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**REVIEW OF THE WRECK REMOVAL
POLICY IN THE PHILIPPINES IN
RELATION TO THE NAIROBI
INTERNATIONAL CONVENTION ON THE
REMOVAL OF WRECKS, 2007**

ANTHONY C CUEVAS

A dissertation submitted to the World Maritime University in partial fulfilment
of the requirements for the award of the degree of Master of Science in
Maritime Affairs

2023

Declaration

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

(Signature): 

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Abstract

Title of Dissertation: **Review of the Wreck Removal Policy in the Philippines in relation to the Nairobi International Convention on the Removal of Wrecks, 2007**

Degree: **Master of Science**

The Philippines is not yet a signatory to the Nairobi International Convention on the Removal of Wrecks, 2007 and the Convention on Limitation of Liability for Maritime Claims. As such, the country has no specific law regarding wreck removal, but the Philippine Coast Guard (PCG) is mandated by Republic Act 9993, also known as the Philippine Coast Guard Law of 2009, "(g) To remove, destroy or tow to port, sunken or floating hazards to navigation, including illegal fish traps and vessels, at or close to sea lanes which may cause hazard to the marine environment". On the other hand, the Maritime Industry Authority (MARINA) under Presidential Decree (PD) No. 474 is mandated to "Provide for the effective supervision, regulation and rationalization of the organizational management, ownership and operations of all water transport utilities and other maritime enterprises".

This study conducted a review of both policies of said agencies in relation to their mandates in wreck removal. It was found that the PCG policy focused on the operational and technical aspects while MARINA policy catered the legal and procedural part of the regulation. Document analysis also revealed that PCG policy is focused on salvage operations while MARINA policy was suspended 1 year after it was implemented. As a result, both policy was determined not aligned to the Convention missing the main and important provision. The said situation limits these agencies' ability to compel shipowners to remove wrecks, confusion for the implementing unit and no available funds for the removal of wrecks.

The determination of the study shows that the existing policy of the country did not meet the requirements of the convention. As such, this brought a huge threat to the environment and shipping industry in the country, as these agencies cannot fully implement their mandates.

KEYWORDS: Convention, hazard, removal of wrecks, wreck, wreck removal,

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List of Abbreviations

BOC	- Bureau of Customs
DENR	- Department of Natural Resources
DOTC	- Department of Transportation and Communication
DOTr	- Department of Transportation
EEZ	- Exclusive Economic Zone
EO	- Executive Order
gt	- Gross Tonnage
HPCG	- Headquarters, Philippine Coast Guard
IMO	- International Maritime Organization
IC	- Insurance Company
IRR	- Implementing Rules and Regulations
ISU	- International Salvage Union
LEU	- Law Enforcement Unit
LGU	- Local Government Unit
LLMC	- Convention on Limitation of Liability for Maritime Claims
MPA's	- Marine Protected Areas
MARINA	- Maritime Industry Authority
MSSC	- Maritime Safety Services Command
MC	- Memorandum Circular
NM	- Nautical Miles
PCG	- Philippine Coast Guard
PD	- Presidential Decree
PMU	- Policy Making Unit
PNP	- Philippine National Police
RA	- Republic Act
SC	- Salvage Companies
SCR	- Salvor Certificate of Registration
SDG	- Sustainable Development Goal
SO	- Shipowners
UN	- United Nations
UNCLOS	- United Nations Convention on the Law of the Sea
UNCTAD	- United Nations Conference on Trade and Development
WMU	- World Maritime University

Chapter 1 Introduction

The first recorded law regarding shipwrecks was found in Roman law. Said law provides regulations involving shipwrecks to resolve the problems and issues of looting and other unlawful acts done by wreckers. Through time, different maritime regulations have emerged, such as the Rolls of Oleron in France and the Wisby Town-Law on Shipping in Gotland, Sweden. These regulations evolved because of the changes in maritime trade and shipping during that time. From the reward of salvaging cargo and damage to property, the equivalent compensation was being addressed as a result of improvements in the regulation system (Kern, 2021).

At present, the removal of wrecks has become stricter, not only because of the creation of The Nairobi International Convention on the Removal of Wrecks, 2007 but also because of the factors affecting wreck removal. Wrecks may become more hazardous due to different cargoes they carry and may contain hazardous or explosive materials. The growth of the shipping industry may also increase maritime incidents resulting in wrecks. (Kern, 2021). As such, a more comprehensive and dedicated regulation is needed to ensure safety of navigation and protection of the marine environment, especially marine life below as addressed the United Nations (UN) Sustainable Development Goal (SDG) 14: Life Below Water due to the effect of wrecks and their removal.

As of now, the Philippines is not yet a party to the Nairobi Convention and the Convention on Limitation of Liability for Maritime Claims (LLMC Convention). As such, the Philippines has no specific law regarding wreck removal, and its related regulations are not aligned with the Convention. However, this study will not discuss whether the Philippines will be a signatory to the Convention but to review its current policy and align it with the Convention.

1.1. Background

The Philippine Coast Guard (PCG) is one of the oldest maritime agencies and is considered the only humanitarian armed service in the Philippines. The enactment of Republic Act -(RA) 9993, also known as the Philippine Coast Guard Law of 2009,

together with its Implementing Rules and Regulations (IRR), established the PCG and recognized it as an armed and uniformed service attached to the Department of Transportation and Communication (DOTC), now renamed as the Department of Transportation (DOTr). One out of eighteen powers and functions of the PCG is “(g) To remove, destroy or tow to port, sunken or floating hazards to navigation, including illegal fish traps and vessels, at or close to sea lanes which may cause hazard to the marine environment” (Republic Act 9993, 2009). Said functions were monitored and administered by one of the Functional Commands of the PCG, the Maritime Safety Services Command (MSSC), and was implemented by the fourteen (14) Districts and ninety-one (91) Coast Guard Stations (Philippine Coast Guard, n.d.).

Presently, the PCG has an HPCG/CG-10 Memorandum Circular (MC) Number 06-96 dated 30 July 1996 entitled Salvage Regulation that is being used as a guideline for Salvage Operations and Wreck Removal. The purpose of the MC is “To prescribe guidelines on the salvage of vessels, including cargoes thereof, wrecks, derelicts and other hazards to navigation” (Philippine Coast Guard, 1996). The scope of the MC pertains to salvage operations on sunken, floating or grounded vessels, wrecks, or objects and other hazards to navigation that are inside the Philippine territorial waters. The MC is based on Section III of the International Maritime Organization (IMO) Manual on Oil Pollution – Salvage 1983, Republic Act 5173 (Philippine Coast Guard Law), Executive Order No. 292 dated 25 July 1987, Title XIV Sec. 4(8) and other environmental MC and related Department Legal opinions. Moreover, said MC also gives authority to disseminate and control the rules in the conduct of salvage vessels, wrecks, or objects and other hazards to navigation. It also prescribes the authority of the PCG, particularly to the District and Station Commanders, to issue certificates to the companies who want to be registered and engage in salvage operations as well as the issuance of survey and salvage permits to duly registered Salvors. The MC also defines the responsibility of the Salvor and stipulates the procedure for salvage operations, specifically when using explosives and in case of an oil spill during a salvage operation. Application Fees, Administrative Fines and Sanctions are also stipulated in said MC to provide guidelines on how much a Salvor will pay for the application and related permits and equivalent fines if the Salvor is found not in compliance with the regulations (Philippine Coast Guard, 1996).

Likewise, MARINA or the Maritime Industry Authority is the flag administration of the Philippines. MARINA is also under the DOTr and is considered the sister agency of PCG. One of the functions of MARINA is to “Provide for the effective supervision, regulation and rationalization of the organizational management, ownership and operations of all water transport utilities and other maritime enterprises” under Presidential Decree (PD) No. 474.

In 2009, MARINA created and published Circular No. 2009-22 re Rules Governing the Mandatory Marine Insurance to Cover Liabilities arising from Pollution and Wreck Removal. The objective of this regulation is to ensure that any liability from pollution and wreck removal will be able to be paid as a financial responsibility of all shipowners/operators operating in domestic trade. The MC applies to “all persons, corporations, partnerships, cooperatives and entities operating any type of ships of 500 gt and above using persistent oil and non-persistent oil, for hire or compensation in the domestic trade” and “Philippine-registered tankers/barges plying in the domestic trade”. But, said regulation will not apply to all government vessels not engaging in commercial activities. The MC also discusses the Limits of Liability in relation to coverage, gross tonnage and minimum limit of liability. Sanctions and Penalties are also included particularly the violations and penalties for operating without mandatory marine insurance and submission of fraudulent documents (MARINA, 2009).

At the international level, the Nairobi International Convention on the Removal of Wrecks was approved at a global meeting held in Nairobi, Kenya in 2007 and entered into force on April 14, 2015. The Convention gives States the legal authority they need to remove shipwrecks, including both local and international vessels that might potentially endanger the safety of people, commodities, and property at sea as well as the maritime ecosystem. The Convention sets forth a composition of consistent international regulations designed to ensure the quick and efficient authorization for removal of wrecks lying outside the territorial sea. The scope of the Convention also covers finding and reporting ships and wrecks, which includes the notification of fatalities to the closest coastal State, the warning of seafarers and coastal States about the disaster, and the measures taken by the coastal State to find

the ship or wreck. The depth of the water above the accident, the closeness to shipping lanes, the frequency and density of travel, the kind of traffic, and the susceptibility of port infrastructure are factors that may be used to assess the risk caused by wrecks, are also discussed in the Convention. Environmental factors are also addressed, such as harm that might come from the discharge of cargo or oil into the maritime environment. In addition, steps to make it easier to remove wrecks, such as privileges and responsibilities to remove dangerous ships and wrecks, which specify when the ship owner is in charge of removing the wreck and when a State may step in are also included in the articles of the Convention. Lastly, the registered shipowner is expected to hold mandatory insurance or some kind of financial security to meet liabilities under the Convention. The owner is also responsible for the expenditures associated with identifying, labeling, and removing ships and wrecks and settlement of disputes is also covered by the Convention (International Maritime Organization, n.d.-b).

The duties and responsibilities based on their respective laws specify that the PCG will cover the operation and technical part while MARINA will cater to the legal and procedural part of the regulation.

1.2. Problem Statement

The creation of RA 9993 and its corresponding IRR provides PCG with clear mandates as the lead agency on wreck removal. The MC of PCG provides guidelines on how to implement wreck removal operations in the Philippines. With the new international conventions in place, the PCG MC as reviewed was not aligned with the international standards, particularly in The Nairobi International Convention on the Removal of Wrecks. Most of the references used in crafting the MC were already out of date and obsolete. A crucial aspect to take into consideration is the inconsistency in the definition of terms and the scope of the policy application. However, some of the provisions of the PCG MC are somehow stipulated in wreck removal. Unfortunately, major components or parts of the convention are not present, particularly Articles 5, 7, 8 and 9, which are the Reporting, Locating, Marking wrecks and Measures to facilitate the removal of wrecks, respectively (The Nairobi

International Convention on the Removal of Wrecks, 2007). As a result, the implementing unit is being confused because the regulation is aligned to salvage operation.

On the part of MARINA, its MC is somehow aligned with the Convention, but it does not completely stipulate the important provisions as what is stated in the Convention. Further, some provisions are not clear and require further explanation particularly the liability of the owner and compulsory insurance or other financial security, to avoid confusion and misunderstanding. Exceptions to the owner's liability and settlement of disputes were not even mentioned in the MC (MARINA, 2009). These provisions are very important because they define the duties and responsibilities of the owners and the regulations on insurance that cover liabilities arising from wreck removal. It should be very clear to both parties to avoid pointing fingers as to who will be liable for the removal due to the expensive operational cost of removing wrecks.

The occurrence of maritime incidents involving wrecks has considerably declined in the recent years, primarily due to the ongoing efforts of IMO, governments and the maritime sector to improve safety in shipping activities. However, the number of abandoned shipwrecks has apparently increased with an estimated figure close to 13, 000 worldwide (International Maritime Organization, n.d.-b).

1.3. Research Aims and objectives

The main objective of this research is to determine whether the existing policies of the Philippines in relation to wreck removal meet the requirements as specified in the Nairobi International Convention on the Removal of Wrecks.

Research Objectives:

1. To analyze the effect in the operations of existing policy of the Philippines in relation to wreck removal.
2. To identify the advantages and disadvantages of compulsory insurance or other financial securities in wreck removal.

3. To formulate policy recommendations for the creation of a dedicated wreck removal policy that is aligned to the international convention

1.4. Research questions

The research aims to answer the following questions:

1. What are the effects of the current policy of the Philippines in relation to wreck removal operations?
2. What are the advantages and/or disadvantages of compulsory insurance or other financial securities in wreck removal?
3. Which parts of the international policies are suitable in the Philippine setting in the creation of a dedicated wreck removal policy?

1.5. Research methodology

This study used qualitative methodology and all data has been collected through primary sources, including semi-structured interviews and surveys of different PCG units, Maritime Industry Authority (MARINA) concerned department and stakeholders involved in wreck removal, particularly shipowner/company, marine insurance company and salvage company.

1.5.1. Document Analysis

This method analyzes the related laws with regard to wreck removal. Tracing the history of this law provides information on when the Philippine awareness of wreck removal started and determines how it was interpreted during those times. Related laws that were found are the Republic Act (RA) 2616 and RA 5173. which initiated the consciousness of the government on the issue of wrecks and their removal. These documents were retrieved online from the Arellano Law Foundation jurisprudence data bank website lawphil.net. The law on the creation of PCG and MARINA was also retrieved to understand the powers and functions of each agency in the performance of their duties and responsibilities in wreck removal.

