



Bombay Chamber  
of Commerce & Industry

BY HAND

ST&L/ 1245

June 19, 2009

The Dy. Director General of Shipping  
Directorate General of Shipping  
Jahaz Bhavan  
Walchand Hirachand Marg  
Mumbai - 400 001

Kind attention : Mr. Samuel Darse

Dear Sir,

**Shipping Trade Practices Bill, 2008 and proposed amendments  
In the Multimodal Transportation of Goods Act, 1993**

With reference to the above subject, we are pleased to re-submit our representation regarding the draft Shipping Trade Practices Bill, 2008, with our suggested changes and comments explaining the rationale, wherever so required, in the format given by your office.

Kindly accept the draft as our final submission on the subject matter.

Thanking you,

Yours faithfully,

  
Manju Sood  
Executive Director

Encl: As above.

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22/6/2009  
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नौवहन महानिदेशालय मुंबई  
Directorate General of Shipping, Mumbai

## THE SHIPPING TRADE PRACTICES, 2008

### A Bill

SR. NO.	EXISTING PROVISION (SECTION NO. & TEXT)		PROPOSED MODIFICATIONS/DELETIONS/ADDITIONS		JUSTIFICATION
	<p>to provide for bringing transparency in trade practices adopted by maritime transport logistics service providers in respect of services rendered by them for arranging transportation of containerized cargo; registration of such service providers and their obligations; mode and manner of fixing tariff by the service providers; EXIM and for matters connected therewith or incidental thereto.</p>		<p>to provide for bringing transparency in trade practices adopted by <b>maritime shipping</b> transport logistics service providers in respect of services rendered by them for arranging transportation of <b>containerized Export &amp; Import</b> cargo; registration of such service providers and their obligations; <del>mode and manner of fixing</del> <b>displaying of</b> tariff by the service providers; <b>the obligations of the Service Users EXIM</b> and for matters connected therewith or incidental thereto.</p>		<p>The word 'Maritime' is changed to 'Shipping' as Maritime Transport Logistics Service might involve activities that are not intended to be covered by this Act. Whereas, Shipping Transport and Logistic Services activities are the ones which, we presume, that are intended to be covered by the proposed Act. Further, the title of the proposed Act is : The Shipping Trade Practices Act and not The Maritime Trade Practices Act.</p> <p>Have removed the words 'mode and manner of fixing' as, is in our considered view "fixing of tariff" is impractical in a homogeneous function of shipping logistic activities where a common tariff is not feasible in as much as the requirements of the customers are not standardized.</p> <p>The words "the obligations of the Service Users" have been added in order to ensure that the principle of <i>pari passu</i> is maintained as, specially, this aspect has been ignored in the draft provided.</p>
	<p>BE it enacted by Parliament in the Fifty-ninth of the Republic of India as follows:</p>		<p>BE it enacted by Parliament in the Fifty-ninth of the Republic of India as follows:-</p>		

	PART I PRELIMINARY			PART I PRELIMINARY		
	1. (1) This Act may be called the Shipping Trade Practices Act, 2008	Short title extent and commencement		1. (1) This Act may be called the Shipping Trade Practices Act, 2008	Short title extent and commencement	
	(2) It extends to the whole of India except the State of Jammu and Kashmir.			(2) It extends to the whole of India except the State of Jammu and Kashmir.		
	(3) It shall come into force on such date as the Central Government may by notification in the Official Gazette appoint.			(3) It shall come into force on such date as the Central Government may by notification in the Official Gazette appoint.		
	2. Unless otherwise expressly provided, the Provisions of this Act shall apply to persons carrying out the functions of maritime transportation logistics service provider and such other service which is a part of logistic chain in regard to EXIM (Export & Import) containerized cargo by:	Application of Act		2. Unless otherwise expressly provided, the Provisions of this Act shall apply to persons carrying out the functions of <b>maritime shipping &amp;</b> transportation logistics service provider and such other service which is a part of logistic chain in regard to <b>EXIM Export &amp; Import containerized</b> cargo by:	Application of Act	EXIM has been expanded to Export and Import
	(a) providing services in relation to carriage or transportation by sea or in combination with air, road or rail or any other mode;			(a) providing services in relation to carriage or transportation by sea or in combination with air, road or rail or any other mode;		
52 of 1962	(b) providing warehousing services including CFS/ICD operations as laid down under the Customs Act, 1962, or		52 of 1962	(b) providing <b>Custom House Agent Services</b> , warehousing services including CFS/ICD/ <b>PORT/TERMINAL</b> operations as laid down under the Customs Act, 1962, or		The words 'Custom House Agent Services' and 'Port / Terminal' are included as these functionaries have a serious and inclusive role to play in the shipping and transport logistic services and their specific omission would hamper the intended purpose of this Act.

