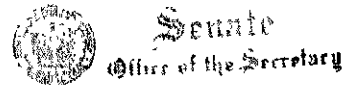


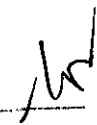
SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



'15 JUN 23 P5:01

SENATE

S. B. No. 2850

RECEIVED BY: 

Introduced by SENATOR SONNY M. ANGARA

AN ACT PREVENTING AND CONTROLLING POLLUTION FROM SHIPS AND PROVIDING PENALTIES THEREFOR

EXPLANATORY NOTE

The Philippines has one of the longest coastlines in the world at nearly 40,000 kilometers. It is a known source of goods—fish, oil, gas, minerals, salt, construction materials—jobs, and other sources of livelihood. Indeed, our coastal and marine ecosystems, which are estimated to contribute around 60 percent of the country's gross domestic product, play an important role in our socio-economic development.

Given our dependence on marine resources, the United Nations have warned of the ever-increasing marine pollution loads from maritime and land-based activities, which could result in huge economic losses for countries like the Philippines. It could mean a decline in the quality of fish for food and loss of jobs for millions of Filipino fishermen and their families.

Among the leading causes of massive marine pollution and damage are sub-standard ships and poor shipping practices which include release of oil and chemicals through accidental spills and operational discharges, release of biocides from toxic chemicals, dumping of waste such as garbage and sewage, among others.

To reduce the impact of marine pollution to our ecosystems, this bill seeks to prevent and control pollution sourced from ships by enacting a national legislation that would implement International Convention for the Prevention of Pollution from Ships of 1973, as modified by the Protocol of 1978 relating thereto, otherwise known as MARPOL 73/78, to which the Philippines is a signatory.

This proposed "Prevention of Pollution from Ships Act" seeks to strengthen and complement the enforcement of existing laws to better prevent or minimize marine pollution covering oily substances, harmful and toxic substances, garbage, sewage and other pollutants from ships and floating structures. It further seeks to harmonize institutional arrangements concerning marine pollution, and streamline the jurisdiction, responsibilities and functions of the Department of Transportation and Communication (DOTC), the Philippine Coast Guard (PCG), the Maritime Industry Authority (MARINA) and Philippine Ports Authority (PPA).

In view of the foregoing, the immediate enactment of this measure is earnestly sought.



SENATOR SONNY M. ANGARA

SIXTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
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Introduced by SENATOR SONNY ANGARA

**AN ACT PREVENTING AND CONTROLLING POLLUTION FROM SHIPS AND PROVIDING
PENALTIES THEREFOR**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress
assembled:*

1 CHAPTER 1

2 GENERAL PROVISIONS

3 SECTION 1. *Short Title.* – This Act shall be known as the “Prevention of Pollution from
4 Ships Act”.

5 SEC. 2. *Declaration of Policy.* – In pursuit of the constitutional mandate to protect and
6 advance the right of the people to a balanced and healthful ecology in accord with the rhythm and
7 harmony of nature, the State shall prevent and control pollution resulting from the operations of
8 ships.

9 It shall likewise implement the Convention as herein defined, including its amendments and
10 protocols that have been ratified by the Philippines.

11 SEC. 3. *Definition of Terms.* – As used in this Act:

12 (a) *Atmospheric discharges or emissions from ships* refer to any discharge or emission of
13 nitrogen oxides, sulfur oxides, volatile organic compounds and other ozone depleting substances
14 when the discharges do not meet the requirements of the Convention;

15 (b) *Chemical tanker* refers to a ship constructed or adapted for the carriage in bulk of any
16 liquid product listed in the International Bulk Chemical Code or any noxious liquid substance;

17 (c) *Coastal state* refers to the relationship of the Philippines to a foreign-flagged vessel
18 traversing Philippine waters and its corollary right to exercise jurisdiction and regulatory control
19 over the vessel;

20 (d) *Convention* refers to:

21 (1) The International Convention for the Prevention of Pollution from Ships 1973, as
22 amended by the Protocol of 1978 or MARPOL 73/78;

23 (2) Protocol I and II of MARPOL 73/78;

1 (3) Annexes I, II, III, IV, V and VI, their relevant appendices, any technical code referred to,
2 as well as any amendment to any of these documents which may enter into force in accordance
3 with the procedure referred to in Article 16 of MARPOL 73/78;

4 (4) Any subsequent protocol of and amendment to the Convention which the Philippine
5 Government may ratify necessary to advance the purposes of this Act; and

6 (5) Any mandatory Code referred to in the Convention or any subsequent protocol to the
7 Convention which the Philippine Government may ratify or any amendment which may enter into
8 force in accordance with Article 16 of the Convention;

9 (e) *Discharge* refers to any release, however caused, of harmful substances from a ship,
10 including any escape, disposal, spilling, leaking, pumping, emitting or emptying of the substances,
11 except:

12 (1) Release of harmful substances directly arising from the exploration, exploitation and
13 associated off-shore processing of sea-bed mineral resources; or

14 (2) Release of harmful substances for purposes of legitimate scientific research on pollution
15 abatement or control;

16 (f) *Dirty ballast* refers to water carried in the cargo tank;

17 (g) *Flag state* refers to the relationship of the Philippines to vessels registered under its flag
18 and the corollary right to exercise jurisdiction and regulatory control over these vessels;

19 (h) *Foreign-flagged ship* refers to any ship registered in another State or authorized to fly its
20 flag, whether or not it is a State party to MARPOL 73/78, when found in any of the ports, terminal
21 facilities or waters within the jurisdiction or sovereignty of the Philippines;

22 (i) *Garbage* refers to all kinds of victuals, domestic and operational wastes, excluding fresh
23 fish and parts thereof, generated during the normal operation of the ship and liable to be disposed
24 of continuously or periodically;

25 (j) *Harmful substance in packaged form* refers to those substances which are identified as
26 marine pollutants in the International Maritime Dangerous Goods (IMDG) Code and are held in
27 forms of containment specified for harmful substances in the IMDG Code. Other harmful
28 substances in package form shall include substances identified in accordance with the following
29 criteria as provided in the Convention:

30 (1) Those which are bio-accumulated to a significant extent and known to produce a hazard
31 to aquatic life or to human health; or

