



ECA/RCID/05/98  
March 1998

## **ECONOMIC COMMISSION FOR AFRICA**

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### **MISSION REPORT**

<b>STAFF MEMBER ON MISSION:</b>	<b>Paul A. Were, EAO, RCID</b>
<b>PURPOSE OF MISSION:</b>	<b>To participate in the First Preparatory Meeting for the Development of Flag State Implementation and Port State Control in West and Central Africa</b>
<b>VENUE OF MISSION:</b>	<b>Accra, Ghana</b>
<b>MISSION DATES:</b>	<b>17 to 20 February, 1998</b>
<b>CITATION OR ACTIVITY:</b>	<b>International co-operation and interagency coordination and liaison with IMO and MINCONMAR</b>

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## MISSION REPORT

### I. INTRODUCTION

#### **Regional Cooperation on Port State Control**

Port State Control -- the inspection of foreign flag maritime vessels visiting national ports -- has been defined as the last safety net in maritime safety. It aims at eradicating substandard ships, when it is carried out in accordance with IMO Assembly resolutions and recommendations.

The present momentum on the establishment of port State control regimes in the various region of the world stems from IMO initiatives at the beginning of this decade when, with a view to eradicating substandard ships the Assembly of the International Maritime Organization adopted Resolution A.682(17) "Regional Co-operation in the Control of Ships and Discharges", as proposed by the Secretary General of IMO, to promote the establishment of such regimes in the various regions of the world following the pattern adopted by the European region through the Paris Memorandum of Understanding on Port State Control (MOU) in 1982. Operative paragraph 2 of that resolution invites the authorities of participating Paris MOU countries and any other countries participating in port State control to assist, wherever possible, in the conclusion of regional agreements elsewhere in the world and to study matters of inter-regional co-operation with a view to harmonization, to compatibility of information systems and exchange of port State control information.

In pursuance of that resolution, the IMO Secretariat has been very actively engaged in assisting member States in their efforts to eradicate substandard ships and have co-operated from the outset in 1982 with the first such Agreement (Paris MOU) as well as, subsequently, in the conclusion of the four additional Agreements currently in operation as follows:

1. The Latin American Agreement (Acuerdo de Vina del Mar), signed at Vina del Mar in Chile in November 1992;
2. The Memorandum of Understanding on port State control for the Asia Pacific region (Tokyo MOU) signed at Tokyo in December 1993;

3. The Memorandum of Understanding on port State control for the Caribbean region (Caribbean MOU) signed at Barbados in February 1996; and
4. The Memorandum of Understanding on port State control for the Mediterranean region (Mediterranean MOU) signed at Malta in July 1997.

In pursuance of IMO Assembly Resolutions and realizing the need to assist in enhancing safety and the protection of the marine environment in other regions, IMO is now actively involved in the promotion of similar port State control regimes in other regions of the world.

The Secretariat has devised a normal pattern for the conclusion of such agreements consisting of four stages as follows:

- a review of the region's maritime safety infrastructure dedicated to surveys and inspection requirements in accordance with the international conventions including port State control;
- the convening of one or more regional meetings of experts (legal and technical) to discuss a preliminary draft of a port State control agreement of co-operation with the participation of maritime administrations responsible for port State control. The agreements have always been based on the special characteristics of the region concerned and did require regional consensus as to the establishment of the Secretariat and the location of the required Information Centre;
- a regional meeting of Heads of Maritime Administrations and Government Officers to consider and sign the agreement for co-operation (Memorandum of Understanding on Port State Control) and a Plan of Action for the training of port State control officers; and
- finally the preparation of the strategy and plan of action for future training.

Having established the above referred regional PSC capabilities, which of course are operating with various degrees of success, the next major initiative now is the establishing of port State control in the Indian Ocean region and at the moment IMO

is also in consultation with the Maritime authorities of countries within the remaining regions not yet subject to specific port State control agreements. It is envisaged that during the period 1998 to 1999 Preparatory Meetings aimed at the establishment of such agreements will take place for the Persian Gulf and the West and Central Africa. Africa will by then have all MOUs signed.

When the above is completed full global coverage through independent, although co-operating, regional agreements in various regions of the world will be achieved.

In Africa the only operational sub-regional PSC is the Mediterranean PSC which is based in Alexandria Egypt, with an information centre in Casablanca, Morocco.

In Eastern and Southern Africa a recent significant move towards the establishment of a second sub-regional PSC system in the Indian Ocean were taken at the meeting held in Mumbai, India, from 13 to 17 October 1997.

Delegation from ten countries bordering the Indian Ocean agreed in principle on the text of the Memorandum of Understanding (MOU) and a related strategy and Plan of Action. India offered to provide an interim Secretariat while it was agreed that South Africa will host a related PSC information centre. It is hoped that the agreement will be finalized at a meeting to be held in South Africa in June 1998.

The countries which were represented at the Mumbai meeting were, Australia, Bangladesh, Djibouti, Eritrea, Ethiopia, India, Kenya, Maldives, Mauritius, Mozambique, Myanmar, Oman, Seychelles, Singapore, South Africa, Sri Lanka, Tanzania and Yemen.

In the West and Central Africa subregion establishment of Port State Control, agreement had been first discussed during the 18th IMO Assembly in 1993. It was agreed at the meeting that the Ministerial Conference of West and Central African States on Maritime Transport (MINCONMAR) would act as a coordinating body for the establishment and implementation of the agreement for the subregion. The meeting in Accra, Ghana was the first preparatory meeting for the establishment of Port State Control for the West and Central African subregion. It was organized by IMO in collaboration with Ghana Shippers Council under the auspices of MINCONMAR. This second meeting to follow will constitute step two for the establishment of PSC. Step three will be the meeting of Heads of Maritime Administrations and Government

Officers to consider and sign the MOU which was drafted in Accra and the plan of action for the training of Port State Control Officers.

## **II. OBJECTIVES OF THE MISSION**

The main objective was to participate in the West and Central Africa Ports State Control Meeting and to ensure that follow-up activities of the meeting will neither duplicate nor conflict with the ECA Plan of Action for the implementation of UNTACDA II programme up to the year 2000 which was adopted by the Conference of African Ministers of Transport and Communications in Cairo, Egypt 1997.

## **II. PARTICIPATION AT THE MEETING**

ECA was invited by IMO to participate in the meeting as an observer, but as plenary sessions of the meeting progressed, and for practical purposes, the status of the ECA representation was that of a "participant" after the proposal was made by the head of Nigeria delegation. This change enabled ECA representative to actively deliberate in the proceedings of the meeting. The ECA representative therefore actively participated in the discussions under agenda item 4: Perspective Experience in Port State Control. The PSC issue is relatively new, therefore, ECA representation participation was mainly confined to relationships between PSCs and UNTACDA II safety programmes and activities in maritime shipping and ports. Future issues to be addressed once all MOUs are signed were also of interest to ECA representative, therefore, the meeting resolved that coordination and harmonization of the three MOUs will be the responsibility of ECA and OAU under the umbrella of AEC. (See paragraph 2 on page 5 of Annex I). Justifications for the ECA representative's stand was clear because other regions have only one MOU whereas Africa will have three MOUs with two of them (Mediterranean and Indian Ocean MOUs) having member States of non-African origin.

When the meeting broke into working groups, the ECA representative was allocated to the Working Group I which worked for two days on the preparation of Draft Agreement of Memorandum of Understanding for Cooperation in Ports State Control in West and Central Africa (MCAMOU). A copy of the draft report of the meeting is herewith attached as an Annex I to this report.

The appendices attached to the Annex are:

- APPENDIX 1- List of participants
- APPENDIX 3- Agenda and Programme of the Meeting
- APPENDIX 4- Status of IMO instruments in the West and Central African Region
- APPENDIX 5- Report of the Working Group on the Draft Agreement of Co-operation (WCAMOU)
- APPENDIX 7- Press release and Declaration of the First Preparatory Meeting on port State control for the West and Central African Region

Appendix 2 containing Statements made at the opening ceremony an available at RCID but is excluded because it is voluminous. Appendix 6 - Available but ECA representative did not participate in that Working Group.

It should be noted also that the European Commission has prepared a policy document titled "The European Community Policy in the Field of Port State Control" which was adopted in 1995. The document which clearly states the Commission's firm belief that Port State Control is and should continue to be seen as a second layer of defence against substandard shipping. The Commission believes that the primary responsibility for onservicing compliance with International Conventions rests with the flag administrations. Under the AEC, the same stand will apply, therefore, it was left to ECA to consult with OAU and agree on mechanisms for harmonizing the three African MOUs once they are on operation. The answer to this is to follow the European Community's approach of preparing an African Policy Instrument for Regional Port State Control.

### **III. OBSERVATIONS**

1. Ship owners at the meeting expressed concern over the establishment of the MOU for the subregion and termed it "a new shipowners dilemma". They are

totally wrong because they are interested in operating second-hand substandard ships.

