

29

STAT. *Committee* ITTEE  
ON AGRICULTURE  
(1995-96)

TENTH LOK SABHA

MINISTRY OF FOOD PROCESSING INDUSTRIES

THE MARITIME ZONES OF INDIA (REGULATION OF  
FISHING BY FOREIGN VESSELS)  
AMENDMENT BILL, 1994

TWENTY NINTH REPORT



सत्यमेव जयते

LC

28.3657 R LOK SABHA SECRETARIAT  
NEW DELHI

5.29;2

September, 1995 / Asvina, 1917 (Saka)

# TWENTY NINTH REPORT

## STANDING COMMITTEE ON AGRICULTURE (1995-96)

(TENTH LOK SABHA)

### MINISTRY OF FOOD PROCESSING INDUSTRIES

THE MARITIME ZONES OF INDIA (REGULATION OF  
FISHING BY FOREIGN VESSELS)  
AMENDMENT BILL, 1994

19 DEC 1995

*Presented to Lok Sabha on.....*

*Laid in Rajya Sabha on.....* 14 DEC 1995

15 DEC 1995



LOK SABHA SECRETARIAT  
NEW DELHI

*September, 1995/Asvina, 1917 (Saka)*

Price: Rs. 16.00

PARLIAMENT LIBRARY  
Genl. Govt. Publications  
Acc. No. RC 93614.3  
Date 6/2/96

u  
328.3657R  
N5.29;2

© 1995 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of  
Business in Lok Sabha (Eighth Edition) and Printed by the Manager Govt  
of India Press, Minto Road New Delhi-2.

## CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE .....	(iii)
PREFACE.....	(v)
REPORT .....	1
Observations/Recommendations .....	10

**COMPOSITION OF THE STANDING COMMITTEE  
ON AGRICULTURE  
(1995-96)**

**Shri Nitish Kumar— Chairman**

**MEMBERS  
*Lok Sabha***

2. Shri D. Pandian
3. Shri Birbal
4. Shri Nathuram Mirdha
5. Shri G. Ganga Reddy
6. Shri Ankushrao Raosaheb Tope
7. Shri Sarat Pattanayak
8. Shri Govindrao Nikam
9. Kumari Pushpa Devi Singh
10. Shri Channaiah Odeyar
11. Shri Tara Singh
12. Shri Anantrao Deshmukh
13. Shri Uttamrao Deorao Patil
14. Shri V.V. Nawale
15. Shri Rajvir Singh
16. Kumari Uma Bharati
17. Shri Rudrasen Chaudhary
18. Shri Ganga Ram Koli
19. Dr. Gunawant Rambhau Sarode
20. Dr. Parshuram Gangwar
21. Shri Rajendra Kumar Sharma
22. Smt. Krishnendra Kaur (Deepa)
23. Shri Ram Tahal Chaudhary
24. Shri Zainal Abedin
25. Shri B.N. Reddy
26. Shri Kamla Mishra Madhukar
27. Dr. R.K.G. Rajulu
28. Shri Upendra Nath Verma
29. Shri Shibu Soren

***Rajya Sabha***

30. Shri Govindrao Adik
31. Shri Satyanarayana Dronamraju
32. Shri Ramnarayan Goswami
33. Shri H. Hanumanthappa
34. Shri Anant Ram Jaiswal

35. Dr. Bapu Kaldate
36. Shri Bhupinder Singh Mann
37. Shri N. Thangaraj Pandian
38. Shri K.N. Singh
39. Shri Maheshwar Singh
40. Dr. Ranveer Singh
41. Shri Shiv Charan Singh
42. Shri Som Pal

SECRETARIAT

- |                         |                               |
|-------------------------|-------------------------------|
| 1. Shri S.N. Mishra     | — <i>Additional Secretary</i> |
| 2. Smt. Roli Srivastava | — <i>Joint Secretary</i>      |
| 3. Shri P.D.T. Achary   | — <i>Director</i>             |
| 4. Shri S. Bal Shekar   | — <i>Under Secretary</i>      |

## PREFACE

1. the Chairman, Standing Committee on Agriculture having been authorised by the Committee to submit the Report on their behalf, present this Twenty Ninth Report on the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Amendment Bill, 1994.

2. The Standing Committee on Agriculture was re-constituted on 8th April, 1995. One of the functions of the Standing Committee as laid down in Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha is to examine such Bills pertaining to the Ministries/Departments concerned as are referred to the Committee by the Chairman, Rajya Sabha or the Speaker, as the case may be, and make a report thereon to the Houses.

3. The Committee took evidence of the representatives of the Ministry of Food Processing Industries on 20 June, 1995 and on 22 August, 1995. The Committee wish to express their thanks to the officers of the Ministry of Food Processing Industries for placing before them, the material and information which they desired in connection with the examination of Bill and for giving evidence before the Committee.

4. The Committee considered and adopted the Report at their sitting held on 27 September, 1995.

NEW DELHI;  
28 September, 1995

---

6 Asvina, 1917 (Saka)

NITISH KUMAR,  
Chairman,  
Standing Committee on Agriculture.

# **THE MARITIME ZONES OF INDIA (REGULATION OF FISHING BY FOREIGN VESSELS) AMENDMENT BILL, 1994**

## **REPORT**

1. The Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Amendment Bill, 1994 has been introduced in Lok Sabha on 12th December, 1994. The Bill has been referred to the Committee on Agriculture under rule 331E(b) of the Rules of Procedure & Conduct of Business in Lok Sabha by the Hon'ble Speaker on 13th December, 1994 for making a report thereon.

2. The Bill under consideration aims to bring out certain amendments in the existing Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 (No. 42 of 1981) (MZI Act). A copy of the Act (No. 42) of 1981 and the Bill of 1994 under consideration are at Appendix I and II.

3. The Statement of Objects and Reasons attached to the Bill states that the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 was enacted to regulate fishing by foreign vessels in certain maritime zones of India. It is observed that cases filed in Courts under the Act take considerable long time and this gives rise to certain obligations with regard to upkeep of seized vessels and their final release or disposal. Although there are provisions for getting the vessel released against furnishing security, there is perceptible tendency among the owners or charterers of the vessel not to take steps for release of the vessel, which in turn results in congestion of the already limited space available in the Indian ports. Enormous costs have to be defrayed by the Government towards payment of port dues, etc. Idleness coupled with lack of proper care during the period of detention, which may be two or three years or even more, reduce the vessel to junk by the time the cases are finally decided. It is, therefore, proposed through this Bill to make the following amendments in the Act, namely:—

- (i) to empower the Court of Session to order for sale or otherwise disposal of the vessel and other things seized under the Act during pendency of any inquiry or trial;
- (ii) to make the offences under the Act triable by Court of Session for quick disposal of the cases;
- (iii) to make the foreign vessel used in or in connection with commission of any offence under the Act, liable for confiscation if found abandoned.



