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Comprehensive Analysis of India's Maritime Laws: Examining Insurance Impact and Geopolitical Dynamics

VAIBHAV AGRAWAL[1]

ABSTRACT

India's maritime heritage dates back millennia, shaping its modern-day maritime industry and legal framework. This research paper provides an in-depth analysis of the evolution of maritime laws in India, from ancient customs to modern legislation. It explores the regulatory landscape governing India's maritime sector, examining the impact of maritime laws on the insurance and reinsurance industry. Additionally, the paper investigates the geopolitical dynamics within India's Exclusive Economic Zone (EEZ) and identifies loopholes in existing maritime laws. This comprehensive analysis sheds light on the intricate relationship between maritime laws, insurance, and geopolitical factors, providing valuable insights for policymakers, industry stakeholders, and researchers.

***Keywords**: Maritime laws, India, Exclusive Economic Zone (EEZ), marine insurance, insurance regulation, reinsurance industry, geopolitical dynamics, legal framework, recommendations, maritime trade.*

I. INTRODUCTION

India, with its vast coastline of over 7,500 km, has a rich maritime heritage dating back thousands of years. From the ancient Indus Valley civilization to the modern era, maritime trade has played a crucial role in India's economic and cultural development. The country's strategic location along major international shipping routes has made it a key player in global maritime trade. Today, India is one of the world's leading maritime nations, with a thriving shipping industry, a network of major ports, and a significant presence in international trade. The maritime sector contributes significantly to India's economy, facilitating the movement of goods and commodities both domestically and internationally.

The Indian maritime industry encompasses various sectors, including shipping, ports, shipbuilding, and maritime services. India has a vast merchant navy, comprising thousands of ships engaged in transporting goods and commodities between domestic and international ports.

[1] Author is a student at Subhash Desai College of Law, Mumbai, India

The country's major ports handle millions of tons of cargo annually, making them vital gateways for India's trade with the rest of the world. In recent years, the Indian government has launched several initiatives to modernise and expand the country's ports and shipping infrastructure, with the aim of boosting maritime trade and promoting economic growth. These initiatives include the Sagarmala project[14], which aims to develop India's ports and coastal infrastructure, and the Bharatmala project[15], which focuses on improving road connectivity to ports and coastal areas.

Marine insurance has a long history[1] in India, dating back to the 17th century when the British East India Company introduced it to insure their ships and cargo. During British colonial rule, marine insurance was dominated by British companies, which charged high premiums and provided limited coverage. Many Indian shipowners and traders relied on informal mutual insurance arrangements instead. After India gained independence in 1947, the government took steps to promote the domestic insurance industry, including marine insurance. The Life Insurance Corporation of India (LIC) was established in 1956 to regulate life insurance, and the General Insurance Corporation of India (GIC) was set up in 1972 to regulate non-life insurance, including marine insurance. Today, marine insurance in India is a thriving industry with both Indian and international companies offering various insurance products to shipowners, cargo owners, and others in the maritime industry. Marine insurance now covers not just traditional hull and cargo insurance but also specialised products like liability insurance, marine war risk insurance, and cyber insurance.

Maritime law, also called admiralty law, is a set of rules and regulations that apply to private maritime business and nautical activities, such as shipping or incidents happening on the open sea. The laws and treaties that govern how the oceans and seas can be used are known as the Law of the Sea. In most developed nations, maritime law follows a separate legal code that is independent of national laws. The United Nations (UN), through its specialised agency the International Maritime Organization (IMO), has established numerous conventions that outline rules for maritime activities. These conventions can be enforced by the navies and coast guards of countries that have signed and agreed to the treaties. Maritime law governs a wide range of matters related to the maritime industry, including insurance claims involving ships and cargo, civil disputes between shipowners, sailors, and passengers, as well as cases of piracy on the high seas. Additionally, maritime law regulates procedures for the registration, licensing, and inspection of ships, as well as maritime contracts and insurance policies. It also involves the transportation of cargo and passengers by sea. While national laws apply within a country's

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territorial boundaries, maritime law provides a specialised legal framework for activities at sea and in international waters. This separate code helps ensure consistency and standardisation in how maritime matters are handled across different nations, maintaining order and resolving disputes in the maritime domain.

