

General Law on Environment

Decree Number 104-93 The National Congress

Considering: That according to the Constitution of the Republic, the State shall preserve a suitable environment in order to protect the people's health, thus declaring technical and rational exploitation of the natural resources of the nation as of public utility and necessity,

Considering: That the accelerated destruction of natural resources and the degradation of the environment are threatening the future of the nation causing economic and social problems affecting the population's quality of life and that it is the State's responsibility to promote a course of development that through the correct use of natural resources and the environment may satisfy the basic needs of the current population without compromising those of future generations;

Considering: That the importance and transcendency of environmental problems require some kind of organization and administrative structure that responds to our environmental situation in a coherent, harmonious and integral way;

Considering: That the participation of the community is essential to achieve protection, conservation and the rational utilization of the natural resources of the country and of the environment in general;

Considering: That the Honduran people urgently call for appropriate Legislation on environmental management in order to develop national awareness of environmental problems and the participation of every citizen in the search for solutions that may benefit the entire community;

ACCORDINGLY, DECREES THE FOLLOWING

GENERAL ENVIRONMENTAL LAW

TITLE I PRINCIPLES AND OBJECTIVES

CHAPTER I GENERAL PRINCIPLES

Art. 1.- The protection, conservation, restoration and sustainable management of the environment and natural resources are of public utility and of social interest.

The Central Government and the Municipalities shall encourage a rational use and sustainable management of such resources in order to allow their preservation while deriving economic benefit.

Public interest and common welfare are the fundamental principles for every action in defense of the environment, hence it is the duty of the State, through its

technical, administrative and legal recourse, to comply with and enforce the legal regulations concerning the environment.

Art. 2.-With reference to this law, "environment" refers to natural and cultural resources, and rural and urban areas, which can be altered by physical, chemical or biological agents, or other factors resulting from natural causes or human activities, all of them liable to directly or indirectly affect life conditions and the development of society.

Art. 3.- Non-renewable natural resources should be used in order to prevent exhaustion and the outgrowth of negative environmental effects.

Renewable natural resources should be sustainably used according to their ecological, economic and social functions.

Art. 4.- An integral scheme for the national territory, regarding environmental aspects and economic, demographic and social factors, is of public interest.

Public and private projects affecting the environment, shall be designed and carried out, taking into account the interrelation of all natural resources and the interdependence between man and his environment.

Art. 5.- Projects and industrial plants or any other activity, either public or private, liable to pollute or degrade the environment, natural resources or the cultural and historical patrimony of the nation, shall be compulsorily preceded by an environmental impact assessment (EIA) to prevent possible negative effects.

Thus, those measures protecting the environment or natural resources, resul-

ting from the above mentioned evaluations, shall be enforced in all sectors from the moment of setting up and as long as the establishments are at work. As a consequence, the Environmental Department of the Secretariat of State shall lay down a national system of environmental impact assessment.

In the case of pre-existing installations, they will be subject to what is stipulated in the Chapter on Final Dispositions.

Art. 6.- The provisions of the present Law and of the sectorial laws, regarding the protection of human health and the protection, preservation, restoration and adequate management of natural resources and the environment, shall be enforced upon the environmental impact assessments (EIA) referred to in Art. 5.

Art. 7.- The State shall adopt all necessary measures in order to prevent or correct environmental pollution. For this purpose, "pollution" means every kind of alteration or modification of the environment that may harm human health, degrade natural resources or affect the resources of the nation in general.

The discharge and emission of pollutants shall be subject to the technical regulations laid out for this purpose, as well as to the international provisions derived from bilateral or multilateral agreements subscribed by Honduras.

Art. 8.- Toxic radioactive emissions, municipal waste, mire or sewer sludge, and other elements considered harmful or polluting shall be forbidden from entering the country.

The national lands and waters shall not be used as storage for these elements.

CHAPTER II OBJECTIVES

Art. 9.- The present law specifies the following objectives:

- a) To foster an adequate framework that may lead farming, forestry and industrial activities towards environmentally sound systems of exploitation compatible with the preservation, rational and sustainable use of natural resources and the protection of the environment in general.
- b) To establish the necessary mechanisms in order to maintain the ecological balance, allowing the conservation of resources, the preservation of genetic diversity and a rational use of species and both renewable and non-renewable natural resources.
- c) To establish the principles that will guide the activities of Public Administration on environmental matters, including mechanisms of coordination for efficient management.
- ch) To lay down environmental impact assessments for regulating potentially polluting or degrading, private or public projects.
- d) To encourage the participation of citizens in activities related to the protection, preservation, restoration and adequate management of the environment and natural resources.
- e) To promote environmental education and research to create an ecological consciousness in the population.
- f) To elevate the quality of life of the inhabitants by improving the environment of human settlements; and
- g) Others compatible with the preceding objectives.

TITLE II ENVIRONMENTAL MANAGEMENT

CHAPTER I STATE SECRETARIAT IN THE DEPARTMENT OF ENVIRONMENT

Art. 10.- It is agreed to create the State Secretariat in the Department of Environment, its duty: to comply with and enforce the environmental legislation of Honduras; to formulate and globally coordinate the national policies on environment, to watch over the fulfillment of such policies and to coordinate public and private institutions dealing with environmental issues.

The State Secretariat in the Department of Environment shall enjoy the necessary guarantees and independence for the performance of its functions. It shall be composed of a State Secretariat, assisted by an Undersecretary, a Head Official, and the technical departments to accomplish the aims of this Law.

