International maritime conventions and their application in Cameroon maritime legislation

Hans Ewang

Follow this and additional works at: https://commons.wmu.se/all_dissertations

Recommended Citation
https://commons.wmu.se/all_dissertations/974

This Dissertation is brought to you courtesy of Maritime Commons. Open Access items may be downloaded for non-commercial, fair use academic purposes. No items may be hosted on another server or web site without express written permission from the World Maritime University. For more information, please contact library@wmu.se.
THE WORLD MARITIME UNIVERSITY
MALMOE - SWEDEN.

Thesis presented in part fulfilment of the final assessment for the award of an Msc Degree in General Maritime Administration.

Presented by
EWANG HANS / CAMEROON. GMA 83-85.

Title: INTERNATIONAL MARITIME CONVENTIONS AND THEIR APPLICATION IN CAMEROON MARITIME LEGISLATION.

Supervised by: Professor Gunnar Stubberud.

The contents of this paper reflect the writer’s personal views and are not necessarily endorsed by the World Maritime University or the International Maritime Organisation.

Signature

Date 4/6/85
PREFACE

In writing this project I have in mind the reader whose interests are academic, but mostly those who are more professionally involved with the marine industry in Cameroon. My thesis therefore attempts to give an introductory survey not only of the 1982 United Nations Convention on the law of the Sea, but also of some international maritime conventions adopted by The International Maritime Organisation and how these conventions could be ratified, implemented and enforced in Cameroon. In covering such a large body of law in a relatively small number of pages my discussion of many topics has had to be more precise and concise than I would ideally have wished. I however, hope the section on the law of the Sea, will also be of interest to technical advisers or those who stand on the forefront on the negotiations of bilateral and multilateral treaties with foreign countries and international Organisations in the Ministry of Foreign Affairs and the Presidency of the Republic of Cameroon.

I am indebted to so many people in writing this project that it will be a lengthy undertaking to mention them all. I would however like to give special thanks to Professor Gunnar Stupperrad, Course Professor of the Class of General Maritime Administration 1983 who assisted me throughout.

I also wish to express my sincere gratitude to the following resident Professors who not only gave me access to a lot of literature and documentation but also let me benefit from their reservoir of experience and knowledge without which this work wouldn’t have been carried out: Professor P.S Vanchiswar Course Professor, Maritime Safety Administration, (nautical), Professor T. Balmer, Course Professor Maritime Safety Administration (Engineering), Professor Mathiew, Course Professor Maritime Education (Engineering, Professor Zade, Course Professor Maritime Education (nautical) and Professor Monsef, Course Professor GMA 1983.
I would also take this opportunity in thanking the following visiting Professors: Professor Edgar Gold, Professor of Law and Executive Director Dalhousie Ocean Studies Programme Dalhousie University Canada. Professor EL. A. Georgandopoulos Formerly Director of the Pireus Graduate School of Industrial Studies (Chair of Shipping Economics and Policy, Mr. Andrew E Gibson formerly President of The Federal Maritime Commission, USA and U.S. Representative to UNCTAD, and last but not least the librarians of the World Maritime University and Transport Canada. Never in the field of International Maritime Cooperation has so much been owed to so many by one man.
# TABLE OF CONTENTS

## PART ONE

MARITIME CONVENTIONS: HOW THEY ARE ADOPTED AND HOW THEY ARE PRESENTLY APPLIED IN CAMEROON.

### CHAPTER ONE

SOLAS and Conventions relating to Safety:

I) International Regulations for Preventing Collisions at Sea. (COLREG) 1972.....

II) International Conventions on Load Line 1966.....

III) International Conventions on Tonnage Measurement of Ships 1969.....

### CHAPTER TWO

The International Convention on Standard of Training, Certification and Watch-Keeping for Seafarers 1978.....

### CHAPTER THREE

CONVENTIONS ON THE PROTECTION OF THE MARINE ENVIRONMENT


II) International Convention for the Prevention of Pollution from Ships 1973.....

IV) International Conventions relating to Intervention on the High Seas in Cases of oil Pollution Casualties, 1969....

V) International Convention on Civil Liability for oil Pollution Damage, 1969....


PART TWO


CHAPTER ONE


III) Zones of National Jurisdiction after the 1982 Convention.

CHAPTER TWO

Problems of Delimitation of the Zones of National Jurisdiction in the Gulf of Guinea....
- Delimitation of the Territorial Sea
- Delimitation of the Exclusive Economic Zone
- Delimitation of the Continental Shelf.
CHAPTER THREE

CAMEROON A GEOGRAPHICALLY DISADVANTAGED STATE ..... 

CHAPTER FOUR

The Case for Regional Cooperation between the Gulf of Guinea States: Nigeria, Cameroon, Gabon, Equatorial Guinea and the Rep. of Sao Tome et Principe)...

PART THREE

GUIDELINES ON MARINE POLICY AND IMPLEMENTATION OF INTERNATIONAL MARITIME CONVENTIONS IN CAMEROON.

CHAPTER ONE

What is a good Marine Policy for Cameroon's Shipping Industry? ..... 

CHAPTER TWO

Ratifications of International Maritime Conventions ..... 

CONCLUSION .........
INTRODUCTION

It is my intention in this project to discuss the basic concepts that underlie or form the bedrock of international maritime law and their application in Cameroon's maritime legislation. Though there are isolated "Ministerial Arrêts" and Presidential decrees that form part of the bulk of maritime law in Cameroon, the basic maritime legislation is found in the CAMEROON MERCHANT SHIPPING CODE, which came into being on the 31st of March 1962, through Ordinance No. 62-0F-30 of the President of the Federal Republic of Cameroon. Any expert looking through this code today with the spectacles of 1984 will come across so many lacunae and drawbacks and will no doubt realise that the code has actually outlived its time. On the domestic scene it has served pretty well as a regulatory instrument for more than twenty years and this is manifested through the fact that Cameroon has tried to live up to the safety standards prescribed in international forums. There is no doubt that some of these prescriptions, for example safety at sea, are cursorily mentioned in the code. On the other hand, on the international scene, the code has been silent on international conventions and Multilateral treaties which are very often echoed and reflected on every domestic legislation. There lies the weakness of the code.

Nevertheless, there can only be little surprise at the above situation, considering that the only gesture made by Cameroon towards international conventions was the ratification of the 1934 safety of life at sea convention, no longer in force today and the 1960 Annex of the collisions Regulations convention of 1910. Another weakness that manifests itself today after more than twenty years of use is the non-effectiveness of its enforcement; for example, a fine which appeared harsh in 1962 will look so mild today so much that a master could pay from the till of his coffers without necessarily consulting his owner. The end result is that this defeats the very objective of the legislation since a penalty must be punitive enough to discourage the repetition of that particular fault.

I can only add here that the only document not subject to change is the Holy Bible. Thus "thou shall not steal" remains as it was.
International conventions on maritime law have not always been limited on safety and marine pollution alone. On the commercial side of marine transportation the relationship between the carrier and the shipper has historically been a very cold one. As a matter of fact the latter has always looked at the former with suspicion and distrust. To an extent this has been justifiably so because in the first place the carrier has until recently been overly protected by the law in the form of shipowners' liability. Secondly there is the question of high freight rates often arbitrarily fixed by the carrier in conferences and imposed on the shipper.

Finally with the advancement of technology and the discovery of enormous non-living resources (oil, gas and continental manganese nodules) on the ocean floor and continental shelf, the maps of the world are taking new shapes, giving rise to the problems of delimitation of new maritime boundaries between coastal states. The problem has become even more complicated with the arrival of new nations who are advocating that there should be an equitable distribution of these resources. With these recent developments in the marine industry, maritime transportation previously occupying the first place in the use of the sea has been relegated to the third place after exploration and exploitation of the non-living resources on the one hand and the living resources on the other.

It is against such a background that the nations of the world have always met together in international forums to establish under the auspices of the UN institutions like IMO, UNCTAD and UNCLOS III among others to regulate and coordinate the ever increasing complex activities of the maritime world today. In order to achieve their purpose these institutions have had to adopt resolutions, recommendations, multilateral treaties and conventions for nations adhering to them to incorporate in their respective domestic legislations for implementation and enforcement. This brings us to the internationalisation of the shipping industry today in which no nation is allowed to go its own way.

In view of the above challenges no coastal state wants to be left behind on the banks of inactivity. There are plans therefore underway recently to review the Cameroon maritime legislation of which this project is only a contribution.
In order to cover the important aspects of this vast subject I intend to plan out my work into three parts.

In the first part I will take a look at some of the major conventions both technical and legal that deal with safety, marine pollution, training and certification etc, and how these have so far been applied in the Cameroon Maritime legislation though Cameroon may not be a party to them. In the second part will feature the law of these convention as a future umbrella law and the problems Cameroon could face in the delimitation of its territorial sea, Exclusive Economic zone, and the continental shelf. In part three I will take a look at what could be the most suitable maritime policy and legislation for a developing country like Cameroon while at the same time throwing more light on the procedure of ratification, implementation and enforcement of international conventions in Cameroon.

PART ONE

MARITIME CONVENTIONS - HOW THEY ARE ADOPTED AND HOW THEY ARE PRESENTLY APPLIED IN CAMEROON MARITIME LEGISLATION.

It is not possible in a project of this dimension to deal in depth with all the complicated issues of law that arise in international maritime conventions. An outline will thus be attempted, but before delving into the matter it will be necessary to give a brief description of some major institutions that orchestrate the adoption of conventions for the maritime industry. The most prominent of these, is the international maritime organisation (IMO) which we shall see later. Another major institution of law-making in the maritime field is the UN itself whose description will be a lengthy undertaking here. Among the major convention which have come into being through the UN are the law of the sea convention 1982, convention on international Multimodal Transport of Goods to the extent that it applies to the Maritime leg of an international transport. Coming next in line is UNCTAD, the United Nations Conference on Trade and Development. Within its complex structure exist a shipping division which seeks to bridge the gap now existing between the developed/old maritime nations and the young nations of the third world. In order to attain its objectives it had to introduce a convention on a code of which are outlined thus.
(1) To facilitate the orderly expansion of world sea-borne trade.

(2) To stimulate the development of regular and efficient liner services.

(3) To ensure a balance of interests between suppliers and users of liner shipping.

(4) The principle that conferences hold meaningful consultations with shippers' Organisation, shippers' representatives and shippers on matters of common interest.

(5) The principle that conferences should make available to interested parties pertinent information about their activities.

The code mainly seeks to provide solutions to the problems faced by the new shipping lines of the third world in getting sufficient cargo in competition with the established shipping lines of the developed countries operating as members of conferences and the problem faced by shippers all over the world due to high and unbearable freight rates fixed arbitrarily by the shipping conferences. Regrettably the discussions in UNCTAD are inevitably taking the shape of a north - south dialogue and the conference is hit by the problem of agreeing on principles especially with the economic crisis that has hit the industrialised countries today.

An old source of unification of international maritime laws is the CMI (comite Maritime international). Founded since 1897, its prime aim has been the unification of maritime law. Membership is open to all nations and it requires its members to have a maritime law Association at the national level. This association invariably consists of shipowners, shippers, Re-insurance companies and lawyers. Nearly all conventions have begun with the concepts of CMI. One of the major achievements of CMI is adoption of a convention for the unification of certain rules of law relating to assistance and salvage at sea, 1910.

The convention did not really have its expected unifying effect. It did codify the basic legal principles related to salvage which had become customary law from earliest times, but the interpretation of the rules by the various national tribunals remained diverse. The commercial codes of Belgium, France, Federal Republic
of Germany and the Netherlands incorporated the convention text almost verbatim but English law continued to deviate from the language of the convention. However, though the CMI is an extremely helpful organisation state present is only 45 amongst which are few developing countries.

Finally we cannot over-emphasize the contributions made (often with IMO) by the following international bodies in the difficult task of lawmaking for the maritime industry.

The international labour Organisation (ILO) for working conditions of seaman, the food and Agricultural Organisation (FAO) Safety of fishing vessels, the international Telecommunication Union (ITU) on Radio and Telecommunication installations on board ships, the World Meteorological Organisation on cooperation in exchanging meteorological observations on board ships and standardisation of a form of ship log and a set of standard instructions for the necessary observation, and last but not the least the World Health Organisation on the health of seamen especially as they are often vulnerable to infections due to contact with dangerous goods.

As a specialized agency of the United Nations concerned solely with maritime affairs, and considering that it adopts more conventions than any international body concerned with shipping I will give a detailed description of IMO here.

After the UN maritime conference of 1948 adopted a convention establishing IMO the convention didn't really come into force until 1959 when it acquired the required number of signatures of various Governments. It took ten years to come into force because many nations viewed it with suspicion considering it a shipowner's club. However, after many doubts were cleared, the organisation finally saw the day in 1959 as the inter-Governmental Maritime Consultative Organisation with Head Quarters in London. Considering the ambiguities in such a name it was further changed in May 1982.

At its inception the organisation was charged with various responsibilities, the most important of which were to improve the safety of the world's Merchant shipping. To facilitate international sea-borne trade and to prevent marine pollution from ships. In order to achieve its objective, IMO has in the last twenty years promoted the adoption of 27 conventions, and some protocols, codes and
recommendations on various matters relating to safety of life at sea the tonnage measurement of ships loadlines, navigational rules designed to reduce collisions at sea, marine pollution space satellite communication and others. As a result of its success in developing a comprehensive body of maritime legislation IMO began to change its emphasis, concentrating more and more on the implementation of existing legislation. It is in the height of the above that the Assembly in it 12th session of 20 November, 1981 adopted Resolution A. 500 (XII) pointing out that "time is needed for maritime Administrations to formulate national rules and regulations for effective implementation of IMO conventions.

The organisations technical work is carried out by a number of committees, the most senior of which is the Maritime safety committee. This has a number of sub-committees whose titles indicate the subjects with which they deal. They are the sub-committees on safety of navigation, radio communications, life-saving appliance, standard of training and watch keeping, carriage of dangerous goods, ship design and equipment and others. Others committees include the Marine Environment protection committee, the legal committee, the Facilitation committee and the Technical cooperation committee.

After having given in a nutshell what IMO is, I will now proceed to the procedure of adoption of conventions and how they eventually become international law.

ADOPTION OF IMO CONVENTIONS

Conventions and other multilateral instruments create international treaty obligations. Governments which ratify or accept them agree to bring their laws and measures into conformity with the provisions of such treaties. A proposal for developing an international treaty or convention may be made in any of the organs of IMO. Formal approval is given either by the Assembly, the organisation's governing body of 125 members, or the council which performs the functions of the Assembly in between the biennial sessions of the latter. A draft of the convention is then prepared in one of the principal committees or sub-committees. The sub-committees is often made of delegates or experts from participating courting and observers from other specialised Agencis of the UN, but who have no vote. The decisions are often
reached by consensus though in difficult cases the chairman calls for a vote. When the draft is approved by the Committee it is then submitted to an international diplomatic conference to which all members of the UN and its specialised agencies including the non-member states of IMO are invited. The diplomatic conference usually lasts between two and four convention or other treaty instrument is formally adopted and submitted to Governments for ratification.

**RATIFICATION**

With the successful adoption of the convention, the onus for action moves to Governments. The consent to be bound may be expressed by signature, ratification, acceptance, approval or accession depending on the wishes of the states concerned. This procedure is generally referred to as "ratification". IMO treaties enter into force after a specific number of states have ratified them. Most of the conventions require that a certain proportion of the world total tonnage be covered before the conventions enter into force.

A government ratifying a treaty has to ensure that its own national law conforms with its provisions. This usually involves some form of domestic legislic action.

After the requirements for entry into force of a treaty or a convention have been achieved there is a "period of grace" before it actually comes into force. This period varies from a few months to a year or more and is designed to enable governments concerned to draw-up the necessary legislative or administrative machinery for implementing the provisions of the convention.

**IMPLEMENTATION**

This is the third stage and in many ways it is the most important. In many cases the main responsibility for the enforcement of an international treaty lies on the state under whose flag the ships concerned operate. The government is responsible for ensuring that ships which fly its flag conform to the requirements of treaties which it has ratified.

However many maritime treaties also contain provisions permitting or requiring other states particularly port states to enforce the
requirements of the convention concerned. The effectiveness of a convention therefore depends to a considerable extent on the way in which it is enforced by the states entrusted with its implementation. This has been a major weakness of IMO in the past. Implementation and enforcement at the National level had been very slow in the past due to lack of trained personnel and technical - know how in the developing countries. Where necessary therefore the organisation has provided technical assistance to governments which may need such advice and assistance. At its head office of international advisers and consultants whose task is to advise governments in such matters as maritime administration, legislation and maritime training post operation, the prevention of pollution and others. Never the less the organisation is fast achieving the standards it has set with the help of the technical assistance programme.

