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Proposals for the improvement of maritime administration and policy in Vietnam

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WORLD MARITIME UNIVERSITY
Malmö, Sweden



**PROPOSALS FOR THE IMPROVEMENT
OF MARITIME ADMINISTRATION AND
POLICY IN VIETNAM**

**BY
VU THE QUANG
Socialist Republic of Vietnam**

A dissertation submitted to the World Maritime University in partial
fulfilment of the requirements for the award of the degree of
MASTER OF SCIENCE

in
MARITIME ADMINISTRATION AND ENVIRONMENTAL PROTECTION

2000

DECLARATION

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

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

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*To Develop and Establish Efficient and Effective
Maritime Administration and Policy in Vietnam.*

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ABSTRACT

Title of Dissertation: **Proposals for the Improvement of Maritime Administration and Policy in Vietnam**

Degree: **Msc**

This dissertation is a study of the organisation of the maritime administration and the implementation of maritime policy in Vietnam. The method of this study is through considering, analysing and evaluating such matters in comparison with a proper relevant mechanism and the competent MARAD in leading maritime countries.

The current situation of the Vietnamese Maritime Administration system is reviewed from overall framework to performance of some specific bodies, like the VINAMARINE, VIWA and VR. Some analyses are made in major areas through break down of areas of activity. The Vietnamese maritime policy is also reviewed, particularly the Vietnamese Maritime Code, subsidiary legislation and the implementation of IMO's conventions. Then the study points out the weaknesses of the Vietnamese Maritime Administration and maritime policy, which are effecting maritime industry in Vietnam.

The Model of MARAD in leading maritime countries, such as Canada, Japan, Sweden and USA, are examined. The concept of new public management also is presented.

The Chapter V gives proposals to improve maritime administration and maritime policy, including the structure of maritime administration, maritime legislation, port and shipping management policy, maritime education and training and the implementation of international conventions. Recommendations are made toward improving the effectiveness of the maritime administration and maritime policy in Vietnam.

KEYWORDS: Maritime Administration, Maritime Policy, Improvement, VINAMARINE, VIWA, VR.

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LIST OF ABBREVIATIONS

ABS	American Bureau of Shipping
ARPA	Automatic Radar Piloting Aid
ASEAN	Association of South East Asian Nations
ATN	Aid to Navigation
BV	Bureau Veritas
CCG	Canadian Coast Guard
CIF	Cost, Insurance and Freight
CLC	International Convention on Civil Liability for Oil Pollution Damage
CMA	Canadian Maritime Administration
COLREG 72	Convention on the International Regulations for Preventing Collisions at Sea, 1972
DFO	Department of Fisheries and Oceans
DND	Department of National Defence
DOC	Document of Compliance
DOT	Department of Transport
DWT	Deadweight Ton (metric ton)
EEZ	Exclusive Economic Zone
FMC	Federal Maritime Commission
FOB	Free on Board
FSI	Flag State Implementation
FUND92	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992
GCSC	Governmental Continental Shelf Committee
GDMH	General Department of Meteorology and Hydrography
GL	Germannischer Lloyd

GMDSS	Global Maritime Distress and Safety System
GT	Gross tonnage
IACS	International Association of Classification Societies
ILO	International Labour Organisation
IMDG	International Maritime Dangerous Goods Code
IMO	International Maritime Organisation
INMARSAT 76	Convention on the International Maritime Satellite Organisation and Operating Agreement, 1976
INTERVENTION	International Convention to Intervention on the High Seas in Cases of Oil Pollution, 1969
ISM Code	International Safety Management Code
ISO	International Standards Organisation
JAMSA	Japanese Maritime Safety Agency
JMA	Japanese Maritime Administration
LOAD LINES ⁶⁶	International Convention on Load Lines, 1966
LR	Lloyd's Register of Shipping
MARAD	Maritime Administration
MARPOL 73/78	International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol 1978 relating thereto
MERSAR	Manual Emergency Response for Search and Rescue
MOD	Ministry of Defence
MOE	Ministry of Energy
MOF	Ministry of Finance
MOFi	Ministry of Fisheries
MOSTE	Ministry of Science, Technology and Environment
MOT	Ministry of Transport
MOU	Memorandum of Understanding
MPI	Ministry of Planning and Investment
NGO	Non Governmental Organisations

NOAA	National Oceanic and Atmospheric Administration
OMS	Office of Maritime Safety
OPRC	International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990
PMU	Project Management Unit
PSC	Port State Control
PSCO	Port State Control Officer
RCMP	Royal Canadian Mounted Police
RDITI	Research and Design Institute of Transport Industry
SAR	Search and Rescue
SLSA	Saint Lawrence Seaways Authority
SLSDC	Saint Lawrence Seaways Development Co-operation
SMA	Swedish Maritime Administration
SMC	Safety Management Certificates
SMS	Service of Maritime Safety
SOE	State Owned Enterprise
SOLAS 74/78	International Convention for the Safety of Life at Sea, 1974, as amended by the Protocol 1978 relating thereto
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978
TEU	Twenty-foot equivalent unit
Tonnage 69	International Convention on Tonnage Measurement of Ships, 1969
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
USCG	United States Coast Guard
USMARAD	United States Maritime Administration
VIMARU	Vietnam Maritime University
VINALINES	Vietnam National Shipping Lines
VINAMARINE	Vietnam National Maritime Bureau

VINASHIN	Vietnam Shipbuilding Industry Corporation
VISHIPPEL	Vietnam Ships Communication and Electronic Company
VIWA	Vietnam Inland Waterways Administration
VMA	Vietnamese Maritime Administration
VMS	Vietnam Maritime Safety Agency
VMSI	Vietnam Maritime Safety Inspectorate
VMP	Vietnam Marine Police
VMRCC	Vietnam Maritime Search and Rescue Co-ordination Centre
VOGC	Vietnamese Oil and Gas Corporation
VR	Vietnam Register
VRA	Vietnam Road Administration Bureau
WATCO	Waterways Transport Company
WMU	World Maritime University
WT	Waterways Transport

CHAPTER I
VIETNAM MARITIME INDUSTRY
OVERVIEW

I.1 Introduction

Vietnam is a developing maritime country. The utilisation of sea transport in the country appeared hundreds of years ago for various purposes, such as the transport of cargoes, fishing, military activities, etc.. During French colonial rule from 1858 to 1945, sea transportation was mainly carried out by French shipping companies. Vietnam declared independence on September 2, 1945, but unfortunately, Vietnam's Wars of Liberation lasted for almost 30 years (1946 - 1975); therefore, it was quite difficult for Vietnam's own ships to operate during this period. However, the Vietnam Shipping Industry as a matter of fact, was founded in the late 1960s. Then it comprised merely some small coastal vessels, and a few seaports and shipyards.

On July 2, 1976 Vietnam was reunified, and as a result all economic and social infrastructures were constructed or reconstructed, including these related to maritime affairs. The process of development and reconstruction of the country from 1976 to now could be divided into two periods. The 1976 - 1986 period was transitional, and the development of shipping industry was, therefore, limited and rather unclear in many aspects. From 1986 to now, Vietnam has been in the process of "Doi Moi" (Renovation), including the shipping industry. The country has shifted from a centrally planned, bureaucratic and subsidised economy to a market economy, with efficiency as its supreme goal. Many great things have been subjected to change and improvement. Accordingly the Vietnam Shipping Industry has now been

gradually playing an important role for both domestic and foreign trade. Some good progress has been recorded, such as raising the national fleet tonnage up to one million GT; the capacity of shipbuilding raised up to 6,500 GT; and all major ports are in process of development and modernisation etc. However, this industry is still facing many obstacles and difficulties, especially in maritime administration and policy matters. It is proposed to examine these aspects further on.

I.2 Location and Geographic Features of Vietnam:

In order to consider, research and highlight the relevant matters regarding Vietnamese maritime affairs, the geographic location of Vietnam has to be taken in to account, along with attendant features. (See Figure 1.1)

Vietnam is located in the center of the Southeast Asia region. Vietnam has an area of 331,688 square kilometers and a population of over 78,6 million (1999). The country is bordered by China to the north, Laos and Cambodia to the west, and the East Sea and Pacific Ocean to the Southeast.

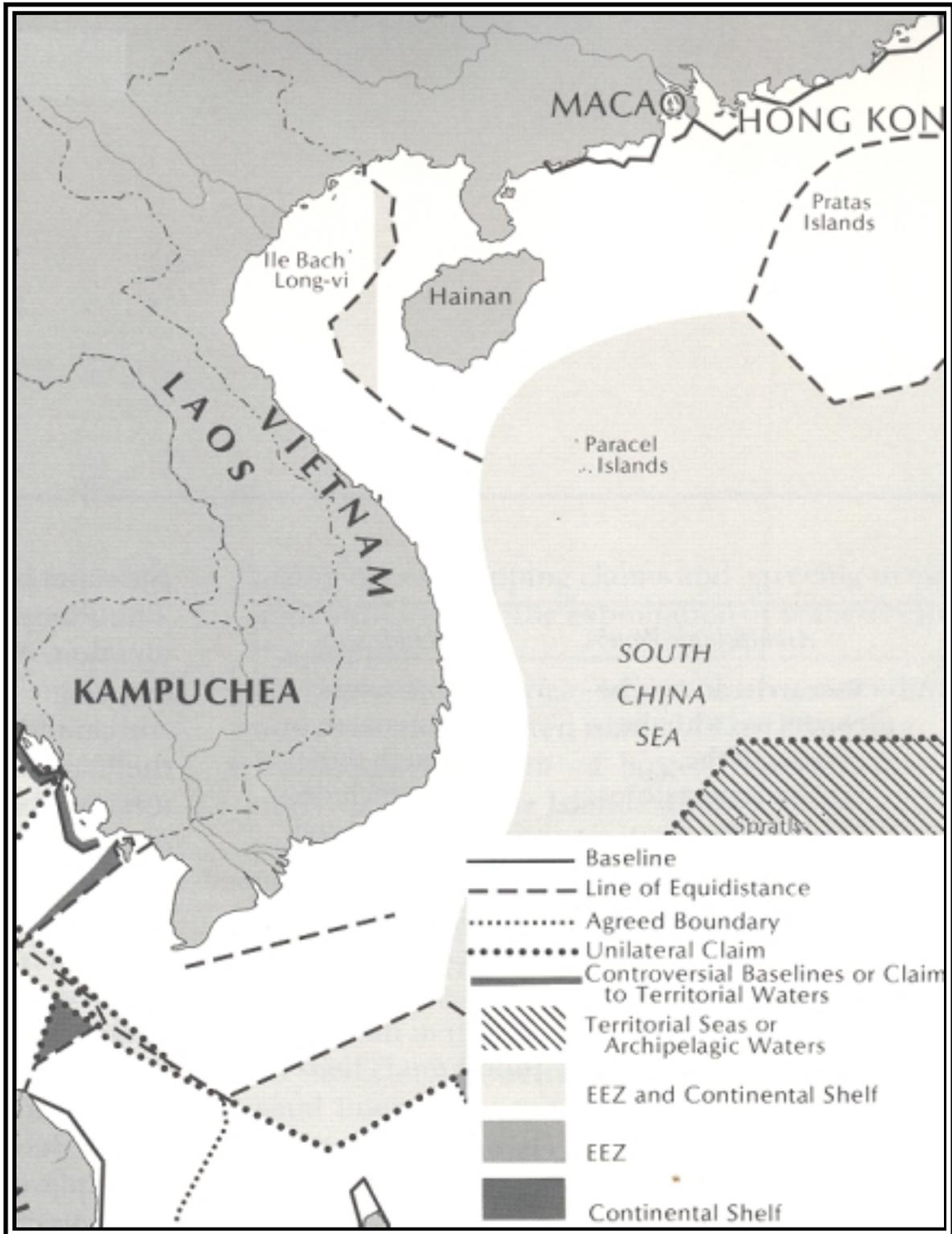
Vietnam has a large network of inland waterways totaling about 41,900 km, of which 11,400 km is suitable for waterborne transportation. The network extends to almost all populated areas and industrial zones, in particular, the Red River Delta in the north and Cuu Long River Delta in the south.

Vietnam's coastline is 3,260 km long and its territorial waters are as large as one million square kilometers; it has been awarded a series of large seaports such as the ones at Hai Phong, Da Nang, and Saigon. Offshore from Vietnam's mainland are thousands of islands and islets lying scattered from north to south.

The major natural resources of Vietnam are petroleum, natural gases, coal, tin and phosphates. The principal crops are rice, sugar, coffee and cassava.

The characteristics of Vietnam's geographic location, as well as the consumer demand of the high population have led to the development of inland water transport and sea-born transport. Its long coast and large territory of sea areas, which cover

Figure 1.1
Map of Vietnam



potential natural resources offshore and in the continental shelf, have also led to the development of various fields of the maritime sectors.

Further, lying on the rim of the Pacific Ocean, Vietnam holds an important geographic position not only for the sea-born traffic in the region but also for activities relating to search and rescue at sea, protection of the marine environment and fighting against unlawful acts on the high seas.

I.3 Sea-borne Trade:

I.3.1 Foreign Trade:

With economic development, the demand for the transportation of goods is increased, therefore, sea-born trade is increased rapidly. Table 1.1 shows the volume of sea-born trade during 1995 - 1998. The volume of sea-born trade has increased from 34 millions tons in 1995 to 56,899 million tons in 1998. This sector has been paid special attention by the government.

Table 1.1. Volume of Sea-borne Trade 1995 - 1998

Contents	unit	1995	1996	1997	1998
Volume of sea-borne trade	Ton	34,000,000	36,656,377	45,760,326	56,899,006
1. Container:	TEU	315,134	464,849	760,610	799,665
- Export:		152,500	225,527	381,399	375,674
- Import		162,634	239,322	372,313	381,817
- Domestic				6,898	42,174
2. Liquid Cargo	Ton	13,180,000	15,510,642	18,126,701	21,889,442
- Export:	e			9,778,933	11,785,583
- Import				6,329,780	7,925,973
- Domestic				2,017,988	2,177,886
3. General Cargo	Ton	14,470,000	17,522,766	20,927,308	23,123,193
- Export:	e			8,180,911	7,925,222
- Import				7,537,763	7,748,009
- Domestic				5,208,634	7,449,926
4. Transits Cargo	Ton		2,085,160	3,150,506	4,038,619
	e				
5. Passenger	Per.		55,981	64,296	47,683

(Source: VINAMARINE, 1999)

So far, Vietnam has established trade with more than 90 countries, of which the major partners are Japan, Korea, Taiwan, China, and the countries of South East Asian and Eastern Europe. In the coming years, Vietnam also hopes to increase trade with Western Europe and Latin America.

1.3.2 Domestic Trade

In recent years, rapid economic development has intensified domestic traffic considerably, and about 80% of domestic transportation is carried out on waterways. Cargo demand in 1995 was 164% greater than that in 1990; the volume of domestic transportation increased from 7,260,259 tons and 6,898 TEU in 1997 to 13,696,467 tons and 42,174 TEU in 1998, and is likely to increase.

1.3.3 Forecast Sea-borne Trade

In the forthcoming years, sea-borne trade is expected to increase steadily. Major exports include rice (3.2 million tons in 1999) crude oil (14 million tons in 1999) and coal. Table 1.2 shows forecast volume of sea-borne trade up to the year 2010.

Table 1.2. Forecast Volume of Sea-borne Trade 2000 - 2010

Unit: 1000 Tons

Content	year 2005		year 2010	
	Minimum	Maximum	Minimum	Maximum
Export	49,500	64,286	69,000	99,756
Import	27,500	35,714	45,129	65,244
Domestic	12,000	15,584	30,000	43,372
General of Import & Export	77,000	100,000	114,129	165,000
General of Volume	89,000	115,584	144,129	208,372

(Source: VINAMARINE, 1999)

I.4 The National Mercantile Fleet:

1.4.1 The Structure of the National Fleet

With 3,260 kilometers of coastline and 11,400 kilometers of inland waterway, Vietnam has a natural advantage for the development of transportation by waterway. But the development of Vietnamese mercantile fleet, at present, is too modest.

At the end of 1999, Vietnamese mercantile fleet had 629 seagoing ships with total of 1,225,951 DWT, including bulk cargo, container, tanker and general cargo vessels. The average age of the fleet is about 15 years, including 251 vessels under 10 years old, 237 vessels from 10 to 20 years old, 101 vessels from 21 to 30 years old, and 40 vessels over 30 years old. The National Fleet is old, obsolete and in extremely poor condition. Many vessels are completely unsuitable to modern operating methods. Operating and maintenance costs are high because of the low level of technology used and because no use is made of efficiently operated specialized vessels. Although the potential demands for capital is substantial, it is difficult to see how domestic capital alone can meet the needs of the shipping industry. The technical situation of most of these vessels is not up to date. The fleet structure is far from suitable, mostly being general cargoes. Tankers and container vessels are very few; there are only 10 container vessels and 8 tankers. There are no passenger ship.

1.4.2 The National Fleet 's Owners

The Vietnamese mercantile fleet is owned by 188 owners, which are divided into three main groups: State Owners, Provincial Owners and Private Owners. (see Table 1.3)

Table 1.3. Shipowner Groups

No.	Shipowner Groups	Number of Shipowners	Number of Ships
1.	State Owners	80	340
2.	Provincial Owners	53	155
3.	Private Owners	55	134

(Source: VINAMARINE, 2000)

1.4.3 National Fleet's Operation

At present, Vietnamese flags' vessels operate on 30 international sea routes and visit over 100 international seaports in the world. The total tonnage carried by the national fleet is 11,440,576 tons in 1997, 12,866,309 tons in 1998 and 16,266,300 tons in 1999. This is an increase of 11% in international transportation and 34.7 % in domestic transportation. But the fleet carried only 17,8% of export sea-borne trade

(in 1999). That is one of the difficult problems, Vietnamese Government wants to solve it and increase this percentage.

I.4.4 Forecast Development of National Fleet

According to the development of the country's economy, the forecast volume of sea-borne trade and the situation of the national merchant fleet, VINAMARINE had makes a project namely "The Project of Planning and Developing Vietnamese National Merchant Fleet up to 2010". (See Table 1.4)

Table 1.4. The Development of the National Fleet Demand

No	The Demand of The National Fleet	Year 2005		Year 2010	
		Minimum	Maximum	Minimum	Maximum
1	Containers (TEU)	7,920	9,880	20,150	24,990
2	Tankers (DWT)	1,814,850	2,263,200	2,601,000	3,241,800
3	Bulk Carriers	175,500	218,850	234,000	291,750
4	General Cargo ship	109,890	136,940	179,920	224,280
5	Coastal Ships	705,880	705,880	1,764,705	1,764,750

(Source: VINAMARINE, 1999)

The Project expected the national fleet will be able to carries about 25% of total volume of Vietnamese sea-borne trade in the year 2005, and 35-40% in 2010.

