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WORLD MARITIME UNIVERSITY

Malmö, Sweden

**ENHANCING MARITIME SAFETY IN
CAMEROON THROUGH PORT STATE
CONTROL:**

An analysis of impediments to adhesion to the Abuja MoU on PSC

by

NJOBINKIR IDA NGO
Cameroon

A dissertation submitted to the World Maritime University in partial
fulfilment of the requirement for the award of the degree of

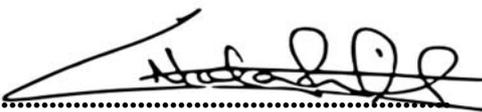
MASTER OF SCIENCE
in
MARITIME AFFAIRS
(MARITIME LAW AND POLICY)

2019

Declaration

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

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

Signature: .....

Date.....**24th September 2019**.....

Supervised by: **Max Mejia**

Supervisor's affiliation: **Maritime Law and Policy**

World Maritime University

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Abstract

Title of Dissertation: **Enhancing Maritime Safety in Cameroon
through Port State Control:
An analysis of impediments to adhesion to the Abuja MoU on PSC**

Degree: **Master of Science**

With over 80% of the volume of international trade transported by more than 50000 ships, and more than 90% of African exports and imports conducted by sea, maritime safety has over the years been a contemporary issue for the maritime industry. Cameroon's vision is to become an emerging economy by the year 2035 and with its goal of becoming a regional hub for maritime transport, safe and secure shipping is the key.

This dissertation on one hand is a study on how efficient port state control contributes to the enhancement of maritime safety and on the other hand analyses reasons why Cameroon is not a member to the Abuja MoU on PSC.

After analysing the causes of a couple of marine casualties that occurred within the Cameroonian waters for the past years, comparing these causes to data provided by PSC on the safety status of the vessels involved, it was concluded that, much attention has to be given on the quality of inspection, while shipping companies have to make sure that deficiencies identified by PSCOs are rectified for a safe and secure shipping.

As a way of improving efficient PSC, the training of PSCOs is vital for every maritime country because the safety status of a vessel is determined by the PSCO whose efficacy has an influence on the type of deficiencies identified.

Despite the challenges that come with MoUs, whose objective is to eliminate substandard ships and reduce unfair competition within ports in the same region, regional harmonization and information sharing on the safety status of ships amongst member states is an indispensable asset to the process of elimination of substandard ships. We are of the opinion that Cameroon will benefit more by joining the Abuja MoU.

KEYWORDS: Port State Control, Marine casualties, Maritime Safety, Abuja MoU on PSC, impediments to Cameroon's adhesion to the Abuja MoU.

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List of abbreviations

CMD	Head of Douala Maritime District
COLREG	Convention on the International Regulations for Preventing Collisions at Sea, 1972
DAMVN	Department of Maritime Affairs and Inland Waterways
EMSA	European Maritime Safety Agency
IMO	International Maritime Organisation
IEEC	International Energy Efficiency Certificate
LOADLINES	International Convention on Load Line 1966
MARAD	Maritime Administration
MARPOL	International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997
MINREX	Ministry of External Relations
MINT	Ministry of Transport
MLC	Maritime Labour Convention, 2006
MoU	Memorandum of Understanding
PS	Port State
PSC	Port State Control
PSCO	Port State Control Officer
PSJ	Port State Jurisdiction
SAC	Controls and Authorisation Service
SANE	Service for Administration of Ships
SCMFL	Service for Maritime Disputes
SGM	Seafarers Service
SOLAS	International Convention on Safety of Life at Sea, 1974 as amended
SPEMFL	Marine Environmental Protection Service
SPNRSM	Navigational Police, Maritime Search and Rescue Service
SPOSTMFL	Service for Professions and Operators in the Maritime Domain
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended
STSM	Maritime Traffic and Security Service

TONNAGE International Convention on Tonnage Measurement of Ships 1969
UN United Nations
USCG United States Coast Guard
UNCTAD United Nations Conference on Trade and Development

CHAPTER ONE: Introduction

1.1 Background

The Republic of Cameroon is a country in Central Africa bordered by Nigeria to the West, Chad to the Northeast, The Central African Republic to the East, Gabon and the Republic of Congo to the South. Cameroon's coastline lies in the bight of bonny, part of the Gulf of Guinea and the Atlantic Ocean.

With more than 400km long of coastline, Cameroon has five ports;

- The Douala port located in the littoral region and handles about 95% of imports and exports for the country as well as some neighbouring landlocked countries like the Central African Republic, Chad and even the Northern Congo Brazzaville making it a gateway to these countries and a pole of reference at the heart of the Gulf of Guinea (Cameroon National Ports Authority, 2015)
- The Kribi seaport which is newly constructed and located in the South region of the country with a view to help decongest the Douala port and serves the needs of industrial companies involved in mining, transporting and receiving heavy types of equipment for mineral extraction and it is also essential for commerce (Port Authority of Kribi, 2018).
- The Limbe and Tiko seaports which are secondary ports and located in the South West region of the Country essentially destined for the handling of petroleum products for the refinery unit in Limbe and for the export of timber and serve as the liaison between Tiko in Cameroon and Calabar in Nigeria respectively (Cameroon National Ports Authority, 2010).
- The port of Garoua, located in the Northern part of the country is regarded as a seasonal port and serves the Northern region and neighbouring Nigeria (Cameroon National Ports Authority, 2010).

With an average of over 1400 foreign vessels calling the ports of Cameroon annually, and given its advantageous geographical location, its objectives over the years have been to make the Nation a hub in maritime transport, positioning Cameroon as a logistic platform for the Gulf of Guinea (Port Authority of Douala, 2017).

Maritime transport accounting for about 12 billion tons of cargo transported by over 50000 ships sailing through the oceans remains an indispensable means of transportation of goods and contributes substantially to the vitality of international trade and economic growth across the globe (UNCTAD, 2018).

To this effect, the shipping industry of course without a doubt is very globalized with its uniqueness given that, commercial ships sail from one jurisdictional water to another. There is, therefore, a strong need for international cooperation to accomplish challenging objectives, such as clean oceans, safe ships as well as competent crew.

Generally, Africa relies greatly on ports and ships to service its intercontinental trade. Based on 2017 statistics, Africa contributes an average of 2.7% to global trade by value (5% of imports and 7% of exports). Although one-third of the continent is comprised of landlocked countries, maritime transport still remains the key gateway to the global African marketplace (UNTCAD 2018).

The maritime industry is not proactive, however, its trend of evolution has always been triggered by major maritime disasters (incidents and casualties) such as The *Titanic*, *Amoco Cadiz*, the *Prestige*, the *Torrey Canyon*, and the *Erica* which led to significant marine pollution and many loss of lives. These marine disasters have been the key drivers for the emergence and development of International Maritime Regulatory Conventions.

The inspection regime was implanted into these maritime international regulatory conventions and subsequently regional cooperation on port state control (PSC) was developed (Bang & Jang, 2012). It is necessary to highlight that these PSC regimes exist because some ship owners and flag states use loopholes created by the international nature of the industry to save cost by operating below the minimum safety standards (Ozcayir, 2018).

The operation of these substandard ships has been the leading cause of accidents resulting in damage to the marine environment, cargo and human lives. In order to limit the prevalence of these substandard ships, the intervention of port states has been the last resource to limit dumping at sea given that according to the United Nations Conference on Environment and Development, maritime transport and dumping at sea contribute about 20% of marine pollution and approximately 600 thousand tons of oil enters the oceans as a result of normal shipping operations and illegal discharges annually (UNCED, 1992).

1.2 Problem statement

Given Cameroon's growing interest in seaborne trade and port infrastructures, its geographical location makes it an ideal hub for regional seaborne trade. It should, therefore, consider taking all necessary measures to ensure maritime safety and marine environmental protection so as to assure the sustainability of the maritime domain and all other sectors that depend on it.

Over the years, PSC inspections have played a major role in improving maritime safety. The estimated cost savings linked to incident management achieved through PSC ranges from about USD 74,000 to USD 193,000 per inspection from the year 2002 to 2007 as compared to the average cost per port state inspection which was evaluated at USD 1240 to USD 1540 in Australia and the United States where 3127 and 9909 inspections were carried out respectively in the same year (Knapp et al, 2011).

In line with the above mentioned, there is an urgent need for efficient PSC in all Cameroonian ports bearing in mind that, the cost of maritime accidents does not only affect ship owners, Cameroonian waters and society but the region as a whole. Cameroon does not belong to the Abuja MoU on Port State Control, which is contrary to the recommendations and directives of the IMO, encouraging all member states to adhere to the MoU of their respective regions so as to collaborate in sharing data, harmonising PSC procedures within the region, eliminating substandard ships, as well as to minimise unnecessary delays of ships in ports.

Given that PSC is a safety net, vessels and the marine environment are at risk if not effectively carried out because, the prevalence of substandard ships causes accidents that damage human lives, goods as well as the marine environment.

Even though these controls are not sufficient to correct or prevent all accidents, they have and continue to play a major role in the general reduction of the number of maritime accidents. The reason why there is an imperative need for states to invest in improving their PSC procedures.

1.3 Aim and objectives

The focus of this research will be to:

1. Investigate legal and material obstacles to the accession to the Abuja MoU by Cameroon.
2. Investigate the effect of the professional background of port state control officers (PSCOs) on the quality of port state control.
3. Investigate the effect of efficient PSC on maritime safety and marine environmental protection.
4. Investigate the impacts of the non-membership of Cameroon to the Abuja MoU.

1.4 Research questions

1. How does efficient PSC impact maritime safety and marine environmental protection?
2. How does belonging to an MoU promote an efficient PSC regime?
3. Why is Cameroon not a member of the Abuja MoU on PSC?
4. How is regional implementation of the Abuja MoU affected by Cameroon's non-membership and vice versa?
5. How does the professional background of PSCOs affect the quality of inspection?

1.5 Scope of the study

Generally, there has been an increasing concern with issues relating to safer ships and cleaner oceans. This was the engine behind the initiation of the action taken by some European Port States against sub-standard shipping. Following the lead of the Paris MoU on PSC, many MoU on PSC exists. The main purpose of this study is to find out why Cameroon is not a party to the Abuja MoU on PSC, and whether PSC can enhance maritime safety where other measures have failed.

In an attempt to answer these questions, the first step will be to give a background of the study, select simple aim and objectives through which the aim can be achieved. Then proceed to relevant literature on the concept of port state control, maritime safety, marine environmental protection, history and legal status of PSC, qualification of PSCOs and a brief overview of the different regional MoUs on PSC. Thereafter, we will try to find out reasons why Cameroon is not a party to any regional MoU.

To determine the effectiveness of PSC as a means of improving maritime safety in Cameroon, we will make reference to some shipping casualty cases that occurred within the territorial waters of the country where we will conduct a scenario analysis of the causes of these shipping casualties as well as explore the effects on safety of navigation and the marine environment.

1.6 Significance of the study

This study will identify obstacles to the implementation of the Abuja MoU by Cameroon, and bring out the impact of effective PSC inspections on maritime safety not just to Cameroon but to the region as a whole.

1.7 Research design

This research will be explanatory and the appropriate approach to attain the objectives will be deductive to give answers to the research questions.

The reasons for the non-implementation of the Abuja MoU by Cameroon is not our only concern. We would also need to investigate the impact of efficient PSC in the enhancement of maritime safety and the protection of the marine environment. To achieve this, we will make use of the information on various cases of maritime

casualties, this will add-on to data from official websites, books, similar research, journals, news etc.

The choice of Cameroon is because, apart from being a flag state, it is a coastal and port state with two main commercial ports: Douala and Kribi. As such, from UNCLOS and other relevant international conventions, as a Coastal and Port State, Cameroon is expected to take all necessary measures to ensure maritime safety in her area of competence as well as protect the marine environment from any forms of pollution.

