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WORLD MARITIME UNIVERSITY
MALMO , SWEDEN

MARITIME SAFETY ADMINISTRATION
IN GUINEA

THE PRESENT SITUATION AND
RECOMMENDATIONS FOR THE FUTURE

BY

Mamadou Saidou Diallo

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

MARITIME SAFETY ADMINISTRATION (NAUTICAL)

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

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ABSTRACT

The objective of the reasearch covered by this paper is to describe the Guinean Maritime Safety Administration as it presently exists and to identify the particular process of development that may be needed. The paper will begin by outlinig the geographical features of the Republic of Guinea as regards its water transport system ,continue with a general description of the maritime administration,then describes the Maritime Safety Administration in more detail including related maters. Conclusions are then fomulated and recommendations concerning future developments proposed.

ACKNOWLEDGEMENTS

I would like to express my deep gratitude to the International Maritime Organisation and particularly its Secretary General SIR. C. P. SIRIVASTAVA for the opportunity given to me to attend the two-years course in Maritime Safety Administration at this unique institution.

I would also like to express my sincere thanks to Professor P. S. VANCHISWAR for his advice , support and assistance throughout the training period at the World Maritime University . Thanks are also due to all the staff of the W. M. U. for their assistance which greatly facilitated my studies in Malmo.

I furthermore acknowledge also with thanks the generous support and assistance rendered by the various maritime safety administrations and organisations in the respective countries visited during my training.

Thanks are also due to the different services belonging to the SECRETARIAT OF STATE OF TRANSPORTS who have given me the necessary and valuable data in the preparation of this thesis.

Lastly but not least I would like to express my deep gratitude and warm appreciation to my wife KADIATOU SALL and my son THIerno OUMAR DIALLO for their enormous patience and for managing without me while I was here in Malmo.

Mamadou Saidou Diallo

Malmo , December 1987.

ABBREVIATIONS.....	8
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**CHAPTER I INTRODUCTION—
GENERALITIES.....9**

**CHAPTER II THE REPUBLIC
OF GUINEA.**

1	SOVEREIGNTY OF THE REPUBLIC.....	13
2	GEOGRAPHICAL LOCATION.....	13
3	TERRITORIAL WATERS.....	13
4	CLIMATE AND WEATHER.....	14
5	INDUSTRY , PRODUCTS AND TRADE.....	14

**CHAPTER III OVERALL MARITIME
ADMINISTRATION.**

1	INTRODUCTION.....	16
2	THE MERCHANT MARINE OFFICE.....	16
3	THE AUTONOMOUS PORT OF CONAKRY.....	19
3-1	THE ENTRAT.....	21
4	THE MARITIME OFFICE.....	21
4-1	THE S.N.G.....	22
4-2	THE SOMIDRAT.....	25
5	GUINOMAR.....	27

**CHAPTER IV THE GUINEAN
MARITIME SAFETY
ADMINISTRATION.**

1	INTRODUCTION.....	31
---	-------------------	----

2	THE NATIONAL CENTRE FOR MARITIME SAFETY.....	33
3	THE NATIONAL CENTRE FOR PROTECTING THE MARINE ENVIRONMENT.....	33
4	THE DEPARTMENT OF FAIRWAYS AND NAVIGATIONAL AIDS.....	34
4-1	THE LOCAL MARITIME ADMINISTRATION.....	35
5	THE SURVEY STAFF OF THE NAVIGATION DIVISION.....	35
5-1	SURVEYS ,INSPECTIONS AND THE CERTIFICATION OF SHIPS.....	35

CHAPTER V THE REGISTRATION OF SHIPS AND RELATED FUNCTIONS.

1	INTRODUCTION.....	38
2	REGISTRATION OF SHIPS UNDER THE GUINEAN FLAG.....	42
3	PROCEDURE FOR REGISTRATION.....	45
4	REGISTRATION OF MORTGAGES.....	50
5	CONCLUSIONS AND RECOMMENDATIONS.....	56

CHAPTER VI THE SURVEY, INSPECTION AND CERTIFICATION OF GUINEAN SHIPS.

1	CONVENTIONS RATIFIED BY THE GUINEAN GOVERNMENT.....	60
2	THE SYSTEM FOR SURVEYING, INSPECTING AND CERTIFYING GUINEAN SHIPS.....	61
3	THE CLASSIFICATION SOCIETIES RECOGNIZED BY THE GUINEAN GOVERNMENT.....	61

4	PROCEDURE FOR THE DETENTION OF UNSEAWORTHY SHIPS.....	63
5	CONCLUSIONS AND RECOMMENDATIONS.....	64

CHAPTER VII THE TRAINING AND CERTIFICATION OF SEAGOING PERSONNEL.

1	PARTICULARS OF THE PRESENT INSTITUTIONS FOR TRAINING SEAFARING PERSONNEL.....	67
2	PROCEDURE AND SYSTEM FOR THE ISSUING OF CERTIFICATES OF COMPETENCY TO MERCHANT MARINE OFFICERS AND RATINGS.....	67
3	REGISTRATION OF SEAMEN.....	68
4	RULES AND PROCEDURES FOR MANNING NATIONAL SHIPS.....	68
5	NUMBER OF SEAGOING PERSONNEL.....	68

CHAPTER VIII OTHER MATTERS RELATING TO THE DUTIES OF THE MARITIME SAFETY ADMINISTRATION.

1	INVESTIGATION INTO SHIPPING CASUALTIES.....	71
2	THE EXISTING LEGISLATION AND PROCEDURES.....	76
3	THE PROPOSED MODEL.....	77

4	OUTLINE FOR A "MARITIME SEARCH & RESCUE PLAN" FOR GUINEA.....	90
5	RATIFICATION OF THE 1979 CONVENTION ON MARITIME SEARCH & RESCUE.....	93

CHAPTER IX ARRANGEMENTS FOR THE PREVENTION /COMBAT/- CONTROL OF MARINE POLLUTION.

1	INTERNATIONAL CONVENTIONS.....	96
2	LEGAL REQUIREMENTS RELATED TO MARINE POLLUTION.....	96
2-1	THE SPECIAL IMPORTANCE OF MARINE POLLUTION PREVENTION FOR GUINEA.....	97
3	CONSEQUENCES RESULTING FROM THE RATIFICATION OF THE 1973 MARPOL CONVENTION AND IT'S 1978 PROTOCOL.....	98
4	OIL POLLUTION COMBATING SYSTEM - CONTINGENCY PLANNING.....	99
5	THE NECESSITY FOR RATIFYING THE 1969, BRUSSELS, LIABILITY CONVENTION AND THE 1981 LONDON FUND CONVENTION.....	113
5-1	PORT STATE CONTROL IN CONNECTION WITH POLLUTION PREVENTION REQUIREMENTS.....	113

**CHAPTER X FINAL OBSERVATIONS,
RECOMMENDATIONS.**

1	STRATEGIC PLANNING.....	117
2	SUGGESTED ESTABLISHMENT OF THE SPECIAL FUND.....	118
3	ADMINISTRATION OF THE FUND.....	118
4	UPDATING GUINEAN MARITIME SAFETY ADMINISTRATION.....	119
5	UPDATING GUINEAN MARITIME LEGISLATION.....	119
5-1	PORT STATE CONTROL.....	120

ABBREVIATIONS

- DSS : Deep Sea Shipping.
- EGTPM : "Entreprise Guinéenne Des Travaux Publics et Maritimes."
- ENTRAT: "Entreprise National De Transport, D'Acconage et de Transit."
- GUINOMAR: "Société Guineo-Norvegienne D'Armement et D'Operation Maritimes."
- GRT : Gross Register Tons.
- ILO : International Labor Organisation.
- IMO : International Maritime Organisation.
- PRG : President De La République De Guinée.
- RMS : Rein Mass Seechiffahrts Kontor.
- SAR : Search & Rescue.
- SNG : " Société Navale Guinéenne."
- STCW :International Convention on Standards of Training, Certification and Watchkeeping for Seafarers.
- UK : The United Kingdom.
- UN : The United Nations.
- UNCTAD : The United Nations Conference on Trade and Development.
- USA :The United States of America.
- WMU :The World Maritime University.

CHAPTER I

INTRODUCTION - GENERALITIES

The main purpose of this project is to evaluate the nature and extent of the Guinean Maritime Safety Administration as it exists in its present form, and recognizing that this Administration is undergoing substantial development in its infrastructure and functions to offer some recommendations.

Special attention will be paid to the way in which provisions of the international maritime conventions and related instruments are applied in national legislation aiming for the improvement of safety of life and property at sea and prevention of marine pollution from ships.

As a coastal state, the Republic of Guinea with approximately 200 miles of coastline, likes to take full advantage of its maritime activities and marine resources as an important contribution to the national economics and social needs.

The maritime activities consist of:

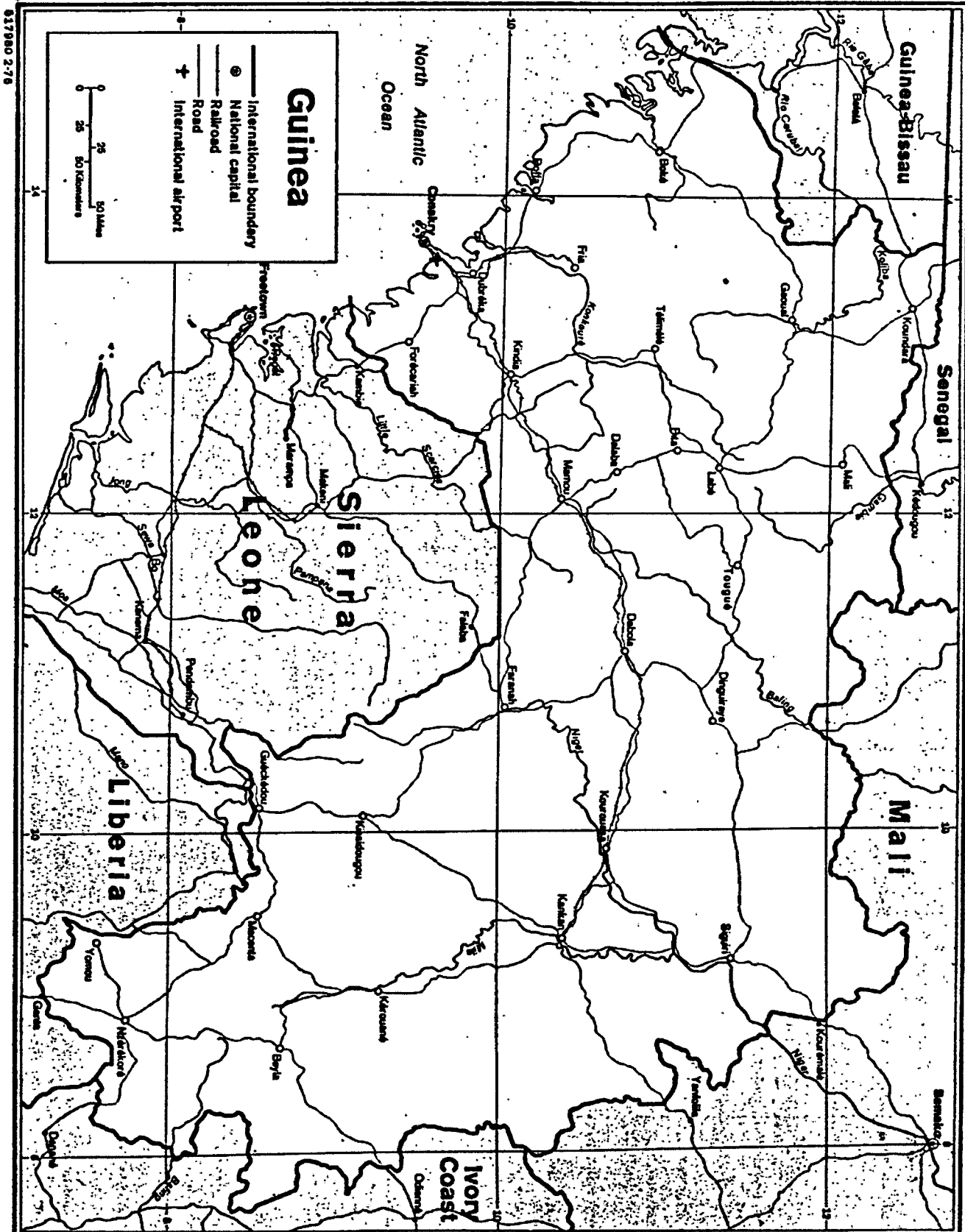
- conveyance of national goods by sea in lower Guinea due to geographical and topographical conditions making inland transportation very difficult.
- handling foreign trade cargo from neighbouring countries as well as from distant countries and ,
- exploiting marine natural resources within territorial waters and the Exclusive Economic Zone.

- In the shipping scene for reasons of national economy and social needs , the country needs to be selfreliant within its overall maritime administration especially as far as maritime safety administration is concerned, providing a safe and efficient shipping industry and preventing marine pollution from ships.

- Effective fulfilment of the obligations under the conventions of the International Maritime Organization (I.M.O) and the implementation of other International Conventions ,Codes , and instruments concerening the maritime field through the national maritime administration will help greatly to take advantage of the positive experiences of progressive maritime countries, as reflected in the maritime convention's standards.

CHAPTER II

THE REPUBLIC OF GUINEA



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1 Sovereignty of the Republic of Guinea

Guinea was a French colony from 1898 until gaining its independence on October 2, 1958 when it became the Republic of Guinea.

The population was estimated as 5.500.000 habitants in 1983. The official language is French.

The 1982 constitution, providing for a national Assembly elected by universal adult suffrage, was suspended on April 3, 1984, when supreme power came to rest with a "COMITE MILITAIRE DE REDRESSEMENT NATIONAL" the Leader of which is the President of the Republic,

GENERAL LANSANA CONTE.

The Local administration is based on eight provinces, each under the authority of a provincial Minister.

2 Geographical Location

The Republic of Guinea is located in the south-western part of West Africa and covers 245,857 square Kilometers. It is bordered on the north-west by Guinea-Bissau, on the north by Senegal, on the north-east by Mali, on the east by the Ivory Coast, on the south by Sierra Leone and Liberia, and on the west by the Atlantic Ocean and a 300 Kilometer coastline.

3 Territorial Waters

The territorial waters and Exclusive Economic Zone claimed by the Republic of Guinea are 12 miles and 200 miles respectively according to decree No. 336/prg/80 in

accordance with the part V of the Exclusive Economic Zone Article 55 of the U.N. Convention on the Law of the Sea.

4 Climate and Weather

Guinea has a tropical climate ,with high rainfall near the coast.It is in general hot but conditions are a little cooler on the plateau in Middle Guinea .

There are two seasons in the year :

- the wet season from May to November when the annual rainfall can reach 4.000 mm of water and ,
- the dry season from December to April when the temperature can reach 35 degrees Celsius and some time even higher.

5 Industry , Products and Trade.

The principal aim of Guinea's small manufacturing sector has been import substitution , but the experience from the several projects was not particularly good because of lack of foreign exchange for raw material and technical expertise . Most of the plants are still operating below capacity. These include a textile factory ,a construction materials plant, food and agricultural processing facilities and a cement factory.

The major commercial products are , bananas , coffee , pineapples ,palm oil ,groundnuts and citrus fruits.

With the development of bauxite resources since the early 1970's , the country's external trade position has greatly improved.

The new government , which assumed power in 1984 , is inviting foreign tenders for rehabilitation projects as well as attracting considerable interest in foreign capital investment.

CHAPTER III

OVERALL MARITIME ADMINISTRATION

1 Introduction

The administration of all maritime activities is under the auspices of the maritime department of the "SECRETARIAT OF STATE OF TRANSPORTS". It's organization is divided into seven divisions which cover shipping , legislation , port bulding and maintenance and seafarerer administration .

The Merchant Marine Directorate has the main task of setting up central maritime administration and legislation , such as policies and strategies , to encourage national shipping companies and to ensure shipping safety according to decree No 685/PRG/81.