2. Some ports operators thought that Port State Controls would generate for them funds from inspection activities in foreign ships. They are also wrong because funds generated from PSC is merely a by-product of operations of ships calling on their ports. South African representatives at the meeting informed port operators that PSC activities must be planned efficiently, otherwise they become an expensive burden.
3. The meeting was well attended, but three countries which did not participate, namely: Sao-Tome and Principe, Sierra Leone, and Equatorial Guinee will have no choice but to agree with the principles of the content of the draft MOU; and prepare for signing it because another preparatory meeting cannot be held on drafting the MOU.
4. Consultations between ECA and OAU on an African policy on MOU must soon start and be completed before the next meeting for signing the WCAMOU scheduled for September 1998. ECA is expected to report to that meeting about the outcome of consultations with OAU on the need for an African policy document on Port State Control and modalities of drafting the document.



## **ANNEX I**

### **REPORT OF THE FIRST PREPARATORY MEETING ON PORT STATE CONTROL FOR THE WEST AND CENTRAL AFRICAN REGION**

## **REPORT OF THE MEETING**

### **1 OPENING OF THE MEETING**

At the invitation of both the Secretary-General of the International Maritime Organization (IMO) and the Government of Ghana, who had most generously offered to host the Meeting, delegations from Angola, Benin, Cameroun, Cape Verde, Congo, Côte d'Ivoire, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Liberia, Mauritania, Namibia, Nigeria, Sénégal, South Africa and Togo met in Accra, Ghana from 17 to 20 February 1998 for the First Preparatory Meeting on port State control for West and Central Africa. Also present were observers from the International Labour Organization (ILO), the Communauté Economique et Monétaire de l'Afrique Centrale (CEMAC), the Economic Commission for Africa (ECA), the International Association of Classification Societies (IACS), the Ministerial Conference on Maritime Transport of West and Central African States (MINCONMAR), the United Nations Development Programme (UNDP) as well as observers from the International Transport Federation (ITF).

The list of participants at the First Preparatory Meeting is attached as Appendix 1 and the list of focal points of the relevant West and Central African Maritime Administrations for the purpose of port State control is attached as Annex 1 to Appendix 5.

The Meeting was organized and financed by IMO through its Technical Co-operation Fund which provided assistance for the conduct of the Meeting, including the travel of delegates.

The Honourable Dominique Azuma, leader of the Parliamentary Committee of Transport, acting as Chairman and Master of Ceremony welcomed the signatories Authorities and participants and introduced the speakers in the Opening Ceremony.

Mr. J.C. Afari, Shipping Commissioner, Ministry of Roads and Transport of Ghana welcomed the participants and observers and thanked them for their attendance. He paid tribute to the Secretary-General of IMO and acknowledged the fact that the Meeting had been long overdue. In particular, he referred to the ever increasing number of sub-standard ships plying the region which posed a major threat to maritime safety and the marine environment in West and Central Africa. He felt sure that this situation had occurred due to the lack of a uniform port State control regime for the region and was confident that the successful implementation of a Memorandum of Understanding for West and Central Africa would go some way to addressing this situation.

Mr. Azuma then invited Mr. L. Pufong, Secretary-General of the Ministerial Conference on West and Central Africa on Maritime Transport. Mr. Pufong congratulated IMO for its important contribution to maritime safety and marine environment protection, through its Integrated Technical Co-operation Programme. He reminded the Meeting that these preoccupations are shared by MINCONMAR and that this was reaffirmed at its 5th extraordinary session which took place in Abuja, Nigeria, in December 1997, where it was once again emphasized that these matters can only be dealt with through sub-regional co-operation.

Mr. Pufong urged the participating countries to renew their efforts for the ratification of relevant IMO Conventions and hoped that a Memorandum of Understanding on port State control will assist them in catching up with other regions. Finally he acknowledged the efforts of Nigeria and thanked the Government of Ghana for their generosity in hosting the First Preparatory Meeting in Accra.

The ILO representative, Mr. H. Essenberg, expressing the best wishes for the success of the Meeting on behalf of Mr. M. Hansenne, Director General of ILO expressed his appreciation to the Government of Ghana and also to IMO for its continuous efforts to cooperate with the ILO in port State control activities not only in the West and Central African Region but worldwide as both Organizations share the common goal of eliminating sub-standard ships. He further stated that the ILO, because of its mandate, is concerned with the living and working conditions of ships crews, namely accommodation, operational safety hazard, medical certification, etc. The main areas of ILO concern are outlined in ILO convention 147 concerning minimum standards in merchant ships. In his view, the importance of this Meeting was demonstrated by the participation of so many delegations from the region as a first step in the development of an MOU for this region.

Mr. Azuma then introduced and invited the Secretary-General of IMO, Mr. W.A. O'Neil, to address the Meeting. Mr. O'Neil expressed his gratitude to the Government of Ghana for its excellent hospitality and thanked both participants and observers for their active participation. He emphasized the importance of port State control in the elimination of sub-standard shipping, however, he stressed that it should be seen as a tool to help Maritime Administrations to comply with their own responsibilities as flag States.

He also stressed that efficient flag State administrations were needed first, and it was only when these failed to meet their statutory obligations that port State control should come into operation. He highlighted the particular requirements of the West and Central African region, with particular reference to the varying levels of economic development and maritime traffic.

The Secretary-General further referred to the establishment in 1992 of a sub-committee on flag State implementation at IMO. One of the major tasks of this new sub-committee was to address issues of importance to port States when exercising their duties under international conventions aiming at ensuring that ships will not leave their national ports unless they are safe and will not, if allowed to sail, pose a threat to the marine environment. Important as this role is, it has however, been accepted as supplementary to that expected to be played by the flag States in the first place.

The Secretary-General believed that the role of port States in the global struggle to enhance safety and protect the environment will increase rather than decrease in the future. The First Preparatory Meeting could not, therefore, have been convened at a better time for pursuing such a pertinent topic. Following his appeal, as far back as 1991, to establish regional agreements on port State control throughout the world, he was pleased to see these positive developments and assured the meeting of the full support and co-operation of the International Maritime Organization.

The Honourable Edward Salia, Minister of Roads and Transport of Ghana then delivered his keynote address. After warmly thanking the Secretary General of IMO, Mr. W. O'Neil, for his inspiring presence and for the strong support given by the Organization towards the realization of this First Preparatory Meeting and also MINCONMAR at regional level. He referred to the importance of the First Preparatory Meeting for the establishment of a port State control system in the Region. This system was to be based on previous experience accumulated by IMO during the establishment of similar MOUs elsewhere in the world and in lessons already learnt in their operation. The reduction of sub-standard ships plying in the region, the avoidance of marine pollution the diminishing of casualty rates including the removal of wrecks and avoidance of harassment or malpractices in the region ports were highlighted as advantages of the system.

The Minister then referred to the linkage between a good system for flag State and port State inspections and the need for an effective training scheme aimed at providing port State control officers with competence and honesty in their approach. The need to have adequate shiprepair facilities as well as an advanced communication network was also paramount. The Minister also recognized that while

the first step was ratification of IMO instruments, effective implementation was necessary and, that implementation of port State control under an effective regional cooperation was essential.

In concluding, the Minister offered the facilities available in Ghana in the maritime training field, shipyard capability and other maritime facilities to support the implementation of a port State Control agreement which, in his view, given the impressive participation of West and Central African countries and this Meeting would reach fruitful conclusion. The Minister declared the Meeting opened.

In his closing remarks, the Honourable D. Azuma, Member of Parliament and leader of the Parliamentary Committee on Transport, expressed appreciation to the Honourable Minister of Roads and Transports, the Secretary-General of IMO, the representative of ILO and the Secretary-General of MINCONMAR and thanked the participants, delegates and observers for their attendance and re-iterated the co-operation of the Government of Ghana for the success of the Meeting.

The full texts of the above statements are set out at Appendix 2.

## **2 ADOPTION OF THE AGENDA**

The Meeting considered the provisional Agenda (WCAMOU 1/1), the provisional Programme (WCAMOU 1/1/1) and the List of Documents (WCAMOU 1/TNF.2).

The Meeting adopted the Agenda and the Meeting schedule as set out at Appendix 3..

In order to accomplish the intended tasks in the most effective manner the Meeting was designed as follows:

- Plenary sessions on Tuesday, 17 February (all day) and Friday, 20 February (a.m.) to consider the draft reports of the Working Groups and the draft Report of the Meeting.
- Preparatory Working Group sessions on Wednesday, 18 February and Thursday, 19 February.

## **3 ELECTION OF OFFICERS**

The Meeting elected Mr. J. C. Afari, Shipping Commissioner., Chief Executive as its Chairman, Mr. V. Eyegue (Gabon) as its Vice-Chairman and Mr. H. Fortes (Cape Verde) as Rapporteur, all of them by acclamation. Mr. L. Pufong (MINCONMAR) and Mr. F. Plaza (IMO) acted as Joint Secretaries of the Meeting.