PCG and MARINA regulations were also studied and analyzed with the Nairobi Convention. This enabled the researcher to determine if the policies of both agencies are aligned with the convention. The process also identified the limitations of these policies and determined the areas for improvement. It also allowed the researcher to suggest possible solutions supported by facts coming from these regulations. Literature on related topics such as factors affecting wreck removal was also included to support the position of the researcher on the need to align with the Convention. Other references including previous WMU student dissertations, studies from other universities, books, journals, news articles, journal articles, annual reports, regulations and conventions particularly the Limitation of Liability for Maritime Claims (LLMC), 1976, as amended by protocol of 1996 were also used as basis for this study.

1.5.2. Interviews

In order to acquire qualitative data, the researcher used semi-structured interviews with open-ended questions. The process provides quality information directly from the experience and point of view of the stakeholders and government agencies that are involved in wreck removal. It provides space for the researcher to ask follow-up questions in case there is a need to extract more data or elaborate further on the answers provided. Moreover, it also motivates respondents to be more interactive and show more interest during the interview. This process was critical to the study because only few data are available online in relation to wreck removal in the Philippines.

To have an organized interview, the researcher developed two sets of questions. The first set was intended for the PCG Policy Making Unit (PMU), Law Enforcement Unit (LEU) and Salvage Company (SC). The second set was intended for the Ship Owners (SO), Insurance Company (IC) and Salvage Company. The questions and the group of respondents are divided according to the Operational/Technical and Legal/Procedural issues of the topic. A separate set of questions was created for MARINA in relation to its MC, hence it was suspended after it was published. A deeper questioning is necessary to determine the root cause and understand the intention of the agency regarding its policy. On the other hand, PCG

was grouped according to their assignment, particularly in the policy-making and enforcement side of the agency. This was to determine the different views of these units although they are working in one agency. The Salvage Company answered both sets of questions because they are involved in both operation and the legal sides of wreck removal which is the insurance. Insurance and ship owners are the end users of this policy so they provide vital information regarding the effects of these policies in their lines of business.

The researcher conducted interviews with twelve (12) respondents. The participants comprised four (4) Officers from PCG, two (2) of them came from the PMU and (2) from the LEU and each unit has one (1) lawyer by profession. Two (2) from the SC, two (2) from the IC, three (3) SO and one (1) from MARINA. All participants are situated in the Philippines and only one of them were interviewed via Zoom due to their busy schedule while twelve sent their responses through electronic mail.

Table 1
List of Respondents

Respondents (Code)	Agency/Company	Designation/Function
1. PMU1	Philippine Coast Guard	MSSC
2. PMU2		CG-8 (Legal)
3. LEU1		Station Commander
4. LEU2		Legal
5. SC1	Clean Borders Shortrade Corp	Operations Manager
6. SC2	Malayan Towage and Salvage Corp	Manager
7. IC1	P&I Club	Manager
8. IC2	P&I Club	Manager
9. SC1	Archipelago Philippine Ferries Corporation	AVP Technical
10. SC2		AVP Operations
11. SC3		AVP Legal
12. MARINA	MARINA	Franchising Service

The interview was treated with confidentiality and the recorded conversation was secured safely. All interview data was transcribed, where some of it was translated from Tagalog to English. The researcher used NVIVO14 to code the data and assign themes. The results of the interview were used to present and analyze the topic in Chapters 3 and 4 and in the discussion in Chapter 5.

1.6. Key assumptions and potential limitations

The study is expected to assist the PCG and MARINA by providing a quality study and information that can be used as a reference in creating a dedicated wreck removal policy that is aligned with the international standard. The study may also be used as a reference to somehow assist the government in the enactment of legislation with the provisions of the Conventions.

The discussion of this study only focuses on the wreck removal policies of the Philippines in relation to the Nairobi Convention. The study will not discuss the local and international part of Salvage regulation.

Chapter 2. Literature Review

The Philippines as an archipelagic country is dependent on the maritime industry. The transport of people and goods for the purpose of trade and tourism from other regions and provinces is being catered by vessels and banca's or small wooden boats which traverse thru the vast and rich bodies of water (Soria, 2023). Because of the said activity, the country has become prone to maritime incidents that lead to casualties and eventually wreck of vessels. The location of the country which is in part of the typhoon belt in the Pacific makes the maritime industry vulnerable to weather disturbance (Asia Disaster Reduction Center, 2019). The creation of the Nairobi International Convention on the Removal of Wrecks, 2007 of the IMO provides

standard regulations to ensure the immediate and efficient removal of wrecked vessels within the Exclusive Economic Zone (EEZ) that might be a hazard to navigation and to the marine environment (International Maritime Organization, n.d.-b).

To have a comprehensive idea of the current situation, the related regulations and policies as well as factors that may affect the operation of wreck removal will be discussed and reviewed in this chapter. The assessment of different related sources of wreck removal regulations and procedures will be summarized to establish a strong foundation for this research study. To further contribute to this, the effect of the existing policy of the Philippines in terms of the removal of wrecks will also be provided.

2.1. Philippines as an archipelagic country

The Philippines is one of the world's largest archipelagic countries with 7,641 islands, dense with mangrove forests, sea grass and coral reefs and a flexible water current that surrounds the whole country due to the monsoon system. The country also has what is considered as one of the most diverse ecosystems resulting in dependency on marine resources and concern for the marine environment. It has a large marine protected area (MPA) and eco-friendly fishing activity. The topographical position of the country, spanning from the Pacific, Philippine up to the West Philippine Sea, makes it the most vulnerable environment on the planet and exposes it to maritime disasters (Licuanan et al., 2019). In relation to the location of the country, the Philippines is visited by almost 20 tropical cyclones of which eight or nine make landfall every year mostly between July and October which is considered as the typhoon season (PAGASA, n.d.). The Verde Island Passage is also acknowledged as the center of the coral triangle where shore-fish biodiversity has the maximum concentration, with 1736 coexisting types of species (Sea Institute, 2020).

Since the country is divided by bodies of water, the main transportation of people and goods from one island to another is by vessels. Almost 28,000 foreign vessels traveled in the Philippine AOR from January to March 2020 alone. However,

in the last five years, the maritime transport has increased dramatically averaging between 93,763 to 117,599 foreign and domestic vessels of different types, such as passenger, container and cargo ships. In the Philippines there are 28, 210 ships engaged in domestic voyages and 108 involved in international trade (Maritime Industry Authority, n.d.). Due to the increase of maritime activity the Philippine Coast Guard (PCG) Command Center (Comcen) has monitored different maritime incidents all over the country involving different vessels and motor banca's. A total of 118 accidents have been monitored, including 24 major accidents with 1 flooding, 2 oil spills, 3 fire/explosions, 3 listing/drifted, 6 sinking/capsized, 9 groundings and 94 other incidents, as shown in Figure 1 (PCG Command Center, 2023).

Figure 1
Maritime Accidents in the Philippines as of March 2023



Note. From "Maritime Accident Statistics" by PCG Command Center, 2023

2.2. Philippine Laws related to Wreck removal

The Philippines had no specific or dedicated domestic law on wreck removal. Most of the laws that are significant to wreck removal are either related to or became a part of a particular regulation. To better understand the current status of the

Philippine wreck removal procedure, it is very important to know and revisit these related regulations. (Soria, 2023).

The Republic Act (RA) 2616 that was enacted on February 4, 1916 defines how to declare and classify a vessel as an abandoned ship. Unfortunately, there is no provision in the RA regarding the liability and obligations of the owner (ChanRobles, n.d.). On August 4, 1967 the RA No. 5173 was created and the PCG was established as a major unit of the Philippine Navy. Under Section 3, Specific Functions, (I) states that the PCG is “authorized to destroy or tow in port sunken or floating dangers to navigation” (Arrellano Law Foundation, n.d.). The law also empowers the PCG to create memorandum circulars to assist them in the implementation of their powers and function. The earliest published record that is still existing is the Memorandum Circular (MC) No. 09-93 on Salvage Regulation that was approved last on August 05, 1993, and which is similar to MC 06-96 (Supreme Court of the Philippines, 2019). Both MCs prescribe the provisions of Salvors registration and the application of Salvage Permit prior to conduct of salvage operations of sunken, floating or aground vessels, wrecks, or objects and other hazards to navigation” inside the Philippine territorial waters. Moreover, the two MCs also provide the necessary fees for the registration and permits and appropriate administrative fines and sanctions (Philippine Coast Guard, 1996). However, said MCs did not provide any provisions for the urgent removal or recovery of wrecked ships by the ship owners. As such, this will be a problem for the PCG particularly on the issuance of Salvage permits for the implementation of wreck removal operations; hence, this will be determined on how fast the salvor can acquire the permit.

2.3. Nairobi International Convention on the Removal of Wrecks, 2007

At the international level, the Nairobi International Convention on the Removal of Wrecks 2007 or the Nairobi Convention or Convention, as used in this paper, was approved through a global meeting held in Nairobi, Kenya in 2007 and entered into force on April 14, 2015. The Convention gives every signatory State the legal authority they need to remove shipwrecks, including both local and international vessels that might potentially endanger the safety of people, commodities, and property at sea or

endanger the marine ecosystem. The Convention sets forth a composition of consistent international regulations designed to ensure the quick and efficient authorization for the removal of shipwrecks resting beyond the territorial sea. The scope of the Convention also covers reporting and finding wrecks, which includes the notification of victims to the nearby coastal State, advising of seafarers and coastal States about the tragedy, and the measures taken by the coastal State to detect the ship or wreck. The distance of the water above the accident, the closeness to shipping lanes, the rate and density of travel, the kind of traffic, and the exposure of port infrastructure are reasons that may be used to evaluate the risk of wrecks and are also discussed in the Convention. Environmental factors are also addressed such as harm that might come from the discharge of cargo or oil into the marine environment. In addition, steps to make the wreck simpler to remove, rights and responsibilities to eliminate dangerous ships and wrecks, and when a State may step in with respect to a wreck removal are also included in the articles of the Convention. Lastly, the registered shipowner is expected to hold mandatory insurance or some kind of financial security to meet liabilities under the Convention. The shipowner is also responsible for the expenditures associated with identifying, labeling, and removing ships and wrecks and settlement of disputes is also covered by the Convention (International Maritime Organization, n.d.-b).

2.4. Factors affecting Wreck Removal

Globally there is a record of 1000 vessel casualties each year and approximately 50 cases have ended in wreck removal. This operation is a major activity making removal of fuels a threat to the marine environment. It is also a critical and costly activity, particularly when removing wrecked vessels in deep water, or in marine protected areas or industrial coastlines (Tsavlis, n.d.). The effect of growing public awareness makes wreck removal sophisticated to ensure that all parties will be satisfied but the effect on cost becomes a burden to the vessel owner and the insurance company (Herbert, 2013). Now that wreck removal is under the umbrella of the IMO, different factors that may affect the operation should be understood. It will also provide better inputs for the creation of national legislation that can be utilized for the improvement of wreck removal services in each country (Tsavlis, n.d.).

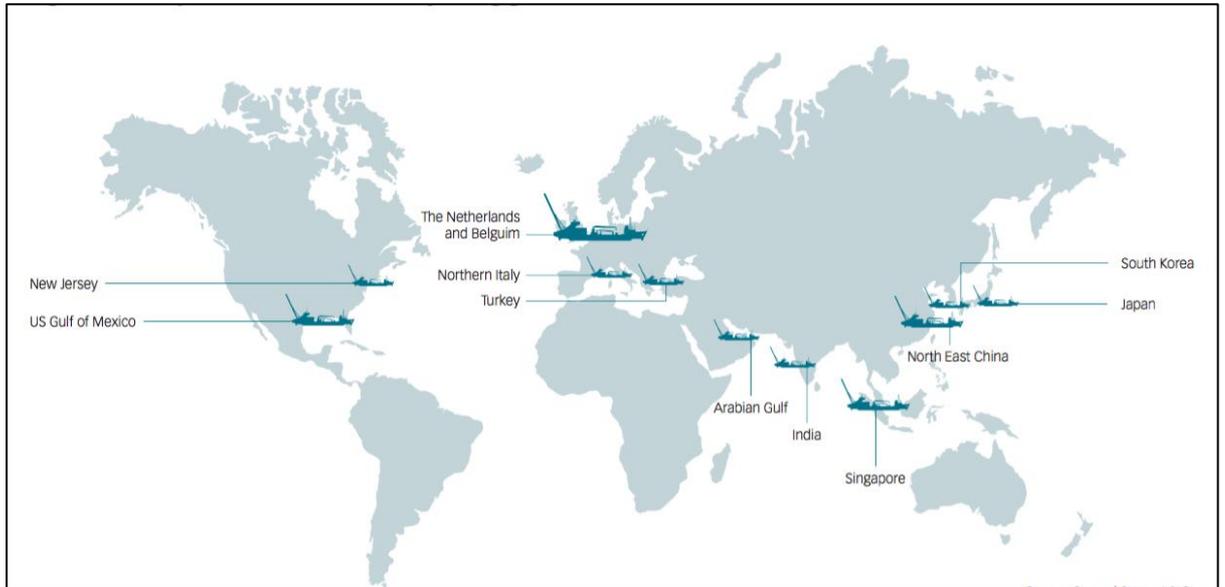
2.4.1. Location

Location is one of the important factors affecting wreck removal. When the wreck location is isolated or far from the salvage properties, bringing heavy equipment to the location will require a longer transportation time, which will have a great effect on the start of the operation. If this heavy equipment is coming from overseas, travel time due to distance and slow transportation will be a significant factor in how long it will take for this equipment to arrive onsite. Heavy equipment may sometimes be impossible to transport in open seas unlike experts who can travel quickly by planes (Herbert, 2013). This is also the perception of the International Salvage Union (ISU). Remote areas will need more time to transport expensive chartered equipment, which will be a great factor in the deterioration of the vessel, making it harder to remove. Location condition is also included as one of the important factors in wreck removal (Tsavlis, n.d.).

Even within one country, equipment may need to be brought from major cities, involving extensive travel time in bringing this equipment to another state, island or province. That is why the location of the nearest major salvage companies should also be known in order to prevent long travel time of needed equipment as shown in Figure 2 and 3.

