REFORMING INDIA'S MARITIME LEGAL FRAMEWORK: A CRITICAL ANALYSIS OF THE MERCHANT SHIPPING ACT, 2025 AND EMERGING CHALLENGES IN MARITIME GOVERNANCE

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ABSTRACT

India's dependence on the sea has never been in doubt; the currency of its shipping law has been. For sixty-seven years the sector was governed by the Merchant Shipping Act, 1958, a statute descended from Victorian British legislation and swollen by amendment into a text of over 560 sections. The Merchant Shipping Act, 2025, assented to on 18 August 2025 and brought into force on 15 March 2026, replaces it along with the Coasting Vessels Act, 1838, as part of a package that also includes the Carriage of Goods by Sea Act, 2025, the Bills of Lading Act, 2025 and the Coastal Shipping Act, 2025. This paper argues that the reform is genuine but incomplete. The consolidation into sixteen Parts and 325 sections, the liberalisation of vessel ownership, the extension of registration to small and non-mechanised craft, the alignment of seafarer welfare with the Maritime Labour Convention, the incorporation of hot pursuit and stateless-vessel powers, and the creation of a framework for maritime emergencies are real improvements. Against these, the paper identifies four difficulties: the extent to which substance has been left to delegated legislation still incomplete at commencement; the failure to modernise the compensation architecture for catastrophic casualties, exposed by the sinking of the MSC ELSA 3 off Kerala in May 2025; the reduction of fishers' protection to an enabling power rather than an applied standard; and the exclusion of coastal States from emergency response machinery. The framework is then assessed against emerging challenges: the adjournment of the IMO Net-Zero Framework, the MASS Code for autonomous ships, cyber risk, the shadow tanker fleet and ship recycling. Eight recommendations follow.

Keywords: Merchant Shipping Act 2025; maritime law; India; ship registration; seafarers' welfare; marine pollution; IMO; delegated legislation; admiralty jurisdiction; maritime governance.

I. INTRODUCTION

Very little of what an Indian household consumes arrives by land. Roughly ninety-five per cent of the country's external trade by volume, and about seventy per cent by value, moves across water.1 The coastline runs to some 11,098 kilometres, the exclusive economic zone covers about 2.37 million square kilometres, and the country maintains twelve major ports along with roughly two hundred non-major ports.2 Against that backdrop, the statute that governed Indian merchant shipping for sixty-seven years was, by any measure, an anachronism. The Merchant Shipping Act, 1958 was drafted in the first decade of independence, when Indian tonnage stood at a fraction of a million gross tonnes and containerisation had not yet been invented. It carried forward the drafting habits, and in several places the actual language, of the British Merchant Shipping Act, 1894.

That inheritance was finally set aside in August 2025. The Merchant Shipping Act, 2025 received the assent of the President on 18 August 2025 and was brought into force with effect from 15 March 2026.3 It repeals the 1958 Act as well as the Coasting Vessels Act, 1838, and forms part of a wider package of maritime legislation enacted in the same parliamentary year: the Carriage of Goods by Sea Act, 2025, the Bills of Lading Act, 2025, and the Coastal Shipping Act, 2025.4 Taken together, these four statutes represent the most extensive rewriting of Indian shipping law since Independence.

The official narrative around the 2025 Act has been celebratory, and not without reason. The statute is shorter, better organised and more honest about India's treaty commitments than the law it replaces. But a critical reading suggests a more complicated picture. A great deal of the 2025 Act is enabling rather than substantive: it confers powers, creates categories, and leaves the operative content to rules that were still in draft form well after the Act commenced. Some of the most pressing questions in contemporary maritime governance (greenhouse gas pricing,

1 Ministry of Ports, Shipping and Waterways, Annual Report (Government of India); see also FICCI Maritime India, Industry Overview, noting that approximately 95 per cent of India's trade by volume moves by sea. Globally, UNCTAD estimates that around 80 per cent of world trade by volume is carried by sea: UNCTAD, Review of Maritime Transport.

2 Ministry of Ports, Shipping and Waterways, Maritime India Vision 2030 (2021); Government of India, coastline length as revised by the Ministry of Home Affairs.

3 Merchant Shipping Act, 2025 (Act 24 of 2025), assented to on 18 August 2025; brought into force with effect from 15 March 2026 vide Notification S.O. 1244(E) dated 10 March 2026, Gazette of India, Extraordinary, Part II, section 3(ii).

4 Carriage of Goods by Sea Act, 2025 (Act 19 of 2025); Bills of Lading Act, 2025; Coastal Shipping Act, 2025. See Press Information Bureau, 'Parliament Clears Coastal Shipping Bill, 2025' (Ministry of Ports, Shipping and Waterways, 2025).

autonomous vessels, cyber security, the adequacy of liability limits when a casualty destroys a coastal economy) are either absent from the statute or addressed only by implication.

This paper attempts three things. First, it situates the 2025 Act in the longer history of Indian shipping legislation and explains what actually changed. Second, it examines the principal reforms critically, asking not merely whether they are improvements on the 1958 Act (they usually are) but whether they are adequate to the problems they purport to solve. Third, it identifies a set of emerging challenges (decarbonisation, autonomy, cyber risk, the shadow fleet, ship recycling) and assesses how well the new framework is positioned to meet them. The method is doctrinal and analytical. It relies on the text of the Act, subordinate legislation and draft rules, parliamentary and ministerial material, decisions of the Indian courts, and instruments of the International Maritime Organization. Where the argument depends on facts that are still unfolding, this has been indicated.

A word on the limits of the enquiry. The paper does not attempt a clause-by-clause commentary; a statute of 325 sections spread over sixteen Parts does not lend itself to that treatment within the compass of an article. Nor does it deal in any detail with the Coastal Shipping Act, 2025 or the Carriage of Goods by Sea Act, 2025, except where those statutes bear directly on the working of the merchant shipping regime. The focus throughout is on maritime governance: the allocation of regulatory authority, the machinery of enforcement, and the fit between domestic law and international obligation.

II. THE COLONIAL INHERITANCE AND THE LONG ROAD TO REFORM

A. The Statutory Genealogy

Indian merchant shipping law began as an instrument of imperial commerce. The Coasting Vessels Act, 1838, which survived, remarkably, until 2025, was concerned with country craft plying the Indian coast at a time when the coasting trade was itself a colonial preserve. The Indian Merchant Shipping Act, 1923 and the Indian Registration of Ships Act, 1841 were similarly derivative, drawing their structure from the British Merchant Shipping Act, 1894. Even the nationalist critique of the period was framed less around the content of the law than around who benefited from it: the Indian National Steamship Owners' Association and figures such as V.O. Chidambaram Pillai contested British domination of the coastal trade rather than the shape of the regulatory statute.

