Role of the national shippers' council in the development of maritime transport in Benin

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ROLE OF THE NATIONAL SHIPPERS' COUNCIL IN THE DEVELOPMENT OF MARITIME TRANSPORT IN BENIN.

By:
Mifoutaou SALIHOU

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WORLD MARITIME UNIVERSITY
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ROLE OF THE NATIONAL SHIPPERS’ COUNCIL IN THE DEVELOPMENT OF MARITIME TRANSPORT IN BENIN

BY

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BENIN

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

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Paper directed and assessed by: Erik NORDSTROM

Rector of World Maritime University

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

Signature: [Signature]

[Handwritten Signature]
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In memory of my dearest son NABIL who departed this world while I was attending this two-years course.
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Finally, I would be very remiss if I forgot to mention Faustina ASAMOAH. To her, I will only say: "I will never forget you".
A Shippers' Organization defined in the Code for Liner Conferences(1) as an "association or equivalent body which promotes, represents and protects the interests of shippers and, if those authorities so desire, is recognized in that capacity by the appropriate authority or authorities of the country whose shippers it represents"(2) is a quite new phenomenon in the developing countries particularly in African countries.

Although the idea of setting up shippers' associations for negotiating maritime freight rates was born in 1960 in the developing countries, following the example of developed countries, it has been necessary to wait for the Second Session of the United Nations Conference on Trade and Development (UNCTAD II) held in New Delhi in 1968 where a recommendation was taken for the first time by an International Organization, requiring developing countries to establish shippers' organizations and national fleets for participation in the maritime traffic generated by their foreign trade. This idea has been strengthened by the Convention on the Code of Conduct for Liner Conferences adopted in Geneva in 1974, which recognized inter alia the rights of shippers' organizations to consultations with conferences on common interests.

In Africa, in the western and central countries in particular, the need for shippers' organizations has been

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(1) The Convention on a Code of Conduct for Liner Conferences was adopted in April 6, 1974 by a majority of votes, 72 countries in favour, 7 voting against and 5 abstaining. It entered into force in October 6, 1983.
recognized by the Resolution on the Establishment of National Shippers' Councils adopted in Douala on February 21, 1976 by the Second Ministerial Conference of West and Central African States on Maritime Transport (MINCON-MAR) (1). Among its objectives, the Ministerial Conference should promote the setting up of national shippers' councils or equivalent bodies in its Member States. Therefore, the setting up of shippers' organizations or similar bodies has known since that era, an evident impetus such as, nowadays, almost all the Member States of the MINCON-MAR have achieved the establishment of their shippers' councils.

Shippers' councils are not only seen by developing countries as an association which promotes, represents and protects shippers' interests as defined in the Code of Conduct, but generally as an instrument for economic development. Indeed, developing countries are now aware of the important role which can be played by international maritime transport in their economic development process. Moreover, shippers' councils are the only structured organization which intervenes directly in the maritime transport sector in these countries. As a result, its competencies are beyond those defined by the Code of Conduct and are extended to the promotion and development of maritime transport.

This paper which is submitted to you will particularly deal with this aspect of the subject: the promotion and development of maritime transport. Indeed it is an attempt to analyze how a shippers' council can contribute

(1) Ministerial Conference of West and Central African States on Maritime Transport was established in May 6, 1975 in Abidjan and consists now of 25 Member States.
to the promotion of maritime transport in a developing country. For this purpose, and for practical reasons too, the case of the Benin Shippers' Council has been taken. It is also an opportunity for us to make know the Benin National Shippers' Council.

My paper is broken down into four chapters and is structured as follows:

The first chapter which is an introductory chapter, after having analyzed the situation regarding shippers' associations in some African countries, will consider the price paid in transport costs by developing countries as a consequence of this lack of shippers' associations, and the reasons which led to the establishment of shippers' councils in those countries.

The second chapter is a descriptive chapter, which will describe the Benin National Shippers' Council according to its structure and its functioning.

The third chapter will analyze the role played by the Benin National Shippers' Council in the development of maritime transport. This will be done by firstly presenting the maritime sector, and then by detailing what has been done by our National Shippers' Council in the way of promoting the maritime sector since its establishment.

Finally, some proposals and recommendations will be made as regard improvement of the effectiveness and efficiency of the Benin National Shippers' Council, which has from our point of view not been fully operational till now.

One might be made aware here, that I will not try to go into all the theoretical solutions which can make a shippers' council efficient. My suggestions will come from the practical obstacles faced by Benin Shippers' Council in performing its duties.

Much of my study is based on insights gained during my
studies at World Maritime University, on UNCTAD publica-
tions which will be cited very often as references, and par-
ticularly on information and data collected at the Benin Shippers’ Council office where I have spent a short period of training during my last holidays. Reference will be made also to MINCONMAR of which my country is a Member State.
CHAPTER ONE

GENERAL INTRODUCTION

Shippers' councils, as stated earlier, came into being at a recent date in developing countries, and as far as West and Central African States are concerned, they date from the late seventies. The situation regarding seaborne trade and shippers' associations was quite similar in those countries, with the existence of some producers' associations trying to perform duties which can at the present be seen as the duties of shippers' associations.

1.1 THE SITUATION IN SOME AFRICAN COUNTRIES

For the purpose of this study, it has been proposed to analyse here the situation prevailing in the Federal Republic of Nigeria, in the Republic of Cameroon and in the People’s Republic of Benin before the setting up of shippers’ councils in these countries.

1.1.1 THE CASE OF THE FEDERAL REPUBLIC OF NIGERIA.

Preceeding the setting up of the Nigerian Shippers' Council in 1978, there have been forms of associations in some of the trades, in which producers were banding together for the main purpose of espousing their trade causes. The most predominant ones were the Nigeria Timber Association and the Nigeria Rubber Association which had permanent offices and full-time staff. These associations have established some negotiation procedures between the liner conferences serving Nigerian ports and themselves.

Although it is probably difficult to ascertain or to
assess the effectiveness of each trade negotiation conducted by these associations with any liner conference, the existence of such machinery cannot be denied.

Additionally there was an influential Association of Chambers of Commerce with a central council in which all trades, whether manufacturers, brewers and various groups of importers and exporters were represented. Thus, if any trade feels that it has not been given a fair hearing by any liner conference, it can appeal for intervention on its behalf by the Association of Chambers of Commerce.

However, the existence of these trade associations has not been strong enough to counterbalance the power of liner conferences during the negotiations, particularly those relating to freight rates. And the Nigerian Government has in the past had to express concern over some actions of the conferences considered inimical to the economic interest of the country.

1.1.2 THE CASE OF THE REPUBLIC OF CAMEROON.

The Association of Importers and Exporters (Syndicat des Commercants Importateurs et Exportateurs) of Cameroon was one of the associations which was formed in Cameroon to represent the importers and the exporters before the establishment of the Cameroon National Shippers' Council in 1975. This association was only concerned with the marketing of produce, consumer goods and finished articles.

There have been other producers' associations. For instance, the Timber Association, the Association of Coffee Producers and the Chamber of Commerce and Industry, but none of them was concerned in freight problems discussions. Indeed, most of the importing and exporting firms in Cameroon had offices in Europe or in the United
States of America, which discussed freight problems directly with liner conferences. It was the case for instance of SCOA(1).

The absence of any local representative in liner conferences and the lack of any strong, organized structure capable of facing the conferences, made it difficult for the Government of Cameroon to influence the structure and level of freight rates which were traditionally decided in London, Paris, New-York, etc.

1.1.3 THE CASE OF THE PEOPLE’S REPUBLIC OF BENIN.

In the People’s Republic of Benin, the situation before the setting up of the Benin National Shippers’ Council in 1983 was almost the same as those previously described in the Federal Republic of Nigeria and in the Republic of Cameroon.

The import and export trades were dominated by foreign firms which had headquarters in Europe. It has been for instance the cases of SCOA and CFAO(2) for the import trade, and CFDT(3) and SNAHDA(4) for the export trade. The existence of the Chambre du Commerce et d’Industrie du Dahomey(5) did not modify the situation. In fact the Chambre du Commerce et d’Industrie du Dahomey was entirely concerned with the marketing of the products which were most of the time, semi-finished or finished import products and agricultural products, respectively from and for Europe.

The lack of local producers’ associations, and as a

(1) Societé Commerciale de l’Ouest Afrique.
(2) Compagnie Francaise des Textiles.
(3) Societé Nationale des Huileries du Dahomey.
(4) Former name of my country changed in 1975.
result the lack of any mechanism of concertation between liner conferences and producers made it difficult if not impossible for the Government of Benin to take any action against the fluctuations of freight rates which were fixed unilaterally by the conferences.

The afore-mentioned situation in these three African countries, has for a long period been that existing in most of the developing countries before the setting up of shippers' associations.