	(c) providing services relating to stuffing and destuffing of containers.			(c) providing <b>any</b> services relating to <del>stuffing and destuffing of containers.</del> <b>Export &amp; Import Cargo.</b>		Amplified to cover the areas of activities
	3. (1) In this Act, unless the context otherwise requires:	Definitions		3. (1) In this Act, unless the context otherwise requires:	Definitions	
	(a) “appellate authority” means the appellate authority designated as such under sub-section (1) of section 16;			(a) “appellate authority” means the appellate authority designated as such under sub-section (1) of section 16;		
	(b) “common carrier” means a person holding itself out to the general public to provide transportation by water or sea for passengers or for the purposes of exim containerized cargo between one port or point of receipt in India, and any other port, or point of delivery within the country or any other port or point of delivery in a foreign country for consideration, and			(b) “common carrier” means a person holding itself out to the general public to provide transportation by water or sea for passengers or for the purposes of <del>exim containerized</del> <b>Export &amp; Import</b> cargo between one port or point of receipt in India, and any other port, or point of delivery within the country or any other port or point of delivery in a foreign country for consideration, and		
	(i) assumes responsibility for such transportation from one port or point of receipt in India to the port or point of delivery at the destination within the country or abroad and;			(i) assumes responsibility for such transportation from one port or point of receipt in India to the port or point of delivery at the destination within the country or abroad and;		
	(ii) utilizes, for all or part of that transportation, a vessel operating on the waterways or on high seas between ports in India and a port in a foreign country except that the term does not include a tramp ship or a chemical or liquid parcel tanker.			(ii) utilizes, for all or part of that transportation, a vessel operating on the waterways or on high seas between ports in India and a port in a foreign country except that the term does not include a tramp or <b>break bulk</b> ship or a chemical or <b>a gas or</b> liquid parcel tanker.		For better clarity the words, ‘a gas or’ liquid tanker is included and also considering the practicality, ‘break bulk’ ships are excluded as these are operated by countless tramp operators.

	(c) “competent authority” means the competent authority designated as such section 5;			(c) “competent authority” means the competent authority designated as such section 5;		
	(d) “maritime transportation logistics service provider” means services provided in relation to carriage or transportation by sea or in combination with air, road or rail or any other mode of transport provided by a non-vessel owning common carrier, a common carrier, a forwarding agent, a freight forwarder or a cargo consolidator, and other multimodal transport operators;			(d) <b>“maritime shipping &amp; transportation logistics service provider”</b> means services provided in relation to carriage or transportation by sea or in combination with air, road or rail or any other mode of transport provided by a non-vessel <del>owning</del> <b>operating</b> common carrier, a common carrier, <b>a Ship Agent, a forwarding Custom House Agent, a Freight Forwarder or a Cargo Consolidator, and other multimodal transport operators; a Port Operator a Terminal Operator, a CFS Operator, a ICD Operator, a Rail Operator, a Road Operator, a Airline Operator including Airline &amp; any other entity involved in shipping &amp; transportation of Export &amp; Import cargo.</b>		The word ‘owning’ has been substituted with ‘operating’ as the intended inclusion is for NVOCC, as we understand, and, hence, this correction. Also we have specified the agencies involved in the shipping and transportation logistic services.
	(e) “maritime transportation logistics service provider” means the person providing maritime transportation logistics service;			(e) <b>“maritime shipping &amp; transportation logistics service provider”</b> means the person providing <del>maritime shipping &amp;</del> transportation logistics service;		
	(f) “prescribed” means prescribed by rules made under this Act.			(f) “prescribed” means prescribed by rules made under this Act.		
	<b>(g) “Service Receiver” or “Service User” means</b>			<b>(g) “Service Receiver” or “Service User” means a person who has entered into or</b>		The draft Act, erroneously, excluded ‘Service Receiver’ or ‘Service User’ from the Provisions

				demonstrates an intention of entering into a contractual arrangement with a Common Carrier or Shipping & Transportation Logistics Service Provider for the shipment of goods.		of this Act. Hence, it has been specifically included as otherwise it will be difficult for the Service Providers to fulfill the obligations under this Act.
	(h) "Tariff" means			(h) "Tariff" shall mean the terms, conditions, provisions, practices, classifications relating to the activities of acceptance, handling, loading, customs clearance, transportation, discharge, delivery, invoicing, receipting and documentation of the Common Carrier or the Shipping & Transport Logistics Provider on the standard services generally rendered by them on Export and Import cargo, including the identification of the heads of charges applied by them for such activities.		The term 'tariff' has not been defined though the Act deals with tariff at many places. Even though, as we submitted above, there cannot be a standardized tariff which can be displayed, the elements of areas that constitute tariff could be clarified, and, hence, this inclusion.
28 of 1993	(2) The words and expressions not defined in this Act but defined in the Multimodal Transportation of Goods Act, 1993 shall have the meaning assigned to them in that Act.		28 of 1993	<del>(2) The words and expressions not defined in this Act but defined in the Multimodal Transportation of Goods Act, 1993 shall have the meaning assigned to them in that Act.</del>		Despite having Multimodal Transportation of Goods Act, which itself was passed after much debate, if there is a requirement for an additional legislation, then it is more appropriate to have definitions and expressions specified in this new Act rather than having a meaning given in the MMTG Act.

