



USAID
FROM THE AMERICAN PEOPLE

USER MANUAL— PORT OPERATIONS REGULATION

CAP-HAITIEN PORT REGULATORY STRENGTHENING PROJECT

February 2018

USER MANUAL— PORT OPERATIONS REGULATION

Activity Title:	Cap-Haitien Port Regulatory Strengthening Project
Sponsoring USAID Office:	Economic Growth Office
Contract Number:	AID-521-C-16-00003
Contractor:	Nathan Associates Inc.

Disclaimer

This document is made possible through the support of the American people through the U.S. Agency for International Development (USAID). The contents of this document are the sole responsibility of the author or authors and do not necessarily reflect the views of USAID or the United States government.

CONTENTS

Acronyms and Abbreviations	IV
I. User Manual	I
Introduction	I
User Manual	3

ILLUSTRATIONS

Figures

Figure I. Functions at Cap-Haitien Port	2
---	---

Tables

Table I. User's Manual	3
------------------------	---

ACRONYMS AND ABBREVIATIONS

ANAREP	National Authority for Port Regulation (Autorité Nationale de Régulation des Ports)
Antifouling 01	International Convention on the Control of Harmful Anti-fouling System
APN	National Ports Authority (Autorité Portuaire National)
BASC	Business Alliance for Secure Commerce
BASCAP	Business Alliance to Stop Counterfeit and Piracy
CCSS Code	Caribbean Cargo Ship Safety Code
CEDA	Centre for Environmental Analysis
CHP	Cap Haitien Port
COLREG	International Regulations for Preventing Collisions at Seas
CSC 72	International Convention for Safe Containers
CSI	Container Security Initiative
C-TPAT	Customs Trade Partnership Against Terrorism
ESPO	European Sea Ports Organization
FAL 65	Convention on Facilitation of International Maritime Traffic
IACS	International Association of Classification Societies
IALA	International Association of Marine Aids to Navigation and Lighthouse
IAPH	International Association of Ports and Harbors
ICLL 66	International Convention on Load Lines
ICT 69	International Convention on Tonnage Measurement of Ships
IDC	International Dockworker's Council
IFC	International Finance Corporation
ILO	International Labour Organization
IMDG Code	International Maritime Dangerous Goods Code
IMO	International Maritime Organization
IMPA	International Maritime Pilots' Association
INMARSAT OA76	Convention on the International Maritime Satellite Organization
ISM Code	International Safety Management Code
ISO	International Organization for Standardization
ISPS Code	International Ship and Port Facility Security Code
ISSC	International Ship Security Certificate
ITWF	International Transport Workers Federation

London 72	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter
MARPOL 73/78	Convention for the Prevention of Pollution from Ships
OHSAS	Occupational Health and Safety Assessment
PFSO	Port Facility Security Officer
PFSP	Port Facility Security Plan
PIANC	World Association for Waterborne Transport Infrastructure
PSC	Port State Control
RSO	Recognized Security Organization
SAR Convention	International Convention on Maritime Search and Rescue
SCV Code	Small Commercial Vessel Code
SEMANAH	Service Maritime et de Navigation d'Haiti
SFV Protocol 93	Convention for the Safety of Fishing Vessels
SOLAS	International Convention for the Safety of Life at Sea
SONAGEP	National Port Management and Exploitation Company (Société Nationale de Gestion et d'Exploitation des Ports)
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
STP 71	Special Trade Passenger Ships Agreement
UNCLOS 1982	United Nations Convention on the Law of Sea
UNODC	United Nations Office on Drugs and Crime
VTS	Vessel Traffic Service
WB	World Bank
WCO	World Customs Organization

I. USER MANUAL

INTRODUCTION

Like many countries around the world, Haiti has made a commitment to transform its ports in order to boost trade and grow the national economy. The transformation, which commenced years ago, includes converting Haiti's National Port Authority (APN) from a direct provider of port services (an "operating port") to a regulatory and planning body ("landlord port"). Doing so will increase the efficiency of Haiti's ports and bring the country closer to industry practice—greater than 95 percent of the world's large container ports and 80 percent of Latin American-Caribbean-region ports are landlord ports.

