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Malmö, Sweden

**MARITIME SAFETY ADMINISTRATION IN
THE PHILIPPINES:
Current Issues and Recommendations**

by

MAXIMO QUIBRANZA MEJIA JR.
Republika ng Pilipinas
Republic of the Philippines

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

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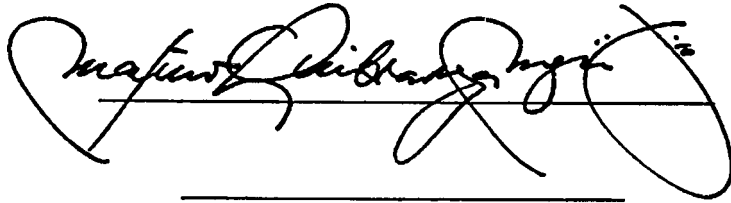
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DECLARATION

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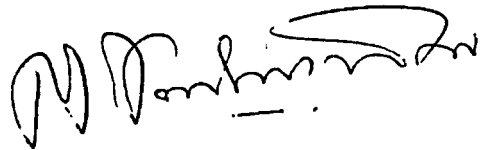
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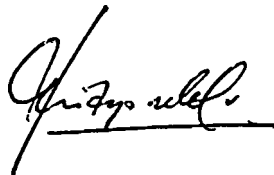
Supervised and Assessed by:

Capt. P.S. Vanchiswar, Ph.D.
Professor-in-Charge
Maritime Safety Administration Courses
World Maritime University



A handwritten signature in black ink, likely belonging to Capt. P.S. Vanchiswar, is written above the printed name.

Co-assessed by:



A handwritten signature in black ink, likely belonging to Rear Admiral E. E. Mitropoulos, is written over a horizontal line.

Rear Admiral E. E. Mitropoulos, HCG (ret.)
Director
Maritime Safety Division
International Maritime Organization
Visiting Professor
World Maritime University

To Filipino seafarers everywhere,
going down in their ships to the sea, and

To the memory of more than 3,000 Filipinos lost off
the seas of Mindoro and Marinduque in December, 1987,

This work is dedicated.

ABSTRACT

This dissertation examines the major issues pertaining to the manner maritime safety is presently administered in the Philippines, an archipelagic country of more than 7,000 islands and the biggest source of labor for the world's maritime transportation industry, and forwards recommendations for improvement.

Discussion in the study is premised on the existence of specific inadequacies in the administration of maritime safety in the Philippines, mainly rooted in the fragmentation of different maritime safety functions among agencies which are uncollocated and which possess certain organizational weaknesses. To facilitate discussion on the inadequacies in Philippine maritime safety administration, the study begins with a brief introductory chapter followed by a chapter that provides the reader with a general background on the relevant concepts and theories of maritime safety and maritime safety administration. This is then succeeded by a discussion on the reasons why there is a need for improved maritime safety administration in the Philippines.

The fourth chapter presents the current set-up and organization of maritime safety administration in the Philippines which in the subsequent chapter is examined for inadequacies and deficiencies. The sixth chapter is a survey of past and present attempts to rationalize maritime safety administration in the Philippines and the seventh looks at possible models for reform or reorganization.

The author concludes, among others, that the severity of deficiencies, its negative effects, and the need to fulfill international maritime commitments make the

urgency for reform immediate. As recommendations, the author proposes the following:

- i. Consolidation of all MSA functions
- ii. Collocation of all agencies related to maritime administration
- iii. Push for the passage of the PCG Bill
- iv. Reform the seafarers examination system
- v. Push for PCG autonomy
- vi. Increase awareness and encourage research and training in maritime affairs
- vii. Maintenance of a permanent and technically competent presence at IMO

As a reference, the dissertation incorporates as one of its appendices a comparative survey of how maritime safety is administered and organized in different countries.

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ABBREVIATIONS

AFP	Armed Forces of the Philippines
CGD	Coast Guard District
CGDet	Coast Guard Detachment
CGS	Coast Guard Station
CGSD	Coast and Geodetic Survey Department of the NAMRIA
CISO	Conference of Interisland Shipowners and Operators
CPCG	Commandant, Philippine Coast Guard
CSAFP	Chief of Staff, Armed Forces of the Philippines
DBMI	District Board of Marine Inquiry
DENR	Department of Environment and Natural Resources
DILG	Department of the Interior and Local Government
DND	Department of National Defense
DOTC	Department of Transportation and Communications
EEZ	Exclusive Economic Zone
EO	Executive Order
FAO	Food and Agricultural Organization
FOIC,PN	Flag-Officer-in-Command, Philippine Navy
GHQ,AFP	General Headquarters, Armed Forces of the Philippines
GMDSS	Global Maritime Distress Safety System
GNP	Gross National Product
GRT	Gross Registered Tons
HB	House Bill
HCG	Hellenic Coast Guard
HPCG	Headquarters, Philippine Coast Guard
HPN	Headquarters, Philippine Navy
IALA	International Association of Lighthouses Authorities
ILO	International Labor Organization
ILO 147	ILO Convention Number 147, Concerning Minimum Standards in Merchant Ships
IMCO	Inter-Governmental Maritime Consultative Organization; IMO's name until 22 May 1982
IMO	International Maritime Organization
MARAD	Maritime Administration
MARICON	Maritime Command, Philippine National Police
MARINA	Maritime Industry Authority
MARLEN	Maritime Law Enforcement
MAROPS	Maritime Operations
MARPOL	Marine Environmental Protection (within the context of PCG functions)
MARPOL 73/78	International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978

MARSAR	Maritime Search and Rescue (see also SAR below)
MET	Maritime Education and Training
MIDA	Maritime Industry Development Authority
MIDP	Maritime Industry Development Program
MoJ	Ministry of Justice
MoT	Ministry of Transport
MSA	Maritime Safety Administration
NAMRIA	National Mapping and Resource Information Authority
NTC	National Telecommunications Commission
PCA	Philippine Commission Act
PCG	Philippine Coast Guard
PD	Presidential Decree
PHILFLEET	Philippine Fleet
PHILMARAD	Philippine Maritime Administration
PMA	Philippine Military Academy
PMAR	Philippine Marines
PMMA	Philippine Merchant Marine Academy
PMO 84	Presidential Memorandum Order 84
PMSA	Philippine Maritime Safety Authority
PN	Philippine Navy
PNP	Philippine National Police
POEA	Philippine Overseas Employment Administration
PPA	Philippine Ports Authority
PRC	Professional Regulation Commission
PTFIS	Presidential Task Force on Interisland Shipping
RA	Republic Act
RA 5173	Republic Act 5173, The PCG Law of 1967
RA 6975	Republic Act 6975, The PNP Law of 1990
RP	Republic of the Philippines
SAR	Search and Rescue
SB	Senate Bill
SBMI	Special Board of Marine Inquiry
SILG	Secretary of the Interior and Local Government
SND	Secretary of National Defense
SOLAS 60	International Convention for the Safety of Life at Sea, 1960
SOLAS 74/78	International Convention for the Safety of Life at Sea, 1974 as amended by the 1978 Protocol
SOTC	Secretary of Transportation and Communications
SPAC	Shipping and Ports Advisory Council
SSRB	Seaman's Service Record Book
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978
UN	United Nations
UNCLOS 82	United Nations Convention on the Law of the Sea, 1982
US/USA	United States of America
USCG	United States Coast Guard
WMU	World Maritime University

PROLOGUE

The past three years have witnessed the launching of a campaign to detach the Philippine Coast Guard, the government agency responsible for administering maritime safety, from the defense establishment and attach it to the Department of Transportation and Communications. The Coast Guard has, since its creation in 1967, found itself in an organizational dilemma that has prevented it from developing as a truly specialized and professional maritime safety agency. In view of the Philippines' stakes in the domestic and the international maritime industry, and in view of the resurging Philippine economy, the need to address the organizational placement of the Philippine Coast Guard has become increasingly pressing.

The campaign to rectify the Philippine Coast Guard's organizational placement has resulted in a general awareness at Headquarters, Philippine Navy; at General Headquarters, Armed Forces of the Philippines; in the Department of Defense; in the Department of Transportation and Communications; in the Philippine Congress; and within the maritime sector, of the need to improve the country's system of maritime safety administration. Nevertheless, because of its specialized and technical nature, there is still a dearth of information on maritime safety, maritime safety administration, and the relevant issues in the Philippine setting.

This study represents the author's contribution to the body of literature on maritime safety administration in the Philippines which may hopefully serve as a reference for policymakers, legislators, administrators, shipowners, seafarers, and other interested parties in the

maritime sector or society in general who wish to be apprised of the situation currently obtaining in the system of maritime safety administration in the Philippines. The author has endeavored to write this dissertation in a manner that would allow even those without a specialized background in maritime affairs to gain an appreciation of the pertinent issues. Because the author will rely on the concepts of maritime administration, maritime safety, and maritime safety administration throughout the paper, a discussion of these concepts shall be provided in one of the earlier chapters.

The author had earlier considered developing a project designed to improve the Coast Guard's performance of one of its specific maritime safety functions. In electing to treat a more general topic, however, the author seeks to make a contribution to increasing awareness of the need to address a basic flaw or deficiency in the way the most important mode of transport and one of the most vital sectors of the national economy is presently administered in the Philippines. The author firmly believes that correcting these fundamental flaws is a prerequisite to realizing other, more specific recommendations for the improvement of maritime safety administration in general, and the Philippine Coast Guard in particular.

The proposed dissertation does not have the ambitious goal of precipitating in the exhaustive overhaul of maritime administration in the Philippines. It is rather the paper's objective that while in the process of increasing public awareness of the issue, it may encourage the study of available options and lead to more research towards professionalization and greater efficiency in the administration of Philippine maritime affairs.

CHAPTER 1

INTRODUCTION

"Our geography and maritime resources can make the country a prominent maritime power. [W]ith the maritime community's support and involvement, our country can achieve economic prosperity...."

- President Fidel V. Ramos¹

The maritime sector in the Philippines offers enormous potential in making a significant contribution to the country's drive towards economic progress in the new century. Indeed, the maritime sector contributed positively to the Philippines' national economy even during the recession-laden years of the 1980s and as the country's fifth largest economic sector it continues to be a major factor in realizing the present economic turnaround.

The Philippines is one of the world's largest archipelagos and lies astride major international trade routes. Its coasts, dotted with numerous natural harbors, are rich in living and non-living marine resources. Its waters provide for an efficient and cost-effective means of transportation for both people and cargo. Its international ship registry is one of the leaders in world tonnage. Its seafaring population serves as the world's biggest source of manpower for manning ships in the international trade. In spite of all these, however, there exists in the maritime administration today a situation which is potentially harmful to the continued growth of the vital maritime sector.

¹Fidel V. Ramos, "Message," *Maritime Review*, December 1993, p.4.

The system of maritime administration in the Philippines is in a state of flux and is suffering from a lack of rationalized organization and from conflicting interests of various government departments. Especially acute is the situation obtaining in the maritime safety administration which, among other functions, is tasked with safeguarding the very maritime resources which, as the President mentions in the above quote, are those that can turn the Philippines into "a prominent maritime power." Whatever gains may have been achieved or favorable position may have been won may all be threatened. The present state of affairs in the maritime administration is characterized by uncertainty which exposes the Philippines to the danger of not being able to cope with the pressures with which it has to deal in order to remain competitive in the international shipping industry.

What is this potentially unsound situation? Why does it exist? Why should it be corrected? How may it be corrected? What are at stake? These are a few of the questions which this study attempts to answer through an examination of relevant issues in Philippine maritime safety administration.

Chapter 3 examines what the Philippines has at stake in its maritime sector and argues for the importance of rationalizing and improving the efficiency of maritime safety administration. Chapter 4 follows with a description of the organization of maritime administration in the Philippines, with particular attention to the organization and functions of the Philippine Coast Guard and the organization and functions of the Maritime Industry Authority.

After the description in Chapter 4 of the present maritime administration, Chapter 5 examines what the system's weaknesses are, beginning with the recent realignment of MSA responsibilities. This is followed by

a review in Chapter 6 of past and present efforts to rectify those weaknesses and improve the efficiency of maritime administration in the Philippines.

Chapter 7 is a survey of a number of possibilities and models for rationalizing Philippine maritime administration. Chapter 8 ends the study with the author's personal conclusions and recommendations.

In examining the above issues and in supporting his contentions, the author will rely on concepts related to maritime safety, maritime administration, and maritime safety administration. It is therefore necessary that a chapter be dedicated to introducing those concepts and defining their usage within the study. The next chapter, Chapter 2, hopefully serves the purpose.

CHAPTER 2

MARITIME SAFETY AND MARITIME SAFETY ADMINISTRATION

An understanding of maritime safety, maritime administration, and maritime safety administration is central to this study. What follows is a brief, general introduction to these and relevant concepts.

2.1. MARITIME SAFETY

The problem of safety at sea is as ancient as seafaring itself. When man first set out to sea and began to realize its vast potential, he also came to witness its awesome and destructive power. As he gained experience in using the sea for transport, man also became aware of the need to safeguard himself, his crew, his passengers, the vessel, and its cargo from harm. Man gained skills and set standards in order to ensure that seaborne vessels are constructed and operated within reasonable margins of safety.

Just exactly what constituted a "reasonable margin of safety," however, could never be universally defined. In olden days, when trade was carried out by wooden sailing ships and the movement of people through great distances over water was relatively limited, casualties seemed to have been more or less taken as a matter of course, attributable to the inherent dangers of the sea and accepted by sailors and passengers alike. Though still a fact of life with present-day crews and passengers, the potential for loss of life at sea was much greater in the past, with the likelihood of survival in an incident at sea far less.

Until then, the business of administering maritime

safety was left more or less to national administrations. It was only during the present and the last centuries, with the advent of international trade and intercontinental travel on a truly mass scale, that the need for more formal and multilateral maritime safety standards was recognized. Perhaps the single greatest impetus for multilateral action on maritime safety was the loss of the *Titanic*. The tragedy began a series of conventions from which the present International Convention for the Safety of Life at Sea (SOLAS), the most important of the maritime safety conventions, traces its origin.

The creation of the United Nations represented another breakthrough for maritime safety since it "was through (its) establishment... that the creation of a permanent international body to deal with maritime safety and related matters became possible."² This body, known as the International Maritime Organization (I.M.O.), provides a venue for the formulation of international maritime safety conventions, of which there are at present around forty, applicable to most of the world's ships today.

The need for greater global standards of safety at sea is important, now more than ever, because of the level at which shipping has become international. One can imagine the numerous interests involved, for instance, in an incident involving 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. One can likewise imagine the implications of the grounding of a Norwegian-owned, Filipino-manned supertanker flying the Liberian flag and spilling oil off the French Mediterranean coast.

²International Maritime Organization, "Strategy on Maritime Safety," p.ii.

Maritime disasters in the last three decades involving ships specially designed to carry enormous quantities of oil, chemicals, and hazardous cargo have added another dimension to safety at sea -- safety of human life at sea has increasingly had to share attention with the safety and protection of the marine environment itself.

In any given country the task of enforcing all standards regarding maritime safety -- rules and regulations affecting ships in both the national and international trade -- is either assigned to a single organization or spread around a number of them which may be known as the country's maritime safety administration or infrastructure.

2.2. MARITIME SAFETY ADMINISTRATION

In discussing Maritime Safety Administration (M.S.A.), great care must initially be taken to ensure that it is not confused with the term Maritime Administration (MarAd). MARAD encompasses the whole gamut of governmental administrative functions vis-a-vis the maritime industry. These functions, broadly divided between safety and development (promotional) aspects, are normally performed by different agencies. The MSA is the branch primarily concerned with maritime safety while the Maritime Industry Development Authority (M.I.D.A.) is the branch responsible for promoting the industry's commercial strength and viability. It should be noted that the terms MARAD, MSA, and MIDA are generic labels used in this paper as conceptual tools, and that they are known under various labels in different countries.

It is necessary to elucidate these concepts as there is a tendency to confuse the terms MARAD, maritime safety, and the promotion of the maritime industry. The terms are relatively obscure to the public and are specialized to begin with, being familiar only to people closely involved

in maritime affairs; for most, the concepts simply come off as being too technical. The following discussion hopes to dispel this notion by presenting what is hoped to be a straightforward explanation.

MSA as a course of study is currently seen as being not financially viable enough to be offered as an advanced degree program in universities and suffers as well from a dearth of published literature dedicated exclusively to the subject. Basic and advanced knowledge in maritime safety administration are traditionally learned within maritime administrations and ship survey and classification societies themselves. The World Maritime University (W.M.U.), established in Malmö, Sweden under the auspices of IMO, is the only institution offering graduate degree courses in Maritime Safety Administration, in both nautical and engineering streams. In its eleven years of existence, it has fulfilled the need for advanced training in MSA so very essential to ensuring the uniform enforcement of safety standards. The manual *Establishment/Administration of Maritime Affairs -- with Particular Reference to Developing Countries*, in three volumes, by Capt. P.S. Vanchiswar, Ph.D., Resident Professor of Maritime Safety Administration at WMU, fills in the theoretical gap and serves as excellent reference for understanding maritime safety administration.

2.2.1. ORGANIZATION

Professor Vanchiswar provides a logical, easily understandable model of how MARAD is ideally organized through the diagram³ shown in Fig.II-A below.

In the model the Maritime Administration is shown as one of the major divisions of the country's ministry

³P.S. Vanchiswar, Establishment/Administration of Maritime Affairs -- with Particular Reference to Developing Countries (Volume I), Malmö, Sweden: World Maritime University, 1992, p.60.

responsible for shipping, ports, and related matters. It is the umbrella organization offering policy guidance and strategic planning in maritime affairs. It also ensures that the country's maritime and shipping policy as embodied in the country's maritime legislation is duly executed by, and coordinated between, the two executive agencies coming under its direct supervision --the MSA and the MIDA.

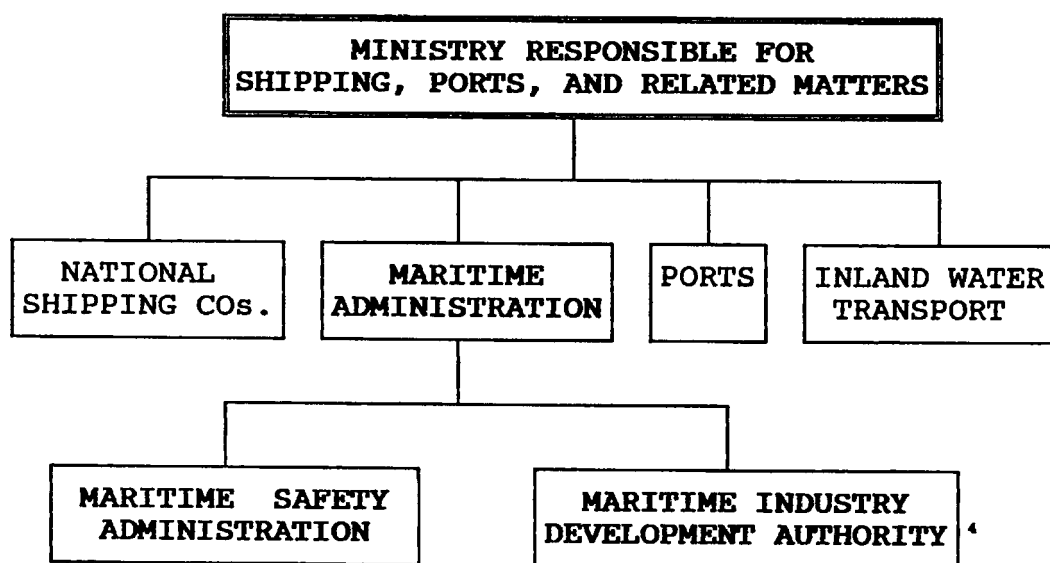


FIG. II-A: Model set-up of maritime administration.

Very broadly defined, the MSA exists to ensure the safety of life, property, and the protection of the environment at sea. The MIDA, on the other hand, promotes the development of national shipping in order to service the cargo and passenger trade, both coast-wise and international, while promoting at the same time the growth of other sectors of the maritime industry such as ship-

⁴In his manual, Vanchiswar actually refers to this branch as the Maritime Promotion Wing. This author has taken the liberty of altering the label, but not its essence, to one resembling that of the RP agency presently responsible for promoting the maritime industry.

repair, shipbuilding, ship-breaking, and fishing. The need to keep the two broad functions, "safety" and "promotional," separate is quite evident when one considers the offsetting influence one has over the other. The MSA is concerned with safety standards which to most shipowners tend to represent extra expenditures while the MIDA has an interest in developing the merchant fleet by encouraging ship-owning through tax write-offs and exemptions, financing, deregulation, and other incentives.

2.2.2. DUTIES AND FUNCTIONS

Vanchiswar defines the Maritime Safety Administration 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, marine personnel, maritime casualty investigations and protection of the maritime environment.⁵

The functions Vanchiswar mentions above may be reduced to the following -- 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 ensures that ships and ship travel are safe and that the seas are clean by enforcing national and international standards on ship design, construction, equipment, maintenance, and operation, as well as cargo loading and handling. It normally does not deal with commercial aspects such as arranging financial assistance to promote the industry, application of franchise, or strategic planning for the growth and expansion of seaborne

⁵P.S. Vanchiswar, Establishment/Administration of Maritime Affairs (Vol.I), p.61.

transportation and trade.

It is known under different labels in different countries. In the Philippines, the United States, Greece, and numerous Latin American countries, MSA functions are assigned to a national military formation known as the Coast Guard. In other cases, as in the Nordic countries for instance, the MSA is a civilian organization. The duties and functions of the MSA in any given country can generally be outlined as follows:⁶

1. General Superintendence and Coordination;
2. Registration of Ships and Related Functions;
3. Survey, Inspection, and Certification of Ships, along with Related Activities;
4. Examination and Certification of Seafarers;
5. Manning of Ships;
6. Conducting Inquiries/Investigations into shipping casualties;
7. Dealing with matters pertaining to Prevention/Control/Combat of Marine Pollution;
8. Dealing with matters pertaining to Maritime Search and Rescue;
9. Crew Matters in General;
10. Ensuring Safety of Fishing Vessels and other small craft;
11. Deal with Wrecks in National Jurisdiction;
12. Advising the Government on all (Marine) Technical Matters.

Administrations doubtless vary and may exercise any number of combinations of these functions, with some exercising more, others less. In many cases the MSA may exercise functions other than, or in addition to, those outlined above.

The MSA carries out the above functions towards the end of ensuring the safety of the lives of citizens in

⁶Ibid., p.62.

domestic waters and giving effect to numerous international conventions on maritime safety and prevention of marine pollution.

Maritime Safety Administration, as a term or concept, has come only relatively recently into the maritime vocabulary. Indeed not everyone readily recognizes it even within the maritime industry, and even much less outside it. As Vanchiswar is quick to emphasize, however, it is a generic term which has come to gain acceptance in the field.'

¹ It implies a host of tasks, varying in complexity and difficulty but all of which have an incredible impact not only on vessel safety and environmental cleanliness but on freight rates, the living condition of crews, training costs, traffic in particular ports, the competitiveness of fleets, among numerous others.

The highly technical and complex nature of the MSA's tasks can be inferred from the duties and functions listed above, particularly those involving ship survey and certification, casualty investigation, search and rescue, and the prevention and combat of marine pollution. They are skills which require years of training, experience, and specialization; they are what the Philippines needs if it is to have an effective and efficient MSA that can ensure the safety of its citizens travelling between its innumerable islands and fulfill its international commitments vis-a-vis maritime safety.

From a more pragmatic point of view it is important to keep ships safe and seafarers complying with international regulations, conventions, and standards not only to keep them competitive but simply to enable them to trade in all ports and to enable Filipino seafarers to be employed in any ship where their services are needed. The Philippines needs an MSA which not only will ensure

¹Ibid., p.61.

compliance but which will also serve as its voice in international fora to protect and enunciate Philippine maritime interests, of which indeed it has many.

There are numerous other reasons why the Philippines must maintain an effective MSA; these are subjects of the succeeding chapter.

CHAPTER 3

THE NEED FOR RATIONALIZED MSA IN RP

The reasons for establishing a Maritime Safety Administration, examined briefly in the preceding chapter, apply to most countries. In a maritime and archipelagic country such as the Philippines, the need is acute. In fact, one would expect a country the affairs of which are so closely linked to the sea and which derives numerous benefits from the maritime sector to have an MSA that is at least rational, if not as yet well-developed.

Seeing, however, that there is much room for improvement in the organization of MSA in the Philippines and observing the lack of inertia towards the rectification of its deficiencies, it seems apropos to return to a most basic question -- "Why is a rationalized and efficient MSA important to the Philippines?" -- the premise of this paper being that the present MSA is not rational and that, as shall be highlighted in succeeding chapters, a number of fundamental problems exist. By "rational" is meant an agency which is the product of well thought-out planning, with considerable effort taken into ensuring that its purposes, aims, and objectives are aligned to serve the best interests of the sector it is mandated to administer. In addition, "rational" implies that the MSA is well-placed relative to other agencies playing complementary roles (such as the Ports Authority and the MIDA) in an arrangement that readily allows coordination and harmonization. In other words, an agency designed not only to serve the best interests of the maritime industry but to serve them well and efficiently.

As regards the need for a rational and efficient MSA, one could as well ask the related question "What is at

stake for the Philippines?" This chapter attempts to answer both this and the earlier question by putting forth some of the more important reasons why the rationalization of maritime safety administration is of utmost urgency. Among the numerous, hopefully persuasive, reasons are the archipelagic nature of the Philippines, its age-old seafaring tradition, its various leading roles in the international maritime industry, the significant contribution of the maritime sector to the national economy, the volume of passenger traffic, the maritime disasters it has endured, and its international obligations.

3.1. THE REPUBLIC OF THE PHILIPPINES (RP) AS AN ARCHIPELAGIC NATION

The Philippines is an archipelagic and maritime nation. It is a group of some 7,107 islands belonging to the Southeast Asian region. Its total land area is 87,200 square nautical miles (115,800 in square statute miles). The total area enclosed within its baselines plus the twelve-mile territorial sea that project from these baselines is 290,850 square nautical miles. About 203,650 square nautical miles of this is water, making evident the preponderance water has over the total area under Philippine sovereign control; land comprises merely less than a third of the total area that lies within the Philippines' territorial boundaries.

The Filipino people, scattered around these numerous islands, have for thousands of years depended on the sea for livelihood, commerce, and transportation. Even in this age of great progress in land and air transportation, shipping remains the most economical, most efficient, and, therefore, most important means of interisland transport of both passengers and cargo.

The Philippines, with a combined coastline of 6,997 miles, shares no land boundaries with any country and is

completely surrounded by different bodies of water -- the South China sea to the west, the Celebes Sea to the south, and the Philippine Sea and the open Pacific to the east. Beyond these seas lie its closest neighbors -- Taiwan to the north, China to the northwest, Indochina to the east, and Indonesia and Malaysia to the south and southwest. There are numerous vital sea passages along and within its boundaries: Luzon, Bashi, San Bernardino, Surigao, Balabac, and Sibutu, among others. The archipelago sits astride sea lanes of communication used heavily for trade between the vibrant economies of East and Southeast Asia and the rest of the world. Ships enter its waters, either to call on its ports or to sail through its passages en route to other destinations, all representing huge potential for causing marine pollution and loss of human life and cargo.

The label "archipelagic" is about to take on new meaning on the 16th of November of the current year when the United Nations Convention on the Law of the Sea, 1982 (U.N.C.L.O.S. '82) comes into force. Under UNCLOS 82, of which it is a signatory, the Philippines may be classified as an archipelagic state. Among the numerous implications of such a designation and the coming into force of UNCLOS 82 are that:

- all land and sea areas enclosed within the baselines shall be recognized as coming under RP sovereignty (Art.49);
- the Philippines will stand to gain an Exclusive Economic Zone totalling as much as 652,800 square nautical miles in area, with sovereign rights over the exploration and exploitation of living and non-living resources, with corresponding responsibilities for the preservation of the marine environment (Art.56);
- the Philippines shall exercise sovereign rights over the continental shelf for the purposes of

exploration and exploitation of its natural resources (Art.77);

- the Philippines shall have the obligation to protect and preserve the marine environment (Art. 211); and
- the Philippines shall guarantee the right of archipelagic sealanes passage through sealanes designated as suitable for the continuous, expeditious, and unobstructed transit passage of foreign ships and aircraft (Art.53).

Considering all the above provisions, the Philippines must be able to efficiently employ its seaborne assets in order to enforce laws and safeguard interests over all areas to which it is awarded jurisdiction under UNCLOS 82. One can already imagine the difficulty of patrolling the Philippine Exclusive Economic Zone. The archipelagic regime entails not only benefits but liabilities and responsibilities as well. It awards sovereign rights over exploitation and exploration within the EEZ but involves responsibilities for the marine environment as well.

All these responsibilities, coupled with numerous others which come naturally with the fact of being an archipelagic country -- piracy, shipping casualties, marine pollution incidents, and the sheer responsibility over a vast area of water -- make for a most daunting task. Hence the need for an effective maritime safety administration to undertake additional duties as well as to give effect to important provisions in UNCLOS 82.

3.2. PHILIPPINE SEAFARING TRADITION

As already mentioned, owing to the archipelagic environment, the people of the islands now known as the Philippines turned to the sea for livelihood, transportation, and communications for thousands of years. The sea forms such an intimate part of people's lives that

in some areas, particularly in the South, infants are reputedly able to swim even before they learn to walk.

The ancestors of the Philippines' predominantly malay population, led by Datu Puti, sailed from Northern Borneo in long boats called *balangays*. Throughout early history, the archipelago's inhabitants engaged in seaborne trade within the region, specifically with the Chinese Empire and her tributary kingdoms.

Filipino seafarers have been manning ships in the international trade for centuries. Filipino crews manned the Spanish galleons during the flourishing colonial trade between Manila and Acapulco. The United States Navy employed Filipino sailors aboard US Navy vessels in as early as the War of 1812, a practice that continues up to this day.

Alexander Dalrymple, once one of the best navigators, surveyors, and hydrographers of the British East India Company and the admiralty, a man "once described as the man who... had done most for the spread of Britain's commerce" and whose work "revolutionised chartmaking..., a contribution of incalculable value to Britain's maritime supremacy in the 19th century" employed as his personal assistant for many years a Filipino seafarer, Pedro Manuel.⁴

The Philippine Merchant Marine Academy, the country's premier institution of higher learning for merchant marine officers, was established in 1820.

It is testimony today to Filipino seafaring skill that the greatest percentage of crews manning the world's ships are Filipinos. Filipinos also make up the highest percentage of expatriate sailors in the U.S. Navy, serving with distinction in all technical specialties aboard the

⁴International Labor Organization, Recruitment and Placement of Asian Seafarers, ILO Publications Branch: Geneva, 1990, p.94.

world's most advanced naval warships. The latter fact, while pertaining to men-o'-war rather than to merchant marine vessels, nevertheless indicates how Filipinos make natural sailors.

It would only do honor to Filipino seafaring, both of old and of today, to ensure that the present administration of merchant marine affairs is dedicated to upholding and preserving its traditions of competence and excellence.

3.3. RP POSITION IN THE INTERNATIONAL MARITIME INDUSTRY

Some 140,000 Filipinos presently man international sea-going vessels⁹. This represents roughly 20% of world manning and makes the Philippines the undisputed leader in supplying ships' crews. Asked what in his opinion are the areas in which the Filipino seafarer has shown an advantage, a visiting professor at the World Maritime University replied that cost advantages aside, Filipinos are natural sailors and capable mariners who can readily communicate in English, learn quickly, and are hard workers.¹⁰

With almost 8 million gross tons Philippines ranks thirteenth among international ship registries¹¹. With the sizable registry comes the tremendous responsibility of ensuring that ships registered under its flag are

⁹Carlos L. Agustin, "Responding to Philippines 2000," *Maritime Review*, December 1993, p.6.

¹⁰Chris Horrocks, World Maritime University Lecture, 28 June 1993.

¹¹Carlos L. Agustin, "Responding," p.6. All ships must be registered under a national flag. The flag gives the ship nationality and allows it to engage in international trade. Before allowing a ship to register under its flag, however, the (Flag) State must ensure that the ship applying for registration is safe and is in a seaworthy condition, in accordance with the established national regulations.

seaworthy, and that regulations to ensure safety and seaworthiness are implemented. Looking at the sheer number of Filipino seafarers and the gross tonnage of ships registered under its flag, the Philippine Government, through its MSA, has an awesome responsibility of ensuring that those ships are safe and the seafarers manning them are properly qualified.

The Philippines is also one of the world's biggest fishing nations. The Food and Agricultural Organization ranks its fish catch as the world's 11th biggest; as a tuna fish-exporting country, it is second only to Japan. The Philippines is highly dependent on fish as a source of protein. Among the world's nations it ranks third in terms of relying on fish protein as a percentage of the national diet's daily protein intake.¹²

3.4. CONTRIBUTION OF THE MARITIME SECTOR TO THE RP ECONOMY

In terms of hard currency, overseas seafaring is the maritime sector's single most important contributor to government revenue. Remittances by seafarers, amounting to close to half a billion dollars yearly¹³, represent one of the biggest sources of foreign exchange for the Philippines, proving seafaring to be a truly vital part of the national economy. An efficient maritime safety administration is necessary in helping maintain the country's advantage in seafaring in the face of competition from more countries developing programs to produce seafarers for the international fleet. While a greater shortage of crews is still predicted for the

¹²"New World Order: Seafood Dinners," *Asiaweek*, 13 July 1994, p.14. Fish provides 20.9% of diet protein intake in the Philippines. Japan relies most on fish, which makes up 28% of diet protein intake while the Congo is second, with 22.8%.