I.5 The Commercial Port System

I.5.1 The Port System at Present

Vietnam has more than 100 ports of variety types are located along rivers and the coast from the north to the south of the country. They form a very important chain to contribute to the comprehensive infrastructure of transportation in the whole country. Many of these ports are classified as capable of handling sea-going vessels up to 30,000 DWT. Among them, Saigon and Haiphong are the largest ports, each normally handling about six to ten million tons of cargoes per year. They are also the main points of transshipment of goods to the whole northern and southern parts of the country. Others such as Danang, Quangninh Vungtau and Cantho are now denominated as the major seaports in the country.

The infrastructure of the port system includes several hundred berths with a total length of more than 20 kilometers, over one million square kilometers of warehouse and over two million square kilometers of cargo shed etc.

Management of the ports is grouped into the following five categories:

- (1) Ministry in the central government (MOT, through VINAMARINE)
- (2) Local government (provinces, cities)
- (3) A general company in the shipping industry (VINALINES)
- (4) State-owned enterprises under other ministries
- (5) Public-owned enterprises under provinces and cities

In recent years, the total amount of cargo handled by Vietnamese ports has increased year by year: 34 million tons in 1995, 36.65 million tons in 1996, 45.76 million tons in 1997, 56.89 million tons in 1998 and 67.54 in 1999

1.5.2 Forecast Volume of Cargoes Handled by the Port System

According to the forecast of VINAMARINE, the volume of cargoes handled by the ports in Vietnam will increase rapidly. Table 1.5 shows the forecast up to year 2000.

Table 1.5.

Forecast Volume of Cargoes Handled by Vietnam's Ports up to Year 2020

(Unit: tones)

Areas /Year	2003	2010	2020
The North	29,500,000	50,000,000	122,000,000
The Center	26,000,000	50,000,000	86,000,000
The South	50,500,000	103,000,000	187,000,000
Total	106,000,000	203,000,000	395,000,000

(Source: VINAMARINE, 1999)

1.5.3 Planning to Develop the Commercial Port System

“The Master Plan to Develop Vietnam's seaport system up to year 2010” was signed by the Prime Minister on 12 October 1999. Its stated aims are building new ports, modernising the seaport system, building specialized ports, such as container terminals, and applying advanced technologies to cargo handling procedures.

The Master Plan divided the port system into 8 groups based on the country's physical feature. The potential ports and international hub-ports, such as Dungquat and Vanphong port, are also determined. The capacity of these national ports will be 106 million tones of cargo in 2003 and 203 million tones in 2010.

I.6 The Ship-building and Ship-repairing Industries

At present, the country has over 60 shipyards, ship-building and ship-repairing companies, with the capacity to build floating docks up to a maximum of 8,500 DWT, general cargo ships up to a maximum of 6,500 DWT and tanker of up to 3,500 DWT. They can also build patrol ships with speed up to 30 nautical miles and fishing vessels with main engine capacity of up to 600 CV. These companies are also able to repair a variety of ships over 100,000 DWT. Some of the major shipyards are Bachdang Shipyard, Halong shipyard, Pharung Shipyard, Bason Shipyard and HYUNDAI - VINASHIN.

Most of such units are under the control of the Vietnam Shipbuilding Industry Corporation (VINASHIN), one of the State-owned Corporations. The others are controlled by ministries, provinces and cities.

In the last decade, over 200 new ships were built in Vietnam. Most of them are less than 1,000 DWT, and most of the machinery, equipment and materials were imported. This results in variable quality. The reasons for it are that the companies concerned are not technically advanced, the infrastructure of the shipyards is not synchronism and their capacity limited, and the time taken to build a new ship is too long. For instance, it takes about 15 months for a shipyard to build a new ship of 1,000 DWT with a length of 65 meters, and the quality of ship is not so high. Further more, the industry has not met the development demand of the national fleet. Most shipowners do not want to build new ships locally, they want to buy foreign second-hand ships, saving money and time. Added to this, the lack of funding is a big difficulty at present.

As part of their strategic planning, the Government is trying to subsidize, encourage domestic shipbuilding by financial support, tax etc. This give shipowners

who order ship in local shipyards priority subsidies for the government budget; which the aim to improving and developing shipbuilding and shiprepairing industry in Vietnam.

I.7 The Maritime Education and Training System

I.7.1 The Education and Training System

Maritime education and training in Vietnam is different from some other maritime countries in the world. The pre-sea training is not compulsory for acceptance to maritime university and training schools. During study at university or training schools sea-training will be included in every academic year. The entry qualifications for candidates, who want to join in Vietnam Maritime University, are that they must have finished the secondary school and passed the national examination for the university. For entry to the maritime secondary schools, a certificate of finishing secondary school and an additional test are required.

Vietnam has one Maritime University, two Maritime Secondary Schools and several Seafarer Training Centers as follows:

(1) Vietnam Maritime University (VIMARU):

Established on April 1st, 1956 in Haiphong city, VIMARU is the only university in Vietnam, which offers courses leading to Bachelor degree, Diploma, Master of Science, Doctorate and training courses required by the STCW 78/95 for the Vietnamese maritime industry. VIMARU consists of the following faculties:

- Faculty of Navigation
- Faculty of Marine Engineering
- Faculty of Marine Electrical and Electronics Engineering
- Faculty of Economic of Sea Transport
- Faculty of Naval Architecture
- Faculty of Waterway Construction
- Faculty of Information Technology
- Department of Post Graduate Studies.

It takes four and a half to five years for Bachelor courses and three and a half years for Diploma courses. At present, VIMARU employs 558 lecturers, the total number of students is 7,854 and the number of graduates is over 20,000.

(2) Maritime Secondary Schools:

The country has two Maritime Secondary Schools. One is located in Haiphong and the another one in HoChiMinh city. These schools are mainly crew-suppliers for the national mercantile fleet. It takes, normally, two years to complete the deck and engine rating's course, in which some months for sea training are included. Those candidates who finish Maritime Secondary School can serve on board ships as a sailor or oiler and after a certain period of experience at sea they can sit examinations to qualify as captains, chief engineers of grades III and IV and officers of the watch class III.

So far, school enrolments are 2,000 per academic year and about 20,000 students have been trained by these schools.

Being aware of the importance of maritime training and education to the development of the national shipping industry, the Vietnamese Government has paid much attention to upgrading the VIMARU and Maritime Secondary Schools in terms of both quality and facilities in accordance with the STCW 78/95 and national regulations.

1.7.2 The Vietnamese Seafarers and Manning

At the end of 1998, there were more than 20 thousand Vietnamese seafarers, including 6,110 deck officers, 4,373 engineering officers, and other kind of officers and sailors. Some of them were trained abroad in East European countries, (See Table 1.6)

Table 1.6. Number of Seafarers in Vietnam

Capacity of Ship (GT)	Capacity of main engine (KW)	Title of Officer	Number of Officers
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Over 3,000		- Captain - Chief Mate - Deck Officer	179 327 921
Fr. 500 to 3,000		- Captain - Chief Mate - Deck Officer	583 275 1,398
Fr. 100 to 500		- Captain - Chief Mate - Deck Officer	943 56 104
Up to 100		- Captain - Chief Mate - Deck Officer	1,226 104
		Total	6,110
	Over 3,000	- Chief Engineer - Second Engineer Officer - Engineer Officer	183 248 737
	Fr. 750 to 3,000	- Chief Engineer - Second Engineer Officer - Engineer Officer	246 138 608
	Fr. 150 to 750	- Chief Engineer - Second Engineer Officer - Engineer Officer	894 103 317
	up to 150	- Chief Engineer - Second Engineer Officer	801 98
		Total:	4,373

(source: VINAMARINE, 1999)

From early 1990s, they started working on the foreign ships; this is increased year by year. For instance, in 1995 is 815, 1996 is 705, 1997 is 637, and 1998 is 780 seafarers.

CHAPTER II
THE CURRENT MARITIME ADMINISTRATION SYSTEM
AND MARITIME POLICY IN VIETNAM

II.1 General

The Maritime Administration is a part of the overall government administration. The expression “Maritime Administration” means the Administration of essential matters pertaining to the Maritime Sector in any country and calls for specialised knowledge and skills of a high order. The object of a maritime administration organisation within the frame work of a country’s overall maritime activities is to provide the government with the machinery which would enable it to satisfactorily and efficiently undertake those functions, which are embodied within the country’s merchant shipping legislation (i.e. national maritime law). These functions would include the implementation of the requirement of international maritime conventions, national rules and regulations under the authority of the merchant shipping Act.

Therefore, the roles and functions of maritime administration can be divided into following categories:

1. Advisory functions,
2. Administrative functions,
3. Regulatory functions, and
4. Development/ promotional function.

In order to carry out these functions, the structure of a maritime administration needs to have an efficient administrative and unified organization

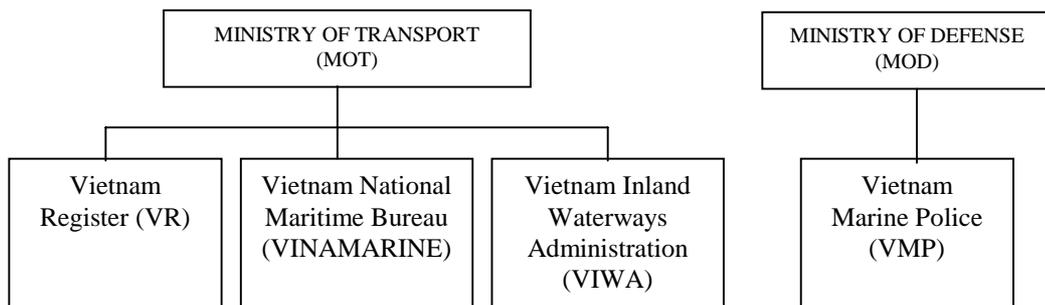
which enable it to advise the government on the adoption and implementation of the national legislation and other regulations required for development of the country's maritime industry and for discharging the obligation of the government under international conventions which is undertaken by government.

Generally speaking, different countries may have different structures of their maritime administrations, depending upon their political systems or traditional practices.

In Vietnam, from the end of 1950s, the government has paid attention to setting up the Vietnamese Maritime Industry. Accordingly, special agencies, responsible for maritime matters, were founded. They are under the control of the Ministry of Transport (MOT) and they include General Department of Sea-way (it changed to Vietnam National Maritime Bureau in 1992), Vietnam Inland Waterway Administration (VIWA), and Vietnam Register of Shipping (it changed to Vietnam Register in 1997). Such agencies exercise both technical, administrative and commercial functions over the Vietnam Maritime Industry.

The Vietnamese Maritime Administration is currently organized as shown in Figure 2.1

Figure 2.1. The Vietnamese Maritime Administration



MOT is the highest government body, of the government responsible for overall maritime affairs in the whole country. It works through three executive agencies, namely the Vietnam National Maritime Bureau (VINAMARINE), the Vietnam Inland Waterways Administration (VIWA) and the Vietnam Register (VR).

VINAMARINE is the national maritime administration in the whole country, with control over all state-owned enterprises, private companies, organisations and individuals.

IWB is a body exercising State management over the inland waterways, communications and transport nationwide.

VR is a specialist support unit that acts as a classification society; it classifies and issues technical certificates of sea-going vessels.

The Vietnam Marine Police (VMP) is under the control of the Ministry of Defence, and is responsible for protecting the sovereign rights of Vietnam in the Exclusive economic zone (EEZ) including sea areas and continental shelf.

In order to get an overall picture of the existing problems in the Vietnamese maritime administration system, Vietnamese maritime legislation and maritime policy, ranging from national level to local level, the following factors need to be taken into account.

II.2 The Vietnam National Maritime Bureau (VINAMARINE)

II.2.1 VINAMARINE: A General Overview

VINAMARINE was established by the Ordinance of Vietnamese Government No. 239/HDBT dated 29 June 1992, and the Decree No.31/TTg dated 2 February 1993 prescribed the rules of the organisation and the operation of VINAMARINE. This organisation came into operation a few months later in July 1993. In fact, it was the re-organised Vietnam Maritime Corporation. Under the control of MOT, VINAMARINE is the powerful State-owned body that controls the Vietnamese Shipping Industry as regards both administrative and commercial aspects. At that time, it had a staff of about 30,000 working at headquarters and at 40 subsidiary enterprises and agencies located through out the country.

The reform of Vietnam's economic and social aspects has developed considerably so far. It demands not only a proper economic policy but also a proper administrative mechanism. Therefore, in order to develop its administration, the

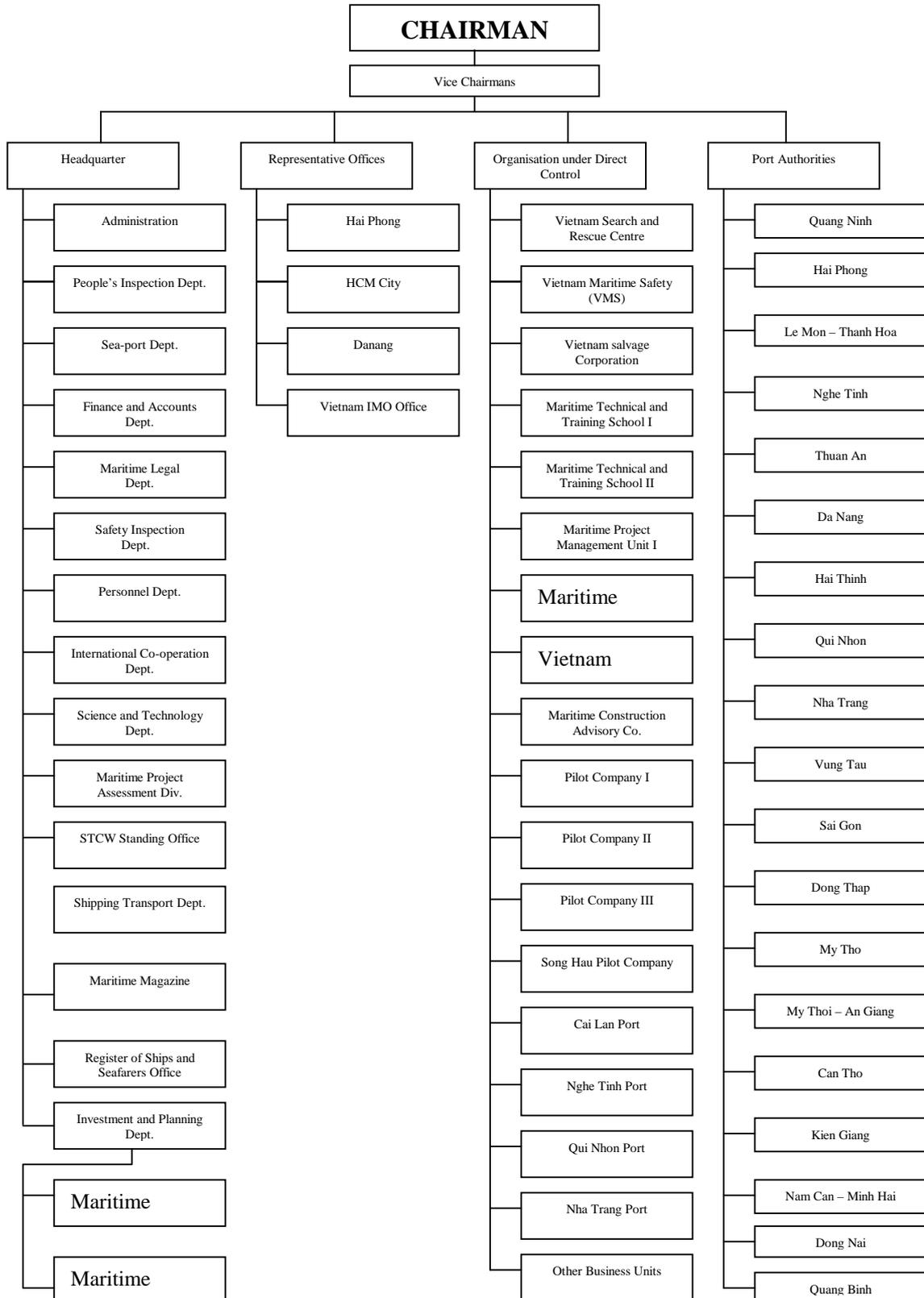
Government has decided to change its role in the commercial field. All the major ministries have had to give up direct control over business aspects. Accordingly, VINAMARINE transferred its business enterprises to Vietnam National Shipping Lines (VINALINES) and Vietnam Shipbuilding Industry Corporation (VINASHIN). Its main functions, since the end of 1995, have been in the areas of national shipping policy making and maritime safety. This change affects dramatically the Vietnamese Shipping Industry. It has created good opportunities not only for doing business with more freedom but also for promoting more strongly competence in maritime administrative affairs.

According to Article 1 of the Ordinance No. 239/HDBT, VINAMARINE is the authority of state maritime administration in the whole country. On behalf of Minister of Transport and being responsible to the Prime Minister, the Chairman of the Bureau exercises the functions of the state administration over the maritime sector throughout the country, including all state-run maritime units (belonging both to central and local authorities) and non state-run maritime enterprises, organisations and individuals (foreign organisations and individuals functioning in the territory of Vietnam are also included). The organisation chart of VINAMARINE is shown in Figure 2.2.

Under control of the MOT, VINAMARINE has main legal duties, rights and functions as follows:

1. To work out strategy, a five year programme and long term plans for development of the Vietnamese shipping industry throughout the country, and to submit these to the minister of transport for his consideration, and thereafter, to the prime minister, for approval.
2. Together with state competent authorities to join in domestic and foreign investment projects of maritime infrastructure development in Vietnam. The bureau also acts as investor/sponsor or as administrative agency for the maritime construction projects which are envisaged in the state plan and managed by it.

Figure 2.2
Organisation Chart of Vietnam National Maritime Bureau



3. To make out draft laws, ordinances, under-law circulars, regulations, policies, rules of management, procedures and legal norms on maritime activities and submit them to the Minister of Transport for his decision, as empowered, or for his submission to the government, and to publish the circulars, giving guidelines on their implementation.
4. To carry out international co-operation in shipping, to propose to the minister of transport and the prime minister to join (or not to join) international conventions or to sign shipping acts and protocols; under the authority of the Prime Minister or of the Minister of Transport to sign shipping agreements with foreign countries and join international shipping organisations and conventions. Together with other competent authorities of the government to examine application for licenses for co-operation and investment as well as for operation permits in the shipping field.
5. Authorised by the minister of transport to promulgate the statutes of seaports and declare their opening for navigation. The bureau also issues entry permits to foreign ships and boats entering into the territorial waters of Vietnam in accordance with the law of the Socialist Republic of Vietnam and international shipping customs.
6. To issue the certificates of registry for sea-going vessels with dead weight capacity of over 100 tons. To issue or withdraw the professional working permits in shipping, register cards and sea-passes of the crew working on board ships over 100 tons belonging to enterprises and individuals throughout the country. The Bureau also presents to competent authorities for approval or approves as empowered the new formation or upgrading of seaports and navigation aids systems throughout the country and delivers permits, guidelines and control over the statutory activities of shipping agents, shipbrokers, pilotage, maritime service agents and shipping representatives at home and abroad.

