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WORLD MARITIME UNIVERSITY

MALMO, SWEDEN

PROPOSAL FOR THE ESTABLISHMENT OF
A SEAMEN'S ADMINISTRATION IN GUINEA

by

DUMAR SACKO

GUINEA

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.

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TITLE:

PROPOSAL FOR THE ESTABLISHMENT OF
A SEAMEN'S ADMINISTRATION IN GUINEA

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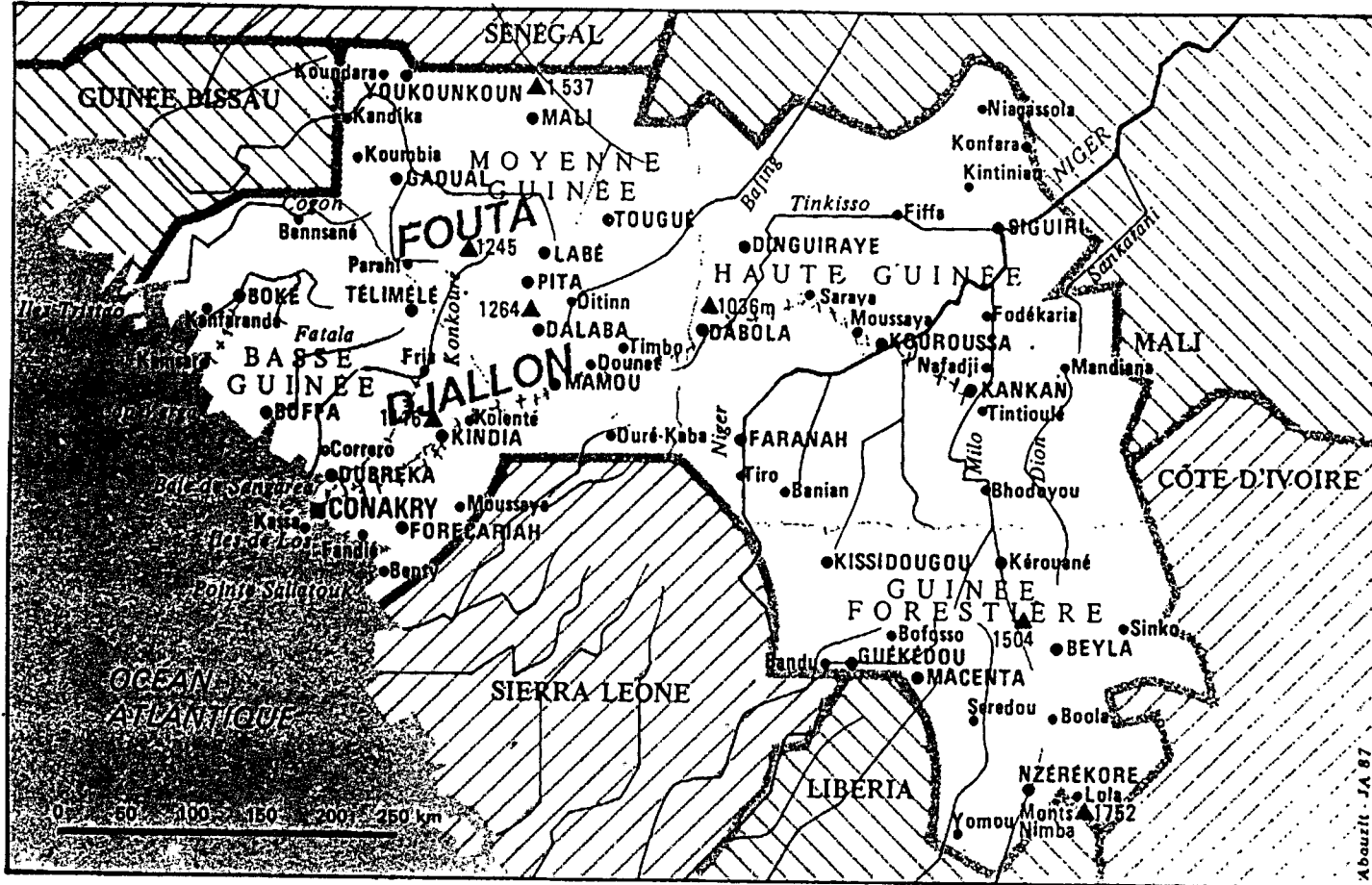
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REPUBLIC OF GUINEA



ABBREVIATIONS

A C P: Afrique Caraibes and Pacifique
A U O: African United Organization
Bal. of Pay.: Balance of Payment
CIDAM: Centre d'Information et de Documentation des
Affaires Maritimes
CIF: Cost Insurance and Freight
Co: Company
ECOWAS: Economic Community of West African States
E E C: European Economic Community
GUINOMAR: Societe Guineo-Norvegienne d'armement et
d'operations Maritimes
ILO: International Labour Organization
IMO: International Maritime Organization
ITF: International Transport Worker's Federation
PRG: President de la Republique de Guinee
SDGUIPECHE: Societe Guineenne de Peche
SOLAS: Safety of life at sea
STCW: Standards on Training, Certification and
Watchkeeping for seafarers.

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I am also permanently indebted to the Merchant Marine Directorate of my country for affording me the opportunity to study at the WMU and, once here, for having the chance to meet and initiate cooperation among the world community.

GENERAL INTRODUCTION

The purpose of this project is to identify the problems faced by the Guinean Maritime Administration concerning seamen management, and the attempt to establish a suitable related institution, which would ensure seamen's interests embodied within the country's merchant marine code.

It is indispensable for an independent and sovereign country to be aware of the importance and the need for building a modern national merchant marine and its associated infrastructure. So, in this respect, each step of the development process requires a maritime adaptation to meet the country's economic realities. The various components include ports, pilotage, ships, pilotage and seamen.

Ideally, to accomplish this mission of dealing with each maritime sector, there has to be established an organization with programs and policies to reach that objective efficiently and effectively.

When it comes to seamen, the subject of this study, shipping is a unique industry. In no other industry are so many persons involved in the work of a personal activity. A ship may be owned by one nation and registered in another, moving from country to country and carrying officers and crew of many countries. Since laws affecting the employees involved are all of national origin, the seamen are frequently protected inadequately because of the lack or inadequacy of the national codes.

It is paramount to create an institution defending all the interests of the parties involved in the recruitment,

training and employment of seamen, and especially of the seamen themselves.

With the establishment of a specialized administration for seamen, there is a hope to bring a certain contribution also for the improvement of shipping in Guinea by arising standard of seamen.

To deal with this, the study has been divided into six (6) chapters as follows:

Chapter 1: Presentation of the country

Chapter 2: Gives an overview of the existing maritime administration.

Chapter 3: Describes the prevailing seamen's problems. It also assesses the influence of international labour laws and organizations on national legislation

Chapter 4: Provides guidelines to regulate the entry into the seamen service and discusses some legal rights of seamen

Chapter 5: Drafts the role of the proposed seamen's administration and its organizational structure

Chapter 6: Recommendations and conclusions.

CHAPTER ONE

1. PRESENTATION OF THE REPUBLIC OF GUINEA

1.1 PHYSICAL AND SOCIAL GEOGRAPHY

The Republic of Guinea, formerly French Guinea is located in the south-west of West Africa. Six countries share common borders with her: Guinea-Bissao in the north-west, Senegal in the north, Mali in the north-east, Cote d'Ivoire on the eastern side, Sierra Leone and Liberia in the south, and there is Atlantic Ocean in the west.

The coastline, about 200 km, has shallow drawn rivers and estuaries with mangrove growing on alluvium eroded from the nearby Foutah Djallon mountains.

The country has an area of 245,857 square kilometers and in the mid 1986 had an estimated population of 6,500,000.

1.2 SOVEREIGNTY

Independence came to Guinea "precipitately" on 2 October 1958 after the overwhelming majority of voters had rejected the proposal made by French government of membership in a community of French overseas. Since then, the country became a member of international organizations such as UNO, ILO, IMO, etc. and regional and sub-regional organizations such as ~~AGO~~, ECOWAS, OMVG, MAND RIVER UNION etc.

But the conditions in which the country acceded to independence led to the disastrous failure of its economy.

1.3 ECONOMY

Guinea has a wealth of mineral resources. It is also a land of livestock and forests. These are potential major assets when it comes to fighting underdevelopment.

Since 3 April 1984, it has been resolutely committed to taking up the challenge of development with state withdrawal from ownership and freedom for private enterprises. There has been far-reaching institutional reforms to encourage private initiative and a structural adjustment plan is being run with the intervention of international institutions.

1.3.1 AGRICULTURE

Despite the rapid development and potential of the mining sector, agriculture remains the most important economic activity in terms both of value of output and of employment accounting for between 70 to 80% of the labour force. Its slow growth has offset the much stronger performance of mining and manufacturing. Although, the government continues to give priority to the agricultural sector the target rate remains modest.

The major commercial crops are ananas, bananas, citrus fruit and groundnuts, coffee, palm oil, palm kernels and pineapples.

1.3.2 MINERAL RESOURCES.

Guinea's most dynamic sector and important foreign currency earner is mining. This accounts for over one quarter of the gross national product but is expected soon

to exceed the share of agriculture.

Bauxite is the most abundant ore in the country. The reserves, which exceed 8,000 million tons, account for over one third of the world reserves, making the country among the top world producers with up to 12 million tons per year.

The iron ore deposits are estimated at over 15 million tons and remain the second mineral resource. The main lodes not yet exploited, are located in the Nimba-Simandou chain and in the peninsula of Kaloum. For the former, a consortium of the government with 50% of the capital and companies from many countries are going to undertake the project in 1993.

Production of diamond and gold is carried out by nationals and private companies.

There is a list of resources which enables the country to face the future with confidence.

1.4 TRANSPORT INFRASTRUCTURE.

Like several countries in the area, Guinea suffers from inadequate road facilities. It has about 28,400 kilometers of roads and tracks, of which 12,400 kilometers are classified and 1,300 km are tarred. These are being rehabilitated.