It shall be assisted by a National Environmental Consulting Council, composed of representatives of both public and private sectors who shall attend the sessions *ad honorem*, a Technical Advisory Committee and an Environmental Public Prosecutor's Office. Considering that this Secretariat is not directly executive, it shall operate with a minimal structure and the number of its directive, technical and administrative personnel shall not be above thirty-five (35) employees.

Art 11.- The State Secretariat in the Department of Environment, is responsible for the following functions:

- a) To define objectives, formulate policies and establish priorities on environmental matters;

- b) To coordinate the activities of different public associations, either centralized or not, dealing with environmental matters, and to promote public participation in such activities.
- c) To supervise the strict observance of national legislation on the environment and of international treaties and agreements related to the environment and natural resources subscribed by Honduras.
- ch) To develop the Plant for Territorial Zoning, jointly with the pertinent institutions.
- d) To set up and manage the National System for Environmental Impact Assessment.
- e) To update environmental management by training human resources qualified in environmental sciences, and to foster programs and activities aimed at creating an adequate environmental consciousness at the national level.
- f) To oversee the fulfillment of provisions, resolutions or agreements issued by the Central American Commission of Environment and Development (CACED).
- g) To develop and organize a National System of Environmental Information that shall be permanently updated.
- h) To prepare and propose to the Executive Power a program of credits and incentives relevant to environmental issues and the economic requirements necessary for efficient environmental management, especially those referring to environmental impact assessments (EIA), permits or licences and to the control of the activities of potentially polluting or degrading public and private sectors.
- i) To propose all suitable measures in order to preserve natural resources, including those measures aimed at preventing the importation of environmentally inadequate technology.
- j) To implement the necessary measures in order to prevent the importation of hazardous products that may affect the ecosystem and human health.
- k) To promote scientific and technological research aimed at solving the environmental problems of the country.
- l) To establish cooperation mechanisms and relationships with governmental organizations from other countries and with international agencies working on environmental issues, as well as with national and international non-governmental organizations.
- ll) To promote the pertinent administrative and legal actions deriving from violations and offenses committed against natural resources and the environment or by the non observance of obligations towards the State regarding this matter.
- m) To draw up reports on environmental issues prior to the authorization, granting and issuing of operation permits to productive or commercial enterprises and for the execution of public or private projects.
- n) To represent the State of Honduras before national and international organizations on environmental issues.
- ñ) In general, to lay down, execute and foster all suitable measures in order to preserve natural resources and to improve the quality of life of the Honduran people, and;
- o) Other measures established by regulations.

Art. 12.- The attributions and responsibilities of the State Secretary in the Department of Environment are those established by Article 36 of the General

Law of Public Administration and those contained in this law.

CONSULTING COUNCIL

Art. 13.- It is agreed to create the National Environmental Consulting Council as an advisory body to the State Secretary in the Department of the Environment; it shall hold the functions as stipulated by the regulations and it shall be integrated as follows:

- a) The State Undersecretary in the Department of the Environment as Chairman;
- b) The State Undersecretary in the Departments of Planning, Coordination and Budget;
- c) The State Undersecretary in the Department of Natural Resources;
- ch) The Undersecretary in the Department of Public Education;
- d) A representative of the Association of Honduran Municipalities;
- e) A representative of the Higher Educational Institutions;
- f) A representative of the Federation of Non-governmental Environmental Organizations;
- g) A representative of the Honduran Council of Private Enterprise;
- h) A representative of the labor organizations;
- i) A representative of the rural organizations;

The non-governmental organizations shall appoint their representatives according to the procedures established by the General Law of Public Administration.

The National Environmental Consulting Council may request technical criteria and opinions from professional colleges, civic and religious organizations, and other organizations and institutions, as

they see fit. In addition, the Chairman may invite other officials and institutions to the sessions.

TECHNICAL ADVISORY COMMITTEE

Art. 14.- It is agreed to create the Technical Advisory Committee, at the specialized scientific and technical level. It shall be composed of representatives of both public and private sectors, as an assistant body to the State Secretariat in the Department of Environment.

Governmental institutions are compelled to appoint temporary, qualified personnel to compose the Technical Advisory Committee whenever required by the State Secretariat in the Department of the Environment. Likewise, private institutions or organizations shall cooperate with and accredit their representatives to the aforementioned Committee.

Art. 15.- The internal regulations shall establish the organization and functioning of the Technical Advisory Committee.

CHAPTER II ENVIRONMENTAL ATTORNEY GENERAL

Art. 16.- It is agreed to create the Environmental Attorney General that shall depend on the Office of the Attorney General of the Republic, and which by delegation, shall legally and administratively represent the interests of the State on environmental issues.

Art 17.- The Environmental Attorney General shall be elected by the National Congress and appointed for a term of five (5) years. He shall be Honduran by birth, a citizen in use of his rights, of proven

honesty and capacity and of recognized environmental consciousness. He shall have a law degree certified by the pertinent College.

The Environmental Attorney General shall be aided by an Assistant Attorney General who shall be also elected by the National Congress and shall be requested to have the same qualifications as the former. He shall serve for the same period as the Environmental Attorney General. The Assistant Attorney General shall substitute the Environmental Attorney General in case of absence or legitimate impediment.

Art. 18.- The Environmental Attorney General and the Environmental Assistant Attorney General shall enjoy the same privileges and immunities as the Attorney General of the Republic. Their salaries and expenses will affect the General Budget of the Republic, hence, to this effect, the corresponding entry shall be created.

