

Bill No. XXI of 2013

THE MERCHANT SHIPPING (AMENDMENT) BILL, 2013

A

BILL

further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Merchant Shipping (Amendment) Act, 2013.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

44 of 1958. 5

2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after Part XIA, the following Part shall be inserted, namely:—

Insertion of new Part XIB.

'PART XIB

CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS

356P. (1) Save as otherwise provided in this Part, this Part shall apply to—

Application.

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(a) every Indian ship, wherever it is;

(b) ships not entitled to fly the flag of India, but which operate under the authority of India; and

(c) ships that enter a port, shipyard, or offshore terminal or place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force.

(2) This Part shall not apply to any warship, naval auxiliary or other ship owned or operated by or under the authority of India and used, for the time being, only on Government non-commercial service:

Provided that in case of such ships, the Government shall ensure by the adoption of appropriate measures not impairing operations or operational capabilities of such ship that such ships in a manner consistent are operated with this Part.

Definitions.

356Q. In this Part, unless the context otherwise requires,—

(a) “anti-fouling system” means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms;

(b) “authority” means—

(i) the Government of India under whose authority the ship is operating;

(ii) with respect to a ship entitled to fly a flag of any other country, the Government of that country; and

(iii) with respect to floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to Indian coast over which Government of India exercises sovereign rights for the purposes of exploration and exploitation of its natural resources (including Floating Storage Units and Floating Production Storage and Offloading Units), the Government of India;

(c) “Committee” means the Marine Environment Protection Committee of the Organisation;

(d) “Convention” means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001;

(e) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, as set out in the Annexure or any successor Convention as ratified or acceded to or adopted by the Government of India;

(f) “international voyage” means a voyage by a ship entitled to fly the flag of one State to or from a port, shipyard, or offshore terminal under the jurisdiction of another State;

(g) “length” means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor Convention as ratified or acceded to or adopted by the Government of India;

(h) “Organisation” means the International Maritime Organisation;

(i) “port” shall have the same meaning as assigned to it in the Indian Port Act, 1908, the Major Port Trusts Act, 1963, or under any other law for the time being in force and shall include any terminal, either within the port limits or otherwise;

(j) “ship” means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units and floating production storage and off-loading units.

5 356R. (1) Every Indian ship and other ships which are not entitled to fly Indian flag but operating under the authority of India, shall comply with the requirements set forth in this Part, including the applicable standards and requirements as prescribed from time to time as well as effective measures to ensure that such ships comply with the requirements, as may be prescribed from time to time.

Control of anti-fouling systems.

10 (2) All other vessels to which this Part applies shall comply with requirements of the anti-fouling systems as prescribed from time to time.

15 356S. (1) No Indian ship or other ships entitled to fly Indian flag or operating under its authority, which is of 400 gross tonnage and above shall engage in International Voyage unless there is on-board, in respect of that ship, a certificate issued by the Director-General, to be called as International Anti-Fouling System Certificate, in such form, for such duration and subject to such procedures and conditions as may be prescribed, from time to time.

Issuance of International Anti-Fouling System Certificate.

20 (2) No Indian ship or other ships entitled to fly Indian flag or operating under its authority excluding fixed or floating platforms, Floating Storage Units and Floating Production Storage and Offloading Units which is of 24 metres or more in length, but less than 400 gross tonnage, shall engage in international voyage unless there is on-board a declaration in such form and subject to such procedures and conditions as may be prescribed, from time to time.

25 (3) Indian ships, which are below 400 gross tonnage and not engaged in international voyage and which are required to be registered under this Act, shall be issued an Indian Anti-Fouling System Certificate, as may be prescribed from time to time.

30 356T. (1) The Central Government may, at the request of the Government of a country to which the Convention applies, cause an International Anti-Fouling System Certificate to be issued in accordance with the Convention in respect of any ship of that country to which the Convention applies, if it is satisfied that such certificate can properly be issued, and where a certificate is so issued, it shall contain a statement that it has been so issued on a request, as per the procedure prescribed in this behalf from time to time.

Issue of Anti-Fouling System Certificate for foreign ships in India and Indian ships in foreign countries.

35 (2) The Central Government may request the Government of a country to which the Convention applies, to issue an International Anti-Fouling System Certificate in accordance with the Convention in respect of a ship to which this Part applies and the certificate so issued in pursuance of such a request shall contain a statement that it has been so issued and shall have the same effect as if it had been issued by the
40 Central Government under this Act.