AMENDMENT

All IMO's multilateral treaties contain provisions for amendment, more so because as technical treaties they need to be updated and amended to take account of rapid changes in shipping and technological advancement. In some of the treaties amendments duly adopted must be accepted by a specific proportion of contracting parties before they enter into force. This is known as the "express acceptance" procedure. In other cases a system called "tacit acceptance" has been adopted. This means that amendments adopted will enter into force on a specified date unless a stipulated number of contracting parties expressly indicate their objection to the amendments. The "tacit acceptance" procedure was adopted by IMO in 1972 after it was realised that the procedure of express acceptance made it difficult if not impossible for amendments to come into force. In some cases very important amendments could not be brought into force because the necessary numbers of express acceptances were not received. To remedy that defect all major technical conventions of IMO adopted since 1972 have incorporated the tacit acceptance procedure for amendments.

TECHNICAL AND LEGAL CONVENTIONS

The "Legal" treaties adopted so far under the auspices of IMO do not form a coherent and separate whole, but are very much the result of circumstances, both historic and organizational. It denotes
not so much the content of the convention in question as the organ within the organisation which elaborated the particulars draft treaty, that is the legal committee. Most of these "Legal" conventions so far adopted within IMO deal with questions of liability for damage caused by or in connexion with the operation of ships. However if one looks at the bulk of multilateral maritime conventions it becomes very difficult to put them into their respective pigeon holes as legal or non legal. While several of them are clearly of a purely technical nature a great many of them cannot easily be classified. Rather than try to follow-up this dichotomy between "technical" and "Legal" conventions it may be more fruitful to try to group treaties according to their functions. It is possible to distinguish from this aspect three types of conventions.

The first of these treaties are treaties which are law-making or the purpose of such an instrument being to supplement existing international law by classifying certain issues or by re-stating, consolidating and codifying legal rules already applicable or existing as customary law. A glaring example is the law of the sea convention. It is past law-making by setting out formally new principles relating to status and the use of the world's oceans on the other hand it codifies and consolidates what may have been hitherto to customary law. Among IMO conventions, the International convention Relating to Intervention on High Sea in cases of Oil Pollution casualties, 1969 fits into the above category.

The second category I will mention here belongs to those convention whose purpose is to bring about a harmonization of existing and divergent national laws. They often relate to national rights and obligations among states or they may be of a more "private law" character dealing with relationship among individuals. The goal to be achieved here is the identity of various national laws rather than a common international standard. It is to this group that most of IMO's legal conventions belong, in particular the 1969 international convention on civil liability for oil pollution damage, the Athen's convention relating to the carriage of passengers and their luggage by sea and the 1976 convention on limitations of liability for maritime claims.

Somewhat different from the above two categories are those conventions which set out certain standards which are to be applied by
all states parties there to what is in the foreground here is not primarily the creation of mutual rights and obligations or the regulation of relations between two or more states but the joint and paralleled application of standards by all states concerned with a view to improving international cooperation or attaining a certain objective, for example safety at sea. These instruments deal with standards which states parties to them agree to apply on a uniform and general basis. More specifically in the field of shipping, such conventions aim at uniform standards for ships. Although this may not be a goal in itself, such standardisation helps to bring about more rational and efficient shipping practices and also tends to ensure that safety is not sacrificed for international competitiveness in the field of merchant shipping. In most cases the standards set by the convention are the highest practicable standards, although states reserve the right to set higher standards, particularly.
CHAPTER ONE

SOLAS (International Convention for the safety of life at Sea.)

As I mentioned earlier in my introduction, it is well recognized that shipping is essentially international in character, and rules, regulations and standards relating to Maritime safety should be discussed agreed and implemented at an international level.

Meanwhile at the beginning of the twentieth Century there was increasing international activity in shipping. Much of this was carried out on the initiative of the United Kingdom, which was emerging then as the greatest maritime nation in the world. The United Kingdom Government therefore played a leading role in concluding various international conventions in the field of safety of life at sea, in 1913 to 1914. The conference resulted in the adoption of an international convention which, however did not come into force because of the outbreak of World War 1. A fresh start was thus made by convening a new conference in 1929 which produced the first effective convention for the safety of life at sea. This convention was subsequently reviewed and revised by international conferences in 1948, 1960 and 1974. As the name implies, this is the mother document regulating the operations of ship in order to preserve maintain and improve on safety of life at sea.

This standard setting convention covers the following topics:

1 The construction of ships, including subdivision, stability, machinery and electrical installations and fire protection and extinction.

2 Life - Saving appliances,

3 Radio - Communications including radio telegraphy and radio telephony,

4 Safety of navigation, including the carriage of shipping board navigational equipment

5 Carriage of grain
6 Carriage of dangerous goods

7 Nuclear ships and certification.

Despite the seemingly high standards set by the 1974 convention many accidents continued to occur due to the slow pace of ratification of this convention and laxity in implementation and enforcement by the few states that had ratified it. In February 1978 therefore the international conference on Tanker safety and Pollution prevention commonly called (TSPP) was convened in response to the initiative taken by the Government of the United States. The outcome was two protocols, one relating to MARPOL 73 and the other relating to SOLAS 74. They introduced new measures to strength and expand the requirement of the Parent conventions.

The SOLAS 74 convention entered into force on 25 May 1980 while the Protocol did so in May 1, 1981. Since many countries had not ratified the convention itself, ratifying the convention was a precondition to ratifying the protocol although both could be ratified simultaneously.

In view of the fact that some of the new requirements of the 74 convention and the protocol necessitated structural changes in the design and construction of ships especially the new requirements of crude oil washing CBT and insert gas system for tankers, the draftsmen, therefore considered the hardship ship owners will incur in the ever increasing cost of ship operation. The convention was thus drafted bearing in mind the following areas,

1) General requirements applicable to all ships

2) Special requirements applicable to passenger ships, and cargo ships.

3) Special requirements being made applicable only to new ships being built after a certain date in the future,

4) New requirement being made applicable also to existing ships after a certain date in the future. As noticed above another area of high priority was the passenger ships new requirement of stability and subdivision.
We should bear in mind however that the goal of IMO has always been to attain the highest practicable standards of safety in the sea faring world. It is in view of the above fact that the Organisation will not hesitate to make any amendments to any of its conventions when the need arises. Little wonder then the SOLAS 74 and the Protocol of 78 have of recent undergone two new amendments. The first of these is the 1981 amendments on chapter 11 (1) dealing with the construction, subdivision, and stability machinery and electrical installations. These first set of amendments came into force on September 1 1984. The second amendment to SOLAS 74 commonly referred to as the 1983 amendment is not yet in force, but it is due to enter into force subject to the provision of article v111 (b) (v11) (2) of the convention on July 1 1986. This is the rule of silent acceptance adopted by IMO in order to save future amendments from bearing the brunt of the laxity of Government administrations which had been jeopardising the coming into force of the previous amendments.

APPLICATION OF SOLAS IN CAMEROON.

Although by Decree no 53 - 226 of 21/2/1953 Cameroon acceded to the 1948 SOLAS convention, the country is not yet a party to SOLAS convention, the country is not a party to SOLAS 74 and its protocol. Attempts have been made nonetheless to devote a whole chapter summarily to safety at sea in its merchant shipping legislation. Thus chapter v1 on safety at sea starts with "Safety Certificates" in the following statement:-

Every ship and every water-born vessel registered in Cameroon, including dredgers, barges, tankers and lighters navigating at sea, either under their own power or towed by another vessel shall be in possession according to the navigation effected and the installations on board of the following safety certificates:-

- Certificate of seaworthiness for all ships
- Freeboard certificates or certificate of exemption
- Safety certificate for passenger ships
- Safety certificate for equipment
- Radio safety certificate.
This old code was meant to serve as a frame work for future subsidiary legislations. Thus in article 37, on conditions for the issue of safety certificates, it empowers the chief of merchant shipping service now the Director of merchant shipping, to determine the general rules to be satisfied by Cameroon ships for the grant of safety certificates as specified in article 36.

While creating inspection teams or commissions and outlining the certificate to be issued, the code is however silent on the time intervals between one inspection and another. This contrasts sharply with SOLAS 74 and protocol which while strengthening the requirements of inspection and certification, clearly defines the time-intervals between inspections. The most important of these new requirements are:

1. The requirement that surveys for safety equipment certificates be carried out every two years. Due to the fact that they have always presented a safety hazard, an annual survey was added for tankers of ten years of age and over.

2. The SOLAS 74 does not specify a period of validity for cargo ships safety construction certificates. The loop hole was covered by the protocol which gave a maximum period of validity of five years. In addition there will be a requirement for an intermediate cargo ship safety construction certificate survey for tankers of ten years of age and over.

3. In addition to the periodical surveys specified in SOLAS 74, administrations must institute unscheduled inspections of all ships unless mandatory annual surveys are carried out.

These inspections shall ensure that the ship and its equipment remain in all respects satisfactory for the services the ship is intended. The obligation to maintain ships and their equipment in a satisfactory condition between surveys has thus been more clearly defined by the 74 convention and protocol.

In an administration like Cameroon with no proper maritime legislation as yet, all these specifications have to be well defined in future umbrella law or subsidiary legislation.
In article 38 of the merchant shipping code, there is a provision for the formation of a central safety commission to which all matters pertaining to the building or purchasing of foreign ships shall be referred. This commission is suppose to, on the plans and documents presented before it by an a ship owner, advise the Cameroon maritime authorities as to the safety requirements of the code. Among the exemptions to such an examination were applications for the construction or purchase of ships of less than 50 tons. Secondly ships classified by a recognized classification society and justifying classification in the first class. It may be necessary to add at this juncture that as a follow up of the above requirement the Arrete No. 83 of 25/6/62 recognised only Bureau Veritas as sole classification society in these matters. This was not the least surprising since Cameroon was then just emerging from colonial domination under the French rule. In order to diversify its maritime policy therefore another Arrete no. 1642 of 10 December 1975 was passed to enable the following classification societies to act alongside Bureau veritas. These were:

1. Lloyds Register of shipping London
3. Norske Veritas Oslo and
4. Germanishe Lloyds Hamburger

A striking feature in article 40 is that it empowers the shipping Inspector to inspect not only Cameroon ships but foreign ships as well that call in Cameroon ports. In its entirety it states:

"Foreign ships shall be deemed to satisfy the safety conditions arising out of international conventions on the protection of human life at sea if the master produces regular safety certificates issued by the Government of a country bound by th by such conventions. May I remark here that although an Administration can order its surveyors on Board a foreign ship in its ports when there are clear signs of unseaworthiness, in the absence of such eminent dangers, an administration is not so free to control or inspect convention ships except it be party to such conventions. Therefore despite the provisions in article 40, the Cameroon Administration has not been in the habit of controlling foreign ships calling at its ports, except when there are signs of an eminent catastrophe. They will be endowed with powers of matters only when they become parties to these conventions."
In spite of the above, the inverse is not true. Flag states or port states, signatories to these conventions can control or inspect non-convention ships when they call at their ports. This endowment is specifically stated in most modern conventions. For example Article X (5) of the STCW convention echoes this out well in the following manner:

This Article shall be applied as may be necessary to ensure that no more favourable treatment is given to ships entitled to fly the flag of a non-party than is given to ships entitled to fly the flag of a party." Following article 41 the Administration can detain a ship which by its state of up keep, want of stability, conditions of loading or for any other reasons seems unable to put to sea without danger to the crew or persons on board. While such provisions are found in every legislation today it is naked in this form without any caution to the inspector against unduly detaining a ship. It should thus be clearly stated in the legislation that if a ship is detained or delayed it shall be entitled to compensation for any loss or damages resulting therefrom.

The carriage of dangerous goods is mentioned in passing while treating the shipper – carrier relationship in article 197 of the code. No further details are given as to what constitutes dangerous goods. Have the goods been rendered dangerous due to wrong parking and stowing, and if so who should be liable. The SOLAS 74 convention requires that a controlling Government shall issue detailed instructions for the safe carriage of dangerous goods and the best guide to this is the making of the international maritime, dangerous goods code (IMDG) a part of the national regulations. The draftman could refer to it without necessarily inserting all the provisions there in.

Slightly similar to the SOLAS convention and sister conventions to it are the COLREG, LOADLINE and STCW conventions. I shall now discuss them in succession.

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA. (COLREG) 1972

HISTORY OF THE COLLISION REGULATIONS

The first international maritime conference to consider regulations for preventing collisions at sea was held in Washington in 1889, on the initiative of the Government of the United Kingdom among the new provisions agreed at the conference were requirements that a stand-on vessel should keep her
speed as well as her course, that a giving-way vessel should avoid crossing ahead of the other vessel, and that seamships should be permitted to carry a second white masthead light. This regulations came into force in 1897. At a further maritime conference held in Brussels in 1910 an agreement was reached on a set of regulations similar to those of the Washington conference. These remained in force until 1954.

Meanwhile the 1929 and the 1948 safety of life at sea international conferences had both proposed minor changes to these regulations. For example the second masthead light was made compulsory for power driven vessels of 150 feet, or upwards in length, a fixed stern light was made compulsory for almost all vessels under way and the make-up signal of at least five short and rapid blasts was introduced as an optional signal for use by a stand-on vessel. These revised rules came into force in 1954. Relatively few vessels were fitted with radar in 1948 so this aspect was not touched upon.

With the considerable increase in the number of ships fitted with radar during the following years, coupled with a service of collisions involving such vessel, it became apparent that further revision of the rules was necessary. An international conference was therefore convened in London in 1960, on safety of life at sea, by IMCO. This conference agreed that a new paragraph should be added to the rules governing the conduct of vessels in restricted visibility to permit early and substantial action to be taken to avoid a close quarters situation with a vessel detected forward of the beam. In an Annex to the rules, recommendations were made concerning the use of radar. These rules came into force in 1965.

In September 1960 the British institute of Navigation set up a working group to consider the Organisation of traffic in Dover Strait. The French and German institutes of Navigation agreed to co-operate in the following year and a separation scheme was devised. A new working group with representatives from additional countries was formed in 1964 to consider routeing schemes for other areas. The proposals were accepted by IMCO and recommended for use by other maritime Mariners, in 1967.
An International conference was convened in London in 1972 by IMCO to consider the revision of the regulations. The conference agreed to change the format so that the Rules concerning lights, shapes and sound signals. The conference transferred technical details relating to lights, shapes and sound signals, to Annexes. The stand-on rules were amended to permit action to be taken at an earlier stage and more action was placed on starboard helm action in both clear and restricted visibility. New rules were introduced to deal specifically with look out requirements, safe speed, risk of collision and traffic separation schemes.

APPLICATION

The regulations express themselves as applying to all vessels upon the high seas and in all waters connected herewith and navigable by seagoing vessels. The definition of vessel include hovercraft and every description of water craft capable of being used as a means of transportation on water. Also added to the above list are seaplanes on water.

OBSERVANCE OF THE REGULATIONS

A collision between ships usually involves what is technically called a tort, that is, an unlawful act or omission on the part of some one responsible. Just as one may be liable for damages if one runs down a pedestrian with one's car or collides with another car, so may a shipowner whose ship comes into collision with another vessel be liable to pay damages to other persons or property owners involved. Liability depends on negligence and the important question is what conduct, whether by act or omission, on the handling management or navigation of a ship amounts to negligence? The answer was given in a case (The Dundee) as follows: A person is negligent if he shows "a want of that attention and vigilance which is due to the security or other vessels that are navigating in the same seas"

Although the collision regulations are sometimes lightly specific, it is a mistake to regard them as a rigid set of unbreakable rules. Although the regulations should be obeyed, obedience is not necessarily to be a defence if the allegation is bad seamanship or negligence. Thus rule 2 of the regulations reads as follows:-
(a) Nothing in these rules shall exonerate any Vessel, or the owner master or crew thereof, from the consequences of any neglect to comply with these rules or of the neglect of any precaution which may be required by the special circumstances of the case.

(b) In complying and complying with these rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved which may make a departure from these rules necessary to avoid immediate danger.

As seen above the regulations are but one part, and a small part, of the principles of good seamanship. They are regarded as practical advise and instructions to seafarers faced with particular problems, they are not strict rules to be applied literally come what may, in other words they are highway code, not a Road Traffic Act. Finally the rules themselves. Although as has been said, they are often prcise, their specific instructions are usually expressed to apply in circumstances of "Risk", more particularly risk of collision. Which means that an assessment of danger must be made before the rule can be applied at all.