The rail network is better developed. There are 662 kilometers one meter gauged tracks from the capital city to Kankan and three others of 376 kilometers which are mainly used for the transportation of bauxite ore and alumina from the lodes to the two main ports.

A further arrangement has been made with the Liberian authorities for the of the rail network linking the Nimba deposits with the port of Buchanan (Liberia).

1.5 EXTERNAL TRADE

The country's external seaborne trade is mainly based on bauxite and alumina.

With the development of bauxite resources since the early 1970s, the country's external trade position has greatly improved. Previously, exports had stagnated because the initial rise in earnings from bauxite and alumina to account for nearly two-thirds of the exports in 1969, which was offset by the ending of iron sales and the poor performance of export crops. Another factor, which held down export growth was the over evaluation of the country's currency. Exporters were required to surrender their foreign exchange earnings at a rate which, effectively reduced their value by around three-quarters.

Smuggling is rife, with about one-third of the coffee and other crops leave the country illicitly.

The sharp rise in bauxite exports has resulted in a strong growth in export earnings since 1975. Exports reached US\$ 428 million in 1981, compared with US \$ 56 million in 1970. Higher export earnings finance the growth in imports, a rise which, in large part reflects capital investment in the mining sector.

Guinea receives substantial foreign capital in the form of mining investments, and aid from both the eastern and western blocks.

TABLE 1: PRODUCTION OF SOME STRATEGIC PRODUCTS IN
RECENT YEARS

YEAR.	* BAUXITE.	* ALUMINA.	** DIAMOND.
1979	14,653	-	85,000
1980	13,427	-	38,000
1981	12,833	680	38,000
1982	10,210	549	70,598
1983	10,987	569	37,554
1984	11,201	589	170,072

* thousand tons

** carats

1981 to 1984 data does not include "OFFICE DES BAUXITES
DE KINDIA' PRODUCTION"- USSR mining sector-

TABLE 2: IMPORTS / EXPORTS AND BALANCE OF PAYMENT

(in million of SDR)

YEAR	IMPORTS(cif).	EXPORTS(fob).	BAL.OF PAY.
-----	-----	-----	-----
1981	378.2	418.3	-92.1
1982	344.4	402	-39.8
1983	355.6	469.2	-80.8
1984	402.7	536.5	-09.2
1986*	472	536	-35.5

* in million of US dollars.

SOURCE: EUROPEAN ECONOMIC COMMUNITY and GUINEAN GOVERNMENT

Le courrier No:108 MARCH-APRIL 1988,EEC and ACP
publication.

CHAPTER TWO

OVERVIEW OF THE EXISTING MARITIME ADMINISTRATION

2.0 INTRODUCTION

In Guinea, most of the maritime activities come under the ambit of the maritime division of the Ministry of Transport and Public Works which also has other divisions dealing with air, rail and road transport.

The major responsibilities of the maritime division include ports, navigation, registration of ships and seafarers, shiprepair yards, and shipping companies. Moreover, the division is responsible for the management and coordination of the improvement of safety of life at sea, the protection of the marine environment, etc.

Contrary to some maritime countries like France, the maritime training and fisheries are under the responsibility of other ministries.

2.1 GOVERNMENT ORGANIZATIONS FOR SHIPPING

As stated earlier the administration of maritime activities is under the responsibility of the maritime division headed by a so-called "chef de division" and including several directorates.

2.1.1 THE MERCHANT MARINE DIRECTORATE

Established by Decree No: 386/ PRG /62, the Merchant Marine directorate is the maritime authority. So, it coordinates and controls all maritime activities. As such, it outlines the technical, commercial and legal scope in which all maritime operations grow. In other words, it drafts the overall maritime policy of the country.

The actual structure revolves on two levels:

- a) The conception level which includes;
 - the legal and human division
 - the economic division
 - the navigation and maritime safety division
 - the administrative and financial division
 - the international relationships division
- b) The execution level includes all prefectorial maritime affair's offices, maritime districts, the national centers of maritime safety and protection of the marine environment.

2.1.2 THE SOCIETE NAVALE GUINEENNE (SNG)

The "Societe Navale Guineenne" is a state-owned company, which was established in 1968. The principal objective of its establishment was to assume and to develop the maritime transport to and from Guinea.

At the present time, the SNG has no vessels, but it participates in non-conference services from Guinea to Europe by chartering vessels in common without financial risks, permitting a substantial accumulation of foreign currency. Also, it contributes widely to the training of seafarers and creation of employment.

2.1.3 THE NATIONAL ENTERPRISE OF TRANSIT AND STEVEDORING (ENTRAT)

Established in 1968, this organization inherited to the prerogatives and equipment from French enterprises, which were JULES BURI, SOCOPAD and SOAEM. It was concerned with road transport and maintenance, maritime consignment and transit .

With the creation of the SNG and an autonomous port, the ENTRAT only deals with the transit of cargoes.

2.1.4 THE MARITIME OFFICE

The maritime office was established in 1963 for the promotion of the country's maritime infrastructure by making navigation charts as well as building and operation of navigational aids within Guinean waters.

Besides these technical operations or duties, the office manages two passengers ships which are trading between Guinean ports.

2.1.5 THE SOCIETE MIXTE DE DRAGAGE (SOMIDRAT)

The SOMIDRAT is a joint venture company run by the government and private interests with an equal share of the 50% investment. It aims at the dredging of Guinean ports and neighborhood on the basis of specific agreements and the study and execution of all harbors including port improvements.

2.1.6 THE GUINOMAR

Guinomar is a Guinean bulk shipowning and operating company.

It is a mixed economic society, privately organized, but jointly owned, 50% each held by the government of Guinea and the West African Bulk Shipping company (WABS), which in turn is 50% owned each by TOWARLD KLAVENESS and Co. A/S of Oslo and NAVIOS MANAGEMENT INC. of Greenwich.

The company is based on the principle of an open concept, designed to share Guinea's business opportunities in the form of transportation rights of bulk minerals and the transfer of capital and technology.

Seen as the most efficient organization operating in the country, Guinomar provides transportation through various freighting arrangements and means of an optimal and economic tonnage, partly owned and partly chartered from the shipping market.

It operates a fleet averaging 15 Panamax vessels to meet its bulk carrying requirements, which are 4,5 million tons per year.

At the present time, Guinomar owns the M/V Baumare, a Panamax bulk carrier of about 64,000 dwt. In addition a number of vessel purchase projects are being evaluated.

2.1.7 PORTS

The autonomous port of Conakry and the port of Kamsar are the principal international shipping ports, which contribute to the improvement of the country's economic

growth.

Their location, size, character and activities are different from each other.

2.1.7.1 THE AUTONOMOUS PORT OF CONAKRY

Taking into account the different changes in the shipping industry and in order to improve the port's efficiency, it became autonomous in 1982 by Decree No:050/FRG/82. The port of Conakry, the largest in Guinea is a multipurpose port through which most cargoes are shipped. Today, there is a considerable number of private operators who are engaged in the improvement of port operations.

2.1.7.2 THE PORT OF KAMSAR

Located in the estuary of the rio NUNEZ, the port of Kamsar is a specialized port, which has a channel of 17 kilometers in length and can accommodate large vessels.

The bauxite exports exceed 9 millions per year and the general loading rate per weather working day is 24,000 metric tons.

From the management point of view the port is under the jurisdiction of the " Office d'aménagement des bauxites de Boke" (OFAB), an organization which depends on the Ministry of Natural Resources and Environment.

2.2.0 PRIVATE SHIPPING FIRMS

If the notion of private shipping firm was almost absent in the shipping industry at the early period of independence, it can be pointed out that efforts have now been made to encourage the participation of private investment in the maritime sector. This policy has led to the proliferation of all kinds of maritime operators, such as shipping lines and agencies, stevedoring companies with or without strict regulations.

Before April 1984, there had been a few major shipping firms which still have an important share in the Guinean maritime activities. These are:

DEEP SEA SHIPPING

GRIMALDI SIOSA LINES

RHEIN MAAS UND SEE

The above mentioned shipping firms have contracts of collaboration with the SNG for the carriage of cargoes to or from Guinea.

Moreover, there are private stevedoring companies among which the SATA, DAYER, SOGUICOM and SOGEMAP can be listed.

2.3.0 RECENT SHIPPING DEVELOPMENT PROJECTS AND MEASURES

The most recent liberalization of the country's economy has been followed by great changes and interventions in the overall maritime sector to respond to the needs and requirements.

In this paper it is important to outline these in some selected fields.

2.3.1 PORT'S PROJECTS.

From 1982, four port development projects are being carried out at a total cost of \$ 76 million. The port improvements involve the following constructions within the autonomous port of Conakry :

- 15,000 square meters of warehousing;
- a fruit quay and a container terminal
- a shiprepair yard and,
the construction of two secondary ports alongside the coast (BOFFA and BENTY).

2.3.2 MERCHANT FLEET

Taking into account the experiences of past years and the problems faced by neighboring countries having their own fleet; the country has recently opted for acquisition of a merchant fleet through a joint venture system at a short term. This measure to some extent has been taken in order to enable the country to have its own skilled and well trained personnel for the future.

The joint venture comprises the state-owned company (SNG) and the existing foreign shipping companies.

2.3.3 FISHERY SECTOR

The control of some of the industrial fishery lies outside the government authorities. It is done by foreign companies, which annually catch some 135,000 tons. From this catch only 12 to 14,000 tons are disembarked for

national consumption. In the other hand the artisanal catch amounts to 26,000 tons, which represents a low average in comparison with the needs of the country. For the former, the country's benefits are based on the taxes resulting from exploiting Guinean waters and the obligation for foreign vessels to employ Guinean crews in variable proportions.

