Revised Regulations of Anguilla: M82-2

MERCHANT SHIPPING ACT (R.S.A. c. M82)

SHIP AND PORT FACILITY SECURITY REGULATIONS

Note: These Regulations are enabled under section 71 of the Merchant Shipping Act, R.S.A. c. M82.

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Preliminary

Interpretation

1. (1) In this Part—

"Act" means the Merchant Shipping Act;

"Administration" means the Maritime Authority of the State, other than Anguilla, whose flag the ship is entitled to fly;

"Anguilla Air and Sea Ports Authority" means Authority established by section 2 of the Anguilla Air and Sea Ports Authority Act and includes any person acting under his express or implied authority;

(Am. in L.R. 15/12/2010)

"authorised person" means a person authorised in writing by or on behalf of the Anguilla Air and Sea Ports Authority or the Maritime Administration for the purposes of these Regulations;

"bulk carrier" means a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk, and includes such types as ore carriers and combination carriers;

"certificate" means an International Ship Security Certificate or an Interim International Ship Security Certificate issued in accordance with part A of the ISPS Code;

"chemical tanker" means a cargo ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the IBC Code;

"company" means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISPS Code;

"company security officer" means the person designated by the company for ensuring that a ship security assessment is carried out; that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained, and for liaison with port facility security officers and the ship security officer;

"Contracting Government" means the government of a State which is party to the International Convention for the Safety of Life at Sea;

"Declaration of Security" means an agreement reached between a ship and either a port facility or another ship with which it interfaces, specifying the security measures each will implement;

"Designated Authority" means—

(a) the organization(s) or the administration(s) identified as responsible for ensuring the implementation of the provisions of Chapter XI-2 of the Safety Convention pertaining to port facility security and ship/port interface from the point of view of the port facility; and

(b) in the case of Anguilla, the Maritime Administration consisting of the following persons—

(i) Permanent Secretary, Ministry of Infrastructure, Construction, Utilities and Housing,

(ii) Anguilla Air and Sea Ports Authority,

(iii) Registrar of ships;

"gas carrier" means a cargo ship constructed or adapted for the carriage in bulk of any liquefied gas or other liquid product in chapter 19 of the IGC Code;

"Government" means the Governor in Council of Anguilla;

"high speed craft" means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding $3.7\nabla^{0.1667.}$ where $\underline{\nabla}$ = displacement corresponding to the design waterline (m3);

"IBC Code" means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.19(22), as may be amended and adopted by the Organization and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix to an Annex;

"IGC Code" means the International Code for the Construction and Equipment of Ships Carrying Liquified Gases in Bulk, 1983, as amended;

"ISM Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by IMO by Resolution A.741 (18), together with any amendments, which may be in effect in respect of Anguilla;

"ISPS Code" or "Code" means the International Code for the Security of Ships and of Port Facilities, as adopted on 12 December, 2002, by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 and any amendments that may be in effect for Anguilla;

"Maritime Administration" is the Designated Authority for Anguilla;

"mobile offshore drilling unit" means a vessel capable of engaging in drilling operations for the exploration for or the exploitation of resources beneath the seabed such as liquid or gaseous hydrocarbons, sulphur or salt, when not on location;

"oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes—

(a) a combination carrier;

(b) a chemical tanker as defined in Chapter III of the Safety Convention, when it is carrying a cargo or part cargo of oil in bulk; and

(c) a gas carrier as defined in regulation 3.20 of Chapter II-1 of the Safety Convention, when it is carrying a cargo or part cargo of oil in bulk;

"Organization" means the International Maritime Organization;

"port facility" means a location, as determined in Anguilla by the Maritime Administration, or elsewhere by the relevant governmental authority, where the ship/port interface takes place, including areas such as anchorages, waiting berths and approaches from seaward, as appropriate;

"port facility operator" means any person operating a port facility or such other person as may be designated for the purposes of this Part by the Maritime Administration as port facility operator for one or more port facilities;

"port facility security assessment" means an assessment of the security of a port facility (or more than one port facility) carried out in accordance with section 15 of part A of the ISPS Code;

"port facility security officer" means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and company security officers;

"port facility security plan" means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship's stores within the port facility from the risks of a security incident;

"Registrar of ships" means the person for the time being responsible for the registration of ships in Anguilla;

"recognized security organization" means an organization with appropriate expertise in security matters and with appropriate knowledge of ship and port operations authorized to carry out an assessment, or a verification, or an approval, or a certification activity, required by this chapter or by part A of the ISPS Code;

"restricted zone" means a zone to which access is restricted for security reasons pursuant to these Regulations;

"security incident" means any suspicious act or circumstance threatening the security of a ship, including a mobile offshore drilling unit and a high speed craft, or of a port facility or of any ship/port interface or any ship to ship activity;

"security level" means the qualification of the degree of risk that a security incident will be attempted or will occur;

"ship/port interface" means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship;

"ship to ship activity" means any activity not related to a port facility that involves the transfer of goods or persons from one ship to another;

"tons" means gross tonnage.

(2) The term "all ships", when used in Part 1, means any ship to which that Part applies.

(3) In these Regulations, when any reference is made to part A of the ISPS Code, the guidance in part B of the Code in relation to that matter shall be taken into account in construing part A.

(4) For the purposes of these Regulations, references in Part A of the Code to the Administration shall in relation to Anguilla ships be references to the Anguilla Air and Sea Ports Authority.