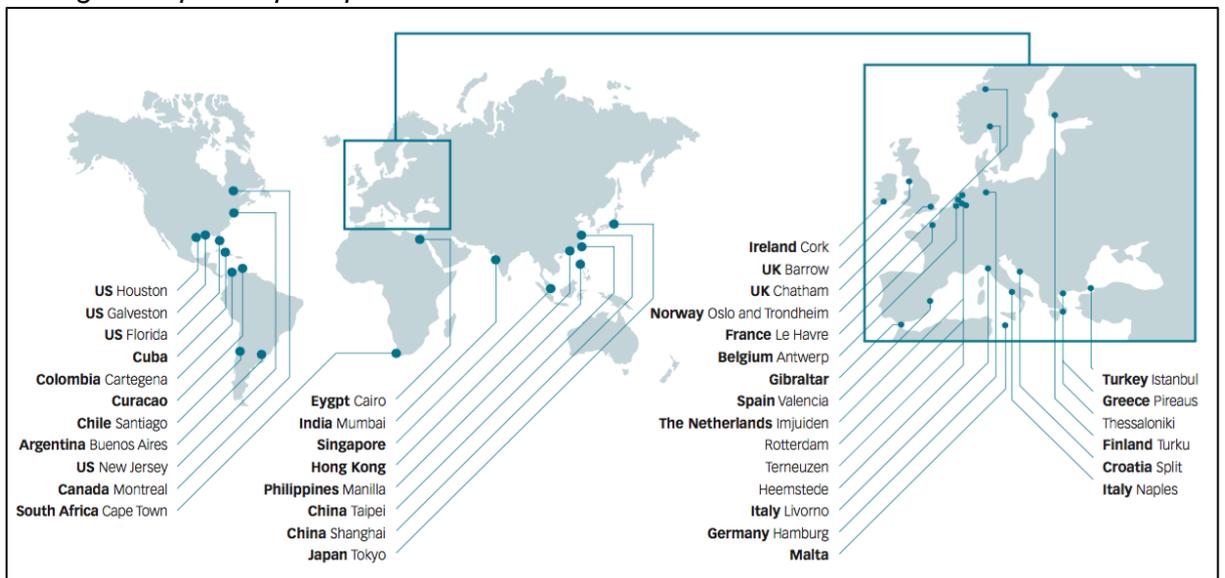
Wrecks in corals or marine protected areas (MPA's) also need to be considered in terms of location, which will add more complexity to the operation. Risk to the marine environment is one of the major concerns in wreck location to ensure marine pollution and further damage to the ecosystem will be prevented or minimized. Weather conditions are also important to determine because the weather adds more challenges to the salvage operation, particularly with regards to the removal procedure. It also delays the operation if severe weather conditions are experienced, necessitating in some cases a temporary halt on the wreck removal (Herbert, 2013).

Figure 2
Heavy Lifting Gear principal location



Note. From “The challenges and implications of removing shipwrecks in the 21st century” by Herbert, 2013 (<https://assets.loyds.com/assets/pdf-risk-reports-wreck-report-final-version/1/pdf-risk-reports-Wreck-Report-Final-version.PDF>)

Figure 3
Salvage Companies principal location



Note. From “The challenges and implications of removing shipwrecks in the 21st century” by Herbert, 2013 (<https://assets.loyds.com/assets/pdf-risk-reports-wreck-report-final-version/1/pdf-risk-reports-Wreck-Report-Final-version.PDF>)

2.4.2. Increasing size of the vessels

The increasing size of vessels is considered as one of the factors that affects wreck removal. For the past 20 years, vessel size has considerably increased, specifically crude oil carriers, dry bulkers, passenger ships and container vessels. The larger the vessel, the larger the threat to the marine environment and the whole ecosystem which becomes a major challenge to wreck removal or salvage companies. The increase in size also increases the complexity of the wreck removal procedure, which further affects the speed of the operation. Container vessels are one example because, prior to the removal of the vessel, each container must be removed, which prolongs the operation and increases the cost (Herbert, 2013). The ISU also acknowledge the effect of the increasing capacity of vessels particularly container and tanker vessels. Larger vessels also carry more cargoes onboard that are potential pollutants to the marine environment. This becomes a great challenge to salvage company, but despite of this changes in size, they still manage to conduct wreck removal operation without any untoward incident (Tsavliris, n.d.).

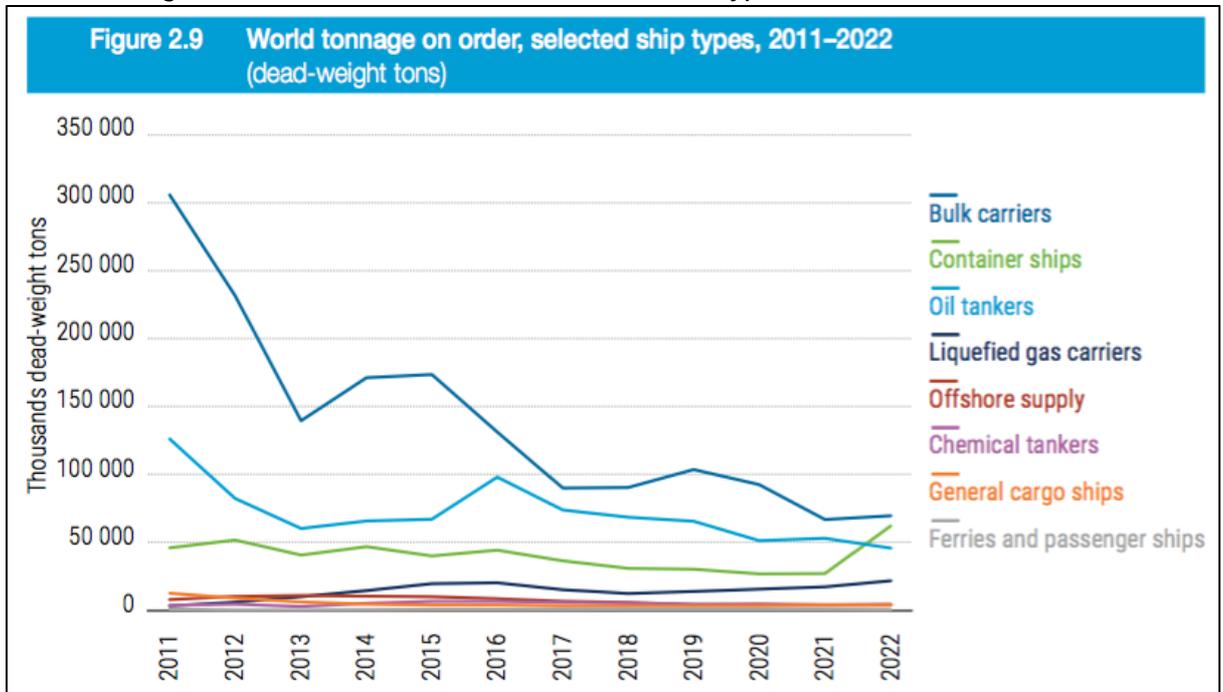
It is not only the increase in size but also the increase in fleet that is significant. Because many vessels are now operating, there is an increased probability of maritime accidents, which leads to an increased number of wreck vessels. According to the United Nations Conference on Trade and Development (UNCTAD) Review of Maritime Transport 2022, the world shipping fleet increased by 2.95 % in dwt, which is considered as moderate growth, at the end of December 2022. The slow growth was affected by the Ukraine war, the COVID-19 pandemic and uncertainty in the future of shipping and fuel prices by operators and ship owners. In 2023, a 1.7% dwt increase is expected in the global shipping fleet, which will maintain the moderate development of the previous year due to stricter environmental regulations. At present, the container ship Ever Alot built in 2022, is the largest vessel that is owned and operated by Evergreen Marine Corporation with 24,004 TEUs capacity, 399.99m LOA and 61.54m width (Karalis, 2023).

Figure 4
Yearly increase of the world fleet from 1981-2022



Note. From “Review of of Maritime Transport 2022” by UNCTAD, 2022
(https://unctad.org/system/files/official-document/rmt2022_en.pdf)

Figure 5
World tonnage on order from 2011-2022 from selected types of vessels



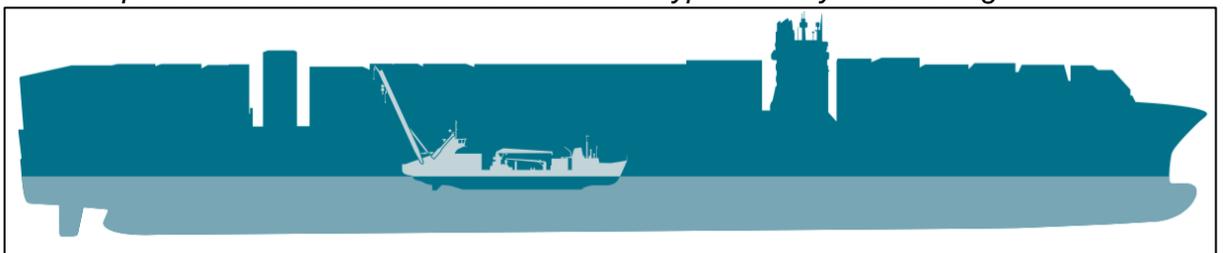
Note. From “Review of of Maritime Transport 2022” by UNCTAD, 2022
(https://unctad.org/system/files/official-document/rmt2022_en.pdf)

2.4.3. Wreck removal gap on mega vessels

The increasing size of ships nowadays is one of the major gaps in wreck removal. During the construction of vessels, the design of ships only focuses on how large the vessel will be built to carry its maximum cargo and not how the vessel, if wrecked, will be removed. Further, the knowledge, equipment, methods and competence of the salvage company cannot keep up with the fast pace of the growing size of vessels. This is the biggest gap in wreck removal because larger vessels require more sophisticated large equipment to conduct wreck removal immediately and successfully. These vessels also carry large quantities of cargo making it more difficult to remove and consuming more operational hours. Even large heavily equipped salvage vessels, which are still significantly smaller than the typical large commercial vessel, may not be available because other industries might be using them, particularly in the energy and offshore construction sectors (Herbert, 2013). Still salvage companies are doing their best to conduct wreck removal operations efficiently and effectively by investing in new equipment and techniques to handle larger wrecks. Since container vessels are the emerging industry in shipping, salvage companies are more focused on the fast recovery of this cargo containers (Tsavlis, n.d.)

Figure 6

Size comparison between CGM Marco Polo and a typical heavy lift Sheerleg



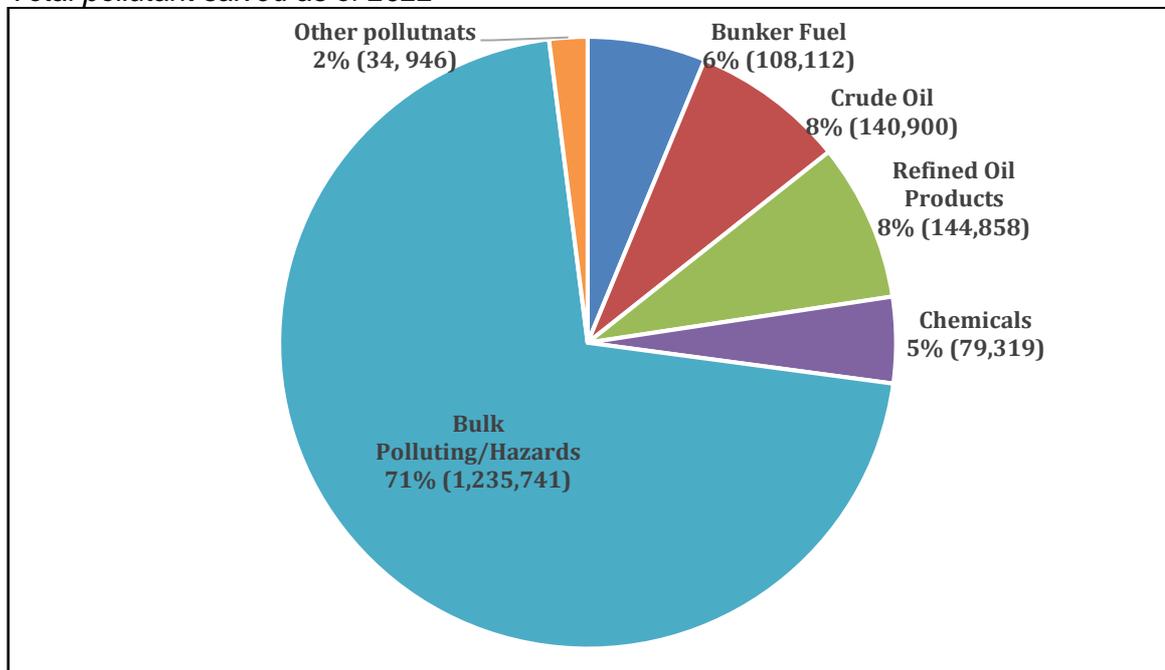
Note. From “The challenges and implications of removing shipwrecks in the 21st century” by Herbert, 2013 (<https://assets.lloyds.com/assets/pdf-risk-reports-wreck-report-final-version/1/pdf-risk-reports-Wreck-Report-Final-version.PDF>)

2.4.4. Environmental risk

One of the controversial issues at present is the risk to the marine environment that is being discussed internationally. In the aspect of wreck removal, extraction of

potential pollutants from a wrecked vessel is the primary operation that requires urgent action to minimize or prevent pollution. Awareness of this issue was strengthened when a series of major oil spills happened, particularly the Exxon Valdez, Sea Empress and Prestige which are oil tankers that made headlines after causing huge marine environmental impacts. There are still other pollutants like coal, chemicals and other refined oil products that may cause environmental damage to the ecosystem. The substantial damage caused by the wreck vessel itself is also included in the risk specifically if an incident occurs in an MPA and fish sanctuary (Herbert, 2013). Moreover, wrecks that may further physically damage the marine habitat must be removed immediately but sometimes removing wrecks may also extend the damage so it is very important to study the condition of the wreck to determine if it is necessary to remove it or not (Seanergy, n.d.). Last April 2022 the International Salvage Union (ISU) released a survey on the amount of salvaged pollutants. Out of 186 salvage operation services, a total of 2.6 million tonnes of possible pollutants was salvaged (International Salvage Union, 2023).