## **4 PERSPECTIVES AND EXPERIENCES ON PORT STATE CONTROL**

### **IMO and port State control: current situation**

The Meeting noted a report on port State control presented by Mr. Fernando Plaza (IMO), outlining the various IMO global initiatives for the implementation of effective co-ordinated port State control. He also provided an update on current IMO activities aimed at the successful conclusion of a Memorandum of Understanding on port State control for West and Central Africa and appropriate training programmes for both flag State implementation and port State control in the region. Besides the required ratification, the need for effective implementation, by participating countries, of all the

**Development on port State control: the ILO perspective**

The ILO observer, Mr. H. Essenberg, stressed the importance of eliminating sub-standard shipping by maintaining an effective system of flag State implementation and port State control. In his view, the implementation of relevant ILO maritime labour standards was a priority, in particular ILO Convention 147. He explained that Convention 147 constituted the central ILO standard on what is regarded as the minimum internationally acceptable maritime labour standards and should be reflected in any port State control arrangement. After thanking IMO for the opportunity given to cooperate in their training programmes, he also stressed that the ILO is available to provide assistance in relation to international labour standards, to advise on their implementation and to continue to assist in their training programmes for inspectors covering all the practical issues that they need to address.

**Flag State implementation and port State control: practical issues**

In his presentation on flag State implementation and port State control, the IMO Consultant, Mr. A.A. Protonotarios, stressed the importance of flag States' commitment to safety and their responsibility to ratify and, most importantly, to implement basic international conventions and to provide regulations for non-convention ships.

The development of a department within the State's maritime administration, which will undertake the monitoring and control of the ships, was pointed out, as well as the importance of employing officers and inspectors with the best possible qualifications.

The importance of well planned initial and on-going training for officers was also pointed out and a list of items which should be included in the training curriculum covering all the functions of the Administration's activities was mentioned.

He then pointed out two practical issues of flag State implementation:

- a) one being the correct authorization to the classification societies as recognized organizations and their effective monitoring and verification of the work they are doing on behalf of the flag State providing ways of how this control over the classification societies is best performed;
- b) the other being the importance of investigating marine accidents and casualties so that findings to be utilized for the improvement of safety. The development of a dedicated department was pointed out, as well as the importance of such a department being independent of safety control for possible conflict of interests.

Turning to port State control, he also stated that the role of such inspections is complementary to flag State implementation and that this is the responsibility of all the participating States collectively to set the system in motion, but the responsibility of each individual State to implement it.

He stressed again the necessity of proper training of the PSCOs to the specified inspections and outlined the various stages of such inspections and the importance of the PSCOs' integrity and professional judgement expressed in a rational way in order to identify sub-standard ships.

Finally, he spoke of the major contribution a Code of Conduct and uniformity of actions will have upon flag State implementation and port State control and in the development of a safety culture.

## **The experience of other regional Agreements of port State control**

The Meeting noted an update on port State control matters (WCAMOU 1/4/3) presented by its Secretary, Mr. Fernando Plaza, explaining current developments with respect to the Paris MOU, the Viña del Mar Agreement, the Caribbean MOU, the Asia and Pacific MOU, the Mediterranean MOU, as well as prospects for the future with respect to the Indian Ocean and the Persian Gulf regions, which will "de facto" provide global port State control coverage and for which increased support from donors will be required. The need firstly for ratification and secondly for effective implementation of the relevant instruments included in the Memorandum, by participating countries, was highlighted as a means of providing a harmonized regime and avoiding unfair competition between ports of the region.

The observer from the Economic Commission for Africa, Mr. P. Were, after thanking the host country, Ghana and the IMO for this port State control initiative in the West and Central African region highlighted that participants of the African Port Seminar, which was conducted in January 1998 in Mombasa, Kenya resolved that port State control is one of the main challenges facing African countries/ports in the next millenium. He emphasized that while reviewing the draft MOU for West and Central Africa, participants have to bear in mind that the African continent has not developed any common policy on port State control, therefore, the approved MOU for the sub-region will lay foundations for the preparation of a policy paper for the continent on this issue. Such a policy paper could be of great interest to IMO, ECA and OAU after the sub-regional MOU's are finalized and agreed upon by all parties concerned with port State control at sub-regional levels.

The leader of the Nigerian delegation, Dr. Babangida Aliyu observed that classification societies should be properly monitored by the International Maritime Organization (IMO) as some of them are not of internationally acceptable standard. He equally highlighted the fact that the IMO should focus more on the existing international conventions and ensure their adequate implementation, rather than creating new ones.

## **The role of classification societies in port State control**

The Meeting took note, with appreciation, of the intervention of the IACS observer, Mr. James Smith, reflecting the role of classification societies in general, its special relationship with IMO, and in respect of port State control matters, in particular. In his view, class is as central to the challenges of the IMO instruments and to the power of port State control to intervene. IACS considered the agreements on port State control to be important partners in the circle of organizations working for the safe and responsible operations of ships and offered their co-operation in these endeavours. The Meeting noted the kind offer of IACS to co-operate within its possibilities, and by their individual Members directly, with the participating maritime administrations in their training efforts.

## **Presentations by participating countries**

After referring in general to the special characteristics governing the shipping trade and transport in their countries and the status of IMO instruments' ratification of the individual Member States as reflected in the baseline questionnaire distributed by the IMO Secretariat (WCAMOU/INF.8) and further update offered at the Meeting, the delegations referred, in particular, to aspects related to achievements and shortcomings with respect to port State control as follows:

### **Angola**

The representative of Angola explained that his country had only a limited experience in port State control. Furthermore, Angola had also encountered difficulties relating to language capability as Portuguese is not an official language of IMO instruments. Relationship between the Maritime

to port State control. He stressed the importance of Angola's fishing sector fleet and pointed out that due to a lack of infrastructure and shortage of human resources, his country required assistance in the field of maritime training.

#### **Benin**

The representative of Benin spoke of the benefits to be gained through the interchange of experiences among the various maritime Administrations. He explained that his country's ports infrastructure was modest and that its convention size fleet was small. In view of Benin's large number of small ships, a Code of safety for ships below convention size was welcomed. Finally, he stressed the need for the introduction of guidelines on the conduct of port State control inspections and suggested that assistance could be provided by IMO.

#### **Cameroon**

The representative of Cameroon explained that his country only had a limited experience in surveys and inspections of cargo ships. The majority of ships in Cameroon are mainly small ships of traditional wooden design. He expressed his concern for the improvement of maritime safety and the protection of the marine environment and stressed the need for a maritime training framework to be developed.

#### **Cape Verde**

The representative of Cape Verde also spoke of his country's limited experience of port State control and inspection and surveys in general. Cape Verde relied mainly on classification societies to undertake their inspections. He listed the ILO Conventions ratified by his country, which do not include Convention 147. Finally, he also stressed the need for the development of a training programme.

#### **Congo**

The representative of Congo referred to the oil and fishing sector capabilities and needs of his country. While the ratification rate of IMO instruments is not high, a large number of IMO Conventions are now placed for consideration by the National Assembly. The importance of coastal trade and the reliance on classification societies as well as limited experience on port State control were highlighted.

#### **Côte d'Ivoire**

The representative of the Côte d'Ivoire stated that port State control is applied following Resolution A.787 and relevant IMO instruments, as the majority of IMO Conventions are ratified and implemented. He further supported the need for rules and regulations for ships below 500 GT. The importance of training was mentioned and he reviewed the facilities available at Abidjan in this respect.

#### **Equatorial Guinea**

The representative of Equatorial Guinea stated that they have very little experience on surveys and inspection and difficulties in coping with implementation of the ratified conventions due to lack of resources both human and financial. He finally called for increased technical co-operation by IMO and donors.

## **Gabon**

The representative of Gabon gave an explanation of the Maritime Administration structure and of their delegation to recognized organizations. Lack of human resources was mentioned, in particular surveyors and inspectors, for which training skills are essential. There is limited application of port State control in the ports.

## **Gambia**

The representative of Gambia referred to the lack of Maritime Administration and therefore very limited experience in surveys and inspections to carry out port State control functions. He referred to an IMO TC advisory mission to assist the Administration, to the resources available at the Port Authority to carry out port State control and to the lacuna in legislation in the country. Lack of foreign going vessels as their fleet is mainly composed of inland and coastal vessels. Support for a Code of Safety for smaller ships was expressed.

## **Ghana**

The representative of Ghana referred to the restructuring of the Maritime Administration with a view to improvement as a consequential revision of the 1963 Merchant Shipping Act. Flag State control was mainly exercised through delegation of Authority to recognized organizations. Limited but effective application of port State control through local rules which nevertheless need centralisation as surveys are carried out by either Governments surveyors, Customs and Excise officers or Harbour Masters. The need for training through technical seminars and the sharing of experience was considered essential.