Aside academic purposes, the suggestions that will be made in the course of this research could be a source of information to the Cameroon Government as to why there is a need to ratify all the relevant IMO conventions, why there is a need for effective PSC procedures as a way of securing the Cameroonian waters from substandard ships as well as to belong to an MoU on PSC.

1.8 Potential limitations

Based on the objectives of this study, which is to determine the correlation between port state control and the occurrences of marine accidents in Cameroon, there is need for authentic data on marine casualties.

Apart from time constraint, this research will be limited by inaccessibility to relevant and authentic secondary data on marine casualties in Cameroon and the Gulf of Guinea region as a whole.

We could not get any reliable statistics/ records from the Cameroon National Centre for Statistics and the Cameroon Maritime Authority could only make available few casualty investigation reports carried out within the last few years. This difficulty was however not limited to Cameroon as similar scenarios were observed when other maritime authorities within the Gulf of Guinea region were contacted.

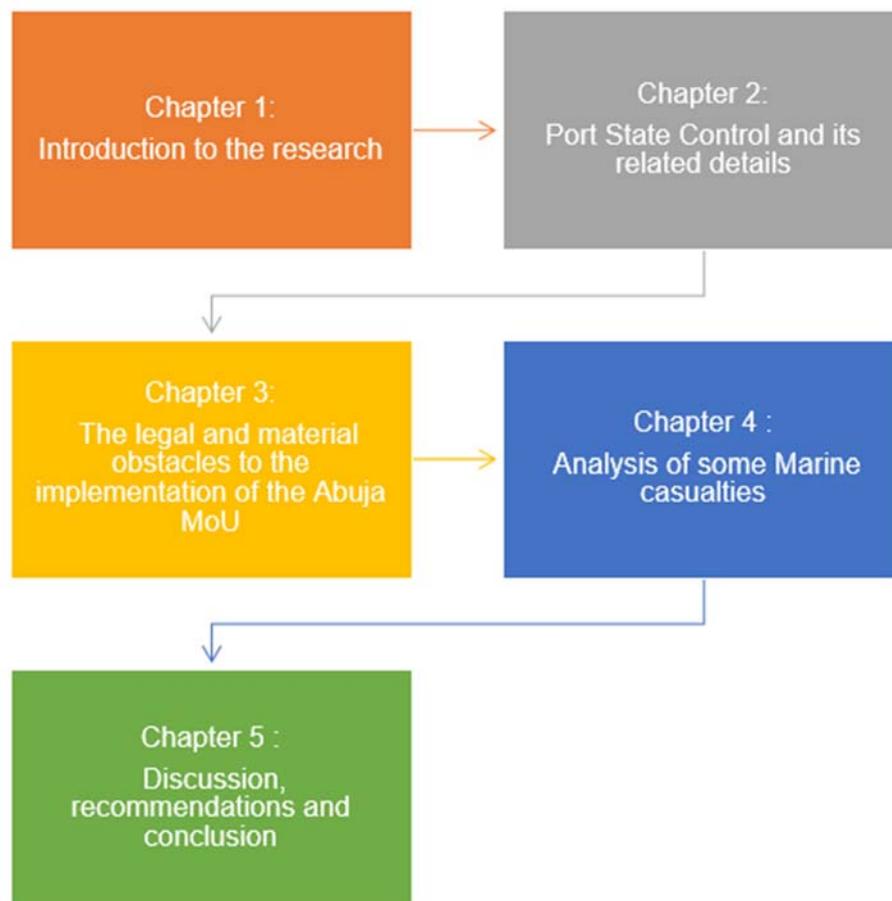
GISIS was also explored, but the statistics on marine casualties reported by member states in the Gulf of Guinea region was insufficient and not substantial.

In order to have an in-depth analysis of all cases of marine incidents to find a relationship between PSC and marine accident, Lloyds list was contacted by the WMU library, but the cost of such data is way above the budget. EMSA which publishes

data on marine casualties was not left out, unfortunately, their publications are limited only to countries in Europe.

In line with the above-mentioned, the unavailability of required data will be a hindrance to a more thorough research.

1.9 Dissertation layout



CHAPTER TWO: Port state control

2.1 Introduction

This chapter will give us the history of PSC, an overview of; some literature on PSC, the concepts of maritime safety and marine environmental protection, substandard ships, port state control officers, the legal basis of port state control and an appreciation of the different existing port state regimes across the globe.

2.1.1 History of port state control

The concept of PSC like any other instrument started after some major accidents; the 1967 Liberian flagged vessel *Torrey Canyon* oil spill incident known to be one of the world's most serious oil spills where the tanker ran aground off the coast of the United Kingdom spilling over 150 million litres of crude, followed by yet another Liberian flagged vessel *Amoco Cadiz* incident in 1978 leading to the spilling of about 220,880 metric tonnes of oil off the coast of Brittany (Paris). Other disastrous incidents such as the *Heraklion* which occurred off the coast of Greece, leaving 234 people dead and the *Othello* which occurred in 1970 off the coast of Sweden, leading to an oil spill of about 60000 tons (Kasoulides, 1993).

The causes of these incidents were attributed to insufficient monitoring of ships conditions by flag states and incompetent seafarers (poorly operated ships). This was justified by the fact that, ships registered in foreign flags such as the case of *Torrey Canyon* and the *Amoco Cadiz* barely went to Liberia and as such, flag states had no control over them (Bang & Jang, 2012).

Due to the above-mentioned, states thought it wise to put a mechanism in place to prevent ships that are not properly controlled by their flag states from polluting the oceans. In this regard, a number of European states agreed to control the safety and pollution practices of ships as well as inspect the labour conditions on-board vessels to ensure that, they meet the relevant international standards. The idea of port state

control was as a reaction to the failure of the flag states to perform their duties as stated in article 94 of UNCLOS (Paris MoU, n.d).

Thus, in 1982, 14 European states signed the Paris Memorandum of Understanding on Port State Control otherwise known as the Paris MoU to fight against poorly trained crews, irresponsible ship owners and unsafe ships. With a current membership of 27, its successful implementation modelled the signature of the several other existing MoUs on PSC (Ozcayir, 2018).

The IMO being the specialised agency of the United Nations responsible for the formulation and adoption of measures to improve safety and security of international shipping as well as prevent marine pollution from ships, encouraged countries through its Resolution A. 682(17) of 1991 on regional cooperation in the control of ships and discharges, promoting the conclusion of regional agreements.

This idea of regional cooperation brought up by IMO was because, ships calling the port of a country will normally call other ports of countries in that same region. As such, to make the whole process efficient, inspections should be coordinated to avoid unfair competition amongst states and avoid the delay of ships in ports due to multiple and unnecessary inspections (IMO, n.d).

2.1.2 Review of literature

As elaborated in many existing kinds of literature, the concept of PSC would not be required in an ideal world if all partners (flag states, ship owners) performed their duties as expected. But since it is not the case, PSC has stayed in practice because the control systems used by partners in the shipping industry have proven ineffective in eliminating substandard ships prevailing in oceans and causing countless damages (Anderson, 2002).

In order to eliminate substandard ships in the industry, flag states have the obligation and are at the first line of defence while port states are seen as the second line of defence (Knapp, 2007). PSC being an unannounced shipboard inspection gives a candid snapshot of the actual safety status of the vessel, and as such, best determines if the vessel is seaworthy or substandard (Mejia, 2005).

Based on a sample of 26,515 PSC inspections in the Indian Ocean MoU from 2002 to 2006 to identify the determinants of the number of PSC deficiencies and detentions, it was concluded that 40% is contributed by the age of the ship, 31% by the recognised organisation and 17% by the place of inspection (Cariou et al, 2009), where bulk vessels, dry cargoes, reefer ships as well as older ships have the highest number of detentions (Cariou et al, 2015). Given that the ships flag and classification society are a selection scheme adopted by most MoUs when deciding on which vessels to select for PSC inspection, ship owners might have interest in changing the flag and class (flag and class hopping) as a strategy to escape inspection (Cariou & Wolff, 2011).

Using an econometric method to determine the relationship between identified deficiencies of PSC and detention, it is identified that the background of inspectors and inspection areas influence the inspection results (Knapp & Franses, 2007). More specifically, the professional background of PSCO's determines the extent to which certain types of deficiencies are reported and the rate of determining deficiencies and the number of detentions depends on the number of PSCO onboard (Graziano et al, 2018).

PSC plays an important role in the enforcement of international safety standards, the age of a vessel has a positive relationship with the deficiencies, the factors determining the selection of vessels to be inspected is important and also the effectiveness of an inspection regime warrants further investigation or inspection (Cariou, Mejia & Wolff, 2007).

A positive cord between the initial and subsequent inspection of a given vessel which points out the degree of effectiveness of PSC irrespective of the vessels age is based on the fact that the number of reported deficiencies decrease greatly from earlier to subsequent inspections, this is an encouraging sign in an imperfect world though it depends on the uniform enforcement of international safety regulatory regimes for the prevention and mitigation of accidents at sea (Cariou, Mejia & Wolff, 2008).

PSC has become an indispensable feature in the successful implementation and enforcement of the legal framework for maritime safety, maritime security and marine

environmental protection and the implementation of the EU directive whose objective is the boost and increase targeting and selection of substandard vessels, inspection procedures and overall harmonization in the region has been challenging due to difference in inspection information, quality of inspections and training of PSCO's (Graziano, Mejia & Schröder-Hinrichs, 2018).

Examining the effect of PSC on improving maritime safety, with the use of econometric combined sources to determine how PSC inspections would affect the probability of casualty, it was realised that after a PSC inspection, the probability of marine casualty is reduced and detained vessels show the highest probability of casualty compared to vessels that have not been inspected (Knapp & Franses, 2007). Using monetary estimates to qualify the incident cost-saving brought PSC inspection, the benefit of an inspection compared to the cost of an accident ranges from 70 000 to 190 000 Dollars (Knapp et al, 2011).

PSC is an effective means to combat vessel source pollution. Based on statistics from Paris and Tokyo MoUs the number of substandard ships has reduced showing there is a positive probability that they have been effectively dealt with by PSC given that the number of substandard ships hasn't increased elsewhere and specific detentions concerning MARPOL has reduced (Mcdorman, 1997).

As far back as in 1993, comparing PSC to flag state inspections(FSI) in the UK, PSC is a substitute of ineffective with effective and without a total cooperation of states, PSC can never be a substitute of FSI because by the time a vessel arrives a port, all the equipment is in place and the crew already manned so the deficiencies if detected are difficult to be corrected at that stage, as such flag states have a big role to play in exercising full convention functions (Bell, 1993).

PSC though not deep enough to verify compliance, it is however based on overall perceptions, that is the only easily accessible indicator to determine fleet performance because of its independence, transparency and availability (Graziano et al., 2018) PSC has come as the most effective means of riding the world's ports and oceans of substandard, unseaworthy and dangerous ships, this doesn't mean pressure on ship

owners, flag states and classification societies should be relaxed. PSC should be used to do away with existing bad ship owners, flag states and classification societies (Graziano, Schröder-Hinrichs & Ölcer, 2017).

Statistics from ship loss between 1973 - 2003 and on PSC records from 1994 to 2004, revealed that the enforcement of PSC is effective in improving the safety level of maritime transport (Li & Zheng, 2008). However, the problem of eliminating substandard ships shouldn't be left to port states but the industry should come up with commercial solutions to increase pressure on non-performing flag states and non-prudent ship owners in an effort to eliminate solutions to increase the pressure on non-performing flag states and prudent ship owners (Knapp, 2004).

The principle of the name and shame of the Paris MoU and the huge cost that ship owners incur if they fail to comply with PSC requirements has obliged ship owners to improve the state of vessels. PSC can still never be very effective due to variations in funds and lack of trained personnel especially in the African states unlike the European PSCs and like any other system where humans are involved can be prone to abuse (Ozcayir, 2008).

