1990

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IN THE UNITED ARAB EMIRATES

THE MARITIME ADMINISTRATION AND LEGISLATION

BY

ABDUL NOOR MEER ABDUL RAHMAN
THE MARITIME ADMINISTRATION AND LEGISLATION IN THE UNITED ARAB EMIRATES

By

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U.A.E.

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

MASTER OF SCIENCE DEGREE
in
GENERAL MARITIME ADMINISTRATION

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

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In The Name of ALLAH,
The Compassionate,
The Merciful.
DEDICATION

To my country, United Arab Emirates

To my dear wife, my mother, my father, my brothers, my sisters, who fully supported me during my studies at World Maritime University in SWEDEN
ACKNOWLEDGEMENT

Firstly, I express all thanks to ALMIGHTY GOD

I am grateful to the Government of Emirates, and in particular to the Ministry of Communications and the Ministry of Education.

My deepest thanks go to professor J. Mlynarczyk, course professor of General Maritime Administration (G.M.A) for his Kindness, supervision and guidance during my studies.

I wish to express my thanks to lecturer Yousif Zain AL Abedin, lecturer of Arab Maritime Transport Academy.

Deep gratitudes are presented to all resident and visiting professors of the World Maritime University.

Finally, In the preparation of this paper, I owe my gratitude and sincere thanks to all those who provided me with the encouragement, guidance and information and made it possible for me to complete this paper.
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ABSTRACT

United Arab Emirates has two coastal sides. The Arabian Sea and the Arabian Gulf with many coastal facilities, Such as:

1. Coastal area and islands;
2. Ports;
3. Fisheries and marine recreation area;
4. Different type vessels;
5. Shipyards.

These facilities made the state one of the biggest coastal state in this area.

The objective of this paper is to have an effective maritime administration and an adequate maritime legislation to achieve more control on all maritime matters such as safety of ships, safety of navigation, casualty investigation and pollution prevention.
For this approach, I divided my paper into five chapters as follows:

CHAPTER ONE

AN INTRODUCTION TO THE U.A.E.

It identifies the importance of the U.A.E. from geographical and economical point of view. It gives highlight to each emirate of the Seven Emirates which form the federal state.
CHAPTER TWO

THE MARITIME ADMINISTRATION IN THE U.A.E.

It gives highlight to the existing organization which forms part of the Ministry of Communications. The chapter explains the objectives and the activities of the Maritime Administration in the U.A.E.

CHAPTER THREE

PROPOSAL APPROACH TO MARITIME ADMINISTRATION IN THE U.A.E.

It introduces proposed organization of Maritime Administrations taking into consideration the present and the future development of maritime sector in the U.A.E. The new Maritime Administration Organization will have different departments dealing with sea traffic, maritime inspection, technical aspect, legal aspect, registration, administration and financial matters.

CHAPTER FOUR

TOWARDS AN ADEQUATE MARITIME LEGISLATION IN THE U.A.E.

It explains that the present maritime legislation in the U.A.E., like in any developing country, is inadequate to meet the needs arising from the up-to-date International Maritime Conventions, advance shipping technologies and shifts in national and global trade. This chapter gives highlight to some areas of maritime legislation which are not covered by the present Commercial Maritime Law no. 26 of 1981 or which is not detailed enough for the implementation purpose.
CHAPTER FIVE

CONCLUSION

Reading of the introduction and conclusion gives broad overview of the paper.
1.1 THE SEVEN EMIRATES:

1.1.1 ABU DHABI

The Emirate of Abu Dhabi is the largest of the seven components of the United Arab Emirates with an area of around 26,000 square miles out of the country’s total of approximately 30,000 square miles. Ruled since 1966 by Sheikh Zayed bin Sultan al Nahyan, also the UAE’s president since 1971, it also has the largest population which in December the 1985 census totalled 670,125 and is now probably over 800,000.

The first of the emirates to become an oil exporter in 1962, and still by far the largest producer amongst the four emirates enclosed with oil resources, Abu Dhabi can trace back its history as a distinct political entity to the middle of the seventeenth century, when the town of Abu Dhabi itself, now occupying the bulk of the offshore island of the same name, was founded.

Traditionally, the emirate has drowned its power and strength from a fortunate combination both of resources and people. Its lengthy sea-coast, stretching from the base of the Qatar peninsula in the west to the border of the emirate of Dubai near Ghanitut in the north east, has given it access to, and control over the shallow waters of the southern Gulf. In the past, those waters have been the home of the most important pearl-banks in the area, from where the rulers of the emirate drew much of their income, while today the waters also cover the most prolific offshore oilfields in the southern Gulf.

On land, the emirate’s territory stretches south to the desert area of oases known as the Liwa, and east to the ancient oasis complex known to history as the Buraini.
oasis, but more familiarly known today as Al Ain, the name of the largest town, which is part of the Abu Dhabi emirate. The oases provided access to the resources to the prolific date palms, and to the limited supplies of water that would permit simple agriculture. Thus, Abu Dhabi has always looked both to the land and the sea.

1.1.2 DUBAI

The Emirate of Dubai, the bulk of which is situated on the Arabian Gulf coast between the emirates of Abu Dhabi and Sharjah, is the second largest of the seven comprising the United Arab Emirates. Its total area is around 1,000 square miles, all in one single block of territory, apart from a small enclave in the Hajar Mountains at Hatta.

It is ruled by Sheikh Rashid Bin Saeed al Maktoum, who succeeded his father in 1958, and who has since 1971 also been the vice president of the federation. Since 1980, Sheikh Rashid has also been the federal prime minister, although advancing years and ill-health have meant that he has for some time been unable to fully carry out these onerous tasks.

The real growth of the Emirate can be dated to the early part of the century, when the grandfather of Sheikh Rashid was able to persuade the shipping lines to ply between Britain and India to make Dubai their main Gulf port of call.

By the early nineteen fifties, Sheikh Rashid himself began to take increasing charge of the emirate’s development plans, establishing a police force, a customs service, and stimulating the development of trade with the countries of the Indian sub-continent. When, in the early
nineteen sixties, the emirate first struck oil offshore, the farsightedness of the ruler paid off, since work on Dubai's basic infrastructure was already well under way. Development began long before oil was discovered. Today, oil revenues fuel the emirate's continued growth. From the offshore oil fields, and the ashore gas and condensate Margham field, Dubai produced around 390,000 barrels of oil and condensate a day that still provide the bulk of the emirate's revenues.

At the same time, however, Dubai has never been content merely to depend on oil. Many of the major commercial houses owe the foundations of their fortunes to the days before oil, while a far-sighted program of diversifying the emirate's economic base has led to the creation of a whole host of new industries. In the city itself, the Dubai Drydock, built a decade ago, but only operational for the past few years, is now succeeding in grabbing an increasing share of the world market. Some twenty miles outside the city, on the road to Abu Dhabi, what was once a barren patch of the seashore has been connected into the major industrial centre of Jebel Ali, located around the port of same name, the largest man-made harbor in the Middle East.

A host of industries have been set up in Jebel Ali, ranging from an aluminum smelter to a gas plant, and from a cable factory to a major power plant. The opening of a Free Trade Zone in Jebel Ali at the beginning of 1985 attracted a number of smaller companies to the area, with the Free Zone Authority having to expand the size and scope of their facilities, to meet demand not only from local companies, but from multinational firms as well.

The first international airport in the Emirates, which opened in the 1960's, is now completing a major expansion program that will allow it to handle up to eight
and half million passengers a year, and is already the major transit point for international airlines, in the lower Gulf. The launching of the emirate's own airline, EMIRATES, underlines the continued confidence of Dubai in its long-term future, as does the active promotional campaign being carried out by bodies such as the Dubai National Travel Agency, DANATA, to attract tourists to the emirate.

1.1.3 SHARJAH

The Emirate of Sharjah is one of the most rapidly developing parts of the U.A.E, thanks to the successful exploitation of the Saja'a onshore gas and condensate field. First discovered in 1980, it was brought on stream in 1982, and now has an average daily production of around 60,000 barrels of condensate, providing a much-needed, and welcome boost to the Emirate's economy. The significance of the find has been increased by the fact that its revenues begin to flow into Sharjah government's treasury at around the same time that the international oil markets as a whole entered a period of decline. Thus Sharjah's income rose as that of the two other major, oil and gas producing emirates, Abu Dhabi and Dubai, began to decline. Sharjah, like Ras Al Khaimah, was once part of a single emirate ruled by the Al Qawasim. A member of the family, Dr. Sultan bin Mohammed al Qassimi, has ruled the Emirate since 1972. The only Ruler with a university degree, in agriculture from the University of Cairo, he was awarded a doctorate of philosophy in 1985 by prestigious Centre for Arab Gulf Studies at Britain's Exeter University, for a thesis examining the conflict between the Al Qawsim and the British at the beginning of the nineteenth century.
With a Ruler interested both in agriculture, and in history and heritage, it is not surprising that Shargah has developed in both of these fields. The main agricultural centre is around the Dhaid Oasis, which lies in relatively well watered plains inland from Sharjah, and in the lee of the Hajar Mountains. Here a rapid expansion of local farms, cultivating fruit and vegetables, and also raising poultry, has added substantially to the UAE's food output, also exporting crops abroad. At the same time, agricultural expansion is also taking place on the Gulf of the Oman coast, where at Kalba, interesting studies are now place on the use of sea water for irrigation of salt-tolerant vegetation.

At a historical level, the emirate can trace its heritage well back before the birth of Christ, with a number of significant sites having been located in the Mileiha area, not far from Daid, including one of the UAE's few sites dating from the Hellenistic (Greek-influenced) period, and another site which produced a Sabaean inscription, the only one so far found in the UAE, proving the existence of trading links with Yemen around three thousand years ago.

Sharjah has long been an intellectual centre in the lower Gulf, with a number of citizens benefiting from modern education as far back as the period before the Second World War. The site of the former British Royal Air Force base in the region, it also began to develop economically prior to 1971. The discovery of the small off shore Mubarak oil field, near the island of Abu Musa, in 1973, encouraged the Ruler to move ahead rapidly with the creation of modern infrastructure, with the assistance of the federal government. The rapid decline in the output from this field, which is now under ten thousand barrels a day, meant that the emirate suffered a period of
economic hardship until the revenues from the new Saja’a field made it possible for construction and other development programmes to resume.

Since then, however, the development programme has moved ahead rapidly. Making good use of the associated gas from Saja’a, Sharjah now has its own gas liquefaction plant and is providing gas to the Emirates General Petroleum Corporation for the fueling of power stations throughout the northern emirates. The port of Hamriyyah, part of the Emirate and on the coast north of Ajman, which is the land terminal for the Saja’a field, is now becoming an important industrial center.

Sharjah was also the first of the seven emirates to make serious efforts to create its own tourist industry, seeking both to attract visitors from within the U.A.E, and from abroad. A successful marketing programme in western Europe succeeded in attracting tourists from West Germany and Austria, on week-long or fortnight-long package tours, that provide much welcomed business for the top quality hotels in Sharjah itself, as well as for that at Khor Fakkan. And the fine international airport has continued in the past few years to attract more business.

Sharjah had to face the first years of federation with few resources. Now, however, the picture is much brighter, and careful planning for a diversified economy in which Dr. Sheikh Sultan has been engaged since he became the Ruler is bearing fruit with perhaps the most broadly based economy of all of the seven emirates.

1.1.4 RAS AL KHAIMAH

The Emirate of Ras al Khaimah occupies the extreme north-eastern coastline of the United Arab Emirates, close
to the strategic Straits of Hormus, with another important inland section straddling the central Hagar Mountain range that runs down the centre of the country. Ras al Khaimah was once the centre of the naval strength of the states of the southern Gulf.

At the beginning of the nineteenth century, the Qawasim state based upon Ras al Khaimah, which extended over the whole of what now comprises the northern emirates, could dispose of a naval fleet with nearly twenty thousand sailors, and was able to range as far as Bombay in India and to the major trading ports of the East African coast.

Clashes with the British navy in India led to its downfall, and the subsequent arrival of a British colonial presence upon the local scene.

Once known as Julfar, the town of Ras Al Khaimah itself figures in the history of the early Muslim caliphates in the region and in the history of the centuries of conflict that ensued with Persian, Dutch and Portuguese invaders, prior to the emergence of the Qawasim state in the mid-eighteenth century.

Today, the ruler of the emirate, Sheikh Saqr Bin Mohammed al Qassimi, who has guided the fortunes of his emirate since 1948, making him the longest-surviving ruler in the Arabian Gulf, remembers with pride the historical exploits of his ancestors. He looks forward, however, at the same time, and has brought the benefits of modern civilisation to all but the remotest and tiniest mountain settlements within his emirate.

Once the emirate was largely dependent upon traditional forms of employment, such as fishing and agricultural. Ras al Khaimah, known as a modern agricultural form, complete with fully-acclimatised dairy cows, has helped to make the emirate one of the UAE's main agricultural centres. Milk, meat, chicken, eggs, fruits
and vegetables are all part of the Emirate’s current agricultural produce.

The wisdom of the Ras Al Khaimah local Government’s policy of diversifying its sources of income can be assessed from the latest population figures, which had reached a total of 116,740 in 1985, a sharp rise from 1980. Though far from the hub of the UAE’s economy, it is clear that development has not passed the emirate by. It is the intention of the Ruler that his people should continue to benefit, as do their fellow citizens, from the achievements of the post-independent area.

