

Minutes of the 10th Electronic meeting of National Shipping Board held on 26th August, 2020 at 1400 hrs.

Attendees:

Dr. Malini Shankar, Chairperson NSB

Shri Kumar Sanjay Bariar, Addl. Director General of Shipping,

Shri Pradeep Chhabra, MoS

Shri P. Rajesh, DIG, Coast Guard

Capt. Sarvpreet, Indian Navy

Shri Abdulgani Serang-NUSI

Shri Amar Singh Thakur-MUI

Shri Anil Devli- INSA

Shri Rahul Modi- CCTA

Capt Sanjay Prashar, IMF

Shri Shantanu Bhadkamkar-AMTOI

Capt Piyush Sinha

Shri A. Balasubramanian

Shri Ishwar Achanta

Capt. Sankar Kr. Das

Shri Kshetra Nath Milli

1.0 Granting leave of absence: -

Leave of absence was granted to Shri Satinder Pal Singh, JS Shipping, Shri Ajay Sahai, FIEO, and Shri Aditya Suklikar- ICCSA. The Director General of Shipping was represented by Shri Kumar Sanjay Bariar, Additional Director General of Shipping.

The Chairperson welcomed all members to the 10th meeting of NSB and thanked members for agreeing to meet earlier than the scheduled date of 1st September 2020. The meeting was preponed since she had received a message from the Joint Secretary, Shri Bhushan Kumar that the comments on the

Indian Ports Act Bill were being finalized by the Ministry. In view of this, it was imperative that NSB finalizes its recommendations and submits the same at the earliest.

2.0 Minutes of the 9th meeting held on 13th July 2020 of NSB -

The minutes of the 9th meeting held on 13th July 2020 was circulated to the members. Since there was no comment, the Minutes were approved.

3.0 Review of Indian Ports Act

3.1 Shri Balasubramanian gave a presentation on the Report compiled by him on the Review of Indian Ports Bill 2020. The Board took note and agreed to the recommendations that were put forth however with respect to a few items the comments made were as follows :-

Slide no.	Section	Comments of NSB
5	3. Grouping of ports Sec 9. Functions of the Authority	The Chair suggested that grouping of Major and Non-Major Ports would not be conducive as the controlling authority would be completely different. Shri Ishwar Achanta informed that in the Maritime India Vision (MIV) 2030 there was a push being given for grouping of the ports. The chair then suggested that this issue could be flagged with a mention that this was not in alignment with clubbing of ports in MIV 2030. This item will need to be modified accordingly.
5	4. Right to regulate Tariff in certain special emergency	This item was debated at length. Shri Devli brought to the attention that while he had no problems with the section, there should be a

	situations	<p>method of setting up of tariffs and the tariff should be stable for sometime. Shri Balasubramanian mentioned that there was a protective provision in the Major Port Authority Bill. Even though the price is market based, the authority will sit in a meeting and decide the rate and it is hoped that it will continue for a month or fortnight. A similar provision could be requested to be included in the Non-Major Ports as well. He said that he would add a caveat that though this would be market determined, there should be a process followed with participation of stakeholders and certainty of period.</p> <p>Shri Vivek Joy raised a question that if the authority fixes the tariff and in case a dispute arises then who would decide on the dispute. Shri Balasubramanian clarified that he had taken up this issue in his later presentation and clarified this point at that time.</p>
7	<p>3. Action in case of fouling of mooring 28 (1) and (2)</p> <p>Sec 28 (1) -Fouling of moorings</p>	<p>After a long debate, the members agreed that the Master of the vessel would be responsible and a third party P&I Club cannot be made accountable. The agreement was between the shipowner and the Port and it was not right to involve P & I Club. It was suggested that 'through their P&I Club' should be deleted.</p>
8	4. Power of	The Board agreed to the recommendation.