4. In connection with the examination of the Bill, the Committee took oral evidence of the representatives of the Ministry of Food Processing Industries on 20th June, 1995 and on 22nd August, 1995.

5. The Committee have considered the Bill Clause by Clause and would like to make a few points to make the proposed Bill more purposeful and effective.

*Clause 2(i) Clause 4 of the Bill*

6. Clause 2(i) of the Bill which seeks to amend sub-section 9 of the Act No. 42 of 1981 (which will be referred to hereafter as principal Act) reads as follows:

2. In section 9 of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 (hereinafter referred to as the principal Act),—

10. (i) In sub-section (4), for the word “Magistrate” wherever it occurs, the words “Court of Session” shall be substituted;

7. Clause 4 of the Bill which seeks to amend section 19 of the principal Act reads as follows:

4. In section 19 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or any other law for the time being in force, the offences under this Act shall be tried by the Court of Session and any prosecution in respect of such offence pending in any court inferior to the Court of Session shall stand transferred to the Court of Session.”

8. Regarding the need to raise the level of courts competent to try cases under the Act the Committee have been informed in a note that at present, under the provision of Sections 19(2) and 20 of the Act, Judicial Magistrates of first class or Metropolitan Magistrates, try offences under this Act and it is lawful for these magistrates, who are specially empowered by the State Governments in this behalf, to pass any sentence authorised under the Act. But considerable delays occur in trials by the lower courts since they have to deal with a large number of other cases. Besides, the stakes in these cases are very high since the cost of foreign fishing vessels may run to crores of rupees. There are also considerable quantities of fish, a highly perishable commodity, in the holds of the vessels at the time of apprehension. Often the trawlers are reduced to junk on account of delay in disposal of cases by the lower Courts. It has, therefore, been suggested that such cases should be tried at least by a Court of Session for speedy disposal by experienced judges. Therefore, through Clause 4 of the Bill it has been proposed to amend Section 19(2) of the Act accordingly. Consequential to the amendment in Section 19(2) of the Act as proposed in Clause 4 of the Bill, sub-section (4) of the section 9 of the Act is proposed to be amended by Clause 2(i) of the Bill

whereby the word "Magistrate" occurring in sub-section (4) of section 9 is to be replaced by the word 'Court of Session'.

9. In reply to a question regarding the cases now pending for disposal, the Ministry of Food Processing Industries have stated that as on 16th March, 1995, 29 cases are pending. The break up of these cases is as under:—

	No. of cases
(i) More than 10 years old	14
(ii) 5 years old	01
(iii) 3 years old	01
(iv) Less than 3 years old	13

10. The time taken by the court varies from case to case. The normal time taken is between six months to one year. However, in some cases it is found to be more than ten years. The main factors that have contributed to the delay are:—

- (1) Delay in filing of the charge sheet due to delay in investigation by police. Main causes for delay in investigation is due to the fact that the foreigners apprehended under the Act are of various nationalities and recording their statements would require interpreters, who may not be locally available readily.
- (2) Courts being over burdened with pending cases.
- (3) Trial in the Courts does not take place on a day to day basis.

11. In reply to a question as to whether the Act could be amended to fix a time-limit of completing police investigation and for filing the charge-sheet in order to cut down the delay, the Committee have been informed that the delay in police investigation can be reduced by Executive orders. It was further explained in a note that the police investigation takes about 2-4 months and not 2 years. It is submitted that Law Ministry has opined that the Cr.Pc does not specifically prescribe any time-limit for filing charge-sheet. Prescription of such a time-limit may not be practicable also. It may, however, be stated that Cr.Pc contemplates quick completion of an investigation by the police and section 167, Cr.Pc lays down the procedure when investigation cannot be completed in 24 hours. An accused person cannot be detained in custody and is entitled to be released on bail as a matter of right, if investigation is not completed within a period of 90 days, where it relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, and 60 days, where it relates to any other offence. Section 468, Cr.Pc prescribes a bar to taking cognizance by Court after lapse of certain periods of limitation for certain categories of offences. The periods of limitation prescribed are (a) 6 months, if the offence is punishable with fine only; (b) 1 year, if the offence is punishable with imprisonment for a term not exceeding one year; and (c) 3 years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

12. When asked whether the Government considered the desirability of amending the Act to set up special courts for trying the offences under MZI Act instead of empowering the Session Courts, the Ministry of Food Processing Industries replied that the questions of setting up of special courts for purpose of trying offences under the Act was considered. However, keeping in view the fact that the number of cases instituted under the Act are not too high and since these are also pending in different coastal areas, it was felt that it would be more appropriate to entrust the cases to courts of Session already existing in the coastal areas of the country.

13. When asked for the reasons as to why the Government have not contemplated to include a provision to empower either the Coast Guard Authorities or some other Central Revenue Authorities with quasi-judicial function to adjudicate the cases as in the case of Customs Act and Central Excise Act, the Committee have been informed that the MZI Act, 1981 provides trial by judiciary. Moreover, the penalties envisaged in the Act are severe and stakes involved in these cases are very high as fishing vessels worth crores of Rupees and foreigners are involved. In view of the international importance of cases and the high stakes, it was felt prudent that the cases be tried by experienced Judges.

14. During the evidence held on 20th June, 1995 the representative of the Ministry of Food Processing Industries has stated in this connection as follows:

"There is a problem in getting it tried in a first class Magistrate's court because first of all they are overburdened; most of these first class Magistrates are overburdened and we get a number of adjournments in these cases. Secondly, since the Judicial Magistrates of first class are at various locations in the country, we find that some of them do not have adequate knowledge about these foreign vessels and the problems involved in their operation and in these cases the fines that can be imposed range from Rs. 10 lakhs to Rs. 15 lakhs, whereas the Magistrates of the first class are used to imposing fines of lesser amount. So there is a problem of dealing with these cases. Thirdly, in a Session's Court, when a case is taken up, they sit continuously day after day and they will complete the case, whereas in the case of first class Magistrates, they normally give frequent adjournments with the result that these cases are prolonged for a long time, sometimes it takes ten years. Therefore, one proposal is to amend section 19 of the Act to provide for trial of the cases in the Court of Session rather than in the Court of a first class Magistrate"

15. Regarding the option of adopting summary trial of the cases, the representatives of the Ministry of Food Processing Industries stated as follows:

"The Law Ministry is against the summary trial procedure. They say

that only in cases where no serious punishment like life imprisonment or heavy fine is involved, one can resort to summary trial. But imposition of Rs. 10 lakh or Rs. 15 lakh fine is a major punishment and therefore these cases should be tried in a fair manner under the normal procedure, so that the accused has an opportunity to represent his case properly."