Considering the continuous and successful implementation of the Paris MoU on PSC and the sharing of data amongst member states, the way forward to eradicating substandard ships could be through the adoption and implementation of a Global MoU on PSC. By so doing, there will be a full data flow amongst all nations and hopefully, no substandard ship will escape the global network thus, securing the entire ocean (Dalip, 2000).

Nevertheless, PSC can never replace the proper exercise of flag state responsibilities because the ultimate responsibility to safeguard the seas against substandard vessels lies with the flag state. But due to the failure of many flag states to meet their commitments, PSC has come into play. In this regard, the control measures taken during PSC are to be regarded as complementary to national measures taken by flag state administrations and are intended to assist these administrations (Li&Zheng,2008).

There is no conflict in international law between the authority of PS over a vessel visiting a port and the authority of a flag state over the vessel flying its flag but it is clear in international law that the authority of PS is superior to that of flag state while the vessel is in its port (McDorman, 2000).

2.2 Important concepts related to PSC

After the history of PSC and an overview of some literature, it is necessary for us to have an understanding of important concepts such as PSC, marine environment, maritime safety, and substandard ships related to this study.

The International Maritime Organisation (IMO), defines PSC as an inspection of foreign ships in national ports to verify that, the condition of the ship and its equipment comply with the requirements of international regulations and that the ships are manned and operated in compliance with the said rules. If the inspection reveals deficiencies that pose a safety hazard, the ship may be detained at the port until the deficiencies have been rectified (IMO, n.d).

Under customary international law, the United Nations Law of the Sea (UNCLOS) and some specific treaties, port states have an enforcement jurisdiction known as port state jurisdiction (PSJ) over foreign ships, calling offshore terminals and ports within their national jurisdiction. PSC is the practical method for the enforcement of this PSJ, adopted by port states (Mukherjee & Brownrigg, 2013).

PSJ though in UNCLOS is voluntary unlike the flag state jurisdiction, is gradually moving towards being comprehensive and mandatory through regional arrangements against pollution. However, to attain this stage, there has to be an adequate performance of individual regional arrangements, interregional uniformity and developing states need all the assistance that is required (Molenaar, 2007).

2.2.1 Types of PSC inspection:

Port State Controls can be categorised in two different levels; an initial inspection and a detailed inspection.

1. Initial inspection

This involves inspecting and /or examining the ship's certificates and documents by the PSCO. It also involves a general inspection of several areas onboard (which includes accommodation, engine room, bridge as well as the general hygienic conditions of the vessel) to verify that the overall condition of the vessel complies with the requirements of the certificates. Also, the PSC officer will check that outstanding deficiencies from previous PSC inspections have been dealt with.

2. Detailed inspection

This stage goes beyond the initial inspection, if valid certificates are not on-board, or if there are clear grounds to believe that the condition of a vessel and equipment or on-board operational procedures or crew does not substantially meet the requirements of a relevant convention, a more in-depth examination will be carried.

2.2.2 Marine environment.

The European Environment Agency (EEA) regards the marine environment as used in this research to be that part of the earth that covers inland waters, territorial waters, open seas, exclusive economic zones, estuaries etc.

According to the United Nations, the marine environment is one of the earth's most delicate yet precious resources. Given the importance of the oceans, there is a growing awareness worldwide on the need to take sustainable measures to protect the marine environment from further deterioration through pollution and ensure the sustainable management of marine resources because, the seas know no boundaries as such, any activity that has a toxic effect on them by a given state, has a negative impact way beyond the waters of that state.

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) gives a very simple and comprehensive definition of marine pollution as "the introduction by man, directly or indirectly, of substances or energy into the marine environment, including

estuaries which result or is likely to result in such a deleterious effect such as harm to living resources and marine life, hazard to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of the sea and reduction of amenities” (UNCLOS, 1982).

2.2.3 Maritime safety

The International Convention on the Safety of Life at Sea (SOLAS) comprehensively elaborates on the concept of maritime safety. SOLAS and its protocols are generally regarded as the most important of all international conventions concerning the safety of merchant ships, crafts or installations at sea whether used for navigation or extractive purposes, the operation of ships, observance of global standards regarding qualification and welfare of the human personnel on-board, and measures to prevent pollution of the marine environment.

Based on SOLAS, three key focus of maritime safety can be identified: i) minimum standards for construction and structural condition of ships, type and quality of equipment installed therein, ii) minimum standards for operations and management of ships iii) minimum manning requirements, training and certification of crew and working/living conditions on-board ships.

SOLAS and the International Safety Management (ISM) Code provide detailed measures for sustainable maritime safety and covers inter alia: stability requirements for both passenger and cargo ships, emergency systems, fire protection, fire detection and fire extinction, life-saving equipment and location in a ship, radio-communication equipment, navigational safety services to be provided by coastal states, mandatory safety management systems of ships, surveys and inspection of ships to enhance maritime safety.

2.2.4 Substandard ship.

According to the IMO, a ship can be defined as substandard if the hull, machinery, equipment or operational safety is substantially below the standards required by the relevant conventions or if the crew is not in conformity with the safe manning document.

In other words, a ship is considered to be substandard if it has either one or more of the below characteristics:

- Defect in its design and construction;
- neglects in its maintenance and repairs;
- prolongation of working life past the age of scrapping;
- manned by poorly trained personnel;
- maintenance of unacceptable safety standards.

In this regard, a substandard ship can be regarded as that ship whose physical condition, its operation or activities of its crew fails to meet basic standards of seaworthiness and as such possess a threat to life and the environment.

2.3 Legal basis of PSC

The first legal basis for port state jurisdiction is found in international customary law, where ports states are entitled with a vast discretion to exercise jurisdiction over their ports. This means port states have the sovereignty of their territory. This is reflected in UNCLOS where port state jurisdiction is known as territorial sovereignty, implying that when a ship enters the foreign port it is under the territorial sovereignty of the coastal state. The Port is regarded as part of the state's internal waters which have the same legal status as does land. To this effect, a vessel must comply with the local laws of that coastal state except in the case where a vessel calls a port due to an emergency or force majeure.

Looking at Port State Jurisdiction from the provisions of UNCLOS, two elements can be drawn, first is Port State Control and Port State Enforcement Jurisdiction with regards to marine pollution. The latter relates to the port state's authority to prosecute ships and impose sanctions such as fines in cases of violation of international conventions on pollution. On the other hand, PSC relates to the administrative control measures wherein the case of deficiencies, the vessel can be detained in the port until corrective measures have been undertaken without any prosecution of the ship in the case of deficiencies.

The basis of PSJ is in Article 211(3) of UNCLOS, where states have to establish particular requirements for the prevention, reduction and control pollution of the marine environment as a condition for the entry of vessels calling their ports and offshore terminals. Article 218(1) goes further to provide that, port states can institute proceedings in respect of any discharge from vessels either outside the internal waters, territorial sea or exclusive economic zone of the port state in violation of international standards. In this regard, article 219 gives states the discretion to take necessary measures to prevent the sailing of substandard ships in order to prevent pollution from ships.

Article 94(6), requests port states to notify flags states in the event where a vessel fails to meet the conditions relating to measures taken by that state to prevent, reduce and control pollution in line with article 194. The necessity of PSJ is not only vital for the interest of a port state but the interest of the international community such as safety at sea, marine environmental protection for the sustainable utilization of marine living resources and the safeguard of the marine biodiversity.

In this light, apart from being an effective means to enforce the respective international rules, PSC plays a significant role in remedying the consequences of the negligence of some flag states which require less stringent standards applicable to ships flying their flags (Molenaar, 2007).

In line with the above mentioned, the exercise of PSJ that is the requirement for a port state to take action against substandard ships is an important duty under UNCLOS so states are left with no option but to comply.

From UNCLOS, we can deduce that PSC was mainly devised for the protection of the Marine Environment but at date, many IMO and ILO instruments recognise PSC and contain provisions that allow the control of vessels. The first provision on PSC in an international convention was found in article 61 of the 1914 SOLAS.

The relevant provisions for PSC can be found in Regulation 19 Chapter I; Regulation 6.2 of Chapter IX; Regulation 4 of Chapter XI-1 and Regulation 9 of Chapter XI-2 of SOLAS as amended by the SOLAS 1988 Protocol. Where Regulation 19 of Chapter 1 specifies that, every ship when in the port of another country of a contracting

Government is subject to control by a duly authorised officer to verify that the certificates are valid. This applies to all other requirements as concerns the SOLAS convention.

Article 21 of the 1966 International Convention on Load Lines (LOAD LINES 66; LL PROT 88) also makes provisions for duly authorised officers to control vessels that call the ports of contracting governments to ensure that these vessels carry valid certificates on-board under this convention. This notwithstanding, in the 1973 International Convention for the Prevention of Pollution from Ships as modified by the 1978 and 1997 Protocols 9 MARPOL (73/78), provisions of PSC can be found under Articles 5 and 6, Regulation 11 of Annex I; Regulation 16.9 of Annex II; Regulation 8 of Annex III; Regulation 13 of Annex IV; Regulation 8 of Annex V and Regulation 10 of Annex VI, where ships are subject to PSC to ensure that all requirements relating to MARPOL and all its annexes are met.

Furthermore, provisions of PSC can be found in Article X of the International Convention on Standards of Training, Certification and Watchkeeping (STCW 78/79), where vessels while in ports are subject to control by duly authorised officers to verify that all seafarers serving on-board are duly certified as per the Convention and that such certificates are not fraudulently obtained.

In another development, the International Convention on Tonnage Measurement of Ships (TONNAGE 69), stipulates in its article 12 that, vessels flying the flag of a state party shall be subject to control when in the ports of other Contracting Governments to verify that, the certificate is valid and that the main characteristics of the vessel corresponds to the data provided.

The 2001 International Convention on the Control of Harmful Anti-Fouling Systems on Ships (AFS2001), makes provisions for PSC in its article 11, to verify that where required, there is a valid International Anti-Fouling System Certificate or a Declaration on Anti-fouling system and or a brief sampling of the ship's anti-fouling system taking into account the guidelines provided by IMO.

Article V (4) of the 2006 Maritime Labour Convention (MLC,2006), makes provisions for PSC to make sure that ships when in the port of a contracting state, comply with

the provisions of this Convention. Regulation 5.1.4, Standard A5.1.4 and Guidelines B5.1.4 elaborate on inspection and enforcement while Regulation 5.2 elaborates the responsibilities of Port States to enable member states to implement their responsibilities under this Convention with regards to international cooperation in the implementation and enforcement of the standards on foreign ships.

IMO provides an internationally recommended framework on which regional memoranda adopt and enforce. The guidelines and provisions provide a framework for common standards and procedures channelled towards the promotion of globally harmonised and coordinated PSC activities. Resolution A.787 (19) in 1995 was the first PSC procedural guide published by IMO. The most recent version is the 2017 Procedures to PSC, adopted pursuant to IMO Resolution A.1119(30) in December 2017.

2.4 Port state control officers

From the various conventions that make provisions for PSC, it is an obligation that this control has to be performed by a competent and duly authorised officer meaning that, the professional profile of PSCOs plays a vital role. In this regard, a competent PSCO is one who fulfils the qualifications, training and performs inspections in accordance with Resolution A.1119(30). It is important to highlight that, in an event where the required professional expertise cannot be provided by the PSCO, the PSCO may be assisted by any person with the required expertise as acceptable to the Port State.

With regards to the qualifications and training requirements of PSCOs, they should be experienced and qualified officers as is the case for flag state surveyors meaning a PSCO should have the necessary knowledge of the provisions of the relevant conventions to conduct a PSC taking into consideration the latest IMO model courses for PSC and they should be able to communicate in English with the main crew.

It is important to highlight that, periodic seminars should be held for PSCOs in order to update their knowledge on instruments related to PSC because the professional background and qualifications, as well as the composition of a PSC team, determines the efficiency of the port state inspection.

