinguishing equipment available for immediate use in any part thereof.
- (10) The Chief Executive Officer may in addition to the equipment required by paragraph (9), require additional equipment to be provided in any ship to meet any particular condition involving extra fire risk.
- (11) Fire shall not be allowed on any ship in a port except in suitable containers and under watch.
- (12) A person shall not use a fire hydrant located on port property for any purpose other than fire or fire drill without permission of the Chief Executive Officer.

PART 11

GENERAL SECURITY REGULATIONS

General Security at the Sea Ports

142. Without prejudice to any proceedings which may be instituted under the Anguilla Air and Sea Ports Authority Act, the regulations pertaining to ship and port facility security within the meaning of the Ship and Port Facility Security Regulations enabled under Section 71 of the Merchant Shipping Act R.S.A.C. M82 apply mutatis mutandis.

PART 12

HANDLING AND STORAGE OF CARGO

Onus of Cargo Handling

143. All cargo handling in a port shall be carried out by the Authority or its authorised agent

Transit Sheds Closed to Public

144. The transit sheds and warehouses in a port shall be closed to the public and no vehicle or person shall enter any of them without the permission of the Chief Executive Officer.

Documents Required Before Delivery of Cargo

145. Importers or their agents shall present at such place as may be appointed by the Chief Executive Officer during normal working hours of a port the following documents before delivery of cargo—
- (a) delivery order complete in every detail and specifying marks and numbers, descriptions and contents with the dead weight and cubic measurement thereof, the name of the ship, port of shipment, arrival date and disposal instructions. There shall be a separate delivery order for each consignee and for each bill of lading;
 - (b) a bill of lading or shipping company's delivery order duly released by the ship;
 - (c) a release by customs officer authorising the delivery of the cargo;
 - (d) in the case of transshipment goods a shipping order complete in every detail and respect.

Documents Required for Shipment of Cargo

146. Persons desiring cargo to be shipped shall deliver to an authorised person at such a place as may be determined by the Chief Executive Officer during normal working hours shipping orders complete in every detail and specifying marks and numbers, descriptions and contents with the dead weight and cubic measurement thereof as required by the Tariff Book. There shall be a separate shipping order for each consignment.

Receiving of Cargo for Shipment

147. (1) Cargo for shipment shall be deposited in such places as the Chief Executive Officer may direct.
- (2) All cargo intended for shipment for any particular ship together with the relative shipping orders shall be presented to the Chief Executive Officer at a port not later than one clear normal working day previous to the ships appointed sailing time. In the event of cargo and/or shipping orders being received late, the shipper is liable for any additional expense incurred.
- (3) Cargo in respect of which shipping orders are presented shall be ready for shipment in all respects.
- (4) Sorting or other manipulation of cargo for shipment is not permitted in a port.
- (5) Cargo which is not accepted for shipment shall be removed within 48 hours after receipt.

- (6) The Authority shall not be responsible for ensuring that the whole or any part of any cargo intended for shipment is placed on board any ship before the time of sailing.

Cancelling or Amending Orders

148. Any order cancelling or amending previous orders may be accepted by the Chief Executive Officer provided that it is reasonably possible to act upon such order. A charge may be made in respect of each such order.

Weights and Cubic Measurements

149. (1) When the weight or cubic measurement of cargo is not available the goods shall be weighed or measured by the Chief Executive Officer and a charge paid by the person presenting the delivery order or shipping note.
- (2) All packages exceeding one ton in weight shall have the gross weight legibly marked thereon. If a package is unevenly loaded the heavy end should be clearly marked.

Marking of Packages

150. (1) Where cargo is insufficiently or incorrectly marked the Chief Executive Officer may require from any person claiming such goods a special release order signed by the ship. Storage charges shall be charged against all cargo remaining in a port as a result of insufficient or incorrect marking.
- (2) The Authority is not liable for any loss, damage, delay or non-delivery of cargo occasioned by insufficient or incorrect marking.

Defective Packages

151. (1) Where any cargo has been landed in packages of a defective or leaky character, despite the provisions of regulation 59 or the fact that the Authority has given a receipt for the cargo, delivery of cargo shall not be considered to have been made to the Authority until such packages have been repacked, rebagged or repaired in a reasonably sound condition and such cargo checked in the presence of the ship and customs officer only such cargo shall be considered to have been accepted by the Authority.
- (2) The Authority may decline to accept any cargo which is tendered for landing in packages of a defective or leaking character.

