Towards a maritime administration for independent Namibia

Taapopi-A. Muttotta

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TOWARDS A MARITIME ADMINISTRATION FOR INDEPENDENT NAMIBIA

by

TAAPPOI-A. MUTTOTA
NAMIBIA

A paper submitted to the Faculty of WORLD MARITIME UNIVERSITY in partial satisfaction of the requirements for the award of a

MASTER OF SCIENCE DEGREE

in

GENERAL MARITIME ADMINISTRATION

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

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TOWARDS A MARITIME ADMINISTRATION FOR INDEPENDENT NAMIBIA

BY

TAAPOI-A.MUTTOTA

WORLD MARITIME UNIVERSITY,
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1989
TO THE MEMORY OF MY COMRADES-SONS AND DAUGHTERS OF NAMIBIA
THOSE WHO HAVE FALLEN IN THE STRUGGLE FOR NATIONAL
LIBERATION, PEACE AND PROGRESS AND THOSE WHO ARE CARRYING
OUT THE STRUGGLE TO THE FINAL CONCLUSION.
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The author cannot claim that this work has been solely an individual endeavour, however, the Conclusion and Recommendations are the author’s views and for them the author bear the responsibility. Nevertheless in undertaking the preparation of this study a considerable encouragement from a number of people, not all of whom are enumerated below.

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Taapopi - A Muttotta

Malmo 1989 December
**MAP 1 NAMIBIA KEY FACTS**

**KEY FACTS:**

Official Title: Namibia  
Population: 1.6 (est.)

Head of State: (UN. Commissioner for Namibia)

Capital: Windhoek  

Currency: SA.Rand (R) = 100 Cents  
Exchange Rate: R2.48 per $ (1988)

GDP per Capita: 1,014 (1986)

GDP real Growth: 1% (1986) est

Area: 822,295

Inflation: 16% (1986)

Trade Balance: $ 65m. (1986) (est)

INTRODUCTION

1.1 The brief History on Namibia

"'Namib'" a Nama word, where the name Namibia is originated from, literally means '"SHIELD’" or '"ENCLOSURE’". Namibia is located in the South Western corner of Africa (see Map 1). Most people refer to it as a South West Corner Stone of Africa. The size of Namibia is compared to the size of France and Britain together, with the area of 822,295 sq.kilometres. About 1600 kilometres long, is shared with the Peoples Republic of Angola on the North. On the North Eastern part it borders with the Republic of Zambia, and has a solidarity touch with new Independent Zimbabwe in the Caprivi region.

Part of the North Eastern Namibia has a border with Botswana while in the South the Orange River separate it from South Africa. In The West, the Mid South Atlantic Ocean runs parallel with the Namib Desert, forming 1350 nautical miles coast line.

Topographically, Namibia is divided into three areas: Namib Desert, Central Plateau and Namibian Kalahari Desert (see Map 2).

The Namib Desert stretches parallel the Atlantic Ocean. Thick sedimentary deposits and sand dune about 300 meters in high, characterizes the desert, and its distinct important is that zone D1 and D2 in map 3 are earmarked as a diamond area. The shore, baseline, continental
and the EEZ are rich of large uranium, zinc, tin lead, salt natural gas, oil natural fertilizers, guano birds, sealions, and one of the well known best fishing field in the World.

It is estimated that the number of 7-10% inhabitants and workers are living in towns and industrial areas of Walvisbay, Luderitzbay, Swakopmund, Hentiesbay, Rosh Pinah, and Rosing.

Along the coast there are three harbors: Luderitzbay, Swakopmund and Walvisbay, of which only Walvisbay a Namibian natural harbor can be viewed as viable port. Swakopmund is no longer in operation. Luderitz port can only serve small ships. The maximum draft is 7.6m.

The Central Plateau is more mountainous area, with Savannah and bush rise 1000-2000 meters above the sea level. According to Leaki Hangala in his book "Structure of Namibian Mineral Industry: A strategy Option of institutional frame Work for Mineral Sector Development for independent Namibia page 7.. said that base mineral such as lead, tin silver vanadium cadmium, wolfram, varieties of precious stones and various industrial mineral are found in the plateau.

Most of the cattle farming are found at the Northern part of the plateau, while the arid South proved more competent for kalakul sheep rising.

The Kalahari Desert covers the east of the Central and further extend north as far as Ovamboland and
Main Mines today in Namibia

Source: Catholic Institute for International Relations, 1983.
Okavangoland.
The soil is characterized by thick layer and lime stones. It is reported that a high potential for oil and natural gas and huge deposits of coal of good quality have been discovered in Aranos area, on the border with Botswana. The recently discovery was the oil, which is discovered both on Namibian Kalahari and Botswana Kalahari desert.  

The shortage of water is a general problem throughout Namibia. The rainfall annually is about 50–600 mm. The main rivers are: Cunene, Kavango, Orange and Zambezi river (Map 1).

As far as the population is concerned, South African’s statistics is of questionable accuracy, it has been trying to manipulate and under-enumerate the population to one million only.

Ever since the war against occupation started in Namibia for time immemorial, no accurate and objective census has taken place.

The UN and SWAPO OF NAMIBIA (SWAPO OF NAMIBIA is a national liberation movement - recognized both by the OAU and UN as sole and authentic representative of the Namibian people) have estimated the population to be 1.5–2 millions.

Namibia was one of the inaccessible part in Africa. There is little evidence of any intruder prior to 1484 AD in the territory.

The Namib Desert has been the shieldeof hinterland for a considerable period, the interest of the territory was
stimulated after the establishment of the European settlement at the Cape of Good Hope in 1652. /3

During that time Namibian artisan fishermen had been along the coast, catching fish, exchange food stuff, silver gold, diamond and iron among themselves.

The means of transportation was lays, donkeys, horses, oxen and canoes. Large fleets of Canoes was mainly used along the coast between Mushambe and Walvisbay and between Walvisbay via Luderitzbay and at the mouth of Orange river, under the control of Chiefs.

After 1654 and so, Dutch ship were dispatched to explore the coast, at the same time European hunters and explorers began to go Northwards to the area known as Transgareip - across the Orange river.

This was the place where Namibians and Europeans met and clashed for the first time. The conflict between the Europeans and Namibians grew to a certain extent that the number of British, Portuguese and Dutch ships had increased.

At that time the Nama Chief considered his position to withdraw and move northward for a while and bring this issue to the Herero and Damara counterparts for immediate consideration and collective action.

While consultation was in progress the European were working on the program to annex Namibian coast area to the Cape of Good Hope, however this did not start until 1793.
The beginning of 1794 have seen the Dutch ship "Meermin" sent from the Cape to proclaim Dutch sovereignty over Angora Pequena (Luderitzbay) and Haulifax Island and Walvisbay.[4].

This practice was employed when the Cape passed to the British hands, a ship was sent to the west coast to hoist the British flag at all the landing places from Cape to Angola[5], this was in a typical colonial fashion to lay the claim to the territory in the scramble of Africa.

Until 1878 no authority was imposed along the coast, except some limited area which was offered by the Persian king to the Rheinish Missionary Society who were actively in "South West Africa" in sabotaging the founding of Namib State - which was under the leadership of the Herero, Nama and Damara Chiefs in 1842 [6].

The main objective of the Rheinish Missionary Society was to paralyse a country's natural power of defense and to pave for colonial subjugation[7]. Such approach was viewed very effective -that Christianization first and Colonization follow.

This was clearly demonstrated by the Rheinish Missionary Society -immediately they have succeeded with their Christianization Programs, they openly called for German intervention in Namibia.

It was through this unholy process Namibia became a German colony in 1884, however between 1884-1885 in politic-legal terms "South West Africa" present the following picture: it consisted of :( 1) the territory unilaterally acquired by
Luderritz, (2) other territory placed under the so called "protection" of German Reich and (3) the territory of the Namibian Chiefs who had declined to enter into so called treaties of protection. /8

Namibia was viewed upon by the Germans, a German sphere of interest, despite that Namibians resisted against the Germans.

During this resistance against occupation, it was estimated that more than 80,000 Namibians have lost their lives and others took refuge in Botswana Land by then. This was the first Genocide in the 20th Century by the Germans in Namibia.

In the First World War, Germany lost Namibia to the forces of South Africa, who then stood in for the British Empire.

In the Versailles Peace Treaty of 1919, it was agreed that the former colonies of those countries which had been defeated in the war should not simply become the colonies of new masters but should instead be placed under the mandate system of League of Nations - the new body established by then.

Such territories fell under three categories A, B and C mandate. Namibia fell under category C, for territories which they considered "not ready for self-government in the foreseeable future".

Namibia was given to the British Crown to be administered by South Africa (SA.), which eventually became a mandatory power. The guiding lines of administering the mandates were
stipulated in Article 22 of the Treaty of Versailles as follow:
"To those Colonies and Territories which consequence of the late war have ceased to be under the sovereignty of states which formally governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous condition of the moderns world, there should be applied principle that the well-being and development of such people from the scared trust of civilization and that securities for the performance of trust should be embodied in this covenant."

Despite the terms of the mandate, the actual behaviour of SA. towards the mandate was unilateral. She further ignored the interest of the indigenous people, brought new settlers to the territory, established the settlers on the best land, and confiscated occupied land from indigenous people.

At this stage the Namibian people, thus found themselves being exploited by the new colonialists—the apartheid and racist SA.

Upon the dissolution of the League of Nations at the end of the Second World War and with the birth of the United Nations (UN) in 1945, a new system for certain colonial territories—the Trusteeship System was also created.

Despite that, SA. refused to place Namibia under the trusteeship system and thus challenged the UN while it was in its childhood.

Instead SA further brought forward proposal for the territory to be incorporated directly into SA.
additional province. The United Nations General Assembly (UNGA) rejected the proposal, and further requested SA to submit a draft agreement for the territory to the UN.

All was in vain, the Apartheid and Racist regime did not honor all these requests, nor did it honor the termination of the mandate by the UN in 1966 and the declaration of ICJ of 1971. She unilaterally introduced apartheid policy in Namibia, inspite of many UN declarations and resolutions that have been passed, including UNSCr.435 (1978).

Before 1959 many unco-ordinated anti-colonialism groups were founded in Namibia by indigenous people. The wind of change in African Continent and the oppression in Namibia had influenced the founding of the National Liberation Movement SWAPO OF NAMIBIA in Windhoek on April 19, 1960.

Since then, petitions have been made by Namibians both at home and at the UN. SWAPO OF NAMIBIA took a leading role in all petitions and testified regarding the SA's management of its mandate and the reality condition prevailed in Namibia.

The national liberation, peace and social progress spearheaded by SWAPO of Namibia is based on the need for creation of a democratic and united Namibia which will have as its motive force the creation of a new social order, the destruction and transformation of unnecessary SA administrative structures.
1.2 Objectives and Scope of the Study

Given such a set up: Our endeavour to write this thesis "TOWARDS A NEW MARITIME ADMINISTRATION FOR INDEPENDENT NAMIBIA" is both justifiable and explainable. That very few people in the world are well informed by their press and media, of the underlying social suffering and economic hardships that have fired the Namibians against the whole existing administration of SA's apartheid in Namibia.

The SA legislature and policies assisted by its "law enforcement" in Namibia performs the role of legitimizing the social, political economic and administrative measures taken to suppress the indigenous people, to dehumanize them, deny them fundamental human rights, and to pave the way of their exploitation of Namibian cheap labor and natural resources.

