AMTOI NEWS

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Interview With

Mr. N. Sivasailam

Special Secretary,
Logistics, MOC pg.14

AMTOI

ASSOCIATION OF MULTIMODAL TRANSPORT OPERATORS OF INDIA

AMTOI

AMTOI, The Association of Multimodal Transport Operators of India, was formed with the object of organizing Multimodal Transport Operators at the national level and improving the quality of their services. The members of the Association are Multimodal Transport Operators registered with the Directorate General of Shipping, Mumbai under the Multimodal Transportation of Goods Act, 1993 which also includes some associate members like CFS operators, tank container operators etc.

The Association is a non-profit making body registered under the Indian Companies Act and is managed by the Managing Committee comprising of 7 members elected by the Operator members. The Committee is assisted by a Board of Advisors consisting of the representatives of Government / Public Sector Organizations. Also, it has various trade association representatives on its extended board and is thus likened to an apex body.

As a unique initiative, AMTOI has set up a forum called the Grievance Redressal Forum (GRF). The objective of this Forum is to create a platform for dispute resolution and thereby addressing grievances of the members of the trade.

The Association has a two-tier membership – Ordinary members who are registered as MTOs and Associate members who are not MTOs themselves but who are involved in operations connected with multimodal transport. The Associate members are not eligible for voting rights or contest in the Elections.

The Association from time to time has made suggestions for the consideration of Government and in fact the suggestion for amending the Multimodal Transportation of Goods Act and for adopting other related measures.

AMTOI has been able to secure representation on Government bodies like the Standing Committee on Promotion of Exports, (SCOPE Shipping and SCOPE Air), Task Force on Multimodal Transport and various other forums of the Ministries of Shipping, Commerce & Finance of the Government of India. The Association is also a member of the International Multimodal Transport Association based in Geneva and has thus acquired international recognition.

For the benefit of its members, regular training courses are conducted be it on tax issues, insurance or other such related subjects.

An awaited event of the year is the MULTIMODAL DAY or an AMTOI DAY which the Association organizes as an 'Annual Day' for the last many years wherein the entire shipping fraternity of Shipping Lines, Ports CFS operators, Freight Forwarders, NVOCC's, CHA's, Airlines, Government authorities in addition to MTO's come together to network and interact with each other under one roof.

Members are kept abreast of the happenings in the industry by MULTIMODAL TIMES or AMTOI Newsletter which is published as a quarterly magazine currently and we hope to graduate into a monthly publication which will attempt to capture critical issues that are close to the industry and along with opinions of the industry leaders.

Lastly, keeping abreast with the advancing technologies, AMTOI continuously improvises its website and offers tools for various industry players to come together and thus endeavoring to be a leader in its class.

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Managing Committee Members 2018-2019

Mr. Shantanu Bhadkamkar,
President

Mr. Xerrxes Master
Vice President

Mr. George Abrao,
Hon. Secretary

Mr. Ravindra J. Gandhi,
Hon. Treasurer

Mr. R K Rubin,
Managing Committee Member

Mr. T Venkataraman,
Managing Committee Member

Ms. Anjali Bhide,
Managing Committee Member

Mr. Nailesh Gandhi,
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Advisor

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Mr. Sailesh Bhatia,
Advisor

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- All India Motor Transport Congress
- Association of Container Train Operators
- CFS Association of India
- Coastal Container Transporters Association
- Consolidators Association of India
- Federation of Freight Forwarders Association of India
- Hydraulic Trailer Owners Association
- Indian National Shipowners' Association
- Indian Private Port & Terminals Association
- Maritime Association of Nationwide Shipping Agencies
- The Air Cargo Agents Association of India
- The Container Shipping Lines Association
- Women's International Shipping & Trading Association

New Members April 2019 - June 2019

MTO Members

M/s. Welgrow Line (India) Pvt.Ltd	Mumbai
M/s. RSL Freight India Pvt.Ltd	Chennai
M/s. IFX Freight & Logistics Pvt.Ltd	Mumbai
M/s. Balmer Lawrie & Co. Ltd	Kolkata
M/s. Care Container Lines Pvt.Ltd	Kolkata
M/s. Asian Worldwide Services (India) Pvt.Ltd	Mumbai
M/s. Brown Bull Logistics Pvt.Ltd	Navi Mumbai

M/s. MB projects & Logistics (India) Pvt.Ltd	Navi Mumbai
M/s. Emirates Logistics India Pvt.Ltd	Mumbai
M/s. Pentagon International Freight Solutions Pvt. Ltd	Mumbai
M/s. Pinnacle Logistics (India) Pvt. Ltd	Kolkata
M/s. TCF Logistics Pvt. Ltd	Mumbai

Associate Member

M/s. Kalash Global Logistics Pvt.Ltd	Mumbai

IMPORTANT ACTIVITIES CARRIED OUT BY AMTOI MANAGING COMMITTEE DURING THE 2nd QUARTER-2019

- National Maritime Day Seminar held on 3rd April 2019 at Hotel Lalit, Andheri East, arranged by D.G.Shipping, attended by Mr. T. Venkataraman, Amtoi MC Member.
- 2nd Extended Board Meeting of AMTOI held on 3rd April 2019 at YIMAS, Ballard Estate, Fort, Mumbai, hosted by Mr. Xerrxes Master, Vice President.
- Meeting with Dr. John Joseph, GST Council member, Budget, GOI, at Mumbai, on 6th April 2019, attended by Mr. Nailesh Gandhi and Mr. Raju Antony
- Meeting with Mr. Amitabh Kumar, New D.G.Shipping , Mumbai on 16th April 2019, President Mr. Shantanu Bhadkamkar and MC team comprising of Mr. Xerrxes Master, Mr. George Abrao, Mr. Venkat, Mr. Haresh Lalwani and Ms Anjali Bhide.
- Mr. Shantanu Bhadkamkar and Ms. Anjali Bhide alongwith Mr. Deepak Mukhi of FICCI -met Mr. Ashish Kumar Singh, Principal Secretary for Transport & Ports, Govt of Maharashtra- on 24th April 2019 at Mantralaya to discuss on "Port Stake holders Conclave"
- Mr. Arun Kumar, Co-convenor, NRC, attended interactive session on Shipping, Port, Customs and Inland waterways at Delhi, on behalf of Amtoi.
- Mr. Haresh Lalwani and Mr. George Abrao, MC members, attended a meeting at MBPT on Review Meeting on PCS1x, Chaired by Mr. Sivasailam, Special Secretary, Logistics, GOI on 4th May 2019.
- Mr. Devpal Menon, MTO Member of AMTOI/NRC attended the meeting on "NATIONAL MARITIME Conclave" at PHD Chambers, New Delhi on 9th May 2019
- "SRC Chapter "meeting held at Chennai on 14th May 2019 attended by Ms. Anjali Bhide, Mr. Venkat, Mr. George Abrao, Mr. Uday Bhaskar Reddy and Mr. Deepak Ramaswamy, convener –SRC.
- Meeting on 17th May 2019 at Express Global office, Fort, Mumbai held between M/s. Wadhwani Foundation reps , Mr. Samir Sathe and Ms. Rashmi Khurana with Mr. Nailesh Gandhi, Haresh Lalwani, Wilfred Menezes & Shankar Shinde to discuss "mentor Program" and way forward.
- 3rd Extended Board Meeting and felicitation of Mr. Raj Khalid, ex.Rep of Port of Antwerp for India, held at St. Regis Hotel, Lower Parel, followed by Cocktails and Dinner Hosted by Mr. George Abrao. Hon, Secretary of AMTOI.
- The celebration of DG Shipping foundation day on 3rd Sept. 2019- Discussion Meeting held at DGS office on 11th June 2019 attended by Mr. Haresh Lalwani and Mr. Amit Bhendre
- Jaideep Raha, AMTOI Co-Convenor, ERC- represented AMTOI as Speaker & Moderator at the "National Logistics Summit" on North East held in Hotel Radisson Blue, Guwahati, Assam on 14th June 2019.
- Mr. Haresh Lalwani represented AMTOI at CII Maharashtra State Panel on skill development & affirmative action for the year 2019-20 at CII Worli office.
- Mr. Haresh Lalwani attended "Outreach session of the Eastern Economic Forum" at Hotel J.W.Marriott, Sahar Andheri on 18th June 2019 representing AMTOI.
- Mr. George Abrao attended PCS1x follow up meeting at MBPT Board Room on 24th June 2019, chaired by Shri Sanjay Bhatia, Chairman, MBPT.

From the President's Desk

"In some ways, incumbents have a lot of benefits over new players, over start-ups. They have customers, they have great data, they often have a brand. They have financial resources, which a start-up may not have. The question is, can all of those capabilities and assets be deployed in a way that allows you to defend against new attackers as digital disrupts your industry?"

