**REPORT OF THE PORTFOLIO COMMITTEE ON TRANSPORT ON THE PUBLIC HEARINGS HELD ON THE MARINE POLLUTION (PREVENTION OF POLLUTION FROM SHIPS) AMENDMENT BILL, DATED 28 FEBRUARY 2023**

The Portfolio Committee on Transport having conducted public hearings on the Marine Pollution (Prevention of Pollution from Ships) Amendment Bill on 8 and 15 November 2022, reports as follows.

1. **Introduction**

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| The Marine Pollution (Prevention of Pollution from Ships) Amendment Bill [B 5-2022] (the Bill) was referred to the Portfolio Committee on Transport (the Committee) on 31 January 2022. The Committee was briefed on the proposed amendments by the Department of Transport on 6 September 2022. The Committee resolved to publish the Bill for comment from 15 September 2022 to 21 October 2022 and to conduct public hearings to hear public opinion on the proposed amendments. The Bill was published for comment in national and regional newspapers, on the Parliament website, Twitter and Facebook. Submissions were received from the following stakeholders: The Southern African Foundation for the Conservation of Coastal Birds (SANCCOB); The Wildlife and Environment Society of South Africa (WESSA); Natural Justice: Lawyers for Communities and the Environment; The Western Cape Department of Environmental Affairs and Development Planning; Ms C van Dyk and Dr Pia Rebelo (supported by Dr Alanna Rebelo). |

The Public Hearings were held on 8 November 2022. The Department responded to the written submissions on 15 November 2022.

1. **Department of Transport responses to the written and oral submissions**

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| **STAKEHOLDER’S COMMENTS** | **DEPARTMENT OF TRANSPORT RESPONSE** |
| **WESSA COMMENTS**  1. WESSA supports this Bill, aimed at significantly improving the safe and appropriate management of sewage, waste and air emissions from marine vessels.  2. Noted the crucial improvement to Section 3 (b) with the additions of sub-clauses (e)-(m) which provides for the creation of regulations pertaining to preventing pollution from ships.  Comments on Annex IV: Regulations for the Prevention of Pollution by Sewage from Ships  3. Regulation 2.1: provisions of Annex IV will apply to ships engaged only in international voyages.  Concern 1: Does not cover ships moving within SA territorial waters, nor between these waters and high seas.  PROPOSED REMEDY: Extend Reg.2.1 to include ships engaged in voyages within and between SA territorial waters and the high seas. | NB. Section 1 of the present Act defines the ‘ship’ to include ‘floating platform’ and therefore by this definition, ALL MARPOL Annexes apply on all ships.  Section 2. “Application and interpretation includes all South African ships and all other ships while in territorial waters or EEZ.  Take note also of Regulation 4 on Surveys and certification and as well as Chapter 3 Reg 9, 10, 11, & 12 this will apply on all passenger ships. |
| CONCERN 2: The threshold of these regulations only applies to ships above 400 gross tonnage.  PROPOSED REMEDY: that they should extend to all ships above 100 gross tonnage.  CONCERN 3: That inorganics and solids in sewage will continue to be discharged overboard.  PROPOSED REMEDY: Add regulation to require ships to separate out inorganics and solids from sewage, for disposal on land; additionally that sewage be macerated before being disposed of into the sea.  Comments on Annex VI: Regulations for the Prevention of Air Pollution from Ships  CONCERN 4: The threshold of these regulations only applies to ships above 400 gross tonnage.  PROPOSED REMEDY: Set threshold to all ships above 100 gross tonnage. (Regulation 5.2 provides the space setting regulations for ships below 400 gross tonnage.) | NB. Section 1 of the present Act defines the ‘ship’ to include ‘floating platform’ and therefore by this definition, ALL MARPOL Annexes apply on all ships.  Section 2. “Application and interpretation includes all South African ships and all other ships while in territorial waters or EEZ.  Regulation 2.2 refers to how this particular concern of inorganics and solids are to be discharged. Reference to 1.3 and 1.4 in Regulation 2.2 will now be amended to 1 (c) (the corresponding numbering used in the Bill) |