7. To co-ordinate and co-operate with domestic and regional countries' organizations to effectively carry out the search, rescue and salvage operations for vessels involved in accidents at sea.
8. To perform the procedures of shipping public notary as provided by laws.
9. To undertake and give guidance on research and application of shipping technology as well as training, examination and certification of ship officers.
10. To furnish leading, inspection and control over the execution of laws, regulations and state provisions in shipping. To investigate and settle violations regarding shipping activities as empowered.

In order to give a better understanding of the maritime administration system in Vietnam, the major agencies, which fall under the direct control of VINAMARINE, will also be examined in parts below

II.2.2 Port Authorities

There are 19 Port Authorities located throughout the country, each acting as the local maritime administration in the area for which it is responsible maritime area. The port authority system is a part of the national maritime administration as provided in Article 58 of the Vietnamese Maritime Code: "A specialised agency conducting maritime administrative tasks at sea-port waters and regional navigable zones is referred to as a port authority".

According to Decree No.639/TTg of the Vietnamese Government, dated 12 August 1997, the organisation, functions, duties and rights of a port authority are:

1. To work out strategy and plans for development of its sea-port area, under the conduct of Chairman of VINAMARINE, and to supervise the implementation of such plans.
2. To co-ordinates with state competent authorities to supervise the implementation of national rules, regulations and ratified international conventions, relating to maritime safety, prevention of marine environmental pollution and traffic order in the local region,

3. To monitoring traffic to ensure the safety of waterways. Not to permit vessels to enter or leave the port if they are unseaworthy or fail to clear outstanding debts, fines for violation of rules and regulations of the port.
4. To impose administrative fines for the violation of rules and regulations relating to maritime navigation safety, environmental pollution prevention, maritime sanitation and order.
5. To exercise temporary detention, maritime lien on sea-going vessels or to carry out the warrant of arrest of sea-going vessels issued by the statutory state competent authorities.
6. To grant permits for vessels, boats operating or persons working within the areas under the control of the port authority, and to revoke such permits if such vessels, boats or persons fail to maintain the conditions required for marine navigation safety.
7. To organize search and rescue of vessels or people in distress in the areas under the control of the port authority. To investigate the maritime casualties and accidents that have occurred in the areas for which it is responsible.
8. To endorsing Ship's Logbooks, Seamen's Books, Ship's Sea Protests and other ship's documents.
9. Under the direction of VINAMARINE, to carry out the Port State Control procedure, according to Tokyo MOU, as regards foreign vessels and the flag state implementation as regards Vietnamese flag's vessels.
10. To supervising the adequacy depth of waterways, wrecks and other constructions affecting the safety of the traffic channels.

When conducting maritime safety inspection and investigating maritime casualties and accidents, the port authorities have a permanent link to VINAMARINE for assistance and advice. This ensures that actions taken by port authorities are considered carefully, especially in cases of detention of ships.

II.2.3 Vietnam Maritime Safety Agency (VMS)

The Vietnam Maritime Safety Agency (VMS) was founded in May 1975, as the sole agency responsible for maritime safety in Vietnam. The new administrative framework was formed on 1 January 1995 with responsibility not only for conventional aid to navigation services but also for new services such as search and rescue, vessel safety, protection of the maritime environment and hydrography. It also carries out maintenance once of the lighthouse and light beacon system in the whole the country. At present, maritime safety services are carried out by the Office of Maritime Safety (OMS) and the Service of Maritime Safety (SMS), which are under the direct control of VMS, in the north and the south of Vietnam. The total number of VMS staff is about 2,000. However it has insufficient staff and facilities for performing its new functions.

II.2.4 Vietnam Maritime Safety Inspectorate (VMSI)

VMSI was founded by Prime Minister Decision No. 204/TTg dated 28 December 1992. This Decision gives VMSI powers to:

- Monitor implementation of all maritime regulations and international conventions effecting Vietnamese and foreign ships which conduct activities in Vietnam,
- Inspect sea-going vessels, their load and equipment, port facilities, marine navigation and other related equipment,
- Order port authorities to investigate causes of accidents,
- Propose to VINAMARINE measures to ensure maritime safety and environmental protection,
- Monitor safety standards of port authority activities, pilot and search and rescue services,
- Promote dissemination of knowledge concerning maritime safety and environmental protection.

The Decision defines the areas in which the inspectors have jurisdiction: not only physical condition of ship but also qualifications and safety knowledge of crew, ship documentation and safety procedures. The inspectors may recommend the

VINAMARINE to stop, temporarily, activities of sea-going vessels if safety is endangered. Levels of fines are defined in accordance with seriousness of violations of the regulations. The Decision also defines in general terms the qualifications of the VMSI, allowing lower ranked officers to operate with specialist knowledge in only certain fields.

II.2.5 Vietnam Maritime Search and Rescue Co-ordination Center (VMRCC)

This organisation was established in 1996 by decision No. 2628QD/TCCB-LD of Minister of Transport dated 2 October 1996. Under the control of VINAMARINE, VMRCC commands directly and co-ordinates search and rescue activities at sea of forces and units which belong to the Vietnam maritime industry. It is also responsible for co-ordinating internal and external forces in order to search for and rescue vessels in distress at sea.

The structure of this system includes VMRCC head-quarters in Hanoi and three regional centres at Haiphong VMRCC in the north, Danang VMRCC in the centre and VungTau VMRCC in the south. These regional centres perform SAR services along the shore and offshore in the assigned area and region. Moreover, they take responsibility of SAR co-ordination in adjoining areas if need, be according to assigned command of VMRCC.

In addition, each port authority under VINAMARINE also has an SAR office to co-ordinate SAR activities with the regional maritime SAR co-ordination centres within the waters for which they are responsible.

The lack of facilities and human resource are a big problem, which makes it difficult to carried out such duties so far: the number of staff is very few and they now have not any rescue ship or helicopter etc. The Government has planned to build 6 new rescue ships. But they will only appear in the next few years.

To enhance the effectiveness of SAR service at sea, VMRCC needs to organise and establish professional standing units, which perform SAR service, with

modern and hi-technical facilities and competent personnel. Hopefully, this will be done in the forthcoming years.

II.2.6 Vietnam Ship Communication and Electronic Company (VISHIPPEL)

The responsibility for administration of maritime communications was transferred from the Post and Telecommunications Corporation to MOT in 1994. Therefore, VISHIPPEL, under VINAMARINE, is charged with operating and maintaining the communication system, includes five international registered coastal radio stations and two national radio stations. Those seven stations are keeping watch around the clock for search and rescue, medical assistance, weather forecasts at sea, commercial services and so on.

The problems with present communications are that most of the facilities and equipment of these coastal radio stations are very old and out of date. In addition, the technical condition of most ships and other facilities in service at present are poor and outdated. VISHIPEL now has plans to improve and increase the number of coastal station along the country. The difficulty is the lack of modern facilities and finances to improve and re-build these coastal stations.

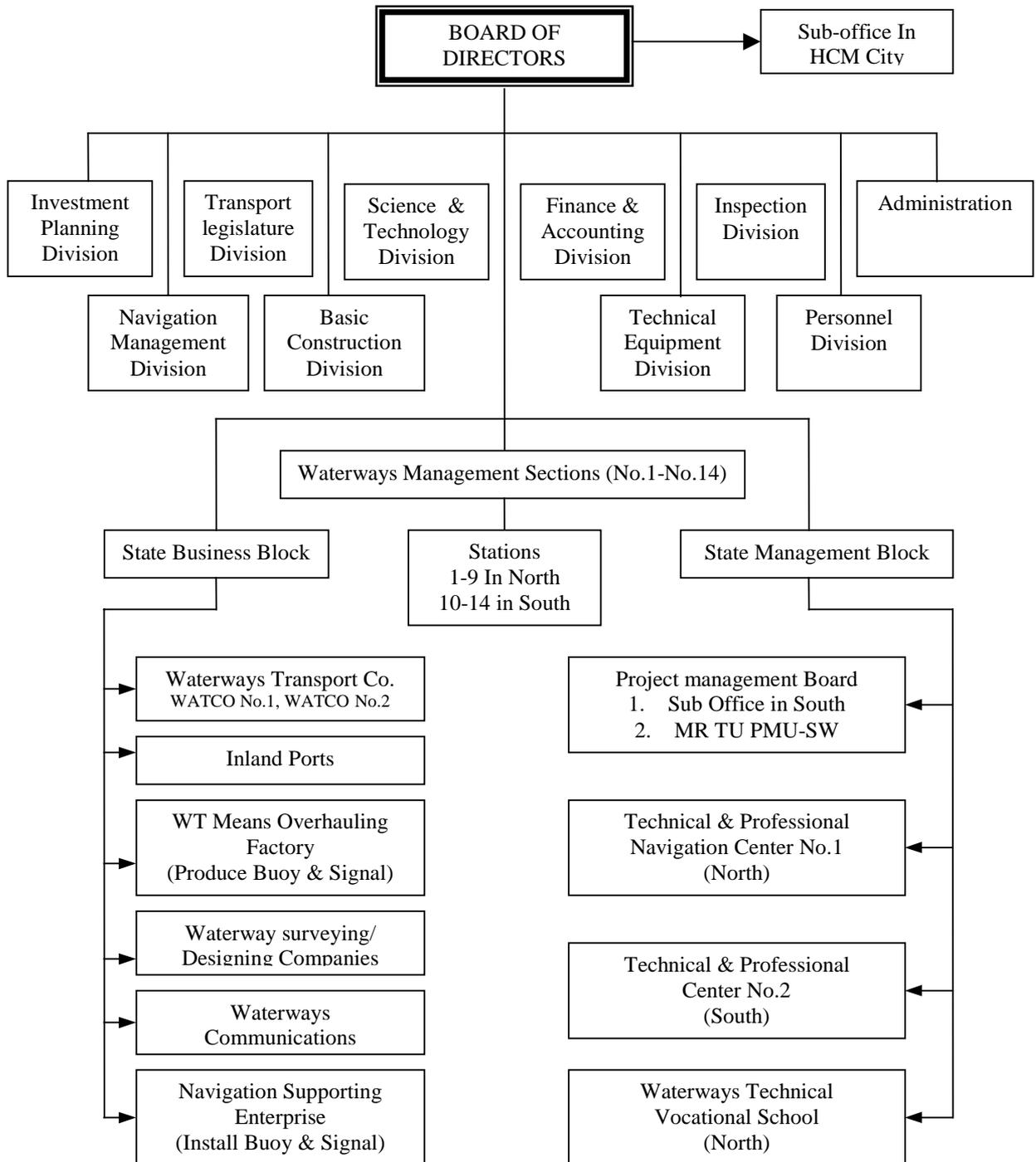
II.3 The Vietnam Inland Waterways Administration (VIWA)

Normally, VIWA has not a part of Maritime Administration. But in fact, according to physical and political features in Vietnam, VIWA has concerned with Maritime Administration, that makes confuse with other maritime administrative authorities. Therefore, this organisation also be examined.

Founded on 30 January 1993 by Decree No.08/CP of the Government, VIWA is a body which administers the inland waterways communications and transport nation-wide, including the communications and transport on rivers, lakes, canals, coastal lines along bays, sea lanes from seashores to islands and between islands in the inland waters (hereafter referred to collectively as inland waterways).

Figure 2.3 shows the organisation chart of VIWA

Figure 2.3.
The Organization Chart of VIWA



According to Decision No. 3619/1998/QĐ-BGTVT of December 1998 of MOT, the main tasks and power of VIWA are as follows:

1. To manage the planning and plans for maintenance of inland waterways systems.
To organize and direct the management, maintenance and exploitation of inland waterways infrastructure and arrange the inland waterways traffic signal systems in order to ensure the safety and efficient exploitation of the inland waterways systems according to assigned responsibilities.
2. To elaborate and participate in the elaboration of bills, sub-law documents, mechanisms and policies regarding the specialized inland waterways so that the
3. Minister of Communications and Transport submits them to competent bodies for promulgation or promulgates them according to his/her competence.
4. To participate in drafting, negotiating and/or concluding international treaties on inland waterways communications and transport; to propose the accession or amendments to or extension, cancellation of international treaties on inland waterways communications and transport, which Vietnam has signed or acceded to, for submission to the Minister of transport for decision.
5. To organize, guide and inspect the implementation of the Ministry's legal documents on inland waterway communications and transport nation-wide. To propose to the Minister of Transport matters related to the management of inland waterways communications and transport so that the Minister of Transport promulgates them according to his/her competence or proposes to the government for promulgation.
6. To elaborate the strategy, planning, long-term, five-year and annual plans on inland waterways communications and transport development nation-wide so that the Minister of Transport submits them to the government for approval.
7. Communications and transport services or public work services (regarding the assigned plan or goods production order) in the management and/or maintenance of the inland waterways and the execution of investment plans for construction of infrastructure.

8. To publicize the inland waterways communications lines; to license the use of water areas on the inland waterways managed by the central government. To announce the opening and closure of inland ports and ferries under its management on the inland waterways controlled by the central government; to perform the administrative tasks and powers at the inland ports and ferries.
9. To elaborate planning, plans and policies for inland waterways transport and the development of transport means suited to the situation on waterways and rivers so that the Minister of Transport may submit them to the government for promulgation or promulgate them by him/herself according to his/her competence. To guide, organize and inspect the implementation thereof.
10. To perform the registration of inland waterways transport means; to issue permits for river-going vessels according to existing Vietnamese law and relevant international conventions
11. To supervising the training and examination of inland waterways means operators as well as the granting and changing of driving licenses therefor throughout the country according to competence. To organize the granting and changing of licenses for river ship captains and chief mechanics as prescribed by the MOT.

II.4 The Vietnam Register

The Vietnam Register (VR) was founded in 1979 and subjected to major reorganisations in 1980 and 1997. According to the Vietnamese Government Ordinance No. 75/Ttg, dated 3 February 1997, on duties, rights and organisation of VR: “VR, which is under direct control of MOT, is to carry out the professional management functions of technical safety and quality registration and certification for all kinds of transport means, offshore installations, floating structures and their equipment, relating to the transport field, which are intended for seaway, railway, roadway, inland waterway and offshore sector.”

On the one hand, VR is the only organisation in Vietnam to carry out technical certification and classification of sea-going ships in compliance with the

national standards, rules and regulations or the requirements of the international conventions which Vietnam has signed.

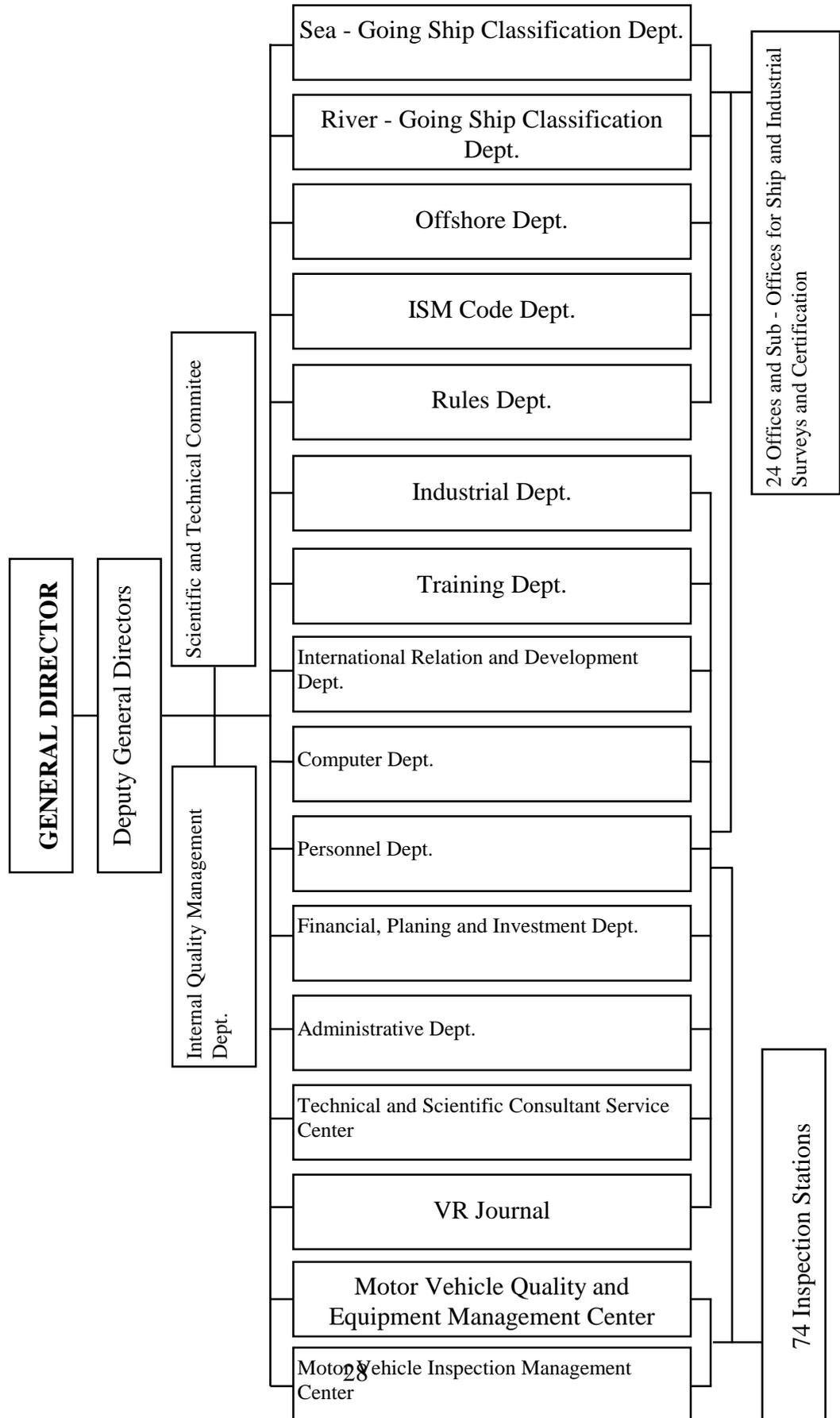
On the other hand, VR is permitted to carry out surveys and issue required safety certificates and tonnage certificates to foreign sea-going ships under the authorisation of foreign classification societies, or at the request of a competent Vietnamese authority or of a shipowner.

