

RDC  
1

**GAZETTE OF ERITREAN LAWS**  
**PUBLISHED BY THE GOVERNMENT OF ERITREA**

**Vol. 14/2005 No. 8 Asmara, 30<sup>th</sup> October, 2005**

**Price Nakfa 10:00**

**Legal Notice No. 103/2005**

**The Eritrean Port Regulations**



1st copy

## LEGAL NOTICE NO. 103/2005

# THE ERITREAN PORT REGULATIONS

## PART I

### General Provisions



#### 1. Short Title

These Regulations may be cited as "The Eritrean Port Regulations, Legal Notice No. 103/2005".

#### 2. Repeal


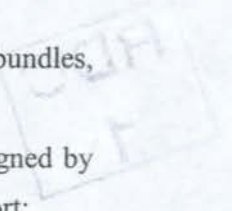
The Eritrean Port Regulations, Legal Notice No. 46/2000 and all Sea Port Regulations and directives heretofore in force in the Eritrean Ports concerning matters provided for in these Regulations are hereby repealed and replaced.

#### 3. Definitions

In these Regulations, unless the context otherwise requires:

- (a) "animal" means animate things of every kind except human beings;
- (b) "cargo" includes all kinds of goods loaded into or unloaded from a ship other than animals;
- (c) "craft" means any boat licensed by the Port Authority to work or operate within the limits of a port and includes fishing, tug, mooring, pilot boat, rowing and pleasure boats;
- (d) "danger area" means an area of defined dimensions of a port so declared by notice by the Port Authority;
- (e) "dangerous goods" means explosives, inflammable and poisonous goods, ignitable or easily kindled by exposure to air, light, heat, water or dampness and includes goods specified in Article 61 of these Regulations;
- (f) "dangerous petroleum" means petroleum having a flash point of 22.5° C (73° F) or less;
- (g) "day" means the time from 0600 to 1800 hours local time;
- (h) "goods" shall have the same meaning as cargo;
- (i) "Master" means any certified person, having command of a ship;
- (j) "night" means the time from 1800 to 0600 hours local time;
- (k) "oil berth" means the area of a port where oil or petroleum is discharged from or loaded into a vessel into or from shore oil installations;



- 
- 
- (l) "packed goods" means goods in bales, bags, drums, tins, containers, cartons, bundles, pallets or other receptacles of a similar nature;
  - (m) "pilot" means a qualified person certified by the Ministry and officially assigned by the Port Authority to assist the Master of a ship when manoeuvring within a port;
  - (n) "pollution" means any alteration of the environment caused by discharging waste, chemicals, hazardous substance or other pollutants in a manner which creates a hazard or potential hazard to human beings, biodiversity, or the socio-economic conditions;
  - (o) "port" means the area of the sea and the land adjacent to it as may be declared by Regulations and includes all port facilities and appliances;
  - (p) "Port Authority" shall have the meaning ascribed to it by the Massawa Port Authority and Assab Port Authority Establishment Proclamation No. 148 / 2005;
  - (q) "port services" means the berthing and unberthing of vessels in a port, towage and pilotage of vessels, loading and unloading of goods on or from vessels, trucks and other inland transport vehicles, embarkation and disembarkation of passengers on or from vessels, transport of goods within a port, fire fighting services, ship handling, supply of fresh water and bunkering, warehousing and other similar services;
  - (r) "Proclamation" means the Massawa Port Authority and Assab Port Authority Establishment Proclamation No. 148/ 2005;
  - (s) "prohibited area" means an area defined by the Port Authority within which the navigation of a vessel or any other activity is prohibited;
  - (t) "restricted area" means an area defined by the Port Authority within which the navigation of a vessel or any other activity is restricted in accordance with certain specified conditions;
  - (u) "sea worthiness" means the fitness in construction, equipment, stowage plans, provisions and manning of a vessel to safely undertake its intended functions as verified by the Port Authority; and
  - (v) definitions provided in Article 2 of the Port Authority Establishment Proclamation No.148/2005 shall also apply to these Regulations.

#### **4. Scope of Application**

- (1) These Regulations shall apply to all Eritrean ports.
- (2) The use of the services and the facilities of the Eritrean ports shall constitute consent to the terms and conditions of these Regulations and evidences an agreement on the

part of all vessels, their owners and agents, and other users of such services and facilities, to pay all charges, including any penalty and all damages to property, and to be governed by all rules and regulations contained herein.

## **Part II**

### **Port Boundaries and Access Thereto**

#### **5. The Port of Massawa**

- (1) Without prejudice to the powers given to the Massawa Port Authority under Article 3 of the Proclamation, the boundary of the existing harbour of the Port of Massawa is limited by the straight lines drawn from:
  - (a) N.  $15^{\circ} 39' 00''$ , E.  $39^{\circ} 29' 48''$  to N.  $15^{\circ} 34' 39''$ , E.  $39^{\circ} 29' 48''$  ;
  - (b) N.  $15^{\circ} 39' 00''$ , E.  $39^{\circ} 29' 48''$  towards the land, and
  - (c) N.  $15^{\circ} 39' 00''$ , E.  $39^{\circ} 29' 48''$  towards the land and includes the land area adjacent to it.
- (2) Anchorage at the existing harbour of Massawa is on the Southern line of the entrance to the port.
- (3) Pilot station at the Port of Massawa is at 0.5 nautical miles measured outwards from the entrance to the port.