1.1.5 FUJAIRAH

The Emirate of Fujairah is in many ways the odd man out amongst the seven emirates that together comprise the U.A.E. Its coastline is not on the Arabian Gulf, but on the Gulf of Oman, outside the narrow and strategic straits of Hormuz and its hinterland is mainly mountainous with a narrow coastal strip, rather than plains and desert.

The location has been put to use in other ways. Outside the Arabian Gulf Fujairah had the advantage of being well away from the Iraq-Iran war zone, and the new port of Fujairah, completed in 1982, rapidly became a regular port of call not only for container lines, but also for one of the world’s largest livestock-shipping companies, which set its main holding station for sheep cattle for the Arabian peninsula at the port.

Since the establishment of the Gulf Co-Operation Council in May 1981, several GCC plans have been mooted to make use of Fujairah’s strategic location.

Although these plans have yet to be endorsed, one new attraction of Fujairah is its international airport, which
is able to cater for the world’s largest passenger and cargo aircraft.

Under the guidance of the ruler, Sheikh Hamad bin Mohammed al Sharji, who succeeded his father, Sheikh Mohammed bin Hamad al Sharqi in 1974, Fujairah has also proceeded cautiously with the development of local industry, in the town of Fujairah itself, and in the northern town of Dibba, at the base of the Musandam peninsula, with assistance provided by U.A.E. president and by foreign investors. A number of small industries have been established, including a marble tile factory, a shore factory and a cement plant, while the local chamber of commerce, industry and agriculture report that interest continued to be displayed by foreign companies.

The rate of development that has been achieved can be assessed, in part, from the growth of the emirate’s population, which was 54,425 in December 1985.

Today, although its traditional agriculture and fishing remains important, and the development of internal and foreign tourism is also a key objective of the government of Fujairah, the hope is that the emirate’s location will, once again, make it a regional window to the outside world.

1.1.6 AJMAN

The Emirate of Ajman is the smallest of the seven members of the U.A.E. federation, with an area of only 100 square miles.

Recent discoveries by the local municipality show that Ajman was once an important Bronze Age settlement, perhaps three or four thousand years ago, although it was long a relatively quiet back water since the establishment of the United Arab Emirates in 1971. The Emirate, first
under Sheikh Rashid bin Humaid al Nuaimi, who ruled from 1928 until 1981 and then under his son and heir, Sheikh Humaid bin Rashid al Nuaimi, has joined the march towards a modern society. The once small port, frequented only by small dhows and country craft, is now the site of an important dockyard, run by Arab Heavy Industries, while the rest of the town has benefited substantially from its closeness to the larger centres of Sharjah and Dubai.

The most recent census showed that Ajman’s population has risen sharply in recent year to 64,318, partly because of the normal impact of development, but partly, too, because many people working in Dubai and Sharjah have chosen to live in Ajman, with its slower and quieter pace of life.

The inland enclaves, though tiny, have not been forgotten in Ajman’s development programme, and have now, with the assistance of the respective federal ministries, been supplied with schools, clinics, and power and water.

At the same time, they retain their charm as tiny mountain villages, and are visited by many residents of other parts of the U.A.E. at weekends and during the Eid holidays.

1.1.7 UMM AL QAIWAIN

The Emirate of Umm al Qaiwain, unlike all of the other seven emirates except Abu Dhabi, is a single piece of territory. With its capital of the same name situated on a small peninsula on the Arabian Gulf coast, between Ajman and Ras Al Khaimah, Umm al Qaiwain stretches inland to the oasis of Falaj al Mu’alla, named after the emirate’s ruling family.

According to the most recent census, carried out in December 1985, Umm al Qaiwain has a total population of
29,229 many of whom are still dependent on the traditional forms of employment, such as fishing and date cultivation. Offshore exploration for oil and gas in the late nineteen seventies discovered a sub-sea gas field which has yet to be developed, while exploration onshore has been unsuccessful. The establishment of a free trade zone in the port, however, has brought new business, and new hopes, to the Emirate.

The Emirate, however, still retains much of its old charm, both in the palm groves of Falaj al Mu’alla with the little hilltop fort, nestling in a hollow between rolling sand dunes, and in the older quarter of Umm al Qaiwain itself complete with the former Ruler’s palace, and its antique artillery pieces. Under the guidance of the Ruler, Sheikh Rashid bin Ahmed al Mu’alla, who succeeded his father in 1981, having long been active as his deputy, Umm al Qaiwain now looks to a more prosperous industrial future, yet one in which its traditional pursuits remain of importance. There remains, too, the hope that oil may be discovered on shore, since the emirate’s territory lies close to the Saja’a gas and condensate field in the Sharjah emirate.

1.2 AN INTRODUCTION TO THE UNITED ARAB EMIRATES :
============================================

The United Arab Emirates is a federation of seven individual emirates, formerly known as a Trucial states, which came together after British withdrawal from East of Suez in December 1971 to form the Arabian Peninsula’s youngest country.

Largest and most populous is the Emirate of Abu Dhabi, which provides the federal capital, while the other members order of six, are Dubai, Sharjah, Ras al Khaimah,
Fujairah, Umm al Qaiwain, and Ajman. For around a century and a half from 1820, the sheikhdoms, or emirates, were in treaty relations with Britain, which controlled their foreign affairs and external defence, although they retained their own individual autonomy and sovereignty.

Since 1971, the country has been an active member of international organizations like the United Nations and its specialised agencies, the league of Arab States, the Non-Aligned Movement and the Organization of the Islamic Conference.

The Arab Gulf Co-Operation Council, whose six members are the Emirates, Kuwait, Saudi Arabia, Bahrain, Qatar and Oman, was founded at a summit conference in Abu-Dhabi in May 1981.

1.2.1 GOVERNMENT

The head of, the president, is His Highness Sheikh Zayed bin Sultan Al Nahyan, also ruler of Abu Dhabi, who was elected in 1971, and has been re-elected at subsequent five year intervals by his colleagues on the seven member supreme council of Rulers.

The Vice President, again since 1971, who has been Prime Minister for a number of years, is the ruler of the second largest Emirate, Dubai, His Highness Sheikh Rashid bin Saeed Al Maktoum.

The Supreme Council of rulers is the country’s top policy making body, while day to day affairs of state are handled by the cabinet, headed by the Prime Minister.

The Deputy Prime Minister is Sheikh Maktoum bin Rashid Al Maktoum, who is also Crown Prince of Dubai.

The supreme Commander of the country’s Armed Forces is the president, while the Deputy Supreme Commander is Sheikh
Khalifa bin Zayed, the Crown Prince of Abu Dhabi. The Minister of Defence is Sheikh Mohammed bin Rashid Al Maktoum.

The country's parliament is known as the Federal National Council. Its forty members are drawn from each of Emirates in relation to their size. Abu Dhabi and Dubai have eight members each, Sharjah and Ras Al Khaimah six members each, and the other three Emirates four members each.

Each individual Emirate also has its own local institutions of government, whose degree of complexity depends upon the size of the Emirate concerned, whose chairman is the Crown Prince, While there is also a sixty member National Consultative Council, with members drawn from the tribes and families making up the Emirate's indigenous population.

1.2.2 AREA AND POPULATION

The UAE, which lies on the southern shores of the Arabian Gulf, with a small coastline on the Gulf of Oman, has an area of approximately 30,000 square miles. The Emirates range in size from Abu Dhabi, by far the largest with an area of some 26,000 square miles, to Ajman, a mere 100 square miles. Dubai is 1,500 sq. miles in area, Sharjah 1,000 miles, and the other three, Ras al Khaimah, Fujairah and Umm al Qawain, are all under 1,000 sq. miles.

The total population at the last national census, in 1985, was 1,622,464, of whom over 670,000 resided in the Emirate of Abu Dhabi, mainly in its two cities, Abu Dhabi, the federal capital, and the inland oasis-city of Al Ain. Over 400,000 lived in the Emirate of Dubai, mainly in the twin towns of Dubai and Deira, the commercial centres
of the UAE, with the remainder in the smaller Emirates. The estimated population is now over 1.8 million, and a new national census is planned for the end of 1990.

The official language, and main language of communication, is Arabic, although English is widely used by expatriate communities and in commerce. The state religion is Islam, which also provides the underlying inspiration of the legal system. It first took root in the area that now comprises UAE during the lifetime of the Prophet Mohammed. Minority communities of extended to practice their religion freely and without hindrance.

1.2.3 ECONOMY AND COMMERCE

The basis of UAE's economy is its oil production, with proven reserves well in excess of 100 billion barrels, and with an installed production capacity of over three million barrels per day.

The bulk of this is in the Emirate of Abu Dhabi, where the first commercial oil discovery was made in 1958, and which commenced oil exports in 1962. Dubai, Sharjah and Ras al Khimah followed suit. Exploration continues both in these oil producing Emirates and in the others that have yet to find commercially viable deposits of hydrocarbons.

Production levels vary in accordance with the level of market, and within the guidelines laid down by the Organization of Petroleum Exporting Countries, OPEC, of which the UAE has been a member since independence. The petroleum policy in the Emirate of Abu Dhabi is laid down by the supreme petroleum council, headed by Sheikh Khalifa bin Zayed Al Nahyan. The largest producers in the Emirate are the Abu Dhabi Company for Onshore Oil Operations ADCO, and the Abu Dhabi Marine Operating
Company, ADMA-OPCO. Sixty percent of these companies is owned by the Abu Dhabi National Oil Company, and the remainder by consortia of foreign oil companies, such as British Petroleum and Shell. The latter is also a shareholder in the Emirate’s major gas liquefaction industry. While petroleum and natural gas continue to provide the bulk of the country’s national income, having won an important place within the region as a centre for transshipment and trade.

A heavy industrial sector has been developed, including downstream projects in the oil industry, such as an oil refinery and fertiliser plant at Jebel Dhanna and Ruwais in the Abu Dhabi Emirate, and other plants such as major aluminium smelter, DUBAL, and the cable manufacturer, DUCAB, in Dubai’s industrial zone of Jebel-Ali.

The light industry is now also growing both within the free trade zones established in several emirates notably at Jebel Ali and Fujairah, and outside them, helping to meet local demand and also to provide a surplus for export markets.

1.2.4 FOREIGN POLICY

The United Arab Emirates is a member of the United Nations and its specialised agencies, the Non-Aligned Movement, the league of Arab States, and the Organisation of the Islamic Conference. The themes of Arabism, Islam and non-alignment are key threads in its foreign policy.

At a regional level, the country, both on its own and through the Arab Gulf Co-Operation Council, was active participant in efforts to bring the now happily halted Iran-Iraq War to an end. It has at the same time consistently supported the demand of the Palestinian
people and of their legitimate representative, the Palestine Liberation Organization, for their own state on their own land. It was one of the first countries to announce recognition of the state of Palestine declared by the PLO.

The UAE also strongly supports efforts to bring about an end to senseless communal conflict in Lebanon, with Sheikh Zayed having taken a leading role in the formulation of a common Arab initiative on the issue.

Rejecting the concept of a bi-polar world, it maintains good relations with both of the super-powers, but in common with many of its fellow littoral states in the Indian Ocean, is opposed to the permanent presence of foreign fleets in the region.

Relations with Britain and with the rest of the European Community have been traditionally warm and friendly, and the UAE has taken a lead in encouraging the development of closer ties between GCC and the wider Arab World on the one hand and of Western Europe on the other.

Attention has also been paid to the rest of the developing world. As a Muslim country, and in accordance with the instructions of Sheikh Zayed, the UAE has devoted large sums to development assistance to other countries less well-endowed than itself. Over one billion dollars have been provided in the form of grants, concessionary aid and investment to over forty countries in three continents, while substantial assistance has also been given through the specialised agencies of the United Nations. Help has also been given in the case of natural disasters, such as those that recently hit Sudan, Bangladesh and Armenia.
Chapter 2
The Maritime Administration
2.1 THE MARITIME ADMINISTRATION:

2.1.1 Introduction

The object of maritime administration organization is to provide the Government with what would enable it to satisfactorily and efficiently undertake those functions which are embodied within the country’s merchant shipping legislation, and the functions would include the implementation of the requirements of international maritime conventions, and national rules and regulations framed under the authority of the merchant shipping Act.

For the development of the maritime field in the country the appropriate government authorities need to have an efficient administrative machinery to advise them on the adoption and implementation of the national legislation and other regulations required for developing and operating the maritime programme of the country and for discharging the obligations of the Government under international conventions which may be applicable.

The machinery can best be provided through a well organized maritime administration, and also the administration be responsible under the general direction of a ministry responsible for communication for providing and organizing the appropriate facilities for the certification and survey of ships, examination and certification of ship’s masters, engineers, training and other maritime personnel.

There are different areas affected within the ambient of maritime administration activities, and those different areas are:

Ship owners, registration, management, operation, maintenance of national shipping fleets and related
maritime activities such as drydocking, ship building, ship repairs, port operations and maritime training.

The main activities of a Maritime Administration are:

(i) General superintendence and Co-ordination;
(ii) Registration of ships and related functions;
(iii) Certification of ships, surveys, inspections;
(iv) Certification of seafarers;
(v) Maritime search and rescue;
(vi) Crew matters;
(vii) Manning of ships;
(viii) Planning for the prevention, control combat of marine pollution;
(ix) Port state control of foreign ships;
(x) Inspections and detention of unsafe and seaworthy ships;
(xi) Functions related to port development;
(xii) The adoption and implementation of international maritime conventions;
(xiii) Advice to Government on maritime matters.

2.2 The Maritime Administration in the U.A.E:

The aim of this chapter is to discuss and explain the objectives and the activities of the maritime administration in the UAE.