Art. 19.- Civil and criminal actions on environmental matters shall be undertaken directly by the Environmental Attorney General's Office. The Environmental Attorney General shall enjoy the faculties of an Attorney General as established by Art. 19, first rule of the Organic Law of the Attorney General Office of the Republic.

Art. 20.- While fulfilling environmental duties the Environmental Attorney General's Office shall be fully autonomous, except on those instances which according to law it shall attend to special instructions. In such cases it shall work in cooperation with the Attorney General Office of the Republic.

Art. 21.- At the national level and in order to carry out its functions successfully,

the Environmental Attorney General Office shall rely on the compulsory assistance of the attorney of the Courts of Justice, of the solicitors and legal advisors of the different Secretariats of State, as well as of other branch offices of the Executive Power and on the representatives of the Municipal Corporations.

Art. 22.- Serving at the Environmental Attorney General's Office shall be incompatible with any other remunerative post within the environmental field, be it professional or business management, acting independently or with others.

In case of infringement, those actions shall lack legal effect and the Court of Justice may declare their nullity *ex officio*, without detriment to what Art. 119 of the Administrative Proceedings Law has established.

Art. 23.- The Environmental Attorney General's Office shall use plain paper in all kinds of suits, efforts and proceedings; likewise it will be exempted from postal, telex, telegraphic, telephone and fax charges, as well as those of future means of communication.

Art. 24.- Every person summoned by the Environmental Attorney General's Office shall appear personally or by proxy; if summoned for a second time and he still not appear at the appointed date and time, it shall be considered an act of contempt of the law except in the cases of *force majeure* or an act of God.

Art. 25.- In order to fulfill their functions, all State and Private Departments are subject to comply with the requirements demanded by the Environmental Attorney General's Office, such as inspections, reports, certifications and other pertinent requirements.

Art. 26.- The regulations of this law shall establish the proceedings and the internal regime of the Environmental Attorney General's Office.

CHAPTER III COMPETENCE

Art. 27.- The attributions that according to this law and to the respective sectorial laws, pertain to the State on matters of protection, preservation, restoration and adequate management of the environment and natural resources, shall be exercised not only by the organisms of the Executive Power and all decentralized institutions to which competence is legally assigned, but by the Municipalities in their respective jurisdictions as well, which shall coordinate their activities with the State Secretariat in the Department of the Environment, according to the principles and objectives of the present law.

Art 28.- To put this Law and the respective sectorial laws, into effect the Executive Power, through the State Secretariat in the Department of the Environment and the other State Secretariats and competent decentralized institutions shall be conferred the following attributions:

- a) The execution of the general policy on environmental issues proposed by the Secretariat of the Environment and approved by the President of the Republic.
- b) The planning of the rational exploitation of the natural resources, considering their alternative utilization and their natural interrelation in the ecosystem.
- c) The integral zoning of the national territory taking into account environ-

mental aspects and economic, demographic, and social factors through programs established for this effect.

- ch) The management of the natural protected areas.
- d) The drawing up and management of technical regulations for the prevention and control of issues dealt with in this law.
- e) The supervision of all kinds of pollutant emissions, and the registration of pesticides, fertilizers and other potentially polluting chemical, biological or radioactive products, that require authorization to be imported or manufactured, as established by the pertinent laws; and the control over the enforcement of the legal prohibitions on the importation or manufacture of said products proven to be harmful.
- f) The supervision of activities considered highly hazardous and which may have negative effects on human health and the environment, according to this law and other laws and their provisions.
- g) The prevention and control of disasters, emergencies and other environmental eventualities, negatively affecting either partially or totally, the national territory.
- h) The elaboration of inventories of natural resources at the national level;
- i) The planning of the use of hydrographic basins;
- j) The establishment of the National Accounting System, considering the natural resources in general, and
- k) The other attributions that this law and other laws reserve for the agencies of the Executive Power.

Art. 29.- For the enforcement of this Law, the Municipal Laws and the respec-

tive sectorial laws, it is conferred to the Municipalities the following attributions:

- a) The organization of urban development through programs regulating cities, including land zoning, circulation routes, building regulations, municipal public services, basic sanitation and other similar programs.
- b) The protection and conservation of water supply sources for the population, including the prevention and control of water pollution and the carrying out of reforestation works;
- c) The preservation and restoration of the ecological balance and the environmental protection of population centers, accounting for the negative effects arising from sewer services, cleaning, waste collection and disposal, markets, slaughter houses cemeteries, vehicular traffic and local transport.
- ch) The creation and management of urban parks and municipal areas subject to conservation;
- d) The prevention and control of disasters, emergencies and other environmental eventualities negatively affecting, in particular, the Municipal district and its inhabitants;
- e) The supervision of activities considered not highly hazardous, but which are liable to affect, in particular, the existing ecosystem of the Municipality.
- f) The supervision of polluting emissions in their respective jurisdictions, in agreement with the technical regulations issued by the Executive Power.
- g) The preservation of historical, cultural and artistic treasures within the municipal district and of historical monuments and typical spots of outstanding scenic beauty as well; their participa-

tion in the management of protected natural areas and,

- h) The others attributions, that this and other laws reserve for the Municipalities.

TITLE III ENVIRONMENTAL PROTECTION AND RATIONAL UTILIZATION OF NATURAL RESOURCES

CHAPTER I CONTINENTAL AND MARITIME WATERS

Art. 30.- It is the duty of the State and the Municipalities in their respective jurisdiction, to carry out the management, protection and conservation of the basins and ground-water wells, including the preservation of natural elements which take part in the hydrological process.

