

**16.38 hrs.**

### **THE MERCHANT SHIPPING (AMENDMENT) BILL, 2003**

Title: Discussion on the Merchant Shipping (Amendment) Bill, 2003 (Not concluded).

THE MINISTER OF SHIPPING (SHRI SHATRUGHAN SINHA): Sir, I beg to move:

"That the Bill further to amend the Merchant Shipping Act, 1958, as passed by Rajya Sabha, be taken into consideration. "

I thank you very much for giving this opportunity. While moving the Motion for consideration of the Merchant Shipping (Amendment) Bill, 2003, with your permission, I would like to say a few words about the Bill.

India is an active and prominent member of the International Maritime Organisation (IMO), the specialised U.N. body responsible for establishing and enforcing world standards in maritime shipping. We enjoy a high reputation as a leading maritime country and as a major supplier of officers to the world maritime industry.

India has international obligation to continuously upgrade the quality of its shipping. Laws pertaining to shipping and maritime affairs have global relevance. Our ships have to trade internationally and could be subjected to inspections at foreign ports to check their compliance with IMO Conventions and protocols whose status keeps changing. Similarly, foreign flag ships will also be subjected to inspections when they visit Indian ports with a view to protecting our waters from environmental hazards. In order to implement the conventions and protocols to which India has become a party and to be in line with the international standards, India is required to incorporate the provisions of these conventions and protocols in our Merchant Shipping legislation. We have to be dynamic and responsive to both need and time, and the present effort is to incorporate the provisions of the conventions and protocols acceded to by India in the Merchant Shipping Act, 1958. Once the proposed amendments are approved by Parliament, India will be able to keep up with its international obligations.

The International Maritime Organisation adopted in 1973 the International Convention for Prevention of Pollution from Ships, 1973 (MARPOL 1973) which was amended by adoption of Protocol in 1978. The MARPOL 1973 and Protocol of 1978 thereto, together known as MARPOL 73/78 seeks to achieve complete elimination of pollution of the marine environment by oil and other harmful substances and minimization of accidental discharge of such substances by prescribing a package of requirements of design, construction, survey and certification norms with respect to discharge of sewage and garbage into the sea.

MARPOL 73/78 has six Annexes specifying the technical requirements to be complied by ships for the purpose of safety of life at sea as well as prevention of pollution from ships. In accordance with Article 14 of the MARPOL 1973 and Article 2 of its 1978 Protocol, the provisions of Annexes 1 and 2 are mandatory for contracting States while implementation of Annexes 3, 4 and 5 was optional. India acceded to MARPOL 1973, as modified by its Protocol of 1978 along with Annexes 1 and 2, by depositing the instrument of Accession with IMO on 24<sup>th</sup> September, 1986. The instrument of accession deposited by India contained a declaration "that the Government of the Republic of India shall not be bound by the provisions of Annexes 3, 4 and 5 of the said Convention". It was decided not to accede to these Annexes because by that time, major maritime States had not acceded to these three optional Annexes. It was decided to first understand the implications of the provisions contained in these Annexes. Afterwards, now these Annexes, that is, 3, 4 and 5 have also been acceded to by India.

Article 15(2) of the Convention, as amended by the Protocol of 1978, stipulates that the Optional Annexes shall enter into force internationally, 12 months after the date on which not less than 15 States, the combined merchant fleets of which constitute not less than 50 per cent of gross tonnage of world's merchant ships, have become parties to it. As on 30<sup>th</sup> November, 2002, Annexes 3, 4 and 5 have been ratified/acceded to by 105, 89 and 110 States, respectively. The percentages of combined merchant fleet belonging to these States who have become parties to these optional Annexes are about 83, 51 and 89, respectively. Annex 3 and Annex 5 have come into force internationally on 1<sup>st</sup> July, 1992 and 31<sup>st</sup> December, 1988, respectively. Annex 4 has already come into force on 27<sup>th</sup> September, 2003.

The main advantage arising from ratifying these Annexes is that the Indian as well as foreign vessels plying on overseas trade worldwide would automatically follow the universal standards on the subject. Once these Annexes are acceded to, the reception facilities as contained in these Annexes are to be provided by the ports where vessels call. This will, in turn, help us to develop service facilities in Indian ports comparable to standards available elsewhere. The system of prevention of pollution (i) by harmful substances carried by sea in packed forms, (ii) by

sewage from ships as well as the waste and garbage management for disposal of garbage from ships in port, etc., could be made mandatory so as to ensure cleaner waters. Further, ratification of the Annexes under consideration may ensure avoiding any unreasonable application of strict Port State Control on Indian ships elsewhere in the world, thereby boosting the Indian maritime services.

The Government of India has now decided to accede to the optional Annexures as the MARPOL 1973 and its Protocol of 1978 strengthened such anti-pollution measures by introducing adequate design and constructional aspects of ships so as to control pollution of the sea by oil escaping into the sea, (a) harmful substances carried in package forms, freight containers, portable tankers and road or rail tank wagons; (b) noxious liquid substances in bulk; (c) sewage from ships; and (d) garbage from ships.

To implement the provisions of the said Convention and the Protocol, the present Bill contains amendments to 12 sections from section 356A to 356O under part 11-A of the Merchant Shipping Act, 1958.

Annexures I to V to MARPOL 73/78 contain many technical details and operational matters which often change with progress made in the sphere of technology, safety and environmental standards. Therefore, it is not desirable to put such details in the body of the MS Act since that would involve changing the Act frequently with the changes in the provisions of the Annexures I to V of MARPOL 73/78. As such, it is proposed to amend sections 356 E and 356 O to confer powers on the Central Government to make rules to prescribe these technical and operational requirements prescribed by the MARPOL 73/78 and its Annexures as amended from time to time.

With the proposed amendments, India will not only be able to meet its international commitments arising out of the accession to Annexures 3, 4 & 5 to MARPOL 73/78 but also will be at par with the systems and requirements of other advanced maritime nations.

With these words, Sir, I commend the Bill for consideration of the House.

MR. CHAIRMAN : Motion moved:

"That the Bill further to amend the Merchant Shipping Act, 1958, as passed by Rajya Sabha, be taken into consideration."

