



Proceedings of the National Workshop on the Ratification and Implementation of MARPOL 73/78 in the Philippines

Club Estancia Resort Hotel, Tagaytay City

9-10 June 1997

**PROCEEDINGS OF THE NATIONAL WORKSHOP
ON THE RATIFICATION AND IMPLEMENTATION
OF MARPOL 73/78 IN THE PHILIPPINES**

Club Estancia Resort Hotel, Tagaytay City, Philippines
9 - 10 June 1997

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LIST OF ACRONYMS

AISL	Association of International Shipping Lines
BOC	Bureau of Customs
CabCom	Cabinet Committee on Maritime and Ocean Affairs
DENR	Department of Environment and Natural Resources
DFA	Department of Foreign Affairs
DILG	Department of Interior and Local Government
DOE	Department of Energy
DOTC	Department of Transportation and Communications
DTI	Department of Trade and Industry
EMB	Environmental Management Bureau
FSA	Filipino Shipping Association
IMDG	International Maritime Dangerous Goods (Code)
IMO	International Maritime Organization
LLDA	Laguna Lake Development Authority
LGU	Local Government Unit
MARINA	Maritime Industry Authority
MARPOL 73/78	International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 Relating Thereto.
MPP-EAS	GEF/UNDP/IMO Regional Programme for the Management and Prevention of Marine Pollution in the East Asian Seas
NMSCC	National Maritime Safety and Coordinating Council
PCG	Philippine Coast Guard
Philpesta	Philippine Petroleum Sea Transport Association
PISA	Philippine Inter-Island Shipping Association
PPA	Philippine Ports Authority
SPAC	Shipping and Ports Advisory Council
SPIK	Samahang Pambansa ng Industriyang Kemikal
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
TWG	Technical Working Group

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INTRODUCTION

On 9 and 10 June, the National Workshop on the Ratification and Implementation of MARPOL 73/78 (International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 Relating Thereto) in the Philippines was held at Club Estancia Resort Hotel, Tagaytay City. The Department of Environment and Natural Resources (DENR) and the International Maritime Organization (IMO) through the Regional Programme for the Management and Prevention of Marine Pollution in the East Asian Seas (MPP-EAS) organized the workshop with the cooperation of the Maritime Industry Authority (MARINA), the Philippine Coast Guard (PCG), and the Philippine Ports Authority (PPA). There were 27 representatives from the national agencies and industry sectors in attendance. Appendix C contains the list of participants and resource persons.

1.0 OPENING SESSION

- 1.1 Undersecretary Antonio G.M. La Viña of the DENR welcomed the co-sponsors and participants to the workshop. He stated that ratifying MARPOL is just a matter of time, considering that it provides the global standards for pollution from ships, and that in the East Asian region, only Thailand and the Philippines have not acceded to it. Thus the relevant issue is not whether the Philippines has to ratify MARPOL, but whether the Philippines is ready to implement MARPOL.
- 1.2 Dr. La Viña discussed the consultations made by the DENR in cooperation with the IMO to get the consensus of stakeholders on the ratification of MARPOL and the enhancement of MARPOL implementation in the Philippines. The workshop was part of a series of programs geared towards the "conscious" ratification of MARPOL. Dr. La Viña expressed appreciation

to IMO, PCG, PPA and MARINA for their cooperation and support in the organization of the workshop and wished everyone success.

- 1.3 Mr. S. Adrian Ross, Senior Programme Officer of the GEF/UNDP/IMO Regional Programme for the Prevention and Management of Marine Pollution in the East Asian Seas, also welcomed the participants on behalf of the Regional Programme. He gave a short background on the MARPOL Project, which involves four countries in East Asia and is funded by Norway. Mr. Ross expressed the understanding that the expectations from the workshop were not to find solutions to the problems, but to reach consensus on an action plan incorporating steps in pursuit of options chosen for resolving problems.

2.0 WORKSHOP OBJECTIVES AND PRINCIPLES

- 2.1 Dr. La Viña introduced the workshop agenda (please refer to Appendix D).
- 2.2 Dr. La Viña then identified the objectives of the workshop, as follows: to develop consensus among stakeholders on the problems and issues, review options for addressing such problems, and identify the steps to be taken for implementing MARPOL 73/78 in the Philippines.

3.0 UPDATE ON RATIFICATION OF MARPOL 73/78

- 3.1 Atty. George Gilbert dela Cuesta of the Legal Service, DENR, reviewed the process by which international conventions are approved and ratified by the Government of the Philippines. The process begins with an endorsement/resolution from a government agency or concerned organization, and then is submitted to the Department of Foreign Affairs (DFA), which then prepares an instrument of accession. The DFA submits the instrument to the President for his consideration. Once the President signs, the instrument is transmitted to the Philippine Senate for its concurrence. The matter is assigned to the appropriate committee for hearing and deliberation. The Senate concurs with a two-thirds vote, and the instrument of accession is transmitted back to the President for his information. The President, through the DFA, then deposits the instrument with the designated international authority. In the case of

MARPOL 73/78, the designated depositary is the Secretary-General of the IMO. The MARPOL Convention takes effect three months after deposit with the IMO.

3.2 Atty. dela Cuesta updated the body on the current initiatives on MARPOL ratification. A resolution has been passed by the Shipping and Ports Advisory Council (SPAC), an inter-agency and industry group, for submission to the President recommending the ratification of MARPOL. The resolution has yet to be signed by all members. At the National Maritime Safety and Coordinating Council (NMSCC), which is chaired by PCG, discussion on MARPOL is on the agenda for the next meeting, scheduled for August. In the legislative branch of government, the Committee on Ecology of the House of Representatives has prioritized the drafting of a law on marine pollution.

4.0 ORIENTATION ON WORKING GROUP SESSIONS

4.1 Atty. S. R. Bernad of the Regional Programme explained how the working group sessions would be implemented, as follows:

- To maximize participation, the participants are divided into working groups. (Please refer to Appendix E for groupings). Each working group elects a Chair and a Rapporteur. The issues to be discussed by the working groups are those relating to:
 - MARPOL Administration
 - Shipping Sector Obligations
 - Port Reception Facilities
 - MARPOL Legislation
- The working groups discuss the issues, problems and impediments to implementation of MARPOL with respect to the four issues and determine viable options and steps to overcome said problems and impediments. Facilitators are assigned to each working group. The National Profile is employed by the working groups for guidance.

- There are four working groups. On the first day, two working groups each discuss Administration and the Shipping Sector, and on the second day, two working groups each discuss Port Reception Facilities and Legislation.
- At the end of each working group session, the Chair and Rapporteur compile the suggested steps and options and develop an action plan.
- The action plans are presented in plenary for suggestions and comments. The action plans are consolidated at the end of the workshop.

4.2 The participants were briefed on the four issues. (Please refer to Appendices F-1 to F-4 for the Topic Guides.) After each working group discussion, the body re-convened, whereupon the groups reported the results of their discussions to the workshop for comment and refinement of action plans.

5.0 SUMMARY OF DISCUSSIONS

MARPOL Administration

- 5.1 The workshop was asked to identify the agencies currently undertaking functions relating to the major requirements for the marine administration under MARPOL, the problems related to these functions, and possible solutions.
- 5.2 The workshop recognized that many functions are currently being undertaken by PCG and MARINA with respect to Annex I (oily waste). In the case of Annex II (noxious liquid substances), the Environmental Management Bureau (EMB) of the DENR and the Bureau of Customs (BOC) are responsible. As to Annex III (harmful substances in packaged form), PPA is responsible for enforcing the International Maritime Dangerous Goods (IMDG) Code.
- 5.3 Two perspectives were presented: one recommending the PCG as focal point for the implementation of MARPOL, and the other, MARINA.

- 5.4 The first view included the suggestion that CG-9 (the unit in charge of marine environmental protection) be designated as the MARPOL office. However, a number of problems were identified, including mainly: a) the lack of budget, equipment, personnel, and specific mandate to act as lead agency; and b) the military nature of the organization which carries with it the policy of rotation of personnel, and non-entitlement to foreign aid. On the other hand, it was pointed out that MARINA is the agency that registers all ships for both domestic and overseas operation.

