

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 4420



Introduced by Representatives **ANIELA BIANCA D. TOLENTINO, JOSE MANUEL F. ALBA, ANNA VICTORIA VELOSO-TUAZON, JAVIER MIGUEL LOPEZ BENITEZ, KAKA J. BAG-AO, and PERCI CENDAÑA**

AN ACT
TO INSTITUTE POLICIES AND SYSTEMS TO ADDRESS CLIMATE CHANGE,
ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE
PROTECTION OF MOST VULNERABLE COMMUNITIES FROM LOSS AND
DAMAGE IN THE COUNTRY, PROVIDING FOR CORPORATE AND STATE
ACCOUNTABILITIES AND REPARATIONS FOR VIOLATION THEREOF, AND
OTHER PURPOSES

EXPLANATORY NOTE

The world is on the brink of climate catastrophe.

The recently published Sixth Assessment Report (AR6) of the Working Group I of the Intergovernmental Panel on Climate Change (IPCC), entitled "Climate Change 2021: the Physical Science Basis", warned that "unless there are immediate, rapid and large scale reductions in greenhouse gas emissions, limiting warming to close to 1.5°C or even 2°C will be beyond reach." It was further emphasized that a 1.5°C increase shall bring with it more severe heat waves, longer warm seasons and shorter cold seasons; at 2°C of global warming, heat extremes would more often reach critical tolerance thresholds for agriculture and health. This change in the climate is unequivocal and supported by multiple lines of evidence. As such, the limiting warming to these numbers is the ultimate goal of the Paris Agreement.

¹ https://www.dof.gov.ph/climate-related-hazards-led-to-us10-b-losses-for-low-carbon-emission-phl-over-10-year-period/?utm_source=rss&utm_medium=rss&utm_campaign=climate-related-hazards-led-to-us10-b-losses-for-low-carbon-emission-phl-over-10-year-period

² <https://www.unep.org/news-and-stories/story/historic-move-un-declares-healthy-environment-human-right>

Subsequently, the IPCC AR6 Working Group II's Report entitled "Climate Change 2022: Impacts, Adaptation and Vulnerability" affirmed that the observed increases in frequency and intensity of weather and climate extremes have resulted to widespread and pervasive impacts to ecosystems, peoples, settlements, and infrastructure, and that the changing climate has caused substantial damages and increasingly, irreversible losses. It projected that global warming of 1.5°C in the near-term would cause unavoidable increases in multiple climate hazards and present multiple risks to ecosystems and humans (very high confidence). The level of risk depends on concurrent near-term trends in vulnerability, exposure, level of socioeconomic development, and adaptation (high confidence). Near-term actions that limit global warming to close to 1.5°C would substantially reduce projected losses and damages related to climate change in human systems and ecosystems, compared to higher warming levels, but cannot eliminate them all (very high confidence).

The IPCC is especially resonant to the Philippines and other highly vulnerable countries for which some climate impacts can no longer be absorbed by adaptation, as clarified by the IPCC AR6 Working Group II:

"Adaptation does not prevent all losses and damages, even with effective adaptation and before reaching soft and hard limits. Losses and damages are unequally distributed across systems, regions and sectors and are not comprehensively addressed by current financial, governance and institutional arrangements, particularly in vulnerable developing countries. With increasing global warming, losses and damage increase and become increasingly difficult to avoid, while strongly concentrated among the poorest vulnerable populations."

Worryingly, these projected adverse impacts and related loss and damages escalate with every increment of global warming.

Apart from the disastrous consequences, climate change also threatens the effective enjoyment of a range of human rights including those that are vital to life, water and sanitation, food, health, housing, self-determination, culture, and development. The State, indubitably, has an obligation to prevent the foreseeable adverse effects of climate change and ensure that those affected by these, particularly those that are marginalized and in vulnerable situations, have access to effective remedies.

¹ https://www.dof.gov.ph/climate-related-hazards-led-to-us10-b-losses-for-low-carbon-emission-phi-over-10-year-period/?utm_source=rss&utm_medium=rss&utm_campaign=climate-related-hazards-led-to-us10-b-losses-for-low-carbon-emission-phi-over-10-year-period

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The Philippines, as a highly climate-vulnerable to impacts of climate hazards, is at great risk in terms of life and livelihood loss, infrastructure damage, and ecosystem collapse, which will, undoubtedly, result in societal upheaval.

In the long-term Climate Risk Index (CRI) for the period 2000 to 2010, GermanWatch ranked the Philippines as the fourth (4th) most affected country in the world to the impacts of climate change. In fact, the Philippines suffered an average annual loss of 0.54 percent in its gross domestic product (GDP), which translates to USD 3.2 billion every year. As corroborated by the Department of Finance (DOF), the Philippines has incurred losses and damages estimated to reach P506.1 billion (approximately US\$10 billion) from climate-related hazards over a decade, underscoring its extreme vulnerability to the climate crisis despite contributing only 0.3 percent of the planet's total greenhouse gas (GHG) emissions. Further, based on the data gathered by the DOF, this amount makes up 98.2 percent of the country's total estimated losses and damages from 2010 to 2020 of P515.51 billion or around US\$10.6 billion. This staggering amount is equivalent to an annual average of P48.9 billion, which is about 0.33 percent of the country's annual average GDP."¹

Moreover, in the 2018 World Risk Report of the Global Facility for Disaster Risk Reduction, the Philippines ranked third (3rd) among all the countries with the highest risks to disasters. As stated in its 2017 report, at least 60 percent of the country's total land area is exposed to multiple hazards, and 74 percent of the population is susceptible to their impact.

The vulnerability of the Philippines as well as other poor nations underscores the importance of climate justice. Rich nations and corporations must take responsibility for the adverse impacts of climate change. Such responsibility includes raising the ambition for cutting carbon emissions and committing to finance that allows poor nations to deal with adverse climate impacts. The landmark 2015 Paris Agreement has created a pathway for legal recourse in ensuring accountability. *Milieudefensie et al v. Royal Dutch Shell*,² decided by the District Court of the Hague in May 2021, was anchored on the Paris Agreement. In a watershed decision, the Court recognized the obligation of respondent Shell Corporation to mitigate climate change by instructing it to curtail its GHG emissions from its 2019 levels by 45% by 2030.

In 2015, the Philippines made history when the typhoon survivors and civil society groups lodged a complaint before the Commission on Human Rights (CHR), calling for a probe into the possible human rights violations of several carbon majors, most of which were oil, gas, coal, and cement corporations, in the context of climate change. At the time of its filing, it was the world's first investigation into potential corporate responsibility for climate change.

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In May 2022, the CHR released its report on the inquiry, and among its findings were that climate change is a human rights issue, and that carbon majors can be held liable for their human rights violations. Towards the end of its report, it laid down several recommendations, including disincentivizing financial institutions from funding carbon majors, and creating a sufficient loss and damage facility.

It is to be noted, however, that the CHR's report is not legally binding. Nevertheless, it serves as a robust precedent and a framework for extracting further accountability for those who would like to subsequently pursue litigation in either domestic or international courts.

The CHR's precedent-setting inquiry was not followed and further underscored by a series of recent and equally historic advisory opinions from international judicial bodies: the Inter-American Court of Human Rights (IACtHR), the International Tribunal for the Laws of the Sea (ITLOS), and the International Court of Justice (ICJ), which collectively affirm that States have legally binding obligations under international law to address climate change.

These opinions emphasize several shared core principles. **First**, that mitigation, adaptation, and international cooperation are critical components of a comprehensive climate response. **Second**, that states must protect human rights and the environment, and uphold a high standard of diligence when assessing action taken by both States and privately owned organizations. And **third**, that these actions must make responsible parties accountable for how they contributed to the climate crisis. These three points need clear guidelines to promote fairness, inclusion, and long-term sustainable change.