| 4.Call for Inclusion of Shipping Noise Pollution  Aim of this Bill is to give effect to Annex IV of the International Convention for the Prevention of Pollution from Ships, and to provide for matters connected therewith.  SA Constitution provides that everyone has the right to  (a) to an environment that is not harmful to their health or well-being;  (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures.  National Environmental Management Act (NEMA) 107 of 1998, Section 2(4)(e)): everyone has a duty of care towards the environment.  Anthropogenic undersea noise is a growing threat to marine life.  Ocean noise regulation is currently non-existent in both environmental legislation and in maritime legislation in South Africa. | Noted, this amendment is to legislate MARPOL Annexes to which South Africa is party. Noise pollution is not dealt with in MARPOL but is provided for under the Safety of Life at Sea Convention, Code on noise levels onboard ships.  In addition, the Marine Environment Protection Committee adopted on 7 April 2014 (MEPC) Circular.833 which provides non mandatory Guidelines for the Reduction of Underwater noise from commercial shipping to address adverse impacts on Marine life.  We could as a solution include the power of Minister to make regulations *(m) relating to underwater noise from ships operating within territorial waters.* We however will be challenged on this. |
| Suggested New Noise Regulations  The problem of noise pollution from shipping, sonar by the military and through offshore oil and gas development is a significant threat to biodiversity and its damaging effects to marine species and ecosystems. WESSA, in partnership with Oceans Not Oil NGO, calls for this Bill to recognise and address noise pollution in our marine environment; by:  1. applying the Precautionary Approach to ensure that ocean noise levels are not harmful for marine life and humans, by developing effective guidelines and regulations to mitigate or eliminate intense noise producing activities, including sonar;  2. that the use of military sonar (outside of imminent or active conflict) be subject to these mitigation measures for protecting marine wildlife;  3. requiring that seismic surveys are also subject to the noise regulations as contemplated above; and  4. designation as low-noise areas critical marine habitats, including biosphere reserves, UNESCO Marine World Heritage Sites and Marine Protected Areas; in consultation with appropriate marine biology/ecology experts.  The IMO has been researching and promoting solutions for shipping noise reduction, and their current guidelines appear to be on a trajectory to become international requirements. It would be parsimonious to then use this intended Bill to align our shipping requirements to incrementally address noise pollution. The IMO promotes achieving this through  1) ship design:  – Design solutions at propulsion level  – Reduction of machinery noise  - Reduction of propeller noise  – Structural solutions to reduce underwater radiated noise  – Other solutions to reduce underwater radiated noise | As above. |
| And  2) mitigation measures related to traffic control:  – Mitigation solutions applied to a particular ship (e.g. speed reduction)  – Mitigation solutions applied at ship traffic control level, such as low-noise areas.  This Bill requires that defined ships report periodically on their compliance with the regulations of this Bill.  WESSA requests that a further clause be added, that requires that this compliance status information (by ship) is be made publicly accessible, through a portal on either the website of the National Department of Transport or SAMSA. WESSA believes that this will contribute to good governance, transparency and accountability., | Noted, this is beyond the scope of this bill. As such, a tool interesting as it can be, is not provided for in any of the regulations.  Matters of ‘naming and shaming’ is addressed from time to time by Port State Control regimes e.g. Paris MOU on Port State Control. |
| **SANCCOB COMMENTS**  1.Clause 4 Amendment of Section 3A of Act 2 of 1986  SANCCOB welcomes the amendment of section 3A with increase in fine and imprisonment threshold. These changes highlight government’s commitment to ensure that polluters are severely punished for their crimes. It should also serve as a deterrent to potential polluters as the economic, political and social costs could be severe.  2. Clause 5 Insertion section 3B in Act 2 of 1986  SANCCOB welcomes this inclusion but recommends that any such committee has clear terms of reference to follow, has balanced representation and that individuals are appointed based on their expertise on the matter in question.  3. Annex IV Chapter 1, Regulation 1, Sub-regulation 3: Definition of “Sewage”  SANCCOB submits that there is no reference to waste generated from cleaning of engines, equipment or ship. If that is covered in another act than that should be noted somewhere in this act. | This comment is noted.  This comment is welcomed and could be considered for inclusion in regulations.  The wastes mentioned are operational wastes in terms of MARPOL and are dealt in MARPOL Annex V- Regulations for the Prevention of Pollution by Garbage from Ships. South Africa is already party and enforces these Regulations. |