The USAID Cap-Haitien Port Regulatory Strengthening project is supporting Haiti in preparing to assume its regulatory role. Part of this support comes in a series of four guidebooks:

- Guidebook on Monitoring Port Performance
- Guidebook on Port Authority Tariff Analysis
- Guidebook and Annotated Templates on Port Service Contracts
- Guidebook and Annotated Template on Port Operating Regulations.

Each guidebook, prepared in both student and instructor editions, provides background on best practices and prescribes the frameworks governing the regulatory function at hand. They also outline the procedures that APN and individual ports should follow to ensure regulatory consistency among Haiti's ports.

This volume covers port operating regulations for landlord ports, including typical legal powers and responsibilities. It addresses operations, standards, procedures, conduct on port premises (marine and landside), and rules for the use of the port.

Ports are of strategic importance to international trade as nodes in the transport infrastructure, whose capacity and productivity are determined by its weakest link. Due to the international nature of foreign trade and maritime activity, ports must be regulated to comply with international maritime and environmental rules and standards, and customs and trade conventions and instruments.

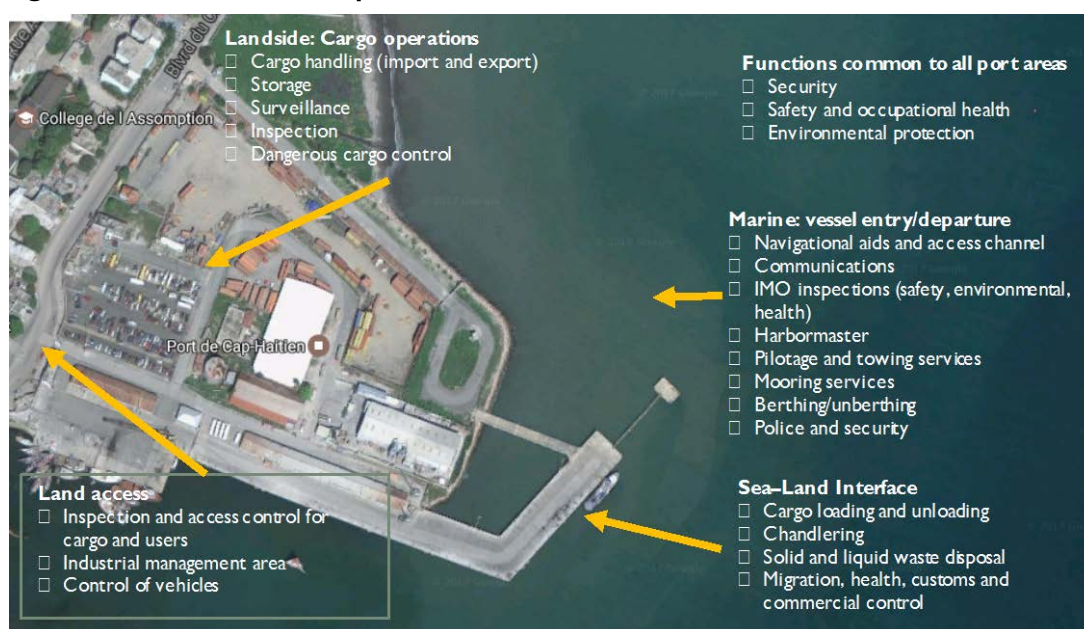
Seaport operations include waterfront areas for anchorage, berthing, navigation; as well as land side for equipment for goods transfer from shore to ship and vice versa, storage and connection to its hinterland. Most of these activities require administrative formalities including police, immigration, customs, health, waste disposal, harbor patrol services, and port state control.

The main functions and features of a port are:

- Sea and land access
- Infrastructure for ship berthing
- Road and rail network
- Industrial area management
- Control of vehicles, all modes, entering and leaving the port
- Environmental control
- Control of dangerous cargo
- Safety and security in the port area
- Immigration, health, customs and commercial documentary control
- Pilotage, tugging and mooring activities
- Use of berths and sheds
- Loading, discharging, storage and distribution of cargo¹

Functions vary from port to port. Figure 1 shows Cap-Haitien Port and its functions.

