

Minutes of the 21st Hybrid meeting of National Shipping Board held on 2nd December 2021 at 1430 hrs at Indian Maritime University, Chennai.

The 21st Hybrid Meeting of the National Shipping Board (NSB) was held under Dr. Malini Shankar, Chairperson, National Shipping Board on 2nd December, 2021 at 1430 hours. The list of participants/attendees is as follows:-

Attendees:

1. Dr. Malini Shankar, Chairperson NSB
2. Dr. Ajay Sahai - FIEO
3. Shri Abdulgani Serang – NUSI
4. Shri Amar Singh Thakur – MUI
5. Shri Shantanu Bhadkamkar
6. Shri Ishwar Achanta
7. Shri Rahul B. Modi – CCTA
8. Shri Aditya Suklikar – ICCSA
9. Shri A. Balasubramanian
10. Shri P. Rajesh, DIG, Coast Guard
11. Capt. Piyush Sinha
12. Capt. Sarvpreet Singh, Director Naval Operations, Indian Navy
13. Capt. Sanjay Prashar, IMF
14. Capt. Sankar Kr. Das, Secretary – NSB

1.1 Granting leave of absence: -

The following members were granted leave of absence.

- 1) Shri K. S. Bariar, Addl. DG Shipping
- 2) Shri Anil Devli – INSA

At the outset the Chairperson welcomed all the members to the 21st meeting of NSB and thereafter instructed the Secretary to continue with the listed Agenda.

2.0 Following agenda points were discussed at the meeting:-

Sr.No.	Agenda item	Suggested by
1.	Confirmation of previous meeting (20 th) Minutes.	Chairperson
2.	Stateless & Abandoned ships	Mr. Ishwar Achanta
3.	Wreck removal	Mr. Ishwar Achanta
4.	Establishing a Cadet Training Ship in India	Chairperson
5.	Set up a centre of Excellence focused on Mental Health.	Chairperson
6.	Climate Change – Issues and Challenges for the Indian Shipping sector	NUSI
7.	Logistics Bill	AMECIE.
8.	Any other points with the permission of the Chair	

2.1 Confirmation of previous NSB meeting (20th) held on 12th October, 2021

The minutes of the 20th NSB meeting held on 12th October, 2021 was circulated to all members. There being no comments from the members, the Chairperson-NSB, with the concurrence of members, confirmed that the minutes were approved.

2.2 Stateless & Abandoned ships

Stating that India is a signatory to UNCLOS 1982, Mr. Achanta mentioned that the rules dealing with stateless ships are not very well formulated by the Maritime Administration. This also gets compounded when the stateless ship becomes derelict. India has agreed to honor these legislations, predominantly, when a vessel flies without nationality or under two or more flags or not granted the right to fly.

Further Mr. Achanta cited that in the early 2020, Vessel Stella Abgaana, a large ore carrier (VLOC) ran aground off the coast of Brazil and also became stateless. The Brazilian authority took her out in deep waters and scuttled her. Likewise, in India when such vessel has no place to berth or cannot be put safely anywhere, it becomes an issue of maritime security. Hence similar laws should be established in India. He also explained that abandoned ships are those ships that become unseaworthy or abandoned by seafarers/crew due to nonpayment of outstanding remuneration or due to engine failure or vessels involved in narcotic trafficking.

Capt. Piyush Sinha shared his experience. He mentioned that if a vessel fails to coordinate with the Indian Coast Guard in time, then the vessel is viewed suspiciously. As this becomes a maritime security issue, the Indian Navy and the Coast Guard are alert at all times. Hence suggested that the laws have to be tightened so that in future any movement of any craft whether it is state, stateless or declaring stateless or is genuinely stateless needs to be chastised according to the laws.