ENFORCEMENT: VICARIOUS LIABILITY

It will be recalled that the ship owner is liable not only for his own negligence but also for that of his servants, in this connection of master and Crew, provided the negligent act was committed in the course of the employment. This Liability is called "vicarious" because it results ipso facto from his from his character of employer.

The regulations when incorporated into a country's national legislation have statutory force and are binding upon "a;; owners and masters". This means, amongst other things, that infringement of the regulations is inevitably a matter that is relevant to the question of negligence in a civil claim for damages arising out of a collision. This obligation imposed on owners is a strict one and the mere fact that the owner or master has properly delegated to another the responsibility of carrying out the operation in question does not absolve the owner from responsibility. Such breach of the statute is, in law, a fault and may
be brought home to the owner or master in any relevant proceedings. For example the Lady Gwendolen (1965) was navigated in a way which involved infringement of the Radar rules (Notice to mariners No m 445). The obligation of ensuring that such rules were observed had been delegated as within the brewing company to a Marine Superintendent. The latter was answerable to the assistant management director. No one above the marine superintendent had any knowledge of ships and no one also therefore was qualified to take the responsibility. The court of Appeal held that the owners were not allowed to unit this liability. The fault of the marine superintendent was the fault of the company since the responsibility had been delegated to him.

DEFENCES

a) INEVITABLE ACCIDENT. The defence is available if it can be shown that the proximate cause of the accident was some external event beyond the ship control. In other words that it could not be avoided by ordinary care and skill or by common foresight. An example or this might be the sudden breaking of the steering gear or a sudden feat of special violence. However a heavy burden of proof lies on the master. Where a collision is caused by inevitable accident no liability arises on either side.

b) CONTRIBUTORY NEGLIGENCE. So far we have spoken of negligence on the part one of the colliding ships. We must now address out mind to what happens if there was negligence on the part of both vessels. Suppose in an action by ship A against ship B, the latter admits her negligence but goes on to plead and to prove that A's that is the plaintiff's negligence contributed to the accident, who has then to bear the loss.? The courts of today will apportion liability to make good the damage or loss in proportion to the degree in which each vessel was at fault. However a shipowner may limit his liability according to the tonnage of his ship. In such a case it may happen that there are also other claimants in connection with the same collision, in which event the fund in court has to be used to satisfy all claims.
JURISDICTION

Collisión between ships may happen anywhere in a country's territorial waters or on the high seas, and ships of various nationalities may be involved. So jusidiction involves the court in which action should be brought. Generally speaking, an action may be brought in the state whose flag the defendant ship is flying. British and American courts will hear collision actions if the defendant ship, irrespective of its nationality, is in a British or American port at the time when the case is brought. This is so though the actual collision occurred in the high seas or even in foreign territorial waters for in the opinion of British and American courts, collisions are matters communis juris and can therefore be adjudicated by courts of all maritime states.

COASTAL STATE RESPONSIBILITY

Road-straeds are now included among the areas for which an appropriate authority may lay down special rules, others include special rules for harbours, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels. A roadstead is an open anchorage, generally protected by shoals, which offer less protection than a harbour. This means that coastal states or local authorities may lay down special rules for areas which lie outside the usual limits of inland waters. Mariners should be aware that special rules may be applicable in such areas and should consult the coastal state authority and other publications for details. Such special rules should however conform as closely as possible to the collision rules. It is hoped that there will be no proliferation of special rules and that there will be no important differences with the 1972 regulations which would be likely to confuse mariners. Rules 1 (c) endows the Government of any state to make special rules with respect to additional station or signal lights, shapes, whistle signals for ships or war, and vessels proceeding under convoy, additional lights and shapes for fishing vessel engaged in fishing as a fleet. The above should however be different from those authorized elsewhere under these rules. Section (d) of rule 1 gives IMO the authority to adopt traffic separation schemes to which the provisions of rule 10 of the 1972 regulations will apply. A traffic separation scheme is defined
by IMO as follows: a routeing measure aimed at the separation of opposing streams of traffic by appropriate marks and by the establishment of traffic lanes. In section (e) of the same rule, exceptions may be granted to special-purpose vessels whose structure makes compliance with all rules impracticable.

COLLISION REGULATIONS AS APPLICABLE IN THE CAMEROON MERCHANT SHIPPING CODE.

As mentioned earlier in my introduction, Cameroon, up to the time of my writing, is a signatory only to the revised version of the collision regulations adopted in the International conference of safety of life at sea in 1948. The changes were mostly concern with rules governing the conduct of vessels in restricted visibility. These revised rules came into force in 1954. Thus article 51 of the Cameroon Merchant shipping code declares succintly that, "All Cameroon seagoing vessels shall conform to the international regulation for the prevention of collisions in force since 1st January, 1954," one should note that with the relative increase of the use of radar during the following years, coupled with a series of collisions involved such vessels, the revised rules of 1954 were further revised at the IMCO conference on safety of life at sea, in 1960 and culminating in the international conference convened in London in 1972. A lot has therefore happened by way of revision of the rules on restricted visibility and the use of radar since the 1948 conference. The Cameroon code recognises cases of inevitable accidents and the manner in which the loss is to be settled. Article 45 declares that if the collision is fortuitous, or due to force majeur, or if there is doubt as to the cause of the accident, the damage shall be borne by those who sustain it, regardless of the fact that the ships are, or one of them is riding at anchor at the time of collision. In cases of fault or negligence compensation for damages paid by the party at fault. This gives rise to a civil claim for damages arising out of a collision.

Mention is also made of collision by common fault or contributory negligence, in article 47. Where the defence of contribution negligence is raised by the defendant and accepted by the court, the liability of each ship shall be proportionate to the seriousness of the fault committed by it. However if in the circumstances a portion cannot be equivalent, liability shall be shared equally. The liability by the ship at fault extends to the damage done to property
of those on board, both passengers and crew. As regard damage done to third parties by way of death or personal inquiries the ships at fault are jointly and severally liable. The liability established above subsists even where the collision is caused by the fault of a pilot, whether his services are compulsory or not. Article 48 qualifies this liability by referring to article 205 of the code which holds the pilot liable only in cases of gross negligence or misconduct. Although the pilots negligence exposes him to an action for damages by the ship he controls and by a third party the action against him will however not be of any great value, since the amount of damage will usually by far exceed what a pilot can pay. A third party will usually try to make the ship liable for the pilot's negligence. The code clearly defines the competent court. Article 50 states that in the event of collision the plaintiff may, at his option bring proceedings before the court of the Defendant's place of domicile or that of Cameroon or the foreign port in which either of the two ships first took refuge. At the plaintiffs option if the collision occurs within the waters subject to Cameroon jurisdiction proceedings may also be brought before the court within whose areas of jurisdiction the collision occurs. May I also add here that Cameroon is a signatory to Annex B of the 1960 conference.

INTERNATIONAL CONVENTION ON LOAD LINES 1966
HISTORY AND ORIGIN.

Although the early maritime traders obviously found it necessary to take measures to prevent overloading of vessels, it is not until about 1000 AD that there is direct evidence from Venice of a mark being placed on the side of a ship to indicate approximately a safe loading. These early Mediterranean traders also took steps to control the carriage of deck cargoes and the ballasting of ships. Later on the western seafarers obtained the basis of their regulations from the practice of the Mediterranean, but they do not appear to have been very definite in regard to the load line mark.

In spite of the fact that much had already been achieved on this subject by the classification societies, especially the Lloyd's Register of
shipping and the English seafarers in general at the beginning of the 20th century, there was a general awareness running through the international maritime community, on the importance of the load line which at that time was causing many casualties at sea. It was not until 1930 that a successful international conference adopted a load line convention.

In the years that had elapsed since 1930 it had become increasingly clear that the decision then made were being overtaken by development in ship design and methods of construction. Ships particularly tankers have grown in size and specialized designs to meet particular trades have become more prevalent, machinery spaces in dry cargoes ships are being located away from their traditional position amidships, and wood hatchway covers have to a great extent been replaced by metal hatchway covers and riveting has largely given way to welding. It was therefore considered that there was need for a revision of the 1930 convention. It was against such a background that an international conference on load line 1966 was commended in London, by IMCO (now IMO) from March 3rd to April 5th 1966. The overall objectives of the above convention are to enforce, as far as is reasonable practicable that ships to which convention applies shall have adequate reserve buoyancy to remain afloat at sea under any weather conditions likely to be encountered, and to provide safe working platforms for their crews. It was unanimously agreed that ships of a certain size and type which proceed to sea are required to meet the regulations of this convention which requires that a mark should be placed each side amidships indicating the maximum possible draft.

The convention itself consists of 34 Articles, and 52 regulations which are binding upon all contracting Governments. Attached to the convention are 5 recommendations which are not binding upon any Government but are probably adopted by most Governments.

**APPLICATION**

Article 5 enables existing ships of less than 150 tons gross to be excepted from the convention, but for new ships this lower limit will be defined by a length parameter viz 24 meters or 79 feet. However
National regulations can impose more stringent limits. The United Kingdom says there is no lower size limit, but it does have exemption for coastal voyages. Two significant changes have been made in regard to those classes of ships excepted from the convention. Exceptions will be restricted to those pleasure Yachts not engaged in trade & instead of being applicable to all pleasure Yachts. Further more the general exception currently applicable to ships not carrying cargo or passengers will be withdrawn. Article 16 introduces the use of a load line exception certificate which in certain circumstances may be issued in view of a load line certificate. The procedure as to survey will be similar to that appropriate to the issue of a load line certificate. Article 19 covers a point not made clear in the 1930 convention or in the safety convention, namely that when a ship to which the convention applies changes flags, its convention certificate lose their validity.

There are no exact scientific principles for determining the correct freeboard on any particular ship and indeed it may be argued that there is no such thing as a "correct" freeboard for any ship. The assignment of freeboard is in accordance with various regulations of the convention which are based upon experience gained over the last 100 years.

The freeboard assigned to a particular ship is obtained by comparing the geometrical particulars of the ship with those of a standard ship of the same length. The standard ship has a length-to-depth ratio of 15 a block sufficient of .68 at .85 of the moulded depth, a standard sheer profile and standard round beam. A table of basic minimum freeboard is given in the convention, and from the basic minimum freeboard the summer freeboard is obtained by applying corrections depending upon how the ship under consideration differs in geometry from the standard ship. The other freeboards are then calculated with reference to the summer freeboard.

THE ROLE OF NATIONAL MARITIME ADMINISTRATIONS - CAMEROON

The convention on load lines 1966 like any other IMO convention has no force in any country until that Government ratifies or becomes party to it, and produces a national legislation covering the requirements.
of the convention. For example in the United Kingdom this legislation consists of an Act of parliament known as the Merchant Shipping (Load lines) Act 1967 and his Act is supported by statutory instrument 1968 No. 1053 entitled "The Merchant Shipping (Load lines) rules 1968.

SURVEY INSPECTIONS

The survey inspection and marking of ships in accordance with the requirements of the international convention on Load lines 1966 are usually carried out by classification societies to which national Administrations have delegated these duties. These societies usually issue the appropriate certificates. However each administration concern fully guarantees the completeness and efficiency of the surveys, inspections and markings and it issues full responsibility for the certificates issued. It also have the direct responsibility to ensure that ships to which the convention applied do not proceed to sea unless they are properly certificated and not over loaded. Following the convention requirements the surveys should follow this pattern:-

INITIAL SURVEY

This is a survey which is carried out before the ship is put into service. It must include a complete inspection of its structure and equipment in order to ensure that the arrangements, materials and scantlings fully comply with the requirements of the convention. Various plans must be attached to this survey report.

PERIODICAL SURVEY

A periodical survey is usually carried out every 4 years. This is also a complete inspection of the structure, equipment and scantlings. No attachment of plan is required.

ANNUAL INSPECTION

An annual inspection must be carried out on every ship within three months before or after the anniversary date of the certificate in order
to ensure that there have been no alteration as to the load lines and that the fitting and scantlings are well maintained. Cameroon is not yet a party to the 1966 loadline convention, but in order to render its sea-going vessels seaworthy Det Norske Veritas of Oslo Norway and Bureau Veritas of France have complete Authority to survey and issue appropriate certificates. In certain circumstances the full term certificate is issued by the Administration. Other classification societies recognised in Cameroon for certification in these issues are Lloyds Register of shipping London and Germanish Lloyd Hamburg.

The merchant shipping code of Cameroon in its safety chapter Art 36 slightly mentions the possession on board of a freeboard certificate or a certificate of exemption. The draftsman had in mind the 1930 load line convention requirements. May I also mention here that at the time of drafting the above code in 1962 there were hardly any sea-going vessels or vessels of international voyages registered under the Cameroon flag. The provision in Art 36 is fairly wide, and there appears to be no limit as to size or weight, the only qualification being navigating at sea. Thus in its entirety it reads:-

Art 36 - Safety Certificates. Every ship and every waterborne vessel registered in Cameroon including dredges, barges, tankers and lighters navigating at sea, either under its own power or towed by another vessel, shall be in possession, according to the navigation effected and the installations on board of the following safety certificates.
- Certificate of seaworthiness for all ships
- Freeboard certificate or certificate of exemption
- Safety certificate for equipment
- Safety certificate for passenger ships
- Radio safety certificate.

Thus there was little done by way of implementation and enforcement of this convention in the early sixties when this code was drawn up.

Complementary to the load line convention and often confused with it is the International convention on Tonnage measurement of ships 1969. I shall now briefly touch on this convention.
THE INTERNATIONAL CONVENTION ON TONNAGE MEASUREMENT OF SHIPS 1969

HISTORY AND ORIGIN OF TONNAGE MEASUREMENT

In order to fully appreciate the concept of tonnage measurement it may be necessary to analyse its origin, which is responsible for the confusion between carrying capacity that is weight and the volumetric capacity. As mentioned there are two main categories of tonnage, one indicates volume of space to accommodate cargo, crew, etc. 100 cubic feet, or 2.83 m³ being 1 ton, another indicates weight of ship or cargo, 1000 kilogram being 1 ton or approximately so.

Volume tonnage is used for measuring gross tonnage, net tonnages are employed at registration of a ship to indicate her size. Gross registered Tonnage (GRT) is intended to indicate the overall size of the ship while the Net Registered Tonnage (NRT) is intended to indicate the carrying capacity of the ship. Gross registered tonnage determines some harbour dues, safety regulations and manning regulations now moving towards length. Net registered tonnage on the other hand determines light dues, custom levies, canal dues, Suez and Panama.

Weight tonnage is used for measuring the "displacement" or total weight of a ship, the dead weight which is approximately the weight of cargoes plus fuel, and the "light weight" nearly the weight of a ship herself including machinery and fixed equipment, but cargoes and fuel excluded. The weight of a ship herself (LW) plus the weight of cargo and fuel (DW) is equal to the total weight that is displacement weight.

The regulations relating to gross and net tonnages are very complex and have behind them a long history of development to their present form. It may therefore be necessary at this juncture to give a brief account of this historical development of the registry of tonnage.

Historically it appears that the need to describe this capacity developed during the 12th Century when "wine" in barrels was a popular cargo and harbour dues could be easily levied using this parameter. With monetary transactions coming into the picture there developed the need to have a "standard" barrel and in the 15th Century the law in England decided that no barrel should be less than 250 gallons a typical weight of this being 2240 lbs, occupying 57 cubic feet.
With this standard it became the practice to refer to the capacity of a ship as its tonnage and associated with that there was the weight of 2240 lbs. A landmark development in the history of tonnage measurement is associated with the name Moorsom. In 1835 a UK Act of Parliament tried to separate weight from capacity in expressing registered tonnage. This increased the tonnage of existing ships thereby touching off a serried of protests from shipowners since the higher the tonnage the higher the amount to be paid by them for dues and levies.

This lead to a Royal Commission being appointed in 1849 with Moorsom as secretary. This body tackled problems fundamentally by insisting upon internal measurements to ensure accurate measurements of the volume available, both below deck and in the Superstructure for their specified purposes, e.g., cargo, passengers, crew etc. The total capacity was divided by 100 to obtain the tonnage, it having been established by testing a sample of existing ships, that this divisor gave most existing vessels a slightly lower tonnage.

Gross Tonnage = \( \frac{1}{100} \times \text{volume of under-deck space} + \text{cargo/passenger space on deck in cubic feet} \).