Figure 1. Functions at Cap-Haitien Port



As port landlords, port authorities develop guidelines and information for all port users, including terminal operators, on port operations, standards, procedures and conduct on port premises. These rules and regulations are made available to all on the port's website. A technical committee usually reviews the guidelines and proposes changes.

Rules and regulations are based on local and international rules, regulations and laws, international conventions, standards and best practices. Different ports emphasize different

¹ Port Management and Operations by Patrick Alderton, Second Edition

aspects of port operations in their guidelines. Port operating regulations should supplement national legislation, laws, and regulations and provide useful information and guidance to port users on the procedures and the code of conduct to be observed in the port, and to explain the statutory and legal powers of the port authority. The regulations must apply in all port areas and be mandatory for everyone operating in or using port facilities. The regulations should be published on the port website, and the website updated as regulations change.

Port operational rule and regulations are based on local legislation, international conventions and instruments, best practices, and standards of industry organizations. Rules cover all areas of a port: waterfront areas for anchorage, berthing, navigation as well as land side for equipment for transferring goods from shore to ship and vice versa, storage, and connection to the hinterland. Each port establishes operating rules and regulations according to its own circumstances. For CHP, these guidelines provide a comprehensive list of topics on port operating rules and regulation.

USER MANUAL

The user manual is not meant to provide APN with a complete set of operating guidelines, but to guide APN in developing its own operating regulations for Cap-Haitien port, setting its own objectives and deciding on the depth of coverage required. The manual describes the information to be developed in each chapter and regulation proposed. It is based on a review of port rules and regulations, port state control functions, port authority tariffs, Haiti's current port operational rules and PSC enforcement, and the proposed PPP agreement for CHP.

Table I. User Manual

Item	Description
Tariff Regulations	Pricing is a strategic component of port operations. Before setting tariffs, port authorities must understand the role of ports as trade facilitator and encourage legislation that supports port governance that aims to create jobs, promote economic development, maintain competitiveness, and ensure long-term port sustainability. Port tariffs are charged for services in four categories: (1) basic infrastructure services, (2) marine services to port users, (3) cargo handling, and (4) other services. Among its regulatory functions, a port authority monitors, benchmarks, and approves the tariffs of the terminal operator. In its tariff analysis, the port authority should consider comparable international tariffs, the impact of a tariff on the country's international trade competitiveness, the government's overall economic and development policies, a valuation of what the market can bear, and an adequate rate of return. Port pricing approaches differ from port to port, as does the method for determining a reasonable profit margin while enabling capital investment for port expansion or equipment replacement. An UNCTAD report on strategic port pricing from 1995 divides pricing methods into three categories: (1) cost based, (2) performance based, and (3) value based. Underlying these methods is the need for a port to analyze its competitive position. The document should describe the procedures for review basic tariffs, period for notification, port authority revision process, procedure for obtaining clarifications, and procedures for objecting tariffs.