Shipping Sector Obligations

- 5.6 The workshop was asked to assess whether Philippine-registered ships were ready to comply with MARPOL, what the problems with compliance were, and what the possible solutions might be. Participants were also asked to recommend how ships might begin to comply with MARPOL and what steps should be taken in pursuit of the option chosen.
- 5.7 There was agreement that international vessels are already complying with MARPOL requirements. Hence the conclusion was that there is no impediment to the implementation of MARPOL with regard to Philippine-registered ships sailing internationally. It was also agreed that the majority of domestic ships will have problems with compliance, and that there is not enough information on this sector. The suggestion that efforts should therefore be made to obtain information on the domestic ships, either from the PCG, through questionnaires to shipowners, or through the shipping associations, was generally agreed upon. MARINA, PCG, and the shipping associations all agreed to provide whatever data they have available.
- 5.8 Most problems for both international and domestic vessels relate to cost, lack of trained personnel, and the need for enforcement.

Port Reception Facilities

- 5.9 The workshop was asked to identify the stakeholders in port reception facilities and their respective roles and capacities, how they could be enhanced and the establishment or improvement of coordination. With regard to costing

and phasing in, the groups were asked how reception facilities could be made affordable in the country, and the steps and strategies that should be taken in pursuit of the option taken.

- 5.10 It was recognized that the effective operation of ports can only be undertaken with the cooperation of the different stakeholders. The identified stakeholders are: PPA (with respect to the operation of ports); DENR (with regard to the issuance of permits to operate waste handling and treatment facilities); PCG and BOC (for the monitoring of ship discharges); MARINA (in connection with the administration of ships in general), and local government units or LGUs (with regard to the provision of facilities for waste disposal); shipowners, garbage and oily waste collectors, and service and shipyard operators.
- 5.11 Altogether, the problems identified in the port system were: a) the lack of budget and infrastructure; b) the lack of coordination among the different agencies; c) the lack of qualified personnel and insufficient training; d) the lack of awareness among stakeholders of their duties and obligations; e) lack of measures to make the business of waste treatment attractive to investors; f) the lack of compliance monitoring; and g) the lack of an identified lead agency to pursue measures for the establishment of shore reception facilities. The suggested measures to address these problems were: the enhancement of the capabilities of all concerned agencies; the re-examination of policies relating to reception facilities, particularly with respect to clarifying the agencies' roles and the development of modernized ports (not just reception facilities).
- 5.12 Another issue concerned which agency will undertake the function of commissioning feasibility studies and the coordinating role for national agencies. Although PPA is recognized as the agency tasked to overlook the operation of ports, it was pointed out that the PPA has no express directive to provide shore reception facilities. It was the consensus that PPA is the logical choice to implement the requirements for reception facilities in ports and that measures for an official recognition be pursued.

MARPOL Legislation

- 5.13 The groups were asked how the country should approach the question of implementing legislation.
- 5.15 The body recognized that there are many gaps under existing legislation and regulations pertaining to marine pollution. Another recognized gap concerned the need to identify one Administration to coordinate the implementation of MARPOL.
- 5.16 The workshop concluded that there is a need to draft new legislation and regulations to resolve the gaps and overlaps in existing legislation concerning implementation of MARPOL 73/78. In the interim, existing regulations may need to be strengthened.

6.0 WORKSHOP RESOLUTION AND ACTION PLAN

A Resolution and Action Plan was prepared by the workshop, based on the working groups' recommendations and conclusions. The Resolution and Action Plan are attached, respectively, as Appendix A and Appendix B.

7.0 CLOSING

- 7.1 The workshop concluded with statements from Mr. Ross and Atty. dela Cuesta.
- 7.2 Mr. Ross, on behalf of IMO, thanked the organizers and participants for a productive workshop, and stated that the success of the workshop would be determined by the concrete actions to be undertaken by them.
- 7.3 Atty. dela Cuesta, on behalf of the DENR and the other organizers, thanked the participants.
- 7.4 The workshop ended at 5:00 p.m, 10 June 1997.

UNITED STATES DEPARTMENT OF LABOR
WASHINGTON, D. C. 20301

APPENDICES

APPENDIX A: [Illegible text]

APPENDIX B: [Illegible text]

**RESOLUTION
OF THE NATIONAL WORKSHOP ON THE
RATIFICATION AND IMPLEMENTATION OF MARPOL 73/78**

**AS ADOPTED BY THE PARTICIPANTS TO THE NATIONAL WORKSHOP,
TAGAYTAY CITY, 10 JUNE 1997**

RECOGNIZING the significance of the coastal and marine waters of the Philippines, and the resources therein, as a source of food, raw materials, employment, revenue, transportation, recreation and social well-being for the people of the Philippines,

NOTING the importance of the shipping industry to the economic development of the Philippines,

NOTING ALSO the increasing number of international and domestic ships that ply this country's territorial waters,

AWARE of the occurrence of operational and accidental discharges of various pollutants from ships into the marine and coastal environment of the Philippines,

STRESSING the need for urgent action to protect the marine environment and to promote the sustainable use and conservation of marine resources in the Philippines,

REAFFIRMING the value of the global approach to the prevention of pollution from ships as embodied in the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, otherwise known as MARPOL 73/78,

TAKING INTO ACCOUNT the ongoing effort by the Government of the Philippines to move towards the ratification and implementation of MARPOL 73/78,

BEING CONVINCED that the ratification and full implementation of MARPOL 73/78 in the Philippines requires the cooperation and commitment of relevant national government agencies, the shipping industry, the cargo handling industry, the shipbuilding/ship repair industry, port and terminal operators and local government units in order to meet the prescribed obligations in a cost-effective and efficient manner,

THEREFORE, IN CONSIDERATION OF THE FOREGOING THE PARTICIPANTS TO THE NATIONAL WORKSHOP HAVE AGREED AS FOLLOWS:

1. To collectively commit ourselves to the implementation of the National Action Plan for the Ratification and Implementation of MARPOL 73/78, which has been prepared and adopted during this National Workshop and is herewith attached (see Appendix B);
2. To request the Department of Environment and Natural Resources (DENR) to coordinate the preparation of a Summary Paper which will identify the various administrative, legislative and regulatory obligations of MARPOL 73/78, outline the current responsibilities, capacities and constraints regarding the fulfilment of such obligations, and identify alternative approaches for achieving such obligations;
3. To submit the National Action Plan for Ratification and Implementation of MARPOL 73/78 and the completed Summary Paper to the Cabinet Committee on Maritime and Ocean Affairs, and to request the Cabinet Committee to consider the following:
 - .1 endorsement of the National Action Plan for the Ratification and Implementation of MARPOL 73/78;
 - .2 establishment of an Executive Committee at the Cabinet level, tasking the Executive Committee to review the Summary Paper, and to prepare recommendations to the Cabinet Committee on Maritime and Ocean Affairs and/or to draft (an) Executive Order(s) which will:

- a) establish a national agency or office to serve as the national focal point for administrative matters, technical advice and dissemination of information to government agencies, the private sector and the general public on MARPOL 73/78, and for reporting to and interacting with the International Maritime Organization and other international agencies on matters related to national implementation of the MARPOL convention;
 - b) delineate the respective roles and responsibilities of the five national agencies, namely the Philippine Coast Guard, the Maritime Industry Authority, the Philippine Ports Authority, the Department of Environment and Natural Resources and the Department of Interior and Local Government, regarding the implementation of MARPOL 73/78; and
 - c) create a mechanism for coordinating the programs and activities of the concerned national agencies, as related to the implementation of MARPOL 73/78, thereby promoting cost-effective and efficient use of human and financial resources in both the public and private sectors.
- .3 confirmation of the Philippine Ports Authority (PPA) as the lead national agency responsible for ensuring the provision of shore reception facilities, in accordance with the provisions of MARPOL 73/78, at all public and private ports under PPA jurisdiction throughout the Philippines.

DONE in the CITY of TAGAYTAY, PHILIPPINES, this 10th DAY of JUNE 1997.

