



དཔལ་ལྷན་འབྲུག་གཞུང་། གཞི་རྒྱུ་མཐོ་ཆས་དང་ སྐྱེལ་འདྲེན་ལྷན་ཁག།
ROYAL GOVERNMENT OF BHUTAN
MINISTRY OF INFRASTRUCTURE AND TRANSPORT
THIMPHU: BHUTAN

Final National Interest Analysis

Agreement on Maritime Transport Cooperation among the Governments of the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, the Republic of the Union of Myanmar, Nepal, the Democratic Socialist Republic of Sri Lanka, and the Kingdom of Thailand.

Ministry of Infrastructure & Transport
Royal Government of Bhutan
གཞི་རྒྱུ་མཐོ་ཆས་དང་སྐྱེལ་འདྲེན་ལྷན་ཁག།
འབྲུག་གཞུང་།



1. Summary

- a. During the informal consultation at the BIMSTEC Leaders Retreat held in Goa, India, on 16th October 2016, the Leaders agreed to conclude the BIMSTEC Coastal Shipping Agreement.
- b. In pursuance to the directives given by the Leaders, the First Working Group Meeting to discuss and finalize the Draft Text of the Coastal Shipping Agreement among BIMSTEC Member States was held in New Delhi, India, on 27-28 November 2017. The meeting negotiated the Draft Text of the Agreement prepared by India, which was circulated among the Member States for comments.
- c. The BIMSTEC Secretariat received comments and observations from all Member States on the negotiated Draft Text of the BIMSTEC Coastal Shipping Agreement.
- d. Meanwhile, India forwarded the revised Draft Text of the Agreement with the change of the title from “BIMSTEC Coastal Shipping Agreement” to “Agreement on Maritime Transport Cooperation”, and requested Member States for their comments/views.
- e. After receiving comments/concurrences from all Member States, India hosted the Second Meeting of the Working Group virtually on 30 August 2022. The Second Meeting extensively negotiated and finalized the Draft Text of the Agreement. All Member States have accepted the formulation of Article I (4) and XI (2) except Myanmar. Myanmar concurred to get back to the Secretariat with its confirmation for the above-mentioned Articles within a month to conclude the Finalized Draft Text of the Agreement.
- f. Afterwards, the Embassy of Myanmar on 3rd October 2022 informed that the Ministry of Transport and Communication of Myanmar is agreeable to the said Draft Text, and also conveyed its comments with minor corrections for further necessary action.
- g. Moreover, the draft Agreement on Maritime Transport Cooperation was negotiated & finalized during the 19th BIMSTEC Ministerial Meeting held on March 9th, 2023 Bangkok. This meeting served as a preparatory step for the 6th BIMSTEC Summit which was supposed to take place on September 4th 2024 but rescheduled on April 4th 2025 as per communication vide letter no.BIMSTEC/SEC/09/04-2024/1607 dated November 20th, 2024.



2. Proposed treaty action

As mandated by Article XIV of the agreement, the agreement shall be subject to ratification or acceptance of the Government of the contracting parties. Each contracting party shall upon the completion of its internal procedure of approval, acceptance and ratification of the agreement, deposit its instrument with the BIMSTEC Secretariat who shall promptly notify all contracting parties of such deposit.

The agreement shall enter into force on the day at least four contracting parties have ratified or accepted it and will become effective only among the contracting parties that have ratified or accepted it. As of now India, Thailand, Myanmar and Bangladesh have deposited the instrument of ratification.

The agreement shall remain in force for 5 years and it may reviewed on the completion of 4th year if necessary at the request of any contracting parties; otherwise, it shall be renewed automatically for the next 5 years. The agreement may be denounced by any contracting party at any time. A denunciation shall take effect 6 months after the date on which the written notice is served by the party.

3. Summary of the subject matter

The Royal Government of Bhutan has been a member of BIMSTEC since 2004 and ratified the BIMSTEC Charter on 13th June 2023. The Agreement on Maritime Transport Cooperation establishes a formal and legal basis for the BIMSTEC members (Bhutan, Bangladesh, India, Myanmar, Nepal, Sri Lanka & Thailand) to operate maritime transport services. The Agreement aims to enhance regional connectivity and trade by establishing a framework for mutual cooperation, national treatment of vessels, and the simplification of administrative processes related to maritime transport.

The obligations & cooperation between the members of Maritime Transport shall be based on the principle of national sovereignty and mutual benefits. Landlocked countries like Bhutan will be given the right which is as per Article 125 of the United Nations Convention on Law of the Sea (1982), which provides a right of access to and from the sea and freedom of transit for landlocked states.

As Bhutan embarks on higher trajectory growth with the vision for a “*High-Income GNH Economic Country*” signing of the agreement will improve regional connectivity and cross-border trade. Without direct access to maritime facilities, this agreement will provide Bhutan access to the nearby maritime facilities in neighboring countries such as India & Bangladesh providing opportunities for traders in Bhutanese to use Maritime facilities of the BIMSTEC member countries.