Item	Description
Complaint Procedure and Dispute Resolution Regulations	Procedures for consulting with port stakeholders should be established and published in port operating regulations. Complaints should be written (on paper, or in electronic form), and the information to be provided by the user clearly indicated. Complaints should be recorded and numbered in order of receipt, and time periods for response and resolution specified. Operational complaints (such as for damage or invoicing) as well as reports of environmental and other problems should be accepted and processed. The consultation process should include deadlines or time limits for submitting complaints after the occurrence of the incident being reported.
Rules and Regulations for Commercial and Small Vessel Ports of Cap Haitien	
Preamble	Port sector regulator is responsible for establishing operational rules governing port operations and the harbor area in its jurisdiction. Rules and regulations are set on local and international rules, regulations and laws, international conventions, standards and best practices. Port Authorities, Harbor Masters, other governing bodies, operators, pilots, tugs, vessels, stevedores, contractors, and every person working at the port must follow them. It is also common to describe the location or geographical delimitation of the port, technical characteristics of the port, business hours (operations, administrative offices and authorities schedule), and points of contact for the various services users might need.
Application and Minimum Standards	Provisions and schedules of application of the regulations and set minimums international protocols, conventions, instruments, resolutions, codes, national laws and best practices and standards that must be followed. This chapter or section includes statutory duties, general common-law and fiduciary duties of a port authority. It explains general duties and powers of port authorities in relations to port operations, safety, security and environmental. It reinforces the obligation of promotion and conservation to conduct safely and efficient operations to prevent incidents or accidents within the port. It explains how to deal with the different port activities.
Definitions	A list of terms used in the document must be defined in this section for clarity of all users. it includes abbreviations and glossary.
Part I. Port Rules and Regulations	This chapter assess general practice in port operational rules and regulations to meet compliance and safety operations at the port harbor area. This chapter describes typical legal powers and duties usually included in ports operational rules.
Regulation 1. Objectives of These Regulations	Port Authorities, in their Landlord port role, in the lieu of their new governance under the trend in port reform, implementing regulatory and statutory functions in sea and land side, develop guidelines and information to all port users, including terminal operators, on issues as port operations, standards, procedures and conduct within port premises. In this part, the port authority usually indicates the objectives of the document, for example: develop port operations in accordance with best international practices, standards and norms; national social and economic objectives, encourage private sector participation in port sector, coordination and cooperation among government bodies; education and promotion of human resources in port activities.
Regulation 2. Powers of the Port Authority and Competent Authorities	Port operating rules and regulations is the mechanism used by port authorities to communicate the legal powers and duties to run their ports, adopting best practices. This section includes the right to review, update and change regulations.
Regulation 3. Advisory Council	To securing stakeholders' advice on a port's activities, services, programs and plans arrange for the establishment of an advisory council. The members of the advisory council shall be delegated by the private and public sectors of port and transport related industries and administrations.
Regulation 4. Relations Between Government Organs	Here the regulations describe the landlord port regulatory functions, where the port authority exercises regulatory powers and interaction with other competent bodies ensuring compliance with safety, security, environmental safeguards, navigation, transport of hazardous goods, and health, among others.

Item	Description
Part 2. Activities, Prohibitions and Authorizations	
Regulation 5. Activities Under Contracts	Port authority power to authorize contract, lease, concession, licenses to conduct activities in the port.
Regulation 6. Prohibitions	Provision of a list of prohibited activities or conducts within the port premises. That includes endangering persons health, port, ships or properties; interfering port operations; obstructing authorities; damaging persons or properties; pollution; among others.
Regulation 7. Authorizations by Signs or Forms	Set conditions to authorize the performance of certain activities in the port.
Regulation 8. Authorizations to Persons	Sets the activities that requires port authority authorization in order to be carried out.
Part 3. Ship Reporting, Routing, Traffic and Pilotage	
Regulation 9. Vessel Reporting, Vessel Routing and Traffic Services	Includes the application of rules for safety of life and safety and efficiency of maritime traffic and to prevent ship pollution. Also includes the ships notification and information requirement, incidents and accidents at sea reports, vessel mandatory routing system, vessel voyage data recorder and vessel traffic service. Indicates vessel mandatory reporting and routing systems, and traffic services. For example, it is commonly recommended to ask systems or services to be set as minimum as IMO SOLAS convention standards. It also sets the mandatory vessel reporting notification systems, for example, at least 48 hours in advance for arrivals, as well as any change to the information notified. The use of Automatic Identification Systems (AIS) and Ship Security Alert System (SSAS), the requirement to carry on board the Global Maritime Distress and Safety System (GMDSS). Any incident or accident occurring to the vessel must also be reported, as well as if the ship fails to comply with mandatory regulations. Oil discharges and other infringements of MARPOL conventions, or environmental incidents must be notified too.
Regulation 10. Data and Cooperation Requirements	Data and cooperation interchange on vessel information and reporting formats. Usually includes provisions for regular inspection procedures to ensure shore-based systems meet standards and regulations, reporting formats for ships calling the port, availability of updated information from the port authority to the shipping industry, procedures to modify information, measures to ensure confidentiality of information.
Regulation 11. Compulsory Pilotage Areas, Pilotage And Exemptions	Sets the rules and regulations for navigation within port areas, the use of pilotage and exemptions to the rules, and reasons for denying pilot services.
Regulation 12. Notice of Requirements for Pilot	Indicates the requirements to notify pilot requirements for incoming or outgoing vessels.
Regulation 13. Pilotage Licenses and Certificates	Sets the procedures for a pilot to obtain licenses and certificates for navigation or vessel maneuvering. It also indicates that the pilots provide advice to the ship master, and the master remain responsible and liable for the conduct of the ship.
Regulation 14. Towing, Mooring and Berthing	Establish procedures and protocols for tugboat assistance, mooring and berthing procedures, numbers of tugs, its capacity, as well as tugs licenses. The port authority requires in this section to be informed of any vessel movement in advance. Tug assistance must be agree by master and ship master based on best practices.
Regulation 15. Master And Crew to be on Board	Set the obligations of the master of the ship for maintaining minimum crew requirements on board for ship normal course of operations, responsibility of master for conduct of his crew members

