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MARITIME ADMINISTRATION
AND
MARITIME LAW IN SOMALIA

By


ABDULLAHI SHEIK_HUSSEIN ALI

SOMALIA

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

MASTER OF SCIENCE DEGREE
IN
GENERAL MARITIME ADMINISTRATION

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

Signature: 

Date: 25.1.86

Hussein
GMA
1986

Supervised and assessed by: Professor Aage OS.
Co-assessed by: Professor Ahmed Abdel MONSEF.

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

Acknowledgment.

I wish to express my sincere appreciation and thanks to Mr. Muse Nur Amin, Permanent Secretary of Ministry of Marine Transport and Ports for spurring me to pursue this course.

I am particularly indebted, to Professor Aage Os, who despite a very busy time table, found time to check my progress and give the necessary assistance as well as Professor Edgar Gold for his valuable assistance on the legal aspects.

I also do wish to thank the following people for their assistance in providing the necessary material during the research work time:

- Mohamed Sheik Ahmed (Basey), high ranking official of Ministry of Marine Transport and Ports.
- Dr. Ahmed Hosne and Dr. Mohamed Sakr both Professors at Arab Maritime Academy in Alexandria, Egypt.

Bibliography.

- Giles: Shipping Law.
- Golde: Principles and aspects of Maritime
Law.
- Reorts: From Ministry of Marine Transport
and Ports, Mogadishu, Somalia.
- Reports: UNEP on East African Region.
- Annual Report: Ministry of National Planning.,
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A- Somali Democratic Republic.

The Somali Democratic Republic is situated at the extreme eastern corner of the continent of Africa, popularly called " The Horn of Africa ", the point where the African continent stretches out towards the Arab World.

Almost alone among African nations, the Somali Republic consists of one ethnic group only, with a single language, religion and tradition, but within this unity there are diversities and contrast, arising from the geographical factors which have formed the Somali culture and continue to shape the national destiny.

The Republic has a land area of approximately 640,000 Sq. Km and a population of approximately 5,000,000 (1984 estimate). The coast line of Somalia, which extends for approximately 3,500 Km, is one of the longest on the African continent.

The long sea coast, the dry savannah of the interior, and the more fertile riverine regions of the south have led to the division between the nomadic herding population, the settled farmers, and the trading cities along the coast, i.e. three ways of living interacting and sustaining one another.

B- Sea Coast and Trade (The background).

Although Somalia has the longest coast line of the developing countries in Africa, there is a scarcity of natural harbours. The main ports are Zeila-Berbera in the northeast and in the south Mogadishu, Merca, Brawe and Kismayo. These ports have brought the country into the world scene since the dawn of history as a trading partner and in the nineteenth and twentieth centuries for its strategic importance.

From ancient times, foreign nations have traded on the Somali coasts. The ancient Mesopotamians as long as in 2000 B.C. sailed to the place they knew as the " land of punt " in search of incense and other products.

The Horn of Africa with the Arabian Peninsula is the only region whose trees produce the various sweet-smelling incense gums. Today they still form Somalia's third export product.

By Roman times there was a string of flourishing ports along the coast some perhaps identical with towns existing today.

The chief trading partners of the coastal cities were naturally the people nearest to them, the Arabs.

Zeyla and Berbera in the north, and the Benadir towns in the south, were founded either by Arab merchants and consequently the culture that grew there was a cosmopolitan, similar to the of the Sawahil towns further south, making them a part of the Arab World. This can still be seen clearly today by any visitor to the older quarters of Mogadishu, or Merca where the high white-washed buildings with carved doors and windows show the old tradition.

During the middle ages these cities, then each an independent state, reached great heights of prosperity. The famous Arab traveller Ibna Battuta who visited Mogadishu in the fourteenth century A.D. described it as " an exceedingly large city " of rich merchants though the cities later fell on evil times, their old families still preserve the memory of their past. It was through these ports that the most important gift from the Arab World, entered namely the Religion of Islam.

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In Islam of Somalia is not what it is in most African countries, a relatively new introduction replacing the older traditional religions. Here Islam is the traditional religion: to be a Somali is to ^{be} a Muslim.

During the very first generations of the faith, it had its adherants in the coastal cities, and from the ninth century onwards it was carried into the interior by preachers and traders. Today any pre-Islamic religion remains only as traces in folklore.

The adherence to Islam has deeply affected the development of the Somali society acting as a unifying and peace-keeping force, and giving an international dimension to the culture even in the remote interior.

Literacy and scholarship entered the Somali society through Koranic studies and for many centuries all the reading and writing was in the Arabic tongue.

Since the independence of the Somali Republic in 1960 the ancient ports have been developed and made suitable for modern shipping.

Mogadishu, Berbera, Kismayo and Merca now have modern deep-water ports with many general cargo berths and special berths for oil tankers. Somalia has four main commercial sea ports and about five minor ports situated along its long coast line.

The main commercial sea-ports are:-

A) The port of Mogadishu, (the capital city) situated in the southern part of the country now has a modern deep-water port with six general cargo berths and one special berth for oil tankers.

The average length of the six cargo berths ranges from a minimum of 120 metres at the special berth for handling livestock to a maximum of 200 metres at the container handling berth.

B) Kismayo port, at the southern part of the country, has five deep water berths for vessels of up to 40,000 tons, but now an expansion and modernization programme is expected to double its capacity by the end of 1986 and provide the most upto date handling and storage facilities.

C) Merca port also situated in the south of the country is the smallest comparing to the other three ports. Now it is out of operation due to new constructional arrangements. It used to handle mainly banana exportation.

D) The port of Berbera situated in the north of the country is the chief port of the northern region and mainly for handling the bulk of the country's imports, including petroleum.

The other five minor ports are:-

Zeyla, Meydh in the north east, Bosaso in the east and Hobio, Brawe in the south.

E) Fisheries.

Somalia's economy is dependant on exports of livestock mostly to the Middle Eastern countries which make up about 80 percent of the country's total exports and bananas which are mostly exported to Europe.

There are also exports of small quantities of hides and canned meat to Europe and to some other African countries and also various sweet-smelling incense gums to Arabic countries. But the other resources offered by the Somali coastline are fisheries, but were barely developed until modern times.

There are small communities of traditional fishermen notably the inhabitants along the coast especially in the south who have their own particular culture and way of life, including ingenious fishing techniques such as the use of captive sucker fish to catch turtle. The majority of Somalis however, have never liked fish as food.

One of the aims of the government, specially since the revolution, has been to change this prejudice and develop fisheries, both as food source and for export.

Potential catches are estimated at 80,000 tons including tuna, sardines and lobster.

Plans are under way for the future including the strengthening of traditional small scale fishing, and the development of large-scale deep sea operations.

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D)

The Environment.

Somalia is a developing country where the level of industrialization and urbanization is still relatively modest. Consequently, general pollution of the marine environment caused by wastes from land-based sources is not very serious as local problems of marine pollution from land-based sources.

Marine pollution is caused by domestic wastes mainly in urban areas along the coast and may develop into a serious pollution problem in the future. In some coastal locations of Mogadishu, raw sewage is directly discharged into the coastal waters and this is a potential hazard to human health and marine environment. Although no systematic survey of present waste management practices by coastal communities appears to have been carried out yet the problem is there. Town planning laws and a sanitary code do exist but they contain no antipollution measures. The majority of the industries existing in the country are of medium scale and located in land except for the sugar factory of Mareerey (in the southern part of the country), so the pollution threat to the marine environment is not very serious at present.

There are laws on water, ports and industries but these contain little on the control of pollution.

E) Maritime Code.

The Maritime Code of Somalia was written during the Italian Protectorate and up to present time only some amendments have been made so the main part of the Code still remains unmodified.

There is already an elaborated up dated or (up-to-date) maritime Decree but it is still pending and therefore not in force.

The Code, with 252 articles, is divided into six parts.

- 1) Administration Organization of Navigation;
- 2) Ownership and fitting equipment of vessels;
- 3) Obligations relating to the operation of vessels;
- 4) Procedural provision;
- 5) Maritime Crimes;
- 6) a- Provisions governing discipline;

b- Transitory and final provision.

A great many of presidential Decrees have been amended to the Maritime Code but the code itself has not been revised.

The Maritime Law of Somalia also regulates fisheries, coastal and marine parks. For example Article 11; expresses the maritime demense which includes beaches, shores, ports, bay, inlets, mouths of rivers flowing into the sea, basins of salt or brackish water which directly communicate with the sea.