Capt. Sanjay Parshar pointed out that in the past 6 years, there were 5 stateless ships, 2 of which were grounded in Mumbai coast (Juhu) and finally pulled out by DG Shipping. If the reports of these vessels are available then there must be some corrective measures mentioned therein, which can assist the authorities to move ahead to the next level while taking future actions on any stateless vessels. He further brought to the notice that in Mangalore & Gujarat Ports, Mercator ships were abandoned and action had been taken by the Port Authorities. Hence it is assumed that the Indian Ports Act may have some powers (probably Section 10 of the IPA - Removal of obstructions within limits of port) which are used seldom by the Port Chairman. There are some powers also within the ambit of DGS. He also mentioned that the Indian Navy, Gujarat Maritime Board and DG Shipping got involved with the abandoned Mercator ships In Gujarat port with the exception of the owners. Further, he added that there are three types of abandoned ships - 1) Ships abandoned by Indian flags; 2) Foreign Flag Stateless ships with crew beyond 25 nautical miles which are not allowed to enter. These ships are there in every country maximum in UAE. At present there are no such ships in that zone, probably Dubai has enacted a new law or regulation; 3) Stateless and Abandoned ships with Flag State. [A flag state refuses to assist these vessels after the P&I club insurance stands lapse]

Mr. P. Rajesh stated that the law related to stateless vessel primarily emanates from the Law of the Sea Convention which is partly related to High Seas. It stipulates that every vessel should have a genuine link with its state and every state has the right to visit or board a stateless vessel. However further action to stateless vessels is in the customary international law. It states that an unregistered vessel, not flying the flag of any state, is a stateless entity, with no legal rights to navigate in the High seas. In the High seas the State regulates the ship or the jurisdiction of the Flag State prevails. Hence the safety and other aspects related to that vessel or its compliance to international or national laws is ensured by the Flag State. Also the customary international law states that such vessel becomes a danger to the safety of navigation. For this reason any State can apprehend a stateless vessel. India's national legislation has no enabling clause for stateless vessels, though customary international law is considered as part of our national legislation. However, the following provisions are included in the final draft M.S. Bill, 2020 for all stateless or abandoned vessels, national or international. Section 68 - Liabilities of ships not recognised as Indian ships; Section 309 - Right to pursue foreign vessels in the high seas; Section 310 - Power of the Central Government with respect to vessel without nationality; Section 318 - Abandoned Vessels; Section 319 - Power of the Central Government in respect of abandoned vessels; Section 336 - Power to detain unsafe ship and procedure for detention. If these impounding legislations are retained and with some enabling law within the ambit of the MS Act, the Central Government, the Coast Guard, Indian Navy and other agencies could take appropriate action on such vessels in the said maritime zones. Subsequently if a stateless vessel commits an offence in the high seas, then the offence can be considered as if it is by an Indian ship and action can be taken according to the universal jurisdiction principle.

Mr. Abdulgani made an additional point that though these provisions get included in the MS Act, they should also be reflected in the Coast Guard Act to have synchronization

The Chairperson stated that abandoned ships could be stateless and abandoned or a ship abandoned by its Flag (a ship with a flag too can be abandoned) or both. And both could have similar repercussions on the maritime security. Further, she directed Mr. Achanta to get hold of the provisions that have been suggested in the final draft M.S. Bill, 2020 & reiterate the same. She suggested that a draft paper be prepared giving a short background, quoting some instances of how Dubai has handled this issue and mention the importance of the clauses to be retained in the new M.S. Bill, 2020 in context with maritime security. A small sub-group consisting of Indian Coast Guard representative; Capt. Sanjay Prashar, Capt. Piyush Sinha and Mr. Ishwar Achanta may be formed to discuss this draft paper and thereafter circulate it to the Board.

