

**BEFORE THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI**

**MEMORANDUM OF INTERLOCUTORY APPLICATION
(Under Section 19 of the National Green Tribunal Act, 2010)**

O.A. NO. 97 OF 2025(SZ)

IN THE MATTER OF:

Tribunal On Its Own Motion Suo Motu
Based On The News Item Published In
The Hindu Newspaper, Chennai Edition,
Dated 10.06.2025, "Container Vessel on fire off Kerala Coast"

AND

Ministry of Ports, Shipping and Waterways & Ors.

...RESPONDENTS

REPORT ON BEHALF OF RESPONDENT NO. 8

S. NO.	DOCUMENT	PAGE NO.
1.	Report on behalf of Respondent No. 8 along with Verifying Affidavit	1-16
2.	Annexure A – Copy of SitRep No. 9 dated 16.06.2025 issued by the Directorate General of Shipping	17-21
3.	Annexure B (Colly) – Copy of the Letters dated 21.07.2025 and reply received from the Directorate General of Shipping	22-47
4.	Annexure C - Copy of SitRep No. 35 dated 24.07.2025 issued by the Directorate General of Shipping	48-51
5.	Annexure D – Copy of Report dated 08.03.2026 issued by TMC Marine	52-65
6.	Annexure E – Writ Petition in WP (PIL) No. 50 of 2025	66-99
7.	Annexure F – Writ Petition in WP (PIL) No. 60 of 2025	100-218
8.	Proof of Service	219

DATED AT CHENNAI ON THIS THE 11th DAY OF MARCH, 2025



COUNSEL FOR THE APPLICANT

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN
ZONE, CHENNAI**

ORIGINAL APPLICATION NO. 97 OF 2025 (SZ)

IN THE MATTER OF:

Tribunal on its own motion **Suo Motu**
based on the news item published in
The Hindu dated 10.06.2025, titled
**“Container Vessel on fire off Kerala
Coast”**

With

Ministry of Ports, Shipping and
Waterways and Ors.

...Respondent(s)

TO,

**THE HON'BLE CHAIRMAN AND HIS COMPANION MEMBER OF THE
NATIONAL GREEN TRIBUNAL**

**REPORT ON BEHALF OF THE RESPONDENT NO. 8, WAN HAI LINES
(SINGAPORE) PTE LTD.**

The Respondent No. 8 abovenamed humbly submits as follows:

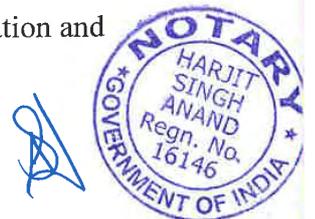
1. This Report is being filed on behalf of Respondent No. 8, who are the Registered Owners of the Wan Hai 503 – IMO No. 9294862 (“the Vessel”), in compliance with the directions of this Hon’ble Tribunal in its order dated 13th January 2026, wherein the Hon’ble Tribunal directed the following:



“3. Therefore, we direct the owner of the ship to declare and dispose of the contents of the 232 containers that fell in the high seas of the Arabian Sea and also to state the measures or steps taken to retrieve them. They are further directed to indicate the potential consequences if these containers remain at the bottom of the sea in the long term.”

Facts in Brief

2. The following true and correct facts are brought on record hereunder:
3. The Vessel is a container ship under the registered ownership of Wan Hai Lines (Singapore) Pte. Ltd., the Respondent No. 8 herein, and a company incorporated and registered in the Republic of Singapore. The Respondent No. 8 has been in the business of providing marine transportation of cargo for more than 30 years.
4. The Vessel was carrying 1754 containers, i.e., 838 x 20' (Twenty Feet) containers (including 30 empty containers) and 916 x 40' (Forty Feet) containers (including 104 empty containers), weighing 36,406.3 metric tons in total, and was bound for Nhava Sheva, Mumbai. In addition to the aforesaid, the Vessel at the relevant point in time had about 2000 tonnes of Fuel Oil and about 240 tonnes of Marine Diesel Oil onboard.
5. On 9th June 2025, the Vessel experienced a fire/explosion onboard, while en-route to Nhava Sheva, Mumbai from Colombo, Sri Lanka. As per reports, the Vessel was located at Lat. 11°37.6'N, Long. 074°37.4'E, southwest of the Indian coastline, 44 nautical miles (nm) [81.5 kms] from Azhikkal, Kerala, when the incident occurred. The Master of the Vessel, upon escalation of the fire and subsequent explosions, and taking into consideration the situation and



the safety of the crewmembers, undertook emergency measures along with the rest of the crewmembers to the best of their capabilities. They reported the incident to authorities, initiated on-board emergency firefighting procedures and, in close coordination with the authorities, subsequently ordered the evacuation of the crew from the vessel.

6. Immediately following the unfortunate incident onboard the Vessel, the Indian Coast Guard (“**ICG**”) and the Information Fusion Centre Indian Ocean Region (IFC-IOR) were informed, and emergency operations were initiated. The Respondent No. 8 at all times cooperated and provided the necessary information to the authorities as requested by them from time to time.
7. On the Respondent No. 8 being notified of the incident, they at the earliest possible time, appointed T&T Salvage Asia Pte Ltd. (“**T&T**”) whereby T&T, in active coordination with the Indian authorities and other parties put together a salvage plan and deployed a significant number of tugs, assets and personnel to address the situation onboard the Vessel.
8. The Respondent No. 8 also appointed a Special Casualty Representative (“**SCR**”) from TMC (Marine Consultants) Ltd. (“**TMC Marine**”), whose role included the oversight of technical planning, response coordination, and real-time monitoring.
9. The Respondent No. 8 and its contracted resources, in coordination with the Indian Coast Guard and Indian Navy, undertook a series of proactive firefighting and containment measures, including but not limited to the following:
 - i. Continuous boundary cooling was conducted using tugs equipped with FiFi (Fire Fighting) systems, with particular focus on Bays



31–35. Alternate operational cycles between tugs were maintained to ensure a sustained 24-hour firefighting capability.

- ii. Additional FiFi assets were deployed to strengthen the containment operations.
- iii. Emergency towing operations were initiated, and a tow line was successfully established between the tug Offshore Warrior and the Vessel.

10. The Directorate General of Shipping, Government of India, being the central Indian authority responsible for regulating and overseeing various aspects of the Indian shipping industry, including safety and security, coordinated the efforts and overall monitored the firefighting, rescue, and containment of the Vessel and its cargo.

11. The Directorate General of Shipping undertook daily meetings with the representatives of the Registered Owner, the salvors, the Maritime & Port Authority of Singapore officials being the representatives of the flag state of the Vessel wherein daily reporting of the efforts to contain the fire onboard the Vessel, its towing operations, situation updates as well as operational assessment and routine directions and suggestions have come to be issued. Further to these meetings, the office of the Directorate General of Shipping has issued Situation Reports, titled, ‘SitReps’ on a daily basis which provided regular updates on the Vessel and these SitReps have been put up for public information and knowledge on the official website of the Kerala State Disaster Management Authority (KSDMA) at <https://sdma.kerala.gov.in/ship-wreck-wanhai-503/>.

12. The Directorate General of Shipping issued a Notice under Section 356(J) of the Merchant Shipping Act, 1958 on 9th June 2025, calling upon the Registered Owner as well as the Master, operator, P&I Club, agent of the Vessel to take



required actions including (a) action for preventing the escape of oil from the vessel and monitoring of the area, (b) action for removal of oil from the vessel, (c) action for removal of oil slicks on the surface of the sea, if were to occur, (d) action to disperse the oil slicks on the surface of the sea, if it were to occur, (e) action to remove the containers fallen into sea including IMDG Cargo if fallen into sea and (f) towing the vessel away from the coast to mitigate the risk of pollution. All the directions set out in the said notice have been addressed, as would be evident from this Affidavit.

13. The Respondent No. 8 engaged Spill Tech Pty Ltd. (“**Spill Tech**”) for addressing any possible oil spill or shoreline cleanup required for any cargo that may be dispersed into the sea. Spill Tech is an internationally recognised entity specialising in emergency spill response, industrial cleaning, hazardous waste management, fire and marine-related services, with their technicians having the necessary experience and qualifications to manage such incidents.

14. In addition to the above, the Registered Owner of the Vessel, in the immediate aftermath of the incident of 9th June 2025, also promptly engaged the International Tanker Owners Pollution Federation Limited (“**ITOPF**”). The ITOPF is a not-for-profit organisation established on behalf of the world's shipowners to promote an effective response to marine spills of oil, chemicals and other hazardous substances.

15. The Respondent No. 8 engaged Marine Emergency Response Centre Pvt. Ltd. (“**MERC**”), an India-based entity, as a precautionary rapid response team as a measure for any potential pollution along the Indian Coast and was tasked with the following:



A handwritten signature in blue ink, appearing to be "H.A.", located below the notary seal.

- (a) Contain the containers at the shore and perform a clean-up activity to ascertain that the contents are contained and the local population and environment is protected to the extent possible.
- (b) Monitor the coastline for containers or any cargo washing ashore.
- (c) Facilitate a quick response if the containers/ cargo affect any location along the coastline of Kerala.
- (d) Depute requisite personnel to undertake the monitoring and clean-up activities.
- (e) Mobilize equipment, material etc. required to assist with the clean-up activities.
- (f) Provide regular updates and daily progress reports.
- (g) Coordinate with all relevant statutory authorities to undertake clean-up activities.

However, since monitoring and assessment after the incident commenced, only one empty Tank Container (“**Tanktainer**”), which was onboard the Vessel and a lifeboat from the Vessel, which was used by the crew to evacuate from the Vessel, came to be washed ashore around 15th-16th June 2025. The empty tanktainer and the Lifeboat were promptly removed by the pollution monitoring teams on the same day. This was also recorded by the office of the Directorate General of Shipping, in its SitRep dated 16th June 2025. It is submitted that other than these aforementioned articles, not a single container, piece of equipment, or material in any form associated with the Vessel or arising from the incident landed on the coasts of India. A copy of the Directorate General of Shipping SitRep No. 9 dated 16th June 2025 is annexed and marked hereto as **Annexure A**

16. The Indian Coast Guard, reportedly took regular aerial sorties and surveillance of potentially affected areas till 24th July 2025 and despite it being over 45 days to the incident, none of the natural consequences of an oil spill, being a visible



A handwritten signature in blue ink, appearing to be the initials "AS" or similar, written in a cursive style.

presence of a slick or a sheen of oil on the water's surface had been reported on account of the Vessel at any of the locations. None of the support vessels engaged in fire-fighting, boundary cooling, towing, and other operations in relation to the Vessel, nor any other ocean-going vessel transiting the waters of Kerala, had reported any oil slick or sheen that can be attributed to the Vessel.

17. MERC and Spill Tech undertook extensive shoreline surveys along the coastline of the State of Kerala until approximately seven weeks following the initial incident. It is reiterated that the only items directly linked to the Vessel that came ashore were the empty tanktainer and a lifeboat, and no other containers or cargo have been identified on the Indian shoreline since then.

18. Importantly, owing to the prompt actions taken by the Respondent No. 8 and active cooperation with and participation of the appointed T&T Salvors and the Indian Coast Guard, no oil spill was recorded or evidenced after the incident at all.

19. The Kerala State Pollution Control Board (KSPCB), being a party respondent in the proceedings before the Tribunal and under directions, filed an affidavit dated 3rd July 2025 before this Hon'ble Tribunal to bring on record the Report by the Senior Environmental Engineer of the KSPCB.

20. It is submitted that the KSPCB, in its report, has recorded that extensive coastal environmental monitoring was undertaken immediately after the incident, including water quality assessments at various coastal locations. The said report states that the water quality parameters were within normal limits and do not indicate any pollution attributable to the Wan Hai 503 incident, and that variations in turbidity and pH levels are sporadic and seasonal in nature and cannot be attributed to the ship fire incident. The report further records that Dissolved Oxygen (DO) levels signify adequate oxygenation of the water while



Biological Oxygen Demand (BOD) remains below detectable limits, showing no signs of contamination. From the available data of pH levels of the water, it cannot be established that a change in pH is related to the Wan Hai 503 incident and, pertinently, that air quality at all monitored coastal locations remained within the prescribed national standards.

21. As no oil spill or cargo washed ashore, the Respondent No. 8 addressed a letter dated 21st July 2025 to the Directorate General of Shipping, requesting the demobilisation of Spill Tech and MERC. The Directorate General of Shipping by their email dated 22nd July 2025, provided a No-Objection to the Respondent No. 8 towards the demobilisation, in line with the recommendations of ITOPF and the current ground realities. A copy of the letters dated 21st July 2025 and the reply received from the DGS is annexed and marked herewith as **Annexure B (Colly)**.
22. With continued firefighting efforts and active cooperation, the Vessel was safely towed out of the Indian Exclusive Economic Zone i.e. out of Indian Waters on 2nd July 2025 approximately 140 nm (259 kms) away from the Indian Coast. The Directorate General of Shipping issued their last SitRep on 24th July 2026, confirming that the Vessel was well beyond the Indian Exclusive Economic Zone and was no longer a concern to the Indian Coast. Pertinently, the Directorate General of Shipping acknowledged the Vessel being kept away from the Indian Coast along with the successful preservation of the Vessel and, critically, the marine environment. The Vessel began its tow to the Port of Refuge at Jebel Ali, United Arab Emirates on 24th August 2025 and reached the Port of Refuge safely under tow on 11th September 2025. Therefore, as on date, the Vessel is no longer in Indian waters and poses no threat to the Indian coastline, its waters or the environment. A copy of the Directorate General of Shipping SitRep No. 35 dated 24th July 2025 is annexed and marked hereto as **Annexure C**.



The Cargo Overboard:

23. It was reported by the Indian Coast Guard that at the time of the incident on 9th June 2025, 10-15 containers went overboard at a distance of 44 nautical miles (81.5 kms) from the Indian Coast. As per an aerial surveillance carried out by the Indian Coast Guard, 10-15 floating containers were identified on 10th June 2025 and were initially moving/adrift in a southeasterly direction. No floating containers were thereafter sighted by any of the authorities or vessels operating in the region.
24. The Respondent No. 8 engaged T&T, the classification society DNV, and other experts to identify the containers and their bay locations to assess damage. Further investigation was also conducted at the Port of Refuge to identify the containers likely to have gone overboard in the explosion on 9th June 2025. Upon conducting the requisite investigation, 32 containers were noted to have been likely lost overboard the Vessel at the time of the incident. It was also noted that none of these lost containers contained dangerous goods (DG).
25. It is submitted that, in accordance with the directions of the Hon'ble Tribunal and under the instructions of the Respondent No. 8, TMC Marine, has prepared a detailed report titled "*WAN HAI 503, 31 X LOST CONTAINERS OVERBOARD AS A RESULT OF THE FIRE AND EXPLOSION*" dated 8th March 2026 ("**TMC Report**"). A copy of the TMC Report is annexed and marked herewith as **Annexure D**.
26. The TMC Report notes that, as per the reported drift pattern and trajectory models, it was estimated that if the containers continued to remain afloat and still at sea, they would have either reached or passed the Indian coastline by the end of June 2025. Given the fact that to date no containers or cargo have washed ashore, other than the empty tanktainer, TMC considers containers that have



gone overboard from the Vessel on 9th June 2025, likely sank shortly thereafter to the seabed, at the depth of at least 700 meters.

Declaration on the Cargo lost overboard and consequences of remaining at the bottom of the sea:

27. The TMC Report provides that the cargo within the 32 containers comprised a wide range of products; however, none of these goods comprised any dangerous or hazardous cargo. A list of the containers reported to have gone overboard, along with their contents, is also specified within Appendix 1 of the TMC Marine Report (i.e., Annexure D).
28. The TMC Report clarifies the cargoes within the containers, namely, foodstuffs, miscellaneous products, and quenching material, are a low pollution risk considering the available information. The TMC Marine Report further states on the basis of the current information available, that if containment is sufficient, the 6 containers of resins, elastomers and nylons of various grades would not pose a risk to the marine environment.

Action taken for the recovery or disposal of the 32 containers:

29. The TMC Report categorically mentions that they do not know of any person that has located and lifted containers out from depths of 700 metres. At these depths, there is very low oxygen and is not affected by the surface current or wave action disrupting the contents of the containers. Therefore, it is likely that the containers are stable at the seabed. While locating the containers at this depth itself would be an extremely difficult challenge, even if the containers are found, the retrieval from this depth would likely cause damage to the container and potentially cause the cargo, which right now is likely stable and contained, to be released and dispersed into the water column and seabed.



30. TMC notes in their report that the lost containers presented significant recovery challenges that rendered salvage operations impractical. Despite extensive efforts by salvors and the Indian Coast Guard, no containers were sighted after the 10th June 2025, with the exception of one empty tanktainer recovered ashore on the 16th June 2025.

31. The most important observations recorded in the conclusion of the TMC Report are that:

- i. Recovery of the container shell would not be a guarantee of pollutant recovery and there would be a high probability of the container contents rapidly being released in the water column during ascent or as the units were lifted through the surface. This would likely result in the contents of the containers being spread over a far wider area of the seabed.
- ii. Operating in deep water inherently brings a risk to the operation. This includes risks to both the recovery operation and the containers being recovered. The variables and unknown aspects when carrying out these operations always remain and will be multiplied due to the environmental aspects.

32. On the basis of the TMC Report, it is considered that leaving the containers as-is, at the bottom of the seabed, would pose little to no-risk of pollution from the cargo contained therein and in fact, it may be more detrimental to search for and retrieve the 31 containers lost overboard.

33. In light of the foregoing facts, it is evident that there has been no oil pollution and/or environmental damage caused by the incident whatsoever, no sheen or slick observed at the time of incident or later on, no dangerous or hazardous



cargo has gone overboard into the sea, no container or the cargo therein has been sighted or reported by the authorities, salvors, or third parties whatsoever to date, other than one empty tanktainer and the lifeboat that washed ashore on 15th and 16th June 2025. It is further submitted that there is no threat of any oil spill or any dangerous or hazardous cargo to the marine environment and coasts of India and the Vessel itself has long left the territorial waters of India and is currently berthed at the Port of Refuge at Jebel Ali, United Arab Emirates. The threat of any pollution from the containers that fell overboard is also minimal, and on the basis of the TMC Report, the best way forward with the said containers would be to leave them as-is in their present condition and location.

The issue of environmental damage and compensation is already being considered and pending before the Kerala High Court:

34. Shortly after the incident of the fire on the Vessel, two Public Interest Litigations (PILs) were filed before the Hon'ble High Court of Kerala, being Writ Petition (PIL) No. 50 of 2025 – T.N. Prathapan vs. Union of India & Anr., and Writ Petition (PIL) No. 60 of 2025) - Ummer Ottummal vs. Union of India & Anr. whereby various reliefs, including those towards environmental impact and damage caused by the Vessel are being considered. The abovementioned PILs were tagged and are being heard together by the Hon'ble High Court of Kerala.

35. Several parties, including the present Respondent No. 8 herein, the Directorate General of Shipping, the Mercantile Marine Department (MMD) Kochi, Indian Coast Guard, Kerala State Pollution Control Board, among others, are parties to the said proceedings in the Hon'ble High Court and have filed their Reply Affidavits in the above-mentioned Public Interest Litigations.



A handwritten signature in blue ink, appearing to be "A".

36. That, moreover, as stated hereinabove, there are specific prayers of environmental compensation and remediation of the environment in the said PILs, hence in the event any orders are passed in the present proceedings, it may amount to double jeopardy. This Hon'ble Tribunal, by its order dated 13th January 2026, directed the KSPCB to bring on record all affidavits filed and orders passed in all other proceedings, which includes the PILs set out hereinabove and the Respondent No. 8 craves leave to rely on the same. Nevertheless, for the purposes of bringing to the attention of this Hon'ble Tribunal, the prayers in the aforementioned PILs, copies of the Writ Petition (PIL) No. 50 of 2025 and Writ Petition (PIL) No. 60 of 2025 without annexures are annexed hereto as **Annexure E** and **Annexure F** respectively.
37. It is submitted that in light of the abovementioned clarifications, the answering Respondent No. 8 humbly submits that the Hon'ble Kerala High Court is already seized of the same issue being examined in the present proceedings by this Hon'ble Tribunal, including the issue of alleged environmental damage. It is, therefore the humble submission of this Respondent No. 8 that in order to avoid any multiplicity of proceedings and contradiction in findings or orders, the present Original Application may not be proceeded with. In this regard, reference is made to the decision of the Hon'ble Supreme Court in the case of *State of Andhra Pradesh v. Raghu Ramakrishna Raju Kanumuru* dated 01.06.2022 wherein it was observed that this Hon'ble Tribunal should refrain from hearing a case if a Constitutional Court i.e., the High Court is already seized of the matter.
38. In view of the abovementioned facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to pass such Order as it may deem fit and proper in the interest of justice, including disposing off the present proceedings.



39. I state that the answering Respondent No. 8 craves liberty to file a further affidavit and rely on further documents in case the same is ordered by this Hon'ble Tribunal or the proceedings so demand.

COUNSEL FOR THE RESPONDENT NO. 8

RESPONDENT

VERIFICATION

I, Anil Shamrao Jadhav, Power Agent of the Respondent No. 8 hereinabove, do hereby verify and state that the contents of the above application are true and correct to the best of my knowledge, belief and information.



Respondent No. 8
BEFORE ME

HARJIT SINGH ANAND
ADVOCATE & NOTARY
GOVT. OF INDIA



Sr. No. 1953 Page No. 185
Dated. 10 MAR 2026



SEEN ORIGINAL POA dt.
24/06/2025

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN
ZONE, CHENNAI**

ORIGINAL APPLICATION NO. 97 OF 2025 (SZ)

IN THE MATTER OF:

Tribunal on its own motion **Suo Motu**
based on the news item published in
The Hindu dated 10.06.2025, titled
**“Container Vessel on fire off Kerala
Coast”**

With

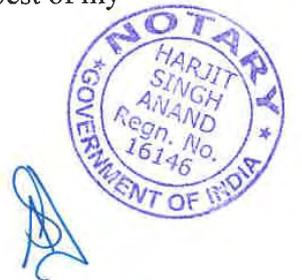
Ministry of Ports, Shipping and
Waterways and Ors.

...Respondent(s)

VERIFYING AFFIDAVIT OF THE RESPONDENT NO. 8

I, Anil Shamrao Jadhav, aged 40 years, residing at 147/151, Dr. M.G. Mahimtura Marg, 3rd Kumbharwada, 2nd Floor, Room No. 9, Shetty Building, Girgaon, Mumbai 400004, do hereby solemnly affirm and sincerely state as follows:

1. I am the Power Agent of the Respondent No. 8 herein. I have perused the papers and records in the present proceedings, and I am conversant with the relevant facts in relation to the above Original Application, on the basis of the instructions and documents provided to me by the said Respondent No. 8.
2. I submit that I have read the entire contents of the Report on behalf of the Respondent No. 8 and state that the same are true and correct to the best of my knowledge and that no material facts have been suppressed.



3. I submit that the Annexures filed along with the Report on behalf of the Respondent No. 8 are true copies of their originals.

Solemnly affirmed at Mumbai)

On this the 10th day of March 2026)

And signed his name in my presence)

BEFORE ME
BEFORE ME

HARJIT SINGH ANAND
ADVOCATE & NOTARY
GOVT. OF INDIA



Sr. No. 1954 Page No. 185
Dated: 10 MAR 2026



10 MAR 2026

of

SEEN ORIGINAL POA dt
24/06/2025



ANNEXURE A

Directorate General of Shipping

SITREP – 9, 1800 Hrs on 16/06/2025

Explosion on WAN HAI 503 (IMO no – 9294862, Flag Singapore) West of Kerala

The contents of this SITREP are based on both written and verbal inputs received from the stakeholders

1. Incident Overview:

Refer to SITREP – 2, 2200 hrs on 09/06/2025

2. Response Actions Initiated:

Refer to SITREP – 3, 2200 hrs on 10/06/2025

3. Present Status:

As of 1200 hrs on 16.06.2025, *WAN HAI 503* remains under controlled tow at position 10°01.88'N, 075°12.02'E, approximately 58 nautical miles west of Azhikod, holding a westerly course at a reduced speed of 0.3 to 0.6 knots.

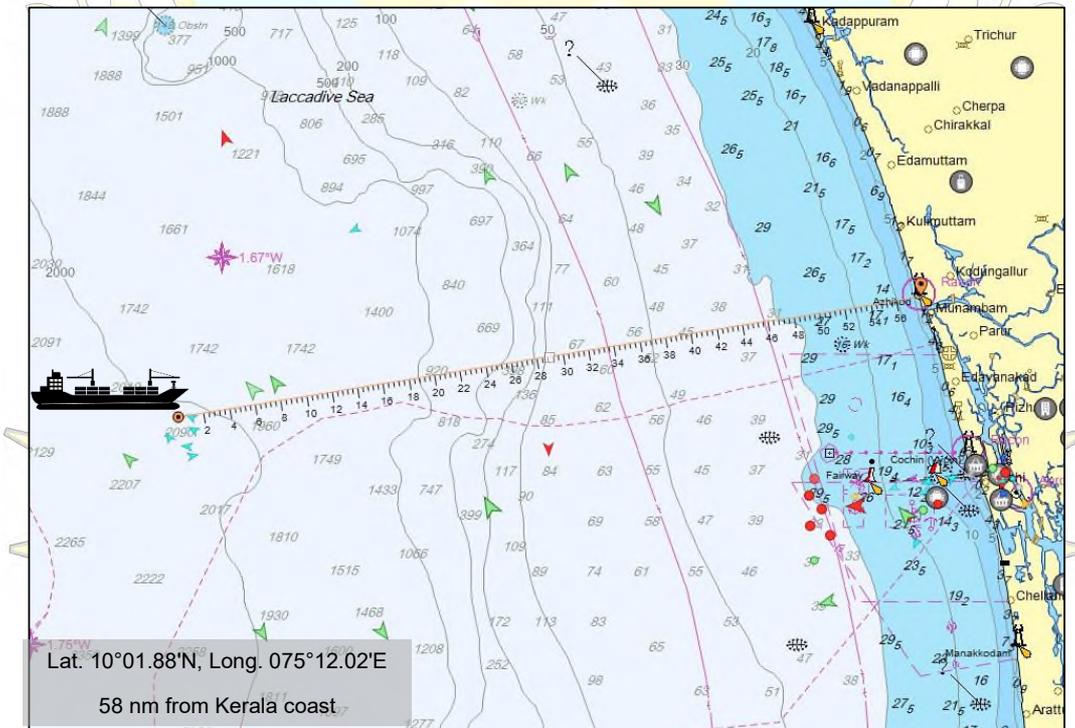


Figure 1: Position of WAN HAI 503 as on 16.06.2025 1200 hrs

The towline remains connected via *Offshore Warrior*, maintaining the vessel's offshore position and preventing further drift towards the Indian coastline or Lakshadweep islands. The vessel remains structurally afloat but continues to present persistent fire hazards in multiple compartments. While boundary cooling operations have successfully suppressed fires at Frames 49–51, where only white and light grey smoke is observed, new flare-ups persist forward near Frame 103–113 and a smaller fire continues near the forecastle on the port side. Dense smoke remains present in the forward starboard section, beneath the container base forward of the accommodation. Overall, fire suppression remains partially effective, but hotspots continue to require constant attention. Weather conditions continue to challenge ongoing operations, with sustained westerly winds of 32–40 knots, intermittent heavy rain, gusts up to 52 knots, and poor visibility.

4. Additional Support

The Directorate has maintained continuous multi-agency deployment to sustain both firefighting and towing operations. Seven tugs — *Offshore Warrior*, *Triton Liberty*, *Boka Winger*, *Saroja Blessing*, *Saksham*, *Garnet*, and *ETV Water Lily* — are deployed on site, executing boundary cooling in rotation, targeting high-risk cargo bays and maintaining the vessel's structural temperature balance.



Figure 2: Tugs conducting fire fighting operation

Offshore Warrior continues to maintain towing control while *Boka Winger* remains prepared to assume towing responsibility when required. Planning for establishing a

second towline remains a key operational priority, with two proposals under consideration: Option A (replacing the soft line using Offshore Warrior) and Option B (laying an independent tow via a separate tug), with the latter option currently being operationally favoured for safety and redundancy.

Firefighting foam supplies are being enhanced after the existing foam showed limited effectiveness; Pyrocool firefighting agent is being mobilised from the US and is being expedited for deployment. Additional firefighting teams continue to arrive, with eight personnel already deployed on-site, twelve more on standby in Kochi, and further reinforcements en route from Europe and the US pending visa clearances. Indian Coast Guard remains actively engaged with one vessel onsite, continuing aerial surveillance and providing mid-sea bunkering support for *Offshore Warrior* at controlled tow speeds of 1.5–2 knots. Indian Navy remains engaged, though operational arrangements are underway for the eventual release of *Triton Liberty* once personnel transfer can be safely executed via alternate tugs as three salvage team personnel are onboard Triton Liberty. The Navy has also offered helicopter winching support, subject to improving weather windows, for personnel transfer or towline operations if required.

Additionally, salvage teams have successfully removed a washed-up container and a lifeboat from coastal areas; these remain under customs control pending transfer to bonded facilities. ITOPF continues to provide shoreline monitoring, environmental modelling, and contingency planning support in coordination with



Figure 3: Lifeboat and container landed onshore on late hours on 15 Jun

5. Situation Assessment:

While immediate coastal threat remains contained, *WAN HAI 503* continues to present significant operational, environmental, and safety risks due to its persistent onboard fires, structural vulnerability, and highly volatile cargo composition. Stabilisation has successfully arrested coastal drift; however, current weather forecasts predict continued rough seas, westerly winds of 50–60 kmph, and intermittent heavy rainfall in the region for the next several days, complicating both firefighting and towing operations.

Securing a second towline remains the most critical priority to provide redundancy and improve stability for future long-haul towing, with eventual relocation options being evaluated for potential port of refuge outside Indian EEZ. Simultaneously, discussions continue with Kerala State authorities and shoreline response agencies to ensure readiness in the unlikely event of any rapid drift shift toward Indian waters. ITOPF has advised continued shoreline readiness, even as the vessel is progressively moved further offshore, to account for any container drift or unforeseen environmental spill scenarios.

Medical response efforts continue for the injured crew members, with five crew members still hospitalised including three in Intensive Care Unit (ICU). Ongoing liaison with families is being facilitated by the owners and authorities. At present, real-time coordination remains under the operational leadership of the Directorate General of Shipping, with constant updates provided to the Ministry of Ports, Shipping & Waterways and oversight from the highest levels of government.

6. Navigational Hazards:

Refer to SITREP – 3, 2200 hrs on 10/06/2025

7. Coordination Measures:

Refer to SITREP – 3, 2200 hrs on 10/06/2025

8. Cargo Assessment:

Refer to SITREP – 3, 2200 hrs on 10/06/2025



ANNEXURE B (COLLY)

From: tony chang /in.bom-gmo <tony_chang@wanhai.com> on behalf of tony chang /in.bom-gmo
Sent: Monday, July 21, 2025 11:51 AM
To: dgcommcentre-dgs@nic.in; singh.harinder@gov.in; Dg-dgs@gov.in; Anish-dgs@gov.in
Cc: Amitava Majumdar; WANHAI503; Wing Wai; Edward Allsop; MFB - WAN HAI 503; benson chen /tw.tpe-eng; Chen Ruth; Luo E; letitia lee /tw.tpe-srm; Kirsten Jackson; WANHAI503; Matthew Montgomery; rita shen /tw.tpe-srm; elaine chen /tw.tpe-srm; sandy yu /tw.tpe-srm; Rishabh Saxena; jimmy lee /in.bom-gmo; vijayendra koli /in.bom-opd; sandeep choughule /in.bom-mar
Subject: Intention to Disengage Spill Tech and MERC from Shoreline Clean-up Operations – MV Wan Hai 503
Attachments: SUPPLEMENTARY NOTE FOR WAN HAI TO PLACE ON THEIR LETTERHEAD.pdf; 20250711_WAN HAI 503 ITOPF Note on Shoreline Demobilisation.pdf

Kind Attention: Capt. Harinder Singh, Nautical Surveyor and Deputy Director General of Shipping (Tech), Govt. of India

Dear Sir,

RE: Demobilisation of Spill Tech and MERC for shore clean-up operations across the coast of Kerala, India

We write as the registered owner of the vessel MV Wan Hai 503 (IMO 9294862), and in respect of the shore clean-up readiness that has been deployed and maintained since 16th June 2025, for any .

We address this letter after over a month of the incident of 9th June 2025 and exactly a month since the entities of Spill Tech Pty Ltd. (“**Spill Tech**”) and Marine Emergency Response Centre Pvt. Ltd. (“**MERC**”) were contractually engaged for containment, monitoring, facilitation, coordination and deputation of personnel and resources in the event of any containers, equipment, material from the vessel MV Wan Hai 503 landing ashore across the coast of Kerala, India.

It is a matter of fact that only an empty ISO Tank and a lifeboat from MV Wan Hai 503 came to be washed ashore around 15th-16th June 2025, and that not a single container, equipment or material in any form has since landed on the coasts of Kerala, India which can be attributed to the vessel MV Wan Hai 503. This also makes logical sense as the vessel MV Wan Hai 503’s initial explosion on 9th June 2025 is the only reported event, wherein any material (containers) was reported to have fallen overboard. It is again a matter of fact, that the vessel MV Wan Hai 503 has post 9th June 2025 been under the constant supervision of various authorities (such as the Indian Coast Guard or the Indian Navy) and the salvors, who have not reported any further incident involving any material (containers or otherwise) falling overboard.

Further to above, we are also in receipt of the annexed ITOPF report, which basis a couple of modelling scenarios, comes to the conclusion as below,

“- The WAN HAI 503 only lost containers overboard on 9th June 2025.

- The last debris attributed to WAN HAI 503 were reported on 15th June (less than a week following the incident).

- No debris have been reported for the last three weeks.

- Container drift modelling indicates that for all scenarios tested, the landing on any debris would have reached the Indian shoreline by the end of June and therefore, there is a very low risk of shoreline contamination at present, five weeks after the incident.”

ITOPF thereafter proceeds to recommend as below,

“ITOPF recommends that the services of SpillTech and MERC are no longer required for shoreline clean-up operations. In accordance with their respective contractual terms, both contractors will remain on-site for the duration of their notice periods (one week for Spill Tech as per the demobilization agreement, and 24 hours for MERC).

Should the need arise, ITOPF, MERC and SpillTech could provide assistance on site or remotely for any necessary clean-up operations related to the cargo of WAN HAI 503.”

In addition to this, we have also undertaken an independent analysis in respect of the containers that may have fallen overboard, and we believe that the number of such containers could not have exceeded 28. Basis available facts as on date, we have set out the details of the said 28 containers that may have fallen overboard and have come to the conclusion that none of these containers contained DG Cargo. We annex a supplementary note to the ITOPF report as prepared by us, for your information and records.

In this backdrop, we humbly submit that continuation of services of Spill Tech and MERC would result in wastage of monetary and other resources, with no purpose at hand, and which otherwise can be engaged in other issues related to the vessel MV Wan Hai 503. In the spirit of cooperation, that has been extended so far and will continue to be extended by us to the Indian authorities, prior to disengaging Spill Tech and MERC, we thought it fit to inform the authorities of this decision. We request that should you believe that services of Spill Tech and MERC should be continued for any reason, kindly let us know, else we will proceed to disengage Spill Tech and MERC for the time being.

However, we assure you that in case of any change in circumstances, or in case any material, container, or other item is to spill or land ashore from MV Wan Hai 503, Spill Tech or MERC or both will be immediately pressed into service and that all efforts will be undertaken by us in such a scenario for containment, collection and monitoring, as maybe required.

I request you to kindly acknowledge the receipt of this letter, which is tendered and submitted in the spirit of cooperation and assistance, without prejudice to any of our rights.

Yours Sincerely,

Wan Hai Lines Singapore Pte Ltd.
Owner of MV Wan Hai 503

TONY CHANG 張正廷
WAN HAI LINES (India) PVT. LTD
Operation Owners Representative
Cell Phone: +91 95007 70712

Disclaimer :

This email and all contents are subject to the following disclaimer:

"<http://www.wanhai.com/html/emaildisclaimer.html>"



WAN HAI 503
ITOPF Note on Shoreline Demobilisation

11th July 2025

Introduction

ITOPF understands that on 9th June 2025, the Singapore flagged container vessel WAN HAI 503 (IMO No. 9294862) suffered fire and/or explosion on board. The vessel was located at Lat. 11°37.6'N, Long. 074°37.4'E, 44 nautical miles (nm) from Azhikkal, Kerala, southwest of the Indian coastline.

The vessel has been successfully towed away from the Kerala coastline and is currently under tow maintaining its position and was located at Lat. 07° 46.52'N Long. 074° 35.37' E as of 8th July 2025. At-sea operations solely focus on boundary cooling and firefighting when required.

At the time of the incident, it has been reported that a number of containers have been lost from the vessel, with approximately 10-15 observed adrift (by aerial surveillance carried out by the Indian Coastguard), moving in a southeasterly direction. The identification of these containers is still unknown at present.

As of 9th July, there have not been any reports of oil sighting in the vicinity of the vessel nor observation of containers falling overboard since the beginning of the incident. Therefore, any potential cargo or containers that could potentially reach the Indian shoreline would be from the lost overboard containers, reported on 9th June 2025.

The aim of this note is to (i) outline the clean-up measures that have been implemented since the beginning of the incident (ii) demonstrate the current limited risk of shoreline contamination resulting from the containers lost overboard and justify the demobilisation of shoreline clean-up resources.

1. Response strategy set up

On 16th June, the two contractors Spill Tech and MERC were formally instructed by WAN HAI 503 Owners, with the support of ITOPF, to mobilise to site to undertake clean-up operations for any debris, containers or oil that could contaminate the Indian shoreline following the initial explosion and any subsequent pollution.

The contractors, within their assigned roles, are mainly in charge of (i) managing the response personnel, (ii) deploying shoreline survey teams to identify any new sightings of shoreline pollution in areas, (iii) liaising with stakeholders, such as the Kerala State Disaster Management Authority (KSDMA), the police and customs, (iv) providing a risk assessment and mobilising a specialist HAZMAT team to respond and to collect/make safe any hazardous substances, and (v) identifying waste carriers and disposal locations.

As part of their appointments, and since 20th June, MERC and Spill Tech undertook surveys of the shorelines that were likely to be impacted by WAN HAI 503 pollution (e.g. ship-related debris, containers, loose cargo), based on the outputs of the drift modelling, contracted to RPS.

The objectives of these surveys were to: (i) to identify any sightings of pollution in the nearshore area or on the shoreline; (ii) to communicate these findings with local police and other relevant authorities; (iii) to secure the area, with assistance from local authorities, to limit interaction of the pollution with

members of the public; (iv) complete ITOPF's Survey123 template to allow accurate and consistent recordkeeping of presence/absence of shoreline pollution.

Since 20th June, approximately 12 people have been dedicated to surveying and reporting of any debris landings.

2. Pollution observed on the shoreline

As of 9th July 2025, more than 2,600 spot surveys of the shorelines from south of Kochi to Kollam have been undertaken by MERC surveyors and these survey points are detailed in Figure 1 as grey dots.

The only shoreline debris reported to date have been cotton/textiles (red dots), remnants of containers (blue dots) and paper (green dots). This shoreline pollution coincides with the cargo lost by MSC ELSA 3 and therefore are not directly attributable to WAN HAI 503. Following identification of several items by the survey team and reports from local authorities/relevant stakeholders, the contractors were able to identify and collect two identified WAN HAI 503 debris: an ISO tank and lifeboat, which have all come ashore at Alappuzha to the north (turquoise dots).