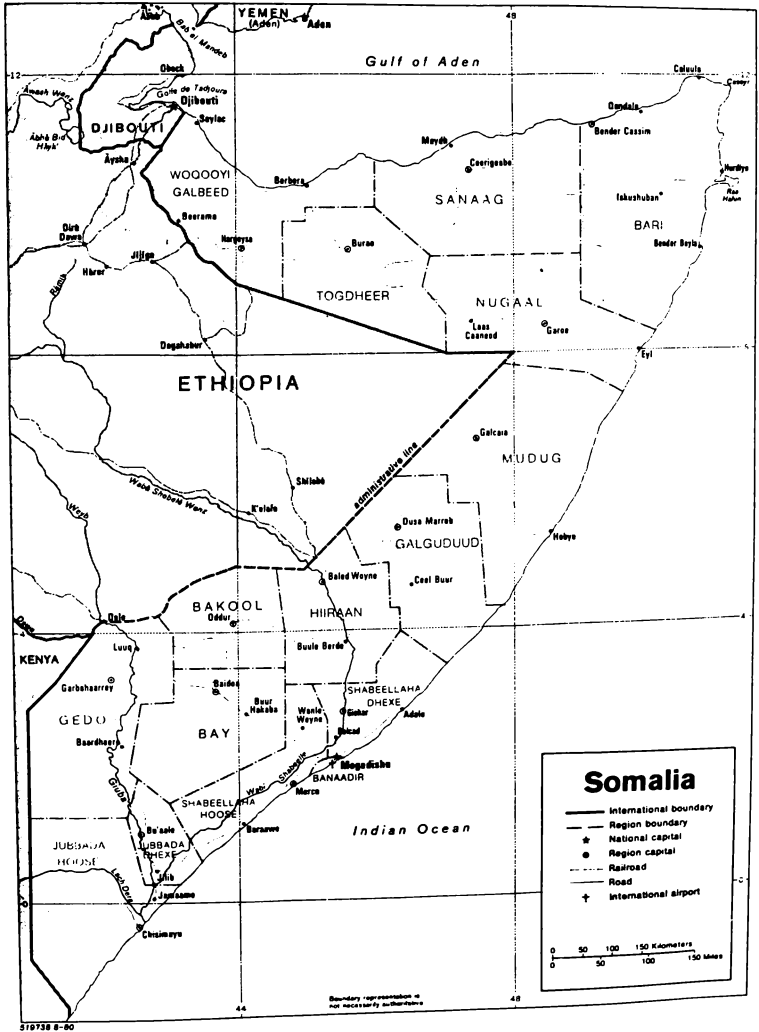
Buildings and other factories belonging to the government existing within the limits of the maritime demense and of the territorial sea are considered as pertinent of the same demense.

The maritime administration regulates the use of the maritime demense and exercises policing on the same.

Now a national commission has been appointed to draft a new maritime code since the Somalia Government ratified International Conventions which deal with maritime matters as SOLAS 1960 Convention and Load Line Convention of 1966.

The government is also considering to ratify more IMO conventions like SOLAS 1974, MARPOL 1973 and the International Convention on Civil Liability for Oil Pollution and the United Nations Convention on the Law of the Sea.

SOMALIA



Boundary representation is not necessarily authoritative.

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A- Ministry of Marine Transport and Ports.

The Ministry of Marine Transport and Ports was established in 1977 by virtue of Law No. 12 of 3/2/1977 for the development of Marine Transport and to improve the services connected with the ports of the country. The Ministry is also responsible for promoting and strengthening local and International Navigational facilities and the protection of Marine Environment.

There are two institutions that function under the Ministry of Marine Transport and Ports are:-

- 1) The Somali Port Authority, and the Shipping Activities and Maritime Transport Agency.

The Somali Port Authority was originally established in 1962 but was reorganized by Law No. 1 of 7/1/1973. It is responsible for the operation management of all the Ports in the country and the provision of port services.

The Port Authority has port regulation its functions. It has also the following legislation:-

- Port dues degree No. 6 of 3/9/1969 ;
- Procedure for collecting port fees Law No. 26 of 6/3/75;
- Amendment concerning port fees Law No. 41 of 30/9/78.

2) The National Shipping Line was established in 1972 by virtue of Law No. 59 of 20/9/1972 as amended by law No. 13 of 24/1/1975.

In 1977 a Maritime Transport Agency was established by Law No. 69 of 12/11/77. The National Shipping Line was established in 1975 by Law No. 22 of 23/2/1975. In 1978 both these Agencies were merged into one Agency for Shipping Activities and Maritime Transport by virtue Law No. 27/6/1978.

The main objectives of this Agency are:-

- To perform all activities concerning services to ships anchoring at Somali Ports;
- To repair, purchase, sell or hire ships or spare parts;
- To perform any auxiliary activity connected with the shipping trade.

a) AIDS TO NAVIGATION.

The Ministry of Marine Transport and Ports has the responsibility of Aids to Navigation in Somalia. The Marine Department of the Ministry of Marine Transport and Ports operate about more than 34 Light-houses and beacons, spread along Somalia's 3500 Km long coast line, and comprises about 7 major light-houses and 27 other beacons. Some of the beacons were out of operation as a result of either lack of fuel or spare parts.

On the 34 Light-houses and beacons, 11 are powered by Kerosene, 6 by propane gas, having been converted from kerosene, 1 powered by acetylene gas, and the rest by mains electricity. Most of these Lights are very old, with some of the kerosene operated ones having been installed over many years ago.

Despite their age, and the fact that most of their mechanisms and equipment are very old and out of production, and thus making it difficult to obtain essential spare parts, the light-houses and beacons are well maintained and kept in good working condition except when some are put out operation while waiting for fuel replenishment (like kerosene, propane) a process which often takes a number of weeks or even months, due to the fact that both propane and acetylene gas have to be imported from abroad, through a long process of import procedures.

Repair and maintenance work are mostly carried out in Mogadishu where a small moderately equipped maintenance workshop is in operation. However, due to the long distances, poor road conditions to and from Mogadishu, and the mostly difficult access facilities to most of the light-houses and beacon locations, repairs and maintenance operations often take a long time .

As production of most of the beacons have been discontinued, it has become difficult to obtain essential spare parts for them and as each year goes by, this becomes increasingly more difficult. The Ministry is already aware that poor performance of aids to navigation, whether buoys, beacons, radio or electronic aids resulting from inadequate recourses to effectively maintain them or failure of the authorities to inform shipping rapidly of incidents such as missing buoys reduced performance, or break down of lights etc, soon destroys the credibility of the system and it becomes entirely counter productive, and this state must not be allowed to occur.

A major problem facing the Ministry's Marine Department which has the responsibility of providing and maintaining aids to navigation in Somalia, is the frequency and difficulties faced in getting materials such as gas cylinders and drums of kerosene to and from most of the light-houses and beacons locations.

Because the only way to get materials to most of these locations is by camel and through physical handling; a process which often takes several days or weeks.

The prevailing severe weather and climatic conditions, such as frequent sand storms, excessive heat, high winds and rough seas during the monsoon seasons etc, rough terrain, remote locations and extremely difficult access facilities to most of these light-houses and beacons have resulted in the Marine Department Authorities finding it very difficult to either recruit or retain the 75 light-house keepers and maintenance men needed for servicing and operation of the beacons.

Although efforts are being made by the Ministry of Marine Transport and Ports to modernize or replace some of the older kerosene operated lights with propane or acetylene gas operated ones, the process has been slowed and has not been without some problems.

Despite their age and type of equipment in operation most of the existing light-houses and beacons are still in good operational condition. However, discussions with some ship masters who frequently sail along the Somali Coast revealed that most of the lights, and in particular those operated on kerosene, are of very low intensity and range, therefore the Ministry is taking an effort to upgrade those lights.

There is also need for some new aids to navigation such as leading lights, beacons, radio and electronic aids, etc, to be provided in order to further enhance safety of navigation of coastal and international shipping and to conform with modern maritime safety practices.

Communications between the major light-houses and beacons and the Marine Department in Mogadishu is extremely inadequate. Due to lack of adequate direct communications; all messages have to be sent by telephone or telegram from the nearest town or settlement with such facilities; and these are often several kilometers away and takes sometimes a long period of time to do so. Lack of adequate communication facilities has also made it difficult to warn ships ~~at sea~~, and of other immediate dangers they may be heading into along the coast.