(5) For the purposes of Part 1, a person is permitted to have access to a restricted zone of a port facility if he is permitted to enter that zone or if arrangements exist for permitting any of his employees or agents to enter that zone.

PART 1

SPECIAL MEASURES TO ENHANCE MARITIME SECURITY

General

Application

2. (1) Subject to subsection (6), this Part of these Regulations applies to—

(a) the following types of ships engaged on international voyages—

(i) passenger ships, including high-speed passenger craft,

(ii) cargo ships, including high-speed craft, of 500 tons or more, and

(iii) mobile offshore drilling units; and

(b) port facilities serving such ships engaged on international voyages.

(2) This Part shall also apply to any port facility specified in a Notice issued by the Maritime Administration, which although used primarily by ships not engaged on international voyages, is required, occasionally, to serve ships arriving or departing on international voyages.

(3) A Notice referred to in subsection (2) shall not be issued without a port facility security assessment for that port facility having been done in accordance with section 15 of part A of the ISPS Code and the Notice shall specify the extent of application of this Part and the relevant sections of part A of the ISPS Code to the facility.

(4) Any Notice under subsection (2) shall not compromise the level of security intended to be provided by this Part and part A of the ISPS Code.

(5) Sections 19, 20 and 21 also apply to a port facility not falling within subsection (1)(b) or (2).

(6) This Part does not apply to—

(a) warships;

(b) naval auxiliaries; or

(c) other ships owned or operated by parties to the Safety Convention and used only on government non-commercial service.

Security measures: responsibilities of Anguilla Air and Sea Ports Authority

3. (1) Without prejudice to any other duties under these Regulations, the Anguilla Air and Sea Ports Authority shall—

(a) in accordance with section 4 of part A of the ISPS Code, set security levels and ensure the provision of security level information to Anguilla ships;

(b) when changes in security level occur, update security level information as the circumstance dictates;

(c) indicate when a Declaration of Security is required for an Anguilla ship;

(d) approve the ship security plan and relevant amendments to a previously approved plan.

(2) The Anguilla Air and Sea Ports Authority may delegate the Authority's responsibilities under this Part to a recognised security organisation, except the following—

(a) setting of the applicable security level for ships;

(b) exercising control and compliance measures pursuant to sections 19, 20 and 21;

(c) establishing the requirements for a Declaration of Security.

Security measures: responsibilities of Maritime Administration

4. (1) Without prejudice to any other duties under this Part, the Maritime Administration shall—

(a) in accordance with section 4 of part A of the ISPS Code, set security levels and ensure the provision of security level information to port facilities within Anguilla, and to ships prior to entering a port or whilst in a port within Anguilla;

(b) when changes in security level occur, update security level information as the circumstance dictates;

(c) determine which of the port authorities located within their territory are required to designate a port facility security officer (PFSO) who will be responsible for the preparation of the port facility security plan; and

(d) approve the port facility security plan (PFSP) and any subsequent amendments to a previously approved plan.

(2) The Maritime Administration may delegate to a recognised security organisation its duties under these Regulations, except—

(a) setting of the applicable security level for port facilities or ship to ship interface in Anguilla territorial waters;

(b) approving a port facility security assessment and subsequent amendments to an approved assessment;

(c) determining the port facilities which will be required to designate a port facility security officer;

(d) approving a port facility security plan and subsequent amendments to an approved plan;

(e) exercising control and compliance measures pursuant to sections 19, 20 and 21; and

(f) establishing the requirements for a Declaration of Security.

Ships

Requirements for companies

5. (1) Companies shall comply with the relevant requirements of this Part and of part A of the ISPS Code. In particular, and without prejudice to any other duties under this Part, the company shall ensure that—

(a) a company security officer is appointed, and is properly trained and qualified in his duties and responsibilities;

(b) a ship security officer is appointed for each of its ships and is properly trained and qualified in his duties and responsibilities;

(c) each ship has a ship security plan; and

(d) the master has available on board, at all times, information through which officers duly authorised by any State can establish—

(i) who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity on the business of that ship,

(ii) who is responsible for deciding the employment of the ship, and

(iii) in cases where the ship is employed under the terms of charter party or parties, who are the parties to such charter party or parties.

(2) Any company which fails to comply with this section is guilty of an offence.

Ship security plans

6. (1) (a) Every ship security plan or amendment thereto shall be submitted to the Anguilla Air and Sea Ports Authority, or to a recognised security organisation he authorises on his behalf, for approval in accordance with section 9 of part A of the Code.

(b) A recognised security organisation authorised under paragraph (a) shall not have been involved in the preparation of the ship security plan or the amendment in question.

(2) The Anguilla Air and Sea Ports Authority shall determine which changes to an approved ship security plan or to any security equipment specified in an approved plan shall not be implemented unless the relevant amendments to the plan are approved by the Authority and any such changes shall be at least as effective as those measures prescribed in this Part and in Part A of the Code.

(3) Any company which does not comply with subsection (1), or otherwise fails to comply with section 9 of Part A of the Code, is guilty of an offence.

Company security officer

7. (1) The company security officer shall perform the responsibilities and duties specified in this Part and Part A of the Code, in particular those listed in paragraph 11.2 of Part A.

(2) Any contravention of this section by the company security officer is an offence.

Ship security officer

8. (1) The ship security officer shall perform the responsibilities and duties specified in this Part and part A of the Code, in particular those listed in paragraph 12.2 of part A.

