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THE WORLD MARITIME UNIVERSITY
Malmö, Sweden

DEVELOPMENT OF MARITIME
ADMINISTRATION
IN SOMALIA

BY

FATUMA MOHAMOUD JILAOW

SOMALI

1 9 8 8

GENERAL MARITIME ADMINISTRATION

Besm El-Lah El-Rahman El-Rahim



By The Name Of The Beneficent, Merciful God

IN THE NAME OF ALLAH,
MOST GRACIOUS, MOST MERCIFUL

" IT IS ALLAH WHO HAS SUBJECTED THE SEA TO YOU
THAT SHIPS MAY SAIL THERE ON HIS COMMAND AND THAT
YOU MAY SEEK OF ITS BOUNTY AND THAT YOU MAY BE
GRATEFUL."

AL QURAN

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ADMINISTRATION IN SOMALIA

BY

FATUMA MOHAMOUD JILAOW

Somali

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

MASTER OF SCIENCE DEGREE
IN
GENERAL MARITIME ADMINISTRATION

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

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ABBREVIATIONS

FAO	= Food Agriculture Organisation
FRG	= Federal Republic of Germany
IALA	= International Association of Lighthouse Authority
ILO	International Labour Organisation
IMO	International Maritime Organisation
PTA	= Preferential Trade Area
SRSP	= Somali Revolution Socialist Party
SRC	= Somali Revolution Council
SDR	= Somali Democratic Republic
SPA	= Somali Port Authority
SSA&L	= Somali Shipping Agency and Line
MARAD	= Maritime Administration

MMTP	= Ministry of Marine Trasport and Ports
MARPOL	= Marine Pollution
COLREG	= Collision ^S Regulation
CLL	= Convention of Limitation Liability
UNESCO	= United Nation Education
UNCTAD	= United Nation Conference Trade and Develop- ment
UNDP	= United Nation Development Programme
UNESCO	= United Nation Education Scientific Culture
UNIDO	= United Nation Industries Development Organization
WHO	= World Health Organisation

DEDICATION

THIS THESIS IS DEDICATED TO MY

PARENTS:

MR Mohamoud Jilaow And MRS Butao Hade
and my sister and Brother and friend

Preface

At the beginning of 1988, the Somali Democratic Republic Government promulgated an act, joining the Ministry of Marine Transport, Ports and Fisheries into one ministry named the Ministry of Marine Transport and Fisheries. This new ministry is now in charge of shipping, port administration and fisheries.

A proper maritime administration is required in Somalia because of the growing need for, and the importance of, shipping in Somalia due to the transport of large volumes and heavy unit cargoes through the major ports for ocean going ships at Mogadishu, Berbera, Kismayo and a number of minor ports (source Seed Hassan Rage thesis " Port Development in Somalia). There is also the need for the development and enforcement of a maritime shipping legislation and regulation of the territorial waters and local rivers under the jurisdiction of the Somali Democratic Republic.

The detailed purposes for development of this Maritime Administration in Somalia are the following :-

- to participate fully in its meetings and its technical assistance programmes as a member of International Maritime Organisation (IMO) .
- to participate in and enforce the Maritime Shipping ? Legislation.
- to develop an infrastructure and organization charter for the Maritime Administration.
- to develop maritime training facilities.
- to define the roles and functions of a maritime safety administration regarding shipping, search and rescue operations and maritime personnel, coordination of maritime activities etc.

The importance of a maritime administration in Somalia can not be over-emphasized enough; hence many of her nationals are being sent to World Maritime University (WMDU), to acquire and broaden their knowledge and skill in order to set up and develop their own maritime administration.

In view of the the above therefore, Chapter (1), will give an introduction and an overview of the maritime activities in Somalia; its geographic location, government and population, and furthermore discuss in more detail why the development of a maritime administration is necessary.

Chapter 2 will identify the problems of maritime activities in Somalia .

Chapter (3) will explain the importance of Somalia's participating in the global evolution of international maritime standards.

Chapter (4) will point out and explain the importance of Somalia in having an up- to-date maritime legislation and providing guidelines in this connection.

Chapter (5) will point out and explain the importance of having a proper maritime administration infrastructure, and providing detailed information, guidelines, proposals and conclusions

Chapter (6) will give the general summary and findings.

Development of the Maritime Administration in Somalia.

CHAPTER 1

INTRODUCTION

1.1 History

Somalia was known as the "Land of the Punt" ancient Egyptians who came to northern Somalia for incense and aromatic herbs. The "Land of Puntlan "acquired in the minds of the Egyptians a certain quality of sacredness, as the home of goods necessary for divine propitiation.

Documentation for this commercial connection between Egypt and northern Somali coast is plentiful enough to afford a fairly clear outline picture of its chronology and extent.

In the 9th or 10th century, the Somalis began pushing south from the Gulf of Aden . About this time, the Arabs and Persians established settlements along the coast of the Indian Ocean.

During the 15th and 16th centuries Portuguese explorers attempted without success to establish Portuguese sovereignty over the Somali coast. Meanwhile the main coastal centers continued to be controlled by Arab merchant families under the Sultanate of Oman.

The Egyptians occupied several points on the shore, but their occupation was short lived. From 1884 to 1886 the British signed a number of "Protectorate" treaties with Somali chiefs resident in Aden.

Italian expansion in Somalia began in 1885 when Antonio Cecchi, an explorer, led on the Italian expansion into the lower Juba region and concluded a commercial treaty with the Sultan of Zanzibar.

In 1925 the British government in line with secret agreements with Italy during World War I transferred the Jubaland (an area south of the Juba river) to Italian control.

Between 1940 and 1941 Italian troops briefly occupied British Somalia land, but were soon defeated by the British who conquered Italian Somali land, and re-established their authority over British Somaliland.

In 1949 the General Assembly resolved that Italian Somali land would receive its independence in 1960. As Italy agreed to grant independence on 1 July 1960 to its trust territory, the Great Britain gave its protectorate independence on 26 June 1960, thus enabling the two Somali territories to join in a United Somali republic on 1 July 1960.

On the 20 July 1961 the Somali people ratified a new constitution drafted one month later confirming Aden Abdulle Osman as the first national president .