It is therefore necessary, that in modernizing and improving aids to navigation in Somalia, all necessary associated radio communications facilities needed for operational support purposes, emergencies, and for navigational warning should be included.

b) HYDROGRAPHIC SURVEY.

Another provision which comes under the responsibility of Ministry of Marine Transport and Ports is Hydrographic Survey.

Efficient aids to navigation to assist the safe and easy passage of ships to and from ports , coast movements within ports, at approaches to ports and ships anchoring in the vicinity of ports are an essential element to port safety and to maritime safety in general. However, in order to determine whether aids to navigation buoys and beacons are correctly and accurately positioned, there will be need for accurate charts showing accurate up-to-date water depths which can only be got through regular hydrographic surveys.

Maintenance of sea ports, their approaches and adjacent sea lanes, in order to keep them constantly open to deep sea traffic and deep draught ships, depends on proper charting through adequate hydrographic surveys. Periodic surveys to find out how much change, if any, has occurred and to what degree it affects shipping, is very necessary.

Dredged channels need periodic survey to ascertain the maintenance of correct depths, and there is need to survey and re-survey at intervals at the more critical areas of ports especially where there are known or suspected siltation or shoaling problems, and information gained from the surveys made available to organisations such as the International Hydrographic Organisation (IHO) and to port users and mariners.

The last hydrographic survey of the Somali coastal water, and the Somali Ports was carried out by Italian old vessels during late 1930s. But that hydrographic survey, now, couldn't be reliable any more. Therefore the Ministry authorities suspect some shoaling or siltation in and around of some ports and along the Somali coast, and this, without doubt, gives great cause of concern.

The Marine Department of Ministry of Marine Transport and Ports has a small hydrographic office, unfortunately that office, for time being, has neither the qualified personnel or the equipment and facilities to undertake surveys, and also there is lack of accurate hydrographic information.

Last year a high ranking official from the International Hydrographic Organization (IHO) visited Somalia to discuss the provision of technical assistance in the field of hydrographic survey with Somali Maritime Authority.

The government of the Somali Democratic Republic requested the Federal Republic of Germany to carry out the hydrographic survey and aids to navigation for the Somali coast. The Federal Republic of Germany is still studying the request.

An expert from IMO who also visited Somalia suggested that the maritime authorities, for safety reasons, and in order to avoid possible shallow waters or shoaling related accidents by ships, should endeavour as a matter of urgency, to undertake a study on both the short-term and long term hydrographic needs of Somali coastal waters and Somali ports and as soon as possible endeavour to undertake hydrographic survey of the major ports and their surrounding waters.

B- Somali Port Authority.

The Somali Ports have served the nation as points of transference between the sea and the hinterland for the sea borne trade as well as being an international link. These ports were many and found along the coast of the country where there existed the volume of goods and conditions of safe anchorage for incoming sea transport. The hinterland served by these ports were small in area because the inland transport capacity was also small for both pooling the cargo and its distribution.

But today's modernisation has been introduced for inland transport and it has become possible to get efficient loading and discharging of cargo moving through the ports. In this respect three ports have been considered and developed in order to meet the requirements of the increased trade and to accommodate the increasing number of shipping lines.

In order to keep the three main ports of the country to be competitive and efficient, nationally and also internationally, the Somali government requested a Danish firm Ramball and Hanne mann to prepare the master plan for the three main ports namely Mogadishu, Berbera and Kismayo, and to carry out a research concerning:-

- a) Port Operation;
- b) Port facility;
- c) Port safety;

The consulting work has been required in order to reshape the factors of production in ports to meet the present demand and the future markets up to the year of 1999.

The Soamli Ports are classified as being major ports and minor ports. The major ports are Mogadishu, Berbera and Kismayo and the rest are minor ports. The major ports of the country handle approximately 80% of the sea borne trade.

The structure and position of these ports vary by reason of trade pattern, the movement of goods and passengers and their accessibility to shipping lanes. Both Mogadishu and Kismayo Ports are on the Indian Ocean while Berbera port is on Gulf of Aden.

1- Kismayo Port.

It was built to handle more export and less imports. The exports are mainly of cartoned goods of perishable nature, such as bananas, meat in tins and embarkation of livestock. This pattern of trade required special facilities and methods to handle and to load the vessel in time.

In this port there is less storage area while a vast open area is there to accommodate the trucks that bring the commodities to the loading vessels.

2- Berbera Port.

This port handles more exports than import. The export trade in this port is concentrated on live animals e.g. sheep, goats, cow and camels. They exceed more than one million heads every year and are mainly export to Middle East countries. In this port the storage is small and this type of trade requires, in addition to the careful handling, a big marshalling area for the passage of animals.

The great care extended to the livestock during the loading will definitely contribute to the reputation of the arriving animals to the port of discharge.

C) Mogadishu Port.

It has only been in operation since 1978. The port has six cargo berths and one special berth for oil tanker. The average length of the six cargo berths range from a minimum of 120 meters at the special berth for handling livestock, to a maximum of 200 meters at the container handling berth. Water depths alongside the berths range from a minimum of eight meters at the livestock berth, to 12 meters at the container handling berth.

Mogadishu's existing port facilities can cope, with Somalia's foreign trade, well into the late 1980's. However, in order to make that possible, the Somali port Authority will need to acquire some more modern equipment for cargo handling and other port operational activities, in order to facilitate the turn round of ships calling at the port. This will be more in the areas of handling containers and other bulk cargoes such as cement, rice and fertilizers.

The Mogadishu port also handles more imported cargo of any kind than exported. Therefore, a greater storage area is available in this port to cope with the import commodities as the delivery process takes more time or, in other words, when the rate of discharge from the vessel is faster than the rate for delivery of the goods.

1- Container Handling.

Cargo operations in the port of Mogadishu is gradually changing from the traditional break bulk cargo handling system into the more modern unitized and containerized cargo handling system, and some investments have already been made in the provision of facilities for the handling and storage of containers and the reception of roll-on roll-off ships. However, the main shipping companies operating container traffic to and from the port are at present, are helping with some container handling equipment of their own, in order to facilitate the movement and handling of containers in the port area.

It is, however, felt that once a decision to provide container handling facilities has been taken, and some investments have been made, whether in the provision of a full container terminal, a multipurpose container terminal or just a basic container park for handling small quantities of containers it becomes essential that a high degree of safety and technical efficiency in the handling, movement and storage of containers in the port area be maintained in order to fully gain the benefits and advantages which containerization has to offer.

In order to avoid unnecessary accidents that could result in injury to personnel, delays in cargo movements and damage to cargo, the authorities in the port of Mogadishu should endeavour to give full attention to the implementation of the safety and other technical measures required for the handling of containers, which the various IMO Conventions, Code, guidelines, recommendations and other multilateral instruments have helped to achieve some of the existing internationally agreed standards in container handling.

2- Port Safety and Dangerous Cargo.

Unfortunately, the Mogadishu Ports has no facilities for the reception of dangerous cargo, although the quantity of dangerous cargo handled in the port is not large enough to pose any problems, it is still felt that the safety of the port and its personnel should be of paramount importance.

In view of the importance of the need for the proper supervision of safe transport, handling and storage of dangerous cargo in the port, it is necessary to protect the health and lives of the personnel involved in the handling of dangerous cargo, whether for direct delivery or storage in the port area.

The Ministry of Marine Transport and Ports considering to set up a small unit for the supervision handling and storage of dangerous cargo, in the port area, with the responsibilities to develop and control the operation of a special dangerous cargo storage area within the port. The unit will be responsible for safety and pollution prevention at the oil tanker berth and the port in general. We are also aware the dangerous cargo in the special storage area, however small the quantities may be, needs to be properly stowed and segregated in accordance with rules laid down in the International Maritime Dangerous Goods Code (IMDG CODE).

Somali Port Authority decided to make available, apart from basic protective and safety facilities, equipment for the protection of port employees and for dealing with accidents. The basic protective and safety facilities are:-

- Fencing;
- Fire fighting;
- Fire prevention;
- Pollution prevention;
- Pollution control facilities.

The duties of the special dangerous cargo unit, we mentioned above, should be as follow:-

- The enforcement of rules and regulations on dangerous cargo and port safety in general;
- Ensuring that dangerous cargo is stored in separate areas inside the port away from other storage areas;
- Supervision of the handling movement and storage of dangerous cargo in the port area;
- Control and proper segregation among the various classes of dangerous cargo in the port area (the actual cargo) ;
- Comparisons and checks of documents with the actual cargo;
- Physical checking of dangerous goods arriving at the port, with regard to damage, proper packing, and proper labelling.