Like wise, the whole set up of the present system in "SWA/Namibian administration", there is no maritime administration, the Railways and Habours Authorities is sub-set of the South African Transport Services (SATS) made up by legislations and directives which are active in the defense of the white man's privileged status. Any sub-sector of administration in Namibia is a class weapon in maintenance and fortification of apartheid and its forms of injustice.

The study was taken to take the views as to how independent Namibia's Maritime Administration should be organized, independent from SA's organization.

To paraphrase what Comrade Sam Nuujoma (President of SWAPO) (1985) said "It is essential therefore, that
those who are seeking to bring about a fundamentally new social order in Namibia should understand fully the events which helped in the last 100 years or so, to shape the present social order in that country. Society is intelligible when it is studied in terms of its history and spiritual factors which helped to form it. Without a sound grasp of those past events which lie behind the present difficulties in our country, Namibian revolutionaries and compatriots would not be in position to formulate appropriate strategies for the dismantling of prevailing social order as well as for its replacement’.

- Thus the first point the study considers is the analysis of the existing SA maritime organization of administration.

- to consider the replacement of an old maritime (activities) machinery with new ones in reasonable time and propose an organization structure which would best suit the need of an independent Namibia.

- the introduction of relevant Maritime Legislation and regulations both National and International.

- the creation of effective maritime administration capable to manage the day to day maritime activities and equipped with competent administrative and technical cadres.

- to consider the technical assistance needs the Namibian Maritime Directorate may need particularly during the transition period and at the initial
years of independence.
- to consider the cooperation with: relevant national institutions, sub-regional, regional and international organizations as an important element.

- to suggest and recommend relevant recommendations including participating in IMO, ILO, UNCTAD and other International maritime forum relevant to Namibian maritime activities.

With those objectives, we bear in mind the words of Saoum, Edward -Secretary General of FAO, who said; "The future is trade, you can double, triple or quadruple the aid: it will not do, trade brings in 50 times more than aid".

It is really a challenging and difficult task laid to the government while it is in its infancy, however, "where there is will there is way to be found".

1.3 Plan of the study

To face this challenge, I have discussed this study within the limits of available data. The study is divided into Five Chapters. In our First Chapter I introduce the study with the brief history of Namibia starting back to the early settlement of Europeans in Namibia and further continue to analyse the prevailing organization of administration in Chapter Two. During this discussion both posts and personnel for SA only has been viewed, despite that there have been no organization of administration, post and
personnel for 'SWA/Namibia'. Unavailability of data has brought us to the stand still. In the same chapter I have made an analysis of the status of the present maritime administration in Namibia. Furthermore, an overview of the SA Maritime Legislation was made.

The Third Chapter of the work leads to the Proposed Maritime Administration for Independent Namibia.

Definition of Maritime Administration was made as form of introduction, followed by a Possible Organization and functions of the proposed Namibian Maritime Directorate - which is discussed both at the National and Regional level. The staff/personnel, qualification and experience of the NMD is discussed at length. An overview on Maritime Legislation has been made, some of the Merchant Shipping Acts studied were Ghanaian, Nigerian, Kenyan and Norway Ship Control Regulations.

Chapter Four of the study is discussing the technical assistance the Namibian Government may require especially at the transition period and initial years of independence. Discussion is based on training, where two types of training are identified - short term training viewed as Contingency Plan and the long term need which may start in phase 2-3 of the training. Technical assistance in terms of Cooperants, resources and sources of technical assistance are also discussed.

Finally, in Chapter Five most of the ideas and proposals discussed in the main text are drawn as conclusions and recommendations. Few annexes are also enclosed for reference and justification.
It is my sincere hope that the objectives of this study has been achieved, though there has been serious lack of Namibian data, especial on existing organization and personnel. In our view the study has form a base for further research in specialized unities of the Maritime Administration.

I am of opinion that the study and in particular the conclusion and recommendations may be valuable to all concerned—particularly to future policy makers, researchers, and and those who are interested and keen to have an insight in Maritime field. The study overlaps from one page to another, hence different issues have been tackled from different angles.

The reader is advised to take note that most of the chapter if not all are supporting each other and one may easily understand once a comprehensive reading for all relevant chapters or sections has been made.

1.4 Sources

To write up this thesis I have used various sources of ideas. The collections of data have been through reading MARITIME; books, newspapers, magazines, posts, statements, various UN and SWAPO of Namibia Publications as well as listening to the Radio and TV news.

The other important sources were the United Nations Institute for Namibia and WMU professors, lecturers and students—that is through questions and discussions.

The Author's ON-THE-JOB TRAINING and information
collected from Norway’s Maritime Institutions constitute a bulk of information of this study.

Mr Nils Bruzilius (SIDA Consultant) has also provided some outline on SA. Merchant Shipping Act.
Footnotes

1. African Economic Digest Vol......no....

2. Horst, Drechsler. Let us die Fighting, Akademie Verlag Berin, GDR. 1966 p.17

3. IBID 18


5. IBID

6. Horst, Drechsler, Let Us Die Fighting op.cit 17

7. IBID p.18

8. IBD p.30

9. SWAPO of Namibia SWAPO Political Programme Lusaka 1976 p.2

10 Secretary - General of FAO
There is no Maritime Administration in Namibia today, however there has been an extension of what is called "South Africa Railways and Harbors Authority" (SARAH), which ran the Railways and Harbours and Shipping activities. In 1981 a new SA state Department known as South African Transport Services (SATS) to operate under the SA Ministry of Transport Affairs was created. Nearly all modes of Transport in SA and "SWA" are operated by SATS, ranging from the harbors and ports, railways, pipelines, roads, road motor services and internal scheduled airways system.

2.1 Organization of Administration

The SA organization of administration is organized as follows:
- SA Minister of Transport Affairs
- Director General: Transport
- Port Welfare Committees
- Survey Office
- Office of Customs and
- Proper Office

I have already mentioned above modes of Transport being administered by the SATS a State Department under the Ministry of Transport Affairs of SA, this include the maritime activities of Namibia. The system is designed to suit the present injustice and illegally system prevailing in Namibia. This
injustice may easily be traced in matters related to duties and equal rights and opportunity for all citizens in all, social and economic sphere. Particular reference would be made on employment in Maritime as well as in other fields. All the 9 posts mentioned above, would be a good example, none is qualified to black SA or Namibians ranging from the Minister of Transport Affairs to the Proper Officers.

2.1.1. SA MINISTER OF TRANSPORT AFFAIRS

The Minister has a wide power and responsibility under the MS Act. His/Her power and responsibilities range from specifying provisions subject to exemption, modifications and restrictions which apply to certain ships or class categories or tonnages, to a certain lakes, inland water ways of another country or certain provisions cannot in any way be applied to any ship of another country, while she is in the Republic or in its territorial water.

With regard to appointments of staff to serve in administration and to administer the Act and he/she considers it necessary for the advancement and interest of his/her Government, he/she may appoint a surveyor, engineer, nautical, or radio surveyor or other qualified person whom he/she deems practically fit and abled white man who will act in such manner to serve in the interest of the act and indeed the white South Africans and SWA, and can at any time, but by the notice of the Government Gazettes declare the Port in the Republic and SWA, a Port of Registration of ships. There are certain specific power the act conferred to the Minister in regard to employment of Officers and other persons on certain ships.
v viz a viz examination for Certificate of Competency, the recognition of Foreign certificates, the ratings of seamen, the payment of relief and maintenance of distress seaman, exemptions from provisions regards refrigerating chambers, the issues of extension and cancellations of safety conventions Certificates and Load Line convention, the costs in regards to unseaworthiness, unsuccessful complaints, the convening of marine court enquiry and surveyor, the payment of unpaid salvage for life saved, the release from forfeiture or the mitigation of penalties and the making of regulations.

The Act provides that the Minister may delegate some of his/her functions, but to qualified SA or SWA.

It is important to note that most of the posts mentioned above may not apply to Namibia as it seems that there is not such structure in existence, and as such, most of the activities of such nature are done in SA or by Consultants hired with the approval of the SA Minister of Transport affairs.

2.1.2 SA DIRECTOR GENERAL: TRANSPORT

The Director General's powers and duties are those assigned to him/her by the Minister, and he/she is a subject to the control and the directives of the Minister of Transport Affairs. He/she is responsible for the implementation and supervisory of the Acts. He may exercise his/her power personally or may delegate the power to other persons - but qualified by SA laws, and who will work under his/her control and directives. Other duties falling under his responsibilities are: the granting of Certificates of competency, and of Services,
the procedures and techniques of leading to granting of certificates, the receipt of indentures of apprentice-officers and assignments and certification of expiration, the rating of seamen, the final determination of appeal on wage disputes, the transmission of the property of deceased seamen, the issuance, extension and cancelation of safety certificates, exemption from display of certificates the inspection of ships, the registration of private codes and signals, the receipt of notices of losses of ships, the appointment of preliminary inquiries into shipping casualty, the appointment of salvage officers, the imposition of penalties upon admission of guilt, the forfeitures and seizure of ships. The other responsibility of the Minister is the Shipping Board.

SA Shipping Board is the product of MS. Act 74 of 1976, and consists of 13 board members appointed by the Minister of Transport Affairs with their major functions and duties to examine and report upon the efficiency, regularities and costs evolves in shipping service to and from all South African and Namibian Ports. It is understood that the Board covers the Namibian Shipping activities but when it comes to the representation, it is hardly difficult to realize as to who represent Namibia. As a case may be, that the representation may not be drawn from the population it represents. The Director General is the chairman of the Board.

A special advisory council to advice the Minister on matters related to marine affairs have been set up. The National Marine Council, of whom at least Chairman must be a member, drawn from the public service. Members are not more than 12. Among other things the council does is to advise the Minister in regard to matters arising out
of the administration of the act and shipping.

2.1.3 PORT WELFARE COMMITTEES

Each Port on the Coast of South Africa and Namibia, on the Welfare Sector is administered by the Committee, with its members appointed by the SA Minister of Transport Affairs and whose main functions are to gather and collect information with regard to the conditions of service in which the seamen in their Ports live, inform and advise the State Department, the Port Local Authority and relevant bodies, relevant to the promotion of the welfare of the seamen.

It has been mentioned that the Regulations have been published for Governing the Constitution procedures, functions, powers, duties and the scope of the committees.

According to the MS Act 57 of 1951 S 6(7) the Minister conferred power to appoint an ad hoc committees for the purpose of advising him into any particular matter dealt with by the act. Members in this Committees are persons with Maritime Affairs knowledge, and with a clear mind of SA policy and qualified for such services.

2.1.4 SURVEY OFFICE

In matters related to the Surveys, surveyors are appointed by the Minister or recognized Classification Society may be authorized to survey any SA ship where ever she may be, and could be under any country's flag while it is in the territorial waters of SA and SWA. The purpose of the survey is of ascertaining whether the ship applies with the provision of the Act.
The Act confers wide functions to the Surveyor, to this including the boarding a ship, summoning persons to give information and copying documents. There are certain Act of Surveyors, which form a basis for appeal to the Court of Survey.\textsuperscript{119} The payment of Survey Services is based on SA Regulations published and prescribing the fees payable. \textsuperscript{119}

2.1.5 Office of Customs

Any Customs Office in Namibia is working according to the rules and regulations of Southern African Custom Union (SACU).\textsuperscript{120} Certain rights and duties are conferred by the MS Act on Officers of Customs.\textsuperscript{121} In prosecuting of their duty an officer may not grant a clearance, until the master declare the nationality of the ship \textsuperscript{122} Any ship attempt to proceed to sea without clearance may be detained by the officer pending the declaration \textsuperscript{123} The Act confers the right and duties on officers to demand the Master to produce Safety and Load-Line Certificate \textsuperscript{124}

2.1.6. PROPER OFFICE

The Proper office is normally headed by the Proper Officer.\textsuperscript{125} The Proper Officers are designated by the Director General (in accordance with the power conferred to him by the Act) at the place and in respect of matter to which the reference is provided in the provision of the Act in which the expression occurs.\textsuperscript{126}

In the case where no designation has been made, for the proper officer, at a certain place in SA and/or Namibia, a Principal Officer viz the officer who is in charge of
office of Marine Division at the Port may take this responsibility. There are various Proper Officers designated to administer various Regulations;

- Walvis Bay is a seat of the Principal Officer of the Marine Division in Namibia.
- In SA Cape Town, Durban and Port Elizabeth have principal Officers of the Marine Division.
- For the purposes of Maritime Court Regulations, Luderitz in Namibia is a seat of the so called Regional Maritime Court, while in SA, East London, Mosselbay, and Port Nolth accommodate Maritime Regional Courts in SA.