Figure 7
Total pollutant salvaged as of 2022



Note. From “2022 ISU pollution prevention survey results” by International Salvage Union, 2023 (<https://www.marine-salvage.com/salvage-world/>)

2.4.5. Media

In wreck removal, it is not only required to have large specialized equipment and wreck experts but also good communication skills. Due to the availability of Wi-Fi and mobile gadgets, everyone can take pictures and send or post them online before any responders arrive, which makes the situation more severe. People who may have seen a video without any knowledge of the incident may judge the operation or the respondents quickly. This may lead to pressure on the government and pass the pressure on the salvage company, which affects the wreck removal operationally and financially. If the company has poor communication skills, the society may judge their capability and intimidate the self-confidence of the responders. On the positive side, media can also be utilized to communicate to everyone and explain their procedure, which may lead to assurance that the incident is under control and attain the confidence of the public (Herbert, 2013).

2.4.6. Impact of authorities and other concerned groups

The authorities that have jurisdiction of the wreck vessel have a major influence particularly on the removal contract, operational method and cost in terms of how the wreck operation will be conducted. Authorities can dictate and demand their interests to ensure the welfare of the state. Most of them will prioritize the removal of pollutants like oil even if it is not the best option in removing or salvaging wrecks. Sometimes, authorities and other stakeholders, particularly environmental groups, are still being consulted and need to be satisfied with the methods of the operation. Political pressure of these governments, agencies or environmental organizations is considered as a relevant issue pertaining to wreck removal, which is driven by public scrutiny and media reports. Disposal of wrecks can also be dictated by the government thru national laws and other national environmental regulations. But some countries like in the Mexican Gulf have programs like “wreck to reef”, allowing the wreck to stay at the bottom of the sea and become a reef as long as it will not be a hazard to navigation or to the environment (Herbert, 2013).

2.4.7. Bunker removal

Removing pollutants like bunker oil is one of the priorities in wreck removal. It is one of the main hazards of pollution during wreck removal, which is why it should be removed immediately. Most governments give priority to these pollutants because sometimes the cargo is less dangerous or hazardous than the bunker oil (Herbert, 2013). Most marine vessels use bunker oil as fuel due to its cheaper price compared to other fuel oil. Unfortunately, it is also one of the most hazardous pollutants due to its chemical and physical properties (Schnurr, & Walker, 2019). One bunker oil characteristic is that it sinks down all the way into the sediment depending on the level of weathering. Due to its characteristics of being a thick, heavy fuel oil, it stays longer in the water and poses huge risks to the environment, particularly to birds and other marine mammals that are dependent on marine life as a source of food (Walker & Zomorodi, 2019).

Figure 8
Types of vessels using types of fuel from 2010 to 2030



Note. From “Bunker (Fuel)” by Schnurr, & Walker, 2019

(<https://www.sciencedirect.com/topics/earth-and-planetary-sciences/bunker-fuel>)

Chapter 3. Operational / Technical Issue

The operational and technical content of the Nairobi International Convention on the Removal of Wrecks, 2007 and the Philippine Salvage Regulation, PCG MC 06-09 will be discussed in this chapter. Important parts of both regulations will be laid out to understand the weak points of the PCG MC against the Convention. The advantages and disadvantages of each regulation will also be reviewed and analyzed. All data that will be determined will be used in the discussion to compare the similarities, differences and common parts of said regulations.

3.1. Nairobi International Convention on the Removal of Wrecks, 2007

3.1.1. Definition of a "Wreck"

The word "wreck" is defined by the Nairobi International Convention on the Removal of Wrecks, 2007 in Article 1, 4., as "a sunken or stranded ship; or any part of a sunken or stranded ship, including any object that is or has been on board such a ship; or any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken" (Michel, 2007).

Based on the Convention, there are two types of wrecks, a wreck that is hazardous to navigation and a wreck that may pose a hazard to the marine environment. The wrecks that are a hazard to navigation are vessels that sank, stranded or drifted in a busy sea lane or straight which ships usually use for their voyages. This will affect the flow of marine traffic causing delays or risks to the vessel passing by the wreck location. On the other hand, a wreck that may pose a hazard to the environment is a vessel that sinks or is stranded in a marine protected area like a coral reef or fish sanctuary, fishing grounds and other areas where marine life exists. Birds that depend on marine life as a food source may also be affected by a possible oil spill and other pollutants caused by the wreck. Moreover, even the wreck itself may damage the marine ecosystem and disturb the life underwater. A wreck can also be

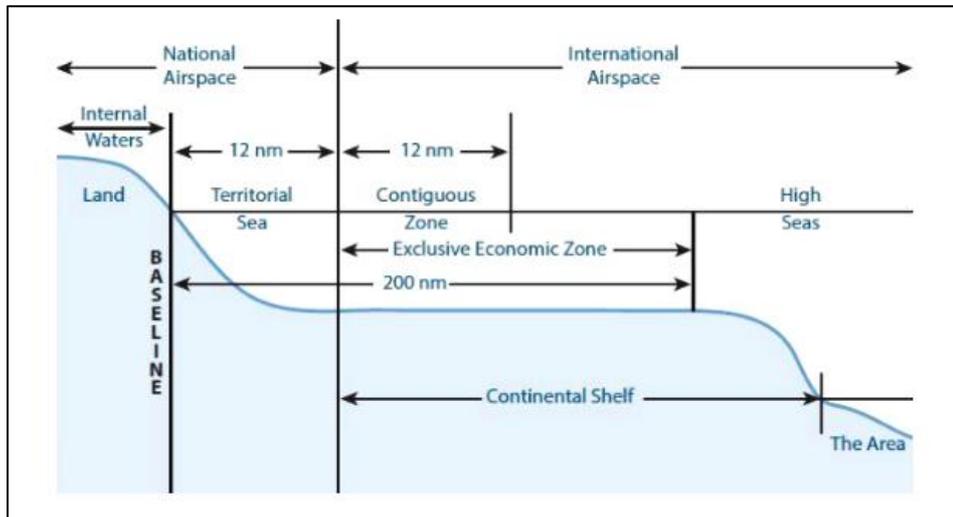
a result of a marine casualty of overboard parts like containers or other cargo of the vessel (Kern, 2016).

It is also important to determine the definition of a ship because if there is no ship there will be no wreck. A ship is defined by the Convention as a “seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources” (Michel, 2007). As such, offshore facilities and vessels that are engaged in this activity are not covered by this Convention (Saharuddin, 2019).

3.1.2. Scope of Application

The Nairobi Convention, Article 3, describes the scope of application of the Convention to wrecks situated in the Convention area. The Convention area defined in Article 1 is “the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles (NM) from the baselines from which the breadth of its territorial sea is measured” (Michel, 2007). Said definition is also the same as defined in Article 7 of the United Nations Convention on the Law of the Sea (UNCLOS), Breadth of the EEZ (Foreign, Commonwealth and Development Office, n.d.). Although the measurement of the Convention area starts on the baseline, the internal water or territorial sea of a country is not included with respect to sovereignty or sovereign rights wherein national law is in effect. (Freeman, 2021). On the other hand, the state has an option to include the territorial sea following the regulation in Article 4.4. However, the high seas or international waters are not included in the scope of the Convention (Saharuddin, 2019).

Figure 9
Maritime Zones



Note. From “UNCLOS” by Drishti IAS, 2021 (<https://www.drishtiias.com/daily-news-analysis/unclos-1>)

3.1.3. Obligation for reporting a wreck

One of the important aspects of wreck removal is the reporting feature. According to the Convention, the captain and/or the operator of the vessel is obligated to communicate without any delay to every country affected by the wreck after being involved in a marine casualty. Only both of them have this obligation, while other personnel onboard are not obliged to do so. The main information in their reports should include the name, address and all other important information about the operator of the ship. Further, the location, type, size, construction, status and damage of the wreck, as well as the quantity and nature of cargo, hazardous and noxious substances and other pollutants like fuel and lube oil on board, are also included in the document (Michel, 2007). This will allow the affected state to determine the type of hazard that will affect the marine environment and/or safety of navigation as described in Article 6 of the Convention.

It is also important to understand and know the meaning of the “operator” of the ship to avoid confusion, particularly with respect to who will be liable during wreck removal. It was defined by the Convention as “the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has

assumed the responsibility for the operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended” (Michel, 2007).

3.1.4. Hazard determination

Hazard is defined by the Convention as a situation or risk to the vessel during its voyage and to the marine environment because of pollution. The Convention explicitly outlines these criteria in Chapter 6 so that the affected state can determine what hazard a certain wreck may pose. The type, size, depth, structure of the wreck, tidal range, tides from the wreck location and delicate areas are part of the criteria for both types of hazard. On the other hand, the nearness of shipping routes and lanes, frequency, density and kind of traffic are criteria in the navigational type hazards. For environmental hazards, the criteria are quantity and nature of cargo, types and amount of oil and structural damage that might result from said cargo and oil being discharged into the ecosystem. Other criteria that are also important to determine are weather and sea conditions, underwater geography, height of wreck during low and high tide, distance to any kind of water infrastructure, wreck profiles and other criteria that might compel wreck removal (Michel, 2007).

3.1.5. Obligations on marking wrecks

The marking of wrecks will be the obligation of the affected state after determining that a wreck is a hazard based on the data required to be collected in Chapter 6. The accurate location shall be determined as stated in Chapter 7 before marking. The internationally accepted system of buoyage shall be the benchmark in marking wrecks in the Convention area as enumerated in Chapter 8 (Michel, 2007). It is also the obligation of the affected state to disseminate all necessary information regarding wrecks and their associated hazards by means of any available maritime publication like Notice to Mariner and Navigational Telex (Saharuddin, 2019). In addition, the IMO suggested in 2006 the use of an emergency wreck marking buoy which is intended to provide radio and visual navigation assistance (Kern, 2016).

3.1.6. Registered owner's responsibility on the removal of wreck

The Convention defines a registered owner as “the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship at the time of the maritime casualty. However, in the case of a ship owned by a State and operated by a company that is registered in that State as the operator of the ship, “registered owner” shall mean such company”. The registered owner’s primary responsibility is to remove the wreck after the affected state decides the wreck is a hazard. The wreck removal can be conducted by the owners identified or hired salvage or capable company which will be paid by the insurer as stated in Article 9 of the Convention (Michel, 2007).

The meaning of removal is also important to mention because the word “removal, removed and removing” doesn’t usually mean the actual removal of the wreck itself but includes also the removal of hazards caused by the wreck. This means elimination, mitigation and prevention are actions for the removal of hazards as a result of a hazards caused by the wreck (Kern, 2016).

3.1.7. Affected State responsibility on the removal of wreck

The affected state’s responsibility is also very important because if the registered owner does not act according to the Convention, the state may intervene and provide directives on the wreck removal procedure for protection against the above-mentioned hazards. As stipulated by the Convention, a state should advise the flag of registry as well as the owner that the wreck poses a hazard. Further, they need to inform other affected states regarding the possible actions that will be taken regarding the wreck. Even though the owner is fulfilling their responsibility as stipulated in the convention, it does not restrict the affected state from demanding its own conditions on how the wreck will be removed, particularly if the interests of the country will be affected or lives will be endangered. The affected state may also set a deadline and should inform the owner in writing that if they do not meet the specific deadline, the affected state can conduct wreck removal, but owners will shoulder the removal cost. The same interventions will also be applied if the owner does not recognize its

responsibility or cannot be found, then the affected state will do the removal in the promptest and most practical manner (Michel, 2007).

3.2. HPCG/CG10, MC 06-96 - Salvage Regulation

Memorandum Circular (MC) 06-96 of the PCG is the only regulation currently being implemented that is related to and deals with wreck removal operations. Although the MC is about Salvage Regulation, some of its provisions cater the wreck removal regulations due to its similarity in nature. Unfortunately, the MC did not mention anything about the Obligation for reporting and marking a wreck and the Registered owner's responsibility on the removal of wreck (Philippine Coast Guard, 1996).

3.2.1. Definition of a "Wreck"

Wreck is defined by the MC as "a vessel or structure, fixed or floating, or any part or appurtenances thereof, which is no longer capable of functioning in the manner of which it was designed or intended" (Philippine Coast Guard, 1996).

According on the definition stipulated by the MC, any vessel irrespective of kind and size, as well as any marine structure including its parts that are floating, sunken and not functioning as to its intended design is considered a wreck. Cargo onboard is not considered part of the vessel, so this means that it will not be recognized as a wreck. Further, the idea of fixed or floating structure directly refers to underwater pipelines, oil rigs, platforms, offshore facilities or barges which can also be considered wrecks if they do not function as they are intended for (Philippine Coast Guard, 1996).

3.2.2. Scope of Application

The scope of the MC only covers the territorial waters of the Philippines where the state has full jurisdiction. According to UNCLOS, Part II, Territorial Sea and Contiguous Zone, Section 2., Limits of Territorial Sea, the State territorial sea is measured 12 NM from the baseline which is described as the lowest tide of the water

line from the coast (Foreign, Commonwealth and Development Office, n.d.). The RA 9522 dated March 10, 2009, was enacted to delineate the Archipelagic Baseline of the Philippines (LawPhil Project, 2009). Last May 29, 2023, the House of Representatives approved the bill declaring the Philippine Maritime Zones, now in accordance with Article 76 of UNCLOS (Reganit, 2023).