## **Guinea**

The representative of Guinea, after revising his country's capability in flag State implementation and port State control, mentioned the current restructuring of the Maritime Administration. The rate of port State control inspection were relatively high and flag inspection in spite of the absence of agreements with classification societies in delegating functions. The need for rules and regulations applicable to ships below convention size was highlighted. Close co-operation in establishing an effective port State control regional system was essential.

## **Guinea-Bissau**

The representative of Guinea-Bissau mentioned their little experience in the application of port State control. The need for training for cooperation in port State control matters as well as improving flag State capabilities was essential through technical co-operation projects. Funding from IMO and other donors were required to improve life saving appliances and associated equipment in the small vessels fleet. Support for smaller vessels regulations was voiced.

## **Liberia**

Since 1993, after the first session of the Sub-committee on flag State implementation (FSI), held at the International Maritime Organization (IMO) in London, Liberia has been involved in port State control safety inspections of foreign vessels visiting its national ports especially, the Freeport of Monrovia. With a democratic elected government and the return of peace in the country, Liberia is aiming to extend its PSC activities nationwide, that is to the remaining three commercial ports, Buchanan, Greenville and Harper.



The Bureau of Maritime Affairs of the Republic of Liberia immediately following the first session of the sub-committee (FSI), set up an adjunct office at the Freeport of Monrovia, one of the four major commercial ports to serve port State control safety inspection activities on the temporary basis.

It is worth mentioning that Liberia's Safety Records on vessels registered under its Flag has been attributed to the two basic reasons given below:

- as premier in international open registry, Liberia has employed and utilized the services of over 700 nautical inspectors in ports worldwide, in addition to classification survey to inspect its vessels, ensuring they comply with IMO Conventions and Regulations;
- scrutiny of certificates issued to seafarers sailing on-board Liberian registered vessels is tightened. Degrees, diplomas and other relevant maritime certificates issued to personnel sailing under the Liberian flag are carefully checked for their veracity.

### **Mauritania**

The representative of Mauritania stated that they have ratified all relevant instruments. He expressed their limited experience in surveys and inspections either on flag State side or port State control in view of their small number of commercial ships. The importance of their fishing fleet and activities of foreign fishing vessels in their waters called for training to enable the inspection of those vessels. Regional co-operation was strongly supported.

### **Namibia**

The representative of Namibia explained their limited experience both in flag State implementation and port State control due to the absence at the moment of a national merchant fleet. Now the Maritime Administration and port facilities are being restructured. Their fleet is composed mainly of smaller ships and fishing vessels. Plans for ratification of the relevant IMO conventions are at an advanced stage and a Code of Safety addressed to the smaller vessels fleet were paramount to protect Namibian waters.

### **Nigeria**

The representative of Nigeria requested the Chairman to include in the report under a relevant Annex a written Statement prepared by the delegation. The Meeting having agreed to the request, the Statement is included in Appendix 2. The maritime infrastructure, equipment and capability of the Nigerian Administration to carry out their flag State implementation and port State control duties was explained and offered to the region, in a cooperative effort, including financial support to follow-up the regional port State control initiative either in Nigeria or at any other country in the region (Guinea was mentioned). Nigeria has played a protagonistic role in the current drive both at IMO and through MINCONMAR and felt committed to the success of a regional MOU as well as to active participation in the Meeting at the Working Group level. It was further expressed that ensuring safety and the protection of the environment was of essence by proper implementation rather than creating new instruments.

A Nigerian Shipowner's point of view was also presented. While recognizing the benefit of an effective port State control regime in the region it was important to start the system cautiously as the special characteristics of the region and its trade and economic development were at stake. Effective implementation of port State control means harmonization of inspection, avoidance of harassment, good training of port State control officers and a level playing field. There was therefore a strong need for the proper ratification, implementation and adequate training prior to embarking in a rigorous port State

## **Senegal**

The representative of Senegal, while recognizing the benefits of port State control expressed the view that more experience in its application is required. The need to count on a good infrastructure, both physical and human resources was also recognized. In this respect, the need to keep within the Administration, personnel trained abroad was highlighted (i.e. WMU graduates). However having ratified all major IMO Conventions, Senegal is ready to embark in the full implementation of a port State control agreement for which appropriate training was recognized.

## **South Africa**

The representative of South Africa explained the special geographical characteristics of South Africa as an Atlantic and Indian Ocean State, as well as their experience in flag State implementation and port State control. The special bulk carrier trade subject to enhanced port State control inspections was mentioned. It was realized that despite of a high level of port State control interventions, the rate of detentions was rather low. Their active role on the establishment of the Indian Ocean MOU was highlighted by the fact that the signature of that MOU is scheduled to take place in Pretoria during the first week of June 1998. The restructuring of the Maritime Administration under a privatisation drive similar to that in the UK and Australia was under way. Their experience in training capabilities is being used for the benefit of others African countries under training schemes through IMO and bilaterally.

## **Togo**

The representative of Togo stated that their experience on flag State implementation was limited by the inexistence of a national merchant fleet and the absence of practical ways and means to carry out those functions. The need for technical assistance was paramount. However, port State control was started in 1996 based on major IMO Conventions ratified by Togo and mention was made of irregularities both in classification societies, in ships and their certificates found in the course of this intervention which call for an harmonized regional approach to eradicate sub-standard ships.

## **Summary of interventions**

Having heard the interventions, perspectives and experiences of participating delegations, the IMO representative drew the attention of the Meeting to the need for a balanced approach, taking into account the capabilities in the region, the need for economic development and the imperatives of safety and the protection of the marine environment.

The Chairman, in turn, expressed his deep appreciation for their excellent contributions and the perceived unanimous support for the establishment of a West and Central African port State control capability. He highlighted the need for technical co-operation expressed by participants and called on IMO and other donors both within and outside the region to assist in this endeavour. The need to address safety of ships under convention size at this and future meetings and the application of IMO port State control resolution was also highlighted. In order to state the formal commitment of participating delegations towards the improvement of maritime safety in the region and the eventual eradication of sub-standard ships, the Meeting considered, as proposed by the Chairman, the Declaration (Accra Declaration on Port State Control) as set out at Appendix 7, which was subsequently adopted by the Meeting on 20 February 1998.

## REGIONAL CO-OPERATION ON PORT STATE CONTROL

### Establishment of Working Groups

In accordance with the Agenda, the Chairman recalled the need to establish separate Working Groups, prior to formal approval by Plenary, to deal with the following two distinctive tasks:

#### *.1 Draft Agreement of Co-operation (WCAMOU)*

In his remarks on the establishment of the Working Group on the Draft Agreement of Co-operation, the IMO representative drew the attention of the Meeting to the need to focus, as expressed in the individual interventions by countries in the region, on the small vessels fleets, (i.e. of less than 500GT not subject to mandatory SOLAS requirements) plying the region. He recalled that, in many cases, these vessels move 90 per cent of the cargo and are subject to a high accident rate with loss of lives and property. Recalling the previous work done by IMO in the Asia and Pacific region (under a United Nations Development Programme funded project RAS/93/034), leading to the adoption of the "Safety regulations for non-convention sized ships" now accepted by many of the participating countries, he recommended that the Working Group consider the subject and make recommendations to Plenary either at this or at a future meeting accordingly, in particular a suitable draft paragraph and relevant annex to be included in Section 2 of the draft Memorandum.

He also referred to the need to discuss and agree from the outset the preparation of a port State control Manual to assist port State control officers in the region, for which similar texts agreed in other regions are available.

#### *.2 Training programme framework*

The need for training highlighted by the majority of participating countries call for the development of a plan of action including short-term and long-term phases to cater to the needs of the region and the Working Group was tasked with a preliminary study and related framework.

### Officers of the Working Groups

Having identified the tasks to be accomplished, two working groups were established to deal with the above matters, under the respective Chairmanship and Secretariat support as outlined below:

WG 1 - Draft Agreement of Co-operation (WCAMOU)  
Chairman: Mr. G. Cooper (Liberia)  
Secretary: Comm. Mah D. Moussako (Côte d'Ivoire)

The Working Group was assisted in the preparation of its report by Mr. A.A. Protonotarios (IMO).

WG 2 - Training Programme Framework  
Chairman: Mr. M.P.A. Coussoud-Mavoungou (Congo)  
Secretary: Mr. A. Wasagu (Nigeria)

The Working Group was assisted in the preparation of its report by Captain A. Erzan-Essien (Namibia).

The Meeting instructed the Groups to work taking into account documentation available and comments and proposals submitted at this session and to present their respective reports to the Plenary Session, on Thursday 19 February 1998.

In closing the first session of Plenary, the Chairman thanked delegations for their interventions and support and adjourned the Meeting in Plenary accordingly.