In the absence of the Proper Officer or for the purpose of Maritime Courts Regulations: any Officer belonging to the SA Naval forces may act as Regional Maritime Court Officer. In any need, the Officer of Custom may act.

2.1.2 The Status of the present Maritime Administration in Namibia

The Administration of the Maritime section in Namibia is directly illegally administered by SA. Ironically, the basic infrastructures and maritime institutions it has, has been tied and developed to meet SA’s requirements and needs.

The organization has limited external relations, meant to strengthen the breast feeding from SA. Namibian maritime activities are some how delinked both from the African Continent and the rest of the world. Few conference member lines of South and South-East African operate between Walvisbay and ports of Europe. However most of the route maintained for the trade go via South Africa.
This has caused both the internal and external trade performance of Namibia heavily dependent on SA regarding directives and control. More disappointing is, goods are first transported to SA ports in transit before transported to Namibia or before transported to the World Market.

Being SA administered, most of the developmental programme have been more one sided -to SA and caused stagnant in the development of Namibian Section of Maritime Administration. Some of examples are; Namibian Maritime Institutions viz a viz the Namibian natural harbor of Walvisbay which is left undeveloped as it was planned to be dredged, so that it would accommodate large vessels beyond 90,000 Dwt. Luderitzbay another Namibian port can only handle simple and lighter ships. Swakopmund and Oranjemund ports are completely abandoned. By abandoning the ports is to automatically abandoning the service, s the development of the institutions and Maritime administration activities.

As a result, coastal feeders, rail and road services have been employed to transport import and export to and from the SA harbors.

All the commercial harbors within SA and SWA are owned, constructed, controlled and operated by the SATS, a state-owned Department under the directions of the Minister for Transport Affairs and managed by the General Manager whose Headquarters is in Johannesburg SA.

SATS further administers the Railways, Pipe Lines, Road
and Road Motor Services and Internal Scheduled Airways System.

To maintain "law and order" the SA maritime administration does not qualify any person who is not white in colour to be employed at most posts.

The harbors and shipping activities are administered and governed by the SA Maritime Legislation.

2.2. **Overview of existing Legislation**

The prevailing and functioning Maritime Legislation in Namibia and SA consists of:

1. SA Merchant Shipping Act 57 of 1951 (MS Act)
2. Regulations under the Act
3. Other Regulations

2.2.1 **The SA Merchants Shipping Act 57 of 1951**

The act is regarded as the principal Legislation with a binding force to all State vessels both in Namibia and SA, however it does not apply to vessels belonging to the Defence Force of SA in SA or to its units in Namibia, Marian Island, Prince Edward Island or any other Countries.

In general the Act covers Namibia, Marian Island and Prince Edward Island.

In matters related to punishment and courts, it is maintained that the Act does not extend the jurisdiction of Magistrate Courts.
The importance of this Act to the SA Government was that it has played a great role both in Namibia and SA in its favor;

- that the Act repealed almost all prior territorial and SA Legislation dealing directly or indirectly with maritime matters.

- repeal of the British Shipping Merchant Act of 1894 and of all Acts adding to or amending it in so far as they were in force in the Republic.

- the Act was clearly modelled, primarily, on the Act of 1894.

The other importance of the MS Act to SA was that the Act reproduced respectively the provisions of the SOLAS 1974, the Convention on the International Regulations for Preventing Collisions at Sea 1972, and the International Convention on Load Lines 1966.

Despite the fact that the Act has been contaminated by the SA policy, it has been also more influenced from the British MS Act of 1894 and from the International Conventions - which are mostly of technical Nature.

2.2.2 Regulations under the Act

There are varieties of extensive regulations related to maritime matters promulgated under MS Act; e.g.

- Construction of Ships Regulations
- Life Saving Equipments
- Sounding Devices Regulations
- Anchors and Chain Cable Regulations
- Pilot Ladders Regulations
2.2.3 Other Legislation

Apart from the MS.Act, there are other acts that deals directly or indirectly with specific aspects of shipping namely:

- Defence Act 44 of 1957
- Income Tax Act of 1962
- Merchant Shipping (Certificate of competency) Act 45 of 1925.
- Nuclear energy Act 92 of 1972
- Shipping Board Act 74 of 1976
- South African Transport Service Act 65 of 1976
- Marine Traffic Act 65 of 1981

In the case where there is no legislation, the courts apply South African Common Law - the Roman Dutch Law which SA's decisions facere and which is regarded as one of the main source of SA Shipping Law.
Footnotes

Chapter II

1. Ports of SA. Combined Ocean (SA) LTD
   Cape Town 1986 p.18

   Juta & Co LTD Cape Town 1983 p.5

3. IBID

4. SA. MS.Act 57 of 1951 Section 3(8)

5-6 IBID S.3(9 and 10)

7. Bamford, B.R. The Law of Shipping op.cit.5

8. SA, MS.Act 57 of 1951 op. cit s.73 and 85

9. IBID s.356

10. IBID s.336

11. SA. MS. Act. 74 of 1976

12. IBID s.10

13 Bamford, B.R. The Law of Shipping op.cit p.6

14-15 IBID
16. SA.MS Act 57 of 1957 op.cit s.4(6)
17. IBID s.274
18. Bamford B.R, The Law of Shipping op.cit s.7
19. See Regulations for Certain Survey Services
20. SA Ports.. op. cit p.10
21. SA. MS.Act 57 of 1951, s 2
22. IBID s.63(1)
23. IBID s.63(2)
24. IBID s.227
25. IBID s.2
26 IBID
28. IBID p.18
29-31. Bamford B.R. The Law of Shipping. op.cit 1
32. SA. MS Act s.4
33 Bamford B.R. The Law of Shipping op. cit p.1
34-38 IBID
PROPOSED Maritime Administration for
Independent Namibia

An independent Namibia need an administration machinery to keep Maritime Transport running as early as practicable. Maritime Administration is said related to the whole scope of the Governmental activities in respect of Merchant Shipping. The conduct of administration in all fields however differ from country to country. This is due to various factors, range from geographical allocation, social etc...so is the Maritime Administration.

To illustrate this I have taken few sample of Nations in the world as an example. The first case is the Royal Norway Maritime Administration, which is under the Royal Ministry for Foreign Affairs, but under the directives of the Minister of Shipping and Trade and part of the activities are under the Ministry for Fisheries (see Annex 1 and 2). In USA, the Maritime Administration is split into Federal Maritime Commission and the USA Coast Guard, with the former being responsible to all matters related to Merchant Shipping Conferences whilst the later is responsible to all matter pertaining to Ship Safety. In Countries which are known "Maritime Nations" there are Ministries for Maritime
Affairs/Ministry of Ship /Ministry of Sea/Ministry of Water/Ministry of Merchant Shipping.. which directs the Maritime Administration. This may be found in India, Italy UK and few others.

The Common model is where the Maritime Administration is under the Ministry of Transport, Post, Communication and Work / the Ministry of Utility, Transport and Communication

3.1 Possible Organization of Administration and Functions of the proposed NAMIBIAN MARITIME DIRECTORATE (NMD).

One of the most important tool in any administration is the organization and functions. Drucker Peter emphasized that;

"The proper organization of his job enables him to do it. But it is the spirit of the organization that determines whether he will do it. It is the spirit motivates, that calls upon a man's reserves of dedication and effort, that decides whether he will give his best.

It is the purpose of organization to make common men do uncommon things ... But it is the test of the organization that it make ordinary human beings perform better than they are capable of, and that it bring out whatever strength there is in its members perform more and better than they are. It is
the test of organization that it neutralize the weakness of its members''.  

This facts are convincing, that without a proper organization, members will have difficulty to do their daily work.

It is important to note that, it is through organization that the administration prove its capability of providing the Government with the machinery which will enable it to satisfactorily and sufficiently undertake those functions which may be embodied within the Country's Merchant Shipping Act/Code. This functions may include; the implementation of the requirements of International Maritime conventions and Regulations and National Regulations and Rules framed under the authority of the Merchant Shipping/Maritime act/code.

In matters related to the adoptions and implementation of National Legislation and Regulations required for the development and operation of maritime programme for Namibia, can only be done through a well defined organization, and functions which in return bring about the discharging of obligations of the Namibian Government under International Conventions which may be applicable.

A proper MARAD organization and well spelled functions may only be measured in performance and not in conformance, this my believe.
Being the theme of this Chapter and the main objective of the study, the Namibian Maritime Directorate would be created under the Ministry of Transport, Work and Communication. However, two options would purposely be suggested for the purpose of this study (see pp. 34A and 34B).

1. The Ministry of Transport, Work and Communication to have two Deputy Ministers; one may be responsible for the following Directorates:
   - Namibian Maritime Directorate
   - Water Development Administration
   - Civil Aviation Administration
   - Communication

   The other one may be responsible for the following Directorates:
   - Road Transport Directorate
   - Road and Bridge Construction Directorate.
   - Railway Transport Directorate
   - General Work Directorate

2. The Minister of Transport, Work and Communication to have two Permanent Secretaries to be closely responsible for the above mentioned Directorates.

The reasons as to why such unique proposals were brought up, was that most of these Directorates are so complex, capitalistic, and regarded as the life line of the Nation. Thus in that regard most if not all developing countries suffer more, because decisions take too long to be made, and because of one man making decisions for seven or more...
PROPOSED ORGANISATION CHART FOR NAMIBIAN MARITIME DIRECTORATE
Directorates.
Yet the concern is, to deal with shipping activities proper, with the knowledge and clear mind that to deal with ships, which are expensive, capitalistic and timed, and hardly to deter its programme in cases of bureaucratic delays.

As the Ministry per se responsible for Namibian Maritime Administration would be among other things responsible for the implementation of Government maritime policy and maritime law and further conduct a general co-ordination with and to strengthen the close relations and collective action between Ministries of; Trade, Economic, Planning and Finance, Environment, Justice, Home Affairs, Tourism, Information and Defence.

The other functions the Ministry may evolve related to Maritime Affairs (but not limited to) are:
- to participate in formulation and making Maritime Policy,

- to participate in drafting and making Maritime Laws,

- to discharge its National and International obligations and further promote Maritime Development.

In determining the promotion of Maritime Development policies, generally in developing countries and in Namibia in particular, one would consider the:
- Coastal Trade Reservation for National Ships (cabotage),
- Trade licence of ships
- Cargo reservation for National ships
- Conducting Studies in concert with the Ministries and organizations concern (eg. Trade) to find ways and means to ensure adequate share for National Ships and for optimum utilization of National ships.
- Monitoring freight rates and effort to rationalize them.
- Ensuring availability of shipping spaces in ships for National Shippers,
- Formulate proposal for expansion of National shipping activities, in concert with the Ministries of Trade, Planning and Finance.
- To liaise with Ship Owners Association and Shippers' Council.