Since the Declaration of the U.A.E, in 1971, we find that the maritime administration and its various facilities have gone through vast and quick changes, this enable the U.A.E. to play a vital role in the marine
sector and also to render high quality services that compete with the ones available in developed countries of the world.

Hence, new and modernized marine facilities were built and they were equipped with the most developed equipment available in the world. In addition, such facilities are being run with the latest utilized methods in order to comply with the international standards and also to compete with the other facilities available elsewhere in the world.

This Maritime Administration is an administrative authority that undertake the responsibility of rendering services to the marine sector. However, the responsibilities of the maritime administration are vast and diversified ones that include maritime transportation, maritime safety and protection of marine environment.

Prior to the declaration of the UAE, there existed several maritime facilities being represented by the piers and harbors where some type of maritime services were provided.

However, with the declaration of the state, the maritime administration was represented by the various facilities aiming towards the development and upgrading of the maritime services. Thus, certain departments were allocated to the maritime administration in each of: The ministry of Communication, all of the harbors and the Ministry of Work.

Hereafter, the discussion will be concentrated on the objectives and the activities of the maritime administration in the Ministry of Communications in the U.A.E.
2.3 The Ministry of Communications:

The role of the Ministry of Communications in the UAE, is a diversified and it is rendering different types of services to various sectors.

In the maritime sector, the Ministry of Communications is taking charge of various involvements. It is the sole body that has the right to legally represent the state in the marine sector at international levels. In addition, it is the sole authority entitled to undersign and approve international treaties with the International Maritime Organization.

Moreover, it is always on a constant look for new methods or equipment to be implemented in order to upgrade the maritime system and its corresponding facilities. Thus, the main objectives of the Ministry of Communications is to provide all the requirements of the maritime sector where it works to provide and facilitate maritime services, maintain and ensure maritime safety, safeguard maritime environment and safe keeping of maritime navigation within the territorial waters of the country.

Hence, in order for the Ministry of Communications to provide and maintain such services, it takes in consideration several objectives and thereafter perform several activities through which it achieves its present objectives.
2.3.1 The main objectives of the maritime department in the Ministry of Communications are as follows:

- Maintain and ensure maritime safety;
- Protect and safeguard the maritime environment from pollution;
- Seafarer's competency.

2.3.1.1 Maintain and ensure maritime safety

It includes mainly the safety of both maritime facilities and personnel. Thus, the maritime department in the Ministry of Communications works hard to search for the suitable methods and means by which it can implement and assure maritime safety. And as the UAE is a member of the International Maritime Organization (IMO), it is always working to participate effectively on approving all the treaties aimed at implementing and insuring maritime safety. Moreover, the Ministry of Communications is authorized to enforce such treaties on the maritime sector at both local and international levels.

2.3.1.2 Protect and safeguard the maritime environment from pollution

As the Arabian Gulf is almost a semi-large lake where giant oil tankers and other commercial ships are on constant movement through it, the chances of polluting the Gulf are an ever increasing danger.

Therefore, the Ministry of Communications is enforcing stringent rules and conditions on these ships. In addition the Ministry of Communications took a further
step by undersigning and approving most of the international maritime agreements that are concentrated on the cases of the marine environment. Thus, the ministry is strictly enforcing these rules and it makes certain that all ships are complying with the local and international laws and that they are keeping and following the international standards for safe and tidy navigation.

2.3.1.3 Seafarer's competency

It was realized earlier that the need for well trained personnel capable of running the maritime facilities is ever increasing. Therefore, the Arab Maritime Transport Academy was inaugurated aimed at the development and training of personnel required for the maritime sector both on the engineering and administrative levels. Thus, enrolment to this academy is not restricted to the nationals of the UAE but rather to all other Arabian nationals. And the Ministry of Communications is undertaking an effective role on the encouragement of all interested parties to join this Academy in order to fulfill the need for well trained personnel in the maritime sector.

2.3.2 The main activities of the maritime department in the Ministry of Communications are as follows

- Registration of ships and related functions;
- Control on ships and their documents;
- Surveys, inspection and certification of ships;
- Training and management;
2.3.2.1 Registration of ships and related functions

According to the commercial maritime law of the country, the ship is any installation or object which operates or is prepared to operate in maritime navigation without consideration as to its power, load capacity or the purpose behind its sailing; however, hover-craft used for commercial purpose shall be treated as a ship. Hence, to carry a ship’s name, have a nationality and fly the country’s flag it should be registered in the maritime department in the Ministry of Communications, and to be registered it should follow these rules:

Owned by individuals or company acquiring the said nationality or the owner is a joint stock company, all partners UAE nationals or,
The company is a limited liability partnership, the partners should be UAE nationals and at least two thirds of capital should be owned by UAE nationals or,
The ship owned by the limited liability company, 51 percent of the capital owned by UAE nationals and the managers should be UAE nationals or,
The ship owned by speculative company all speculators UAE nationals and 51 percent of the capital owned by UAE nationals or,
The ship owned by share-holding company, 51 percent of the capital owned by UAE nationals and the majority of the board members, including the president, should be nationals.
The collective companies, in which the government or bodies corporate have shares, shall be exempted from the above mentioned condition.

A ship which is owned by a body corporate and more than one state has shares in its capital and the ship acquires the nationalities of the partner states according to international treaties, the ship can be granted the country's nationality by a decision to be issued by the cabinet so as to facilitate its registration.

A maritime department in the Ministry of Communications is responsible for ships registration in the country, according to the commercial maritime law, the ship shall not sail at sea under the country's flag without being registered in the maritime department in the Ministry of Communications, except fishing ships, pleasure liners or commercial ships which are less than ten and can be registered at their owners request.

A ship is registered by the request of the owner. He fills the application for registration of the ship with all necessary documents as proof that all data included in his application is correct, and also brings with him cancellation of the registration of the ship from the foreign ships list in which it was registered before.

As shown in the tables that follow, i.e. tables 1, 1A, 1B, and 1c, shipping services in the UAE are widely developed and cover a wide range of activities such as tanker operations, general cargo and container operations,
offshore supply vessel operations, bunkering and tanker chartering operations, towing and salvage operations.

Table 1

Fleet figures 1986 - 1990 (vessels over 100 grt including tugs, offshore, etc.)

<table>
<thead>
<tr>
<th>Year</th>
<th>General Cargo</th>
<th>Tankers</th>
<th>Total Fleet</th>
<th>% of Arab</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>GT</td>
<td>No.</td>
<td>GT</td>
</tr>
<tr>
<td>1986</td>
<td>64</td>
<td>150,592</td>
<td>32</td>
<td>371,684</td>
</tr>
<tr>
<td>1987</td>
<td>54</td>
<td>133,048</td>
<td>33</td>
<td>395,651</td>
</tr>
<tr>
<td>1988</td>
<td>49</td>
<td>113,333</td>
<td>32</td>
<td>450,411</td>
</tr>
<tr>
<td>1989</td>
<td>48</td>
<td>116,133</td>
<td>32</td>
<td>440,915</td>
</tr>
<tr>
<td>1990</td>
<td>46</td>
<td>110,497</td>
<td>26</td>
<td>331,695</td>
</tr>
</tbody>
</table>

(Source: Lloyds published statistical tables)
Table 1A:

Number of UAE vessels by gross registered tons groups - 1990

<table>
<thead>
<tr>
<th>Tonnage division</th>
<th>Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 - 499</td>
<td>178</td>
</tr>
<tr>
<td>500 - 999</td>
<td>27</td>
</tr>
<tr>
<td>1,000 - 1,599</td>
<td>8</td>
</tr>
<tr>
<td>1,600 - 1,999</td>
<td>1</td>
</tr>
<tr>
<td>2,000 - 3,999</td>
<td>5</td>
</tr>
<tr>
<td>4,000 - 5,999</td>
<td>5</td>
</tr>
<tr>
<td>6,000 - 9,999</td>
<td>3</td>
</tr>
<tr>
<td>10,000 - 14,999</td>
<td>4</td>
</tr>
<tr>
<td>15,000 - 19,999</td>
<td>9</td>
</tr>
<tr>
<td>20,000 - 29,999</td>
<td>7</td>
</tr>
<tr>
<td>30,000 - 39,999</td>
<td>4</td>
</tr>
<tr>
<td>40,000 - 49,999</td>
<td>1</td>
</tr>
<tr>
<td>OVER 50,000</td>
<td>1</td>
</tr>
</tbody>
</table>

Total 253

(Sources: Lloyd’s published statistical tables)
Table 1B:
The table below shows the numbers and types of vessels over 100 tons gross, registered in UAE - Sept. 1990.

<table>
<thead>
<tr>
<th>TYPE OF VESSEL</th>
<th>NUMBERS</th>
<th>GRT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oil Tankers</td>
<td>26</td>
<td>331,695</td>
</tr>
<tr>
<td>Other Tankers</td>
<td>6</td>
<td>2,448</td>
</tr>
<tr>
<td>Liquified Gas Carrier</td>
<td>1</td>
<td>499</td>
</tr>
<tr>
<td>Ore &amp; Bulk Carrier</td>
<td>3</td>
<td>33,560</td>
</tr>
<tr>
<td>General Cargo (single deck)</td>
<td>26</td>
<td>20,379</td>
</tr>
<tr>
<td>General Cargo (multi Deck)</td>
<td>20</td>
<td>90,118</td>
</tr>
<tr>
<td>General Cargo Barges</td>
<td>9</td>
<td>3,634</td>
</tr>
<tr>
<td>Refrigerated Cargo</td>
<td>2</td>
<td>6,380</td>
</tr>
<tr>
<td>Specialised Cargo</td>
<td>4</td>
<td>20,918</td>
</tr>
<tr>
<td>Container Ships</td>
<td>7</td>
<td>170,260</td>
</tr>
<tr>
<td>Passenger Roro</td>
<td>1</td>
<td>370</td>
</tr>
<tr>
<td>Tanker Barges</td>
<td>1</td>
<td>302</td>
</tr>
<tr>
<td>Fishing Vessels</td>
<td>6</td>
<td>2,924</td>
</tr>
<tr>
<td>Offshore Supply</td>
<td>46</td>
<td>35,796</td>
</tr>
<tr>
<td>All Other Types</td>
<td>95</td>
<td>30,336</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>253</strong></td>
<td><strong>749,621</strong></td>
</tr>
</tbody>
</table>

(Source: Lloyd's Register of Shipping Statistical Table, 1990.)
Table 1C:

Fleet ownership in the UAE (vessels over 1000 GRT) 1990

<table>
<thead>
<tr>
<th>Position</th>
<th>Shipowner</th>
<th>No</th>
<th>GRT</th>
<th>% Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>STATE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>ADANTCO</td>
<td>8</td>
<td>235,010</td>
<td>32.53</td>
</tr>
<tr>
<td>2</td>
<td>UASC</td>
<td>8</td>
<td>155,880</td>
<td>21.58</td>
</tr>
<tr>
<td>3</td>
<td>AMPTC</td>
<td>1</td>
<td>65,628</td>
<td>9.09</td>
</tr>
<tr>
<td></td>
<td>Sub total</td>
<td>17</td>
<td>456,518</td>
<td>63.20</td>
</tr>
<tr>
<td>PRIVATE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Fal Bunkering</td>
<td>7</td>
<td>86,741</td>
<td>12.01</td>
</tr>
<tr>
<td>2</td>
<td>Arabian Maritime</td>
<td>4</td>
<td>86,562</td>
<td>11.98</td>
</tr>
<tr>
<td>3</td>
<td>Gulf Cement</td>
<td>2</td>
<td>17,060</td>
<td>2.36</td>
</tr>
<tr>
<td>4</td>
<td>Kalypso</td>
<td>2</td>
<td>16,748</td>
<td>2.32</td>
</tr>
<tr>
<td>5</td>
<td>Shipping/trading</td>
<td>1</td>
<td>15,329</td>
<td>2.12</td>
</tr>
<tr>
<td>6</td>
<td>National Marine</td>
<td>1</td>
<td>12,964</td>
<td>1.79</td>
</tr>
<tr>
<td>7</td>
<td>Delta Marine</td>
<td>1</td>
<td>11,172</td>
<td>1.55</td>
</tr>
<tr>
<td>8</td>
<td>Al Shamsi</td>
<td>1</td>
<td>4,636</td>
<td>0.64</td>
</tr>
<tr>
<td>9</td>
<td>United Develop</td>
<td>1</td>
<td>4,309</td>
<td>0.60</td>
</tr>
<tr>
<td>10</td>
<td>Marwan</td>
<td>2</td>
<td>4,082</td>
<td>0.57</td>
</tr>
<tr>
<td>11</td>
<td>Emirates Saudi</td>
<td>1</td>
<td>2,809</td>
<td>0.39</td>
</tr>
<tr>
<td>12</td>
<td>Oman Marine</td>
<td>1</td>
<td>1,810</td>
<td>0.25</td>
</tr>
<tr>
<td>13</td>
<td>Blue Sky</td>
<td>1</td>
<td>1,600</td>
<td>0.22</td>
</tr>
<tr>
<td></td>
<td>Sub total</td>
<td>25</td>
<td>265,822</td>
<td>36.80</td>
</tr>
</tbody>
</table>

TOTAL 42 722,340 100.00

(Source: Seatrade Arab Shipping Guide 1990)
The most important function of a maritime department in the ministry of Communications is to ensure the safety of life at sea, the safety of navigation and the protection of the marine environment, and these functions are carried out through various types of surveys, inspections and certification of ships.