In some of these countries, there has been a total absence of producers' associations and consequently, a non-existence of consultation machinery. In others, the great number of various producers' associations had weakened their bargaining power, even when associated with the discussions procedures.

Therefore, the general trend has been towards an increase of freight rates in those countries. Indeed, it is well known that the natural tendency is for the conference shipowners to raise the price for their services to cover the costs of inefficiency, rather than to improve their efficiency in a lack of competition. This situation characterized by a continuous increase of shipping services costs as a result of a non-existent strong, organized structure capable of monitoring freight rates, has caused a serious handicap to their economic growth.

One of the features of the economy of developing countries is that they are mainly exporting countries and, they rely heavily for their economic growth upon revenues which can be gained from their foreign trade. Moreover their external trade is carried by sea, explaining their great need in shipping services. Thus, any fluctuation in freight rates slows down the overall economic development of these countries which are well known by the burdens caused on their balance of payments by the high price
they have to disburse for shipping services both for import and export.

1.2 THE PRICE OF THIS SITUATION.

As afore-mentioned, the economic development of developing countries is heavily dependent on shipping services. Therefore the non-existence of machinery body to discuss freight rate problems with liner conferences has entailed a rise of shipping services costs. The price paid by developing countries as a consequence of this situation, can be clearly shown by analyzing the incidence of ocean transport costs on the balance of payments and on the overall economic development of these countries.

1.2.1 INCIDENCE OF OCEAN TRANSPORT COSTS.

The geographic location of developing countries, in relation to many of the consumption markets of their main products is such that long distances are involved, implying relatively higher freight costs for the carriage of their trade. One characteristic of their economy being the importance of their external trade, which is often narrowed down into import and export, it is understandable that high transport costs have a negative effect upon their balance of payments which in turn affects the overall economic development of these countries.

1.2.1.1 ON THE BALANCE OF PAYMENTS.

The balance of payments is to be seen as a double-entry account of a country in which are shown all receipts of foreign earnings from the rest of the world on the credit side, and all the payments to the rest of
the world on the debit side. Although, this definition is not extensive it will aid understanding of what will follow further on in this chapter.

Developing countries have grounds for concern about the level of freight rates, because they bear the freight costs of both their imports and exports; if transport costs rise, they have to pay more for their imports, and at the same time, their producers may receive less for the goods they sell overseas. Therefore, high shipping costs may have a critical effect upon their balance of payments, by causing a reduction in receipts and an increase in payments.

In addition, and because of the relative price elasticities of demand and supply in their import and export trades, developing countries tend to absorb not only increases in the maritime transport costs, but also tend to bear the greater part, if not the total costs of carriage of both their export and import trades.(1) Moreover the foreign suppliers of shipping services require payment in their own national currencies or currencies of their choice. Whatever is the case, developing countries have to pay the freight costs in foreign exchange. All that works towards to making more delicate the already critical problem of the balance of payments practically existing in most of the developing countries.

A deficit of a balance of payments of a country shows the fragility of its economy, and high transport costs disbursed by developing countries for their foreign trades do certainly not contribute to ameliorating the situation of deficit known by the balance of payments of

1.2.1.2 ON THE OVERALL ECONOMIC DEVELOPMENT.

As it has been aforesaid, developing countries are exporting countries, and the priorities which they have assigned to exports in the national economic interest, is largely attributable to the dependence of the overall economic development process to the revenues generated by their export trade. In fact, the costs of shipping goods is a determining factor in the mind of an overseas buyer in deciding whether to import from one source or from another, or whether to use alternative materials which do not need to be imported at all. If for example, the price of shipping services tends to increase further, it may become economical to locally produce certain goods.

From a national point of view, the level of freight rates which applies in the country's exports is quite vital: it can determine the competitiveness of the country's products as well the level of net returns from export sales. This applies particularly to developing countries which export low-value goods which are sensitive to fluctuating freight rates, counting for a large percentage of its landed value.

Exporting countries, developing countries are not at the very least importing countries. They need finished products and equipment for their development. Like in export trade, freight rate levels in the import trade are also important since they affect the quantity of goods which a country can import for a given sum, and hence its standard of living.

The level of transport costs may also have an effect upon the industry of developing countries, particularly on infant manufacturing industries established for the
purpose of taking advantage of relatively low labour costs. Such industries can only remain viable so long as the costs of transport do not outweigh the savings and convenience which derive from the use of local labour.

In total, high transport costs at both ends of the trade, which means fewer export earnings and less ability to import for developing countries, have a critical effect upon their development process in which they have been engaged since their independence.

Since the time of UNCTAD I in 1964 (1), many policies have been formulated with regard to the aspirations of the developing countries in the purpose to increase their earnings from maritime activities, and also to minimize their net outflow of foreign exchange caused by shipping transactions.

Among the policies which have been formulated, the establishment of a national fleet and the setting up of shippers' councils have been the most heavily stressed. Indeed national merchant marines would enable developing countries to participate in the carriage of goods generated by their foreign trades and would result in corresponding savings of foreign currency expenditures, while shippers' councils would enable them to monitor their outflow caused by international trade.

This paper is more concerned with the second policy as regards the setting up of shippers' councils which have nowadays seen an increase of their role.

1.2.2 THE NEED FOR SHIPPERS' COUNCILS.

The primary factors underlying the development of in-

formal consulting procedures are basically commercial: large merchants or groups of merchants have simply used the commercial power that stems from control of large volumes of cargo (often consisting of a single commodity), to force liner operators to negotiate with them instead of declaring rates unilaterally. In some instances, such groups also serve the national economic interest of the countries concerned. However, for the most part, such arrangements are motivated by commercial rather than national economic considerations. It has been clear that most of the merchants who have developed negotiating procedures appeared to be either, sellers who sold c.i.f(1) or buyers who bought f.o.b(2).

The first fact which seems to explain the establishment of negotiating procedures appears to be the necessity to force liner conferences to negotiate freight rates with the users.

In Western Europe where the British Shippers’ Council was the first to be formed in 1955, the International Chamber of Commerce recommended the establishment of national shippers’ associations as regards what should be done against various practices of conferences(3).

The need for shippers’ associations has been made urgent in developing countries due to the impact of freight rate levels on their national economy. The setting up of shippers’ councils or equivalent bodies has been recommended by the Third United Nations Conference on Trade and Development. For the West and Central African States, this recommendation has been taken up by the Resolution

(1) Cost Insurance and Freight.
(2) Free On Board.
(3) HERMAN Amos, Shipping Conferences, page 123, Ed. 1983.
Resolution of Douala(1) requiring the establishment of shippers' councils in the Member States of MINCONMAR. Indeed, the groups of buyers or sellers who have established informal negotiating procedures in most of the developing countries have been found to be dominated by trading houses headquartered in developed countries. Moreover, these groups were mainly preoccupied with negotiating the conditions of shipment rather than freight rates.

1.2.2.1 WHY FORM A SHIPPERS' COUNCIL.

The prime purpose of a shippers' council is to represent shippers vis-à-vis the shipping industry, with the purpose of giving them the necessary bargaining power in the way of promoting consultations and negotiations with conferences through a consultation machinery. Consultation machinery which is an organized collective negotiating system in the field of shipping, has as its main purpose to facilitate in a practical way, consultations and negotiations between shippers and liner conferences with the objective to reach joint decisions on matters of common interest.

Shippers' councils were originally conceived as national organizations representing all shippers, a conception contrasting with the traditional organization of shippers in which shippers were organized according to their cargo or to their trade routes. The object of organizing nationwide shippers' associations was to achieve the negotiating strength which would result from a shippers' body representing all the shippers in a particular

(1) Resolution on the Establishment of National Shippers' Councils adopted in Douala in 1976 by MINCONMAR II
country. Indeed, individual shippers have found themselves in a weak negotiating position vis-a-vis liner shipping companies which are organized in conferences.

Moreover, because of the "communications gap" that exists between conferences and shippers in matters of general importance and, because of the insufficient knowledge on the part of individual shippers, a well organized nationwide shippers' council has been proved capable of counterbalancing the strong power of liner conferences. It seems therefore, that a need for a council is likely to be greatest among shippers using liner services because liner operators have already wielded considerable power through their liner conferences, and some comparable organizations are needed on the side of the shippers if a more equal balance of power is to be achieved. Shippers who use charter and contract shipping do not have the same need for an organization, because these services are normally arranged in open market conditions, and individual shippers stand on a reasonably equal footing with shipowners by virtue of the cargoes which they control.

It appears from what has been said above, that the immediate function or the main role of a shippers' council is to exert maximum pressure to reduce conference demands for freight increases, and then, to protect shippers' interests when negotiating with conferences through the consultation machinery.