	<p>Conservator for removal of vessel from obstructions by Conservators to cover abandoned and stateless vessels</p> <p>Sec 29 (3</p>	<p>However, Shri Vivek Joy brought to the attention that once the India Ports Bill 2020 is passed, the MS Act new provisions will be in line with the Wreck Removal Convention. In this case the MS Act will be at par with the international standards whereas the provisions mentioned in the Indian Ports Act would need amendments. The Chair suggested that since NSB was not a law making body but a recommendatory body, it may be flagged/ indicated that any modification needs to ensure that this is in alignment with the New Shipping Act.</p>
8	<p>5.Streamlining Accountability of ports towards provision of reception facilities –Sec 56</p>	<p>The Chair suggested that it should be mentioned that the rules may be framed in such a way that a time frame is given for the Ports to comply.</p>
9	<p>Accountability of ports towards provision of reception facilities –Sec 56</p> <p>-suggesting new provision for introducing penalties for violation by ports</p>	<p>Shri Balasubramanian asked the Board to suggest the penalty amount that could be mentioned in case of violations. Shri Ishwar Achanta said that he had referred to various provisions of penalties in the MS Act and had arrived at a figure of Rs. 10 lakhs as penalty. The Chair suggested that the penalty amount to be mentioned could be not exceeding Rs. 10 lakhs.</p> <p>Further Shri Ishwar Achanta suggested that the local PO,MMD could be the person to spot</p>

		<p>the inadequacy. The IMO had mentioned that the Ship Master should report the inadequacy. Shri Ishwar Achanta agreed to circulate <u>share</u> the IMO circular to <u>with</u> the Board for their views.</p>
10	<p>8. Sec 33. Indemnity of Government against act or default of Port official or Pilot</p>	<p>Shri Vivek Joy clarified this point and also drew the attention of the members to Section 49 (2) of the Bill. Shri Balasubramanian said that he would also mention a reference of Section 49 (2).</p> <p>Shri Ishwar also suggested that the recommendation on training may also be added. Shri Vivek Joy advised that in case IMO changes the regulations then for changing the wording in the Act the entire process of amendment will then need to be carried out. He therefore suggested that a <u>provision suggestion</u> could be mentioned in the Act while the details could be mentioned in the Rules.</p> <p>Shri Ishwar Achanta further mentioned that it was discussed earlier that IPA could be used to tell the government that there should be some standards of the pilot because the MS Act also very explicitly absolves the pilot. The Chair further added that there were several feedback from the pilots that they were not being given adequate training and the</p>

		equipment on board was inadequate even on foreign ships. There was no provision in any Act to protect for the interest of the lives of pilots. The pilots were hired by Ports, who had not undergone adequate training, on contract basis. Though the said persons hired were good, it was necessary that they underwent the required training. Shri Vivek Joy agreed to look into this and revert on how this could be included in the regulation.
11	Section 41 Boiling pitch on board Vessel within prohibited limit & Section 42 Drawing spirits by unprotected artificial lights.	The Chair suggested that since this was not hurting anyone , these sections should be left as it is.
11	Section 43: Provision of certain Vessels with fire extinguishing apparatus	The Chair was of the view that while fire safety is very important, there is a cost factor to be kept in mind; of doing business and need of doing business, it is required <u>there is a need to that a balance is achieved between the two the safety provisions with the cost/ ease of doing business.</u> She suggested that it may be included in the rules <u>so as to ensure that the fire safety provisions are complied with in toto in a gradual manner. that from time to time there is a provision that is in the Act.</u>
12	Section 50(2) and 50(2) (b): Safety and	While agreeing to the suggestion, the Chair mentioned that while all this will have to be

