

Unlocking India's Inland Water Transport Potential: Analysis of the National Waterways (Construction of Jetties/Terminals) Regulations, 2025

The Inland Waterways Authority of India (“IWAI”) enacted the National Waterways (construction of Jetties/Terminals) Regulations, 2025 (“**NW Regulations**”) to boost investments in inland waterway terminals (“**IWTs**”). India has an extensive network of approximately 14,500 (fourteen thousand five hundred) km of navigable waterways, encompassing rivers, canals, backwaters, and creeks, which makes a compelling case for the development of inland water transport in India. Inland waterways provide cost-efficient and environment-friendly means for long haul transportation of bulk goods. Further, the development of the country's inland waterways could prove vital for decongesting India's over-stressed land-based transportation systems, harnessing the potential of our waterways and generating employment opportunities for locals.

The [Maritime Amrit Kaal Vision 2047](#) draws attention to the tepid development of inland water transport and thus plans to operationalize over 50 (fifty) national waterways and move more than 500 (five hundred) million metric tonnes of cargo via inland water transport by 2047. Additionally, [PM Gati Shakti](#) emphasizes improving multimodal connectivity via inland waterways. Moreover, the Government has announced an investment of INR 500 (five hundred) billion over 5 (five) years, and Budget 2025-26 [allocation](#) of INR 19.44 (nineteen billion four hundred forty million) billion to IWAI marking a 31% (thirty one percent) increase over its last budget.

Despite these advantages, in financial year 2024-25, inland water transport [constituted only 2% \(two percent\) of India's overall freight movement](#). High terminal costs, insufficient draft, vessel shortages, poor linkages, and untapped regional trade with neighboring countries have impeded the pace of development of inland water transport in India. The Government [aims](#) to increase inland water transport's share to 5% (five percent) of the intermodal mix as per Maritime India Vision 2030. To this end, the

recently enacted NW Regulations can play an instrumental role in augmenting the role of inland water transport in facilitating transportation within the country.

Part I of this note sets out a brief overview of the regulatory framework governing inland water transport in India. Part II summarizes the key provisions of the NW Regulations and presents our analysis, and Part III presents the conclusion.

PART I: BRIEF OVERVIEW OF THE REGULATORY FRAMEWORK GOVERNING INLAND WATER TRANSPORT IN INDIA

Matters pertaining to shipping and navigation on inland waterways declared by the Parliament to be national waterways fall within Entry 24 of the Union List, meaning only the Parliament is empowered to legislate on these matters whereas matters pertaining to shipping and navigation on inland waterways other than national waterways fall within Entry 32 of the Concurrent List. Consequently, both Parliament and state legislatures are empowered to legislate on such matters.

The primary legislative instruments which constitute the regulatory framework governing inland waterways are the [Inland Waterways Act, 1985 \(“IW Act”\)](#) and [National Waterways Act, 2016](#). Earlier, the Parliament had notified national highways under various erstwhile laws. The National Waterways Act, 2016, repealed these respective statutes and consolidated governance of national waterways 1-5 under a single framework. Additionally, the National Waterways Act, 2016 declared 106 (one hundred and six) inland waterways as national waterways, thereby increasing the total number of national waterways to 111 (one hundred and eleven). The IW Act established the IWAI as an apex body for the regulation and development of inland waterways which have been declared as ‘national waterways’ under the National Waterways Act, 2016. The IW Act allows the IWAI to, *inter alia*, enter and perform any contract for discharge of its statutory obligations, set up or permit the setting up of infrastructural facilities for national waterways, regulate navigation and traffic on national waterways, regulate construction or alteration of structures on, across or under the national waterways and co-ordinate development of inland water transport on national waterways with other modes of transport.