Like the CHR's report, these opinions are not legally-binding; however, it is hoped that these will prompt countries to expediently incorporate these rights and obligations and duties in a legally enforceable regulatory framework, as there is no time to lose.

A legal framework which ensures that climate-related human rights violations find legal remedy is necessary and urgent. Without a legal framework to address loss and damage from climate change impacts, corporations will continue to defend and promote their unbridled burning of fossil fuels. Although the Philippines's carbon emissions remain miniscule compared to that of the world average, and even those of developed countries for that matter, continued fossil fuel dependence globally vitiates the principle of common but differentiated responsibility (CBDR) by allowing developed countries to continue their greater share of carbon pollution, aided and abetted by the fossil fuel industry.

¹ https://www.dof.gov.ph/climate-related-hazards-led-to-us10-b-losses-for-low-carbon-emission-phl-over-10-year-period/?utm_source=rss&utm_medium=rss&utm_campaign=climate-related-hazards-led-to-us10-b-losses-for-low-carbon-emission-phl-over-10-year-period

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Fossil fuel dependence, as the growing field of attribution science can confirm, puts communities in actual risk, where slow-onset events associated with the adverse impacts of climate change and extreme climate events and where climate variability and climate vulnerability meet and create the conditions ripe for disaster. The slow-onset nature of climate change also makes it problematic to locate fittingly within traditional legal notions of harm and injury because by the time sea level rise, apocalyptic typhoons, droughts, spread of diseases, and heatwaves happen, among others, conduct contributing to climate change had taken place; in other words, these apocalyptic events are mere inevitable consequences of a prior harmful conduct that has occurred. It is thus imperative that we take a step-back, make a paradigm shift, and treat conduct contributing to climate change as a harm in and of itself.

A loss and damage-focused legal framework for these aforementioned climate related issues will be a world's first and shall establish a specific climate-action track in addition to adaptation and mitigation; it shall serve too as an innovative pioneering example of national legislation to enhance climate action, protect communities, and effect transformative change.

Loss and damage reinforces the need for an accountability regime where climate change has been established by the Intergovernmental Panel on Climate Change (IPCC) as anthropogenic. Fossil fuel dependence continues to be driven by carbon majors; without an accountability framework it will continue unabated, pushing the planet over the edge.

The Paris Agreement is eloquent in reminding States to “respect, promote, and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.”

Further, Article 4 (2) of the Paris Agreement requires country Parties to prepare, communicate and maintain successive nationally determined contributions (NDCs) that it intends to achieve. It also provided in the same paragraph that Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions. Article 8 (1) provides that Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of

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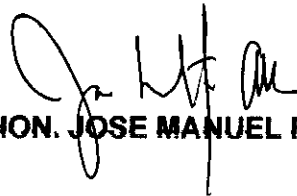
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climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage. Finally, the 27th Conference of Parties, through the Sharm el Sheikh Implementation Plan, adopted decisions -/CP.27 and /CMA.4 on matters relating to funding arrangements responding to loss and damage associated with the adverse effects of climate change.

For the above reasons, the urgent passing of this bill is earnestly sought.



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AN ACT

TO INSTITUTE POLICIES AND SYSTEMS TO ADDRESS CLIMATE CHANGE, ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE PROTECTION OF MOST VULNERABLE COMMUNITIES FROM LOSS AND DAMAGE IN THE COUNTRY, PROVIDING FOR CORPORATE AND STATE ACCOUNTABILITIES AND REPARATIONS FOR VIOLATION THEREOF, AND OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known and referred to as “The Climate Accountability (CLIMA) Act.”

SEC. 2. *Declaration of Policy.* – It is the declared policy of the State to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature, and to protect and promote the right to health and dignified life of the people and instill health consciousness in them. The protection of climate systems advances the right of the people to a balanced and healthful ecology and is a common good. As such common good, all economic agents of the State, including corporations, are to contribute to its attainment, upholding the principles of sustainable development and intergenerational equity with respect to the ability of future generations to meet their needs.

1
2 The State further recognizes that climate change is, at its core, an existential
3 human rights issue, and that there is a clear obligation to prevent foreseeable human
4 rights harms caused by climate change. As such, the State is obliged to adopt
5 appropriate measures to prevent, reduce, and control anthropogenic greenhouse gas
6 (GHG) emissions, and for that purpose, exercise administrative control applicable to
7 all public and private entities under its jurisdiction, and ensure vigilant enforcement.

8
9 To this end, the State shall institute policies and systems to protect vulnerable
10 communities from the adverse impacts of climate change; provide mechanisms for
11 accountability and reparations from those responsible for climate change-induced
12 losses, damages, and human rights harms; mitigate the adverse impacts of climate
13 change by facilitating compliance with commitments to sustainability, including
14 institutionalizing climate-related actions and mechanisms for monitoring, reporting,
15 penalizing, and enforcing accountability from Carbon majors and major contributors
16 to GHG emissions to address the loss and damage resulting from climate change
17 impacts brought about by GHG emissions; facilitate funding arrangements for
18 responding to loss and damage; and provide vulnerable communities affected by the
19 adverse impacts of climate change with the resources, funding, capacity building, and
20 technology transfers needed to deal with the intensifying impacts of climate change.

21
22 The State shall prevent foreseeable human rights harms by regularly deploying
23 informed and effective responses to address climate change impact, and shall protect
24 the public from climate denialism through disseminated false and deceptive
25 information, fraudulent misrepresentation of facts contrary to scientific consensus, and
26 such harmful conduct calculated to obstruct climate action contrary to public interest
27 and State obligation to protect the climate system from anthropogenic GHG
28 emissions.

29
30 The State shall enact measures that protect and enhance the human dignity of
31 all the people, and reduce social and economic inequalities arising from adverse
32 impacts attributed to climate change.

33
34 **SEC. 3. Definition of Terms.** – For the purposes of this Act, the following terms
35 shall be defined as:

- 36
37 (a) *Adaptation* refers to the adjustment in natural or human systems in
38 response to actual or expected climatic stimuli or their effects, which
39 moderates harm and/or exploits beneficial opportunities. In human systems,
40 adaptation refers to the process of adjustment to actual or expected climate
41 and its effects, in order to moderate harm or exploit beneficial opportunities.
42 In natural systems, adaptation refers to the process of adjustment to actual
43 climate and its effects, and may include human intervention to facilitate
44 adjustment to expected climate and its effects.

- 1
- 2 (b) *Anthropogenic causes* refer to causes resulting from human activities or
- 3 produced by human beings.
- 4
- 5 (c) *Attribution science* refers to the process of evaluating the relative
- 6 contributions of GHG and multiple causal factors to the observed change or
- 7 event in the climate system with an assessment of confidence. This is done
- 8 through a systematic analysis using physical understanding, observational
- 9 data, statistical analysis and climate models by climate experts.
- 10
- 11 (d) *Business enterprise* covered under this Act refers to any for-profit juridical
- 12 entity, and shall include the following: (1) an entity, including related entities
- 13 with operational or legal presence in the Philippines, with reported revenue
- 14 of more than Fifteen billion pesos (P15,000,000.00) or its equivalent, or
- 15 such threshold reportorial amount or its equivalent otherwise prescribed by
- 16 the Securities and Exchange Commission (SEC) based on Audited
- 17 Financial Statements filed with applicable regulators in the previous tax
- 18 year, (2) carbon intensive entities, regardless of the amount of its reported
- 19 revenue, and (3) an entity that files reports on its greenhouse gas (GHG)
- 20 emissions, pursuant to applicable regulations in the Philippines or in other
- 21 jurisdictions.
- 22
- 23 (e) *Business relationship* refers to any relationship between businesses to
- 24 conduct business activities, including electronic transactions and those
- 25 activities transacted through affiliates, subsidiaries, related entities, agents,
- 26 suppliers, partnerships, joint ventures, beneficial ownership, or any other
- 27 structure or contractual relationship, whether undertaken in the Philippines
- 28 or in other jurisdictions.
- 29
- 30 (f) *Carbon major* refers to a transnational juridical entity that contributes a
- 31 substantial share of the cumulative global GHG emissions that trigger the
- 32 global impacts of climate change, has operational or legal presence in the
- 33 Philippines, including, but not limited to those with related entities that
- 34 produce crude oil, natural gas, coal, or cement.
- 35
- 36 (g) *Carbon intensive entity* refers to a local enterprise or organization that
- 37 generates a high level of GHG emissions in their production processes and
- 38 operations based on a threshold as determined by regulation, and shall
- 39 include but are not limited to those with a related entity producing crude oil,
- 40 natural gas, coal, or cement.
- 41
- 42 (h) *Climate accountability* refers to the collective responsibility of governments,
- 43 its instrumentalities, entities, and natural and juridical persons to reduce
- 44 GHG emissions, mitigate the impacts of climate change, and enforce