SHRI RAMESH CHENNITHALA (MAVELIKARA): Mr. Chairman Sir, at the outset, I welcome this Bill. This Bill has been amended so many times in this august House. The Merchant Shipping Act 1958 has undergone lot of changes and lot of amendments primarily in order to fulfil the international obligations, to accept the protocols and international conventions which are accepted by different member countries. As a result of that, this Bill has undergone lot of changes.

I think, the hon. Minister would consider my point that the time has come for a comprehensive Shipping Act in this country. After this Act was passed by this august House in 1958, so many things have happened. The whole world has changed, the maritime laws have been changed, and so many conventions, protocols have been signed by the member countries.

I agree that India is a very active and prominent member of the International Maritime Organisation. So, we have to follow the protocols, treaties and conventions which are signed by the IMO. But the Ministry of Shipping or the hon. Minister of Shipping has to take this aspect very seriously. The time has come for a comprehensive Bill or for a comprehensive Act.

As has been rightly pointed out, so many years have been passed after this International Convention for Prevention of Pollution from ships called MARPOL 73/78 came into existence. Now, we are coming forward with a Bill and I am afraid that an active and prominent member in IMO has delayed this process for a long time. I would like to know what is the reason for such an inordinate delay in passing such an amendment for this Merchant Shipping Act of 1958.

Sir, the Asia Pacific Maritime comprises three major sea regions, namely, South Asia, East Asia and Pacific Islands. The South Sea Asian Region includes Bangladesh, India, Malaysia, Pakistan and Sri Lanka as well as the bordering country Myanmar. The sea pollution is one of the major issues, especially in the South Asian Region.

So many questions are coming before us when we are thinking about this marine and coastal environment. Sir, a large majority of the population in the region resides along the coasts and one quarter of the world's 75 largest cities are situated near, or on, the region's coastlines. The growth rate of coastal population is also increasing, as a result of this, there is growth of the population in the coastal areas.

There are other related issues. The sea pollution is increasing day by day into an alarming proportion. Sir, this region is economically important to most of these countries. Forty-seven per cent of the world's fisheries production occurs in this region.

Sir, coastal marine water pollution in this region is mainly due to discharges from rivers, surface run-off and drainage from port areas, domestic and industrial effluent discharges through outfalls and various contaminants from ships. Rivers in this region are generally heavily contaminated with municipal sewage, industrial effluent and sediments. Asian rivers account for nearly 50 per cent of the total sediment load. The 70 per cent of the waste effluents discharged into the Pacific Ocean have no prior treatment. Over 40 per cent of marine pollution in the region is derived from land-based activities, and maritime transport contributes a further 12 per cent.

Sir, as far as India is concerned, there is exceptionally high concentration of the minerals, namely, lead and cadmium. It has been observed in Thane creeks on the Bombay Coast and the mercury concentration in other parts of the area. The metallic concentration in these areas, reaching to the sea, is also one of the major pollution problems. We are discussing marine pollution, and this Bill is directly dealing with marine pollution. So, the marine pollution also arises from sea-based activities, including marine transportation and off-shore mineral exploration and production activities.

Sir, when we are discussing about this aspect, we have to think about the situation all over the world. Sir, there is a severe threat from the tankers. It is called 'tankers threat'. Most stringent regulations for the tankers are necessary. World over, a movement is coming up against this kind of tankers. It is because of the high ecological devastation, people are more aware and they are coming forward with this very basic issue. A campaign is on to limit operation only to contemporary double-hulled vessels which offer comparatively higher degree of safety. Now, we have seen the tankers which are old, which are very ancient and called as 'rust buckets and floating dustbins'. The floating dustbins and rust buckets are creating environmental problem in the sea. India, as a Third world country, should be more alert. Our guards should be very alert because 52 per cent of the tankers plying through a sea route are single-hulled. It is because, according to the law, which is available in the world, the single-hulled tankers can be operated from up to 2015.

So, it is a lawful activity. The law permits them to operate on the sea routes. India is importing 70 per cent of the crude oil and petroleum products. We are one of the major importers of crude oil and petroleum products. The majority of the crude oil and petroleum products are coming through the sea route. So, the volume of tanker traffic has enhanced considerably. Therefore, the risk aspect is more.

The Arabian Sea is a cheap route supplying petroleum products from Gulf countries to the entire world. So, the risk of India is more in this case. The threat of tankers is more to India and its neighbouring countries. What is the Indian Government doing? The Indian Government has entrusted this work to the Coast Guards. We have to examine whether our Coast Guards are efficient or properly equipped or given proper training or proper facilities to prevent and check this kind of tankers and pollution.

If I have to go into the details of the ships which are coming here, and the ships which we are plying to the other parts of the world, I am sorry to say that our Coast Guards have not been given proper facilities. Our Coast Guards are not given proper training. Even though our sincere Coast Guard personnel are there, we have not equipped them properly. As a result of this, there is a serious threat perception as far as India is concerned. The Coast Guards are asking for more specialised vessels. Till now, we are not in a position to give specialised vessels for them to prevent various activities in our Indian seas. More authority should be given to them. Also, more facilities should be given to them. Otherwise, you dismantle these Coast Guards and think of a more dedicated organisation which can meet the challenges of the present day. Since this threat of tankers is a major issue before India and other member countries of the IMO, I think, we have to ponder over very seriously for forming a new organisation which can effectively tackle these issues.

Mr. Chairman, Sir, I do not want to go into the details of the coastal pollution because you are also aware of these things as you represent a constituency which is in the coastal area. The coastal pollution is coming up like anything. Over-fishing is also one of the major issues. Construction activities are going on in the coastal areas in the name of tourism and other allied activities. All these issues are now creating more and more pollution in the seas. So, these issues should also be taken into consideration very seriously by the Government of India.

Sir, I have a paper cutting. It is titled as "Oil spill scare on Goa coastline." In Goa, we have very good beaches. Shri Shatrughan Sinha knows it. We have seen so many of your films where you are dancing and fighting on the beaches of Goa. But, these reports are there in the local Press. Recently, the local Press had highlighted that three prominent beaches had been blackened with the pollution because of the oil spill. These three beaches are Calangute, which is the Queen of Beaches, Candolim and South Goa. They became blackened because of the oil spill.