45 356U. Taking into account the international rules, standards and requirements, the Central Government shall prescribe the rules and take appropriate measures in its territory to require that wastes from the application or removal of an anti-fouling system, are collected, handled, treated and disposed of in a safe and environmentally sound manner, by any person in India, to protect human health and the environment.

Controls of waste materials.

356V. (1) Every ship to which this Part applies shall maintain, a record of anti-fouling systems in the prescribed form.

Record of anti-fouling systems.

(2) The manner, in which the record of anti-fouling systems to be maintained shall be prescribed having regard to the provisions of the Convention and this Part.

Inspection and control of all ships above 400 gross tonnage.

356W. (1) A surveyor or any person authorised by the Director-General in this behalf may inspect, at any reasonable time, any ship to which any of the provisions of this Part applies, for the purposes of—

(a) ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with; 5

(b) verifying that, where required, there is on-board a valid International Anti-Fouling System Certificate or a declaration on anti-fouling system; or

(c) brief sampling of the ship's anti-fouling system that does not affect the integrity, structure, or operation of the anti-fouling system taking into account the procedures as prescribed from time to time; and 10

(d) verifying any record required to be maintained on-board.

(2) For the purposes of clause (c) of sub-section (1), the time required to process the results of such sampling shall not be used as a basis for preventing the movement and departure of the ship.

(3) The surveyor or any person, authorised by the Director-General in this behalf, may, certify any matter referred to in sub-section (1) in respect of such ship as a copy of the records of the ship to be a true copy and such copy shall be admissible as evidence of the facts stated therein. 15

Information regarding contravention of the provisions of Convention.

356X. (1) If, on receipt of a report from a surveyor or other person authorised to inspect a ship, the Director-General is satisfied that any provision of this Part has been contravened by such ship within the coastal waters, the Director-General or any officer authorised by him in this behalf, may— 20

(a) detain the ship until the causes of such contravention are removed to the satisfaction of the Director-General or the officer authorised by him; and

(b) levy penalty on such ship as specified in section 436: 25

Provided that where the Director-General deems it necessary, he may request the Indian Navy or the Coast Guard for preventing the ship from proceeding to sea and the Indian Navy or the Coast Guard, as the case may be, shall take action as requested by the Director-General.

(2) On receipt of information from the Government of any country to which the Convention applies that a ship has contravened any provision of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention and, if satisfied that sufficient evidence is available, conduct investigation of the alleged violations and take appropriate measures in respect thereof. 30 35

Power to make rules.

356Y. (1) The Central Government may, having regard to the provisions of the Convention, make rules to carry out the provisions of this Part.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the following matters, namely:—

(a) the specification of the anti-fouling system; 40

(b) the forms of record of anti-fouling systems, the manner in which such records shall be maintained;

(c) the fees which may be levied for inspection and for issuance of the International Anti-Fouling System Certificate;

(d) the fees which may be levied for inspection and for issuance of the Indian Anti-Fouling System Certificate; 45

(e) any other matter which, for the implementation of the Convention has to be or may be prescribed. 50

3. In section 436 of the principal Act, after serial number 115G and the entries relating thereto, the following shall be inserted, namely:—

Amendment of section 436.

Sl. No.	Offences	Section of this Act to which offence has reference	Penalties
1	2	3	4
5	"115H. If the owner of an Indian ship fails to comply with section 356R	356R	Fine which may extend to five lakh rupees.
10	115-I If a master proceeds or attempts to proceed to sea in contravention of section 356S	356S	Fine which may extend to one lakh rupees.
15	115J If the owner of an Indian ship or any person fails to comply with the rules made or measures taken by the Central Government under section 356U	356U	Fine which may extend to fifty thousand rupees.
	115K If the master of a ship fails to maintain records as required by section 356V	356V	Fine which may extend to fifty thousand rupees.
20	115L If the master of a ship fails to comply with sub-section (I) of section 356W	356W(I)	Fine which may extend to fifty thousand rupees."

4. After the Schedule to the principal Act, the following Annexure shall be inserted, namely:—

Insertion of Annexure.

