JERSEY HARBOURS: INCORPORATION

Lodged au Greffe on 19th October 1999
by the Harbours and Airport Committee

STATES OF JERSEY

STATES GREFFE

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PROPOSITION

THE STATES are asked to decide whether they are of opinion -

(a) to approve in principle the incorporation of the business of Jersey Harbours as a limited liability company wholly-owned by the States;

(b) to charge the Harbours and Airport Committee to prepare and present to the States for approval in 2000, detailed proposals for the incorporation, including the financial, manpower and legislative implications.

HARBOURS AND AIRPORT COMMITTEE

Report

1.1 The Harbours (Administration) (Jersey) Law 1961, as amended provides for the States to make regulations for policing, control and administration of the harbours and territorial waters of the island. The Harbours & Airport Committee, under this Law, entrusts the Harbour Master with the policing, control and administration of the harbours and territorial waters and for carrying into effect any legislation in force relating to shipping and sea navigation.

The other principal Law is the Harbours & Light Dues (Jersey) Law 1947, as amended, which gives responsibility to the Committee to fix the tariff of dues payable, subject to States approval.

1.2 The Harbours & Airport Committee is a Trading Committee of the States of Jersey. It is required to operate on a commercial basis and to make financial returns to the States of Jersey to meet financial targets under Article 25B of the Public Finances (Administration) (Jersey) Law 1967, as amended.

1.3 However, it is important to note that Jersey Harbours' contribution to the States of Jersey, may also be measured not only in monetary terms, but in terms of its tourism, community (sea rescue, oil pollution response, etc), social and leisure contribution which add value to local business and society generally.

1.4 On 22nd November 1994, the President of the Finance & Economics Committee made a statement to the States saying that it was the intention of his Committee to consult with the Trading Committees in order to explore the possibility of modifying the relationship between the Trading Committees and the States in such a way that benefit would accrue to all. The proposal was that consideration be given to the three Trading Committees, namely the Telecommunications Board, the Committee for Postal Administration and the Harbours & Airport Committee being incorporated into wholly owned companies of the States of Jersey. The view of the Finance & Economics Committee, as expressed in the President's statement was that -

> *"..there is a need for these departments to be able to act more independently in what is a rapidly changing international scene. It is thought that greater liberty and flexibility will bring many benefits to the departments, their staff, their customers and the people of Jersey."*

1.5 On 28th September 1995, the States approved the objective and actions relating to the incorporation of its Trading Committees, as set out in the Strategic Policy Review 1995 ("2000 and Beyond") where it was stated that -

> *Objective -*
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> *The States trading activities to be structured and organised in the most effective way to meet the challenges of the future."*
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> *Action -*
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> *The States Trading Committees to be requested to bring forward for debate in early 1996, reports and propositions providing for the incorporation of Jersey Airport, Jersey Post Office and Jersey Telecoms into limited liability companies wholly in States ownership."*

1.6 It should be noted that at this point Jersey Harbours was not specially mentioned for incorporation.

1.7 In the autumn of 1998, the Policy & Resources Committee commissioned a Strategic Service Review and Tariff Study of Jersey Harbours by United Kingdom port consultants Fisher Associates. The findings of the review were presented to the Policy & Resources Committee and delegations from the Finance & Economics, Establishment and Harbours & Airport Committees on 23rd March 1999.

2.0 Strategic Service Review and Tariff Study

2.1 Following the review of effectiveness of the institutional environment, it was recommended that Jersey Harbours should move towards incorporation as this was a solution with which the States were already comfortable in respect of other trading areas. The proposed Industries Committee could become the Regulator, involved with setting and monitoring financial and service targets, and a Board of Directors of the government corporation would comprise a cross section of public sector and civil service - non executive directors. It was proposed that the framework for this should be in place for 2002.

2.2 The internal organisation of Jersey Harbours needed to be improved as there was little financial accountability, and there was a need to strengthen the Finance Department to prepare Jersey Harbours for incorporation and to provide the necessary financial management. It was proposed that responsibilities should be divided between the Harbour Master who would be responsible for maritime regulatory functions involving conservancy, controlling harbours and the Island’s territorial sea, salvage, pollution and safety at sea and the Commercial Director who would be responsible for commercial issues under a Harbour’s Chief Executive.

2.3 It was noted that the Tariff Study had reviewed the structure of Jersey Harbours’ tariffs against best practice and investigated the level of cross subsidy. It was apparent that aspects such as property, Ro Ro and Lo Lo and other commodities were subsidising fishing, safety and regulatory functions. It was recommended that management information be refined, cost centres be defined, areas be established geographically and cost apportioned rigorously. An independent tariff review body needed to be established.