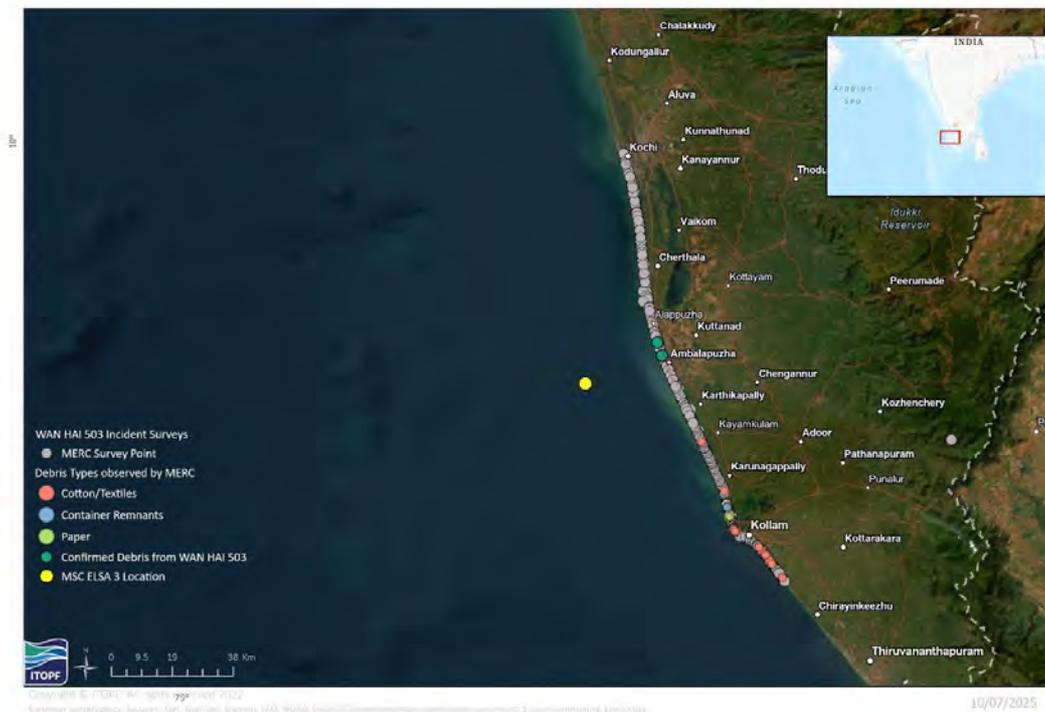


Figure 1: Location of the surveys undertaken by the contractors as of 9th July

3. Confirmed WAN HAI 503 debris collection timeline

On 15th June at around 15:00 LT, reports were received by the local authorities that a metal drum that appeared to be partially burned had been observed in the riprap in Alappad, Kollam (Figure 2C). The area was cordoned off by local police and MERC collected the drum and which has been safely stored in Kollam Port. Labelling on the drum indicated that the contents was TotalEnergies Preslia 46 lubricating oil. This substance is not included within the WAN HAI 503 cargo manifest. In addition, a blue plastic drum labelled HNO₃ (nitric acid) was reported in Kasaragod, approximately 400 km north of the other reported items. It is likely that this is not related to WAN HAI 503 due to its location, appearance and the fact that the product was not included within the cargo manifest.

On the evening of 15th June, the lifeboat from WAN HAI 503 washed ashore in Punnapra, Alappuzha and on 16th June at around 08:00 LT, reports were also received of an ISO tank washing ashore in Kakkazham, Ambalapuzha, approximately 4 km apart from each other (Figure 2B and A). It was quickly identified by ITOPF and TMC that the ISO tank was container EURU5347219, which was declared in the WAI HAN 503 cargo manifest as an empty container in stowage position 230282. All debris were then collected and disposed.



Figure 2: Debris washing up on the shorelines on 15th and 16th June. A) Empty ISO tank EURU5347219 that washed ashore in Kakkazham, Ambalapuzha. B) Lifeboat from WAN HAI 503 that washed ashore in Punnapra, Alappuzha. C) Metal drum of lubricating oil that washed ashore at Alappad in Kollam. D) Plastic drum labelled HNO₃ that washed ashore in Kasaragod, Kumbala.

All reports of shoreline debris and associated photographs have been shared on the joint WhatsApp group containing ITOPF, salvors, TMC, the Club, Wai Han representatives, ICG, KSDMA, DG Shipping and local authority stakeholders. This system has been efficient, despite some key information in the notification sometimes missing such as location coordinates and any signage on the debris. Since 15th

June, no further contamination attributed to WAN HAI 503 has been reported either internally (survey reports) or through the WhatsApp group.

4. Modelling of the overboard containers

On 9th July, ITOPI instructed RPS to undertake specialist drift modelling of the lost containers to understand the geographic extent of potential pollution and the expected timeframe as to when any debris would be likely to strand on the shoreline, using real data.

The drift of any containers that remain afloat have been calculated for two degrees of submergence (70% and 80%) and alternative opinions on the current and wind patterns from the available models have also been explored.

The model outputs are detailed in Figures 4-9 below.

Under wind calculations using the GFS model and the Hycom Ocean Model used for the currents, the containers, depending on their buoyancy are predicted to drift southeasterly and were expected to first reach the shoreline on 15th June (Figure 4). The location of the landing matches the location of the lifeboat and ISO tank recovered. The model also highlights that by 30th June, any containers still at sea would be passed the southern tip of India, and therefore, due to the local currents and winds cleared of reaching the Indian coastline, heading to the West coast of Sri Lanka (Figure 5). The model predicts that all containers would have washed ashore in India or Sri Lanka by 9th July 2025 and none would be expected to remain at sea (Figure 6).

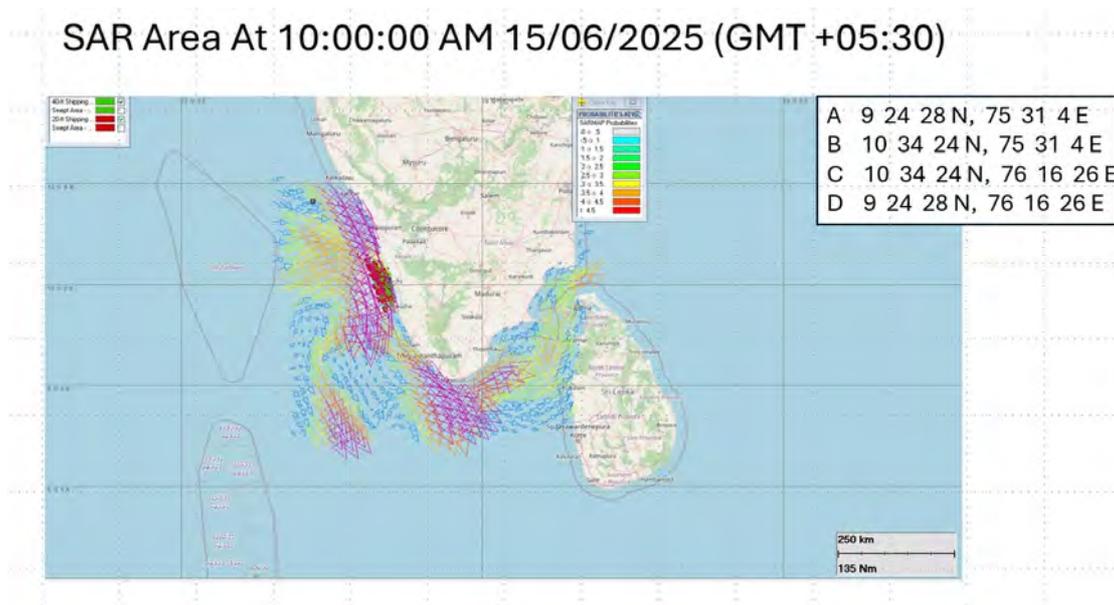


Figure 4. Forecast of drift of containers lost overboard by 15th June 2025. Wind calculations by the GFS model. Current calculations by the Hycom Ocean Model

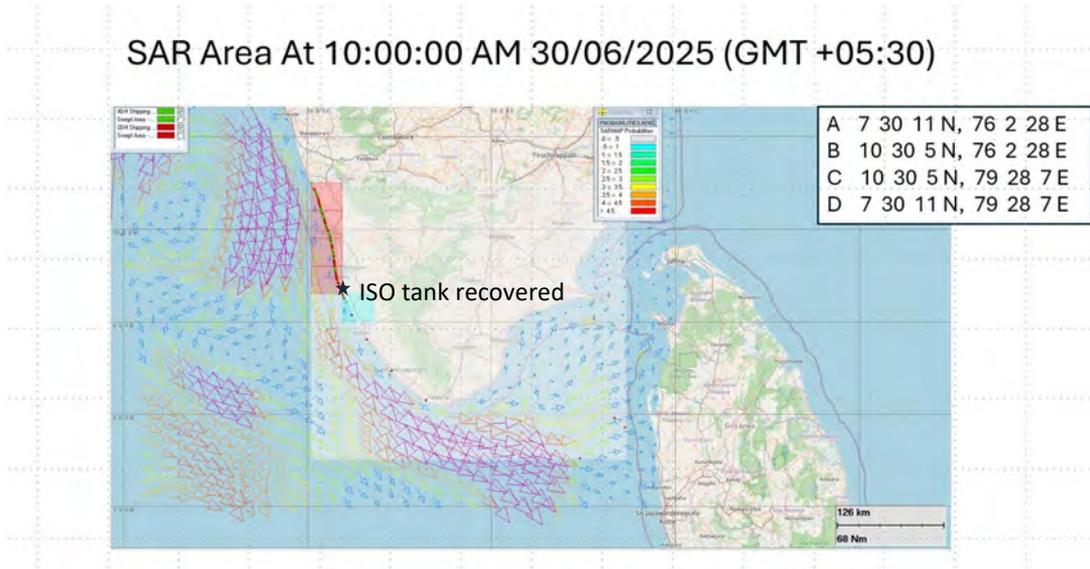


Figure 5. Forecast of drift of containers lost overboard by 30th June 2025. Wind calculations by the GFS model. Current calculations by the Hycom Ocean Model

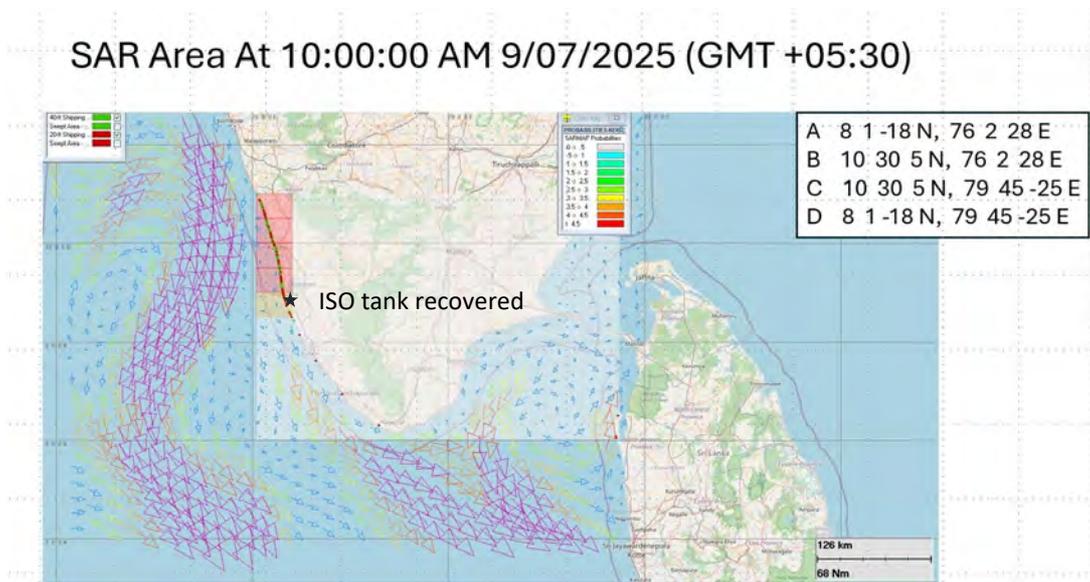


Figure 6. Forecast of drift of containers lost overboard by 9th July 2025. Wind calculations by the GFS model. Current calculations by the Hycom Ocean Model

Notes:

- Calculations for the most likely trajectory of partially submerged shipping containers
- Green Markers: 70% submerged
- Red markers: 80% submerged
- Relative probability of occurrence indicated by the colour-shaded boxes.

Under wind calculations using the ECMWF model and the Copernicus Ocean Model used for the currents, the drift of the containers, is slightly different. Initially, the containers are predicted to drift southeasterly, parallel to the shoreline and were expected to first reach the shoreline on 17th June (Figure 7). The location of the landing again matches the location of the lifeboat and ISO tank recovered. The model also highlights that by 26th June, the containers still at sea would have passed the southern tip of India, and therefore, due to the local currents and winds, cleared of reaching the Indian coastline, heading to the West coast of Sri Lanka (Figure 8). The model predicts that all containers would have washed ashore in India or Sri Lanka by 9th July 2025 and none would be expected to remain at sea (Figure 9).

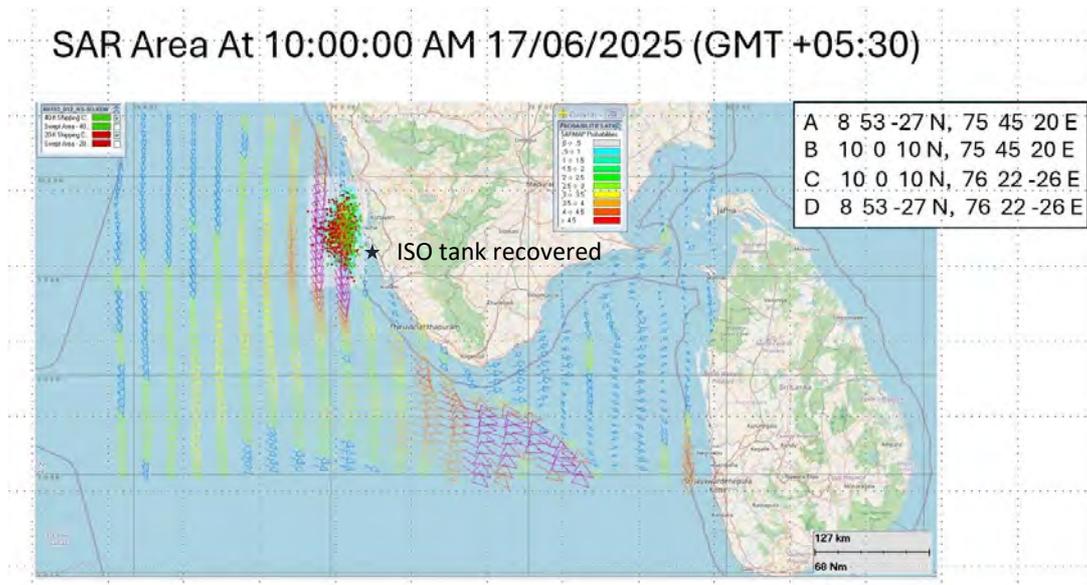


Figure 7. Forecast of drift of containers lost overboard by 17th June 2025. Wind calculations by the ECMWF model. Current calculations by the Copernicus Ocean Model

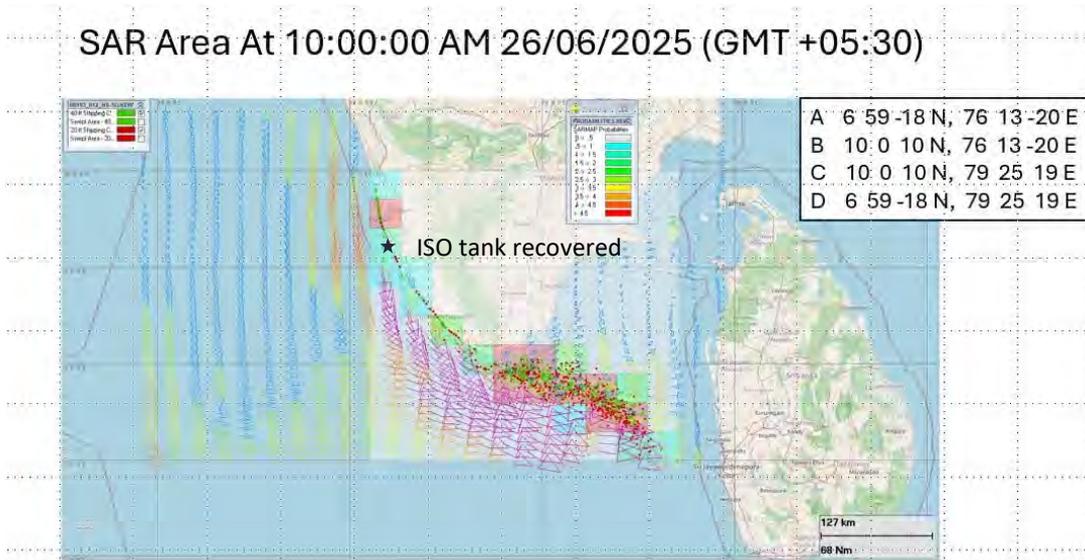


Figure 8. Forecast of drift of containers lost overboard by 26th June 2025. Wind calculations by the ECMWF model. Current calculations by the Copernicus Ocean Model

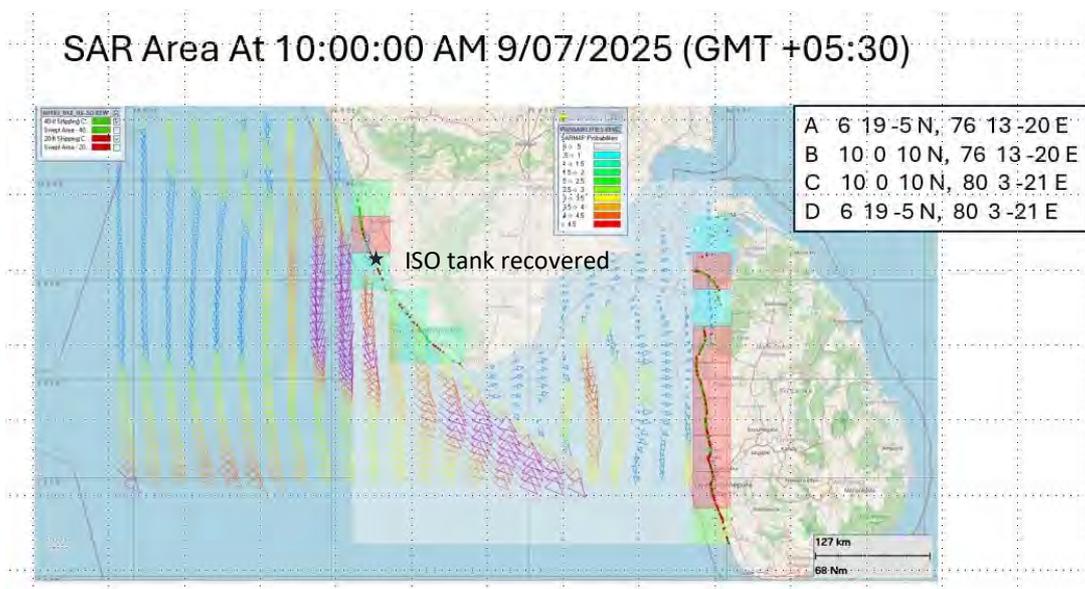


Figure 9. Forecast of drift of containers lost overboard by 9th July 2025. Wind calculations by the ECMWF model. Current calculations by the Copernicus Ocean Model

In conclusion, the combination of the GFS wind model and HYCOM ocean model (Figures 5-7) shows an increased likelihood of drift for the containers onto the south-west coast of India and a low likelihood of drift into the Gulf of Mannar or onto the coast of Sri Lanka.

The calculations made with the ECMWF open wind model and the Copernicus Ocean model indicates that containers that remained afloat (if any) and had not grounded along the south-west coast of India may have a high likelihood of drift into the Gulf of Mannar and onto the northwestern coastline of Sri Lanka.

Nevertheless, in both models, it is expected that any partially submerged containers would have reached or cleared the Indian coastline before the end of June.

CONCLUSIONS

On this basis of the information below:

- The WAN HAI 503 only lost containers overboard on 9th June 2025.
- The last debris attributed to WAN HAI 503 were reported on 15th June (less than a week following the incident).
- No debris have been reported for the last three weeks.
- Container drift modelling indicates that for all scenarios tested, the landing on any debris would have reached the Indian shoreline by the end of June and therefore, there is a very low risk of shoreline contamination at present, five weeks after the incident.

ITOPF recommends that the services of SpillTech and MERC are no longer required for shoreline clean-up operations. In accordance with their respective contractual terms, both contractors will remain on-site for the duration of their notice periods (one week for Spill Tech as per the demobilisation agreement, and 24 hours for MERC).

Should the need arise, ITOPF, MERC and SpillTech could provide assistance on site or remotely for any necessary clean-up operations related to the cargo of WAN HAI 503.



We write further to the ITOPF Note on Shoreline Demobilisation dated 11 July 2025.

Based on our investigations, we consider that a **maximum** of 28 containers went overboard following this incident. This is a conservative estimate and we expect the number to be less than this.

We believe that the containers were lost from Bays 26 and 22. Bay 26 did not contain any DG cargo but there were three DG containers in Bay 22 in positions 220884, 220382 and 220782. The latter two containers are located on the tank top, far removed from the containers we suspect to be lost. The DG container in position 220884 is in a position around which several containers were lost, but we believe this to have been accounted for in subsequent photographs.

The 28 containers which were potentially lost, **none of which are DG**, are identified in the table below:

Position	Container	Contents	DG
221282	WHSU6930464	PVC SUSPENSION RESIN S-65D PVC MASS RESIN B-57	No
221284	WHSU6064396	PVC SUSPENSION RESIN S-65D PVC MASS RESIN B-57	No
221286	WHLU5761467	PVC SUSPENSION RESIN S-57	No
221288	TRHU6842345	THERMAL PLASTIC ELASTOMER	No
221082	WHSU6365810	SAN 1200	No
221084	WHSU5011600	NYLON 6 CHIPS BR AA	No
221086	WHSU5659363	CLAY COATED KRAFT 100 GSM	No
221088	WHSU5031187	BICYCLE SPARE PARTS	No
220886	HAMU1134966	AC COMPACT GEAR REDUCER	No
220888	WHLU5762334	ONE WHOLE SET SY-805-6 CONTINUOUS BRIGHT CARBURIZING HARDENING QUENCHING FURNACE (ELECTRIC HEATING SYSTEM)	No
220686	TLLU5406452	AC INDUCTION MOTORS	No
220688	WHSU6808435	ONE WHOLE SET SY-805-6 CONTINUOUS BRIGHT CARBURIZING HARDENING QUENCHING FURNACE (ELECTRIC HEATING SYSTEM)	No
261282	WHSU6824415	INSHELL ALMONDS	No
261284	WHSU6160506	INSHELL ALMONDS	No
261286	TIIU4946768	PIVOTS, PLATE RACKS	No
261288	HAMU1780842	AIR CONDITIONER SPARE PARTS	No
261082	WHSU5739598	INSHELL ALMONDS	No

Position	Container	Contents	DG
261084	WHLU5800748	INSHELL ALMONDS	No
261086	HAMU1896895	LED DISPLAY PANEL	No
261088	EITU1369131	STAGE ACCESSORIES	No
260882	WHSU6630750	INSHELL ALMONDS	No
260884	WHSU6703542	INSHELL ALMONDS	No
260886	EGHU9505130	BABY CRIB	No
260888	HLBU3230819	AIR CONDITIONER SPARE PARTS	No
260684	EMCU8706069	SKD EARPHONE HOUSING	No
260686	EGSU9490899	CORRUGATED BOXES	No
260688	WHSU5748840	TOY PARTS	No
260488	WHSU6299786	TOY PARTS	No

As per ITOPF's Note on Shoreline Demobilisation, there has been no debris reported for the last three weeks.

ITOPF recommends that SpillTech and MERC be demobilised and Wan Hai agree with this.

However, Wan Hai also wishes to assure the Authorities that an emergency response team will remain in place to attend to clean-up operations should any cargo debris be reported.

From: Capt. Harinder via WANHAI503 <wanhai503@bosemitraco.in> on behalf of Capt. Harinder via WANHAI503
Sent: Tuesday, July 22, 2025 :3 PM
To: tony chang /in.bom-gmo
Cc: dgcommcentre-dgs@nic.in; Dg-dgs@gov.in; Anish-dgs@gov.in; Amitava Majumdar; WANHAI503; Wing Wai; Edward Allsop; MFB - WAN HAI 503; benson chen /tw.tpe-eng; Chen Ruth; Luo E; letitia lee /tw.tpe-srm; Kirsten Jackson; WANHAI503; Matthew Montgomery; rita shen /tw.tpe-srm; elaine chen /tw.tpe-srm; sandy yu /tw.tpe-srm; Rishabh Saxena; jimmy lee /in.bom-gmo; vijayendra koli /in.bom-opd; sandeep choughule /in.bom-mar; S.I.Abul A ad; Madhav Patil
Subject: Re: Intention to Disengage Spill Tech and MERC from Shoreline Clean-up Operations – MV Wan Hai 503
Attachments: SUPPLEMENTARY NOTE FOR WAN HAI TO PLACE ON THEIR LETTERHEAD.pdf; 20250711_WAN HAI 503 ITOPF Note on Shoreline Demobilisation.pdf

Dear Sir,

This is with reference to your email dated 21st July 2025 regarding the proposed demobilisation of Spill Tech Pty Ltd. and Marine Emergency Response Centre Pvt. Ltd. (MERC) engaged for shoreline clean-up preparedness in connection with the incident involving MV Wan Hai 503.

The matter has been duly examined, and it is informed that there is no objection to the demobilisation of Spill Tech and MERC, in line with the recommendations of ITOPF and the current ground realities.

However, it may please be ensured that the suitable persons remains on standby and available for immediate redeployment at short notice, in the event that any container or cargo that may have originated from MV Wan Hai 503 is observed or reported along the coastline. The vessel owners are requested to ensure continued coordination and readiness for removal of debris in such scenarios.

This is for your information and necessary action.

Thanks and Best Regards,

Capt. Harinder Singh,
Nautical Surveyor and Deputy Director General (Tech)
The Directorate General of Shipping, Mumbai.
Email: singh.harinder@gov.in
Tel: 022 2575 2063 / 022 25752040 (Ext:216)
Mob: 9819796759



WAN HAI 503
ITOPF Note on Shoreline Demobilisation

11th July 2025

Introduction

ITOPF understands that on 9th June 2025, the Singapore flagged container vessel WAN HAI 503 (IMO No. 9294862) suffered fire and/or explosion on board. The vessel was located at Lat. 11°37.6'N, Long. 074°37.4'E, 44 nautical miles (nm) from Azhikkal, Kerala, southwest of the Indian coastline.

The vessel has been successfully towed away from the Kerala coastline and is currently under tow maintaining its position and was located at Lat. 07° 46.52'N Long. 074° 35.37' E as of 8th July 2025. At-sea operations solely focus on boundary cooling and firefighting when required.

At the time of the incident, it has been reported that a number of containers have been lost from the vessel, with approximately 10-15 observed adrift (by aerial surveillance carried out by the Indian Coastguard), moving in a southeasterly direction. The identification of these containers is still unknown at present.

As of 9th July, there have not been any reports of oil sighting in the vicinity of the vessel nor observation of containers falling overboard since the beginning of the incident. Therefore, any potential cargo or containers that could potentially reach the Indian shoreline would be from the lost overboard containers, reported on 9th June 2025.

The aim of this note is to (i) outline the clean-up measures that have been implemented since the beginning of the incident (ii) demonstrate the current limited risk of shoreline contamination resulting from the containers lost overboard and justify the demobilisation of shoreline clean-up resources.

1. Response strategy set up

On 16th June, the two contractors Spill Tech and MERC were formally instructed by WAN HAI 503 Owners, with the support of ITOPF, to mobilise to site to undertake clean-up operations for any debris, containers or oil that could contaminate the Indian shoreline following the initial explosion and any subsequent pollution.

The contractors, within their assigned roles, are mainly in charge of (i) managing the response personnel, (ii) deploying shoreline survey teams to identify any new sightings of shoreline pollution in areas, (iii) liaising with stakeholders, such as the Kerala State Disaster Management Authority (KSDMA), the police and customs, (iv) providing a risk assessment and mobilising a specialist HAZMAT team to respond and to collect/make safe any hazardous substances, and (v) identifying waste carriers and disposal locations.

As part of their appointments, and since 20th June, MERC and Spill Tech undertook surveys of the shorelines that were likely to be impacted by WAN HAI 503 pollution (e.g. ship-related debris, containers, loose cargo), based on the outputs of the drift modelling, contracted to RPS.

The objectives of these surveys were to: (i) to identify any sightings of pollution in the nearshore area or on the shoreline; (ii) to communicate these findings with local police and other relevant authorities; (iii) to secure the area, with assistance from local authorities, to limit interaction of the pollution with

members of the public; (iv) complete ITOFF's Survey123 template to allow accurate and consistent recordkeeping of presence/absence of shoreline pollution.

Since 20th June, approximately 12 people have been dedicated to surveying and reporting of any debris landings.

2. Pollution observed on the shoreline

As of 9th July 2025, more than 2,600 spot surveys of the shorelines from south of Kochi to Kollam have been undertaken by MERC surveyors and these survey points are detailed in Figure 1 as grey dots.

The only shoreline debris reported to date have been cotton/textiles (red dots), remnants of containers (blue dots) and paper (green dots). This shoreline pollution coincides with the cargo lost by MSC ELSA 3 and therefore are not directly attributable to WAN HAI 503. Following identification of several items by the survey team and reports from local authorities/relevant stakeholders, the contractors were able to identify and collect two identified WAN HAI 503 debris: an ISO tank and lifeboat, which have all come ashore at Alappuzha to the north (turquoise dots).

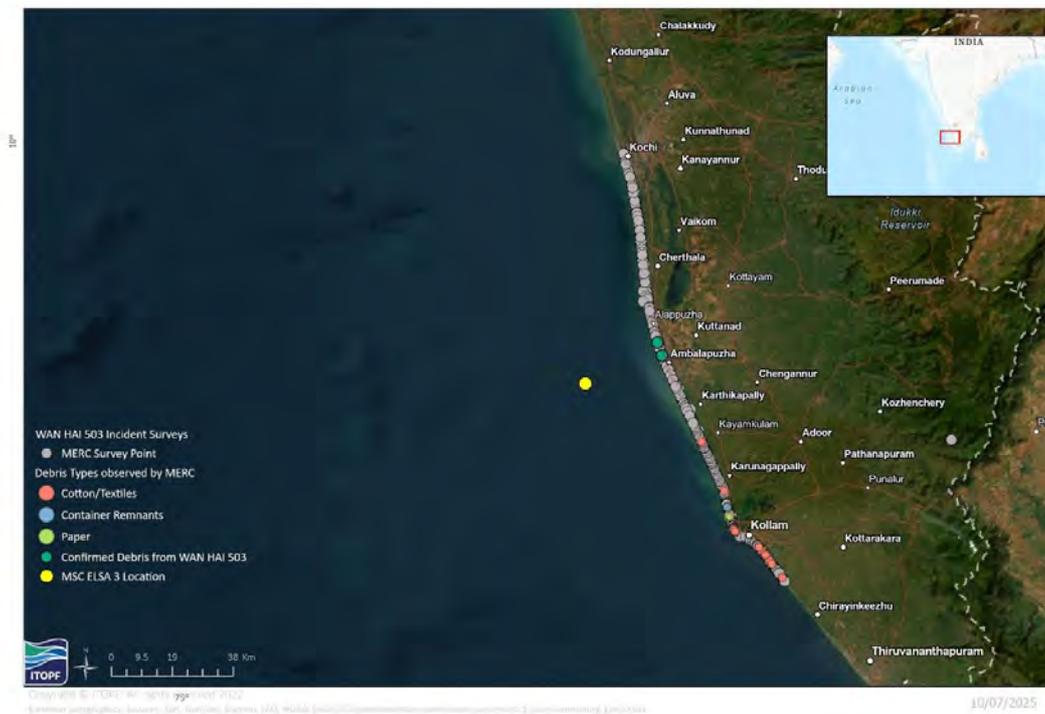


Figure 1: Location of the surveys undertaken by the contractors as of 9th July

3. Confirmed WAN HAI 503 debris collection timeline

On 15th June at around 15:00 LT, reports were received by the local authorities that a metal drum that appeared to be partially burned had been observed in the riprap in Alappad, Kollam (Figure 2C). The area was cordoned off by local police and MERC collected the drum and which has been safely stored in Kollam Port. Labelling on the drum indicated that the contents was TotalEnergies Preslia 46 lubricating oil. This substance is not included within the WAN HAI 503 cargo manifest. In addition, a blue plastic drum labelled HNO₃ (nitric acid) was reported in Kasaragod, approximately 400 km north of the other reported items. It is likely that this is not related to WAN HAI 503 due to its location, appearance and the fact that the product was not included within the cargo manifest.

On the evening of 15th June, the lifeboat from WAN HAI 503 washed ashore in Punnapra, Alappuzha and on 16th June at around 08:00 LT, reports were also received of an ISO tank washing ashore in Kakkazham, Ambalapuzha, approximately 4 km apart from each other (Figure 2B and A). It was quickly identified by ITOPF and TMC that the ISO tank was container EURU5347219, which was declared in the WAI HAN 503 cargo manifest as an empty container in stowage position 230282. All debris were then collected and disposed.



Figure 2: Debris washing up on the shorelines on 15th and 16th June. A) Empty ISO tank EURU5347219 that washed ashore in Kakkazham, Ambalapuzha. B) Lifeboat from WAN HAI 503 that washed ashore in Punnapra, Alappuzha. C) Metal drum of lubricating oil that washed ashore at Alappad in Kollam. D) Plastic drum labelled HNO₃ that washed ashore in Kasaragod, Kumbala.

All reports of shoreline debris and associated photographs have been shared on the joint WhatsApp group containing ITOPF, salvors, TMC, the Club, Wai Han representatives, ICG, KSDMA, DG Shipping and local authority stakeholders. This system has been efficient, despite some key information in the notification sometimes missing such as location coordinates and any signage on the debris. Since 15th

June, no further contamination attributed to WAN HAI 503 has been reported either internally (survey reports) or through the WhatsApp group.

4. Modelling of the overboard containers

On 9th July, ITOPI instructed RPS to undertake specialist drift modelling of the lost containers to understand the geographic extent of potential pollution and the expected timeframe as to when any debris would be likely to strand on the shoreline, using real data.

The drift of any containers that remain afloat have been calculated for two degrees of submergence (70% and 80%) and alternative opinions on the current and wind patterns from the available models have also been explored.

The model outputs are detailed in Figures 4-9 below.

Under wind calculations using the GFS model and the Hycom Ocean Model used for the currents, the containers, depending on their buoyancy are predicted to drift southeasterly and were expected to first reach the shoreline on 15th June (Figure 4). The location of the landing matches the location of the lifeboat and ISO tank recovered. The model also highlights that by 30th June, any containers still at sea would be passed the southern tip of India, and therefore, due to the local currents and winds cleared of reaching the Indian coastline, heading to the West coast of Sri Lanka (Figure 5). The model predicts that all containers would have washed ashore in India or Sri Lanka by 9th July 2025 and none would be expected to remain at sea (Figure 6).

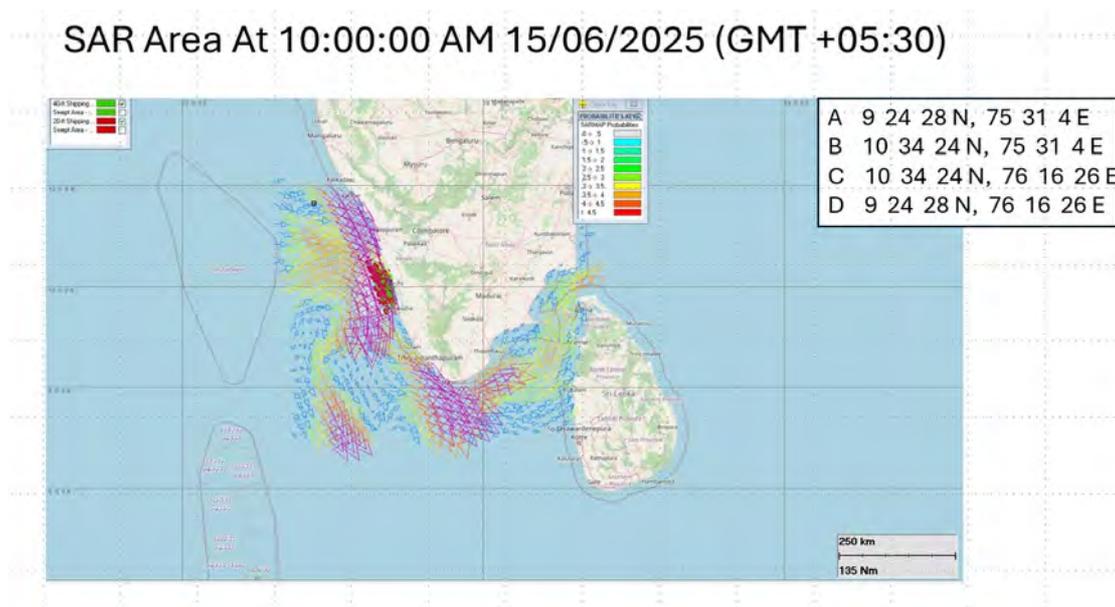


Figure 4. Forecast of drift of containers lost overboard by 15th June 2025. Wind calculations by the GFS model. Current calculations by the Hycom Ocean Model

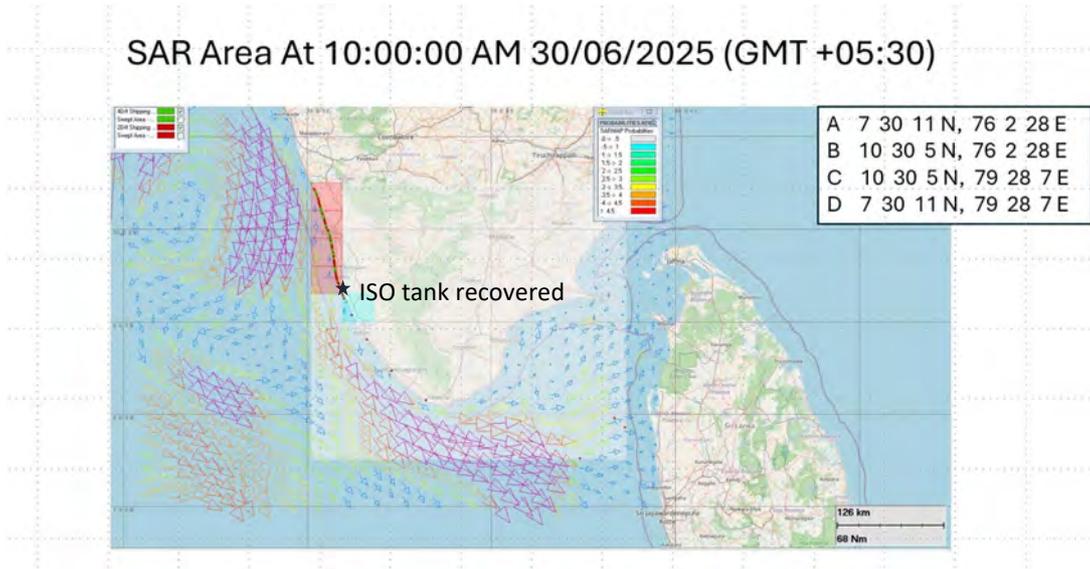


Figure 5. Forecast of drift of containers lost overboard by 30th June 2025. Wind calculations by the GFS model. Current calculations by the Hycom Ocean Model

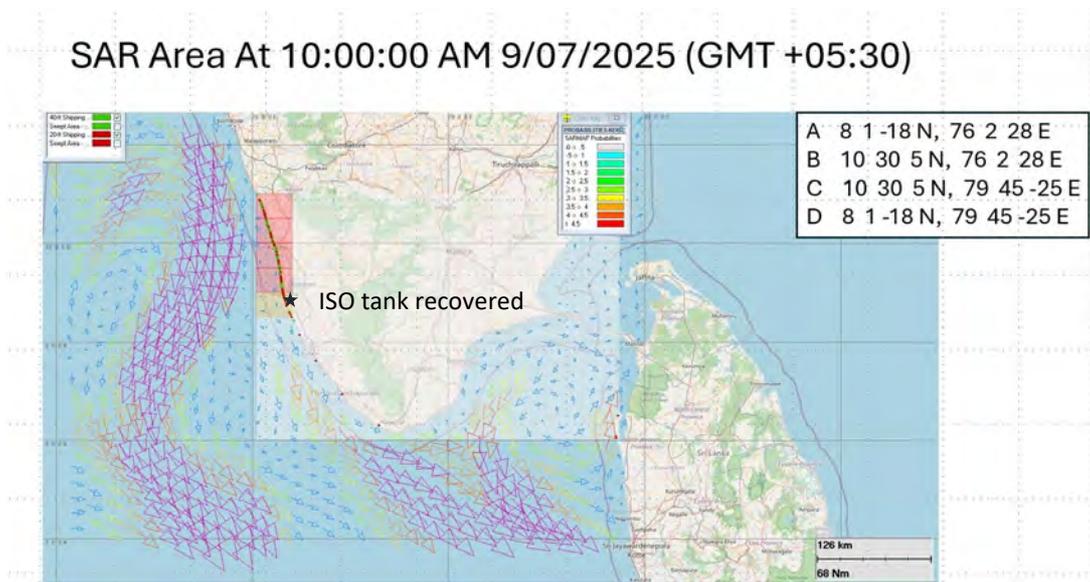


Figure 6. Forecast of drift of containers lost overboard by 9th July 2025. Wind calculations by the GFS model. Current calculations by the Hycom Ocean Model

Notes:

- Calculations for the most likely trajectory of partially submerged shipping containers
- Green Markers: 70% submerged
- Red markers: 80% submerged
- Relative probability of occurrence indicated by the colour-shaded boxes.