The importance and functions of the Ministry would be sound, only when there is a co-ordination and relationship in the organization both internally and externally, as the Namibian Maritime Directorate would be organized into two levels, the National and Regional this concept of holistic approach (co-ordination) should be maintained for the sake of progress.

3.1.1 National Level

For co-ordination and close co-operation, there will be a Maritime Advisory Council - which may be as follow:

3.1.1.1 Maritime Advisory Council (MAC)

The MAC would be the supreme policy making body of
the Directorate, which possibly may sit two to three times annually or as soon as there are burning issues need urgent attention.

It may consist of Members appointed by the Following Ministries and Institutions:
- Transport, Work and Communication
  (CHAIRPERSON)
- Health and Social Welfare and Environment
  (DEPUTY CHAIRPERSON)
- Trade
- Industrial and Commerce
- Planning and Finance
- Defence
- Agriculture and Land Reform and Fishery
- Legal Affairs
- Education and Culture
- Institute for Maritime Affairs and Fishery Centre
- Representatives from;
  - Ports and Habours Authorities
  - Shipowners’ Association
  - Shippers’ Council
  - Shipping Companies and
  - Trade Union.

The Director General of Namibia Maritime Directorate would be the Secretary to the Maritime Advisory Council.

3.1.1.2 **The Office Of Director-General (ODG)**

There would be an office for DG—which may consist of the Office of Deputy Director General Research, Planning and Investigation, and are
responsible to carry-out duties in areas of their competency, moreover under the close supervision of ODG. The ODG is also assisted by the Management Committee in matters related to management of the Directorate.

3.1.1.3 The Management Committee (MC)

The Management Committee would be the advisory and management wing of the Directorate with the main task and responsibility to assist and advise the Director General on matters related to appointment of professional staff, and maintain the day-to-day administration by co-ordinating and overseeing the work of five Departments of the Directorate. It will also bring up suggestions of topical area of research and plans, especially new ideas and technological change.

The MC may be composed by the Director-General (CHAIRPERSON) the Deputy (Act in the absence) and all Departmental Directors, and other individual professional staff members whose DG may decide upon when matters in their field of competency are being discussed. The Legal/Administration Director would be the Secretary for MC.

3.1.1.3 Legal/Administration Department (L/AD)

In addition to the MC's Secretariat function, the other main functions are, to co-ordinate the day to-day administration of the NMD, the formulation and review of maritime policy - which constitute a major problem in Namibia now.
The Department would be organized into five Divisions:
Legal, Personnel, Finance, Computer and Documentation, General Services and Secretariat Pool Divisions.

**Legal Division (LD)**

In all maritime legal matters, the Division will be the competent advisor of all Departments of the Directorate. Review and draft of all Maritime Laws, study, review and recommendation of International Conventions— in determining their legal implications. It is in this Division that Maritime legal advice through the Directorate would be offered to the Government Ministries and Institutions.

It would monitor; Sub-Regional, Regional and International maritime involvement of Namibia.

**Personnel Division (PD)**

The Division would be responsible for the employment of staff within the Directorate, and clear them out. To look to the social well-being of the personnel, including wages, salaries, complaints, leave; sick, pregnancy, and working problems would be attended. It further considers the need of training and up dating of its personnel. It advices all Departments of the right management of the personnel and their needs.
Finance Division (FD)

The division will be among other things responsible for the; accounts, financial records, auditing, controlling, payment of; fees, funds, duties, salaries, wages etc, prepare the budget, financial and statistical reports and further interpret reports and proposals into monetary terms. In case there are estates for the Directorate, its management will be added to its responsibilities. There will be a close ring between the Finance and the Computer and Documentation Divisions, in use of computer and storage facilities.

Computer and Documentation Services

The Division would be the centre for computing, storage, recording and distribution to all Departments of the Directorate and other Government Ministries and other authorized users. It serves as Central Maritime Registry.

On the other part the Division will be responsible for the Maritime Library- which will be in possession of Books Journals, Magazine, papers, documents related to; Shipping, Ports, Shipmanagement, International Maritime Conventions, Maritime Management and Administration. In matters related to research and planning the division works hand in hand with the DDG.- the Research and Planning Unit. The Library would be accessible to all users.
General Services and Secretarial Division

The division would be responsible for offices maintenance, purchasing of office requirements, maintenance of office equipments and sale of equipments (if any).

The Secretarial and clerical work viz a viz the typing, stenceling, duplicating, registration, sorting receiving, distribution and posting of mail.

3.1.1.4 Shipping and Registration of Ship Department

There would be two Sub-Departments split from this Department, i.e the Shipping and Registration of ships. In normal circumstances each of them is an independent but in the Namibian case due to lack of manpower, they would be combined together.

Shipping Sub-Department

Principally, the shipping Department would be the promotion instrument of the Country’s shipping activities for promoting development through the formulation, updating and implementing of up-to-date National Shipping Policies. In doing so the Division may search the relevant shipping policy which would benefit a young independent Namibia, range from:

- Coastal Shipping reservation for National vessels,
- Cargo reservation for National fleet.
- Study and recommending methods, ways and conditions under which International Shipping can most effectively contribute to expansion of trade in the world, developing countries in general and
Namibia in particular.
- Ensuring availability of shipping spaces in ships for National Shippers
- Formulate proposals for expansion of National Shipping in conduct with the Ministry of Trade.

It will monitoring the Conferences to which the National Shipping Lines belongs to. It liaise with Shippers' Council in negotiations with such Conferences.

The other important responsibility is to narrow the gap between Shipping Companies, and further be creative, initiative and devise methods of ensuring that they be competent enough to bring expected portion of Namibia's Foreign Trade.

In matters related to Shipping and Trade activities the Sub-Department would co-ordinate these activities with the Ministries Trade, Commerce, Foreign Affairs, Industry, Finance, Planning and Information for easy flow of communication and information, particularly to Ministries deal with; multi and bilateral negotiations, agreements, projects, aids, planning, information etc.

**Registration of Vessels Sub-Department**

Registration as the administrative act by which the Nationality and the collateral rights and duties are conferred to a ship.

In the light of Article 94 of the 1982 Law of the Sea Convention provide certain duties to be carried by Maritime Administration, in this regard the maintenance of vessels flying a Namibian flag is one of the important functions.
of the Registration of Vessel Sub-Department it carries on behalf of the Government.

The Department would also keep all Vessels Registers as well as Supporting documents relevant to the registration of Vessels and needed for further references. For keeping and storage of all documents the Sub-Department would work hand in hand with the Computer and Documentation Division.

The other function the Sub-Department would do is the registration of vessels' mortgages.

In addition to these the Welfare of Seamen i.e.
- registration, engagement, discharge of seamen,
- adjudication into disputes between seamen and their employers,
- assisting the ODG in matters related to seamen and crews.

Registration of accidents would also be done in this Sub Department with the information from the ODG's office. In most technical and safety related matters, assistance would always be obtained from the Maritime Safety Department.
3.1.1.5 **Maritime Safety Department**

The whole World today is focusing on the treatment of environment that human being is causing more danger and threat to it. Particularly references have been made to pollution from vessels and offshore platforms. As the responsibility of each administration, the Namibian Government through its NMD -Maritime Safety Department (MSD) will ensure that the Territorial Waters of Namibia are safe for Navigation.

It should satisfy itself that all ships leaving all ports of Namibia, including the flag vessel are seaworthy.

This task would be executed in accordance with the National Legislation- act related to Public Control of the Seaworthness of vessels or the Seaworthness Act.\(^7\)

Would Namibia become a member of INTERNATIONAL MARITIME ORGANIZATION (IMO)\(^8\) or and INTERNATIONAL LABOUR ORGANIZATION (ILO)\(^9\), there are many safety standards, prescribed by the international conventions on Maritime Safety which should be applied. It is realized that some of these conventions require states non parties to the convention to ensure that their vessels are safe to enter the territorial water of the Convention States.
Let us suppose, that Namibia would be a party to most relevant International Conventions, and in this case the 1982 Law of the Sea Convention which under its article 94 para.4 states that:

"4. Every State shall take measures for ships flying its flag as are necessary to ensure safety at sea with regard inter alia to:
   (a) the manning of ships, labour conditions and seaworthiness of ships.
   (b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments.
   (c) the use of signals, the maintenance of communications."

Other relevant International Conventions which possible the Namibian Government would become a party would be Safety of Life at Sea 1974 (SOLAS), Tonnage Measurement of Ship 1969 and Load Lines 1966. All these instruments would fall under the functions and responsibility of the Maritime Safety Department where survey and inspections could be arranged. This would range from initially new ship, periodically and to all vessel registered under its flag and to vessels calling its Ports. Survey and Certification for the issuing of Passenger certificate, Passenger Ship Safety Certificate, and trading permit for the Carriage of Passengers.

ships, and of limited tons (in some Countries limited tons to a ship of 25 tons while other 50 tons and upwards).

Survey of lighters for the issue of trading Certificate and trading permit. The other survey in the series is the Survey of Passenger ships, Cargo Ships, and lighters for International Load Line Certificates, and for freeboard of passenger ships, Cargo ships and lighters for which an International Load Line Certificate is not required. The other Survey is the Survey Control of the length overall of certain metres (in some Countries 15m and over but of tonnage mentioned above).

Survey of towing equipments, deck and safety fitting on Supply ships and tugs. The electrical plant on board ship should also be surveyed and a certificate to be issued thereafter.

For the prevention and protection of Marine Environment from pollution, the Department would monitor of possible source of such pollution—could be from vessels or other sources. Such task could only be executed through the National Pollution Prevention Act and relevant International Conventions and with the co-operation with all bodies and authorities concerned with safety of marine environment. The administration will have its eyes opened to the Department to map out the programme of prevention and identify all types /kinds of pollution with the close liaison with the Ministry of Environment and other Ministries, as this responsibility would remain in the hands of administration of the Port or and Coastal State, as Art. 142 para. 3 of the 1982 Law of the Sea.
Convention once more maintains that:

"3. Neither this part nor any rights granted or exercised pursuant there to shall affect the rights of coastal states to take such measure consistent with the relevant provision of Part XII as may be necessary to prevent mitigate or eliminate grave and imminent danger to their Coast Line or related interest from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the area".

There are also various Articles in the same convention which provide the enforcement of regulations against pollution in Ports, territorial seas and EEZ, such as Arts. 217, 218, and 220. In matter related to accident the DG may appoint or request the participation of the Maritime Safety Department to join the Investigation Unit to assess the accident and casualties and submit reports and its observation and further proposals for measures to be taken, to prevent the same situation from occurring.

Protection, management, maintenance and replacement of navigational aids would be assigned to MSD. So would be the Co-ordination of the Search and Rescue between the Directorate and the Defence and or the Police (if not Solely the Directorate) would be under the MSD, so that the large Fishing Fleet and pleasure crafts (under 15t) along the 1350 nautical miles Namibian Coast line would be assured safety during their operation. Once again the effectiveness of safety of water as well as the marine environment
would only function properly if they are covered by act or amendments or reinstate of existing SA act.

3.1.1.6 Wreck Reception and Harbours Co-ordination Department

This Department would be split into two main function the receiving and recording of wrecks and the Co-ordination of all Namibian Harbours and Ports.