**17.00 hrs.**

This is a very serious matter. The threat from the oil tankers and other pollutants is turning into a very serious issue. So, the Government of India should think it over very seriously. This amendment, which is before this House, is only for a limited purpose, to make the law more stringent. My point is that this Bill would not help us check pollution. This is not adequate to prevent the threat from oil tankers. This Bill would not serve the purpose. So, a comprehensive Bill is necessary to check and tackle all these issues more effectively. The Merchant Shipping Act, 1958 should undergo a serious introspection and the hon. Minister should come forward with a comprehensive Bill before this House.

I agree that as a member of the IMO, India has to follow the new conventions and protocols signed at the IMO. That is all right. There are some provisions of the Act which are obsolete and which cannot be applied in the present day scenario. So, a serious effort should be made to overhaul the Merchant Shipping Act, which is in force today.

I do not want to take much time of the House. Of course, this is a welcome step. In the coming days, I hope, the hon. Minister would think seriously about the other aspects that I have mentioned and come up with a comprehensive Bill.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Thank you, Mr. Chairman, Sir. I stand here in support of the Merchant Shipping (Amendment) Bill, 2003.

Sir, Shri Ramesh Chennithala, you and I come from the littoral areas of India. We know what a sea change the sea has taken during the last 50 years and that is mostly because of the pollutants that have caused lots of problems not only to our country but also to the entire world.

Shri Ramesh Chennithala was speaking about the three regions: the East Asia region, the South Pacific region and the South Asia region. We are more concerned about the South Asia region. May I say that out of the pollutants that have been creating problems in the sea, twelve per cent are due to the shipping activities. It is a very important pollutant that has to be taken into account.

In its wisdom, the International Convention had taken into consideration certain factors requiring a restriction on shipping and restriction on design and construction and requiring a certification. These are the aspects that have been taken into account by the Convention. We have taken up this matter.

As the hon. Minister has said, there are five clauses of the International Convention of which two have been adhered to and three are in different stages of adherence. There is an immediate necessity of this amendment so as to ensure that we comply with the Convention which we have agreed to.

May I remind the hon. Minister that tankers are coming in large numbers with crude oil and other petroleum products. Only single-hulled transport tankers are being used now. About 60 per cent to 65 per cent of the tankers that come to India are single-hulled transport tankers. Now, it has been found that single-hulled transport tankers are not good because of constant danger of accidents and spilling of oil. May I intimate that in the Malacca Straits, which is a busy strait in the South-East Asian region, 460 accidents of different ships had taken place within four years.

Many of them were oil tankers. In Chittagong Harbour, an oil tanker had sunk with 6,000 tonnes of crude oil. Now, these are matters which have to be taken into account. Mr. Chairman, Sir, you may have seen and hon. Member Shri Ramesh Chennithala must have seen also that the oil slick patches come to the coast. How do they come? They come because of the faulty tankers which are being used. The Convention is taking up this matter to see the design of the tankers which are mostly being used and the construction of these things are improved. When you think of design, next comes construction and inspection of those tankers mostly and other ships which are being used. These are absolutely necessary. Tanker ships must have two hulls.

So far as inspection is concerned, survey part of it has been indicated in the amendment provision – 356(g). But I have a doubt here. May I request the hon. Minister to clarify on this thing? I read the first two sentences of Section 356(g) :

"A surveyor or any person authorised in this behalf may go at any reasonable timeâ€¦"

I am not reading the other thing. When we are thinking of reasonable time, it should have been appropriate to say 'to inspect between sunrise and sunset' instead of saying 'at a reasonable time'. That does not convey any meaning



at all. May I request that at a later stage or when the rules are being framed after this amendment is taken up, they should say, a surveyor should inspect between sunrise and sunset. That is most important because surveying is very important so far as this amendment is concerned.

We are thinking of 12 per cent contaminants because of the ships and all that. We are thinking of commercial ships. But let us think of the luxury liners which come from America with lots of people to Goa coast, to Mumbai coast and occasionally to Kerala coast. It has been found out that these luxury liners discharge 60 tonnes of trash, 250 gallons of sewage and millions of tonnes of grey water into the sea. You are very much aware that the United States of America is very finicky about pollutants. It may so happen that these ships which come to India or near about of the Indian territory would be discharging these pollutants into the sea. We have to find out ways and means, as hon. Member Shri Ramesh Chennithala has said, that the Coast Guard has to be very effective. We have to find out means to find out whether these luxury liners which are coming to this area for cruising; they have to be properly guarded and it has to be seen as to whether they are discharging the sewage into the sea in and around India or not. Otherwise, whatever amendment we may bring in, it may not be of any help to us unless we are quite vigilant.

It may be out of place here when we are thinking of the Merchant Shipping (Amendment) Act to say about other environmental difficulties that we face. The coastline is completely polluted. Hatcheries are coming up. Shrimp ponds have come up. It has been a mushroom growth of shrimp ponds. Everywhere hatcheries have come up. The estuarine area between river and the sea are getting polluted because of frantic efforts by people who fish around and they are fishing in a very big manner so that the pollution is coming up in a big way.

As I had said earlier, only 12 per cent of the pollutants come from the ships. The other 88 per cent comes from different activities in and around the sea. Now, minerals are being taken out from the sea. What type of restrictions do we impose on those people who take out the minerals? The Merchant Shipping Act would not take into account all these things. It is the Ministry of Environment which has to take it up. The Ministries of Shipping, of Environment and of other Ministries which are involved in this type of activity have to go into these activities. Then, next is about the mangrove forests. Sunderbans are shrinking.

The mangrove forests in my area of Orissa are also shrinking. A small part of mangrove forests is there in Andhra Pradesh, which is also shrinking. Shri Ramesh Chennithala knows better that the mangrove forests are shrinking considerably in Kerala and some mangrove forests have completely vanished. Are we not concerned about mangrove forests? We have to think about these forests. When we think of pollutants in the sea, we must give due consideration to regeneration of mangrove forests also. That is most important. We may think of bringing about some such legislations to ensure that those mangrove forests are not just vanishing into the thin air.

I would say last point about breakage of ships. On the Gujarat coast, we have different industries which are breaking up ships. They are discharging obnoxious and noxious substances into the sea near the coast, but that is also creating problems for us. We have to think of a stringent legislation to see that breakage of ships is confined to certain areas and that they adhere to strict norms. People from my State have been going to Gujarat and taking up the work of breaking of ships. When they come back, they have different diseases like tuberculosis, skin diseases and many other sorts of diseases because of the noxious substances that are generated, when the ships are broken, inside the area. So, these are the things which have to be taken into account.