| 4.Annex IV Regulation 2 sub-regulation 1  SANCCOB requires clarity on whether there is a rationale for Annex IV to apply only to ships mentioned therein or if there are any other sections of the overall Act that cover other vessels not covered in the amendment.  5. Chapter 2, Regulation 4, point 4: “Surveys of ships as regards the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.”  Chapter 2, Regulation 5, Point 3: “The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it. Such organizations shall comply with the guidelines adopted by the Organization;”  What sort of criteria will be used to select surveyors? How will the administration ensure that the surveyors are independent and not biased in anyway? | This bill is to make provisions of MARPOL Annex IV enacted into domestic legislation. MARPOL Annexes apply to vessels of various sizes and voyages. Ships under convention size are to be dealt with in regulations.  RO's short for Recognised Organizations are audited by the Authority before entering into an agreement to provide services on behalf of the Administration.  IMO has an approved list of Recognised Organisations operating in all jurisdictions including South Africa. SAMSA selects an RO from that approved IMO list and enters into agreements for the provision of specific services.  RO's are audited by the Authority before entering into an agreement. |
| 6. Chapter 2. Regulation 4, Point 6: “…shall in due course notify the Administration”  Chapter 2, Regulation 5, Point 3a: “…shall in due course notify the Administration”  It is recommended that some kind of time frame for notifying authority be included. In its current form it is very vague with little room for accountability.  7. Annex IV Regulation 11 Sub-regulation 2  The provisions of paragraph 1 shall not apply to ships operating in the waters under the jurisdiction of a State and visiting ships from other States while they are in these waters and are discharging sewage in accordance with such less stringent requirements as may be imposed by such State.  According to SANCCOB, the meaning of this point is not clear. Does it mean that visiting ships must adhere to the regulations of the State if their own State regulations are less stringent? | This is for the RO's to inform the Administration when such corrective action is not taken and the certificate is withdrawn. These timelines are dealt with in the agreements with RO's.  This is exactly as is in MARPOL ANNEX IV. If a vessel is in a state where the discharge conditions for sewage is less stringent, then these requirements shall not apply. |
| 8. Annex IV Regulation 12 sub-regulations 1&2  Reception facilities “undertakes to ensure the provision of facilities at ports and terminals for the reception of sewage, without causing delay to ships, adequate to meet the needs of the ships using them.”  How will South Africa ensure this is done properly when the country does not have capacity or resources to manage its own sewage?  9. Annex VI Regulation 3 Sub-regulation 3.1  Emissions directly arising from the exploration, exploitation and associated offshore processing of sea-bed mineral resources are, consistent with article 2(3)(b)(ii) of the present Convention, exempt from the provisions of this Annex.  Are these emissions regulated elsewhere in the Act or by another Act? This is a form of marine pollution and will need to be regulated especially if South Africa continues with the development of oil and gas operations. | The onus is on the Member State to provide adequate port reception facilities, Transnet National Ports Authority (TNPA) issues licences to service providers who are authorised to collect Sewage in compliance with local legislation.  This again is exactly as is in MARPOL ANNEX V.  Offshore Marine Pollution Risk Assessment and Contingency Planning for preparedness and response will not be regulated by the Oil Pollution Preparedness, Response and Cooperation Bill that is currently under consideration of this Committee. |
| 10. Annex VI Regulation 5 Sub-regulation 2   * In the case of ships of less than 400 gross tonnage, the Administration may establish appropriate measures in order to ensure that the applicable provisions of chapter 3 of this Annex are complied with. * SANCCOB recommends that any measures are decided upfront and included in the Act instead of at a later stage. This will avoid any confusion in the future and avoid any unnecessary delays in the implementation of such measures.   11. Annex VI Regulation 5 Sub-regulation 6   * “…shall report at the earliest opportunity to the Administration,” * It is recommended that a specific frame for notifying authority be included. In its current form it is very vague with little room for accountability. | Noted.  This again is exactly as is in MARPOL ANNEX VI.  IMO has considered such matters as time frames, the Masters immediate focus would be the safety of the crew, vessel and the protection of the Marine Environment and thus it is left to the Master to make the report at the earliest opportunity, this is the same wording in all Annexes and even in the SOLAS Convention. |