#### **Report of the Working Group on the Draft Agreement of Co-operation (WCAMOU)**

The meeting considered the report of the Working Group (WCAMOU 1/5 ) introduced by Mr. G. Cooper (Liberia) and noted that while the actual text of the draft Memorandum was preliminary considered in its totality, the Annexes of the Memorandum will be subject to detailed review at its next session.

The meeting noting with appreciation progress made, invited participating delegations to submit comments and /or proposals on the draft text as set out at Appendix 5 to the Second Meeting when the draft MOU will be expected to be finalized .

The meeting noted the report of the ad-hoc Group on Financial Arrangements for the Secretariat and the Information Centre and agreed to discuss the matter in detail at its next session. The IMO Secretariat was invited to submit information on current practice pertaining to other regional MOU which may assist and the deliberations.

In approving in general the report of the Working Groups, the meeting thanked its Chairman and contributing participants for their excellent work accomplished.

#### **Report of the Working Group on the Training Programme Framework**

The meeting considered the report of the Working Group on training (WCAMOU 1/6) introduced by Mr. M.P.A. Coussoud-Mavoungou (Congo). Realizing that the question of training will need an in-depth review including further information on the regional capability to impact training, the Meeting invited interested participating delegations to submit such information, as well as comments and proposals on the proposed framework by the Working Group, as set out at Appendix 6, at the Second Meeting, when the matter will be further advanced.

In approving in general the reports of the Working Groups, the Meeting thanked its Chairman and contributing participants for their excellent work accomplished.

#### **ANY OTHER BUSINESS**

##### **Status of IMO instruments**

The Meeting noted the table on Status of Implementation of IMO Instruments by the participating countries submitted by IMO, as set out at Appendix 4, and reiterated the need for early ratification and effective implementation of the relevant IMO and ILO Conventions for a proper discharge of their responsibilities as flag and port States.

**Venue and date of the Second Preparatory Meeting**

With regard to follow-up actions emanating from the Meeting, the question of holding the second preparatory Meeting of the West and Central African MOU was raised.

The Meeting took note, with appreciation of the generous offer by Nigeria to assist financially the holding of future preparatory meetings. The Meeting also accepted, with appreciation, the offer of the Republic of Guinea to host the Second Preparatory meeting at Conakry, during the second half of September 1998. Organizational aspects and necessary arrangements will be the subject of discussions between the host country, Nigeria and the IMO Secretariat, well in advance of the Meeting.

**REPORT OF THE FIRST PREPARATORY MEETING**

The Meeting adopted its Report, introduced by its Rapporteur, Mr. H. Fortes (Cape Verde) and by Mr. F. Plaza (IMO) as Secretary, and agreed that the Report of the Meeting would be editorially finalized based on the draft report submitted to Plenary under symbol (WCAMOU 1/7) which was considered and approved, as amended, on 20 February 1998.

The Meeting also noted that the final version of the Report will be completed by the Secretariat at IMO and will be circulated to the participants in English and French.

The participants of the Meeting were requested to study the Report (WCAMOU 1/7) and send their comments to the IMO Secretariat as soon as possible, but not later than 31 March 1998. Participants were encouraged to bring the texts of Appendix 5 and Appendix 6 dealing respectively with the Draft West and Central African MOU and the Training Programme to the attention of their principals in their respective capitals in order that the participating Maritime Authorities' decisions could be taken into account at the Second Preparatory Meeting.

**Expressions of Appreciation**

The Meeting expressed its fullest appreciation for the accomplished Chairmanship of Mr. M.J.C. Afari and the support of Mr. F. Plaza, which had contributed to the valuable discussions and decisions on port State control for the region. Additionally, the Meeting registered its gratitude to the Government of Ghana for its hosting and excellent organization of the proceedings.

The Meeting noted also with appreciation the role played by MINCONMAR and their initiatives at the beginning of the project.

The Meeting gave special mention to the dedicated support and co-operation which had been received from , the International Labour Office (ILO), the Economic Commission for Africa (ECA) and the United Nations Development Programme (UNDP), the International Association of Classification Societies (IACS) and, in particular, from the International Maritime Organization (IMO) and its Secretary-General, Mr. W.A. O'Neil, who had attended and addressed the Opening of the Meeting.

**CLOSING REMARKS**

The Meeting heard closing remarks by Liberia, Nigeria, Côte d'Ivoire, Congo and Guinea, all of whom expressed their deep appreciation to the Government of Ghana and the IMO Secretariat and their best wishes for the future success of the Memorandum.

Having concluded the session of the First Preparatory Meeting in a most satisfactory way, the Meeting took note with appreciation of the final statements made by the IMO representative, Captain A.R.N. Macauley and the Honourable M. Hammah, Deputy Minister of Roads and Transports of Ghana, and expressed yet again their profound gratitude to the Government of Ghana for their excellent organization and to all Ghanaian institutions, organizations and associations for their generous hospitality which have contributed so much to the success of the Meeting.

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**APPENDIX I**

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**APPENDIX 1**

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**FIRST PREPARATORY MEETING ON PORT STATE CONTROL  
FOR THE WEST AND CENTRAL AFRICAN REGION  
(Accra, Ghana - 17 to 20 February 1998)**

**Provisional Agenda for the Meeting**

- 1 Opening of the Meeting**
- 2 Adoption of Agenda**
- 3 Election of Officers**
- 4 Perspectives and experience on Port State Control**
  - the international scene
  - the regional experience
- 5 Regional Co-operation in Port State Control - Establishment of Working Groups**
  - Draft Memorandum of Understanding
  - Training Programme framework
- 6 Any other business**
  - .1 Technical cooperation matters**
- 7 Reports of the Working Groups**
- 8 Report of the First Preparatory Meeting**



**FIRST PREPARATORY MEETING ON PORT STATE CONTROL  
FOR THE WEST AND CENTRAL AFRICAN REGION  
(Accra, Ghana - 17 to 20 February 1998)**

**PROVISIONAL PROGRAMME**

<b>Day</b>	<b>Hrs.</b>	<b>Agenda item</b>	<b>Sessions</b>
<b>Tuesday, 17 February 1998</b>	08.30	Registration of Delegates	Plenary
	09.20	1. Opening Ceremony	
		Introduction of Chairman	
		Chairman's Opening remarks	
		Welcome Address by Mr. J.C. Afari, Shipping Commissioner, Ghana	
		Statement by H.E. Mr. L. Pufong, Secretary-General MINCONMAR	
		Statement by Representative of ILO	
		Address by H.E. Mr. William O'Neil, Secretary-General of IMO	
		Keynote Address by Hon. Edward Salia, Minister, Roads and Transport	
		Chairman's Closing Remarks	
		Vote of Thanks	
	10.20	COFFEE BREAK	
	10.40	Opening of the Meeting	
		General remarks by IMO	
		2. Adoption of Agenda	
		Adoption of Agenda	
		3. Election of Officers	
	11.00	Election of Officers	
		4. Perspectives and Experience on Port State Control	
	11.10	Perspectives and Experience on Port State Control	
	11.20	IMO and PSC - Current situation: (IMO)	
	11.40	The ILO Perspective: ILO Representative	
	11.50	Flag State Implementation and Port State Control: Practical issues (IMO)	
	12.00	The experience of other regional agreements of PSC	
	12.15	LUNCH	
	14.00	The Role of Classification Societies in PSC	
	14.15	Presentations by Participating Countries	
	15.30	COFFEE BREAK	
	16.00		
	-	Presentations by Participating Countries	
	17.30		

Day	Hrs.	Agenda item	Sessions
Wednesday, 18 February 1998	09.00	<b>5. Regional Co-operation in Port State Control</b> Establishment of Working Groups on: 1. Draft Agreement of Co-operation (WCAMOU) 2. Training Programme Framework	WG 1 WG 2
	09.30	Working Groups Convene	
	09.30	Working Group Sessions	
	11.00	COFFEE BREAK	
	11.30	Working Group Sessions	
	12.30	LUNCH	
	14.00	Working Group Sessions	
	15.30	COFFEE BREAK	
	16.00	Working Group Sessions	
Thursday, 19 February 1998	09.30	Working Groups Convene	WG 1 WG 2
	09.30	Working Group Sessions	
	11.00	COFFEE BREAK	
	11.30	Working Group Sessions	
	13.00	LUNCH	
	14.00	Preparation of reports of the Working Groups	
	15.30	COFFEE BREAK	
	16.00	Finalization of the Working Groups' reports for presentation to Plenary	
Friday, 20 February 1998	09.30	Presentation of Working Groups reports and discussions	WG 1 WG 2
	10.00	Any other Business	
	11.00	COFFEE BREAK	Plenary
	11.30	Consideration of the report of the First Preparatory Meeting	
	12.00	Closing Ceremony	

**STATUS OF IMO INSTRUMENTS IN  
WEST AND CENTRAL AFRICAN REGION**

## STATUS OF CONVENTIONS

02/02/98

[illegible]

**REPORT OF THE WORKING GROUP ON THE  
DRAFT AGREEMENT OF CO-OPERATION**

## **REPORT OF THE WORKING GROUP ON THE DRAFT MEMORANDUM**

### **Introduction**

The Working Group (hereinafter called the Group) met on 18 and 19 February 1998, under the Chairmanship of Ambassador Gerald F.B.Cooper of Liberia, with Mr. Moussako Mah from Côte d'Ivoire acting as Secretary.