¹³Samuel Caezar S. Porcalla, "High Hopes for Top Money-Earner," *Maritime Review*, December 1993, p.25.

future, an even greater emphasis on international training and certification standards for seafarers can be expected. Foreign shipowners appreciate the Filipino's capabilities, potentials, and ready adaptability to the seagoing life¹⁴ but without proper implementation of training standards, the Philippines might find itself left with seafarers willing but unable to go to sea because of deficiencies in requirements.

In terms of the interisland trade, some 26 million metric tons were transported by the country's merchant fleet in 1990. About 50,000 land- and sea-based personnel are employed directly or indirectly by the national shipping industry which "contributes about ₱200 million annually to government coffers in various forms of taxes, licenses and fees."¹⁵

The fisheries sector, on the other hand, employs around one million Filipinos and contributes as much as 4.4% to GNP.¹⁶ One of the most dynamic cities in the country today, General Santos City in the island of Mindanao owes a great share of its progress to the bounty or potential of the sea; the tuna migration corridor in the Celebes Sea, just south of the city, is one of the world's richest tuna fishing grounds.

↑ The present administration has indicated its desire to see progress in the maritime sector. The president has stressed the need to liberalize shipping by offering measures such as tax incentives to encourage Filipino ownership of ships in the international trade, deregularizing the outmoded tariff system, and offering

¹⁴Susan Pe, "Spend it Wisely," *Lloyd's List Maritime Asia*, September, 1993., p.40.

¹⁵Carmela I. Huelar, "A Bigger and Modern Domestic Fleet," *Maritime Review*, December 1993, p.7.

¹⁶Mari-len D. de Luna, "Fishing with Locally Built Ships," *Maritime Review*, December 1993, p.14.

attractive financing packages. Other maritime industries such as shipbuilding, shiprepair, and shipbreaking, albeit in nascent stages of development, are also being encouraged and show enormous potential.

The archipelago is also rich in other marine resources. The largest and most successful offshore gold mining project took place in Paracale Bay, Camarines Norte.¹⁷ The Philippines has one of the world's most extensive coral systems and its beaches, one of the country's best tourist attractions, are world-known.

3.5. VOLUME OF PASSENGER TRAFFIC AND MARITIME ACCIDENTS IN THE PHILIPPINES

Yuletide is the most important holiday season in the Philippines. It is during this time of year that the entire Philippine transport system is tested to its limits. It was during this season, days before Christmas, 1987, while in transit near the islands of Mindoro and Marinduque, that the passenger ship *M/V Doña Paz* collided with a tanker laden with gasoline, oil, and other combustible products. The accident resulted in the death of up to 4,000 passengers, the world's worst maritime disaster in terms of lives lost. The lookout appears to have been missing from the tanker's deck. The ferry, taking advantage of the high demand for passage during the lucrative holiday season, was shamelessly overloaded with passengers.

As a disaster at sea, *Doña Paz* was not a random case, but the most tragic and infamous. Only a year earlier, the ferry *M/V Doña Josefina* sank not soon after departing Isabel, Leyte, leaving 150 of its 200 passengers dead. In 1988 another passenger ship, *M/V Marilyn*, capsized during a storm, resulting in 500 deaths. Some studies report

¹⁷David Pasho, "Offshore Non-Fuel Minerals," Lecture, p.6.

that in the average year more than 100 maritime accidents involving loss of life occur in the Philippines.¹⁸

The need to upgrade maritime safety within the archipelago is immediate. Some 9,400 vessels, totalling 875,000 gross tons, make up the coastal fleet. The interisland traffic is heavy. In 1990, around 14 million passengers travelled between islands in ships, the average age of which is 20 years.¹⁹

If there is anything more tragic than the Doña Paz incident, it is the failure of the loss of 4,000 lives in one single incident and of hundreds more in others to result in the meaningful reform of maritime safety administration in the Philippines. Countries have come together, accommodated the spirit of compromise, and adopted far-reaching conventions and regulations for very much less loss of life. In Europe, the loss of only scores of passengers is enough to trigger a flurry of IMO regulations and amendments. In the United States, the soaking of Alaskan sea birds and otters in oil have resulted in stringent unilateral safety standards that affect international shipping at large. The one consolation a nation is usually allowed after suffering a tragedy is the opportunity that it presents the government to pass measures and institute reforms without delay. The passage of the Oil Pollution Act of 1990 (O.P.A. '90) in the US and the adoption of numerous international maritime safety conventions at IMO attest to this phenomenon.

In response to the spate of maritime incidents in the Philippines, a presidential task force was created in the 1989. The task force went as far as identifying the principal causes of unseaworthy ships but fell short of recommending sweeping reforms or attempting to resolve the

¹⁸Nathan Associates, "Interisland Liner Shipping Rate Rationalization Study," 1991, p.1.

¹⁹Carmela I. Huelar, "A Bigger," pp. 7-8.

organizational and functional issues pertaining to maritime safety administration. Thus, not only are the same MSA dilemmas that were present on the eve of the *Doña Paz* incident still present now, but they also appear to have been aggravated by somewhat conflicting legislation, or interpretations thereof.

3.6. RP's INTERNATIONAL COMMITMENTS

International shipping comes under the regimes of the International Maritime Organization (I.M.O.), a specialized agency of the United Nations organized in 1959 as a result of the United Nations Economic and Social Council (ECOSOC) Maritime Conference of 1948 establishing the Convention on the International Maritime Organization. The IMO is the most important international body for maritime affairs and exists

to provide machinery for cooperation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation, and prevention and control of marine pollution from ships.²⁰

These standards come in the form of international conventions which provide specifications to which ships are to be constructed, equipped, and manned; they form the "rules" under which players in the international maritime industry operate.

The Philippines has been a member of IMO since 1964 and while it has become, through its fleet and seafarers, a force in the international maritime industry, a seeming indifference to IMO affairs is tending to develop in the

²⁰IMO Convention on the International Maritime Organization, Article 1(a).

maritime sector. Certain interests have even advocated Philippine withdrawal of membership from IMO! It is alleged that the less-than-warm attitude of the Philippines during the last IMO Assembly meeting led to the loss of its seat in the 32-member Council, IMO's executive organ responsible for supervising the work of the Organization.

Congressman Manuel H. Puey of the House Committee on Marine Transportation laments that while the "Philippines was one of the first IMO members when Philippine merchant shipping development was well ahead of any of its ASEAN neighbors," to date it has ratified only five of the fourteen conventions on safety and only one on pollution prevention. Puey adds that during the previous administration, "not a single agreement was ratified. Worse yet, the Philippines has been listed as among the few member countries which have been delinquent in the payment of their financial obligations to IMO."²¹

The apparent growing indifference to IMO affairs is, at best, ill-advised. As a maritime nation benefitting greatly from the international maritime trade, the Philippines cannot divorce itself from the international rules that govern the industry or from the body that formulates such standards. Moreover, the very same regulations and conventions protect our sailors from unscrupulous shipowners operating unsafe ships.

Indeed, the Philippines should be interested in any body committed to maritime safety since more of its citizens work aboard ships than any other nationality. Scores of thousands of Filipinos are affected since they are the ones whose lives are exposed daily to the sea's inconstancy and whose lives will be spared as a result of

²¹Rommel R. Cortez, "Inspection of Ships Should be Spun Off from MARINA - Puey," *The Manila Chronicle*, 18 September 1992, p.27.

whatever safety measures may be developed.

The International Maritime Organization is the sponsor and guardian of the most important international maritime safety conventions. It has adopted some thirty conventions and protocols applicable to most ships in the international trade, covering regulations and recommendations for enhancing the safety of life at sea and for protecting the environment from pollution from ships.

The most far-reaching among the IMO conventions are the SOLAS and MARPOL Conventions.

3.6.1. SOLAS

Generally regarded as the most important of all international treaties concerning the safety of merchant ships, the present International Convention for the Safety of Life at Sea, 1974, as amended by the 1978 Protocol (SOLAS 74/78), is the latest in a series of SOLAS conventions that began some eighty years ago. The first SOLAS was drafted in direct response to the sinking of the *Titanic* in 1912. While this first SOLAS convention marked a milestone in international cooperation on maritime safety standards and was adopted in 1914, its coming into force was precluded by the First World War.

Succeeding SOLAS conventions were concluded in 1929, 1948, 1960, and 1974, with the 1960 and 1974 versions being drafted under the auspices of IMO. The main object of the present SOLAS Convention, adopted on 1 November 1974 and entered into force on 25 May 1980, is to specify minimum standards for the construction, equipment, and operation of ships. Flag States are responsible for ensuring that ships registered under their laws comply with the Convention's requirements. As proof of compliance, the Convention requires the issuance of a number of safety certificates.

SOLAS 1974 was amended by a Protocol which was

adopted on 17 February 1978 and entered into force on 1 May 1981. The Protocol came out of the need to modify SOLAS 74 in view of the resultant need to adapt safety standards to rapid changes in marine transportation. A result of the International Conference on Tanker Safety and Pollution Prevention (6-17 February 1978), the Protocol incorporated important changes to Chapters I, II-1, II-2, and V of the Convention. The 1978 Protocol is an integral part of the Convention, hence the designation SOLAS 73/78.

The Convention is continuously updated to keep pace with developments in shipping and to apply lessons learned from investigations into maritime casualties via the passage of amendments. What follows is a list of the different amendments to SOLAS, with the dates of adoption and entry into force, that have been adopted since the 1978 Protocol:

<u>Amendment</u>	<u>Adoption/Entry into force</u>	
1981 amendments	20 Nov 1981	1 Sep 1984
1983 amendments	17 Jun 1983	1 Jul 1986
1988 (April) amendments	21 Apr 1988	22 Oct 1989
1988 (October) amendments	28 Oct 1988	29 Apr 1990
1988 Protocol	11 Nov 1988	²²
1988 (GMDSS) amendments	11 Nov 1988	1 Feb 1992
1989 amendments	11 Apr 1989	1 Feb 1992
1990 amendments	May 1990	1 Feb 1992
1991 amendments	24 May 1991	1 Jan 1994
April 1992 amendments	10 Apr 1992	1 Oct 1994
December 1992 amendments	11 Dec 1992	1 Oct 1994

²²The Protocol enters into force twelve months after being accepted by at least 15 States the combined merchant fleets of which represent at least 50% of world tonnage.

3.6.2. MARPOL

The International Convention for the Prevention of Pollution from Ships, 1973 was developed in response to:

- the enormous growth in marine transportation of oil and size of oil tankers in the 1970s,
- the increasing transport of chemicals and dangerous substances in bulk and packaged form,
- the increasing interest in protecting the marine environment, especially in the aftermath of the *Torrey Canyon* disaster in 1967, and
- the perceived inadequacy of the earlier International Convention for the Prevention of Pollution of the Sea by Oil, 1954 (OILPOL), particularly with regard to the fact that OILPOL was concerned only with so-called persistent oils.

MARPOL covers all the technical aspects of pollution from ships and specifies regulations applicable to all vessel types. In contrast to OILPOL, MARPOL deals not only with oil pollution but with pollution in all forms as contained in its five annexes:

- | | | |
|-----------|---|---|
| Annex I | - | Oil |
| Annex II | - | Noxious liquid substances carried in bulk (e.g., chemicals) |
| Annex III | - | Harmful substances carried in packages (e.g., tanks and containers) |
| Annex IV | - | Sewage |
| Annex V | - | Garbage |

The Convention was adopted on 2 November 1973 but did not enter into force until 2 October 1983. Like SOLAS, MARPOL had to be modified by a Protocol in 1978 developed at the International Conference on Tanker Safety and Pollution Prevention and hence the designation MARPOL 73/78. It, too has been continuously updated by

amendments, a listing of which follows:

<u>Amendment</u>	<u>Adoption/Entry into force</u>	
1984 amendments	7 Sep 1984	7 Jan 1986
1985 (Annex II) amendments	5 Dec 1985	6 Apr 1987
1985 (Protocol I) amendments	5 Dec 1985	6 Apr 1987
1987 amendments	December 1978	1 Apr 1989
1989 (March) amendments	March 1989	13 Oct 1990
October 1989 amendments	17 Oct 1989	18 Feb 1991
1990 (HSSC) amendments	March 1990	²³
1990 (IBC Code) amendments	March 1990	-do-
1990 (BCH) amendments	March 1990	-do-
1990 (Annexes I and V) amendments	November 1990	17 Mar 1992
1991 amendments	4 Jul 1991	4 Apr 1993
1992 amendments	6 Mar 1992	6 Jul 1993

3.6.3. STCW

The International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978 was "the first attempt to establish global minimum professional standards of personnel efficiency and knowledge for seafarers."²⁴ The Convention's pertinent technical provisions are contained in the six chapters of the Annex. The first chapter presents the Convention's general provisions while the rest outline mandatory minimum requirements for proficiency as regards:

- the master-deck department,
- the engine department,

²³The HSSC amendments will enter into force six months after the entry into force of the 1988 SOLAS and Load Line Protocols.

²⁴E. O. Agbakoba, "The International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978," International Conference on the Development and Implementation of International Training Standards, WMU, Malmö, Sweden, 15-16 March 1994, p.2.

- the radio department,
- special requirements for tankers, and
- proficiency in survival craft.

This convention is, understandably, of specific relevance to the Philippines because of the number of Filipino seafarers serving in ships in the international trade. The STCW was updated by the 1991 amendments adopted on 22 May 1991 and entered into force on 1 December 1992. More importantly, it should be noted that the Convention as a whole is undergoing revision at IMO. The revision, which will incorporate major changes in existing standards, might be concluded within a year or two.

3.6.4. OTHER IMO CONVENTIONS

The following are some of the other IMO conventions vital to maritime safety and pollution prevention (short titles in parentheses):

- International Convention on Load Lines, 1966. (LL 66), as amended
- Convention on the International Regulations for Preventing Collisions at Sea, 1972. (COLREG 72), as amended
- International Convention on Maritime Search and Rescue, 1979. (SAR 79)
- International Convention for Safe Containers, 1972. (CSC 72)
- Special Trade Passenger Ships Agreement, 1971. (STP 73)
- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. (SUA 88)
- Torremolinos International Convention for the Safety of Fishing Vessels, 1977. (SFV 77), as amended
- Convention on the International Maritime Satellite Organization. (INMARSAT 75-76)
- International Convention on Tonnage Measurement of Ships, 1969. (TONNAGE 69)

Among the different IMO conventions, the Philippines is a party to the following:

- SOLAS 74 (RP has not ratified the 1978 Protocol)
- STCW 78
- STP 71
- OILPOL 54
- DUMPING 72
- TONNAGE 69 (signature subject to approval)
- LL 66 (signature subject to approval)

3.6.5. ILO 147 AND UNCLOS 82

Aside from the IMO conventions, there are other conventions relevant to shipping and the maritime sector such as convention number 147 of the International Labor Organization entitled "Convention Concerning Minimum Standards in Merchant Ships" (ILO 147). Drawn up in 1976 and entered into force on 28 November 1981, ILO 147 is also known as the "Umbrella Convention." The Convention deals with occupational health and safety but provides only a general framework. The development of specific standards on working and living conditions aboard ship are left to national legislation.

UNCLOS 82, already mentioned earlier, is another convention that forms yet another basis for the Philippines' international commitments in the maritime sector. The relevant articles basically reinforce all the IMO conventions on maritime safety and pollution prevention. It also acknowledges the existence of a "competent international organization²⁵" (that is, IMO) through which standards are developed.

✓ Art. 94 "Duties of the flag State," for instance, contains provisions that deal with the jurisdiction over ships flying the State's flag, the maintenance of a

²⁵United Nations Convention on the Law of the Sea, Article 217(1).

register of ships, investigations into shipping casualties, and the enforcement of standards for ship construction, equipment, and manning. Some of the other UNCLOS articles that affect maritime safety administration are Arts. 97 (Penal jurisdiction in matters of collision or any other incident of navigation), 98 (Duty to render assistance in terms of SAR), 99 (Prohibition of the transport of slaves), 100 (Duty to cooperate in the repression of piracy), 217 (Enforcement by flag States), 218 (Enforcement by port States), 219 (Measures relating to seaworthiness of vessels to avoid pollution), 220 (Enforcement by coastal States), 221 (Measures to avoid pollution arising from maritime casualties), and 226 (Investigation of foreign vessels).

3.6.6. PARTICIPATION AT IMO

The last twenty-five years have seen more and more developing countries applying for membership at IMO which up to the 1970s was a bastion of the world's industrialized maritime nations. This greater mix in membership should have resulted in the development of the most practicable standards of ship safety, uniformly enforceable throughout the world. Developing countries, however, have for one reason or another been remiss in their duties and continue to forego the opportunity of influencing the formulation of standards at IMO.

Even while being one of the earliest members of IMO, a country with a sizeable registry, and a huge interest in ship manning, the Philippines is still one such country. In possession of a significant population of former and present seafarers who have served in all capacities, in all ship types, and in all climates, the Philippines has a moral responsibility to exploit this huge pool of knowledge and experience to contribute to the achievement of global standards. Unfortunately, this is hardly possible without an effective MSA which will have the

interest and expertise to collate and analyze the relevant information. A professional MSA would also be able to lobby the government more authoritatively and zealously for the ratification of important conventions. Moreover, as mentioned in the last chapter, an effective MSA is necessary to

- ensure compliance with international regulations which in turn is a prerequisite to the employment of Filipino seafarers and overseas trading of Philippine-flagged ships and
- serve as a voice in international fora to protect and enunciate Philippine interests.

3.7. NATIONAL PRIDE

Philippine national pride is likewise at stake when one mentions international maritime standards especially with regard to training and certification standards for seafarers. The Philippines is known in the maritime world particularly because of its status as the number one supplier of labor in the industry, one out of every five seafarers being Filipino. When countries for one reason or another blame maritime disasters and ship unseaworthiness on unqualified seafarers from developing countries, the Philippines is occasionally pointed out and turned into scapegoat and whipping boy.

Sweeping generalizations are counter-productive and  do not necessarily present the complete picture since numerous other (social, economic, and political) factors explain the unsatisfactory situation and inadequate compliance with standards as can be found in all ships, regardless of flag. Nevertheless, the Philippine Government must not simply stand aside and measure success in terms of foreign exchange remittances. It must, as a responsible maritime nation, seriously look into the problem areas and, through its MSA, act with decisiveness and dispatch; too many of its people are already left

helpless and defenseless while trying to uphold the national honor before the bar of world opinion.

3.8. DEFICIENCIES IN PHILIPPINE MARITIME SAFETY ADMINISTRATION

Perhaps the most obvious reason why there is a need to rationalize maritime safety administration in the Philippines is that at the moment, it is not. It is clear that much is at stake for the Philippines, not only in terms of the safety of its citizens using water transport but also the size and importance of the maritime sector. Yet MSA in the Philippines is in such a tenuous state that it threatens the industry's continued growth. The system of MSA must be examined and the creation of a rationalized organization brought about.

Much space has been committed so far to discussing why there is a need for a professional and specialized MSA in the Philippines. What exactly is the nature of its deficiencies, however, have not been examined. This task is left to a further section of this paper. To put the MSA's deficiencies in the proper perspective, a survey of the present status of MSA in the Philippines follows in the ensuing chapter.

3

CHAPTER 4

PRESENT STATUS OF

MARITIME SAFETY ADMINISTRATION IN THE PHILIPPINES

While numerous departments and agencies such as the Department of Education, Culture, and Sports, the Department of Interior and Local Government, the Department of Labor and Employment, the Department of Environment and Natural Resources, the Department of Science and Technology, and the Civil Service Commission are in one aspect or another involved in maritime administration, the main functions related to MARAD in the Philippines are presently divided between the Philippine Coast Guard (P.C.G.) and the Maritime Industry Authority (MARINA). Curiously, however, while their duties are complementary, these two agencies are not placed under one umbrella or coordinating organization (which in the author's humble opinion is necessary, being that their duties complement each other and the nature of their duties demand that close cooperation and links be maintained between them if they are to be efficient), being placed instead under two completely different and separate cabinet departments. The Coast Guard is a military organization, a unit of the Philippine Navy, and comes under the Department of National Defense (D.N.D.). The MARINA, on the other hand, is a civilian agency within the Department of Transportation and Communications (D.O.T.C.).

Philippine ratification of SOLAS 60 served as the impetus for the creation of the PCG. The PCG was created by Republic Act 5173 in 1967 in response to the need to organize an agency tasked with the duties of ensuring and facilitating Philippine compliance with maritime safety

requirements as outlined in the 1960 version of the international safety convention which the Philippines had then just ratified.

MARINA, on the other hand, was created by Presidential Decree 474 in 1974 in response to a need to organize an agency to be tasked with coordinating, encouraging, orchestrating, facilitating, and regulating the growth, development, and progress of the Philippine maritime sector.

The PCG and MARINA essentially make up the two principal elements of maritime administration in the Philippines. Within the context of the model maritime administration shown earlier in Fig. II-A, it can be said that in the Philippines, the PCG acts as the MSA while the MARINA acts as the MIDA. Unlike in the model, however, the two agencies do not formally come under a PHILMARAD, head office, or any coordinating agency; they are organizationally placed as follows:

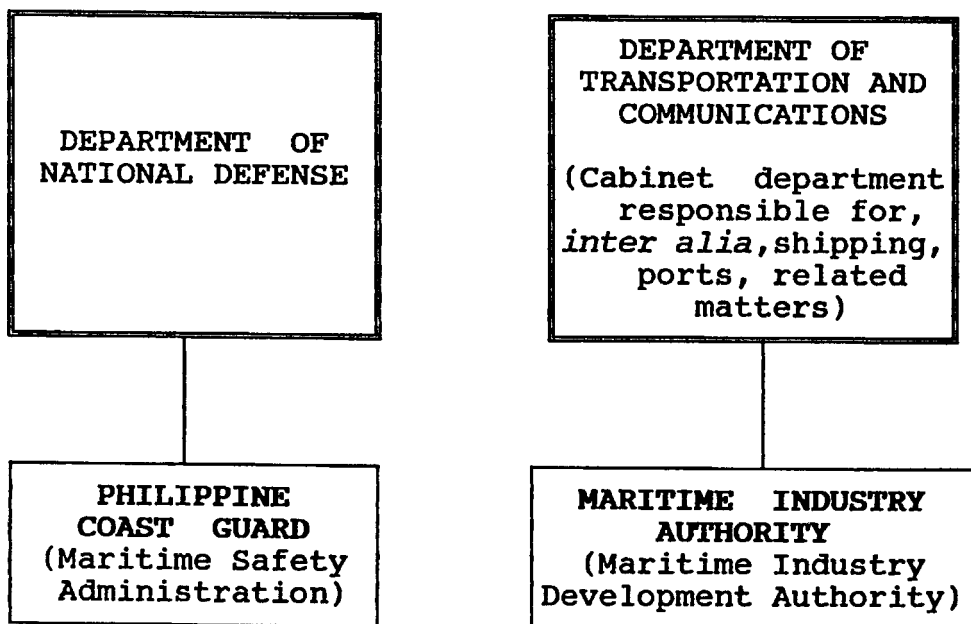


Fig. IV-A: Maritime Administration in the Philippines.

↑ The lack of formal coordination makes it difficult for the two agencies to gain a proper appreciation of the other's work, exposes the different functions to the possibility of duplication, and causes confusion among maritime interests, both local and international, as to which is the agency to which specific issues or matters should be referred. Nonetheless, a brief survey of the history, origins, organization, and functions of both the PCG and the MARINA should make their specific areas of responsibility readily apparent; such a survey follows. How these areas can be grayed and confused are not so readily apparent but a look at certain relevant events make it clearer; these events and issues shall be examined in the next chapter.

4.1. THE CREATION OF THE PHILIPPINE COAST GUARD

The Coast Guard was first organized in the Philippines in 1901 when the American colonial government, through Philippine Commission Act 266, created the Bureau of Coast Guard and Transportation and tasked the new agency with the administration of shipping and the promotion of safety at sea. In order to perform these functions, the bureau was divided into the Lighthouse Service and the Revenue Cutter Service, the former being involved in the construction, operation, and maintenance of lighthouses, while the latter was responsible for coastal patrol. In 1905, pursuant to PCA 1407 the Bureau of Coast Guard and Transportation was renamed the Bureau of Navigation. In 1913, the Bureau of Navigation was abolished and its functions were distributed between the Bureau of Public Works and the Bureau of Customs. The functions of the defunct Bureau of Navigation was in fact to remain scattered among different agencies until 1967, when the present Philippine Coast Guard was created.

The PCG as it is constituted today has its roots in the need to create an agency that will administer maritime

safety in the interisland trade in the face of incipient industrialization, enforce all applicable laws within Philippine waters, and, as mentioned earlier, ensure compliance with SOLAS 60. Article I of SOLAS outlines the "General obligations under the Convention" as follows:

(a) The Contracting Governments undertake to give effect to the provisions of the present Convention and the annex thereto...

(b) The Contracting Governments undertake to promulgate all laws, decrees, orders and regulations and to take all other steps which may be necessary to give the present Convention full and complete effect, so as to ensure that, from the point of view of safety of life, a ship is fit for the service for which it is intended.

The question of the need to create a maritime safety administration was resolved. Where to place it, however, was not. While the Philippine Congress had favored creating the PCG, it still needed to address the issues of budget and finance for the proposed agency. The problem was the high cost of creating a new agency and providing it with new equipment, waterborne craft, facilities, personnel, et cetera. Towards the closing weeks of the legislative session, Congress decided that the only possibility in creating the PCG, given the budget constraints, lay in incorporating it into an already existing sea service -- the Philippine Navy -- an arrangement also popular in many other like-situated countries, particularly those of Latin America, and would also allow the PCG to ride on the US military aid program.²⁶

The intention, according to former Congressman Rodolfo Ganzon, was to place the PCG "initially" under the PN with the idea of eventually creating it as a distinct

²⁶Victorino A. Basco, Personal Interview, 4 November 1993.

service once the problem of funding was solved, a point which retired Commodore Geronimo Cabal, the first PCG Commandant, corroborates.²⁷ While this "temporary" arrangement made possible the creation of the Philippine Coast Guard, the attendant reasoning, that is, the erroneous assumption that coast guard work can be equated with naval defense, has hounded the PCG and hindered its professionalization. At any rate it was thus that RA 5173 was enacted and the Coast Guard, absorbing with it the lighthouse service, was created as one of the major units of the Philippine Navy and organized in its present form.

4.2. PCG ORGANIZATION AND FUNCTIONS

4.2.1. ORGANIZATION

The PCG is a unit of the Philippine Navy and therefore part of the defense establishment. Being a naval formation, all its officers and enlisted rates are actually navy personnel. The PCG as a unit does not enjoy autonomy in the sense that its personnel are drawn from the same pool as are those in the other sea-going unit, the Philippine Fleet (PHILFLEET)²⁸, and are assigned in and rotated out of the PCG according to the exigencies of the Navy as a whole. This is in contrast to the status of the Philippine Marines (PMAR)²⁹ which retains exclusive control over the assignment of its personnel. This control over personnel assignments, as shall be evident later, is a major prerequisite to coast guard specialization and professionalization. Fig. IV-B below shows the organizational placement of the PCG.

²⁷HPN Committee on the Organizational Placement of the PCG, "Committee Report," February, 1992, pp.7-8.

²⁸PHILFLEET is the major unit of the PN specializing in naval defense and warfare; it is the "gray ship navy."

²⁹PMAR is the major unit of the PN specializing in amphibious assault and ground warfare.

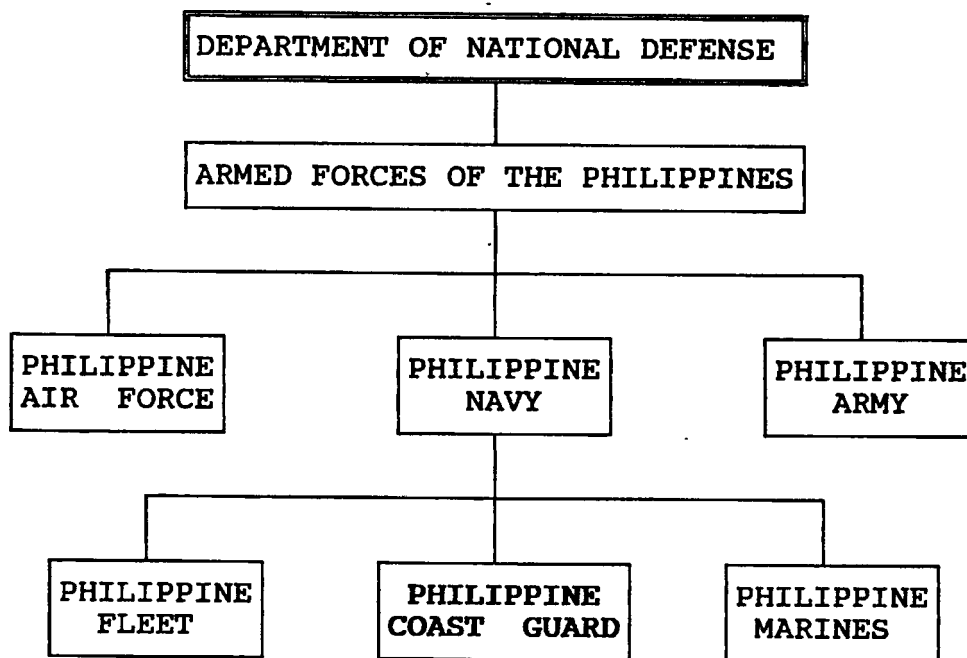


Fig. IV-B: Organizational Placement of the PCG.

The Coast Guard is headed by the Commandant, Philippine Coast Guard (C.P.C.G.), a flag officer with the rank of commodore. The agency is headquartered in Manila's Port Area next to Pier 15, the international pier in the Port of Manila. To undertake its responsibilities for maritime safety and other functions, the PCG is divided between eight Coast Guard Districts (C.G.D.) around the country, each of which is headed by a district commander who holds the rank of navy captain. The CGDs are in turn divided into some 41 Coast Guard Stations (C.G.S.), the Station Commanders of which are anywhere in rank from lieutenants (junior grade) in Class "C" stations to commanders in Class "A" stations. Stations are classified in accordance with the level of maritime activity in the area, Class "A" stations being the biggest in size, followed by "B" and "C" stations. Coast Guard Station Manila, dealing with the heaviest traffic and being the premier Philippine port, occasionally even gets a captain for its Station Commander. Fig. IV-C below shows the

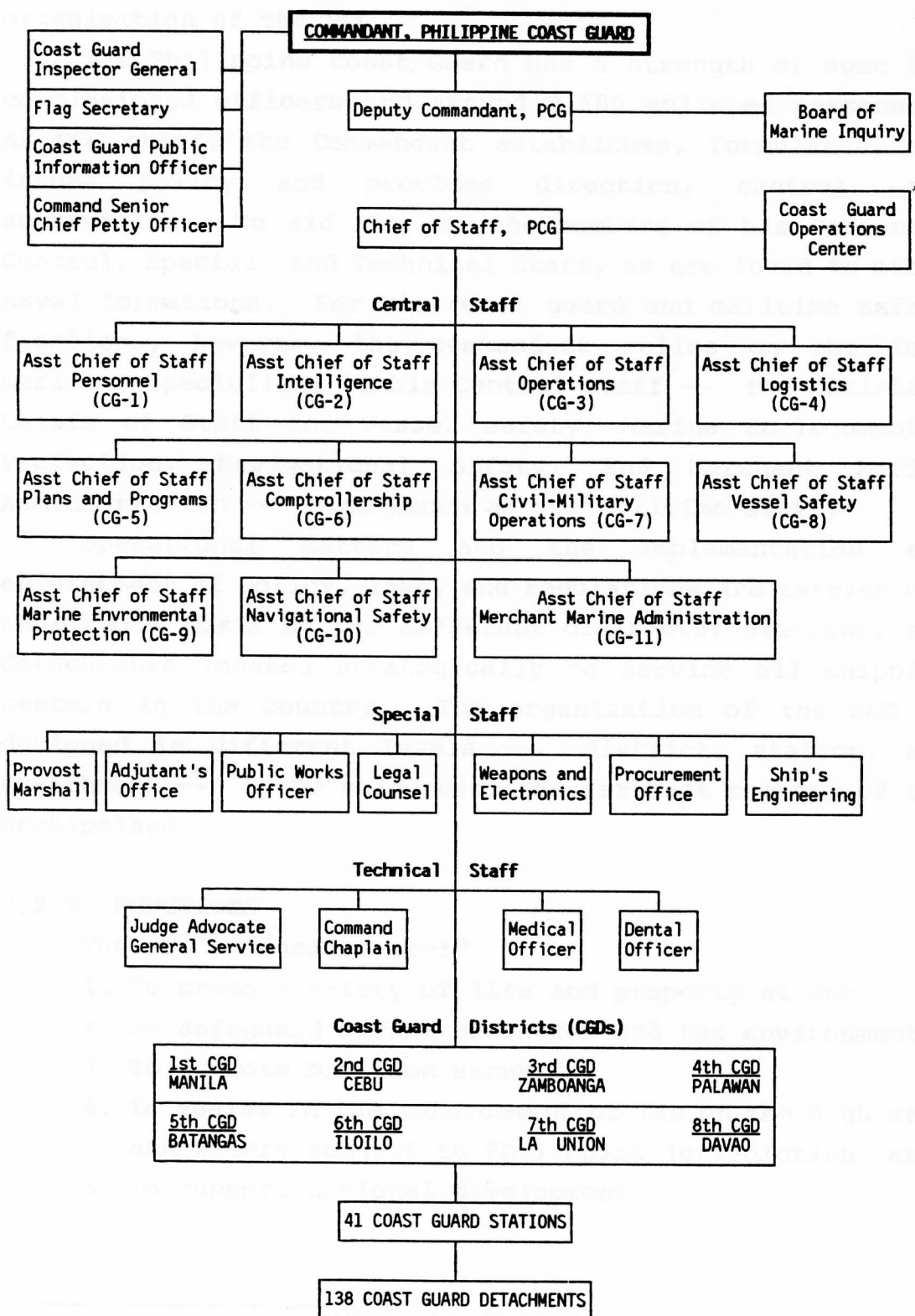


Fig.IV-C: PCG Organization.

organization of the PCG.

