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WORLD MARITIME UNIVERSITY
Malmo, SWEDEN

**THE ROLE OF SHIPPING IN
KENYA'S NATIONAL DEVELOPMENT**

BY

JOHN PAUL MUINDI
KENYA

A paper submitted to the Faculty of the World Maritime University in partial satisfaction of the requirements for the award of a

MASTER OF SCIENCE DEGREE
IN
GENERAL MARITIME ADMINISTRATION

The contents of this paper reflect my personal views and are not necessarily endorsed by the University.

Signature :

Date : 22 October 1987

Supervised and assessed by: Professor Ahmed Abdel Monsef
World Maritime University

Co-assessed by: Professor E.A. Georgandopolous
Former Rector, Piraeus Graduate School
of Industrial Studies, Greece

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ABSTRACT

Shipping in Kenya has been a much desired element in national development, yet not taken keenly as compared to the other modes of transport, its role in national development has for long been taken for granted. The only emphasis so far has been on the port development which alone can not cover all the maritime endeavours that could enable a country like Kenya to fully utilize the potential of shipping contribution to the national economy. This work is an attempt to analyse the role shipping could play in Kenya's national development if it could be given the right attention and approach. "Shipping" here has been taken as the participation in the carriage of maritime trade, the importance of the seaport, and the inland transportation until the goods have reached the consumer in the hinterland and especially in the district which is today the focus for Kenya's rural development.

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To
My wife Agnes and to my son Brian
for the joy they have given me as
a husband and father.

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ABBREVIATIONS USED

| | |
|----------|--|
| Adm | Administration |
| C.I.F. | Cost Insurance Freight |
| DWT | Deadweight |
| EEC | European Economic Community |
| FCL | Full container load |
| F.O.B. | Free on board |
| FDR | Federal Democratic Republic of Germany |
| GDP | Gross National Product |
| GNP | Gross National Product |
| ICC | International Chamber of Commerce |
| ICD | Inland Container depot |
| ILO | International Labour Organization |
| IMO | International Maritime Organization |
| ISCOS | Intergovernmental Standing Committee on Shipping |
| KPA | Kenya Ports Authority |
| LCL | Less container load |
| M.O.T.C. | Ministry of Transport and Communications |
| M.I.T. | Massachusetts Institute of Transport |
| OECD | Organization for Economic Co-operation and Development |
| PTA | Preferential Trade Agreement |
| UN | United Nations |
| UNCTAD | United Nations Conference on Trade and Development |
| WMU | World Maritime University |

1:1 GEOGRAPHICAL LOCATION

Kenya is situated on the east coast of Africa, and lies astride the equator. Its total area is 582,646 sq km (224,960 sq miles) of which 13,393 sq km (5,171 sq miles) is occupied by water. It is bordered on the north by Sudan and Ethiopia and on the east by Somalia, on the southeast by the Indian Ocean, on the south by Tanzania, and on the west by Lake Victoria and Uganda.

Kenya is notable for its topographical variety, the lower lying fertile coastal region, fringed with coral reefs and islands, is backed by a gradually rising coastal plain, a dry region covered with savanna and thornbush. At an altitude of over 1,500 m (5,000 ft) and about 480 km (300 miles) inland, the plain gives way in the southwest to a high plateau, in parts to more than 3,050 m (10,000 ft), in which most of the population and the majority of economic activities are concentrated.¹ The northern section of Kenya, forming three fifths of the whole country, is arid and of semidesert character. In the high plateau area, known as the Kenya Highlands, lie Mt Kenya (5,199 m/17,057 ft), Mt Elgon (4,321 m/14,178 ft) and the Aberdare Range (rising to cover 3,960 m/13,000 ft). The plateau is bisected from the north to south by the Great Rift Valley. West of the Rift Valley, the plateau descends to the plains to border Lake Victoria. The principal rivers are the Tana and the Athi, both flowing southeastward to the Indian Ocean and the Ewaso Nyiro, which flows in a northeasterly direction to the swamps of the Lorian Plain.²

The climate of Kenya is as varied as its topography - climate conditions range from the tropical humidity of the coast through the dry heat of the hinterland and northern plains to the cool air of the plateau mountains; despite Kenya's equatorial position, Mt Kenya is perpetually snowcapped. The coast temperature decreases by slightly less than 2°C (3°F) with each 300 m (1,000 ft) increase in altitude. The capital, Nairobi (1,661 m/5,449 ft) has

1) Worldmark Encyclopedia of the Nations, Worldmark Press, New York 1984, p 141

2) Ibid.

a mean annual temperature of 19°C (60°F); the arid northern plains range from 21°C to 27°C (70° - 81°F).³

Most parts of the country have two rain seasons, the long rains falling between April and June, and the short rains between October and December. The rain distribution is very important as it determines the crops to be grown in different parts to support the 20 million population, with a growth rate of 4 % annually, which is said to be the highest in the World. According to 1983 Worldbank statistics the population density per sq mile was 83 persons. About 85 % of the population live in the southern 40 % of the country, which has most of the arable land.

1:2 NATIONAL ECONOMY

Agriculture is the main occupation and source of income of the majority of 20 million people of Kenya but the service and manufacturing sectors are substantially more important than would be expected in a country of Kenya's income level. There has been a disproportionate development of manufacturing and service which was bound up with the early presence in Kenya of a substantial number of non African settlers, whose high income generated a high demand for the two sectors and whose place today has been taken by the African elite.

The afore said enabled the economy to develop service and processing together with manufacturing industries, which provided not only for its own needs, but also for those of Uganda and Tanzania. For many years before the collapse of the East African Community the three countries operated a number of important services together, such as airways, railways and most important for this thesis, the now defunct East African National Shipping Line.

At independence, the export oriented agriculture in Kenya was based upon large scale commercial agriculture of the settled "White Highlands" and on European and Asian owned plantations. Much of the government's agricultural efforts in the early years of independence were devoted to land reform programmes, designed to transfer land from the European settlers and to resettle Kenyans upon it. Later with the Trade Licensing Act in 1968, the government turned its attention to the Kenyanisation of commerce which at that time was dominated by non-citizens.⁴

Kenya's record 20 years after independence entitled it to be placed, in terms of growth of output, among the most successful African developing countries.

From independence until 1979 the economy progressed at an accumulative annual rate of growth of over 6 % in real terms, with growth in the industrial sector exceeding 10 % per year

4) Africa South of Sahara, 1984-85, J. Carroll, (Staple Printer, Rochester Ltd, England, 1984), p 479

during the 1970's. This expansion was financed by a substantial inflow of capital as well as by domestic sources.

Between 1970 and 1978 GDP grew by an average of more than 5 % per annum in real terms, despite a very poor performance in 1974-76 as a result of the steep rise in price of petroleum and prolonged drought which affected the much relied upon agricultural productivity.

Coffee and tea boom led to a 7.8 % rise in GDP in 1977, though this slowed slightly to 6.6 % in 1978, mainly as a result of lower commodity prices, but it then plummeted to 4.2 % in 1979 and 3.0 % in 1980. This rise and fall of GDP is not a problem faced by Kenya only but by the whole world including the developed countries.

Agriculture continues to dominate Kenya's economy, about 78 % of the working population makes their living on the land, while 22 % of the people in paid jobs are in the agricultural sector.

Kenya produces a wide variety of cash crops, which helps to make its economy less vulnerable to fluctuations in export prices. The principal cash crops are coffee, tea, sisal, pyrethrum and cotton. Livestock and dairy production are important for domestic consumption as well as for export.

Kenya is the most industrially developed country in East Africa. Industry (manufacturing and processing) increased its share of GDP from 13.3 % in 1976 to an estimated 15.8 % in 1983. Manufacturing had an average annual growth rate of 9.5 % in 1967-79 but the rate slowed down to only 3 % in 1980.

Manufacturing employs about 14 % of the formal sector labour force. It has suffered in the past from stringent import controls since the 1970's with 60 - 70 % of its input having to be imported. The government is putting great emphasis on export oriented industries, which will help to reduce the gap in balance of payments.

Major industries are food, drink and tobacco, textile and clothing, cement, soda ash, vehicle assembly, tyres, batteries, paper, ceramics, chemicals, electrical equipment and others owned by both multinational companies and indigenous entrepreneurs.

The major outlet for Kenya's export outside east Africa is Europe. The United Kingdom has been the most important trading partner but its share in both exports and imports declined recently. After the United Kingdom, the principal suppliers of import to Kenya are the Federal Republic of Germany, Japan, USA and France.

Private enterprise in commerce and industry are much encouraged by the government's development policy. Finance is provided through special established finance companies, in part with the objective of facilitating indigenous participation, though foreign investment is also actively encouraged. Direct participation by the State in productive enterprises is limited, but the government has taken some steps towards participating in certain key sectors of the economy such as banking, oil refining and transport.

There is much emphasis on rural development under the District-Focus for Rural development, under which rural oriented industries have been much encouraged. Transport too has had a big role to play in the economy and more so, maritime transport, since over 80 % of exports have to go by sea, and since this is the core of this thesis. I will leave it to be discussed later. It is however worth mentioning that shipping is just one of several global economic activities and it can not be isolated from the rest of the economic activities. It is affected by the other economic activities just as it would affect them, so they are intertwined. The picture of world economy is however changing everyday and so are shipping activities, more so because shipping is a servant to trade. We have to adapt ourself from the past to the present. Presently we have to find ways and means of coping with the concept of containerisation.

2:1 BACKGROUND OF SHIPPING IN KENYA

Kenya is not a traditional maritime country. Formal shipping activities may only be traced to 1896, when the first jetty was built at Kilindini (the present Mombasa Port), which was used mainly for the discharge of material arriving from overseas for the construction of the railway line through Kenya to Uganda. This was the beginning of the construction of the present Port of Mombasa, situated at the western part of Mombasa Island. Oceangoing vessels however from India, the Arabian Gulf and Far East had used the 'Old Mombasa Port' on the eastern side of the island many centuries before.⁵ From the afore said, it is apparent that development of organized shipping activities in Kenya owes much to the construction of the Kenya-Uganda Railway Line.

One of the acute problems faced by our colonial masters (The British Government) at the beginning of the construction of the Railway Line was the provision of some kind of port facilities for the unloading of steamers bringing materials, a problem which was solved by construction of lighterage wharves in Kilindini. This event marked the transition of the port of Mombasa from the era of dhow traffic to the primitive era.⁶

Jetties were built so that fully loaded lighters could lie alongside at any side and be off loaded by steam cranes directly into a wagon.

Traffic continued to increase in the Port and an additional wharf, 168 metres long, was built, which represents the inauguration of the era of marginal quay extension at the Port. The first of the deep water berths was opened 20 years after (1937).

5) Hoyle, B S, Seaports and Development. The experience of Kenya and Tanzania, Gordon and Bread Publishers, New York 1983, p 93

6) Ibid.

Immediately prior to the First World War considerable pressure upon port facilities developed at Mombasa and efficient working was further handicapped by the very irregular arrival of steamers. Due to complaints arising from delays and damage of cargo, in 1914 the British Government made available £700,000 for building the much needed deepwater berth.⁷ As the railway extended and European settlement and export of crops increased, the need for deepwater berths were completed. These were followed by construction of 2 more berths in 1929, but further major construction had to be stopped because of the outbreak of the Second World War. Further construction took place in 1953, 1954, 1958 and onward. The Port Administration of the colonial era remained an extension of the British Maritime Administration. Most, if not all, of the developmental decisions were made in Britain until Kenya attained independence, when port activities fell under the hands of East Africa Railway and Harbours, and later to the Kenya Ports Authority (KPA) under the Ministry of Transport and Communications.

7) Ibid.

2:2 THE EXISTING SHIPPING SITUATION IN KENYA

The Port of Mombasa has grown to be very important, not only to Kenya, but also to her neighbouring countries, especially the land locked. It is the only modern port in East Africa. The port handles all of the Kenya's international maritime trade and those of some of the other East African countries, which include Uganda, Rwanda, southern Sudan, Zaire and to some extent Tanzania and Somalia, though at present trade of the last two countries through the port is irregular and restricted to a small quantity, but this does not rule out extensive use of the port by these countries in the future. Table I indicates transit traffic cargo - import/export, handled by the port from 1980-84.

The port of Mombasa has been under the Kenya Ports Authority since 1978, which came into existence by an Act of Parliament, chap. 391 of the Laws of Kenya.⁸ The Authority was established after the collapse of the East African Community, It Operates under the Ministry of Transport and Communications. The Authority is also in charge of other minor ports along the coast, which include Kilifi, Malindi, Shimon, Mtwapa, Lamu, Funzi, Vanga and Kiunga. These, though minor ports, are important for fishing vessels and coastal trade within the country and also used by leisure vessels, especially by tourists.

The port of Mombasa can accommodate all types of ships. The depth of the berths average fifteen metres and can handle cargo from twentyfour ships at a go. Mombasa handles over 510 million tons of cargo annually (see Table II and III, which indicates the principal commodities by the port (exports/imports) from 1980.1984).

The port handles both export and import, dry general cargo, and bulk liquid cargo. The general cargo handled for export include coffee, tea beans, oil cake, soda ash, oil seeds, tinned fruits, cotton, sisal, blister copper from Zambia etc. The imports handled include Lubricating Oil, Crude Oil, Pipes and Fittings, grain,

8) Laws of Kenya - The Kenya Ports Authority Act.

Table I

TRANSIT TRAFFICTHROUGH THE PORT OF MOMBASA 1980 - 1984
(dwt)

| PARTICULARS | | 1980 | 1981 | 1982 | 1983 | 1984 |
|-------------|---------|---------|---------|---------|---------|---------|
| UGANDA: | Imports | 112,102 | 49,875 | 86,759 | 125,335 | 97,200 |
| | Exports | 115,409 | 131,847 | 169,824 | 155,648 | 158,903 |
| | Total | 227,511 | 181,722 | 256,583 | 280,985 | 256,103 |
| TANZANIA: | Imports | 261 | 386 | 892 | 1,853 | 2,324 |
| | Exports | 176 | 274 | 496 | 681 | 1,060 |
| | Total | 437 | 660 | 1,388 | 2,534 | 3,384 |
| BURUNDI: | Imports | 16,751 | 23,772 | 44,560 | 37,218 | 27,811 |
| | Exports | 158 | 83 | 1,807 | 886 | 1,132 |
| | Total | 16,909 | 23,855 | 46,367 | 38,104 | 28,943 |
| RWANDA: | Imports | 56,592 | 79,945 | 89,007 | 77,498 | 119,100 |
| | Exports | 30,959 | 38,826 | 35,776 | 37,379 | 37,464 |
| | Total | 87,551 | 118,771 | 124,783 | 114,877 | 156,564 |
| SUDAN: | Imports | 4,482 | 7,769 | 14,639 | 17,058 | 4,758 |
| | Exports | - | - | 20 | 56 | 509 |
| | Total | 4,482 | 7,769 | 14,659 | 17,114 | 5,267 |
| ZAIRE: | Imports | 7,682 | 8,449 | 16,408 | 17,781 | 7,994 |
| | Exports | 11,234 | 8,811 | 25,198 | 23,688 | 20,148 |
| | Total | 18,916 | 17,260 | 41,606 | 41,469 | 28,142 |
| ZAMBIA: | Imports | 372 | 3,851 | — | 16 | — |
| | Exports | 1,873 | — | — | 75 | — |
| | Total | 2,245 | 3,851 | — | 91 | — |
| SOMALIA: | Imports | 8 | — | — | — | — |
| | Exports | — | — | — | — | — |
| | Total | 8 | — | — | — | — |
| TOTAL: | Imports | 198,250 | 174,047 | 252,265 | 276,759 | 259,187 |
| | Exports | 159,809 | 179,841 | 233,121 | 218,413 | 219,216 |
| GRAND TOTAL | | 358,059 | 353,888 | 485,386 | 495,172 | 478,403 |