1.2 A brief overview of Somalia's Maritime Administration

The aim of this paper is to illustrate the development of the Maritime Administration (MARAD) in Somalia.

This will be the main subject covered in this paper.

MARAD is similar, no matter how small it maybe, to other administrations. Problems of administrations are rather [✓]unique to each country, depending very much on the individual size of the countrys, but off course there are problems which common in most developing countries.

The economic development of any country includes And depends on a complexity of activities ie. planning and formulation of objectives which (the basis of any economy) are: trade and industry.

These activities will depend on internal and external trade. The external trade is an important factor in the economic development of a country. The external trade includes imports and export which determine a country's balance of payments. The external trade depends on the availability of proper facilities, for transportation of goods and also administration of transportation.

Generally in a country, the goods are transported from place to place in four different ways: by rail, by road,

by air, and by sea, but the major part of the goods are transported by sea because that is the cheapest methods of transporting commodities .

Economic development can be achieved by promoting the earnings of developing countries from maritime activities and minimize the net outflow of foreign exchange from developing countries from shipping transportation. It is really useful that the share of the developing countries in the world's seaborne trade is roughly estimated to be around 60% or more in the liquid and dry bulk cargo shipment (source handout of Prof.A. Monsef).

It is very importante and it would be desirable as Somalia is a coastal state, to set up and develop a proper MARAD that lays down the maritime administrative strategies' including a shipping policy so as to be able to participate in the carriage of cargo in the world.

1.3 Geographical Location.

Somalia is located along the central eastern coast of Africa stretching eastwards from Babel- Mandab, or the southern gate of the Red Sea along the Gulf of Aden to Cape Guardafui and southwards along the Indian Ocean to Ras Kiamboni.

It is bounded on the north by the Gulf of Aden, on the east and south by the Indian Ocean, on the south west by Kenya, on the west and north-west by Ethiopia.

There are mountain in the north savanah plains and sub-tropical vegetation in the south. There are two rivers,

the Juba and Shabelli, which flow toward the Indian Ocean (Source New Africa year book 1987-88).

They provide water for irrigation and water for agriculture in the a fertile inter-reverrine region but are not navigable by commercial vessels. Mogadishu is the capital city of Somalia situated on the shore of the Indian Ocean, Mogadishu is the country's chief seaport. It has an estimated population of 1.5 million. A new deep-water port has recently been constructed. Somalia has immense potential for the development of tourism along the coast. There are endless stretches of beautiful unspoiled beaches with soft white sand lapped by warm water along a 3200 Km coastline. Mogadishu has an exceptionally beautiful lido beach. The Indian Ocean offers ample opportunity for catching prize king-fish, tuna sail fish, turtle and many other kind of species.

1.4 Government

From 1961 to October 1969 Somalia was a parliamentary Democracy based on the principle of separation of power. After October 1969, the army commanders seized power and dissolved the parliament. They suspended the constitution and changed the name of the country to the "Somali Democratic Republic" and Major General Mohamed Siad Barre, the commander of the army, was named chairman of a 25-member Supreme Revolutionary Council (SRC) which then elected him as the president.

In 1970 the SRC proclaimed the adoption of the latin script for Somalia and a inaugurated widespread literacy campaign in 1973.

The constitution was approved in January 1979 by the ruling Somali Revolutionary Socialist Party (SRSPP), which was ratified by popular referendum in the People Assembly by 171 members serving a five-year term.

1.5 Population.

The various Somali groups share a common cultural, linguistic and religious background.

The total population of Somalia is estimated at 7,595,000 in 1985. The first nation-wide census was held in 1975, the population count as 3,722,000. The population is expected to reach 9.1 million by 2000 and 14.1 million by 2020. Because two-fifths of the population are nomadic and a further one-third semi-nomadic, estimates tend to vary widely (source Encyclopedia of the Third World, third Edition "Volume III").

The coastal population can therefore be estimated at about one million. The largest towns are Mogadishu, Kismayo, Hargeisa (the former capital of British Somaliland), and Merca.

More than a million Somalis live beyond the borders of nomadic pastoral, with concentrations of people in the towns of the north and on the coast and in the cultivated areas between rivers.

1.6 Why the development of a maritime administration is necessary.

In practice the expression "Administration" has been used to denote "management" in or by governmental systems.

This expression administration- enjoys responsibility for the management and government of resources. Nowadays progressive governments are introducing good management practices within their administrations which is an important, interesting and advantageous development and needs to be taken into consideration by a maritime administration.

Maritime safety administration is necessary because the functions maritime administration are those embodied within the country' Merchant Shipping Act which are developmental. The developmental function of MARAD tributes directly to maritime development which takes form of participation in the process of formulating

policy of the government as regards maritime development and deciding upon the activities to be undertaken in connection with such development. Such functions may include:

- 1-The appropriate analysis/assessment of the most suitable type and number of ships required to meet the scale of development planned.
- 2- Development of man-power needs for the shipping industry.

- 3- Development of marine auxiliary industries.
- 4- Development of ship-building and repair capabilities.
- 5- Assessment of the suitability of national ports for the intended ships and proposals for required development/improvement
- 6- Development of "Marine" manpower needs of the ports and development of employment opportunities for national seafarers.

CHAPTER 2

Identification of the Problems of the Marine Environment in Somalia.

2.1 Navigation Aids and Facilities

The Ministry of Marine Transport and Ports is responsible for navigation aids and facilities in Somalia.

Aids to navigation are to be used in connection with available marine publications including nautical charts, lists of lights, bouys and fog signals, radio aids to marine navigation and sailing directions for proper understanding and interpretation. Their function (Source: Aids and waterways Director).

The light house section, which was part of the Marine Department of the Ministry of Marine Transport and Ports (MMTP) was responsible for the provision of aids to navigation in Somalia but at the beginning of 1987, the MMTP separated the light house section from the Marine Department and changed its former name to the Lighthouse and Hydrographic Project. The new project was established with the financial assistance from the Federal Republic of Germany (FRG).

The Lighthouse and Hydrography section operates about 34 lighthouses and beacons that are spread along the Somali coastline of 3300 Km. Some of the beacons are out of operation as a result of either lack of fuel or spare parts .