The Philippine Coast Guard has a strength of some 200 commissioned officers and around 2,800 enlisted personnel. As PCG chief, the Commandant establishes, formulates, and issues policy and provides direction, control, and supervision. To aid him are the members of his Personal, Central, Special, and Technical Staff, as are found in other naval formations. For his coast guard and maritime safety functions, however, the commandant relies on the four maritime specialists in his Central Staff -- the Assistant Chiefs of Staff for Vessel Safety, Marine Environmental Protection, Navigational Safety, and Merchant Marine Administration -- also known as the Maritime Staff.

Operational matters and the implementation and enforcement of policy, laws, and regulations are carried out on a daily basis by the different districts, stations, and detachments located strategically to service all shipping centers in the country. The organization of the PCG is designed in different levels -- district, station, and detachment -- to be able reach the farthest corners of the archipelago.

4.2.2. FUNCTIONS

The PCG's missions are:³⁰

1. To promote safety of life and property at sea,
2. To safeguard marine resources and the environment,
3. To promote maritime security,
4. To assist in the enforcement of law on the high seas and waters subject to Philippine jurisdiction, and
5. To support national development.

³⁰Philippine Coast Guard, "Primer," 1993.

To accomplish its missions, the PCG is tasked with carrying out five major functions -- Maritime Administration (MARAD), Maritime Operations (MAROPS), Marine Environmental Protection (MARPOL), Maritime Search and Rescue (MARSAR), and Maritime Law Enforcement (MARLEN).

MARAD

MARAD as exercised by the PCG does not include the whole range of maritime administration activities as discussed earlier in Chapter 2. The PCG identifies its MARAD functions within the following context:

1. Vessel Safety - to ensure the seaworthiness of Philippine-flagged vessels, both domestic and international; vessel safety programs and standards are in effect in line with international conventions and protocols; registers ships under the Philippine flag, accredits classification societies, and validates survey certificates

2. Merchant Marine Administration - to ensure that ships' crews conduct the affairs of vessels with the highest standards of professionalism and competence; issues SSRBs (Seaman's Service Record Books) and specifies manning levels

3. Navigational Safety - to ensure that aids to navigation such as lighthouses and buoys operate effectively and ensure that proper navigational standards are maintained

MAROPS

Under the rubric Maritime Operations, the Coast Guard provides security in the maritime environment and participates in counter-insurgency operations, sealift operations, civil-military operations, and operational training.

MARPOL

The PCG has primary responsibility over preventing, mitigating, and controlling marine pollution and enforcing all applicable environmental laws and regulations with the

end in view of preserving and conserving marine and aquatic resources.

MARSAR

With respect to its SAR functions, the Coast Guard must respond effectively to maritime casualties and disasters on or near Philippine waters.

MARLEN

The PCG assists, within its capabilities and upon request of the appropriate authorities, other government agencies in the performance of their functions within the waters subject to the jurisdiction of the Philippines. It therefore establishes and maintains working relationship with some 21 government agencies and instrumentalities to effectively assist them in the enforcement of laws promulgated under the authority of their respective mandates. The PCG conducts investigations into marine casualties through the Board of Marine Inquiry.

4.3. THE CREATION OF THE MARITIME INDUSTRY AUTHORITY

While the Philippine Coast Guard was created to fill the need for the administration of maritime safety, the Maritime Industry Authority was born out of a requirement related to World Bank approval of funding for a \$20-million Philippine shipbuilding program.³¹ World Bank financing was made conditional upon the creation of:

- (1) an agency for the promotion and development of RP interisland shipping, and

³¹V. A. Basco, Personal Interview, 4 November 1993. Basco, a retired Philippine Navy captain, was closely involved in the creation of MARINA, becoming its Deputy Administrator and, eventually, Administrator. He is presently a Congressional Adviser on Maritime Affairs.

- (2) an agency to professionalize the management and operation of RP ports.

As with maritime safety, the above functions were previously exercised by the Bureau of Customs. In fulfillment of the above prerequisites, the MARINA and the PPA (Philippine Ports Authority) were created.

MARINA was organized on June 1, 1974 by virtue of P.D. 474 to "integrate the development, promotion, and regulation of the maritime industry in the country," and placed directly under the Office of the President. On July 23, 1979, it was attached to the Department of Transportation and Communications.

4.4. MARINA ORGANIZATION AND FUNCTIONS

4.4.1. ORGANIZATION

The Maritime Industry Authority is governed by a Board known as the Maritime Industry Board. It is composed of the Secretary of Transportation and Communications, the Secretary of National Defense, the Secretary of Trade and Industry, the General Manager of the Philippine Ports Authority, the Chairman of the Development Bank of the Philippines, and the MARINA Administrator.

The management of the MARINA is vested in the Administrator who is directly assisted by the Deputy Administrator for Planning and the Deputy Administrator for Operations. They directly control and supervise the operations of the MARINA's eleven line and staff offices, and nine regional offices all headed by Directors as shown in Fig.IV-D below.

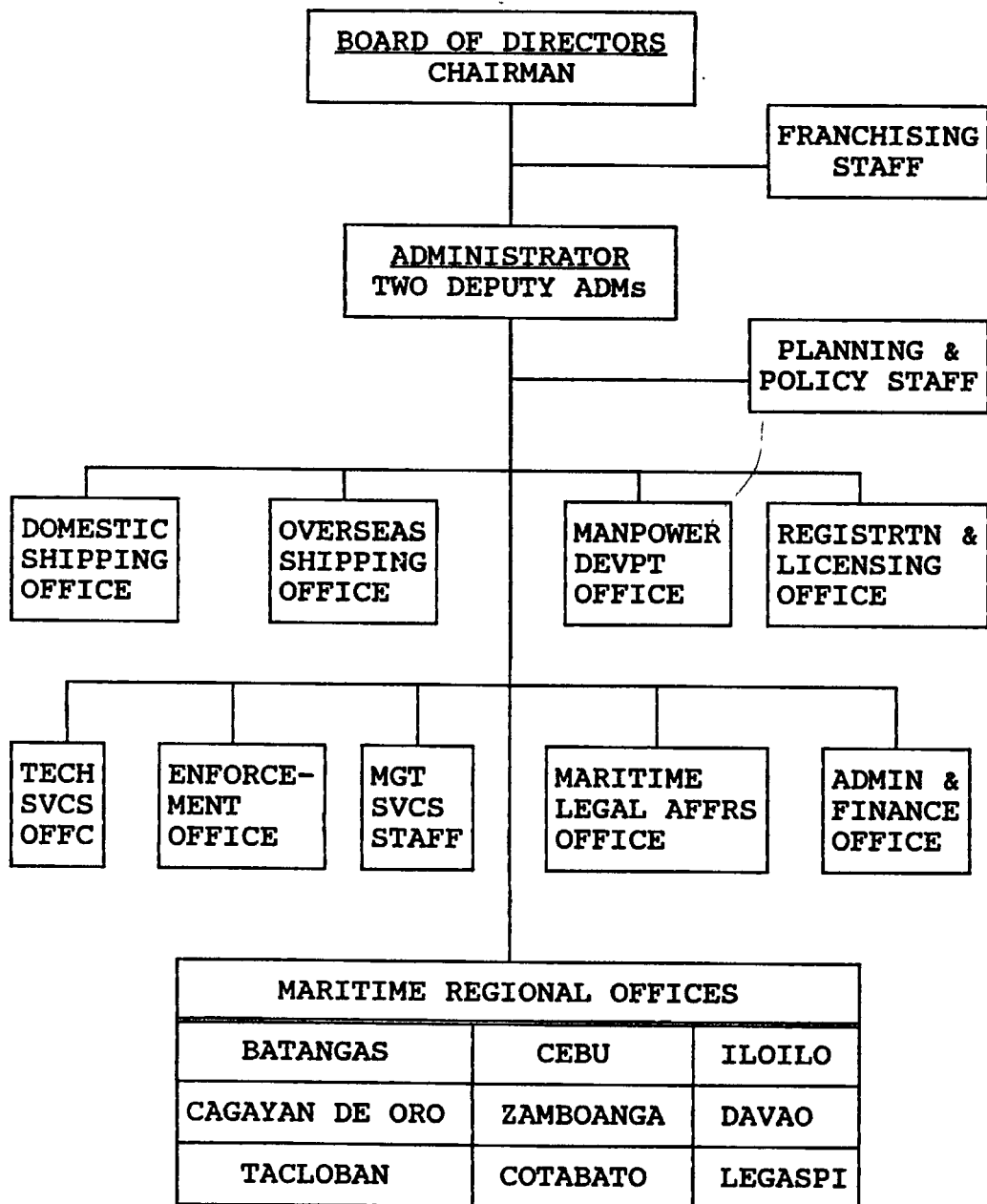


Fig.IV-D: MARINA Organization.

4.4.2. FUNCTIONS

P.D. 474's declared policy of accelerating the integrated development of the country's maritime industry was directed towards attaining the following objectives:

- a) increase production and productivity in the various islands and regions of the archipelago through the provision of effective sea linkage;
- b) provide for the economical, safe, adequate, and efficient shipment of raw materials, products, commodities and people;
- c) enhance the competitive position of Philippine flag vessels in the carriage of foreign trade;
- d) strengthen the country's balance of payments position by minimizing the outflow of foreign exchange and increasing dollar earnings; and
- e) generate new and more job opportunities.

In view of its objectives, the MARINA was presented the following mandate:

- a) adopt and implement a practicable and coordinated Maritime Industry Development Program (M.I.D.P.) which shall include, among others:
 - early replacement of obsolescent and uneconomic vessels;
 - modernization and expansion of the Philippine merchant fleet;
 - enhancement of domestic capability for shipbuilding, repair; and
 - development of reservoir of trained manpower.
- b) provide and encourage private sector investments through:
 - financial assistance through public and private financing institutions and instrumentalities;
 - technological assistance; and
 - a favorable climate for expansion of local and foreign investment in shipping enterprises.
- c) provide for the effective supervision, regulation, and rationalization of the organizational management, ownership and operations of all water transport utilities, and other maritime

enterprises. .

The above survey of the history, organization, and functions of the PCG and MARINA make it readily evident that the former was created to promote safety at sea (as the MSA) and the latter to promote the development of the maritime industry (as the MIDA). This might otherwise have been closer to the model set-up of MARAD, if not for the still existing need to colocate the two agencies under the same department or umbrella. Unfortunately for maritime safety, however, events have veered toward a confusion, rather than a strengthening, of responsibilities.

CHAPTER 5

DEFICIENCIES IN THE PRESENT ORGANIZATION OF MARITIME SAFETY ADMINISTRATION IN THE PHILIPPINES

How seriously in need of reform is the system of maritime safety administration in the Philippines? The preceding chapter depicted a situation wherein all related maritime administration functions seems to be divided clearly between the Philippine Coast Guard, which is responsible for MARAD's "safety" aspects, and the Maritime Industry Authority, which is responsible for its "promotional" ones. This might lead most to conclude that as far as maritime safety administration is concerned, all functions are already being exercised by the PCG. Through closer examination, however, it becomes apparent that the present situation still leaves much to be desired. As mentioned earlier, varying legislation, conflicting interpretations, and certain organizational issues have led to difficulties in achieving efficient and effective maritime safety administration in the Philippines (indeed, making it an impossibility unless such difficulties are addressed accordingly).

In response to the above question, the situation obtaining in the MSA has become so serious that numerous seemingly basic functions have not been receiving due and proper attention.³² Following is a partial list of only some of the circumstances resulting from certain MSA functions having been neglected:

³²The situation does not necessarily exist by fault of the maritime safety administration as much as it is a result of deficiencies already briefly mentioned (and which are to be discussed in greater length further on in the present chapter).

- Difficulty in ensuring safer shipping due to the lack of duly-trained and -qualified personnel to conduct ship surveys, resulting in incidents at sea or the operation of unseaworthy vessels
- Qualification and competence of seafarers are suffering from the fact that the certification system comes under a general testing center instead of a technically specialized and competent agency
- Apparent neglect of IMO affairs as discussed earlier in Chapter 3
- Difficulty in identifying agencies cognizant in specific MSA functions
- No agency issues and publishes periodic nautical publications such as "Notices to Mariners" (NOTAMs); NOTAMs, published in varying frequency in different parts of the world (weekly, monthly, quarterly), are a valuable source of information for ships sailing on or near a country's coast; information that is usually included in NOTAMs are the status and condition of lighthouses or stations, the buoyage system, areas which require extra vigilance on the part of the crew, and data necessary to update nautical charts
- No agency monitors maritime communications

Numerous other functions seemingly basic to ensuring safe shipping are being neglected or mismanaged. The need to rectify and rationalize maritime safety administration is pressing not only in light of the issues discussed in Chapter 3 related to national interest but specifically in light of the above points concerning certain specific inadequacies in providing service connected with the duties and responsibilities of an MSA.

As the MSA in the Philippines, the PCG has a mandate under RA 5173 to fulfill specific maritime safety functions (which may include those suffering from neglect

or inadequate performance). As a government agency, the PCG must undertake all measures necessary to ensure that the public service it is mandated to perform are faithfully being rendered. Furthermore, it must undertake not only to provide public service but to continuously evaluate and examine the effectiveness and efficiency with which such services are delivered, and, when necessary and possible, to institute measures toward improving the same.

As an organization, however, it is presently being constrained by certain realities from fulfilling such functions. These realities may be summed up in the following points:

1. The lack of professionalization and specialization in the exercise of MSA functions, contributing as well to the dearth of MARAD expertise in the country, brought about by:
 - a. The organizational placement and weaknesses of the PCG, and
 - b. The organizational weaknesses of the MARINA.
2. The lack of a general coordinating or umbrella agency for maritime administration.
3. Conflicting legislation or conflicting interpretation of specific legislation concerning the devolution of maritime safety functions.

5.1. CURRENT DEVOLUTION OF MARITIME SAFETY ADMINISTRATION FUNCTIONS

While the discussion in Chapter 4 seems to create the impression that there is a straightforward devolution of MARAD functions in the Philippines -- the Philippine Coast Guard which exercises all maritime safety functions and the Maritime Industry Authority which exercises all maritime industry promotion functions -- the present situation is actually more complicated. Certain undercurrents have undermined or threaten to undermine the devolution of MSA functions in the Philippines. This

crisis in the administration of maritime safety has developed in great part as a result of different laws which have realigned some of the most important MSA functions from the PCG to other agencies. Some of the most significant realignment of functions have come as a result of these two laws. The first one, Presidential Decree 223 "Creating the Professional Regulation Commission and Prescribing its Powers and Functions" signed on 22 June 1973, transferred the function of examination and certification of seafarers to the forenamed Commission, a general government body created to undertake the examination and licensing of professionals in more than thirty professional fields which, aside from the merchant marine, include a variegated mix between the different engineering specialties, the medical and dental health fields, accountancy, customs broking, social work, sugar technology, and even plumbing, among others.

The other, more significant, piece of legislation is a 1987 law known as Executive Order 125-A "Amending EO 125 entitled 'Reorganizing the Ministry of Transportation and Communications, Defining its Powers and Functions, and for Other Purposes.'" The law represents a major realignment of a number of MSA functions.

EXECUTIVE ORDER 125-A

As its title suggests, EO 125-A deals with the reorganization of the Ministry (now Department) of Transportation and Communications at large. As far as maritime safety administration is concerned, however, Section 3 of the executive order is the relevant section. Aside from reiterating MARINA's mandate to "develop and formulate plans, policies, programs, projects, standards, specifications, and guidelines geared toward the promotion of the maritime industry,"³³ EO 125-A's provisions also

³³Executive Order 125-A, Section 3.

assign upon the promotional and developmental agency the following maritime safety functions³⁴:

- ship survey
- ship registration
- manning of ships
- examination and certification of seafarers

For reasons to be discussed further on, the MARINA has never actually been able to fully carry out its new mandate. The result is a somewhat peculiar situation wherein the PCG and the PRC continue to exercise the above functions which they, by virtue of EO 125-A, have actually forfeited in favor of the MARINA. In many respects, the MARINA has become, *de jure*³⁵, another MSA. On the other hand, the PCG and the PRC, *de facto*³⁶, remain the agencies responsible for the above-mentioned realigned functions. The turnover of responsibilities has not been completely effected between the MARINA and the two other agencies (PCG and PRC); memoranda of agreement between the respective agency heads have allowed the PCG and the PRC to continue performing their traditional tasks.

A tabulation of the different MSA functions (as laid out in Chapter 2) against which organizations are assigned such functions by law (*de jure*) and which ones actually exercise them (*de facto*) is shown below. An undated draft position paper entitled "Recommendation on the Realignment of Maritime Safety Administration Functions" was produced in 1993 by the Philippine Coast Guard Review Committee in connection with a PCG proposal to review EO 125-A. The

³⁴For reference, the full text of Section 12 of EO 125-A is available in APPENDIX B of this paper.

³⁵That is, by right or according to law; in this case, EO 125-A.

³⁶That is, exercising the functions in fact or in reality despite the fact the the lawful authority or basis for such exercise has been removed or transferred.

paper incorporates a listing of the different government agencies performing MSA functions. The draft paper has been used as the bases for both the tabulation below and the elaboration that follows.

	1	2	3	4	5	6	7	8	9	10	11	12
PCG, de jure	•					•	•	•		•		•
PCG, de facto	•	•	•		•	•	•	•		•	•	•
MARINA, de jure		•	•	•	•							•
MARINA, de facto												•
PRC, de facto				•								
DENR, de jure											•	
POEA	•								•			

Table V-A: Devolution and exercise of MSA functions.

LEGEND:

1. General Superintendence and Coordination;
2. Registration of Ships and Related Functions;
3. Survey, Inspection, and Certification of Ships, along with Related Activities;
4. Examination and Certification of Seafarers;
5. Manning of Ships;
6. Conducting Inquiries/Investigations into shipping casualties;
7. Dealing with matters pertaining to Prevention/ Control/Combat of Marine Pollution;
8. Dealing with matters pertaining to Maritime Search and Rescue;
9. Crew Matters in General;
10. Ensuring Safety of Fishing Vessels and other small craft;
11. Deal with Wrecks in National Jurisdiction;
12. Advising the Government on all (Marine) Technical Matters.

PCR - Professional Regulation Commission
DENR - Department of Environment and Natural Resources
POEA - Philippine Overseas Employment Administration

1. General Superintendence and Coordination.

PCG - RA 5173

MARINA - EO 125-A

POEA - administers overseas employment of merchant seamen

- maintains Registry of Seamen; issues

Seaman Registry Certificate

2. Registration of Ships and Related Functions.

- PCG - issues Certificate of Philippine Registry (CPR);
 - maintains Registry of Philippine-flagged vessels
- MARINA - by law (EO 125-A) is responsible for registering ships

3. Survey, Inspection, and Certification of Ships, along with Related Activities.

- PCG - approves construction/alteration plans of vessels
 - conducts vessel inspection and admeasurement
 - authenticates certification issued by Classification Societies on Vessel Class, Load Line, IOPP
 - accredits Classification Societies
 - formulates regulations for vessel safety
 - conducts port state control
- MARINA - conducts occasional vessel safety inspections on domestic vessels
 - formulates programs for the improvement of vessel safety and vessel inspection and control
 - promotes the classification of vessels to enhance safety
 - maintains a pool of maritime safety engineers
 - under EO 125-A, undertakes the safety regulatory functions pertaining to vessel construction and operation

4. Examination and Certification of Seafarers.

- PRC - conducts examinations and issues licenses to merchant marine officers (deck and engineers)

- PCG - examination and licensing of harbor pilots
- MARINA - issues STCW certification to mariners
- 5. Manning of Ships.
 - PCG - regulates minimum manning of Philippine flag vessels
 - issues Seaman Service Record Book (SSRB)
 - MARINA - by law (EO 125-A) is responsible for determining minimum manning of ships
- 6. Conducting Inquiries/Investigations into shipping casualties.
 - PCG - conducts investigation of maritime incidents/accidents
- 7. Dealing with matters pertaining to Prevention/Control/Combat of Marine Pollution.
 - PCG - the government agency with primary responsibility in the prevention, control, and combat of marine pollution
- 8. Dealing with matters pertaining to Maritime Search and Rescue.
 - PCG - lead agency for maritime search and rescue
 - formulates programs for SAR capability improvement
 - regulates SAR communications on vessels in compliance with IMO Global Maritime Distress Safety System (G.M.D.S.S.) requirements
 - MARINA - formulates programs for improvement of SAR responsibility
 - employs Japan International Cooperation Agency (J.I.C.A.) expert on Search and Rescue

Additionally:

- DOTC - formulates and implements programs for maritime safety and SAR capability improvement

National Telecommunications Commission (NTC) -

- formulates programs and regulations for national compliance with GMDSS requirements
- 9. Crew Matters in General.
 - POEA - ensures that Filipino seafarers are protected by legal contracts of employment or articles of agreement
- 10. Ensuring Safety of Fishing Vessels and other small craft.
 - PCG - inspects and documents fishing vessels and small craft
- 11. Deal with Wrecks in National Jurisdiction.
 - DENR - under law has cognizance over salvage within Philippine waters
 - PCG - regulates salvage of navigational hazards, wrecks, and derelicts
- 12. Advising the Government on all (Marine) Technical Matters.
 - PCG
 - MARINA
- 13. Others.
 - PCG - supervises maritime training institutions; member, Maritime Training Council chaired by the Department of Education, Culture, and Sports (D.E.C.S.);
 - formulates programs for the development and maintenance of aids to navigation for inclusion in the DOTC's infrastructure program
 - maintains and operates navigational aids
 - formulates regulations for navigational safety
 - enforces maritime laws and as deputized agency, assists other government agencies in enforcing their rules and regulations
 - MARINA - handles upgrading training program for seafarers and shipboard apprenticeship

program;

- member, Maritime Training Council
- formulates and implements programs for the development of aids to navigation
- employs JICA expert for aids to navigation
- POEA - member, Maritime Training Council
- DECS - supervises maritime training institutions through the Maritime Training Council

As the table and the extracts from the PCG Review Committee study above show, while the PCG is still the de facto MSA by virtue of the fact that it still exercises most of the MSA functions, a number of these functions have actually been dispersed and transferred by law to different agencies. These agencies, however, have been unable to exercise some of these functions because of numerous factors including, inter alia:

- the paucity in available resources and the lack of budget allocation for the exercise of MSA functions;
- the fact that the agency is not fully cognizant, competent, or specialized in the field to which it is being assigned by law; and
- the fact that MSA functions are already being exercised by the PCG which, albeit only relatively, is better equipped and organized to continue carrying out those functions.

Aside from hindering them from exercising assigned MSA functions, the above realities have contributed to creating a confusion in the delineation of maritime administration responsibilities between different agencies -- PCG, MARINA, PPA, POEA, PRC, among others. The confusion affects not only the sector which is supposed to benefit or be served by the different agencies, but the personnel working within the respective agencies as well. The PCG continues to exercise functions, which have

otherwise been transferred, either via deputation or, where such functions were simply never taken over or could not be performed by the organization duly mandated by law to perform the same, by default. The MARINA, on the other hand, is being expected to perform duties outside its original charter's promotional framework without the benefit of the appropriate budgetary allocation. As a result, members of the public requiring the services of the MSA are frequently uncertain as to which agency is cognizant of specific functions while at the same time, functionaries themselves are unsure as to which tasks they are actually authorized by law to fulfill. The erstwhile clear and rational delineation of maritime administration functions has become muddled and the development of professional and efficient maritime safety administration by the PCG continue to be held in abeyance.

Such a tenuous situation is indeed unfortunate in the administration of a part of the Philippine economy and transport system as important as the maritime sector. A better, clearer, and more rational devolution of specific tasks would doubtless be an essential first step towards enhancing efficiency in the delivery of services by the PCG as MSA.

It is also worth mentioning that while EO 125-A presents the major hindrance to effective and efficient MSA, there are other legislation³ which have undergone conflicting interpretations resulting in further unease in the PCG's performance of its MSA duties. There shall be more on these in a further chapter.

5.2. WEAKNESSES IN THE CURRENT ORGANIZATION OF THE PCG

Aside from the above conflicting legislation, the

³One such piece of legislation is RA 6975, also known as the Philippine National Police Law, which includes an ambiguous provision transferring the PCG's "police functions" over to the PNP.

Philippine Coast Guard is also hindered in its professionalization by limitations inherent in its organization as well as its placement within the Philippine Navy. Perhaps the greatest and most basic problem is the perception that no problem exists. Many people, including those within the Philippine defense establishment, equate the Coast Guard with the Navy. Few seem to readily appreciate the very fundamental yet crucial difference between coast guard and navy work, that is, the difference between providing naval defense in the face of external aggression versus the administration of maritime safety. Few seem to realize that apart from being a uniformed sea service like the Navy, the Coast Guard has totally different missions -- highly technical and specialized ones as discussed in the preceding section above and in Chapter 2.

In view of the unique nature of maritime safety administration, the Coast Guard appears ill-placed as a major unit within the Navy and, indeed, the Philippine defense establishment. While it might be possible for the PCG to remain a unit of the Navy and at the same time professionalize in its exercise of MSA functions, this possibility has proved elusive for want of the requisite organizational autonomy necessary to undertake such specialization.

Control over personnel assignments is crucial to specialization and professionalization. By the very nature of their military careers, however, personnel need to be rotated through different naval units among which the PCG is but one. Out of a thirty-year career in the Philippine Navy, the average officer serves only one and a half years in the PCG. According to Commodore Carlos L. Agustin, former Commandant of the Philippine Coast Guard, "the PCG is only one-twentieth the career of a Navy officer. So what happens is the Coast Guard is not able to develop the professional competence of its personnel in

the five areas where the Coast Guard is supposed to be expert in."³⁸

While welcoming a group of young naval officers recently assigned to the PCG in early 1992 and explaining the technical and specialized nature of coast guard work, the then Deputy Commandant mentioned that even though he himself had been assigned to the PCG once or twice earlier in his career he has yet to completely grasp the tasks and duties of a coast guard officer. Naval officers and enlisted personnel³⁹ receive no specialized education and training prior to assignment to the Coast Guard; they are expected to "learn the ropes" during their assignment. The newly assigned officer or EP comes into the Coast Guard with training and education only in naval matters and usually without even the vaguest idea of maritime safety administration. This becomes plain when one looks at the training profile of the typical PCG officer or enlisted personnel.

The average PCG officer begins his naval career at the Naval Training Command by undergoing the basic Naval Officers Qualification Course, an eight-month course wherein he is expected to become proficient in navigation, seamanship, and naval warfare. Further on in his career, he might take follow-on courses such as the Combat Information Center Course, the Officer of the Day Course, the Naval Gunfire Support Course, the Damage Control Course, the Anti-Submarine Warfare Course, and numerous other courses related to naval warfare.

The only coast guard-related course offered at the Naval Training Command is the Coast Guard Station

³⁸Stella Tirol-Cadiz, "Coast Guard Unqualified and Ill-equipped for Job," *Philippine Daily Inquirer*, 2 October 1993, p.14.

³⁹Enlisted personnel (E.P.) are members of the AFP below the commissioned officer ranks.

Commanders Course. The course is designed to familiarize the prospective coast guard station commander with the practical aspects of his duties in the field such as boarding procedures, vessel documentation, and the enforcement of laws against illegal fishing, smuggling, and marine pollution. While knowledge on the theoretical underpinnings and the legal bases for the administration of maritime safety seem essential if one is to see the coast guard station as the implementing arm of the PCG (that is, the maritime safety agency), the Coast Guard Commanders Course involves no such tuition. The student officer is therefore provided with enough only to survive his assignment as coast guard station commander but is not presented a focused picture of what PCG work truly entails or the reasoning behind it.⁴⁰

Enlisted personnel, on the other hand, go through the School for Basic Soldiering, the Basic Seaman Course, and specialization courses in any of the numerous navy specialties. Just as in the case of officers, all training for EPs are geared toward naval warfare and no opportunities exist for formal education in coast guard skills.

A number of Coast Guard personnel have undergone specific training in maritime safety administration

⁴⁰The reconstitution of the Coast Guard Training Center (C.G.T.C.) in October 1992 after a nearly decade-long hiatus has partly addressed this deficiency. Short courses by CGTC on MSA functions such as ship survey, port state control, and search and rescue and have contributed significantly to the basic understanding of coast guard (MSA) work by both officers and enlisted personnel. Unfortunately, however, CGTC still has neither the resources nor the facilities to convene courses of greater substance and of extended duration such as a basic coast guard (maritime safety administration) course or its own station commanders course. Most PCG officers and men, as well as all others concerned in the maritime sector, are of the opinion that a well-supported and -organized CGTC would play a vital role in professionalizing the administration of maritime safety in the Philippines.

functions but such opportunities are rare and are usually available only abroad. The CGTC is as yet incapable of conducting courses locally on either a sufficiently large scale or on a regular basis. While dozens of officers and men have received specialized training in coast guard work, a great number of them are already assigned outside the PCG.

Simply stated, the typical PCG officer or EP is basically a naval warrior with little or no institutional training in coast guard work or in maritime safety administration. He is expected to learn about coast guard functions while on the job -- a rather precarious proposition when one considers that that person is expected to perform in a highly technical and specialized field. Indeed, the time he acquires the requisite knowledge through years of experience in the coast guard is most likely the time he is reassigned from the PCG to other units of the PN. Personnel are either assigned with the PCG for a period insufficient in acquiring specialized skills or, just as such skills have been acquired, are soon rotated out.

Skills which are otherwise useful only for maritime safety administration are thereby lost to the "navy" where they are of little use. More knowledge and experience are lost when his replacement then has to reenact the same experience of grappling with and learning the "ropes" without the benefit of formal instruction, of finally learning after years on the job, and eventually of having to be rotated out of the PCG. The vicious cycle is thus perpetuated. It is natural for continuity to suffer in the turnover of duties in any organization, military or otherwise. In the PCG's case, however, continuity suffers greatly, needlessly, too frequently, and at great cost to efficiency.

As mentioned earlier, rotation in and out of the Coast Guard is an unavoidable necessity in any PCG

officer's or EP's career. This stems from the fact that naval personnel need to serve in numerous different postings which serve as prerequisites to advancement to the next higher rank or the next higher office. Being a relatively small unit, the PCG is not always able to offer the necessary billets, thus forcing the officer to request assignment to other PN units. Another disincentive against staying in the PCG for an extended duration is the fact that the performance of naval personnel is based upon standards of naval warfare and not their contribution to enhancing the safety of life at sea. One solution to the personnel rotation dilemma might be to grant the PCG a degree of autonomy in the assignment of personnel. This possibility, however, does not seem to be forthcoming.

Budget allocation is yet another major issue in PCG professionalization. Out of the total budget officially earmarked for the maritime safety organization, only a third is awarded directly to the Coast Guard. The rest are held at Headquarters, Philippine Navy under a centrally managed logistics system wherein the PCG needs to justify supply requisitions. Priority in granting requests for equipment necessary, for instance, in conducting ship surveys is ruled according to the exigencies of the naval service where maritime safety administration invariably draws little attention. The professionalization of MSA in the Philippines suffers from the fact that the overall importance of the Coast Guard is subsumed within that of the Navy as a whole.

What, then, are the practical implications of the above deficiencies on the administration of maritime safety? Bad, little, or no standards! The following excerpts from a newspaper article included statements by Captain Victorino Basco which illustrate the situation:

"You probably have an enlisted man with no college education assigned to Manila to inspect ships. Most of these people have no experience

in boarding and inspecting a commercial vessel. Everything to them is strange. What kind of results can you expect from this service?

"Because he knows little, the inspector will probably approve the vessel for sailing even if it is not ship-shape, or worse, hold it back even if it is....," Basco says. "Although not all inspectors or officers are incompetent, the organizational links of the agency have hampered its development.

"Most of the time, there are no standards. And even if there are standards, there is hardly anybody who understands these standards," says Basco. "So what has been happening all these years is that shipowners have been left to determine the safety standards they want to impose on themselves," he says.

In the district that covers Manila, about ten to twenty vessels of varying size are scheduled for their annual or biennial inspection each day... [while only nine safety inspectors in the area are ready to conduct such inspections].⁴¹

Compounding the great demand for surveys and the shortage of surveyors is the fact that the surveyors are, again due to the above organizational realities, untrained, unqualified, and are made to perform their functions with virtually no equipment. As for the opportunities the situation offers for "irregular" activities, Commodore Agustin once described the difficulty in cleaning the PCG's ranks by remarking that "no corrupt Coast Guard personnel has ever been dismissed."⁴² In what is yet another drawback in the PCG's organizational relationship with the PN, erring personnel are merely transferred out of the PCG.

While the above realities hinder the PCG from professionalization and specialization, it still possesses

⁴¹Stella Tirol-Cadiz, "Coast Guard Unqualified," p.13.

⁴²Ibid., p.14.

the infrastructure best suited to the exercise of maritime safety administration functions realigned by EO 125-A to the MARINA. The MARINA is itself hampered from efficiently exercising the same by organizational shortcomings and its principally promotional makeup.