The Ministry of Communications which does not have sufficient resources and qualified surveyors, authorize classification societies to carry out surveys and issue certificates on their behalf.

The classification societies recognized by Ministry of communications are:

- Lloyd's Register of Shipping,
- Bureau Veritas,
- American Bureau of Shipping,
- Germanis Cher Lloyd,
- Nippon kaiji Kyokai,
- Det Norske Veritas,

And for small vessels the national shipping companies carry out surveys and issue certificates on behalf of the ministry.

2.3.2.3 Control on ships and their documents

Any ship registered in the Ministry of Communications of the country should obtain a shipping licence and if it transports people it should obtain a safety certificate. The maritime administration department in the Ministry of Communications can carry out at any time control and
inspection on national and foreign ships which are in or cross the country’s regional waters, for the national ships the control shall include:

The registration, the navigation licence, the safety certificate, the working conditions of machines and maintenance, the conditions relating to the crew, their qualification, the number of people to be transported by the ship if the ship passenger ship, the salvage equipment, the technical conditions for loading the ship and the navigation routes.

After checking all documents by the administration, the administration issue a sailing certificate at the start of every voyage and the ship is not permitted, under any circumstances, to sail without obtaining this certificate.

Every ship registered in the maritime department in the Ministry of Communications, following documents should be carried:

- Registration certificate
- Navigation licence
- Safety certificate
- Daily log book
- Crew and engines log book
- The captain and crew’s passports
- The sailing permit and health certificate
- A statement about the ship’s load signed by the concerned customs office
- Receipt for payment of port fees
- Other documents required in accordance with the provision of the commercial maritime law of the country.
For foreign ships:

The checking include all the conditions stated in international conventions relating to the safety of lives, the routes and other international accords ratified by the country. And during the inspection and control, ship delays should be avoided.

2.3.2.4 Training and management

The main activity of the Ministry of Communications is training personal in technical matters as well as maritime transport economists and administrations. Presently the Ministry of Communications with the assistance of the Arab Maritime Transport Academy and the International Maritime Organization (IMO), has been upgraded to facilitate the training of sea going personnel in the country.

With respect to high level training, advantage should be taken of multinational training institutes, such as the World Maritime University in Malmoe where courses are structured to meet the specific requirements of developing countries.

It is necessary that there exists a machinery for assessing the manpower requirements for the industry and harmonizing its development to meet the desired levels.
3.1 INTRODUCTION:

When the "Maritime (development) policy" of the state is thus finalised, the implementation of the said policy has to be effected through the assumption of the respective roles and functions by all concerned on the basis of either pre-determined allocation of same (i.e. through rules of allocation of government business to various ministries, relevant legislation whether extant or proposed, and executive orders) or the decisions at the top-most level flowing down to other appropriate levels for follow-up.

Roles and Functions of a Maritime Administration (MARAD):

The roles and functions of a Maritime Administration (MARAD) would tend to fall into the following four categories:

a) Advisory Functions

Policy making, especially in its final stage, is expected to be a political function of a government. The policy process itself has three aspects and attendant phases. i.e. formulation, implementation and evaluation. As regards the "formulation", the advisory functions of the Maritime Administration Would be (as knowledgeable, specialised formation) in the form of suggesting/drafting of such formulation for consideration and approval at the political level. In most cases yhe above would need to be supplemented by the top (concerned) officials of the MARAD.
b) Administration - Functions

Obviously the MARAD is not only part of the overall public Administration of a Government as regards maritime matters, i.e. shipping, ports, seafarers and related matters. Therefore it has (i) to discharge its administrative functions as any other administrative unit of the government, following the administrative and financial rules and procedures, (ii) to ensure implementation of policy, and (iii) to carry out the mandated specialised functions (regulatory and development/promotional) pertaining to the administration of maritime matters either from within or under the Ministry concerned.

c) Regulatory Functions

Most or nearly all of such functions are usually the responsibility of the Maritime Safety Administration Unit. The maritime Safety Administration is the specialised executive arm of a maritime government, irrespective of whether it is a developed country or a developing country, to implement the regulatory (and allied) functions embodied in the national maritime legislation, especially those pertaining to registration of ships, maritime safety, marine personnel, maritime casualty investigations and protection of the marine environment.
c) Development/Promotional Functions

Accordingly, the primary functions of the Maritime Administration in a developing country would also have to be both developmental and regulatory. The developmental functions contribute directly to maritime development and the regulatory functions also contribute to such development and economic advantages consequentially.

The developmental functions can take the form of participation in the process of formulating the policy of the government as regards maritime development and deciding upon the activities to be undertaken in connection with such development. Such functions are essentially contributory to the overall economic policy decisions to be taken by the Government through the Economic, Trade and Planning Ministries and may include:

(i) The appropriate analysis/assessment of the most suitable types and numbers of ships required to meet the scale of development planned;

(ii) Development of the man-power needs of the Shipping Industry;

(iii) Development of ship-building and ship-repair capabilities;

(iv) Development of (marine) ancillary industries

(v) Assessment of the suitability of national ports for the intended ships and proposals for required development/improvement;

(vi) Development of the (marine) man-power needs of the ports;

(vii) Development of employment opportunities for national seafarers.
According to the Maritime Administration functions which have been mentioned above, my proposal to the Ministry of Communication which is responsible for maritime matters, is to establish four departments related to maritime matters:

* The sea traffic department
* The maritime inspectorate department
* The technical department
* The legal/Administrative department

Each department has a manager who is the head of the department. Each department should have more self-governing, and all failing managers directly under the assistance under-secretary for maritime affairs.

3.2 THE SEA TRAFFIC DEPARTMENT:

This department is the main unit for the fairway activities programme, and it is divided into two divisions namely:
- The planning division
- The traffic division

3.2.1 THE PLANNING DIVISION

The planning division is responsible for the following tasks:

(a) Long-term planning of the fairway activities;
(b) Developing budget proposal for operation;
3.2.2 THE TRAFFIC DIVISION

This division carries out duties regarding:

(a) The needs of fairways and their outfitting with safety devices from the nautical point of view;
(b) Rules and regulations for the traffic in fairways;
(c) Management and supervision of the pilot activities;
(d) Matters concerning coordination of maritime search and rescue;
(e) Nautical matters in general;
(f) Investigation of difficulties for shipping and checking the suitability of fairways from the traffic-point of view.

3.3 THE MARITIME SAFETY INSPECTORATE DEPARTMENT:

The head of this department is manager of maritime safety. This department is concerned with matters of safety on board ships and prevention of pollution from ships. The maritime safety direction is responsible for the following matters:
- Matters related to approval of safety standards for ships and for fairway arrangements;
- Surveillance of compliance with approved safety standards;
- Investigation of sea accidents.
Under this department there should be various inspectorate districts in different places in the country. The department is divided into the following:
- The ship's operation division;
- The ship's technical division;
- The planning division;
- The accident investigation division;
- The ships Registration Division.

3.3.1 THE SHIP’S OPERATION DIVISION

This division is related to different matters such as manning, watchkeeping, competency, occupational safety and pollution prevention/operative and ship board conditions. There are many duties handled by the division and these duties are:

(a) Manning of ships;
(b) Working-time matters concerning seafarers;
(c) Application of the U.A.E. merchant seamen act;
(d) Competence and qualification standards for officers and crew on board UAE ships;
(e) Signing on procedures and registration of seafarers;
(f) Interpreting and applying the international rules for transportation of dangerous goods.

3.3.2 THE SHIP’S TECHNICAL DIVISION

We can summarise the main duties for this division as follows:
(a) Ship seaworthiness, type approval of equipment, cargo
handling;
(b) Occupational safety on board ships/technical;
(c) Fire protection on board ships;
(d) Ship construction and equipment for the safe
  transportation of oil, chemicals, condensed gases and
  other dangerous substances;
(e) The carriage of dangerous goods in bulk;
(f) Type approval of pleasure craft;
(g) International matters;
(h) Supervision and production-control of private
  companies by special surveyors;
(i) Measures against water pollution from ships;
(j) The observance of safety legislation.

3.3.3 THE PLANNING DIVISION

This division works with a number of matters, such as
economical, administrative, organizational, judicial and
international matters and provides support to the other
divisions and inspection districts within the department.

3.3.4 THE ACCIDENT INVESTIGATION DIVISION

The main duties for this division are as follows:
(a) The maintaining of safety standards for the Emirate's
  own as well as other fairway arrangements;
(b) Considering matters of offense against the Law or
  maritime safety and pollution prevention;
(c) Overseeing the observance of current regulations
  regarding reports on maritime casualties and the
  establishment of accident investigation;
(d) Scrutinizing, analysing and recording statistics of
maritime accidents and causalities that have occurred within the seafarers profession.

3.3.5 THE SHIPS REGISTRATION DIVISION

This division work with all functions deal with registration of ships. It issue ship registration certificate anda lso navigation license to fly national flag. Then the ship registered in the Ships register book.

3.4 THE TECHNICAL DEPARTMENT:

This department deals with servicing and supporting matters. It also assists the sea traffic department. Under this department there are two divisions:

- The ships and construction technology division;
- The coast service division

3.4.1 THE SHIPS AND CONSTRUCTION TECHNOLOGY DIVISION

This division deals with repairs, maintenance and the equipment of ships and boats which belong to the maritime administration department, and this division also deals with the construction and operation of administrations, fairways, construction of lighthouses, pilot stations and other establishments needed by the administration. Furthermore this division considers technical matters of constructions regarding fairways and ports if this falls upon the administration.
3.4.2 THE COAST SERVICE DIVISION

This division works with all the operations, services and repairs of the administration's equipment along all the Emirate's coast.

3.5 THE ADMINISTRATIVE AND LEGISLATION DEPARTMENT:

This department deals with all legal matters related to Administrative, personnel and finance. It also represents the country at International Conferences that discuss draft conventions.
Under this department there are two divisions:

3.5.1 THE LEGAL DIVISION

The main function of the legal division is to represent the country at International Conferences that discuss draft conventions, and when a new convention has emerged, to transfer it into national legislation.

3.5.2 THE ADMINISTRATION AND PERSONNEL DIVISION

The main functions of this division are:
- Management of personnel;
- Carry out the administrative functions of acquisition of furnitures, equipments etc...

3.5.3 THE EXISTING AND THE PROPOSAL ORGANIZATIONAL CHARTS FOR MARITIME ADMINISTRATION IN THE U.A.E.

The organizational charts are described as follow:
EXISTING ORGANIZATIONAL CHART FOR MARITIME ADMINISTRATION
PROPOSAL ORGANIZATIONAL CHART FOR MARITIME ADMINISTRATION
Chapter 4
Towards an adequate Maritime Legislation in the United Arab Emirates
4.1 GENERAL INTRODUCTION:

In the United Arab Emirates as in any developing country the present maritime legislation is inadequate to meet needs arising from new international maritime conventions, advanced shipping technologies and shifts in national and global trade. There is therefore an urgent need to reformulate and to update such law.

In this chapter after giving a general background on maritime legislation, basic concepts for international law and economic regulation I will try to elaborate on some areas of maritime legislation which are not covered by the present maritime commercial law no(26) of 1981 or which are not detailed enough for the implementation purpose.

4.2 MARITIME LEGISLATION: General background:

4.2.1 Introduction

Before going to any detail it seems necessary to define the purposes of maritime law.

First of all, maritime law provides the legal framework for maritime transport, i.e the carrying out a state’s foreign trade.

Secondly, maritime law implements the basic objectives of a state as port state and coastal state.

Thirdly, maritime law may serve the achievement of certain economic purposes.

These purposes are elaborated below, in (4.2.2)

Next, in sub-paragraph (4.2.3) the basic approach to drafting of maritime laws is explained.

Finally, in sub-paragraph (4.2.4) the structure of
4.2.2 Purposes of Maritime Legislation

To serve the first purpose of maritime law - i.e. to provide the legal framework for maritime transport - it is necessary to regulate the relationship of all parties involved in maritime transport. Thus, rules should cover the relationship between cargo interests and shipowners. For that purpose, it is important that a state adopt laws on the carriage of goods and passengers by sea, collisions, general average, liability and limitation of liability and mortgages and liens. Furthermore, it may be useful to lay down a legislative framework for contracts with agents, stevedores and freight forwarders.

Finally, it is important to provide for rules of procedure, e.g. the arrest of vessels, to solve possible conflicts between the parties involved.

Many of these subjects are covered in international conventions and other international legal instruments and will be explained in the relevant chapters.

The purpose of regulation of maritime transport can only be achieved with efficient and therefore safe ships, manned with qualified and competent crews. It follows that rules pertaining to the construction and safety of ships, the manning of ships, the labour and working conditions and the safety of navigation serve this purpose.

The second purpose of maritime law is to implement the basic objectives of a state as coastal state or port state. These objectives are to ensure the safety of ships calling at a state’s ports or navigating along its coasts, to prevent accidents involving those ships and to prevent pollution from those ships. They give rise to the need for maritime legislation on safety, manning of
ships, the prevention of collisions, salvage and pollution.

Finally, maritime law may serve general economic objectives of a state.

These may relate to the need to expend a state's merchant fleet whether in the carriage of national ocean trade or in cross-trading. They will have a bearing on the legislation regulating the sea transport.

Another objective may be the fostering of the employment of nationals on board foreign ships. In that case, the national labour force, and training and certification laws will have to be shaped accordingly. Yet another objective may be to attract foreign investment by allowing nationals from other nations to register their ships under the national flag, or to allow nationals to register ships chartered from abroad. Consequently, the laws on registration of ships will have to be endowed with specific accommodating features.