II. Evolution of maritime laws in India

India has a rich maritime heritage that goes back to ancient times when it engaged in sea trade with Asia and the Middle East.The legal framework surrounding maritime affairs in India evolved from the customs and trade practices observed by participants in maritime commerce. However, the foundations of modern maritime laws[3] in India were laid during the British colonial era. Despite efforts by the British administration to restrict India's participation in the shipping industry, they introduced several important laws that established the foundation for the nation's maritime and admiralty legal structure. Over time, pivotal legislations like the Indian Registration of Ships Act of 1841, the Indian Ports Act of 1908, the Indian Merchant Shipping Act 1923, and the Territorial Waters Jurisdiction Act 1878 have significantly contributed to the evolution of India's maritime infrastructure and legal framework. Today, India has a robust maritime industry with 13 major ports[2] facilitating sea-borne trade. It has one of the world's most organised shipping fleets, responsible for transporting more than 95 per cent of India's merchandise trade by volume and approximately 68 per cent by value through maritime transport. The country's strong maritime legal framework and infrastructure have enabled it to become a major player in the global shipping industry.

The core principles that govern marine insurance in India are derived from the Marine Insurance Act of 1963. Similar to all property insurance contracts, marine insurance contracts are based on fundamental principles like indemnity, insurable interest, utmost good faith, proximate cause, subrogation, and contribution. Professionals engaged in the marine insurance sector must acquaint themselves with this legislation and uphold its principles during contract negotiations and the resolution of claims stemming from such agreements.

Marine insurance policies are designed to safeguard the interests of various parties involved in maritime trade, such as ship owners, cargo owners, and others. India offers different types of marine insurance policies, each covering specific risks.

Hull Insurance: Hull insurance protects against physical damage to the ship, including its machinery and equipment. This policy covers risks like collisions, grounding, fire, and theft. It is crucial for ship owners as it helps cover the cost of repairs or replacement in case of damage.

Cargo Insurance: Cargo insurance covers the loss or damage of goods being transported by sea. It protects against risks like theft, mishandling, and loss due to natural disasters. This insurance is essential for cargo owners to recover the cost of lost or damaged goods.

Freight Insurance: Freight insurance covers the loss of freight revenue due to the loss or damage of goods during transportation. It covers risks such as delays, loss, or damage of goods. This insurance is important for freight forwarders and shipping companies to recover lost revenue.

Liability Insurance: Liability insurance covers the legal liabilities of ship owners and other parties involved in maritime trade. It protects against risks like collisions, pollution, injury or death of crew members. This insurance helps ship owners and others cover legal costs and compensation in case of liability claims.

III. Indian maritime laws and regulations

The legal framework governing maritime affairs in India is derived from a combination of domestic laws, international conventions, and customary practices. The primary legislation governing maritime activities in India is the Merchant Shipping Act of 1958, which regulates various aspects of shipping, including the registration and licensing of ships, the employment and welfare of seafarers, safety and pollution prevention measures, and liability for maritime claims. The Act also incorporates provisions of international conventions, such as the International Convention for the Safety of Life at Sea (SOLAS), the International Convention on Standards of Training, STCW and MARPOL.

In addition to the Merchant Shipping Act, several other laws and regulations govern specific aspects of maritime activities in India. These include the Indian Ports Act, the Coasting Vessels Act, the Inland Vessels Act, the Major Port Trusts Act, the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, and the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act. Together, these laws provide a comprehensive legal framework for the regulation of shipping and maritime activities in India, covering a wide range of issues such as port operations, navigation, environmental protection, safety, and security.

One of the most significant developments in India's maritime legal framework in recent years has been the adoption of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017. The Act, which came into force in April 2018, replaced the outdated Admiralty jurisdiction of the High Courts Act of 1861 and modernised India's admiralty law regime. The new Act expands the jurisdiction of Indian courts over maritime claims and provides for the

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arrest and sale of ships to enforce maritime liens and other claims. It also incorporates provisions of international conventions such as the International Convention on Arrest of Ships, 1999, and the International Convention for the Unification of Certain Rules Relating to the Arrest of Seagoing Ships, 1952, thereby aligning India's admiralty law with international best practices.