2.6 Memoranda of understanding on port state control.

We can distinguish 9 regional MoUs and the United States Coast Guard Port State Control Programme. The idea of regional MoU on PSC originated from The Hague MoU signed in 1978 after the *Amoco Cadiz* incident which is today known as the Paris MoU on PSC.

Recalling the origins of PSC, the aspect of PSC could already be seen in the 1914 first ever version of SOLAS after the sinking of the *Titanic*. The Paris MoU on PSC laid the basis for the formulation of other MoUs based on its successes in reducing the number of substandard ships prevailing which are a threat to human life, aquatic life and the marine environment (Kulchytskyy, 2012).

While some states such as the Russian Federation simultaneously participate in several MoUs on PSC, some states such as Cameroon, are yet to be a party to any regional MoU.

It is necessary to highlight that, an MoU is not a legally binding international convention rather, it is an administrative agreement which does not create binding obligations for state parties. The MoU is aimed to build a framework of cooperation among a group of states and maritime authorities of a region with a similar position on PSC, providing harmonization as well as uniformity of PSC procedures among state parties and assuring a mutual comprehensive exchange of information (Bang & Jang, 2012).

2.6.1 An overview of the PSC MoUs.

Based on the annual PSC reports of each existing MoU, a brief overview of the various MoUs is elaborated below.

Chronologically, the Paris MoU, signed in 1982 with 27 participating maritime administrations covers the waters of the European Coastal States and the North Atlantic Basin from North America to Europe. Within this regime, an average of 18000 inspections of foreign ships are carried out annually, out of which about 50% (9000) are identified with one or more deficiencies.

In 1992 the Acuerdo de Viña del Mar which is the MoU for the Latin American Region was signed. Currently, with a membership of 15 maritime authorities, this regime inspects about 9000 foreign vessels where about 33% (3000) of these vessels are identified with one or more deficiencies annually.

The Tokyo MoU which covers the Asia-Pacific region was signed in 1993. With a current membership of 20 maritime authorities, the Tokyo MoU inspects on an annual basis an average of 31500 out of which about 57% (18000) of the inspected vessels are identified with one or more deficiencies. It is considered one of the most active regional PSC regimes of the world considering the number of inspections carried out.

The Caribbean MoU on PSC (CMOU) which covers the Caribbean region and signed in 1996 by 9 states has grown to a current membership of eighteen states with many observers who have indicated the willingness and as such, it is hoped that the membership will continue to grow. The CMOU inspects an average of 635 vessels annually, where more than 15% (100) of such vessels are identified to have one or more deficiencies.

With the increasing international effort to enhance maritime safety and prevention of pollution from ships, the Mediterranean MoU on PSC which was signed in 1997 has a current status of 10 member states. In this regime, an average of 5000 inspections are carried out annually of which about 3.5% (170) are identified with deficiencies.

The Indian Ocean MoU signed in 1998 is next in line and now has a current status of 20 maritime administrations as members, inspects about 5500 vessels annually, out of which about 12.7% (700) vessels are identified with deficiencies.

The Abuja MoU which covers the West and Central African region came into existence in 1999 and has a current status of 14 full members, inspects more than 2000 vessels out of which about 11% (220) are identified with deficiencies.

In 2000 the Black Sea MoU was signed by 6 Black Sea countries with the common understanding of the main principles for PSC. Averagely, in the Black Sea MoU region about 5000 inspections are carried out on an annual basis where about 5.5% (275) of these vessels are detained due to deficiencies.

The last Regional MoU is the Riyadh MoU on PSC which was signed in 2004 in the Gulf region by 6 countries who are still the driving force of the MoU. This region conducts an average of 3000 inspections annually out of which about 23% (690) are identified to have one or more deficiencies.

The United States has elaborated its own unique PSC regime different from other regional MoUs due to its singularity. Unlike other MoUs, PSC inspections are carried out by a division in the US coast guard called the port state control division, whose mission is to develop and maintain policies and standards to achieve maritime safety and security. An average of 9000 foreign ships are inspected in this regime with about 1.1% (100) detentions annually.

It is important to highlight that, even though the regime of the PSC in the US seems different from the other MoUs, the US is a party to international regulatory conventions such as SOLAS, MARPOL, TONNAGE, LOADLINES, STCW, COLREG, ATF, which are the legal basis for the inspection of foreign ships in national ports.

Generally, all MoUs have a common structure comprised of the preamble, sections on general commitments, relevant instruments, inspection procedures, rectification and detention, provision of information, operational violations, training programmes and seminars, organization, financial mechanism, amendments, administrative provisions and annexes though the wordings might not be the same. A major difference in these MoUs is the selection scheme of ships to be inspected. The Paris MoU stands out with a more advanced selection scheme. A majority of the MoUs inspect 15% of their annual total inspections but for the Viña del Mar MoU which inspects 20% and the Riyadh MoU which inspects 10%. The Paris and Tokyo MoUs are different as they inspect almost all vessels that call their port and at the same time are considered to be the most effective, with a more stringent and detailed inspection scheme (Kulchytsky, 2012).

2.6.2 The Abuja MoU on PSC

Following IMO's resolution A 682(17) of 1991 for regional cooperation with regards to the inspection of ships in ports, the Abuja MoU was signed on the 22nd of October 1999 with aims to eliminate the operation of substandard ships within the regional waters, thereby ensuring regional maritime safety, making sure that the working and living conditions of seafarers are improved, as well as to facilitate the exchange of information and regional cooperation amongst member states (Abuja MoU, n.d).

Of the total 22 West and Central African states within the region of the Abuja MoU, 15 have ratified and domesticated the relevant International Conventions relating to municipal laws and gained full membership into the Abuja MoU, while 7 other countries including Cameroon are yet to do so.

Furthermore, apart from the other eight (8) existing MoUs on PSC who are observers to the Abuja MoU, other observers include; Mali, Burkina-Faso, the International Labour Organization (ILO), the International Maritime Organization (IMO), the Maritime Organization of West and Central Africa (MOWCA), the Food and Agricultural Organization, and the Asia-Pacific Maritime Information and Advisory Services (APMIAS) of the Russian Federation.

The performance of an MoU is reflected in the performance of its member states in ensuring a safe maritime domain. According to the 2018 Abuja MoU PSC report, an analysis of the MoUs performance between 2010 and 2018 revealed an unbroken improvement by the administrations of the MoUs member states to rid their waters of substandard ships, improve the standard of seafarers' welfare and stem pollution of the region's waters.

In a nutshell, we have been able to examine the history and development of PSC, the detailed role of PSCOs, the procedures and relevance of PSC in the prevention of the prevalence of substandard ships

We have also examined the various MoUs on PSC and the importance of cooperation amongst states in the harmonization of PSC procedures and data sharing.

Cameroon though not a member of any of the Regional MoUs carries out PSC in its commercial ports as required by UNCLOS and all other relevant conventions. The focus of our next chapter will be on the possible legal and material reasons why the country is not a party to any MoU on PSC.

CHAPTER THREE: Legal and material obstacles to the effective implementation of the Abuja MoU

From the overview in our previous chapter, we have seen that there is a benefit to PSC and we will assume that a country where there is an available MoU in the region should be part of it which is not the case with Cameroon. There are reasons relating to the political structure of the country, the administrative structure of the MARAD, inadequate experts and corruption that primarily seem to explain why this is the case.

3.1 Political structure.

Under the 1972 constitution as amended in 1996, the Republic of Cameroon is a Decentralized Unitary State with an Executive President elected every seven years who appoints the Prime Minister, Head of Government and other Ministers. The constitution, institutes three principal powers of the state; Executive, Legislative and the Judiciary.

With regards to Cameroon's relations with the international community, article 43 of the Cameroon Constitution empowers the President of the Republic to negotiate and ratify treaties and international agreements. Such ratified treaties and International agreements override national laws once approved and published. However, treaties and agreements falling within the area of competence of the legislative power as defined in Article 26, shall be submitted to parliament for authorization to ratify.

As to what concerns agreements such as MoUs on the various domains, Article 10(2) of the constitution permits the president of the republic to delegate powers (signature) to authorities (members of Government/ ministers) which must be written and must be partial within a particular scope. And most importantly, it must be explicit and precise.

Narrowing down specifically to the constitutional procedure for the signature of MoUs such as the Abuja MoU on PSC, the department of Maritime Affairs which is the technical body of the administration with regards to maritime affairs, prepares an

explanatory note (which elaborates on the reasons for such an agreement, its importance or benefits to the country, the financial, economic and political implications, and any other relevant information) to the Minister in charge of Maritime Affairs which in the case of Cameroon is the Minister of Transport.

The Minister in charge of transport (MINT) based on the importance and urgency of the subject in question solicits in writing, an authorization (together with an explanatory note) of the president to proceed to the negotiation and signing of the MoU in question, but this has to be through the Minister of external relations.

The Minister of external relations (MINREX) is the competent authority when it comes to Cameroon's relations with other countries and as such, has to give his opinion to the President of the Republic if there is a need for the MoU or not. If such an MoU necessitates financial contributions, the consent of the Minister in charge of finances has to be requested as well.

After this stage, the solicited authorisation together with the opinion of MINREX which also must be in writing is transmitted by MINREX to the office of the President. At this stage, it is at the discretion of the President of the Republic whether to accord or not an authorisation to MINT for the negotiation and signing of the MoU.

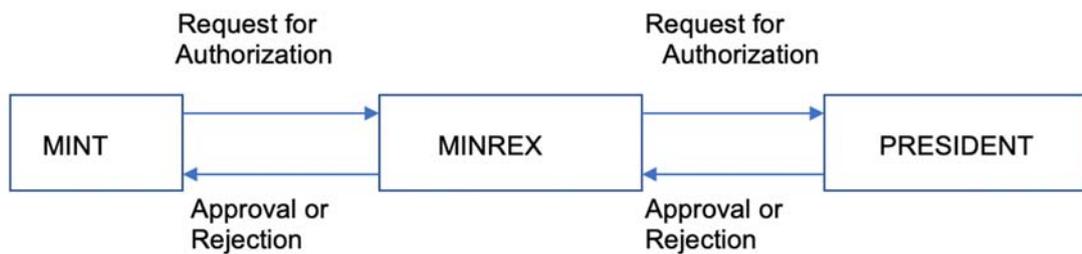


Figure 3. 1: Visual flow of authorisations to sign an international agreement

Source: (Author, 2019)

Before the 1996 constitutional amendment, Members of Government (Ministers) were given the liberty to negotiate and sign international and regional agreements specific to their domains of competence of which they deemed important for the country. This

power was misused by some Ministers who signed conventions, agreements and memoranda of understanding on behalf of the state based on affiliations and personal interest (Cameroon Tribune, April 2012).

This situation hampered coordination of Government action in terms of external financing of projects as well as affected the proper management of the obligations that come with the signing of such agreements or MoUs. To put an end to this, the Prime Minister, Head of Government through a circular letter of 19th April 2012, instructed all Ministers to follow the procedure as elaborated in the Constitution as mentioned and elaborated in figure 3.1 above. (Cameroon Tribune, April 2012).

In line with the above mentioned, and looking at the bureaucratic nature that comes with such a procedure, the process for negotiating and signing of international and regional agreements becomes slow due to the many stakeholders that could be involved in the whole process (Vubo, 2014).

3.2 The administrative structure of the maritime authority.

In line with the Constitution and based on the Presidential decrees number 2011/401 of December 09, 2011 and number 2012/250 of December 01, 2012, re-organizing the Government of Cameroon including the Ministry of Transport, and relating to the organization and functioning of the Ministry of Transport respectively, makes the Minister of Transport the Head of the Cameroon Maritime Authority and other modes of transport such as rail, road, air transport as well as affairs relating to Meteorology. The position of the Minister of Transport is political and depends on the discretion of the president, based on the proposal of the Prime Minister to appoint whoever is deemed competent to efficiently manage the transport sector of the country.