32 (2) Those which are bio-accumulated with attendant risk to aquatic organisms or to human
33 health with a short retention of the order of one (1) week or less; or

34 (3) Those which are highly toxic to aquatic life;

35 (k) *Incident* refers to an event involving the actual or probable discharge into the sea, or
36 emission into the atmosphere, of a harmful substance or effluents containing such a substance;

37 (l) *Marine casualty* refers to any accident or incident of navigation which results in producing
38 a harmful, deleterious or damaging effect upon the marine environment;

- 1 (m) *Master* refers to any person having command or charge of any ship, including a boat
2 captain;
- 3 (n) *Noxious liquid substance* refers to any substance identified as such under the relevant
4 chapter of the International Bulk Chemical Code and/or provisionally assessed as such by Annex II
5 of the Convention;
- 6 (o) *Oil* refers to petroleum in any form including crude oil, fuel oil, sludge, oil refuse and
7 refined products, other than petrochemicals which are classified as noxious liquid substances in
8 accordance with Annex II of the Convention, and including substances listed under Annex I of the
9 Convention;
- 10 (p) *Oily mixture* refers to a mixture with any oil content;
- 11 (q) *Oil tanker* refers to a ship constructed or adapted primarily to carry oil in bulk in its cargo
12 spaces and includes combination carriers or any other tanker when it is carrying cargo or part
13 cargo of oil in bulk;
- 14 (r) *Other harmful substance* refers to any substance other than oil, noxious liquid
15 substances, harmful substances in package form, garbage, and sewage, which, if introduced into
16 the sea, is liable to create hazards to human health, harm living resources and marine life, damage
17 amenities or to interfere with other legitimate uses of the sea, and includes atmospheric discharges
18 and other substances identified as marine pollutants in the Convention, which may be subject to
19 control pursuant to the provisions of this Act and other relevant environmental laws of the
20 Philippines;
- 21 (s) *Owner* refers to the person registered as the owner of the ship or who assumes the
22 operation of the ship, or, in the absence of registration, the person owning the ship or the bareboat
23 charterer of the ship, and, in the case of a ship owned by a State and operated by a company
24 which in that State is registered as the ship's operator, "owner" shall include State;
- 25 (t) *Philippine ship* refers to any ship registered under the laws of the Philippines and entitled
26 to fly its flag wherever the ship may be;
- 27 (u) *Philippine waters* refer to the internal waters, archipelagic waters, territorial seas, waters
28 within the contiguous and exclusive economic zones;
- 29 (v) *Port state* refers to the relationship of the Philippines to a foreign-flagged vessel which
30 may be found in any of its ports, terminal facilities or harbors and its corollary right to exercise
31 jurisdiction and regulatory control over the vessel;
- 32 (w) *Sewage* refers to:
- 33 (1) Drainage and other wastes from any form of toilets and urinals;
- 34 (2) Drainage from medical premises including dispensary and sick bay through wash basins,
35 wash tubs and scuppers located in the premises;
- 36 (3) Drainage from spaces containing living animals; or
- 37 (4) Other waste waters when mixed with the drainages defined above;

1 (x) *Ship* refers to a vessel of any type operating in the marine environment and includes
2 pleasure crafts, fishing vessels, hydrofoil boats, air-cushion vehicles, submersibles, floating
3 crafts, drilling rigs and fixed or floating platforms; and

4 (y) *Undue delay* refers to a delay that is unreasonable and unnecessary in light of the
5 particular conditions of the ship, the ship's cargo, destination and schedule, and in light of the
6 purpose and scope of the investigation, inspection or other cause for detaining the ship.

7 CHAPTER 2

8 SCOPE AND APPLICATION

9 SEC. 4. *Scope and Application of this Act.* – Unless otherwise specified herein, this Act
10 shall apply to:

11 (a) All Philippine ships, wherever they may be;

12 (b) All foreign-flagged ships in Philippine waters, whether or not they are registered with
13 State parties to the Convention; and

14 (c) All other ships operating within Philippine waters: *Provided*, That the provisions of the
15 Convention setting forth technical requirements that ships must meet which are inapplicable or
16 impractical in Philippine local setting may be suspended or equivalents prescribed therefor upon
17 determination by the Department of Transportation and Communications (DOTC), subject to public
18 consultation: *Provided, further*, That nothing herein shall prevent the enactment of any law
19 providing for standards, requirements, or regulations higher than those provided for by the
20 Convention.

21 SEC. 5. *Exemptions.* – This Act shall not apply to warships, naval auxiliary ships, and
22 man-of-war vessels: *Provided*, That all government or noncommercial ships shall be exempted
23 from the coverage of this Act during emergency response cases: *Provided, however*, That the
24 DOTC, through the Maritime Industry Authority (MARINA), the Philippine Coast Guard (PCG), the
25 Philippine Ports Authority (PPA), and other concerned agencies, shall adopt appropriate measures
26 that will ensure that these ships operate, so far as is reasonable and practicable, in a manner
27 consistent with this Act: *Provided, finally*, That the measures will not impair the operational
28 capabilities of these ships.

29

1 CHAPTER 3

2 EXERCISE OF JURISDICTION OVER SHIPS

3 SEC. 6. *Powers and Functions of the Department of Transportation and Communications*
4 *(DOTC)*. – The DOTC shall be the principal government agency responsible for the overall
5 implementation and enforcement of this Act and any requirement of the Convention. For this
6 purpose, the Secretary of the DOTC shall exercise the following general powers and functions:

7 (a) Oversee the implementation of this Act and coordinate the efforts of concerned agencies;

8 (b) *Formulate a comprehensive program to prevent or minimize marine pollution from ships*
9 in coordination with the Department of Environment and Natural Resources (DENR), the
10 Department of Agriculture (DA), the Department of the Interior and Local Government (DILG), the
11 Department of Energy (DOE), port authorities and other relevant agencies and stakeholders;

12 (c) Constitute the Marine Pollution Adjudication Board (MPAB);

13 (d) Reorganize or streamline the functions of its different line, staff, and attached or bureaus,
14 authorities, or agencies for purposes of the effective and efficient implementation of the provisions
15 of this Act; and

16 (e) Exercise powers and perform other functions as may be necessary to carry out its duties
17 and responsibilities under this Act.