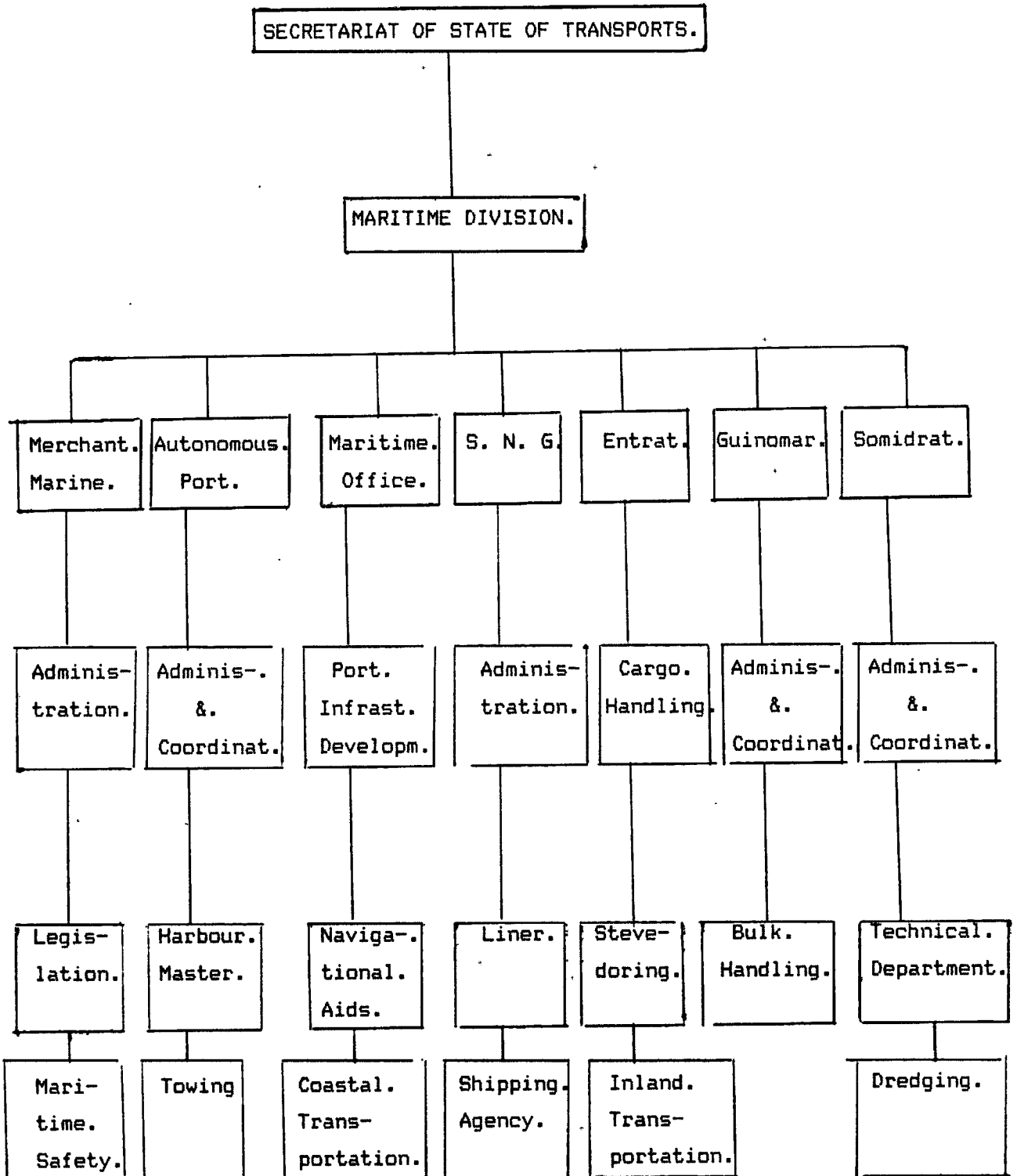
The diagram on page (17) indicates the organisation of the maritime department of the "SECRETARIAT OF STATE OF TRANSPORTS":

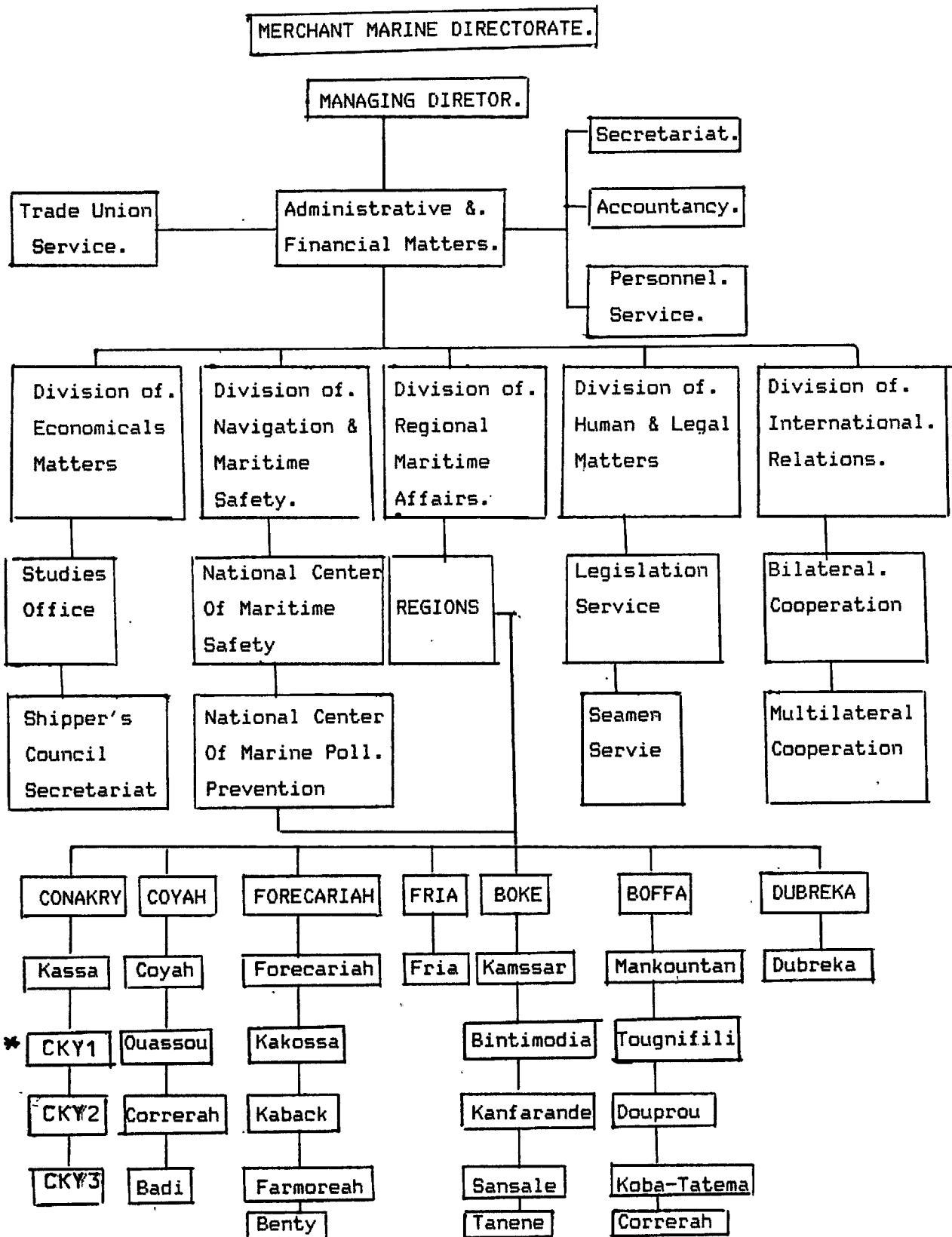
2 The Merchant Marine Directorate.

The Merchant Marine Directorate was created by decree No 386/PRG/62 and came under the maritime office . Later it was found necessary to separate it from the Maritime Office due to the development and implementation of a national maritime legislation.

The Merchant Marine Directorate was thus separated , and its tasks were defined by decree No 685 / PRG/ 81 . Its organization is divided into five divisions which deal with maritime legislation , such as the updating of the "Merchant Shpping Act" , drafting policies , and developing strategies , encouraging national companies , and implementing international conventions in order to ensure the improved safety of ships.

The diagram on page (18) indicates the organization of the Merchant Marine Directorate.





*CKY = CONAKRY

3 The Autonomous Port of Conakry.

The Port of Conakry is the largest port of the Republic through which most of the cargoes ,(imports and exports) pass.

The port became autonomous in 1982 by decree No 050 /PRG / 82 in order to improve its operational efficiency. It consists of nine berths with the following characteristics:

	Length	Depth
- Berth No 1 (Fria)	170 m.	11 m
- Berth Nos 2,3,4,5,6	120 m	8.5 m

	Length	Depth
- Berth No 7	155 m	8.0 m
- Berth Nos 8,9	149 m	11.0 m

The (Fria) berth is used for loading alumina in bulk , berth No 8 for loading bauxite and berth No 9 for tankers.

All berths are connected to the railway system , according to the spirit of the decree , law No 050 / PRG / 82 , the main tasks of the port are stated as follow:

- To provide very good services to the users.
- To ensure a very good link between maritime transport and land transport . In doing so it will contribute to the amelioration of the social and economic situation of the country.

- To exploit and manage the port within the jurisdictional limits.

The following list indicates the organization of the autonomous port of Conakry.

a The General Direction:

- The General Secretariat.
- The Service of Statistics.
- Information Service.
- The Service of Internal Control.
- The Service of Training Personnel.
- The Office of Studies and Planning.

b The Technical Direction:

- The Harbour Master Service.
- The Maintenance Service.

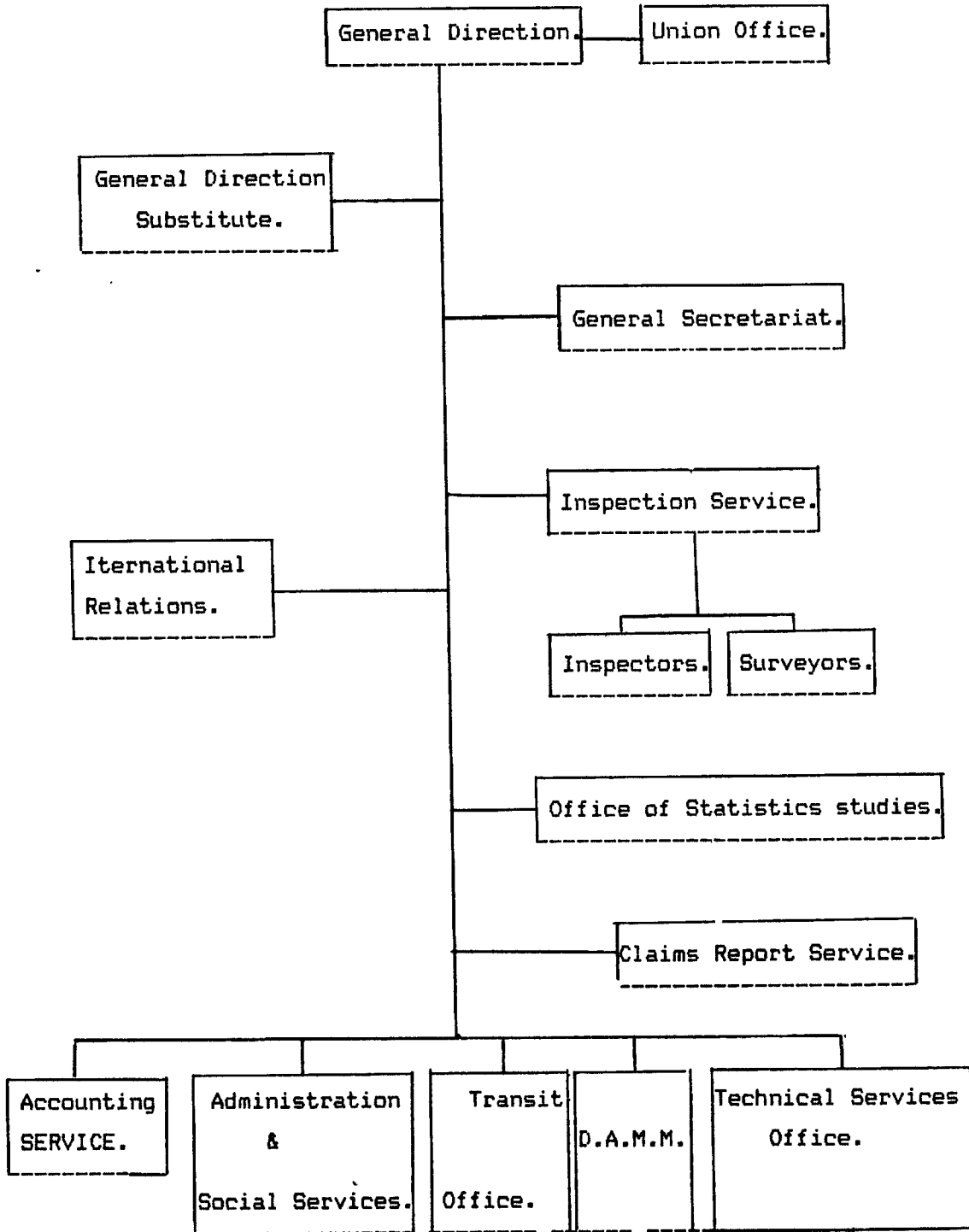
c The Direction of Exploitation.

- Docking Service .
- Cargo Handling Service.
- Storing Service.
- Open Storage Service (container handling).

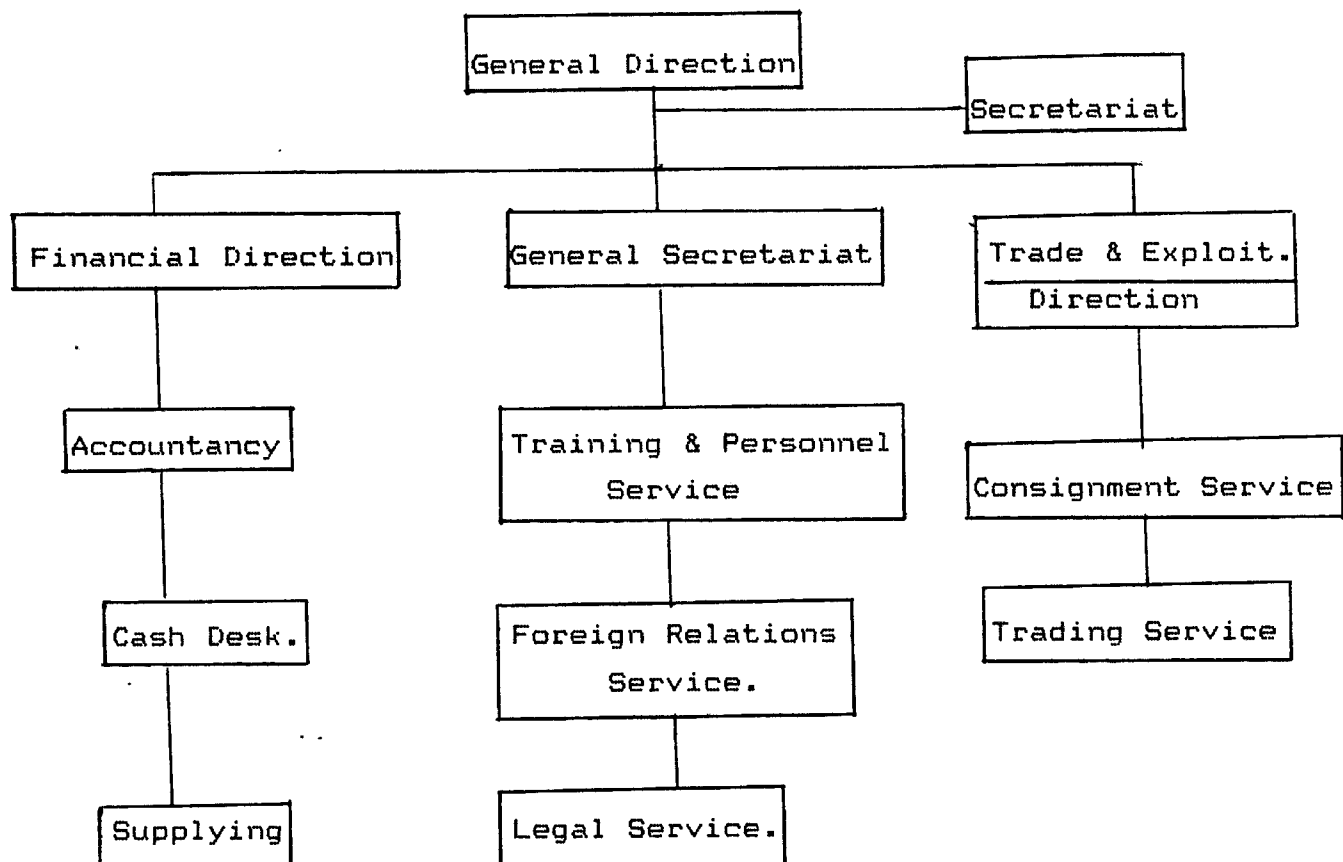
d The Economical and Financial Direction:

- Economic and Commercial Service .
- Financial Service.
- General Accounting Service .
- Analytical Accounting and Project Service .
- Supplying and Logistic Service .