Source: Annual bulletin of Port statistics 1984,
Kenya Ports Authority

Table II

PRINCIPAL COMMODITIES
(EXPORTS)

('000 DWT)

| COMMODITIES | 1980 | 1981 | 1982 | 1983 | 1984 |
|--------------------------------------|--------------|--------------|--------------|--------------|--------------|
| Coffee | 234 | 256 | 318 | 283 | 281 |
| Tea | 91 | 91 | 100 | 113 | 125 |
| Maize | 1 | - | - | 100 | 85 |
| Cashew Nuts | 8 | 9 | 6 | 2 | 3 |
| Beans, Peas, Pulses | 9 | 5 | 41 | 96 | 21 |
| Oil Cake | 2 | - | 1 | 4 | 3 |
| Oil Seeds | - | - | - | 13 | 8 |
| Wattle Extracts | 12 | 12 | 11 | 8 | 6 |
| Cotton | 6 | 4 | 4 | 7 | 9 |
| Sisal | 36 | 40 | 39 | 39 | 41 |
| Hides & Skins | 8 | 14 | 14 | 14 | 21 |
| Tinned Fruits, Vegetables & Juices | 51 | 54 | 52 | 62 | 65 |
| Lub, Oil in Drums | 26 | 7 | 6 | 10 | 7 |
| Scraps | 2 | 1 | 1 | 8 | 1 |
| Soda Ash | 98 | 57 | 55 | 90 | 116 |
| Blister Copper | - | - | - | - | - |
| Zambia Copper | - | - | - | - | - |
| Other Mineral Ores | 8 | 1 | - | - | 1 |
| Cement in Bags | 29 | 55 | 101 | 120 | 89 |
| Others | 183 | 122 | 68 | 81 | 107 |
| TOTAL GENERAL CARGO | 902 | 728 | 817 | 1,050 | 989 |
| Soda Ash in Bulk | 98 | 70 | 93 | 76 | 87 |
| Cement Bulk | 460 | 530 | 574 | 460 | 369 |
| Cement Clinker | 14 | 42 | 60 | 70 | 43 |
| Fluospar | 97 | 106 | 82 | 54 | 56 |
| TOTAL DRY BULK | 571 | 748 | 809 | 660 | 555 |
| Molasses | 79 | 107 | 55 | 24 | 53 |
| Bulk Oils | 361 | 937 | 400 | 144 | 229 |
| Bunkers | 158 | 230 | 234 | 243 | 239 |
| TOTAL BULK LIQUIDS & OILS | 598 | 1,274 | 689 | 411 | 521 |
| TOTAL BULK EXPORTS | 1,169 | 2,022 | 1,498 | 1,071 | 1,076 |
| GRAND TOTAL | 2,071 | 2,750 | 2,315 | 2,121 | 2,065 |

Source: Annual bulletin of Kenya Ports Authority, Ports statistics

Table III

PRINCIPAL COMMODITIES
(IMPORTS)

| COMMODITIES | ('000 DWT) | | | | |
|--------------------------------|--------------|--------------|--------------|--------------|--------------|
| | 1980 | 1981 | 1982 | 1983 | 1984 |
| Lubricating Oil | 6 | 4 | 2 | 2 | 3 |
| Pipes & Fittings | 5 | 6 | 6 | 2 | 7 |
| Sugar | 2 | 12 | 10 | 60 | 6 |
| Rice | 25 | 9 | 48 | 34 | 9 |
| Gunnies | 9 | 17 | 19 | 12 | 10 |
| Railway Materials | 10 | 5 | 20 | 31 | 13 |
| Fertilizer | 145 | 178 | 85 | 135 | 84 |
| Salt in bags | 16 | 25 | 7 | 45 | 29 |
| Iron & Steel | 216 | 136 | 146 | 125 | 192 |
| Vehicle Tyres & Spares | 72 | 34 | 44 | 41 | 55 |
| Agric. & other Machinery | 14 | 25 | 13 | 9 | 8 |
| Wheat in bags | 15 | 10 | 14 | 29 | 43 |
| Maize in bags | 43 | 60 | 20 | — | 380 |
| Chemicals (Insecticide) | 9 | 5 | 3 | 4 | 3 |
| Paper | 9 | 6 | 5 | 2 | 6 |
| Tallow & Oils in cases & drums | 13 | 10 | 18 | 4 | 9 |
| Malt | 2 | — | 1 | 5 | 1 |
| Others | 625 | 598 | 529 | 436 | 696 |
| TOTAL GENERAL CARGO | 1,236 | 1,140 | 990 | 976 | 1,554 |
| Coal | 46 | 91 | 62 | 79 | 83 |
| Wheat in bulk | 78 | 154 | 144 | 89 | 106 |
| Maize in bulk | 444 | 335 | 3 | — | 6 |
| Gypsum | 47 | 62 | — | 46 | 29 |
| Fertilizer in bulk | 5 | 27 | 21 | 23 | — |
| Salt in bulk | 15 | 37 | 8 | — | — |
| Burnt Ore | 23 | 13 | 30 | 30 | 15 |
| Sulphur | — | — | — | 5 | — |
| Loose Bauxite | — | 2 | 2 | — | — |
| Iron Ore | — | — | — | — | — |
| TOTAL BULK DRY | 658 | 721 | 270 | 272 | 239 |
| P.O.L. | 3,387 | 3,496 | 2,627 | 2,602 | 2,373 |
| Palm Oil | 61 | 57 | 67 | 86 | 66 |
| Tallow | 10 | 11 | 3 | — | 9 |
| Alkane | 4 | 2 | 3 | 3 | 4 |
| Crude Coconut Oil | — | 1 | 2 | — | — |
| Linseed oil | — | — | 1 | — | — |
| Turpentine | 1 | — | 1 | — | — |
| Chemical Polyovoranol | 4 | 1 | 1 | 1 | 1 |
| TOTAL BULK LIQUIDS | 3,467 | 3,568 | 2,705 | 2,692 | 2,473 |
| GRAND TOTAL | 5,361 | 5,429 | 3,965 | 3,940 | 4,266 |

Source: Annual bulletin of Kenya Ports Authority,
Port statistics

railway materials, fertilizers, salt, iron and steel, vehicles and their spares etc.⁹ To handle all the above mentioned cargo, the port has the following facilities:

- 16 deepwater berths equipped with cranes of various lifting capacities, transit sheds and stacking grounds for the storage of yard cargo,
- 2 bulk oil jetties (tanker berths)
- 2 bulk cement berths, which handle cement, cement clinker and flour exports, coal, gypsum rock and burnt ore import.
- 1 cased oil jetty
- 2 lighterage wharves
- 1 explosives jetty
- 2 dhow jetties (at the old port)

Mombasa has cold-storage specialized facilities for handling bulk soda ash, bulk molasses, edible oil and other bulk liquids. Berths 16 and 17 were designed and built purposely for containers, and the two, form the ports container terminal.¹⁰ An inland container terminal has been constructed in Nairobi which handles containers transported to the mainland by railway, destined to either Kenya's mainland or any of her neighbouring countries. Plans are under way to construct more inland container depots at Nakuru, Eldoret and Kisumu to cater for containers destined to western Kenya and neighbouring countries.

As stated earlier, Kenya is not a traditional maritime country hence her shipping activities are still limited compared to traditional maritime countries like the U.S., Sweden, Norway and Britain. It is well known that the shipping industry in any country rests mainly on the numerous professionals built up on old traditions and is affected to a great extent by such accumulated experiences.¹¹

9 Kenya Ports Authority Draft Development Plan 1984-1988, p. 8

10 Ibid., p. 8

11 UNCTAD Report on Shipping

The Kenya government at the moment does not own deep sea going vessels, but owns some tugs which operate at the Mombasa port, and some wagon ferries, mainly in Lake Victoria for ferring cargo and passengers along the lake ports of Kenya, Uganda and Tanzania.

A domestically owned shipping company, the first one in East Africa, was however started recently. The company, "Allied Oil Services", has one vessel and plans are under-way to purchase a second one. It is currently in the business of shipping oil and serving the Seychelles, Tanzania, Somalia and the Comoros Island.¹²

The Kenya Government has also recently signed an agreement to establish a national shipping line, which is a long time dream now coming into reality. The agreement is between the Kenya Ports Authority (KPA) and a West Germany based multinational company, Unimar Seatransport, for the establishment of a shipping company to be known as the "Kenya National Shipping Line Ltd". KPA will own 70 % of the shares and Unimar the remaining 30 %.¹³

Kenya is strategically placed in terms of major maritime trading routes due to the comparative advantage of the location of Mombasa. As a result, many major shipping Companies are represented in the country, which include: The Union Coastal-Steamship Company, The Penninsula and Oriental Steam Navigation Company, The Clan Line Steamers Ltd, Tho's and Jos Harrison-Nedlloy Line Compagnie Lines are at the moment responsible for carrying Kenya's foreign trade.

The main trade routes which they follow are:

- a) East Africa - United Kingdom/North West continental Trade Route
- b) East Africa - USA/Canada Trade Route
- c) East Africa - Middle East/Medeterranean Trade Route
- d) East Africa - India/Far East/Australia.¹⁴

12) Kenya News Digest. Harrison, Lakini Associate (Kenya Ltd) Nairobi, August-September 1986, p. 8

13) The Weekly Review-Nairobi-Kenya, March 13 1987, p. 16

14) ISCOS (Intergovernmental Standing Committee on Shipping-annual report for the year ended June 30 1984, Mombasa, Kenya

It is apparent from the aforesaid that Kenya has quite numerous maritime activities, this also reflects the importance of these maritime activities not only to Kenya but also to her neighbours. I have mentioned inter alia, that shipping activities in Kenya are handled by the Kenya Ports Authority, these include plans for future development of the maritime industry in the country and cargo handling. (This was under the "Kenya Cargo Handling Services" until December 1985 when the KCHS was amalgamated with the "KPA") The office of the Merchant Shipping Superintendent is also under the KPA, but in liaison with the Ministry of Transport and Communications, Maritime Section, which is in charge of formulation of all policies related to maritime affairs. The Ministry of Transport and Communications still lacks adequate trained Maritime Officers, a factor which explains why the Office of the Merchant Shipping Superintendent has to be delegated to the KPA instead of being handled by the Ministry Staff.

Since its inception however, KPA has pursued a development policy aimed at modernizing the ports operations to cope with the current development of technology in world shipping. The principal objective of the port has continued to be the provision of adequate facilities and prompt services at minimum cost to the users of the facilities, and to augment the volume of port facility.¹⁵ The introduction of containerisation, at the port has been the most remarkable infrastructural development there in recent years.

At the time when the containers first appeared in Mombasa in 1975, the port was ill equipped both in material and human resources to deal with the new technology in handling cargo. Resources had to be made to utilise the scarce facilities then available.¹⁶ Traffic forecast had, however drawn attention to the need for careful planning for containerization in East Africa. The port then had to build a container terminal at Kilindini. After that, the Authority together with the Kenya Railway Corporation, built the inland container terminal at Embakasi, Nairobi.

15) The Weekly Review - Februari 14, 1986 - Nairobi, p. 27

16) A KPA Manual on Inland Container Depot

Because of containerisation's advantages, such as quick turn around of container ships in port, reduced labour costs, the KPA invested a lot of money in improving the ports capacity and efficiency in handling containers.

The inland container depot at Embakasi, began operation in July, 1984 and a container train 'The RAILTAINER' has been running daily in both directions (Nairobi - Mombasa). Since the inland container depot started operating, shippers and importers have been saved from procedures such as ship papers and other custom formalities. The import and export procedure of the inland depot are however, the same as those in Kilindini.

Apart from containerisation, there are also a number of new developments the Port Authority has recently undertaken. Those include the recently installed new automatic bagging machines which are able to bag 100 tonnes of bulk cargo per hour. The Authority has also acquired six new tug boats and a number of container handling cranes in recent years.¹⁷

Since a lot of the goods handled in the port are destined for neighbouring countries, the port has been at times adversely affected by destructive social, economic and political developments in these countries, especially Uganda which for years has never been politically, not to mention economically stable. Of course instability in Uganda affects the goods destined for Rwanda, Burundi, Zaire, and southern Sudan which pass through Uganda territories. There have also been unstable import/export policies in these countries, which have been a constraint to the port in the past, leading to underutilisation of the port facilities at times and overutilisation at other times causing port congestion. Tax and customs restrictions, unfavourable weather conditions and agricultural produce also lead to fluctuations of cargo in the port.

17) Ibid. p. 28

Like most of the other developing countries, Kenya is aware of the role of maritime trade in national development. Plans are underway to start a national shipping line in the near future. Over 80 % of Kenya's trade relies on cheap and quicker sea transport. Thus all possible means are being sought to ensure that the maritime activities run efficiently without any delay.

Table IV shows the berth occupation (percentage) in Kilindini in 1980 - 84, which is an indication of how busy the port has been in the past.

Table IV **BERTH OCCUPANCY (%)** AT THE PORT OF MOMBASA
General Cargo Berths

| YEAR MONTH | 1980 | 1981 | 1982 | 1983 | 1984 |
|---------------|------|------|------|------|------|
| January | 95.5 | 65.7 | 91.0 | 78.8 | 72.2 |
| February | 87.0 | 61.1 | 85.0 | 75.0 | 86.9 |
| March | 85.0 | 53.7 | 85.0 | 78.0 | 50.7 |
| April | 83.0 | 80.4 | 85.2 | 82.5 | 68.8 |
| May | 95.0 | 79.6 | 90.0 | 85.7 | 62.7 |
| June | 87.8 | 69.0 | 79.0 | 83.8 | 57.7 |
| July | 71.7 | 62.0 | 72.5 | 68.9 | 53.6 |
| August | 84.2 | 68.0 | 76.8 | 84.3 | 66.3 |
| September | 82.4 | 82.0 | 83.0 | 77.7 | 48.0 |
| October | 76.1 | 92.0 | 73.0 | 68.9 | 61.4 |
| November | 69.9 | 80.3 | 67.0 | 71.0 | 65.0 |
| December | 69.7 | 92.4 | 64.0 | 74.5 | 66.0 |
| AVERAGE | 81.8 | 73.2 | 73.0 | 77.4 | 62.7 |

Source: Annual Bulletin of port statistics 1984
Kenya Ports Authority

SHIPPING AS PART OF NATIONAL DEVELOPMENTIN DEVELOPING COUNTRIES

The developing countries include most of the states of Africa, the Middle East, Far East, South East Asia, Latin America and the majority of island groups in the Pacific. Their common characteristics include a dependence on a small number of primary products such as coffee, tea, rubber, pyrethrum and others, for sale on the world markets, a high percentage of population engaged in cash and subsistence agriculture, low levels of savings and investment and a slow rate of growth or in a few cases even decline in average per capita income in the face of a rising population.¹⁸

The dependence of these countries on a limited range of exports renders their economies vulnerable to fluctuations in world commodity prices. Annual variations of more than 10 % are common for several commodities for example tea, coffee, rubber, pyrethrum and others. Temporary depressions in the purchasing prices of foodstuffs and raw materials come about through over-supply and from reductions in demand arising from economic recession in the industrial countries - which are the major markets for products of raw materials from the developing countries. Temporary peaks in prices for example the high price of Kenyan Coffee in 1986, arises from shortfalls in the output, strikes or due to stockpiling in the industrial countries for military purposes. These fluctuations are superimposed on a long run of deterioration in net terms of trade in developing countries. From the above therefore it can be concluded that the prices of the commodities of the developing countries are much influenced or determined by their markets which are the developed countries, who also own or control the ships which transport the goods.

There has been a global call for a new international economic order, the objectives of which are to increase the real income of the world, with particular attention to finding out and adopting measures, the application of which, should enable developing countries to attain a rate of growth sufficiently above the average, so that the gap between developed and developing countries would tend to narrow.

