

2000

A proposed maritime administration for Guyana

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WORLD MARITIME UNIVERSITY
Malmö, Sweden

**A PROPOSED MARITIME ADMINISTRATION FOR
GUYANA**

By

CLAUDETTE PATRICIA ROGERS
Guyana

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

MASTER OF SCIENCE

in

MARITIME ADMINISTRATION AND ENVIRONMENTAL PROTECTION

2000

Declaration

I certify that all the material in this dissertation that is not my 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.

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ACKNOWLEDGEMENTS

A wish to say thank you is a natural outcome of personal achievement and success. When there is something that one is pleased with, one wishes to express that pleasure by saying '*thanks*' to all those who have helped along the way.

For me, it is the end of one thing and possibly, the beginning of another.

Many are worthy of my '*thanks*'. A special thank you must go to my sponsors – Carl Duisberg Gesellschaft e. V. (CDG). Without them, my studies at WMU might have only been a dream.

My thanks must also be extended to my superior Mr. I. English, the Management of T&HD and the Government of Guyana for granting me the opportunity to undertake this study.

I also owe a special debt of gratitude to my adorable family especially my mother *Carmen* and kind friends for their prayers, words of encouragement and patience and to my understanding and loving son *Zane* for enduring my long absence.

I also wish to thank my supervisor Professor Hodgson for his valuable advice, tolerance and patience, which he calmly exercised during the preparation of this research.

I would also like to acknowledge the debt I owe to all Professors, Visiting Professors, Lecturers, librarians, friends – Judith, Cyrus, Ahmadou, Moses and Karen from whom I have learnt a great deal over the months.

Last but not least, I wish to thank my God for granting me the strength and the courage in all my adversities, to persevere.

ABSTRACT

Title of the dissertation: **A Proposed Maritime Administration for Guyana**

Degree **MSc**

This dissertation sets out to examine the current status of maritime administration in Guyana, to analyse its strengths and weaknesses, and to offer some ideas as to how the administration should evolve in the future.

The dissertation seeks particularly to emphasize the importance of a modern Maritime Administration in Guyana, its roles and functions. Particular reference has been made to the amendment of the new Merchant Shipping Act, impediments that will constrain the process from moving forward and the need for harmonization among Caribbean States.

The range of functions with regard to a MARAD and the responsibilities undertaken by various departments in Guyana are established together with the perception and views of those in the maritime industry.

Additionally, recent developments that pave the way for reform of MARAD in Guyana and options for a proposed model are noted.

The final Chapter of the author's research offers some guidance, proposals and recommendations to policy makers involved in the policy making process for the establishment of a Maritime Administration in Guyana.

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LIST OF ABBREVIATIONS

AMSA	Australian Maritime Safety Authority
BBC World	British Broadcasting Communication
CARICOM	Caribbean Community
CNN	Cable News Network
FS	Flag States
GT&T	Guyana Telephone and Telegraph Company
ILO	International Labor Organization
IMO	International Maritime Organization
ITCP	Integrated Technical Co-operation Program
ITF	International Workers Federation
MARAD	Maritime Administration
MARPOL 73/78	International Convention for the Prevention of Pollution from ships as modified by the Protocol of 1978
MIDA	Maritime Industry Development Authority
NPA	National Ports Authority
OECD	Organization of Eastern Caribbean States Development
REMPEITC	Regional Maritime Pollution Emergency Information and Training Centre
SOLAS 74/78	International Convention for the Safety of Life at Sea, 1974 as amended by the 1978 Protocol
STCW	International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978
UNDP	United Nations Development Program
USA	United States of America
WTO	World Trade Organization
WMU	World Maritime University

CHAPTER I

INTRODUCTION

Shipping is international in character, therefore every country needs to take a keen interest in its ports and shipping industry. This emphasis is necessary for it is a well-established fact that, without international trade, no country can fully benefit from its resources, and experience a favourable balance of payment.

This dissertation analyses in detail the present situation as regards maritime administration in Guyana. It emphasises its importance, and it offers recommendations, suggestions and proposals for the establishment of a modern maritime administration.

While being cognizant of the fact that maritime administration policies may differ from country to country, there is one common objective among all contracting States and that is '*safety and the protection of the marine environment.*'

The proposed MARAD for Guyana sets out to increase public awareness of the prevailing issues and offers recommendations. A key element in these recommendations is the centralizing of the maritime activities under one organisation so as to achieve greater efficiency and effectiveness.

With the passing of a new Merchant Shipping Act, it is suggested that this is an opportune moment to make proposals, which can be of benefit to policy makers and those involved in establishing the MARAD for Guyana.

1.1 WHY A MARITIME ADMINISTRATION FOR GUYANA?

If Guyana fails to respond to international changes as it relates to shipping regulations and the incorporation of international maritime conventions into its municipal or national laws, it will stand the risk of being marginalized from the regional maritime community, and as significant, the international community as a whole. Globalization is the order of the day and no country can avoid being a part of this process, particularly in the field of maritime transport.

Although colleagues from Guyana have in the past made many attempts in one way or another to address various aspects on the subject of maritime administration, much work remains to be done. Consequently, it is the goal of the writer to re-emphasise the importance of a maritime administration to Guyana's development. This is addressed later in this research, and also includes an evaluation of the existing limitations and shortcomings in the maritime industry in Guyana.

Given the fact that a new Merchant Shipping Act was passed in 1998 in the National Assembly in Guyana, the way has been paved for the setting up of a modern maritime administration. It is therefore opportune to offer suggestions and recommendations as to how best it might be established, given the uniqueness of Guyana when compared with the other members of the Caribbean Community.

1.2 BACKGROUND

Guyana is a coastal state that is part of the continent of South America and a member of the Caribbean Community (CARICOM) which was established on July 4th, 1973.

Like the other members of CARICOM, with the exception of Haiti and Suriname, Guyana was once a British colony that evolved through the many changes in the plantation system and was characterised by slavery and indentureship which continued in the Caribbean region for approximately three centuries.

Guyana's legislative power is focused in a unicameral National Assembly. There are fifty-three Members chosen on the basis of proportional representation from national lists named by the political parties. Regional councils that are elected simultaneously with the National Assembly, elect an additional twelve members. The President may dissolve the Assembly and call new elections at any time. The President, who appoints and supervises the Prime Minister and other Ministers exercises executive authority, and approval from the Assembly, is not required (GT&T Telephone Directory, 1998).

The President is not directly elected; each party presenting a slate of candidates for the Assembly must designate in advance a leader who will become President if that party receives the largest number of votes.

The highest judicial body is the Court of Appeal, headed by a Chancellor of the Judiciary. The second level is the High Court, presided over by a Chief Justice. The President appoints the Chancellor and the Chief Justice.

1.3 GEOGRAPHICAL LOCATION

Guyana is situated on the northeast coast of the continent of South America with the Atlantic Ocean to the north, Suriname to the east, Brazil to the southwest and Venezuela to the west. The total area of about eighty-three thousand (83,000) square miles, or two hundred and fifteen (215,000) square kilometers lies between one and nine degrees north latitude and fifty-seven and sixty-one degrees west longitude. The

coastline has a length of 459 km. Guyana has four main rivers, Essequibo, Berbice, Demerara and Corentyne. Its population comprises five main ethnic groups – East Indians, Africans, Chinese, Portuguese and Amerindians.

1.4 ECONOMIC AND PORT OVERVIEW

Historically, the ports and harbours in Guyana were established ostensibly for the promotion of British trade in primary products. The capital city, Georgetown, is the main port, which is situated at the estuary of the Demerara River. This location facilitates easy accessibility to the primary products from Guyana.

Agriculture and mining are Guyana's most important economic activities, with sugar, bauxite, rice and gold accounting for 75 to 80 percent of export earnings. Ocean shrimp accounts for another 15 percent. Other exports include timber, diamonds, garments, molasses and locally assembled stoves and refrigerators. The river ports of Linden and New Amsterdam are important for the transshipment of bauxite which is a major product in the mining areas of Ituni and Guyana's principal mining town (Linden). (National Development Strategy for Guyana, 1996).

Guyana principal agricultural products are sugar and rice. Its natural resources are gold, bauxite, diamonds, timber, shrimp and fish, and its major markets are the United States of America (USA), Canada, the United Kingdom and the CARICOM countries. Guyana's major suppliers of its imports are the USA, Canada, the United Kingdom, Venezuela and the CARICOM countries.

Guyana has a free market system, which creates jobs through foreign investment, enhance technical capabilities and generate goods for export. After years as a state-controlled economy, the mechanisms for private investment, both domestic and foreign are still evolving.

The main port of Georgetown, located at the mouth of the Demerara River comprises several wharves, most of which are privately owned. Draught constraints limit the size of the vessels using Georgetown's Harbour to no more than 25,000dwt. Ships of up to 45,000dwt dock in the deep water channel in the Berbice River. Foreign shipping companies handle Guyana's foreign trade. The largest bulk exports are bauxite and sugar and the largest imports are petroleum and wheat flour.

In 1997, there were 1638 calls made by foreign ships to Guyana's ports. These visits involved 332 ships of which 236 were general cargo ships, 78 were bulk carriers and 18 were tankers. The bulk carriers and tankers were all over 500gt while 201 of the general cargo ships were over 500gt.

(<http://www.tradeport.org/ts/countries/Guyana/bnotes.html>, 3/21/00,5).

Internal barge transport is important for facilitating the trans-shipment of bauxite, sugar, rice and aggregates. In the case of sugar for example, 98 percent of the sugar produced is delivered by barge to the port of Georgetown for export.

The government's Transport and Harbours Department provides scheduled ferry services on the Essequibo, Demerara and Berbice rivers. There is considerable traffic along the coast and these three main rivers are the principal means of transport. Small privately owned river rafts also assist in supplementing these services. These water taxis, as they are familiarly known in the Caribbean, are much faster than the vessels operated by T&HD. Therefore, the competition for passenger traffic in the Demerara and Essequibo rivers is strong. This type of operation points squarely to the need for regulation to guarantee passenger safety, an issue that is addressed later in this research.

Having provided an economic overview and a general description of Guyana, with regard to its ports, agricultural products and natural resources, the importance of a Maritime Administration, its roles and functions will now be examined. Particular

attention will also be paid to those activities, directed at maritime safety, such as PSC, inspection and pollution prevention.

CHAPTER II

DESCRIPTION OF MARITIME ADMINISTRATION IN GUYANA AND DISTRIBUTION OF MARITIME RESPONSIBILITIES

An understanding of the distribution of maritime responsibilities, and the importance of maritime administration, together with its roles and functions, is central to this study. This chapter will address these and other relevant concepts with particular emphasis on Guyana's situation.

2.1 CONCEPT OF A MARITIME ADMINISTRATION

The expression 'maritime administration' means the administration of essential matters pertaining to the maritime sector. By the very nature of the activities carried out, there is need for specialized knowledge and skills of a high order.

The term 'maritime administration', according to Mr. Maximo Mejia Jr. (1994), encompasses the whole gamut of governmental administrative functions vis-a-vis, the maritime industry. These functions are broadly divided between safety and developmental (promotional) aspects, and are normally performed by different agencies.

According to Mejia, great care should be taken not to confuse MARAD with either a Maritime Safety Administration (MSA) or a Maritime Industry Development Authority (MIDA). Mejia makes a clear distinction between these other two concepts, which he states are generic roles performed under various labels in different countries. According to Mejia, MSA is the branch primarily concerned

with maritime safety while MIDA is the branch responsible for promoting the industry's commercial strength and viability.

Prof. Vanchiswar however states that a MARAD is not only part of the overall public administration of a government but also the specialised executive arm of the government as regards maritime matters, such as shipping, ports, seafarers and related matters.

