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SENATE

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Senate Bill No. 2043

Introduced by Senator Companera Pia S. Cayetano

EXPLANATORY NOTE

Sustainable development is a global trend that merits our serious consideration. Other countries have already started holding conferences, meetings and activities, with the World Summit on Sustainable Development in Johannesburg, South Africa as one of them. As a signatory of the Agreement on World Sustainable Development, the Philippines for its part conducted two multi-sectoral conferences discussing the Philippine Agenda for Sustainable Development for the 21st Century or PA 21.

In support thereof, an implementation of a sustainable marine development is important. Already endangered, the Apo Reef is the largest coral reef of the Philippines, home to 385 species of marine life, and nesting ground for migratory birds and other species of wildlife. It also holds an interesting submarine formation of coral walls and caves that attracts diving enthusiasts. Thus, there is a pressing need to safeguard this vital natural resource and treasure of the country.

This bill seeks to establish the Apo Reef Natural Park in the Municipality of Sablayan, Province of Occidental Mindoro and declare it as Protected Area. In view of the foregoing and in response to the call for sustainable development, the immediate approval of this bill is earnestly requested.

Pia S. Cayetano
SENATOR COMPANERA PIA S. CAYETANO

Control Points	CM	Latitude	Longitude	Northings (Metres)	Eastings (Metres)
1	123	12-46-14	120-27-00	1413043.227	223151.990
2	123	12-41-32	120-35-19	1404229.656	238121.888
3	123	12-34-20	123-30-16	1391042.803	228863.890
4	123	12-38-57	120-22-12	1399689.788	214399.441

2 Such Buffer Zones are established for the purpose of forming an extra layer of
3 protection for fishing ground from users of nearby sea-lanes, providing a belt around the
4 Protected Area.

5 **SEC. 5. *Definition of Terms.*** – The following terms are hereby defined for the
6 purpose of this Act:

7 a) *Accredited NGOs/POs* – shall refer to Non-Government Organizations and
8 People's Organizations that satisfactorily complied with the accreditation process
9 for Non-Government Organizations and People's Organizations by the
10 Sangguniang Bayan of Sablayan pursuant to Republic Act 7160 or the Local
11 Government Code of 1990;

12 b) *Department* – shall refer to the Department of Environment and Natural
13 Resources;

14 c) *Non-Renewable Resources* – shall refer to those resources found within the PA
15 and its buffer zones, the natural replenishment rate of which is either not known
16 or takes more than 25 years;

17 d) *Passive fishing gear* – any means of catching, gathering or collecting fish or
18 aquatic products that does not alter the capacity of the ecosystem to replenish
19 itself nor harm any protected species or the young of any species;

20 e) *Plan* – shall refer to the Protection and Conservation Plan;

21 f) *Protected Species* – any individual of the following species: manta ray, all species
22 of marine turtles, all species of whales and any species listed under the
23 Convention of International Trade of Endangered Species (CITES), or any plant
24 or animal that shall be declared as protected under the Philippine laws, rules and
25 regulations or the Protection and Conservation Plan herein provided for;

26 g) *Secretary* – shall refer to the Secretary of the Department of Environment and
27 Natural Resources.

28 **SEC. 6. *Protection and Conservation Plan.*** – The Protected Area
29 Superintendent shall prepare the Protection and Conservation Plan in coordination with
30 the appropriate offices of the DENR, local indigenous communities and NGO's. It shall
31 be reviewed and approved by the Protected Area Management Board (PAMB) and
32 certified by the Secretary. Such certification shall be mandatory to ensure that the plan

1 conforms to all laws and applicable rules and regulations of national application issued
2 by the DENR. The Secretary may revise and modify the Protection and Conservation
3 Plan, submitted for certification to make it conform to the laws and applicable regulations
4 after consultation with the PAMB.

5 Within one (1) year from the effectivity of this Act, a Protection and Conservation
6 Plan shall have been put into effect following the General Management Planning Strategy
7 provided for under Republic Act No. 7586 and according to the procedure herein set
8 forth. It shall contain, among others, the following:

9 (a) the category of the Protected Area

10 (b) period of applicability of the plan

11 (c) key management issue

12 (d) goals and objectives of management in support of Section 2 hereof

13 (e) site management strategy

14 (f) major management activities, such as, but not limited to enforcement of laws,
15 habitat and wildlife management, sustainable use management, infrastructure
16 development and maintenance, fire and pest control

17 (g) zoning

18 (h) visitor and management programs

19 The PASu shall prepare all successor plans. One year before the expiration of the
20 period of the applicability of the plan effect, the PASu shall cause publication of notices
21 for comments and suggestions on the next successor plan in a newspaper of local
22 circulation in the Municipality of Sablayan and the posting of such notices in the
23 provincial, municipal and barangay hall, in three other areas frequented by the public and
24 on Apo Island. Upon the written request of any interested party, public hearings may be
25 conducted on the successor plan. Such proposed plan shall be made available to the
26 public during the period for comment and a finalized plan shall be made available for
27 public perusal at the Office of PASu upon the approval of PAMB.

