

**TA No. 4595-THA: Supporting Post-Tsunami Activities & Coastal Zone  
Management**

**Final Report**

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## **ABBREVIATIONS**

ADB	Asian Development Bank
CZM	Coastal zone management
DMCR	Department of Marine and Coastal Resources, Ministry of Natural Resources and Environment
IUCN	The World Conservation Union
MoNRE	Ministry of Natural Resources and Environment
NGO	Non-governmental organization
TA	Technical Assistance

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## Knowledge Summary

In Thailand, a dozen policies and plans and central and provincial level pertain to issues in coastal zone and marine area management and three dozen legal instruments govern natural resources and processes and activities that affect them. A draft National Coastal and Marine Policy, prepared in 2003, still awaits approval. While policies are perceived to be insufficient, the project's review of their provisions indicated that in fact they are generally adequate. Many of the policy provisions are not yet implemented in legislation, however, which may lead at least in part to the perception that the policy regime is deficient.

As identified by stakeholders, the primary obstacle to effective management of the coastal zone and marine areas is the lack of clarity in the allocation of powers and functions within the central as well as the decentralized bureaucracy, exacerbated by a lack of coordination both vertically from the central to local authorities as well as horizontally among authorities at all levels.

Non-implementation of constitutional guarantees of public participation in natural resource management and in environmental impact assessment (EIA) processes and inadequate enforcement of otherwise substantively adequate laws are principal drivers of unsustainable practices in the coastal zone and marine areas. A significant proportion of the non-enforcement is attributed not to deficiencies in the legal regime, but to the overriding influence of powerful personal interests.

Of 20 existing laws that govern various aspects related to the management of the coastal zone and marine areas, only six are implemented by the Ministry of Natural Resources and Environment (MoNRE). Given that MoNRE has no responsibility or authority for the majority of the issues affecting, and legal instruments governing, the coastal zone and marine areas, the effectiveness of a regulatory regime exclusively under MoNRE's jurisdiction would be limited.

As the regulatory framework for the coastal zone and marine areas is implemented by no less than nine ministries and authorities, what is called for is consolidation under an institution with clearly defined responsibilities for coordination and enforcement. The draft Promotion of Marine and Coastal Resources Management Act attempts to do this, as well as implement constitutional guarantees of citizens' rights to participate in natural resource management and to have access to information about it, and provide for conservation of coastal and marine resources.

The draft Act gives MoNRE's Department of Marine and Coastal Resources (DMCR) a legal mandate, which it has lacked to date. The coordinating authority – the National Marine and Coastal Resources Committee – is multi-sectoral and is chaired by the Prime Minister, of which the Minister of MoNRE is the Vice Chair, and for which DMCR serves as secretariat. The draft Act establishes Marine and Coastal Resources Committees at provincial and local levels, provides for coordination with provincial and local authorities, and establishes the process for recognizing coastal communities and giving them legal personality. In addition to its procedural elements, the draft Act provides for conservation of coastal and marine resources, including strict liability for hazardous activities.

## Executive Summary

The purpose of this Technical Assistance (TA) project was to improve the legal and regulatory framework for coastal zone management (CZM) in Thailand and to contribute to adequate field-level coordination of government and non-government agencies involved in post-tsunami rehabilitation activities in the coastal zone. From inception to midterm, it was anticipated that the output of this TA would be proposed amendments to existing laws regulating aspects of the management of the coastal zone and marine areas. At midterm, it was agreed that the project focus would be shifted to produce a draft law on coastal zone management, as the Department of Marine and Coastal Resources (DMCR) of the Ministry of Natural Resources and Environment urgently required a draft law by July 2006.

Before the TA team began drafting, the TA Steering Committee met to discuss and comment on the draft outline for the law. Within four months, the TA team produced two drafts of the law. Public consultations and TA Steering Committee meetings were convened to consider and comment on each draft. DMCR convened the legal officers of government departments with responsibility for aspects of coastal zone and marine area management to comment on the second draft. The TA team met informally with all DMCR staff to present and discuss the second draft and gather staff comments before the DMCR Law Development Team met and approved it.

Most of the substantive issues involved in managing the coastal zone and marine areas – among them land tenure and use, terrestrial and marine protected areas, species conservation, and local government – are already governed by existing legislation. Other laws in force regulate the sectors and industries that impact the coastal zone and marine areas, in particular the Ministry of Agriculture and the Department of Fisheries.

The project Steering Committee was very clear that this draft law should not infringe on the jurisdiction of other ministries and departments that had already been established under existing laws. The draft Act, therefore, does not affect institutional jurisdiction and instead provides for mechanisms to coordinate the mandates and initiatives of the multiple institutional actors in the coastal zone and marine areas. It provides an expanded mandate for DMCR, which serves as the secretariat of the National Marine and Coastal Resources Committee. Its authority will be strengthened by the fact that it will act on behalf of a multi-sectoral authority chaired by the Prime Minister, and of which its own Minister is the Vice Chair.

In the first phase of the project, stakeholders identified 12 categories of issues to be addressed by a regulatory regime for the coastal zone and marine areas: lack of clarity in the allocation of powers and functions within the central as well as the decentralized bureaucracy; lack of coordination both vertically from central to local authorities as well as horizontally among authorities at all levels; lack of opportunity for public participation in decision-making at all levels of government and particularly at the local level in the coastal zone; lack of opportunity for local communities to share in the benefits of development in the coastal zone and of natural resource management in both the coastal zone and marine areas; inadequate capacity and funding for species conservation and management; need for certain advantages to subsistence fishers, including allowances for particular types of fishing gear and identified fishing areas; invasions of public land by private interests; inadequate regulation of tourism service providers and activities, and in particular the need to establish zones for tourism and recreation to minimize the impact of tourism on reefs; lack of clarity with respect to institutional responsibility and coordination for response and clean-up of pollution; lack of incentives for sustainable development, in particular

the provision of the National Environmental Quality Policy that specifies that development in the coastal zone must minimize impact on coastal resources; inadequacy of law governing the specific issues of land possession and tenure in the coastal zone; and need to review and harmonize definitions of all terms in all laws governing resources and activities in the coastal zone and marine areas.

Participants in public consultations on working drafts of the law emphasized the need for the coordination mechanism to be strong but flexible, and for the local, provincial, and national levels to be well-integrated with each other and with law enforcement agencies. The draft Act therefore first establishes the process for recognizing coastal communities and giving them legal personality and provides an inter-ministerial, cross-sectoral committee mechanism to coordinate all of the governmental actors that already operate in the coastal zone and marine areas.

Land tenure and zoning, control and mitigation of coastal erosion, and regulation of tourism were the substantive issues highlighted throughout the public consultations, which also stressed that public officials must be held accountable for their actions, that there must be public access to information, and that there must be more severe penalties and more effective law enforcement. The draft Act provides for conservation of coastal and marine resources, including strict liability for hazardous activities.

If adopted as drafted, the draft Promotion of Marine and Coastal Resources Management Act would implement constitutional guarantees of rights to information and participation in resource management, provide a framework within which the multiple government authorities operating in the coastal zone and marine areas can coordinate and harmonize their functions, and provide for resolving conflicts of jurisdiction among government authorities and for resolving disputes among stakeholders. By providing mechanisms to resolve conflicts of jurisdiction among government authorities operating in the coastal zone and marine areas, the draft Act would facilitate ongoing rehabilitation activities in the coastal provinces affected by the 2004 tsunami. The issues of allowing citizen participation in resource management and of sharing benefits with local people have a long history of being highly contentious in Thailand. If this draft Act can be adopted with its co-management and benefit-sharing provisions even relatively intact, it will provide a precedent for governing other types of ecosystems as well.

DMCR will submit the draft Act to the Minister of Natural Resources and Environment for consideration and submission to the Secretary-General of the Cabinet, at which time a standard governmental process of vetting a draft law will begin. It may be anticipated that the draft Act will be revised several times before being submitted to the National Assembly for debate and adoption.

The consultations undertaken during both the pre-drafting phase and the drafting phase of this TA have significantly contributed to the second outcome of the TA, which was to raise awareness of the issues involved in the sustainable management of the coastal zone and marine areas in the country. Stakeholders have indicated informally to DMCR their appreciation for the inclusiveness of the consultation process. The shared awareness of the complexity of the issues confronting effective CZM management in Thailand and the support for the draft created through this TA will contribute to the backing that will be required for its adoption.

## I. Introduction

1. The purpose of this Technical Assistance (TA) project was to improve the legal and regulatory framework for coastal zone management (CZM) in Thailand and to contribute to adequate field-level coordination of government and non-government agencies involved in post-tsunami rehabilitation activities in the coastal zone. Post-tsunami activities generally were coordinated by the Department of Disaster Prevention and Mitigation of the Ministry of Interior, whose overall priorities for the immediate post-tsunami period were the search for survivors, coping with the large number of fatalities, relief operations, and compensation schemes for victims. By June 2005, the emergency phase was considered to be over in Thailand; implementation of this TA began in August 2005. This TA was channelled through the Department of Marine and Coastal Resources (DMCR) of the Ministry of Natural Resources and Environment (MoNRE). Thailand's longer-term recovery efforts are focused on livelihoods recovery, social recovery, environmental recovery, provision of shelter, and disaster preparedness and early warning systems. Although most environmental recovery activities involve assessing environmental impacts of the tsunami and the status and rehabilitation of natural resources post-tsunami, DMCR considered this TA to be an integral part of its post-tsunami response efforts.

2. DMCR/MoNRE's rationale for requesting that post-tsunami assistance from the Asian Development Bank (ADB) be focused on the regulatory framework was two-fold:

- a. activities in the coastal zone and marine area are regulated by more than 30 different laws, with no overarching regulatory structure to provide for coordination; and
- b. DMCR's mandate is currently set out only in a ministerial decision, with no supporting legislation to provide legal cover for its activities.

One of the principal issues in implementing post-tsunami activities was the often-heard complaint that "no one is in charge" in the coastal zone. By providing a structure for the regulatory framework that applies in the coastal zone and marine areas and giving DMCR a mandate to coordinate it, MoNRE hoped to strengthen not only post-tsunami rehabilitation efforts but also the CZM aspects of all future development initiatives in all coastal provinces, not only those affected by the tsunami.

3. The TA paper and the Technical Proposal for this TA indicated that the output of this project could be either proposed amendments to existing laws or new legislation to support integrated coastal zone and marine area management in Thailand. At the inception meeting, DMCR advised that the project would focus on proposing amendments to existing laws, rather than on preparing new legislation, as DMCR planned to finalize new legislation in 2006, pending the results of the second phase of the government's overall initiative on reorganizing the bureaucracy (see Midterm Report, para. 2 and Inception Report, para. 84).

4. At midterm, the project had completed reviews of existing laws governing the coastal zone and marine areas plus a series of consultations and had developed a proposal for 65 amendments to 20 existing laws. The amendments proposed were for four laws administered by MoNRE – the National Environmental Quality Act (1992); the National Reserved Forests Act (1964); the National Parks Act (1961); and the Forest Act (1941) – that were already in processes of review and amendment which were considerably advanced. Sixty percent of the proposed amendments were for legal instruments for which MoNRE has no responsibility. Nine of the proposed amendments to laws for which MoNRE has no responsibility – those for the Fisheries Act – dealt with coastal and marine resources. The rest were proposed for laws that

govern activities with significant impact on natural resources in the coastal zone and marine areas. As the TA was re-oriented at mid-term (see para. 5, below), the TA did not negotiate their contents with other MoNRE departments or with other ministries. The TA did submit the proposals for amendments, translated into Thai, to the TA Steering Committee, on which other MoNRE departments, other ministries, and the Council of State were represented. The TA also held consultations with lawyers from other agencies that are responsible for implementing laws that govern activities in the coastal zone and marine areas in order to ensure, to the extent possible, the harmonization of the draft Promotion of Marine and Coastal Resources Management Act with other laws, in particular laws that were in the process of being revised at the time the draft Act was being prepared.

5. At mid-term, it was agreed that the project focus would be shifted to produce a draft law on coastal zone management, as DMCR urgently required a draft law by July 2006. DMCR communicated the changed scenario to IUCN on 24 November 2005; the information was included in the Midterm report submitted on 2 December 2005. Following the Midterm Tripartite Meeting on 14 December 2005, IUCN on 30 December submitted a request for a budget-neutral extension of the project to 31 July 2006 to accommodate DMCR's requirements. On 12 January 2006, ADB communicated no objection to the budget-neutral extension.

6. In the final stage of this project, the status of scheduled activities in relation to the revised workplan is as follows:

Workplan		Status
Activity	Scheduled	
Policy review for draft CZM law	31.12.05	Completed 19.12.05
Review of CZM laws of other countries	31.12.05	Completed 21.02.06
Draft outline of new CZM law	10.02.06	First draft completed 06.02.06, 4 <sup>th</sup> draft 24.02.06
Steering Committee meeting to consider the draft outline of the new CZM law	17.02.06	Held 17.02.06
First draft of new CZM law	07.04.06	Completed 11.04.06
Stakeholder consultation on first draft	20.04.06	Held 21.04.06
Steering Committee meeting to consider first draft	27.04.06	Held 24.04.06
Second draft of new CZM law	25.05.06	Completed 05.06.06
Stakeholder consultation on second draft	31.05.06	Held 16.06.06
Steering Committee meeting to consider second draft	08.06.06	Held 15.06.06
Draft CZM Act finalized	17.07.06	Completed 19.07.06
Draft Act translated into English		Completed 21.08.06

## II. Results of consultations

### A. First-phase consultations

7. Three consultations were held during the first phase of the project to gather input from stakeholders in the coastal zone. Reports on the results of the consultations, including lists of participants, were included in the Inception Report, submitted 15 September 2005 and the Midterm Report, submitted 2 December 2005.

8. Issues brought out in the first-phase consultations were grouped into 12 categories:

- a. Lack of clarity in the allocation of powers and functions within the central as well as the decentralized bureaucracy;
- b. Lack of coordination both vertically from central to local authorities as well as horizontally among authorities at all levels;
- c. Lack of opportunity for public participation in decision-making at all levels of government and particularly at the local level in the coastal zone;
- d. Lack of opportunity for local communities to share in the benefits of development in the coastal zone and of natural resource management in both the coastal zone and marine areas;
- e. Inadequate capacity and funding for species conservation and management;
- f. Need for certain advantages to subsistence fishers, including allowances for particular types of fishing gear and identified fishing areas;
- g. Invasions of public land by private interests;
- h. Inadequate regulation of tourism service providers and activities, and in particular the need to establish zones for tourism and recreation to minimize the impact of tourism on reefs;
- i. Lack of clarity with respect to institutional responsibility and coordination for response and clean-up of pollution;
- j. Lack of incentives for sustainable development, in particular the provision of the National Environmental Quality Policy that specifies that development in the coastal zone must minimize impact on coastal resources;
- k. Inadequacy of law governing the specific issues of land possession and tenure in the coastal zone; and
- l. Need to review and harmonize definitions of all terms in all laws governing resources and activities in the coastal zone and marine areas.

Addressing these issues was the basis for the first draft of the law.

## **B. Consultations on the first draft**

9. Comments made by members of the project Steering Committee on the first draft of the law focused primarily on the need to ensure that the draft Act does not overlap and/or conflict with existing law. In particular, the representative of the Council of State agreed with the list of issues to be dealt with by the draft law and also noted that other legislation currently being amended should be harmonized with it. A related Steering Committee recommendation was that there should be a meeting of the lawyers involved in preparing amendments to existing laws to ensure that overlaps and conflicts are avoided. Such a meeting was convened under this TA on 19 June 2006; the results are discussed in paragraphs 17-18, below. The Steering Committee also noted that penalties for violations must be severe. The translated notes of the meeting are attached as Appendix 1 to this report.

10. Participants in the public consultation on the first draft of the law emphasized that the rights of coastal communities should be the priority of the draft law and debated how community rights should be guaranteed. Among the points raised during the debate were:

- a. The fact that electing local committees would open them to influence from outside business interests and weaken local communities in the long-term;
- b. The need to be very specific on the functions and scope of the powers of the committees at each level and the need to harmonize the powers and

- functions of the provincial and local committees with existing powers of local authorities;
- c. The possibility of enabling a trial period of one year for regulations adopted at the local level;
  - d. The need to establish an effective system for collaboration among local committees and other law enforcement authorities, including the Navy and the Marine Police, to enforce the law; and
  - e. That the committee system should be a mechanism for coastal communities to negotiate with the State, particularly where mega-projects are concerned.
11. Additional issues raised during the public consultation included:
- a. That the scope of the law should include the Exclusive Economic Zone;
  - b. Whether local fishermen would have to contribute to the proposed local fund;
  - c. That the fund would have to have a strong committee administering it, to deal with conflicts of interest within communities;
  - d. That the greater percentage of benefits shared should go to local communities;
  - e. That there must be a requirement for public access to information to ensure transparency in implementation of the law; and
  - f. That penalties for violations should be more severe;
- One participant recommended using newspapers to conduct a national public hearing on the draft Act before adopting it. The translated notes of the consultation are attached as Appendix 2 to this report.
12. The project team took all comments into account in preparing the second draft.

### **C. Consultations on the second draft**

13. The Steering Committee's observations on the second draft focused on the following issues:
- a. The need to make the proposed committee structure as flexible as possible so that a delay in committee decision-making would not hamper management operations;
  - b. The need to review the powers and duties of competent officers under the draft law;
  - c. The need to provide explicitly for links in the implementation of the draft law and existing legislation, in particular laws on land tenure and use and on the designation of zones for different purposes; and
  - d. The need for a final review of the definitions.
14. Subject to the requested revisions, the Steering Committee approved the second draft. The translated notes of the meeting are attached as Appendix 3 to this report.
15. Participants in the public consultation on the second draft raised the following issues:
- a. The need for provisions on controlling and mitigating coastal erosion;
  - b. The need to provide for funding for certain activities, such as the laying of artificial reefs;
  - c. The need to provide for more effective enforcement, particularly of the existing three-mile zone that is supposed to be reserved for coastal fisheries and where trawlers are not permitted; and

- d. The need to provide for accountability of public officials so that any official action that has a negative impact on the sustainable use of the coastal zone and marine areas may be sanctioned, particularly in cases where one governmental authority acts in violation of laws and regulations administered by another governmental authority.

16. The final comment of the consultation came from a participant from a coastal community, who noted that every community is different, that those differences must be acknowledged, and that the DMCR should structure its activities to ensure close cooperation with coastal communities to overcome the lack of understanding and fear that characterize many people's interactions with State officers. The translated notes of the consultation are attached as Appendix 4 to this report.

17. Legal officers of government agencies responsible for administering various issues related to coastal and marine resources, meeting together to discuss the draft law with the project team, made the following comments:

- a. There needs to be a mechanism to ensure that all committees work in harmony;
- b. Provisions on civil liability need to be reviewed and harmonized;
- c. The legal personality of the coastal community needs to be specified;
- d. There should be national-level representation on the provincial committees;
- e. There should be more stringent regulation of tourism;
- f. Zoning of public land must be consistent with the Land Law; and
- g. Some definitions need to be added or revised and others should be deleted.

18. As well as gathering input from other agencies on the draft Act, an additional objective of the meeting of agency lawyers was to provide an incentive and the information needed for other agencies that are in the process of preparing amendments to the legislation for which they are responsible to harmonize those amendments with the provisions of the draft Act. Although the Fisheries Act is in the process of being revised, no representative of the Fisheries Department attended the meeting. The project team secured input on the draft Act from the Fisheries Department informally. Only when the draft of the amended Fisheries Act is circulated for comment, will it be possible to confirm whether its provisions are harmonized with the draft Act.

19. One legal expert from a MoNRE department noted that the concept of public participation varies substantially from one law to another and that there should be one common approach to public participation. In his opinion, local communities could be allowed to participate in decision-making, but should not be allowed to manage resources directly. Two participants noted that conferring rights on communities should not be interpreted as legalizing or justifying existing invasions of public lands. The translated notes of the meeting are attached as Appendix 5 to this report.

20. DMCR's Law Development Team met formally to consider the draft. Comments from the team included:

- a. Clarify coastal communities' rights, particularly with respect to the area that is under their responsibility;
- b. Clarify that including the 3,000 meter marine area is consistent with the Fisheries Act;
- c. Clarify that the coastal area includes mangroves;
- d. Ensure that coastal community areas will not conflict with existing laws;
- e. Review all definitions and define "sea" as it is defined internationally;

- f. Ensure that DMCR has a role in approving and permitting all activities that impact coastal and marine resources.

21. Subject to revisions based on the comments made, the second draft was approved. The translated notes of the meeting are attached as Appendix 6 to this report. Prior to the formal meeting with DMCR's Law Development Team, the TA team met informally with all DMCR staff to present and discuss the draft law and gather staff comments, which were also considered in producing the final draft of the Act.

### **III. The Draft Promotion of Marine and Coastal Resources Management Act**

22. An English translation of the draft Promotion of Marine and Coastal Resources Management Act is attached as Appendix 7 to this report. A table indicating how the final draft Act responds to comments received during the consultations is attached as Appendix 8 to this report. The original Thai version of this draft was formally submitted to DMCR for submission to the Minister of Natural Resources and Environment.

23. Implementation of constitutional guarantees of public participation in natural resource management and access to information is one of the key objectives of the draft Act. In the Thai system, constitutional provisions are not directly effective, but must be implemented through legislation. Sections 46 and 56 of the Constitution establish the rights of traditional communities and the general public to have a meaningful role in natural resource management and environmental protection, while Section 290 empowers local authorities to conserve and manage natural resources and the environment. Sections 58 and 59 enshrine a general right to access public information – in particular information on any activity that may affect the quality of the environment, and the right to express opinions on such issues through public hearings.

24. Regarding responsibilities with respect to the environment, Section 69 of the current Constitution mandates that the people have the duty to conserve natural resources and the environment. Section 79 prescribes the duty of the government to promote and support public involvement in the conservation and the sustainable use of natural resources and the environment including the duty of the local administrative organizations in the maintenance, management and sustainable use of natural resources and the environment.

25. The draft Act reflects an attempt to balance issues identified as priorities during the consultations with current political reality in Thailand, particularly with respect to participation of local communities in decision-making and in benefit-sharing. Following the meeting of the Steering Committee on the second draft, the representative of the Council of State informally recommended that all references to community participation and benefit-sharing should be removed from the draft Act in order for it to have a chance of being adopted. This recommendation was also reflected in comments made during the meeting of the legal officers of government agencies responsible for administering various aspects of coastal and marine resources and is indicative of the degree of resistance to these concepts at the political level in the country.

26. The draft Act retains its provisions for community participation in both decision-making and benefit-sharing for two reasons, the first of which is to implement the constitutional guarantees referenced in paragraphs 23 and 24 with respect to the coastal zone and marine areas. The second reason for retaining the

community participation provisions in the draft Act is that coastal and marine ecosystems are vast and complex – beyond the capacity of any single government agency, or even several agencies working in collaboration, to manage effectively. Communities are interested parties, as their livelihoods either partly or entirely depend on these ecosystems. They should be recognized as allies and partners in efforts to sustainably manage coastal and marine resources, and they should be able to realize sustainable benefits in return for their contributions.

27. Most of the substantive issues involved in managing the coastal zone and marine areas – among them land tenure and use, terrestrial and marine protected areas, species conservation, and local government – are already governed by existing legislation. Other laws in force regulate the sectors and industries that impact the coastal zone and marine areas, in particular the Ministry of Agriculture and the Department of Fisheries. This conventional approach to regulation means that coastal and marine resources are governed piecemeal; the provisions of sectoral laws are implemented within that sector, with little or no regard for the effects of implementation on other sectors or communities. This does not reflect actual practice that has developed in recent years in spite of the existing legal regime, in recognition of the fact that issues must be addressed in ways that require joint effort. The draft Act reflects successful actual practice and promotes its development by providing a system for integrating the interests and efforts of coastal communities with those of local authorities, law enforcement agencies and other government entities. The draft Act first establishes the process for recognizing coastal communities and giving them legal personality and provides an inter-ministerial, cross-sectoral committee mechanism to coordinate all of the governmental actors that already operate in the coastal zone and marine areas.

28. The draft Act provides DMCR an expanded mandate, serving as the secretariat of the National Marine and Coastal Resources Committee. Its authority will be strengthened by the fact that it will act on behalf of a multi-sectoral body chaired by the Prime Minister, and of which its own Minister is the Vice Chair. Under the draft Act, DMCR acts not only as a unifying and consolidating secretariat, but also has a designated leading role to expedite the establishment and recognition of coastal communities during the first years of implementation of the law.