2.3 Wreck Removal

Mr. Ishwar mentioned that India is a signatory to the Nairobi Wreck Removal Convention, 2007 (NWRC). India signed the NWR Convention on 14 April 2015. On research, it is learnt that only Turkey (NWRC). India signed the NWR Convention on 14 April 2015. On research, it is learnt that only Turkey has a comprehensive legal instrument in its own national law which addresses wrecks. There is a need for the Indian Administration to enact laws specifically on removal of wrecks. Article 9 of NWRC states "Measures to facilitate the removal of wrecks". However, it is only a statement, details not mentioned. This article needs to be expanded by the Indian Administration. Also, a very elaborate Article 7 of

Turkish Force Act governs the Wreck Removal. The Indian Administration can perhaps combine these two articles and enact rules, which could strengthen the Navy and Coast Guard arm. He further added that the Indian Ports Act speaks about rules being made by Ports to remove wreck. However, there are some provisions in these Acts which barely touch upon the concept of wrecks but there are no rules. So we may suggest the Indian Administration to frame these rules. Capt. Prashar showed concerns regarding floating wrecks

Mr. P Rajesh mentioned that the entire subject matter of wreck removal has to be analysed in three contexts. Prior to the adoption of Nairobi Convention the shipowners would not take any responsibility, only the Coastal state bore all the brunt of the wreck. If wreckage occurred close to the shore or near the navigational channel then the coast was involved in removing the wreck. For this reason the NWRC was adopted in 2007. It basically covers the "Convention area" means the Exclusive Economic Zone (EEZ) of a State Party, or if such a zone has not been established then an area beyond and adjacent to the territorial sea, not extending more than 200 nautical miles is considered. Hence the NWRC has to be viewed in three parts.

1. Ship or Maritime property becoming a wreck within a port limit
2. Ship or Maritime property becoming a wreck within territorial waters
3. Ship or Maritime property becoming a wreck within the EEZ of a country

NWRC is primarily dealing with EEZ but there is an "option" clause in the Convention, wherein the coastal state could apply the relevant provisions of the Convention to the wrecks in its territorial waters. But if this is within the territorial waters then the coastal state has all the legal rights to act on it. Thus a decision needs to be taken on this issue. The entire NWRC is incorporated in the new MS Act, but this minor attribute whether it is applicable in territorial waters still remains undecided. However, the old Port Act 1908 and new Port Bill have this issue covered. The next element of wreck removal is related to marking of wrecks which are hazardous. As per the Convention, the shipowner has the liability to mark the wreck. If the shipowner does not mark the wreck then it can be marked by the Coastal State and the State can recover the expenditure involved. This marking of wreck is now a function given to the DGCL under section 21 - Aid to Marine Navigation Act. 2021. So one element - marking of wreck has been fulfilled through the new ACT - DGCL is the agency. The second element - within the port limits - is part of the Ports Bill and also the existing Ports Act. The third element is not in the present MS Act, 1958 but part of the new draft MS Bill 2020. So if the new 2020 MS bill is accepted then the entire circle is complete. India will have comprehensive legislative with provisions to handle all the maritime wreck matters in accordance with the international laws and the relevant agencies will be empowered to take appropriate & prompt action.

The Chairperson requested Mr. Achanta to include the NWRC points/views in the detailed communication that is to be sent to the Ministry as PART 1 and PART II.

Capt. Prashar added that P&I club have brought out a report on the problems faced by the Administrations and what they are reporting on salvage operations, as well as Bunker Convention. This report is prepared by a group of 13 P&I clubs. This report must be viewed, as it shows India's global standing. The Chairperson suggested that perhaps a student from the Mumbai University undergoing a

M.A. (Maritime Studies) or M.Sc. (Maritime Studies) or M.Com. (Maritime Studies) or PG Diploma (Maritime Logistics) programme may be requested to research and study this issue and submit a report on the same.

2.4 Establishing a Cadet Training Ship in India

This has been discussed and debated and the general view is that this is not viable unless the government offers subsidies. If SCI goes as a foreign flag then we lose the 50% training berths earmarked for Indian seafarers. Also all the reports show that there is a shortage of seafarers both engine and deck side. GOI (Ministry) is giving support by granting subsidy for '*Make in India*' upto 200 crores projects. The proposal is that an additional 10% as special subsidy could be given to those ships which are made in India to create about 8 to 10 training berths per vessel.