In most Countries wreck Administration is provided in National Shipping Act. The British Merchant Shipping Act of 1894 sub-section 510-537 provides the provisions dealing with wreck which were mainly provided for problems of persons plundering wrecks washed ashore.10 SA has the similar system under her Merchant Shipping Act.57 of 1951 as provided in s 304A.11 The Ghanaian and the Nigerian Merchant Shipping Acts 1963 ss237-247 and 1962 ss302-303. The Namibian Maritime Act/Code may take the same shape. If the same shape is taken the Department may take the command of operations to preserve the Wrecks.

This would include the advertisement of facts and notify the insurers. In case there has been no claim from any party with in one year and the wreck still in the possession of the Department, the wreck then would be possessed by the Government or sold.

During the operation the Department may arrange salvage operations, to be undertaken on vessels sunked and or to which thought to be irrecovetable.
As this functions are not available on daily basis the same staff would be responsible for the coordination of Ports & Habours' activities.

The activities of Ports and Habours to be co-ordinated by the Department could be those of developments, planning, improving fairways along navigable routes, planning the constructions of Break Waters, planning and arranging for dredging under rocks blasting, develop and organize Ports and Habours Construction/Maintenance Unit. In case such unit is not yet in existence the Department then will take the responsibility to recommend to the Government, the Companies capable to execute the Construction Projects.

Since there would be a need of maintenance of aids to navigations, the responsibility to establish and operate light houses, seamounts, buoys, and beacons, this functions will remain under the hands of this Department. Some Lighthouses may be permanently or temporary manned.

In case Namibia may opt to succeed the pilotage system from SA.in her Ports and Habours, this management and supervision would be under this Department with the Co-ordination with other relevant Departments with in the Directorate and other Ministries.
3.1.1.7 **Manpower Development and Co-operant Department**

In the few years since the IMO came into being as a specialized agency of the UN, the World of shipping has changed dramatically. Not only has the world fleet grown in size, but the ships themselves have become more specialized and complex.\(^{12}\)

IMO has had two principal tasks—to promote the safety of shipping and prevent the pollution of sea from ships.\(^{13}\)

To achieve these objectives was by studying various ways and means, as a result conventions, codes and recommendations resulted into; basis of shipping legislation in the Organization of 132 member States.\(^{14}\)

Even if legislation has come into being, they may not be meaningful without the blessing of the professional, skilled and experienced personnel as an executing agencies to execute them. However this process could only be reached when the following is realized: education and training, seminars, conferences, study circles, field trips, inservice training, on-the-job-training and through technical advise for the benefit of the personnel.

In the case of independent Namibia, much have to be done, when it come to the training and development of neglected Namibian human resources, who suffered untold negligence from the SA Government’s hands.
This Department’s major responsibility would be, to study and assess, present and future manpower requirements both in quantity and quality to meet the objectives of the Directorate so as to ensure the availability of qualified personnel to all Departments (of the Directorate) Ministries’ Departments and Organizations, relevant to Maritime activities in Namibia.

To reach such a stage, the following have to be considered;
- determination of training needs,
- producing of, implementing, monitoring, reviewing—regularly, the plans and programmes.
- Co-ordinating with the Ministry of Education and Culture, the Namibian Extension Unit (Home Study) Institute of Marine Affairs and Fishery Training Center— on training programme and Curriculum Development.

Development of human resources would involve every able Namibians and Foreign Co-operants as a part of their daily routine. (detailed information is further discussed in Chapter IV of this study)

Part of the functions of Department is the administration of Co-operants Programme, both those who are on the long and short term contract. This involves the co-ordination of their training and working programme to ensure that transfer of technology have taken place through the Counterpart system. The system have to be evaluated and assessed at specified period. Since recruitment would be also part of its work, it would be done with close cooperation with the
Management Committee, which will be satisfied that the co-operant employed is due to the expertise needed and that the candidate is qualified, able and fit to work in the technical assistance pool/Centre.
Since there would be a problem of manpower, in selection of cooperants, priority may be given to those who have multi qualifications and experience.

3.1.2 Staff Qualification and Experience for the Proposed Namibian Maritime Directorate

I have so far discussed the Organization and functions of the proposed Namibian Maritime Directorate in depth. All five Departments' functions have been discussed.
In this section however I will look at the Staff, particularly the Departmental Directors, Statutory and others middle level officials.
We will also look to the Qualification and experience needed to man the NMD. Their functions can be generally accepted as those discussed above for each Department.

We have somewhere mentioned that the topic in discussion is crucial, crucial in the sense that the denial of normal Education, Management and Supervisory position to Namibians by SA has created a difficult position unforgettable. This position is prepared through the inferior "Bantu Education" which is based on the Colour of the skin. This Education is meant for all who are being prepared not to take up any technical, managerial or and Supervisory responsibilities in any
society except simple manual labour and clerical work.

This education system has been a threat to Namibians, as a result SWAPO of Namibia challenge such a system by introducing "EDUCATION FOR ALL" in exile and in Namibia from primary level up to Secondary School as well as Vocational Training Education. Beyond that candidates are sent to various Universities and other High Learning Institutions in the World for Higher Education and Training.

Most of them if not all come back qualified in their field of competency. With some of them who gained work experience in some countries as their on-the-job-training of not more than two years and others work in International Organizations and Universities as well as at the United Nations Institute for Namibia (UNIN), and UN-Vocational training Centre for Namibia (UNVTN) the rest obtained high qualifications but without experience and especially those who are trained in the field of maritime affairs in which SWAPO, being a Liberation Movement has no ships and no sea.

Given such background the point here is, there might be few Namibians with experience in maritime field (if there is any or if they may accept to stay in Namibia after independence).

Despite this problem, this will not deter the proposed organization to be manned with qualified and experienced staff. Therefore a standard of three categories of officials maintained by various
Countries, would also be possible to start with Namibia though there will be few Posts to be manned by qualified but non or semiexperience Namibians. While the other posts will be manned by qualified and experience Namibians and Foreigners with their Namibians Counterparts.

The following are the traditional categories of officials that may mann the NMD;

(a) Statutory officials
(b) Other Officials
(c) General Supporting Staff

The Statutory officials would be the officials appointed by act of parliament. Such officials in the Namibian case would be, DG, Registrar Of Ship Surveyors (nautical and marine) Seafarers Examiners Maritime Investigators, Seamen Employer officer, Shipping Master, Wreck Receivers, and Administrators /Legal and Policy Officers.

Other Officials may be higher level professionals, who may be advisors to the Government and the Minister in matters related to maritime affairs. This may include the professional foreigners employed on temporary basis or part time.

General Supporting Staff would be staff in each offices who are under the supervision and control of middle level staff viz accountants, cashiers, clerks, secretaries, copy typists etc. Their work is more of paperwork, and in most cases they receive instructions from their superiors. They may be referred to as office functionaries. Having explained that, we are now going in
the theme of the topic, where the devotion of the discussion would centre on; the Director General (DG), Deputy Director General (DDG) Maritime Investigators (MI), Departmental Directors (DDs) Legal/Administration, Shipping/Vessel Registration, Maritime Safety, Wreck and Harbours and Manpower Development and Cooperants.

The Director General for Namibian Maritime Directorate

The Director General may possess the following qualifications and experience.

1. He/She should possess Msc degree, in the field of Maritime Safety Administration, (preference, from the World Maritime University) or possess Extra Master’s certificate or Extra First Class Engineer’s Certificate or equivalent.

2. He/She should be a Master/Captain or Chief Engineer of Merchant ships engaged in International Trade.

3. He/She should be a surveyor of ships with a maritime Safety Administration for a period of 8-10 years.

4. With an experience in examining of Seafarers for a period 8-10 years.

5. An investigator for the period of 8-10 years.

6. With five years of supervisory and or management capacity in Maritime Safety Administration of responsible for a large quantum of ships engaged
in International Trade.

(7) He/She should have a wide knowledge of all International Conventions and in particular International Maritime Conventions.

(8) Having knowledge in Government policies -Foreign and Trade Policies, and able to contribute to the Government Maritime and Marine related Policies.

(9) With a good background and experience in Government procedure and Finance Control.

(10) Experience in preparation of administration rules Regulations relating to Maritime matters.

(11) Experience in Government multilateral negotiations as well as in Contract Negotiations.

(12) He/She should be a National of Namibia.

The Director for Legal/Administration Department

The following may be the qualifications and experiences of the post of Director for Legal/Administration.

- He/She should be a qualified International Lawyer and specialized in International Maritime Law or having Msc. degree in General Maritime Administration (could be at the WMU or else where equivalent)

- He/She should be a Namibian

The Director for Shipping and Vessel Registration

The essential qualifications of a Shipping Master would be as follow:

1. Should have a degree in Law or Certificate of Competency for masters of foreign going
vessels.
2. Experience with crew matters and behaviour in the Government or in the Company.
3. With knowledge of Courts procedure, particularly in adjudication.
4. He/She must be a National of Namibia.

In the case where the Department is Headed by the Vessels Registrar, the following would be essential qualifications:
1. A degree in Administration and Development Studies or minimum education qualifications as prescribed to officers at the appropriate level of Civil Service or certificate of competency as master of a Foreign Going vessels.
2. Special training in registration of Vessels.
3. He/She should have served in any organization as an Administrator or Assistant Administrator or equivalent for 3-5 years.
4. He/She should be a Namibian National.

**Director for Maritime Safety Department**

The Director for Maritime Safety Department may be a nautical engineer or Marine Engineer by professional, thus two options are here given for appropriate action.

Nautical Surveyor's essential qualifications and experience would be

1. Master (foreign going) Certificate of Competency.
2. Six to seven years in Deck Department of a ship.
engaged in International Trade, which should include one year being Chief Officer of the vessel.

The Other desirable qualification and experience are:

3. MSc. Degree (Maritime Safety Nautical) would be from the WMU or other equivalent or Extra- Masters’ Certificate or equivalent.

4. Service as master (Captain) of ships

5. Having experience as a surveyor of vessels

6. Experience in Maritime Safety Administration

7. Experience in Government procedure

8. He/She should be a National of Namibia

Marine Surveyor

The post may need a person with the following qualification and experience:

1. First class (steam and Motor) engineer’s certificate.

2. Four to Five years Experience in the engine Department of a ship, and this could include one year as second engineer.

3. Other desirable qualifications and experience would be a degree in Msc, in Maritime Safety Administration from the WMU or equivalent, Extra- First Class Engineer’s Certificate or equivalent.

4. Service as Chief Engineer of ships

5. with knowledge in maritime safety Administration

6. Knowledge in survey, (if not, training may be arranged for him/her for such purpose.)

7. Experience in Government procedure for the Government

8. He/She should be a national of Namibia.
Director for Wreck and Harbour Co-ordination

The Director may be qualified as Civil Engineer, with general education in Construction Civil Engineer. Knowledge in technical drawing and special training in placement and maintenance of navigational aids and fairways. With good knowledge in planning. With 4-5 years experience in this job.

He should be a national of Namibia.

The Director for Manpower Development and Co-operant Department

As this Department may involve more people from engineering fields, it would be of great benefit that this post require candidate with high qualifications particularly in one of the Major maritime engineering fields; i.e. the Marine and Nautical engineering. Other Qualification and experience would be as those prescribed under the two field. In addition to that, the candidate would also have a MSc degree in Maritime Education and training could be from the WMU or else where. In addition he should have a wide knowledge in administration and management of projects.

He/She will be the National of Namibia

3.2. Regional Level

Namibia would be divided into two Maritime Regions for administrative purposes; the North Maritime
Region will be from Walvisbay to Cunene River with its Regional Maritime Office in Swackopmund, while the South Region range from Oranjemund to Swackopmund, with its Regional Office at Luderitz.