-Paul Willmott, Director at McKinsey

Dear Members,

As I pen this article, it will be almost eight months from the beginning of this term. As we look back and browse through the dense schedule of meetings, events and activities, the mind gets cluttered with numerous things and thoughts; there's a lot the President can share with the members in communication; however, we need to stick to the practical editorial space limit. I will, therefore, limit the conversation to brief about the areas where we have seen an accelerated increment of activities, and new initiatives of AMTOI. I hope you will spare a few minutes to take note of it, and share your ideas, suggestions and thoughts with us.

In the earlier communication, we have taken note of the role and the work of the councils and sub committees of AMTOI. In this communication, I wish to draw your attention to the progressive growth of activities of the Women's Wing, Youth Wing and regional councils, and encourage you to actively participate in the respective activities. You will find a report on activities of the wings and councils and I urge you to take note of these initiatives, and once again, I encourage you to participate actively. It is participation that adds significant value to the membership; passive membership doesn't help you realise the full potential of the association.

Our Industry is undergoing considerable change; this change is going to be transformative. Considering the different forces of the transformative change at work, it seems that we can't deal with this change by an 'adapt and adjust' to the changing environment strategy. The writing is on the wall we have to transform ourselves to deal with the changing environment by either mutation or by metamorphosis. Transformative changes such as this bring radical alteration in the industry structure and it is not possible to predict the impact of these changes by looking into the past as experience and old skills become redundant. Hence, this transformation is termed as the 4th Industrial Revolution[1].

The forces driving the 4th Industrial Revolution are many, which include Digital Technology[2] Lead and New Business Model Lead (or Finance Model lead) and includes deep funding by venture capitalists for extended periods. One of the biggest apprehensions for freight forwarders, custom brokers and logistics service providers in general in the context of the 4th Industrial Revolution is about the challenge of disintermediation triggered by blockchain coupled with smart contracts. Such solutions are even expected to eliminate the need for an audit; it can also eliminate the need for banks to make payments by one party to another. A transfer of digital money will require only a distributary registry like bitcoin wallet.

It also seems the objectives of mega players[3] are different:
Mega Players[3] Target
Not Market Share, Whole Market
Strategy - Sole Player
Top Line Driven Rapid Growth
Strong Buying
VCs/Stock Market Continuously Replenish Diminished Capital

AMTOI held a brainstorming session of the managing committee members and members of the youth wing and councils. The consensus was the disruptive forces of the Fourth Industrial Revolution will lead to a shakeout in the industry; the driving forces will separate the men from the boys; the sheep from the goats; and wheat from the chaff'. It will be a futile effort if the players in the space deal with the emergent changes by adjustment-based adaption. Instead, we, the logistics service providers need to transform ourselves to the next generation business models by mutation or metamorphosis[4].

"It is not the most intellectual of the species that survives; it is not the strongest that survives; but the species that survives is the one that is able best to adapt and adjust to the changing environment in which it finds itself."

- Charles Darwin, origin of species

I hope these inputs provoke creative thoughts in your mind and help you to plan your strategy for the future. AMTOI proposes to publish a white paper on this topic. Prior to or at the time of publication of the white paper, AMTOI will hold an interactive session with the members duly moderated by experienced consultants. Please do share your vision and thoughts with AMTOI; your reflections and ideas will be invaluable for the industry.

Shantanu Bhadkamkar
President

1 'The Fourth Industrial Revolution represents a fundamental change in the way we live, work, and relate to one another. It is a new chapter in human development, enabled by technology advances that are commensurate with those of the first, second and third industrial revolutions, and which are merging the physical, digital, and biological worlds in ways that create both promise and peril. The speed, breadth, and depth of this revolution is forcing us to rethink how countries should develop, how organizations create value, and even what it means to be human; it is an opportunity to help everyone, including leaders, policy-makers and people from all income groups and nations, to harness technologies in order to create an inclusive, human-centred future[1].'

- [1]World Economic Forum

2 Digital Technology[2]
Artificial Intelligence including Machine Learning & Robotic Process Automation, Simulation or Virtual Reality & Augmented Reality, 3D Printing, IOT (internet of things), Blockchain & Smart Contracts, Data Mining & Big Data Analytics, Robotics, Drones, Autonomous Vehicles and Autonomous Driving, Community Systems/Information Hubs/Information Superhighways, Digital Platforms, E-Commerce including M-Commerce...

4 When a snake sheds its skin it changes; when a caterpillar becomes a butterfly, it transforms

EDITORIAL

An Interesting 1st Quarter

In may last editorial, I had written extensively on an interesting first quarter and dwelled on the largest democracy in the world going to the polls which had the makings of a Bollywood potboiler with drama, action, adventure and even songs!

900 million people were eligible to vote. Over 67% voted which was the highest ever as well as the highest participation by women voters. Who says democracy has not prevailed in this country? The ruling incumbent gave a sound trashing to the grand old party. This flummoxed everyone, including the victors who hadn't expect to win by such a huge margin!

Reasons attributed to the victory include the personal popularity of the Honourable Prime Minister Narendra Modi, effective voter turnout efforts by the ruling National Democratic Alliance, surge in nationalism following the Pulwama attack, consolidation of votes cast and successful implementation of several social welfare programmes during the first term.

Prime Minister Modi has become the only Indian PM whose government was reelected with an increase in the total percentage of votes along with a full majority. Definitely food for thought for all of us. The PM kept the excitement alive when he made a major reshuffle in the cabinet with several new ministries and faces. The PM is determined to push though his reforms now that he has a clear and complete majority. The task is challenging, to say the least. His biggest challenge and worry are tackling the unemployment issue. Out of the estimated population of India of 130 crore, 67 % is between the ages of 15 and 64 years, which makes the job seeking population at 91 crore people. Unofficial figures pegged the unemployment rate at a 45-year high in 2017 which will have huge ramifications in the time to come unless addressed on a war footing.

The government has to continue with the high GDP growth rate despite private consumption and investment having slowed down. Automobile sales, rail freight, domestic air freight, petroleum products, consumption in imports, indicate an overall slowing down in all these sectors. Coming to power amidst a surge of nationalism and Hindutva, the government will have to reach out to the minorities to make them feel comfortable and safe.

One of the biggest challenges which our Prime Minister will face is tackling our neighbors with an ex-cricketer at the helm. With a strong Home Minister at the forefront now, we are definitely going to see some dramatic events in the next four years. Perhaps, his last and biggest challenge will be reigning in his own party rank and file to ensure that his mandates and promises are achieved. After the election results, one hopes that the stock markets, real

estate market and business in general stabilizes for a period of growth and sustainability.

The business community expects a major fillip to the economy with investment friendly policies, encouraging foreign direct investment (FDI), friendly tax regime and next generation reforms. Contrary to our economic pundits and what is being touted in the press, growth has been flat for the last four-five years and this needs to change now! Meanwhile, world events continue to keep us mere mortals on the edge of our seats as we see the unfolding crisis in the Persian Gulf which can dangerously spiral out of control if cooler heads do not prevail.

This can have a huge impact on the Indian business fraternity who has deep business ties with both protagonists, namely USA and Iran. Thankfully, a calmer partner in the form of Japan has taken center stage to bring about a solution to this crisis.

As I end this editorial, let us all pray to the rain gods to have mercy on us and give us a bountiful monsoon to end this heat wave and to bring about much needed relief to our farmers, lakes and populace in general. Let us hope that Cyclone Vayu is merciful as well and spares our people untold suffering.

Best regards

Xerrxes Master
Vice President
AMTOI

FEATURE

Using Standard Trading Conditions

Forwarders should be very careful when agreeing terms with large clients or for project work.

It is no exaggeration to say that standard trading conditions are central to a forwarder's business relationship with his clients. A forwarder's contract with his client will almost invariably incorporate standard trading conditions, thereby giving the forwarder the protection provided by the conditions but also placing certain obligations on him. Issues involving insurance and insurance claims will also at some point be affected by the standard trading conditions.

Standard trading conditions set out the conditions under which a company does business. Their purpose is to modify legal rights and responsibilities, to limit or exclude liability, to exclude the kind of work undertaken, to specify time limits and to specify the applicable law and jurisdiction.

They are called standard trading conditions because they are in general useful business undertaken and not conceived for a particular contract. Nevertheless, standard trading conditions can be supplemented by an individual contract or agreement for a particular assignment or for a particular flow of business. Standard trading conditions give the company adopting them indemnities and defences however, the conditions apply only when they are incorporated into the contract.

Often, forwarding arrangements are made orally or casually, beginning with a quotation and, especially if the customer is a new or infrequent one, it is good practice to add that all business is carried out in accordance with the standard trading conditions. It is also good practice to obtain a customer's acceptance of the standard trading conditions in a credit application form, which should be signed and returned by someone in authority, employed by the customer.