Further, the operations of the inland waterways are regulated by certain ancillary legislations, i.e., the Inland Vessels Act, 2021 and [Classification of Inland Waterways Regulations, 2022 \(“CIW Regulations”\)](#). The Inland Vessels Act, 2021 was enacted to promote safe and efficient navigation on inland waters, enhance the operational standards of inland vessels, and facilitate the development of inland water transport. It sets out the criteria for registration of inland vessels and mandates licensing of vessel operators and crew. It further establishes safety measures, equipment requirements

and operational protocols to minimize accidents and ensure the safety of passengers and cargo. Complementing this, the CIW Regulations classify national waterways into various classes depending on parameters like depth, width, vertical clearance and other related parameters. The CIW Regulations also stipulate that, prior to the construction of any structure across a national waterway, the concerned agency or organization must obtain clearance from the IWAI.¹

Further, the regulatory architecture for inland waterways includes specific rules for ensuring sustained economic and environmental sustainability of the sector. The IWAI (Levy and Collection of Fees and Charges) Regulations, 2011 outlines the manner in which fees are collected for using national waterway and associated infrastructure. These regulations empower IWAI to impose fees on vessels for navigation, berthing, anchoring, and use of terminal facilities. Charges are determined based on vessel type, size, cargo, and duration of use, ensuring equitable and efficient utilization of waterways. The Harit Nauka – Green Transition Guidelines for Inland Vessels, 2024 seek to promote environmental sustainability by: (a) incentivizing use of alternative clean fuels by vessels; (b) phasing out of usage of conventional fuel by vessels; (c) standardizing green vessel design; (d) promoting development of shore-side infrastructure to support operation of green vessels and support infrastructure to improve service quality in this domain; and (e) facilitating storage, bunkering and handling of green fuels.

Notably, India's foreign direct investment ("FDI") policy permits 100% (one hundred percent) FDI for constructing and maintaining ports and harbors in the inland waterways sector under the automatic route. No prior governmental approval is required, thereby facilitating seamless private investment inflows. Additionally, the Harmonised Master List of Infrastructure Sub-sectors, issued by the Ministry of Finance (as updated from time to time), recognizes inland waterways as an infrastructure sub-sector. This ensures that lenders extend the same financing terms as are available for other infrastructure sectors such as ports, airports and roads.

PART II: KEY PROVISIONS OF THE NW REGULATIONS

The CIW Regulations mandate that prior to the construction of any structure across a national waterway, the concerned agency or organization is required to obtain clearance from the IWAI. However, the regulations did not provide a detailed framework governing the issuance of such clearance by the IWAI. The NW Regulations fill this lacuna by providing a detailed framework for grant of no objection

¹ Regulation 6 (1) of the CIW Regulations.

certificate (“**NOCs**”) for development of IWTs by entities other than the IWA on national waterways.

The term ‘IWTs’ has been defined under the NW Regulations to mean inland water terminal jetty for cargo and passengers and includes within its ambit terminal infrastructure assets such as wharves, jetties, landing stages, roll on-roll off facilities, inland ports, associated cargo handling equipment, storage spaces, road/rail access, and the access channel required to connect the terminal with the main channel of the national waterway and also includes existing, permanent and temporary IWTs. We have set out below certain key aspects of the NW Regulations and our analysis thereof:

1. **Applicability:** The NW Regulations apply to all national waterways declared under Sections 2 and 3 of the National Waterways Act. However, areas under the jurisdiction of any port governed by the provisions of the Indian Ports Act, 2025 and the Major Port Authorities Act, 2021, have been excluded from the ambit of the NW Regulations.
2. **Classification:** The NW Regulations classify IWTs into three categories: (a) ‘Existing IWTs’ i.e., IWTs developed on or along the national waterways by any entity other than the IWA; (b) ‘Temporary IWTs’ i.e., floating structures/temporary structures set up for facilitating transportation on national waterways for a period up to 5 (five) years from the date of their commissioning; and (c) ‘Permanent IWTs’ i.e., fixed immovable structures set up for facilitating transportation on or along the national waterways. It also includes Existing IWTs with fixed immovable structures
3. **Application process:** As per the NW Regulations, the following entities are eligible to apply to the IWA for grant of a NOC to develop and operate IWTs as a terminal developer and operator (“**TDO**”): (i) any individual or partnership firm having permanent account number, tax deduction and collection account number (in case of sole proprietorship firm) and registration with Goods and Services Tax; (ii) a company registered in India under the Companies Act, 2013; (iii) an organization created under any Central Act or State Act; (iv) any autonomous body, company, public sector undertaking or trusts or boards managed or controlled by the State Government or the Central Government, local authorities or other statutory organizations; (v) an entity registered as a co-operative society under the Co-operative Societies Act, 1912 or a trust under Indian Trusts Act, 1882; and (v) a joint venture or consortium of any of the above.
4. **Grant of certificate for development of inland water terminal:** An eligible entity which is desirous of becoming a TDO is required to submit an application to the

