

Act No. 5 of 1983 on the Indonesian exclusive economic zone,
18 October 1983

Chapter I
General provision

Article 1

For the purposes of this Act,

- a. "Living natural resources" means all species of animals and plants, including their divisions, found on the sea-bed and in the water area of the Indonesian exclusive economic zone;
- b. "Non-living natural resources" means natural substances being non-living natural resources, found on the sea-bed and in the subsoil thereof as well as in the water area of the Indonesian exclusive economic zone;
- c. "Scientific research" means any activity in connection with the research on any maritime aspects on the water surface, in the water column, on the sea-bed and in the subsoil thereof the sea floor in the Indonesian exclusive economic zone;
- d. "Conservation of natural resources" means all efforts aimed at protecting and preserving the natural resources in the Indonesian exclusive economic zone;
- e. "Marine environmental protection and conservation" means any effort aimed at preserving and maintaining the whole of the marine ecosystem within the Indonesian exclusive economic zone.

Chapter II
Indonesia's exclusive economic zone

Article 2

The Indonesian exclusive economic zone is the outer strip bordering the Indonesian territorial sea as determined by the law applicable to the Indonesian waters, covering the sea-bed, the subsoil thereof and the water above it with an outermost limit of 200 (two hundred) nautical miles, measured from the baseline of the Indonesian territorial sea.

Article 3

(1) In the event that the Indonesian exclusive economic zone overlaps the exclusive economic zone of another State whose coastline is opposite or adjacent to that of Indonesia, then the boundary line between the

exclusive economic zone of Indonesia and that of the other State shall be established by agreement between the Republic of Indonesia and the State concerned.

(2) So long as such agreement as referred to in paragraph (1) does not exist, and no special conditions need to be considered, the boundary line between the exclusive economic zone of Indonesia and that of the other State shall be the median line or a line that is equidistant from the baselines of Indonesian territorial sea or the outermost points of Indonesia and the baselines of the territorial sea or outermost points of the other State, except if an agreement has been reached with the said State on a provisional arrangement of the boundaries of the Indonesian exclusive economic zone.

Chapter III

Sovereign rights, other rights, jurisdiction and duties

Article 4

(1) Within the Indonesian Exclusive Economic Zone, the Republic of Indonesia shall have and exercise:

- a. Its sovereign rights to conduct the exploration, exploitation, management and conservation of the living and non-living resources on the sea-bed and in the subsoil thereof, as well as the water above it, including other activities for the purpose of economic exploration and exploitation of said zone, such as the generation of power by means of water, current and wind;
- b. Its jurisdiction in connection with:
 - 1. The construction and use of artificial islands, installations and other structures;
 - 2. Marine scientific research;
 - 3. The protection and conservation of the marine environment;
- c. Other rights and duties, based on the applicable provisions of the Convention on the Law of the Sea.

(2) As far as it concerns the sea-bed and the subsoil thereof, the sovereign rights and other rights, jurisdiction and duties of Indonesia as referred to in paragraph (1), shall be exercised in accordance with the legislative provisions on the Indonesian continental shelf, agreements concluded between the Republic of Indonesia and neighbouring States and the rules of international law in force.

(3) Within the Indonesian exclusive economic zone, the freedom of international navigation and overflight, as well as the freedom of laying submarine cables and pipelines, shall be respected in accordance with the principles of the international law of the sea.

Chapter IV

Activities within the Indonesian exclusive economic zone

Article 5

(1) Without prejudice to the provision in article 4, paragraph (2), the exploration and/or exploitation of natural resources or any other activities for the purpose of the economic exploration or exploitation of said natural resources, such as generation of power by means of water, current or wind within the Indonesian exclusive economic zone, may only be conducted on the permission of the Government of the Republic of Indonesia, or on the basis of an international agreement concluded with the Government of the Republic of Indonesia. Such activity has to be carried out under the conditions of such permit or such international agreement.

(2) Without prejudice to the provision in paragraph (1), any exploration and/or exploitation of the living natural resources shall comply with the provisions on management and conservation as stipulated by the Government of the Republic of Indonesia.

(3) Without prejudice to the provision in article 4, paragraph (2), any exploration and/or exploitation of the living resources in a certain area within the Indonesian exclusive economic zone, conducted by any person, a corporate body or Government of a foreign State, may be permitted provided that the catch as allowed by the Government of the Republic of Indonesia of the species in question is in excess of Indonesia's capacity to harvest the allowable catch.

Article 6

Whoever constructs and/or uses any artificial island or installations or other structures within the Indonesian exclusive economic zone, may do so based on the permission of the Government of the Republic of Indonesia. Such activities have to be carried out under the conditions of such permit.