At national and international levels, government interventions revolve on the following axis:

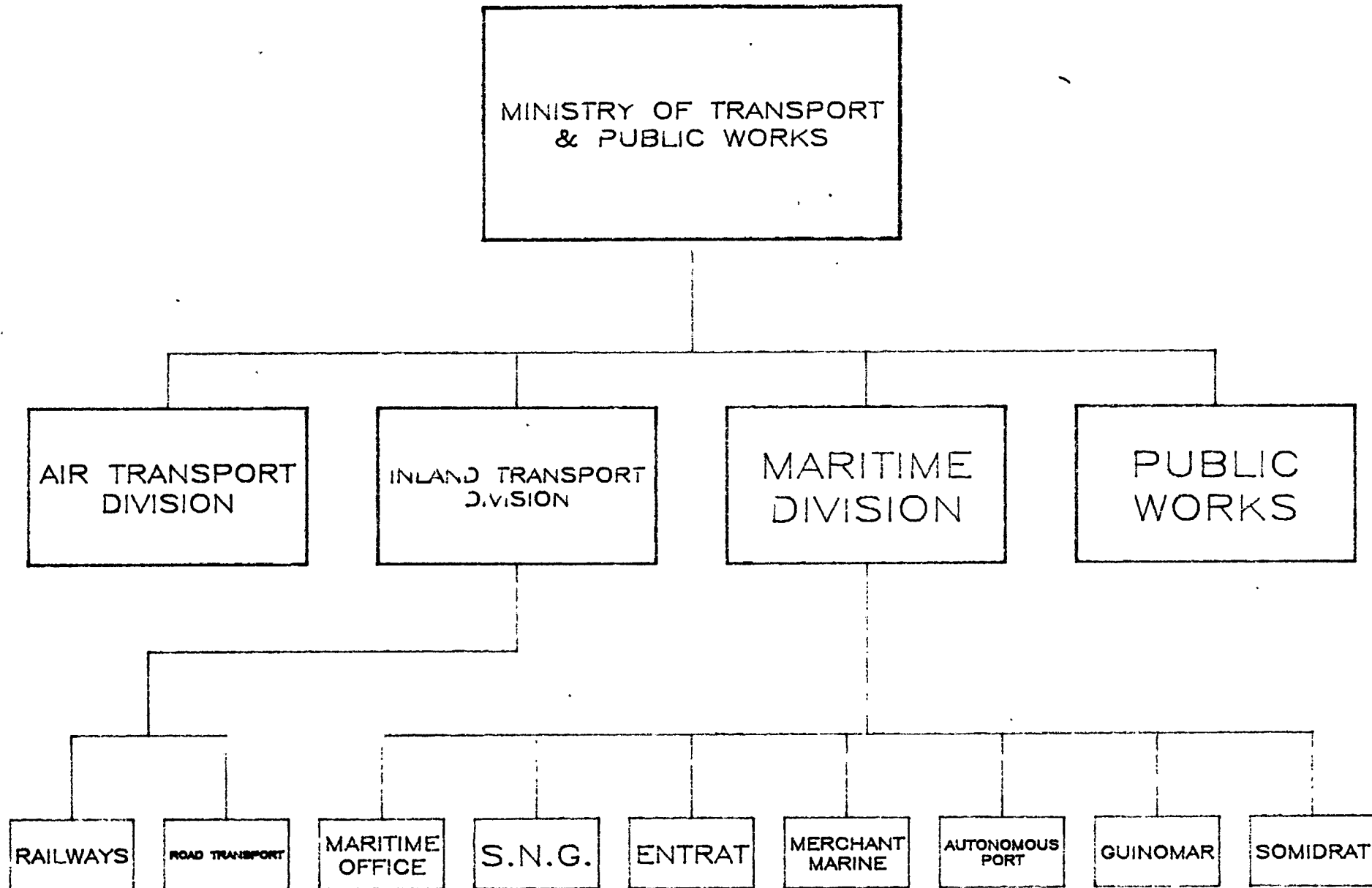
- a) Improvement of the control of marine resources within the exclusive economic zone. For this purpose they have scheduled:
 - an establishment of marine research program in association with OSTROM to identify the species and exploitation modalities;
 - a study and establishment of a surveillance system of the fishing activities.
- b) Development of national fishing activities by:
 - promoting the artisanal and the semi-artisanal fishing activities with the support of nationals and the government.
 - creating an industrial fishing fleet;
- c) Extension of the fishing port at Conakry.

It should be noted that two agreements with the European Community have been signed so far, one for the 1983-1986 period and one for the three following years. In return for the fishing rights granted to EEC vessels in Guinea's territorial waters two lots of financial compensation (for ECU 2.1 and 8.6 million) are paid into the national budget. These agreements include special provisions on research and training for which additional allocations are made.

Moreover, a similar arrangement has been made with the fishing port of LORIENT (FRANCE) late 1988 for the provision of two fishing vessels and the establishment of a joint venture company with a local fishing company the so-called SOGUIPECHE.

Summing up this section, it is necessary to note that the re-organization of the maritime organization and the review of the maritime code are being carried out.

EXISTING MARITIME ORGANIZATION CHART



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CHAPTER THREE

WHY THE NECESSITY OF A SEAMEN ADMINISTRATION ?

3.0 INTRODUCTION

The new institution looking after the interests of seamen has the task to administer and regulate. It should also have decision-making powers in the inter issue areas.

It should be pointed out that over the various related international conventions adopted by the major international organizations such as IMO and ILO, the Republic of Guinea has only ratified three, which are:

- The ILO CONVENTION No:16 medical examination of young persons, 1921.
- The ILO CONVENTION No:133 crew accommodation on board ships (supplementary provisions), 1970
- The ILO CONVENTION No:134 prevention of occupational accidents to seafarers, 1970.

3.1. DESCRIPTION OF THE PREVAILING SITUATION

3.1.1 DEFINITION

Article 80 of the Merchant Marine code defines the seaman as any person whichever the sex, engaged or employed under the authority of a shipowner or his representative to serve on board a ship.

From this definition we can look at the situation in which they are operating. We start with training.

3.1.2 MARITIME TRAINING INSTITUTIONS

Like many developing countries, the Republic of Guinea has few maritime training institutions. These come under the control of two different ministries.

The Secondary Maritime Institute is under the responsibility of the Ministry of Education and the Radio Operators School is under the Ministry of Posts and Telecommunications.

The requirement for the entry into the two schools is graduation from secondary school or a completion of 12 years of education.

The Maritime Training Institute has been established in 1975 for the training of ratings and provides basic elements of maritime training.

Each year, the above maritime institute provides more than 100 ratings available to proceed at sea. Up to now, the training of officers is carried out in foreign countries, such as the USSR, POLAND, CUBA and the regional academy of Abidjan through bilateral and multilateral agreements.

One handicap remains, the maritime authority is not associated with the training system by lack of cooperation between the ministries.

3.1.3 EXAMINATIONS AND CERTIFICATION OF SEAMEN IN GUINEA

The standards of examination and certification of seamen in a country are intended to establish and provide proof of competency of the respective seamen concerned

In the light of this, the Merchant Marine Code has some provisions referring to the subject, but these are outdated. Nevertheless, the certificates issued by both the Maritime Vocational Training center and the Radio Operators School as well as those issued by different foreign institutes and/or academies are recognized by the merchant marine.

3.1.4 PROCEDURE OF SEAMEN REGISTRATION

The function of registration is carried out by the Merchant Marine Office which possesses full powers. This is stated in the Merchant Marine Code as "the Director of the Merchant Marine shall keep at his office a register book in the prescribed form of all persons who serves on Guinean ships."

From the practical point of view there are no rules defining the register form and the mechanism of registry. The direct consequence is that anyone may become a seaman if he requires.

From the financial point of view, the registration is subject to fees which vary according to the type of seaman book required by the candidate.

3.1.5 IDENTITY'S DOCUMENTS

Articles 83 and 86 of the Merchant Marine Code recognize 2 types of documents issued to seamen.

- a) The "Livret professionnel" issued to ocean going seamen. From 1987 the fees paid are equivalent to \$ 34
- b) The "Carte B" valid according to the same articles for the coastal or regional regional. The issue of this document is also subject to fees equal to \$17.5

Within the Merchant Marine Code there is no provision which fixes the above fees but with the increase of the demand in the labour market the Merchant Marine Office has incorporated the system of fees.

3.1.6 EVOLUTION OF SEAMEN LABOUR FORCE

In the early 1980's the introduction of the new scheme related to the payment of seamen's wages in foreign currency has been followed by an increase of seamen as shown by this table.

PERIOD	No. of registered seamen
1964-1969	68
1969-1974	91
1974-1979	129
1979-1984	1016
1984-8/1/88	908
T O T A L	2212

Source: MERCHANT MARINE OFFICE
SEAMEN'S REGISTRY BOOK

This number does not take into account those who are not officially registered but continuing to serve on board through malpractice.

3.1.7 EMPLOYMENT

The shortage of oceangoing ships faced by national shipping industry leads to the fact that most of the seamen are serving on board foreign ships on the basis of agreement or contract concluded between the government and independent shipowners or foreign countries.

The contract or agreement of employment varies from 3 to 6 months. The Guinean authorities are liable to provide labour at the request of the shipowner.

In most cases the contract of employment is signed without prior notice to the employee and does not include any details on his employment conditions or the duties on board.

Concerning the joint venture companies, the employment as well as the training depends on the company. The seamen are chosen either among the labour supply or the employees of the company.

During the employment period the seaman enjoys 95% of his monthly salary while the remaining 5% constitute a tax which has no defined destination.

In reality the government involvement in this system of employment is mainly to have qualified seagoing personnel and the provision of employment to nationals in the long run.

The following tables show the evolution of the official employment and movements of the vessels in the fishing industry and merchant shipping from 1984 to June 1987.