(2) Any contravention of this section by the ship security officer is an offence.

Requirements for ships

9. (1) Ships shall comply with the relevant requirements of this Part and of part A of the ISPS Code.

(2) Prior to entering a port or whilst in a port within the territory of any other State, a ship shall comply with the requirements for the security level set by that State, if such security level is higher than the security level set by the Anguilla Air and Sea Ports Authority for that ship.

(3) Ships shall respond without undue delay to any change to a higher security level.

(4) Where a ship is not in compliance with the requirements of this Part or of part A of the ISPS Code, or cannot comply with the requirements of the security level set by the Anguilla Air and Sea Ports Authority or by another Contracting Government and applicable to that ship, then the ship shall notify the appropriate competent authority prior to conducting any ship/port interface or prior to entry into port, whichever occurs earlier.

(5) Where there is a breach of subsections (1) to (4) in relation to a ship then the company and the master are each guilty of an offence.

Ship security alert system

10. (1) All ships shall be provided with a ship security alert system, as follows—

(a) ships constructed on or after 1 July, 2004;

(b) passenger ships, including high-speed passenger craft, constructed before 1 July, 2004, not later than the first survey of the radio installation after 1 July, 2004;

(c) oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft, of 500 tons and upwards constructed before 1 July, 2004, not later than the first survey of the radio installation after 1 July, 2004;

(d) other cargo ships of 500 tons and upward and mobile offshore drilling units constructed before 1 July, 2004, not later than the first survey of the radio installation after 1 July, 2006.

(2) The ship security alert system, when activated, shall—

(a) initiate and transmit a ship-to-shore security alert to a competent authority designated by the Anguilla Air and Sea Ports Authority, which in these circumstances may include the company, identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised;

(b) not send the ship security alert to any other ships;

(c) not raise any alarm on-board the ship; and

(d) continue the ship security alert until deactivated and/or reset.

(3) The ship security alert system shall—

(a) be capable of being activated from the navigation bridge and in at least one other location; and

(b) conform to performance standards not inferior to those adopted by the Organization.

(4) The ship security alert system activation points shall be designed so as to prevent the inadvertent initiation of the ship security alert.

(5) The requirement for a ship security alert system may be complied with by using the radio installation fitted for compliance with the requirements of the relevant sections, provided all requirements of this section are complied with.

(6) When the Anguilla Air and Sea Ports Authority receives notification of a ship security alert relating to a ship entitled to fly the flag of Anguilla the Authority shall immediately notify the State(s) in the vicinity of which the ship is presently operating.

(7) When the Maritime Administration receives notification of a ship security alert from a ship which is not entitled to fly the flag of Anguilla, it shall immediately notify the relevant Administration and, if appropriate, the State(s) in the vicinity of which the ship is presently operating.

(8) Any contravention of subsections (1) to (4) is an offence by the company and the master.

Threats to ships

11. (1) The Maritime Administration, acting on the advice of the Governor, shall set security levels and ensure the provision of security level information to ships operating in the territorial sea of Anguilla or having communicated an intention to enter the territorial sea.

(2) The Maritime Administration, acting on the advice of the Governor, shall provide a point of contact through which such ships can request advice or assistance and to which such ships can report any security concerns about other ships, movements or communications.

(3) Where a risk of attack has been identified, the Maritime Administration shall advise the ships concerned and their Administrations of—

(a) the current security level;

(b) any security measures that should be put in place by the ships concerned to protect themselves from attack, in accordance with the provisions of part A of the ISPS Code; and

(c) security measures that the Maritime Administration put in place, as appropriate.

Master's discretion for ship safety and security

12. (1) (a) The master of an Anguilla ship shall not be constrained by the company, the charterer or any other person from taking or executing any decision which, in the professional judgement of the master, is necessary to maintain the safety and security of the ship.

(b) This includes denial of access to persons (except those identified as duly authorized by a Contracting Government) or their effects and refusal to load cargo, including containers or other closed cargo transport units.

(2) (a) Where, in the professional judgement of the master, a conflict between any safety and security requirements applicable to the ship arises during its operations, the master shall give effect to those requirements necessary to maintain the safety of the ship.

(b) In such cases, the master may implement temporary security measures and shall forthwith inform the Anguilla Air and Sea Ports Authority and, if appropriate, the Contracting Government in whose port the ship is operating or intends to enter.

(c) Any such temporary security measures under this section shall, to the highest possible degree, be commensurate with the prevailing security level and when such cases are identified, the Anguilla Air and Sea Ports Authority shall ensure that such conflicts are resolved and that the possibility of recurrence is minimised.

Verification for ships

13. (1) All Anguilla ships to which this Part applies shall be subject to initial, renewal and intermediate verifications in accordance with paragraph 19.1.1 of part A of the ISPS Code.

(2) The verification of ships shall be carried out by an officer authorised by the Anguilla Air and Sea Ports Authority, or, if he entrusts it, by a recognised security organisation.

(3) The security system and any associated security equipment of the ship after verification shall be maintained to conform with the provisions of sections 6 and 11, of part A of the ISPS Code and of the approved ship security plan and after any verification under subsection (1), no changes shall be made in the security system and in any associated security equipment or the approved ship security plan without the sanction of the Anguilla Air and Sea Ports Authority.

(4) Any contravention of subsection (1) or (3) is an offence by both the company and master.