Article 7

Whoever intends to conduct any scientific research activity in the Indonesian exclusive economic zone has to ensure that such activity shall obtain the prior consent of, and such activity shall be carried out under the conditions as determined by, the Government of the Republic of Indonesia.

Article 8

(1) Whoever conducts any activity within the Indonesian Exclusive Economic Zone has the duty to take steps towards preventing, minimizing, controlling and surmounting the pollution of the environment.

(2) Discharge of waste in the Indonesian exclusive economic zone may be effected only after having obtained the permission of the Government of the Republic of Indonesia.

Chapter V

Indemnity

Article 9

Whoever conducts any activity in violation of the provisions of the statutory regulations of the Republic of Indonesia and international law in relation to artificial islands, installations or other structures within the Indonesian exclusive economic zone and causes loss shall be liable for such loss and shall pay indemnity to the owner of such artificial islands, installations and/or other structures.

Article 10

Without prejudice to the provision in article 7, whoever conducts any activity within the Indonesian exclusive economic zone in violation of the provisions of the statutory regulations of the Republic of Indonesia and the rules of international law, as applicable to the field of marine scientific research, and causes loss shall be held responsible for such loss and shall pay indemnity to the Republic of Indonesia.

Article 11

- (1) Without prejudice to the provision in article 8 and with due observance to a fixed maximum of indemnity, whoever causes pollution of the marine environment and/or damage to the natural resources within the Indonesian exclusive economic zone shall be held fully responsible for such pollution or damage and shall pay immediately a reasonable amount of the rehabilitation costs for the marine environment and/or natural resource.
- (2) Exempted from the full responsibility as provided for in paragraph (1) are those who can prove that such pollution of the marine environment and/or damage to the natural resources was the result of:
 - a. A natural calamity, being beyond one's power;
 - b. A damage which wholly or partly was caused by an act or negligence of a third party.
- (3) The form, type and size of the loss resulting from the pollution of the marine environment and/or damage to the natural resources shall be fixed on the basis of the outcome of an ecological investigation.

Article 12

The regulation pertaining to the limit of maximum indemnity, method of ecological investigation and claim for damages, as referred to in article/11, shall be dealt with by statutory regulations as referred to in article 20.

Chapter VI Law enforcement

Article 13

In exercising the sovereign rights and other rights, jurisdiction and duties, as specified in article 4, paragraph (1), the competent law-enforcement agency of the Republic of Indonesia may take law-enforcement measures in accordance with Act No. 8 of 1981 on the Code of Criminal Procedure with the following exceptions:

- (a) In the case of any ship and/or persons deemed to have committed an offence within the Indonesian exclusive economic zone, such measures shall include the detention of the ship until the handing over of such ship and/or persons at the port, where the said case can be further prosecuted.
- (b) The handing over of such ship and/or persons shall take place as soon as possible, not exceeding a period of 7 (seven) days, except in case of a force majeure.
- (c) For the purpose of detention, the criminal act as referred to in article 16 and article 17, shall come under the category of criminal acts as referred to in article 21, paragraph (4), letter b, Act No. 8 of 1981 on the Code of Criminal Procedure.

Article 14

- (1) The law-enforcement agency in the field of investigation within the Indonesian exclusive economic zone is a Navy Officer of the Indonesian Armed Forces, so assigned by the Commander-in-Chief of the Armed Forces of the Republic of Indonesia.
- (2) The plaintiff is the public prosecutor attached to the court of first instance as referred to in paragraph (3).
- (3) The court of justice authorized to try offences arising from violation of the provisions of this Act is the court of first instance whose jurisdiction covers the port where the detention of such ship and/or persons as referred to in article 13, letter a, has taken place.

Article 15

- (1) Any request for the release of such ship and/or persons arrested on the ground of being accused of having committed a violation of this act or any legislative provision issued on the basis of this act may be filed at any time prior to the verdict of the competent court of first instance.
- (2) Any request for such release as provided for in paragraph (1) may be complied with after the claimant has handed over a reasonable amount of bail as fixed by the competent court of first instance.

Chapter VII

Penal provisions

Article 16

- (1) Whoever commits a violation of the provisions in article 5, paragraph (1), article 6 or article 7 shall be punished by a fine to a maximum of Rp 225,000,000 (two hundred and twenty-five million rupiahs).
- (2) The court in its verdict may decide to confiscate the products of activity, the ship and/or the equipment used in committing the criminal act as referred in paragraph (1).
- (3) Whoever deliberately commits an act causing damage to the life environment or the pollution of the life environment within the Indonesian exclusive economic zone shall be threatened with punishment in accordance with the legislative provisions applicable to the field of life environment.