1. Fishing industry

Years	No. of employment.	Movement of vessels.
1984	81	19
1985	193	53
1986	296	87
1987	227	112
T O T A L	797	271

2. Merchant shipping

Years	No. of employment.
1984	81
1985	112
1986	129
1987	102
T O T A L	423

SOURCE: MERCHANT MARINE OFFICE
SEAMEN REGISTRY'S BOOK

3.1.8 CURRENT SEAMEN PROBLEM

In addition to the above problems mentioned, the most dramatic problem occurs in management. At the present time seamen management is carried out by the Ministry of Transportation through the Merchant Marine Directorate and the Ministry of Livestock and Fishery.

This duality of management has only occurred in recent years without prior reference to any official document. The lack of a coordinated policy in respect to seamen employment is such that there is a serious situation continuing to affect the seamen themselves and the Ministries involved. For the former, when a problem or dispute occurs, they do not know to which authority to report. The latter concerns the fight for leadership of seamen management.

3.2 IMPACT OF THE RELATED INTERNATIONAL MARITIME LAWS AND ORGANIZATIONS ON NATIONAL LEGISLATION.

3.2.0 BACKGROUND

For the promotion of shipping, various international organizations have been set up by the world maritime community. These organizations have progressed quite far in establishing international standards dealing with sector, such as shipping, fishing, ports, inland waterways and transports.

The objective of these organizations is to enhance social and economic progress in this industry as a whole, and particularly for the workers concerned through:

- The identification, definition and examination of labour, social problems and issues related to the maritime industry and the development of adequate policies, programs and measures to deal with them;
- Conducting of maritime meetings;
- Promotion of initiation and coordination of actions dealing dealing with the issues and problems of the maritime field.

The means of actions used are setting standards, adopting conventions, recommendations and resolutions technical and financial assistance, research and studies.

Most of the organizations have been influential in developing laws for the protection of health and safety.

3.2.1 IMPACT OF THE RELATED MARITIME LABOUR LAWS AND THE INTERNATIONAL ORGANIZATIONS.

3.2.1.1 INTRODUCTION

In this paper, the term maritime law is used to describe the varied body of laws which apply to such matters as employment, remuneration, conditions of work, trade unions and labour management relationships. In its most comprehensive term, it includes old age and disability insurance. Unlike the laws of contract, tort or property, the elements of maritime labour law are less homogeneous than the rules governing particular legal relationships. In addition to the individual contractual relationships growing out of the traditional employment situation, maritime labour law deals with the statutory requirements and collective contractual relationships that are important, the legal relationships between organized economic interests and the state, and the various related rights and obligations. (1)

(1) Ref: Professor AAGE OS' lecture on maritime labour law given at WMU- April 1987.

3.2.1.2 IMPACTS

The safety standard of shipping is one of the main objectives of international organizations, such as IMO and ILO. So seafaring nations have adopted statutory laws giving detailed regulations to improve safety standards. The interests that are carried by all these rules and regulations are not only the interests that labour law and labour legislation are occupied with. Splitting up the notion of safety, it can be seen that many interests are cared for by improving safety standards. It can be mentioned:

- a) The safety of the ship itself and the security of the money invested in.
- b) The safety of cargo
- c) The safety of the marine environment
- d) The safety of the seafarers.

This splitting up shows that there is a combination of interests pulling all in the same direction namely towards shipping.

While the promotion of acceptable standards for the construction and equipment of ships and their inspection survey and certification are important, the most crucial element remains namely the human factor. This means that maritime labour legislation cannot only be a question of safety regulations but they are very important elements of such legislation. The conditions for employees at sea are of such character that most of the elements have to be given special adaptation in maritime labour legislation.

Recognizing the role played by the shipping industry

in the socio-economic development, the international community has established a lot of international conventions through its organizations mainly those developed by ILO and IMO.

The most important international conventions in the maritime labour law and labour legislation fields are the following.

- a) The International Convention on Load Lines, 1966-IMO
- b) The SOLAS 74 and its protocol 1978, -IMO
- d) The STCW 78, -1978
- e) The merchant ship (minimum standards) convention No:147 adopted in 1976 and which refers among others following ILO CONVENTIONS:
 - Minimum age convention No.138 adopted in 1973.
 - Shipowner liability(sick and injured seamen)convention No.55 adopted in 1936.
 - Medical examination(seafarers) convention No.73 adopted in 1946.
 - Prevention of accidents(seafarers) convention No.134 adopted in 1970.
 - Accommodation of crew (revised) convention No.92 adopted in 1949
 - Food and catering(ship crew) convention No.68 adopted in 1946
 - Seamen's articles of agreement convention No.22 adopted in 1926.
 - Repatriation of seamen convention No.23 adopted in 1926.
 - Freedom of association and protection of the right to organize convention No.87 adopted in 1948.
 - Right to organize and collective bargaining convention No.98 adopted in 1949.

For the protection of seafarers the most important is that the ship stays afloat. One important field of maritime labour legislation is therefore to take measures to secure seaworthiness. The load lines convention sets rules on how to secure a safe freeboard. However, this is not the only element of protection in the load line convention. Regulation 25 has the heading "Protection of the crew". In this regulation, details are given about strength of deck houses used for accommodation of the crew.

In the SOLAS convention there are many provisions aiming at the safety and well being of the crew. In chapter 5 there is an obligation for the contracting states to ensure that all ships are sufficiently and efficiently manned from a safety point of view. In implementing SOLAS, it is essential that the ratifying states should take steps to eliminate factors causing problems for the ship, master and crew.

Looking at the STCW CONVENTION, the whole convention might be classified as a maritime labour convention. The simple background of the convention is that the human error is regarded as one of the major contributing factors for accidents at sea. The universal implementation of the convention should help to better equip the seafarers to meet the requirements of today's shipping and navigation. The most comprehensive international convention concerning elements that should be implemented in maritime labour legislation is the ILO convention 147. This convention is called the Minimum Standard Convention. The convention contains 5 articles:

One of them gives a very concentrated picture of what requirements the maritime labour legislation should contain. Art 2 enumerates the measures which ensure that

minimum standards are complied with. It also requires a ratifying state to regulate and exercise effective control over safety standards including competency, hours of work and manning, appropriate social security measures and ship board condition of employment and living arrangements.

The ratifying state " shall undertake to satisfy itself that the provision of laws and regulations are substantially equivalent to the convention or articles".

Where seamen interests are concerned, another organization which is the INTERNATIONAL TRANSPORT WORKER'S FEDERATION (ITF) plays a considerable role. Founded in 1896, the ITF is one of the international trade union secretariat organized on an industrial basis in which national unions are affiliated. It directly represents employees, sometimes with consent but often without authorization.

It maintains contacts with shipping industry executives through its participation in maritime conferences and commissions. It has successfully supported many ILO recommendations and conventions regarding conditions of work for seafarers and has utilized these conventions and recommendations as standards to judge ship board condition. The key role played by ITF and its coordination of national seafarer's unions in promoting and winning these maritime conventions and recommendations has gained respect as the supporter of the rights of seafarers and it has a spokesman for seamen safety and fair treatment. Concerning standard setting, the ITF has established ship manning schedules. Such standards vary by ship according to design, use and degree of automation.

By its regional activities, the federation advises regional unions in technical matters, organizational problems and approaches to employees and government bodies, makes requests to the government and management on the affiliate's behalf and on occasion sends its representatives to assist union negotiating contracts with employers.

Nowadays, it has shifted the emphasis of its program from material assistance to leadership training and trade union education.

3.2.2.3 INFLUENCE PROCESS.

The international organizations dealing with maritime matters provide a number of mutual complementary procedures for monitoring the effects given to the international standards. These steps are vital when evaluating the influence of the standards at the national level. (1)

i) SUBMISSION

Submission to the competent authorities when a convention or recommendation has been adopted. The text is sent to all member states so that they may consider applying for it. Within a specified period, the government

(1) Ref: BJORN KLERCK NIELSEN , Conference on the legal rights of seafarers.

must then submit to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other actions. The government must also report back to the organization on the measures taken in that respect and the actions taken by the competent authority. Since the implementation of a convention or recommendation normally requires legislation the appropriate body will in most cases be the national assembly, parliament or congress. It is for that body to decide whether the action which should be followed at a national level, by translating the international standards into national legislation.

When a government places a convention or recommendation before the competent legislative authority, it is expected to indicate what action it considers desirable. It may indicate that the instrument is already fully applied in national law and practice and can therefore be ratified or accepted; it may recommend the enactment of legislation to give full effect to the instrument followed in the case of a convention- by ratification; it may recommend that the question of ratification of a convention should be deferred in order to allow time for the carrying out of consultation or studies on the matter; or it may recommend that a convention should not be ratified.

Once the submission procedure has been completed, and the steps taken communicated, the government immediate's obligation arising from the adoption of the new instrument by the conference is fulfilled. The report to the standard setting organization on the action taken is regarded as an important part of the overall procedure.

ii) RATIFICATION

It is through the ratification of a convention that a member state formally undertakes to make the provision of the convention effective both in law and in practice.

iii) ENTRY INTO FORCE

A convention must formally have been entered into force before it can become binding on a ratifying state. Normal practice as regards conventions is to provide for their entry into force between 12 to 18 months. Certain maritime conventions require a higher number of ratification before their initial entry into force.

iv) REGULAR SUPERVISION

The standard setting organization's constitution contain provisions under which governments have to report to the organization on the measures taken to give effect to a ratified convention. If international supervision is to be meaningful, government reports have to be carefully examined and evaluated.

The key elements of regular supervision are thus the submission of government reports and their examination.

The initiative for incorporating international labour standards in national legislation often comes from the governments themselves. Sometimes, however, such measures are taken on the advice of the international organization's technical cooperation experts who are called in by the government to help draft laws or as a result of seminars, workshops, conferences at a national or regional level on

maritime legislation.

There are other cases, however, in which the government concerned may hesitate to introduce new measures corresponding to international standards but there are organizations of employees and employers that take the initiative, see to it that the national legislation is brought up to the level fixed in the convention and recommendation.

CHAPTER FOUR

TOWARDS AN ADEQUATE SEAMEN'S ADMINISTRATION.

