

Decree-Law No. 49-369 of 11 November 1969

The Convention on the Continental Shelf, done at Geneva on 29 April 1958, and ratified by Portugal extends the limits of the continental shelf to where the depth of the superjacent waters admits of the exploitation of natural resources.

Act No. 2080, of 21 March 1956, provided generally in paragraph II for licensing on the continental shelf to a depth of 200 metres, but subsequently a special law containing other provisions was adopted.

Modern technology is already capable of prospecting at depths far in excess of 200 metres, and it is expected that this year prospecting will be feasible at depths of up to 500 metres. (Report of the Ad Hoc Committee to study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, United Nations. p. 25)

Such technological advances have a direct bearing on natural resources. It is therefore advisable to enact special provisions without delay, governing the granting of licences for prospecting, exploration, evaluation and exploitation of these resources beyond a depth of 200 metres.

Now herefore:

Having heard the Corporative Council;

By virtue of the power conferred upon it by article 109, paragraph 2/(1) of the Constitution, the Government decrees and I do hereby promulgate as law the following:

Article 1

1. The areas in which licences shall be granted for the prospecting, exploration, evaluation and exploitation of mineral resources may be extended to the entire continental shelf.
2. For the purposes of this enactment, the continental shelf shall be deemed to be the sea-bed and subsoil of the submarine areas adjacent to national territory, whether continental or island territory, to where the depth of the superjacent waters admits of prospecting, exploration, evaluation and, eventually, exploitation of natural resources.
3. In the absence of an agreement with a State whose coasts are adjacent or opposite to those of the Portuguese State and unless another boundary line is justified by special circumstances, the boundary of the continental shelf shall be determined by the median line whose points are equidistant from the nearest points of the baselines from which the breadth of the respective territorial seas is measured.

Article 2

1. Licences may be granted for an area designated for immediate activities and a reserved area.
2. The area designated for such immediate activities as prospecting, exploration, evaluation and, eventually, exploitation, must be defined in the licensing agreement, and the licensee shall be liable for the payment of mining taxes and fees in respect of that area and for other contractual obligations.
3. The reserved area shall extend from the forward boundary of the immediate activities area as far as the depth

of the superjacent waters admits of prospecting, exploration, evaluation and, eventually, exploitation of mineral resources of the sea-bed and the subsoil thereof, if no other limit has been established in international agreements or conventions to which the Portuguese State is a party or in the licensing agreement.

Article 3

1. At the request of the licensee, where that request is well-founded, all or part of the reserved area may be declared an immediate activities area, and shall be subject to the arrangement set out in paragraph 2 of the preceding article.
2. If certain activities, such as prospecting, exploration or evaluation in the reserved areas, are determined to be in the national interest, the licensee shall be notified that he is to carry out those activities within the period indicated to him, and the area where the activities are to be carried out shall be declared an immediate activities area.
3. The time-limit for carrying out the activities may be extended when it appears necessary to do so.
4. If the activities have not been carried out within the period indicated, the Administration may revoke all or part of the licence for the reserved area and the licensee shall not be entitled to any compensation.

Article 4

The granting of licences under the terms of this enactment shall not preclude other licences from being granted in the areas concerned for prospecting, exploration, evaluation and exploitation of other mineral resources, when the activities in question are compatible.

Article 5

1. Licensees must conduct their activities in accordance with the agreements and conventions to which the Portuguese State is a party so as not to cause undue prejudice to navigation, fishing, conservation of the living resources of the sea, the laying and maintenance of submarine cables or pipelines, and oceanographic or other research carried out on the initiative or with the authorization of the Portuguese State.
2. Licensees must also take the necessary measures to avoid pollution of the sea, land and air environments and other hazardous or harmful effects.
3. Installations and other devices necessary to carry out the marine activities for which licences have been granted may not be erected or emplaced without the prior consent of the competent national authorities.
4. Licensees must establish safety zones around their installations or devices and make every effort to provide such protection and marking systems as the competent national authorities deem appropriate and consistent with the agreements and conventions to which the Portuguese State is a party.
5. Installations or devices which are abandoned or disused must be removed by the licensees, unless otherwise decided.

Article 6

1. No national or foreign entity whatsoever may conduct research concerning the continental shelf or oceanographic or other research, or engage in any other activity on the continental shelf, without the authorization of the competent ministerial departments.
2. Permits or licences for prospecting, exploration, evaluation or exploitation of mineral resources on the

continental shelf shall be subject to the approval of the Council of Ministers.

Article 7

1. Licensees shall post a bond in order to guarantee compensation for any damages caused by their activity and payment of any fines to which they may be liable.
2. The amount of the bond shall be fixed in the licensing agreement.

Article 8

The transfer of the rights granted shall require the authorization of the Council of Ministers.

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