3.2.3. Obligation for reporting a wreck

The PCG MC does not stipulate any obligation of the registered owner in reporting wrecks. However, the responsibility of reporting by the Salvor or Salvage Company, “a person or entity engaged in the business of salvaging vessels, wrecks, derelicts and other hazards to navigation within the territorial waters of the Philippines with Salvor Certificate of Registration (SCR) duly issued by the Philippine Coast Guard” as defined by the MC is enumerated, particularly the reporting of salvage operation to the PCG Districts, to report the use of explosives to the Philippine National Police (PNP) and report the salvage of cargo to the nearest Custom Office (Philippine Coast Guard, 1996).

Table 2

List of PCG Accredited Salvage Company per District as of 2023

Nr	SALVOR/COMPANY	SCR NR	Type of Registration	DISTRICT
1.	Philippine Asia dredging Corporation	PSCR 2018-001	Provisional Salvor Certificate of Registration	CGDNCR-CL
2.	Marala Vitas Central Terminal and Shipyard Corporation	SCR 2016-001	Salvor Certificate of Registration	CGDNCR-CL
3.	Narra Crewing and Ship Management Corporation	SCR 2016-005	Salvor Certificate of Registration	CGDNCR-CL
4.	Dive Industries Philippine Incorporated	SCR 2017-001	Salvor Certificate of Registration	CGDNCR-CL
5.	Ocean Retrieval and Marine Exploration (Phil) Incorporated	SCR 2022-002	Salvor Certificate of Registration	CGDNCR-CL

6.	Hi-cap Metal Trading Company	SCR 2023-001	Salvor Certificate of Registration	CGDNCR-CL
7.	Malayan Towage & Salvage	SCR 2021-006	Salvor Certificate of Registration	CGDNCR-CL
8.	F.E.S Challenger Salvour and Builders	SCR 2021-008	Salvor Certificate of Registration	CGDNCR-CL
9.	Uni-Orient Pearl Ventures, Incorporated	SCR 2022-001	Salvor Certificate of Registration	CGDCV
10.	Harbor Star Shipping Services, Inc.	SCR 2022-004	Salvor Certificate of Registration	CGDNCR-CL
11.	MASUDA Marine Corporation	SCR 2022-005	Salvor Certificate of Registration	CGDNCR-CL
12.	C.V Gaspar Salvage and Lighterage	SCR 2020-001	Salvor Certificate of Registration	CGDNCR-CL
13.	Pencon 8 Salvage Corporation	SCR 2020-002	Salvor Certificate of Registration	CGDNCR-CL
14.	Eagle Asia Towing Corporation	SCR Nr 2019-00	Salvor Certificate of Registration	CGDNCR-CL
15.	RGE Marine Salvage Administration Services	SCR NR 2021-001	Salvor Certificate of Registration	CGDNEM
16.	Irzolex Incorporated	SCR NR 2021-002	Salvor Certificate of Registration	CGDSTL
17.	Seaver Marine Shipbuilding and Industrial Corporation	PSCR 2021-003	Provisional Salvor Certificate of Registration	CGDNCR-CL
18.	Rouvia Road Yatch Design & Construction Corp	PSCR2021-001	Salvor Certificate of Registration	CGDNCR-CL
19.	Fahrenheit Co. LTD	PSCR 2021-007	Provisional Salvor Certificate of Registration	CGDNCR-CL
20.	Malayan Towage & Salvage	SCR-2021-006	Provisional Salvor Certificate of Registration	CGDNCR-CL

21.	Pitogo Marine Service	PSCR2021-005	Provisional Salvor Certificate of Registration	CGDCV
22.	Northstar Shipping and Marine Service Inc.	PSCR 2022-001	Provisional Salvor Certificate of Registration	CGDNCR-CL
23.	Amphibia Marine and Subsea Service	PSCR 2022-002	Provisional Salvor Certificate of Registration	CGDNCR-CL
24.	Mate's Trading	SCR 2022-003	Provisional Salvor Certificate of Registration	CGDNCR-CL
25.	RMS Petroleum and Waste Management Corp	PSCR 2022-003	Provisional Salvor Certificate of Registration	CGDNCR-CL
26.	Belle Shipping and Salvage Corporation	PSCR 2022-004	Provisional Salvor Certificate of Registration	CGDCV

Note. From “Database List of Registered Salvor” by Maritime Safety Services Command, 2023

3.2.4. Hazard determination

Hazard is defined by the MC as anything that may threaten or obstruct the navigational safety of a vessel. It is also observed that MCs Purpose and Scope focus only on the hazard to navigation. (Philippine Coast Guard, 1996).

3.2.5. Affected State responsibility on the removal of wreck

In the Philippines, the PCG is in charge of wreck removal in the territorial waters of the country in reference to RA 9993. The PCG may authorize any salvage company to remove shipwrecks that pose a hazard to navigation at any ports, harbor channels and sea-lanes. PCG can also authorize wreck removal for any other emergencies that may endanger life and property at sea. The PCG may act accordingly if the owner has no intention to remove the vessel and may issue an emergency Salvage Permit

before the conduct of the operation as stated in the MC, Chapter IX, F. It is also the mandate of the PCG to respond immediately in case of oil spill during the removal. The PCG shall also supervise the clean-up operation and provide technical assistance as needed, as stated in Chapter IX, H., 2. (Philippine Coast Guard, 1996).

3.3. Results of the Interview

The results of the interview with the Policy Making Body, Law Enforcement Officers and Salvage Company were analyzed in this section. The researcher extracted their different views and responses regarding the existing policy of the PCG, in relation to their duties and responsibilities in wreck removal. This section also discusses the problems and effects of the current policy that are being experienced firsthand by the abovementioned group and their respective agency/unit and company. This also highlights the reasons for a need for a dedicated policy and other factors that should be taken into consideration technically and operationally.

In this part of the study, the researcher sends questions to 2 Officers each from the PCG assigned to the Policy Making Unit (PMU), which is from the MSSC and the Law Enforcement Unit (LEU) which has experience as Station Commander of PCG Stations. Two technical Managers from two different Salvage Companies (SC) were also included in this part of the study.

3.3.1. Effects of the current policy

One of the common comments from all of the respondents is that the PCG Salvage regulation was already outdated for catering to both salvage operations and wreck removal. Both PMUs mentioned that the regulation focuses more on salvage operations and accreditation of the Salvage Company. On the other hand, LEU1 mentioned that the current policy significantly affects the enforcement of the PCG considering the environmental, economic and legal aspects of the wreck removal. Further, he added that PCG personnel in the District and Station are not knowledgeable in the process, procedures and requirements in the enforcement and implementation of the existing policy. The Salvage Regulation makes it confusing to

the law enforcement unit of the PCG considering it focuses on salvage rather than wreck removal as mentioned by both LEU. From the view of the salvage company, SC1 emphasized that the enforcement of said policy became a challenge to the salvage company because the focus of the policy is to police the salvor which should be the extended arm of the PCG in removing wrecks for any compelling reasons. SC1 added that “The wreck owner is somewhat free from any liability, which is why, the vessel owner/insurer can just leave the wreck without any legal liability”.

3.3.2. Challenges of the current policy

The main challenge of the policy as noted by all of the participants is that it does not define wreck removal. As a result, the policy lacks the compelling power for the shipping companies or owners to remove their wrecked ships as mentioned by PMU2. LEU1 added that the responsibilities and obligations of the vessel owner and Captain or Master were not even defined resulting in the question of who will finance the wreck removal operation as raised by SC1. Another challenge is the lack of legal framework in the enforcement and compliance of wreck removal as stated by LEU1. But PMU1 responded there is a proposed Wreck Removal Policy that focuses on the responsibility of the owner, operator and master of the vessels; however, it would require additional operating costs for the vessel owners/operators, which makes it difficult for the policy to pass public consultation.

In resolving these challenges, the respondent’s proposal is to amend or create a new policy suitable for or dedicated to wreck removal. But prior to that, LEU2 recommended the continuous improvement of the capacity building of the country by financing or obtaining foreign grants for education at the World Maritime University (WMU) or International Maritime Law Institute (IMLI). Sending regulators to these institutions will increase the number of individuals knowledgeable on Maritime Law and Policy particularly the different concepts of wreck removal and salvage as well as their related conventions. This will lead to the creation of much better and more suitable national regulations on wreck removal. LEU1 recommends the enactment of new legislation and subsequent issuance of Implementing Rules and Regulation and Department Order or Memorandum Circular dedicated to wreck removal. On the other

hand, PMU1 recommends that the Philippines should be the first signatory of the Nairobi Convention to have more awareness and healthier discussions between regulators and other operators with regard to wreck removal.

Other recommendations are also cited by PMU1, LEU1, SC1 and SC2, to be considered in the creation of the new regulation in addressing the challenges mentioned.

- Incentives for operators to lessen the impact of the new regulation;
- Impose a levy on the insurance coverage of a vessel to address the amount of wreck removal and damage to the marine ecosystem as a consequence of the wreck;
- Impose heavier penalties on ship owners abandoning their vessels without notifying the authorities particularly wrecks that pose a hazard to the environment and navigation;
- The concerned PCG office should be manned by professionals who are legally and technically proficient in wreck removal;
- Adopt some provisions from the Nairobi Convention that are applicable to the national legislation;
- Timeline for wreck removal should not be included in the new regulation;
- Integration of overlapping policy from PCG and other government agencies.

3.3.3. Advantages and Disadvantages

From the point of view of the PMU, because the policy is very simple it is only limited to the safe removal of wrecks. The disadvantage is that it is not consistent with the Nairobi Convention. Further, the policy did not prescribe the liability of the owner if the wreck became a hazard. On the other hand, LEU mentioned that is better to have the existing policy rather than nothing. However, due to its nature, the policy becomes very confusing to the law enforcement unit of the PCG, particularly in the implementation part where different operations like Salvage, Towage and Ships Recycling have similarities in the operational definition of wreck removal. As mentioned also by the SC, the policy is simple but prone to abuse as the owner has the advantage of removing wrecks with no defined penalty clause within the policy.

3.3.4. The need for dedicated policy on wreck removal

All respondents replied that the Philippines should create a dedicated policy on wreck removal to safeguard the interests of the country, particularly to avoid risk to the environment. PMU2 added that the country should accede to the Convention and then a domestic law will be legislated. At that point, the PCG can draft its regulation or policy about wreck removal. LEU1 added that the basic requirements should be adopted that are suitable to the Philippine setting.

Moreover, a dedicated policy on wreck removal will provide some advantages. The view of all the respondents is that a dedicated wreck removal regulation would prescribe guidelines and procedures to ensure that shipwrecks within the territorial waters of the Philippines that will pose a danger to navigation and to the marine ecosystem will be promptly and effectively removed. PMU1 added that this policy should be based on the Nairobi Convention to have a compulsive provision for ship owners for the safe removal of wrecks. However, SC1 mentioned that the PCG has no good record on the volume of wrecks which he believes is a major responsibility of the PCG in wreck removal. As per the data gathering of the researcher, the Chief, of Navigational Safety and Salvage Operations Division, Office of the Deputy Chief of Coast Guard Staff for Maritime Safety Services, (CG-8) provided a table (Table 3) of the monitoring status of shipwrecks from all PCG Districts as of February 2023.

Table 3
Shipwreck Monitoring Status as of February 2023

PCG DISTRICTS	NAME OF VESSEL	NAME OF SALVOR	DATE DECLARED AS SHIPWRECK	LOCATION	% OF COMPLETION	TOTAL
CGDNELZN	MV CHANG DA 216	PENCON8	24 June 2022	Brgy. Punta, Aparri, Cagayan	31%	24
	MV NANYANG 7	PENCON8	18 Oct 2020	Brgy. Cabaritan West, Ballesteros, Cagayan	30%	
	MV NANYANG 168	PENCON8	18 Oct 2020	Brgy. Cabaritan East, Ballesteros, Cagayan	31%	
	MV NOVA 1	PENCON8	28 Feb 2022	Brgy. Paruddun Sur, Aprri, Cagayan	16%	
	MV HONG YUAN 001	PENCON8	28 Feb 2022	Brgy. Catayauan, Lal-lo, Cagayan	95%	
	NV MN ZHANG ZHOU	PENCON8	28 Feb 2022	Brgy. Catayauan, Lal-lo, Cagayan	90%	
	MV HAI LAN 69	PENCON8	28 Feb 2022	Brgy. Catayauan, Lal-lo, Cagayan	90%	
	MV CHUANG SHENG #1	PENCON8	28 Feb 2022	Brgy. Catayauan, Lal-lo, Cagayan	70%	
	MV HAI LAN 068	PENCON8	28 Feb 2022	Brgy. Catayauan, Lal-lo, Cagayan	58%	
	MV MIN FUZHOU HUO 0131	PENCON8	28 Feb 2022	Brgy. Catayauan, Lal-lo, Cagayan	85%	
	ABADI SAPPHIRE 501	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	0%	
	ABADI SAPPHIRE 502	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	80%	
	ABADI SAPPHIRE 503	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	80%	
	ABADI SAPPHIRE 504	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	25%	
	ABADI PERMATA 1001	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	0%	
	ABADI PERMATA 1002	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	0%	
	ABADI PERMATA 2001	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	75%	
	ABADI PERMATA 2002	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	0%	
	ABADI PERMATA502	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	0%	
	ALFA JAYA	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	15%	
SAMPAGUITA	MATE'S TRADING	31 Mar 2022	Brgy. Tallungan, Aparii, Cagayan	0%		
MV ZHONHAI 88	MATE'S TRADING	08 Feb 2022	Brgy. Bagu, Abulug, Cagayan	80%		
MV SILKROAD 13	MATE'S TRADING	18 Oct 2020	Brgy. Palloc, Ballesteros, Cagayan	70%		
BARGE CONSTANTE DANCEL	C.V. GASPAR SALVAGE & LIGHTRAGE CORP.	03 Aug 2022	Port Irene, Brgy Casambalagangan, Sta Ana, Cagayan	80%		
CGDNWLZN	BARGE POE 86 KUCHING	NIL	27 Dec 2021	Silaqui Island, Bolinao, Pangasinan	NIL	2
	MV SUNNY LINK 9114531	NIL	24 Feb 2022	Sitio Abagatanen, Brgy. Macaboboni, Agno, Pangasinan	NIL	
CGDSTL	MV HANAKO	NIL	NIL	Barangay Palikpikan, Balayan, Batangas	NIL	2
CGDBCL	NIL	NIL	NIL	NIL	NIL	0
CGDPAL	NIL	NIL	NIL	NIL	NIL	0
CGDCV	MV OROQUIETA	RGE	16 Dec 2021	Brgy. Tayud, Consolacion, Cebu	95%	8
	MV IDA	PENCONE8	16 Dec 2021	In Between Vic Seawaters Off Tayud and Bantolinao Pt	80%	
	MTUG EURO DOS	PENCONE8	16 Dec 2021	Vic Seawaters Off Quano Wharf Madaue City Pier 4, Cebu City	25%	
	MV SEAFORD 10 (REPORTED AS MV ANDIFORD)	PENCONE8	16 Dec 2021	Pier 2, Tinago Cebu City (Brgy. Latasan, Labogan, Mandaue City Cebu)	45%	
	ALESON CON CARRIER 8	NIL	16 Dec 2021	Tsuneishi Shipyard	NIL	
	MV LITE FERRY 8	NIL	16 Dec 2021	Tsuneishi Shipyard	NIL	
M/V WEST OCEAN 2	PENCONE8		Tayud, Consolacion Cebu	55%		
MV RKK SIETE	PENCONE8		Sandoval Yard Office, Beside Cansaga Bridge, Mandaue City Cebu	85%		
CGDEV	NIL	NIL	NIL	NIL	NIL	0
CGDWV	MV AIKHO	NIL	28 June 2008	Tangalan Pier, Tangalan, Aklan	NIL	1
CGDNM	BARGE PREMIUM PORTLAND 2	NIL	11 Jan 2023	Brgy Acmac, Iligan City, Lanao del Norte	NIL	1
CGDNEM	MV SF OMEGA	PENCON8	14 Aug 2022	Brgy. Maribojoc, Lingig, Surigao del Sur	0%	1
CGDSEM	NIL	NIL	NIL	NIL	NIL	0
CGDSWM	MV JAKE VINCENT CINCO	NIL	17 Dec 2021	NIL	NIL	1
CGDSM	NIL	NIL	NIL	NIL	NIL	0
CGDBARM	NIL	NIL	NIL	NIL	NIL	0
TOTAL						40