25	“ANNEXURE [See clause (e) of section 356Q] REGULATIONS CONTAINED IN ANNEX 1 TO THE INTERNATIONAL CONVENTION ON TONNAGE MEASUREMENT OF SHIPS, 1969 REGULATIONS FOR DETERMINING GROSS AND NET TONNAGES OF SHIPS
30	Regulation 1 <i>General</i>
	(1) The tonnage of a ship shall consist of gross tonnage and net tonnage.
	(2) The gross tonnage and the net tonnage shall be determined in accordance with the provisions of these Regulations.
35	(3) The gross tonnage and the net tonnage of novel types of craft whose constructional features are such as to render the application of the provisions of these Regulations unreasonable or impracticable shall be as determined by the Administration. Where the tonnage is so determined, the Administration shall communicate to the Organisation details of the method used for that purpose, for
40	circulation to the Contracting Governments for their information.
	Regulation 2 <i>Definitions of terms used in the Annexes</i>
	(1) <i>Upper Deck</i>
45	The upper deck is the uppermost complete deck exposed to weather and sea, which has permanent means of weathertight closing of all openings in the weather part thereof, and below which all openings in the sides of the ship are fitted with permanent means of watertight closing. In a ship having a stepped upper deck, the lowest line of the exposed deck and the continuation of that line parallel to the upper part of the deck is taken as the upper deck.

(2) Moulded Depth

(a) The moulded depth is the vertical distance measured from the top of the keel to the underside of the upper deck at side. In wood and composite ships the distance is measured from the lower edge of the keel rabbet. Where the form at the lower part of the midship section is of a hollow character, or where thick garboards are fitted, the distance is measured from the point where the line of the flat of the bottom continued inwards cuts the side of the keel. 5

(b) In ships having rounded gunwales, the moulded depth shall be measured to the point of inter-section of the moulded lines of the deck and side shell plating, the lines extending as though the gunwales were of angular design. 10

(c) Where the upper deck is stepped and the raised part of the deck extends over the point at which the moulded depth is to be determined, the moulded depth shall be measured to a line of reference extending from the lower part of the deck along a line parallel with the raised part.

(3) Breadth

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The breadth is the maximum breadth of the ship, measured amidships to the moulded line of the frame in a ship with a metal shell and to the outer surface of the hull in a ship with a shell of any other material.

(4) Enclosed spaces

Enclosed spaces are all those spaces which are bounded by the ship's hull, by fixed or portable partitions or bulkheads, by decks or coverings other than permanent or movable awnings. No break in a deck, nor any opening in the ship's hull, in a deck or in a covering of a space, or in the partitions or bulkheads of a space, nor the absence of a partition or bulkhead, shall preclude a space from being included in the enclosed space. 20 25

(5) Excluded Spaces

Notwithstanding the provisions of paragraph (4) of this Regulation, the spaces referred to in sub-paragraphs (a) to (e) inclusive of this paragraph shall be called excluded spaces and shall not be included in the volume of enclosed spaces, except that any such space which fulfils at least one of the following three conditions shall be treated as an enclosed space: 30

- the space is fitted with shelves or other means for securing cargo or stores;
- the openings are fitted with any means of closure;
- the construction provides any possibility of such openings being closed: 35

(a) (i) A space within an erection opposite an end opening extending from deck to deck except for a curtain plate of a depth not exceeding by more than 25 millimetres (one inch) the depth of the adjoining deck beams, such opening having a breadth equal to or greater than 90 per cent. of the breadth of the deck at the line of the opening of the space. This provision shall be applied so as to exclude from the enclosed spaces only the space between the actual end opening and a line drawn parallel to the line or face of the opening at a distance from the opening equal to one-half of the width of the deck at the line of the opening (Figure 1 in Appendix I). 40

(ii) Should the width of the space because of any arrangement except by convergence of the outside plating, become less than 90 per cent. of the breadth of the deck, only the space between the line of the opening and a parallel line drawn through the point where the athwartships width of the space becomes equal to, or less than, 90 per cent. of the breadth of the deck shall be excluded from the volume of enclosed spaces (Figures 2, 3 and 4 in Appendix 1). 45 50

(iii) Where an interval which is completely open except for bulwarks or open rails separates any two spaces, the exclusion of one or both of which is permitted under sub-paragraphs (a)(i) and/or (a)(ii), such exclusion shall not apply if the separation between the two spaces is less than the least half breadth of the deck in way of the separation (Figures 5 and 6 in Appendix 1).

(b) A space under an overhead deck covering open to the sea and weather, having no other connection on the exposed sides with the body of the ship than the stanchions necessary for its support. In such a space, open rails or a bulwark and curtain plate may be fitted or stanchions fitted at the ship's side, provided that the distance between the top of the rails or the bulwark and the curtain plate is not less than 0.75 metres (2.5 feet) or one-third of the height of the space, whichever is the greater (Figure 7 in Appendix 1).