**National Workshop on the Ratification and Implementation of
MARPOL 73/78**

9-10 June 1997, Tagaytay City

National Action Plan

1.0 Administration

Situation:

There are five government agencies directly involved in the implementation of the MARPOL convention in the Philippines, namely: the Philippine Coast Guard (PCG); the Maritime Industry Authority (MARINA); the Philippine Ports Authority (PPA); the Department of Environment and Natural Resources (DENR); and the Department of Interior and Local Government (DILG).

Issues:

Two issues that have been identified by the workshop:

- .1 the need to develop a mechanism for coordinating the programs and activities of the five agencies, with respect to the implementation of MARPOL 73/78; and
- .2 the desirability of establishing an agency or office to serve as the national focal point for technical advice and dissemination of information to government agencies, the private sector and the general public on MARPOL 73/78, and for reporting to and interacting with the International Maritime Organization and other international agencies on matters related to the implementation of the MARPOL convention.

Action Items:

The workshop concluded that the following actions would be undertaken:

- .1 the preparation of a Summary Paper on the various administrative obligations under MARPOL 73/78, outlining the current responsibilities, capacities and constraints regarding fulfilment of such obligations, as well as identifying options for improving the situation;
- .2 the submission of the Summary Paper, as well as a resolution from the National Workshop, to the Cabinet Committee on Maritime and Ocean Affairs, requesting decisions on:
 - an improved coordinating mechanism among the five agencies; and
 - a national agency or office to serve as the national focal point for administrative matters related to implementation of MARPOL 73/78.

ACTION: DENR will complete the Summary Paper and distribute it to the workshop participants by 30 June 1997. Participants will have one week to comment. The revised Summary Paper will then be submitted to the next scheduled meeting of the Cabinet Committee.

2.0 Shipping

Situation:

MARPOL 73/78 places a number of obligations on shipowners and ship operators regarding the construction of vessels, the provision, operation and maintenance of on-board equipment for preventing marine pollution, the documentation and reporting of pollution prevention operations and the training of officers and crew in pollution prevention and management practices.

Issue:

The workshop concluded that the Philippines' overseas fleet, some 355 vessels classed with IACS member societies, was already in compliance with MARPOL 73/78. The status of the domestic merchant fleet, some 5,000 vessels, was uncertain. It was indicated that most domestic oil tankers (approximately 150 vessels) of 150 GRT and above were complying with the requirements of Annex I of MARPOL. Information on other vessel types was not available for consideration by the workshop.

Action Items:

The workshop concluded that the following actions would be undertaken:

- .1 the development of an inventory of registered international and domestic vessels in the Philippines, including information on owner, name of vessel, type of vessel, GRT, age, certification and on-board pollution control equipment;

ACTION: MARINA will submit the lists of registered vessels to DENR by 19 June. DENR will forward the information to PCG, who will input available information on on-board pollution control equipment by 31 July 1997.

- .2 the collation and analysis of the inventory information, identifying the number and type of vessels that are out of compliance with MARPOL 73/78, an estimated cost for achieving compliance, the time required and the overall impact of such action on the domestic shipping industry;

ACTION: PCG, with the support of DENR, MARINA and the shipping industry, will complete the costing analysis, time estimates and overall impact assessment by 31 August 1997.

- .3 the development of a schedule of compliance for domestic vessels and recommendations for exemptions under MARPOL 73/78;

ACTION: PCG, with the support of DENR, MARINA and the shipping industry, will complete a proposed schedule of compliance for domestic vessels and recommendations for exemption by 31 August 1997.

3.0 Shore Reception Facilities

Situation:

There are no public ports with shore reception facilities in the Philippines. The PPA has issued permits to operate to waste collectors in the Port of Manila who may be contracted directly by the ships masters/agents to collect wastes from their vessels. PPA does not control the collection or disposal of waste by the authorized collectors, nor does any coordinating mechanism exist among the national agencies having responsibility in marine pollution prevention and management and/or pollution control.

Issues:

The workshop identified the following issues regarding the establishment and effective operation of shore reception facilities:

- .1 the need for improved coordination among national agencies, principally PPA, PCG, MARINA, DENR, DILG and Bureau of Customs (BOC) regarding implementation of Annexes I, II and V of MARPOL 73/78, for activities occurring both within and outside the port limits;
- .2 the required strengthening of enforcement of regulations dealing with the collection and disposal of wastes from ships, service operations and shipbuilding and repair yards, as well as the ultimate disposal of such wastes outside the port limits;

- .3 the financial and human resource constraints of government with respect to the planning, construction, operation and maintenance of shore reception facilities throughout the Philippines.

Action Items:

The workshop concluded that the following actions would be undertaken:

- .1 the preparation of a proposal to identify PPA as the lead agency to ensure the provision of shore reception facilities;

ACTION: DENR will include the proposal in the workshop resolution and summary report, to be submitted to the Cabinet Committee on Maritime and Ocean Affairs.

- .2 the establishment of a Technical Working Group, comprised of PPA, PCG, MARINA, DENR, DILG and BOC to coordinate programs among the agencies in support of the establishment and effective operation of shore reception facilities;

ACTION: PPA will lead the initiative, upon approval of its role as the lead agency by the Cabinet Committee.

- .3 the sourcing of funds from national and international stakeholders to conduct feasibility studies;

ACTION: PPA and the members of the Technical Working Group (TWG) will be responsible for sourcing of funds, as part of the terms of reference of the TWG.

- .4 the implementation of feasibility studies at priority ports in the Philippines, to determine the viability of partnerships between the public and private sector and/or privatization of shore reception facilities and oily waste processing operations treatment;

ACTION: PPA will implement in accordance with available funding.

- .5 a call for proposals from the private sector on the implementation of joint ventures in shore reception facilities and oily waste processing operations;

ACTION: PPA to implement.

- .6 the preparation of contracts/partnership agreements with the private sector.

ACTION: PPA to implement.

4.0 Legislation

Situation:

Existing legislation and regulations in the Philippines covering marine pollution and toxic and hazardous waste do not embody all of the obligations identified under MARPOL 73/78.

Issues:

The workshop identified the following issues concerning implementing legislation:

- .1 the need to identify a national authority responsible for the overall administration of MARPOL 73/78 in the Philippines;
- .2 the desirability of defining the roles and responsibilities of national agencies regarding the implementation and enforcement of MARPOL 73/78;
- .3 the elimination of gaps, overlaps, uncertainties and conflicting controls and procedures under existing marine pollution legislation and regulations, pertaining to MARPOL 73/78 implementation and enforcement.

Action Items:

The workshop concluded the following actions would be undertaken:

- .1 the creation of an Executive Committee, tasked with the responsibility of delineating the roles and responsibilities of respective national agencies regarding the administration and implementation of MARPOL 73/78, for submission to the Cabinet Committee on Maritime and Coastal Affairs, and/or an Executive Order;

ACTION: DENR will include the proposal to create an Executive Committee in the summary report to the Cabinet Committee on Maritime and Coastal Affairs.

- .2 the issuance of interim regulations to cover gaps, etc., in existing marine pollution regulations and controls concerning MARPOL 73/78;

ACTION: DENR will coordinate the issuance of required interim regulations with the appropriate national agencies.

- .3 the drafting of new legislation, preempting all existing regulations, upgrading penalties and setting a national administrative, coordinating and implementation framework for MARPOL 73/78.

ACTION: DENR will organize a national legislation drafting workshop by 30 September 1997.

**NATIONAL WORKSHOP ON THE RATIFICATION AND IMPLEMENTATION
OF MARPOL 73/78 IN THE PHILIPPINES**
Club Estancia Resort Hotel, Tagaytay City, Philippines
9 - 10 June 1997

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**National Workshop on the Ratification and Implementation
of MARPOL 73/78 in the Philippines**
Club Estancia Resort Hotel, Tagaytay City
9 - 10 June 1997

WORKSHOP AGENDA

Objective: The workshop will develop consensus among stakeholders on the problems and issues, options, and the steps to be taken for implementing MARPOL 73/78 in the Philippines.