18 SEC. 7. *Powers and Functions of the Maritime Industry Authority (MARINA)*. – The
19 MARINA shall have the sole and exclusive authority and responsibility to ensure that
20 environmental and pollution regulations and standards for the construction and equipment of
21 Philippine vessels, before they are allowed to fly the Philippine flag, and/or as part of their
22 registration, are complied with. For this purpose, the MARINA shall have the following duties and
23 functions:

24 (a) Ensure that all Philippine ships are constructed and equipped with any fitting, material,
25 appliance or apparatus deemed appropriate and effective for the prevention of any discharge or
26 emission of harmful substances in consonance with the requirements of the Convention;

27 (b) Survey all Philippine ships for purposes of the provisions of the immediately preceding
28 paragraph, which function may be delegated to MARINA-recognized organizations through a
29 deputation process to be formulated pursuant to this Act: *Provided, That, except for direct*
30 *replacement, no change in the ship's structure, equipment, fittings, arrangements and materials*
31 *shall be made without the approval of the MARINA;*

32 (c) Issue the required statutory certificates to all Philippine ships;

33 (d) Review and revise, whenever appropriate, the existing system of certification, survey,
34 inspection and monitoring of ships, with respect to pollution prevention to ensure efficiency and
35 transparency, consistent with the overall management of the maritime sector and in accordance
36 with the requirements of the Convention;

1 (e) Conduct surveys and issue certificates or endorsements to foreign ships registered with
2 another State party, if so requested by a State which is a party to the Convention;

3 (f) Require ships to keep and maintain relevant record books in accordance with the
4 Convention;

5 (g) Suspend, withdraw or revoke any certificate it may have issued to any Philippine ship
6 found not compliant with this Act and with rules and regulations promulgated therefor;

7 (h) Accredite, appoint and authorize recognized organizations to act on its behalf and, for this
8 purpose, execute the requisite memorandum of agreement defining the extent of powers that may
9 be exercised by the recognized organizations including the following:

10 (1) Perform and conduct statutory surveys on Philippine ships;

11 (2) Require repairs on a Philippine ship pursuant to findings resulting from port state
12 inspection;

13 (3) Carry out surveys requested by port state authorities; and

14 (4) Withdraw any statutory certificates if appropriate corrective action is not taken by the
15 Philippine ships;

16 (i) Provide the International Maritime Organization (IMO) with a list of recognized
17 organizations authorized to act on behalf of the Philippines, together with the specific
18 responsibilities they are empowered to perform and the conditions of the authority delegated to
19 them;

20 (j) Impose, fix, collect and receive, in accordance with the duly approved schedules, fees
21 necessary for the survey and certification of ships pursuant to this section. The fees shall be
22 imposed and collected in order to recover the cost for rendering the service and shall not be used
23 in order to impose a penalty: *Provided*, That excessive fees, multiple fees and duplicative fees
24 shall at all times be avoided;

25 (k) Issue rules and regulations necessary to implement the provisions of this section:
26 *Provided*, That the rules and regulations shall be in consonance with the Convention and shall not
27 change or in any way amend or be contrary to the intent and purposes of this Act;

28 (l) Provide its officers and personnel with adequate training and continuing education to
29 ensure an efficient and professional pollution regulatory machinery;

30 (m) Impose and collect fees and charges in connection with the performance of its functions
31 under this section, which fees and charges shall accrue to the Marine Environmental Management
32 Fund (MEMF) established under Section 42 of this Act: *Provided*, That the fees shall be imposed
33 and collected in order to recover the cost for rendering the service and shall not be used in order to
34 impose a penalty: *Provided, further*, That excessive fees, multiple fees and duplicative fees shall at
35 all times be avoided;

36 (n) Hear, adjudicate and impose such fines and penalties on Philippine ships which shall fail
37 to comply with the rules and regulations issued pursuant to this section; and

38 (o) Exercise powers and perform other functions as may be necessary to carry out its duties
39 and responsibilities under this Act.

1 SEC. 8. *Powers and Functions of the Philippine Coast Guard.* – Unless otherwise provided
2 under Section 9 of this Act, the Philippine Coast Guard (PCG) shall have the sole and exclusive
3 authority and responsibility to enforce environmental and pollution regulations and standards to all
4 ships which may be operating within Philippine waters, or in ports, terminal facilities or harbors. It
5 shall include the authority to board and inspect ships to ensure compliance with such regulations
6 and standards.

7 For this purpose, the PCG shall have the following duties and functions:

8 (a) Ensure that all ships are operated and certificated in accordance with the requirements of
9 the Convention;

10 (b) Inspect the certificates and record books required of any ship pursuant to Section 12 of
11 this Act;

12 (c) Conduct a physical inspection of the ship if there should be clear grounds for believing
13 that the condition of the ship or its equipment does not correspond substantially with what is stated
14 in the ship's certificates;

15 (d) Investigate any complaint involving the alleged violation of the Convention committed by a
16 ship regardless of source of the complaint or the location of the violation and request the
17 *submission of evidence which the complainant may have regarding the alleged violation*;

18 (e) Request the assistance of any other State whose cooperation may be useful to the
19 investigation against a ship;

20 (f) Detain a ship pursuant to Section 16 of this Act;

21 (g) Require a ship to proceed to the nearest repair yard and ensure that the ship does not
22 leave until it can proceed to sea without posing an unreasonable threat or harm to the marine
23 environment;

24 (h) Initiate proceedings against any person for violation of this Act when sufficient evidence
25 exists with respect to the alleged violation;

26 (i) Inform the complainant and the IMO of the results of the investigation and any action
27 taken against the ship operator of the Philippine ship in respect of any alleged violation;

28 (j) Deny entry of a foreign-flagged ship to any Philippine port or terminal facility if it fails to
29 comply with the requirements of the Convention;

30 (k) Coordinate with, and inform, the diplomatic representative of the State, or the flag state
31 administration, of any violation of the foreign ship and any action taken against the ship;

32 (l) Inspect, verify and investigate a ship if it has discharged any harmful substance into the
33 marine environment under any of the following circumstances:

34 (1) It has reasonable grounds to believe that a discharge has occurred in Philippine waters;

35 (2) It receives a report from another coastal state; or

36 (3) It receives a request from the flag state;

1 (m) Forward the report of any violation committed by the ship, with respect to any discharge
2 of harmful substances into the marine environment, to the ship's flag state administration, together
3 with any evidence it may have;