4.2.3 Basic Approach

It is of paramount importance that, before starting to draft a piece of maritime legislation, the relevant policy issues are clearly defined and brought into line. This will enable the policy makers to set priorities and, if necessary, establish a hierarchy of policy objectives.

This will secure the necessary consistency of both policy and law and therefore prevent situations whereby a particular law serves a particular policy objective, but runs counter to other objectives.

Furthermore, it would be beneficial to approach the drafting of maritime legislation systematically and to avoid, as much as possible, ad hoc legislation designed for the problems at hand. Ad hoc legislation usually
inhibits an over-all policy and may create just the situation of serving one objective while running counter to another. Furthermore, its existence may be an impediment to future legislation.

It should be noted that the need to define a maritime policy may arise before the need for lawmaking at the national level. After all, many areas of maritime law are developed first in international instrument. Under the auspices of the International Maritime Organization (IMO) many important technical shipping conventions have been concluded. The International Labour Organization (ILO) has sponsored the adoption of numerous conventions relating to working and living conditions, social security and other standards for seafarers. Similarly, UNCTAD has been instrumental in the adoption of several conventions relating to economic aspects of shipping. The United Nations have further hosted the important law of the sea conferences. At the first, the 1958 Geneva Conventions were adopted. The third conference on the law of the sea resulted in the adoption of the 1982 law of the Sea Convention. Finally, the International Maritime Committee (IMC) has prepared most of the conventions in the field of private maritime law.

In order to influence the contents of these instruments, a state needs to have a clear perspective of its own policy objectives. This will ensure that the national interests and nationally prevailing situations are taken into account when international laws are made. Such action may be greatly assisted if resources are pooled at the regional level. Several examples may be found in the 1982 United Nations Convention on the Law of the Sea.

Not only international conventions provide material
which may be adopted into national legislation. Examples may also be taken from maritime legislations in other countries. However, it is easily overlooked that foreign laws are not necessarily designed to serve the same purposes. A foreign law may have the virtue of consistency, clarity or completeness; yet there is no guarantee that it will serve the national objectives.

After the policy has been developed the basic question should be posed whether the matter needs legislative action or not. The answers to this question may vary from one state to another, depending on the state’s legal system and the policy-matter at state.

If the adoption of a convention is considered, two situations may occur:

According to the so-called monastic view of international law, the convention becomes part of the law through the act of ratification or accession. In principle, the implementing legislation required is limited.

In the dualistic concept of international law, the convention becomes part of the national law only after full-scale implementing legislation has been adopted. Again the matter may be different depending on the convention itself. Some conventions contain self-executing provisions, which are directly binding on natural and legal persons in the ratifying or acceding state. As such self-executing provisions need not be implemented.

The legal institutional framework also has an important bearing on the need for legislative action. In some states, the conduct of business activities is governed primarily by contract law of a predominantly non-mandatory character. Other states assist and regulate economic activities to a greater extent. The latter policy involve more detailed legislative action than the
The same legal institutional framework will decide what emphasis is to be given to appeal procedures for decisions of the government and consequently, the amount of legislative work involved.

### 4.2.4 The structure of maritime legislation

In the choice of the technique to be adopted in the preparation of maritime legislation, several principles are considered to be relevant.

The maritime legislation of a country can be incorporated in a code or alternatively in a number of separate acts. A code has the practical advantage that all provisions are contained in a single text available for easy consultation. This might, however, delay the passing of a legislation, because the drafting of a code requires considerable time.

Separate acts have the advantage that on certain subjects, which require urgent attention, legislation can be enacted more rapidly.

If this alternative were to be chosen, it would be advisable that each separate act be prepared in accordance with a co-ordinated maritime legislative programme and that the various subjects be dealt with in accordance with an agreed sequence.

In both alternatives it may be convenient to separate the basic provisions which should be embodied in primary legislation (Acts), from more detailed regulations which should be covered by secondary legislation. This has the advantage that the regulations can be amended and updated as and when required without having to amend the primary legislation. In most states the latter requires a lengthier and more complicated law making procedure, which might cause indesirable delay to the entry into force of
the new regulations.

Furthermore, if the law relates to areas covered by international conventions, it should be drafted to facilitate possible adoption and implementation of those conventions and their amendments. As mentioned above, international conventions are implemented by contracting states either by giving them force of law directly or by including the rules adopted thereunder in national legislation. The first alternative ensures uniformity in the application of the convention and does not necessitate adaptation of national legislation in the case of amendments to the conventions. However, an international convention may not be self-sustaining, in which event it is necessary to promulgate appropriate rules so as to render the convention fully applicable. If a separate national legislation is needed for implementation, the most appropriate technique would be to annex to the Act the technical rules adopted under the relevant convention (usually contained in annexes) as a schedule to the Act. This would greatly facilitate the incorporation of subsequent amendments to the convention into national legislation. However, this may not be feasible under all existing legal systems.

Another possibility would be draft subsidiary legislation in which the technical rules are incorporated. To facilitate the future adaptation of the legislation to amendments of the convention, it seems advisable to change as little as possible in substance and order of the technical rules of a convention when incorporating them in national legislation.
4.3 BASIC CONCEPTS OF INTERNATIONAL LAW RELEVANT FOR MARITIME LAW:

4.3.1 The nature of conventions

The main sources for international laws are international conventions. This is particularly true for maritime law. Throughout the years a great number of important maritime conventions have been concluded.

The International Maritime Organization (IMO) has been a major factor in helping to bring about conventions in the technical areas of shipping, viz. safety of ships, manning, safety of navigation, pollution prevention and intervention in pollution casualties.

As far as conventions on labour conditions are concerned, the International Labour (ILO) should be mentioned.

The United Nations Conference on Trade and Development (UNCTAD) has been an important source of international regulations in the economic field.

In respect of private law matters, most if not all conventions have been prepared by the International maritime committee (IMC).


It is a basic rule of international law that conventions are binding upon states who have become a party, once the convention has entered into force.
However, the rules contained in a convention may receive such a wide acceptance and adoption in practice, that they may be considered to have become rules of international customary law, binding on all states, whether a party or not. This is only seldom the case. Therefore, the basic rule seems to apply in shipping.

It is worth noting that most of the recent technical conventions are divided in a general part and annexes, which contain detailed technical rules. These conventions provide for a special amendment procedure for the annexes, commonly known as "tacit amendment" procedure which consists of the adoption of the amendments by a competent body and their automatic entry into force at a certain date if no objections are notified. This procedure has been followed in IMO conventions adopted since 1972. In recent shipping conventions the so-called no-more-favorable-treatment-clause has been introduced. It is contained in conventions on safety of ships, manning, labour conditions and pollution prevention. The clause provides that states parties are under the obligation to ensure that the relevant convention is applied in the same manner to foreign ships flying the flag of a state which is not a party as to ships sailing under the flag of a state party. These conventions do not become binding on the non-party states in the legal sense. Yet whenever their ships are in a port on the territory of a state party, these ships are subject to the standards contained in these conventions. As a result the ships flying the flags of non-parties states and calling at international ports will have to comply with the standards of these conventions. In this manner, the clause indirectly affects non-signatory states.

Another recent development is evidenced by the 1982 UN convention on the Law of the Sea (UNCLOS), which in a
number of articles relating to safety of ships, safety of navigation, manning and pollution prevention requires states parties to UNCLOS to adopt, implement and enforce "generally accepted international rules and standards".

It would seem that a convention may be generally accepted and still not be considered as a rule of customary international law. Whether this distinction between customary international law and generally accepted rules of international law is valid or not is a matter of some debate.

This might for instance be the case if the convention had been ratified by a limited number of states who represent the majority of the relevant tonnage of the world fleet. If this interpretation is accepted, the UNCLOS-articles referred to above would seem to require a state party to UNCLOS to adhere to particular rules and standards, even if a state in question has not ratified that convention.

Another aspect of conventions to be discussed concerns the self-executing character of provisions of conventions. Most of the rules contained in the shipping conventions are directed at governments, i.e. the government of a state party has to implement the rules and ensure their effective enforcement. Some provisions may be self-executing, i.e. the obligation therein rests on the private parties in a state party to the convention, once the convention has entered into force. Therefore, in principle no implementing legislation is required for self-executing provisions to become binding on nationals and national companies. It may be of importance to take this into account when considering ratification of a particular convention and when effecting its subsequent implementation.

Another point to be mentioned here relates to the
mandatory or non-mandatory character of provisions contained in conventions. This does not denote the measure of discretion of a state party when implementing the provisions of a particular convention, but it addresses the question whether private parties may derogate from certain provisions. This may be particularly relevant in private law. Indeed the nature of public law is not compatible with non-mandatory rules. Therefore it is not surprising that the technical shipping conventions contain only mandatory provisions. They prescribe exact standards for the construction and equipment of ships which have to be inspected at intervals spelled out by the convention. The conventions in the field of private maritime law contain mandatory and non-mandatory provisions.

4.3.2 JURISDICTION

4.3.2.1 Flag State Jurisdiction

The fact that the high seas are not under the jurisdiction of any state makes it necessary to allocate jurisdiction over ships. It is an accepted principle of international law that the state whose flag a vessel flies has jurisdiction over that vessel. This is called flag state jurisdiction. This principle, already embodied in article 5 of the 1958 Convention on the High Seas, is contained in Article 92 of the United Nations Convention on the Law of the Sea, 1982 (UNCLOS).

The first sentence of paragraph 1 provide:

"ships shall sail under the flag of one state only and, have in exceptional cases expressly provided for in
international treaties or in this convention, shall be subject to its exclusive jurisdiction on the high seas".

In addition, Article 94, paragraph 1, provides:

"Every state shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag"

Flag state jurisdiction is, inter alia, specified in paragraphs 2 and 3:

"2. In particular every state shall:

(a) maintain a register of ships containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulation on account of their small size; and
(b) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.

3. Every state shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, inter alia, to:

(a) The construction, equipment 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 and the prevention of collisions."
The IMO Conventions are also based on the principle of flag state jurisdiction. In general, these conventions specify the right and duties of the flag state. It follows that a state adhering to such a convention has to enact legislation applicable to ships flying its flag and has to ensure the effective enforcement of these rules. For flag state jurisdiction to be exercised effectively certain conditions must be met. First, the state must have the willingness and ability to exercise control over the ship. Second, the ship should not be under the control of other states. Third, the state must have adequate and genuine control over the ship.

The intent of a state to exercise jurisdiction over the ship is evidenced by the registration of the ship and the grant of the nationality and the right to fly the flag of that state. Documents, as evidence of its nationality, are given to the ship upon registration. The exclusion of competing and concurrent jurisdiction by other states is required by the provisions of Article 92 of the Convention on the Law of the Sea.

It may be observed that, as far as flag state jurisdiction is concerned, legislative jurisdiction and enforcement jurisdiction will usually coincide. However, in some cases the enforcement of the rules set by the flag state (enforcement jurisdiction) may be subject to the overriding jurisdiction of other states, for example, when the ship is within the port or other areas which are under the jurisdiction of another state. In this connection, the general consensus in current international law is that the jurisdiction of the flag state must be considered as
being complementary to, and not in competition with, the jurisdiction of coastal and port states.

4.3.2.2. COASTAL STATE JURISDICTION

A state’s power to control activities of foreign ships in territorial waters and adjacent zones is called coastal state jurisdiction. Coastal state jurisdiction encompasses both legislation and enforcement of the rules. Thus, legislative and enforcement jurisdiction coincide. As indicated above, the coastal state jurisdiction is limited by flag state jurisdiction.

In the territorial sea, which may extend up to 12 miles from the baselines, the coastal state enjoys sovereignty but has to respect the rights of foreign ships. These principles are already contained in the 1958 Convention on the Territorial Sea and the Contiguous Zone. They have been elaborated in the UNCLOS Convention. This is evidenced by Articles 17 and 18 of UNCLOS which contain the right of innocent passage of foreign ships through the territorial sea. Article 21 (1) provides for legislative jurisdiction of a coastal state in the territorial sea, and indicates the matters on which a state may adopt laws and regulations. Ships exercising the right of innocent passage shall comply with all such laws and regulations. According to Article 21 (2) such laws and regulations shall not apply to the design, construction, Manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards.

Outside the territorial sea, the coastal state’s powers are for more limited. In the contiguous zone, which may extend up to 12 miles outside the 12 mile territorial sea, a state only has powers for the purposes,
specified in Article 33 of UNCLOS, i.e to:

(a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;
(b) Punish infringement of the above laws and regulations committed within its territory or territorial sea.

In the exclusive economic zone (up to 200 miles from the baselines), a coastal state has specific power for the purpose of the prevention of pollution from ships. This encompasses prescriptive jurisdiction (Article 220, paragraph 2).

With respect to vessels navigating in the territorial sea or adjacent zones, the enforcement powers are rather clearly defined stopping and inspecting of a ship may probably take place in case of any violation of the applicable laws in the territorial sea, although this only expressly provided for in relation to pollution offenses. Still, such a general power may be derived from Article 25 of UNCLOS which provides:

"The coastal state may take the necessary steps in its territorial sea to prevent passage which is not innocent". Similarly, such a power seems to exit in the contiguous zones if violation concerned customs, fiscal, immigration or sanitary laws.

In the exclusive economic zone, stopping and inspecting of a ship may only take place if it concerns a violation of pollution legislation and the subsequent discharge threatens to cause severe damage to the state's shoreline and related interests.