ENTRAT.



SOCIETE NAVALE GUINEENNE.



4-2 THE SOMIDRAT.(societe mixte de dragage).

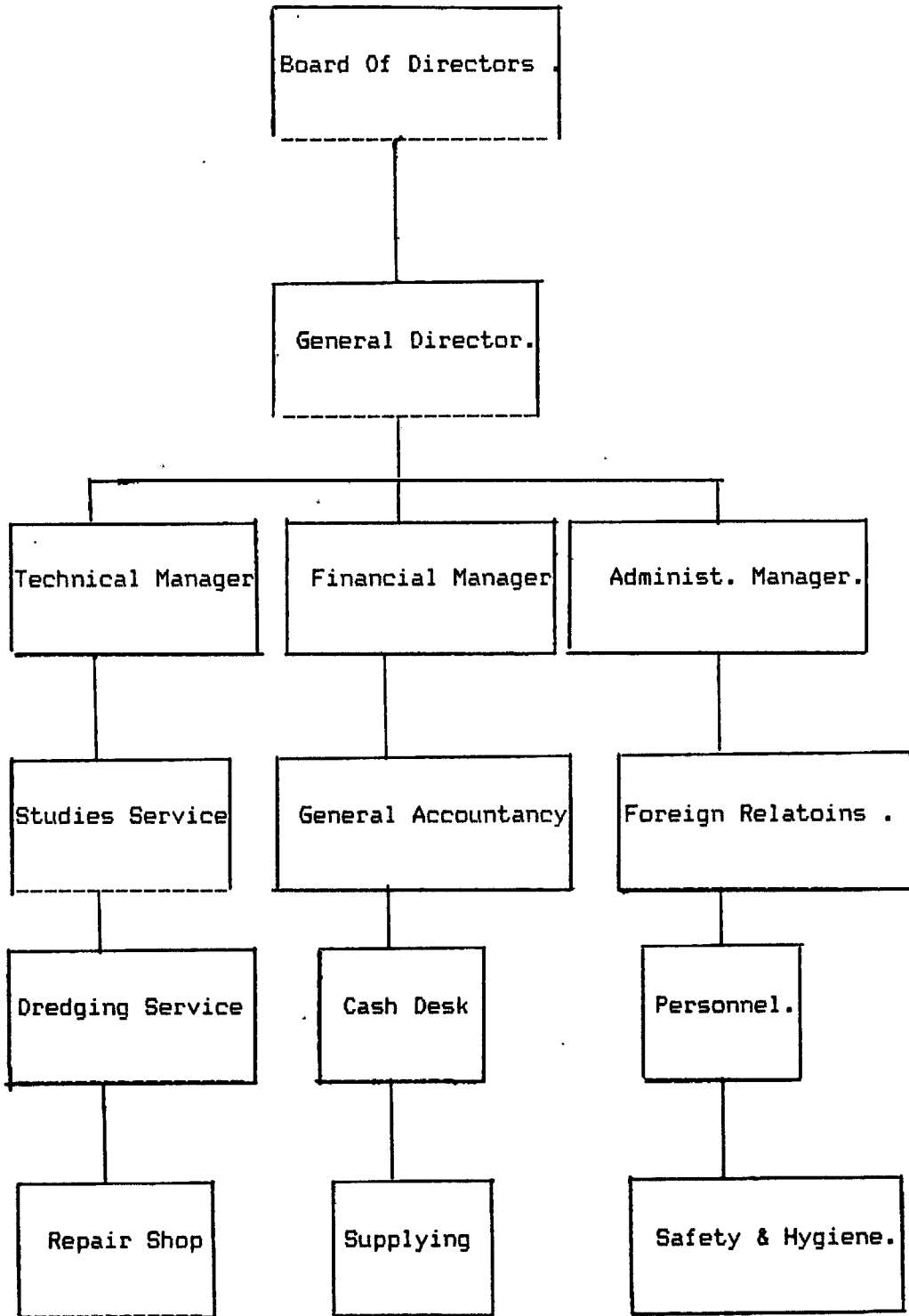
The somidrat is a joint-venture company financed by the government and the " EGTPM " (entreprise guineenne des travaux publics et maritimes.) with an equal 50-50 % investment.

The somidrat was established in 1975 by decree No 0520 / PRG /75 for the purpose of dredging Guinean ports and waterways.

The somidrat owns a large pump dredger of 5140 H.P and a variety of tugs , patrol boats with echo-sounding systems barges and pontoons in order to fullfil its objective efficiently.

The diagram on page (26) shows the organization of the somidrat.

SOMIDRAT.



Guinomar is a Guinean bulk ship owning and operating company . Its head office is located in Conakry , Republic of Guinea, and its operating branch , Guinomar International, is established in Oslo , Norway.

It is a "Societe D'Economie Mixte", privately organised but jointly owned , 50 per cent each being held by the Government of Guinea and the Liberian Corporation, West African Bulk Shipping (WABS), which in turn is owned 50 per cent each by Torvald Klaveness & Co. A/S of Oslo, Norway and Navios Management Inc. of Greenwich, U.S.A. (a subsidiary of the Fednav Group of Montreal).

With Guinea ranking as the world's largest bauxite exporter and Klaaveness and Navios possessing an enviable expert knowledge which encompasses all aspects of maritime shipping , it was only natural for the parties to pool their efforts , with a view to a greater strengthening of the structure of international seaborne trade.

Guinomar was formed in 1979 and re-structured in 1980 .

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

Over the years since its inception ,the joint forces of the shareholders have provided the requisite dimensions which fit together and enabled Guinomar to offer excellent transportation services while also meeting its own economic requirements.

Today , Guinomar enjoys wide recognition as a reputable shipping venture , professionally managed and capable of meeting the sophisticated demands presented by its contractual relationships.

The ultimate goal pursued by GUINOMAR is to develop , in time , an efficient Guinean bulk shipping organisation which will be capable of meeting future transportation challenges.

With a view to enabling Guinean nationals to acquire ship operating and management expertise , Guinomar is engaged in a long-term education and training programme which encompasses both maritime and management aspects.

The programme is essentially provided by the Norwegian Government and the students as a rule attend either the "Academie Regionale des sciences et techniques de la mer " of Abidjan in the Ivory Coast , or the Norwegian Shipping Academy in Oslo, after having completed an appropriate English course in the U.K.

The cadets subsequently serve on board ships until they are found to be qualified for positions as officers, and the management trainees are gradually given operative responsibility within Guinomar Conakry and Guinomar International in Oslo.

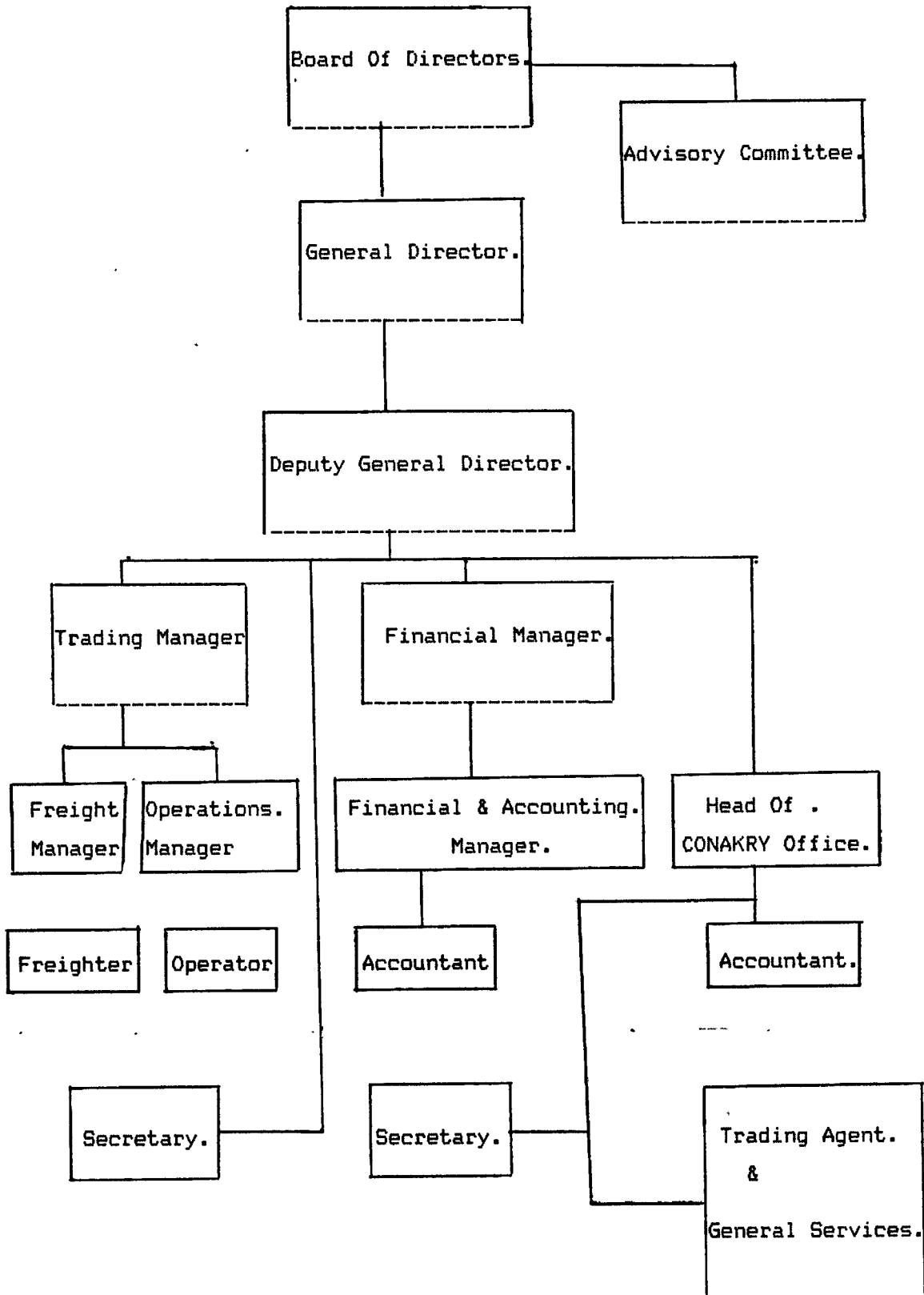
Guinomar operate a fleet averaging 15 Panamax vessels to meet its bulk carrying requirements. At the moment , Guinomar owns the M/V Baumare , a modern fuel-saving Panamax bulk carrier of about 64,000 dwt built in 1981.

In addition , a number of vessel purchase projects are being evaluated by various financial institutions.

As to the chartered tonnage , the constant change in a vessel's name does not warrant a listing of the ships on time-charter. however, it is worth mentioning the m/v Guinomar Trader, a 1982 built panamax vessel was chartered for 10 years with a purchase option.

The diagram on page (29) shows the organization of Guinomar.

GUINOMAR.



CHAPTER IV

GUINEAN MARITIME SAFETY
ADMINISTRATION

Introduction

One of the most important factors in the development of merchant shipping in particular and furthermore for the economy of a developing country in general, is the establishment of well-organised and efficient maritime administration department dealing with all the maritime affairs.

Since in many countries there are specific Ministries responsible for trade, commerce and transportation the maritime department is not directly involved with matters regarding external trade or commerce effected by shipping and related economic aspects. For this reason (in the present project) I will deal with the infrastructure needed for a Maritime Safety Administration in Guinea.

The duties of a Maritime Safety Administration in any country can be summarised as follows:

- To provide the Government with the efficient machinery which would enable it to apply satisfactorily the Government policies, programmes, plans and pursuits for maritime development as well as to apply the national merchant shipping legislation.
- To advise the appropriate Governmental Authorities on the adoption and implementation of legislation and on more up-to-date and improved methods and standards required for the safety of life at sea, the welfare of the seafarers on board and the application of their maritime policy in general.
- To advise the government on the adoption of practical measures for the success of the

above pursued development.

- To advise the government on the adoption and the ratification of international conventions related to the maritime field(I.M.O'S ,I.LO'S UNCTAD'S) as well as on the adoption of any regulations , decrees , and orders which may be needed for the better implementation of the provisions of these conventions.
- To represent the government at all international conferences relating to maritime affairs and undertake the fulfilment of their obligations under the international conventions.
- To maintain the national ship's Register book and apply the registry legislation.
- To provide and organise appropriate facilities for the survey and certification of ships.
- To follow-up and control the safe navigation and the safety of national ships in accordance with the existing legislation .
- To register the national seafarers and apply the legislation , as well as adopt such measures capable of improving their welfare.
- To provide a machinery for the examination and certification of masters , engineers and other maritime personnel.
- To improve the maritime education and develop maritime training facilities in order to provide the national ships with qualified and skilfull seafares.
- To enforce the legislation relating to the prevention of pollution and set up an operational contingency plan in order to avoid or minimize the

damages in case of pollution.

- To investigate casualties involving national ships or seamen serving on those ships.
- To maintain or coordinate a machinery providing good "Maritime SEARCH & Rescue " services.

In Guinea the following constitute the Maritime Safety Administration.

1 The National Centre for Maritime Safety

The National Centre for Maritime Safety operates under the instructions and auspices of the Navigation Division of the Merchant Marine Office and is responsible to the same for the following activities and services :

- Maintaining the Ships' Register Book and applying the registry legislation .
- Following up and controlling safe navigation and the safety of national ships in accordance with the existing legislation.
- Investigating shipping casualties involving national ships or seamen serving on those ships .
- Maintaining or coordinating the machinery providing good "Maritime Search & Rescue " services.
- Carrying out " Port State Control " of foreign ships.

2 The National Centre for Protecting the Sea Environment

This Centre also operates under the instruction of the Navigation Division of the Merchant Marine Office and is responsible to the same for the following activities and services :

- Implementing the national legislation based on the International MARPOL 73/78 convention.
- Investigating pollution casualties involving national ships or foreign ships calling at national ports.
- Maintaining and up-dating the national contingency planning programme.
- Participating in the regional co-operation on contingency planning.

3 The Department of Fairways and Navigational Aids

The Department of Fairways and Navigational Aids operates under the instructions of the Maritime Office and is responsible to the same for the following activities and services:

- Undertaking control of the operational conditions of fairways marking and navigational aids ;
- Guaranteeing human resources and material needed for the maintenance of navigational aids .
- Carrying out studies for improving the efficiency of fairways and navigational aids in consultation with the Maritime Safety Administration and the Hydrographic Office;
- Undertaking to convey by broadcasting, navigational warnings and any inaccuracy of the navigational aids system ;
- Maintaining uniformity of the buoyage system accepted and ratified by Guinea .

4 The Local Maritime Administration

A Local Maritime Administration is headed by a maritime administrator within a local jurisdiction area and has the responsibility of enforcing the rules for safety of navigation ,safety of life at sea and prevention of marine pollution and control . The duties of the Maritime Administrator are:

- To lead and co-ordinate all maritime services in the local area ;
- To report any deficiency in the navigational aids and buoyage system ;
- To lead marine pollution control and combating.

5 The Survey Staff Of the Navigation Division :

The present survey force consists of four (4) nautical officers for nautical surveys and three (3) marine engineers for machinery inspections.

Radio inspection is carried out by officers from the Ministry of Telecommunications.

By the end of 1987 two officers (one nautical and , one engineer) will have graduated with the degree of Master of Science in Maritime Safety Administration from the World Maritime University in Malmo , Sweden,which I hope will contribute favourably to the work of the surveyors , as well as to the implementation of the international maritime conventions.

5 -1 Surveys , Inspections and the Certification of

Ships:

For the purpose of insurance, most Guinean cargo ships

are classified by the Classification Societies.