#### **6. The Port of Assab**

- (1) Without prejudice to the powers given to the Assab Port Authority under Article 4 of the Proclamation, the boundary of the existing harbour of the Port of Assab is limited by the straight lines drawn from:
  - (a) Ras Luma (North) to N.  $13^{\circ} 01' 42''$ , E.  $42^{\circ} 47' 18''$  ;
  - (b) Ras Marka (South) to N.  $12^{\circ} 58' 12''$ , E.  $42^{\circ} 47' 18''$  ;
  - (c) N.  $13^{\circ} 01' 42''$ , E.  $42^{\circ} 47' 18''$  to N.  $12^{\circ} 58' 12''$ , E.  $42^{\circ} 47' 18''$  and includes the land area adjacent to it.
- (2) Anchorage at the existing harbour of Assab is beyond 0.7 nautical miles measured outwards from the northern end of the break-water.
- (3) Pilot station at the port of Assab is at 0.5 nautical miles measured outwards from the northern end of the break-water.

#### **7. Access to Ports**

- (1) The ports are out of bounds to all persons other than those given permission by the Port Authority.
- (2) The Port Authority may inspect persons inside the port as well as on their entry into and exit from the port.



- (3) Entry into port areas and exit therefrom shall be only through entrances and exits designated by the Port Authority.
- (4) Inland vehicles and other means of transport are subject to inspection upon entering or leaving the port gates. No person shall take carpentry or other sharp-edged tools inside port premises without permission from the Port Authority.

### **Part III**

## **Ships Entering and Leaving Port**

#### **8. Duty to have an Agent in Port**

A ship intending to enter a port:

- (a) shall have a duly authorised agent at the port. Such agent shall represent the ship and the ship-owner; and
- (b) shall nominate a duly authorised cargo handling firm.

#### **9. Notice of Ship's Arrival**

- (1) A ship intending to call at an Eritrean port shall give prior notice of arrival to such port seven days in advance, and final notice twenty four hours before arrival.
- (2) Ships requesting medical aid or emergency refuge or ships under force majeure shall only give immediate notice.

#### **10. Delivery of Master's Report**

The Master of a ship entering or leaving a port shall deliver a Master's Report to the Port Authority.

#### **11. Approaching and Entering a Port**

- (1) A ship approaching and entering a port shall hoist the Eritrean flag and its national flag, and display the appropriate international signals at all times throughout its stay in the port.
- (2) No ship shall pass the Pilot Station without the prior permission of the Port Authority.
- (3) The Port Authority may refuse permit of entry into a port to an unseaworthy ship. Pre-conditions may be imposed by the Port Authority when granting permit to an unseaworthy ship to enter the port.
- (4) Ships are to be piloted to berths only after the required documents have been submitted to the Port Authority and permission has been granted by the latter.
- (5) The Master of a ship suspected of the existence of infectious or epidemic diseases onboard or ships coming from areas suspected of infectious or epidemic diseases shall notify the Port Authority of such facts before the date of estimated arrival at the port and shall wait at the anchorage area until a hygiene and health quarantine officer

embarks on the ship and the Port Authority gives entry permit based on the recommendation of the hygiene and quarantine officer.

- (6) A ship entering or leaving a port or manoeuvring in a port shall not exceed a speed greater than that directed by the pilot.

**12. Priority of Entering or Leaving the Commercial Harbour**

- (1) Unless the Port Authority orders otherwise, a departing ship shall have priority over an entering ship in a commercial harbour.
- (2) Unless the Port Authority orders otherwise, where two ships are ready to leave a commercial harbour, the ship nearest to the entrance shall proceed first.
- (3) In all other cases entry into or exit from a commercial harbour shall be in order of arrival or readiness for departure, as the case may be.

**13. Allotment of Berth and Moorings**

Allotment of berths or mooring shall be determined on a first-come-first-served basis unless the Port Authority directs otherwise. No ship shall have the right to any particular berth or mooring.

**14. Towage**

- (1) Towage shall be provided by the Port Authority upon payment of the required fees.
- (2) When towage is provided by the Port Authority, the Master and crew of the tug boat shall be considered employees of the hirer and shall be under his control or that of his agents.
- (3) The Port Authority shall not, while towing, bear or be liable for damage of any description caused by or to the tug, or caused by or to the hirer's vessel, or for the loss of the tug or the hirer's vessel or for any personal injury or loss of life, arising from any cause whatsoever and the hirer shall pay for all loss, damage, personal injury or loss of life.

**15. Use of Tugs**

Any ship wishing to move within a port shall employ tugs only for the purposes of operation and safety of the port and the ship.

**16. Manoeuvring in Port**

- (1) A ship may not manoeuvre in a port if a black ball by day or a red light by night is displayed from the signal tower.
- (2) A ship manoeuvring in a port shall have its anchors ready for immediate use.
- (3) All ships shall observe the relevant rules of the Collision Regulation (COLREG) during their movement within port boundaries.