Note. From "Status Monitoring of Shipwrecks on all PCG District" by Navigational Safety and Salvage Operations Division, Office of the Deputy Chief of Coast Guard Staff for Maritime Safety Services, CG-8, 2023

Chapter 4. Legal / Procedural Issue

In this chapter, the Nairobi Convention and the MARINA Circular No. 2009-22 regarding Rules Governing the Mandatory Marine Insurance to Cover Liabilities arising from Pollution and Wreck Removal will be analyzed in terms of legal and procedural issues. This will lay down all the legal aspects of the two (2) regulations relating to the responsibilities and liabilities of the shipowner and insurer that will be incurred during the wreck removal operation.

4.1. Nairobi International Convention on the Removal of Wrecks, 2007

4.1.1. Shipowner's liability

In Article 10 of the Convention, the owner's liability is laid out. A wreck will not be the responsibility of the owner and the owner can be acquitted from any accountability if the wreck was caused by war, natural catastrophes, negligence by a third party or wrong actions of the government and other government agencies. It is important to mention that acts of war do not include acts of terrorism in their scope (Kern, 2016, as cited in Gard, 2014). But if it is not the situation, then the owner will still be paying for locating, marking and removal costs of a wreck as stipulated in Articles 7,8, and 9, respectively (Michel, 2007).

Although the wreck removal entails accountability, the owner can also limit it under the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976, as amended by protocol of 1996 (Michel, 2007). Unfortunately, other signatory states use the opt-out provision of the LLMC not allowing the owner to limit liability contrary to the Nairobi Convention (Herbert, 2013; Kern, 2021).

The owner can also be exonerated if the costs of locating, marking and removing the wreck have incompatibility with the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended, the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 as amended, International Convention on Civil

Liability for Oil Pollution Damage, 1969, as amended or the Convention on Third Party Liability in the Field of Nuclear Energy, 1960, as amended or the Vienna Convention on Civil Liability for Nuclear Damage, 1963, as amended or national law governing or prohibiting limitation of liability for nuclear damage as stated in Article 11 of the Convention (Michel, 2007).

4.1.2. Compulsory insurance or other financial security

4.1.2.1. Financial Security

Article 12 of the Convention sets the provision on compulsory insurance and other financial security. The scope of this provision covers vessels that are registered to a state that is a party to the Convention with 300 gt and above that will be obliged to have insurance, either by bank guarantee, ordinary insurance or financial securities. In relation to the Convention, the financial security or insurance will cover the liability of the owner as appropriate to any international or national regime of limitation of liability. The calculation of the amount of liability shall not exceed the LLMC computation in Article 6.1.b. of the said Convention (Michel, 2007).

4.1.2.2. Obligation to obtain certificate

The vessel should be issued a certificate by the State's proper authority after it complies with Article 12.1 and this will be the basis on which the indemnity or the financial security is valid in relation to the Convention. The designated State authority will issue the certificate to each ship where it is registered. Those vessels that are registered to a State that is not a party may apply to a State party that is a signatory to the Convention. A State that is a party to the convention may also authorize a company or association to issue such certificate but must ensure that the needed detail in Article 12.2 will be complied with as mentioned in 12.3. Further, this authorized company or association has also the capacity to withdraw said certificates if the provisions written in the compulsory insurance certificates were not fulfilled (Michel, 2007).

4.1.2.3. The direct action and actual cost recovery procedure of the state against the compulsory insurer

One of the important provisions of said Article is 12.10 which states that the liability of the registered owner for the cost of wreck removal can be directly demanded to the insurer or financial institution that provides financial security. The limitation of liability can also be claimed by the insurer similarly to the owner (Michel, 2007). Under the Convention, the insurer is not permitted to employ the “*pay to be paid-clause*” which is being used by the insurer to pay only the equivalent insurance depending on what the owner has actually paid and not by loan or other method. This becomes the system of insurance to evade liability or payment since the owner has not been fully paid for the compulsory insurance on wreck removal particularly now that said operation is becoming more expensive (Kern, 2021). On the other hand, the insurer can still claim limitation of liability and is not dependent on the rights of the owner. Further, the insurance can also invalidate the compensation if the owner was found to be the cause or have influenced the vessel to be wrecked (Michel, 2007).

4.1.3. Time Limits

When a wreck is determined by the Convention to be a hazard, the affected state is only given three years' specific time limits to claim for the cost sustained as a result of measures taken relative to the Convention as stated in Article 13. This provision refers to Article 8.1 during the time the affected state determines that a wreck becomes or is determined as a hazard. Further, a general period of no more than 6-years shall be imposed on the affected State to recover the cost. However, the 6 years will start from the initial reporting of the wreck as a hazard when a wreck has a series of occurrences as a hazard (Michel, 2007). This part of the convention will cover future wrecks and not those wrecks that already existed before the approval of Convention. Same with the Vienna Convention Article 31.1, the provision of time limit on wreck removal follows the non-retroactivity of treaties unless a distinctive intention happens. Further, time limits are part of the time limitation as mentioned in other conventions on liability (Kern, 2021).

4.2. MARINA Circular No.2009-22-Rules Governing the Mandatory Marine Insurance to cover liabilities arising from Pollution and Wreck Removal

On February 26, 2010, the Department of Transportation and Communication (DOTC) as it was at that time, released a cease-and-desist order for the implementation of said MC effective March 1, 2010, a year after its implementation. According to the order, the said MC “shall be subject for review, modification and amendment by the Technical Working Group” (DOTC, 2010). Despite its suspension, this study will still evaluate the content of said MC hence it is the only regulation that deals with mandatory marine insurance regarding Wreck Removal in the Philippines covering domestic vessels. However, the MC did not discuss the direct action and actual cost recovery procedure of the state against the compulsory insurer and time limits. Nevertheless, the result of the analysis will provide a better understanding of its content that will be utilized during the discussion. It also provides a clear idea of the view of the department in relation to mandatory insurance.

4.2.1. Shipowner’s liability

Chapter IV., General Provisions., 1., states that all liabilities arising from wreck removal will be the responsibility of the owner and operator of the vessels that are operating in domestic trade. On the other hand, the MC defines Liabilities Arising from Wreck Removal as “costs and expenses of or incidental to or liabilities arising out of the actual, or attempted raising, removal, destruction, lighting or marking of the wreck of a Ship, including any part thereof, or cargo, equipment or other property carried on the Ship as compulsory by law” (MARINA, 2009).

In relation to the limitation of liability, Chapter VI of the MC provides a table for the Limits of Liability arising from pollution and the removal of wrecks (see Table 3). It details the coverage, gross tonnage and the minimum limit of liability from pollution and wreck removal. For example, if the owner has a liability arising from wreck removal with vessels 500 GT but less 2000 GT, the owner’s liability will be limited to only to five (5) million Php or its equivalent in US dollars per accident or

occurrence. But if the incident involves both types of liability (pollution and wreck removal), the combined limit per table shall be implemented. (MARINA, 2009).

Table 4
Limits of Liability

COVERAGE	GROSS TONNAGE	MINIMUM LIMIT of LIABILITY
1) Liabilities arising from Pollution	- Ships 500GT – less 1,000GT using persistent oil	Php 5M or its US\$ equivalent. Any one accident or occurrence.
	- Ships 500GT – less 2,000GT using non-persistent oil	Php 5M or its US\$ equivalent. Any one accident or occurrence.
	- Ships 1,000GT – less 5,000GT using persistent oil	Php 50M or its US\$ equivalent. Any one accident or occurrence.
	- Ships 2,000GT – less 5,000GT using non-persistent oil	Php 50M or its US\$ equivalent. Any one accident or occurrence.
	- Ships more than 5,000GT	Php 75M or its US\$ equivalent. Any one accident or occurrence.
2) Liabilities arising from Wreck Removal	All ships 500GT – less 2000GT	Php 5M or its US\$ equivalent. Any one accident or occurrence.
	All ships at least 2000GT and above.	Php 20M or its US\$ equivalent. Any one accident or occurrence.

Note. From “Rules Governing the Mandatory Marine Insurance to Cover Liabilities arising from Pollution and Wreck Removal” by MARINA, 2009 (<https://marina.gov.ph/wp-content/uploads/2018/07/MC-2009-22.pdf>)

4.2.2. Compulsory insurance or other financial security,

4.3.2.1. Financial Security

The compulsory insurance coverage is for all types of vessels that utilize persistent and non-persistent fuel or lube oil, for hire or compensation in national trade with a capacity of 500 GT. This includes Philippine-registered tankers and barges operating domestically within Philippine waters except for government vessels that are not engaged in commercial activities as stipulated in Chapter II of said MC. Non-motorized vessels are also included in the coverage for liabilities arising from wreck removal (MARINA, 2009).

Chapter IV. General Provisions., also stipulates that marine insurance may be acquired through any local registered insurance company or recognized international P&I providers. A cash bond that is equivalent to the limit of liability mentioned in Chapter VI can be an alternative to mandatory insurance and shall be deposited to any reputable commercial bank under the name of MARINA. Moreover, those companies that cannot attain mandatory insurance or cash bonds are “encourage to undertake any measures to ensure that they have the financial capability to meet any financial responsibility for any liability arising from pollution and wreck removal” (MARINA, 2009).

4.2.2.2. Obligation to obtain certificate

According to Chapter V., Specific Provisions., 4., it is the obligation of the concerned person, corporations, partnerships, cooperatives and entities to submit within five (5) days upon renewal a copy of the insurance cover to the office of MARINA. If there is any cause for delay, a 30-day grace period from the date of renewal will be allowed to submit the original insurance front cover. The letter from the local insurance company or their international P&I providers will be temporarily accepted as proof of insurance renewal until the original copies have been submitted. The agency also gave ten percent (10%) discount incentives on tonnage fees to those who complied by the end of December 2009. For operating without any insurance or submitting fraudulent documents, corresponding penalties are imposed as stipulated in Chapter VII., Sanctions and Penalties., as shown in Table 4 (MARINA, 2009).

Table 5
Sanctions and Penalties

VIOLATION	SANCTION/PENALTY
1. Operating without mandatory marine insurance	First Company Offense – suspension until compliance +P1,000 per GT per vessel
	2 nd Company Offense - suspension until compliance +P1,500 per GT per vessel
	3 rd and succeeding Company Offense - suspension until compliance +P2,000 per GT per vessel
2. Submission of fraudulent documents	First Company Offense – suspension until compliance +P2,000 per GT per vessel involved in the accident, without prejudice to filing of criminal charges in a proper Court
	2 nd Company Offense – suspension until compliance +P3,000 per GT per vessel involved in the accident, without prejudice to filing of criminal charges in a proper Court
	3 rd and succeeding Company Offense - suspension until compliance +P4,000 per GT per vessel involved in the accident, without prejudice to filing of criminal charges in a proper Court

Note. From “Rules Governing the Mandatory Marine Insurance to Cover Liabilities arising from Pollution and Wreck Removal” by MARINA, 2009
(<https://marina.gov.ph/wp-content/uploads/2018/07/MC-2009-22.pdf>)

4.3. Interview Results

This chapter discloses the result of the interview with respect to the legal and procedural issues regarding the liabilities of wreck removal in the Philippines. In this part of the interview, the respondents are composed of Shipowners (SO) - 3, Insurance Company (IC) - 2 and Salvage Company (SC) - 2. They were grouped together to answer the questions relating to compulsory insurance and other financial security about wreck removal. Challenges from compulsory insurance and the insurance system of the Philippines were also part of this chapter. Their understanding, knowledge and personal experiences were extracted in relation to their line of work and exposure to insurance issues that need to be addressed. Further, all information that will be obtained will be used as a reference in recommending the creation of a dedicated policy relative to the liabilities of wreck removal.