Each Regional Maritime Office would be responsible to the NMD and carry out their daily routine as per the directives and approved plan of the Directorate.

However the Directorate would delegate the responsibility for detailed plans and the operational activities to each Regional Maritime Office.

3.2.1 Organisation of Administration

There would be Maritime Regional Director at each Region who will be heading the Office, and directly accountable to the DG. and whose overall head of the five Divisions of the Office.

There would be Planner, Researcher and Investigator in the Office of Maritime Regional Director who assist him in the field of their competency.

The Regional Maritime Management Committee would be composed of Regional Maritime Director (Chairman), Planner, Researcher, Investigator, and Divisions-Assistant Regional Directors. The whole Organization would be of the same pattern as that of the NMD. So is the functions too. What will differ is the physical conditions, which in return influences and dictates the plans and operational programme and daily routine as well. The same factor may also determine the number of personnel to be employed in each region.
There would be a pilot centre at each Regional Maritime Office which would deal with pilotage service—which is of course another source of Fund in the region.

In executing of duty there would be a close cooperation with the Ports and Habours Authorities. Co-ordination of activities between the NMD and regions would be done through telephone, letters, reports, meetings, conferences, seminars and on the spot assessment.
3.2 Overview of Maritime legislation for independent Namibia

Each country's/nation's basic functions of the Maritime Administration are body formed by its Shipping Merchant Act/Maritime Code. Thus in the case of Namibia arrangement has to be done to avoid Maritime Transport stoppage and keep the activities running during and through transitional period.

Prior or post independence a pre-arrangement has to be done, which could be viewed as starting point or as a point of departure, in arrangement of an embodiment of the new Maritime Legislation which may empower or repeal or reinstate thus putting the new legislation into effect.

3.2.1 Maritime Legislation

In all cases Maritime Legislation play both primary functions as well as directory role through-out.

It is a basic instrument governing, directing control and regulate all the activities of the Maritime Administration of any given country - developed or still in the process of development. It ...provides the legal framework for Maritime Transport- it is necessary to regulate the relationship of all parties involved in Maritime Transport, thus the law should cover the relationship between Cargo
interest and owners.\textsuperscript{117}

It is on this basis that the Namibian Government should consider the enactment of Merchant Shipping Act/Code— which will be a key to laws on Carriage of Goods and Passengers by Sea, Collisions, General Average, Liability, and limitation of Liability, Mortgages, Liens... just to mention a few of them.

It will be under the legal framework, contracts with agents, Stevedores, freight forwarders, Classification Societies and other users of Maritime Services will enter into legal agreements.

To solve the basic problems in Maritime Transport, a Rule of Procedure for example arrest of ship has to be provided by the law of the State.

Namibia being a Coastal or Port State with the National responsibilities under its law and International responsibilities under International Law, part of her objectives will be to ensure the Safety of Ships calling on state's Ports or navigating along its Coast, are prevented from accidents involving those ships and further keep in mind the prevention of pollution from vessels and other subjects within its area of jurisdiction.

Once more it is important, to bring into being the Merchants Shipping Act/Maritime Code, that possesses the following Primary objectives;

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(a) developmental
(b) regulatory
(c) in conformity with relevant International Law /Conventions.

It is of great importance that the Namibian Government may include (in the Merchant Act) a section stating the 'PURPOSE' of the Act. In that connection Captain Vanchiswar has cited a good example, extracted from the Barbados Shipping Act which was recently enacted and came into force as recently as 1982.

"Statement of Purpose
Objectives and 3.(1) The purpose of this Act are:
Construction (a) to encourage and regulate the orderly development of merchant in Barbados and to provide for the qualifying of person employed in service at sea in a Barbadian ships..."

Capt. Vanschswar further cited another example extracted from Indian Merchant Shipping Act—Preamble, as follow

"An Act to foster the development and ensure the efficient maintenance of an Indian Mercantile Marine in manner best suited to serve National interests and for the purpose to establish a National Shipping Board and Shipping Development Fund, to provide for registration of Indian
ships and generally to amend and consolidate the law relating to Merchant Shipping.'

The cited examples have maintained that Maritime Act serve general economic objectives of a State viz the need to extend Merchant Fleet in the carriage of ocean trade or in cross trading. This has to be covered in the legislation to regulate the sea transport, thus a priority has to be set on this subject, prior the creation of Namibian Maritime Administration.

3.2.2 Preliminary Approach

One may assume that relevant policy issues are clearly defined and brought into line with the programme of creating laws to govern and direct Maritime Administration while it is in its infancy.

It is obvious that some SA legislation in Namibia are so obnoxious, that they should go. However this has to be done through a process of clearly studying them and to root out those which have been identified with apartheid and racism, and those both technical, socially and economically cannot or are no longer competent to the creation of a new order basing on the new National policy and to the principle of international law in general and relevant international conventions in particular.

It has been the idea of many people especially
lawyers that a possibility of succession to relevant SA Acts will be one of the important point that the new government has to consider in time, in order to avoid the vacuum.

On the side of Maritime Law critical study of all SA Merchant Shipping Acts as well as to other Acts which directly or indirectly evolve Maritime field may be done. This should first start with SA Merchant Shipping Act 57 of 1951 and all amendments.

In case of over load of work and the unavailability of competent staff particularly Lawyers with specialization and experience in Maritime Law, some of the existing laws particularly those which are of international and technical nature and has no influence of the SA racial discriminatory policy can be kept. Howevr a thorough sensory that may guarantee them to be used on an ad-hoc basis have to be done.

This ad-hoc acts should have a defined and limited time in operation. So that they may not become permanent out-dated Maritime Acts as this has happened in most independent countries after independence.

It would be suggested to the lawmakers in their endeavour to enact Maritime Legislation if they may consider the following Acts as some of their priorities:

2. Flag of Namibian Ship Act.
4 Merchant Shipping Act.
5 Merchant Shipping (Load Line) Act.
6 Namibia Shippers' Council Act
7 Pollution Act
8 Oil Terminal Dues Act.
9 Pier Act
10 Namibian Ports Act.
11 Port Decongestion Act.
13 Pre-Shipment Inspection on Imports Act.
14 Sea Fishery Act.
15 Territorial Water Act.
16 EEZ Act
17 Seaworthiness Act.

The sources of this sample is a combination of the Nigerian, Ghanaian and Kenyan Merchant Shipping Act and could be used further as sources of general information, in case the South African Merchant Shipping Act may not attained anywhere, since they all based on the British Merchant Shipping Act of 1894 and could possible be used as principal source.
Chapter III

Foot Notes and References


3. IBD p.8

4. Vanchiswar, P.S. Establishment/Administration. op. cit p.52

5. IBD p.59

6. IBD p.62


8. International Maritime Organization

9. International Labour Organization


12 Srivastava, C.P. Transport Review 1989 Vol. 9 1.45-57 p. 45

13 IBD

14 IBD

15 Housen Manpower Planning WMU 1989 (Course note)

16 Vanchiswar P.S. Establishment/Administration op.cit pp71-72

17 UN. Economic Commission for Asia and Pacific op.cit p. 20

18 Vanchiswar, P.S. Establishment/Administration op.cit p. 75
CHAPTER IV

TECHNICAL ASSISTANCE NEED

The proposal to establish a Namibian Maritime Directorate is a dream which would be realized through cooperation and assistance from the World.

Any established organization could only survive when it is manned by competent and able persons. Both their training and experience would have some bearing on the development and progress of that organization.

In attempting to maintain an effective organization one needs to look a few years ahead to formulate plans and proposals for training of personnel and technical assistance. This technical assistance could be viewed into training assistance need and technical assistance need.

Training here is meant to prepare a core of Namibians to take up executive technical supervisory and management responsibilities from foreign experts in the near future. While technical assistance need is in terms of professional, relevant experienced and skilled personnel and resources.

To meet this challenge this chapter is be devoted to examine the technical assistance in terms of training needs and technical assistance need for the proposed NMD. The source of assistance will also be examined.
4.1 TRAINING NEEDS

To define the NMD's training needs, I have focused on two types of training, short term and long term training. I have pointed out clearly many times that, the maritime field in Namibia is not known thus effort has to be done to make this field known. To remedy such situation, training programme must be intensive. In such a situation various approach to training has been examined, thus given us two distinct categories of training needs;

1. The urgent need of training is aimed to meet, hold, keep, or establish the position of maritime administration in an independent Namibia. To facilitate and to guarantee the continuation of operation of existing maritime institutions and flow of trade. To avoid disruption and stoppage of existing organization, particularly in the case of worst scenario at the transition period (see Contigency Plan below in this Chapter).

2. The second category would be the training of young Namibians in Maritime field as a long term training needs. This training will be based on theory and followed by attachment to actual job and prepare the trainees to assume their future executive post in NMD. (This is discussed below).
4.1.1 CONTINGENCY TRAINING NEED

Discussion on this issue has been taking place during these years, that is about the practicable problem the independent Namibia may suffer in the maritime sector. In situation such as of Namibia, one has to expect one of the two scenario, the best to the worst scenario. Many questions have been posed as to how to ensure that the ports will continue to operate, to be able to receive commercial ocean-going vessels, with vital supplies to pilot vessels in and out safely, to berth and unberth them without damage, to discharging and loading of their cargoes and to deliver and receive cargoes to and from interior.

These questions have reminded me that in any Contingency plan one should expect two shades of the scenario, from the best to the worst scenario. On this regard our contingency plan will only take account of the worst scenario, as a safety measure. In case of the best scenario it is always easy, to amend a version of the plan.

The established fact remain that, the technicality of the field require both technical qualification and long experience key position officers, which unfortunately Namibia may have only few. In this respect various Maritime Organizations viz viz IMO, UNCTAD, ILO should be approached to second some of their experts to train Namibians as a crash programme to fill the proposed NMD organization. This should be done before
or during the transition period. This training programme will be done relevant to the pre-independence and future demands as well. The training would be designed in training packages, so that the trainees would not be taken away for other programmes or join other work. The trainees would be tested on what they had being trained for.

Trainees should be selected from those who have been trained as seafarers, civil engineers, electrical engineers, Maritime Administrators, Lawyers, Economists and Public Administrator/Development Studies. Those who have been working with SA Habours Authorities would also eligible for selection and may evaluated to what they do.

The language to be used through the course should be English. It would be advisable that training would take place in Namibia on the existing or being established infrastructures. The training would be more practical and more on the job instruction. During the training period the expert team together with the Namibian Training coordinator will assess posts still in need a close supervision, during the actual operations, so that arrangement would be done for counterpart system.

The other alternative to be done would be the registration of stand-by experts to fill vacant posts in case of a worst scenario.

The Organizational structure proposed for NMD in Chapter 3 would be the determinant factor of actual number of key posts to be manned by expatriates. The
list of staff estimated to be available during the first phase or Contigency Plan would be as shown in Table 1.

The implementation stages would be worked out, with the assistance and supervision of the task force unit.

4.1.2 Long Term Training Needs

While the built up of the procedure and implementation of the short term training is in progress, a preparation of the second stage should have to be under way. This preparation would have its roots from the Contigency Plan, which will be viewed as part of long term training need.

As long term training, it approach and methods will vary from institution to institution as this will be a full time training. But what one should do first is to identify the field of training and the number of candidate to be selected at each course.

In this respect the following courses are considered to be some of the priorities needing the attention of a long term training:

4.1.2.1 Maritime Administration

The WMU has this course, and it covers in depth, information in all aspects of Maritime
activities, range from the ship characteristics, shipboard management to the onshore management and administration.