**17. Length of Moorings not to be Varied**

A ship may not vary the length of its moorings made fast to a bollard. The Port Authority may examine such moorings whenever it deems it necessary.

**18. Shifting of Ships within a Commercial Harbour**

(1) No ship may shift or change the berth or mooring allotted to it without the prior permission of the Port Authority.

(2) A ship shall shift to another berth or mooring when ordered to do so by the Port Authority. Where it fails to do so, the Port Authority shall have the power and authority to go aboard such vessel, with such assistance as it may deem it necessary, and remove such vessel to such point and in such a manner it may deem proper. The person in charge of the vessel shall, in addition to the penalty prescribed, be liable for all expenses incurred in the removal of the vessel.

**19. Lowering of Boats**

A ship may not, without the prior permission of the Port Authority, lower any boat within a port.

**20. Immobilization of Engine**

A ship may not, without the prior permission of the Port Authority, immobilize its main or auxiliary engines within a port.

**21. Duty Watch**

A ship within a port shall, at all hours, have a minimum of one-third (1/3) of the crew on board to perform any duty which may become necessary at any time.

**22. Disembarkation of Passengers**

(1) Passengers may not be disembarked before health, immigration and other legal procedures are completed.

(2) A ship carrying passengers which is forced to wait at anchorage for lack of berth shall, within six hours of arrival, clear all the necessary formalities.

**23. Facilitation for Transit Passengers and Repatriation of Ship's Crew**

Once a ship has cleared the necessary immigration, quarantine and any other legal formalities:

(a) the agent of the ship shall facilitate all immigration formalities for transit passengers upon their request;

- (b) the ship shall be entitled to be issued with port passes enabling the crew to enter the port and embark on the ship and the ship's agent shall be responsible for receiving from and returning the same to the Immigration Office; and
- (c) the agent of the ship shall facilitate all immigration formalities for repatriation of the ship's crew.

**24. Sailing Permit**

- (1) A ship may not leave a port before securing a sailing permit. The Port Authority shall have the power to refuse to grant a sailing permit to a ship unless the agent submits Customs and Immigration clearance documents.
- (2) The Port Authority may refuse to give a ship permit to leave the port if the ship is unseaworthy, over-loaded, improperly loaded, insufficiently-supplied or undermanned or otherwise defective, creating danger to safety of navigation, or to the health of people on board, or if it does not fulfil the requirements of the ship's papers.

## **Part IV Pilotage**

**25. Certification and Permits of Pilots**

- (1) Upon receipt of a written application for a competence certificate as a pilot, the Ministry shall assess the application in light of the following criteria:
  - (a) whether the applicant has credentials from an accredited nautical institution certifying his qualification as a pilot or that he has passed both theoretical and practical examinations prepared by the Port Authority;
  - (b) whether the applicant has a medical certificate from a certified medical doctor indicating physical (vision and hearing) and mental fitness.
- (2) The Ministry may, as a temporary and emergency measure, authorise a competent person who has not obtained a permit to act as a pilot subject to such conditions as it deems necessary.

**26. Cancellation of Pilot's Permit**

The Ministry may cancel or suspend the permit of a pilot if it is satisfied upon enquiry that the individual is negligent in his duties as a pilot or behaves in a manner inconsistent with the proper performance of his duties and responsibilities.



**27. Duty of a Pilot**

The duty of a pilot is confined to offering advice to the Master of the ship.

**28. Liability in Case of Pilotage**

- (1) The ship shall bear all damages or losses caused to itself, to the port or to other third parties.
- (2) The ship shall be held responsible for any loss or damage caused to the pilot boat or injuries to or death of its crew or the pilot, during the process of the pilot's embarkation on or disembarkation from the ship.

**29. Pilotage in General**

- (1) Unless exemption is granted by the Port Authority, pilotage is compulsory at all Eritrean ports for ships entering or leaving a port or manoeuvring within a port.
- (2) A ship not entering a port may not be required to have a pilot, but may be supplied on request, if available.
- (3) Ships may be piloted to berths only after the proper documents have been submitted to the Port Authority.

**30. Exemption from Pilotage**

- (1) All marine crafts owned by the Ministry, all ships under 200 G.T., and all Eritrean war ships are exempt from pilotage.
- (2) A ship of less than 500 G.T., flying the Eritrean flag and registered in the Eritrean Shipping Register may enter or leave a port or manoeuvre within a port without having a pilot on board, provided the Port Authority issues an exemption certificate to the Master.

**31. Validity of Exemption Certificate**

An exemption certificate issued under Article 30 hereof shall be valid for two years, and subject to annual renewal, unless the Port Authority revokes it on valid grounds.

**32. Display of Signals**

Signals prescribed in the International Code of Signals shall be displayed by:

- (a) the Master of a ship provided with an exemption certificate to manoeuvre a ship within a port without a pilot;
- (b) a ship approaching a port and requiring pilotage services;
- (c) a ship manoeuvring in a port with a pilot on board; and
- (d) a ship leaving a port and requiring a pilot two hours before its estimated time of departure.