Delegations of Angola, Benin, Cameroon, Cape Verde, Congo, Côte d'Ivoire, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Liberia, Mauritania, Namibia, Nigeria, Sénégal, South Africa and Togo participated in the Group.

In attendance as Observers, were representatives of ECA, CEMAC, MINCONMAR, ITF, the Nigerian Shipowners Association and the Ghana Shipowners Association.

The Chairman of the Group opened the meeting by introducing the Panel and proposing that a general discussion be carried out at the beginning among the delegates expressing their views on the forthcoming MOU for Western and Central Africa, prior to examining in detail the draft MOU prepared by IMO.

In the ensuing discussions various points were raised by the delegates which were debated and which may be summarised as follows:

- .1 the necessity to use to our advantage the work already done by other regions, taking into consideration the needs of developing countries in the region and ensuring the assistance of IMO in order to conduct an in-depth review of the draft MOU;
- .2 the qualifications and training of PSCOs and the State infrastructure for a uniform application of port State control;
- .3 the communication problem existing between PSCOs and crew in using different languages;
- .4 local regulations as opposed to international regulations;
- .5 availability of maritime equipment and support in the region, required for rectification of deficiencies;
- .6 unfair targeting of flag and shipowner;
- .7 detention of ships;
- .8 different application of port State control in different ports rendering some ports preferential to owners for trading, as well as the question of some ports taking advantage for enhancing their trading opportunities by not applying properly port State control;
- .9 small vessels fleet not subject to convention requirements (non-convention ships);
- .10 application of the regulations of a convention on a ship whose flag is not party to that particular convention (no more favourable treatment)

- .11 avoidance of multi-inspections;
- .12 port State control to assist and not to inhibit the growth of trade in the region;
- .13 financial implications in the creation of the Secretariat, the Information Centre and the inspections;

The Group agreed that the Memorandum, as it is customary, to be named after the name of the town of the last meeting, which is to be put into square brackets:

[ .....] MOU

## **Draft text of the Memorandum**

### **Preamble**

- It was agreed to add a new paragraph between the first and second paragraphs of the Preamble, referring to training, the wording of which will be agreed at the next Meeting.
- Similarly, it was also agreed to add a new paragraph between the second and the third paragraphs of the Preamble, referring to MINCONMAR Resolutions, the wording of which will be agreed at the next Meeting.
- It was suggested that the word "nevertheless" in the fourth paragraph of the Preamble was superfluous and should be deleted. Delegates from the floor, however, stated that the word should be retained as it refers to the preceding paragraph. It was agreed to put both in square brackets.
- There was a discussion as to the exact translation into French of the last paragraph of the Preamble and the IMO representative undertook to take it up with the Secretariat.

## **Section 1 Commitments**

### **Paragraph 1.1**

Regarding ratification of instruments, it was proposed that accession should be used instead of ratification, and a discussion was followed by various delegates explaining their meaning of the two words. It was agreed to make the following alteration:

"..... step to [ratify or accede] instruments....."

### **Paragraph 1.2**

It was agreed that since there are no inland participating States in the region to delete words in brackets i.e. "of a coastal state" as superfluous.

### **Paragraph 1.3**

It was agreed to leave the square brackets for both the period and the percentage of inspections for.

## **Section 2      Relevant Instruments**

### **Paragraph 2.1**

The Group agreed to keep in square brackets the "International Convention on Tonnage Measurement of Ships, 1969" since the majority of participant States have not ratified the said convention.

The Group also agreed to use the relative text of the Mediterranean MOU combining the opening and closing sentences of the clause and place it in square brackets as *follows*:

[For the purposes of the Memorandum "relevant instruments" are, together with the Protocols and amendments to these instruments and related codes of mandatory status [as and when they come into] force the following instruments].

### **Paragraph 2.5**

The Group discussed at length and debated whether to use the expression "non-convention sized ships" or "ships below 500 gross tonnage". After due deliberations where many opinions were voiced on the issue, it was decided to substitute the clause with that of the Mediterranean one, and place it in square brackets as follows:

[In the case of ships below 500 tons gross tonnage the Authorities will apply those requirements of the relevant instruments which are applicable and will to the extent that a relevant instrument does not apply take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment, having regard, in particular to Annex 2].

## **Section 3      Inspection Procedures, Rectification and Detention**

### **Paragraph 3.2.2**

What exactly constitutes "clear grounds" was debated and many delegates expressed their concern regarding the items refer to in Annex 3. It was agreed to retain the square brackets.

### **Paragraph 3.5.2**

It was decided that expertise assistance will be required in the region and it was agreed to remove the square brackets and substitute the word "Administration" by "Authority".

### **Paragraph 3.5.3**

It was agreed to remove the square brackets and add the word "or" after "personal".

### **Paragraph 3.5.4**

It was debated whether it was necessary for the PSCOs to have an identical ID or simply an authorisation document issued by the flag State. It was agreed that for uniformity reasons the ID to be of the same format, and to substitute the word in the square brackets with the word "standard".



**Paragraph 3.6.3**

After an extensive discussion on the detention of ships on account of a deficiency, it was agreed to delete the square brackets.

**Paragraph 3.6.4**

Many delegates expressed their concern regarding the professional judgement of the PSCO when exercising their right to detain a vessel, especially in cases where there are no repair facilities in the port of detention. An opinion was expressed to the effect that a properly qualified and adequately trained PSCO could have no problem in making the right decision. The IMO Representative intervened to point out that the well prepared IMO Resolution "Procedures for Port State Control" is a thorough enough guidance on the detention issue. It was agreed by the Group to retain the clause as it is.

**Paragraph 3.8.3**

It was proposed and agreed to alter the clause by inserting the words "of loss" after the word "risk".

**Paragraph 3.11**

The Group agreed to delete the words "or recorded", as issuance includes also recording and also to delete the square brackets.

**Paragraph 3.12**

The Group realizing that unloading bunkers from a non-oil carrier may required for safety reasons, agreed to delete the square brackets.

**Section 4      Provision of Information**

**Paragraph 4.1**

The Group agreed to delete the square brackets.

**Paragraph 4.2**

The Group agreed to delete the square brackets.

**Section 5      Operational Violations**

The Group agreed on the text.

**Section 6      Training Programmes and Seminars**

Working Group II has dealt with this issue.

## **Section 7      Organization**

### **Paragraph 7.1**

An extensive discussion was carried out as to the necessity for MINCONMAR and ECA to be included together with IMO and ILO. It was agreed to include "MINCONMAR".

After considerable discussion whether to include or not the landlocked countries, as well as other African countries, it was agreed to delete the following: "West and Central" and "Coastal" in the understanding that a mechanism exists within the Memorandum for the accession of other countries or organisations as observers, subject to the unanimous agreement of the Committee.

### **Paragraph 7.2**

It was agreed to remove the square brackets.

### **Paragraph 7.5**

It was agreed to retain the square brackets.

## **Section 8      Financial Mechanism**

It was agreed to place into square brackets the words "if possible".

## **Section 9      Amendments**

### **Paragraph 9.2**

It was agreed to remove the square brackets and to substitute "three" by "six".

It was agreed to substitute the word "different" with the word "other".

## **Section 10     Administrative Provisions**

### **Paragraph 10.3**

It was agreed to retain the square brackets.

### **Paragraph 10.6**

It was agreed to retain the square brackets.

### **Paragraph 10.9**

A discussion was carried out regarding the language of the MOU and it was originally agreed to be the English language and therefore that the square brackets should be removed. However, following

the majority of the participating countries are French speaking and, therefore, the authentic text of the memorandum should also include a French version. Following informal consultations, the Chairman further informed the Meeting that a Portuguese version can be produced and deposited with the signed original, if finance is provided for the purpose.

## **Annexes**

All the Annexes were introduced by the IMO Representative and were accepted as they were subjected to detailed discussion at the next meeting.

**Paper WCAMOU/WP.2 - "Financial Arrangements for Secretariat and Information Centre" was discussed by a Sub-Committee comprised of representatives of Côte d'Ivoire, Congo, Ghana, Liberia, Senegal, South Africa and Togo.**

The paper was generally examined by the Group and it was felt that details should be reviewed by specialized Authorities of each country, especially as regards to the two options mentioned therein.

The criteria in option 2 were discussed at length, and it was agreed to retain the square brackets.

It was agreed to place into square brackets the reference made to the Director of Maritime Affairs.

A discussion was carried out regarding income and expenses of the Secretariat, but it was agreed to discuss such matters, at a later date.