IV. Maritime laws and impact on the insurance & reinsurance industry

In India, the insurance sector, including marine insurance, is regulated by the Insurance Regulatory and Development Authority of India[7] (IRDAI). This regulatory body has the authority to issue guidelines and regulations that govern the conduct of marine insurance business in the country. The IRDAI has formulated specific guidelines that outline the minimum standards insurers must adhere to while offering marine insurance policies. These guidelines cover various aspects of marine insurance operations, such as underwriting practices, claims settlement procedures, and risk management protocols. By issuing these guidelines, the IRDAI aims to ensure that marine insurance providers in India maintain consistent and transparent practices, safeguarding the interests of policyholders and promoting the overall growth and stability of the marine insurance industry within the nation's maritime sector.

Sea shipping has long been considered one of the most profitable and convenient modes of transporting bulk cargo. In 2022, marine transport operations accounted for 69% of the Russian Far East's transportation scope, marking a 6% increase from the previous year. Let's take a closer look at marine transport operations in Russia during 2022-2023. Currently, the importance of ports in the Russian Far East region is on the rise. Within the first half of 2023 alone, container traffic through these ports increased by 34%, with a record 529,000 containers being handled during this period. Conversely, the opposite trend was observed in the Northwest region, where container traffic decreased by 34%, according to Ruslan Davydov, Acting Head of the Russian Federal Customs Service. Davydov stated, "It turns out that there was an absolute overflow of cargos from the West to the East." In total, 92 million tons of cargo were transported through the Russian Far East, with 72 million tons being transported by sea. During the first five months of 2023, even more cargoes were transferred to Russian ports via the Russian Railways network. Compared to the same period in 2022, there was a 4.1% increase, with 144.9 million tons of cargo being transported. Growth was observed in the Far East (+4.3%; 46.8 million tons), South (+1.2%; 40 million tons), and Northwest (+6.3%; 56.4 million tons) regions. Specific goods that saw an increase in traffic included grain, chemicals, fertilisers, and oil cargo. There was an 8.5% increase in oil cargo (2.9 million tons) delivered via the Russian

Railways network to ports in the Far East region.

Russia's state-owned reinsurance company has provided backing to three Russian insurance firms, enabling them to secure approval from Indian authorities to offer marine insurance for tankers carrying cargo between the two countries. This move aims to facilitate trade between Russia and India amid Western sanctions. According to a media report, VSK Insurance, Alfastrakhovanie, and Sogaz Insurance, along with Ingosstrakh, have received approval from the Indian shipping regulator to provide marine insurance services. This approval was granted after the Russian National Reinsurance Company (RNRC) provided financial guarantees, marking the first reported instance of RNRC's support for Russian insurers in India. The financial backing from RNRC, a wholly-owned entity of the Russian government, ensures the stability and robust financial standing of these insurance firms. These companies specialise in providing Protection and Indemnity (P&I) insurance coverage, separate from the Europe-based International Group (IG) of P&I clubs. Despite Western sanctions targeting Russian oil trade, India persists in importing discounted Russian oil, complying with UN sanctions while overlooking others. The accreditation for these Russian entities remains valid until February 20, 2025, while Ingosstrakh's authorization has been prolonged until February 20, 2029. This development allows Russian insurers to provide marine insurance coverage for tankers carrying cargo between Russia and India, facilitating continued trade relations between the two countries in the face of Western sanctions against Russia. The Global Marine Reinsurance market is anticipated to rise during the forecast period, between 2023 and 2030. In 2022, the market is experiencing steady growth, and with key players increasingly adopting strategies, it is anticipated to continue rising beyond the projected time frame.

According to a report by the International Union of Marine Insurance (IUMI), the global cargo insurance premium base witnessed an 8% increase in 2021, reaching US$18.9 billion, compared to its previous year. This growth was accompanied by an overall improvement in loss ratios across various markets. The surge in cargo insurance premiums was observed in most markets, with China leading the way in terms of growth during 2021. The Chinese market accounts for 14% of the global cargo insurance market share, while the United Kingdom, including Lloyd's of London and the International Underwriting Association, holds a 12.2% market share. The report indicates that due to subdued economic activity in 2020, the number of claims at the beginning of 2021 was relatively low. Consequently, loss ratios continued to improve across all markets as the year progressed.