	PART II			PART II		
	REGISTRATION FOR PROVIDING MARITIME TRANSPORTATION LOGISTICS SERVICE			REGISTRATION FOR PROVIDING <del>MARITIME</del> SHIPPING & TRANSPORTATION LOGISTICS SERVICE		
	4. No persons shall carry on or commence the business of maritime transportation logistics service unless he is registered under this Act.	Registration to commence business of maritime transportation logistics service		4. No persons shall carry on or commence the business of <del>maritime</del> shipping & transportation logistics service unless he is registered under this Act.	Registration to commence business of <del>maritime</del> shipping & transportation logistics service	
	Provided that a person carrying out the business of maritime transportation logistics service immediately before the commencement of the Act, may continue to do so for a period of three months, after such commencement			Provided that a person carrying out the business of <del>maritime</del> shipping & transportation logistics service immediately before the commencement of the Act, may continue to do so for a period of <del>three</del> six months, after such commencement		The draft provided a provision for carry on business for 3 months until the process of registration is complete. We suggest same be made 6 months considering the inconvenience for people spread out at various parts of India to complete the process of registration with the Competent Authority whose nomenclature is yet to be made known.
	Provided further that if the maritime transportation logistics service provider has made an application for registration within the said period of three months, then, he may continue his business till the disposal of the application.			Provided further that if the <del>maritime</del> shipping & transportation logistics service provider has made an application for registration within the said period of three months, then, he may continue his business till the disposal of the application.		



28 of 1993	Provided also that a person registered under the Multimodal Transportation of Goods Act, 1993 shall, within a period of three months, after the commencement of this Act, comply with the requirement for registration under this Act, relating to the payment of fee, providing a bank guarantee or insurance cover, as the case may be, as are in excess of the Multimodal Transportation of Goods Act, 1993.		28 of 1993	Provided also that a person registered under the Multimodal Transportation of Goods Act, 1993 shall, within a period of <del>three</del> <b>six</b> months, after the commencement of this Act, comply with the requirement for registration under this Act, relating to the payment of fee <del>or</del> providing a bank guarantee <del>or insurance cover</del> , as the case may be, as are in excess of the Multimodal Transportation of Goods Act, 1993.		Same as above
	5. The Central Government may by notification, designate an officer, not below the rank of a Director to the Government of India, to be the competent authority, for the purposes of this Act and provide it with such other officers and staff as may be considered necessary.	Appointment of competent authority		<del>5. The Central Government may by notification, designate an officer, not below the rank of a Director to the Government of India, to be the competent authority, for the purposes of this Act and provide it with such other officers and staff as may be considered necessary.</del>	Appointment of competent authority	



				<p><b>The Central Government may, by notification, appoint a Shipping Trade Commission to be the Competent Authority for the purpose of this Act. The Commission shall consist of not less than five (5) members and shall include not less than three (3) members with knowledge of and experience in the Shipping Industry and Shipping and Maritime law. The Shipping Trade Commission shall be appointed for a period of five (5) years and shall be provided with such officers, staff , information technology resources and financial/ administrative budget adequate to carry out its functions under the Act.</b></p>		<p>We submit that instead of a Competent Authority, a Shipping Trade Commission be appointed with multiple members constituting the Commission, as different aspects of shipping and logistic activities are involved and persons with specific domain knowledge and experience need to be the members for judicious implementation of this Act. Such practice is already in existence in many other areas and it is only appropriate that under this proposed Act also similar standards of expertise is maintained for better dispensation of justice.</p>
				<p><b>The Shipping Trade Commission shall be chaired by a Central Government Officer not below the rank of Joint Secretary. The Central Government Officer mentioned above shall be the administrative head of the Competent Authority, for all functions, including those related to the Registration of Service Providers. All other functions relating to the implementation of this Act, including those relating to the grievance, if any, from the Service user or from the Service provider, shall be dealt with jointly and collectively by all the Members of the Competent Authority.</b></p>		

