

Act No. 77-485 of 11 May 1977
amending Act No. 68-1181 of 30 December 1968
relating to the exploration of the Continental Shelf
and the exploitation of its natural resources

Article 1

The provisions of the second paragraph of article 2 of Act No. 68-1181 of 30 December 1968 are replaced by the following provisions:

"In respect of the exploitation of plant and animal resources belonging to sedentary species, nationals of States members of the European Economic Community shall be exempt from the authorization requirement provided for in paragraph 1, except in cases where such exploitation entails the emplacement on the continental shelf of fixed installations for fishing or marine cultivation."

Article 2

The provisions of article 6 of the above Act are replaced by the following provisions:

"Article 6. Subject to the provisions of the present Act and the texts adopted for its application, prospecting for and the extraction and transport by pipeline of all mineral or fossil substances contained in the subsoil of the continental shelf or existing on its surface shall be governed by the regime applicable in the metropolitan territory to geological deposits falling within the category of mines."

Article 3

The provisions of article 7 of the above Act are replaced by the following provisions:

"Article 7. Subject to the provisions of the Treaty establishing the European Economic Community and the texts adopted for its application, all maritime or aerial transport between French territory and the installations and devices emplaced on the adjacent continental shelf shall, unless a special exception is made by the competent Minister, be reserved for ships flying the French flag and for French aircraft."

Article 4

The provisions of articles 21 and 23 of the above Act of 30 December 1968 are replaced and supplemented by the provisions of articles 21, 23 and 23 bis, as follows:

"Article 21. Holders of liquid or gaseous hydrocarbon extraction permits, as well as holders of concessions and extraction permits for all other minerals subject, under the terms of article 6 above, to the mining regulations, shall be liable to pay a fee per net ton of product extracted, in an amount equal to the sum of the fees payable under articles 1519 and 1587 of the General Tax Code."

"The revenue from this fee shall be paid to the departements, which shall apportion at least half of it among the communes in accordance with a procedure to be established by decree of the Council of State. This decree shall specify to this end the criteria to be employed in designating the recipient departements and communes in the light of the geographical location of the deposit and the land-based installations involved in its exploitation."

"Article 23. The system of fees provided for under articles 20 and 21 above shall apply to holders of concessions and extraction permits issued with respect to the bed of the territorial sea and relating to the substances referred to in article 2 of the Mining Code."

"Article 23 bis. In the case of the overseas territories, the revenue from the fees referred to in articles 20 and 21 above shall be paid to those territories."

Article 5

The provisions of article 28 of the above-mentioned Act of 30 December 1968 are replaced by the provisions of articles 28, 28-1 and 28-2, as follows:

"Article 28. Without prejudice to the application of the provisions of the Mining Code, particularly articles 83, 84 and 85, and of the texts extending its application to all activities for the exploration and exploitation of the natural resources of the continental shelf, any discharge into the sea of hydrocarbons or mixtures of hydrocarbons likely to impair public health, marine fauna and flora and the economic and tourist development of the coastal regions shall be prohibited.

"Discharges resulting directly from exploration operations shall contain no hydrocarbons.

"Discharges resulting directly from extraction operations, including storage, may not have a mean hydrocarbon content or more than 20 parts per million, nor result in the release into the sea of a mean volume of hydrocarbons greater than 2 centilitres per day per hectare of the area covered by the extraction permit.

"Regulations more restrictive than the provisions of the preceding paragraph may be promulgated enacted in the light of local or particular extraction or environmental protection conditions.

"No extraction operation may be undertaken before a biological and ecological inventory of the marine environment in the area covered by the extraction permit has been drawn up at the expense of the holder of the said permit. This inventory shall be repeated at least once a year throughout the term of validity of the extraction permit.

"The procedure for the application of the present article shall be determined by decree of the Council of State."

"Article 28-1. The provisions of Act No. 64-1331 of 23 December 1964 making pollution of the sea by oil a punishable offence, as amended, shall apply:

"To installations or devices referred to in article 3 of the present Act when they are not engaged in exploration or exploitation."

"To operations of the said installations or devices which are not directly related to exploration or exploitation activities."

