

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

SENATE
P. S. R. No. 895

Introduced by Senator Miriam Defensor Santiago

RESOLUTION

DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY IN AID
OF LEGISLATION ON THE REPORTED DUMPING OF TOXIC AND HAZARDOUS
WASTES IN SUBIC BAY BY GLENN DEFENSE MARINE ASIA

WHEREAS, Republic Act No. 6969, also known as the Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990, mandates control and management of import, manufacture, process, distribution, use, transport, treatment, and disposal of toxic substances and hazardous and nuclear wastes in the country; the Act seeks to protect public health and the environment from unreasonable risks posed by these substances in the Philippines;

WHEREAS, Adopted Resolution 2002/27 of the United Nations Commission on Human Rights states "that the illicit movement and dumping of toxic and dangerous products and wastes constitute a serious threat to the human rights to life and the enjoyment of the highest attainable standard of physical health, particularly of individuals in developing countries that do not have the technologies to process them";

WHEREAS, *subicbaynews.net* on 27 October 2012 and the *Philippine Daily Inquirer* on 9 November 2012 reported that the Subic Bay Metropolitan Authority (SBMA) is investigating a US Navy contractor for allegedly dumping hazardous wastes in Subic Bay;

WHEREAS, it was alleged that tanker MT Glenn Guardian, owned by Glenn Defense Marine Asia, a Malaysian company operating in several countries which services American ships in the Philippines, carried some 189,500 liters of domestic waste and 760 liters of bilge water (a combination of water, oil and grease), which it dumped into the Subic Bay;

WHEREAS, it was reported that Edilberto Acedilla, captain of Glenn Guardian, said that the water in the tanks have been treated; however, test results conducted by the SBMA showed that the wastes have not been treated at all, and that the level of toxicity of the liquid wastes exceeded the norm and went beyond levels set by international marine pollution conventions;

WHEREAS, Captain Acedilla allegedly said that it has been the usual practice of Glenn Defense Marine Asia to dump these liquid wastes 20 nautical miles from Subic Bay;

WHEREAS, the reports claimed that according to government records, the Certificate of Registration of Glenn Defense Marine Asia as a Freeport Registered Company in Subic Bay has no provision for waste water collection, hauling, and dumping;

WHEREAS, a team from the Coast Guard, Marine Pollution Division (MARPOL), and the SBMA Ecology personnel has allegedly boarded MT Glenn Guardian and another vessel MT Glenn Enterprise for inspection and discovered that both vessels of Glenn Defense Marine Asia have expired registrations and permits;

WHEREAS, it was reported that these vessels have in fact never applied for any MARPOL Permits to dump domestic wastes in the open sea; one of the pre-requisites of the

MARPOL dumping permit is testing to determine whether the liquid waste has been properly treated and is no longer harmful to marine life;

WHEREAS, there are also allegations that these Glenn Defense Marine vessels just dump their load at the pier where they are berthed; it was alleged that Glenn Defense's barges come in heavy-loaded from the U.S. navy ships and the next day, they become empty and their hulls are again elevated even if they never leave the Naval Supply Depot area;

WHEREAS, in 2011, Glenn Defense Marine was allegedly charged for dumping liquid waste a few miles from Manila Bay; the case is still pending with the Department of Environment and Natural Resources;

WHEREAS, SBMA Ecology Center reportedly issued a "show cause" letter to Glenn Defense Marine Asia, asking the company to explain the waste dumping that was supposedly done without proper permits; the company's lawyers argued, however, that the Presidential Commission on the Visiting Forces Agreement (VFACOM), not the government agency administering the free port, has jurisdiction over it;

WHEREAS, Glenn Defense Marine Asia claimed that it provides marine husbandry and logistics support services solely and exclusively to US Navy vessels visiting the Philippines pursuant to the provisions of the Visiting Forces Agreement (VFA) between the Republic of the Philippines and the United States;

WHEREAS, it should be noted also that under Executive Order No. 199 creating the VFACOM, the commission is only a monitoring body mandated to submit regular reports to the president; it does not exercise quasi-judicial powers that could address issues such as the one at hand;

WHEREAS, it is imperative to take a look at Article 8 of the VFA, which provides:

Article VIII

Movement of Vessels and Aircraft

2. Vessels operated by or for the United States armed forces may enter the Philippines upon approval of the Government of the Philippines. The movement of vessels shall be in accordance with international custom and practice governing such vessels, and such agreed implementing arrangements as necessary.

