

L.N. 393 of 1998

PROMULGATION OF NATIONAL LAW 1998

Whereas Article 18 of the Basic Law of the Hong Kong Special Administrative Region provides that the national laws listed in Annex III thereto shall be applied locally by way of promulgation or legislation by the Region and that the Standing Committee of the National People's Congress may add to or delete from the list of laws in Annex III after consulting its Committee for the Basic Law of the Hong Kong Special Administrative Region and the government of the Region.

And Whereas at its Fifth meeting on 4 November 1998, the Standing Committee of the Ninth National People's Congress, after consultation with its Committee for the Basic Law and the Government of the Hong Kong Special Administrative Region, resolved to add the Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf to the list of national laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region.

Now Therefore I, Tung Chee-hwa, the Chief Executive of the Hong Kong Special Administrative Region give notice that the Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf as set out in the Schedule shall apply, on and from 24 December 1998, in the Hong Kong Special Administrative Region.

SCHEDULE

《中華人民共和國專屬經濟區和大陸架法》

(1998年6月26日第九屆全國人民代表大會常務委員會
第三次會議通過 1998年6月26日
中華人民共和國主席令第六號
公布 1998年6月26日起施行)

第一條 為保障中華人民共和國對專屬經濟區和大陸架行使主權權利和管轄權，維護國家海洋權益，制定本法。

第二條 中華人民共和國的專屬經濟區，為中華人民共和國領海以外並鄰接領海的區域，從測算領海寬度的基線量起延至二百海里。

中華人民共和國的大陸架，為中華人民共和國領海以外依本國陸地領土的全部自然延伸，擴展到大陸邊外緣的海底區域的海床和底土；如果從測算領海寬度的基線量起至大陸邊外緣的距離不足二百海里，則擴展至二百海里。

中華人民共和國與海岸相鄰或者相向國家關於專屬經濟區和大陸架的主張重疊的，在國際法的基礎上按照公平原則以協議劃定界限。

第三條 中華人民共和國在專屬經濟區為勘查、開發、養護和管理海床上覆水域、海床及其底土的自然資源，以及進行其他經濟性開發和勘查，如利用海水、海流和風力生產能等活動，行使主權權利。

中華人民共和國對專屬經濟區的人工島嶼、設施和結構的建造、使用和海洋科學研究、海洋環境的保護和保全，行使管轄權。

本法所稱專屬經濟區的自然資源，包括生物資源和非生物資源。

第四條 中華人民共和國為勘查大陸架和開發大陸架的自然資源，對大陸架行使主權權利。

中華人民共和國對大陸架的人工島嶼、設施和結構的建造、使用和海洋科學研究、海洋環境的保護和保全，行使管轄權。

中華人民共和國擁有授權和管理為一切目的在大陸架上進行鑽探的專屬權利。

本法所稱大陸架的自然資源，包括海床和底土的礦物和其他非生物資源，以及屬於定居種的生物，即在可捕撈階段在海床上或者海床下不能移動或者其軀體須與海床或者底土保持接觸才能移動的生物。

第五條 任何國際組織、外國的組織或者個人進入中華人民共和國的專屬經濟區從事漁業活動，必須經中華人民共和國主管機關批准，並遵守中華人民共和國的法律、法規及中華人民共和國與有關國家簽訂的條約、協定。

中華人民共和國主管機關有權採取各種必要的養護和管理措施，確保專屬經濟區的生物資源不受過度開發的危害。

第六條 中華人民共和國主管機關有權對專屬經濟區的跨界種群、高度洄游魚種、海洋哺乳動物、源自中華人民共和國河流的溯河產卵種群、在中華人民共和國水域內度過大部分生命周期的降河產卵魚種，進行養護和管理。

中華人民共和國對源自本國河流的溯河產卵種群，享有主要利益。

第七條 任何國際組織、外國的組織或者個人對中華人民共和國的專屬經濟區和大陸架的自然資源進行勘查、開發活動或者在中華人民共和國的大陸架上為任何目的進行鑽探，必須經中華人民共和國主管機關批准，並遵守中華人民共和國的法律、法規。

第八條 中華人民共和國在專屬經濟區和大陸架有專屬權利建造並授權和管理建造、操作和使用人工島嶼、設施和結構。

中華人民共和國對專屬經濟區和大陸架的人工島嶼、設施和結構行使專屬管轄權，包括有關海關、財政、衛生、安全和出境入境的法律和法規方面的管轄權。

中華人民共和國主管機關有權在專屬經濟區和大陸架的人工島嶼、設施和結構周圍設置安全地帶，並可以在該地帶採取適當措施，確保航行安全以及人工島嶼、設施和結構的安全。

第九條 任何國際組織、外國的組織或者個人在中華人民共和國的專屬經濟區和大陸架進行海洋科學研究，必須經中華人民共和國主管機關批准，並遵守中華人民共和國的法律、法規。

第十條 中華人民共和國主管機關有權採取必要的措施，防止、減少和控制海洋環境的污染，保護和保全專屬經濟區和大陸架的海洋環境。

第十一條 任何國家在遵守國際法和中華人民共和國的法律、法規的前提下，在中華人民共和國的專屬經濟區享有航行、飛越的自由，在中華人民共和國的大陸架享有鋪設海底電纜和管道的自由，以及與上述自由有關的其他合法使用海洋的便利。鋪設海底電纜和管道的路線，必須經中華人民共和國主管機關同意。