4.0 INTRODUCTION

In most of the maritime nations, the seamen service is not gratis or free. The maritime authority controls the manpower insuring the safety of the ships as a whole. The maritime adventure, requires some physical, moral and professional abilities and therefore imposes responsibilities. Thus, the access into and exit from the industry is to be regulated to safeguard the involved resources (goods, manpower, ships, etc.)

For this purpose, it is essential at any time and place to:

- check that the seaman candidate meets the requirements to carry out his duties
- locate his professional activities or trace back his passed activities.
- identify his rights with regards to different benefits (social, economic).

To safeguard the related collected data , the appointed authority establishes documents by exploiting the information.

4.1 REQUIREMENTS FOR THE ENTRY INTO AND EXIT FROM THE SEAMEN SERVICE

4.1.1 REQUIREMENTS FOR THE ENTRY

The required conditions for the entry into the seamen service can be ranked into six (6) columns which trace back their origin in international and national laws and regulations.

- 1) NATIONALITY
- 2) PHYSICAL ABILITY
- 3) FORMATION
- 4) MORALITY
- 5) MOTIVATION
- 6) AGE

4.1.1.1 CONDITION OF NATIONALITY

The nationality requirement for masters, officers and crew vary from country to country. In general, a country, which is willing to maintain an actual link with a vessel under her flag requires that the master, all the officers and at least a part of the crew be nationals. This requirement may exist for different reasons such as the need to provide employment opportunities to nationals or for the loyalty of the crew in the event of national emergencies.

A coastal nation as Guinea should be interested on the nationality of seamen. Therefore, to be inscribed as seaman the candidate must be a national.

It belongs to the seaman candidate to prove his nationality by:

-certificate

-or any document proving his civil status.

4.1.1.2 CONDITION OF ABILITY

Seaman is required to meet a certain physical ability so the proper authority checks that the obligations of health, hygiene and security are met. In this way it will protect the crew against the illness.

To be registered, the seaman candidate must prove his medical fitness approved by a doctor appointed by the the administration.

The medical fitness must be checked during the entry as well as the engagement and discharge.
A scheme of periodical medical examination shall be laid down by the authority in charge.

4.1.1.3 PROFESSIONAL TRAINING CONDITION OR FORMATION

The maritime authority in charge of maritime security at sea must require the candidate to have minimum preliminary standards in respect of the professional training.

This requirement shall concern all duties carried on board and taking into account:

- a) the degree of education and training
- b) the type and tonnage of the vessel on board which he is supposed to serve.

In some exceptional circumstances, the administration may issue a dispensation permitting a specified seaman to

serve on board a specified ship for a specific period.

4.1.1.4 CONDITION OF MORALITY

At the time of entry, the seaman candidate who has been convicted shall not be admitted because he may influence the seamen service. Therefore the competent authority must conduct investigation related to such candidate.

4.1.1.5 CONDITION OF MOTIVATION

For any undertaking, this condition may be regarded as important. In the case of the case of seamen service the burden of proof is on the candidate concerned.

For an experienced seaman there is a need to provide to the administration, documents attesting previous employment, such as a certificate of engagement issued by a shipping company or by a master or officer without any doubt on its legacy.

4.1.1.6 CONDITION OF AGE

The condition of minimum age for the admission into the seamen service is governed by the ILO convention No:58 and the IMO convention known as the STCW 1978, which state that:" A child under 15 years old shall not be employed or work on board vessel other than vessel under which only members of the same family are employed.

Provided that national law and regulation may provide for the issue of a certificate permitting them to be employed in cases in which an educational or appropriate authority designated is satisfied after having due regards to the health and physical condition of the child to the

perspective as well as to the immediate benefit to the child of the employment proposed that such employment will be beneficial to the child".

For the maximum age, the candidate must not exceed 55 years of age which could coincide with the retirement period.

4.1.2 REQUIREMENTS FOR THE EXIT .

4.1.2.1 PRELIMINARY

The exit from the seaman service will follow when he cannot fulfill one of the above conditions.

For this purpose, the authority responsible may refer to the report regarding the actor involved in the identification, registration or employment.

4.1.2.2 LOSS OF THE SEAMAN STATUS.

The link between the seaman and his profession may be cancelled by:

- the death of seaman or;
- his voluntary action when he is not willing anymore to exercise the profession. This voluntary action may be expressed in written form to the authority or tacitly when it has been established he is not sailing for more than the prescribed limited period.
- an external fact to the seamen service or non regulatory as when he is dismissed or is under the limited age of 55 years.

4.2 LEGAL RIGHTS OF SEAMEN

4.2.0 INTRODUCTION

The law of the employment of seamen is complex and unique. This is largely attributed to the nature of the profession and the special relationship between the employer and the employee.

The disparity between the parties may not be so extreme now as it was before. Nevertheless, its impact can be felt in the law, the aim of which, right from the early days has been towards the protection of the weaker party of the contractual relationship.

This section has been divided into the following parts: origin and the legal rights, the approved agreements, formalities of engagement and discharge, wages, relief and repatriation, compensation for injury at work, medical expenses and benefits for illness and injury, accommodation food and safety, discipline, and others.

4.2.1 ORIGIN

The legal rights of seamen emanate from a variety of sources. The seaman can find his rights embodied in the crew agreement, the collective union agreements, statutory regulations promulgated thereunder, customary law and the common law in the form of judicial pronouncements. The genesis of some of them may be traced back to medieval codes customary laws of the sea or of the profession; or more recently, the conventions and recommendations of IMO and ILO.

4.2.2 APPROVED CREW AGREEMENT

Seafaring is the only profession (besides the engagement of apprentices) which, the law requires that the contract of service be in written form. The rule is that a written agreement is essential for the contract to be effective for the better regulation and management of seamen. In addition to the requirement that the agreement be in written form, the provisions and form of the agreement must be of a kind approved by the appointed authority and the contract must be contained in a single approved document.

4.2.3 FORMALITIES FOR ENGAGEMENT AND DISCHARGE

Seamen must be offered, in addition to substantive rights, the protection of the law in the form of procedural rules. Formalities and procedural requirements are needed not only on matters of engagement and discharge, but also in the method of payment of wages, deductions from wages, repatriation, discipline and in a host of other subjects to ensure that the working life of seamen is orderly regulated.

4.2.4 RIGHTS OF SEAMEN IN RESPECT OF WAGES, HOURS OF WORK AND MANNING

Remuneration to any employed person is undoubtedly the most important of all the consideration in his contract of employment, the right to be paid for services must lie at the root of the contract.

A scheme of furnishing accounts is necessary to ensure that the seaman is kept informed of what is outstanding.

He is entitled to an account of the wages due to him under the crew agreement and the deduction subject to which the wages are payable.

The commencement and termination of the seaman's right to wages must essentially be determined at the time of signing on and signing off respectively.

At sea and in the port the normal hours of work should be eight hours per day.

When the vessel is at sea the weekly day of rest should be compensated as may be determined by collective agreements or national laws.

Regarding the manning, a sufficient number of officers and men should be engaged so as to ensure the existence of excessive overtime and to satisfy the dictates of safety of life at sea.

4.2.5 RELIEF AND REPATRIATION

The ILO convention No:23, the so-called Seamen Convention 1926 states that "any seaman who is landed during the term of his engagement or on its expiration shall be taken back to his own country" and "the expenses of repatriation shall be paid by the employer".

The public authority of the country in which the vessel is registered shall be responsible for supervising the repatriation of any member of the crew whatever his nationality and where necessary for giving him his expenses in advance.

4.2.6 COMPENSATION FOR INJURY AT WORK

A seaman injured while performing his duty on board has several causes of actions, which he could pursue against his employer to claim for compensation directly or through the responsible authority. The actions available are: negligence, breach of an absolute statutory duty, breach of employer's duty care, breach of the implied warranty of seaworthiness and occupier's liability. The liability of the shipowner in maritime employment is based on his dual status as employer and shipowner.

4.2.7 MEDICAL EXPENSES AND BENEFITS FOR ILLNESS AND INJURY

4.2.7.1 MEDICAL EXPENSES

The expenses for medical treatment must be paid by the employer who is only liable for expenses that are reasonable and treatment which cannot be postponed without impairing efficiency. This means that a seaman can only recover medical costs incurred for illness or injury which affects the performance of his duties.

The illness or injury must not be caused by the seaman's willful act or default.

4.2.7.2 SICKNESS OR INJURY BENEFITS

A seaman who signs a contract of employment is entitled, if he falls sick or is injured to benefit some advantages such as the right to insurance and care.

4.2.8 ACCOMMODATION, FOOD AND WATER

The ILO conventions and recommendations related to the welfare of the seamen on board ships have provided details and specifications on the positioning, construction equipment, furnishing of crew quarters, the minimum space for each seaman and the maximum number of men that may occupy a limited floor area.

Any seaman who is dissatisfied with the condition on board has the right to complain to the responsible authority before taking any steps to rescind the contract. This would give the shipowner an opportunity to remedy the deficiency.

4.2.9 DISCIPLINE

Discipline is the conduct necessary to insure the smoothness and efficiency of the ship's business both under normal conditions and in the case of emergency. This is essential to safeguard the ship, the goods and lives of people on board, therefore for the safety of navigation and the commercial interests of the country.

When the discipline is not respected, the master has a choice either to deal with the case by issuing warnings and reprimands; or reports the matter to the authority. It should be noted that in a case where a seaman has been injured by the master, he could take an action for damages in tort for assault.

4.2.10 OTHER RIGHTS

A seaman may enjoy annual leave with pay, recreational facilities, training and retraining, social security for unemployment indemnity and insurance, the right to establish or to join organizations without previous authorization.

4.3 CONCLUSION

The application of, and the inter-relationship between case law, statutory laws, the terms of the crew and collective agreements, international conventions and recommendations could be daunting and confirming. The seamen's rights may be classified as substantive and procedural in character; the latter, complementary in nature is as important a safeguard as the former. Through inadequate in parts, the law is on the whole comprehensive and well-founded. Ideally, the law on this subject should be streamlined and consolidated into a charter dealing exclusively with mariner's rights.