29. The committee mechanism proposed in the draft Act is one that is already used by the Thai government generally and in the coastal and marine context specifically. Committees on Coastal Erosion and Construction of Habitats for Marine Animals, for example, already exist at the national level and will continue to function under the umbrella of the National Marine and Coastal Resources Committee.

30. The draft Act establishes two mechanisms which would seem to be in conflict. The government side tends to view community participation as too extreme a management option, while the non-governmental side perceives committee mechanisms as too centralized and rigid. The draft Act seeks to integrate and balance these competing perspectives and provide a framework and a context in which community participation and mechanisms for coordinating government agency action can function effectively together and check and balance each other democratically. In addition, the draft Act creates a neutral “third party” coordinating working group of institutions with experience in assisting interested parties to work together constructively in the coastal zone.

31. The draft Act formalizes other existing practices that have proven to be effective, including community participation in preparing management plans, and designating competent officers from various government agencies to share the

responsibility of implementing and enforcing the law. Shared responsibility arises from necessity – DMCR has only 400 officers to monitor and manage the coastal zone in 24 provinces and five million square kilometers of marine areas under national jurisdiction and must form partnerships with other agencies in order to fulfill its mandate. Sharing responsibility among several agencies acknowledges the fact that individual resources in the coastal zone and marine areas do not exist independently, but survive only as functioning components of complex ecosystems. The draft Act therefore promotes integrated and consolidated management of these resources and the ecosystems in which they are found.

32. Conflicts over coastal and marine resources have resulted in violence in the past. The draft Act provides a range of conflict and dispute resolution mechanisms based on compromise and consensus to address conflict in issue-specific and locally-appropriate ways. These mechanisms reflect and formalize actual current practice. Some, such as mediation, arbitration and recognition of “Da Toh” justice in resolving disputes in southern provinces where Islamic law is observed, are already acknowledged in Thai law. The draft also establishes another dispute resolution option in the form of a Multilateral Committee at the provincial level.

33. Once MoNRE submits this draft Act to the Secretary-General of the Cabinet, a standard governmental process of vetting a draft law will begin. It may be anticipated that the draft Act will be revised several times before being submitted to the National Assembly for debate and adoption. The Council of State in particular is responsible for ensuring that the draft Act is harmonized with other laws that are being updated and amended as part of the Government’s overall Law Development Plan of 2006. To enable DMCR to ensure consistency and continuity, IUCN is pursuing options for funding that would enable DMCR to retain the services of one of the lawyers from the TA team to assist in the ongoing process of revision.

34. Following consultations with the legal advisors of other government agencies that are in the process of amending laws that govern aspects of CZM, and given the interest of the Council of State in ensuring that existing, amended and new laws complement rather than conflict with each other, it is anticipated that the Council of State will scrutinize carefully the draft Promotion of Marine and Coastal Resources Management Act and the draft amendments of existing laws to ensure that they are harmonized. IUCN has recommended to DMCR that the proposals for amendments to existing laws be submitted to the Minister together with the draft Promotion of Marine and Coastal Resources Management Act.

35. Once the final form of the draft Act is generally agreed, the process of drafting implementing regulations will need to begin. Given the probability that resources available to DMCR for this process will be limited, it is anticipated that external financial and technical support will be required. Particular attention will need to be given to developing compliance incentives that are appropriate for each type of stakeholder, from local fisher folk to industries.

36. The TA team has heard, through the TA consultations and other, informal sources, that coastal communities have high expectations that this draft Act, when adopted, will provide the framework for ensuring their participation in coastal zone and marine area resource management, for eliminating or at least mitigating current inequities in resource allocation, and for providing clarity on who is in charge in the coastal zone and marine areas. Successful implementation of the draft Act once it is adopted will depend to a great degree on the quality of the information available to all stakeholders concerning its provisions. On adoption of the Act, there should be a public awareness campaign, appropriately targeted at each type of stakeholder, to

explain its provisions and their implications. To design and carry out such a campaign, DMCR would likely require the support of national NGOs and international organizations.

37. If adopted as drafted, the draft Promotion of Marine and Coastal Resources Management Act would implement constitutional guarantees of rights to information and participation in resource management, provide a framework within which the multiple government authorities operating in the coastal zone and marine areas can coordinate and harmonize their functions, and provide for resolving conflicts of jurisdiction among government authorities and for resolving disputes among stakeholders. By providing mechanisms to resolve conflicts of jurisdiction among government authorities operating in the coastal zone and marine areas, the draft Act would facilitate ongoing rehabilitation activities in the coastal provinces affected by the 2004 tsunami. As noted in paragraph 25, the issues of allowing citizen participation in resource management and of sharing benefits with local people have a long history of being highly contentious in Thailand. If this draft Act can be adopted with its co-management and benefit-sharing provisions even relatively intact, it will provide a precedent for governing other types of ecosystems as well.

38. Given the fact that elections in Thailand will be held in the fourth quarter of 2006, it is anticipated that consideration of the draft Promotion of Marine and Coastal Resources Management Act will only begin in 2007. If the debate and adoption process proves to be protracted, DMCR should still be able to use the concepts incorporated into the draft Act and put them into practice informally or through ministerial or departmental notifications.

39. This TA initiated a consultation process to build support for the adoption of the draft Act as well as to gather input for its contents. Stakeholders have indicated informally to DMCR their appreciation for the inclusiveness of the consultation process. The process of lobbying for adoption of the draft Act will require a well-strategized collaboration between DMCR and other stakeholders, including national NGOs. It is hoped that the shared awareness of the complexity of the issues confronting effective CZM management in Thailand and the support for the draft Act created through this TA will contribute to the backing that will be required for its adoption.

#### **IV. Thailand Environment Monitor**

40. As of the date of preparation of this report, the Thailand Environment Monitor 2005, for which this TA contributed the Legal and Institutional Chapter, has not yet been printed. The text for the Legal and Institutional Chapter that was submitted to the World Bank in December 2005 is attached as Appendix 9.

## **APPENDIXES**

- APPENDIX 1** MINUTES OF THE MEETING OF THE STEERING COMMITTEE ON THE 1ST DRAFT OF THE PROMOTION OF MARINE AND COASTAL RESOURCES MANAGEMENT ACT, FRIDAY 21<sup>st</sup> APRIL 2006
- APPENDIX 2** REPORT OF THE CONSULTATION WORKSHOP ON THE 1ST DRAFT OF THE PROMOTION OF MARINE AND COASTAL RESOURCES MANAGEMENT ACT, MONDAY 24TH APRIL 2006
- APPENDIX 3** MINUTES OF THE MEETING OF THE STEERING COMMITTEE ON THE 2ND DRAFT OF THE PROMOTION OF MARINE AND COASTAL RESOURCES MANAGEMENT ACT, THURSDAY 15th JUNE 2006
- APPENDIX 4** REPORT OF THE CONSULTATION WORKSHOP ON THE 2ND DRAFT OF THE PROMOTION OF MARINE AND COASTAL RESOURCES MANAGEMENT ACT, FRIDAY 16TH JUNE 2006
- APPENDIX 5** MINUTES OF THE MEETING OF LAWYERS OF THE AGENCIES RELEVANT FOR THE PROMOTION OF MARINE AND COASTAL RESOURCES MANAGEMENT ACT, MONDAY 19TH JUNE 2006
- APPENDIX 6** REPORT OF THE MEETING OF THE DMCR LAW DEVELOPMENT TEAM, WEDNESDAY 12TH JULY 2006
- APPENDIX 7** DRAFT PROMOTION OF MARINE AND COASTAL RESOURCES MANAGEMENT ACT
- APPENDIX 8** DRAFT PROMOTION OF MARINE AND COASTAL RESOURCES MANAGEMENT ACT WITH RESPECT TO COMMENTS RECEIVED
- APPENDIX 9** THAILAND ENVIRONMENT MONITOR CHAPTER ON LEGAL AND INSTITUTIONAL FRAMEWORKS

## APPENDIX 1

### Minutes of the Meeting of the Steering Committee on the 1st draft of the Promotion of Marine and Coastal Resources Management Act

No. 2/2006

Friday 21st April 2006

Meeting Room 204, Ministry of Natural Resources and Environment

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#### Participants

1. Dr. Maitree Duangsawasdi	Chairman, Director-General, DMCR
2. Dr. Cherdchinda Chotiyaputta	Member and Secretary
3. Mr. Sirapob Poonphet	Member and Assistant Secretary
4. Miss Sukanya Wisan	Member, Office of Natural Resources and Environment Policy and Planning
5. Mrs. Marisa Ingthammajit	Accompany, Office of Natural Resources and Environment Policy and Planning
6. Mrs. Vanida Pornpaiboon	Member, National Park, Wildlife and Plant Conservation Department
7. Mr. Kittipat Tarapibarn	Accompany, National Park, Wildlife and Plant Conservation Department
8. Mr. Suwan Pitaksintorn	Accompany, National Park, Wildlife and Plant Conservation Department
9. Jor Or. Bancha Suparan	Accompany, Department of Fisheries
10. Miss Wanna Supantarida	Member, Office of the Council of State
11. Miss Pornsuk Jongprasit	Member, Pollution Control Department
12. Pol.Lt.Col. Chairat Rungsobsang	Member, Marine Department
13. Mr. Tanachai Vachiragram	Accompany, Department of Treaties and Legal Affairs
14. Mr. Supol Vimopas	Member, Royal Forest Department
15. Mr. Pitchaya Yangyeon	Accompany, Royal Forest Department
16. Mr. Kamol Phetdee	Member, Department of Local Administration
17. Mr. Somkiert Pongyensung	Accompany, Department of Local Administration

#### TA and DMCR Team

1. Mr. Udom Bhatiyasevi	Coastal Resources Management Policy Specialist
2. Mrs. Pimolwan Singhawong	The World Conservation Union (IUCN)
3. Mr. Thanet Periera	Environment Law Specialist
4. Prof. Udomsak Sinthipong	Environment Law Specialist
5. Miss Sarawan Witayodom	Legal Officer, Department of Marine and Coastal Resources
6. Miss Sopida Kamboonlau	Data Recording Officer, Department of Marine and Coastal Resources

#### Not attending

1. Office of Tourism Development

**The Meeting started at 09.30 am.**

**Agenda Item 1          Matters informed by the Chairman**

Chairman made an opening statement and informed the meeting that the Advisory Working Group had already drafted the Promotion of Marine and Coastal Resources Management Act B.E....and asked the attendants to consider this draft Act, the details of which would next be explained by the Advisory Group.

**Resolution:** The Meeting was informed.

**Agenda Item 2**      **Adoption of the Minutes of the Meeting of the Committee on the Project “Supporting Post-Tsunami Activities & Coastal Zone Management”, No. 1/2006 on 17 February 2006**

**Resolution:** The Meeting adopted the minutes.

**Agenda Item 3**      **Matters for consideration**

The Advisory Group proposed the draft Promotion of Marine and Coastal Resources Management Act B.E \_\_\_\_ before the meeting. Mr. Udom Bhatiyasevi, Coastal Resources Management Policy Specialist, said that consultations under the project had gathered suggestions concerning public participation, the inequitable allocation of resources, outside influence in local communities as well as other influences which threaten the sustainable use of marine and coastal resources, and the conservation and restoration of marine and coastal resources. The Working Group had considered from the perspective of the right of the coastal community, in which there are stakeholders on occupations and living in the localities. The Act provides for the Marine and Coastal Resources Committees at the local, provincial and national levels. The functions of these committees are mentioned in Sections 7, 17, and 22. Their importance differs and the procedures are proposed in steps.

As regards the Fund, there is a Fund Committee at the national level to provide for financial support. The method is provided for in Section 96 for the management of marine and coastal resources. The Fund Committee at the local level is provided for under Section 103.

As regards the rights of coastal communities, the basic idea is to integrate the coastal community under Sections 25, 45, 46, 47 and 48 to take part in management in accordance with the King’s “Sufficiency Economy” model. The intention is to prohibit the over-utilization of marine and coastal resources for commercial purposes.

This Act is based on the marine and coastal resources management laws of many countries, as well as the consultations conducted under this project since the project started in September 2005.

As regards marine and coastal pollution, Section 90 provides for monitoring on board ships and for coordination in law enforcement.

**Chairman** asked the committee to consider the draft Act, which will focus on the coastal community in accordance with the provisions of the Constitution and will serve as a tool for managing conflicts over marine and costal resources which are problematic at present.

**National Park, Wildlife and Plant Conservation Department**

Mentioned Section 31 and the potential conflict between this Act and other existing Acts. How to make sure that this Act is not in conflict with other existing legislation, such as coastal community zones. Are offshore installations artificial corals? This issue must be clear. Section 31 must be under all other pieces of legislation.

**Pollution Control Department**

Said that there should be a meeting to share opinions of relevant lawyers, for example, the Environment Act is now being improved. Section 9 of the Act must be considered to see whether it relates to other legislation. The penalty must be more severe. Prosecution. The Chapter on Marine Pollution must include the restoration of damaged marine and coastal resources.

**Royal Forest Department**

Agreed with this Act but was concerned with the principles. Technical principles should be balanced. The overlap with other legislation, as well as being the competent officers under this Act, which is concerned with the powers and duties under the law, should also be considered.

**Office of the Council of State**

Agreed with the collection of problems to be dealt with in this Act, the details of which must be considered carefully. The issue of the overlap with other legislation should be considered in details and carefully. And other legislation which is being improved should be harmonized with this Act.

**Chairman** made a closing statement and asked the Working Group to take into account the comments of the participants in the meeting in order to improve the draft Promotion of Marine and Coastal Resources Management Act B.E \_\_\_\_\_. If the participants wish to give additional comments, they can be sent to the Legal Affairs Group of the Department of Marine and Coastal Resources.

**Resolution:** The Meeting agreed.

**Agenda Item 3** Other matters (none)

The Meeting ended at 12.00 noon.

## APPENDIX 2

### Report of the Consultation Workshop on the 1st Draft of the Promotion of Marine and Coastal Resources Management Act

No. 1/2006

Monday 24<sup>th</sup> April 2006

Meeting Room 202, Ministry of Natural Resources and Environment

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#### Participants

- |  |   |
|--|---|
| 1. Dr. Maitree Duangsawasdi            | Director-General, Department of Marine and Coastal Resources  |
| 2. Dr. Cherdchinda Chotiyaputta        | Marine Resources Management Specialist, Department of Marine and Coastal Resources                    |
| 3. Mr. Sirapob Poonphet                | Legal Officer 5, Department of Marine and Coastal Resources   |
| 4. Mrs. Janchay Kanin                  | Administrative Officer 6  |
| 5. Pol. Lt. Col. Noppadol Tienpermpoon | Marine Police Samutprakarn, Royal Thai Marine Police Division   |
| 6. Pol. Lt. Col. Nattakarn Jeenawat    | Marine Police Samutprakarn, Royal Thai Marine Police Division   |
| 7. Miss Suhatai Praisankul             | Environment Technician 4, Department of Marine and Coastal Resources                                  |
| 8. Mr. Komkrit Watcharabut             | Legal Officer 8(wor), Department of Marine and Coastal Resources                                      |
| 9. Mr. Preecha Waiyawong               | National Economic and Social Development Board  |
| 10. Mrs. Chopoonuch Cheerachot         | Policy and Plan Analyst 7(wor), National Economic and Social Development Board                        |
| 11. Mr. Apirak Anansiriwat             | Director of Mangrove Forests Conservation and Restoration Section, DMCR                               |
| 12. Mr. Banharn Chaiwat                | Fisheries Association of Thailand   |
| 13. Mr. Anuwat Homodpring              | Legal Officer 7(wor), Legal Affairs Division, Department of Lands                                     |
| 14. Mr. Wat Pimpat                     | Legal Officer 6(wor), Legal Affairs Division, Department of Lands                                     |
| 15. Mr. Paritas Jareonsit              | Analyst 6(wor), Coastal Land Management Section, Department of Marine and Coastal Resources           |
| 16. Mrs. Suvimon Plommaithong          | Journalist Room Journalist (Environ)  |
| 17. Mrs. Sutthinee Teeraratbongkot     | Legal Officer 7(wor). Port Authority of Thailand  |
| 18. Gp.Capt. Chatchai Suprasorn        | Deputy-Director of Civil Affairs Division, Royal Thai Navy  |
| 19. Mr. Jareon Nititam                 | Head of Marine Officers Section on behalf of Dean of the Faculty of Science, Chulalongkorn University |
| 20. Miss Arawan Praeprasan             | Fisheries Association of Thailand   |
| 21. Khun Somying Sunthornwong          | Plan Manager, Kasetsart University  |
| 22. Mr. Saksan Chaosamthong            | Land Technician, Department of Lands  |
| 23. Miss Tandika Yengay                | Bangkok Business Newspaper  |
| 24. Miss Sunisa Keanohsort             | Matichon Newspaper  |

25. Mr. Surapon Duangkae	Secretary General of the Wildlife and Plant Protection Foundation
26. Miss Janjira Pongrai	Bangkok Business Newspaper
27. Khun Rujira Prommueng	Legal Officer 5, National Park, Wildlife and Plant Conservation Department
28. Mr. Preechamong Namloh	Forest Technician 4, National Park, Wildlife and Plant Conservation Department
29. Mr. Vichai Sutamkul	Lawyer
30. Mr. Anuwat Nathiwattana	Director of the Office of Marine and Coastal Resources Conservation

### **TA and DMCR Team**

1. Mr. Udom Bhatiyasevi	Coastal Resources Management Policy Specialist
2. Mrs. Pimolwan Singhawong	The World Conservation Union (IUCN)
3. Mr. Thanet Periera	Environment Law Specialist
4. Prof. Udomsak Sinthipong	Environment Law Specialist
5. Miss Sarawan Witayodom	Legal Officer, Department of Marine and Coastal Resources
6. Miss Sopida Kamboonlau	Data Recording Officer, Department of Marine and Coastal Resources

**The Meeting started at 09.30 am.**

### **Agenda Item 1 Matters informed by the Chairman**

The Chairman said that the origin of this Promotion of Marine and Coastal Resources Management Act B.E.\_\_\_\_ was due to the Department of Marine and Coastal Resources having considered the extent of the loopholes of the existing Thai legislation and what sort of additional legislation is required. The Department, being of the view that the legislation for the management of marine and coastal resources is needed, has made a proposal through the Ministry of Natural Resources and Environment, which subsequently concurred with the Department. The process in which the draft act will pass through the Ministry of Natural Resources and Environment and a committee at the national level is expected to be completed by this coming July. The Department of Marine and Coastal Resources has coordinated with and has received cooperation from Asia Development Bank (ADB) and IUCN in drafting this Act. The period of this project is about 1 year. In drafting this legislation, the Working Group has coordinated and studied information with many agencies of both public and private sectors. The Working Group has now completed the drafting and proposed this draft Act, which will be legislation based on policy, development of community's participation, and designation of rights and duties. If the matter is already dealt with under existing legislation, that piece of legislation will continue to be relied on. This act will not overlap with other legislation but will enhance or fill in the gap to make the operation possible.

The Meeting was informed.

### **Agenda Item 2 Matters for Consideration**

#### **Mr. Udom Bhatiyasevi**

Mr. Udom said that at the preparation stage for the drafting of the Act, The Working Group had convened several consultations. After analyzing the questions, comments and suggestions, the problem is found to consist of 3 issues.

The first issue is the community's participation which is provided for in many Sections of the Constitution of 2540 B.E., each of which ends with the phrase "as provided by law". The concept is thus adopted.

The second issue is the allocation of resources. It is found that there have been a lot of complaints that the allocation of resources is inequitable and the influence, whether political, local or financial, has been exercised.

The third issue is the lack of funding for the restoration of deteriorated resources. The coastal community consists of the community of local occupations, folk community and folk fishery community. The Coastal Community Committee, the main functions of which are joint management, resources, pollution and ecosystems, has another important function, which is the rights and duties of the coastal community. Rights and duties are about certain powers, giving correct information, and consultation at all stages. The main duty is supervising and monitoring local policies. Another important aspect is conciliatory judicial process, in which a multilateral committee or arbitration are to be established for mediation of disputes. The Local Administration Organizations will supervise the Local Fund, consisting of provincial and local members jointly managing the restoration of resources. Apart from this, the marine and coastal resources legislation of 10 countries is also included.

The third issue is the Marine and Coastal Resources Committee, consisting of government agencies, educational institutions, private organs and private sectors. After assessing the cooperation or joint management, it is found that many communities and areas are rather unwilling to cooperate with the officers. Moreover, there is a Resource Fund. This Fund will be at the centre, allocating the income. The main task is to supervise the policies and plans.

#### **Prof. Udomsak Sinthipong**

Mr. Udomsak mentioned the issue of tools relevant for the management of the coastal community. There are two kinds of tools. The first is the management committee. The second is the Fund. Within this concept, the committee exists at three levels. Furthermore, there is also public participation in the form of the committee using the structural method and the functions of the project. As regards the local level, there are many levels of people and private levels. With respect to the functions, there must be interaction between the three. Regarding the details of the legislation, this is related to Section 7, which deals with the issue of structure, consisting of the Permanent Secretary of the relevant Ministries, as members, with the Prime Minister as Chairman. As regards the structure at the local level, the issue of functions is mentioned. Section 16 is concerned with the functions, policies and coordination, such as government agencies, private sectors, funds and policies, supervised by the Marine and Coastal Resources Committee. With respect to the Fund, there are two kinds. The Fund at the national level, with the main task of earning money to be spent on the management at the national level as well as allocating the money to the locality. Within this legislation, the management of marine and coastal resources is the measure to give importance rather than the resolution. Therefore, the principles will focus on giving importance in the case of emergency management, such as oil leaks, pollution or natural disasters on the resources, by the exercise of administrative powers. As regards the independent organs, these are monitoring organs for the general management and the expenditure of the Local Fund. This draft Act is in accordance with the relevant conventions.

#### **Mr. Thanés Periera**

Mr. Thanés mentioned the main tool, the legislation, for the management of the coastal community. The coastal community will be established as a legal person under the

law since this gives the locality or the local community the right to utilize the resources in the locality in a balanced manner. As regards Section 32, this is concerned with the designation of the coastal community zone in accordance with the objectives, the focus of which is the conservation of resources and the utilization and promotion of diversified cultures of the resources in an integrated manner. The important issues are those designated in the conservation zones and the sustainable utilization. The withdrawal of the coastal community is the power of the committee, but the injured person has a right of appeal before the higher committee. As regards the joint management, the issue is how to derive at the integrated joint management. With respect to the management from the grass roots as well as the monitoring, how to coordinate the coastal communities to move in the same direction. The coastal community has the function of monitoring the activities in the community, providing knowledge, promoting the operations, issuing an order for the person violating the law or the person destroying the corals to leave the area, and conducting preventive operations to alleviate damage that may be inflicted on the coastal community. Any person wishing to operate the fishery must comply with the regulations set out by the committee in the coastal community. Section 47 provides for a clear principle that the regulations for the exploration and utilization of the resources are based on the "Sufficiency Economy" model and the sustainable development. Section 50 stipulates that 80% of the benefits derived in the community should be allocated to the National Fund and 20% should be returned to the local community which will enable a continuous management of resources. This Section may apply the principle of contract between the community and the industrial sector, the concept in which the coastal community retains the benefits arising from its own maintenance. Section 54 confers the power upon the officers. If the power is too much or there are violations of the law, sometimes the police cannot be called to arrive immediately. Section 55 mentions the stakeholders and the conflict of interests. This legislation will try to create a mechanism for coordination. There should be consultation. Agencies with conflict of interests or overlap of functions should consult one another to resolve the problem. Section 56 designates the management areas. Once the areas are designated in 24 provinces, the management, in order to be effective, should be based on the continuous and systematic management of database. Sections 57, 58 and 59 require the Provincial Committee to integrate the information on resources. Section 58 mentions the local integration and the detailed information. Section 59 is concerned with the provision of information at the national level, to be integrated with the information at the local level to make them effective. Section 65 is the provision on the joint management and coordination among the officers and stakeholders. If there is an overlap of the areas, the officer can deal with it in accordance with the law. Section 66 mentions the effective management of resources. Section 67 mentions the needs between the State and the stakeholders, including the establishment of the management organs, as well as the coordination and provision of technical knowledge on effectiveness and efficiency.

**Mr. Banharn Chaiwat, Fisheries Association of Thailand**

Mr. Banharn said that the draft Act is very wide in scope but is useful for the fishermen. He would like to consider what are the real functions of the committees at the various levels and the scope of such functions. As regards the money towards the Fund in the designated zone, the question is whether the fishermen have to pay or not. The regulations on the coast issued by the community will be problematic if fishermen from another area come in. In each season, some provinces can issue the rules. The issue of the right of the local community needs to be considered very carefully.