18) Couper AD The Geography of the Sea, Hutchison University

Since the time of UNCTAD I in 1964 it was recognized by participating governments that international maritime transport had an important role to play in increasing the income in these countries. The international community through UNCTAD has an objective of promoting the earnings of developing countries from maritime activities and also to minimize the net outflow of foreign exchange from the developing countries caused by shipping transactions.¹⁹ To attain these objectives, developing countries should substantially increase participation in the carriage of cargoes generated by their merchant marines through the adoption of such measures as might be appropriate, in order to permit shipowners to penetrate freight markets. The overall economic development of the developing countries very much depend on their shipping development, no matter from which angle we look at shipping and dependence on foreign shipping by the developing countries create several problems which are detrimental to their economic development.

While the developing countries are increasingly engaged in an effort to broaden and diversify their economies through industrialization, to stimulate the rate of growth of their economies and to raise the welfare of their population, this will not be possible without full participation in maritime transportation of their trade.²⁰

Industrialization and diversification of production, which leads to raising the standards of living in a particular country, imply an increased import demand for capital and consumer goods and the need for expanding and diversifying exports. It is then obvious that such possible developments in turn, should create increased demand for shipping in these countries, which today rely mostly on ships of the countries they trade with to carry their trade, and which has rendered it rather difficult for the developing countries to implement fully their development plans and even at times found it in jeopardy due to lack of a direct

19) Georgandopolous, E.L.A. Shipping in Developing Countries - problems and prospects. Bremen 1978

20) Ibid. p. 3

link with the potential markets for their export trade.²¹

The developing countries are naturally and randomly located in such a way that long distances are involved in relation to most of the consumption markets of their products and for imports of their consumer manufactured goods, this implies relatively high freight costs for the carriage of their trade, which they always meet and has continued to widen the gap between them and the developed world. As I will argue later, this is a situation which can be saved by nothing else than an increasingly greater participation of the developing countries in the carriage of their trade. From table V it is indicated that in 1980 out of the world total of 123,264 million dollars on freight costs, 43,750 million dollars was from the developing countries. The table also shows the figures for 1983 and 1984, which is a clear indication of how much these countries spend on the payment for freight and which further explains why they should participate in the carriage of their goods, if they have to bridge the gap between them and the developed countries.

21) Ibid. p. 3

Table V.
Estimate of total freight costs in world trade a/
by groups of countries, 1980, 1983 and 1984
 (totals and percentages of import values)

| Year | Country group | Estimate of total freight costs of imports (millions of dollars) | Value of imports (c.i.f.) (millions of dollars) | Freight costs as a percentage of import value |
|------|---------------------------------------|--|---|---|
| 1980 | 1. World total | 123,264 | 1,856,834 | 6.64 |
| | 2. Developed market-economy countries | 79,514 | 1,441,080 | 5.52 |
| | 3. Developing countries - total | 43,750 | 415,754 | 10.52 |
| | <u>Of which:</u> | | | |
| | in Africa | 10,432 | 77,757 | 13.42 |
| | in America | 10,929 | 123,495 | 8.85 |
| | in Asia | 21,979 | 211,089 | 10.41 |
| | in Europe | 92 | 936 | 9.83 |
| | in Oceania | 318 | 2,477 | 12.84 |
| 1983 | 1. World total | 105,938 | 1,663,098 | 6.37 |
| | 2. Developed market-economy countries | 65,787 | 1,265,710 | 5.20 |
| | 3. Developing countries - total | 40,151 | 397,388 | 10.10 |
| | <u>Of which:</u> | | | |
| | in Africa | 7,185 | 68,283 | 10.52 |
| | in America | 7,842 | 76,771 | 10.21 |
| | in Asia | 24,820 | 249,963 | 9.93 |
| | in Europe | 72 | 733 | 9.82 |
| | in Oceania | 304 | 2,371 | 12.82 |
| 1984 | 1. World total | 109,084 | 1,773,374 | 6.15 |
| | 2. Developed market-economy countries | 70,069 | 1,374,850 | 5.10 |
| | 3. Developing countries - total | 39,015 | 398,524 | 9.79 |
| | <u>Of which:</u> | | | |
| | in Africa | 7,244 | 66,893 | 10.82 |
| | in America | 7,435 | 82,779 | 8.98 |
| | in Asia | 23,964 | 245,777 | 9.75 |
| | in Europe | 71 | 716 | 9.92 |
| | in Oceania | 301 | 2,359 | 12.76 |

Source: UNCTAD, Report, "Review of Maritime transport", United Nations, TD/B/C 4/299, New York 1985, p. 42

3:1 THE NECESSITY FOR TRANSPORT

The demand for shipping as it has been discussed inter alia, is derived from the demand for transportation of goods, and especially tradable goods from one place to another. Sea transport is a very important service in development of a country. Certain forms of marine transport, such as pleasure cruisers and holiday travel may be regarded as "consumer services", but the basic function of transport involving economic, social or military needs, is the creation of utilities of place, that is, the carriage of goods from places where their utilities are low to places where they are higher.²²

Maritime transport has existed since the dawn of history, and in the early days it was carried on by merchants who conveyed their own commodities and sometimes those of others. Technical improvement in sea transport since 1870 has brought a world wide network, and has made it possible for a whole region to specialize in a single commodity for trade. Thus the production of coffee in Brazil or Kenya, soda ash in Kenya, oil in Kuwait, is dependent on a cheap efficient and secure system of transport.

The world trade development has gone along with the development of maritime transport. The comparative modern system of international exchange and specialization was made possible by the advent of the steamship with its ability to maintain regular "Schedules". Once the merchant could rely on regular service to his markets, his business became less speculative and more a matter of supply and demand.²³

The most important factor in the development of international trade was the cheapening of ocean transport, in real value terms, which was largely a matter of economy in propulsion. As world transport systems improved, becoming cheaper and cheaper, trade increased. Technical improvements in propelling machinery and fuel are continually making for increased speed of economic cost and increased space available for cargo, thus cheapening the cost

22) Branch, Alan E. "Elements of Shipping" Chapman & Hall, London, 1981, p. I

23) Ibid.

of sea transport and permitting raw materials and foodstuffs of relatively low value to enter into international trade.

The importance of sea transport to the development of any nation is emphasized by the fact that almost 70 % of the globe is covered by the seas. More than 2/3 of the world population live within 300 miles of the sea, and most great cities are ports.²⁴ The world ocean has a profound influence on climate and hence on population distribution and agricultural activities. The sea has always provided a means of sustenance for many communities and is recognized, albeit debatably, as the ultimate reserve of food and chemicals, while the sea bed and particularly the continental shelves may have a possible solution to depletion of mineral resources.

It is my hope that when the law of the sea enters into force, the sea will become of great importance to mankind as a whole. Not, of course, forgetting that the great use of the ocean by mankind is transportation. As mentioned inter alia, improvements in sea transport technology widen markets, reducing the economic distance between places and hence bringing changes. One can not avoid quoting A.D. Couper on this:

"One has only to think of the vast area relatively lowvalue foodstuffs and technical crops in North South America and in Asia, or the agglomeration of raw materials, using industries of the ports of the industrial nations to appreciate the extent to which the development of low-cost transport has influenced the location and nature of economic activities throughout the World."²⁵

A good example of the above is how New Zealand after the coming of the steamship in the 1850's and the refrigerated vessels in 1880, was finally almost completely transformed from its indigenous forest and scrub cover to exotic grassland, to become the low-cost overseas farm of Britain, despite 13,000 miles separation between the producer and the consumer.

24) Ibid. p. 2

25) Couper, A.D. The Geography of the Sea, Hutchison University Library, London 1982, p. 19

A glance at the history of early civilization, reveals that, shipping played a very important role in Mesopotamia, Egypt and North West India as did agriculture. For the support and growth of cities in the alluvial zones, the sustained import of metal, stone and timber was required. These heavy materials could be delivered in sufficient quantities, only by rivers and sea transport; hence it is in these great drainage basins and adjoining coastlands that we find not only the earliest evidence of urbanization but also strong indication of a dependence on maritime transport.²⁶ One does not even need to go so far back but to look only at our former colonial masters, Britain, where the rise of shipping represents and was partially responsible for a revolutionary advance in the economy, from being predominantly agricultural, as Kenya is today, to one with a strong commercial basis.

One of the main keys to the expansion of British commerce from the sixteenth century onward, was actually the existence of a large merchant fleet, supported by a strong and well organized maritime administration. This development gave British economy a new spatial dimension which facilitated its subsequent industrial growth.

Sea transport is today, still the cheapest mode of transport in international trade. A ship is a carrier of large capacity and has a low tonnage in relation to the weight of the cargo, which can be carried, and has low consumption of fuel.

Due to its low cost and large units of transported cargo, sea transport occupies a unique position in world trade. It is estimated that its share amounts to 70-75 percent. Despite the progress in other branches of transport, especially air, there are no indications that this privileged position of sea transport will be radically changed, the competing modes cannot challenge its low cost.²⁷

26) Ibid. p. 20

27) Chrzanowski, 1 & a1 "Shipping Economics and policy"

Associalist view. Fairplay Publications Ltd. London, p. 3

The significance of sea transport does not live in its universal character. It secures for the international exchange of goods the regularity and ability to transport large tonnage which is essential for normal functioning. Internationally, trade is linked to development in shipping. Any prosperity or depression in sea transport reflects like a barometer, the international economic situation.²⁸

The interrelationship between transport systems and the development process, provides subject of considerable theoretical interests and practical importance. It occupies a good deal of attention in both advanced and developing countries. The interaction between the level and pattern of transport resources and average standard of living of the population of an area (which is a parameter for level of development) is a critical factor affecting economic and social progress and should be taken into account at all stages of national and regional development planning.

In Kenya a good deal of attention has been given to transport innovations in the past, but emphasis has been mainly on road transport, followed by railway and air transport, respectively in terms of importance, then maritime transport ranking last especially when we refer to participation in carriage of goods by sea.

In the Ministry of Transport and Communications, which is in charge of all modes of transport, there is a department of roads, in charge of all road construction and recently (1986) a surface transport department was introduced. Sea transport is handled by the department of Civil Aviation, which has among other important matters, air transport and meteorological services. It is therefore not a wonder that the policies on sea transport remain of ancient times, and the other two modes have to rank first and second respectively before shipping due to their direct impact on the social, economic and political activities.

28) Ibid.

I am not suggesting that shipping has been completely neglected. The department handles quite a number of sea transport activities and thanks to the World Maritime University, the department has a trained Maritime Administrator. It is however necessary to recognize the importance of sea transport in national development and hence create a department of sea transport which will have nothing else to do but Maritime transport activities and ofcourse promotion. Today, new strategies of economic planning require the modification and renewal of inherited transport systems, which will not be complete until sea transport is included in our definition of transport. Sea transport and all that goes with it, should be considered, as part and parcel of the whole transport system.

In most developing countries like Kenya, there is widespread concern for transport, as I have stated above, in the context of the desire to promote rapid economic development. Today the spectrum of transport modes available in these countries, ranges from head portorage, Matatu*, to Jumbo Jet (Air Buses) and from simple canoes to international containers, although in many countries the degree of intermodal choice is often severely restricted, it is vivid that there is no escape from transport, even in the most remote and least developed parts of a country, transport, in some form, is a fundamental part of the daily rythm of life.²⁹

Transport like labour, capital, market, land and power supply is a sine quanon for modern economic growht, but in any country, to plan is to choose - any project undertaken in a developing country is chosen from a variety of very important and innovative projects, it has to be decided whether to invest in sea transport facilities or to implement a different project, sometimes the tangible outcome from the project are the guiding principles and sometimes the longterm outcome. Developing countries operate on limited resources and therefore it becomes

29) Hoyle, B.S. "Seaport and Development"- the experience of Kenya and Tanzania. Gordon & Breach - Sience Pub. N. York 1983

* A mode of transport used in many developing countries and particulary in Kenya, comprising of minibuses, mainly for short distances.

difficult to choose which project to undertake first, a phenomenon which might be responsible for the lagging behind of sea transport in many of these countries.

A wide spread belief in the overriding importance of transport, the importance of investing more on transport activities like shipping, as accelerators in the development process is reviewed in much of the relevant literature within the field of transport economics and transport geography. Probably the most extreme claim for transport to us Kenyans in the context of development, was that made by the colonial administrator in Kenya, Lord Lugard, who wrote many years ago (1922) that:

"The material development of Africa may be summed up on one word - transport."³⁰

It has been realized in these countries that transport "is the power of economic growth and the different process". Transport provides one element in the varied infrastructure necessary for development.

Some developing countries like India, Brazil and Nigeria, just to name a few, have given great attention to the critical role of sea transport in the development process. These countries have realized that almost all external trade and that of their landlocked neighbours, are carried by sea, hence they have given great concern to sea transport and port development, plus registration of ships. They have taken the port as a growth pole or as a restrictive influence upon development.³¹

Rail and sea transport enables Canadian wheat growers to ship substantial quantities of grain from the prairies to processing and consuming areas such as India or the United Kingdom and allows cars manufactured in Japan, to be sold at a competitive prices in the United Kingdom, the U.S. and other countries all over the World. This means that with adequate and efficient sea

30) Lord Lugard-quoted by Hoyle, B.S. in his book "Seatransport and development - Ibid. - p. 3

31) Ibid.

Transport the developing countries and particularly Kenya, can also sell their products at competitive prices in other parts of the World.

3:2 SHIPPING AND NATIONAL DEVELOPMENT

The progress of a developing country towards a more advanced level of economic and social development, involves a very large number of problems and is dependent upon a wide range of factors and influences. The process of development is open to a variety of interpretations based upon economic, political, social or spatial viewpoints. Whatever perspective, the development process is paramount, it is commonly accepted that a modern transport infrastructure, designed both to integrate the constituent parts of an area and to link that area with other overland and overseas areas, is an essential prerequisite of modern economic growth and social progress.

Transport infrastructure may operate as an elementary permissive factor allowing economic interchange to expand and intensify. Within such a system shipping and even the sea port of a country occupies a strategic place for its function is to integrate land and sea transport networks.³² This is more important in a developing country like Kenya, where the modern economies tend to be predominantly oriented towards distant overseas markets - which means that shipping is of great importance, and if it is well organized, the shipping activities assist development of modern agricultural systems and to the establishment and expansion of modern industry, as it has been argued in the chapter on inland transportation.

There is thus a close relationship between shipping and the development process. As stated earlier, for Kenya the provision of port facilities and all that goes with it including a well organized maritime administration is a precondition of modern economic growth. Today the stage of economic development reached in the national port of Mombasa is in considerable measure a function of the capacity and degree of sophistication of the shipping activities available in the country.

32) Hoyle, B.S. Seaport & Development, New York 1983, p. 225

Ports exist, to serve their customers and the character of a seaport inevitably reflects the demand made upon its services, from a wide variety of sources in the hinterlands and on the maritime side; these demands are in turn an expression of the development process and the requirements for the economic take off of the particular hinterland. This explains how the port of Mombasa has attained its current development in cargo handling, modern berths and sheds. It has to cope with the demands of its customers for both exports and imports.

In general terms, shipping is obviously playing a very fundamental and extensive role in the economic development of the developing countries and particularly Kenya, but unfortunately this role is too often taken for granted and its importance insufficiently appreciated. This is why in most developing countries, Kenya included, there is no Department of Maritime Administration in charge of all shipping activities, even over 20 years after independence. In most of these countries, attitudes toward maritime activities is a phenomenon of colonial heritage.

We often tend to forget that the shipping activities and organization in a country like Kenya in the pre-independence period was just an extension of the British Maritime Administration, administered from London and that we should pick from where they left and develop it further to match with our developmental goals. In many of the developing countries, failure to have a well pronounced maritime administration apart from being blamed on the colonial masters, should be looked at vis-avis the other developmental activities and of great importance to the nation undertaken by the Ministries responsible for transport.

In Kenya, the Ministry of Transport and Communications has been responsible for construction of roads and bridges to link most parts of the country, without which the country could not have

attained its present development standard. As adequate infrastructure of the above is provided, then no doubt the country and especially the Ministry of Transport and Communications will embark on more concentrated maritime activities and more so towards development of a National Merchant Marine and all the infrastructure that go with it.