remedial actions from businesses and Carbon majors significantly responsible for climate change. It involves establishing a governance mechanism for monitoring, reporting, penalizing, and enforcing actions to address climate change and ensure redress for its impacts on vulnerable communities.

- (i) *Climate change* refers to a change in climate that can be identified by changes in the mean and/or variability of its properties and that persists for an extended period typically decades or longer, whether due to natural variability or as a result of human activity.
- (j) *Climate change impact* refers to the effects on natural and human systems of extreme weather and climate events and in general, climate change. Impacts generally refer to effects on lives, livelihoods, health, ecosystems, economies, societies, cultures, services and infrastructure due to the interaction of climate changes or hazardous climate events occurring within a specific time period and the vulnerability of an exposed society or system.
- (k) *Climate Change Victims/Survivors* refer to real parties in interest and shall include (a) vulnerable groups of people or communities who suffered harm, including physical or mental injury, emotional suffering, or economic or property loss, or impairment of their human rights as a result of climate-related loss and damage; (b) those communities affected by slow or extreme climatic events of such magnitude, that cannot be avoided either by mitigation (avoiding and reducing greenhouse gas emissions) or adaptation (adjusting to current and future climate change impacts); or (c) those who have been, or are likely to be, severely affected by climate change, while at the same time having inadequate human, social, and economic capital for climate change adaptation, including relocation.
- (l) *Climate-related financial* disclosures refer to the information about an entity's climate-related risks and opportunities that could reasonably be expected to affect the entity's cash flows, its access to finance, or cost of capital over short, medium, or long term.
- (m) *Climate justice* refers to justice that links development and human rights to achieve a human-centered approach to addressing climate change, safeguarding the rights of the most vulnerable people and sharing the burdens and benefits of climate change and its impacts equitably and fairly.
- (n) *Climate risk* refers to the potential for adverse consequences for human or ecological systems, recognizing the diversity of values and objectives associated with such systems.

- (o) *Climate systems* refer to the global system consisting of five (5) major components: the atmosphere, the hydrosphere, the cryosphere, the lithosphere, and the biosphere; and the interactions between them. The climate system changes in time under the influence of its own internal dynamics and because of external forcings such as volcanic eruptions, solar variations, orbital forcing, and anthropogenic forcings such as the changing composition of the atmosphere and land-use change.
- (p) *Extreme weather event* refers to a single, discrete event with a clearly identifiable beginning or end, and that occur or recur in a matter of days or even hours at a local, national, or regional scale. Extreme weather events and extreme climate events shall collectively be referred to as climate extremes.
- (q) *Greenhouse gases (GHG)* refer to gaseous elements of the atmosphere both natural and man-made that absorb and emit radiation from the earth's surface leading to global warming that contribute to the greenhouse effect including, but not limited to, those identified in the latest Intergovernmental Panel on Climate Change (IPCC) Report, such as water vapour (H₂O), carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄) and ozone (O₃), Sulphur Hexafluoride (SF₆), Hydrofluorocarbons (HFCs), chlorofluorocarbons (CFCs), and perfluorocarbons (PFCs).
- (r) *Intergovernmental Panel on Climate Change (IPCC)* refers to the intergovernmental body of the United Nations responsible for assessing the science related to climate change and for providing internationally coordinated scientific assessments of the magnitude, timing and potential environmental and socio-economic impact of climate change and realistic response strategies.
- (s) *Just transition* refers to maximizing the social and economic opportunities of climate action, while minimizing and carefully managing any social disruption, political and social risks – through effective social dialogue among all groups impacted, and respect for fundamental labor principles and rights.
- (t) *Loss and Damage* refers to the the political debate under the United Nations Framework Convention on Climate Change (UNFCCC) following the establishment of the Warsaw Mechanism on Loss and Damage in 2013, which is to 'address loss and damage associated with impacts of climate change, including extreme events and slow onset events, in developing countries that are particularly vulnerable to the adverse effects of climate change. Broadly, losses and damages, in the context of climate change,

1 refer to the harm from observed impacts and projected risks and can be
2 economic or non-economic.

3
4 (u) *Mitigation*, in the context of climate change, refers to human intervention to
5 reduce and further prevent GHG emissions or enhance their removal by
6 natural sinks, e.g. nature-based solutions, or through GHG capture by
7 manmade mechanisms.

8
9 (v) *Nationally determined contribution* refers to the Philippines' nationally
10 determined contribution ("NDC"), as a climate action plan to cut emissions
11 and adapt to climate impacts, undertaken and communicated pursuant to
12 Article 3 of the Paris Agreement. For the purposes of this Act, the NDC
13 includes the National Adaptation Plan (NAP) and the Nationally Determined
14 Contribution Implementation Plan (NDCIP). It is the country's long-term
15 development plan towards a climate-resilient and low-carbon pathway.

16
17 (w) *Paris Agreement* refers to an international treaty on climate change adopted
18 by the Parties, including the Philippines, to the United Nations Framework
19 Convention on Climate Change (UNFCCC) at the twenty-first session of the
20 Conference of Parties of the UNFCCC in December 2015 and duly
21 deposited with the United Nations Secretary-General as its Treaty
22 Depositary which aims to strengthen the global response to the threat of
23 climate change, in the context of sustainable development and efforts to
24 eradicate poverty, and will be implemented to reflect equity and the principle
25 of common but differentiated responsibilities and respective capabilities, in
26 light of different national circumstances. It increases the ability to adapt to
27 the adverse impacts of climate change and foster climate resilience and low
28 GHG emissions development.

29
30 (x) *Reparations* refer to the amends for a tort or injury inflicted, including
31 compensation, relocation, rehabilitation, recovery for victims/survivors of
32 climate loss and damage, and grants, capacity building, and technology
33 transfer needed to address the human rights violation on right to water,
34 food, work, health, shelter, and development caused by continued
35 emissions of Carbon majors. Remedies can be in the form of pecuniary or
36 monetary and non-pecuniary or non-monetary under existing laws.

37
38 (y) *Slow onset event* refers to risks and impacts associated with increasing
39 temperatures, desertification, loss of biodiversity, land and forest
40 degradation, glacial retreat and related impacts, ocean acidification, sea
41 level rise, and salination.