| 12. Annex VI Regulation 17 Sub-regulation 1a   * needs of ships ubstances” * Fix spelling error and “s” to make it “substances”   13. Annex VI Regulation 22A Sub-regulation 1   * From calendar year 2019, each ship of 5,000 gross tonnage and above shall collect the data specified in appendix IX to this Annex. * The regulation specifies from calendar 2019 but if the Amendment is only being finalized now how can the vessels collect the information? Is this information that they should be collecting already? How would this be dealt with once the Amendments to the Act become official? | Noted, also error noted as below:  1. Each Party undertakes to ensure the provision of facilities adequate to meet the:  “…using its repair ports for the reception of ozone-depleting…”  This data needs to be collected and reported annually to IMO.  Vessels that need to report are already compliant by reporting the data. |
| **NATURAL JUSTICE COMMENTS**  Clause 4 (Amendment of section 3A of Act 2 of 1986)   * The proposed legislation would increase the maximum fine from R500,000 to R10,000,000 and the maximum sentence from five to ten years in prison. * According to Natural Justice, the cap should either be raised further or eliminated outright. * The Bill seeks to control all potential maritime pollution from any ships that fall under its purview. As a result, the Bill applies to any pollution, even the kind that would require spending billions of Rands to remedy. * It is not difficult to conceive that potential contamination could result in losses that would cost more than R 10 million to prevent. According to Natural Justice, the sole sanction clause that doesn't have a cap might effectively discourage and remedy any possible marine pollution. * Alternately, Natural Justice argues that the Bill must be more explicit and create a separate offense for persistent disobedience over time if the Minister decides to stick with the R10 million cap. A separate offense occurs when a current offense is continued while a new offense is created. * Another option is for the Bill to specify a minimal penalty. Considering the magnitude and unknowable effects of all marine pollution, Natural Justice argues that minimal penalties are necessary to have a significant deterrent effect and promote recovery. For instance, section 73 of the Marine Environment Protection Law in the People's Republic of China sets a minimum fine of RMB30,000 (about R 76 000) on a person or a vessel releasing prohibited pollutants. * According to Natural Justice, a minimum penalty could adequately address the importance of marine protection, mitigate the unknown impact of all marine pollution, and impose strong deterrence. | This should be the fine for the contravention and in addition all clean up costs but within the limits of liability as provided in the Conventions and as well in the OPRC Bill that is before the Committee.  Each offence constitutes a fine.  Each offence constitutes a fine, however, in some instances it may not apply, e.g. if a vessel has suffered damage and keeps polluting daily due to the initial incident.  Noted. |
| 2. Clause 5 (Insertion of section 3B in Act 2 of 1986)   * Submits that, to reduce marine pollution, all government departments must work together and coordinate. The municipal departments adjacent to the coastal areas oversee much of the oversight. * As a result, the Department of Transportation must coordinate and collaborate with other government agencies. Similarly, the Department of Transportation must collaborate and coordinate with coastal municipalities to reduce marine pollution.   3.Annex IV Chapter II Regulation 4 Section 6   * The provision does not define the scope of the power that a nominated surveyor or a recognized organization must carry out corrective actions. * Natural Justice contends that the Bill should give the surveyor the authority to detain and remove the vessel from the water immediately. | This Bill may be a little complex to provide for such cooperative mechanism as opposed to the Cooperation mechanism proposed in the Preparedness, Response and Cooperation Bill before the Committee.  The surveyor referred to could be a surveyor of an RO, who does not have the powers to detain a vessel. Removing the vessel from the water may not be a simple solution, could be possible if we consider small boats. Moving the vessel out of jurisdiction may not prevent pollution too and may just exacerbate the problem.  A surveyor is not a member of the ship’s crew. The crew know the vessel and are in a better position to deal with minimising pollution, the surveyor has the powers to oversee operations when incidents occur and together with the ship’s crew will minimise pollution. |