It is apparent that road transport alone cannot promote economic development. It has to be coupled up by a well organized maritime affairs, since our economic structure is very much engaged in external trade and still based upon export of primary produce and import of manufactured goods. The growth of the economy of the developing states implies increasing external trade and the question arises whether the maritime infrastructure serving them now and in the future will be able to cope with the increased demand.

In any country, both shipping and technology related services are intermediate services which are intimately linked with the broader process of manufacturing and distribution of goods for the national prosperity of the particular country.

Shipping is an intergral part of infrastructural support to the economy, its provision being virtually inseparable from investment in infrastructural capital and its demand being entirely from primary and secondary level - mining, agriculture and other manufacturing activities.³³ But shipping requires not only embarked physical capital but also skills, information and an established international financial and commercial contact. Adequacy of these made Norway the highest profit making country in the world in the past. (\$4.5 billion earning compared to Japan \$3.2 billion, Italy \$1.9 billion, Netherlands \$1.1 billion, and France \$0.9 billion.³⁴) Thus shipping cannot be separated from the development process of a country. It has to be integrated in the developmental goal and should be taken as an important element in our national development.

33) Sanjaya L & Frances S (Edit) Theory & Reality in Development
The Macmillan Press Ltd. London 1986, p. 128

34) Ibid. p. 129

3:3 TOWARDS A NATIONAL SHIPPING LINE

The basic aims of a national shipping line are to decrease the burden on the balance of payments caused by spending lots of foreign currency to pay for freight. As I mentioned inter alia, in any developing country every proposed investment project has to compete with many other alternative uses of scarce capital, while the relative values of investments are frequently measured in terms of social as well as economic costs not to forget the political pressure that go with such investments.

Shipping may be more difficult to evaluate on these terms in a developing country than say a highway, a bridge, hospital due to lack of data as shadow prices, and lack of experience in investment planning. But the adding of overseas currency as a result of investment in shipping may justify the economic and social benefits foregone in order to develop a national fleet.

It is however important to mention that the economic benefit from sound investment in shipping and the potential for broader development impact from such investments depend significantly on how shipping is intergrated with, and contributes to the economic development of the country.³⁵

Economic linkages depend on the pattern of a country's resource allocation and the extent to which the national fleet draws on domestic industries such as shiprepair yard, marine insurance, ship finance organization, ship classification services, marine telecommunication, marine research institutes etc.³⁶

Since as much as 80 % of the cost of a ship may be borrowed from the main shipbuilding nations and as this loan may not be available for other purposes, it can be argued that opportunity costs need be calculated only on 20 % down-payment. The down-payment is the net drain on the economy and it would be covered early by the annual net contributions resulting from investment

35) Developing Dountries & International Shipping. World Bank Staff Work Paper No. 502, Washington 1981, p. iii

36) Ibid. p. v

after paying the loan reduction and the interests thus as we shall see later, the investment in shipping will pay for itself and contribute to the balance of payments of the country.

National shipping has the possibility of expanding the quantity type of exports. Trade can be generated by forging new links using the national line. This has been done and found beneficial in several countries, Japan, Israel, Poland and Yugoslavia, who have opened wider trading relationships using their own shipping lines.³⁷

The national fleet as a countervailing power to the conference serving the nation provides an incentive to purchasing vessels. National fleet coupled with the backward linkages by the creation of ship repairing, survey and all that go with shipping can provide an employment opportunity compared to any other industry of equal capital; but as I have said earlier the industries that go with shipping provide a good employment opportunity and should be considered when undertaking investment in shipping.

Shipping can develop much faster than many of the other industries that can be undertaken in the developing countries and at the same time provide a tangible evidence of development in a short period thus it should be given a high priority in the national development plan.

A ship is more easily obtainable and dispensable on the world market than any other investment, say a factory or a dam and it is less of an investment risk since no ship will operate unless it is fully insured. The financial and managerial assistance for establishing a national merchant fleet can be easily obtainable in the developed states - where the country lacks trained manpower for shipping, which should last only for the period national crew is under training to take over the operation of the ships.

37) Ibid. p. 185

As far as Kenya is concerned, the problem may only be the capital, since we have adequate trained personnel, who were working with the defunct East African National Line and who may not be properly deployed today. For the capital, Kenya enjoys a very good atmosphere at international circles and can get a loan for national fleet at almost any country in the world, but the question remains whether we are able to set the necessary infrastructure and manage the said shipping line to operate at profit.

Several developing countries have been able to set a viable and profit making national shipping lines. In 1957, the government of Ghana started the Black Star Line, with managerial and financial assistance from Israel Zim Shipping Company.³⁸

They entered the trade between Ghana and North America. By 1960 the company had bought out the Zim interest and was nationally independent, and entirely government owned with an aim of obtaining 40 percent of ocean traffic between Ghana and the rest of the world in 1970. The line has been supported in trading by the government of Ghana and by produce marketing organizations which have direct cargoes to national ships. By 1969 the line was operating sixteen cargo liners within the West African Line Conference.

India also has an impressive shipping line though with less direct government participation. In 1969 the Indian fleet amounted to 3.3 million dwt, a growth of almost 70 percent since 1964. This rapid build up of shipping is reflected in the national development plan, aimed at carrying 50 percent of India's overseas trade in Indian ships.³⁹ The government has supported shipping with loans and rebates but does not provide operating subsidies. By 1965 Indian ships had obtained a substantial proportion of the available cargoes and in that year they carried 42 percent of all cargoes under the Indian + UK Conference and 39 percent in the Indian Continental Conference.⁴⁰

38) Ibid. p. 186

39) Ibid.

40) Ibid.

Pakistan is another developing country which has established a national merchant fleet. It has a rapidly growing fleet which in 1969 comprised 770 dwt with the government as the principal owner. The need for a substantial Pakistan merchant fleet was necessitated by the formation of fragmented state comprising east and west provinces separated by India. Pakistan has also a good number of Moslems, who travel to Mecca during Haj Season by sea. For this purpose the Pakistan Pan - Islamic Steamship Company operates four passenger vessels between Karachi and Jedda.

Like Pakistan, the state of Israel also developed a national fleet, partly in response to changing geopolitical condition. When Israel was established as a state, its land frontiers were closed and the only means of foreign trade was by sea. They first chartered cargo ships, but later acquired not only cargo but also passenger ships. In 1954 Israel received funds from the Germany as restitution which was used to purchase the vessels. By 1969 the national fleet reached almost 2 million dwt and carried about 50 percent of the country's seaborne trade.⁴¹

It is therefore apparent from the above that some developing countries have paid a great deal of attention to shipping and particularly in the recent years some have invested in particular liner vessels to serve multiplicity of economic, political and strategic objectives with the relative importance of each varying from case to case.

The developing countries have shown an increased awareness of the mistakes they make by depending on foreign-owned ships and a growing belief that by carrying a significant share of their scarce foreign exchange. They reduce freight costs, obtain new markets and generally facilitate their foreign trade including that with the other developing countries, better known as South - South trade links, which is currently very limited, though

41) Ibid.

due to the similarity nature of goods for exports from each of these countries. The share of developing countries in carriage of seaborne trade has however been increasing tremendously which indicates that they have a good future in the business, and more important shipping has been in the recent year shifting from the developed to developing countries, from West to Eastern block, especially in registered gross tonnage and shipbuilding, which gives high hopes for developing countries participation in shipping. Shipyards have been closing down in the developed countries, e.g. Kockums in Malmö, Sweden and also Oslo Shipyard, while shipbuilding increases in the developing countries. South Korea is now building more tonnage than even Japan. Ships have been flagging out almost daily in the famous ancient shipping countries, like Norway, to register in the developing countries, mainly due to expensive labour in the developed countries.

Kenya would be better placed than many other developing countries in establishing a national line, in that the port of Mombasa is still the most modern port in all the PTA (Preferential Treaty Agreement for Eastern and Southern Africa) countries. Kenya therefore would carry and tranship most, if not all, the exports and imports of these countries, which include: Tanzania, Uganda, Rwanda, Burundi, Zimbabwe, Zambia, Somali, Sudan and Zaire. Kenya has therefore all the potential for performing well in carriage of seaborne trade if a national line was established.

Apart from the favourable effects and the rest of the advantages accrued from a national fleet I have discussed, an investment in such fleet may assist foreign trade of a country like Kenya by providing services to areas not already covered or covered only by transshipment at a higher cost, which might be beneficial for trade. The ships can be used for promoting the Kenya's products abroad apart from the business. Special cases have for instance been cited where the Indian Shipping lines have been instrumental

in opening up new trade particularly with other developing countries like Latin America and West Africa. National lines have also been used to serve neglected congested ports like Nigeria and Gulf area. They may also be more cooperative towards national shippers by accepting less desirable commodities.

Kenya has a substantial amount of cargo including the government cargo, which could economically be carried by the national line, these include Coffee, Tea, Pyrethrum and Soda ash, which are mainly marketed by government corporations - thus making it easy for the government to arrange for the transportation.

3:4 SHIPPING AND BALANCE OF PAYMENTS

The balance of payment has been described by some scholars as an account which includes a systematic recording of all the economic transactions made during a definite period of time (usually a year) between the residents of one territory and the residents of another.⁴² The balance of payment is thus a double entry account of a country in which are shown all receipts of foreign earnings from the rest of the world on the credit side, and all the payment to the rest of the world on the debit side.

When a country engages in international trade, then the question of balance of payments arises. The people of every country eventually require the payment to their services or goods to another country to be paid in their own or any currency of their choice. If Kenya buys goods or pay for services in the USA, then it has to be paid in US dollars; if from UK in British pounds, if from Germany in deutsche marks and from Sweden in Swedish Kronors.

The best way to obtain these currencies is to sell some of our own goods and services to the countries concerned. For a country to have a favourable balance of payment, it must export more services or goods than it import of the same value. If a country is getting more goods and services from the rest of the world then the country will have unbalanced trade payment. This means that it will be paying more in foreign currency than it is receiving.

All countries whether developed or developing must seek to attain and maintain equilibrium in the balance of payments. The traditional maritime countries have enjoyed the contribution of shipping to their earnings of foreign currency and the way it has helped to maintain an equilibrium in the balance of their payments.

Many developed countries as I discussed earlier have also noticed the importance of shipping to their balance of payments and hence have gone into shipping with the purpose of releasing pressure on their balance of payments ranking the utmost.

42) Chrzanowski "Shipping Economics" Mayheu McMrimenon Printers
Essex, 1985, p. 102

The potential gain to the balance of payments of a country intending or which has established a shipping line can be termed as:

"Freight payments earned on carrying imports plus freight payments earned on carrying exports, minus the sum of disbursements formally made by foreign ships in the country's ports, now forgone, and the disbursements by the national ships abroad."⁴³

To really look at the contribution of shipping to a national balance of payments we have to start right at the start of the acquisition of the ships. The source of the capital; and especially the terms of the loan. A long period of the loan payment with a minimum interest rates, enables the ship to pay for itself from the freight earned: although this will also depend on the trade the ship is engaged in and of course the operation cost.

Whatever the case, an investment in national shipping line may result in reduced freight rates and increased exports by transporting the national cargo at a cost below the normal tariffs charged in cargo liner services, which would represent foreign exchange benefits.⁴⁴ The existence of a national fleet is beyond doubt beneficial to the country's balance of payments especially if the country has the necessary infrastructure, such as ship repair yard, insurance firms and others, which would reduce the ships expenditure in foreign countries.

It enables the country to reduce the outflow of foreign exchange for imported shipping services and earns foreign exchange by selling its services to foreign residents.⁴⁵

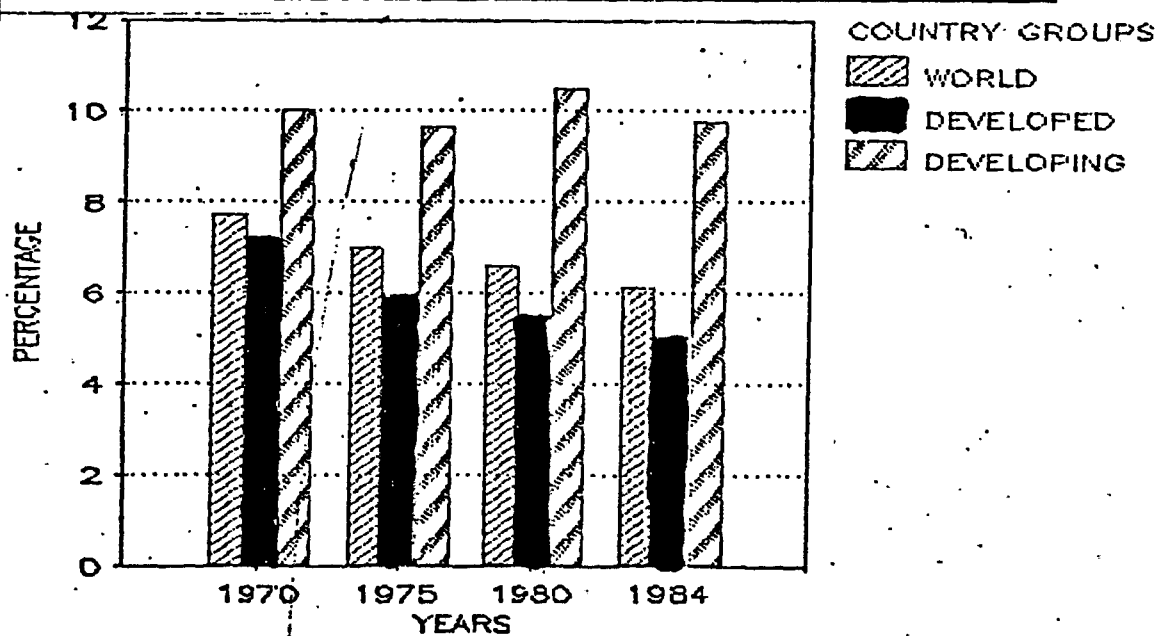
These include freight earnings of home flag ships from transporting home exports paid by foreign buyers at CIF, home imports paid by foreign suppliers at FOB and earnings from cross trade.

43) UNCTAD "Establishment of a merchant marine in Developing countries" TD. New York 1968, p. 32

44) Branch, Allan E. Economics of shipping practice and management, Chapman and Hall, New York 1982, p.132

45) Kenya New Digest Harrison, Lakini Association (Kenya) Ltd August, September, 1986

Graph 1
Freight as percentage of c.i.f. import values



Derived from IMF. *International financial statistics yearbook, 1985.*

A national fleet plays a protective role with respect to the balance of payments. Apart from the payments in foreign currency received, time charterers of these ships will have to pay in foreign currency. For a country like Kenya, a national fleet will earn foreign currency by carrying goods of her neighbouring countries and also from port charges paid by these countries for their goods on transit.

I should not be taken to be assuming that the national ships will only earn foreign currency and will not spend foreign currency outside the country. Of course the ships will have to pay port dues and take supplies, such as bunkers, food and others abroad. Most of the insurance firms of ships are in the traditional maritime countries hence insurance will have to be paid by foreign currency. The crew of the foreign ships, which will be replaced by the national fleet would have spent some money in foreign currency in the home ports and this will have to be forgone. The foreign ships would have employed crew from our country, who would have emitted some of their salaries back home for their families in foreign currency, but now with the establishment of a national line, the crew will have to spend foreign currency, while away from home. These and other factors can be taken as the negative effect of national fleet to the balance of payments.

Though the above may be the case, it should be realized that developing countries pay a lot of money in foreign currency as freight rates. The graph on foreign payments indicates how much these countries paid from 1970 to 1984 in terms of freight rates compared to the rest of the world. From this graph, it can be deduced that national fleets are a necessity for developing countries to reduce the money they pay out as freight rates. A single line which was started barely two years ago, in 1986 earned Kenya KShs, 30 million in foreign currency. The line The Allied Oil Company was established in 1985 and the said amount was earned when the line had only one vessel for carrying oil.⁴⁶

46) Kenya New Digest. Harrison, Lakini Associates (Kenya) Ltd.
August, September, 1986

From this it can be deduced that Kenya has a high potential for trade to be carried by a national shipping line, though a lot has to be calculated to arrive at the beneficial operation of such a line.