However, due to the difficulties in obtaining spare parts and fuel, some of the lighthouses have remained out of order, and if not repaired in time, it may lead to grounding incidents of ships.

Repair and maintenance work is mostly carried out in Mogadishu, where a small moderately equipped, maintenance workshop is in operation .However, due to the long distance from Mogadishu , and the difficult access facilities to most of the lighthouses, maintenance operations often take a long time .

Along the Gulf of Aden and coast of Somalia, there are numerous reefs and island rocks which are hardly visible at high tide but which can be a real hazard to safety of navigation. The Somali Democratic Republic (SDR) is a member of the International Association of Lighthouse Authority (IALA) and therefore has an obligation to ensure the safety navigation of ships in its waters. As a result of this all lighthouses and beacons should be maintained and kept in good working order and condition.

The current development project on lighthouses and hydrographic modernization will come with increased innovations, requiring improvements in the following areas:

- 1- Employment of lighthouse keepers with sufficient educational background, who could be trained for acquisition of skills necessary for the safe handling of navigational aids;
- 2- Establishment of modest maintenance workshops at national and regional centers, which can undertake the coordination responsibilities of lighthouses located in remote districts.
- 3- Provision of telecommunication facilities in the district centers to allow rapid exchange of information in case of emergencies; and
- 4- Provision of transportation facilities for both passengers and materials at national and regional centers.

In order to have this project functioning the MMTP requested experts on aids to navigation from (FRG) to advise them on the requirements for the use of marine aids to navigation, which is being looked into.

2.2 Protection of Marine Environment

Somalia is a developing country where the level of industrialization and urbanization is still relatively modest, consequently the general pollution of the marine environment caused by wastes from land-based sources not very serious as compared to the levels found in more industrialized countries. (Source Somali Report by MI Singh) .

The authorities can not raise the appropriate charges to the services offered to foreign vessels in order to avoid competition from the nearby ports in the region.

There is a need for Somalia to have an action plan for the protection of the marine environment. Such a plan should provide a framework for a comprehensive action plan which will contribute to both the protection and the continued development of the marine environment in Somalia.

The general goals and objectives of the plan for the protection of the marine environment are:

- 1) to promote the sustainable development and management of Somalia's marine environment which will include the improvement of maritime resources and translation of the environmental information into policy options and resource management guidelines.
- 2) to emphasize the economic and social importance of the resources of the marine environment.
- 3) to establish a national framework for the coordination and integration of marine development activities
- 4) to establish general policies and objectives and to promote appropriate legislation for protection and development of the marine environment.
- 5) to prevent pollution of the marine environment.

- 6) to provide for the protection and development of the living marine resources through the conservation of habitats, the protection of species, and the careful planning and management of human activities that affect them.
- 7) to strengthen and encourage, through increased national and regional collaboration, the activities of institutions involved in the study of marine ecosystems.
- 8) to improve training and assistance at all levels and in all fields relating to the protection and development of the marine environment.
- 9) to stimulate the growth of public awareness at all levels of society, of the value, interest, and vulnerability of the maritime environment in Somalia.

For the above listed general goals and objectives to be achieved, there exists a need for continuing, systematic assessment of the effects of pollution and harvesting pressure upon the marine environment. Among the tasks that should be performed are:

- a) establishment of a marine pollution monitoring network which in its initial stage of development, will be set up to monitor only critical areas where pollution is expected or where valuable resources need to be protected, in such as Mogadishu, Kismayo, and Berbera which have a lot of marine environment activities.

- b) establishment of an environmental monitoring programme to assess municipal and industry pollution in the marine environment. This programme should initially focus upon sanitation, leachates from solid waste disposal sites and industrial effluents and their effects upon groundwater and hazard to public health adjacent to major coastal settlements.
- c) undertaking of an inventory of coastal marine ecosystem including their function and the linkages between different systems.

This information would form the baseline data to be used in assessing the possible effects of various types of land and marine based pollution. Furthermore, this information would also form the basis for identifying resource production opportunities, relevant management guidelines to maximize multiple use options and to formulate appropriate development policies.

d) identification and assessment of specific management problems in the marine environment which reduces their capacity to meet the development needs of the Somali people.

Also the application of the extended environment assessment to problems to determine management solutions which are appropriate for Somalia.

In view of the above, it would be desirable to review, update, strengthen and expand the existing legislation and regulations pertaining to the protection and use of the marine environment.

Criteria and performance standards will need to be established to form the base for the improved enforcement of policies and regulations dealing with the marine environment and conservation of marine living resources. The following activities are appropriate:

- 1) Develop laws and regulations to prevent or control pollution of the marine environment from land based sources. The UNEP guidelines on land based sources of pollution, the IMO conventions and guidelines, technical assistance from WHO and UNIDO would form an appropriate base for new legislation, regulation and performance standards.
- 2) Enact new legislation based upon a revised and up-to-date version of the 1947 Town Planning Ordinance
- 3) Stipulate laws and regulations governing the designations, establishment and management of marine protected areas and reserves will be required once Somalia ratifies the 1958 Eastern African Convention.

Somalia should also consider the early ratification of the following convention as a basis for the formulation of appropriate national legislation, regulations and guidelines which support the sustained management of marine resources. These are:

a) The regional sea conventions:

-The convention for the conservation the Red Sea and Gulf

of Aden Environment and the protocol concerning Regional Cooperation in Combating Pollution by oil and other Harmful Substances in case of Emergency.

-The convention for the protection management and development of the marine and coastal environment of Eastern Africa regional and related Protocols.

b) International conventions relating to marine pollution of which IMO is the depositary:

- MARPOL 1973/78

- COLREG 1972

- SOLAS 1974

- CLC 1969 and Protocol 1984

- FUND 1971 and Protocol 1984

-Conventions relating to intervention on the high seas in case of pollution (convention 1969 and protocol 1973)

-London Dumping Convention,1972.

c) Convention dealing with conservation of living resources:

- The Convention on International Trade in Endangered Species of Wild Animals (Bonn 1984).

- The Convention on Wetlands of international importance especially water fowl habitats (Ramsar 1971).