(c) A space in a side-to-side erection directly in way of opposite side openings not less in height than 0.75 metres (2.5 feet) or one-third of the height of the erection, whichever is the greater. If the opening in such an erection is provided on one side only, the space to be excluded from the volume of enclosed spaces shall be limited on-board from the opening to a maximum of one-half of the breadth of the deck in way of the opening (Figure 8 in Appendix 1).

(d) A space in an erection immediately below an uncovered opening in the deck overhead, provided that such an opening is exposed to the weather and the space excluded from enclosed spaces is limited to the area of the opening (Figure 9 in Appendix 1).

(e) A recess in the boundary bulkhead of an erection which is exposed to the weather and the opening of which extends from deck to deck without means of closing, provided that the interior width is not greater than the width at the entrance and its extension into the erection is not greater than twice the width of its entrance (Figure 10 in Appendix 1).

(6) *Passenger*

A passenger is every person other than:

(a) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and

(b) a child under one year of age.

(7) *Cargo Spaces*

Cargo spaces to be included in the computation of net tonnage are enclosed spaces appropriated for the transport of cargo which is to be discharged from the ship, provided that such spaces have been included in the computation of gross tonnage. Such cargo spaces shall be certified by permanent marking with the letters CC (cargo compartment) to be so positioned that they are readily visible and not to be less than 100 millimetres (4 inches) in height.

(8) *Weathertight*

Weathertight means that in any sea conditions water will not penetrate into the ship.

Regulation 3

Gross tonnage

The gross tonnage (GT) of a ship shall be determined by the following formula:

$$GT = K_1 V$$

where: V = Total volume of all enclosed spaces of the ship in cubic metres,

$K_1 = 0.2 + 0.02 \log_{10} V$ (or as tabulated in Appendix 2).

Regulation 4*Net tonnage*

(1) The net tonnage (NT) of a ship shall be determined by the following formula:

$$NT = K_2 V_c \left(\frac{4d}{3D} \right)^2 + K_3 \left(N_1 + \frac{N_2}{10} \right),$$

in which formula:

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(a) the factor $\left(\frac{4d}{3D} \right)^2$ shall not be taken as greater than unity;

(b) the term $K_2 V_c \left(\frac{4d}{3D} \right)^2$ shall not be taken as less than 0.25 GT; and

(c) NT shall not be taken as less than 0.30 GT, and in which:

V_c = total volume of cargo spaces in cubic metres,

$K_2 = 0.2 + 0.02 \log_{10} V_c$ (or as tabulated in Appendix 2), 10

$K_3 = 1.25 \left(GT + \frac{10,000}{10,000} \right)$,

D = moulded depth amidships in metres as defined in Regulation 2(2),

d = moulded draught amidships in metres as defined in paragraph (2) of this Regulation,

N_1 = number of passengers in cabins with not more than 8 berths, 15

N_2 = number of other passengers,

$N_1 + N_2$ = total number of passengers the ship is permitted to carry as indicated in the ship's passenger certificate; when $N_1 + N_2$ is less than 13, N_1 and N_2 shall be taken as zero,

GT = gross tonnage of the ship as determined in accordance with the provisions of Regulation 3. 20

(2) The moulded draught (d) referred to in paragraph (1) of this Regulation shall be one of the following draughts:

(a) for ships to which the International Convention on Load Lines in force applies, the draught corresponding to the Summer Load Line (other than timber load lines) assigned in accordance with that Convention; 25

(b) for passenger ships, the draught corresponding to the deepest subdivision load line assigned in accordance with the International Convention for the Safety of Life at Sea in force or other international agreement where applicable;

(c) for ships to which the International Convention on Load Lines does not apply but which have been assigned a load line in compliance with national requirements, the draught corresponding to the summer load line so assigned; 30

(d) for ships to which no load line has been assigned but the draught of which is restricted in compliance with national requirements, the maximum permitted draught; 35

(e) for other ships, 75 per cent. of the moulded depth amidships as defined in Regulation 2(2).

Regulation 5

Change of net tonnage

5 (1) When the characteristics of a ship, such as V , V_c , d , N_1 or N_2 as defined in Regulations 3 and 4, are altered and where such an alteration results in an increase in its net tonnage as determined in accordance with the provisions of Regulation 4, the net tonnage of the ship corresponding to the new characteristics shall be determined and shall be applied without delay.

