LAW OF 13 JUNE 1980

DECREE NO. 921 OF THE MILITARY JUNTA OF GOVERNMENT

WHEREAS the sovereignty of the State of Honduras over the natural resources of its continental shelf and of the superjacent waters, in both oceans, exists irrespective of their actual exploitation, inasmuch as the latter is solely the concern of the State and no person may undertake such exploitation without its express consent; and whereas it is nevertheless a matter of public interest and public necessity that such resources should be technically, rationally and efficiently utilized;

WHEREAS Decree Law No. 25 of 17 January 1951 establishes areas of control and protection for the marine resources over which the State of Honduras has sovereignty;

WHEREAS in the course of the Third United Nations Conference on the Law of the Sea the great majority of the States members of the international community have reiterated their legal conviction that coastal States have sovereign rights over natural resources in an exclusive economic zone extending up to a distance of 200 nautical miles;

WHEREAS the utilization of fishing resources and the exploitation of hydrocarbons and other marine resources are necessary to meet the nutritional needs of the Honduran people, to promote improved levels of income and employment and to contribute to the development of the national economy;

NOW THEREFORE the Military Junta of Government, meeting in Council of Ministers, pursuant to Decree No. 1 of 6 December 1972, articles 5 and 254 of the Constitution of the Republic and Decree Law No. 25 of 17 January 1951,

DECREES:

the following

LAW ON THE UTILIZATION OF MARINE NATURAL RESOURCES

Article 1. Without prejudice to the provisions of the Constitution and of the laws of the Republic concerning the territorial sea and the continental shelf, the State of Honduras shall have, in the exclusive economic zone extending up to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured:

(a) Sovereign rights for the purpose of exploiting, exploring, conserving and managing all natural resources, whether living or non-living, of the sea-bed and subsoil and the superjacent waters, and over any economic exploration and exploitation of the zone, such as the production of energy from the water, currents and winds;

(b) Exclusive rights and jurisdiction with regard to authorization and regulation of the construction, operation and use of artificial islands and of installations and structures of any kind, including jurisdiction with regard to customs, fiscal, health, safety and immigration regulations;

(c) Jurisdiction and control in all matters relating to the regulation, authorization and conduct of marine scientific research, which shall be conducted only with the prior consent of the State of Honduras and with the participation of a representative of its Government whenever the latter deems it desirable;

(d) Jurisdiction and control for the purpose of preserving the marine environment and preventing, reducing and controlling pollution from any source;

(e) Such other rights and obligations as derive from the sovereign rights over the resources of the zone.

Article 2. In the said zone, all States, whether coastal or land-locked, shall enjoy, without prejudice to the provisions of the preceding article, the freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea directly related to the operation of ships, aircraft and submarine cables and pipelines.

Article 3. The State of Honduras shall, as a matter of sovereign right, determine the allowable catch of living resources in the zone, taking into account the objective of optimum and rational utilization of such resources and giving priority to meeting the nutritional needs of the Honduran people, the requirements of the economy and other national interests.

Without prejudice to such restrictions as may be imposed under the relevant legislation for the benefit of Honduran nationals or of companies constituted or incorporated under Honduran law in respect of concessions, licences or permits to fish in the area of the territorial sea or on the continental shelf of Honduras, the State may issue to foreigners licences or permits to explore or exploit the other resources in the zone, in accordance with existing legislation, in so far as it is applicable, and with such legislation on the subject as may hereafter be issued.

Any question which may arise with the administrative authorities regarding the implementation of this article may be submitted to the Honduran courts.

Article 4. The State of Honduras shall, with a view to its economic development, issue such legislation as it deems relevant to regulate, inter alia. the following:

(a) Licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration, which may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry;

(b) Determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or groups of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;

(c) Regulating seasons and areas of fishing, the types, sizes and amount of gear, and the numbers, sizes and types of fishing vessels that may be used;

(d) Fixing the age and size of fish and other species that may be caught;

(e) Specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;

(f) Requiring, under the authorization and control of the State of Honduras, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;

(g) The placing of observers or trainees on board such vessels by the State;

(h) The landing of all or any part of the catch by such vessels in the ports of the State;

(i) Terms and conditions relating to joint ventures or other co-operative arrangements;

(j) Requirements for training personnel and transfer of fisheries technology, including enhancement of the capability of the State of Honduras to undertake fisheries research;

(k) Rules and procedures for enforcement of these provisions.

Article 5. The State of Honduras may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the zone, take such measures, including boarding, search, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Decree.

In case of the arrest or detention of a foreign vessel, the flag State shall be promptly notified, through appropriate channels, of the action taken and the penalties imposed.

Article 6. This Decree shall not abridge similar rights of other States on the basis of reciprocity or negate in any way such obligations as may arise from a future Convention on the Law of the Sea or from treaties to which Honduras is a party and which shall have been concluded on the basis of respect for the territorial sovereignty or sovereign rights over resources, as the case may be, of the Republic of Honduras.

Article 7. The Executive shall issue regulations for the implementation of this Decree.

There shall be established an Interministerial Commission composed of the Secretariats of State of the Departments of Natural Resources; Economic Affairs; Finance; Public Health; Defence and Public Safety; Foreign Affairs; and the National Port Authority, through the Secretariat of State for Economic Affairs.

The Commission shall draw up the relevant regulations and shall serve as a permanent consulting body and recommend specific action for the optimum utilization of the natural resources in the interests of nutrition and standard of living of the Honduran people and of the country's economic development in general.

Article 8. The enforcement of this Law and of the legislation arising from it shall be the direct responsibility of the Secretariat of State of the Department of Natural Resources, assisted by the naval and the air forces of the Republic.

Article 9. This Decree shall enter into force as from the date on which it is published in the official gazette La Gaceta.

Done in the city of Tegucigalpa, Central District, on 28 April 1980.