Technical assistance and advice on the drafting of national legislation to ensure the effective implementation of measures to protect marine environment and to promote the the sustained utilization of resources should be requested from international agencies including:FAO,UNEP, IMO, IUNC, UNESCO, UNIDO, UN HABITAT AND UNSCO (Source UNDP: "1985" Somali annual development Report, 1984).

2.3 Ports

One of the institutions that functions under the Ministry of Marine Transport and Ports MMTP is The Somali Port Authority (SPA). The Somali Port Authority was originally established in 1962 but was reorganized by Law No 1 of 7/11/73.

It is responsible for the operation and management of all the ports in the country and the provision of port services.

The Somali Port Authority can not cope with some of the responsibilities due to lack of trained personnel,machines and insufficient capital.The SPA head office located within the main port area at Mogadishu of Somalia , while the port of Mogadishu has its own management.

The Somali ports are clasified as being major ports and minor ports. The major ports are Mogadishu, Kismayo, Berbera, on the the Indian Ocean while Berbera Port is on the Gulf of Aden.

The efficiency of the technical operation maintenance of the infrastructure equipment and port operations of the SPA of the is suffering because of a variety of reasons.

Inadequate allocation of foreign exchange or import licence for the acquisition of equipment for replacement of essential spare parts for repairs and improvements, materials for preventive maintenance have all contributed to the problem in the past.

There is also the problem of effective utilisation of the present facilities and infrastructure due to physical limitation or ignorance of operators about the benefits or their use. As a result, port equipment and structures have either degenerated into infrastructory condition, gone out of service or are under utilised.

All these pitfalls are unnecessarily contributing to high operating costs and ship delays in ports due to lack of adequate modern equipment and storage space particularly for containers.

Cargoes have remained in the port areas for considerable periods of time due to internal transport problems and due to the Customs. As a result ports have become drain pipes in the economy

There is a need need for internal reforms in the organization of the SPA. These reforms should include a decrease in the staff, recruitment of more qualified personnel and the training of personnel to meet modern techniques for ports administration .

2.4 SHIPPING

2.4.1 Shipping Agency and Line (SSA &L)

A National Shipping Line was established in 1972. In 1977 the Maritime Transport Agency was established under Law 12/11/77. The National Shipping Agency was established on 23 February 1975.

In 1978 both these agencies were merged into one agency, the Agency for Shipping and Maritime Transport, 1/6/78.

Somalia had to depend on foreign owned and operated ships for the carriage of its international sea borne trade.

The government of the new born state was not able to create the required maritime infrastructure, due to limitation in capital resources, manpower capabilities etc. However, as the volume of trade increased the government decided to create the National Shipping Line in 1972.

This was established through a joint venture with the Libyan Arab Republic.

The SSA&L company started with the acquisition of second-hand vessels of different types and capacities. From 1972 to 1985 the company owned and operated a total of 4 ships having the following particulars: Jubba and Banadir bannana carriers, Boolimog, and Puntlan general cargo vessels.

Due to unavoidable circumstances the joint venture arrangement did not function and the national shipping company was matched with the shipping agency which was nationalized 1973. Due to their old age, and the increased maintenance and repair costs, it was quite difficult and uneconomical to run some of the ships and therefore the company decided to sell most of the ships and to replace them with newer ones.

The malfunction and failure of the shipping company can be attributed to several factors which may include:

- a) scarcity of foreign exchange which has strictly limited the free flow of foreign trade by means of documentary credit through banks;
- b) poor marketing for shipping services due to serious limitation of experience of the existing management;
- c) most of the imported general cargo trade of the country is carried by regular liners, which are members of the European East African Conference, therefore it is difficult for the National Shipping Company to compete with them;

- d) The Saudi Arabian Livestock carries which has a long tradition of carrying Somalia's livestock traffic to the Middle East are heavily subsidised, so it has become impossible to compete with them.

The Somali Democratic Republic which is one of Africa's privileged nations in having a very long coastline still faces problems in establishing and operating meaningful shipping as a result of the foregoing factors.

The government and the people of Somalia have not given up the hope of utilizing the shipping possibilities, Therefore I wish to make the following point for guidance:

- 1) creation of a national shipping fleet on a joint venture basis with more advanced countries on favourable equitable terms;
- 2) reorganisation and encouragement of the traditional trade by private nationals;
- 3 creation of a favourable climate for the use domestic coastal shipping which can compete with the presently dominant land transport;
- 4) exportation of cargo in C.I.F. terms and importation of cargo in F.O.B. terms;
- 5) performance of any other functions as an agent for the requirement of its clients. (sources A memorandum on the possibilities of building Somali National Shipping Agency and Line).

CHAPTER 3

PARTICIPATION IN GLOBAL MARITIME STANDARDS.

3.1 IMO Membership

The Somali Democratic Republic has been a member of the International Maritime Organization (IMO), since 1960, as the 100th member (after she gained her independence). As a member of the IMO, the Somali Democratic Republic has international obligations as regards to international maritime conventions such as:

- i) to ensure that ships flying her flag fully comply with the minimum standards prescribed in the safety and other international conventions.
- ii) to embody or frame rules and regulations for inspections, surveys, certification, etc.
- iii) to establish an organization which will be capable of implementing and enforcing the national rules and regulations and ensuring safety of life and property through physical inspections, surveys, etc.

In view of the above, it would be pertinent that the Somali Democratic Republic properly develop her Maritime Administration so as to fulfill her international obligations. In the IMO treaty status of 1988, on the status of multi-lateral conventions and instruments in respect of which the IMO or its Secretary General performs depository or other functions, it showed that as of the 25th April, 1988 that out of the 39 IMO conventions, protocols, amendments and codes only one convention the Load-line of 1966 has been ratified by Somalia .(source Y. Sasmura lecture notes)

Perhaps the so far unratified conventions may not be unconnected as there is no Maritime Administration in Somalia set up to frame rules or legislative acts for the parliament to promulgate laws, decrees, orders, and regulations and to take all others steps which may be necessary to give the present convention full and complete effect (Source the International Convention for the Safety of Life at Sea, 1986).

The convention, protocols and agreements adopted under the auspices of IMO are international treaties. Governments which ratify or accept them have to make their own national laws in accordance with their provisions .

IMO conventions establish standards which are acceptable to as many countries as possible and are implemented in the same way, thereby eliminating differences between national practices. Most are called conventions and a few are referred to as protocols or agreements but their legal status is the same .