Sir, section 356(O) of the principal Act has taken into account different prescriptions to be made, different procedures to be adopted and rules to be framed because in a changing world, we cannot have strict measures created by laws to be adhered to for, say, 10, 15 or 20 years as there might be different conventions which will come up and different designs will also come as research will be undertaken. It would require international commitment also. In view of this, provisions have been made in clause 6 of section 356(O) which are quite salutary and would take into account whatever conventions come up at a later stage. With these words, I support the Bill and thank you.

**SHRI T. GOVINDAN (KASARGOD):** Sir, I thank you very much for the opportunity given to me to speak. The existing Merchant Shipping Act is not properly implemented. The office of DG (Shipping) is behaving like a silent spectator to the gross violation of law.

I want to draw the attention of the hon. Minister towards the scam of Rs. 100 crore where workers' Provident Fund money is looted by the officers working in the office of DG (Shipping) and no stringent action has been taken against the culprits. Deputy-DG (Shipping) was a party to the crime. Workers' money was used illegally for share market operations without any control of the office of DG (Shipping). All the money has gone. The Seamen are not getting their money back and are anxious about the whole episode. I request the hon. Minister to evolve a proper scheme to refund the Seamen's Provident Fund of Rs. 100 crore. It was deposited by the Seamen for the safety of their family members, housing, marriage and education of their children. In this regard, the responsibility of the Government of India is clear because the Commissioner of Provident Fund was nominated by the Government of

India. He is the culprit. So, it is the duty of the Government of India to take measures to refund the hard earned Provided Fund money of the Seamen.

I urge upon the Government to cleanse the administration of the office of DG (Shipping); otherwise, the law cannot be effectively implemented. The prevailing corruption in the office of DG (Shipping) has made implementation of the Act a mockery. If the senior officers of the office of DG (Shipping) are in league with the shipping companies, how do you expect them to ensure implementation of the law?

There is stagnation in tonnage of our shipping industry because of the utter neglect of the shipping industry by the Government. For the last three years, the Plan targets have not been fulfilled. Ships have become old. Unless urgent steps

are taken in this regard, the tonnage of our ships will decline in the forthcoming period.

There are many training centres in India, but there is acute shortage of officers. Our trained officers are going to foreign ships because they do not have to pay income tax on what they earn from working on foreign ships. The Government is charging income tax for the foreign voyages, and this is creating the shortage of officers. Our Seamen's Union have demanded that their foreign voyages should be treated as export earnings and that they should not be asked to pay income tax. But, the Finance Minister is not listening to the legitimate demand with the result that the issue is getting more complicated.

The National Shipping Board is a statutory body under the Merchant Shipping Act. But, the recommendations of this body remain unimplemented for several years in the Ministry of Surface Transport. It is not representing the important meetings of the Shipping Board. The Government is not providing adequate fund to this important company, as a result of which it is adversely affecting its functioning. Even the representatives of the Ministry of Surface Transport remain absent from important meetings of the National Shipping Board. I suspect -- under these circumstances -- whether the amendments provided in this Bill will be implemented in true spirit.

There are strong conditions in the amendment to Section 97 (1) prohibiting a person or a company or an organisation including a Union to demand or receive -- either directly or indirectly, from any seaman or person seeking employment as seamen or any other person on his behalf -- any remuneration or donation or fees or compulsory subscription of any kind other than fees authorized by this Act. It is a truth that from each seaman thousands of rupees, and sometimes lakhs of rupees are charged for getting a job. There are many evidences and proof of such extortion of money from seamen.

However, DG (Shipping) is conniving with these malpractices. US \$ 300 is being charged from the Shipping Companies, and such things go unchecked. I would like to know what machinery DG (Shipping) office has to check this blatant malpractice. The officers of DG (Shipping) are beneficiaries of this malpractice. I demand an inquiry into such murky deals, so that this Section of the Bill would be implemented in practice.

The Minister of Shipping is not taking any action on the criticism raised through the National Shipping Board meetings. Several recruiting organisations and Unions are involved in the illegal employment with full knowledge of the office of DG (Shipping). The untrained seamen meet with accidents, but the things are allowed to continue. Many seamen are taken to Dubai or other parts of the Middle-East and there they are given jobs. They later return to India as tourists, but the Government of India allows such practices on the plea that our workers are getting jobs.

DG (Shipping) office has given Continuous Discharge Certificates (CDS) to over one lakh persons, who have not attaining proper training. However, there are no jobs in Indian Shipping Companies with the result that the number of unemployed seamen is increasing.

**श्री लक्ष्मण सिंह (राजगढ़) :** सभापति महोदय, अगर इनके भाषण को सभा पटल पर रखने की अनुमति दे दें तो इससे सदन का समय बचेगा। (व्यवधान)

**SHRI T. GOVINDAN :** This is encouraging corruption in the shipping industry. Seamen who are registered in the roster of companies do not get job in time. I would request the Government to review the employment situation of seamen. The functioning of seamen's unemployment office should be properly improved so that proper norm would be followed in allotting jobs to seamen in India.

The safety standards of Indian ships are below the mark. The Bill provides some improvement in the safety norms, so that safety conditions in the Indian ships are properly checked. Violation of the safety rules must be handled with stringent penal action. Otherwise, by merely amending the Act, the things will not improve. The seamen have to work in different atmospheres, and their life is very hazardous. They have to do overtime duties and put long hours of work. This is affecting the health of the seamen. The occupational diseases are not properly identified for Indian ships, and seamen do not get sufficient protection from the occupational hazards.

I request the Government to take measures to ensure implementation of the provisions of the Bill whose objectives

are to implement the ILO Convention on Safety and Environment on Board the ship. Since we are an active member of the International Maritime Organisation, we are expected to rectify the Convention and Protocol which they have adopted. MARPOL 73/78 merit our consideration for the purpose of seeking to achieve complete elimination of pollution of the marine environment by oil and other harmful substances. Seamen work on these ships and they are also affected due to this. The measures proposed in this Bill to prevent seawater pollution are most welcome.