The 1958 Act was, in that sense, an act of consolidation rather than reinvention. It gathered the earlier enactments into a single framework and added a National Shipping Board and a Shipping Development Fund. What it did not do was reconsider the underlying architecture. The result was a statute that grew by accretion. Successive amendments, most of them prompted by the need to give effect to IMO instruments, pushed the Act past 560 sections organised into Parts and sub-Parts whose numbering had become genuinely difficult to follow.5 Provisions inserted in the 1980s and 2000s carried alphabetical suffixes; Part XA dealt with limitation of liability, Part XB with civil liability for oil pollution damage, and a reader could not tell from the section number alone which subject matter a provision addressed.

The practical consequence was a compliance problem. Shipping is capital-intensive and internationally mobile; owners choose flags partly on the basis of how predictable and how quick the flag administration is. A statute that required cross-referencing across three or four Parts to determine whether a particular vessel needed a particular certificate imposed a real cost, and that cost showed up in the registry. India's share of world tonnage has hovered around one per cent for decades despite the country accounting for a far larger share of world seaborne trade.

B. The Reform Process

Work on replacing the 1958 Act began in earnest around 2015, when the Ministry of Shipping circulated a draft Merchant Shipping Bill for consultation. That draft lapsed. A revised Bill was introduced in the Lok Sabha in 2016 and referred to the Standing Committee on Transport, Tourism and Culture, but was not taken up before the dissolution of the House. The Merchant Shipping Bill, 2020 met a similar fate. It was only with the Merchant Shipping Bill, 2024, introduced on 10 December 2024 by the Minister of Ports, Shipping and Waterways, that the exercise reached the statute book.6 The Bill was passed by the Lok Sabha on 6 August 2025 and by the Rajya Sabha on 11 August 2025.

The policy setting for this decade of drafting was supplied by two documents. Maritime India Vision 2030, released in 2021, identified legislative reform as a precondition for almost everything else it proposed, and specifically called for amendment of shipping legislation to

5 Ash Mohomad, Sindhura Polepalli and Rehana Dhawade, 'India's Maritime Reset: Unpacking Merchant Shipping Act, 2025', LiveLaw (29 September 2025), noting that the 1958 Act had grown to over 560 sections requiring cross-referencing to trace applicability.

6 Merchant Shipping Bill, 2024 (Bill No. 183C of 2024), introduced in the Lok Sabha on 10 December 2024 by Shri Sarbananda Sonowal, Minister of Ports, Shipping and Waterways.

improve ease of doing business, increase Indian tonnage, regulate fishing vessels, and strengthen seafarer training and welfare.7 The Maritime Amrit Kaal Vision 2047 extended the horizon and raised the ambition, projecting India among the top five shipbuilding nations and targeting a substantial expansion of port capacity and coastal cargo.

It would be a mistake, though, to read the 2025 Act purely as the product of domestic policy planning. Two external pressures were at work. The first was the accumulation of IMO obligations. India is party to the principal safety and pollution instruments (SOLAS, MARPOL, STCW, the Salvage Convention, the Civil Liability Convention, the Bunkers Convention and the Nairobi Wreck Removal Convention, among others), and each ratification generated a domestic implementation gap that had been patched through amendment rather than integrated by design.8 The second was the sheer volume of Indian seafarers in the global labour market. Indians make up a large and growing proportion of the world's crew, which gives India a direct interest in the Maritime Labour Convention, 2006 being enforced not only on Indian ships but on the foreign-flagged ships where most Indian seafarers actually work.

III. THE ARCHITECTURE OF THE 2025 ACT

The most immediately visible change is one of scale. The 2025 Act runs to 325 sections across sixteen Parts, roughly half the length of the statute it replaces.9 That compression was achieved partly by deleting obsolete matter, partly by consolidating repetitive provisions, and partly (a point taken up later in this paper) by shifting detail from the Act into rules to be framed by the Central Government.

Three structural features deserve notice at the outset. The first is the reorganisation of the statute around function rather than around the accidents of amendment history. Survey, audit and certification, which in the 1958 Act were distributed across several Parts, now occupy a dedicated chapter. Maritime incidents and emergencies, which the earlier law addressed only obliquely, have a Part of their own. The second is the renaming and restructuring of the regulator: the Director General of Shipping becomes the Director General of Maritime Administration, and a substantial number of functions previously reserved to the Central

7 Ministry of Ports, Shipping and Waterways, Maritime India Vision 2030 (2021), chapter on policy and institutional framework.

8 For the status of India's ratifications, see International Maritime Organization, Status of IMO Treaties. India acceded to the Nairobi International Convention on the Removal of Wrecks, 2007 prior to its entry into force on 14 April 2015.

9 Merchant Shipping Act, 2025, comprising 325 sections in sixteen Parts.

Government are delegated to that office.10 The third is the retention of the National Shipping Board, whose composition (six Members of Parliament, four from the House of the People and two from the Council of States, together with nominated members and a Chairperson designated by the Central Government) preserves a consultative element that might otherwise have been lost in a technocratic redesign.11

The Act came into force on 15 March 2026 by notification, the Central Government having exercised its power under section 1(2) to appoint a commencement date.12 That power permitted different dates for different provisions, and the decision to bring the whole statute into force at once was, on balance, the right one: a phased commencement would have left the 1958 Act and the 2025 Act operating side by side, with all the transitional confusion that implies. The trade-off is that the Act commenced while a considerable body of subordinate legislation was still in draft. Draft rules on sailing vessels, maritime labour, seafarers' accommodation and safety of navigation were circulated for comment in 2026, each of them expressed to supersede rules made under the 1958 Act.13

IV. THE SUBSTANTIVE REFORMS: A CRITICAL APPRAISAL

A. Registration, Ownership and the Tonnage Question

If the 2025 Act has a central economic purpose, it is to put more ships under the Indian flag. Two related changes serve that end.

The first concerns the scope of compulsory registration. Under the 1958 Act, seagoing vessels below fifteen net tons used only for navigation along the Indian coast were expressly excluded, as were vessels that were not mechanically propelled; registration rules varied depending on where a ship operated and how it was driven. The 2025 Act unifies these categories, extending mandatory registration to all Indian-owned seagoing vessels irrespective of tonnage or means of propulsion, including vessels that never call at an Indian port.14 The gain here is not merely

10 Merchant Shipping Act, 2025, provisions relating to the Director General of Maritime Administration; see also 'Seas of Change: Understanding the New Merchant Shipping Act, 2025 (Part 2)', Chambers and Partners (28 August 2025).

11 Merchant Shipping Act, 2025, provisions constituting the National Shipping Board.

12 Merchant Shipping Act, 2025, s. 1(2), which permits different dates to be appointed for different provisions.

13 Ministry of Ports, Shipping and Waterways, Draft Merchant Shipping (Sailing Vessels) Rules, 2026, framed under ss. 264(1), 273(1), 273(2), 275(1) and 280 of the 2025 Act; Draft Merchant Shipping (Maritime Labour) Rules, 2026; Draft Merchant Shipping (Seafarers' Accommodation) Rules, 2026.