Mr. Abdulgani pointed that due to additional subsidy a foreign entity comes to India, gets the subsidy, builds a ship, but it is not essential that the foreign entity will employ Indian seafarers. On the other hand, an Indian Company or entity having Indian flag will bring in Indian seafarers which would also help in having training berths

Capt. Prashar mentioned that the training ship issue was brought out in one of the past NSB reports. The economics are very simple, as far as subsidy or no subsidy, making a ship in India is not viable. It has been noticed that in the past one and a half year there is a change in the mindset of the owners whether Indian or foreign owners. From 2015 to 2018 the owners had stopped taking trainees or cadets as the world was going through recession. Now surprisingly they are asking two or three trainees but there is a problem. Whenever a vessel is built there is a life boat capacity which cannot be changed. Every inch of the ship costs a couple of lakhs. The way, the technology is changing, the number of trainees in India, whether SCI or no SCI, will go up. Coming out with any cost or subsidy is not attractive because we make millions of dollars in freight. Today, when a vessel is giving hundred thousand dollars, then the owners will place 4 trainees on board. Tomorrow if the vessel is doing only four thousand dollars then the owners will scrap the vessel. Also perhaps it is too early to adapt such schemes. The number of trainees being picked from India has increased as compared to the Chinese for the past two years. The seafarers that require 100% mandatory sea-time are AB, OS and deck cadet, ETO, GME and GS (3 in the deck side & 3 in the rating side). These seafarers are not receiving the required sea time as DG Shipping is not ready to accept tug boat or other OSV sea time. And the same is being demanded from DG Shipping. When UK can accept a tug boat or other OSV sea time based on other sea courses, then why not DG Shipping? They have demeaned the tug boats and OSVs to such an extent that basically Indian seamen have not been able to replace Philippines, or other Asians or seamen of other nationalities. This sector has been demeaned to such an extent, that the trainee seafarers refuse to sail on these vessels even if an additional payment of Rs.20,000/- or more per month is offered. Even the IMU offer to work on PSV vessel had been refused. So we must target this sector as there is a fantastic growth here. There are 100 tugs and NCVs on the Indian coast. These tugs need seafarers. Those who work on tugs have good seamanship and some also make good money on the NCV. So there are two submissions 1) the DG Shipping NCV system has to be simplified. We can accept at least 2/3rd of the sea time service of the seafarers who have worked on these vessels and permit them to appear for exams & allowed to do

simulators course. As a result, 10 or 15% of trainees will be absorbed without going through the hardship of finding a ship. The impediment here is 1) the regulations of the DGS 2) reluctance of the industry 3) mindset of the cadet.

Mr. Abdulgani was in agreement with Capt. Prashar views that the seafarers are hesitant to go on small vessels, NCVs, OSVs. They would rather stay unemployed even if it is for one year. Of late, there are many shipping companies which are paying 16, 17 or 18 thousand dollars per month that require motorman, and seafarers of other ranks as they are not getting specialised persons. This vacuum could be filled up by what Capt. Prashar has suggested. He further made a very fundamental point on this issue. He requested that the word 'Cadet' from **Establishing a Cadet Training** should be dropped. Cadet means officer, as this training is also for ratings lets mention 'Seafarers Training' in our document. Shri Thakur Singh agreed to the same.

The Chairperson suggested preparing a comprehensive paper

2.5 Set up a Centre of Excellence focused on Mental Health and mark and claim

The Chairperson briefed the members on the proposed Centre of Excellence. The IMU had a meeting with stakeholders including shipping companies, unions, etc. and has formed a committee to study the possibility of taking it forward. IMU is seeking funds from the industry. Mr. Abdulgani has come forward and volunteered to support this project. But before seeking anybody's support we would like to know what it will look like and what will it seek to achieve. The Chairperson further shared that she had an on-line meeting with the Vice Chancellor of Maharashtra National Law University which was very fruitful and were looking at two - fold objectives 1) To jointly develop some short term courses on certain specific stakeholders and 2) To set up a Legal Aid Centre which will act as a reference point to attend to the seafarers anything that is basic.