5.3. WEAKNESSES IN THE CURRENT ORGANIZATION OF MARINA

Seven years after the issuance of the executive order, the MARINA has yet to fully implement EO 125-A's provisions pertaining to the latter agency's exercise of the MSA functions of ship survey, ship registration, determination of ship manning levels, and examination and certification of seafarers. In commenting on the reasons why the agency has been unable to fully absorb those functions, MARINA Administrator Paciencia M. Balbon, Jr.⁴³ identifies the following as being problem areas:

- *Physical Presence.* The Maritime Industry Authority, with its central office in Manila plus the nine regional offices, has a total nationwide strength of about 350 personnel. It suffers from a shortage of ship surveyors and is far from having a presence extensive enough to service all types of watercraft throughout the archipelago.
- *Budgetary and Logistics Constraints.* The MARINA was never before provided with a budget allocation for use in the implementation of its MSA functions. A budget was finally made available this year for the first time since EO 125-A was signed into law but the total amount approved represented only half of the requested funding. The MARINA's present budget and logistics situation is inadequate to support both its promotional and maritime safety mandates.

Aside from the fact that the agency does not have the

⁴³Paciencio M. Balbon, Jr., Personal Interview, 28 January 1994.

physical presence or the budget allocation necessary to implement the maritime safety mandate of EO 125-A, Balbon, cognizant of the need to keep the "safety" and "promotional" aspects of maritime administration separate, remarked that the mandate distracts MARINA from efficiently performing its promotional and development functions. EO 125-A notwithstanding, the MARINA Administrator describes his interpretation of the agency's proper role as being "developmental."⁴⁴

As the country moves toward the 21st century, he sees MARINA concentrating on how to:

1. formulate a clearer vision for the further development of the maritime industry,
2. adopt a "fresh approach" to the problems besetting the industry, and
3. overhaul MARINA's basic "regulatory outlook."

In terms of its contribution to national economic development, MARINA "will play a complementary role in ensuring the cost-effective movement of raw materials and products." It also foresees a greater contribution to developing a viable Filipino-owned overseas fleet, one which it hopes "can help the country in achieving international competitiveness through sustained export growth."⁴⁵

While MARINA is attempting as best it can with its limited resources to implement the spirit and intent of EO 125-A, to include the takeover of specific maritime safety functions from the PCG and the PRC, Balbon asserts that the agency would be more comfortable falling back into a purely developmental role and is looking forward to the passage of any of a number of pending congressional

⁴⁴Ibid.

⁴⁵Maritime Industry Authority, "Evolving into a Developmental Agency," *Maritime Review*, December, 1993, pp.28-30.

bills designed to realign maritime safety functions to a properly constituted Maritime Safety Administration.

5.4. ABSENCE OF MARAD

✓ The absence of an umbrella agency (the MARAD) to orchestrate the country's maritime strategy and administration, in some measure, also contributes to the difficulty in achieving a professional MSA in that it exposes the different MSA functions to the possibility of duplication. The presence of a coordinating agency might facilitate in ensuring that the delineation of functions are clear and that confusion and duplication are avoided. The establishment of such an office, however, might be a complicated proposition especially in view of the fact that the PCG and MARINA belong to different cabinet departments.

5.5. PRESENT AND POTENTIAL IMPLICATIONS

The deficiencies in maritime safety administration in the Philippines affect everything that the country has at stake in the maritime sector. Business, trade, and industry stand to lose income or potential income in having to deal with inefficient MSA. Maritime disasters could proliferate because unsafe ships are allowed to sail. Needless loss of life and property at sea may not be avoided or minimized. An efficient and effective MSA could investigate maritime casualties from which it could draw lessons. Each year, in excess of "20,000 metric tons of tuna and 600,000 tons of other kinds of fish valued at over ₱1 billion (US\$360 million)" are lost to illegal fishing vessels."

The development of Philippine shipping, trade, and commerce are suffering because MARINA is being distracted

"Isabel C. de Leon, "Ramos Orders Wider Navy Role," *Manila Bulletin*, 24 June 1993, p.1.

from its promotional functions. The integrity of the examination and certification system for seafarers are cast under a shadow of doubt in the face of allegations implying that the licensing process is tainted.

Although by no means a malady unique to Philippine maritime administration, the deficiencies and their negative effects are especially lamentable for an archipelagic country where by definition the land and the sea are "closely interrelated"⁴⁷ and whose population since time immemorial has depended on the sea for safe and reliable communication and transportation. It is equally unfortunate in the face of the country's significant stakes in maritime affairs, ranking as it does, among others, first world-wide as a supplier of maritime labor and thirteenth as a flag of registry. Most of all, however, it is singularly lamentable for a country which has suffered the greatest maritime disaster in history in terms of lives lost. The need to rectify the deficiencies and rationalize maritime safety administration is truly urgent.

Substantial measures need to be adopted in view of the importance of the industry and the loss of life it has suffered so far. In this connection, a number of models for rationalized maritime safety administration are presented in a later chapter. To provide as background, however, the immediately ensuing chapter first examines past as well as present attempts (in the form of proposed legislation) to reform maritime safety administration in the Philippines.

⁴⁷UNCLOS 82, Art.47.1.

CHAPTER 6

PAST AND PRESENT ATTEMPTS TO RATIONALIZE MARITIME SAFETY ADMINISTRATION IN THE PHILIPPINES

Since the Philippine Coast Guard was created by RA 5173 in 1967, a number of attempts have been made to rectify and rationalize the situation obtaining in the administration of maritime safety in the country. This only seemed natural in light of the fact that the original intent in creating the PCG as a major unit of the Philippine Navy was to eventually resolve the issue of its organizational placement at a later date. While some of the attempts, particularly Presidential Decree 601, might have resulted in substantial progress towards the professionalization and specialization of the PCG, none of them were ever implemented. As shall be made evident by some of the past and present attempts, the beginning of the professionalization of MSA in the Philippines could have been made possible a number of different times but was always postponed. At the same time, it will also be made apparent how some of the other attempts could result in a further impairment, instead of the improvement, of the already deficient situation.

6.1. P.D. 601

One of the earliest attempts to rationalize maritime safety administration in the Philippines was Presidential Decree 601 (P.D. 601). Entitled "Providing for the Revision of Republic Act 5173 Commonly Known as the Coast Guard Law, Consolidating Fragmented Functions and for Other Purposes," PD 601 was signed into law by the then President on 9 December 1974 to fulfill the need to

- organizationally modify the Philippine Coast Guard

to enable it to discharge its functions more efficiently and effectively,

- consolidate functionally related activities into an integrated system to best promote safety of life and property at sea, and
- maintain the present role of the Coast Guard as the guardians of sea safety, and afford a total approach in its supervision over Philippine merchant ships with the end in view of promoting a progressive, reliable, and safe merchant marine.⁴⁸

Perhaps the most significant provision in the law was Section 4 which placed it "under the direct supervision and control of the the Secretary of National Defense." The law extracted the agency not only from the Navy's command and organizational structure but from that of the Armed Forces as a whole. The Coast Guard would attain the status of a service independent of the AFP; it would be answerable not to the AFP Chief of Staff but to the Secretary of National Defense. PD 601 considered the anomalous situation obtaining in the organizational placement of the Coast Guard and recognized the need to allow it to develop and professionalize independently of the Navy. Section 4 of the law would enable the PCG, as the preamble clearly stated, to "discharge its functions more efficiently and effectively."

Aside from placing the Coast Guard directly under the Secretary of National Defense, PD 601 provided for the PCG to exercise numerous functions in addition to, or modifying, those already granted it by RA 5173⁴⁹. Following are some of the more significant provisions

⁴⁸PD 601, Preamble.

⁴⁹For reference, the reader may turn to APPENDIX B which contains a comparison of relevant extracts from RA 5173, PD 601, EO 125-A, and the proposed PCG Bill.

under PD 601:

- an expansion of the coverage of the PCG's law enforcement powers to include all ports, customs zones, waterways, and other inland waters
- a mandate to participate in international maritime conferences on behalf of the Philippine Government
- formulate and enforce regulations against pollution of the marine environment
- supervise, control and regulate vessels engaged in the carriage of passengers and dangerous cargo
- greater power to ensure the cooperation of concerned parties in matters relating to maritime casualties and maritime casualty investigation
- issue permits for the salvage of vessels and to supervise all marine salvage operations as well as prescribe and enforce rules and regulations pertaining thereto
- in coordination with the Department of Education and Culture, supervise nautical schools and maritime training programs and prescribe minimum requirements in the conduct of relevant courses
- establish, maintain and operate a Seaman's Training Center for the training of seafarers for employment aboard inter-island and ocean-going vessels, and in this connection, to establish, maintain, and operate a registration and placement unit or office for the administration of seamen's affairs
- prescribe rules and regulations for the training and certification of unlicensed merchant marine personnel and selected skills in the shipbuilding industry
- exercise exclusive jurisdiction over seizure proceedings against vessels apprehended for violation of PCG rules and regulations
- composition of the Board of Marine Inquiry
- placement of the Philippine Merchant Marine Academy under the PCG's administrative and operational

control

As an early attempt, PD 601 could have contributed immeasurably to rationalizing maritime safety administration in the Philippines. It addressed the Coast Guard's organizational predicament and consolidated all essential MSA functions within the agency. As history bears out, however, the reform was never fully carried out. Upon the intervention of the Flag-Officer-in-Command of the Philippine Navy and the Chief of Staff of the Armed Forces of the Philippines shortly after the decree was signed, the then President decided to suspend the promulgation of the law. Later laws were issued to modify or repeal the decree's provisions. The PCG's reorganization under the Defense Department was never realized, along with a number of the modified or additional provisions.

6.2. E.O. 125-A

The next attempt at rationalizing maritime safety administration came in 1987 with EO 125-A, discussed at certain length in the preceding chapter. Not only did EO 125-A fail to follow up on the attempted reorganization and consolidation of MSA functions under the abortive PD 601, it fragmented them further. The rubric "attempt at rationalizing the administration of maritime safety" might not actually apply to this particular law since it has probably done more to cause the present irrational devolution of MSA functions than any other.

As made evident in the last chapter, EO 125-A seems to have been ill-advised since it did not consider the divergent natures of maritime industry development and maritime safety administration. Agencies and personalities identified with the field of maritime safety were not consulted in the development of the executive order. In a letter to the then MARINA Administrator Philip S. Tuazon, Commodore Agustin mentioned that EO 125-

A was signed during a period "when there was a prevailing atmosphere of distrust towards the AFP⁵⁰, and it was done without the benefit of public hearing or coordination with the PCG."⁵¹ Had maritime experts been consulted on the matter at a public hearing or in the course of a thorough study, a more rational recommendation to improve maritime safety administration might have been put forward. Had its official comment been solicited, the Coast Guard would have advised against the provisions in EO 125-A which assign MSA functions to the MARINA. Even former Administrators Basco and Tuazon, as well as incumbent Balbon, are known to advocate a purely developmental role for MARINA.

The law's result, as earlier mentioned, is the present anomalous situation wherein certain MSA functions still being exercised by the PCG have actually been assigned by law to the MARINA. Could the MARINA take over and efficiently exercise the MSA functions of vessel registration, vessel survey, examination and certification of seafarers, and the determination of safe manning levels and at the same time promote the development of the maritime industry? The answer is contentious at best and must consider numerous issues such as the required manpower, organization, budget, expertise, and the oftentimes contradictory interests of inexpensive transportation and maritime safety. Agustin confesses that vessel registration, not to mention the rest of the MSA functions, have proven to be a herculean task even for the PCG with its military-type formation, three thousand men, eight districts, forty-one stations, and 138

⁵⁰In 1987, the country was still recovering from more than a decade of martial and authoritarian rule; the government was, at the same time, being besieged by a number of coup attempts.

⁵¹Carlos L. Agustin, Letter to Philip S. Tuazon, 4 November 1992.

detachments.⁵²

6.3. THE PRESIDENTIAL TASK FORCE ON INTERISLAND SHIPPING

In 1989, the Presidential Task Force on Interisland Shipping (P.T.F.I.S.) was formed in response to an increasingly worse maritime safety situation brought to a head by a spate of maritime casualties involving the loss of hundreds of lives within a short period of time. In its report, the PTFIS pointed to the lack of fully qualified ship's officers on board interisland vessels as the single greatest cause of unsafe shipping. Some of the other reasons put forward are⁵³:

- operation of unseaworthy ships
- hazardous sailing conditions caused by
 - outdated survey information
 - outdated mapping of sealanes
 - inadequate number of aids to navigation
 - inadequate shore-to-ship communications
 - insufficient dredging operations
 - lack of attention to salvaging of sunk and grounded vessels
 - inadequate weather forecasting (especially storm warnings)
 - inadequate sea traffic control

More relevant to this chapter, however, is how the Task Force could have influenced the rationalization of MSA. As a presidential task force, it could have caused a greater impact on the effort to rationalize MSA by incorporating more concrete proposals in its report on how to resolve the situation attending maritime administration in the country. The Task Force, however, simply focused

⁵²Ibid.

⁵³Nathan Associates, Inc., "Interisland Liner Shipping Rate Rationalization Study," p.1.

on studying the immediate causalities of unsafe shipping, not on their roots in the irrational MSA structure nor on the possible remedies to correct it. Instead of putting forth recommendations for improving the administration of maritime safety in the Philippines, the Task Force "essentially gave up on the issue of maritime safety responsibility, asking MARINA and the PCG to resolve the issue together."⁵⁴ The effect of the Task Force's recommendation proves to have been limited in that whatever the PCG and the MARINA resolve in terms of the distribution of MSA responsibilities has no bearing on the force or power of EO 125-A as a law. Only a modification of the law, not a bilateral agreement between two government agencies, would create the desired effect.

In addition to the above, the PTFIS recommended the formation of the Shipping and Ports Advisory Council (S.P.A.C.). Formed in 1989 and placed under the chairmanship of the Department of Transportation and Communications, SPAC serves as the President's permanent advisory body on maritime affairs and is composed of representatives from both the maritime industry's private and public sector -- the DOTC, the PCG, the MARINA, the Philippine Ports Authority, the Philippine Merchant Marine Academy, a number of other government agencies, and private sector national shipping associations. One of the Council's resolutions, as will be seen further on, forms the basis for the present call to resolve the fragmentation of MSA functions.

6.4. NATIONAL SEAMEN ADMINISTRATION

One of the latest efforts to reform the MSA is Senate Bill 917 which proposes to take one specific aspect of maritime safety, that is, all those associated with merchant marine administration, totally out of the

⁵⁴Ibid., p.26.

maritime safety and into the labor milieu by creating a National Seamen Administration and placing it under the Department of Labor and Employment (D.O.L.E.), specifically the POEA.

In its official comment on the proposed law, the PCG responded that should such an administration be created, it would be better placed within the DOTC as its functions will be more maritime safety- than labor-oriented. According to an internal Coast Guard position paper, the DOLE and the POEA only become "relevant with overseas seafarers in the course of their application, placement, and employment on vessels in the overseas trade." While the POEA has been instrumental in the Philippines' success as a provider of crews in the international trade and in protecting the rights of Filipino seafarers, it is not technically specialized or competent in the administration of the body of national and international maritime safety regulations that affect seafarers. The creation of an organization to administer merchant marine affairs outside the duly-constituted maritime safety agency would represent an even further dispersion of MSA functions, counter-productive to current efforts attempting to reform MSA in the country.

Albeit well-meaning, if examined as a solution to the current MSA question, the proposed creation of a National Seamen Administration is narrow in scope. Instead of an overly specific and seemingly ad hoc solution, efforts might be better concentrated on creating a strengthened and efficient maritime safety agency, whether in the form of a reorganized PCG or of a totally new agency, under the administration of which all issues relating to the merchant marine and maritime safety are subsumed.

6.5. THE PRESENT CAMPAIGN TO REORGANIZE THE PHILIPPINE COAST GUARD

On 26 September 1991, the Shipping and Ports Advisory

Council issued Resolution 02-91⁵⁵ calling on, among others,

- The Secretary of National Defense to consider establishing the proper organizational placement of the Philippine Coast Guard and implement various steps proposed to professionalize the Coast Guard, and
- The Chief of Staff, Armed Forces of the Philippines and the Flag Officer in Command, Philippine Navy to consider the development of specific career fields for the Coast Guard for both officers and enlisted personnel.

SPAC Resolution 02-91 became the basis for the present campaign to reorganize the Philippine Coast Guard and was presented to the Secretary of National Defense (S.N.D.), the Armed Forces Chief of Staff (C.S.A.F.P.), and the Navy Flag-Officer-in-Command (F.O.I.C., P.N.). The Defense Secretary proved receptive to the idea as did the AFP Chief of Staff. CSAFP made it known that in as far as the military establishment was concerned, national, and not parochial, interests would prevail on the issue of Coast Guard reorganization. His only other guidance was for the PCG and the PN to "arrive at a common consensus" regarding the proposed reform.

The FOIC, PN, appreciating the need for the PCG to professionalize, stated that "Headquarters, Philippine Navy (H.P.N.) should have a specific plan [in connection with the proposed PCG reorganization] by August 1992." On 29 November 1991, HPN created a committee to study and submit appropriate recommendations to address the problem of the organizational placement of PCG. Headed by Commodore Plaridel C. Garcia, the committee forwarded the

⁵⁵See APPENDIX C.

following recommendations⁵⁶:

- Separation of the PCG from the PN and for the Chief of Staff, AFP to assign it as a specified command⁵⁷ under the General Headquarters (G.H.Q.), AFP, and
- Sponsorship of legislation for PCG to be a distinct service under the AFP with a provision empowering the President to attach it to DOTC during peacetime and revert it to the AFP in periods of national emergency or war. This can be done under GHQ in close coordination with the SPAC.

The FOIC, PN disagreed with the first point recommending the interim assignment of PCG as a specified command under GHQ and declared that the "PCG must eventually separate and must cut clean" not only from the PN, but from the AFP itself. The FOIC issued fresh guidance to the Garcia Committee, however, to explore the possibility of granting the PCG maximum autonomy while still a major unit of the PN, instead of creating it as a specified command, preparatory to its separation through legislation. Working closely with the Coast Guard, the Committee developed practicable measures designed to provide a "certain degree of autonomy to the PCG preparatory to its eventual separation from the PN."⁵⁸

6.5.1. GRANTING THE PCG AUTONOMY WITHIN THE NAVY

On 7 August 1992, the FOIC approved the new Committee

⁵⁶Headquarters, Philippine Navy Committee on Philippine Coast Guard Reorganization, "Committee Report," 1992, p.8.

⁵⁷A military command which has a broad continuing mission and is normally composed of forces from but one service but may include units and staff representation from other services.

⁵⁸Philippine Coast Guard, "Organizational Issues and Resolutions," 1993.

Report specifying the terms and conditions under which autonomy in administration and management are to be granted to the Philippine Coast Guard. As a result, Letter of Instructions 47/92 "Interim Actions Preparatory to Separation of PCG from PN" was officially published by HPN, and allowed the PCG great measures of autonomy in, among others:

- the management of its organic personnel to include recruitment, assignment, and reassignment,
- the development of specialties,
- the conduct of separate courses for PCG personnel,
- the development of distinct sets of uniforms,
- the promulgation of its own morale and welfare and discipline system,
- the granting of General Court Martial authority,
- the management of its logistics resources, and
- the authority to establish its organic intelligence system and a coastal and coastwatch surveillance system.

The measures, which would finally allow for professionalization and specialization to begin, were welcomed by the Philippine Coast Guard. A survey on PCG separation conducted towards the end of 1992 revealed that an overwhelming majority of the PCG's 202 officers would join a newly re-organized PCG under the DOTC.⁵⁹

6.5.2. THE LEGISLATIVE FRONT: PCG BILL

On the legislative front, a reorganization of the PCG was being proposed through the enactment of a new law to address the agency's organizational placement and to consolidate all MSA functions. Being the technically cognizant and competent agency, the PCG drafted a bill

⁵⁹Herminio F. Palonpon, "PCG Separation Survey," 31 December 1992.

separating the unit from the Navy and creating it as a service under the DOTC. Three versions of the proposed bill⁶⁰ were drafted in coordination with representatives from the DND, AFP, PN, PCG, the offices of Senator Biazon and Congressman Puey, and the maritime sector. The contents of the three versions, each differing in length from the other in order to cater to varying dispositions in Congress, may be summarized as follows:

I. Long Version:

1. Realigns functions covered in RA 5173 and removed from the PCG by virtue of PD 97 and EO 125, 125-A, and 292.
2. Creates PCG as a separate service and transfers it from DND to DOTC as an attached agency.
3. Creates the Philippine Maritime Safety Authority (P.M.S.A.).

II. Short Version:

1. Same as long version except that it primarily addresses creation of the PCG as a separate service and transfer from PN (DND) to DOTC as an attached agency.
2. Provides for broad missions and functions, and prescribes a mandate for SOTC and the Office of the President to realign functions.

III. Supershort Version:

Primarily addresses the creation of the PCG as a distinct service and its transfer to DOTC.

Senators Shahani, Biazon, and Guingona have filed the bill's long version as Senate Bill 1070. The same version was filed in the House of Representatives as House Bill 7035 by Representatives Puey, Enverga, and Verceles. The short version was filed in the Philippine Senate as Senate

⁶⁰Extracts of the proposed PCG Bill may be found in APPENDIX B.

Bill 1078 by Senator Biazon. A joint DND-DOTC draft of the PCG bill (short version) was also being considered for submission to the President for certification as an administration-sponsored bill.

HB 7035 went through its first public hearing at the House Committee on Public Order and Security on 4 May 1993. The proposed bill gathered overwhelming support in the testimony that heads and representatives of DND, GHQ, HPN, MARINA, as well as members of Congress presented before the Committee; the only formal objections were put forward by representatives of the Philippine National Police's Maritime Command. Representative Puey's comments on the proposed bills reflect a growing awareness in Congress of the need to effect a reorganization of MSA in the country. Puey, Chairman of the House Subcommittee on Maritime Affairs, gives the following three principle reasons why he decided to sponsor the bill⁶¹:

- the PCG would be better under the DOTC because most of the functions of the PCG, such as ship inspection, are related to sea transportation
- the PCG can avail itself of foreign grants if it is under a civilian body such as the DOTC
- the enforcement of sea safety regulations can be made more efficient if the PCG has its own personnel (instead of relying on the Navy for personnel); its officers and personnel are being rotated at present, disrupting their career

6.5.3. DEVELOPMENTS IN THE IMPLEMENTATION OF EO 125-A

While the campaign to reorganize the PCG had already begun in earnest, new developments unfolded in connection with the implementation of EO 125-A. Pressure, it seems, from certain sectors of Congress and government was being brought to bear on the Administrator of MARINA to finally

⁶¹"Ramos Favors Separation from Navy," *The Manila Chronicle*, 16 October 1992, p.25.

take over the MSA functions it had gained through EO 125-A. In a 5 October 1992 letter to then PCG Commandant Commodore Carlos L. Agustin⁶², the then MARINA Administrator Philip S. Tuazon wrote that in as much as vessel registration "is a mandate required by law to be performed by the MARINA, please be advised that we would now like to assume this function."

On 4 November, Agustin officially replied in a letter to Tuazon that "as an agency transferring to the DOTC the Philippine Coast Guard would be better placed to perform the function of vessel registration for numerous reasons." He cited the PCG's existing infrastructure, years of experience, efficient processing of registration papers, and military organization as some of the reasons why the vessel registration function is better left to the PCG. In as much as the transfer of the vessel registration function can only be cancelled by an amendment of EO 125-A, Agustin ended the letter by calling for an interdepartmental review of the said law.

In a 28 October 1992 letter, the Coast Guard Commandant wrote to the President of the Philippines of the "need to conduct a rational review of the confused nature of maritime safety administration." The Commandant, explaining how EO 125-A "was issued hurriedly in 1987 without due consultation with the PCG or the DND" and how "none of the current heads of agencies concerned were involved in the drafting of the said EO," brought to

⁶²Commodore Agustin, PCG Commandant from 1990 to 1993, is one of the few true experts on MSA in the Philippines. He has represented the Philippines in numerous IMO as well as other regional and international maritime conferences and meetings, and has, since 1990, been a governor of the World Maritime University in Malmö, Sweden. As Commandant, Philippine Coast Guard, he is personally credited with having been instrumental in generating the momentum and interest towards the current drive to rationalize the administration of maritime safety in the Philippines.

the President's attention the fact that "it might be desirable to amend EO 125-A in order to revert certain maritime safety functions back to the PCG."⁶³ In response to CPCG's appeal, Presidential Memorandum Order 84 (P.M.O. 84) was issued on 27 January 1993 creating a committee composed of SOTC, SND, CPCG, the Administrator of MARINA, the General Manager of PPA, and the President of the Conference of Interisland Shipowners and Operators (C.I.S.O.) to "study, review, and analyze maritime safety functions as enumerated under Executive Order No. 125-A" with the end in view of assessing the "feasibility of... amending EO 125-A."⁶⁴ Thus far, however, the committee has yet to submit its recommendations in connection with the possible amendment of EO 125-A. Meanwhile, consultations on the formal turnover of the MSA functions specified in EO 125-A from the PCG to the MARINA have commenced between the two agencies.

Official as well as personal communications between the PCG Commandant and the MARINA Administrator indicate that there is agreement to the fact that efficiency in maritime administration would best be served if functions are clearly delineated between the two agencies -- the PCG as the MSA ("safety") and the MARINA as the MIDA ("promotional"). In another letter to Agustin on 17 November 1992, Tuazon expressed "full support of the proposal for a review of EO 125/125-A by a Committee to be chaired by the Secretary of the Department of Transportation and Communications and [pledged to] recommend the same to the DOTC Secretary." Paciencia M. Balbon, the incumbent Administrator of MARINA, still comes under the same pressure to take over the same MSA function. Testifying before Congress, Balbon explained

⁶³Carlos L. Agustin, Letter to Fidel V. Ramos, 28 October 1992.

⁶⁴Presidential Memorandum Order 84, 27 January 1993.

that it will be virtually impossible for MARINA to exercise MSA functions for as long as the adequate budget for those functions is not allocated to the agency. A budget specifically for the exercise of MSA functions was eventually included for the present year but the allocation totalled only half the amount projected by the MARINA to be necessary.

6.5.4. EXECUTIVE ORDER PLACING THE PCG UNDER THE OFFICE OF THE PRESIDENT

To effect the specialization and professionalization of the PCG in as early a time as possible, that is, by detaching it from the Navy even while the PCG Bill was still under deliberation, another interim step was proposed. This proposed measure, explained by CPCG in a letter to the Executive Secretary, involved "the promulgation of an executive order [transferring] the PCG [from the AFP] to the Office of the President... [as] a provisional and transitory action to facilitate the separation of the PCG prior to its eventual transfer to the DOTC as an attached agency."⁶⁵

On 11 November 1992, a meeting was held at the PCG's Headquarters by representatives of DOTC, DND, AFP, HPN, PCG, and the Department of Justice to discuss the applicability of such an executive order. At the conclusion of the meeting, there was general agreement that such a measure would be beneficial. At yet another meeting, held in 18 March 1993, representatives from DOTC, DND, PCG, MARINA, PPA, and CISO not only agreed to the executive order's feasibility but also resolved to develop a draft of the same⁶⁶. To date, however, no further action

⁶⁵Carlos L. Agustin, Letter to Edelmiro C. Amante, 21 January 1993.

⁶⁶Carlos L. Agustin, Letter to Manuel A. Miguel (Chief, Office of Legislative Affairs, DND), 1 July 1993.

has resulted in connection with the proposal.

6.5.5. STATUS OF PCG REORGANIZATION EFFORTS

Hopes were initially high within the maritime sector that the professionalization of the country's MSA could finally be achieved through the reorganization of the PCG. President Fidel V. Ramos himself had earlier on approved in principle the separation of the PCG from the PN and its subsequent attachment to the DOTC. In his message on the occasion of the 91st anniversary of the PCG, the President underscored the need to hasten the agency's organizational growth and achieve efficiency through autonomy and stated that the "PCG must develop as an independent and professional service that will be dedicated to [promoting] international and domestic policies towards a safer and cleaner maritime environment."⁶⁷

A general awareness of the issues had already taken hold and a momentum towards PCG reorganization was already being gained but progress somehow waned and the efforts have suffered a number of reverses towards the end of 1993. The PCG Bill did not receive preferential treatment in Congress. Navy Headquarters suspended the implementation of the autonomy measures it had approved for the PCG. The proposed interim transfer of the PCG to the Office of the President has not met with approval. Greater pressure was exerted on the MARINA to exercise its MSA functions.

In addition, the PCG's reorganization efforts have suffered substantially from the following developments:

- a belief within government in the latter part of 1993 that the executive branch has decided to order a stay in further actions toward creating the PCG as an independent agency
- the certainty that more priority and high profile

⁶⁷"Ramos Favors Separation," p.25.

bills will receive Congressional attention in the present run-up to the 1995 elections for all the seats in the Philippine House of Representatives and half of the seats in the Philippine Senate

- the mandatory retirement from the AFP in December 1993 of Commodore Agustin, who represented the strongest individual force behind the PCG's reorganization efforts
- lobbying by the Department of Interior and Local Government and other sectors of government in favor of programs counteractive to the PCG's reorganization efforts

6.6. RA 6975: THE PHILIPPINE NATIONAL POLICE LAW

Signed into law on 13 December 1990, Republic Act 6975, also known as the Philippine National Police (P.N.P.) Law, becomes significant in the MSA debate because of a particular provision in Section 24 entitled "Powers and Functions." Aside from specifying the powers and functions of the PNP relative to peace and order and public safety, Section 24 of the PNP Law also states that "the PNP shall absorb... the police functions of the PN Coast Guard."⁶⁶ The phrase "police functions" in the above provision have caused yet another obstacle to the efforts to rationalize maritime safety administration in the Philippines.

The vague construction of the pertinent provision in Section 24 has opened the law to the possibility of a wide range of interpretations. The debate revolves around the exact definition of "police functions" in as far as they are to be extracted out of the PCG and assimilated by the PNP. The PCG's position is that Section 24 takes away only those police functions which Section 3(o) of RA 5173 as well as Section as well as Section 5(u) of PD 601 had

⁶⁶Republic Act 6975, Section 24.

originally bestowed upon it. The above-mentioned sections state that "members of the PCG are peace officers" for all purposes of both RA 5173 and PD 601. The PCG has always interpreted this to mean that, especially in remote localities where PCG personnel are the only representatives of government present, it takes on the duties of law enforcement which would otherwise have normally been exercised by the police had it had agents assigned thereat. The PCG exercises other law enforcement functions on behalf of other agencies. Functions such as the enforcement of customs, immigrations, quarantine, and fishery laws are exercised by the PCG as an agency deputized by the government agencies which possess primary responsibility over such functions. The exercise of such functions, therefore, cannot be transferred by the Coast Guard to a third party.

The PNP, on the other hand, through its Maritime Command (MARICOM), tends to give "police functions" a broader interpretation to mean all of the PCG's functions related to law enforcement, that is, according to the MARICOM's Legal Officer, all police functions that are left over in RA 5713/PD 601 as modified and amended by EO 125/125A⁶⁹. These functions are, however, the same ones which were just mentioned above -- functions which cannot be transferred by the PCG. The one law enforcement function that the PCG may transfer back to the PNP is the function that allows its personnel to act as "peace officers."

The PNP seems to interpret their mandate to "take all necessary steps to ensure public safety"⁷⁰ as encompassing even those functions specifically related to maritime safety. In a 20 March 1992 letter to the PCG Commandant,

⁶⁹Herolde G. Ubalde, Personal Interview, 28 January 1994.

⁷⁰Republic Act 6975, Section 24(b).

the Secretary of Interior and Local Government⁷¹ wrote that, in view of the pertinent provision in Section 24 of RA 6975, the PNP/MARICOM would like to formally take possession of all of the PCG's small water patrol craft and to formally take over the following clearly MSA functions from the PCG:

- vessel visitation functions
- small vessel registration
- merchant marine personnel admin⁷²

On the 2nd of June of the same year, the Director of the PNP Maritime Command wrote a letter to the MARINA Administrator proposing a Memorandum of Agreement between the two agencies since "the police functions of the PCG were absorbed and now vested with the PNP." In the same letter, the MARICOM Director states that among the functions of the police agency "is to recommend, administer and enforce laws, ordinances and regulations for the protection and promotion of safety of life and property at sea." The MARICOM Director further elaborated that

In this regard, the MARICOM, PNP foresees a complimentary relationship with the MARINA on matters pertaining to the protection and promotion of safety of life and property at sea, particularly on the compliance by shipowners and vessels with the orders, rules and regulations of the MARINA Board and other maritime laws of which MARINA is mandated under the law to oversee and enforce. With the end in view of promoting and safeguarding life and property at sea, the MARICOM is ready to extend assistance within its capability to realize this goal.⁷³

⁷¹The PNP is an agency under the Department of Interior and Local Government (D.I.L.G.).

⁷²Cesar N. Sarino, Letter to Carlos L. Agustin, 20 March 1992.

⁷³Merardo Abaya, Letter to Philip S. Tuazon, 2 June 1992.

Solicited for its comments on the above proposed agreement, the private sector of the maritime industry expressed apprehension over the MARICOM's claims to certain MSA functions. In a letter to the MARINA Administrator, then CISO President Paciencia M. Balbon aired the following views on the MARICOM's wish to vest itself with "visitation rights and privileges:"

- vessel boarding does not come under the police function of maintaining peace and order (unless in cases involving, for instance, pursuit of criminals)
- MARINA already has an Enforcement Office; the MARICOM may be called in to assist but should not be given blanket authority
- granting the MARICOM "visitation rights" in order to verify documents and certificates creates yet another layer in the government regulation of interisland shipping, already one of the most regulated industries in the country"

The CISO President concluded his letter by stating that the technical task of determining vessel safety and seaworthiness is better left to the Philippine Coast Guard. In a 9 June 1992 letter, the MARINA Administrator eventually denied the MARICON Director's offer to conclude a Memorandum of Agreement.