Issue, endorsement, duration and validity of certificate

14. (1) When an initial or renewal verification is satisfactorily completed pursuant to section 13, the Anguilla Air and Sea Ports Authority or a recognised security organisation acting on his behalf shall issue or, as the case may be, endorse an International Ship Security Certificate.

(2) The International Ship Security Certificate shall be drawn up in a form corresponding to the model given in the appendix to part A of the Code.

(3) The duration and validity of an International Ship Security Certificate shall be in accordance with section 19.3 of part A of the Code.

Issue and endorsement of certificates by another Government

15. (1) The Anguilla Air and Sea Ports Authority may request another Contracting Government to verify the ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, issue or authorize the issue of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with the Code.

(2) An International Ship Security Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Anguilla Air and Sea Ports Authority and it shall have the same effect as if it was issued by the Authority.

Certificates issued or endorsed on behalf of another Government

16. (1) The Anguilla Air and Sea Ports Authority may at the request of another Contracting Government verify the ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, issue or authorize the issue of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with the Code.

(2) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of that Government and it shall have the same effect as if the Certificate was issued or endorsed by that Government and not by the Anguilla Air and Sea Ports Authority.

Interim certification

17. (1) After 1 July, 2004, for the purposes of—

(a) a ship without an International Ship Security Certificate, on delivery or prior to its entry or re-entry into service;

(b) transfer of a ship from the flag of another Government to the Anguilla register;

(c) a company assuming the responsibility for the operation of a ship not previously operated by that company;

until the Certificate referred to in section 14(1), 15(1) or 16(1) is issued, the Anguilla Air and Sea Ports Authority may cause an Interim International Ship Security Certificate to be issued, in a form corresponding to the model given in the appendix to Part A of the Code.

(2) An Interim International Ship Security Certificate shall only be issued if the Anguilla Air and Sea Ports Authority or a recognised security organisation on his behalf is satisfied that the conditions specified in section 19.4.2.1 to section 19.4.2.7 of part A of the Code are met.

(3) An Interim International Ship Security Certificate may be issued by the Anguilla Air and Sea Ports Authority or by a recognized security organization authorized to act on his behalf.

(4) An Interim International Ship Security Certificate shall be valid for 6 months, or until the Certificate required by section 14(1), 15(1) or 16(1) is issued, whichever comes first, and may not be extended.

(5) No subsequent, consecutive Interim International Ship Security Certificate shall be issued to a ship if, in the judgement of the Anguilla Air and Sea Ports Authority or the recognized security organization, one of the purposes of the ship or a company in requesting such certificate is to avoid full compliance with this Part beyond the period of the initial Interim Certificate as specified in subsection (1).

(6) For the purposes of sections 19, 20 and 21, the Maritime Administration may, prior to accepting an Interim International Ship Security Certificate as a valid Certificate, ensure that the requirements of sections 19.4.2.4 to 19.4.2.6 of part A of the ISPS Code have been met.

Prohibition on proceeding to sea without an appropriate certificate

18. (1) No Anguilla ship required to be verified under this Part shall proceed, or attempt to proceed to sea, unless there is in force a valid International Ship Security Certificate or an Interim International Ship Security Certificate.

(2) Where a ship proceeds, or attempts to proceed to sea in contravention of subsection (1) the company and the master are guilty of an offence.

Control and Compliance Measures

Control of ships in port

19. (1) (a) For the purpose of these Regulations, every ship to which this Part applies is subject to control when in a port in Anguilla by officers duly authorised by the Maritime Administration;

(b) Such control shall be limited to verifying that there is onboard a valid Certificate, which, if valid, shall be accepted, unless there are clear grounds for believing that the ship is not in compliance with the requirements of these Regulations or part A of the ISPS Code.

(2) When there are such clear grounds, or where no valid Certificate is produced when required, the duly authorized officers shall impose any one or more control measures in relation to that ship as provided in subsection (3) and such measures imposed must be proportionate, taking into account the guidance given in part B of the ISPS Code.

(3) Such control measures—

(a) are as follows—

(i) inspection of the ship,

(ii) delaying the ship,

(iii) detention of the ship,

(iv) restriction of operations including movement within the port,

(v) expulsion of the ship from port; and

(b) may additionally or alternatively include other lesser administrative or corrective measures.

Ships intending to enter a port

20. (1) The Maritime Administration may require that ships intending to enter ports in Anguilla provide the following information to duly authorized officers to ensure compliance with this Part prior to entry into port with the aim of avoiding the need to impose control measures or steps—

(a) that the ship possesses a valid Certificate and the name of its issuing authority;

(b) the security level at which the ship is currently operating;

(c) the security level at which the ship operated in any previous port where it has conducted a ship/port interface within the timeframe specified in subsection (3);

(d) any special or additional security measures that were taken by the ship in any previous port where it has conducted a ship/port interface within the timeframe specified in subsection (3);

(e) that the appropriate ship security procedures were maintained during any ship to ship activity within the timeframe specified in subsection (3);

(f) other practical security related information (but not details of the ship security plan), taking into account the guidance given in Part B of the ISPS Code;

and where requested by the Maritime Administration, the ship or the company shall provide confirmation, acceptable to it, of the information required above.

(2) Every Anguilla ship to which this Part applies intending to enter the port of another Contracting Government shall provide the information described in subsection (1) on the request of the officers duly authorized by that Government but the master may decline to provide such information on the understanding that failure to do so may result in denial of entry into port.