| * Natural justice further submits that, given South Africa's current environmental crisis and the marine's sensitivity to pollution, the surveyor must be given the authority to stop marine pollution to prioritize marine protection and have a meaningful impact on their duty under the Act.   4. Annexture IV Chapter II Regulation 4 Section 10   * The current proposed language places a heavy burden on the ship's master or owner to report at the earliest opportunity. While Natural Justice agrees that the master or owner of the ship must report, the Bill should also include police and local authorities as surveyors. * Involving the police and local governments would strengthen the country's ability to monitor the marines and respond to any incident or violation of the Act. * Neither the Act nor the Bill establishes a central agency to enforce strict compliance regarding marine protection. | The police and local authorities do not have the expertise to deal with pollution incidents and not sure what could be achieved by nominating them as surveyors.  The police and local government as it stands today could always contact the Authority for any incidents relating to pollution for the Authority to investigate and take appropriate action. |
| 5. Annexture IV Chapter II Regulation 7 Section 1   * In addition to the prescribed languages, the Certificate must also be drafted in local languages in that coastal municipality. South Africa is a country rich in cultural diversity and ethnic diversity. * Local languages are included not only to reflect South Africa's true cultural diversity, but also to ensure compliance with the Act at the local level. If local governments are designated as the regulatory authorities, the Certificate must be written in a language that everyone understands.     6. Annex VI Chapter I Regulation 3 Section 2   * This provision exempts a ship trial from other provisions in the Annex for up to five years. * Natural Justice submits that this exemption is overly broad and is in direct conflict with South Africa’s commitment under the Paris Agreement. Under the Paris Agreement, South Africa has pledged to cut carbon emissions by 50%. | The certificates are based on the contents of the MARPOL Convention. These vessels trade internationally.  There is no intention to designate local government as regulatory authorities for the purpose of the MARPOL Convention.  Yes, as it states this for the development of ship emission reduction and control 'technologies and engine design programmes.  Noted and do not concur because the matter being regulated is governed by the agreements made at the IMO. States may not act unilaterally. |
| * Potentially, once a ship is exempted from the Annex under section 2(a), the ship could be producing as much emission as desired during the period of the exemption. * If any exemptions are granted under this provision, Natural Justice contends that the terms and conditions of the exemption must be made public to boost public trust in government administration. The public has the right to oversee any abuse of exemption. * Disclosure of exemptions would also better facilitate enforcement of the Act by informing the public which ships, or vessels are currently exempt. | Noted. |
| 7. Annex VI Chapter I Regulation 3 Section 3.1   * This provision is directly related to the development of upstream petroleum resources. * Natural Justice argues that this provision is completely unjustified for a variety of reasons, including a direct contradiction to South Africa's commitment to environmental protection, being overly broad with no limitations, and being unnecessary. * The provision exempts from the provisions of this annex the exploration, exploitation, and associated offshore processing of sea-bed mineral resources ("Offshore Mineral Processing"). When combined with the recently passed Upstream Petroleum Resources Development Bill (B132021), the South African government's desire to expand the petroleum industry is clear. There is no doubt that the petroleum industry emits a significant amount of CO2. Further development of the industry would jeopardize South Africa's efforts to reduce carbon emissions in accordance with its Paris Agreement commitment. | Noted, it is what is provided for in MARPOL.  3.2 deals with Trials for ship emission reduction and control technology research, whereas 3.3 deals with Emissions from sea-bed mineral activities.  Noted. |
| * Unlike the exemption provided in section 2 of Regulation 3, this provision provides an absolute exemption from all restrictions for emissions from offshore mineral processing. * The Annex contains no prohibitions, limitations, oversight, or reporting requirements. Natural Justice claims that the exemption is overly broad and lacks justification. As such, the provision is unnecessary. * Finally, Natural Justice asserts that the offshore mineral processing exemption is unnecessary. Considering the country's agenda on energy transition, government policies, including offshore mineral processing, should gradually direct the public away from fossil fuels. * Many sources have demonstrated that South Africa has sufficient sustainable energy options to power the country, making further development in the fossil fuel industry unnecessary. An exemption like this is an indirect incentive for the private sector to expand further. As a result, Natural Justice believes that this specific provision should be repealed entirely. | Noted. Offshore activities are regulated by other instruments. The OPRC Bill before the Committee will introduce new requirements for Contingency Planning that will be preceded by Risk Assessment including risk assessment on Offshore facilities that could be a threat to marine pollution. |