3- Mogadishu Petroleum Terminal.

The new oil tanker berth in the port of Mogadishu which is situated within the confines of the port zone is also too close to the general cargo berths and other cargo handling areas. This may pose a serious safety hazard, particularly in the areas of fire, explosion and oil pollution. However, with the provision of certain safety and environmental protection facilities and some strict precautions any such hazard could be drastically reduced.

An expert from International Organization suggested the Somali Port Authority that the oil tanker berth should be fenced off and separated from the general cargo berths and other cargo handling area. The terminal needs also to be provided with a system of fire prevention and fire fighting facilities at all hazardous points. The fire fighting equipment to be manned by firemen, trained in fighting ships' fires and in particular, fires involving chemicals, gases, oil and other petroleum products. Further more the expert emphasized that the terminal needs to be provided with some spillage collection and dispersal equipment for pollution control at areas where spillage is likely to occur, the equipment could consist of an underground (or under deck) steel or concrete tank of adequate capacity and size, and a small pump for the disposal of the tank's contents back to the appropriate pipeline or to a collection tank.

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We felt that there is also need for the provision of spillage containment and clean up equipment and facilities to be used in pollution control and for clean-ups in the event of any oil spillage. An oil boom for use when a tanker is at berth, is the most basic spillage containment equipment, and an oil removing craft could also be very useful.

While it is agreed that equipment for spillage containment, collection and disposal may be expensive and only rarely used, and therefore uneconomical, and making port authority reluctant to acquire it, but consideration has been given to making optimum use of the resources which are currently available within the port and its environs. For example, oil booms can be fabricated from indigenous materials such as straw, logs cocnuthusk, bogasse etc. Most of these materials can also be used as absorbents for small oil spills. When oil is contained or has accumulated in an area of harbour, vacuum trucks can be used for recovery or alternatively petroleum tank trucks can be fitted, using small portable pumps.

Dangerous cargo units, which we mentioned , before, could be charged with the responsibility of ensuring adequate and effective safety precautions necessary for the safe handling of petroleum, and for the prevention control and clean up of oil spills at the oil terminal and in the port are in general. The present oil berth and other facilities in the port of Mogadishu may not be large and busy enough to warrant the provision of sophisticated reception facilities for bilge discharges and other oil residues. However, it should be emphasized that the provision of port reception facilities is an integral part of any pollution prevention programme.

Any oil collected could be recycled by the oil refinery therefore any decision on the provision of such facilities will be done in close co-operation and consultation with authorities of the Iraq-Soma refinery and the National Petroleum Agency who are the main users of the oil tanker berth.

D) Ministry of Fisheries.

1- Fishing Activities.

The Coast line of Somalia, which extends for a distance of approximately 3500 Kilometers, is one of the longest on the African Continent. The long coast line is bordered by the Gulf of Aden to north, the Indian Ocean on the east. That long coast line offers, however, a large amount of fisheries. But the majority of Somali have never liked fish as food.

The Somali government, especially since the Revolution, has been to change this prejudice and develop fisheries, both as a food source and for export. Realising this, the government established a separate Ministry of Fisheries in 1977 (Law No. 17 of 3 February, 1977).

The Ministry of Fishery is responsible for all fisheries matters. Its functions include among others:-

- To obtain benefits from marine resources;
- To develop a programme to make coastal settlements self supporting;
- To organize and operate all maritime schools ;

- To organize fishing support industries such as boat-yard to make new types of vessels;
- To construct technical infrastructure such as ports and cold storage;
- To prevent pollution through international law of the sea;
- To formulate laws regulating fishing in Somalia waters and to organize fishing rights;
- To issue fisheries regulations.

According to our national maritime code of 1959, the fishing activities divided into two classes: major and minor fishing activities. The former relates to the activities carried out exclusively by means of fixed plants or large nets for catching large size fish, including trawling on the high sea carried out with any mechanically-propelled vessel. The later class involves the remaining fishing activities, including fishing of mother-of-pearls and other industrially exploitable shells.

2- Bilateral Agreements in Fishing Activities.

Somalia has many bilateral agreement with many countries in different aspects of Marine Affairs such as fishing, shipping, boat-building and port constructions. But for the moment, we concentrate the bilateral agreement on fishing activities. In the past, offshore fishing activities were undertaken by joint ventures mainly with Russian involvement notably the Soviet/Somal Fish operation with about ten trawlers. Trawling was undertaken in depths of up to 800 m on the relatively narrow continental shelf, and the most productive range seems to have been 200 to 400 m.

The total catch of the ten Russian ships over nearly three years was about 8,300 tonnes of fish and 1,300 tonnes of lobster-tails. But this project suffered a set back in 1977 when Somalifish lost its entire fleet of trawlers. Current offshore fishing agreements are as follows:-

Somalitica.

An Italian 60 m stern freezer trawler, the Antonietta Madre, which is licensed under a joint agreement between the Delta Co. the Ministry of Fisheries and the coastal development project, carries out offshore fishing.

Somalifish/Straits Fisheries.

Two Australia-built vessels were delivered to the Somali government on a joint venture between the straits fisheries of Singapore and Somalifish. These vessels fish offshore for lobster and other species and land their frozen catch in Kismayo and Mogadishu.

Siadco (Somali/Iraqi).

The Somali-Iraqi joint venture company Siadco is planning to introduce six Spanish-built twin-rigged trawlers and two polish-built freezer trawlers.

Somalfish/Yugoslavia.

A joint venture with Yugoslavia is planned which will employ a fleet of 23 m. trawlers and 20 smaller fishing boats imported from Yugoslavia.

In addition to the above-mentioned fishing joint ventures and bilateral agreements there are a few Italian, Greek, Egyptian and Japanese trawlers fishing in Somali water. These trawlers are given fishing rights under concessions granted by the Minister of Fisheries under Art.67 of the National Maritime Code of 1959 because there is still no separate fisheries legislation although a separate Ministry of Fisheries was established in 1977.

3- Concessions.

According to the National Maritime Code of 1959, fishing activities, whether conducted by Somali or foreign nationals, may be carried out pursuant only to a concession given by the Ministry of Fisheries. A concession is non-exclusive permit to fish in specific area and is subject to payment of " rent " determined by the issuing authority.

The duration of a concession may extend up to nine years and is subject to certain conditions provided for by the law. Concessions may be revoked, according to our law, at any time if the public interest requires, in which case adequate compensation is given for any fixed installations. Concessions may also be cancelled owing to the default of the concessionaire, in which case no compensation is payable. Fishing without a valid concession or licence is punishable with imprisonment and fine.

The concession holder or the licensee is required, to land 20 to 25 percent of the catch or at the option of the Ministry of Fisheries, to pay 20-25 percent of the value of the catch at the international market price. The Ministry of Fisheries, severely prohibited, according to the law, fishing by means of dynamite or similar materials, as well as the use of electric current as a direct killing or stunning means, or throwing or dissolving substance in water to enervate, stun or kill fish and other aquatic animals. Catching and selling animals thus stunned and killed is also likewise prohibited. The national law also entrusted to the maritime authority for the supervision of fishing and enforcement of the rules governing it.

4- Policy action programme.

In order to achieve the main objective of increasing the total catch, efforts were made between 1983 and 1984 to create an environment that would encourage expansion. Several policy measures were adopted in order to achieve this end. Trade in fish products was liberalised and the fixed price system abolished. Co-operatives introduced an auction system under which the fish catch is sold to the highest bidder. Only minimum prices are being fixed. A minimum price for procurement of fish by the modern fish market in the Mogadishu area was introduced. The policy is to review the minimum price from time to time and refix it keeping the market forces in view. Private retail fish shops are now functioning and competing with co-operatives.

A policy of encouragement of private ownership of vessels and gear which was introduced in 1983 was continued with greater vigour in 1984. At the end of 1984 more than 300 vessels were privately owned. To implement this policy a subsidy scheme for the purchase of 8.5 meter vessels produced by the GRP boat factory was introduced in 1984.

A subsidy of So. Sh. 8,500 per boat which covered about 25 per cent of the price was given to members of co-operatives who purchased these boats. The subsidy was provided for the purchase of only about 24 boats. However, the Somali Development Bank also provided loans to a few fishermen for the purchase of new 8.5 meter vessels. The practice of supplying vessels, gear and services to fishermen without charge was discontinued.