9 JUNE

- 0830 Arrival of participants
- 0840-0900 **A. Registration**
- 0900-0920 **B. Opening**
Dr. Antonio La Viña
Undersecretary, Department of Environment and Natural Resources
- Mr. S. Adrian Ross
Senior Programme Officer
GEF/UNDP/IMO Regional Programme for the Prevention and
Management of Marine Pollution in the East Asian Seas
- 0920-0940 **C. Introduction**
Undersecretary Antonio La Viña
1. Background
How the project started, activities, consultations undertaken.
2. Workshop Objectives and Principles
Levelling off of expectations and informing participants of how the workshop will be conducted.
- 0940-1000 **D. Update on Ratification of MARPOL**
Atty. George dela Cuesta, DENR
1. Procedure
2. Status
- 1000-1030 *Coffee Break*

1030-1050

E. Orientation on Working Group Sessions

Atty. Stella Regina Bernad

GEF/UNDP/IMO Regional Programme for the Prevention and Management of Marine Pollution in the East Asian Seas

Explanation of working group process, division into groups, use of the national profile and other materials

F. Working Group Sessions on Administration and Shipping

MARPOL has many requirements for Administration and for the Shipping sector. For Administration, the issues are related to the need to clearly define the respective roles of the involved agencies, and the means of systematically implementing the Convention. For the Shipping sector, the issues are related to bringing all ships into compliance with MARPOL.

1050-1105

1. Presentation of Situation on Administration (in plenary)
Atty. George dela Cuesta

1105-1120

2. Presentation of Situation on Shipping (in plenary)
Atty. Stella Regina Bernad

1120-1200

3. Working Group session

1200-1300

Lunch

1300-1420

Continuation of Working Group session

1420-1520

4. Reporting by Group in Plenary

1520-1545

Coffee Break

1545-1700

5. Review of Results and Development of Action Plan
Mr. S. Adrian Ross

1900

Dinner

10 JUNE

0700-0800

Breakfast

G. Working Group Sessions on Port Reception Facilities and Legislation
For the requirement of Port Reception Facilities under MARPOL, the issues that have to be addressed are: devising a system of control, funding, and the management of the waste integrated with land-based waste. For Legislation, the basic issues to be addressed are whether or not new legislation is needed, gaps and weaknesses in the current regulations, and the inclusion of incentives for compliance.

0800-0815	1. Presentation of Situation on Port Reception Facilities (in plenary) Atty. Stella Regina Bernad
0815-0830	2. Presentation of Situation on Legislation (in plenary) Atty. George dela Cuesta
0830-1000	3. Working Group session
1000-1015	<i>Coffee Break</i>
1015-1045	Continuation of Working Group session
1045-1145	4. Reporting by Group in Plenary
1145-1300	<i>Lunch</i>
1300-1415	5. Review of Results and Development of Action Plan Mr. S. Adrian Ross
1415-1515	H. Action Plan Consolidation Mr. Adrian Ross <i>Including short discussion on the national profile. Problems/issues identified, options proposed, specific activities to undertake, expected outputs, schedule, roles and responsibilities</i>
1515-1530	<i>Coffee Break</i>
1530-1600	I. Closing
1700	Leave for Manila

WORKING GROUPS

Group A **First day: On Administration**
Second day: On Port Reception Facilities

- | | |
|------------------------|---------------------------------|
| 1. Mirla Arceo | Philsin Marine Services, Inc. |
| 2. Leo Tito Ausan, Jr. | Department of Foreign Affairs |
| 3. Demetrio Bidan, Jr. | Philippine Coast Guard |
| 4. Teresita Liao | Environmental Management Board |
| 5. Jessie Limuangco | Pilipinas Shell Petroleum Corp. |
| 6. Angel Peñalosa | Filipino Shipowners Association |
| 7. Alex Rayos | Department of Energy |

Group B **First day: On Administration**
Second day: On Port Reception Facilities

- | | |
|---------------------|---|
| 1. Domingo Bassig | Philippine Ports Authority |
| 2. Josephine Bondoc | Department of Transportation and Communications |
| 3. Leo Lloren | Shell Chemical Co. (Phils.), Inc. |
| 4. Arnie Santiago | Maritime Industry Authority |
| 5. Dilbert Quetulio | House of Representatives |
| 6. Rogelio Navarro | Magsaysay Lines |

Group C **First day: On Shipping**
Second day: On Legislation

- | | |
|--------------------|--|
| 1. Carlos Buenafe | Philippine Interisland Shipping Association |
| 2. Nicomedes Enad | Bureau of Customs |
| 3. Elson Hermogino | Philippine Coast Guard |
| 4. Pedro Mendoza | Department of Trade and Industry |
| 5. Seif Miskry | Lloyd's Register of Shipping |
| 6. Joseph Oliveros | Chemical industries Association of the Philippines |
| 7. Arsenio Lucas | Maritime Industry Authority |

Group D **First day: On Shipping**
Second day: On Legislation

- | | |
|------------------------|--|
| 1. Roberto dela Fuente | Department of Foreign Affairs |
| 2. Clarissa Ignacio | Philippine Ports Authority |
| 3. Ricardo Jamandre | Association of International Shipping Lines |
| 4. Ramon Liwag | Philippine Coast Guard |
| 5. Dionisio Parulan | Philippine Petroleum Sea Transport Association |
| 6. Jesus Tomagan | Aboitiz Jepsens |

WORKING GROUP SESSION ON ADMINISTRATION

Situation

There are at least four government agencies involved in meeting MARPOL obligations, namely: the Philippine Coast Guard (PCG), the Maritime Industry Authority (MARINA), the Philippine Ports Authority (PPA), and the Department of Environment and Natural Resources (DENR). The local government units as well play a part in the disposal of wastes. Currently, there is no coordinating mechanism among these agencies.

Background Information:

- ▶ Obligations of the Administration under MARPOL
- ▶ IMO ideal administration
- ▶ Provisions of law on the roles and mandate of each of these agencies
- ▶ Organizational set-up of each of these agencies.

Issues

- A. Which agency performs or is supposed to perform each of the obligations of the administration under MARPOL?
- B. What are the problems connected with such functions?
- C. What could be the solutions to the problems?

EXERCISE: Board Work on Table of Administration Obligations

Options:

1. Status quo, but increase resources, training, technical assistance.
Implication: Need a big effort to overcome problems (because they are so deeply entrenched, and because of organizational constraints).
2. Create a new agency.
Implications:
 - (a) Proliferation of agencies, bureaucracy.
 - (b) Legislation.
 - (c) Confusion, realignment of functions.
3. Designate an existing agency which is organizationally capable of being the main administration agency, to perform as well as coordinate.
Implications:
 - (a) Assessment of each agency's organizational structure, nature, and capacity-building capability.
 - (b) Adjustment of duties.
 - (c) Legislation.

D. How should each agency begin to enforce MARPOL obligations?

Options:

1. Set a deadline for compliance for everyone. Upon the target date, immediately enforce.

Implications:

- (a) Upon the deadline, the implementing agencies must have the capacity to enforce; all systems have to be in place.
- (b) Information campaign needed; stakeholders have to be duly notified.

2. Provide for a phasing in.

Implications:

- (a) Priorities have to be set.
- (b) Capacity-building and identification of organizations for delegation.
- (c) Information campaign needed; stakeholders have to be duly notified.
- (d) Agencies have to be ready to begin implementing each phase.