It is vital for ships to be constructed, equipped and to operate at the highest possible standards. Accidents at sea can lead to immense losses of property and life they can also result in pollution which affects the coasts of many countries.

Since shipping is so international, it is important that regulations are adopted and implemented by as many countries as possible. This ensures that standards are raised on a world wide basis and that it is not possible to gain a commercial advantage by operating sub-standard vessels.

A proposal for developing an international treaty may be made in any of the organs of IMO. Once a formal approval has been given, a draft of the treaty is prepared in one of the organization's principal committees or sub-committees. It is then submitted to an international diplomatic conference to which all members of the United Nations and its specialised agencies are invited. Such a Conference usually lasts for between two and four weeks at the end of which a final instrument is formally adopted.

After the adoption of the convention, the onus for action move to governments. The speed with which the convention enters into force (that is becomes binding on states or countries which have agreed to be bound by it) depends upon the time taken by governments to ratify or accept it. IMO conventions enter into force after a specific number of States or countries have ratified them and most of them require that the combined fleets of these states or countries accepting them constitute at least a certain proportion of the world total tonnage.

A government ratifying a treaty has to ensure that its own national laws conform with its provisions. This usually involves some form of domestic legislative action.

After the requirements for entry into force of a treaty have been achieved there is a period of grace before it actually comes into force. This period varies from six months to a year or even two years, and enables governments to take the necessary domestic measures for implementing the convention. (source IMO Conventions posted).

3.2 Participation in Sub-Committees, Committees and Conferences

It is of great importance that representatives of the Somali Democratic Republic participate in the evolution of IMO standards through conventions, codes, etc in the sub-committees and conferences in that ships which are engaged in international trade belonging to other countries that visit ports, similarly, when our own ships also visit other ports, global co-operation for the development of international standards and for their effective implementation are paramount. Such active participation by the representatives of the Somali Democratic Republic would ensure the following :

- 1) That the standards are the highest practicable, taking due note of the situation obtaining in different countries:

- 2) That where possible alternatives to sophistication, which can be met by Somalia by her indigenous resources, skills and systems are also provided for.
- 3) That the relevant standards do not, even unwittingly, tend to prolong indefinitely our depends on external, except by choice, if so desired.
- 4) That the relevant standards are justifiable on the grounds of safety and/or pollution prevention and not motivated by other considerations.
- 5) That the needs of Somalia as regards technical assistance and attendant funding assistance are not only made known in such meetings or conferences but are also recognised by the developed countries, and necessary help could be secured to our own advantage.
- 6) That additional knowledge and experience are not only made known in such meetings or conferences but are also recognised by the developed countries.
- 7) That personal contacts are made or established with other colleagues from other countries in such meetings or conferences thereby leading to better understanding and co-operation.

It has been recommended by Prof. Vanchiswar of World Maritime University that the IMO meetings/sessions exhibit the spirit of compromise and sense of accommodation among the representatives of governments present in such meetings/ sessions and that the non-participation by most

of the developing countries would have denied to all concerned the benefit of making their own views known and limitations set out at the initial stages of the formulation and amendments of conventions.

The non-participation of the Somali Democratic Republic in the IMO meetings/session is vividly shown that out of the 39 conventions, protocols, amendment, and codes she is only party to one.

The reason may not be unconnected to paucity of funds to cover such expenditure on delegations, and/or the lack of understanding of the implication of non-participation and/or lack of interest.

Whatever the reasons may be, there is a need for full participation by Somali representatives in the IMO meetings/sessions so as not to deny them from making their own views and limitations in those meetings/sessions.

Where non-participation is caused by the paucity of funds, due consideration should also be given to the possibility of participating through the Representative of the Preferential Trade Area (PTA) to whom and through whom specific views can be conveyed. This arrangement may be covered rotational to each country in the PTA (Somalia, Kenya, Tanzania, Zambia, Malawi).

On the other hand, the lack of understanding of the implications of non-participation and/or lack of interest needs to be eliminated through concerted and continuous efforts of the officials of the Maritime Administration when properly developed.

3:3 Procces for the implimentation of IMO Conventions.

The procces for implementation of any international maritime convention is the third stage and in many ways it is the most important. The main responsibilities for the enforcement of an international treaty lies on the state or country whose flag the ships operate. Basically each government is responsible for ensuring that ships which fly its flag conform to the requirements of treaties which it has ratified.

The procces for the implementation of any IMO conventions require concerted efforts by any contracting government (Somalia inclusive), classification societies, industries and institutions and it requires a proper set up of a maritime administration to do so because such implementation covers construction and equipment of ships, ie SOLAS, LOAD LINE and MARPOL conventions. There are three phases in the process for implementation of any international maritime convention:

Phase I deals with the following:

- a) ratification/accession
- b) preparation of National Legislation (primary and subsidiary
- c) documentation
- d) preparation of the executive orders, and instructions to officials concerned.
- e) development of an appropriate and adequate maritime administration infrastructure.

The second phase deals with the implementation of the national legislation through the exercising of appropriate functions by the official of the maritime administration and phase three deals with the certification of ships/seafarers and the issue of clearances to ships to proceed to sea. (Source Prof.P.S.Vanchiswar's lecture notes).

TABLE 3.3.1

International Convention

Phase I	Phase II
Ratification/Accession.	Implementation of National legislation through the exercising
Prepare National Legislation (Primary & Subsidiary)	<div data-bbox="813 628 888 669" style="text-align: right;"> <i>Approved</i> </div>
Documentation	
Prepare the Executive	
Other Institutions official concerned	
Development appropriate and adequate Maritime Administration Infrastructure.	

Before the implementation of the IMO Conventions, the establishment of international regulations in IMO is done in two main ways:

- i) the adoption of international treaty instruments and
- ii) the development of non-treaty international standards guidelines, specifications, resolutions, recommendations and codes which are recommended to all contracting parties or member governments for adoption, i.e. to include such provisions in their national legislation whereby they become mandatory for shipowners, shipyards, etc.

Treaties are developed in IMO and adopted at diplomatic conferences convened by IMO. These treaties cannot be adopted by the organs of IMO since the constitution does not give them the right to do so.