Prof. P.S. Vanchiswar further reiterates that 'maritime administration' or 'maritime safety administration', is essentially a servicing agency for the benefit of the shipping industry and seafarers. Consequently the nature, extent and quality of the service should depend upon the co-operation and co-ordination between those who serve and those who are served.

Prof. Vanchiswar's view that Maritime Administration and Maritime Safety Administration are servicing agencies can perhaps be questioned since the term 'maritime administration' means the administration or management of the maritime activities of a country, which should be performed by the coordinating body, liaising closely with other related organisations.

Maritime safety administration on the other hand, signifies that, part of a maritime administration, oversees or manages the safety aspects of the country's maritime activities, in accordance with standards established under the IMO. A maritime safety administration can therefore be described as a division of the overall maritime administration.

Flag State administrations are required according to international conventions, to ensure that ships registered under their jurisdiction are constantly maintained in accordance with the relative national and international standards. This task is

performed through statutory periodical surveys leading to certification and complimented by an effective monitoring system.

Maritime administration is recognized as a key element in the process of economic development in any coastal country. Historically, every traditional maritime country has been heavily dependent on maritime transportation for both international as well as domestic services.

This is understandable, for shipping has been, and remains, the cheapest, efficient and most reliable form of transportation.

2.2 IMPORTANCE OF MARITIME TRANSPORTATION

Prof. Ma Shuo, in his lecture notes, states that maritime transport as one of the transportation modes, reflects all the common features of the transport industry, notwithstanding specifications and particularities of its own. As a result, according to Ma Shuo, maritime transportation makes goods available in distant places, equalizes the markets, enhances specialization, thus increasing economic efficiency, and facilitates the process of economic globalization (Ma Shuo, 1999,183).

Within the Guyana context, maritime administration is even more important given the geographical configuration of the country and its heavy dependence on the export of primary products to facilitate its economic development.

Although Guyana became a member of the International Maritime Organization (IMO), it did not for many years, readily respond to the many changes which occurred as it relates to international maritime conventions, codes and customary practices. Some intellectuals contend that there are a few explanations for this situation.

Some have attributed it to the fact that there is a lack of will in terms of giving priority to the maritime sector, when compared with the total transportation network and other important sectors in the economy. Others have conjectured that it has been due to a lack of clear understanding of the implications of Guyana's non-compliance with these new developments in the legal regime. Yet others however have suggested that the status quo have been maintained because of the heavy responsibilities that are associated with the accession to these conventions, codes and practices. To date, Guyana has acceded to a number of conventions and protocols (**See Appendix I**).

When a cursory analysis is made of maritime administration in Guyana, there is abundant evidence that numerous studies were undertaken, many of which pointed to the need for new approaches to be adopted and to reflect new standards. These earlier studies undertook a comparative analysis against other maritime countries which had taken the lead in reflecting higher maritime standards and promoting the motto for 'Safer Shipping and Cleaner Oceans' as espoused by the International Maritime Organization (IMO).

Maritime administration over the years in Guyana has focussed on a number of key issues such as shipping, national security, maritime legislation and trade facilitation. These areas will be addressed in greater detail, later in this research.

It should be noted that there has been inadequate national maritime administration because of insufficiently qualified and trained personnel to effectively discharge certain key functions. Contemporary thinkers hold the view that the national Maritime Administration should be assigned responsibility for co-ordinating all maritime related activities, so as to ensure the organized development and rationalization of its shipping sectors and ports. The MARAD will also be placed with the responsibility for ensuring the safety of nationally owned vessels calling at its ports through periodic surveys.

2.3 IMPORTANCE OF MARITIME ADMINISTRATION

Developing countries are constantly faced with trying to keep pace with international economic and social development. Their participation in world trade provides an opportunity for achieving an element of success in this vast arena of competition.

World trade relies on maritime transport more than any other means of transportation. Martin Stopford in his book 'Maritime Economics' stated that "the level of world economic activity is undoubtedly the most important single influence on the demand for sea transport." (Stopford, 1997,66)

Prof. P.S Vanchiswar has subscribed to the importance of world trade where he reiterated that "the future is trade. You can double, triple or quadruple the aid, it will not do. Trade brings in fifty times more than aid." (Vanchiswar, 87,89,92,94,96,p. 1)

Given that the majority of bulk commodities are transported by sea, the correlation between world trade and maritime transport is dependent on the infrastructure of the developing country involved, its available human resources, and its administrative structure. These elements can be considered as parts of a maritime administration, which are critically important to any developing country.

There is clear and urgent need for a maritime administrative organization in Guyana, a department of the government whose task would be to co-ordinate the existing maritime activities; filling in gaps where they exist, cutting out the overlap and performing some additional functions on the government's behalf.

As indicated by IMO, the benefits derived from operating an effective Maritime Administration are:

- Continued revenue earning capacity and economic diversification through the safe management, operation and expansion of shipping and port activities;

- The sustainable growth of the fisheries and tourism industries;
- Marine environmental protection;
- The promotion and recognition of the concept of the Caribbean as a special area in the context of sustainable development.

2.4 ROLES AND FUNCTIONS OF A MARITIME ADMINISTRATION

2.4.1 GENERAL ADMINISTRATION FUNCTIONS

The maritime administration of a country is expected to give advice to the government regarding policy making. It is not only a part of the public administration of a government but also the specialized executive arm of the government with regard to the management of maritime matters such as shipping, ports and seafarers. It therefore must:

- 1) execute its administrative duties like any other administrative unit of the government, following approved administrative and financial rules and procedures.
- 2) ensure implementation of policy and
- 3) carry out the mandated specialised functions (regulatory and developmental/promotional) pertaining to the administration of maritime matters.

The maritime administration has a responsibility to formulate policies where none exist, review existing policies, recommend amendments where necessary, ensure that the policies are implemented and assist in any evaluation exercise where required.

Paragraph 1 of Article 94 of the Law of the Sea Convention sets out certain duties which are to be effected by the maritime administrations of States which are party to it. Each member State is obligated, according to that Article, to establish a maritime

administration to “effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.”

Additionally, in accordance with paragraph 2 of that Article, member States have an obligation to register their ships and to assume jurisdiction under their internal laws over all ships flying their respective flags. Guyana as a member State, has the responsibility to enact the necessary maritime legislation, which would incorporate its registration obligations. The registration of a ship is very important because it accords nationality to the ship and serves as proof of title. Ships, which do not have nationality, are metaphorically considered to be a *floating in a legal vacuum*.

The maritime administration would monitor Guyana’s involvement in both regional and international maritime affairs, and the staff employed therein would be required from time to time to update themselves on current changes occurring within the maritime industry both locally and internationally.

It would also be the responsibility of the maritime administration to carry out the mandated specialized functions such as making regulations, developing the industry and promoting new ideas and technology related to maritime affairs.

2.4.2 DUTIES AND FUNCTIONS OF MSA AND MIDA

The MSA is defined by Vanchiswar as

“...the specialised executive arm of a maritime government... to implement or enforce the regulatory (and allied) functions embodied in the national maritime legislation, especially those pertaining to registration of ships, maritime safety, maritime personnel, maritime casualty investigations and protection of the marine environment.”

The definition provided by Vanchiswar can be taken to suggest that the MSA is the enforcement agency tasked with all activities designed to ensure the safety of life and property at sea as well as the protection of the marine environment from pollution. The MSA has a responsibility to ensure that ships and their voyages are safe, and environmentally friendly to the sea by enforcing national and international standards on ship design, construction, equipment, maintenance and operation as well as cargo handling and loading.

The MIDA on the other hand, has the responsibility for promoting the development of shipping in order to service the cargo and passenger trade, both coast-wise and internationally, while at the same time promoting the growth of other sectors of the maritime industry.

2.4.3 REGULATORY FUNCTIONS

Article 94 paragraph 3 of the 1982 Law of the Sea Convention states that: -

“every state shall take measures for ships flying its flag as are necessary to ensure safety at sea with regard, inter alia, to

- the construction, equipment and seaworthiness of ships;
- the manning of ships, labor conditions and the training of crews, taking into consideration, the applicable international instruments;
- the use of signals, the maintenance of communications and the prevention of collisions”.

2.4.4 ADVISORY FUNCTIONS

Policy-making is expected to be a political function of the government. The formulation, implementation and evaluation of the policy process will require discussions and verbal clarifications by officials of the MARAD.

2.4.5 DEVELOPMENT/PROMOTIONAL FUNCTIONS

The primary functions of the maritime administration are those embodied in the Merchant Shipping Act which should emphasise basic objectives such as development and conformity with relevant international conventions. The administration participates in the formulation process of government policies with regard to maritime development and decides upon the activities to be undertaken in connection with such development. Further, the administration contributes to the overall economic policy decisions to be taken by the government through the economic, trade and planning Ministries.

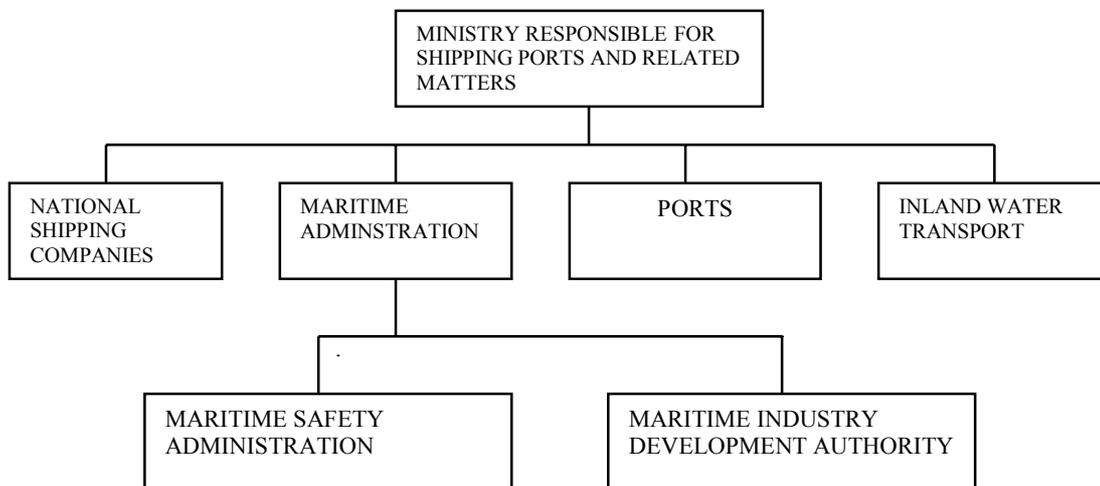
It is most appropriate therefore, for countries with maritime administrations to include a section in their Merchant Shipping Act, stating its purpose. The following areas should be considered within the context of development for developing countries.

1. Maximum efficiency in the operation of ships.
2. Creation, development, protection and preservation of national maritime skills.
3. Conservation of foreign exchange. This may be important for developing countries but less so for developed.
4. Protection of the good image of the country in the eyes of the maritime world.
5. Ensure the safety of life at sea and the protection of the marine environment.

2.4.6 MODEL OF AN 'IDEAL' ORGANISATION STRUCTURE

In view of T&HD's organisation structure depicted in **Appendix II**, Prof. Vanchiswar provides a model of an 'ideal' organisation structure as shown in Figure I below. It will be used as a guide when proposing a model for Guyana in the next Chapter.

Figure I. Model of an Organisation Structure



Source: Vanchiswar manual

The MARAD as shown in the model is one of the major and important divisions of a country's Ministry, which is responsible for shipping, ports, and other related matters. This administration offers policy guidance and strategic planning in maritime affairs. It also ensures that the country's maritime and shipping policies, as part of a country's maritime legislation, is executed by, and coordinated between, the two executive agencies – MSA and MIDA which fall directly under its purview.