| 8. Annex VI Chapter II Regulation 11 Section 1   * The provisions must ensure that criminals are apprehended. This includes reducing corruption caused by bribery. According to the South African Constitution, the Bill must ensure that justice is fair, equitable, and reasonable.   9. Annex VI Chapter V Regulation 14 Section 1   * This provision enables officers of the Administration to inspect a ship in a port or an offshore terminal in South Africa. * Natural Justice recommends that the Minister appoint officers of the Administration to all coastal municipalities and provinces. * Coastal municipalities and provinces have geographical advantages when it comes to supervising masters or crew who are unfamiliar with critical shipboard procedures for preventing sewage pollution. The designated offer would not have needed to seize or detain the ship because it would have been in a port or an offshore terminal. As a result, the officer would not be given broad authority. | South Africa has a relatively strong maritime criminal justice tradition that is reliable and effective.  SAMSA has a foot print in all major ports of the country.  The ship's crew are better placed to know the ships equipment and shipboard operations. |
| 10. Memorandum on the Objects of the Bill (Section 4 and 6.2)   * As indicated in section 4, during the drafting of the Bill, the Minister did not consult any local communities including South Durban communities and Western Coast communities. * Natural Justice submits that meaningful consultation with local communities must take place before the Bill can be passed into law. * The Bill addresses general marine pollution in the ocean, which undoubtedly has an impact on local communities' traditions and livelihoods. There is no physical barrier between the ocean and the surrounding airspace. Pollution from one source can spread to unexpected places. Marine pollution will have an impact on how local communities use ocean space. * As a result, Natural Justice asserts that, contrary to section 6 of the Memorandum, the Bill must be referred to the National House of Traditional Leaders. | This amendment bill is to enact provisions of MAPOL Annexes, which South Africa is party to. |
| **WESTERN CAPE DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING COMMENTS**  1.General matters   * The Western Cape Department of Environmental Affairs and Development Planning submitted comments on the Bill gazetted for public comment on 6 September 2019 (GG 42688 GN 476) by the national Department of Transport. However, no Comments and Response Report has been received and it is therefore not clear whether the concerns raised have been adequately addressed, and if not, why not.   2. General Matters   * It is submitted that the numbering throughout the Bill needs to be checked. For example, regulation 11.1(b) of Annex IV refers to regulation 9.1.1 and regulation 11.3(b) refers to regulation 9.2.1. These cross references are incorrect. The correct references are to regulation 9.1 and regulation 9.2 respectively.   3. General Matters   * The words “Party” and “Certificate” are used extensively throughout the Bill. It is submitted that both words should be defined to provide clarity as to their meaning. | Noted, agree the bill needs to be checked for numbering as is in the Annexes of MARPOL.  The term Party refers to South Africa and the certificate would refer to the certificate as it relates to that particular Annex of MARPOL. |
| 4. General Matters   * It is noted that the Bill will give effect to Annex IV of the International Convention for the Prevention of Pollution from Ships, which addresses the prevention of sewage pollution from ships. The Bill also incorporates the 1997 Protocol to give effect to Annex VI of the Convention, which addresses the prevention of air pollution from ships. * It is submitted that pollution abatement technologies should be used to reduce environmental impacts from incineration of waste, especially those impacts that accelerate climate change.   5. Clause 5 of the Bill   * This clause provides for the Minister to appoint an advisory committee to advise him or her on any matter dealt with by the Marine Pollution (Prevention of Pollution from Ships) Act, 1986 (Act 2 of 1986). It is submitted that the Bill needs to provide further details about the advisory committee, such as composition of the committee, required qualifications to serve on the committee, term of office, absence from meetings, etc. | Noted, incineration is prohibited in port limits.  This should be dealt with in the regulations. |