However, there is another purpose in setting up shippers' councils. Indeed shippers' councils provide shipowners, government agencies and port authorities with means of communicating with shippers, as regards obtaining an authoritative shippers' viewpoint. Moreover, the need for shippers' spokesmen has become pressing in today's situation, because of a need for a high degree of
coordination between all parties involved in shipping business in order to adapt traditional shipping procedures and practices to modern-day conditions. If there is not proper organization to represent shippers, the resolution of such problems can be frustrated, or problems may be resolved in a manner which suits the other parties but ignores the shippers’ interests.

Nevertheless, and as it will be seen further on in this paper, the traditional concept of shippers’ councils has at present been exceeded, particularly in developing countries. In those countries, shippers’ councils are the only organized structure which intervenes directly in the maritime sector, and consequently, their role has been extended beyond what has been defined by the traditional concept.

It is widely recognized that there is presently a need for collective representation for general discussion between the parties of maritime transportation, and shippers’ councils provide this function. But who among the various interests on the side of the shippers is in a position to take the necessary action to set up a shippers’ council?

1.2.2.2 WHO SETS UP A SHIPPERS’ COUNCIL?

There is no unanimity in who should set up a shippers’ council, and experiences have shown that the degree of government involvement varies from one country to another particularly between developed countries and developing countries.

In most of the developed countries, shippers have themselves taken the necessary action to protect their interests, by forming shippers’ councils and by establishing consultation procedures. In some developed countries,
the initiative has come from the producers of export goods. Whatever, the establishment of such negotiating procedures has been partly motivated by the desire of such commercial groups to coordinate their efforts through the medium of a shippers' council.

Although shippers' councils were based on voluntary functional trade associations with a common interest in overseas carriage of goods, it will not be fully exact to affirm that there has not been any government involvement in developed countries in matters of setting up shippers' associations.

In Western European countries, it has been firstly the ICC(1) which recommended the establishment of national shippers' associations in response to certain complaints regarding certain activities of conferences, such as non-publication of tariffs and no previous notice on rates increases.

Later in 1963, the West European Transportation Ministers met in London to form the Consultation Shipping Group (CSG), and adopted recommendations among which were a number of provisions dealing with consultations. The Ministers agreed that "it is important that means should exist, and should be widely known to exist, of ensuring fair practices and discussing grievances that shippers may have against conferences"(2).

It is clear that, even if West European Governments do not take direct action in setting up shippers' councils in their respective countries, there has been a net

(2)HERMAN Amos, "Shipping Conferences" P.124, Ed.1983.
Resolution adopted in March 15, 1963 by the Western European Ministers responsible for shipping, Section 4(B).
UN Doc. TD/B/C.4/20/Rev.1 at 51 (1967).

17
recognition by these governments of the necessity to have such bodies and consequently, consultation machinery.

In developing countries, the situation is somewhat different. It is necessary to recall that the groups of buyers or sellers who have established informal negotiating procedures appeared to be dominated by subsidiaries of trading houses headquartered in developed countries. Therefore, developing countries governments cannot rely upon either their shippers or their producers to take the necessary action, and must take the initiative themselves both in setting up shippers' councils and in ensuring that the procedures lead to the desired results.

Furthermore, in developing countries only the governments are in a position to take the necessary overall view of the situation. Indeed, shipowners are basically concerned with moving goods from one country to another, and for individual shippers, as long as the level of freight rates is not restricting the flow of the trade, they have no interest in resisting freight rates increases. But a government is concerned with the efficiency and economy of the total operation from producers to consumers; it is concerned with the effect of rates on costs to consumers and returns to producers; it is concerned not merely with the costs of shipping, but with the effect upon its balance of payments, and with the possibilities of saving or earning foreign exchange.

In addition, the high degree of government involvement in setting up shippers' councils in developing countries can be explained by the role assigned to shippers' councils in these countries as regards the promotion of the maritime sector, and the priority given to this sector in their development process. Indeed, many developing countries feel that their political and national security interest should dictate their shipping development which
enables them to reduce economic and trade dependence.

It was in this context that the United Nations Conference on Trade and Development called for the establishment of shippers' councils in developing countries in 1968. This call has been reiterated to West and Central African countries in 1976 by MINCONMAR in its Resolution of Douala.

In response to all these calls, my country, the People's Republic Benin set up its national shippers' council, the so called Conseil National des Chargeurs du Benin in 1983, that is to say seven years after the resolution of Douala and fifteen years after New Delhi.
CHAPTER TWO

THE CONSEIL NATIONAL DES CHARGEURS DU BENIN: STRUCTURE AND FUNCTIONING

BACKGROUND

The Conseil National des Chargeurs du Benin (CNCH) has had a long gestation before coming into being. Indeed, it has been established fifteen years after the Second UNCTAD held in New Delhi in 1968, and since that time an interministerial committee has been working towards the setting up of a national shippers’ council and for its project of statute.

Although there was unanimity in the principle of setting up a national shippers’ council, in its attributions and its financial sources, a consensus between the different ministerial departments about the composition of its various organs has not been reached. This fact contributed to delay the establishment of a national shippers’ council in the People’s Republic of Benin until 1979.

In May 1979, ECOWAS(1) decided to freeze all taxes among its member States both for import and export trades. Benin being a member State of ECOWAS, this decision has been understood as contradictory to the principle itself of setting up a national shippers’ council which is supposed to draw its financial resources from a deduction of 2.5 per thousand of the goods value of import and export merchandises.

(1) Economic Community of West African States established in May 28, 1975 consisting of 16 member States.
Finally and after an intervention by the Minister of Finances on the ECOWAS decision in 1981, my country, the People’s Republic of Benin setted up its shippers’ council by Decree No 83-197 issued in May 25, 1983 with the agreement of the representatives of importers and exporters on its project of statutes.

The Conseil National des Chargeurs du Benin (CNCB) which is our concern, is a professional public institution with a legal entity and a financial autonomy. It is under the administrative authority of the Ministry of Equipment and Transports and its structure and functioning have been defined in the Decree No 83-197 which established it.

2.1 STRUCTURE.

Before going into all the organs which contribute to the life of the Conseil National des Chargeurs du Benin, I would like to underline the fact that all professional importers and exporters, moral or physical persons, exercising their activities in People’s Republic of Benin are automatically members of the Council.

The Conseil National des Chargeurs du Benin as existing now, and as it will be shown in the organization chart presented in the following page, comprises three organs:

* a Board of Directors,
* a Management Body and
* a Top Management

2.1.1 THE BOARD OF DIRECTORS.

The Board of Directors constitutes the supreme body of the Council and then, is responsible for defining the
general policy of the Council. It reviews and approves the programme of activities, studies and approves the budget and accounts of the Council presented by the Top Management.

The Board of Directors shall meet at least twice a year on the initiative of the Chairman or at the request of half of its members. It shall meet too at the request of the Minister of Equipment and Transports. It consists of:

- 1 Chairman appointed by Decree issued by the National Executive Council(1) among the members of the Board of Directors and at the suggestion of the Minister of Equipment and Transports.
- 1 representative of the Ministry of Planning and Statistics.
- 1 representative of the Ministry of Finances and Economy.
- 1 representative of the Ministry of Labour and Social Affairs.
- 1 representative of the Ministry of Commerce, Arts and Crafts and Tourism.
- 1 representative of the Ministry of Equipment and Transports.
- 1 representative of the Directorate of Merchant Marine.
- 2 representatives of the Comite de Defense de la Revolution.
- 3 representatives of the Union.
- 2 representatives of Importers and Exporters.
- 1 representative of the Benin Chamber of Commerce and Industry.

(1) Consists of all the Ministers and Prefects of the Provinces and meets every Wednesday.
The Director General of CNCB and the Autidors attend the Board of Directors meetings with consultative votes.

2.1.2 THE MANAGEMENT BODY.

The regular management is under the responsibility of the Management Body. It is composed as follows:
- Chairman: the Director General of the Council.
- Vice-Chairman: the Assistant Director General.
- Members: 2 representatives of the Union,
  2 representatives of the Comite de Defense de la Revolution and
  The Heads of the Departments.

The Director General is the executive officer responsible for all matters that are delegated to him by the Board of Directors. His responsibilities cover a very large area and the duties involved are numerous. He is responsible to the Board of Directors and to the Government through the Minister of Equipment and Transports for the proper functioning of the Council in accordance with the general policy and the legal status of the Council.

The most important functions of the Director General are therefore, to implement decisions of the Board and to ensure that the Departmental Heads carry out their duties properly.

The Director General, within the limits of the power delegated to him, has the authority to bind the Council in any commercial, administrative or judicial act referring to its object. He has too, within the limits of the power delegated, the authority to appoint or to dismiss any employee except the management personnel in accordance with the regulations in force.

The Director General is appointed by Decree issued by the National Executive Council at the proposal of the
Ministry of Equipment and Transports. He is dismissed under the same conditions.