- (z) *Stakeholder* refers to an individual or a group who holds an interest in how an organization operates as it can be the source of benefit or harm a stakeholder.
- (aa) *Source attribution* refers to the process of identifying and assigning climate change impacts to specific sources of GHG emissions to allocate accountability for climate change. A source can be a particular sector, entity or activity.
- (bb) *Scope 1 emissions* refer to GHGs released directly by a company or organization in manufacturing a product or delivering a service. The emissions are owned or controlled by the company.
- (cc) *Scope 2 emissions* refer to GHGs generated from electricity, heating, cooling, steam or gas purchased by the company for its operation. Thus, the level of the emissions is indirectly influenced by the demand by the company even as they are generated outside the company.
- (dd) *Scope 3 emissions* refer to indirect GHG emissions not included in Scope 2 GHG emission, that occur in the value chain of the reporting company or organization, both upstream and downstream, but are generated by sources not owned or outside its direct control.
- (ee) *Scope 4 emissions* refer to GHGs reduced or avoided by a company or organization that happen outside a product's or a service's life cycle or value chain. It is a result of the use by customers of the product or service developed by the company;
- (ff) *Transition credits* refer to high-integrity carbon credits generated from the emissions reduced by retiring coal-fired power plants (CFPPs) earlier than planned and substituting them with cleaner energy alternatives.

CHAPTER II POLICIES AND SYSTEMS

SEC. 4. Adoption of the Precautionary Principle. – Where there are threats of serious or irreversible harm, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent the degradation of climate systems, or a violation of the right of the people to a balanced and healthful ecology. In applying the precautionary principle, the following factors, among others, may be considered: (1) threats to human life or health; (2) inequity to present or future generations; or (3) prejudice to the environment without legal consideration of the environmental rights of those affected.

1
2 (a) When there is a lack of full scientific certainty in establishing a causal link
3 between human activity and environmental effect and when human activities
4 may lead to threats of serious and irreversible damage to the environment that
5 is scientifically plausible, actions shall be taken to avoid or diminish that threat.
6 In these cases, the precautionary principle shall be applied, with the proponent
7 of an activity, rather than the public, bearing the burden of proof.

8
9 (b) The Business and the SEC, assisted by the Climate Change Commission
10 (CCC), academe, and research institutions which assists SEC on the analysis
11 of the GHG emissions, shall be obliged to disclose whether or not the plausible
12 cause and effect (between human activity and environmental effect, and human
13 activities leading to threats of serious and irreversible damage to the
14 environment), has not yet been scientifically established.

15
16 **SEC. 5. Adoption of the Polluter Pays Principle.** – Those who generate
17 pollution shall be responsible for the costs associated with managing it to safeguard
18 human health and the environment. The courts shall take judicial notice of the impact
19 of anthropogenic GHG emissions on climate change established by overwhelming
20 scientific consensus, as well as historical and current GHG emissions, in the
21 determination of costs to be borne by Carbon majors or polluters for damage to the
22 climate system and its resulting impact on Climate Change Victims/Survivors, and to
23 help prevent foreseeable damage and human rights harms caused by the adverse
24 effects of climate change.

25
26 Having due regard to public interest and climate change being a common
27 concern of humankind, Carbon majors or polluters shall pay for their contributions to
28 climate change impacts without internalizing or passing on additional cost or burden
29 the cost of goods and services the cost of goods and services which cause pollution:
30 (1) the cost of pollution by way of grants, technical transfers, capacity building, and
31 payments to restore ecosystem services, complementing climate action in vulnerable
32 communities, (2) the expenses of carrying out the measures of allocating costs of
33 pollution prevention and control, as decided by public authorities, to ensure that the
34 environment is in an acceptable state, as set forth under relevant environmental and
35 natural resource management laws such as, but not limited to the following:

- 36
37 (a) Presidential Decree No. 705 or the “Revised Forestry Code of the
38 Philippines”;
39 (b) Presidential Decree No. 856 or the “Code on Sanitation of the Philippines”;
40 (c) Presidential Decree No. 979 or the “Marine Pollution Decree of 1976”;
41 (d) Presidential Decree No. 1152 or the “Philippine Environmental Code”;
42 (e) Presidential Decree No. 1219 or “The Coral Resources Development and
43 Conservation Decree”;

- (f) Presidential Decree No. 1586 or "Establishing an Environmental Impact Statement System, Including Other Environmental Management Related Measures and for Other Purposes";
- (g) Republic Act No. 6969 or the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990";
- (h) Republic Act No. 7076 or the "People's Small-scale Mining Act of 1991";
- (i) Republic Act No. 7586 or the "National Integrated Protected Areas Systems Act of 1992" as amended by Republic Act No. 11038;
- (j) Republic Act No. 7942 or the "Philippine Mining Act of 1995";
- (k) Republic Act No. 8048 or the "Coconut Preservation Act of 1995";
- (l) Republic Act No. 8041 or the "National Water Crisis Act of 1995";
- (m) Republic Act No. 8371 or "The Indigenous Peoples' Rights Act of 1997";
- (n) Republic Act No. 8435 or the "Agriculture and Fisheries Modernization Act of 1997";
- (o) Republic Act No. 8550 or "The Philippine Fisheries Code of 1998";
- (p) Republic Act No. 8749 or the "Philippine Clean Air Act of 1999";
- (q) Republic Act No. 9003 or the "Ecological Solid Waste Management Act of 2000";
- (r) Republic Act No. 9136 or the "Electric Power Industry Reform Act of 2001";
- (s) Republic Act No. 9147 or the "Wildlife Resources Conservation and Protection Act";
- (t) Republic Act No. 9072 or the "National Caves and Cave Resources Management and Protection Act";
- (u) Republic Act No. 9003 or "The Ecological Solid Waste Management Act" as amended by RA No. 11898 dated 23 July 2022, or the "Extended Producer Responsibility Act of 2022";
- (v) Republic Act No. 9168 or the "Philippine Plant Variety Protection Act of 2002";
- (w) Republic Act No. 9275 or "The Philippine Clean Water Act of 2004";
- (x) Republic Act No. 9367 or the "Biofuels Act of 2006";
- (y) Republic Act No. 9513 or the "Renewable Energy Act of 2008";
- (z) Republic Act No. 9729 or the "Climate Change Act of 2009" as amended by Republic Act No. 10174;
- (aa) Republic Act No. 10121 or the "Philippine Disaster Risk Reduction and Management Act of 2010";
- (bb) Republic Act No. 7611 or the "Strategic Environmental Plan (SEP) for Palawan Act";
- (cc) Republic Act No. 9483 or the "Oil Pollution Compensations Act of 2007"; and
- (dd) Republic Act No. 11285 or "An Act Institutionalizing Energy Efficiency and Conservation, Enhancing the Efficient Use of Energy, and Granting Incentives to Energy".

1 The rights and causes of action that are created under this Act shall be without
2 prejudice to other causes of actions under existing laws. In estimating the amount of
3 and accountability for damage, attribution science can be used as a complementary
4 framework in lieu of proof of actual damage.

5
6 **SEC. 6. Attribution Science.** – Attribution science is a process that seeks to
7 identify the relationship of climate drivers to an affected system (nature, socio-cultural
8 or economic). In attribution science, it is important to establish the causal connection
9 between the defendants' GHG emissions or activities to the plaintiff's injuries and that
10 these injuries were a foreseeable result of the emissions.

11
12 Attribution science using the best available scientific data and methods may be
13 used for the adjudication of cases under this Act.

14
15 The first step is the detection of the change which demonstrates that a certain
16 variable has changed in a statistically significant way. The second step is attribution
17 which seeks to analyze causative factors to determine the role of a driver with respect
18 to the detected change. The process looks into three areas: climate change
19 attribution, impact attribution, and source attribution. The use of attribution science
20 shall depend on the maturity of the tool and the readiness and technical capacity of
21 the country.

22
23 The adjudication shall build on existing understandings of the climate-related
24 events most substantially affected by human influence on the climate. Establishing a
25 threshold for GHG emissions beyond which corporations and its related entities will
26 be found liable shall be the principal basis for prosecuting and penalizing or exacting
27 accountability from a Business or Carbon major.