"Article 28-2. Any person found to be in violation of the provisions of article 23 of the present Act shall be liable to a fine of from 10,000 to 100,000 francs and to imprisonment for a term of from three months to two years, or to one of these two penalties only. In the case of a second or subsequent offence, these penalties shall be doubled.

"When the violation occurred on the instructions of the holder of the exploration or extraction permit, or his representative, or of the person on board the said installations and devices responsible for the conduct of the

exploration or extraction activities, including storage, the latter shall be liable to double the penalties provided for in the preceding paragraph.

"Any representative of the holder of the exploration or extraction permit who, being responsible for the said operations, has not given the person on the spot directly responsible for the conduct of the work written instructions to comply with the provisions of the first to fourth paragraphs of article 28 of the present Act shall be held to be an accomplice in the offence.

"Nevertheless, the offence shall be deemed not to have been committed when, all measures required for compliance with article 28 of the present Act having been taken:

"(a) The object of the discharge is to ensure the safety of an installation or device referred to in article 3 of the present Act or to avoid serious damage to them which would endanger the safety of life or the protection of the environment, or to save life at sea;

"(b) The release is the result of unforeseeable and unavoidable damage or leakage, provided that all necessary measures have been taken following the damage or the discovery of the leak to prevent, stop or reduce the release so as to limit its consequences".

Article 6

An article 28-3 shall be inserted in the above-mentioned Act of 30 December 1968, reading as follows:

"Article 28-3. The provisions of articles 28 to 28-2 above shall apply in the territorial waters, subject to more stringent measures which may be promulgated in application of the provisions of the Mining Code or for purposes of the protection of fisheries and marine cultivation".

Article 7

The provisions of article 33 of the above-mentioned Act of 30 December 1968 shall be replaced by the following provisions:

"Article 33. The following shall moreover be responsible for investigating the offences specified in articles 13, 24, 27, 28, 28-1, 28-2, 28-3, 29, 30, 31 and 32 of the present Act.

"Police officers;

"Maritime affairs administrators;

"Officers and petty officers in command of ships or boats of the French Navy;

"Inspectors of shipping and marine labour inspectors;

"Mechanical engineering inspectors;

"Mining engineers or State public works engineers assigned to the mines services of the relevant mineralogical districts;

"State civil engineers and public works engineers assigned to the maritime services as well as employees of these services appointed for the purpose;

"Port officers and deputy court officers;

"Customs officers."

"The following shall be required to investigate violations constituting the offence of pollution of the sea, collecting all relevant information for this purpose with a view to identifying persons committing such violations, and to report on them either to an administrator of maritime affairs or to a police officer:

"Members of the coast guard and the fisheries protection service;

"The commanding officers of State oceanographic vessels;

"The captains of military aircraft, civil defence aircraft and State aircraft assigned to the monitoring of maritime waters;

"Employees of the lighthouse and buoys services;

"Employees of the Maritime Fisheries Scientific and Technical Institute."

Article 8

Articles 33-1 and 33-2 added to the above-mentioned Act, as follows:

"Article 33-1. Reports drawn up in accordance with article 33 of the present Act shall be deemed valid until proven otherwise and shall not require an affidavit. They shall be transmitted forthwith to the Public Prosecutor by the reporting official, who shall at the same time address a copy to the Chief of the competent mineralogical arrondissement and the district Head of Maritime Affairs.

"Article 33-2. The Administration reserves the right to claim, through the procedure followed in cases of breach of the regulations governing major highways, reparation for damage to public property."

Article 9

A second paragraph is added to article 36 of the above mentioned Act of 30 December 1968, reading as follows:

"The provisions of the present Act shall apply, with the exception of article 1, to the sea-bed and its subsoil in the economic zone defined in article 1 of Act No. 76-655 of 16 July 1976."

Article 10

The provisions of article 36 of the above-mentioned Act of 30 December 1968 are replaced by the following provisions:

"Article 36. The terms of the adjustment of this Act to operations conducted on the continental shelf adjacent to communities of the overseas territories and, as necessary, to the bed of the territorial sea, shall be established by decree of the Council of State."

This Act shall be executed as a law of the State.