

GUYANA

No. 2 of 1997

ORDER

Made Under

THE PUBLIC CORPORATIONS ACT 1988

(No. 21 of 1988)

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY
SECTIONS 3 AND 4 OF THE PUBLIC CORPORATIONS
ACT, I HEREBY MAKE THE FOLLOWING ORDER:-

1. This Order may be cited as the Berbice Deep
Water Shipping Facility Board Order 1996 and shall be deemed
to have come into operation on 26th May, 1989 and shall,
subject to Clause 7, remain in force for twenty years.

Citation.

2. In this Order -

Interpretation.

- (a) "ABC Loading Facility" means any
external assets of Aroaima Bauxite
Company Limited utilized for the loading
and unloading of ships at the Berbice
Deep Water Shipping Facility;

No. 21 of 1991.

- (b) "Aroaima Bauxite Company Limited" means the company by that name incorporated in Barbados and registered in Guyana under the Companies Act 1991;
- (c) "Bauxite Industry Development Company Limited" means the company by that name incorporated in Guyana under the Companies Act;
- (d) "Berbice Deep Water Shipping Facility" (in this Order referred to as "the facility") means the access channel and loading basin in the Berbice River constructed in accordance with the contracts and letters of authorisation, provided however that it will not include the "ABC Loading Facility";
- (e) "Board" means the "Berbice Deep Water Shipping Facility Board" established by Clause 3;
- (f) "Boskalis International B.V." means the body by that name having its principal office at Rosmolenweg 20, 3356 UK, Papendrecht, the Netherlands;
- (g) "contracts" means -
 - (i) the agreement between Aroaima Bauxite Company Limited and Boskalis International B.V. dated 12th October, 1989, for overburden dredging and associated works at Aroaima and the Berbice River, an initialled copy of which shall be lodged

with and kept as part of the Board's corporate records;

(ii) the agreement between Aroaima Bauxite Company Limited and Boskalis International B.V. dated 28th October, 1994 for the maintenance dredging of the access channel and loading basin in the Berbice River, an initialled copy of which shall be lodged with and kept as part of the Board's corporate records;

(h) "corrective action fund" means the fund established by the Board into which a component of the fees to be determined by the Board is paid for the purpose of remedying any adverse impact which the establishment of the facility may have on the environment;

(i) "fees" means the fees levied and collected by the Board from users of the facility;

(j) "fund" means the fund as determined and established by the Board into which the fees are paid;

(k) "letters of authorisation" means the letters dated 3rd October, 1994, 7th October, 1994 and 4th November, 1994 respectively, from the Prime Minister to Aroaima Bauxite Company Limited relating to the facility, initialled copies whereof shall be lodged with and kept as part of the Board's corporate records.

Establishment
and constitution
of Berbice Deep
Water Shipping
Facility Board.

3. (1) There is hereby established a public corporation to be known as the Berbice Deep Water Shipping Facility Board.
- (2) The Board shall comprise four members appointed by the concerned Minister on the nomination of the following entities -
- (i) Aroaima Bauxite Company Limited;
 - (ii) Bauxite Industry Development Company Limited;
 - (iii) Transport and Harbours Department;
 - (iv) Hydraulics Department Division in the Ministry of Agriculture,

each entity nominating one member and such member shall have the right to vote at meetings of the Board:-

Provided that the Minister may, on the nomination of other entities which are major users of the facility, appoint such other members as the Minister, on the advice of the Board, consider necessary.

(3) The members of the Board shall elect a Chairman from among themselves and shall hold office for a period of one year, but shall be eligible for re-appointment.

(4) Three members of the Board, one whom must be the nominee of Aroaima Bauxite Company Limited and one of whom must be nominee of the Transport and Harbours Department, shall constitute a quorum and a decision of the Board in order to be

binding whether or not all four members of the Board are present must be the unanimous decision of all members of the Board present.

(5) A member of the Board may be present in person at a meeting of the Board, or the entity which nominated the member may in his absence, nominate in writing another person to represent the said entity at such meeting.

4. The functions of the Board shall be to -

Functions
of the Board.

- (a) maintain in accordance with the provisions of the contracts and letters of authorisation, the dimensions of the facility after its establishment, to the depth to which the channel and basin of the facility were dredged, and maintain and upgrade where appropriate the navigational aids installed in the facility;
- (b) determine, levy and collect such fees as may be prescribed by the Board with the approval of the concerned Minister, from users of the facility;
- (c) establish, by opening bank accounts in Guyana or abroad, the fund and the corrective action fund from the fees collected;
- (d) manage such funds and make disbursements therefrom to meet the cost of maintaining the facility and of any other expenses in accordance with the contracts and letters of authorisation;
- (e) undertake such measures and do such things as may be necessary to promote the environmental monitoring

programme required to be undertaken under the contracts and letters of authorisation;

- (f) negotiate and enter into any contract for the discharge of any of its functions, or accept any assignment of rights or delegation of obligations under the contract referred to in Clause 2(g)(ii);
- (g) without prejudice to the functions of the Transport and Harbours Department, manage all loading and unloading of ships in the facility;
- (h) undertake all other measures and do all other things required of it by the contracts and letters of authorisation;
- (i) do all other things which the Board may consider to be in any way incidental to, connected with or conducive to the discharge of its functions.

General
Manager and
other staff.

5. The Board may, on such terms and conditions as it deems fit, employ a manager and such other officers and employees as are necessary to discharge the functions of the Board.

Powers of
the Board.

6. (1) The Board is empowered to determine its administrative, procurement, accounting and auditing arrangements and procedures.

(2) The Board shall ratify and approve for reimbursement from its fund or corrective action fund any payments contracted for or made by Aroaima Bauxite Company Limited prior to the commencement of this Order in connection with the establishment and maintenance of the facility.

(3) The Board shall not be empowered to grant loans out of its funds, or to mortgage or pledge any of its assets as a security for a loan; it shall not borrow sums required by it for meeting any of its obligations or discharging any of its functions under the contracts and letters of authorisation.

7. Unless the duration of this Order is extended, upon the expiry of this Order, the Board shall stand dissolved and its assets shall be transferred free of charge to the Transport and Harbours Department or any corporate body to which the Government requires that such assets shall be transferred.

Transfer of
assets of the
Board.

Made this 8th day of January, 1997.

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S. A. HINDS
Prime Minister.