WHEREAS, the overarching principle in the VFA is that all activities of the United States armed forces in the Philippines, and the entry and exit of its aircraft, vessels and vehicles to and from the Philippine territory, shall be subject to the prior approval of the Philippine Government; however, Glenn Defense Marine reportedly has not secured any permit required by the Philippine government to collect and dump wastes in Philippine waters;

WHEREAS, according to Section 1 of the DENR Administrative Order No. 2001-28 dated 12 October 2001, which is the Implementing Rules and Regulations on the Protection and Preservation of the Environment during VFA-Related Activities in the Country:

Military exercises and related activities undertaken under the VFA shall be in accordance with the country's existing environmental rules and regulations such as the National Integrated Protected Areas System Act (RA 7586), Solid Waste Management Act (RA 9003), Clean Air Act (RA 8749), Indigenous Peoples Rights Act (RA 8371), Wildlife Act (RA 9147), Cave Management Act (RA 9072), Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 (RA 6969) and other related environmental laws, rules and regulations;

WHEREAS, under Section 3.2 of the same administrative order:

3.2 Activities that shall involve or result to the following are prohibited in the exercises:

- a. generation of toxic and hazardous wastes
- b. use of nuclear materials
- c. substances that result to permanent pollution to air and water bodies

“This is in accordance with RA 6969 which restrict or prohibit the use and disposal of chemical substances and mixtures that present unreasonable risk and/or injury to health or the environment; and prohibit the entry, even in transit, of hazardous and nuclear wastes and their disposal into the Philippine territorial limits;

WHEREAS, although R.A. No. 6969 appoints the DENR as the agency tasked with implementing provisions of the Act, R.A. No. 7227, also known as the Bases Conversion and Development Act of 1992 Section 13, Paragraph (b) states:

Section 13. (b) Powers and Functions of the Subic Bay Metropolitan Authority. — The Subic Bay Metropolitan Authority, otherwise known as the Subic Authority, shall have the following powers and functions:

...

(9) To protect, maintain and develop the virgin forests within the baselands which will be proclaimed as a national park and subject to a permanent total log ban, and for this purpose, the rules and regulations of the Department of Environment and Natural Resources and other government agencies directly involved in the above functions shall be implemented by the Subic Authority;

(10) To adopt and implement measures and standards for environmental pollution control of all areas within its territory, including, but not limited to all bodies of water and to enforce the same. For which purpose the Subic Authority shall create an Ecology Center;

WHEREAS, it is imperative for the State to protect its people’s health and the country’s environment by curbing the rising incidents of violations against the country’s environmental laws;

WHEREAS, the issue of dumping toxic wastes in Philippine waters and soil has been a perennial problem of the Philippine government, the legislature should therefore create a clearer and more concise measure that will address the lacunae in existing environmental laws to respond to certain aspects of environmental protection that involve foreign parties;

WHEREAS, it is imperative for the Philippines to ratify the amendment to the Basel Convention (Decision III/1) which prohibits the exportation of all types of hazardous wastes including recyclables from industrial countries to developing countries; this will serve as the country’s first line of defense against toxic waste;

WHEREFORE, be it hereby resolved by the Philippine Senate, to direct the proper Senate committee to conduct an inquiry in aid of legislation on the reported dumping of hazardous wastes in Subic Bay by Glenn Defense Marine Asia.

Adopted,


MIRIAM DEFENSOR SANTIAGO
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