Under wind calculations using the ECMWF model and the Copernicus Ocean Model used for the currents, the drift of the containers, is slightly different. Initially, the containers are predicted to drift southeasterly, parallel to the shoreline and were expected to first reach the shoreline on 17th June (Figure 7). The location of the landing again matches the location of the lifeboat and ISO tank recovered. The model also highlights that by 26th June, the containers still at sea would have passed the southern tip of India, and therefore, due to the local currents and winds, cleared of reaching the Indian coastline, heading to the West coast of Sri Lanka (Figure 8). The model predicts that all containers would have washed ashore in India or Sri Lanka by 9th July 2025 and none would be expected to remain at sea (Figure 9).

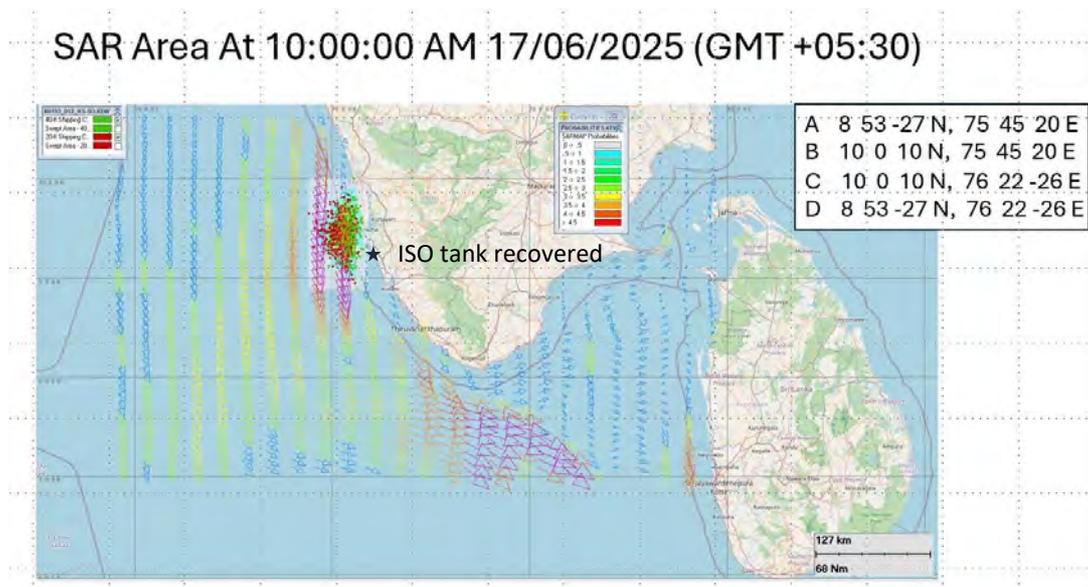


Figure 7. Forecast of drift of containers lost overboard by 17th June 2025. Wind calculations by the ECMWF model. Current calculations by the Copernicus Ocean Model

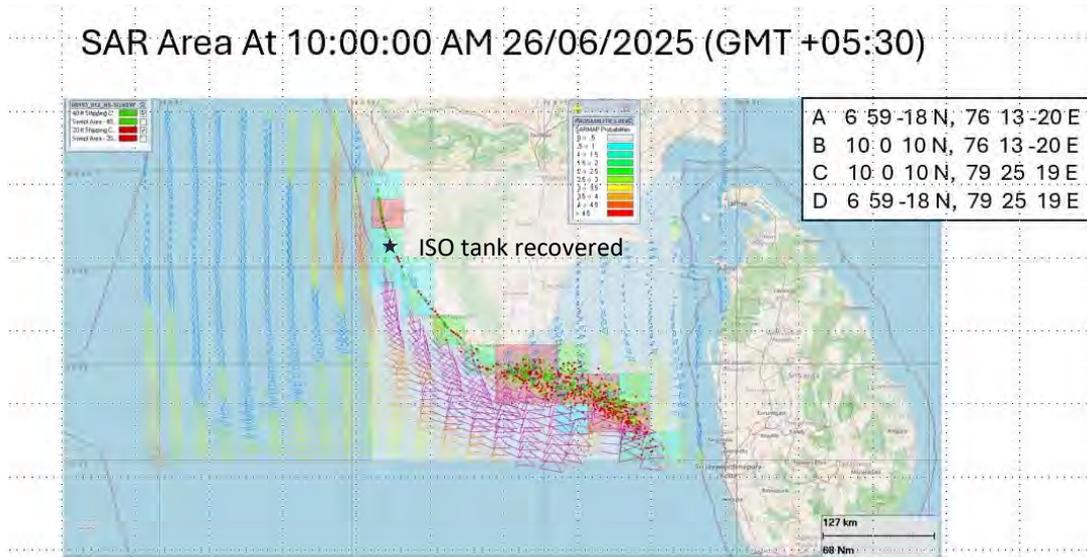


Figure 8. Forecast of drift of containers lost overboard by 26th June 2025. Wind calculations by the ECMWF model. Current calculations by the Copernicus Ocean Model

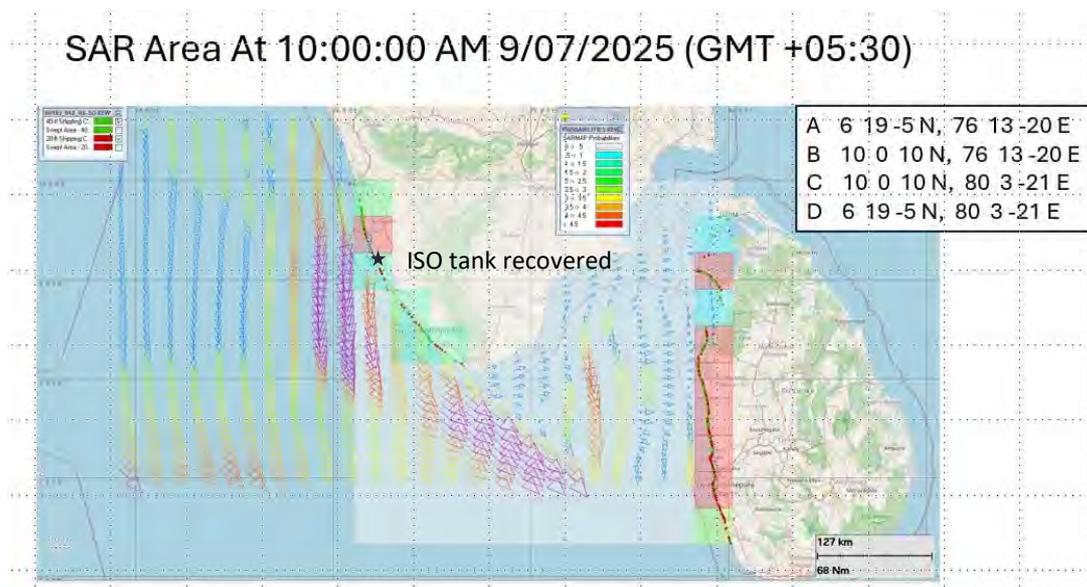


Figure 9. Forecast of drift of containers lost overboard by 9th July 2025. Wind calculations by the ECMWF model. Current calculations by the Copernicus Ocean Model

In conclusion, the combination of the GFS wind model and HYCOM ocean model (Figures 5-7) shows an increased likelihood of drift for the containers onto the south-west coast of India and a low likelihood of drift into the Gulf of Mannar or onto the coast of Sri Lanka.

The calculations made with the ECMWF open wind model and the Copernicus Ocean model indicates that containers that remained afloat (if any) and had not grounded along the south-west coast of India may have a high likelihood of drift into the Gulf of Mannar and onto the northwestern coastline of Sri Lanka.

Nevertheless, in both models, it is expected that any partially submerged containers would have reached or cleared the Indian coastline before the end of June.

CONCLUSIONS

On this basis of the information below:

- The WAN HAI 503 only lost containers overboard on 9th June 2025.
- The last debris attributed to WAN HAI 503 were reported on 15th June (less than a week following the incident).
- No debris have been reported for the last three weeks.
- Container drift modelling indicates that for all scenarios tested, the landing on any debris would have reached the Indian shoreline by the end of June and therefore, there is a very low risk of shoreline contamination at present, five weeks after the incident.

ITOPF recommends that the services of SpillTech and MERC are no longer required for shoreline clean-up operations. In accordance with their respective contractual terms, both contractors will remain on-site for the duration of their notice periods (one week for Spill Tech as per the demobilisation agreement, and 24 hours for MERC).

Should the need arise, ITOPF, MERC and SpillTech could provide assistance on site or remotely for any necessary clean-up operations related to the cargo of WAN HAI 503.



We write further to the ITOPF Note on Shoreline Demobilisation dated 11 July 2025.

Based on our investigations, we consider that a **maximum** of 28 containers went overboard following this incident. This is a conservative estimate and we expect the number to be less than this.

We believe that the containers were lost from Bays 26 and 22. Bay 26 did not contain any DG cargo but there were three DG containers in Bay 22 in positions 220884, 220382 and 220782. The latter two containers are located on the tank top, far removed from the containers we suspect to be lost. The DG container in position 220884 is in a position around which several containers were lost, but we believe this to have been accounted for in subsequent photographs.

The 28 containers which were potentially lost, **none of which are DG**, are identified in the table below:

Position	Container	Contents	DG
221282	WHSU6930464	PVC SUSPENSION RESIN S-65D PVC MASS RESIN B-57	No
221284	WHSU6064396	PVC SUSPENSION RESIN S-65D PVC MASS RESIN B-57	No
221286	WHLU5761467	PVC SUSPENSION RESIN S-57	No
221288	TRHU6842345	THERMAL PLASTIC ELASTOMER	No
221082	WHSU6365810	SAN 1200	No
221084	WHSU5011600	NYLON 6 CHIPS BR AA	No
221086	WHSU5659363	CLAY COATED KRAFT 100 GSM	No
221088	WHSU5031187	BICYCLE SPARE PARTS	No
220886	HAMU1134966	AC COMPACT GEAR REDUCER	No
220888	WHLU5762334	ONE WHOLE SET SY-805-6 CONTINUOUS BRIGHT CARBURIZING HARDENING QUENCHING FURNACE (ELECTRIC HEATING SYSTEM)	No
220686	TLLU5406452	AC INDUCTION MOTORS	No
220688	WHSU6808435	ONE WHOLE SET SY-805-6 CONTINUOUS BRIGHT CARBURIZING HARDENING QUENCHING FURNACE (ELECTRIC HEATING SYSTEM)	No
261282	WHSU6824415	INSHELL ALMONDS	No
261284	WHSU6160506	INSHELL ALMONDS	No
261286	TIIU4946768	PIVOTS, PLATE RACKS	No
261288	HAMU1780842	AIR CONDITIONER SPARE PARTS	No
261082	WHSU5739598	INSHELL ALMONDS	No

Position	Container	Contents	DG
261084	WHLU5800748	INSHELL ALMONDS	No
261086	HAMU1896895	LED DISPLAY PANEL	No
261088	EITU1369131	STAGE ACCESSORIES	No
260882	WHSU6630750	INSHELL ALMONDS	No
260884	WHSU6703542	INSHELL ALMONDS	No
260886	EGHU9505130	BABY CRIB	No
260888	HLBU3230819	AIR CONDITIONER SPARE PARTS	No
260684	EMCU8706069	SKD EARPHONE HOUSING	No
260686	EGSU9490899	CORRUGATED BOXES	No
260688	WHSU5748840	TOY PARTS	No
260488	WHSU6299786	TOY PARTS	No

As per ITOPF's Note on Shoreline Demobilisation, there has been no debris reported for the last three weeks.

ITOPF recommends that SpillTech and MERC be demobilised and Wan Hai agree with this.

However, Wan Hai also wishes to assure the Authorities that an emergency response team will remain in place to attend to clean-up operations should any cargo debris be reported.



ANNEXURE C

Directorate General of Shipping

SITREP – 35, 1800 Hrs on 24/07/2025

Explosion on WAN HAI 503 (IMO no – 9294862, Flag Singapore) West of Kerala

The contents of this SITREP are based on both written and verbal inputs received from the stakeholders. MPA Singapore assumed responsibility for further coordination efforts regarding the vessel to proceed to port of refuge. This is the last SITREP since the vessel is well beyond Indian EEZ and there's no concern to the Indian Coast.

1. Incident Overview:

Refer to SITREP – 2, 2200 hrs on 09/06/2025

2. Response Actions Initiated:

Refer to SITREP – 3, 2200 hrs on 10/06/2025

3. Present Status:

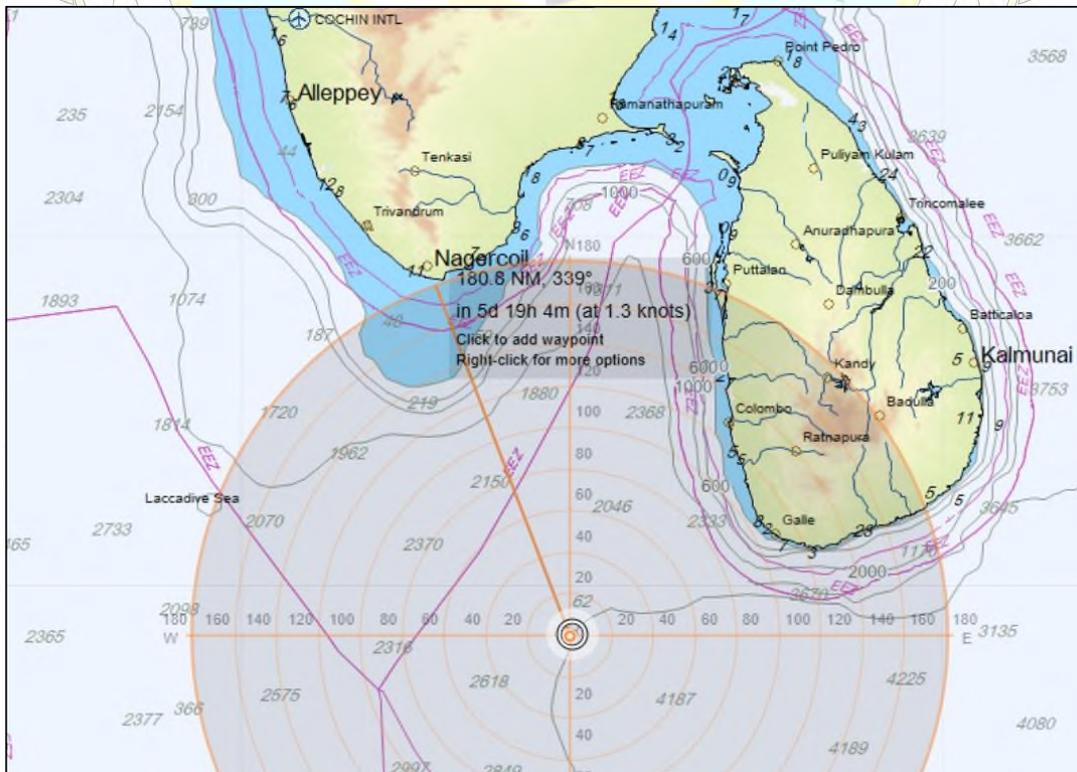


Figure 1: Position of the vessel

As of 24 July 2025, the *Wan Hai 503* remains under tow outside the Indian EEZ, being managed by the tug *Offshore Warrior*. The casualty is currently located approximately **90 nautical miles from the Indian EEZ boundary** and continues to be held in stable tow as preparations are made for further movement under a forward towing connection.

Onboard fire conditions have stabilized considerably. Light smoke continues to emanate from **Bay 29 to Bay 35**, but there is **no evidence of flame** or heat escalation. Temperature measurements across affected cargo holds remain stable and in control, averaging **around 40–41°C**. A complement of approximately **20 salvage personnel**, including the Salvage Master, is currently present onboard *Wan Hai 503*.

Dewatering efforts are ongoing and yielding consistent results. **Cargo Hold Nos. 5 and 6** are being pumped continuously to maintain manageable water levels. The **engine room level** is also stable and is being monitored round-the-clock. This level of dewatering is critical not only for operational access but also for any required inspection or shifting of equipment.

4. Additional Support:

Support vessel operations are being coordinated in tandem with ongoing salvage tasks. The ETV *Water Lily* continues to support **personnel and material transfer** between support tugs and the casualty vessel. The *Virgo*, which temporarily docked at **Galle Harbour** for maintenance, is scheduled to **rejoin operations by the morning of 25 July**. The *Virgo*'s re-engagement is particularly important as it is designated to execute the **forward towing line connection**, a critical requirement for entry into a Port of Refuge.

Other deployed vessels, including *Saksham* and *Nand Saarthi*, remain on standby to support equipment and crew transfers as needed. The **Advantis Libra** has also been confirmed to **join operations by 29 July**, further reinforcing support capability. The vessel is being sent to replace *Virgo* after the forward towing line is connected.

Currently, the **primary coordination responsibility** for managing the incident is being **handed over to the Flag State, Singapore**, and the salvors. The Directorate General

of Shipping (India) has confirmed that India's operational coordination responsibilities will conclude once the vessel re-enters international waters beyond its EEZ, barring any renewed emergency and expects MPA Singapore to coordinate with the owners as well as the salvors for all further actions.

India will, however, continue to provide logistical assistance if requested, and has made arrangements to stand by in the event of any renewed crisis, especially in light of ongoing Southwest Monsoon conditions.

5. Situation Assessment

The situation onboard *Wan Hai 503* is being managed effectively by the salvage team. The fire outbreak has been controlled, and residual smoke is under observation but not currently escalating. Dewatering across multiple compartments has been successful, and structural assessments, confirm the vessel remains afloat and maneuverable under tow.

A key operational milestone is the **establishment of a forward towing connection**, which is essential for the vessel to be accepted into a Port of Refuge. The **Maritime and Port Authority of Singapore (MPA)** has clearly communicated that entry to a port will not be permitted until this forward tow connection is in place. To this end, the salvors have planned to complete the forward towing arrangement by 27–28 July 2025 using *Virgo*.

The MPA has also requested detailed photographic and structural reports, particularly of the port side's damaged sections, to evaluate the vessel's seaworthiness for coastal entry. Once the forward towing connection is confirmed, the salvors will submit updated documentation to the MPA for final review and port clearance.

Meanwhile, the Directorate General of Shipping (India) reiterated its position that any entry into an Indian Port of Refuge remains off the table till all bunkers are removed and till monsoon conditions prevail. DGS also emphasized that if the Port of Refuge clearance is delayed further, the vessel should **continue to be held outside all EEZs**, including in proximity to the India-Sri Lanka-Maldives tri-junction, if safety allows.

In conclusion, while the situation remains weather-sensitive, significant progress has been made in stabilizing the vessel. With towage secure, fire risk reduced, and personnel safely onboard, operations are now entering a decisive phase focused on relocation, compliance, and final port entry clearance.

This is the final SITREP being issued by the Directorate General of Shipping. The organization extends its sincere gratitude to all authorities who have actively participated in the salvage operations thus far. Their efforts were instrumental not only in keeping the vessel away from the Indian coast but also in critically contributing to the successful preservation of the vessel and the marine environment.

6. Navigational Hazards:

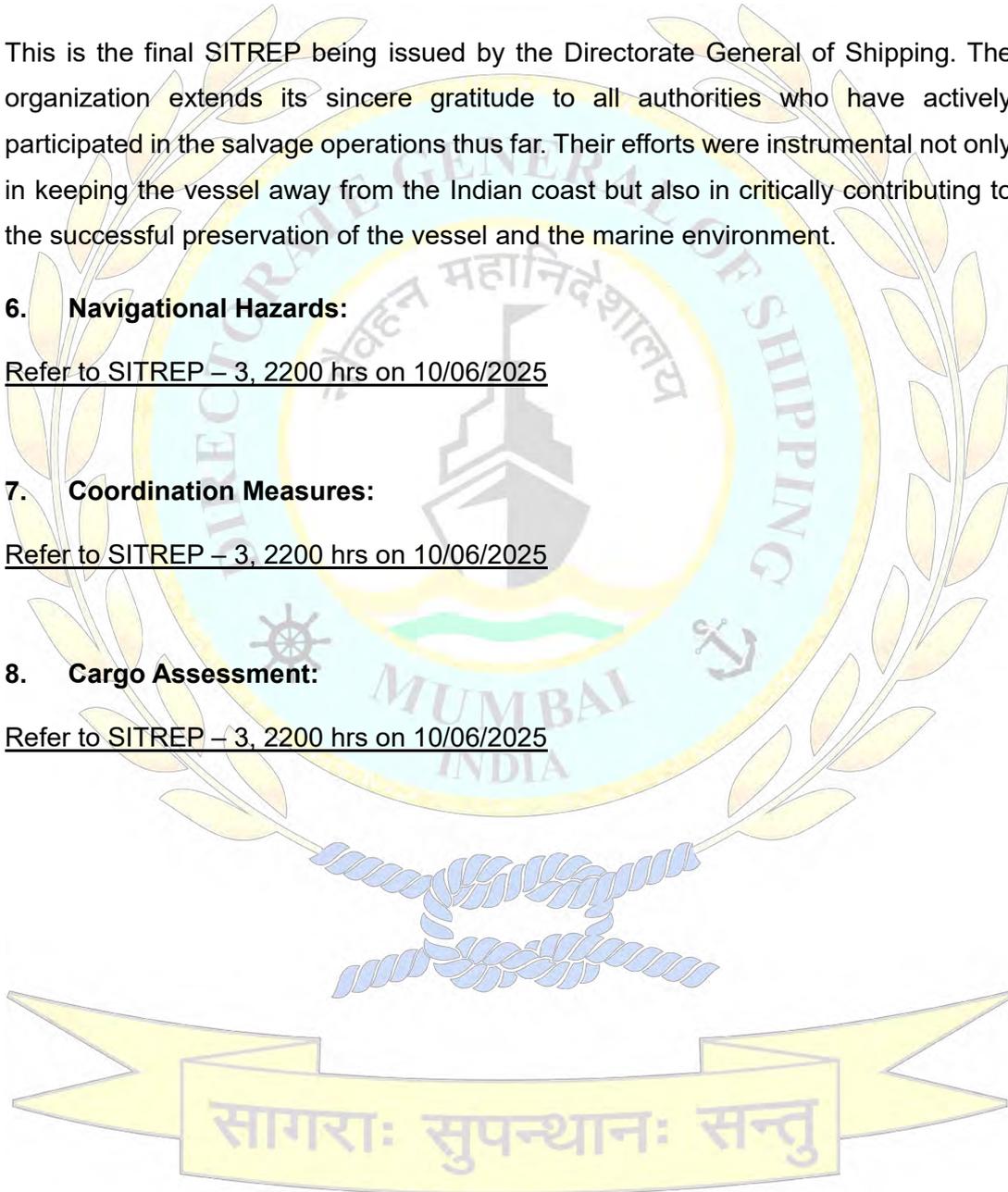
Refer to SITREP – 3, 2200 hrs on 10/06/2025

7. Coordination Measures:

Refer to SITREP – 3, 2200 hrs on 10/06/2025

8. Cargo Assessment:

Refer to SITREP – 3, 2200 hrs on 10/06/2025



**Directorate General of Shipping, 9th Floor Beta Building, I-Think Techno
Campus, Kanjurmarg (East), Mumbai - 400 042 (India)**

ANNEXURE D

TMC MARINE
A BUREAU VERITAS GROUP COMPANY



NAVAL ARCHITECTURE • MARINE OPERATIONS • ENGINEERING • OFFSHORE

Client Ref:

Our Ref: WAN HAI 503/19085

Date: 8 March 2026

WAN HAI 503

31 X LOST CONTAINERS OVERBOARD AS A RESULT OF
THE FIRE AND EXPLOSION.

TMC (Marine Consultants) Ltd

EUROPE • ASIA • AUSTRALASIA • THE AMERICAS

125 Old Broad St, London, EC2N 1AR, United Kingdom • +44 (0)20 7237 2617 • info@tmcmarine.com
www.tmcmarine.com

TMC (Marine Consultants) Ltd. Registered in England No. 1414292 at 1 Park Row, Leeds, United Kingdom, LS1 5AB

Contents

1	Introduction.	3
2	The Location Of The Ship At The Time Of The Loss.	3
3	Recovery Of Containers From The Sea.	7
4	Cargoes.	7
5	Actions Taken At The Time Of The Incident.....	8
6	Summary and Conclusions.	8

Figures

Figure 1	Image courtesy of Indian Navy Sitrep 2 2230 hour 09.06.2025	4
Figure 2	Position of the Vessel on the morning of the 9th with no head way. Courtesy of MadeSmart.nl.	4
Figure 3	Image courtesy of Indian Navy Sitrep 2 2230 hour 09.06.2025	5
Figure 4	The Vessel drift pattern on the 9th.	5
Figure 5	Drift pattern of floating container as per Kerala State Report figures.....	6

Appendices

31 x Lost Container list.

1 Introduction.

- 1.1 TMC Marine is a boutique marine consultancy based in the United Kingdom which is very active in the field of incident investigation and marine claims, having worked on marine casualties of all sizes, including the largest and most complex.
- 1.2 TMC has considerable expertise in advising and attending marine salvage and wreck removal operations globally. TMC has several Lloyds of London appointed Special Casualty Representatives.
- 1.3 TMC have experience of the recovery of containers and cargo from the seabed having been involved in numerous cases over the years where it is deemed appropriate and proportionate to conduct recovery operations.
- 1.4 TMC have been involved in the WAN HAI 503 case from the 9th of June 2025. This report sets out the logistics of the recovery of containers from the seabed following the fire and subsequent explosion. This retrieval of containers was under consideration by TMC as soon as containers were identified in the water.
- 1.5 A total of 31 steel containers were believed lost overboard during the 9th of June. Reports provided from the location at the material time indicated that a number of containers were sighted in the water, however, the last reported sighting was on the 10th of June. There were no further containers sighted whilst the salvors and Indian Coast Guard were on site with the exception of one empty tanktainer (insulated and therefore buoyant) recovered from the shoreline on the 16th of June.

2 The Location Of The Ship At The Time Of The Loss.

- 2.1 At approximately 0950 hours on the 9th of June 2025, WAN HAI 503 (the Vessel) suffered an explosion and subsequent fire. The Vessel was at the time located at Lat. 11°37.6'N, Long. 074°37.4'E, approximately southwest of the Indian coastline, 44 nautical miles (nm) from Azhikkal, Kerala.



Figure 1 Image courtesy of Indian Navy Sitrep 2 2230 hour 09.06.2025

2.2 Water Depth and Drift Pattern.

2.2.1 On the day of the incident the Vessel was transiting across various depth contours. As shown in Figure 2, at the time of the incident the Vessel was in a water depth of approximately 700 meters.

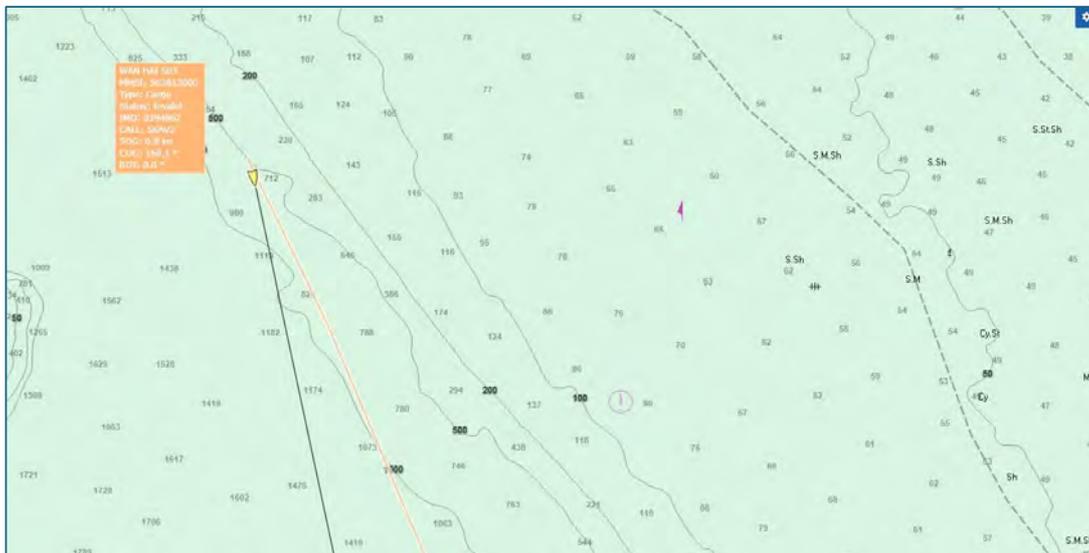


Figure 2 Position of the Vessel on the morning of the 9th with no head way. Courtesy of MadeSmart.nl.

2.2.2 According to the Indian Coast Guard the Vessel was drifting in a Southerly direction. The Indian Coast Guard reported that 10 – 15 containers had been sighted adrift in a

Southeasterly direction this was reported by the Coast Guard aircrafts. The estimated speed of drift reported by the Indian Coast Guard was approximately 1 – 1.5 knots.



Figure 3 Image courtesy of Indian Navy Sitrep 2 2230 hour 09.06.2025

2.2.3 The set and rate of drift of the Vessel was initially Southerly as shown below, this would mean that the Vessel was drifting towards deeper water.



Figure 4 The Vessel drift pattern on the 9th.

- 2.2.4 Figure 4 illustrates the initial drift pattern of the Vessel on the 9th of June 2025.
- 2.2.5 Based on the reported drift pattern for the sighted containers as per the Kerala State report dated 10th of June 2025 at 2200, the drift rate was 0.9 – 1.0 knots in a direction of 165 – 170 degrees. This was the last report provided for drifting containers.
- 2.2.6 The below figure illustrates the drift direction and distance over a period of 12 hours. Note, that if the containers drifted in the reported direction until they sunk shortly after being sighted then they would have ended up in water depths in excess of 700 metres.



Figure 5 Drift pattern of floating container as per Kerala State Report figures.

- 2.2.7 On or around the 10th of June 2025, and after this last sighting, TMC concluded that the containers would have sunk.
- 2.2.8 This preliminary analysis was confirmed as no General Purpose containers from the WAN HAI 503 have ever been located ashore.
- 2.2.9 Based on drift trajectory models, any container would have reached or cleared the Indian coastline by the end of June 2025. Therefore, given the modelling results and

the lack of shoreline stranding of containers or cargo denoted from the Vessel manifest being found on the Keralan or Sri Lankan shorelines to date, it is considered most likely that these containers **sank shortly after being lost overboard**. This assumption is also based on the fact that no containers were sighted floating after the 10th of June, a day after being lost.

- 2.2.10 A single tanktainer was found washed ashore on the 16th of June. This was an empty vessel and would therefore be buoyant. Tanktainer EURU5347219 was the only tanktainer lost overboard. All the other containers were standard General Purpose containers and would not be watertight so the retrieval of the Tanktainer is meaningless when considering the most likely outcome for the General Purpose containers.

3 Recovery Of Containers From The Sea.

- 3.1 As explained above, TMC considers that the General Purpose containers are in depths of at least 700 metres.
- 3.2 Whilst TMC has previously been involved in container recoveries, we do not know of any company that has located and lifted containers from these depths. It would require the development of specific methodologies and the use of highly sophisticated equipment.
- 3.3 At 700 m depths any container will be in a low oxygen environment and unaffected by surface current and wave action. Therefore, it is likely that all, or at least most, of the containers are stable.
- 3.4 Even if containers could somehow be located, their retrieval would be likely to damage the container shell and cause the cargo within to spill and disperse over the seabed and/or in the water column.

4 Cargoes.

- 4.1 The information provided in this section of the report is based on the information received from the Vessel provided information.
- 4.2 The cargo detailed in the provided information files includes cargoes containing food stuff, miscellaneous products, resins, elastomers, and nylon of various grades, an empty container and inorganic chemicals. Please refer to Appendix 1 of this report.

-
- 4.3 22 of the containers contained miscellaneous cargoes including food stuff. These cargoes would be regarded as a low pollution risk profile.
 - 4.4 6 of the containers contained resins, elastomers and nylon of various grades. From the information received if containment is sufficient these cargoes are reported to not pose a risk to the marine environment, however, environmental impacts of acute spill of plastic resins or pellets are not currently well understood.
 - 4.5 2 of the containers contained inorganic materials, these are recorded as “quenching material”. These cargoes would be regarded as a low pollution risk profile.
 - 4.6 1 of the containers was an empty tanktainer which was recovered from the shore, as referred to within this report.

5 Actions Taken At The Time Of The Incident.

- 5.1 The decision to focus on fire fighting and saving the Vessel from becoming a total loss was more beneficial than losing resources and attempting to retrieve the 10 – 15 floating containers that were reported by the Indian Coast Guard at that time.

6 Summary and Conclusions.

- 6.1 The loss of 31 containers from WAN HAI 503 on the 9th of June 2025, presented significant recovery challenges that rendered salvage operations impractical. The containers, lost in approximately 700 meters of water off the Kerala coast, sank within a short period of time after being lost overboard. Despite extensive efforts by salvors and the Indian Coast Guard, no containers were sighted after the 10th of June 2025, with the exception of one empty tanktainer recovered ashore on the 16th of June.
- 6.2 The containers are expected to have sustained structural damage as a result of the explosion, this damage along with the fact that standard General-Purpose containers are not watertight would have resulted in them sinking rapidly.
- 6.3 Any damage sustained to the containers would also limit the potential ability to connect and lift them from the sea floor.
- 6.4 Even though the containers are expected to have suffered structural damage and the probability is that the containers will not be intact on the seabed, however at 700m they will not be subject to surface current or wave action, so the cargoes if entrapped would likely remain entrapped and be subject to gradual dispersion over time.

-
- 6.5 Recovery of the container shell would not be a guarantee of pollutant recovery and there would be a high probability of the container contents rapidly being released in the water column during ascent or as the units were lifted through the surface. This would likely result in the contents of the containers being spread over a far wider area of the seabed.
- 6.6 Operating in deep water inherently brings a risk to the operation this includes risks to both the recovery operation and the containers being recovered. The variables and unknown aspects when carrying out these operations always remain and will be multiplied due to the environmental aspects.

This report is confidential and has been prepared on the instructions of **WAN HAI LINES (SINGAPORE) PTE LTD** for the purpose of technical advice.

Yours faithfully,

For TMC (Marine Consultants) Ltd.



Captain Michael Fowkes

Member of the Lloyds SCR Panel
Group Head of Marine / Salvage Coordinator

WAN HAI 503/19085

TMC MARINE
A BUREAU VERITAS GROUP COMPANY



APPENDIX 1
31 x Lost Container BAPLIE list.

WAN HAI 503/19085



TMC MARINE
A BUREAU VERITAS GROUP COMPANY

CARRIER	CONTAINER ID	POSITION / SLOT FROM BAPLIE FILE	BAY	ROW	TIER	CARGO HOLD	DECK / HOLD	CARGO HATCH	TYPE : ISO Code	TYPE	F/E	HAZ	COMMODITY DESCRIPTION (SHORT)
WHL	EURU5347219	230282	23	2	82	3	Deck	6	2270	TK	Empty	No	***EMPTY***01X20TK SOC CONTAINER
WHL	WHLU5762334	220888	22	8	88	3	Deck	6	4500	GP	Full	No	CONTINUOUS BRIGHT CARBURIZING HARDENING QUENCHING
WHL	WHSU6222737	501288	50	12	88	6	Deck	13	4500	GP	Full	No	SILICON DIOXIDE ACEMATT 790
HLC	HLBU3230819	260888	26	8	88	3	Deck	7	4500	GP	Full	No	AIR CONDITIONER SPARE PARTS
WHL	WHSU5748840	260688	26	6	88	3	Deck	7	4500	GP	Full	No	TOYS PARTS
HLC	HAMU1780842	261288	26	12	88	3	Deck	7	4500	GP	Full	No	AIR CONDITIONER SPARE PARTS
WHL	WHSU6299786	260488	26	4	88	3	Deck	7	4500	GP	Full	No	TOY PARTS



WHL	WHSU6808435	220688	22	6	88	3	Deck	6	4500	GP	Full	No	QUENCHING FURNACE (ELECTRIC HEATING SYSTEM)
EMC	EITU1369131	261088	26	10	88	3	Deck	7	4500	GP	Full	No	STAGE ACCESSORIES
HLC	HAMU1896895	261086	26	10	86	3	Deck	7	4500	GP	Full	No	LED DISPLAY PANEL
WHL	WHSU5031187	221088	22	10	88	3	Deck	6	4500	GP	Full	No	BICYCLE SPAREPARTS BICYCLE
EMC	EGSU9490899	260686	26	6	86	3	Deck	7	4500	GP	Full	No	CORRUGATED BOXES
EMC	EGHU9505130	260886	26	8	86	3	Deck	7	4500	GP	Full	No	BABY CRIB
HLC	HAMU1134966	220886	22	8	86	3	Deck	6	4500	GP	Full	No	AC COMPACT GEAR REDUCER
HLC	TLLU5406452	220686	22	6	86	3	Deck	6	4500	GP	Full	No	AC INDUCTION MOTOR
WHL	WHSU4020676	501286	50	12	86	6	Deck	13	4300	GP	Full	No	OXYGEN ABSORBER
													221PKGS S.T.C.