He suggested that if the locality can issue the regulations, these should be applied on a trial basis for 1 year to see if there is any objection. If there is none, the regulations can be declared effective. If there is objection, they are to be refrained from. They should also be stopped, for example, if they have already been in use for a period of 3 or 5 years, since the nature may change in accordance with its ecosystem.

The scope of the committee at the local and national levels should be clear. Before being effective, there ought to be a public hearing via the newspapers.

AS regards Section 10(6) on the right of the coastal community, there should be procedures since a lot of fishermen have influence. He would like to have a trial.

As regards fishery, the fishermen already pay for taxes and licenses. If there is no regulation on this, they can be asked to do so. But some tools are not liable to taxes since there is already a restriction on the fishery occupation. In this case, the regulation may be considered.

**Mrs. Chompoonuch Cheerachot, National Economic and Social Development Board**

Mrs. Chompoonuch asked if this legislation covers the trespass of the coastal lands of the coming community. This will be problematic. Priority must be given to the strengthening of the community. This Act opens the opportunity for the State power to enter the community. This may weaken the community.

This legislation is too detailed. Is the role of the State to stress the control of marine and coastal pollution? And the opinions should be given by more stakeholders, which will be useful for the drafting.

It must be considered whether the intention to promote the right of the community will be seen as an expansion of the State power or not. The right of the community must be promoted. As regards the question whether the community is strong or not, the past experience must be considered.

**Mr. Surapon**

Mr. Surapon said that each person has different experience. He would like the attendants to propose the relevant issues and then discuss them later. He agreed with this legislation. The right of the community must be given priority. The issues of who is the representative and what are the rights must be clear. What is the scope of the right of the community?

- must be the legislation based on State power
- must be Positive Law, must have substitute law
- is separate law
- is the law in category, therefore the law must be based on constitutionalism (OPEN LAW), must be balanced and sustainable.

**Khun Somying Sunthornwong**

She said that the main issues are as follows.

1. She agreed with this Act, but has an observation as to why the coastal community must be mentioned and that the committee is composed of many State agencies.

2. The Local Committee comes from an election and local influence, which may be problematic subsequently. She would like a revision on this issue.

3. It is still unclear how this Act can object the mega project, whether and how the integration of management can be applied within the special economic area such as Chang Island, or how to negotiate with the State. She would like to see the improvement of the critical marine and coastal resources.

4. As regards the information, there should be both news and transfer of information.

5. The “marine and coastal community” is established to have a direct function in supervising the sea and coasts. But it is still unclear what the benefits are for the marine and coastal community since the supervisor should also get the benefits. How to do it since the community must also include participation by businessmen and business owners. Thus it is afraid that, in the future, the community representatives will come from the outside, such as the businessmen and business owners, which will weaken the community.

6. The Fund ought to have a good committee, since, if not, there will be a conflict in the community.
7. 20 % to be returned to the locality is too low. If 80% is contributed towards the center, how the local community is to utilize the resources in the locality.

**Mr. Surapon Duangkae, Wildlife and Plant Protection Foundation**

Mr. Surapon said that in this Act, independent organs will be established in order that the issuance of the regulations is transparent and can be monitored. There must be a requirement that the people are informed. He agreed with this Act. What does the arrest look like? What is the relevant legislation? Whether the relevant legislation is still in use? How the area is to be designated? There should also be measures to promote the ethics of the Aquarium Association. Whether the notification of the protected wildlife is still with the Department of Fisheries? The penalty is too lenient; it should be more severe. There should be criminal measures to resolve the problem. As regards the issue of confiscation of items which are plants and animals, there is no storage place for items such as corals. There also need the officers to collect and separate the items.

**Pol. Lt. Col. Noppadol Tienpermpoon, Royal Thai Marine Police Division**

He agreed with this Act. For example, there may arise local interest groups when the fishermen enter to operate fishery. It will be good if this legislation comes in to manage. It will be good if the committee is given a function to administer every occupation. As regards the use of power to control under Sections 53 and 54, it is rather problematic if the local community is to control here. But if there is a good system of control, there should be a good result.

**Gp. Capt. Chatchai Suprasorn, Civil Affairs Division**

He said that as regards Sections 53 and 54, the Royal Thai Navy will continue to be the competent officers. With respect to the various committees, the Royal Thai Navy has a relevant role, for example, on oil stains. The restriction on the request to enter will make it difficult for an immediate operation. As regards the budget, it should be financed by the directly responsible agencies. As for the marine and coastal resources, all areas, i.e. the sea beds, the seas as well as the Exclusive Economic Zone, should be supervised as it is an important matter.

**Mr. Jareon Nititam, Chulalongkorn University**

He doubted if the Committee can work effectively. He disagreed with the Marine and Coastal Resources Committee. The Local or Provincial Committees should be better than at present. There are too many NGOs. The coastal community must have more meaning than at present.

**Mr. Anuwat Nathiwattana, Director of the Office of Marine and Coastal Resources Conservation**

The definitions are not complete. As regards the issues of coastal community zone and boundaries, the Committee has been given too much State power. The Provincial Committee is rather within the ambit of the State. There should be an election at the national level. As for Sections 30 and 40, it should be reconsidered whether the publication in the Government Gazette is too complicated. The issue of the protected marine and coastal areas should be considered in details. Joint plan must have a process and procedure. The joint meeting to give technical inputs must have a monitoring process for natural resources.

**Chairman** proposed that the Working Group take into account the comments for the improvement of the draft.

The Meeting agreed.

**Agenda Item 3** Other matters (none)

The Meeting ended at 15.00.

## APPENDIX 3

### Minutes of the Meeting of the Steering Committee on the 2nd draft of the Promotion of Marine and Coastal Resources Management Act No. 3/2006

Thursday 15 June 2006

Meeting Room 301, Ministry of Natural Resources and Environment

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#### Participants

- |                                 |  |
|---------------------------------|--|
| 1. Dr. Cherdchinda Chotiyaputta | Marine Resources Management Specialist<br>Department of Marine and Coastal Resources               |
| 2. Mr. Sirapob Poonphet         | Legal Officer 5, Department of Marine and<br>Coastal Resources                                     |
| 3. Mr. Chaleng Robcob           | Forestry Administration Officer 7,<br>National Park, Wildlife and Plant Conservation<br>Department |
| 4. Mr. Bancha Suparan           | Communication Officer 4, Department of<br>Fisheries  |
| 5. Mrs. Chutima Pattaraj        | Tourism Development Officers 8(wor), Office of<br>Tourism Development                              |
| 6. Miss Wanna Suphantarida      | Legal Officer 5, Office of the Council of State  |
| 7. Mr. Kittipat Tarapibarn      | Head of Monitoring Section<br>National Park, Wildlife and Plant Conservation<br>Department         |

#### TA and DMCR Team

- |                             |   |
|-----------------------------|---|
| 1. Mr. Udom Bhatiyasevi     | Coastal Resources Management Policy<br>Specialist                     |
| 2. Mrs. Pimolwan Singhawong | The World Conservation Union (IUCN)                                   |
| 3. Mr. Thanee Periera       | Environment Law Specialist  |
| 4. Prof. Udomsak Sinthipong | Environment Law Specialist  |
| 5. Miss Sarawan Witayodom   | Legal Officer, Department of Marine and<br>Coastal Resources          |
| 6. Miss Sopida Kamboonlau   | Data Recording Officer, Department of<br>Marine and Coastal Resources |
| 7. Ms. Patti Moore          | The World Conservation Union (IUCN)                                   |

#### Not attending

1. Department of Local Administration
2. Marine Department
3. Department of Treaties and Legal Affairs
4. Royal Forestry Department

The meeting started at 09.30.

#### Agenda Item 1      **Matters informed by the Chairman to the meeting**

The Chairman made the opening statement and informed the meeting about the development of the draft Promotion of Marine and Coastal Resources Management B.E \_\_\_\_ (2nd draft) subsequent to the previous meeting. The Working Group has amended this draft Act in accordance with the suggestions received from the 1st meeting on 17 February 2006. This meeting will be the second reading. Subsequent to the suggestions made in this meeting, the Department of Marine and Coastal Resources will send this draft Act to the Ministry of Natural Resources and Environment to subsequently propose to the Secretariat of the Prime Minister in

accordance with the Law Development Plan. Thus the members are requested to help consider the draft Promotion of Marine and Coastal Resources Management Act B.E.\_\_\_\_ in this meeting also.

The meeting was informed.

**Agenda Item 2**      **Adoption of the Minutes of the Meeting No. 2 /2006 on 17 February 2006**

**The meeting's resolution:** adopt the minutes of the meeting

**Agenda Item 3**      **Matters for consideration**

**Mr. Thanee Periera**, Member of the Working Group, notified the main issues regarding the amendment of the draft Promotion of Marine and Coastal Resources Management Act B.E. ... pursuant to the comments and suggestions made by the Committee during the previous meeting, as follows.

Section 22 regarding the Local Marine and Coastal Resources Committee

Section 45 regarding the designation of the coastal community zone, resources protection zone, conservation zone or utilization zone, which defines the measure prohibiting the offender of existing legislation to repeat the offences, by requiring the owner of the ship or vehicle to put a security of 60 per cent of the value of the ship, in case the court has ordered the return of the ship or vehicle for use, in order to prevent the repetition of offences.

Section 50 amends the principle of agreement for the equitable sharing of the utilization of marine and coastal resources between the community, private organs, both commercial and touristic.

Sections 65 and 66 made an amendment on the various competent officers under the relevant pieces of legislation in order to achieve coordination of works in an integrated manner.

**Mr. Udomsak Sinthipong**, Member of the Working Group, said before the meeting that the definitions of protection zone, preservation zone, conservation zone and development zone have been improved in Section 79 in accordance with the universal principle of IUCN

Sections 84 and 87 regarding the issue of pollution have been amended and the part on aquarium has been deleted and the civil liability under Section 111 covers also the issue of pollution.

**Chairman** stated in the meeting that this draft Act has been improved to become more streamlined and asked the Committee members to make suggestions in this meeting.

**Representative of the Office of the Council of State**

Asked what are the methods and examples of conciliatory procedures. Definitions which are unnecessary or which have no effect on the interpretation of this draft Act should not be contained in this Act. These ought to be included in the rationale at the end of this draft Act. For example, the word "subsequent man-made items" should be defined in each Ministerial Rule. How the committees are appointed under this Act? What are the criteria and rationales? What are the purpose of the list of maps annexed to this Act? Is it to be published in an Act or a Decree? Would like it to be specified in a Decree. The various committees under this draft Act have a large structure and are too complex, which may lead to a lack of flexibility in the management. There should be a committee which can operate on a continuous basis. As regards the issue of community rights under which the Local Committee

shall be established, at present, this has already been recognized under the State power. If the Act is to require this again, it may be problematic.

**Representative of the National Park, Wildlife and Plant Conservation Department**

Mentioned in the meeting that since the draft Act are to undergo several readings, the number of the amendment should also be specified. Definitions should be revised, in particular the word “man-made items”, for example, whether artificial corals are meant to be marine and coastal resources also. Under Sections 56 and 65(2), the designation of zone, if notified in the Act, will later become problematic. The issue of pollution in the Act and the definition is not in accordance with each other. Asked for a revision of the issue of powers and duties of competent officers under Sections 55, 65, 107, and 108, which should be specified in the definitions.

As regards the annexed maps under the Forestry Act and the Park Act on the protection zone, whether these will be annexed to a Decree or a Ministerial Rule. Asked for a revision of the link between Sections 56, 65, and 79. If possible, this Act should contain a provision on the link with existing legislation, as same as the land concession legislation or land development legislation. Whether there is a transitory provision to provide for the link with existing legislation.

**Representative of the Office of Tourism Development**

Made an observation that the marine and coastal resources ought to be clearly distinguished. Pollution of noise cannot be entirely covered and is not necessary to be included in this Act.

**Chairman** made a closing statement requesting the Working Group to take into account the comments to improve the draft legislation to make it more complete.

**The meeting’s resolution:** approve

**Agenda Item 4**      Other matters  
- None

The meeting ended at 12.00 noon.

## **APPENDIX 4**

### **Report of the Consultation Workshop on the 2nd Draft of the Promotion of Marine and Coastal Resources Management Act Friday 16<sup>th</sup> June 2006 Kasartseuk 1 Room, 4<sup>th</sup> Floor, Twin Towers Hotel**

The Master of Ceremonies introduced the workshop and the participants.

#### **Mr. Thanes Periera**

Mr. Chairman and distinguished guests. Today, I have been assigned to give comments and explanation regarding the Draft Promotion of Marine and Coastal Resources Management Act, the Working Group on which, as I have already mentioned, consists of 4 persons. As regards the first part of this Act, I think I will explain the first issue that the purpose of this Act is to construct or integrate the marine and coastal resources management systems into a single and uniform one. That is the basic purpose of this Act since the management of marine and coastal resources already exists but it may be all over the place, separate, not harmonious, and not in the direction which will create the system that is fully beneficial for the society, people's wellbeing, and the environment. We have tried to find the method to integrate the management of those resources from all sectors, stakeholders and government agencies. The first conceptual method in the process is to visualize from the bottom up. The legislative drafting generally focuses on defining the structure from the top down. We think that this kind of management is complex. Therefore, we will have to try to organize the structure from the bottom up. That is to say, we will first consider the question as to which agency ought to be the core for this management. The main sector which, in our opinion, will be the main mechanism for this management is first and foremost the coastal community. This is the fundamental part which must operate on a continuous basis. Although there may be some problems and obstacles, we will try to make this mechanism of coastal community operate on such a basis. Thus, in the first part of the Act, we will focus on the establishment of the coastal community, and after that, we will bring up the organization of the structure to support this part of management by the coastal community. Our result is the structure of the Local Committee, which will be the core of the coastal community we have established and the majority of which consists of elected members. Apart from that, we will slowly organize the structure upward. Once the Local Committees of the coastal communities have been established in the coastal provinces, we will have the Provincial Committees at the upper. These will be established in each coastal province. Thereafter, we will move upward to the National Marine and Coastal Resources Committee, which will become the centre. These concepts are concepts which always exist in the Department of Marine and Coastal Resources. Another objective of this Act is to define the powers and duties of the Department of Marine and Coastal Resources. We use to define the powers and duties of the Department of Marine and Coastal Resources under this Act as the coordinator to make an effective coordination of the management, rather than as the supervisor, or guardian, or license issuer. As regards the basic duties, if we look in this Act, we will not see the license. We will only see mainly the coordination of management to derive at integration in accordance with the Sufficiency Economy model. Furthermore, the marine and coastal resources management often involves conflicts and disputes of interests. Thus, the Working Group is of the opinion that there ought to be a neutral side, which may be neutral not in the sense of having no aims or objectives, but which is neutral in the sense of having technical knowledge and having no direct interest in taking part as a coordinator. This will have to be carried out in the form of an organ which coordinates and monitors the management of resources, and which may consist of technicians, government officials with

knowledge and experience who may have already retired, or specialists in various fields, to help coordinating the management to make it smooth and systematic.

As regards the resources in Chapter 4, from Sections 79 onwards, we did not classify the resources for the purpose of supervision. We supervise the whole system. Under the first principle, we designate the area as a special zone which will be in accordance with the ecological principle. We will add for the part of the restoration and development zones for the utilization, with the approval of the National Committee since these are large area. As regards the local area, the power is conferred upon the Director General in accordance with Section 83. Therefore, the areas will be divided into two levels: the main level and sub level. Apart from the designation of areas, we may stipulate the breeds of certain resources which are really special, but this is not a main principle. Section 84 onwards deals with the maintenance of the quality of the ecosystem. Sections 84-85 are introductory in nature without any principles which must be stressed. Sections 86-89 mention the exercise of powers under other legislation since the Act B.E. 2535 has been adopted to apply in the case of pollution, the designation of control zone, and water quality, but we will expand more than the pollution, that is, to use the word "pollution state". With that, we will look at the overall picture from the upstream till downstream. Even as regards the maritime navigation, we will confer the power upon the competent officers to enter to inspect whether there are any items which are pollutants, as well as to wait and monitor before any incident takes place. Chapter 5 will mention a tool to be administered by the coastal community, which is the fund, which is divided into the fund at the national level and at the local level. The fund at the national level will seek income for the fund at the local level to be spent on various projects. The management of the fund will be carried out by professional executives, as mentioned in Section 98, and audited by State officials, as specified in Section 99. The local fund is dealt with in Section 100 onwards. Chapter 6, from Section 107 onwards, will mention the exercise by the competent officers of the powers under various legislations in a coordinated manner. In Chapter 7, the civil liability is divided into two cases: the case in which there is a leak of pollution causing damage to persons, resources or ecosystems, with respect of which, Section 111 mentions damage to persons and Section 112 mentions damage to resources and ecosystems. The damage is divided into 2 levels: normal level and serious level if damage is on persons. Punitive damages are provided for in Section 111. The same is provided for in the case of ecosystems in Section 112. In short, Sections 111 and 112 are the causes for payment, whereas Section 113 specifies what are to be paid. The damages will be contributed towards the Fund. Chapter 8 provides for conciliatory settlement of disputes, which here covers either civil or administrative settlements notwithstanding that the dispute is between individuals and State agencies. This is divided into 4 categories. The first category consists of Sections 115 and 116, which mention the concerned persons, representatives from various agencies, which are called a Multilateral Committee, to help conciliate. Section 117 accepts the system of "Da Toh" Justice in case of Islamic areas. Section 118 regarding the mediation of the disputes, provides for the conciliation by State officers who will act as a sub committee, which is not as diverse as the Multilateral Committee. Section 119 provides for arbitration, the case of which there is an Arbitration Act as a specific legislation. Normally it is the tribunal but without entering into the prosecution process. The important difference is that, whether the Multilateral Committee, "Da Toh" Justice or mediation of disputes, do not prejudice the right of the people. If they are not satisfied, they can file the case before the court of justice. The idea is to filter the disputes in the first instance. But if there is a settlement, it stops. If not satisfied, the court can be used. This is called conciliatory settlement by the parties to the disputes themselves without going to the court. As regards the arbitration, there is an observation that, if the arbitration is established, prosecution through the court cannot

be done. But the arbitration can be cancelled in case the arbitrators are not suitable. But of the arbitral tribunal has made a decision, it is binding. But if other processes are used, the prosecution before the court is still open if not satisfied. Under Section 122, the Department of Marine and Coastal resources can enter to help the villagers in carrying out or managing the legal case, without necessarily operating by itself, but merely facilitating them. Damage on environment may be continuing and Section 123 has been drafted to reserve the right to determine again about the level of damages. Another thing is that sometimes it must be considered whether the injured person has been treated fairly or not. The person causing damage will have a choice in depositing the assurance letter. Chapter 9 mentions the penalty and certain prohibitions of the Committee. As far as my part is concerned, this may be about it.

**Mr. Udom Bhatiyasevi**

Good morning everyone. I will speak of the overall picture and as regards the concepts of this Act, we may mention the coastal community as the core, which here are all stakeholders, and after having the coastal community, we will have the designation of the coastal community zone, which will extend to the distance of 3 kilometers into the sea. But if we are in the closing season of the gulf according to the Fishery Act, this will also extend to the zone of closed gulf, and furthermore, will cover the areas designated as conservation and protection zones under this Act and other Acts. The Local Committee is established for the implementation. The duties of the community are defined. The plans are made under the supervision of the Provincial Committee. That part which is not ready to be established as a coastal community and a coastal zone will be supervised by the local administration organization. There is also the Committee at the national level, which is previously the Committee for the Restoration of the Thai Seas. We have also invited the educational institutions to participate. This Committee will supervise the Fund and the Prime Minister may supervise the emergency situations which may take place. That is the overall picture of this draft Act.

-----Lunch Break-----

**Mr. Udom Bhatiyasevi**

Mentioned the importance of this draft Act, which is to strengthen the coastal community, and invited the attendants to give comments.

**Participant**

Mentioned the objection to the use of trawlers. Mentioned the damage that took place in six sub-districts, three districts, and two provinces, without any agency taking responsibility. There is no legislation to arrest the offenders.

**Mr. Udom Bhatiyasevi**

Introduced the above-mentioned case of complaint. As far as the fishery legislation is concerned, an amendment to the Fisheries Act under consideration would change the coastal fishery zone from three kilometers to three nautical miles. But if it is a special area as in this case, it may be designated as environment protection zone. Even though we are in the process of drafting this Act, you can coordinate with the local administration organizations or the officers of the Department of Marine and Coastal Resources. I would like to amend the substance of certain parts of this Act on the second page on the coastal community zone. The Environment Act can be adopted for the supervision of the environment of each community.

**Participant**

Since the areas in Krabi, Phuket, Phang-Nga possess many islands, but the Environment Act which designates the fishery zone of 3000 meters will destroy the resources. It should be amended to 3 nautical miles and there should be joint utilization of the front seas. The prohibited tools are to be banned for the fishery.

**Mr. Udom Bhatiyasevi**

As I have mentioned earlier, the Fisheries Act is being amended. Certain types of fishing gear such as pushnetters with engines, trawlers and shell dredgers will be prohibited within three nautical miles from shore line instead of three kilometers. This amendment is still under review by the National Judicial Council and the Parliament. In case of the conservation zone in Phang Nga Bay, the three-kilometer belt zone could cover almost the entire the bay area because it does not cover only the mainland shore areas, but it also covers the island shore area. Notably, there are more than 100 islands in the bay area, so it is imaginable how widely the conservation area in the bay is. Additionally, 15<sup>th</sup> March to 15<sup>th</sup> May of every year is the season of closing the entire Phang Nga Bay area under the Fisheries Act.

**Participant**

Would like to have a clear interpretation of the area of Phang-Nga Gulf to prevent confusion among the fishermen.

**Mr. Udom Bhatiyasevi**

The committee will make an amendment on this issue.

**Participant**

Whether the problem of erosion of coastal land which takes place in many provinces can be dealt with in this draft Act? Another issue is the area of Pak-Pa-Nang River Basin in which the contribution is made from the individuals in the coastal community for the purpose of establishing a coastal community. As regards the artificial coral reefs for which there is a budget from the Provincial Administration Organization, he would like to know whether the Department has drafted the budget legislation which will support the laying of artificial reefs or the supervision of these artificial reefs or not. At present, there is coordination with the Royal Thai Navy for the training on the supervision of the artificial coral reefs, but there is no budget on other parts. He requested the Department to deal with this issue.

**Mr. Udom Bhatiyasevi**

At present, there is a government agency which supervises the problem of the erosion of the coastal land, namely the Committee on the Coastal Erosion Policies, which consists of the Department of Marine and Coastal Resources, Department of Mineral Resources, and Marine Department. The satellite photos have been employed to study the ways for amendment. As regards the artificial reefs, there is a Committee on the Construction of Habitats for Marine Animals, consisting of the Fisheries Department, Marine Department, Department of Marine and Coastal Resources and the Royal Thai navy. You can forward the issue before these Committees.

**Participant**

Would like to know whether the Marine Department and the Department of Marine and Coastal Resources apply the same legislation or not. If an agency violates the legislation of another agency, whether the latter can complaint against the former? The case of oil transfer has caused the digging of canals in the area which is harmful to the environment.

**Mr. Thanee Periera**

As regards Section 55 of this draft Act, there is a concern whether there will be a conflict between the legislation of each of the agencies, which do not intend to make a complaint against one another? There should be a joint meeting to find a solution to be applied jointly.

**Participant**

Would like every agency to work harmoniously so that the villagers can act correctly and as regards the change of 3000 meters to 3 miles, I would like to request that on behalf of the fishermen. Some boats navigate within the 3000 meters. This is so near. We must look at the overall picture since each area is different. We must live as brothers and the Department should arrange its activities to get close to the people in the community, because some may not know and are afraid of the State officers, so that there will be cooperation.

**Mr. Thanes Periera**

What you have said reflects the intention of this draft Act. The Working Group has tried to make an amendment for the purpose of clarification by arranging for a joint meeting to settle the conflicts in order to derive at the conclusion which will make people know the regulations and make the community exercise its rights and duties seriously so that it can protect the resources effectively.

**Mr. Udom Bhatiyasevi**

This Act may have to go through more forums. The Working Group will be responsible for making it harmonious. As regards the change from 3000 meters, this is an issue which is beneficial for the fishermen since there are more areas for making the living. At present, every Department is also in the process of improving its legislation. The Working Group will deal with it.