**33. Duties of the Master**

- (1) The Master shall set the ladder for the pilot in accordance with the specifications and terms mentioned in the appropriate international convention for maritime safety.
- (2) The Master of a ship shall inform the pilot of the nature of dangerous cargo on board, if any, draught, length and beam of the ship, and any damage to or defect of the ship which may affect the manoeuvring thereof.

**34. Pilotage Dues**

Pilotage dues shall be paid by the ship in accordance with the Eritrean Port Tariff Book.

## **Part V**

### **Loading and Unloading**

**35. Submission of Documents**

A ship shall, forty-eight hours before arrival at a port, submit to the Port Authority a list of the passengers who will disembark or embark and a true copy and a duplicate of the cargo manifest to be loaded or unloaded and other documents as may be required. No vessel may commence loading or unloading cargo unless these documents have first been presented to the Port Authority.

**36. Formalities for Export and Transhipment Cargo**

The agent of export or transhipment cargo shall, before commencement of loading, fulfil in advance all necessary customs and other legal formalities for shipment. No cargo may be loaded without a Customs release order.

**37. Conditions for Loading and Unloading**

- (1) Loading and unloading of cargo shall commence only upon a written request by the Master and after permission is granted by the Port Authority, provided however, that the ship shall be liable for payment of any expense incurred where the ship withdraws its request.
- (2) The Port Authority may:
  - (a) refuse to permit cargo to be unloaded if it deems it dangerous and a threat to property or life;
  - (b) order loading or unloading to be stopped if it deems it necessary; and
  - (c) after notifying a cargo owner, Customs and other authorities concerned, order for disposal of or dispose of or destroy the damaged goods which may cause harm to installations, equipment, other property or public health.



**38. Priority of Loading and Unloading**

Unless otherwise ordered by the Port Authority, ships shall be loaded or unloaded in order of their arrival.

**39. Preparation by Ship**

A ship shall, before commencing loading or unloading of cargo, prepare all necessary equipment and facilities for loading or unloading.

**40. Presence During Loading and Unloading**

Loading and unloading shall be performed in the presence of the Master or an officer delegated by the Master, and the agent.

**41. Efficiency**

A ship shall load and unload cargo with all reasonable dispatch 24 hours a day and 7 days a week.

**42. Cargo Dropped Over-Board and Sunk**

If cargo is dropped over-board and sunk within a port, the ship shall immediately report it to the Port Authority and recover it, provided that where the ship is unable to recover the cargo, the Port Authority may recover it at the expense of the ship owner.

**43. Marking and Measurement of Cargo**

- (1) All cargo to be loaded into or unloaded from a ship shall be properly marked and the measurements and weights thereof displayed thereon.
- (2) The Port Authority shall not be responsible for any improper marking or faulty measurement of cargo.
- (3) In case of any doubt, the Port Authority shall have the power to re-measure and/or re-weigh the cargo at the expense of the owner for cargo to be loaded or the cargo ship for cargo to be unloaded.

**44. Damaged Cargo**

- (1) The Port Authority reserves the right to refuse the loading or unloading of damaged cargo.
- (2) Damaged import cargo shall be placed separately for joint certification by the Customs Department, the Port Authority, the Dock Labour Supply Agency and the Master or agent. Such certification shall be final.
- (3) The Port Authority may order the cargo owner or his agent to take immediate delivery of damaged goods.

**45. Bundling of Cargo**

The ship or the cargo owner, as the case may be, shall pay all expenses incurred by the Port Authority in bundling the cargo for proper handling.

**46. Preparation of Stowage-Plan**

The ship shall be responsible for the preparation of its stowage-plan and for the consequences thereof.

**47. Export Cargo Left on Quay**

(1) Export cargo not loaded on a ship for any reason shall be shifted from the quay by the cargo owner or his agent immediately after the departure of the ship. Failing this, the Port Authority may shift the cargo at the expense of the owner, the charge of which shall be in accordance with the rate specified in the Port Authority tariff book. The Port Authority shall have the right to levy extra-charges for the occupancy of the quay by cargo.

(2) In the case of perishable cargo, the Port Authority may also sell such cargo and recover from the proceeds of such sale the expenses thereof and all other charges due to the Port Authority.

(3) The surplus after deduction of such expenses and charges shall be kept with the Port Authority up to two years. If there is no claim within two years, the owner shall forfeit his right to claim and the money shall be transferred to the Government's treasury.

**48. Service at Anchorage**

The Port Authority shall provide port services not related to cargo handling at anchorage, on request, when circumstances require such services and weather and other conditions permit.

**49. Notification of Discrepancy Between Manifest and Cargo**

The Master or agent shall, within twenty-four hours of unloading of cargo at a port, notify the Port Authority of any discrepancy between the manifest and the cargo unloaded.

**50. Outturn Report**

The Dock Labour Supply Agency shall, within five days from the date of completion of stevedoring operations, submit an outturn report to the ship's agent and Customs Department.

**51. Manifest of Cargo Shipped**

The agent of a ship shall, within twenty-four hours of the departure of the ship, submit to the Port Authority a copy of the manifest of cargo shipped.