Finally, the power of a coastal state in relation to pollution casualties on the high seas in case of oil
pollution casualties of 1969, and its protocol of 1973 relating to substances other than oil.

4.3.2.3 PORT STATE JURISDICTION

Since a state has sovereignty over its territory, this would also pertain to foreign ships in ports on its territory or at offshore terminals in its territorial sea. The specific port state powers include the inspection of a ship's certificates, physical inspection of the ship, and, if warranted by evidence, detention of the ship. This port state jurisdiction originates in the IMO conventions and, to a lesser extent, in the ILO treaties. Inter-alia:

- Article 21 of the International Convention on Load line, 1966 (Loadlines);
- Article 2 juncto regulation 19 of chap.I (annex) of the protocol of 1978 relating the International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974);
- Article II (3) juncto regulation 19, chap.I (annex) of the protocol of 1978 relating the International Convention for the Safety of life at Sea, 1974 (SOLAS 1974);
- Article 5 (2) juncto Article 6 of the International Convention for the Prevention of Pollution from ships, 1973, as modified by the protocol of 1978 relating thereto (MARPOL);
- Article X juncto regulation I/4 of the International Convention on Standards of Training, Certification and watchkeeping for seafarers, 1978 (STCW);
- Article 4 of the Merchant Shipping (Minimum
Standards) Convention, 1976 (ILO Convention No 147);

- Article I of the International Convention relating to intervention on the High Seas in case of Oil pollution casualties.

This was given rise to the concept of port state control which may be an important instrument in the curbing of substandard shipping.

Most of these Conventions also provide for the power to investigate and prosecute violations that have occurred within the jurisdiction of the port state. This may extend to violations on board foreign ships on the high seas, according to Article 218 of UNCLOS.

Article 218 also elaborate on the extent of the power of the port state to institute proceeding and prosecute foreign violators.

4.3.2.4 JURISDICTION OVER MARITIME TRANSPORT

The jurisdiction of a sovereign state over its territory also implies that a state has the power to issue rules regulating maritime transport to and from that state, or for in and out bound traffic. Since each state has this jurisdiction, delimitation problems may arise. Maritime transport, with the notable exception of cabotage and offshore supply, takes place between ports in different states. It follows that either state has a legitimate interest in the transport. It is also conceivable that third Countries involved in the execution of the transport might claim some jurisdiction since their economic interests are involved. As the transport takes place at least partly on the
territory of the states at either end of a transport route, they can justly claim jurisdiction for that part. Within national territory, the adoption of rules which regulate activities into the domain of maritime transport constitutes a legitimate exercise of legislative jurisdiction under international law. Consequently, some states feel that the adoption of flag preference provisions relating to cargo reservation or discriminatory harbour dues refer to activities originating on the national territory. Similar considerations would seem to apply to certain retortion or retaliatory measures. It should be noted that retortion measures are not necessarily restricted to activities on national territory. For instance, rules about tariff rates and regulations prescribing the approval of transport agreements may also pertain to activities outside national territory whether such provisions follow from national jurisdiction will depend very much on their application rules of competition in the field of maritime transport.
If provisions are not in their wording limited to activities on national territory. If such an assumption cannot be made or if the wording of the provisions is such that extraterritorial activities are included, there is no clear-cut rule of international law defining the scope of such regulations.

Efforts to find a rule of law should take into account the distinction between legislative and enforcement jurisdiction. Particularly in this matter of regulation of maritime transport, the extent of two types of jurisdiction may differ. The fact that regulation of maritime transport by one nation affects other nations implies that the exercise of legislative jurisdiction has to take the interests of other nations into account. In practical terms, this will mean that a state wishing to regulate its maritime transport should notify affected states of its intentions. Notification may upon request result in consultation. If the transport whose regulation is being sought is also carried out by shipping lines from third countries consultation should also extend to these countries.

If the affected states oppose the intended regulation, both parties will have to settle the differences through negotiations. The proposed regulation shall be deemed to be in conformity with international law if the affected states do not oppose it. However, the enforcement of the rules may be contrary to international law. The exercise of enforcement jurisdiction on the territory of another state is the most clear-cut situation. It can only take place lawfully with the consent of other state. On the other hand, the mere presence of a ship within national territory is sufficient ground for the exercise of enforcement jurisdiction.

More difficult is the situation in which enforcement on
the territory of the legislating state affects other nations, either at the end of the trade, or involved through its shipping lines. If the affected state does not claim jurisdiction, it apparently acquiesces in the exercise of jurisdiction by the other state. If it does claim jurisdiction, the legislating state cannot lawfully implemented the legislation unilaterally. At the very least consultations should take place, possibly followed by negotiations. Since there is no rule of public international law which for this case clearly establishes the priority of one state's jurisdiction, the actual bargaining positions of the states involved will determine the outcome of such negotiations.

Negotiations on maritime transport regulation may be conducted on a bilateral basis or on a multilateral basis. In 1974 multilateral negotiations resulted in a United Nations Code of conduct for liner conferences. The code provides for uniform regulation of liner shipping.

4.3.3 ENFORCEMENT

4.3.3.1 GENERAL

As has already been indicated above, maritime law will not meet its objectives if there is no adequate enforcement. This section will outline the main elements of enforcement of public maritime law.

The basis for enforcement in public international law is expressed in the principle of enforcement jurisdiction. That principle is well established in international law, as is evidenced by the law of the sea convention. Enforcement jurisdiction is also specified in IMO and ILO conventions. Public law can be enforced through different
instruments. The classical instrument is formed by penal law. Thus, criminal sanctions are placed on non-observance of the substantive provisions. Penal law provide the nature of the sanctions (fines, imprisonment etc...) and provides for law enforcement procedures (investigation of crimes, provisional measures, rights of the accused and court proceedings.)

It may be useful to draft a separate panel law (code) for the maritime sector, since common penal law may not provide for the type of sanctions particularly appropriate in the maritime sector.

Similarly, specific enforcement procedures may be necessary to detain the ship. Since this may lead to financial consequences far beyond the actual fine. The posting of bonds is often provided for in legislation. Posting a bond secures payment of fines after conviction and allows the ship to sail before the legal proceedings have started. This principle is also contained in Article 226 of the law of the sea convention (UNCLOS).

In general, the system outlined above also applies to maritime law. For instance, the legislation on navigation matters (traffic rules, compulsory pilotage) is enforced through penal sanctions. In special circumstances the ship may be detained to ensure the prosecution of the violator. On the other hand, maritime law present specific features which have resulted in the development of other enforcement instruments besides penal sanctions. In this connection, it is useful to focus first on the implementation of the legislation, since it provides the conditions for meaningful enforcement. Implementation of the law is giving effect to the legislation by the government organization through administrative procedures. Important areas of maritime law are thus implemented through surveys, inspections and subsequent certification.
of ships. Such is the case with safety legislation (the SOLAS, Tonnage measurement and load lines conventions) and legislation on pollution prevention (MARPOL). Similarly, manning legislation (STCW convention) is implemented through examination and certification of seafarers.

It is essential that an adequate procedure be set up to secure the implementation of this part of maritime law. It is, of course, essential that inspection and certification be performed by reliable institutions. If such institutions are not at hand, recourse may be had to foreign classification societies. In order to establish the reliability of the foreign classification society, the state may provide for their recognition. Inspection and certification, specially if carried out by foreign classification societies, may be combined with a legislative provision which holds the owner liable for unseaworthiness of his ships. By imposing a refutable presumption of liability on the owner the legislation may provide a strong inducement for the procuration of safety inspections and certificates.

Based on these procedures, enforcements instruments have been developed. Most of the IMO and ILO conventions provide for unscheduled inspection by the competent authority of foreign ships in port or at offshore terminals. As far as foreign ships are concerned, inspection should initially be limited to an inspection of the certificates which the convention requires the ship to carry on board. The next step may be to inspect the ship physically. Such physical inspection may also be undertaken in respect of national ships and foreign ships which are not covered by a convention. If deficiencies are detected, there may be given an order to remedy
deficiencies either immediately or at a subsequent port of call.
If the deficiencies detected are serious and/or the ship is not seaworthy, this will not be sufficient. In that case, detention will be the appropriate measure. Certificates may be revoked whenever orders to remedy deficiencies have not been followed. Revoking a certificate will for all practical purposes make it impossible for a ship to sail. Enforcement is usually carried out by government officials of the maritime administration, who may be assisted by officials of other government branches (e.g. the police). Where a special branch of government is entrusted with implementation of the rules, it usually is also in charge of their enforcement.
In most IMO Conventions the use of enforcement powers is subject to the duty to avoid undue detention and delay to ships. This is also expressly provided in Article 226 of United Nations Law of the Sea Convention (UNCLOS). Implementation and enforcement of rules relating to manning take place in a similar manner. Usually, supervision of the examination and the subsequent certification of seafarers is entrusted to the maritime administration and a branch of education administration. Enforcement takes on the form of inspection of the crew's certificates to verify that a particular crew member holds the certificate required for his position on board of the ship may be detained until the crew has been supplemented so as to meet the manning requirements. When enforcing the rules, the officials must avoid that ships are unduly detained or delayed. Enforcement of substantive provisions of economic regulation cannot be effective if the relevant information is not available. It is therefore important that provisions be enacted which
enable the maritime authority to gather information as and when necessary from companies and individuals engaged in national shipping.

In the final resort, enforcement of maritime law takes place through courts. The jurisdiction of courts in public maritime law is in most countries laid down in the penal code, a separate code of penal procedures or a special code for economic and maritime offenses.

4.3.3.2 Port State Control of Foreign Ships

In accordance with the principles of international law, territorial jurisdiction gives state the right to exercise control over foreign ships within their ports. This right is qualified both by the concurrent jurisdiction of the flag state and the obligations of the port state stemming from international law.

In the fields of safety, manning and pollution prevention, the multilateral conventions specified above lay down generally accepted international standards which ships should meet. These conventions contain important obligations for a state party in respect of foreign ships in its ports. States should ensure that these ships comply with all standards contained therein.

An important feature of the conventions is the so-called no-more-favorable treatment clause. It is contained in SOLAS, MARPOL, STCW and ILO no.147. This stipulates that a contracting party to the relevant convention shall ensure that, in respect of that convention, no more favorable treatment is given in its ports to foreign ships which fly the flag of a state which is not a party to the convention.

The effect of this clause if fully enforced, is to compel states which are not a party to ensure that ships flying
their flags comply with the conventions, when these ships call on a port in a state which is a party. In the European region this result has already been achieved to a large extent through the so-called Memorandum of understanding on port state control. The conventions specify the method of inspection (i.e. verification of certificates and checking for evidence of clear grounds that standards are not met) and detention. A state may also require foreign ships within its ports to comply with standards contained in its national legislation. However, it is not advisable to require compliance with standards which go beyond the internationally accepted level. Otherwise, retaliatory action may be taken against vessels flying the flag of that state. For similar reasons, the inspection methods and procedures should conform to internationally acceptable norms. Likewise, it is recommendable that inspections and detention are carried out without discrimination.

Effective port state control is designed to curb substandard shipping. It enhances marine safety and pollution prevention. At the same time it protects national ships which obliged to conform to the high international standards, from unfair competition from substandard ships which economize by adhering to lower standards. As a rule, port state control operates at the national level. Several reasons may make it worthwhile to consider regional co-operation in this field. The regional approach with respect to pollution from vessels is embodied in Article 211, para. 3 of the United Nations Convention on Law of the Sea (UNCLOS 1982). Regional co-operation will enable the participating states to make more efficient use of their surveyors.
Furthermore, it will ensure regional harmonization of safety inspections. This will avoid distortion of competition between regional ports. An example of a regional approach towards port state control can be found in the European region, where at the beginning of 1982 a Memorandum of understanding on port state control, based upon the above-mentioned elements, was signed. This agreement between the maritime authorities of 14 European states stipulates that each participating administration shall ensure that at least 25% of all ships calling on its ports in a particular year, is inspected. A data system, which has a daily input from the inspection authorities of the 14 states, ensures that duplications are avoided.

Inspection is restricted to those of a list of conventions which have been ratified by the inspecting state. The list contain the IMO and ILO conventions mentioned above., including those with a no-more-favorable-treatment clause. Similar Memorandum of understanding on port state control can be signed by GCC countries which include the United Arab Emirates.

4.3.4 SAFETY OF SHIPS

4.3.4.1 Construction, Equipment and Maintenance thereof

The safety of any ship must largely depend upon the adequacy of its construction and equipment, and the maintenance thereof. The leading convention with regard to these aspects of merchant ships is the international convention for the safety of life at sea, 1974 (SOLAS,1974), as amended by its 1978 protocol and subsequent amendments. SOLAS 1974, the 1978 protocol, the 1981 and the 1983
amendments are in force, and since the provisions contained therein should abrogate and supersede the previous instruments, (especially SOLAS 1960) the ensuing guide-lines are based on SOLAS 1974, as amended. SOLAS does not cover fishing vessels. The great variations in design and operation between fishing vessels and other types of ships has always proved a major obstacle to their inclusion in SOLAS.

Unlike other ships, fishing vessels frequently function with open holds. Free boards and other bulwark openings are often kept closed to retain the catch, which can be dangerous when water comes on to the ship. Stability can also be affected by methods of fishing and the gear used, and in some trades the sea in which the vessel operates can cause further difficulties, notably icing. Fishing vessels are also unique in that they operate under different loading conditions and take on their cargo while at sea. To accommodate these special features, the international convention for the safety of fishing vessels (SFV) was adopted at a conference convened, under the auspices of IMO, at Torremolinos, Spain, in 1977.