| 6. Annex IV Regulation 3   * It is recommended that the measures taken to avoid or minimise discharge as referred to in subregulation 1(b), should be documented and reported to the Authority (as defined) or the Administration (as defined). * It is also submitted that, where practical, the intention to discharge sewage resulting from damage to a ship or its equipment should be communicated (even verbally) to the Authority prior to the discharge. Currently the decision to discharge seems to be in the sole discretion of the ship’s command.   7. Annex IV Regulation 6   * In terms of regulation 6, the Government of a Party to the Convention may, at the request of the Administration, have a ship surveyed for compliance with Annex IV relating to sewage pollution. | The discharge referred to is only for the sole purpose of securing the safety of a ship and those on board or saving life at sea; and resulting from damage to a ship or its equipment.  Noted.  The cost of such surveys are paid for by the Ship owner. |
| * It is submitted that these surveys are costly and the cost should not be borne by the Government. * It is also submitted that the cost of the survey should be for the account of the ship’s owner or operator. * The Department may consider including a provision requiring the owner or operator of the ship to cover the cost of these surveys.   8. Annex IV Regulation 8   * The expiry of an International Sewage Pollution Prevention Certificate may be due to the fact that a ship may not have been able to undergo a renewal survey to obtain a new Certificate, possibly for an extended period of time. * It is submitted that a provision should be inserted requiring a ship to provide reasons as to why its Certificate has expired. | The cost of such surveys are paid for by the Ship owner.  Vessels that do not comply with the requirements of MARPOL may be detained.  Provisions are made for a certificate to be extended upon expiry for a period of no longer than 3 months (see 8.7) when surveys cannot be effected e.g. COVID19. |
| 9. Annex IV Regulation 11   * Regulation 11 makes reference to disinfection of sewage being discharged in coastal waters. * Some of these ships may discharge significant volumes of partially treated sewage. Disinfection will be undertaken prior to releasing the sewage into coastal waters. * When disinfection is being undertaken consideration must be given to some of the chemicals that are used in the process, such as chlorine, as these may have a harmful effect on ocean ecosystems. * Furthermore, on-board treatment facilities and processes for ships with large sewage loads, such as passenger ships, must consider the removal of Endocrine Disrupting Substances from the sewage stream before it is treated and released. | Noted. The sewage that has been stored in holding tanks, or sewage originating from spaces containing living animals, shall not be discharged instantaneously but at a moderate rate when the ship is en route and proceeding at not less than 4 knots; the rate of discharge shall be approved by the Administration based upon standards developed by the Organization. |
| 10. Annex VI Regulation 16   * It is submitted that the incineration of waste at sea is supported as waste needs to be managed in a safe manner so that dumping at sea is only allowed during emergencies. However, pollution abatement technologies must be used to control the release of greenhouse gases into the atmosphere. * It is the Western Cape Government’s view that if possible, shipboard incineration should not be undertaken in coastal waters. * It is further submitted that before incineration is to commence on a ship the ship’s owner or operator should engage with the South African Weather Service or any other applicable weather service where the ship may be located. | To be dealt with in the regulations. |
| 11. Annex VI Regulation 18   * Subregulation 9(b) refers to local suppliers providing bunker delivery notes and samples, certified by the fuel oil supplier. * Western Cape Government submits that, there is no consideration given in this provision to the type of laboratory required to test the sample and the accreditation of the laboratory and it is not clear whether samples tested by international laboratories will be accepted locally.   12. Annex VI Appendix IV   * This Appendix provides for the type of approval and operating limits for shipboard incinerators. * It is submitted that there no mention of the type of emission abatement equipment permitted, such as scrubbers (water, ceramic or other), and the requirements relating to the disposal of wastes generated by mitigation equipment in a responsible manner. * It is therefore submitted that provision should be made for these matters. | To be dealt with in the regulations.  Noted, the quality of fuel is a larger concern for ships than any other entity, poor quality fuel poses numerous problems for ships staff. Even though the supplier provides the fuel quality, practically every ship owner gets the fuel tested at their own approved labs prior to the fuel being used.  If testing is required by local authorities then the cost for such will have to be on the authority, unless it is proved that pollution occurred as a result of fuel quality and then a fine is issued. |