When the metric system is employed it will read:

Gross Tonnage = \( \frac{1}{2.83} \times \text{volume of under-deck plus cargo/passenger spaces on deck in m}^3 \).

This principle still exists basically unchanged in all national and international tonnage measurement rules of today. Moorsom system as it became known had among its original basic intention the concept that:-

a) Spaces in the superstructure not intended for cargo should be exempt from measurement.

b) Space devoted to propulsion should be deducted, that is (Machinery spaces under deck).

This calculation lead to the idea that tonnage is to represent a ship's capacity available for the transportation of cargo and passengers. Thus volume of under-deck space plus cargo/passenger spaces on deck were measured for most ships at that time. The Moorsom's system, simply in concept became the basis for tonnage accepted by all other maritime countries.
Unfortunately there was no uniformity in the interpretation and application in the various countries that adopted it. Now shipowners exploited this confusion by designing and constructing ships with increasing cargo capacity, but keeping tonnage unchanged, thereby sacrificing safety for economic motives. This could not go on endlessly. Through the concerted efforts of the classification societies and the safety committee of IMCO (now IMO) many conference were held to discuss this issue, culminating in the 1969 International conference in London. In this new convention the gross tonnage G.T. is based upon the total volume of all enclosed spaces without any exemption.

APPLICATION OF THE 1969 CONVENTION.

EXISTING SHIPS - Transitional arrangements have been made for existing ships. This allows them a 12 years period of grace which expires in 1994 making altogether 25 years after the birth of the convention.

NEW SHIPS - Resolution A 389 (x) of IMO allows new ships to have their tonnages computed under the national pre 1969 convention rules, for the purpose of the application of SOLAS 74. This resolution expires on the 31/12/85. However the above resolution was revoked by IMO and replaced by A 494 (x) of January 1982. Although the wording and principle remain the same the application was changed. The new resolution clearly states that the interim scheme shall not apply to ships whose keels were laid after 31/12/85. It however recognise two exceptions.

1) The interim scheme may continue to be applied until July 1994 to cargo ships of less than 1600 tons (by national systems) whose keels were laid after 31,12/85.

2) The interim scheme may continue to apply to all ships whose keels were laid before 18/7/94 in respect of compliance with regulation 3 of chapter IV of SOLAS 74.
IMPLEMENTATION OF THE 1969 CONVENTION IN CAMEROON

Like the load line convention, the Tonnage measurement convention has not yet been ratified by the Cameroon Government, but the administration has however delegated authority to the classification societies mentioned earlier to survey and issue appropriate certificates and upon special authorisation to act on behalf of the Government.

CH. 2

THE INTERNATIONAL CONVENTION ON STANDARD OF TRAINING, CERTIFICATION AND WATCH KEEPING FOR SEA FARES, 1978

After having discussed the various conventions associated with safety, I shall now proceed to highlight the role played by training and certification of seafarers in either making the vessel sea worthy or unseaworthy.

Besides the often repeated warranties in charter-parties that the ship is "light, staunch and strong and in every way fitted for the voyage," it is now well known by shipowners that a ship is efficient as an instrument of transportation if hull, tackle and machinery are in good shape, if she is sufficiently provided with fuel and ballast and is manned by an efficient crew occupies an important place. This importance can be illustrated in English case law e.g. the Roberta. In this case, in engaging the engineer of a ship the owner had not inquired about his qualification. He turned out to be wholly incompetent and the court held, that the ship provided for the contract was unseaworthy. Meanwhile the last three decades of this century have seen considerable development in the field of maritime transportation. Great studies have been made in the design of ships for specific trades and services giving birth to a variety of special purpose ships some of which are of enormous size, complexity and cost. Similarly machinery design has undergone changes leading to economy in fuel, maintenance and operation cost. Numerous electronic aids and automatic systems were introduced requiring higher skills, albeit a smaller number of crews. With this advancement of technology in shipping it was generally felt that the training and certification of seafarers to man these ships should not only be intensified but also standardised at a global level. This was also necessary considering the important factor that
nearly 85% of maritime accidents are caused by human error.

After a long historical development and efforts by the sub-committee of IMO on standard of Training and watchkeeping an international conference was finally convened with delegates from 72 countries, the largest ever held by IMO. In its deliberations the conference adopted an international convention on standard of Training, Certification and watch keeping for seafarers 1978, suppose to rank in importance only to SOLAS 74/78.

THE CONVENTION

The convention is the first attempt to establish global minimum professional standards for seafarers. Previously the standards of training, certification and watch keeping of officers and ratings were established by individual governments, each one in its own way, and usually without reference to practice in other countries. Such standards were not only low but varied widely even though shipping is the most international of all industries. The convention prescribes minimum standards which countries are obliged to meet or exceed. Little wonder therefore that in a majority of traditional maritime countries, standards are often higher than those stipulated in the convention. In most other countries however standard are not so high and by ratifying or accepting the convention government undertake to implement and enforce its requirements. Nevertheless, bearing in mind the advent of the newly independent maritime countries the standards set by the convention are minimum practicable standards which can without doubt be implemented by all countries concerned.

Briefly described the 1978 convention lays down basic principles to be observed in keeping navigational and engine room watches mandatory. Minimum requirements for the certification of masters, chief mates, officers in charge of navigational watches, radio officers, radio operators, and radio telephone operators. Mandatory minimum requirements are also stipulated for ratings forming part of a navigational and engine room watch and minimum knowledge requirements for certificates are also incorporated in the convention. The articles contain the legal provisions of the convention while the technical content is incorporated in the annex. The articles deal with entry into force procedures, amendment procedures, denunciation and other
matters, certificates each authorizing the holder to serve in a stated capacity are the basic control provision of the convention and article VI requires that they be issued only to those who meet the requirements of the convention.

**ENFORCEMENT.** Article X states that ships with exception of warships and fishing vessels are subjects while in a port of a party to control by officers duly authorised to verify that personnel on board hold the required certificates. Deficiencies are required to be reported to the master and to the authorities of the flag state or control of the same. However if the deficiencies are judged to pose a danger to personal property or environment the party carrying out the control may detain the ship until such a time that the danger is averted or removed. The article further requires that action taken should be reported to the Secretary General of IMO. The officer carrying out the control is cautioned however to avoid unduly detaining the vessel as this could lead to lawsuits and compensation for loss or danger resulting therefrom. The convention further mentions something not common to other conventions and that is its application to non-convention ships. The last paragraph of article X clearly stipulates that no more favourable treatment should be given to ships entitled to fly the flag of a non-party than is given to ships entitled to fly the flag of a party.

Although one aim of the convention is that in future all certificates shall ultimately be issued in accordance with its requirements, the need for transitional provisions is recognised in Article VII. This states that Certificates issued before entry into force of the convention for a party its Administration may continue to issue certificates of Competence in accordance with its previous practices for a period not exceeding five years. Following the same line of thought and bearing in mind that there must always be cases of dispensations, Article VIII describes how in circumstances of exceptional necessity dispensations may be granted to enable sea-farers to serve in capacities for which they do not hold appropriate certificates. But no such
dispensation exist however in the case of a radio officer or operator.

In article XII a "tacit acceptance" procedure drawn from the 1974 SOLAS convention has been included. With this novel procedure amendments to the STCW convention or its Annex may be adopted by IMO's Maritime safety Committee and expanded to include all contracting parties and even non members of the Organisation. Amendments to the STCW Annex will normally enter into force two and a half years after being communicated to all parties unless in the meantime they are rejected by one third of the parties or by parties whose combination merchant fleets represent 50% of world tonnage. This contrasts with earlier methods which required that they be accepted by two thirds of contracting parties. Due to the laxity and bureaucracy in most Administrations this method always took many years and in some cases like the 1960 SOLAS convention some amendments never did enter into force.

Last but not least the convention in Article XI requires Technical co-operation between parties in the field of:

a) Training of administrative personnel
b) Establishments of institutions for the training of seafarers,
c) Development of adequate training programmes, including practical training on sea-going ships and facilities of other measures and arrangements to enhance the qualification of seafarers. The convention formally entered into force on the 28th of April 1984. Considering that training involves a transfer of technology in shipping, from the developed maritimes nations to the developing maritime countries, I shall now look into the structure of training in a few developed countries from where most of our countries are tapping this technology.

THE STRUCTURE OF TRAINING IN THE DEVELOPED MARITIME COUNTRIES
(UK USA FRANCE FEDERAL REPUBLIC OF GERMANY AND THE SWEDEN)

What is in issue here is the method of training practiced in either of the above countries. There are principally two methods which I shall herein-after referre to as system A and system B.
A) In the system A emphasis is placed primarily on "Learning by Doing", in other words on the job training checked out by the formal examinations organised by a statutory Authority. In this method a trainee with suitable experience ashore, usually in a shipbuilding yard or ship repair yard is engaged as a crew member, (Engineer officer or Engine Room Rating ) and learns the practicalities of his job by doing it under guidance and supervision. Such learning by direct experience is usually supported by class-room instruction which includes some education in theoretical subjects.

B) System B on the other hand places emphasis primarily on formal education and training including examinations and assessments acceptable to the statutory Authority. A trainee follows a carefully planned scheme of training, covering all aspect of his expected duties, and carried out under controlled conditions - mostly ashore in Maritime Training Colleges or in other training establishments.

(1) TRAINING OF ENGINEER OFFICERS IN UK

In broad terms the training of Engineer officers in the UK can be classified into three categories.

(a) Traditional Training
(b) Cadet Training and
(c) Further Training

(a) TRADITIONAL TRAINING

The type of training that the job training reflected the philosophy of the United Kingdom and those countries mainly previous colonies which had inherited the British system together with (one or two) Northern European countries. This group generally had a well developed system of examinations for certificates of competency to which training programs were primarily directed. As far back as 1863 there has been a legal requirement for chief and second Engineers of most Ocean going ships registered in the United Kingdom to be duly certificated and the UK Administration has itself held examinations leading to the award of such certificated. As a prerequisite to entry
into any of these examinations candidates have been required to prove that they have served suitable apprenticeships relevant to marine engineering in shore establishments and that they had a considerable amount of seagoing experience as an engineer officer. In most cases examination candidates had served five years engineering experience either in shipyards, or in Marine engine makers works. They would then be accepted by shipowners for employment as uncertificated Engineer officers and having thus served for 18 months at sea, attended private or public marine colleges for about six months in order to prepare themselves for the UK Administration second class examination. A further 18 months at sea while holding their second class certificate qualified them for entry into the UK Administration First class examination with about 6 months in some marine college before sitting the examination. Although this system of examination still exists today it is being gradually superseded by another system of training generally referred to as "Cadet training".

b

CADET TRAINING

This was introduced in dissatisfaction with the traditional training which was becoming increasingly inadequate towards the sophistication of the modern ships. Ship owners wanted a more comprehensive, systematically planned and carefully controlled system of training. A type of education that not only gave all the practicable training required under controlled conditions but one that would truly educate young men in the theoretical aspects of their profession and thus attract a more intelligent and versatile type of person for employment as an engineer officer. This scheme found favour with the UK. Administration itself and the educationalist from the public Marine Colleges. The scheme consisted of three courses, of training, all involving the same degree of practical training but Training of Engine Room Ratings in the United Kingdom.

There have never been any legal requirements for the training of Engine Room Ratings in the UK. registered ships. But plans are underway for such training according to regulation III/6 of the STCW convention and the recommendation of resolution 9 of the conference. The ratings will be required to follow a properly organised course of training, which has been approved by the Administration and on successful completion of such training, be issued with an appropriate certificate also approved by the Administration. Possession of such a certificate
will be evidence to the fact that the rating is suitable to form part of an Engine Room Watch. The course will be entirely practical in nature. Trainees attending them will have basic training in the use of Engineering tools, and will familiarise themselves with various types of Engine Room Machinery.

2. **TRAINING OF SEAFARERS IN THE USA**

   In the USA there is a blend of the two systems mentioned earlier namely on-the-job-training and training by formal education. The traditional system of learning by doing has somewhat been modified by the availability of special training courses in:-

   i) Union run training schools with concentrated courses including material for upgrading licences.

   ii) Courses of study at city colleges which are less than degree programmes but which gives a great deal of background.

   iii) Private preparatory schools tailored for preparing a student to pass the USCG (United States Coast Guard) Exam.

The formal educational programme is covered principally by the *Federal* merchant Marine Academy located at King's Point New York and the States Maritime Academies. Currently six states participate in Maritime Programmes. These are California, Maine Massachusetts, Michigan, New York and Texas. All these academies except Michigan offer a four year Bachelor of Science Degree and Coast Guard Licence as a third mate or third engineer. Michigan offers a three year programme with an associated arts degree. The Federal Government assists the States Programmes by providing and supporting the training ships and by paying a small percentage of cost for each cadet leaving the major training course to/borne by the trainee.

A system of schools is also available to train seafarers in fire fighting life saving appliances, rather plotting use of loran, Satellite Navigation etc. They are called regional schools and may be expanded to meet the STCW requirements.
THE FRENCH & SCANDINAVIAN
THE FRENCH, SCANDINAVIAN, GERMAN AND USSR SYSTEMS OF TRAINING

These maritime nations had directed their attention long before Britain did to the education and training of their seafarers. During the last half of the eighteenth and first half of the nineteenth century countries such as Sweden, Denmark, Norway, Russia, the German states, Venice and France had codes of law and training requirements, to be complied with by the masters and mates of their merchant ships. This was possible because many of these countries had concerned themselves for many years with the provision of technical education. In other words they pioneered the type B system of training which involves a carefully planned scheme of training, covering all aspects and carried out under maritime colleges and academies. Countries like & Norway and the soviet Union are very famous for their maritime institutions most of which havecome to achieve international standards and from where most seafarers from development countries receive their training.

Two of such famous institutions are the Odessa Maritime school and the Norwegian Shipping Academy Oslo. Through its research institutes famous among them "The Research Institute of Norway" and an old established maritime tradition, Norway has come to the traditional construction of specialised vessels, like chemical carriers for specialised trades. France is also famous especially in the French Speaking African States for its Maritime schools in Bordeaux and Le Havre and probably Paris for shore staff. Significantly the United states took greater note of the developments of the great European polytechnics such as Zurich and Delft. For example the massachusetts institutes of Technology was modelled on these early English European institutes.

Actually it was not until 1963 that a committee of inquiry into higher education in the UK recommended the setting up of Technological universities.

Which of these two systems therefore must Cameroon as a developing maritime nation adopt for the training of its manpower needs.
TRAINING, CERTIFICATION AND MANPOWER DEVELOPMENT IN CAMEROON.

Before I go in depth in this matter may I mention here that Cameroon has not yet ratified the convention on standard as Training Certification and Watchkeeping for seafarers 1978. Apart from one hollow article in the Merchant Shipping code (art 111 on seamanship) there is hardly any domestic legislation that regulates training and Certification of seafarers. This article states that every seaman embarking on a sea going vessel shall be issued according to the trade training which he proves, either with a continuous discharge book or with a special card valid only for cabotage, coasting or local fishing. The article goes further to explain the conditions under which a continuous discharge book may be issued. This is a professional booklet issued to candidates holding either a seaman Trade Certificate or a certificate of specialisation in ships of war or a General Engineering Trade Certificate issued by the Technical Education authorities. Seamen, holders of this discharge book, may embark on any ship what so ever and whatever the type of voyage. As far as the level of qualification and training standards are concerned this booklet reflected the ceiling at the time and possession of it made a seaman eligible to work on board all kinds of ships irrespective of the tonnage and trade. On the other hand the special card aforementioned is issued to all beginners without trade qualifications. Paragraph three of article 111 specifies that, "Such Seamen shall only be issued with continuous discharge books after proof of three years experience on local vessels commissioned for cabotage, fishing or coasting and of adequate seamanship established by practical examination before the shipping inspector. This brings us nearer to the traditional method of training, in other words learning by doing checked out by formal examinations organised by a statutory authority or a Maritime Administration.