2.1.3 THE TOP MANAGEMENT.

The daily management of the Council is carried out by the Top Management. It consists of a Direction General and four Departments which are namely:

(1) a Department of Maritime Promotion,
(2) a Technical Department,
(3) an Administrative and Financial Department and
(4) a Department of Training and Communications.

The attributions of these various Departments will be seen further on in this chapter when we will be studying the functioning of CNCB.

2.2 FUNCTIONING.

The functioning of the Benin National Shippers’ Council should be seen at different levels:

1- at the national level, when performing its duties through its various departments;

2- at the regional level, when cooperating with the other shippers’ councils of the sub-region in order to coordinate their viewpoints and to enter into common actions and

3- at the international level, when bargaining and negotiating freight rates problems with liner conferences.

2.2.1 AT THE NATIONAL LEVEL.

The daily management as previously stated is carried out by the Top Management which performs the duties of
the Council through its various departments housed at the headquarters.

2.2.1.1 THE DEPARTMENT OF MARITIME PROMOTION.

The Department of Maritime Promotion is responsible for studying, proposing and, if the case arises, taking any action in the way of promoting the maritime activities in the People’s Republic of Benin. It mainly has the following functions:

- implementation of national and international regulations on cargo sharing according to the 40-40-20 formula of the International Convention on a Code of Conduct for Liner Conferences;
- measures aimed at rationalizing and maximizing the maritime servicing;
- aid to the national shipping line and to the various maritime transport auxiliaries;
- adequacy between ships and cargo and improvement of port activities;
- computerization and processing of statistics.

The Department of Maritime Promotion is composed of three divisions:

a/ the Division of Freight,
b/ the Division of Studies and Statistics and
c/ the Division of Port Operations.

2.2.1.2 THE TECHNICAL DEPARTMENT.

The Technical Department carries out any activity of sensitization, information and training of importers and exporters who are assisted in the solving of their various problems relating to maritime transport by this department. It is also responsible for international co-
operation in the maritime field. Among others, it has as duties:
- to ensure profitable operation of the maritime sector in general and the maritime transport in particular, thanks to the sensitization, information and training of importers and exporters.
- simplification of administrative and custom procedures.
- assistance to importers and exporters and litigation.
- negotiation and approval of freight rates with the liner conferences and the outsiders.

The Technical Department consists of two divisions:
- the Division of Negotiations and External Relations and
- the Division of Assistance to Shippers and Litigation.

2.2.1.3 THE ADMINISTRATIVE AND FINANCIAL DEPARTMENT.

The Administrative and Finance Department is in charge of personnel and equipment management: salaries, supplying and general affairs. It is responsible for:
- preparing and implementing the budget.
- book-keeping.
- general and analytic accounting etc...

The Administrative and Financial Department is composed of two divisions:
- the Division of Accountancy and
- the Division of Personnel and Material.
2.2.1.4 THE DEPARTMENT OF TRAINING AND COMMUNICATIONS.

The Department of Training and Communications is responsible for the conception, realization and functioning of an internal system of training and recycling the personnel of the Benin Shippers’ Council, the employees of the national transport sector, the shippers etc... It has as principal duties:

- programme planning for training periods abroad for the personnel of the Benin Shippers’ Council.
- conception, realization and publication of the Benin Shippers’ Council periodicals.
- advertisement.
- documentation and library.
- public relations.

The Department of Training and Communications comprises three divisions:

a/ The Division of Training,
b/ The Division of Documentation and Library and
c/ The Division of Communications and Public Relations.

It appears from what has been described above that the duties of the Conseil National des Chargeurs du Benin are very large and varied. Therefore, in achieving its objectives the CNCB cannot restrict itself only to the national level, but should extend its activities in the sub-region as regards cooperation with the neighbouring shippers’ councils.

2.2.2 AT THE REGIONAL LEVEL.

The Conseil National des Chargeurs du Benin maintains close cooperation with the other shippers’ councils of
the sub-region which are always invited to take part in seminars organized in Benin. Their participation is secured by sending delegates and lecturers. Reciprocally, representatives of Benin Shippers’ Council have been taking part to seminars organized by the shippers’ councils of the sub-region. In addition, the CNCB is member of the Union of National Shippers’ Councils(1) which is an specialized agency of MINCONMAR.

The Union of National Shippers’ Councils is not exactly a regional shippers’ council. However, it can be assimilated as such having due regard to its duties and structure. The Union of National Shippers’ Councils is an association of the West and Central African National Shippers’ Councils and its objectives, which are defined by the Councils are similar to the objectives of the Councils themselves, particularly as regards the strengthening of their bargaining power and the promotion of shipping servicing.

The concept of a regional union of shippers’ councils consisting of councils from all or most of the countries in the same region is based on much the same considerations which led to the creation of national shippers’ councils. From a national viewpoint, the regional union offers the advantage of a structure that, in many cases, closely resembles that of the liner conferences, which is almost multinational.

Furthermore, the individual liner conference is rarely limited, by its conditions of carriage or by its rate schedule, to single ports or countries. In other words, shippers in different countries trading in similar

(1) Established in February 1977 by the Convention of Accra and consists of 15 members of West and Central African States.
commodities or engaged in trade in the same geographical areas may have common interests vis-a-vis one or more liner conferences.

For all these reasons, the organization of national shippers’ councils in a regional union, has been found superior to the organization of shippers in national bodies. This does not mean that the national shippers’ associations are of little or no value. Indeed they constitute the roots of the union, and the viewpoint of the union is always derived from the development made to certain problems by the national councils.

The idea behind the organization of such a union by the national shippers’ councils of the West and Central African States is, to achieve the coordination and harmonization of their various viewpoints and, to define a common policy reflecting the different interests which will be submitted to the liner conferences through the Regional Negotiating Committee(1). Exercising such common action would strengthen their bargaining power vis-a-vis liner conferences during the negotiating procedures.

The regional functioning of the Benin National Shippers’ Council is also carried out by participating actively at the various meetings of the Union of National Shippers’ Councils and of the Regional Negotiating Committee which is the negotiating body of the Union.

2.2.3. AT THE INTERNATIONAL LEVEL.

The international functioning of the Benin Shippers’ Council is to a great extent carried out by the Regional

(1)Established in 1975 by MINCOMMAR, it became an organ of the Union of National Shippers’ Councils in 1977.
Negotiating Committee which discusses all problems relating to shipping matters with the liner conferences on behalf of the Councils which are members of the Union. The Regional Negotiating Committee shall meet once a year for defining a global strategy elaborated in a common document which will be a basic document of negotiation with the conferences. In 1986/1987, it was composed of the following councils:

- the Benin National Shippers' Council,
- the Shippers' Council of Burkina Faso,
- the Cameroon National Shippers' Council,
- the Gabon Shippers' Council,
- the Nigeria Shippers' Council,
- the Senegal Shippers' Council,
- the Ghana Shippers' Council,
- the Togo National Shippers' Council and
- the Office of Maritime Freight Management of Zaire.

The negotiations with the liner conferences take place every year and are carried out in two steps. The members of the Negotiating Committee meet in a preparatory meeting to elaborate a common document which will be then submitted to the liner conferences during the proper negotiations. The negotiations are done separately with each conference and concern mainly freight rates and maritime servicing matters.

An important advantage for establishing the Regional Negotiating Committee which discusses with liner conferences on behalf of all the Councils which are members of the Union is that, conferences should have some counterpart and so, could avoid the difficulties which would result from their facing widely divergent requests on the same subject from different national shippers' councils. Indeed, an attempt to meet divergent requests on the same subject often put conferences in a difficult position, as
acceding to these requests would have led to discriminatory treatment which again would give rise to serious grievances towards the conferences. Lately, collective consultation allows matters of principle and broad issues of mutual and general concerns to shippers and conferences as a whole to be discussed.

The rates negotiated and approved between the conferences and the Regional Negotiating Committee are applicable from the 1st of October of the negotiating year to the 30th of September of the following year.

Besides, the Benin National Shippers' Council takes part in seminars and meetings organized by certain international institutions. It is the case of the works of the Facilitation Committee of the International Maritime Organization to which the Benin Shippers' Council has been sending representatives.

The Benin National Shippers' Council as described above has been assigned precise objectives as regards the protection of shippers' interests and the promotion of the maritime sector in general and of maritime transport in particular. These objectives have been defined by the decree No 83-197 as amended by the decree No 85-529 issued in December 18, 1985 relating to the approval of statutes of the Benin National Shippers' Council.
CHAPTER THREE

ROLE OF THE BENIN NATIONAL SHIPPERS' COUNCIL IN THE DEVELOPMENT OF MARITIME TRANSPORT

The prime purpose of a shippers’ council is to unite shippers and to give them the necessary bargaining strength to obtain adequate and efficient services at the minimum cost. In other words, shippers’ councils have originally been formed for the purpose of protecting shippers’ interests, and this has been clearly defined by the drafters of the Code of Conduct in which, a shippers’ council has been described as an instrument of promotion, representation and protection of shippers’ interests.