Companies who show on their contractual documents that they trade under conditions additional to standard trading conditions run the risk of having the protection of none of them unless, in the circumstances of the claim, it is clear which conditions apply.

Forwarders should be very careful when agreeing terms with large clients or for project work. Quite often these companies produce contracts for the forwarder to sign, often at the last-minute, and generally on a take it or leave it basis. Such contracts ignore the effect of standard trading conditions and often also the various international conventions and can leave the forwarder exposed to substantial liabilities. It is essential that before signing such contracts they are referred to a liability insurer or solicitor for advice.

When relying on standard trading conditions in connection with a cargo claim or a claim for the recovery of money, it may be necessary to be able to establish when and how the conditions were incorporated into the contract.

For trading conditions to be effective in a contract with a client they need to be incorporated into the contract. They cannot be assumed, nor can they be taken for granted. That is in contrast to international conventions which are imposed by law.

For standard trading conditions to be incorporated into contracts, the client must be made aware of their existence before, or at the time of making the contract. The following are some of the methods that can be used:

a. Formal notification by letter to the company secretaryofthecustomerandacknowledgement of receipt should be obtained

b. Reference to the use of the trading conditions in specific contracts with the customer

c. Reference to the trading conditions on letter paper preferably with the full text on the reverse

d. Reference to the trading conditions on transport documents preferably with the full text on the reverse enter reference to the trading conditions on quotations or oral reference to them when quotations are not in writing

e. Automatic reference to the trading conditions on the text of messages

Where trading conditions are not formally notified but are referred to on documents or otherwise informally, they are said to be incorporated by a course of dealing that course of dealing must be on the same trading conditions and must be regularly made. Do not rely on standard trading conditions on the reverse of an invoice as invoicing often happens after the contract has been agreed.

It is of no consequence if the customer has not bothered to read the trading conditions what matters is whether or not the customer have the opportunity of reading them. When the full text of trading conditions is not shown in communications or documents, it is important to add "copy on application". That invitation can have legal significance.

When dealing with non-commercial customers, private individuals and the like, it is important to take special care to draw those customers attention to doing business under such trading conditions.

When dealing with overseas freight forwarders, it is important to stress to them that trading conditions apply to contracts with them as well as contracts with shippers and consignees.

It is important to be able to provide evidence that trading conditions have been notified to customers. Records should be kept, or for more notifications.

Notification of trading conditions must be made before or at the time of making a contract. Trading conditions cannot be retroactively notified.

Failure to notify trading conditions may result in the loss of protection of a liability insurance policy and less such failure can be proved to be an exceptional oversight.

Dangers are inherent in using more than one set of trading conditions. Unless each is specifically notified and clearly applicable to a business activity it may be deemed that none applied to the claim in question.

Remember! Adopting trading conditions but failing to notify them to customers is like having an elaborate security system and leaving your doors and windows open.

***Robert Keen** is Director General of the British International Freight Association (BIFA). He is also Chairman of the FIATA Multimodal Transport Institute and a member of the FIATA Extended Board.*

Exemplar Transposition in Regulatory Machinery for Carriage of Goods at Sea

This is the concluding part of a series of articles on some detailed legal aspects pertaining to carriage of goods, meant for all freight forwarding, NVOCC, MTO communities and logistics firms.

In the earlier days prior to 1924, it is the English Common Law which provided protection to the cargo-owners and imposed more liabilities upon the ocean carriers. The premise of the earlier English Common Law, from which the Hague and Hague-Visby Rules are drawn, was that a carrier typically has far greater bargaining power than the shipper, and that to protect the interests of the shipper/ cargo-owner, the law should impose some minimum affreightment obligations upon the carrier.

There has been long-standing aim of the trading and maritime communities to have a uniform set of rules to govern carriage of goods. Presently, there are five different sets: Hague, Hague-Visby, Hague-Visby/SDR, Hamburg and Rotterdam.

Hague Rules 1924 (Brussels)

(Drafted: 25 Aug 1924, Effective: 2 June 1931, Ratifiers: 86)

The official title, of the Hague Rules 1924, is the "The International Convention for the Unification of Certain Rules of Law relating to Bills of Lading of Aug 1924".

The Hague Rules form the basis of national legislation in almost all of the world's major trading nations and cover nearly all the present international shipping. The objective of the Hague Rules was to establish a minimum mandatory liability of carriers. The Hague Rules represented the first attempt by the international community to find a workable and uniform way to address the problem of shippers.

Criticism

The shipowners were regularly excluding themselves from almost all the liabilities for loss or damage to cargo. The Hague Rules favoured carriers and reduced their obligations to shippers. The shipper bears the cost of lost/ damaged goods if they cannot prove that the vessel was unseaworthy, improperly manned or unable to safely transport and preserve the cargo. That means, the carrier can avoid liability for risks resulting from human errors, provided they exercise due diligence and their vessel is properly manned and seaworthy.

These provisions have frequently been the subject of conflict between shipowners and cargo interests on whether they provide an appropriate balance in liability.

Hague-Visby Rules 1968

(First Protocol 1968 of Hague Rules 1924, Drafted: 23 Feb 1968, Effective: 23 June 1977, Ratifiers: 24)

Hague Rules, as amended by "The Protocol to Amend the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading" in 1968. The Rules became known colloquially as the Hague - Visby Rules. They are a slightly updated version of the original Hague Rules which were drafted in Brussels in 1924.

Criticism

The Hague and Hague - Visby Rules were hardly a charter of new protections for cargo-owners, because there were modest amendments. Hague-Visby Rules still covered carriage "wholly by sea" only (thereby ignoring multi-modal transport), and barely acknowledged the container revolution of the 1950s and the multimodal transport. The convention covered only "tackle to tackle" carriage contracts.

SDR Protocol

(Second Protocol 1979 of Hague Rules 1924, Drafted: 21 Dec 1979, Effective: 24 Feb 1982, Ratifiers: 19)

This is the Second and Final amendment in terms of "Protocol" amending "International Convention for the Unification of Certain Rules of Law relating to Bills of Lading of Aug 1924 (The Hague Rules), as amended by the Protocol of Feb 1968 (Visby Rules)-Dec 1979".

Many countries declined to adopt the Hague-Visby Rules and stayed with the 1924 Hague Rules. Some other countries which upgraded to Hague-Visby subsequently failed to adopt the 1979 SDR protocol.

Thus, the Hague Rules have been updated by two protocols, but neither addressed the basic liability provisions, which remained unchanged.

Hamburg Rules

The Hamburg Rules are a set of rules governing the international Shipment of goods, resulting from the "U.N. International Convention on the Carriage of Goods by Sea 1978" adopted in Hamburg on 31 March 1978". Hamburg Rules came into force on 1 Nov 1992. There were 34 Ratifiers.

The objective of protecting the cargo-owner from the consequences of unequal bargaining power had not been achieved through Hague and Hague- Visby Rules. The United Nations decided to solve the concern and thus stemmed for the evolution of the Hamburg Rules in 1978. The UN Convention on the Carriage of Goods by Sea 1978 was based on the groundwork done by UN Conference on Trade and Development (UNCTAD) and UN Commission on International Trade Law (UNCITRAL). The Convention was an attempt to form a uniform legal base for the transportation of goods on oceangoing Ships. A driving force behind the convention was the attempt of developing countries' to level the playing field. Hamburg Rules 1978 were embraced by many developing countries, but largely ignored by ship-operating nations.

Article 31 of the Hamburg Convention covers its entry into force, coupled to denunciation of other Rules. Within five years after entry into force of the Hamburg Rules, ratifying states must denounce earlier conventions, specifically the Hague and Hague-Visby Rules.

Criticism

The Hamburg Rules contain far more stringent rules for carrier's liability and appears to be tipped in favour of the cargo owner. Under the Hamburg Rules, it is the carrier that is responsible for the loss or damage of all goods, unless they can prove that they took all reasonable steps to avoid the loss. Although the Hamburg Rules were readily adopted by developing countries, they were shunned by richer countries who stuck with Hague and Hague-Visby, because of liability issue.

Rotterdam Rules

United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, called as "Rotterdam" Rules. Drafted: 11 Dec 2008, Signed: 23 Sept 2009, Not yet in force. Ratification required by 20 States.

The aim of the convention is to extend and modernize existing international rules and achieve uniformity of International trade law in the field of maritime carriage. The convention establishes a comprehensive, uniform legal regime governing the rights and obligations of shippers, carriers and consignees under a contract for door to door shipments that involve international sea transport.

The Rules apply only if the carriage includes a sea leg; other multimodal carriage contracts which have no sea leg are outside of the scope of the Rules. It eliminates the "nautical fault defence" which had protected carriers and crew from liability for negligent ship management and navigation. It obliges carriers to keep ships seaworthy and properly crewed throughout the voyage. The standard of care is not "strict", but "due diligence" (as with the Hague Rules).