WAN HAI 503/19085



TMC MARINE
A BUREAU VERITAS GROUP COMPANY

WHL	WHSU6824415	261282	26	12	82	3	Deck	7	4500	GP	Full	No	INSHELL ALMONDS
WHL	WHLU5761467	221286	22	12	86	3	Deck	6	4500	GP	Full	No	PVC SUSPENSION RESIN S-57
WHL	WHSU5659363	221086	22	10	86	3	Deck	6	4500	GP	Full	No	CLAY COATED KRAFT 100 GSM
HLC	TRHU4755154	501284	50	12	84	6	Deck	13	4500	GP	Full	No	144 MTS PRIME VIRGIN OCEAN
WHL	WHSU6064396	221284	22	12	84	3	Deck	6	4500	GP	Full	No	PVC SUSPENSION RESIN S-65D
WHL	WHSU6930464	221282	22	12	82	3	Deck	6	4500	GP	Full	No	PVC SUSPENSION RESIN S-65D
WHL	WHSU5011600	221084	22	10	84	3	Deck	6	4500	GP	Full	No	NYLON 6 CHIPS BR AA



CASE NO - WP(PIL) 50/2025

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM
WP(PIL) No 50 Of Year 2025

111.00 PUBLIC INTEREST LITIGATION

PETITIONER

1. MR. T.N. PRATHAPAN

VS

RESPONDENTS

1. UNION OF INDIA
AND OTHERS



**AMENDED WRIT PETITION (CIVIL) FILED UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA**

111.00 PUBLIC INTEREST LITIGATION

FILING NATURE : URGENT

PAYMENT MODE : OFFLINE (AMOUNT - 555.00)

FILED BY

1. **V.HARISH**

Sd/-
V.HARISH
K/779/2013



BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

WP(PIL) No 50 Of Year 2025
 PETITIONER : MR. T.N. PRATHAPAN

V/S

RESPONDENTS : UNION OF INDIA & ORS

INDEX

SL Title	Description	Page Nos
1 Synopsis	Synopsis	1-4
2 Statement Of Facts	Statement Of Facts	5-29
3 Affidavit	Affidavit	30-31
4 Exhibit P1	True photographs from the beaches in Thiruvananthapuram District	32-33
5 Exhibit P2	True photocopy of the relevant pages of the National Disaster Management Plan	34-43
6 Exhibit P2(a)	True photocopy of the National Oil Spill Disaster Contingency Plan (NOSDCP), under the provisions of Disaster Management Act 2005	44-105
7 Exhibit P3	A true copy of the relevant pages of the Kerala State Disaster Management Plan, 2016	106-113
8 Exhibit P4	A true copy of the news item dated 26.05.2025 published in Manorama Online	114-116
9 Exhibit P5	A true copy of the Expression of Interest dated 17.10.2016 published by the 7th respondent	117-123
10 Exhibit P6	A true copy of the order dated 18.11.2016 issued by the 7th respondent	124-125
11 Exhibit P7	A true copy of the order dated 12.04.2018 issued by the Madras High Court in WPC No. 8249 of 2018	126-146
12 Exhibit P8	A true photocopy of the representation dated 29.05.2025 preferred by the petitioner before Hon'ble Prime Minister, Chairman of the NGT, Ministry of Environment, Forest and Climate Change and the 3rd and 6th respondents	147-151
13 Exhibit P9	A true photocopy of the article dated 30.05.2025 authored by Prasanth Nair IAS in the Indian Express	152-160
14 Exhibit P10	A true photocopy of the Gazette notification SO 2097(E) dated 13.06.2016	161-162
15 Exhibit P11	A true photocopy of the note dated 29.05.2025 issued by the Chief Secretary, State of Kerala	163-164
16 Exhibit P12	A true photocopy of the Principal Notification No. S.O. 394(E) published in Gazette Notification dated 16.04.1987	165

Sd/-

E-VERIFIED

V.HARISH

K/779/2013



W.P (PIL) No. 50 of 2025

T N PRATHAPAN : PETITIONER

Versus

UNION OF INDIA & ORS : RESPONDENTS

SYNOPSIS

1. The petitioner is a former Member of Parliament and Chairman of the Kerala Fishermen Coordination Committee, knocks the door of this Hon'ble Court to address an unprecedented environmental and livelihood crisis. The writ petition arises out of the sinking of the Liberian-flagged vessel *MSC ELSA-3* on 24.05.2025 off the Kerala coast, which resulted in an oil spill and discharge of hazardous substances including calcium carbide and nurdles, devastating the marine ecosystem and traditional fishing communities. The incident occurred within Indian territorial waters, triggering statutory obligations under the Merchant Shipping Act, 1958, particularly Sections 352A to 352X and Section 356A concerning pollution by oil.
2. The ship was enroute from Vizhinjam to Kochi when it capsized 18 nautical miles off Thottapally, releasing bunker oil, diesel, and hazardous cargo. The presence of calcium carbide, a chemical that reacts dangerously with water, and plastic nurdles, raises grave environmental and public health concerns. The environmental fallout has led to the imposition of a 20-nautical-mile fishing ban, depriving thousands of fishermen of their right to livelihood protected under Article 21 of the Constitution. The inaction of the concerned authorities, including the Pollution Control Board and State Disaster Management Authority, amounts to a violation of the precautionary principle and public trust doctrine.

3. Despite the mandate under the Kerala State Disaster Management Plan, 2016, and the National Disaster Management Plan, 2019, the statutory bodies have failed to prepare or operationalize an oil spill contingency plan. The Kerala Pollution Control Board, in violation of its duties under the Environment (Protection) Act, 1986, and the Disaster Management Act, 2005, outsourced the task in 2016 but failed to complete it even after 8 years. Exhibit P6 order is issued in the year 2016 and the State Pollution Control Board was sleeping over the same over 8 years without any action !! This is gross negligence !
4. The petitioner seeks enforcement of India's obligations under the International Convention for the Prevention of Pollution from Ships (MARPOL), the Bunker Oil Convention, 2001, and the Civil Liability Convention, 1969—all ratified by India and incorporated into national legislation through amendments to the Merchant Shipping Act. In *Samir Mehta v. Union of India* (2016 SCC OnLine NGT 479), the National Green Tribunal upheld the binding nature of MARPOL and the duty of the Director General of Shipping to initiate recovery and enforcement actions under Chapter XIA. The delay in removing the wreck, recovering oil, and initiating prosecution or civil claims against the shipowner and insurer is a dereliction of statutory duties under Sections 352I and 356H of the Merchant Shipping Act.
5. The fisherfolk in affected districts including Kollam, Alappuzha, Ernakulam and Thiruvananthapuram number in the lakhs, with their market and subsistence economy devastated by contamination fears and continued disruption of fishing operations. The silence of the authorities in disseminating information on compensation rights violates Article 14 by creating an unequal and uninformed class of victims. The precedent laid down in the *Ennore Oil Spill* case (Madras High Court, 12.04.2018) underscores the State's obligation to ensure interim compensation, structured outreach, and redressal mechanisms.

6. The non-disclosure of the full cargo manifest by the shipowner continues to pose a threat to marine biodiversity and violates the fundamental duty under Article 51A(g) to protect the environment. Under Article 7(10) and 9(1) of the Bunker Convention, Indian authorities have a right to directly proceed against the insurer of MSC ELSA-3 in Indian courts. Inaction on Exhibit P8, the petitioner's representation, reflects gross administrative apathy and a failure to uphold due process and environmental justice. The petitioner prays for judicial monitoring of compensation, environmental remediation, and statutory enforcement under relevant international and national laws. Hence the petitioner most humbly submits this Writ Petition (PIL) under Article 226 of the Constitution of India

Chronology of dates and events:

- 24.05.2025 - Vessel *MSC ELSA-3* began listing and capsized off Kerala coast
- 25.05.2025 - Remaining crew rescued by Indian Navy and Coast Guard
- 26.05.2025 – Exhibit P4 Manorama report published on Pollution Control Board's inaction
- 28.05.2025- Nurdles and pollutants washed ashore in multiple districts; State imposed fishing ban
- 29.05.2025 - Kerala Govt declared incident as a state-specific disaster.

Points Urged:

- Whether the 7th Respondent is having a statutory duty to finalise Exhibit P6 proceedings without any further delay?
- Whether the Union of India and State of Kerala and its various departments are duty bound to take steps for ensuring compensation to

delay?

Relevant Act/ Rules/ Notifications:

- Constitution of India
- The Merchant Shipping Act 1958
- Disaster Management Act 2005.

Dated this the 3rd day of June, 2025



COUNSEL FOR THE PETITIONER



1. The petitioner herein is an active social worker, Former Member of Parliament as well as Member of Legislative Assembly from the State of Kerala. The petitioner has proven his credentials for functioning for the benefit and well-being of the fishermen communities and coastal Environment, for the past several decades. The petitioner is a committed social worker who has raised several issues for the general public especially the fishermen community across the State. The petitioner is presently the Chairman of 'Kerala Fishermen Coordination Committee' which is an unregistered organization consisting of fishermen, boat owners, and other stakeholders in the Kerala fishing industry. The committee works to advocate for the interests of fishermen and allied workers, raising awareness about their rights and needs and to address issues and concerns related to the fishing sector, particularly regarding government policies and regulations. The petitioner is also the former National Chairman of All India Fishermen Congress, an organisation working for the welfare of the fishermen community. The Kerala Fishermen Coordination Committee is an informal platform that brings together fishermen from across the state of Kerala. It comprises various political and community-based fishermen's organizations and their respective leaders. The Committee has been actively functioning in the State of Kerala for the past 15 years, as a unified platform to safeguard the rights, livelihood, and welfare of the fishing community. The petitioner is approaching this Hon'ble Court not only with the clean hands but also with the clean heart, clean mind and clean objectives, to uphold a public cause.

2. It is respectfully submitted that the present Public Interest Litigation arises out of the maritime disaster involving the cargo vessel MSC ELSA 3, which sank on 25th May, 2025, approximately 38 nautical miles southwest off the coast of Kochi, well within India's Exclusive Economic Zone (EEZ). The vessel, bearing the flag of Liberia and operated by the Mediterranean Shipping Company (MSC), was enroute from Vizhinjam Port to Kochi when it began listing dangerously on 24th May, 2025 due to heavy weather conditions. The incident culminated in the complete submersion of the vessel the following day at 18 nautical miles away from the Thottapally Spillway, Alappuzha. Out of the 24 crew members onboard, 21 were rescued on 24.05.2025, while the remaining three members, including the captain and two engineers, were safely evacuated during the early hours of 25.05.2025, by the Indian Navy and Coast Guard.
3. It is learnt that the sunken vessel was carrying 640 cargo containers, of which at least 13 have been confirmed by the authorities to contain hazardous materials and 12 to contain calcium carbide—a highly reactive substance known to emit explosive or toxic gases upon contact with water. Additionally, the vessel was transporting 84.44 metric tonnes of diesel and 367.1 metric tonnes of furnace oil. These substances, upon spillage into the sea, pose grave and long-term risks to marine ecosystems, biodiversity, and the livelihood of the coastal communities who depend on fishing and related occupations. Despite rescue operations successfully saving all 24 crew members aboard the MSC ELSA 3, the aftermath of the shipwreck has led to substantial environmental fallout. Numerous containers have been

shipping bans.

4. Four days after the incident, the accident has been officially declared a Tier-2 maritime incident under the National Oil Spill Disaster Contingency Plan (NOS-DCP) by the Central Government. The Kerala State Government has further notified the shipwreck as a “state-specific disaster,” recognizing the environmental, ecological, and economic damage caused by the event, particularly to the shing-dependent communities in and around Kochi and southern Kerala. This declaration enabled the mobilization of the State Disaster Response Fund (SDRF) for pollution containment and rehabilitation efforts. Authorities issued a statewide alert, advising fishermen to stay ashore and avoid the affected coastal waters due to the risk from oil, hazardous chemicals, and drifting containers. This directive has effectively barred thousands of fishermen from their primary source of income, causing widespread livelihood loss in Ernakulam, Alappuzha, Thiruvananthapuram, and Kollam districts.
5. It is respectfully submitted that the disruption of fishing activities has had a cascading effect on fishing related workers and local fish markets, with reports of reduced fish consumption due to contamination fears. The compounded effect of the shipwreck and the ongoing monsoon season has severely impacted the economic stability of fishing communities. The spill and release of hazardous materials have caused significant environmental degradation, threatening marine ecosystems, fisheries, and coastal biodiversity.

6. Among the pollutants observed are large quantities of plastic nurdles—small polyethylene and polypropylene pellets ranging from 1 to 5 mm in size—which are classified as primary microplastics. These nurdles, found along the coastlines of Thiruvananthapuram and adjoining districts, are known for their persistent nature in marine ecosystems. As per expert opinion from the Department of Aquatic Biology and Fisheries, University of Kerala, these particles pose serious ecological threats by contaminating habitats, disintegrating into nano-plastics, and entering the marine food chain, thereby causing health risks to humans and marine life alike.
7. It is reliably known from the media reports that the oil slick has reportedly spread across several nautical miles and continues to pose an imminent threat to marine biodiversity and the lives of thousands of people dependent on the sea for their livelihood. In response, the authorities have imposed a 20-nautical-mile fishing ban near the affected site through public notice. It is respectfully submitted that the incident of shipwreck has been declared as a tier-2 Maritime Event under the National Oil Spill Disaster Contingency Plan (NOSDCP), under the provisions of Disaster Management Act 2005.
8. It is respectfully submitted that the beaches of many of the coastal villages of Kollam and Thiruvananthapuram Districts are now fully polluted with the nurdles (plastic pellets) that came from the ship. Millions of nurdles are scattered across the ocean and on the beaches. No preventive steps were taken by the Government authorities to avoid such pollution or reduce the impact of such pollution. Only after 3 days of the incident, the Government acted to remove the nurdles through volunteers. They had no plan for the

nurdles in the ocean. It is also reliably known that the waste cleaning program through volunteers has been stopped today without any reason. True photographs from the beaches in Thiruvananthapuram District is produced herewith and marked as **Exhibit P1.**

9. The use of a Flag of Convenience in the present case, namely Liberia, facilitated MSC ELSA 3's continued operation despite safety concerns, allowing it to bypass critical crew training and maintenance protocols. In effect, this rendered India the de facto victim of an international regulatory vacuum, caused by lenient flag-state enforcement.

Disaster Management Plan and legal duties

10. As per the provisions of Disaster Management Act, 2005, the Union of India has notified the National Disaster Management Plan 2019. In the said plan, incidents of oil spill and such hazardous chemical accidents are termed as a 'disaster'. As per the said plan, 2nd respondent is the nodal Ministry and as per the NOSDCP, the 4th respondent is the nodal department to implement the Disaster Management plan with respect to the oil spill. As per the National DM Plan, the 4th respondent has the primary responsibility of addressing incidents of oil spills and ships in the coastal waters. True photocopy of the relevant pages of the National Disaster Management Plan is produced herewith and marked as **Exhibit P2.** True photocopy of the National Oil Spill Disaster Contingency Plan (NOSDCP), under the provisions of Disaster Management Act 2005 is produced herewith and marked as

EXHIBIT P2(a). However, it is to be noted that the 4th respondent has not carried out its duties as prescribed in Exhibit P2(a).

11. It is respectfully submitted that the State of Kerala also has notified the State Disaster Management Plan in 2016, wherein the oil spill is recognized as anthropocentric disaster. The State Disaster Management Plan, 2016, states as follows:

2.4.7 Oil spills Oil spills have been reported from various parts of the coastal area of Kerala. In the last decade, oil spills have been reported from the Cochin Harbor, Ernakulam in the years 1992, 1993 and 2003. Oil spills can also occur during petro-chemical transportation accidents through road and rail. A tanker carrying Aviation Turbine Fuel from Kochi to Karipur overturned near Jyothi Theatre on the Tanur-Parappanangadi road in the early morning on 30-06-2016. The tanker had about 20,000 liters of fuel of which 1/6th of it spill on to Canolly Canal which also caught fire. The cannal being narrow and bordered by residential buildings, the oil spill could not be contained. The presence of 18 ports and numerous boats carrying fuel increases the probability of oil spill in water sources.

The State DM Plan mandates that all departments shall ensure that their departmental disaster management plans are submitted to KSDMA for approval within 3 months of approval of this plan. The State Plan identified the 7th respondent as the Responsible nodal agency for handling this disaster. The relevant portion of the DM Plan states as follows:

5.10 Pollution Control Board ♣ Develop an oil spill contingency plan involving Coastal Police, Ports, Fisheries, Coastal Shipping & Inland Navigation Departments and Tourism Department and submit to KSDMA for approval.

development of an oil spill contingency plan for the State and operationalize the plan in collaboration with Pollution Control Board, Ports Department, Coastal Shipping and Inland Navigation Department, Fisheries Department and Tourism Department and ensure the approval of the plan by KSDMA. A true copy of the relevant pages of the Kerala State Disaster Management Plan, 2016 is produced herewith and marked as **Exhibit P3**.

Inaction of the Kerala State Pollution Control Board

12. It is respectfully submitted that a news item appeared in Manorama online on 26.05.2025 has invited the attention of the petitioner to a fact that the Kerala Pollution Control Board has not developed a contingency plan for oil spill, even today! Despite the mandatory requirement of law, the Pollution Control Board has not prepared a plan yet. A true copy of the news item dated 26.05.2025 published in Manorama Online is produced herewith and marked as **Exhibit P4**. The petitioner through his sources enquired about the same and found that the report is true. Instead of using the expertise of the Board, on 17.10.2016, they have sub-delegated this task to a private agency by inviting an Expression of Interest to prepare disaster response contingency plans. The 7th respondent has issued an order on 18.11.2016 acknowledging the same and constituting a committee to prepare the oil spill Contingency Plan. A true copy of the Expression of Interest dated 17.10.2016 published by the 7th respondent is produced herewith and marked as **Exhibit P5**. A true copy of the order dated 18.11.2016 issued by the 7th respondent produced herewith and marked as **Exhibit P6**. It is

after 9 years of the State Disaster Management Plan, and 8 years of Exhibit P6. This executive lapse and negligence have contributed much to the delay in acting against oil spill in this disaster.

Vulnerable coastal community

13. In Kerala, the coastal fishing and allied sectors support a significant portion of the population across various districts. The breakdown of the same is as follows:

Sl No.	District	Marine Fishermen	Allied fishing workers
1.	Thiruvananthapuram	57,369	4,116
2.	Kollam	12,449	7,979
3.	Alappuzha	39,399	23,418
4.	Ernakulam	24,888	8,000

These figures highlight the vast number of individuals whose livelihoods depend directly and indirectly on marine fishing activities in the state. The market for fish has drastically dropped due to fear of contamination, causing economic devastation to traditional fishermen along the Kerala coast, especially in Kollam, Alappuzha, Ernakulam and surrounding districts.

Compensation – Ennore Model

14. It is respectfully submitted that the warning and ban of fishing around 20 nm of the accident area, for several days, that too just before the trolling ban starts in monsoon, when the fish catch would be usually high, it has

respondents have taken any steps so far, to provide any interim relief or final relief for the victims of Environmental damage. The provisions of the Merchant Shipping Act, 1958 enables the Government and imposing a duty on the ship owner to facilitate compensation for the above-mentioned damages through proper insurance.

15.It is respectfully submitted that the factual matrix of this case strongly parallels the Ennore Oil Spill incident of 2017, where the Madras High Court took cognizance of the oil pollution and directed the Government to provide interim relief to affected fisherfolk. The facts, including a coastal spill within EEZ waters, environmental contamination by hazardous oil substances, and disruption of livelihoods, are strikingly similar and establish a persuasive precedent for this Hon'ble Court to issue similar directions in the instant matter. The Madras High Court has granted relief directing the Government to process the application for compensation of more than 1 Lakh fishermen, through their order dated 12.04.2018. A true copy of the order dated 12.04.2018 issued by the Madras High Court in WPC No. 8249 of 2018 is produced herewith and marked as **Exhibit P7.**

16.It is respectfully submitted that none of the Government departments have given any information to the fishermen community about their right to claim compensation for the damages suffered by them. The ignorant persons who lack this information may not even file proper application for availing damages in this regard. Petitioner and his organization is taking earnest efforts to educate the community members about such a right. However, an intimation from the Government would also help for the

general public about the compensation possibilities for the damage suffered in this regard.

17.It is respectfully submitted that the Deputy Nautical Adviser to the Government of India and the nodal officer appointed for the incident, Capt. Anish Joseph, has stated publicly that the government intends to coordinate compensation efforts for affected fisherfolk. However, till date, no structured outreach, data collection, or grievance redressal mechanism has been operationalized. The assurance of compensation remains a vague promise, unaccompanied by statutory or executive action. The petitioner has learnt through some sources that the 12th respondent has appointed one Mr. Jacob George and Captain Deepak Aggarwal as the nodal officers for processing claims and has also provided an email for communication vide in363-mscelsa3.claims2025@msc.com .

Ongoing actions

18.The Indian Coast Guard and other State agencies continue to monitor and contain the spill, with July 3, 2025 set as deadline for the recovery of oil from the site. Salvage operations are ongoing to track and retrieve drifting containers and debris. Given the scale of environmental harm and the prolonged loss of livelihood for fishermen, there is an urgent need for a judicially monitored compensation mechanism. This should ensure prompt and adequate relief for affected fishermen and communities, as well as address restoration of the damaged marine environment, with costs to be recovered from responsible parties and insurers in accordance with law and

clean-up operation or removal of hazardous materials has been initiated.

Contents of containers: undisclosed?

19. It is respectfully submitted that the actual list of materials carried in the containers in the ship are still not known. It is admitted by the Government that the sunken ship is carrying hazardous materials like calcium carbide, oil and other undisclosed items there are chances of serious impact to the marine environment affecting the bio diversity and water quality of the area. The petitioner submits that the undisclosed contents of the sunken ship will travel to various parts of the Indian coast causing serious irreparable damage. Keeping the contents of the containers in secrecy will pose an even higher risk to the marine life as well as the general public. It is submitted that the 12th Respondent's vessel had docked at the 11th Respondent's port before sinking, is a known fact. Therefore, the 11th Respondent has the list of materials transported in the ship. However, it was not revealed by any of the respondents yet. Only if the entire contents of the containers are disclosed, the Indian Coast Guard and other State agencies take adequate steps to mitigate the hazardous effects of the spilled items and also give an idea to the general public to be alert on what precautions they need to take.

20. Citing all these concerns, the petitioner has preferred a detailed representation before the Hon'ble Prime Minister, Chairman of the NGT, Ministry of Environment, Forest and Climate Change and the 3rd and 6th respondents. However, to this utter dismay, the respondents are not taking any action on the said representations, till date. A true photocopy of the

Hon'ble Prime Minister, Chairman of the NGT, Ministry of Environment, Forest and Climate Change and the 3rd and 6th respondents is produced herewith and marked as **Exhibit P8**. Copies of the same has been forwarded to the 4th respondent also, but in vain.

21.It is respectfully submitted that the New Indian Express, a reputed daily has carried an article by Mr.Prasanth Nair, a Civil Servant who is having a working experience with the Shipping Ministry, on the vessel's history of multiple re-registrations under various flag states and it its eventual registration under Liberia, a well known Flag of Convenience (FoC). It suggests that a deliberate attempt was done to engage regulatory evasion, avoids stringent safety standards and minimise liability exposure. The use of a Flag of Convenience in the presence case namely Liberia, facilitated the vessel's continued operation despite safety concerns, allowing it to bypass critical crew training and maintenance protocols. In effect, this rendered India the defacto victim of an international regulatory vacuum caused by lenient flag-state enforcement. is produced herewith and marked as **Exhibit P9**.

22.That, as per the powers conferred by Section 13 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, the Fort Kochi Coastal Police Station, Kochi, shall be the Police Station having territorial jurisdiction in the State of Kerala and Lakshadweep for the purpose of the investigating the offence committed by any person under any of the provisions of any Act. Union of India, home ministry has issued a Gazette notification SO 2097(E) in this regard on 13.06.2016. A true

by the Ministry of Home affairs is produced herewith and marked as **Exhibit P10**. It is learnt by the petitioner that the SHO, Fort Kochi Coastal Police Station, Kochi under the 10th respondent has registered an FIR against the 12th respondent after almost 2 weeks of the incident of the capsizing of the 12th respondent's vessel.

23. That, the petitioner has come to reliably learnt that the Chief Secretary of the State of Kerala has issued a note to his subordinate with certain directions as a result of the high level committee meeting presided by the Chief Minister of Kerala. Some of the directions in the said letter were that a general consensus is arrived that a criminal case need not be filed immediately and that the entire focus should be on collecting the evidence of damages so that evidence based claims can be raised. It is further stated in the note that the 12th respondent is a reputed company which patronizes the 11th respondent and the company requires the good will of Kerala for their operations. A copy of the note of the Chief Secretary is obtained from the media persons to the petitioner. A true photocopy of the note dated 29.05.2025 issued by the Chief Secretary, State of Kerala is produced herewith and marked as **Exhibit P11**.

24. That, it is an admitted fact that there has been large scale pollution that has taken place as a result of the capsizing of the 12th respondent's vessel. This amounts to various offences under the Water (Prevention of Pollution) Act, Environment (Protection) Act 1986, Bharatiya Nyaya Sanhitha, 2023, Merchant Shipping Act, 1956 etc. The SHO, Fort Kochi Coastal Police Station, Kochi is the authority to register a crime against the 12th

is seen that due to pressure / external interference from the highest executives of the state, the concerned authority is being pressurized against exercise their statutory function to investigate the crime against the 12th respondent. An accident of such environmental magnitude is quite unfortunate and the incident has to be investigated into by the concerned authority. The State Executive has forgot that registering FIR is only to investigate the offence, collection of evidence before it gets vanished and it is not a punishment. However, the high level decision if any, in choosing not to register any FIR soon by the State Government was uncalled for by any stretch of imagination.

25. That, as per Principal Notification No. S.O. 394(E) published in Gazette Notification dated 16.04.1987, the Central Government as clause (a) of Section 19 of the Environment (Protection) Act, 1986 has published the authorized officers for taking cognizance of offences. A true photocopy of the Principal Notification No. S.O. 394(E) published in Gazette Notification dated 16.04.1987 is produced herewith and marked as **Exhibit P12**.

26. It is also respectfully submitted that on June 9th, 2025, another vessel viz. MV Wan Hai 503 bearing the flag of the Singapore experienced a fire and explosion while en route from Colombo to Nhava Sheva in Mumbai. The incident occurred approximately 78 nautical miles west of Beypore of Kerala coast. It is learnt that the fire was caused by a container explosion, and it forced the crew to abandon ship, and several crew members were injured. The vessel was carrying 650 containers and was estimated to be carrying 143 containers of hazardous cargo. The petitioner learnt that the

billowing from MV Wan Hai 503 even three days after a major blast ripped through the vessel. The petitioner has learnt through newspaper reports that the Director General (DG) of Shipping released a list of 157 containers carrying hazardous cargo, but details of the explosives have not been revealed. The vessel MV Wan Hai 503 is bearing the flag of the Singapore. The parent company is arrayed as respondent No. 14 and the 15th respondent is the subsidiary company of the 14th respondent. The 16th respondent is the network agency of Wan Hai Lines Company in Mumbai as published in. The petitioner submits that no crime has been registered against the respondents No. 14 and 15, till date by the 10th and 13th respondents. No action is seen taken by any of the authorities in Exhibit P12 to take cognizance against the perpetrator companies.

27. It is respectfully submitted that the heavy monsoon in Kerala starts usually by the first week of June. The Petitioner submits that once the monsoon starts, there will be much difficulty to clear the debris from the cargo and oil etc and will cause much more damage to the marine ecology. The 12th Respondent company is operating at snail pace in this issue and urgent action is required to facilitate the clean up process.

Under these circumstances, left with no other efficacious or alternative remedy than to approach this Hon'ble court, for the redressal of grievances, the petitioner most humbly prefer this writ petition (PIL) under Article 226 of the Constitution of India with following among other

-
- A. A conjoined reading of Exhibit P2, P2(a), P3, P5 and Exhibit P6 would make it clear that the 7th Respondent has a duty to ensure that there is a proper Oil Spill contingency plan for the State within 3 months from 2016, and implement the same without any further delay. However, as on today, Exhibit P6 has not been finalized.
- B. The right to livelihood is an inseparable facet of the right to life under Article 21 of the Constitution of India, as recognized in *Olga Tellis v. Bombay Municipal Corporation* [(1985) 3 SCC 545]. The capsizing of MSC ELSA 3 and subsequent spillage of hazardous substances including bunker oil, diesel, and calcium carbide into Indian territorial waters has directly resulted in the disruption of shing activities, destruction of marine habitats, and loss of income for thousands of local fishermen and their families in Kerala. The inaction by the concerned authorities would constitute a gross constitutional infringement warranting judicial intervention and compensation.
- C. All the official respondents have a constitutional and statutory duty to ensure that the least damage is caused to the Environment due to the ship sinking accident. They also have a duty to restore the damaged environment by taking all possible steps.
- D. As per Exhibit P2, the 2nd respondent is the nodal Ministry and as per the NOSDCP, the 4th respondent is the nodal department to implement the Disaster Management plan with respect to the oil spill. However, it is to be

noted that the 4th respondent has not carried out its duties as prescribed in Exhibit P2(a).

E. The State DM Plan mandates that all departments shall ensure that their departmental disaster management plans are submitted to KSDMA for approval within 3 months of approval of the plan. The State Plan identified the 7th respondent as the Responsible nodal agency for handling this disaster. The 7th respondent has not prepared an oil spill contingency Plan even after 9 years of the State Disaster Management Plan, and 8 years of Exhibit P6. This executive lapse and negligence have contributed much to the delay in acting against oil spill in this disaster.

F. In **Samir Mehta v. Union of India, 2016 SCC ONLINE NGT 479**, (Aug 23, 2016), it binds relevance of international conventions to like-cases wherein it is held that:

"International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL) is relevant. India is a signatory to this Convention and in fact has amended the Act of 1958 by incorporating the contents of this convention by enacting Chapter-XIA in the Act of 1958. This convention as such is not a liability xing convention. It primarily covers prevention of pollution of marine environment by ships from operational and incidental causes and has been updated by amendments through the years. Since this Convention nds its place in the Indian law as afore-stated, we would have to primarily rely and refer to Chapter-XIA of the Act of 1958 which applies to this case and contemplates the provisions of pollution by oil in terms of Section 356A of the Act of 1958. The

case are Section 356-B which denies 'cargo' to include blast and ship's stores and fuel as well. "

G. The application of Bunker Convention 2011 is elaborated in the above-mentioned case as follows:

45. Article-3 talks about the liability of the ship owner. It says that except as provided in paragraphs 3 and 4, the shipowner at the time of an incident shall be liable for pollution damage caused by any bunker oil on board or originating from the ship, provided that, if an incident consists of a series of occurrences having the same origin, the liability shall attach to the shipowner at the time of the first of such occurrences. Where more than one person is liable in accordance with paragraph 1, their liability shall be joint and several.

H. Union of India has obligations under Article 235 of the United Nations Convention on the Law of the Sea (**UNCLOS**), to which India is a signatory. Under Clause (1) of Article 235, States bear international responsibility for fulfilling their duties concerning the protection and preservation of the marine environment, and are liable under international law for breaches of such obligations. Clause (2) further mandates that States must ensure the availability of prompt and adequate compensation through their domestic legal systems for damage caused by pollution of the marine environment by natural or juridical persons under their jurisdiction. Clause (3) enjoins States to cooperate in implementing and developing international legal mechanisms—such as compulsory insurance and compensation funds—to assure effective redress for pollution-related damage.

- I. The non-consideration of Exhibit P8 by the official Respondents No. 4, 6 and 7 is per se illegal and is clear dereliction of duty on the part of the official respondents. The respondents are duty bound to address the concerns raised by the petitioner in his representation.
- J. Section 352A to 352N of the **Merchant Shipping Act, 1958** explains the duty of the ship in case of accidents. Section 352 imposes strict liability on the owner of a ship for any oil pollution damage occurring within Indian territory or its Exclusive Economic Zone (EEZ), irrespective of the ship's nationality. In the present case, the vessel MSC ELSA 3, although foreign-flagged and registered in Liberia, sank within Indian territorial waters off the coast of Kerala, resulting in spillage of bunker oil, diesel, plastic nurdles and calcium carbide, thereby triggering liability under the said provision. The statutory threshold under Section 352I is clearly met, and failure to initiate action under this provision violates the statutory duty imposed upon the enforcement authorities. Section 356H empowers the Director General of Shipping to initiate recovery actions for pollution clean-up costs upon receipt of information regarding pollution. Inaction will constitute a failure to discharge mandatory statutory functions and deprives affected persons of remedial and preventive measures envisaged under the Act. Section 352X vests exclusive jurisdiction in the High Court for all claims against the International Oil Pollution Compensation Fund (IOPC Fund) under Section 352W, where full and adequate compensation could not be secured under the Liability Convention. Despite the present incident resulting in pollution damage within Indian maritime territory, no action has been initiated for compensation from the Fund.

- K. The International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC), places the strict liability for such damage on the owner of the ship from which the polluting oil escaped or was discharged. India is also a party to this Convention and respondents herein have to take necessary steps to ensure that the damages caused have to be collected from the 12th respondent herein.
- L. A perusal of Exhibit P7 judgment would reveal that in the matter of the Ennor Oil Spill incident in 2017, the Hon'ble Madras High Court took cognizance of the oil pollution and directed the Government to provide interim relief to affected fisherfolk by processing the applications for compensations in a time bound manner. The facts, including a coastal spill within EEZ waters, environmental contamination by hazardous oil substances, and disruption of shing livelihoods, are strikingly similar and establish a persuasive precedent for this Hon'ble Court to issue similar directions in the instant matter.
- M. In a similar placed matter, the Hon'ble Division Bench of the Madras High Court in W.A. No. 537 of 2018, dated 13.03.2018, a six-member Committee chaired by the Additional Director of Fisheries was constituted on 19.03.2018 to suggest a scientific and category-wise methodology for calculating compensation to fisherfolk affected by an oil spill. The said Committee recognized the diversity of affected stakeholders, including shing labourers, fisherwomen engaged in allied shing activities, fish vendors, mechanized and non-mechanized boat owners, and other allied workers. No comparable committee or mechanism has been constituted in the present case to assess category-wise compensation for affected

14 by failing to ensure equal treatment of similarly situated individuals. Such a mechanism can also be ordered in the present case and interim compensation can be directed to be deposited by the 12th respondent before the Hon'ble Court.

- N. The Claims Manual under the International Oil Pollution Compensation (IOPC) Funds permits Member States, including India, to seek compensation for oil pollution incidents when the shipowner or their insurer cannot fully compensate for damage. Although the present spillage involves bunker oil and persistent pollutants that have caused environmental and economic damage, no claim has been preferred by the Government or authorized agencies before the IOPC Fund, which constitutes a failure to utilize available international mechanisms for compensating pollution victims.
- O. The definition of "pollution damage" under the IOPC framework includes loss of income resulting from the contamination of natural resources. In the present case, the livelihood of hundreds of traditional fishermen has been gravely affected by the contamination of shing waters due to the cargo spill. Despite this, the Government has neither assessed the economic impact nor initiated any process to quantify and claim the damages from the liable parties or available compensation funds.
- P. The petitioner has a duty under Article 51A(g) of the Constitution of India to protect and improve the environment. The respondents herein also have a bounden duty to protect and improve the environment under Article 48A of the Constitution of India.

- Q. Article 7(10) of the Bunker Convention, 2001, which has been ratified by India, expressly permits direct claims for compensation to be brought against the insurer or person providing financial security for the registered owner's liability. The Indian authorities have this right and must take steps to secure compensation from the P&I insurer of MSC ELSA 3, where the Convention being fully applicable to the present incident involving bunker oil pollution from a non-tanker vessel. **The International Convention on Civil Liability for Bunker Oil Pollution** is a convention to which India became a signatory on 10 June, 2015 and the Union Cabinet approved accession thereof. **Article 9(1)** of the Bunker Convention, 2001 confers exclusive jurisdiction on the courts of the State where pollution damage has occurred to adjudicate claims against shipowners and their insurers. The incident having occurred within Indian territorial waters, the High Court of Kerala has jurisdiction to entertain claims.
- R. The precautionary principle and the polluter pays principle, now firmly embedded in Indian environmental jurisprudence as part of Article 21 and the Environment Protection Act, 1986, mandate urgent preventive and restorative action. The delay in initiating clean-up, lack of prompt action, failure to identify polluters for cost recovery, and lack of remedial steps violate these binding principles.
- S. All the official respondents are duty bound to follow precautionary principle and take action in a preventive mode anticipating the environmental damage without waiting for scientific study or data. The respondents No. 4, 6 and 7 are having duty to ensure that all the pollutant/

any delay.

- T. The petitioner submits that as result of the proper prompt action from the part of the respondents as well as in disclosing the contents of the containers, the marine ecosystem is put to high risk and endangerment. The lives of lakhs of innocent civilians will also be subjected to unnecessary risks and danger and thus affecting the fundamental rights under Article 21 of the Constitution.
- U. The failure to take action under the relevant statutory provisions and international instruments has directly resulted in the violation of the fundamental right to livelihood of the local fishermen under Article 21 of the Constitution of India. The loss of income due to polluted waters, environmental degradation, and the resulting economic displacement is a direct consequence of the pollution incident and the subsequent regulatory failure, entitling the affected persons to compensation and remedial measures through this Hon'ble Court's intervention.

Having regard to the above mentioned grounds and also such other grounds that may be urged at the time of hearing, it is most humbly prayed that this Hon'ble Court may be pleased to:

PRAYERS

- I. Declare that the 7th Respondent is having statutory duty to prepare a proper oil spill Disaster Contingency Plan and implement the same in accordance with Exhibit P2, P2(a) and P3 plans and finalise the proceedings in Exhibit P6 without any further delay.

- Respondents No. 1 and 6 to constitute a high-level expert committee to assess environmental damage and recommend measures for restoration;
- III. Issue a writ of mandamus or any other appropriate writ directing the Respondent Nos. 1 to 4 and 6 to prepare and implement a comprehensive compensation and rehabilitation package for all affected fishermen and stakeholders;
- IV. Issue a writ of mandamus or any other appropriate writ directing the Respondents No. 4, 6 and 7 to immediately remove all the pollutant/contaminants from the ship wreck site and affected areas;
- V. Issue a writ of mandamus or any other appropriate writ directing the Respondent Nos. 1 to 3, 6, 7 and 10 to initiate legal proceedings against the shipowner and insurer of the vessels viz. MSC ELSA-3 and MV Wan Hai 503 under all applicable international conventions and national laws.
- VI. Petitioner may be permitted to dispense with the filing of the translations of the documents in the vernacular language in the interest of justice;
- VII. Pass such other orders as this Hon'ble Court may deem fit in the interest of justice and equity.

INTERIM RELIEF SOUGHT FOR:

For the reasons stated in the memorandum of writ petition (PIL) and its accompanying affidavit it is most humbly requested and prayed that this Hon'ble Court may be pleased to

- A) direct the Respondents No.1, 3 and 6 to release interim financial assistance to the fishermen victims
- B) direct the Respondents No. 4, 6 and 7 to take steps to remove all the wastes, chemicals and parts of the ship and clean up the environment without any further delay.

in accordance with law after affording an opportunity of being heard, in the interest of justice, equity and good conscience.

Dated this the 3rd day of June, 2025

Sd/-
PETITIONER


COUNSEL FOR THE PETITIONER



W.P (PIL) No. 50 of 2025

T N PRATHAPAN : PETITIONER

Versus

UNION OF INDIA & ORS : RESPONDENTS

AFFIDAVIT

I, Mr. T.N. Prathapan, S/o. T.V. Narayanan, aged 65 years, residing at Thottungal House, PO. Talikulam, Thrissur, Kerala – 680569, do hereby solemnly affirm and state as follows:

1. I am the petitioner in the abovementioned writ petition (PIL). I know the facts of the case and I am competent to swear this affidavit.
2. The exhibits produced the writ petition (PIL) are the true copies of the original documents.
3. That, there is no authoritative pronouncement by the Hon'ble Supreme Court or the High Court on the question raised and the result of the litigation shall not lead to any undue gain to myself or to anyone associated with me.

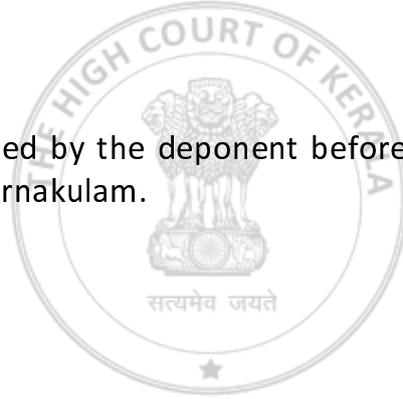
4. That, I have not filed any writ petition (PIL) seeking similar reliefs in respect of the subject matter of this case. I have not filed any public interest litigations in respect to any other subject matters also.

All the above stated facts in Paragraphs No. 1 to 27 and Grounds A to U have been explained to me in Malayalam and are true to the best of my knowledge and what is stated in Paragraphs No. 1 to 27 and Grounds A to U is based on information and belief derived from records and I believe the same to be also true.

Dated this the 3rd day of June, 2025

Sd/-
DEPONENT

Solemnly affirmed and signed by the deponent before me this the 3rd day of June, 2025, in my office at Ernakulam.