Foreign ship registers are only permitted to carry out their services in Vietnam under co-operation agreements with VR and with the acceptance of the ministry of transport, as stated in Articles 2 and 6 of the Prime Minister's decision No 203/Ttg dated 28 December 1992. Figure 2.4 shows a structure of this organisation

The VR has main duties and functions as follows:

1. To organise and carry out technical and scientific research;
2. To draft rules and regulations, and other related technical legal documents for safety and quality of the objectives which are under scope of service of VR, to submit to the ministry of transport or ministry of science-technology and environment for consideration, approval and promulgation;
3. To review and approve technical designs for the construction, repair, renewal or reinstallation of sea-going ships as well as river-going ships;
4. To carry out inspections/testing and issue relevant certificates for materials, equipment and components intended for the objects which are under scope of service of VR;
5. To carry out surveys/inspections to river-going ships, sea-going ships, floating structures, offshore installations, motor vehicles, work machines, locomotives and carriages, boilers, pressure vessels, lifting appliances, containers, etc. , under construction/manufacture, conversion, repair or assembly;
6. To carry out surveys/inspections of the above objects in service;

Figure 2.4. The organisation chart of the Vietnam Register



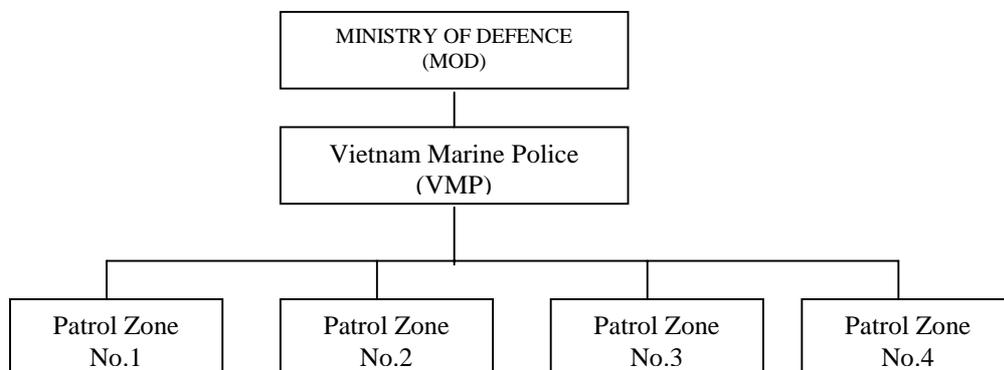
7. To issue relevant certificates in compliance with the requirements of the rules and regulations, technical standards and the international conventions;
8. To measure, calculate and issue the tonnage certificate according to the international convention on tonnage measurement of ship 1966 or the national regulation;
9. To carry out audit and issue certificates as required by ISM Code and in conformity with ISO 9000.

With 70 agencies and service centers and number of technical staff of about 400 located whole the country, VR has had now extended its technical service activities over the transport industry in Vietnam. It also had technical co-operation with other classification associates such as the Russian Register of Shipping, the Germannischer Lloyd, the Lloyd's Register (LR) and the Bureau Veritat (BV).

II.5 Vietnam Marine Police

Vietnam Marine Police (VMP) is established by the Ordinance on Vietnam Marine Police, which was ratified by Vietnamese parliament on 28 March 1998. Under the control of MOF (see Figure 2.5), the main duties of VMP are to exercise the State sovereign jurisdiction and control over Vietnamese territorial waters, EEZ and continental shelf. VMP also co-operates with other related authorities, including foreign authorities, in search and rescue, oil pollution protection, anti-piracy and anti-smuggling patrols at sea.

Figure 2.5. **The Vietnam Marine Police Diagram**



As it was only established two years ago, VMP still lacks the human resources, facilities and detailed legislation, which it needs to carry out its duties.

II.6 The Maritime Legislation

Usually, the constitution of any State provides the legal authority for the parliament to set up the primary legislation such as Codes or Acts. These legal documents provide the administration with legal authority to produce detailed rules and regulations, namely subsidiary legislation. Moreover, the maritime legislation is a condition precedent to maritime development and the effective enforcement of appropriate maritime safety and environmental protection standards. Therefore, the maritime legislation should embody the following:

- a. Development aspects,
- a. Regulatory aspects, and
- c. Conformity with relevant international laws or conventions.

In Vietnam, the maritime legislation and the law making process have been developed. The government has paid special attention so far to revise and to update its law in order to follow up international developments and to facilitate the shipping industry. However, the existing maritime law system and the law making process have limitations and are out of date in some specific aspects. These will be discussed later.

II.6.1 The Vietnamese Maritime Code

For many years, the Vietnamese Maritime Industry operated under the control of the ordinances, decrees, rules and regulations produced by the government and departmental administrations concerned.

During the 1980s, under the demand of developing the country's economy, especially in the maritime sector, the Maritime Code of Vietnam was produced. Then it was approved by the Vietnamese National Assembly on 30 June 1990, and was promulgated by Decree No. 42-LCT/HDNN8 of the President of the State Council on 12 July, 1990. It has been in force since 1 January 1991. The Vietnamese Maritime Code consists of 18 chapters, namely

-

- Chapter I: General Provisions
- Chapter II: Sea-going Vessel
- Chapter III: Shipcrew
- Chapter IV: Sea-port and Port Authority
- Chapter V: Contract of Carriage of Cargo
- Chapter VI: Contract of Carriage of Passengers and of Luggage
- Chapter VII: Charter Parties
- Chapter VIII: Ship's Agent and Shipbroker
- Chapter IX: Maritime Pilotage
- Chapter X: Towage Service at Sea
- Chapter XI: Maritime Salvage
- Chapter XII: Recover of Property from the Sea
- Chapter XIII: Collision
- Chapter XIV: General Average
- Chapter XV: Civil Liability of Shipowner
- Chapter XVI: Contract of Marine Insurance
- Chapter XVII: Settlement of Maritime Disputes
- Chapter XVIII: Final Provisions

The aims of the Code are to control and facilitate all maritime activities within Vietnamese territory and other operations connected with international sea-borne trade. The principle of the Code is generally based on the application of common international practices as well as the basic national practices in order to harmonise and balance between national interests and others, including individual interests and foreign interests. However, there are some aspects, which have limitations as regards interpretation and application of the Code, and there are some other aspects that have not been specified in the Code. (All these limitations will be clearly analyse in chapter III). Therefore, the Code should be revised and amended with more clarity and details.

II.6.2 Subsidiary Legislation

The Vietnamese Maritime Code is the primary legislation, which covers general Articles and provisions. It is the basic and principal source. Following legislation, called subsidiary legislation, provides detailed specific rules and regulations. The subsidiary legislation could also be produced and approved by the Government, either by an individual ministry or a departmental administration, depending on the importance and the necessary levels required. One of advantages is that provisions of subsidiary legislation could be revised and amended much easier and faster than the primary legislation. Before and after the Vietnamese Maritime Code was promulgated, there are a number of ordinances, decrees, rules and regulations, which are related to maritime affairs, and which have been produced and approved by the Prime Minister, the Minister of Transport or the Chairman of VINAMARINE as considered appropriate. The relevant major of these legal documents pertaining to maritime affairs that have been promulgated so far covered over the Vietnamese maritime Industry (See Appendix). However, among the above mentioned legislation, some items need to be developed, amended or revised, following international developments, especially IMO Conventions.

The government now is considering improving this subsidiary legislation. There are a number of other rules and regulations concerned, which are being developed by MOT and VINAMARINE. They will be introduced in the coming years.

II.6.3 Enforcement of Maritime Legislation in Vietnam

Vietnam maritime legislation as well as ratified IMO conventions cannot be effective without enforcement. The government must have proper mechanism in order to implement such goals. Two major bodies, which have carried out this tasks, are VINAMARINE and VR. Nineteen port authorities, acting as local maritime administration, are supporting agencies. At present, all such agencies have created a comprehensive system in the whole country for ensuring that governmental tasks are performed.

With regard to implementation of ratified international conventions, especially IMO conventions, Vietnam is a unitary state in which the major institutions of government, legislative, executive and judiciary, have power in all matters over the whole area and all persons in the territory of the State; all power belongs to the main government. Therefore, all the international conventions, which are ratified by the government, are automatically entered into force in Vietnam. The legislation process is merely a process of translating them into national official language, of promulgation and of the order of application. Afterwards, they are applied to all bodies concerned such as departmental administration, ports, shipping companies, ships and shipbuilding companies.

Finally, the enforcement of Vietnamese maritime laws should take into account not only getting positive results, and consequences arising, but also the assessment of the needed resources, including human resources and cost, and its effectiveness in the future.

II.7 The Implementation of International Convention

Vietnam has become to a member of United Nations (UN) in 1977 and a member of IMO in 1984. So far, in maritime field, the government has ratified some of the major UN and IMO's conventions, namely:

1. United Nations Convention on the Law of the Sea (UNCLOS), 1982: 25 July 1994
2. International Convention for the Safety of Life at Sea (SOLAS), 1974 and Protocol 1978: 18 December 1990 and ratified protocol in 12 October 1992.
3. International Convention for the Prevention of Pollution from Ships (MARPOL), 1973 as Modified by Protocol 1978 (Annex I and II): 29 May 1991.
4. International Convention on Load lines (LOAD LINES), 1966: 18 December 1990
5. International Convention on Tonnage Measurement of Ships, 1969
6. TONNAGE 1969: 18 December 1990

7. International Convention on Standard of Training, Certification and Watchkeeping for Seafarers, 1978 as amended in 1995. (STCW 78/95): 18 December 1990.
8. Convention on the International Regulation for Prevention Collisions at Sea, 1972, (COLREG 72): 18 December 1990.
9. International Convention on Maritime Search and Rescue (SAR), 1979: 1999
10. Tokyo Memorandum of Understanding (Tokyo MOU),1994: 1999

With the purpose of integrating with the international maritime transportation and improving safety for ships, the Vietnamese Government has signed a Regional Maritime Transport Agreement with some countries such as: Thailand in 1979, Cuba in 1983, Indonesia in 1991, China, Philippines, Malaysia, Singapore and Ukraine in 1992, Federal Russia and Germany in 1993, Romania in 1994, South Korea and Poland in 1995. The Government is also applying international rules and regulations, such as Hamber Rules 1968, York-Anwetp Rules, 1974, Athens 1974 and ILO Conventions, in the shipping industry of Vietnam.

In recent years, VINAMARINE has been conducting the implementation of the “Flag State Implementation” (FSI) and “Port State Control” (PSC), as a member of Tokyo MOU, through its Port Authorities over the country.

In order to reach the performance goals imposed on IMO member, MOT established “Vietnam Secretariat to IMO” by a decree No. 1195QD/PC-VT, dated 29 September 1993. Its main duties are:

- To Co-ordinate and co-operate with IMO in activities which are relevant to Vietnam.
- To propose to the Minister of Transport to join or not to join the IMO’s Conventions.
- To supervise, issue guidelines and implement ratified Conventions in whole the country.

VINAMARINE also established Vietnam Liaison Office to IMO, as an executive office assist the Vietnam Secretariat to IMO in its exercise of the above

duties. So far, all the ratified Conventions are being applied step-by-step in the national maritime industry. Some other conventions such as the International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969 and the International Convention on Arrest of Ships, 1999 are being considered by MOT as well as VINAMARINE for ratification. However, the application of the above-ratified Conventions is not complete in shipping operation, especially in the field of maritime environmental protection. The reasons for this will be discussed in the other chapters in order to point out how such conventions can be implemented in proper ways to achieve effective and efficient results in Vietnam.

CHAPTER III

ANALYSIS OF THE VIETNAMESE MARITIME ADMINISTRATION AND ITS WEAKNESSES

In order to provide a broader understanding of the Vietnamese Maritime Administration, as mentioned in previous chapters, this chapter will analyse that administration in terms of structures, functions and roles, with the aim of looking for its strengths and weaknesses.

III.1 Analysis of the Vietnamese Maritime Administration (VMA) – Its Structure, Function and Roles

III.1.1 The Vietnamese Maritime Administration Framework

In Vietnam, the government directly administers both administration and commercial activity aspects; this also applies to the maritime industry. The framework of maritime administration involves major ministries including the Ministry of Transport (MOT), the Ministry of Planning and Investment (MPI), the Ministry of Finance (MOF) and the Ministry of Defence (MOD), through their special agencies. In the commercial sector, two major state-owned corporations are involved, namely the Vietnam National Shipping Lines (VINALINES) and the Vietnam Shipbuilding Industry Corporation (VINASHIN). These bodies are under the control of the government, and each body is designated certain responsibilities in the maritime field.

The maritime administration framework of Vietnam is shown in Figure 3.1

III.1.2 Breakdown of Areas of Activity of VMA

The following table shows breakdown of areas of activity of VMA as follows:

Table 3.1. **Breakdown of Areas of Activity of VMA**

	Policy Development	Regulation Legislation	Provision of Services
Economic Management	MOT VINAMARINE	MOT VINAMARINE	VINAMARINE VINALINES, Other
Safety Management	MOT, VINAMARINE	VIWA, VR VINAMARINE	VINAMARINE VR, VIMARU,
Environmental Management	MOSTE, MOF VINAMARINE	MOSTE, VINAMARINE	VINAMARINE VIMARU, VOGC
Other Areas of Responsibility	GCSC, MOE VINAMARINE,	VINAMARINE VMP	VIMARU, GDMH, INSTITUTE OF OCEANOLOGY

III.1.3 Analysis Breakdown of Areas of Activity of VMA

In order to gain more understanding of a relationship between bodies in functions, duties and the implementation of such bodies, the analysis breakdown of areas of activities of VMA will be presented as follows:

III.1.3.1 Economic Management - Policy Development

The MOT and VINAMARINE are primarily responsible for carrying out this area of activity. The VINAMARINE has the following responsibilities:

- Develop broad strategies, a five year programme and long term plans for the development of the Vietnamese shipping industry throughout the country, and submit them to the Minister of Transport for his consideration, and thereafter, to the Prime Minister, for approval.
- Together with state competent authorities to oversee domestic and foreign investment projects directed at maritime infrastructure development in Vietnam.
- Act as investor/sponsor or as administrative agency for maritime construction projects envisaged in the state plan and authoritatively managed by it.
- Co-ordinate international co-operation in shipping

- Propose to the Minister of Transport and the Prime Minister whether or not to join the international conventions or to sign proposed shipping acts and protocols;

- With the authorisation of the Prime Minister or the Minister of Transport sign shipping agreements with foreign countries or become a member of international shipping organisations or party to conventions; together with other competent authorities of the government consider the issue of licenses in co-operation and investment as well as operating permits in the shipping industry.

III.1.3.2 Economic Management-Regulation Legislation:

The MOT and the VINAMARINE is responsible for maritime management-regulation legislation. VINAMARINE is responsible for preparing draft laws, ordinances, circulars, regulations, policies, rules of management, procedures and legal norms on maritime activities and submitting them to the Minister of Transport for his decision or endorsement to the government. VINAMARINE also provides implementation guidelines. Under the authority of the Minister of Transport VINAMARINE promulgates the statutes relating to seaports and declares them open for navigation. The bureau also issues entry permits to foreign ships and boats entering into the territorial waters of Vietnam in accordance with the law of the Socialist Republic of Vietnam and international shipping customs.

It is also responsible for the issue of certificates of registry to sea-going vessels with a dead-weight capacity of over 100 tons. It also issues or withdraws the professional working permits in shipping, register cards and seapasses of the crew working on board ships of over 1000 d.w.t. owned by enterprises and individuals throughout the country. The bureau also presents to competent authorities for approval, or approves as empowered, proposals for the introduction or upgrading of seaports and navigation aids systems throughout the country. The bureau can issue permits and guidelines and exercises control over the statutory activities of shipping agents, shipbrokers, pilotage, maritime service agents and shipping representatives at home and abroad.

III.1.3.3 Economic Management-Maritime Services:

VINAMARINE carries out commercial duties in 7 ports, including dredging and maintaining all the vessel traffic systems in Vietnam through VMS. It also oversees communication services between ships and shore through VISHIPEL. VINALINES is a state enterprise, which owns the national fleet and the four biggest ports. VINALINES oversees shipping and port services.

III.1.3.4 Safety Management-Policy Development:

Safety policy development is the responsibility of MOT and VINAMARINE; VINAMARINE implements all the international conventions, to which Vietnam becomes a party, in the Vietnamese maritime industry for safety and environmental pollution prevention purposes. It also controls and maintains the vessel traffic system. It exercises management inspection and control over the execution of laws, regulations and state provisions in shipping. It investigates and settles violations of regulation and procedures in shipping activities that fall within its authority.

VINAMARINE also co-ordinates and co-operates with domestic and neighboring countries' organizations to effectively carry out the search, rescue and salvage operations for vessels involved in accidents at sea. It prepares draft maritime safety regulations and measures and submits them to the MOT for signing.

III.1.3.5 Safety Management-Regulation Legislation

VINAMARINE implements all the international maritime safety conventions in the maritime field such as SOLAS, SAR, STCW etc., to which Vietnam is a party. It organises examinations and issue certificates for seafarers and ship officers. It also carries out maintenance and monitors vessel traffic regulations, surveys, inspections, pilotage, wrecks and salvage, procedures for transport of dangerous goods, certification of Vietnamese flag ships and marine accident investigation.

The VIWA implements the national safety regulations concerning river going ships on inland waterways, and monitors and maintains the safety of inland waterways; it carries out controls, surveys, inspections and certification of these ships.

The VR applies the technical requirements of International Maritime Conventions and national regulations in the survey of Vietnamese flag ships, and it issues ship technical certificates; it audits and issues certificates under the ISM code's provisions for Vietnamese flag ships.

III.1.3.6 Safety Management-Marine Safety Services

Prevention services are the responsibility of the VINAMARINE through its enterprises. For instance, the VMS carry out the maintenance of navigation channels, lighthouses, buoys systems and dredging canals; the pilotage services are provided by four pilotage companies; VISHIPEL manages communication services between ships and shore. Response services such as SAR co-ordination and SAR delivery are provided by the Vietnamese Maritime Search and Rescue Co-ordination Centre (VMRCC).

Maritime education and training services are organized by VIMARU and two Maritime secondary schools, VINAMARINE organises examinations and issues certificates to ship officers, captains etc.

III.1.3.7 Environmental Management-Policy Development

Policy input into the development of environmental protection conventions such as MARPOL, OPRC, CLC and environmental protection implementation strategies is carried out by the Ministry of Science, Technology and Environment (MOSTE); MOSTE develops the national environmental pollution protection and prevention plan, whereas VINAMARINE develops maritime environmental pollution protection and prevention plans only for the water areas for which the port authorities are responsible.

The Ministry of Fisheries (MOFi) has responsibility for renewable resource management policy. It is based on environmental objectives, and economic and social implications.

III.1.3.8 Environmental Management -Regulation, Legislation

The MOSTE is responsible for making drafts of environmental protection national legislation and regulations and for submitting them to the Prime Minister for approval and signature. MOSTE then implements and maintains its provisions.

VINAMARINE implements the international environmental protection conventions such as MARPOL, OPRC, IMDG, as they apply to the maritime industry; It maintains navigable traffic systems and monitors and enforces requirements through the port authorities and VMS.

III.1.3.9 Environmental Protection Marine Services

VIMARU and the two maritime secondary schools are responsible for the environmental protection and prevention training for seafarers and land based staff. The Port Authorities and the Vietnamese Oil and Gas Corporation (VOGC) organise oil pollution preparedness and response.

III.1.3.10 Other Possible Maritime Administration Responsibilities

III.1.3.10.1 Policy

The sovereignty maintenance policy is the responsibility of several offices. For instance, the Governmental Continental Shelf Committee (GCSC) has responsibility for claims to the UN about the Vietnamese EEZ. VINAMARINE builds and maintains lighthouses, light-buoy systems and organises SAR activities in Vietnamese territorial sea areas. The Ministry of Energy (MOE) has responsibility for non-renewable resource management policy, such as oil, gas mineral sources under the seabed.