16. When asked whether the Act could be amended to empower the designated Economic Offences courts to try the offences committed under MZI Act in place of the Sessions Court or to designate an officer in the Act itself to try the offences in his quasi-judicial capacity for expeditious disposal, the Ministry of Food Processing Industries informed the Committee in a written note that a perusal of some documents obtained from Department of Justice shows that the Government of India requested the State Governments to earmark some existing courts or to set up additional courts for exclusively dealing with economic offences covered under certain specified Central Acts. These Acts are as follows:

1. The Central Excises and Salt Act, 1944.
2. The Imports and Exports (Central) Act, 1947.
3. The Wealth Tax Act, 1957
4. The Income Tax Act, 1961.
5. The Customs Act, 1962.
6. The Gold (Control) Act, 1963.
7. The Foreign Exchange Regulation Act, 1973.
8. Companies Profits (Surtax) Act, 1964.
9. The Gift Tax Act, 1958.
10. The Export (Quality Control and Inspection) Act.
11. The Companies Act.
12. Monopolies and Restrictive Trade Practices Act.

The violation of these Acts is generally financial in nature. It appears that the offences committed under MZI Act may perhaps not be covered under the term 'Economic offences', as per the existing provisions.

*Clause 2 (ii) & Clause 6 of the Bill*

17. Through Clause 2(ii) of the Bill, it has been proposed to insert a new sub-section (6) in Section 9 of the principal Act to enable the government to dispose of the apprehended vessels during the pendency of the trial. The Clause 2(ii) of the Bill reads as follows:

- (ii) after sub-section (5), the following sub-section shall be inserted, namely:—

15. "(6) During any inquiry or trial under this Act, on an application made on behalf of the Central Government, the court may, under

such circumstances as may be prescribed and after recording such evidence as it thinks necessary, order for sale or otherwise disposal of the vessel and other things seized under sub-section (2) and the depositing of the proceeds of such sale in the court."

18. In a note furnished to the Committee on this clause, the Ministry of Food Processing Industries have stated that the foreign fishing vessels apprehended under the Act are, at present, kept in the designated ports during the pendency of trial, and therefore, tend to deteriorate due to rusting etc. Moreover they prove to be a navigational hazard, take up precious jetty space and huge port charges have to be incurred. In order to avoid all these difficulties, it is proposed to provide a provision under section 9 of the Act by adding sub-section (6), giving powers to the Central Government for moving the court, during the pendency of trial, for disposal of the vessels and other things seized, in the circumstances as may be prescribed and to deposit proceeds of such sale in the Court. It is, therefore, proposed to add section 9(6).

19. Clause 6 of the bill which seeks to amend section 25 of the principal Act [as a consequence of the amendment proposed in Clause 2(ii) of the Bill] reads as follows:

"6. In section 25 of the principal Act, in sub-section (2) for clause (g), the following clauses shall be substituted, namely:—

(g) the circumstances for disposal of the vessel and other things under sub-section (6) of section 9;

(h) any other matter which is required to be, or may be, prescribed."

20. Explaining the need to amend section 25 through clause 6 of the Bill, the Ministry of Food Processing Industries have stated in the background note that at present there is no provision prescribing circumstances for the disposal of the vessels during pendency of trial. However, as a consequence of the amendment sought in clause 2(ii) of the Bill, it is necessary to authorise the Government to prescribe the circumstances under which the Court of Session can be moved by the Government for disposal of the vessels and other things seized, during the pendency of trial. In order to achieve this objective, amendment in sub-section (2) of section 25 of the Act is proposed.

21. Explaining the need to bring in the amendment through clause 2(ii) of the Bill, the representative of Ministry of Food Processing Industries stated as under during evidence:—

"The first problem is getting a place in the Port. Our Ports are congested. We have to pay heavy port charges for one to three years. During the period of the pendency of the case, we are supposed to look after the vessels. Unfortunately, there is no

proper maintenance of the vessels. Therefore, by the time the court disposes of the case, the whole thing has become junk.

The proposal is, if during the pendency of the trial, permission can be given to dispose of the vessel by auction, that money can be deposited with the court depending on the final outcome of the case. We have a List of cases where these vessels cost from Rs. 5 crores to Rs. 10 crores. In many auctions that have taken place, we found that they are disposed of at the end of the case between Rs. 7 lakhs to Rs. 9 lakhs and that way the Government loses. Ultimately, the vessels are confiscated by the Government at the end of the court case. Therefore, if it is disposed of early, we get a better price. That is why, we propose this amendment to the Act."

22. When asked whether it will be more appropriate to provide in the Act itself that in case the master/owner of the vessel fails to get the vessels released within a stipulated time, the vessels shall be sold, the Ministry of Food Processing Industries has stated in a written note that the Government intends to provide for it in the Rules.

23. When asked to explain about the nature of 'circumstances' under which the government will move the court during the pendency of the trial for the disposal of the vessels and other things seized, the Committee have been informed in a note that Section 9(4)(a) already provides reasonable opportunity for the owner/master of the vessel to get the vessel released, during pendency of the trial, on furnishing the required security. The circumstances in which the Government may move the Court for disposal of the vessel during pendency of trial will include instances where the master/owner does not take steps to get the vessel released and where in the opinion of the Coast Guard, Port Authorities, DG Shipping or any other Government authority, a particular vessel is likely to be in danger of sinking or deterioration beyond repairs or proving to be a navigational hazard.

24. When asked as to why the 'circumstances' cannot be prescribed in the Act itself instead of in the Rules and whether the government would be vested with the discretion to decide which vessel should be sold, the representative of the Ministry of Food Processing Industries stated during evidence as follows:

"There is no question of using the discretion of the Government to decide which vessels should be sold out. The circumstances under which the vessels will be put to sale, pending completion of the trial, those circumstances will be specified in the rules and those rules will be placed on the Table of the Parliament. As the Ministry of Law says it will be very difficult to identify all the circumstances, the circumstances will be specified in the rules. The question of using discretion by the Government will not arise. In any case, the application will have to be made to the court and

then the court will also have to decide case by case. So, we will take proper care to see that there is no arbitrariness on the part of the Government."