Time and experience have developed a matured legal regime, and young nation as Guinea, which does not have a common law background could use as framework. It is evident from the above analysis that most of the essential features of employment are dealt with either directly by law or indirectly by government supervision of vetting the terms of approved agreement.

To formulate any set of laws for any country considerations should rightly be given not only to domestic affairs but also that with foreign involvement (case of seamen employed on foreign ships.

(1) Ref: Dr. S.L.H WONG Research Associate, University of Wales, Institute of Science and Technology.

CHAPTER FIVE

THE PROPOSED SEAMEN'S ADMINISTRATION AND RELATED FUNCTIONS

5.1 THE SEAMEN'S ADMINISTRATION

5.1.1 PURPOSE

The proposed administration is a public institution, which is resolved to take charge of seamen's interests and the shipping industry. It shall make provisions for healthy, working conditions on board and see that seamen get their rights in accordance with national and international rules and regulations.

Furthermore, it shall ensure that national interests are looked after, by seeing to it rules and regulations are complied with.

5.1.2 FUNCTIONS

The functions of any maritime administration have to be "developmental and regulatory".

The developmental functions contribute directly to maritime development and the regulatory functions also contribute to such development and economic advantages.

The developmental ones can take the form of participation in the process of formulating the policy of the government as regards maritime development in connection with seamen management.

The regulatory functions are expected to ensure the safety of life in connection with national and international laws or conventions.

The main functions of the administration for seamen are the following:

- a) General question in connection with the administration for seamen ;
 - .Draft of articles of agreement and their content,
 - .Provisions for the protection of young seamen,
 - .Medical examination for seamen, sick and injured seamen, deaths at sea,
- b) The obligation of the state in connection with seamen' service condition;
 - . Regulation for the entry into and exit from,
 - .Protection of environmental work on board ship,
 - .Searching for missing seamen,
 - .Signing and mustering in Guinea and abroad,
 - .Seamen's relation to military authorities,
 - .Central register for seamen and crew statistics,
 - .Administration of arrangement concerning taxation of seamen, collection of social security dues and sickness benefits ,
 - .Participation of training and retraining of seamen.
 - .Examination and Certification

5.1.3 ORGANIZATIONAL STRUCTURE

The proposed organization is a GENERAL DIRECTORATE OF SEAMEN . It will depend upon the department of the merchant marine, which will be itself under the Ministry of Transport and Public Works. It will be authorized to make decisions within its field of activities.

The directorate will be headed by a general director

with five (5) divisions or departments. Each of them must not include more than two employees to avoid the plethora of staff.

At this first stage of its establishment, the headquarter has to be located in the Capital city.

5.1.4 COMPOSITION OF THE DIVISIONS

1. LEGAL and ADMINISTRATIVE DIVISION with services for:
 - Personnel administration and management
 - Planning and Research
2. Examination, Certification and Registration DIVISION with services for:
 - Certification ,Certification and Registration
 - recruitment,employment.
 - Updating personnel data,mustering and control.
3. ACCOUNTANCY DIVISION with services for:
 - Accounting, tax refund and collection,
 - Pay deduction.
4. THE SOCIAL WELFARE DIVISION with services for:
 - Social service(social security,leave/holiday),
 - Provision of recreational facilities.
5. SEAMEN MEDICAL EXAMINATION DIVISION with service for medical examination and certification.

5.1.5 TYPES OF OFFICIALS or STAFF REQUIRED.

- a) STATUTORY OFFICIALS
 - i) Director General
 - ii) Examiners of seafarers
 - iii) Shipping masters
 - iv) Seamen employment officers

v) Registrars of seamen.

b) OTHER OFFICIALS

- i) High level professional adviser
- ii) Support officials for administrative and accounting work

c) GENERAL STAFF

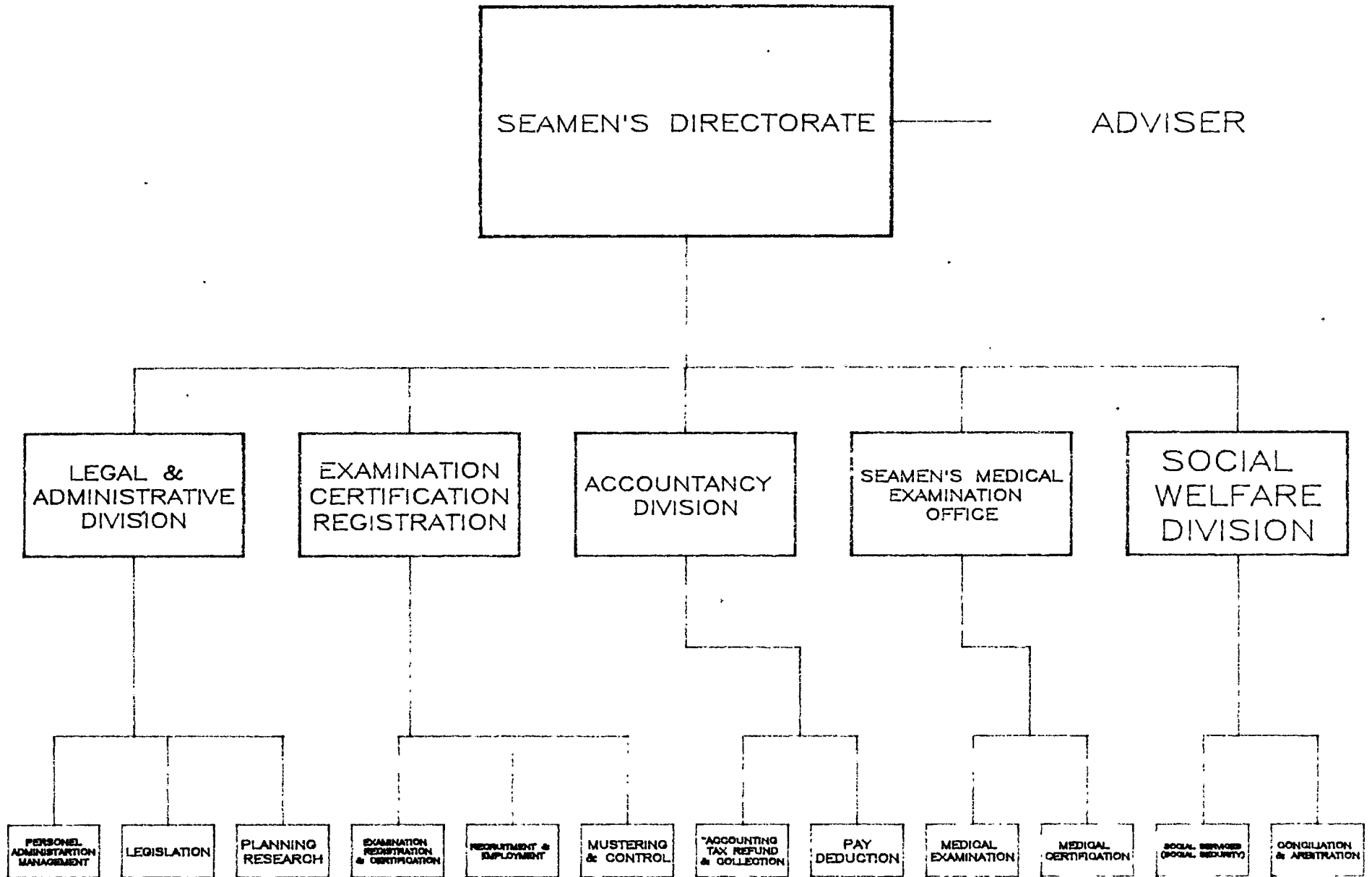
Secretariat, clerical staff and messengers.

5.1.6 ESSENTIAL QUALIFICATION and EXPERIENCE.

- . A master degree in maritime sciences
- . A degree in law or a certificate of competency as master (foreign going).
- . Experience in dealing with crew matters.

C. JOB DESCRIPTION : All duties are to be performed under the administrative control of the director of seamen in dealing with all matter pertaining to the registration, engagement and discharge of seamen and adjudication into disputes between seamen and their employers.

PROPOSED SEAMEN ADMINISTRATION CHART



5.2 ROLE OF THE SEAMEN'S ADMINISTRATION

5.2.0 INTRODUCTION

The promotion and development of an institution depends on the degree of management and utilization of the available resources among which are the human resources.

In the context of the maritime sector, being one of the most economic sectors, there is a need to put more attention where labour is concerned because of its special nature, which differs from the manpower in other industries

The development of this resource concerns the personnel department and, is an effective way to meet challenges facing most of the organization since it is a complex system in which all parts affect each other.

To fulfill its functions, in order to meet the objectives the seamen's administration has to play a great role for the promotion of seamen's activities.

5.2.1 DEVELOPMENT OF MARITIME TRAINING FACILITIES

The proper training of any personnel, no matter where employed, is the first and most pre-requisite for success. No merchant marine can ever promote the best interests of the nation unless it is manned by nationals of the country

" Ships are capital intensive equipment and, while acquisition of a fleet and the formation of a company to operate the ships are readily executed once the appropriate policy decision are taken, there are no short cuts in securing of highly qualified and experienced maritime personnel that would be required to man these vessels...

This important trust in the harvesting human resources has evolved a sub-planning activity alongside with , and within the entire maritime transportation network for the establishment of proper maritime training facilities to enable countries to have a ready source of maritime expertise in all branches " (1).

For the improvement and maintenance of the efficiency of the shipping industry and the professional ability and potential of seafarers with due regard to the educational needs of the latter and the socio-economic interest of the country the seamen administration must lay down a planning education program.

In planning the national education and training policy, the aforesaid administration should ensure that adequate provision is made in the general network of training facilities for the training of seamen aiming at achieving the objectives.