INLAND TRANSPORTATION AND THE INLAND
CONTAINER DEPOTS

As mentioned in the introduction, Kenya's development policies are now guided towards "district focus" for rural development. This means that a lot is being done to ensure that there is an even development in the country, which does not leave pockets of undeveloped areas as it was left by the colonialists. This also ensures that industries, both manufacturing and service have attained a different set up, not concentrating only in the large cities, but also to be allocated in the rural areas, which calls for more incentives to be given to the rural oriented industries.

If the District has to become the centre for development, then this will mean that communication system and especially transportation will have to be given more priorities than before due to its impact on development in any given area. The "Rural Access Roads" Project will have more to accomplish than before.⁴⁷

Most if not all of the industries in the Districts need and have to use raw materials that have to be brought from other parts of the country or even from outside the country. The products of the District, which also include agricultural products, have to reach other parts of the country where they are in demand and to foreign markets through the sea port of Mombasa.

The afore said vividly indicates the necessity for a link between the inland and sea transport. The modes of transport mainly used for transportation of goods in most parts of Kenya are either road or railway. To date over 50 percent of goods passing through the port of Mombasa, both exports and imports, are containerised, which makes the phenomena of container transportation and handling of paramount importance.

Containerisation as a mode of transport has been in operation in North America and Europe since the early 1960s. In the developing

47) A Rural Road Programme in Kenya meant to ensure that most of the rural areas are accessible by road.

countries, however, containerisation began to appear in the mid 1970s. In Kenya, containers started making an impact in 1975 and since then they have been on the increase. Tabel VI below shows the increase of container traffic handled in the port of Mombasa from 1975 to 1986 (September)

TABLE VI

| CONTAINER TRAFFIC HANDLED AT MOMBASA PORT 1975 - 1986 (September) | | | | | | | | | | | |
|---|------|------|------|------|------|------|------|------|------|------|------|
| ('000 containers) | | | | | | | | | | | |
| 1975 | 1976 | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 |
| 1.3 | 3.4 | 4.6 | 9.1 | 15.2 | 30.7 | 44.1 | 57.6 | 83.8 | 92.5 | 103. | 91.0 |

Source: Kenya Ports Authority.
 Figures for 1986 are provisional and include upto September only

The table shows that the port handled 1,300 containers in 1975 compared to 103,400 in 1985 which is a good indication of how containerisation is increasing in the country.

At the time when containers first started appearing in Mombasa the port was ill equipped, both in material and human resources, to deal with the new technology in handling cargo. Traffic forecast had, however, drawn attention to the need for careful planning for containerisation in East Africa. Three berths were then designed and built for container handling.⁴⁸

Containerisation is defined as transportation of goods from door to door and therefore the transport chain is not complete when the containers have arrived in the seaport. There is more to be done, and that is the transportation of the containers inland. This then calls for establishment or construction of

48) Kenya Ports Authority.

a container handling infrastructure which is nothing else but an Inland Container Depot (ICD).

The above was accomplished in Kenya when the KPA constructed the first ICD at Embakasi - Nairobi, a distance about 600 km away from the seaport, Mombasa. This has therefore taken shipping services right into the heart of the country's capital city and is so far the best equipped dry port in that part of the world and probably in the whole of Africa.

The Embakasi depot came into full operation on July 1, 1984. A special container train the "RAILTAINER" operates from Mombasa to Nairobi and vice-versa. The ICD is well equipped with modern container handling equipment that could be found in any modern port, including storage sheds for containers.

The ICD was a necessity for Nairobi, especially with the Kenya's policy of rural development. The upcountry traders, especially small scale businessmen, as well as farmers, can now consolidate their cargo right from Nairobi, ready for export. The services are based on through bill of lading, which means that the shipper does not need to travel all the way to Mombasa for the clearance of his cargo.

Transport cost normally affects the tradeability of goods, whether imports or exports. The transport costs by the "RAILTAINER" is less than the cost of road haulage charges for similar distance, weight and type of goods. This means that goods which were not tradeable before due to the total cost are now tradeable.

Import cargo may be collected loose (LCL) from the ICD or in containers (FCL). Exports may be brought loose or delivered already containerised. Unnominated cargo may be delivered loose

to be warehoused at the ICD or delivered containerised and await export documents to be processed by customs, at nominal charges.⁴⁹

All the government institutions concerned with exports and imports are situated within a short distance of the Depot, and can be visited easily should the need arise.

For the importer, the responsibility for the container ends on its return to the shipping company line concerned at the ICD, where most of the lines have leased space for storing empty containers. These and other advantages accrued from the ICD make it a very important investment, especially for the core of the country's economy-agriculture.

It is apparent from the afore said that as containerisation gathers momentum in the developing countries, the need for expansion of the area of transport beyond the immediate port is* necessary. This is a move which will also help ease the chronic congestion problems, which beset ports in many developing countries and especially newer container ports.

The container has become an intergral part of the modern vessel and it can be said that with its introduction the ocean-going vessel has ceased to reach the sea port but also the hinterland.⁵⁰ As a result, the ICDs are now dry ports where some of the traditional functions of the seaport have been transferred. To the ship owner, his interest in the cargo no longer ends when the cargo has been discharged from the vessel, as it was in the conventional traffic, but rather his responsibility ends when the cargo is safely delivered to the consignee's warehouse.

49) Ibid.

50) Henderson, A.M.S. - Lecture notes, Bremen Technical Institute, Federal Republic of Germany, Oct. 1986, p. 6

4:1 MODES OF TRANSPORT

The availability of various modes of transport to the inland is today a technical precondition enabling a port to serve the traffic demands of its hinterland. The standard of land communication is one of the economic factors of the port competition and therefore of vital importance if a port has to compete with other ports in a given region of any country. This has left many ports without proper links with their hinterland to be served only by feeder vessels. It is also one of the factors which has placed the port of Mombasa at a comparative advantage over other ports in the region and more so in the PTA countries.

As mentioned before, in Kenya the modes of transport used for transporting goods and especially containers inland is by road and railway. Originally, in most parts of the world containers were transported by road and only to a limited extent by rail.

In the first phase of containerisation about 80 % of the containers reached the hinterland by road and only 20 % by rail, in many parts of the globe. This picture soon changed giving approximate 50 - 50 ratio.⁵¹ Towards the middle of the 1970's the trend reversed completely and almost 80 % of the containers moving over long distances are now travelling by rail, though this has not been the case in Kenya as this chapter will indicate later.

51) Henderson, A.B.S - Ibid.

4:2 RAILWAY TRANSPORT

In many countries there is high proportion of rail traffic which can only be explained by the systematic operation of the rail in general. Because of its size and technology, it is the only mode of transport which on a long term basis is able to solve the quantitative problems of container transport to and from the hinterland.

In the U.S. this has been different, the trucking companies are stronger and more competitive than in Europe. This has been as a result of a long-term inefficient service offered by the railway companies; since there are 22 class I, 26 class II, and 412 class III railway companies operating, which obviously can not function in the same manner as a well run state owned railway system.⁵²

In the meantime the US railways have come together to a certain extent with the result that the service offered now is on a par with the trucking companies. This has tended to encourage keen competition between the two modes of transport, which obviously leads to better service for the customers.

Following the increasing trend in Germany (FDR) to transport containers by rail over long distances the state owned German railways responded by introducing special container block line trains between the seaports and the inland. As a higher percentage of the larger shippers and consignees are with rail sidings, the positioning of their containers by rail is not a major problem. There are, however, many customers of no less importance who until recently handled their cargo exclusively by road in the country.

The customers in Germany can be offered a combined transport system which, although in no way new, is capable of offering a competitive service to the sole truck transport. The principle

52) Ibid. p. 8

which I believe can be applicable in Kenya is that the container is transported to the nearest inland terminal by rail, then transferred from the rail car onto a road chassis and delivered to the customer by truck. This system calls for ownership of trucks by the railways, which has not been possible in Kenya, due to one reason or another.

In Germany at least six block trains leave the seaports each day linking the ports of Bremen to the German hinterland calling at approximately 65 inland terminals belonging to the Federal German Railway (see German map). It has been possible in this part of Germany for containers leaving the seaports on the afternoon to arrive at their destinations by morning the following day. Thus we can say that rail transport in Germany has proved to be more efficient for transportation of containers than road transport and I trust this is not impossible in Kenya, in the near future, as the railway services improve.

4:3 ROAD TRANSPORT

Unlike the railway industry, the trucking industry is not characterised by a substantial element of fixed costs. The contributions which the truckers pay for the use of the public highways tends to vary with the amount of activity, for example diesel oil and road tax. As the truck operator does not have to provide and maintain the road network, the cost of road transport can be considered as largely viable. But the costs are not the only elements influencing the shipper's choice between road and rail transport services, Some other factors have to be considered including length of haul, weight and size of consignment, value of goods, traffic density, nature of route, security, accessibility, need for transshipment, handling facilities and the total cost.

The weight and size of a shipment is often, or is supposed to be, the governing factor when deciding on the mode of transport to adopt. This is due to specific weight limitations laid down by each country. These traffic regulations specify the maximum total weight which may be transported over the roads. In many developing countries, however, though these are clearly stipulated in their traffic Acts, they are hardly followed, the result of which heavy trucks move on roads not meant to support such weight, thus damaging the roads and costing the government a lot of money to repair.

4:4 THE SITUATION IN KENYA

When containers started arriving in Kenya in numerous number, the KPA responded by providing a good infrastructure for handling them in the port, followed by construction of the ICD at Embakasi - Nairobi. The container impact on the country's sea-trade and the national economy was not a concern of the Ports Authority only but also the other related institutions within the government.

The Kenya Railways responded by providing a railway link and wagons for transporting the containers from Mombasa to Nairobi and vice-versa. The government in recognition of the role of the new mode of transportation to the economy, responded by proposing that 64 % of the containers arriving in Mombasa be transported inland by rail, and 16 % by road since only 80 % of the containers are destined for Nairobi.⁵³

The response to the transportation of containers by train to the ICD has however not been so encouraging. The ICD has met with some bottle necks, which may only be summed up by quoting one of the best ancient political scientist - Machiavelli, in his book "The Prince", when he stated in 1513 that:

There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things. Because the innovator has for enemies all those who have done well under the old conditions, and lukewarm defenders in those who may do well under the new. This coolness arises partly from fear of the opponents, who have the laws on their side, and partly from the incredulity of men, who do not believe in new things until they have had a long experience of them.⁵⁴

He was right, because what he said is now experienced a lot

53) Kenya Ports Authority

54) Machiavelli "The Prince" quoted in Plaza, F. Lecture hand-out on "The technical work of IMO 1987, p. 1

especially in the developing countries, where new projects, though very clearly beneficial to the entire community are received with cold shoulders and even at times they do not take off at all, leave alone the misinterpretation of the aims of such projects.

Though the importance of container depot at the inland is vivid to almost all of those concerned, to date only 30 % of the capacity of the ICD in Nairobi is utilised, the rest of this important and expensive investment is unutilised. Only between 15 - 20 % of the containers destined to the mainland travel by rail to the depot, despite the government's proposal that 64 % of the containers travel through the Depot.

Many shippers and shipping companies have in the past argued that they find it difficult to transport their containers through this facility because of: non availability of enough wagons from the railway to transport the containers and especially in time without much delay; that the ICD causes double handling since the container mostly would end up being loaded to a truck to be transported to the consignee's warehouse, if not stripped at the ICD. Others have argued that it is faster and more convenient to transport their containers by road and straight to their warehouses after clearing with the customs in Mombasa, than transporting them by rail through the ICD.

Many shipping companies and shippers in Kenya find it hard to adopt the use of the ICD, because for a long time and traditionally they have always had their warehouses in Mombasa which would be rendered useless if they had to transport all the cargo for their customers through the ICD. They prefer to make use of their facilities at the coast.

Some large scale importing/exporting companies which could best utilise the ICD such as the Kenya Cannery,⁵⁵ have their own

55) A subsidiary of the Delmont Multi-National Company, handling the processes and exports of large quantities of pineapple in Kenya.

Table VII

CONTAINER TRAFFIC PERFORMANCE (TEUS) TO-DATE
AT THE INLAND CONTAINER DEPOT (ICD) EMBAKASI

| MONTH | 1984 | | | | 1985 | | | | 1986 | | | | 1987 | | | |
|-------|------|-----|-------|-------|------|------|-------|-------|------|------|-------|-------|------|-----|-------|-------|
| | IMP | EXP | EMPTY | TOTAL | IMP | EXP | EMPTY | TOTAL | IMP | EXP | EMPTY | TOTAL | IMP | EXP | EMPTY | TOTAL |
| JAN | | | | | 278 | 93 | | 371 | 697 | 126 | 622 | 1445 | 418 | 78 | 360 | 856 |
| FEB | | | | | 275 | 106 | 6 | 387 | 458 | 177 | 567 | 1202 | | | | |
| MAR | | | | | 280 | 105 | 104 | 487 | 432 | 100 | 565 | 1097 | | | | |
| APR | | | | | 189 | 106 | 200 | 495 | 618 | 169 | 631 | 1418 | | | | |
| MAY | | | 18 | 18 | 395 | 144 | 253 | 726 | 635 | 170 | 578 | 1383 | | | | |
| JUN | 45 | | | 45 | 341 | 87 | 233 | 661 | 511 | -200 | 711 | 1422 | | | | |
| JUL | 52 | 7 | 160 | 219 | 246 | 83 | 277 | 606 | 770 | 231 | 821 | 1822 | | | | |
| AUG | 52 | 50 | | 102 | 390 | 154 | 324 | 866 | 630 | 219 | 553 | 1402 | | | | |
| SEPT | 106 | 35 | | 141 | 290 | 91 | 385 | 775 | 616 | 268 | 821 | 1705 | | | | |
| OCT | 37 | 63 | | 100 | 345 | 134 | 413 | 892 | 861 | 302 | 762 | 1925 | | | | |
| NOV | 212 | 63 | 2 | 277 | 399 | 191 | 477 | 1067 | 666 | 248 | 1047 | 1961 | | | | |
| DEC | 217 | 88 | | 305 | 234 | 177 | 301 | 712 | 729 | 280 | 667 | 1676 | | | | |
| TOTAL | 721 | 306 | 180 | 1207 | 3635 | 1441 | 2973 | 8049 | 7622 | 2490 | 8345 | 18458 | | | | |

COMMULATIVE JULY 1984 TO DATE = 28750

NOTE: JAN'87 FIGURES ARE UPTO
19.1.87 INSTANT

Source: Inland Container Depot, Monthly records of container

facilities for handling containers, which are transported by rail straight to their plant at Thika.

The Nairobi Depot has also not been very useful for transity cargo to land-locked countries such as Uganda, Rwanda, Burundi, Zaire and southern Sudan, because their cargo or containers would still need to be transported by road for a long distance before they reach their consignees.