To deal with the technicalities of the Maritime Domain, there is the Department of Maritime Affairs and Inland Waterways (DAMVN) headed by a Director which;

- elaborates and puts in place Government policy with regards to maritime, river and lake transport;

- elaborates and follow-up of the implementation of regulations with respect to maritime transport and inland waterways;
- follow-up of the implementation of international accords with respect to maritime transport;
- follow-up international negotiations, accords, and conferences with respect to maritime transport;
- deals with issues relating to maritime safety, security and the protection of the marine environment in collaboration with other concerned administrations,
- coordinates of maritime traffic;
- manages issues relating to vessels and seafarers;
- issues authorizations to companies intervening in the domain of maritime affairs;
- follows-up relations with maritime professions and para-maritimes;
- controls the respect of rules in dispute settlement in the domain of maritime transport;
- carries out search and rescue operations;
- co-ordinates the inspections of vessels.

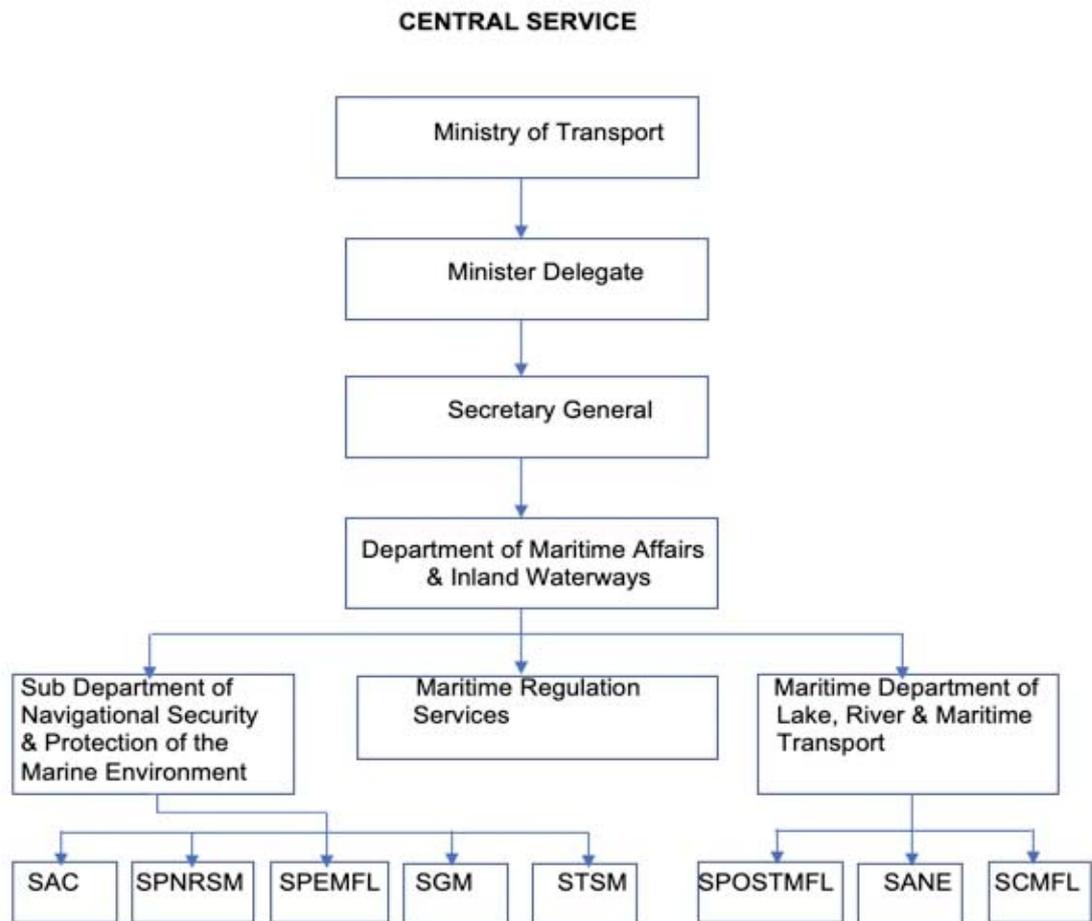


Figure 3. 2 Central service organisational chart

Source: (Author, 2019)

Aside from the Central Administration represented by the DAMVN which oversees all matters related to maritime affairs across the country, there exist other devolved/decentralized services which are either at the Regional level or Divisional level.

At the Regional level, there exists the head of the maritime, river and lake district (CMD) who in collaboration with the DAMVN and with the help of other workers in that domain deal with maritime-related matters within the specific region. At the Divisional

level, a head of the maritime, river and lake sub-district who in collaboration with DAMVN, and the CMD deals with maritime-related matters within the Division.

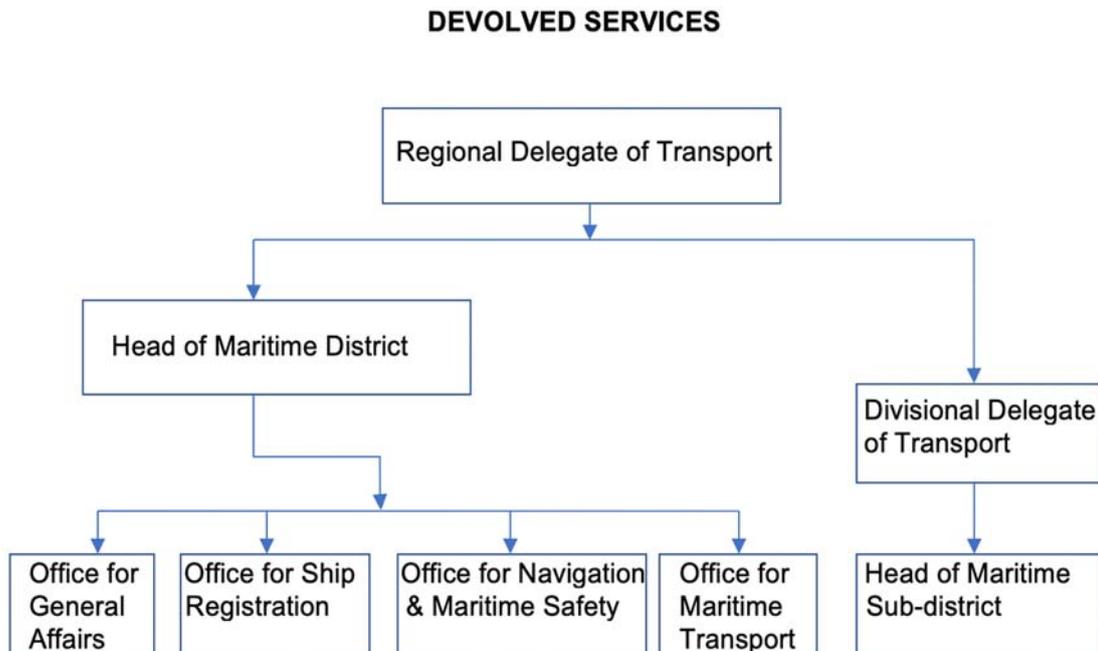


Figure 3. 3: Devolved service organisational chart

Source: (Author, 2019)

From the Organisational structure, we note that, every decision of the Cameroon Maritime Authority is dependent on the Minister of Transport and its execution follows the bureaucratic or hierarchical nature and all the administrative bottlenecks involved in such a process which of course leads to a lot of delay in decision making.

Due to constraints of hierarchical dependence (the lack of autonomy) of public administrations their performance is weakened leading to lower productivity levels as compared to public administrations with an autonomous policy where bureaucracy and administrative bottlenecks are significantly reduced (Pandey & Moynihan, 2006). The proper and efficient functioning of public administrations in Cameroon is hindered by lack of administrative and financial autonomy (Tsimi, 2010).

Despite the structural weaknesses having a negative effect on the functionality of the maritime affairs in the country as mentioned above, it is important to state here that, the decision to place the Maritime Department under the Ministry of Transport has an important advantage in that it ensures the proper coordination of activities within the administration.

3.3 Inadequate maritime experts and training institutions.

As is the case with many developing countries, the need for an adequate and qualified human resource for the public sector both in the core civil service like is the case with the maritime affairs and in public enterprises remains an indispensable fact. This is evident in that, the ability of the civil service to carry out its functions is continuously hampered by inadequately trained personnel (OECD, 2016). The growing concern with the need to do away with these deficiencies is seen from the continuous structural reforms of the public sector. However, improving the performance of the civil service signifies reorganizing not just the structure but the capacities of civil servants which no doubt is reflected by a fundamental shift in economic development policy. The lack of maritime expertise in most developing Nations has led to low competition and the difficulty in attracting investments (Ayee, 2001).

Good maritime governance is not possible when maritime administrators, navies and coast guards that are adequate and competent to perform their respective duties so as to ensure safe and secure shipping are not capable of performing their respective duties as expected. However, inadequate capacity to govern the maritime space and maritime affairs hamper the country's efforts to regulate the maritime activity and effectively render maritime regulations irrelevant. Poor capacity in a technical area like the maritime industry no doubt provides tempting opportunities for those who seek to make profit from the absence of real enforcement of maritime law (Paleri, 2009).

Africa's extensive maritime domain presents noteworthy challenges but also unbelievable opportunities. By enhancing the region's maritime enforcement capabilities through additional resources, improved maritime domain awareness, strengthened regional cooperation and continued efforts for capacity building, effective maritime safety and security can be achieved as well as good governance

which will, as a result, transform the challenges into tremendous assets (Stableseas, n.d).

Maritime Administrations play a major role in the growth of economies. However, it has always faced challenges ranging from poor infrastructural development, inadequate human resources, inadequate training facilities, and inadequate finances. The continued growth of the maritime industry makes it more challenging because of the increasing obligations involved thus, only a few institutions have developed the capacity to meet up with all obligations as required making it evident that, the industry is in dire need of well trained and qualified human resources who are in a position to improve the quality of services offered by maritime administrations (Abdalla, 2009).

Edgar Alain Mebe Ngo'o, the former Minister of Transport for Cameroon, highlighted that even though there is a strong desire and political commitment to make Cameroon an ideal hub in the region on maritime transport, the lack of legislation, lack of sufficiently qualified personnel and experienced nationals, inadequate training facilities, inadequate investments, inadequate budgetary allocation and an outdated maritime code have greatly hindered the effective functioning of the maritime sector (Cameroon Tribune, July 2016).

This shortage of adequate, qualified and experienced local personnel in the field of maritime transport is possibly as a result of the lack of a maritime-related corps in the Cameroon public service, unlike other professions of the public service which are full-time civil servants and are employed yearly. Qualified and experienced maritime experts are recruited on a contractual basis and in order to ensure continuity, there is a need for a dedicated corps in the public service for maritime affairs, which will trigger a more recurrent recruitment and consequently boost the technical capacity that is needed to ameliorate the functionality of the Cameroon maritime administration (Cameroon Tribune, July 2016).

Along with the shortage of skilled workforce, Cameroon is facing undeniable inadequate training facilities in the maritime field. Aside from a fisheries institute and some maritime courses which are offered in a few higher institutes of learning, the only available means for Cameroonians to acquire competencies such as officers,

marine engineers, surveyors etc, is either to attend the RMU in Ghana, or other maritime institutes in traditional maritime countries which is time consuming and expensive to the average Cameroonian (Cameroon Tribune, July 2016).

Belonging to international and regional cooperation related to the maritime industry such as is the case with the MoU on PSC has to be an initiation from the department in charge of maritime affairs. The competent, qualified and experienced human personnel, must convince the decision makers on the importance and benefits to the country of such regional agreements and only through this can the agenda be materialised. In this regard, capacity building is critical, as it serves as the basis for addressing all challenges to maritime governance and security in the African region.

3.4 Corruption

Transparency International makes a clear distinction between the words bribery, extortion and corruption. Bribery is the promise, giving or offering to a public official, whether directly or indirectly, an undue advantage, in exchange for an advantage contrary to the official duties. On the other hand, extortion is when public officials request bribes with intimidations and threats. Bribery and extortion are incorporated in the canopy of Corruption which is defined as the abuse or misuse of entrusted power for personal gain. Corruption can either be political, petty or grand depending on the sector in which it occurs. In this regard, the word “Corruption” will be used in its wider sense in this study (Transparency International, 2011).