**Mr. Thanes Periera**

I would like to seek permission for interrupting as the representative of the municipality of Sri-Chang Island has kindly put forward a question in writing as to whether damages can be claimed for the local administration organ in the case in which a big ship has dumped rubbishes into the sea and there is a transportation of flours causing widespread of dust, and which is a violation of Section 113. If not, whether this can be stipulated in the Act? Under Section 111, the dumping of wastes from ships is regarded as causing damage, which we will have to look again at the legislation of the local administration organization. Under Section 113, compensation will be made for the actual damage, unless the damage is very serious, in which case the compensation may be higher than the actual damage in order to be punitive. This may be determined according the facts.

**Participant**

I think that not of all the stakeholders attend this meeting, so that all of the problems are not covered. Some of the agencies attending this meeting are involved in the passing of this Act, such as Department of Public Works and Town & Country Planning and Department of Lands since the title deeds have been issued to destroy the environment in the area under the existing powers and duties of each Department by way of corruption. As an example is the case in which the Governor has approved the pier project at Ban Pak Klog Village and Ban Rong Village, which has resulted in the digging of corals for nearly 10 rai (1 rai = 1600 square meters). This is the problem of how to link with the enforcement of the law. This Act ought to be mainly applied in the area, not the legislation of any particular Department.

**Mr. Udom Bhatiyasevi**

Thank you for your concern. I would like to mention that the Project Committee already consists of all agencies. The drafting of this Act is a result of the assistance project provided for by the Asian Development Bank to the Department of Marine and Coastal Resources, with IUCN recruiting the personnel for the drafting and representatives from relevant agencies as members of the Project Committee of this project. These persons have kindly checked the overlap and the conflict of the legislation of each agency. Today is the second reading of the draft. The Office of the Council of State is to determine which part is under the responsibility of which Department.

**Mr. Thanes Periera**

The word “stakeholders” may not cover only the fishermen, but may also include agencies. This can be seen from the definition in Section 3. Another issue is that other relevant legislation ought to be referred to. We have tried to involve the powers under other legislation. If necessary, the powers under other legislation are conferred upon the competent officers to enable them to work in an integrated manner. Also all of the relevant agencies may be called upon to attend the meeting to find a solution and an appeal can be lodged to the Committee at the national level, the resolution of which will be published in the Government Gazette for reference.

-----Break-----

**Mr. Udom Bhatiyasevi**

Explained the powers and duties of the competent officers.  
As to the draft legislation with a stress on the community, he asked the community to take part in accelerating the passing of this Act more quickly, and as the coastal community is capable of looking after itself, there ought to be, if possible, an exchange of knowledge.

**Working Group**

There is yet a question whether it is possible for the community to look after itself; are there any comments which will make it possible or make it happen quickly.

**Participant**

The villager has attempted to push for quick creation of the coastal community’s network.

**Special Investigation Department**

Answered the question which agencies are to help create the community’s power. These are the Community Development Department which is to supervise at the village, sub-district and district levels, and the Ministry of Justice which extends its mandate to cover the networking. The Provincial Justice Officer may take part in the conciliation of disputes and the Office for the Protection of Consumers and Environment of the Special Investigation Department will also come in to help you.

**Mr. Udom Bhatiyasevi**

Said that the Committee knows all the agencies which take part in the community, but every time there is a problem, there is no agency to take responsibility as a host.

**Participant**

Would like the officers to work more on an offensive basis.

**Prof. Udomsak Sinthipong**

Would like all guests to look at this draft Act positively since this draft Act cannot solve all the problems since there is a problem in having a large structure and as far

as the lack of coordination among most of the legislations is concerned, we have an answer, that is to integrate the coastal legislation and, in the future, all environmental legislations. He would like to ask everyone to push it.

The Master of Ceremonies made a closing statement.  
The Deputy Director-General made a closing statement.

**List of Participants**  
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**Resources Management Act**

**Friday 16 June 2006, Kasartseuk 1 Room, 4<sup>th</sup> Floor, Twin Towers Hotel**

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49	Pol. Lt. Col. Channarong Chananik	Investigation Officer, Pro Kor. Tor Por Sor.	Por Kor. Tor Por Sor., Ladyao, Chatujak, Bangkok	01-6264943	
50	Mr. Suthong Dechwong	Legal Officer	300 Moo. 2, T. Tayban, A. Maung, Sumutprakarn Province	06-5032487	
51	Dr. Srithanya Toopkrachang	Director of Protection of Consumers and Environment Section	Special Investigation Department	047-001749	
52	Mr. Supachai Tangjaitong		Chulalongkorn University		
53	Mrs. Sutthinee Teeraratbongkot	Legal Officer 12, Port Authority of Thailand	444 Tha Reu Road, KlongTeuy, Bangkok	02-2695190	02-2497867
54	Mr. Thomgchai Sawapong	Ministry of Natural Resources and Environment		01-5975419	
55	Miss Siriporn Kongnak	Technician	Thailand's Fishery Association	02-4520571	02-4520573
56	Mr. Termsap Telakul	Policy and Plan Analyst	Office of the National Economic and Social Development Board	02-2533533	02-2532727
57	Mr. Kangwan Chantarachot	Deputy Professor, the Faculty of Fisheries	Kasetsart University	09-4558541	02-9825815
58	Mr. Somsak			01-844720	
59	Mr. Chamlong Arunlertaree	Mahidol University	Saraya, Puthamonthon, Nakornprathom Province	01-5543038	

**List of Participants**  
**Consultation Workshop on the 2nd Draft of the Promotion of Marine and Coastal**  
**Resources Management Act**

**Friday 16 June 2006, Kasartseuk 1 Room, 4<sup>th</sup> Floor, Twin Towers Hotel**

<b>No.</b>	<b>Forename-Surname</b>	<b>Title</b>	<b>Address</b>	<b>Tel.</b>	<b>Fax</b>
60	Mrs. Kanokporn Sapraser	Manager, Sor Por Tor.		01-8086445	
61	Miss Varakorn Praeprasert	Technician, Sor Por Tor.		02-4520571	
62	Cdr. Somneuk Naksomboon	Sattaheap Navy Base	Sattaheap Navy Base	09-5457680	
63	Mrs. Tanyatorn Singreung	Kokusai Tokyo (Thailand) Limited Company		02-9370740	02-9370704
64	Mr. Suprareuak SaeTang	Foundation Manager	1600 New Petchburi Road, Makasanl, Rajthwee, Bangkok	06-3267808	02-6528213
65	Mrs. Sirisuda Jamnongthong	Lecturer	Faculty of Fisheries, Kasetsart University	01-8992365	
66	Mr. Rakchart Suriyaamporn	Organization Development Manager, Thai Oil Marine Limited Company	Thai Oil Marine Limited Company, Bangjak, Prakhanong	01-5051307	02-3310086
67	Pol. Col.Saroj Nimjareon	Deputy Commander of Traffic Development Division	Building 1, Pathumwan, Bangkok		
68	Pol. Lt. Col.Tara Thammaphithak			09-0034210	
69	Mr. Suthin Chaopaknam	Samutsakorn Fisheries Association,	34/5 T. Yaprak, A. Maung, Sumutsakorn Province	06-6887899	
70	Mr. Nikorn SaeEarb	Board Member of Fisheries Association		01-4345496	
71	Miss Sasimol Yongkhetkit	Klong Klom's Sub-district Administration Organization	Moo. 2, T. Klong Klom, A. Maung, Samutsakorn Province	034-731329	034-731329

**List of Participants**  
**Consultation Workshop on the 2nd Draft of the Promotion of Marine and Coastal**  
**Resources Management Act**

**Friday 16 June 2006, Kasartseuk 1 Room, 4<sup>th</sup> Floor, Twin Towers Hotel**

<b>No.</b>	<b>Forename-Surname</b>	<b>Title</b>	<b>Address</b>	<b>Tel.</b>	<b>Fax</b>
72	Miss Jutatip Sukyat	Samutsongkram Fisheries Association		034-736700	034-736700
73	Mr. Suriya Srisoda	Bangkok Business		06-6343369	
74	Umachanok Nampan	Citizen		06-6264343	
75	Mrs. Kanyavee Prayoosit	Policy and Plan Analyst 7		02-2550969	02-2550964
76	Dr. Jirakorn Kachasenee		Chulalongkorn University		
77	Mr. Surapon Daungkhae	Secretary	WET	02-5522111	02-5526083
78	Mr. Siripob Punphet	Legal Officer	Department of Marine and Coastal Resources	02-2982793	
79	Dr. Cherdchinda Chotiyaputta	Resources Management Specialist	Department of Marine and Coastal Resources	02-2982659	
80	Mr. Samran Rakchart	Deputy Director-General of the Department of Marine and Coastal Resources	Department of Marine and Coastal Resources		
81	Mrs. Pimolwan Singhawong	IUCN Secretary	IUCN	02-662-4029	02-662-4388
82	Mr. Udomsak Sinthipong	Project Advisor, Environmental Law Specialist	IUCN		
83	Mr. Thanes Periera	Project Advisor, Environmental Law Specialist	IUCN		

**List of Participants**  
**Consultation Workshop on the 2nd Draft of the Promotion of Marine and Coastal**  
**Resources Management Act**

**Friday 16 June 2006, Kasartseuk 1 Room, 4<sup>th</sup> Floor, Twin Towers Hotel**

<b>No.</b>	<b>Forename-Surname</b>	<b>Title</b>	<b>Address</b>	<b>Tel.</b>	<b>Fax</b>
84	Mr. Udom Bhatiyasevi	Project Advisor, Coastal Resources Management Specialist	IUCN , Department of Marine and Coastal Resources		
85	Dr. Somsak Boromthanarat	Project Advisor, Coastal Resources Management Specialist	IUCN		
86	Ms. Patti Moore	Head, Regional Environmental Law Programme, Asia	IUCN	02-662-4029	02-662-4388
87	Miss Sopida Khamboonlau	Data Recording Officer	Legal Affairs Group	02-2982793	
88	Mrs. Sarawan Wittayodom	Legal Officer	Legal Affairs Group	02-2982793	

## APPENDIX 5

**Minutes of the Meeting of Legal Officers of the Agencies Relevant for the  
Promotion of Marine and Coastal Resources Management Act B.E. \_\_\_\_ on the 2nd  
draft of the Act  
19th June 2006**

**Meeting Room 301, Ministry of Natural Resources and Environment**

### Participants

- |                                 |  |
|---------------------------------|--|
| 1. Dr. Cherdchinda Chotiyaputta | Specialist on Marine Resources Management, Department of Marine and Coastal Resources          |
| 2. Mr. Sirapob Poonphet         | Legal Officer 5, Department of Marine and Coastal Resources                                    |
| 3. Mr. Chaleng Robcob           | Forestry Administration Officer 7, National Park, Wildlife and Plant Conservation Department   |
| 4. Mr. Suwat Kuanchom           | Director of Legal Affairs Division, Royal Forestry Department                                  |
| 5. Mr. Pramuan Chaleaw          | Legal Officer 7(wor), Pollution Control Department   |
| 6. Mr. Kitti Permpakul          | Environment Technician 6(wor), Environmental Quality Promotion Department                      |
| 7. Mr. Anuwat Modpring          | Legal Officer 7(wor), Department of Lands  |
| 8. Mr. Chaiwat Pimnid           | Legal Officer 6(wor), Department of Lands  |
| 9. Mr. Saksan Chaosamthong      | Land Technician 8(wor), Department of Lands  |
| 10. Mr. Boonrung Suangameam     | Legal Officer 8(wor), Department of Mineral Resources  |
| 11. Mr. Jumpol Juavilai         | Forestry Administration Officer 7, Law Group, Ministry of Natural Resources and Environment    |
| 12. Mr. Suwit Dokkam            | Legal Officer 7(wor), Marine Department  |
| 13. Mrs. Nirawan Pipatsombat    | Environment Technician 7(wor), Office of Natural Resources and Environment Policy and Planning |
| 14. Miss Chonchanok Arunderm    | Environment Technician 5, Pollution Control Department   |

### TA and DMCR Team

- |                           |  |
|---------------------------|--|
| 1. Mr. Udom Bhatiyasevi   | Coastal Resources Management Policy Specialist                     |
| 2. Mr. Thanee Periera     | Environment Law Specialist   |
| 3. Mr. Udomsak Sinthipong | Environment Law Specialist   |
| 4. Miss Sarawan Witayodom | Legal Officer, Department of Marine and Coastal Resources          |
| 5. Miss Sopida Kamboonlau | Data Recording Officer, Department of Marine and Coastal Resources |

The meeting started at 09.30.

### Agenda Item 1      **Matters informed to the meeting by the Chairman**

The Chairman made an opening statement and informed the meeting regarding the development of the draft Promotion of Marine and Coastal Resources Management

B.E. \_\_\_\_ (second draft) which is the joint project between the Department of Marine and Coastal Resources and Asia Development Bank (ADB), with the World Conservation Union (IUCN) as Advisor for drafting this Act. The project started in September 2005 and the said draft Act has gone through seminar forums to analyze and ask for comments from stakeholders and various agencies and organs relevant for the marine and coastal resources. At present, the Promotion of Marine and Coastal Resources Management Act B.E. \_\_\_\_ has been drafted and amended for the second time. The Working Group for the drafting wanted the lawyers of the relevant agencies to consider this draft Act to see what their comments are or whether, and to what extent, there are parts which relate to the existing legislation of the agencies. Furthermore, Deputy Permanent Secretary of the Ministry of Natural Resources and Environment (Mr. Somchai Piensathaporn) has given an order in the meeting of the Ministry of Natural Resources and Environment's Law Development Committee that the Department of Marine and Coastal Resources arrange for a meeting to hear the comments of lawyers of agencies relevant for the marine and coastal resources also. Hence, every participant in of the meeting is requested to give comments on this draft Act, so that the Department of Marine and Coastal Resources can propose this draft Act to the Ministry of Natural Resources and Environment to subsequently propose to the Secretary-General of the Cabinet, in accordance with the Law Development Plan of 2006.

The meeting was informed.

### **Agenda Item 3      **Matters for consideration****

**Mr. Thanes Periera**, representative of the Working Group reported the details and composition of the draft Promotion of Marine and Coastal Resources Management Act, B.E....before the meeting that the Advisory Team for drafting this Act has arranged for many meetings to hear comments and suggestions from stakeholders of all sectors and has received the ideas for drafting this Act as policy legislation which will adapt to the marine and coastal ecosystems by the integrated marine and coastal resources management with the participation from the general public in the marine and coastal resources management. The lawyers of the relevant agencies have made the following suggestions:

#### **Representative of the Office of Natural Resources and Environment Policy and Planning**

Agreed with this Act but had the comment on the definition of wetlands under Section 1, as there is already a definition under biodiversity of the Regulations of the Prime Minister's Office. He would like to have the definition in this Act integrated with such a definition.

As regards the various committees relating to the marine and coastal resources management, there are many committees at present, so what should be done in order to make the various committees work in harmony?

As regards sharing of benefits from biodiversity, both species and breeds, he would like to add the species which derive from the water used to stabilize the ships and sustainable wetlands. Since, there are many trespasses of lands at present, therefore conferring too many rights to the community should be considered carefully.

#### **Representative of Department of Lands**

The legislation at present is already very much all over the places, which the Government has a policy to classify the legislation. This legislation relating to the marine and coastal resources should be in the relevant codified legislation. An observation is made regarding this Act, that is civil liability is different from that in the Civil and Commercial Code. Not sure if this can be done. For the purpose of designating public

zones, Land Law should mainly be considered, in particular the issue of public property of the land.

#### **Representative of Pollution Control Department**

The concept of participation of the general public in each legislation differs. Is it possible to have a single unified concept? Furthermore, the participation of the general public should not differ from that of other existing legislation, since this may cause problems in the future and the areas which are overlapping must have a clear and final boundary. To allow the general public to participate in accordance with this Act is to give them too much power. Since the State or State officials already have a duty to manage the marine and coastal resources, allowing the general public to participate in such management should be better than giving them the power to manage directly. In this regard, the Act is still unclear.

#### **Representative of the Royal Forestry Department**

Made an observation on the issue of tourism in Thailand, which has developed too fast. Tourism is expected to generate income in the country without taking in to account the effects on environment, for example, there is no consideration or selection of quality tourists. This has inevitably destroyed the natural resources and environment.

#### **Representative of the Law Group of the Ministry of Natural Resources and Environment**

Would like to amend Section 17 in which the Provincial Natural Resources and Environment Officer is appointed as member and secretary of the Provincial Marine and Coastal Resources Committee. He would also like to have the officer from the Department of Marine and Coastal Resources as member and secretary.

As regards the definition of coasts, the word "ownership right" should not be changed to "ownership".

- Section 20 lacks the link with the legal person of the coastal community. In case of a public legal person, there is no implementing legislation to give protection. As regards the power of the community right, if wrong is committed, whether there will be a penalty.
- Section 76 should leave room for new plans or policies.
- As regards the coordination of organs, whether there is tortious liability or not should be clear and if there is a defect in the exercise of the power, there should be a penalty.

#### **Representative of National Parks, Wildlife and Plant Conservation Department**

Under Section 6, the issuance of Ministerial Rule for notifying the appointment of competent officers is difficult in practice. This should be amended by the Minister issuing notification appointing competent officers. This should be improved. He made the following observations for the improvement.

- There should be a definition of the word "competent officers".
- The definition of "coasts" overlaps with Section 25, which should be amended.
- Under Section 47, there is no civil enforceability. Nor there is enforceability in use.
- Under Section 49, there should be a definition of "management of resources and ecosystems".
- Under Section 56, as regards the annexed map, in making the proposal before the Secretary of the Cabinet, the map must be attached. Therefore, if not ready, there should not be the phrase "in accordance with the annexed map".
- Under Section 79, defining the method or schedule should be clearly distinguished.
- There should be a definition of the word "pollution".

- Under Section 108, there is not yet the position of marine and coastal resources officers
- Under Section 110 regarding the showing of the identity card, having no identity card should also be alright.
- There should be definition of the word “sources of pollution”
- Under Sections 122 and 114, who is the injured person?

**Representative of Marine Department**

Observed that conferring the right to the coastal community zone should not take the form of passing implementing legislation to accommodate a group of villagers trespassing the State's land.

**Representative of Pollution Control Department (Miss Chonchanok Arunlert)**

There should be a definition of the words “oil” and “sources of pollution”.

Section 16(11) may overlap with the policy of Pollution Control Department. There should be policy talks or negotiations among the agencies.

**Chairman** requested that the Advisory Team for drafting this Act take into account the comments received during this meeting to improve the Draft Promotion of Marine and Coastal Resources Management Act B.E.... to make it more complete.

The meeting ended at 16.30.

## APPENDIX 6

**Minutes of the Meeting of Department of Marine and Coastal Resources' Law  
Development Committee  
No. 1/2006  
Wednesday 12 July 2006  
Meeting Room 301, Ministry of Natural Resources and Environment**

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### **Attending Members**

- |                                 |   |
|---------------------------------|---|
| 1. Mr. Samran Rakchart          | Deputy-Director of Department of Marine and Coastal Resources   |
| 2. Dr. Cherdchinda Chotiyaputta | Marine Resources Management Specialist  |
| 3. Mr. Anuwat Nathiwattana      | Director of Office of Marine and Coastal Resources Conservation   |
| 4. Mr. Surapol Kritsanamara     | Director of Land Management Section   |
| 5. Mr. Padej Srichan            | Advisor to Department of marine and Coastal Resources   |
| 6. Mr. Somjet Orak              | Fisheries Technician 7(wor), on behalf of Director of Conservation and Restoration Section  |
| 7. Mr. Ukrit Satabhumintra      | Fisheries Technician 8(wor), on behalf of Director of Marine Resources, Marine Coasts and Mangrove Forests Research and Development Institute |
| 8. Mr. Pittaya Dilokkunakul     | Head of Public Relations Section  |
| 9. Mr. Thana Yingjareon         | Policy and Plan Analysts 8(wor)   |
| 10. Mr. Somsak Tantisaovapab    | Department Secretary  |
| 11. Mr. Comkrit Vatcharabuttra  | Head of Legal Affairs Group   |
| 12. Mr. Sirapob Poonphet        | Legal Officer 5   |

### **Attending**

- |                              |  |
|------------------------------|--|
| 13. Mr. Udom Bhatiyasevi     | Coastal Resources Management Policy Specialist                     |
| 14. Mr. Thanos Periera       | Environment Law Specialist   |
| 15. Prof. Udomsak Sinthipong | Environment Law Specialist   |
| 16. Mr. Sopon Thongdee       | Director of Marine and Coastal Protection Zones Section            |
| 17. Miss Sopida Kamboonlau   | Data Recording Officer, Department of Marine and Coastal Resources |

### **Members not Attending**

- |                                  |   |
|----------------------------------|---|
| Mr. Sonjai Havanon<br>Specialist | Mangrove Forest Resources Management  |
| Mr. Paisan Thanapermpoon         | Director of Office of Mangrove Forest Resources Conservation                |
| Mr. Apirak Anansiriwat           | Director of Mangrove Forest Resources Conservation and Restoration Division |

The meeting started at 09.30.

### **Agenda Item 1      **Matters informed by the Chairman to the Meeting****

The Chairman made an opening statement and informed the meeting about the development of the law at the level of an Act of Parliament by Ministry of Natural Resources and Environment.

The drafting of this legislation, considered by Department of Marine and Coastal Resources as filling in the loophole of existing law, should be carried out in accordance with the changing circumstances and existing legislation of each Ministry and Department, as this Act may have to relate to such legislation or may affect existing powers or responsibilities of certain agencies. He requested the meeting to consider the matter so as to reduce the loophole and to increase the effectiveness of joint operation relating to coastal areas. In this regard, ADB in conjunction with IUCN has set up an advisory team to draft the Promotion of Marine and Coastal Resources Management Act B.E. ..., which, according to the agreement, shall be accomplished by July 2006 and the Secretariat of the Law Development Committee has informed, that according to the Law Development Plan of Department of Marine and Coastal Resources, the Department's draft legislation is scheduled to be sent for consideration by Ministry of Natural Resources and Environment' Law Development Committee by 31 July 2006 in order to be screened before being submitted to the Secretariat of the Cabinet.

The meeting was informed.

## **Agenda Item 2      **Matters for consideration****

**Mr. Thanet Periera**, Representative of the Law Drafting Advisory Board, said that the Board has arranged for meetings to receive comments during the past period since the projected started. The main issues regarding the elements of the Draft Promotion of Marine and Coastal Resources Management Act B.E. ... are summarized as follows:

1. The draft Act, the purpose of which is to promote effective management of marine and coastal resources, should be the law based on policy, which somewhat already exists in the Environment Act, but the draft act should focus on an integrated management of marine and coastal resources, that is to gather of manpower, resources and personnel from relevant government agencies and stakeholders from various agencies and to coordinate so that each of the government agencies can manage to its full potential , which, in the Advisory Board's opinion, ought to be the purpose of the Act. This is due to the fact that the problem regarding the management of marine and coastal resources is big and complex. The basic step is to consider the elements and the definitions and chapters of the draft Act are nearly complete.

As regards the elements of this Act, the Marine and Coastal Resources Committee has consulted in the working group about the elements that ought to be contained and has specified that, in the management of marine and coastal resources, the designation of zones with big size holism ought to be at the provincial level also. Regarding the policy of restoring Thai seas, there exist a lot of relevant document. The important characteristic is the integrated management of resources. The role of the Committee in coordinating the various issues must begin with defining agencies with conflict of interests. Furthermore, the concerned government agencies ought to have consultation mechanism for stakeholders in any relevant issues. Otherwise, management will be difficult to carry out, for example, the problems regarding dredging, as well as tourism which affect coral reefs, which involve many agencies, which must manage in an integrated manner to avoid disputes, conflicts and misunderstanding, as well as find tools for management. Furthermore, the enhancement of knowledges and ability of stakeholders for the purpose of an effective operation should also be looked for.

2. As regards the community's right, how this ought to be developed to derive at an integration? Attempt must be made to specify stakeholders. These include indigenous community and coastal local community. Apart from that, there are also local organs, people's organs and also community development organs. Attempt should be made to allow these organs to participate in order to coordinate their relevant parts and to realize the purpose of the Constitution in enabling the local community to genuinely have a legal right, to protect such a right and to prosecute the violator of the right.

3. Marine and coastal resources policies and plans are guided by the environment law, regarding which the Environment Act is quite progressive given the present time. There are targets and objectives at the national and local levels. These plans should be put into action seriously and there should be reports of the results.

4. Marine and coastal ecosystems, environment protection zones and conservation zones must have an integrated management and serious operation.

5. As regards marine and coastal pollution, the target is complemented in the issue of integrated management. When the pollution arises, there must be a system of collecting information, witnesses and evidence. Department of Marine and Coastal Resources may provide for maximum coordination of this information.

6. Regarding Marine and Coastal Resources Fund, there must be a Fund Committee, clear objectives and most effective operation on conservation.