28 The zoning of the Protected Area shall give primary consideration to the
29 traditional zones that have been sustainably used by fishers for an appreciable length of
30 time unless such uses are deemed detrimental to biodiversity and protection of the natural
31 characteristics of the Protected Area.

32 The plan shall be in a language understandable in the area, plainly written and
33 available for perusal to the general public at the PASu Office.

34 **SEC. 7. Institutional Mechanisms.** – The following administrative and policy-
35 making mechanisms shall apply:

36

1 A. *The Protected Area Management Board.* – There shall be a Protected Area
2 Management Board which shall be the policy-making body of the Protected Area.
3 It shall be composed of:

- 4 1. The Provincial Environment and Natural Resources Officer as Chair;
- 5 2. The Provincial Planning and Development Officer;
- 6 3. One (1) representative from the Municipal Government of Sablayan to be
7 appointed by the Mayor;
- 8 4. The president of Association of Barangay Captain of Sablayan;
- 9 5. One (1) representative from other departments or national government
10 agencies directly involved in the Protected Area or with long term projects
11 or permanent facility located therein;
- 12 6. One (1) representative from the Land Bank of the Philippines, Sablayan
13 Branch to be appointed by the Branch Manager;
- 14 7. Two (2) representatives from accredited NGOs operating within Sablayan
15 chosen among themselves in a meeting duly called for the purpose;
- 16 8. Two (2) representatives from accredited POs operating within Sablayan
17 chosen among themselves in a meeting duly called for the purpose;
- 18 9. Three (3) representatives from the local indigenous communities chosen
19 among themselves in a meeting duly called for the purpose.

20 Every member of the PAMB shall serve for a term of five (5) years and shall be
21 considered to represent his or her sector deemed to carry the vote of such sector in all
22 matters. In case of members who are government official, the membership shall be
23 attached to the office held.

24 All members of PAMB, Secretariat and CENRO are allowed to claim
25 incentive/allowance in the amount of five hundred pesos (P500.00) while attending their
26 regular meetings chargeable to fund allocation for PAMB operations.

27 The PAMB of Apo Reef shall have the following powers and functions:

- 28 1. Decide matters relating to planning, resources protection and general
29 administration of the area in accordance with the approved protection and
30 conservation plan;
- 31 2. Approve proposals, work plans, action plans and guidelines for the management
32 of the Protected Area in accordance with the approved protection and
33 conservation plan;
- 34 3. delineate and demarcate Protected Area boundaries buffer zones, ancestral
35 domains, and recognize the rights and privileges of indigenous communities
36 under the provision of this Act;

- 1 4. Promulgate rules and regulations to promote development programs and projects
2 on biodiversity conservation and sustainable development consistent with the
3 Management Manual of the Protected Area;
- 4 5. Ensure the implementation of programs as prescribed in the Protection and
5 Conservation Plan in order to provide employment to the people dwelling in and
6 around the Protected Area;
- 7 6. control and regulate the construction, operation and maintenance of roads, trails,
8 waterworks, sewerage, fire protection and sanitation system and other public
9 utilities within the Protected Area;
- 10 7. Monitor and evaluate the performance of Protected Area personnel, NGOs and the
11 communities in providing for biodiversity conservation and socio-cultural and
12 economic development and report their assessments to the NIPAS Policy and
13 Program Steering Committee and the IPAF Governing Board.

14 *The DENR, through the Regional Executive Director (RED), shall exercise*
15 *authority to oversee the PAMB to ensure that it is acting within the scope of its powers*
16 *and functions. In case of a contradiction between administrative orders issued by the*
17 *DENR pursuant to Republic Act No. 7586 for national application and the rules and*
18 *regulations issued by PAMB, the PAMB shall notify the Secretary of the DENR who*
19 *shall decide whether to apply the rule or withdraw its application.*

20 B. *The Protected Area Superintendent (PASu).* – There shall be a Protected Area
21 Superintendent appointed by the DENR, who shall serve as the chief operating
22 officer of the Protected Area. The PASu shall have the following powers and
23 functions:

- 24 1. Prepare the Protection and Conservation Plan and successor plans as
25 herein provided and execute it;
- 26 2. Serve as the Secretariat for the PAMB with the duty to provide the PAMB
27 with all the information necessary for it to make appropriate decision
28 when necessary;
- 29 3. Hire and supervise the necessary personnel to support operations as the
30 budget made available by the PAMB may allow;
- 31 4. Establish productive partnership with the local community including
32 groups interested in the achievement of the goals and objectives of the
33 Protected Area, and in the planning, protection and management thereof;
- 34 5. Develop and implement a park information, education and visitor
35 program;
- 36 6. Enforce laws, rules and regulations relevant to the Protected Area and
37 assist in the prosecution of offenses;

1 7. Supervise all activities with the Protected Area for conformity with the
2 Protection and Conservation Plan;

3 8. Perform such other functions as the PAMB may assign.