Water users, whatever the purpose the water may have, are obliged to use it rationally, preventing its waste and trying, whenever possible, to re-use it.

Art. 31.- The following water categories, shall be subject to special protection and control:

- a) Those assigned to the water supply of populations and of human beings in general.
- b) Those assigned to irrigation and food-stuff production.
- c) Those assigned to natural plant and animal nurseries holding aquatic species of flora and fauna.
- ch) Those belonging to protected areas and;
- d) Any other water source of general significance.

Art. 32.- It is forbidden to discharge in continental or maritime waters over which the State exercises jurisdiction, all kinds of polluting wastes, whether solid, liquid or gaseous, liable to affect people's health or aquatic life, harm the water quality to its own detriment, or alter the ecological balance in general.

The Secretariat of Public Health, the Secretariat of Natural Resources, the Secretariat of National Defense and the Secretariat of Public Security, shall be responsible for the control of the treatment of continental and maritime waters, observing the technical provisions and the rules established by sectorial laws and regulations.

Art. 33.- It is forbidden to set up human settlements, military bases, industrial plants or any other kind of installations in the areas of influence of water supply sources for populations, or near irrigation systems of agricultural plantations intended for human consumption, the residues of which, though treated, may have potential pollution risks; the municipalities shall supervise the correct application of this rule.

Art. 34.- Hydrological use projects shall be carried out in order to regulate the regime of waters to avoid solid haulage and to protect dams and reservoirs, communication routes, agricultural lands and populations from the noxious effects of water.

These projects shall be based upon the consideration of hydrographic basins as an operation and management unit.

Any hydroelectric project, either for irrigation or of any other kind, intended to make the most of subsurface and surface waters within the national territory, shall be compulsorily preceded by a hydrological use plan and an environmental impact assessment.

CHAPTER II PROTECTION OF NATURE

SECTION "A" GENERAL ASPECTS

Art. 35.- The protection of nature, including the preservation of natural spots of beauty and the conservation and management of the wild flora and fauna is declared of public interest.

In consequence, the Executive Power shall adopt the necessary measures to prevent the causes leading to the degrading or extinction of species.

Art. 36.- The Protected Areas System is hereby created. This System shall be composed of biosphere reservations, national parks, wild life refuges, natural monuments, biological and anthropological reservations, insular areas of the national territory and other management categories which may be held necessary.

For the purpose of securing the protection of nature, and after the necessary scientific and technical studies, the State shall declare the natural protected areas as forming part of the Protected Areas System of Honduras. Regarding its management, natural protected areas shall be subject to the zoning and management plans that shall be laid down to this effect.

Art. 37.- In the establishment, management and development of the natural protected areas, referred to in Art. 36, the municipalities that exercise jurisdiction over such areas, among others, shall participate, to propitiate the integral development of the community and secure the protection of the ecosystem.

Art. 38.- For the appropriate management of the natural protected areas, insulating or restraining zones around their respective limits shall be established. The

owners of private lands and the inhabitants settled in these areas shall be allowed to carry out productive activities which shall be subject to the technical regulations and uses of the soil as agreed upon in the Declaration Decree of each area.

Art. 39.- The declaration of natural protected areas, including its restraining zones shall be made by Agreement of the Executive Power, through the State Secretariat in the Department of Natural Resources, at the proposal of the State Secretariat in the Department of the Environment and together with the municipalities of the pertaining jurisdiction, after informing the people and following the proceedings as established by the Regulations. Once laid down, the pertinent Agreement shall be submitted for approval to the National Congress.

Art. 40. -As an attribution determined by the Declaration of a Natural Protected Area and by the respective sectorial laws, the competent authorities are allowed to enforce the restrictions and obligations essential for the attainment of the profitable aims of public necessity, on the usufructuaries, owners, and occupants, settled within the respective limits, according to the requirements of the Declaration Decree and those resulting from the ordering and management plans to be approved.

The State shall be able to acquire by means of sale and purchase, exchange or expropriation the lands that may best contribute to the attainment of the particular aims of these areas.

Section "B" Wild flora and fauna

Art. 41.- What is understood by protected flora and fauna are species of plants and animals which should be the object of

special protection due to their rarity, their condition in the ecosystem or their danger of extinction. Their exploitation, hunting, capture, trading or destruction is forbidden.

Art. 42.- Hunting animals are those wild animals that may be the object of hunting, a licence having been previously granted by the Honduran Wildlife Corporation of Forestry Development (COHDEFOR).

After the required technical and scientific studies and in coordination with the Municipalities, the species, closed seasons, hunting areas, maximum sizes of capture, sex, age and hunting limits shall be established for a rational exploitation of these species.

Art. 43.- The designation and identification of protected species, hunting animals, closed and open seasons, maximum capture limits; and age and size minimums shall be carried out through a fully binding Treaty enacted by the Executive Power through the State Secretariat in the Department of Natural Resources.

Art. 44.- Only those persons who have been granted a licence issued by the Protected Areas and Wildlife Department of the Honduran Corporation of Forestry Development (COHDEFOR), after the pertinent studies and the payment of monetary values fixed by regulations, destined to enter the General Treasury of the Republic, shall be allowed to import and export species of wild flora and fauna. Licences shall also be required to set up plant and animal nurseries of the same species.

The granting of these licences shall be subject to the provisions of the International Agreements on the subject and to the requirements as established by the laws and Regulations of this same law.

SECTION "C" FORESTS

Art. 45.- Forestal resources shall be managed and used on the principle of protection of the biodiversity, sustainable yield and the concept of multiple use of these resources, considering their economic, ecological and social functions.

