

Indian Constitutional Aid Association



ANALYSIS Major Ports Trust Act

Author: Pragya Jaishwal
Indian Constitutional Aid Association

- The Bill was introduced to replace the current **Major Port Trust Act (MPL) of 1963 (MPT)**, regulating the ownership, management and regulation of major ports in India. The new legislation would **protect 11 of the 12 main ports of administration, i.e. Chennai, Cochin, Kandla, Kolkata, Mumbai, New Mangalore, Mormugao, Paradip, V.O. Kidambaranar, Vishakhapatnam. Jawaharlal Nehru port.** (The company is established Ennore Port.)[1]
- Shri Pon Radhakrishnan, then Minister of State, introduced the Main Port Authorities Bill of 2016 in Lok Sabha. It tried to make the **main ports more self-sufficient and mobile**. It was referred to the **Parliamentary Standing Committee after the original presentation of the Bill (PSC)**. In July 2017, the Committee released its report. The Shipping Ministry made an official improvement to the plan in 2018, on the basis of recommendations. However, after the 16th lok Sabha was disbanded, the Bill lapsed.[2]

[1]http://164.100.47.193/Refinput/New_Reference_Notes/English/The%20Major%20Port%20Authorities%20Bill%202018.pdf

[2] <https://pib.gov.in/newsite/PrintRelease.aspx?relid=200153>

- Instead of amending the original statute, the grounds for proposing a new Bill are:

- o Big ports face problems functioning and meeting business challenges in a highly competitive environment.
- o The Port Trusts, according to the MPT Act of 1963, had to contact the Central State for approval of all strategic decision-making triggering delays in operating matters.
- o Unflexibility in developing big ports tariffs rendered them inept with smaller ports.
- o Unable to enter into negotiations under the PPP and receive funds without the Central Government's permission.
- During the period 2018-2019[3], these ports operated a total of 699.04 million tonnes of cargo
- Without the consent of the central government, the Port Trusts had not been granted permission to perform development work (Master Plan).

[3]

<https://economictimes.indiatimes.com/industry/transportation/shipping/-/transport/cabinet-nod-to-major-ports-authority-bill-to-replace-existing-law/articleshow/74099748.cms?from=mdr>

Features

- **Model landlord:** the Bill restructuring the "governance model" to "landlord model" The Board shall exert greater freedom and versatility in its day-to-day activities and control of the major port.

- **Membership of Key Port Authority Board:**

The composition of the Board will be as follows

- o Chairperson
- o Deputy Chairperson
- o One member each from
 - Ø Concerned State Government
 - Ø Ministry of Railways
 - Ø Ministry of Defence and Customs
 - Ø Department of Revenue
- o Two members representing the interests of employees of the Major Port Authority

- o A member Nominated by the Government
- o Not less than 2 and up to 4 independent members.

Port Authority strengthened power: The Port Authority will also have the authority to set the port service service tariff depending on business conditions for PPP operators. This was provided previously by the Major Ports Tariff Authority (TAMP).[4]

Without Central Government permission, the Port Authority has the power to enter into contracts under the PPP model depending on the sales or royalties determined by the Council.

Capability to increase loans: The Board shall have the authority, within India or any other financial institution other than India, that complies with any legislation, to collect loans and securities from banks or financial institutions.

Adjudicatory Board: the Bill creates an Adjudicatory Board of 3, with a Chairman and two other Central Government members named.

[4] <https://www.financialexpress.com/economy/cabinet-decisions-tamp-set-to-sink-major-ports-to-have- autonomy/1866273/>

The Board of Arbitration has competence over:

- o Contradictions or discrepancies in rights statements
- o Boards' responsibilities
- o Queries
- o Resolutions for PPP and Port Dispute

Reducing Central Government Powers: The number of decisions that the Port Trust had to approve from the centre was lowered to eight out of three quarters, which would allow more stability and consistency for decision-making. • Minimize central government control.

Criticism

Privatisation

- o The model suggested lays out the way for the operations to delegate and encourages PPP private actors to provide port facilities. At the request of private players, tariffs will shoot up in such a situation.
- o The Government stressed that the port administration and governance model of Singapore is being applied, indicating that it is on the way to ports privatisation. Public facilities are ports. However, Section 53 of the Bill provides the Government with the authority to direct the Board to follow policy decisions that will subsequently turn ports into a private company and disinvest them in providing them to private actors. Section 53 of the Main Port Trust Act, 1963 replicates section 111. However, it was not used by former administrations. This segment clears the way for the future in view of the vigorous drive of the government for disinvestment.[5]
- o These issues materialise as we investigate the private Mundra port operated by the Adani Company. The Gujarat Assembly's Public Accounts Committee (PAC) outlined a host of concerns concerning benefiting the Adani party at the detriment of the public interest by the government of Gujarat.[6]

[5] <https://www.thehindubusinessline.com/economy/logistics/major-port-authorities-bill-stage-set-for-corporatisation-of-major-ports/article31059430.ece>

[6] <https://www.newsclick.in/eXCLUSIVE-how-gujarat-government-helped-adani-port-company>

- Ø Gujarat Adani port Limited, which now operates and maintains the companies of a variety of ports, including in states such as Gujarat, Kerala, Timil Nadu and odisha, as the Adanian Ports and Special Economic Zone Limited.
- Ø The CAG strongly criticised the government of Gujarat for providing the Party of Adani with unequal advantages by waiver of its duties on private port management. The CAG study on the basis of the criticism of the PAC criticised the government's plan to expand private ports, while retaining underutilization of government ports.[7]
- Ø The report stated: "The development of the Port of Mundra, which was intended as a Joint Sector port, proved to be a privately owned port which was not subject to competitive bidding" and concluded that "the Government of Gujarat had lost 108,12 crore as revenue due to all these concessions and changes in the conditions set by the Contract." [8]

[7] <https://www.newsclick.in/eXCLUSIVE-how-gujarat-government-helped-adani-port-company>

[8] https://cag.gov.in/sites/default/files/audit_report_files/Gujarat_Report_4_2014.pdf

Employees on the Board representation: Though two seats for the members of employers on the Board are given for, The 2-4 "independent" members' clause will quickly outweigh interest. Interest.

Global Protection-Nation security cargo is handled in ports of Cochin, Mumbai, Vishakhapatnam and Goa. There are questions about the danger to national security if the privately owned players manage shipments of this nature.

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