4 (n) Immediately inform any affected coastal state of the discharge;

5 (o) Ensure that the ship is not unduly delayed or detained;

6 (p) Order into port any ship found in the territorial seas if there are clear grounds to believe
7 that the ship has discharged harmful substances into the marine environment;

8 (q) Establish procedures for reporting incidents involving any actual or probable discharge or
9 emission which may be in violation of this Act and of the requirement of the Convention consistent
10 with the reporting requirements under this Act;

11 (r) Require all ships and aircrafts registered under the Philippine flag to immediately report
12 any marine casualty witnessed while navigating;

13 (s) Upon inquiry or investigation, cause or recommend regulatory or other appropriate
14 actions to be taken in connection with any violation of the provisions of this Act;

15 (t) Cooperate with the government of other States which are members of international
16 organizations on the prevention of pollution from ships concerning the detection of violations and
17 enforcement of this Act using all appropriate and practicable measures of detection and
18 environmental monitoring, adequate procedures for reporting and accumulation of evidence;

19 (u) Provide its officers and personnel with adequate training and continuing education to
20 ensure an efficient and professional pollution regulatory machinery;

21 (v) Adopt a continuing information campaign on marine resources protection aimed at
22 developing public awareness of the health hazards and other adverse effects of ship pollution;

23 (w) Administer the MEMF;

24 (x) Issue such rules and regulations necessary to implement the provisions of this Act:
25 *Provided, That the rules and regulations shall be in consonance with the Convention and shall not*
26 *change or in any way amend or be contrary to the intent and purposes of this Act; and*

27 (y) Exercise powers and perform other functions as may be necessary to carry out its duties
28 and responsibilities under this Act.

29 *SEC. 9. Role of the Department of Environment and Natural Resources (DENR).* – For
30 purposes of this Act, the DENR shall have the following powers and functions:

31 (a) Provide technical assistance on pollution prevention to the concerned government
32 agencies in the implementation of this Act;

33 (b) Establish guidelines for the identification of harmful substances in packaged form in
34 accordance with the guidelines and listings provided by the IMDG Code in coordination with the
35 PCG, PPA and other port authorities;

36 (c) Set effluent and emission standards for ships in accordance with the requirements of the
37 Convention;

1 (d) For floating crafts, drilling rigs and fixed or floating platforms, and vessels which primarily
2 operate or undertake business, commercial, or industrial activities while anchored, the DENR shall
3 enforce, in coordination with the PCG, the applicable provisions of Presidential Decree No. 1586,
4 otherwise known as the Environmental Impact Statement System law; Republic Act No. 8749,
5 otherwise known as the Philippine Clean Air Act of 1999; and Republic Act No. 9275, otherwise
6 known as the Philippine Clean Water Act of 2004; and

7 (e) Monitor, in coordination with the PCG, hazardous and radioactive wastes being
8 transported by ships in the country, and prevent the disposal thereof and/or the entry of ships
9 carrying the same.

10 CHAPTER 4

11 PREVENTION OF POLLUTION FROM SHIPS

12 SEC. 10. *Prohibition of Discharge or Emission of Harmful Substances.* – It shall be unlawful
13 for any person to discharge or emit the following substances from any Philippine ship, or from any
14 other ship while it is within Philippine waters:

- 15 (a) Oil, whether carried as cargo or as bunker;
- 16 (b) Oily mixture, whether generated from cargo operations or from machinery spaces;
- 17 (c) Noxious liquid substances carried in bulk;
- 18 (d) Harmful substances in packaged form;
- 19 (e) Sewage;
- 20 (f) Garbage; and
- 21 (g) Other harmful substances, whether generated during the operation of the ship or not.

22 The provisions of this section shall not apply in the following cases:

23 (1) The discharge or emission is necessary for the purpose of securing the safety of a ship
24 and those on board or saving life at sea; or

25 (2) The discharge results from unintentional damage to the ship or its equipment, and all
26 reasonable precautions have been taken after the occurrence of the damage or the discovery of
27 the discharge for the purpose of preventing or minimizing the discharge, unless the master, owner
28 or agent of the ship acted either with intent to cause damage or recklessly and with knowledge that
29 damage would probably result; or

30 (3) The discharge is for the purpose of combating specific pollution incidents in order to
31 minimize the damage from pollution.

32 For this purpose, the DOTC shall promulgate rules and regulations to implement the
33 immediately preceding paragraph as regards its application in general, or with respect to the
34 following considerations in consonance with the requirements of the Convention:

- 35 (i) Classes of ships;

1 (ii) Descriptions of harmful substances;

2 (iii) Disposal or discharge of these substances in prescribed circumstances; and

3 (iv) Areas of the sea.

4 SEC. 11. *Immediate Report of Discharges of Harmful Substances.* – If any actual or
5 probable discharge of any harmful substance occurs from any Philippine ship into any part of the
6 sea or atmosphere, the master shall immediately report the incident to the nearest affected coastal
7 state and to the DOTC.

8 If any actual or probable discharge of any harmful substance occurs from any Philippine ship
9 or foreign-flagged ship while it is operating in Philippine waters, the master of the ship shall
10 immediately report the incident to the PCG. The PCG shall immediately inform any affected coastal
11 state. If a foreign-flagged ship is involved, the PCG shall immediately inform the flag state of the
12 ship.

13 If the master of the ship fails to report the incident, or the discharge occurs in circumstances
14 where the ship has been abandoned, the owner, charterer, manager and operator of the ship, or
15 the agent of the owner, charterer, manager and operator of the ship shall, without delay, report the
16 incident to the DOTC.

17 SEC. 12. *Record Books.* – Philippine ships and all ships within Philippine waters shall
18 maintain on board record books in the English language, whether as part of their official logbook or
19 not. For this purpose:

20 (a) Every oil tanker which is one hundred fifty (150) gross tonnage or more and every ship,
21 other than an oil tanker which is four hundred (400) gross tonnage or more shall be provided with,
22 and shall be required to maintain, an Oil Report Book Part I for Machinery Space Operations in
23 accordance with the requirements of the Convention;

24 (b) Every oil tanker which is one hundred fifty (150) gross tonnage or more shall be provided
25 with, and shall be required to maintain, an Oil Record Book Part II for Cargo/Ballast Operations in
26 accordance with the requirements of the Convention;

27 (c) Every chemical tanker shall be provided with, and shall be required to maintain, a Cargo
28 Record Book in accordance with the requirements of the Convention; and

29 (d) Every ship which is four hundred (400) gross tonnage or more and every ship which is
30 certified to carry fifteen (15) persons or more shall be provided with, and shall be required to
31 maintain, a Shipboard Garbage Management Plan in accordance with the requirements of the
32 Convention.