2.6 Climate Change – Issues and Challenges for the Indian Shipping sector

Mr. Abdulgani stated that UK hosted the 26th UN Climate Change Conference of the Parties (COP26) in Glasgow on 31 October – 13 November 2021. Delegates from nearly 200 countries, all the State members and many stakeholders attended this Conference. India was well represented by our Hon'ble PM Mr. Modi, who also was in a key position as a Chair in some session. He declared a five-fold strategy — termed as the panchamrita — to achieve this feat. It is felt that as NSB we must take this issue forward by building awareness. As this needs expertise to dwell and go into these topics, it is suggested that a session can be conducted by inviting knowledgeable people for discussion.

Mr. Achanta mentioned that Mr. Abdulgani has flagged a very appropriate concern, but the GOI has already established a very robust protocol – the Maritime Vision 2023. Chapter 9 of that document actually has extensive points as to what role India has to play as an active green environment country for the Maritime Sector. So a lot of pointers can be picked up from this document. It talks not only of shipping but also ports. NSB could be a tool to bring in awareness. It will be reiterating for those stakeholders & shipping companies who have earlier attended seminars, meetings on climate issues.

The Chairperson appreciated the idea, but desired to know as to who are we catering to or are we going to discuss this among ourselves. What are the new points that we are going to flag for creating awareness? Who all are we planning it for? Is it for seafarers? What subject? Who are the audience? Is it for both shipping and ports fraternity? Who will design the entire seminar? Mr. Achanta suggested that we could ask the Ministry to ask BCG to help out.

2.7 Logistics Bill

Mr. Bhadkamkar observations - Integrating different modes and different types of transport together cause challenges in the definitions because there are international conventions for everything and there are different laws. Is the objective of integrating different modes together only to reduce number of laws or does it lead to any harmonization. Now harmonization only in India would be difficult because every mode gives rise to different liability depending on the cost structure and structure of that particular mode - like the liability for air cargo and ocean cargo can't be similar and liability for containerised cargo and non containerised cargo can't be similar. The challenge is whether we are just going to achieve number of laws being reduced or whether we could really have harmonisation of different modes.

Mr. Bhadkamkar agreed and mentioned that views from the other shipping board members will also enrich his annotations. Hence the Chairperson directed Mr. Bhadkamkar to call for a sub-committee meeting with Mr. Rahul Modi, Capt. Piyush Sinha, Mr. Ishwar Achanta for discussion. She also requested Mr Ishwar Achanta to collect the opinions of others.

Mr. Abdulgani pointed out that in the Logistic Bill there is a chapter on Seafarers which is going beyond trade. This chapter speaks about how the seafarers will be employed, etc. Further he mentioned that a thought should be spared to those who are working in this sector—the workforce; because this sector is more than 2000 billion dollars and every year it is increasing by 10%. There is a growth in this sector but only 10 to 12% of this sector is by big companies. The rest is all fragmented which also leads to inefficiency. The aspect that we have to look into is relating to the working people, whether a truck driver or a motor man, etc.

Capt. Sinha commented that basically the human element in this supply chain is definitely important. This is a structural problem but there is also a huge problem which goes amiss. Yes, the human element, the man power element pointed out by Mr. Abdulgani is well taken. That eventually is 5 to 7% of the challenge that is being faced today. The entire supply chain is so complex but can be simplified. Hence the observations made can be forwarded to Mr. Bhadkamkar.

Mr. Bhadkamkar further mentioned that Mr. Abdulgani's point is well taken. This issue has been taken up. In fact we are more fragmented than projected even the weakest player does not have 1% market share. The .1% market share could be the biggest player. We are highly fragmented across different business segments. To Abdulgani's second point – detailed submissions have been made in four sets, i.e. what should be the standard for recognising an Association, what should be the organisational responsibilities, what should they do and what are the systems. If the Special Secretary allows it then

the submissions will be shared with Mr. Abdulgani, who can peruse it. This submission has been prepared in consultation and guidance of the former DG Shipping Mr Deepak Shetty who has a good insight in legislative aspects.