Periodical and annual surveys are carried out by such classification societies , as well as the issuing of certificates , under the authorisation of the Guinean government , especially for the purposes of Solas and Load Line conventions . Inspections undertaken by the Maritime Division surveyors are mainly Port State Control, life-saving appliances , fire appliances and the surveys and certification of those ships which are not covered by the international conventions.

CHAPTER V.

REGISTRATION OF SHIPS AND
RELATED FUNCTIONS

1 Introduction

Registration of a ship is used as evidence of the right to fly the flag of the state as well as of the right of ownership and mortgages.

Thus the registration of a ship is very important since it accords nationality to the ship and serves as proof of title . The process of registration involves the observance of the requirements and formalities under the Merchant Shipping Act and , subject to the same , results in:

- The registration being effected through appropriate entries being made in the register book maintained for the purpose , and
- A certificate of registry being issued.

Similarly , there are statutory provisions relating to attendant matters such as mortgages , transfer of ownership , change of master , etc .

In order to ensure the compliance with the relevant statutory provisions and to perform the necessary functions, registrars of ships need to be appointed under the Merchant Shipping Act . It has also to be ensured that they are familiar with such statutory provisions and procedures involved . In order to assist in this connection , the following explanations are offered :

The principle of exclusive jurisdiction of the flag state over ships on the high seas makes it necessary that every ship which is lawfully on the high seas should have a nationality , and in order to give it nationality it should be registered in a nation state.

Articles 91,92,93 and 94 of the United Nations Convention on the Law of the Sea are relevant to the question of registration of ships.

These articles , reproduced below , lay down the principles of International Law in this connection.

ARTICLE 91

Nationality of Ships:

1 Every state shall fix the conditions for the grant of its nationality to ships , for registration of ships in its territory , and for the right to fly its flag. Ships have the nationality of the state whose flag they are entitled to fly.

There must exist a genuine link between the state and the ship.

2 Every state shall issue to ships , which it has granted the right to fly its flag , documents to that effect.

ARTICLE 92

Status of Ships

1 Ships shall sail under the flag of one state only and, save in exceptional cases expressly provided for in international treaties or in this convention , shall be subject to its exclusive jurisdiction of the high seas. A ship may not change its flag during a voyage or while in a port of call , save in the case of a real transfer of ownership or change of registry.

2 A ship which sails under the flag of two or more states using them according to convenience , may not claim any of the nationalities in question in respect to any other state and may be assimilated to a ship without nationality.

ARTICLE 93

Ships flying the flag of the United Nations , its specialised agencies and the International Atomic Energy Agency.

The preceding articles do not prejudice the question of ships employed on the official service of the United Nations , its specialised agencies or the International Atomic Energy Agency , flying the flag of the organisation.

ARTICLE 94

Duties of the Flag State

- 1 Every state shall effectively exercise its jurisdiction and control in administrative , technical and social matters over ships flying its flag.
- 2 In particular every state shall :
 - a) maintain a register of ships containing the names and particulars of ships flying its flag except those which are excluded from generally accepted international regulations on account of their small size; and
 - b) assume jurisdiction under its internal laws over each ship flying its flag and its master , officers and crew in respect of administrative , technical and social matters concerning the ship.
- 3 Every state shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard , inter-alia to :
 - a) The construction , equipment and seaworthiness of

ships ;

- b) The manning of ships , labour conditions and the training of crews , taking into account the applicable international instruments .
- c) The use of signals , the maintenance of communications and the prevention of collisions.

4 Such measures shall include those necessary to ensure:

- a) That each ship , before registration and thereafter at appropriate intervals , is surveyed by a qualified surveyor of ships , and has on board such charts , nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship.
- b) That each ship is in the charge of a master and officers who possess appropriate qualifications , in particular in seamanship , navigation , communications and marine engineering , and that the crew is appropriate in qualifications and numbers for the size , machinery and equipment of the ship.
- c) That the master , officers and to the extent appropriate , the crew are fully conversant with , and required to observe the applicable international regulations concerning the safety of life at sea , the prevention of collisions , the prevention , reduction and control of marine pollution , and the maintenance of communications by radio.

5 In taking the measures called for in paragraphs 3 and 4 each state is required to conform to generally accepted international regulations , procedures and practices and to take any step which may be necessary to secure their observance.

6 A state which has clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised may report the fact to the flag

state . Upon receiving such a report , the flag state shall investigate the matter and ,if appropriate , take any action necessary to remedy the situation.

- 7 Each state shall cause an enquiry to be held by or before a suitably qualified person or persons into every marine casualty or accident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals or of another state or to the marine environment. The flag state and the other state shall co-operate in the conduct of any enquiry held by that other state into any such marine casualty or incident of navigation.

2 REGISTRATION OF SHIPS UNDER THE GUINEAN FLAG

The registration of ships under the Guinean flag is regulated by the Merchant Shipping Act . This is in fact based on the French Shipping Act with minor differences. When the law was enacted , the main intention was to encourage registration of ships through such taxes and other incentives as to attract a large number of ships under the national flag to the benefit of the Guinean economy.

It is believed that this objective will be achieved to a very satisfactory extent after the government's new policy of free enterprise.

Since many shipowners and shipping companies have opened representation offices in Conakry, and taking into account the aforesaid statement , there are clear grounds to conclude that in the near future the majority of vessels registered under the Guinean flag will be foreigners or foreign firms having their head offices in Guinea .

Qualification For Ownership :

The Merchant Shipping Act provides that :

a ship shall not be deemed to be a Guinean ship unless more than at least one half of the shares of the ship are owned by :

- a Guinean
- a joint-venture company established and operating in accordance with the law of the Republic and having its registered office in the Republic , or
- if specially authorised by a decision of the " SECRETARIAT OF STATE OF TRANSPORTS " a company incorporated outside the Republic in which the controlling interest is vested in Guinean interests.

The Merchant Marine Office , as an executive body , shall have the power where the registration of a particular ship or of a particular class of ships in the Guinean register would be contrary to the general policy followed by the government of the Republic or to the public in general , to give directives to the registrar not to effect the registration of such a ship or ships.

Vessels of any type and tonnage , up to 15 years of age , may be registered subject to the following conditions :

- a) the owner must sign the Guinean collective agreement for seamen ,
- b) the owner must undertake to engage Guinean seamen on each of his ships registered under these conditions to the extent of at least 25 % of the crew , provided that Guinean seamen are available , and
- c) either the vessel is managed from Guinea by a

company registered in Guinea , having offices and employing personnel for this purpose , or at least one of the shipping company's directors is a Guinean , permanently residing in Guinea , provided that it is proved that there exists a clause for the effective link of the vessel with Guinea and a clause of effective participation of the Guinean as regards the management and control of the activities of the company . The shipowning company will make a deposit in a Guinean bank in cash , or give a letter of guarantee through a Guinean bank satisfying the competent authority for an amount equal to three months wages of the crew of the ships ; the amount must remain as a guarantee in favour of the registrar of Guinean ships available on demand , as long as the ship is registered under the Guinean flag ,

- to cover possible debts of the vessel towards the Republic of Guinea .
- to cover expenses for any investigation into accidents involving the ship .
- for crew expenses in case of emergency.
- to safeguard the good reputation of the Guinean flag with regard to the ship. In the case of passenger ships a confirmation must be submitted by a shipbuilder and/or a recognised classification society , at the discretion of the competent authority , stating that they comply with the regulations of the International Convention for the Safety of Life at Sea, 1974, as amended, and the International Convention on Load line, 1966 applicable to " a new ship " , and

in the case of cargo ships and vessels of other types,

that they comply with those regulations of the first convention applicable to " new ships " and those of the second applicable to " existing ships ".

In addition , a certificate of annual general survey issued by a classification society or other surveyor approved by the competent authority , must be submitted to the registrar of Guinean ships every year , within three months following the calendar month in which the vessel was first registered , either provisionally or permanently under the Guinean flag.

3 PROCEDURE FOR REGISTRATION

Port of Registry :

Conakry is the Port of Registry of all Guinean ships.

Registrar of Guinean ships :

The Merchant Marine Directorate is responsible for ship registration , maritime legislation , and ship safety , whilst the port authority is responsible for port administration and operation.

Provisional Registration :

The law provides for the provisional registration of ships by a Guinean consul abroad if the ship is not in a Guinean port at the time of registration . The physical presence of the ship at the place of registration is not necessary, provided that all the documents are in order. The provisional registration , which to all intents and purposes is legally deemed as full registration , should not be valid for more than six (6) months , with the

facility , upon application made prior to the expiry of the six (6) months period ,for an extension for a further period of three months . The ship must be registered permanently within this period of provisional registration , otherwise she will lose her nationality . The ship must also be permanently registered if she calls at a Guinean port at any time during the period of provisional registration .

A ship which was previously either provisionally or permanently registered cannot be registered except permanently , bearing in mind that permanent registration can only be effected in Guinea , by the registrar of Guinean ships in the merchant marine directorate . The physical presence of the ship is not necessary , provided that all documents deposited are in order . An application for provisional registration on behalf of the Guinean company , must be made by the director to the Merchant Marine Directorate . The application must contain all relevant information and particulars regarding the ship to be registered and must also indicate the Guinean consulate abroad at which provisional registration is intended to be effected . Also near to the time of registration , the ship must be inspected by a surveyor of her classification society to confirm that :

- A) the ship is maintaining her class ,
- b) the ship is in possession of all valid SOLAS safety and LOAD LINES Certificates ,
- c) her present condition is satisfactory and that the classification society will be in a position to issue all SOLAS and LOAD LINE Certificates without recommendations ,on behalf of the Guinean government upon registration of the ship under the Guinean flag . In addition the registrar of ships must receive :

- 1) A confirmation by an internationally recognized accounting authority, approved by the government, that a contract has been signed between the accounting authority and the shipowner for the settlement of the ship's account with the telecommunication authorities of the different countries which serve her .
- 2) A certificate of deletion of the ship's last ' registry and confirmation by the registrar of the country of the last registration that the ship is free of charge.
- 3) A shipbuilder's certificate if the ship is new ,
- 4) The bill of sale under which the ship is sold to the Guinean company if the ship is not new ; the bill of sale must be executed in the presence of the appropriate authorities of the previous flag.
If the ship is a new construction and was built for the account of the Guinean company , no bill of sale is required ;
- 5) A declaration of ownership .

The documents referred to above must be executed before a Guinean consul, or the registrar of Guinean ships , or a certifying officer of the Republic of Guinea .

Tonnage Measurement :

After the registrar has satisfied himself as to the evidence, he will cause the ship to be surveyed by a classification society surveyor or by a national surveyor and get her tonnage ascertained in accordance with the Merchant Shipping Act (tonnage measurement rules). Thereafter, the surveyor will grant a certificate of survey in respect of the ship .

NAME OF SHIP :

The owner or his agent shall give to the Merchant Marine Directorate notice for the name proposed for the ship at least fourteen days before the date on which he desires to effect the registry .

On receipt of the notice , the registrar shall check if there is any similar name in the register book and submit the name for approval to the Director General of the Merchant Marine before the registry of the ship under that name .

CARVING AND MARKING NOTE :

Where in respect of a ship to which an official number has been allotted, the name approved by the registrar and the certificate of survey granted by the surveyor , the registrar shall issue to the owners a carving and marking note which shall be returned to the registrar after the carving and marking have been duly carried out and certified by a surveyor .

PERMANENT REGISTRATION :

After the above requirements have been complied with ,and relevant SOLAS and LOAD LINE certificates have been submitted to the registrar together with a copy of the contract signed between the shipowners and a recognised company for the clearance of the radio maritime accounts, the ship is permanently registered and the Guinean registrar of ships issues the relevant of Guinean certificate of registry .

THE REGISTER BOOK -ENTRY OF PARTICULARS.

Any new registration or any other transaction , such as re-registration ,mortgage against the vessel , change of name , transfer of ownership , discharge of mortgages, alteration affecting ship's dimensions or tonnage etc . must be recorded in the register book which is signed by the registrar of Guinean ships.

Ship's particulars as in the measurement certificate and the certificate of survey must be recorded in the register book .

Custody and Use of Certificate of Registry

The Certificate of Registry shall be used only for the lawful navigation of the ship and shall not be subject to detention by any reason of any title , lien , charge or interest claimed by any owner , mortgagee , or other person .

Obviously ,the certificate of registry must be kept on board the ship , otherwise the ship will not be allowed to sail.

POWER TO GRANT NEW CERTIFICATE

If the registry certificate of a ship is lost or destroyed the registrar will issue a new one after the master or any other person having knowledge of the fact of the case makes a sworn declaration before the consul or the registrar stating the circumstances under which the certificate was lost.

ENDORSEMENT OF CHANGE OF MASTER .

A memorandum of change of master must be endorsed and signed by the registrar of Guinean ships or a consular officer or a proper officer of the court in the case of the removal of the master by the court under the provisions of the legislation in force .

ENDORSEMENT OF CHANGE OF OWNERSHIP .

Change of ownership must be endorsed on the certificate of registry , either by the registrar of Guinean ships or a consular officer .

DELIVERY OF CERTIFICATE OF SHIPS LOST OR CEASING TO BE GUINEAN SHIPS

In the case of a constructive total loss of a Guinean ship or one which is captured by the enemy or burnt or broken up or ceases to be a Guinean ship by reason of a transfer to a non-qualified person , the certificate must be delivered either to the registrar or to the consul.

4 REGISTRATION OF MORTGAGES

Types of Registers:

The Mortgages Register is the same as the register of the vessel kept by the Guinean registrar of ships .
Entries are always made in handwriting .

Contents of register:

The mortgage register shows only brief details of the mortgage , such as the letter of the alphabet designated to the particular mortgage , the number of shares in the vessel mortgaged , the date and time of registration , the amount or liability secured and the names and addresses of the mortgagors and the mortgagees .

In addition to the above , the registrar keeps in the vessel's file the mortgage documents which consist of the instrument creating the mortgage in the form provided by the law or a contract between the parties to the mortgage containing all terms and conditions governing the loan and/or other valuable considerations .

The order of priority of mortgages is determined by the date and time of their registration .

When the mortgage is completely discharged , a discharge receipt signed by the mortgagee and attested by a notary is registered with the Guinean registrar of ships or with a Guinean consul abroad authorised by the registrar of Guinean ships to accept it , either as a separate document or endorsed on the reverse side of the mortgage .

EFFECT OF SHIP MORTGAGE:

Under the merchant shipping act the mortgagee shall not by reason of the mortgage be deemed the owner of the ship or the share mortgaged nor shall the mortgager be deemed to have ceased to be the owner , except as far as may be necessary for making a mortgaged share available as a security for the mortgage debt .

The law provides that where under the deed of consent the mortgagee is entitled to take possession of the mortgaged ships, or where the owner allows the ship to remain burdened with a maritime lien which impairs the security of the mortgage, the mortgagee may take possession of the ship and thereupon shall have all the rights and powers of any owner in possession .

A registered mortgagee in possession may either assume the management of the ship , whereupon he must give notice of such assumption of management to the registrar of ships , or sell the ship by private agreement .

A subsequent mortgagee's power to sell the ship or share cannot be exercised without the concurrence of every prior mortgagee except pursuant to the order of a competent court .

If the above statutory or other contractual powers of the mortgagees cannot be exercised for any reason , the prior mortgagee can go to court and arrest the ship in a mortgage action .

DIFFERENT TYPES OF MORTGAGES .

The Merchant Shipping Act prescribes two forms of mortgages to secure the principal sum and interest and the mortgage to secure an current account . The first form is only used whenever an advance of a fixed sum and the agreed interest thereon are sought to be secured . However , the modern complexity of most financial transactions tends to make this form more and more rarely used and mortgagees are not often content to use it ,even in the cases when the debt sought to be secured is simply an advance of a fixed amount .

The second form of mortgage is much more convenient in securing further amounts . These may be possible costs and expenses or other liabilities and almost any conceivable obligation of the shipowner. They can suit all and any type of financing arrangement , past and future , including the present debts or other liabilities , including loans in alternative currencies or alternative liabilities at the option of the parties . The law further provides that the matters to be agreed between the parties in a deed of covenant accompanying a mortgage shall include the mode of payment of interest and of repayment of principal , the insurance of the ship and the renewals and application of the proceeds thereof , limitation of employment (if any) and a definition of events of default upon which statutory or other agreed powers of the mortgagee may be exercised and exercisable by the mortgagee .

EVIDENCE OF A DULY REGISTERED MORTGAGE .