Item	Description
Part 4 . Port Operation	Includes rules and procedures on ships and cargo operation, abandoned goods, and port dues and charges.
Regulation 16. Ships and Cargoes	Refers to facilitation requirements of port authority for facilitation requirements, the use of electronic data interchange between the port authority and the private sector and other government bodies (management information systems, terminal information systems, vessel traffic service systems, and other reporting and communication systems). The transport; transport, handling and storage, as well as information and proper documentation related to dangerous cargo and marine pollutants. The provision of documents for emergency procedures for ships carrying dangerous goods (EMS), and medical first aid guide for use in accidents involving dangerous goods (MFAG) it also sets the powers of the port authority in relation to dangerous goods.
Regulation 17. Cargo Operations	The provision of cargo handling operations in compliance with regulations to respect to safety, security, environmental protection and the port tariffs.
Regulation 18. Disposal of Seized, Detained or Abandoned Goods	Established the procedures and treatment of seized, detained and abandoned cargo; and the relation with other governmental agencies for its disposal, destruction or return.
Regulation 19. Port Dues and Charges	Refers to the power of the port authority to impose port dues and charges and the procedures for establishing, modifying and update them.
Part 5. Port Safety	Relates to minimum standards of vessels, operations of vehicles inside the terminals, protocols to remove objects or substances interfering operations, situations impacting safety, precaution measures, occupational safety and health policies.
Regulation 20. Standards of Vessels	Sets the minimum standards of a vessel, with respect to safety, security and environmental protection of any vessel applying for permission to enter the port. Also, the responsibility of the port authority to provide port users minimum standards and any additional information in regard to safety. Any modification of these standards shall be communicated to users in advance.
Regulation 21. Safe Operation of Vehicles	To ensure safety operations of any vehicle on port property. Sets speed limits regulations, compliance with national rules, instructions to be obey for any kind of vehicles.
Regulation 22. Removal of Objects and Substances	Establish the notification protocols for any person of any object or substance that may interfere with navigation or traffic.
Regulation 23. Fire Protection, Dangerous Situations and Emergencies	Sets the measures that needs to be followed by every person in the port to protect and prevent fire.
Regulation 24. Precautionary Measures	Indicates precautionary measures to prevent incidents or accidents in the port.
Regulation 25. Occupational Safety and Health	Establishes the scope of duties to conduct safety and health regulations in the port. Basically, sets the minimum standards to be followed. The port authority must promote safety policy and culture for safety to all users to work safely, avoid accidents and minimize risks, in order to take reasonable and practical measures for ensuring public and employee's safety. It should be port authority goal to reduce safety risk by detecting, evaluating and controlling hazards, and prevent accidents.
Part 6. Port Security	Security matters and protection of persons, port facilities, goods and vessel in the port area. It is usually under the responsibility of the port protection officer. In addition to all best practices and measures that a port can take in terms of security, from July 1, 2014, international security standards and procedures considered the International Ship and Port Facility Security (ISPS) Code. The code requires vessels and port facility implementation of a security plan.
Regulation 26. Access to Premises	Land access (pedestrians and vehicles) control, prohibition to park vehicles in certain port areas and traffic flow obstruction. Port operating regulations, as well as customs limit or the access to the port area to port workers, government agencies personnel and companies previously authorized for both, people and vehicles. All port access (entry and exit) needs to be recorded and controlled, traffic rules must