25. When asked about the reaction of the Ministry to the suggestion that Section 13(1) should be amended to provide that instead of the vessels, fishing gear, cargo etc., the proceeds of sale should be confiscated and Section 9(6) should be suitably amended to make it mandatory for the government to sell the vessels etc. in the event of the master/owner failing to get it released, as it will make tremendous economic sense for the Government to sell all the offending vessels when they are in good condition instead of letting them to rust and become junk and then confiscate them without getting any benefit, the Ministry of Food Processing Industries stated that section 9(6) cannot be amended to make it mandatory for the Government to sell the vessel as any vessel etc. seized becomes case property and its sale can only be with the permission of the Court.

*Clause 3(i) and (ii) of the Bill*

26. Clause 3 of the Bill which seeks to amend section 13 of the principal Act to deal with the cases of abandoned vessels reads as follows:—

"3. In Section 13 of the principal Act,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Where any foreign vessel, used in or in connection with commission of any offence under section 10 or section 11 or section 12, is found abandoned within any maritime zone of India, the said foreign vessel together with its fishing gear, equipment, stores and cargo and any fish on board, shall be liable to confiscation."

(ii) in sub-section (2), for the words, brackets and figure "sub-section (1)", the words, brackets, figures and letter "sub-section (1) sub-section (1A)" shall be substituted."

27. About the need for amending section 13 through clause 3 of the Bill, the Ministry of Food Processing Industries have stated in the Background note that in order to expedite the disposal of abandoned vessels, it is proposed to make a provision in the Act that these vessels should be confiscated straightway by the Government. To achieve this objective, it is proposed that section 13 should be amended.

*Clause 5 of the Bill*

28. For omitting section 20 of the principal Act, Clause 5 of the Bill has been proposed. Clause 5 reads as follows:

"5. Section 20 of the principal Act should be omitted."

29. Explaining objective behind the omission of Section 20 of the principal Act, the Ministry of Food Processing Industries have stated in the background note that at present, Section 20 of the Act empowers the Judicial Magistrate of First class or Metropolitan Magistrate, to pass any sentence under the Act. However, as a consequence of amendment in Section 19(2) of the Act, the Court of Session will try offences under the Act. As the Court of Session is already empowered to pass any sentence under the act, Section 20 in the Act will not be necessary any more. Therefore, as a consequential amendment to the amendment in Section 19(2) of the Act, it is proposed that section 20 be deleted.

*Stringency of Punishments contemplated in the Act*

30. During evidence, the Committee noted that the Amendment Bill brought before the Parliament is not all comprehensive covering all aspects of difficulties encountered while implementing the act and the Bill mainly addressed itself to only three issues. The Committee desired to know as to whether the Act could be amended to make the punishments prescribed more stringent in order to deter the offenders from committing the offence. In response to this, the representative of the Ministry of Food Processing Industries stated as under:—

“I shall try to respond to each question. The first point which Shri Som Pal raised was about the stringency of punishment. We agree that stringency, apart from giving punishment to the accused, I mean, the person who committed the offence, also has a deterrent effect. Therefore, it was said that this should be made stringent. In a way, the punishment that has been prescribed in the Act itself is stringent enough, in the sense, that there is imprisonment for three years and there is also a fine upto Rs. 15 lakhs. And when the vessel is confiscated, each vessel costs about Rs. 2 crores to Rs. 4 crores, that also comes to the State.”

31. The Committee pointed out that the act prescribed only maximum limits of punishments and no minimum punishment was indicated in the Act and this opened up possibilities of imposing punishments of imprisonment of even three days, as the Act uses the words “imprisonment for a term not exceeding three years or with fine not exceeding rupees fifteen lakhs or with both.”

32. The representative of the Ministry of Food Processing Industries responded as follows:

“The vessels which have committed these offences range from wooden vessels which are less than 20 metres in length to very sophisticated foreign vessels. So, if you prescribe a stringent punishment even for smaller vessels where, relatively the capacity of the people who are committing the offences and the nature of offences are not very serious, and there also you will be imposing a very high penalty.”



33. The Committee pointed out that punishment should be relatable to the offence committed and had to be delinked from the economic status of the offender. The representative of the Ministry of Food Processing Industries replied as under:

"I get the point now. It is the offence itself which is at issue and not the vessel or the people involved. But the fact of the matter is that there are a large number of vessels coming in, like the Pakistani vessels and the Sri Lankan vessels. They also come into the high seas, into our sea. I thought that there is a difference between the two categories of people who are coming in. I take the point that since it is the offence which is serious the nationality and the type of the vessel are immaterial. Therefore, what is internationally prevalent should be prescribed for this offence. We will get it done in consultation with the Ministry of Law."

### CONCLUSIONS AND RECOMMENDATIONS

#### *Clause 2 (i) of the Bill*

34. According to the Statement of Objects and Reasons attached to the Bill, 'The Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981' is proposed to be amended, inter-alia, to make the offences under the Act triable by Court of Session for quick disposal of the cases. Clause 2(i) therefore seeks to substitute the word "Magistrate" with the words "Court of Session" in Section 9 of the principal Act. The Committee examined the possibility and desirability of setting up special courts for the speedy trial of these offences. The possibility of these cases being tried by the designated economic offences courts was also examined as it was felt that these courts have the expertise to try the kinds of offence covered by the Act. As regards special courts, it was brought to the notice of the Committee that the cases under the Act are too few to justify the setting up of special courts. Regarding the trial by economic offences court, the Committee was told that the offence under the Act does not come under the definition of economic offences and that in view of the international importance of cases and the high stakes involved, it would be prudent that the cases be tried by experienced judges.

The Committee agree with the perceptions of the Government on this matter and recommend the proposed amendment to the House for its acceptance.

#### *Clause 2(ii) of the Bill*

35. The Committee find that Clause 2(ii) of the Bill would empower the Government to approach the Court for the disposal of the seized vessels and other things during the pendency of the cases under certain 'circumstances' which would be prescribed in the Rules to be made under this Act. The Committee feel that this provision is not sufficient to meet the present situation. The Committee find that since the trial takes many years to complete, the vessels taken into custody turn into junk by the time the case

is disposed of. The Committee, therefore, feel that it would make tremendous economic sense for the Government to move the court in time for the disposal of the vessels when they are in good condition. The Committee suggest that the clause should be modified to provide that if the owner of the vessel does not come forward to claim it within a period of three months it would be mandatory for the Government to move the court seeking its permission to dispose of the vessel. A similar provision in respect of completion of investigation by the prosecuting agency within a time-limit may be contemplated for incorporation atleast in the Rules to facilitate quick disposal of the cases. The Committee also desire that the Government should explore the possibility of prescribing the details of the "circumstances" in the Clause itself so that things are made definite and clear in the body of the Act itself.