IWAI along with underlying documents and applicable fees for grant of a NOC from IWAI. The IWAI may consider granting the NOC to the applicant after taking into due consideration relevant factors. Further, the NW Regulations mandate that all applications submitted by eligible entities for grant of NOC are required to be processed by IWAI within 90 (ninety) days from the date of submission of such application, thereby introducing a time-bound framework for processing of such applications. The schedule appended to the NW Regulations includes a template of the NOC to be granted to the TDO.

5. **Permitted commodities:** An IWT is permitted to handle all types of cargo subject to compliance with applicable laws and regulations as notified by IWAI.
6. **Types of vessels permitted:** All vessels registered under the Inland Vessels Act, 2021 and Merchant Shipping Act, 2025 are permitted to operate on National Waterways and call on IWTs.
7. **Ownership of land comprising the IWTs:** Under the NW Regulations, a TDO who has been granted a NOC by IWAI is responsible for: (a) acquiring valid ownership / leasehold rights in respect of the land required for development of IWTs; (b) construction and operation of the project including ensuring adherence to safety standards and all applicable laws; (c) the commercial and financial feasibility of the IWTs.
8. **Exclusivity:** The NW Regulations prohibit grant of NOC to TDOs by the IWAI for development of an IWT within the exclusivity zone of existing IWTs as notified by the IWAI.
9. **Transfer of NOC:** The NW Regulations provide that NOC granted to a TDO by IWAI for establishment of an IWT may be transferred/assigned to another party subject to prior approval of IWAI. The NW Regulations however do not prescribe: (a) the timelines within which applications for transfer of approval will be processed by IWAI; and (b) the relevant factors that will be taken into consideration by IWAI while evaluating proposals for transfer / assignment of NOCs. Further, as the NW Regulations do not specify a minimum period for which a TDO will be required to hold a NOC prior to becoming eligible for transferring the NOC to a third party, there is a risk that NOCs may be granted to non-serious TDOs. Establishing a detailed and transparent framework for the transfer or assignment of NOCs, along with prescribing a minimum holding period for TDOs before they become eligible to transfer an NOC related to IWTs to a third party, is pivotal to accelerating the development of inland water terminals.

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10. **Term of NOC:** The NW Regulations provide that NOCs for temporary IWTs will be valid for 5 (five) years from the date of issuance of NOC by IWAI which may be further extended by IWAI. It may be noted that the NW Regulations do not explicitly stipulate period of validity of NOCs granted for Permanent IWTs. It appears that the IWAI will determine the period of validity of NOCs for Permanent IWTs on a case-to-case basis depending on the project proposal. Ambiguity with respect to the term of the NOC for Permanent IWTs is likely to hamper the pace of investment into IWTs. Clearly outlining the framework for the determination of the term of NOCs for Permanent IWTs will also help improve the bankability of Permanent IWTs.
11. **Commencement of operations:** The TDO is required to commence operations at Permanent IWTs within a period of 5 (five) years from the date of issue of NOC by IWAI. Failure of the TDO to commence operation for the Permanent IWT within the prescribed timeline may result in cancellation of the NOC. It is to be noted that the NW Regulations do not provide for levy of liquidated damages on the TDO where a TDO has failed to develop a Permanent IWT within 5 (five) for reasons that are solely attributable to the TDO. Implementing a penalty regime for TDOs' failure to develop Permanent IWTs within the stipulated five-year timeframe is essential to ensure that assets for which NOCs have been granted do not become stranded due to TDO default.
12. **Development of access channel:** The TDO is required to develop and maintain the access channel connecting the main navigational channel of the national waterway to the IWT under the supervision of IWAI. Further, all costs associated with planning or design of IWT infrastructure are required to be borne by IWTs. The EIA Notification 2006 issued by the Ministry of Environment, Forests and Climate Change ("**MOEF**") mandates that construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the schedule to the said notification will be undertaken in any part of India only after prior environmental clearance from the Central Government or the state level environment impact assessment authority, duly constituted by the Central Government has been obtained by the project developer.