(3) The ship shall keep records of the information referred to in subsection (2) for the last 10 calls at port facilities—

(4) Where—

(a) after receipt of the information described in subsection (1), officers duly authorised by the Maritime Administration have clear grounds for believing that the ship is not in compliance with the requirements of this Part or part A of the ISPS Code, such officers shall attempt to establish communication with and between the ship and its Administration in order to rectify the non-compliance; and

(b) such communication does not result in rectification, or if such officers have clear grounds otherwise for believing that the ship is not in compliance with the requirements of this Part or Part A of the ISPS Code, such officers may take steps in relation to that ship as provided in subsection (5) and such steps taken must be proportionate, taking into account the guidance given in part B of the ISPS Code.

(5) Such steps are as follows—

(a) a requirement for the rectification of the non-compliance;

(b) a requirement that the ship proceed to a location specified in the territorial sea or internal waters of Anguilla;

(c) inspection of the ship, if the ship is in the territorial sea of Anguilla;

(d) denial of entry into port;

and prior to initiating any such steps, the Maritime Administration shall inform the ship of its intentions. Upon receipt of this information the master may withdraw the intention to enter that port and in such cases, this section shall not apply.

Additional control and compliance provisions

21. (1) In the event—

(a) of the imposition of a control measure, other than a lesser administrative or corrective measure, referred to in section 19(3); or

(b) any of the steps referred to in section 20(5) are taken;

an officer duly authorized by the Maritime Administration shall forthwith inform in writing the Administration specifying which control measures have been imposed or steps taken and the reasons therefor. He shall also notify the recognized security organization, which issued the Certificate relating to the ship concerned, and the Organization when any such control measures have been imposed or steps taken.

(2) When entry into port is denied or the ship is expelled from a port in Anguilla, the Maritime Administration shall communicate the appropriate facts to the authorities of the State of the next appropriate ports of call, when known, and any other appropriate coastal States, taking into account any guidelines developed by the Organization and confidentiality and security of such notification shall be ensured.

(3) Denial of entry into port, pursuant to section 20(4) and (5), or expulsion from port, pursuant to section 19(1) to (3), shall only be imposed where the duly authorised officers have clear grounds to believe that the ship poses an immediate threat to the security or safety of persons, or of ships or other property and there are no other appropriate means for removing that threat.

(4) The control measures referred to in section 19(1) and the steps referred to in section 20(5) shall only be imposed, pursuant to sections 19 and 20, until the non-compliance giving rise to the control measures or steps has been corrected to the satisfaction of the Maritime Administration, taking into account actions proposed by the ship or the Administration or the Anguilla Air and Sea Ports Authority, if any.

(5) When control is exercised under section 19 or steps taken under section 20—

(a) all possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is thereby unduly detained, or delayed, it shall be entitled to compensation for any loss or damage suffered; and

(b) necessary access to the ship shall not be prevented for emergency or humanitarian reasons and for security purposes.

Port Facilities

Port facilities: Maritime Administration responsibilities

22. (1) The Maritime Administration shall ensure that—

(a) port facility security assessments are carried out, reviewed and approved in accordance with the provisions of part A of the ISPS Code; and

(b) port facility security plans are developed, reviewed, approved and implemented in accordance with the provisions of part A of the ISPS Code.

(2) The Maritime Administration shall designate and communicate to the port facility operator and the port facility security officer the measures required to be addressed in a port facility security plan for the various security levels, including when the submission of a Declaration of Security will be required.

Port facilities: duties of port facility operator

23. (1) The port facility operator shall ensure that port facilities shall comply with the relevant requirements of this Part and part A of the ISPS Code.

(2) In particular the port facility operator shall—

(a) appoint a suitably qualified port facility security officer, and ensure that he receives appropriate training, as specified in section 18.1 of part A of the Code; and

(b) provide the port facility security officer with the resources, assistance and support necessary to enable him to carry out his duties.

(3) The port facility operator shall ensure that port facility personnel having specific security duties have appropriate knowledge and receive appropriate training as specified in section 18.2 of part A of the Code.

(4) The port facility operator shall ensure that other port facility personnel have appropriate knowledge as specified in section 18.3 of part A of the Code.

(5) Any port facility operator which fails to comply with this section is guilty of an offence.

Port facility security officers

24. (1) A port facility security officer shall carry out the duties and responsibilities placed on him by this Part and part A of the Code, in particular those listed in section 17.2 of part A of the Code.

(2) Any port facility security officer who fails to comply with this section is guilty of an offence.

Drills and exercises

25. (1) To ensure the effective implementation of the port facility security plan, drills shall be carried out at appropriate intervals, taking into account the types of operation of the port facility, port facility personnel changes, the type of ship the port facility is serving and other relevant circumstances, taking into account guidance given in part B of the Code.

(2) The port facility security officer shall ensure the effective co-ordination and implementation of the port facility security plan by Participating in exercises at appropriate intervals, taking into account the guidance given in part B of this Code.

(3) Any contravention of subsection (1) is an offence by the port facility operator and the port facility security officer.

(4) Any contravention of subsection (2) is an offence by the port facility security officer.

Supplementary

Alternative security agreements

26. (1) The Maritime Administration may, when implementing this Part and part A of the ISPS Code, conclude in writing bilateral or multilateral agreements with other Contracting Governments on alternative security arrangements covering short international voyages on fixed routes between port facilities located within their territories.