Mortgages may be produced for registration either to the registrar of Guinean ships or to a Guinean consul abroad whom the registrar, on application, authorises by telex to accept such mortgages. In this way mortgages may be produced to a consul at the time of provisional registration of a vessel. Mortgages are recorded in the order in time in which they are produced to the registrar of ships provided they are duly executed; also a duly executed mortgage produced to a Guinean consul is considered to be duly registered and recorded by the registrar as at the time of its acceptance by the consul. This is very important as mortgagee's interests are fully covered for the period from depositing the mortgage with a consul until the mortgage is recorded in the register book of the registry.

ASSIGNABILITY OF MORTGAGES .

Mortgages may be assigned provided that the necessary documents (together with the form of assignment of the mortgage) are deposited with the registrar or a consul; it must be noted that the existence of the above legal facilities is very important as in cases of transfer of ownership or refinancing arrangements, it is not necessary to delete the mortgage first and then register the same.

DELETION OF A SHIP FROM THE REGISTRY .

The procedure is very simple and uncomplicated . A Guinean ship shall be deleted from the Guinean registry as soon as she is sold and delivered to a person or persons or legal entities not qualified to own a Guinean ship . Upon such an event , the owner is bound to notify to the registrar of Guinean ships and to produce for him , or to a Guinean consul abroad , the following documents proving such a sale and facilitating the deletion of the vessel from the Guinean register :

- a) bill of sale under which one-half or more of the shares in the vessel are sold to a non-Guinean person or company ;
- b) protocol of delivery and acceptance of the ship signed by the seller and by the buyer and duly notarised ;
- c) original certificate of Guinean registry ;
- d) discharge receipts of any mortgages existing on the vessel .

The registrar will agree to close the register of a vessel which is declared a total or constructive total loss. In this case the register will be closed subject to any mortgage existing on the ship .

Also the registrar will agree to close a vessel's register without the mortgagee's consent , if requested to do so by the SECRETARY OF STATE OF TRANSPORTS. This is in pursuance of the powers vested in him under the law requiring that a vessel be deleted from the register if reasonable grounds exist satisfying him that such a vessel is being used contrary to the interests of Guinea or the public at large or the owner or master thereof fails

to comply with the law.

The consent of any governmental agency or other authority is not required for the sale of a Guinean registered ship to a foreign buyer unless the owner is a Guinean resident or a Guinean company, the shareholders of which are wholly or in part Guinean residents, in which case the consent of the Central Bank of GUINEA is required .

5 CONCLUSIONS AND RECOMMENDATIONS .

The Government of Guinea may give due consideration to the following aspects in connection with its policy as regards registration requirements :

- a) The need to expand the Guinean fleet ;
- b) The attraction of big and responsible operators to register their vessels under the Guinean flag ; obviously operators of small ships are also responsible and enjoy higher financial credibility . Thus operators can also be allowed to register as long as they meet the requirements.
- c) The improvement of safety standards .
- d) The encouragement of Guinean owners (or foreign owners operating their businesses from Guinea) to register their ships under the Guinean flag by providing appropriate facilities in connection with registration requirements and thus accommodating their ships in a fleet of a low average age and with an improved safety record.
- e) Ships of less than 500 tons. G.R.T. have been observed as having poor safety records . In my

opinion the main reason for this is that international conventions such as SOLAS do not cover this category of ships . Thus classification societies are neither familiar with Guinean national safety regulations for ships of that category nor have they been updated.

In my opinion a decision has to be taken (after up-dating the safety regulations) which imposes the national conditions of inspection on such vessels to be done by a Guinean surveyor of ships prior to registration .

Furthermore , documentation must be introduced in connection with the safety inspections and a mandatory annual survey by a Guinean surveyor of ships for the renewal of the document of safety inspection .

- f) Transfer of ownership is not subject to any restriction . I believe that the same requirements must be fulfilled as in the case of first registration .

System Of Maintenance Of Records /Plans Of

National ships .

There is a legal obligation for the submission of any ship's plans or other records to the registrar prior to, or after, registration .

The Merchant Marine Office receives only copies of all certificates issued to Guinean ships by the classification societies and after these copies are examined by a surveyor , they are kept in the ship's file.

The owner's obligation to submit plans arises only under the Merchant Shipping Act where it is stated that "the owner or the master of a ship to be measured shall pro-

duce for the surveyor's use or retention if required , such plans ,drawings ,specifications , and other documents relating to the ship ".

Usually the above-mentioned documents are given back to the owners after tonnage computation has been completed.

CHAPTER VI

THE SURVEY , INSPECTION , AND
CERTIFICATION OF GUINEAN SHIPS .

1) CONVENTIONS RATIFIED BY THE REPUBLIC OF GUINEA.

The survey , inspection and certification of ships is the most important and basic function of a maritime safety administration in every country .

For a nation to be deemed a responsible maritime country it has to ensure that ships flying its flag are both safe and well-maintained . Having ensured the safety of vessels, one can achieve the protection of human life at sea, the protection of the environment, the prevention of shipping casualties and can promote the credibility of the national flag internationally .

In order to try to achieve these aims GUINEA has ratified the following conventions :

- 1 The International Convention for the Safety of Life at Sea 1960 ;
- 2 The International Convention for the Safety of Life at Sea 1974 ,and its amendments ;
- 3 The International Convention on Load Lines 1966 , and its amendments ;
- 4 The International Regulations for Preventing Collisions at Sea 1972 as amended;
- 5 The International Convention for the Prevention of Pollution of the Sea by Oil , 1954 as amended in 1962 and 1969;
- 6 The International Convention on Tonnage Measurement of ships , 1969;
- 7 The International Convention on Facilitation of Maritime Traffic ;1965 .
- 8 The International Convention for Safe Containers , 1982 .

It is believed that the following conventions will be

ratified soon ;(most probably within 1987):

- The Marpol convention 1973 and its protocol of 1978 ;
- The STCW convention of 1978 and ;
- The London Fund convention .

2 THE SYSTEM FOR SURVEYING, INSPECTING AND CERTIFYING ----- GUINEAN SHIPS . -----

The Merchant Shipping Act provides for the various aspects of safety , surveying , inspecting and certifying of Guinean ships of different types and sizes :

- The Merchant Shipping Act , (safety and seamen regulations 1986) ;
- The Merchant Shipping Act , (life-saving appliances regulations 1986) ;
- The Merchant Shipping Act , (fire appliances regulations 1986) .

These regulations contain only some articles regarding general provisions for the implementation of the conventions; however the texts of the international conventions themselves have been reproduced and adopted as national legislation .

All surveys , inspections and certification of Guinean ships of conventional size have at present been delegated to the classification societies .

Ships below the convention size are being surveyed and certificated by the merchant marine surveyors .

3 THE CLASSIFICATION SOCIETIES RECOGNISED BY THE ----- GUINEAN GOVERNMENT. -----

The following classification societies are recognised by the Guinean government :

- BUREAU VERITAS ;
- LLOYD'S REGISTER OF SHIPPING ;
- AMERICAN BUREAU OF SHIPPING ;
- DET NORSKE VERITAS ;
- GERMANISCHER LLOYD .

The above classification societies are authorised to survey Guinean ships for issuing the following certificates:

- 1 Cargo ship safety construction certificate.
- 2 Cargo ship safety equipment certificate .
- 3 Cargo ship safety radiotelephony and/or radiotelegraphy certificates .
- 4 Passanger ship safety certificate .
- 5 Load line certificate .
- 6 Tonnage certificate .
- 7 Certificate of carving and marking note .
- 8 Certificate of survey for registration .

However the classification societies are not authorised to issue exemption certificates or to grant dispensations without the consent of the SECRETARIAT OF STATE OF TRANSPORTS who may in such cases request the opinion of the classification societies concerned and the department's surveyors.

Nonetheless in many cases we should clearly not have to ask the opinion of the classification society concerned, but simply to rely on the department's advice .

I believe that certain areas of discretion must remain with the department for granting dispensations and exemptions and only in serious cases does such power have to be exercised by the SECRETARY OF STATE OF TRANSPORTS .

Having delegated the survey and certification of Guinean ships to classification societies , the department must co-ordinate and monitor their work by checking the certi-

ificates granted by them .

Furthermore , the survey , measurement and licensing of coasters , dredgers , barges, fishing vessels , yachts and smaller ships must remain with the department and should be performed by the government's surveyors posted in Guinea .

The government surveyors should carry out unscheduled inspections on board Guinean ships anywhere in the world as well as foreign ships calling at Guinean ports .

4 PROCEDURE FOR THE DETENTION OF UNSEAWORTHY SHIPS.

While the Merchant Shipping Act (implementation of regulation 19 of chapter I of SOLAS and the decree law ratifying the International Regulations for the prevention of collisions at sea 1972), enables an officer to detain an unsafe ship , there are no rules or regulations determining the procedure to be followed by the " Detaining Officer".

The procedure at present is as follows :

A Government surveyor detains the unseaworthy ship giving simply to the master of the detained ship a letter stating the reasons for detention, copies of the same letter being sent to the harbour master and to the custom office for the particular port requesting them not to give clearance for departure unless they are advised to the contrary at a later stage .

At the same time the surveyor retains the ship's statutory certificates and this is the only measure taken to ensure that the ship will not sail .

When the surveyor is satisfied that the ship is safe to proceed to sea he informs the above authorities to issue clearance to the ship and the certificates are released.

Classification society surveys are likely to perform their duties more strictly if they are aware of the fact that a government surveyor will also inspect the vessel. Obviously there is a lot of scope for cooperation between the Guinean Government and the Classification Societies in these fields; such cooperation could involve the per-

conventions of seamen, inquiries into crew complaints or violations of manning regulations, general conditions of employment articles of agreement, crew accommodation, application of other bodies, such as inspection of log books, which cannot be delegated to classification societies or least once a year and perform functions and inspections for government surveyors to inspect each Guinean ship at However in the mean time there is the necessity for

SOLAS Convention and its amendments. mean ships in connection with the requirements of the size classification societies to survey and certify Gu-

It is recommended that the Government must again autho-
 - Intermediate surveys for tankers.
 - Initial surveys and
 - Mandatory annual surveys;
 survey procedures and for the control of ships, such as:
 The SOLAS Convention contains mandatory requirements for
 Convention today and in the future.

As has been stated earlier, the Government after rati-
 fying the SOLAS 1974 Convention and its amendments has
 had to take specific measures in order to implement the

a) Consequences resulting from the ratification of
 SOLAS 1974 and its amendments

CONCLUSIONS AND RECOMMENDATIONS

formance of joint-surveys especially as regards mandatory annual surveys .

The matter has to be discussed with the classification societies .

b) Closer Cooperation with Classification Societies

A continuous dialogue should be maintained with the authorised Classification Societies to ensure equal treatment of Guinean ships by different Societies .

This could be done by annual meetings, for example uniform interpretation of convention requirements can be agreed.

I recommend that authorisation to the societies should be subject to certain conditions such as :

- The department shall receive a detailed report on each survey covering all the requirements concerned ;
- The department shall receive copies of all forms , reports , checklists and instructions pertaining to statutory surveys that the societies send to their surveyors ;

-The department shall have access to any additional information deemed necessary and ;

- Surveyors of the department shall be allowed to participate in statutory surveys .

The application of the above-mentioned conditions will certainly lead to a better control of Guinean ships by the department since Government surveyors will have available extremely valuable information directly reflecting the ships' actual conditions .

CHAPTER VII

THE TRAINING AND CERTIFICATION
OF SEAGOING PERSONNEL.

1 PARTICULARS OF PRESENT INSTITUTIONS FOR TRAINING SEAFARING PERSONNEL.

There are two different training institutions in existence for the training of seafaring personnel.

The Secondary Maritime Institute under the control of the Ministry of National Education , and the Radio Operators School , under the control of the Ministry of Telecommunications . In both schools the entry qualification to the course is graduation from a secondary school or to have completed 12 years of education .

The maritime school has been particularly established for the training of ratings and provides some of the essential elements of maritime training and operations performance in order to meet the objectives of the 1978 STCW Convention ; such as watch keeping procedure, fire fighting training , sea survival and First Aid at sea, etc...

The training of officers is done abroad especially in the REGIONAL ACADEMY OF ABIDJAN in the IVORY COAST , where the certificates granted have International Recognition ..

2 THE PROCEDURE AND SYSTEM OF ISSUING CERTIFICATES OF COMPETENCY TO MERCHANT MARINE OFFICERS AND RATINGS .

Up to now the certificates awarded by the Maritime School and the Radio Operators School are directly recognized by the Merchant Marine Office , as similarly are the certificates awarded by the Regional Academy of ABIDJAN .

There are some provisions in the Merchant SHIPPING ACT related to the subject but these are completely outdated and there is an urgent need of revision , in order to

meet International Standards and the requirements of the 1978 S.T.C.W.convention.

3 REGISTRATION OF SEAMEN :

The Merchant Shipping Act states that " The Director of the Merchant Marine shall keep at his office a register in the prescribed form of all persons who serve on Guinean ships " .

While it is so stated in the law , there are no rules or regulations defining the register form and the mechanism for the registration of seamen . Furthermore there are no provision for issuing the seamen book . The forms which are at present being used are based on the French system. The lack of Guinean ships has lead our seamen to work on board foreign ships , mainly in foreign fishing vessels .

4 RULES AND PROCEDURES FOR MANNING NATIONAL SHIPS .

The provisions for manning Guinean ships are contained in the Merchant Shipping Regulations of 1980 and in the Minimum Percentage of Citizens of the Republic of 1972 . The Manning regulations of 1980 have already been enforced and proved to be effective and realistic in serving the purpose for which they were created .

It is believed that the implementation of the above regulations have had positive effects in the field of Guinean ship safety .

5 NUMBER OF SEAGOING PERSONNEL .

Since no adequate system for maintaining Guinean Officers and the seamen books and registry exist , we can only estimate as to the number .

It is believed that there are about 30 officers certified (deck and engine) and about 500 ratings, but this number is rather uncertain because the majority of them are not professionals but serving on board ships for a limited period when no other employment opportunities were available.

CHAPTER VIII

OTHER MATTERS RELATING TO THE
DUTIES OF THE MARITIME SAFETY
ADMINISTRATION .

1 INVESTIGATION INTO SHIPPING CASUALTIES .

Investigations into serious casualties is an area of responsibility of all contracting Governments to the Solas Convention, Load lines Convention and the U.N. Convention on the Law of the Sea , and there are also various recommendations which have been made within IMO's line of activities .

A In the International Convention for the Safety of Life at Sea (SOLAS)1974 , Chap. I Regul. (21) it is stated that:

"Each Administration undertakes to conduct an investigation of any casualty occurring to any ships subject to the provisions of the present Convention when it judges that such an investigation may assist in determining what changes in the present regulations might be desirable. Each contracting Government undertakes to supply the Organisation with pertinent information concerning the findings of such investigations . No reports or recommendations of the Organisation based upon such information shall disclose the identity or nationality of the ships concerned or in any manner fix or imply responsibility upon any ship or person ."

B International Convention on Load Lines 1966 .
Attachment 1 Article (23) .

"Each Administration undertakes to conduct an investigation of any casualty occurring to ships for which it is responsible and which are subject to the provisions of the present Convention when it judges that such an inve-

stigation may assist in determining what changes in the Convention might be desirable .

Each contracting Government undertakes to supply the Organisation with the pertinent information concerning the findings of such investigations . No reports or recommendations of the Organisation based upon such information shall disclose the identity or nationality of the ships concerned or in any manner fix or imply responsibility upon any ship or person ."

C Resolution A 147 (november 26/1978) reports on accidents involving significant spillage of oil .

" The Assembly ,

For the purpose of promoting rapid action by the Government concerned , in cases of significant spillages of oil following accidents ,

Having in mind the recommendations of the council of the IMCO (IMO) at it's third extra ordinary session , Recommends to the Governments that they :

- a) Require masters of all ships to report immediately through the channels which may be found most practicable and adequate under the circumstances , all accidents in which their ships are involved which have given or may give rise to significant spillages of oil. Such reports should,if possible,include details on the nature and degree of pollution , the movement of the oil slick and any other useful information as appropriate .
- b) Appoint an appropriate officer or agency to whom such

information may be referred , such officer or agency would also be responsible for transmission of relevant details to all other Governments concerned .

c) Ensure that any such reports received by any authority in the country be forwarded to such an officer or agency with all despatch .

d) Provide the organisation with information concerning the appointment of such an officer or agency for circulation to Governments . "

D) Resolution A 173 (november 28-1968) Participation in Official Inquiries into Maritime Casualties .