第十二條 中華人民共和國在行使勘查、開發、養護和管理專屬經濟區的生物資源的主權權利時，為確保中華人民共和國的法律、法規得到遵守，可以採取登臨、檢查、逮捕、

扣留和進行司法程序等必要的措施。

中華人民共和國對在專屬經濟區和大陸架違反中華人民共和國法律、法規的行為，有權採取必要措施、依法追究法律責任，並可以行使緊追權。

第十三條 中華人民共和國在專屬經濟區和大陸架享有的權利，本法未作規定的，根據國際法和中華人民共和國其他有關法律、法規行使。

第十四條 本法的規定不影響中華人民共和國享有的歷史性權利。

第十五條 中華人民共和國政府可以根據本法制定有關規定。

第十六條 本法自公布之日起施行。

(English Translation)

Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf
(Adopted at the 3rd Meeting of the Standing Committee of the Ninth National People's Congress on June 26, 1998, promulgated by Order No. 6 of the President of the People's Republic of China on June 26, 1998, and effective as of the same date)

Article 1 This Law is enacted to protect the People's Republic of China's exercise of its sovereign rights and jurisdiction over the exclusive economic zone and the continental shelf, and to safeguard its national maritime rights and interests.

Article 2 The exclusive economic zone of the People's Republic of China is an area beyond and adjacent to its territorial sea, extending to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

The continental shelf of the People's Republic of China is the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

Where there are conflicting claims between the People's Republic of China and another country whose coast is adjacent or opposite to that of the People's Republic of China over the delimitation of the exclusive economic zone and the continental shelf, the delimitation shall be determined by agreement in accordance with the principle of equity on the basis of international law.

Article 3 The People's Republic of China exercises sovereign rights over the exclusive economic zone for the purpose of exploring, exploiting, conserving and managing the natural resources of the waters superjacent to the sea-bed and of the

sea-bed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.

The People's Republic of China exercises jurisdiction over the exclusive economic zone with regard to the establishment and use of artificial islands, installations and structures, marine scientific research and the protection and preservation of the marine environment.

The natural resources of the exclusive economic zone referred to in this Law include both living resources and non-living resources.

Article 4 The People's Republic of China exercises sovereign rights over the continental shelf for the purpose of exploring and exploiting the natural resources of the continental shelf.

The People's Republic of China exercises jurisdiction over the continental shelf with regard to the establishment and use of artificial islands, installations and structures, marine scientific research and the protection and preservation of the marine environment.

The People's Republic of China shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes.

The natural resources of the continental shelf referred to in this Law consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

Article 5 Any international organization, foreign organization or individual must obtain approval from the competent authority of the People's Republic of China before entering the exclusive economic zone of the People's Republic of China to engage in fishery activities, and must comply with the laws and regulations of the People's Republic of China as well as the treaties and agreements signed between the People's Republic of China and the relevant countries.

The competent authority of the People's Republic of China shall have the right to ensure through proper conservation and management measures that the living resources in the exclusive economic zone are not endangered by over-exploitation.

Article 6 The competent authority of the People's Republic of China shall have the right to conserve and manage in the exclusive economic zone the transboundary stocks, the highly migratory species, the marine mammals, the anadromous stocks which originate in the rivers of the People's Republic of China and the catadromous species which spend the greater part of their life cycle in the waters of the People's Republic

of China.

The People's Republic of China enjoys primary interest in the anadromous stocks which originate in the rivers of the People's Republic of China.

Article 7 Any international organization, foreign organization or individual must obtain approval from the competent authority of the People's Republic of China before undertaking activities to exploit or explore the natural resources of the exclusive economic zone or the continental shelf of the People's Republic of China, or for drilling on the continental shelf of the People's Republic of China for any purpose, and must comply with the laws and regulations of the People's Republic of China.

Article 8 The People's Republic of China shall have the exclusive right in the exclusive economic zone and the continental shelf to construct, and to authorize and regulate the construction, operation and use of artificial islands, installations and structures.

The People's Republic of China exercises exclusive jurisdiction over artificial islands, installations and structures in the exclusive economic zone or on the continental shelf, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

The competent authority of the People's Republic of China may establish safety zones around artificial islands, installations and structures in the exclusive economic zone or on the continental shelf, and it may in such zones take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

Article 9 Any international organization, foreign organization or individual must obtain approval from the competent authority of the People's Republic of China before conducting any marine scientific research in the exclusive economic zone or on the continental shelf of the People's Republic of China, and must comply with the laws and regulations of the People's Republic of China.

Article 10 The competent authority of the People's Republic of China shall have the right to take necessary measures to prevent, reduce and control pollution of the marine environment and to protect and preserve the marine environment of the exclusive economic zone and the continental shelf.

Article 11 Subject to compliance with international law and the laws and regulations of the People's Republic of China, all countries enjoy freedom of navigation and overflight in the exclusive economic zone of the People's Republic of China and freedom to lay submarine cables and pipelines in the exclusive economic zone or on the continental shelf, as well as the convenience of other lawful uses of the sea relating to such freedoms. Prior consent to the course for the laying of

submarine cables and pipelines has to be obtained from the competent authority of the People's Republic of China.

Article 12 The People's Republic of China may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take necessary measures such as boarding, inspection, arrest, detention and judicial proceedings etc. to ensure compliance with the laws and regulations of the People's Republic of China.

The People's Republic of China may, in respect of any violation of the laws or regulations of the People's Republic of China in the exclusive economic zone or on the continental shelf, take necessary measures, proceed against anyone for legal responsibility according to law, and exercise the right of hot pursuit.

Article 13 The rights enjoyed by the People's Republic of China over the exclusive economic zone and the continental shelf which are not provided for under this Law shall be exercised under the international law and other relevant laws and regulations of the People's Republic of China.

Article 14 The provisions of this Law shall not prejudice any historical right enjoyed by the People's Republic of China.

Article 15 The Government of the People's Republic of China may make relevant provisions under this Law.

Article 16 This Law shall come into force on the date of promulgation.

TUNG Chee-hwa
Chief Executive
18 December 1998