E. What steps are needed to build consensus on the option chosen?

Obligations of the Marine Administration under MARPOL 73/78

Obligation	Agency	Performing? (Y/N)	Problems	Possible solutions
IMO representation				
Ship design & equipment approval <ul style="list-style-type: none"> •COW systems •installations & manuals •oil content meters •CBT operations manuals •special ballast arrangements •oil discharge monitoring & control systems & instruction •oil/water interface detectors •oil filtering equipment •shipboard oil pollution emergency plans •chemical tankers (to IBC & BCH standards) •pumping & piping systems for chemical tankers •equipment for sewage •equipment for garbage 				
Surveys <ul style="list-style-type: none"> •instructions to surveyors •delegation •reports 				
Issuing certificates (IOPP, NLS, ISPP, IGPP)				
Support to its flag ships				

Obligation	Agency	Performing? (Y/N)	Problems	Possible solutions
Monitoring ships & investigating possible violations <ul style="list-style-type: none"> •inspection •assessment of reports •patrolling 				
Prosecuting offenders				
Provide the ff. information to IMO : <ul style="list-style-type: none"> •incidents involving a discharge or probable discharge of oil, noxious liquid substances carried in bulk, or harmful substances in packaged form •laws, orders, decrees & regulations & other instruments within the scope of MARPOL •list of authorized surveyors or organizations •specimens of certificates •list of reception facilities, including their location, capacity & available facilities & other characteristics •official reports or their summaries showing results of application of MARPOL •annual statistical report (standardized by IMO) of penalties actually imposed 				
(In connection with Annex II) Provide for provisional assessments of substances not categorized.				
Insure compliance with the IMDG Code				

PROFILE ON ADMINISTRATION

There are at least four government agencies which play important roles in the implementation of MARPOL. Local government units as well have a role. No agency or unit has been identified by the government to lead and coordinate the implementation of MARPOL in the Philippines.

The Philippine Coast Guard

- Under Presidential Decree No. 979, the PCG is given the primary responsibility of enforcing the laws, rules and regulations governing marine pollution.
- Under Presidential Decree No. 601, the PCG is tasked to:
 - enforce laws, promulgate and administer rules and regulations for the prevention of marine pollution within the territorial waters of the Philippines in coordination with other relevant government agencies.
 - approve plans for the construction, repair or alteration of vessels; approve materials, equipment and appliances of vessels; approve the classification of vessels; inspect vessels and their equipment and appliances; and approve the classification of vessels.
 - issue letters of accreditation to several classification societies, which in turn issue international oil pollution prevention compliance (as opposed to the IOPP certificates required under MARPOL) on behalf of the Philippine government. Under Presidential Decree No. 601, the certification and approval of any plans and equipment of any vessels by internationally known classification societies are recognized.
 - supervise, control and regulate vessels engaged in the carriage of passengers and dangerous cargo.
 - promulgate and enforce rules and regulations giving effect to provisions of international conventions for the safety of life and property at sea.
 - prevent and suppress violation of Philippine maritime laws and for this purpose, inspection and surveillance by the PCG may be made on vessels entering and/or leaving Philippine territory. The Coast Guard may call the assistance of law enforcement agencies in the discharge of its functions.
- Most regulations which implement the provisions of MARPOL were issued by the PCG.
- The PCG is under the Philippine Navy branch of the Armed Forces of the Philippines which is under the supervision and control of the Department of National Defense (DND).

- All PCG officers are subject to an existing "rotation" policy in the Philippine Navy which limits the length of assignment to a specific station to a maximum of 2 years. After the 2 year limit, the officers are rotated to other stations.
- The PCG command is divided into 9 central staff, 8 special staff and 3 technical staff. Of the 9 central staff units, 2 units are devoted to marine environment issues. CG-9 is the Marine Environmental Protection Office which deals with all pollution concerns such as the enforcement of MARPOL. CG-8 is the marine safety office which deals with safety standards.
- Under Presidential Decree No. 602, the National Operations Center for Oil Pollution (NOCOP) was created. The NOCOP acts as the staff agency of the PCG in dealing with oil pollution. The NOCOP is headed by a director and is based in Manila.
- NOCOP has the overall responsibility in the containment, removal and treatment of marine pollution in all bodies of water within the territorial jurisdiction of the Philippines.
- CG-9 divides its command to eight districts known as Marine Environment Protection Offices (MEPOs). A MEPO is located in each of the following areas: Manila, Cebu, Zamboanga, Palawan, Batangas, Iloilo, La Union and Davao. These MEPOs also serve as NOCOP offices.
- There are 51 PCG stations in the country and 155 PCG detachments.
- PCG has 113 vessels used for patrolling Philippine waters. These vessels are distributed to the eight MEPO districts.
- PCG has in its roster, 250 officers and 4,700 personnel.
- Being the appointed enforcing agency of marine pollution laws, PCG hears most if not all, reported violations of marine pollution regulations. Also, all reported violations by Philippine flag ships are investigated and tried by the PCG.
- With respect to classification of vessels for the issuance of International Oil Pollution Prevention Certificates as required by MARPOL, PCG has issued letters of accreditation to seven classification societies, which provide survey and inspection services to overseas vessels. All seven classification societies are members of the International Association of Classification Societies.
- According to PCG records, more than 100 apprehensions were made by PCG in 1995 to 1996 in the exercise of its port state control. From 1989 to 1996, the PCG has investigated at least 14 reported violations committed by Philippine flag ships abroad.
- In the period from January 1995 to December 1996, about 128 violations of PCG MARPOL regulations were reported. Despite the number of violations, only a total of P426,600 fines were collected from these violations.

- A bill is currently pending in Congress seeking the annexation of PCG to the Department of Transportation and Communications (DOTC). The bill is intended to make PCG independent of the DND in terms of budget allocation and operation. However, under the proposed bill, PCG officers will retain their military positions.

The Maritime Industry Authority

- The MARINA, created under Presidential Decree No. 474, is the agency which registers all Philippine vessels, domestic and overseas. It assists in pollution prevention by ensuring that registered vessels comply with existing safety standards.
- As provided under Executive Order Nos. 125 and 125-A, MARINA has the power to enforce laws, prescribe and enforce rules and regulations governing water transportation and the Philippine merchant marine. To effectively discharge these functions, MARINA may deputize the Philippine Coast Guard and other law enforcement agencies.
- As part of its regulatory functions, the MARINA is tasked with
 - undertaking safety regulations pertaining to vessel construction and operation including the determination of manning levels and the issuance of certificates of competency to seamen.
 - registering all domestic and overseas vessels in the Philippines. MARINA issues franchises called Certificates of Public Convenience (CPC) for the operation of domestic and overseas water carriers.
 - issuing the following certificates, among others: cargo safety equipment; construction safety certificates; load lines; radio telephone and radio telegraphy certificates.
 - prescribing and enforcing rules and regulations for the prevention of marine pollution in bays, harbors and other navigable waters in the Philippines, in coordination with the government authorities concerned.
 - accrediting marine surveyors and marine enterprises engaged in shipbuilding, ship repair, shipbreaking, domestic and overseas shipping, ship management and agency.
 - undertaking the issuance of licenses to qualified seamen and harbor, bay and river pilots.
- MARINA is an attached agency of the Department of Transportation and Communications (DOTC).
- MARINA is governed by a board of directors with the DOTC Secretary as the Chairman. Among the central staff units of the MARINA is the Ship Regulation and Licensing

Office which handles the registration and licensing of vessels as well as the enforcement of safety standards.

- MARINA also has separate central staff units for domestic and overseas shipping and for shipyard regulations.
- MARINA has 11 offices nationwide called Maritime Regional Offices (MROs) located in Batangas, Legaspi, Iloilo, Cebu, Tacloban, Zamboanga, Cagayan de Oro, Davao, Cotabato, Palawan and La Union. The central office is located in Manila.
- MARINA has 400 personnel with 35 personnel trained abroad for surveys and inspection and classification duties. MARINA has no vessels or floating assets.
- MARINA has issued several regulations implementing the provisions of the SOLAS Convention. Among these regulations are Memorandum Circulars 56 and 56-A which require oil tankers and oil barges to obtain oil/marine pollution insurance cover. MARINA implements other international conventions such as COLREG, STCW and LOADLINES.
- With regard to its function of surveying vessels for the purpose of ensuring that they comply with promulgated safety standards, MARINA has delegated survey and classification duties to several classification societies. MARINA issues statutory delegation of authority to these classification societies in regard to safety survey and inspection of ships.
- Under Presidential Decree No. 474, MARINA assists the PCG in regard to the classification and inspection of vessels.