Article 17

Whoever damages or destroys the evidences used in committing a criminal act referred to in article 16, paragraph (1), with the purpose of avoiding the confiscation of said evidences during the investigation, shall be punished by a fine to a maximum of Rp 75,000,000 (seventy-five million rupiahs).

Article 18

The criminal act referred to in article 16 and article 17 shall be regarded as a crime.

Chapter VIII

Transitional provision

Article 19

Any provisions on the exploration and/or exploitation of the living resources enacted before the promulgation of this act shall remain in force until changes are made by virtue of legislative provisions issued on the basis of this Act.

Chapter IX

Closing provisions

Article 20

- (1) Other statutory regulations shall be adopted to implement further the provisions of this Act.
- (2) The government regulation in implementing the provisions of this Act may stipulate a maximum fine of

Rp/75,000,000 (seventy-five million rupiahs) against any violation of its provisions.

Article 21

This Act shall come into force as from the date of its promulgation. In order that everybody may have knowledge of it, the promulgation of this act is hereby ordered through its placing in the State Gazette of the Republic of Indonesia.

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 1983, No. 44.

ANNEX

Elucidation of Act No. 5 of 1983

I. GENERAL

The Government of the Republic of Indonesia has long since felt the great importance of the exclusive economic zone to support the realization of the Archipelagic Outlook in the framework of improving the welfare of the Indonesian nation, by way of utilizing all natural resources, both living and non-living, found within its exclusive economic zone.

Based on what is mentioned above and in order to safeguard the national interest, particularly in the matter of satisfying the need of the Indonesian people for animal protein and in regard to the utilization of non-living resources, protection and conservation of the marine environment and marine scientific research, the Government of the Republic of Indonesia issued a government announcement on 21 March 1980 on the Indonesian exclusive/economic zone.

International law on the exclusive economic zone has been developed by the international community through the Third United Nations Conference on the Law of the Sea and State practice, and is aimed at protecting the interests of the coastal State against the danger of exhausting the natural resources adjacent to its coast by fishery activities on the basis of the régime of the high seas.

Besides, the exclusive economic zone also serves to protect the interests of coastal States in the field of the conservation of the marine environment and the conduct of marine scientific research in the framework of supporting the utilization of natural resources within the exclusive economic zone.

The United Nations Convention on the Law of the Sea has provided the Republic of Indonesia in its capacity as a coastal State with the sovereign right to explore and exploit the natural resources found within the exclusive economic zone and the jurisdiction relating to the exercise of such sovereign right.

On the other hand, Indonesia has the duty to respect the right of other States in its exclusive economic zone, such as the freedom of navigation and overflight, as well as the freedom of the laying of submarine cables and pipelines within the exclusive economic zone.

With special reference to the utilization of the living resources found within the Indonesian exclusive economic zone, any other State may, in accordance with the United Nations Convention on the Law of the Sea, take part in utilizing the living resources, so long as Indonesia has not yet fully utilized all of these living resources.

Besides announcing the above-mentioned principles and basic policies, which are primarily directed towards the outside world, it was found necessary also that said principles and basic policies be laid down in an Act so as to provide a solid basis for the exercise of the sovereign right, other rights, jurisdiction and duties within the exclusive economic zone, so that, in this way, legal security may be established as well.

It was in this connection that the Act on the Indonesian Exclusive Economic Zone was drawn up, which

stipulates the sovereign right, other rights, jurisdiction and duties of the Republic of Indonesia within its exclusive economic zone.

This Act only provides the basic rules, while further implementation of the provisions of this act shall be laid down in other statutory regulations.

II. ARTICLE BY ARTICLE

Article 1

The term "living resources" in this act means the same as is meant by the term "fishery resources" in the provisions of the statutory regulations on fishery.

Article 2

This article clarifies and confirms the geographical definition of the Indonesian exclusive economic zone as contained in the announcement of the Government of the Republic of Indonesia dated 21 March 1980 on the Indonesian exclusive economic zone.

Article 3

Paragraph (1)

Sufficiently clear.

Paragraph (2)

This paragraph provides that the principles of equidistance is applied to determine the boundaries between the exclusive economic zone of Indonesia and a neighbouring State, except in case of special circumstances necessitating consideration, so as not to prejudice the national interest.

Such special circumstances, for example, may include the presence of an island belonging to another country, located at a distance less than 200/(two/hundred) sea miles from the baseline from which the breadth of the Indonesian exclusive economic zone is measured.

Article 4

Paragraph (1)

The expression "Indonesian sovereign right" is not the same as or cannot be equalized with the full sovereignty as possessed and exercised by Indonesia over its territorial sea, interislands waters and inland waterways.