4.3.1. Importance of Insurance on Wreck Removal

The clearest answer that was mentioned by the group about the importance of insurance was the idea of having available funds to support the wreck removal operation due to its costly methods. As such, the idea of having said insurance will reduce the need to go to court, as added by IC1. But, if not covered by this insurance, it will entail a large cost to the shipowner due to its one-time payment scheme, as mentioned by SO3. The SOs and the SC also said that compulsory insurance is necessary in their businesses to ensure that all their vessels are covered and protected from such expensive operations, while for the salvor side, it is the availability of funds for the payment of the operation. SC also added that if compulsory insurance is implemented, the government should set a minimum coverage. Aligning with the convention also allows an affected state to assert the insurer directly, as mentioned by LEU1 during the previous interview.

In the view of the insurer, it is an added risk to the company, and it is not necessary in their line of business to cover the wreck removal. It is only included because of the convention, but in terms of cost, although compulsory insurance is renewed every year, the total cost paid for the insurance is less than the operational cost of the wreck removal. That is why, in the case of the Costa Concordia, the insurance company that financed the wreck removal needs to pull another insurance company to sustain the operation, as mentioned by IC1.

4.3.2. Challenges of No Insurance

According to the experience of the salvors, they do not deal with shipowners without proper insurance coverage. Sometimes, they give less priority to clients who do not have insurance because the removal cost will be deducted from the value of the scrap recovered. In the perspective of the IC, they will have no liability to the vessel or shipowners if their ship becomes wrecked since they are not covered. As mentioned by IC2, in this situation, there is a need to go to court to compel the company or the owner to remove or finance the wreck removal and resolve the issue. But more often, the wreck issue remains unsolved and left abandoned rather than

going to court due to its complicated process. Sometimes, it ends up with long negotiations, particularly if the owner has no financial capability. As per the experience of SO2, a clear agreement between the two parties will be established in the absence of required financial security. However, even if the issue is somehow resolved, it is very risky to the shipowner because all the assets that will be utilized will be at their disposal. Everyone recognized that PCG and MARINA are the concerned agencies that regulate and have the mandate to resolve the wreck removal issues, but IC1 emphasized that PCG has limited regulation.

4.3.3. Advantage and Disadvantage of Compulsory Insurance

The SOs responded that one of the advantages of having compulsory insurance is that the owners are protected against the costly operation of wreck removal. Other liabilities caused by the risk of wreck removal will be handled by the insurance company. Not only does it ensure funds to cover wrecks, but it also has less need for court mitigation, as mentioned by SC2 and IC1, respectively. As such, no wreck will be left behind and will also develop the capability of the local salvors, as stated by SC1.

Only SO3 and IC2 mentioned the disadvantages of compulsory insurance. On the shipowner's side, it will be very costly for them to have premium insurance, as a result, small companies may have a minor chance of availing it. On the insurance part, although IC1 commented that it will be an additional cost for the shipowner, on the other hand, it will still be advantageous to have insurance rather than uncertainty because it will be costly when a wreck happens. IC1 added that, at the end of the day, having insurance has more benefits than having nothing.

4.3.4. Challenges of Insurance System in the Philippines in relation to wreck removal

On the point of view of the SOs the number one challenge in the insurance system in the Philippines is the cost of the insurance premium and the tax issues. The high cost of tax adds to the cost until it becomes prohibitive. Two is the process of

claims, because it would take time to process a claim. Insurance in the Philippines is more inclined to deny the claim but is more interested in claiming the premium. The insurance commission appears they do not have the authority to adjudicate insurance disputes in cases of claims. All they do is assist the parties to talk, discuss and wait further, but there is no direct imposition of their obligations. As a result, it leads to court and not through the insurance commission, which is why there should be a government agency to facilitate, as a point of view of the SOs. Both the SC and IC agreed that there is no legal framework particularly in wreck removal. Although MARINA has a circular on mandatory insurance, but it did not push through due to technical error that needs to be review, as per IC1.

The recommended solutions to the abovementioned challenges were also given by the respondents. All groups recommended the need for government intervention and creation of insurance regulations about wreck removal. This policy will impose compulsory insurance on all domestic ship owners. PCG and MARINA are the common agencies that were mentioned to initiate this regulatory action, while the Bureau of Customs (BOC), Department of Natural Resources (DENR) and the Local Government Unit (LGU) should also be involved to have one government approach in resolving this issue. Enactment of the law and adherence to the convention will also modernize local regulation and policy to have better enforcement power, as added by IC1. SC2 also suggested this would eliminate the wreck removal insurance problems and provide higher penalties to shipowners who abandon their vessels. SO3 also mentioned that the insurance commission needs to be strengthened to expedite the processing of claims, monitor insurance company activities and penalize misleading companies.

Chapter 5. Discussion

In this chapter, the author synthesizes the document analysis conducted in the previous chapters as well as the results of the data gathered from the semi-structured

interviews with the respondents. All the themes that were determined by this study as a result of the literature review from relevant sources are identified and laid down to achieve the research aim and answer the research questions. Immediate and consistent findings are explained, along with the relationship of similar and contradicting ideas, to ensure that the balance of the study is attained. Advantages and disadvantages are also be examined to determine the right recommendation concerning this study.

5.1. Aligning to the Convention

Aligning with the convention is one of the frequently suggested solutions that was revealed during the interview and document analysis. As part of the study, this section will discuss the differences between the PCG and MARINA circulars in comparison to the Nairobi Convention. Through this process, key ideas will be determined that will assist said agencies in aligning their respective policies to the Convention or in the creation a new dedicated policy. The results from the following discussion should be analyzed and given consideration to understand the facts that might be important and useful in aligning with the convention. Only vital and important topics were given emphasis because other parts of the regulations do not need further clarification and explanation.

5.1.1 Operational / Technical Issue

5.1.1.1. Wreck Definition

The words “wreck” and “vessels”, should be clearly defined because this will determine what will fall under the definition of wreck and what type of vessel will be covered under the regulation. The definition should be aligned with the convention to have consistency, particularly if an international vessel will be wrecked in the territorial waters of the country (Herbert, 2013). A clear definition of wreck will also set boundaries between wreck removal and salvage and towing.

There is also a need to understand when a ship or vessel will become a wreck because it will differentiate wreck removal from a salvage operation. According

to the study of Kepplerus (2010), a vessel becomes a wreck when it is declared a physical total loss as a result of scrapping, explosion or fire. Even if it is not a physical total loss but is declared a constructive loss, beyond repair or not recoverable after sinking in the deep sea, the vessel becomes a wreck. It is very important that the meaning be clearly explained for insurance claims and legal use. On the operational aspect, this should also be applied to have a clear understanding and avoid confusion with the law enforcement unit.

5.1.1.2. Scope of Application

The MARINA MC covers domestic vessels, while the PCG MC only covers the territorial waters, which is 12 NM from the baseline. There is no need to align the scope of both MCs or in the creation of the new dedicated policy to the Convention due to the limitation of powers of a state over the EEZ. Since the Philippines is not a party to the Convention, there will be no regulations that will cover wreck removal in the EEZ. It is very important to determine the scope because, as discussed, location is one of the factors that affects the wreck removal because it may delay the operation and increase the cost (American Association of Port Authorities, n.d.)

5.1.1.3. Obligation for reporting wrecks

In this section, it is very obvious that most of the reporting is being done by the salvor instead of the owner, contrary to the Convention. Although the operation of wreck removal is conducted by the salvor, the owner's responsibility is not mentioned in the MC, proving the comment from the interview that the owner and the insurer is somehow free from responsibility and liability. This should not be the case because the ownership of the wrecked vessel is not transferred to the salvor. It is believed that during the agreement between the owner and the salvor, the agreement only focused on the wreck removal activity and did not include the transfer of responsibility unless otherwise stated. The obligation can only be transferred if the vessel ownership has been changed or if the salvor is the one who bought the ownership of the wrecked vessel (Law Insider, n.d.) This part of the policy should be considered due to its legal

implications. The policy should be aligned with the Convention to avoid pointing fingers at who should be obligated to reporting wrecks.

5.1.1.4. Hazard Determination

The MC should not only focus on the hazards to navigation but also the hazards to the marine environment. Said MC provision is also not aligned with the PCG Law of 2009 pertaining to the powers and functions of the PCG, which is “(g) To remove, destroy or tow to port, sunken or floating hazards to navigation, including illegal fish traps and vessels, at or close to sea lanes that may cause a hazard to the marine environment” (Republic Act 9993, 2009).

5.1.1.5. Registered owner’s responsibility on the removal of wrecks

It was noticed that the obligation of the registered owner is not mentioned in the MC. On the other hand, SC1 also mentioned that the focus of the MC is to police salvors. This gives the impression that most of the responsibility during the wreck removal operation is given to the salvor. This idea is very opposite to the Convention, where the responsibility focuses on the shipowner, particularly on the obligations of reporting, marking and the removal of wrecks. The MC should be very clear that the responsibility of a wrecked vessel and its removal should be pointed out to the shipowner (Kern, 2016). Since there is no such provision, PCG is helpless to compel the owner to remove wrecks, even if they pose a hazard. The absence of a legal framework provides additional problems, resulting in a long negotiation with the owner or a court decision. Moreover, confusion also arises from the law enforcement side due to the confusing policy of who has the responsibility of removing wrecks.

5.1.2. Legal / Procedural Issue

5.1.2.1. Shipowner’s liability

The MARINA MC was somehow aligned with the Convention where the liability of wreck removal is the responsibility of the owner. However, it is not clear when the owner will be exonerated, as stated in the Convention. This provision is very

important for the owner’s protection in case there are other factors causing the vessel to be wrecked, like a collision where a third party is involved or in the event of war. MARINA also sets a limitation of liability according to coverage, gross tonnage and a minimum limit of liability that is favorable again to the shipowner. Nevertheless, the limitation of liability should be supported by law to ensure its effective implementation and prevent any legal issues. MARINA can also consider the recommendation of SC to have mandatory insurance of at least Php 100 million liability on wreck removal.

5.1.2.2. Compulsory insurance or other financial security

5.1.2.2.1 Financial Security under the Nairobi Convention

The vessels that are covered by the MARINA MC to have insurance are 500 gt and above, compared to the Convention, which is 300 gt and above. According to the record of the MARINA Management Information System Service, the domestic registered ships as of June 2023 had a total of 16,634, and below 500 gt is equivalent to 15,671 (MARINA, 2023). In this case, 94% of domestic vessels will not be covered by insurance if this provision is implemented. It will result in various problems particularly the cargo and tanker vessels which are a huge threat to the marine environment when they become wrecks. Considering also that these vessels may be hazards to navigation because they sail on small channels or shallow waters. As such, these vessels should require insurance to have an appropriate fund for their removal.

Table 6
Number of Registered Vessel

	As of June 2023
Total Number of Registered Vessel	16, 634
Number of Ships below 500 Gross Tonnage	15, 671
Percentage of Vessels below 500 GT to the total number of Registered Vessls	94%

Note. From “*Number of Registered Vessel*” by MARINA, M. I. S. S., 2023

Table 7
Number of Ships below 500GT (per Type)

Ship Classification	Total
Passenger	3,514
Cargo	1,296

Tanker	52
Tugs and Dreger	582
Fishing	6,389
Special Purpose Ship	16
Miscellaneous Ship	171
Recreational	3,651
Grand Total	15,671

Note. From “Number of Ships below 500GT (per Type)” by MARINA, M. I. S. S., 2023

Chapter IV., General Provisions, 4., should be deleted because there are no parameters for how the state will validate if these companies have the financial capability to meet financial responsibility. Moreover, the word “encourage” does not oblige said owners to mandatorily acquire said insurance, which gives them the liberty to avail of it or not. Therefore, Chapter VII., Sanctions and Penalties, particularly the violation of operating without mandatory insurance will be useless concerning the said MC provision (MARINA, 2009).

Although shipowners are hesitant to acquire insurance due to the additional operating costs, it is still more advantageous to have insurance to protect them from any uncertainties. Currently, the most expensive wreck removal operation was the Costa Concordia, amounting to \$1.3 billion, which lasted from 2012 to 2014 (International Salvage Union, n.d.).

5.1.2.2.2 The direct action and actual cost recovery procedure of the state against the compulsory insurer

This part of the regulation should be given importance because it will give the government the assurance that someone will pay for the removal in case the owner abandons the wreck. This provision should be included in the circular so that the government can claim directly from the insurance provider.

5.1.2.3 Time Limits

SC1 commented that the Time Limit should be removed if there is a proposed dedicated policy. But if that happens, it will be a disadvantage to the insurer

because there will be no end for a state to recover their claims due to wrecks. Neither would any insurer allow such insurance coverage that will last forever. Moreover, this section is also embedded in other Conventions for the same purpose, so it will be in conflict if the said recommendation is accommodated. Many insurance companies will also disagree, or they will not support the approval of the proposed regulation if that happened.

5.2. MARINA Circular No.2009-22-Rules Governing the Mandatory Marine Insurance to cover liabilities arising from Pollution and Wreck Removal

According to the interview with MARINA, they have the mandate to establish a policy regarding the supervision, regulation and rationalization of the maritime organization, operations and enterprises in the Philippines according to PD474, EO 1011 and RA 9295. That is why they created the MC 2009-22 with mandatory insurance relating to wreck removal. Although the said MC was implemented and became an official policy, it was suspended due to mixed reactions from the stakeholders regarding the cost of the insurance policy. The MARINA board decided to continue the consultation with the stakeholders and the creation of a technical working group to review and modify the said policy. They understand the importance of said MC, but the suspension was made in consideration of the concerns of the stakeholders. Moreover, there is a discussion about the reimplementation of the policy, and there is no plan to create a new one.