	6. (1) An application for grant of registration, to commence the business of maritime transportation logistics service provider, shall be made to the competent authority in such manner and in such form as may be prescribed.	Application for grant of registration		6. (1) An application for grant of registration, to commence the business of <del>maritime shipping &amp;</del> transportation logistics service provider, shall be made to the competent authority in such manner and in such form as may be prescribed.	Application for grant of registration	
	2) The application shall accompany –			2) The application shall accompany –		
	(i) such fee as may be prescribed, which shall not be less than ten thousand rupees			(i) such fee as may be prescribed, which shall not <del>be less than ten</del> <b>exceed one hundred</b> thousand rupees		While the draft Act specifies minimum Rs. 10,000/- as registration fee we are specifying that same shall not exceed Rs. 100,000/- thereby specifying the upper limit of increase in fee if any at a later date.
	(ii) a bank guarantee of such value as may be prescribed, which shall not be less than ten lakh rupees;			(ii) a bank guarantee of such value as may be prescribed, which shall not <del>be less than ten</del> <b>more than five</b> lakh rupees;		Our members feel that Bank Guarantee of Rs. 10 lacs will be too steep and may bar any prospective entrepreneurs from entering this field. Hence, same should be maintained at Rs. 5 lacs.
	(iii) an insurance of such value, from an underwriter providing for third party liability cover, of not less than the package liability, as may be prescribed.			<del>(iii) an insurance of such value, from an underwriter providing for third party liability cover, of not less than the package liability, as may be prescribed.</del>		<b>This section is not clear at all. Presumably it is to cover carrier liability in event of cargo loss or damage. But this liability is covered under the clauses of the carrier's bill of lading. This liability is also defined under various international conventions and National Legislations. The objectives of the STP Act are transparency and dispute resolution. Cargo liability does not belong here. Inasmuch as service provider is already providing Bank Guarantee of Rs. 5 lakh.</b>
						<b>This section is to be deleted.</b>

	(3) On receipt of an application under sub-section (1), the competent authority may, after making such inquiries as it considers necessary and by order in writing, either grant or refuse to grant the registration within a period of ninety days from the date of receipt of the application complete in all respects:			<del>(3) — On receipt of an application under sub-section (1), the competent authority may, after making such inquiries as it considers necessary and by order in writing, either grant or refuse to grant the registration</del>		Explanation already given
				<b>Provided that the competent authority may, for reasons to be recorded in writing, either grant or refuse to grant registration if it is satisfied that the applicant does not fulfill the said condition</b> within a period of ninety days from the date of receipt of the application complete in all respects:		The draft provision appears to be arbitrary while dealing with the issue of registration. Hence, this modified clause.
	Provided that no order of refusal shall be made unless			Provided that no order of refusal shall be made unless –		
	(a) the applicant has been given a reasonable opportunity of being heard; and			(a) the applicant has been given a reasonable opportunity of being heard; and		
	b) the grounds on which registration is refused is recorded in the order.			b) the grounds on which registration is refused is recorded in the order.		
	(4) A registration granted under this section-			(4) A registration granted under this section-		
	(a) shall be valid for a period of five years from the date of issue unless it is cancelled under section 11;			(a) shall be valid for a period of <b>five-ten</b> years from the date of issue unless it is cancelled under section 11;		

	(b) may be renewed from time to time after the expiry of five years, for a further period of five years in the manner specified under section 10; and			(b) may be renewed from time to time after the expiry of <b>five ten</b> years, for a further period of <b>five ten</b> years in the manner specified under section 10; and		
	(c) shall be in such form, and be subject to such conditions, as may be prescribed.			(c) shall be in such form, and be subject to such conditions, as may be prescribed.		
	(6) An application for registration under this Act shall only be considered from a person whose place of business is registered in India under any law for the time being in force.			(6) An application for registration under this Act shall only be considered from a person <b>as defined under Section 2 of this Act. whose place of business is registered in India under any law for the time being in force.</b>		This clause is reworded to reflect relevance with the Section 2 of this Act.
	(7) The registration certificate shall be non-transferable.			(7) The registration certificate shall be non-transferable.		
	7. (1) Every person who provides maritime transportation logistics services shall publish the tariff for the services provided by him in such manner as may be prescribed, and shall be bound by the tariff so published unless such tariff is modified in the manner aforesaid.	Obligation of persons registered		<b>7. (1) Every person who provides maritime transportation logistics services shall publish the tariff for the services provided by him in such manner as may be prescribed, and shall be bound by the tariff so published unless such tariff is modified in the manner aforesaid.</b>	Obligation of persons registered	This provision is reworded to reflect the practicality of dealing with tariff, since, as explained earlier, there cannot be a standardized tariff. Further, all Lines' B/L has a specific clause printed overleaf calling upon customers to obtain the tariff related to the service they have solicited by demanding for same. The changed description of this clause would be in conformity with such stated practice of the trade as prevailing.
				<b>1. Every person who provides Common Carrier or Shipping &amp; Transport Logistics Service ( hereafter referred to as Service Providers) shall display their</b>		