"The Assembly ,

Noting that there is a variation in the practices of member States with regard to official inquiries into maritime casualties, and other proceedings directly consequent upon such inquiries , with a view to ensuring that States seriously affected by or having a substantial interest in maritime casualties , particularly where oil pollution to their coasts has resulted , shall have an opportunity of being represented to such casualties, and desiring to encourage International unification of practice in relation to such inquiries and proceedings,

Recommends to Governments that if a State other than the State of the flag is known to have been seriously affected by or to have a substantial interest in a maritime casualty occurring to a ship of the flag State (particularly where the coast of that other State has been polluted by oil) as a result of the casualty :

- 1-a The State of the flag should , unless an inquiry is held by that State as a matter of course , consult with that other State as to the holding of an inquiry into the casualty by one or other of the States , complying with the provision of sub-paragraph(2);
- b If such an inquiry is held as a matter of course by the flag State , the other State should be informed of its time and place ;
- 2 Such an inquiry should be so conducted that , subject to the National rules related to the special conditions under which inquiries are held in camera
- a The public is permitted to attend ; and
- b Arrangements are made which would ,subject to the discretion of the authority holding the inquiry ,allow a representative of the other State concerned to attend and participate in the inquiry at least to the extent of :
- Questioning witnesses or causing questions to be put through the authority concerned ; and
 - Viewing all relevant documents ;
- 3 . If an inquiry is held by a State seriously affected or having a substantial interest , a representative of the State of the flag should be given similar facilities . "

F Resolution A 440 (November 15 -1979) Exchange of information for investigations into marine casualties.

"The Assembly ;

Noting : that the Maritime Safety committee has considered reports of investigations into serious marine casualties and has recognized the importance of a free exchange of information between Governments and , in particular , the need for providing details of those casualties ,

Being aware that investigations into shipping casualties especially in the case of collisions , are often hampered by the lack of exchange of information where ships under different flags are involved.

Having considered the recommendation made by the Maritime Safety Committee at its thirty-ninth session Urges Governments to cooperate on a mutual basis in investigations into marine casualties and to exchange information freely for the purpose of a full appraisal of such casualties . "

G The Convention of the Law of the Sea
(article 97 para. 7)

"Each State shall cause an inquiry to be held by or before a suitable person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State or serious damage to ships or installation of another State or to the marine environment. The flag State and the other State shall cooperate in the conduct of any inquiry held by the other State into any such marine casualty or incident of navigation . "

As has been stated in the aforesaid International Conventions and Resolutions , the purpose of casualty investigations is to establish , if at all possible , the cause of the casualty and report thereon to the Minister in order to enable him to determine whether any further action is necessary and if it is , the nature of action to be taken .

Another purpose of a casualty investigation is the promotion of the Safety of Life at Sea and the protection of the environment .

Recommendations are made and measures are taken as a result of these investigations for the correction of deficiencies and for remedial action to prevent recurrence .

Fortunately for GUINEA we have not suffered any major marine casualty yet . However casualties involving small crafts are often reported and in such cases investigations have been carried out by officials of the Administration .

Nevertheless, we have to bear in mind that the shipping industry is an international industry and has to be treated as such as elaborated below .

2 THE EXISTING LEGISLATION AND PROCEDURE .

Although Guinea has undertaken the obligation to investigate marine casualties by ratifying the SOLAS Convention 1974 as well as the Load lines Convention of 1966 ,there is at present no statutory definition of a casualty for which an investigation must be held . Furthermore there is no regulation for the appointment of " an Investigation officer ",his duties and powers .

The procedure followed at present by the department is as follows :

When information is received that an accident or a shipping casualty has occurred involving a Guinean ship or any foreign ship while in Guinean territorial waters , a marine surveyor is appointed by the Director of the department to investigate the matter .

The appointed surveyor takes declarations , statements from the Master , crews and other persons involved , provided that the above persons are in Guinea . He requires the production of books and documents , and makes any examination or investigation which in his judgement, is necessary .

When the investigation is completed, a confidential report is submitted to the department for further consideration. It is not the department's practice to publish the surveyor's report since it contains information and statements given to the investigating officer in confidence. However , in some cases , interested parties can be furnished with the report, or statements derived from it, with the Minister consent .

3 THE PROPOSED MODEL .

- Obligation to report a casualty .

Obviously , new legislation has to be introduced to cover the so sensitive and substantial field of casualty investigations . Such legislation must clearly define that the Master or agent or any other responsible person of a Guinean ship within or outside the territorial waters of the Republic , or any other ship within the territorial waters of Guinea, has an obligation to report any casualty to the Administration immediately .

- Categorisation of casualties .

Casualties must be categorised for the purpose of judging whether and to what extent an investigation has to be made .

a) Major Casualties can be defined as casualties which result in :

- 1 Loss of Life
- 2 Total Loss of vessel or vessels
- 3 Constructive total loss of vessel or vessels
- 4 Watertight integrity of vessel is lost, necessitating drydocking etc...

b) Substantial casualties .

Cases of heavy structural damage not affecting the watertight integrity of the vessel but involving heavy financial outlay for repairs .

c) Minor casualties .

Where repairs involve the vessel in little or no delay and where the watertight integrity is not lost .

Determination of " Shipping casualties " .

The Law must clearly define what a shipping casualty is , and I suggest a shipping casualty shall be deemed to occur :

- When any ship is lost or supposed to have been lost , stranded or damaged in Guinean waters , or on a voyage to or from a port of Guinea ;
- When any ship causes loss or damage to any other

ship in Guinean waters ;

- When , by reason of any casualty happening to or on board any ship in Guinean waters , loss of life ensues ;

- When any such loss , abandonment , stranding , damage or casualty happens elsewhere and any competent witness thereof arrives or is found at any place in Guinea ;

- When any loss of life occurs by reason of any casualty , happening to or on board any ship registered in Guinea;

- When any Guinean ship is lost , or supposed to have been lost , abandoned , stranded or damaged elsewhere ;

- When any ship is lost or supposed to have been lost and the evidence is obtainable in Guinea as to the circumstances under which the ship proceeded at sea or was last heard of .

DETERMINATION OF OTHER "Investigable Incidents ".

The Law must define that an " investigable incident " shall be deemed to occur when :

- There is suspicion or information that any ship being in Guinean waters or on a voyage to or from a port of Guinea , or any Guinean ship elsewhere has been used for unlawful action (i.e. action composing marine fraud) .

- There is suspicion or information that any ship being in Guinean waters , or on a voyage to or from Guinea or any Guinean ship elsewhere has violated an International Convention - of which Guinea is a party - or the Guinean Law in general.

Action to be taken by the Administration following a casualty or an " investigable incident ".

- a) Very early stages : It is advisable that an officer of the department (preferably a marine surveyor) must coordinate the collection of information in regard to a shipping casualty or " investigable incident " in the very early stages . He must then accordingly inform the Director of the Department and advise him of any possible action to be taken .
- b) Minor casualties or " investigable incidents "(e.g less important wharf contacts , minor pollution incidents etc.).

The request for the completion of a form setting out the basic characteristics of the ship , the crew and cargo carried , the time , place and nature of the incident together with the official log extracts might be adequate.

Report of a casualty or incident:

Where the circumstances , although not serious , suggest the need for more information , the surveyor must be asked by the Director to report on the incident without necessarily involving the taking of statements. The Director must then submit the report to the Ministry together with his comments, if any .

Where the Director thinks it would be helpful to have statements from those best able to describe the casualty or incident the surveyor must appropriately be authorised to take such statements .

In case of serious casualties or incidents , or where the inquiries instituted show the casualty or incident to be more serious than at first thought , the Director must suggest to the Ministry the appointment of a surveyor to conduct a preliminary inquiry . This must involve the taking of declarations and thorough investigations into all aspects of the casualty or incident and the appointed surveyor must be given the formal legal power as follows:

Authority to hold Preliminary Inquiry into shipping
casualties or Investigable incidents .

The Secretary Of State Of Transports is empowered by the Law to order a preliminary inquiry into any shipping casualty or any " investigable incident " , if and when he deems it appropriate.

Appointment of officers to hold preliminary inquiry

The Secretary of State of Transports is empowered by the law to appoint a surveyor of Guinean ships or any other officer of the Government of the Republic or any other person to make a preliminary inquiry in respect of any shipping casualty or investigable incident and may define the territorial jurisdiction of any such officer or person .

Power as To Inquiry

The Law must empower an officer or person conducting a preliminary inquiry to :

a) Go on board any vessel or wreck and inspect it or

any part thereof , or any of the machinery, boats , equipment or articles on board thereof , the boarding of which appears to him to be requisite for the purpose of his inquiry , not necessarily detaining any such vessel from proceeding on any voyage .

b) Enter and inspect any premises , the entry and inspection of which appears to him requisite for the purpose of the inquiry .

c) Require the attendance of all such persons as he thinks fit to call before him and examine for such purpose and require answers or returns to any inquiry he thinks fit to make .

d) Require the production of all books , papers or documents that he considers important for such purposes .

e) Require every person examined by him to take and subscribe a declaration of the truth of the statement made by him in his examination .

f) Apply in writing or by telex and request any information or the forwarding of any document from any person agency , organisation , enterprise or any other body being operated outside the territory of the Republic as he thinks appropriate .

g) May , as regards any premises or ship which he has power to enter, give a direction requiring that the premises or ship or any part of the premises or such a part shall be left undisturbed (whether generally or partially) for so long as is reasonably necessary for the purpose of any examination or investigation he thinks appropriate .

- h) May take such measurements and photograph and make such recordings as he considers necessary for the examination or investigation as he thinks appropriate .
- i) May take samples of any article or substances found in any premises or ship which he has power to enter or board and of the atmosphere in or in the vicinity of any such premises or ship .

Report to the Minister.

The Law must further provide that:

- a) Upon the conclusion of any such inquiry, the officer or person who made it shall send to the Minister a report containing a full statement of the case, and his opinion thereon, accompanied by such a report of, or extracts from, evidence and such observations as he thinks fit.

Regulations.

The Law must provide to make regulations or issue instructions:

- a) Respecting the reporting of shipping casualties or investigable incidents by any ship in Guinean waters or Guinean ships in any waters.
- b) Respecting the reporting of accidents or dangerous occurrences or investigable incidents happening to or on board ships in Guinean waters or Guinean ships in any waters.

- c) Respecting the reporting of deaths on board and the disappearance of persons from Guinean ships in any waters .
- d) Prescribing the information to be included in any report referred to in paras. a) b) or c) above and the form of the report .
- e) Respecting any other matter related ,(we must also take into consideration that investigation procedures must commence immediately after a casualty or incident has been reported .)

FORMAL INVESTIGATIONS.

- A) Whenever a case appears to demand a formal investigation by a court under the provisions of the Merchant Shipping Act, the fact should be clearly stated in the officer's report of the Preliminary Inquiry with his reasons.

The Director should not without reference to the SECRETARIAT OF STATE OF TRANSPORTS make an application of a Formal Investigation under the provisions of the Merchant Shipping Act, unless all the following three (3) conditions are fulfilled:

- i It appears that the shipping casualty has occurred through an avoidable cause;
- ii The said casualty was accompanied by loss of life or property or involved serious damage;
- iii The Formal Investigation into the said casualty is

likely to be seriously prejudiced by the delay consequent on a reference of the case to the SECRETARIAT OF STATE OF TRANSPORTS.

Officers other than that mentioned in the forgoing paragraph should not of their own motion apply for a Formal Investigation under the provisions of the Merchant Shipping Act, but should report the case to the Director and await his orders. On receipt of the Report the Director will, if he considers a Formal Investigation necessary and if the three conditions laid down in the above paragraph are fulfilled, advise the officer concerned to apply for a Formal Investigation; otherwise he will report the case to the SECRETARIAT OF STATE OF TRANSPORTS for orders with his remarks.

For the purpose of paragraph (A) (i) above the following should be deemed as the most important avoidable causes:

- Improper construction, unseaworthiness or insufficient equipment of ship;
- Insufficient or improper manning;
- Improper loading, overloading, non-compliance with Statutory Regulations as to loadline or bad stowage;
- Explosions or breakdowns arising from defective boilers and machinery, or incompetency or neglect of engineers;
- Misconduct, incompetency or neglect on the part of Master, Officers or crew;
- Neglect of the Regulations for preventing collisions at sea;
- Non-compliance with the Statutory Regulations as to life-saving appliances to be kept on

- board;
- Ignorance on the part of Master of lights or other sea marks, or the navigation of the sea or coast;
 - Neglect to use the lead;
 - Going at too great a speed under the existing circumstances;
 - Non-employment of properly qualified pilots;
 - Ignorance or misconduct of pilots;
 - Defective charts;
 - Defective or improperly adjusted compasses;
 - Defective steering gear.

Instructions as to Formal Investigations.

These instructions should be followed as far as possible on all occasions but they need not be treated as a rigid or complete code of procedure.

- 1 When it is decided to apply for a Formal Investigation into a shipping casualty under the provisions of the Merchant Shipping Act, the Officer appointed should forward to the Legal representative of the SECRETARIAT OF STATE OF TRANSPORTS the proceedings of the preliminary Inquiry together with a draft statement of the case and questions framed for scrutiny and revision if necessary and, on receiving back the documents should make an application in the proper form to the court empowered under the provisions of the Merchant Shipping Act, and should offer his assistance in procuring the services of assessors for the court.
- 2 When a Formal Investigation has been applied for, the Officer appointed under the provisions of the Merchant

Shipping Act, should cause a notice, to be called a notice of Investigatins, to be served upon the Owner, Master and Officers of the ship, as well as upon any person who in his opinion ought to be served with such notice. The notice should contain a statement of the questions which, on the information then in possession of the said Officer, he intends to rise on the hearing of the investigation.

- 3 The Merchant Shipping Act provides that when any investigation involves or appears likely to involve, any question as to the cancellation or suspension of the Certificate of the Master, mate or engineer, two of the Assessors shall be persons having experience in the Merchant service. The opinions of the assessors on all the questions put to the court together with, if necessary, their reasons for those opinions should be delivered in writing to the Court and should be recorded in the proceedings.
- 4 The Officer on whose application the investigation is under-taken, and any person whom a notice of investigation has been served, should be deemed to be parties to the proceedings; and any other person may be permitted by the court to appear at the investigation and become a party to the proceedings.
- 5 At the time and place appointed for holding the investigation, the court may proceed with the investigation, whether the parties upon whom notices of investigation have been served, or any of them, are present or not.
- 6 The proceedings in the investigation should commence

with the production and examination of witnesses by the Representative of the Government. These witnesses, after examination on behalf of the Government may be cross-examined by the parties in such order as the Court may direct and may then be reexamined by the Representative of the Government.

- 7 When the examination of the witnesses produced by has been concluded, the Representative of the Government should state in open court the question in reference to the casualty and the conduct of the certificated Officers or other persons connected therewith upon which the opinion of the Court is desired.

In framing the questions for the opinion of the Court the Representative of the Government may make such modifications in, additions to or omissions from the questions in the notice of Investigation as, having regard to the evidence which has been given, he may think fit.

- 8 After the questions for the opinion of the court have been stated, the court shall proceed to hear the parties to the Investigation upon, and determine, the questions so stated.

Each Party to the Investigation will be entitled to address the court and produce witnesses, or recall any of the witnesses who have already been examined for further examination, and generally adduce evidence. The Parties will be heard and their witnesses examined, cross-examined, and re-examined in such order as the court may direct. The representative of the Government may also produce and examine further witnesses, who may be cross-examined by the Parties, and re-examined by the

Representative of the Government.

- 9 When the whole of the evidence in relation to the questions for the opinion of the court has been concluded, any of the Parties who desire to do so may address the court upon the evidence, and the Representative of the Government may address the court upon the whole case.
- 10 When the cancellation or suspension of an Officer's certificate is not involved, the court need not, unless for any reason it sees fit so to do, deliver its decision in open court, but may send or deliver to the Parties a copy of the report required by the Merchant Shipping Act, to be transmitted to the Government.
- 11 When the cancellation or suspension of an Officer's Certificate is involved, the court should deliver its decision in open Court, and should send or deliver the Parties a copy of the report required by the Merchant Shipping Act, to be transmitted to the Government.
- 12 The representative of the Government should bring to the notice of the court the desirability of the court stating its finding in explicit terms and not in the form of a recommendation to the Government and, in any case, where the court is of the opinion that a Certificate of Competency should be dealt with or a censure should be imposed, of the court dealing with the matter direct under the provisions of the Merchant Shipping Act.