However, and as stated earlier, this role has been extended beyond what has been retained by the Code of Conduct in the Developing Countries in general and in the West and Central African Countries in particular. This should be seen as a consequence of the characteristic of their economy which almost entirely relies on foreign trade, and the priority given to maritime transport by those countries in their economic development processes. Indeed the Constitution of the Union of National Shippers’ Councils(1) in defining its objectives has set up among others, the strengthening of the mechanism for consultations and negotiations, the study of any problem relating to freight rates, the measures aimed at ration-

(2) Constitution of the Union of National Shippers’ Councils, Chapter II, Article 3.
alizing and maximizing the services of shipping lines of the Member States, that is to say all measures which can work towards a development of maritime transport in the Member States.

The Benin National Shippers’ Council which is a member of the Union of National Shippers’ Councils and whose statutes have been drawn from the constitution of the Union has been assigned the same objectives, particularly as regards the development of the maritime transport in the People’s Republic of Benin. Before analyzing the objectives and role of the Benin National Shippers’ Council as stated in its statutes, it will be appropriate to describe however briefly, the maritime sector as existing now in the People’s Republic of Benin and having due regard to the different actors intervening in that sector with which the Benin National Shippers’ Council should cooperate in performing its duties.

3.1 THE PRESENT SITUATION OF THE MARITIME SECTOR IN THE PEOPLE’S REPUBLIC OF BENIN.

The organizational framework of the maritime sector in the People’s Republic of Benin is not a special one. As a matter of fact, the shipping industry, wherever or whenever it takes place implies a certain number of associations and superstructure. In the case of my country, the maritime sector is essentially dominated by the Autonomous Port of Cotonou which is concerned in the management of the port, the Benin National Shipping Company representing the shipping line, the Office Beninois des Manutentions Portuaires as stevedoring agent and many forwarding companies.
3.1.1 THE AUTONOMOUS PORT OF COTONOU.

The People's Republic of Benin is equipped with one single port which can accommodate ocean-going vessels. It is located on a low lying sandy coast at the southern edge of the city of Cotonou. At equal distance from the Port of Lagos in Nigeria (115 km) and the Port of Lome in Togo (135 km), the Port of Cotonou serves as transit port for cargo destined for Niger. Other countries of the hinterland, such as Burkina Faso and Mali, also benefit from the services of the Port of Cotonou which, owing to its geographical location (6°21'22'' Latitude North and 2°02'26'' Longitude East), appears to be the actual crossroads of the sub-region.

So as to be able to cope with the rapid growth of traffic, the Government of Benin decided to finance an extension of the port. The work of enlarging the former port, which included the construction of a multimodal terminal, ended in December 1982. Thus, at the present time in addition to the conventional port which continues to handle bulk cargo, there is a multipurpose terminal which can accommodate containers and RO/RO vessels.

The management of the Port of Cotonou, as for most ports in the world, is vested in the port authority, the Autonomous Port of Cotonou which, apart from the handling equipment, owns all properties in the port and provides all facilities and services including pilotage and lighthouse.

Problems related to shipping are inseparable from problems related to ports, and this is true both when a current situation is to be assessed and policies are to be formulated for the future. Indeed, shippers may pay the price for shipping services which directly reflects the costs incurred in the port sector. At the end it
appears to be the whole national economy which supports the burden. Therefore, the importance of the role of a port for a national economy of a country appears to obvious. And in the case of a developing country, it is not an exaggeration to say that a port is a life-giving source for the national economy.

In the case of the Port of Cotonou, this importance is increased due to its geographical location and its role as transit port for certain landlocked countries. The severe competition coming from the Port of Lome which is almost at the same geographical position does not allow for any weakness or failure on the part of the Autonomous Port of Cotonou in providing goods facilities and services. The hinterland countries (Niger, Burkina Faso, Mali) using at the present time the Port of Cotonou as transit port may at anytime decide to use the Port of Lome for the same purpose or, shipowners may decide to divert their ships to the Port of Lome if something wrong happens in our port. Thus, it may be understood that the prime purpose of the Benin authorities has been to work towards making the Port of Cotonou more efficient and more effective to enable it to respond and to meet the new requirements introduced in shipping by the new technology.

3.1.2 THE BENIN NATIONAL SHIPPING COMPANY.

The Benin National Shipping Company, the so-called La Compagnie Beninoise de Navigation Maritime (COBENAM), was established in July 11, 1974 by a convention signed between the People's Republic of Benin and the Democratic Republic of Algeria. This convention was ratified by the governments of the two countries in July 31, 1974, and the Benin National Shipping Company started its commerc-
ial activities in 1975 by chartering vessels of medium size.

Therefore, the Benin National Shipping Company appears to be a product of cooperation between the People's Republic of Benin and the Democratic Republic of Algeria which governments share the capital.

Nevertheless, and in spite of the fact that it is a joint venture company between two countries, the Benin National Company has been unable to develop. Indeed, established in response to the call made by UNCTAD II towards the developing countries for the creation of their own national fleets which would enable them to participate in the carriage of goods generated by their foreign trade, the Benin Shipping Company does not reach the expectations borne by its creation. Moreover, it has been facing since acute financial problems during these last days that the sale of the sole vessel it owns has been envisaged.

3.1.3 THE STEVEDORING COMPANY.

The cargo handling company, the Office Beninois des Manutentions Portuaires (OBEMAP) is a public industrial and commercial entity. Created in 1969, it is a State-owned company and is mainly responsible for loading and discharging, transshipping and stowing cargoes.

The monopoly of cargo handling in the port area has been conferred to the Office Beninois des Manutentions Portuaires which, in spite of lack of financing means it has been facing for the renewal of its equipment and the opening of the chain of transport to private investors in our country, has been turning off offers from many institutions to participate in its authorized capital. The acceptance by this company of new shareholders, then of
new capital, would certainly constitute the oxygen bottle which it now needs for the acquisition of new equipment. At the end, the whole port operation system would benefit.

3.1.4 THE FORWARDING COMPANIES.

The transit activities have been the monopoly of two forwarding companies until these last days in the People’s Republic of Benin: the Societe Nationale de Transit et de Consignation (SONATRAC) and the Societe de Transit et de Consignation du Benin (SOTRACOB).

The Societe Nationale de Transit et de Consignation created in 1973 is a public industrial and commercial entity. It is a State-owned company and is in charge of transit activities, brokerage, carrier consolidation and transport coordination. This company has been about to close due to a acute deficit of its balance sheet, but a great restructuring in its management system, which led to a redundancy of half of its personnel, permitted SONATRAC to overcome its crisis and even to release profits last year.

The Societe de Transit et de Consignation du Benin (SOTRACOB) is carries out transit activities and others functions related to transit. The Benin State shares its capital with private persons. SOTRACOB is entitled to handle one third of the traffic destined for Niger in cooperation with Niger Transit (NITRA), which is a nigerien forwarding company established in Benin and handles the other two parts of the nigerien traffic exclusively.

The monopoly of these two companies was ended by the opening in the People’s Republic of Benin of the chain of transport in 1985 to private nationals and to foreigners. Since then, many forwarding companies have been created,
and in December 1986 eleven (11) forwarding companies were registered in addition to SONTRAC and SOTRACOB.

A description of the different actors which directly intervene in the maritime transport sector in the People's Republic of Benin, and which will be the interlocutors of the Benin National Shippers' Council when pursuing its duties.

3.2 ATTRIBUTIONS AND ROLE OF LE CONSEIL NATIONAL DES CHARGEURS DU BENIN.

The attributions and role of the Benin National Shippers' Council have been defined by the Decree N° 83-197 issued in May 25, 1983 relating to its establishment, organization and functioning as amended by the Decree N° 85-529 issued in December 18, 1985 relating to the approval of its statutes. After having analyzed these attributions and objectives as stated in this Decree, we will detail what has been done by the Benin Shippers' Council to attain these objectives since its establishment.

3.2.1 ATTRIBUTIONS AND OBJECTIVES.

The statutes of the Benin Shippers' Council have been drawn from the constitution of the Union of National Shippers' Councils. Therefore, the attributions of the Benin Shippers' Council appear to be almost the same as those of the Union. Indeed, created after the Union of National Shippers' Councils which was composed of the already existing national shippers' councils of the sub-region, the authorities of the People's Republic of Benin have just tried to conform to the line of the statutes of the already existing shippers' councils and
the constitution of the Union in defining the attribut-
ions of the Benin National Shippers' Council.