Hence, while supporting the Bill, I have given some positive suggestions to improve the present conditions of the Employment Safety and Environment so that quality of the life of seamen on board the ship will be properly improved.

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): The Merchant Shipping (Amendment) Bill, 2003 is a welcome step. It is very much belated because more than 30 years after the Convention, we are making this amendment. This amendment gives the right to issue pollution prevention certificates, which was not available in the original Act. At the same time, when we look at the clauses, definitions and other things, we find that there are some *lacunae* and we do not know whether they will be in our favour or prevent the seawater pollution.

For example, new clause 356 (1) (a) refers to 'oil tankers of 150 tonnes gross or more; other ships of 400 tonnes gross or more and offshore installations'. In case of 'other ships' that were of 500 tonnes gross or more, you have reduced the tonnage to 400 tonnes gross or more. Now-a-days, the ships are becoming bigger and bigger to transport a lot of oil and other chemicals. In such a case, why are you reducing the tonnage? What is the purpose of reducing that tonnage in this amendment?

Another point is that the ships owned by the Government, warships and non-commercial ships should also be covered because they could also cause pollution. However, here, you have given exemption to them. Is there any enactment to take care of these ships owned by the Government, warships and other non-commercial ships? Clause 356 (2) (a) says, "This part shall not apply to any warships or otherwise ships owned or operated by the Government and used for the time being by the Government for non-commercial services." It means that you are allowing certain categories to pollute the sea-waters. Why are you allowing this? Why are you giving this exemption? Why can you not see that these ships are also maintained properly as per the International Convention? If we allow the ships owned by the Government to get away with this sort of lethargic attitude, it will be damaging the country and also the nature. Therefore, that should be looked into.

Coming to definitions, in (j), the definition of oil means, 'petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products to include many other things which were already defined in the previous Act.' Now, we have restricted it to 'refined products'. If it is a crude oil product, what will happen? Why other products were not covered in this definition?

In the same way, sub-clause (l) defines 'oil tanker'. In the previous Act, which is being amended now, there is a general classification of 'tanker'. Now, we want to restrict it to 'oil tanker'. Why is there a restriction only in this case? If other tanks pollute the sea-waters, what will be the position?

This is a broader definition. It says:

"a ship constructed or adapted primarily to carry oil in bulk in its cargo space and includes any combination carrier or any chemical tanker when it is carrying a cargo or part cargo of oil in bulk"

That means, the focus is only on oil tankers. If a ship of general class causes pollution, what will happen? Will they exempt this class of ships?

Then I come to the reception facilities. Here the term 'oil' is excluded. The previous Act clearly mentions 'oil reception facilities'. But here, reception facilities in relation to port means:

"facilities for enabling tankers or ships using the port to discharge or deposit residue or mixture of any substance subject to control of the convention"

General aspects are excluded from this definition. Therefore, if the general class ships come for reception facilities and if they cause pollution, what action would be taken against them?

Coming to certification, no doubt it is being done by the Government of India for Indian ships. We are getting more powers by way of this Convention. In Section 356C, Sub-Section (4) we are making a provision that we can give certification for ships of other countries also. When we are having wider powers for awarding certification to ships of other countries also, we should have broader categories of ships so that not only oil tankers but also general class

ships can be certified in order to see that pollution caused by them also is checked. Violation of pollution control norms has to be looked into according to the provisions of the country.

Section 356H gives powers to the Director General which were previously with the Centre. Here, two classes are given.

"â€¦detained oil tanker or other ship, until causes of such contravention are removed to the satisfaction of the Director General or the officer authorised by himâ€¦"

This means that there will be a lot of delay. A lot of international institutions are focussing upon our delay tactics now. When a ship comes to our shores, we are just keeping them in abeyance and delaying them.

MR. CHAIRMAN : There is one more speaker from your party.

SHRI E.M. SUDARSANA NATCHIAPPAN : I will restrict my time to that extent.

We are resorting to delay tactics which would cost us very much. Ships of other countries are not coming to our country because they are incurring costs because of the bureaucratic set up. Each day of delay costs them heavily. This aspect should be taken care of while making the rules. Time restrictions should also be imposed.

Clause B says:

"â€¦proceed against such oil tanker or other ship for recovery of the cost of pollution damage, if any, and the cost of prevention of the pollution damage and cleaning of such pollution."

This is very important. We have a lot of instances of damages caused by pollution. Gujarat Government has a contingency plan on oil slicks. The National Marine Park in the Gulf of Mannar is utilised for this purpose. In the same way there are safeguards along the Tamil Nadu coast. Many of the incidents that have occurred very well show that a lot of damage has been caused to the living organisms in the sea near the coast. In the neighbouring villages, the fishing industry is totally spoiled by this type of ships of foreign origin which just pour away their oil as a result of which we are left with the damage.

How is the Government going to compensate the fishermen who depend upon this profession for livelihood throughout the year? The cost of this damage should be paid to them. We should also protect our own ports in a better way. We should not give a reason for accidents. Our navigation should also be properly looked after. We are having all old vessels in our hands. They have to be looked after. Pollution control is applicable to them also. Simply issuing certificates is not sufficient. At the same time we have to see that our old commercial ships are also maintained in a proper condition.

Sir, only one ship construction unit in Visakhapatnam cannot cater to the needs of the very vast area having potentiality of Indian seas and Indian Ocean.

We know very well that the hon. Minister is having not only the dance for the Goa scene but he has created the stunt also. He is the man who can bring new things for the shipping industry also.

Sir, I would like to conclude by saying that simply following the convention alone in a delayed tactics is not sufficient. We should also equip ourselves; and our machinery should equip ourselves to the modernity so that the entire international shipping should be focussed towards India and India should be focussed towards all the nations globally. We should revive the shipping industry which is very ancient. Tamil culture says that even before 3000 years, we were having shipping throughout the world.

With this words, I conclude.