2.4 The conclusions of the report were that the institutional environment of Jersey Harbours was not as effective as it could be and the States Committees structure resulted in poor accountability and policies which tied management hands. Viewed objectively, Jersey Harbours could rationalise its operations and institutional reform would be a key step. There were reasons in logic and practice to corporatise Jersey Harbours and this would require the organisation to separate commercial and regulatory/public service activities and develop financially accountable business units.

3. Evolution of marine industries

3.1 Changes in passenger travel by sea, cargo handling methods and the growth of marine leisure as a new form of light industry and a welcome supplement to Jersey’s declining tourism industry, depends upon continued investment being undertaken in order to meet increasing demands to improve safety, efficiency and quality.

3.2 In common with other European ports, Jersey Harbours is facing significant challenges if it is to remain at a similar level to its European and UK connecting ports. These ports are being required not only to achieve cost effectiveness and transparency, but to demonstrate that operating costs and charges are fairly related to other European ports and to remove any remaining vestiges of government subsidy.

3.3 As with other industries, the focus is now upon providing customers with the very best and most up to date port and marine service at the highest level of quality. This requires the management of such services to operate in a more commercial and dynamic environment, where investment and operational decisions can be made in response to business needs. For example, with the need now and into the future for the States to keep a tight rein on all expenditure, it is difficult to perceive that any large capital expenditure which is essential from time to time by any port, particularly as diverse as St Helier, should be financed from States funds. It is therefore desirable to free Jersey Harbours from being dependant upon the States for capital funding and to provide access to private sector funding to meet its requirements on a commercial basis.

4. **Potential advantages of incorporation**

4.1 Commercial freedom means being able to act as any other business to meet the needs of customers and plan for the future. It is felt that Jersey Harbours is restricted in its ability to:-

- raise capital to invest in its own business;
- negotiate and conclude commercial agreements more quickly and effectively than is possible for the Committee under present arrangements;
- invest profits for improving services in terms of return to the States (its future shareholder), the community, marine and tourism industries;
- account separately for regulatory, legislative, commercial and operational functions;
- develop existing and introduce new services with minimum legislative action;
- act in partnership and joint ventures with other marine and port related organisations to provide more comprehensive packages and achieve economies of scale to the benefit of the Island as a whole;
- make best use of staff by achieving greater flexibility and training and the ability to employ staff according to the business needs and freely negotiating terms and conditions of employment in line with market forces.

4.2. A Board of Directors entirely focused on improving the business of Jersey Harbours Limited, without distraction, will speed up decision making to the advantage of all concerned. Furthermore, the benefits of dealing with a more responsive organisation in terms of customer service levels and the development and introduction of new services and ability to reorganise resources immediately will improve service delivery and increase efficiency.

4.3 The States administration as a whole may benefit. Its Committees and departments will be relieved of having to deal on a day to day basis with some of the operational and administrative needs of Jersey Harbours.

4.4 It is expected that the return to the States will be no more than at present and will be represented as a total of dividend, licence fees and taxation.

4.5 Employees of Jersey Harbours Limited will be able to be more focused on the delivery of the best possible service as a competitive environment will directly affect the conditions of service, security of employment and levels of remuneration. Moreover, the freedom to negotiate separately will release Jersey Harbours workforce from conditions and restrictions which are not directly related to the harbour environment as port industry generally. More flexible work practices which match the needs of the customer, the company and its employees and thus can be better negotiated and more closely aligned to the profitability of a commercial operation if carried out exclusively on behalf of the industry.

5. **Implications of States' approval to incorporate**

5.1 It is important for the Harbours & Airport Committee to receive in principle agreement from the States to incorporate Jersey Harbours as the process to incorporation requires major investment in preparing such matters as revised financial and information systems, the transitory management structure focused on the processes of change management, working groups to concentrate on specific areas of change to achieve incorporation, negotiating groups with the staff and revisions to business contracts, employment contracts, licences, to name but a few.

5.2 The States should be aware that the transitory changes to achieve incorporation require further consideration and approval for example:

5.2.1 The employment of States employees working in Jersey Harbours and their status, terms and conditions of employment under Jersey Harbours Ltd. The Harbours & Airport Committee considers that its staff should in general receive no less favourable terms than those that are currently agreed.

5.2.2 Unlike the other three Trading Departments, Jersey Harbours trades on a significant quantity and diversity of commercial property. Its retention in an incorporated organisation is vital to future financial success. The

States will therefore be asked to consider this in the near future.

5.2.3 Jersey Harbours currently carries a capital debt of some £13m associated with the repayments on Harbours infrastructure (£6m) and Elizabeth Marina (£7m) for which there has not been a final decision. In order that an incorporated organisation may successfully trade and bearing in mind a principal objective is to raise capital through private funding, it will be necessary for the States to consider how this internal debt may be accounted for in the future.

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