The Maritime industry which in other words can be regarded as the shipping and Ports industry plays a vital role in the growth of the global economy. The logistics of seaborne export and import of merchandise consistently involve significant interactions with government officials of different countries, making it one of the most globalised economic sectors as it has the ability to connect and influence all parts of the world. However, a foremost threat to this industry is Corruption (Mahajan et al., 2015).

The Shipping industry has been labelled as the most exposed to different levels of corruption than any other industry with the most high-risk to be affected by anti-corruption regulations. Out of the 427 cases of corruption analysed in 2014 in the

OECD report, 11% were customs officials and 2% were maritime administrators or officials (OECD 2014)

It is commonly accepted that countries with the highest level of corruption are the ones which are regarded as the least economically developed, high levels of administrative bottle-necks and most politically unstable (Bailes, 2006). It is true that most African countries fall within these categories (UN, 2017). To this effect, corruption in the shipping industry for some African countries can be of different types and at different stages such as making illicit payments for the over-look of procedural requirements or irregularities. In fact, corruption is a social norm in some countries with noteworthy consequences to those who do not comply (Follet, 2015). However, depending on the governance structure of a country, the structural dysfunction of a MARAD could trigger corrupt practices by some public officials, be they administrators, PSCOs, surveyors, among others (Rohit et al., 2015).

In view of the above, Cameroon cannot be exempted especially as per the 2018 CPI reported by TI, it was ranked 152 least corrupt nations out of 175 countries. This, however, shows a marked improvement compared to its rankings in the late 1990's thanks to Government efforts to reduce corrupt practices by creating structures to fight corruption and enacting good laws to punish corrupt practices and ensure good governance. These measures notwithstanding, there is a gross misconception by some officials that belonging to an MoU on PSC will limit or deny them some benefits which they presently enjoy as it might significantly reduce the number of vessels to be inspected in ports.

Thus far, we have been able to establish a direct link between political, administrative structures and the level of bureaucracy and administrative bottlenecks; countries with a more or less centralized political and administrative structure like Cameroon are characterised by poor Governance which gives room for corruption, delays in decision making thus hindering economic growth. In the same way, the smooth functioning of technical structures depends on expertise which in such countries is inadequate. There is, therefore, no doubt that all these factors are contributing obstacles to the signature of the Abuja MoU by Cameroon.

In our next chapter we will analyse some maritime casualty cases that occurred within Cameroonian waters, its causes and impact on the safety of navigation and the marine environment.

CHAPTER FOUR: An analysis of some marine casualties.

This study began with an overview of the importance of PSC in the elimination of substandard ships which continue to pose devastating problems to the marine environment and safety of navigation in most if not all the world's seas. We went further to look at how with the development of regional MoUs on PSC, information sharing amongst states makes it easy to target substandard vessels.

We proceeded to have a review of some literature related to port state control as well as key concepts such as maritime safety, marine environmental protection, substandard ships then we had an overview of the existing MoUs on PSC with a special focus on the Abuja MoU where, we explored some reasons why despite the growing importance of belonging to an MoU for PSC, Cameroon is not a party to any.

From the history of PSC we have noticed that, cases of marine casualties have negatively affected the safety of navigation, led to losses of lives, to serious material and financial damages as well as immeasurable damages to the marine environment. This has been the case in all coastal and maritime states Cameroon inclusive.

In this chapter, we will be looking at the causes and impacts of three marine casualty cases that occurred within the Cameroon territorial waters which involved collision, fire, explosion, grounding, hull cracking etc. Leading to pollution, immobilization of main engines, structural damage rendering the ship unfit to proceed.

The study of these cases is intended to provide us with relevant information as to why port state control is important in minimizing casualties and avoiding the reoccurrence of such accidents.

4.1 First case study 1

Collision between *M/V Swift Split* and *M/V EM-Chios*.

Based on the casualty investigation report conducted by the Cameroon Maritime Administration on March 07, 2013, in order to have a better understanding of the events of this accident, we will start by giving a general overview of the events, then we will proceed to causes of the accident, and later on to the damages incurred from the accident.

4.1.1 Introduction

On March 1, 2013, *M/V EM Chios* at the channel entrance to the port of Douala with the pilot on-board, collided with *M/V Swift Split* which was at anchorage off the access channel to the port in the south without any crew on-board.

M/V Swift Split, a bulk carrier built in 1982 and flying the flag of Panama at the time of the accident had been seized since the year 2010 due to accumulated maritime debts. *M/V EM Chios*, a container vessel built in 2000 and flying the flag of Liberia at the time of the incident, was chartered for container services in the West African Coast. Sailing from the port of Cotonou (Benin Republic), *M/V EM Chios* navigated with over 7000 tons of cargo on-board.

While *M/V EM Chios* carried valid safety certificates, the safety certificates of *M/V Swift Split* at the time of the incident were all expired and this since 2009.

4.1.2 Factors of the accident

With regards to the causes of the accident, the method for determination and classification of such causes is recommended by resolution A. 849 (20) as amended by resolution A. 884 (21) and in compliance with the Code for the Investigation of Marine Casualties and Accidents, laid out in resolution MSC.255 (84) of the IMO.

With the aim of avoiding the occurrence of the same type of accident, these causes of accidents are classified in natural factors, material factors, human factors and other factors.

- **Natural factors:** the weather at the time of the incident was bad with violent tornado, accompanied by heavy winds which reduced the visibility to about 50 meters. This change in weather was concluded to be a causal factor to the collision.
- **Material factors:** *M/V EM Chios* having dragged her anchor unexpectedly had a failure in her engine. She found herself suddenly in the channel at an uncontrollable distance very close to *M/V Swift Split*, which was at anchorage. This failure in the engine was concluded to be a triggering factor to the collision.
- **Human factors:** according to the rules of safe navigation, in an event of a stormy weather and low visibility, the crew must take a suitable safety speed. These provisions were not respected by the crew of *M/V EM Chios* while on the other hand, *M/V Swift Split* was crewless.
- **Other factors:** the VTS (Vessel Traffic Services) station provides vessels and other users with information on the organization of traffic in the port and channel and while organising traffic and movement of vessels in the ports and access channel, provides aid to vessels in order to prevent the occurrence of dangerous accidents.

In the port of Douala, the VTS station was out of order for months and due to lack of radar images, VTS could not provide assistance to *M/V EM Chios* in the channel on the position of *M/V Swift Split*, on the speed, direction and wind force. Due to the lack of crew on-board *M/V Swift Split* the vessel was not capable to respond to emergencies.

4.1.3 Damages

On *M/V EM Chios*, the bow plate was ripped or torn to an area of about 10 to 15m³ above the water level and on *M/V Swift Split*, there was a breach of the ships watertight integrity at hatch number 3 starboard side.



Figure 4. 1: *M/V EM Chios* before and after collision

Source: Adapted from (DAMVN, 2013)



Figure 4. 2: *M/V Swift Split* before and after collision

Source: Adapted from (DAMVN, 2013)



Figure 4. 3: *M/V Swift Split* after the collision and current state

Source: Adapted from (DAMVN, 2013)

The effects of the collision are seen on the pictures, which are also attributed to high speed of *M/V EM Chios* while it entered the channel. At date, *M/V Swift Split* is dead and abandoned in the anchorage of the port of Douala.

4.2 Second case study

Collision of *M/T Marida Melissa* and *M/V Nord Barcelona*

Based on the casualty investigation report conducted by the Cameroon Maritime Administration on February 16, 2015, in order to have a better understanding of the events of this accident, we will start by giving a general overview of the events, then we will proceed to causes of the accident, and later on to the damages incurred from the accident.

4.2.1 Introduction

On February 05, 2015, *M/T Marida Mellisa* (IMO 9438169) built in 2009, a 8530 gross tonnage oil tanker, flying the flag of Marshall Island from Lomé Port (Togo), with total cargo of 9,747.646 metric tonnes of petroleum products bound for the port of Douala, collided at the anchorage of the port of Douala with *M/V Nord Barcelona* (IMO 9544748), a bulk carrier of 22 683 gross tonnage built in 2011 and coming from

Setubal port (Portugal), loaded with 24 708, 938 tonnes of clinker bound for the port of Douala.

Both vessels waiting to berth were faced with wind and the strong current, the anchor of *M/V Nord Barcelona* began to drift, the captain faced with such a scenario decided to raise his anchor and to look for a better position of anchorage.

During the manoeuvre, he approached *M/T Marida Melissa* on its starboard bow. *M/T Marida Mellissa* tried to make radio contact with the vessel *M/V Nord Barcelona* but radio was not functional, lights and signals were not also working appropriately.

Due to this failure in communication and signalization, *M/T Marida Melissa* collided with *M/V Nord Barcelona*. Looking at the safety certificates, both vessels carried valid certificates onboard.



Figure 4. 4: *M/T Marida Melissa* and *M/V Nord Barcelona* during the collision

Source: Adapted from (DAMVN, 2015)

4.2.2 Factors of the accident

With the aim of avoiding the occurrence of the same type of accident, the causes of accidents are classified in natural factors, material factors, human factors and other

factors recommended by resolution A. 884 (21) and in compliance with the Code for the Investigation of Marine Casualties and Accidents, laid out in resolution MSC255 (84) of the IMO.

➤ **Natural factors**

The accident occurred two hours after a high tide and high coefficient. During the manoeuvre, a strong reverse current was established and strongly influenced the activity of the *M/V Nord Barcelona*. It was concluded that the weather conditions have an impact on the origin of the accident.

➤ **Material factors**

At the time of the accident, the radio and signalization lights of *M/T Marida Melissa* were not functioning appropriately. This was considered as a very significant contributing factor to the accident as communication between the two vessels was hindered.

➤ **Human factors**

The anchorage area of the port of Douala is located halfway between the mouth of the Wouri River and the port of Douala. This zone because of the congestion of the port of Douala, receives about forty ships a month, with an average stay of 30/35 days. This number is well beyond the capacity of the area.

Given this saturation, some ships choose to anchor downstream of the mooring area where depths are guaranteed. The degree of saturation does not facilitate manoeuvre and greater caution must be observed in the choice of actions to be carried out, because of the strength of the current in the river.

The crew of both vessels were considered not vigilant and cautious enough as required.

➤ **Determining and aggravating factor**

Despite the strong current, the captain of *M/V Nord Barcelona* after raising his anchor decided to make a delicate manoeuvre by passing between two ships. He found himself caught by the strong reverse current that occurred at the time of the manoeuvre; two hours after a high-tide.

4.2.3 Damages

M/T Marida Melissa was punched at the front bow starboard while *M/V Nord Barcelona* acquired a rupture of the hull at the port forward peak. Though no cargo was damaged, this incident led to the immobility of the two vessels for days blocking the access channel of the port of Douala which led to enormous consequences.



Figure 4. 5: *M/T Marida Melissa* and *M/V Nord Barcelona* after the collision

Source: Adapted from (DAMVN, 2015)

4.3 Third case study

Collision between *M/T Weymouth* and *M/V Teos*

On 09 November 2018, the collision between these two vessels occurred. The two vessels were at anchor when *M/T Weymouth's* anchor began to drag, the crew's attempts to stop the drifting of the vessel were not successful and so the *M/T Weymouth* collided with the *M/V Teos* which was still at anchor.



Figure 4. 6: *M/T Weymouth* and *M/V Teos* before the collision

Source: Adapted from (DAMVN 2018)

4.3.1 Introduction

M/V Teos a multipurpose vessel, built in the year 1999 flying the flag of Panama was coming from Pointe Noire and had 781 tons of steel pipe while *M/T Weymouth*, a tanker vessel built in 2007 and flying the flag of Marshall Islands was coming from the port of Abidjan carried 9,877 metric tons of JET A1.