33 SEC. 13. *Reception Facilities.* – Port authorities shall ensure that public and private
34 ports and terminal ports in the Philippines are appropriately and adequately provided with facilities
35 to meet the needs of ships for the reception of their oily residues, oily mixtures, dirty ballast, tank

1 washing water, noxious liquid substances, sewage, garbage, ozone depleting substances, and
2 equipment containing these substances, and for cleaning of exhaust gases in consonance with this
3 Act and the requirements of the Convention.

4 *For this purpose, port authorities shall:*

5 (a) Determine and establish the most effective and efficient means for meeting
6 internationally-accepted requirements with respect to reception facilities in public and private ports
7 without causing such ships undue delay;

8 (b) Formulate and implement an integrated waste management system for the use and
9 operation of reception and treatment facilities in coordination with the DENR and the PCG; and

10 (c) Coordinate with the DENR and concerned local government units (LGUs) on the proper
11 handling and disposal of wastes collected at ports.

12 *Port authorities may accredit or enter into agreements with private entities in relation to the*
13 *establishment and operation of reception and treatment facilities upon verification of compliance*
14 *with standards established for said facilities by the DENR and the PCG.*

15 *SEC. 14. Use of Reception Facilities. – All ships entering or availing the services of ports,*
16 *terminals and repair ports shall use reception facilities established pursuant to the immediately*
17 *preceding section, subject to the integrated waste management system to be established by port*
18 *authorities.*

19 *SEC. 15. Denial of Entry. – Should there be a probability that a foreign-flagged ship has*
20 *violated or may violate the requirements of this Act, or the rules and regulations promulgated*
21 *therefor, the ship may be denied entry to any port in the Philippines.*

22 *SEC. 16. Detention of Ships. – Ships shall be detained in any of the following cases:*

23 (a) The fine or fines imposed on ship, owner or operator of the ship pursuant to Chapter 5 of
24 this Act, except those imposed for violations of administrative regulations under Sections 27, 28
25 and 29 of this Act, have not been paid;

26 (b) The condition of the ship does not substantially correspond with what is stated in the
27 ship's certificates;

28 (c) The ship does not hold valid ship certificates; and

29 (d) There are reasonable or probable grounds to believe that:

30 (1) The ship incurred a pollution cost liability under Section 33 of this Act;

31 (2) The ship violated any of the requirements of this Act or rules and regulations promulgated
32 therefor; and

33 (3) The ship caused harm or damage or exhibited a reasonable environmental threat to the
34 marine environment.

1 A ship detained under paragraph (d) of this section may be released after the owner of the
2 ship posts with the MPAB, established under Section 35 of this Act, an adequate cash bond,
3 insurance guaranty or protection indemnity guaranty, or a combination thereof, as approved by the
4 MPAB, to cover the liability of the owner, master or agent of the ship under this Act.

5 CHAPTER 5

6 FINES, PENALTIES AND LIABILITIES

7 SEC. 17. *Imposition of Fines, Penalties and Liabilities.* – Except for fines and
8 penalties for violations of administrative regulations under Sections 27, 28 and 29 of this Act, all
9 fines and penalties imposed for violations of the provisions of this Chapter, or the Philippine Clean
10 Air Act and the Philippine Clean Water Act, whenever applicable, shall be imposed by the MPAB
11 established pursuant to Section 35 of this Act.

12 For this purpose, an appropriate fine rating system shall be established by the MPAB, taking
13 into consideration the degree of willfulness, negligence or recalcitrance of the master, owner or
14 operator of the ship, their history of noncompliance and the gravity of the damage caused by the
15 ship to the environment.

16 SEC. 18. *Discharge or Emission of Harmful Substances.* – A ship which is found to
17 have discharged or emitted harmful substances under Section 10 of this Act shall be liable to pay
18 the following fines:

19 (a) In the case of a Philippine ship, unless the discharge or emission is committed and
20 appropriately fined in other States' jurisdiction:

21 (1) For oil or oily mixture under paragraphs (a) and (b) of Section 10 of this Act – not less
22 than two hundred thousand pesos (Php200,000.00) but not more than ten million pesos
23 (Php10,000,000.00);

24 (2) For noxious liquid substances or harmful substances in packaged form under paragraphs
25 (c) and (d) of Section 10 of this Act – not less than two hundred thousand pesos (Php200,000.00)
26 but not more than ten million pesos (Php10,000,000.00);

27 (3) For sewage or garbage under paragraphs (e) and (f) of Section 10 of this Act – not less
28 than fifty thousand pesos (Php50,000.00) but not more than two million pesos (Php2,000,000.00);
29 and

30 (4) For other harmful substances as defined in this Act – not less than two hundred thousand
31 pesos (Php200,000.00) but not more than ten million pesos (Php10,000,000.00); and

32 (b) In the case of a foreign-flagged ship:

33 (1) For oil or oily mixture under paragraphs (a) and (b) of Section 10 of this Act – not less
34 than fifty thousand US dollars (US\$50,000) but not more than five million US dollars
35 (US\$5,000,000), or its equivalent in Philippine peso;

1 (2) For noxious liquid substances or harmful substances in packaged form under paragraphs
2 (c) and (d) of Section 10 of this Act – not less than fifty thousand US dollars (US\$50,000) but not
3 more than three million US dollars (US\$3,000,000), or its equivalent in Philippine peso;

4 (3) For sewage or garbage under paragraphs (e) and (f) of Section 10 of this Act – not less
5 than ten thousand US dollars (US\$10,000) but not more than one million US dollars
6 (US\$1,000,000), or its equivalent in Philippine peso; and

7 (4) For other harmful substances as defined in this Act – not less than fifty thousand US
8 dollars (US\$50,000) but not more than five million US dollars (US\$5,000,000), or its equivalent in
9 Philippine peso.