14 Merchant Shipping Act, 2025, Part on registration of vessels. Contrast the 1958 Act, which excluded vessels below fifteen net tons navigating only on the coasts of India.

administrative. A vessel outside the registry is a vessel outside the safety, insurance and manning regime; the exclusion of small craft was one of the reasons the state's knowledge of its own coastal fleet was so poor.

The second change concerns who may own a registered vessel. The 1958 Act confined ownership to Indian citizens, companies and cooperative societies. The 2025 Act extends eligibility to Non-Resident Indians and Overseas Citizens of India, and empowers the Central Government to notify other entities, limited liability partnerships being the obvious candidate, as eligible.15 It further permits registration of foreign vessels chartered by Indian entities under a bareboat charter-cum-demise arrangement, and allows temporary registration of foreign ships brought to India for recycling.16 The last of these is a sensible piece of joined-up drafting: it connects the merchant shipping regime to the ship recycling industry at Alang and to India's obligations under the Hong Kong Convention.

Whether these measures will actually move the tonnage figure is another matter. The literature on flag choice is fairly consistent that registration eligibility is rarely the binding constraint. Owners weigh the tax regime, the cost and availability of crew, the ease of mortgage registration and enforcement, the reputation of the flag in port State control inspections, and the speed with which the administration issues certificates.17 India's tonnage tax regime under Chapter XII-G of the Income-tax Act, 1961 is competitive on paper, and the widening of the ownership pool does expand the class of persons who can access it.18 But the 2025 Act does nothing about the higher cost of Indian crew relative to the international market, nothing about customs and GST treatment of vessels and bunkers, and nothing about the perception, fair or not, that the Indian registry is slower than Singapore's or Marshall Islands'. Liberalising who may register is a necessary condition for growth in tonnage. It is not a sufficient one, and the Act should be assessed accordingly.

There is also an unresolved question about the treatment of vessels wholly owned by Overseas Citizens of India, which are not required to register in India.19 The distinction between a class

15 Merchant Shipping Act, 2025, s. 15(1), specifying the persons who may own a registered Indian vessel.

16 Merchant Shipping Act, 2025, provisions on bareboat charter-cum-demise registration and on temporary registration of vessels for recycling.

17 See generally Aleka Mandaraka-Sheppard, Modern Maritime Law (3rd edn, Informa Law 2013), on the determinants of flag choice and the economics of open registries.

18 Income-tax Act, 1961, Chapter XII-G (tonnage tax scheme). See 'Merchant Shipping Act, 2025: Insights for Trade and Logistics', India Briefing (2025), on the interaction between the widened ownership pool and eligibility for tonnage taxation.

19 Merchant Shipping Act, 2025, provisions exempting vessels wholly owned by Overseas Citizens of India from mandatory registration in India.

of owners who may register and a class who must is defensible in policy terms, but it invites arbitrage, and the Act does not say much about how the resulting differences in regulatory exposure are to be managed.

B. Seafarers, Fishers and the Welfare Deficit

The 1958 Act's treatment of seafarers was rooted in an older conception of the relationship between master and crew, closer in spirit to articles of agreement than to modern labour law. The 2025 Act reframes that relationship. It aligns domestic standards with the Maritime Labour Convention, 2006, provides for seafarers' employment agreements, and extends welfare measures to Indian seafarers serving on foreign-flagged ships.20 That extension matters because the majority of Indian seafarers are employed on ships flying flags other than India's, where the Indian administration's leverage has historically been limited to whatever it could extract through recruitment and placement service licensing.

The provisions on abandonment are among the better parts of the statute. Abandonment of crew, with wages unpaid, provisions exhausted, the owner unreachable and the vessel lying at anchor for months, has been a persistent problem in the Gulf and increasingly in Indian waters. The Act empowers the Central Government to arrange relief and upkeep of abandoned seafarers and to send replacement crew to an Indian or foreign vessel abandoned in or near Indian coastal waters.21 This is a genuine advance on the 1958 Act, which treated abandonment largely as a private wrong to be pursued against a shipowner who, by definition, could not be found.

It is the treatment of fishers that invites the sharpest criticism. India has one of the largest fishing fleets in the world and, by most estimates, one of the highest rates of fatality among fishers. The ILO Work in Fishing Convention, 2007 (No. 188) sets minimum standards for accommodation, food, medical care, hours of rest and social security on fishing vessels. The 2025 Act contains enabling provisions permitting the incorporation of C-188 standards 'as may be applicable' and permitting the Central Government to make provision for the safety of fishing vessels and fishers 'as may be deemed necessary'.22 That is not the same thing as

20 Merchant Shipping Act, 2025, Part on seafarers; Maritime Labour Convention, 2006, as amended.

21 Merchant Shipping Act, 2025, provisions on abandonment of seafarers, including the power to send replacement crew to vessels abandoned in or near Indian coastal waters.

22 Merchant Shipping Act, 2025, enabling provisions relating to fishing vessels and fishers; ILO Work in Fishing Convention, 2007 (No. 188).

applying the standards. It is a power to apply them, exercisable at a time and to an extent that the executive will decide.

The choice of an enabling formulation was probably driven by federal considerations, since fisheries within territorial waters fall within the State List while fishing beyond territorial waters is a Union subject.23 That is a real constraint, and it would be unfair to criticise Parliament for declining to legislate beyond its competence. But the constraint does not explain the vagueness of the language. Parliament could have applied C-188 standards in terms to fishing vessels operating beyond territorial waters, and to Indian-flagged fishing vessels wherever they operate, leaving the coastal fleet to State legislation and to the model law route. Instead it took a power. Whether that power is exercised, and how vigorously, will determine whether the welfare provisions of the 2025 Act reach the workers who most need them.

C. Environmental Protection and Maritime Emergencies

The 1958 Act addressed marine pollution through Parts inserted after the fact, primarily to give effect to the Civil Liability Convention and later the Bunkers Convention. Environmental obligations sat awkwardly alongside provisions on certification and manning that had been drafted with no reference to them. Section 87 of the 1958 Act, for instance, dealt with the qualification and certification of officers and had almost nothing to say about environmental competence.24

The 2025 Act integrates pollution prevention into the ordinary regulatory cycle. It requires compliance with international environmental standards across a wider class of vessels than before, extends pollution prevention certification to vessels previously outside the regime, and provides for reporting of pollution incidents.25 Fishing and sailing vessels, which had largely escaped the pollution regime under the earlier law, are brought within it.

More important still is the dedicated Part on maritime incidents and emergencies. The 1958 Act had no coherent answer to the question of who is in charge when a casualty occurs off the Indian coast. The 2025 Act provides for the appointment of a nodal authority, identifies the

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23 Constitution of India, Seventh Schedule, List II Entry 21 (fisheries) and List I Entry 57 (fishing and fisheries beyond territorial waters).