2.5 BRITISH MERCHANT SHIPPING ACT

Prior to Guyana's independence and even in the post-independence era, maritime administration was more or less influenced by the British system, which was codified in the Merchant Shipping Act of 1894. The old Shipping Act, which gave direction to maritime matters in Guyana, led to a fragmented approach in the way that maritime affairs were administered in Guyana. The passage of a new Merchant Shipping Act in 1998 has gone a considerable way to rectifying the legislative shortcomings.

2.6 DISTRIBUTION OF RESPONSIBILITY

The Transport and Harbours Department has responsibility for the operation of the government ferry services across the major rivers and the superintendence of the ports and harbours. The Lands and Surveys Department has responsibility for river navigation. The Fisheries Division of the Ministry of Agriculture has responsibility for the licensing of fishing vessels. The responsibility for the registration of vessels resides with the Custom and Excise Department, which is also the receiver of wrecks. The Guyana National Industrial Company Incorporated (GNIC), which is a private company, operates river pilotage. The administration of current maritime legislation is carried out by the Customs, Commissioner of Lands and Surveys, and the Transport and Harbours Department.

The Guyana Coast Guard falls under the responsibility of the Ministry of National Security. It performs a number of maritime functions such as Search and Rescue (SAR), fisheries protection and marine environmental protection. The Coast Guard in practice performs the role of national co-ordination of maritime SAR.

2.7 TRANSPORT AND HARBOURS DEPARTMENT

The Transport and Harbours Department (T&HD) operates as a semi-autonomous agency. The organizational structure of T&HD is illustrated in **Appendix II**. It is responsible for the management of government vessels and harbours. Currently, the government vessels that provide essential communication links in the country are ferries that are listed in **Appendix III**.

2.8 SURVEY AND INSPECTION OF SHIPS

Guyana has so far delegated authority for the survey of ships, and the issuance of certificates in respect of the Load Lines Convention, to classification societies. A number of individuals have been authorized to survey ships and issue statutory certificates on behalf of the government of Guyana. The smaller seagoing ships, which are not classed, are not subject to regular surveys and inspections.

2.9 PORT STATE CONTROL (PSC)

Guyana is party to the Caribbean Memorandum of Understanding (MOU) on Port State Control but does not undertake port state control activities. At the moment, the necessary legislation is not yet in place, the required Conventions are not acceded to and suitably qualified persons with the requisite expertise are not available.

As far as safety is concerned, the main vehicle is Port State Control (PSC). PSC is the supervision of foreign ships calling at the ports within a State and the officer ensuring that those ships, which proceed at sea, are safe, and not likely to cause pollution to the environment or endanger the lives of passenger and crew.

PSC is however viewed to a large extent as a reflection of the failure of other tiers in the implementation of safety standards, such as Flag States, Classification Societies, owners/operators, and the chartering and insurance industries.

Although PSC is usually regarded as quite a modern innovation, its origins go back to the 1929 Convention on the Safety of Life at Sea (SOLAS). Today, it is reaffirmed in subsequent revisions and expansions of the SOLAS 1960 and 1974 Conventions. Officers authorized by the Port State, with the aim of verifying that the required certificates or documentation are on board and are valid, confine control to inspection.

Port State Control confirms the acceptance of governments internationally that it is the standards which are applicable to the individual ship, and not the flag it flies, which is the most important factor.

In the absence of qualified personnel in Guyana to perform this function, it may be reasonably assumed that many sub-standard ships will continue to leave Guyana's ports unnoticed.

2.10 FLAG STATE CONTROL

It is however important to keep in perspective the relationship between Flag State Implementation (FSI) and PSC from an administration's point of view. The primary responsibility for the enforcement of international rules and standards rests with the Flag State. Article 94 of UNCLOS requires every State to effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag. Every State is required to take such measures for ships flying its flag as are necessary to ensure safety at sea. In taking these measures, each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps, which may be necessary to secure their observance.

It has been acknowledged that the Flag State has enforcement responsibility to ensure that the ships under its jurisdiction are fit to sail and operate correctly while Port States on the other hand have the responsibility to police the internationally agreed standards while ships are away from their home country. The 1982 Law of the Sea Convention states that

- 1) Every State has the right to sail ships flying its flag on the high seas.

- 2) Ships have the nationality of the State whose flag they are entitled to fly and shall sail under the flag of one State only (an exception is made for ships operating under a bare-boat charter arrangement).

It also provides that a flag State shall:

- 3) Have an effective maritime administration, including proper ship registration, machinery, and enforcement arrangements.
- 4) Fix the conditions for the grant of nationality to ships, for the registration of ships in its territory and for the right to fly its flag.
- 5) Ensure that the ships on its register comply with applicable international standards in relation to safety, pollution control, surveys, and competence of officers and crew.
- 6) Ensure that those responsible for the management and operation of its registered ships are readily identifiable and accountable.

Until Guyana can set up an adequate national maritime administration, to ensure that ships flying its flag comply with the law (Article 5), and put in place the necessary legal and regulatory regimes, any FSC programme, be it national or regional, will be ineffective.

2.11 CASUALTY INVESTIGATIONS

As a result of the distribution of maritime responsibilities as was emphasized in paragraph 2.6, casualty investigation when required is conducted by the Harbour Master. Annex (V) of T&HD's structure does not depict this activity. However, having the Harbour Master as a party to a casualty investigation, whenever the need arises, can adversely affect the transparency of the process, given his direct involvement in port operations. Having dual responsibility can impact negatively, or be too demanding on his job performance. Therefore, the need to revise the procedure and documentation process, which are outdated, is necessary.

2.12 MARINE POLLUTION RESPONSE

The overall responsibility for dealing with pollution of the environment lies with the Environmental Protection Agency. The work of the Agency addresses mainly issues of land based industrial pollution and does not focus on the prevention of pollution from ships. T&HD on the other hand, is not directly involved in the work of the Agency.

The Ministry of Public Works and Communications has established a national task team to address the implementation of the MARPOL Convention. The team is made up of representatives of the T&HD, Coast Guard, Port Health Control, the Environmental Protection Agency, the Attorney General and the Fisheries Department. Given this combination of interests, there can be at times, some disagreements with regard to whom should spearhead the activities. An Incident Command System (ICS) may be appropriate in the immediate future.

2.13 PERCEPTION AND VIEWS ON MARAD

It is instructive to examine the views of various authors on the subject of Maritime Administration. These are considered useful for they can help significantly in shaping perspectives on the subject under discussion.

According to Prof. P.S. Vanchiswar 1989, “the object of a maritime organization within the framework of a country’s overall maritime activities is to provide the government with the machinery, and enable it to satisfactorily and efficiently undertake those functions, embodied within the country’s Merchant Shipping Legislation (i.e. National Maritime Law). These functions would include the implementation of the requirements of International Maritime Conventions and Rules and Regulations formed under the authority of the Merchant Shipping Act”.

The above conception has been chosen as a base for guiding this entire research, for it furnishes a broad enough framework as regards the myriad activities, which are carried out in a maritime sector. Essentially, there can be no effective Maritime Administration without the establishment of a carefully developed legal and institutional framework.

Some members in the Shipping industry in Guyana argue that the best way to deal with Maritime Administration is to have it placed under governmental control. This is understandable, for the appropriate government authority would undoubtedly need to have an effective arrangement in place so that the right guidance could be obtained as it relates to the implementation of the national legislation and other regulations required for developing and operating the maritime programme of the country.

As was established earlier in this research, the superintendence of the maritime sector historically could be considered as a form of maritime administration. However, when viewed in its strictest sense, contemporary Maritime Administrations are seen within the context of the discharge of certain carefully prescribed functions. Professor P.S. Vanchiswar (1989) lists these functions as follows:

- General superintendence and co-ordination;
- Registration of ships and related functions;
- Surveys, inspection and certification of ships;
- Port State Control of foreign ships;
- Inspections and detention of unseaworthy/unsafe ships;

- The conducting of examinations leading to, and the issuance of, the appropriate certificates of competency and or proficiency to various seafaring personnel;
- Manning of ships;
- Conducting inquiries/investigations into shipping casualties;
- Dealing with matters pertaining to prevention/control/combat of marine contamination;
- Crew matters;
- Registration of seamen;
- The removal and disposal of wrecks;
- The adoption and implementation of International Maritime Conventions;
- Advising governments on maritime matters.

Although the use of the concept of maritime administration could have a much wider application, the aforesaid specific functions are critical for the fulfillment of the overall global motto of the International Maritime Community, which is “*safer shipping and cleaner oceans.*”

A maritime administration should be dynamic, which means that it should readily respond to the multiplicity of changes, which have been taking place in the International Maritime Community. Cognizance needs to be taken of the fact that ships’ sizes have increased over the last five decades, ship technology has also

improved dramatically and a number of trends and developments have emerged that have transformed international shipping.

With these changes, maritime administrations around the world have been forced to respond. It has become very obvious that those administrations of flag States, which have not been flexible enough to accommodate these changes, have by and large not been in step with modern trends in maritime development.

This Chapter has set out to explain the distribution of maritime responsibilities and importance of maritime administration together with its roles and functions, and the perception and views on MARAD. The writer will draw upon this distinction, and the importance of both maritime administration and maritime transportation, in order to make recommendations, proposals and suggestions, which will be reflected, later in her final chapter.

This relationship between the two also illustrates the importance of having all maritime activities under one centralized agency. This recommendation should be drafted into a developing country's policy.

CHAPTER III

THE DEVELOPMENT OF POLICIES AND LEGISLATION

3.1 MARITIME POLICY DEVELOPMENT

Chapter II has outlined the decentralized maritime activities carried out in isolation by various departments in Guyana. It makes clear that there is no effective overall integrated management of maritime affairs in Guyana from a national perspective.

This Chapter will emphasize the development of policies and legislation within a country's framework and illustrate, by use of examples, that although countries may use the same policies, the results can often be quite different.

William Joseph (1991) noted that the role of governments in shipping and ports, and the initiation of guidelines, framework and regulations to be observed by national shipping and ports, are known as 'Maritime Policy'. Maritime policies can be divided into non-commercial and commercial activities. The non-commercial activity involves safety of life at sea and the protection of the marine environment, while the commercial activity focuses more on the economic operation of shipping. Maritime policy is an integral part of the overall economic policy of a country. It embraces regulatory, financial and fiscal measures to be employed by authorities in relation to a country's maritime transport sector.

The main factors which require consideration when such policies are established include the economy, administration, international obligations, legislation of ships,

safety standards, human resource development, safety of navigation, search and rescue, port development, marine environment protection and regional co-operation.

It is important for a country, in formulating its maritime policies, not to disregard the international implications, since international maritime conventions form the basis of many aspects of safety at sea and protection of the marine environment. Apart from the IMO Conventions such as SOLAS 1974, STCW 1978, OILPOL 1954, DUMPING 1972, LOADLINE 1966 to mention a few, there are other conventions, which are relevant to shipping and the maritime sector such as UNCLOS 82. The relevant articles of UNCLOS 1982 reinforce all the IMO conventions on maritime safety and pollution prevention, and acknowledge the existence of a “competent international organisation” such as the IMO through which standards may be developed.

The International Labor Organization (ILO) Convention 147 which is entitled “Convention Concerning Minimum Standards in Merchant Ships”, drawn up in 1976 and entered into force on November 28, 1981, is known as the “Umbrella Convention”. Although this convention addresses occupational health and safety, it only provides a general framework. The development of specific working standards and living conditions aboard ships, are left to national legislation.