The South African representative advised the Group that he had the mandate to offer the facilities of the Indian Ocean MOU Information Centre, when the latter was to be established in South Africa, for an interim period until other arrangements are made.

## **Action Requested of the Meeting by Plenary:**

- .1 to note progress made in the development of a draft MOU for West and Central Africa;
- .2 to invite delegations to submit comments and proposals to its next session;
- .3 to approve the report in general.

ANNEX 1

DRAFT

**MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL**  
**FOR THE WEST AND CENTRAL AFRICAN REGION**

The Maritime Authorities\* of :

Angola	Guinea
Benin	Guinea-Bissau
Cameroon	Liberia
Cape Verde	Mauritania
Congo	Namibia
Côte d'Ivoire	Nigeria
[Democratic Republic of Congo]	[Sao-Tomé & Principe]
Equatorial Guinea	Senegal
Gabon	[Sierra Leone]
Gambia	South Africa
Ghana	Togo

Hereinafter referred to as "the Authorities"

Recognizing the need to increase maritime safety and the protection of the marine environment and the importance of improving living and working conditions on board ships;

[ text referring to training to be inserted]

Noting with appreciation the progress achieved in these fields, in particular by the International Maritime Organisation (IMO) and the International Labour Organisation (ILO); noting also IMO Resolution A.682(17), concerning Regional Co-operation in the Control of Ships and discharges.

[text referring to MINCONMAR resolutions to be inserted]

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing [nevertheless][however] that effective action by port States is required to prevent the operation of sub-standard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening co-operation and the exchange of information;

Have reached the following understanding:

---

\* Maritime Authorities are the national maritime administrations designed for the implementation of this Memorandum (see Annex 1).

## **Section 1 Commitments**

1.1 Each Authority will give effect to the provisions of the present Memorandum and the Annexes thereto, which constitute an integral part of the Memorandum, and take all necessary steps to ratify [ratify or accede] instruments relevant for the purposes of this Memorandum.

1.2 Each Authority will establish and maintain an effective system of Port State Control with a view to ensuring that, without discrimination as to flag, foreign merchant ships visiting the ports of its State comply with the standards laid down in the relevant instruments defined in section 2.

1.3 Each Authority will achieve, within a period of [3 years] from the coming into effect of the Memorandum an annual total inspections corresponding to [15%] of the estimated number of individual foreign merchant ships, hereinafter referred to as "ships", which entered the ports of its State during a recent representative period of 12 months. The Committee established pursuant to Section 7.1 will monitor the overall inspection activity and its effectiveness throughout the region. The Committee will also adjust the target inspection rate based on experience gained and progress made in the implementation of the Memorandum of Understanding.

1.4 Each Authority will consult, co-operate and exchange information with the other Authorities in order to further the aims of the Memorandum.

## **Section 2 Relevant instruments**

2.1 For the purposes of the Memorandum "relevant instruments" are, together with the Protocols and amendments to these instruments and related codes of mandatory status [as and when they come into force] the following instruments:

- The International Convention on Load Lines, 1966;
- The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- The Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;
- The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);
- The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78);
- The Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- [The International Convention on Tonnage Measurement of Ships, 1969;]
- The Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147),

2.2 With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention 147). Each Authority will apply the instructions in Annex 1 for the application of ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure".

2.3 Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In the case of amendments to a relevant instrument, each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the "relevant instrument" for that Authority.

2.4 When inspecting a ship flying the flag of a State not party to a Convention or to a "relevant instrument" as amended for the purposes of port State control, the Authorities which are party to such Convention or "relevant instrument", as amended, shall ensure that the treatment given to such ship and its crew is not more favourable than that given to ships flying the flag of a State which is party to that Convention or "relevant instrument".

2.5 [In the case of ships below 500 Gross Tonnage, the Authorities will apply those requirements of the relevant instruments which are applicable and will to the extent that a relevant instrument does not apply take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment, having regard, in particular to Annex 2.]

### **Section 3 Inspection procedures, rectification and detention**

3.1.1 In implementing the Memorandum, the Authorities will carry out inspections which will consist of a visit on board a ship in order to check the validity of the certificates and other documents relevant for the purposes of the Memorandum as well as the condition of the ship, its equipment and crew, as well as the living and working conditions of the crew.

3.1.2 The Authority shall ensure that the PSCO shall, as a minimum, check the certificates and documents listed in Annex 2, to the extent applicable and satisfy himself of the overall conditions of the ship including the engine room and the accommodations and the hygienic conditions.

3.2.1 Whenever there are clear grounds for believing that the condition of a ship or of its equipments or crew does not substantially meet the requirements of a relevant instrument a more detailed inspection shall be carried out, including further checking of compliance with on-board operational requirements.

3.2.2 Clear grounds exist when the PSCO finds evidence, which in his professional judgement warrants a more detailed inspection of ship, equipment or crew. The Authorities will regard as clear ground, inter alia; those [set out in Annex 3].

3.2.3 Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within its jurisdiction in respect of any matter to which the relevant instruments relate.

3.2.4 The relevant procedures and guidelines for control of ships specified in Annex 2 shall also be applied.

3.3 In selecting ships for inspection, the Authorities shall give priority to the following ships :

- ships visiting a port of a State, the Authority of which is a signatory to the Memorandum for the first time or after an absence of 12 months or more;

- ships which have been permitted to leave the port of a State, the Authority of which is a signatory to the Memorandum, on the condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period;
- ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation;
- ships whose statutory certificates on the ship's construction and equipment, have not been issued in accordance with the relevant instruments;
- ships carrying dangerous or polluting goods, which have failed to report all relevant information concerning the ship's particulars, the ship's movements and concerning the dangerous or polluting goods being carried to the competent authority of the port and coastal State;
- ships which have been suspended from their class for safety reasons in the course of the preceding six months.

3.4 The Authority will seek to endeavour to inspect ships, which have not been inspected within the previous 6 months by other Authorities unless there are clear grounds for inspection. These procedures are not applicable to ships listed under clause 3.3, which may be inspected whenever the Authority deems appropriate.

3.5.1 Inspections will be carried out only by a person, duly authorised by its Authority to carry out port State inspections and responsible to that Authority, who fulfils the requirements of paragraph 3.5.3 and the qualification criteria specified in Annex 4.

3.5.2 The PSCO carrying out Port State Control may be assisted by a person with the required expertise at the discretion of the Authority when such expertise cannot be provided by his Administration.

3.5.3 The PSCO carrying out Port State Control and the person assisting him shall have no personal or commercial interest either in the port of inspection or in the ships inspected, nor shall the PSCO be employed or undertake work on behalf of non-governmental organisations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

3.5.4 Each PSCO shall carry a personal document in the form of an identity card issued by his authority indicating that the PSCO is authorised to carry out inspections. A common [standard] for such an identity card is attached at Annex 5.

3.6.1 On completion of an inspection the master of ship shall be provided by the PSCO with a document in the form specified in Annex 6 to this Memorandum, giving the results of the inspection and details of any decision taken by the PSCO and of the corrective action to be taken by the master, owner or operator.

3.6.2 The Authorities shall be satisfied that any deficiencies confirmed or revealed by the inspection are rectified.

3.6.3 In the case of deficiencies which are clearly hazardous to safety, health or the environment the

revealed. The detention order or the stoppage of the operation shall not be lifted until the hazard is removed, except under the conditions provided for in 3.8.1 below.

3.6.4 When exercising his professional judgement as to whether or not a ship should be detained, the PSCO shall be guided by the criteria set out in Annex 2.

3.7 In the event that a ship is detained, the Authority shall immediately inform the administration of the State whose flag the ship is entitled to fly and the Consul or, in his absence, its nearest diplomatic representative of the action taken. Where relevant, the organisation responsible for the issue of the certificates shall also be informed.

3.8.1 Where deficiencies referred to in 3.6.3 cannot be remedied in the port of inspection, the Authority may allow the ship to proceed to another port, or the nearest repair yard subject to any appropriate conditions determined by that Authority with a view to ensuring that the ship can so proceed without danger to safety, health or the environment. In such circumstances, the Authority will notify the competent Authority of the State where the next port of call or the repairyard is situated, the parties mentioned in 3.7 and any other Authority as appropriate. Notification to Authorities will be made in accordance with Annex 7. The Authority receiving such notification will inform the notifying Authority of action taken.

3.8.2 The Authorities will take measures to ensure that ships referred to in 3.8.1 which either proceed to sea without complying with the conditions determined by the Authority which detained the ship or which do not call into the agreed port or yard to undertake repairs, shall be refused access to any port within this Memorandum until the owner or operator and the Flag State notify the Authority of the State where the ship was found defective or the Authority which receives the vessel that the ship complies with all applicable requirements of the relevant instruments. In the latter case, the receiving Authority will notify all other Authorities of such compliance.