**52. Cargo-Handling Charges**

Cargo handling charges shall be paid in accordance with the Cargo Handling Firm Tariff Book.



**53. Clearing Of Cargo**

The agent shall, before clearing the cargo from a port, submit Customs and port clearance documents to the Port Authority.

**Part VI**  
**Storage and Handling of Cargo**

**54. Shifting of Cargo**

- (1) Shifting of cargo may be ordered by the Port Authority in the interest of the safety of persons or property.
- (2) Such order may be given to the owner of cargo which is likely to cause damage or the owner of the cargo whose cargo may be affected due to proximity with the former's cargo, whichever is convenient.
- (3) In case of imminent danger, the Port Authority may, without giving any notice, shift cargo likely to cause damage, or shift cargo likely to be affected by the damage, whichever is expedient.
- (4) The owner of the cargo likely to cause damage shall pay to the Port Authority any expenses incurred.

**55. Live Animals**

It shall not be permissible to load or unload live animals in a port except for direct shipping or direct delivery.

**56. Cargo that may not be Stored**

The Port Authority reserves the right to refuse the storage of the following:

- (a) loose goods or cargo in bulk;
- (b) goods which may cause damage to persons or property;
- (c) animals;
- (d) dangerous goods;
- (e) perishable goods;
- (f) goods insufficiently or improperly packed; and
- (g) arms and ammunitions.

**57. Unclaimed Cargo**

The Port Authority shall deliver to the Customs Department any cargo not claimed within ninety days from the date of completion of stevedoring operation.

**58. Opening of Packages**

- (1) No packed cargo shall be opened without the prior permission of the Customs Department.





- (2) The consignor of dangerous goods shall, before the goods are brought into the port, give notice to the Port Authority and clear in advance all the necessary formalities for direct shipment.

**64. Display of Signals**

- (1) A ship within a port carrying dangerous cargo shall hoist the international signals indicating loading or unloading of dangerous goods.
- (2) Whosoever handles or stores dangerous goods within a port shall display the appropriate danger signals.

**65. Storage**

Without prejudice to Article 56 (d) hereof, the Port Authority shall have the power to make separate rules and conditions for the storage of dangerous goods within a port.

**66. Loading and Unloading**

- (1) Explosives shall be loaded or unloaded within a port only during daytime except with the permission of the Port Authority.
- (2) No ship may load or unload other goods simultaneously with dangerous goods.

**67. Safety Measures**

- (1) The following safety measures shall be observed on or near a ship carrying dangerous goods or in areas where such goods are handled or stored:
- (a) naked fire, steel hammering, welding and other acts likely to make sparks shall be prohibited, unless permitted by the Port Authority;
  - (b) goods likely to cause accident by exposure to dampness, rain or sunlight shall be covered well;
  - (c) damaged packages shall be repaired or where reparation is impossible the necessary precautionary measure shall be taken; and
  - (d) all necessary precautions shall be observed to avoid the falling or rolling off of dangerous goods, and dangerous goods may, in no case, be dragged or rolled.
- (2) No person, other than a person deployed to work near or on board a ship, may be allowed to be on board or go near a ship carrying dangerous goods.

**68. Ship Calling at a Port**

A ship carrying dangerous goods and seeking assistance or services may enter a port, provided the hatches are closed and secured and there is no threat to life or property.

**69. War Ships**

The provisions of this part shall not apply to a war ship carrying dangerous goods for its own use, provided it is not loading or unloading.

**70. Discharge of Petroleum and other Liquid or Semi-Liquid Substances**

- (1) Petroleum shall be discharged only at an oil-berth or jetty.
- (2) Petroleum in barrels or other container may be transported, loaded or unloaded within a port with the prior permission of the Port Authority, provided that the Port Authority may refuse the transport, loading or unloading of petroleum within a port if it deems the container thereof susceptible to leakage or breakage.
- (3) The Master of a ship or his representative shall be present and supervise the ship during loading and unloading of petroleum, provided, however, in the case of failure of sufficient supervision, the Port Authority shall have the power to suspend the loading or unloading of dangerous petroleum or to take any other action which may be necessary to avoid danger.
- (4) Ships carrying petroleum or ships still not free from gas after having discharged petroleum may not, unless otherwise ordered by the Port Authority, be berthed, unberthed, or manoeuvred within the limits of the port at night.
- (5) A ship loading or unloading petroleum or other substances in liquid or semi-liquid form shall plug all scuppers in such a manner as to make them tight and take any other precaution to prevent leakage or discharge into the areas or waters of the port.

**71. Bunkering**

The Master or his representative shall be on board at the time when a ship is taking bunkers and shall be responsible for ensuring that bunkering rules are observed and all reasonable safety precautions taken.

## **Part VIII**

### **General Safety Measures**

**72. Readiness**

A ship in a port shall at all times be ready for shifting.

**73. Prevention of Collision**

A ship within a port shall, whether underway or not, display the appropriate lights and observe the rules laid down in the current Convention on the International Regulations for Prevention of Collisions at Sea (COLREG).

**74. Lights within a Port**

No light which may impede the manoeuvring of ships shall be displayed within a port.