However, the conventions do not cover all ships. In general, vessels below 500 tons gross tonnage, ships not engaged in international voyages, pleasure craft and wooden ships of primitive build, as well as fishing vessels of 24 metres or less, are not the subject of an international safety convention.

Nevertheless, their safety must be of concern to all and should be dealt with in national legislation. It is not intended to set up guide-lines for safety of these "non-convention" ships. It should be noted that in respect of small fishing vessels, guide-lines for design, construction and equipment have been drawn up by the IMO in co-operation with FAO and ILO.
4.3.4.2 Load Lines

Limitations on the drought to which a ship may be loaded can make a significant contribution to its safety. These limits are given in the form of freeboards.

The modern law is largely contained in the International Convention on Load lines, 1966 (LOADLINES, 1966). The convention entered into force in 1968. Four amendments have so far been adopted to the convention, in 1971, 1975, 1979 and 1983, but none of these amendments are in force. The suggested legislation will therefore be on the basis of LOAD LINES, 1966. However, it is important that load lines and freeboards of "non-convention" ships should also be determined and statutory provision should be made for the issue of "local" (i.e. non-convention) load line certificates too. It should be noted that the SFV convention requires that operating draughts for fishing vessels over 24 metres in length should be stipulated by the Maritime Administration.

4.3.4.3 Cargo

Another important aspect of the safety of ships is the loading, handling and packaging of the cargo. SOLAS, in its annex, contains a number of important provisions on this issue. Thus, the carriage of grain is regulated in chapter VI of the annex. In relation to the carriage of dangerous goods, chapter VII of the annex to SOLAS contains some general obligations for state parties. Inter alia, states are required to issue detailed instructions on safe packing and stowage of dangerous goods. To aid compliance with the requirements of chapter VII, IMO has updated the International Maritime Dangerous Goods Code (IMDG-code).
The IMDG-code was recommended to Governments by the 1965 IMO Assembly for adoption or use as the basis for national regulations, in order to provide harmonization between countries engaged in the carriage of dangerous goods by sea. The rapid increase in the use of freight containers for the carriage of goods by sea, the development of container ships and the integration of transport in which the various modes are interdependent and in which the container is an important instrument, are a feature of modern sea transport. Inevitably, questions of safety arise, in particular of the container itself, it represents the common denominator in the whole container transport system. Also relevant is the standardization of containers to ensure progress in efficiency, safety and economy, thereby facilitating international trade. This subject of container standards has been taken up by the International Organization for Standardization (ISO) in Geneva, while the subject of container safety has been taken up by IMO.

As a consequence of work by IMO, the International Convention for Safe Containers (CSC) was adopted in 1972 and entered into force in September 1977.

4.3.4.4 Suggested Legislation

a) Introduction

In view of the relationship between SOLAS, SFV, Loadlines and CSC, it may be considered practicable to enact primary legislation to cover the four conventions. The primary legislation would then provide the general framework, while the technical requirements, specified by each of the relevant conventions, would be contained in subsidiary legislation.
It is suggested that national legislation in the U.A.E. deal with matters set out below.

b) General Provisions

The general provisions may cover:

(i) Definitions;
(ii) Scope, i.e. to which ships the act is to apply;
(iii) Power to give exemptions and to allow equivalents in accordance with the conventions.

c) Substantive Provisions

This Part should contain the power to set detailed requirements for inter alia:

(i) The structure, machinery and equipment;
(ii) Load Lines;
(iii) The stability of the ship;
(iv) The stowage, loading, ballasting and deballasting of ships;
(v) Instructions and other documents and information to be carried on board;
(vi) Practice drill on board.

d) Surveys and Certification

This part would contain the following:

(i) Provision for surveys and inspections in accordance with the conventions;
(ii) Designation of the authority to be entrusted with surveys and inspections;
(iii) Issue of Safety Certificates and exemption certificates in accordance with the conventions;
(iv) Issue of certificates by a foreign government at the request of the competent authority and vice versa;
(v) Acceptance of foreign certificates;
(vi) Period of validity of certificates;
(vii) Return of certificate which has lost its validity to competent authority.

More detailed provisions may be contained in subsidiary legislation.

e) Right and Obligations of Owner, Master and Seamen
   This section could provide for:
   (i) Prohibition to make alteration to a ship with a certificate without permission of the competent authority;
   (ii) Duty for master to maintain condition of the ship during the voyage;
   (iii) Duty of owner and master to notify competent authority when damage has been sustained;
   (iv) Prohibition against the master going to sea, unless:
       - The ship meets the relevant safety requirements;
       - The is provided with required valid certificates.
   (v) Duty of the owner to enable the master to carry out his obligations under the act;
   (vi) Right of crew members to complain to competent authority if the ship is in unseaworthy condition and duty of authority to investigate complaints.

f) Enforcement
   This section covers:
   (i) Designation of authority entrusted with enforcement of act, e.g. the shipping inspection;
   (ii) Appointment of other persons for enforcement, e.g. surveyors from classification societies;
   (iii) The carrying out of random inspections;
   (iv) Rights and powers of surveyors and inspectors;
   (v) Duty of the master to produce certificates to
inspector on demand;

(vi) Duty of the owner and the master to co-operate with inspections;

(vii) Power to detain a ship, inter alia if:
- The does not carry all required valid certificates;
- The condition of the ship does not correspond substantially with the particulars of the certificates;
- The ship is loaded in excess of the freeboard assigned;
- The ship is carrying more passengers than it is allowed;
- An inspector is obstructed when carrying out a survey or inspection.

(viii) Duty of the master to put and keep the detained ship at a location indicated by the competent authority;

(ix) Procedure of detention;

(x) Release of detention;

(xi) Power to order the deficiency to be rectified;

(xii) Duties of the master if the ship is detained abroad.

g) Foreign Ships
This section would contain provisions on the inspections and detention of foreign ships in ports under the jurisdiction of the state.

In general these provisions would be similar to those outlined in section (e) above. It should be noted that the conventions require the consular officer or diplomatic representative of the flag state to be notified in case of detention.

h) Penalties
This section should contain penalties for non-
compliance with the statutory obligations and violation of statutory prohibitions. This refer to, inter alia, the obligations and prohibitions mentioned in (e) above.

i) Appeal
It may be worthwhile to include provisions on the right to appeal from decisions of the competent authority and the relevant procedures. These decisions include the refusal, suspension and cancellation of a certificate and the detention of a ship.

j) Subsidiary Legislation
The subsidiary legislation usually contains the detailed rules. This would cover, inter alia, the requirements referred to in (c) above, as well as detailed provisions on the interval of surveys, the payment of costs and the form of certificates (d) and the appeal procedure (i).

4.3.5 SAFETY OF NAVIGATION

4.3.5.1 Objectives of Navigation Regulation

Regulation of navigation has three main objectives. First, it furthers the safety and efficiency of vessel traffic, both of individual ships and of the traffic as a whole. Second, it aims to protect the waterways and their public works. Finally, it serves to prevent and minimize possible damage to other interests, especially the marine environment, from vessel traffic.

To implement these objectives, a number of navigation
services are provided. These may include pilotage, navigational aids such as lighthouses, buoys and beacons, vessel traffic services and search and rescue assistance. The services are usually provided by organizations whose tasks, duties and responsibilities are laid down in (so-called institutional) legislation. In addition, implementation of the objectives takes place through substantial legislation, aimed at regulating the conduct of ships, including the use of the navigation services by ships.

In order to harmonize the implementation of these objectives a co-ordinated approach both at legislative level and at the institutional level, would seem advisable. In this respect it may be useful to harmonize to the extent possible and practicable the various regimes that exist for the regulation of shipping traffic in inland waters, port areas, the territorial sea and the high seas. However, it is recognized that in many states authority over the various aspects of navigation is not vested in one body, but is divided between several government services and sometimes private organizations. This may hamper carrying out of vessel traffic operations and the efficient implementation and enforcement of the legislation, especially when each service and organization has its own personnel, resources, material and statutory functions and powers like in U.A.E.

Since such a situation exists, coordination of implementation and enforcement efforts on the institutional level may be called for.

It is recognized that the legislation may encompass both the rules for navigation at sea and for inland navigation. The ensuing paragraphs will be limited to the rules for navigation at sea.
4.3.5.2 Subdivision of Navigation Legislation

a) General

Legislation relating to navigation may be divided into various closely related categories.

- Firstly, there should be rules regulating the conduct of ships vis-à-vis other ships, e.g. rules of the road.

- Secondly, it will be necessary to draw up rules to protect public and private interests against damage from vessel traffic and to minimize the damage once an incident has occurred. Such rules may be different according to the characteristics of the waterways and the shipping traffic in a particular area. For instance, the state may decide to designate a special route for ships carrying dangerous goods, in order to accidents involving these ships to the maximum extent possible.

- Thirdly, there is a need for rules on the provision of services rendered to the vessel traffic. These should designate the organizations responsible for pilotage, aids to navigation, search and rescue and other navigational matters. This so-called institutional legislation should also define the task and responsibilities of the organizations.

- Fourthly, a number of related topics should be regulated, e.g. liability for damage caused by erroneous or false aids to navigation and the provision of search and rescue services. It may be noted that navigational equipment on board ships, such as radar and collision avoidance system, also contributes to the safety of navigation.

It is important to stress the close relationship between
the categories and to note that there are partial overlaps. It follows that rules will often "belong" to more than one category.

b) Conduct of Ships

Rules relating to the conduct of ships consist of the rules to prevent accidents ("rules of the road") and the conditions and restrictions on the navigation of certain waterways. The rules of the road not only aim at the prevention of collisions between ships, but also contribute to the prevention of groundings, strandings and collisions with structures. Then again, there are other rules which regulate the conduct of ships and thereby help prevent accidents.

An example may be the internationally Acceptable English Marine Vocabulary, designed to facilitate the interchange of information between vessels. Similarly, regulations relating to the use of radar and particular radio equipment and frequencies may, especially in areas with heavy traffic, be considered as conduct rules. Furthermore, this may apply to rules regarding pilotage (e.g. the duty to take a pilot on board) and the duty to comply with vessel traffic instructions.

c) Aids to Navigation

Aids to navigation may include buoys, beacons, lights, shapes, signs etc. They may indicate the border of a waterway or the location of a wreck but they may also constitute a command or a prohibition. There are internationally agreed guide-lines and recommendations on their meaning, such as the IALA single
Bougage system. In many countries, institutional legislation provides for the set-up of a government organization to take care of the establishment, superintendence and management of navigational aids. In some states this task is entrusted to regional offices of the ministry in charge of navigation affairs. Whatever approach is taken, one should aim at the establishment and maintenance of a uniform system. This seems to call for co-ordination of the activities at a central level.

d) Vessel Traffic Services

This term vessel traffic services denotes a systematic set of activities (services) involving the monitoring, informing and advising of individual ships in a particular area. The services may range from very simple, e.g. giving traffic information on request, to complex and sophisticated, such as a traffic management system. The services are rendered by a shore based organization, usually a government agency. They may involve the establishment of coastal radar stations with modern communication facilities. A vessel traffic service is usually established in areas with heavy traffic, such as port approaches and narrow straits. In order to be able to use the service, ship may need to carry special equipment (e.g. the microphone) and may have to follow particular communication procedures. This may also involve the duty of the master to report the position of the ship when approaching the VTS-area, and the ship's movements when navigating in the area.

Vessel traffic services may even include traffic instructions.

Traffic instructions could be defined as orders from an authorized person on shore to a ship's master, relating to
the ship's conduct in order to achieve a particular result. Such instructions are given when a special risk is presented by a ship or in a particular area, e.g. because of an accident, the density of the traffic or bad weather. The instructions may only be given by persons who are especially authorized for this purpose, e.g. by the minister. A traffic instruction should not be an order to the master to take a specific action ("fill ahead") but prescribe the result that should be achieved through the actions ("remove from area immediately"). It is then left to the master to decide which specific actions should be taken. After all, the master has the authority over the ship's navigation under all circumstances.

e) Pilotage

When a ship approaches and enters a port. Knowledge of the local waters is essential to avoid accidents. For that purpose, the master of a ship may engage the services of a pilot. As a rule, the pilot serves as the adviser of the ship's master, who remains responsible for the navigation of the ship.

In many countries, areas are designated in which pilotage is compulsory. These compulsory pilotage areas usually cover approaches to ports and ports themselves. Designation will depend on circumstances, e.g. the amount of traffic and the accessibility of the port. In principle, all ships in the area are under the obligation to take a pilot. However, exemptions may be given to navigating officers who have sufficient knowledge of the local waters, for instance if their ship frequently enters and leaves a port. This will be the case with the captain of a ferry and the masters of small fishing vessels which usually return to the same port every day or every week.
A competent authority should be designated to organize the pilotage services and to ensure their availability. This may be a government agent, but in some countries it is a private organization.

f) Reporting and Assistance

It is a basic rule of international maritime law that the master a ship should render assistance to persons in distress at sea. On receiving a signal or specific request from persons in distress at sea (ship, aircraft, survival craft, isolated lighthouses etc.) the master of a ship must, if possible, inform them whether he is able to give assistance. If that is the case, he must proceed with all speed to the assistance of the persons in distress. If he is unable to do so, the master must try to contact other ships to assist the persons in distress. Similarly, in case of a collision between two ships, it is the duty of either master to render such assistance as is practicable and necessary to preserve the other ships and the persons on board from any danger caused by collision. In addition, the master must identify his ship and inform the other master of his next port of call.