24 Merchant Shipping Act, 1958, s. 87, concerned with the certification and qualification of officers.

25 Merchant Shipping Act, 2025, provisions on prevention of pollution, pollution prevention certification and incident reporting.

party responsible for primary response, and requires the preparation of plans and procedures.26 Anyone who followed the events of mid-2025 will understand why this was thought necessary.

On 24 and 25 May 2025 the Liberian-flagged container vessel MSC ELSA 3 sank in the Arabian Sea off the Kerala coast with 643 containers aboard, thirteen of which carried hazardous and dangerous goods.27 Containers and cargo washed ashore across the State; fishing nets were damaged; salvage proceeded slowly. Less than three weeks later the WAN HAI 503 caught fire off the same coast. The response to both incidents was improvised, drawing on the Coast Guard, the Directorate General of Shipping, State agencies and the courts more or less simultaneously, with no single statutory authority responsible for coordination. The 2025 Act now supplies that authority. Whether it supplies enough of it is discussed in Part V below.

D. Sovereign Enforcement, Jurisdiction and Stateless Vessels

Three provisions extend the reach of Indian maritime enforcement in ways that track the United Nations Convention on the Law of the Sea more closely than the 1958 Act ever did.

The first is a hot pursuit power. Where a foreign vessel violates Indian law within Indian coastal waters, the Government may pursue it onto the high seas to investigate and, if necessary, seize it.28 This mirrors Article 111 of UNCLOS, and its absence from the 1958 Act had been a longstanding oddity given that India ratified UNCLOS in 1995. The second is a power to treat vessels not entitled to fly the flag of any State, or that have lost that entitlement, as vessels without nationality liable to detention, a provision drawn from Article 92(2) of UNCLOS.29 In an era of flag-hopping and falsified registration documents, this is a useful tool, and it acquires additional significance in light of the shadow fleet problem discussed in Part VI.

The third concerns abandoned vessels. The 1958 Act treated a vessel abandoned without hope or intention of recovery as a wreck, which conflated two quite different situations: a vessel that has been lost, and a vessel that is intact but has been walked away from by an owner facing insolvency or liability. The 2025 Act separates them. It requires abandoned vessels to satisfy seaworthiness standards for registration under the Indian flag and empowers the Central

26 Merchant Shipping Act, 2025, Part on maritime incidents and emergencies, providing for a nodal authority and for identification of the party responsible for primary response.

27 'Toxic Threat Remains of Sunken Ship off Kerala Coast', Deccan Herald (2025); the vessel carried 643 containers, of which thirteen contained hazardous and dangerous goods.

28 Merchant Shipping Act, 2025, provisions on pursuit of foreign vessels; cf. United Nations Convention on the Law of the Sea, 1982, art. 111.

29 Merchant Shipping Act, 2025, provisions on vessels without nationality; cf. UNCLOS, art. 92(2).

Government to issue directions for their safe, secure and sustainable handling, with provision for recovery of the costs incurred.30 The recovery mechanism is the important part; the standard problem with abandoned vessels is not that the State lacks power to act but that it lacks any realistic prospect of being paid for acting.

E. Decriminalisation and the Jan Vishwas Logic

Consistent with the Jan Vishwas (Amendment of Provisions) Act, 2023 and the broader decriminalisation programme, the 2025 Act converts a range of minor offences into civil penalties imposable by Administrators, reserving prosecution for serious contraventions.31 The argument for this is straightforward. Criminal liability for technical documentation failures is disproportionate, clogs the courts, and deters investment without improving compliance.

The argument against is worth stating too, because it is rarely made in the Indian commentary. Maritime safety regulation works, in large part, because the consequences of non-compliance are severe enough to overcome the commercial incentive to cut corners. A penalty that can be absorbed as a cost of doing business is not a deterrent; it is a price. Whether the shift from criminal to administrative sanction improves or weakens compliance depends entirely on the quantum of the penalties prescribed and on the vigour with which Administrators impose them. The Act does not answer that question, and the answer will emerge only from the rules and from practice. The experience of environmental regulation in India, where the substitution of administrative penalties for criminal liability under the Environment (Protection) Act has attracted sustained criticism, counsels some caution.32

F. Commercial Transparency and Digital Administration

One provision of the 2025 Act has no direct analogue in the earlier law and deserves particular attention. Every service provider or agent dealing with Indian vessels, or with vessels operating in Indian coastal waters, must specify in the transport document all charges payable by the exporter, importer, consignor or consignee. Levying an undisclosed charge, or failing to

30 Merchant Shipping Act, 2025, provisions on abandoned vessels, including seaworthiness requirements for registration and recovery of costs.

31 Jan Vishwas (Amendment of Provisions) Act, 2023 (Act 18 of 2023); Merchant Shipping Act, 2025, provisions empowering Administrators to impose penalties for minor contraventions.

32 See the criticism directed at the Jan Vishwas amendments to the Environment (Protection) Act, 1986, substituting monetary penalties for imprisonment in respect of a range of contraventions.

disclose, attracts a penalty imposed by an authority notified by the Central Government, subject to the person affected being heard.33

This addresses a genuine grievance. Indian exporters have complained for years about surcharges appearing at the point of delivery (terminal handling, documentation, congestion and emergency surcharges of various descriptions) that were not disclosed when the freight was booked. The Competition Commission of India has examined related conduct in the shipping lines sector without conclusive results, largely because the conduct sits uncomfortably between competition law and consumer protection.34 A disclosure obligation backed by penalty is a more direct instrument.

Its limits should be acknowledged. Disclosure regulates the form of the charge, not its level. A carrier that lists an aggressive surcharge in the transport document complies fully with the section while leaving the shipper exactly where it was. The provision will be useful to the extent that transparency enables comparison and comparison produces competitive pressure. In a liner trade characterised by alliance structures and concentrated capacity on particular routes, that is an assumption rather than a certainty.

The e-governance provisions are less contentious. The Act enables electronic filing, issue and payment across the range of documents the administration handles, and mandates a digital vessel inspection system supported by a risk-profile database for vessels calling at Indian ports.35 Risk profiling of this kind is standard in mature port State control regimes; the Paris and Tokyo Memoranda of Understanding have used ship risk profiles to target inspections for well over a decade.36 Bringing the Indian system onto that footing is overdue and welcome. The obvious caveat is that a risk-profiling database is only as good as the data fed into it and the surveyors available to act on its output.

V. THE FAULT LINES: A CRITIQUE

33 Merchant Shipping Act, 2025, provisions requiring disclosure of all charges payable in the transport document and prescribing penalties for undisclosed levies.

34 See Competition Commission of India proceedings concerning conduct in the container shipping and freight forwarding sectors.

35 Merchant Shipping Act, 2025, provisions on electronic filing, issue and payment of documents and on the digital vessel inspection system with a risk-profile database.