28 29 CHAPTER III 30 INSTITUTIONAL MECHANISMS

31
32 **SEC. 7. National GHG Registry.** – The CCC shall develop a platform for
33 administering GHG compliance by all sectors. The registry shall serve the following
34 purposes:

- 35
36 a) NDC monitoring of all regulatory activities;
37 b) GHG data consolidation for country reporting to the UN;
38 c) Calculating GHG reduction from mitigation actions;
39 d) Accounting for Internationally Transferrable Mitigation Outcomes (ITMOs);
40 e) Tracking carbon credit transactions (in compliance and voluntary markets);
41 f) Connection to international carbon markets; and
42 g) Contracting a third-party entity to monitor the accuracy of the annual
43 compliance report submitted by Carbon majors.

1 The registry shall have the following features:

- 2
- 3 a) It shall cover both government and non-government GHG inventories.
- 4 b) It shall maintain information that has the capability to be disaggregated at
- 5 the unit level (e.g. LGU, agency, and company).
- 6 c) It must be inter-operable for cooperation approaches with other countries
- 7 such as the transfer of ITMOs pursuant to Article 6 of the Paris Agreement.
- 8

9 **SEC. 8. Establishment of the Climate Accountability Board (or CLIMA**

10 **Board).** – There is hereby created an independent quasi-judicial body to be known as

11 the CLIMA Board, hereinafter referred to as the Board, which shall be attached to the

12 Commission on Human Rights (CHR). The Board shall prepare and submit reports on

13 the administration of the funds to the Department of Finance (DOF).

14

15 The Board shall be composed of nine (9) members, who shall possess the

16 following qualifications:

17

- 18 (a) Must be of known probity, competence, and integrity; and
- 19 (b) Must have a deep and thorough understanding and knowledge of climate change,
- 20 environmental law, and/or ecosystems science.
- 21

22 There shall be four (4) permanent members and five (5) other members. The four

23 (4) permanent members must be members of the Philippine Bar who have been

24 engaged in the practice of environmental law or human rights for at least ten (10)

25 years, and, to avoid conflict of interest, are not associated with Carbon majors or its

26 related entities, or to corporations operating in high emitting sectors.

27

28 The five (5) other members shall consist of two (2) climate scientists or recognized

29 experts who have a technical proficiency of climate science and the subfield of climate

30 attribution science; two (2) representatives from private sectors; and one (1)

31 representative from a chosen civil society organization engaged in human rights and

32 climate justice issues. The Vice Chairperson or Commissioner of the CCC shall be an

33 *ex officio* member.

34

35 The Board shall be chaired by a lawyer and shall organize itself within thirty (30)

36 days from the completion of appointment of all nine (9) members and shall, thereafter,

37 organize its Secretariat.

38

39 **SEC. 9. Appointment to the Board.** – The President of the Philippines shall

40 appoint the Chairperson and the members of the Board; *Provided*, That human rights

41 organizations, environmental organizations, and indigenous peoples' rights, women's

42 rights, youth's rights, and people with disabilities' rights advocates may submit

43 nominations to the President for the civil society representative; *Provided*, Further,

44 That the members of the Board cannot be removed without justifiable cause.

1
2
3 **SEC. 10. Term of Office.** – The President of the Philippines shall appoint the
4 Chairperson and the Commissioners for seven years, without reappointment.
5 Appointment to any vacancy shall be only for the unexpired term of the predecessor.
6 In no case shall any Member be appointed or designated in a temporary or acting
7 capacity.

8
9 **SEC. 11. Functions of the Board.** – The Board shall have the following
10 powers and functions:

- 11
12 (a) Receive, evaluate, process, and investigate applications for claims under
13 this Act;
14 (b) Issue *subpoena ad testificandum* and *subpoena duces tecum*;
15 (c) Enjoin any and all acts involving or arising from any claims pending before
16 it, which, if not restrained forthwith, may cause further or irreparable
17 damage to any of the parties to the claim or seriously affect social and
18 economic stability;
19 (d) Hold any person in contempt, directly or indirectly, and impose
20 appropriate penalties therefor;
21 (e) Administer the Climate Change Actions Welfare and Support Fund;
22 (f) Approve with finality all eligible claims under this Act;
23 (g) Deputize appropriate government agencies to assist the Board in order
24 for it to effectively perform its functions;
25 (h) Exercise administrative control over its Secretariat;
26 (i) Promulgate such rules as may be necessary to carry out the purposes of
27 this Act, including rules of procedure in the conduct of its proceedings,
28 with the Revised Rules of Court of the Philippines having suppletory
29 application; and
30 (j) Perform such other duties, functions, and responsibilities as may be
31 necessary to effectively attain the objectives of this Act.

32
33 In cases where the issue is related to pollution in violation of environmental
34 laws, the Pollution Adjudication Board of the Department of Environment and Natural
35 Resources (DENR) shall be invited as a resource group to improve technical analysis
36 of the complaint.

37
38 The Board shall consult the following sectoral agencies as resource persons in
39 connection with the accounting, monitoring, evaluation, and implementation of
40 reducing GHG emissions per sector, and implementation of the NDC Implementation
41 Plan: Department of Agriculture (DA), Department of Environment and Natural
42 Resources (DENR), Department of Energy (DOE), Department of Transportation
43 (DOTr), and Philippine Statistics Authority (PSA).

1
2 In any proceeding before the Board, the rules of evidence prevailing in the
3 courts of law or equity shall not be controlling but applied suppletorily, and it is the
4 spirit and intention of this Act that shall govern. The Board shall use every and all
5 reasonable means to ascertain the facts in each case speedily, objectively, and
6 without regard to technicalities of law or procedure, all in the interest of due process
7 and social justice: *Provided*, further, That any decision, order, award, or ruling of the
8 Board may be brought for review to the Court of Appeals within 15 days from receipt
9 of a copy thereof.

10
11 In any proceeding before the Board, the parties may be represented by a legal
12 counsel. The findings of fact of the Board shall be conclusive and binding on the
13 parties and its decision or order shall be deemed final and executory.

14
15 **SEC. 12. *Compensation.*** – The Chairperson and members of the Board shall
16 be entitled to compensation equivalent to that of the Presiding Justice and Associate
17 Justices of the Court of Appeals, in accordance with the Salary Standardization Law.

18
19 **SEC. 13. *Secretariat of the Board.*** – The Board shall be assisted by a
20 Secretariat provided by the CHR, without prejudice to the hiring of additional personnel
21 to render full-time work as determined by the Board to effectively address the volume
22 of required work.

23
24 The Secretariat shall assist the Board with its functions and perform other
25 duties as may be assigned by the Board.

26
27 The Chairperson of the Board shall appoint a Board Secretary who shall head
28 the Secretariat for the duration of the existence of its Board. There shall be a Technical
29 Staff Head to be assisted by five (5) legal officers and three (3) climate scientists, and
30 an Administrative Staff Head shall be assisted by three (3) administrative support staff.

31
32 **CHAPTER IV**
33 **FRAMEWORK OF BUSINESS ACCOUNTABILITY**
34

35
36 **SEC. 14. *Due Diligence Standard of Care in the Conduct of Business.*** –A
37 Business enterprise covered under this Act shall do no harm and conduct due
38 diligence in the conduct of its business. The due diligence standard of care that each
39 Business enterprise is required to observe in the conduct of business shall refer to the
40 processes that said Business enterprise should undertake to identify, prevent,
41 mitigate, and account for how it addresses potential and actual impacts caused by or
42 contributed to through its own activities, or directly linked to its operations, products
43 or services by its business relationships on human rights, including impacts caused
44 by GHG and toxic waste emissions of the entire value chain.