(2) Any such agreement shall not compromise the level of security of other ships or of port facilities not covered by the agreement.

(3) No ship covered by such an agreement shall conduct any ship-to-ship activities with any ship not covered by the agreement.

(4) Such agreements shall be reviewed periodically, taking into account the experience gained as well as any changes in the particular circumstances or the assessed threats to the security of the ships, the port facilities or the routes covered by the agreement.

Equivalent security arrangements

27. (1) The Anguilla Air and Sea Ports Authority may allow a particular ship or a group of Anguilla ships to implement other security measures equivalent to those prescribed in this Part or in part A of the ISPS Code, provided such security measures are at least as effective as those prescribed in this Part or part A of the ISPS Code. The Authority, where he allows such security measures, shall communicate to the Organization particulars thereof.

(2) The Maritime Administration—

(a) when implementing this Part and part A of the ISPS Code, may allow a particular port facility or a group of port facilities located within its territory, other than those covered by an agreement concluded under section 26, to implement security measures equivalent to those prescribed in this Part or in part A of the ISPS Code, provided such security measures are at least as effective as those prescribed in this Part or part A of the ISPS Code;

(b) where it allows such security measures, shall communicate to the Organization particulars thereof.

Communication of information

28. (1) The Government shall, not later than 1 July, 2004 or, if later, then the date when chapter XI-2 comes into effect in Anguilla, communicate to the Organization and shall make available for the information of companies and ships—

(a) the names and contact details of their national authority or authorities responsible for ship and port facility security;

(b) the locations within their territory covered by the approved port facility security plans;

(c) the names and contact details of those who have been designated to be available at all times to receive and act upon the ship-to-shore security alerts, referred to in section 11(2)(a);

(d) the names and contact details of those who have been designated to be available at all times to receive and act upon any communications from Contracting Governments exercising control and compliance measures; and

(e) the names and contact details of those who have been designated to be available at all times to provide advice or assistance to ships and to whom ships can report any security concerns, referred to in section 8(2);

and thereafter update such information as and when changes relating thereto occur.

(2) The Government shall, not later than the date referred to in subsection (1), communicate to the Organization the names and contact details of any recognized security organizations authorized to act on their behalf together with details of the specific responsibility and conditions of authority delegated to such organizations. Such information shall be updated as and when changes relating thereto occur.

(3) The Maritime Administration shall, not later than the date referred to in subsection (1), communicate to the Organization a list showing the approved port facility security plans for the port facilities located within its territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval and thereafter shall further communicate when any of the following changes take place—

(a) changes in the location or locations covered by an approved port facility security plan are to be introduced or have been introduced. In such cases the information to be communicated shall indicate the changes in the location or locations covered by the plan and the date as of which such changes are to be introduced or were implemented;

(b) an approved port facility security plan, previously included in the list submitted to the Organization, is to be withdrawn or has been withdrawn. In such cases, the information to be communicated shall indicate the date on which the withdrawal will take effect or was implemented. In these cases, the communication shall be made to the Organization as soon as is practically possible; and

(c) additions are to be made to the list of approved port facility security plans,

and in such cases, the information to be communicated shall indicate the location or locations covered by the plan and the date of approval.

(4) The Government shall, at 5 year intervals after 1 July, 2004, communicate to the Organization a revised and updated list showing all the approved port facility security plans for the port facilities located within their territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval (and the date of approval of any amendments thereto) which will supersede and replace all information communicated to the Organization, pursuant to subsection (3), during the preceding 5 years.

(5) The Maritime Administration shall communicate to the Organization information that an agreement under section 26 has been concluded. The information communicated shall include—

(a) the names of the governments which have concluded the agreement;

(b) the port facilities and the fixed routes covered by the agreement;

(c) the periodicity of review of the agreement;

(d) the date of entry into force of the agreement; and

(e) information on any consultations which have taken place with other governments;

and thereafter shall communicate, as soon as practically possible, to the Organization information when the agreement has been amended or has ended.

(6) Where the Anguilla Air and Sea Ports Authority allows, under the provisions of section 27, any equivalent security arrangements with respect to a ship entitled to fly its flag or with respect to a port facility located within its territory, he shall communicate to the Organization Particulars thereof.

Enforcement

Requirement to provide information

29. (1) Without prejudice to section 20, but subject to section 9.8 and 9.9 of part A of the ISPS Code (ship security plans not subject to inspection except in limited circumstances), the Maritime Administration may, by notice in writing served on any of the following persons—

(a) the owner, charterer, manager or master of any ship which is in, or appears to the Maritime Administration to be likely to enter, a port facility;

(b) a port facility operator;

(c) any person who carries on operations in a port facility;

(d) any person who is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him;

require that person to provide the Maritime Administration with such information specified in the notice as the Maritime Administration may require in connection with the exercise by the Maritime Administration of its functions under this Part.

(2) A notice under subsection (1) shall specify a date before which the information required by the notice is to be furnished to the Maritime Administration.

(3) Any such notice may also require the person on whom it is served, after he has furnished to the Maritime Administration the information required by the notice, to inform the Maritime Administration if at any time the information previously furnished to the Maritime Administration (including any information furnished in pursuance of a requirement imposed by virtue of this subsection) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes of this Part or the alteration or discontinuance of any measures already being taken).