Harish Vasudevan
ADVOCATE

RN
16/6/25

Mis (Port)



MIV WANNHA
Ship

E-FILING NO. / EF-HCK-2025-057196

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

WP(PIL) No Of Year 2025

111.00 PUBLIC INTEREST LITIGATION

111.00 PUBLIC INTEREST LITIGATION

60

PETITIONER(S)

1. UMMER OTTUMMAL

VS

RESPONDENT(S)1. UNION OF INDIA
AND OTHERS*Today*MEMORANDUM OF WRIT PETITION (PIL) FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF
INDIA

FILING NATURE : URGENT(TODAY)

FEES PAID & STATUS - 212 (SUCCESS)

C.F : 500 Under Schedule II Article 11 (l) (iii) of the Kerala Court Fees and Suit valuation Act

SERVED ON

DSG OF INDIA

GOVERNMENT PLEADER

SHRI.NAGARAJ NARAYANAN, SPL. G.P. (FOREST)

SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD,

FILED BY

1. Anil Thomas (T)
2. K.V.RASHMI
3. LAKSHMI
4. RAHUL ANIL

Sd/-
E-VERIFIED
ANIL THOMAS (T)(K/001062/1992)



BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

WP(PIL) No Of Year 2025

PETITIONER : UMMER OTTUMMAL

V/S

RESPONDENT : UNION OF INDIA & OTHERS

INDEX

SL Title	Description	Page Nos
1 Synopsis	Synopsis	1-5
2 Statement Of Facts	Statement Of Facts	6-115
3 Affidavit	Affidavit	116-117
4 Exhibit P1	A true copy of a news item published on India Today, regarding the 'MSC ELSA-3 Incident' dated 25.05.2025	118-119
5 Exhibit P2	A true copy of the news report on Malayala Manorama, dated 26.05.2025 with English translation	120-121
6 Exhibit P2 (a)	A true copy of the news report dated 26.05.2025 published in Malayala Manorama daily with English Translation	122-123
7 Exhibit P2 (b)	A true copy of the news reports to that effect, dated 26.05.2025 published in Malayala Manorama daily with its English translation	124-125
8 Exhibit P2 (c)	A true copy of the news report dated 26.05.2025 published in Malayala Manorama daily with its English translation	126-127
9 Exhibit P3	A true copy of the news item in The Hindu dated 12.06.2025	128
10 Exhibit P4	A true copy of the news item published in the Hindu daily dated 14.06.2025	129
11 Exhibit P5	A true copy of the news paper dated 07.06.2025	130
12 Exhibit P6	A true copy of the Government Notification dated 14.06.2016	131-132
13 Exhibit P7	A true copy of the FIR dated 11.06.2025 with its English translation	133-138
14 Exhibit P8	A true copy of the news item published in the vernacular daily - Malayala Manorama dated 12.06.2025 with English Translation, with the official note of the Chief Secretary of the 4th respondent	139-140
15 Vakalatnama	Vakalatnama	141

Sd/-

E-VERIFIED

ANIL THOMAS (T)

K/001062/1992

Citizens and coastal fishermen communities of Kerala - who are otherwise underprivileged, humbly submits that the grave and continuing threat posed by these incident to the fragile marine ecology, biodiversity, coastal environment, and the Fundamental Rights to Life, Livelihood, Health, and Cultural Integrity of the affected fisherfolk and shoreline populations, necessitates urgent Constitutional redressal, as the Respondents- Statutorily Duty bound to act- are sidelining their responsibilities, to the undue advantage of the Owners/Operators of the Vessel, especially in 'MSC ELSA 3 Incident'.

2. The petitioner represents the 'Collective Conscious' of the fishermen community in the Coastal area of Kerala; and is approaching this Hon'ble Court through this *Public Interest Litigation/ Social Active Litigation*, seeking to invoke its solemn role of 'Parens Patriae' and 'Sentinel On Qui Vive' - which arises from the gross negligence and inefficiency and abdication of the System Responsibilities of the Union of India & the State of Kerala (respondent Nos. 1 & 4, respectively), and their Departments/Instrumentalities in Maritime Traffic and Merchant Shipping, especially in handling the recent Ship Capsize of a Convenient Flag Bearing Vessel, viz., MSC ELSA 3 and the inferno occurred/still occurring in another foreign Vessel MV Wan Hai 503, resulting in the consequential infringement of the Livelihood and Safety of the People in the Kerala Coast, laced with the lack of Protection and Maintenance of the Ecology, Biodiversity & Environment in the Kerala Coast - in abject violations of the **Right to Life** and the '**Public Trust Doctrine**', against the Respondents who are arrayed herein, on '**Strict Liability Principles**'- as the 'MSC ELSA 3 Incident' and 'MV Wan Hai 503 Incident' is causing immense harm to the Environment & Security in the India's Exclusive Economic Zone (hereinafter referred to as Maritime Zones Act, 1976), at the Kerala Coast. The sunken Ship MSC ELSA 3 was carrying Hazardous and Noxious substances in 13 containers (out of

640), along with 450 metric tons of Furnace Oil and Diesel - while, the MV Wan Hai 503 got ablazed with 143 (out of 1754) containing hazardous and highly reactive chemicals. The 1st, 4th, 7th, 10th, 17th and 23rd respondents - who are the Principal Authorities, duty bound to prevent, control and manage the incident, failed miserably on the '**Precautionary Principle**' in Jurisprudence ; and the 3rd, 5th, 6th, 12th & 22nd respondents - who are bound to protect the Ecology, Biodiversity; and the Environment in the Coast of Kerala, along with the respondents 8 & 9 have utterly failed in Disaster Management; and further, the respondents 1, 2, 4 & 17, 7, 10 & 23 failed in their Duties to conduct a proper investigation and cast absolute and '**Strict Liability**' on the 13th and 19th respondents, with the extended/vicarious liability on the respondents 15, 16 and 20 - as the 'Insurer' and the 'Classification Agents' of the Vessels involved in the incidents, respectively. Inviting, a continuous 'mandamus' from this Hon'ble Court, in order to secure justice to the fisher folk in the coastal areas of Kerala; therefore this *probono publico* on *parens patriae* and sentinel on qui vive jurisprudential principles; hence this Writ Petition.

Date and events:

- 25.05.2025 : MSE ELSA 3- Incident
- 09.06.2025 : MV Wan Hai 503 Incident
- 11.06.2025 : FIR registered in MSE ELSA 3 incident

Points to be urged:

This *Probono Publico* is being initiated before this Constitutional Court at an unprecedented circumstance – whereby the right to life, liberty and the eco system of the people living in the coast of Kerala is getting affected drastically with the imminent and continuing danger to the eco system, bio diversity and the total living environment, due to the haphazard manner in which the marital traffic, especially merchant shipping is being handled by the Union and the State Governments and their statutory instrumentalities – who are arrayed as respondents herein, violating the ‘precautionary principles, ‘public trust doctrine’ and the ‘strict liability principles’; therefore, the petitioner – acting in furtherance of the collective conscience of the fishermen community of Kerala, prays before this Hon’ble Court to invoke the *parens patriae* and the *sentinel qui vive* jurisprudential principles under Art. 21, 19(1)(g), 29, 48A, 51(g) of the Constitution of India, for immediate relief.

Precedent cited:

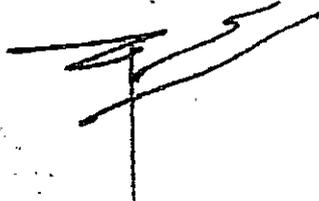
1. MC Mehta & another Vs. Union of India (AIR 1987 SC 1086)
2. Vellore Citizens Welfare Forum Vs. Union of India & others- (1995) 5 SCC 647
3. ESSAR Shipping Ports and Logistics Ltd Vs. Thrinavakkarasu (2025 KHC Online 320)

Laws/ jurisdictional principles Referred

1. Constitution of India
2. Territorial Waters Continental Shelf, exclusive Economic Zone and other Maritime Zones Act 1976.

3. Merchant Shipping Act 1958
4. International Conventions on Maritime Traffic.
5. Jurisprudential Principles to be invoked on '*parens patriae* and *sentinel on qui vive*' and 'continuous Mandamus'.
 - 5.i. Jurisdictional principles to be applied – in 'precautionary principles', 'public trust doctrine', 'strict liability principles' and 'polluter pays principle'.

Dated this the 13th day of June 2025.



Anil Thomas (T)

Counsel for the Petitioner.



E-FILING NO - EF-HCK-2025-057196

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM
WP(PIL) No Of Year 2025

PETITIONER(S)

1. UMMER OTTUMMAL
AGED 68 YEARS
S/O KASMIKUTTY, KUPPACHAN HOUSE, OTUMMAL BEACH, PARAPPANANGADI PO,
MALAPPURAM
, PIN-676303

VS

RESPONDENT(S)

1. UNION OF INDIA
REP. BY ITS SECRETARY, MINISTRY OF PORTS SHIPPING AND WATERWAYS, GOVERNMENT
OF INDIA, TRANSPORT BHAWAN, 1, PARLIAMENT STREET, NEW DELHI
, PIN-110001
2. THE SECRETARY
MINISTRY OF HOME AFFAIRS, NORTH BLOCK NEW DELHI
, PIN -110001
3. THE SECRETARY
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, H6P9+377, JOR BAGH, LODI
COLONY, NEW DELHI
, PIN -110003
4. STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM
, PIN -695001
5. DIRECTORATE OF ENVIRONMENT & CLIMATE CHANGE (DOECC),
4TH FLOOR, KSRTC TERMINAL, THAMPANOR, THIRUVANANTHAPURAM REP BY ITS

SECRETARY.

, PIN -695001

6. THE CHIEF WILDLIFE WARDEN,

FOREST HEAD QUARTERS VAZHUTHACAUD, THIRUVANANTHAPURAM

, PIN -695014

7. DIRECTOR GENERAL OF SHIPPING

JAHAZ BHAVAN, BALLARD ESTATE, MUMBAI

, PIN -400001

8. NATIONAL DISASTER MANAGEMENT AUTHORITY

NDMA BHAWAN, A-1, SAFDARJUNG ENCLAVE, NEW DELHI REP. BY ITS DIRECTOR.

, PIN -110002

9. KERALA STATE DISASTER MANAGEMENT AUTHORITY

VIKAS BHAWAN PO, OBSERVATORY HILLS, OPP TO KANAKAKUNNU PALACE, NANTHANCODE,
THIRUVANANTHAPURAM REP. BY ITS MEMBER SECRETARY.

, PIN -695003

10. INDIAN COAST GUARD

REP. BY ITS DIRECTOR GENERAL, NATIONAL STADIUM COMPLEX, PURANA QUILA ROAD,
NEW DELHI

, PIN -110001

11. DIRECTORATE OF FISHERIES

REPRESENTED BY ITS DIRECTOR, 4TH FLOOR, VIKAS BHAVAN, UNIVERSITY OF KERALA
SENATE HOUSE CAMPUS, PALAYAM, THIRUVANANTHAPURAM

, PIN -695033

12. KERALA STATE POLLUTION CONTROL BOARD

PLAMOODU, PATTOM P.O., THIRUVANANTHAPURAM, KERALA, REP. BY ITS CHAIRMAN.

, PIN -695004

13. MSC - MEDITERRANEAN SHIPPING CO.

THROUGH ITS NODAL OFFICER - MR. JACOB GEORGE, MSC HOUSE, ANDHERI- KURLA ROAD,
ANDHERI EAST, MUMBAI, MAHARASHTRA

, PIN -400059

14. THE SUB INSPECTOR OF POLICE

FORT KOCHI COASTAL POLICE STATION, X68V+VJ7, TOWER RD, FORT NAGAR, FORT KOCHI,
KERALA

, PIN -682001

15. P&I CLUB LONDON

REP. BY P&I SERVICES PVT LTD B302, PRAMUKH PLAZA, CARDINAL GRACIAS ROAD,

CHAKKALA, ANDHERI(E), MUMBAI (SERVICING ENTIRE WEST COAST OF INDIA)
, PIN -400099

16. BUREAU VERITAS

REP. BY BUREAU VERITAS INDIA PVT LTD.72 BUSINESS PARK, GROUND FLOOR, MAROL
INDUSTRIAL AREA, CROSS ROAD "C", MIDC, ANDHERI (EAST), MUMBAI CITY, MAHARASHTRA
CLASSIFICATION AGENCY
, PIN -400093

17. ADANI VIZHINJAM PORT PRIVATE LIMITED

IS LOCATED AT ADANI CORPORATE HOUSE, SHANTIGRAM, NEAR VAISHNODEVI CIRCLE, S. G.
HIGHWAY, AHMEDABAD GUJARAT, INDIA.REP BY NODAL OFFICER
, PIN -382421

18. CENTRAL EXCISE & CUSTOMS

REPRESENTED BY CHIEF COMMISSIONER, C.R. BUILDINGS, I. S. PRESS ROAD, COCHIN
, PIN -682018

19. WAN HAI LINES (MV WAN HAI 503)

A 102 & 103, THE QUBE, MAROL VILLAGE, ANDHERI EAST MUMBAI MAHARSHTRA ,REP
BY NODAL OFFICER
, PIN -400059

20. MARITIME AND PORT AUTHORITY OF SINGAPORE (MPA)

460 ALEXANDRA RD, SINGAPORE 119963 - THROUGH THE LIASONING OFFICER OF THE
CONSULATE-GENERAL OF SINGAPORE, 14TH FLOOR, MAKER CHAMBERS IV, 222 JAMNALAL
BAJAJ ROAD, MUMBAI
, PIN -400021

21. MINISTRY OF EXTERNAL AFFAIRS

REPRESENTED BY ITS SECRETARY, 74B, SOUTH BLOCK,NIRMAN BHAVAN, NEW DELHI
, PIN -110011

22. NATIONAL POLLUTION CONTROL BOARD

PARIVESH BHAVAN, EAST ARJUN NAGAR, NEW DELHI REP. BY ITS CHAIRMAN
, PIN -110003

23. MINISTRY OF DEFENSE

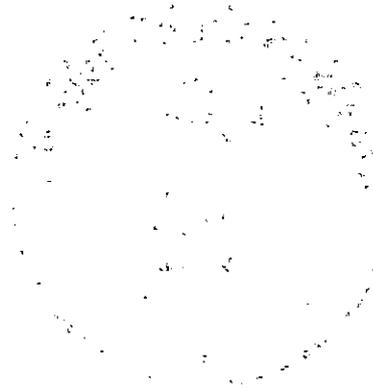
REP. BY ITS SECRETARY, ROOM NO. 305, B WING, SENA BHAWAN, NEW DELHI
, PIN -110011

24. NATIONAL INVESTIGATION AGENCY

OPP. CGO COMPLEX, LODHI ROAD, NEW DELHI - 110003 - LOCAL OFFICE AT - X78X+3J9,
GIRINAGAR HOUSING COLONY, GIRINAGAR HOUSING SOCIETY, KADAVANTHRA, KOCHI REP
BY ITS DIRECTOR.

, PIN -682020

MEMORANDUM OF WRIT PETITION (PIL) FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF
INDIA BY ANIL THOMAS (T),K.V.RASHMI,LAKSHMI,RAHUL ANIL
BELVERDIA LEGAL LLP, G-166B, 5TH CORSS, PANAMPILLY NAGAR COCHIN
PIN - 682036



STATEMENT OF FACTS

1. The present Writ Petition is instituted as a *Pro Bono Publico* action invoking the extraordinary Constitutional Jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India, in its capacity as **Parents Patriae** and the **Sentinel on Qui Vive**, seeking immediate and continuing intervention in the matter concerning the maritime disaster involving the cargo vessel MSC ELSA-3, Owned/Operated by the 13th respondent - Mediterranean Shipping Company (*hereinafter referred to as MSC*), CH Switzerland - having registered and bearing the Liberian Flag - which sank off the coast of Kerala while allegedly carrying Hazardous and Noxious Substances (HNS), oil, and other dangerous cargo and capsized on 25.05.2025 at Alappuzha Coast of the 4th respondent State (*hereinafter referred to as - 'MSC ELSA 3 Incident'*) and the major fire incident still continuing on another foreign ship *viz.*, MV Wan Hai 503, off the coast of Beypore in the 4th respondent State, occurred on 09.06.2025 (*hereinafter referred to as - 'MV Wan Hai 503 Incident'*). The Petitioner - organisation acting in furtherance of the collective conscience of the Citizens and coastal fishermen communities of Kerala - who are otherwise underprivileged, humbly submits that the grave and continuing threat posed by these incident to the fragile marine ecology, biodiversity, coastal environment, and the Fundamental Rights to Life, Livelihood, Health, and Cultural Integrity of the affected fisherfolk and shoreline populations, necessitates urgent Constitutional redressal, as the Respondents- Statutorily Duty bound to act- are sidelining their responsibilities, to the undue advantage of the Owners/Operators of the Vessel, especially in 'MSC ELSA 3 Incident'.

1.a. In light of the apparent Regulatory failures and the systemic abdication of Statutory and Constitutional Duties by the concerned Instrumentalities of the Union and State Governments - which are projected hereunder - with the main focus on 'MSC ESLA 3 Incident' ; but, are applicable on *mutatis mutandis* basis and hence, this Hon'ble Court's intervention is most earnestly prayed for, to uphold the Right to Life under Article 21, Freedom of Occupation under Article 19(1)(g), Cultural Rights under Article 29, and the Directive Principles enshrined under Articles 48A and 51, alongside 'Any Other Purpose' under Article 226, so as to prevent irreversible environmental loss and to ensure Justice for present and future generations.

2. **Background - leading to the filing of this case is as follows :-**

2.a. The Petitioner, is a resident of Parappananagadi - Malappuram District of the State of Kerala ; and is the president of the Fisherman Workers Federation S.T.U (*hereinafter referred to as the - 'Federation'*), which is a Registered Organisation under the Labour Department of the 4th respondent State ; and has been in existence to protect the interests of the Fisherfolk, for the last 5 decades. The 'Federation' has been consistently working towards the advancement and welfare of the traditional fishermen communities residing along the Coast of Kerala - who primarily depend on Marine fishing, for their livelihood. 'Federation's' well-established presence across the Coastal District of Kerala span from the Northern District - Kasargod to the Southernmost District of Thiruvananthapuram ; and at present - there are about 12,000 members and additionally, another 15,000 supporters of its cause throughout the State.

2.a.i. The petitioner represents the 'Collective Conscious' of the fishermen community in the Coastal area of Kerala; and is approaching this Hon'ble Court through this *Public Interest Litigation/ Social Active Litigation*, seeking to invoke its solemn role of 'Parens Patriae' and 'Sentinel On Qui Vive' - which arises from the gross negligence and inefficiency and abdication of the System Responsibilities of the Union of India & the State of Kerala (respondent Nos. 1 & 4, respectively), and their Departments/Instrumentalities in Maritime Traffic and Merchant Shipping, especially in handling the recent Ship Capsize of a Convenient Flag Bearing Vessel, viz., MSC ELSA 3 and the inferno occurred/still occurring in another foreign Vessel MV Wan Hai 503, resulting in the consequential infringement of the Livelihood and Safety of the People in the Kerala Coast, laced with the lack of Protection and Maintenance of the Ecology, Biodiversity & Environment in the Kerala Coast - in abject violations of the **Right to Life** and the '**Public Trust Doctrine**', against the Respondents who are arrayed herein, on '**Strict Liability Principles**' - as the 'MSC ELSA 3 Incident' and 'MV Wan Hai 503 Incident' is causing immense harm to the Environment & Security in the India's Exclusive Economic Zone (hereinafter referred to as Maritime Zones Act, 1976), at the Kerala Coast. The sunken Ship MSC ELSA 3 was carrying Hazardous and Noxious substances in 13 containers (out of 640), along with 450 metric tons of Furnace Oil and Diesel - while, the MV Wan Hai 503 got ablazed with 143 (out of 1754) containing hazardous and highly reactive chemicals. The 1st, 4th, 7th, 10th, 17th and 23rd respondents - who are the Principal Authorities, duty bound

to prevent, control and manage the incident, failed miserably on the **'Precautionary Principle'** in Jurisprudence ; and the 3rd, 5th, 6th 12th & 22nd respondents - who are bound to protect the Ecology, Biodiversity ; and the Environment in the Coast of Kerala, along with the respondents 8 & 9 have utterly failed in Disaster Management ; and further, the respondents 1, 2, 4 & 17 ; 7, 10 & 23 failed in their Duties to conduct a proper investigation and cast absolute and **'Strict Liability'** on the 13th and 19th respondents, with the extended/vicarious liability on the respondents 15, 16 and 20 - as the 'Insurer' and the 'Classification Agents' of the Vessels involved in the incidents, respectively.

2.b. The petitioner submits that Section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (*hereinafter referred to the Maritime Zones Act, 1976*) categorically specifies that the EEZ - India, extends up to 200 nautical miles from the baseline ; and the sunken ship MSC ELSA 3 was within this EEZ , i.e., 38 nautical miles away from Kerala Coast ; while, the 'Blazing Ship' is positioned about 44-60 nautical miles of Kerala Coast near Beypore.

2.b.i Though the Kerala Coast's EEZ is not formally notified as an "International Shipping Channel" under Indian or International Maritime Law, has organically evolved into a high-density International Maritime Zone owing to a confluence of strategic developments. The commissioning of the Vizhinjam International Deepwater Port, its proximity to the east-west global shipping corridor,

and the relaxation of Cabotage Regulations have significantly increased the frequency and scale of Foreign-Flagged Vessels navigating near Kerala's littoral waters. This transition, while economically progressive, has also exposed the region to heightened risks associated with high-volume Maritime Traffic, including incidents of Hazardous Cargo leakage, shipwrecks, and Vessel fires — as evidenced by the recent MSC ELSA 3 disaster off Thotapally coast and the 'MV Wan Hai 503 Incident' involving another Foreign Vessel at Beypore. These events underscore an urgent imperative for the Union and State Governments to institute a bespoke Legal and Regulatory framework for coastal hazard mitigation, hybrid maritime threat management, environmental liability, and emergency response preparedness. The current Legislative architecture—fragmented across the Merchant Shipping Act, the Environment Protection Act, and Port-Level Administrative Protocols—is grossly inadequate to govern the emerging risks of a de facto International Maritime theatre along India's western seaboard. These incidents of the foreign Ship Capsize and other foreign ship catching fire - both continue causing 'present continuous dangers', opening up the lacuna - in the Statutory & Regulatory System in Marital Traffic - which calls for a comprehensive reform encompassing marine safety zoning, mandatory pre-arrival risk audits, ESG (Environment, Social and Governance) in compliance for foreign Vessels, and integrated coastal security protocols is therefore not only prudent but Constitutionally necessitated under Articles 21, 48A, and 355, to secure the Life, Environment, and Sovereignty of India's Coastal States. This is all the more required as the Section 6(2) of the Maritime Zone Act, 1976 - which specifies "India has and always

had, full and exclusive Sovereign Rights in respect of its Continental Shelf (Continental Shelf also extends up to 200 nautical miles from the baseline as per Section 6(1) of the said Act).”

2.c. State Specific Disaster :- The capsized Vessel - MSC ELSA-3, was a Liberian Flag bearing Foreign Vessel owned by the 9th Respondent - which sank 14.6 nautical miles off the Thottappally spillway near Kochi, Kerala (within 38 nautical miles off the coast of Kerala (EEZ- up to 200 nautical miles), loaded with 640 Containers, out of which 13 containers were filled with Hazardous and Noxious Substances sailing from Adani Vizhinjam Port (17th Respondent) to Tuticorin (*this incident may be referred to as 'MSC ELSA - 3 Incident'*). The Cargo on board also comprised of 84.44 metric tons of Diesel (Very Low Sulphur Fuel Oil (VLSFO)) and 367.1 metric tons of Furnace Oil (Marine Gas Oil (MGO)), along with the other undisclosed- potentially dangerous Goods, which have since been disturbing the life and living environmental conditions of the people and the biodiversity at sea. Visible oil slick and an invisible chemical hazard of unquantifiable scale, reported out of this incident. A true copy of a news item published on India Today, regarding the 'MSC ELSA-3 Incident' dated 25.05.2025 is produced herewith and marked as **EXHIBIT P1**. Immediately the State declared a fishing- ban and other trolling activities 20 nautical miles away from the shore and after a few days, the incident was declared as a 'State Specific Disaster'.

3. Imminent Threat of 'MSC ELSA 3 Incident':- The sinking of MSC ELSA-3 with Hazardous Materials & Substantial quantity of Oil poses a severe threat to

Kerala's marine ecosystem, known for its rich biodiversity, including coral reefs and mangroves. The potential oil spill from the vessel's fuel tanks could lead to widespread marine pollution and health hazard to the citizens. The Hazardous Cargo, including 'Calcium Carbide', which reacts with water to produce flammable 'Acetylene Gas', further exacerbates the risk of the marine ecosystem and the Life & Liberty of the People and Vessel travelling through the Coastal waters and those who are living in the Coastal Areas. On the next day's news paper- Malayala Manorama, the Public Health Expert, Doctor Rajeev Jayadevan, opined that these sort of instances are "*silent-tsunamis*", as the chemical affected marine life will have drastic health hazards for the people who consume the same. A true copy of the news report on Malayala Manorama, dated 26.05.2025 with English translation is produced herewith and marked as **EXHIBIT P2.** Likewise, Dr. George Mathew, who is a Chemistry professor and research guide at St. Mary's College Bathery, expressed his opinion that the immense pollution caused/likely to be caused by leakage of Diesel, Furnace Oil and Calcium Carbide would cause immense environmental issues including destruction of Marine Life and the entire biodiversity. 'Calcium Carbide' would also cause fire, affecting the life situation of all beings. A true copy of the news report dated 26.05.2025 published in Malayala Manorama daily with English Translation is produced herewith and marked as **EXHIBIT P2A.** Dr. R.Venugopal, former Joint Chief Controller of Petroleum and Explosives, Safety Organisation had also mentioned in the newspaper that utmost importance is to be given for the protection of environment in the wake of the ship turned turtle - with the following expert opinion:-

- a. To prevent oil from reaching the shore, booms and barriers should be deployed along the coastline.

- b. Special consideration must be given to the protection of mangroves, coral reefs, fish resources, and drinking water sources.
- c. Mechanical systems should be utilized to remove debris from the shoreline.
- d. Scientific methods should be adopted for the disposal of recovered oil, contaminated materials, and waste.
- e. Effluent Treatment Plants (ETP) in oil companies must be utilized with caution, as calcium carbide produces acetylene gas when it comes into contact with water, requiring careful handling.

The report further says, the Calcium Carbide, if leaked out would cause more harm than the Oil and Petroleum products and a combination of these pollutants would drastically impact on the total environment in the affected area of the Ocean ; and it is imperative that the maximum containers are to be recovered before they get leaked, causing irreparable damage. A true copy of the news reports to that effect, dated 26.05.2025 published in Malayala Manorama daily with its English translation is produced herewith and marked as **EXHIBIT P2B.** Sri Madhu S Nair, CMD of Cochin Shipyard, had stated that normally the vessels are designed to balance themselves in the adverse climatic conditions ; but, the ship which capsized was somehow not maintaining this balance - indicating the mechanical and technical defect of the ship - which was man-made, as proper ballasting was not done. A true copy of the news report dated 26.05.2025 published in Malayala Manorama daily with its English translation is produced herewith and marked as **EXHIBIT P2C.**

3.a. The former State Maritime Board Chairman and the Indian Maritime Law Association Vice President - Designated Senior Advocate in the High Court of Kerala, Adv. V.J Mathew had rendered

his considered view in a leading vernacular daily - Malayala Manorama dated 09.06.2025 that - the 'MSC ELSA 3 Incident' raises several questions as to the transparency and authenticity about the Vessel's Maritime Operations and the conduct of the State Government. The 'Cargo Manifest' is the official authenticated record of the container Cargos, Owner's and other details pertaining to the same. But, strangely enough none of the authorities including the Union and the State Governments (respondents 1 & 4), the Kerala State Pollution Control Board, 12th respondent, the Disaster Management Authorities, respondents 8 & 9, Director General of Shipping, 7th respondent and the Owner of the Vessel, 13th respondent have not revealed the 'Cargo Manifest', till date. Though the State Government had made a Committee to 'Study' about the Environmental impacts caused by the MSC ELSA 3 incident, no serious efforts were taken for conducting the investigation about the 'Cause of the incident' - which is of primary importance. If an investigation conducted, in the detailed analysis, the 'Voice Data Recorder', of the Ships, Log books of the - Captain, Chief Officer and Chief Engineer and chart of the Vessel would have revealed the said cause.

3.1 It is submitted that none of the advice given by the experts on the subject in the public domain were not even paid heed to the State Government and its Instrumentalities. The Central Government also followed suit. As a natural consequence, about 70 plus containers were washed onto the shore - many of them were empty, but a few contained plastic nurdles (pellets) in immense quantity - causing continuous harm to the ecology and the environment in general of the coastal sea/area.

One of the containers washed ashore off the Kollam-District coast, caught fire - as if it contained inflammable chemicals of Hazardous nature. The State Government, 4th respondent, merely declared a 20 nautical mile ban for fishing, initially ; but, of late, considering the gravity of the situation had declared the 'MSC ELSA 3 Incident' a 'State Specific Disaster'. Apart from this, no effective action was seen to have effected, in spite of the lapse of 3 weeks.

3.2. Imminent threat of 'MV Wan Hai 503 Incident':- The 'MV Wan Hai 503 Incident', another Singapore-flagged container ship operated by Wan Hai Lines, 19th respondent herein, caught fire off the coast of Beypore, in Northern Kerala, in June 2025, triggering an environmental emergency of grave proportions. The vessel, carrying over 1,754 containers—including at least 143 to 157 containing hazardous and highly reactive chemicals such as nitrocellulose, paraformaldehyde, pesticides, and organometallic compounds. There Despite the intervention of the Indian Navy and Coast Guard (10th respondent), the situation remains precarious, with the ship currently under cooling operations. The proximity of the burning vessel to the ecologically sensitive Malabar coastline, which harbours rich marine biodiversity, fragile mangrove ecosystems, and supports thousands of fisherfolk and coastal communities, has raised serious alarms. The potential leakage of chemicals, oil, or other toxic substances from the fire-damaged cargo poses an imminent threat of marine pollution, biodiversity, destruction of spawning zones, and contamination of coastal waters. The incident, coupled with the uncertainty surrounding the nature of the cargo (as no 'Cargo Manifest' published so far) and the slow pace of salvage

response, has created a looming danger to public health, livelihoods, and the marine ecology of Northern Kerala. There are credible news reports to the effect that there may be chances for BLEVE (Boiling Liquid Expanding Vapour Explosion) - which places this incident in a high continuing risk category ; but, the respondents seem to be adopting convenient actions, contrary to what the situation demands. A true copy of the news item in The Hindu dated 12.06.2025 is produced herewith and marked as **EXHIBIT P3.**

4. People Living in Coastal Areas - drastically affected due to the 'MSC ELSA 3 Incident' and 'MV Wan Hai 503 Incident' - Collapse of the Constitutional and Statutory System enforcement - dereliction of Duty by the respondents:- It is submitted that ever since 25.05.2025, none of the persons belonging to the fishermen community in the coastal area of Kerala - who depend on the sea for their daily living have been able to find sustenance for their families due to the above incident. The 'Federations', Members and Supporters - numbering about 27 thousand people are also sharing the suffering of the fisherfolk, due to the incidents of Disaster caused by the above mentioned Vessels. Many of the members are in penury and are in great difficulty to sustain their living due to the above mentioned unprecedented incidents. Such sufferings are extended throughout the Coast of Kerala and the fisherman community is the most affected lot. The breakup of the total people living in the Coastal areas, Numbers of the fishermen community- who directly and indirectly depend on the coastal sea, are enumerated hereunder:

Kerala has a coastline of 589.5 kilometers, with a high population density along the coastal regions. The exact number of people living in these areas isn't

specified, but it's notable that the coastal population is substantial, given the State's geography and economy; and all of them are facing imminent threat from the above Incidents, to their Health, Living & the Environment.

People Sustaining their living on Marine Products, are:-

- *Total Fisherfolk Population- Approximately 11.114 lakh (1.1114 million) people in Kerala, with 8.55 lakh (0.855 million) in the marine sector.*
- *Active Fishermen: Around 2.28 lakh (0.228 million) people, with 1.90 lakh (0.19 million) in the marine sector.*
- *Fishing Villages: There are 222 fishing villages in the marine sector, providing livelihoods to a significant portion of the population.*
- *Allied Activities : Nearly 8- 12% of fisherfolk depend on activities like marketing, net repair, fish vending, processing, and other fishery-related work for their livelihood.*

4.1. Unfortunately, neither the State Government nor the Union of India (4th and 1st respondents, respectively), are giving due consideration to the plight of the People living in the Coastal areas - who are faced with the consequences from both the incidents. Their Instrumentalities/Departments are also keeping silent or moving in lethargy. The fact unearthed by a prominent malayalam daily news report, regarding the 'Official Compromise' of the Statutory proceeding against the MSC ELSA 3's Owner/Operator MSC Shipping Company, 13th respondent, causes serious doubt about the actions so far taken by the respondents and arise serious concern about the Life and Living conditions of the people in the Kerala Coast, apart from the possible irreparable damages to the fragile ecology and biodiversity of the area affected and continued to cause the damage, unless arrested properly, on time.

4.1.a In 'MV Wan Hai 503 Incident', the State Government is not even caring, as if they have no role to play in the incident - which is Statutorily and Constitutionally wrong. The 14th respondent, Fort Kochi Police Station is conferred with the power to register case and conduct investigation under Section 7(7) Maritime Zone Act, as per the notification issued by the 1st respondent. It is dangerously getting closer to the coast of Kodungallore in Kerala; and there seems to be no proper coordination led by the 1st respondent. A true copy of the news item published in the Hindu daily dated 14.06.2025 is produced herewith and marked as **EXHIBIT P4**. Even then, no investigation has commenced by the State Government's Police - as there is a Soft Pedal Approach towards the Ship Owners/Operators, at the cost of life of the people living in the Coast - dependent on the sea - of whom the petitioner organisation represents. It is more evident a comparatively weak FIR got registered in 'MSC ELSA 3 Incident', after a lapse of 18 days.

4.2. Constitutional And Ecological Consequences Of Systemic Failure in the 'MSC ELSA 3 Incident':-

It is submitted that the environment of the Coastal area is being affected, drastically, by the gruesome incident- which impacts the Coastal People of Kerala - very much . "Environment", is a broader term that encompasses the external surroundings, while "Ecology", focuses on the relationships within those surroundings & Biodiversity is a specific aspect of "Ecology", highlighting the variety of life forms. As these concepts are interconnected, the damages caused/ likely to be caused by the 'MSC ELSA-3 Incident' is a "present continuous threat"

to the “Environment” ; and hence, the same cannot be sidelined by the Constitutional & Statutory Authorities, as a ‘yet another incident’.

4.2.a. Due to the systemic dereliction and collective inaction of the Respondents—namely the Union of India, the State of Kerala, the Directorate General of Shipping, Indian Coast Guard, Pollution Control Authorities, and Disaster Management Agencies (respondents 1, 4, 7, 8, 9, 10 and 12) the incident reveals a flagrant violation of duties under the:

- *Merchant Shipping Act, 1958 (as amended),*
- *Indian Coast Guard Act, 1978,*
- *Environment Protection Act, 1986, and*
- *Binding International Maritime Conventions (e.g., MARPOL, OPRC, HNS Protocols) ratified and domestically implementable in India.*

4.3. ‘MSC ELSA-3 Incident’ - Warrants the interference of this Constitutional Court on ‘Sentinel On The Qui Vive ‘ Principle: The overall Implementing Authority in India, in relation to Maritime Traffic is the Directorate General of Shipping, the 7th respondent, under the Merchant Shipping Act, 1958, as per Section 331 and Section 332. The ‘MSC ELSA-3 incident’, in light of Respondent’s failure, seeks to invoke the **Precautionary Principle, Public Trust Doctrine, and Polluter Pays Principle**, by this Hon'ble Court. The incident demands a rigorous, multi-disciplinary analysis situated at the intersection of Constitutional Environmental Governance, Maritime Law, Human Rights, and Ecological Jurisprudence, by this Hon'ble Court as the Statutory Authorities failed to exercise the due care, caution & enforcement of the Statutory Regulations and expected vigil on Precautionary

Principles, Public Trust Doctrines & Strict Liability approach to the the Owner/Operator Vessel MSC ELSA-3 - Respondent.

4.4 Stated below is a Comprehensive Assessment of the present, continuous and long-term consequences of the 'MSC ELSA-3 Incident' - especially arising from the systemic failures of constitutional and statutory authorities under the Merchant Shipping Act, 1958 (as amended in 2014) and the Indian Coast Guard Act, 1978. The thrust is laid on the deepening existential, health, ecological, and cultural crisis faced by the Coastal communities of Kerala.

4.4.a Constitutional Backdrop:- The Constitution of India guarantees the right to life, health, livelihood, and a clean environment under Article 21. The Directive Principles under Articles 48A and 51 A(g) cast an affirmative duty on both the State and citizens to protect the natural environment and biodiversity.

4.4.b Statutory obligation:- Further, both the Merchant Shipping Act and the Indian Coast Guard Act provide enforceable statutory obligations to :

- Prevent environmental and navigational disasters,
- Respond to oil spills and HNS contamination,
- Ensure seaworthiness and detain non-compliant foreign vessels,
- Protect human health and coastal resources.

The 'MSC ELSA-3 Incident' - is partly due to the lack of proper system enforcement of the Statutory Obligation ; therefore, represents a gross

dereliction of these duties, amounting to a **Continuing Constitutional Tort, warranting public redress, compensation, and restoration.**

4.4.c Present Continuous Consequences:

4.4.c.i. Environmental Contamination:-

- Leakage of HNS (Hazardous and Noxious Substances): These include flammable, reactive, corrosive, and toxic chemicals which may leach into the seabed, contaminating the marine food chain.
- Persistent Oil Discharge (450+ Metric Tonnes): Leads to degradation of seawater quality, blackening of the coast, and coating of marine organisms, impacting oxygenation and reproduction. Result is Irreparable damage to marine biodiversity, including plankton, mangroves, coral reefs, and migratory fish populations.

4.4.c.ii. Health Hazards to Coastal Communities:-

- Inhalation Risks:- Toxic vapours from certain HNS (e.g., nitric acid, phenols, alkalis) can cause respiratory distress, neurological damage, and even carcinogenic effects. Chronic health risks to coastal populations, especially vulnerable fisherfolk exposed to toxic fumes, contaminated water, and seafood bioaccumulation.
- Dermal Exposure:- Contact with polluted seawater leads to skin lesions, rashes, and infections, especially among children and fisherfolk.
- Contaminated Seafood:- Bioconcentration of toxins in fish and shellfish can cause gastrointestinal and reproductive disorders.

4.4.c.iii. Socio-Economic Disruption:-

- **Fishermen's Livelihoods Paralyzed:** A complete breakdown in fishing activities due to contaminated waters, port closure, and market distrust. Economic paralysis in fishing, aquaculture, and coastal tourism. Destruction of cultural heritage, rituals, and sustainable marine livelihoods rooted in centuries of coastal tradition, is the outcome, if not properly attended to.
- **Food Chain Impact:-** Coastal communities depending on seafood as primary protein face nutritional distress.
- **Tourism Collapse:-** Loss of ecological beauty, beach access, and safety perceptions has caused economic shock to coastal tourism industries.

4.4.c.iv. Long-Term & Irreversible Ecological Consequences:

A. Marine Biodiversity Collapse:-

- **Trophic Level Disruption:** Death or migration of plankton, molluscs, crustaceans, and pelagic fish causes long-term collapse in the food web.
- **Endangered Species Threat:** Contamination may critically endangered mangroves, coral reefs, turtles, and estuarine birds.

B. Ecosystem Mutation :-

Chronic presence of HNS alters salinity, pH, microbial life, and sediment quality, permanently disrupting ecological equilibrium.

C. Coastal Erosion and Habitat Loss :-

Spill-induced chemical destabilisation accelerates coastal erosion, loss of nesting grounds, and destruction of sacred groves and cultural sites of coastal communities.