Treaties are ratified by states or countries and implemented by them in accordance with their constitutional procedures. When a state or country ratifies a treaty it undertakes a legal obligation to apply the provisions of the treaty to relevant operations within its jurisdiction. But a state or country is entirely free to ratify or not to ratify a treaty. The decision to ratify is a sovereign right of each state or country.

International regulations, which are not treaties, are developed by the appropriate committees and formally adopted by those committees by the Assembly as necessary. These regulations are not legally binding on states or

countries but states are urged to accept and apply them. When accepted the standards are applied as part of the laws of the individual states or countries. These nontreaty instruments are very useful and important for three reasons:

- 1) They provide an accepted yardstick for all states or countries. A state or country which applies a regulation or standard which has been considered and formally adopted by an IMO body will be able to defend itself.
- 2) They provide a very useful basis for states or countries which may not have the technical expertise to develop their own rules. Such states or countries can apply the IMO rules with the full knowledge that the rules will be accepted world wide as soundly based.
- 3) They ensure a reasonable measure of uniformity in the standards applied in all states or countries. States or countries which apply these regulations will know that their ships are likely to receive favourable treatment where they go.

IMO adopts non-treaty international regulations when it deals with matters which are considered to be suitable or ripe for legally binding international treaty treatment. These may be so because,

a) knowledge or experience on the subject have not developed sufficiently for definitive binding provisions to be agreed upon;

- b) there is enough consensus among governments (and the industry) on the exact scope and extent of the standards to be applied worldwide;
- c) the area to be regulated is one in which development and change are still in progress and where, therefore, regulations should be relatively flexible and capable of revisions and modifications at short notice as such flexibility cannot be achieved if the regulations are incorporated in legally binding conventions.

There are two main kinds of treaties in IMO, namely, technical conventions and non-technical conventions. The technical conventions establish technical legal backing.

The legal framework of the treaty are set in the articles which establish the relation between the states or countries.

In general they declare the obligations of the parties, the conditions and procedure for becoming a party, the conditions for entry into force of the treaty and procedure for amending its provisions.

The technical regulations (the main substance of the treaty) are usually contained in annexes to the convention articles. However, the provisions of the annex constitute an integral part of the treaty; and the treaty is, therefore made up of the articles and the annex or annexes.

The obligation of the states or parties is generally to apply the regulations and rules in the annex to ships

flying their flags and to ships operating within their jurisdiction, eg, ships which enter or leave their ports or terminal installations.

Non-technical conventions generally deal with questions arising in the aftermath of casualties or accidents at sea, especially those involving environmental damage or the treatment of such damage.

There are two different procedures for amending a provision of IMO's technical conventions. For the articles of the convention (ie, the fundamental provision, which deals with the relation between states or countries and bringing into force or modification of the entire framework of the convention) the procedure for amendments is more formal; and any amendment can only come into force after it has been positively approved by not less than two-thirds of the states parties to the convention. The approval of states to such amendments must be explicit and is indicated by a formal communication to the Secretary-General.

The body adopting the amendment also determines the conditions for entry into force and the specific time for entry into force. The amendments are then circulated to the parties for consideration. The parties are informed that the adopting body has determined that amendments shall be deemed to be accepted by the parties unless, by a stipulated date, objections to amendments are received from a certain number of parties (usually one-third of the parties).

If the number of objections are not received by the stipulated date the amendments then enter into force (on the

date determined by the adopting body), for states parties to the convention. However, the amendment will not apply to a state party if such a state informs the Secretary-General before the date of entry into force, that it does not wish the amendment to apply. This procedure is referred to as the "tacit acceptance procedure". This is in contrast to the "express or explicit acceptance procedure" under which the acceptance of a state or country can only be indicated by a positive act by that state or country (source Dr. Mensah lecture notes).

Until the beginning of the 1970's the only procedure for amendment used in IMO was the express acceptance procedure. The tacit acceptance procedure was introduced because experience showed that it was difficult and often impossible to bring amendments into force by means of the express acceptance procedure. Since the introduction of the new procedure (for the first time in the 1972 Collision Regulation Convention) it has been relatively easy to revise and update the technical provisions of IMO's conventions. All this could be done through a proper established Maritime Administration.

Chapter 4:

MAINTENING AND UP-DATING MARITIME LEGISLATION AND GUIDELINE

4.1 Primary Objectives

The primary objectives of maritime legislation are: to develop national regulations and conform with relevant international law/convention. Therefore, any maritime legislation when proposed needs to be clearly and precisely worded with effective sanctions so that it can be capable of promoting a helpful law-abiding atmosphere.

In view of the above, it is therefore paramount that the maritime legislation be up-dated so that it can conform with the relevant international law/conventions in order to be effectively enforced in Somalia. As earlier asserted, that out of the 39 IMO Conventions, protocols amendments and codes, it is that only the Load Line convention of 1966 that the Somali government is so far a party to. The Load line convention of 1966 also has amendments that Somalia has not as yet acceded to. Therefore, this deficiency and other out dated maritime legislation needs to be rectified as a matter of urgency.

In line with the above, it would be desirable that the following be reviewed:

- The preliminary before introducing the legislation which contain short titles and commencement objects and construction, application of Act and definitions.
- Administration (appointment of statutory officials)
- Registration of ships- mortgages
- Certificates of officers, masters, mates and engineers
- Seamen and apprentices (classification of seamen and prescription of minimum manning scale).
- Passengers ships (carriage of passengers)
- Safety-General
- Wrecks and Salvage of wrecks
- Shipping casualties, inquiries and investigations limitation and Division of Liability
- Prevention of pollution of the sea by oil (general provision
- Penalties and procedure

- Supplemental (protection of person)
- Repeals and heavings.

4.2 Administration:

Administration has been used in this paper to denote management by a governmental system.