Art. 46.- The National Forestry Administration shall grant licences or permits to individuals or legal entities to put the forest to use, provided a proper management program is drafted to secure the sustainable utilization of the resource.

Art. 47.- The protection of forests against fires and forestal plagues and noxious activities that may affect forestal resources and the environment, are declared of public interest. The Municipalities shall participate in preventive activities in coordination with the National Forestry Administration. Citizens are compelled to cooperate with civil and military authorities in the protection of forestal resources.

CHAPTER III SOILS

SECTION "A" AGRICULTURAL, LIVESTOCK AND FORESTRY USES

Art. 48.- The soils of national territory shall be used rationally, in accordance with their natural objectives, trying to maintain their productive capacity without altering the balance of the ecosystems. Their potential use shall be determined, taking into account physical, ecological and socio-economic factors within the framework of corresponding plans of zoning the territory.

Art. 49.- Those persons, performing agricultural or livestock activities, shall preserve or enhance soil fertility using proper exploitation methods and techniques preventing degradation resulting from erosion, acidity, salinity, pollution, inadequate drainage or other similar negative consequences.

Technical advisory programs and agricultural credits shall be directed to favor the use of adequate techniques in the exploitation of soils.

Art. 50.- Soils forming part of pronounced sloping grounds, liable to cause accelerated erosion or landslides when exploited, shall be permanently kept under plant covering, thus they are not subject to the Agriculture Reform Law. The National Forestry Administration shall encourage forestation and reforestation programs in these areas.

SECTION "B" INDUSTRIAL AND URBAN USES

Art. 51.- The respective Municipalities shall lay out plans on the utilization of urban lands taking into account, among other factors civil residential areas, and commercial, industrial and recreational areas as well, bearing in mind the inhabitants' quality of life and the protection of the environment.

To this effect, urban planning shall include the regulation of conservation and development of dwelling programs, the appropriate location of public services and urban means of communication, the location of green areas and the landscaping with trees of public thoroughfares.

Art. 52.- The industries about to be established, capable of contaminating the environment, shall be set up in areas, that will not harm the ecosystem and the health

of the inhabitants. The municipality having jurisdiction on such areas shall grant building permits and installation licences, after a technical report issued by the State Secretariat in the Department of the Environment.

Art. 53.- The installation of industries capable of degrading the environment in urban and rural areas shall be subject to prior Environmental Impact Assessments (EIA), which shall assure that their emissions and discharges do not cause nuisances or damage to the inhabitants, or their property, lands, water air, and wild flora and fauna.

Art. 54.- The discharge and disposal of both solid and liquid wastes from any origin, either toxic or non-toxic, shall only be allowed in the places assigned to this effect by the competent authorities, and according to the corresponding technical specifications and to the respective bylaws.

CHAPTER IV MARITIME AND COASTAL RESOURCES

Art. 55.- By maritime and coastal resources is meant the sea waters, beaches, seaboard, littoral strips, bays, coastal lagoons, mangrove swamps, coral reefs, estuaries, scenic natural wonders and natural resources, alive or not alive, belonging to the waters and territorial sea, adjoining areas, the exclusive economic area and the continental shelf.

Art. 56.- The exploitation of coastal and maritime resources shall be subject to technical criteria meant to determine rational utilization and sustainable development of such resources. To

achieve these purposes the Executive Power, through the State Secretariat in the Department of Natural Resources shall determine closed seasons for fishing and collecting specific species, and the technical criteria that shall be applied in the stocking and re-stocking of sea beds.

Art. 57.- The Executive Power through the State Secretariat in the Department of Natural Resources, in coordination with other competent institutions, is entitled to delimit protected zones of specific coastal and maritime areas which shall be subject to zoning and management programs in order to prevent and combat pollution or environmental deterioration.

Art. 58.- The execution of civil works on the coasts, shall be preceded by an environmental impact study, and shall be carried out in such a way so as not to cause damage on the littoral land or aquatic strip or to provoke significant ecological changes.

CHAPTER V ATMOSPHERE

Art. 59.- The activity aimed at avoiding air pollution due to harmful gases, smoke, dust, solid particles, radioactive matter or other emissions capable of introducing environmental health hazards to human beings, public and private property, flora, fauna and to the ecosystem in general, is declared of public interest.

Art. 60.- The Executive Power, through the State Secretariat in the Department of Public Health, and together with the National Environment Council and other competent organizations shall determine the technical rules to establish the allowed

pollution inspiration and emission levels in order to prevent negative physiological effects on people, flora and fauna. For this purpose the necessary Regulations shall be issued.

Automotive vehicles, industries or other installations, whether stable or moveable, public or private, that discharge gases or other pollutants into the atmosphere, shall be obligated to observe these technical rules, including the pertinent treatment systems.

The Municipalities within their respective jurisdictions, shall supervise the strict observance of these rules.

Art. 61.- The Executive Power, through the Secretariat of Public Health shall regulate noise and vibration tolerance rates as well as smoke and dust emissions.

Art. 62.- The Municipalities shall not be allowed to authorize in urban and rural areas, industrial or any other kind of activities discharging toxic and harmful emissions and odors capable of degrading the health and welfare of people public or private property, flora, fauna and the ecosystem in general.

CHAPTER VI MINERALS AND HYDROCARBONS

Art. 63.- The mineral resources of the nation, including hydrocarbons, are of public utility. Their development, exploration and exploitation must be subject to the special regimes established by the Mining Code and by the Hydrocarbons Law. The applying Regulations and the dispositions of the present Law and of the sectorial laws regarding the prevention of environmental pollution, or the degradation of natural resources shall in all cases be observed.