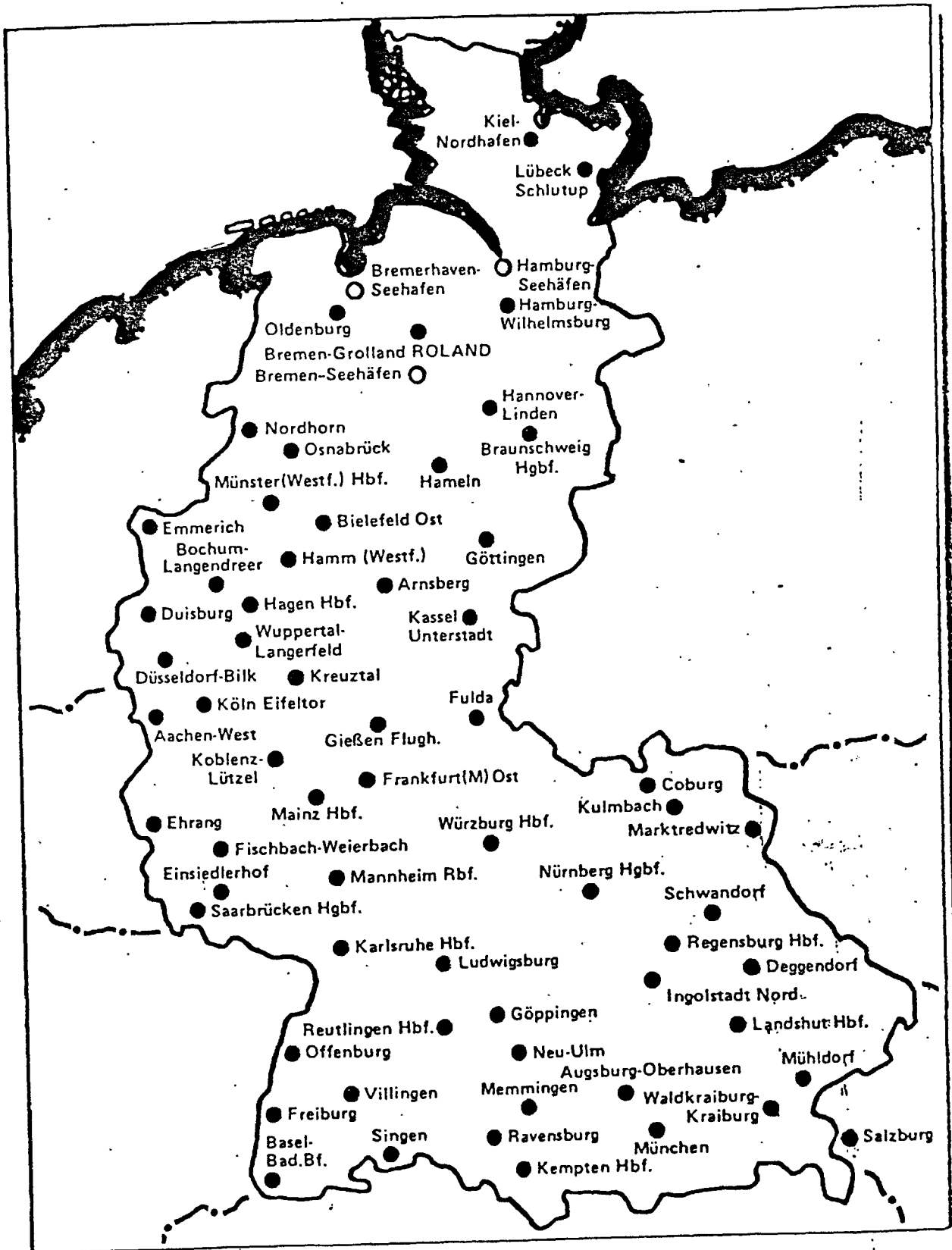
Though the above is the prevailing situation as concerns inland transportation and the usage of the ICD, the number of containers (TEUS) passing through the depot has increased from 219 per month in July 1984, to 856 per month in January 1987, from 8049 in 1985 per year, to 18,458 per year in 1986, which gives an average of about 37 containers per day and is expected to rise tremendously in the near future (see table), though this is very low compared to the capital invested in that facility and the heavy machinery used!

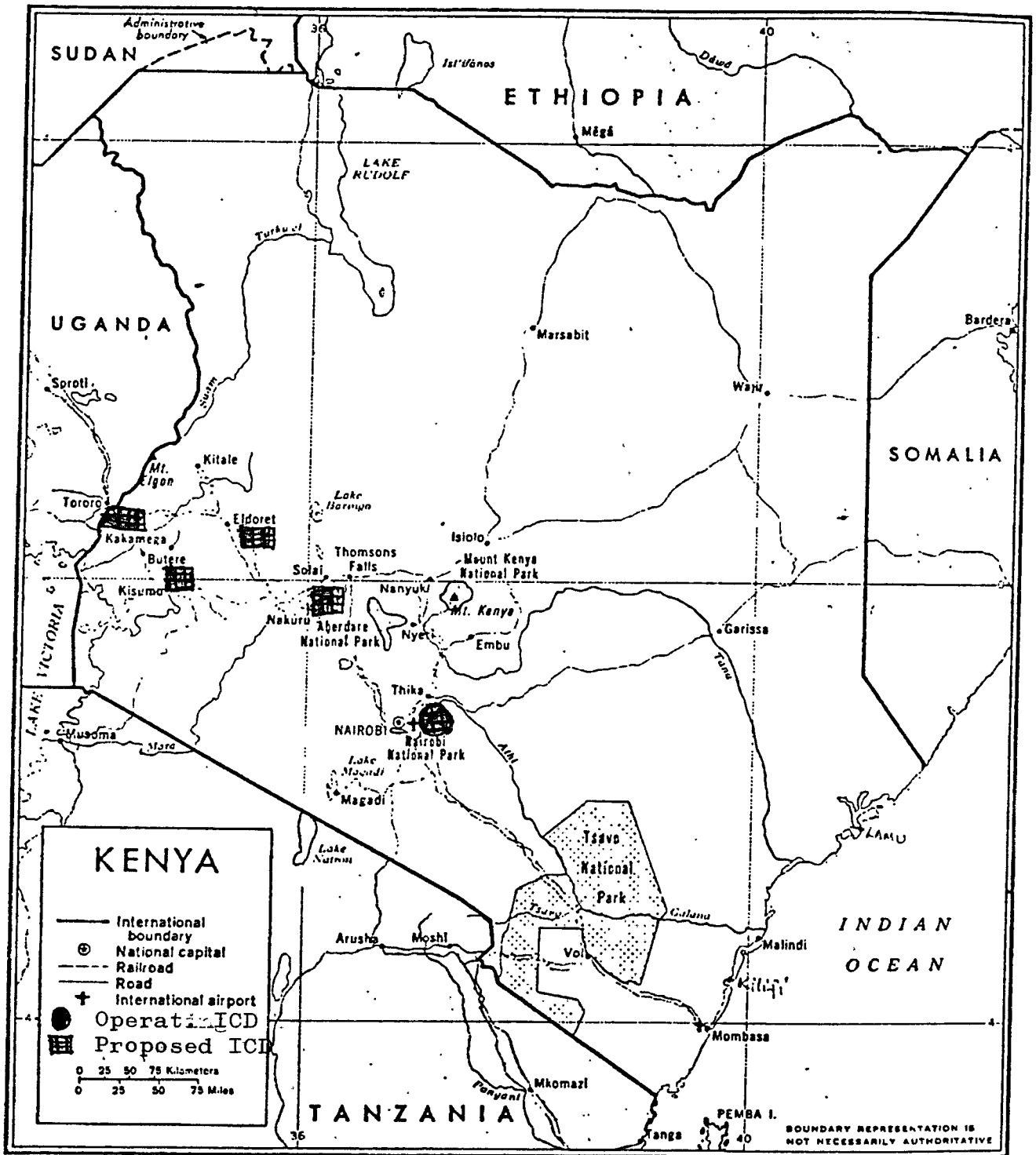
The Kenya government in its endeavour to promote trade, industry and her maritime activities has plans to construct more ICDs (see map 2 and compare with map 1) at Nakuru, Eldoret, Kisumu and Malaba to cater for shippers in these towns and the neighbouring countries, some of which will have their containers transshipped by the train wagon ferries in lake Victoria to their lake ports.⁵⁶ This is expected to rise the usage of the ICDs by shippers in the country.

There is a need for ways to implement the government's proposal on carriage of containers to ensure that the stipulated 64 % is carried by railway through the ICDs. The KPA on its marketing strategy should look for ways to educate the shippers on the importance of the ICDs. The railway also for its part should offer better services for the container transportation and purchase more wagons to ease the delay, and to compete with the trucking companies.

56) Report of the official meeting of the Norther Corridor Transport System on Lake Victoria Services held in Kisume in February 1986.

FEDERAL GERMAN RAILWAY CONTAINER DEPOTS.





THE CONCEPT OF MARITIME ADMINISTRATION

Among the definitions of administration, the one I find more suitable to this work, is that which has defined administration as a determined action, taken in pursuit of conscious purpose, involving cooperation between two or more human efforts towards reaching some goals accepted by those engaged in the endeavour. Administration thus is concerned with the means for achievement of prescribed ends. It involves decision making, rules to make sure that the decision are carried out.⁵⁷

Administration in government authorities refers to the process of guiding an organization towards the achievement of progressive political, economic and social objectives that are authoritatively determined in one manner or another.⁵⁸

Referring to the above definition of adm. maritime administration can then be said to be that part of administration within a country's overall activities which provide the government with the machinery to enable it to satisfactorily and efficiently undertake those function which are embodied within the country's merchant shipping legislation.

The above functions would include the implementation of the requirement of international maritime safety conventions and national rules and regulations framed under the authority of the merchant shipping act.⁵⁹ The maritime administration in a country is responsible under the ministry concerned, with shipping for providing and organising the appropriate and strategies of maritime infrastructure and development in the country. Some developing maritime countries, like Kenya do not have a merchant fleet at the moment; but they have ports and other maritime infrastructure which need proper guidance from the maritime policy makers who are the maritime administrators.

57) Heady, F. Development Administration - Prentice Hall, New Jersey, 1966, p. 9

58) Waterson, E.W. In Heady and Stakes - Papers in Public Administration eds. University of Meneapolis Press, p. 98

59) Vanchiswar, P.S. Lecture notes on "Adm. of Maritime Affairs in developing countries - WMU, Malmö, Sweden.

As mentioned here, the primary function of maritime administration are those embodied within the country's merchant shipping act; whose primary objectives in a developing country need to be developmental regulatory and in conformity with the relevant international law/conventions. The developmental functions contribute directly to maritime development and the regulatory functions also contribute to such development and economic advantages consequently.⁶⁰

The developmental function can take the form of participating in the process in formulating the government policy as regards maritime development and deciding upon the activities to be undertaken, in connection with such development. Such functions are of course essentially contributory to the overall economic policy decision to be taken by the government through the ministries of economic planning, finance, commerce and industry. They may include:

- The appropriate analysis/assessment of the most suitable way of involving the country in carriage of sea trade, which could be done by chartering, joint venture or by acquisition of a merchant fleet.
- Development of the manpower needs of the shipping industry in the country.
- Development of shipbuilding and ship repair capabilities.
- Development of ancillary (marine) industries.
- Assessment of the suitability of, and the situation of the country's ports for handling international trade and for the intended ships - with a view to propose required development/improvement.
- Development of employment opportunities and deployment of national seafarers in the right places.

The regulatory functions are supposed to ensure:

- Safety of ships and property at sea and the protection of the marine environment.
- Maximum efficiency in the operation of ships with consequential economic advantage.

- Creation, development, protection and prevention of national maritime skills.
- Reduction in the maintenance cost of shipping - if any.
- Concentration of foreign exchange by regulating and controlling the fleet expenditures outside the country and looking for more ways of earning the same.
- A projection of the image of the country in very favourable light in the maritime world.

Though the above are but not all of the functions of maritime administration, in most developing countries this administration is under the ministry in charge of transport and communications and in most cases the maritime affairs are overshadowed by the other numerous activities the ministry has to handle.

It has been argued earlier in this thesis that an important factor determining the pace of economic and social development in developing countries is their participation in carriage of their trade. Such participation is dependant on the country's infrastructure, human capabilities and administrative structure for handling the transportation of the trade.

The optimum participation of developing countries in maritime transport of the world is the consequential and very result of appropriate national maritime administration. The UNCTAD in its Code of Conduct for Liner Shipping stresses the need for an appropriate authority,⁶¹ which should be responsible of the implementation of the code. It is appropriate that such an authority be nothing other than the national maritime administration in charge of all maritime activities in the country.

The maritime administration is responsible for guidance in proper and economic use of the maritime infrasturcture in a country by establishing maritime policies as guiding principles. It has to

61) Sturmev, S.G. The UNCTAD Code Seatrade Academy, London, 1985

consistently review the institutional arrangements within which most of the shipping activities in the country have to operate with a view to modifying to the needs at the changing environment in which they are operating and to be able to fulfil the obligations for which they have been established.

Among the problem facing shipping in developing countries and particularly in Kenya, the most acute one has been singled out as shortage of qualified marine personnel. There are no doubt that managerial skills in the maritime sectors are still very scarce and the progress in this sector will continue to be inhibited unless the supply of soundly trained personnel is stepped up, particularly in view of the ever changing shipping technology.

The UNCTAD code has emphasized among other things the measures for the protection of shippers interests and in the establishment of shipping investigation units and freight study units, all of which require for their success a strengthened administrative team, the development of new administrative and planning techniques of processing statistical data.

It is however apparent that unless a more concerted effort is made to increase and improve the human resources, the new policies are likely to remain utopian concepts for lack of adequate administrative and technical support.

For a long time, it has been widely believed in most of the developing countries and particularly in Kenya that maritime administration could be tackled by any general administrator in a ministry and that such administrators can acquire their experience in maritime affairs while on the job; but things have changed. Learning from experience often means the perpetuation of old techniques and ideas. It is assumed that everything is static and the status quo has to be retained. Shipping is an ever changing business and especially today as the computer is used even for manning.

Due to the above assumption, training of maritime administration has never been a priority task in the developing countries and especially in Kenya; a view which overlooks the importance of maritime affairs in the economy of the country; and ignores the sensitivity, of the economy to quality of maritime administration.

It has been perhaps over emphasized in this thesis, but it is important to note that almost all economic activities in the developing countries rely on the efficient movement of goods through their ports; and that delay of goods which could be caused by poorly trained maritime administrators, leads to delay of national development projects owing to the late delivery of materials.

The maritime administrator should understand the role they play in national development of their country. They must have a thorough knowledge of the legal, insurance, academies, regulations and standards. They must understand the matters of international and national significance in shipping world. Thus there is need for proper training and orientation of maritime administrators in any country, to be able to translate the maritime goals/policies into accomplishment. This is in accordance with the recommendation of the report on UN decade for Transport and communication in Africa 1978-88-6.

There are courses and maritime schools like World Maritime University, Arab Maritime Academy, MIT and others which provide different courses in maritime sector and scholarships can be obtained from IMO, ILO and UNCTAD in the commercial management which a country like Kenya should tap. There is then need to identify the right people to train in the maritime field, and to give them the necessary incentives after the training to remain in the public sector.

5:1 A SURVEY OF MARITIME ADMINISTRATION IN
TWO DEVELOPED COUNTRIES (NORWAY AND FEDERAL
REPUBLIC OF GERMANY)

1. Maritime administration in Norway

Maritime activities in Norway are traditionally rather than rationally distributed in many ministries, though the Ministry of Trade and Shipping could be said to be responsible for the most important aspect of the activities.

Norway is traditionally a maritime country, with a long experience in shipping. For hundreds of years the sea has been their main transportation artery. From the eleventh to the twelfth century Norway was a thriving seapower in the North. The Vikings who were famous pirates and tradesmen were also excellent seamen.

Though Norway has such a long experience in shipping and shipping is one of her major industries, maritime administration in the country is distributed into many different ministries. It can be said that of the 17 cabinet ministries, only one has no significant part to play in maritime administration. The role of the ministries have functions which concern the maritime administration. The Ministry of Trade and Shipping is however thought to have the most important function of maritime administration.⁶²

The most important task of this Ministry is to look after the interest of the shipping industry on a national and international basis.

It is engaged in maintaining and if possible, improving the access to the market of Norway Shipping services and also in attending to the interest of the persons who are employed in the shipping trade.