10 Any person directly or negligently responsible for the discharge or emission into Philippine
11 waters or atmosphere shall be liable for a fine of not less than five thousand pesos (Php5,000.00)
12 but not more than five million pesos (Php5,000,000.00) and, whenever appropriate, to the costs of
13 any measure reasonably taken in removing or eliminating the discharged or emitted substances.

14 Unless the fines and penalties established under the Environmental Impact Statement
15 System law, the Philippine Clean Air Act and the Philippine Clean Water Act are higher, the fines
16 set in this Act shall be imposed for floating crafts, drilling rigs and fixed or floating platforms, and
17 vessels which primarily operate or undertake business, commercial or industrial activities while
18 anchored.

19 SEC. 19. *Failure to Maintain Record Books.* – (a) A ship which operates or is allowed
20 to operate without record books required under Section 12 of this Act or fails to maintain said
21 record books on board shall be liable to pay a fine of two hundred thousand pesos
22 (Php200,000.00).

23 (b) Any person who fails to comply with the provisions of Section 12 of this Act or the rules
24 and regulations promulgated therefor shall be liable to pay a fine of not less than five thousand
25 pesos (Php5,000.00) but not more than two hundred thousand pesos (Php200,000.00).

26 (c) Any person who makes any false or misleading entry in the record books carried or kept
27 under Section 12 of this Act shall be liable to pay a fine of not less than ten thousand pesos
28 (Php10,000.00) but not more than five hundred thousand pesos (Php500,000.00).

29 SEC. 20. *Refusal to Use Reception Facilities.* – A ship which unjustifiably refuses to use
30 reception facilities shall be liable to pay a fine of not less than ten thousand pesos (Php10,000.00)
31 but not more than five hundred thousand pesos (Php500,000.00): *Provided,* That disposal of oil in
32 reception facilities shall be required upon determination by the PCG.

33 SEC. 21. *Absence of and Noncompliance with Shipboard Garbage Management.* – If a ship
34 operates without a shipboard garbage management plan as required under the Convention or fails
35 to operate in accordance with such plan, it shall be liable to pay a fine of not less than ten
36 thousand pesos (Php10,000.00) but not more than two hundred thousand pesos (Php200,000.00).

1 SEC. 22. *Unauthorized Change in the Ship's Structure, Equipment, Fittings, Arrangements*
2 *and Materials.* – Unless authorized under this Act or the Convention, any ship owner who made
3 or caused any change in the structure, equipment, fittings, arrangements, and materials of the ship
4 without the approval of the MARINA shall be punished by a fine of not less than ten thousand
5 pesos (Php10,000.00) but not more than one hundred thousand pesos (Php100,000.00).

6 SEC. 23. *Operating Without the Required Certification.* – A ship which is operated or is
7 allowed to operate without the certification required under this Act or the Convention shall be
8 detained and shall be liable for a fine of not less than ten thousand pesos (Php10,000.00) but not
9 more than five hundred thousand pesos (Php500,000.00).

10 SEC. 24. *Violation of Detention Order.* – A ship which proceeds to sea in violation of
11 a detention order issued pursuant to Section 16 hereof shall be liable to the following fines:

12 (a) Philippine ship – not less than ten thousand pesos (Php10,000.00) but not more than one
13 million pesos (Php1,000,000.00); and

14 (b) Foreign-flagged ship – not less than five thousand US dollars (US\$5,000) but not more
15 than five million US dollars (US\$5,000,000), or its equivalent in Philippine peso.

16 SEC. 25. *Continuing Violation.* – A ship, which continuously discharges or emits harmful
17 substances in violation of Section 10 of this Act, shall be held liable for the fines stipulated under
18 Section 18. Likewise, it shall be made liable to pay an additional fine of not less than ten thousand
19 pesos (Php10,000.00) but not more than two hundred thousand pesos (Php200,000.00) for every
20 day or part thereof during which the violation continues to be committed.

21 SEC. 26. *Obstruction of Investigation.* – Any person who shall, without justifiable
22 reason, obstruct or hamper the conduct of an investigation of a violation of this Act shall be liable to
23 pay a fine of not less than ten thousand pesos (Php10,000.00) but not more than one hundred
24 thousand pesos (Php100,000.00).

25 SEC. 27. *Neglect of Duty.* – Any government official or employee charged with the
26 responsibility of enforcing any provision of this Act, who is found guilty of gross negligence of duty,
27 shall be dismissed from the service with prejudice to reinstatement. Neglect of duty shall be
28 prosecuted in accordance with existing laws.

29 SEC. 28. *Connivance in Violation of this Act.* – Any government official or employee charged
30 with the responsibility of enforcing and/or implementing any provision of this Act, who connives
31 with the ship owner, master or operator of a ship or any person to violate, or permits the
32 commission of, any violation of this Act, shall be dismissed from the service and shall be jointly and
33 severally liable with any person found to be liable for the fine imposed pursuant to this Act.

34 SEC. 29. *Violations of Administrative Regulations.* – Any person who commits or
35 omits acts in violation of rules and regulations issued by concerned agencies pursuant to this Act,
36 unless the violations are otherwise covered under Sections 19 to 28 hereof, shall be liable to the
37 following fines:

1 (a) First violation – a fine of not less than one thousand pesos (Php1,000.00) but not more
2 than one hundred thousand pesos (Php100,000.00);

3 (b) Second violation – a fine of more than one hundred thousand pesos (Php100,000.00) but
4 not more than two hundred thousand pesos (Php200,000.00); and

5 (c) Third violation – a fine of more than two hundred thousand pesos (Php200,000.00) but
6 not more than one million pesos (Php1,000,000.00) and the suspension of vessel safety certificate
7 for six (6) months to one (1) year.

8 The concerned agency shall promulgate rules and regulations for the summary imposition of
9 administrative sanctions, subject to due process, for failure to comply with any order, decision, rule
10 or regulation of the Department issued pursuant to this Act. All administrative fines imposed by the
11 concerned agency pursuant to this Act shall accrue to the MEMF.