Department of Environment and Natural Resources - Environmental Management Bureau

- Pollution in all its forms is regulated by the Department of Environment and Natural Resources (DENR). Under the Administrative Code of 1987, the DENR is tasked with promulgating rules and regulations for the control of water, air and land transportation.
- Under the Administrative Code, DENR is tasked with promulgating ambient and effluent standards for water quality.
- The Environmental Management Bureau (EMB) is the staff bureau of DENR which acts as the policy-making body on all types of pollution. EMB formulates environmental quality standards for water, air and land as well as rules and regulations for the proper disposition of solid wastes and toxic and hazardous substances.
- Under Presidential Decree No. 979, the DENR, through the EMB, has the primary responsibility to promulgate rules and policies governing marine pollution, including the discharge of effluents.

- The EMB also implements Republic Act 6969 (RA 6969) which regulates, among others, the movement of toxic substances and hazardous and nuclear waste.
- Under RA 6969, the transportation and importation of toxic substances and hazardous and nuclear waste can only be undertaken under a permit from EMB.
- The EMB is likewise the agency which handles the issuance of Environmental Compliance Certificates (ECCs) under the Environmental Impact Assessment (EIA) system. The EIA system requires an ECC for the operation of identified environmental critical projects (which include shore reception facilities, landfills and other waste facilities) and of projects locating in environmentally critical areas.

The Philippine Ports Authority

- The Philippine Ports Authority (PPA), created under Presidential Decree No. 857, oversees the operation of all ports in the Philippines.
- PPA is governed by a board of directors chaired by the Secretary of the Department of Transportation and Communications.
- PPA issues operating licenses to private port owners and operators. It has the power to prescribe rules and guidelines governing the establishment, construction and maintenance of ports.
- PPA is given the power to supervise, control, regulate, construct, operate and provide such facilities or services which are necessary in public ports.
- The PPA has police authority over all government ports including the apprehension of vessels which call at Philippines ports.
- PPA has divided its operations into 5 districts: Manila, Visayas, Southern Mindanao, Northern Mindanao and Luzon. Under these districts are 21 Port Management Offices (PMOs).
- PPA has 2,500 personnel with 2,000 employees assigned to the different PMOs.
- As discussed above, the Cebu Port Authority (CPA) is given a separate mandate by law and is autonomous from the PPA. The CPA may promulgate its own rules and regulations with respect to all activities in the port of Cebu.

Local Government Units

- Local government units such as provinces, cities, municipalities and barangays also have the power to control pollution in their respective territory.

- Regulation of solid waste both inland and in waters is one of the functions devolved to local government units. Facilities for disposal of waste can be undertaken only upon permission of the local government unit.
- Local government units have supervision and control over municipal ports.
- Local government units may call on units of the Philippine National Police's Maritime Command to enforce maritime and customs laws.
- One function devolved to local government units is the grant of franchise for vessels 20 gross tons and below plying inland waters and coastal trade.

WORKING GROUP SESSION ON SHIPPING

Situation

MARPOL requirements are now part of the global standards applied to ships. In the Philippines, it is claimed that all international ships comply with MARPOL requirements. However, there is no hard data available to support this assertion. It is a fact that Philippine-flagged vessels have been detained in other countries for violating MARPOL-related requirements.

There is even less hard data regarding domestic vessels, although it is known that their level of compliance with the MARPOL standards is lower compared to international vessels.

There is little basis for assessment of how the requirements of MARPOL affect the shipping industry.

Background Information

- ▶ Obligations under MARPOL
- ▶ Data available and unavailable regarding ships

Issues

A. Are ships ready to comply with obligations under MARPOL?

EXERCISE: Boardwork on Table of Shipping Obligations

B. How shall ships begin to comply with MARPOL?

Options

1. Set a deadline for compliance. Every stakeholder complies by deadline.
Implication: Ships must have all construction modifications, equipment, procedures, trained crew, etc. in place by deadline.
2. Provide for a transition period and set a schedule of priority activities.
Implication:
 - (a) Information needed, specifically number of vessels by tonnage and cargo, technical and training needs, etc.
 - (b) Priorities identified.
3. Make a schedule of compliance/exemptions based on vessel age.
Implication:
 - (a) Data needed, specifically number of vessels by age and cargo, technical and training needs, etc.
 - (b) Priorities identified.

C. What steps are needed to build consensus on the option chosen?

Obligations for the Shipping Sector under MARPOL 73/78

Obligation	Ready (Y/N)		Problems	Possible solutions
	Int'l	Dom.		
Procedures and equipment: 1. crude oil washing (COW) 2. segregated ballast tanks (SBTs) 3. dedicated clean ballast tanks (CBTs) 4. retention of oil on board (slop tanks, oil discharge monitoring and control systems) 5. oil discharge and monitoring system and oily water separating and oil filtering equipment 6. sewage equipment 7. garbage equipment and placards				
Construction: 1. limitation of size and arrangement of cargo tanks 2. subdivision and stability requirements 3. double hulls				
Oil Record Book				
Cargo Record Book				
Garbage Record Book				
Shipboard Oil Pollution Emergency Plan				
Trained crew (procedures, use of equipment, etc.)				
Procedures and Arrangements Manual for chemical tankers				

PROFILE ON SHIPPING

- Ships carry out more than 99% of the flow of commodities in the country. In 1994, it is estimated that 21,186,449,000 tons of commodities valued at 214,329,614,000 Philippine pesos were transported in the Philippines. In 1993, ships transported 1,368,982,000 barrels of oil in the country. Approximately 40 to 50 million passengers are transported by ships yearly.
- In 1994, the number of ship calls of all vessels at berth and at anchorage was 218,520. Domestic ship calls accounted for 209,603 while overseas calls numbered 8,917.
- Records show that in 1993, about 10,717 vessels entered and cleared in Philippine ports. Of this figure, 2,035 were overseas vessels with a net tonnage of 10,762. In 1991, the number of domestic vessels which sailed Philippine waters is 62,070. In the same year, there were 2,688 international vessels which entered the Philippines.

DOMESTIC

- Based on 1995 records of the Maritime Industry Authority (MARINA), the domestic operating fleet numbered 10,072 vessels, with a total gross tonnage of 1.64 million.
- Of the domestic vessels, the merchant fleet (passenger ferry and cargo, general cargo, container, liquid cargo/lighterage, barging, tanker, towing/salvage, pleasure and pilotage) comprise 49.84% while fishing vessels comprise 50.16%. Of the merchant fleet,
 - 1,096 are passenger ferries
 - 353 are passenger cargo carriers
 - 173 vessels are oil tankers
 - 2,145 are for general cargo, and
 - 990 are for barging and towing.
- The 173 registered oil tankers weigh 1,039 gross tons (grt) on the average. Approximately 150 tankers weigh 150 grt and above.
- According to records of the Philippine Petroleum Sea Transport Association (a group of 17 shipping firms operating oil tankers which service PNO, Shell and Caltex), of the total of 108 tankers operated by its members, 105 tankers have a gross tonnage of 150 and above.
- As to ships other than oil tankers, approximately 700 vessels weigh 400 grt and above.
- Of the total 1,449 passenger vessels, about 900 vessels weigh 3 to 99 grt. Approximately 500 vessels weigh more than 200 grt. Most if not all registered passenger vessels can carry 10 persons.

- According to records of the Domestic Shipowners Association (a group of five passenger, cargo and container shipping companies), all 66 vessels operated by its members weigh more than 400 GRT.

OVERSEAS

- Registered overseas fleet numbered 355 in 1996 with gross tonnage of 7.31 million.
- Of the 355 overseas vessels:
 - 1 is a passenger carrier
 - 50 vessels are for general cargo
 - 232 are bulk carriers
 - 5 are oil tankers
 - 1 is an oil bulk ore carrier
 - 9 are container vessels, and
 - 3 are LPG carriers.
- The five registered oil tankers have an average weight of 5,000 GRT.
- There is no available data with respect to the relative weight and passenger capacity of registered overseas vessels.
- Domestic and overseas fleet are serviced by at least 98 firms engaged in shipbuilding, ship repair, boatbuilding and shipbreaking. The biggest of these firms are located in Cebu, Subic and Batangas.