The work in the field of responsibility of the Ministry of Trade

62) Professor Os, Maritime administration in Norway,
Lecture notes, World Maritime University, 1986

and Shipping is organized in such a way that there is a department which is responsible for maritime matters. This department has five divisions, and it is headed by a director general. The five divisions have the following tasks:

- 1st Division
- Licensing import and export of ships.
 - Licensing shipping company finance abroad.
 - Licensing Norwegian companies in investing in shipping companies abroad and to enter ships in other registries.
 - Licensing foreign investments in Norwegian shipping companies.
 - Annual national budget assessment of the shipping industry and the oil drilling industry, maritime transport contingency planning.
 - Administration issue and others.
- 2nd Division
- Maritime transport as discussed in international organisation including OECD, UNCTAD and relations to the EEC.
 - The UN Convention on a Code of Conduct for Liner Conferences.
 - General Shipping policy relations with OECD countries.
 - General questions regarding protections and flags of convenience.
- 3rd Division
- The affairs of the maritime Directorate, the Directorate for seamen and Norwegian government seamens service.
 - Relations with the IMO. International Conventions and other instruments of IMO.
 - Relations with ILO concerning maritime transport.
 - Norwegian maritime Legislation.
 - The social conditions of seafarers and their families.
 - Conditions at work on board ships.
 - General questions regarding maritime study.

- 4th Division
- General economic assessments of maritime transport and related activities.
 - The economic and competitive strength of the Norwegian Shipping industry.
 - Prospects of the shipping markets.
 - Long term programme assessments of the shipping industry and the oil drilling industry.
- 5th Division
- Access to the shipping markets of developing countries and state trading countries.
 - Shipping policy in relation with the USA, bilateral shipping agreements.
 - Protectionistic legislation and similar restrictions in other countries.
 - Commercial cooperation and other projects to develop the shipping industry at developing countries.⁶³

The department of maritime affairs has large, subordinated, specialised directorates which carry out the greater part of the work. These are:

- 1 - The Maritime Directorate
- 2 - The Directorate for seamen
- 3 - The Norwegian government seamen's service

The Maritime Directorate and its external organisation, the ship control, are authorised to exercise the administration of measures to maintain and improve maritime safety standards. It also exercises functions delegated to it by other ministries. According to the seaworthiness act, the Directorate is supposed to be headed by a person specially skilled in maritime and shipping matters.⁶⁴

63) Ibid.

64) Lecture in the Maritime Directorate, Oslo, Norway, April 1987

The Directorate is organized in four divisions:

- Legal Administration division
- Technical division (in charge of hull, machinery and offshore).
- Operating division (in charge of equipment, manning, qualifications and other operational matters).
- Ships control division (in charge of survey and inspection).

The Directorate has delegated part of its obligations to other agencies partly governmental and partly private or non-profit organisation in order to cope with its work.

According to the provisions of international Conventions, the government of a country may entrust the inspection and survey either to surveyors appointed on individual occasions to classification organization which is recognized. However the government must fully guarantee the completeness and efficiency of the survey.

2. Directorate for seamen

The Directorate is primarily a service institution intended to look after the interests of the seamen and of the shipping industry. It makes provision for health and safe places of work on board and see to it that seamen get their rights in accordance with the rules and regulations. It also ensures that public interests are looked after, by seeing to it that rules and regulations are complied with, and by ensuring that taxes, social insurance premium and dues are collected subject to control.

The Directorate also offers its services to other Ministries, public and private institutions. The Ministry of Trade and Shipping has authorised the Directorate to make decisions which within its field of activity pursuant to Acts or regulation, are vested in the Ministry.

The main tasks of the Directorate for seamen are:

- General question in connection with the administration of seamen's Act.
- Articles of agreement and their content.
- Provisions for the protection of young seamen.
- Medical examination for seamen. Sick and injured seamen.
- Death at Sea.
- The obligations of the state in connection with seamen's service conditions are regulated by Act or agreements.
- Protection and environmental work on board ship.
- Travelling arrangement for seamen and their families.
- Search for missing seafarers, commission to ascertain foreign law and service of units etc.
- Signing off, on and mustering in Norway and abroad.
- Seamen's relations to military authorities.

- Central registers for seamen and crew statistics.
- Administration of arrangements concerning taxation of seamen, sickness benefits, collection of social security dues etc.

The Directorate is headed by a Director General with a permanent deputy (Deputy Director General). It has five divisions and employs 250 persons. Much of its work takes place through consultation throughout the world and the Directorate is authorized to give instructions to the consultants in matters concerning seamen.⁶⁵

3. The Norwegian Government Seamen's Service

Its aim is to carry out welfare service for seafarers working on board Norwegian ships, engaged in domestic and international trade. Such services may also benefit seafarers from other countries.

As opposed to the two Directorates, which to a great extent exercise functions of control and regulation in relation to the shipping industry, the task of the Seamen's Service are of a service rendering kind only, and it should perhaps be regarded as more cultural institution.

Since this institution is not much concerned with administration, I will not elaborate much on it.

The above are not all of the functions of the Ministry of Trade and Shipping. As mentioned earlier, there are other Ministries also involved in Maritime Administration. There are two Ministries of Education, one for basic and the other for high education and each of these is involved in Maritime Administration.

The Ministry of Basic Education is responsible for basic education, including schools for elementary maritime education, giving

65) Directorate of Seamen, Oslo, Norway

competency for the lowest certificates for deck and engine departments. This kind of maritime education is given in about 50 maritime schools, situated in different parts of the country. The number of schools and enrolment of students is however falling and has reduced greatly recently, due to the poor shipping situation facing Norway today and especially due to flagging out many of the Norwegian ships to foreign registers.⁶⁶

Advanced maritime colleges are under the Ministry of Higher Education and they offer courses ranging from shipping economics, maritime administration to business administration and economic technical courses in maritime affairs.

The Ministry of Fisheries and its subordinate bodies carry out many functions of maritime administration. It has two directorates in charge of maritime administration: the Directorate of Coastal Affairs and the Directorate of Fisheries.

The Directorate for Coastal Affairs is responsible for ports, sea lanes, navigation aids and pilotage. The Directorate has its head-office in Oslo and has five offices.

The Directorate for fisheries deals with almost everything related to marine resources. Two research institutions are working for the Directorate, namely the Institute of Marine Research and the Institute of Nutrition.

The Ministry of Finance is in charge of matters related to taxation with regard to shipping (and seafarers). Oil pollution control is under the Ministry of Environment, while maritime rescue service is under the Ministry of Justice. This ministry is also in charge of maritime commercial law aspects and legislation in the field. The Ministry of local Government and labour is responsible for safety in connection with oil exploitation on the Norwegian continental shelf. Ship building yards are under the Ministry of Industry

66) Lecture notes by Mr Bogens, National Council of Secondary Education, Oslo, Norway, April 1987

Beside the Ministry of Trade and Shipping, it can be argued that the Ministry of Fisheries is carrying out the most maritime administrative functions in Norway. As we have seen however virtually all the ministries in the country are involved in maritime administration in one way or another.

After the foregoing survey of maritime administration in Norway, it is difficult to argue that there is any rationality or logic on why the maritime administration is distributed to so many ministries and institutions. One would very easily admit that the division is hardly based on logic and that its background is traditional rather than rational.

If the Norwegians had to reorganize their maritime administration today, I am sure they would come up with quite a different set up, disregarding the strings of tradition and historical development. Their system however, as haphazardly distributed as it is, has worked and serves them well.

The Norwegian shipping activities are however to date faced with many difficulties, some of which could be attributed to the set up of the maritime administration, despite the cooperation and consultation that go on within the different ministries and directorates.

It may not however be possible to set a maritime administration under one organization/ministry in any country. Just as there are many international bodies dealing with the global maritime affairs, and IMO being the major body dealing with these affairs, there can be many ministries in a particular country dealing with maritime administration, but one ministry with a bigger role to play.

Maritime Administration in the Federal Republic of Germany

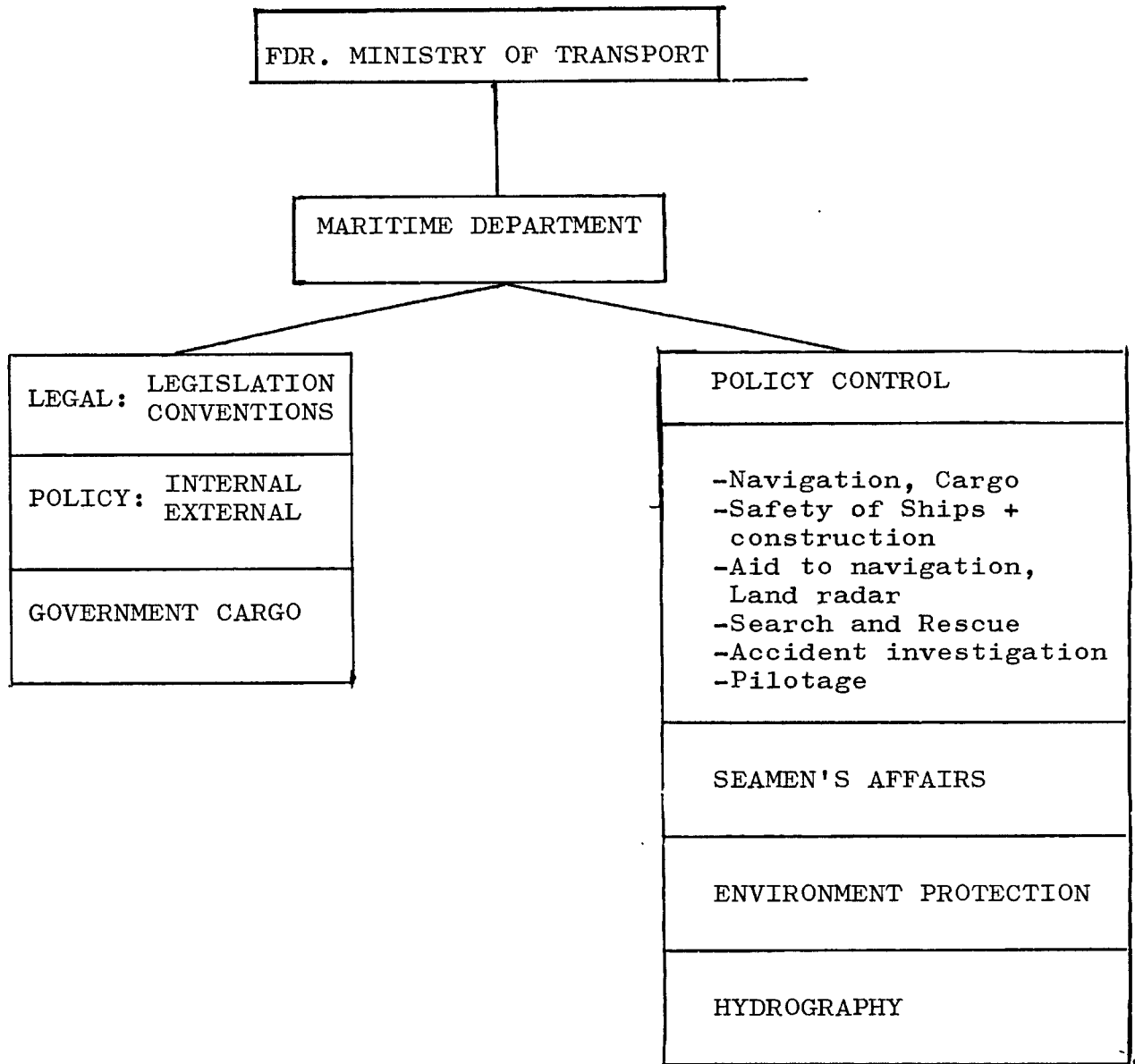
In the Federal Republic of Germany, the ministry responsible for most of the maritime administration functions is the Federal Ministry of Transport, which has a maritime transport department, with two units, one for what could be called shipping policy and the other for safety at sea and related matters.

Each of the above mentioned units have offices, as indicated in figure 3 each office handling different matters from the other: through a particular aspect of maritime administration may be handled in more than two offices. A good example of this is shipping policy, which falls into the responsibility of three different offices, one defining the basic principle of national shipping policy, another one seized with the shipping relations between the Federal Republic of Germany and other countries, and the third one dealing with all matters related to the promotion of national shipping. There is also a fourth office dealing with all aspects of the seaborne transport of cargo in which the Government takes special interest, the so called "Government Cargo".

Within their respective spheres of competence, the various offices of Department are also responsible for representation of the country in respective international organization.

The shipping policy unit constitute delegations to UNCTAD, and the safety at sea unit provides delegates to the IMO's Maritime Safety Committee and its various subcommittees: delegates from the legal office represent the country in IMO Legal Committee and at the United Nations Law of the sea conference.

The Department of Maritime Transport works very closely with the "Central Administration Department", which is competent for such important sectors as budget and personnel, and with the "General Transport Policy Department", because shipping policy is also part and parcel of general transport policy.



ORGANIZATION OF FEDERAL REPUBLIC OF GERMANY, MINISTRY OF TRANSPORT,
MARITIME DEPARTMENT

Due to the country political conviction that public administration be kept to the inevitable minimum; some direct governmental administration is replaced by indirect self-administration; which in practice is that the person involved associate themselves to form a corporation under public law, which is merely supervised by the state.

The government has also transferred a number of originally governmental activities to private associations in its principle of keeping state intervention to a minimum.

A good example of this is the "Germany society for the rescue of shipwrecked sailors", which is in charge of surface search and rescue at sea; vocational training on board ships; and the activities at the West German classification society "Germanische Lloyd", which fulfils governmental functions with regard to the survey and inspection of ships.⁶⁷

The Germany Hydrographic Institute is a governmental authority responsible for production of charts, nautical handboards, prediction and measurement of tides, notices to mariners, navigational warnings, type-testing and type approval of nautical equipment, marine survey and oceanographic research (with own ships) and marine pollution monitoring.⁶⁸

The Federal Board of Tonnage Measurement is responsible for the movement of vessels in accordance with national and international rules and regulations.

From the afore said, it is apparent that the maritime administration in Germany is also complicated though not as in Norway. What is important however is, that the system has worked for them and has been beneficial. It should equally be remembered that historical development play an important role in matters such as public administration and the Dousche have lived with their public administra-

67) Dr. W.H. Lampe, Lecture handout, World Maritime University, Malmö, Sweden, June 1986

68) Ibid.

tion for long, thus it is part of them and easy to manage. It is different from a new idea been imposed on an existing set system.

On the other hand the Dousche bearing public responsibility have kept high degree of flexibility and have always tried to adopt to current developments. But this does not mean that things would work the same way in another country. The existing differences in the historial development, the economic status. the political system and the geographical situation may determine the direction and performance at public administration in any country.

I am not therefore advocation that in Kenya we should copy the administrative procedures in my two case studies, but we can learn from them and avoid making any mistakes, that the countries could have made in setting their maritime administration. We can choose the aspects of those two case studies, which we think could be applicable and of much help to our system and avoid everything that could be a problem to us; though this can not be done overnight. It has to take time.

5:2 MARITIME ADMINISTRATION IN KENYA

In Kenya, maritime administration is placed under the Ministry of Transport and Communications. The Ministry has however delegated most of the maritime administration work to the Kenya Ports Authority, thus the Authority administers the Merchant Shipping Act and appoints the Merchant Shipping Superintendent, who in the Act is the Officer duly designated to carry out the responsibilities stipulated in the Act and he is supposed to be a government appointee.

The Merchant Shipping Superintendent Office carry on the duties delegated to it by the Minister for Transport and Communications, in accordance with section 313 of the Act, which states that:

For the better execution of certain provisions of this Act the Minister may delegate his powers except the powers to make rules and regulations and the powers conferred by sections ... and ... of this Act, to an officer (in this Act referred to as the Merchant Shipping Superintendent) and any thing done by such officer in respect of this Act in consequence of such a delegation shall be deemed to have been done by the Minister.⁶⁹

The duties of the Merchant Shipping Office include:

- Registration of ships
- Survey and inspection of ships
- Matters pertaining to crew
- Registration of seamen
- Issue of Certificates
- Licensing of unregistered vessels
- Detention of unregistered vessels
- Safety regulations
- Marine pollution etc, etc.