Acids Landed or Found in a Leaky Condition

152. (1) When acids, oils, paints or similar substances come into possession of the Authority in a leaky condition, the Authority may in its discretion repair the leaky or defective packages at the expense of the owner and may refill any packages from which the original contents have leaked.
- (2) The owner or consignee of any leaking packages the contents of which either damage the Authority's property or other cargo is liable for such damage.

Unpacking of Cargo

153. Except for Customs purposes cargo shall not be unpacked in a port area without the special permission of the Chief Executive Officer. All packing and other material from which cargo is so unpacked shall be immediately removed by the owner of the cargo failing which this shall be done by the Authority at the owner's risk and expense.

Destruction of Dangerous and Offensive Cargo

154. (1) In cases of emergency or for the purpose of securing better safety for a port the Chief Executive Officer may destroy or otherwise dispose of dangerous cargo in a port without compensation to the owner.
- (2) The Chief Executive Officer may, in consultation with the customs officer, and after giving at least 2 hours notice to the owner order the removal or destruction of any goods or matter which in the opinion of the Chief Executive Officer are, of an offensive nature. Such removal or destruction and any loss of Customs duties, rates or other charges incurred thereby shall be at the expense of the owner.

Storage Charges on Import Cargo

155. (1) Storage charges after the prescribed free period in the Tariff Book shall be levied on all import cargo.
- (2) In the case of large consignments the Chief Executive Officer may extend the free period when delivery is being effected as fast as the Authority requires.

Storage Charges on Import Cargo

156. Storage charges after the prescribed free period if any in the Tariff Book shall be charged on all export cargo until the date the ship commences loading or in the event of non-shipment the date the cargo is removed from the port.

Storage Charges on Transhipment Cargo

157. (1) Storage charges after the prescribed free period in the Tariff Book shall be charged on all transhipment cargo from the date of arrival of the ship to the date the carrying ship commences to load.
- (2) The Chief Executive Officer may according to the circumstances prescribe special rates for handling and storing transhipment cargo.

Change of Ownership of Cargo

158. Any change in ownership of cargo shall be notified to the Chief Executive Officer immediately such change takes place and in the absence of such notification before the cargo leaves the custody of the Authority the previous owner shall be held responsible for all charges.

Charges to be Prepaid or Secured

159. All dues and charges, prescribed in the Tariff Book and payable upon all goods landed, shipped, transhipped or warehoused shall be paid or sufficient security

furnished for their payment before any orders for delivery shipping or forwarding are acted upon.

Delivery to Customs Warehouse

160. (1) The delivery of goods to a warehouse appointed by a customs officer shall constitute delivery of such goods to the consignee and the Authority is not liable in respect of such goods after they have been so delivered.
- (2) Where the consignee takes delivery from the customs warehouse such goods shall not be delivered until all the dues rates and charges of the Authority have been secured.

PART 13 MISCELLANEOUS

Licences Generally

161. The Chief Executive Officer may cancel any certificate, licence or badge granted under these Regulations or may refuse to renew or endorse the same.

Liability

162. The granting under these Regulations of any licence authorisation, certificate or permit for any purpose shall not impose any liability or responsibility upon the Authority for any accident to the person so authorised or to the holder of such licence, certificate or permit arising from any cause whatsoever.

Licensing of Agents and Others

163. A person shall not in a port area undertake stevedoring, ships work, ship chandlery or clearing and forwarding of goods from a port area without a licence granted by the Chief Executive Officer for that purpose and on payment of such fees as may be prescribed in the Tariff Book. The Chief Executive Officer is hereby authorised to grant and endorse such conditions as he or she sees fit with such licences.

Exclusive Powers of the Chief Executive Officer

164. Save as where otherwise herein these Regulations specially provided or with the written permission of the Chief Executive Officer specifically in that regard a person shall not in any port perform or cause to be performed any work, service or facility or suffer any obstruction or nuisance to remain.

Offences and Penalties

165. (1) Any person who commits an offence under these regulations is liable on the conviction for that offence—
- (a) on indictment, to a fine not exceeding 200,000 dollars or to imprisonment for a term of not more than 5 years, or to both; or
- (b) on summary conviction to a fine not exceeding 50,000 dollars or to imprisonment for a term of not more than 2 years, or to both.

- (2) Any person who commits an offence under these regulations is liable on the second or any subsequent conviction for that offence—
 - (a) on indictment, to a fine not exceeding 400,000 dollars or to imprisonment for a term of not more than 5 years, or to both; or
 - (b) on summary conviction to a fine not exceeding 100,000 dollars or to imprisonment for a term of not more than 2 years, or to both.