Maritime policy can clearly differ from country to country according to the economic or political environment, or according to the country’s understanding of maritime policy. Some countries may employ similar policies but yield different results, while on the other hand, countries may employ different policies but in the long run, may yield similar results.

Hong Kong and Singapore have the two biggest container ports in the world and although there are a lot of similarities between them such as size, productivity and efficiency, their port policies are very different in many ways.

Prof. Ma Shuo examines maritime policy at a macro level. He stresses that the scope of maritime policy, and the effects of globalization upon it, has become increasingly internationalized nowadays. He has advanced two major reasons. Firstly, the scope and influence of the maritime sector has never been restricted to national boundaries and has become more internationalized nowadays. He further reiterates that safety and environmental problems are those that can be better solved at the global level. The role of international organizations such as the IMO, ILO, OECD, ITF, WTO and also regional organizations, such as the European Union, is constantly increasing. National policy makers find their ability to make or change maritime policies a challenging one, since national policies are necessarily subjected to pressures from foreign countries, and international bodies of which, they are a member.

Secondly, there is the current process of integration of national economies into a global economic system. Shipping, according to Ma Shuo, has always been international in character, whereby a mixture of inputs from various country origins is found in a single shipping activity. Not only has this tradition been largely generalized in virtually all economic sectors, in shipping itself new developments have been observed. Flag, capital, accounting, crew, management, operations and marketing are all being fragmented and piece by piece, are being globalized to a greater extent.

Max Mejia has emphasised the need for greater emphasis on global standards of safety at sea, now more than ever because of the degree to which shipping has become international. According to Mejia “you may have numerous interests involved, for instance, a Finnish built, Greek owned cruise liner flying the Honduran flag, manned by Indian officers and Burmese ratings, carrying American, Japanese and German tourists entering the Port of Mombassa in Kenya.”

Notwithstanding the challenges that policy makers will have to address in the future, in pursuit of a national maritime policy, a country needs to:

- Define its maritime goals and objectives;
- Consider all nationally available means which are essential to achieve these goals and objectives;
- Adopt laws, rules and organizational structures which will support the achievement of such goals;
- Co-ordinate all national resources and efforts (private and public) to accomplish those goals;
- Seek co-operation in those international fora, which can best support the achievement of such goals.

As a result of the challenges, which lie ahead for policy makers in Guyana, maritime policy will therefore have to be formulated on a basis that enhances its effectiveness in both the short and long-term period. Particular attention will also have to be paid to safety of life and property at sea and protection of the marine environment from pollution.

In the drafting of a maritime policy, it would be important for the Maritime Administration to address pertinent issues such as shipping, maritime safety, pollution prevention and resource management, ports, training, liaisons and inter-relationship between and among international and local maritime organizations.

3.2 MARITIME SAFETY POLICY

Flag States have a responsibility for ensuring that ships registered under their flags comply with the national laws of their countries with regard to convention requirements. Those ships, which comply, will be issued with safety certificates from the FS as proof of compliance.

According to O. Bosquez, the SOLAS convention, which is considered to be the principal international treaty on the safety of vessels, brought together and updated the

regulations that had previously been in place haphazardly. Its primary objective was to stipulate minimum safety standards for ship construction, equipment, safety appliances and navigation (IMO and its work, 1999, pp. 8).

Guyana has acceded to the Convention on Safety of Life at Sea 1974, as amended by the 1978 Protocol (74/78) and regarded as one of the most important International Conventions on maritime safety on merchant ships. Under this Convention, the Government has certain responsibilities, which cannot be ignored since this Convention indicates to a very great extent, Government's policy on maritime safety.

With the advent of a MARAD in Guyana, the policy on maritime safety needs to address the Government's views on

- Port State Control at the local and regional levels;
- The detention of ships and the circumstances under which such detention will be allowed;
- Casualty Investigations – the degree to which they should be pursued;
- Safe handling of dangerous cargoes in the harbours and ports;
- Registration of ships;
- Wreck removal and how these will be disposed of.

These issues will require careful and insightful discussions in formulating national maritime policy before they can be included into Guyana's legislation.

3.3 POLICY ON POLLUTION PREVENTION AND RESOURCE MANAGEMENT

MARPOL is an international convention for the prevention of pollution from ships and was born after the 'Torrey Canyon' disaster in 1967. There are five Annexes under MARPOL which address pollution in all forms.

Annexes I deal with the prevention of oil and introduce the concept of Special Areas in which oil discharges are completely prohibited.

Annex II deals with the prevention of pollution by noxious liquid substances.

Annex III covers the prevention of pollution by harmful substances carried by sea in packaged forms, or in freight containers, portable tanks or road and rail wagons.

Annex IV relates to the prevention of pollution by sewage from ships.

Annex V deals with the prevention of pollution by garbage from ships.

MARPOL, which like SOLAS was modified by a Protocol in 1978, was adopted on November 2, 1973 and entered into force on October 2, 1983.

Renewable marine resources are very important for sustainable development, and it cannot be over-emphasized that care and attention must be demonstrated at all times. The effects of oil pollution, land-based pollution and marine pollution can all be detrimental to all marine resources.

Given that Guyana's continental shelf has valuable fish stocks, it is important that any policy which is formulated on pollution prevention, control and clean up should

include a policy on the management, conservation and development of the renewable marine resources.

Guyana has an obligation not only to conserve and manage the living resources in its Exclusive Economic Zone (EEZ), but under Part VII Section 2 of the Law of the Sea Convention, that obligation further extends to the conservation and management of living resources on the high seas both from a national and regional perspective.

Under Part XII of UNCLOS, Guyana also has an obligation to protect and preserve its marine environment through preventing, reducing and controlling pollution from land based sources; as well as seabed activities which are subject to national jurisdiction; dumping; and from illegal activities on the high seas.

Policy decisions should therefore be taken, and measures should be adopted, setting the approaches that Guyana will use in preventing and controlling pollution of the seas, inland waterways, swamps and beaches.

3.4 PORT POLICY

Ivor English (1993) in his dissertation on ‘Policy Considerations of a Government Relative to Ports and Shipping Efficiency from a Guyanese Perspective’, observed that if a developing nation fails to establish a modern, well organized port, it may be construed to be operating in a way that is detrimental to the progress and the overall economic development of the nation.

Without an efficient port, costs of living become higher, industrial development more difficult, export of mineral ores unprofitable and the rate of economic progress can be drastically curtailed.

Therefore, given the importance of ports, a national port policy is absolutely necessary for Guyana's development as a whole. Such a policy should reflect both the national long-term objectives of Guyana's port (s) and the interests of its users in a coordinated and integrated manner.

3.5 POLICY ON TRAINING – STCW CONVENTION

According to E.O. Agbakoba, “the first attempt to establish global minimum professional standards of personnel efficiency and knowledge for seafarers” is demonstrated in the international convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.

The STCW has been revised to facilitate the improvement of standards dealing with the human element because the facts demonstrated that many maritime accidents were caused as a result of human error.

Mr. William O'Neil, Secretary General of the IMO stated that

As we look for areas where we can make further gains, I think we would have to sum them up in one word, people. People are the key to any real efforts to improve safety and prevent pollution. But not just any people: they have to be people who are trained, skilled and motivated.

Training is vital for both ship and shore-based personnel. The quality of a vessel's operation is dependent upon its trained and qualified personnel.

According to Resolution A.772 (18), the human element is defined as a complex multi-dimensional issue that affects both maritime safety and marine environmental protection. It involves the entire spectrum of human activities performed by ships'

crews, shore based management, regulatory bodies, recognized organizations, shipyards, legislators and other relevant parties, all of whom need to co-operate to address human element issues effectively.

The STCW 78 Convention is intended to improve and upgrade training for crew on board ships.

Among other things, there is a dearth of qualified personnel within the maritime industry in Guyana and so there is a need to train those involved in maritime affairs. In light of the new competence standards required by the revised IMO Convention on STCW (95), which will not fully take effect until 2002, maritime administrations are required to upgrade their training standards. As a result of this new phenomenon, there is fear that seafarers, which are in receipt of certificates issued by countries, which failed to gain a place on the 'white list', will become unemployable.

In principle, Guyana like many other maritime administrations internationally, will be required to meet the standards set by the convention.

It is therefore necessary for Guyana government to formulate a training policy indicating the extent to which it intends to train its maritime personnel and how it proposes to take full advantage of the various training programs available worldwide.

3.6 MARITIME LEGISLATION

Guyana now has the new Merchant Shipping Act of 1998, which replaces the British Merchant Shipping Act of 1894. The Shipping Act now establishes that the maritime administration department will administer the Act and it also amends other maritime legislation. The Acts amended are the Passenger Act Chapter 49:03, the Transport and Harbors Act, Chapter 49:04, the Government Wharves Act, Chapter 49:05, the Shipping Casualty (Investigation and Prevention) Act, Chapter 49:07 and the River

Navigation Act, Chapter 50:01. The Passengers Act, the Shipping Casualty (investigation and Prevention) Act and the River Navigation Act should be subsumed into the Shipping Act and Regulations issued under that Act. According to the writer, the importance of resources (fisheries, etc.) which are available in Guyana should be balanced against the commercial importance of shipping and against the undisputed importance of maritime safety. There is therefore a critical need for the careful coordination and management by the administration, with the guidance of a well-formulated policy, which should be reflected in the content of any maritime legislation.

The purpose of this chapter has been to demonstrate that for there to be results in any department or agency, there is need for a policy. A policy according to Collins English dictionary, “is a set of ideas or plans that is used as a basis for making decisions, especially in politics, economics or business.” Decision making in maritime administration must be provided with a policy basis against which judgement can be made.

CHAPTER IV

RECENT DEVELOPMENTS THAT PAVE THE WAY FOR REFORM OF MARAD IN GUYANA

Chapter IV will examine issues on a Caribbean Regional basis given that the Caribbean Sea is vulnerable to the harmful effects of sub-standard ships and pollution damage from marine activities. In order to further national and regional action, and ensure that regional co-operation and international assistance are addressed, it will be necessary to establish or strengthen the implementation and enforcement capabilities throughout the Caribbean region on a co-operative basis.

This Chapter will also examine developments that pave the way for reform of the Maritime Administration in Guyana taking cognizance of what the past Maritime Act of 1894 addressed, what the present Act of 1998 has amended and what Act (s) need to be updated in the future. The options for a proposed model will also be examined in this Chapter.

4.1 POSITIVE DEVELOPMENTS

There have been a number of positive developments within the Maritime Sector including the following:

- i) Guyana has acceded to most of the key international maritime conventions including SOLAS 1974, SOLAS PROTOCOL 1978, LOAD LINES 1966, TONNAGE 1969, STCW 1978/1995 and MARPOL 1973/1978.

- ii) Guyana is now a party to the Caribbean Memorandum of understanding (MOU) on Port State Control. This MOU seeks, among other things, to ensure that effective port state control inspections are carried out. The intention is to eliminate substandard ships from operating in the Caribbean Region. Through this MOU, there have been positive developments relative to the setting up of Maritime Administrations throughout the Region. In this regard, a Regional Maritime Safety Adviser was appointed through the Caribbean Community (CARICOM) to facilitate the formulation and implementation of Regulations pertinent to the setting up and operating of these Administrations. This Adviser has been involved in a development strategy for establishing the MARAD, identifying regulations required and participating in Seminars on the Guyana Shipping Act, 1998.

- iii) In October 1998, the Guyana Merchant Shipping Act was passed in the National Assembly, thus paving the way for the setting up of a Maritime Administration Department. This administration when set up should have responsibility for all Maritime related matters.