(4) In so far as such a notice requires further information to be furnished to the Maritime Administration in accordance with subsection (3), it shall require that information to be furnished to it before the end of such period as is specified in the notice for the purposes of this subsection.

(5) A notice served on a person under subsection (1) may at any time—

(a) be revoked by a notice in writing served on him by the Maritime Administration; or

(b) be varied by a further notice under subsection (1).

(6) The Anguilla Air and Sea Ports Authority may in like manner require the owner, charterer, manager or master of any Anguilla ship to provide the Authority with information, and subsections (1) to (5) shall apply as if references to the Maritime Administration were references to the Authority.

(7) Any person who—

(a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this section; or

(b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular;

is guilty of an offence.

Powers of inspection

30. (1) An authorised person shall have power, on production (if required) of his credentials, to inspect—

(a) any Anguilla ship;

(b) any other ship while in a port facility;

(c) any part of any port facility; or

(d) any land outside a port facility which is occupied for the purposes of a business by a person who—

(i) carries on (or appears to the authorised person to be about to carry on) harbour operations in a port facility for the purposes of that business, or

(ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a restricted zone of a port facility for the purposes of the activities of that business.

(2) An authorised person inspecting a ship or any part of a port facility or any land outside a port facility under subsection (1) shall have power—

(a) to subject any property found by him on the ship or, as the case may be, to subject that part of the port facility or any property found by him there or on that land, to such tests;

(b) to take such steps—

(i) to ascertain what practices or procedures are being followed in relation to security, or

(ii) to test the effectiveness of any practice or procedure relating to security; or

(c) to require the owner, charterer, manager or master of the ship, the port facility operator or the occupier of the land to furnish to him such information;

as the authorised person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to subsection (4), an authorised person, for the purpose of exercising any power conferred on him by subsection (1) or (2) in relation to a ship, in relation to a port facility or in relation to any land outside a port facility, shall have power—

(a) for the purpose of inspecting a ship, to go on board it and to take all such steps as are necessary to ensure that it is not moved;

(b) for the purpose of inspecting any part of a port facility, to enter any building or works in the port facility or enter upon any land in the port facility; or

(c) for the purpose of inspecting any land outside a port facility, to enter upon the land and to enter any building or works on the land.

(4) The powers conferred by subsection (3) shall not include power for an authorised person to use force for the purpose of going on board any ship, entering any building or works or entering upon any land.

(5) Any person who—

(a) without reasonable excuse, fails to comply with a requirement imposed on him under paragraph (2)(c); or

(b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular;

is guilty of an offence.

False statements relating to baggage, cargo, etc

31. (1) A person is guilty of an offence if, in answer to a question which—

(a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by sea—

(i) by an Anguilla ship, or

(ii) by any other ship to or from Anguilla; and

(b) is put to him for purposes of this Part—

(i) by any of the persons mentioned in subsection (2),

(ii) by any employee or agent of such a person in his capacity as employee or agent, or

(iii) by a police officer;

he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

(2) The persons referred to in paragraph (1)(b) are—

(a) a port facility operator;

(b) the owner, charterer or manager of any ship; and

(c) any person who—

(i) is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him, and

(ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates.

(3) In this section—

"cargo" includes mail;

"ship" does not include a ship used in naval, customs or police service;

"stores" means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

False statements in connection with identity documents

32. (1) A person is guilty of an offence if—

(a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this subsection applies; or

(b) in connection with the continued holding by him or another of any such document which has already been issued;

he makes to any of the persons specified in subsection (3), to any employee or agent of such a person or to a police officer, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a police officer, a statement which is false in a material particular.

(2) Subsection (1) applies to any identity document, which is to be or has been issued by any of the persons specified in subsection (3) for the purposes of a ship security plan or a port facility security plan.

(3) The persons referred to in subsection (1) are—

(a) a port facility operator;

(b) the owner, charterer or manager of any ship; and

(c) any person who is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him.

Unauthorised presence in restricted zone

33. (1) A person shall not—

(a) go, with or without a vehicle or vessel, onto or into any part of a restricted zone of a port facility except with the permission of the port facility operator or a person acting on behalf of the port facility operator and in accordance with any conditions subject to which that permission is for the time being granted; or

(b) remain in any part of such a restricted zone after being requested to leave by the port facility operator or a person acting on behalf of the port facility operator.

(2) Paragraph (1)(a) does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.

(3) A person who contravenes subsection (1) is guilty of an offence.

Offences relating to authorised persons

34. A person who—

(a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under these Regulations; or

(b) falsely pretends to be an authorised person;

is guilty of an offence.

Penalties, defences, etc.

35. (1) A person guilty of an offence under this Part is liable—

(a) on summary conviction, to a fine of $50,000;

(b) on conviction on indictment, to a fine or to imprisonment for a term of 2 years or to both.

(2) It shall be a defence for a person charged under subsection (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of subsection (2), by any person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

PART 2

CONTINUOUS SYNOPSIS RECORD

Continuous Synopsis Record

36. (1) This section applies to all ships engaged on international voyages, except—

(a) ships of war and troop ships;

(b) cargo ships of less than 500 tons;

(c) ships not propelled by mechanical means;

(d) wooden ships of primitive build;

(e) pleasure vessels not engaged in trade; and

(f) fishing vessels.

(2) (a) All ships shall be provided with a Continuous Synopsis Record for the purpose of providing an on-board record of the history of the ship with respect to the information recorded therein.