When the national facilities do not permit the development of facilities for the training, the administration should collaborate with other countries as well as international organizations such as IMO in setting joint maritime training schemes.

Ref: Professor P.S. VANCHISWAR

Also, the seamen's administration in cooperation with shipowners, shipping companies and seafarers organizations (ITF) should ensure that full information on public and private training schemes for seafarers and on conditions of entry into is available to those providing vocational guidance and employment services and technical training institutions.

Furthermore, the seamen administration should lay down training standards in conformity with national and international requirements for obtaining the various seafarer's certificates of competency.

The types of maritime training facilities and courses needed for seafarers can be summarized as follow: (1).

1.0 RATINGS

A- DECK DEPARTMENT.

- a) Pre-sea training for the new entrant, which needs to include "personal survival techniques".
- b) Subsequent refresher training for ratings with appropriate sea-service, so as to meet the mandatory minimum requirements for a rating, forming part of navigational watch, as specified in the STCW convention.

Ref: Professor P.S. VANCHISWAR

It is most desirable that such training leads to the efficient " deck hand certificate" or its equivalent, and the proficiency in survival craft appropriate certificate.

- c) Fire-fighting training
- d) Training in basic first aid.

B- ENGINE ROOM

- a) Pre-sea training for the new entrant, which needs to include" personal survival techniques".
- b) Subsequent refresher training for ratings with appropriate sea-service, so as to meet the mandatory minimum requirements forming part of the engine room, as specified in the STCW convention.

It is most desirable that such training leads to the efficient engineer certificate or its equivalent and the proficiency in survival craft certificate.

- c) Fire-fighting training
- d) Training in basic first aid.

B- CATERING DEPARTMENT

- a) Pre-sea training for the new entrant, which needs to include" Personal survival techniques" .
- b) Either as part of the sea training or subsequent to appropriate sea-service, the trainees, who are to become cooks on board ships need to be so trained as to be eligible for certificate as ship's cook.

2.0 OFFICERS

A- DECK DEPARTMENT.

- a) Pre-sea training for the new entrant as deck (nautical) cadet/apprentice.
- b) Training on board ships at sea, as deck (nautical) cadet /apprentice.
- c) Post-sea training leading to the first certificate of

competency as watchkeeping officer.

- b) Subsequent post sea training leading to all higher certificates of competency, including as "master."
(aforesaid training to meet the relevant requirement of the STCW convention).

B- ENGINE ROOM DEPARTMENT.

- a) Pre-sea training for the new entrant as engineer cadet apprentice.
- b) Training on board ship at sea, as junior engineer.
- c) Post-sea training leading to the first certificate of competency as a watchkeeping engineer.
- d) Subsequent post sea-training leading to all higher certificates of competency, including as "chief engineer"
(training to meet the relevant requirements of the STCW convention).

In addition to above, there is the need for the training of radio officers and radio telephone operators. However, matters pertaining to the training of such personnel are:

- a) Primarily governed by the requirements of the radio regulation of the international telecommunication union.
- b) Dealt with the ministry responsible for all form of telecommunication. Therefore, the seamen administration needs to cooperate with the ministry of telecommunication to ensure the availability of such personnel for ships and that they also meet the additional requirement prescribed under CHAPTER IV of the STCW convention.

3.0 ADDITIONAL SPECIAL COURSES

- a) Training of officers and ratings for oil tankers

- b) Training of officers and ratings for chemical tankers
- c) Training of officers and ratings for liquefied gas tankers.
- d) Radar simulator training for deck officers.

5.2.2 EXAMINATION AND CERTIFICATION OF SEAFARERS

The standards of examination for various grades of seafarers (officers and key ratings) and their appropriate certification in a country are intended to establish and provide proof of competence of the respective seafarers concerned for the levels at which they have to perform duties /operate on board ships. These in turn constitute the first element which determines the standards of safety and efficiency at which the ships of the country are operated. While a human factor as a whole is dominant in the operation of a ship, the professional competence of the aforesaid management and supervision would be predominant.

In view of the great importance attached to such examination and certification of seafarers, the seamen's administration must gear itself to meet the requirements as lay down in the STCW convention. Consequently, it needs to:

- Prepare appropriate rules and regulations for the conduct of the various examination and certification.
- Ensure the necessary infrastructure for the conduct of the examination.
- Ensure the availability of duly qualified and trained examiners of the appropriate discipline.
- Ensure the availability of duly qualified and trained maritime teachers and educators.

5.2.3 REGISTRATION AND REGULATION OF EMPLOYMENT.

Taking due note of the perspective of the country and the described situation, the seamen's administration has to introduce a national system for the regulation and employment of seamen.

Therefore, it is necessary for the country's benefit to describe briefly the essential aspects of such a scheme:

OBJECTIVES:

- 1) Eradication of malpractices.
- 2) Equitable distribution of the available volume of employment among the effective national seamen on the principles of:
 - a) Rotation according the date of discharge,
 - b) Reasonable choice to shipowner in the selection of the crew and,
 - c) Reasonable freedom to seamen to refuse a particular ship for stated reasons.

SALIENT FEATURES:

- Compilation of authentic record of all the effective national seamen available for employment by registration.
- b) Fixation of term for employment of each seamen according to the date of his last discharge by preparation of rosters.
 - c) Supply of seamen in accordance with their seniority on the rosters.
 - d) Adequate provision for appeals.
 - e) Consultation with the interested parties (shipowners and seamen)
 - d) No charge to be levied on the seamen or the shipowner for employment service.

The seamen's administration should not only to be limited on the regulation of employment but also for finding employment through shipowners.

The contract of employment should be supervised by the administration through officials. This must contain provision safeguarding their well being .

When entering into such contract ,the seamen must know the kind of voyage he can expect. To ensure that all contract of employment must be signed on in the presence of officials of the administration.

CHAPTER SIX

RECOMMENDATIONS AND CONCLUSIONS

6.1 RECOMMENDATIONS

6.1.1 MARITIME ADMINISTRATION CONCERNS

Today, the whole economic scene internationally, is much more complicated than ever before. The existence in every country of an efficiently organized and operated state administration, entrusted with all economic and technical matters affecting the promotion of safety has become a necessity for all governments irrespective of their particular philosophy or prevailing economic system.

Also, whatever the motivation for the formulation of the shipping policy, the ability of the government concerned to effectively conceive and apply the right shipping policies requires the existence of an appropriate infrastructural apparatus. It is highly important to ensure that the infrastructure is capable of carrying out efficiently the essential functions of a maritime administration.

While the government authority is responsible for maritime legislation, and for the implementation of government policy in the ultimate, and for overall coordination, as well as for concerted actions with other ministries, it has to be appreciated that there is a need for a specialized sub-formation manned by knowledgeable and competent officials to assist the Ministry to:

- Formulate the maritime policy,
 - Draft legislation,
 - Implement the formulate legislation
 - Discharge its national and international obligations
- Promote maritime policy.

Such formation needs to encompass or ensure coverage of the following:

- Obligatory functions of the maritime safety administration and,
- The voluntary functions related to the promotion of maritime development.

The administration structure of a country such as Guinea (where almost everything has yet to be done) would need to be capable of those functions pertaining to the promotion of maritime development, which can consist of many variables depending on the national and maritime circumstances.

While re-organizing the maritime sector, and at the same time updating the maritime code, the maritime authority should take into account all factors and elements contributing for the improvement of shipping in Guinea. To reach this objective, I propose an organizational structure (see chart) of a maritime administration which based upon the Ministry of Transport and Public Works.

All the functions should be carried under a general directorate of the merchant marine and ports, which should be responsible for the legislation and implementation of the overall maritime policy. This will ensure the

coordination and control of the activities of different divisions or directorates. It should comprise five (5) divisions or directorates as follows:

- 1- Navigation and maritime safety division, which should be responsible for:
 - Registration of ships
 - Safety of vessels
 - Maintenance of records of national ships
 - Port state control
 - Protection of marine environment (i.e pollution prevention)
 - Grant of various certificates
 - Maritime search and rescue
 - Enforcement of laws and regulations
 - Navigational aids and charts, etc,...