| 13. Annex VI Appendix V & Appendix VI   * Appendix V refers to the information to be included in the bunker delivery note contemplated in regulation 18.5 and Appendix VI relates to fuel verification procedures for fuel oil samples as contemplated in regulation 18.8.2. * Regarding the comment submitted on regulation 18, it is submitted that the name and the accreditation of the laboratory utilised to test the fuel samples must be provided with a relevant reference for the authorities to confirm (if necessary) the quality of the fuel supplied. It is submitted that the use of in-house testing by laboratories of fuel supply companies should not be accepted. * Furthermore, the regulations are silent on who will be responsible for the costs associated with sampling, assessment of the samples and the overall management of the process. * It is submitted that shipping companies should bear the costs of the testing and the competent authority should have a verification role by occasionally testing random fuel samples. | To be provided for in regulations.  Noted and to be provided in regulations. |
| 14. Annex VI Appendix VII  This Appendix provides for Emission Control Areas.  It should be noted that there are currently no Emission Control Areas along the South African coastline. Is there any intention to declare such areas at least within the vicinity of the major South African ports? | Yes, once this Annex part of the domestic law. |
| **DR PIA REBELO**  It is imperative that South Africa adopts legislation to implement global decarbonisation and pollution standards set out by the IMO. Industry stakeholders evince a consistent preference for uniform and global standards to decrease uncertainty and regulatory risk. As such, this Bill should seek to incorporate the most recent amendments to MARPOL Annex VI adopted by the IMO Marine Environment Protection Committee (MEPC) at its 76th session in June 2021. Most notably, these include regulations relating to the Energy Efficiency Existing Ship Index (EEXI) and the Carbon Intensity Indicator (CII) set out in Resolution MEPC.328(76) which is applicable from 1 November 2022 and in force from 1 January 2023. | Noted and agreed.  Latest amendments to MARPOL Annex VI will be incorporated in the bill, to ensure that the bill is updated. |
| * The EEXI and CII are intended to drive a normative agenda for continuous improvement among stakeholders. Ships registered in South Africa, as well as those entering South African ports, should be encouraged to implement major and minor modifications over time to ultimately drive down on board carbon emissions. * The implementation of MARPOL Annex VI will require significant technical expertise in respect of vessel certification and port inspections. South Africa may want to consider calling upon the IMO's Integrated Technical Cooperation Programme to strengthen institutional and human capacities where necessary. Ultimately, the adoption of this Bill will greater align South Africa with the world’s leading maritime nations, yet this requires adherence to global regulatory updates and a cognisance of the IMO’s GHG Strategy involving future measures in the short, medium, and long term. * I would be interested in making an oral submission to the committee to humbly discuss pathways for legislative alignment with the IMO’s decarbonisation efforts and industry trends. | Noted and agreed.  Latest amendments to MARPOL Annex VI will be incorporated in the bill, in order that we have an updated bill. |
| **MRS C VAN DYK**     * I trust my thoughts and suggestions are favourably received. I live in Jeffrey’s Bay where every day there is rubbish that clearly lands in our seas and on our beaches from boats. * I can remember the one program I saw was about Customs Patrol at sea. Ship captains must provide an inventory of what they have brought on the boat such as food and drink for example then the lee must balance bottles, shells etc and remaining items as indicated on the inventory. * I came across the cool information from NZ which also covers the toilet procedures. https://www.mpi.govt.nz/dmsdocument/16699-Working-together-making-a-difference-tips-for-boaties-on-protecting-our-marine-environment   www.mpi.govt.nz   * We can learn and improve where it already works and exists in other countries and do not want to reinvent a new wheel. | Noted, the provisions of bottles etc are garbage and dealt with in that Annex on Garbage.  MAPROL only deals with vessels on international voyages of 400GT and above. |

1. **Committee deliberations on the Bill**

The written submissions with the Department’s responses on the submissions, were considered when deliberating on the proposed amendments to the Marine Pollution (Prevention of Pollution from Ships) Act.