The duty to report is closely related to the duty to assist. In the interest of the safety of navigation it is important that the master of a ship sends information on all direct dangers to navigation he meets (e.g. dangerous derelicts, severe weather) to all ships in the vicinity and to the nearest shore authorities.
4.3.5.3 SUGGESTED LEGISLATION

a) Introduction

In view of the close relationship between the main objectives of the regulation of navigation, it may be considered desirable to incorporate all the relevant primary legislation in one statute. This refers to both the institutional legislation and the legislation on the conduct of ships. This approach could facilitate the balancing of the three objectives - safety and efficiency of vessel traffic, protection of waterways, prevention of damage. The more technical rules could then be covered in subsidiary legislation. In addition, it may be an efficient way of drafting legislation, since there will be one set of provisions for definitions, scope, enforcement and penalties. On the other hand it is recognized that, in view of the varying degrees of complexity of the subjects to be covered, it may be preferable to regulate the subjects separately, so that simple subjects can be regulated without being delayed more complex matters. For reasons of internal efficiency, the suggested legislation outlined below envisages a single statute, in which the constituting elements can be clearly discerned. This facilitates the separation of subjects, if such is desired.

b) General Provisions

This section would contain:

(i) Definitions;
(ii) Scope, i.e. to which ships and to which area the act is to apply.
c) Traffic Rules

This section could provide for:
(i) The power to set rules on the prevention of collisions including the establishment of traffic separation schemes;
(ii) The power to set special rules for the regulation of the navigation of ships carrying hazardous or noxious cargoes and of other ships presenting a special risk to the marine environment.

It is suggested that the 1972 collision Regulations as amended be incorporated in the subsidiary legislation. These should apply to all ships on seawaters within the national jurisdiction and to ships flying the national flag, wherever they are.

d) Aids to Navigation

This section may cover:

(i) The power to set rules on the meaning of aids to navigation;
(ii) Designation of the authority competent to establish and remove aids to navigation;
(iii) Rights and powers of responsible personnel.

e) Vessel Traffic Services

This section would include:

(i) The power to set rules on vessel traffic services;
(ii) Designation of competent authority in respect of
vessel traffic services;
(iii) Rights and powers of responsible personnel;
(iv) Training and licensing of VTS-personnel;
(v) The power to set rules on traffic instructions;
(vi) The designation of the authority competent to give traffic instruction;
(vii) Rights and powers of responsible personnel.

f) Pilotage

This section would include:

(i) Power to designate areas in which pilotage is compulsory;
(ii) The power to give exemptions;
(iii) Designation of authority competent to provide pilotage services;
(iv) Rights and powers of responsible personnel;
(v) Rights and duties of pilots;
(vi) Training, licensing and remuneration of pilots;
(vii) Traffics for pilotage dues;
(viii) Power to further regulate pilotage.

The Power to make further regulations on pilotage serves, inter alia, to prescribe pilot flags and pilot signals to be displayed when a ship requests a pilot or has a pilot on board. These should conform to the IMO International code of signals. Further rules could also contain the requirement that ships, which are in compulsory pilotage areas or which accept the services of a pilot, have adequate means of access.
g) Equipment

The relevant rules are contained in chapter V of SOLAS. These relate to the provision on board ships of, inter alia:

(i) Signalling lamps;
(ii) Radar;
(iii) Radio direction-finding apparatus;
(iv) Gyro-Compass;
(v) Echo-Sounding device;
(vi) Radio equipment for homing on the radio telephone distress frequency.

In view of the close relation between these devices and other equipment which is required on board ships, it is advisable to incorporate the relevant provisions in the safety legislation.

h) Reporting and Assistance

This section would contain a number of provisions designed to prevent accidents and to minimize loss of life as a consequence of an accident. These include:

(i) Duty of the master to assist persons in distress at sea;
(ii) Duty of the master of a ship involved in a collision, to render assistance to the other ship, its crew and passenger;
(iii) Duty of the master to report hazards to navigation;
(iv) Duty of the owner and master to report any accident resulting in loss of life, serious injury to a
person or substantial damage to the ship;

(v) Power to set rules on content and form of danger messages and accident reports.

The duty report accidents under (4) assists investigations by the flag state. In addition, if the ship has sustained serious damage. The report enables the competent authority to decide whether inspection of the ship and suspension of the relevant certificates is necessary. Different messages mentioned under (5) should be sent and contain information as provided for in Regulation 2 and 3 of chapter V of the annex to SOLAS.

i) Liability for Damage

In view of the different legal systems and practices as well as the widely diverging maritime situations of countries, it is not possible to give clear guidance on the issue of liability for damage and limitation of liability. It is important policy decision for a state to what extent it excepts or limits liability for damage to ships which originates in aids to navigation, in case of willful misconduct and gross negligence on behalf of the state.

Regarding pilotage services and vessel traffic services, many countries have made the owner or master of the ship liable for loss or damage resulting from the pilot's negligence, even where pilotage is compulsory. This does not abolish the pilot's individual responsibility. However, this is not of great practical value since the amount of damage will usually far exceed what a pilot can pay. Moreover, he is usually allowed to limit his liability, in view of the heavy damage a pilot's slight
negligence may cause. On the other hand, the organization
to which pilot belongs should be responsible for the
willful misconduct and the gross negligence of the pilot.
In addition, there is a tendency to hold the organization
and the pilot liable for the pilot's lack of skill or
negligence.
However, both the organization and the pilot may then
usually limit their liability for damages so caused.

j) Enforcement

This section would include:

(i) Designation of enforcement personnel;
(ii) Rights and powers of responsible persons;
(iii) Power of competent authority to detain ships in
respect of which pilotage charges or aid dues have
not been paid or which has damaged, destroyed or
fouled an aid.

The competent authority referred to under (3) could
be the same as empowered to detain a ship under
safety, manning or pollution legislation. In
order to secure the detention it may also be
provided that the customs, officers shall not grant
clearance to a ship until the charges or dues have
been paid.

k) Foreign Ships

As indicated in (b), the legislation would apply to all
foreign ships which navigate on waters under jurisdiction
of the enacting state. In view of this, very few separate
provisions for foreign ships are needed. An example of such a provision may be that if a foreign ship is detained (see (j)) the competent authority should immediately inform the diplomatic representatives or the consular officer of the flag state.

L) Penalties

This section would put a penalty on the following offenses:

(i) A ship violating the collision regulations or special navigation rules;
(ii) A person willfully or negligently damaging, destroying or allowing a ship to foul an aid to navigation;
(iii) A person willfully or negligently doing anything which interferes with an aid or obstructs the view of aid, hindering its efficiency or effective use;
(iv) the ship's master disregarding traffic instructions;
(v) the master not engaging a pilot in an area where this is compulsory;
(vi) pilot's offenses, inter alia:
   a) by willful break activity of duty or neglect of duty or by reason of drunkenness:
      - Causing damage to the ship or endangering persons on board;
      - refusing or omitting to take the proper action for preserving the ship or any person on board;
   b) refusing to produce his licence to master;
   c) acting as a pilot without the required valid licence
   d) making fraudulent use of his licence;
e) refusing to pilot a ship without a reasonable ground.

N) Appeal

Along the lines indicated in (3.3.4.4/i) above, appeal would be provided against decisions of the competent authorities, e.g. the refusal to issue a pilot's licence.

4.3.6 MARITIME CASUALTIES INVESTIGATION

4.3.6.1 Introduction

Maritime investigations are more commonly known as investigations into shipping casualties. Their main purpose is to throw light on the cause of the casualty and thereby avoid similar casualties in the future. They are basically fact-finding and not penal in nature. The national law applicable to investigations may differ from country to country in several respects, e.g. the status of the boards of inquiry, their constitution, powers and functions. In some countries, administrative tribunals are set up which submit their findings and recommendations to the administration for appropriate action.

4.3.6.2 International unification

No attempt has yet been made to reach international uniformity in this area. A series of reports on the existing legislation in a number of maritime countries (Canada, Denmark, France, Germany, Greece, Norway, Sweden, U.K, USA, USSR, etc..) has been published in 1952.
4.3.6.3 Suggested legislation

a) Jurisdiction

It is necessary for a state to enact legislation to define what is a casualty and to provide for the circumstances in which the administration may conduct investigations, for example:

(i) When the casualty occurs in territorial waters or, in case of environmental damage, in the EEZ;
(ii) When the casualty involves a vessel flying the flag of the state and death or injury has resulted;
(iii) When the casualty occurs to a vessel wholly engaged in coastal trading in the waters of the state;
(iv) When requested by another Government.

b) Types of Investigations

1) Preliminary inquiry

To establish the cause of the cause of the casualty, all the available evidence is obtained. This would also form the basis on which the administration may determine whether or not a formal investigation is necessary.

Legislation to provide:
- Who may conduct the preliminary inquiry;
- What powers would be vested in the person or persons appointed to conduct the inquiry;
- Procedure of the preliminary inquiry; the manner in
which witnesses are summoned, sworn statements are taken etc.; -The making of a report, for whom the report is prepared and its purpose;
- Forms, e.g., summons to witnesses to attend.

2) Formal investigation

This usually takes the form of a court of investigation. The court should be an independent and unbiased body. The court is usually convened when the administration has reason to believe that an officer over whom it has jurisdiction and control is incompetent or unfit to discharge his duties owing to misconduct. However, the court's main purpose is to establish the cause of the casualty.

National legislation may provide for the following measures:

a) When a court of investigation may be convened and by whose order;

b) Constitution of the court:
   (i) Appointment of president and assessors;
   (ii) Qualifications of assessors;
   (iii) Number of assessors required;
   (iv) Remuneration, if any.

c) Whether the powers to censure officers or to deal with their certificates will be exercised by the court or board of inquiry or by the administration:
d) The effect of cancellation or suspension of certificates in different circumstances:

(i) When the certificate is issued by the state where the inquiry is held;
(ii) When the certificate is issued by a state other than that of which the ship flies the flag;
(iii) When the certificate is issued by a foreign state and the ship involved flies the flag of that foreign state;

e) Powers of the administration to take action on the basis of the findings of the court:
   (i) To cancel or suspend certificates;
   (ii) To censure the officer found to be at fault;
   (iii) To set aside, revoke or modify the orders passed by the court;
   (iv) To forward a copy of the report of inquiry to the appropriate authority of the country concerned, if the certificate affected by the report has been issued in that country;

f) Proceedings in court:
   (i) The summoning of witnesses;
   (ii) How evidence may be adduced etc..

g) Appeals;

h) Forms, e.g. notice of investigation, notice of sitting of court.
5.1 INTRODUCTION:

In order to secure its national interest and to achieve its goals for the benefit of its people U.A.E adopt a political system which reflects its political, social and economical philosophies. Every country has to have three very important machineries to propel its political system. There are the body or authority which is to legislate, the executive (Government Administration), and the judiciary. It is the nature of each machinery and their interrelationships that may differ depending upon the political system.

5.2 MARITIME ADMINISTRATION:

Obviously Maritime Administration is part of the overall Government Administration. The roles and functions of a maritime administration have to be those assigned to it by the political executive on the basis of its maritime (development) policy and the maritime legislation. While in the strict sense a maritime administration has to include the concerned minister, in as much as he is responsible ultimately, it has come to be recognized in practice that the de facto maritime administration is the body of officials in the duty established specific department because of:

a) The specialization of the officials;

b) The statutory powers conferred on the various officials; and

c) The specifications of the roles and functions of the various officials.
The proposed Maritime Administration in U.A.E. needs to encompass or ensure coverage of the following:

(i) The obligatory and regulatory functions of the Maritime Safety Administration.

(ii) The voluntary functions involved in the promotion of maritime development.

The roles and functions of the proposed Maritime Administration in U.A.E. would tend to fall into the following four categories:

a) Advisory Functions

Policy-making, specially in its final stage, is expected to be a political function of government. The policy process itself has three aspects and attendant phases, i.e., formulation, implementation and evaluation. In most cases the above would need to be supplemented by discussions and verbal clarifications by the top officials of the Maritime Administration.

b) Administration Functions

Obviously the Maritime Administration is not only part of the overall public administration of the government but also the specialized executive arm of the government as regards maritime matters.
c) Regulatory Functions

Most or nearly all of such functions are usually the responsibility of the maritime safety division. Additionally there can be regulatory functions connected with reservation of coastal trade (cabotage) and reservation of cargo for national ships, etc, if these are part of national policy. Since such regulatory functions have to have the basis of law, the concerned officials of the Maritime Administration have to:

(i) Propose the matters that are to be covered in the legislation—primary and subsidiary;
(ii) Assist in the drafting of the primary legislation; and
(iii) Draft the subsidiary legislation—the various regulations and rules—for further consideration, by all concerned interests and finally by the legislative body before promulgation of same.

d) Development/Promotional Functions

These are special features of the Maritime Administration in any developing country. However, the functions pertaining to "promotion of maritime development" can consist of variables, depending upon the maritime circumstances and policy of the government.
5.3 MARITIME LEGISLATION:

For the successful development of the maritime industry and sea-borne trade in U.A.E, appropriate and adequate national maritime legislation is essential. In chapter for of this paper after giving a general background on maritime legislation and basic concepts for international law I tried to elaborate on some areas of maritime legislation which are not covered by the present commercial maritime law no - 26 of 1981, or which are not detailed enough for the implementation purpose such as safety of ships, safety of navigation and casualty investigations.

It is my earnest hope that this work will greatly assist may country in achieving an adequate maritime legislation in near future.


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