During 1984 the Coastal Development Project (CDP) initiated action to convert the settlements into co-operatives. The co-operative members are expected to own their boats and gear. However, CDP continues to provide some services, such as the supply of ice and cold storage facilities free of charge. Towards the end of 1984 the policy of issuing fishing licenses to foreign vessels was discontinued. On the other hand the Ministry of Fisheries adopted the new policy of encouraging joint ventures. The policy was reoriented to encourage private initiative to invest and share jointly in order to develop fisheries resources.

5- Fish Factories.

There are a number of fish processing industries in the country of which the most important are the following:-

- Laskoreh Fish Cannery, Bolimog Fish Factory.
- Prodma Fish Processing Factory, Habo Tuna Cannery and Qandala Tuna Cannery.

The Laskoreh Factory, is designed to handle about 40 tonnes of tuna daily. About half the daily intake can be processed through the canning lines and the remainder is frozen in cold storage with the aim of accumulating a stock of up to 800 tonnes during the course of the October-May fishing season to enable processing to continue for some time during the off-season. Normally fish wastes from the processing line of any unmarketable fish is disposed of by reducing it to fish meal and oil. The canning lines process mostly tunas, mackerels and sardines.

The Bolimog Factory, comprises a processing system of four blast freezer tunnels with a total capacity of 50 tonnes of fish at minus 40°C, a cold storage capacity of 2,500 tonnes of fish at minus 20°C, a fish mill plant with a capacity of 25 tonnes per day and centrifugal type oil recovery plant. This factory can handle up to ten thousand tonnes of frozen fish and five thousand tonnes of fish meal and oil.

The prodma Factory, at Kismayo has a blast freezer and a cold storage capacity of 250 tonnes of minus 25°C. In addition to buying lobster it takes in the catches of frozen off shore lobsters and selected fish species from a number of freezer trawlers and then exports the produce. This factory was built in 1968. Each of the factories at Habo and Qandala has a capacity of 30 tonnes a day and can also hold up to 15 tonnes of fish in chilled storage from one day to the next. The processing system is basic and simple and all machine operations on the canning lines can be duplicated by hand if necessary so that a mechanical break down will not prevent continued processing. These two tuna canneries were built by the Italians back in 1936.

The per capita consumption of the country is estimated at less than two kilograms per head annually and the bulk of the fish catch is destined for foreign markets. Consumption of meat per capita is substantially higher than fish due to the nomadic background of the overwhelming majority of the population and the abundance of livestock.

There are an estimated 30 million head of sheep and goats, 4 million cattle and around 6 million camels in the country. There is no trace of fish farming or aquaculture. The sanitary control of fishing products is carried out by doctors employed by the local government councils in the regions and districts.

CHAPTER III. The Structure of Maritime Organizations.

A- Ministry Of Marine Transport & Ports.

The Somali Democratic Republic is situated at the extreme Eastern Corner of the Continent of Africa, popularly called " The Horn of Africa ". The coast line of Somalia, which extends for a distance of approximately 3500 kilometers, is what the world called, " one of the longest coastline in developing Africa."

The country's economy is mostly dependant on the export of livestock, banane etc which in turn depends on Maritime Transport. Coastal traffic forms the most important part of maritime transport activities in Somalia; and virtually all international trades to and from the country is done by sea. Therefore efficiency plays a major role in the economy of the country. Consequently because of the extremely long coast line the need for efficient aids to navigation, maritime transportation both local and international and protection of marine environment. becomes apparent.

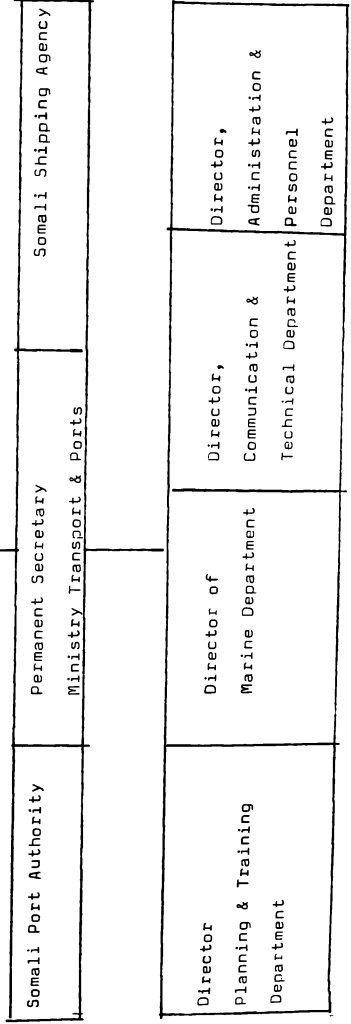
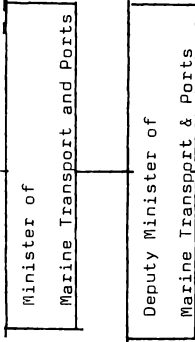
In Somalia, maritime activities are increasing by day, especially maritime traffic along the Somali coast is considerably increased. For that reason Somali government established in 1977 a separate institution called Ministry of Marine Transport and Ports to deal with maritime activities. The Ministry of Marine Transport and ports was established in 1977 by virtue of Law No. 12 of 13-02-1977 for the development of Marine Transport and to improve the services connected with the ports of the country. The Ministry is also responsible for promoting and strengthening local and international navigation facilities, preservation of marine environment and coastal communication.

The Ministry, administratively divided into four Departments which all comes under the administration of Permanent Secretary.

The four Departments are:-

- 1- Planning and Training Department;
- 2- Maritime Department;
- 3- Administration & Personnel Department;
- 4- Technical and Communication Department.

Organizational Chart of Ministry of Marine Transport and Ports



B- Somali Port Authority.

There are also two institutions that function under the Ministry of Marine Transport and Ports are:-

- a) The Somali Port Authority;
- b) Maritime Transport Agency
(Somali Shipping Line);

The Somali Port Authority was originally established in 1962 but was reorganized by Law No. 1 of 7 January 1973. It is responsible for the operation and management of all the ports in the country. The port's responsibility we have already mentioned in Chapter II. The port authority has port regulations for the implementation of its functions.

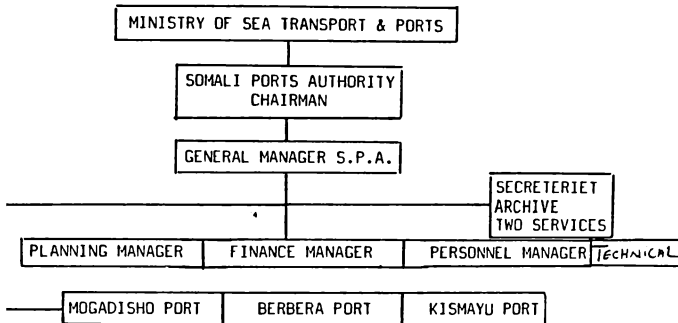
Somali port Authority commenced operating in 1962 and in addition has the responsibility of maintaining, improving and regulating the harbours and the approaches for all the ports of the Somali Democratic Republic which are open to Ocean going vessels, with the same responsibility for such other ports as may be designated from time to time by government.

In addition, Somali port authority is also responsible for the provision and operation of shore-handling and quay facilities as may best appear to save the ports. A major achievement in 1985 is that the extension of Berbera port facilities by an additional quay of 330m. As we have mentioned before that the Somali Ports are classified into major and minor ports. The major ports are Berbera, Kismayo and Mogadishu Port.

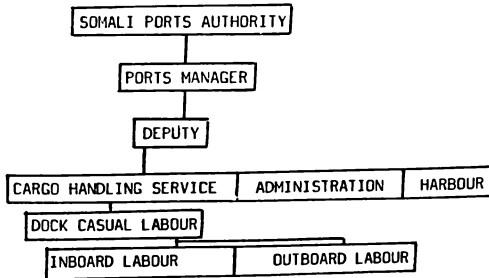
The Somali Port Authority is composed of the Chairman and General Manager. There are also four managerial departments and major ports which all comes under the administration of General Manager.

The major Ports are composed of port manager and Deputy of port manager. Every major port has four services in which are cargo handling, administration, harbour and operation services.

ORGANIZATIONAL CHART OF S.P.A. IS GENERALLY AS BELOW:



ORGANIZATIONAL CHART FOR THE MAJOR PORTS OF SOMALIA IS AS BELOW:



C- Somali Shipping Agency and Line (SSAL).

It was established in 1972 as an autonomous government enterprise and has a dual function namely acting as agent for foreign shippers calling at Somalia's ports and running the national shipping line comprising 4 vessels.