Both vessels carrying valid certificates on-board, the incident occurred in the access channel anchorage area. *M/T Weymouth* was at the anchorage where she noticed that the anchor started dragging, immediately the engine room was informed as well as the bridge. At this time, *M/V Teos* was trying to anchor to no avail.

Due to hyper mist alarm, the engine of *M/T Weymouth* shut down. *M/V Teos* noticed the strong shift of the *M/T Weymouth*, in the course of this, both vessels collided, where the port side of *M/T Weymouth* hit the bow bulb of *M/V Teos*.

A hull opening of about 7meters squared appeared on the *M/T Weymouth* from which Kerosene JET A1 cargo escaped and spread over the water surface while *M/V Teos* had only few spots of collision without a hull opening.



The two vessels 3mn before the impact

Ships at the time of impact

Figure 4. 7: Vessels 3mn before the collision and at the time of the collision

Source: Adapted from (DAMVN, 2018)

4.3.2 Factors of the accident

With the aim of avoiding the occurrence of the same type of accident, the causes of accidents are classified in natural factors, material factors, human factors and other factors recommended by resolution A. 884 (21) and in compliance with the Code for the Investigation of Marine Casualties and Accidents, laid out in resolution MSC255 (84) of the IMO.

➤ **Natural factors**

The event took place 3 hours after a very high tide. With the tides at the port of Douala, we can consider that everything happens when the tidal current reverses. *M/T Weymouth* further stated that since her arrival in the inland anchorage area of the port of Douala, she had to change anchorage position twice because of the poor performance of his anchor.

➤ **Material factors**

In the cause of this manoeuvre, the engine of *M/T Weymouth* stopped due to a major alarm making the ship no longer a master of its operations. While the ship was drifting at high speed in the direction of the current and towards other vessels at anchorage, the failure of the engine which lasted for about 2 minutes brought the vessel close to *M/V Teos*. The engine failure was considered to be an aggravating factor.

➤ **Human factor**

Looking through the chronology of events, the collision took about 42 minutes after the first alarm of *M/T Weymouth*, but *M/V Teos* did not make any attempts to leave the anchorage so as to avoid any collision, such a deliberate decision of *M/V Teos* was considered to be a contributing factor to the accident.

4.3.3 Damages

Due to the collision where the port side of *M/T Weymouth* hit the bow bulb of *M/V Teos*, a hull opening of about 7 meters square appeared on *the M/T Weymouth* from which Kerosene JET A1 cargo escaped and spread over the water surface while *M/V Teos* had only few spots of collision without a hull opening.



Figure 4. 8: *M/T Weymouth* and *M/V Teos* after the collision

Adapted from (DAMVN, 2018)

Shipping accidents as we have seen in this chapter are unexpected events whose results are crucial to all parties; loss of human lives, trading, marine environment and financial losses. Several reasons for such accidents have been given and include amongst others human errors, technical failures, natural conditions, shipping factors as well as route conditions and cargo related factors contribute to the occurrence of these accidents.

Unfortunately, shipping accidents are inevitable in the maritime field despite the technologies and creativity, but looking at the countless damages whose effects are felt by all parties, it is empirical to exploit all possible means that could reduce the occurrence of such accidents.

Cameroon just like any other coastal and port state is not an exception to these shipping accident cases as we have seen in this chapter. Given that the Nation's geographical location gives it an added advantage in serving as a gateway to many neighbouring landlocked countries, it is pragmatic to adopt all possible measures that will limit the rate of marine casualties within its territorial waters which affect navigational safety in the area and leading to enormous slowdowns in shipping and port activities.

Given the effect that these accidents could have on the image of the port, the performance of the port, as well as the economic impacts to the shipping companies, our next chapter, will be discussing ways through which these shipping accidents can be minimized through PSC, then we will progress to give answers to our aforementioned research questions, make possible suggestions and draw our conclusions.

CHAPTER FIVE: Discussion, recommendations and conclusion

Our previous chapters discussed the importance of port state control in the elimination of substandard ships which continue to pose problems to the marine environment and safety of navigation. We also looked at how with the development of regional MoUs on PSC, information sharing amongst states makes it easy to target substandard vessels.

Thereafter, we looked at possible reasons as to why Cameroon is not a party to any MoU on PSC despite the role these MoUs play in eliminating substandard ships. We proceeded to have a detailed understanding of some marine casualty cases that occurred within the Cameroon territorial waters which were a danger to navigation as well as the marine environment.

In this chapter the results of this research will be integrated into a discussion that will address this dissertation's research questions, examine how PSC can enhance maritime safety in Cameroon, and analyse the impediments to her adhesion to the Abuja MoU.

The specific questions set for this research are:

- How does efficient PSC impact maritime safety and marine environmental protection?
- How does belonging to an MoU promote an efficient PSC regime?
- Why is Cameroon not a member of the Abuja MoU on PSC?
- How is regional implementation of the Abuja MoU affected by Cameroon's non-membership and vice versa?
- How does the professional background of PSCOs affect the quality of inspection?

We will discuss these questions, draw our conclusions and make some possible suggestions.

5.1 How does efficient PSC impact maritime safety and marine environmental protection?

We cannot talk of enhancing maritime safety and protecting the marine environment without looking for possible means of reducing the rate of marine casualties which are the main causes for concern. To provide answers for this, we will make use of the information gotten from "Equasis" which is a site aimed at reducing substandard shipping by providing safety-related information of ships and companies.

To establish a correlation between PSC and marine casualties, we will have a look at the deficiencies that were identified by PSC months before and after the occurrence of the accidents enumerated above and see if according to the casualty investigation reports, these deficiencies were a causal factor to the accidents.

Firstly, in the case of the collision between *M/V Swift Split* (which at date is a wreck within the Cameroonian waters) and *M/V EM-Chios* which occurred on March 07, 2013, based on the safety information of these two vessels provided by "Equasis", *M/V Swift Split*, before the accident had been detained more than six times by various PSC regimes. The latest detention was on 20/06/2008 where the vessel was detained by the USCG in Huston, Texas for more than 6days due to 9 deficiencies. Aside from the malfunctioning of emergency fire alarms, problems in the propulsion of the main engine of the vessel was the main ground for detention. In this regard, tracing back to the previous detentions, similar reasons were the case for detentions.

Examining the safety information related to *M/V EM-Chios*, few months before the incident, on the 11/09/2012, deficiencies identified by PSC in Antwerp-Belgium, included:

- Expired nautical publications,
- ECDIS which was not as required has a negative impact on the safety of navigation.

- Insufficient firefighting equipment, as well as, life rafts were not properly stored.

After the accident, it was identified by PSCOs still in Antwerp that,

- the propulsion of the main engine had issues,
- the automatic radar plotting aid and radar were inoperative.

Comparing these with the identified causes of the accident provided in our previous chapter, we can deduce that, some deficiencies that were identified by PSC such as problems in the propulsion of the main engine which subsequently led to a failure in the engine was concluded in the casualty investigation report to be an aggravating factor to the collision.

In another development, the collision between *M/T Marida Melissa* and *M/V Nord Barcelona* which occurred on 05/02/2015 and led to the immobility of the vessels for days causing congestion in the access channel to the port of Douala, as well as constituted danger to the safety of navigation, we found that,

Weeks before the collision, *M/T Marida Melissa* was detained in Gibraltar, UK for MLC, 2006 related deficiencies which included but not limited to; inappropriate

- heating and ventilation
- lighting in the working spaces

These deficiencies are contributing factors to seafarers' fatigue which results in countless negative implications and according to most studies, is a main cause of marine accidents (Jepsen, Zhao & Leeuwen,2015).

Few months after the incident, this same vessel was detained on the 28/10/2015 in Hamburg Germany for the same MLC, 2006 related deficiencies and aside from these, the radio communication appliances were also defective.

On the other hand, *M/V Nord Barcelona* inspected on 22/01/2015 in Setubal, Portugal was found defective in;

- Inadequate rest hours for the crew contrary to the provisions of MLC 2006 and
- Malfunction in the machinery alarm system.

Based on the above mentioned, and in relation to the causes of the casualty that were identified in the casualty investigation report, it was concluded that aside from the

natural factors and the malfunctioning signal lights of *M/V Nord Barcelona*, the main cause of the incident was due to human error which could be related to the above mentioned MLC, 2006 deficiencies.

Thirdly, looking at the collision between *M/T Weymouth* and *M/V Teos* which occurred on 09/11/2018 leading to an oil spillage, *M/T Weymouth* was detained for eight (08) days at the Antwerp Port on the 16/11/16 for;

- Missing International Energy Efficiency Certificate,
- ISM related deficiencies,
- MLC, 2006 related deficiencies and
- Inappropriate machinery space openings.

On the other hand, *M/V Teos*, after a PSC inspection in Laurium (Greece) on the 24/01/2019, the only identified deficiency was fire dampers was not as required.

Exploring other previous inspections, it was identified that the engine room was untidy which was an indication of a deficient safety management system.

Relating this to the causes of the *M/T Weymouth* and *M/V Teos* collision, it was concluded that, the incident was aggravated amongst others by a 2minute engine failure of the *M/T Weymouth* which directly could not be caused by the PSC identified deficiencies.

In line with the above mentioned, PSC is considered to be efficient;

- when information about the safety standard of a ship is shared amongst states,
- when PSC officers are able to identify all deficiencies that could impede safety of navigation and the marine environment,
- when all measures are taken to ensure that all deficiencies are corrected before a vessel proceeds to sea.

As Li & Zhen (2008) demonstrated in their study, in order to prevent the occurrence of accidents in national waters, there is imminent need for port states to properly follow-up to ensure that deficiencies identified in vessels are corrected. In this light, because of a lack in a PSC regime in the case of Cameroon as we have seen, the follow-up mechanism of identified deficiencies is weak which if the reverse is true and

the identified deficiencies corrected, this could have in one way or the other prevented the occurrence of such accidents.

In this regard, we will proceed to discuss how belonging to an MoU on PSC can guarantee an efficient PSC regime.

5.2 How does belonging to an MoU promote an efficient PSC regime?

The prominent current feature of the IMO is its emphasis on the implementation of international conventions, this is connected with the growing concern that is given to port state controls as a technique for implementing various IMO standards in the areas of marine safety and environmental protection, to this effect, PSC has since its origin become an accepted and indispensable process in the shipping world given that, it has a policing role to verify and see into it that ships comply with the relevant international standards. This proves that PSC complements and in some cases overshadows the role of flag states in the implementation of international maritime standards (Payoyo, 1994).

Judging from the Romanian perspective, De Larrucea & Mihailovici (2010) ascertain that; in order to carry out an effective PSC, many countries have signed and accepted an MoU for regional cooperation in PSC and have established a computerized database system and a harmonized approach. These PSC procedures have been improved to cover not only ships documentation but also the operational requirements of the relevant conventions.

To improve efficiency in PSC and reduce cost, the methods for selection developed by each regional PSC regime detect potential substandard ships in advance so that port states can focus their efforts on these identified potential substandard ships. This is an indication that methods for selecting ships are a necessary part of the proper enforcement of PSC (Li & Zheng, 2008).

Regional MoUs are important because;

- Of the vital role, they play in minimizing port shopping,
- They improve information sharing pertaining to ships, their owners and their operators,

- They reduce the burden of repetitive inspections in ports leading to unnecessary delays,
- Of the provision of a harmonized approach to PSC which lowers the burden of ships' crew and permit effective deployment of available resources,
- They give forewarning to maritime states of substandard vessels within their territories and the ships remain under surveillance as long as they operate in the regions.