1
2 Business enterprises covered under this Act shall adopt policies and processes
3 to prevent and mitigate any risk of causing or contributing to adverse impacts on
4 human rights caused by climate change. This shall include measures reasonably
5 proportional to the nature and scope of the business activities, their ability to influence,
6 the severity of the violation that can typically be expected, and the nature of and causal
7 contribution to such harms. Neglect by the Business enterprise or Carbon major in its
8 exercise of the due diligence standard of care in the conduct of business, shall be
9 sanctioned accordingly. The Business enterprise shall likewise be held accountable
10 for exceeding the established GHG emissions threshold attributed to it.

11
12 In line with the country's commitment to abide by the global goals of the Paris
13 Agreement, the country shall develop a roadmap or a long-term strategy for the
14 Philippine NDC Implementation Plan per sector (agriculture, transportation, energy,
15 waste, industrial processes, and product use and land use). The roadmap shall be co-
16 developed by the respective lead agencies with its stakeholders and consolidated and
17 monitored by the CCC. The accountability of a Business enterprise for GHG emissions
18 in excess of sectoral thresholds shall be in accordance with the obligation set out in
19 the roadmap.

20
21 Consistent with the sectoral plans of the NDC Implementation Plan, and its duty
22 to do no harm, a Business enterprise shall undertake the following activities
23 throughout the value chain:

- 24
25 (a) Businesses must assess and report or inform the actual and potential
26 human rights impacts to their operations may cause or contribute to cause
27 and to prevent and address them;
28
29 (b) Businesses must proactively adopt measures and enact company policies
30 to reduce their climate change impacts, and to uphold human rights,
31 specifically, through the crafting and submission of transition plans, in line
32 with the government's NDC;
33
34 (c) Businesses must assess the impact of climate change and other global
35 environmental issues in the sustainability of their operations; and
36
37 (d) Businesses should ensure that reports relating to human rights risks and
38 impacts, including their findings and how the human rights impacts were
39 addressed, are publicly available and accessible.

40
41 Businesses must undertake measures that are in reasonable proportion to the
42 nature and scope of the business activities, their ability to influence, the severity of the
43 violation that can typically be expected, and the nature of and causal contribution to
44 such harms.

1
2 A business shall be held accountable for gross negligence emanating from the
3 businesses' role in exacerbating extreme weather events or slow-onset events where
4 they exceed established thresholds for GHG emissions. Thresholds are limits for
5 ambient concentrations of GHGs that are sufficient to protect public health and
6 welfare. DENR, CCC, and Department of Science and Technology (DOST) shall
7 provide technology-based emission standards reflecting the best available technology
8 or system for emission reduction.
9

10 The thresholds to determine business' climate accountability shall be informed
11 by the government's NDC, national policies and programs as well as their technical,
12 economic and operational circumstances.
13

14 **SEC. 15. Business Responsibilities.** – Businesses have the responsibility to
15 align their conduct and policies with the United Nations Guiding Principles on
16 Business and Human Rights. A Business enterprise shall endeavor to comply with the
17 following tasks and responsibilities under this Act:
18

19 (a) Climate related financial disclosures – Businesses shall disclose to the SEC
20 climate-related financial disclosures as defined under this Act and in
21 accordance with SEC rules and regulations on sustainability reporting. This
22 shall include opportunities and risks from climate impacts, climate
23 policies and new technologies and climate measures across the value
24 chain.
25

26 (b) Measurement of GHG emissions – Businesses shall measure, analyze, and
27 report their GHG emissions, throughout their value chains, to comply with
28 the standards based on the rules and regulations which the SEC shall
29 promulgate, consistent with the most recent scientific methodologies and
30 reports of the IPCC.
31

32 (c) Environmental and social information - Businesses shall disclose the
33 organization's natural, human, and social capital dependencies;
34 environmental and social results; environmental and social risks and
35 opportunities; environmental and social policies, strategies, and targets;
36 and performance against environmental and social targets.
37

38 (d) Prevention of human rights abuses – Businesses must
39 1. Adopt a human rights policy that clearly states their commitment to
40 respect human rights, including by mitigating climate change and the
41 specific measures that will be taken in this regard;
42 2. Establish a human rights due diligence process to identify, prevent,
43 mitigate and account for how they address their impacts on human rights,
44 in order to know and show that they respect human rights. Carrying out

1 social and environmental impact assessments should be an integral part of
2 this; and

3 3. Put in place processes to enable the remediation of any adverse human
4 rights impacts that they cause or to which they contribute, including through
5 their direct or indirect emissions of greenhouse gases and toxic waste.
6

7 Stakeholder consultations should be held on a regular basis, and reports
8 should be released on a quarterly schedule. For projects that require the
9 consent of the communities, the business must comply with and adhere to
10 the provisions of Republic Act No. 8371, or "The Indigenous People's
11 Rights Act of 1997."

12
13 (e) Reporting – A Business enterprise covered under this Act (or Carbon
14 majors) shall submit the report under this Section to the Climate Change
15 Commission (CCC) and the Securities and Exchange Commission (SEC).
16 The report shall include initiatives taken in the context of business
17 relationships, such as entities in its value chain and any other non-state or
18 state entity directly linked to the business operations, products or services.
19 The report shall also include an assessment of vulnerabilities and whether
20 or not efforts have been made to address the possible impacts of climate
21 change through internal or external corporate policy decisions or whether
22 the business utilizes renewable energy. The report must also include
23 mitigation and adaptation efforts, energy efficiency, particularly with regard
24 to equipment inventory, waste reduction, and the utilization and
25 construction of green infrastructure to support the work of the corporation.
26

27 The Climate Change Commission and the Securities and Exchange
28 Commission shall impose penalties for non-compliance with its guidelines
29 on these mandates, and shall be made available on all their platforms for
30 download and distribution to the public at any time. Upon petition, the
31 Commission on Human Rights may conduct investigations and assist in
32 gathering evidence to determine compliance with the reporting obligations
33 under this Act.

34
35 (f) Monitoring of people who experienced the impacts of climate change – Due
36 diligence must be undertaken by businesses to address the adverse climate
37 change-related human rights impacts they may cause or contribute through
38 its own activities, or which may be directly linked to its operations, products
39 or services by its business relationships. This can be achieved through on-
40 the-ground assessments of adverse impacts through stakeholder
41 participation.
42

1 Stakeholder consultations should be held on a regular basis with reports
2 released on a semi-annual period. These can be in the form of surveys,
3 assemblies, focus group discussion, and other modalities as appropriate.
4

5 For projects that require the consent of the communities in which
6 infrastructure is constructed, the business must proactively pursue the
7 compliance with and adherence to the provisions of Republic Act No. 8371,
8 or "The Indigenous People's Rights Act of 1997".
9

10 (g) Decarbonization Plan – Businesses shall develop its mitigation and
11 adaptation strategies that will comprise its Decarbonization Plan and shall
12 submit its Annual Compliance Report on the status of this Decarbonization
13 Plan on an annual basis to the designated government agency under this
14 Act or relevant Act; and
15

16 (h) Protection of consumer rights to truthful information/prevention of
17 "greenwashing" - Businesses shall support the protection of consumer
18 rights through truthful communication about their sustainability,
19 environmental, climate change and social claims. Aside from preventing
20 unfair commercial practices that mislead the public, this business obligation
21 contributes to a more sustainable economy by allowing consumers to make
22 better informed decisions to make sustainable, socially-just, and
23 environment- and climate-friendly choices. This will in turn promote the
24 production of environmentally sustainable products and services, and
25 minimize undesirable environmental impacts. Conveyance of false
26 information on the environmental soundness of products, operations, and
27 services is considered "greenwashing". Acts of greenwashing include, but
28 are not limited to, outright false statements, understating impacts, omitting
29 trade-offs, absence of proof backing up claims, vague or overbroad claims,
30 false third-party certifications, sustainability claims not based on 3rd party
31 certification schemes or government standards, carbon neutrality claims
32 based on purchase of credits, and the like. More detailed guidelines shall
33 be provided in the implementing rules and regulations of the Act.
34 Unsubstantiated sustainability and environmental claims are considered
35 false, deceptive and misleading and are therefore prohibited under Republic
36 Act 7394 (The Consumer Act of the Philippines) and other applicable
37 environmental statutes.
38