	Security requirements	adopted, a time frame should be given keeping in view the capability of the vessel and the fleet. What applies to the sea going vessels cannot apply immediately to smaller vessels and those operating on the coast. Since NSB is not a law drafting committee but a recommendatory body, she suggested that a comment could be made that all this will have to apply within a certain period of time even to smaller vessels and coastal vessels and, therefore, the regulation should reflect appropriately and <u>be</u> included in the law. She also agreed including the word 'Liability' in the title which will then read as Safety, Security and Liability requirements.
16	2. Eligibility criteria for members of the Authority are too restrictive to attract competition for talent 8 (4) and 8 (8) - Constitution of Maritime Port Regulatory Authority- Proviso to 8 (4)	The Chair suggested that no change should <u>needs to</u> be recommended on this; <u>primarily the NSB is expected to look at internal contradictions and alignment with Shipping Act and suggest corrective action, besides reviewing the Bill with respect to matching the provisions with the developments in the sector over time-</u>
18	6. Certain functions assigned to the Authority with respect to Scheduled Ports are beyond expertise	The Chair was of the opinion that it was not possible to add <u>include representatives from</u> every authority in the Adjudicatory Body. In matters where they do not have the expertise, they either develop the expertise or they seek

	of the Authority or ignore users-	experts' advise or coopt certain people them. Since this is normally the practice that is being followed, it was suggested that it is not necessary to add it in the law.
21	1.Streamlining Tribunal eligibility criteria & Selection procedure	The Chair was of the opinion that recommendations from NSB must be given on operational parts and since this is pertaining to legal, this should be left to the legal department.
25	Legal aspects- definitions and redundant provisions- 1 – Convention- Sec 3 (10)	Shri Devli said that against this point a reference of MV Elizabeth will be mentioned giving the reference of the Orders passed by the Hon'ble Supreme Court. Shri Devli agreed to send the wording of the same to Shri Balasubramanian for inclusion.
31	Sec 81- Shore leave for seafarers	Shri Shantanu Bhadkamkar was of the view that since this point was already covered in the MS Bill, it was not necessary to have this mentioned in the Indian Ports Bill as this may lead to confusion. Shri Ishwar Achanta suggested that this should be strongly recommended. Shri Anil Devli supported the position put forth by Shri Abdulgani on shore leave and suggested that a sentence must be incorporated stating that 'the Act must incorporate the responsibilities cast on the ports under the MLC including

		provisions of welfare facilities for seafarers etc.’
--	--	------------------------------------------------------

4.0 The Chair asked the Board members to give their general views on the draft recommendations. Shri Abdulgani Serang while appreciating the efforts, said that the report was too much in detail.

4.1 Capt. Piyush Sinha said that while making recommendations we must restrict our roles as members of NSB and not attempt to rewrite everything. It was his opinion that we must be subtle in what we are saying . Ministry may take a final call.

4.2 Shri Devli was of the opinion that certain provisions are against the Arbitration and Reconciliation Act which are pointed out and brought to the attention of the drafters and it is then left to them .

4.3 The Chair said that NSB should be subtle in its recommendations. If there is a huge gap in what is mentioned in the new MS Bill and if certain provisions are not reflected in the Indian Ports Bill, it is pertinent to point this out. A para could be added to highlight that certain sections are not in line with certain relevant Acts like Admiralty Act etc.

4.4 Shri Ishwar Achanta & Shri Balasubramanian said that they were unaware of the role of the NSB ~~in this~~ at the time of going through the document and hence did an indepth study and provided recommendations. However, as suggested by the Chair they agreed to reword the contents and put forth the points subtly as required.

4.5 The Chair appreciated the efforts and the analysis made and requested Shri Balasubramanian to consolidate a final recommendation at the earliest.

Shri Balasubramanian agreed to finalise the report based on the comments made during the meeting and in case any further comments are received by the following day, and send the same to the members of the NSB by Monday, 31st August 2020.

4.6 Shri P. Rajesh said that he had certain points for inclusion in the Indian Ports Bill for which he needed some time. Shri Balasubramanian requested him to send all the points by the following day for inclusion as the deadline agreed by the Chair to finalise and submit the final recommendations by Monday, 31st August, 2020.

4.7 Capt. Sarvpreet, Indian Navy also had some points to be included and said that he would send the same by the mail in half an hour to Shri Balasubramanian.

5.0 Fixing date of the next meeting:

The date of the 11th meeting of the Board of NSB will be decided in due course and communicated to the members.

There being no other matter to be discussed, the meeting was closed.

Approved

Dr. Malini Shankar
Chairperson

Place: Mumbai

Date: 26/08/2020