7. As regards civil liabilities, the amount of compensation and insurance concepts, Ministerial Rules and Regulations have been written to enable the relevant agencies to define feasible mechanism.

8. Regarding, settlement of disputes, attempt should be made to limit the cases before the court of law.

9. As regards penalties, any person commits an offence under this Act ought to be punished according to general principles.

The meeting, having considered the Draft Promotion of Marine and Coastal Resources Management Act, as prepared by the Advisory Board, was of the opinion that the length of the coastal zone over which the coastal community has a right and duty to supervise is still unclear. This issue should be made clearer. Whether and to what extent the designation of coastal areas of 3,000 meters will be in accordance with the Fisheries Act B.E. 2490, given Department of Fisheries is in the process of extending the length to 3 nautical miles? Whether the coastal community zone also includes mangrove forests and whether the coastal community zone will have a problem regarding the relevant legal provisions in force at present?

The definition of "seas" should be made clear and there ought to be cooperation with other countries for the conservation of marine and coastal resources. The definition should be written in order of roles and functions. This Act should define the roles of approving and permitting and should be main host for the activities which have an effect on marine and coastal resources, such as submarine and diving activities, etc.

**Resolution: The meeting approved the Draft Promotion of Marine and Coastal Resources Management Act B.E. ...**

**Chairman** asked the advisors to consider the suggestions made in the meeting in order to improve the draft Act and mentioned that the issue of the various funds under this Act is good. He also approved the conciliatory management, which is modern, and asked the advisory team to explain about its principles and rationale next time.

**Agenda Item 3**      Other Matters  
-      None

The Meeting ended at 12.00 noon.

Mr. Sirapob Poonphet  
Legal Officer 5  
Note Taker

## APPENDIX 7

### Draft Promotion of Marine and Coastal Resources Management Act B.E....

BHUMIBOL ADULYADEJ, REX;  
Given on the...Day of.....B.E.....  
Being the ...Year of the Present Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Where as it is expedient to have a law on the promotion of marine and coastal resources management;

Whereas this Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 29 in conjunction with section 35, section 36, section 46, section 48, section 49, section 50 and section 56 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

**Section 1** This Act shall be cited as “Promotion of Marine and Coastal Resources Management Act B.E...”

**Section 2** This Act shall come into force as and from the day following the date of its publication in the Government Gazette.

**Section 3** In this Act:

“**sustainable development**” means development that meets the needs of the present without compromising the ability of future generations to meet their own needs;

“**island**” means area that arises naturally and is surrounded by water, and which is above the water level at high tide;

“**coastal community zone**” means an area so designated under this Act;

“**biological diversity**” means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

“**marine and coastal resource officers**” means officers who have been appointed to perform duties in accordance with this Act.

“**coast**” means land area from the setbacks which are the natural greenbelt, land on sandy beach, pebble beach, rocky beach, muddy beach, estuary with an influence of accessible sea water, coastal wetlands, coastal bogs, marshes, swamps, wells, lakes, as well as soil dunes, sand dunes, rocky moraines, mangrove forests, beach forests, and rocky forests in public beach areas and all beaches, down to the low-tide line.

“**sea**” means salt or brackish waters measured from the highest water line extending to Thailand’s Exclusive Economic Zone and includes joint development areas between Thailand and her neighboring countries, as well as maritime zones beyond the State’s jurisdiction;

“**habitat**” means the place or type of site where an organism naturally occurs.

“**marine and coastal resources**” means all living and non-living components of ecosystems, naturally occurring and man-made, and all the populations, parts, and genetic resources of all species of fauna, flora, and other living organisms living in them as well as mineral and other non-living components that occur in them.

“**setback**” means land area at the landward outer edge of the coast which is bio-shield, including mangroves, beach forest and sand dunes, designated under the joint consultation and agreement among coastal communities section by section, and free from buildings except public buildings constructed with the consent from the relevant coastal community, local administration authorities, and State agencies;

“**oil**” means liquid with a component of animal and vegetable fats or petroleum substances of any type or form, as well as alcoholic substances or other extracts produced from all types of oil, including tars, automobile oil, crude oil, fuel oil, lubricating oil, sludge, as well as materials which are wastes composed of or arising from oil or oil mixtures;

“**mangrove forests**” mean forests in coastal areas that are characterized primarily by one or more species of mangrove, and may include other species.

“**beach forests**” mean land in which trees of the kind grow on the coasts or beaches, such as coastal Sheoak, coast cotton tree, Portia tree and common seashore Screwpine exist, and normally are the beaches above the highest sea levels but may be flooded by sea water in some areas during the monsoon season.

“**stakeholders**” means government agencies, State agencies, local administration authorities, legal persons including commercial and private sector enterprises and entrepreneurs and non-governmental organizations, coastal communities and natural persons that are related to management and activities carried out in the coastal zone and marine areas.

“**wetlands**” mean lowland, plain, marsh, bogs, waters existing naturally or man-made, flooded either permanently or temporarily, still or running waters, still, brackish or salt waters, including coastal and marine areas of the depth of water not exceeding 6 meters at the lowest water level;

“**pollution**” means wastes, hazardous substances, heavy metals, sediment, or substances existing in or resulting from the environment naturally, which cause or may cause an effect on marine and coastal environmental quality or a hazard to the health of the people;

“**ecosystem**” means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

“**Minister**” means the Minister of Natural Resources and Environment;

“**Sufficiency Economy**” means the model of economic and social development in accordance with the philosophy of sufficiency economy pursuant to the King Rama IX’s speech;

“**offshore installations**” mean installations, tools, or any items built, erected, laid down, or used in or on the seabed and subsoil of the continental shelf in Thailand’s

sea for fisheries, navigation, conservation, restoration of resources and ecosystems, or for the exploration of the seabed and subsoil, and for the exploration of natural resources, including any structure linking the offshore installations together;

**“sources of pollution”** mean any communities, industrial factories, buildings, constructions, vehicles, or operation sites, as well as businesses premises, or sites of any activity which have an effect on the marine and coastal resources, and their biodiversity, which are the sources of the pollution, which may cause an effect on human beings, the environment or marine and coastal resources;

**“Director-General”** means Director-General of the Department of Marine and Coastal Resources.

**Section 4** Coastal areas, islands and the sea under this Act shall be the general areas for the management of marine and coastal resources, ecosystems, and biodiversity, in respect of which the Department of Marine and Coastal Resources, National Park, Wildlife and Plant Conservation Department, Royal Forestry Department, Pollution Control Department, Department of Minerals, Promotion of Environmental Quality Department, and the Office of Natural Resource and Environment Policy and Planning of the Ministry of Natural Resources and Environment; the Fisheries Department of the Ministry of Agriculture and Cooperatives; the Mineral Fuel Department of the Ministry of Energy; Department of Industrial Works of the Ministry of Industry; the Marine Department of the Ministry of Transport; Community Development Department, Local Administration Department, Department of Public Work and Town Planning, and Department of Lands of the Ministry of Interior; Royal Thai Navy of the Ministry of Defense; Royal Thai Police, Office of the Prime Minister; Department of Fine Arts of the Ministry of Culture; Tourism Authority of Thailand of the Ministry of Tourism and Sports; including the relevant government agencies, as well as the National Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources Committee, the Local Marine and Coastal Resources Committee, coastal communities, competent officers, and coastal community’s officers, have powers and duties to jointly manage in a unified and integrated manner in accordance with the “Sufficiency Economy” model and sustainable development under this Act.

Sustainable development shall include management which comprises various factors of personnel, funding, knowledge, technology, religion, and culture, among others, as well as participation which responds to the genuine needs of the community for the betterment and sustainable development of society, including peace and conciliation.

**Section 5** In the event of an emergency or danger to the public as a result of the spread of pollution, natural disasters or any other cause, which, if neglected, will seriously cause grave danger to human life, body, property and health and/or to the environment, marine and coastal resources and their biodiversity, the Prime Minister shall have the power, or shall delegate the power to any person, to order as deemed appropriate. State agencies or any legal or natural person who may be harmed or injured shall act or take part in any action in order to control, suppress, or relieve the adverse effect from the resulting danger and damage in a timely fashion.

If it is known which person has caused such pollution or disaster, the Prime Minister shall also have the power to order that person to refrain from any action which will result in raising the severity of such pollution or disasters during the time of such dangers.

With respect to the power to order under paragraph 1, the Prime Minister may delegate the power to a Governor to act on behalf of the Prime Minister in a province by making an order and notifying it in the Government Gazette.

**Section 6** In order to prevent, resolve, suppress, or relieve the emergency situations or dangers from pollution, natural disasters, or any other cause under Section 5, the Prime Minister shall designate preventive measures and make emergency plans to resolve the arising situations in advance.

**Section 7** The Minister of Natural Resources and Environment shall be in charge of the enforcement of this Act and shall have the power to issue ministerial notifications appointing competent officers, to set fees, as well as to issue ministerial rules, notifications, or regulations, and to designate other activities for the execution of this Act.

Ministerial rules, notifications, and regulations under paragraph 1 shall come into force upon their publication in the Government Gazette.

**Chapter 1**  
**General Management**

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**Part 1**  
**National Marine and Coastal Resources Committee**  
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**Section 8** There shall be a committee called the “National Marine and Coastal Resources Committee”, composed of: the Prime Minister, or a Deputy Prime Minister assigned by the Prime Minister, as chairman; the Minister of Natural Resources and Environment, as vice-chairman; the Permanent Secretary of the Ministry of Finance; Permanent Secretary of the Ministry of Foreign Affairs; Permanent Secretary of the Ministry of Agriculture and Cooperatives; Permanent Secretary of the Ministry of Energy; Permanent Secretary of the Ministry of Tourism and Sport; Permanent Secretary of the Ministry of Transport; Permanent Secretary of the Ministry of Commerce; Permanent Secretary of the Ministry of Natural Resources and Environment; Permanent Secretary of the Ministry of Interior; Permanent Secretary of the Ministry of Education; Permanent Secretary of the Ministry of Industry; Permanent Secretary of the Office of the Prime Minister; Permanent Secretary of the Ministry of Defense; Secretary-General of the Office of the National Economic and Social Development Board; Secretary-General of the National Research Council of Thailand; Secretary-General of the Office of the National Security Council; Governor of the Tourism Authority of Thailand; Commander in Chief of the Royal Thai Navy Headquarters; eight qualified persons appointed by the Cabinet, as members; and the Director-General of the Department of Marine and Coastal Resources, as member and secretary.

The qualified members appointed by the Cabinet under paragraph one shall be selected from persons with knowledge and experience in marine and coastal resources management.

Details, criteria, procedures and methods for the recruitment of qualified members under paragraph 1 shall be specified in Ministerial Rules.

**Section 9** The qualified members appointed by the Cabinet hold the position for a term of three years. The members whose term of office is expired may be reappointed.

In case the term of office of a qualified member is expired but a new member has not yet been appointed, the former shall perform his duty until the appointment of the new member, which shall be made within one hundred and eighty days.

**Section 10** Apart from the expiration of the term of office under Section 9, qualified members vacate their offices upon:

- (1) death;
- (2) resignation;
- (3) being removed by the Cabinet owing to defects in the performance of duties, misbehavior, or incompetence;
- (4) bankruptcy;
- (5) being declared by the court as incompetent or quasi-incompetent;
- (6) being imprisoned following a final judgment, except for an offence committed through negligence or a petty offence.

In case a qualified member vacates his office before the expiration of the term of office, the Cabinet may appoint another person to fill the vacancy and the person appointed shall hold the position for the remaining term of office of the member whom he replaces.

In case of appointment of additional members while members who have already been appointed are still within their term of office, the additional members appointed shall hold the position for the remaining term of office of the members who have already been appointed.

**Section 11** If the Chairman of the National Marine and Coastal Resources Committee is not present at a meeting of the Committee or is unable to perform his duty, the Vice-Chairman of the Committee shall act as Chairman of the meeting and if the Vice-Chairman is not present at the meeting or is unable to perform his duty, the members present at the meeting shall elect one member to act as Chairman of the meeting.

The Chairman of the Committee conducts the meeting. The Chairman shall have the power to make any order necessary to keep the meeting in order.

**Section 12** At every meeting of the National Marine and Coastal Resources Committee, there must be attendance of not less than one-half of the total members in order to constitute a quorum.

Any decision of the meeting shall be taken by a majority of votes.

Each member shall have one vote. In case of a tie, the presiding chairman shall have an additional vote as a casting-vote.

**Section 13** The National Marine and Coastal Resources Committee is empowered to establish committees of experts, sub-committees, or working groups to consider or perform any activity assigned by it.

The provisions of Sections 11 and 12 shall apply *mutatis mutandis* to meetings of the committees of experts and sub-committees.

**Section 14** The National Marine and Coastal Resources Committee, its committees of experts, or its sub-committees are empowered to call upon State agencies to submit relevant documents or information for their consideration, as well as to invite any person to provide explanations, facts, suggestions, or opinions, or to submit relevant documents or evidence.

**Section 15** The National Marine and Coastal Resources Committee shall receive remuneration and other expenses for the operation as specified by Royal Decree.

The remuneration and other expenses for the operation of the committees of experts, sub-committees, and working groups under Section 13 shall be specified by the National Marine and Coastal Resources Committee.

**Section 16** The National Marine and Coastal Resources Committee shall have the following functions:

- (1) To consider and approve national marine and coastal resources management policies and plans in accordance with Section 72;
- (2) To give opinions and suggestions to the Cabinet for the approval of the projects, programs, and investment budgets, of State agencies for the implementation of the national marine and coastal resources policies and plans;
- (3) To consider and approve measures, directions, plans, projects, budgets, and personnel for the management of marine and coastal resources, and their biodiversity, to serve as a framework for the operation of State agencies, local administration authorities, and other relevant agencies, to implement management policies and plans, as well as for the use of marine and coastal resources, and their biodiversity;
- (4) To coordinate and arrange meetings with the other committees set up pursuant to legislation or Cabinet resolutions with the functions relating to marine and coastal resources management policies and plans;
- (5) To coordinate, monitor, assess, and speed up the operational results of the State agencies assigned to operate in the field of marine and coastal resources, and their biodiversity in accordance with the national marine and coastal resources management directions and policies;
- (6) To make suggestion for the coordination of the needs of, and the benefits for, the stakeholders relevant for the management, distribution, use, conservation, restoration, and development of marine and coastal resources, and their biodiversity;
- (7) To consider and approve provincial marine and coastal resources management policies and plans;
- (8) To consider and decide appeals lodged in accordance with this Act;
- (9) To consider and approve the issuance of notifications designating marine and coastal protected areas, as well as the criteria, conditions, and methods for the management of those areas in accordance with Sections 79 and 83;
- (10) To consider and approve the issuance of notifications stipulating criteria, conditions and methods for the preservation, conservation, and protection of plant and animal species, and biodiversity generally, in accordance with Section 82;
- (11) To consider and approve the issuance of notifications stipulating marine and coastal environmental quality standards, pollution control standards, and pollution control zones in accordance with Section 87;
- (12) To stipulate the criteria, conditions, and methods for the allocation of the income and grants of the Provincial Marine and Coastal Resources Fund;
- (13) To stipulate the criteria, conditions, and methods for the allocation of grants for Provincial Marine and Coastal Resources Funds from the Marine and Coastal Resources Fund;
- (14) To stipulate the criteria, conditions, and methods for operational standards for tourism, sports, or other activities in marine and coastal areas;
- (15) To stipulate criteria and standards required to support the preservation of local culture in the coastal zone and to promote public awareness of it, in accordance with the "Sufficiency Economy" model and sustainable development;
- (16) To monitor the management of the Marine and Coastal Resources Fund;
- (17) To make suggestions for complementary measures for the management and use of marine and coastal resources, and their biodiversity, including rewards, tax exemptions, benefit-sharing, and the right to sufficient and sustainable use of marine and coastal resources and ecosystems;
- (18) To approve rules, regulations, notifications, and orders for the implementation of this Act, as well as to coordinate the implementation of policies and plans and the enforcement of rules, regulations, notifications, and orders of State agencies, local administration authorities, and other agencies relevant for the management of marine and coastal resources, and their biodiversity;
- (19) To perform any other functions as required by this Act or other legislation.

**Section 17** The Department of Marine and Coastal Resources shall be the Secretariat of the National Marine and Coastal Resources Committee with the duty to make written minutes of all Committee meetings, including dissenting opinions and the rationale behind minority opinions, and implementation of resolutions of the meetings, which shall be binding upon the relevant authorities. The Department of Marine and Coastal Resources shall have the following powers and duties:

- (1) To carry out operations related to the conservation, protection, restoration, and management of marine and coastal resources and their biodiversity, for the sustainability of the Thai seas;
- (2) To prepare and make comments on, and to adopt, policies and plans, measures, guidelines, work plans, projects, budgets, and personnel for the management of marine and coastal resources and their biodiversity, to serve as a framework for the operation of State agencies, local administration authorities, and other relevant agencies, to benefit the management, preservation, conservation and restoration of marine and coastal resources and their biodiversity;
- (3) To recommend rules, regulations, notifications and orders, and supervise, assess and monitor any operation to implement regulations under this Act, as well as coordinate compliance with policies and plans and enforcement of rules, regulations, notifications and orders of State agencies, local administration authorities and other agencies concerned with the management of marine and coastal resources and their biodiversity;
- (4) To study, develop, conserve, protect and restore marine and coastal resources and their biodiversity, particularly rare and endangered plant and animal species;
- (5) To make suggestions for sites that ought to be managed for the benefit of preservation, conservation, restoration and development for the sustainable use in the marine and coastal resources and their biodiversity, as well as to make suggestions for the notification of criteria, conditions and methods for the designation of areas and measures for the management of marine and coastal resources and their biodiversity under Section 84 and protection of plant and animal species under Section 82, as well as marine and coastal pollution control under Section 87;
- (6) To build understanding and promote people's participation in the management, conservation, protection and restoration of marine and coastal resources and their biodiversity, by giving advice and taking part as members or advisors of the Local Marine and Coastal Resources Committee and as members of the Provincial Marine and Coastal Resources Committee;
- (7) To explore, register and establish coastal communities and coastal community zones in conjunction with local administration authorities and citizens in these areas and to coordinate and monitor the follow-up of these activities;
- (8) To make maps of marine and coastal resources in every coastal community zone and island in the country, as well as to amend, add and develop such maps continuously;
- (9) To involve the Technical Organization and Collaboration Task Forces in studies and research, as well as in the making of guidelines, policies, work plans, action plans and projects of the coastal communities and provinces;
- (10) To build up computer and internet databases for the collection of data, justifications of all State agencies and comments of stakeholders regarding projects and work plans which may have an effect on marine and coastal resources and their biodiversity, which can be accessed by all stakeholders to make comments and investigate before approval of the projects or work plans;
- (11) To arrange for the comments of all stakeholders on projects and work plans which may have an effect on marine and coastal resources and their biodiversity;

- (12) To facilitate, assign, assist, support and promote stakeholders concerned with the conservation and use of marine and coastal resources and their biodiversity, under this Act or other legislation, to enable them to work effectively;
- (13) To be a national information center on marine and coastal resources and their biodiversity and to build up systems of knowledge and capacity related to the management of such marine and coastal resources;
- (14) To support and conduct fundraising for the Marine and Coastal Resources Fund and Provincial Marine and Coastal Resources Fund;
- (15) To coordinate cooperation with other countries and international organizations on marine and coastal resources and their biodiversity;
- (16) To coordinate the collection of information, witnesses and evidence for the suppression and mitigation of disasters and for the restoration of marine and coastal resources and their biodiversity, as well as to support and assist in prosecution by the Attorney General and other justice officers according to relevant information, witnesses and evidence; and
- (17) To perform any other act to attain the objectives of this Act or assigned by the Minister or the Cabinet.

## **Part 2**

### **Provincial Marine and Coastal Resources Committee**

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**Section 18** In the coastal provinces, there shall be a committee called the “Provincial Marine and Coastal Resources Committee”, composed of the Governor, as chairman, a Deputy Governor, as vice-chairman, Head of Provincial Office, Head of Marine Branch, Provincial Land Officer, Provincial Police Commander, Provincial Fishery Officer, Provincial Development Officer, Provincial Industry Officer, Provincial Public Prosecutor, representative of the Royal Thai Navy, representative of Tourism Authority of Thailand, representative of the Department of Marine and Coastal Resources, representative of Provincial Office of Community Justice, President of the Provincial Administration Authority and 10 qualified members, as members, and the Provincial Natural Resource and Environment Officer as member and secretary.

The qualified members under paragraph 1 shall be appointed by the Director-General of the Department of Marine and Coastal Resources and selected from among persons with knowledge and experience in marine and coastal resources management.

**Section 19** The provisions of Section 8 paragraphs 2 and 3 and Sections 9 and 10 shall apply *mutatis mutandis* to the recruitment and tenure in office of qualified members of the Provincial Marine and Coastal Resources Committee.

**Section 20** The provisions of Sections 11, 12, 13, 14 and 15 shall apply *mutatis mutandis* to the operation of the Provincial Marine and Coastal Resources Committee.

**Section 21** The Governor, with the approval of the Provincial Marine and Coastal Resources Committee, is empowered to issue notifications, regulations, orders, and rules not inconsistent or in conflict with this Act or other legislation, for the purpose of fulfilling the functions specified in this Act or other legislation.

Notifications, regulations, orders, and rules shall come into effect upon their publication in the Government Gazette.

**Section 22** The Provincial Marine and Coastal Resources Committee shall have the following functions:

- (1) To prepare and propose Provincial Marine and Coastal Resources Management Plans in accordance with Section 74 to be submitted for approval by the National Marine and Coastal Resources Committee;
- (2) To consider and approve Local Marine and Coastal Resources Management Plans in accordance with Section 75;
- (3) To consider and approve the establishment, adjustment, and withdrawal of a coastal community and a coastal community zone in accordance with Sections 27 and 38;
- (4) To consider and approve permits for use of areas in a coastal community zone for other public benefits in accordance with Section 83;
- (5) To stipulate the criteria, conditions, and methods for allocating the income of the Provincial Marine and Coastal Resources Fund from local administration authorities in the coastal community zone, as well as to supervise the management of the Provincial Marine and Coastal Resources Fund;
- (6) To consider and approve permits for access to conduct research in a coastal community zone, as well as to protect traditional knowledge under Section 53 paragraph 3;
- (7) To consider and decide appeals lodged pursuant to this Act;
- (8) To consider and approve the issuance of notifications, orders, and rules in accordance with Section 21;
- (9) To give comments and make suggestions for the Cabinet in considering approval of projects and work plans, as well as investment budgets of State agencies in order to operate in accordance with National Marine and Coastal Resources Management Policies and Plans;
- (10) To stipulate the criteria, conditions and methods related to operational standards for tourism, sports, and other activities in the marine and coastal areas of the province;
- (11) To stipulate criteria and standards required to support the preservation of local culture in the coastal zone and to promote public awareness of it, in accordance with the "Sufficiency Economy" model and sustainable development;
- (12) To arrange for the system of preliminary dispute settlement by means of a multilateral committee, mediation, "Da Toh" Justice, or arbitration, for disputes, conflicts, or lawsuits relating to marine and coastal resources and their biodiversity; and
- (13) To perform any other functions as required by this Act or other legislation.

**Section 23** The Secretariat for the Provincial Marine and Coastal Resources Committee shall be established by the Governor to operate under this Act and shall have the duty to make written minutes of meetings of the Committee, including dissenting opinions and the rationale behind minority opinions, and implementation of resolutions of the meetings, which shall be binding upon the relevant authorities. The Secretariat of the Provincial Marine and Coastal Resources Committee shall have the following powers and duties:

- (1) To make suggestions for, and to coordinate with stakeholders in the area to prepare, general framework programs and projects suitable for their area, taking into consideration economic benefits, people's subsistence needs, and the effects on the marine and coastal resources and their biodiversity;
- (2) To make suggestions for and to coordinate with stakeholders in the area to take part in considering and decision-making related to public participation in defining projects and programs for the development and conservation of marine and coastal resources and ecosystems and their biodiversity, within the general framework programs and projects;
- (3) To make suggestions for and to coordinate with stakeholders in the area to take part in setting up mechanisms for the management of marine and coastal resources and their biodiversity at the provincial level in order to coordinate joint policies, plans, and management;

- (4) To make suggestions for and to coordinate with stakeholders in each province to take part in the management, prevention, control, and resolution of marine and coastal pollution;
- (5) To coordinate and arrange meetings with stakeholders and other committees with the functions relating to marine and coastal resources management policies and plans;
- (6) To coordinate, monitor, assess, and facilitate the operations of the State agencies assigned to operate in the field of marine and coastal resources and their biodiversity in accordance with provincial and national marine and coastal resources management directions and policies;
- (7) To make suggestions for the coordination of the needs of, and the sharing of benefits with, relevant stakeholders and the distribution, use and management of marine and coastal resources and their biodiversity;
- (8) To support fund-raising, and to stipulate criteria, conditions, and methods for allocating grants and income, as well as to supervise the management of Provincial Marine and Coastal Resources Funds;
- (9) To make suggestions for complementary measures for the management and use of marine and coastal resources and their biodiversity, including rewards, tax exemptions, benefit-sharing, and the right to sufficient and sustainable use of marine and coastal resources and their biodiversity; and
- (10) To coordinate the collection of information, witnesses and evidence for disaster mitigation and recovery and for restoring marine and coastal resources and their biodiversity, as well as to support and assist in prosecutions by the Attorney General and other justice officers based on relevant information, witnesses and evidence.