Based on what is mentioned above, so the sanctions imposed in the Indonesian exclusive economic zone differ from those imposed upon the waters falling under the sovereignty of the Republic of Indonesia.

Other rights, based on international law, include the right of the Republic of Indonesia to enforce the law upon and undertake a hot pursuit of any foreign ships committing a violation of the provision of Indonesia's statutory regulations in the exclusive economic zone.

Another duty, based on international law, is the duty of the Republic of Indonesia to respect the rights of other States, such as the freedoms of navigation and overflight, as well as the freedom for the laying of submarine cables and pipelines.

Paragraph (2)

This paragraph stipulates that, as far as it concerns the living and non-living resources found on the sea-bed and in the subsoil thereof, within the boundaries of the Indonesian exclusive economic zone, the Indonesian sovereign right shall be exercised and shall be based on Indonesia's statutory regulations as applicable to the continental shelf régime, as well as international agreements on the continental shelf determining the boundaries between the continental shelves of Indonesia and neighbouring States whose coasts are opposite or adjacent to those of the Republic of Indonesia.

Paragraph (3)

In accordance with the applicable principles of international law, such as those originating from the practice of States and laid down in the United Nations Convention on the Law of the Sea as adopted at the Third United Nations Conference on the Law of the Sea, within the exclusive economic zone, any State, whether coastal or landlocked, shall enjoy the freedom of international navigation and overflight as well as the freedom of the laying of submarine cables and pipelines and using the sea pursuant to said freedoms, such as the operation of ships and aircraft and the maintenance of submarine cables and pipelines.

Article 5

Paragraph (1)

Any exploratory or exploitative activity of the natural resources or any other activity for the purpose of economic exploration and/or exploitation, such as the generation of power from water, current and wind, conducted within the Indonesian exclusive economic zone by any Indonesian national or corporate body shall be based on a permit granted by the Government of the Republic of Indonesia.

Activities as meant above conducted by a foreign State, foreigner or foreign corporate body shall be based on an international agreement concluded between the Government of the Republic of Indonesia and the foreign State concerned.

The terms and conditions of such international treaty or agreement have to state the rights and duties to be observed by those conducting exploratory or exploitation activities within the said zone, such as the duty to pay levies to the Government of the Republic of Indonesia.

Paragraph (2)

Living resources basically have the quality to recover, but not in the sense of being unlimited. Therefore, with the presence of such quality, the Government of the Republic of Indonesia, in the management and conservation of the living resources, has decided upon the degree of utilization in the Indonesian exclusive economic zone, in part or in whole.

Paragraph (3)

Within the framework of conserving the living resources, Indonesia has the duty to guarantee the maximum sustainable yield of the living resources within the Indonesian exclusive economic zone.

With due observance to said maximum sustainable yield, Indonesia also has the duty to fix the maximum quantity of allowable catch of the living resources.

In the event that the Indonesian fisheries industry is not yet fully capable of utilizing said maximum quantity of allowable catch, then the difference between the allowable catch and the Indonesian harvesting capacity may be utilized by another State with the permission of the Government of the Republic of Indonesia on the basis of an international agreement.

Suppose the allowable catch is fixed at 1,000 (one thousand) tons, while Indonesia's harvest capacity has

reached only 600 (six hundred) tons, another State may participate in utilizing the remaining 400/(four hundred) tons, with the permission of the Government of the Republic of Indonesia on the basis of an international agreement.

The reference to article 4, paragraph (2), is meant to clarify that sedentary species found on the sea-bed within the exclusive economic zone are subject to the continental shelf régime (art. 1, letter b, Act No./1 of/1973, on the Indonesian Continental Shelf). Therefore, they are not subject to the provision under this paragraph.

Article 6

In accordance with article 4, paragraph (1), the Republic of Indonesia has the exclusive right to develop, license and arrange the development, operation and use of artificial islands, installations and other structures.

Besides, Indonesia has exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction relating to the implementation of legislative provisions in the fields of customs, taxation, health, safety and immigration.

Although Indonesia has exclusive jurisdiction over such artificial islands, installations and structures, nevertheless they do not have the status of islands in the sense of State territories, and therefore do not have a territorial sea of their own, and their presence does not affect the boundaries of the Indonesian territorial sea, exclusive economic zone or continental shelf.

Article 7

Any marine scientific research within the Indonesian exclusive/economic zone may only be carried out after the request for such research has been approved previously by the Government of the Republic of Indonesia.