Registered Domestic Vessels

<u>Type of service</u>	<u>Number of vessels/fleet</u>
Fishing Fleet	5,052
Merchant Fleet	
Passenger Ferry	1,096
Passenger Cargo	353
General Cargo	2,145
Container	39
Liquid Cargo/Lighterage	20
Barging	546
Tanker	173
Towing/Salvage	444
Pleasure	54
Pilotage	12
Others	138
Total	10,072

Philippine-Registered International Vessels

<u>Type of service</u>	<u>2011</u>	<u>Number of vessels/fleet</u>
General Cargo	194	50
Bulk Carrier	232	232
Tanker	87	5
Log Carrier	3	2
GRTMulti-Purpose	23	9
Oil Bulk Ore	37	1
Roll on - Roll Off	62	5
Reefer	61	10
Livestock carrier	50	14
Car Carrier	74	13
Container/GC	21	9
Passenger	6	1
Dry Cargo	63	1
LPG Carrier	24	3
Total		355

WORKING GROUP SESSION ON PORT RECEPTION FACILITIES

Situation

There are no public ports with reception facilities in the country, except for Manila where the PPA has a list of private contractors which may be contacted by ships needing to discharge waste. However, PPA has no control over the final disposal of the waste by these contractors, or any coordinating mechanism with the agencies dealing with waste treatment and disposal.

Private reception facilities are operated by some big oil companies such as Shell and Caltex in their private ports.

There is no baseline data or any studies made on the quantity and type of ship wastes carried to the different ports of the country.

Background information:

- ▶ Data on ports, routes, reception facilities.
- ▶ Highlights of:
 - PPA law, highlighting powers and functions; PPA circulars
 - EIA law
 - RA 6969
 - Local Government Code on garbage
 - MARINA law (on coordination)

Issues**A. Administrative agencies**

- .1 What are the roles of the stakeholders regarding shore reception facilities; are they clear and acknowledged; and if not, what can be done to remedy this?
- .2 Are these agencies capable of fulfilling their roles, and if not, how can their capacities be enhanced?
- .3 Does coordination exist, and how can it be improved (mechanism, and at what level?)

B. Costing and Phasing In

- .1 How can shore reception facilities be made affordable in the Philippines?

Options:

(1) Government-owned and government-operated (GOGO)

Implications:

- (a) High initial and continuing costs, full responsibility for the environment; continuous training and equipment upgrading.
- (b) Full control; direct earnings.
- (c) Bureaucracy.

(2) Joint venture (BOT, BT, unsolicited proposal)

Implications:

- (a) Possible incompatibilities between private and public sectors.
- (b) Shared costs; shared earnings, shared responsibilities.

(3) Complete privatization

Implications:

- (a) Costs and risks too high; limited earnings to government; could lead to cartels.
- (b) Less control on environmental effects of operation; efficiency.

.2 What steps are needed to build consensus on the option chosen?

Options:

(1) National study

Implications:

- (a) Costs too high.
- (b) Comprehensive.

(2) Feasibility studies for priority ports

Implication: High percentage of wastes covered for less cost.

(3) Pilot joint venture in the area most attractive to investors

Implications:

- (a) Longer process; may not applicable to all ports.
- (b) Less cost.

3. What strategies can be used to facilitate phasing in?

PORTS

- According to records of the PPA, as of 1994 there were 411 ports in the Philippines consisting of 21 ports of entry, 56 sub-ports of entry, 115 municipal ports and 219 private ports.
- The port network in the country is composed of five major port district offices (PDOs): Manila, Visayas, Southern Mindanao, Northern Mindanao and Luzon. The port of Cebu is declared a special area and the Cebu Port Authority (CPA) was established to oversee the operation of the port of Cebu. CPA is independent of the PPA.
- In the PPA set-up, there are 21 port management offices (PMO) under the five PDOs. Each PMO, headed by a port manager, is located in a national port and serves as the base for the day-to-day management and administration of all ports within the district.
- Being the center of trading activities, ports in Manila have the biggest volume of cargoes handled followed by Batangas and Cagayan de Oro.
- According to records of the PPA, the ten busiest ports in the country in terms of cargo throughput are:
 - North Harbor, Manila
 - Batangas
 - Cagayan de Oro
 - South Harbor, Manila
 - Iloilo
 - Tacloban
 - Manila International Container Terminal
 - Davao
 - Iligan
 - Legaspi
- In terms of passenger traffic, Cebu has consistently reported the highest number of passengers.

ROUTES

- There are at least five major international shipping routes which pass through eight major straits in the Philippines. These routes are important to trade and commerce for Japan, Russia and the states of the former Soviet Union, North and South Korea and the People's Republic of China. The routes are also of naval and military significance to the US.
- The major routes pass through the following bodies of water: Luzon Strait (Bashi, Balintang and Babuyan channels); San Bernardino Strait (Bicol - Masbate - Sibuyan Sea

- Verde Island); Surigao Strait (Bohol Sea - Sulu Sea - Balabac Strait); Balut Channels (Mindanao - Celebes Sea - Makassar Strait) and a north sea route connecting the South China Sea with the Sulu Sea which branches to the Celebes Sea or to the Sibutu Passage.

- There are more than 25 inter-island routes in the country linking the major cities and coastal municipalities with each other and with Metro Manila. These inter-island routes are classified as follows:

Primary routes

- Manila - Cebu - Manila (Manila Bay - Verde Island Passage - Tablas Strait - Sibuyan Sea - Visayan Sea - Camotes - Cebu and vice versa)
- Manila - Iloilo - Pulupandan or Manila - Bacolod / Iloilo (Manila Bay - Verde Island Passage - Tablas Strait - Sibuyan Sea - Guimaras Strait)
- Manila - Cebu - Davao or Manila - Zamboanga - Davao - Dadiangas (Manila Bay - Verde Island Passage - Visayan/Mindanao/Sulu Sea - Moro Gulf - Davao Gulf)
- Manila - Cagayan de Oro City
- Manila - Dipolog

Secondary routes

- Manila - Cuyo - Puerto Princesa - Antique (Manila Bay - Mindoro Strait - Cuyo Pass - Puerto Princesa, or Manila - Tilik - Romblon - Roxas City - Dumangit - New Washington and vice versa)
- Manila - Tacloban - Catbalogan
- Ormoc - Surigao - Isabel - Palompon
- Manila - Nasipit - Cebu

Tertiary routes

There are 18 tertiary routes connecting the major business centers such as Cebu, Batangas, Zamboanga, Iloilo and Davao to other cities.

- There are other routes which are considered "developmental routes" assigned to one or two carriers or liners but which are not yet commercially viable.

RECEPTION FACILITIES

- According to the PPA, there are no waste reception facilities in ports supervised by the government.
- As most municipal units have no waste collection and treatment facilities, ships often discharge their waste into harbor waters. While the resulting discharge into harbor waters by freighters may be small, the discharge from numerous ferries with combined passenger capacity of 2,000 at a given day can be significant.

- With the probable exception of Manila, PPA reports that sewage from port facilities is left untreated and is discharged directly to harbor waters.
- In Manila, PPA reports that there are solid and liquid waste collectors which service vessels calling at the port. Sewage is collected to a central system and discharged untreated through a large outfall at the Manila International Container Terminal.
- No data is available with respect to the nature and volume of waste disposed by these waste collectors in Manila.
- Petroleum products are usually off-loaded at private ports and terminals and not at PPA facilities. It is generally presumed that oil companies and oil related industries treat all oil-contaminated waters before discharge. However, in PPA ports, waste waters, slops and sludge are handled by private entities contracted by shipping companies and PPA usually has no control as to how the private entities dispose of the waste.
- In 1995, EMB issued an environmental compliance certificate to the country's first and only oil sludge disposal and treatment facility located in Limay, Bataan. The facility is operated by a Filipino-Singaporean company, Philsin Marine Services, Inc. (Philsin).
- Philsin is one of three PPA-accredited companies servicing vessels which call at the port of Manila. The other companies being the Global Ship Supply and Marine Services and TVD Marine Services and General Merchandise.
- Philsin reports that a persistent problem in its operation is the circuitous system of permits and licensing necessary for the smooth operation of the facility. Philsin deals with at least four agencies even in the simple method of transporting the waste collected from ships.
- Among the biggest stumbling blocks to the development of an efficient shore reception system is lack of funding. PPA estimates that an efficient shore reception facility could cost as much as US\$50 million.
- It is obvious that the government has fallen short of making reception facilities attractive to investors. Admittedly, this is an offshoot of the lack of baseline data or feasibility studies to determine the viability of maintaining shore reception facilities in the country. As a minimum requirement, data must be gathered with respect to the potential waste capacity of the operating fleet.
- PPA is currently working on a project with foreign investors to see the feasibility of establishing public reception facilities.
- Big oil companies such as Shell and Caltex have reception facilities at their private ports.
- It can hardly be concluded that the government has met the basic legal requirements and infrastructure to implement MARPOL.