Significantly, during the interview, the policy of MARINA was not even mentioned by any of the respondents except for IC1 who happens to be working now in the DOTr. This means that the group has no idea of the existence of said policy. Moreover, MARINA has regulations stating the need for insurance for wreck removal, as stated by MC 2011-04, entitled “Revised Rules in the Temporary Utilization of Foreign-Registered Ships within the Nation Territory” and MC 2017-02 entitled “Rules on the Temporary Utilization of Foreign Registered Highly Specialized Ships within Philippine Territorial Water”. However, these policies are intended for all foreign-registered vessels operating in Philippine territory and not for vessels operating and

registered domestically. At present, no policy in effect can address the liability of wreck removal in the country for domestic vessels.

5.3. Proposed PCG MC on Wreck Removal

PMU1 mentioned in the interview that the office of the Deputy Chief of Coast Guard Staff for Maritime Safety Services, CG-8, has already proposed a specific policy on wreck removal. The proposed policy, entitled Guidelines in Conducting Wreck Removal was created as the prescribed guidelines on the salvage of vessels, particularly wreck removal. Unfortunately, the said policy has already undergone several public consultations but did not pass due to the issue of additional operating costs for the vessel operators. It only focused on the operational and technical aspects of wreck removal and used the Nairobi Convention as one of its references during its creation. There are still aspects of the policy that need further explanation and clarification, particularly the registered owner's responsibility for the removal of wreck.

5.4. The Need for Enactment of National Law

The study has already proved that there is no specific law in the Philippines regarding wreck removal. Relevant laws that were mentioned are all about Salvage regulation and not wreck removal as specified by the Convention. "Even the Coast Guard Law which is a recent enactment, still follows the provisions of the Salvage Law when it comes to removal of wrecks" (Fabilane, 2014). This reveals that the absence of a legal framework gives less power and authority to the concerned offices, particularly the PCG and MARINA to implement their duties and responsibilities about wreck removal. As a result, their MC has less enforcement power and can easily be petitioned by the stakeholders. Without the new law, the legal provisions of the policy will not be implemented properly. Although they can propose a new MC aligned with the Convention, the enforcement power will have the same effect due to the absence of a national law. According to the National Resource Governance Institute (2015), a legal framework with extensive regulations and policies can provide a stronger

foundation. In this regard, a legal framework is much needed to enforce the regulation strictly and can also provide legal protection to the enforcement unit.

Chapter 6. Conclusions and Recommendation

6.1. Conclusion

The review of the Wreck Removal Policy in the Philippines in relation to the Nairobi International Convention on the Removal of Wrecks, 2007 is very important to assess the effectiveness of the current policy of the country. The policy serves as the authority of PCG and MARINA to implement regulations on wreck removal, so it is very important to check if said regulations are supported by legislative authority, updated, efficient, fair and have appropriate accountability (Baldwin et al., 2011).

In relation, PCG and MARINA have their respective regulations to ensure the safety of navigation and protection of the marine environment from wrecks and their removal. The PCG has the RA 9993 or the PCG law of 2009, but it is not directly intended for wreck removal as what is specified in the Convention. Even its MC entitled “Salvage Regulation” is directly focused on salvage operations, which only deal with the safe removal of wrecks. The MC was already outdated and not aligned with the Convention. The policy mostly focuses on regulating the salvor instead of compelling the owner to remove wrecks. PCG even created a dedicated policy intended for said purpose but it is still in the process of public consultations. On the other hand, MARINA also had its MC entitled “Rules Governing the Mandatory Marine Insurance to cover liabilities arising from Pollution and Wreck Removal”. Said MC deals with the liability and insurance aspects of wreck removal, but it only covers 500gt and above, which means that most domestic vessels are not covered by the insurance. Furthermore, the MC was suspended in 2010 one year after its publication. MARINA Board resolution stated that the MC needed further consultation with the stakeholders and further review with the technical working group. Although the agency shows interest in reviving the regulation, it will need to undergo a series of

alignments with the Convention and further public consultation. In this situation, only the PCG Salvage Regulation is in effect, which somehow deals with wreck removal.

The above situation limits these agencies' ability to compel shipowners to remove wrecks, resulting in long discussions and sometimes going into court. The inconsistencies of provisions of both policies against the Convention have resulted in some confusion for the implementing unit of said agencies. The different definitions of terms and operational aspects of the Convention's policies cannot differentiate wreck removal from salvage operations. Moreover, no funds were available due to the absence of a MARINA circular. The liability of who will pay the cost of removing the wreck is unclear. Although some owners are willing to assume the expenses, they are not protected from the expensive cost of the operation. Owners with no insurance were not entertained or given less priority by the salvage company, leading to the abandonment of wrecks. The inconsistencies with the provisions of the policies provide unequal coverage to other shipping companies.

The ship owner was also caught between the expensive cost of the wreck removal operation and the expensive cost of the insurance premium. As a result, shipowners tend to abandon the wreck. In such a situation, the burden of removing wrecks is transferred to the government, particularly to PCG. Hence, the agency has no capability or expertise; they will look for a salvage company to remove it. An issue will arise if the owner does not want to have it removed. Then, the authority of the policies will come into question, as there is no specific legislation that supports this regulation. This will again result in long negotiations or court resolutions.

The determination of said facts shows that the existing policy of the country did not meet the requirements of the convention. As such, this brought a huge threat to the environment and shipping industry in the country, as these agencies cannot fully implement their mandates. The review and analysis of all the policies against the Convention provide a clear view of how to align the regulations of the country to have uniform rules that will ensure the efficient and effective removal of wrecks within the territorial waters. The study also provides policy recommendations that can be adopted in the creation of a dedicated policy that will provide an advantageous

position to the government without sacrificing or violating the rights and interests of the shipowner.

6.2. Recommendations and Future Research

The research has already identified the challenges of the existing policies of the Philippines in wreck removal. To address these challenges, the researcher recommends that the Philippines should first accede to the Nairobi Convention to have a legal basis for removing wrecks, particularly in the EEZ. At present, no regulation covers wrecks beyond the said area, and being a party to the Convention will resolve the said problem. It is also important that the country should be a party to the Convention on Limitation of Liability on Maritime Claims. The country should opt to accede to the Convention and make a reservation in which the legislation will pass a law for the limits of liability. This will ensure the law is acceptable to the Philippine setting and the interests of the shipowner and insurer will also be protected.

The legislative branch should enact a dedicated law on wreck removal so that the government has a legal basis to act accordingly if a wreck happens within the territorial waters. The dedicated law will provide full authority to PCG and MARINA, ensuring that the law will be implemented with fairness and consistency in every part of the country. The law should be aligned with the Nairobi Convention to avoid misinterpretation and ensure the highest acceptable standard of compliance.

Lastly, both agencies should create dedicated policies on wreck removal that are aligned with the Convention. Although PCG and MARINA concentrate on different aspects of the policies, they should work together for the improvement of both policies to ensure that they can cater to the current challenges of wreck removal. In this regard, it creates awareness of both policies, making said agencies competent in the performance of their respective duties.

For further study of this research, the researcher may be consider the option of the accession of the Wreck Removal Convention and the Limitation of Liabilities to which the Philippines is not a signatory. This ensures that the Philippines will have

laws that comply with the international regulations, particularly on wrecks that lies beyond the territorial waters. “Convention will also harmonize the conflicting and scattered laws of the Philippines concerning wreck removal” (Fabilane, 2014).

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Appendices

Appendix A

Information Sheet



Dear Participant,

I am a student at the World Maritime University taking up Master of Science in Maritime Affairs, specializing in Maritime Safety and Environmental Administration (MSEA). I am writing a dissertation about the **“Review of the Wreck Removal Policy in the Philippines in relation to the Nairobi International Convention on the Removal of Wrecks, 2007”**.

The main objective of this research is to determine whether the existing policy of the Philippines in relation to wreck removal meets the requirements as specified in the Nairobi International Conventions on the Removal of Wrecks, 2007.

In line with this, the undersigned would like to request your individual voluntary participation. The interview and questionnaire will focus on the following key issues:

- The effect in the operation of the existing policy of the Philippines in relation to wreck removal;
- The advantage and disadvantage of compulsory insurance of other financial securities in wreck removal;
- The need for dedicated wreck removal policy in the Philippines.

Rest assured that this activity will be treated with highest anonymity and confidentiality while all data will be secured and will further deleted upon the completion of the degree.

Your participation in the interview will be highly appreciated.

Student's name	<u>ANTHONY C CUEVAS</u>
Specialization	<u>MARITIME SAFETY AND ENVIRONMENTAL ADMINISTRATION (MSEA)</u>
Email address	<u>W1012602@wmu.se</u>

Appendix B



Dear Participant,

Thank you so much for agreeing to participate in this research interview. Your contribution will be an important part of my Dissertation in partial fulfilment of the requirements for the degree of Master of Science in Maritime Affairs at the World Maritime University in Malmo, Sweden.

The topic of the Dissertation is the **“Review of the Wreck Removal Policy in the Philippines in relation to the Nairobi International Convention on the Removal of Wrecks, 2007”**.

The information provided by you in this interview will be used for research purposes and the results will form part of a dissertation, which will later be published online in WMU's digital repository (maritime commons) subject to final approval of the University and made available to the public. Your personal information will not be published. You may withdraw from the research at any time, and your personal data will be immediately deleted.

Anonymized research data will be archived on a secure virtual drive linked to a World Maritime University email address. All the data will be deleted as soon as the degree is awarded.

Your participation in the interview is highly appreciated.

Student's name : ANTHONY C CUEVAS
Specialization : Maritime Safety and Environmental Administration
Email address : w1012602@wmu.se

* * *

I consent to my personal data, as outlined above, being used for this study. I understand that all personal data relating to participants is held and processed in the strictest confidence and will be deleted at the end of the researcher's enrolment.

Name

Signature

Date

Appendix C



WMU Research Ethics Committee Protocol

Name of principal researcher:	Anthony Cuevas
Name(s) of any co-researcher(s):	N/A
If applicable, for which degree is each researcher registered?	MSc in Maritime Affairs Specialization: Maritime Safety and Environmental Administration
Name of supervisor, if any:	DR. Henning Jessen LL.M. (Supervisor) LCDR Bryan Watts (Co-Supervisor)
Title of project:	Review of the Wreck Removal Policy in the Philippines in relation to the Nairobi International Convention on the Removal of Wrecks, 2007
Is the research funded externally?	No
If so, by which agency?	N/A
Where will the research be carried out?	Malmö, Sweden (Researcher location) Philippines (Research Respondents' location)
How will the participants be recruited?	The participants will be recruited through e-mail and other forms of online communication.
How many participants will take part?	8- 12 interviews (3 from the policy making body, 2 from shipping company, 2 from the law enforcement, 2 from the Insurance Company and 2 from the Salvage Company)
Will they be paid?	No
If so, please supply details:	N/A
How will the research data be collected (by interview, by questionnaires, etc.)?	Mixed Methods - Semi-Structured Interview by zoom and document analysis.
How will the research data be stored?	Password-protected computer hard drive .
How and when will the research data be disposed of?	The data will be deleted after the master's degree was awarded to the author after the graduation.
Is a risk assessment necessary? If so, please attach	No

Signature(s) of Researcher(s): Anthony Cuevas

Date: 10 July 2023

Signature of Supervisor: DR. Henning Jessen LL.M.

Date: 10 July 2023

Please attach:

- A copy of the research proposal
- A copy of the consent form to be given to participants
- A copy of the information sheet to be given to participants
- Interview Guide Questions

Appendix D

Interview Questions for Policy Making Body/ Law Enforcement Officers/ Salvage Company

1. How the current policy on wreck removal affect the enforcement/operation of the PCG/Salvage Company?
2. What are the challenges of the current policy on wreck removal of the Philippines?
3. How do you resolve this challenges?
4. What are the advantages and disadvantages of the current policy on wreck removal in the country?
5. Are you aware of the Nairobi International Convention on the Removal of Wrecks, 2007?
6. Is there a need for a dedicated policy of wreck removal in the Philippines aligned to the Nairobi International Convention on the Removal of Wrecks, 2007?
7. What do you think will be the advantages and disadvantages the dedicated policy on wreck removal that is aligned in the Nairobi International Convention on the Removal of Wrecks, 2007?
8. In your record how many wreck removal in average per year is being conducted?

Interview Questions for Shipping Company/ Insurance Company/ Salvage Company

1. What is the importance of insurance in wreck removal?
2. Do you think compulsory insurance or other financial security on wreck removal is necessary in your business?
3. What are your experience challenges of having no compulsory insurance or other financial security on wreck removal?
4. How do you resolve this challenges?
5. Is there any government agency/ies that assist you in resolving this challenges?
6. What are the advantage and disadvantage of having a compulsory insurance or other financial security on wreck removal?
7. What are the challenges of the insurance system in the Philippines?
8. How do you addressed this challenges?

Appendix E

Interview Questions for Maritime Industry Authority (MARINA)

1. What is the mandate of MARINA in creating MARINA Circular (MC) No.2009-22-Rules Governing the Mandatory Marine Insurance to cover liabilities arising from Pollution and Wreck Removal?
2. Is MARINA Circular (MC) No.2009-22 has been implemented after its release?
3. If yes, what is the result of the implementation? What are the reaction of the stakeholders?
4. MARINA Circular (MC) No.2009-22 has a cease and desist order issued last February 26, 2010. Besides from the reasons written in the order are there any more reason/s why it is not implemented and what are these reasons?
5. Despite of the importance of these MC, why it is not being revive for several years?
6. What is the plan of the current administration of MARINA with regards to these MC?
7. Are there any alternative MC regarding Mandatory Insurance for Wreck Removal?
8. Is MARINA doing a new regulation on Mandatory Insurance for Wreck Removal?