**Chapter 2**  
**Community Rights and Integrated Co-Management**

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**Part 1**  
**Local Marine and Coastal Resources Committee**  
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**Section 24** In each coastal community, there may be a committee called the “Local Marine and Coastal Resources Committee”, composed of no more than fifteen (15) members who have applied and have been elected from among coastal community residents practicing traditional occupations and coming from different groups with domicile in that coastal community. Twelve of the elected members shall include one representative from each traditional occupation, including traditional occupations in subsistence fishery, agriculture, forestry, trading, transport, tourism, local commercial fishery, and local business, as well as other traditional occupations, and/or one representative from groups including housewives, women employed outside the home, youth, private development organizations, and /or other occupations and groups additionally notified by the Provincial Marine and Coastal Resources Committee, and another three (3) members consisting of one representative from the Sub-district Administration Organization in the locality, one from any Technical Operation and Collaboration Task Force in the locality, and one from the Department of Marine and Coastal Resources.

The members elected under the preceding paragraph shall elect from among them one to serve as chairman, and another as secretary.

The Local Marine and Coastal Resources Committee shall appoint no more than five (5) coastal community residents who have knowledge and ability, are the community

prophet, traditional philosophers, or senior local citizens, and are accepted by the coastal community, as advisors for the Local Marine and Coastal Resources Committee.

Sections 9, 10, 11, 12, 13, 14 and 15 shall apply *mutatis mutandis* to the holding and vacating of the position of the Local Committee members and to the performance of the duties of the Local Marine and Coastal Resources Committee.

**Section 25** Coastal community residents who are at least eighteen years old shall elect the Local Marine and Coastal Resources Committee within ninety (90) days from the date of the establishment of the coastal community and the coastal community zone.

Criteria and methods for the election, qualifications, tenure in office, and number of the Local Marine and Coastal Resources Committees shall be transparent and just.

**Section 26** The Local Marine and Coastal Resources Committee shall have the following powers and duties:

- (1) To make local marine and coastal resources management plans to be approved by the Provincial Marine and Coastal Resources Committee;
- (2) To cooperate with Marine and Coastal Resources Officers on the provision of boundary posts, signs or other marks regarding the coastal community and coastal community zone;
- (3) To issue regulations regarding the coastal community and coastal community zone management, and the management of the coastal community's central properties, in accordance with the objectives of the coastal community and compatible with the Committee's regulations;
- (4) To supervise and maintain the coastal community's central properties;
- (5) To supervise compliance with this Act by residents of the coastal community;
- (6) To order any person to leave the coastal community zone or to take action or refrain from any action in the coastal community zone in order to comply with the regulations under clause (3) or this Act;
- (7) To conciliate, mediate, arbitrate or use any other means of dispute resolution in accordance with law, when conflicts and disputes arise among the coastal community residents regarding marine and coastal resources management;
- (8) To assist the Marine and Coastal Resources Officers in performing their duty to prevent violations and prosecute offenders under this Act;
- (9) To arrange for joint consultations in accordance with Section 58;
- (10) To take any action deemed appropriate to prevent or alleviate damage to the coastal community;
- (11) To carry out any other activities as specified in this Act or as specified by the National Marine and Coastal Resources Committee or the Provincial Marine and Coastal Resources Committee as the duties of the Local Marine and Coastal Resources Committee.

## **Part 2**

### **Community Rights and Establishment and Management of Coastal Communities**

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**Section 27** Persons of Thai nationality inhabiting in the coastal areas or islands, who together form a community of thirty (30) households or more, who have regularly and continuously been inhabiting and making a living in that community for twenty (20) years or more, shall have the right to request recognition from the Provincial Marine and Coastal Resources Committee for the purpose of establishing a coastal community and coastal community zone under this Act.

The coastal community recognized by the Provincial Marine and Coastal Resources Committee under the preceding paragraph shall have the status of a legal person under this Act.

A coastal community zone shall be an area of the coast designated in accordance with the demarcation of villages, sub-districts, districts, and provinces by the Ministry of Interior and shall include the adjacent sea, including conservation areas declared under the Fisheries Act, 2490 B.E. as well as marine protected areas and conservation areas designated in accordance with this Act or other legislation.

At least thirty (30) representatives of any community wishing to establish a coastal community and a coastal community zone shall submit a written application to the Provincial Marine and Coastal Resources Committee of the province in which the coastal community and coastal community zone are requested to be established. The request shall contain the following information:

- (1) The objectives of the coastal community and coastal community zone;
- (2) Names and brief resumes of the applicants for the establishment of the coastal community and coastal community zone, who are qualified in accordance with criteria specified in Ministerial Rules;
- (3) Brief origin of the community applying for the establishment of a coastal community and coastal community zone, as well as a rough map indicating boundary and connecting zones;
- (4) Draft local marine and coastal resources management plans which indicate the protection, preservation, conservation, restoration, development or supervision of marine and coastal environment, resources, ecosystems and biodiversity, state of the resources and state of the use of marine and coastal resources in the coastal community zone, the operational methods, and other items specified by the Provincial Marine and Coastal Resources Committee as guidelines for the Local Marine and Coastal Resources Committee of the coastal community to be established under Section 27 to consider making such management plans in accordance with Section 75.

Criteria and methods for the submission of applications for the establishment of a coastal community and coastal community zone shall be specified in Ministerial rules.

**Section 28** Upon receipt of an application for the establishment of a coastal community and coastal community zone, the Provincial Marine and Coastal Resources Committee shall appoint officers to investigate facts relating to the details contained in the application and shall report the result of the investigation within sixty (60) days from the date of the receipt of the application.

The investigation under paragraph 1 shall be in accordance with regulations issued by the Provincial Marine and Coastal Resources Committee. The officers responsible for the investigation shall offer their opinion as to whether the area ought to be established as a coastal community and coastal community zone or not, and, if so, what the objectives ought to be, as well as any other observations regarding the application.

If the Department of Marine and Coastal Resources or the Governor of any coastal province deems it appropriate to establish a coastal community and a coastal community zone with the consent of the community involved as provided under this Act, the Director-General of the Governor may act the community's representative to submit the application for the establishment of the coastal community and the coastal community zone.

**Section 29** Upon receipt of the investigation report under Section 28, the Provincial Marine and Coastal Resources Committee shall make public the application and the summary of the investigation report in the City Hall, the District or District Branch Office, the Office of the Sub-district Administration Authority, the Village Chief's Office, and at other places which can be easily seen in the village, local community or

surrounding area for ninety (90) days. The date of notification shall also be indicated on the notification paper and the Provincial Marine and Coastal Resources Committee shall publish the outcome of the application and the investigation report through the provincial media for seven (7) days.

Any State agency and person, whether living in the locality or not, shall have the right to submit written objections or opinions regarding the establishment of a coastal community and the coastal community zone during the 90-day notification period.

**Section 30** In considering the application and investigation report, the Provincial Marine and Coastal Resources Committee may send a letter to the responsible local government authority in the locality or a person submitting written objections or opinions to invite them to provide facts or opinions to be used in considering the establishment of the coastal community and the coastal community zone.

If the Provincial Marine and Coastal Resources Committee is of the opinion that the information in the application is not correct or is inappropriate, the Provincial Marine and Coastal Resources Committee has the power to order the applicant to amend them.

If the applicant does not amend or comply with the Provincial Marine and Coastal Resources Committee's order within the period specified by the Committee, the Provincial Marine and Coastal Resources Committee has the power to decide whether or not to continue considering the application, as it sees fit.

**Section 31** When the Provincial Marine and Coastal Resources Committee has resolved to allow the establishment of a coastal community and coastal community zone pursuant to the application, or to allow the establishment of a coastal community and coastal community zone in part, or with conditions, or has resolved not to allow the establishment of a coastal community and coastal community zone, it shall notify such resolution to the applicant and to all persons submitting written objections or opinions within fifteen (15) days from the date of the resolution of the Provincial Marine and Coastal Resources Committee.

The applicant and any person submitting written objections have the right to appeal the Provincial Marine and Coastal Resources Committee's resolution under paragraph 1 to the National Marine and Coastal Resources Committee within ninety (90) days from the date of the receipt of the written notification.

The National Marine and Coastal Resources Committee shall complete consideration of the appeal within ninety (90) days from the date of the receipt of the appeal. The decision of the National Marine and Coastal Resources Committee shall be final and the Provincial Marine and Coastal Resources Committee shall comply with such decision.

The written notification of the Provincial Marine and Coastal Resources Committee, the appeal of the applicant or any person submitting written objections, and the decision of the National Marine and Coastal Resources Committee shall indicate explicitly the justification for each decision.

**Section 32** When the Provincial Marine and Coastal Resources Committee has resolved to allow the establishment of a coastal community and coastal community zone and there is no appeal before the period for appeals has expired, it shall submit a report to the Director-General for consideration. If the Director-General does not concur with the resolution of the Provincial Marine and Coastal Resources Committee, he shall submit the case to the National Marine and Coastal Resources Committee for consideration and Section 31 paragraph 3 shall apply *mutatis mutandis*.

When the Director-General concurs with the resolution of the Provincial Marine and Coastal Resources Committee, or when the National Marine and Coastal Resources Committee has considered the report received from the Director-General under paragraph 1, or has considered an appeal under Section 31 paragraph 3, there shall be

a decision allowing the establishment of the coastal community and the coastal community zone and it shall be published in the Government Gazette as specified in regulations issued by the National Marine and Coastal Resources Committee.

The establishment of a coastal community and coastal community zone shall take effect upon publication of the decision in the Government Gazette.

**Section 33** A coastal community has the following rights:

- (1) To manage, conserve, maintain, and use marine and coastal resources and their biodiversity in a balanced and sustainable manner in accordance with this Act, other legislation relating to resources and environment, and other legislation;
- (2) To manage marine and coastal resources and their biodiversity in its coastal community zone in an integrated manner and to co-ordinate with the relevant stakeholders to comply with the regulations of the National Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources Committee, this Act, and regulations issued pursuant to this Act;
- (3) To participate with the State, indigenous communities, other coastal communities and/or other local communities in the maintenance and use of marine and coastal resources and their biodiversity and in the protection, promotion, and maintenance of the quality of marine and coastal resources and their biodiversity in order to make a living normally and continuously in the coastal community zone without causing harm to its health, safety, or quality of life;
- (4) To request and to be informed of public information or news possessed by official agencies, State agencies, State enterprises, or local official agencies relating to marine and coastal resources and their biodiversity, projects and activities of the seas, islands, and coasts, unless the disclosure of such information will have an effect on the security of the State, the public safety, or the stakes of other persons which ought to be protected;
- (5) To request and to receive information, explanation, and reasons from official agencies, State agencies, State enterprises, and/or local administration authorities before the permission for or operation of any project or activity which may have an effect on the quality of marine and coastal resources, health, quality of life, or other important aspects related to a coastal community or neighboring coastal communities, and to have a right to give its opinion on such matters, in accordance with the meeting, joint consultation, or public hearing processes under this Act or other legislation, and/or regulations issued pursuant to this Act or other legislation;
- (6) To participate in the consideration processes of State officers performing their administrative functions which have an effect or may have an effect on the rights, duties, and freedoms of the coastal community under this Act or other legislation, or regulations issued pursuant to this Act and/or other legislation;
- (7) To lodge a complaint and to be notified of the result within a reasonable period of no more than thirty (30) days from the date of the lodging of the complaint;
- (8) To file a lawsuit against any State agency, local government agency, other authorities of the State, individual or legal person to make them perform their duties, or be liable for their actions or omissions related to projects and activities related to marine and coastal resources and their biodiversity and islands under this Act, legislation relating to natural resources and environment, and/or other legislation;
- (9) To have other rights and duties as specified by this Act, legislation relating to natural resources and environment, and/or other legislation.

**Section 34** The designation and establishment of a coastal community and coastal community zone must be in accordance with the following objectives:

- (1) The conservation of marine and coastal resources and their biodiversity;

- (2) The balanced and sustainable use of marine and coastal resources and their biodiversity in the coastal community zone;
- (3) The promotion of the coastal community's diversified cultures and customs in the conservation, restoration, development, supervision, and use of marine and coastal resources and their biodiversity; and
- (4) The integrated management of marine and coastal resources and their biodiversity, the establishment and management of setbacks and coast, as well as projects and activities by official agencies and other stakeholders in that coastal community zone.

A coastal community and coastal community zone established under this Act is a non-commercial asset and State's public property for the purposes of integrated management, conservation, use, and restoration of marine and coastal resources and their biodiversity. The transformation, change into private funds, trade, rent, sale, giving away, transfer or any legal transaction that causes a coastal community and coastal community zone to fall into the ownership of any private individual, organization, cooperative, company or legal person shall be prohibited.

**Section 35** Any land, building, house, factory, construction, immovable property, and asset in an area which has already been established as a coastal community zone shall continue to be governed by other relevant legislation, unless the contrary is provided for by this Act.

The provisions of Section 34, paragraph 2, and of paragraph 1 of this Section do not prejudice the property, title, possessory right, property right or individual right of natural persons, legal persons, State agencies, or any organizations which have arisen or have been transferred lawfully in accordance with the Civil and Commercial Code, Land Code, Building Control Act B.E. 2522, Factory Act B.E. 2535, Industrial Estate Authority Act B.E. 2522, Town and Country Planning Act B.E. 2518, any laws related to property and immovable property, and/or other laws.

**Section 36** A coastal community has the following duties to maintain the coastal community zone:

- (1) To comply with the regulations of the National Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources Committee, and the Local Marine and Coastal Resources Committee, and the local coastal community zone management plans;
- (2) To coordinate with the State in the maintenance of the coastal community and coastal community zone, marine and coastal resources and their biodiversity.

**Section 37** If any member of the Local Marine and Coastal Resources Committee intentionally or negligently unlawfully uses for himself/herself, destroys or commits any act causing damage to marine and coastal resources and/or their biodiversity, unlawfully exercises powers and duties, or otherwise violates this Act, the Local Marine and Coastal Resources Committee, by three-fourths vote of all its members, shall resolve that that member of the Local Marine and Coastal Resources Committee must vacate his/her position as a member of the Local Marine and Coastal Resources Committee.

**Section 38** When there are reasonable grounds, the Local Marine and Coastal Resources Committee may amend, extend, or reduce the coastal community zone, improve the local marine and coastal resources management plans, or request the withdrawal of the coastal community and coastal community zone, in whole or in part, but must explicitly provide reasons and details, and sections 27, 28, 29, 30, 31 and 32 shall apply *mutatis mutandis*.

**Section 39** The Marine and Coastal Resources Officers shall duly provide for boundary posts, signs, or other marks, which clearly indicate the boundary of the coastal community zone. The Local Marine and Coastal Resources Committee and residents of the coastal community zone shall cooperate in this operation.

**Section 40** The chairman and secretary or another delegated committee member, with the approval of the the Local Marine and Coastal Resources Committee, shall have the power to undertake any legal transaction binding on the central property of the coastal community and to institute prosecution related to the central property of the coastal community.

**Section 41** Where there is damage to the central property of the coastal community and the Local Marine and Coastal Resources Committee has not instituted prosecution, the Provincial Marine and Coastal Resources Committee has the power to submit the case to the Public Prosecutor to institute prosecution for damages.

**Section 42** The Provincial Marine and Coastal Resources Committee has the power to withdraw a coastal community and coastal community zone in whole or in part, in the following instances:

- (1) The Local Marine and Coastal Resources Committee has requested the withdrawal of a coastal community under Section 38;
- (2) The Local Marine and Coastal Resources Committee has neglected the management or restoration of marine and coastal resources and their biodiversity in that coastal community zone;
- (3) The Local Marine and Coastal Resources Committee has not complied with this Act, or regulations issued pursuant to this Act, with the result that there is potential or actual damage to a coastal community and coastal community zone.

The Local Marine and Coastal Resources Committee has the right to appeal an order to withdraw the coastal community and coastal community zone, in which case Section 31 shall apply *mutatis mutandis*.

The withdrawal of a coastal community and coastal community zone shall take effect upon publication of the order in the Government Gazette. In case a coastal community and coastal community zone are not entirely withdrawn, a map indicating the changed boundary shall be annexed to the publication.

**Section 43** The central property of the withdrawn coastal community and coastal community zone, if it is movable property, shall be dealt with as specified by the Provincial Marine and Coastal Resources Committee. Immovable property shall become State property.

**Section 44** A coastal community and coastal community zone which have been withdrawn under Section 42 may apply for re-establishment by complying with the provisions of this Chapter.

### **Part 3**

#### **Co-Management by People, Coastal Communities and Local Administration Authorities**

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**Section 45** The Provincial Marine and Coastal Resources Committee of the province in which the establishment of coastal community and coastal community zone has been approved and the Local Marine and Coastal Resources Committee shall have powers and duties with respect to such coastal community and coastal community zone in accordance with this Act.

Upon the receipt of a request of the Local Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources Committee has the power to appoint residents of the coastal community or persons with knowledge, ability, and experience as Coastal Community Officers in accordance with this Act. Coastal Community Officers shall serve on a voluntary basis.

**Section 46** Coastal Community Officers shall have the following powers and duties:

- (1) To explore the coastal community zone and to supervise operations and activities in it;
- (2) To give suggestions to, to disseminate knowledge of, and to promote and support the operation of the Local Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources Committee, residents of the coastal community, State agencies, and other stakeholders;
- (3) In case there is a violation of, or non-compliance with, this Act or the regulations of the Provincial Marine and Coastal Resources Committee or Local Marine and Coastal Resources Committee and a meeting of the Local Marine and Coastal Resources Committee cannot be immediately convened, to order any person to leave the coastal community zone, or to act or refrain from any action in the coastal community zone, and to report to the Local Marine and Coastal Resources Committee and the Provincial Marine and Coastal Resources Committee;
- (4) To take appropriate actions to prevent and alleviate damage to the coastal community or coastal community zone;
- (5) To report to the Provincial Marine and Coastal Resources Committee when there appears to be a case in which the withdrawal in whole or in part of the coastal community and coastal community zone is required;
- (6) To perform any other functions as required in this Act or regulations passed under this Act.

**Section 47** In the area designated as a coastal community zone, marine protected area, or a preservation area, conservation area, restoration area, or development area under this Act, or the Fisheries Act B.E. 2490, National Parks Act B.E. 2504, Forest Act B.E. 2484, and Enhancement and Conservation of National Environmental Quality Act B.E. 2535, or other legislation, fishing or any action which causes damage to marine and coastal resources and their biodiversity shall be prohibited, unless the provisions of this Act or regulations issued pursuant to this Act and/or other legislation have been completely complied with.

**Section 48** In the coastal community zone, any person is prohibited from occupying, making use of, or inhabiting lands, building, clearing or burning the forest, logging, collecting forest products, digging minerals including sand mining, hunting and destroying the habitat of preserved or protected wildlife, or doing by any means whatsoever anything that causes deterioration of or damage to the livelihoods of coastal communities and to marine and coastal resources and their biodiversity or features of the coastal community and coastal community zone, except in cases allowed under this Act, and when the provisions, regulations and conditions under this Act have been completely complied with.

**Section 49** In case the exploration or use of marine and coastal resources and their biodiversity are in accordance with the "Sufficiency Economy" model and comply fully with this Act and regulations issued under it, the coastal community does not have the right or the power to prohibit, restrain, or obstruct any legal or natural person living inside or outside the coastal community zone, from exploring or utilizing marine and coastal resources and their biodiversity, unless the contrary is provided for by this Act.

**Section 50** The coastal community has full rights and powers to prohibit or obstruct any legal or natural person living inside or outside the coastal community zone from occupying, exploring or using marine and coastal resources and their biodiversity for industrial or commercial purposes which are not in accordance with the “Sufficiency Economy” model and in full compliance with this Act and/or the regulations issued pursuant to it and to the Fisheries Act B.E. 2490, Forest Act B.E. 2484, National Parks Act B.E. 2504, and Enhancement and Conservation of National Environmental Quality Act B.E. 2535, and other relevant legislation, unless the contrary is provided for by this Act.

**Section 51** In managing marine and coastal resources and their biodiversity in the coastal community zone, the local administration authority shall have the powers and duties to assist, support, give advice, coordinate and manage jointly with the Local Marine and Coastal Resources Committee, Coastal Community Officers, and/or Marine and Coastal Resources Officers under this Act.

In areas of the coasts, islands, or seas not yet designated as a coastal community and coastal community zone, the local administration authorities shall have the same powers and duties as a Local Marine and Coastal Resources Committee to perform tasks under this Act in the management of marine and coastal resources and their biodiversity under this Act.

The provisions of the two preceding paragraphs do not prejudice the powers or duties of the local administration authority in the management of natural resources and environment under other legislation.

**Section 52** Any person using marine and coastal resources and their biodiversity for industrial or commercial purposes not in accordance with local traditions or the “Sufficiency Economy” model, such as commercial fishery or commercial tourism allowed under Section 49, if carried out inside a coastal community zone, shall make an agreement for the sharing of the benefits derived from the use of marine and coastal resources and their biodiversity with the Local Marine and Coastal Resources Committee and the coastal community in that coastal community zone.

In permitting any person to operate under paragraph 1 and in making the benefit-sharing agreement, the coastal community or its delegated representative shall undertake the legal transaction, with prior approval from the Provincial Marine and Coastal Resources Committee.

Benefits derived from the benefit-sharing agreement under paragraph 1 shall be allocated to coastal communities, the Provincial Marine and Coastal Resources Fund and the national Marine and Coastal Resources Fund as follows: thirty (30) per cent to all relevant coastal communities; forty (40) per cent to the Provincial Marine and Coastal Resources Fund; and thirty (30) per cent to the national Marine and Coastal Resources Fund.

The allocation of benefits under the preceding paragraph shall be in accordance with the criteria and methods specified in ministerial rules.

In case of any objection concerning the distribution of benefits under this Section, the Provincial Marine and Coastal Resources Committee shall decide.

Any stakeholder who disagrees with a decision of the Provincial Marine and Coastal Resources Committee has the right to appeal to the National Marine and Coastal Resources Committee within ninety (90) days from the date on which the Provincial Marine and Coastal Resources Committee issues the decision. The decision of the National Marine and Coastal Resources Committee shall be final.

**Section 53** To promote study and research and to prevent duplication of research, as well as to enable the Department of Marine and Coastal Resources to create a database of research on marine and coastal resources and their biodiversity,

the Provincial Marine and Coastal Resources Committee, at the request of a Local Marine and Coastal Resources Committee, shall permit a researcher to enter the coastal community zone in order to conduct research, with the participation of the residents of the coastal community zone.

Educational institutions, private organizations, private development organizations, or individuals wishing to enter to research or explore marine and coastal resources and their biodiversity in any coastal community zone shall seek permission from the Provincial Marine and Coastal Resources Committee in accordance with the criteria, conditions, and methods specified by the Provincial Marine and Coastal Resources Committee or the Local Marine and Coastal Resources Committee.

The Provincial Marine and Coastal Resources Committee shall support and promote persons in the community in recording and transmitting traditional knowledge, and in conducting research, as well as any other legal action to protect traditional knowledge and intellectual property rights in it.

In permitting research under paragraphs 1 or 2, the Provincial Marine and Coastal Resources Committee may stipulate criteria for agreements and for the remuneration to be derived by the coastal community from such research, in accordance with criteria, conditions and methods specified in ministerial rules.

**Section 54** When the Provincial Marine and Coastal Resources Committee has found that the Local Marine and Coastal Resources Committee, its members, or officers of the local administration authorities, have violated or have not complied with this Act or the regulations of the Provincial Marine and Coastal Resources Committee, or the regulations of the Local Marine and Coastal Resources Committee, it shall have the power to prosecute or order such Local Marine and Coastal Resources Committee, its members, or officers of the local administration authorities, to take action or refrain from taking such action as appropriate.