*Clause 3(i) & (ii) of the Bill*

36. The Committee note that Clause 3 of the Bill seeks to insert new Sub-Section 1(A) in the principal Act to deal with the cases of abandoned vessels so that the abandoned vessels could be confiscated straightway by the Government. While agreeing with the amendment proposed in principle, the Committee feel that the concept of abandonment should be clearly defined or spelt out either in the law itself or in the rules made thereunder in the interest of clarity and quick disposal of the cases.

*Clause 4 of the Bill*

37. The Committee observe that Clause 4 of the Bill seeks to raise the level of the Courts competent to try cases to the court of session under the Act. The Committee agree with this amendment for reasons stated in the notes under Clause 2(i).

*Clause 5 of the Bill*

38. The Committee observe that Clause 5 of the Bill seeks to omit Section 20 of the principal Act which empowers the first class judicial magistrate or metropolitan magistrate to pass any sentence under the Act. In view of the previous amendments contained in Clause 2(i) and Clause 4 by which the words 'the first class magistrate or metropolitan magistrate' are sought to be substituted by the 'court of session', the Committee agree with the amendment proposed in Clause 5 and recommend to the House that Clause 5 may be agreed to.

*Clause 6 of the Bill*

39. The Committee observe that Clause 6 of the Bill is consequential to the amendment proposed in Clause 2(ii) of the Bill. Clause 6 of the Bill relates to aspects on which the Government has been delegated power to make rules for the implementation of the Act. The Committee feel that this Clause would become redundant if the Government chooses to prescribe the "circumstances" under which the disposal of a vessel and other things

could be sought in pursuance of the recommendation of the Committee made in respect of Clause 2(ii). The Committee feel that this Clause may be agreed to, if the Government are unable to prescribe the details of such "circumstances" in the body of Clause 2(ii) of the Bill.

*General Observation*

40. The Committee find that the Amendment Bill brought before the Parliament by the Government relates to only three issues and the Bill is not a comprehensive one covering all aspects of the difficulties encountered by the Government while enforcing the Law. The Committee feel that there is a need to have a review of the working of most of the sections of the principal Act and the Government should bring in another Bill at an early date proposing suitable amendments. In particular, after section (9) is amended, a consequential amendment in Section 13 will be required. This section deals with the confiscation of vessels etc. on conviction. It should also provide for the confiscation of the sale proceeds of the vessels to bring it in line with section 9(6). The Government may also examine Section 9(2) and (b) which mentions about the foreign vessel about to be used for committing an offence and the arrest of persons for committing an offence. When a vessel is about to be used for committing an offence and the person is arrested at that point of time, legally the offence has not been committed but it can be regarded as an attempt to commit the offence. The Penal Section, however, provides for punishment only for an offence committed. The Committee would like the Government to examine this provision and make suitable amendment, if necessary, in the section to provide for punishment in the case of attempt to commit an offence. The Committee are very much concerned to note that no amendment has been proposed to make the punishments stringent, as the punishments prescribed under the Act are not stringent enough to deter the offenders from committing the offences under the Act. The Committee in particular want the higher minimum punishment to be provided in the act and, therefore, recommend that the Government should soon come up with a Bill to provide for all these matters.

New Delhi;  
28 September, 1994

6 Asvina, 1917 (Saka)

NITISH KUMAR,  
Chairman,  
Standing Committee on Agriculture.

# **The Gazette of India**

EXTRAORDINARY

PART II — Section 1

PUBLISHED BY AUTHORITY

---

No.50 New Delhi, Tuesday, September 29, 1981/Asvina 7, 1903

---

## **MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

(Legislative Department)

*New Delhi, the 29th September, 1981/Asvina 7, 1903 (Saka)*

The following Act of Parliament received the assent of the President on the 28th September, 1981, and is hereby published for general information:—

### **THE MARITIME ZONES OF INDIA (REGULATION OF FISHING BY FOREIGN VESSELS) ACT, 1981**

No. 42 of 1981

*[28th September, 1981]*

An Act to provide for the regulation of fishing by foreign vessels in certain maritime zones of India and for matters connected therewith.

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

## CHAPTER I

## PRELIMINARY

Short  
title  
and  
commen-  
cement

1. (1) This Act may be called the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981.

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions

2. In this Act, unless the context otherwise requires,—

80 of 1976

(a) "exclusive economic zone of India" means the exclusive economic zone of India in accordance with the provisions of section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976;

(b) "fish" means any aquatic animal, whether or not and includes shell fish, crustacean, molluscs, turtle (Chelonia), aquatic mammal (the young, fry, eggs and spawn, thereof), holothurians, coelenterates sea weed, coral (porifera) and any other aquatic life;

(c) "fishing" means, catching, taking, killing, attracting or pursuing fish by any method and includes the processing, preserving, transferring receiving and transporting of fish;

(d) "foreign vessel" means any vessel other than an Indian vessel;

(e) "Indian vessel" means —

(I) a vessel owned by Government or by a corporation established by a Central Act or a Provincial or State Act, or

(II) a vessel—

(i) Which is owned wholly by persons to each of whom any of the following descriptions applies:—

(1) a citizen of India;

(2) a company in which not less than sixty per cent of the share capital is held by citizens of India;

(3) a registered co-operative society every member whereof is a citizen of India or where any other co-operative society is a member, thereof, every individual who is a member of such other co-operative society is a citizen of India; and

(ii) Which is registered under the Merchant Shipping Act, 1958 or under any other Central Act or any Provincial or State Act. 44 of 1958

**Explanation** — For the purposes of this clause, "registered co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law relating to co-operative societies for the time being in force in any State; 2 of 1912

(f) "licence" means a licence granted under section 4;

(g) "maritime zones of India" means the territorial waters of India or the exclusive economic zone of India;

(h) "master" in relation to a vessel, means the person for the time being having command or charge of the vessel;

(i) "owner", in relation to a vessel, includes any association of persons, whether incorporated or not, by whom the vessel is owned or chartered;

(j) "permit" means, a permit granted or deemed to have been granted under section 5;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "processing" in relation to fishing includes cleaning, beheading, filleting, shelling, peeling, icing, freezing, canning, salting, smoking, cooking, pickling, drying and otherwise preparing or preserving fish by any other method;

(m) "specified ports" means, such ports as the Central Government may, by notification in the Official Gazette, specify for the purposes of this Act;

(n) "territorial waters of India" means the territorial waters of India in accordance with the provisions of section 3 of the Territorial Waters, Continental, Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976;

(o) "vessel" includes any ship boat, sailing vessel or other description of vessel.