Art. 64.- Concessionaires of mining exploitation or of operations related to hydrocarbons are forbidden to discharge into soils, rivers, lakes, ponds or any other stream or source of water, either toxic or non-toxic wastes, which without due treatment, might harm human health or the environment in general.

Art. 65.- The extraction of stone and sand, the extraction and industrialization of salt or lime or the manufacture of cement shall be subject to the technical prevention rules established by the relevant regulations of the present law, in order to avoid the negative impact that said activities might cause to the environment and human health. It is the responsibility of the Municipalities, within their own jurisdictions, to oversee the fulfillment of those technical rules.

TITLE IV ENVIRONMENTAL ELEMENTS OTHER THAN NATURAL RESOURCES

CHAPTER I ORGANIC AND SOLID WASTE

Art. 66.- The organic and solid waste from household, industrial, agricultural, livestock, mining, public use and other sources shall be technically treated. in order to prevent alterations of the soil, rivers, lakes, ponds, and maritime and continental waters in general, and to prevent air pollution, as well.

Art. 67.- It corresponds to the Municipality together with the State Secretariat in the Public Health Department or other technical organisms, to

adopt a system of collection, treatment and final disposal of this waste, including the possibility of its reuse and recycling.

CHAPTER II AGROCHEMICAL, TOXIC AND HAZARDOUS SUBSTANCES

Art. 68.- The State shall bear, according to the Health Code, the Plant and Animal Sanitary Bills, and other related regulations, the control on the manufacture, formulation, importation, distribution, sale, transport, storage, use and final disposal of agrochemicals and toxic or hazardous substances already in use in agriculture, livestock, industry and other activities.

Toxic or hazardous substances cannot be manufactured, stored, imported, sold, transported, used or disposed of unless duly authorized by the State Secretariat in the Department of Natural Resources or by the State Secretariat in the Public Health Department, according to their competence. Once authorized, they shall be registered in their respective special register.

Art. 69.- The regulations shall set forth special control measures, required for the generation, treatment, identification, packaging, labeling, transport, storage and disposal of toxic and hazardous substances originating in our country, fulfilling the financial and technical safety rules to ensure their isolation and to prevent their negative environmental impact. The non-fulfillment of this rule shall give rise to the investigation of the corresponding administrative, civil and penal responsibilities. In no case shall the introduction to our country of toxic or hazardous waste generated in another country, be allowed.

CHAPTER III HISTORICAL, CULTURAL PATRIMONY AND TOURISTIC RESOURCES

Art. 70.- The anthropological, archaeological, historical, artistic, cultural and ethnic patrimony, and its natural environment as well, are under the States' protection.

Art. 71.- Autochthonous ethnic groups shall have special support from the State in relation to their traditional systems of the integral use of renewable natural resources, which, in turn, shall be studied in order to establish their feasibility as a sustainable model of development. Future development of these groups shall incorporate the rules and criteria of the already existing sustained development.

Art. 72.- The nation's touristic resources, including natural and cultural ones, are considered of national interest. Touristic development shall identify, rescue and preserve the natural, panoramic, architectural and historic values of the different areas of the country.

Art. 73.- Touristic projects located within the National System of Protected Natural Areas shall be carried out, respecting the zoning and management plans to be set forth and considering the development of ecotourism as a source of employment and income.

CHAPTER IV ENVIRONMENT AND HUMAN HEALTH

Art. 74.- The State, through the State Secretariat in the Public Health Department and with the collaboration of

the State Secretariat in the Department of the Environment, shall oversee the fulfillment of the general and special regulations on basic sanitation, air, water and soil pollution, in order to guarantee an appropriate life environment for the people.

Art. 75.- The Municipalities, within their territorial jurisdiction and in accordance with the general policy of the State, shall take the specific steps for controlling environmental pollution according to existing natural, social and economic conditions.

Art. 76.- The Executive shall set forth the permitted levels of pollution, according to the results of relevant research and international rules.

TITLE V SPECIAL REGULATIONS FOR ENVIRONMENTAL PROTECTION

CHAPTER I GENERAL ASPECTS

Art. 77.- The principles and objectives set forth in this law shall rule the environmental activity of every public and private organism, and they may be invoked at any administrative or judicial proceedings.

Art. 78.- Individuals or legal entities, whether public or private, wishing to carry out any work or activity which may alter or seriously deteriorate the environment, including natural resources, must report to the competent authority, according to the matter, and prepare and environmental impact assessment (EIA) according to what is set forth in Article 5 of this Law.

Within these activities, the following are included: the chemical, petrochemical, iron and steel, petroleum, tannery, paper, sugar, cement, beer, prawn or shrimp, liquor, coffee, and agricultural industries in general; generation and transmission of electricity, mining; building and managing of oil pipelines and gas pipelines; transport; final disposal, treatment and elimination of waste and toxic and hazardous substances, projects of the sectors of tourism, amusement, city planning, forest, human settlements and any other activity which might cause severe damage to the ecological balance.

Art. 79.- No work or activity referred to in the previous article shall be carried out without an approval of the evaluation or without the pertinent authorization.

Art. 80.- Any person may appear before the competent authority to make statements against the execution of polluting or degrading works or activities. A file shall be opened for their control and for the adoption of the necessary measures.