3.8.3 In the exceptional event of "force majeure", access to a specific port may be permitted to minimise the risk of loss of life or of pollution.

3.9 The provisions of Section 3.7 and 3.8 are without prejudice to the requirements of relevant instruments or procedures established by international organisations concerning notification and reporting procedures relating to port State control.

3.10 When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay.

3.11 In case the master, owner or agent of the ship notifies the port State control Authorities prior to or upon arrival of the vessel at the port, of any damage, breakdown or deficiency to the ship, its machinery and equipment, which is intended to be repaired or rectified before the ship sails from that port, the detention should be issued only if deficiencies justifying detentions are found after the master has given notification that the ship was ready for inspections. The same procedure applies when the port State control Authorities are notified that the ship is scheduled to be surveyed at the port with respect to flag, statutory or class requirements.

3.12 In exceptional circumstances, when a ship on its way to a specified repairyard needs to call at a port for temporary repairs for safety reasons, it may be allowed into that port. All commercial operations are forbidden, except the unloading of its cargo or bunkers if required for safety reasons. The



ship may be allowed to proceed to the specified repairyard only if the flag State of the ship has issued statutory certificates to the ship restricting their validity to that specific voyage, and the port State is satisfied that such ship shall not pose undue risk to safety of ship, or to the environment or cause undue hardship to the crew.

3.13 The owner or the operator of a ship will have the right of appeal against a detention to higher administrative Authority or to the Court of competent jurisdiction, according to the law in each country. However, an appeal shall not cause the detention to be suspended.

3.14 Should an inspection reveal deficiencies warranting detention of a ship, all costs relating to inspections subsequent to the first shall be covered by the shipowner or the operator. The detention shall not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.

#### **Section 4 Provision of information**

4.1 Each Authority will report on its inspections under the Memorandum to the Secretariat and their results, in accordance with the procedures specified in Annex 8.

4.2 The Authorities will supply the following information to the Memorandum Secretariat:

- a) number of PSCOs working on their behalf on port State inspections. Where PSCOs work on a part-time basis, the total is corrected into a number of full-time employed PSCOs;
- b) number of individual ships entering their ports in a representative year prior to the Memorandum;
- c) fees for inspections, if any.

This information will be updated annually.

#### **Section 5 Operational violations**

The Authorities will upon the request of another Authority endeavour to secure evidence relating to suspected violations of the requirements on operation matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant. In the cases referred to in this article, the requesting Authority should state that the flag State of the ship has already been notified of the alleged violation.

## **Section 6      Training programmes and seminars**

The Authorities will endeavour to establish appropriate training programmes and seminars.

## **Section 7      Organisation**

7.1      A Committee composed of a representative of each of the Authorities that are party to the Memorandum will be established. A representative of the International Maritime Organisation, the International Labour Organisation and the Ministerial Conference of West and Central African on Maritime Transport will be invited to participate without vote in the work of the Committee. Representatives of the maritime Authorities of other African States and, subject to the provisions of Section 10, any other Organisation or Authority which the Committee may deem appropriate, may be accorded the status of observer without vote.

7.2      The Committee will meet at least once a year and at such other times as it may decide.

7.3      The Committee will :

- carry out the specific tasks assigned to it under the Memorandum;
- promote by all means necessary, including seminars for surveyors, the harmonization of procedures and practices relating to the inspection, rectification, detention and the application of 2.4;
- develop and review guidelines for carrying out inspections under the Memorandum;
- develop and review procedures, including those related to the exchange of information;
- keep under review other matters relating to the operation and the effectiveness of the Memorandum;
- promote by all means necessary the harmonization of the operation and effectiveness of this Memorandum with those of similar agreements for other Regions;
- adopt the budget and decide the contributions of every Party to the Memorandum.

7.4      Except where provided otherwise (in section 9), the Committee will take its decisions acting on simple majority.

7.5      A Secretariat will be established in accordance with the following principles:

- a)      the Secretariat is a non-profit making body located in [   ]
- b)      the Secretariat will be totally independent from any maritime administration or organisation;
- c)      the Secretariat will be governed by and be accountable to the Committee;

- d) the Secretariat will have a bank account into which all dues and contributions are made;
- e) the Secretariat will operate from the established bank account in accordance with the budget determined by the Committee.

7.6 The Secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will :

- prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;
- facilitate the exchange of information, carry out the procedures outlined in Annex 2 and prepare reports as may be necessary for the purposes of the Memorandum;
- carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

## **Section 8 Financial Mechanism**

The costs for running the Secretariat and the Information Centre are financed by :

- the financial contribution of every Party to the Memorandum;
- [if possible,] gifts and subscriptions by donor countries or organisations.

Each Party to the Memorandum undertakes to settle its financial contribution to the costs for running the Secretariat and the Information Centre, in conformity with the decisions and procedures adopted by the Committee.

## **Section 9 Amendments**

9.1 Any Authority, which has accepted the Memorandum, may propose amendments to the Memorandum.

9.2 In the case of proposed amendments to sections of the Memorandum, the following procedure will apply:

- a) The proposed amendment will be submitted through the Secretariat for consideration at least six weeks before the Committee meets.
- b) Amendments will be adopted by a two-thirds majority of the representative of the Authorities present and voting in the Committee.

If so adopted an amendment will be communicated by the Secretariat to the Authorities for acceptance.

The amendments of paragraph 1 of Section 2 are adopted by two-thirds of the representatives of the Authorities present and voting which are party to the new Convention proposed for inclusion as "relevant instrument".

- c) An amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any other period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the Secretariat by an Authority.
- d) An amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.

9.3 In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply :

- a) the proposed amendment will be submitted through the Secretariat for consideration by the Authorities;
- b) the amendment will be deemed to have been accepted at the end of a period of three months from the date on which it has been communicated by the Secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 9.2 will apply;
- c) the amendment will take effect 60 days after it has been accepted or at the end of any period determined unanimously by the Authorities.

## **Section 10 Administrative provisions**

10.1 The Memorandum is without prejudice to the rights and obligations under any international Instrument.

10.2 A Maritime Authority of a State, which complies with the criteria specified in Annex 9, may adhere to the Memorandum with the consent of all Authorities which have accepted the Memorandum.

10.3 The Memorandum remains open for signature, at the Headquarters of the Secretariat of the Committee from [ ]. Maritime Authorities meeting the requirements specified in Annex 9 may become parties of the Memorandum by:

- a) signature without any reservations as to acceptance, or
- b) signature subject to acceptance, followed by acceptance.

10.4 Acceptance or accession will be effected by a written communication by the Maritime Authorities to the Secretariat.

10.5 The Secretariat will inform the Maritime Authorities who have signed the Memorandum of any signature or written communication, or of acceptance or accession and of the date on which such an event has taken place.

**10.6 This Memorandum will enter into force for each Authority [date to be filled in later] on the date duly notified to the Secretariat.**

**10.7 Any Maritime Authority or Organisation wishing to participate as an observer will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.**

**10.8 Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.**

**10.9 The English and French versions are equally authentic.**

**This Memorandum is signed at [-----] on [-----] by the following Authorities:**

**DECLARATION OF THE FIRST PREPARATORY  
MEETING ON PORT STATE CONTROL FOR  
THE WEST AND CENTRAL AFRICAN REGION**

## **DECLARATION OF THE FIRST PREPARATORY MEETING ON PORT STATE CONTROL FOR THE WEST AND CENTRAL AFRICA REGION**

**The Maritime Authorities participating in the First Preparatory Meeting on port State control,**

**Recognizing that the West and Central African region is very diverse and in particular that the stage of development of Maritime Administrations and related legal and regulatory frameworks and technical capabilities also varies greatly;**

**Recognizing also that there is an urgent need for a regional port State control effort but convinced that a critical prerequisite to the effective implementation of such an effort is the existence of appropriate Maritime Administrations;**

**Recalling the international cooperation extended by the International Maritime Organization to the region to enhance maritime safety and the protection of the marine environment;**

**Acknowledging that the essential elements of an effective Maritime Administration include a sound legal and regulatory regime reflecting relevant international instruments as well as requirements for smaller vessels not covered by such instruments;**

**Acknowledging also that properly trained and qualified inspectors and surveyors are an essential requirement to enable a Maritime Administration to discharge its functions as flag States to carry out port State control activities;**

**Declare that,**

**Every effort must be made to:**

- 1 Put in place appropriate Maritime Administrations where they do not currently exist and to strengthen such Administrations as needed where they are already in place;**
- 2 Endeavour to establish in the shortest possible time an efficient and transparent regional port State control system aimed at eradicating sub-standard ships from the region;**
- 3 Implement the training strategy developed at the First Preparatory Meeting with a view to creating an effective port State control effort;**
- 4 Ratify and effectively implement the relevant IMO Conventions necessary for effective port State control activities;**
- 5 Secure the necessary international technical and financial support and cooperation to achieve the above aims.**