

Standing Committee Report Summary

The Merchant Shipping (Amendment) Bill, 2015

- The Standing Committee on Transport, Tourism and Culture (Chair: Dr. Kanwar Deep Singh) submitted its report on the Merchant Shipping (Amendment) Bill, 2015 on December 1, 2015. The Bill was introduced in Lok Sabha in August 2015. The Bill amends the Merchant Shipping Act, 1958 to ensure compliance with the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001. India's accession to the Convention was approved in June 2015. The Convention ensures adequate, prompt, and effective compensation for damage caused by spills of oil that is carried as fuel in ships' bunkers.
- **Exemptions to liability:** The Bill provides that a ship owner will not be liable for any pollution damage if he can prove that the damage resulted from an act of God (natural calamities like earthquakes, floods, etc.), hostilities, government negligence or intentional acts by third parties. The Committee observed that such an exemption may leave ample scope for litigation, and a ship owner may use this provision to avoid paying compensation. It recommended reconsidering this aspect to reduce any ambiguity.
- In order to avoid oil spillage from ships at the time of loading and unloading of cargo, the Committee recommended that ports should be provided with the latest equipments. For cash strapped major ports, the current subsidy limit of 50% should be increased to help them procure more equipment. Further, government should create a time bound action plan to remove the wrecks that are already in Indian waters.
- **Executing contracts on behalf of ship owner:** Under the Bill, the ship Master has been given the power to execute contracts for salvage operations on behalf of the ship owner. Salvage operations include assisting or saving a ship that is wrecked or stranded. The Committee observed that since the ship Master is an employee of the ship owner, the owner may not always honour such contracts signed by the Ship Master or Salvor. The Committee recommended that a provision should be added where the ship owner will not be allowed to challenge the decision of the ship Master, if the decision has been taken after sufficient consultation.
- **Salvage operations:** The Committee feels that Indian companies should be given priority for salvage operations within the territorial waters of India. In this regard, it recommended a provision should be added where the central government ensures that Indian salvors have the first right of refusal for any salvage operations in India. A salvor is any person rendering services in direct connection with a salvage operation.
- The Committee also recommended that relevant provisions may be added to deal with cases of ship owners going bankrupt and failing to pay the salvors, or absence of insurance coverage to salvors.
- **Grievance redressal mechanism:** The Bill does not provide any mechanisms for grievance redressal. The Committee observed that several grievances may arise during a salvage operation. The Committee recommended that the Bill provide a mechanism to address this.
- In order to do away with the obsolete clauses in the existing Act, and introduce new relevant clauses, the Committee recommended that the government consider enacting a new Merchant Shipping Act.

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