III.1.3.10.2 Enforcement of Laws and Regulations

VMP carry out patrols, piracy protection and pollution prevention in Vietnamese territorial sea areas. The Port Authorities and VMS maintain and enforce maritime law and order over the sea areas for which they are responsible.

III.1.3.10.3 Provision of Services

The Institute of Oceanology has responsibility for carrying out scientific support services at sea, conservation and protection of marine parks, ecology etc, The General Department of Meteorology and Hydrography (GDMH) has responsibility for research and for publishing maritime weather information.

VIMARU and the secondary schools have responsibility for carrying out maritime training for seafarers and land based personnel.

III.2.1 The Weaknesses of Organization-Structure, Function and Role

As mentioned above, the Vietnam MARAD is run by MOT through its agencies such as VINAMARINE, VIWA and VR. The weaknesses of each agency will be discussed below:

III.2.1.1 The Weaknesses of VINAMARINE

According to Article 2 of the Ordinance No. 239/HDBT: “..VINAMARINE is the national maritime administration in the whole the country, which controls all matters of maritime affairs over all parties concerned, including that pertaining to foreigners operating in Vietnam..”. In fact, it does not yet perform all these functions, because some of them are currently being performed by other agencies.

VINAMARINE performs the role of MARAD, but it is restricted. For instance, it does not have the right to delegate part of its work to recognized organization such as Classification Societies; it does not yet perform the supervision and auditing of certificates to conform to the international conventions, such as certificates under ISM Code, which are issued by other organization. This leads to a monopolist situation and affects the quality of these certificates.

The management and maintenance of navigational channels in Vietnamese water is exercised by VINAMARINE through VMS, but the making and issuing of Vietnamese navigational charts, an important component in the shipping industry, is done by the navy. This makes it difficult to up date all the changes of channels. Furthermore, the navy issues a very limited numbers of navigational charts and this body does not sell the charts to the public. This is a difficulty to companies that need these charts.

In addition, VINAMARINE now still conducts operational business in several ports such as Nghetinh, Quynhon and Nhatrang Port. This may prevent it from concentrating on its regulatory function.

Last but not least, VINAMARINE is currently not well equipped to perform its role because certain departments have not yet been systematically organised and staffed

with people who have the necessary skills. The application of high-technology such as information technology and use of the internet have just been recently introduced.

III.2.1.2 The Weaknesses of Vietnam Register (VR)

VR is designated as a classification society with responsibilities that include technical supervision, classification, tonnage measurement and the issue of ship certificates. VR is required to survey ships and issue technical certificates in compliance with the international conventions, which Vietnam has ratified. According to Article 13 of the Vietnamese Maritime Code: “Sea-going vessels may be entered in the Vietnamese National Registry Book of ships only after having been removed from the foreign country’s registrar of ships and having been examined in terms of technical characteristics, classified, measured tonnage and granted the necessary certificates issued by the Vietnam Register of Shipping or by its authorized foreign country’s register of shipping”. Thus, VR has the right to delegate the classification of Vietnamese flags’ ships to other classification societies. This means that VR exercises both the function of classification of ships and an administrative function. This creates a monopolistic situation in the ship classification process in Vietnam. Furthermore, there are difficulties for Vietnamese shipowners, who want to have their ships classified by other classification societies.

Vietnam has recently had to comply with the requirements of the new Chapter IX of SOLAS as embodied in the International Safety Management (ISM) Code. VR was assigned the task of implementing this Code. At present, VR exclusively performs the verification of compliance with the requirements of the ISM Code and issues Documents Of Compliance (DOC) to Companies and Safety Management Certificates (SMC) to ships without the collaboration of other maritime administrative authorities, or audits by other competent authorities. This does not satisfy Regulation 6 of SOLAS: “In every case, the Administration shall fully guarantee the completeness and efficiency of the inspection and survey, and shall undertake to ensure the necessary arrangements to satisfy this obligation”. Furthermore, implementing these new responsibilities places

institutional demands on VR that are difficult to meet because of the lack of trained personnel. VR has made attempts to train its technical staff but still falls far below the required standards.

In conclusion, to improve maritime administration, the services and administrative functions, currently performed by VR, need to be separated.

III.2.1.3 The Overlap Between VIWA and VINAMARINE

As mentioned above, the maritime administrative function was concentrated in VINAMARINE as a specialist agency, but there is a conflict of administrative functions between VINAMARINE and VIWA; the VINAMARINE used to administer part of the rivers but the VIWA is now responsible for provision of infrastructure for all river waters after the issue of Vietnamese Government Decree No. 08-CP, dated 30 January 1993. The Union of Inland Waterway Management is the agency responsible to VIWA for Aids To Navigation (ATN) and dredging along rivers (6,787 km of which are classified as navigable). However VMS, under the control of VINAMARINE, manages ATN and dredging along five rivers serving inland seaports, and the future physical demarcation between VIWA and VINAMARINE is unclear. A similar problem arises over ports classified as either seaports, which are under the control of VINAMARINE, or river ports, which are under the control of VIWA. There are no consistent criteria applied to distinguish these two types of ports, resulting in both types of port co-existing along the same stretch of river.

What is more, on the same river waterway there may exist two port authority systems and inspectorate teams; one under the control of VINAMARINE and the other under the control of VIWA. For instance, in Haiphong port water area, two port authorities, namely Haiphong Port Authority and Haiphong Inland Waterway Port Authority, exist simultaneously. Vessels, that want to operate in this area, require the permission of both these port authorities. This is very complicated for vessels and also increases government administrative cost.

Another source of confusion is the fault that, VINAMARINE regulates larger and sea-going vessels and VIWA regulates small inland waterway vessels. It is clear that since sea-going and inland waterway vessels often use the same waterway and ports, either along rivers or along coastal waters, this creates difficulties in the use of ATN. Monitoring and enforcement functions in variably cause the unnecessary duplication of effort by VIWA and VINAMARINE. There is a danger that, through lack of co-ordination, monitoring and control will become ineffective. For the same reason, there is a danger of inadequate planning of infrastructure and maintenance resulting from poor co-ordination between the two bodies.

In general, the lack of clear division of responsibilities between VINAMARINE and VIWA, makes it difficult to establish uniform regulatory standards and enforcement systems along riverways and to adequately finance navigational aids and maintenance of sea-cum-riverways.

III.2.2 The Weaknesses of Maritime Legislation

III.2.2.1 Primary Legislation

Even though the government and the national maritime administration have made some progress in efficiency in this field already, the national maritime legislation needs to be updated and amended, especially the Vietnamese Maritime Code. The Code was promulgated on July 1990, before the promulgation of the 1992 Vietnamese National Constitution. It aims at promoting not only the national economy, but also at strengthening equal international economic cooperation. By its nature and structure the Code contains norms of guidelines and reflects the international character of maritime shipping relationships, which requires that the law governing them should be flexible. The main source of the Code is international shipping conventions: its provisions are similar to like the York Antwerp Rules 1974 while civil liability limitation of shipowners closely resemble the Brussels 1957 Convention. The Hague-Visby Rules are also reflected in the Code although Vietnam has so far not yet acceded to it. Commercial

and technical aspects are mixed in the Code. In this regard a few matters are indicated below.

Some chapters in the Code should be revised such as Chapter I “General Provisions” which needs to have more terms with clearer definitions.

Chapter II “Sea-going Vessels” divides vessels into two groups: those owned by the State and vessels owned by Vietnamese, and Article 9 stipulates: “The Council of Ministers shall define the scope of activities of the Vietnamese sea-going vessels owned by Vietnamese individuals.”, this is discriminatory and creates different levels of rights between two kinds of vessels in business. It does not encourage other sectors, such as the private sector, to participate in the development of the national fleet. Chapter II also contains many aspects, including commercial and technical aspects, such as marine navigation safety and prevention of environmental pollution, inspection of tonnage of vessel, documents of vessels, and ownership of vessels. Matters, relating not only to the ship but also to other matters such as administration, justice and the marine environment, cover a wide scope; therefore, they cannot be properly dealt with in this chapter.

Chapter IV “Sea-Port and Port Authority” should be revised with particular attention being paid to Decree No. 639/Ttg relating to “The Organisation, functions, roles, and powers of Port Authorities” dated 12 August 1997, because this Decree extended a certain of port authority’s functions

Chapter V “Contract of Carriage of Cargo”, makes provisions relating to the contract of carriage of cargo, which are not detailed, and the definition of the obligation of the shipper and the carrier are not clear. The provisions relating to multimodal transport are not mentioned in the Code. The currency unit used for compensation for loss or damage of cargo is still the golden Franc, although the Special Drawing Right (SDR) unit has been use in the international market for several years ago. The absence of guidance decrees about the contract of carriage of cargo should be addressed.

Chapter XIII regulates “Collision”. As the Code currently stands, it is not clear how the parties involved in a collision may quickly settle any disputes arising between

them. Another question worthy of note is that whether a foreign ship can be arrested in Vietnam on behalf of a foreign court. The Code is silent on the actual procedure of arrest.

Chapter XV provides for the “Civil Liability of Shipowners”. The same statute also occurred on the limitation of liability rules applied to shipowners. It is not certain how limitation will be calculated.

In addition, Chapters XVI “Contract of Maritime Insurance” and XVII “Settlement of Maritime Disputes” should be revised and amended; subjects such as crew, power of court, and general average should be specified and amended.

III.2.2.2 Subsidiary Legislation

As mentioned in Chapter II, so far the government and the maritime administration have enacted much subsidiary legislation relating to maritime affairs. However, there is an absence of detailed provisions, procedures, or clear guidelines in certain matters. Some of the procedures, regulations and rules were enacted a long time ago. Therefore, they are either out of date or unsuitable to the current maritime scene. Furthermore, some matters have never been addressed so far, such as maritime procedure, arrest of ships procedure, and regulations relating to privatisation of shipping companies. Specially, it is common to find decrees with contradictory provisions. The principle of a “level playing field” has not yet appeared.

In conclusion, the gaps in subsidiary legislation can be listed as follows:

- The functions, roles and power of maritime authorities.
- Regulations, provisions and guidelines related to shipping operation and shipping company.
- Regulations and rules relating to maritime safety navigation.
- Regulations and Rules relating to the training of crew.
- Regulations and Rules relating to maritime inspection and investigation
- Regulations and Rules relating to maritime claims and compensation
- Regulations and Rules relating to arrest of ships.

- Regulations and Rule relating to marine pollution prevention.
- Regulations relating to prevention and preparedness of pollution of the sea by oil.

Thus, MOT and VINAMARINE need to consider these matters carefully and take positive steps to improve the situation related to maritime subsidiary legislation.

III.2.3 The Deficiency of the Shipping Management Policy

In 1986, the government called for “Doi Moi” or “Renovation”- a strategy to transform the economy from a centrally-planned system to one based on competitive markets. Since then, the government has introduced wide-ranging market reforms in almost all sectors. This included rationalizing the price system, reducing the government budget deficit by progressively eliminating subsidies and overhauling the tax system, liberalizing the legal framework, opening up the banking sector and attracting domestic and foreign investment. Accordingly, the shipping management policy, which concerns the national fleet, shipping companies and ports, was modified to emphasize the promotion of the shipping industry in Vietnam. Nonetheless, the following deficiencies can be seen in the policy.

III.2.3.1 The Deficiency of State-Owned Shipping Enterprises:

At present the state-owned enterprise (SOE) is a major sector in the Vietnamese economy. With a total of 5,800 SOEs, they own 70% of the capital of the national economy. From 1997 to 1999, the government provided 8,000 billion VND from national budget and SOEs have borrowed 8,685 billions VND at a low rate of interest. But most of them are lost in business operations. According to SOEs Management Bureau, in the year 1998, 37% of all SOEs made a profit, 46,6% of them recovered their capital, and the remaining 16,4% made a loss. In 1999 only 20% of these SOE made a profit. The rate of profit over capital has reduced during recent years: 1995: 19,1%; 1997: 10,6% and 1998: 8%. (Tran, 2000). Accordingly, most of the shipping capacity is state-owned. In fact, all central government owned and provincial owned shipping companies together represent about 80% of total capacity of the national fleet. In

contrast, these companies only transport some 12% of the total maritime transport cargo of the country. Most of them make a loss or are not commercially efficient. For instance, one shipping corporation, namely VINALINES, the biggest SOE in the national maritime industry, has a total capital of over 1000 billion VND but the rate of profit over capital in 1998 was only 9% and 6.5% in 1999 (VINALINES, 2000).

The causes for that are that the SOEs are not run efficiently, the structure of the organisation is cumbersome, the business strategy and marketing policy, etc., are not efficient or adapted to real conditions.

For solving this problem, the author strongly recommends that SOEs should be privatised as soon as possible.

III.2.3.2 The Slowness of Establishing a “Level Playing Field” for the Maritime Transport Industry

In Vietnam, economic reforms are underway and this is creating new problems and situations for transport customers, businesses and government. Uncertainty has been created by reforms and there is discrimination between state-owned, private and foreign business sectors. For example, The state-owned shipping companies are allowed operate anywhere in the world, such companies also be financial subsidized by national budget. The private owned shipping companies, who want to operate around the world, must be considerate by the government, and they are has not received a financial subsidized from the national budget so far. It is now difficult to know exactly what the business rules are, and this discourages business activity. A “level playing field” is not yet to be established.

III.2.3.3 The Lack of Financial Support Policy

Usually, the shipping industry needs big amounts of capital to buy ships, equipment, etc. Operators look for capital investment from various sectors such as banks, the stock market, private and foreign sectors. So far, the government has not made a clear policy/ aimed at encouraging the investment of capital in the developing shipping industry.

III.2.3.4 The Various and High Maritime Taxation Rates and Fees

At present, shipping companies have to pay many taxes and duties during their operations, and selling and buying of ships, such as port charges, channel fees, pilotage fees, import of vessels fees. Some of these taxes and fees are very high; It makes it difficult for shipowners, who want to maintain and develop their merchant fleet.

III.2.3.5 Lack of the Right Transport Protection Policy for the National Fleet

In the carriage of import-export cargo, the 40-40-20 principle is no longer observed given the absence of regulations to enforce principle. Furthermore, Vietnamese cargo owners like selling on FOB terms and buying on CIF terms. Thus, the national fleet does not carry its 40% total of cargo in accordance with the above principle. There is a lack of co-operation between local bodies such as ministries, departments and SOEs to give priority to carriage of cargo by the national fleet. For instance, the national fleet has the capacity to carry about 40% of total export-import cargo. In fact, it only directly carried about 12% the amount of this cargo. The rest of this cargo is, critically, carried by 70% of the national fleet's capacity itself following charters with foreign shipowners (VINALINES, 2000).

III.2.3.6 Lack of Foreign Joint Venture and Investment Policy in the Shipping Industry

So far, the Government has not given a clear policy encouraging foreign investment in the shipping industry.

III.2.4 The Weakness of the Port Management Policy

Most of the port in Vietnam have been built by the government, and the operation of these ports are managed by SOEs. There are two major weaknesses in port management policy as follows:

III.2.4.1 Lack of Port Management Unification

At present, the port system of Vietnam is managed and operated by different bodies, including ministries, VINAMARINE, VIWA, VINALINES, provinces and cities, private and foreign sectors. They have individually built the infrastructures of

their ports, sometimes without following the Port Development Master Plan. In fact, no bodies have full power to entirely control and supervise all these ports. This makes it difficult to plan and develop the port system.

III.2.4.2 Unreasonable Situation of Port's Financial Policy

According to Decree No. 388 of the government on port operation, dated 20 Nov. 1991, the port operators, as SOEs run the operation of ports under the State-Owned Enterprise Law. They receive money from various sources such as quay fees, storage fees, mooring fees, handling cargo fees, tug boat fees, ship services, and they account for all of these sources as their revenue. Thus, such SOEs have huge profits although many of them actually make an overall loss. For example, according to the Profit and Loss Account in 1997 of Nhatrang Port:

Total Revenue: 11,536,361,956 VND (VND: Vietnamese Dong), of which, the amount of revenue from quay fees is: 2,502,466,800 VND. Total taxation due to the National budget is: 1,334,080,440 VND.

Net income from quay fee is: $2,502,466,800 - 1,334,080,440 = 1,168,386,360$ VND. Thus, this SOE received 1,168,386,360 VND as a net profit from quay fees alone, no matter what other sources of revenues are. This is unreasonable because all the infrastructure of these ports had been built by the government with financial resources from the national budget. Therefore, quay fees should be paid to the national budget. Furthermore, ports and port water areas are a natural resource of the country; thus, all kinds of fees, which emanate from this area, should not be regarded as operator's revenue, but should be paid into the national budget.

To conclude, the new port management policy, with integrated management organisation and a clear financial mechanism, needs to be established.

III.2.5 The Weaknesses of Maritime Education and Training

III.2.5.1 Lack of Modern Curriculum

The lack of modern curricula in maritime schools is a problem in Vietnam. Most of them are outdated and do not reflect IMO convention requirements such as

STCW78/95, SOLAS and MARPOL. It should be borne in mind that Vietnam is a member of these conventions. The structure of this curriculum concentrates on theory. The curriculum does not pay attention to practical activities such as shipboard experience. Students have to arrange for practical training on their own. Furthermore, English skills of students is also a problem that needs consideration

III.2.5.2 Lack of Equipment for Education and Training

At present, education and training programs being undertaken in maritime schools do not reflect the technological advances in modern shipping because they lack the necessary modern training equipment such as ARPA and ship handling simulators. Therefore, they do not provide adequate training to seafarers in order for them to be qualified to undertake efficient ship operations using equipment of international standards. The main cause for this is lack of financial support to the infrastructure of the maritime schools.

III.2.5.3 Lack of Seafarer Database System

VINAMARINE administers the various affairs of seafarers such as education and training, issue of seaman's passports, registration cards and certificates of competency. However, accurate data on seafarers is not available due to the lack of the systematic updating of the database system. It is impossible to formulate an effective and appropriate development plan for seafarers if the data is not complete.

III.2.6 The Deficiency of Implementation of International Agreements and Conventions

As Mentioned in Chapter II, Vietnam is a member of IMO and some other international maritime agreements such as Tokyo MOU. Vietnam has ratified major IMO conventions such as SOLAS74, MARPOL73/78, SAR79 and STCW78/95. The Maritime Administration endeavors to implement these conventions in the Vietnamese maritime industry. However, such implementation is far from gaining effective and efficient results in Vietnam. The deficiencies can be described as follows:

III.2.6.1 The Deficiency of the Implementation of Conventions in Marine Environment:

MARPOL convention requires the establishment of “Reception Facilities” in ports to collect oil and wastes that are discharged from ships, and the development of contingency plans against oil pollution. However, no reception facilities have been established in Vietnamese ports, the national contingency plan is only under preparation and no one has been assigned to conduct the fight against oil spills.