**डॉ. रघुवंश प्रसाद सिंह (वैशाली)** : सभापति महोदय, मैंने माननीय मंत्री जी का उत्तर कल प्रश्न काल में सुना था इसलिए उस दिन के उत्तर के बाद हम आज कम प्रश्न उठाएंगे। माननीय मंत्री जी ने हम लोगों को अवगत कराया है कि इस विधेयक के लाने से पहले अन्तर्राष्ट्रीय समुद्री संघ से एक समझौता हुआ था। इससे पहले 1973 और 1978 में संशोधन हुआ था। उसे लागू करने के लिए संविधान की धारा 356 जो एक खतरनाक धारा है लेकिन इसमें 356 के "क" से "ज" तक यह संशोधन करना चाहते हैं। माननीय सदस्यों ने कहा कि इससे पहले 1973 और 1978 में अन्तर्राष्ट्रीय समझौता हुआ। भारत इसका मजबूत सदस्य है। 1973 से 1978 तक 33 बरसों में संशोधन के बिना ही काम चल रहा था या अन्तर्राष्ट्रीय समझौते का उल्लंघन हो रहा था अथवा अन्तर्राष्ट्रीय स्तर के समझौते को लागू करने में वित्तीय कठिनाई थी? यह सवाल इससे उठता है। शुरु में माननीय मंत्री जी को बता देना चाहिए था कि इसमें 30 बरसों का विलम्ब किस कारण हुआ? इस संशोधन की अनुपस्थिति में सरकार ने कैसे काम चलाया?

पहले 500 टन के वजन से अधिक के पोत पर यह लागू था। उसे घटा कर 400 टन किया गया। हमें लगता है कि अन्तर्राष्ट्रीय समझौते में 500 टन से 400 टन घटाने के लिए इनको कहा गया होगा। हम नहीं जानते कि इसमें क्या है? हम जानना चाहते हैं कि समुद्र में प्रदूषण न हो क्या इसके लिए अन्तर्राष्ट्रीय समझौते में कोई बात है? कूड़ा, कचरा, गन्दगी समुद्र में न डाला जाए, क्या उसमें इस बात का ध्यान रखा गया है? उसमें मछलियां, शंख, रंग-बिरंगे जन्तु जो रहते हैं उनके ऊपर कु-



भाव न पड़े और मनुय को हानि न हो, इन सभी को ध्यान में रखते हुए क्या यह समझौता हुआ? अन्तर्राष्ट्रीय समझौते की बाध्यता के कारण आप यह विधेयक लाए हैं। देश में साढ़े सात हजार किलोमीटर में तीन तरफ से समुद्र घिरा हुआ है।

हलदिया से पटना और इलाहाबाद तक जलमार्ग है। उसी तरह केरल में काफी लम्बा जल मार्ग है। माननीय मंत्री जी एक प्रश्न के उत्तर में बता रहे थे कि इस जल मार्ग का .15 प्रतिशत इस्तेमाल हो रहा है। यह देश के हित के खिलाफ है। देश का छोटा-बड़ा 11 राज्य मिलाकर 7500 किलोमीटर का जलमार्ग है। प.बंगाल, उड़ीसा, आन्ध्र प्रदेश, पांडिचेरी, केरल, कर्नाटक, गुजरात, महाराष्ट्र, गोवा, दमन दियू, लक्षद्वीप और अंडमान तथा निकोबार सब जल से संबंधित हैं। हमारे हिन्दुस्तान के पास बहुत बड़ी संभावनाएँ हैं। पोत परिवहन का विकास करके इससे काफी लाभ उठाया जा सकता है। हम विश्व पर्यावरण के लिये चिन्तित हैं कि ओ ज़ोन की परत खराब हो रही है। इसलिये इन सब का विकास होना चाहिये।

सभापति महोदय, कुछ समय पहले मैं स्पीकर साहब के साथ फिनलैंड गया था। जहाँ दिसम्बर में दो महीने की रात और जून में 2 महीने का दिन होता है। वे लोग हिन्दुस्तान में आने के लिये छटपटाते रहते हैं। फिनलैंड की आबादी 92 लाख है। वे सन वाच के लिये हिन्दुस्तान आना चाहते हैं लेकिन यहाँ के बीचें पर कूड़ा-कचरा भरा रहता है। इससे हिन्दुस्तान को भारी नुकसान हो रहा है। क्या सरकार ने इसके लिये कोई कार्य योजना तैयार की है या किसी फौक्ट फाइंडिंग कमेटी का गठन किया है ताकि समुद्र के प्रदूषण से मुक्ति मिल सके। अब तक कोई उपाय न किये जाने के क्या कारण हैं? सरकार अन्तर्राष्ट्रीय समझौते की बाध्यता के तहत यह कानून बनाने जा रही है लेकिन हमारे देश में अपने देश के लिये कोई कानून है या नहीं? मैं एक उदारण देना चाहता हूँ। दिल्ली हाई कोर्ट में एक PIL दाखिल की गई है। 'Marine Life Threatened by Construction' उसमें कहा गया है :

"The Delhi High Court has criticised the Governmentâ€¦."

आगे कहा गया है कि

"â€¦over the amendments in the Coastal Regulation Zone (CRZ), 1991 allowing storage of hazardous material and construction activities. By these amendments the Government seems to have come under pressure of some vested interests"

सरकार पर इसकी क्या प्रतिक्रिया है? सब जगह इस बात की चिन्ता है कि पोत परिवहन की यहाँ बहुतायत है और वे पानी में खड़े हुये हैं। पानी के किनारे मुम्बई, कोलकाता, चेन्नई हैं जहाँ से व्यापार हुआ करता था, इसलिये वे ज्यादा विकसित हो गये हैं। उन दिनों हवाई मार्ग नहीं था। चूंकि हमारा इलाका पानी से दूर था, इसलिये हम पीछे रह गये। अब 11 राज्य जल मार्ग से जुड़े हुये हैं, इसलिये इसकी उपेक्षा करना उचित नहीं है। क्या सरकार ने पोत परिवहन के विकास के लिये कोई योजना तैयार की है? हमारा पड़ोसी राज्य नेपाल समुद्र से काफी दूर है। जब दोनों राद्ध्यक्ष मिलते हैं तो बात करते हैं कि पानी के जहाज का लाभ होना चाहिये। अब कलकत्ता के समुद्र से और कोसी से होकर नेपाल को भी पानी के जहाज से लाभ हो सकता है। यह भारत और नेपाल के साथ समझौता है, वह हमारा पड़ोसी देश है, उससे समझौते का मामला बराबर उठता है। मैं जानना चाहता हूँ कि क्या सरकार की कोई योजना है, क्या इस बारे में कोई अनुसंधान हुआ है या कोई विचार-विमर्श हुआ है, ताकि कलकत्ता से नेपाल के लिए जलमार्ग से जलयान से लाभ हो। उसके भी सामान की आवाजाही यहाँ से वहाँ हो।