Somali Shipping Agency and Line employs 430 people, both ashore and on board. Although the Somali Shipping Agency is making huge profits (in foreign exchange), the Somali Shipping Line has never been profitable and is constantly operating at a loss. The main reason is the fact that the fleet is over-aged and requires considerable maintenance and repair which has to be carried out in foreign ports as no docking facilities exist in Somalia.

The main objectives of Somali Shipping Agency and Line are:-

- To perform all activities concerning to ships anchoring at Somali Ports.
- To repair, purchase, sell or hire ships or spare parts.
- To perform any auxiliary activity connected with the shipping trade.

A- The Characteristic of the Somali Territory.

Somalia has a very long coast line of 3500 Km which is virtually the longest in developing Africa. There are long and beautiful beaches along the coast, and also includes steep rocky areas especially on the north eastern stretch, starting from Eil and continuing through Alula, Qandala, Bosaso and Laskoreh.

All along the Somali coast line bordered by the Indian Ocean, there are natural coral reefs that protect the beaches particularly in the southern part of the country at Jezira, Adala, Brava and Warshekh for example.

The Somali coast line faces the open sea and does not include significant areas that lend themselves to the formation of lagoons, except in the extreme south of the country near Bajuni Island of Jula Jawai where the sea-shore is protected from the high tidal waves and ocean currents by the formation of extensive coral reefs and small islands. In addition to this, Somalia has also two permanently flowing rivers, the Juba and the Shabelle, both rising in the Somali plateau in the territory of Ogaden.

These two main rivers only one of them, the Juba, flows into the Indian Ocean at a place called Gobweyn near Kismayo, in the extreme southern part of the country the Juba river covers vast territories and its flood flow is high and its waters are always muddy when they flow into the ocean during the rainy season.

1- The nation climate.

The country has a subtropical climate with four seasons: " Gu" from March to May, the main rainy season, " Hagaa" from June to August, when the south-west monsoon brings some light showers to the southern coastal areas only, " Deer" from September to November, the second rainy season which covers the whole country, " Jilaal " from December to February, the dry season that makes the rivers dry up and sometimes causes draught. The temperature varies from 28°C to 31°C during the year.

B- Pollution from land-based sources.

The present known land-based sources of pollution are as follows:-

a) Marine Pollution from municipal solid wastes is evident in Mogadishu, the capital.

A municipal dumping site is situated right on the coast and the big tip is uncontrolled and possibly infested with vermin with the result that its marine pollution potential is high, especially in the rainy season when leachates run off directly into the sea. Similarly municipal waste dumping sites are visible in other coastal cities like Merca, Kismayo, Berbera and Bossaso, where no other solid waste disposal systems are operative.

b) Livestock breeding of cattle, camels, sheep and goats is the main occupation of the Somali nomadic people. Pollution in-puts thus largely consist of untreated effluents from slaughter houses, leather and affiliated industries. A specific example of discharge of untreated industrial effluent into the sea is the abattoir in Mogadishu which slaughters about 50 camels, 200 cows, 250 goats and sheep daily and is located on the beach. The raw effluent containing blood, is discharged into a pond which flows into another open ditch for biological treatment. The system allows an over-flow of water full of organic wastes into the in-shore waters.

The polluting effect on the coastal waters and the beach is considerable, specially during the rainy seasons. This unhealthy incursion of organic wastes into the open sea has from time to time attracted sharks into the lagoon waters and they have already killed many people.

c) Marine pollution has also been noticed in the principal port areas of Mogadishu, Kismayo and Berbera due to waste disposals by ships and since large numbers of livestock are exported through these ports, the fodder for these animals is added to the solid wastes that are sometimes washed into the sea with the rains, causing pollution.

d) Another land-based source of pollution comes from the two or three fish-processing factories situated near the rich fishing areas on the north-east coast of the country i.e. Bolimog, Qandal and Laskoreh, all of which dump their industrial wastes into the sea.

e) In the south of the country there are extensive banana and sugar-cane plantations which use urea and other fertilizers. During the rainy seasons these fertilizers are washed into the waters of the Juba river which ultimately flows into the sea.

C- The Environmental Problems in Somalia.

The following six environmental problems were identified:-

- 1- Shifting sand dunes, which affect agriculture.
- 2- Mining of limestone and abstraction of sand for construction purposes;
- 3- Destruction of mangroves in coastal areas.
- 4- Illegal fishing by foreign fleets.
- 5- Oil pollution evidenced by tar balls on the beaches.
- 6- Sharks which are a danger to tourists.

1- Shifting sand dunes which affect agriculture.

Article 7 of Law No. 15 of 25 January, 1969 prohibits clearing of forests, grass or bushes by any means whatsoever. A management-oriented law under the umbrella of agriculture, for example, could provide residents with financial assistance to plant trees, shrubs or grass on the land.

But the sparse population of the area does not make this a practical proposition. The problem can be effectively dealt with by mobilization of the population in a campaign supported by requisite expertise and finances.

2- Mining of limestone and abstraction of sand for construction purposes.

This problem requires prescription and strict enforcement of a law prohibiting mining of limestone and abstraction of sand along the coast line. No such law exists in Somalia and as a consequence the abstraction of sand is indiscriminate, leading to large areas disappearing under ocean water once sand abstraction gets below the high-water mark. We should as soon as possible adopt a law which designates sand abstraction sites and permits excavation only on special licences issued by maritime authorities.

3- Destruction of mangroves in coastal areas.

This problem is covered under the general provision of Article 7 of Law No. 15 of 25 January, 1969 which prohibits any person from willfully or negligently burning or clearing trees, bushes, shrubs, saplings or seedlings, except in accordance with the written permission of the Ministry of Livestock, Forestry and Range.

Possibly, the enforcement mechanisms should be strengthened. But as an additional measure, regulations may be adopted which prohibit entry into any particularly endangered mangrove areas. In all these instances, however, there should also be a consideration of alternative occupation for the people clearing mangroves.

4- Illegal fishing by foreign fleets.

This problem is at present covered by the Somali Maritime Code of 1959 and Law No.17 of 3 February 1977. The latter law established the Ministry of Fisheries while the former requires that fishing activities in Somali waters, by nationals or non nationals, may be carried out only with written permission of the Ministry of Fisheries or his designated officer.

The main obstacle for Somalia is that it claims 200 nautical miles territorial sea while it has signed the 1962 United Nations Law of the sea convention. Therefore, Somalia might well deal with this problem in two ways, firstly, in adopting a new and comprehensive legislation on the EEZ (Exclusive Economic Zone), to include pollution control and management of the living resources, secondly, in working out an effective system of enforcement.

If possible, enforcement should be carried out on a regional basis.

5- Oil pollution evidenced by tar balls on the beach.

As regards to pollution problems Somalia, as we mentioned before, has no law on marine pollution, by oil, nor is it yet a party to any of the conventions on control of marine pollution by oil, except for the 1982 Jeddah Convention which was signed but unfortunately, not yet ratified.

6- Sharks which are a danger to tourists.

The problem with sharks as an immediate priority in Somalia has largely arisen from a particular kind of pollution namely, raw effluents discharged from the main abattoir in Mogadishu. The effluents contain blood, intestinal wastes and meaty solids which overflow or by-pass treatment ponds and drain into coastal lagoons and inshore areas. Sharks are attracted into these areas by these wasteloads. (Somalia may be in need of a comprehensive legislation dealing with prevention and control of wastes from land-based sources, including municipal and industrial effluent.

D- The National Institution dealing with
Environment.

The National infrastructure dealing with environmental issues consists of the following:-

- National commission for the environment which operates under the Ministry of National planning;
- Ministry of Mining and Water Resources;
- Ministry of Livestock, Forestry & Range;
- Ministry of Agriculture;
- Ministry of Marine Transport & Ports;
- Ministry of Tourism ;
- Ministry of Health;
- National Range Agency.

The national commission for the environment is an advisory body and the Ministries are regulatory and control institutions. The national commission for the environment is composed of nominees from the different Ministries and Agencies and has no financial resources of its own. However, substantial expenditure is incurred by the Ministry of health and local regional and district councils for improving the quality of the environment, although no exact figures are available on the extent of this contribution nor on human resources.

CHAPTER V. Maritime Law.

A- International Legal Aspects of Protecting The Marine & Coastal Environment.

A number of conventions, applicable on a global level, have been adopted to control the various forms of marine pollution, eg. International Convention dealing wholly or partly with the development and protection of the marine and coastal environment. The conventions concerning pollution from shipping will first be examined.

1- Pollution from Ships.