WORKING GROUP SESSION ON LEGISLATION

Situation

The existing legislation and regulations do not cover all the obligations under MARPOL. There is a need for flexibility to accommodate constant change in MARPOL requirements.

Background Information

- ▶ MARPOL requirements vis-à-vis existing legislation and regulations.
- ▶ Existing laws and regulations

Issue

How does the Philippines proceed with the development of implementing legislation which will be effective?

Options

1. Pass new legislation.

Implications:

- (a) Need to draft a whole set (either a codification or a framework law and smaller laws).
- (b) Opportunity to begin with a clean slate; all problems may be addressed.

2. Build on strengths of existing legislation by covering the gaps and strengthening their implementing regulations.

Implications:

- (a) Less drafting needs.
- (b) Confusion.

The following laws, rules and regulations implement certain provisions of MARPOL in the Philippines:

- **Marine Pollution Decree of 1976 (PD No. 600 as amended by PD No. 979)** which regulates matters pertaining to the prevention of pollution of the sea.

The Marine Pollution Decree makes it unlawful for a person to:

- discharge or permit the discharge of oil, noxious gaseous and liquid substances and other harmful substances from or out of any vessel, or any other floating craft into any body of water;
 - discharge from ships any refuse matter into Philippine waters;
 - deposit material of any kind in the bank of any navigable water which impedes or obstructs navigation or increases the level of pollution of such water.
- **The Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 (Republic Act No. 6969)** which regulates the use, importation and processing of chemicals.

Under the Toxic Substances and Hazardous and Nuclear Wastes Control Act (TWCA), before any chemical substance or mixture can be manufactured, processed or imported for the first time as determined by the EMB, the manufacturer, processor or importer may be required to submit certain information to the EMB, such as the name of the chemical substance or mixture, its chemical identity and molecular structure, and the like.

Aside from the foregoing laws, special laws have been promulgated to control the pollution of certain bodies of water such as the Laguna Lake. This is justified by the numerous industries located along the lake's shores. Under Republic Act 4850, the Laguna Lake Development Authority (LLDA) was given exclusive jurisdiction to issue permits for the use of the lake waters for any projects or activities affecting the lake and impose necessary safeguards for lake quality control and management.

- **Rules and Regulations issued by the Philippine Coast Guard Headquarters (HPCG) and the Philippine Ports Authority (PPA)** provide for the actual implementation of some of the provisions of the MARPOL.
 - a. **HPCG Memorandum Circular (MC) 03-94 -- Prevention, Containment, Abatement and Control of Marine Pollution**

HPCG MC 03-94 regulates marine pollution such as dumping and other discharges. It contains restrictions on throwing or discharge of oil, noxious liquid substances, garbage and sewage.

~~08-91 prescribes~~

- b. **HPCG Memorandum Circular (MC) 01-94** -- Prevention of Pollution by Sewage from Ships and Issuance of International Sewage Pollution Prevention (ISPP) Certificate for Philippine Registered Vessels

MC 01-94 prohibits discharge of sewage into the sea with certain exceptions.

MC 01-94 provides for the procedure for the issuance of the ISPP Certificate. The PCG may authorize any classification society or survey organization/agency to conduct surveys on vessels requesting an ISPP Certificate.

- c. **HPCG MC 02-94** -- Prevention of Pollution by Garbage from Ship

MC 02-94 prohibits any vessel or person to dispose into the sea any plastic materials, including but not limited to synthetic nets and plastic garbage bags and dispose into the sea domestic cargo-associated maintenance and operational waste.

- d. **HPCG MC 04-93** -- Shipboard Oil Pollution Emergency Plan for Philippine Registered Vehicles

MC 04-93 requires all oil tankers of 150 GRT and above and every ship other than an oil tanker of 400 GRT and above to carry on board a shipboard oil pollution emergency plan (SOPEP) duly approved by the PCG.

- e. **HPCG MC 02-91** -- Dumping and Discharging of Wastes and Other Harmful Matters at Sea

MC 02-91 makes it unlawful for any person to discharge oil, noxious gaseous and liquid substances, harmful substances, waste and other matter in or out from vessels, tankers, oil barges, dredgers, oil company refineries, terminals, depots and other establishment into the waters of the Philippines.

- f. **HPCG MC 08-96** -- Port State Control

MC 08-96 prescribes the procedures in the conduct of vessel inspections by authorized and qualified personnel of the PCG of overseas vessels

- g. **PCG MC 05-83** - Rules Governing the Issuance of Oil Pollution Prevention Certificate to Philippine Registered Vessels (IOPPC)

MC 05-83 prescribes the procedure for the issuance of IOPPC to Philippine registered vessels in international or domestic trade. Vessels of at least 400 GRT and tankers of at least 150 GRT are required to obtain an IOPPC.

h. HPCG MC 08-91 - Rules Providing for Marine Pollution Inspection and Apprehension Report

MC 08-91 prescribes the policies and procedures for reporting pertaining to Philippine and foreign flag vessels which violate the provisions of MARPOL and Coast Guard regulations and circulars for the guidance and implementation of PCG operating units.

i. HPCG MC 06-91 - Rules and Regulations for Tank Cleaning Operations of Vessels and Oil Tankers

MC 06-91 prescribes the procedure for tank cleaning operations within the territorial jurisdiction of the Philippines. All tank cleaning operations must be under the supervision of a responsible officer and under a permit from the PCG.

j. HPCG MC 02-80 - Rules for Accreditation of Oil Water Separators, Oil Containment Recovery and Dispersal Equipment and Chemical Dispersants

k. PPA MC 07-95 -- Anti-Pollution Measures Within the Port Zone

MC 07-95 mandates the PPA to enforce Philippine Coast Guard regulations pertaining to marine pollution particularly PCG MC 01-91 and MC 02-91. It also mandates the PPA to assist the PCG in its berthing and storage facilities. Upon official request/notice from the PCG, the PPA may withhold the entry/departure clearance of vessels for marine pollution violations.

l. PPA MC 16-95 -- Rules and Regulations on the Prevention/Control of Oil, Garbage and Sewage Waste Through the Use of Reception Facilities/Collection of Vessels Refuse.

All vessels calling in on any port in the Philippines are required to dispose of their oil, sewage and garbage waste at the reception facilities provided by the PPA or the PPA's duly accredited private contractor.

GAPS IN LEGISLATION

A review of existing Philippine laws and regulations summarized above reveals that the following requirements of the MARPOL are not in place:

- MARPOL Annex 2 regulations in regard to noxious liquid substances (NLS) carried in bulk, particularly the categorization of NLS and the issuance of NLS Certificates;
- MARPOL Annex 3 regulations for the prevention of pollution from harmful substances in packaged form or the International Maritime Dangerous Goods Code;

- arbitration procedures for disputes and incidents;
 - exhaustive reporting schedule and procedures for incidents;
 - provisions for consultation, technical assistance and research pertaining to pollution;
 - provisions for adequate reception facilities for oily residues and for noxious liquid substances and wastes and garbage from ships;
 - procedures for the detection of violations as well as the reporting and accumulation of evidence pertaining to violations of the MARPOL.
- Further, it is noted that penalties under existing regulations are not severe enough to discourage violations. The maximum penalty under existing PCG regulations is P10,000.