Kenya like many developing countries, has no classification society of its own, but recognizes and the government has delegated its classification work to classification societies such as:

- i) Lloyds Register of Shipping,
- ii) Germanisches Lloyd,
- iii) Japanese classification society,

69) Laws of Kenya. The Merchant Shipping Act, Cap 389, Government Printer, Nairobi, 1968, p. 153

- iv) Det Norsk Varitas,
- v) Bureau Veritas,
- vi) American Bureau of Shipping,
- vii) Greek classification society.

The above classification societies work closely with the Port Authority in exercising Port state control or inspection of ships.

It is clear from the afore said that the Ministry of Transport and Communication has delegated most of the maritime administration work. It is however still in charge of the maritime policies and any investment or changes, in maritime activities must be approved by the Ministry, as stated in the part of the Merchant Shipping Act quoted above.

Anything to do with IMO, and other intergovernmental maritime organization like UNCTAD and ILO is channeled and handled by the ministry's maritime staff, who have in the past proved competent in this function.

Matters pertaining to maritime administration are only passed to the delegated authorities mentioned above after they have been ratified and adopted by the government.

The ministry however can not work on its own on maritime administration. There are other ministries and institutions which are also part and parcel of the maritime administration and worthy mention. These work hand in hand with the ministry of Transport and Communications to attain an intergrated use of the ocean and other water resources in the country. They inluce:

- The Ministry of Environment - for marine environment protection and to some extend marine research.
- Ministry of Tourism and Wildlife - in charge of fisheries in the country.
- Ministry of Commerce.

- Ministry of Industry.
- Ministry of Research, Science and Technology.
- The police for protection of the Economic zone and the territorial waters.
- Customs - and the office of the Vice President.
- The office of the Attorney General.
- Ministry of Foreign Affairs.
- Ministry of Labour & for crew matters.

The above ministries/departments normally have joint meeting to review the present and future activities in maritime field. Cooperation is however needed to create awareness of the maritime activities, important to our national development. International Centre for Ocean Development (ICOD - Canada), for example, could be approached to organize a seminar for officers with maritime duties in these ministries.

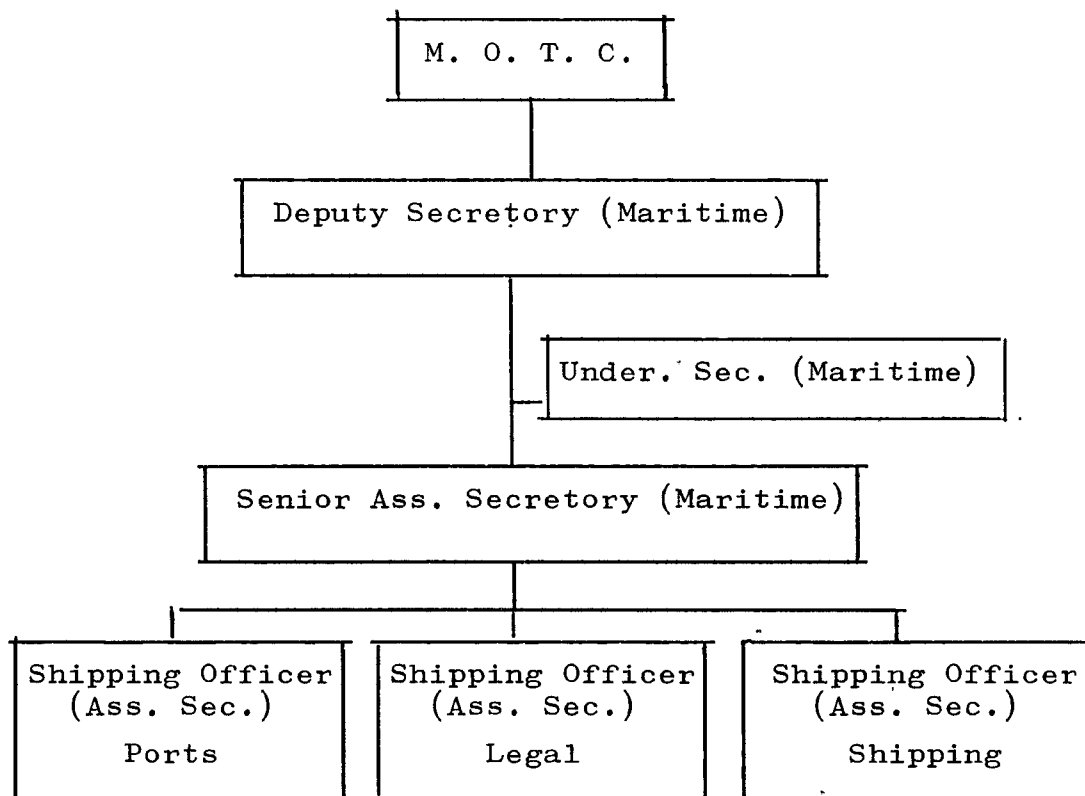
Though the above ministries/departments play an important role in the maritime field in Kenya, the Ministry of Transport and Communications has the most significant role to play in Kenya's maritime activities, since it is in charge of maritime transport including ports in the country, and we have already seen how important these are in Kenya's prosperity.

Maritime Administration in the Ministry of Transport and Communication is under the Department of Civil Aviation which is also in charge of Air transport. The Department has a Directorate of Civil Aviation in charge of all aspects of air transport. This could partly explain why soon after the collapse of the East African Community in 1977, and consequent collapse of the jointly run transport corporation of East African Airways, East African Railways and East African Shipping Line, Kenya established her own airline, but the idea of shipping line though mooted at the same time remained elusive.⁷⁰

70) Weekly Review, Nairobi, Kenya, March 13, 1987

Maritime Administration is just a section of this Department of Civil Aviation and has not in the past been given the due support though things seems to be changing now. There is however a need for a set of an independent Maritime Department not subordinated in other activities. From the comparative survey of maritime administration in the two developed countries of Norway and West Germany, the functions of such a maritime administrations has been clearly shown. We do not however have to copy these countries in setting an appropriate maritime administration. We can start by setting a simple administrative organization which will meet the goals of maritime administration outlined at the begining of this chapter. The following chart could be an appropriate one for such a set up. Any appropriate maritime administration will however need a vell developed maritime legislation, which I will discuss in the next section.

FIGURE 2



A suggested model for maritime administration in Kenya.

5:3 THE ADEQUACY OF KENYA'S MARITIME
LEGISLATION

Maritime legislation is an important guiding tool in a country's maritime infrastructure and in her participation in carriage of maritime trade. A well defined and properly formulated maritime legislation with a clear look towards the future development is necessary for a country to take off in her maritime development.

In Kenya the existing Merchant Shipping Act was enacted in 1967, during the inception of the defunct East African National Shipping Line, to cater for the said shipping line. Today, twenty years after, the wording of the Act still remain as they were when it was formulated.

The Act was drafted following the British Merchant Marine Act at the time but to suit our goals and conditions. Obviously the British Merchant Act by now should have undergone some changes. Conditions and circumstances in marine affairs have also changed greatly since that time. There is therefore every good reason why the current Merchant Shipping Act in Kenya should be carefully studied and changes made wherever necessary and especially in accordance with the IMO, ILO and UNCTAD standard and regulations.

There is need to incorporate the relevant IMO conventions into our laws, failure to which we can not apply the conventions, though we might be a party to them. Shipping is an international business and as international standards keep on changing, maritime Legislation in any maritime country must keep pace with them.

One of the areas of concern and which should be looked into in the present Merchant Shipping Act is the section on the registration and ownership of ships in Kenya. The Act seems to be rather limiting as to who should own or register a ship in Kenya. It states that a ship may be registered in Kenya if:

- a) The owner is a resident of Kenya or
- b) is owned by a body corporate, incorporated under the laws of Kenya, which has its place of business in Kenya;
- c) The Government.⁷¹

71) Laws of Kenya, The Merchant Shipping Act. Government Printer, Nairobi, 1967, Cap. 389, p. 15

The above was the case in many countries when the Act was drafted (1967). Today many countries have changed their maritime policies, especially due to changing economic situations. It is difficult now to find a single major maritime country, which has not registered some, if not all, of her vessels in other countries, mainly for economic reasons. Some countries like Britain, Norway and US are even worried of the exodus of ships from their registries to register in other countries under the so called flags of convenience.

Time has come when Kenya should also consider allowing ships from other countries to enter her register. This will only be possible if the existing Merchant Shipping Act and especially the section quoted above is altered. The UNCTAD has been opposed to this type of registry mainly due to the past experience in the flags of convenience, but a new model for an international Registry to suit Kenya and the international safety standards can be adopted, which need not be a prototype of the prevailing open Registries of Panama and Liberia.

To be a maritime nation and to enjoy the benefits of owning a large fleet, a nation does not necessarily have to own a national fleet, which is directly under the Government, though at the same time it is good to have a national merchant marine. A country like Norway, which is historically known for ownership of a large fleet of ships, trading almost all over the world, does not own a single deep sea going national vessel. The ships that make the Norwegian fleet are owned privately by either Norwegians or outsiders.

What is important for a developing country like Kenya is to have ships registered under her flag, which can be used not only for the carriage of her maritime trade but also for strategic purposes. In accordance with the 1958 Geneva Convention on the High Seas and the 1982 United Nations Convention on the Law of the Sea there however must:

"exist a genuine link between a ship and a flag State which must exercise effectively its jurisdiction and control over ships flying its flag."⁷²

Such a registry if started in Kenya would increase the demand for secondary industries that go with shipping as discussed earlier in this thesis.

Kenya has always had and still has a good atmosphere and conditions for foreign investors in many types of industries and therefore there is no reason why shipping as an industry should not also be incorporated in this. The private sector is still much encouraged to participate in the national economy and hence towards National development. The shipping companies like any other industry will have to pay taxes and employ Kenyans to run their business.

It might however be argued as it has been before that an open register would lead to Kenya becoming one of the Countries perpetuating substandard ships on safety of sea as the wide spread believe has always been on open registries.⁷³

Kenya through her Maritime Administration and in line with the international Maritime Conventions relating to safety of life and property at sea, should be able to control ships flying her flag. As a matter of fact, the safety of ships from open registries has only been marginally worse than that of the rest, though they have been blamed a lot on the increase of substandard ships in the seas.⁷⁴ Thus Kenya should not be scared by the existing blame on such a registry, in stead we should have a marine Legislation that allows ships from any country to register so long as they meet our standards and regulations and abide to our laws.

The major problem Kenya might have in starting such a registry would be to get enough certificated crew to man the ships. It

72) UNCTAD - Convention on conditions for registration of ships TD/RS/CONF/23 - 13 March 1986, p. 1

73) Gold, Edga. Maritime Transport, Lexington books, D. C. Heath Co., Lexington, Messachussets-Toront, 1981, p. 267

74) Ibid. p.267

will mean that we have to train many people to man the national Line as well as the privately owned ships. We can however make use of the facilities in Bandary college to train as many people as possible. We can also approach those maritime countries we have bilateral agreement with to start training our crew on board their ships.

Apart from the area of our maritime legislation which has been discussed above, there are other areas which also need great attention and hence updating. Among these is the act dealing with the territorial waters and the 200 miles economic zone. Kenya was one of the leading countries in the formulation of the Law of the Sea at the UN Conference of the Sea and her participants contributed a lot to the present wording of the Law. It is therefore important that our maritime Law covers the usage of the territorial waters and the Economic Zone. Only then shall Kenya be able to control the users of these areas, which are part of our natural wealth.

SUMMARY AND RECOMMENDATIONS

In this thesis, transport and especially maritime transport has been portrayed as an integral factor in national development and therefore with a direct bearing on a country's economy. The pace at which a country develops depends fundamentally on movement of the goods it produces and receives in exchange from other nations. This dependence is felt in all the varied activities that characterise a nation's life, thus it will be almost impossible to develop in any aspect without a good transport system. The theme of this thesis has however been to emphasise the importance of maritime transport in national development. This is not because the other modes of transport are not important, but because the author felt that there has not been enough emphasis on maritime transport.

Shipping is very important to a developing country like Kenya, which has to sell most of her products far away and import from abroad. The developing countries today spend a good amount of their income in payment for freight for their trade. They sell FOB and buy CIF and the trade is mainly carried by ships owned by their trading partners who are mainly the developed countries. Thus the developing countries have still continued to depend on the developed countries for much of their development, since transport and especially sea transport has a lot to play.

It is therefore important that these countries and especially Kenya participate in the carriage of her maritime trade, but as it has been discussed in this paper, there is a lot to be considered before a country can engage in ownership of a merchant marine. At present it is cheaper to buy second hand tonnage due to the increasing number of ships layed up, but the problem is whether the ships bought at such a time will be able to operate at a profit.

Sometimes shipping has been found to be a drain to a country's hard earned resources if the country has to keep protecting and subsidising it over a long time. In such a case it is better to

do without ships than to own them, especially if they have to exist at the expence of the taxpayer and the national economy.

There are, however, many ways of participating in carriage of maritime trade without fully owning ships. After a careful survey of the existing trend in world shipping, Kenya could start by slot chartering until it has enough trained crew to man her own ships and also until such a time that it will be found possible to own ships and operate them economically.

A joint venture between Kenya and an established shipping company in the developed countries could be another good alternative, especially if the company could then form consortium with other companies to avoid relying on one type of trade or conference line which could be more vulnerable to fluctuations in world trade.

It should be pointed out that although it may be a good idea to form a joint venture with the developed countries (since Kenya can make use of the trained crew in the company and their managerial skills before we establish our own) not many joint ventures have done well in the past. The developed countries tend to pass to the developing countries their obsolete tonnage or that tonnage which they have no use for except to lay up.

If then Kenya has to form a joint venture with any company, it is only good that an independent shipping consultant be called upon to carry on a study as to the viability of the endeavour. Such studies can be carried on by an agency like the Centre for Maritime Cooperation, which is the maritime branch of the ICC, based in London, and has carried out over twenty such studies so far for developed countries.

Since each of the parties in the venture have their own interests and goals, it is important that such goals are made clear at the beginning. There should be proper expert advice on legal, technical, operational, managerial and financial matters, so that each of the parties is clear on what is happening.

Once a shipping line has been formed, then more effort should be put on developing the existing ports in Kenya and improving the managerial skills to render efficient services.

The port of Mombasa should be able to meet the challenges in development in world trade and to be able to cope with it if it has to handle the goods faster and efficiently. Delay in the port and especially for line shipping is part of the cost of the freight to the shipper, thus the goods have an added cost while the value remains the same. All this cost is passed on to the consumer and the country, thus affecting the national economy.

Port management has a great effect on the overall national economy and development, thus more emphasis should be put on training the managers since they have important decisions to make, which would affect the national development.

The port needs to initiate some awareness programmes through its marketing strategies, for the use of the ICDs which have of late been being underutilized. The Government also should find a way of ensuring that the stipulated percentage of containers to travel by rail through the ICD do so to save the country's money spent on transporting these containers by trucks, which charge exorbitantly, while these high transport costs have to be passed onto the country's national economy.

The Government of Uganda has already made a directive that all the imported oil products through Kenya be carried by rail to Uganda. This was after the charges of transporting one tonne of oil by truck from Mombasa to Uganda reached US\$ 120 compared to US\$ 42 by rail per tonne.⁷⁵

Kenya would save a lot if most of the containerised goods could travel by rail through the ICD. This however calls for improved rail services and purchase of more rolling stock to cope with

75) Africa Business, May 1987, p. 68

the containers which have been increasing at a rapid rate.

If all the maritime activities that have been discussed in this paper and which are guided towards improvement of Kenya's participation in maritime trade have to be effected, an independent Maritime Department/Directorate has to be set up, which will keenly and under qualified staff look at all the maritime development and advise the government as to the strategies to take in order to fully incorporate the maritime activities in the country's National Development activities.

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