				Rules & Regulations and Standard Trading Conditions in a manner that may be prescribed and shall be bound by the Tariff so published unless such Tariff is modified in the manner hereinbelow.		
				1.1 Every person who provides Common Carrier or Shipping & Transport Logistics Service ( hereafter referred to as Service Providers) shall respond to all queries from Service Users relating to Rates by quoting comprehensive rates with the period of their validities for the services being rendered to the Service User.		
				1.2 Notwithstanding the above provisions, the Service Provider will be obliged to give the Service User a comprehensive list of all charges, prior to the commitment of the export shipment by the Service User to the Service Provider.		
	(2) The tariff published under sub-section (1) shall not be modified to the disadvantage of the service receiver without giving prior notice in such manner as may be prescribed.			<del>(2) The tariff published under sub-section (1) shall not be modified to the disadvantage of the service receiver without giving prior notice in such manner as may be prescribed.</del>		This, again, is an impractical clause for implementation. Hence, same is reworded to suit the existing practice of the Trade.

				<b>The Tariff published under sub section (1) shall be modified by the Service User only on giving at least seven ( 7 ) calendar days' notice in a manner , including electronic means, that is accessible to Service Users.</b>		
	8. The registration certificate and the published tariff shall be displayed at each and every premises of the maritime transportation logistics service provider at a conspicuous place accessible to the public.	Display of registration certificate.		8. The registration certificate <del>and the published tariff</del> shall be displayed at each and every premises of the <del>maritime shipping</del> <b>maritime shipping &amp;</b> transportation logistics service provider at a conspicuous place accessible to the public. <b>The tariff shall be available to the service receiver on demand.</b>	Display of registration certificate.	As already submitted there cannot be a displayable tariff and hence clause has been modified suitably.
	9. (1) No common carrier shall transport cargo for the account on shipper known to be a compliance maritime transportation logistics service provider unless the carrier has ascertained that such service provider is registered under this Act.	Proof of compliance		9. (1) No common carrier shall transport cargo for the account on shipper known to be a compliance <del>maritime shipping &amp;</del> transportation logistics service provider unless the carrier has ascertained that such service provider is registered under this Act.	Proof of compliance	
28 of 1993	(2) No maritime transportation logistics service provider shall use a common carrier to transport cargo unless he has ascertained that the common carrier is registered under the provisions of this Act or the Multimodal Transportation of Goods Act, 1993.		28 of 1993	(2) No <del>maritime shipping &amp;</del> transportation logistics service provider shall use a common carrier to transport cargo unless he has ascertained that the common carrier is registered under the provisions of this Act or the Multimodal Transportation of Goods Act, 1993.		

	10. (1) An application for renewal of registration shall be made to the competent authority, not less than ninety days before the date of expiry mentioned in the registration certificate, in such form as may be prescribed and shall be accompanied by the fees and documents required under sub-section (2) of section 6.	Renewal of registration		10. (1) An application for renewal of registration shall be made to the competent authority, not less than ninety days before the date of expiry mentioned in the registration certificate, in such form as may be prescribed and shall be accompanied by the fees and documents required under sub-section (2) of section 6.	Renewal of registration	
	(2) The competent authority shall pass an order on the application for renewal of registration within a period of thirty days from the date of receipt of application complete in all respects.			(2) The competent authority shall pass an order on the application for renewal of registration within a period of thirty days from the date of receipt of application complete in all respects.		
	(3) On receipt of an application under sub-section (1), the competent authority may, after making such inquiries as it considers necessary and by order in writing, renew or refuse to renew the registration:			<b>(3) On receipt of an application under sub-section (1), the competent authority may, after making such inquiries as it considers necessary and by order in writing, renew or refuse to renew the registration:-</b>		This clause has been reworded to remove the arbitrariness in the process of renewal of registration.
				<b>On receipt of application under sub-section (1) the competent authority shall renew the registration certificate if the applicant continues to fulfill the conditions as laid down at the time of registration.</b>		
	Provided that no order of refusal shall be made except after giving the applicant a reasonable opportunity of being heard.			Provided that no order of refusal shall be made except after giving the applicant a reasonable opportunity of being heard.		