The course is designed for Government employees and Commercial Institutions as well.

Maritime Administration could also be done by Lawyers: especially, specialist in International Maritime Law and Company Law as well. Others with Insurance specialization can also serve in matters related to insurance. These are also some of the important courses NMD need. In addition to that, specialization in the areas such as Ship Registration, Maritime policy and Port administration is of great significance to Namibia.

These courses are not so common in most Institutions.

4.1.2.2 Maritime Safety Administration

It seems that there are few institutions in the world who offer such programme. The WMU is one of the few. The Safety administration courses are in two categories; the safety administration- nautical and the safety administration engineering.

In addition to that, there are various specializations which in my view, we can not do without such personnel; survey, investigation, pollution prevention and control, handling of dangerous goods, inspection of load line and
tonnage measurements, certification of Seafarers and vessels. Infact most of these training need both theory and practice. Other courses of most important to NMD are the placement and maintenance of aids to navigation and wreck maintenance and receiver.

4.1.2.3 Shipping

There are various persons trained under SWAPO programme in basic shipping, however there is still more need of training them in this field particularly on the theoretical long term training and the use of computer in shipping, the Government, regional and International Shipping. Other subjects in shipping, would be maritime economics, Law, policy etc.

WMU has the best programme in shipping which covers most aspect of shipping as a profession and administration.

There are also various institutions in the world that offer such course, at high level eg. the Institute of Maritime Law at Southampton University in UK. Effort should be made to get persons trained effectively in this field.

4.1.2.3 Maritime Education

As Namibia would assume the responsibility of nationhood and further look ahead to participate fully in training of its nationals as well as those from Land Locked countries, as such one may also dream that the Regional Branch of WMU may
based in Luderitz—Namibia, thus Maritime Education both in marine and nautical engineering are important courses to train Namibians to be ready for the establishment of their Maritime Training Centre at Luderitz.

The importance of this course to the NMD would be the Department of Manpower Development and Cooperants which is more of education wing of the NMD and other Maritime Institutions which in my views need persons of such qualifications. The WMU has relevent Training facilities and relevent programme which covers all International Conventions and regulations.

4.1.2.4 Other Training needs

The other training need would be classified as those field which are some what not belonging to the maritime family; viz viz civil, mechanical, electrical engineering, to meet the Wreck and Harbours and Ports Coordination Department.

It is difficult however at this stage to determine as to how many training phases and how many years are required to achieve the required standard. This is due to the fact that there are no relevent data showing as to how many Namibians are already trained or are working in the Shipping Administration in Namibia at the beginning of January 1991 to constitute the core of initial starters of NMD.

However the implementation of phase 2 of the training programme start September 1990 and March
1991 latest and end December 1992 for trainees trained at the WMU, and September 1995 for those who have been trained to other Universities respectively.

At this phase however, having in mind the non availability of resources in the Government’s budget at the independence period. It would be of great importance that the discussion of training issue would take place at the Ministerial level to find ways and means of making fund available.

The number of required candidates would be as shown in Table 2 below.
### TABLE 1

ESTIMATION OF TRAINED AND STAFF AVAILABLE AT JANUARY 1991 (Trained under SWAPO or Work with SA)

<table>
<thead>
<tr>
<th>Field</th>
<th>No.SWAPO</th>
<th>No.SA</th>
<th>No.Others</th>
<th>Ttl</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>3</td>
<td>2</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Shipping</td>
<td>4</td>
<td>3</td>
<td>-</td>
<td>7</td>
</tr>
<tr>
<td>Maritime Law</td>
<td>3</td>
<td>2</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Company Law</td>
<td>2</td>
<td>3</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Nautical Engineer</td>
<td>4</td>
<td>1</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Marine Engineer</td>
<td>4</td>
<td>1</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Electrical Engineer</td>
<td>2</td>
<td>2</td>
<td>-</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>22</td>
<td>14</td>
<td></td>
<td>36</td>
</tr>
</tbody>
</table>

Note that this are just pure estimation rounded from random.
<table>
<thead>
<tr>
<th>Field</th>
<th>NO. Candidates</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nautical Engineer</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Marine Engineer</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Maritime Safety (N)</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Maritime Safety (E)</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Civil Engineer</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Maritime Education (N)</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Maritime Education (E)</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Maritime Law</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Company Law</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Maritime Administration</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Technical Management Company</td>
<td>4</td>
<td></td>
</tr>
</tbody>
</table>

Note that this are pure estimation rounded from random.
As there is a need for Specialization for Nautical and Marine Officers at high level after the completion of their courses two competent candidates from each of the two field may be recommended to further continue their training so that they may attain a highest degree.

The rest of the training branch will be employed in NMD to fill the gap in the structure and to replace those who may leave for further training and further education as well as those who are going on pension leave. Those who may be recommended for further study would be considered as special but in the third phase.

The third phase may go through a paved way which might not be so difficult as the second phase. In this respect, the hope is that at this stage same achievements with regards to organization and training of women and men have been done, at the same time the Director General and Departmental Directors are accurate advised by some of those who have come back from training.

During phase 3 a critical evaluation and adjustment has to be done when need be.

At that stage more emphasis would be given to
- Technical Company Management with 6 candidates to be selected for training.
- Specialization in Maritime Policy and Marketing —6 candidates to be selected for each field.
The rest of the programme as in phase 2 may, continue as it were, few modifications would be done on the reduction in number -three candidates from each course except nautical and marine engineer candidates.

It was estimated that this phase may last for two and five years period for students being trained at the WMU and to other various institutions in the World. In a period of ten years from the implementation of phase two the NMD may be manned fully by Namibians. It would be also at this time in the maritime history of Namibia there would be highly qualified Namibians.

However, this would not be the end of training, but it must continue to create professional and resources to Namibians and to increase efficiency and effective of the NMD and the Namibian Maritime Transport as a whole.

To implement these phases (1 - 3) there would be no gaps or allowance, however a flow of interaction would be recommended.

It is important to note that training accumulate more funds of the National Budget. The costs of training to the developing countries and Namibia in particular leave the Government to think twice before taking a decision on such amount.

In the case of Namibia now, the case is a little bit unique, unique in the sense that, its status still and after independence remain an international responsibility. Thus while such status remain in existence the International Community will take a lead in matters
related to development and technical assistance.

4.2 Technical Assistance Need

The United Nations Fund for Namibia was created in accordance with the UNGAR 2679 (xxv) of December 1970 at the request of the UNSC contained in resolution 283 (1970) of the 29 July 1970. This decision was based on the consideration that the UN, having terminated the SA's mandate over Namibia and assume a direct responsibility for the territory until independence, had incurred a solemn obligation to assist and prepare the Namibian people for self determination and independence and provide them with comprehensive assistance. The Fund's resources are concentrated on three programmes:

- the Nationhood Programme
- United Nations Institute for Namibia
- Educational and Relief Assistance.

The Fund is managed and administered by the United Nations Commissioner for Namibia's Office in New York. Apart from the other two programme mentioned above the Nationhood Programme - a product of the UNGA, and a comprehensive assistance Programme within the UN system, is covering the present period of the struggle for independence and the initial years of independence. Basing on these fact the Nationhood Programme is in the following categories:

- Pre-independence Projects
- Transitional Projects and
- Post independence Projects

Since its inception various economic and social projects addressing the key problems of Namibia's
development were implemented. This include the Maritime Transport Sector.

Given such account, one has to realize that, as from April, 1, 1989, the day when UNSCR 435 put into motion, up to the independence, transitional Projects would have been started. It is during that period training activities as those discussed in phase 1 (above) would be then implemented, while part of the training need of phase 2 and 3 would implemented under post-independence Projects.

The Commissioner for Namibia which is co-ordinating these technical assistance has to co-ordinate with SWAPO of Namibia. The co-ordinations have to be under the direction of the Committee on the UN-fund for Namiba. The other Organizations the Commissioner for Namibia has to work with close contact is the OAU, the ECA, the UNDP, various UN specialized agencies, organizations and institutions of the UN system, as also with most non and Governmental Organizations. Immediately after the declaration of independence, the Commissioner for Namibia will co-ordinate all projects with the Government of Namibia.

It is clear that the financing of Training need phase 2 and 3 would be not easy under this projects, as the Fund receives voluntary contributions from member States and non-Govermental organizations, the UNDP, UN specialized agencies and other organizations in the UN system. Most of the executing agencies (UN organizations) are already involved and have the provision of technical assistance to Namibian training projects.
As they have already executed various Namibian projects under Maritime Transport Sector, the following UN specialised agencies which are still having a role to play are:
- IMO, ILO, UNTAD, UNESCO, UNEP, ECA, WMD, ITU, UNIDO, UNTCTC and WHO. /12

Some of these agencies and organizations made the resources available from their own fund, these are;
- UNESCO, WHO, UNIDO, FAO and UNTCTC. /13

The other agencies and organizations which partially or fully waived support costs in respect of training projects for Namibians are ILO, FAO, IMO, UNESCO and UNCTAD. /14

The continuation of such assistance from these agencies and organizations particularly at the initial years of independence would be of great contribution to the development of Namibian Maritime Transport Sector.

4.2.1. Technical Assistance from International Organizations.

I have already enumerated most International Organizations possible ready to render technical assistance to Namibian Maritime Directorate, these are organization such as:

1. IMO; has and may continue to give; training (at WMU and IMO INSTITUTE of MARITIME LAW- at Malmoe- Sweden and Malta respectively) and technical assistance in human (Training personnel, maritime advisors etc.) to Namibia. Namibia has been a recipient of IMO' technical assistance since 1980 when Capt J. Campbell was assigned to execute
Project No. NAM/79/007 on Maritime Training and Harbour Survey. 

It is under this hope that IMO would complete the project she has started and make it possible that the proposed NMD is implemented as it is or with modifications.

2. ILO, ECA, UNCTAD, UNESCO and FAO have a long tradition of providing attachment, expertise, scholarships, training, advisors, to Namibia in co-operation with SWAPO of Namibia. This type of tradition would be revised and maintained and would be applied to the proposed organization particularly to phase 1, 2 and 3.

3. Other International Organizations, such as; MIC, BIMCO, INTERTANKO, UNEP, IAEA, etc. may be approached to render a technical assistance in any kind of Maritime technical assistance they may afford.

4. Regional and Sub-Regional Organizations, such as Preferential Trade Area (PTA), Southern Africa Development Co-ordination Conference (SADCC) will also play an important role through group exchanging of views, pool of resources both human and material resources, training etc. Training in PTA and SADCC institutions might be of benefit to Namibia, when it comes to attachments, secondments, study tours, method and approach of institutional framework. It is expected that Namibia will be the 10th and 16th member of SADCC and PTA respectively.

5. Other Government Agencies channel technical assistance of their countries, viz viz, FINIDA of Finland, NORAD of Norway, DANIDA of Denmark, SIDA of Sweden, CIDA of Canada, Transport Canada’s
Maritime Training Assistance Programme and others normally offer complete technical assistance to Governments if they are requested. Thus this should be borne in mind by the Namibian Government to take initiative and approach through those organization though a relevant channels and procedures.

4.2.2 Technical Assistance from Governments

During the struggle for National Liberation, most Governments of the world have contributed to the assistance that brought SA to the table of peaceful negotiations and implementation of United Nations Security Council resolution 435 (1978). Such assistance were co-ordinated through multilateral organizations, through UN and Bilateral assistance to Namibians through their National Liberation Movement SWAPO of Namibia. Among others such assistance relevant to this topic were Scholarship, attachment and Secondment programmes.

