

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

WEDNESDAY, 28 FEBRUARY 2024

COMMITTEE REPORT

(Negotiating mandate stage) Report of the Standing Committee on Agriculture, Environmental Affairs and Development Planning on the Marine Pollution (Prevention of Pollution from Ships) Amendment Bill [B 5—2022] (NCOP), dated 23 February 2024 as follows:

The Standing Committee on Agriculture, Environmental Affairs and Development Planning, having considered the subject of the Marine Pollution (Prevention of Pollution from Ships) Amendment Bill [B 5—2022] (NCOP) referred to it in accordance with Standing Rule 217, confers on the Western Cape’s delegation in the NCOP the authority to support the Amendment Bill.

The Committee further proposes consideration of the following in respect of the Amendment Bill and future Regulations:

1. Marine Pollution (Prevention of Pollution from Ships) Amendment Bill [B 5—2022]

1.1 General

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 9.2 respectively.

1.2 Definitions

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.

1.3. Clause 2: Insertion of sections 2A and 2B in the Principal Act

Clause 2A(2) states that the Minister shall amend the Schedule upon amendments to the Convention. It is recommended that the time to make such amendments by the Minister should be specified.

1.4. Chapter 3: Regulation 11

Regulation 11 makes reference to disinfection of sewage being discharged in coastal waters.

Some 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.

The national Department of Transport, in its response to the Standing Committee at a meeting on 21 February 2024, responded to the afore-mentioned matter by stating that 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 and that the rate of discharge shall be approved by the Administration based upon standards developed by the Organisation. It is submitted that the only effluent that is released at sea should be treated effluent.

1.5. Appendix IV

This Appendix provides for the type of approval and operating limits for shipboard incinerators. No mention is made of the type of emission abatement equipment permitted, such as scrubbers (water, ceramic or other), and the requirements relating to the disposal of waste generated by mitigation equipment in a responsible manner. It is submitted that provision should be made for these matters and that a requirement is inserted to make the testing of fuel mandatory.

1.6. 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. It is submitted that such areas should be declared at least within the vicinity of the major South African ports to prevent air and noise pollution, and that this is provided for in maritime legislation.

2. Matters pertaining to Regulations

Submissions were received from stakeholders where the national Department of Transport indicated to the Committee at a meeting on 21 February 2024, that the following comments and suggestions would more appropriately be considered for inclusion in the Regulations. The Committee will be writing to the Minister of Transport in this regard and further request the consideration of the following:

2.1 General

2.1.1 It is noted that the Bill will give effect to Annexure 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 Annexure 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 the incineration of waste, especially those impacts that accelerate climate change.

2.1.2 It is acknowledged that the amendment bill focuses on MARPOL Annexes, of which noise pollution is not dealt with, and would like to highlight a concern regarding noise pollution and the need for regulations on the underwater noise from ships operating within territorial waters.

2.2 Clause 3: Section 3B

2.2.1 This clause deals with the appointment of an advisory committee:

It is submitted that clear terms of reference are stated as well as roles and responsibilities within the committee, with balanced representation based on their expertise on the matter.

2.2.2 The delegation and assignment of duties has reference. For this amendment to be impactful, it will be essential for appropriate government departments to coordinate duties, and to work closely with municipalities of coastal cities and towns. Additionally, strong, and functional collaborations with the police will be required. While understanding that the police and local authorities may not have the expertise, consideration should be given to creating an opportunity for technical advisors to provide training support.

2.3 Clause 5

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 the composition of the committee, the required qualifications to serve on the committee, the term of office, absence from meetings, etc.

2.4 Annexure IV Regulation 3

This regulation provides for exceptions. It is submitted that the intention to discharge sewage as a result of damage to a ship or equipment should be communicated verbally to the South African Maritime Safety Authority before taking place (where practical).

2.5 Annexure IV Regulation 4.1(b)

This regulation pertains to the renewal surveys for certification that are to take place at intervals specified by the Administration, but not exceeding five years. It is submitted that this time frame is concerning and it is recommended that the interval between surveys is reviewed by the advisory committee and that they consider shortening it.

2.6 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.

2.7 Annex IV Regulation 8.1

Where an International Sewage Pollution Prevention Certificate shall be issued for a period not exceeding five years. It is recommended that this period be discussed by the advisory committee and that they consider shortening the period.

2.8 Annex VI Regulation 12.6

This regulation indicates that records of ozone-depleting substances are to be kept by ships and that these will be approved by the Administration. It is recommended that the regulation explicitly states the person or authority to whom such records should be submitted.

2.9 Regulation 16

This regulation provides for shipboard incineration. 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. If possible, shipboard incineration should not be undertaken in coastal waters. It is 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.

2.10 Regulation 18

Sub regulation 9(b) refers to local suppliers providing bunker delivery notes and samples, certified by the fuel oil supplier. No consideration is given in this provision to the type of laboratory required to test the sample and the accreditation of the laboratory. It is not clear whether samples tested by international laboratories will be accepted locally.

2.11 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. 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 are not 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.