4.2 ROLE OF THE REGIONAL MARITIME SAFETY ADVISER

A Regional Maritime Safety Adviser was appointed to facilitate Guyana and other Caribbean States participation in the work of the IMO at the highest levels and to enable the Caribbean region to be a part of the decision making process in the setting of international maritime standards.

The Regional Maritime Safety Adviser is required to provide assistance to the Caribbean Region on the development and strengthening of an effective Maritime Administration, advise on the exercise of flag, port and coastal State jurisdiction,

facilitate the execution of the project's capacity-building activities, and the implementation of IMO's related technical co-operation programmes for the Caribbean.

In an effort to support the development and strengthening of effective maritime administrations, the Adviser will:

.1 design a matrix in collaboration with IMO, for the preparation, by the beneficiary States and Territories of:

- draft national assessments of existing capabilities and limitations in the maritime sector; and
- national action plans (NAPs) for sustainable maritime development, covering also the establishment of national maritime administrations where they do not yet exist;

.2 identify the beneficiaries that require assistance to prepare their draft assessments and NAPs and arrange for such assistance;

.3 review the draft national assessments and draft NAPs for subsequent approval by the relevant national authorities; and

.4 based on the approved NAPs, prepare a draft regional action plan for subsequent approval by the region in an appropriate forum.

To support the exercise of flag, port and coastal state jurisdiction in the Caribbean, the Adviser will:

.1 provide technical advice on the implications and benefits of accession to, and the implementation and enforcement of, IMO Conventions, Codes and

Recommendations, and other relevant national, regional and global maritime instruments;

.2 provide technical advice on the legal, institutional and human resource requirements to give effect to the above mentioned instruments;

.3 collaborate with Regional Maritime Pollution Emergency Information and Training Centre of the Caribbean (REMPEITC–Carib) in the provision of advice for the development and implementation of appropriate measures to prevent and control marine pollution from ships, including the preparation and implementation of national and regional contingency plans to respond to marine pollution incidents; and

.4 as required, assist the States and territories of the region in preparing requests and related documentation for technical assistance in matters related to marine safety and marine environment protection.

To facilitate the execution of the project's capacity building activities and the implementation of IMO's related technical co-operation programme for the Caribbean, the Adviser will:

.1 identify countries that require further legal and technical advisory services and co-ordinate with IMO for the delivery of such advice;

.2 co-operate with IMO in the preparation of model legislation for the region, provide technical guidance thereon and review the models for subsequent finalization;

.3 identify training requirements, including on the job training needs, and collaborate with IMO in the design, organization, delivery and reporting of the planned training programmes;

.4 co-ordinate the delivery of the project's various activities, prepare progress and annual reports, and collaborate with the Project Management Committee which has the responsibility for overseeing the timely execution of the project's work plan; and

.5 collaborate with the planned evaluation of the project.

In addition, the Adviser will:

.1 collaborate with the Secretariat of the Caribbean MOU on port state control to strengthen the operations of the regional port state control system;

.2 liaise with other technical assistance projects in the region that have a bearing on the maritime sector in order to prevent duplication of effort, promote harmonization and ensure optimization of resource usage;

.3 participate, as required in such training activities that have a bearing on maritime safety and marine environment protection as may be organized by other UN bodies, regional organizations and national administrations; and

.4 carry out any other relevant duties falling within the scope of his/her competence which may arise during the course of his/her assignment.

As a result of the aforementioned roles listed for the Regional Maritime Safety Adviser, Guyana and other Caribbean States will have the responsibility for establishing the legislative framework and administrative systems, committing themselves to the uniform and effective implementation and enforcement of those international rules and standards.

Guyana among other contracting States will have to continue making concerted efforts as appropriate for increased accession to or ratification of such instruments.

4.3 IMO REGIONAL PRESENCE

IMO's regional presence is aimed at collaborating with the host country and the United Nations Development Programme (UNDP) to facilitate IMO's input into national and regional development policies together with the organisation's Integrated Technical Co-operation Programme (ITCP).

The role of the IMO through its ITCP is to provide technical advisory support, institutional support to maritime administrations, port authorities and maritime training institutions. Guyana being a member of the Caribbean MOU will derive some benefits from the IMO/ITCP framework.

4.4 COMMITMENT OF MARITIME AUTHORITIES IN THE CARIBBEAN

Guyana is among those Caribbean countries, mentioned in **Appendix IV**, which have accepted the Memorandum of Understanding on PSC in the Caribbean Region. These countries are conscious of the importance of the safety of life in ports and at sea, and the growing urgency for the protection of the marine environment and its resources.

Each of these authorities have committed to consult, co-operate and exchange information for an improved and harmonized system of PSC in order to further the aims of the memorandum.

More particularly, these countries have committed themselves to:

- 1) increasing the level of accession to, or ratification of, the IMO and ILO instruments related to maritime safety, marine environment protection and living and working conditions on board ships;

- 2) implementing international maritime rules and standards effectively and in a uniform manner through, inter alia, the preparation, enactment and enforcement of appropriate national maritime legislation and regulations;
- 3) establishing or strengthening national MARADs to effectively carry out their responsibilities as effective coastal, flag and port states in accordance with international maritime rules and standards;
- 4) providing the necessary means and support to their national MARAD, Coast Guard and similar services, maritime training centers and port authorities to equip them with sufficient numbers of qualified and technical disciplines relating to maritime sector;
- 5) ensuring that the personnel of national maritime administrative and other relevant agencies receive continuous education and training so that they are able to keep abreast of regulatory and technological developments, quality standards and best practices in the maritime field;
- 6) increasing co-operation among the states and territories of the region for the effective performance of FS and PSC activities through, inter alia, the sharing of experience, expert services, information and training opportunities;
- 7) increasing acceptance of, and giving full and complete effect to, the Caribbean MOU on PSC and the Caribbean Ship Safety Code.

Guyana and the Caribbean States are not singular in their fight against pollution and the protection of the marine environment. On June 5, 2000, United States of America (USA) President Bill Clinton made an announcement on Cable News Network (CNN) that the Ukraine Chernobyl Plant, which is considered as an environmental hazard, will be closing on December 15, 2000.

On July 4, 2000, a European Court of Justice imposed a financial penalty on the Greek government for failing to comply with a court order to close a waste dump. These two examples represent how countries around the world are becoming more environmentally conscious.

Guyana having committed itself to the Caribbean MOU on PSC, has demonstrated greater responsibility for ensuring that ships leaving her ports are up to acceptable international standards so as to provide quality shipping.

4.5 MERCHANT SHIPPING ACT

The Government of Guyana has indeed taken cognizance of the changing maritime industry and as a mark of recognition, it has taken the initiative to table in Parliament, the Merchant Shipping Act of 1998. The passage of this Act through Parliament can only be seen as a positive gesture as it signals that the maritime industry in Guyana is in transition and is now preparing to address the diverse technological, institutional and legal challenges which have been manifested in the global maritime community.

The new Merchant Shipping Act provides for Transport and Harbours Department (T&HD) Act when restructured to separate out the functions relating to harbours and pilotage, and transfer them under the management of the MARAD. As a result of this reorganisation, T&HD remains with the administration of the Government's Shipping service.

The Merchant Shipping Act also transfers Customs and Excise Department responsibility for the Registration of Ships, and the Lands and Surveys Department responsibility for matters relating to River Navigation in inland areas. These matters will now be addressed by the MARAD.

4.6 RELATED SHIPPING ACTS OF 1894

Prior to the 1998 Merchant Shipping Act, the following Acts were obtained under the 1894 Merchant Shipping Act:

- Carriage of Goods by Sea Act Chapter 49:02
- Passengers Act Chapter 49:03
- Transport and Harbours Act Chapter 49:04
- Government Wharves Act Chapter 49:05
- Government and Contract Steamer (traffic) Act Chapter 49:06
- Shipping Casualties (investigation and prevention) Act Chapter 49:07
- Wrecks Removal Act Chapter 49:08
- Distressed Seamen Repatriation Act chapter 49:09
- Mariner's Club (Georgetown) Act Chapter 49:10
- River Navigation Act Chapter 50:01

4.7 RELATED SHIPPING ACTS OF 1998

The Shipping Act of 1998 appoints the Maritime Administration to administer the Act, and it also amends other maritime legislation, which allows for the administration of certain Acts to be controlled under the MARAD. These Acts are:

- The Passenger Act Chapter 49:03
- The Transport and Harbours Act Chapter 49:04
- The Government Wharves Act Chapter 49:05
- The Shipping Casualty Act Chapter 49:07
- The River Navigation Act Chapter 50:01

As was indicated in Chapter I, many of these Maritime Administration Acts were fragmented because they were not under one centralized agency.

4.8 PRIORITY REGULATIONS REQUIRED UNDER THE GUYANA SHIPPING ACT, No. 7 of 1998

The Regulatory aspects of the Merchant Shipping Act as mentioned in **Appendix V**, are critical for the full and effective implementation, because they address specific terminology and fundamental issues.

In an effort for Guyana as a flag State to have competent authority with regards to the registration of ships under its flag, there is need for the effective implementation of the Merchant Shipping Act.

B. Farthing and M. Brownrigg define ‘registration’ as an entry in the public records and are generally, but not always, both a precondition for, and a test of, a vessel’s nationality.

Registration of a ship authorises it to carry the sovereignty of the state whose flag it flies and connotes both private and public law functions.

The public law functions of registration under the Guyana Shipping Act will allow the Administration to:

- Bring a vessel under Guyanese national law and make it subject to a single jurisdiction for the purposes, for example of safety and environmental regulations, crewing and discipline on board.

- Confer the right to fly the national flag.

- Accord rights to diplomatic (and naval) protection and to consular assistance from the Flag State.

- Accord other rights, for example, with regard to access to cargoes or other business activities (for example, exploration or fishing within the Guyanese territorial waters, or coastal trading).
- In the case of war, determine the application of the rules of war.

Private law on the other hand, deals with the relations and interests of, and the settlement of disputes between, individuals. The ship is seen as an item of moveable property over which one or more persons may have rights, which the law considers worthy of protection.

The private law functions of registration are to:

- Protect the title of the registered owner.
- Protect the title of, and preserve the priorities between, persons holding security interests over the vessel, such as mortgages.

The 1982 Law of the Sea Convention on the other hand, provides that a flag State shall:

- Have an effective maritime administration, including proper ship registration machinery and enforcement arrangements.
- Fix the conditions for the granting of nationality to ships, for the registration of ships in its territory, and for the right to fly its flag.
- Ensure the ships on its register comply with the applicable international standards in relation to safety, pollution control, surveys, and competence of officers and crew.
- Ensure that those responsible for the management and operation of its registered ships are readily identifiable and accountable.

In light of the aforementioned, Guyana needs to take cognisance of what is happening in the shipping industry today, given that ‘Open Registry’ or ‘Flag of Convenience’ countries are seen as competitors to flag States.

This is not to suggest that the Maritime Administration, under the new Shipping Act, should compromise international standards with regard to safety and pollution prevention. Instead, legislators who are involved in the drafting of Guyana’s maritime policy as regards ships’ registration, should consider providing favourable conditions (for example, reasonable taxes, manning of ships by non-nationals), which will deter the Guyanese ship-owners from operating under foreign flags.

Through the Shipping bill of 1998, Guyana will be able to give effect to, and can ratify, the following instruments:

- 1) The PROTOCOL of 1988 relating to the International Convention on LOAD LINES, 1996, (LOAD LINES PROTOCOL, 1988);
- 2) The PROTOCOL of 1988 relating to the International Convention for the Safety Of Life at Sea, 1974 (SOLAS PROTOCOL, 1988);
- 3) The International Labor Organization (ILO), the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention, No. 147).