A letter from CPCG to the MARINA Administrator elaborates further on the reasons why the MARICOM is incompatible with the administration of maritime safety:

- the roles sought by the MARICON are not included in its statutory functions; police functions pertain only to enforcement of laws relating to criminal and other penal laws

"Paciencia M. Balbon, Jr., Letter to Philip S. Tuazon, 8 June 1992.

- there are no provisions in RA 6975 charging the PNP with the responsibility of ensuring the safety of life and property at sea as well as other regulatory functions; vessel visitation rights are connected with customs matters and have practically minimal police orientation
- the transfer of MSA functions from the PCG would be counter-productive in the face of PCG's gains in professionalization, after having gained the private sector's cooperation, and after having coordinated with the IMO and other international organizations⁷⁵

The MARICOM's representations with the PCG and the MARINA to take over or share in the exercise of specific MSA functions have, thus far, not met with success. Nevertheless, conflicting interpretations of the relevant provision in Section 24 continue to hinder the progress of efforts to rationalize MSA and reorganize the PCG. Some conflict have in fact resulted wherein MARICOM personnel, invoking Section 24, have begun exercising MSA functions in the field. Indeed, instead of bolstering the PCG's efforts through a united effort, the DILG has even introduced its own version of rationalizing MSA in the Philippines.

6.7. OTHER BILLS DESIGNED TO REFORM MSA IN THE PHILIPPINES

At least two other proposed bills attempt to reorganize the administration of maritime safety in the Philippines. The first one is the DILG's own version of attempting to rationalize MSA in the Philippines. The bill, proposed before the Senate as Senate Bill 500, seeks to amend RA 6975 in order to expressly and specifically

⁷⁵Carlos L. Agustin, Letter to Philip S. Tuazon, 10 June 1992.

allow the PNP to absorb all of the PCG's functions. Passage of the bill would practically take out all but one or two of the PCG's *raisons d'être* and create the MARICOM as another one of the country's numerous MSAs. Lobbying by certain government interests for passage of the bill has created a further confusion of the issues relative to the need for MSA rationalization, somewhat slowing the momentum gained by the PCG's own efforts at MSA reform.

Another bill proposes the consolidation of all MSA and MIDA functions through the creation of a Maritime Industry Commission. This bill envisions the placing of all related maritime functions under the jurisdiction of the Commission to simplify policy making, regulatory and developmental functions for the maritime industry. Should such a bill eventually be filed before the Philippine Congress, its passage, just as in the case of the different versions of the proposed PCG Bills, could also result in the much-needed rationalization of the organization of MSA in the Philippines.

One of the consequences of the unsound state of maritime affairs in the country is the proliferation of attempts to rectify the situation. The problem is compounded by the fact that the proposed solutions are oftentimes made piecemeal, sector-specific and, hence, contradictory to the objectives of rationalizing maritime safety in the country and enhancing the efficiency with which related services are provided. When one specific sector of the industry is negatively affected by the inefficient administration of maritime safety affairs, it seeks redress through legislation. Because the issue of the entire MSA dilemma is sometimes too large to address, however, legislators look to less complicated solutions designed to rectify only specific grievances or inefficiencies, as in the case, for instance, of the proposed National Seamen Administration.

On the other hand, other proposed legislation such as the one proposing the reorganization of the PCG, the bill proposing the PNP's absorption of all PCG functions, and the proposed creation of a Maritime Industry Commission seek to address the larger issue of maritime administration and maritime safety administration. Two of the proposals represent a rationalization in MSA organization and a consolidation of its functions. The other one would result in a further fragmentation of MSA functions.

In the author's opinion, what is necessary is overall, not piecemeal, reform in the way MSA is organized and exercised. In this connection, the chapter that follows presents a discussion of some of the possible models of MSA organization which might result both from a number of the already existing proposals as well as from a number of existing maritime administrations around the world.

CHAPTER 7

MODELS FOR THE ORGANIZATION OF MARITIME SAFETY ADMINISTRATION IN THE PHILIPPINES

↑ In its quest to rationalize its maritime safety administration, the Philippines should take advantage of numerous existing administrations around the world which have developed models, organizations, methods, and techniques in the furtherance of the efficient and professional administration of maritime safety. According to Dr. P.S. Vanchiswar, Resident Professor of Maritime Safety at the World Maritime University, "developing countries... are in a position to avail of the advantages of creating afresh pre-planned organizational structures and effective functional approaches best suited to them, provided that all concerned... have proper understanding of the objectives, criteria and functions."⁶ It is in this spirit that the present chapter presents a number of models which may be studied and used as a basis for the rational organization of maritime safety administration in the Philippines.

As a country at an early stage of development the Philippines could benefit from the successes and achievements, as well as from the failures and mistakes, of other countries. The Philippines should take advantage of this opportunity and examine all possible options and models for rationalizing the organization of its MSA. While a number of congressional bills are already being proposed to rationalize MSA in the Philippines, the experiences of other countries may still be used to form

⁶P.S. Vanchiswar, "Introductory Lecture, Maritime Administration Week 1993," World Maritime University, Malmö, Sweden, 11 October 1993.

the basis for further improvement of efficiency in the delivery of services or, should none of the proposed bills meet with approval before the close of the present Congress, form the basis for future proposals to rationalize MSA. The experiences of MSAs in different countries have in fact been useful in the formulation of some of the present proposed measures such as the PCG Bill.

Thus far, this paper hopes to have presented the following in its five previous chapters:

- basic concepts of maritime safety administration
- a case for the need to rationalize MSA in the Philippines
- the situation obtaining in the present organization of MSA in the Philippines
- the deficiencies in the present organization of MSA in the Philippines
- past and present attempts to rationalize MSA in the country

The present chapter wishes to continue by attempting to examine different possible models for the organization of MSA in the Philippines should any of a number of proposed legislative measures to rationalize MSA as discussed in Chapter 6 be approved. Diagrams shall be laid out of the possible results of each of the congressional bills. In laying out the possible models in the form organizational diagrams, this chapter wishes to concentrate only on analyzing the dispersion of the different MSA functions and the organizational links that are expected to exist.

After the possible Philippine models have been exhibited, a number of existing models from selected countries shall then be examined. These will in turn be used as bases for evaluating the different Philippine models in an attempt to hopefully draw some lessons.

7.1. EO 125-A + PCG AUTONOMY

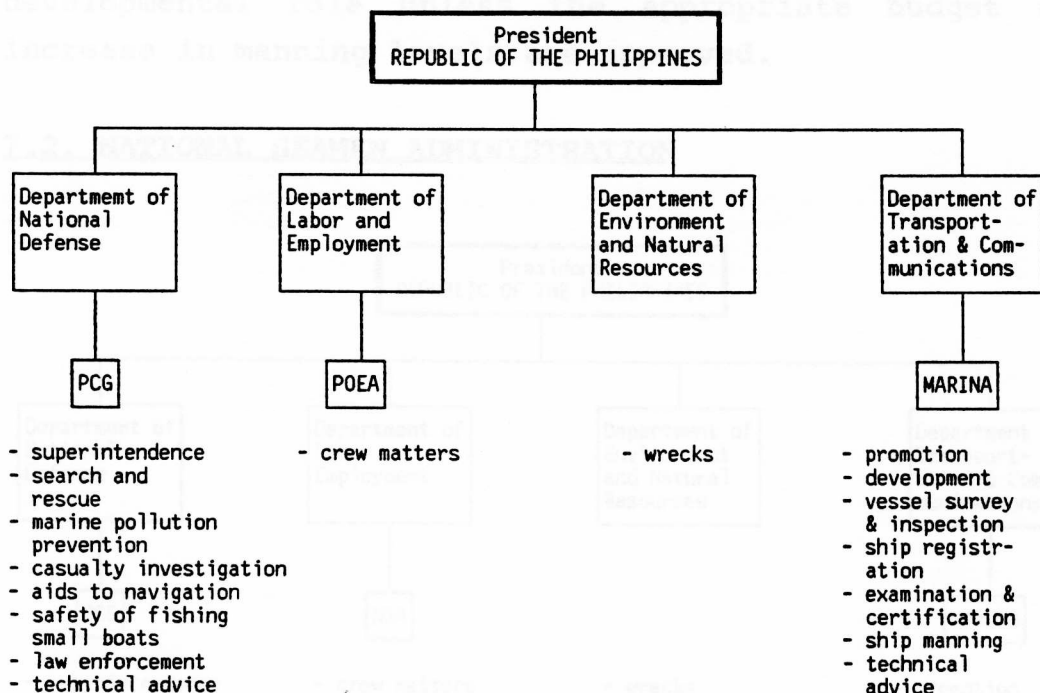


Fig.VII-A: Maritime Administration in the Philippines with PCG Autonomy and EO 125-A.

The above model shows the devolution of MSA functions between different agencies should the provisions of EO 125-A be fully implemented and the PCG remain a unit of the Navy. As can be observed the PRC is no longer in the above diagram and the MARINA has already incorporated all the MSA functions assigned to it by EO 125-A. PCG autonomy within the Navy is still integral to the above arrangement if the public is to expect a minimum degree of efficiency and professionalization in the administration of maritime safety.

The disadvantages in the above model are still apparent. There is a fragmentation of MSA functions and coordination of maritime affairs still remains difficult, if not impossible, owing to the placement of different

agencies under different cabinet departments. The MARINA still stands to be distracted from performing its developmental role unless the appropriate budget and increase in manning levels are approved.

7.2. NATIONAL SEAMEN ADMINISTRATION

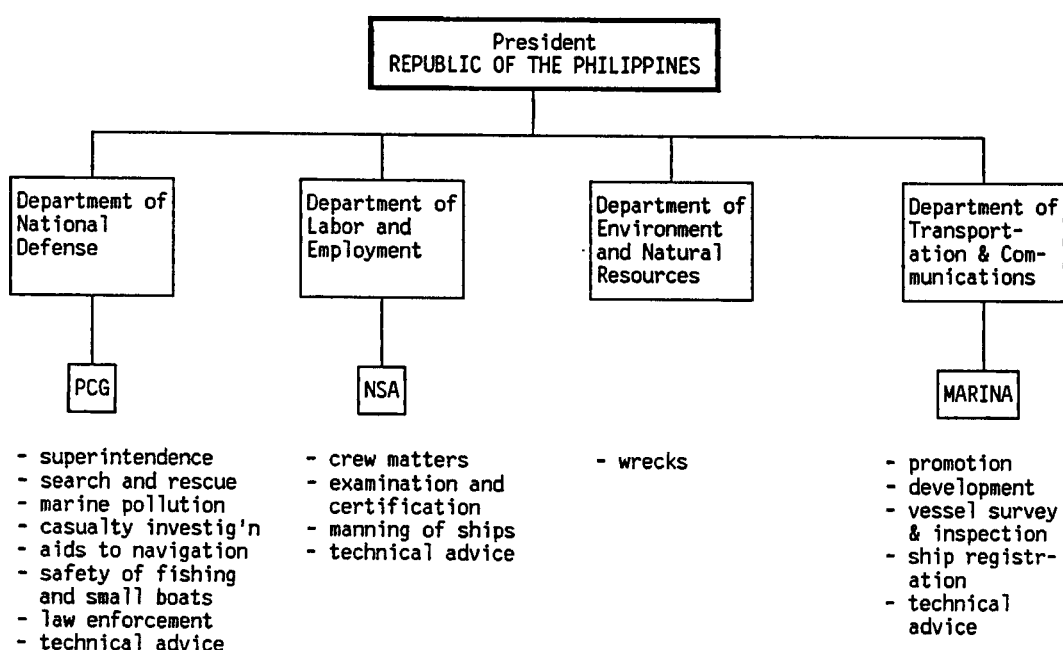


Fig.VII-B: National Seaman Administration.

While the above model ostensibly facilitates the processing of all documents and certificates for seafarers, it causes a further unnecessary dispersion of MSA functions. Expediting the processing of seafarers' documents can be achieved via the rationalization and reform of the present MSA system instead of through the creation of a totally new agency tasked with only one specific MSA function. Aggravating the arrangement is the fact that the new agency is proposed to be created under the DOLE, a cabinet department totally alien to maritime safety.

7.3. SENATE BILL 500

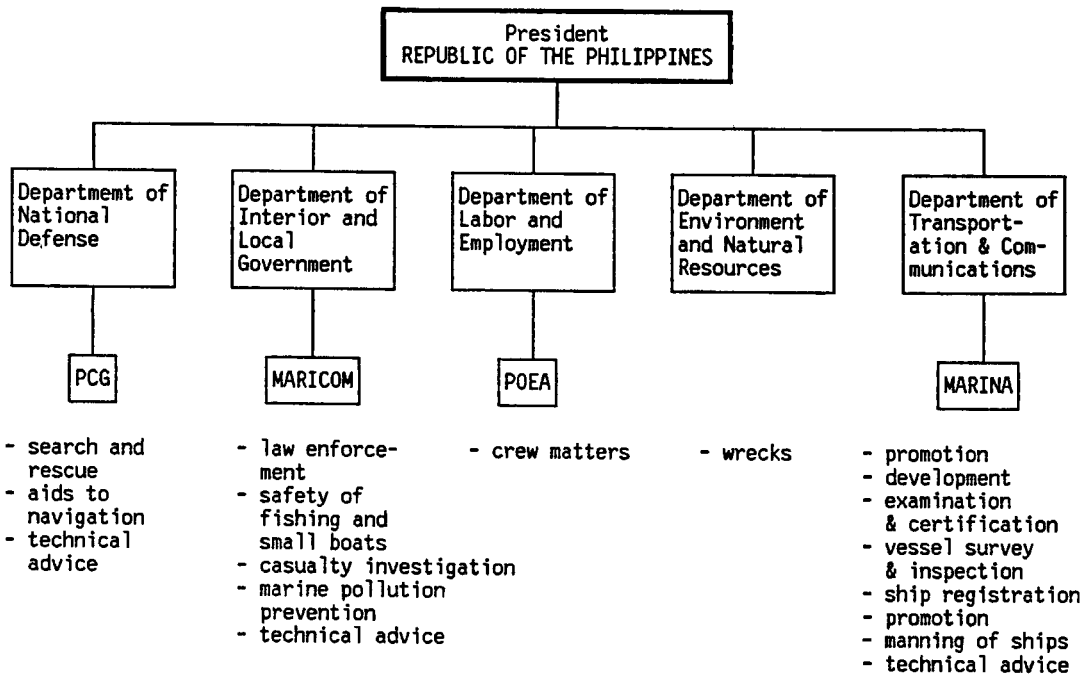


Fig.VII-C: SB 500 -- the MARICOM as MSA.

As in the earlier models, the above model does not address the need to consolidate fragmented MSA functions, but only seeks to take over most, if not all, of the PCG's functions. Furthermore, as in the case of the NSA model, this model proposes to transfer major MSA functions to a government agency not technically competent in the exercise of the same. It was mentioned earlier how erroneous and deleterious it is to equate coast guard to navy work. The same applies to police work. Police assurance of public safety is normally connected with the need to protect citizens against criminality, a duty which may not necessarily be automatically converted to protecting life at sea. The technical nature of maritime safety as discussed in Chapter 2 clearly demonstrates the incongruity between coast guard and police work in the maritime area. Maritime safety in the coast guard sense

translates to ensuring compliance with established safety standards in the design, construction, equipment, manning, operation, and maintenance of ships -- not the kind of criminality for which the police is thoroughly trained.

7.4. THE PHILIPPINE MARITIME ADMINISTRATION

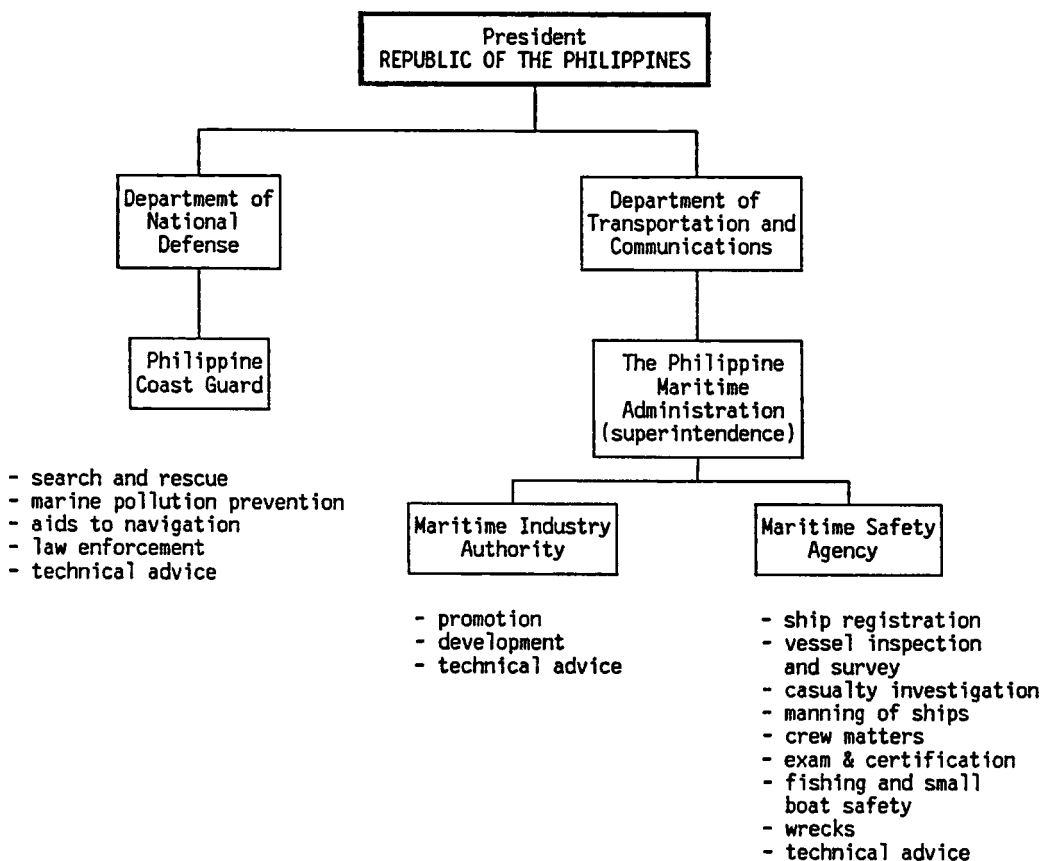


Fig.VII-D: The Philippine Maritime Administration.

The model above is an approximation of how maritime administration functions might be consolidated within a civilian agency known as the Philippine Maritime Administration under the DOTC, such as might be proposed in the Maritime Industry Commission Bill. More than any of the previous models, the above addresses the most important deficiencies found in the present organization

of MSA in the Philippines. Probably the most significant feature of the above model is that it allows for coordination in maritime affairs by consolidating all major maritime safety as well as promotional functions within an entity known as the Philippine Maritime Administration to be placed under the DOTC.

7.5. PCG BILL

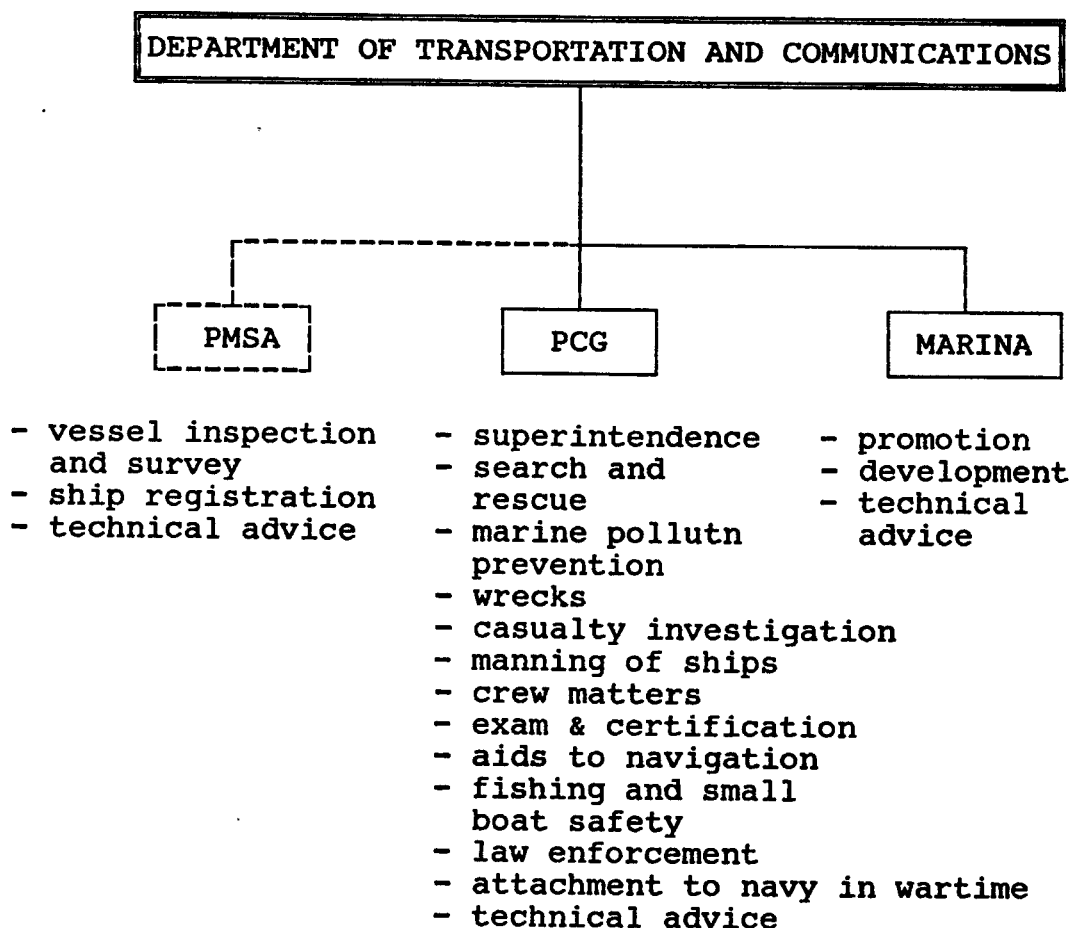


Fig.VII-E: Devolution of Maritime Safety Administration functions under the PCG Bill.

As in the previous model, the above takes into account the need to consolidate all maritime

administration agencies and functions within the DOTC. Functions are further delineated between safety and promotional ones for the PCG and the MARINA respectively.

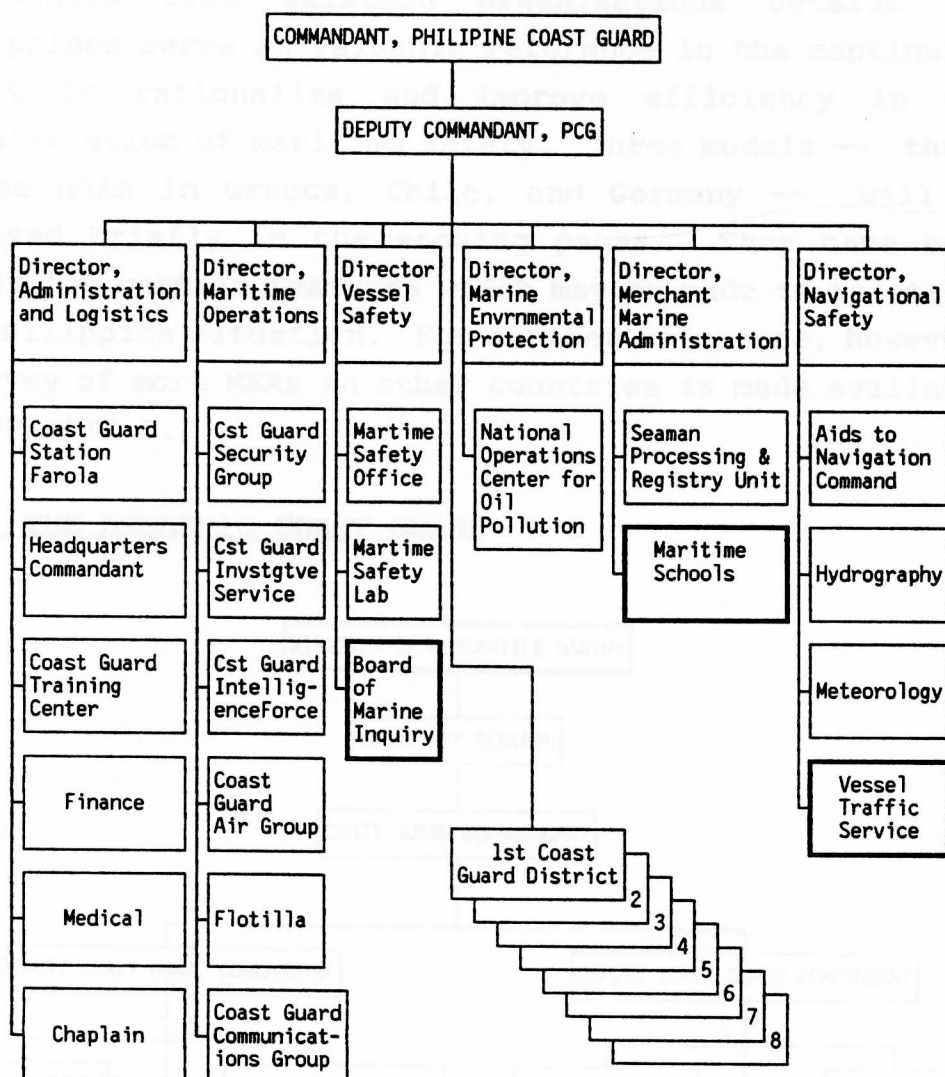
An added feature of the above model is the creation of the Philippine Maritime Safety Authority (P.M.S.A.), a non-stock, non-profit organization to serve as the government's ship inspection and survey arm. The PMSA's Board is to be headed by SOTC as *ex officio* chairman, with the Commandant of the Philippine Coast Guard, the Administrator of the Maritime Industry Authority, the General Manager of the PMSA, and the heads of the Filipino Shipowners Association, one of the Philippine Classification Society, and the largest domestic shipowners organization as members.

The rationale behind the creation of the PMSA is the virtual impossibility of setting up a professional and well-equipped ship surveying arm totally within the government. Such a surveying arm could only come at costs extremely prohibitive and incompatible with government budgets. An agency such as the PMSA, on the other hand, may be able to raise enough funds from its surveys and other services which it may use to retain professional and competent surveyors and maintain the necessary tools and equipment.

If compared to the model in Fig.VII-D above, the PCG model offers the added advantages of an already existing infrastructure, organization, personnel, and experience. In addition, it is a military formation which is able to operate and provide service on a 24-hour basis. Provisions built into the bill present the President with the option to attach the PCG to the Navy during wartime, a welcome prerogative when one weighs the Philippine's limited naval capability against its extensive coastal and archipelagic system.

Figure VII-F below shows the proposed organization of the Philippine Coast Guard as soon as the bill is passed

and the agency transferred to the DOTC.



LEGEND:

DIRECT SUPERVISION

FUNCTIONAL SUPERVISION

Fig.VII-F: Proposed organization of the new Philippine Coast Guard.

7.6. MODELS FROM EXISTING MARITIME SAFETY ADMINISTRATIONS OUTSIDE THE PHILIPPINES

Models from existing organizations outside the Philippines serve as valuable reference in the continuing effort to rationalize and improve efficiency in the administration of maritime safety. Three models -- those of the MSAs in Greece, Chile, and Germany -- will be surveyed briefly in the ensuing pages. They have been chosen for certain features which may be made to relate to the Philippine situation. For further reference, however, a survey of more MSAs in other countries is made available in APPENDIX D.

7.7. THE HELLENIC COAST GUARD

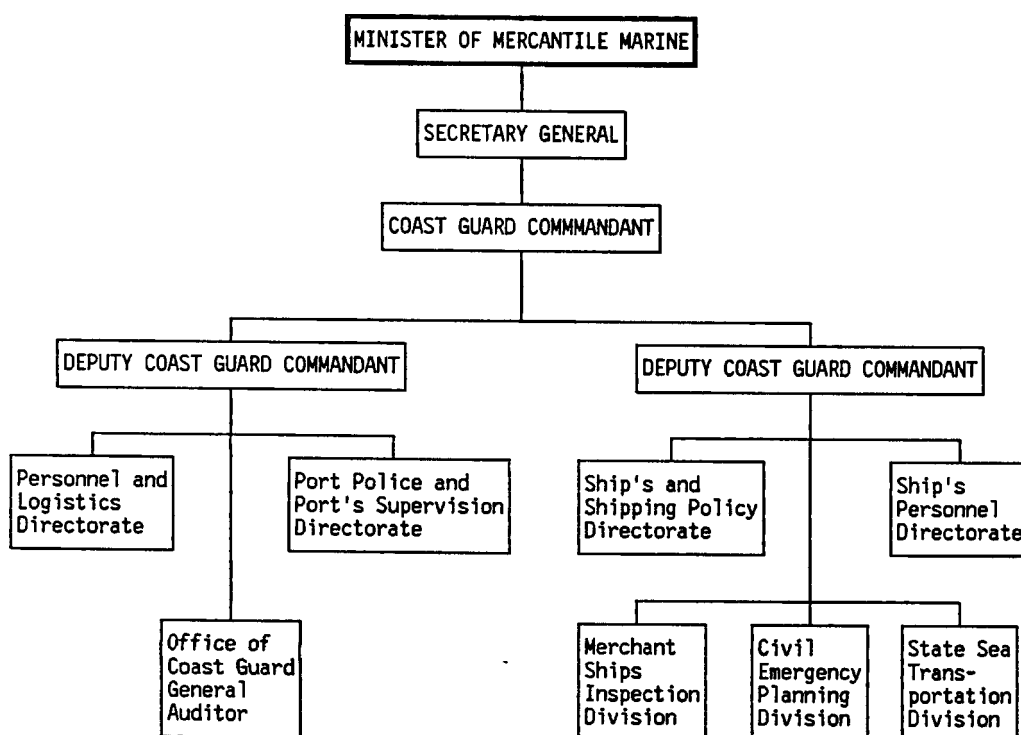


Fig.VII-G: Organization of the Greek Ministry of Mercantile Marine.

All MARAD functions in Greece are performed by a single ministry, the Ministry of Mercantile Marine. The Ministry, established expressly to administer Greek shipping is composed totally of Hellenic Coast Guard (H.C.G.) officers and men, with the exception, that is, of the Minister of Mercantile Marine himself, who is politically appointed to his post. Directly under the minister is the Commandant of the HCG who acts as principal adviser to the minister on planning, designing, and implementing Greek government policies on the mercantile marine.

The Ministry administers every aspect of shipping to include, inter alia, ships, seamen, pre-training, training, post-training, ports, safety, security, health, insurance, pensions, tugs, and pilots. The Ministry even administers a social security system for the mercantile marine. Coast Guard officers also act as harbor masters.

HCG officers are assigned as maritime attachés in major cities and ports around the world to monitor Greek-flagged ships, their activities, working conditions, compliance with policies and regulations, to render assistance if same is needed, and to coordinate maritime relations and affairs with the country, city, or port in which they are serving. The Greek delegation to IMO is always headed by an HCG officer with representatives of the Greek maritime sector as members.

↑ Rear Admiral E. E. Mitropoulos, retired from the Hellenic Coast Guard and currently serving as Director of the Maritime Safety Division of the International Maritime Organization, describes the Greek set-up as "unique," seeing as it is not common for a whole ministry to be created singly for shipping. Shipping, however, cannot afford delays and the Greek maritime sector takes the maxim "time is money" seriously. The fact that a military organization administers Greek shipping means the implementation of shipping policy and the availability

and readiness to respond to any contingency or implement shipping policy on a 24-hour basis, possible from a civilian organization only at tremendously high and great cost."

While the Greek model offers a unique and efficient organization of MSA functions, the creation of a virtually military ministry would most probably be impossible in the Philippines in view of the fact that there still exists some residual wariness towards military involvement in civilian government. It is nevertheless an excellent example of how a military organization can be utilized to achieve efficiency in maritime safety administration. This particular model was, in fact, used by the PCG as one of the bases for developing the PCG Bill and justifying the need for the agency to retain its military character.

7.8. THE CHILEAN COAST GUARD

The model below is that of the Directorate General of the Maritime Territory and Merchant Marine in Chile. As is evident in the diagram, the Directorate General (or Coast Guard) comes under the Chilean Navy, thus serving as a kind of parallel to the PCG's experience in the Philippines. Unlike the PCG in the Philippines, however, the Chilean MSA is a highly specialized unit of the Navy which does not allow for the lateral assignment or rotation of personnel out of the Coast Guard. It demonstrates how the PCG's professionalization can still be made possible even if it were to remain a unit of the Navy. All maritime safety administration functions are consolidated within and exercised by the Directorate General.

"Efthimio E. Mitropoulos, Personal Interview, 13 April 1993.