2- A shipping company's division responsible for management

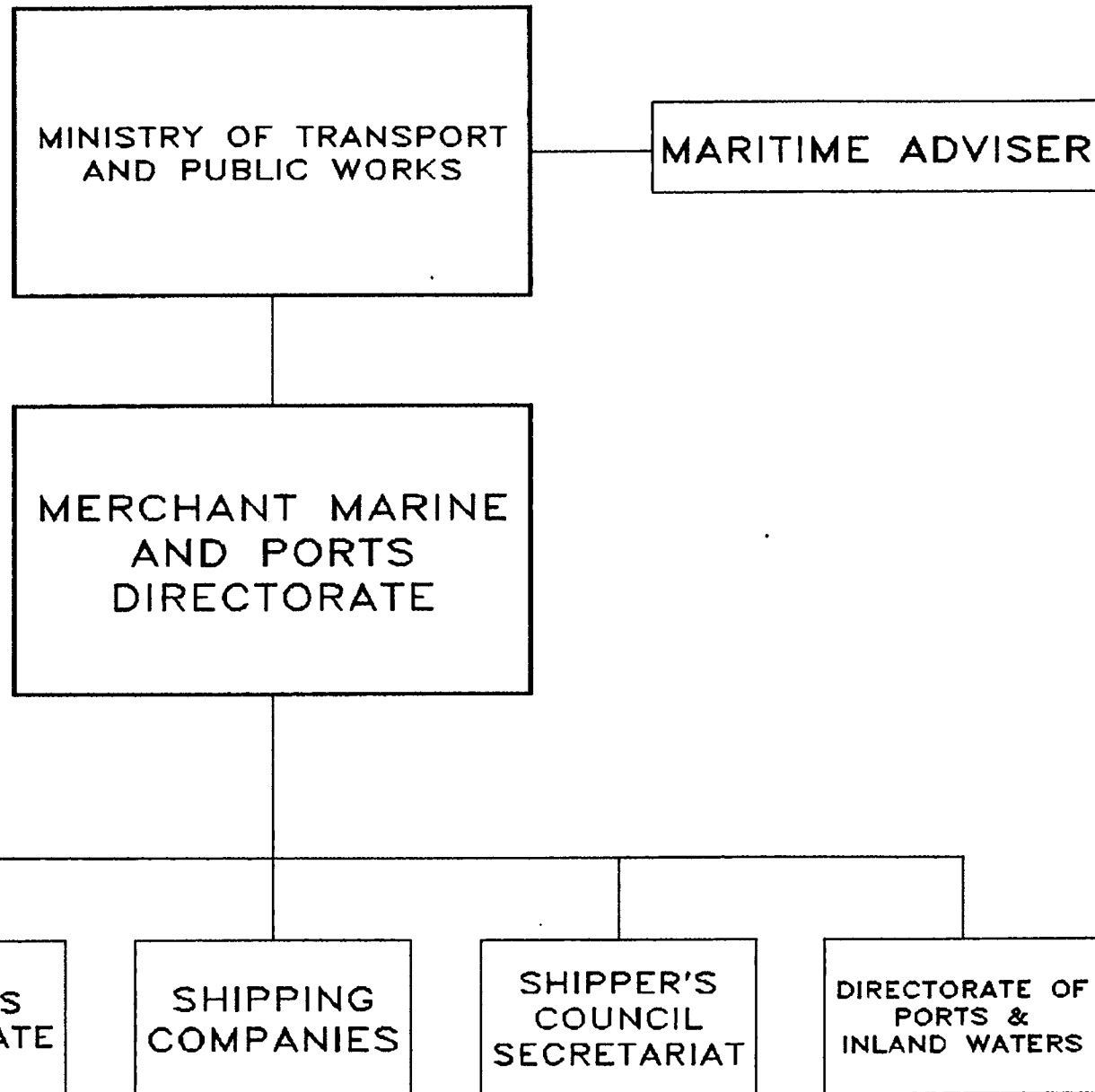
and promotion of the national fleet (merchant and fishing), shipping agencies and the development of shipping services.

3- A shipper's council secretariat , which should be responsible for the defense of shipper's interests.

4- A general directorate of ports and inland waters, which should be a central administration responsible for matters pertaining to ports, harbors and inland waters. It should not participate directly in the port's operations but may make regulations and follow their implementation.

- A seamen's directorate.

PROPOSED MARITIME ORGANIZATION CHART



6.1.2 AN ALTERNATIVE FOR THE DEVELOPMENT OF THE NATIONAL FLEET

As regards to the acquisition and development of a national fleet, the government should not only rely on services provided by joint venture, but it should take advantage of income. It may from related sources in acquiring a fleet : for example deduct 2% only from the annual income of the mining sector to purchase a ship.

6.1.3 PROPOSAL ON SEAMEN'S LEGISLATION

While updating the merchant marine code for seamen concerns, I should propose that the following matters may be included as part, chapter, section or clause in the form of the following arrangements:

A- PRELIMINARY

- Short title and commencement
- Objects and constructions
- Applications of the code
- Definitions

B- ADMINISTRATION

- Director\General Director
- Seamen's Directorate and Principal officers
- Surveyors
- Radio inspectors
- Shipping masters

C- CERTIFICATES OF OFFICERS, MASTERS AND ENGINEERS.

- Manning with certificated officers
- Grades of certificates of competency
- Examinations
- Certificates of service
- Form of certificate

- Record of orders
- Loss of certificates
- Production of certificates
- Power to cancel or suspend certificates
- Recognition of certificates granted by other governments
- Power to make regulation for the purpose of the part chapter, section or clause.

D- SEAMEN AND APPRENTICES, CLASSIFICATION OF SEAMEN AND PRESCRIPTION OF MINIMUM MANNING SCALE

- a) - Power to classify seamen
 - Duties of the shipping masters
 - Fees to be paid
- b) Apprentice ship to sea service
 - Assistance for apprentice ship
 - Special provisions as to apprentice ship
 - Manner in which apprentice ship contract is to be recorded
 - Production of contract of apprentice ship
- c) Seamen's employment offices
 - Seamen's employment offices
 - Supply or engagement of seamen in contravention of act prohibited.
 - Receipt of remuneration from seamen prohibited
- d) Engagement of seamen
 - Engagement of seamen
 - Prohibition of engagement of unauthorized seamen
 - Agreements with crew
 - Form and content of the crew agreement
 - Special provisions with regard to crew agreement
 - Renewal of running agreements
 - Changes in crew to be reported
 - Certificate as to agreement with crew
 - Copy of agreement to be made accessible to the crew

- Alteration in agreement
- e) Employment of young persons
 - Employment of young persons
 - Medical examination
 - Maintenance of list of young persons
 - Power to make rules prescribing conditions for employment of young persons
- f) Discharge of seamen
 - Discharge of seamen
 - Certificate of discharge
 - Certificate as to work of seamen
 - Discharge and leaving behind of seamen by masters
 - Wages and property of (such) seamen
 - Repatriation of seamen
 - Discharge of seamen on charge of ownership
- g) Payment of wages
 - Master to deliver account of wages
 - Disrating of seamen
 - Deduction from wages of seamen
 - Payment of wages before shipping master
 - Time of payment of wages
 - Settlement of wages
 - Master to give facilities to seamen for remitting wages
 - Decision of question by shipping masters
 - Production of ship's papers
 - Payment of seamen's wages in foreign currency
- h) Advance and allotment of wages
 - Allotment notes
 - Commencement and payment of sums allotted
- i) Rights of seamen in respect of wages
 - Right to wages
 - Wages and salvage
 - Wages not to depend on freight

- Wages on termination of service by wreck, illness, etc,...
 - Wages not to accrue during absence without leave, refusal to work or imprisonment
 - Compensation to seamen
 - Protection of wages.
- j) Mode of recovering wages
- Suit for wages
 - Restrictions on suits for wages
 - Wages not recoverable outside
 - Master's remedy for wages
- k) Power of court to rescind contracts
- Power to rescind contracts
 - Disputes between seamen and employers
 - Conditions of service, etc..., to remain unchanged
- l) Property of deceased seamen and apprentices
- Property of deceased seamen
 - Delivery of the property
 - Recovery of wages of deceased seamen
 - Disposal of unclaimed property of deceased seamen
- m) Distressed seamen
- Distressed seamen
 - Mode of providing for return of seamen
 - Receiving distressed seamen on board ships
 - Provisions as to taking distressed seamen on ships
 - What shall be evidence of distress
 - Decision of consular officer
 - Power to make rules
- n) Provisions, health and accommodation
- Provisions and water
 - Allowance for short and bad provisions
 - Weights and measures
 - Certificated cook
 - Scales of medical stores

- Certain ship to carry medical officers
 - Medical treatment
 - Crew accommodation
 - Inspection by shipping master, etc,...
 - Inspection by master.
- o) Special provisions for protection of seamen in respect of litigation
- Certificate and notice to be given in case of unrepresented seaman
 - Decrees and order passed against serving seaman
 - Modification of law of limitation where seaman is a party
 - Reference in matters of doubt to shipping masters.
- p) Provisions for protection of seamen in respect of other matters
- Facilities for making complaints
 - Assignment and sale of salvage invalid
 - No debt recoverable till end of voyage
 - Seamen's property not to be detained
- q) Provisions as discipline
- Misconduct endangering life or ship
 - Desertion and absence without leave
 - Power to suspend deserter's certificate of discharge
 - Conveyance of deserter or imprisoned seaman on board ship
 - General offenses against discipline
 - Smuggling of goods by seamen and apprentices.
 - Entry of offenses in official log book
 - Report of desertion and balances without leave
 - Facilities for proving desertion
 - Application of forfeiture and deduction
 - Payment of fines imposed to shipping master
 - Seaman or apprentice not to be entitled to desert

- Stowaways and seamen carried under compulsion
- On change of master document to be handled over to successor
- Deserters from foreign ships

r) Official log book

- Keeping official log book
- Entries to be made in official log book
- Offenses in respect of official log books
- Delivery of official log book to shipping master
- Official log books to be sent to shipping master in case of transfer of ship or loss.

As a basis for building up a national merchant marine, there should be no more reason for putting forward the principle that all " may become seaman who wishes, or whichever sex". It should be advisable to cut with this practice by:

- Renewal of form of seaman's document,
- Cancellation of the validity of all seamen's documents issued,
- Establishments of a provisory commission to select the duly certified seamen on a new bases,
- Abolition of related charges and taxes.

With regard to related international laws and conventions mainly those developed by IMO (i.e the STCW convention) and ILO, it should be obligatory for the maritime administration to ratify and implement them.

It should also be a great importance to organize and participate in national, regional and international fora and meetings of marine concerns.

6.2 CONCLUSIONS

In the light of the foregoing presentation, it should be amply clear that there are intense needs for changes in the present structure and management of the Maritime Administration.

An organization that does not succeed in encouraging, motivating, and defending the interests of its employees; in other words, one which does not take the human factor, into account will rapidly collapse. On the contrary, if it has an efficient machinery, it can cope with the problems.

It is the opinion of the author, that it is of paramount importance to maintain the interest of seamen who are the key elements for building up a reliable merchant marine.

As a link between workers and employers, the Administration should always take decisions geared for the improvement. To avoid operating in isolation the administration should take advantage of the services of IMO, ILO, ITF or WHO whose specialists have worked and are continuing to work on all aspects of the maritime activities that can be adopted to Guinean realities. The right and duties of each party should be clearly defined and all documents concerning the entry into the seamen service, the employment, etc., should be left free access to the parties.

At any rate, legislation should be up to date to keep pace with international trends to balance the international framework with the Guinean realities.

Finally, I hope that this paper will give a "new blood" to the Maritime Administration and stimulate feed back so that all parties concerned will derive some benefits from it.

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