The Decree N° 85-529 defined the Benin Shippers' Council as an institution which is responsible for defin-
ing and promoting a policy of protection of importers' and exporters' interests in the People's Republic of Benin. As such, it has competency of:

- defending shippers' interests;
- managing and sharing the national freight, both at import and export;
- carrying out consultations and negotiations with shipping lines, shipowners and liner conferences for the fixing and implementation of freight rates;
- elaborating all measures aimed at rationalizing and optimizing the maritime servicing between the People's Republic of Benin and its partners in order to ensure the regularity between the supply and the demand of freight;
- seeking in collaboration with others related departments and organisms methods to harmonize and simplify the administrative and legal formalities as regards maritime transport;
- maintaining regular contacts with foreign shippers' councils and similar bodies in order to achieve ways and means of improving the maritime servicing of the People's Republic of Benin(1).

It emerges from what has been said that the Benin Shippers' Council has two main objectives: the develop-
ment of foreign trade and the promotion of the national maritime sector.

(1) Decree N° 85-529 issued in December 18, 1985 relating to the approval of the status of Benin Nation-
al Shippers' Council, article 4.
3.2.1.1 DEVELOPMENT OF BENIN FOREIGN TRADE.

The impact of transport costs on the external trade of a developing country has been already largely discussed in the previous chapters. Nevertheless, it will be more convenient for the understanding of what will follow further on, to recall here to what extent high transport costs can affect the quantity of the flow of both import and export goods of a country, thus its foreign trade. Indeed, high freight rates reduce not only the ability of a country to export by reducing the competitiveness of its products in the market but at the same time reduce the ability of the country to import as a consequence of lower net returns received from its exports. This is particularly true for developing countries which export low value goods sensitive to freight rates fluctuations and import high value products.

The incitation to the development of the foreign trade by the Benin Shippers’ Council implies that this latter should quickly become, within our national territory as it is abroad, an organizer and a stimulant of all factors which could work towards the development of our external trade. For this purpose, it should control all commercial networks pertaining to maritime transport as regards freight rates and maritime servicing in particular. Indeed, a country which does not monitor and exert a degree of influence over its overseas shipping cannot expect to generate flow and to influence its overseas trade.

3.2.1.2 PROMOTION OF THE NATIONAL MARITIME SECTOR.

The Role of promotion of the maritime sector by the Benin Shippers’ Council mainly presupposes that it should
be in close contact with all actors which intervene in the national maritime sector (national shipping line, stevedoring agent, forwarding agents and auxiliaries) and should ensure for them an effective existence and efficiency at the macro and microeconomic levels. It should also participate in the modernization of the maritime structure.

The analysis of this role of the Benin Shippers' Council allows us to ascertain that this can be only done by instituting all measures and mechanisms capable of stopping the disorder in the maritime servicing in the way of its rationalization and optimization. This constitutes one of the fundamental bases of a coherent maritime policy. Indeed the control of maritime services leads to the strengthening of the national sovereignty, the development of exports and the reduction of foreign currency outflow.

Besides, the concept of rationalization goes hand in hand with the idea of optimization of servicing as the question would be to take all adequate measures aimed at furthering the smooth flow of the transport chain in order to enable maritime transport to be effected at the lowest cost and in the most perfect possible conditions of security. All this of course, presupposes the modernization of port, railway and road infrastructures and that of the handling equipment. The result of this action would be the quick movement of cargo from one point to another and the improvement of the productivity of the port which in turn would contribute to quicken the turnaround of the ships calling at our port.

The simplification of the administrative, legal and customs formalities which comes under the same frame would reduce not only the calling time of ships but also the transit time of cargoes by allowing importers and
exporters to respectively rapidly take out and load their merchandise.

The Benin Shippers' Council has been carrying out many activities, whether in the day-to-day management or in the short and long terms projects to reach these import­ants objectives which seem at first sight to be great for such an infant institution.

3.2.2 WHAT SHOULD BE DONE BY LE CONSEIL NATIONAL DES CHARGEURS DU BENIN REGARDING THE PROMOTION OF MARITIME TRANSPORT.

The Benin Shippers' Council was established in May 1983, but it effectively started its activities in June 1984 after the first meeting of the Board of Direct­ors. Thus, the Benin Shippers' Council appears to be a young institution not yet in control of all its means which would enable it effectively to intervene in the complex sector that is shipping.

Although the results reached by the Benin Shippers' Council appear to be meagre, these results can be assessed at different levels taking into account its various objectives namely, negotiating of freight rates, cargo sharing, rationalization of maritime servicing and information and training of shippers.

3.2.2.1 NEGOTIATION OF FREIGHT RATES.

The original function of a shippers' council is the discussion of freight rates with liner conferences and the impact of transport cost in the economy of a country has been well shown.

This prime function of a shippers' council has been successfully carrying out by the Benin Shippers' Council
through the Regional Negotiating Committee of which CNCB became a member in 1984.

The action of the Regional Negotiating Committee towards liner conferences succeeded not only in the conferences giving up their practice consisting of unilaterally fixing freight rates but also in the fact that all freight rates applied in the sub-region are those negotiated with the Regional Negotiating Committee. Therefore, the traditional tendency of increases in transport costs has been monitored, and even the Regional Negotiating Committee succeeded in stabilizing them these last years(1).

The direct consequence has been economy in use of foreign currency and a brake upon internal inflation in the Member States of the Union of National Shippers’ Councils. The case of my country can well illustrate the gain got by the countries concerned. Indeed, the People’s Republic of Benin realized between the 1st October 1985 and the 30th September 1986 a gain of 690 million franc CFA, and a gain of 2043 million franc CFA(2) between the 1st of October 1986 and the 30th October 1987(3).

The second function of the Benin Shippers’ Council is the promotion of the national maritime sector. This task is carried out by securing the cargo sharing between the national shipping line and the shipping companies of partners on the basis of the 40/40/20 formula defined by the Code of Conduct, and by taking all measures aimed at rationalization of shipping services of the country.

(1) See graph at following page
(2) Currency used in some French African countries, 1FF=50FCFA.
(3) Source, statistics CNCB.
SUMMARY TABLE OF 1986 AND 1987 NEGOTIATIONS.
(Source: Statistics of the Benin Shippers' Council)

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(1) Continent West Africa Conference.
(2) Mediterranean West Africa Conference.
(3) United Kingdom West Africa Lines Joint Service.
(4) American West Africa Freight Conference.
(5) Associated Central Europe West Africa Lines.
3.2.2.2 CARGO SHARING.

Before the adoption of the Code of Conduct by my country in March 1983, measures had been taken by the government of Benin for the implementation of the 40/40/20 key of repartition in its maritime commercial relations. Indeed, the Inter-Ministerial Ordinance N° 023/MTC/MF/MC fixing the practical modalities of the implementation of the Ordinance N° 79-49 issued in September 13, 1979 and its Decree issued at the same date conferred the right to the Benin Shippers' Council to secure cargo sharing for all goods from and at destination of Benin between the national shipping line, the shipping companies of commercial partners and the third shipping companies according to the 40/40/20 formula.

Since then, the Benin National Shippers' Council has been proceeding in accordance with this formula to observe the system of verification a priori which, at present, is applied for all traffic from and at destination of Cotonou except that from and at destination of France which signed an agreement with my country for a cargo sharing based on the system of verification a posteriori.

Although it appears to be constraining for the shippers, the verification a priori has the advantage to secure efficiently the defence of the interests of the national shipping line by ensuring it part of cargo generated by our foreign trade. This is a valuable support to our infant shipping company which would find it difficult, if not impossible, to have access to cargo generated by our external trade by way of competition.

3.2.2.3 RATIONALIZATION OF SHIPPING SERVICING:

The results reached here are less evident than those
reached by the Benin Shippers' Council in carrying out the previous tasks. Apart from the concept of simplification of administrative, legal and customs procedures which it introduced by initiating the building of a Common Invoice Office by the Autonomous Port of Cotonou, it has been impossible for the Benin Shippers' Council to take any step in the way of effective rationalization of maritime servicing. This is a consequence of many problems faced by the Benin Shippers’ Council which will be seen further on in the following chapter.

Nevertheless, the Common Invoice Office is a non-negligible granted fact. Indeed, it now allows maritime documents to be treated in the same building with as a result, a considerable gain of time in the treatment of these documents. The ultimate result is faster loading and collecting of cargo, hence faster turnaround of ships calling at our port.

Finally, the Benin Shippers’ Council performs tasks of information and training of shippers and employees of the maritime sector. In the frame of information, we should mention the publication of one periodical called "le Journal du Chargeur" which reports and informs shippers about all new developments occurring in shipping. In addition, the Benin Shippers’ Council has been running a Center of Documentation housed at its headquarters where anyone interested in shipping matters can find many publications on the subject.