When preparing comprehensive marine pollution legislation, Guyana should ratify the following instruments:

- 1) The PROTOCOL relating to INTERVENTION on the High Seas in cases of pollution by substances other than oil, 1973;

2) The PROTOCOL of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damages, 1969;

3) The PROTOCOL of 1992 to amend the International Convention on the establishment of an International FUND for Compensation for Oil Pollution Damage and give consideration to ratification of the amendments of 1991 and 1993 to the International convention on the IMO, 1948.

Ratification of an international Convention involves both privileges and obligations.

In an effort for Guyana to be in a position to meet the requirements of the Conventions through the appropriate national legislation and infrastructure, then ratification is necessary.

The government of Guyana failure to ratify an international Convention will mean that it cannot implement the provisions of the Convention into its national laws and there will be no guarantee that all ships flying Guyanese flag, will meet the standards laid down in the Convention.

CHAPTER V

OPTIONS

5.1 OPTIONS FOR A PROPOSED MODEL FOR GUYANA

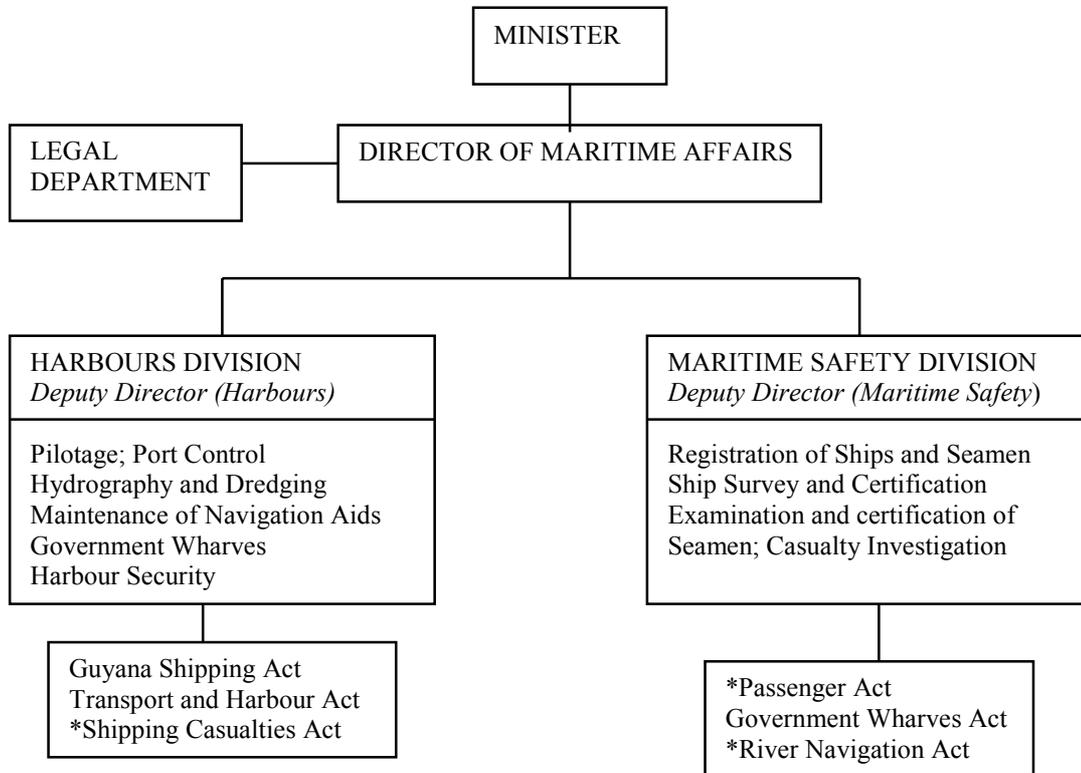
With the advent of a modern MARAD for Guyana, an appropriate structure and staffing will need to be developed. According to the writer, it will be the responsibility of the Administration to carry out functions related to Maritime Safety under the Shipping Act, Harbours and Wharves under the Wharves and Harbours Act and the Government Wharves Act and advise the government on matters related to Maritime Policy. The proposed model as illustrated in Figure II hereunder, will now give Guyana, a unique opportunity to have a system that is self-supportive.

The Director as illustrated in the proposed structure, should head the MARAD along with two (2) operational divisions each headed by a Deputy Director of Maritime Services, namely:

- Harbours Division
- Maritime Safety Division

The Director of the Maritime Affairs should be answerable to the Minister for statutory functions under the Act and for the performance of the department.

Figure II PROPOSED STRUCTURE OF THE MARITIME ADMINISTRATION DEPARTMENT – GUYANA



****Can be replaced by Regulations made under the Shipping Act***

The Legal department should be directly responsible to the Director to address legal matters, maritime policy and the information technology required for the efficient managing of the department.

The Harbours Division should be headed by the Deputy Director (Harbours) to deal with those functions which are related to wharves and harbours.

The Maritime Safety Division headed by Deputy Director (Maritime Safety) should focus on those functions related to the Shipping Act including also, the protection of the marine environment.

Staffing for this structure will have to be identified. Before this proposed structure becomes operational, it will be necessary for a close examination to be made of the number of ships on the register, the number of ships visiting Guyanese ports, the number of Guyanese seafarers and the number of branch offices foreseen to be established in the future.

The initial activities for the department should include the re-registration of ships and the registration of seafarers.

The establishment of the MARAD will no doubt be dependent upon the co-operation and assistance of a number of Government Ministries, consultation with the shipping community and the representatives of the seafarers and the workers who are employed in T&HD.

In the Caribbean, the MARAD models, which exist, are under strict governmental control. The Ports and Harbours Division are not included under the umbrella of the Maritime Administration. This kind of proposed arrangement for Guyana would gain Regional recognition since the popular view is that maritime departments are constrained by public service rules and the popular bureaucratic arrangements which are often time consuming and tend to protect the inept and the incompetent.

This is a necessary condition in relation to the acquisition of funding from financial institutions to facilitate port development and for the effective implementation of both Flag State and Port State control activities.

The proposed arrangement for Guyana would allow for the payment of realistic salaries and re-numeration so that the right skills could be attracted to carry out the highly specialised functions of the Maritime Authority.

In the circumstances, it is recommended that the MARAD be established as a Statutory Body, instead of a department under the Ministry of Public Works and Communications. This would effectively mean that the Act would need to be amended to reflect this change with the proposed name being the Guyana Maritime Authority (GMA). This kind of arrangement has gained acceptance in the international maritime community. It would also guarantee the effective administration of the entity through an Executive Board. This is a necessary condition relative to the attraction of funding from financial institutions to facilitate port development activities.

In its mandate, the MARAD should have responsibility for the regulation of both local and international shipping in Guyana including the operations of Wharves and Harbours. The duties and responsibilities of this department should be consistent with international obligations as specified in international maritime conventions to which Guyana is a party.

A plan for the establishment and development of the MARAD should be prepared taking into account the following requirements:

- Restructuring and updating the T&HD to meet the requirements for implementing all shipping legislation;
- Updating and rationalizing the shipping related legislation remaining in place after the passage of the Shipping Bill;
- Full implementation within a transition period, of the provisions of the Shipping bill and other shipping legislation;

- Identification of key personnel in the department as soon as possible for training, especially for small vessel survey, PSC and registration of ships and seamen;
- Consideration given to the establishment of training institutes for seafarers and operators of small ships in local trade.

Guyana needs to establish a dedicated MARAD as the institutional framework through which maritime activities in Guyana can be regulated and developed.

With a view to Guyana's establishment of a Maritime Administration, there will be a need for a maritime policy unit, which should be divided into the Operational and Commercial divisions. Although maritime policy capacity varies between countries, one cannot over emphasize its importance to governments in their day-to-day affairs. Maritime Policy staff would assist in identifying the government's role in shipping and ports, and the initiation of guidelines/framework and regulations that governments need to observe.

An effective maritime development in Guyana is dependent on the country's capacity for adequate and appropriate decision-making with regard to proper utilization of its resources and the competent performance of the Maritime Administration.

From an operational perspective, decision making appears to be a critical concern not only as it relates to Guyana, but also in most developing countries.

Some of the basic problems pertaining to maritime safety in Guyana are as follows:

- Inadequate infrastructure with regard to organization and personnel who have a responsibility to ensure safety standards on ships and in ports, and for the protection of the marine environment.

- Limited awareness of the basic maritime environmental problems.
- Non-evaluation of, and non-accession to, international maritime conventions and agreements, and consequently the absence of their enforcement.
- Shortage of maritime professional officers with the requisite qualifications and experience.
- Insufficient attention being paid to higher maritime education and the provision of comprehensive training for marine officers.
- Poor attention to proper training, management and the control of ordinary seafarers.

Among these problems, there is the absence of:

- Maritime safety services
- Proper casualty investigation
- A survey and inspection system
- A safe cargo handling system
- Plans for combating marine pollution

Although Guyana does not have a modern Maritime Administration, a comparison can be made between the Guyana Ministry of Transport and the Australian Maritime Safety Authority (AMSA). AMSA has a very good organizational structure with the Technical Group on one side of the spectrum, which addresses strategic policy, and the Economic Group on the other side, which addresses operational policy. AMSA's policy function not only provides a strategic oversight over its regulatory, service and training programmes or activities, but is positioned within a broader transport policy structure. AMSA liaises closely with industry groups to ensure the safe carriage of all cargoes, and formulates its policies only after seeking extensive consultation with government agencies, the shipping industry, environmental groups and others who also have an interest, including conservation groups.

The management of AMSA comprises a seven-member Board, with its members drawn from the government department and the private industry with the requisite skills and expertise to conduct its commercial and safety maritime activities.

The author in her analysis has critically examined Maritime Administrations in the developed countries as against those in the developing countries and has not surprisingly confirmed that financial resources are the ‘bottleneck’ in the developing countries. Due to the lack of financial resources, developing countries find themselves in a precarious position in endeavouring to provide a highly effective Maritime Administration structure.

Sweden stands testimony as a typical and perfect example whose administration incorporates a Search and Rescue unit, which is on stand-by on a twenty-four hour basis in the event that their services become necessary as a result of an oil spill.

In considering the concept of a stand-by crew from a developing country’s perspective, one may advance the argument from an economical stand point that it is not feasible to have a crew on stand-by on a continuous basis incurring such costs as salaries, fuel, maintenance and equipment, except for a voluntary group such as the Royal National Lifeboat Institute (RNLI).

As developed countries continue to develop, developing countries will continue to be ‘straddlers’. Although there is the need for harmonization, lack of the available resources will disallow developing countries from adequately competing with the developed ones.

Arguments can be further advanced that Conventions are born out of accidents, which occur at sea, and the objectives of these Conventions are mainly for safer ships and cleaner oceans. Today, statistics have proven that as a result of the various Conventions and modern technology, accidents have been reduced immensely.

Under International Maritime Law, States have the obligation to ensure that vessels, which fly their flag, comply with international safety standards. States also have the right to inspect and control foreign vessels entering their jurisdiction in order to ensure compliance with International Maritime Safety and Pollution Prevention Regulations.

The MARAD department would have responsibility for these functions, thus bringing Guyana in line with the rest of the CARICOM Region and the rest of the world.

Although the use of the concept of Maritime Administration could have a much wider application, the aforesaid specific functions are critical for the fulfillment of the overall global motto of the International Maritime community, which is “*safer shipping and cleaner oceans*”.

A Maritime Administration should be dynamic, which means that it should readily respond to the multiplicity of changes, which have been taking place in the International Maritime Community. Cognizance needs to be taken of the fact that ships’ sizes have increased over the last five decades, ship technology has also improved drastically and a number of trends and developments have emerged that have transformed international shipping.