Mr. Achanta to Mr. Bhadkamkar – Earlier NSB had recommended the coastal policy to the Govt, wherein promoting and branding green logistics and providing carbon cadets, incentives for HDMC norms, providing incentives for door-to-door delivery in logistics using the coastal means was mentioned. This all is missing from the Logistic bill. Hence this matter needs to be taken up in this Bill as part of the policy.

Mr. Bhadkamkar informed that over three to four years of consultations with all ministries, departments and other stakeholders, the Commerce Ministry drafted this bill after taking all views and comments into consideration. However, by the time their draft could be submitted, this bill had already gone to the Cabinet for its approval. However some extracts of the draft have been discussed with Mr. Sibal Singham and later on with Mr. Pawan Kumar Agarwal with some of their submissions. Another insight given is that whenever Multimodal Transport Act was amended, it became too extensive. Hence it became difficult to have a simple amendment. So it was suggested that this act should be kept as simple as possible. The proposed draft National Logistics bill has already been submitted to the Cabinet for its approval. A copy of the bill marked as *CONFIDENTIAL* has been forwarded to us for our comments. So it is not understood whether the bill has been approved by the Cabinet. However the Chairperson suggested that even though the cabinet has approved, it is not the last stage, it's just the beginning. The bill will be further presented to the Parliament for its introduction. Mr. Bhadkamkar thanked the Chair and other NSB members for their insights.

2.8 Any other points with the permission of the Chair

2.8.1 Mr. Achanta made an additional point. He mentioned that the PM had announced formation of National Maritime Security Coordinator (NMSC) for all maritime matters though the news article states that this is for the prevention of recurrence of the 26/11 incident. He enquired if the NSB could write to PM office regarding inclusion of anti-pollution issues and other shipping matters. The Chairperson stated that NSB cannot take up this issue directly with the PMO, but as an individual he could write to the PMO giving some background and reasons for the requirement.

2.8.2 Mr. Achanta informed that the minutes of the 1st Meeting of the NSB's HNS Sub Committee held on 27.10.2021 was forwarded on 2-1-2021 to DGS wherein it was stated that active participation of the office of the DGS being the custodian of Indian shipping, would be vital. Subsequently a mail was received from DG Shipping Office that it is up to the Government or Administration to adopt it or not. Hence concluded the minutes stating that the next meeting will be held in consultation with the Chairperson of NSB. Four key areas to work on have been identified:-

1. Request the active participation of the office of the Director General of Shipping as being the custodian of Indian shipping, it would be vital for their view and sign off.

2. To identify gaps in the Indian response mechanism to a HNS incident,
3. To identify infrastructure that would be needed to combat a HNS incident,
4. To create a compelling case to recommend to the administration to sign up for the HNS Convention.

Chairperson suggested that the same be circulated to Members for their inputs. Mr. Achanta suggested that the Coast Guard and the Indian Navy representative to be included in the sub-committee group.

The following line of action was directed by the Chairperson:-

1. Capt. Prashar & Mr. Abdulgani will ask or discuss the Logistic Bill with two or more people and then revert. Mr. Ishwar will assist them in this task.
2. The minutes to be uploaded on NSBs website
3. Capt Das - Member Secretary to write another letter to the Ministry regarding the progress in the Cyber Security matter.

3.0 Fixing date of the next meeting:

The date and place of venue of the next meeting will be decided by the end of December.

As there being no other matter to be discussed, the meeting concluded with a vote of thanks to the Chairperson and all Members of National Shipping Board.

Approved
Dr. Malini Shankar
Chairperson-NSB

Place: Mumbai

Date: 13.12.2021