36 See the Paris Memorandum of Understanding on Port State Control, Ship Risk Profile methodology, and the corresponding regime under the Tokyo MOU, to which India is a party.

The preceding Part has taken the 2025 Act largely on its own terms. This Part asks a harder question: where is the statute likely to fail, and why?

A. Skeletal Legislation and the Delegation Problem

The 2025 Act is, in substantial measure, a framework statute. It creates categories, confers powers and states objectives; the operative content lives in rules. This is visible in the drafting formula that recurs throughout the Act: the Central Government 'may, by notification, specify', 'may make rules providing for', 'as may be prescribed'. It is visible in the fact that the Act commenced in March 2026 with draft rules on maritime labour, sailing vessels, seafarers' accommodation and safety of navigation still under consultation.37 And it is visible in the deliberate choice to leave the class of persons eligible to own registered vessels open to executive notification.

There are defensible reasons for this approach in a sector governed by international instruments that are amended frequently through tacit acceptance procedures. If every MARPOL amendment required a statutory amendment, Indian law would be permanently behind. The Carriage of Goods by Sea Act, 2025 makes the same design choice explicitly, empowering the Government to modify the rules on bills of lading without returning to Parliament.38

But the constitutional objection does not disappear because the policy reason is good. The doctrine on excessive delegation, running from In re Delhi Laws Act through Hamdard Dawakhana and Devi Das Gopal Krishnan, requires the legislature to lay down the essential legislative policy and permits delegation only of the working out of details.39 A statute that leaves the identification of eligible shipowners, the quantum of penalties, the content of labour standards for fishers, and the substance of survey and certification requirements to executive discretion is testing the boundary. The point is not that any particular provision is unconstitutional; it is that the aggregate effect is to relocate the centre of gravity of Indian shipping law from Parliament to the Ministry, with the reduced transparency and reduced opportunity for legislative scrutiny that entails.

There is a practical dimension as well. Rules can be changed quickly, which is the virtue claimed for them; but they can also be changed quietly. An industry planning capital investment

37 See note 13 above.

38 Carriage of Goods by Sea Act, 2025, empowering the Central Government to amend the rules relating to bills of lading set out in the Schedule.

39 In re Delhi Laws Act, 1912, AIR 1951 SC 332; Hamdard Dawakhana v. Union of India, AIR 1960 SC 554; Devi Das Gopal Krishnan v. State of Punjab, AIR 1967 SC 1895.

on a twenty-five year vessel life needs to know that the regulatory basis of that investment will not shift on a Gazette notification. Some of the ease-of-doing-business gain from a shorter, clearer statute is given back if the real rules are found in a shifting body of delegated legislation.

B. The Liability Vacuum: What MSC ELSA 3 Revealed

The most serious gap in the 2025 Act is not something it gets wrong but something it does not attempt. The sinking of MSC ELSA 3 exposed the inadequacy of the Indian regime for compensating catastrophic maritime casualties, and the 2025 Act does not address it.

The State of Kerala filed an admiralty suit claiming approximately ₹9,531 crore, comprising pollution damage, environmental restoration costs and economic loss to fishing communities.40 Unable to proceed against the sunken vessel, the State sought the arrest of sister vessels operated by the same group. The Kerala High Court ordered the conditional arrest of MSC AKITETA II, then lying at Vizhinjam, holding that an arguable maritime claim had been made out under sections 4 and 5 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.41 Two other sister vessels, MSC MANASA F and MSC POLO II, had already been arrested in suits filed by private cargo claimants.

The litigation that followed illustrates the difficulty. The registered owner of MSC ELSA 3 was one single-ship company; the registered owner of MSC AKITETA II was another. The State argued that registered ownership was nominal, that operational and financial control lay elsewhere, and that the corporate structures had been arranged so as to defeat claims, pointing to the common address shared by the various owning companies.42 The Court held that it was prima facie satisfied on sister-vessel status, leaving the question for trial, and subsequently reduced the security required for release from ₹9,531 crore to ₹1,227.62 crore.43 A limitation action was filed on the owners' side, which raises the question of the ceiling on liability.

Three problems emerge from this sequence, and the 2025 Act addresses none of them.

First, the single-ship company structure is standard practice in international shipping and is not in itself unlawful, but it means that the assets available to satisfy a casualty claim are limited

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40 State of Kerala v. M.V. MSC Akiteta II, Kerala High Court (Justice M.A. Abdul Hakhim), interim order dated 7 July 2025 in Admiralty Suit; the claim comprised pollution damage, environmental restoration costs and economic loss to the fishing community.

41 Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, ss. 4 and 5.

42 The State contended that registered ownership was nominal and that the owning entities shared a common address, indicating a structure designed to defeat claims: see the Kerala High Court's order of September 2025 in the same proceedings.

43 Order dated 7 July 2025 modified by substituting security of Rs. 1,227.62 crore for Rs. 9,531 crore.

to one vessel and its insurance. Sister-ship arrest under the 2017 Act is the principal corrective, and its effectiveness depends on a court's willingness to look past registered ownership to beneficial ownership. That is an exercise the Indian courts have undertaken, but it remains fact-intensive, slow and uncertain.44 A statutory presumption keyed to common beneficial ownership or common management would have been a reasonable reform to consider.

Second, the limitation regime is dated. India gives effect to the Convention on Limitation of Liability for Maritime Claims, 1976 through the provisions carried over from Part XA of the 1958 Act, and the Bombay High Court has confirmed that the Convention was introduced into Indian law by that route.45 The 1996 Protocol substantially raised the limitation amounts, and successive amendments have raised them further. Whether India should align with the higher limits is a policy question on which reasonable people differ (higher limits raise insurance costs, which are borne ultimately by trade), but it is a question that a comprehensive rewriting of merchant shipping law might have been expected to confront. It did not.

Third, and most fundamentally, the compensation architecture for pollution damage in India covers oil and bunkers but not much else. The Civil Liability Convention regime deals with persistent oil from tankers; the Bunkers Convention deals with bunker oil from other ships. Damage caused by hazardous and noxious substances is dealt with internationally by the HNS Convention as amended by the 2010 Protocol, which is not yet in force for want of ratifications.46 A container ship carrying containerised dangerous goods, sinking in the Arabian Sea, falls into precisely the gap the HNS regime was designed to fill. Kerala's recourse was to an admiralty claim in tort, with all the proof and quantification difficulties that implies, rather than to a strict liability and compulsory insurance regime with a fund behind it.

It is not suggested that Parliament could have solved the HNS problem unilaterally; the Convention's fund mechanism depends on international participation. But domestic law could have created a strict liability channel for damage from dangerous goods carried by sea, backed by compulsory insurance and direct action against the insurer, along the lines of the Nairobi Convention model that India has already accepted for wreck removal. The 2025 Act, for all its

44 On sister-ship arrest and the identification of beneficial ownership under the 2017 Act, see the commentary in ICLG, Shipping Laws and Regulations: India (2025-2026).