D. Cultural and Psychological Trauma

- **Loss of Cultural Heritage:** Fishing is not merely economic but a cultural identity for Kerala's coastal communities. The disaster breaks intergenerational occupational continuity.
- **Psycho-Social Trauma:** Persistent fear, anxiety, and displacement-related uncertainty have created mental health crises among fisher families.
- **Displacement Risk:** Ecological degradation may force permanent displacement, thus raising climate refugee concerns.

AGENCY/STATUTE	DUTY OWNED	FAILURE COMMITTED
Directorate General of Shipping (Merchant Shipping Act, 1958)	Enforce Port State Control, vet hazardous cargo	Allowed entry of unseaworthy vessel without checks
Indian Coast Guard (ICG Act, 1978)	Monitor EEZ, intercept polluting ships	Failed to detect/respond to risk from aging vessel
Ministry of Shipping	Maritime oversight, compliance with IMO conventions	No direction for detention despite red flags (age, flag hopping)
State Maritime Board / Port Authority	Cargo stowage inspection	Did not assess or verify HNS cargo containers
Pollution Control Boards / DoECC	Environmental risk audit, early warnings	No EIA, no containment plan
NDMA / SDMA	Disaster risk preparedness	No pre-warning, no containment infrastructure for HNS and/or Oil spill

4.5 Systemic Failures: A A bird's eye view- 'MSC ELSA 3 Incident':-

4.5.a. Repeated Systemic failures:- The Systemic failures of each respondents have been narrated in detail in the subsequent paragraphs, in order to invite this Hon'ble Court's kind attention to their 'Statutory Duties' and how they failed in 'Precautionary Principle', containment of the danger/pollution from 'MSC ELSA 3 Incident' - which requires an immediate correction, in order to save the Life and Environment in

the Coastal region of Kerala. Such an intervention is the necessity of time, as frequent incidents of the Cargo Ship causing imminent threat to life in the area are being reported from yet another incident that happened 81.4 nautical miles away from the Coast of Northern Kerala, the details of which are covered in the subsequent paragraphs. A part of the sufferings of the people in the Coastal area, due to this incident is reported in the Hindu dated 07.06.2025. A true copy of the news paper dated 07.06.2025 is produced herewith and marked as **EXHIBIT P5**. It is submitted that these incidents are 'Continuing Constitutional Tort' - violating the rights guaranteed under Article 21 (Right to Life, Health, and Livelihood), Article 19 (1) (g) (Right to practice Occupation/ Trade & Business), Article 48A (Protection of Environment and Ecology), and Article 51A(g) (Fundamental Duty to Preserve Nature) - for which, immediate, scientific, and Judicial intervention is warranted.

4.6. The 'MV Wan Hai 503 Incident' of catching fire off the Coast of Beypore, Kerala, represents a serious 'Systemic Failure' on the part of both Port-State and Coastal Regulatory Authorities to enforce preventive measures in line with India's Constitutional Obligations and Environmental Jurisprudence. The vessel was carrying over 1,754 containers—including at least 143 to 157 containing hazardous and highly reactive chemicals such as nitrocellulose, paraformaldehyde, pesticides, and organometallic compounds. The collapse of containers into the Arabian Sea, following the fire, coupled with the lack of timely transparency regarding the 'Cargo Manifest', has precipitated a

situation of unmitigated ecological Risk and Infringement of the Right to Life guaranteed under Article 21 of the Constitution of India.

4.6.a The incident is a clear breach of the 'Precautionary Principle', which has been upheld by the Hon'ble Supreme Court in the *Vellore Citizens'* case. The failure of the Authorities to preemptively assess and neutralize the risk posed by the fire-stricken vessel—particularly when the coastline in question is ecologically sensitive and densely inhabited—demonstrates not only an abdication of their Constitutional and Statutory Duty to protect the environment and human life, but also reveals the insufficiency of the existing Statutory Systems in Marital Traffic through Coastal lines ; and also the non-ratification of the International Conventions like OPRC-HNS, 2000 - which deals with the International Cooperation on Hazardous and Noxious Substances along with Oil spill, as stated in this Public Interest Litigation. In such circumstances, lack of scientific certainty cannot be used as a Justification for inaction; instead, Precautionary Action was imperative to prevent harm.

4.6.b. Moreover, the 'Public Trust Doctrine', a foundational principle of Indian Environmental Law, has been blatantly violated in this 'MV Wan Hai 503 Incident'. The coastline, marine biodiversity, and natural resources in and around Beypore are held in trust by the State for the benefit of the Public. By failing to take proactive and transparent steps to safeguard these resources from marine pollution, chemical leakage, or ecological degradation, the responsible Authorities have betrayed the Fiduciary Duty imposed upon them by

the Constitution and Statutory Frameworks like the Environment (Protection) Act, 1986 and the Indian Coast Guard Act, 1978.

4.6.c. Further, the 'Polluter Pays Principle', another bedrock of Indian Environmental Jurisprudence, must be enforced in the wake of this catastrophe. If hazardous substances onboard the MV Wan Hai 503 result in environmental contamination, the ship owner/operator, insurer (19th and 15th respondents, respectively) are strictly and absolutely liable to compensate for the damage caused to the marine ecosystem and coastal populations. The role of Classification Societies and Port-State Clearance Authorities must also be examined for dereliction of Duty and potential complicity in allowing such vessels to operate without adequate safety assurances.

4.7 The incident, if left unaddressed by Judicial oversight, risks setting a dangerous precedent where foreign-flagged vessels can cause irreparable damage to Indian ecology and communities without accountability. The Hon'ble Court's intervention is therefore imperative to uphold the Constitutional vision of Sustainable Development, enforce International Environmental Commitments under the UNCLOS and MARPOL Conventions, and secure the Fundamental Rights of the people and protection of the environment.

5. Collective Responsibility and Liability of the respondents, primarily by the Union of India & others on 'MSC ELSA 3 Incident': -

5.1. 1st respondent, Union of India :- The 1st respondent is liable for enforcement of the International Conventions namely - UNCLOS (United Nations Convention on the Law of the Sea), MARPOL

(International Convention for the Prevention of Pollution from Ships), SOLAS (International Convention for the Safety of Life at Sea), HNS (International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea) and CLC (International Convention on Civil Liability for Oil Pollution Damage) through the provisions under Article 353 of the Constitution of India, as the Legislation on these subjects are its responsibility, as per Article 246 of the Constitution. Moreover, relaxation of the Cabotage Laws- permitting Foreign ships to ply in Indian waters, doing domestic carriage of Goods, should have been controlled by more safety and regulatory methods, through appropriate legislations in the interest of Life, Liberty and Security of its Citizens and the Nation as such. The present incident of capsizing MSC ELSA 3 Vessel unearth the flaws in the whole system of Mercantile operations of the Vessels in Indian waters ; especially relating to foreign ships - having 'Convenient Flags' of comparatively less enforcement States, like Liberia.

5.1.i. Legal Duty/Obligation:- The 1st respondent, Union of India, has the Legal Duty to coordinate Maritime, Environmental and Disaster Laws, in relation to the vessels plying through the Indian waters i.e., EEZ (Exclusive Economic Zone) - extending up to 200 nautical miles ; and taking up the Criminal prosecution in EEZ, falling beyond the Territorial Waters is the responsibility of the Union Government.

5.1.ii Nature of Lapse:- No coherent framework is seen in place for handling the safety requirements of Hazardous cargoes or post-disaster response, especially that of foreign Ships plying in Indian waters, as is evident from the incident in question - under consideration of this Hon'ble Court. The first respondent is duty bound to exercise its Constitutional Power under Article 73, 246 and Schedule VII entries 25&30 - to enforce the International Conventions like UNCLOS, CLC 1992 and OPRC-HNS, 2000, in a comprehensive manner under the Article 253 of the Constitution of India.

5.1.iii Ministry of Environment, Forest & Climate Change (MoEFCC) and the Central as well as State Control Boards (CPCB & SPCB)- Respondent Nos. 22 & 12 and MoEFCC (Respondent No. 3) are the Statutory authorities to prevent and control pollutions of any nature and destruction of biodiversity. MoEFCC (Respondent No. 3) is the primary authority to quantify the ecological loss, assess coastal biodiversity impact and enforce 'Polluter Pays Principle' under Environment (Protect) Act, 1986 and Coastal Regulation Zone (CRZ) Rules. The MoEFCC has got Administrative control and oversight over the Central Pollution Control Board (CPCB), and through it, it exercises indirect control and coordination over the State Pollution Control Boards (SPCBs). It makes it imperative to coordinate and activate the processes of controlling the pollution in the sea caused or still under imminent threat to the life of the Citizens and the biodiversity and environment - which has not occurred. Further, this respondent is duty bound to coordinate with the National Green Tribunal (NGT) for expedited environmental adjudication and for the quantification of

loss/damages on the environment and biodiversity. Real-time monitoring and clean up directives, with periodical reports published, ought to have been stressed by this respondent from the relevant quarters, including that of the 22nd & 12th respondents (CPCB & SPCB). Unfortunately, no such coordination is seen occurring.

5.1.iv. Legal Duty/Obligation - It is the Statutory Duty of the MoEFCC to care for 'Environmental Safety and Biodiversity'; but, unfortunately this crucial department in Government of the 1st respondent had not swung into action, even after a lapse of 20 days of this dreadful incident - which is imminent to cause the drastic effect in the ecology and the biodiversity of the Kerala coast.

5.1.v This respondent's laxity amounts to failure to proactively monitor/mitigate the oil and chemical spill and the spread of other Presumed Hazardous and Noxious Substances, contra to its duty specified under the Environment protection Act, 1986 and Article 48(A) of the Constitution of India.

5.1.vi Ministry of Ports, Shipping and Waterways - This respondent No. 1 is responsible for enforcement of Maritime Safety Regulations, Environment, Social and Governance (ESG) Compliance of the Foreign Vessels, Vessel age norms and Port-entry due diligence. The sunken vessel, MSC ELSA 3, apparently, was transporting goods from Vizhinjam Port to Tuticorin Port and enroute to that, it is faced with mechanical/technical problem and sunk in the Kerala coast.

5.1.vii. Legal Duty/Obligation - Regulation of Maritime Safety and maintenance of the same is the primary duty of this respondent - which was not seen accomplished in Indian waters (EEZ), considering the nature of the incident - causing colossal threat to the people and the environment.

5.1.viii. Nature of Lapse/Allegation - Allowing a 28 year old Vessel into EEZ despite the probable cause of accident with the immediate effect of a havoc caused due to the presence of Hazardous and Noxious substances and substantial quantity of oil, adds onto the violations of the indian Merchant Shipping Act and the International conventions like SOLAS

5.1.ix Directorate General of Shipping (DGS) is statutorily empowered to enforce, i. Merchant Shipping Act, 1958, ii. Marine Insurance Laws & SOLAS-MARPOL, even in relation to the Foreign ships doing domestic operations under the relaxed cabotage laws, as per Chapter IX and IX-A. it may be noted that the capsized ship carrying the Liberian Flag falls in that category; therefore, the active intervention of 7th Respondent should have been in action; but the fact is otherwise. Added to this, the Union of India and the Directorate General of Shipping (DGS) should have taken effective measures to implement other Conventions on Hazardous and Noxious Substances like HSN - with the full force of Law enacted through the Parliament under Article 253 of the Constitution, in order to avoid such a gruesome incident in future and to ensure the LIFE and Liberty of its Citizens, Protection of

Biodiversity and the Environment in general. If the 1st and the 7th respondents claim inadequate enforcement of these mandatory conventions through the Statute, as envisaged under Article 253 of the Constitution of India, it causes serious infraction to the Rights of the Citizens under Article 14, 19, 21 and 29 of the Constitution referred to herein. Though the DGoSK conducted a press conference as to the cause of sinking of the Vessel - attributed to technical/mechanical error - no further actions were seen to be initiated effectively, for a proper investigation into the incident and for the recovery of the Hazardous and Noxious Substances from the sunken ship. No coordination efforts were seen made known to the public, so far - by these authorities.

5.1.x Legal Duty/Obligation - The 7th Respondent *per se* failed to enforce Maritime Regulatory and Control, by allowing the Vessel to transport Hazardous and Noxious Cargos, along with other Toxic Substances for the life of all living beings, including biodiversity and humanity, in a dangerous and through possible Accident Generating Scenarios.

5.1.xi. Nature of Lapse - The 7th Respondent failed to enforce the controls through inspection, ballast management and container safety protocols in stocking and lashing processes - which is *per se against* the ballast Water Management Rules and SOLAS.

5.1.xii State of Kerala - Though the capsizing of the Ship in question is declared as "The State Specific Disaster", by this respondent, the lukewarm approach of the State of Kerala to the

disastrous accident of the Vessel MSC ELSA 3 in the Kerala Coast evidences the Governmental lethargy and lack of coordination in addressing the possible life threatening and the environmental damaging scenario - affecting all living beings not only in the coastal area but the entire stretch of the State as well as the EEZ - extending up to 200 nautical miles, falling under the jurisdiction of the 14th respondent police Station. Even then, not even a single FIR is registered against the sunken ship Owning/Operating Company for causing such a colossal damage (immediate and future) to the biodiversity ecosystem and to the Life and Liberty of the Citizens of this Country living in this State, till 11.06.2025. Even the FIR registered contained comparatively less stringent offences, in order to safeguard the interest of the 13th respondent - ship owner - whose interest was bent upon to be protected by the 4th respondent.

5.1.xiii Legal Duty/Obligation - The declaration of the incident in question as the 'State Specific Disaster' has not enabled the State to do active coordination between various departments in Governments - both Central as well as the State, to investigate arrest and to further prevent the imminent threat arising out of the incident consequential to carrying of Hazardous and Noxious Substances and other unreported materials - which may further cause imminent damage to the ecosystem, biodiversity and the life situation of the People of the State.

5.1.xiv Nature of Lapse - The ecosystem and the security element in the coastal waters of Kerala are fragile and it requires added surveillance, care and caution in the activities there, even though the

subject of legislation is a matter for consideration for the Central Government. There seems to be no effective pressure put on the side of the State for a coordinated operation in the coastal waters, if a mishap of this magnitude happens ; and the said failure was writ large on the face of the activities of the Government of Kerala, as it practically lacked any solid and effective plan for coordination with the various agencies involved in the process, including that of the Union Government and the Foreign Shipping owner/operator. The result is, abject delay in containment, community protection, biodiversity impact assessment and/or a proper investigation. The Disaster Management Act & Rules, 2005 under the administration of the 4th despondent, State, was quite ineffective, as majority of the Hazardous Substances, Oil and other Noxious materials are still submerged in the water - causing a potential threat to the total environment including biodiversity and the people living on the shores. it also drastically affected the life and the living Culture of a great number of the population - who resort to marine products as their livelihood.

5.1.xv. NDMA/KSDMA (National and State Disaster Management Authorities) - The entire coastal stretch of the State of Kerala, 4th respondent, covers 590 kilometers. Due to the increased domestic traffic of Foreign Ships *qua* the relaxation of cabotage laws permitted sea-worthy and other vessels to sail on permission and special permission respectively by the Shipping Authorities in India. Though the National Disaster Management Authority (NDMA) has claimed that it has established a comprehensive system to warn governments and the public about potential disasters, with the integrated advanced

technologies and collaborative frameworks to ensure timely dissemination of alerts and effective disaster preparedness, presumably and through this incident of capsizing of the vessel MSC ELSA 3, it has come to light that these authorities are giving scant regard for the safety warning and Disaster Management, in the event of occurring an incident like the one in question. Even after a span of over __ days, neither the NDMA nor the KSDMA have come out with any concrete plans for proper management of this 'State Specific Disaster' officially declared by the State Government.

5.1.xvi. Legal Duty/Obligation - National and State Disaster Response to the situations cropping up, without delay and to keep vigil of the possible areas of disaster considering various parameters devised by them for prevention as well, failed miserably in the case of this mishap under consideration of this Hon'ble Court.

5.1.xvi Nature of Lapse - Inadequate coordination and Environmental and Social/Human Disaster Response from these critical agencies 8th and 9th respondents, of the Union and State Governments respectively, made the Disaster Management Act, 2005 redundant, to the extent it was inoperative/insufficient to meet the situations of this mishap in the coastal waters of Kerala/India .

5.1.xvii Indian Coast Guard (ICG) - The Respondent no. 10 is responsible - Constitutionally and Statutorily for EEZ surveillance, Maritime Security Pollution Control and Emergency Response. This agency also failed to interdict or preempt the wreck in the case of the

Vessel MSC ELSA 3. The Indian Coast Guard (ICG) is legally empowered to take action against Foreign Ships violating safety norms within India's Exclusive Economic Zone (EEZ). In December 2019, the Ministry of Defence issued a notification under the Coast Guard Act, 1978, authorizing every member of the Coast Guard to "visit, board, search and seize" suspicious vessels within the EEZ and its continental shelf. This empowerment allows the ICG to enforce maritime laws up to 200 nautical miles from the Indian coastline, addressing the envisaged illegal issues. The ICG is designated as the central coordinating authority for oil spill response in India's maritime zones and is responsible for the preservation and protection of the marine environment. Under the Coast Guard Act, 1978, the ICG is tasked with preventing and controlling marine pollution, including incidents involving hazardous substances. Other illegal activities like fishing, smuggling, and any other unlawful activities could be prevented by the ICG, at present. Prior to 2019, the ICG's authority was limited, often requiring reliance on other laws like the Customs Act or the Narcotic Drugs and Psychotropic Substances Act, which were applicable only within territorial waters. With the new powers, the ICG can now directly act against foreign vessels violating safety norms in the EEZ, enhancing India's maritime security and law enforcement capabilities. Yet, the ICG failed to act with due seriousness, once they found the technically/mechanically unsustainable Vessel was carrying Hazardous and Noxious Substances - the stowage and lashing of which were done in a haphazard manner, causing imminent threat to the ecology, biodiversity and the human lives in the coastal areas and beyond. The fact that no case was registered, investigated and no cargo/ship was

seized, prior to the accident as the Ship in question was evidently not seaworthy (28 years old) and was having/technical problem ; yet carrying the Hazardous goods along with large quantities of oil.

5.1.xviii ICG Legal Duty/Obligation - Marine Policing, Prevention and Rescue are the task attributed to ICG - with independent power for "visit, board, search and seize" the obnoxious materials from the board - which power was not exercised by them, as in the case of MSC ELSA 3 Vessel.

5.1.xix Nature of Lapse - As no early interception of the Vessel and/or spill management of the Oil and the other Hazardous Noxious Substances happened at the end of ICG - who effectively used the opportunity to rescue 24 crew members on board of MSC ELSA 3, could not effectively interfere with the disastrous situation of the Hazardous Goods carried, in a haphazard way. Effective interrogation could be had on to the circumstances which lead to such a situation prior to the sinking of the Vessel - as the ICG was the first lot of authorities - who have had the hands-on experience in rescuing the crew and interacting with the captain, Chief Engineer and other responsible officers, on-board of the Ship. The ICG could have seized the Cargo Manifest - containing the details of the Cargo and the contents therein, if not already seized. At any rate the people living in the coastal area and the general public is kept in oblivion as to what where the nature of the cargo - which had gone down along with the ship when it capsized, amidst various reports stating the more hazardous nature of the cargos thus not declared, apart from the 13 containers having hazardous and

noxious substances, as declared by the owner and/or operator of the ship.

5.1.xx SPCB, 12th respondent, is the Statutorily responsible Authority of the State to review 'Cargo Manifest' of the Vessels carrying Hazardous and Noxious Substances, in order to understand Environmental Impact Risk and to ensure State level compliance with handling of HNS under the 1986 Act ; but it failed miserably. From the above , it is discernible that the Statutory Authorities have not only failed in Precautionary Measures ; but, they have miserably failed swinging into action when the mishap occurred as if they have no idea how to coordinate in such a situation ; and it became evident that there is no Lead Central Agency to coordinate the affairs, if another incident like MSC ELSA 3 occurs.

5.1.xxi Fort Kochi Police - By exercising the powers under Section 13 of the Maritime Zone Act, read with paragraph 2 part II of the Notification of the Government of India, in the Ministry of Home Affairs number S.O.671(E)Dated 27th August 1981, Published in the Gazette of India, Extraordinary Part II, Section 3, sub-section (ii), the 1st respondent, Union of India directed that few Coastal Police Stations, including Fort Kochi Coastal Police Station, shall be the Police Stations for the purpose of investigating the offences committed by any person under any Provisions of any Act so as to extend to the Exclusive Economic Zone under sub-section 7 of Section 7 of the said Act. In spite of the said power, which is wide enough to cover any offences and

violations of Law within 20 nautical miles from the baseline of Coast of Kerala, the State Police had not moved their little finger on 'MSC ELSA 3 Incident' for 18 days; and finally, a flimsy FIR was registered, on 11.06.2025 - when the pressure mounted. A true copy of the Government Notification dated 14.06.2016 is produced herewith and marked as **EXHIBIT P6**. A true copy of the FIR dated 11.06.2025 with its English translation is produced herewith and marked as **EXHIBIT P7**

5.1.xxii Ministry of Central Excise & Customs, the 18th respondent, also failed in its precautionary duty to prevent 'MSC ELSA 3 Incident'.

5.2 Collective Responsibility and Liability of the Respondents, primarily by the Union of India & others on 'MV Wan Hai 503 Incident'

5.2.i. It may be noted that the following are the fair outlining of the Collective Responsibilities and Liabilities of each of the named Respondents, in this incident :

5.2.ii Union of India - The Union of India, being the sovereign authority under which all maritime and environmental agencies operate, bears overarching responsibility to ensure the enforcement of international conventions such as MARPOL, UNCLOS, and the Hong Kong Convention on Ship Recycling, to which India is party or signatory. Its failure to formulate or implement a coordinated emergency response protocol for foreign-flagged vessels causing

environmental hazards constitutes a dereliction of constitutional duties under Article 48A and its obligations under International Environmental Law.

5.2.iii Ministry of Environment, Forest and Climate Change (MoEFCC) - The MoEFCC is the nodal agency responsible for framing national policies and overseeing the execution of laws relating to environmental protection. Its inaction in issuing real-time directives, conducting environmental impact assessments, and failing to mobilize expert intervention in the wake of the MV Wan Hai 503 fire amounts to a violation of the 'Precautionary Principle' and failure to discharge duties under the Environment (Protection) Act, 1986.

5.2.iv State of Kerala - The State Government, under the constitutional scheme of cooperative federalism, is duty-bound to protect life, ecology, and public health within its territory. The inadequate local response to mitigate marine pollution and secure the coastal population from hazardous exposure points reflects the failure of the State in coordinating the Precautionary measures, Regulations and Safety Mechanisms in Marital Traffic, with the 1st respondent and its Instrumentalities, not to speak of the Systemic failures of the KSDMA, SPCB and the Fort Kochi Police (respondents 9, 12 and 14, respectively).

5.2.v Department of Environment and Climate Change (DoECC), Kerala - The DoECC is directly responsible for ensuring environmental compliance and preparedness at the State level. It failed

to proactively monitor the ecological impact, issue emergency advisories, or trigger the Coastal Vulnerability Protocol in light of an obvious maritime environmental emergency, thereby breaching its public duty under State Environmental Regulations and the Coastal Regulation Zone (CRZ) Notification, 2011.

5.2.vi. Directorate General of Shipping (DGS) - As the primary maritime regulator under the Ministry of Ports, Shipping and Waterways, the DGS is obligated to inspect foreign vessels, issue port-state clearances, and ensure compliance with safety and cargo disclosure norms. Its failure to scrutinize the manifest or flag-state compliance, and lack of inspection diligence, represents a gross failure of Statutory Duty under the Merchant Shipping Act, 1958.

5.2.vii. National Disaster Management Authority (NDMA) & Kerala State Disaster Management Authority (KSDMA) - Both NDMA and KSDMA are responsible for disaster risk reduction and emergency response. Their lack of preemptive coordination, absence of public advisories, and failure to deploy rapid response units in a potentially toxic maritime fire event demonstrates negligence under the Disaster Management Act, 2005, and violates the public's right to safety.

5.2.viii Kerala State Pollution Control Board (SPCB) - The SPCB is mandated to monitor, assess, and act upon any pollution—air, water, or marine—within the State. The absence of water sampling, toxicity

testing, or pollution advisories from SPCB in the aftermath of the incident amounts to regulatory paralysis, breaching its statutory responsibilities under the Water (Prevention and Control of Pollution) Act, 1974 and Air Act, 1981.

5.2.ix Indian Coast Guard - As the designated authority for marine pollution control under the National Oil Spill Disaster Contingency Plan, the Indian Coast Guard is duty-bound to lead containment, salvage liaison, and pollution monitoring. Its delayed fire containment measures, lack of real-time maritime hazard communication, and failure to secure the cargo drift zone represent a failure of duty under the Indian Coast Guard Act, 1978.

5.2.x Fort Kochi Coastal Police - The Fort Kochi Coastal Police hold jurisdictional responsibility to initiate First Information Reports (FIRs) and assist in securing evidence related to maritime incidents. Their failure to register a suo motu FIR, investigate under relevant IPC and BNS provisions, and coordinate with central agencies, reflects administrative inaction and obstructs the due process of law.

5.3. The failure of the owner/operator of 'MSC ELSA 3' and 'MV Wan Hai 503' and their classification agents, viz., Bureau Veritas and Maritime and Port Authority of Singapore (MPA), in complying with the Statutes of India on EEZ and the International Regulations :-

5.3.i. The catastrophic sinking of the hazardous cargo vessel MSC ELSA 3 off the coast of Kerala within India's Exclusive Economic Zone (EEZ) is a direct consequence of the gross negligence and regulatory failure on the part of the shipowner and its classification agency, Bureau Veritas, 16th respondent. The Vessel, reportedly carrying Hazardous and Noxious Substances (HNS), appears to have been granted sea-worthiness certification despite mechanical and structural deficiencies, raising serious questions about the integrity and reliability of the classification process. The incident constitutes a blatant violation of the Statutes and Regulations in force in the EEZ area - where Section 7(7) of the Maritime Zone Act, 1976 prevails. Furthermore, the failure to prevent the sinking and the lack of transparent information regarding cargo and vessel condition amount to a breach of International Obligations under the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Pollution from Ships (MARPOL), and the UN Convention on the Law of the Sea (UNCLOS), to which India is a signatory. The classification agency and shipowner have thus violated both domestic maritime safety regulations and binding international maritime law, and must be held strictly accountable under the 'Polluter Pays Principle' and the 'Precautionary Principle', to prevent similar environmental disasters in India's Maritime Jurisdiction. The International Conventions like UNCLOS, SOLAS - which mandates that the flag state effectively exercise Jurisdiction and control over administrative, technical, and social matters on ships flying its flag, had not been complied with by the Liberian Flag bearing Vessel.

5.3.ii The 'MV Wan Hai 503 Incident', involving a massive onboard fire and the collapse of over 1,754 containers—including at least 143 to 157 containing hazardous and highly reactive chemicals such as nitrocellulose, paraformaldehyde, pesticides, and organometallic compounds—within India's Exclusive Economic Zone (EEZ) off the coast of Kerala, reflects a grave failure on the part of the shipowner, Wan Hai Lines, and the classification authority- the Maritime and Port Authority (MPA) of Singapore (respondents 19 and 20 respectively). Their inability to ensure that the Vessel met requisite safety, fire-control, and Structural Stability Standards before it entered Indian maritime zones constitutes a serious breach of both International and Indian maritime law. Under the Maritime Zone Act, 1976, India exercises Sovereign Rights for environmental protection and resource preservation in its EEZ, which includes the obligation of foreign vessels to adhere to Indian environmental and safety regulations. Further, the failure of MPA Singapore to ensure due diligence in vessel certification violates their responsibilities under Articles 94 and 217 of the United Nations Convention on the Law of the Sea (UNCLOS), which mandate that the flag state effectively exercise Jurisdiction and control over administrative, technical, and social matters on ships flying its flag. The incident also contravenes key international conventions such as MARPOL and SOLAS, which regulate pollution and maritime safety. Their collective negligence and the failure to notify Hazardous cargo as has resulted in an imminent threat to marine ecology, biodiversity, and the livelihood of Coastal communities in Kerala, thereby inviting accountability under the 'Polluter Pays Principle', 'Precautionary

Principle', and the 'Public Trust Doctrine' as evolved under Indian Constitutional Jurisprudence.

6. Unprecedented move of the Chief Secretary: the meantime, a prominent Vernacular Daily - Malayala Manorama reported that the State is colluding with the Vessel Owner, 13th respondent ; and surprisingly, the Chief Secretary issued an Official Note, *inter alia* mentioning about the conscious avoidance of Criminal case:

"The general consensus was that a Criminal case need not be filed immediately and that the entire focus at this time should be on collecting evidence of damages so that the evidence based claims can be raised."

The next paragraph of the note of the Chief Secretary to the State of Kerala, reads:

"The MSC is a reputed company which patronises the Vizhinjam international Sea Port and the company required the goodwill of Kerala for their co-operations here. It is also their interest to cooperate with Kerala and settle the claims through the insurance agency. Considering all these aspects, our claim should be raised based on strong evidence and without any complaints."

A true copy of the news item published in the vernacular daily - Malayala Manorama dated 12.06.2025 with English Translation, with the official note of the Chief Secretary of the 4th respondent is produced herewith and marked as **EXHIBIT P8.**

6.1. The petitioner submits that it is an unprecedented and alarming move on the side of the Chief Secretary of the State - who represents

the Constitutional machinery of the Government of Kerala, to enter into an 'Official Compromise' with the 13th respondent, Vessel owner, obviating the Gross Criminal Negligence the continuing/imminent danger to the Ecology, Biodiversity and the Environment in the Coastal stretch of Kerala and the people living therein - who are in perennial danger of insecurity and loss of livelihood, due to the 'MSC ELSA 3 Incident'. The Official Compromise thus made is totally against the Constitutional and Legal Duty of the State of Kerala and its Instrumentalities - made respondents herein to protect the Life, Liberty and Wellbeing of its Citizens, not to speak of the total Environment harm caused and likely to be continued in future - the impact of which may even last for the next 10 years, with unpredictable harm to the Total Life Situation in the Coastal areas of Kerala.

6.1.i It is submitted that the actions and directives issued by the Chief Secretary of Kerala in the note dated 29th May 2025, purporting to operationally guide the response to the MSC ELSA-3 maritime incident, constitute a clear instance of constitutional overreach and jurisdictional impropriety. Under the Seventh Schedule of the Constitution of India, matters relating to shipping, navigation, maritime liability, and wreck removal fall squarely within the exclusive legislative and executive competence of the Union Government (Entry 24, List I). Accordingly, regulatory authority vests solely in central agencies such as the Directorate General of Shipping, Indian Coast Guard, and National Disaster Management Authority, governed by Union laws including the Merchant Shipping Act,

1958 and Disaster Management Act, 2005. The Chief Secretary, being an administrative head of a Constituent State, possesses no Statutory or Constitutional Power to issue binding directions or determinations regarding compensation, criminal liability, or environmental containment measures under Central Jurisdiction. The purported assertion of authority to defer criminal proceedings, manage wreck removal schedules, or negotiate liability with international insurers undermines both the federal balance and the rule of law. Any such exercise of power must be seen as *ultra vires* the Statutes and interested ; therefore, liable to Judicial correction to preserve the sanctity of India's Constitutional and Administrative architecture.

6.2 Approach of the State and the Union Governments: The overall approach of the State of Kerala and the Union Government (1st and 4th respondents, respectively), seems to be lethargic and made with the caution to protect the interest of the delinquent Ship Owner/Operator, rather adopting effective measures for a proper investigation and by enforcing the liabilities for the protection of Environment, Human Life, and to compensate the affected/suffering lot. This approach made the Petitioner to probe deep into the 'MSC ELSA 3 Incident'.

7. Probe in to the 'MSC ELSA -3 Incident' by the Petitioner - Further probe into the history of the Vessel 'MSC ELSA 3, by the Petitioner revealed the tainted history of the SHIP-MSC ELSA 3 - which makes it obligatory to be categorized under

'RED FLAG' by the authorities; but, surprisingly, none of the Authorities and/or the responsible entities have done so.

7.1. The Petitioners found that **'Flag Hopping'** and **'Change of Names'** in Merchant Shipping are indicative Factors of their frequent evasive approach towards Legal and Regulatory Compliance. The MSC ELSA-3 exhibits classic **'Flags of Convenience'** behaviour, as is evident from its multiple changes in Flag States, - which, in Shipping parlance - is called **'Flag Hopping'**- connoting - to be considered - **'Red Flag'**, for Environmental Non-compliance and Asset Abandonment Risk, Internationally. Likewise, Several **Renaming** and **Re-registration** events across Jurisdictions- makes the Vessel, *prima facie* not reliable in terms of Compliances , including Environmental & Safety Regulations.

7.1.i. The report on MSC ELSA 3 goes on to say that it has borne at least 10 different names, including CSAV Barcelona TMM Hidalgo, Delmas Tourville and Alexandra N. The ship has had alternated flags between Liberia and Germany, switching its legal identity as frequently as its commercial one. These types of 'Flag Hopping', is a common tactic used to escape stricter inspections, debt liabilities or aging ship regulations.

7.2. Further, it may be noted that the above mentioned conduct of the Vessel in question is Indicative of a Pattern to avoid regulatory

scrutiny, lower taxes, or weakened port inspections. Even then, none of the Respondents have been able to identify these anomalies - indicative of a larger 'Incident of Disaster', especially when the MSC ELSA 3 Vessel was carrying Hazardous & Noxious Substances, apart from the large quantities of Oil and other 'undisclosed'/ dangerous substances- which are capable of causing havoc in the Coastal areas and the sea water based Environment! Rather, the State Government had chosen to be on the side of the Vessel owner, for reasons best known to their convenience ; but not certainly, for the benefit of the People and the Environment thus affected/likely to be affected, as stated.

7.3. **RED FLAG:-** The Petitioner submits that, as indicated, the capsized Ship was having a '**Troubling Trail of Red Flags, Regulatory Laxity and Legal Voids**'. It may be noted that the capsizing is not just the story of one ship's failure, but points to a deeper rot in the Global Shipping Regulatory Architecture and the loopholes of Law, Flag Registry and Oversight Regime in the process, including that of Coastal States - colliding to produce disasters waiting to happen ; and in the case in hand, the situation was not different.

7.4. **Flag of Convenience:** Though the 'Flags of Convenience' (Liberia) and the 'Dilution of Responsibility' by MSC ELSA 3 Vessel makes the **Owner/Operator** - liable under '**Strict Liability Procedures**', the same was not taken serious note of by the DGS, 7th respondent and other Statutory Instrumentalities in the Central as well as the State Governments. The 'Flag Country' [represented through the

Ministry of External Affairs (MEA)] and the 'Classification Agent' have made use of the loose regulatory system in implementation of the International Conventions and Domestic Loss, *qua* the Maritime Traffic , through Indian waters, especially the Coast of Kerala. It is evident that the mishap occurred as a result of the contributory factors at the end of the Owner/Operator of the Ship, i.e., MSC and the Regulatory Authorities in India.

7.4.i Ignored the Warning: MSC ELSA 3, reportedly ignored several warnings from India and other Port State Control Inspections. Reportedly, from 1999 to 2024 MSC ELSA 3 underwent dozens of Port State Control Inspections across Europe, Asia and the America. Disturbing patterns were revealed on detailed examination as to:

- In July, 2023, the Indian Port of Tuticorin flagged 9 deficiencies on MSC ELSA 3, four of them in the 'Human Element' Category - An indication of training and Competency issues among the Crew. Such cutting corners are practiced by the Ship owners to maximize their profit, endangering the Life, Health and Living conditions of the Citizens living in the Coastal areas, like in India.
- It is further reported that in Rotterdam, in the year 2010, the said Ship was detained for 2 days after being found with 21 deficiencies - a staggering number, by marine standards.
- Similar patterns of violations occurred in this Ship in Hamburg, Bilbao and Dunkirk over the years. Yet, alarmingly, the Ship was

never declared un-seaworthy by the classification agencies including the 16th respondent - which requires it to be investigated.

7.5 Haphazard way of functioning - certificates managed - The functioning of Vessel MSC ELSA 3 prior to the capsizing and the evasive conduct of the Owner/Operator - from the regulatory networks and Statutory/Mandatory Compliances, NOT ONLY leads to serious doubt as to the authenticity of the 'Safety Management Certificates' (valid till November 2025), issued by 'Bureau Veritas', 16th respondent and a 'Classification Survey' certifying the seaworthiness until 2028 - conducted on 13.11.2023 ; BUT ALSO leads to a larger conspiracy between felonious Ship Owner/Operators and the Certification agency - 'Bureau Veritas' - which requires to be investigated.

7.6 Precautionary Responsibilities (Precautionary Principles) of the Respondent Authorities, as per Statute and Conventions at the Port and during voyage of MSC ELSA 3 - Enumerated - It is axiomatic that the 'Precautionary Responsibilities' for examining the 'Stowage' (storing) and 'Lashing' (securing) of Hazardous and Noxious Substances (HNS) containers - both at the port and during the voyage - is shared among several key agencies and parties under International Conventions and National Laws. The breakdown of responsibilities are shown as under :

7.6.i. On board the Vessel – Primary Responsibility -

7.6.i.a. Responsibilities of - Master of the Ship & Shipping Company (Operator)- :- Under SOLAS (Safety of Life at Sea)

and the IMDG Code (International Maritime Dangerous Goods Code), the master and the ship operator are responsible for :

- a. Safe stowage and securing (lashing) of HNS containers.
- b. Ensuring segregation, ventilation, and handling precautions.
- c. Verifying 'Cargo Manifests' and container labels.

The 13th respondent miserably failed in their duties.

7.7. 'Flag State' Authority is responsible for :-

- Ensuring compliance through periodic inspections and audits.
- For MSC ELSA 3, this would be Liberia (its flag state).

The 21st respondent miserably failed in their duties.

7.8 At the Port – Before Loading :- The Port Authorities (in India: Vizhinjam Port / Customs / Shipping Ministry), are responsible under Indian Ports Act, 1908 and rules under the Major Port Authorities Act, 2021:

- To ensure hazardous cargo is stored temporarily and handled according to national and IMO safety regulations.

Respondent No. 21 miserably failed in their duties.

7.9 Terminal Operator (Adani Vizhinjam Port):-

- a. Have operational responsibility for container yard safety, stacking, segregation, and documentation.

- b. Must follow IMDG Code (International Maritime Dangerous Goods Code) and port-specific SOPs for hazardous cargo.
- c. The Adani Vizhinjam Port (17th Respondent) should have a Designated Dangerous Goods Safety Officer (DGSO), as found in some major ports to ensure proper classification, labeling, and stowage plans.

7.10. Customs and Central Excise – 18th Respondent:-

- a. Shall inspect documentation, labeling, and compliance under Indian laws (Customs Act, 1962).
- b. May inspect suspect cargo for safety and security. In the case of MSC ELSA 3, they should have inspected the cargo as it carried Hazardous and Noxious substances, along with Oil and poor stowage and lashing, reportedly.

7.11 Classification Society i.e., Bureau Veritas ought to have:-

- a. Certified and audited the Vessel's 'Cargo Securing Manual'.
- b. Reviewed and approved Ship plans for stowing hazardous substances.

The 16th respondent miserably failed in their duties.

7.12. Un-seaworthy Vessel carrying Hazardous Goods - with limited information:-

Strangely enough , there is no information forthcoming in a transparent and convincing manner to the Public , as to the nature of the substances contained in the remaining containers - which presumably causes doubt as to the presence of more hazardous and noxious substances in the vessel - which dangerous situation, is likely to affect the safety and health of the people of the State, not to speak of the drastic impact on the whole of 'Biodiversity' in the area. The 'Cargo Manifest' - is still kept secret by the responsible authorities - causing doubt as to the movement of the Vessel in Indian waters with Hazardous and Noxious substances. Besides this, the Vessel was not seaworthy, reportedly- due to the expired Service Life, Technical & Mechanical defects. As apparently, the maximum 'remaining useful life' of any vessel is prescribed by the Ministry of Shipping through the Director General, as up to 20 years of ship age beyond which no permission ought to have been granted for operation in the Exclusive Economic Zone of India - which is 200 nautical miles, as per Maritime Zone Act . The Vessel in question was 28 years old and plying in Indian waters (Coast of Kerala) with all the above mentioned lapses and laxity in regulatory compliance, as stated - which is required to be investigated.