III.2.6.2 The Deficiency of the Implementation of Conventions in Safety of Ships:

There are many weaknesses in this matter. For instance, technical equipment of ships requirements in SOLAS has not been installed on all Vietnamese flagships, especially Vietnamese domestic ships. Simulators and IMO model courses required under the STCW convention are not yet provided in all maritime training programs.

III.2.6.3 The Deficiency of the Implementation of Conventions in Search and Rescue:

Recently, Vietnam has established the Vietnam Maritime Search and Rescue Coordination Center (VMRCC). So far, it is far from meeting the demands of international standards because of lack of facilities and human resources.

III.2.6.4 The Deficiency of the Implementation of Tokyo MOU on Port State Control (PSC):

In Vietnam, the Port Authority, under the control of VINAMARINE, is in charge of PSC in accordance with Tokyo MOU requirements. But such port authorities don't have competent Port State Control Officers (PSCOs). This is unacceptable not only for PSC exercises but also flag state implementation (FSI).

In addition, the maritime administration is not paying attention to the implementation and guidelines of IMO conventions. The Conventions, which are ratified by the Vietnamese Government, are not regularly updated and made known to everyone. On the other hand, lack of technical staff in the Vietnam Liaison Office to IMO also needs to be taken into account.

In general, the maritime industry in Vietnam now exists a lot of lack and deficiency in both maritime legislation and administration. This weakness makes it difficult in the development. For the development of the maritime industry, the revision and the amendment of maritime legislation as well as the reformation of the structure of the maritime administration has to be done as soon as possible.

CHAPTER IV
MODEL ORGANIZATION STRUCTURE
OF OTHER MARITIME ADMINISTRATIONS

This chapter will present models of the different MARAD organization structures of some of the leading maritime countries. Each sample will be represented by an organizational diagram and breakdown of areas of activity to aid the study to develop a comparative analysis between the MARAD structure of these countries and that of Vietnam.

IV.1 The Canadian Maritime Administration (CMA)

Figure 4.1. The Organisation Chart of CMA

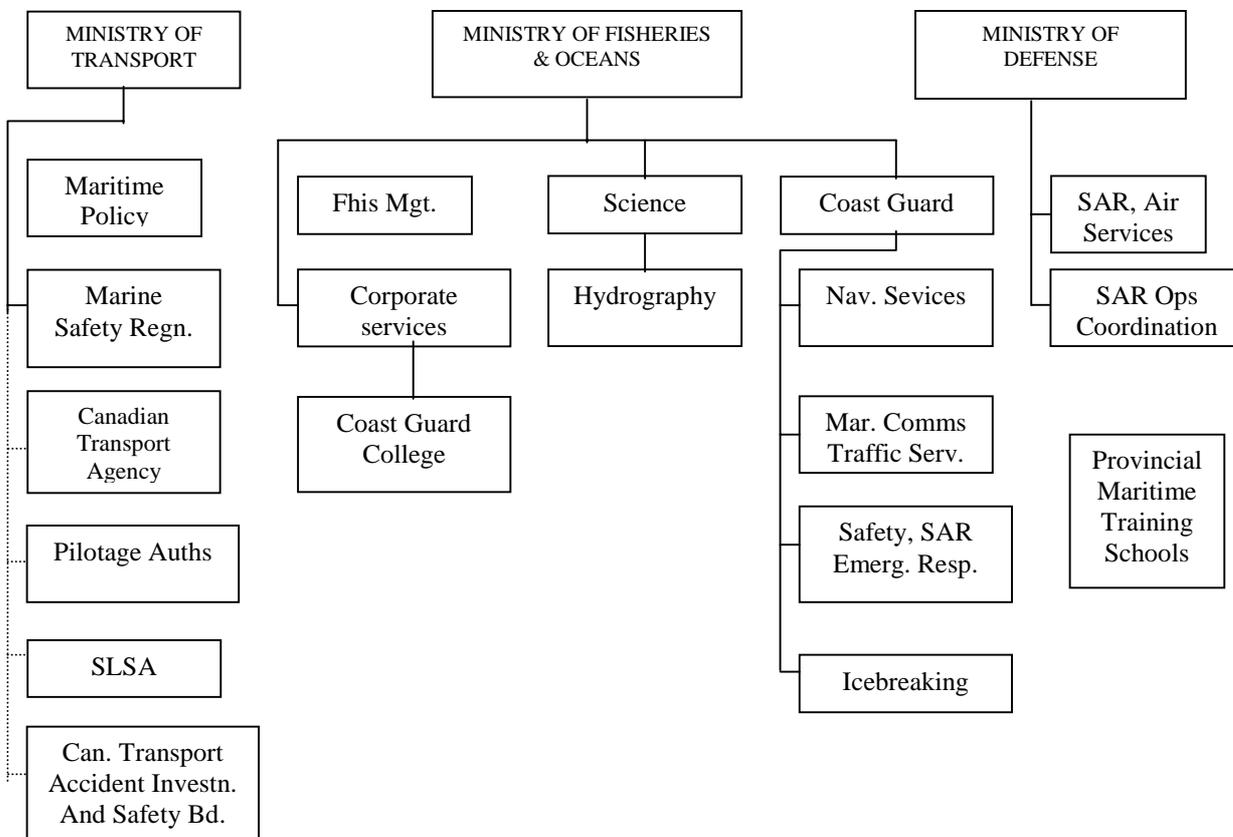


Table 4.1. Breakdown of Areas of Activity of CMA

	Policy Development	Regulation Legislation	Provision of Services
Economic Management	Transport	Transport	Transport, CCG, NGO
Safety Management	Transport DFO/CCG	Transport CCG	Transport, CCG NGO, DND, etc.
Environmental Management	DFO/CCG Environment	DFO/CCG Environment	DFO, CCG Env. NGO
Other Areas of Responsibility	other	RCMP	DFO science env. Provinces

(Source: Hodgson, J.R.F 1999)

In Canada, maritime administration responsibility is split between three ministries, and their agencies. The Ministry of Transport (MOT) is responsible for maritime policy, marine safety regulations and transport. It also oversees pilotage services and accident investigation. The Canadian Coast Guard (CCG), under the control of the Ministry of Fisheries and Oceans, provides most maritime safety services such as navigation services, maritime communication, traffic services, search and rescue services, and ice-breaking. The Ministry of Defense is responsible for providing Air-SAR services and overseas co-ordination of the SAR response.

IV.2 The Japanese Maritime Administration (JMA)

Maritime administration (MARAD) functions in Japan are performed by bureaux and allied offices under the Ministry of Transport (MOT). Within the MOT, MARAD-related offices are distributed among Bureau and Departments, external Bureaux and subsidiary bodies. Of the principal MOT bureau, four are directly related to maritime administration work, as follows:

- (1) The Maritime Transport Bureau: responsible for policy making, planning and coordination of maritime transport, and supervision of maritime businesses.
- (2) The Port and Harbours Bureau: responsible for formulating basic policy for

Figure 4.2. The Organisation Chart of JMA

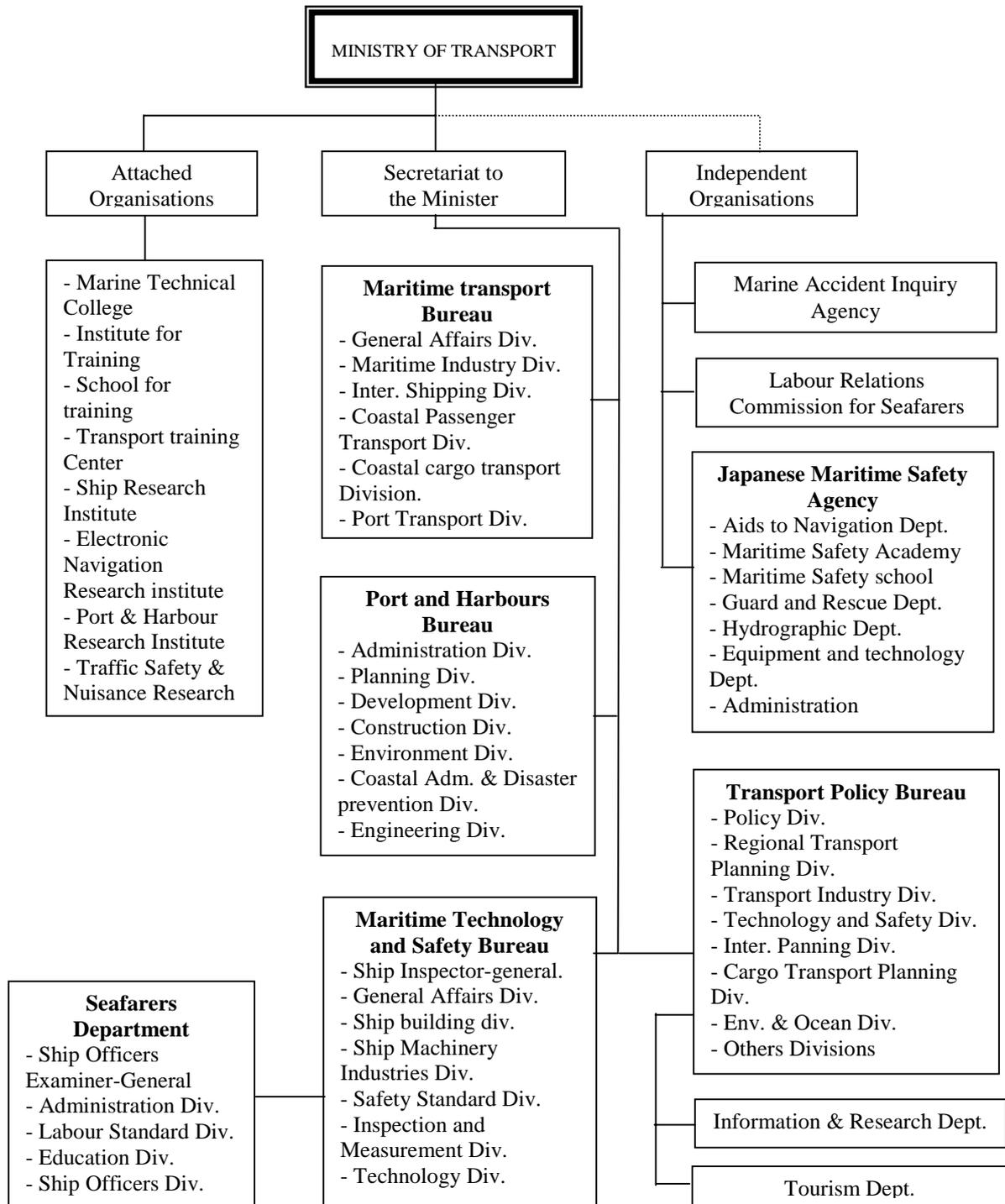


Table 4.2. **Breakdown of Areas of Activity of JMA**

	Policy Development	Regulation Legislation	Provision of Services
Economic Management	Maritime Transport, other Bureaux	District Bureaux	District Bureaux
Safety Management	Maritime Tech. & Safety Bureau	District Bureaux	JAMSA
Environmental Management	Maritime Tech. & Safety Bureau	JAMSA	JAMSA
Other areas of Responsibility	others	JAMSA	JAMSA

port development, execution of construction of ports, administration of local port organisations and development of port construction technology.

(3) Maritime Technology and Safety Bureau: responsible for planning and implementing of policy relating to the shipbuilding industry, ship safety standards, ship inspection, ship technology and their development. Its Seafarers' Department is organized for the protection of seamen, seamen's employment security, education and training of seamen.

(4) Transport Policy Bureau: responsible for basic and comprehensive transport policy, industries, environmental matters, ocean development, transportation safety and technology, international and cargo transport policy. There are some divisions that are directly involved in maritime administration such as the Policy Div., the Regional Transport Div., the International Planning Div., and the Technology and Safety Div.

In addition, a number of independent and attached organisations are concerned with MARAD, namely the Maritime Accident Inquiry Agency, the Labour Relations Commission for Seafarers, the Maritime Safety Agency, and various maritime colleges and institutes.

IV.3 The Swedish Maritime Administration (SMA)

Figure 4.3. The Organisation Chart of SMA

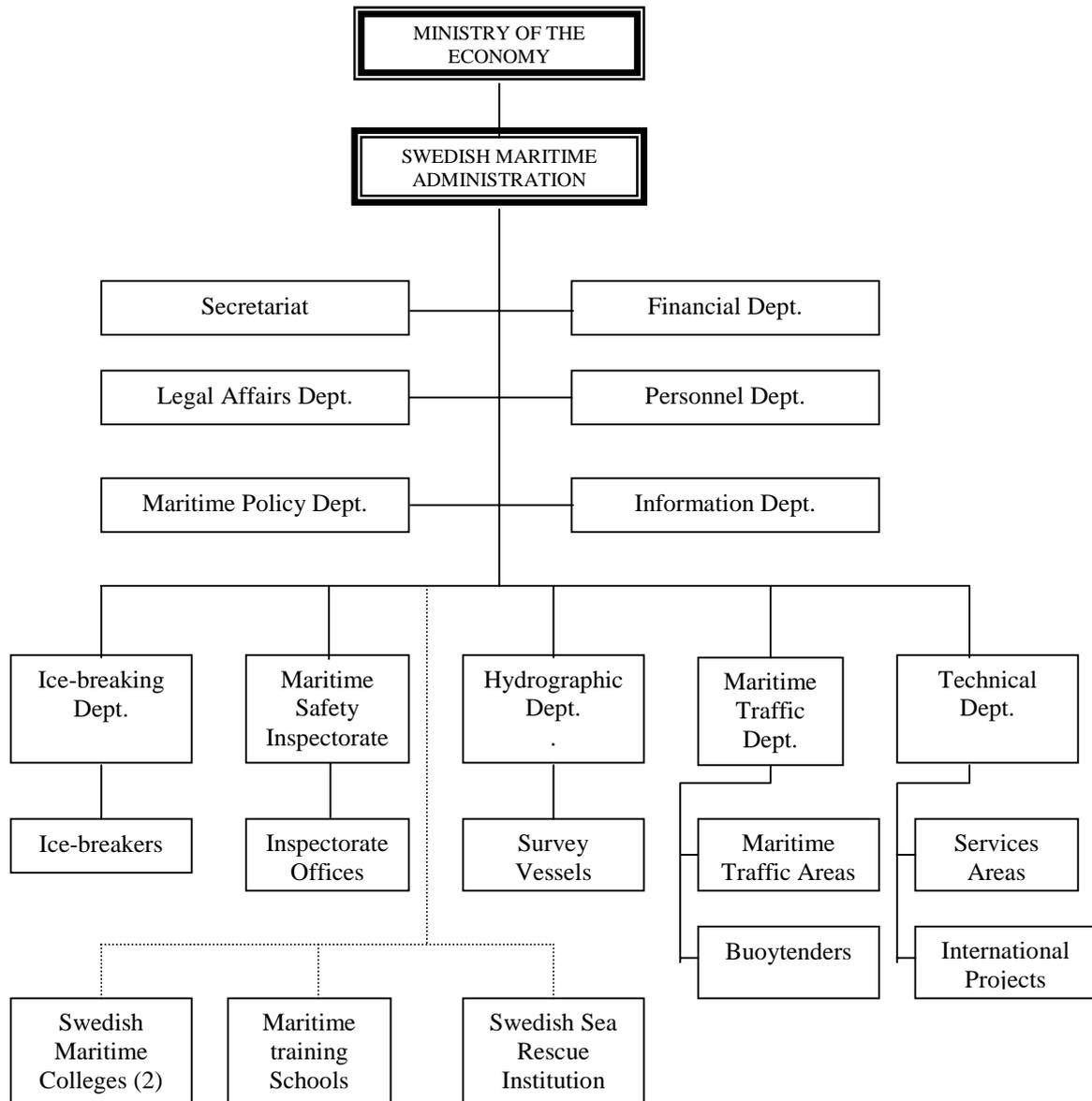


Table 4.3. **Breakdown of Areas of Activity of SMA**

	Policy Development	Regulation Legislation	Provision of Services
Economic Management	MOE & SMA	SMA	SMA
Safety Management	SMA	SMA	SMA
Environmental Management	SMA	SMA	SMA
Other areas of Responsibility	Others	Others	SMA & Others

The Swedish Maritime Administration (SMA), under the control of Ministry of the Economy, is responsible for safety and navigability at sea, these responsibilities include pilotage, ice-breaking, hydrographic surveying, lighthouses and other fairway markings, search and rescue at sea, and inspection of ships. In the commercial field, SMA is responsible for the development of an efficient and environmentally friendly shipping industry, taking into consideration the needs of Swedish shipping in a competitive market. SMA performs the above mentioned duties through its departments. With respect to search and rescue at sea it coordinates with other forces such as the Navy, voluntary organizations and police forces.

III.4 The United State Maritime Administration (USMARAD)

There are two bodies, namely the United State Maritime Administration (USMARAD) and the US Coast Guard (USCG), that exercise maritime administrative responsibility over the country.

USMARAD was founded in 1967 as a sub-department of DOT. It deals with exclusive “promotion activity” in maritime commercial aspects, including law, regulations, tax, subsidies, and shipping developmental policy etc., while matters of competition and the whole complex of shipping conferences are dealt with by the FMC.