10 (2) A ship to which load lines referred to in sub-paragraphs (2)(a) and (2)(b) of Regulation 4 are concurrently assigned shall be given only one net tonnage as determined in accordance with the provisions of Regulation 4 and that tonnage shall be the tonnage applicable to the appropriate assigned load line for the trade in which the ship is engaged.

15 (3) When the characteristics of a ship such as V , V_c , d , N_1 or N_2 as defined in Regulations 3 and 4 are altered or when the appropriate assigned load line referred to in paragraph (2) of this Regulation is altered due to the change of the trade in which the ship is engaged, and where such an alteration results in a decrease in its net tonnage as determined in accordance with the provisions of Regulation 4, a new International Tonnage Certificate (1969) incorporating the net tonnage so determined shall not be issued until twelve months have elapsed from the date on which the current Certificate was issued; provided that this requirement shall not apply:

(a) if the ship is transferred to the flag of another State, or

(b) if the ship undergoes alterations or modifications which are deemed by the Administration to be of a major character, such as the removal of a superstructure which requires an alteration of the assigned load line, or

25 (c) to passenger ships which are employed in the carriage of large numbers of unberthed passengers in special trades, such, for example, as the pilgrim trade.

Regulation 6

Calculation of volumes

30 (1) All volumes included in the calculation of gross and net tonnages shall be measured, irrespective of the fitting of insulation or the like, to the inner side of the shell or structural boundary plating in ships constructed of metal, and to the outer surface of the shell or to the inner side of structural boundary surfaces in ships constructed of any other material.

35 (2) Volumes of appendages shall be included in the total volume.

(3) Volumes of spaces open to the sea may be excluded from the total volume.

Regulation 7

Measurement and calculation

40 (1) All measurement used in the calculation of volumes shall be taken to the nearest centimetre or one-twentieth of a foot.

(2) The volumes shall be calculated by generally accepted methods for the space concerned and with an accuracy acceptable to the Administration.

(3) The calculation shall be sufficiently detailed to permit easy checking.

APPENDIX 1

Figures Referred to in Regulation 2(5)

In the following figures:

O = excluded space.

C = enclosed space.

I = space to be considered as an enclosed space.

Hatched in parts to be included as enclosed spaces.

B = breadth of the deck in way of the opening.

APPENDIX 2

COEFFICIENTS K_1 AND K_2 REFERRED TO IN REGULATIONS 3 AND 4(I)

V or Vc = Volume in cubic metres

V or Vc	K_1 or K_2	V or Vc	K_1 or K_2	V or Vc	K_1 or K_2	V or Vc	K_1 or K_2
10	0.2200	45,000	0.2931	330,000	0.3104	670,000	0.3165
20	0.2260	50,000	0.2940	340,000	0.3106	680,000	0.3166
30	0.2295	55,000	0.2948	350,000	0.3109	690,000	0.3168
40	0.2320	60,000	0.2956	360,000	0.3111	700,000	0.3169
50	0.2340	65,000	0.2963	370,000	0.3114	710,000	0.3170
60	0.2356	70,000	0.2969	380,000	0.3116	720,000	0.3171
70	0.2369	75,000	0.2975	390,000	0.3118	730,000	0.3173
80	0.2381	80,000	0.2981	400,000	0.3120	740,000	0.3174
90	0.2391	85,000	0.2986	410,000	0.3123	750,000	0.3175
100	0.2400	90,000	0.2991	420,000	0.3125	760,000	0.3176
200	0.2460	95,000	0.2996	430,000	0.3127	770,000	0.3177
400	0.2520	110,000	0.3008	450,000	0.3131	790,000	0.3180
500	0.2540	120,000	0.3016	460,000	0.3133	800,000	0.3181
600	0.2556	130,000	0.3023	470,000	0.3134	810,000	0.3182
700	0.2569	140,000	0.3029	480,000	0.3136	820,000	0.3183
800	0.2581	150,000	0.3035	490,000	0.3138	830,000	0.3184
900	0.2591	160,000	0.3041	500,000	0.3140	840,000	0.3185
1,000	0.2600	170,000	0.3046	510,000	0.3142	850,000	0.3186
2,000	0.2660	180,000	0.3051	520,000	0.3143	860,000	0.3187
3,000	0.2695	190,000	0.3056	530,000	0.3145	870,000	0.3188
4,000	0.2720	200,000	0.3060	540,000	0.3146	880,000	0.3189
5,000	0.2740	210,000	0.3064	550,000	0.3148	890,000	0.3190
6,000	0.2756	220,000	0.3068	560,000	0.3150	900,000	0.3191
7,000	0.2769	230,000	0.3072	570,000	0.3151	910,000	0.3192