Upon entry into force of the convention for a country, it should denounce the conventions governing the Hague-Visby Rules as well as the Hamburg Rules as the convention does not come into effect without such denouncements.

*This article is authored by **Captain Ashwin Jhingan** and is the concluding part of two part series. Captain Jhingan is a master mariner, extra master, member of the Supreme Court Bar Association and an advocate in the Mumbai High Court.*

Interview -

We are ready to launch the policy soon

The government's priority is to reduce logistics costs. N Sivasailam, IAS, Special Secretary, Logistics, Department of Commerce, says, the fledgling logistics division is keenly working with stakeholder associations and industry experts for a new beginning to take the logistics sector forward. In a talk with AMTOI NEWS, he discusses the department's ongoing work in this area and some of the ideas proposed thus far.

Since it is your first stint with the logistics sector, in which respects do you find this sector different from other areas of the economy?
As a great fan of sports, I would like to use a sports analogy to describe the logistics sector. It is like a cricket team, wherein each player gains more by adding to the strength of the team, and thus, the whole is greater than the sum of its parts. Similarly, in the logistics sector too, by working together in synergy, every stakeholder achieves much more than what they can do individually.

In each of my earlier stints, the concepts relating to the sector were specific and contained management of interfaces with other sectors. In the logistics universe, there are many independent sectors interacting with each other and many sectors like Artificial Intelligence, Internet of Things, Blockchain, etc., waiting to make a grand entry! In short, I find this sector vast from the point of view of the concepts applicable to the functioning of different parts, which are by themselves very vast domains, like shipping (both inland and sea lines), road transport, air transport, etc. The concepts applicable to the interface management of these sectors are complex and involve development, management and constant innovation.

What are the government's top three priorities related to the sector? Can you particularly highlight those which will facilitate growth of Multimodal Transport?
Without any doubt, the top priority is the drastic reduction in logistics costs. This priority arises out of a clear realisation at all stakeholder levels that the high logistics costs are making our products non-competitive, both in internal and external trade. Internally, the high costs have the effect of limiting access to markets of both commodities and manufacturing products. Just imagine the boost to the economy if the costs were reasonable enough to increase trade internally with its spin-off effects on external trade as well. The division has been constituted to give the priority, focus, direction, form, and a methodology.

The logistics sector is pleased with the interactions the sectoral representatives had in respect of the Draft National Logistics Policy. We will appreciate if you can enumerate how the Multimodal Transport Operators can effectively participate in the national initiative.
The formal stakeholder consultation was extremely relevant and timely. It was a wonderful way for the fledgling logistics division to connect with the Industry on a new agenda for a new beginning and take it forward together. Some new concepts too have been suggested by the stakeholders in certain sectors, which have significant implications on the way business is done. These are being evaluated.

The intervening general elections too have provided some additional time for the consideration of the proposed policy initiatives. We are ready to launch the policy soon. We know we have the stakeholders with us. At this stage, it can be said the development of the logistics policy is a joint government-stakeholder policy considering the manner in which it has been created. This has highly favourable implications for the success of the initiatives.

How will the government enable the private sector investors to deal with the prohibitive cost of land and the high cost of capital to promote investments?

Government has provided infrastructure status to certain components of the industry such as cold chain, warehousing, multimodal logistics parks, slurry pipelines (conditions apply). This has favourable implications for the provision of land for establishment of state-of-the-art warehouses, cold chains, transhipment facilities, etc.

Several states are highly supportive of multimodal logistics parks. It is a concept whose time has come. As regards cost of acquired land, innovative packages can be built on the concept of leasing, revenue-share, etc; but these would depend on the nature of the project viability.

So far, logistics as a sector, has not attracted foreign capital in a significant quantum, either for short-term or long-term. These are areas that require attention not only by the logistics division but also the industry stakeholders working in association with the institutional and banking finance professionals. I do consider these two questions to be important and need attention, yet, I am hopeful that capabilities exist within the stakeholders to address this.

The fact remains that salience of these issues has not been articulated by the industry so far, in the manner that it has been done by the telecom industry in the matter of financial stress, spectrum pricing, etc., that are specific to it and not generally applicable to others. Hence, the general perception is that the logistics industry is affected by these issues in the same manner as other industries, and there is nothing to show that the logistics industry only is bearing the brunt! For it to attain salience for specific effort, there is need for specific projects and operational issues that are logistics industry specific.

The cost of logistics as a percentage of GDP has been a matter of concern; the sector, however, is not clear about the statistical basis of the logistics cost with respect to the segmental and sectoral allotment of the cost. Will you please explain it to the readers?

Indeed, there is no reliable statistic on this at all! It does seem that the present stated figure of logistics cost being about 13% of the GDP, is itself only a widely used industry cliche! I have not come across any document to establish it. The satisfaction lies in the fact that industry claims that the logistics cost as a percentage of GDP may be more. It is our endeavour to ensure that logistics cost as a percentage of GDP goes down in an increasing GDP regime which means lower logistics costs and greater efficiency. Simply put, a rupee will move goods a greater distance.

We have conducted studies to estimate the logistics cost and its components in the iron-ore, steel, coal, and the food grains sector, as a percentage of revenue. We have worked out the logistics cost in respect of fruits from specific locations. These studies were done through M/s BCG and will be published shortly. Further studies are being done through M/s IIFT where we have promoted a Centre of Excellence. The IIFT studies will involve active on-boarding of industry stakeholder associations and industry domain experts.

The high cost of logistics as a percentage of GDP in India is said to adversely impact the competitiveness of Indian products in the global market. Which are the critical areas for cost reduction and what are the specific plans to reduce this cost?

I have already stated that the realisation of the fact that high logistics costs is affecting both internal trade and external trade is the raison d'être for the government's creation of the logistics division in the Commerce Department. The division has solicited the cooperation of the industry associations to identify issues for consideration.

A number of action points have been determined, and action is underway in several of them. Constant interactions with the industry body and stakeholders is the way forward. Fortunately, large number of institutional forums exist at the governmental level. NCTF, Steering Committee of NCTF, SCOPE (Shipping), SCOPE (Air), Inter- Ministerial Committee on Logistics, are some of the high power forums available at present to address, advice and monitor performance of logistics sector.

Is the government considering a fresh look at the PPP model for higher productivity, competitiveness and efficiency, as against current revenue share-based model?

This is one of the valuable feedbacks received at the industry-sponsored, policy open-houses, for consideration. The issue concerns allocation of public resources. The suggestion is to maximise utilisation of public resources as a whole rather than maximise revenues in the allocation of resources.

In sectors like shipping, it has great implications on the charges payable at ports. In the former, stiff fines for utilisation below permitted number of containers or volume, as the case may be, will cause port charges to fall drastically, than the second case – maximise revenues in resource allocation – where prices will be based on monopoly pricing. Also, in the first case, while per unit port earnings may fall, significantly higher turnover will result from very high volume of business over a medium to long term, offsetting for the tariff reduction. The gains to trade and economy will be considerable. In the latter case, the pricing shall be based on maximising revenues but may cause sub-optimal utilisation of port infrastructure with lower contribution to the economy. The high port charges in the latter case will cause exports to be non-competitive, imports will suffer substantial costs, making essential imports costly and also blocking prospects of value addition of imports for re-export. We look forward to working with the stakeholders to create a favourable and enlightened public opinion for such policy initiatives.

Can you talk about the proposed National Logistics Portal?

Simply stated, this portal will comprise of a service tower and a PGA tower. The service tower is the public face of the portal through which services can be availed. All logistics institutions will be provided access to the portal to provide services. They may do so individually or multimodally or partner other logistic institutions to provide services.

All modes of logistic service providers will have access to the platform. The PGA tower proposes to integrate all government regulators such as Customs, GST, Certifying agencies, banks and insurance, so that there is seamless integration of customer's documentation. Access will be provided to all seekers of logistics services. The access fees will be nominal. Transactional data of registered users will be protected. Anonymised and aggregated data will be used for logistic applications and research based on agreed formats.

The digitalisation of commerce will affect all the sectors. What are the government's plans for ensuring Indian companies get the best competitive advantage? What are the specific considerations for the logistics sector?

First, I see that there is great excitement relating to e-Commerce. The basic requirement of moving a physical product from one location to another is fundamental to logistics business. E-Commerce significantly enhances the movement of goods and has added elements of timely delivery and returns that demand new business strategies, all operating at significantly improved timelines. India, with its large internal market has got great potential to increase the market depths significantly. The inclusion of external trade will only increase the depth and spread. Access to remote areas cost-effectively has significant influence on e-Commerce making new and differentiated products available.