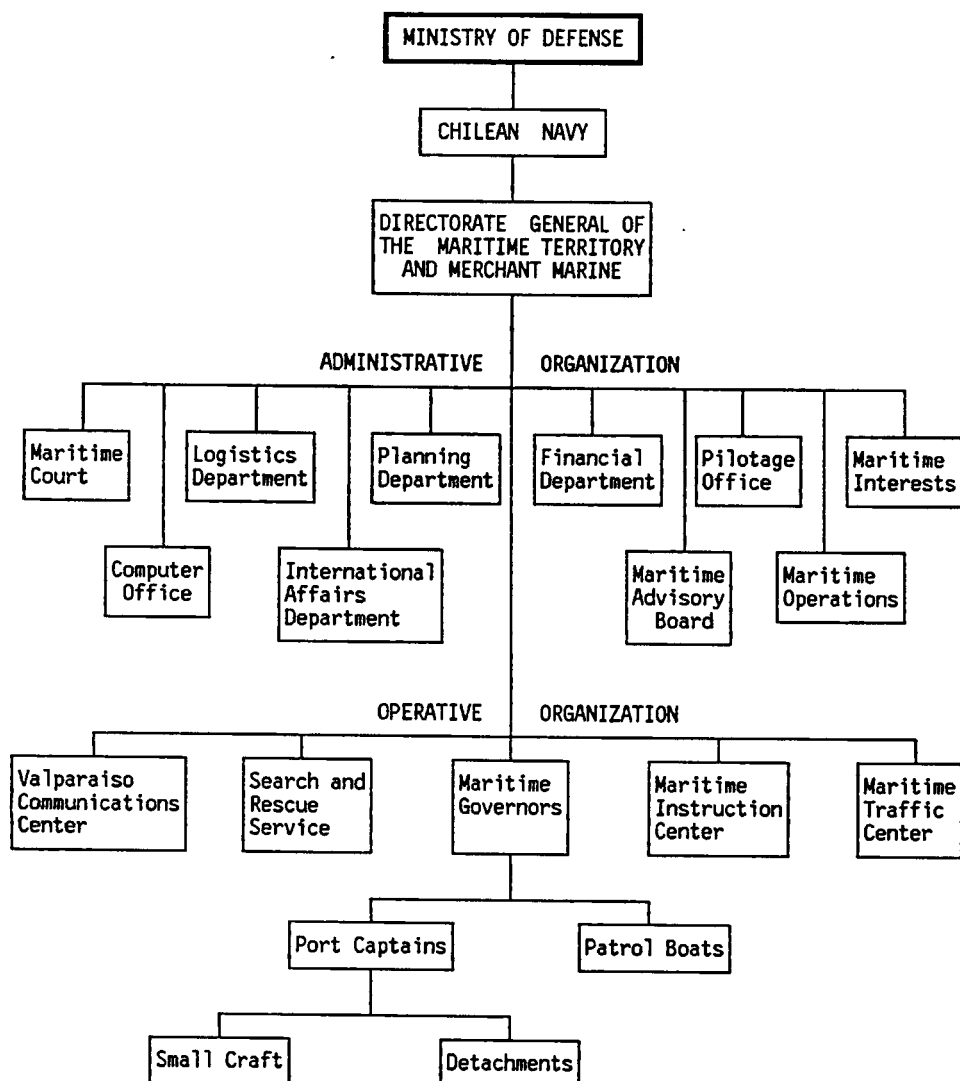


Fig.VII-H: Organization of the Directorate General of the Maritime Territory and Merchant Marine.

The Chilean Coast Guard's functions are:

1. maintain an efficient and dynamic maritime signalling system
2. monitoring maritime communications
3. control navigation in waters within the national jurisdiction
4. lend port and channel pilotage services
5. ensure compliance with national and international commitments as regards safety of navigation and

safety of life at sea

6. maintain permanent search and rescue units in different parts of the country
7. certification of seafarers
8. marine casualty investigation
9. prevention/control/combate of marine pollution
10. vessel registration
11. represent Chile in bilateral, regional, and international maritime fora

7.9. MARITIME SAFETY ADMINISTRATION IN GERMANY

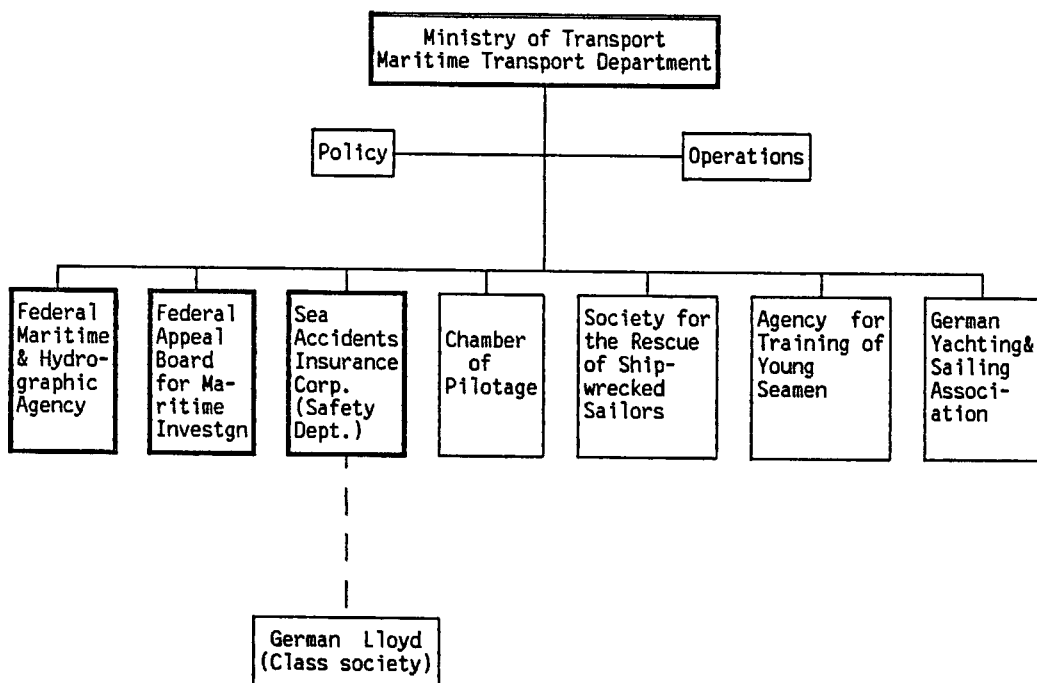


Fig.VII-I: Maritime Safety Administration in Germany.

The above diagram of the MSA in Germany shows how maritime safety administration functions can be dispersed throughout different separate and unconnected agencies. The Ministry of Transport as shown above merely acts as an overseer in the exercise of MSA functions by the different

agencies. The fact that the German MSA is efficient in spite of the fragmentation of functions among divergent agencies does not necessarily mean that such fragmentation is recommended in an MSA. A number of maritime administrations, even in developed countries such as those in Germany and Norway are actually irrationally organized, with numerous MSA functions dispersed among a number of uncolocated agencies. Some agencies, such as the commercial Sea Accidents Insurance Corporation in Germany or the Ministry of Justice in Norway, would otherwise not have anything to do with the administration of maritime safety.

Officials in such administrations are the first to admit to the irrational organization or devolution of MSA functions. As to why such functions can be efficiently exercised in their countries, however, is explained by centuries of history and experience in working under such arrangements. In countries such as the Philippines, however, where maritime safety administration is still at a relatively early stage of development, the same mistakes need not be duplicated. It should instead attempt to benefit from the experiences of other administrations and look at the best options available.

While there are excellent models to be found in numerous developed countries, care must be taken in ensuring that relevant factors and differences in prevailing situations are considered. For instance, while the Nordic countries present an excellent collection of maritime safety administrations worthy of emulation, one must closely note factors such as population, development, and technology. The populations of the Nordic countries tend to be much smaller, their levels of economic development highly advanced, the nature of their maritime sector very technology-based and diverse. Otherwise, as noted earlier, the Philippines should take advantage of numerous existing administrations around the world which

have developed models, organizations, methods, and techniques in the furtherance of the efficient and professional administration of maritime safety. Taken as a whole or in part, these models may save any administration seeking to restructure its MSA or simply to improve its efficiency from costly mistakes.

CHAPTER 8

CONCLUSIONS AND RECOMMENDATIONS

Having thus examined the salient issues that pertain to the current state of maritime safety administration in the Philippines, this author wishes to offer the conclusions and recommendations that follow.

8.1. CONCLUSIONS

8.1.1. SEVERITY OF DEFICIENCIES

The situation obtaining in the current devolution of maritime safety administration functions is serious enough to threaten to reverse whatever gains the country has made in the maritime sector. The following deficiencies warrant serious concern and attention:

- The organization of the Philippine Coast Guard as a unit under the Philippine Navy disallows it from much-needed specialization and professionalization in maritime safety administration functions.
- A number of the existing national legislation either fragment the numerous MSA functions or expose them to conflicting interpretations.

8.1.2. NEGATIVE EFFECTS

The deficiencies in the current system of maritime safety administration in the Philippines make it virtually impossible for the Coast Guard or the MARINA to efficiently, professionally, and competently deliver services necessary to ensure the safety of life and property at sea.

The same deficiencies have also resulted in a dearth of expertise in government for the maritime administration necessary to effectively represent the best interests of

the maritime sector and the sea-travelling public.

8.1.3. URGENCY FOR REFORM

Reform in the present system of maritime safety administration is urgent in view of the Philippines' archipelagic nature, seafaring tradition, and position in international maritime industry. It is also necessary in view of the contribution of the maritime sector to the Philippine economy, the volume of passenger traffic and frequency of maritime accidents in the Philippines, and the country's international maritime obligations.

8.1.4. NEED TO SERVICE INTERNATIONAL MARITIME COMMITMENTS

There is a need to reverse the apparent growing indifference in government towards developments at the International Maritime Organization and at other multilateral maritime fora. As a nation with high stakes in the international maritime trade, the Philippines needs to have a voice in international fora to protect and enunciate its interests. The Philippines specifically needs to be present whenever standards are being formulated or revised at IMO.

As the world's biggest supplier of maritime labor, the Philippines has a moral obligation to contribute and share its experience towards the improvement of safety at sea. With 80% of maritime casualties attributable to the human factor, there is much that Filipino seafarers can contribute. The debate, for instance, on the effects of substituting humans with machines on board ships could have been served well with input from the country that supplies 20% of international maritime labor. Speaking on the importance of considering the views of seafarers when revising or improving maritime safety standards, Professor Richard Goss once mentioned at an international symposium that the achievement of the optimal level of maritime safety could "commence by examining who might be

affected by any proposed changes in the level of safety, whether those are achieved by having different regulations, different levels of enforcement or different levels of motivation and morale amongst those serving on the ships."⁷⁸ Active Philippine participation at IMO and other standard-setting maritime conferences would ensure that the views of those "who might be affected" are, at the very minimum, put forward and heard.

8.2. RECOMMENDATIONS

8.2.1. CONSOLIDATE ALL MSA FUNCTIONS

Crucial to rectifying the deficient system of maritime safety administration in the Philippines is the consolidation of all MSA functions into one maritime safety agency. The present status of MSA functions is that a number of functions have been taken away from the maritime safety agency (PCG) and transferred to another agency which is neither ready nor equipped to exercise such functions (MARINA). Complicating matters is the entry of yet another agency, alien to maritime administration, that is attempting to take over other MSA functions (MARICOM).

The situation can best be accomplished through legislation specifically realigning all the maritime safety functions. Such a proposal is further recommended in 8.2.3. below.

8.2.2. COLLOCATE ALL AGENCIES RELATED TO MARAD

The other crucial element necessary to professionalizing the administration of maritime safety is the placement of the MSA and the MIDA in the same cabinet department, preferably in the department which is

⁷⁸Richard O. Goss, "Economics and Maritime Safety," Paper presented at NAV '92: International Symposium on Ship and Shipping Research, September 1992, p.2.

responsible for shipping. In the Philippine case, it is the Department of Transportation and Communications. The PCG's military organization is totally compatible with its duties of ensuring maritime safety even under the DOTC. In fact, in numerous countries such as Greece and Latin America, maritime safety functions are performed efficiently by military (coast guard) organizations.

Moving the PCG out of the defense establishment eliminates the need for it to compete for limited military resources, and would allow it a more suitable budget under a more cognizant cabinet department. The PCG under the DOTC would be an organization performing purely maritime safety functions thereby enabling it to take advantage of opportunities for foreign technical assistance (in terms of both equipment and training) that come with "non-military use" clauses or conditions. Additionally, creating the PCG as a separate service under the DOTC would free its personnel from the AFP's rotation policies, thus allowing specialization in maritime safety. Finally, a review of the early history of the PCG reveals that it was first created in 1901 as the Bureau of Coast Guard and Transportation, thereby showing at the outset that its affairs are closely linked with transportation and not naval defense.

As in the first recommendation, the passage of appropriate legislation would best effect the collocation of the PCG and MARINA under DOTC.

8.2.3. PUSH FOR THE PASSAGE OF THE PCG BILL

The passage of the PCG Bill would fulfill both of the two previous recommendations to consolidate all MSA functions and collocate the MSA and the MIDA under one department. The Bill is in itself a model which was carefully studied and developed for the comprehensive reform and rationalization of Philippine maritime safety administration. It is the model and approach that the

author wishes to advocate and one which he believes would allow the process of professionalization and specialization in the MSA to commence.

8.2.4. REFORM THE SEAFARERS EXAMINATION SYSTEM

Once the examination and certification function is realigned with the MSA, a complete overhaul of the examination system should be considered. The present system is suspected of occasionally resulting in the certification of unqualified seafarers or of the inadequate evaluation of seafarers' qualifications. Different systems should be considered in determining the suitability, applicability, and effectivity of examination and evaluation systems.

8.2.5. PUSH FOR PCG AUTONOMY

While awaiting passage of the PCG Bill, the PCG should already be allowed to commence its specialization by granting the agency autonomy under the Navy. Under an autonomous unit, personnel will be able to concentrate on enhancing skills in the exercise of MSA functions; the Coast Guard Training Center can further institutionalize training in coast guard work and eventually allow for the PCG's smooth transition from the defense establishment to the DOTC.

Just as importantly, the early grant of PCG autonomy will prepare the agency to exercise its MSA functions efficiently and professionally even if it remains within the Navy, should the proposed PCG Bill fail to be enacted into law.

8.2.6. INCREASE AWARENESS AND ENCOURAGE RESEARCH AND TRAINING IN MARITIME AFFAIRS

The key to effective maritime safety administration lies in increasing awareness and encouraging expertise in maritime affairs. This could be achieved by

sponsoring a national maritime association such as the Philippine Maritime Foundation (popularly known as the Maritime League) which publishes an Annual Review of Philippine maritime affairs. Such a foundation could serve as a mechanism to draw together local maritime sector expertise and experience which may form a strong research base on maritime issues. It could also lead efforts to further increase awareness of vital issues in Philippine maritime affairs.

The training of MARAD officials at institutions of advanced learning in maritime affairs and administration should be encouraged. The courses at the World Maritime University (WMU) in Malmö, Sweden, provide a unique and excellent opportunity to train officers in employing administration and management skills within an environment emphasizing compliance with international safety standards. For officers of the Philippine Coast Guard, the Maritime Safety Administration courses at WMU present an opportunity to undergo an advanced course in a discipline not offered in any other institution in the world. In the local setting, graduate courses in Shipping Management and Maritime Education and Training are also now available at the Philippine Merchant Marine Academy.

8.2.7. MAINTENANCE OF A PERMANENT AND TECHNICALLY COMPETENT PRESENCE AT IMO

The assignment of an expert, or better yet, a team of experts in maritime affairs to London to service Philippine interests at IMO is not only desirable, it is necessary and urgent. The establishment of a permanent presence at IMO seems at the outset an expensive proposition. In view of the Philippines' stakes and interests in international maritime transportation, however, it actually makes prudent financial sense to invest in maintaining a competent presence at IMO. At present, the Philippines relies on its embassy staff in

London to protect and further its interests at IMO. Embassy officials, who are professional diplomats, are neither competent nor aware of the priority of maritime affairs for the Philippines. Therefore, the present arrangements are ineffective for the Philippines. On the other hand, a fallacious impression is created when IMO documents concerned list the Philippines as having attended various meetings. The lack of a permanent and technically competent presence at IMO is truly unfortunate in the face of the Philippines' vital interests in international sea-borne trade as well as its potential to contribute to pressing questions on maritime safety and maritime labor issues.

The above conclusions and recommendations do not touch upon all of the maritime issues but highlight those which, in the author's humble view, are the most pressing issues regarding maritime safety administration in the Philippines, as discussed through the course of the paper. Even from the beginning, this paper did not have the objective of providing all the answers to the MSA dilemma precipitating the exhaustive overhaul of MARAD in the Philippines. Rather, if the paper has contributed to increasing awareness of the need to address urgently the basic flaws and deficiencies in the way one of the most important sectors of the national economy -- the maritime sector -- is presently administered in the Philippines, its objective is considered to have been met.

APPENDIX A

MARITIME SAFETY ADMINISTRATION IN THE PHILIPPINES CHORONOLOGY

- 1901 Pursuant to Philippine Commission Act 266 the Bureau of Coast Guard and Transportation is created under the Department of Commerce. The new bureau is tasked with the administration of shipping and the promotion of sea safety.

The bureau is divided into the Lighthouse Service and the Revenue Cutter Service, the former being tasked with the construction, operation, and maintenance of lighthouses, with the latter being responsible for coastal patrol.

- 1905 Pursuant to PCA 1407 the Bureau of Coast Guard and Transportation is renamed the Bureau of Navigation.

- 1915 Pursuant to PCA 2308 the Bureau of Navigation is abolished and its functions are distributed between the Bureau of Public Works and the Bureau of Customs.

- 1915- Coast Guard functions are taken over by different
1967 agencies. Lighthouse administration is transferred to the Philippine Navy.

- 1967 Due to the advent of industrialization and a burgeoning maritime industry, the Philippine Congress passes and enacts RA 5173 creating the Philippine Coast Guard. The Coast Guard, absorbing with it the Lighthouse Service, is created as one of the major units of the Philippine Navy and is organized in its present form.

- 1974 PD 474 creates the Maritime Industry Authority (MARINA).

PD 601 attempts to revise RA 5173 and consolidate MSA functions; its implementation is suspended.

PD 602 creates the National Operation Center for Oil Pollution under the Philippine Coast Guard.

- 1976 PD 1064 formally transfers the Bureau of Customs' MSA functions of vessel inspection, documentation, and registration to the PCG.
- PD 704 transfers functions of inspection and registration of fishing vessels to the PCG.
- 1978 PD 1521 makes PCG responsible for the documentation of ship mortgages.
- 1987 EO 125 and EO 125-A reorganizes the DOTC. The function of navigational aids infrastructure development is transferred from the Bureau of Public Works to the DOTC. The functions of vessel inspection, documentation and registration; vessel safety regulation; licensing of seamen and harbor pilots; issuance of SSRBs; accreditation of marine surveyors; and issuance of certificates of competency are transferred from PCG to MARINA.
- The Cebu-Manila passenger ferry *Dofia Paz* collides with an oil tanker resulting in the biggest shipping disaster in history in terms of human lives lost.
- 1990 RA 6975 creates the Philippine National Police transferring all of the PCG's "police functions" to its MARICOM.
- 1991 After conferring with representatives of Congress, the Department of Defense, and the Armed Forces of the Philippines, the Shipping and Ports Advisory Council (SPAC) passed Resolution 02-91 recommending the separation of the Coast Guard from the Philippine Navy.
- 1992 Autonomy for the PCG is approved by the Navy but its implementation is suspended indefinitely.
- 1993 Different versions of a bill proposing to create the Coast Guard as a service under the DOTC are filed in both the Upper and Lower Houses of Congress.

APPENDIX B

Republic Act 5173, Presidential Decree 601, Executive Order 125-A, and the Proposed PCG Bill

What follows are extracts of three laws and a bill pending in both houses of Congress that are of major significance (past, present, and future) to maritime safety administration in the Philippines:

- RA 5173 which created the Philippine Coast Guard,
- PD 601 which sought to realign dispersed MSA functions and address the PCG's organizational dilemma,
- EO 125-A which realigns specific MSA functions from the Philippine Coast Guard and the Professional Regulation Commission to the Maritime Industry Authority, and
- the proposed PCG Bill which, if passed, will create the Coast Guard as a service under the Department of Transportation and Communications, therein consolidating as well all of the erstwhile fragmented MSA functions.

In presenting RA 5173, PD 601, EO 125-A, and the PCG Bill, the author has taken the liberty of rearranging them in such a way that paragraphs and sections do not necessarily succeed each other in alphabetical or numerical order. They have been placed side-by-side in a manner as to hopefully allow easier comparison of relevant provisions as well as modifications, additions, and deletions thereto.

SEC.1. TITLE

SEC.4. ADMINISTRATION AND
OPERATION -

The PCG shall be placed under the direct supervision and control of the the Secretary of National Defense.

SEC.1. GENERAL OBJECTIVES:

- (a) enforce/assist in enforcement of all applicable laws upon the high seas and waters subject to Philippine jurisdiction;
- (b) enforce laws, promulgate and administer regulations for the promotion of safety of life and property w/in the Philippine's maritime jurisdiction;
- (c) develop, establish, maintain and operate, w/ due regard to the rqmts of national defense, aids to maritime navigation and rescue facilities for the promotion of safety on and over the high seas and waters subject to Phil. jurisdiction.

SEC.2. GENERAL OBJECTIVES:

- (a) enforce/assist in enforcement of all applicable laws upon the high seas and territorial waters of the Phils incl. all ports, customs zones, waterways, and other inland waters;
- (b) enforce laws, promulgate and administer regulations for the promotion of safety of life and property w/in the Philippine's maritime jurisdiction;
- (c) develop, establish, maintain and operate, w/ due regard to the rqmts of national defense, aids to maritime navigation for the promotion of safety on and over the high seas and territorial waters subj to Phil. jurisdiction;
- (d) promulgate, administer, and enforce rules and regulations for national search and rescue operations, operate rescue facilities and participate in behalf of the Philippine government in international

EO 125-A

PCG BILL

SEC.3. Sec.14 of EO 125
is hereby renumbered as
Sec.12 and amended to
read as follows:

Section 12. Maritime
Industry Authority. The
MARINA is hereby retained and
shall have the following
functions:

- (a) develop and formulate plans, policies, programs, projects, standards, specifications, and guidelines geared toward the promotion and development of the Maritime Industry, the growth and effective regulations of shipping enterprises, and for the national security objectives of the country;
- (b) establish, prescribe and regulate routes, zones and/or areas of operation of particular operators of public water services;
- (c) issue Certificate of Public Convenience for the operation of domestic and overseas water carriers;
- (h) determine, fix and/or prescribe charges and/or rates pertinent to the operation of public water transport utilities, facilities and services except in cases where charges or rates are established by international bodies or assoc. of w/c

SEC.1. TITLE

SEC.2. ESTABLISHMENT AND
TRANSFER

- (a) The Philippine Coast Guard is hereby established as a separate and distinct Major Service from the Philippine Navy;
- (b) PCG is hereby transferred from the Dept. of Nat'l Defense to the Dept of Transportation & Communications as an attached agency.

SEC.3. PCG POWERS & FUNCTIONS

- (e) enforce or assist in the enforcement of all applicable laws, rules and regulations upon the high seas, territorial waters and other waters subject to Philippine jurisdiction;
- (a) enforce laws, promulgate & administer regulations, and develop and maintain capabilities for the promotion of safety of life and property within Phil. maritime jurisdiction;
- (b) develop, maintain, and operate aids to maritime navigation and hydrographic services for the promotion of safety on and over the high seas and territorial waters of the Philippines;
- (c) develop capabilities and conduct maritime search and rescue operations;
- (g) participate, in behalf of the Phil.Govt., in international and regional maritime cooperations towards

RA 5173

PD 601

conferences for regional cooperation relative to the promotion of life and property at sea;

(e) provide necessary assistance to govt agencies promoting the economic devpt of the maritime industry of the Philippines;

(f) enforce laws, promulgate and administer regulations for marine environmental protection of Philippine territorial waters.

SEC.2.BOARD OF VISITORS -
A Board of Visitors is created...

SEC.3.ABOLITION OF BOARD OF VISITORS -

SEC.3.SPECIFIC FUNCTIONS:

SEC.5.SPECIFIC FUNCTIONS:

- (a) prevent and suppress illegal entry, smuggling, other customs frauds and violations of other maritime laws committed w/in waters subj to Phil. jurisdiction, and for this purpose PCG surveillance may be made on vessels entering and/or leaving Philippine Territory;
- (b) assist in suppression of fishing by means of dynamite, explosives or

- (a) prevent and suppress illegal entry, illegal fishing, illegal gathering of corals and other marine products, smuggling, other customs frauds and violations of other maritime and fishery laws committed w/in waters subj to Phil. jurisdiction, and for this purpose PCG surveillance may be made on vessels entering and/or leaving Phil. Territory; provided, that any other

EO 125-A

the Phils. is a participating member or by bodies or assocs. recognized by the Phil. Govt. as the proper arbiter of such charges or rates.

PCG BILL

maritime safety and marine environmental protection;

- (d) enforce laws, promulgate and administer rules and regulations and develop and maintain capabilities for the protection of the marine environment and resources of the territorial waters and EEZ of the Phils.;
- (f) assist in the promotion and preservation of the nat'l security and territorial integrity of the Phils.;

SEC.4. SPECIFIC FUNCTIONS:

- (a) promulgate and enforce maritime rules and regulations for the promotion of safety of life and property at sea;
- (r) assist other govt agencies, in the performance of their law enforcement functions against seajacking, piracy, illegal entry, illegal fishing, illegal gathering of corals and other marine products, smuggling and other frauds and violations that may be committed w/in Phil. waters, and for this purpose, surveillance, boarding and inspection by the PCG may be made on vessels entering or leaving

toxic substances or other methods as may be declared destructive by the proper authorities;

- (c) promulgate and enforce rules for lights, signals, speed, steering, sailing, passing, anchorage, movement, and towlines of vessels and lights and signals on bridges;

- (d) approve plans for the construction, repair, or alteration of vessels; approve materials, eqpt and appliances of vessels; approve the classification of vessels; inspect vessels and their eqpt and appliances; register all types of motorized watercraft plying in Phil. waters; issue certificates of inspection and of permits indicating the approval of vessels for operation; issue certificates of Philippine registry of vessels; administer load line requirements; promulgate and enforce other provisions for the safety of life and property on vessels; determine the numbering of undocumented vessels; Provided, that certification and approval of any

law enforcement agency may be called upon by the PCG to render assistance in the discharge of these functions;

- (c) promulgate and enforce rules for lights, signals, speed, steering, sailing, passing, anchorage, movement, and towlines of vessels and lights and signals on bridges; supervise, control and regulate vessels engaged in the carriage of passengers and dangerous cargo; and regulate the length, method and speed of tows in bays and rivers of the Phils.;

- (b) approve plans for the construction, repair, or alteration of vessels; approve materials, eqpt and appliances of vessels; approve the classification of vessels; inspect vessels and their eqpt and appliances; register all types of motorized watercraft plying in Phil. waters; issue certificates of inspection and of permits indicating the approval of vessels for operation; issue certificates of Philippine registry of vessels; administer load line requirements; promulgate and enforce other provisions for the safety of life and property on vessels; determine the numbering of undocumented vessels; Provided, that certification and approval of any

EO 125-A

PCG BILL

Phil. waters. In the performance of these functions, members of the PCG shall act as law enforcement officers of such agencies;

(f) enforce laws, prescribe and enforce rules and regulations, including penalties for violations thereof, governing water transportation and the Phil. Merchant Marine, and deputize the PCG and other law enforcement agencies to effectively discharge these functions;

(d) register vessels as well as issue certificates, licenses or documents necessary or incident thereto;

(e) undertake the safety regulatory functions pertaining to vessel construction and operation including the determination of manning levels and issuance of certificates of competency to seamen;

(c) register Phil. vessels and to collect tonnage fees; until such time that the Phil. Maritime Safety Authority prescribed in Sec.5 hereof is established, to approve plans for the construction, repair, or alteration of vessels; to undertake or approve the classification of vessels; to issue certificates to Phil. registered vessels; and to administer load line requirements for the promotion of safety of life and property at sea;

(d) make inquiries, visits, examinations, and inspection on vessels on waters subj to Phil. jurisdiction for the promotion of safety of life and property at sea and for marine environmental protection;

plans, eqpt and any vessel by internationally known classification societies recognized by the Phil. Govt. shall be deemed to have complied with this section;

- (e) issue licenses and certificates to officers, pilots, major and minor patrons and seamen, as well as suspend and revoke such licenses and certificates;
- (h) enforce laws requiring the performance of duties of shipowners and officers after accidents;
- (f) investigate marine casualties and disasters including those arising from marine protests filed w/ the Bureau of Customs relative to the liability of shipowners and officers;
- (g) enforce laws, rules, and regulations governing manning, citizenship and mustering and drilling of crews; requirements, control of logbooks, shipment, discharge, protection, and welfare of merchant seamen;
- (i) prescribe and enforce regulations for outfitting and operation of motorboats and the licensing of motorboat operators;

plans, eqpt and any vessel by internationally known classification societies recognized by the Phil. Govt. shall be deemed to have complied with this section;

- (k) qualify officers, pilots, major and minor patrons and seamen, through proper examinations and issue licenses and certificates in accordance with the rules and regulations prescribed by the Commandant, PCG;
- (m) enforce laws and promulgate rules and regulations requiring performance of duties of shipowners and officers after accidents and investigate marine casualties and disasters including those arising fm marine protests relative to the liability of shipowners and officers;
- (j) enforce laws and promulgate rules and regulations governing manning of merchant vessels and fishing boats, citizenship and mustering and drilling of crews; requirements, control of logbooks, shipment, discharge, protection, and welfare of merchant seamen;
- (d) prescribe and enforce regulations for outfitting and operation of motorboats and the licensing of motorboat operators;

- (g) undertake the issuance of licenses to qualified seamen and harbor, bay and river pilots;
- (j) issue and register the continuous discharge book of Filipino seamen;
- (*) the Maritime Training Council's function of issuing certificates of competency to seamen under LOI 1104 is hereby transferred to MARINA (n.b., this particular paragraph belongs to Section 4 of EO 125-A, appearing as paragraph (e) thereof).
- (k) qualify harbor pilots, ship officers, and seafarers through proper examinations; to issue their licenses, certificates and Seaman Service Record Books and to suspend or revoke such licenses, certificates and Seaman Service Record Books in accordance w/ prescribed rules and regulations;
- (h) investigate marine accidents, including all marine protests relative to the responsibility and liability of shipowners and officers and to impose administrative sanctions appertaining thereto;
- (i) enforce laws and promulgate and enforce rules and regulations governing the manning of Phil. registered vessels;
- (e) promulgate and enforce rules and regulations in the construction, outfitting, manning, documentation and operation of

(j) regulate regattas and marine parades;

(k) render aid to distressed persons or vessels on the high seas and on waters subj to Phil. jurisdictn; PCG may perform any and all acts necessary to rescue and aid persons; furnish clothing, food, lodging, medicine and other necessary supplies and services to persons succored; protect, save, and take charge of all property saved from marine disasters until such property is delivered to persons authorized to receive it or is otherwise disposed of in accordance w/ law or applicable regs; and collect and take charge of bodies of those who may perish in such disasters;

(l) develop, establish, maintain, and operate aids to maritime navigation; in performance of these functions, PCG is authorized to destroy or tow in port sunken or floating dangers to navigation;

(o) regulate regattas and marine parades;

(n) render aid to distressed persons or vessels on the high seas and on waters subj to Phil. jurisdictn; PCG may perform any and all acts necessary to rescue and aid persons; furnish clothing, food, lodging, medicine and other necessary supplies and services to persons succored; protect, save, and take charge of all property saved from marine disasters until such property is delivered to persons authorized to receive it or is otherwise disposed of in accordance with law or applicable regulations; and collect and take charge of bodies of those who may perish in such disasters;

(f) establish, develop, operate and maintain aids to navigation and facilities for search and rescue operations as well as prescribe rules and regulatns relative thereto;

(e) to destroy or tow in port sunken or floating dangers to navigation, incl fish traps at or close to sea lanes, and to issue permits for salvage of vessels and to supervise all marine salvage operations as well as prescribe and enforce

motorboats and pleasure craft not required to be issued Certificate of Phil. Registry;

(b) render aid to distressed persons and vessels on the high seas and waters subj to Phil. jurisdiction; to frunish clothing, food, lodging, medicines and necessary supplies and services to persons succored; and to take appropriate actions on remains of those who may have perished;

(1) develop, establish, operate and maintain aids to navigation facilities and collect aids to navigation dues for this purpose from users thereof;

(g) regulate salvage operations and destroy or remove hazards to navigation in order to promote safety of life and property at sea towards maritime safety and marine environmental protection;

rules and regulations governing the same;

(m) supervise nautical schools w/ reference to activities relative to navigation, seamanship, marine eng'g and other allied matters, in coordination w/ the Dept. of Education;

(h) supervise nautical schools and maritime training programs and prescribe minimum reqmts in the conduct of courses in navigation, seamanship, marine eng'g and other allied matters, in coordination w/ the Dept. of Education & Culture;

(i) establish, maintain and operate a Seaman's Training Center for the training of seafarers for employment aboard inter-island and ocean-going vessels, and in this connection, to establish, maintain, and operate a registration and placement unit or office for the administration of seamen's affairs;

(l) prescribe rules and regulations for the training and certification of unlicensed merchant marine personnel and selected skills in the shipbuilding industry;

(p) enforce laws, promulgate and administer rules and regulations for the prevention of marine pollution w/in Phil. territorial waters in coordination w/ the Natl Pollution Control Comm.;

(n) perform functions pertaining to maritime

(q) perform functions pertaining to maritime

- (j) administer training and development of seafarers, supervise nautical schools and maritime training centers and prescribe standards in the conduct of training in navigation, seamanship, marine engineering and other allied courses in coordination with the Dept. of Education, Culture and Sports;
- (i) accredit marine surveyors and maritime enterprises engaged in shipbuilding, shiprepair, shipbreaking, domestic and overseas shipping, ship management and agencies;
- (m) develop, establish, operate and maintain marine environmental protection facilities;
- (n) enforce laws, and to promulgate and enforce rules and regulations for the prevention of marine pollution within the Phil. territorial waters and EEZ; and to impose administrative penalties on Phil. flag vessels violating pollution laws of other states;
- (f) promulgate and enforce rules and regulations on

RA 5173

communications not specifically delegated to some other office or dept.; and

PD 601

communications in coordination w/ the Radio Control Office and other cognizant agencies, particularly the rgmts of int'l conventions on Safety of Life at Sea (SOLAS) as regards maritime communications;

- (r) control, operate and manage all privately-owned ships, barges and other watercraft of Phil. registry relative to movement of strategic materials as the national security and economic interest of the country may warrant or as ordered by the President of the Phils. or his duly-designated representative;
- (s) enforce laws and prescribe rules and regulations relative to vessels engaged in the barter trade as provided in Presidential Decree No. 93;
- (t) exercise exclusive jurisdiction over seizure proceeding against vessels apprehended for violation of PCG rules and regulations;

EO 125-A

PCG BILL

maritime communications to
promote safety of life and
property at sea;

(o) impose administrative penalties for maritime violations and offenses incurred within Phil. territorial waters as well as violations of Phil. Flag vessels in foreign and int'l waters without prejudice to the civil liability of the offender in accordance with existing laws;

(p) promulgate, administer and enforce rules and regulations giving effect to the provisions of intl treaties

RA 5173

PD 601

PCG BILL

conventions, protocols, and municipal laws for the safety of life and property at sea;

- (q) represent the Phil. government in int'l and regional maritime fora for the promotion of int'l and regional cooperation; for this purpose, the PCG shall collect int'l tonnage fees for Phil. registered vessels in the int'l trade to take care of Phil. obligations to the International Maritime Organization;
- (s) organize, train and supervise the Phil. Coast Guard Auxiliary for the purpose of assisting in conducting search and rescue, marine environmental protection, aids to navigation and such other activities that enhance civil relations to include civic action, youth development and related activities;
- (t) maintain and operate all gov't vessels above 100 tons not otherwise assigned to the Phil. Navy, except tug boats and dredges used by the Phil. Ports Authority; in such case, the operations shall be solely for the mission of the agency concerned except that the PCG may utilize the vessel for search and rescue purposes when not on actual mission;
- (u) perform hydrographic survey and charting functions and to unify the shipping safety information system for mariners under one system.