With these changes, Maritime Administrations around the world have been forced to respond. It has become very obvious that those Administrations or Flag States, which have not been flexible enough to accommodate these changes, have by and large not been in step with modern trends in maritime development.

5.2 PRIORITIZING NEEDS

Guyana has so many pressing transportation needs that it is difficult to prioritize them. However, priorities are necessary, as resources are limited and needs are many.

There is a need for institutional reforms in the marine sector and they should be addressed in three areas:

- Creation of a National Ports Authority
- Creation of a Maritime Administration
- The Commercialization of Ferry operations

The issues that would need to be considered in the establishment of the National Ports Authority (NPA) include:

- The preparation and approval of an implementation plan, including resource requirements, deliverables and a schedule;
- The development of enabling legislation;
- Clarification of the relationship between the Ports Authority and existing private port operators;
- The representation and management of ports other than Georgetown;
- Restrictions on the activities that could be exercised within the port;
- The respective functions that would go with the Ports Authority, or remain with the Maritime Administration, the powers of the Ports Authority and the 'ports management model' to be pursued;
- The safety regulations applicable to the port;
- The implementation of a commercial accounting system and computerized port activity monitoring system;
- Governance structure;

- The establishment of a human resource plan, including the human resources to be transferred from the State to the new entity, the identification of training needs and human resource gaps, and hiring of new resources;
- The development of the basic regulations and internal administrative rules to ensure the efficient functioning of the authority;
- The degree of commercialization (financial flexibility).

Stephen Thomas (1992) and Ivor English (1993) in their dissertations emphasized the importance for a Port Authority in Guyana given the present state of affairs with regard to the implementation of regulations.

Nagorski (1972) however contended that governments should give the Port Authority a mission to develop and administer the port in an efficient and cost effective way to facilitate the nations maritime trade. Essentially the main aim of the government's control should consist of ensuring that the port is managed and developed in accordance with the economic policy of the country, that management will be honest and efficient, and that national and public interests are fully safeguarded.

Many authors have advocated that the successful way forward to any development in the developing countries should be port privatization. Although privatization has become a major strategy adopted by governments as a means of sustaining economic growth, the writer does not recommend privatization for Guyana's ports given that her country is in an embryonic stage attempting to foster the development of a port system. The MARAD for Guyana should be created to administer and enforce policies and regulations related to marine safety and marine environmental protection; to ensure the provision of essential marine services that would not be assumed by the Ports Authority; and to administer contracts with the private operators of ferry crossings. Issues that would need to be considered in the creation of this new administration include:

- 1) the preparation and approval of an implementation plan, including resource requirements, deliverables and schedules;
- 2) on-going staffing and resource requirements;
- 3) cost recovery policies;
- 4) the development of standard contracts and procedures for awarding ferry service operation contracts;
- 5) registration of ships;
- 6) safety standards and safe practices to which national ships and their equipment should conform;
- 7) development of human resources, man-power planning and optimum utilization of such man-power in the maritime sector;
- 8) safety of navigation;
- 9) protection of the marine environment;
- 10) regional or sub-regional co-operation as regards maritime matters.

The commercialization of ferry services should contribute to lowering the costs of meeting public service requirements with respect to ferry crossings. The public sector should therefore be ready to negotiate a subsidy stream to cover expected shortfalls between revenue and cost that might result from those contractual requirements, not-with-standing that subsidies to private ship-owners also have its

difficulties. Issues that need consideration in commercialising ferry operations include:

- 1) the specification of the minimum level for service standards, the maximum rates, and the minimum safety requirements;
- 2) the number of ferry services to be contracted out;
- 3) the length of the contract;
- 4) the availability of facilities for effecting the major overhaul of vessels;
- 5) the establishment of a human resource plan, including the human resources to be transferred from the State to the new entity, the identification of training needs and human resource gaps, and hiring of new resources;
- 6) the monitoring of ferry service operator performance and resources to assume this function.

In summary, implementation of institutional reforms, particularly the creation of a Ports Authority and a Maritime Administration is essential for the (gateways of) country to be more responsive to the trade requirements of Guyana.

CHAPTER VI

IMPEDIMENTS THAT WILL CONSTRAIN THE PROCESS

6.1 CHALLENGES/CONSTRAINTS

Although Guyana has ratified a number of key International Conventions, these have not yet been enacted into our national law. There is therefore a need for serious attention in this regard by the Attorney General Chambers.

A number of impediments are likely to constrain the process of implementation of a modern Maritime Administration in Guyana. As in any other human endeavour, there is a tendency for the principle actors and even by-standers to resist change, for changes always seem to bring new challenges, responsibilities, obligations and consequences. In this respect, the specific constraints, which are envisaged may be summarized in the following sections:

- a) Many of the private ship operators use a fleet of vessels that are aging and, in a number of instances, many of these vessels are not compliant with prescribed international safe manning standards and other Conventional requirements. It is therefore clear that, for these operators to be fully compliant with Flag State requirements it will carry a cost and it may even require the scrapping of some vessels.

- b) There is a lack of trained personnel to effectively discharge certain specific functions, critical to the new administration, such as registration of ships, Flag State and Port State Control (PSC) inspections, and certification of ships' officers and crew in keeping with the prescribed maritime conventions, particularly the STCW Convention.
- c) There a large number of national obligations contained in those international maritime instruments, which are expedient for the full implementation of the Maritime Administration. Guyana like most developing countries always looks for, and endeavours to implement, only those alternatives that are the least costly. Unfortunately, these usually offer the least efficient and non-cost effective solutions.
- d) Difficulties exist in the acquisition of funding for the initial operation of the Administrative Secretariat and for the requisite infrastructure development. This is critical to any successful implementation and functioning, for the maritime sector must of necessity be predicated on the need for maritime transport to be given greater priority.
- e) Lack of adequate surveillance encourages piracy and vandalism of navigation aids.
- f) The Harbour has a plethora of wrecks, which pose a hazard to effective navigation. Unless this situation is addressed as a matter of urgency, the Harbour of Georgetown could eventually be declared unsafe for navigation. Consequently, there would be negative effects not only at the macro level of the society but at the micro level as well, for an increase in freight rate affects everyone.

- g) Nonexistence of a buoy tender makes it very difficult to position and repair aids to navigation.
- h) The unavailability of adequate financial resources to acquire the requisite equipment inhibits any attempt to boost or maintain an efficient and reliable maritime transport service.
- i) Weak institutional arrangements, and poor financial remuneration for services rendered, result in a lack of commitment and a consequential high attrition rate amongst staff.
- j) The relatively old age of pilot and ferry vessels gives rise to high maintenance costs to keep them in service.
- k) Lack of the requisite autonomy at the departmental level to set realistic fares and tariffs inhibits the facilitation of commercially viable port and ferry services.

Mr. Kosi Latu, Deputy Director, Legal and Constitutional Affairs Division, Commonwealth Secretariat, in a seminar address, emphasised the task of implementing IMO Conventions in a continuously deteriorating environment of dwindling resources and lack of means on the part of some countries which affected their capacity to implement.

Mr. Latu expressed the view that the lack of legislation or regulations in some countries was not the real issue. Instead, according to him, lack of political will, and the means to implement, were the main obstacles. Compounding these issues was the fact that national security considerations, economic considerations and other national priorities took precedence, which according to Mr. Latu meant that the resources needed for implementation of the international conventions such as IMO

Conventions were not forthcoming. This statement has some substance with regard to Guyana's situation.

CHAPTER VII

CONCLUSIONS AND RECOMMENDATIONS

7.1 CONCLUSION

The purpose of this dissertation has been to emphasize the need for a modern maritime administration in Guyana and to propose a structure for such an administration.

Although many students from Guyana have previously stressed this need, given the passing of the new Merchant Shipping Act of 1998, now is the opportune moment to offer suggestions and recommendations. This Act should enable Guyana to make a clean break from the antiquated and inadequate provisions of the 1894 Act, which may be viewed as the cause of the fragmented approach in the way maritime affairs have been traditionally administered in Guyana.

The dissertation makes clear that new government policies need to be enacted particularly with a view to promoting safety at sea and protection of the marine environment. The adoption of the Merchant Shipping Act by the government of Guyana in 1998 represents an important new direction in the management of Guyana's maritime affairs.

During the evolution of Guyana's proposed Maritime Administration there would need to be a focus on building the organisation, developing policy and procedures,

training employees and associates and emphasizing continuous improvement of high standards for administration, operations, client services and business practices.

In light of the recommendations offered hereunder, the administration needs to recognise the significance of the challenges ahead and lead the organisation to meet those challenges. This can only be possible if there is adequate preparation.

Given the relative importance of a maritime administration, for the implementation of international maritime conventions, codes and customary practices, it is clear that Guyana, as a littoral State needs to implement such a maritime administration. As was established in this research, this is also a precondition for the implementation of Port State control regulations, which have assumed a regional stance.

Consequently, any neglect in this regard may have far reaching effects not only to the maritime sector, but also to the economy as a whole. It is against this background that the writer hopes that the suggested model will be seen as a useful tool for the realization of an effective maritime administration framework in Guyana.

7.2 RECOMMENDATIONS

The following recommendations will be grouped under six broad initiatives with a view of incorporating all maritime related activities under one centralized agency in Guyana. In this regard, it is recommended that:

7.2.1 ORGANISATION INITIATIVES

7.2.1.1 SEPARATION OF RESPONSIBILITIES

1. the government avoid possible conflicts of interest by keeping the responsibility of the Ferries separate and apart from the responsibility for administering shipping legislation. Functions of the Shipping and Harbour division can be combined where branch offices are established but care must be exercised,

ensuring that the operation and management of the Ferries division is always separate.

7.2.1.2 PLAN

2. a plan be prepared for the change over from T&HD to MARAD taking into consideration, the following requirements:

- Restructuring and updating the T&HD to meet the requirements for implementing all shipping legislation.

- Updating and rationalizing the shipping related legislation, which remains in place after the passing of the Shipping Bill.

- Fully implementing, within a given transition period, the provisions of the Shipping Bill and other shipping legislation to be made or updated within that period.

- Reviewing those classification societies which have been delegated authority to survey ships and issue certificates in respect of Load Lines Convention on behalf of the government when the Shipping Bill is enacted.

- Ensuring implementation of those instruments to which Guyana has acceded and ratified including those relating to prevention of pollution from ships and the combating of, and compensation for such pollution, in order to derive the full benefits thereof.

- Placing serious emphasis on the formulation and development of a maritime transport policy. The absence of such a policy can seriously impede development and set the stage for hardships at the level of the society.

7.2.1.3 CENTRALIZING MARAD FUNCTIONS

3. all maritime functions be aligned under the MARAD through the necessary legislation. This will rectify the deficient system in Guyana as was stated in Chapter II.

7.2.1.4 STRUCTURAL CHANGE

4. structural change be approached cautiously and those involved in the process must be capable of sensitising the wider grouping as to the reason for the change, which is necessary for the realization of goals and objectives.

The proposed MARAD structure for Guyana may have certain repercussions, taking into consideration that people do not like change, and as a result, they take time to accept change. Though change is inevitable, man, it is said, is not like an institution, which you can break and build. This resistance to change needs to be accommodated in the planning of the initiative.

7.2.1.5 LICENSING OF VESSELS

5. licensing of the many vessels that ply the rivers and improving safety standards be managed by the Guyanese MARAD. Guyanese ship owners must also be encouraged by the MARAD to register under Guyana's national flag.

7.2.2 LEGISLATIVE INITIATIVES

7.2.2.1 UPGRADING REGULATIONS

6. regulations be drawn up and promulgated, which lay down the law for specific aspects of ship safety such as fire protection, life saving appliances, radio equipment, certification of seamen and so on given that Guyana's Merchant Shipping Act is the only primary legislation.