There is need to engage with the international community and participate actively in influential forums to bring forth India-use cases for consideration in standard setting and rule making. If we miss the engagement, standards may develop neglecting the India-use cases, leaving us with a disadvantage when the technologies and systems are operationalised.

We have a vibrant logistics sector in India with many units that have been the backbone of the sector. These units, either on their own or in collaboration, need to establish a state-of-the-art business system for e-Commerce with each unit concentrating on its region for physical services and improving access, which is fundamental to improving business. I feel that collaboration among major logistics players is an opportunity whose time has come and units need to innovatively address their participation in the collaboration institution.

While we have seen several international logistics players setting up in India, however, Indian LSPs have not been as aggressive in spreading their wings internationally. How can the government facilitate Indian companies becoming a force to reckon with in the international arena?

I entirely agree with the proposition stated. Indian LSPs need to be aggressive. The NLP itself is an initiative to provide a platform for Indian LSPs to provide services internationally. However, the nature of logistics requires goods to move quickly. We can work to reduce costs of logistics through reducing processing time and minimising documentation limited to International norms. Assistance in testing etc., will help improve marketability. Likewise, several intensive and promotional marketing initiatives are possible because we have products to sell and that makes India a hub for e-Commerce! There are possibilities of joint groups working for marketing in each country. The sky is the limit for these efforts.

*The views expressed by **Mr. N. Sivasailam** are personal.*

FIATA Publishes Best Practices to Enhance Container Shipping

Current developments appear unreasonable and contradictory to ensure an efficient and economic maritime supply chain.

Demurrage and detention charges have been widely used in container shipping. Demurrage refers to the charge that the merchant pays for the use of the container within the terminal beyond the free time period. Detention refers to the charge that the merchant pays for the use of the container outside of the terminal or depot, beyond the free time period.

Containers are either owned or are leased by shipping lines who provide them to their customers (shippers or merchants) for the safe and fast door to door transport of their goods. Because the cost for using the container during the door to door transport is included in the freight, it is essential for shipping lines to turn around their containers as fast as possible. As a result and with the objective to encourage merchants to move or return their containers swiftly, shipping lines discourage merchants who exceed the free time by charging demurrage and detention fees.

It is an obligation for shipping lines to provide a reasonable free period during which no demurrage and detention charges apply. This free period is supposed to allow the merchant a realistic period of time for:

- The loading and delivery of the container for an export.
- The pick-up, unloading and return of the empty container for an import.

It should be mentioned that in many cases the delay in returning or picking up containers cannot be attributed to merchant, but to bad weather conditions, labour strikes and terminal congestions that are beyond the control of merchant.

Increase of detention and demurrage charges in recent years

During the last few years, free time periods have been reduced and tariffs for demurrage and detention charges have been increased considerably on a global level. There are indications that shipping lines abuse the charging of demurrage and detention to maximise profits. It is understood that shipping lines have been suffering in a very tough business environment and do everything they can to develop revenue streams that are not necessarily derived from freight.

In this context, the FMC (Federal Maritime Commission of the United States) started an investigation referred to as "Fact Finding 28". This investigation is focused on "the practices of vessel operating common carriers and marine terminal operators related to detention and demurrage charges." The Commission undertook this investigation as a result of a petition and testimony from a coalition of shippers, intermediaries, and container transport interests.

An interim report released by the FMC on September 4, 2018[1] revealed that the demurrage and detention income of shipping lines in United States increased 90% in 2014 compared to 2013.

1 Federal Maritime Commission, Fact Finding Investigation No. 28 Interim Report, 2018, Chapter III followed by an additional year-on-year increase of 86% in 2015, dropped 23% in 2016 and then rose again by 30% in 2017. It was also noted that the increase in demurrage and detention charge since 2014 can only be partially explained by weather and labour-related congestion problems, but not fully.

FIATA calls for streamlined practice on detention and demurrage

International Federation of Freight Forwarders Associations (FIATA) works as a non-governmental organisation, with the main object to represent, promote and protect the interests of international logistics and freight forwarding industry. The membership of FIATA currently covers 108 freight forwarding and logistics associations in 97 countries and regions, as well as nearly 6,000 international logistic service providers and freight forwarders around the globe.

FIATA is concerned that the recent development of reduced free time and increased tariffs does not serve its original purpose, but unreasonably increase the transport cost for all stakeholders in the supply chain, shippers and freight forwarders in particular.

In this context, one also has to keep in mind the significance of container shipping for the global supply chain, as reported in the UNCTAD Review of Maritime Transport 2018[2] container shipping accounts for 24.3% of total dry cargo shipments in 2017.

Also keeping in mind the often inferior infrastructure related terminal and hinterland connections in developing countries and the fact that logistics cost in developing countries have generally a higher ratio of logistics costs in relation to its GDP (Gross Domestic Product), this development is further worsening the situation.

In view of addressing the current situation of demurrage and detention and to ensure an efficient supply chain, FIATA Multimodal Transport Institute Working Group Sea announced the release of its first "Best Practice Guide" focusing on the charging of demurrage and detention on 3rd October 2018. These best practices may help reduce unnecessary supply chain costs and inefficient behaviours that lead to detention and demurrage charges. The document aims to examine the current situation and outline best practices that could be implemented voluntarily by all parties moving cargo through ports.

Advised practice on detention and demurrage of FIATA

In the best practice document, FIATA acknowledges that demurrage and detention charges are a valid and important tool for shipping lines to ensure that their equipment is being returned as fast as possible and users exceeding the contractual duration of use should be charged accordingly. However, FIATA does not believe that merchants should be subjected to unjust and unreasonable charges of this nature, especially as delays often occur through no fault of the forwarder/shipper.

The FIATA Working Group suggests that commercial partners review a series of issues related to demurrage and detention charges and negotiate an agreement to including but not limited to

- Limit the demurrage or detention accrued to a maximum amount
- Extend the free time period in case the terminal is unable to release / receive a container by the period that is equal to the duration of the inability
- Ensure a level playing field for containers in merchant haulage and negotiate terms to reduce unfair differentiation
- Support the modal shift towards more environmentally friendly modes of transport by increasing the detention free period.
- Change the calculation of export demurrage to transfer the responsibility of vessel delays to the shipping line.
- Ensure that demurrage and detention charges on import shipments are charged much faster, ideally within a week
- Help relieving terminal congestion as well as land side concentration of pickups and deliveries due to bigger vessels and higher peaks and allow merchants more flexibility by increasing demurrage free periods.

FIATA further encourages more data sharing in the maritime supply chain which would lead to more transparency of information related to these charges.

*This article was written by **Jens Roemer,** CEO for A Hartrodt (Belgium) N.V., Chairman for FIATA MTI Working Group Sea.*

2 UNCTAD Review of Maritime Transport, 2018, Chapter 1.

Improving India's Rank in the World's Logistics Performance Index

The effectiveness and efficiency of logistics is being increasingly recognized as one of the key drivers of economic growth.

According to the World Bank, better overall logistics performance is strongly associated with trade expansion, export diversification, attractiveness to foreign direct investment and overall economic growth.

Since 2007, the World Bank's International Trade Unit has been publishing the Logistics Performance Index (LPI) once in every two years. The LPI for each country is the weighted average of its score on six parameters:

a. Quality of trade and transport related infrastructure;

b. Efficiency of the clearance process by customs;

c. Competence and quality of logistics services;

d. Ease of arranging competitively priced shipments;

e. Ability to track and trace consignments;

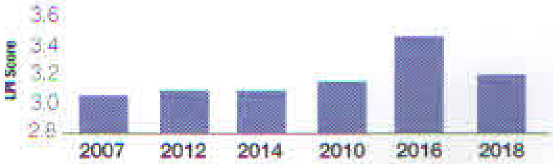
f. Timeliness of shipments in reaching the destination within the scheduled or expected delivery time.

LPI ranks 160 countries on these parameters, based on a survey of more than 1,000 logistics professionals globally.

LPI is being increasingly used by policy makers. The European Union (EU) Commission has used LPI in its Transport Scoreboard and in the evaluation of the EU Customs Union. The Asia-Pacific Economic Cooperation (APEC) uses LPI to measure the impact of initiatives to improve supply chain connectivity. The government of Indonesia has formally used this index to measure the performance of its ministry of trade.

In 2018, Germany had the highest LPI rank, followed by Sweden, Belgium, Austria and Japan. Among the "lower middle income" group countries, Vietnam (ranked 39) stands out as the top performer. India is currently ranked 44. China (which is under the "higher middle income" group category) ranked 26.

India's LPI score has progressively improved from 2007 to 2016. However, in 2018, there was a decline.



India's LPI rank fell from 35 (in 2016) to 44 (in 2018). There was a drop in each of the six parameters that constitute the index.