(o) assist w/in its capabilities and upon the request of the approp. authorities, other Govt agencies in the performance of their functions, w/in the waters subj to Phil. jurisdiction relating to matters and activities not specifically mentioned in this sec.; Provided, that in the exercise of these functions, PCG personnel shall be deemed as acting as agents of the particular dept., bureau, office, agency or instrumentality charged with the enforcement and administration of the particular law. Members of the PCG are peace officers for all purposes of this Act and shall be, and shall act, as law enforcement agents of the Bureau of Customs, the Bureau of Immigration, and the Bureau of Internal Revenue, the Fisheries Commission, and such other depts., bureau or offices in the enforcement of pertinent laws, rules and regulations.

SEC.4. ORGANIZATION AND ADMINISTRATION

(u) assist w/in its capabilities and upon the request of the approp. authorities, other Govt agencies in the performance of their functions, w/in the waters subj to Phil. jurisdiction relating to matters and activities not specifically mentioned in this sec.; Provided, that in the exercise of these functions, PCG personnel shall be deemed as acting as agents of the particular dept., bureau, office, agency or instrumentality charged with the enforcement and administration of the particular law. Members of the PCG are peace officers for all purposes of this Decree and shall be, and shall act, as law enforcement agents of the Bureau of Customs, Bureau of Fisheries & Aquatic Resources, the Commission on Immigration and Deportation, the Bureau of Internal Revenue, the Natl Pollution Control Commission, the Radio Control Office, and such other depts., bureau or offices in the enforcement of pertinent laws, rules and regulations.

SEC.6. ORGANIZATION

EO 125-A

PCG BILL

- (k) establish and prescribe rules and regulations, standards, and procedures for efficient and effective discharge of the above functions;
- (l) perform such other functions as may now or hereafter be provided by law;

SEC.5. ORGANIZATION

SEC.6. C O M M A N D A N D
ADMINISTRATION

SEC.7. PERSONNEL

SEC.8. CREATION OF THE PHILIP-
PINE MARITIME SAFETY
AUTHORITY

- (a) within two years from the effectivity of this Act, or

RA 5173

PD 601

PCG BILL

as the President may determine on recommendation of the Sec. of Transportation and Communications, a Philippine Maritime Safety Authority shall be established which will be a non-profit and non-stock corporation which will assume the following functions:

- (1) safety certification of all Phil. merchant vessels;
- (2) issue and administer regulations for the construction, repair, alteration and equipage of all Phil. registered vessels, in accordance with standards set by the PCG;
- (3) conduct annual or periodic surveys and inspections of all Phil. registered vessels and issue certificates prescribed in the Regulations consistent with international standards;
- (4) all other functions of the PCG on vessel safety construction, equipage and classification;
- (5) collect tonnage and other fees directly related to vessel safety inspection, documentation and compliance with intl standards;
- (6) provide the PCG all the publications and forms necessary to accomplish Port State Control on all vessels;
- (7) assist in the development of a single Philippine Classification Society;

RA 5173

PD 601

- (8) perform such other functions and duties as may be properly assigned by the Board of Governors

...

SEC.9. MARITIME CASUALTY
INVESTIGATION

(a) the Commandant shall *motu proprio* institute such investigation as may be necessary to determine as closely as possible any misconduct, inattention to duty, negligence, any cause or contributing cause of any maritime casualty or circumstances of the offense, violation of law or regulation on maritime safety and marine environment protection resulting in any casualty or damage relative to the responsibility of shipowners and marine officers with the aim:

- (1) to determine the immediate cause of the accident;
- (2) to necessarily look and investigate further to determine the basic causes which led to the immediate cause, action taken to remedy these causes;
- (3) to determine the final result of an investigation and its causes to serve as lessons to be learned and basis for recommendations to appropriate agencies of the government;
- (4) to prevent the recurrence of similar accidents and in doing so improve

SEC.7. COMPOSITION OF THE
BOARD OF MARINE INQUIRY

BMI to be composed of five
members to be apptd by the
Sec. of Natl Defense upon
recommendation of Comdt,
PCG; composition:

- 1 PCG line officer w/ rank
of captain - Chairman
- 2 master mariners - members
- 1 chief engineer - member
- 1 member of the
Philippine Bar - member

safety of life at sea.

...

SEC.10. BOARDS OF MARINE
INQUIRY

(a) Boards of Marine Inquiry shall be established by the Commandant, PCG to conduct investigation of maritime accidents.

(b) The Boards of Marine Inquiry shall consist of the Board of Marine Inquiry, District Boards of Marine Inquiry located in the Coast Guard Districts and Special Board of Marine Inquiry designated by the Comdt, PCG in the absence of a duly constituted DBMI which shall perform and assume the jurisdictions and powers of the DBMI.

(1) BMI Composition:

Chmn - Dep. Comdt., PCG
Vice - PCG Capt. (line)
- 1 regular and 1
alternate Master Mariner
- 1 regular and 1
alternate Chief Engineer
- 1 law member

(2) DBMI Composition...

(3) SBMI Composition...

SEC.11. INTEGRATION OF THE
COAST AND GEODETIC
SURVEY (CGSD), NATL
MAPPING AND RESOURCE
INFORMATION AUTHORITY
(NAMRIA)

(a) The CGSD of the NAMRIA, including all its capital assets, equipment and existing budget, shall be transferred from the DENR within

SEC.8. ADMINISTRATION OF THE
PHILIPPINE MERCHANT
MARINE ACADEMY

The PMMA, created pursuant to RA 3680, to include its personnel funds, records, eqpt and other assets, is hereby placed under the administrative and operational control of the PCG. PMMA shall be headed by a Superintendent who shall be appointed by the SND upon the recommendation of the Comdt, PCG.

SEC.5. UNAUTHORIZED AIDS TO
MARITIME NAVIGATION

SEC.6. INTERFERENCE WITH AIDS
TO NAVIGATION

SEC.7. PENAL PROVISION

SEC.8. APPROPRIATION

SEC.9 UNAUTHORIZED AIDS TO
MARITIME NAVIGATION

SEC.10. INTERFERENCE WITH AIDS
TO NAVIGATION

SEC.11. PENAL PROVISION

SEC.12. APPROPRIATION

one year from the effect-
ivity of this Act under
terms and conditions as may
be determined by the Pres-
ident.

SEC.12.NATL EMERGENCIES

SEC.13.TRAINING

SEC.14.RELATION WITH OTHER
AGENCIES

SEC.15.TRANSITORY PROVISIONS

SEC.16.APPROPRIATION

(a)...

(b)The accrued income of the
PCG from its operations and
exercise of various regula-
tory functions shall be
declared as PCG Trust Re-
ceipts and... shall be uti-
lized only for the follow-
ing expenditures in an ap-
propriate budget as pres-
cribed in EO 1002, subject
to approval of SOTC:

(1) printing of forms

(2) supplies and services
related to the function

SEC.9. All laws, executive orders, rules and regulations and parts thereof inconsistent with this Act are hereby repealed.

8 August 1967
MANILA

SEC.13. All laws, decrees, orders, instructions, rules and regulations and parts thereof inconsistent with this Decree are hereby repealed and/or modified accordingly.

9 December 1974
MANILA

EO 125-A

PCG BILL

for which the fee or service is collected.

- (3) participation in intl organizations and commitments to include payment of annual assessment and dues to IMO and IALA and other intl /bilateral agreements, when funds for the same can not be fully covered in annual appropriations
- (4) maintenance of the IMO attaché post as prescribed under EO 612, when funds for the same cannot be fully covered in the annual appropriations.

SEC.17.ASSETS

SEC.23. All laws, ordinances, rules, regulations, other issuances or parts thereof which are inconsistent with this EO are hereby repealed or modified accordingly.

SEC.18. All Laws, Presidential Decrees, Executive Orders, Rules and Regulations or parts thereof contrary or inconsistent with this Act are hereby repealed or modified accordingly.

13 April 1987
MANILA

MANILA

APPENDIX C

**Republic of the Philippines
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS
OFFICE OF THE SECRETARY
SHIPPING AND PORTS ADVISORY COUNCIL**

RESOLUTION NO. 02-91

WHEREAS concerns have recently been expressed by Congress and media deploring the lack of personnel and quality of professional expertise in the Philippine Coast Guard;

WHEREAS, these concerns relate directly to the absence of a specific career field in maritime safety and other fields of expertise in the PCG;

WHEREAS, views have been expressed in the maritime sector that the organizational placement of the PCG is prejudicial to the interest of the industry;

WHEREAS, there is therefore need to enhance the professional training and development of personnel in the PCG which will help resolve some of those concerns;

NOW, THEREFORE, be it resolved, as it is hereby resolved that:

1. The Secretary of National Defense consider establishing the proper organizational placement of the Philippine Coast Guard and various steps proposed to professionalize the Coast Guard;
2. The Chief of Staff, Armed Forces of the Philippines and the Flag Officer in Command, Philippine Navy consider development of specific career fields for the Coast Guard specially for both officers and enlisted personnel, and increase in personnel especially those technically qualified;
3. The Civil Service Commission provide appropriate remedies to support the professional personnel requirements of the PCG to include civilian lawyers, Maritime Safety engineers and light keepers;
4. The Department of Justice assist the PCG in the increase and upgrading of civilian lawyers.

Approved this 26th day of September 1991.

JOSE R. VALDECAÑAS
Chairman

ATTESTED BY:

(SGD) ATTY. DAVID R. SIMON
Secretary

APPENDIX D

A COMPARATIVE SURVEY OF MARITIME SAFETY ADMINISTRATION IN DIFFERENT COUNTRIES

What follows in this Appendix is a comparative survey of maritime safety administration in different countries, namely

Japan
France
Germany
Greece
Spain
Chile
Indonesia
United States of America
Sweden
Denmark
Finland

The collection spans the range of possibilities in maritime safety administration, that is, from one that incorporates all functions in one cabinet department (the Greek Ministry of Mercantile Marine) to one where functions are distributed between numerous agencies belonging to different ministries (Norway).

Some of the MSAs in this survey are treated with some depth while some are represented only by their organizational diagrams. Taken as a whole, however, the survey should serve as a useful reference and should provide insight into how maritime safety is administered in a number of countries.

JAPAN

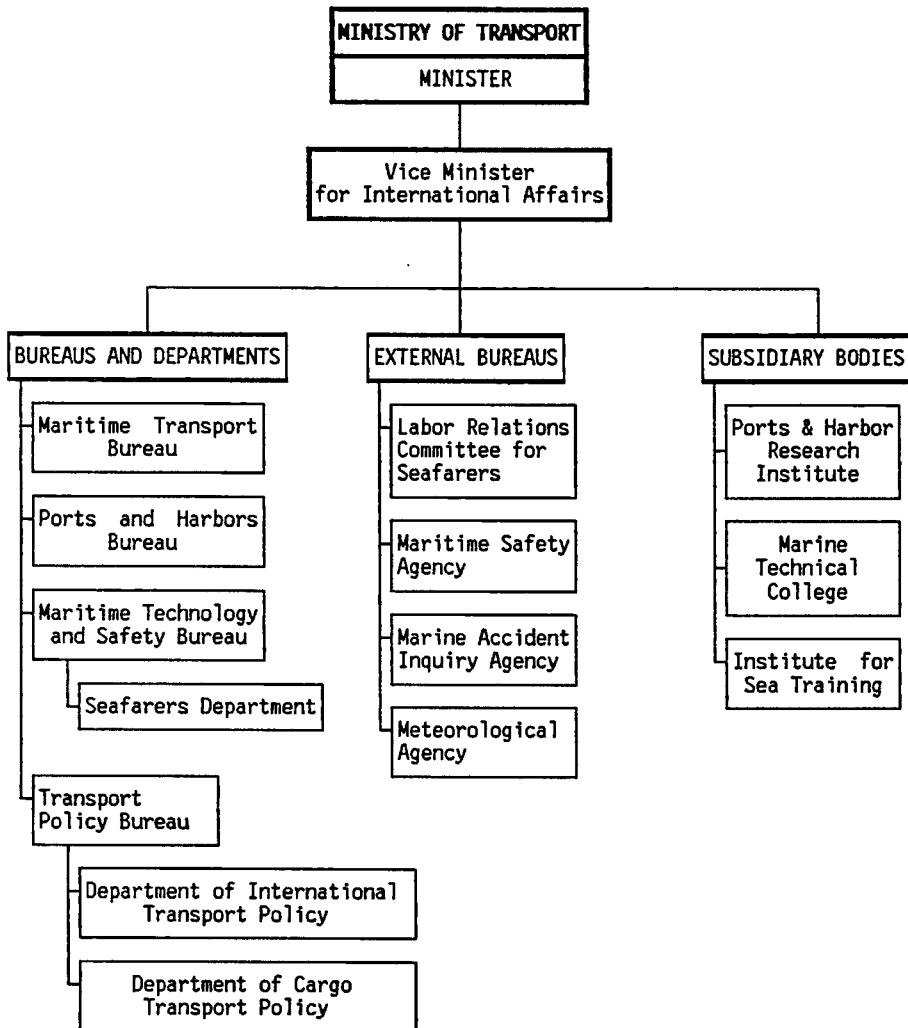


Fig.APP-A: Maritime Administration in Japan.

I. ADMINISTRATIVE STRUCTURE OF MARAD, INCLUDING MSA

Maritime Administration (MARAD) functions in Japan are performed by bureaux and allied offices under the Ministry of Transport (MoT). While there is no specific department or umbrella labelled "MARAD" under which all

bodies involved with maritime affairs are subsumed, at least all the substantive MARAD-related offices are within the same ministry. They are distributed throughout the same ministry, usually collocated with equivalent offices dealing with the administration of the other modes of transport (air, road, and rail). Above is an abbreviated version of the MoT organizational diagram showing the relationship of MARAD offices to MoT and to each other.

To aid the Minister of Transport, the MoT has three deputies namely, the Parliamentary Vice-Minister of Transport, the Vice-Minister of Transport, and the Vice-Minister for International Affairs. Of these, the Vice-Minister for International Affairs is charged with the summarization and organization of important clerical work related to international matters, including those pertaining to IMO and maritime transport.

Within the Ministry of Transport, MARAD-related offices are distributed among Bureaus and Departments, External Bureaus, and Subsidiary Bodies. Of the principal MoT bureaus, four are directly related to MARAD work. They are as follows:

- i. MARITIME TRANSPORT BUREAU - This bureau is in charge of policy making, planning, and coordination of maritime transport, and supervision of maritime businesses. This includes the development of oceangoing passenger ship and domestic cruises, maritime shipping negotiations, oceangoing shipping industry, ferry industry, ferry business, domestic shipping industry, port and harbor transport business, marine procedure commission agency, propagation of maritime thought, etc.
- ii. MARITIME TECHNOLOGY AND SAFETY BUREAU - This bureau is in charge of planning and implementation of policy relating to the shipbuilding industries, ship safety standards, ship inspection, ship technology, and their development. Under this bureau comes the SEAFARERS DEPARTMENT which is organized for the protection of seamen, seamen's employment security, education and training of seamen, and modernization of the seamen's system.
- iii. PORTS AND HARBOURS BUREAU - This bureau has responsibility for formulating basic policy for port development, execution of construction of ports, administration of local port organizations, and development of port construction technology. It is also charged with the improvement of ports, harbors, marinas and sea coasts, the creation pleasant waterfronts, etc.

iv. **TRANSPORT POLICY BUREAU** - This bureau is in charge of basic and comprehensive transport policy, industries, environmental matters, ocean development, transportation technology and safety, international policy, and cargo transport policy. It is also in charge of research and analysis of transport economy, and tourism policy both international and domestic. Among the number of departments under this bureau, the following two are directly involved in MARAD:

- a. **Dept. of International Transport Policy** - Planning and regulation of international transport policy, regulation, promotion, etc., related to international organizations, treaties, negotiations, etc.
- b. **Dept. of Cargo Transport Policy** - Planning and adjustment of cargo transport, development of cargo transport industry, development of cargo transport technology; equipping of cargo transport facilities such as warehouses, truck terminals, etc., freight transport and forwarder business

In addition, four MoT external bureaus are concerned with MARAD. They are:

- i. **LABOR RELATIONS COMMISSION FOR SEAFARERS** - Mediation, arbitration, etc., of mariners' labor disputes
- ii. **MARITIME SAFETY AGENCY** - performs functions concerning enforcement of law and order at sea, maritime search and rescue, prevention of maritime pollution, prevention and suppression of crimes at sea, detection and arrest of criminals at sea, regulation of vessels' traffic at sea, services concerning hydrography and aids to navigation and other business for ensuring maritime safety.
- iii. **MARINE ACCIDENT INQUIRY AGENCY** - Judgement of marine disasters, etc.
- iv. **METEOROLOGICAL AGENCY** - Observation and reporting of meteorological phenomena, etc.

There are "subsidiary bodies" under MoT which are either schools or research institutes dedicated to training and research in one or another of the different transport modes. Of these subsidiary bodies, three are dedicated to maritime transport. These are:

- i. PORTS AND HARBOR RESEARCH INSTITUTE
- ii. MARINE TECHNICAL COLLEGE
- iii. INSTITUTE FOR SEA TRAINING

As with the experience of all countries of the world, no single ministry can exclusively cover 100.00% of all issues concerning matters supposedly under its "exclusive" cognizance. That is to say that maritime issues will always arise which will involve the competence not only of the MoT but also of one or more of the other ministries. The Ministries of Welfare, Labor, Environment, Education, International Trade and Industry, Foreign Affairs, and Telecommunications are only some of the ministries which are from time to time involved in MARAD-related issues. Nevertheless, the principal functions and duties rest within the Ministry of Transport through its offices and organizations as outlined above.

II. NATIONAL MARITIME POLICY

Japan's national maritime policy can be deduced from the relative importance certain MARAD-related organs are given in the overall MoT scheme. The four mainline bureaus previously described - the Maritime Transport Bureau, Maritime Technology and Safety Bureau, Ports and Harbors Bureau, and the Transport Policy Bureau - are tasked with sustaining, promoting, and improving Japanese ports, shipping, shipbuilding, and seafaring. The Maritime Transport Bureau even has as one of its functions the propagation of "maritime thought!" It is evident that the Japanese do not want their people, as it were, to live with their backs to the sea. They are highly dependent on sea transport and efficient ports for the movement of goods, inbound as well as outbound. Japan also has a highly successful shipbuilding industry which she surely wishes to maintain. The Japanese also owns one of the world's greatest fleets both in terms of tonnage and number of vessels. To promote seafaring of the highest quality, there are training centers, colleges, and research institutes.

Aside from the above, it is also evident from certain activities that the protection of the marine environment is a major feature of Japanese maritime policy. Two of these activities are the Maritime Disaster Prevention Center (MPDC) and Oil Spill Preparedness and Response (OSPAR). OSPAR is a Japanese-initiated regional oil spill response agreement. MPDC, under the guidance of MoT and the Maritime Safety Agency, has the task of controlling marine disasters, stationing fire-fighting and oil recovery vessels, stockpiling spill control equipment, and marine disaster control training.

NORWAY

I. ADMINISTRATIVE STRUCTURE OF MARAD, INCLUDING MSA

More or less all the government ministries in Norway are involved in MARAD. MARAD functions in Norway are roughly distributed as follows:

Ministry of Foreign Affairs	- GMA, labor
Ministry of Trans. & Comms.	- general transportation
Ministry of Industry	- shipbuilding
Ministry of Education & Sci.	- maritime education and training
Ministry of Finance	- taxation
Ministry of Environment	- marine environmental protection
Ministry of Social Affairs	- seafarers pension scheme
Ministry of Agriculture	- fishfarming and research
Ministry of Justice	- search and rescue, commercial law aspects of shipping
Ministry of Local Government	- labor, safety of permanent installations on the continental shelf
Ministry of Fisheries	- pilotage, lighthouses, harbors, and fishing
Ministry of Defense	- Norwegian Coast Guard, patrolling of Norwegian EEZ

There seems to be no logic in this fragmentation of maritime safety administration functions. The distribution of MSA functions in Norway evolved through hundreds of years of historical experience. For instance, the Ministry of Justice performs SAR functions because MoJ representatives in the remotest regions of Norway were the ones who for centuries have been traditionally tasked with providing succor to distressed seafarers. It is this tradition of centuries, however, that allows it to function properly. The organization had developed thus and the respective functionaries had learned how to deal with each other and coordinate maritime policy and issues through advisory boards, committees, commissions, working groups, and most important of all, through informal channels. The Norwegians also attribute the "successful" functioning of their brand of MARAD to the transparency in their society.

Doubtless no newly-formed government would deliberately organize its MARAD after the Norwegian model; if for some reason it does, however, it is highly doubtful that it would be able to function as efficiently.

As mentioned above, general maritime administration is performed by the Ministry of Foreign Affairs which actually has three co-equal ministers - the Ministers of Foreign Affairs, Trade and Shipping, and Development Cooperation. MARAD functions are specifically assigned to the Ministry's Shipping Department. Below is a chart showing its organization:

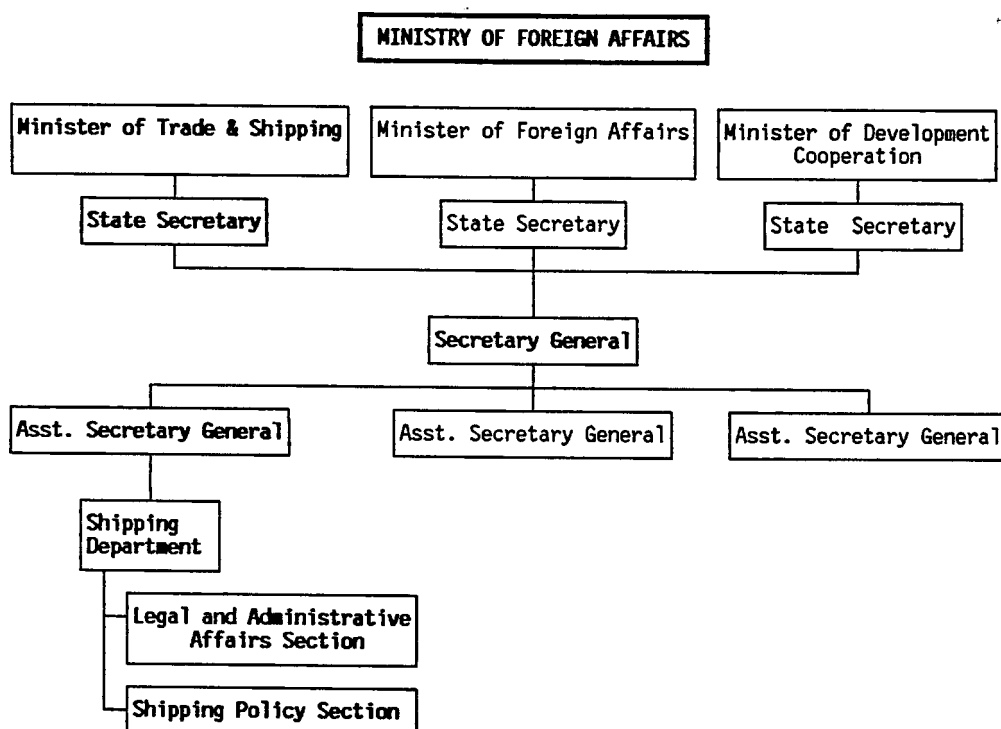


Fig.APP-B: Norwegian Ministry of Foreign Affairs.

The Shipping Department has two sections, the Legal and Administrative Affairs Section and the Shipping Policy Section. The Legal and Administrative Affairs Section performs the following tasks:

1. Licensing export of ships
2. Ship registration
3. Licensing Norwegian companies to enter ships in foreign registries
4. Maritime transport contingency planning
5. Administrative issues
6. The affairs of the Maritime Directorate
7. Relations with IMO
8. International conventions and other instruments of IMO
9. Relations with ILO concerning labor questions related to maritime transport
10. Maritime education
11. Norwegian maritime legislation
12. The social conditions of seafarers and their families; working conditions on board ships
13. General questions regarding maritime safety and maritime administration

The Shipping Policy Section, on the other hand, has the following for its tasks:

1. Maritime transport policy as discussed in international organizations, including OECD, UNCTAD, and relations with the EEC
2. The UN Convention on a Code of Conduct for Liner Conferences
3. General shipping policy relations with OECD countries
4. General questions regarding protectionism and flags of convenience
5. Access to the shipping markets of developing countries and state trading countries
6. Shipping policy relations with the USA
7. Bilateral shipping agreements
8. Protectionistic legislation and similar restrictions in other countries
9. Commercial cooperation and other projects to develop the shipping industry of developing countries
10. General economic assessments of maritime transport and related activities
11. The economic and competitive strength of the Norwegian shipping industry
12. Prospects of the shipping markets
13. Long term programme assessments of the shipping industry

The Shipping Department actually has a staff of only thirty persons. The bulk of the actual MARAD work is performed by a larger but subordinate organization known as the Maritime Directorate. It is organized as follows:

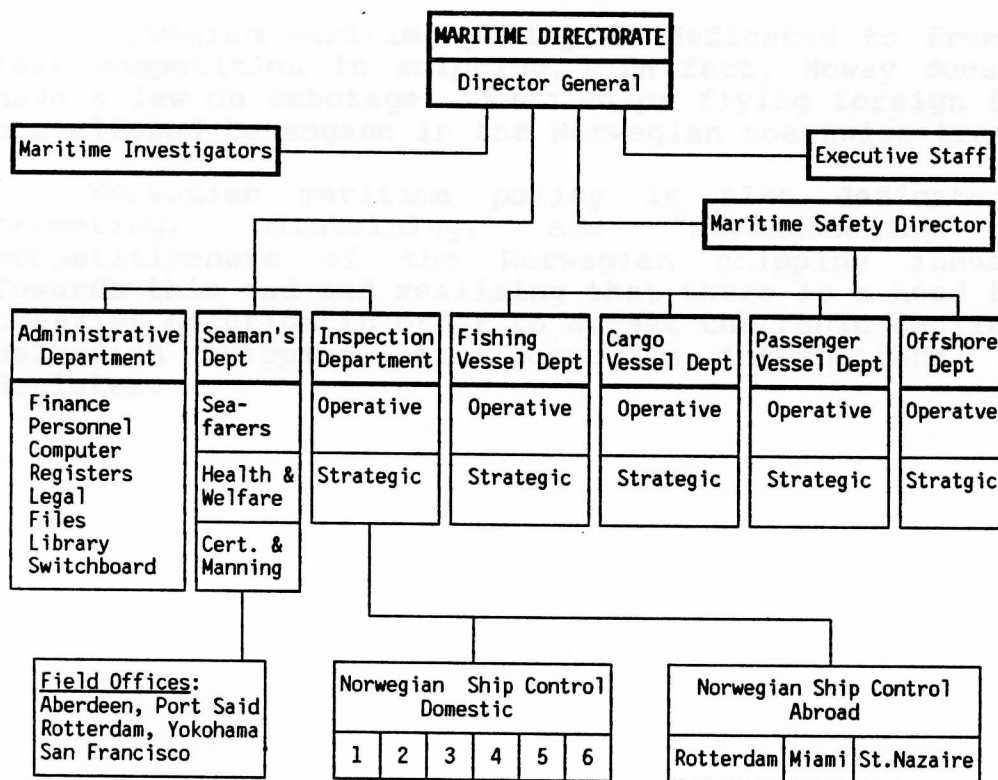


Fig.APP-C: Sjøfartsdirektoratet
The Norwegian Maritime Directorate.

Simply put, the Maritime Directorate is the executory arm of the Shipping Department. Policy decisions are made in the ministry while the execution of these policies are the responsibility of the Maritime Directorate. The Directorate's work is carried out by 6 Maritime Investigators (one each in Oslo, Kristiansand, Bergen, Trondheim, Bodø, and Tromsø), 7 Ship Control Stations (6 local and 1 overseas), and the following five departments:

- Legal/Administrative Department
- Social Service and Register Department
- Technical Department
- Operations Department
- Maritime Inspection Department

The specific tasks of the Directorate are numerous and wide-ranging and basically cover the detailed implementation of the functions of the Ministry's Shipping Department as outlined above.

II. NATIONAL MARITIME POLICY

Norwegian maritime policy is dedicated to free and fair competition in shipping. In fact, Norway does not have a law on cabotage. Even ships flying foreign flags are allowed to engage in the Norwegian coastwise trade.

Norwegian maritime policy is also dedicated to promoting, maintaining, and "strengthening" the competitiveness of the Norwegian shipping industry. Towards this end and realizing that there is a need for a creative solution in order to arrest the rapid decline of Norwegian shipping, the Norwegian International Ship Register.

FRANCE

I. ADMINISTRATIVE STRUCTURE OF MARAD, INCLUDING MSA

The French maritime administration is relatively well-consolidated within one central unit. The French have what they call an *administration de synthèse* which means that only one Administration is in charge of most maritime and related matters. This Administration, formally known as *La Marine Marchande*, is in charge of matters pertaining to seamen, shipping, yachting, ports, safety at sea, and fisheries. It is composed of five directorates and is organized as follows:

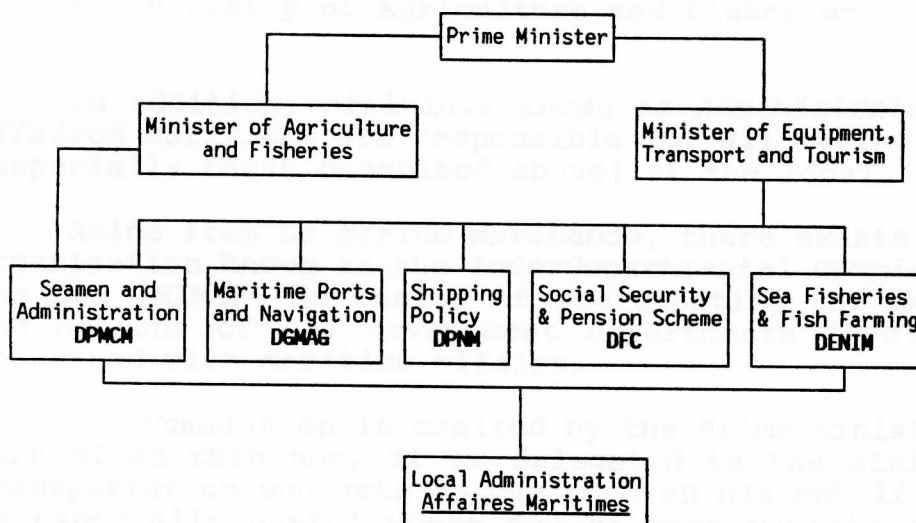


Fig.APP-D: La Marine Marchande.

The five directorates are:

1. Seamen and Administration (*Direction des Gens de Mer et de l'Administration Générale* or DGMAG) - reports to the Ministry of Public Works, Transport, and Tourism (hereinafter "MPWTT"). It is further subdivided between the following two:
 - a. Administrative Division - in charge of matters involving personnel, finance, and procurement

for *La Marine Marchande*

- b. Seamen Division - in charge of marine labor and disciplinary legislation, nautical criminal law, seamen's training, examinations, certification, medical fitness as well as medical scales, health, and safety regulations
- 2. Maritime Ports and Navigation (*Direction des Ports et de la Navigation Maritimes* or DPNM) - also under MPWTT
- 3. Shipping Policy (*Direction de la Flotte de Commerce* or DFC) - also under the MPWTT
- 4. Seamen Social Security and Pension Scheme (*Etablissement National des Invalides de la Marine* or DENIM) - under MPWTT
- 5. Sea Fisheries and Fish Farming (*Direction des Pêches Maritimes et des Cultures Marines* or DPCM) - under the Ministry of Agriculture and Fisheries

In addition, officials known as *Administrateurs des Affaires Maritimes* are responsible for all marine matters (especially those described above) at the local level.