The fuctions of the maritime administration aree those assigned to it within the framework of the governments over all maritime (developpent) policy and duly reflected in its maritime legislation. So the Somalia maritime administration, when established, should encompass the whole maritime policy with commitments regards the following main areas:

- 1) international obligation
- 2) nature and extent of Somalia maritime legislation
- 3) registration of ships (ownership of ships under its flag)
- 4) safety standard and set practices to which national ships (and their equipment) should conform
- 5) development of human resources, man-power planning and optimum utilization of such man-power in the maritime sector

- 6) standards of competence required of personnel-education/training, examination and certification of seafarers
- 7) safety of navigation - safe manning of ships, provision of shore - based navigational aids and provision of navigational charts
- 8) specific obligation to save lives in distress at sea (maritime search and rescue system and shore - based medical aid)
- 9) development of ships -building, ancilliary industries and ship repair facilities
- 10) ports - their development, control, management, services provided, and safety
- 11) protection of the marine environment (prevention, control and combat of marine pollution)
- 12) regional (or sub-regional) cooperation as regulation as regards maritime matters amenable to same

It is normally the practice for the Minister/ Ministry responsible for Maritime transport to pilot the evolution of the draft policy paper and to submit same for afforesaid consideration at the top- most level of the government after obtaining the concurrence of all ministries concerned. If there is any note of dissent from any Ministry or disagreement between ministries on any aspect, it is but natural for the top - most level to take the necessary decision in the matter (source Prof. P.S. Vanchiswars lecture notes)

4.3 Registration of ships

The registration of ships accords the nationality to the ship and serves as proof of title. It is also used as evidence of the right to fly the flag of the State as well as the right of ownership and of mortgages

The requirements and formalities involved in the process of registration are usually prescribed in the Merchant Shipping law which are:

- the registration being made in the register book, and
- a certificate of Register being issued

Also attendant matters such as mortgages, transfer of ownership, change of master and other related matter are provided in the Merchant shipping law.

In view of the above, it is desirable therefore to appoint Registrars of ships under the Merchant Shipping Act to perform the above mentioned functions and insure the compliance with relevant statutory provisions in order to have a genuine link between the state and the ships flying her flag.

CHAPTER 5.

CONCLUSION AND PROPOSALS

5.1 Proposal for the Development of a Maritime Administration.

The need to develop the maritime administration of Somalia can not be over emphasised in that it will hence forth ~~and~~ meet the growing needs of the maritime activities.

These maritime activities deal with matters concerning light houses, aids to navigation, training of personnel, overall planning and telecommunication network along the coast line of Somalia which need to be improved.

Other functions include the registration of ships and seamen and land development in the coast line.

Also required the developments of the ports to meet the following needs: cargo handling and stevedoring, storage and warehouses, mooring and unmooring, berthing and unberthing, the harbour tugs and pilotage, all these have to meet the up-todate technologies, hence they have to be developed.

The legislation has to be international. ?

Shipping is international in charter, and the ocean is the common heritage of mankind. Before the advent of aircraft the ports were the main gates to the outside world and the ship is still the most important means of transport for the goods.

International trade passes through the sea whatever be the distance. This means an international approach is necessary when dealing with the question of shipping and related matters .

The international bodies of IMO, UNCTAD and ILO endeavour to help government make shipping more economic and safer than they before.

"Safer shipping and clean " seas" are the aims of IMO. This is the international obligation of every country.

The development of maritime administration will help the government of Somalia to follow the national and international obligations, by studying the relevant conventions and other instruments and the possibility of their adoption and implementation.

The maritime administration personnel will negotiate with their counterparts in the area to draw any regional cooperation schemes concerning maritime safety and pollution prevention.

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5.2 Legislation

Since it is very important for a country to have a merchant shipping legislation to effect the development and effective maritime administration it is desirable that Somalia has a merchant shipping legislation which effects an up-to-date legislation.

5.3. Maritime Code

The maritime code of Somalia which was elaborated before the independence in 1959 should be codified with the amendments made.

The proposed elaborated up-to-date maritime administration legislation pending before the parliament should be approved so as enforce the maritime legislation

5.4 National Maritime Legislation Regarding Territorial Waters.

Somalia has signed the United Nations Convention on the Law of the Sea 1982 but has not yet to date ratified it. Since it has not ratified it, she can not implement or enforce the provisions of the conference against indivi-

duals contravening the convention .

The convention gives each state and its nationals freedom to act in pursuit of those interests such as navigational rights and high seas freedoms and then limits the freedom of others to act in a manner adverse to those interests.

It imposes a duty on foreign states and their nationals to act in a prescribed manner such as safety and environmental restriction and then gives a state the right also to prevent or control activities of foreign states and their nationals thereby maintaining territorial sovereignty or coastal state jurisdiction over offshore exploration, exploitation, preservation, conservation and fishing.

Under this convention, every coastal state is entitled to exercise sovereignty over the belt of sea adjacent to the coast, including its seabed and airspace.

The territorial waters under this convention is measured seaward from the coast or baseline delimiting internal waters.

The territorial claim under this convention is 200 nautical miles by states party to the convention though the sovereignty of the coastal state is subject to a right of innocent passage for foreign ships but not for aircraft or submerged submarines.

In view of the above, I intend to propose that the Somali Democratic Republic ratify the Law of the Sea Conference 1982 so as to draft a national maritime legislation regarding territorial waters order to enforce and regular

te the maritime activities occurring on Somali's territorial waters.

5.5 Ship Safety Policy in Somalia.

The ship safety policy in the Somali maritime administration is directed to three goals:

- a) protection of human lives including protection from injuries as well as contribution to the general well-being of seafaring personnel.
- b) safety of the ship and its cargo;
- c) protection of the environment against pollution.

In the endeavour to substantiate this goals of the safety the government made efforts to train officers in the Alexandria Maritime Transport Accademy, the Arab Maritime Transport Accademy at Shaja and the National Maritime Institute was improved to raise the standard of shipboard personnel in both the engineerin and nautical areas.

The main objective in safety work is to reduce risks. It is right to say that up to the last years the leading principles followed in the endeavour for incresed safety have been to find remedies to avoid the repetition of casualties that have been experienced in the past. Priorities in safety work have to a large extent been governed by severe accidents:

Due to a few severe accidents which happened to Somali boats some years ago, where crew suffered total loss in extreme weather conditions, the attention on the quality of the crew on board was again brought up. It became clear that the boats and the navigation aids on board such as the charts had fallen behind as compared to the safety development of the ship as such. It became obvious that a link in the safety chain was inadequate.