Based on the aforementioned, if all port states take the correction of identified deficiencies as a pertinent issue that needs attention by making proper use of all the strategies adopted by MoUs to eliminate substandard ships such as proper follow-up mechanism, information sharing, training of PSCOs, harmonized PSC approach, these could prevent port hopping and lead to a significant decrease in the number of accidents that are caused by previously identified deficiencies. Emecen (2016) emphasised that the strict application of the Black sea MoU can help in a significant way to improve and ensure navigation safety and in this same light, Zinsou (2010) highlighted that if all states within the Abuja MoU region adhere to the specifications of the MoU, the oceans will be safe and secure.

In line with the above-mentioned, even though belonging to an MoU on PSC is not binding, the contributions it brings to efficient port state control and safe shipping are undebatable reason why countries are encouraged to regionally cooperate in eliminating substandard ships. It is unfortunate that despite these, some countries such as is the case with Cameroon are not parties to any regional MoU. In this regard, we will proceed to give answers as to why Cameroon despite being a port state is not a member of the Abuja MoU.

5.3 Why is Cameroon not a member of the Abuja MoU on PSC?

Some States not belonging to an MoU could either be due to issues related to the MoU itself, or issues particular about the state. Looking at the hindrances that might come with the Abuja MoU, the greatest handicap is the fact that it presents itself as

soft law, leaving states with much latitude by its lack of compulsion and the absence of a legal means of enforcing decisions but for the annual reports.

Having in mind that the formal acceptance to be part of the Abuja MoU de facto results in the application of all relevant instruments. As a way forward to eliminating substandard ships, the MoU encourages all MARADS to ratify all relevant instruments (Abuja MoU, n.d).

After the formal acceptance, states must sign an undertaking for its contribution in time for the functional budget of the MoU, approved by the committee, meaning financial obligations have to be met. These obligations become a burden for some developing states and as such, a hindrance for some states to be members of the MoU.

According to Thiam (1999), political instability, civil wars, interstate conflicts and lack of confidence amongst states within the MoU in the 1990s constituted the main setback to the effective implementation of the Abuja MoU.

Aside from these, for a country like Cameroon, the lack of interest of various stakeholders at the decision level is a huge barrier and coupled with inadequate competent, qualified and trained human resource, it becomes a challenge to convince the decision makers on the necessity of such regional cooperation.

From the administrative and political nature of the country, the numerous procedures and possible bottlenecks involved in the signing of international and regional agreements which in one way or the other is attributed to the Centralized administrative system, slows down the functionality of the Cameroon administration. Poor governance which gives room to corruption, leading to delays in decision making cannot be left out.

From the economic perspective, Cameroon like most other sub-Saharan African countries including those already members of the Abuja MoU is a developing nation that has and continue to witness some serious economic problems. In this regard, maritime safety and prevention of marine pollution is generally not at the top of national priority ranking. The priority most at times is granted to be more crucial and

tilted to sectors such as health, education, food supply, improving the country's infrastructure and combatting poverty.

Nowadays, when it comes to issues relating to maritime affairs, aside from encouraging ways to promote maritime trade, more emphasis is laid on combatting piracy in Cameroon and the Gulf of Guinea region at large. This has been a call for concern in the international community and as such, deviates the attention of the country from issues relating to marine environmental protection and maritime safety.

In view of the above, we can deduce that there exist countless possible material and legal obstacles as to why Cameroon is not a member of the Abuja MoU on PSC, we will proceed to look at the possible impacts this non-membership might have on regional implementation and vice versa.

5.4 How is regional implementation of the Abuja MoU affected by Cameroon's non-membership and vice versa?

The main objective of regional MoUs on PSC is to eliminate substandard ships from plying within the region, this makes it clear that for countries which fall under a region where an MoU exists, and are not part of the MoU, renders regional implementation porous and thus serve as haven for vessels and shipping companies who chose to operate below safety standards.

Furthermore, the reason for a harmonised and common PSC standard for member states of an MoU is to avoid unilateral actions by port states like lowering standards with the aim of attracting more vessels which could lead to unfair competition resulting to negative impacts on the neighbouring ports within the same region such as reduction of commercial attractiveness and distortion of the market.

This leads to a multiplicity of inspections within the same region. Vessels tend to be inspected countless times in the region when they call ports of non-member states. This leads to unnecessary delays of vessels in ports and as such reflect a negative reputation to the industry. To this effect, Hoppe (2000) in his study highlighted that, the time and resources used for monotonous inspections could be used to concentrate on vessels that have been targeted as substandard ships.

Continuity in inspection and follow-up of inspection becomes a problem in the region. This is evident in the fact that instead of PSCOs concentrating on already identified deficiencies by member states that need to be corrected, non-member states due to unavailability of the port state control information of vessels tend to do initial inspections instead of follow-up inspection making the whole procedure monotonous and cumbersome for the crew to handle as they have to prepare for various PSC inspections despite being in the same region.

On the other hand, though the MoU presents to be soft law and not legally binding, it comes with a lot of added advantages to member states as compared to the obligations that come with it. According to Hoppe (2000), not belonging to the MoU implies the country is missing out on all that comes with the MoU.

Firstly, cooperation amongst member states is one of the prominent advantages of entering into such mutual agreement reasons being that through such regional co-operation, considerable efforts are done by pooling resources together to develop the maritime sector as such, strengthening the relationship amongst member states in the port and shipping fields. Although the aspect of harmonisation of PSC procedures becomes difficult because different states have different priorities as to what they expect to inspect from vessels, PSCOs within each administration also have their priorities based on their background.

Secondly, exchange of information is an important advantage that comes with belonging to an MoU; through a collective database that is set up within the MoU, it allows for the flow of information and communication amongst member states on identified substandard ships and targeted ships. This information is vital in that it saves member states from wasting resources to inspect every vessel but rather concentrate on the targeted ones.

Lastly, the training of PSCOs is included in the package of membership to an MoU. According to IMO Resolution A.1119(30) in December 2017 relating to procedures of PSC, these inspections have to be carried out by competent and duly authorised officers. Consequently, PSCOs have to constantly undergo training to meet up with the constant evolution of the industry. This leaves us with the question, if the

professional background of PSC officers has an impact on the quality of inspections. Providing answers to this will be the objective of our next discussion.

5.5 How does the professional background of PSCOs affect the quality of inspection?

Thus far we have known that the role of PSC amongst others are to:

- Control ships in National Ports;
- Serve as a safety net to fish out all substandard ships plying the oceans;
- Complement the implementation of the duties of flag states and shipping companies when some have failed,
- Play a policing role in the industry aimed at making sure that, the ship and its equipment meets the standards set forth by International regulations

These powers of port states are implemented by PSCOs making them a very important point of interest when it comes to performing PSC duties.

Knowing that PSC is the control of foreign ships in national ports, and at the same time serving as safety nets to fish out all substandard ships plying the oceans as well as complementing in the implementation of the duties of flag states and shipping companies when some have failed, and not leaving out the fact that, PSC has a policing role in the industry aimed at making sure that the ship and its equipment meets the standards set forth by international regulations. These powers of port states are implemented by PSCOs making them a very important point of interest when it comes to performing PSC duties.

The number and types of deficiencies detected varies per country and when it comes to the background of the inspector, experience has shown that PSCO who are or have been engineers, deck officers, architects chose different items to check on-board ships when carrying out PSC inspections as such, differentiating the type of deficiencies that are identified even though when it comes to initial inspections, emphasis is laid on certificates, whose validity can be verified by a PSCO with any background, the difference is clearly seen when it relates to more detailed inspections.

In the same light, the probability of detention appears to be slightly higher if the inspection is conducted by an inspector with a seagoing experience or engineer as compared to an inspector with any other training (Knapp & Franses, 2007). Based on the case of the Spanish administration and results of PSC inspections, (Ravira & Piniella, 2016) concluded that the professional background and the team composition has an influence on the outcome of the inspection.

In line with the various conventions that serve as a legal basis for PSC, it is an obligation that this control is performed by a competent and duly authorised officer meaning that, the professional profile of PSCOs plays a vital role. This condition is reiterated by IMO Resolution 1119(30) relating to the procedures for PSC inspections, which goes further to highlight that, in an event where the required professional expertise cannot be provided by the PSCO, the PSCO may be assisted by any person with the required expertise as acceptable to the Port State. This, as a result, indicates that the training of PSCOs is very important in the performance of their duties.

It is worthwhile to point out that, the success of any PSC regime depends on the PSCO carrying out the inspection. This is because the ship's qualification as seaworthy or not is decided by the officer. Wrongful decisions can lead to monetary loss to the owner, arbitration, delay in the schedule of the vessel and a bad reputation for the port. In this regard, to exercise effective and fair PSC, emphasis should be placed on the competence, professional background, experience and ability of the PSCO to carry out the inspection (Kulchytsky, 2012).

This, as a result, affirms that the background, bureaucratic, cultural practices have an influence on PSCOs. The extent of training, administrative and political support by the administration plays a vital role in the performance of a PSCO. The number of PSCO required is also important though it depends on the ship traffic in the region.

5.6 Recommendations

For purposes of improving maritime safety and protecting the marine environment in the region through PSC, the following recommendations can be considered, firstly on the part of the Abuja MoU and on the part of Cameroon:

i. Abuja MoU

- There should be effective information sharing within the MoU;
- There should be an auditing mechanism for regional areas such as is the case with EMSA;
- There is a need for improved capacity building;
- The Abuja MoU should collaborate with other MoUs and seek assistance in training whenever the need arises;
- Member states should be encouraged to publish information relating to annual reports and press releases;
- There is need for a database that publishes the safety status of ships.

ii. Cameroon

Even though regional MoUs are facing various challenges, there are lots of positive attributes and room for growth especially in developing countries like Cameroon. The future of shipping is expanding and the country desires to position itself as the hub for maritime transport in the region. In this regard, the following suggestions can be made:

- Given the economic and political situation of the country, Cameroon needs to join the MoU in whose region it falls that is the Abuja MoU;
- The structure of the Cameroon Maritime Administration has to be organised in a way that makes it independent of all unnecessary administrative protocols that slow maritime-related activities;
- There is a need to use all available amenities to improve the level of maritime expertise in the country;
- Training of PSCOs should be given priority.

iii. Area of further research

Due to time constraint and inadequate data which was a limitation to this study, upon acquisition of statistical data for marine casualties registered in the Gulf of Guinea region, regression analysis could be carried out to describe the statistical relationship between PSC and marine casualties.

5.7 Conclusion

Based on our study, it is evident that since the introduction of PSC in the 1980s which is now implemented through regional regimes, PSC has been playing an indispensable role in the enforcement of laws relating to maritime safety and the protection of the marine environment worldwide.

Acknowledging that the number of marine accidents leading to loss of property, lives and damage of the marine environment has gradually reduced over the years, it is no doubt affirming that efficient PSC programs are effective in raising the maritime safety level (Li & Zheng, 2008)

This achievement is thanks to the establishment of regional regimes which through the harmonization of control procedures and data sharing on the information pertaining to the PSC inspections status of ships amongst member states makes it difficult for targeted ships or those qualified as substandard to escape the safety net set forth in the region, leaving them no choice but to comply.

Determining the seaworthiness of a vessel depends on the evaluation of the PSCO, who must acquire the knowledge required to detect the deficiencies, and must be acquainted with the relevant international conventions, reason why there is a dying need to invest in the training and constant upgrading of their knowledge, to keep up with the trends of the industry. This is obviously because the success of a PSC regime depends on the PSCO.

Cameroon though not a party to the Abuja MoU on PSC, applies the CEMAC merchant marine code for the CEMAC region which obliges member states to carry out PSC inspections in conformity with the Abuja MoU. This leaves Cameroon with no choice but to become a full member to the Abuja MoU despite the legal and material obstacles which slow down the entire process. It is only when it gains full membership that the country can benefit from amenities such as regional co-operation, information sharing and training of PSCO.

Aside the financial and material obligations that come with belonging to such an MoU, nothing surpasses maritime safety coupled to the country's' ambition of becoming a

maritime hub in the region, she has to invest in all that it takes to improve the level of maritime safety which in return will boost the level of Cameroon's port attractiveness to business and foreign investments.

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