4 **SEC. 8. Administration and Mangement.** – The Apo Reef Protected Area is
5 hereby placed under the control and administration of the DENR through the Protected
6 Area Management Board. For this purpose, there is hereby created a Protected Area
7 Office which shall be equipped with necessary personnel, as follows:

8 One (1) Protected Area Superintendent (PASu)

9 One (1) Assistant PA Superintendent

10 **Technical Staff:**

11 One (1) Senior Ecosystem Management System Specialist

12 Two (2) Ecosystem Management Specialist II

13 One (1) Community Development Officer II

14 Two (2) Ecosystem Management Specialist I

15 Three (3) Community Development Officer I

16 One (1) Project Development Officer I

17 **Administrative Staff:**

18 One (1) Administrative Officer II

19 One (1) Records Officer

20 One (1) Property Custodian

21 One (1) Clerk III

22 Two (2) Clerk II

23 One (1) Driver

24 Two (2) Utility Man

25 **Finance Staff:**

26 One (1) Accountant

27 One (1) Cashier I

28 One (1) Bookkeeper

29 Two (2) Accounting Clerk

30 **Field Staff:**

31 Ten (10) Park Rangers

32 Four (4) Boatswain

33 Four (4) Boatman

34 **SEC. 9. Seasonal Fishing Rights.** – Fishers who migrate Apo Reef seasonally
35 for traditional fishing and other activities that have benign impact on the sustainability
36 and biodiversity of the reef shall be allowed to continue such activities provided that
37 commission of any of the prohibited acts herein or failure to report such acts when
38 observed shall cause the cancellation of such rights.

1 **SEC. 10. Prohibited Acts. –**

2 A. The Penalties in Article 309 and 310 of the Revised Penal Code depending
3 on the value of the resources take, damaged or destroyed shall be imposed
4 upon any person who:

- 5 i. Hunts, destroys, collects, disturbs or possesses anywhere
6 within the Apo Reef Protected Area any plants or animals,
7 sand, coral, rocks or products derived therefrom without a
8 Protected Area permit, with the exception of fish and aquatic
9 products caught through passive fishing gear;
- 10 ii. Possesses outside the Protected Area any wild plants or
11 animals or products derived therefrom which came from the
12 Protected Area;
- 13 iii. Explores or extracts mineral within the Protected Area;
- 14 iv. Fishes within the Protected Area through the use of
15 explosives, noxious substances, electricity or nets below
16 three (3) centimeters in size from knot to knot when
17 stretched, or by any other means except with the use of
18 passive fishing gear provided that the PAMB may take rules
19 and regulations to regulate, restrict or prohibit other activities
20 that may cause reef destruction or damage, including, but not
21 limited to reef gleaning and drift netting;

22 Valuation of the damage shall take into account biodiversity and conservation
23 considerations as well as aesthetic and scenic value.

24 B. A fine of not less than five thousand pesos (P5,000.00) but not more than
25 one hundred thousand pesos (P100,000.00) and/or imprisonment of not
26 less than one (1) year nor more than three (3) years and the restoration and
27 rehabilitation of the damages shall be imposed upon any person:

- 28 i. Hunts, collects, removes or destroys any endangered or
29 protected species;
- 30 ii. Drops anchor within the Protected Area except in the
31 designated sites or where there is a danger to life or property
32 which necessitates such act;
- 33 iii. Knowingly destroys or causes damage to any coral or other
34 non-living marine resources;
- 35 iv. Throws, dumps or causes to be dumped into the sea within
36 the Protected Area any non-biodegradable material or other
37 substance deleterious to marine life;
- 38