Country	Year	LPI Rank	LPI Score	(a) Infrastructure	(b) Customs	(c) Logistics competence	(d) International shipments	(e) Timeliness	(f) Tracking and tracing
India	2016	35	3.42	3.34	3.17	3.39	3.36	3.74	3.52
	2018	44↓	3.18↓	2.91↓	2.96↓	3.13↓	3.21↓	3.5↓	3.32↓

Source: World Bank Logistics Performance Index database

In this article, we identify the key challenges that affect India's performance on LPI. We also put forth some recommendations to improve our LPI ranking, by addressing these challenges.

Key challenges

In the past decade, India has seen its economic size more than double, to $2.8 trillion. This growth has been accompanied by a remarkable increase in the volume of freight traffic movement. However, our logistics infrastructure and services have not grown at the rate required to support this growth. There are challenges in each of the parameters that constitute the LPI, as mentioned below.

Infrastructure: This is one of the most significant hurdles to the growth of the logistics sector in India. This gets reflected in inadequate and low-quality modal and terminal transport infrastructure, sub-optimal modal mix, inefficient storage facilities for cargo and containers and inefficient operation & maintenance protocols. This leads to high (and inconsistent) cargo transit time, inefficient use of resources and poor fleet management.

- **Modal mix:** India's current modal mix has a 60% share of roadways, 30% share of railways and 10% share of waterways (vis-à-vis the international benchmark of 25% roadways, 50% railways and 25% waterways). The cost of transportation by road is significantly higher than that of railways or waterways.

- **Storage facilities:** India is the second largest producer of fruits and vegetables in the world. The wastage in fruits and vegetables is around 25-30%, mainly due to limited availability of cold chain infrastructure at the right locations.

Customs clearance: "Dwell time" is a measure of the time elapsed from the cargo arrival at the port to the goods leaving the port premises after all permits and clearances have been obtained. In India, the dwell time for the cargo containers is high, due to lack of standardization in custom clearance processes and poor communication between shipping lines and their agents.

Logistics competence: More than 75% of the logistics industry in India is unorganized. Given their small scale and limited investment, most unorganized players do not focus on manpower capability development. The government has also not focused sufficiently on the same. India's ministry of road, transport and shipping estimates a 22% shortage in the number of commercial drivers. Very few formal driver training institutions exist today.

International shipments: Lack of standardization in the EXIM processes and policies increase turn around time and logistics costs.

Timeliness: The average speed of trucks in India is about half that of USA. A part of this is attributable to high wait times at toll booths and multiplicity of check points.

Tracking and Tracing: Slow adoption of new technologies has been a constraint in India. IT systems and EDI (Electronic Data Interchange) facilities are inadequate. Technological infrastructure has remained inadequate, marked by slow network speeds, sub-par performance, and unreliable hardware and software, all leading to high costs and underperformance. This makes it difficult to get real-time status of operations and services.

Due to all these factors, logistics costs in India is high. India spends ~ 14.4% of its GDP on logistics and transportation (vis-a-vis 9.5% for USA and 8% for Germany). Also, indirect (or "hidden") costs such as inventory carrying costs, theft, damages and losses in transit constitute about 40% of the total logistics cost in India (vis-à-vis the global benchmarks of 10-15%).

Solutions themes : India's rank in the World Bank's Ease of Doing Business survey has risen from 130 (in 2016) to 77 (in 2018). This is a result of focused initiatives, led by the government. Taking a cue from this success, we suggest that a similar approach be adopted to improve India's LPI rank, by taking targeted actions to improve each of the parameters that go into the building of this index. The suggested approach, for each of the parameters is indicated below, some of which are already under way.

I. Infrastructure :

a. **Sagarmala:** The Sagarmala program was conceived by the government in 2015 to address the lack of a proper institutional framework and poor port infrastructure. It has four verticals: port modernisation, port connectivity, port-linked industrialisation and coastal community development. Currently, there are 162 projects under implementation. Timely execution of these projects will boost the usage of ports and inland waterways.

b. **Bharatmala:** The Bharatmala program is another government-driven scheme to improve road infrastructure network and connectivity across India. It focuses on economic corridors, feeder routes, border roads, coastal roads and construction of new expressways. This program would be crucial in driving down logistics costs in the roads sector by providing better connectivity.

c. **Multi-modal logistics parks:** Logistics parks could serve as centres for freight aggregation and distribution. These parks will help lower transportation cost for the nodes by about 10%, besides reducing pollution, congestion and warehousing costs.

II. Customs clearance: Indian port authorities could implement Direct Port Delivery (DPD) in all major ports by installing the necessary infrastructure, simplifying the registration processes and rationalising handling charges. They could seek feedback from key industry stakeholders (exporters, freight forwarders, customs house agents, terminal operators) and derive learning from global best practices to identify key interventions to improve the customs clearance process and reduce the EXIM dwell time.

III. Logistics competence:

a. **Up-skilling of drivers:** Logistics firms could open driver training schools, thereby boosting wages and benefits. Also, intervention of digital technology such as on-board sensors to monitor driving patterns, and providing real-time feedback, could improve the skillset of drivers.

b. **Sophisticated warehousing systems:** Progressive logistics companies could adopt Warehouse Management System (WMS) and other IT-driven solutions.

IV. International shipments:

a. **Streamlining EXIM processes to promote trade competitiveness:** A focus area will be to define and monitor Service Level Agreements (SLAs) with relevant regulatory partner government agencies such as Customs, FSSAI, Drug Control, Plant and Animal Quarantine.

b. **Ensuring seamless movement of goods at Land Customs Stations (LCS):** Of India's total trade with the neighbouring countries (Nepal, Bhutan, Bangladesh, Afghanistan, Pakistan and Myanmar), over 55% is through land-based trading points. It is crucial to have adequate infrastructure in warehousing, examination sheds, parking bays, etc and to ensure faster clearances by regulatory agencies. It is also important to regularly monitor the performance of the LCSs and continuously upgrade facilities and remove bottlenecks.

V. Timeliness:

a. **Promoting standardization in the logistics sector:** Globally, various standards have been developed for different parts of the logistics value chain concerning packaging, warehousing and transportation. These standards assure consistent service levels and quality of goods to the end user and eventually drive logistics efficiency. India could look at working with standard setting agencies such as The Bureau of India Standards and Indian Institute of Packaging to customize international standards and facilitate the development of relevant standards for India.

b. **Creation of logistics e-marketplace:** There could be a single window portal to on-board various logistics service providers like transporters, warehousing providers, shipping lines, 3rd party service providers, customs brokers etc. and various government agencies. This would result in simplification of documentation for exports/imports and bring in greater transparency and faster clearances.

Tracking and Tracing: India must continue to embrace new technologies like Internet of Things

Phase I
(2019-2020)

- **Target LPI rank of 40 (at the end of Phase I)**
  - Complete execution of 60% of the remaining Sagarmala and Bharatmala Projects
  - Set up 10-15 multi-modal logistics parks
  - Set up 20-25 Land Custom Stations across the country
  - Adopt digitization in warehousing, tracking and tracing of shipments

Phase II
(2021-2022)

- **Target LPI rank of 30 (at the end of Phase II)**
  - Complete execution of 40% of the remaining Sagarmala and Bharatmala Projects
  - Set up 20-25 multi-modal logistics parks
  - Develop Indian standards for the logistics value chain
  - Implement the first phase of Director Port Delivery for 10-15 ports

Phase III
(2023-2024)

- **Target LPI rank of 25 (at the end of Phase III)**
  - Set up logistics data and analytics centre
  - Set up training institutes for driver training across the country
  - Implement the second phase of Director Port Delivery for 10-15 ports
  - Create an logistics e-marketplace by onboarding various logistics service providers

There is a role for all key constituents of the logistics value chain to achieve these LPI outcomes

Role of Government	Role of Industry bodies	Role of Industry players
• Create an Inetgrated National Logistics Policy (in consultation with relevant ministries)	• Work with relevant government bodies / ministries to identify key areas of skill development, undertake reforms in human resources policies and processes.	• Invest in adopting and upgrading technologies and reinventing processes to make them smaller and more efficient
• Create a Logistics Wing, under the Department of Commerce, which will have the primary responsibility to drive the key thrust areas as per the National Logistics Policy	• Undertake initiatives to accelerate the drivers of consolidation, integration and organization in the industry	• Ensure continuous upgradation of employee skills

(IOT), Blockchain and Artificial intelligence (AI) to make the journey of a ship or truck more secure and efficient. IOT sensors provide a unique internet address to each device they are attached to. Internet-connected sensors placed on the individual packets/consignments make tracking possible across the supply chain and guard against pilferage and contamination. Blockchain technology allows everyone in the supply chain, from the factory manager to the retail shop owner, to view the condition of a packet during the journey of the ship/truck

Roadmap for improvement:

We suggest a phased five-year roadmap, involving all the stakeholders in the logistics ecosystem, targeted at improving India's LPI rank from 44 (currently) to 25.