Any person who has received an order under paragraph 1 shall comply with such an order within the period specified by the Provincial Marine and Coastal Resources Committee.

If any person who has received an order under paragraph 1 does not agree with such an order, he/she may lodge an appeal to the National Marine and Coastal Resources Committee within fifteen (15) days from the date of the receipt of the order and Section 31 (3) and (4) shall apply *mutatis mutandis*.

#### **Part 4**

#### **Co-Management by Stakeholders and Technical Operation and Collaboration Task Forces**

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**Section 55** When there are two or more stakeholders involved in the management of marine and coastal resources and their biodiversity, policies, work plans, projects, and activities related to marine and coastal resources, the National Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources Committee, the Local Marine and Coastal Resources Committee, or the Department of Marine and Coastal Resources shall arrange for a joint consultation meeting among the stakeholders relevant for that issue.

The relevant stakeholders have a duty to send representatives to attend a joint consultation meeting. The resolution of such a joint consultation meeting shall be notified to the relevant stakeholders and shall be binding on them with respect to that issue.

Stakeholders which do not agree with a resolution under paragraph 2 have the right to lodge an appeal to the Provincial Marine and Coastal Resources Committee

within ninety (90) days of the date of such resolution. When the Provincial Marine and Coastal Resources Committee has issued a decision on the appeal, the stakeholders which do not agree with the decision have a right to lodge an appeal to the National Marine and Coastal Resources Committee within ninety (90) days of the date of the decision on the appeal. The decision of the National Marine and Coastal Resources Committee shall be final.

A resolution against which there is no appeal, or a final decision or order of the Provincial Marine and Coastal Resources Committee or the National Marine and Coastal Resources Committee in case there is an appeal, shall be published in the Government Gazette and shall be used as standards of operation for the relevant stakeholders.

The arrangement for and the conduct of all joint consultation meetings shall be transparent and just.

**Section 56** The National Marine and Coastal Resources Committee shall arrange for a joint consultation meeting in accordance with Section 55 among stakeholders in the management of marine and coastal resources and their biodiversity, to designate zones and work plan frameworks as guidelines for defining operational plans, action plans, activities, and projects to be linked with the coastal community's plans, the local administration authority's development plans, as well as provincial development plans, and other management plans, and also for assessing and summarizing management results, and improving and developing the management of marine and coastal resources at the national level. These plans and guidelines are to be used for marine and coastal resources management in the coastal zone, islands, and seas which are the general management areas for marine and coastal resources and their biodiversity under Section 4.

The National Marine and Coastal Resources Committee shall arrange for a joint consultation meeting at the national level in accordance with paragraph 1 at least once a year.

**Section 57** The Provincial Marine and Coastal Resources Committee shall arrange for a joint consultation meeting in accordance with Section 55 among stakeholders in the marine and coastal resources management at the provincial level to designate the area zone, guideline framework for defining work plans, action plans, activities and projects at the provincial level, set management guidelines, assess and summarize the management results, and improve and develop the marine and coastal resources management at the provincial level.

The Provincial Marine and Coastal Resources Committee shall arrange for a joint consultation meeting in accordance with paragraph 1 at least quarterly.

**Section 58** In the coastal community zone, the Local Marine and Coastal Resources Committee shall arrange for a joint consultation meeting in accordance with Section 55 among stakeholders to define project charts and projects in the coastal community zone and its vicinity, set management guidelines, monitor, assess and summarize management results, and improve and develop marine and coastal resources management at the coastal community and local levels.

The Local Marine and Coastal Resources Committee shall arrange for the joint consultation meeting in accordance with paragraph 1 at least once a month.

**Section 59** In case there are major policies, work plans or mega-projects at the national, provincial, or local levels, which affect or may affect people and marine and coastal resources and their biodiversity, the National Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources Committee, or the Local Marine and Coastal Resources Committee, as the case may be, shall arrange for a joint consultation meeting in accordance with Section 55 to enable all known stakeholders to participate in the information, explanation, and justification for those policies, work plans,

or projects and to participate in giving opinions on the assessment of, the consideration of, and decision-making for those policies, work plans, or projects.

**Section 60** The Provincial Marine and Coastal Resources Committee of the province in which the coasts, islands, and seas which are the general management areas for marine and coastal resources and their biodiversity under Section 4 are situated shall continuously integrate the following information:

- (1) News and statistics related to marine and coastal resources and their biodiversity, policies, work plans, projects, and activities in that province and neighboring provinces, as well as all aspects of the use of marine and coastal resources;
- (2) Profiles of stakeholders which are relevant or may be relevant for the management of marine and coastal resources in that province and its neighboring provinces, as well as data from Geographic Information Systems and maps related to the potential of the areas to be shown to the public.

The information to be gathered under paragraph 1 shall contribute to the establishment of the marine and coastal resources management database for that province which shall be linked to form a data network with other databases in the country through computer and internet systems.

**Section 61** In a coastal community zone, the Local Marine and Coastal Resources Committee within that zone shall continuously integrate the following information:

- (1) News and statistics related to marine and coastal resources and their biodiversity, policies, work plans, projects, and activities in the coastal community zone and its vicinity;
- (2) Profiles of stakeholders which are relevant or may be relevant for the management of marine and coastal resources in the coastal community and its vicinity.

The information to be gathered under paragraph 1 shall contribute to the establishment of a marine and coastal resources management database for the coastal community to be linked to form a data network with other databases in the country through computer and internet systems and to eliminate duplication in marine and coastal resources research.

**Section 62** The National Marine and Coastal Resources Committee shall continuously integrate the information on the marine and coastal resources management in accordance with Sections 60 and 61 with other relevant information in order to establish a national marine and coastal resources and biodiversity management database to be linked to form a data network with other databases in the country through computer and internet system.

**Section 63** In order that management of marine and coastal resources in accordance with this Act is carried out in an integrated, effective and efficient manner at the national, provincial, and local levels, the National Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources Committees, and the Local Marine and Coastal Resources Committees, as the case may be, shall have the powers and duties for the arrangement for, establishment of, and maintenance of the management system and procedures within the framework specified in accordance with this Act, or regulations issued pursuant to this Act.

Arrangements for, establishment of, and maintenance of the management system and procedures under paragraph 1 shall be carried out in accordance with criteria and methods specified in ministerial rules.

**Section 64** In order that the management of marine and coastal resources be carried out in an integrated, effective and efficient manner within the limited personnel,

budget, and resources available, the Minister, with the approval of the National Marine and Coastal Resources Committee, shall:

- (1) Appoint Marine and Coastal Resources Officers as the competent officers under this Act having powers and duties specified under relevant legislation, including Public Administration in Emergency Situation Royal Act B.E. 2548, Land Code, Forest Act B.E. 2484, Fisheries Act B.E. 2490, National Parks Act B.E. 2504, Wildlife Conservation and Protection Act B.E. 2535, Plant Variety Protection Act B.E. 2542, Enhancement and Conservation of National Environmental Quality Act B.E. 2535, Factory Act B.E. 2535, Tourism Authority of Thailand Act B.E. 2522, Industrial Estate Authority Act B.E. 2522, Building Control Act B.E. 2522, Town and Country Planning Act B.E. 2518, Thai Territorial Waters Navigation Act B.E. 2456, Ancient Monuments, Antiques, Objects of Art and National Museums Act B.E. 2504, Industrial Estate Authority Act B.E. 2522, and other relevant legislation. Such powers and duties may be under one or more of the aforementioned relevant laws, as well as ministerial rules, declarations, regulations, and orders issued under such legislation, as necessary and appropriate in each situation, incident, behavior, personnel, resource and place at any particular time.
- (2) Appoint competent officers under the relevant legislation mentioned in (1) above as Marine and Coastal Resources Officers under this Act, with powers and duties under this Act in part or in whole, as well as the ministerial rules, declarations, regulations, and orders issued under the relevant part of this Act, as necessary and appropriate in each situation, incident, behavior, personnel, resource and place at any particular time.

In case a general marine and coastal resources management area under Section 4 or marine protected area or development area under Section 79 overlaps in whole or in part with any zone under the relevant legislation mentioned in (1) above, or in case the designation of zones under such relevant legislation overlaps in whole or in part with areas created under this Act, the Minister, with the approval of the National Marine and Coastal Resources Committee, shall have the power and duty to appoint relevant individuals as members, advisors, sub-committee members of the National Marine and Coastal Resources Committee, Provincial Marine and Coastal Resources Committee, and Local Marine and Coastal Resources Committee, Coastal Community Officers, Marine and Coastal Resources Officers under this Act, and competent officers with the powers and duties under the relevant legislation mentioned in (1) above, as the case maybe, as the competent officers under this Act as well as such relevant legislation, and such appointment shall be in accordance with (1) and (2) as the case may be.

**Section 65** In performing their duties under this Act or other relevant legislation, the competent officers appointed under Section 64 shall have the powers and duties under this Act and other relevant legislation to coordinate, take part in joint consultations in accordance with Section 55, exchange information, knowledge, experience, assist one another, and jointly operate in order that the performance of functions under this Act and the relevant legislation be carried out in an integrated, effective and efficient manner.

The competent officers under this Act and the relevant legislation under paragraph 1 shall submit a report of their performance under this Act and the relevant legislation to their agency, the Provincial Marine and Coastal Resources Committee, or the National Marine and Coastal Resources Committee, in accordance with the terms specified in the appointment order, as well as deliver a copy of such report to the Department of Marine and Coastal Resources.

**Section 66** If deemed appropriate, the National Marine and Coastal Resources Committee may establish Technical Operation and Collaboration Task Forces in areas which share common marine and coastal resources and biodiversity.

Technical Operation and Collaboration Task Forces under paragraph 1 are independent bodies under the National Marine and Coastal Resources Committee comprising higher education institutions and qualified experts having working experience, technical knowledge, or traditional knowledge of marine and coastal resource management.

**Section 67** Technical Operation and Collaboration Task Forces shall have the following functions:

- (1) To study and develop knowledge, experience, and ability in the management of marine and coastal resources and their biodiversity;
- (2) To give advice to coastal communities and stakeholders in the management of marine and coastal resources and their biodiversity;
- (3) To attend joint consultation meetings under Section 55;
- (4) To attend meetings to develop guidelines for defining work plans, activities, and projects in coastal community zones and marine protected areas under Section 56;
- (5) To attend meetings at the provincial level to develop guidelines for defining work plans, activities, and projects in coastal community zones and marine protected areas under Section 57;
- (6) To attend meetings to define work plans for projects in the coastal community zone under Section 58;
- (7) To attend meetings to give opinions on, assess, consider, and make decisions on policies, work plans, or projects under Section 59;
- (8) To give opinions and suggestions to the National Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources Committee, or the Local Marine and Coastal Resources Committee, as the case may be, in the case of arrangements for, establishment of management systems and procedures under Section 63;
- (9) To improve, adjust, and apply marine and coastal science and technology to make them suitable for application by people in each locality;
- (10) To study ways in which traditional knowledge and modern technology may complement each other for community-specific applications; and
- (11) To perform any other tasks assigned by the National Marine and Coastal Resources Committee.

Regulations and procedures for the establishment and operation of the Technical Operation and Collaboration Task Forces shall be in accordance with criteria and methods specified in ministerial rules.

**Section 68** If the National Marine and Coastal Resources Committee considers appropriate, it may establish a Technical Operation and Collaboration Task Force Institute, consisting of educational institutions, private development organizations, and local administration authorities concerned with the management of marine and coastal resources, as well as all Technical Operation and Collaboration Working Groups as members, with the function to coordinate and monitor research and give advice on the management of marine and coastal resources at the national, provincial, and local levels in a comprehensive and integrated manner in accordance with the "Sufficiency Economy" model and sustainable development.

**Section 69** Private organizations or private development organizations may appoint their representatives to monitor the implementation of this Act by any of the Local Marine and Coastal Resources Committees, by seeking permission from the Provincial Marine and Coastal Resources Committee, in accordance with criteria and conditions as stipulated by the Provincial Marine and Coastal Resources Committee and the Local Marine and Coastal Resources Committee.

### **Chapter 3**

## **Marine and Coastal Resources Management Policies and Plans**

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**Section 70** The provisions of this Chapter are guidelines for the preparation of management policies and plans and the passing of regulations for the management of marine and coastal resources and their biodiversity, in accordance with this Act.

**Section 71** In order that management of marine and coastal resources and their biodiversity is carried out in an integrated manner in accordance with the “Sufficiency Economy” model and sustainable development, there shall be management policies and plans and laws and/or regulations for the management of marine and coastal resources and their biodiversity which are harmonious and comprehensive.

When marine and coastal resources management policies and plans have been prepared for a particular matter, but laws and/or regulations for it have not been adopted at the time, laws and regulations concerning that matter shall be passed and harmonized with such policies and plans in an integrated manner.

In case laws and/or regulations have been adopted for a particular matter, but marine and coastal resources management policies and plans for that matter have not yet been prepared, marine and coastal resources management policies and plans concerning that matter shall be prepared and harmonized with such laws and/or regulations in an integrated manner.

In case there have already been policies, work plans, laws and/or regulations for a specific matter such as security, forestry, fishery, parks, plants, animal species, wild plants, wildlife, pollution, industry, agriculture, factory, industrial parks, buildings, city planning, archaeology, ecosystems, environment, and other matters, there shall be an integration of those specific policies, work plans, laws and/or regulations and the policies, work plans, and regulations under this Act.

**Section 72** The National Marine and Coastal Resources Committee shall consider and approve national marine and coastal resources management policies and designation of marine protected area plans in accordance with the marine and coastal resources management policies and plans under this Chapter, for submission to the Cabinet for approval.

The national marine and coastal resources management policies and plans under paragraph 1 shall be published in the Government Gazette.

**Section 73** The Minister with the approval of the National Marine and Coastal Resources Committee shall make an action plan called “the National Marine and Coastal Resources Management Plan” and the designation of marine protected area plans to implement the national marine and coastal resources management policies and plans established under Section 72.

The National Marine and Coastal Resources Management Plans under paragraph 1 shall be published in the Government Gazette and shall remain in force for five (5) years.

**Section 74** Each Provincial Marine and Coastal Resources Committee, with the approval of the National Marine and Coastal Resources Committee, shall make an action plan called “the Provincial Marine and Coastal Resources Management Plan” and the designation of marine protected area plans in accordance with the conditions of that particular province, which shall be integrated with the National Marine and Coastal Resources Management Plans prepared under Section 73.

The Provincial Marine and Coastal Resources Management Plans under paragraph 1 shall be published in the Government Gazette and shall remain in force for three (3) years.

**Section 75** Each Local Marine and Coastal Resources Committee, with the approval of the Provincial Marine and Coastal Resources Committee, shall make an action plan called “the Local Marine and Coastal Resources Management Plan” in accordance with the conditions of that particular coastal community, which shall be integrated with the Provincial Marine and Coastal Resources Management Plans prepared under Section 74.

The Local Marine and Coastal Resources Management Plans under paragraph 1 shall be published in the Government Gazette and shall remain in force for three (3) years.

**Section 76** Each Local Marine and Coastal Resources Committee shall propose the Local Marine and Coastal Resources Management Plan to the Provincial Marine and Coastal Resources Committee no less than six (6) months prior to the expiry of the previous Local Marine and Coastal Resources Management Plan. Once approved by the Provincial Marine and Coastal Resources Committee, the Local Marine and Coastal Resources Management Plan shall become effective on the day following the date of expiry of the previous Local Marine and Coastal Resources Management Plan or on the day specified by the Provincial Marine and Coastal Resources Committee, as the case may be.

If a Local Marine and Coastal Resources Management Plan expires before the Provincial Marine and Coastal Resources Committee has approved the new Local Marine and Coastal Resources Management Plan, the previous Local Marine and Coastal Resources Management Plan shall apply until the new Local Marine and Coastal Resources Management Plan has been approved.

**Section 77** The national marine and coastal resources management policies and marine protected area plans under Section 72, the National Marine and Coastal Resources Management Plans under Section 73, the Provincial Marine and Coastal Resources Management Plans under Section 74 and the Local Marine and Coastal Resources Management Plans under Section 75 shall be in accordance with the “Sufficiency Economy” model and sustainable development and in accordance with the objectives and aims, strategies, and measures established under this Act for the application of policies and plans into a unified and integrated operation.

**Section 78** The National, Provincial, and/or Local Marine and Coastal Resources action plans under Sections 73, 74 and/or 75 shall be integrated in accordance with the conditions of the country, province, and coastal community, and shall be in accordance with the “Sufficiency Economy” model and sustainable development, and shall operate in accordance with the national marine and coastal resources management policies and plans under this Chapter as follows:

- (1) Defining program and project frameworks;
- (2) Defining appropriate State and private projects within the program frameworks with the participation of all stakeholders;
- (3) Defining the authority and stakeholders for co-management;
- (4) Defining the measures for environmental impact assessment prior to the commencement of a project;
- (5) Allocation of support from budgets including central, provincial and local budgets, financial support from the Marine and Coastal Resources Fund, financial support from the private sector, communities, and individuals;

- (6) Defining complementary measures such as rewards, tax exemptions, benefit-sharing, and conferring rights to sufficient and sustainable use of resources;
- (7) Report of the results of the implementation of programmes and projects;
- (8) Defining the measures for continuous environmental audits after a project is completed;
- (9) Defining other guidelines and measures in accordance with the “Sufficiency Economy” model and sustainable development.

## **Chapter 4** **Marine and Coastal Resources**

### ----- **Part 1** **Designation of Management Areas** -----

**Section 79** The Minister, with the approval of the National Marine and Coastal Resources Committee, shall notify the criteria, conditions, and procedures for the classification of marine protected areas, as well as define measures for the preservation, conservation, restoration or development of marine and coastal resources and their biodiversity in those areas as follows:

- (1) preservation area means a marine or coastal area with unique natural ecosystems which may be easily destroyed or affected by human activities, or an area which is highly biodiverse or has natural, cultural, or artistic values deserving conservation, as well as areas which have not yet been disturbed or changed, in order to maintain biodiversity;
- (2) conservation area means a marine or coastal area with a long relationship between humans and nature or having ecological, recreational or cultural values, as well as biodiversity, which is to be managed for the maintenance of natural features or natural habitats or for the management and protection of plant and animal species, for sustainable use;
- (3) restoration area means a marine or coastal area which has been damaged by natural disasters, affected by pollution, or deteriorated as a result of human activities, and which must be restored to its original condition;
- (4) development area means an area with natural features potentially suitable for economic and social development, and which, once developed, may be able to be restored to its original natural condition.

**Section 80** Designation of measures for the preservation, conservation, restoration and development of the marine and coastal resources and their biodiversity, as classified under Section 79 shall be in accordance with the national marine and coastal resources policies and plans.

**Section 81** In order to preserve, conserve, restore and develop areas for the management of marine and coastal resources and their biodiversity, in accordance with Section 79, the Minister, with the approval of the National Marine and Coastal Resources Committee, shall have the power to notify in the Government Gazette regulations stipulating criteria, conditions, and methods for the preservation, conservation, restoration and development of marine and coastal resources and their biodiversity, in the designated areas.

**Section 82** In order to preserve, conserve and protect wildlife species and restore marine and coastal resources and their biodiversity, the Minister, with the approval of the National Marine and Coastal Resources Committee, shall have the power to notify in the Government Gazette regulations stipulating criteria, conditions, and

methods for the preservation, conservation and protection of wildlife species, and restoration of marine and coastal resources and their biodiversity.

**Section 83** Where State agencies, local administration authorities or coastal communities wish to use an area in a coastal community zone for public benefit, the Director-General, with the approval of the Provincial Marine and Coastal Resources Committee, shall have the power to designate such area as a development area.

The use of an area designated under paragraph 1 shall be in accordance with the criteria, conditions, and methods stipulated by the Minister, with the approval of the National Marine and Coastal Resources Committee.

## **Part 2**

### **Management of Marine and Coastal Resources and Ecosystems**

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**Section 84** In order to provide information and raise awareness of the value and importance of the marine and coastal resources and their biodiversity and to promote dissemination to the public, the Department of Marine and Coastal Resources, National Marine and Coastal Resources Committee, Provincial Marine and Coastal Resources Committees, Local Marine and Coastal Resources Committees and other stakeholders shall cooperate in the management, protection and conservation of marine and coastal resources and their biodiversity to maintain their potential and diversity in accordance with the "Sufficiency Economy" model and sustainable development.

Marine and coastal resources and their biodiversity shall be deemed as non-commercial property and as a public asset of the State. The transformation, change into private fund, trade, rent, sale, giving away, transfer or any legal transaction which causes such resources to be owned by any private individual, private organization, coastal community, cooperative, company or other legal or natural person shall be prohibited.

The provisions of paragraph 2 do not prejudice the exploration, drilling and use of natural gas minerals and petroleum under the Minerals Act B.E. 2510 or the Petroleum Act B.E. 2514, subject to the requirements for environmental impact assessment as provided in the Enhancement and Conservation of National Environmental Quality Act B.E. 2535 as amended.

**Section 85** The coordination of cooperation on the management, protection and conservation of marine and coastal resources and their biodiversity shall be in accordance with national marine and coastal management policies and plans under Section 72 with the following objectives:

- (1) To protect and conserve areas which are highly ecologically sensitive;
- (2) To coordinate benefit-sharing and to settle disputes arising from the access to and the use of marine and coastal resources and their biodiversity in a sustainable manner; and
- (3) To amend and restore deteriorated or critical marine and coastal resources and their biodiversity to their original state.

**Section 86** In order to preserve, maintain and conserve mangrove forests in their natural condition as habitats and breeding places for aquatic and land animals and as a protection belt against natural disasters, as well as to maintain the balance of the mangrove ecosystem, the Minister, with the approval of the National Marine and Coastal Resources Committee, shall designate measures for the preservation, maintenance and conservation of mangrove forests.

Criteria, conditions, and methods for the preservation, maintenance and conservation of mangrove forests under paragraph 1 shall be in accordance with forestry legislation.

**Part 3**  
**Management of Marine and Coastal Pollution**  
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**Section 87** In order to control marine and coastal pollution, the Minister, with the approval of the National Marine and Coastal Resources Committee, shall have the power to notify in the Government Gazette regulations stipulating quality standards for marine and coastal waters including estuaries, point-based pollution control standards, and pollution control zones, as well as measures for the control and resolution of problems resulting from such pollution.

Designation, amendment, change, or withdrawal of such quality standards for marine and coastal waters including estuaries, point-based pollution control standards and pollution control zones under paragraph 1, as well as measures to resolve problems resulting from pollution, shall be in compliance with the criteria, conditions and methods for the designation of point based pollution control standards and pollution control zones, as well as the provisions of the Enhancement and Conservation of National Environmental Quality Act B.E. 2535.

Designation of criteria, conditions and methods related to the notification of point based pollution control standards, pollution control zones and measures to resolve problems resulting from pollution under this Act shall *mutatis mutandis* be in compliance with the criteria, conditions and methods for the designation of point based pollution control standards and pollution control zones, as well as the provisions of the Enhancement and Conservation of National Environmental Quality Act B.E. 2535.

**Section 88** All persons are prohibited from releasing oil, wastes, or hazardous substances from offshore installations, boats, or other vehicles into the sea, except in the case of unavoidable necessity to save a person's life or for the safety of such boats or offshore installations, and in which the necessary and feasible measures to prevent such problems have been established in advance.

**Section 89** Captains of boats carrying wastes or hazardous substances or large boats of sizes stipulated in ministerial rules, and occupiers of offshore installations shall have the duty to make a list of wastes or hazardous substances carried in the boats or offshore installations, as well as to record the quantity of such wastes and substances released.

Information on the types of wastes or hazardous substances, as well as criteria, conditions, and methods for recording them shall be in accordance with ministerial rules.

**Section 90** When there is a release of oil or hazardous substances into the sea which exceeds levels stipulated in ministerial rules, the Director-General shall have the power to order the investigation of the effects of such marine pollution on fragile marine and coastal resources and ecosystems, including biodiversity, which may be vulnerable to the dangers arising from oil or hazardous substances, as well as the effects on human beings and the economic and social environment.

The investigator shall prepare questionnaires for meetings and public hearings in advance in order to collect the opinions of the inhabitants of communities affected by the marine pollution and shall report the results of the investigation using the questionnaires to the Director-General.

**Section 91** When there is a significant threat of the release or leakage of oil or substances causing pollution under Section 88, and in particular the possibility that the release or leakage may spill over into areas other than the place where the release or

leakage occurred, the owners or supervisors of the boats, or the owners or occupiers of the offshore installations, as the case may be, or the persons who encounter such incidents, shall immediately report them to the Director-General.