International law has been concerned with this source of marine pollution since 1954, when the International Convention for the Prevention of the Sea by Oil was adopted in London (OilPol). This Convention was amended on several occasions, aims principally at preventing intentional pollution from normal shipping operations. It has been replaced on 2 October, 1983 by the 1973 International Convention for the Prevention of Pollution from ships (MARPOL), for those parties to this more recent convention.

Prevention of Pollution from normal shipping
activities.

The control of this type of pollution mainly comes under 1954 OILPOL Convention cited above. The text was subsequently amended in 1962, 1969 and 1971. The 1962 amendments came into force in May 1967, and those of 1969 in January 1978.

2-The International Convention for the
Prevention of Pollution by ships,
(MARPOL).

This Convention which was adopted in London in November 1973, incorporates the provisions of the 1954 Convention in a strengthened form within the framework of a broader Convention covering all forms of operational or accidental pollution from shipping. This Convention came into force in 1976, was amended on 20 October 1983 except Annexes II to V.

The main body of the Convention contains only general provisions regarding the field of application, controls and the enforcement of detailed standards and regulations. The latter are set out in five annexes covering various substances, such as discharges which must be controlled. The other three are described as optional.

However, the 1978 amendments have delayed the application of Annexes II to V. The provision of MARPOL apply to all tankers of 150 GT. or over and to all other ships of 400 GT. or over, except war ships. Fixed or floating oil rigs also come under the provisions.

In order to eliminate the risk of pollution overtly incurred through operational discharges. It is anticipated that new tankers whose weight when fully loaded reaches or exceeds 70,000 GRT. should be equipped with segregated ballast tanks as distinct from cargo tanks. As on all existing tankers, they also have to be equipped with machinery to keep a constant check on and control oil discharges. This method of recording all discharges enables the exact time of a discharge to be known, as well as the quantity of matter discharged and the proportion of oil continuous. When the total quantity of the mixture and the percentage of oil in it exceed the authorized levels, the control mechanism automatically stops the discharge. In addition, except in certain specified cases, all ships covered by the Convention have to be fitted with suitable machinery to provide for the separation of mixtures, or a filtering system, slop tanks, decanting tanks and standard piping and pumping arrangements.

3- The 1960 International Convention for
the Safety of Life at Sea (SOLAS).

The SOLAS Convention which entered into force in May 1965 and has been amended in 1966,1967,1968,1969, 1971 and 1973, establishes certain basic construction, equipment, safety and operation standards, including standards for nuclear reaction installations. None of the amendments are in force. Safety certificates and assessments by the competent national authorities are to be made available to the competence of the countries which the ship intends to visit. It should also be noted that Somalia is a contracting party.

The 1974 International Convention for the Life at Sea, which entered into force in May 1980, replaces the 1960 SOLAS Convention for those states which had become parties to the Convention in 1974. It contains more rigid technical specifications regarding the structure and equipment of ships, including nuclear-propelled ships.

A supplementary protocol to the Convention, adopted by an IMO Conference in February 1978, requires special navigation equipment for tankers over 10,000 tons and tightens inspection and certification provisions. It entered into force on 1 May 1981. The amendments of 1981 are not yet in force.

4- Liability and Compensation for pollution
from ships.

The 1969, International Convention on Civil Liability for Oil Pollution Damage, which came into force in 1975, defines the shipowner as the person responsible for possible damage due to oil pollution. The shipowner is the person in whose name the ship has been registered. Liability is strict, in the sense that the shipowner is responsible for all pollution resulting from a leakage or a discharge of oil from his ship without it being necessary to prove his fault. The Convention applies only to tankers and does not cover other commercial vessels or war ships. It applies exclusively to damage by pollution occurring in the territory, including the territorial seas, for a contracting state and to protective measures intended to avert or reduce such damage. In order to guarantee the solvency of the shipowner, the latter must take out insurance or some other financial guarantee, the amount of which is fixed by the agreement and varies according to the tonnage of the ship. Its strict and precise provisions tend to ensure that the obligations of the shipowner will be respected and easily enforced.

Financial points were revised by a protocol drawn up in London in November 1976, which came into force on 8 April 1981.

The 1971 International Convention on the establishment of an International Fund for Compensation for oil pollution damage aims at guaranteeing compensation for victims of oil pollution damage in a more satisfactory way than that provided by the 1969 Convention. In particular, it provides compensation for the victims when the shipowner and his guarantor are incapable of meeting their financial obligations. It establishes an international fund formed essentially by contributions paid by importers of oil in proportion to the quantities received. It came into force in October 1978.

5- Pollution from land-based sources.

To date no convention has been concluded at a global level restricting discharges of polluting substances from land-based sources into sea through media such as inland water ways and the atmosphere. However, the Adhoc meeting of Senior Government officials experts in environmental law convened by UNEP in Montevideo late in 1981, concluded that one of the priority areas for which global guidelines, principles or agreements should be developed is marine pollution from land-based sources.

The Convention concerning the protection of World Cultural and Natural Heritage, adopted in Paris at UNESCO in 1972 and in force since 1975, deserves a mention in this section on land-based sources of pollution. In being instrumental in the protection of fragile or ecologically significant parts of the territory, it may have a direct effect on land-based pollution abatement. In view of the portion of coastal and marine environment the convention is intended to protect, its protection can not go without a strict control of the land-based sources of pollution.

B- Law of the Sea

1- United Nations Convention on the
Law of the Sea.

Between 1970 and 1982, the United Nations Organization has worked on a process of general revision of the whole Law of the Sea. Acting on Resolution 2760 (xxv) the General Assembly convened the Third United Nations Conference on the Law of the Sea, with a mandate to adopt a Convention dealing with all matters relating to the Law of the Sea, including the protection of marine environment.

Delegation from 144 countries met in Jamaica, from 6 to 10 December 1982 for the final session of the Conference and the opening for signature of the United Nations Convention on the Law of the Sea.

On 10th December 1982, 119 delegations signed the new Convention. Somalia was among them and has already started the ratification process.

In this seventeen part Convention the provisions dealing with the protection and preservation of the marine environment are contained in part XII. In addition, a number of provisions which are contained in other parts are directly related to the conservation of marine living resources (Articles 61,63,67, 117-120). The text posits the general obligation of states to protect and preserve the marine environment, and recognizes, on the other hand the sovereign right of states to exploit their natural resources pursuant to their environmental policies. States are to take all necessary measures to prevent, reduce and control pollution of the marine environment from an source and to ensure that activities under their jurisdiction do not cause pollution damage to other states or to areas beyond their national jurisdiction. The text contains framework provisions, and provides that states should cooperate on a global and, as appropriate, on a regional basis to formulate further rules, standards and recommend practices and procedures consistent with the convention. In taking measures under the convention, states are to guard against merely transferring pollution damage or hazards from one area to another.

States are to notify other states likely to be effected by any imminent danger to the marine environment and are to co-operate with other states in the area to combat the pollution and to draw up contingency plans for this purpose. They are to co-operate in the promotion of studies, research and exchange of information and in establishing scientific criteria. Provision is also made for co-operation in monitoring and environmental assessment. Developing states are to be accorded preferential treatment by international organizations and are to receive scientific and technical assistance.

2- Discharge from ships.

So far as discharges from ships are concerned, responsibility for ensuring compliance with international rules and standards is vested with the flag state and with the port state for vessels voluntarily in its ports where the evidence indicates it has discharged contrary to international rules and standards, on the high seas within its territorial sea or exclusive economic zone.

The port state may also investigate and take action on alleged violations at the request of another state where vessels have discharged illegally, within the territorial sea or exclusive economic zone of the requesting state.

Coastal state enforcement powers, where the offending vessel is not voluntarily within one of its ports, depend on where the violation took place. If the alleged offence took place within its territorial sea, the coastal state may undertake a physical inspection and, if warranted, arrest and prosecute the master or owner of the offending ship. If the offence took place in the exclusive economic zone against international rules and standards or national legislation implementing them, the coastal state may require the offending vessel to provide certain information regarding itself and the violation. Where the violation has resulted in substantial discharge and significant pollution, and if the information has been refused or is at variance with the evident facts, the coastal state may undertake physical inspection of the vessel.

Where, on the other hand, a flagrant or gross violation has occurred in the exclusive economic zone resulting in a major damage or threat, thereof, the coastal state may prosecute directly, provided that any bonding or other financial security arrangements in force are respected. Where investigations of foreign vessels are undertaken, the vessels must not be delayed longer than essential, and bonding arrangements are to be allowed. In any proceedings for violation penalties are to be imposed.