## CHAPTER II

### REGULATION OF FISHING BY FOREIGN VESSELS

Prohibition  
of fishing  
in maritime  
zones of  
India by  
foreign  
vessels

3. Subject to the provisions of this Act, no foreign vessel shall, except under and in accordance with—

- (a) a licence granted under section 4; or
- (b) a permit granted under section 5,

by the Central Government, be used for fishing within any maritime zone of India.

Grant of  
licences

4. (1) The owner of a foreign vessel or any other person [not being in either case any person to whom any of the descriptions specified in sub-item (1) to (3) of item (i) of sub-clause (II) of clause (e) of section 2 applies] who intends to use such vessel for fishing within any maritime zone of India may make an application to the Central Government for the grant of a licence.

(2) Every application under sub-section (1) shall be in such form and shall be accompanied by such fees as may be prescribed.

(3) No licence shall be granted unless, the Central Government, having regard to such matters as may be prescribed in the public interest in this behalf and after making such inquiry in respect of such other matters as may be relevant, is satisfied that the licence may be granted.

(4) Every order granting or rejecting an application for the issue of a licence shall be in writing.

(5) A licence granted under this Section —

- (a) shall be in such form as may be prescribed;
- (b) shall be valid for such areas, for such period, for such method of fishing and for such purposes as may be specified therein;
- (c) may be renewed from time to time; and
- (d) shall be subject to such conditions and restrictions as may be prescribed and to such additional conditions and restrictions as may be specified therein.

(6) A person holding a licence under this section shall ensure that every person employed by him complies, in the course of such employment, with the provisions of this Act, or any rule or order made thereunder and the conditions of such licence.

5. (1) Every Indian citizen and every person to whom any of the descriptions specified in sub-item (2) or (3) of item (i) of sub-clause (II) of clause (e) of Section 2 applies, who intends to use any foreign vessel for fishing within any maritime zone of India, may make an application to the Central Government for a permit to use such vessel for such purpose.

Prohibition  
of fishing  
by Indian  
citizens, etc.  
using foreign  
vessels

(2) Every application under sub-section (1) shall be made in such form and shall be accompanied by such fees as may be prescribed.

(3) No permit shall be granted unless the Central Government having regard to such matters as may be prescribed in the public interest in this behalf and after making such inquiry in respect of such other matters as may be relevant, is satisfied that the permit may be granted.

(4) Every order granting or rejecting an application for the grant of such permit shall be in writing.

(5) A permit granted under this Section —

(a) Shall be in such form as may be prescribed;

(b) shall be valid for such areas, for such period, for such method of fishing and for such purposes as may be specified therein;

(c) may be renewed from time to time; and

(d) shall be subject to such conditions and restrictions as may be prescribed and to such additional conditions and restrictions as may be specified therein.

(6) A person holding a permit under this section shall ensure that every person employed by him complies, in the course of such employment with the provisions of this Act or any rule or order made thereunder and the conditions of such permit.



(7) Notwithstanding anything contained in the foregoing provisions of this section, or in section 3 any permission granted to an Indian citizen to use or employ foreign fishing vessels in any maritime zone of India and in force immediately before the commencement of this Act shall, if the terms and conditions of such permission are not inconsistent with the provisions of this Act, be deemed to be a permit granted under this section and such permission shall continue to be in force after such commencement on the same terms and conditions, including the conditions as to the area of operation and the period of its validity, and the provisions of this Act shall, so far as may be, apply to such permission.

Cancelation  
or suspension  
of licence  
or permit

6. (1) The Central Government may, if there is any reasonable cause to believe that the holder of any licence or permit has made any statement in, or in relation to, any application for the grant or renewal of such licence or permit which is incorrect or false in material particulars or has contravened any of the provisions of this Act or any rule or order made thereunder or of the provisions of any licence or permit or any, condition or restrictions specified therein, suspend such licence or permit, as the case may be pending, the completion of any inquiry against such holder for making such incorrect or false statement or for such contravention, as the case may be.

(2) Where the Central Government is satisfied after making such inquiry as is necessary that the holder of any licence or permit has made such incorrect or false statement as is referred to in sub-section (1) or has contravened the provisions of this Act, rule or order made thereunder or of the provisions of any licence or permit or any conditions or restrictions specified therein, it may, without prejudice to any other penalty to which such holder may be liable under the provisions of this Act, cancel such licence or permit, as the case may be.

(3) Every person whose licence or permit has been suspended under sub-section (1) shall, immediately, after such suspension, stop using the foreign fishing vessel in respect of which such licence or permit is given and shall not resume such fishing until the order of suspension has been revoked.

(4) Every holder of a licence or permit which is suspended or cancelled shall, immediately after such suspension or cancellation, surrender such licence or permit, as the case may be, to the Central Government.

7. Where any foreign vessel enters any maritime zone of India without a valid licence or permit granted under this Act, the fishing gear, if any, of such vessel shall, at all times while it is in such zone, be kept stowed in the prescribed manner.

Foreign vessel entering maritime zones of India without licence or permit to stow gear

8. Notwithstanding anything contained in section 3, the Central Government may, in writing permit a foreign vessel to be used for fishing within any maritime zone of India for the purpose of carrying out any scientific research or investigation or for any experimental fishing in accordance with such terms and conditions as may be prescribed.

Fishing for scientific research, investigation, etc.

### CHAPTER III

#### POWERS OF SEARCH AND SEIZURE

9. (1) Any officer of the Coast Guard constituted under the Coast Guard Act, 1978, or such other officer of Government as may be authorised by the Central Government may for the purpose of ascertaining whether or not the requirements of this Act have been complied with either with or without a warrant —

Authorised Officers and their Powers

30 of 1878

(a) stop or board a foreign vessel in any maritime zone of India and search such vessel for fish and for equipment used or capable of being used for fishing;

(b) require the master of such vessel to produce —

(i) any licence, permit, log book or other document relating to the vessel and examine or take copies of such licence, permit, log book or document;

(ii) any catch, net, fishing gear or other equipment on board such vessel or belonging to the vessel and examine such fish net, gear or equipment;

(c) make such inquiries as may be necessary to ascertain whether any offence under this Act has been committed.

(2) Where the officer referred to in sub-section (1) (hereinafter referred to as authorised officer) has reason to believe that any foreign vessel has been, is being, or is about to be, used for committing an offence under this Act, he may, with or without a warrant—

(a) seize and detain such vessel including any fishing gear, fish, equipment, stores or cargo found on board such vessel or belonging to the vessel and seize and detain any fishing gear abandoned by the vessel;

(b) require the master of the vessel so seized or detained to bring such vessel to any specified port;

(c) arrest any person who, such officer has reason to believe, has committed such an offence.