Social factors associated with ship environment and the seafarers families are important because health and psychological relations are beginning to become legitimate factors of the safety problem.

The administration believe that the problems facing the sailor and his family is much like the conditions in the society ashore.

Although there are no training institutes as such dealing with environment management and safety administration, the following institutes in the country are concerned with training in fishery, agriculture and technical training .

- National Fishery and Maritime institute in Mogadishu
- Mogadishu Technical institute.

Although the administration is trying to improve activities in the maritime sector there are still problems such as:

- 1) Lack of adequate training surveyors;

- 2) Lack of adequate infrastructure;
- 3) Lack of good administration caused by lack of high level personnel.

As safety at sea is a very comprehensive concept applying both to personnel on board, the ships, its cargo and its environment; our knowledge and concepts regarding safety need to be upgraded, thus the administration has to undertake the following:

- 1) Establish a Maritime Safety Department with different-types of surveyors, engineering, nautical, electrical, dangerous goods, examiners, administrators and casualties investigators;
- 2) Update the existing Maritime Code.

SUMMARY OF FINDINGS

The summary of findings in this project are as follows.

- 1- As of the 25th April 1988, according to the IMO treaty status 1988 on the status of multilateral conventions out of the 39 IMO Conventions, resolutions, amendments, and codes, only the Loadline convention of 1966 has been acceded to by the Somali Democratic Republic.
- 2- There is no up-to-date maritime legislation in Somalia.
- 3- The so called "maritime code" in use today in Somalia has not yet been codified.
- 4- There is no participation of Somali representatives in the IMO sub-committees, Committees and Conferences. The result is that all those advantages the benefits of making their own views known, and limitations set out at the initial stage of the formulation and amendments of conventions are denied to Somalia.

5- There is no proper maritime administrative organisation in Somalia to implement an appropriate legislative framework within which shipping, ports and other complementary activities of maritime framework can be handled or, and, carried out.

6) The Somali Democratic Republic has not ratified the Law of the Sea Convention 1982 and hence has no national maritime legislation regarding territorial waters and related matters.

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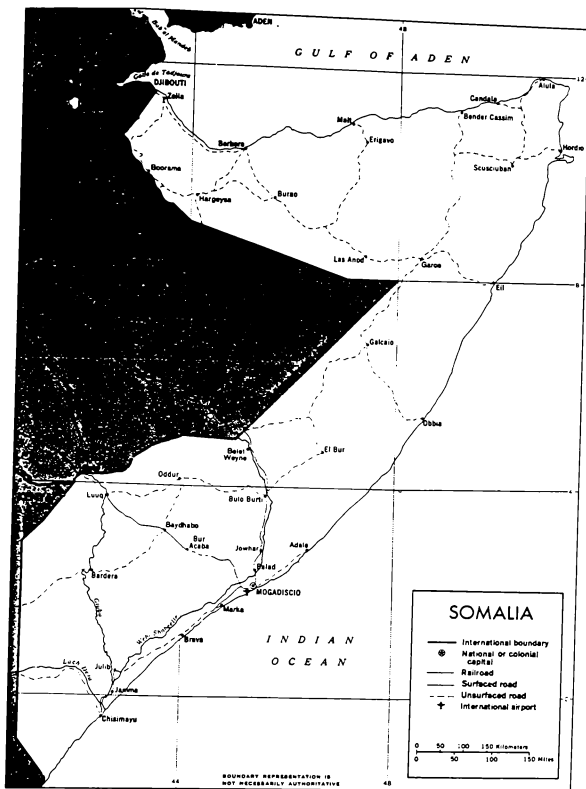
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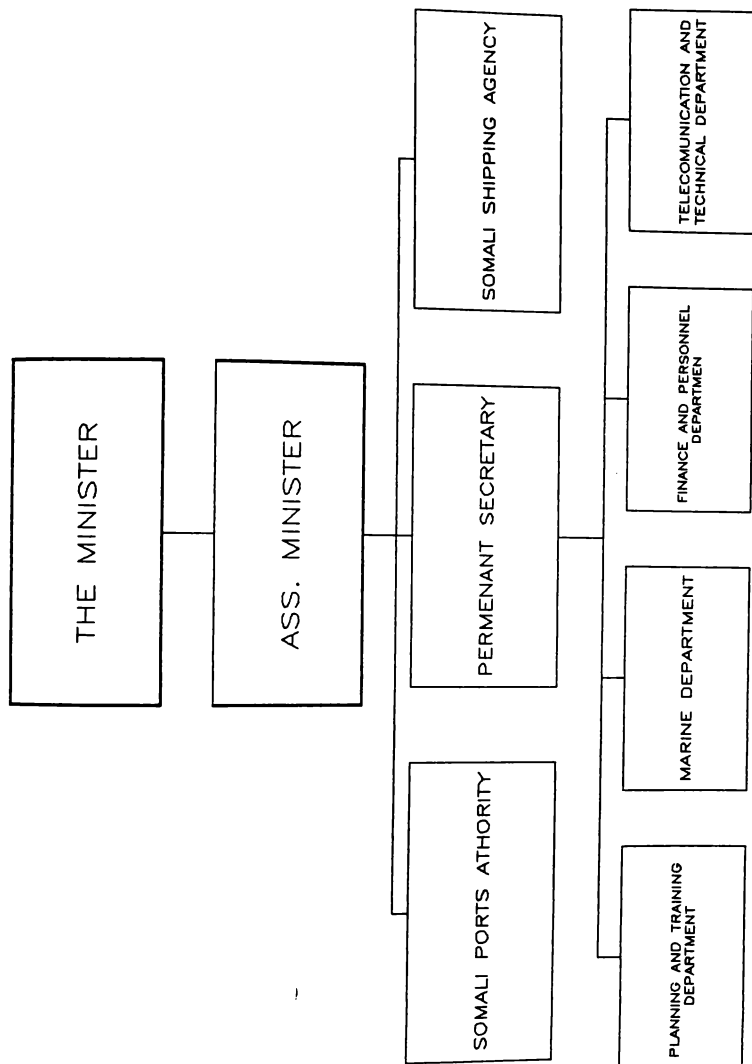
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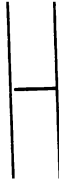
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