Technical assistance in human as also offered to train and educate Namibians. Various short courses in Maritime Administration and Port Management was arranged in various countries and at donor countries.

It would be up to the Government of Namibia to create such atmosphere of initiative SWAPO of Namibia had, and continue to mobilize the International Community where SWAPO of Namibia has ended. The point here is to make the International
Community understand the nature of problem physically existing in Namibia.

Basing on the information the community may contribute to the struggle of liberating the Namibian Maritime Administration by implementing the proposed organization of NMD when it is applicable.
Chapter IV

Footnotes

1. IMCO Mission Report No. Nam/79/007, Maritime Training and Harbour Survey 9 April to 2 October 1980 (pp. 95) p. 2

2. IBID

3. United Nations Institute for Namibia, Namibia Prospective for National Reconstruction and Development p. 847

4. IBID p. 848

5. UN. Basic Facts UN Council for Namibia, New York 1985 p. 2


7. UN. Basic Fact UN Council for Namibia op. cit. p. 2

8. IBID p. 3

9 IBID

10. IBID

11. Countries contributes on Fund for Namibia on Voluntary base.

12. UN. Basic Facts, op. cit p. 5
13. IBID

5.1. CONCLUSION

In conclusion, it is realized that the transition period in Namibia will be difficult and challenging, because up to this moment there is no relevant information in respect to Namibia maritime activities viz a viz;

1. Constitutional/Statutory position as regards responsibility of merchant shipping or ports.
2. Status of present Maritime Legislation of relevant and proposed changes or amendments.
3. Present functions, organization structure and activities of the maritime administration.
4. Total number of officers, particularly marine and nautical officers in the maritime administration, posts filled, posts vacant and location of such officers.
5. Qualifications experience, ages and nationalities, for the above stipulated above officers,
6. Statutory duties performed by the marine and or nautical officers.
7. Rules and Procedure of ships Registration
8. Number of National ships and their particulars
11. System for surveys and inspection of ships and certification.
12. Procedures for examining and issuing of certificates of competency to merchant marine and nautical officers.
13 System for Manning national Ships.
14 Particulars of present institutions for training of
seafaring personnel.
15 Number of National ships visiting national ports, per
month or per year.
16 Classification Societies recognized and delegated with
statutory functions.
17 Details of statutory functions delegated to the
classification societies.
18 System for Namibians seagoing personnel.
19 System for Registration of seamen.
20 Procedure for dententions of unseaworthy ships.
21 General information about Search and Rescue System.
22 Procedure/System for conducting inquiries/ investigation
into shipping casualties
23 Present system of prevent, combating and controlling
of marine pollution.
24 Arrangement for navigational aids, chart, notice to
mariners and navigational warnings.
25 Rules/System for handling dangerous goods in ports.
26 Number of fishing vessels and system of
inspection/licencing.
27 Any courses for life boatmen, fire fighting.

The situation about maritime activities in Namibia now, during the transition, and after independence period is still far difficult to get in the mirror. This is due to many reasons as they are listed above. It would further cause bottleneck on the working information that there would be no flow of information or relevant literature where Namibian Maritime activities had been discussed in depth to encourage one to build on this assumption.

It is not clear as to any other SA laws at present in the
maritime affairs subsector are in force in Namibia, since the termination of SATS role in Namibia. Despite that, the hope is; the NMD can stand up to the task of being the key for the development of shipping in an independent Namibia. However a "task force unit" would be appointed to deal with all initial preparations and direct implementations of all maritime activities according to their priorities.

Given such a situation, a situation in which an initial start is a topic in discussion, need more attention of coordinated effort, on its approach, management and administration of its scarce resources. The deficiencies and lack of co-ordination would cause the future administrative arrangement economically and may in most cases cause unexpected embarrassment to the Namibian nation as a whole.

It is expected that Namibia, if it would be under SWAPO led Government, would be a member of various International Organizations, to which SWAPO already has been given observer status during the National Liberation Struggle eg. UN, IMO, UNTAD, ILO etc.

This start may possibly bring the government into the position to accept and become party to most of the International conventions relevant to Namibia.

South Africa has operated the railway and ports in Namibia as part of its parastatal organization and will probably withdraw most of the railway rolling stock and port facilities, port personnel and vessels, so that it will create Namibian independence more dependent on her.
5.2. RECOMMENDATIONS

It is realized that there are wishes and expectations both from SA and her allies on one hand and the supporters of a true independent Namibia on the other. The South African wishes are those that, the Namibian independence to suffer more administrative problems particularly during the early stage of independence. So that the population may revolt against the Government and in particular the National Liberation Movement which fought for the independence of Namibia.

The Namibian Supporters wishes and expectations are; the Namibians who suffered for a long time would be very careful in their approach to all aspects which will constitute the existence of their Government as well as the public institutions and as such transportation services —particularly maritime services which have no roots in Namibia should be created to serve Namibia, neighbouring countries and world trade. It is also their expectation that Namibians have also observed and experienced various avoidable mistakes made by various Governments, and it is their wishes and expectation that this would not take place in a truly independent Namibia.

To counter SA wishes and expectations and attempt to prevent Namibia supporters from disappointment we recommend that:

5.2.1 The Government should as early as possible create a "Maritime task force Unit" which may consist of
professional and experienced experts, both foreigners and Namibians (if any) as well as SWAPO trained cadres to study and analyse existing SATS Extension Administration in Namibia and further recommend to the Government a suitable parts of it to be used during the initial independence period or to be reinstated.

The existing subsystem for SATS may be assessed and be used until the establishment of the relevant maritime administration would be pronounced.

5.2.2 The Maritime Administration in Namibia should be executed under the Ministry of Transport, Work and Communications, and will be called The Namibian Maritime Directorate (NMD). The NMD will be organized as in Organization Chart on Page 34A and 34B, its functions are discussed in chapter 3 and would be extended and developed further.

5.2.3 A semi-autonomous status and budget should be given to the NMD and to be supervised by its Advisory Council. The monthly statements together with all pertinent documents could be submitted to the Ministry of Transport, Work and Communication. The maritime Advisory Council would be composed as discussed on page 36 and 37. The Council’s duties and functions are as discussed in chapter 3 and additional supervision of the Maritime task force unit. The maritime advisory council would be the vehicle of co-ordinating a common action in the Maritime field.

5.2.4 To avoid unnecessary vacuum, the possibility of succession to relevant SA shipping Acts, with modifications, on aspects particularly those politically and technically are no longer competent. This MS Act could be only used on an ad-hoc basis. The ad-hoc legislation should have a defined limited time in
operation. So that they may not take a chance to the succession of outdated Maritime Acts as this has happened in most countries upon getting their independence from their colonial masters.

5.2.5 The NMD should be required to liaise with National, Sub-Regional Regional and international Organizations involved in Maritime activities in matters of common interest for co-ordination purpose.

5.2.6 The provision of manpower to perform any task is not the major problem of Namibia. What is real lacking is manpower properly trained, skilled and experienced to perform specific task with proficient skills. Thus at independence a huge of professional experienced and skilled personnel will be required. It is a fact that most SWAPO cadres professionally (those educated abroad and under churches programme) have a sound education but no experience as most of them never got a chance to serve in any normal Administration, managerial or and Supervisory functions to gain experience and skills as these two elements are only obtainable in the process of doing. On the other hand other Namibians trained under a SA superior education (for whites only) may not be enough as most of them, particularly the conservative members may not like to serve in a what is called a "Black Government". On this background it would be recommended that the Government would be advised to approach UN Specialized agencies with specialities in Maritime activities for example IMD, UNCTAD, ILO, etc. for their earlier assistance and participation in the evolution of NMD and in preparation of the maritime task force unit. The Government would also approach individual friendly Governments on bilateral agreement for technical
assistance, particularly to countries with a long tradition and experience in maritime affairs.

5.2.7 The maritime task force unit, with the assistance of the expertise assistance from the UN specialized agencies, individual Governments and organizations would plan and arrange to man the proposed NMD Organization Chart in page 34A or 34B with the required profession and experience staff—both Namibians and Foreign experts, who may be employed through the UN specialized agencies (in maritime activities) or employed through other bilateral agreements. The Maritime task force unit, would be composed of other experienced Namibians, Namibian graduates from WMU, Alexandria Maritime Accademy, India, GDR etc— who have done Maritime Administration in depth and those who have been educated to various Universities and Institutions of the world.

5.2.8 Action would be taken as early as possible in registering and preparing expatriates who would serve in the contingency plans discussed in Chapter 4 of this study.

5.2.9 It is essential that enough people are trained in all field of the NMD as demonstrated in the proposed organization chart in chapter 3 and as this happens in most cases, in developing countries, a few persons are usually found shifting from one responsibility to another—one person heading three Departments.

This state of Affairs should not be decried. However, efforts should be done to have a good number of people who can devote most of, if not all, their time and
energies in one area of responsibility to avoid manipulation of their capacities due to more responsibilities.

The proposed training need programme discussed in chapter 4.2 should be one of the functions of the maritime task force unit, both to evaluate it and amend/modify it when necessary and implement it thereafter. In considering where people would be trained, it is recommended that the WMU, in Malmo, Sweden, provides excellent courses with all training facilities, up to date programme and professors. However the background of candidates should also be considered, to meet the requirements. The IMO Institute of Maritime Law, Malta. There are also various high and middle learning Maritime Institutions, viz, Alexandria Maritime Transport Academy Egypt, Ghana Maritime Transport academy. (Pre Sea, engineering, navigation), Bandari College, Mombasa (Kenya), Kenya Port Authority, Nairobi University (for engineers), London University, (for Int. Marine Law Degree). Bandari College Dar-es-Salaam Tanzania, ICOD Canada, Norway Institute of Shipping and Gdynia Merchant Academy in Poland. In all, candidates' backgrounds, knowledge and skill of writing and speaking English will be of great important as Afrikaans would not be used outside Namibia and South Africa.

There are also many Maritime learning Institutions in various countries. Consulting International Directory of Higher Education. One will find comprehensive descriptions of education in most countries and detailed information about individual institutions. Such Directories are:
To implement the training programme as discussed in chapter 4.2 the Namibian Government should take a leading role by any means to finance a portion of the training programme and further wage a national, sub-regional and International campaign for technical assistance to support and implement the establishment of NMD and the training programme. The ideas discussed in this study may lay down the foundation to pioneers of NMD and recommend further research in Maritime Legislation, Manning and Training, Ports and Harbour Administration and Manpower Development.
Annex II

NORWEGIAN COAST DIRECTORATE
Mail: Box 8158 Dep, 0033 Oslo 1
Office: Dronningensg. 6
Phone: (02) 11 40 90

The total staff of the Directorate are approximately 80 persons.

DISTRICT ADMINISTRATION:
Each district administration is headed by a district chief and subdivided in three subdivisions for administrative, technical and maritime affairs. The total staff at each of the regional offices are 21-23 persons.

DISTRICT 1
Mail: Box 545, 4801 Arendal. Phone: (041)26074
Covers the counties from the Swedish border to Rogaland.

DISTRICT 2
Box 466, 5501 Haugesund. (047)12555
Covers the counties Rogaland, Hordaland and Sogn og Fjordane.

DISTRICT 3
Box 2025, 6001 Alesund. (071)21146
Covers the counties Møre og Romsdal, Sør Trøndelag and Nord Trøndelag.

DISTRICT 4
Box 23, 8310 Kabelvåg. (088)78000
Covers Nordland county

DISTRICT 5
Box 319, 9750 Honningsvåg (084)72866
Covers the counties Troms and Finnmark.

Source: Norway Coast Directorate
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