8. Current Status of the Sunken Container and the problems faced by the Coastal areas of Kerala - Ignored by the respondents sans proper action :- As stated, the

MSC ELSA-3 sank near Thottappally, Alappuzha, on May 25, 2025. Of the 643 containers onboard, 70 were empty. Post-sinking, 54 containers drifted ashore between Alappuzha and Thiruvananthapuram, with 17 retrieved from Kollam and Thiruvananthapuram coasts between May 26 and 29. Most of these were empty, though some released plastic pellets, causing environmental concerns, particularly in areas like Kovalam. One of the containers caught fire in Kollam coast during the recovery operations. The remaining containers, including those with hazardous chemicals, are presumed to be submerged near the wreck site. Salvage operations are reportedly ongoing to prevent further pollution, as claimed by the Respondents/ Authorities - though no visible progress is seen.

8.1 Ecological and Biodiversity Impacts presently occurring:

The incident has led to several environmental issues:

- **Plastic Pellet Pollution:** Millions of plastic pellets, or nurdles, have washed ashore from Varkala to Vizhinjam. These pellets resemble fish eggs, posing ingestion risks to marine life, leading to starvation and health issues. Over time, they can absorb toxic chemicals and break down into microplastics, entering the food chain and potentially affecting human health.
- **Chemical Hazards:** The ship carried hazardous chemicals like calcium carbide, hydrazine, and hydroxylamine. Exposure to water can lead to reactions producing flammable or toxic substances, posing risks to marine ecosystems and human health. The authorities are not reporting to the public as to the measures taken, if any, with the help of the experts on the subject. Recently, one Container - washed ashore caught with 'intense fire' causing imminent threat to the Coastal People of Kollam District area- which raises

genuine doubt about the contents of the Containers - as against the declaration made, if any. Fortunately, no casualties occurred.

- Oil Spill Concerns: While no significant oil spill has been reported, the ship had over 450 metric tons of oil onboard. Oil spills can restrict oxygen supply to marine life, affect fish respiratory systems, and have long-term impacts on Marine Ecology & Bio- Diversity.

8.2. Environmental Consequences

The potential impacts from the current incident include :-

- Marine Life Mortality: Immediate and long-term mortality of marine species due to chemical exposure and ingestion of microplastics.
- Habitat Destruction: Damage to coral reefs, mangroves, and breeding grounds, affecting biodiversity and fishery resources.
- Bioaccumulation: Toxic substances entering the food chain, leading to health issues in higher trophic levels, including humans.
- Economic Impact: Adverse effects on fisheries and tourism industries, leading to livelihood losses for coastal communities.

8.2.a As of June 12, 2025, the MV Wan Hai 503 remains adrift approximately 44 to 88 nautical miles off the coast of Beypore and Azhikkal within India's Exclusive Economic Zone. The vessel, which caught fire while carrying 1,754 containers—including at least 143 to 157 containing hazardous and highly reactive chemicals such as

nitrocellulose, paraformaldehyde, pesticides, and organometallic compounds—continues to pose a serious environmental and navigational threat. Although around 40% of the fire has been brought under control, flames and smoldering persist, particularly around the vessel's inner decks and fuel tank area. Salvage efforts are underway, with Indian authorities successfully attaching a towline to the stern and coordinating with a high-powered offshore tug, Offshore Warrior, to pull the vessel further away from the ecologically sensitive coastline. Multiple containers have already collapsed into the sea, significantly increasing the risk of chemical leakage and marine pollution. Meanwhile, out of the 22-member crew, 18 have been rescued and four remain missing, with search and rescue operations continuing under the supervision of the Indian Coast Guard and Navy. Despite partial containment, the situation remains precarious, with smoke and residual fires near the vessel's fuel storage posing ongoing risk. The incident demands immediate and coordinated intervention to prevent large-scale ecological and public health consequences along the northern Kerala Coast.

9. **Maritime Traffic in INDIA - No Singular /Robust Enforcement Mechanism in India:** The unfortunate capsizing of the Liberian-flagged container Vessel MSC ELSA 3 off the Kerala coast, reportedly carrying hazardous and noxious substances (HNS), has resulted in serious environmental pollution, still posing a grave risk to marine biodiversity and the coastal population, as narrated. Despite the potentially catastrophic consequences, it is understood that there exists **no singular/robust enforcement mechanism in India** for securing regulatory co-

ordination and for enforcement of marine insurance liabilities in such scenarios. While the 7th respondent, Directorate General of Shipping (DGS) is entrusted with enforcement under the Merchant Shipping Act, 1958, and the Indian Coast Guard undertakes immediate pollution response, there remains a significant regulatory vacuum in ensuring that the foreign ship owner/operator and their Protection & Indemnity (P&I) insurer are held financially accountable for wreck removal, pollution mitigation, and environmental compensation. The Insurance Regulatory and Development Authority of India (IRDAI) does not have jurisdiction over Foreign Marine Insurers, and the Ministry of Environment, Forest and Climate Change (MoEFCC) lacks a direct enforcement interface with maritime insurance frameworks.

9.a Fragmented approach undermines India's Maritime Safety & Security:- The above stated fragmented approach severely undermines India's preparedness and response to maritime disasters involving foreign vessels, especially in the Kerala Coast - where fragile bio-Diversity prevails and the Coastal line is thickly populated. Quite recently, one more incident of a Cargo Vessel catching fire in the Kerala Coast, approximately 81 nautical miles away from Beypore, causing immense potential damage to the environment and the people of Kerala (as the containers were filled with Hazardous and Noxious Substances), is reported; the crux of which is included in the later part of this Writ Petition.

10. The International Maritime Conventions - on Hazardous and Noxious Substances - not ratified - not incorporated to the Statute, comprehensively - failure of implementation regarding others:-

10.a The Union of India (respondent no.1) failed to ratify and incorporate into the Statute OPRC-HNS, 2000 - which is one of the most important conventions on International cooperation on Oil spill and hazardous substances - The consequence of which is being faced by the Coast of Kerala vide 'MSC ELSA 3 Incident'.

10.b. Other International Maritime Conventions - not Enforced or Implemented: From the perspective of the 'Precautionary Principles', 'Public Trust Doctrines' & 'Strict Liability Principles', it may be noted that the International Maritime Traffic is regulated through important International Conventions, to be adopted by the respective Countries having Marine Traffic, Nationally & Internationally; and they have to be *ratified* and adopted in India, for implementation- through 'Legislation for giving effect to the International Agreements, Convention' etc., by resorting to Art. 253 of the Constitution. Though the 1st respondent, Union of India adopted and ratified some of the Conventions, it failed to implement the same in letter and spirit. The important International Conventions - wherein the 1st respondent participated - implemented, partly implemented or not implemented, are :-

10.b.i. MARPOL (Annex II & III- Regulates HNS discharges at sea). - MARPOL - stands for ' Marine Pollution'. The full name of this International Treaty is - "INTERNATIONAL CONVENTION FOR PREVENTION OF POLLUTION FROM SHIPS, 1973" - as modified by the Protocol of 1978 relating there to (MARPOL 73/78). This Convention is **FULLY ADOPTED** by India.

10.b.ii. Purpose of MARPOL:- Is to prevent & minimise (Precautionary Principle) pollution of the marine environment by the Ships, including:

- i.* Oil Pollution:- Regulating oil discharges and spills from ships.
- ii.* Chemical pollution: Controlling the discharge of hazardous chemicals and substances.
- iii.* Pollution from garbage: Regulating the disposal of garbage from ships.
- iv.* Sewage pollution: Controlling the discharge of sewage from ships.
- v.* Air pollution : Reducing emissions of harmful pollutants from ships.

10.b.iii. Importance of MARPOL :- MARPOL plays a crucial role in protecting the marine environment and promoting sustainable shipping practices by:

- a. Setting international standards : Establishing global standards for pollution prevention and control.
- b. Regulating ship operations: Governing ship operations to minimize pollution.
- c. Promoting cooperation: Encouraging international cooperation to protect the marine environment.

10.b.iv. By implementing MARPOL regulations, the shipping industry can reduce its environmental impact and contribute to a healthier marine ecosystem. 'MSC ELSA 3 Incident' exhibits that even MARPOL - which was fully adopted by India, have not been subscribed to for operational purposes by the Union of India - which is a great matter of concern as the Maritime Traffic in Indian Coast is increasing day by day and the Coastal sea has organically evolved into a high density International Maritime Zone owing to a confluence of Strategic developments, including Vizhinjam Port - the 17th respondent.

10.c. The Convention - not implemented by the Union of India:-

10.c.i OPRC - HNS Protocol, 2000- calls for National Preparedness for HNS (Hazardous & Noxious Substances) incidents. The OPRC-HNS Protocol, 2000- stands for Oil Pollution 'Preparedness, Response, and Co-operation' to Pollution Incidents by Hazardous and Noxious Substances. This international treaty aims to enhance cooperation among countries in responding to incidents involving hazardous and noxious substances (HNS) that could harm the marine environment.

10.c.i.a. Key Aspects of OPRC-HNS Protocol:-

- a. Preparedness and Response: The protocol promotes international cooperation in establishing systems for preparedness and response at national, regional, and global levels.

- b. Hazardous and Noxious Substances: The protocol covers a wide range of substances, including chemicals and other hazardous materials, that can harm the marine environment.
- c. Framework for Cooperation: The OPRC-HNS Protocol provides a framework for countries to work together in responding to HNS incidents, sharing resources, and expertise.

10.c.i.b. Enforcement deficiency in India :- India, being a participant to the said International Maritime Convention, was expected to implement the provisions of the OPRC-HNS Protocol, at the earliest ; but, for the reasons best known to the 1st Respondent, it has not been implemented so far- giving room for the unseaworthy foreign ships to violate the OPRC- HNS safety and liability standards.

10.c.i.c Advantages of the OPRC-HNS Convention:- Had this Convention been ratified and enforced , 1st Respondent could have adopted the measures to develop National Contingency Plans. The Indian Coastal areas are in great need of a National Contingency Plan(s) to respond to Hazardous & Noxious Substances (HNS) incidents, as in the case of MSC ELSA 3. To establish a proper Response Mechanism, including trained personnel and equipment, in order to respond to HNS incidents, the Union of India has to Collaborate with International Organizations such as the International Maritime Organization (IMO), to share best practices and resources in responding to HNS incidents, for which - appropriate Statutory recognition is to be accorded to OPRC - HNS Convention, 2000,

the lack of which reflects the inability to handle such a contingency through 'MSC ELSA 3 Incident'.

10.c.i.d. The Petitioner seeks the immediate intervention of the Hon'ble Court to direct the Union of India to implement OPRC- HNS Convention by the 1st Respondent- Union of India, at the earliest, for securing the life of the Coastal Community and the total Environment, including Ecology & Biodiversity, in the wake of the increased Marine traffic in the Coastal waters of India - carrying Hazardous and Noxious Substances, as per the changed Policy in Sabotage Laws and the 'Sagarmala' Project of the Union Government. PRAYER REQUIRED

10.d. UNCLOS - Scattered implementation of the Convention:- UNCLOS stands for the 'United Nations Convention on the Law of the Sea'. It's an international treaty that sets out the legal framework for the use of the world's oceans, including territorial waters, navigation, and resource exploitation.

10.d.i Adoption & enforcement in India:- Though India has ratified UNCLOS, indicating its commitment to the Treaty's provisions, through Article 253 of the Constitution of India, the Statutory implementation part of this important Convention to fix the liability - lies scattered. While there isn't a single Law that directly covers UNCLOS, India's Legal framework incorporates UNCLOS principles through the Territorial Waters, Continental Shelf, Exclusive Economic Zone (EEZ) and Other Maritime Zones Act, 1976: The Maritime Zone Act defines India's

maritime zone (EEZ- up to 200 Nautical Miles) and outlines the Country's Rights and Responsibilities within these areas, aligning with UNCLOS provisions. UNCLOS assigns the Fundamental obligation and responsibility of protecting and preserving the marine environment to all States including the Union of India and requires them to take every necessary measure to prevent, reduce and control pollution of the oceans, up to 200 nautical miles from the shore; therefore, there is no legitimate reason for the respondents herein - for not taking any appropriate action in time to salvage the situation caused by 'MSC ELSA 3 Incident' .

10.e Global implementation of Ship safety standards :- SOLAS - stands for '**Safety of Life at Sea**', an International Maritime Treaty that aims to ensure ships are designed, constructed, and operated to minimize the risk of accidents and protect human life at sea.

10.e.i Key Aspects of SOLAS :-

- a. Ship Safety Standards - SOLAS sets minimum safety standards for ships, including those related to fire protection, life-saving appliances, and navigation.
- b. Global Implementation - The treaty is enforced globally, with countries that ratify it agreeing to implement its provisions.
- c. India's Ratification and Enforcement :- India has ratified SOLAS and implements its provisions through various

domestic laws and regulations. The 1st respondent Union Government is duty bound to ensure compliance with SOLAS through :-

- The Merchant Shipping Act, 1958 : This Act governs maritime safety and security in India, aligning with SOLAS provisions.
- Directorate General of Shipping, India (7th Respondent) : This organization oversees maritime safety and security, enforcing SOLAS standards in Indian waters.
- By ratifying SOLAS, the Coastal States demonstrate their commitment to maritime safety and security, protecting human life and the environment.

10.e.ii. Unfortunately, the 1st respondent and its Instrumentalities have totally failed in ensuring and establishing SOLAS regulation, as is evident from 'MSC ELSA 3 Incident'

10.f. CLC - Civil Liability Convention :-

10.f.i. CLC provides Coastal State rights and liability mandates. **The International Convention on Civil Liability for Oil Pollution Damage**, aims to ensure that adequate compensation is available to victims of oil pollution damage resulting from maritime activities. India has ratified the CLC Convention.

10.f.ii. Key Aspects of CLC :-

- a. **Liability for Oil Pollution Damage:** The CLC Convention establishes a framework for liability and compensation for oil pollution damage caused by ships.
- b. **Compensation Mechanism:** The convention provides a mechanism for victims of oil pollution damage to claim compensation from shipowners or their insurers.

10.f.iii. In India, the Domestic Laws that encompass the principles of the Civil Liability Convention (CLC) for oil pollution damage include:

- The Merchant Shipping Act, 1958 : This Act governs maritime law in India, including provisions related to liability for oil pollution damage.
- The Merchant Shipping (Amendment) Act, 2014 : This amendment incorporates provisions related to liability and compensation for oil pollution damage, aligning with the CLC Convention.

10.f.iv. **Other Relevant Regulation :**

- The Indian Coast Guard Act, 1986 : While not directly related to CLC, this Act empowers the Indian Coast Guard to respond to oil pollution incidents and enforce maritime safety regulations.

10.f.v. **Lack of Implementation and insufficient Enforcement :**

The Ministry of Shipping- 1st respondent and the Directorate General of Shipping in India, 7th respondent, are responsible for implementing and enforcing these laws and regulations, ensuring compliance with the CLC Convention and protecting the marine environment ; but, to the utter dismay of the Citizens living in the Coastal areas of Kerala - who are the potential risk bearers, no co-ordinated effects were seen operational, by these Respondents. Rather, the Chief Secretary of the State of Kerala enters into a Convenient 'Official Compromise' with the ship Owner/Operator, *sans* authority.

11. Necessity for exercising preventive, protective & curative Jurisdiction by this Hon'ble Court:-

11.a Criminal Corporate Negligence and abject violations of Law / Regulations/ Conventions- by MSC ELSA-3 :

11.a.i. Aged, unseaworthy Vessel :- The fact that the age of the Vessel which got capsized was reportedly **28 years** - which shows '**gross criminal corporate negligence**' on the side of the Maritime Traffic Regulatory Authorities, ie., Respondents 1 to 9 and the owner of M/s Mediterranean Shipping Company (MSC ELSA-3), which is arrayed as the 13th respondent. The recent report of the Director General of Shipping, Kochi, 7th respondent, reiterates the fact that the mishap occurred due to the "*failure of its Ballast Management System,*

which ensures the vessel's stability." The Ballast Management System is a critical system on a ship that manages the ballast water and its treatment. Ballast water is used to stabilize the vessel, adjust its trim and ensure safe navigation. Added to this, many operational and technical defects like no proper - 'stowing' and 'lashing' processes were there for the containers carried by the vessel & other **'Precautionary Principles'** were not applied to, as per reports. All these mechanical, technical and operational lapses make the 13th respondent, shipping company responsible with 'strict liability' for compensation for causing this mishap and for addressing the consequences resulting thereof; but, surprisingly, no such efforts were seen initiated by the Union or the State government or its Instrumentalities - figured, in order to curb the possible oil spill, spread of Hazardous and Noxious substances for location and recovery of the containers and ship, in a coordinated manner - after fixing the liability on the 13th respondent as the owner and operator of the ship under the laws of India.

11.a.ii. **'Flag Hopping'** :- It is to be noted that the ' flags of convenience and the dilution of responsibility' by MSC ELSA- 3 Vessel makes the Owner/Operator - liable under **'Strict Liability Procedures'**, as the mishap occurred is the result of the contributory factors at the quarter of the Owner/Operator of the Ship & the Maritime Licencing & Regulatory Authorities of the 1st respondent Union of India & the State of Kerala - the 1st and 4th respondents - which are self - evident from their incapacity & inaction, witnessed so far.

11.a.iii. International Conventions :- Though India has been party to several International Conventions on Maritime Traffic, the 1st respondent has implemented - only MARPOL as the acceptable process for Maritime Operations. Other Conventions like UNCLOS, SOLAS, CLC etc have been implemented partially. Whereas, one of the most important Conventions on Oil spill and Hazardous Goods viz., OPRC-HNS 2000 have not been implemented at all. This causes undue hardship and sufferings for the local people and the ecology, as no proper coordination between the Flag Nations, IMO, Classified Agents, Law Enforcement Authorities and Insurance Consortium occurs, as is evident from 'MSC ELSA 3 Incident'.

12. Immediate intervention by the Constitutional Court - Required:- It is imperative that this Hon'ble Court calls for the establishment of a coordinated Statutory Mechanism in India, spearheaded by the 1st Respondent, Union of India, for the enforcement of the Laws, Regulations, Conventions and Marine Insurance Claims, based on the 'Precautionary Principles' and 'Polluter Pays Principle' - ensuring that polluters and their insurers—whether foreign or domestic- bear full financial liability, in the interest of the Environmental Justice and the Fundamental Right to Life under Article 21 of the Constitution, especially in the wake of the introduction of the Policy of the Central Government, 1st respondent, in 'SAGARMALA'- where by, the Maritime Traffic of the Coastal areas of India is likely to be exponentially increased; and the people living in the Coast of Kerala, are subject to all these 'risk and uncertainty', if not interfered by this Hon'ble Court.

12.1. Constitutional Principles - 'Sentinel on the Qui Vive' is to be invoked - as imminent danger is still in existence :- As stated, the respondents herein,

though responsible in various modes, measures and engagements, in such an eventuality like 'MSC ELSA Incident'- have not shown any interest in their respective duties, seriously addressing the issue, including protection of the environment, marine life, biodiversity and for affording sufficient compensation to the fishermen community on the coastal areas or for enforcing the liability on the ship owner, insurance, the certifying agencies and the flag bearing Country - Liberia. **The imminent danger is still in existence** due to the continuation of the Cargo in the Hazardous & Noxious Substances (HNS), ie., Calcium Carbide in 12 containers- (which are capable of causing havoc in the sea and the shore), and another - HNS container, along with combined weightage of 450+ Metric Tons of Furnace oil & Diesel, apart from several undisclosed hazardous and commercial goods materials - which are capable of causing huge impact, adversely to the diverse ecology and the human beings living in coastal stretch of the State of Kerala; therefore, the petitioner is seeking the intervention of this Hon'ble Court, by invoking the **Constitutional Principle - "Sentinel on the Qui Vive"**. PRAYER REQUIRED

12.i.a. *Doctrine of Sentinel on the Qui Vive – Judicial Vigilance Mandate:*

Originating from landmark constitutional jurisprudence (*State of Madras v. V.G. Row, AIR 1952 SC 196*), the Hon'ble Supreme Court recognised that Constitutional Courts are the sentinels of fundamental rights. In the context of:

i) Article 21 (Right to Life & Liberty), now judicially extended to include clean environment, health, dignity, and ecological balance.

ii) Article 48A & Article 51A(g), imposing State duty and citizen responsibility to preserve and protect the environment.

12.i.b. Therefore, this Court may exercise **Preventive, Protective, And Curative Jurisdiction**, particularly when State inaction or Corporate negligence results in systemic ecological threat or violation of fundamental rights. In the process, this Hon'ble Court's attention is invited to the following DOCTRINES, in order to cast **Liability for Corporate Negligence & Conscious Violations** :

12.i.c Three important Legal Doctrines :- to be applied for violations of - *a)* Environmental & Bio- Diversity Protection, *b)* Public Health & Human Life Protection & *c)* National Security Protection, are : *i.* **'Precautionary Principle'**, *ii.* **'Public Trust Doctrine'** & *iii.* **'Strict Liability Principle'**, apart from the liability on **'Criminal Corporate Negligence'**, for the conscious infringement of the Fundamental & Constitutional Rights of the Citizens of India - vide it's Article 14, 19, 21 & 29 & 48 A and 51(g) & under the 'Public Law Remedy'. In this context, the Petitioner further seeks the indulgence of this Constitutional Court, exercising **Preventive, Protective & Curative Jurisdiction**.

13. 'Public Law Remedy' sought :- For failure of 'Precautionary Rule', 'Public Trust Doctrine' & 'Strict Liability' to be enforced:- Failure of the Respondents -

to enforce the Statutory Regulations and Conventions, cast the liability under the **'Public Law Remedy'** It is submitted the total failure of the movement of the Statutory Machineries and Conventional Mechanism, as stated above, makes the Union of India & the State of Kerala and their Instrumentalities in Government responsible under the 'Public Law Remedy' for the sufferings of the people living in the Coast of Kerala and others affected, consequent to the 'MSC ELSA 3 Incident', apart from the immense damage caused and continued to be caused to the Ecology, Biodiversity and Environment out of the failure of the **'Precautionary Rule'** and the **'Public Trust Doctrine'** - with the **'Strict Liability'** principle attached to the polluter - Ship Owner/Operator, under the **'Polluter Pays'** rule. To recapitulate, the respondents : *a.* Union of India, represented by the Ministry of Ports, Shipping and Waterways (1st respondent) *b.* State of Kerala (4th respondent), *c.* Ministry of Environment, Forest & Climate Change (MoEFCC) (3rd respondent), *d.* Directorate General of Shipping (DGS) (7th respondent), *e.* NDMA/KSDMA (respondents 8 & 9), *f.* Indian Coast Guard (ICG) (respondent 10), *g.* NPCB & SPCB, failed miserably on:

- a. Precautionary Principles - Right from entry of MSC ELSA 3 Vessel owned to EEZ of the 1st respondent, till it sank.
- b. Lack of Legal & Operational framework for Inspection & Maritime Safety in India, for effectively handling Oil spill and Hazardous Noxious Substances.
- c. Insufficient implementation of the existing framework in Law and its enforcement.
- d. No coordinated efforts between various agencies/instrumentalities of the Union and State Governments, by a centralised system to handle 'MSC ELSA 3 Incident' or similar accidents.

- e. Scant regard for the Right to Life, Personally Liberty and the Culture in their Way of Living.
- f. Abject negligence to the Ecology, Biodiversity and the Environment in total in the sea, Coastal areas and the shore.
- g. Disaster Management Act plans for Coastal, industrial and Shipping accidents, especially for Oil spill and for and for Hazardous and Noxious substances have not been formed and implemented by the NDMA and SDMA.

14. Imposition of Strict Liabilities - on the MSC ELSA 3/Bureau Veritas/P&I - by the Union of India & the State of Kerala:- It is submitted that as Primary 'Strict Liability' lies on the Vessel Owner/Operator, Classification Agency, Flag State & Insurers – Enforceable under International and Indian Law; therefore, the respondents 1 & 4 shall take immediate measure to quantify the damages so far made and escalating in a present continuous manner, to the affected people of the Coast of Kerala, especially the fisherfolk ; and to protect, mend & maintain the damages suffered/continued to suffer to the Environment, including Bio-Diversity, for which intervention of this Hon'ble Court is sought for. It may be noted that it is legally valid and enforceable to cast 'primary strict liability' on the following non-state actors under both Indian law and international maritime conventions ratified and domestically implemented by India

A. Entities Liable Under Strict and Absolute Liability Doctrines

1. Ship Owner / Operator (MSC Mediterranean Shipping Co. S.A.)

- Strictly liable as the polluter and owner of the hazardous substances that caused irreversible environmental and economic damage.
 - India follows the “polluter pays” principle, recognised under Article 21 jurisprudence (e.g., Vellore Citizens, Oleum Gas Leak cases).
2. Classification Society (e.g., Bureau Veritas)
- As the agency issuing Seaworthiness Certificates, Cargo Securing Manual (CSM), and Lashing Certificates, it owes an international standard of due diligence.
 - Its failure to detect material technical/structural defects (given the vessel’s age and repair history) attracts professional and civil liability, enforceable under both Merchant Shipping Act, 1958 and under tort law principles of negligent certification.
3. Flag State (Liberia)
- The IMO (International Maritime Organization) conventions (MARPOL, SOLAS, UNCLOS, HNS Convention, etc.) require Flag States to enforce vessel compliance, especially for aged and potentially unseaworthy ships.
 - Flag of Convenience misuse (flag hopping, regulatory evasion) does not dilute India’s jurisdiction under its

Exclusive Economic Zone (EEZ) and UNCLOS Article 94 obligations.

B. Insurers/P&I Clubs

- They are financially liable under international conventions and marine insurance contracts to compensate affected States and populations.
- Under the HNS Convention and CLC (Civil Liability Convention), owners are required to carry liability insurance which can be directly proceeded against.

Therefore, the Union and State Government ought to initiate recovery proceedings against these respondents to ensure fiscal restitution for the environmental, economic, and social loss resulting from the MSC ELSA-3 disaster.

14.1 Immediate Relief from the Ship Owner/Operator:

The petitioner submits that during the interregnum period taken for the Litigation measures by the Union & the State Governments 1st and 4th respondents, respectively, the Owner/ Operator of the ship may be held liable in this PIL, for Immediate Monetary Deposit for Compensation & Remediation under the expanded scope of Article 226, and particularly under the Court's **Epistolary Jurisdiction as Sentinel on the Qui Vive**, it is both reasonable and justiciable for this Hon'ble Court to direct the Indian Administrative Office of the 13th Respondent to deposit a sum of USD 500 Million to the Union of India, for the Prevention of the Environmental Disaster, Protection & Maintenance

of the Environment, Ecology & Biodiversity of the Coastal area of the State of Kerala, the disbursement of which is done through a Special Board or High- Level Committee Constituted by the Central Government - comprising of Experts in Marine Life , Bio-Diversity, Environmental Protection, Disaster Management of the occurrences in Sea with the reports generated to this Hon'ble Court , periodically, for the next 10 years. The funds to be channelised, controlled and disbursed through a Specific Account of the Special Committee of Experts - headed by a Chief Justice (Retd) of the High Court, appropriately constituted by this Constitutional Court and direct the Union of India to constitute Coastal Victims Compensation, Rehabilitation and Environment Restoration Fund (CVCRERF) to immediately secure in an escrow fund, under the supervision of this Hon'ble Court. Legal & Constitutional basis for these relief originates from **Article 21** which envisages to enforce the '**Right to Life**'- which encompasses clean environment, sustainable livelihood, and inter-generational equity, as held by the Apex Court. Likewise, **Article 226** Empowers this High Court to issue any writ, order, or direction for enforcement of fundamental rights or "for any other purpose" - covering preventive, remedial, and compensatory relief. The '**Doctrine of Parens Patriae**' & Public Trust Doctrine are equally applicable in the event of intervention by this Constitutional Court, as prayed for, as the State is constitutionally bound to protect the commons (air, water, oceans) for its citizens ; and in the process, it can cast 'strict liability', on the Polluter.

15. Security concern in the Coastal belt of Kerala:

The petitioner, through this Composite Paragraph, invites this Hon'ble Court's attention to the duty of the Union Government (1st Respondent) to act under Article 355 of the Constitution of India, to handle the Hybrid Maritime Threats & Constitutional Responsibility:

Under the considered constitutional framework of federal equilibrium, Article 355 of the Constitution of India imposes a solemn duty upon the Union of India to protect every State from external aggression or internal disturbance. In the instant context of the 'MSC ELSA-3 Incident' and 'MV Wan Hai 503 Incident', the Petitioner respectfully submit that the facts and materials disclosed before this Hon'ble Court give rise to a high probability of systemic regulatory negligence which, if left unchecked, could expose India's coastline—particularly Kerala's ecologically rich but geopolitically sensitive coast—to future hybrid maritime threats.

15.1 Such threats may include the deliberate or covert use of unseaworthy, "flag-hopping", or misdeclared cargo vessels for (i) ecological sabotage, (ii) biological warfare vectors, or (iii) transnational trafficking of hazardous or dual-use substances. The lax enforcement of international maritime safety, security, and inspection protocols within India's Exclusive Economic Zone (EEZ), and particularly the failure to detect, seize or scrutinise the MSC ELSA-3, reveals a significant lapse in the precautionary regime expected under both international law and domestic maritime statutes, notably the Merchant Shipping Act,

1958 (as amended in 2014), the Indian Coast Guard Act, 1978, and relevant IMO frameworks.

15.2 Such a systemic failure, if not remedied through judicial foresight, may embolden non-State actors or hostile elements to replicate such “accidental” ecological strikes, undermining both national security and environmental sovereignty. In this constitutional setting, the Petitioners humbly seek that this Hon’ble Court, may invoke its extraordinary Jurisdiction under Article 226 and alert the 1st respondent under Article 355 of the Constitution, to take measures by :-

a. The Ministry of Defence, Ministry of Home Affairs, and Indian Coast Guard to undertake a comprehensive hybrid threat assessment arising from the ‘MSC ELSA 3 Incident’ and ‘MV Wan Hai 503 Incident’.

b. The Union of India to frame and place before this Hon’ble Court a National Coastal Hybrid Threat Prevention Framework, constituting a High-Level Inter-Ministerial Task Force, with inclusion of the Defense, Home and Environment Ministries, to address strategic maritime security breaches, beginning with the circumstances surrounding ‘MSC ELSA 3 Incident’ and ‘MV Wan Hai 503 Incident’

16. The petitioner presents here under a ‘Strategic Framework’ by the 1st respondent Union of India in preventing/reducing future marine disasters, for the

continued protection of ecology and biodiversity and for the peaceful living of the posterity on the Coastal areas of Kerala :

16.1 The 'MSC ELSA-3 Incident' and 'MV Wan Hai 503 Incident' highlights critical gaps in maritime regulatory oversight - in the traffic of Vessels carrying Hazardous and Noxious Substances and other harmful pollutants to the environment as well as the humanity, without environmental compliance, and coastal security. To address these vulnerabilities and to prevent future maritime disasters, the 1st respondent ought to adopt a comprehensive, proactive strategy - the framework of which shall outline actionable measures across Ecological Security, Coastal Surveillance, ESG (Environmental, Social, Governance) Enforcement, and Maritime Sovereignty, emphasizing Pre-entry Controls, Infrastructure Enhancements, Legal Reforms, Environmental Monitoring, International Cooperation, and Community Empowerment, including proper communication. Enforcement of the convention on Oil spill and Hazardous and Noxious Substances i.e., OPRC-HNS 2000, for international cooperation is imperative in this regard.

16.2 Pre-Entry Controls and Maritime Risk Vetting :-

9.2.i Advanced Maritime Risk Assessment System (AMRAS)

To bolster maritime safety and ecological security, India must implement the **Advanced Maritime Risk Assessment System (AMRAS)**, mandating real-time electronic disclosure of critical vessel data prior to port entry. Key requirements include:

- **Cargo Manifest:** Detailed disclosure, including hazardous material classifications.
- **ESG Compliance History:** Records of the vessel's environmental and social governance performance.
- **Insurer and P&I Club Credentials:** Verification of protection and indemnity insurance.
- **Pollution Incident History:** Documentation of prior environmental violations &
- **Special declaration on Hazardous and Noxious Substances,** before entering into EEZ

AMRAS will be managed through the **Coastal Regulatory Intelligence Platform (CRIP)** under the Directorate General of Shipping, ensuring stringent vetting and risk mitigation.

16.3 High-Risk Vessel Blacklisting Protocol

A robust **High-Risk Vessel Blacklisting Protocol** will target vessels operating under Flags of Convenience (FoC) with poor compliance records. Key measures include:

- **Intensified Inspections or Denial of Port Access:** High-risk vessels will face rigorous scrutiny or be barred from Indian ports.
- **Leveraging Global Databases:** Utilize IMO and INTERPOL databases to identify and flag operators with deficient ESG records.

16.4 Strengthening Coastal and Port Security Infrastructure - with the multiple Statutory agencies/stakeholders involved.

16.5 Integrated Coastal Surveillance Grid (ICSG) :-

To enhance maritime surveillance, the existing **Coastal Surveillance Network (CSN)** will be upgraded into the **Integrated Coastal Surveillance Grid (ICSG+)** through:

- **Inter-Agency Integration:** Seamless coordination among port authorities, Indian Navy, Coast Guard, Customs, and Pollution Control Boards.
- **Real-Time Satellite Monitoring:** Continuous tracking of non-Indian flagged vessels within India's Exclusive Economic Zone (EEZ).

16.6 Port State Control (PSC) Augmentation

Port State Control (PSC) inspections will be strengthened in alignment with international standards (MARPOL, SOLAS, ISM Code) and supplemented by:

16.7 Mandatory Environmental Safety Clearance (ESC): Issued by the Ministry of Environment, Forest and Climate Change (MoEFCC) for vessels carrying hazardous and noxious materials.

16.8 Institutional and Legal Reforms like:

16.8.i Mandatory ESG Compliance Certification to enforce environmental and ethical maritime practices, all foreign vessels docking in India must obtain:

- **Environmental Impact & Preparedness Declaration:** Outlining measures to mitigate ecological risks.
- **Human Rights Assurance Audit:** Mandatory for vessels from FoC jurisdictions to ensure compliance with labor and ethical standards.
- Non-compliance will result in denial of port clearance and downgrading of insurance risk ratings.

16.9 Legislative Amendments :-

Reforms to the **Merchant Shipping Act** and **Environment Protection Act** will introduce:

- **Stringent ESG Obligations:** Mandatory for vessels operating within India's EEZ.
- **Environmental Threat Vessels (ETVs):** Classifying high-risk vessels as national security threats, akin to terror risks.
- **Disaster Bond Insurance:** Mandatory for ships carrying hazardous cargo to cover potential environmental damages.

16.10 Environmental Monitoring and Emergency Preparedness:-

16.10.i Coastal Ecological Early Warning System (CEEWS) : - A proactive Coastal Ecological Early Warning System (CEEWS), leveraging AI and satellite data, will be deployed to detect:

- Oil slicks and chemical discharges.

- Shipwreck risks and abnormal environmental activities.

This initiative will be a collaborative effort between the MoEFCC, Indian Space Research Organisation (ISRO), and Indian National Centre for Ocean Information Services (INCOIS).

16.10.ii. Rapid Environmental Response Task Force (RERTF) :-

A multidisciplinary **Rapid Environmental Response Task Force (RERTF)** will be established, comprising:

- Maritime engineers.
- Toxicologists.
- Human rights officers.
- Marine biodiversity specialists.

The RERTF will ensure swift, coordinated responses to maritime environmental incidents:

16.11 International Maritime Engagement

16.11.i. Maritime ESG Treaty Proposal:-

India will champion a **Regional Maritime ESG Treaty** under frameworks like **Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC)** or the **Indian Ocean Rim Association (IORA)**, focusing on:

- Joint liability frameworks for environmental damages.
- Mandatory ESG audits for vessels.
- Cross-border environmental compensation policies.

16.11.ii. P&I Club Regulation and Transparency Charter
India will advocate for a **Global P&I Regulation Authority** under IMO or UNCLOS reforms, ensuring:

- A public registry of all Protection and Indemnity (P&I) claims and shipowner liabilities.
- Enhanced transparency in maritime insurance practices.

16.12. Cultural and Human Rights Safeguards

16.12.i. Coastal Rights Tribunal (CRT)

A specialized **Coastal Rights Tribunal (CRT)** will be established to address:

- Cultural rights violations.
- Livelihood destruction due to maritime incidents.
- Coastal health emergencies.

The CRT will operate in coordination with the National Human Rights Commission (NHRC) and State Legal Services Authorities.

16.12.ii Community Resilience and Legal Empowerment Program

To empower coastal communities, a **Community Resilience and Legal Empowerment Program** will provide:

- Legal training on filing ESG-related claims.
- Satellite-based alert apps for real-time environmental monitoring.
- Access to environmental litigation funds for affected communities.

The petitioner respectfully submits the above proposal for the kind consideration of this Hon'ble Court, for issuing appropriate directions to the 1st respondent - for addressing the gaps in the Statutory and Governance system of the 1st and 4th respondents, as revealed from 'MSC ELSA 3 Incident' AND 'MV Wan Hai 503 Incident'.

