

**REPUBLIC OF NAURU**  
**PORTS AND NAVIGATION BILL 2019**  
**SECOND READING SPEECH**  
**Honourable Lionel Rouwen Aingimea MP**  
**20 December 2019**

Mr Speaker Sir,

In September 2018, the Government of Nauru entered into a Donor Funding Agreement with the Asian Development Bank (ADB), Green Climate Fund (GCF) and the Australian Government. The main purpose of this agreement was to fund the development of a new port, currently taking shape at Aiwo, the completion of which is greatly anticipated. Alongside that construction, a less obvious, but equally important, effort is underway to ensure that the port is ready to fulfil its great promise for the people of Nauru. One part of those efforts is to ensure that an appropriate legal framework is in place. Indeed, this was a precondition of the donor grant funding agreement. In the same year, Nauru joined the International Maritime Organization and thereby became required to join, and comply with, the Organization's basic conventions. Accordingly, two important bills have been drafted.

Mr Speaker, I am pleased to introduce to the House today the *Ports and Navigation Bill 2019*.

Mr Speaker, the current port is old and inefficient. Ships arrive and are moored to a deep water multi-point mooring system whose origin can be traced to the time of German colonial rule. Containers and break bulk are discharged from ships into 2 pusher barges which deliver the cargo into the harbour basin. Using a mobile crane on the harbour basin wharf, the containers and break bulk are lifted onto forklifts and truck for transfer to nearby parking areas. Even when the weather is fine and the equipment is in working order, this is costly because it consumes so much time.

The legal framework for the maritime sector was not a priority area when the old system came into operation. That is about to change, Mr Speaker.

The new port at Aiwo will be a modern port – a real port, with berthing and proper facilities. We hope that it will lower costs and will attract more visits and more throughputs; that it will give rise to businesses and activities that were previously uneconomical. We hope that it will lower the costs of import and export and change our lives for the better. To realise these benefits, Mr Speaker, and to protect against risks associated with new activities, we need a new legal framework.

Mr Speaker, let me highlight the key provisions of the Bill.

Part 2 of the Bill establishes the Nauru Maritime and Port Authority with a Board as its governing body. The objectives of the Authority are set out in the Bill and which are essentially to promote, encourage and assist in the development of safe, secure, efficient and commercially viable Nauru ports. The Nauru Maritime and Port Authority is an updated form of the authority currently known as the Port Authority of Nauru. It contains more detailed, flexible and modern provisions. It provides for updated roles and responsibilities, in particular for the roles and responsibilities required by various international conventions to which we have become, or will soon become, a party.

Part 3 of the Bill provides for marine safety. Navigational safety is secured by implementing the *International Regulations for Preventing Collisions at Sea*. These set out, among other things, the navigation rules to be followed by ships and other vessels to prevent collisions. Navigation requirements are provided in relation to different vessels in different places and providing for responsibility of the master and owner of a ship. Part 3 also deals with pilotage. With limited exceptions all vessels are subject to compulsory pilotage. The Authority will approve pilots and pilotage services. Part 3 provides for assistance at sea, inspired by international best practice as well as the *Safety of Life at Sea Convention*. There is a duty on the master of a vessel to provide assistance to persons found at sea and in danger of being lost as well as on receiving distress signals to proceed to the vessel or aircraft in distress. In addition, there is a duty on the master of a vessel involved in a collision with another vessel to provide assistance, to stay by the other vessel, etc. Part 3 deals extensively with aids to navigation. The port will need to implement and maintain a marine safety plan. There are also a number of

Codes made by the International Maritime Organisation under the *Safety of Life at Sea Convention* that relate to cargo and dangerous goods. These relate to packaging, stowing, carrying, loading and unloading and affect different persons during the handling process. In relation to port state control, the Director of Maritime Services is given wide powers over ships in accordance with International Maritime Organization procedures. These include the power to obtain information, board ships, give directions and, in extreme situations, detain ships.

Part 4 of the Bill provides for liability and limitation of liability. The owners of vessels are liable and are entitled to limit their liability in accordance with various conventions, including the *Convention on Limitation of Liability for Maritime Claims*, *Convention on Civil Liability for Oil Pollution Damage* and the *International Convention on Civil Liability for Bunker Oil Pollution Damage*. These are necessary to encourage ships to visit Nauru while at the same time ensuring that Nauru is protected by the availability of funds and methods for accessing funds in the event of accidents. Part 4 also provides for responsibility for damage to the port, to ensure that the enormous investment in our new infrastructure is protected.

Part 5 of the Bill provides for environmental protection. It implements the *Ballast Water Convention*, to ensure that Ballast Water is managed to prevent the discharge of biological material that could affect Nauru waters. It implements the *Anti-Fouling Systems Convention* to ensure that toxins used in some hull coatings do not affect Nauru ecosystems. In addition, it implements the *MARPOL Convention*, prohibiting discharges of oil, noxious liquid substances, harmful substances in packaged form, sewage, garbage and air pollution.

Part 6 deals with wreck and salvage and imports the *Nairobi Convention* which established uniform rules for the prompt and effective removal of shipwrecks located in the exclusive economic zone of a state that may be hazardous to navigation or to the environment. There is provision for the declaration of a historic wreck which is deemed to be an object of heritage for the purpose of the *National Heritage Act 2017* once the notice has been published in the *Gazette* declaring the wreck to be a historic wreck. In relation to salvage, the *Salvage Convention* of 1989 is imported. Provision is made for the salvage claims against

the Republic as well as salvage claims by the Republic. These changes allow two obsolete acts to be repealed: the *Salvage of Derelict Wreck Act 1969* and the *Wreck and Salvage Act 1902*.

Part 7 deals with accidents and incidents. This Part imposes an obligation to report accidents and incidents. Preliminary investigations and marine inquiries are provided for and in particular, the procedure of a marine inquiry. These are all to comply with the *Safety of Life at Sea Convention*, the International Maritime Organization's *Casualty Investigation Code 2008* and other International Maritime Organization guidelines.

Part 8 provides for offences and incidental matters. New offences are created with potentially severe penalties to ensure compliance and deter people from taking risks or flouting the rules – with potentially catastrophic consequences. A system of infringement notices will ensure that minor offences can be dealt with in an appropriate manner.

Mr Speaker, this Bill will result in a much improved structure for the regulation of ports and navigation in Nauru and its waters. It will ensure that Nauru complies with its international obligations and that the new port will, from the first day, operate in accordance with international best practice. It ensures that Nauru can protect against risks and assert its sovereign interests in its waters.

Mr Speaker, the explanatory memorandum details the provisions of the Bill. Sir, I request that the explanatory memorandum be read and recorded in the Hansard Reports.

I commend the Bill to the House.