China's Maritime Police Law (MPL) is designed to oversee the responsibilities of China's maritime law enforcement agencies, such as the China Coast Guard, and protect China's sovereignty, security, rights and interests. However, the MPL could have significant consequences, given China's expansive claims over maritime territories adjacent to its mainland and in the South China Sea. This broad application of maritime law enforcement jurisdiction is problematic because most of China's maritime claims are inconsistent with international law. If the MPL seeks to establish authority over foreign-flagged ships in contested regions or international waters, it violates international law. Many aspects of the MPL concerning the application of force also deviate from international regulations and norms governing maritime law enforcement jurisdiction, as well as the UN Charter's prohibition on the use or threat of force against the territorial integrity or political independence of any nation. There are concerns that China could use the MPL as a pretext to advance its illegal territorial and maritime claims in the South and East China Seas and interfere with coastal states' resource rights in their respective exclusive economic zones. The broad scope of the MPL and its potential inconsistencies with international laws and norms have raised concerns among other nations, particularly those with maritime disputes with China in the region.

V. The Industry in the EEZ

As we move into 2024, the maritime industry continues to navigate through challenges influenced by recent geopolitical events and tensions. The year 2023 was marked by significant developments that have reshaped shipping operations and risk profiles. One major event was the expiration of the Black Sea grain initiative, coupled with Russia's declaration that shipping activities would be considered legitimate targets. Consequently, grain shipments from the region have been greatly reduced, and the remaining shipments now follow a new western route from Ukraine through Romanian and Bulgarian territorial waters. However, hugging the coastline poses risks such as potential groundings, making this alternative route less than ideal. Additionally, the rise of the 'Dark Fleet' amidst Russian sanctions has led to the rerouting of shipping lanes and changes in maritime practices. Escalating geopolitical tensions have also manifested in attacks on maritime assets and the redirection of major shipping routes to avoid conflict zones, highlighting the increased risks and operational complexities the industry must navigate. These geopolitical crises have had a profound impact on shipping activities and will likely continue to shape the maritime landscape in the foreseeable future. The industry must adapt to these evolving challenges, reassessing risk factors, and implementing measures to ensure the safety and security of maritime operations.

From January 1st, 2024, the EU Emissions Trading System (EUETS) has been put in place for the shipping industry. Ship operators will need to purchase carbon credits on the EUETS if their ship calls at least one EU port. Initially, operators will need to buy credits reflecting 40% of the ship's emissions during the voyage, but this percentage will increase annually until 2027, when operators may need to purchase credits reflecting 100% of the ship's emissions for certain voyages. Additionally, at MEPC 80 previously, the International Maritime Organization (IMO) revised its targets for decarbonization, making them more stringent and decreasing the time limits/targets for achieving lower emissions. While this change is positive for addressing climate change, it presents another challenge for the shipping industry, compounding the challenges it already faced previously. The updated IMO GHG Strategy incorporates a strengthened collective aspiration to achieve net-zero greenhouse gas (GHG) emissions from international shipping by approximately 2050. It commits to promoting the adoption of alternative zero and near-zero GHG fuels by 2030, along with providing indicative milestones for 2030 and 2040. These developments introduce significant changes for the shipping industry, requiring operators to comply with stricter emissions regulations and potentially incur additional costs associated with purchasing carbon credits and adopting alternative fuels. However, these measures are deemed necessary to address the industry's contribution to climate change and align with global efforts to reduce greenhouse gas emissions.

Maritime boundary disagreements and territorial disputes in the Indian Ocean region underscore the complexities involved in maintaining stability and upholding international law. Disputes between India and Sri Lanka, India and Pakistan, and unresolved maritime claims between Myanmar and Bangladesh exemplify the challenges faced in delineating maritime boundaries and resolving territorial disputes in the Indian Ocean region. These disagreements often arise from historical grievances, competing territorial claims, and resource competition, further complicated by overlapping exclusive economic zones (EEZs) and continental shelf claims. In resolving these disputes, it is imperative to adhere to the principles of international law, including the United Nations Convention on the Law of the Sea (UNCLOS), which provides a comprehensive legal framework. UNCLOS establishes rules for delimiting maritime boundaries, determining EEZs and continental shelf rights, and the peaceful settlement of disputes through negotiation, mediation, or arbitration. Engaging in revanchism or irredentism, which entails attempting to reclaim or assert dominance over territories through historical or ethnic justifications, only worsens tensions and hampers endeavours to foster peace and stability in the area. Instead, all stakeholders must exhibit a dedication to dialogue, collaboration, and adherence to international law when resolving maritime boundary conflicts.