	(11) (1) The registration made under this Act shall be subject to production of the bank guarantee and the insurance cover every year and to the satisfaction of the competent authority.	Termination suspension and cancellation of registration		(11) (1) The registration made under this Act shall be subject to production of the bank guarantee <del>and the insurance cover</del> every year and to the satisfaction of the competent authority.	Termination suspension and cancellation of registration	
	(2) The registration shall be deemed to be suspended from the date on which the bank guarantee or the insurance cover is lapsed.			(2) The registration shall be deemed to be suspended from the date on which the bank guarantee <del>or the insurance cover</del> has lapsed.		We have removed the word insurance cover as we have submitted earlier. Insurance is not relevant to this Act as it is already covered under MMTG.
	(3) The competent authority on a complaint or otherwise may, if it is satisfied after registration that <i>prima facie</i> sufficient grounds for cancellation of registration exists, issue orders for suspension of registration till the matter is finally disposed off.			<del>(3) The competent authority on a complaint or otherwise may, if it is satisfied after registration that <i>prima facie</i> sufficient grounds for cancellation of registration exists, issue orders for suspension of registration till the matter is finally disposed off.</del>		This clause has been deleted to avoid hardship to the Service Provider who is already in the business.
	(5) The competent authority on a complaint or otherwise may, if it is satisfied, at any time after registration that –			<del>(4) The competent authority on a complaint or otherwise</del> may, if it is satisfied, at any time after registration that –		The numerical number of clause seems to have been erroneously miswritten. Hence, the correction on the serial no. The deleted words are removed for simplicity.
	(a) any declaration made in, or in relation to any application under this Act is incorrect or false; or			(a) any declaration made in, or in relation to any application under this Act is incorrect or false; or		
	(b) any provision of this Act or the rules made thereunder has been contravened by the maritime transportation logistics service provider,			<del>(b) any provision of this Act or the rules made thereunder has been contravened by the maritime transportation logistics service provider,</del>		We feel that this clause need to be removed as it does not specify the nature of contravention by a Service Provider
	cancel the registration:			cancel the registration:		

	Provided that considering the nature and circumstances of the contravention under this sub-section, the competent authority may impose a fine not exceeding ten lakh rupees in lieu of cancellation of the registration.			Provided that considering the nature and circumstances of the contravention under this sub-section, the competent authority may impose a fine not exceeding <del>ten</del> <b>five</b> lakh rupees <del>in lieu of cancellation of the registration.</del>		The amount is corrected in line with the changes made in earlier provision.
	6) No order under this section shall be made without giving an opportunity of being heard to the maritime transportation logistics service provider.			<b>5)</b> No order under this section shall be made without giving an opportunity of being heard to the <del>maritime</del> <b>shipping &amp;</b> transportation logistics service provider.		
				<b>(12) Service Receiver / Service User shall</b>  <b>(1) Give the Common Carrier or Shipping &amp; Transport Logistics Service Provider ( hereafter referred to as Service Providers ) comprehensive and accurate details of the cargo to be shipped in the time required by the Service Provider to plan and execute the shipment.</b>		This clause has been included as the draft Act does not provide for same. We feel that it is very important that Service Users' responsibilities and obligations are specifically included in this Act.
				<b>(2) Give the Service Provider, when required, adequate documentation attesting the nature of the cargo and its packaging for safe and efficient transportation.</b>		
				<b>(3) Not exceed the safe weight limits declared by the Service Provider.</b>		

				(4) Take responsibility for the safe and timely return of the Service Provider's equipment while it is in the Service Users' custody and the liability to pay for damages, if any, including total write off, to the Service Providers' equipment or for the delayed return of the Service Providers' equipment while in the Service Users' custody.		
				(5) When loading cargo into the Service Providers' equipment, properly load, stow and secure the cargo inside the equipment to avoid damage to the equipment and conform to the requirements of ocean or multimodal transportation. If such damage takes place and is documented by the Service Provider, to pay for the costs of repairing/ rectifying the same.		
				(6) When destuffing the cargo from the Service Providers' equipment, to carry out the operation in a manner that does not damage the Service Providers' equipment. If such damage takes place and is documented by the Service Provider, to pay for the costs of repairing/ rectifying the same.		

				<b>(7) To pay the charges of the Service Provider as per the terms agreed between the Service User and Service Provider.</b>		
	12. In case of contravention of any provision of this Act or the rules under thereunder or any condition of the registration, if any service receiver is subjected to suffer any financial loss, then, the competent authority may direct to receiver pay out of the fine, if any, imposed under the proviso to sub-section (5) of section 11, the financial loss and interest thereon to such receiver;	Compensation for financial loss suffered by service receiver		<b>13.</b> In case of contravention of any provision of this Act or the rules under thereunder or any condition of the registration, if any service receiver is subjected to suffer any financial loss, then, the competent authority may direct to receiver pay out of the fine, if any, imposed under the proviso to sub-section (5) of section 11, the financial loss and interest thereon to such receiver;	Compensation for financial loss suffered by service receiver	
	Provided that if such fine is not paid or the fine so imposed is insufficient to make good the loss or if the registration is cancelled, the competent authority may realize the amount from the bank guarantee as may be required to compensate the service receiver towards the loss and the interest due thereon and for the satisfaction of the fine.			Provided that if such fine is not paid or the fine so imposed is insufficient to make good the loss or if the registration is cancelled, the competent authority may realize the amount from the bank guarantee as may be required to compensate the service receiver towards the loss and the interest due thereon and for the satisfaction of the fine.		