I will now look at training and manpower development in the three major areas of the countries maritime sector. These are the sea-going personnel, the fishing industry personnel and the personnel involved in off-shore activities. Who is a seaman in Cameroon? Article 104 of the code defines a seaman as "any person of either sex shall be deemed to be a seamen who agrees with a shipowner or his representatives to serve on board a seagoing ship and work for a reward on deck, in the Engine room or in general services. This definition shall exclude person
embarked casually for work of maintenance or repair whatever the
duration of their work." The article is however silent on the status
of a master who in some maritime textbooks is often exluded from the
above definition. In 1983 there were 209 sea-going personnel working
with Cameroon Shipping Lines, the state owned shipping Company with
six vessels two of which are 12,800 DWT and the four others 16,600 DWT.
Among these 209 seamen 85 are officers of which only 23 are nationals.
Cameroon is therefore a great important of sea-labour, despite the fact
that most developing countries are today exporting sea-labour to high
cost developed countries. Most of Cameroon's foreign labour comes from
the Philippines and West Germany. Of course the presence of German
officers on board these ships is not questionable, the company being a
joint venture between the Cameroon Government and the German Company
Unimar of Hamburg. On the other hand the continuous recruitment of
other foreign seamen would raise eyebrows if it continuous unchecked for
a very long time. The reasons being that instead of helping Cameroon
in its balance of payment problems, (and which is one of the main
reasons for the creation of CAMSHIPLINERS) such a policy may only
aggravate the situation. This is easy to see since the country is being
siphoned of its hard earned foreign currency normally paid in dollars
as salaries of the foreign personnel. Since this is spent or banked in
their home countries, it helps to deplete the country's limited foreign
reserves, while at the same time fanning the unemployment problem,
in Cameroon.

The only justification for the present state of affairs is that Cameroon
is short of personnel in the officers rank and in terms of training it
takes such a long time to qualify as one.

What ever the case may be the Governement will not allow this go on
endlessly. An extensive training programme for its nationals is presently going on in Maritime institutions like Burdeux and Le Havre
France, Odessa in the Soviet Union (recently discontinued for political
reasons and Accra in Ghana. Training is also extended to Ratings. When a ship is newly bought to permit the would be seaman acquire some
knowledge on working on ships. These are trained in Germany through
the arrangement of the Cameroon Government and the Unimar Shipping of
Hamburg. But the duration of this training is often very short, leaving
the rest to be carried out on board the ships where the trainee is
newly employed. Training is also being intensified for the shore based personnel most of which takes place in France and Germany.

In the fishing sector training of marine personnel is still elementary or none existent at all. Probably the reason might stem from the fact that this sector is dominated by foreign-owned fishing companies operating in Cameroon. These are companies owned mostly by French nationals who have no desire to train Cameroonians since they can always make use of ready foreign personnel coming from Peru and other Latin American Countries. Here is another important factor which is being overlooked both by the Cameroon Maritime Administration and the ministry of fisheries there by creating another outlet for foreign reserves currently being a new field and just recently introduced in Cameroon. Training of maritime personnel has not yet taken off the ground. Nevertheless, with the extension of CAMEROON SHIPPING LINES in the tanker business in the near future, this sector too will receive great attention.

THE IDEAL SYSTEM OF TRAINING FOR CAMEROON

It is necessary to know the merits and demerits of the two systems mentioned earlier before a developing country like Cameroon should make a definite choice. Another important factor to be given consideration by an Administration is the concept of job description. What is the trainee being trained to do. A job description in the context of organization training means a careful description of all aspects of a particular job for which a person is being trained. Only when this has been ascertained that the training meets its objectives.

The on-the-job training checked out by formal examinations is at least initially cheaper from the shipowner's point of view. But it can be more expensive in the long run since the end-product of such training may or may not have received adequate instruction for his job. The relative cheapness of this training is due to the fact the trainee is already partially trained when he joins the company and he thus does a useful job whilst he is undergoing training by the company.
On the other hand the system of formal education is relatively expensive because the shipping owner employs a young man who has just left school and gives him a formal training over a certain duration during which the trainee is not doing any useful work and is therefore a total liability to the shipowner. An Administration should ask itself the total objective of the training program and the specific job description of the various trainees. If the sole aim is to provide crews for the ships, the ship owner may prefer the economy of letting the officers work their way through the ranks, the brighter and more ambitious ones preparing themselves for examinations and promotions. Conversely if the future demand for seafarers is uncertain the system of formal education is preferable as this will allow well trained officers to be saleable in other fields and in other markets worldwide. This system besides producing qualified personnel for the ships will provide the shipowner with a pool of educated Maritime people from which all levels of Managers, directors, and shipping executives will come from. This therefore permits officers at a later stage of their careers to be adequately armed for positions ashore.

Considering that Cameroon is a new Maritime nation with little or no past maritime experience, bearing in mind the lack of a qualified personnel in this sector for both sea-going and shore staff emphasis is now being put on training by formal education in recognised maritime institutions worldwide. Thus young men leaving high-school with the required qualifications are sent out for training in institute mentioned earlier to become engineers, chief mates, master-mariners, radio officers and operators.

However the way is not closed any crew member not an officer can prepare himself for formal examinations organised by a recognised Examination Board, thereby receiving an on the job training. The fact that this method is mentioned by the code in article 111, means as far back as 1962 Cameroon had prepared itself for a blend of the two systems, although the latter is not yet fully developed. With plans underway for the establishment of a maritime school in Douala in the near future the training of ratings will no more pose any problem.
The standards set for training and certification are purposefully high. This is manifested in the fact that sometimes after graduating through a formal education, the Cameroon Maritime Administration may require an extended sea-going experience of 36 months instead of 18 months as stated by Reg 11/2 (2) of the STCW convention for certification as chief mate, and probably 18 months instead of the required 12 for others officers. The administration may be preparing the chief mates who undergo such an extended seagoing experience of 36 months normally required only for masters, to take up positions as masters after the departure of the expatriates now serving this role. The reasons behind such a policy may be to avoid producing half-baked officers and master-mariners.

In conclusion I will re-iterate the fact that the essence is not to select a particular system simply because it is applied in France, UK, or any other developed maritime nation but to adopt one that marries with our pattern of development and general objectives. Finally it does not just suffice to train people without a solid legislation to guide and direct the Administration as to certification and the respective duties of each holder of certificate. A separate or subsidiary legislation is therefore necessary to regulate basic things like manning scales, certification and watchkeeping on merchant ships.
CHAPTER THREE

CONVENTIONS ON THE PROTECTION OF THE MARINE ENVIRONMENT

In recent years, the question of the damage caused to the sea and to the marine ecology by shipping and by shore-based activities has come under increasing scrutiny. The amount of oil carried by sea has risen by 700 percent in 20 years to around 1,700 million tons. Similarly, the world tanker fleet has increased from 37 million dead weight tons in 1954 to around 340 million DWT. Today, and the size of the tankers themselves has also grown amazingly. While in 1954 the largest ship in the world was a little more than 30,000 DWT, there is in existence today several ships of more than 500,000 DWT. In the wake of the above developments it is obvious that the consequences of an accident are potentially much greater today as was shown by the Torrey Canyon incident in 1967 and the even greater Amoco Cadiz disaster in 1978.

Another damage to the oceans and to coastal states comes from the cleaning operations carried out by crews of oil tankers. The tanks in which the oil is carried are normally cleaned while the ship is returning to the loading port. Some of the tanks are also filled with water on the return voyage, to give the ship enough stability and manoeuvrability. The water used in the way also becomes contaminated with oily residues. These residues and those due to cleaning operation are disposed of directly into the sea, before the tanker can take on a fresh cargo of oil. For many years it has been recognized that the amount of oil being pumped into the sea is becoming too much for the ocean to absorb, and a variety of methods have been introduced in attempt to eliminate the problem of operational pollution. Individual governments and tanker operators have played an important role in introducing methods which are designed to reduce operational pollution and to prevent tanker accidents. In view of the fact that the transport of oil and other harmful substances by sea is an international business, it has widely been felt that the problem should be dealt with at an international level.

Little wonder therefore that since its inception IMO has devoted increasing attention to the problem of marine pollution. Its role in the field of the prevention, control and abatement of marine
pollution is directed towards the following:

1. To prohibit the deliberate discharge of oil and other harmful substances into the sea by regulating ship operations such as tank cleaning and deballasting and at the same time adopting standards for the design, construction and equipment of ships.

2. To minimize pollution arising from maritime accidents by adopting standards for the construction, equipment, navigation, cargo handling and crew qualification.

3. To mitigate the effects of pollution once it occurs, by adopting certain ship construction and operation requirements and establishing an international legal regime for intervention in the event of emergencies.

4. To establish schemes whereby victims of pollution damage are compensated for their financial loss.

5. To develop procedures for the effective implementation of conventions, including survey and certification of ships, port state control and sanctions against discharge in contravention of convention requirements, and finally.

6. To develop and implement technical assistance programs to facilitate the implementation of conventions and to promote national and regional arrangements for combating pollution.

Besides the efforts put forward by IMO by way of international conventions for the control and prevention of pollution from ships, other conventions have come up to deal with cases where the above preventive measures have failed and spillage of oil by discharge or escape has actually occurred. I shall now look at some of those conventions starting with the mother convention commonly referred to as MARPOL.

Desiring to take action by common agreement to prevent pollution of the sea by oil from ships, considering also that this end may best be achieved by the conclusion of a convention, the Governments of the world convened an international conference in London in 1954 and from their deliberations the above convention was born. This convention was provisionally deposited with the United Kingdom Government until the coming into being of IMCO (now IMO) in 1959.

Its principal objective was the protection of the seas from oil pollution which was achieved by prescribing certain prohibited zones extending to at least 50 miles from the nearest land within which the discharge of oil or oily mixture containing 100 parts of oil per million parts of mixtures or more was prohibited.

In 1962 IMCO convened a conference which extended the zones of prohibition and extended the application of the convention to ships of lesser gross tonnage.

Still not satisfied with the standards achieved so far the IMCO Assembly in 1969 adopted further extensive amendments which prohibited oil discharge from the normal operation of ships, except under the following conditions:-

i The total quantity of oil which a tanker may discharge in any ballast voyage must not exceed \( \sqrt[5000]{50} \) of the total cargo carrying capacity of the vessel.

ii The rate at which oil may be discharged must not exceed to litres per mile travelled by the ship.

iii No discharge of any oil whatever must be made from the cargo spaces of a tanker within 50 miles of the nearest land.

Another important point of this amendment was the introduction of the requirement of holding an oil record book to help in monitoring the movement of cargo oil and its residues from loading to the discharging terminal. This will permit the recording of such operations as ballasting, deballasting, cleaning of cargo and fuel oil tanks, discharge of oily residues. It also provides for the inspection of the oil record book by port state control officers.
Nonetheless while recognising the importance of the 1954 convention as being the first multilateral instrument to be concluded with the prime objective of protection the marine environment, and appreciating the significant contribution which that convention has made in preserving the seas and coastal environments from pollution, IMO went further in 1973 to adopt another convention in order to achieve the complete elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimization of accidental discharge of such substances. A novelty here is that this new convention is not limited only to oil pollution, but its application extends to other harmful substances. Such a review of the former convention was necessary following the ever increasing number of chemical carries and the potentially dangerous substances they carry.


The MARPOL Convention as it will be referred to hereinafter consists of articles, two protocols dealing with reports on incidents involving harmful substances and arbitration, and five Annexes which contain regulations for the Prevention of:

1. Annex i - Pollution by oil
2. Annex ii - Pollution by noxious liquid substances carried in bulk
3. Annex iii - Pollution by harmful substances carried in packages, portable tanks, freight containers and road or rail tank wagons etc.
4. Annex iv - Pollution by sewage from ships
5. Annex v - Pollution by garbage from ships.

Although there are up to five Annexes only (1) and (11) are compulsory, while (111) to (v) are optional. But the latter nevertheless have persuasive authority and a law-abiding maritime nation would be required to implement its resolutions and recommendations too.

May I draw your attention to the fact that most changes to the law by way of amendments and protocols occur after a series of abnor malies or crisis for instance after a complete maritime investigation the cause of causes of every ship casualty at sea is reported to IMO and analysed by experts of the various committees who then where necessary make recommendations for changes in certain aspects of a particular convention prevailing at that time necessary.

It was not therefore surprising that in 1978, due to many tanker accidents off the coast of the United States of America, President Carter had to call for more stringent action by IMO for safety and the protection of the marine environment. This led to the international conference on Tanker Safety and pollution prevention (TSPP) 1978. The conference adopted two protocols, one relating to MARPOL 73 and the other relating to SOLAS 74. These two instruments introduced new measures to strengthen and expand the requirements of the parent convention. While the protocol of 1978 relating to SOLAS 74 is an instrument separate from the 1974 SOLAS convention, the MARPOL protocol 1973 incorporated and merges with the 1973 MARPOL convention; the two being treated as one document thereafter. It is therefore common to refer to it as MARPOL 73/78. I shall now briefly touch on the requirements of MARPOL 73/78 in respect of oil pollution prevention.

**Scope of Application art 2**

The convention applies to all ships, of all sizes and types, including hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating plat forms operating in the marine environment. It covers all aspects of international pollution and some aspects of accidental pollution from ships. It does not however apply to the disposal of land generated wastes into the sea by dumping within the meaning of the 1972 London Dumping Convention as these are dealt with by the above convention. Nor does it apply to the release of harmful substances directly arising from the exploration and exploitation of the non-living resources of the sea and sub-soil.

Annex 1 Prevention of Pollution by Oil
Though Annex 1 maintains almost similar discharge criteria to those specified in Oil Pol 54/69, the new convention contains several provisions to strengthen the Oil Pol. Requirements. Oil is defined as petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petro chemicals).

i As regard the maximum quantity of oil permitted to be discharged in a ballast voyage, the convention provides a new requirement for new tankers. This has been reduced from 5000 of the cargo carrying capacity as specified by the 54/69 convention to 30,000 of that capacity.

ii Tankers and other vessels must have in operation an oil discharge monitoring and control system and oily-water separating or filtering equipment.

iii Certain regions of the world, particularly vulnerable to oil pollution have been designated as "Special Areas" wherefor discharge is completely prohibited. I will attempt to define special area as a sea area where for recognized technical reasons in relation to its oceanographical and ecological conditions and to the particular character of its traffic; the adoption of special mandatory methods for the prevention of sea pollution by oil is required. These areas are:-

The Mediterranean Sea, the Black Sea, the Baltic Sea, the Red Sea, and the Gulf area.

iv Ships carrying oil will be required to operate the method of retention on board in association with the Load - On - Top System.

v Parties to the convention are required to ensure the provision of adequate reception facilities for residues and oily mixtures at oil loading terminals. In certain special areas these facilities must be adequate for the reception and treatment of all the dirty ballast and tank washings from tankers.

The innovations introduced by the 73/78 Convention with regard to the construction and equipment of ships in order to prevent both operational and accidental pollution from oil tankers is summarised below.
1 Oil tankers must be fitted with oil discharge and monitoring equipment, with a recording device to provide a continuous record of the discharge.

2 Any ship of 400 tons gross tonnage and above must be fitted with an oily-water separating equipment or filtering system.

3 Oil tankers must be provided with suitable slop tank arrangements with the capacity necessary to retain the slops generated by tank washing, oil residues and dirty ballast residues.

4 New oil tankers of 70,000 DWT must be provided with segregated ballast tanks (SBT) of sufficient capacity to enable them to operate safely on ballast voyages except in very severe weather conditions. (MARPOL 73).

5 New crude oil tankers of 20,000 DWT and above and new product carriers of 30,000 DWT must be provided with segregated ballast tanks which must be protectively located. In addition new crude oil tankers must be provided with crude oil washing systems. (Cow).

6 Existing crude oil tankers of 40,000 DWT and above must be provided with SBT, dedicated clean ballast tanks (CBT) or Cow. Existing product carriers of 40,000 DWT and above must be provided with SBT or CBT.

7 New oil tankers must comply with subdivision and damage stability requirements to ensure that they can survive assumed side or bottom damage.

Annex 11 Control of Pollution by Noxious Liquid Substances.

This Annex spells out the detailed requirements for the discharge and control of pollution by noxious liquefied substances. Carried in bulk these are divided into four categories depending upon their hazard to marine resources and human health. The discharge of any residue containing the above substances is permitted following the category of the substance and whatever the case may be on discharge is permitted within 12 miles from the nearest land in a depth of water.
of less than 25 meters. Governments participating to the convention are required to issue detailed requirements reflecting all the provisions of the code for the construction and equipment of ships carrying Dangerous Chemicals in Bulk. The existing Bulk Chemical Code (BCH) was adopted by IMO Assembly in 1971 by resolution A212 (VII). However the code is now superseded by the international bulk chemical code (IBC Code) applicable to new chemical tankers.

Annex 111 Prevention of Pollution by Harmful substances carried in Packaged form, Freight Containers, Portable tanks and Road and Rail tank wagons.