Figure 4.4. The Organisation Chart of USMARAD

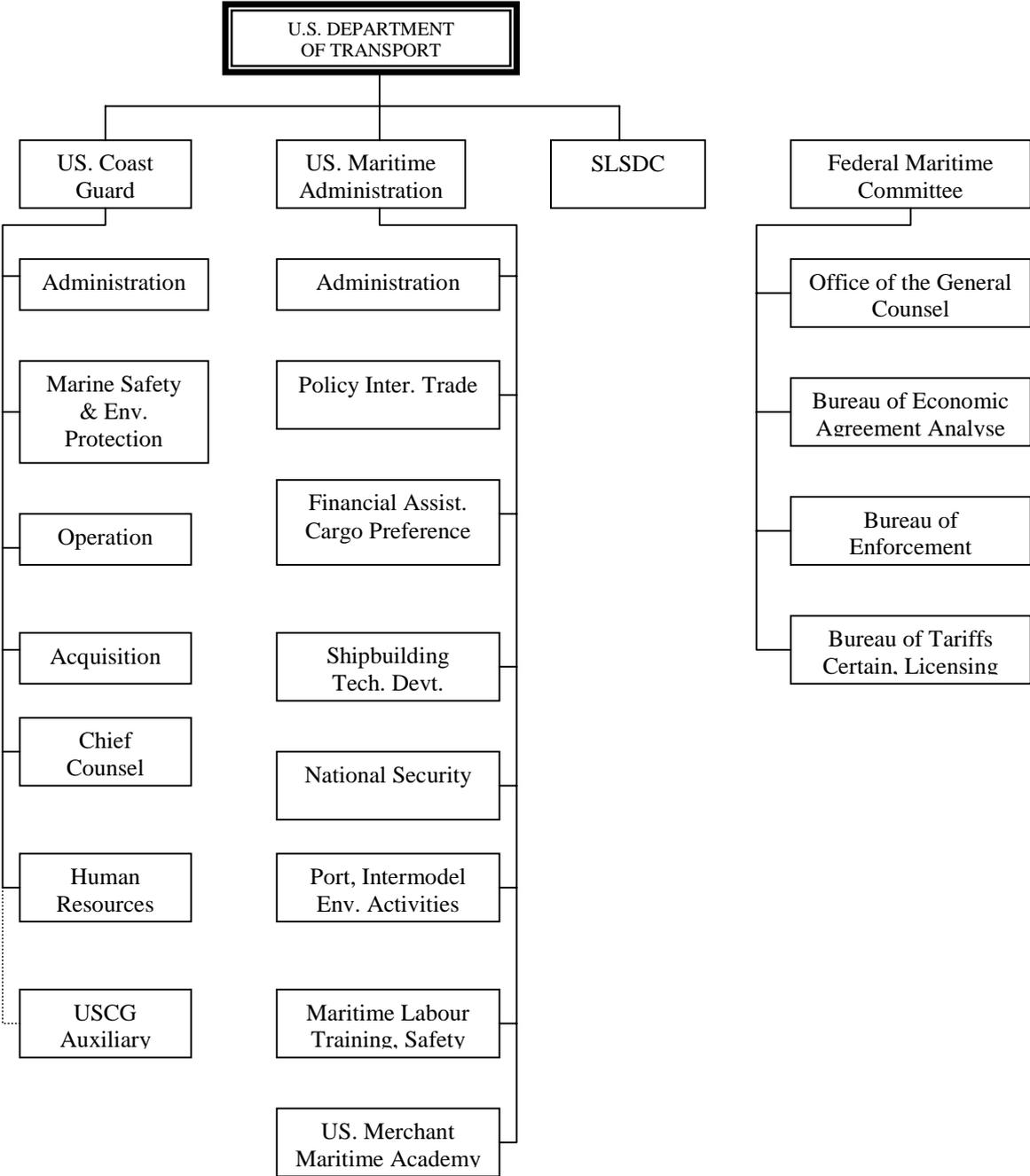


Table 4.4. **Breakdown of Areas of Activity of US MARAD**

	Policy Development	Regulation Legislation	Provision of Services
Economic Management	FMC & USMARAD	FMC & USMARAD	USMARAD, USCG, Others
Safety Management	USCG	USCG	USCG
Environmental Management	USCG	USCG	USCG
Other areas of Responsibility	USMARAD USCG	USCG	USMARAD, USCG, NOAA, Others

The role of USCG is as a maritime safety administration; it has dealings with all aspects of maritime safety, including pollution, registration, certification and rescue at sea with its own remarkable navy and academy for training of its officers.

IV.5 Review and Analysis vis-a-vis Vietnam MARAD

Normally, MARAD's framework is different from country to country; it is based on the development, the political status and the constitution of each country. In some countries, such as Canada, MARAD is under the control of several ministries; in the other countries such as Japan, MARAD is under the control of a certain ministry, normally Ministry of Transport,. Otherwise, MARAD may be under the control of a specific department, such as the US. Department of Transport in USA. MARAD can be a unified organization, such as the Swedish Maritime Administration, or divided into several bureaux, such as the Japanese Maritime Administration. Both kind of these models had an advantages and disadvantages: the first model helps the organisation exercises maritime administrative function is well in both control, supervision and planning, but, some time, it may create bureaucracy and monopoly situation. The second model helps the individual bureaux concentrate to its duties, but this also makes it difficulty to make the country master plans together. JAM is a particular example: JMA is divided into several professional bureaux; each bureau is responsible for a certain part

of MARAD. This makes the role of each separate bureau clearly, and enabling them to concentrate on their functions. But in the implementation of maritime national strategies and plans, there are conflicts between bureaux. These bureaux find it difficult to work together.

In the functions and duties of MARAD, the trend is clearly to separate between maritime safety and maritime promotion management, between administrative and commercial activity. This is helping to improve MARAD and the development of the maritime industry.

The preceding models of MARAD structure of some advanced maritime countries gives the reader an analysis as to whether this organizational set-up would work in Vietnam. These countries have almost perfected the art of shipping; thus the system has not been established overnight. Furthermore, every country has its own brand of MARAD that is attuned to the demands arising from the economic needs of their own maritime industry. Organizing the Vietnam MARAD after these models would be highly illogical since domestically, the country has its own interests and priorities and the MARAD structure of Vietnam should be built on these.

CHAPTER V

PROPOSALS TO IMPROVE MARITIME ADMINISTRATION AND MARITIME POLICY IN VIETNAM

In the first half of this study, the organisational problems besetting the present structure of the maritime administration and maritime policy in Vietnam have been described and analysed. Some of the maritime administration models in leading maritime countries have also been examined. In this context, the author strongly recommends the following proposals for the improvement of maritime administration and maritime policy in Vietnam.

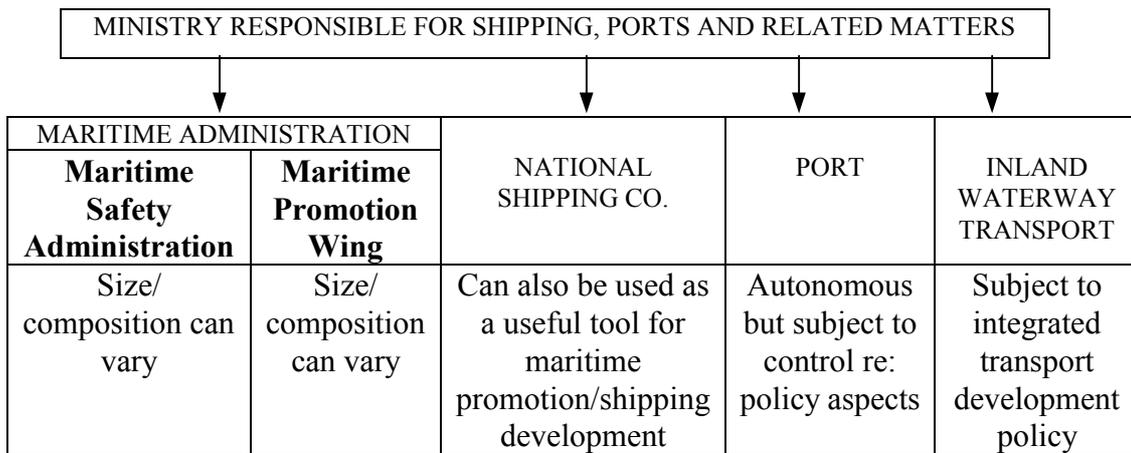
V.1 Reform of the Organizational Structure of the Maritime Administration

V.1.1 The Basis of the Proposals

Obviously the MARAD is not only part of the general system of public administration of a government but it is also a specialised executive arm as regards maritime matters, i.e., shipping, ports, environment and related matters. Following prescribed administration and financial rules and procedures, it has to ensure the implementation of policy and carry out the mandated specialised functions, such as regulatory and developmental/promotional function, pertaining to the administration of maritime matters either from within or under the ministry concerned. Therefore, the maritime administration structure needs to be capable of performing the functions pertaining to the promotion of maritime development. However, these functions can consist of variables, depending upon the maritime circumstances and policy of each government.

In his manual on “Maritime Administration/Maritime Safety Administration” (Volume I, 1996), Professor PS. Vanchiswar offers a model of an organisation structure, especially for developing countries, in the form of the following diagram (See Figure 5.1)

Figure 5.1.
Model of a MARAD Organisational Structure for Developing Countries



On the other hand, according to “Principles of Publication Administration” (Hodgson, 1999b), within the governmental organisational structure, the MARAD normally exists as one of three categories: a part of a department; a separate agency, or an independent corporate body.

V.1.2 The Areas Requiring Reform and its Advantages

Based on the above mentioned discussion and the current circumstances of Vietnam, the Vietnam MARAD needs to be reformed as a separate agency under the control of MOT as shown in Figures 5.2 and 5.3 The reforms which are needed and the advantages of them as follows:

- VINAMARINE and VIWA need to be merged together, to make one organisation with sole responsibility for maritime and inland waterways administration in Vietnam, so that each authorities and departments can perform its duties in the whole maritime and inland waterways system. This merger would create a uniform administration in both maritime and inland waterways, which would

Figure 5.2.
The Proposed Structure of Vietnamese Maritime Administration

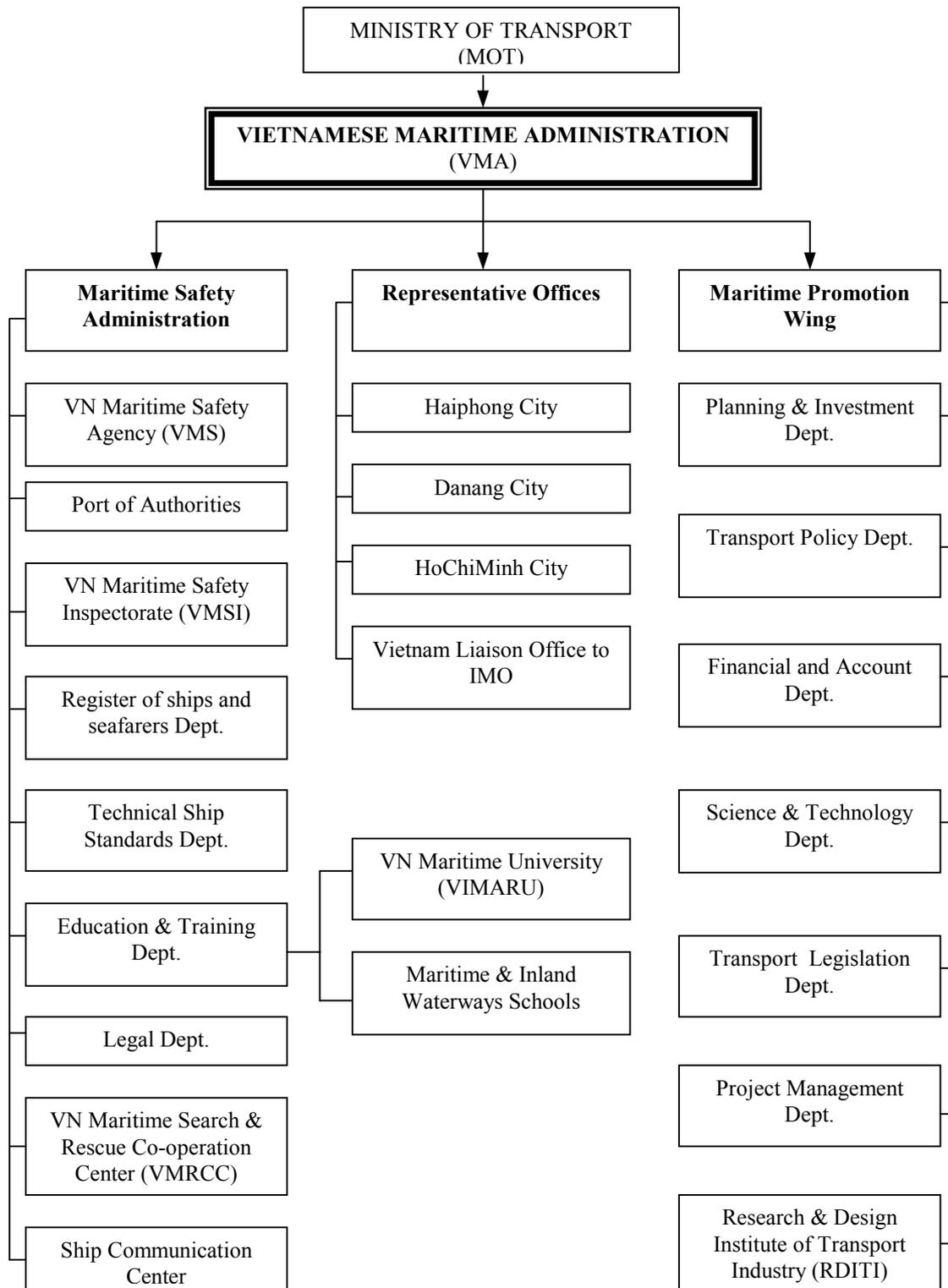
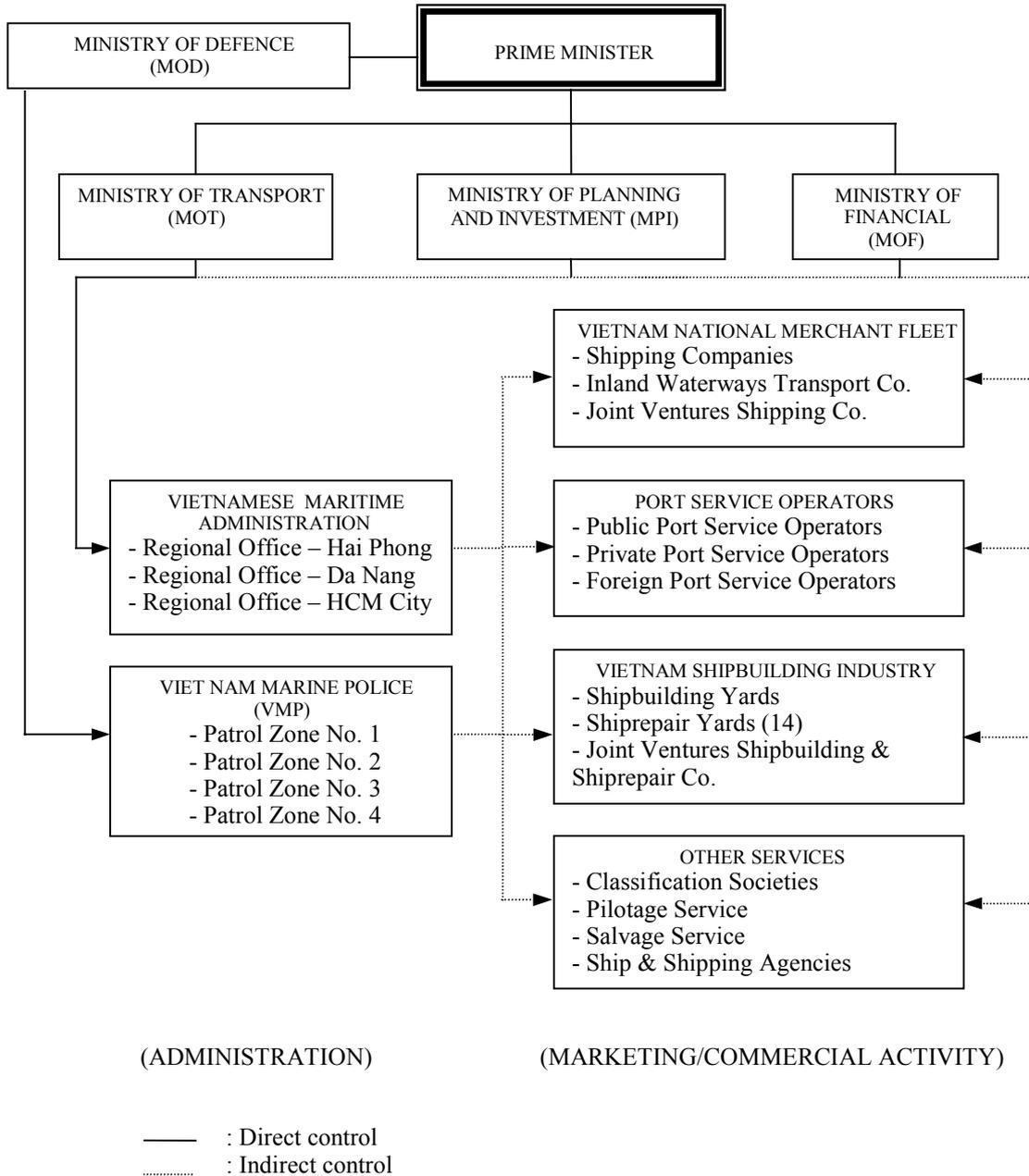


Figure 5.3.
The Proposed VMA Structural Framework



makes it easy to establish uniform regulatory standards and enforcement systems in planning, navigational aids and maintenance of sea-cum-river ways. It would also reduce administrative costs.

- Port authorities and Inland Waterways Port Authorities need to be united into a single port authority system for the whole the country. This would make it more convenient for ships and reduce administrative costs.

- The Maritime Safety Inspectorate and the Inland Waterways Inspectorate should merge, and exercise the functions of both.

- The Maritime Safety Agency, which is now under the control of VINAMARINE, and the Navigation Supporting Enterprise, which is now under the control of VIWA, should become a single organisation which maintains aids to navigation in both inland waterways and sea areas.

- The control of VIMARU, Maritime Secondary Schools and Waterways Technical Vocational Schools should be transferred to VMA. This would facilitate curriculum development, training programmes and supervision.

- The right of delegation and other administrative functions should be transferred from VR to the MARAD. VR should run as a classification society only. This would cancel the monopoly situation, and establish a fair and competitive the environment in classification and certification of Vietnamese flag's ships.

- Commercial companies such as Ports and Waterways Transport Companies, which are now under the control of VINAMARINE and VIWA, should be privatised. This would allow VMA to concentrate on its administrative functions.

- It is necessary to improve the functions and roles of Authorities and Departments, to recruit new technical staff with necessary skills, to Train and retrain technical staff by sending them to study abroad, especially to the World Maritime University.

- High technology needs to be applied, especially Information Technology and the Internet.

After all the above changes, the organisation of VMA would be reformed and established with the full power of a MARAD and clear separation between administrative and promotion functions. This would improve effectiveness and efficiency.

V.2 Improving Maritime Legislation

In order to establish a clear and efficient maritime legislation in Vietnam, the subjects below need to be revised and amended:

V.2.1 Revising and Amending the Vietnamese Maritime Code

As mentioned in Chapters II and III, the primary objectives of the Merchant Shipping Act/Code of developing countries, such as Vietnam, are to be developmental, regulatory, and in conformity with relevant International Law/Conventions.

In addition, the Act/Code needs to be clearly and precisely worded, with effective sanctions and capable of promoting a helpful law-abiding atmosphere. In this connection it is proposed that the Vietnamese Maritime Code should be revised and amended as follows:

a) Revise Chapter I “General Provisions” by providing more terms and clearer definitions

b) Revise Chapter II “Sea-going Vessels” by clearly differentiating between commercial and safety provisions. The other headings such as Marine Navigation Safety and Prevention of Environmental Pollution, and Inspection of Tonnage of Vessel should to be transferred to a new Chapter. Furthermore, in this Chapter, Article 9 needs to be amended to end discrimination between State-owned and private-owned vessels. Article 13 also needs to be revised by transferring the right of delegation to the MARAD, and establishing a fair and competitive environment in the classification and certification of ships.

c) Revise Chapter IV “Sea-Port and Port Authority” in accordance with Decree No.639/TTg and the new idea discussed in paragraph V.4 of this paper “Renovating the Port Management Policy”.

d) Amend Chapter V “Contract of Carriage of Cargo” by providing detailed provisions relating to the contract of carriage of cargo, by giving a clear definition of the obligation of the shipper and the carrier, and by giving new provisions relating to multimodal transport. The currency unit used for compensation for loss or damage of cargo should be changed from the golden Franc to the Special Drawing Right (SDR) in accordance with the international market.

e) Revise Chapter XIII “Collision” to include clear provisions about how the parties involved may quickly settle any dispute arising between them. Establish new provisions regulating the arrest of foreign ships in Vietnam and outlining procedures of arrest.

f) Amend Chapter XV “Civil Liability of Shipowner” with detailed provisions on the limitation of liability rules applied to shipowners, and the calculated method.