**75. Use of Fire or Material Emitting Heat**

No person may, without the prior permission of the Port Authority, make fire or use materials emitting spark or heat likely to cause fire within a port.



**76. Starting of Propellers**

A ship berthed alongside a quay or anchored near a buoy may not start its propellers, without the prior permission of the Port Authority.

**77. Sending Down Divers**

A ship berthed in a port may not send down divers to perform any operation on its bottom before securing permission from the Port Authority.

**78. Tankers**

A tanker shall be made gas-free before entering a port. No tanker may be made gas-free within the port.

**79. Decks and Gangways**

- (1) The decks and gangways of a ship shall be made free of slippery or oily materials.
- (2) The gangway shall also be provided with guard-rails on both sides, properly secured and clearly lighted at night.

**80. Coaming of Hatches**

The coaming of the hatches less than 50 centimetres in height above the deck shall be fenced around to a height of one meter and closed when not in use.

**81. Ships in Danger**

- (1) Where a ship within a port is in danger due to fire, explosion or another cause, or is in distress, it shall immediately report to the Port Authority with sirens or whistles and display the appropriate light signals or flags or use any other means available to notify the Port Authority while taking immediate measures to avert the danger.
- (2) The Port Authority may order such a vessel to move to another place. The Port Authority may also order tugs to take the necessary action. All expenses shall be covered by the ship.
- (3) All persons near a ship displaying danger signals shall observe the instructions issued by the Port Authority.
- (4) A ship may not leave its berth, mooring or anchorage while another ship is displaying danger signals, unless otherwise ordered by the Port Authority.

**82. Departing Ships**

A ship may not leave its berth or mooring before cranes and other port appliances at its side are moved to a safe position.

**83. Dropping Anchors**

A ship may not drop its anchors in the entrance channel of a port or any other part of a port which is not designated as anchorage area.

**84. Floating Materials or Under-Water Cables**

A ship entangled by floating materials or under-water cables in a port shall immediately stop her engines and report to the Port Authority, and may not move without the prior instruction of the Port Authority.

**85. Equipment to be Provided by the Ship**

A ship within a port shall have:

- (a) suitable save-alls to prevent persons or goods from falling over-board during loading and unloading of goods;
- (b) rat guards fitted to all mooring ropes and wires; and
- (c) proper gangways.

**86. Restricted, Prohibited and Danger Areas**

- (1) No ship may, without the prior permission of the Port Authority, enter, leave or manoeuvre in restricted, prohibited or danger areas.
- (2) The public shall be notified by the Port Authority of all restricted, prohibited and danger areas of a port by means of posters or other clear indicators.

**87. Removal of Projections**

All ships shall remove all projections likely to cause damage to a quay wall, pier, jetty, or equipment, or likely to interfere with the loading or unloading of other vessels.

**88. Tampering with Port Facilities**

- (1) No person may tamper with any port machinery or equipment without due authorization from the Port Authority.
- (2) No buoy, floating mark or any other obstruction may be laid anywhere in the port, for any reason whatsoever, without the prior permission of the Port Authority.
- (3) No person may obstruct or interfere with the free and easy access to or remove or in any way tamper with, any fire extinguisher, fire hose or any other fire fighting appliance or apparatus installed in the port.

**89. Abandoning Ships**

- (1) No ship may, without the prior permission of the Ministry or the Eritrean Defence Forces, be sunk, burnt, broken up, dismantled or cast ashore or adrift.



- (2) Where the Port Authority or the Eritrean Defence Forces consider any ship or wreck to be an obstacle to navigation or a danger to the environment, the Port Authority or the Eritrean Defence Forces may remove the said ship or wreck at the risk and expense of the owners.
- (3) All abandoned ships or wrecks and cargo thereon within Eritrean coastal or territorial waters shall be the property of the Eritrean Government. A ship or wreck shall be deemed to have been abandoned if the owners, having been notified by the Ministry or the Eritrean Defence Forces to remove the same, refuse or neglect to do so within a reasonable period of time not exceeding six months.

**90. Protection of Marine Environment against Pollution**

- (1) No ship may pollute or by pollution cause damage to the marine environment or injury to human beings and/or biodiversity.
- (2) Damage or injury caused by pollution under sub-article (1) above shall render the ship liable for compensation and other remedies and measures under the relevant national laws and international conventions.

**91. Works Causing Nuisance**

A ship may not wash decks, scrap rust or carry other work likely to cause foul or noise or to disturb the traffic of the surroundings within a port, provided that such work may be performed with the prior permission of the Port Authority.

**92. Use of Sound Signals**

No ship may make use of sound signals within a port except when making way for emergency reasons or otherwise instructed or permitted by the Port Authority.

**93. Restricted Activities**

No person may, without the prior permission of the Port Authority, row, swim, dive, fish, bath or engage in any kind of water sport within a port or photograph, or make, reproduce, publish, or distribute charts or sketches of any Eritrean port or parts thereof.

## **Part IX**

### **Permission for Work Within a Port**

**94. Permit**

No person may engage in any activity within a port unless he has a valid work permit from

the Port Authority in addition to a business licence issued by the appropriate authority.