This part of the convention provides detailed requirements relating to packaging, marking, labelling, documentation, stowage, quantity limitations and other conditions aimed at preventing or minimizing pollution of the marine environment by such substances. However through circular Number (MEPC/Circ 78 of 19 September, 1979) further requirements have been developed and circulated to Governments. It is a guide line and an interim measure while awaiting the revision of the international maritime Dangerous Goods Code to cover pollution prevention.

Annex iv and Annex V Prevention of Pollution by sewage and Garbage.

The last two Annexes are devoted to the discharge or disposal of sewage and garbage. Discharge of sewage within four miles from the nearest land is prohibited unless ships have in operation an approved treatment plant. Within a distance of four to twelve miles from land sewage must by Comminuted and disinfected before discharge. On the other hand specific distances from land have been set for the disposal of all principal kinds of garbage. Garbage is defined by the convention as "all kinds of victual, domestic and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuouly or periodically except those substances which are defined or listed in other Annexes to the present convention.

Annex V strongly prohibits the disposal into the sea of all plastics including but not limited to synthetic ropes, synthetic fishing nets, and plastic garbage bags. The reason behind this stems from the fact that plastics take a long time to decay and within then become an encumbrance to navigation.
How a Developing Country Like Cameroon Could Implement and Enforce MARPOZ 73/78.

Like the rest of them Cameroon has not yet ratified the marine pollution conventions. As a matter of fact this will not surprise any one since the mother country France's is modeled just recently in July 1983 modified its legislation in order to take cognizance of marine pollution which had hither to been absent. The law in question here is "Loi no 83-581 DU 5 juillet 1983 sur la sauvegard de la vie humain en mer, L'habitatibilité à bord des navir et de la prevention de la pollution". The damage of the french coast by oil pollution resulting from the Amoco Cadiz incident in 1978 and often described as the greatest disaster in the history of maritime casualties is not unrelated to this new awareness of the danger of marine pollution in France.

The above picture contrasts with that of the United Kingdom who being the founding father of the 1954 convention, put it in to effect as early as 1955, through "The Oil InNavigable Waters Act 1955." Besides the above legislation, other early efforts made by the U.K in this domain are:-

The continental shelf Act 1964, the Sea Fisheries Regulation Act 1966 and the Mineral Workings (Offshore Installations) Act 1971, all containing provisions dealing with oil spillage. However France is not the only back ward country in recognising the potential danger caused by marine pollution as most European countries, some of them major maritime nations had not until recently given this matter the particular attention it deserves.

I shall therefore while having in mind Cameroon as a developing country explain the guidelines given by the convention and at the same time give recommendation for the implementation and enforcement of it. Although Cameroon may not own shipyards, it never-the-less deals with them through the design and construction of its ships.

We have already seen that this landmark convention is a comprehensive and far reaching instrument covering all aspects of marine pollution from ships. Its implementation therefore will not only be the concern of the Government alone, but also includes the classification Societies, the industry and institutions.

In order to better implement the convention in Cameroon the
following is an outline of measures to be taken by the authorities of the bodies mentioned above.

First the Government and the industry (the latter englobing shipyards, shipowners, manufactures and dealers of harmful substances) should make all efforts to understand the technical and administrative implications of the provisions of the convention. They should in this regard develop and manufacture equipment complying with MARPOL requirements and guidelines. This will include developing procedures for the operation of their ships to meet the requirements through the construction or conversion of these ships and the installation of equipment as required by the convention. In order to meet the overall objectives of this convention an extensive training program of personnel (both sea-going and shore-staff) should be carried out in the Administration and the industry. As a follow-up to the training program, preparation of a national contingency plan and the allocation of responsibilities for the implementation of this plan should also be given sufficient attention. Secondly at governmental level, the first and important gesture to be made by the Government before effective implementation is to ratify the convention after which it should proceed to draw-up a legislation to cover every aspect of marine environment protection - at least for the purpose of the first two Annexes.

For effective enforcement of the requirements of such a legislation the Government should set-up an efficient system of survey and certification of ships and where necessary authorisation given to the classification societies to perform these functions. As we have already seen, Cameroon has already adopted this procedure for the implementation and enforcement of the international conventions on Load-lines 1966 and Tonnage measurement 1969. While its personnel is still in training and if the National Shipping lines extends its activities into the tanker business such a measure will be commendable for MARPOL too.

After all this a good administrative structure has to be set-up in order to permit the maintenance of records for ship flying its flag and a follow up of the work of the classification societies.

The Administration should also develop a system and procedure for:

a) The inspection of ships in ports and terminals.
The detection of unlawful discharges and the imposition of penalties there of.

c) The investigation of casualties involving spillage and the preparation and submission of reports and other information as called for by MARPOL 73/78 to IMO.

Port State Control of Ships and Certificates.

Despite the fact that it is the responsibility of the flag state to ensure that ships flying their flags comply with the provisions of the convention, it is sometimes impossible to exercise an effective control over these ships. In an attempt to supplement the functions of the flag state, the SOTAS, Loadlines and MARPOL conventions provide for further procedures to be adopted by the flag state. In a summary form these are:-

1) Valid certificates issued under MARPOL 73/78 may be accepted by port states as prima facie evidence that the ship complies with the convention requirements.

2) If a certificate has expired or ceased to be valid or if there are clear grounds for believing that the ship is deficient or sub-standard then the port state control officer should investigate the condition of the ship, in cooperation with the classification society to which the ship is classed. They should then rectify such deficiencies at least to the extent that the ship can safely proceed to sea or to an appropriate repair yard.

3) Where such an action is taken by the port state the consul of the flag state should be duly informed.

4) The port state should send reports of such deficiencies and action taken to IMO for periodical review by the marine Environment Protection Committee. Flag states are also requested to make, comments in the deficiency report on their ships.

IMO further provides a list of code and guidelines as a supplement to the requirements of MARPOL 73/78. They include inter alia:-

1 Guidelines on the provision of adequate reception Facilities in
ports,

2 Guidelines and specification for oil Discharge Monitoring and Control Systems for Oil Tankers.

3 Recommendation concerning the Installation of Oily - water Separating Equipment under MARPOL 73/78.

4 Guidelines for surveys under Annex 1 of MARPOL 73/78 and

5 Revised forms of the international oil pollution prevention certificate (10pp).

Another novelty of the new convention is the extension of the right of the Coastal State to cover waters under the jurisdiction of that state, as may be defined by the new law of the sea convention. The area of jurisdiction of a coastal state as it is germane to the issue of marine pollution is the territorial sea and the Exclusive Economic Zone. This contrasts with the 54/69 convention which gave such rights only within the territorial sea.

In conclusion, may I add here that with the endowment of powers and competence by the presidency of the Republic to Cameroon's Merchant shipping Department, in matters of marine pollution, this convention hitherto neglected will now be given particular attention. If in the past the sea lanes in the Gulf of Guinea were not so much utilised by oil tankers, the recent discovery of oil in the Republic of Equatorial Guinea and the exploitation of oil reserves already going on in Gabon, Nigeria and Cameroon have brought the problem of marine pollution to the lime light in this region. This therefore calls for regional action which I shall discuss when treating the law of the sea convention.

THE 1969 HIGH SEAS INTERVENTION CONVENTION

When ships are upon the high seas they are by definition outside the legal ambit of any state. But since they must be allocated to some area of legal responsibility following a general principle accepted in international law, they are therefore with a few exceptions like piracy, narcotics and slavery, answerable only to their flag states. With the increasing hazards presented by marine pollution it become obvious that a coastal state even when its coastline was
threatened by pollution damage was defence less as evidenced by the Torrey Canyon incident. There the United Kingdom was faced with the problem of what extent existing international law allowed it, in the light of an oil pollution threat, to take measures on the high seas which might directly affect the interests of a foreign shipowner, whose ship has caused the damage and that of the cargo owners. The facts of the Torrey Canyon incident as they are germane here are summarised below.

On March 18, 1967, the MV Torrey Canyon, 16,263 tons carrying a cargo of 119,000 tons of crude oil from the Persian Gulf to Milford Haven in the UK, went aground around the UK coast. Despite strenuous salvage attempts, she could not be got off and there was no possibility of transferring her cargo. She broke her back. The risk of substantial pollution from the cargo, given the prevailing winds and the ocean currents, was enormous. Not only the English West Country resorts but the Atlantic coast of France were threatened. The Government responded by ordering the wreck to be bombed and incendiary weapons used in order to set on fire the oil that remained in her tanks and with luck some of it floating on the sea by her. The vessel was attacked by aircraft for two days and set on fire. Despite all these efforts, the consequential pollution was considerable. The precise legal position of the United Kingdom Government in such circumstances was not clear. If the consent of the owners or salvors could be obtained (as occurred in the Torrey Canyon) then all was well. But if such consent were not quickly forthcoming or the owner cannot even be reached through communication as in Amoco Cadiz incident, the Government could only rely upon its general powers which all Governments have — taking state action. Obviously governments need clear powers to take swift action which might be necessary in respect of a major casualty. It was generally recognised that existing international law did not provide complete and clear answers to these questions and that the matter should be settled by the conclusion of an international treaty. Accordingly, IMO convened a diplomatic conference in 1969 which adopted the convention.

The High Seas Intervention Convention affirms that in principle a coastal state has the right to take all necessary measures on the high seas to prevent, mitigate or eliminate danger from oil pollution to its coastline. Intervention is also allowed against the mere threat of pollution. The 1969 convention entered into force on 6 May
1975.

While the 1969 convention dealt only with pollution threats from oil, it was recognized that similar problems were likely to arise involving chemicals and other substances which were then being carried by sea in increasing quantities. Following extensive discussions in the legal Committee of IMO, a protocol was prepared to extend the provisions and principle of the 1969 convention to polluting substances other than oil. This protocol was adopted at the 1973 conference on marine pollution, along with the comprehensive 1973 convention for the prevention of pollution from ships. The protocol extends the 1969 convention to incidents involving the threat of marine pollution from a number of substances liable to endanger human health or marine life or to damage amenities.

IMPLEMENTATION AND ENFORCEMENT.

However in trying to put the convention into effect in time of crisis, certain limitations are imposed. In all cases the danger must be grave and imminent rather than just possible or remotely likely. Of importance also is the fact that the state action must be proportional with the actual or threatened damage. In particular, measures must not go beyond what is reasonably necessary to achieve prevention, mitigation or elimination of the danger both in scope and duration. The interests of the parties involved namely the flag state, ship owner, and cargo owners must be safeguarded, this is the reason why the coastal state unless there is a case of extreme urgency should consult the interested parties.

The convention does contain one important provision relating to liability which specifies that where a state exceeds its rights of intervention it shall be liable to pay compensation for the damage caused. Being a legal convention and in the light of the fact that it is essentially of a continuing nature, it may be considered as reflecting objective international law applicable to all states, including states which might not be a party to it.

How Cameroon Could Implement and Enforce It.

The most effective way for Cameroon to put the convention in effect after ratification would be to pass an Act of parliament which would confer upon the Minister of Transport, powers to take action
when in his opinion as the result of an accident to a ship, oil will
or may cause pollution on a large scale within the waters of national
jurisdiction. These powers will accrue when the Minister has an
opinion not only as to the like-lihood of the pollution but as to its
scale also. Of course in the case of \& Cameroon where the libera
regions are far from the capital city where the Ministry of Transport
is situated, the Minister's powers will have to be delegated to the
Director of Merchant Shipping who is competent to act on his behalf
in these matters. The Director's powers will be, in the first instance
to give directions. These may be given to the owners, masters,
Salvors, or any person in possession of the vessel. He may direct
that a particular action be taken or not taken, that the vessel be
abandoned, that the cargo be transferred or whatever solution which in
his opinion might avert the danger, He may also give orders after
consultation with experts as to how salvage may be carried out.
However if the Director is of the opinion that the use of directions
is, or has proved to be inadequate he may take any action himself.
This could presumably include taking over the salvage operation as a
government activity in cooperation with the Military as was the case
in the Torrey Canyon. The Director must however be cau-tious of the
fact that his action must be in proportion to the actual damage or
threat of damage as required by the convention. He must have in
mind that where his measure of intervention exceeds that of prevention,
mitigation or elimination of the danger, his Government would have to
pay compensation for any damage resulting there of.

Aside from consulting the interested parties, it may be necessary
to warn or inform the neighbouring states of the region. With the
advent of the 1982 law of the Sea convention the area of jurisdiction
open for intervention by Cameroon and the neighbouring states covers
their territorial seas, the Exclusive Economic zones and beyond. This
is clearly spelled out in Part XI, Article 142 (3) of the law
of the sea convention, in the following terms:-

"Neither this part nor any rights granted or excised pursuant there
to shall affect the rights of a coastal state to take measures ......
as may be necessary to prevent, amitigate or eliminate grave and
imminent danger to their coastline, or related interests from other
hazardous occurrences resulting from or caused by \& activity in the
area." Note that the "Area" here is that part of the high sea that
lies beyond the Exclusive Economic zone and were the state's zone of
national jurisdiction ends.
Finally after the Director has consulted the neighbouring states of the imminent danger from pollution action could by taken at a regional level depending on the seriousness and intensity of the danger.


After having discussed the conventions regulating the control and prevention of marine pollution, I shall now proceed to the last leg of this topic - namely what happens if preventive measures have failed and oil spillage has actually occurred. The ordinary common law has not been very well equipped to deal with the legal questions that can arise as a result of pollution; particularly those which might ensue after a major oil spill. Thus despite Judge McCARR of the Northern District Court of Illinois' decision on April 19th 1984 (over five years after the incident) litigation on the Amoco Cadiz still lingers on in law courts. Among the many questions to be answered in the wake of a tanker casualty are:

What measures must be taken to reduce or prevent damage caused by the oil all of which cost money? who is liable for those cost? to what extent can cargo owners and carriers be made liable? How far is the matter susceptible on and on.

On an international level the response to these problems has been four-fold. First in January 1969 the major tanker owners of the world agreed to a voluntary scheme on liability TOVATOP, the tanker owners' Voluntary Agreement concerning liability for oil pollution. Later that year a formal international convention was open for signature in November 1969 in Brussels. Thirdly in January 1971 TOVATOP was supplemented by CRISTAL - Contract Regarding an Interim Supplement of Tanker Liability for Oil Pollution. CRISTAL is an agreement between cargo owners ie the oil companies to create a fund to support the cost of cleaning-up which arises after oil spills. Finally later that same year an International convention on the Establishment of an International fund for compensation for oil pollution Damage was promulgated as a supplement to the 1969 civil liability convention. The scheme of public international law and the Voluntary scheme run on parallel lines with the former planned to eventually supersed the latter. I shall now briefly run-over the international scheme.

The Civil Liability Convention (CLC).
The purposes of CLC is to establish a uniform international regime under which owners of ships carrying oil in bulk as cargo have strict liability for pollution damage resulting from the escape or discharge of oil, including liability for the cost of preventive measures to mitigate such damage. This international treaty has been in force since 19 June 1975 and has 55 members states as at 12 August 1984. Its scope of application covers sea going vessels of all types carrying oil in bulk as cargo. Geographically the scope of application has been extended to the Exclusive Economic zone with the coming of UNClos III. The flag state of the tanker and the nationality of the shipowners are irrelevant in determining the scope of application. Oil is defined as persistent oil including whole oil but excluding vessels in ballast.

The owner of a tanker carrying more than 2000 tons of cargo oil is obliged to maintain insurance to cover his liability under the CCL. Furthermore any tanker carrying more than 2000 tons of cargo oil is required to carry an insurance certificate even when her flag is not a member of CLC, when entering or leaving a port or terminal installation of a member state of CLC, when entering or leaving a port or terminal installation of a member state of CLC.

Owners of tankers are strictly liable for pollution damage caused by an oil spill from their tankers. as a result of an incident. They may however be absolved from liability in a few particular cases, namely:

(a) The damage results from an act of war or an act of God.

(b) The damage is caused by sabotage by a third party.

(c) The damage is caused by the failure of authorities to maintain navigational aids. Also while the owner of a tanker is held strictly liable for pollution damage he is entitled to limit his liability to an amount of 2000 gold francs (US $139) per tonne of the ship's tonnage or 210 million gold francs (US $15 million) whichever is the less. Claims are made only against the registered owner of the tanker, not against his agents or master although he may take action against third parties.

The Fund Convention 1971 (OPC Fund)
The fund convention was elaborated as a supplementary convention to the CLC. Only those states who have become contracting states of the CLC can become members of the fund. The main functions of the fund are to provide supplementary compensation to victims who cannot get full and adequate compensation for pollution damage and until the 1984 protocol, indemnify the owner for a portion of his liability under the CLC. The fund pays supplementary compensation to any person suffering pollution damage if that person is unable to obtain full and adequate compensation due to one of the following reasons:

1) If on liability for pollution damage arises under the CLC, this could arise because the owner can invoke one of the exemptions under Article III of that convention.