In addition, Chapters XVI “Contract of Maritime Insurance” and XVII “Settlement of Maritime Disputes” should be revised and amended. Subjects such as crew, power of court, and general average should be dealt within more detail.

V.2.2 Revising and Amending the Subsidiary Legislation

In order to update and create comprehensive maritime subsidiary legislation in Vietnam, the rules and regulations must be revised and amended in accordance with international conventions and acceptable national requirements. They should be promulgated by appropriate authorities, namely MOT or VMA, depending on the importance and necessary levels required. In this connection the author believes that the main rules and regulations which are listed below need to be revised and amended:

a) The functions, roles and power of maritime authorities,

- b) Regulations, provisions and guidelines related to shipping operation and shipping company,
- c) Rules and regulations relating to maritime safety navigation.
- d) Rules and regulations relating to the training of crew.
- e) Rules and regulations relating to maritime inspection and investigation
- f) Rules and regulations relating to maritime claims and compensation
- g) Rules and regulations relating to arrest of ships.
- h) Rules and regulations relating to marine pollution prevention.
- i) Rules and regulations relating to prevention and preparedness of pollution of the sea by oil.

V.3 Improving the Shipping Management Policy

In order to improve the efficiency of shipping management policy in Vietnam, the author believes that the proposals below need to be implemented:

a) Break up and privatise state-owned enterprises in the shipping industry. Doing so makes better management due to increased responsibility plus appropriate incentives under competitive conditions to increase efficiency. This also gives more autonomy to management to pursue efficiency objectives without the risk of these being undermined through interference by the government.

b) Establish a “level playing field”, in which all operators compete on the same basis and under the same regulations. A clear and stable policy and regulatory framework should be worked out to provide existing and potential investors/operators with equitable rules for entry and operation without benefiting specific groups or bodies.

c) Establish a financial support policy to assist shipowners when they purchase ships and during their regular business operations.

d) Reduce the high maritime taxation rates and the number of fees payable by the national fleet.

e) Establish a transport protection policy for the national fleet, which protects their right to carry their fair share of the import-export cargo of Vietnam. To introduce a transport policy, which encourage Vietnamese cargo-owners selling with CIF and buying with FOB and to use the national fleet to carry such cargo.

f) Encourage foreign participation and investment. This takes advantage of the experience and abilities of foreign shipping companies or investors in terms of mobilizing capital, technology, marketing expertise, and meeting human resource development needs.

V.4 Establishing the New Port Management Policy

In order to efficiently manage the port system in Vietnam, the author recommends that a new port management policy needs to be established. The basis and features of this policy should be as follows:

V.4.1 Basis of New Port Management Policy

According to “Port Management and Operations”, there is a close relationship between the State and port. The State almost certainly exercises control over national transport policy (location of road, rails, bridges, tunnels, canals, etc.), location of major industries, customs and immigration, safety requirements and minimum conditions for workers (Patrick, 1999).

In addition, the State may probably be concerned with Freeport areas, port investment and development plans and security. The State may possibly decide to be involved with port pricing policy, pilotage control and pricing, dredging and navigational aids.

At present, the most common rapidly growing forms of port ownership/operation are the landlord and tool ports. In the landlord port, the State or the city owns the land and the port’s sea approaches, and leases out the terminals to private stevedoring firms to operate. In this type of port, the landlord provides the infrastructure and the tenant his own superstructure. In the tool port, the landlord provides both the infrastructure and superstructure. Most ports will be governed or

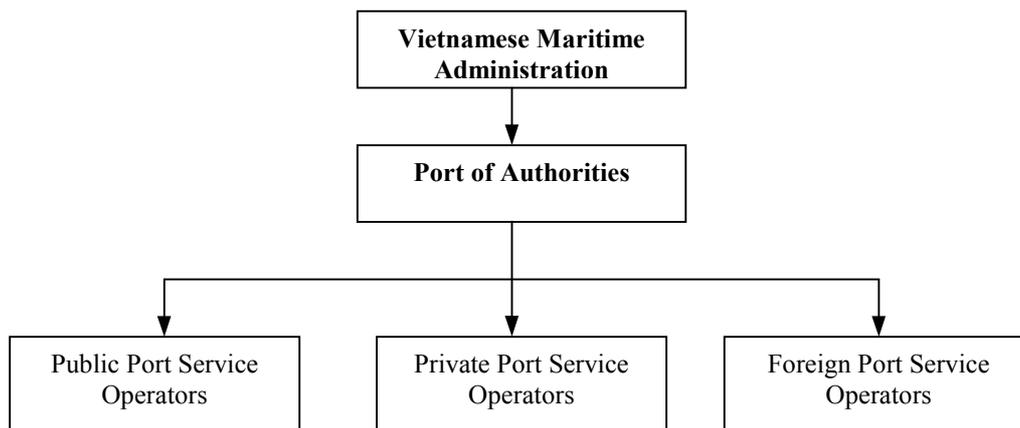
controlled by a port authority, which, in the cases of the landlord and the tool ports, will be the landlord. The port authority therefore is the body with juridical status in charge of the management of the port according to the rules defined in its constitution.

V.4.2 Establishing the New Port Management Policy

Based on the above discussion and the current circumstances of the port system in Vietnam, the Government should establish a new port management policy using the tool port system. The proposed organisational structure of the Vietnamese port system is shown below in Figure 5.4.

Figure 5.4.

The Proposed Port Management Organisational Structure in Vietnam



In this proposed policy, the Port Authority is the landlord. It owns the land and the port's water area. It is responsible for managing and maintaining both the infrastructure and the superstructure of the port. It also collects port fees and exercises its other functions. Operators can take over a part or the whole port for their operations such as stevedoring and supplying services to the ships.

The new port management policy would create port management unification and cancel the unreasonable situation that exists in the port's financial policy. It would also bring the port system in line with current trends in port management policy.

V.5 Improving Maritime Education and Training

At present, modern technology is being applied to the shipping industry. Remote control systems are now being used on board ships, and technical developments have been introduced in navigational equipment such as electronic and satellite navigation systems, machinery control systems, radio telegraphy and communication systems. The ship has become larger and more sophisticated over time. On the other hand, the safe and efficient operation of ships remains very important, because a major accident will result in negative consequences not only to the ship itself but also to property and pollution of the marine environment.

It is noted that most maritime accidents are caused by human error. Therefore, the shipping industry needs competent seafarers who can:

- a) Operate ships equipped with modern machines and equipment, and who have sufficient technical knowledge of advanced maritime technology and are familiar with various types of automatic and remote control systems;
- b) Operate various kinds of ships such as general cargo ships, container ships, crude oil tankers, chemical tankers and other specialized ships.
- c) In the future, become qualified dual-function seafarers since some of them have the qualification of both an engineer and navigation officer, and
- d) Show proof of being satisfactorily educated and trained with modern equipment required by the relevant international conventions, such as STCW95, SOLAS74/78 and MARPOL.

In view of the above issues, seafarers' education and training in Vietnam must be developed to meet both national and international requirements. The author's proposals to improve maritime education and training are as follows:

- a) Implementation of a new curriculum, education and training program, which actually adheres to standards, based on the IMO courses. These curriculum and programs should comply with Vietnamese regulations and international requirements such as STCW95, SOLAS74/78, MARPOL73/78.

b) Improvement and upgrading of equipment and machines, for education and training at maritime schools. Adequate facilities should be provided for the training of seafarers in the operation and maintenance of aids to navigation and other devices that ensure safety of life at sea. Some of the most important simulators are listed below: the Automatic Radar Plotting Aid (ARPA); GMDSS and Radio Communication; Tanker Familiarization and Oil transfer Operation; Training of Engineers in the Operation and Handling of Machine and Equipment in the Engine Room; and Training of Master, Navigational Officers and Pilot by Ship Manoeuvring.

c) Upgrading of skills of instructors at maritime school in the use of modern equipment and machines

d) Improvement of practical training programs using simulator-based training in maritime schools.

e) Creation of Seafarers databases system in order to grasp the present situation of Vietnamese seafarers. The database should include:

(1) Shipping companies' data including: number of seafarers by rank, country, and by certificate of competency, and each seafarer's period of on-board service and present working situation.

(2) Maritime school data for number of graduates in each department;

(3) License and certification for STCW competency data.

All the above data should be accurate and regularly updated by VMA.

V.6 Promotion of the Implementation of International Conventions

The author believes that in order to promote the implementation of international conventions, the proposals below need to be adopted:

a) VMA, especially Vietnam's IMO Secretariat, should promote familiarisation and implementation of international conventions by publishing and distributing guidelines to all relevant bodies in the maritime industry. In relation to

this, the Vietnam Liaison Office to IMO needs to be equipped with adequate facilities and provided with a technical staff with necessary skills.

b) Executive orders and instructions to officials concerned should be prepared. Meetings and familiarisation courses should be held for full understanding and uniform implementation in the whole country.

c) VMA should promulgate regulations, which apply to safety and pollution prevention requirements of relevant international conventions such as SOLAS74/78, MARPOL and STCW95. It should regulate and supervise the application of such requirements throughout the whole maritime industry.

d) VMA should speed up the implementation of PSC by establishing PSC procedure in accordance with Tokyo MOU requirements; it should recruit PSC inspectors with necessary technical skills for the exercise of PSC and FSI duties.

e) The prevention, combating, and control of oil pollution at sea should be improved by:

- (1) Establishing the Contingency Plan for Response to Oil Pollution at sea that should follow Section II of IMO Manual: “Contingency Planning”.
- (2) Ratifying related Conventions such as the OPRC, 1990, INTERVENTION, 1969, CLC69 and FUN92.
- (3) Co-operating in the sub-region or region, i.e. with ASEAN countries and China in this field,

f) A National Contingency Plan for Search and Rescue at Sea should be formulated. It should include:

- (1) A list of all available resources, especially facilities of the Navy, Air Force, VMP and the communication network of coastal radio stations,
- (2) Co-operation in the region, especially with ASEAN countries and China,
- (3) Following up IMO’s guidelines, such as the MERSAR manual and SAR manual,

In order to exercise the above duties efficiently, VMRCC and VMP need to be equipped with adequate facilities and human resource.

It is the author's aim, in all the above proposals, to suggest improvement to maritime administration in Vietnam, including the structure of maritime administration, maritime legislation, port and shipping management policy, maritime education and training and the implementation of international conventions. Hopefully, VMA will be effective and efficient in the near future.

CHAPTER VI

CONCLUSIONS

The aim of this study is, through the assessment of the present situation of the maritime administration system in Vietnam and explanation of the framework of the adequately competent maritime administration, to demonstrate the importance and necessity of improvement and development of a proper maritime administration system in Vietnam and to ensure that the maritime administration is able to administer maritime affairs effectively and efficiently.

It is recognised that great efforts have been made by the Vietnamese Government to develop the maritime industry in Vietnam already. The reform of the Vietnamese Maritime Administration organisation, with more governmental executive functions, has been one of its significant achievements. With the “New Organisation”, on the one hand, the Vietnamese Maritime Administration has been given more power and independence to control all maritime activities in Vietnam; on the other hand, the problem now is how the national maritime administration performs its functions properly in this new phase? In order to develop the Vietnamese maritime industry to meet the demands of the country’s economy effectively and to achieve the highest possible practicable standards of maritime safety and protection of the marine environment.

It is hoped that this study will be a useful and helpful contribution to the achievement of objectives of the administration. The study not only researches and highlights the problems, obstacles and difficulties existing within the national maritime administration, but also tries to find out some of the external factors

affecting the performance of this organisation. This attempt has been made in order to make the government and the administration strongly aware of such problems. The study also examines the MARAD structure in leading maritime countries such as Canada, Japan, Sweden and U.S.A. Therefrom, the possible proposals given in Chapter V would hopefully be applied properly by the government and the administration in order to achieve the desired goals.

Of course, the existing problems cannot be overcome overnight and the achievement of positive goals may not also be made in the short term. Therefore, the government through its maritime administration should draw up specific plans, and implement them in appropriate steps according to priorities. In this connection optimum use of available resources has to be made.

Finally, the author strongly believes that the Vietnamese Administration and its personnel will succeed in the process of reform and development, as they have successfully met many other challenges before.

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Appendix

The collection of Vietnamese Maritime Legislation

1. Decree No. 239/HDBT dated 29 June 1992: Decree of the Council of Minister on organising VINAMARINE.
2. Decree No. 31/TTg dated 02 February 1993: Prime Minister's decision on issuing regulations for VINAMARINE organisation and operations..
3. Decree No. 202/TTg dated 28 December 1992: Prime Minister's decision on issuing regulations for co-ordination of organisations which carry out the State-management of seaports in Vietnam.
4. Decree No. 204/TTg dated 28 December 1992: Government Prime Minister's decision on issuing regulations for maritime safety inspector's operations.
5. Decision No. 49/GD/VT dated 09 January 1993: Decision of Minister of Transport on regulations on maritime signal system.
6. Decree No. 203 / TTg dated 28 December 1992: Prime Minister's decision for issuing regulations on register of shipping in Vietnam.
7. Decision No. 2917/QD/VT dated 25 December 1992: Decision of Minister of Transport on regulations for handling, receiving, delivering and maintaining cargoes at seaports in Vietnam.
8. Government's Declaration dated 25 May 1977 on the territorial waters, adjoining sea areas, economic and continental shelf privileged of Vietnam.
9. Government's Declaration dated 12 November 1982 Base line utilised for calculating the width of territorial waters of Vietnam.
10. Decree No. 30/CP dated 29 January 1980. Institutions allowing foreign ships to operate in Vietnamese waters.
11. Decree No. 473/HDBT(Ministers Council): Institutions for foreign people and facilities to conduct fishery service within territorial waters of Vietnam.
12. Decision No. 239 QD/PC dated 9 February 1987: Regulations for seaport in Vietnam including regulations for port authority, Maritime inspection, port

operation, entrance and exit of ships, navigation within the port, order, sanitary issues at pier and berth, use of safety boat.

13. Decision No. 05/QD-BNV dated 1 July 1989: Regulations on the inland travel of foreign seafarers in transit through port of Vietnam.
14. Decision No. 257/LB dated 12 December 1984. Regulations on the management of sea transport facilities of ship tax and foreign vessel arriving or leaving ports of Vietnam.
15. Decision No. 20/VGCP-CNTDDV dated 22 July 1993: Port charges.
16. Decision No. 21/VGCP-CNTDDV dated 22 July 1993: On the maritime charges for waterway facilities transporting goods between the seaports in Vietnam.
17. Decision No. 2006/QD-PCHH dated 1 October 1993 Regulations on the forms to be applied in state administration at the seaports.
18. Decision No. 39/QDBC dated 3 January 1974 Regulations on the rules for investigation and reporting of ships in distress.
19. Decision No. 1071 QD/PC dated 26 June 1981 Regulations on the regime for report and statistics of traffic in distress.
20. Decree No. 13/CP dated 25 February 1994. Government decree on issuing management regulations for maritime operations at seaports and maritime areas in Vietnam.
21. Decree No. 14/CP dated 25 February 1994. Government decree on issuing registered regulations for ships and seafarers.
22. Decree No. 22/CP dated 22 March 1994. Government decree on state-management duties, rights and responsibilities and organisation of Ministry of Transport.
23. Decision No. 174/QD-PCVT. Decision of Minister of Transport on issuing regulations on seafarer's position and responsibilities in Vietnamese ships.
24. Decision No. 1299/QD-TCCB-LD dated 29 June 1993. Decision of Minister of Transport on issuing regulations for the organisation of degree examination for seafarers in Vietnamese ships.

25. Decision No. 256/PCHH dated 23 April 1994. Decision of Chairman of VINAMARINE on classification and implementation of operation of registering organisations for ships and seafarers.
26. Decision No. 174/QD-PC Dated 08 September 1994. Decision of Minister of Transport on procedures for “maritime claims” in Vietnam.
27. Decision No. 2884/QD-PC dated 17 November 1994. Decision of Minister of Transport on procedures for maritime pilotage, standards for organising exams and issuing certificates to Vietnamese maritime pilots.
28. Decree No. 91/CP dated 23 August 1997 of Government on issuing regulations for the registration of ships and crew.
29. Decree No 55/CP dated 01 October 1996 of government on activities of foreign military vessels visiting the Socialist Republic of Vietnam.
30. Decision No. 780/TTg dated 23 October 1996 of Prime Minister on establishment of the National Committee on air and sea search and rescue.
31. Decision No. 639/TTg dated 12 August 1997 of Prime Minister on organisation, rights, duties and obligations of Maritime Port Authorities.
32. Decision No. 75/TTg dated 03 February 1997 of Prime Minister on rights, obligations and organisation of the Vietnam Register.
33. Decision No. 250/TTg dated 29 April 1995 of Prime Minister on establishment of VINALINES
34. Decree No. 79/CP dated 22 November 1995 of government on approval of statute of organisation and activities of VINALINES.
35. Decision No. 69/TTg dated 31 January 1996 of Prime Minister on establishment of VINASHIN
36. Decree No. 33/CP dated 27 May 1996 of government on approval of statute of organisation and activities of VINASHIN.
37. Decision No. 1438/QD-CP dated 8 September 1994 of Ministry of Transport on procedure of maritime liens and mortgages.

38. Decision No. 2788/QD-CP dated 17 May 1995 of Ministry of Transport on foreign vessels carrying cargo, passengers and luggage between Vietnamese ports.
39. Decision No. 4276/QD-CP dated 27 September 1995 of Ministry of Transport on contribution of salvage remuneration of Vietnamese ships.
40. Decision No. 2054/QD-CP dated 6 August 1996 of Ministry of Transport on procedure for setting up new route for passenger and cargo transport for foreign vessels in Vietnamese ports.
41. Decision No. 2106/QD-CP dated 23 August 1997 of Ministry of Transport on issuing regulations for loading, discharging, delivery and conserving goods at Vietnamese ports.
42. Decision No. 2628/QD-CP dated 02 October 1996 of Ministry of Transport on the establishment of a Co-ordinate Centre for Maritime Search and Rescuer.
43. Decision No. 127/VG-CP-NTD.DV dated 28 October 1997 of Governmental Price Committee on port dues.
44. Decision No. 128/VG-CP-NTD.DV dated 28 October 1997 of Governmental Price Committee on navigation fees for ships carrying cargo between Vietnamese ports.
45. Decision No. 129/VG-CP-NTD.DV dated 28 October 1997 of Governmental Price Committee on port dues with regard to certain special instances.

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