45 M.V. Yuri Arshenevskiy, 2016 SCC OnLine Bom 167, holding that the Convention on Limitation of Liability for Maritime Claims, 1976 was introduced into Indian law through the Merchant Shipping Act, 1958.

46 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended by the Protocol of 2010; the Protocol has not yet entered into force.

length and ambition, leaves the coastal fisherman in the same position he was in under the 1958 Act: dependent on a State government's willingness to litigate on his behalf.

C. Emergency Response: Authority Without Capacity

The dedicated Part on maritime incidents is an improvement, but designating a nodal authority does not by itself produce a response capability. What the 2025 casualties showed was a shortage of hard assets and trained personnel: salvage capacity, oil spill response equipment positioned close enough to matter, aerial surveillance, and the technical expertise to assess a hazardous cargo manifest quickly. The National Oil Spill Disaster Contingency Plan, administered by the Coast Guard, provides the operational framework for oil, but its coverage of chemical and container casualties is thinner.47

The Act also leaves the relationship between the nodal authority and the courts unclear. In the Kerala episode, the High Court was effectively supervising aspects of the response, calling for reports from the Director General of Shipping on the progress of salvage.48 Judicial supervision of an ongoing emergency is not ideal, since courts are not equipped to direct salvage operations, but it fills a vacuum. If the nodal authority under the 2025 Act is to occupy that space, the statute or the rules will need to say more about its powers to direct salvors, to require the owner to act, and to act itself at the owner's cost.

D. Federalism and the Coastal State

Shipping and navigation on the sea are Union subjects under Entry 25 of the Union List, and the 2025 Act is squarely within legislative competence.49 But the consequences of a maritime casualty fall on coastal States: on their fisheries, their tourism, their public health systems and their beaches. Kerala's response to MSC ELSA 3 was to sue, because suing was the only instrument available to it. It had no statutory locus in the regulatory response, no seat at the table in the salvage decision, and no claim on any compensation fund.

The 2025 Act's institutional design does not accommodate this. The National Shipping Board includes Members of Parliament and nominated members but the Act does not require representation of coastal State governments in the emergency response machinery. Nor does it provide for cost-sharing or for a State's right to be consulted before decisions are taken that

47 Indian Coast Guard, National Oil Spill Disaster Contingency Plan.

48 The Kerala High Court called for a report from the Director General of Shipping on the progress of salvage operations, on a petition by fishermen's associations.

49 Constitution of India, Seventh Schedule, List I Entry 25 (maritime shipping and navigation).

will determine whether contaminated cargo comes ashore on its coast. Given that the Union has been willing to build cooperative structures in other domains, the Goods and Services Tax Council being the most prominent example, the omission is notable. A statutory requirement that the affected coastal State be represented in the incident command structure would cost little and would improve both the quality of decisions and their legitimacy.

E. The Capacity of the Maritime Administration

Renaming the Director General of Shipping as the Director General of Maritime Administration, and transferring to that office a wide range of functions previously exercised by the Central Government, concentrates authority in a way that makes sense on paper.[50] It also concentrates workload. The Directorate has long operated with a surveyor cadre small in relation to the fleet it certifies, and the 2025 Act expands the regulated population considerably by bringing in small craft, fishing vessels and sailing vessels that were previously outside the registration and certification regime.

The Act's answer, implicitly, is delegation to recognised organisations, that is, classification societies acting on the administration's behalf. That is normal international practice and is contemplated by IMO instruments. But delegation to class carries its own well-documented risks, since classification societies are paid by the shipowners they survey, and the flag State remains responsible in international law for the acts of the organisations it recognises.[51] A statute that expands the certification universe while relying on delegated survey ought to contain rather more about oversight of recognised organisations than the 2025 Act does.

VI. EMERGING CHALLENGES IN MARITIME GOVERNANCE

A statute enacted in 2025 and commenced in 2026 will govern Indian shipping for a generation. It is fair, therefore, to ask how it is placed to deal with developments that were visible when it was drafted and are now upon us.

A. Decarbonisation and the Net-Zero Framework Impasse

International shipping accounts for close to three per cent of global greenhouse gas emissions, and the IMO's 2023 Strategy commits the sector to reaching net zero by or around 2050, with a forty per cent reduction in carbon intensity by 2030 against a 2008 baseline.

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50 See note 10 above.

51 On flag State responsibility for the acts of recognised organisations, see UNCLOS, art. 94, and the IMO Code for Recognized Organizations.

The mechanism intended to deliver this was the IMO Net-Zero Framework, approved at the eighty-third session of the Marine Environment Protection Committee in April 2025. It would have inserted a new Chapter 5 into Annex VI of MARPOL, combining a greenhouse gas fuel intensity standard with a pricing and reward mechanism, with enforcement from 2028 for vessels of 5,000 gross tonnage and above and revenue flowing into an IMO Net-Zero Fund.52 Adoption was expected at an extraordinary session in October 2025. Instead, after a contentious meeting marked by unusual political pressure, member States voted by fifty-seven to forty-nine, with twenty-one abstentions, to adjourn the decision for a year.53 The session is to reconvene in October 2026; work on implementation guidelines has continued in the interval, and questions have been raised about whether future amendments should be subject to explicit rather than tacit acceptance, which would slow implementation further.54

The 2025 Act contains no chapter on greenhouse gas emissions, no fuel intensity mechanism and no framework for a carbon levy on shipping. Its answer to decarbonisation is the general obligation to comply with international conventions and the rule-making power that goes with it. Two views are possible about this. The charitable view is that it was prudent to avoid legislating a domestic carbon mechanism while the international position remained unsettled, and that the Act's enabling architecture will permit rapid implementation once the Net-Zero Framework is adopted. The less charitable view is that India has left itself without a domestic policy instrument at exactly the moment when the international regime has stalled, and that shipowners planning newbuilding orders now have no signal from Indian law about what fuel and technology choices will be recognised or rewarded.

India's own position in the IMO negotiations has been that of a developing State seeking to protect its trade competitiveness while supporting the long-term goal, a position broadly shared with other large developing economies and grounded in the tension between the IMO's principle of no more favourable treatment and the common but differentiated responsibilities

52 IMO, 2023 IMO Strategy on Reduction of GHG Emissions from Ships; the Net-Zero Framework was approved at MEPC 83 in April 2025 and would have inserted a new Chapter 5 into MARPOL Annex VI, with enforcement from 2028 for vessels of 5,000 GT and above.

53 IMO, 'IMO Net-Zero Shipping Talks to Resume in 2026' (17 October 2025); the motion to adjourn was carried by 57 votes to 49, with 21 abstentions, at the Second Extraordinary Session of the Marine Environment Protection Committee (14-17 October 2025).