V or V _c	K ₁ or K ₂	V or V _c	K ₁ or K ₂	V or V _c	K ₁ or K ₂	V or V _c	K ₁ or K ₂
8,000	0.2781	240,000	0.3076	580,000	0.3153	920,000	0.3193
9,000	0.2791	250,000	0.3080	590,000	0.3154	930,000	0.3194
10,000	0.2800	260,000	0.3083	600,000	0.3156	940,000	0.3195
15,000	0.2835	270,000	0.3086	610,000	0.3157	950,000	0.3196
20,000	0.2860	280,000	0.3089	620,000	0.3158	960,000	0.3196
25,000	0.2880	290,000	0.3092	630,000	0.3160	970,000	0.3197
30,000	0.2895	300,000	0.3095	640,000	0.3161	980,000	0.3198
35,000	0.2909	310,000	0.3098	650,000	0.3163	990,000	0.3199
40,000	0.2920	320,000	0.3101	660,000	0.3164	1,000,000	0.3200

Coefficients K₁ or K₂ at intermediate values of V or V_c shall be obtained by linear interpolation."

STATEMENT OF OBJECTS AND REASONS

The Merchant Shipping Act, 1958 governs matters relating to merchant shipping in India. The main objective of the Act is to ensure development and efficient maintenance of the Indian mercantile marine in a manner best suited to serve the national interest. The Act has been amended from time to time in the light of experience gained in its implementation and also to give effect to the provisions of various International Conventions to which India has acceded.

2. As a member of the International Maritime Organisation (IMO), India has acceded to a number of International Conventions and Protocols adopted by the IMO. Now, India intends to accede to the International Convention for the Control of Harmful Anti-Fouling Systems on Ships, 2001 (hereafter referred to as AFS Convention 2001). This Convention aims to protect the marine environment and human health from adverse effects of use of listed harmful anti-fouling systems as the anti-fouling paints on ship's surface lead to "leaching" of these paints into the sea water which persist in the water, thereby causing harm to the environment. In order to enable the Government of India or its agencies to give effect to the AFS Convention 2001 adopted by IMO as also to enable the maritime administration to meet its operational requirements, suitable amendments in the said Act are required to be made.

3. It is proposed to amend the Merchant Shipping Act, 1958 to provide for the enforcement of the AFS Convention 2001 and thereby making it mandatory for Indian flag vessels to comply with Anti-Fouling Systems and to obtain a certificate of compliance thereof. Under the provisions of the Merchant Shipping (Amendment) Bill, 2013, all Indian flag vessels having 400 gross tonnage or more, engaged in international voyages, would be issued with an International Anti-Fouling System Certificate, after due verification. This will enable them to engage in international shipping activities without having to approach Government of other countries, who have ratified the Convention for such certificates. Further, India will be able to ensure that all foreign flag vessels entering territorial waters of India, or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of pollution under any Law for the time being in force, are duly certified in accordance with the requirement of the AFS Convention 2001. The Bill further provides for the levy of the penalty for non-compliance of the provisions of the Convention.

4. The Bill seeks to achieve the above objects.

NEW DELHI;
The 22nd February, 2013.

G. K. VASAN

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill proposes for the insertion of a new Part XIB containing sections 356P to 356Y. Sub-section (1) of the proposed section 356Y empowers the Central Government to make rules for carrying out the provisions of the Bill. Sub-section (2) of the said section provides for the matters in respect of which such rules may be made, which, *inter alia*, pertain to the provisions relating to—

- (a) the specification of the anti-fouling system;
- (b) the forms of record of anti-fouling systems, the manner in which such records shall be maintained;
- (c) the fees which may be levied for inspection and for issuance of the International Anti-Fouling System Certificate;
- (d) the fees which may be levied for inspection and for issuance of the Indian Anti-Fouling System Certificate;
- (e) any other matter for the implementation of the Convention.

2. The matters in respect of which the Central Government may make rules are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

RAJYA SABHA

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BILL

further to amend the Merchant Shipping Act, 1958.

(Shri G.K. Vasan, Minister of Shipping)