2) If the owner is financially incapable of meeting his obligations and any insurance is insufficient to satisfy the claim for pollution damage.

3) If the damage exceeds the owner's liability under the CLC.

The Diplomatic Conference of IMO 1984 London.

At the request of the assembly of IMO a diplomatic conference was convened in London in April/May 1984 with a view to revising certain provisions of CLC and the fund convention.

Among the new amendments introduced was the extension of the geographical scope of application to include the exclusive Economic Zone.

- the increase of owners liability.
- the abolition of the indemnification to owners payable under the 1971 fund.
- the establishment of a new lOFC fund.
- the abolition of initial contribution to give place to annual contribution only.
- the introduction of a more expedient and simplified amendment procedure.
What Cameroon Stands to Gain If It Ratifies These Conventions.

With the increasing growth of the oil industry in Cameroon and considering also the density of tanker traffic in the Gulf of Guinea plans are under way for the ratification of these conventions in Cameroon. Although Cameroon is an oil exporting country it never the less receives contributing oil as defined by the convention. Contributing oil is defined as crude oil and heavy fuel oil. This oil is counted for contribution purposes each time it is received at ports or terminal installations in a member state after carriage by sea. The place of loading is irrelevant in this context eg the oil may be imported from abroad, carried from another port in the same state or transported from an off-shore production rig. This means oil carried by sea from the oil terminal in Limbe South-West Province to Douala the economic capital would be counted for this purpose. The same goes for crude oil being transported from the off-shore production rigs to the refinery in Limbe.

With the recent discovery of oil in the Republic of Equatorial Guinea all the countries bordering the Gulf of Guinea are now more vulnerable to oil pollution damage than ever before. This therefore calls for both preventive measures and clean-up schemes where the actual spillage has occurred. As a matter of fact much is at stake here, the clean-up cost, the know-how, the economic loss arising from the damage caused to our coastline and fisheries. For a developing country like Cameroon with lack of capital and know-how membership of the OPEC and the fund becomes very beneficial at this critical stage of our development. Among the advantages to be gained from membership are:-

1 The main assistance the OPEC can give to its members is the efficient fulfilment of its functions which is providing quick at low cost. It must be borne in mind that with regard to catastrophic disasters only an international scheme can provide sufficient compensation for any loss or damage caused by such incident. The enormous financial and economic consequences of such disasters exceed the financial resources of many states and require therefore the spreading of risks on a worldwide basis.

2 The internal Regulations allow the Director of the fund, under certain circumstances to make provisional payments of compensation while awaiting the settlement of the entire claim in order to
victims of pollution damage.

3 The fund convention contains provisions to enable the IOPE fund to assist a state whose financial material or human resources are not sufficient to take adequate pollution preventive measures. In a developing country like Cameroon with an acute shortage of financial and technical resources a large scale spill would quickly cause relatively more damage to the hotels at the beaches, the fisheries, the ports and oil refinery. In case of any threat of pollution the Minister of Transport can request the Director of the fund for assistance in obtaining personnel, material and services for preventive measures.

4 The Fund may also offer credit facilities to a state in order to enable it take adequate preventive measures. Following an application by a state the Director of the Fund may decide to provide the above credit facilities up to a limit of 60% of estimated total costs for preventive measures or a maximum of US $ 3.1 million approximately 1.3 billion francs CFA.

As regard admissibility of claims it has to be proved that the claim is based on a real expense actually incurred. In other words that the expense was made as a direct result of an incident and for a reasonable purpose. Therefore after a clean-up a claimant is required to prove his claim by producing explanatory notes written documents, invoices, receipts and other documents to support the claim before the insurer or the Fund.
PART III

GUIDELINES ON MARINE POLICY AND IMPLEMENTATION OF INTERNATIONAL MARITIME CONVENTIONS IN CAMEROON.

CHAPTER ONE

What is a good Marine Policy for Cameroon's Shipping Industry?

1) Development of a Maritime Infrastructure

It is a truism that the economic development of Cameroon depends upon its trade, industry, commerce and associated transport links. Being predominantly an agricultural country with an export oriented economy, maritime transport has therefore been identified as the link which plays a very dominant role in its economic development. Whatever the angle from which one looks at Cameroon's shipping needs today suffice it to say that about 90% of the country's external trade is effected by sea and before the advent of the National Shipping Lines, CAMSHIPLINES this trade was transported with foreign vessels who accepted nothing but hard earned foreign currency. Of course the detriment caused to the balance of payments was obvious. Little wonder therefore that increasing participation in the carriage of its own trade under the rules and limits set by the UNCTAD Liner Code has been salutary, for it watered down the hardship that flowed from the loss of limited foreign currency and other problems usually associated with relying solely on foreign vessels.

Having thus been touched by the wind of maritime consciousness, Cameroon began to develop a modern maritime infrastructure. It was in this regard that law No. 74/19 of 5 December 1974 was established creating a National Shipping Lines, with six vessels ranging from 12,850 tons to 16,600 tons in operation.
Considering the arbitrary decisions made by the Maritime Conferences particularly in the field of freight rate increases, also bearing in mind the favourable dispositions of the Code of Conduct for the Maritime Conferences for the development of the merchant fleets of developing countries, notably the sharing out of cargoes on a 40-40-20 basis, the Cameroon Shipper's Council was created alongside the National Shipping lines. In 1976 a National Stevedoring firm SOCAMAC was created with the objective of serving Cameroon, Shipping lines for all stevedoring services. Douala the main sea-port was functioning as far back as the 15th Century. But today it has been modernised and equipped with Ro/Ro and container terminals, the latter stretching for about 500² meters. The secondary ports of Kribi, Limbe, Tikou and Garoua are still to be developed.

However despite the above achievements a lot still has to be done especially in the development of maritime training facilities. Ships are capital intensive equipment and whilst acquisition of a fleet, and the formation of a shipping Company to operate the ships are readily executed once the appropriate policy decision are taken there are no short cuts in securing the large number of highly qualified and experienced maritime personnel that would be required to man these vessels and manage and operate the shore administration associated with it. Although it has been of enormous cost to the companies and the Government some training of Cameroonian nationals has been going on overseas. But one would think the problem would have been reduced at least cost-wise if a national training institution was established in the country. The creation of some other infrastructure sectors, such as shiprepairing industries, banking, insurance business, legal services, passenger transport services, telecommunication among others have to be encouraged by the Government through its open-door policy as regards foreign investment in Cameroon. It cannot be disputed that the course of development of such an infrastructure could be greatly influenced by the demand generated by the Shipping industry.

.../...
Meanwhile it does not just suffice for a Government to build a good maritime infrastructure without a good management chain and structure. Priority must therefore be given to the strategic planning process in an industry subject to an ever-increasing risk and uncertainty.

Policy and Strategic Planning at the Industrial level especially at the National Shipping Line (CAMSHIP)

Without a clear and well conceived strategy no shipping company will survive in the highly competitive environment in which it operates today. Such strategies must be based on comprehensive planning and a sustained participatory commitment by senior management, for the real challenge of strategic planning is in its implementation, which has to be in harmony with a company's goals and objectives. Another challenge in this planning process is to convince the line manager that he can plan effectively and that he will be much more successful if he devotes sufficient time and effort to this activity. Neither challenge can be met without an unqualified commitment by the chief executive. The alternative is to manage from crisis to crisis, spending great effort in fire fighting rather than in the far more productive use of time and resources to fire prevention. The time has come for management with the disciplined analytical tools of strategic thinking to convert problems into opportunities and give the company not only a reasonable chance for survival but future progress.

As seen, earlier the National Shipping Company has not only survived the odds and hardships facing the Shipping Companies, but it has made a giant leap forward. In contrast to Cameroon Airlines which has always been on the red, CAMSHIP in the budgetary year of 1981/82 made a profit of some 775 million F. CFA. roughly ($1.7 million). This has been due to a good strategic planning mechanism, effective in critically examining the dynamic relationships confronting an on-going enterprise and the competitive forces that lie in its forward path.
Despite the above picture and given the dismal future of the world shipping industry what can be done to ensure the survival of Cameroon Shipping Lines? This will take us into looking into some characteristics of some of the most successful companies. These characteristics can be summarised as having a very great emphasis on human resources, supported by a well developed management system. Such specific characteristics include among others the following:

1) Competence in strategic Planning.

The primary purpose for developing a strategic plan is to gain and maintain a competitive edge in the shipping world. To take advantage of opportunities in the external environment. Strategic planning is then tried with the day to day operational planning.

2) Outstanding market leadership.

It is essential to develop and provide superior products and services that meet the needs of the existing market. It is equally important to sustain a high degree of innovation, to continually identify new markets and develop new products and services to provide for sustained growth. The efforts CAMSHIP has made in the direction of providing superior and modern services are laudable considering the young age of the company for example the acquisition of two new modern vessels and the plan to acquire container vessels in the near future.

3) Emphasis on Human Resources Development.

This requires systematic careful recruitment and training. It assumes management by example and a high degree of professional competence. Honest communication at all levels of the organisation must be continually maintained. It is the job of managers to make jobs exciting, meaningful and worthwhile for employees. Employees should be partners in making things happen.
4) Rewards to those who produce and make the difference. Rewards need to be significant and linked to job responsibilities and measurable results.

5) Very good measurement systems to track employees and service performance.

Finally an effective management requires tangible objectives and a system for measuring accomplishment of those objectives.

What should Government Policy be towards Cameroon Shipping Lines and other Corporate bodies.

Cameroon like all new maritime nations has advocated for the policy of protectionism. The justification given for such a policy are several. They feel that it is very difficult for them to run their ships on the basis of free competition. The free forces are not allowed to exist in the international competitive market for the following reasons.

a) The required high capital and managerial ability which are available only to the developed shipping nations.

b) The assistance granted by developed countries to their fleets.

c) The role of conferences in eliminating competition.

d) The bulk trade is not as free as it is supposed to be.

e) The use of flags of convenience.

f) The infant industry argument. It is because of the latter argument that the Cameroon Government was obliged to pass a decree No.70/19 of 5/12/74 giving a sort of monopoly to CAMSHIPLINES as an infant industry. Following this all operation of maritime transport within the country are reserved for CAMSHIPLINES. In a similar manner by another decree No 75-709 of 13/11/1975 CAMSHIP has the exclusive right of transportation of all government freight or cargo destined for public institutions.

.../...
The decree further stipulates that for private freight priority should be given to the National Shipping Company, except in cases where the national ships don't call at the particular port. The Government considers the infant industry - protection a justified policy, for it helps a new-born industry to grow healthy during its earlier years. Given that this company is one of the life-wires of the country's economy, especially in the transportation of its external trade, it is felt that it will not survive the strong forces in a purely competitive market without government support.

However in spite of the strong arguments given in favour of protectionism such a policy should not exist indefinitely, because as they say "once protectionism always protectionism". That is to say the infant industry protective policy may lead to permanent protection. In many developing countries industries which were protected at the beginning continue to depend on government assistance many years after their creation, like a 5 year old baby still spoon-fed. The best criterion is to stop protectionist measures once the industry has achieved economies of scale. The removal of protective measures is necessary after a certain stage of development of the industry so that the company grows to maturity in a competitive market with competitive products and services. In other words protection in whatever form, either by way of subsidies or monopoly rights should be a tentative matter as it will turn to kill the company in the long run when continued indefinitely.

Another area where the government should intervene with much prudence is in the fiscal policy. A severe fiscal treatment of shipping earnings would have a negative bearing on the shipping development of the country. It would reduce the ability of CAMSHIP to raise reserves for financing new investments or for servicing loans during lean years, when revenues are low and profits almost non existent.

.../...
The disadvantages and problems created there-of, tend to become increasingly serious in view of the altogether favourable policies followed by other governments. In this light most traditional maritime countries, tend in one way or another to grant complete tax immunity to their maritime industries.

The third aspect in which the Government has to move with caution is in the legislative framework. The access to international sources of finance, tends to be easier when the country of registration adopts the national shipping laws to the standards provided by the most commonly applied relevant maritime laws internationally. It is essential that ambiguities or deviations from what is generally required or accepted are to be avoided, to the satisfaction of the lawyers' garb of shipbuilders and bankers. The fundamental aim should be to offer:

a) the bankers and creditors a confidence over the long term stability of the laws and policies applied.

b) a mortgage holder the confidence that should the need arise he should have no difficulty to exercise his rights under the preferred mortgage. Since CAMSHIP has future plans of expanding into other trades for example (the tanker market) such a flexible legislation will give it access to worthy money markets of the world.

Finally may I add that a tight government intervention in every day ships operation in the form of strict and rigid imposition of regulations hampers the operators capability for efficient management through prompt decisions necessary in the world of shipping.

2) Development of a good maritime Administration.

In order to execute the policies decided by the Government it is imperative that a well structured maritime administration be setup. Such an administration must have a structure or organisation flexible enough nad devoid of all bottle necks, red-tapes and bureaucracy.
Coupled with the above must exist a qualified and well trained personnel, with the proper job description defined for each of the staff both in the public and para-public sectors.

3) The main objective of the maritime Administration to be geared towards safety and pollution prevention.

In this regard emphasis should be laid on the purchase of safety and pollution equipment, and implementation and enforcement of the regulations of same. Alongside these functions the policy of training seafarers and giving them periodical safety drills for example in fire fighting, use of life boats, life jackets etc must be regularly carried out. This is an often ignored aspect in the Cameroon safety Administration. Sometimes when I had the opportunity of accompanying the inspection team commonly called "Visite de securite" I realised to my surprise that most of the seafarers especially of fishing vessels not only did not know how to swim but also hadn't the least idea on how to use the safety equipments on board their vessels. The Government surveyors must always prescribe to shipowners the quality of crew to be employed and the training there-after.

CHAPTER TWO

RATIFICATION OF INTERNATIONAL MARITIME CONVENTIONS

"Laws, wheter international or municipal do not grow up in isolation, but mould and are moulded by the politics, economics and geography of the "real world" to which they apply". R. Churchill and Lowe".

In part one of this project I wrote lengthily and exhaustively on international Maritime Conventions strongly recommending their ratification by Cameroon as a young Maritime nation committed to maintain high safety standards and navigation on clean seas.

.../...
Since after the ratification of a convention the provisions of that convention are absorbed into the National legislation of that country, Cameroon will have to be selective so as to ratify mainly those conventions that apply to its local conditions. For example it might not be of much benefit to Cameroon to ratify a convention such as the convention relating to civil liability in the field of Maritime carriage of Nuclear Material. I will not take up again the lengthy undertaking of giving the importance of ratification to Cameroon given that this was covered in the introduction and in part one. What procedure should Cameroon therefore follow in order to effectively ratify a convention?

Procedure of Ratification

Following the normal procedure that prevails in all Maritime Nations especially the traditional ones, the Cameroon Merchant Shipping Department would have to submit such a convention to be ratified to interested parties namely Shipowners, Seamens Unions, ports Authority, Shippers Council etc. for their Comments. This consultation is carried out in order to have a feed-back on the Socio-economic impact of the convention on the economy and on society in general.

However the Marine Administration must bear in mind that ratifying a convention in most cases brings added costs to shipowners although this fact must not be sacrificed for economic motives. The Administration must therefore weigh the balance and have its priorities in mind. Intention to ratify should only be withdrawn if after such a socio-economic survey it is realised that the Convention will have adverse effects on the country. All being equal if the Administration decides that the Convention be ratified, a memorandum should then be submitted to the Ministry of Transport in Yaounde. The latter through the proper channels, transmits the said memorandum to Parliament for approval before ratification. The Minister of Transport accompanied by his technical team is then called up during the parliamentary session to defend the memorandum of ratification and to inform Parliament as to the propriety of such ratification.
Parliament then approves the ratification by an Act of Parliament, Decree or Ordinance in general terms, leaving the detailed regulations and laws to be made by the Ministry or Marine Administration within the framework of the National Maritime legislation. A letter of ratification is then sent by the Ministry of Transport to the Secretary General of IMO or whatever body is performing depositary functions for the Conventions. In cases of emergency, minor amendments or very technical details in a Convention, it may be necessary to side-step parliament following the bureaucratic and lengthy process involved in going through Parliament. In Cameroon as in France Parliament therefore empowers Ministers to pass "Ministerial arrêtés" which are forms of regulations. Since most of the international maritime conventions are often so technical and given that they often undergo minor changes by way of amendments, it will be necessary for the Minister of Transport of Cameroon to be given discretionary powers in the proper case, to cause such conventions or amendments to be ratified or acceded to. In the UK, the process of producing a new Act of Parliament is usually a very lengthy one mainly because Parliamentary time for the necessary debate is not readily available except under cases of extreme national emergency. For this reason it is undesirable to produce, if it can be avoided very detailed acts of Parliament that are likely to be in need of change after a short time. Yet a detailed legislation is necessary. The problem has therefore been solved by what are called "Enabling Acts". These are Acts of Parliament which enable specified ministers to make Regulations subject to specified conditions and thus avoid the necessity of producing as Acts of Parliament the detailed regulations, they have authorized. When such regulations have been produced by a minister, they are usually produced in the form of a document known as a "Statutory Instrument". Such documents automatically come into legal force after being laid before parliament for the inspection of its members for a few weeks without having to wait for a parliamentary session.
Usually no member of Parliament raises objection to them and many of such instruments are produced every year.