C- The National Maritime Legislation
Regarding Territorial Waters.

1- Territorial Waters.

The National Maritime Code was written down in 1959 under the Decree Law No. 1 of 21-02-1959. The Code with 252 articles, is divided into six parts, which we mention in the first chapter. The National Maritime Law regulates also the National Territorial Waters, fisheries, coastal and the marine parks.

According to the National Maritime Code of 1959 in its article 1, defined the limits of the territorial sea in the following terms:-

The sovereignty of the territory embraces the zone of the sea to the distance of six nautical miles along the continental and insular coast. The distance is measured from the coast line by the low tide.

This paragraph however amended and replaced by article 3 of law No. 7 of 1-11-1986 which reads as follows:-

Subject to the generally accepted rules of the International Law, the portion of sea to the extent of twelve nautical miles within the continental and insular coasts shall be under the sovereignty of the state. The extent shall be measured from the coastal line along the low water mark.

This paragraph was amended too by article 1 of Law No. 37 of 10-09-1972 to the following effect:-

The Somali Territorial Sea includes the portion of the sea to the extent of 200 nautical miles within the continental and insular coasts.

Therefore, the existing law extends Somali Sovereignty to a distance of 200 nautical miles.

Somalia has however, signed the United Nations Convention on the Law of the Sea but has not ratified it yet. Though it still supports the Convention, and will not let any state question their already acquired rights under Law No. 37 of 10 September, 1972.

The Somali Territorial Sea includes the portion of the sea to the extent of 200 nautical miles from the continental and insular coasts. The Somali Territorial Sea is under the sovereignty of the Somali Democratic Republic. Offences relating to crime, health and public security committed on board a vessel within the limits of the territorial sea shall be governed by Somali Law.

The normal base line for measuring the breadth of the territorial sea is the low water line along the coast. In localities where the coast line is deeply indented or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight base line joining appropriate points may be employed. Waters on the land ward side of the baseline of the territorial sea form part of the internal waters of the state.

Where an island is situated within the 200 miles limit, the belt of waters around it constitutes territorial waters. This belt shall be 200 miles wide and shall be measured from the low water mark following the sinuosities of the island. A group of islands forming part of an archipelago is considered a unit and its territorial waters shall be measured from the centre of the archipelago.

The Internal waters include all navigable waters in Somali rivers open for maritime vessels and maritime ports. The internal Somali waters are subject to sovereignty of the Republic. Passage in the territorial sea and internal waters is not allowed to vessels having the nationality of states not recognized by the Somali Democratic Republic.

Fishing in the territorial sea and regular transportation of persons and goods between Somali ports are reserved for vessels flying the Somali flag and other authorized vessels . Any infringement of the above provision shall be punished with a fine of from So. Sh. 5,000 to 100,000 and in case of repetition of the infringement by the vessel or the operator, the punishment may be doubled and the captain shall be liable for offences prescribed by the Somali penal laws and the vessel may be confiscated.

Article 5 (of national Code) further states that any contract of transportation made in violation is void and the vessel executing or intending to execute the contract shall be subject to a fine equal to five times the value of the freight or the fare stipulated or fixed by usage for a similar operation.

CHAPTER VI. Conclusion and Recommendations.

1- Maritime Administration.

Coastal traffic is very important for Somalia since it has a very long coast and most trade is done by sea. Somalia also has the benefit of the facilities of four strategically placed ports. Of these ports, Mogadishu is the most important, handling about 63 percent of the total traffic. Berbera and Kismayo handle altogether 37 percent. The sector contributes significantly to invisible earning. Smaller harbours such as Bosaso and Mait etc, which are frequented by smaller ships, specially dhows, contribute to regional incomes. Virtually all international commodity transactions in Somalia are done by sea.

The construction of a new port at Mogadishu in 1977 represented a major improvement in the marine transport infrastructure. As an indication of the impact of this improvement, tonnage passing through Mogadishu increased from 287,000 tonnes in 1973 to 441,000 tonnes in 1978.

Because of the increasing importance of the shipping trade to the Somali economy, the Ministry of Marine Transport and Ports was created in 1977.

The Ministry is responsible for the commercial ports, marine communication, the aids to navigation and marine environment protection.

Along the Somali coast there are about 34 light houses and beacons most of them are very old, and in addition to this it has become difficult to obtain essential spare parts for them. It is therefore, recommended that the Ministry of Marine Transport and Ports undertake an aids to navigation modernization programme involving the utilization of such modern equipment types that will need minimum maintenance at maximum intervals, while reducing the frequency of supplying materials to light houses and beacons location and to provide some new aids to navigation such as leading lights, radio and electronic aids etc, that will further enhance safety of navigation of coastal and international shipping and conform with modern maritime safety practices. It is also recommended that all necessary associated radio communication facilities for operationa support, emergency and navigational warning purpose should be provided.

2- Environment.

Somalia has also two permanently flowing rivers which must be causing pollution, but since no systematic studies have been carried out the exact extent is not known yet. To control this pollution, there are no specific, legal provision which deals with the Environment. Most of the industries are medium scale, so pollution caused by them could not be very serious. The laws establishing factories do not normally contain any anti pollution provisions and this is a matter which should be given consideration when these laws are drafted.

As mentioned earlier, in the chapter Iv, discharge of untreated industrial effluent from an abattoir into the sea is evident in Mogadishu. The pollution caused by this abattoir is considerable and should be obviated. In order to enhance the control of marine pollution, the Ministry of Marine Transport and Ports has drafted a law which will amend some of the articles of the Maritime law of 1959. One of the articles of this draft law prohibits the pollution of the maritime demesne and the territorial waters.

This article provides that the act of marine pollution by whatever means shall be an offence, and prescribes a punishment of one year to three years imprisonment and a fine of So. Sh. 10,000 to So. Sh. 50,000. Another article of the draft law prohibits the extraction of sand from coastal areas. Removal of sand from beaches and coastal areas for use in the construction industry is quite widespread in Somalia. This is not pollution problem as such but it may be the single most destructive coastal industrial activity, producing severe and irreparable beach erosion in many places. Further more, destruction of beaches increases the amounts of particulates material in the water column, resulting in high turbidity in coastal waters, which in turn adversely affects the coastal reefs.

In addition to this problem is that waste disposal is carried out negligently and without environmental concern. To improve this state, public environmental awareness should be increased by providing material and publications for public enlightenment.

Great importance is at present being given to oil exploration and exploitation activities. The mining code deals with the granting of concessions for oil exploration to foreign oil companies. There are, however, no estimates of the amount of pollution caused by the oil refinery and other oil exploration activities.

There is at present no production of oil in Somalia but drilling is under way in many places, including offshore on the north coast and the extreme southern coastal area. There are no estimates of the amount of pollution of the sea by oil as a result of the on going exploration and the effluent from the refinery. But, tar balls are sometimes seen along the coast and on the beaches. No oil leakage or other accident has been reported from exploration. Frequent spills of small quantities of oil are not uncommon in the harbours during operational transfer of oil from crude-oil tankers to storage reception facilities on land.

3- Maritime Law.

Somalia water vests the ownership in the government and provides that every Somali citizen has the right to use water. Therefore, water pollution or damage of any public water course constitutes an offence.

The Maritime Code of 1959 as amended by Law No. 37 of 10 September 1972 extended the country's territorial sea to 200 nautical miles. While the law didn't specifically cover marine pollution control, it may be assumed that Somalia subsumed it under the ordinary exercise of powers within territorial waters. What must be pointed out in this regard, however, is that Somalia signed the 1982 Law of the Sea Convention under which does not permit such claim and therefore it may be expected that its legislation will be realigned accordingly.

In addition, Somalia must take a number of steps in its maritime legislation development. It should:-

- a) Consider ratifying the International Conventions dealing with marine pollution as discussed in Chapter V, because of the basic protection standards they give to the contracting states.

- b) Adopt its own comprehensive legislation on prevention and control of marine pollution from all sources including oil pollution from ships;

- c) Establish within that national legislation, the legal framework for an oil pollution surveillance and combat unit to enforce the pollution control law within areas of material jurisdiction;

- d) Harmonize, and completely revise its own maritime code with the provisions of the 1982 United Nations Convention on the Law of the Sea especially on limits of the territorial sea and the legal regime of the Economic Exclusive Zone;

- e) Consider framework within regional cooperation in the prevention and control of deliberate and accidental discharge of the oil from ships.