Art. 81.- Any investment in filters or in any other technical equipment which shall be used for preventing and cleaning pollutants, produced by industrial, agricultural, livestock, forestal or other companies carrying out potentially polluting or degrading activities, shall be deducted from the gross income to be applied to the payment of the income tax. The purchase of said equipment shall be exempted from import tax, charges, surcharges and from sales tax.

Art. 82.- In its Annual Report to the National Congress, the President of the Republic shall inform the Nation of the

current state of affairs and present a foreseeable environmental assessment in relation to activities developed and the ones that are being planned.

CHAPTER II INSPECTION AND SURVEILLANCE

Art. 83.- The State Departments having competence on environmental issues, shall carry out inspection and surveillance operations. For its accomplishment, their officials and employees are entitled to carry out inspections of locations, facilities or other specific areas or to demand from whom it may concern, information to verify fulfillment of the corresponding legal regulations.

The Municipalities shall carry out inspection and surveillance control operations in the different areas of their jurisdiction and competence. The regulation shall develop this disposition.

Public acknowledgments shall be granted to those individuals or legal entities carrying out prevention and environmental improvement in their respective communities.

CHAPTER III ENVIRONMENTAL EDUCATION

Art. 84.- The State Secretariat in the Public Education Department shall include environmental education in the entire National Education System. Present academic structures shall be reprogrammed and renewed for the development of extension, study and research programs offering proposals for solutions to the highest-impact environmental problems in our country. The Autonomous National University of Honduras and other institutions of higher

learning shall study the feasibility of carrying out the adaptations for this purpose.

Also, non-governmental organizations, whether national or international, and the community in general, shall be encouraged to participate in environmental education allowing the understanding and the raising of consciousness of the environmental situation of the country in general and of each place in particular.

Art. 85.- The State, through the Honduran Telecommunications Company and through other competent institutions shall ask from the social communications media, a contribution free of charge to spread programs on environmental education, legislation and general information.

TITLE VI INFRINGEMENTS

CHAPTER III OFFENSES AND ADMINISTRATIVE INFRACTIONS GENERAL ASPECTS

Art. 86.- Every action or omission infringing on what is set forth in this Law and in other complementary regulations; shall be punished according to what is determined in this title, notwithstanding the demand, in its event, of the corresponding civil liability.

Art. 87.- Any action or omission of the environmental regulation that constitutes an offense or an administrative infraction shall give rise to the applicability of the following punishments:

- a) Imposed, imprisonment in its event, by ordinary judicial authority, for an environmental offense.

- b) Fine, which shall be established by this Law and its regulations.
- c) Definitive closure, total or partial of any activity or facility, if the activity pollutes and damages human health or the environment, beyond the limits set forth in the regulations and the technical rules;
- ch) Temporary suspension of activities of facilities causing environmental damage;
- d) Confiscation of the tools and instruments used in the commission of said offense or infraction;
- e) Cancellation of the general authorization or economical or fiscal benefits granted by public authority;
- f) Indemnity to the State or to third parties for the damages caused to the environment and to natural resources; and
- g) Replacement and restitution of the things and objects affected, to their natural being and state, if possible.

Art. 88. The imposition of these punishments shall be graduated according to :

- a) The seriousness of the action or omission caused to the environment and/or to human health and life.
- b) Repetition of the offense.
- c) Social and economic repercussions
- ch) Economic capacity of the party responsible for the offense or duly proven infraction.

Art. 89.- In imposing criminal or administrative sanctions, the punishing authority shall follow penal or administrative proceedings, and, in any case, the defendant shall be notified of every

charge against him, in order to begin his defense.

Art. 90.- The action of reporting or filing a claim statements of any action or omission violating what is set forth in the environmental regulations, before the judicial or administrative authority, shall be public. The corresponding authority shall be compelled to inform the plaintiff about the state of the process commenced based on his statement or demand.

Art. 91.- Authorities and public officials who have committed or participated in any environmental offense or infraction, or have violated this Law and its applicable regulations, shall be punished with the corresponding sanction and also with disqualification from their offices from one (1) to five (5) years, according to the competent tribunal.

CHAPTER II ENVIRONMENTAL OFFENSES

Art. 92.- Environmental offenses are the following:

- a) To expel or discharge into the atmosphere, active or potentially hazardous pollutants, which are forbidden or are not the object of specified treatments in the applicable technical rules, which cause or may cause the death of one or more people, or severe injuries to human health or the ecosystem.
- b) To discharge hazardous pollutants which are forbidden or are not previously treated, into the national seas, including the land-maritime area, or into the subsurface and continental waterstores or rivers, including the

water supply systems of cities, or to infiltrate the soil or subsoil with waste waters or wastes with of same characteristics as indicated, which cause or may cause the death of one or more people or serious injuries to human health or the ecosystem, in general;

- c) To manufacture, store, import, trade, transport, use or dispose of without fulfilling what is set forth in the legal regulations on the matter, toxic substances or products or pollutants, which cause or may cause risk or serious danger to public health and to the ecosystem in general, and;
- ch) To pollute or allow the contamination of food or beverages.

The action shall be drawn against the party directly responsible for the offense and shall take into consideration cases of *force majeure* or acts of God.

Art. 93.- The perpetration of the crimes described in a) and b) of the above article, shall be punished, in addition to the punishment for the specific offense perpetrated as a result of the action or omission, with the punishment of imprisonment from three (3) to ten (10) years, and the punishment set forth in clauses c), d), e), f) and g) of Article 87 of this Law may be applied at the same time.