7.2.3 INTERNATIONAL INITIATIVES

7.2.3.1 CARIBBEAN REGION CO-OPERATION

7. governments of the Caribbean region develop, update and implement national and regional action plans to give effect to establishing or strengthening their national MARADs so to effectively carry out their responsibilities as Coastal, Port and Flag states in accordance with international maritime rules and standards throughout the region.

7.2.3.2 REGIONAL MARITIME SAFETY ADVISER

8. he be invited to work closely with IMO and ILO to assist the Caribbean states in developing their action plans. IMO and ILO should also be invited to take account of the action plans in the preparation and execution of those States' respective technical co-operation programmes.

7.2.4 INFORMATION INITIATIVES

7.2.4.1 COMPUTER NETWORK

9. a computerised maritime information network be established in the region. This is paramount in order to ensure the quick and timely dissemination of information. If regional co-operation in the implementation of PSC among member States is to be effective, then there needs to be a free exchange of information between them.

7.2.5 TRAINING INITIATIVES

7.2.5.1 MARITIME ACADEMY

10. every effort be made for the development of a maritime academy in Guyana so as to cater for the needs of seafarers and other mariners who are involved in the coastal trade. Human resource is very critical to the functioning of any organisation. The philosophy of management emphasises the three-M's – Men, Money and Machinery. Notwithstanding a Maritime Academy for Guyana, Caribbean States should also consider having a Regional Academy.

7.2.5.2 TRAINING

11. training be organised for Guyanese seafarers and vessels operating in the country in keeping with the proposed amendments to the STCW 1978 convention. The establishment of a training institute for maritime personnel aboard and ashore deserves consideration.

7.2.6 COLLABORATIVE INITIATIVES

7.2.6.1 FORMER WMU STUDENTS

12. it is recommended that Guyanese and Caribbean students who have attended WMU, collectively pool their expertise for the benefit of the region.

There are two groupings of students who represent their achievement outside of WMU. The first grouping are those who return to their home countries and secure senior positions. This grouping is also known to represent their countries at IMO meetings and play an active role in the development of the maritime sector by implementing IMO instruments.

The second grouping comprise those students who find it difficult to utilize and impart the knowledge acquired from WMU into their home countries due to the economic and political climate which prevails.

7.2.6.2 INCREASE ENVIRONMENTAL AWARENESS

13. In light of the impediments, which constrain the process, the sensitivity and the importance of the environment can only be publicised through awareness programmes. It is therefore recommended that an organisation be established similar to that of HELMEPA, sometime in the future for Guyana. An organisation such as this can increase environment awareness among Guyanese and should be named GUYMEPA.

HELMEPA target groups are mainly school children whose voices transcend the sound of environmental messages within their regions. “Children are the leaders for tomorrow.” There can be no better target group other than children who can be used to conduct public awareness campaign and caring for the environment. This group can be used to nurture and instill an increased environmental consciousness among the Guyanese society by means of education, information and publicity. With the birth of so many international conventions, the time has come for Governments to educate and inform rather than regulate and enforce.

The above recommendations constitute a framework of initiatives, which if implemented will allow Guyana to make significant progress in establishing a modern and effective maritime administration.

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APPENDIX I

CONVENTIONS AND PROTOCOLS RATIFIED/ACCEDED TO BY GUYANA

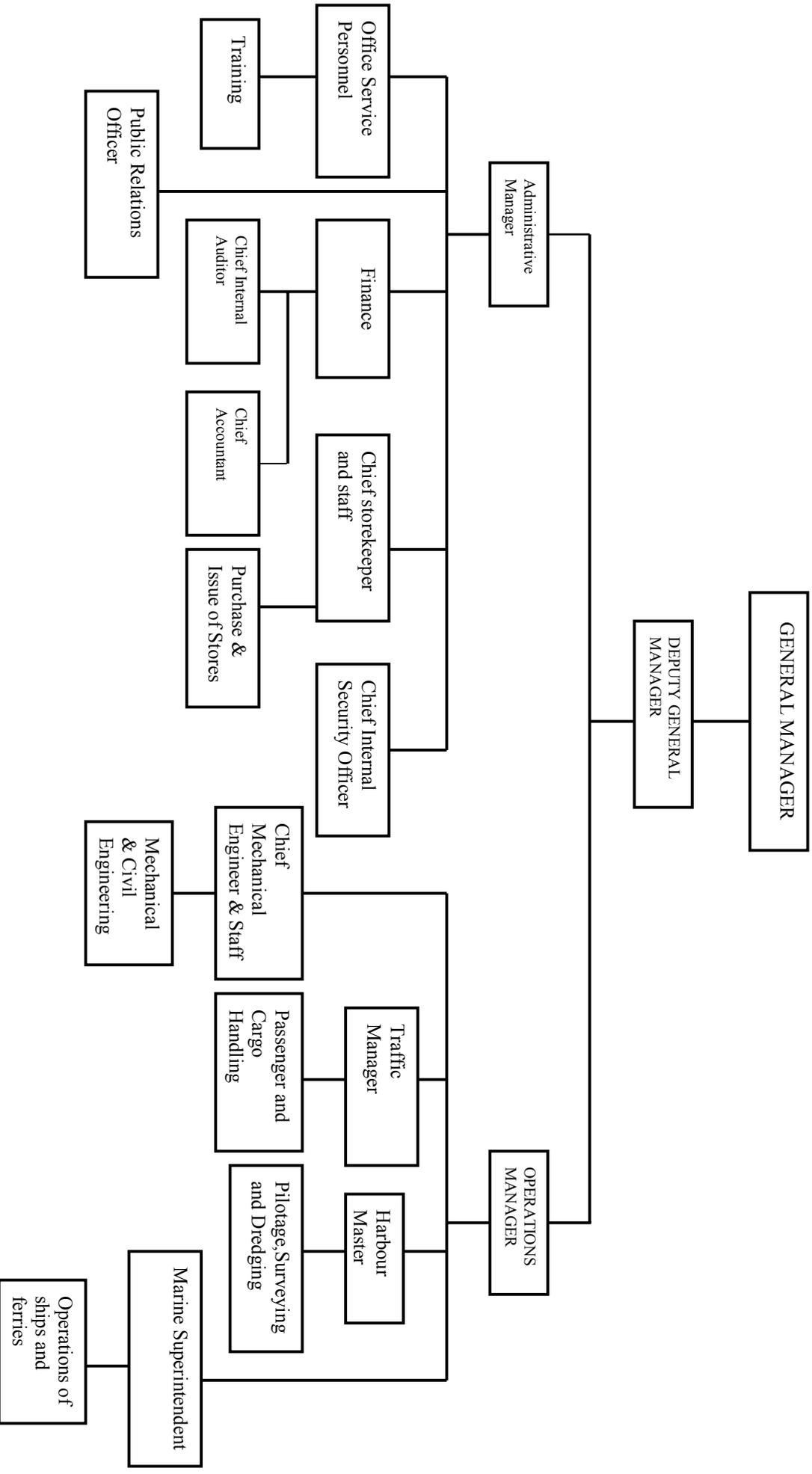
- International Convention on Load Lines, 1966 (LOAD LINES, 1966);
- International Convention for Safe Containers (CSC), 1972 (CSC 1972);
- Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 1972);
- International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);
- International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (INTERVENTION 1969);
- International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC 1990);
- Convention on Limitation of Liability for Maritime Claims, (LLMC 1976);
- International Convention on Oil Pollution Damage, 1969 (CLC 1969);
- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (FUND 1971);
- Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (FUND PROT 1992);
- Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (PAL 1974);
- International Convention on Tonnage Measurements of Ships, 1969 (TONNAGE 1969);
- International Convention on Facilitation of International Maritime Traffic, 1965 (FAL 1965);
- International Convention on Salvage 1989 (SALVAGE 1989);

- International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974);
- Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS PROT 1978); and
- United Nations Convention on the Law of the Sea (UNCLOS).

THE FOLLOWING TREATIES HAVE BEEN ENTERED INTO FORCE FOR GUYANA ON THE DATES INDICATED, IN ACCORDANCE WITH THE RELEVANT PROVISIONS:-

LOAD LINES 1966	-10 December 1998
CSC	-10 December 1998
COLREG	-10 December 1997
MARPOL 73/78	-10 March 1998
INTERVENTION 1969	-10 March 1998
OPRC 1990	-10 March 1998
LLMC 1976	-1 April 1998
PAL 1974	-10 March 1998
TONNAGE 1969	-10 March 1998
FAL 1965	-8 February 1998
SALVAGE 1989	-10 December 1998
SOLAS 1974	-10 March 1998
SOLAS PROT 1978	-10 March 1998
STCW	-26 February 1998

Appendix II
Guyana Transport and Harbours Department



APPENDIX III

TRANSPORT AND HARBOURS DEPARTMENT FLEET OF VESSELS

NAME OF VESSEL	SERVICE	TYPE
M.V. Makouria	G/town/V.Hoop	Passenger/vehicle
M.V. Malali	Parika/Adventure	
M.V. Torani	Rosignol/New Amsterdam	
M.V. Kimbia	G/town/North West District	Passenger/Cargo
M.V.Lady	Relief Vessel	
Northcote		
M.V. Barima	Parika/Bartica	
Sandaka	Essequibo	Passenger/vehicle
Bonasika	Demerara	Passenger
Barramanni	Berbice	Passenger/vehicle

APPENDIX IV

CARIBBEAN MOU STATES

- Anguilla
- Antigua and Barbuda
- Aruba
- Bahamas
- Barbados
- British Virgin Islands
- Cayman Islands
- Dominica
- Grenada
- Guyana
- Jamaica
- Montserrat
- Netherlands Antilles
- St. Kitts and Nevis
- St. Lucia
- St. Vincent and Grenadines
- Suriname
- Trinidad and Tobago
- Turks and Caicos Islands

APPENDIX V

REGULATORY ASPECTS OF THE SHIPPING ACT

- Form for applying for Registration of a Ship - Sec. 14 (1);
- Form of Declaration of ownership of ship, to accompany application for Registration - Sec. 15 (1);
- Form for Application of change of name of ship – Sec. 24 (2);
- Licensing of ships – Sec. 51;
- Form of the Bill of Sale required whenever a ship or a share in a ship is transferred – Sec. 52 (2) (a);
- Form of a Certificate of a sale or mortgage of a ship Sec – Sec. 68 (5) (a);
- Form of the Certificate of Registration of a ship – Sec. 37 (1); See also Sec. 38.
- Form of the Register Book for registering certain entries regarding Merchant Ships, Fishing Vessels and ships under construction – Sec. 214 and 215;
- List of Crew form to be completed by every Master of Guyana ship of 200 gross tons for submission to Registrar of Seamen – Sec. 220;
- Form of Births and Deaths on any voyage of a Guyana Ship, which Master is required to file on arrival in Port – Sec. 221;

- Form of the Passenger ship safety certificate and Inspection Certificate referred to in Sec. 261 (1);
- Form of the Exemption and Qualified Certificates referred to in Sec. 263 (b) (i) and (ii);
- Form of the Cargo Ship Safety Equipment Certificate – Sec. 268;
- Form of the Cargo Ship Exemption and Qualified Radio Certificate referred to in Sec. 269;
- Form of Cargo Ship Radio Certificate – Sec. 271;
- Form of Radio Exemption Certificate referred to in Sec. 273;
- Form of Cargo Ship Safety Construction Certificate – Sec. 276 (1);
- Form of the International Load Line Certificate and International Load Line Exemption Certificate referred to in Sec. 303;
- Form of Guyana Local Line Certificate referred to in Sec. 304;
- The list of Offences under the Act which may be compounded in Accordance with Sec. 445.