- 1 v. Fishes anywhere within the Protected Area without license.
2 Anyone intending to fish within the waters of the Protected
3 Area shall register his/her license with the PAMB. Failure to
4 so register his/her license constitutes a presumption of a lack
5 thereof.
- 6 C. A fine of not less than one hundred thousand pesos (P100,000.00) but not
7 more than five hundred thousand pesos (P500,000.00) and/or
8 imprisonment from three (3) years to five (5) years shall be imposed upon
9 any person who:
- 10 i. Violates any rules and regulations in the protection and
11 conservation plan by the PAMB or agreements reached
12 before the PAMB in its exercise of adjudicative functions;
- 13 ii. Erects any permanent structure on land or on water for any
14 purpose outside the Protection and Conservation Plan,
15 provided that permanent structures intended for marine safety
16 and determined to be urgently necessary before the next
17 Protection and Conservation Plan shall have taken effect
18 shall be exempted from this prohibitions;
- 19 iii. Possesses or deals in ammonium nitrate or cyanide within the
20 Protected Area.
- 21 D. A fine not less than five thousand pesos (P5,000.00) nor more than five
22 hundred thousand pesos (P500,000.00) and/or imprisonment of not less
23 than one (1) year but not more than five (5) years shall be imposed upon:
- 24 i. Any person who shall induce another or conspire to commit
25 any of the above acts or suffer their workers to commit any
26 of the above acts shall be liable in the same manner as the
27 one actually performing the act;
- 28 ii. Any person who shall evade responsibility for criminal acts
29 by disguising a vessel or hiding its registered name or
30 registering a vessel twice under different names. The act of
31 disguising a vessel or hiding its registered name or
32 registering a vessel twice under different names shall give
33 rise to disputable presumption that it was committed with the
34 knowledge of the owner and with intent to evade
35 responsibility for criminal acts.

36 **SEC. 11. *Special Prosecutors.*** – Within thirty (30) days from the effectivity of
37 this Act, the Department of Justice shall appoint a special prosecutor to whom all cases of
38 violation laws, rules and regulations in the PA shall be assigned. Such special prosecutor

1 shall coordinate with the PAMB and the PASu in the performance of his/her duties and
2 assist in the training of the Task Force Save Apo Reef and other wardens and rangers in
3 arrest and criminal procedure. Whenever resources of the PAMB would allow, special
4 private prosecutors may be appointed to act under the control and supervision of the
5 prosecutor.

6 **SEC. 12. Local Government Units.** – The Municipality of Sablayan, all its
7 coastal barangays and the provincial government of Occidental Mindoro shall participate
8 in the management of the Apo Reef Protected Area through representation in the PAMB
9 as provided for under Section 7 hereof.

10 **SEC. 13. Integrated Protected Area Funds.** – The following shall constitute part
11 of the Integrated Protected Area Funds and shall be subject to the rules thereon from the
12 moment they accrue:

13 (a) Taxes from the permitted use or collection of resources from Protected Areas
14 with the exception of taxes already collected by the local government on such
15 resources at the time of the passage of this Act;

16 (b) Contribution from industries and facilities directly benefiting from the
17 Protected Area;

18 (c) Such other fees and incomes derived from the operation of the Protected Area.

19 The PAMB shall have the power to disburse the IPAF: *Provided*, That a share of
20 twenty five percent (25%) shall be provided for the use of the national government for
21 the support of the National Protected Areas System: *Provided, further*, That the PAMB
22 shall honor conditions attached to donations.

23 **SEC. 14. Utilization of Non-renewable Resources.** – Any exploitation for,
24 exploitation or utilization of non-renewable resources within the Protected Area shall not
25 be allowed. Energy projects, whether renewable or otherwise, shall be permitted only
26 through an Act of Congress, provided that exploitation of renewable energy up to three
27 (3) megawatts capacity shall be exempt from such requirement.

28 **SEC. 15. Appropriation.** – For the purpose of this Act there is hereby
29 appropriated the amount of Ten million pesos (P10,000,000.00) for the first three (3)
30 years of operation after which the IPAF should support PA activities without prejudice to
31 the possibility of annual appropriations as may be required.

32 **SEC. 16. Construction.** – The provision of this Act shall be construed liberally in
33 favor of tenured migrants and indigenous cultural communities and with due
34 consideration to the protection of biodiversity. Republic Act No. 7586 shall have
35 suppletory effect in the implementation of this Act.

36 **SEC. 17. Repealing Clause.** – For the purpose of this Act. Sections 11, 15, 20
37 and 21 of Republic Act No. 7586 are hereby modified. All other laws, rules and
38 regulations inconsistent with the act are hereby repealed or modified accordingly. The

1 prohibition and penalties under Republic Act No. 7586 are hereby superseded for the
2 entire area covered by this Act.

3 **SEC. 18. *Separability Clause.*** – The provisions of this Act are hereby declared
4 to be separable, and in the event one or more of such provisions are held unconstitutional,
5 the validity of other provisions shall not be affected thereby.

6 **SEC. 19. *Effectivity Clause.*** – This Act shall be translated in English and
7 Filipino, within thirty (30) days from the date of approval hereof. It shall be published
8 once a week for three (3) consecutive weeks in a newspaper of general circulation readily
9 available in the areas in and around the score specified herein. It shall likewise be
10 conspicuously posted simultaneously in the provincial, municipal and barangay halls
11 within the area as well as in three (3) other places frequented by the public. Fifteen (15)
12 days after the last publication and posting, this Act shall have full force and effect.

13 Approved,