54 Global Maritime Forum, 'A Guide to the IMO's Net-Zero Framework' (2026); on the proposal to substitute explicit for tacit acceptance of future amendments, see the report of the Committee's proceedings.

principle of the climate regime.55 That tension is not going to resolve itself, and Indian domestic law will eventually have to take a position on it.

B. Autonomous Shipping and the MASS Code

Maritime autonomous surface ships moved from concept to regulated category in May 2026, when the Maritime Safety Committee adopted the International Code of Safety for Maritime Autonomous Surface Ships by resolution MSC.595(111). The Code took effect on 1 July 2026 as a non-mandatory instrument applying to cargo ships covered by Chapter I of SOLAS.56 An experience-building phase runs from 2026, with a framework for that phase to be developed at the Committee's session in December 2026; a mandatory Code is targeted for adoption by 2030 with entry into force through SOLAS amendments on 1 January 2032.57

The 2025 Act was drafted before this and does not accommodate it. The difficulty is not simply that the word 'autonomous' does not appear. It is that the statute's architecture assumes a manned vessel. The obligations attaching to the master, the manning and certification provisions, the framework of seafarers' employment agreements and the machinery for investigating casualties are all constructed around persons physically on board. A remotely operated vessel controlled from a shore control centre raises questions the Act simply does not ask: is the remote operator a seafarer for the purposes of the labour provisions; who is the master; where is the vessel's manning certificate to be issued from; does an Indian shore control centre operating a foreign-flagged vessel fall within Indian jurisdiction at all; how does the collision regulations framework, which is drafted around the ordinary practice of seamen, apply to an algorithm?

The rule-making power is broad enough to permit a good deal of this to be addressed in subordinate legislation. But some of it is not really rule-making territory. Whether a shore-based operator is a seafarer, with the consequences that follow for wages, hours of rest, repatriation and social security, is a question of legislative policy, and answering it by executive notification would be an unusually clear illustration of the delegation concern raised earlier.

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55 On the tension between the IMO principle of no more favourable treatment and the principle of common but differentiated responsibilities, see the submissions of developing States in the MEPC greenhouse gas negotiations.

56 IMO Resolution MSC.595(111), adopting the International Code of Safety for Maritime Autonomous Surface Ships, May 2026; the Code took effect on 1 July 2026 as a non-mandatory instrument applying to cargo ships under SOLAS Chapter I.

57 IMO, 'IMO Adopts First Global Code for Autonomous Ships' (22 May 2026), setting out the timetable for the experience-building phase and for adoption of a mandatory Code by 1 July 2030 with entry into force on 1 January 2032.

The experience-building phase gives India a window, roughly to 2030, in which to develop a considered position and to participate in shaping the mandatory Code. That window will need to be used.

C. Cyber Risk and Navigational Interference

Shipping's exposure to cyber attack is no longer speculative. The 2017 attack on A.P. Moller-Maersk, which disrupted terminal operations worldwide, remains the reference case, but the more persistent problem is interference with navigation systems. Global navigation satellite system jamming and spoofing have been reported at scale in the Persian Gulf, the Strait of Hormuz, the Black Sea and the eastern Mediterranean, with vessels' reported positions displaced by tens of kilometres.58 The IMO has addressed cyber risk through Resolution MSC.428(98), which requires cyber risks to be addressed in safety management systems under the ISM Code, and the MASS Code includes cyber security requirements.59

The 2025 Act's response is indirect. It provides for a body responsible for the security of ships and port facilities, empowered to enforce security regulations and share information, in line with the ISPS Code.60 The ISPS Code, however, was drafted in the aftermath of the September 2001 attacks and is concerned principally with physical security: access control, restricted areas, security levels and declarations of security. It was not designed for a threat model in which the attack vector is a software update to an electronic chart display system or a spoofed satellite signal.

India has a general cyber security architecture in the Information Technology Act, 2000, the CERT-In directions and the designation of critical information infrastructure under section 70, and ports have been considered in that context.61 What is missing is the connective tissue: a clear statement of whether a vessel's operational technology forms part of critical information infrastructure, whether cyber incidents affecting vessels must be reported to the maritime administration as well as to CERT-In, and how the flag State's ISM obligations interact with domestic cyber regulation. This is a gap the rules could fill, and it would be sensible to fill it before rather than after the first serious incident in Indian waters.

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58 On the scale of GNSS jamming and spoofing affecting merchant shipping, see the advisories issued by industry bodies and the reporting of position displacement in the Persian Gulf and Black Sea.

59 IMO Resolution MSC.428(98), Maritime Cyber Risk Management in Safety Management Systems.

60 Merchant Shipping Act, 2025, provisions empowering the establishment of a body responsible for the security of ships and port facilities, consistent with the International Ship and Port Facility Security Code.

61 Information Technology Act, 2000, s. 70, and the directions issued by the Indian Computer Emergency Response Team.

D. The Shadow Fleet and Flag-State Integrity

Since 2022, sanctions on Russian oil exports have driven the growth of what is variously called the shadow, dark or grey fleet: older tankers operating with opaque ownership, unverifiable insurance, frequent changes of flag and name, and a practice of disabling automatic identification systems during ship-to-ship transfers. Estimates of its size vary widely depending on the definition used, but the phenomenon is large enough that it has become a standing item at the IMO, which adopted an Assembly resolution in 2023 urging States to prevent illegal operations in the tanker trade.62

India's exposure is direct. Indian refiners have been among the largest purchasers of Russian crude since 2022, and a substantial proportion of that crude arrives on tonnage of uncertain provenance. The risks are not primarily legal but physical: a laden aframax with no verifiable P&I cover, an ageing hull, and a crew of uncertain certification is a casualty waiting to happen, and if it happens in the Arabian Sea the compensation problem discussed in Part V will present itself in an even less tractable form, because there will be no solvent insurer to sue.

The 2025 Act gives India better tools than it had. The power to treat vessels not entitled to fly any flag as stateless and to detain them is directly applicable to the more egregious cases of fraudulent registration.63 The mandatory insurance and certification requirements extended across a wider class of vessels, combined with the digital inspection and risk-profiling system, provide a basis for targeting suspect tonnage at Indian ports. What the Act does not do, and what would require a policy decision well above the level of shipping legislation, is require verification of insurance as a condition of port entry or of transit through the Indian exclusive economic zone, as some European States have moved towards.64 The gap between the tools available and the willingness to use them is likely to be the operative constraint here, and no statute can close it.

E. Ship Recycling

The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships entered into force on 26 June 2025, having secured the necessary ratifications. India,

62 See the resolution adopted by the IMO Assembly in 2023 urging member States to prevent illegal operations in the tanker sector, and the continuing work of the IMO Legal Committee on fraudulent ship registration.