39 **Sec. 16. Business Responsibilities.** – Businesses have the responsibility to update
40 their conduct and policies in accordance with the United Nations Guiding Principles
41 on Business and Human Rights. Moreover, they have the following tasks and
42 responsibilities under the law:
43

1 (a) Climate related financial disclosures - Businesses shall disclose to the Securities
2 and Exchange Commission (SEC) climate-related financial disclosures and the names
3 of those who authorized the climate-related financial transactions. This shall include
4 opportunities and risks from climate impacts, climate policies and new technologies;
5

6 (b) Measurement of GHG emissions - Businesses shall measure and analyze their
7 GHG emissions, throughout their value chains to comply with [targets/thresholds
8 agreed upon];
9

10 (c) Environmental and social information - Businesses shall disclose the organization's
11 natural, human, and social capital dependencies; environmental and social results;
12 environmental and social risks and opportunities; environmental and social policies,
13 strategies, and targets; and performance against environmental and social targets.
14

15 (d) Prevention of human rights abuses - Businesses must

16 1. Adopt a human rights policy that clearly states their commitment to respect
17 human rights, including by mitigating climate change and the specific measures
18 that will be taken in this regard;

19 2. Establish a human rights due diligence process to identify, prevent, mitigate
20 and account for how they address their impacts on human rights, in order to know
21 and show that they respect human rights. Carrying out social and environmental
22 impact assessments should be an integral part of this; and

23 3. Put in place processes to enable the remediation of any adverse human rights
24 impacts that they cause or to which they contribute, including through their direct
25 or indirect emissions of greenhouse gases and toxic waste.
26

27 Stakeholder consultations should be held on a regular basis, and reports should be
28 released on a quarterly schedule. For projects that require the consent of the
29 communities, the business must comply with and adhere to the provisions of Republic
30 Act No. 8371, or "The Indigenous People's Rights Act of 1997."
31

32 **SEC. 16. Incentives.** — Investments in emissions reduction, investments that
33 hasten the transition to a clean and renewable energy source, and low-carbon and
34 emerging technologies by Businesses which observe their due diligence standard of
35 care as set out in the Philippines' NDC and other mechanisms and roadmaps shall be
36 eligible for income tax holidays and enhanced deductions on research and
37 development expense in accordance with Title XIII of the National Internal Revenue
38 Code of 1997, as amended by Republic Act No. 12066, otherwise known as the
39 Corporate Recovery and Tax Incentives for Enterprises to Maximize Opportunities for
40 Reinvigorating the Economy (CREATE MORE) Act.
41

42 The qualification for incentives and the list of incentives shall be rationalized in
43 the implementing rules and regulations upon the passage of this Act and in

1 accordance with Republic Act No. 12066 and Republic Act No. 10771 or the "Green
2 Jobs Act".

3
4 The basis of the incentives in the context of this Act is the avoidance or
5 prevention of emissions by users as a result of the utilization of a company's products
6 or services. These are called Scope 4 or avoided emissions. These are reduction of
7 emissions outside the company's life cycle or value chain and due to the use of the
8 products or services. The avoided emissions are what would have been released if
9 the product or services have not been optimized or developed. The carbon credit from
10 avoided emissions cannot be used to compensate the company's generated direct
11 (Scope 1) and indirect emissions (Scope 2) in the processing of its products.

12
13 In the adoption of mitigation measures to respond to climate change, the life
14 cycle of the technology, product or intervention must be studied to ensure that the
15 response does not lead to a maladaptation.

16 17 18 **CHAPTER IV** 19 **LOSS AND DAMAGE MECHANISM** 20

21 **SEC. 17. *Establishment of the Climate Change Actions Welfare and***
22 ***Support Fund.*** – The Climate Change Actions Welfare and Support (CLAWS) Fund
23 is hereby created as a special fund in the Bureau of the Treasury for the financing of
24 the applications approved by the Board. The CLAWS Fund shall be used to respond
25 to claims made by climate change victims/survivors. Claims may take the form of the
26 following, among others:

- 27
28 (a) Compensation for economic and non-economic harms;
29 (b) Technology transfers;
30 (c) Capacity building;
31 (d) Financial support
32 (e) Relocation; and
33 (f) Recovery and rehabilitation measures.

34
35 The amount of Fifty million pesos (P50,000,000.00) or its equivalent shall be
36 initially allotted as the opening balance of the CLAWS Fund to be funded under any
37 of the available sources of funding under the Loss and Damage Finance Facility and
38 other sources of loss and damage finance; *Provided*, That the balance of the CLAWS
39 Fund may be increased as the need arises; *Provided*, Further, That the CLAWS Fund
40 shall not be used to fund personal services and other operational services of the
41 Board, which shall initially be funded under the General Appropriations Act (GAA) in
42 the amount of Fifty million pesos (P50,000,000.00); *Provided*, Finally, That the Board
43 shall submit to the Congress and the Department of Budget and Management (DBM)
44 an annual narrative and financial report on the utilization of the CLAWS Fund and the

1 amount appropriated in the GAA which shall form part of the funds of the funding for
2 the Board and shall not revert to the general fund.

3
4 The CLAWS Fund may be augmented by donations, endowments, grants, and
5 contributions, which shall be exempted from donor's tax and be considered as
6 allowable deductions from the gross income of the donor, in accordance with the
7 provisions of the National Internal Revenue Code of 1997, as amended. The CLAWS
8 Fund shall also serve as the repository for funds generated by international and other
9 mechanisms created for loss and damage finance, such as the funding arrangements
10 responding to loss and damage associated with the adverse effects of climate change
11 established under Decision 2/CP.27 and Decision 2/CMA.4.

12
13 **SEC. 18. *Complaints on Climate-related Violations.*** – Any real party in
14 interest or the climate change victims/survivors may seek redress for any harm
15 caused by non-compliance of the business entity with its obligations under Section 4
16 (Precautionary Principle), Section 14 (Due Diligence Standard of Care in the Conduct
17 of Business), and Section 15 (Business Responsibilities) of this Act or commission of
18 any prohibited activities under this Act.

19
20 The petitions may be filed before the Environment Management Bureau's
21 Pollution Adjudication Board, and may be appealed before the Department of
22 Environment and Natural Resources.

23
24 The filing of a petition under this Section shall be without prejudice to the
25 seeking of appropriate administrative recourse, including international redress, or
26 remedies available before the Board in connection with controversies that the Board
27 is mandated to resolve before the courts may intervene, particularly in connection with
28 administrative remedies under Section 4 (Adoption of the Precautionary Principle),
29 Section 5 (Adoption of the Polluter Pays Principle), Section 14 (Due Diligence
30 Standard of Care in the Conduct of Business), and Section 15 (Business
31 Responsibilities), all of which establish specific obligations, standards, and liabilities
32 which the Board must interpret and apply and that businesses and entities must
33 comply with for environmental accountability at the administrative level before judicial
34 intervention.