Financing the system for such operations must be effective and flexible .

I would suggest that the financing of such operations should be achieved through the creation of a " Special Merchant Shipping Fund " for which reference is made in Chapter X para. (2) .

4 OUTLINE FOR A " MARITIME SEARCH & RESCUE " PLAN FOR GUINEA .

The Republic of GUINEA, due to its geographical location, can play a very important role in search and rescue operations in the West African region .

Futhermore the country has an advanced telecommunications network with a satellite earth station in operation .

In the present study I will elaborate the possible arrangements taking into consideration the various departments which can be involved in such operations .

Alerting System .

Conakry Radio head office must be connected with the V H F Stations of Conakry and Kamsar .When this has been achieved we could say that the Conakry Radio head office has become the Alerting Point of all distress signals and its role in search and rescue would be further enhanced if the Guinean Government became a member of the International Maritime Satellite Organisation (INMARSAT) .

Obviously , in such a case , the station must be equipped with all the necessary machinery and equipment .

Coordination Center .

When an alert is received search and rescue operations must be coordinated by the Maritime Safety Administration since the two centres , (the National Centre of Maritime Safety and the National Centre of Marine Pollution Prevention), are under the aforesaid Administration . Coordinators should be officers of the M .S .A with a maritime background (preferably surveyors employed by the Merchant Marine Office) . Accordingly the coordination center should be located in the premises of the Merchant Marine Office . If search and rescue have to be carried out during office hours there must always be at least one surveyor in the office . However, it is necessary to introduce a procedure enabling any one to contact a surveyor after office hours .

The " on duty " surveyor can be appointed on a rotation basis and the Alerting Point (Conakry Radio) must be informed in due time as to who is the " Duty Officer " and where he can be contacted , without any delay .

The Duties and Powers of the Coordinator .

The Secretary of State of Transport, after consulting with all parties involved , must issue instructions to the coordinators which must determine :

- a) their geographical jurisdiction ;
- b) their authority as regards the use of governmental, semi-governmental or private equipment , machinery, craft , aircraft ,boats ,ships etc. for the purpose of carrying out search and rescue operations .
- c) the departments , persons and or authorities which should or might be contacted over the process of search and rescue operations and ;

d) The existing cooperation arrangements with neighbouring search and rescue centres of other countries . An updated and complete list containing ;

- An inventory of all means which could be used for search and rescue operations (craft , tugs , fire-fighting brigades , aircraft , helicopters etc...) their locations and capabilities , persons in charge , telephone and/or telex numbers ;
- the locations , telephone and/or telex numbers of all authorities / departments or persons involved (such as harbour police , police headquarters and/or major police stations , officer in charge of civil aviation , port authorities etc...) ;
- the telephone numbers and telex numbers of search and rescue centres of neighbouring countries .

Availability of means which can be used for search and rescue.

The Navy :

Various naval patrol-boats are available manned by military marine personnel .

The Guineans Ports Authorities .

The ports of Conakry and Kamsar have available a number of tugs, pilot craft and patrol boats which can be used for search & rescue operations .

The Private Sector .

A great number of craft , fishing boats , tugs , yachts, speed boats etc . could be made available by individual owners or companies .

The National Air carrier: " Air Guinee "

The national air carrier operates several passenger aircraft . In serious cases the company can make its aircraft available .

5 RATIFICATION OF THE 1979 INTERNATIONAL CONVENTION

 ON SEARCH & RESCUE .

It is recommended that the Government may ratify as soon as possible the above Convention . In order to implement the aforesaid Convention , the following steps have to be taken as stated in the SAR Convention of 1979 , Chapter II para. 2 -1-2 :

Parties shall forward to the Secretary General information on their search & rescue organisation and later alterations of importance , including :

- 1 National maritime search & rescue services ;
 - 2 Location of established rescue co-ordination centres their telephone and telex numbers and area of responsibility ; and
 - 3 Principal available rescue units at their disposal
- Chapter II para. 2-3-3

Each rescue co-ordination centre & rescue sub-centre (established in para. 2-3-1) shall have adequate means for the receipt of distress communications via a coastal radio service or otherwise .

Every such centre shall also have adequate means for communication with its rescue units and with rescue co-ordination centres , as appropriate , in adjacent areas .

Chapter II para. 2-4-1

Parties shall designate either :

1 as rescue units ,state or other appropriate public or private services suitably located and equipped , or parts thereof , or ;

2 as an element of the search & rescue organisation , State or other appropriate public or private services or parts thereof , not suitable for designation as rescue units , which are able to participate in search & rescue operations , and shall define the functions of those elements .

The Government must supply the rescue units with appropriate equipment and encourage cooperation between neighbouring countries .

As the Convention will be adopted as part of the national legislation , the ratification requirements of chapter V of the Convention , which concerns the alerting station , have to be met and the procedures for the rescue coordination center during emergency phases must be followed .

CHAPTER IX

ARRANGEMENTS FOR THE PREVENTION
COMBAT/AND CONTROL OF
MARINE POLLUTION

1 INTERNATIONAL CONVENTIONS :

The Republic of Guinea has ratified the 1954 International Convention for the Avoidance of Pollution of the Sea by Oil as amended in 1962 and 1969 , and the Regional Convention related to " the cooperation / protection and exploitation of the marine environnement of the West African Countries .

" This Convention applies to all the countries from Mauritania to Namibia , including the " Cap-vert and Sao-tome et Principe " islands .

2 LEGAL REQUIREMENTS RELATED TO MARINE POLLUTION .

The Law of Ratification of the OilPol Convention among other things requires :

- Prohibition of oil or oily mixtures discharged within the territorial waters of Guinea or within the sea area extending 100 miles from the shore .
- Prohibition of the use of chemical dispersants for the purpose of combating oil pollution at sea without the consent of the appropriate authority .
- An Obligation to report pollution incidents observed within the territorial waters by ship's Masters or aircraft pilots .
- Obligation of ship repair units and oil loading, discharging or oil transfer terminals to provide reception facilities according to the ships using them .

- Obligation of tanker Masters approaching Guinean ports or bays to inform the appropriate authority as per the time of arrival , the quantity and type of oil carried on board as well as oil residues and dirty ballast water, the last port of call and the reason of approach.
- Obligation of the ship's Master and other responsible persons to take all appropriate measures for the avoidance , elimination or combating of oil pollution and reporting their action to the appropriate authority .
- To take sanctions against persons violating the law on the subject .

2-1 THE SPECIAL IMPORTANCE OF POLLUTION PREVENTION

FOR GUINEA .

It is very important for the Republic of Guinea to apply a policy which is strong enough to prevent marine pollution . Bearing in mind the low level of the pollution combating capability and taking into consideration the consequences of a major shipping casualty in the territorial waters which would probably cause heavy pollution of the Guinean coasts, (70 % of the coast is of rocks or mangroves) such an accident would be catastrophic for the Guinean economy . We must also bear in mind that the possibilities of such a casualty occurring have been increased by the rising curve in oil product import by the country.

3 CONSEQUENCES RESULTING FROM THE RATIFICATION OF THE

MARPOL 1973 CONVENTION AND IT'S PROTOCOLS .

- Reception Facilities .

The Republic of Guinea is not yet a party to the above Convention but it is believed that the Convention and its protocols will soon be ratified . Reception facilities will be needed in the ports of Conakry and Kamsar , for the purpose of receiving and treating oily mixtures and bilge water from ships calling at Guinean ports .

Obviously the relevent obligation of the two different enterprises involved (the Guinean Ports Authority and the oil terminal) could be distinctive but there is also scope for cooperation among them . Actually the existing facilities are completely inadequate for meeting all the requirements of MARPOL 1973 . I would recommend that as regards the facilities, which have to be created and operated by the Guinean Ports Authority, they should be administered in such a way as to encourage ships using the facilities . A small increase in the port dues for all ships entering or using Guinean ports , regardless of whether they use the port's reception facilities or not , could be adequate to cover operational expenses of those facilities and part of the capital needed for their establishment. By this method shipmasters will not have any reason for illegally discharging oil residues or bilge water at sea. However, being aware of the fact that a major increase of the port fees for the purpose of covering the capital and operational expenses of reception facilities would be risky for the commercial competitiveness of Guinean ports , I would suggest that the Guinean Ports Authority must be financially supported for

this purpose. Adequate funds to cover partly or fully the expenses for the creation of reception facilities could be made available from the proposed " special merchant shipping fund " (this subject is dealt with in Chapter X para. 2 of the present study.) As regards reception facilities to be provided at oil terminals , such facilities must be adequate in receiving dirty ballast if facilities are used by tankers proceeding to these terminals for loading oil or oil products . If such facilities are not be provided then the Government should introduce measures enabling the Secretary of State of Transport to prohibit the loading of these ships unless :

- They are furnished with segregated ballast tanks of sufficient capacity to perform ballast voyages without necessarily ballasting cargo tanks and ;
- There is proof to the satisfaction of the administration that cargo tanks have been washed and cleaned from previous cargo or ;
- that the clean ballast in cargo tanks are not discharged in a manner violating the Convention .

Certification of Ships Flying the Guinean Flag .

Classification Societies can be authorised to carry out surveys in accordance with the provisions of the MARPOL Convention 1973 and issue the relevant certificate (International Oil Pollution Certificate .)

4 OIL POLLUTION COMBATING SYSTEM-CONTINGENCY PLANNING

Introduction .

Careful planning is an essential preparation for any successful operation, especially an emergency one. Response

to accidental spillage of oil is a typical example .
Many people may be affected by an oil spill and many organisations have duties to perform apart from the task of physically cleaning-up .

There is often concern for the effects on the environment fisheries ,industry and recreation as well as considerations of public health and safety .

There will inevitably be conflicting interests and the news media are always quick to expose any indecision , weakness or disagreement . Such situations are easier to resolve when a well-prepared and tested contingency plan is available .

Thus, the purpose of this section is to explain the aim of such a plan for the Republic of Guinea , describing its format and content and call attention to the more important aspects .

The Contingency Plan should follow the same layout irrespective of whether it is local or national according to the area covered and the degree of risk .

Such similarity in layout will enable the plans to be easily understood , will assist compatibility and ensure a smooth transition from one level to the next .

The Contingency Plan will be divided into two main parts:

- The descriptive policy document outlining the overall strategy and ;
- The operational plan .

THE DESCRIPTIVE POLICY OF OVERALL STRATEGY

1 Responsibility for and Scope of the Contingency Plan.

The Merchant Marine Directorate, which is the Maritime Safety Administration, should be the authority or leading agency responsible for the implementation of the plan .

The coastal zone must be divided into two main areas between the port of Conakry and the port of Kamsar .

2 Assessment of Spill Risk .

The expected frequency and size of spills and the types of oil likely to be involved should be addressed in this section .

For oil ports , the number of calls made by tankers will be relevant in assessing risks since most spills from tankers are small and occur in these locations as a result of routine operations such as loading , discharging and bunkering .

3 Movement and Persistence of Oil .

The probable behaviour of oil slicks should be studied and recorded in relation to the types of oil likely to be spilled and the prevailing seasonal weather conditions.

A note on the physical properties of any such oil , in particular specific gravity , viscosity , pour point at usual sea temperatures and distillation characteristics should be annexed to the operational plan .

The movement of oil can be predicted from a knowledge of the tides and currents and the wind speed and direction . Where the potential source of a spill can be identified , the most likely movement of the oil can be calculated and any seasonal variation in the direction of prevailing winds taken into account .

4 Resources at risk from oil spills .

Amenity areas , ecologically sensitive areas , industrial sea water intakes , fisheries , sea birds , and other

resources likely to be threatened should be identified and detailed information on the location of each resource should be annexed to the operational plan .

This should be done with the aid of maps to indicate the sensitive resources and the priorities for protection.

5 Priorities for Protection .

Priorities for protection must be determined since in a major spill it is unlikely that all the resources at risk can be successfully defended .

This is probably the most important facet of the policy adopted for spill response and only the government is in a position to make the necessary decision since the economic and environmental values to the community will have to be assessed .

However , it is essential to take into account not only how desirable the protection of a particular resource would be , but also to what extent its defence is practicable .

Provisions should also be made for response priorities to be altered if resources are reached by a spill before the plan can be implemented .

We must also bear in mind that seasonal variations can greatly alter priorities , for example the high priority given to a amenity beach in the dry season may not apply in the rainy season .

Similarly , certain biologically sensitive areas may be assigned high priority during breeding seasons or when migratory species are known to be present .

The maps denoting sensitive areas attached to the operational plan should be clearly annotated with such information .

6 Selection of Techniques .

The clean-up strategy should be determined in relation to the assessment of the risk of spills and to the defence of agreed priorities for protection .

The limitation of spill control techniques must be appreciated and the most suitable equipment selected for the anticipated range of weather conditions and oil types .

As an example , boom deployment sites should be designated only where containment and recovery of oil or its deflection to less sensitive areas is actually feasible .

The different shoreline types falling within the area covered by the plan should be identified and the most appropriate clean-up strategy for each considered .

We must also take into account whether amenity value beaches are easily accessible for heavy equipment and their ability to support such vehicles .

Maps attached to the operational plan can be used to show the areas where each technique should be used and where any restrictions might apply .

7 THE LOCATION OF THE EQUIPMENT .

The location of the equipment shall be as close as practicable to the high risk areas in order to ensure a rapid and effective response .

Procedures for mobilisation must be set out in the operational plan , while an inventory of available equipment should be annexed to it .

Descriptions can easily be presented as a table where details such as type , dimensions , capacity , and transport requirements are given .

In some cases equipment and services will be owned or provided by contractors , industry or other parties ,

which makes a definition necessary in an annex to the plan as to the contractual terms acceptable in principle to the parties concerned .

8 THE MANPOWER REQUIRED .

The manpower required to deploy equipment and undertake a clean-up will need to be estimated . The extent to which the requirements can be met from the organisation implementing the plan will depend upon availability, the techniques involved and the amount of specialized equipment to be deployed.

In the case of large spills , additional manpower may be required , particularly in operations such as shore clean-ups.

For this purpose sources of available manpower shall be identified and listed in the operational plan .

9 TEMPORARY STORAGE SITES AND DISPOSAL ROUTES .

Temporary storage sites and disposal routes for oily wastes must be agreed in advance . Locations close to areas of greater risk, suitable for temporary storage of oil and oily wastes, have to be identified .

The disposal options should be discussed and a decision made taking into account the environmental considerations of each method and the probable costs of transport and disposal . Details of the disposal methods selected should be annexed to the operational plan . Temporary storage sites are best shown on the maps delineating shoreline clean-up techniques .

10 OUTLINE OF THE RESPONSE ORGANISATION .

The Merchant Marine Office should be the body responsible for the coordination and execution of the plan even when part of the plan is executed by other authorities, for example, the task of cleaning inshore waters and shorelines falls to the ports authorities or local administration .

As any division of responsibility is apt to confuse the issue and compound the problem , a central body which has the responsibility for handling the operation is normally the best solution . (see plan on page,115) .

If this is not possible and more than one organisation is involved in responding to a spill, procedures for coordination between the various groups must be laid down.

In a major spill , the on-scene coordinator will delegate the control of operations , whilst in a smaller incident coordination and control functions may be combined .

In each case, responsibilities should be clearly defined and, as far as possible, the number of authorities involved kept to a minimum.

11 A COMMUNICATIONS CENTRE.

A communications centre with telephone, telex and radio communications is essential to ensure that the necessary information is passed to the appropriate body.

I would suggest that Conakry Radio of the Ministry of Communications serves as Communications Centre since all information will be channelled through it.

In the event of a major spill , operations at sea , on shore and in the air will be taking place at the same time . In addition to a common radio frequency , it may be necessary to allocate frequencies for each operation . Where clean-up operations are conducted over extended distances , portable communications centres should be located close to the scene of each operation . Repeater stations may be required so that communications can be maintained over long distances .

12 LOGISTIC SUPPORT .

Logistic support is an essential element in a contingency plan in ensuring that the clean-up operation runs smoothly.

Arrangements for providing food , clothing , shelter and medical support to shore clean-up crews must be considered in advance .