63 See note 29 above.

64 Several European coastal States have introduced requirements for verification of insurance cover in respect of tankers transiting their waters.

which accounts for a large share of world ship recycling by tonnage through the yards at Alang, acceded in 2019 and enacted the Recycling of Ships Act, 2019 to give effect to it.65

The 2025 Act's contribution is the provision for temporary registration of foreign vessels brought to India for recycling.66 This is more significant than it appears. The standard practice in the industry has been for a vessel to be sold to a cash buyer, reflagged to a flag of convenience for a final voyage, renamed and beached, a sequence designed in part to complicate the application of the Basel Convention's controls on transboundary movement of hazardous waste and to distance the beneficial owner from the recycling.67 Bringing the vessel onto the Indian register for the recycling period gives the Indian administration a jurisdictional hook it did not previously have.

The tension with the Basel Convention has not been resolved and the 2025 Act does not resolve it. The European Union's Ship Recycling Regulation maintains standards above the Hong Kong Convention's and continues to require EU-flagged vessels to be recycled at approved facilities, several of which are now in Alang; the relationship between the Hong Kong regime, the Basel Convention and the Basel Ban Amendment remains contested in the literature and in practice.68 For India, whose recycling industry depends on continued access to European and Japanese tonnage, that contest matters commercially as well as legally.

VII. A COMPARATIVE NOTE

It is worth placing the Indian reform beside two other jurisdictions, briefly, because the comparison clarifies what the 2025 Act is and is not trying to do.

Singapore's Merchant Shipping Act is not conspicuously more elegant than India's, but the Maritime and Port Authority of Singapore operates a registry that combines quick turnaround, an aggressive fee structure for large fleets, and a suite of incentives (the Maritime Sector Incentive scheme, funding for green vessel adoption) that sit outside the shipping statute entirely.69 The lesson is that registry growth is achieved by the tax authority and the port

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65 Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, in force 26 June 2025; Recycling of Ships Act, 2019 (Act 41 of 2019).

66 See note 16 above.

67 On the practice of final-voyage reflagging and its interaction with the Basel Convention, see the literature on the transboundary movement of end-of-life vessels.

68 Regulation (EU) No 1257/2013 on ship recycling; Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989, and the Ban Amendment.

69 Maritime and Port Authority of Singapore, Maritime Sector Incentive scheme and associated registry initiatives.

authority working together, not by the shipping statute alone. India's 2025 Act, which addresses only the legal eligibility question, is doing one third of that job.

The United Kingdom's Merchant Shipping Act 1995 is a consolidating statute of comparable ambition, and its subsequent history is instructive on the delegation question. Almost all substantive UK merchant shipping regulation is now made by statutory instrument, and the volume of that instrument-making has been such that practitioners rely on the regulations rather than the Act for most purposes. That is broadly where the Indian regime is heading. The UK experience suggests it is workable, provided the subordinate legislation is published promptly, consolidated periodically, and subject to a functioning scrutiny process. Those three conditions cannot be taken for granted.

VIII. RECOMMENDATIONS

The following proposals follow from the analysis above. They are offered as amendments or as matters for the rules, and they are deliberately modest; a statute enacted after a decade of consultation is unlikely to be reopened wholesale, and the more useful contribution is to identify what can be done within the framework as it stands.

First, the rules under the Act should be notified on a published timetable, and a consolidated compilation of merchant shipping rules should be maintained and updated. The gap between commencement in March 2026 and the notification of complete subordinate legislation is the single largest source of present uncertainty for the industry.

Second, the C-188 standards for fishing vessels should be applied by rule rather than left to indefinite executive discretion, at minimum to Indian-flagged fishing vessels operating beyond territorial waters, with a model law circulated to coastal States for the vessels within their competence.

Third, India should undertake a considered review of the limitation of liability regime, including the case for adopting the higher limits under the 1996 Protocol to the LLMC, and should legislate a strict liability and compulsory insurance channel for damage caused by hazardous and noxious substances carried by sea, whether or not the HNS Protocol enters into force.

Fourth, the incident command structure established under the emergency provisions should include statutory representation for the affected coastal State, and the rules should specify the nodal authority's powers to direct salvage operations and to recover costs from the owner and its insurer.

Fifth, the sister-ship arrest provisions of the Admiralty Act, 2017 should be supplemented by a rebuttable presumption of common ownership where vessels share beneficial ownership, management or a registered address, shifting the evidentiary burden onto the owner.

Sixth, India should establish a working group on maritime autonomous surface ships to develop a national position during the experience-building phase, addressing at a minimum the legal status of shore-based operators, the allocation of the master's functions, and the jurisdictional treatment of shore control centres located in India.

Seventh, cyber incident reporting obligations should be integrated into the maritime administration's reporting framework, with the relationship between ISM Code obligations, CERT-In directions and critical information infrastructure designation set out clearly in rules.

Eighth, verification of valid protection and indemnity cover should be made a condition of port entry for tankers above a specified age or tonnage, as a targeted response to the shadow fleet.

IX. CONCLUSION

The Merchant Shipping Act, 2025 is a considerable achievement of legislative housekeeping. It has removed a colonial statute and its Victorian drafting from the field, replaced a sprawling and unnavigable text with a coherent one, brought India's registration and certification regime into line with international practice, and given the maritime administration powers it should have had decades ago. Its provisions on abandoned seafarers, hot pursuit, stateless vessels and maritime emergencies fill real gaps. Its liberalisation of ownership is sensible even if its effect on tonnage is likely to be smaller than the accompanying rhetoric suggests.

The criticisms in this paper are of a particular kind. They are not that the Act does the wrong things but that it does not do enough of them, and that it leaves too much to be settled later and elsewhere. A framework statute is only as good as the rules made under it, and those rules are, at the time of writing, incomplete. The compensation architecture for catastrophic casualties remains where it was in 2002, which the events off the Kerala coast in 2025 showed to be inadequate. The three developments most likely to reshape shipping over the life of this statute, namely carbon pricing, autonomy and cyber risk, are addressed, if at all, through general enabling powers rather than considered legislative policy.

There is a defence of that position, and it should be given its due. The international regime is itself unsettled: the Net-Zero Framework was adjourned rather than adopted, the MASS Code is non-mandatory and experimental, the HNS Protocol is not in force. A flag State that legislated ahead of the international consensus would risk imposing costs on its own fleet that competitors do not bear. The 2025 Act's enabling architecture is, on this reading, a rational response to uncertainty.

The difficulty with that defence is that it works only if the enabling powers are actually exercised, and exercised in time. India's record on that score is mixed; the 1958 Act was amended to give effect to conventions years after ratification, and the Recycling of Ships Act, 2019 preceded the Hong Kong Convention's entry into force by six years without the intervening period being used to build regulatory capacity at Alang. The test of the 2025 Act will not be the quality of its drafting, which is good, but whether the Ministry of Ports, Shipping and Waterways uses the powers Parliament has given it with the speed and seriousness the sector requires. India has, at last, a merchant shipping statute written in this century. Whether it acquires a merchant shipping regime to match is a question the next few years will answer.

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