35
36 **SEC. 19. *Citizens suits.*** – For the purpose of enforcing the provisions of this
37 Act or its implementing rules and regulations, any real party in interest as well as
38 minors, generations yet unborn, and biodiversity represented by a legal guardian, in
39 compliance with A.M. No. 09-6-8-SC, or the "Rules of Procedure for Environmental
40 Cases, can file appropriate civil, criminal, and administrative judicial suits against any
41 of the following :

- 42
43 (a) Any person who violates or fails to comply with the provisions of this Act or
44 its implementing rules and regulations; or

1
2 (b) Any public officer with respect to orders, rules and regulations inconsistent
3 with this Act.
4

5 **SEC. 20. *Resolution of Claims.*** – The Board shall be convened, with an
6 attendance of a majority, to resolve all claims.
7

8 **SEC. 21. *Operational Modalities.*** – As provided for in this Act, the provisions
9 herein are to be availed of alternatively:
10

11 (a) Submission of claims under the provisions of this Act – These claims are
12 not to be construed as allegations concerning violations of the provisions
13 of this Act but are presented to the Board in Section 12 as entitlements
14 to communities who will apply for these provisions provided they satisfy
15 the criteria that the Board may formulate that arises from the eligibility
16 requirements of the funds that the Board may secure, including those
17 from foreign sources, including but not limited to the Fund for
18 Responding to Loss and Damage and other financing mechanisms not
19 only under the UNFCCC and the Paris Agreement but other financing
20 mechanism that address these claims;
21

22 (b) Initiation of specific administrative actions under Sections 4, 5, 14, and
23 15 of the Act – This refers to specific allegations of failure to abide by
24 the entities covered by Sections 4, 5, 14, and 15 of this Act under an
25 expedited procedure that will set out by the Board giving a fair chance
26 for respondents to respond to these allegations taking into account their
27 rights to procedural and substantive due process;
28

29 (c) All other actions for civil and criminal liabilities under Philippine laws and
30 this Act including those provided in Sections 19 and 20 are to be
31 addressed by the regular courts taking into account their administrative
32 jurisdiction as provided by existing laws and regulations provided by the
33 Supreme Court.
34

35 Claims submitted under the provisions of this Act and are satisfied by the
36 respondents thereto shall serve as a bar for further prosecution for civil and criminal
37 liability under paragraph (c) above.
38
39

40 **CHAPTER V**

41 **FINAL PROVISIONS**

42

43 **SEC. 22. *Penal Provisions.*** — Businesses shall be held liable for any
44 observed adverse impacts on the climate through the exercise of their work. This is

1 anchored on Section 32 of the Civil Code of the Philippines which provides for the
2 liability for damages of any public officer or employee, or any private individual, who
3 directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs
4 the rights and liberties of another person. The violation of the human right to the
5 environment entitles the victims thereto for damages from the perpetrators of such
6 damage. These shall be complemented by environmental statutes. The following
7 shall be covered by the act:

8
9 (a) Emission Penalty - Based on data collated by the reporting facility for
10 businesses' GHG emissions established by this Act, an emission penalty shall be
11 applied pursuant to the threshold referred to in Section 7 of this Act, and shall be
12 imposed on the Business enterprise or Carbon major for breaching the threshold for
13 acceptable emissions aligned with the country's nationally determined contributions
14 (NDC). The emissions penalty shall be imposed by the CLIMA Board, pursuant to the
15 existing regulatory framework for GHG emissions reduction and the development of a
16 low carbon economy.

17
18 The process of determining the threshold referred to in Section 7 of this Act shall
19 be comprehensive, participatory, transparent, and guided by best available science,
20 and the emissions threshold shall be established upon due consultation among the
21 Department of Science and Technology – Philippine Atmospheric, Geophysical and
22 Astronomical Services Administration (DOST-PAG-ASA), the CLIMA Board, SEC,
23 DENR, Department of Trade and Industry (DTI), DA, DOE, DOTr, and the CCC.
24 Emissions thresholds shall be reviewed periodically, as new data and methods for
25 analysis become available.

26
27 All collected emissions penalties shall be remitted to the CLAWS Fund.

28
29 (b) Strategic lawsuit against public participation (SLAPP) Suits —SLAPP refers to
30 an action whether civil, criminal or administrative, brought against any person,
31 institution or any government agency or local government unit or its officials and
32 employees, with the intent to harass, vex, exert undue pressure or stifle any legal
33 recourse that such person, institution or government agency has taken or may take in
34 the enforcement of environmental laws, protection of the environment or assertion of
35 environmental rights. This Act shall prohibit SLAPP Suits and shall penalize such suits
36 filed, with damages equivalent to 15% of the gross income of the petitioner and entity
37 at whose instance and for whose benefit the SLAPP Suit was filed.

38
39 Fines and penalties under this Act shall accrue to the CLAWS Fund. In addition
40 to the fines, the court has power to order the closure or suspension of business until
41 such time that proper environmental safeguards are put into place and the
42 government is assured of the compliance mechanism by the business: *Provided*, That
43 an establishment liable for a third offense shall suffer permanent and immediate
44 closure.

1
2 This paragraph shall be without prejudice to the immediate issuance of an *ex*
3 *parte* order for such closure or suspension or cessation of operations during the
4 pendency of the case upon *prima facie* evidence that there is an imminent threat to
5 life, public health, safety or general welfare, or to biodiversity.
6

7 If the offender is a juridical person, the president, manager, directors, trustees,
8 or the officials directly related to the operations shall suffer the penalty herein
9 provided.
10

11 **SEC. 23. Potential Loss of Employment.** – The Secretary of the Department
12 of Labor and Employment is authorized to establish a compensation and
13 reemployment scheme for employees of businesses that will be affected by any
14 suspension or permanent cessation of business activities as a result of the
15 implementation and enforcement of this Act. The Board, in consultation with the
16 Department of Labor and Employment (DOLE) can help determine the scope of the
17 relief package for the employees.
18

19 **SEC. 24. Coordination with Various Sectors.** – In order to fully implement
20 this Act, the SEC in conjunction with the CCC shall consult nongovernment
21 organizations, community leaders, indigenous peoples, civic society, the academe,
22 youth organizations, industry associations, professional organizations, the private
23 sectors, vulnerable groups, and other concerned stakeholder groups.
24

25 **SEC. 25. Joint Congressional Oversight Committee.** – A Joint
26 Congressional Oversight Committee is created in order to monitor the implementation
27 of this Act. The Committee shall be composed of five (5) Senators and five (5)
28 members of the House of Representatives, selected respectively by the Senate
29 President and the Speaker of the House. The Committee shall be co-chaired by one
30 (1) member from the Senate and the House of Representatives, selected separately
31 by their peers who are also members of the Committee.
32

33 **SEC. 26. Appropriations.** – An amount of Fifty million pesos
34 (P50,000,000.00) shall be appropriated for the initial implementation of this Act.
35 Thereafter, the amount necessary to effectively carry out the provisions of this Act
36 shall be included in the General Appropriations Act.
37

38 **SEC. 27. Implementing Rules and Regulations.** – The CCC, CHR, DENR,
39 the SEC, DOF, DOST-PAGASA, Board of Investments (BOI), Department of Budget
40 and Management (DBM), and Department of Economy, Planning, and Development
41 (DepDev), in consultation with the civil society organizations, academe, and research
42 institutions, shall issue the Implementing Rules and Regulations within ninety (90)
43 days from the effectivity of this Act.
44

1 **SEC. 28. *Separability Clause.*** – If for any reason any section or provision of
2 this Act is declared by the court as unconstitutional or invalid, the other sections or
3 provisions thereof shall not be affected thereby.
4

5 **SEC. 29. *Repealing Clause.*** – All laws, ordinances, rules, and regulations,
6 and other issuances or parts thereof, which are inconsistent with this Act, are hereby
7 repealed or modified accordingly.
8

9 **SEC. 30. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
10 publication in the *Official Gazette* or in a newspaper of general circulation.
11

12 *Approved,*
13
14
15