Since Canada is lagging behind in the ratification of international conventions such a policy is about to be adopted in order to fasten the procedure of ratification.

Implementation of International Maritime Conventions in Cameroon:

After the Cameroon Government has ratified a convention, the second and most important stage is on the implementation and enforcement of the conventions. The application of the conventions in Cameroon will appear in detailed regulations which will appear in the Merchant Shipping Code, or some other future umbrella law. The extent to which these laws are adopted or framed will depend upon the degree of Maritime activity in Cameroon or the degree of maritime consciousness of Cameroon. Nevertheless whatever will be the case, the Merchant Shipping Department or the Marine Administration in making the detailed Regulations will have to consider the peculiar conditions prevailing in the country and dispensations will be granted where necessary. However the Administration will have to bear in mind the fact that despite such dispensations and local considerations, safety of navigation, protection of the marine environment and the administration of the welfare of seamen will never be sacrificed for economic considerations. The Administration will then draw up a big umbrella law which will be supplemented by subsidiary legislations.

In line with the ruling international conventions which Cameroon may be a party to, any detailed Regulations that will appear in the National Maritime legislation will have to encompass any or all of the following:

.../...
I) Ship Ownership and Registration
II) Transfer of ownership
III) Mortgages
IV) Master and Seaman
V) Specific aspects of passenger ships
VI) Specific aspects of cargo ships
VII) Specific aspects of fishing vessels
VIII) Collisions
IX) Safety
X) Casualty Investigations
XI) Delivery of Goods and Lines for freight
XII) Shipowners Liability
XIII) Wreck and Salvage
XIV) Pilotage
XV) Lighthouses and other navigable Aids
XVI) Mercantile Marine Fund
XVII) Port State Control
XVIII) Enforcement procedures, including Detention for Undermanning and unseaworthiness
XIX) Seamen's condition of employment
XX) Seamen's Repatriation
XXI) Extension of jurisdiction to National Courts in the Case of foreign owned and registered vessels
XXII) Master and Officers Certificate of competency
XXIII) Carriage of goods by sea
XXIV) Port Operations
XXV) International Labour Conventions
XXVI) International loadline Conventions
XXVIII) Crew Accommodation, food and catering
XXIX) International Safety Conventions
XXX) Marine Pollution of the Sea, by oil and other harmful substances from ships
XXXI) Inspection, survey and certification of ships and various other relevant matters including international conventions
ENFORCEMENT

Bearing in mind its priorities which will be the safety of life at sea, the safety of navigation, the protection of the Marine environment, the coordination of shipping activities and the administration of seamen, the Administration would have to draw up detailed subsidiary regulations prescribing certain functions to various officials, the manner in which they would be carried out and the penalties which they will have to administer to all defaulters of such regulations. These functions may include:

1) Various types of periodical surveys and issuance of certificates.

The Administration would conduct various types of periodical surveys and inspections of ships in accordance with the ... rules and regulations conforming to international standards, conventions and national requirements. The issuance where necessary of one or more of the following certificates to ships.

a) Passenger Ship Safety Certificate
b) Cargo Ship Safety equipment Certificate
c) Cargo Ship Safety Construction Certificate and its supplement
d) Cargo Ship Safety Radio telegraphy and Radio telephony Certificate
e) Load line Certificate
f) Tonnage Certificate
g) International oil pollution Prevention Certificate
h) International Pollution Prevention Certificate for the carriage of noxious liquid substances in bulk
i) Local cargo Ship Safety Certificate for non-convention ships under 500 GRT
h) Exemption Certificates where necessary

.../...
2) Intermediate Surveys.
Besides the above periodical surveys and certificates there must be intermediate surveys and inspections of all ships so as to verify that ships and their equipment continue to maintain the required standards so as to qualify for the certificates they are holding.

3) Port State Control.
For safety of navigation and the protection of the marine environment, surveys and inspections must not be limited only to Cameroonian ships.
The Government of Cameroon has that basic right to inspect foreign ships that call in its territorial waters in compliance with requirements of the international Conventions, inter alia MARPOL 73/78, SOLAS 74 adopted in the national legislation. Such a control will apply to all ships irrespective of their belonging to either parties or non parties to the conventions in question. The control of non-convention ships will be based on the safety standards and requirements specified in the National legislation and acceptable within the international Safety Standards.

4) Inspection and Detention of Unseaworthy Ships.
In most cases the Government surveyor will go on board a vessel and demand only to see the certificates. From the facts before him if he has reasonable, grounds to believe that the ship could be unseaworthy, he will then proceed to make a thorough inspection of the ship. If he finally finds her unseaworthy by which he means the life of the crew and property on board will be endangered if the ship is allowed to proceed with the voyage, he will then have to detain the ship. If he does detain the ship he will have to inform the shipowners, the nearest consul and probably the nearest port of call and the flag State of the vessel so detained.
He must however be cautioned in the legislation not to unduly detain a vessel for minor defects as he will be risking a law suit on himself. If the defects are minor he will allow the vessel to proceed with the voyage, but inform the next port of call about the defects so that effective repairs could be carried out. There given that repair facilities don't yet exist in Cameroon Ports.

5) Approval of various plans of new ships under construction.

Ships of above 50 GRT may see their designs or original construction patterns modified by the Administration. If safety is going to be jeopardized for the sake of profit motives the Administration must intervene.

In a similar manner article 38 of the present Merchant Shipping Code created a Central Safety Commission. The article stipulates that Administrative authorities should refer to this commission every application for authority to build or purchase a foreign ship. The commission then, in view of the plans and documents deposited by the shipowner concerned advises the maritime Authorities whether the ship in question satisfies the safety conditions required. The same article gave exemptions in the following cases.

I) Application for the construction or purchase of ships of less than 50 tonnes.

II) Ships classified by classification societies and recognised as being in the first class. I had earlier given the list of classification societies recognised in Cameroon.


The Administration must encourage the development and manufacture of marine equipment indigenously and approval of such equipment where safety is not jeopardized.

.../...
7) Coordination of the work of classification Societies. 
The Administration must work with and coordinate the 
activities of classification societies to whom statutory 
powers have been delegated as regards surveys of national 
ships.

8) Organising and Conducting Various Examinations for 
certification of seafarers. 
When the maritime activities in Cameroon would have 
attained an appreciable height, the present bureau of 
Examinations will need to be restructured so as to be 
able to award certificates of competency and efficiency 
to all levels of seafarers, ranging from the catering staff 
to the most senior officers.

9) Dealing with matters pertaining to the "manning" of ships. 
Detailed manning Regulations should be established on the 
lines of the safe manning levels recommended by the Inter-
national Transport Workers Federation adopted in 1983, 
but tailored to suit local conditions. For example safe 
manning scale should be determined also for ships or 
primitive built, canoes and crafts propelled by engines 
and often found carrying passengers from Limbe to Nigeria 
and vise versa, Limbe Malabo (Equatorial Guinea) and 
between the islands off-shore.

10) Conducting Inquiries and Investigation into all marine 
Casualties. 
In a developing country like Cameroon one would be de-
manding too much asking the Government to creat a separate 
Marine Casualty branch or service. Nevertheless the im-
portance of Marine Casualty investigation can never be 
brushed aside with a waive of the hand. Detailed Regula-
tions therefore have to be established empowering the 
Government surveyor to act in this capacity, at least for 
the time being.
Such regulations would have to outline the main functions of the casualty investigator, which would include among other things:

a) The development of regulatory requirements criteria and procedures for the reporting and investigation of Marine casualties and accidents on board ships, including air cushions vehicles, and drilling rigs operating in the marine environment.

b) The initiation of action to undertake preliminary inquiries and formal investigations and to ensure the provision of necessary technical and legal assistance in their conduct.

c) The analyses of proceedings of P.1s and formal investigations and recommending further action as required, including hearings into the competence and conduct of officers and prosecution.

d) Directing the preparation and analysis of statistical data on marine casualties and the analysis of trends and incidents to assess human, navigational or equipment problems while recommending remedial measures where necessary.

e) Arranging for the location, inspection and recovery of wrecks resulting from casualties if required for investigations.

f) Developing amendments to legislation, policy and procedural directives for the control and administration of matters pertaining to wrecks.

g) Instructing the receivers of wrecks in carrying out their function and providing specialist advice to Maritime Districts, other departments and other levels of Government and Industry on matters related to marine casualty investigation and to wreck and salvage. Whatever be the case the activities of this division should be oriented more towards achieving higher safety standards than prosecuting the defaulters. In this regard there should be a turn around from the French legislation which seeks to do but the latter.

.../...
11) Dealing with matters pertaining to the prevention, control and combat of marine pollution.

A division of marine pollution prevention and Combatting should be created in the Merchant Shipping Department, with a policing force assigned the duties of patrolling the territorial waters of the Republic of Cameroon as a deterrent force against the pollution of the marine environment. Recommendations should be made as to the equipments to be purchased including the encouragement of the use of indigenously fabricated equipment in time of oil incidents and casualties.


A Maritime Search and Rescue Division should be created in the Administration of Merchant Shipping in Douala, with rescue coordinating centres in the maritime Districts of Limbe, Kribi and Garoua. The Onscene - Commander would have to be stationed in Douala in order to better coordinate the rescue activities carried out with the assistance of the navy where necessary. The purchase of equipment for these functions would also have to be taken into consideration.

13) The Safety of fishing Vessels and small crafts.

Detailed Regulations on the safety standards, including the contruction and operation of small crafts and fishing vessels should be established. Particular emphasis should be paid to pleasure crafts and fishing vessels as these two are often difficult sectors for the implementation and enforcement of safety regulations. Where necessary adequate education be given to the users of these crafts and vessels particularly fishermen who are often not informed or educated on these matters.

14) Regular Attendance of IMO meetings or sessions.

It is a pity that very few developeing countries including Cameroon have been participating in the evolution of IMO's standards.

.../...
The reason is often attributed to lack of funds to cover expenditure on delegations and/or lack of understanding of the implications of non-participating or a general lack of interest. Membership of IMO and participation in the various sessions of the sub-committees, committees, and conferences of IMO and other Maritime Organisations would lead to achieving the required highest practicable standards taking due note of the situation prevailing in different developing countries and not the highest conceivable standards.

In order to avoid the costly venture of sending delegations each time in London for IMO Conferences a developing country like Cameroon would be recommended to send a permanent representative of the Ministry of Transport, well trained and knowledgeable in international maritime conventions as a permanent staff in the Embassy in London also the H.Q. of IMO and the venue for all Maritime Conferences. Apart from the convenience and benefits that will accrue from constant active participation in the conferences, the above procedure will not only reduce cost of participation but will also increase Cameroon's maritime awareness in an ever increasing complex world shipping industry. The representative will then be giving a feedback to his Administration and the shipping industry in his home country as to the recent developments in the international laws regulating the seafaring world. This policy is already being implemented upon in the Aviation Directorate, where the Ministry of Transport has a permanent representative in Montreal, Canada, H.Q. of ICAO (the International Civil Aviation Organisation). Most developed and developing countries for the reasons given above have these two representatives in London and Montreal to represent them in maritime and civil aviation matters. For a developing country like Cameroon which is still very slow in responding to IMO conventions, this method is most expedient.

.../...
CONCLUSION

Among the many maritime conventions established so far, I mainly discussed those that could be beneficial to the present level of Cameroon's maritime development. It would therefore be imperative for the reasons given in my introduction to ratify, implement and enforce them. The conventions themselves like any branch of international law have no international instrument or police to enforce them. It is therefore left to the states parties to them to incorporate them into their municipal laws and enforce them accordingly.

Also important to Cameroon as a geographically disadvantaged state and flanked by two landlocked states is the 1982 law of the Sea Convention. I have earlier recommended the ratification of this convention in view of the privileges and rights it accords to geographically disadvantaged states and also taking into consideration Cameroon's active involvement in the preparation of this convention through the Chairman of the First Committee Ambassador Paul Engr and the Yaounde Conference of 1972. Moreover apart from the USA, Venezuela, Israel and Turkey who have been hostile to the convention since its inception, all other countries the world over have acclaimed the advent of the convention, consequently Cameroon as a young maritime nation cannot isolate itself from the rest of the international Community.

On the other hand as far as the implementation of marine policy is concerned an important aspect which deserves mention in this conclusion is the training of marine personnel, both seamen and shore-staff.

The Government through the Marine Administration has to work in conjunction with the shipping Industry to accelerate maritime training which should be oriented towards the following courses.

.../...
A) **Ratings**

a) Ratings in the deck department forming part of a navigational watch, as required by the STCW Convention.

b) Ratings forming part of an engine room watch.

B) **Officers**

Training of officers in the deck department leading up to the rank of masters and extra masters should be accelerated given that there are presently an acute shortage of Cameroonians at this level. Also to be given a serious attention is training of officers in the engine room department and the training of the catering staff.

Of course a highly qualified personnel on board the ships will not increase productivity if it is not marched by an equivalent highly qualified personnel ashore. This will include inter alia Maritime Administrators, Managers, Shipping executives, Maritime Surveyors and educators who all have to undergo maritime training in an accredited maritime institution.

The Seafarers and shore staff having received such an expensive education at the Company’s or Governments cost should be motivated so that they become part of the process. They should be made to be aware of their contribution in making things happen in the company and be rewarded accordingly. The Government should take cognizance of the special characteristics of the sea faring profession by improving on the welfare of seamen including living conditions on board ships as required by **IFCo.** The Government would further ensure:

a) the continuity of employment for seamen,

b) a defined placement policy,
good social conditions if possible a seafarers social Security Fund, to be established to run currently with the facilities offered by the National Social Insurance Scheme. This is necessary given that the seafarers are not going to sail throughout their lives. In fact the general trend these days is that they retire faster and younger in service than their colleagues ashore.

The Government should further define a good policy of job description, not only for the employers of the public and semi-public sectors, but between the national maritime institutions as well. Who does what and when? Where should we draw the line between the functions of the Shippers Council and the Merchant Shipping Department and Cameroon Shipping Lines, CAMTAINER and SOCAMAC. If the Acts or Decrees creating these bodies are vague or ambiguous and/or a wrong interpretation is carried out by the executors, one institution is likely to drive in-roads into the jurisdiction of another, leading to a costly duplication of functions and conflicts between the top management.

Finally the Government should recognise the significant contribution of the maritime sector to the national economy and accordingly elevate the small department of Merchant Shipping into a bigger General Directorate with a Director General and sub-Directorates. Such a division would fall into five sub-directorates, namely:

1) The Sub-Directorate of Maritime Safety.
2) The Sub-Directorate of Navigation.
3) The Sub-Directorate of Maritime Transport.
4) The Sub-Directorate of Administration and Personnel.
5) The Sub-Directorate of Studies, Research and Documentation.

In order to permit it carry out its technical and ever complex functions in the maritime sector, free of the usual bureaucracy and bottle-necks in the Ministries the new General Directorate should be endowed with a wider financial and administrative autonomy.

.../...
Bibliography.

1. Shipping Law. Robert Grimes
2. Shipping Law Chorley and Giles.
3. IMO publications
4. A guide to the Collision Avoidance Rules. AN. Cockcroft and INF Lameiger
5. The Law of the Sea by R.R. Churchill and A.V. Lowe
6. The Law of the Sea Caracas and Beyond by Dr R.P. Anand.
8. The Role of African States in the development of the Law of the Sea, at the Third UN Conference by Penelope Simoes.
11. Recueil des Textes Juridique Maritime Camerounaise by CNCC
12. Bulletin du CNCC
13. Annuaire Maritime National 1983 by CNCC