**95. Condition for Issuing Permit**

A permit for any activity within a port shall be issued by the Port Authority when there is a need for the activity upon:

- (1) Presentation of the required competency and qualification documents as stipulated by the Port Authority guidelines for issuance of permits;
- (2) Presentation of documents which indicate the availability of necessary equipments and gears, in accordance with list of such requirements for every activity area stipulated, be operational or safety, owned and ready to the disposal of the applicant;
- (3) Verification that the applicant has sufficient knowledge of the Port Regulations and other procedural guidelines of the Port Authority; and
- (4) Clearances from repeated and frequent contraventions of the Port Regulations.

**96. Validity of a Permit**

- (1) A permit for activity within a port shall cease to be valid at the end of the fiscal year unless renewed within seven days from the date of expiry by payment of the prescribed fee.
- (2) Notwithstanding sub article (1) above, the permit shall cease to be valid upon the expiry, cancellation, revocation or suspension of the licence, provided that a permit may be renewed after the lapse of the aforesaid seven days upon payment of fine, and further provided that the applicant is in possession of a valid business licence.

**97. Suspension or Cancellation of a Permit**

The Port Authority shall have the power to suspend for a definite period or to cancel a permit issued under this part, if the holder of the permit fails to comply with these Regulations.

**98. Obligations of a Permit Holder**

- (1) The acceptance of a permit shall signify consent by the permit holder to be governed by these Regulations and other relevant laws.
- (2) The holder of a permit shall pay service charges to the Port Authority and shall also be liable for any loss or damage caused by him.
- (3) No permit may be transferred or assigned or otherwise used by any person other than the named permit holder.

**99. Prohibition to Sail**

Where it is ascertained that a vessel is not fit to sail, the Ministry or the Port Authority shall take the necessary measures to prevent the vessel from sailing.



## **Part X**

### **Use of Port Appliances, Liability and Penal Provisions**

#### **100. Use of Port Appliances**

Loading and unloading of ships shall be carried out only by the use of port appliances supplied by the port, provided the port has the appliances.

#### **101. Conditions of Hire**

- (1) When any equipment or craft is hired, it is expressly understood that such hired equipment or craft shall be operated under the direction or control of the hirer, and the hirer shall be responsible for the operation thereof, and shall assume all risks for injuries or damages caused to or by such equipment.
- (2) In the event that the hirer uses the operator of said unit employed by the port, such operator shall be under the direction of the hirer and the hirer shall be responsible for the acts of such operator during the time of hire.
- (3) Hirers of all port equipment or craft agree that, upon termination of the period of hire, the equipment or craft shall be redelivered to that port in the same condition it was in when received, ordinary wear and tear being excepted.
- (4) The Port Authority reserves the right to terminate the hire of any equipment or craft and reassign the same to another operation when circumstances justify it.

#### **102. Charges**

The charges to be paid for the use of port appliances shall be determined as per the Eritrean Port Tariff Book.

#### **103. Accident and Damages**

- (1) The master of a vessel shall immediately report to the Port Authority all accidents and damages caused to the port, to other vessels or to property during berthing, unberthing or other manoeuvres.
- (2) The Port Authority shall not be held liable for any loss or damage caused to the vessel or other vessels or persons or property during berthing or unberthing operations or when the vessel is shifting.

#### **104. Careless Stowage or Improper Handling**

The Master or owner of the vessel shall be held liable for any loss of life or injury to persons or damage to property arising from careless stowage or improper handling of cargo on board the vessel.

#### **105. Ship's Liability**

- (1) The ship shall be liable for any damage it causes to a vessel or to cargo or to any other

third party's property during loading or unloading operation, except for proven negligence on the part of the port cargo handling firm in which case the latter shall be liable.

- (2) The ship shall be liable for the death or injury of a person arising from operational work, unless it is the proven negligence of the Port Authority or cargo handling firm.
- (3) The ship shall not be liable where it is proved that the damage or injury had no connection with the operational work of the ship.

**106. Liability for Cargo in Port**

- (1) The port shall not be liable for any damage, however caused, to cargo left in the port for over 35 days from the date of completion of stevedoring operations.
- (2) A person shall be entitled to make a claim for the loss of goods and may treat the goods as lost, if they have not been delivered within 60 consecutive days following the time for delivery request made by the consignee or his agent.

**107. Port Users' Liability**

- (1) The ship's agent or the shipper shall be liable for damage which might arise as a result of incorrect, unclear or incomplete entries in the cargo manifest or in any other document submitted by them.
- (2) If port labour and appliances are left idle the responsible party shall be liable for costs resulting therefrom.
- (3) If a port user damages port appliances or facilities, the port user shall be liable; if otherwise the damage arises from gross negligence on the part of the Port Authority, the Port Authority shall shoulder the liability.