Engaging in constructive dialogue along with adhering to established legal mechanisms like UNCLOS, countries in the IOR can work towards beneficial solutions that uphold the rights and concerns of all parties while building trust, collaboration, and stability in the region. This strategy is vital for effectively managing maritime resources, promoting peace, and upholding the rule of law in the Indian Ocean area.

Currently, the marine insurance market in India is worth approximately Rs 9,500-10,000 crore and is growing at an annual rate of 20-25%. Among all products, cargo insurance is witnessing the highest uptick. Other marine insurance products include hull insurance, freight insurance, liability insurance, and offshore/energy insurance. India's top-insured cargoes include machinery, cotton, metals, crude oil, and liquid chemicals, followed by plastics, textiles, and various other commodities. Insurance providers note that government initiatives like 'Make in India' and 'Gatishakti' are motivating manufacturers of different sizes to acquire marine insurance. Additionally, there is growing demand from traders, ship/vessel owners, charterers, individual business proprietors, and even retail consumers who seek cargo coverage when relocating household belongings from one place to another. Within India's marine insurance policy framework, businesses have the option to insure individual transits or complete voyages from origin to destination. Additionally, they can select an annual open policy, providing coverage for all transits throughout the year.

On PolicyBazaar, annual open policies recorded a 42% growth in premiums in the previous years, with a 73% growth in tier-1 cities alone. Single-transit policy premiums have grown by 52%, and queries for such policies are also up by 60%. Major general insurance companies such as Bajaj Allianz, ICICI Lombard, Tata AIG, HDFC Ergo, Reliance General, Go Digit, Future Generali, Oriental Insurance, and New India Assurance, among others, provide marine insurance policies. Typically, the coverage amount varies from Rs 1 crore to Rs 100 crore, catering primarily to large corporations and e-commerce enterprises. Micro, Small, and Medium Enterprises (MSMEs) and individual purchasers can opt for lower coverage amounts ranging from Rs 5-25 lakh. Marine insurance policies can be customised for every cargo owner, transporter, and exporter. The premiums are determined based on factors such as the type and value of cargo, mode of transportation, routes and distance, level of risk involved, and whether the journey is undertaken within India or outside, through discussions between the insurer and the insured. Despite international sea trade bouncing back post-pandemic, India's cargo insurance demand is mostly driven by inland transfers via road, with Maharashtra, Gujarat, and Tamil Nadu recording the highest growth in policies sold.

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The growing demand for marine insurance in India is attributed to multiple factors, including increased maritime trade, growing awareness about the importance of marine insurance, government initiatives to promote domestic manufacturing and exports, and the digitization of insurance services. The COVID-19 pandemic also played a role in driving demand for marine insurance as businesses sought to protect their supply chains from disruptions caused by port closures, transportation delays, and other logistical challenges. As India continues to expand its maritime trade and modernise its ports and logistics infrastructure, the demand for marine insurance is expected to increase further in the coming years. This presents significant opportunities for insurance companies to expand their marine insurance business and develop innovative products to meet the evolving needs of their customers.

VI. Loopholes in Indian Maritime Laws and its impact

While India has made significant progress in developing its maritime legal framework, there are still several loopholes and deficiencies in the existing laws and regulations that need to be addressed. One of the main loopholes is the lack of comprehensive legislation governing maritime security and counter-terrorism measures. Although India has enacted several laws and regulations to combat piracy, terrorism, and other maritime threats, there is still a need for a comprehensive legal framework that addresses all aspects of maritime security.

Another loophole is the lack of clarity and consistency in the enforcement of maritime laws and regulations. While India has enacted several laws and regulations to regulate various aspects of maritime activities, there is often a lack of clarity and consistency in their enforcement, leading to confusion and uncertainty among stakeholders. For example, there is often confusion about which agency or authority is responsible for enforcing specific laws and regulations, leading to overlapping jurisdictions and conflicting interpretations.

There is also a lack of coordination and cooperation among different agencies and authorities responsible for maritime law enforcement. While India has established several agencies and authorities to regulate various aspects of maritime activities, there is often a lack of coordination and cooperation among them, leading to inefficiencies and gaps in enforcement. For example, there is often a lack of coordination between the Indian Navy, the Coast Guard, and other law enforcement agencies responsible for maritime security, leading to overlapping jurisdictions and conflicting priorities.