सभापति महोदय, गोवा में वास्को पोर्ट है, हमने वहाँ देखा कि अपने यहाँ के लोहे के जहाज धुआं उड़ाते हुए चले जा रहे हैं और वहाँ प्रदूषण फैला रहे हैं। वास्को डि गामा नाव के बेड़े से आया तो उसे हिंदुस्तान का पता चला। कोलम्बस अपने बेड़े से हिंदुस्तान को खोजने चला तो अमरीका पहुँच गया और उसे अमरीका का पता चला। अमरीका आज एक विकसित देश है। लेकिन वह हिंदुस्तान का पता लगाने के लिए चला था तो उसे अमरीका मिल गया। अमरीका 250-300 वॉ का देश है। जबकि हमारा लाख वर्ग का इतिहास है तथा पुरानी संस्कृति है। कोचीन सी-पोर्ट में जहाँ-तहाँ कमर्शियल पोत बनाने के इनके शिपयार्ड हैं। मैं माननीय मंत्री जी से जानना चाहता हूँ कि आपके शिपयार्ड की कितनी क्षमता है और उसकी क्षमता का पूरा इस्तेमाल हो रहा है या नहीं।

**श्री रमेश चेन्नितला (मवेलीकारा) :** यह उसे बेच रहे हैं।

**डॉ. रघुवंश प्रसाद सिंह :** क्या बेच रहे हैं, प्राइवेटाइजेशन कर रहे हैं। दुनिया भर के जितने सी -पोर्ट्स हैं, उनमें कोचीन के बारे में सब लोगों ने बताया है कि प्रकृति के दृष्टिकोण से वह आइडियल है। लेकिन उसे बेचने की बात हो रही है। इस तरह से हमारी प्राकृतिक सम्पदा, प्रकृति-प्रदत्त चीजों को सरकार कौड़ी के भाव बेचने जा रही है। ये सारे सवाल आज हमारे सामने हैं। कलकत्ता से लेकर विशाखापट्टनम, चेन्नई, कोचीन, गोवा और मुम्बई ये सब समुद्र के किनारे हैं।

**MR. CHAIRMAN :** In my Constituency, there is a big port called Tuticorin Port.

**डॉ. रघुवंश प्रसाद सिंह :** तूतीकोरिन भी है। इन सभी बंदरगाहों का विकास होना चाहिए। इनके विकास की क्या योजना है। इस बिल के जरिये मैं जानना चाहता हूँ। मैं भी वह भावी सपना देखता हूँ। दुनिया का कोई भी मुल्क जितना जलयान और पोत परिवहन का इस्तेमाल करता है, हम भी किसी से पीछे नहीं रहेंगे और वह दिन दूर नहीं है कि हिंदुस्तान के पोत परिवहन की जो क्षमता है और जो दूरियाँ हैं और जिस तरह से चारों तरफ से हम घिरे हैं, उसमें हिंदुस्तान दुनिया के मुल्कों आगे होगा और इसका पूर्ण इस्तेमाल करेगा।

**SHRI P.S. GADHAVI (KUTCH):** Sir, I thank you very much for giving me this opportunity to speak.

The Merchant Shipping Act was enacted in 1958 for the matters relating to shipping and for the development, as also for efficient maintenance of Indian mercantile marine. India being an active member of the International Maritime Organisation, has acceded to the International Conventions and Protocols which were adopted in 1973.

Sir, I welcome this Bill as this is a very good Bill. Therefore, I congratulate the hon. Minister who has taken care to bring such a Bill. As Shri Raghuvansh Prasad Singh was telling just now, for the last 30 years nobody has taken care of this. A dynamic Minister of our NDA Government has brought forward this Bill. This is a very essential Bill. As you know, big oil tankers come at the ports and if some leakage happens on the seashore, it will create problems. In my area of Kutch, there is a 400 kilometre long sea coast. In that area very rich mangroves are there. Whenever there is drought, these mangroves, which are rich in nutrients, are very useful to the animals. Many a time it has happened in the past that due to oil leakage, these mangroves got damaged. In my district, in the last fifty years, we have witnessed more than 32 famines. We cannot go anywhere. Our animals are also dependant on

mangroves. Due to all these oil leaks, damages occur. It causes great damage. Therefore, it was very much necessary to enact this law.

Secondly, there is a ship breaking yard in Alang of Gujarat. Many big ships, ruined ships, and oil tanks also come there for breaking purposes. Many a time it happens that they bring all polluted substances. If this control is not there,

then it can cause great damage to the sea shore and coastal areas, where fishes are there. As told by Dr. Raghuvansh Prasad Singh, many creatures live there. They get damaged. To deal with this, the Bill has been brought by the hon. Minister. It is a very good Bill. I welcome it and I support it. Thank you very much.

**SARDAR SIMRANJIT SINGH MANN (SANGRUR):** Mr. Chairman, thank you very much for allowing me to speak on the Amendment to this Bill. I welcome this Bill. It is late. Nevertheless we welcome it.

We want to know why it has taken so long for the Government to make these enactments. If we see article 53 of the Constitution, it makes it obligatory on the part of the Government to honour all international conventions and treaties. When this article has been inserted in the Indian Constitution, why are the Governments taking so long to implement and execute the international treaties, covenants, and protocols?

As you know, Mr. Chairman, Sir, the United Nations has enacted a lot of humanitarian laws which the Indian State has not accepted or reduced them to municipal laws like what our Shipping Minister is doing today.

I would like to bring to the notice of this House the fact that this Bill is over centralised. All the powers lie with the Central Government. India is a big peninsula and has thousands of miles of coast. I would propose that most of these powers should be delegated to the States. They should not be made a sole preserve of the Central Government. If the State Governments are associated with the implementation of these provisions, the purpose for which this Bill has been brought forward can be implemented properly and successfully.

The hon. Minister has not made us aware of the penal provisions of this Bill. If somebody violates this Bill, what will be the penal provisions? Where will the case be registered? Who will investigate it?