Concerning the training section a course on "The Transit and the International Trade" has been run with the assistance of the United Nations Conference on Trade and Development, and a seminar on "Maritime Transport and the Protection of Importers' and Exporters' Interests" also took place in Cotonou. The course and seminar have been attended by many delegates from neighbouring coun-
tries.

In total, the results reached by the Benin National Shippers' Council during its five years of existence appear to be meagre in comparison of its attributions and objectives which, conversely are great and varied. Indeed, and as mentioned earlier, the Benin Shippers' Council is not yet totally in possession of all its means needed to perform all those tasks deriving from such various attributions.

Moreover, in achieving its duties the Benin Shippers' Council has faced many obstacles coming from the other institutions intervening in the maritime sector, obstacles which do not of course facilitate its understanding and handling of the various problems coming from the day to day shipping operations. The total lack of coordination of the different policies of the structures intervening in the maritime sector makes it impossible for the Benin Shippers' Council to take any action in their favour. Therefore, it is the penetration itself of the maritime sector which has been difficult for the Benin Shippers' Council, and consequently, the decision process on what should be done in order to promote this sector has been hampered.

It emerges from what has been said above that many actions should be taken for a restructuring of the whole maritime sector in order to allow the Benin Shippers' Council to fulfil properly its tasks coming from its attributions, and in the most efficient and effective manner.

The coming chapter is intended to deal with this aspect of the subject. It will be the occasion to make some recommendations, which I hope will contribute not only to strengthen the structure and the presence itself of the Benin Shippers' Council in the national maritime
sector, but also to permit it to enter totally in posses-
sion of its means needed, for a proper functioning of its
organs.
CONCLUSION AND RECOMMENDATIONS

The important role of a shippers' council or equivalent body in the fair running of the shipping business has been well appreciated through this paper. Indeed, the need of shippers' associations have been firstly recognized in Western Europe where the British Shippers' Council was the first to be formed. The movement quickly spread in Western Europe as a result of a recommendation of the International Chamber of Commerce calling for the establishment of shippers' associations in its Member States, and also in response to a Resolution adopted in 1963 by the Western European Ministers responsible for shipping. This Resolution recognized inter alia the necessity of consultations between shippers and conferences.

The setting up of shippers' councils appeared recently in developing countries particularly in West and Central African States where the Republic of Cote d'Ivoire was the first to set up its shippers' council in 1969. Here too, it was necessary to wait a recommendation of UNCTAD II in 1968 calling for the establishment of shippers' associations in developing countries, and the Resolution of Douala adopted by the Ministerial Conference of West and Central African States on Maritime Transport on the same purpose, so that, the movement of setting up shippers' associations knows a real impetus in those countries.

Besides, the rapid development known by the liner conferences in the twentieth century necessitated the existence of similar organization on the side of shippers. Indeed, while the existence of liner conferences has been generally accepted as beneficial to trade and develop-
ment, there has been a broad consensus that the system lends itself to abuses and that there is a consequent need to create a regulatory system.

The basic concept behind the regulation of liner shipping is to curb the concentration of power fostered by the prevailing market structures by creating the framework for a countervailing power to develop within the market. This approach has most of the time been finalized by the establishment of shippers' associations in various countries.

Moreover, the problem of unilateralism and secrecy of rate setting was expected to be overcome, or at least eased, by institutionalizing consultation procedures between shippers and shipowners organized in conference, and thus wielding strong power.

It was generally agreed that, as an initial step towards securing close cooperation between shippers and conferences, a well-organized consultation machinery should be established, with adequate procedures for hearing and remedying complaints. Therefore, a nationwide shippers' organization has been proved to be the most suitable comparable organization on the side of shippers capable to counterbalance the strong power of liner conferences. This is particularly true for developing countries which, in most cases, are users of conferences services. And the problems of the level and structure of freight rates faced by these countries are closely linked to the existence and mechanisms of the liner conference system.

It appears from what has been said so far that the prime function of a shippers' council is the negotiation of freight rates. The Benin Shippers' Council, as with other councils of the West and Central African States which are members of the Union of National Shippers'
Councils, has been assigned, in addition of this traditional function, another important role, namely, the promotion of the national maritime transport. Indeed, in securing the negotiation of freight rates, shippers' councils should make a valuable contribution to the provision of efficient maritime transport services at reasonable cost, and so promote the trade of developing countries and maintain the sound economic operation of the shipping industry. Unfortunately, if the results reached by the Benin Shippers' Council for the first function are noticeable, it is the achievement of the second function (promotion of national maritime transport) which is hampered by many obstacles. Before analyzing what should be done to make the Benin Shippers' Council effective and efficient, and though it has been previously said that this paper will not go into theoretical aspects, some lines will be devoted here to describe how a shippers' council should be formed and organized. This will give to this study the advantage of not having entirely neglected the theoretical aspect inherent in any subject.

4.1 HOW IS A SHIPPERS' COUNCIL FORMED AND ORGANIZED.

This paragraph, which will deal with the theoretical aspect of how a shippers' council is formed and organized, has not the ambition to sink deeply into the doctrinal debates which took place on this subject, with the undoubted risk of a pure and simple copying out of some publications which already dealt with this subject. For the purpose of this paper, my study will be limited to the criterion governing the membership and to the structure of a shippers' council, with reference to what has been done in my country.
4.1.1 MEMBERSHIP.

The problem of membership of a shippers' council has always given rise to long discussions during the setting up of shippers' councils. Indeed, the question has been who among the various persons, individually or through associations, intervening in the maritime sector as far as shipment is concerned, qualifies to be a member of a council? The criterion which was commonly retained was based on the concept of "shipper interest".

The "shipper interest" can be defined as the common link between commercial undertakings which send or receive goods carried by sea, though the commercial or geographical fields of interest of these undertakings may not coincide. In a narrow sense, this definition means that the shippers' interest is confined to consignors and consignees of cargo, whether private or governmental. Furthermore, it seems that this definition excludes producers, more specifically producers which export their products through intermediaries. Even in such cases, it is evident that the producers have a strong interest in the conditions under which and at what prices their products are carried by sea. Therefore, it seems reasonable that the term "shipper" should embrace the consignors and consignees of cargo and also producers to the extent to which they rely in ocean transport for the disposal of their products. One might notice here that only consignors and consignees of cargo have been mentioned, and that, there does exist some classes of persons, institutions and commercial undertaking that should not be regarded as having the "shipper interest" which would make them eligible for membership.

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(1) Consultation in Shipping, TD/B/C.4/20/ Rev 1, Page 11
of shippers’ councils. It is for example the case of forwarding agents, to whom, the quality of membership of a shippers’ council has been denied because of the ambivalent situation in which they find themselves by being representatives of both shippers and shipowners. However, quality of membership should be recognized to forwarding agents in countries where they only represent shippers.

Besides, institutions and undertakings which do not represent the interest of shippers directly, but with which shippers’ councils may wish to enter into consultation and negotiation in the same way as liner conferences, should not be admitted to membership of shippers’ councils. Port authorities, inland transport authorities and stevedoring agents come under this frame. However, in order that shippers’ councils duly perform their tasks of representing shippers’ interests and of promoting the maritime sector as efficiently as possible, these institutions, while entitled to fully participate in consultations, should be hardly qualify for membership of the shippers’ councils.

The problem of membership of the Benin Shippers’ Council did not initiate such a long debate. The problem has been quickly overcome by recognizing the status of membership to all importers and exporters operating in the People’s Republic of Benin. Indeed, the Decree N°83-197 issued in May 27, 1983 stated in its article 3 "any professional importers and exporters exercizing commercial activities in Benin in accordance with the regulations in force are automatically members of the Council." Although this Decree does not contain any provision with regard to forwarding agents, it appears in practice that they are not members of the Benin Shippers’ Council, and this because they represent both shippers and shipowners in my country. It is the same case with the Port Author-
ity and the stevedoring company to whom the quality of membership has been denied, but with which the Benin Shippers' Council is in close contact in day-to-day port operations.

4.1.2 ORGANIZATION.

This section will not be subject to a long development as even in theory, there is not any ideal model to serve as a pattern for shippers' council in all countries. Because conditions vary from country to country, both as regards foreign trade and institutional framework and policies, the structure and organization of shippers' councils appear to be different between countries. There is, however, a need for a certain minimum uniformity because of the generally uniformity of the liner conference, and because of the need for regional cooperation between shippers' councils. In consequence and from experience, there seems to be eight principal conditions for the efficient working of a shippers' council:

- **a/** it should be representative of all "shippers interest";
- **b/** it should be recognized by the national government, by an act of government or by legislation;
- **c/** it should be recognized by the liner conferences operating in the trades in which the shippers' council is interested as a consultative and negotiating partner;
- **d/** provisions should be made for regional cooperation among national shippers' councils;
- **e/** it should be equipped with an efficient secretariat to perform in particular, organizational and office functions including the provision of necessary information and studies. In order to facilitate cooperation and
coordination among national shippers' bodies and to assist them individually, regional secretariats should also be established;

-f/ it should make arrangements for consultation with all interested parties in maritime transport other than conferences, in particular non-conferences lines, tramp interests, port authorities, inland transport and Customs authorities;

-g/ there should be effective means for the application of agreed recommendations or decisions and

-h/ there should be effective means for arbitration or reconciliation in cases where no recommendation or decision is agreed on in consultation.