Aside from *La Marine Marchande*, there exists also an organization known as the Interdepartmental Commission of the Sea (MIMER) in charge of coordinating the decisions and actions of all government departments involved and concerned with maritime affairs.

The Commission is chaired by the Prime Minister but, more often than not, it is delegated to the Minister of Transportation who acts as chairman on his behalf. MIMER is especially useful where two or more ministers have a common maritime problem and no agreed solution is reached. The Committee serves as arbiter and takes decisions. Coordination between the different relevant ministries has proved especially important in SAR operations.

MIMER seems to be a reasonable solution to the problem of coordination of maritime activities. Perhaps the French realized that all matters related to maritime affairs cannot be totally subordinated to one organization and further realized that more than one ministry will at some point have to deal with a maritime issue which they feel is within their competence; MIMER ensures that there is uniformity and coordination in all maritime-related issues. At the local level, *Prefets Maritimes* ensure the coordinated execution of the Administration policies, actions, and operations at sea.

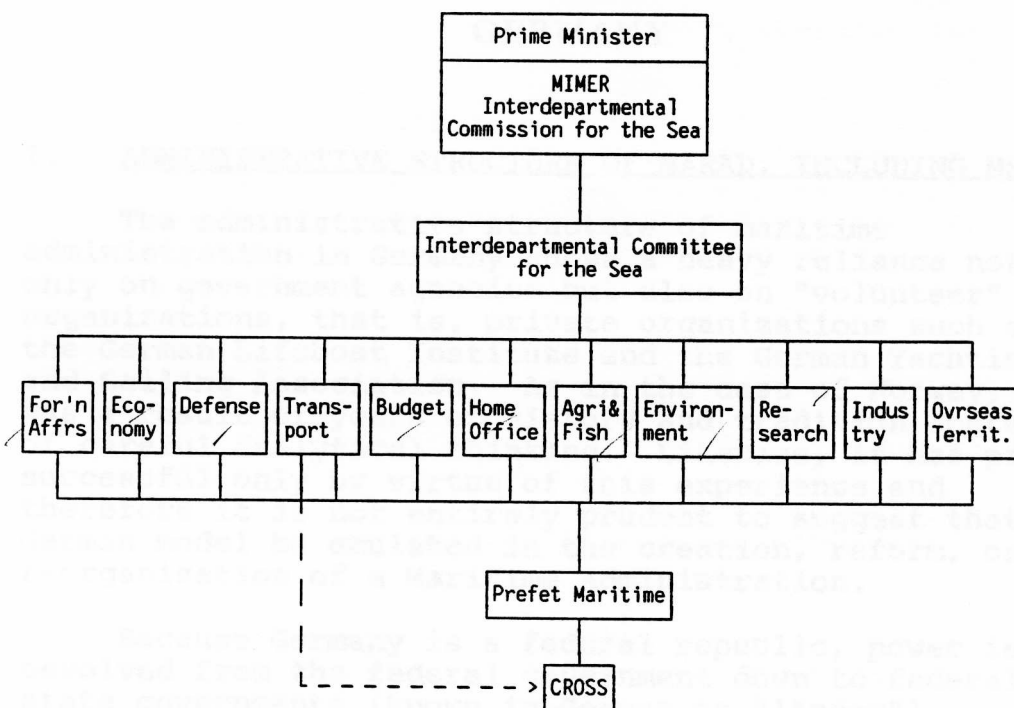


Fig.APP-E: Interdepartmental Commission for the Sea.

II. NATIONAL MARITIME POLICY

The stated maritime policy of the French government is to maintain or arrest the decline of the present shipping tonnage. The directorate created specifically for developing and coordinating shipping policy, DFC, is in fact involved also in drafting relevant legislation. In addition, having been victimized by major maritime pollution incidents, France also champions the cause of marine environmental protection in its policy.

Included as well in its maritime policy is the aim of upgrading French (state-owned) ports so as to make them competitive with major European ports in the vicinity. It is also French policy to comply with European Economic Community requirements for a decrease in the fishing fleet of about 23% in the next four years.

GERMANY

I. ADMINISTRATIVE STRUCTURE OF MARAD, INCLUDING MSA

The administrative structure of maritime administration in Germany shows a heavy reliance not only on government agencies but also on "volunteer" organizations, that is, private organizations such as the German Lifeboat Institute and the German Yachting and Sailing Association. As in the case of Norway, this was a result of years of history and tradition instead of careful analytical thinking. Likewise, it has proved successful only by virtue of this experience and therefore it is not entirely prudent to suggest that the German model be emulated in the creation, reform, or reorganization of a Maritime Administration.

Because Germany is a federal republic, power is devolved from the federal government down to federal state governments (known in German as "länder"). Included in this devolution of powers are duties in maritime administration. This particularly refers to the administration of ports and harbors and maritime education and training. Nevertheless, the most important and substantive duties are still supervised by a federal ministry, the Ministry of Transport. Under the Ministry are eight departments, one of which is the Maritime Transport Department responsible for maritime administration. The Maritime Transport Department has the following seven organizations under its supervision and control:

- i. Federal Maritime and Hydrographic Agency.
This agency is a government body directly subordinate under the Department. It exercises general maritime administration, tonnage measurement, and hydrography.
- ii. Federal Appeal Board for Maritime Administration
This agency is also a government body directly subordinate under the Department. It is responsible for the conduct and judgement of maritime casualty investigations.
- iii. Sea Accident Insurance Corporation
This agency is a semi-government corporation originally organized to look after the social welfare and insurance of seafarers. In time it has

taken on the task of ensuring safety of vessels. Thus, together with the German Lloyd to which it has delegated certain functions, it is responsible for the survey, inspection, port state control, and certification of ships.

iv. Chamber of Pilotage

The Chamber is a private organization of "self-employed" pilots. Six local brotherhoods provide pilotage services to ships entering German ports and canals. While not a government agency, it is supervised by the Department.

v. Agency for the Training of Young Seamen

Also a private foundation, it is under the supervision of the Department and is tasked with ensuring the shipboard instruction of prospective seafarers.

vi. German Society for the Rescue of Shipwrecked Sailors

The GSRSS is another private organization under the umbrella of the Department existing solely on contributions and donations and it is the officially recognized and designated agency responsible for Search and Rescue in Germany.

vii. German Yachting and Sailing Association

Another private association, it is responsible for small boat safety, training, and certification.

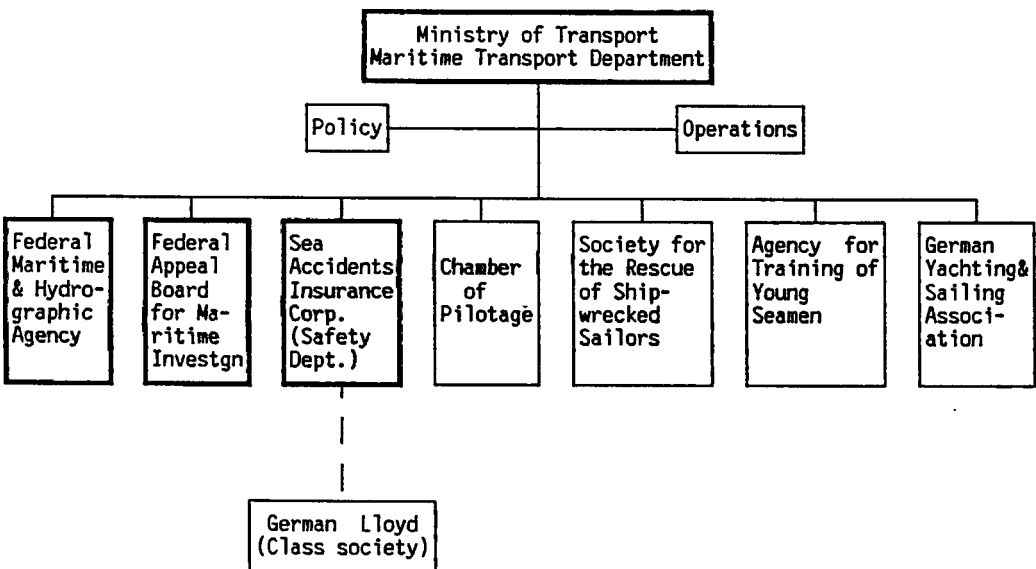


Fig.APP-F: Maritime Administration in Germany.

II. NATIONAL MARITIME POLICY

German maritime policy is dedicated to promoting, maintaining, and "strengthening" the competitiveness of the German shipping industry. Towards this end and realizing that there is a need for a creative solution in order to arrest the rapid decline of German shipping, a second German ship register has been established.

Germany also has some of the most advanced maritime pollution combatting and control equipment in the world, evidence that protection of the maritime environment is a cornerstone of German maritime policy.

GREECE

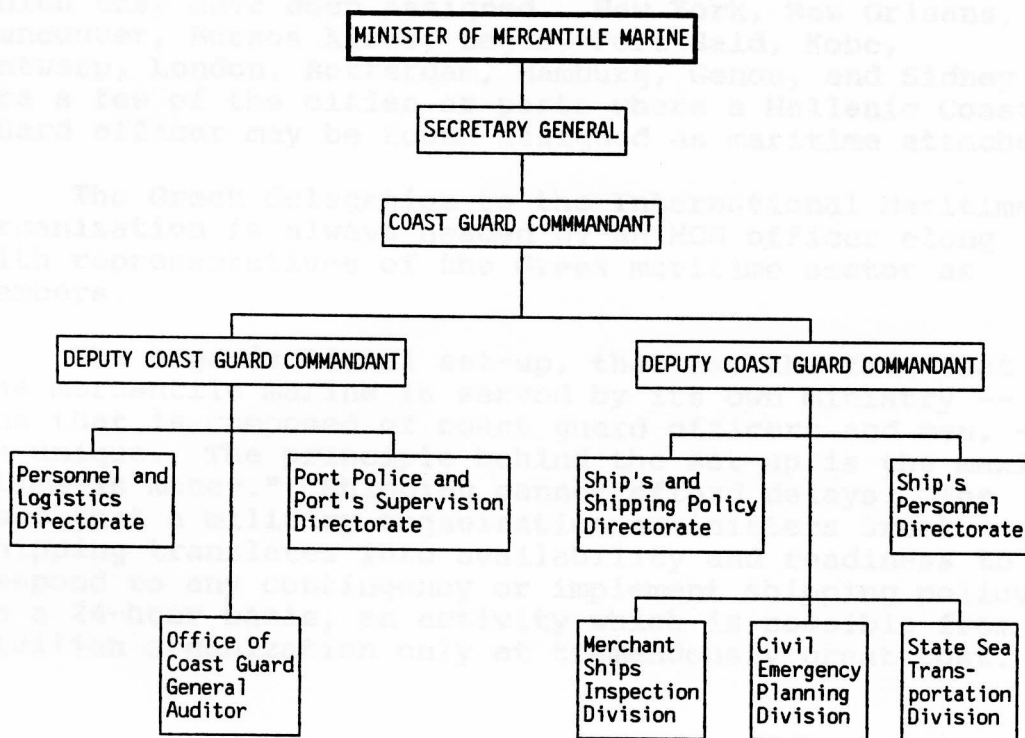


Fig.APP-G: Organization of the Greek Ministry of Mercantile Marine.

All MARAD functions in Greece are performed by the Ministry of Mercantile Marine which administers Greek shipping. The Ministry, except for the Minister himself, is composed wholly of Hellenic Coast Guard officers and men. Directly below the Minister, acting as his principal adviser on planning, designing, and implementing Greek government policies on the mercantile marine, is the Commandant of the HCG.

The Ministry administers every aspect of shipping to include ships, seamen, pre-training, training, post-training, ports, safety, security, health, tugs, pilots, and social security, among others. Coast Guard officers

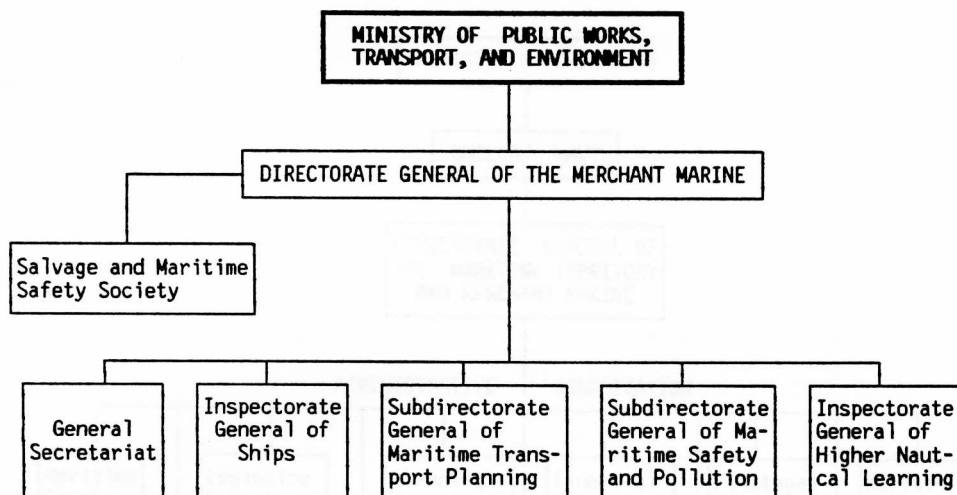
also act as harbor masters.

HCG officers are assigned as maritime attachés in major cities and ports around the world to monitor Greek-flagged ships, their activities, compliance with policies and regulations, working conditions, to render assistance when necessary, and to coordinate maritime relations and affairs with the country/city/port in which they have been assigned. New York, New Orleans, Vancouver, Buenos Aires, Lagos, Port Said, Kobe, Antwerp, London, Rotterdam, Hamburg, Genoa, and Sidney are a few of the cities or ports where a Hellenic Coast Guard officer may be found assigned as maritime attaché.

The Greek delegation to the International Maritime Organization is always headed by an HCG officer along with representatives of the Greek maritime sector as members.

The organizational set-up, that is, the fact that the mercantile marine is served by its own ministry -- one that is composed of coast guard officers and men, -- is unique. The principle behind the set-up is the maxim "time is money." Shipping cannot afford delays. The fact that a military organization administers Greek shipping translates into availability and readiness to respond to any contingency or implement shipping policy on a 24-hour basis, an activity which is possible from a civilian organization only at tremendously great cost.

SPAIN



**Fig.APP-H: Dirección General de la Marina Mercante
The Spanish Directorate General of the Merchant Marine.**

The present Spanish maritime administration, the *Dirección General de la Marina Mercante*, is relatively new, having been created by the Ports and the Merchant Marine Law of 1992. The *Dirección General* is a civilian agency which is responsible for all functions related to maritime safety. Until the implementation of the law, maritime safety in Spain was fragmented and was administered by officers of the Royal Spanish Navy. The 1992 law was the product of a long period of study designed to rationalize and modernize Spanish maritime administration.

CHILE

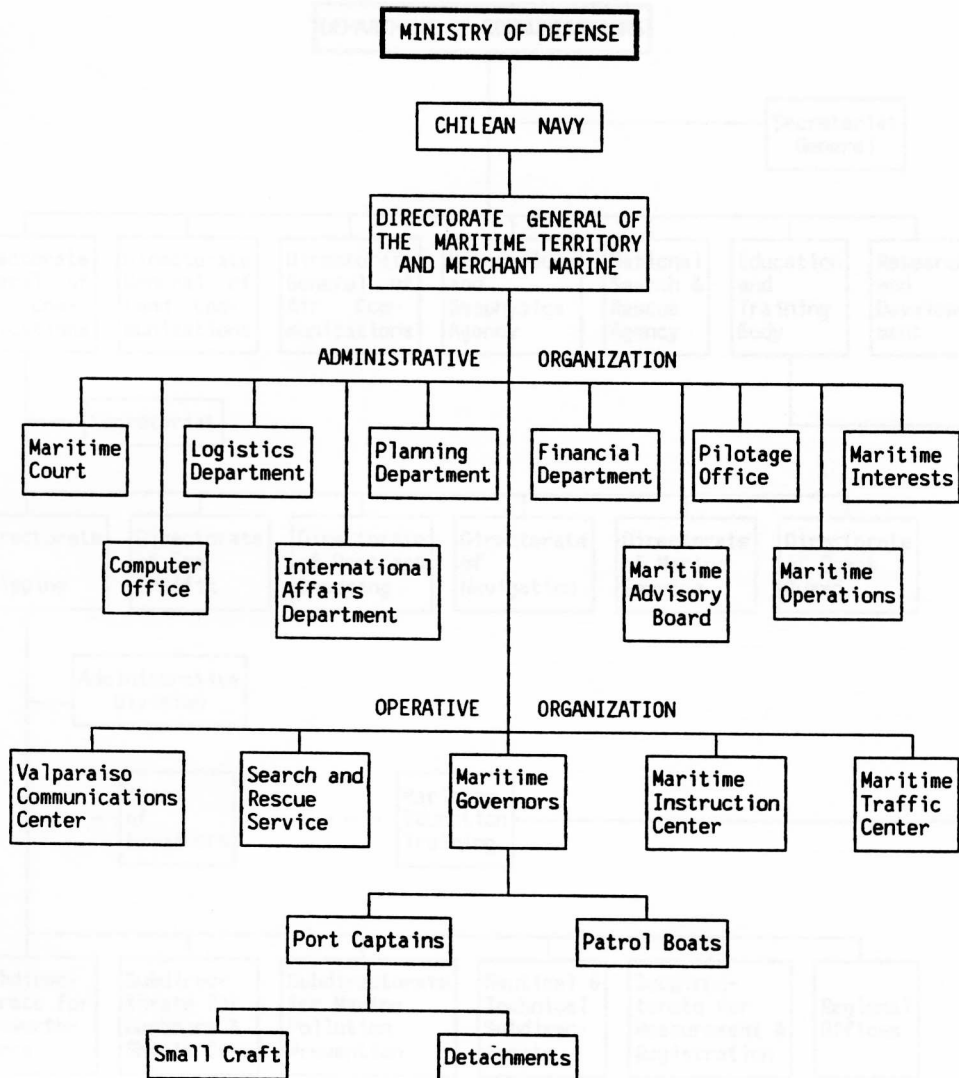


Fig.APP-I: Organization of the Directorate General of the Maritime Territory and Merchant Marine.

INDONESIA

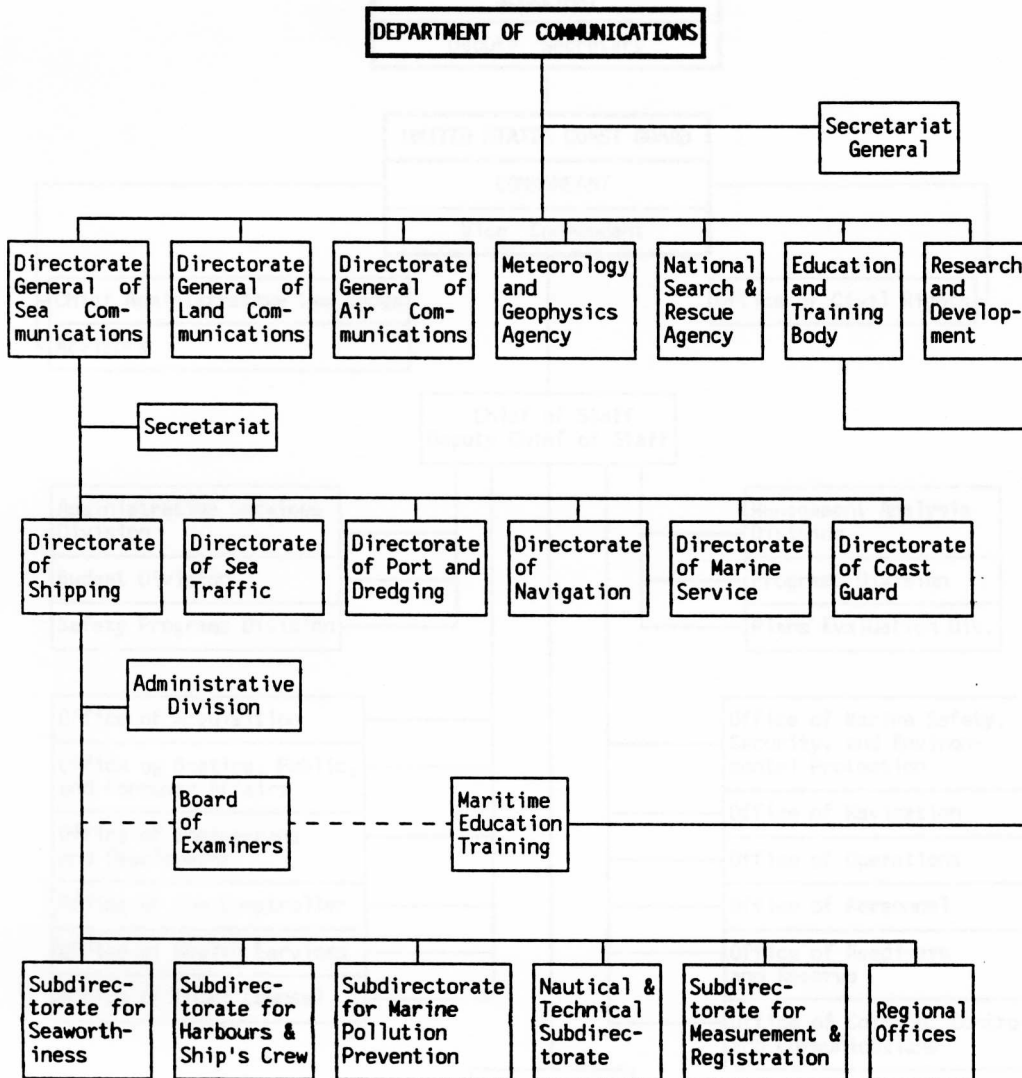


Fig.APP-J: Maritime Administration in Indonesia.

UNITED STATES OF AMERICA

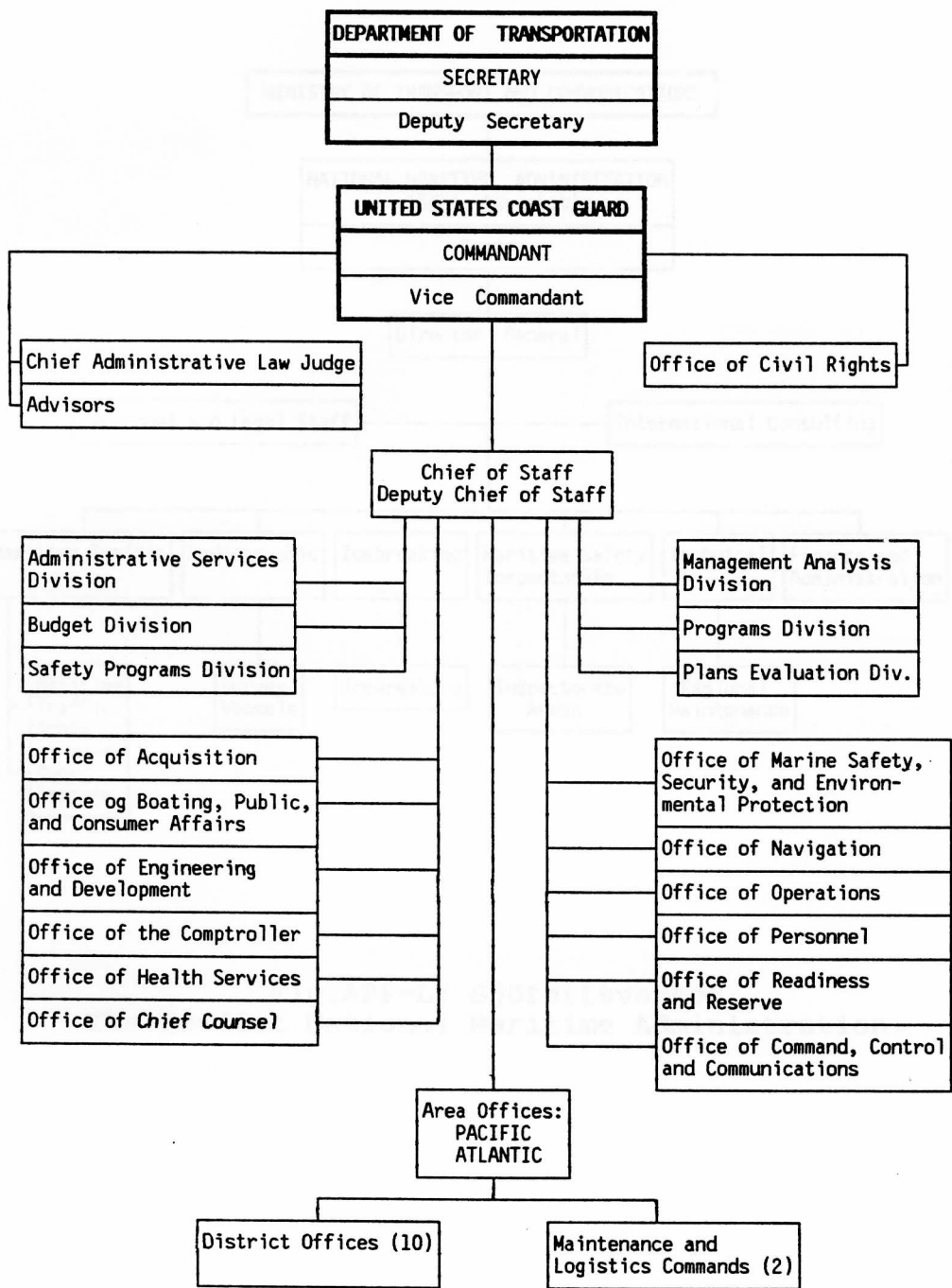


Fig.APP-K: The United States Coast Guard.

SWEDEN

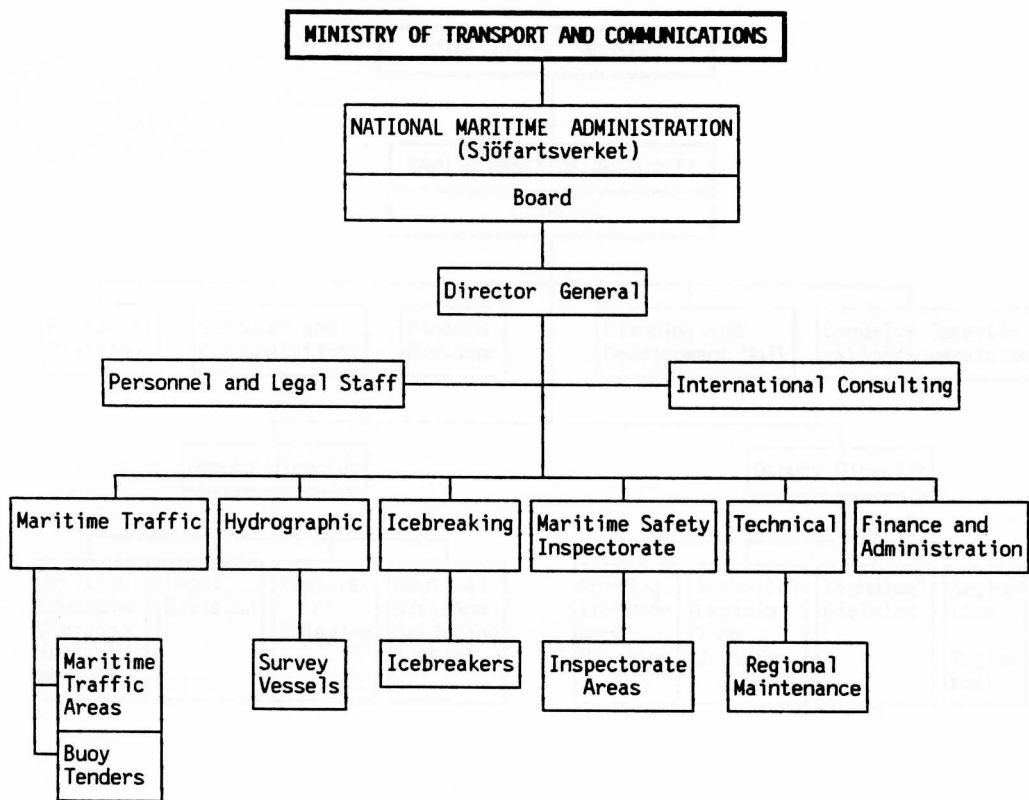


Fig.APP-L: Sjöfartsverket
The Swedish National Maritime Administration.

DENMARK

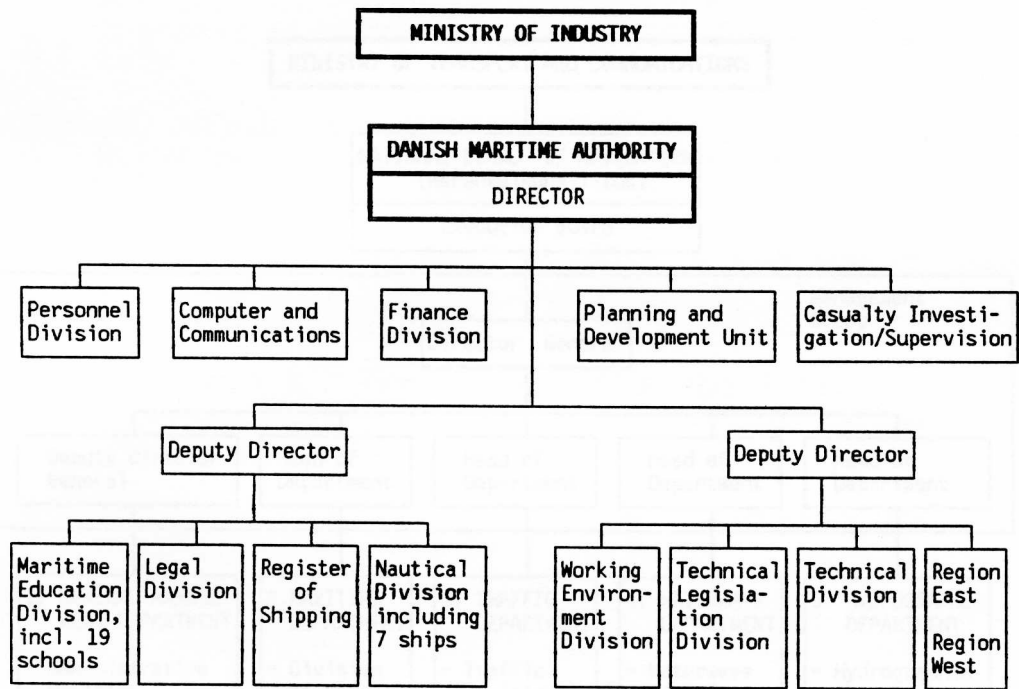


Fig.APP-M: Søfartsstyrelsen
The Danish Maritime Authority.

FINLAND

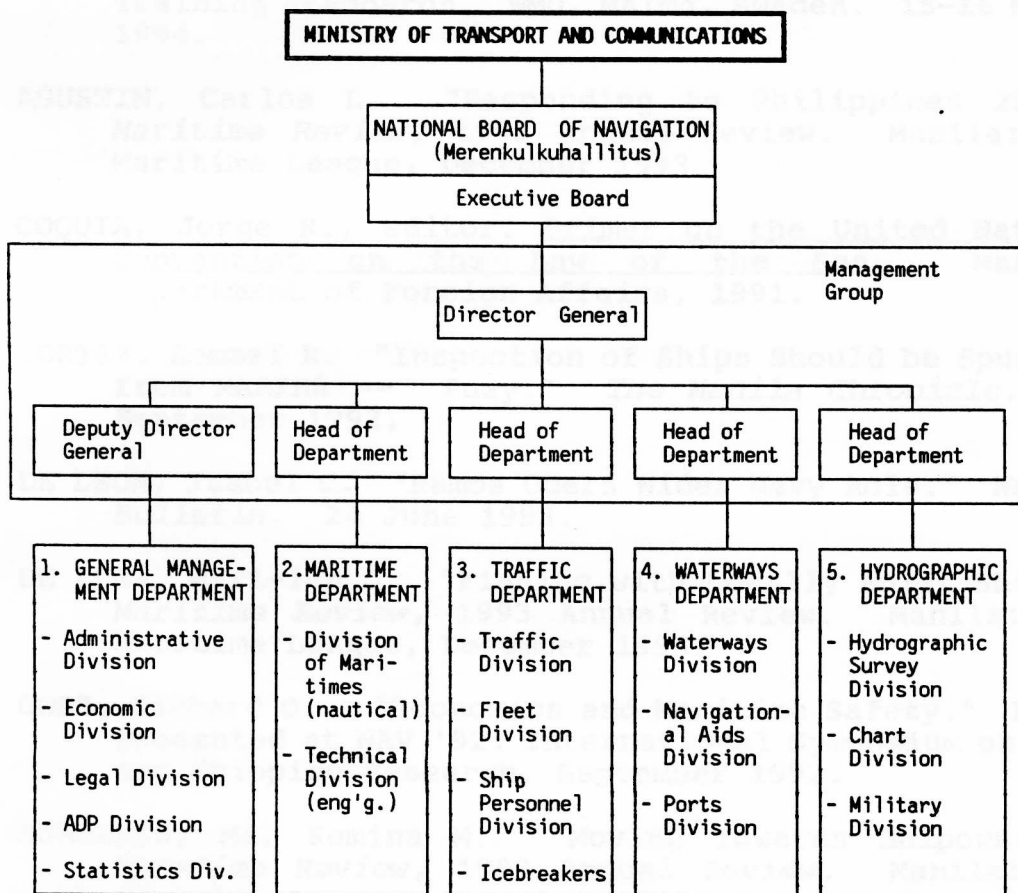


Fig.APP-N: Merenkulkuhallitus
The Finnish National Board of Navigation.

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