Lessons could be drawn from emerging economies like Indonesia, Malaysia and Vietnam who have developed a National Logistics Plan setting out targets / goals for the logistics sector (around the LPI score), and strategic initiatives to achieve the same.

Conclusion

India needs to systematically upgrade and enhance the effectiveness and efficiency of its logistics ecosystem, in order to fulfil its potential of greater trade competitiveness and overall economic growth. We suggest a concerted effort towards this objective, by using the Logistics Performance Index (LPI) as an overarching metric to align various stakeholders and galvanise implementation of required initiatives.

*This article is co-authored by **Shankar Krishnan,** Group Head, Strategy, Shapoorji Pallonji Group, and Indranil Ray, Manager, Strategy, Group Centre, Shapoorji Pallonji Group.*

EVENT

How much does Asia influence world shipping?

Why is it Asia does not appear to be at the forefront of all things maritime?

How much does Asia influence world shipping? How much does Asia influence world shipping? By Asia, I mean all of Asia including Middle East and South Asia, not just Asia-Pacific, which is usually how most organisations define geographies. A Google search with any combination of the words Asia, influence, technology, leadership, doesn't throw up any significant results in the maritime and shipping context.

The recently held Sea Asia 2019 in Singapore, saw a flurry of conference topics ranging from decarbonisation, digitalisation, maritime workforce, upcoming regulations, future of fleet management and blockchain. It is amply clear that technology and regulation are the two most important drivers altering the maritime landscape.

Going by the decarbonisation, digitalisation debate, one cannot help noticing that much of the regulation and technological changes are driven mostly by the western interests (technology, equipment and service providers) primarily led by European nations.

All the key maritime stakeholders and industry associations, be it IMO, ICS, BIMCO, Intercargo, Intertanko, underwriters, shipbrokers, financiers, et al, are based in Europe, many of them in London.

However, when one looks at the ownership of ships, it is distributed primarily in Europe and Asia. Clarksons data (ship owners by nationality) shows that Asian ship owners contribute to about 54% of world fleet by numbers, 47% by GT and 48% in DWT terms, ahead of Europe on all three parameters. With regard to shipbuilding, Asia continues to take more than a lion's share of global shipbuilding orderbook.

As an industry, shipping has been heading East for two decades now reflecting the fact that global economic activity is heading in that direction.

Shipmanagement companies too are spread across several maritime hubs across the globe. The largest seafaring nations supplying officers to the global shipping fleet are primarily Asian - China, Philippines, India and Indonesia (ICS data). As per Alphaliner, six of the top 10 container shipping lines are Asianowned.Singapore and Hong Kong take top spots among competing maritime hubs and are even a notch ahead of London in some respects.

The Menon Economics and DNVGL report on 'Leading Maritime Capitals of the World 2019' lists Singapore at the top of overall rankings with Hong Kong at the fourth position. The recent vessels value Top 10 Ship Owning Nations 2019 lists three Asian nations - Japan, China and Singapore amongst the top five. This, then, begs the question - why are Asian shipping and maritime technology companies not seen to be leading the efforts towards reducing carbon footprint or leading technological innovations in an industry which is increasingly getting Asian by ownership and trade?

Why is it that Asia does not really appear to be at the forefront of all things maritime? Could this be due to a supply side push - most technology providers being European or American? Could it also have something to do with Asia not upping its game and not taking enough industry leading initiatives?

There are few examples like Singapore which is seen leading some technology initiatives. However, one rarely sees any other significant Asian effort in either technology or regulatory space. The agenda is set by western interests, be it digitalisation, regulations or new technology.

Do we see a shift happening in this trend? Recently, there was a news article about a gradual shift of maritime arbitration to Asia. While one can see reduced German ship finance, of late there has been a spurt of Chinese funding in global shipping markets, be it ship finance or owning port assets.

As Asian nations increasingly control the world fleet as well as the service industries that serve that fleet, it is likely their influence will grow in the future. Asia's influence on shipping may not be significant now and it will be an uphill task to establish it so that a truly united Asian voice is heard over the next few decades.

However, it is only a matter of time before Asia, with so much maritime activity at stake, emerges as the dominant region within the global maritime industry.

This article is authored by ***Santosh Patil,*** *AVP, Indian Register of Shipping. The views expressed are his own.*

Mis-delivery of Cargo – Time Bar

The question which arises is whether the Hague and Hague Visby Rules apply to mis-delivery of cargo.

The Hague and Hague Visby Rules invariably apply to Bills of Lading as provided by the compulsory application of COGSA or by way of the Paramount Clause. Art II of both the Hague and Hague Visby Rules are similar and provide for the responsibilities and liabilities of the Carrier from "loading, handling, stowage, carriage, custody, care and discharge of such goods".

The question which arises is whether the Hague and Hague Visby Rules apply to mis-delivery of cargo. (If the Hague or Hague Visby Rules apply, then the time bar would be a year. If they do not apply, then the time bar would be what is provided in the law of the contract i.e. six years in English/ Singapore Law under the relevant limitation acts). Both the Malaysia and the UK Courts in 2018 ruled on the application of 1-year time bar for mis-delivery claimsi under the Hague Rules.

Malaysia: The Malaysian Court of Appeal, in Minmetals South-East Asia Corporation Pte Ltd v Nakhoda Logistics Sdn Bhd [2018] MYCA 212, decided that mis-delivery of cargo does not fall within the ambit of limitation as provided in Art III Rule 6 of the Hague Rules.

This is because the Hague Rules apply to breaches of contract or duty that took place between loading to discharge only as provided by Art II of the Hague Rules. While this case dealt with time bar, it is submitted that it would similarly apply to limitation of liability, i.e. £100 per package (Art IX of the Hague Rules provide for "The monetary units mentioned in these Rules are to be taken to be gold value").

It is also submitted that the one-year bar time for the Hague Visby Rules would not apply for such mis-delivery claimsii given that they fall outside the ambit of Art II of the Hague Visby Rules (the wordings in both the Hague and Hague Visby Rules are the same).

United Kingdomiii: The English High Court in Deep Sea Maritime Ltd v/s Monjasa A/S (The

Alhani) held that the 12 month time limit in Article III Rule 6 of the Hague Rules applied to mis-delivery claims. The Court held that Art III Rule 6 was drafted on wide enough terms and that the clause "in any event" and "all liability" in respect of loss or damage were wide enough to apply to mis delivery claims.

Mis delivery claims were claims concerning the clearest breach of Art III Rule 2 obligation of the carrier i.e. to properly and carefully care for and discharge the goods carried. We understand that the case has been appealed and we await with interest the decision of the English Court of Appeal.

It appears to us that the crucial difference between the Malaysian Court of Appeal and the English High Court judgement is that the Malaysian judgement dealt with mis delivery of cargo after discharge whereas the English judgement dealt with cargo being discharged and delivered to the incorrect party by ship to ship transfer.

Accordingly, it needs to be first established if the mis-delivery was during the period of responsibility or after the period of responsibility. If it is within the period of responsibility, then both the time bar and limitations of liability in both the Hague and Hague Visby Rules would be available as of right.

If it is outside the period, then unless there is some other provisioniv&v in the contract which provides for this eventuality, the Carrier would then be liable for the full value of the cargo and the time bar would be as provided under the law of the contract (The UK Limitation Act 1980 and the Singapore Limitation Act Cap 163 provides for 6 years for property claims).

In conclusion, given that failure to protect time bars may result in the loss of the right to pursue recovery, it is better to be safe than sorry.

Accordingly, we would suggest that time extensions should be sought after considering whether any contractual time bars apply (9 months as provided in say the TT Series 100 / Multi Doc 95 Bills of Lading.) or the Hague / Hague Visby Rules (in which case, the time is 1 year) instead of arguing on the non-applicability of the Time Bar completely (which may indeed be agreed by the Courts but may result in unnecessary costs).

a. See article written by Mr William KW Leung 2008 in the Journal of Maritime Law and Commerce Vol 39, No 2, April 2008 which deals with the application of the mandatory legal regime for the Hague and Hague Visby Rules and the time bar.

b. Steam Ship Mutual in their briefing on The Alhani comment that the Hague and Hague Visby time bar may not protect a carrier where the mis delivery takes place outside the period of responsibility provided in the convention. Please also see their briefings on MSC Amsterdam and which is more to this point.

c. We thank CJC Singapore for their seminar conducted on 10thJan 2019 in which they discussed on the various developments in 2018 including The Alhani.

d. See Clause 4(G) of the TT Series 100 Bills of Lading wordings and which states "The Carrier shall be discharged of all liability unless suit is brought in the proper forum and written notice thereof received within nine months after delivery of the Goods or the date when the Goods should have been delivered. ..."

e. Some jurisdictions have allowed the validity of these contractual time bars – see article on the Singapore Law Gazette by Vivian Ang of Allen and Gledhill.