**108. Port Authority's Liability**

- (1) The Port Authority shall not be liable for any loss, damage, accident or delay caused by failure of mechanical or electrical appliance unless such failure is caused by the negligence of the Port Authority.
- (2) The Port Authority shall not be liable in respect of the contents or description of packages and any differences in weight or measurements or descriptions shown in the ship's manifest or any invoice or other document relating to goods.
- (3) Notwithstanding any provision in these Regulations to the contrary, the Port Authority shall not be liable for loss or damage to any goods deposited within the port arising from acts of war, weather conditions, natural calamities, rain, heating, leakage, evaporation, natural shrinkage, wastage or decay, insufficient or improper packing, wrong, defective or insufficient marks, contamination, congestion, animals, rodent, months, weevils or other insects, any deficiency in the contents of broken packages, leakage or discharge from fire protection system saving or attempting to save life or



property, the dangerous nature of the goods, any act or order of the Government, strikes, lock-outs, or stoppages, or restraints of labour for whatever cause, whether partial or general, riots, or civil commotions, insurrection, acts of public enemies, shortage of labour, seizure under legal process, any causes unavoidable or beyond the port's control, concealed damage, spoilage of dried or refrigerated cargo, or any other cause arising other than from the negligence of the Port Authority.

- (4) Unless notice of loss or damage, specifying the general nature thereof, is given in writing by the consignee or his agent to the Port Authority on the day when the goods are handed over to the consignee or the agent, such handing over shall be prima facie evidence of the delivery, in good condition, by the Port Authority of the goods described in the document of transport.
- (5) In the case of any loss or damage, the carrier, Port Authority, Dock Labour Supply Agency, consignee or his agent, and all other concerned parties shall have a duty to co-operate with each other for inspecting and tallying the goods.

#### **109. Limitation of Liability of the Port Authority**

- (1) The liability of the Port Authority resulting from loss of or damage to goods is limited to an amount equivalent to 835 units of account per package or the shipping unit or 2.5 units of account per kilogram of the gross weight of the goods lost or damage, whichever is the higher.
- (2) For the purpose of calculating which amount is the higher in accordance with sub-article (1) of this Article, the following rules shall apply:
  - (a) where a container, pallet or similar article of transport is used to consolidate goods, the package or other shipping units enumerated in the bill of lading, as packed in such article of transport, are deemed, packages or shipping units. Except as aforesaid, the goods in such article of transport are deemed one shipping unit; and
  - (b) in the case where the article of transport itself too has been lost or damaged that article of transport shall be considered one shipping unit.
- (3) The unit of account referred to in sub-article (1) of this Article is the Special Drawing Right as defined by the International Monetary Fund. The amount mentioned in sub-article (1) hereof is to be converted into the national currency according to the value of such currency in relation to the Special Drawing Right at the date of completion of discharging operations.



#### **110. Limitation of Action**

Action for loss or damages not brought against the Port Authority within one year from the date on which the goods have been delivered or should have been delivered shall be barred.

#### **111. Penalty**

- (1) A ship or its agent that contravenes any of the provisions of these Regulations except those dealing with safety and pollution shall be liable to a fine not exceeding 10,000 Nakfa.
- (2) A ship or its agent that contravenes any of the provisions of these Regulations dealing with safety shall be liable to a fine not exceeding 15,000 Nakfa.
- (3) A ship or its agent that contravenes any of the provisions of these Regulations dealing with pollution control shall be liable to a fine not exceeding 100,000 Nakfa.

#### **112. Power to Detain a Vessel**

- (1) Where the Ministry, the Port Authority or the Eritrean Defence Forces has reasonable cause to believe that a marine pollutant has been discharged from a vessel within Eritrean coastal and territorial waters, the Ministry, the Port Authority or the Eritrean Defence Forces may cause the vessel to be detained in Eritrea until the owner or agent of the vessel deposits with the Ministry, the Port Authority or Eritrean Defence Forces a sum of money or furnishes such security which would, in the opinion of the Ministry, the Port Authority or the Eritrean Defence Forces, be adequate to meet the owner's liability and the costs incurred in removing the marine pollutant from the coastal and territorial waters of Eritrea.
- (2) The Ministry or Port Authority shall have the right to detain a ship that has caused damage to persons, quays or installation, or equipment or has failed to pay any other lawful charges until compensation of the lawful charges is paid or security is given by the owner or Master or agent of the ship.

#### **113. Judicial Review**

- (1) A person aggrieved by an adverse decision or action under Articles 25 and 26 hereof may, within thirty days after such decision or action has been rendered or taken, respectively, seek a review by the High Court of Eritrea.
- (2) A person aggrieved by an adverse decision or action of the Port Authority under Articles 23, 24, 96 and 97 hereof, may, within ten days after such decision or action



has been rendered or taken, respectively, seek review by the Minister. Where he is not satisfied by the decision or action of the Minister, he may, within thirty days after such decision or action, further seek review by the High Court of Eritrea.

(3) The High Court shall set aside a decision which it finds:

- (a) arbitrary, an abuse of discretion or otherwise not consistent with law; or
- (b) not made consistent with the required procedures; or
- (c) unsupported by substantial evidence.

(4) The decision of the High Court shall be final.

#### **114. Entry into Force**

These Regulations shall enter into force as of date of their publication in the Gazette of Eritrean Laws.

Done at Asmara, this 30<sup>th</sup> day of October, 2005

Government of Eritrea