While the EIA Notification, 2006 does not explicitly include jetties and inland water terminals in the list of projects that require prior environmental clearance from the Central Government or the state level environment impact assessment authority, capital dredging activities inside and outside ports, harbors and channels have been included in the schedule to the EIA Notification, 2006 and thus require prior environment clearance from the Central Government.² It is unclear whether

² Item 7(e) of the Schedule to the EIA Notification, 2006.

developing the access channels will also qualify as capital dredging, thereby attracting the provisions of EIA Notification 2006.

In *Bharat Jhunjhunwala & Ors. v. Inland Waterways Authority & Ors.*,³ the National Green Tribunal (“NGT”) assessed whether developing national waterway 1 required the IWAI to obtain prior environmental clearance. In the instant case, the NGT’s Order took into consideration order dated April 28, 2016 issued by the High Court of Allahabad permitting IWAI to proceed with construction of a multi-modal terminal at Ram Nagar, Varanasi (“**Multi-modal Terminal**”) without obtaining prior environmental clearance. However, the IWAI was required to undertake environmental impact assessment post-commissioning of the project.

The core issue that came up for consideration before NGT was whether the project’s activities included certain activities like dredging, and the construction of jetties and terminals that required prior environmental clearance under Entry 7(e) of the EIA Notification, 2006. The NGT observed that as the High Court of Allahabad had already granted approval to IWAI for commencement of the Multi-modal Terminal without obtaining prior environmental clearance, the matter had reached finality and could not have been interfered by the tribunal. However, NGT observed a need for clear guidance from MOEF as regards applicability of prior environment clearance for inland waterway projects.

The NGT’s decision in the instant case cannot be construed to be a binding precedent that prior environmental clearance can be bypassed by TDOs desirous of developing access channels connecting the IWTs to the main waterway as the case was specific to the facts. In light of the ambiguity surrounding applicability of environmental clearance to IWTs, necessary clarification needs to be issued by the MOEF in this regard.

13. Scope of liability: Pursuant to the provisions of the NW Regulations, the TDO is required to indemnify IWAI against any claims by any party towards damages or compensation for any loss caused to life or property during the development and/or operations of the IWT. However, the NW Regulations do not prescribe any outer cap on the indemnity obligations owed by the TDO to the IWAI. An uncapped liability regime of TDO *vis-a-vis* the IWAI under the NW Regulations is likely to deter investors from undertaking substantial investments in IWTs.

14. Cancellation of NOC: Under the NW Regulations, the IWAI is entitled to cancel the NOC at any point in time for: (i) breaches of any terms and conditions; (ii)

³ *Bharat Jhunjhunwala v. Inland Waterways Authority*, 2022 SCC OnLine NGT 137

contravention of the IW Act, or (iii) committing any unlawful act or omission. For cancellation of NOC, the IWAI is required to issue a 30 (thirty) day show-cause notice to TDOs providing an opportunity to respond. Unsatisfactory or no responses allows IWAI to issue cancellation orders. The NW Regulations also empower the TDO to surrender the NOC by giving a notice of 90 (ninety) days to the IWAI. On cancellation of the NOC, TDOs are obligated to dismantle and remove all structures at their own cost within 180 (one hundred and eighty) days from cancellation order.

Given that development of Permanent IWTs is likely to be a capital-intensive exercise, in the absence of a framework that provides for mandatory takeover of Permanent IWTs by IWAI upon cancellation of a NOC granted to a TDO midway through the term of the NOC, it is unclear how a TDO will recoup its capital expenditure.

Dismantling of large-scale operational IWTs (particularly Permanent IWTs) is likely to result in abrupt disruption of transportation routes and fragmentation of established supply chains which can adversely affect commercial interests of users relying upon such IWTs. The NW Regulations should incorporate necessary provisions which will ensure continuity of service for users during the transition period. Additionally, dismantling of IWTs may cause permanent and irreparable destruction of the surrounding environment. It is imperative that a detailed framework for dismantling of IWTs be notified by the Central Government that adequately addresses environmental concerns.