(3) In taking any action under sub-section (2), the authorised officer may use such force as may be reasonably necessary.

(4) Where any vessel or other things are seized, or any person has been arrested, under sub-section (2) —

(a) the vessel or other things so seized shall, as soon as possible, be produced before a Magistrate competent to try an offence under this Act who shall make such order as he may deem fit for the retention or custody of such vessel or things with Government or with any other authority pending the completion of any proceedings for the prosecution of any offence under this Act or for its use by such authority during such retention or custody on such terms and conditions as the Magistrate may think fit to impose:

Provided that the Magistrate may, on an application made by the owner or master of such vessel in the prescribed form, order the release of the vessel or other things so seized on the owner or master furnishing security in the form of cash or a bank guarantee for an amount not less than fifty per cent of the value of the vessel or things so seized:

Provided further that where any fish so seized is subject to deterioration, the Magistrate may authorise the sale of such fish and the depositing of the proceeds of such sale in Court;

(b) the arrested person shall, as soon as possible, be informed of the grounds for such arrest and he shall, without unnecessary delay, be produced before such Magistrate; and

(c) the Central Government shall be informed of such seizure or arrest and the details thereof.

(5) Where in pursuance of the commission of any offence under this Act, any foreign vessel is pursued beyond the limits of the exclusive economic zone of India, the powers conferred on an authorised officer by this section may be exercised beyond such limits in the circumstances and to the extent recognised by international law and State practice.

## CHAPTER IV

### OFFENCES AND PENALTIES

10. Where any foreign vessel is used in contravention of the provisions of section 3, the owner or master of such vessel shall —

Penalty  
for  
contra-  
vention  
of section 3.

(a) in a case where such contravention takes place in any area within the territorial waters of India be punishable with imprisonment for a term not exceeding three years or with fine not exceeding rupees fifteen lakhs or with both; and

(b) in a case where such contravention takes place in any area within the exclusive economic zone of India be punishable with fine not exceeding rupees ten lakhs.

11. Whoever contravenes the provisions of any licence shall be punishable with fine not exceeding rupees ten lakhs.

Penalty  
for contra-  
vention of  
licence.

12. Whoever contravenes the provisions of any permit shall be punishable —

Penalty  
for contra-  
vention  
of permit.

(a) where such contravention relates to the area of operation or method of fishing specified in such permit, with fine not exceeding rupees five lakhs; and

(b) in any other case, with fine not exceeding rupees fifty thousand.

Confiscation of vessels, etc.

13. (1) Where any person is convicted of an offence under section 10 or section 11 or section 12, the foreign vessel used in or in connection with the commission of the said offence together with its fishing gear, equipment, stores and cargo and any fish on board such ship or the proceeds of the sale of any fish ordered to be sold under the second proviso to clause (a) of sub-section (4) of section 9 shall also be liable to confiscation.

(2) The foreign vessel or other things confiscated under sub-section (1) shall vest in the Central Government.

Penalty for contravention of Section 7.

14. Where any foreign vessel is found in any maritime zone of India in contravention of the provisions of section 7, the owner or master of such vessel shall be punishable with fine not exceeding rupees five lakhs.

Penalty for obstruction of authorised officers.

15. If any person—

(a) intentionally obstructs any authorised officer in the exercise of any powers conferred under this Act; or

(b) fails to afford reasonable facilities to the authorised officer or his assistants to board the vessel or to provide for adequate security to such officer and assistants at the time of entry into the vessel or when they are on board such vessel; or

(c) fails to stop the vessel or produce, the licence, permit, log book or other document or any fish, net, fishing gear or other equipment on board such vessel, when required to do so by the authorised officer,

he shall be punishable with imprisonment for a term which may extend to one year or with fine not exceeding rupees fifty thousand or with both.

Court to pass certain orders

16. Where any person is convicted of an offence under this Act, the Court may, in addition to awarding any punishment, order that any costs incurred in connection with the retention or custody of the vessel during the pendency of any proceedings for the prosecution of an offence under this Act, as reduced by the amount, if any, realised out of the use of the vessel by the authority with whom such vessel was retained or kept in custody, shall be payable by the person convicted.

17. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences  
by  
companies.

Provided that nothing contained in this sub-section shall render any such person liable to any such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation* — For the purposes of this section, —

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

## CHAPTER V

### MISCELLANEOUS

18. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable.

Offences  
to be  
Cognizable.  
2 of 1974

19. (1) No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by an authorised officer.

Cognizance  
and trial  
of offences.

(2) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

Magistrate's  
power to  
impose  
enhanced  
penalties.

20. Notwithstanding anything contained in Section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any Metropolitan Magistrate or any Judicial Magistrate of the first class specially empowered by the State Government in this behalf to pass any sentence authorised by this Act.

Place of  
trial.

21. Any person committing an offence under this Act or any rules made thereunder may be tried for the offence in such place as the Central Government may, by general or special order, published in the Official Gazette, direct in this behalf.

Presump-  
tions.

22. (1) Where any offence is alleged to have been committed under the provisions of this Act, the place of commission of such offence shall be presumed, on the basis of the certified copy of the relevant entry in the log book or other official record of the vessel or aircraft which was used in connection with the detection of the offence.

(2) Where any foreign vessel is found within any maritime zone of India and the fishing gear of such vessel is not stowed in the prescribed manner or fish is found on board, such vessel, it shall be presumed, unless the contrary is proved, that the said vessel was used for fishing within that zone.

Protection  
of action  
taken  
in good  
faith.

23. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

Act to  
supplement  
other laws.

24. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power  
to make  
rules.

25. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) The form in which an application for a licence or permit may be made and the fees that shall accompany such application;

(b) the matters which may be taken into account in the granting of licences and permits;

(c) the form of licences and permits and the conditions and restrictions subject to which licences and permits may be granted;

(d) the manner in which the fishing gear of a foreign vessel shall be kept stowed under Section 7;

(e) the terms and conditions under which a foreign vessel may be permitted to used for fishing within any maritime zone of India for the purpose of carrying out any scientific research or an investigation or for any experimental fishing under section 8;

(f) the form in which an application may be made for releasing the vessel or other things seized under the first proviso to clause (a) of sub-section (4) of section 9;

(g) any other matter which is required to be, or may be, prescribed.

(3) In making any rule under this section, the Central Government may provide that a contravention thereof shall be punishable with fine which may extend to fifty thousand rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



Removal  
of  
difficulties.