12 SEC. 30. *Intentional Violation.* – In case the discharge or emission of harmful
13 substances or toxic pollutants identified pursuant to Republic Act No. 6969, otherwise known as
14 the “Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990”, is in toxic
15 amounts or is deliberate and willful, in violation of Section 10 of this Act, the offender, without
16 prejudice to the civil liability that may be imposed, shall be accordingly liable for a fine or
17 imprisonment of not less than six (6) years but not more than twelve (12) years, or both, at the
18 discretion of the court:

19 (a) Philippine ship – not less than fifty thousand pesos (Php50,000.00) but not more than
20 twenty million pesos (Php20,000,000.00); and

21 (b) Foreign-flagged ship – not less than fifty thousand US dollars (US\$50,000) but not more
22 than eight million US dollars (US\$8,000,000), or its equivalent in Philippine peso.

23 SEC. 31. *Automatic Adjustment of Penalties and Fines.* – The fines prescribed in this Act
24 shall be automatically increased by ten percent (10%) every three (3) years from the effectivity of
25 this Act.

26 SEC. 32. *Cleanup Operations.* – In the event harmful substances under Section 10 of this
27 Act are discharged or emitted from any ship into Philippine waters or into any part of the sea or
28 waters outside Philippine waters but such substances subsequently flowed or drifted into Philippine
29 waters, or into the Philippine atmosphere, the PCG, in coordination with other agencies concerned,
30 shall be responsible for the cleanup and containment of discharged substances, and the
31 prevention or mitigation of the resulting damage to the environment, human health, tourist and
32 fishing industries, public and private properties: *Provided,* That the necessary initial cleanup and
33 containment shall be made by the owner of the ship which discharged or caused the discharge of
34 such harmful substances.

35 SEC. 33. *Cost Liability for the Discharge or Emission of Harmful Substances.* – The
36 owner of the ship liable for the discharge of harmful substances under Section 32 hereof shall be
37 primarily responsible for the following pollution costs:

1 (a) Reasonable expenses that the PCG and other agencies concerned may reasonably
2 undertake or has undertaken pursuant to the immediately preceding section; and

3 (b) Environmental damages and/or other reasonable measures taken for environmental
4 rehabilitation.

5 In case the responsibility for the above pollution cost liability falls on two (2) or more ships,
6 and the liability of each of the owners thereof cannot be reasonably distinguished from that of the
7 other, each of the owners shall be jointly and severally liable for the whole amount of the cost.

8 Republic Act No. 9483, otherwise known as the "Oil Pollution Compensation Act of 2007",
9 shall govern the civil liability for the discharge of oil, including the oily mixture, discharged as part of
10 the incident under the said Act.

11 Reimbursement of the cost incurred shall be made to the MEMF or to such other funds
12 where disbursements were sourced.

13 SEC. 34. *Informer's Reward to Persons Instrumental in the Discovery of Violations of*
14 *this Act.* – Any person with the exception of the officials or employees of the DOTC, the DENR,
15 the LGUs, the MARINA, the PCG or port authority or their relatives within the sixth degree of
16 consanguinity, who voluntarily gives definite and sworn information, not yet in the possession of
17 the MARINA or the PCG, leading to the discovery of the violation of this Act and resulting in the
18 imposition of fines or fees, or conviction of the guilty party of any of the fines or penalties, shall be
19 rewarded a sum equivalent to ten percent (10%) of the fines or fees paid or recovered.

20 CHAPTER 6

21 MARINE POLLUTION ADJUDICATION BOARD

22 SEC. 35. *Marine Pollution Adjudication Board.* – There is hereby constituted a MPAB
23 vested with quasi-judicial powers under the Office of the DOTC Secretary. The Board shall have
24 sole and exclusive jurisdiction over all marine pollution cases as provided for in Section 17 of this
25 Act. It shall be composed of the following members:

- 26 (a) Secretary of the DOTC, or his duly authorized permanent representative, as Chairperson;
27 (b) Secretary of the DENR, or his duly authorized permanent representative;
28 (c) Administrator of the MARINA, or his duly authorized permanent representative;
29 (d) Commandant of the PCG, or his duly authorized permanent representative;
30 (e) General Manager of the PPA, or his duly authorized permanent representative;
31 (f) A permanent representative endorsed by the Association of Masters and Mates;
32 (g) A permanent representative endorsed by the Marine Engineers Association;
33 (h) A member of the Philippine Bar duly endorsed by the Integrated Bar of the Philippines
34 (IBP); and
35 (i) A member of the Sea Transport Association.

1 The grant of honoraria to members of the MPAB shall be subject to existing laws, accounting
2 and auditing rules and regulations.

3 SEC. 36. *Powers and Functions.* – The MPAB shall have the following powers and
4 functions:

5 (a) To hear and decide cases falling under their jurisdiction pursuant to Section 17 of this Act;

6 (b) To conduct hearings on all matters within its jurisdiction, proceed to hear and determine
7 the disputes in the absence of any party thereto who has been summoned or served with notice to
8 appear; conduct its proceedings or any part thereof in public or in private; adjourn its hearings at
9 any time and place; refer technical matters or accounts to an expert and to accept the experts'
10 reports thereon as evidence after hearing of the parties upon due notice; direct parties to be joined
11 in or excluded from the proceedings; correct, amend or waive any error, defect or irregularity,
12 whether in substance or in form; give all such directions as it may deem necessary or expedient in
13 the determination of the dispute before it; and dismiss the dispute as part thereof, where it is trivial
14 or where further proceedings by the MPAB are not necessary or desirable;

15 (c) To promulgate and adopt its own rules of procedure. It shall not be strictly bound by the
16 Rules of Court but shall proceed to hear and decide all cases, disputes or controversies in a most
17 expeditious manner, employing all reasonable means to ascertain the facts of every case in
18 accordance with justice and equity and the merits of the case;

19 (d) To summon witnesses, administer oaths, take testimony, require submission of reports,
20 compel the production of books and documents, and answers to interrogatories and issue
21 subpoena *ad testificandum* and subpoena *duces tecum* and to enforce its writs through sheriffs or
22 other duly deputized officers;

23 (e) To punish direct and indirect contempt in the same manner and subject to the same
24 penalties as provided in the Rules of Court;

25 (f) To enjoin any or all acts involving or arising from any case pending before it which, if not
26 restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or
27 seriously affect social or economic stability;

28 (g) To issue orders and decisions to compel compliance with the provisions of this Act and
29 the Convention and issuances or decisions of the MPAB;

30 (h) To deputize in writing or request assistance of appropriate government agencies or
31 instrumentalities for the purpose of enforcing its decisions; and

32 (i) To issue an *ex parte* order directing the discontinuance of the discharge of substances
33 that cause marine pollution, or the temporary suspension or cessation of operation of the
34 equipment, project or activity and other acts causing environmental degradation, generating
35 pollutants or wastes, without the necessity of a previous public hearing: *Provided*, That the *ex*
36 *parte* order shall be issued only in case of immediate threat to life or property, public health, safety
37 or welfare or to animal or plant life, or exceeds the allowable environmental standards. The *ex*

1 *parte* order shall be immediately executory and shall remain in force and effect until this is modified
2 or lifted by the MPAB.