Then, I think the burden is placed on the Navy and the Coast Guard. I think these are specialised forces. One is meant for the defence of the country and the other is to prevent other unlawful activities. I would recommend that the Shipping Ministry should come out with its own marine fleet to take care of pollution that takes place in the coast and in the ports. I agree with Shri Sahu, the hon. Member from Orissa, that the Environmental Ministry must come out with a comprehensive Bill to save our coast, our sea-shore and our coastal waters from large-scale pollution that goes into it from the rivers and other things. There must be provisions to save the marine life of our coastal areas.

The hon. Minister has said that there are a lot of officers who are wanted in the international Navies, Merchant Navies. I want to draw the attention of the hon. Minister to the fact that all schools for training officers and seamen are located in the coastal areas of this country. A landlocked State like Punjab does not have a semblance of a school or a college to train officers or seamen. So, I would very strongly propose to the hon. Minister to create such an institution in a landlocked State like Punjab so that we also evince interest in coastal shipping and the sea life of this country.

Sir, if a Marine Police has to be created, I think the Finance Ministry should also pool its resources because a lot of customs and excise inspections have to be carried on. So, I strongly propose the creation of a Marine Police for the Shipping Ministry. I hope the suggestions that I have given will be implemented specially for the creation of a school in a landlocked State like Punjab.

**SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL):** Sir, I support the provisions of the Bill. But, at the outset, I would like to point out that the original statute is outdated. It will not suit the changing conditions now available. It is an old Act and is unsuited to the prevailing conditions that are available in maritime activities. Moreover, it may be further pointed out that a mere cosmetic change will not serve the purpose. The hon. Minister is making a cosmetic change in the old Act but that will not serve the purpose. I am sorry to say this.

Pollution is an international phenomenon. It is not only existing in the sea but even in land also. Now, the sea is polluted not from ships alone. Pollution is coming from inside the country. We all know that many States are using the sea as a dumping place for throwing away all the waste materials. Even sewage is also led into the sea thereby the fish is also affected very much. It has a detrimental effect on fish. We hear of fishes which are dying in large

numbers and coming to the coastal area creating pollution there also. So, this is a double-edged weapon. Of course, ships are also polluting the sea. We should definitely adopt a cautious approach about the ships polluting the sea. But, at the same time, there must be a legislation to prevent the sea pollution from land also. The large industries in big cities are the agents of polluting the sea. So, I would request the hon. Minister to look into this fact and see how it would be implemented. There will be another difficulty because the foreign ships may come. As per the protocol, now we will have to take action. The only action is the seizure of the ship and nothing else. Who is competent authority to launch a prosecution against the offender? When the international convention is violated or the international law is violated, what is the agency? What is the tribunal to take all these organisations to task and punish those culprits who have committed the offence? From that aspect, the law is not clear. We will be facing difficulties.

We will be put to difficulties in the future also. There is no specific mention in the statute. Who is the competent authority? The Director-General can make a report. In the matter of issuing licences, he has to take all these matters into consideration. That is the Amendment law. But that alone is not sufficient. Who will take action? The Director-General can cancel the licence or he can refuse giving a licence or he can refuse giving a pollution certificate so that it could not be shown in a foreign harbour that they have such-and-such pollution certificate from the Indian Government. That foreign Government will have to accept the certificate issued by the Government of India and *vice versa*.

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Sir, I think, the hon. Minister, is a Member of the Rajya Sabha. He has a voting pre-occupation in the Rajya Sabha today. I sincerely feel his being occupied there is valid. So, I am proposing that let the debate continue till the last speaker finishes his speech. ...(*Interruptions*)

The Minister can give the reply tomorrow. The other Minister can take a note of it for his contribution.

MR. CHAIRMAN : Shri Radhakrishnan, you can conclude.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): For explaining my position, I would draw the attention of the House to the proposed Amendment:

"356C (1) No Indian oil tanker or other Indian ship shall proceed to sea unless there is in force, in respect of that ship, a certificate issued by the Central Government, to be called an international oil pollution prevention certificate, in such form, for such duration and subject to such conditions as may be prescribed."

Now what is the guarantee that a ship will go to the foreign sea without the certificate? He can go. What is the compelling force that he must have a certificate issued from the Government of India before he proceeds to a foreign country? Now that could be done only by enforcing the law in an effective manner. This is not the effective way of doing the things. To make it effective, whenever a ship licence is issued, make a condition precedent that it must possess a pollution under control certificate. This certificate is provided in the statute, that is, 356C. If you want to implement section 356C, you will have to make it a condition precedent at the time a ship is allowed to proceed further. It must be made a condition before allowing it. Any ship can go anywhere. Where has it been stated that it must obtain? How can you compel it?

So, my humble submission is this. There are certain inherent difficulties that are not easily implemented in the present statute. That is the Amendment law. That is why, at the outset also, I have stated that the original law is outdated. This is only a cosmetic change. It will not serve the purpose as the Minister would consider.

Before concluding, I would request you to bring a comprehensive legislation and make all these provisions enforceable. You must have an express law and authority in India to implement the provisions of the statute. For that, a legislation is essential. So, I would request you to go through the entire Act and make it abundantly clear so that these provisions can be implemented without delay.

With these words, I conclude my speech.

SHRI MADHUSUDAN MISTRY (SABARKANTHA): Mr. Chairman Sir, thank you for giving me an opportunity to speak on this Bill. I express my sentiments and join with other Members who have raised this very important issue that this Bill has come very late. After almost 30 years of signing this whole protocol, we are now coming with this Bill to fulfil all the conventions and other things that we have ratified.

I also join with the sentiments expressed by my friend from the opposite Benches, Shri Gadhavi, who has talked about the coastal and the marine parks as well as about Alang. I would like to draw the attention of the hon. Minister specifically to the oil and oil-slick, especially by the carriers.

MR. CHAIRMAN : Is it the wish of the House that the time of the House be extended till Shri Mistry finishes his speech?

SEVERAL HON. MEMBERS: Let us take it up tomorrow.

MR. CHAIRMAN: All right. We will take it up tomorrow.

Now, the House stands adjourned to meet again tomorrow, the 19<sup>th</sup> December, 2003 at 11 AM.

**18.01 hrs**

*The Lok Sabha then adjourned till Eleven of the Clock  
on December 19, 2003/Agrahayana 28, 1925 (Saka).*

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