**26.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

R.V.S. PERI SASTRI,  
*Secy. to the Govt. of India.*

AS INTRODUCED IN LOK SABHA  
ON 12 DECEMBER, 1994

Bill No. 106 of 1994

**THE MARITIME ZONES OF INDIA  
(REGULATION OF FISHING BY FOREIGN  
VESSELS) AMENDMENT BILL, 1994**

**A**

**BILL**

*to amend the Maritime Zones of India (Regulation of Fishing  
by Foreign Vessels) Act, 1981.*

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

- |    |  |   |
|----|--|---|
| 1. | (1) This Act may be called the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Amendment Act, 1994.   | Short<br>title and<br>commence-<br>ment.  |
| 5  | 2. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint   |   |
| 2. | In Section 9 of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 (hereinafter referred to as the principal Act) —  | Amendment<br>of Section 9.<br>42 of 1981. |
| 10 | (i) in sub-section (4) for the word "Magistrate" wherever it occurs, the words "Court of Session" shall be substituted;  |   |
|    | (ii) after sub-section (5), the following sub-section shall be inserted, namely:—  |   |
| 15 | "(6) During any inquiry or trial under this Act, on an application made on behalf of the Central Government the court may, under such circumstances as may be prescribed and after recording such evidence as it thinks necessary, order for sale or otherwise disposal of the vessel and other things seized under sub-section (2) and the depositing of the proceeds of such sale in the court." |   |
| 20 |  |   |

Amendment  
of Section 13

3. In Section 13 of the principal Act,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Where any foreign vessel, used in or in connection with commission of any offence under section 10 or section 11 or section 12, is found abandoned within any maritime zone of India, the said foreign vessel together with its fishing gear, equipment, stores and cargo and any fish on board, shall be liable to confiscation.";

(ii) in sub-section (2), for the word brackets and figure "sub-section (1)"; the words, brackets, figures and letter "sub-section (1)" or "sub-section (1A)" shall be substituted.

Amendment  
of Section 19

4. In Section 19 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, the offences under this Act shall be tried by the Court of Session and any prosecution in respect of such offence pending in any court inferior to the Court of Session shall stand transferred to the Court of Session."

Omission  
of Section  
20

5. Section 20 of the principal Act shall be omitted.

Amendment  
of Section 25

6. In Section 25 of the principal Act, in sub-section (2) for clause (g), the following clauses shall be substituted, namely:—

"(g) the circumstances for disposal of the vessel and other things under sub-section (6) of section 9;

(h) any other matter which is required to be, or may be, prescribed."

## STATEMENT OF OBJECTS AND REASONS

The Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 was enacted to regulate fishing by foreign vessels in certain maritime zones of India. It is observed that cases filed in Courts under the Act take considerable long time and this gives rise to certain obligations with regard to upkeep of seized vessels and their final release or disposal. Although there are provisions for getting the vessel released against furnishing security, there is perceptible tendency among the owners or charterers of the vessel not to take steps for release of the vessel, which in turn results in congestion of the already limited space available in the Indian ports. Enormous costs have to be defrayed by the Government towards payment of port dues, etc. Idleness coupled with lack of proper care during the period of detention, which may be two or three years or even more, reduce the vessel to junk by the time the cases are finally decided. It is, therefore, proposed to make the following amendments in the Act, namely:—

(i) to empower the Court of Session to order for sale or otherwise disposal of the vessel and other things seized under the Act during pendency of any inquiry or trial;

(ii) to make the offences under the Act triable by Court of Session for quick disposal of the cases;

(iii) to make the foreign vessel used in or in connection with commission of any offence under the Act, liable for confiscation if found abandoned.

2. The Bill seeks to achieve the above objects.

NEW DELHI;

*The 30th November, 1994.*

TARUN GOGOI

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill seeks to amend sub-section (2) of Section 25 of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 so as to empower the Central Government to prescribe the circumstances for the disposal of the vessel or other things seized under this Act.

2. The matters in respect of which the rules may be made are essentially matters of detail or procedure. The delegation of legislative power is, therefore, of a normal character.

## ANNEXURE

EXTRACTS FROM THE MARITIME ZONES OF INDIA  
(REGULATION OF FISHING BY FOREIGN VESSELS) ACT, 1981

(42 OF 1981)

\* \* \* \*

### CHAPTER III

#### POWERS OF SEARCH AND SEIZURE

9. (1) \* \* \* \*

Authorised  
officers  
and  
their  
powers

(4) Where any vessel or other things are seized, or any person has been arrested, under sub-section (2),—

(a) The vessel or other things so seized shall, as soon as possible, be produced before a Magistrate competent to try an offence under this Act who shall make such order as he may deem fit for the retention or custody of such vessel or things with Government or with any other authority pending the completion of any proceedings for the prosecution of any offence under this Act or for its use by such authority during such retention or custody on such terms and conditions as the Magistrate may think fit to impose:

Provided that the Magistrate may, on an application made by the owner or master of such vessel in the prescribed form. Order the release of the vessel or other things or seized on the owner or master furnishing security in the form of cash or a bank guarantee for an amount not less than fifty per cent of the value of the vessel or things so seized:

Provided further that where any fish so seized is subject to deterioration, the Magistrate may authorise the sale of such fish and the depositing of the proceeds of such sale in Court;

(b) The arrested person shall, as soon as possible, be informed of the grounds for such arrest and he shall, without unnecessary delay, be produced before such Magistrate; and

(c) the Central Government shall be informed of such seizure or arrest and the details thereof.

\* \* \* \* \*

Confisca-  
tion of  
vessels,  
etc.

13. (1) Where any person is convicted of an offence under section 10 or section 11 or section 12, the foreign vessel used in or in connection with the commission of the said offence, together with its fishing gear, equipment, stores and cargo and any fish on board such ship or the proceeds of the sale of any fish ordered to be said under the second proviso to clause (a) of sub-section (4) of section 9 shall also be liable to confiscation.

(2) The foreign vessel or other things confiscated under sub-section (1) shall vest in the Central Government.

\* \* \* \* \*

Cognizance  
and trial  
of offences

19. (1) \* \* \* \*

(2) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

Magistrate's  
power  
to impose  
enhanced  
penalties  
2 of 1974.

20. Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any Metropolitan Magistrate or any Judicial Magistrate of the first class specially empowered by the State Government in this behalf to pass any sentence authorised by this Act.

\* \* \* \* \*

Power  
to make  
rules

25. (1) \* \* \* \*

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or any of the following matters, namely:—

\* \* \* \* \*

(g) any other matter which is required to be, or may be, prescribed.