Art. 94.- The perpetration of the offenses described in c) and ch) of Article 92, in addition to the specific penalty for the offense perpetrated as a result of action or omission shall be punished with imprisonment from one (1) to five (5) years and the punishment set forth in clauses c), ch), d), e), f) and g) of Article 87 of this Law may be applied at the same time.

Art. 95.- The sectorial laws regulating the ordering of the natural resources and other potentially polluting activities may describe other violations constituting offense.

CHAPTER III ADMINISTRATIVE INFRACTIONS

Art. 96.- Administrative infractions of this Law, in addition to the ones set forth in special laws, are the following :

- a) The actions or omissions violatory of the zoning plans of natural resources and other regulations and ruling set forth by competent authorities, as long as they do not produce the consequences noted in Article 92 of this Law;
- b) To prevent or hamper the inspections or verifications of the competent officials, to use any means to induce them to make mistakes or to forward to the competent authorities, completely or partially false information.
- c) To carry out potentially pollutant or degrading activities without the corresponding licenses or permits;
- ch) To hunt or capture with commercial objectives, protected species of wild fauna or to hunt species in the closed season, and its products and subproducts as well, and:
- d) In general, every infringement causing pollution which might cause damage other than what is foreseen in Article 87, or which causes the degradation or destruction of natural resources, according to what is classified in the regulations.

Art. 97.- Administrative infractions shall be punished with a fine of ONE THOUSAND LEMPIRAS (L. 1,000.00) to

ONE MILLION LEMPIRAS (L. 1,000,000.00) in accordance with the seriousness of the violation, notwithstanding the applicability of the punishments foreseen in clauses c), ch), d), e), f) and g) or Article 87 of this Law.

Art. 98.- The regulations shall define the infractions as serious, less serious, and slight.

CHAPTER IV RESOURCES

Art. 99.- Against the administrative resolutions dictated while applying this Law, appeals foreseen in the Administrative Proceedings Law might take place. Once the administrative path is exhausted, the judicial action shall proceed. It shall take place according to the corresponding law.

TITLE VII FINAL REGULATIONS

Art. 100.- The National Network of Hydrographic Basins is created in order to coordinate the management of Hydrographic Resources, thus improving their quality and quantity, in order to guarantee the permanent use of the resource on behalf of the people.

This Network, includes the Secretariats of Environment, Natural Resources, Public Health, and Planning, Coordination and Budget, the Honduran Corporation of Forestry Development, the National Agrarian Institute, the National Autonomous Service of Acueducts and Sewage and the Executive Department of Cadastre. Any other

organism might afterwards be included according to its competence. The coordination of this network shall correspond to the State Secretariat in the Natural Resources Department through the General Direction of Hydric Resources and the Honduran Corporation of Forestry Development.

Art. 101.- The programs for territorial zoning shall aim to achieve an appropriate use of forest, agricultural, livestock and coastal lands which guarantee the sustainable development, the preservation, protection and adequate use of national territory. The Secretariats of Environment, of Planning, Coordination and Budget and of Natural Resources, shall be responsible for preparing these programs.

Art. 102.- The inhabitants belonging to local communities shall directly participate in the actions of defense and preservation of the environment and of the rational use of the natural resources of the country. The participation of private organizations of any kind in the preservation of the environment and natural resources is considered of public interest. These organizations shall be consulted for the elaboration of plans and measures to be taken related to this issue.

Art. 103.- It is hereby set forth the people's right to be informed of the state of the environmental and of every operation and action taken in this field by government institutions and municipalities.

Art. 104.- The State, through its competent organizations, shall establish the budget to fund the environmental programs which are carried out by

centralized or decentralized organisms with competence in this matter.

Art. 105.- It is the States' and the people's duty to participate in the prevention, mitigation and attention to every natural catastrophe, in the solution of problems they produce and in the rehabilitation of affected areas.

Art. 106.- Whoever contaminates the environment and carries out actions against ecological systems without taking into consideration the regulations of this Law and the sectorial ones, shall assume the costs of environmental recovery of the damages caused by his acts or omissions, notwithstanding his penal or any other responsibility.

Art. 107.- The State and the people in general shall watch over negative environmental impacts in the national territory coming from industrial, agricultural, forest and livestock activities carried out in other countries. For this purpose, International Treaties, Agreements and Accords shall be signed in order to protect the environment or to guarantee the quality of life of the inhabitants.

Art. 108.- A term for correcting its situation or for moving to other areas shall be granted to those industrial facilities or any other established activity, which in any way, are considered to be contaminating the environment.

In both cases, the equipment and machinery shall be exempt from any import tax, including charges and surcharges, and from sales tax, and the

amount of investment shall be deducted from earnings at a 5-year-term.

Art. 109.- The General Comptroller's Office of the Republic shall bear the responsibility of watching over the strict fulfillment of the duties arising from the national environmental legislation.

Art. 110.- The Executive shall issue the necessary regulations for this Law, in a term no longer than one year, from the date of its entry in force.

Art. 111.- This Law shall come in force twenty days after its publication in the Official Newspaper "The Gazette."

Granted in Tegucigalpa Municipality of the Central District, at the Meeting that of the National Congress, the twenty-seventh day of May, nineteen ninety-three.

Rodolfo Irias Navas
President

Nahum Efrain Valladares V.
Secretary

Andrés Torres Rodríguez
Secretary
Forwarded to the Executive
Therefore : To be executed.

Tegucigalpa, DC, June 8, 1993
Rafael Leonardo Callejas Romero
President of the Republic, under the
Constitution

The State Secretariat in the Interior and
Justice Department
José Celín Discua Elvir