*This article is authored by **M. Jagannath** of M/s. NAU Pte Ltd.*

EVENT REPORT

Raj Khalid Felicitated for Coveted Belgian Honour

A striking plaque was presented to Mr. Khalid on the occasion.

The Association of Multimodal Transport Operators of India (AMTOI) felicitated Raj Khalid, till Recently, the India Representative of the Port of Antwerp, for being bestowed with the prestigious honour of Officer in the Order of Leopold by the Belgian government for his distinguished services. The well-attended function, on 5 June 2019, was graced by Peter Huyghebaert, Consul General of Belgium in Mumbai, and a cross-section of invitees, besides the managing committee members of AMTOI.

A striking plaque was presented to Mr. Khalid on the occasion.

Addressing those gathered, Shantanu Bhadkamkar, President of AMTOI, described Mr. Khalid as a great friend of the Association who has effectively represented Antwerp port as well as Belgium in India for over a decade.

Mr. Huyghebaert pointed out that Mr. Khalid played an important role in making the port well-known in India, in the process, boosting its trade with the country. He thanked Mr Khalid on behalf of the Belgian government for his services, and emphasised that he really deserved the honour. George Abrao gave a brief description of the plaque, pointing out that it has been etched with the iconic image of the Port of Antwerp building and is being presented to Mr. Khalid for creating an everlasting bond between Belgium and India.

Mr Khalid, in his address, thanked AMTOI for the thoughtful gesture, adding that he has always been made to feel welcome by everybody at the Association, which gave him the confidence to pursue his aims as port representative with clarity and vision.

Mukesh Oza, President and CEO of Samsara Group, who too felicitated Mr. Khalid, said that he unified the various segments of the trade to look at Antwerp port. Mr. Khalid was the right choice as representative to develop business between India and Belgium, he emphasised.

The celebratory evening concluded with Xerrxes Master proposing the vote of thanks.

Taking Stock in the South

A brain storming session discussed threadbare the plans for the ongoing fiscal.

AMTOI's southern region chapter met in at Chennai on 14 May (Tuesday) 2019. The centrally-located venue – Gulmohar Hall, Chennai Grand by GRT – started filling up mid-afternoon. For the first time, both members and non-members were invited for this event, and which was addressed by Dr. Mita Dixit, Co-founder and Director, Family Business Advisor, the keynote speaker for the afternoon.

The event was well attended by eminent personalities such as FIATA Chairman, A Vijajaykumar, Mr. Liladharan of CHENSA, Mr. Nataraj of CHA and Pravin Menon of ACCAI.

The meeting opened with a lively welcome address delivered by Mr. Venkatraman, managing committee member, AMTOI. Anjali Bhide, managing committee member and person in charge of SRC set the context setting for the afternoon and gave a brief introduction on the benefits and value addition to be gained by being an AMTOI member.

Her address was followed by an interactive and enlightening Q&A session, the outcome of which was well summarized by Uday Bhasker.

SRC convenor, Deepak Ramaswamy then spoke about the SRC and introduced its facilitation committee members.

Subsequently, a brain storming session between the members and AMTOI office bearers formulated and discussed threadbare the plans for the ongoing fiscal.

A vote of thanks was then given by Hon. Secy George Abrao, followed by cocktails and dinner. The entire event was graciously sponsored by Deepak Ramaswamy.

Un-family-iar Territory

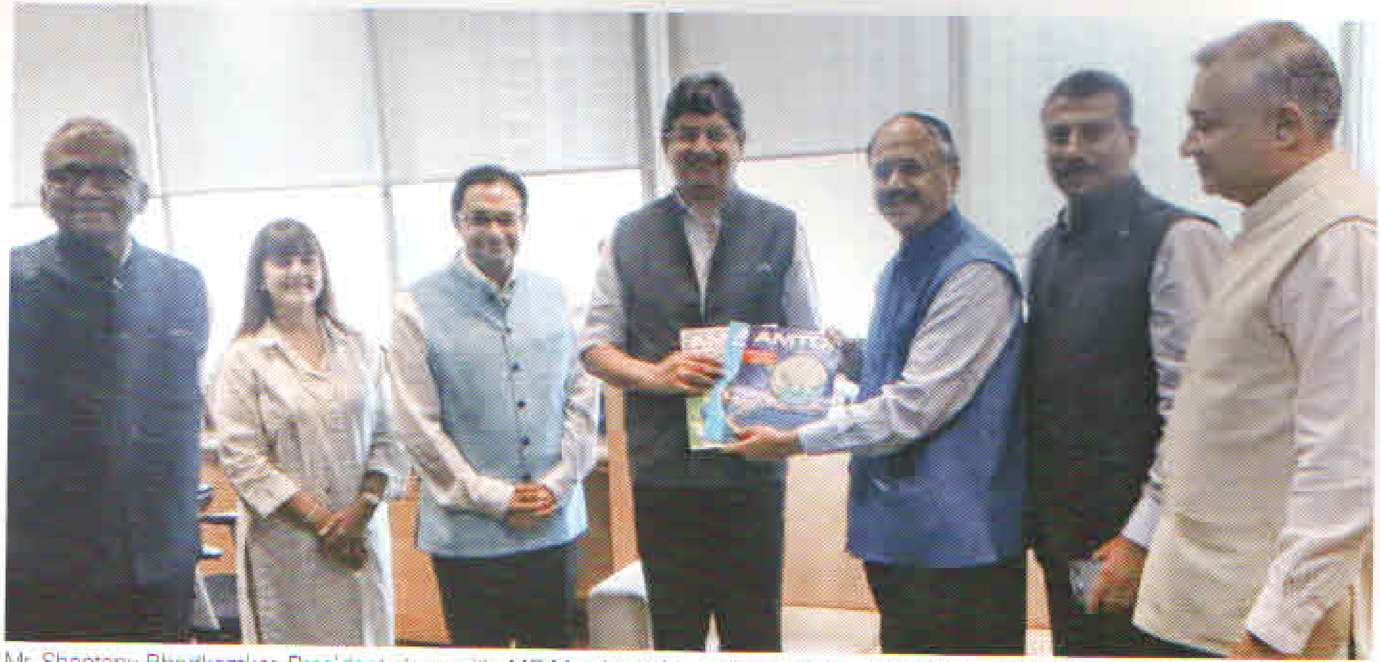
With the changing times, family owned businesses are facing various challenges.

Association of Multimodal Transport Operators of India (AMTOI), Western Regional Chapter (WRC) conducted a workshop on Gen Next - Family Business, on 2 April 2019, at the Chembur Gymkhana, Mumbai. The workshop drew nearly 36 participants, consisting of owners, partners, managing directors, family members, etc., who have been carrying on business for the last three to five generations.

RK Rubin, Convener, WRC, welcomed and introduced the faculty, Dr. Mita Dixit, who holds a PhD in Conflict in Indian Family Business. She is the co-founder and director of M/s. Equations Advisors Private Limited, one of the few family business companies in India who play the role of advisor, mentor, educator and researcher to multi-generational owner families. She touched upon various topics concerning developing a culture of family governance, preparing next gen successors and entrepreneurs in family business, estate planning and wealth management, professionalizing the family business, enhancing productivity in family business, leadership and communication skills for business families, conflict management and mediation, developing CSR; philanthropy strategies and moving beyond growth in the 2020s.

During the seminar, she touched upon various key aspects on distinguishing ownership, important role of family, family members induction and participation for business growth and sustainability. It was an eye opener for most of the participants who enthusiastically participated in the proceedings. The participants fired probing queries which were answered deftly by Dr. Dixit during the interaction session.

A majority of businesses in the logistics industry is family owned and managed by family members. With changing times, such business models are facing various challenges. AMTOI is planning to conduct more workshops to enlighten members to follow and adapt best practices in family business. Amit Bendre, WRC Member, gave a vote of thanks and Wilfred Menezes handed over a token of appreciation to Dr. Dixit on behalf of WRC.



Mr. Shantanu Bhadkamkar, President along with MC Members, Mr. Xerrxes Master, Mr. George Abrao, Mr. Venkataraman, Mr. Haresh Lalwani and Ms. Anjali Bhide, met Mr. Amitabh Kumar, new DG Shipping at his Mumbai Office.

Mr. Jaideep Raha, ERC Co-Convenor, represented Amtoi as Speaker & Moderator at the "National Logistics Summit" on North East held at Guwahati, Assam on 4th June 2019

M/s. Portall, made a presentation on PCS1x during the 2nd Extended Board Meeting of AMTOI at YIMAS, Ballard Estate on 3rd April 2019.

Guests at the Felicitation program of Mr. Raj Khalid, ex. Rep of Port of Antwerp held on 5th June 2019 at St.Regis Hotel, Lower Parel