The loopholes and deficiencies in India's maritime laws have significant implications for the geopolitical scenario in its Exclusive Economic Zone (EEZ). India's EEZ is subject to various

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geopolitical dynamics and maritime disputes with neighbouring countries, which pose challenges to its sovereignty and territorial integrity. The lack of comprehensive legislation governing maritime security and counter-terrorism measures makes India vulnerable to maritime threats such as piracy, terrorism, and other maritime crimes.

The lack of clarity and consistency in the enforcement of maritime laws and regulations also undermines India's ability to effectively regulate and control its maritime domain, leading to inefficiencies and gaps in enforcement. This, in turn, weakens India's maritime security and exposes it to various threats and vulnerabilities.

The lack of coordination and cooperation among different agencies and authorities responsible for maritime law enforcement further exacerbates India's maritime security challenges, leading to overlapping jurisdictions, conflicting priorities, and inefficient use of resources.

These loopholes and deficiencies in India's maritime laws have significant implications for the country's geopolitical scenario in its EEZ, affecting its ability to effectively regulate and control its maritime domain and safeguard its maritime interests and security.

VII. Geopolitical Dynamics in India's Exclusive Economic Zone (EEZ)

India's Exclusive Economic Zone (EEZ) encompasses a vast maritime area of over two million square kilometres, extending up to 200 nautical miles from its coastline. The EEZ is rich in marine resources, including fish stocks, oil and gas reserves, and mineral deposits, making it an area of strategic importance for India's economic and security interests. However, India's EEZ is also subject to various geopolitical dynamics and maritime disputes with neighbouring countries, which pose challenges to its sovereignty and territorial integrity.

One of the most significant maritime disputes in the Indian Ocean region is between India and Sri Lanka over the maritime boundary in the Palk Bay and the Gulf of Mannar. The two countries have competing claims over the maritime boundary, which is rich in fish stocks and other marine resources. The dispute has led to tensions between the two countries and has resulted in incidents of illegal fishing and poaching by fishermen from both sides. India has also been involved in maritime disputes with other neighbouring countries, including Pakistan, Bangladesh, and Myanmar, over the delimitation of maritime boundaries and the exploitation of marine resources.

India's maritime disputes with neighbouring countries highlight the complexities involved in maintaining stability and upholding international law in the Indian Ocean region. These disputes are driven by a combination of historical grievances, competing territorial claims, and

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resource competition, which are further complicated by overlapping EEZs and continental shelf claims. In recent years, India has sought to address these disputes through peaceful means and by adhering to established legal principles, including the United Nations Convention on the Law of the Sea (UNCLOS). However, resolving these disputes remains a complex and challenging task, requiring a combination of diplomacy, legal expertise, and political will.

VIII. Conclusion

The Indian maritime industry plays a crucial role in supporting the country's economic growth and development by facilitating the movement of goods and commodities both domestically and internationally. The industry encompasses various sectors, including shipping, ports, shipbuilding, and maritime services, and is governed by a comprehensive legal and regulatory framework that includes both domestic laws and international conventions.

Maritime insurance is an integral part of India's maritime industry, providing financial protection against the risks and liabilities associated with shipping and maritime activities. The Indian maritime insurance industry is regulated by the Insurance Regulatory and Development Authority of India (IRDAI), which sets out guidelines and regulations governing the conduct of marine insurance business in the country. The accreditation of Russian insurance firms to offer marine insurance for tankers carrying cargo between Russia and India underscores the growing importance of international cooperation in the maritime insurance industry and highlights the role of reinsurance in supporting the expansion of marine insurance services.

India's Exclusive Economic Zone (EEZ) is subject to various geopolitical dynamics and maritime disputes with neighbouring countries, which pose challenges to its sovereignty and territorial integrity. However, India has sought to address these disputes through peaceful means and by adhering to established legal principles, including the United Nations Convention on the Law of the Sea (UNCLOS). By engaging in constructive dialogue and adhering to international law, India can work towards mutually beneficial solutions that uphold the rights and concerns of all parties while promoting peace, stability, and prosperity in the Indian Ocean region.

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