It is humbly submitted that the petitioner for and on behalf of the Coastal Communities and for protection of the fragile ecology in the Kerala Coast, the petitioner humbly appeals to this Hon'ble Court to kindly invoke its Constitutional Conscience as a "Sentinel on Qui Vive", and "Parens Patriae" not only for the protection of Article 21 Rights of present coastal inhabitants, but also as a Custodian of the Intergenerational Environmental, Ecological systems covered under Article

48A and the National Security Interests of the Republic of India under Article 355 of the Constitution of India, by invoking the extra - ordinary power under the Article 226 of the Constitution of India, on the following among other :

GROUNDS

a. This *Pro Bono Publico* represents the collective conscience of the people living in the coast of Kerala who are faced with the imminent danger to the life, liberty and living conditions along with the destruction of biodiversity as well as the environment they live in, due to the irresponsible and haphazard way of marital traffic occurring through the coastal areas - naturally evolving itself as an International Water Channel, due to the recent policies of the Union of India in relaxing the Cabotage Laws, declaring the Sagarmala program and in the wake of the commissioning of the Vizhinjam port - represented by the 1st respondent. The loose implementation of Statutes and International Maritime Conventions, without casting 'Strict Liability' on the vessel owned by the (13th respondent) for transporting Hazardous and Noxious Substances - along with large quantities of oil in a sea-unworthy ship, resulted in causing the 'MSC ELSA 3 Incident' & 'MV Wan Hai 503 Incident' - violating the 'Strict Liability' principles and the 'Public Trust Doctrine' - which violated the Fundamental Rights of the people living in the Coastal areas under Article 21, 19(1)(g), 29 and under Article 48(A) r/w 51(g) of the Constitution of India. The members of the 'Federation' and a substantial number of supporters to the cause of the 'Federation' i.e., Welfare and Wellbeing of the coastal

community, are also the ardent sufferers along with the general public living in that area, especially the fisherfolk - who depend on the sea, for their daily bread.

b. The Exclusive Economic Zone (EEZ) of India extends to 200 meters from the baseline as per section 7 of the Maritime Zones Act, 1976; and the marital traffic through the same has increased exponentially due to the changed policies of the 1st respondent and the economic growth achieved by the Country, through Coastal waters - which is part of the 'Blue Ocean Economy'. The Coast of Kerala and the EEZ therein contains fragile ecosystem vide bio-diversity and the inter-linked ecology - which protects the Coastal life, marine life and other ecological balances, in the State of Kerala. Non-consideration of these factors through the shipping channels and the related areas are causing grave threat to life and destruction of this valuable ecosystem - which is necessitated for the life of all living beings. The International Conventions and the Maritime Laws including the Merchant Shipping Act in India are to be enforced fully and comprehensively protecting this valuable environmental treasure of Kerala. The incident of the capsizing of MSC ELSA 3 vessel - which is 28 years old and bearing a convenient Flag - the history of which place it in the 'red flag' category was allowed into such a ecologically fragile area with 13 containers filled with Hazardous and Noxious Substances and 450 tonnes of diesel and furnace oil which sunk 38 nautical miles away from the baseline of Alappuzha, is causing immense danger to the fragile ecology as well as the human life; but the respondents are adopting a convenient stand to protect the interest of the owner/operator of the vessel - 13th respondent, without imposing the 'Strict Liability' and 'Polluter Pays' policy - as Internationally recognized and incorporated into the Laws of India. The 'Official Compromise' attempted by the Chief Secretary, *sans* Jurisdiction and authority vouchsafe for this. This element of illegal and

unjustified approach of the respondents, considering the fact that the said meeting called by the Chief Secretary was attended by the Statutorily responsible members of the Union of India as well - which ought to be taken serious note of by this Hon'ble court.

c. It may be noted that the sinking of the hazardous cargo vessel *MSC ELSA 3* and the MV Wan Hai 503 which caught ablaze, in succession, off the coast of Kerala is not merely an environmental accident but a multi-dimensional disaster—Legal, Ecological, Cultural, and Humanitarian in nature- which also raises security threats in the area. Both the vessels were carrying Hazardous and Noxious Substances, without taking 'Precautionary Measures' and 'Full Disclosure'. The accidents caused by both these Vessels have resulted in grave and irreversible damage to the marine ecosystems and livelihoods of thousands of fisherfolk who depend on these waters for survival. The visible oil and submerged toxins are already threatening long-term contamination of water sources, destruction of biodiversity, and disruption to fish breeding cycles. The Petitioner herein is informed that despite having binding responsibilities under Domestic Laws such as the *Environment (Protection) Act, 1986*, *Disaster Management Act, 2005*, and *Territorial Waters and EEZ Act, 1976*, as well as under International Treaties like *UNCLOS* and *MARPOL*, the concerned authorities have failed to proactively invoke emergency Maritime Environmental protocols or secure immediate redress for the affected communities. The fishing ban imposed by the State (4th respondent) on the day of the incident i.e., 25.05.2025, up to a distance of 20 nautical miles and the declaration of the 'MSC ELSA 3 Incident' as a 'State Disaster' not only infringed their Right to go into the sea for daily sustenance of the families about drastically affected their health and living conditions as harmful particles started washing off to the shore. The

newspapers produced in this Writ Petition reported such incidents - the worst being the plastic nurdles (pellets) of thermoplastics and other non-biodegradable materials washing onto the shore in uncontrollable manner - were fully neglected by the State Government and its Authorities concerned. In another gruesome incident, one of the containers washed ashore got ablazed - touching the sky, presumably due to the presence of harmful chemicals inside. Empty containers kept on coming to the shore causing threat to life and the ecosystem at sea. The State Government and the Union of India, including their Instrumentalities responsible under the various Statutes are consciously keeping silent and inaction, in order to express solidarity with the polluter Vessel and its owner/operator for reasons best known to them. This approach of the respective Governments and their Instrumentalities is a serious infringement of the Constitutional and Statutory Rights of the people living in the coast of Kerala - who are otherwise under-privileged. The failure to act with urgency is both a dereliction of Statutory Duty and a breach of the Public Trust reposed in these Institutions to protect National Ecological Sovereignty. The respondents cast with a Statutory, Regulatory and Constitutional Duty have provenly failed in preventing, managing and salvaging the situation caused by MSC ELSA 3 Vessel; thereby violating the **'Precautionary Principle'** and **'Public Trust Doctrine'**, inviting **'Strict Liability'** and **'Polluter Pays Principle'**.

d. A glimpse at the coastal communities of Kerala—especially its fisherfolk—would reveal that they are among the most vulnerable and least equipped to bear the brunt of such disasters. These communities, which include traditional marine-dependent castes and tribes, are not just economic stakeholders but Civilisational stewards of the sea, whose Culture, Spiritual practices, and Generational Knowledge systems are connected on a deeper level with the marine ecology. To subject them

to irreparable loss without swift compensation or restoration is not merely Unconstitutional—it is morally indefensible. The existing International Legal frameworks, such as the *International Convention on Civil Liability for Oil Pollution Damage (CLC)* and the *Hazardous and Noxious Substances (HNS) Convention*, are either too narrow in scope, not yet in force, or do not afford Sovereign remedies to the Coastal State in time-sensitive ecological disasters. The non-ratification and adoption into the Statute books of the 1st respondent makes the OPRC- HNS Convention, 2000 otiose, as where as its implementation in Indian waters are concerned. The said convention imposes a ‘**Strict liability**’ procedure on the vessels carrying oil and hazardous substances - which could have come to the rescue to prevent, manage and/or salvage the ‘MSC. ELSA 3 Incident’. The petitioner understands the varied interest played from different quarters estopp the adoption and implementation of this precautionary and safety mechanism - Internationally recognized and duty-bound to cooperate in times of need as in the case in hand.

e. Article 21 of the Constitution of India not only guarantees the Right to Life but also includes the Right to Livelihood, which is inseparable from the Right to Live with Dignity. The coastal fisherfolk depend entirely on fishing for their livelihood. Due to the pollution caused by the sinking of MSC ELSA 3, large portions of their fishing areas have become unsafe and unproductive. The fish population has drastically reduced, making it nearly impossible for the fisherfolk to catch enough fish to sustain themselves and their families. This sudden loss of livelihood has resulted in severe economic hardship, pushing many families into poverty and distress. Such deprivation of livelihood is a clear violation of the fisherfolk’s Fundamental Rights under Article 21. The State has a Constitutional Responsibility to protect the means of livelihood of all Citizens, especially

vulnerable and marginalized groups like these fisherfolk. The failure of the Authorities to prevent this accident, regulate the safe transportation of hazardous cargo, and take timely action to control and repair the Environmental damage shows negligence and a failure to fulfill their Constitutional Duties. Moreover, under Article 48A, it is the Fundamental Duty of the State to protect and improve the environment. Similarly, Article 51A(g) imposes a duty on every Citizen to protect the environment as well. The respondents - Instrumentalities of the 1st as well as the 4th respondents - State's failure to Prevent, Manage and Salvage 'MSC ELSA 3 Incident' makes it liable under the Statutes on the subject and the Constitution of India for not protecting the Rights guaranteed under Part III and Part IV of the Constitution. In defiance to the solemn Duty cast on the Government of Kerala to protect its people, unfortunately the Chief Secretary of the State is trying to make an 'Official Compromise' with the Ship Owner/Operator, causing utter dismay to the underprivileged lot living in the Coastal areas of the 4th respondent State.

f. It is respectfully submitted that the Chief WildLife Warden (CWLW) of Kerala - 6th Respondent herein, appointed under Section 4 of the Wild Life (Protection) Act, 1972 (WLPA), is legally and functionally bound to safeguard not only terrestrial ecosystems but also the Coastal and Marine Biodiversity, including endangered and migratory marine species. A judgement on *Essar Shipping Ports and Logistics Ltd v. S. Thirunavukarasu, 2025 KHC OnLine 320*, vouchsafe this. India is a ratified party to the Convention on Biological Diversity (CBD) and the Convention on the Conservation of Migratory Species of Wild Animals (CMS), having acceded to both Conventions with binding commitments. The Biological Diversity Act, 2002—enacted as a Statutory incorporation of the CBD—mandates the conservation of biodiversity in all ecosystems, including marine and coastal

zones, through a coordinated Institutional framework comprising the National Biodiversity Authority, State Biodiversity Boards, and Biodiversity Management Committees. In parallel, the WLPA, 1972, by virtue of its Schedules, extends the highest protection to classified marine species such as sea turtles, dugongs, dolphins, and corals, thereby directly imposing a duty upon the CWLW to intervene and ensure their protection, including in non-notified areas where threats emerge. These International and Statutory obligations must be read harmoniously with Article 48A (Directive Principle for environmental protection) and Article 51(c) (obligation to respect International Law) of the Constitution of India. Furthermore, the Hon'ble Supreme Court in Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647, and T.N. Godavarman v. Union of India, 2012 (3) SCC 277, has held that International Environmental principles, including Treaty Obligations, may be Judicially enforced where consistent with Fundamental Rights under Article 21. Hence, in light of the present continuous ecological threat caused by hazardous maritime incidents off the Kerala Coast, including the 'MSC ELSA 3 Incident' the CWLW is under a Statutory and Constitutional obligation to actively protect the coastal biodiversity and take remedial action in coordination with other State and Central authorities.

g. The Marine Pollution (Prevention of Pollution from Ships and Oil Pollution) Rules, 1998, were framed under the Merchant Shipping Act, 1958, to give effect to India's obligations under the *International Convention for the Prevention of Pollution from Ships, 1973*, as modified by the Protocol of 1978 (collectively referred to as *MARPOL 73/78*). These rules are aimed at controlling and preventing pollution of the marine environment by oil, noxious liquid substances, harmful substances in packaged form, sewage, and garbage from ships. The Rules require

that every ship, Indian or foreign, entering Indian waters, including the Exclusive Economic Zone (EEZ), must comply with the operational and equipment standards set out in MARPOL's various annexes. For example, Rule 4 of these Rules imposes restrictions on the discharge of oil or oily mixtures from ships into Indian territorial and international waters. Rule 10 mandates reporting of any incidents involving pollution or the risk of pollution from ships to the authorities. In the case of MSC ELSA 3, a hazardous cargo vessel, it was the duty of authorities such as the Directorate General of Shipping (2nd Respondent herein), the Indian Coast Guard, and the Ministry of Environment, Forest and Climate Change (4th respondent herein) to ensure that the vessel was in full compliance with MARPOL standards. This includes mandatory checks related to the vessel's structural safety, proper storage and containment of hazardous cargo, and readiness to prevent or mitigate pollution incidents. The fact that the ship was allowed to pass through Indian maritime jurisdiction without such regulatory scrutiny and eventually sank, causing the release of harmful substances, demonstrates a failure of enforcement under these Rules.

i. The 1st respondent - Union of India's reluctance to ratify the OPRC-HNS, 2000 Convention on Oil spill and Hazardous & Noxious Substances, during Maritime Traffic and the adopting of the same into the Statute as per Article 253 of the Constitution of India, reduces the Litigatory power against the Ship owner/operator in 'MSC ELSA 3 Incident' and in similarly placed situations of grave environmental damage and infringement of the life of the Citizens, as stated. It is high time this Hon'ble Court interfere under the 'Sentinel On Qui Vive' and 'Parens Patriae' Jurisprudential Principles to direct the Union of India to take appropriate measures under Article 253, in order to secure the ends of Justice to its Citizens and the total environment of living beings.

h. India's Exclusive Economic Zone (EEZ) is within its sovereign jurisdiction for the purposes of environmental regulation and natural resource protection under UNCLOS. However, in this case, India was unable to assert full control over disaster response, containment, and restitution because of an absence of clear regional emergency Jurisdiction protocols, thereby failing to meet both National Constitutional expectations and International standards of Sovereign Environmental Governance. Under the 'Polluter Pays Principle' and the 'Precautionary Principle'—now firmly embedded in Indian Constitutional Jurisprudence as per *Vellore Citizens Welfare Forum v. Union of India* (AIR 1996 SC 2715)—there is both a legal and ethical imperative to hold polluters strictly liable and ensure that no economic activity takes precedence over environmental integrity and human dignity. These principles stand violated in the present case.

i. It is respectfully submitted that the maritime incident involving the vessel MSC ELSA-3, which capsized off the coast of Kerala with hazardous cargo, constitutes a grave and continuing ecological threat to the coastal and marine environment, local biodiversity, and the Fundamental Rights of Coastal communities. The Vessel, being a part of the Mediterranean Shipping Company (MSC) fleet, is reportedly covered under a Protection and Indemnity (P&I) insurance policy issued by a London-based P&I Club, which operates through its Indian correspondent office. This insurer bears liability for environmental damage, clean-up obligations, and third-party compensation under international maritime norms, including provisions of the International Convention on Civil Liability for Oil Pollution Damage, 1992, and corresponding common law principles recognised within Indian admiralty jurisprudence. Despite this, there has been a discernible

absence of coordinated and coercive enforcement by the concerned authorities—namely, the Directorate General of Shipping (DGS), Ministry of Ports, Shipping & Waterways, Kerala State Maritime Board, and the State Disaster Management Authority (SDMA)—in initiating claim procedures and invoking strict liability principles against the vessel owner and insurer.

j. It is submitted that because the maritime disaster involving the capsized vessel MSC ELSA-3 off the Kerala coast, coupled with the subsequent fire incident on the Singapore-flagged vessel near Beypore, viz., MV Wan Hai 503 constitutes not isolated events but indicators of a persistent and ongoing threat to the fragile coastal ecology, biodiversity, and marine environment of the State of Kerala. These incidents have collectively resulted in the release and risk of further leakage of hazardous materials, chemical-laden containers, microplastic residues, and marine debris into the Exclusive Economic Zone (EEZ) of India, causing irreversible damage to critical habitats of endangered marine species, disruption of food chains, degradation of benthic ecosystems, and contamination of fish breeding zones. The fragile ecological character of this coastline—scientifically documented by national agencies such as the Central Marine Fisheries Research Institute (CMFRI), Zoological Survey of India (ZSI), Centre for Marine Living Resources & Ecology (CMLRE), and in the Kerala State Environment Reports—renders it especially vulnerable to cumulative and cascading impacts from maritime pollution events. These developments are not past, isolated harms but constitute an ongoing and escalating environmental crisis, warranting judicial recognition of a ‘present continuous’ injury under Article 21 of the Constitution, and necessitating urgent remedial, compensatory, and preventive action by statutory, regulatory, and insurance-related authorities. Failure to act undermines not only the constitutional duty under Article

48A but also international obligations under the CBD, CMS, and the MARPOL Convention, to which India is a party.

k. Instead of applying the ‘Polluter Pays Principle’ and ‘Precautionary Principle’, which are deeply entrenched in Indian environmental jurisprudence as upheld by the Hon’ble Supreme Court in *Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212*, a soft-handed regulatory posture appears to have been adopted, potentially shielding the ship owner, operator, and flag state from their legal and environmental accountability. The inaction not only jeopardises Article 21 rights of affected communities but also undermines Article 48A of the Constitution. The failure to invoke the insurer’s liability, particularly through the P&I Club’s India correspondent, and the lack of exigent measures for environmental remediation and compensation to fisherfolk and coastal dwellers reflect systemic regulatory failure and a departure from the doctrine of absolute liability as laid down in *M.C. Mehta v. Union of India, (1987) 1 SCC 395*. It is therefore imperative that the Hon’ble Court direct the Central and State authorities to immediately initiate proceedings for environmental compensation, ecological restoration, and community relief, by engaging the P&I insurer under binding international and domestic legal norms.

l. Several official documents—notably the Compendium of Environment Statistics (Environmental Dept., Govt. of Kerala), the State Action Plan on Climate Change, and peer-reviewed studies from Zoological Survey of India—unequivocally describe Kerala’s coast as an ecologically fragile region, teeming with high biodiversity, including endangered marine species like turtles and corals. These findings are corroborated by statutory bodies such as CMFRI and CMLRE,

mandated to monitor and assess marine ecosystems under central government authority. In light of this landscape, the MSC ELSA-3 Incident, involving hazardous cargo and potential ecological damage, poses a significant risk to the coastal environment and dependent livelihoods. These official and institutional sources collectively establish that the coastal sea of Kerala is not only rich in biodiversity but also exceptionally vulnerable—thereby mandating immediate judicial intervention for ecological assessment, mitigation, and restoration. A report from the 11th Repondent - Directorate of Fisheries may be called to find out the ‘present continuous’ damage on the Marine Life caused by the ‘MSC ELSA -3 Incident’ and action initiated by this Hon’ble Court .

m. Since no meaningful reparative framework currently exists to recognize civilisational loss—the loss not only of income or species but of spiritual, cultural, and historical connections with the sea. The southwestern coast of Kerala, with its Vedic and Sangam-era maritime traditions, temple settlements near water bodies and centuries-old fishing rites, is worthy of international recognition as a Marine Cultural-Ecological Zone. The destruction of such a zone is not just environmental—it is anthropological, civilisational, and intergenerational. It is the duty of the present generation to preserve such fauna so that the coming generations shall benefit from the culture of their land.

n. As the MSC ELSA-3 maritime disaster poses a “present and continuing threat” to the sensitive coastal and marine ecosystems of Kerala, involving potential leakage of chemical-laden cargo, hazardous pollutants, and marine debris with long-term and cascading impacts on marine biodiversity, fishery stocks, fragile benthic

life forms, and ecologically sensitive habitats, there is an urgent and constitutionally mandated need for the formation of an Independent Expert Panel. Such a panel must consist of representatives from statutory environmental institutions such as the Central Pollution Control Board (CPCB), Kerala State Pollution Control Board (KSPCB), National Centre for Sustainable Coastal Management (NCSCM), CMFRI, ZSI, and CMLRE, along with independent marine ecologists, to undertake a comprehensive, time-bound, and science-based assessment of the present and projected ecological harm, including assessment of restoration cost, remediation strategies, biodiversity loss, and marine pollution indicators. The Constitution of such a panel aligns with the 'Polluter Pays Principle', the 'Precautionary Principle', and is consistent with the Supreme Court's directives in *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647, and *A.P. Pollution Control Board v. Prof. M.V. Nayudu*, (1999) 2 SCC 718, wherein expert-led environmental decision-making was deemed integral to upholding the right to life under Article 21 and enforcing the mandates of Article 48A of the Constitution of India

o. The Boiling Liquid Expanding Vapour Explosion (BLEVE) , if occurred aboard MV Wan Hai 503, approximately 60 nautical miles off the Northern Kerala coast, will trigger severe ecological and public safety concerns for the region. Given that 143 out of the 1,754 containers onboard carried highly flammable, toxic, and chemically unstable cargo—including nitrocellulose, naphthalene, paraformaldehyde, and organometallic compounds—the BLEVE has likely resulted in the uncontrolled release of toxic vapours and particulate matter into the atmosphere and infuse hazardous residues into the marine ecosystem. The magnitude of the explosion, even at such a distance, poses a serious risk of airborne contamination, which may travel inland with coastal winds, potentially impacting

human respiratory health, especially among vulnerable populations. Additionally, toxic fallout settling into seawater can lead to mass fish mortality, coral bleaching, and long-term bioaccumulation of pollutants in the marine food chain, directly affecting the livelihood and food security of fisherfolk and coastal communities. The risk is compounded by ocean currents, which may carry dissolved pollutants toward the shores, leading to shoreline contamination, threatening biodiversity hotspots and marine breeding grounds. Without immediate containment and environmental assessment, the BLEVE fallout from MV Wan Hai 503 could result in irreversible ecological degradation and public health crises along Kerala's northern coastline.

p. Because the coastal fisherfolk communities of Kerala represent a vulnerable and culturally distinct population whose livelihoods, health, traditional way of life, and socio-cultural existence are deeply intertwined with the health of the marine ecosystem, the 'MSC ELSA 3 Incident' and the 'MV Wan Hai 503 Incident' have triggered not just environmental fallout, but multidimensional human harm—including disruption of livelihood, occupational health hazards, psychological trauma, economic dislocation, and erosion of marine cultural heritage. In keeping with the doctrines of Environmental Justice and Intergenerational Equity, it is imperative that the Hon'ble Court direct the constitution of a Judicially-Supervised Commission or Fact-Finding Committee, comprising social scientists, occupational health experts, anthropologists, representatives from the State Human Rights Commission, and officials from the State Fisheries Department and Disaster Management Authority, to assess, quantify, and document the direct and consequential damages inflicted on the coastal fisherfolk, including potential compensation models and policy-level safeguards. This is essential to fulfil the constitutional guarantee under Articles 21, 39(a), 41, 47, and 51(c), and accords with

the jurisprudential reasoning in *Indian Council for Enviro-Legal Action v. Union of India* (1996) 3 SCC 212 and *Samatha v. State of Andhra Pradesh*, (1997) 8 SCC 191, which recognise custom-based livelihood rights of coastal and tribal communities in ecologically sensitive zones.

q. The need for a Civilisational Compensation Protocol (CCP), and a UN-supervised Sovereign Environmental Escrow Reserve, is a just and rational response to the visible failure of commercial insurance and liability systems to respond in time. It is unjust to expect impoverished communities to litigate across borders against faceless shipowners when immediate relief is needed for basic sustenance, health, and livelihood restoration. As a result of prohibition from fishing within a 20-nautical mile radius, dozens of hazardous containers have begun washing ashore. Children, pregnant women, and the elderly living in shoreline villages face health risks without access to any medical monitoring or chemical safety information. This humanitarian crisis has unfolded in silence, without a single policy acknowledgment of the emotional, psychological, and spiritual trauma endured by these communities.

r. The Respondents have failed to invoke the settled principle of strict or absolute liability, as laid down in *M.C. Mehta v. Union of India (1987)*, to hold the shipowner, carrier, or flag-state responsible for the environmental, economic, and civilisational harm caused by the hazardous cargo vessel *MSC ELSA 3* and *MV Wan Hai 503*. The carriage and marine transport of dangerous substances—such as calcium carbide, diesel, and furnace oil—constitutes an ultra-hazardous activity, where the occurrence of an accident imposes automatic liability on those in control of the operation. At the same time, the failure to apply strict liability in this case—despite the occurrence of environmental damage within India's Exclusive Economic

Zone (EEZ)—sets a dangerous precedent of impunity for foreign polluters, and violates the principle of environmental justice as enshrined in Articles 21 and 48A of the Constitution. The strict liability standard is essential not only for ensuring swift and non-contentious compensation to affected communities, but also for signalling India's commitment to preventive environmental governance and sovereign ecological protection in international maritime law.

s. The State Government of Kerala, by virtue of its territorial proximity and under the framework of Indian federalism and international maritime law, bears primary responsibility for initiating immediate environmental protection measures and legal proceedings against the shipowner. While the Union of India holds treaty-making power, it is the State that bears the brunt of ecological, economic, and social fallout. The State cannot be a passive bystander and must be directed to act under its constitutional, statutory, and humanitarian obligations. India's jurisdiction over the EEZ under Section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 clearly entitles both the Union and the concerned State to regulate and protect the marine environment. Under the terms of UNCLOS, the coastal State has enforcement rights over pollution control, disaster response, and the safety of navigation which are certainly powers which Kerala is well-positioned to exercise in the instant case.

t. In an eventuality like 'MSC ELSA 3 Incident' and 'MV Wan Hai 503 Incident', both dealing with hazardous & noxious substances in the Coastal Waters of the 4th respondent, Kerala, it is proven that there is no proper mechanism available with the Union of India or the State of Kerala and their different Instrumentalities functioning under separate Statutes. This incident shall be an eye-

opener for the Union as well as the State Governments; and therefore, a unified coordinate system is to be devised under the active intervention and Governance of the Union of India - bringing the respective State Governments and all the respective Instrumentalities/Departments of the Government falling under Environment Protection Act, 1986, Water (Prevention and Control of Pollution) Act, 1974, Coastal Regulation Zone (CRZ), notifications, Wildlife (Protection) Act, in consonance with the Merchant Shipping (Prevention of Pollution) (Rules), 2009, Hazardous Waste(Management and Handling) Rules , 2016, Merchant Shipping Act, Marine Insurance Act and the Bharatiya Nyaya Sanhitha (BNS) along with Customs Act, Ports Act, Coast Guard Act, for prevention, remedy and redressal of the grievances/damages sustained/ likely to be sustained from such incidents.

PRAYER REQUIRED

u. The Legal Mechanism and the Authority Involved- if any mishap occurred as in the case of the vessel MSC ELSA 3, have been given in the below-mentioned table, for reference of this Hon'ble court. In a disaster like this, these authorities are at loggerheads as to what proper action is to be taken by exercising their respective jurisdiction/authority; and even when the respective authorities move independently without coordination, no desired results are obtained for the grievance of the common people like that of the petitioner and the people they represent in public interest. Therefore, a primary advisory committee will have to be constituted under the aegis of the Union of India for rendering proper guidance to the common people who suffer out of such gruesome incidents and the respective departments who are responsible for preventing/containing, managing and redressing various situations cropping out of the scenario. The inefficiency of the present system is writ large on the face of the actions, the respondents so far taken.

Step	Legal Mechanism	Authority Involved
1	Investigation into cause of sinking, cargo details, pollution extent	DG Shipping, Indian Coast Guard
2	Detention or arrest of sister vessels, or bank guarantees from owner	Admiralty courts (Bombay, Kochi, Chennai)
3	Claim for compensation from P&I club / marine insurer	Victims, State of Kerala, CPCB, MoEFCC
4	Criminal prosecution if criminal negligence or false disclosure is found	MoEFCC, Coast Guard, local police
5	Environmental compensation via NGT	National Green Tribunal
6	Ban or restriction on future port entry / blacklisting of operator	DG Shipping, MoPSW

v. The State's inability to coordinate and enforce 'Strict Liability Principles' and 'Strict Safety Rules' through the 1st respondent - Union of India, for transporting Hazardous and Dangerous goods through the Coastal waters of Kerala, runs against the Federal concept of 'Unity in Diversity' - to protect the Life, Ecology, Biodiversity and Environment under the Constitutional scheme and the 'Public Trust Doctrine', aptly invites 'Strict Liability Principle' on the 4th respondent - State, as well. The slow and ineffective response of the 1st and 4th respondents and their Instrumentalities, to the pollution caused by the sinking Vessel amounts to a breach of these Constitutional Duties. This failure has put at risk not only the environment but also the health, livelihood, and dignity of the affected fisherfolk communities. Given these facts, it is clear that the pollution from the MSC ELSA 3 sinking violates multiple Constitutional Protections and Duties, making it imperative for this Hon'ble Court to intervene and ensure Justice for the affected communities. The intervention of the 4th respondent's Chief Secretary to the State to enter into the 'Official Compromise' with the Ship Owner/Operator, by conducting a parley with the

Statutory Authorities including the Central Government, Director General of Shipping as evident from Ext.P8 news report - quoting the Official note, speak volume for the fact that the interest of the 4th respondent is not to protect the Coastal Fisherfolk and the fragile ecological system damaged/continued to be damaged by the sunken ship as the primary responsibility on 'Strict Liability' lies with the Ship Owner, the State ought to have pressed for immediate compensation for the fisherman community on the shore and for protection of ecological and biodiversity system. Rather, State adopted a soft pedal approach to the Ship Owner - sans Jurisdiction and the affected fisherfolk on the Coastal area were granted a negligible amount of Rs.1000/- and 6 kg of rice for a month to sustain their living!

w, In *M.C Mehta and Anr vs. Union of India & ors (1987 1 SCC 395)* and in *Vellore Citizens Welfare Forum v. Union of India (AIR 1996 SC 2715)*, the apex court categorically held that the common citizens affected out of such a disaster affecting their rights under Article 21 and causing irreparable damage to the environment, ecology and biodiversity can seek "public law remedy" before the constitutional courts. The "state-specific" disaster caused by the 13th respondent ship owner/operator - with the contributory negligence on the side of the Union of India, State of Kerala and their instrumentalities - all arraigned as respondents herein are entitled to compensate the common citizens whose livelihood is dependant on the coast and the coastal sea, apart from yearmarking the required amount for the environment, ecology and biodiversity protection. The primary liability (strict liability) on this count rests with the shipowner/operator and his insurer ; and the secondary liability under the 'Public Trust Doctrine' rests with the Union of India and the State governments, including the respective instrumentalities/department, as stated. Further, this incident, in light of Respondents' failure to invoke the

Precautionary Principle, Public Trust Doctrine, and Polluter Pays Principle, has led to:

- Irreparable damage to marine biodiversity, including plankton, mangroves , coral reefs, and migratory fish populations;
- Chronic health risks to coastal populations, especially vulnerable fisherfolk exposed to toxic fumes, contaminated water, and seafood bioaccumulation;
- Economic paralysis in fishing, aquaculture, and coastal tourism;
- Destruction of cultural heritage, rituals, and sustainable marine livelihoods rooted in centuries of coastal tradition.

Therefore, the ‘MSC ELSA-3’, amounts to a ‘Continuing Constitutional Tort’ - violating the Rights guaranteed under Article 21 (Right to Life, Health, and Livelihood), Article 19 (1) (g) (Right to practice Occupation/ Trade & Business) , Article 48A (Protection of Environment and Ecology), and Article 51A(g) (Fundamental Duty to Preserve Nature) - for which, **immediate, scientific, and Judicial intervention is warranted.**

That, in such grave circumstances, this Hon’ble Court, acting as a “**Sentinel on the Qui Vive**”, is constitutionally empowered and duty-bound to :

1. Direct the establishment of a Court-Monitored Coastal and Marine Restoration Task Force, comprising environmental scientists, maritime experts, and statutory regulators;
2. Order the Union and State Governments to immediately deposit an Environmental Rehabilitation and Coastal Compensation Corpus for restoration, clean-up, health care, and sustainable livelihood transition for affected communities;

3. Mandate continuous scientific monitoring, risk modelling, and biodiversity audits for the next 5–10 years;
4. Fix statutory accountability on all errant instrumentalities of both Union and State for abject negligence in compliance, enforcement, and disaster management responsibilities;
5. Impose costs, damages and direct enforcement of the polluter pays principle upon all liable parties, including the shipping company, classification agency, and flag state consortium.

Such directions are not only in the interest of natural justice and public accountability, but also to protect the inter-generational equity and constitutional environmental rights of present and future generations residing in the coastal regions of India.

On these and other grounds to be urged at the time of hearing, it is most humbly prayed that this Hon'ble Court may be pleased to:

PRAYERS

- i. To declare that the 'MSC ELSA 3 Incident' and 'MV Wan Hai 503 Incident' had caused the ongoing environmental degradation in the Kerala Coast and the State inaction on the side of the 1st and 4th respondents and their Governmental Instrumentalities - constituting a continuing violation of the Fundamental Right to Life, Liberty and Way of Living of the People living in the coastal area, under Article 21, 19(1)g and 29, r/w the Directive Principles of State Policy under Article 48A and the Fundamental Duties

under Article 51A(g) ; and hence the matter be placed under the continuing monitoring process of the Hon'ble High Court of Kerala, by invoking the Jurisdictional Principles of '**Parens Patriae**' and '**Sentinel on Qui Vive**'.

ii. Issue a Writ of Mandamus or any other appropriate Writ, Order or direction, directing the 1st respondent to constitute the High Court monitored Multi Agency Special Investigation Team comprising of representatives from the 3rd respondent MoEFCC, 7th respondent. Directorate General of Shipping, 10th respondent Indian Coast Guard, 8th respondent NDMA and other involved institutions to conduct a comprehensive time-bound investigation into the incidents involving MSC ELSA 3 & MV Wan Hai 503, in order to unearth :-

A) cause of the accidents

B) violation of Environmental, Safety and Maritime regulations

C) The roles, responsibilities and failure, if any of the Classification Agencies (respondents 16 and 20, respectively), Insurer (15th respondent) and the 'Flag State' - Liberia & Singapore, respectively - through the 21st respondent MEA.

iii To constitute a Court-Monitored Environmental Restoration Task Force, composed of Independent Ecological Experts, Scientists, Maritime Safety Specialist and Representatives from the Statutory Bodies of the 1st and 4th respondents under the aegis of the 3rd respondent, MoEFCC.

- iv Issue a Writ of Mandamus or any other appropriate Writ, Order or direction, directing Respondent No. 4 to take immediate steps to enforce the 'Absolute Liability' based on 'Strict Liability Principles' to 13th and 19th respondent-owners, respectively and the 15th respondent - Insurer of both the Vessels.
- v Issue a Writ of Mandamus or any other appropriate Writ, Order or direction, directing the Respondent No. 1 - Union of India (through the Ministry of Port and Shipping), to establish immediately a dedicated Coastal Victims Compensation , Rehabilitation and Environment Restoration Fund (CVCRERF) - with the initial contribution of INR 1000 CR (Rupees One Thousand Crores) by the 1st respondent in order to restore the ongoing environmental degradation and the continued sufferings of the Coastal community - to be jointly administered by the 4th respondent and the Neutral High Level Committee comprised of members from the 1st respondent Union of India, 3rd respondent MoEFCC and the 23rd respondent, Ministry of Defense, as approved by the Hon'ble High Court of Kerala under the Chairmanship of a Chief Justice of a High Court (rtd), under the 'Public Law Remedy', for the benefit of the affected Coastal Community and for the restoration of the biodiversity and environment.
- vi Issue a Writ of Mandamus or any other appropriate Writ, Order or direction, directing the 1st despondent Union of India to take appropriate Legal action for prosecution and/or for compensation from the respondents 13 & 19 and 16 & 20 for violations of the Merchant Shipping Act and the applicable Laws in EEZ of India (Kerala Coast), including the International Conventions ratified in India, on 'Strict

Liability Principles' and 'Polluter Pays Rule' in 'Environmental Jurisprudence'

- vii Issue a Writ of Mandamus or any other appropriate Writ, Order or direction, directing the Union of India - 1st respondent to frame and place before this Hon'ble Court a National Coastal Hybrid Threat Prevention Framework and Constitute a High-Level Inter-Ministerial Task Force, with inclusion of the Defense and Environment Ministries, to address strategic maritime security breaches, beginning with the circumstances surrounding MSC ELSA 3 and MV Wan Hai 503 immediately,
- viii Issue a writ of mandamus or any other appropriate writ, order or direction, directing the State of Kerala, 4th respondent, to form an effective comprehensive mechanism, immediately, for casting liabilities onto the owners/operators of the Vessels of the 13th and 19th respondents and it's Insurance Agency, 15th respondent, and their Classification Agents (respondents 16 and 20 under the laws in existence in India for a) Environmental degradation, b)Threat to biodiversity and marine life, c) Loss of livelihood and health risks to people, d) Violations of statutory and international norms, prevalent in India.
- ix Issue a Writ of mandamus or any other appropriate writ, Order or Direction directing the 1st respondent to consider the proposal of the Petitioner, as contained in paragraph No. 16.11.i of the Writ Petition for avoiding/reducing the future incidents of Vessel mishaps with the

Hazardous and Noxious Substances and for the Safety, Security of the people, environment and the Nation.

- x Issue a Writ of mandamus or any other appropriate writ, Order or Direction directing the 4th respondent to handover the investigation of the Ext P 7 FIR registered, to the 24th respondent for a comprehensive investigation, forthwith.
- xi To grant such other reliefs sought from time to time, including the cost of these proceedings.

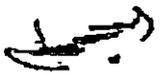
INTERIM RELIEFS

For the reasons stated in the accompanying affidavit and the Memorandum of Writ Petition, it is most humbly prayed that this Hon'ble Court may be pleased to direct

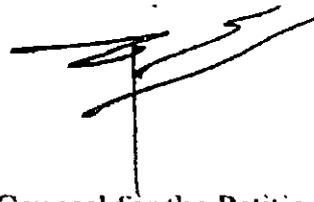
- a) the 1st respondent Union of India, to immediately coordinate the fire extinguishing and the rescue work with the DG of Shipping, Indian Coast Guard, the Disaster Management Authority (7th, 10th, 8th and 9th Respondents respectively) and the Indian Navy, and to control the inferno in 'MV Wan Hai 503 as the vessel is dangerously getting closer to the coast of Kerala, near Kodungallore, Kerala and place the 19th Respondent with absolute and strict liability,
- b) the 4th respondent, State of Kerala, to constitute an immediate relief fund of a minimum of INR 100 crores (Rupees hundred crores) under 'Public Law Remedy' Jurisdiction of this Hon'ble Court for mitigation of the suffering of the people in the Coast of Kerala and for the prevention of the damage caused/continuing to cause in the Coastal area due to the 'MSC ELSA 3 Incident' and 'MV Wan Hai 503 Incident'; and disburse the same through a

High Level Committee appointed for the purpose, as approved by this Hon'ble Court.

Dated this the 13th day of June 2025.

Ummarollinath


Petitioner



Counsel for the Petitioner.

Anil Thomas (T).

**BEFORE THE HON'BLE HIGH COURT OF KERALA AT
ERNAKULAM**

Writ Petition (PIL) No. _____ of 2025

Ummer Ottummal : Petitioner

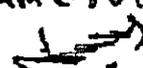
Vs.

Union of India & others : Respondents

AFFIDAVIT

I, Ummer Ottummal, aged 68 years, S/o Kasmikutty, Kuppachan House, Otummal Beach, Parappanangadi PO, Malappuram - 676303, do hereby solemnly affirm and state as follows: -

1. I am the Petitioner in the above case and I know the facts and circumstances of the case. This Writ Petition is filed as a Public Interest Litigation. I have no personal or private interest in this case. There are no authoritative pronouncements on the matter either by the Hon'ble Supreme Court of India or by this Hon'ble Court, which leads to any gain for me or for anybody associated with me. This is the first Public Interest Litigation filed by the deponent.
2. The submissions made in W.P (PIL). are based on my personal knowledge and information and on instructions given by me.
3. The Exhibits produced along with the Writ Petition are true copies of the originals. It is affirmed that no case is pending nor will be moved by the deponent

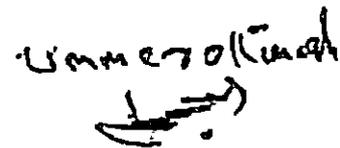
Ummer Ottummal


before any Court of Law or authority on the subject, till the above case is disposed of by this Hon'ble court.

For the reasons stated in the W.P.(PIL) it is most humbly prayed that this Hon'ble Court may be pleased to grant relief sought in the W.P.(PIL) or else not just me but all those depending on the Sea for their day-to-day life will be put to serious loss and injury.

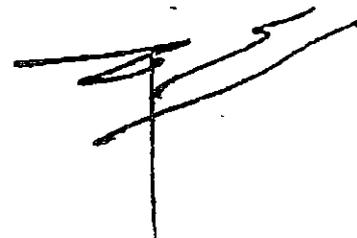
The contentions raised in Paragraph nos 1 to 16 of the memorandum, grounds A to W, as well as the prayers i to xi including the interim prayers are true and correct.

Dated this the 13th day of June 2025.



DEPONENT

Solemnly affirmed and signed before me, by the deponent, who is personally known to me, on this the 13th day of June 2025 in my office at Ernakulam.



Anil Thomas (T).
ADVOCATE

OA No. 97 of 2025 (SZ) - Tribunal on its own motion Suo Motu Based on the News Item published in the Hindu newspaper, Chennai Edition dated 10.06.2025, "Container Vessel on fire off Kerala Coast".

1 message

Ashwini Vaidialingam <ashwini@pnvlc.in>

12 March 2026 at 08:21

To: chiefsecv@kerala.gov.in, chn.kspcb@gov.in, kczmasantd@gmail.com, dcekm.ker@nic.in, dti-@indiancoastguard.nic.in, "keralasdma@gmail.com" <keralasdma@gmail.com>, dg-dgs@gov.in, secyship@nic.in, "adv.hlpd@gmail.com" <adv.hlpd@gmail.com>

Madam/Sir,

Please find attached herewith the Report on behalf of the 8th Respondent being filed in the above Original Application.

Yours Sincerely,
Ashwini Vaidialingam
Counsel for the 8th Respondent

On Wed, 22 Oct 2025 at 18:44, Ashwini Vaidialingam <ashwini@pnvlc.in> wrote:

Sirs,

I represent the Applicant in the captioned Interlocutory Application being filed before the Hon'ble NGT in OA No. 97 of 2025 (SZ) - Tribunal on its own motion Suo Motu Based on the News Item published in the Hindu newspaper, Chennai Edition dated 10.06.2025, "Container Vessel on fire off Kerala Coast".

Please find attached the Interlocutory Application as and by way of service upon you.

Kindly acknowledge receipt of the same.

Yours Sincerely,

—
Ashwini Vaidialingam | Advocate
PNV Law Chambers
No. 6, 2nd Floor, Sriram Apartments
2nd Main Road Raja Annamalai Puram
Chennai - 600 028
Mob.: +91 - 9585688571

 **R8 Report.pdf**
7055K