3 SEC. 37. *Finality of Determination.* – Any case or controversy before the MPAB shall be
4 decided by majority of all its members within thirty (30) days after it is submitted for resolution.
5 Only one (1) motion for reconsideration shall be allowed. Unless an appeal is perfected and a
6 cash bond equivalent to the fine imposed is deposited, any order, decision or ruling issued by the
7 MPAB shall be final and executory.

8 SEC. 38. *Appeals.* – Any decision, order or judgment of the MPAB may be appealed to the
9 Court of Appeals by *certiorari* within fifteen (15) days from receipt of a copy thereof: *Provided,*
10 That cease and desist orders shall be immediately executory.

11 CHAPTER 7

12 MISCELLANEOUS PROVISIONS

13 SEC. 39. *Ship Pollution Prevention Program.* – The DOTC, in coordination with concerned
14 agencies and stakeholders, shall establish a Prevention of Ship Pollution Program to enhance the
15 government implementation of this Act particularly on: (a) awareness building and capacity
16 building; (b) data banking; (c) development of reception facilities; (d) marine environment
17 protection; and (e) research.

18 SEC. 40. *Implementing Rules and Regulations.* – The DOTC and the concerned
19 agencies shall promulgate the implementing rules and regulations within one (1) year after the
20 enactment of this Act. The proposed implementing rules and regulations shall be subjected to
21 public consultations with affected sectors. The DOTC shall ensure that functions of the
22 implementing agencies and rules and regulations promulgated prior to and after the effectivity of
23 this Act are devoid of any duplication or inconsistency.

24 The rules and regulations issued by other government agencies and instrumentalities for the
25 prevention of marine pollution not inconsistent with and appropriate to the implementation of this
26 Act shall supplement the rules and regulations issued by the DOTC pursuant to this Act.

27 SEC. 41. *Joint Congressional Oversight Committee (JCOC).* – The Joint
28 Congressional Oversight Committee created under Section 33 of Republic Act No. 9275 or the
29 “Philippine Clean Water Act of 2004” shall also monitor the implementation of this Act and review
30 the implementing rules and regulations promulgated by the DOTC.

31 The JCOC shall continue to exist for a period not exceeding five (5) years from the effectivity
32 of this Act and, thereafter, its oversight functions shall be exercised by the Committee on
33 Environment of the Senate and the Committee on Ecology of the House of Representatives, acting
34 separately.

1 The Secretariat of the Congressional Oversight Committee shall come from the secretariat
2 personnel of the Committees of the Senate and the House of Representatives comprising the
3 JCOC.

4 SEC. 42. *Marine Environmental Management Fund (MEMF).* – There is hereby
5 established a Marine Environmental Management Fund (MEMF) to be administered by the MPAB.
6 The Oil Pollution Management Fund (OPMF) created under Section 22 of Republic Act No. 9483,
7 otherwise known as the “Oil Pollution Compensation Act of 2007”, is hereby abolished. All
8 balances, including the liabilities incurred by the OPMF, shall be transferred to the MEMF. The
9 MEMF shall be sourced from the following:

10 (a) Within one (1) year following the effectivity of this Act, contributions of owners and
11 operators of tankers and barges hauling oil and for petroleum products in Philippine waterways and
12 coast wise shipping routes consisting of five centavos (P0.05) per liter for every transshipment of
13 oil made by a tanker or barge based on the volume it loaded for the purpose of transshipment
14 regardless of its origin or destination. Thereafter, reasonable amount of contribution shall be jointly
15 determined by the MARINA, other concerned government agencies, and representatives from the
16 owners of tankers, barges and ships hauling oil and/or petroleum products. In determining the
17 amount of contribution, the purposes for which the fund was set up shall always be considered;

18 (b) Fees, charges and fines imposed pursuant to this Act and Republic Act No. 9483;

19 (c) Donations, endowments, grants and contributions; and

20 (d) Amounts specifically appropriated for the MEMF under the annual General Appropriations
21 Act.

22 The MEMF shall be utilized for the following activities:

23 (1) Containment, removal and cleanup operations of the PCG in all oil pollution cases; and

24 (2) Enforcement and monitoring activities of the MARINA, the PCG and port authorities of the
25 Department and other relevant agencies: *Provided*, That ninety percent (90%) of the funds shall
26 be maintained annually for the containment, removal and cleanup operations of the PCG in all
27 cases of pollution from ships: *Provided, further*, That in no case shall the MEMF be used to fund
28 personal services expenditures except for the compensation of those involved in cleanup
29 operations.

30 SEC. 43. *Appropriations.* – The amount necessary to carry out the provisions of this Act shall
31 be charged against the current year’s appropriations of the concerned agencies. Thereafter, such
32 sums as may be necessary for the operation and maintenance of this Act shall be included in the
33 annual General Appropriations Act.

34 SEC. 44. *Separability Clause.* – In the event that any provision of this Act is declared
35 unconstitutional, the validity of the remainder shall not be affected thereby.

1 SEC. 45.*Repealing Clause.* – The fifth paragraph of Section 28 of the Philippine Clean
2 Water Act and Section 22 of the Oil Pollution Compensation Act are hereby repealed. The Toxic
3 Substances and Hazardous and Nuclear Wastes Control Act and the Marine Pollution Control
4 Decree of 1974 and 1976 are hereby amended and modified accordingly. All laws, decrees, rules
5 and regulations and executive orders contrary to or inconsistent with this Act are hereby repealed
6 or modified accordingly.

7 SEC. 46.*Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the
8 *Official Gazette* or in a newspaper of general circulation.

9

10 *Approved,*