	PART III			PART III		
	TARIFF PUBLICATION SYSTEM			TARIFF PUBLICATION SYSTEM		
	13. Every maritime transport logistic service provider shall in addition to publishing his tariff under section 7, make available his tariff to the public inspection in an automated tariff publication system as may be notified in the Official Gazette by the competent authority, showing thereon all its charges, classification, conditions and practices on its own or through any transport group that has been established publication and also the date of expiry of the bank guarantee provided by such service provider under this Act and the date of expiry of policy of the insurance obtained by him.	Manner of tariff publication		<del>14. Every maritime transport logistic service provider shall in addition to publishing his tariff under section 7, make available his tariff to the public inspection in an automated tariff publication system as may be notified in the Official Gazette by the competent authority, showing thereon all its charges, classification, conditions and practices on its own or through any transport group that has been established publication and also the date of expiry of the bank guarantee provided by such service provider under this Act and the date of expiry of policy of the insurance obtained by him.</del>	Manner of tariff publication	
				<b>Every Common Carrier and Shipping &amp; Transport Logistics Service Provider ( hereafter referred to Service Providers ) shall in addition to displaying his tariff under section 7, make available his tariff to the public inspection in a tariff publication system as may be notified in the Official Gazette by the Competent Authority, showing thereon all Rules &amp; Regulations, Standard Trading Conditions, classification,</b>		This clause is changed in line with our submission on tariff.

				<p>conditions and practices on its own or through any transport group that has been established for publication and also the date of expiry of the bank guarantee provided by such service provider under this Act.</p> <p>In case of an automated tariff publication, the Service Provider is authorized to require Registration with them of the Service User so long as this Registration is only for the purposes of customer identification.</p>		
	PART IV			PART IV		
	MANNER OF LOGDING COMPLAINS AND DISPOSAL THEREOF			MANNER OF <del>LOGDING COMPLAINS</del> <b>LOGGING COMPLAINTS</b> AND DISPOSAL THEREOF		The word 'complaint' has been correctly spelt.
	14. (1) The shipper, consignee, consigner or any person who provides the maritime transport logistic service may make a complaint for violation of any provision of this Act or the rules made thereunder, in such manner as may be prescribed.	Making of complaints and disposal thereof		15. (1) The shipper, consignee, consigner or any person who provides the <del>maritime shipping &amp; transportation</del> <b>maritime shipping &amp; transportation</b> logistic service may make a complaint for violation of any provision of this Act or the rules made thereunder, in such manner as may be prescribed.	Making of complaints and disposal thereof	
	(2) The competent authority or an officer authorized by it in this behalf shall investigate the complaint of violations of any provision of thereof this Act or the rules made thereunder, received under sub-section (1) against the service provider.			(2) The competent authority or an officer authorized by it in this behalf shall investigate the complaint of violations of any provision of thereof this Act or the rules made thereunder, received under sub-section (1) against the service provider <b>or receiver</b> .		The words 'or receiver' are included to deal with the service providers' complaint.

	<p>15. (1) Any person aggrieved by an order of the competent authority under this Act may, within a period of ninety days from the date on which the order is communicated to him appeal; to the appellate authority in such manner and on payment of such fees as may be prescribed:</p>	<p>Appeals</p>		<p>16. (1) Any person aggrieved by an order of the competent authority under this Act may, within a period of ninety days from the date on which the order is communicated to him appeal; to the appellate authority in such manner and on payment of such fees as may be prescribed:</p>	<p>Appeals</p>	
	<p>Provided that the appellate authority may entertain an appeal after the expiry of the said period and within a period of one year if it is satisfied that the appellant was prevented by sufficient cause from filing of the appeal in time.</p>			<p>Provided that the appellate authority may entertain an appeal after the expiry of the said period and within a period of <b>one year six months</b> if it is satisfied that the appellant was prevented by sufficient cause from filing of the appeal in time.</p>		<p>Period of one year is substituted with six months as we feel that one year is too long for deciding an issue under this Act as we do not want the service providers' business to be hampered.</p>
				<p>(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the parties a reasonable opportunity of being heard and after making such enquiry as it may consider necessary, dispose of the appeal within a period of ninety days, and the decision of the appellate authority <del>thereon shall be final.</del> <b>may be contested in a Court of Law not lower than the High Court.</b></p>		<p>The words have been added to preserve the constitutional right of the service provider for legal recourse.</p>
	<p>(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the parties a reasonable opportunity of being heard and after making such enquiry as it may</p>					