The availability of back-up resources , such as additional equipment, materials and transport should also be examined together with the names and addresses of potential suppliers , both within the country and from neighbouring countries .

In the latter case attention must be given at the planning stage to immigration and customs clearance procedures . Delay may result from immigration and customs formalities and the plan should provide for urgent clearance in an emergency when personnel and equipment need to be brought into the country .

13 DOCUMENTATION OF ACTION .

Documentation of the action is important and accurate records should be kept regarding the use of manpower ,

equipment and materials , and expenditure .

For the sake of consistency , it is worth preparing examples of record forms and annexing these to the operational plan . Good documentation will assist in formulating claims when the operation is completed .

14 . LIAISON .

Liaison arrangements with other interested parties such as government authorities and organisations not immediately involved in the response operation , but with interests in certain facets of the spill , should be enclosed to the plan . Examples include operators of industrial sea-water plants, environmental protection groups and other government departments .

It is often useful to set up a committee to keep all such parties up-to-date with contingency planning and for consultation during a major spill . Provisions should be made for keeping the news media informed during a spill without interfering with the conduct of the operation .

This is likely to require additional telephone lines, accommodation and well-informed briefing officers .

15 PROCEDURES FOR TRAINING AND EXERCISING AND FOR UPDATING THE PLAN .

Procedures for training and exercising and for updating the plan should be defined .

Training programmes should be developed at all levels including the personnel in charge of boats and shore clean-up parties . Regular exercises will ensure that contingency arrangements function properly and that all those likely to be involved in a spill become fully familiar with their particular responsibilities .

From time to time equipment listed in inventories should be mobilised and deployed to test its actual availability and performance.

An oil spill provides the best opportunity for improving a contingency plan . Events should be reviewed soon after the clean-up operation has been terminated and the plan revised on the basis of lessons learned , when memories are still fresh .

THE OPERATIONAL PLAN .

The operational plan should describe the recommended procedures for responding to an oil spill with essential information included as annexes .

Many events during an oil spill response operation will occur concurrently but the format of the operational plan should follow roughly the chronological order indicated in the following sequence .

NOTIFICATION :

The first information regarding an oil spill may come from any one of a number of sources including the general public . The police and other emergency services must have access to telephone numbers , telex numbers and radio frequencies allowing them to contact the agency designated to receive such information on a 24 hour basis .

On receipt of this information , the designated agency should transmit an initial report as soon as possible to all interested parties according to a grand alert procedure .

The format of such a report should be included in the plan and contain the following :

- Date and time of observation (specifying local

- time or GMT).
- Position (latitude and longitude or stretch of coast) .
 - Source and cause of the pollution (e.g name and type of vessel ; collision or grounding .)
 - Estimate of amount of oil spilled and likelihood of further spillage .
 - Description of oil slicks including direction , length , breadth and appearance .
 - Type of oil spilled and its characteristics .
 - Action , both taken and intended , to combat the the pollution and prevent further spillage .
 - Name and occupation of initial observer and any intermediate reporter and how they can be re-contacted .

It should be made clear that the initial report should not be delayed as long as the first three headings can be satisfied , the remainder being transmitted as soon as available .

EVALUATION :

The plan should provide for the on-scene co-ordinator (or duty staff member) to evaluate the situation and assess the threat posed by the oil on the resources of risk .

On receipt of the first notification , the coordinator should :

- Determine the expected trajectory of the oil slick at regular intervals .
- Consider arranging on-site surveillance using aircraft to verify predictions and obtain further details .
- Identify threatened resources .
- Inform the parties who might be affected by the

spill.

The data required to make the necessary evaluation and the expected sources should be detailed in the plan as follows:

- a) The location and type of accident , estimate of the size of the first spill and likelihood of a further spill
Sources : Master , installation operator , salvager , port authorities .
- b) Type of oil , specific gravity , viscosity , pour point , max. content and distillation characteristics
Sources : Master , vessel , installation operator , cargo owner , insurer .
- c) Current , tides , wind (both actual and forecast)
Sources : within annexes to the plan and from the Meteorological Office and tide tables .
- d) Location of vulnerable resources and the priorities for their protection .
Sources : Maps and accompanying notes annexed to the operational plan , explanation in strategy section

RESPONSE DECISION :

The plan should provide for the various response options to be considered .

- If no key resources are threatened , no response may be necessary beyond monitoring the movement and behaviour of the slick .
- If key resources are threatened , decide whether their protection is best achieved by combating the oil at a distance or by the use of booms or other measures to defend specific sites .
- If no protection is feasible or if resources have already been affected , decide on the priorities for

cleaning-up .

- Select the necessary equipment and manpower required and determine availability and location .

Arrangements should be included in the plan for placing manpower and equipment on stand by ; equipment may be located on to vehicles ready for despatch and paperwork completed before the actual mobilisation order is given .

CLEAN-UP OPERATIONS .

Procedures should be laid down for :

- Mobilising the necessary equipment and related manpower.
- Deploying equipment at sea and on shore in accordance with the response decision and placing booms at pre-designated sites to protect key resources , referring to details of mooring points and configurations .
- Organising sufficient logistic support so that there are no bottlenecks (e.g between oil collection , temporary storage and final disposal) and arranging for supply of dispersants , fuel , food , clothing and other consumables .
- Using aircraft to control clean-up operations at sea and maintaining overall surveillance of spill, both at sea and on shore .
- Selecting the most suitable disposal route depending on the nature of any collected oil .
- Monitoring the progress of the clean-up operation using inputs from aerial surveillance and personnel on site to reassess the response decisions .
- Maintaining accurate records , on a daily basis for each clean-up location , of all the actions taken , manpower and equipment deployed, amounts of materials used.

COMMUNICATIONS :

This section of the plan should provide for :

- Locating communications /command post as close as possible to the scene of the spill and , ensuring that the entire area affected by the spill is within easy reach by radio or telephone .
- Ensuring that supervisory staff have the necessary radio equipment and are familiar with communications procedures , viz telephone and telex numbers , radio frequencies and call signs .

It is essential that sufficient communications equipment should be available to allow the rapid transfer of information and instructions between aircraft , vessels , vehicles , shore clean-up parties and the central communications and command post .

Termination of the clean-up :

While it is important to terminate an operation when it becomes ineffective or when the desired level of clean-up has been achieved it is difficult to give precise guidance on this in a contingency plan .

Provisions should , however , be made for :

- Liaison with all interested parties regarding the conduct of the operation and the level of clean-up appropriate to each location .
- Standing down equipment and returning to shore for cleaning and maintenance . Re-ordering consumed materials and repairing or replacing damaged equipment,
- Restoring temporary storage sites and tidying-up other

work areas .

- Preparing a detailed report on the operation which can be used to support any claims for clean-up expenses and reviewing the contingency plan .

* see suggested organisation chart for oil spill response on page (115).

5 THE NECESSITY FOR RATIFYING THE 1969, BRUSSELS LIABILITY CONVENTION AND THE 1981, LONDON FUND CONVENTION.

The 1969, Brussels Convention which limits the liability of tanker owners (tankers carrying more than 2000 tons of oil) must be ratified as soon as possible, for enabling the Government to become a member of the 1981, London Fund Convention. In case of a severe tanker casualty it would be catastrophic for the National Economy.

The International Fund for compensation for oil pollution damages, is the only scheme covering extensive pollution damages above the Civil Liability limits.

The annual contribution necessary for the Government to become member of the Convention (annual contribution based upon the quantity of oil imported), have to be paid by the oil companies.

5-1 PORT STATE CONTROL IN CONNECTION WITH POLLUTION PREVENTION REQUIREMENTS.

After the MARPOL 73/78 ratification, ships which do not comply with the requirements of the Convention must not be allowed to enter Guinean ports.

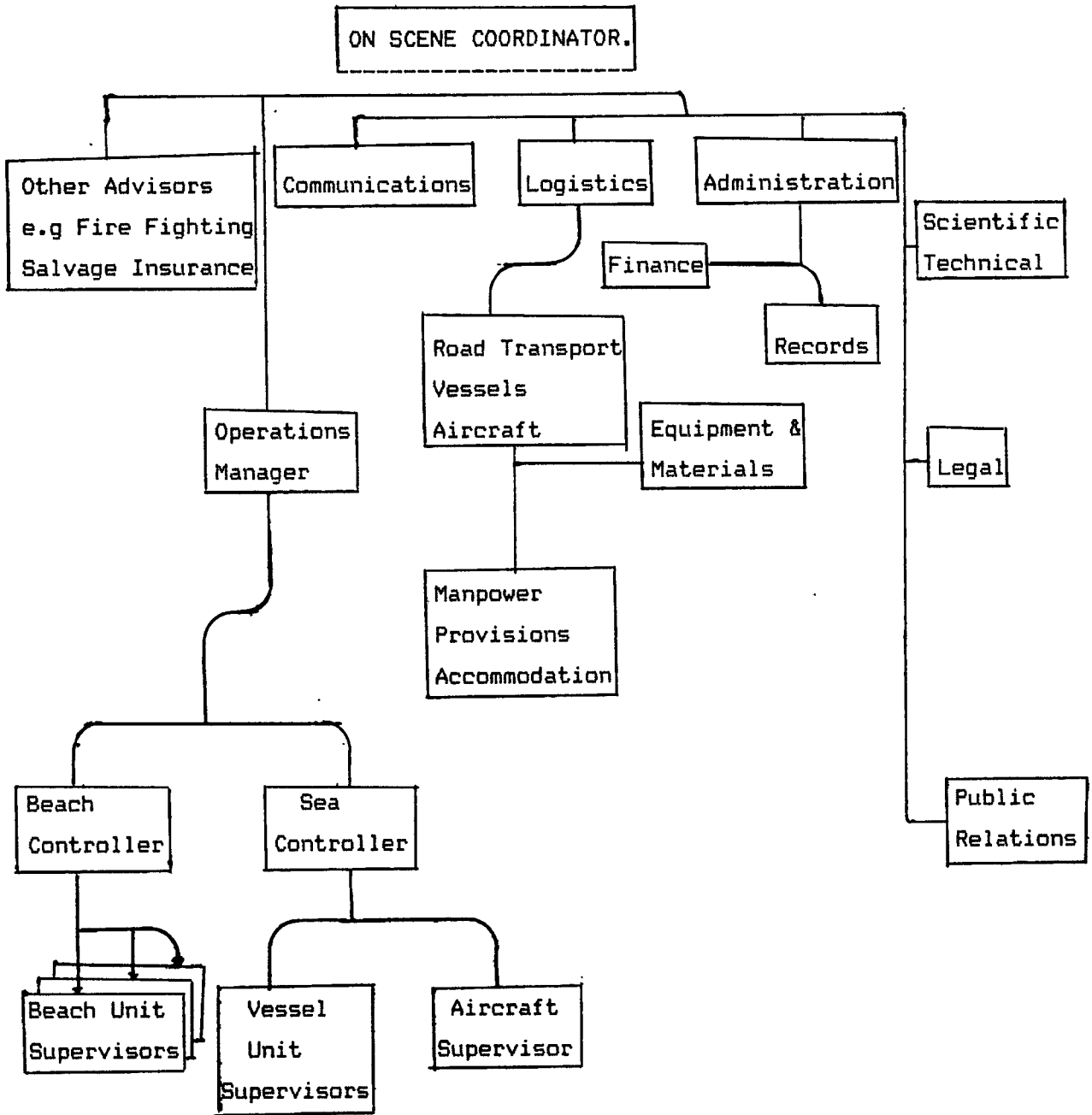
Additional pollution prevention measures will have to be taken and, inspection of ships, examination of oil record

book etc. carried out regularly.

Regulations and checklists for tankers proceeding to oil terminals to be enforced.

The Surveyors of the department shall make sure that all necessary measures for the prevention of pollution have been taken before any operation is started.

Suggested Organisation Chart For Oil Spill Response.



* In case of minor spills , Roles may be Combined.

CHAPTER X .

FINAL OBSERVATIONS,
RECOMMENDATIONS .

1 Strategic Planning .

Having in mind the complexity of the shipping industry , I would like to use a few words discussing the priority which I believe must be given to the strategic planning process .

Without a clear and well conceived strategy , the industry will not survive in the highly competitive environment within which it operates today .

Such strategies must be based upon a comprehensive and sustained participatory commitment by senior policy makers . The real challenge of the strategic planning process is in its implementation which has to be in harmony with the desirable goals and objectives .

Another challenge in this planning process is to convince the decision makers that they can plan effectively and that they will be much more successful if they devote sufficient time and effort to this activity . However neither challenge can be met without qualified commitment by the decision makers .

I believe that effective planning followed by effective implementation , as in the case of Guinea , would certainly have a direct result , multiplying its shipping activities and obviously benefiting the national economy to a great extent.

It is self evident that to achieve this goal , continuous investments have to be directed into the shipping industry.

Investment in the shipping industry :

2 Suggested Establishment of the " Special Merchant Shipping Fund " .

- Since shipping activities are mostly International and ;
- Since all non-budgetary expenses , (e.g the participation of Guinea in International conferences , expenses for casualty investigations , Training of personnel etc.) have to be approved by the Ministry of Finance , usually after long consultations, which in some cases lead to misunderstandings or disagreements,

I would suggest as a solution , the department be allowed to develop its own sources for financing the improvement of its own infrastructure ; or that the Ministry of Finance should look more deeply into the problem in order to make sure that everything is taken care of in developing this sector of vital importance to the national economy .

3 Administration of the Fund .

If it is agreed to establish the fund , then special legislation must be introduced to determine the duties and responsibilities of the administrating body .

In such a case it would be extremely important to establish a mechanism enabling the Merchant Shipping Directorate to decide on expenditures related to urgent necessities .

(e.g , casualty investigations, repatriation and relief of seamen , surveys and inspections of ships etc.)

An expert has been appointed since 1986 to study the Project .

I would further recommend that an advisory committee also has to be appointed consisting of :

- a) The appointed expert or consultants .
- b) Officers of the shipping department .
- c) A legal adviser on constitutional and legal matters .
- d) Representatives of the shipowners .

Such a committee will be more effective and will be able to deal with all the subjects which need modifying , amending , or updating .

5- 1 PORT STATE CONTROL :

The development of an effective mechanism and sources for the purpose of exercising satisfactorily the Port State Control would be extremely beneficial for Guinea for the following reasons :

- 1 Substandard ships will not be allowed to trade in Guinea and consequently many problems will be eliminated such as casualties , port congestion , commercial disputes etc.
- 2 Guinea may be in a position to establish very close contact with its neighbouring countries .

The consequences resulting from such possible developments will be extremely beneficial for the Guinean fleet since :

- Direct communication with other states will certainly contribute substantially to the field of the control of

ships proceeding to the ports of neighbouring states .
 - Guinean ships will not be discriminated against in these ports.

To achieve the above objective it is necessary for at least two surveyors of the Merchant Marine Office to exclusively deal with port state control .

Besides their responsibilities resulting from the above duties they could also deal with surveys , inspections , and certification of small ships , craft and yachts , crew claims etc., within their area of jurisdiction .

- Since pollution prevention and combating is also an important subject , a marine surveyor should be appointed especially for pollution prevention and combating matters implementing MARPOL and other Conventions relating to pollution , casualty investigation matters , dangerous goods etc.

Guidelines referring to port state control are included in the following International Instruments :

- 1 IMO'S Resolution A. 466(XII) embodying " Procedures for the control of ships ."
- 2 IMO'S Resolution A. 481 (XII) embodying "Principles of safe manning "together with its two annexes entitled " Contents of minimum safe manning document " (annex 1) and " Guidelines for the application of principles of safe manning " (annex 2).
- 3 IMO'S Resolution A. 542 embodying " Procedures for the control of ships and discharges under Annex 1 of MARPOL Convention 1973 / 78 .

4 The ILO Convention No 147 .

Tonnage Measurement .

As regards the tonnage measurement and other matters delegated to the classification societies , the Administration must receive from the classification societies a detailed report concerning their activities which would enable the national surveyors to check and control all the surveys carried out on behalf of the government .

Training .

Since all training matters are under the Ministry of National Education it is very important to establish good cooperation between the Merchant Marine Office and the Maritime Training School as far as training programmes are concerned in order to be able to implement the S.T.C.W Convention .

- As a matter of course it is necessary that IMO, UNCTAD or Regional matters are better attended to and followed-up. The Merchant Marine Directorate must be facilitated to attend these meetings .

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