(b) For ships constructed before 1 July, 2004, the Continuous Synopsis Record shall, at least, provide the history of the ship as from 1 July, 2004.

(3) The Continuous Synopsis Record shall be issued by the Anguilla Air and Sea Ports Authority to each Anguilla ship and it shall contain, at least, the following information—

(a) the name of country;

(b) the date on which the ship was registered with Anguilla;

(c) the ship's identification number in accordance with the Registration of Ships Regulations;

(d) the name of the ship;

(e) the port at which the ship is registered;

(f) the name of the registered owner(s) and their registered address(es);

(g) the name of the registered bareboat charterer(s) and their registered address(es), if applicable;

(h) the name of the company**,** its registered address and the address(es) from where it carries out the safety management activities;

(i) the name of all classification society(ies) with which the ship is classed;

(j) the name of the Anguilla Air and Sea Ports Authority or of the Contracting Government or of the recognized organization which has issued the Document of Compliance (or the Interim Document of Compliance)**,** specified in the ISM Code, to the Company operating the ship and the name of the body which has carried out the audit on the basis of which the document was issued, if other than that issuing the document;

(k) the name of the Anguilla Air and Sea Ports Authority or of the Contracting Government or of the recognized organization that has issued the Safety Management Certificate (or the Interim Safety Management Certificate), specified in the ISM Code, to the ship and the name of the body which has carried out the audit on the basis of which the certificate was issued, if other than that issuing the certificate;

(l) the name of the Anguilla Air and Sea Ports Authority or of the Contracting Government or of the recognized security organisation that has issued the International Ship Security Certificate (or an Interim International Ship Security Certificate), specified in part A of the ISPS Code, to the ship and the name of the body which has carried out the verification on the basis of which the certificate was issued, if other than that issuing the certificate;

(m) the date on which the ship ceased to be registered in Anguilla.

(4) The Continuous Synopsis Record shall be kept on board the ship and shall be available for inspection at all times.

(5) (a) Any changes relating to the entries referred to in paragraphs (3)(d) to (m) shall be recorded in the Continuous Synopsis Record so as to provide updated and current information together with the history of the changes.

(b) In case of any changes relating to the entries referred to in paragraph (a), the Anguilla Air and Sea Ports Authority shall issue, as soon as is practically possible but not later than 3 months

from the date of the change, to the ships entitled to fly the Anguilla flag either a revised and updated version of the Continuous Synopsis Record or appropriate amendments thereto.

(c) (i) In case of any changes relating to the entries referred to in paragraph (a), the Anguilla Air and Sea Ports Authority, pending the issue of a revised and updated version of the Continuous Synopsis Record, shall authorise and require either the Company or the master of the ship to amend the Continuous Synopsis Record to reflect the changes.

(ii) In such cases, after the Continuous Synopsis Record has been amended the Company shall, without delay, inform the Anguilla Air and Sea Ports Authority accordingly.

(6) The Continuous Synopsis Record shall be in the format developed by the Organization and shall be maintained in accordance with guidelines developed by the Organization. Any previous entries in the Continuous Synopsis Record shall not be modified, deleted or, in any way, erased or defaced.

Transfer of flag by ship

37. (1) Whenever a ship is transferred to the flag of another State or the ship is sold to another owner (or is taken over by another bareboat charterer) or another company assumes the responsibility for the operation of the ship, the Continuous Synopsis Record shall be left on board.

(2) When a ship is to be transferred to the flag of another State, the company shall notify the Anguilla Air and Sea Ports Authority of the name of the State under whose flag the ship is to be transferred so as to enable the Authority to forward to that State a copy of the Continuous Synopsis Record covering the period during which the ship was under their jurisdiction.

(3) When a ship is transferred to the flag of another State the government of which is a Contracting Government, the Anguilla Air and Sea Ports Authority shall transmit to the Administration as soon as possible after the transfer takes place a copy of the relevant Continuous Synopsis Record covering the period during which the ship was under Anguilla jurisdiction together with any Continuous Synopsis Records previously issued to the ship by other States.

(4) When a ship is transferred to the flag of another State, the Anguilla Air and Sea Ports Authority shall append the previous Continuous Synopsis Records to the Continuous Synopsis Record the Authority will issue to the ship so to provide the continuous history record intended by this section.

Offences and penalties

38. It shall be an offence by the company, in relation to each of its ships, not—

(a) to provide to the Anguilla Air and Sea Ports Authority the information required by section 36(3) if requested by the Authority;

(b) to inform the Anguilla Air and Sea Ports Authority of the changes referred to in section 36(5);

(c) to make the changes in the Continuous Synopsis Record as he is required to make under section 36(5)(c);

(d) to inform the Anguilla Air and Sea Ports Authority as is required by section 36(5)(c)(ii); or

(e) to ensure the Continuous Synopsis Record is left on the ship and is available for inspection as required by section 36(4);

and liable on summary conviction to a fine of $50,000.

(2) It shall be an offence by the master not to—

(a) make any changes in the Continuous Synopsis Record he is required to make under section 36(5)(c);

(b) to ensure the Continuous Synopsis Record is left on the ship and is available for inspection as required by section 36(4);

and liable on summary conviction to a fine of $25,000.

Miscellaneous

Citation

39. These Regulations may be cited as the Ship and Port Facility Security Regulations, Revised Regulation of Anguilla M82-2.