Item	Description
	be set. Port premises or perimeter shall be fenced, and land access will only be through authorized sites; it is a common practice that there is a separate entrance for pedestrian and personal vehicles, and other entrance for trucks or cargo vehicles.
Regulation 27. Compliance with International Security Requirements	Every vessel to enter the port must ensure compliance with security requirements issued by IMO and ILO Code of Practice on Security in Ports.
Regulation 28. Notification With Respect to Security	Protocols to inform the port authority or security officers to entry the port, the permission to enter the port, in accordance with International standards and regulations and local laws.
Regulation 29. Security Control of Ships in Ports	Establishes the vessel security requirements in accordance with rules and regulations.
Part 7. Environment Protection	Environmental observance in land and sea side must be conducted in every aspect of port operation and activities. Compliance with standards, best practices and guidelines is to be followed by all port users and employees. The port authority must set the standards, rules, guidelines and best practices applicable at the port. The main objective is the protection and preservation of the ecosystem.
Regulation 30. Compliance with Environmental Protection Conventions	To ensure compliance with minimum environmental protection and pollution prevention standards to be followed at the port.
Regulation 31. Waste Management on Ports	Waste management, separate waste management plans for ships and port-generated waste, recycling, marine litter collection, waste reception facilities, dredge sediment management. The aim of this measure is to eliminate pollution of illegal ship discharges and cargo-generated residues to preserve environment. To reduce discharge into the sea, vessels must transfer waste before departure from port.
Regulation 32. Regional Plan to Combat Pollution at Sea	This provision sets the rules of action to respond in case of vessel pollution incidents and accidents.
Part 8. Special Regulations	Refers to the monitoring the safe management of ro-ro, ferries and passenger ships operating in national waters to observe the compliance with ISM code to preserve human life and prevent pollution. It also includes the provision to manager the clearance of passengers and baggage at the port.
Regulation 33. Ro-Ro Vessels And Ro-Ro Passenger Ferries	
Regulation 34. Passenger Ships	
Regulation 35. Clearance of Passengers and Baggage	
Part 9. Port State Control	
Regulation 36. Port State Control	The main responsibility of Port State Control (PSC) is to ensure compliance with international maritime conventions, compliance that remains under the Flag State Control responsibility. It is like a second front ensuring international standards and regulations. Member States agree to the inspection of a percentage of the foreign merchant vessels calling at their ports. Inspections are usually carried out unannounced, all efforts to avoid detention or delay are made, and vessels are not inspected within six months of previous inspections unless there are “clear grounds” for inspections.
Part 10. Miscellaneous	
Regulation 39. Notifications and Circulations	This part sets port authority communication or notification procedures for any measure affecting port users. It also defines the violations of rules and regulations, the fines for different offences, and legal procedures. It establishes the procedures to detain a ship or goods, and the limitation of the port authority’s liability, the

Item	Description
	procedures to request a license to enter the port and perform services or work and the expiration of the license. It also instructs the use of ship agents for every vessel calling the port, the establishment of the technical committee that will maintain the rules and regulations updated, the procedures to amend the regulations, the language in which the rules and regulations are to be published and the prevailing language, in case of any conflict. It also indicates the regulations come into force date.
Regulation 40. Violations and Penalties	
Regulation 41 Vessel Detention and Clearance	
Regulation 42. Limitation of Port Authority Liability	
Regulation 43. Licenses	
Regulation 44. Appointment Of Ships Agents	
Regulation 45. Repealing Previous Regulations And Coming Into Force Of These Rules And Regulations	
Regulation 46. Technical Committee	
Regulation 47. Procedures For Amending These Regulations	
Regulation 48. Prevailing Language	
Schedules	
Schedule 1: Schedule of Ports	
Schedule 2: List of Activities for Port of Cap Haitien	
Schedule 3: Dangerous Goods Limitation	
Schedule 4: Documents to Be Carried on Board	
Schedule 5a: List of Information	
Schedule 5b: Forms for Notification and Reporting	
Schedule 6: Schedule of Fines and Penalties	
Annex 1. Obligations Binding Upon All Port Users	
Annex 2. Format for Proposing Amendments to the Regulations	