In the event that in 4 (four) months following receipt of such request, the Government of the Republic of Indonesia fails to state:

- (a) its objection against such request, or
- (b) that the information provided by the applicant is not consistent with the reality or is incomplete, or
- (c) that the applicant has not fulfilled his duty in the matter of an earlier research project, then the marine scientific research project may be implemented within/6 (six) months following receipt of a research application by the Government of the Republic of Indonesia.

Article 8

Paragraph (1)

The authority to protect and conserve the natural resources within the Indonesian exclusive economic zone is based internationally on the practice of States that has now been embodied in the United Nations Convention on the Law of the Sea, whereas from the national point of view, its basis is to be found in Act No. 4 of 1982 on the Basic Provisions pertaining to Life Environmental Management.

Paragraph (2)

Dumping in the sea may cause pollution of the marine environment, and for that reason it was deemed necessary to arrange the site, manner and frequency of dumping as well as the type, content and volume of the materials to be dumped under licence. Such dumping covers the dumping of rubbish and other materials that may cause pollution of the marine environment. Ordinary disposal of refuse by ships during their voyage does not need a permit.

Article 9

Sufficiently clear.

Article 10

Sufficiently clear.

Article 11

Paragraph (1)

The duty to bear strict liability and to pay indemnity for the rehabilitation of the marine environment and/or natural resources is the consequence of the duty to maintain environmental harmony and equilibrium.

Therefore, such duty shall rest upon whomsoever commits an act or fails to prevent the commission of the act or allows the occurrence of the pollution of the marine environment and/or damage to the natural resource.

"Strict liability" implies that said liability takes effect as from the very moment that pollution of the marine environment and/or damage to the natural resource occurs, and, that the production of evidence in terms of procedure is no longer necessary.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

The form, type and size of loss caused by the pollution of the marine environment and/or damage to the natural resources shall determine the amount of indemnity. Ecological investigation on the form, type and size of such loss shall be conducted by a team comprising members representing the Government, the sufferers and the offenders. Such special team is meant to be set up for each case.

Article 12

Sufficiently clear.

Article 13

Any ship and/or persons being suspected of having committed a criminal act based on sufficient preliminary evidences at sea, particularly in case of a foreign ship and/or foreigners, further investigation may be conducted by way of arresting the ships and/or persons concerned.

Any ship and/or persons having Indonesian nationality can be given an ad hoc order to proceed to a port or base appointed by the investigator at/sea for further prosecution.

Such an above-mentioned arrest cannot always conform to the time limit of arrest, i.e., one day, as fixed in Act No. 8 of 1981 on the Code of Criminal Procedure.

Therefore, for an arrest at sea, a reasonable period of time is needed so as to enable the law-enforcement agency at sea to escort such ship and/or persons to any port or base.

A period of time of seven days is considered to be the maximum time required to haul or tow such ship from the farthest point within the Indonesian exclusive economic zone to any port or base.

The provision on detention for reasons of a criminal act according to this Act has not yet been dealt with in Act No. 8 of 1981, whereas the detention of such criminal act is a means to enable further prosecution of the case.

In this connection, although the criminal punishment that can be imposed is in the form of a fine, nevertheless,

for its being qualified as a crime, such criminal act should come under the category of criminals acts as referred to in article 21, paragraph (4), letter b, Act No. 8 of 1981 on the Code of Criminal Procedure.

Article 14

Paragraph (1)

The Navy Officer of the Indonesian Armed Forces, who may be appointed as investigator, is, for instance, the ship's captain, Navy District Commander, Base Commander and Navy Station Commander. The appointment of a Navy Officer of the Indonesian Armed Forces as the investigating agency within the Indonesian exclusive economic zone is in conformity with the provision of Article 30, paragraph (20), Act No. 20 of 1982 on the Basic Provisions of Defence and Security of the Republic of Indonesia, and article/17, Government Regulation No. 27 of 1983, concerning the Execution of Act No. 8 of 1981 on the Code of Criminal Procedure.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Article 15

Paragraph (1)

The request for the release of a ship and/or person arrested for being suspected of having committed an offence can be filed, based on conventional practice, by the legation of the State of the foreign ship concerned, the owner or the captain or whomsoever having any work or business relation with the ship or person concerned, based on legal evidences.

Paragraph (2)

The fixing of the amount of bail is based on the value of the ship, its equipment and the proceeds of its activities, increased by the maximum amount of fine.

Article 16

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Article 17

Sufficiently clear.

Article 18

Sufficiently clear.

Article 19

Sufficiently clear.

Article 20

Sufficiently clear.

Article 21

Sufficiently clear.

SUPPLEMENTARY STATE GAZETTE OF THE REPUBLIC OF INDONESIA, No. 3260.