As far as the Benin National Shippers' Council is concerned, and whose structure has been described in a previous chapter, most of these conditions are complied with. Hence what remains to be done to fully make our shippers' council efficient?

4.2 WHAT REMAINS TO BE DONE FOR THE BENIN NATIONAL SHIPPERS' COUNCIL?

As stated earlier, the Benin National Shippers' Council has been facing many obstacles which prevent it from fully spreading out in the maritime sector, and thus, to perform its duties in an effective and efficient manner. This situation would only be remedied if actions are taken at two principal levels:

-at a national level with regard to the definition of a coherent national maritime policy and the setting up of a proper maritime administration and

-at a sectoriel-based level with regard to corrective actions to be taken within the Benin Shippers' Council.
4.2.1 THE NEED FOR A NATIONAL MARITIME POLICY.

The first steps to take by the Benin government to overcome the problems existing at the present time in the maritime sector in general, and faced by the Benin Shippers' Council in particular, would no doubt be to provide the country with an active national maritime policy which would clearly define the objectives of the country in shipping matters.

The People's Republic of Benin has known two maritime legislations (the Merchant Shipping Act issued in June 18, 1968 and the Sea Trade Code issued in March 14, 1974), but none of them defined clearly the maritime policy of the country. This fact was the principal cause of the disturbances and non-coordination of the various policies of the different institutions intervening in the maritime sector, and thus, the weakness of our shipping industry. Indeed, any enterprise, so as to be effective and efficient, should have some guidelines or in other words, a policy to follow.

In this respect, there is an urgent need for the People's Republic of Benin to set up a coherent shipping policy which would embrace the promotion of a national shipping and the protection of shippers' interests in the widest sense. This dual policy approach would inevitably aim at providing our country with a framework that would enable the shipping industry to reach an equilibrium reflecting true cost, thus, creating the prerequisite for shipping to be responsive to the needs of trade, providing efficient low cost services.

4.2.2 THE NEED FOR A PROPER MARITIME ADMINISTRATION.

One of the feature of a merchant shipping act is to
provide a country with machinery which would enable it to satisfactorily and efficiently undertake the functions embodied in the country's Merchant Shipping Act.

The expression Maritime Administration is a generic one. Indeed, the concept of its nature and extent can vary depending upon whether, the Ministry responsible for maritime matters is itself viewed as the Maritime Administration or, a sub-formation under the said Ministry is the Maritime Administration. One might notice here, that it will question of a sub-formation under the Ministry of Equipment and Transport which is responsible for maritime affairs in the People's Republic of Benin, whose Maritime Administration has not been, until the present time clearly defined, as particularly regards its structure and the attributions of the different organisms of which it is constituted.

Although I will not detail this aspect of the subject which has already been well developed by one of my predecessor(1), I will nevertheless mention that the participation of the People’s Republic of Benin in world trade is greatly dependent on its maritime infrastructure, human capabilities and administrative structure to face the needs of that trade. This has been well demonstrated by P.S.VANCHISWAR in one of his publications in which he stated that "the maritime development of developing countries is directly dependent on their respective capabilities created through the establishment and performances of an appropriate Maritime Administration to administer their maritime affairs"(2). It appears from the above

(1) Charles AFOUDA, "The necessity for a better established Maritime Administration in Benin" WMU, April 1985
(2) P.S. VANCHISWAR, "Establishment/Administration of Maritime affairs in developing countries" Vol 1 P. 12.
mentioned statement that, the role played by a Maritime Administration in the maritime development process is of a great importance. It is, therefore, a matter of urgency for my country to establish a suitable Maritime Administration which would effectively and efficiently carry out all developmental and regulatory functions as defined in the Benin Merchant Shipping Act.

4.2.3 THE NEED FOR CORRECTIVE ACTIONS WITHIN THE BENIN NATIONAL SHIPPERS’ COUNCIL.

It emerges from what has been developed in the previous paragraphs, that the future of the Benin National Shippers’ Council greatly depends on the definition of a coherent national maritime policy and establishment of a proper maritime administration by the Government of the People’s Republic of Benin. However, a coherent maritime policy and a proper maritime administration would be of less utility if some correctives actions are not taken within the Benin Shippers’ Council itself.

In addition, the Benin Shippers’ Council appears to be a privileged instrument for the Benin State to manage and to promote the maritime sector. Therefore, the concerns of our Central Authorities and of the Top Management of the Benin Shippers’ Council should be to strengthen its structure and to provide it with means to put our country among the leading countries of the sub-region which are, from now, aware of the importance of maritime transport, and hence, devote themselves to knowing the maritime sector, to mastering it and to directing it towards national and economic and social ends. For this purpose, the following measures should be taken with regard the Benin Shippers’ Council:

* to provide it with competent personnel having
training in maritime affairs, or at least, having a good knowledge of maritime transport from their practical experience. Human resources being the most important in any enterprise, there is an urgent need of a programmed and planned training for the actual existing personnel. In addition, the rapid opening within the Benin Shippers’ Council of a Centre of Training and Perfection in Transport for short training programs and the diffusion of UNCTAD TRAINMAR(1) courses would be of a great contribution;

* to expand the activities of the Benin Shippers’ Council over all the parameters of the chain of transport in the context of the multimodal transport. This would mean that the Benin Shippers’ Council should take in charge the management of land freight which is the obvious continuation of maritime transport;

* to make functional the external agencies which would therefore, attend to the proper implementation of cargo sharing in foreign ports and also, attend to the proper implementation of agreed freight rates;

* to establish agencies in HILLACONDJI at the border of the People’s Republic of Benin and the Republic of Togo, and also at the border of Benin and the Federal Republic of Nigeria.

* to diversify the financial resources of the Benin Shippers’ Council by calling upon shipping companies’ contribution in conformity of a recommendation of the Ministers of the sub-region responsible for shipping, and as decided by the Benin National Executive Council;

* to study means for an eventual increase of the commission actually perceived by the Benin shippers’ Council whose rate is of 2 per thousand. This rate is of:
  - 2.5 per thousand in Cote d’Ivoire,
  - 3 per thousand in Gabon,
- 3 per thousand in Senegal,
- 3 per thousand in Cameroon,
- 5 per thousand in Burkina Faso and
- 5 per thousand in Zaire.

* to reorientate its benefits and to invest them in the maritime sector instead to hoard them in banks.

* to establish consultation machinery with shipowning interests non-conference lines and tramps. Such consultations may in some cases be at least as important to the shippers as those with the conferences. Indeed, in many trades, the outsider element is important and as a consequence, the role of competition in ocean transport will be strengthened. It should be noted that this competition is essential if shipping is to make the best possible contribution to international trade in general, and to the foreign trade of developing countries in particular. In this respect and having due regard of the increased importance of non-conference lines in the world trade at present time, shippers’ councils in general and the Benin Shippers’ Council which is particularly our concern, would render great services to its members by acting outside the narrow field of conference liner shipping.

Besides and whatsoever would be the impact of these recommendations and measures, the Government of Benin will have an important role to play, not only in promoting arrangements that have to be made before the consultation, but also in having an overall view of the maritime sector. Indeed, decisions taken by shippers and shipowners, separately or jointly, may frequently affect the volume and pattern of a country’s foreign trade. In the People’s Republic of Benin as in most of the developing countries, foreign trade is a vital element in the effort to expand the national economy. It is, therefore, reasonable and necessary that the Government of Benin should
have an insight into the nature and results of shippers and shipowners negotiations. The government of Benin should be able to reach well-founded conclusions whether negotiations or conclusions assist, distort, or in any way negatively influence foreign trade.

This paper cannot be ended without making a call towards the shippers' councils members of the Union of the National Shippers' Councils, to strengthen their cooperation and collaboration in order to take an united stand capable to effectively face the strong power of liner conferences. It will finally call for the establishment of shippers' associations in the West and Central African Countries in which shippers' councils have not yet been set up.
* "Protection of Shippers' Interests: Guidelines for Developing Countries", TD/B/C.4/176.
* "The Relationship between Shippers at both Ends of the Trade", TD/B/C.4/180.
* P.S VANCHISWAR, "Establishment/Admnistration of Maritime Affairs in Developing Countries", Vol.I