15. Take over of IWTs: Regulation 16(6) of the NW Regulations provides that IWAI, may in its discretion take over the assets comprising the IWT upon payment of due consideration as determined by IWAI. While the aforementioned regulation falls under the heading 'Cancellation of Certificate', it is to be noted that Regulation 16(6) of the NW Regulations has been drafted in a wide and expansive manner. Literal interpretation of the aforementioned regulation does not seem to suggest that IWAI's power to take over IWT assets is limited to cases where it has cancelled the TDO's certificate. Regulation 16(6) of the NW Regulations reads as follows:

“The Authority may take over the inland waterway terminal assets, if deemed necessary, upon payment of due consideration, as determined by the Authority in this behalf”

In light of the foregoing, it is unclear whether Regulation 16(6) of the NW Regulations can be interpreted to mean that IWAI has discretionary powers to take over IWTs even when the underlying certificate of the relevant TDO has not been cancelled by IWAI. Furthermore, the NW Regulations do not provide detailed

guidance regarding the methodology that will be adopted by IWAI for computation of 'due consideration' should IWAI opt to take over the IWTs as well as the timelines within which such consideration will be made available to the TDO. Providing necessary clarity with respect to: (a) scope and extent of IWAI's powers under Regulation 16(6) of the NW Regulations; (b) the methodology to be adopted by IWAI for computation of 'due consideration' upon takeover of IWTs by IWAI; and (c) the timelines for disbursement of such consideration amount by the IWAI to the relevant TDO is crucial for investors to plan and structure commercially prudent exit strategies.

16. Levy of user charges by TDOs: The template of the NOC to be granted to the TDO provided under the schedule to the NW Regulations enumerates several conditions to be adhered by a TDO who has been granted NOC for the development of an IWT. One of these conditions state that a TDO may charge fee (including terminal charges and any charges related to value added services provided at the IWT from the users) for using the IWT, subject to tariff regulations as per existing concession agreements or notifications issued by the competent Government or statutory agencies, if any. However, the main body of the NW Regulations does not incorporate an express provision recognizing the powers of the TDO to levy fees on users for using the IWTs. Clear and unambiguous legal right to levy user charges and escalate the same from time to time is crucial for TDOs to generate optimal economic returns during the term of the NOC. In light of the aforesaid, it is essential that the powers of the TDO with respect to levying of charges on users for using the IWT be enshrined and delineated in detail in the main body of the NW Regulations.

PART III: CONCLUSION

Developing inland water transport is the need of the hour as it has the potential to significantly contribute to India's climate goals, and the NW Regulations are definitely a step in the right direction. However, the key concerns highlighted above create impediments in realizing the intended purpose of boosting investments and increasing share of IWTs in India's transportation ecosystem. In particular, fine-tuning of the extant termination construct of IWTs under the NW Regulations is crucial for ensuring bankability and large-scale commercial viability of IWTs.

Riverine ecosystems are unique, fragile and vulnerable to rapid ecological degradation. The Central Government may consider issuing comprehensive guidelines that TDO would need to adhere to while developing, operating and dismantling IWTs. Addressing environmental concerns associated with the

development / operation of inland water terminals systematically is likely to minimize the risk of such projects being subjected to protracted environmental litigation.

State Governments should also step up efforts towards identifying avenues for greater convergence between rail/road transport and IWTs so that the vast potential of IWTs can be harnessed in an optimal manner. Delays in procurement of land can adversely impact timelines for development of IWTs thereby eroding the economic potential of such projects. State Governments should prioritize allocation of land parcels to TDOs at concessional rates for accelerated development of IWTs.

Development of IWTs continues to be seen by private investors as high-risk low return commercial ventures. The Central Government may consider floating schemes for part-funding of capex costs incurred by private investors towards setting up IWTs to expedite their development. The Central Government should also formulate specific schemes that seek to integrate inland waterways with other modes of transport on priority basis to foster cleaner, more integrated supply chains across the country that will revolutionize India's logistics sector.

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