	consider necessary, dispose of the appeal within a period of ninety days, and the decision of the appellate authority thereon shall be final.					
	16. (1) The Central Government may be notification, designate an officer, not below the rank of the Joint Secretary to the Government of India, to be the appellate authority, for the purposes of this Act.	Appointment of appellate authority.		<del>17.—(1) The Central Government may be notification, designate an officer, not below the rank of the Joint Secretary to the Government of India, to be the appellate authority, for the purposes of this Act.</del>	Appointment of appellate authority.	We have made the changes in the appointment of an Appellate Authority to ensure due process of justice to the affected parties. In our view, appeals should be dealt with by an experienced judicial authority.
				<b>The Central Government may by notification, appoint a Retired Judge of the High Court to function as the Appellate Authority, for the purpose of this Act.</b>		
	(2) The Central Government may, for efficient discharge of functions by the appellate authority, provide it with such officers and staff as the Government considers necessary.			<del>(2) The Central Government may, for efficient discharge of functions by the appellate authority, provide it with such officers and staff as the Government considers necessary.</del>		The changes in this clause are essential to ensure speedy dispensation of service in matters relating to registration and of dealing with complaints.
				<b>The Central Government may, for the efficient discharge of functions by the Appellate Authority, provide it with such officers, staff, information technology resources and financial / administrative budget as the Government considers necessary.</b>		

PART V			PART V		
MISCELLANEOUS			MISCELLANEOUS		
	17. If any person, who is registered under this Act for providing maritime transportation logistics service, contravenes any provision of this Act or any rule made thereunder or who commits a breach of any of conditions of the registration, shall be punishable with a fine which may extend to ten lakh rupees.	Penalty		18. (1) If any person, who is registered under this Act for providing <del>maritime</del> <b>maritime shipping &amp;</b> transportation logistics service, contravenes any provision of this Act or any rule made thereunder or who commits a breach of any of conditions of the registration, shall be punishable with a fine which may extend to ten lakh rupees.	Penalty
				(2) <b>Service receiver</b>	This provision has been added as the draft does not provide issues relating to Service Receiver's responsibilities.
				<b>If any person, who uses the services of a Service Provider under this Act, fails in his duties and obligations towards the Service Provider, with regard to the service so used, shall be punishable with a fine which will be twice the value of the service used or the amount of loss suffered by the Service Provider whichever is lower and same shall be paid to the Service Provider with interest thereon, if any.</b>	

	18. No suit, prosecution or other legal proceeding shall lie against the competent authority, the appellate authority or any officer authorized by it in respect of anything in good faith done or intended to be done under this Act.	Indemnity		19. No suit, prosecution or other legal proceeding shall lie against the competent authority, the appellate authority or any officer authorized by it in respect of anything in good faith done or intended to be done under this Act.	Indemnity	
	19. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.	Power of Central Government to make rules.		20. (1) The Central Government may, by notification in the Official Gazette, make rules <b>in consultation with the shipping &amp; transportation logistics service providers and service receivers</b> for carrying out the purposes of this Act.	Power of Central Government to make rules.	Changes in the rules, if arbitrarily made by the Government could seriously affect the business functions itself and hence the suggestion to consult before any changes are made effective.
	(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-			(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-		
	(a) the form of application and the manner such application for grant of registration under sub-section (1) of section 6;			(a) the form of application and the manner such application for grant of registration under sub-section (1) of section 6;		

	(b) the fees to be paid under clause (i); the period for which, and the form in which, the bank guarantee is to be given under clause (ii) and the insurance cover under clause (iii) of sub-section (2) of section 6;			(b) the fees to be paid under clause (i); the period for which, and the form in which, the bank guarantee is to be given under clause (ii) <del>and the insurance cover under clause (iii)</del> of sub-section (2) of section 6;		The words relating to insurance is deleted as per earlier submission.
	(c) the form and the conditions of the registration under clause (c) of sub-section(5) of section 6;			(c) the form and the conditions of the registration under clause (c) of sub-section (4) of section 6;		
	(d) the procedure and manner of publication and revision of tariff by the person registered for providing maritime transportation logistics service under sub-section (1) and the manner of giving notice for change of tariff under sub-section (2) of section 7;			<b><i>(d) the procedure and manner of publication and revision of tariff by the person registered for providing maritime transportation logistics service under sub-section (1) and the manner of giving notice for change of tariff under sub-section (2) of section 7;</i></b>		
	(e) the form of application for renewal of registration under sub-section (1) of section 10;			(e) the form of application for renewal of registration under sub-section (1) of section 10;		
	(f) the manner of making complaints under sub-section (1) of section 14;			(f) the manner of making complaints under sub-section (1) of section 14;		
	(g) the manner of making appeals and the fees to be paid under sub-section (1) of Section 15.			(g) the manner of making appeals and the fees to be paid under sub-section (1) of Section 15.		

	(h) any other matter which is to be or may be prescribed.			(h) any other matter which is to be or may be prescribed.  <b>(i) to make rules for the obligations of the service receiver</b>		This clause has been added to ensure the inclusion of Service Receiver's obligation
	(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may, be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.			(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may, be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.		