4. Bhutan's main obligations under the treaty

As Bhutan is already a member of BIMSTEC, no additional obligation (both financial and otherwise) is foreseen as a result of signing the agreement. However, the Agreement on Maritime Transport Cooperation establishes a formal and legal basis for the BIMSTEC members to operate maritime transport services. The agreement aims to enhance regional connectivity and trade by establishing a framework for mutual cooperation, national treatment of vessels, and the simplification of administrative processes related to maritime transport. Generally, the member shall have the following obligations as enshrined in the Agreement:

- 1.1. National treatment (Article IV): Each party must treat vessels, crews, and cargoes from other member states equally to its own in matters of access to ports and services.
- 1.2. Facilitation of Maritime Transport (Article V): Parties are required to simplify administrative, customs, and immigration procedures to avoid delays in ports.
- 1.3. Recognition of certificates (Article VI): Member states must recognize the nationality, safety, and pollution prevention certificates issued by each other's competent authorities.
- 1.4. Recognition of crew documents (Article VII): Each party must recognize passports and seafarers identify documents issued by the competent Maritime Authority of the other contracting parties to its crew as may be specified in the SOP formulated by the Joint Shipping Committee.
- 1.5. Assistance to vessels and crew (Article VIII & IX): Each party must provide assistance to vessels and crew members in distress under the same conditions as its own nationals.
- 1.6. Establishment of a joint shipping committee (Article XII): A committee will be formed to oversee the implementation of the agreement and address arising issues.
- 1.7. Dispute resolution (Article XIII): Parties must engage in negotiations to resolve disputes amicably, resorting to diplomatic channels if necessary.

The obligations & cooperation between the members of Maritime Transport shall be based on the principle of national sovereignty and mutual benefits.



5. Implementation

No social, economic, cultural, environmental, or political implications are foreseen as Bhutan has been a BIMSTEC member since 2004 and has ratified the BIMSTEC Charter in 2023. Furthermore, as per the legal opinion from OAG vide letter no. LS/Agreement/2024/57, no direct implications are foreseen on the domestic laws and policies. It is observed that the agreement is grounded in the principles of the UN Convention on Laws of Sea (UNCLOS) providing a robust framework for enhancing maritime transport cooperation among BIMSTEC member states, promoting efficiency, safety, security and sustainability in the region. It is also noted that the agreement aligns with internationally recognized standards and practices.

However, in Article X of the agreement, there shall be a Standard Operating Procedure among the contracting parties for smooth implementation of the maritime activities. For this, the draft SOP was prepared by India, which was circulated among the member states for comments. In response to this, the Ministry of Infrastructure and Transport provided comments and concurrence on SOP vide letter no. MoIT/SEC-6-2024-2025/653 and the Ministry of Foreign Affairs and External Trade forwarded to BIMSTEC Secretariat vide letter no. MFA/MD/BIMSTEC/09/1442 dated 22nd July 2024.

6. Costs

The National Interest Analysis and the draft agreement were submitted to the Ministry of Finance (MoF) for their formal review and comments via letter no. MoF/Sec/6/2024-2025/650 dated 13th August 2024. Subsequently, MoF responded through letter no. MoF-FD-General/2024/161 dated 30th August 2024, mentioning that no direct financial costs were anticipated with the agreement. While no direct financial costs were expected, there could be financial implications related to administrative costs, capacity building, and logistical support in the event of a review and amendment of the agreement, accordingly the tentative cost analysis of entering into the agreement is as follows:

Cost category	Details of the activities	Tentative cost (Nu.)
Direct Investment Costs	No direct financial investments are anticipated as per comments from MoF.	None
Administrative Costs	Administrative expenses related to implementing and monitoring the agreement (e.g., paperwork, reporting).	Nu. 50,000-100,000 annually



Capacity Building	Costs for training personnel and enhancing technical expertise for maritime transport cooperation.	Nu. 500,000 to 1,000,000 as and when required
Logistical Support	Organizing consultations, BIMSTEC joint shipping committee meetings, and maintaining collaboration (travel, accommodations, etc.).	Nu. 500,000 to 1,000,000 as and when required
Review & Amendment Costs	Costs for legal reviews, procedural amendments, and treaty revisions.	Nu. 200,000 to 300,000 per review

7. Future treaty action

As mentioned in Article XV of the agreement, “Each contracting party shall upon completion of internal procedures of ratification, approval or acceptance of this agreement, deposit its instrument of ratification, approval or acceptance with BIMSTEC Secretariat”. The agreement shall enter into force on the day at least four contracting parties have ratified or accepted it, and become effective only among contracting parties that have ratified or accepted it.

As mentioned in Article XIV of the agreement, “If one Contracting Party intends to make amendments or supplements to this Agreement, it shall notify the other Contracting Parties in writing and the Contracting Parties shall consider the proposed amendments or supplements within 6 [six] months after such notification. The amendments or supplements agreed upon by the Contracting Parties through consultation shall enter into force after their mutual reconfirmation through diplomatic channels”.

8. Stakeholder consultation

As the agreement does not have any implication on national laws and policies, national multi-stakeholder consultations were not deemed necessary. However, the Royal Government of Bhutan as one of the contracting parties to the agreements, carried out the following consultations:

- The Ministry of Foreign Affairs and External Trade accorded a political clearance for signing the agreement through the letter MFA/MDIBIMSTEC/08/270 (Attachment I).
- The Office of the Attorney General (OAG) vetted the agreement and provided a legal opinion (LS/Agreement/2024/57, dated 26th July). OAG confirmed that the agreement aligns with the United Nations Convention on the Laws of the Sea (UNCLOS) and offers



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a solid framework for enhancing maritime cooperation among BIMSTEC members. It also noted that, as per Article 10(25) of the Constitution of Bhutan, parliamentary ratification is required (Attachment II).

- iii. The Ministry of Infrastructure and Transport submitted the agreement to the Ministry of Finance for comments on financial implications (MoIT/Sec/6/2024-2025/659). MoF's response (letter no. MoF/LD-General/2024/161, dated 30th August 2024) commented that while no direct financial implications were expected, there could be cost implications for administrative expenses, capacity building, and logistics if the agreement is reviewed or amended (Attachment IV).