**Section 92** Persons with the duty to report to the Director-General under Section 91 shall make a report by specifying the matters relating to the threat as follows:

- (1) incidents which are the cause of the threat;
- (2) conditions of the sea and weather at the time of the threat;
- (3) types and quantity of oil carried and which may be released or leaked;
- (4) types and quantity of substances causing pollution carried and the concentration of each type of substances causing pollution which may be released or leaked;
- (5) measures employed to reduce the possibility of damage that may arise.

## **Chapter 5** **Marine and Coastal Activities and Cultures**

### ----- **Part 1** **Management of Marine and Coastal Resources** **for Marine and Coastal Tourism, Sport and Activities** -----

**Section 93** To prevent marine and coastal tourism or sport from causing pollution or causing damage to marine and coastal resources and their biodiversity, the National Marine and Coastal Resources Committee shall have the power to notify in the Government Gazette regulations stipulating criteria, conditions and operational standards relating to tourism or sport activities, pursuant to powers as specified in the Tourism Authority of Thailand Act B.E. 2522, the Travel Agency Business and Guide Act B.E. 2535, or Sports Authority of Thailand Act B.E. 2528, as the case may be.

In case the Tourism Authority of Thailand Act B.E. 2522, the Travel Agency Business and Guide Act B.E. 2535, or Sports Authority of Thailand Act B.E. 2528, do not stipulate criteria, conditions and methods, the National Marine and Coastal Resources Committee shall have the power to notify in the Government Gazette regulations stipulating criteria, conditions and methods for those issues under this Act.

**Section 94** In case any marine and/or coastal activity, such as shooting films on a beach or in coastal areas, may cause pollution or cause damage to marine and coastal resources and their biodiversity, the Provincial Marine and Coastal Resources Committee or the Local Marine and Coastal Resources Committee shall have the power to investigate, prohibit, and to stipulate the criteria, conditions and methods for such activities.

### **Part 2** **Management of Marine and Coastal Cultures** -----

**Section 95** The Minister, on recommendation of the National Marine and Coastal Resources Committee, shall have the power to notify in the Government Gazette regulations setting the criteria and standards required to support the preservation of local culture in the coastal zone and to promote public awareness of it, in accordance with the “Sufficiency Economy” model and sustainable development. Such regulations may include provisions to protect and record traditional knowledge.

A Governor, on recommendation of the Provincial Marine and Coastal Resources Committee, has the power to notify in the Government Gazette regulations setting criteria and standards that complement those referenced in paragraph 1, as appropriate to the

circumstances and the situation of the province, in accordance with the “Sufficiency Economy” model and sustainable development.

**Section 96** Provincial Marine and Coastal Resources Committees, Local Marine and Coastal Resources Committees, and all stakeholders shall cooperate to implement the regulations issued in accordance with Section 95.

**Section 97** The National Marine and Coastal Resources Committee, Provincial Marine and Coastal Resources Committees, Local Marine and Coastal Resources Committees, and all stakeholders must promote projects, methods and activities in accordance with Section 95.

## **Chapter 6 Financial Support Measures**

### **Part 1 Marine and Coastal Resources Fund**

**Section 98** A fund shall be established called the “Marine and Coastal Resources Fund” with the objective to provide financial support for the preservation, conservation, restoration and development of marine and coastal resources and their biodiversity. The Marine and Coastal Resources Fund shall consist of the following money and properties:

- (1) seed money allocated by the government;
- (2) the government’s grant annually allocated from the budget;
- (3) money or property received from the private sector both domestic and abroad, foreign governments, or international organizations;
- (4) grants from municipalities in accordance with the ratio specified by the National Marine and Coastal Resources Committee;
- (5) a portion of the fees for the export of marine aquatic animal products;
- (6) a portion of the fees from mineral royalties, natural gas royalties, and petroleum substances royalties;
- (7) a portion of the money derived from the access for commercial use of marine and coastal resources under Section 52;
- (8) a portion of the money derived from security forfeited for offences under Section 47;
- (9) compensation or damages under Sections 115 and 126;
- (10) money borrowed from reliable financial institutions, both State and private, in the country;
- (11) interest or income from the money or properties of the Marine and Coastal Resources Fund; and
- (12) other money or income arising under this Act.

The Marine and Coastal Resources Fund has the status of a legal person with an office in the Department of Marine and Coastal Resources and shall not be regraded as a government agency or state enterprise under the Budgetary Methods Act B.E. 2502 or any other laws.

**Section 99** A Marine and Coastal Resources Fund Committee shall be established, consisting of: the Permanent Secretary of Ministry of Natural Resources and Environment, as chairman; the Director-General of the Pollution Control Department; the Director-General of Department of Water Resources; the Director-General of the Comptroller General’s Department; the Director-General of the Department of Fisheries; the Director-General of the Royal Forest Department; the Director-General of the National Park, Wildlife and Plant Conservation Department; and no more than three (3) qualified members in finance and marine and coastal resources, as members, and the Director-General of the Department of Marine and Coastal Resources, as member and secretary.

**Section 100** The provisions of Sections 9 and 10 shall apply *mutatis mutandis* to the tenure in office of the qualified members of the Marine and Coastal Resources Fund Committee.

The provisions of Sections 11, 12, 13, 14 and 15 shall apply *mutatis mutandis* to the operation of the Marine and Coastal Resources Fund Committee.

**Section 101** The Marine and Coastal Resources Fund Committee shall have the following functions:

- (1) To consider and approve financial support to projects of the State, coastal community, and private sector which seek support;
- (2) To issue regulations on the finance and management of the Fund;
- (3) To issue regulations on sharing benefits with project participants;
- (4) To issue regulations on insurance against damage under Section 127;
- (5) To follow up the operation and expenditure of the approved projects and activities;
- (6) To perform any other duties as stipulated in laws or regulations, or as assigned by the National Marine and Coastal Resources Committee.

**Section 102** The Marine and Coastal Resources Fund shall be spent as follows:

- (1) To assist and support the operation, projects, and activities of the Provincial Marine and Coastal Resources Committees and the Local Marine and Coastal Resources Committees;
- (2) To assist and support the operation, projects, and activities of coastal communities in the preservation, conservation, restoration and development of marine and coastal resources and their biodiversity through the Provincial Marine and Coastal Resources Funds;
- (3) To support, campaign, and promote raising awareness and to disseminate knowledge relating to the preservation, conservation, restoration and development of marine and coastal resources and their biodiversity;
- (4) To assist and support the projects and activities relating to the preservation, conservation, restoration and development of marine and coastal resources and their biodiversity as deemed appropriate by the Marine and Coastal Resources Fund Committee, with the approval of the National Marine and Coastal Resources Committee;
- (5) To support the establishment of a database for the preservation, conservation, restoration and development of marine and coastal resources and their biodiversity;
- (6) To study, develop and demonstrate preservation, conservation, restoration and development of marine and coastal resources and their biodiversity;
- (7) For the management of the Fund and other expenditure relating to the business of the Fund; and
- (8) Other activities necessary for the implementation of this Act.

**Section 103** The Marine and Coastal Resources Fund Committee shall recruit a manager in accordance with criteria and conditions of employment stipulated by the Fund Committee to undertake the following duties:

- (1) To manage the businesses of the Fund in accordance with the objectives and regulations of the Fund;
- (2) To control and supervise the operation by the staff and employees of the Fund in accordance with the regulations of the Fund;
- (3) To perform any other duties as specified in the employment contract or as assigned by the Fund Committee or its chairman.

**Section 104** The management and accounting of the Marine and Coastal Resources Fund shall be in accordance with universal principles, including the systems of financial audit, accounting, and inventory of the Fund, with the submission of a monitoring report to the Fund Committee at least once a year.

Receipts, expenditures, and earnings from the Fund shall be in accordance with the regulations stipulated by the Marine and Coastal Resources Fund Committee.

## **Part 2**

### **Provincial Marine and Coastal Resources Fund**

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**Section 105** A fund shall be established called “the Provincial Marine and Coastal Resources Fund” with the objective to provide financial support for the promotion of learning processes, capacity building for the residents of coastal communities and other stakeholders in participating in the protection, restoration, conservation, preservation, management and use in marine and coastal resources and their biodiversity. The Provincial Marine and Coastal Resources Fund shall consist of the following money and properties:

- (1) the government’s grant annually allocated from the budget;
- (2) grants from the Marine and Coastal Resources Fund in accordance with the ratio specified by the National Marine and Coastal Resources Committee;
- (3) grants from the local administration authorities in the coastal community zone in accordance with the ratio specified by the Provincial Marine and Coastal Resources Committee;
- (4) money contributed from agencies, organizations or financial institutions, both domestic and from outside the country;
- (5) a portion of the revenue derived from the commercial use of marine and coastal resources under Section 52;
- (6) money collected as fees or remuneration for the use of marine and coastal resources and their biodiversity or for the permits to operate under this Act or other legislation;
- (7) interest or income arising from money or property of the Provincial Fund; and
- (8) other money or income arising under this Act.

Each Provincial Marine and Coastal Resources Fund shall have the status of a legal person with an office in the Office of the Provincial Marine and Coastal Resources Committee of each province and shall not be regraded as a government agency or state enterprise under the Budgetary Methods Act B.E. 2502.

**Section 106** The Provincial Marine and Coastal Resources Fund Committee shall consist of: the Provincial Natural Resources and Environment Officer, as chairman; the Provincial Finance Officer or representative; the Chief of the Sub-District Administration Authority; and representatives of each of the Local Marine and Coastal Resources Committees in the Province, as members, with a secretary selected among the members.

**Section 107** The provisions of Sections 9 and 10 shall apply *mutatis mutandis* to the holding of office of the members of the Provincial Marine and Coastal Resources Fund Committee who are representatives of the coastal community’s members.

The provisions of Sections 11, 12, 13, 14 and 15 shall apply *mutatis mutandis* to the operation of the Provincial Marine and Coastal Resources Fund Committee.

**Section 108** The Provincial Marine and Coastal Resources Fund Committee shall have the following functions:

- (1) To consider and approve financial support for projects or businesses in the locality which seeks for the support;
- (2) To issue regulations on the finance and management of the Fund;
- (3) To follow up the operation and expenditure of approved projects and activities;
- (4) To issue regulations on sharing benefits with project participants;
- (5) To perform any other duties as stipulated in laws or regulations, or as assigned by the Provincial Marine and Coastal Resources Committee.

**Section 109** The Provincial Marine and Coastal Resources Fund shall be spent as follows:

- (1) To assist and support the operation, projects, and activities of the coastal community in the conservation, restoration, and development of the community's marine and coastal resources and ecosystems;
- (2) To assist and support the operation of the Provincial Marine and Coastal Resources Committee and the Local Marine and Coastal Resources Committee for the preservation, conservation, restoration and development of marine and coastal resources and their biodiversity;
- (3) To study, develop, restore, preserve, and conserve marine and coastal resources and their biodiversity in the province;
- (4) To be spent as expenditure for the management of the Provincial Marine and Coastal Resources Fund and other relevant expenditure;
- (5) Other activities necessary for the implementation of this Act or regulations and stipulations issued pursuant to it.

**Section 110** The provisions of Section 103 shall apply *mutatis mutandis* to the recruitment and designation of the functions of the manager of the Provincial Marine and Coastal Resources Fund.

**Section 111** The provisions of Section 104 shall apply *mutatis mutandis* to the management and monitoring of the operation of the Provincial Marine and Coastal Resources Fund.

## **Chapter 7**

### **Marine and Coastal Resources Officers**

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**Section 112** Marine and Coastal Resources Officers under this Act are:

- (1) persons appointed by the Minister from among government officers under this Act;
- (2) persons appointed as competent officers under the Forest Act B.E. 2484, Fisheries Act B.E. 2490, National Parks Act B.E. 2504, Private Irrigation Act B.E. 2482, Public Irrigation Act B.E. 2485, Land Code, Minerals Act B.E. 2510, Building Control Act B.E. 2522, Thai Territorial Waters Navigation Act B.E. 2456, Tourism Authority of Thailand Act B.E. 2522, Enhancement and Conservation of National Environmental Quality Act B.E. 2535, and other laws.

Marine and Coastal Resources Officers shall have functions under this Act and the above-mentioned laws. Marine and Coastal Resources Officers at each level shall have functions in accordance with the order of the Minister in charge of the implementation of such laws.

**Section 113** When it appears that there is a violation, or there is a reasonable suspicion that there is a violation, of this Act, the Fisheries Act B.E. 2490, the Forest Act B.E. 2484, the National Parks Act B.E. 2504, the Enhancement and Conservation of

National Environmental Quality Act B.E. 2535, and other relevant legislation, the Local Marine and Coastal Resources Committee, Coastal Community Officers, officers of the local administration authorities, Royal Thai Navy, Marine Police, and other competent officers shall have the power to take action or to order an action as may be necessary as follows:

- (1) To inspect any person or vehicle;
- (2) To arrest an offender and to keep him in custody;
- (3) To confiscate articles the possession of which is illegal, which have been used or are to be used for the commission of an offence, or which are acquired from the commission of an offence.

The offender together with the confiscated articles shall be sent without delay to the investigating officer having jurisdiction.

In case the boat, vehicle, or tool for fishery or any other act which has caused damage or violates the legislation mentioned in paragraph 1 do not belong to the offender, the owner of such boat, vehicle, or tool has a duty to prevent any person from using such boat, vehicle, or tool to cause damage or repeat the offence. In such a case, the court shall have the power to order the owner of such boat, vehicle, or tool to put a security or a bank guarantee letter before the court for the value of no less than sixty (60) per cent of the price of the boat, vehicle, or tool as security that his boat, vehicle, or tool will not be used to cause damage or repeat the offence within the period of no less than one (1) year from the date of the deposit of the security.

In case the boat, vehicle or tool of the owner who has deposited the security under paragraph 3 is used to cause damage or repeat the offence, the court shall order the forfeit of the security. Half of the forfeited security shall be contributed to the Marine and Coastal Resources Fund under this Act. The remaining half shall become the property of the State.

**Section 114** In complying with this Act, the Provincial Marine and Coastal Resources Committees, the Local Marine and Coastal Resources Committees, Coastal Community Officers, officers of the local administration authorities, and the Marine and Coastal Resources Officers shall be regarded as officers under the Criminal Code.

## **Chapter 8 Civil Liability**

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**Section 115** The owners or occupiers of sources of pollution or any person intentionally or negligently having caused the leak or spread of pollution causing any harm to another person's life, body, health, or hygiene, or causing any damage to the property of another person or the State, shall be presumed to be liable and to have a duty to pay compensation or damages for such action.

The compensation or damages under paragraph 1 shall include all expenses actually incurred by State agencies or injured persons for the elimination of the resulting pollution.

The owners or occupiers of the sources of pollution which have caused serious damage shall be liable for special compensation or damages in case the leak or spread of the pollution, or the action under paragraph 1, has caused serious harm to life, body, and property, or a public disaster.

**Section 116** Any person who unlawfully commits any action or omits any action which has destroyed or caused a loss or damage to marine and coastal resources and their biodiversity within the jurisdiction or control of the State or a coastal community, which are the State's public property, or which are preserved or protected under the law,

shall be liable for compensation or damages in accordance with the total value of the destroyed, lost or damaged marine and coastal resources and biodiversity.

The compensation or damages under paragraph 1 include the deterioration value of such marine and coastal resources and biodiversity and all expenses actually incurred by State agencies or coastal communities for the elimination of the resulting damage.

Any person who commits an action or omits an action which has destroyed or caused loss or serious damage to marine and coastal resources and biodiversity under paragraph 1 shall be liable for special compensation or damages, if such action or omission has destroyed or caused serious loss or damage to marine and coastal resources and biodiversity.

**Section 117** In case of violation of this Act, or regulations issued pursuant to it, which has caused damage to marine and coastal resources and their biodiversity in coastal community zone, the Department of Marine and Coastal Resources, the National Marine and Coastal Resources Committee, the Provincial Marine and Coastal Resources, the Local Marine and Coastal Resources Committee, or public prosecutor shall seek compensation or damages as follows:

- (1) expenses incurred by the State or the coastal community for the relocation of the cause of the damage or for making the cause of the damage no longer hazardous or toxic, as well as for retaining or maintaining the cause of the damage;
- (2) expenses incurred by the State or the coastal community for returning the marine and coastal resources and their biodiversity to their original condition;
- (3) expenses incurred by the State or the coastal community for assistance provided to another person or the property of another person due to such damage;
- (4) operational costs of the State or the coastal community for the assessment of damage and calculation of the expenses to remedy of the effects on marine and coastal resources and their biodiversity, as well as on human health and hygiene;
- (5) expenses incurred by the State or the coastal community including pay for State or Coastal Community Officers, expenses for the collection of witness and evidence, lawsuits, and court fees;
- (6) value of the damaged marine and coastal resources and biodiversity, including the value of losses during the period in which such resources would have been used had they not been damaged, in accordance with the criteria, conditions, and methods specified in ministerial rules.

**Section 118** Compensation or damages under Section 115 and compensation or damages in cases in which the Department of Marine and Coastal Resources deems it appropriate to prosecute the owners or occupiers of the sources of pollution or the persons who have caused damage under Section 126 shall be income to the Marine and Coastal Resources Fund.

## **Chapter 9**

### **Dispute Management and Resolution**

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**Section 119** A committee called the "Multilateral Committee" shall be established, consisting of: the Deputy-Governor, as chairman; the Provincial Natural Resources and Environment Officer, as vice-chairman; the Provincial Fishery Officer; the Provincial Tourism Officer; the Provincial Industry Officer; the Provincial Local Administration Officer; the Provincial Development Officer; a representative of the Royal Thai Navy; a representative of the Marine Department; the Provincial Police Commander; a representative of the Provincial Office of Community Justice; representatives of private development organizations; the President of the Provincial Fishery Association; the President of the Provincial Tourism Association; the Presidents or representatives of

regional or provincial native fishery associations; and six (6) qualified members, as members, and the chief or representative of the Department of Marine and Coastal Resources in the province or in the area, as member and secretary.

The Committee under paragraph 1 shall be appointed by the Governor.

**Section 120** The Multilateral Committee shall be responsible for resolving conflicts arising from the use of marine and coastal resources and their biodiversity at the provincial and local levels by negotiation and conciliation with all those concerned participating in decision-making in an open, informed and democratic manner.

Conflicts under paragraph 1 shall be settled in accordance with conciliation criteria established by the Multilateral Committee.

**Section 121** In Satul, Yala, Pattani, and Narathiwat, all parties to a dispute who are of the Islamic religion wishing to settle a dispute under this Act by local means in accordance with the principles of Islam, shall comply with the criteria, conditions, and methods for the settlement of disputes as stipulated under Islamic Law.

Disputes under paragraph 1 are settled in accordance with the judgment of “Da Toh” Justice.

**Section 122** Disputes under this Act may be settled by the parties to the disputes setting out in a letter signed by both parties their mutual agreement on terms for settling the dispute.

The settlement of disputes under paragraph 1 shall result in the interruption of prescription from the date of the letter until the date on which the dispute is settled.

Criteria, conditions and methods for the mediation of disputes shall comply with the Regulations of the Public Prosecutor on Mediation of Disputes.

**Section 123** In this Act, the parties to a dispute may agree, in a letter signed by both parties, to settle their disputes by arbitration in accordance with the law.

The criteria, conditions, and method for the settlement of disputes by arbitration shall comply with the Arbitration Act B.E. 2545.

**Section 124** The settlement of disputes under Sections 120, 121 and 122 does not prejudice the right of the parties to the disputes to bring the dispute before the court of justice.

**Section 125** The responsible authorities shall arrange for the supervision, monitoring, and assessment of the management of disputes under this Chapter and report to the Provincial Marine and Coastal Resources Committee.

**Section 126** When the Department of Marine and Coastal Resources deems it appropriate to prosecute any person who has caused damage or the owners or occupiers of sources of pollution, or when, upon the receipt of a complaint from an injured person under Section 115 the Department of Marine and Coastal Resources is of the view that prosecution will benefit the injured person or marine and coastal resources and their biodiversity, the Director-General of the Department of Marine and Coastal Resources shall submit the case to the Public Prosecutor to consider and seek compensation from the person having caused the damage or the owners or occupiers of the sources of pollution, on behalf of the injured person.

The provision of Section 61 of the Criminal Procedure Code shall apply *mutatis mutandis* to a prosecution on behalf of an injured person by the Public Prosecutor.

To assist the prosecution, an officer appointed by the Director-General of the Department of Marine and Coastal Resources shall coordinate, collect witnesses and evidence, and comply with any other order of the Public Prosecutor.

Prosecution in accordance with this Act shall be exempt from any fees.

**Section 127** When there is damage to body or health as a result of a leak or spread of pollution under Section 115 or damage to marine and coastal resources and biodiversity under Section 116, and it is not possible to determine the exact extent of the damage, the court shall state in its judgment that it reserves its right to amend the part of the judgment on the amount of damages within a period of no more than five (5) years, by requiring the person causing the damage, the owner or occupier of the sources of pollution, or the person causing damage to marine and coastal resources and their biodiversity, as the case may be, to provide a bank guarantee in an amount deemed appropriate by the court to the Marine and Coastal Resources Fund as security against damage which may arise in the future.

Within the period in which rights are reserved in a judgment under paragraph 1, upon the receipt of a request to amend the judgment regarding the amount of damages and having satisfactorily investigated the injured person, the court shall specify the additional amount of compensation deemed appropriate for the injured person, but not exceeding the amount of security provided under paragraph 1.

Upon the expiry of the period in which rights are reserved in a judgment under paragraph 1, if no additional damage exceeding the amount previously decided by the court has arisen, the person causing damage, the owner or occupier of the sources of pollution, or the provider of the security, shall request the Chairman of the Marine and Coastal Resources Fund to return such security in accordance with the regulations laid down by the Fund Committee.

## **Chapter 10 Penalties**

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**Section 128** Any person who violates or does not comply with an order issued under Section 5 or obstructs compliance with such an order shall be subject to imprisonment not exceeding one (1) year or a fine not exceeding one hundred thousand (100,000) Baht, or both.

Any person violating or not complying with such an order or obstructing compliance with such an order who has caused harm or damage due to pollution, shall be subject to imprisonment not exceeding five (5) years or a fine not exceeding five hundred thousand (500,000) Baht, or both.

**Section 129** Any person who violates Section 14 shall be subject to imprisonment not exceeding one (1) month or a fine not exceeding ten thousand (10,000) Baht, or both.

**Section 130** Any person who violates Sections 47 or 48 shall be subject to imprisonment not exceeding three (3) months, or a fine not exceeding two hundred thousand (200,000) Baht, or both.

**Section 131** Any person who violates Section 88 shall be subject to imprisonment not exceeding one (1) month or a fine not exceeding five hundred thousand (500,000) Baht, or both.

**Section 132** Any person who does not comply with Section 89 shall be subject to a fine not exceeding fifty thousand (50,000) Baht.

**Section 133** Any person who does not comply with Section 91 shall be subject to a fine not exceeding ten thousand (10,000) Baht.

**Section 134** If an offender is a legal person, a member or manager of a legal person, or a person responsible for the operation of a legal person, he/she shall also be subject to the penalty provided for an offence unless it can be proved that he/she did not participate in the commission of the offence.

## APPENDIX 8

### DRAFT PROMOTION OF MARINE AND COASTAL RESOURCES MANAGEMENT ACT WITH RESPECT TO COMMENTS RECEIVED

	Issue	Draft law provision/s	Notes
	<b>Pre-drafting consultations</b>		
1	Lack of clarity in the allocation of powers and functions within the central as well as the decentralized bureaucracy	7, 16, 17, 22, 26, 112-115	
2	Lack of coordination both vertically from the central to local authorities as well as horizontally among authorities at all levels	17(6), 22, 23, 26, 33, 51, 55, 59-64, 66, 78, 96, 97	
3	Lack of opportunity for public participation in decision-making at all levels of government and particularly at the local level in the coastal zone	17(6), 26, 33, 46, 50, 51	
4	Lack of opportunity for local communities to share in the benefits of development in the coastal zone and of natural resource management in both the coastal zone and marine areas	52	
5	Inadequate capacity and funding for species conservation and management	102, 104	
6	Need for certain advantages to subsistence fishers, including allowances for particular types of fishing gear and identified fishing areas		Such a provision should be included in amendments to the Fisheries Law. This TA proposed such an amendment; see Midterm Report, Appendix 2, 10.e. and 10.g.
7	Invasions of public land by private interests	48	
8	Inadequate regulation of tourism service providers and activities, and in particular the need to establish zones for tourism and recreation to minimize the impact of tourism on reefs	93, 94	
9	Lack of clarity with respect to institutional responsibility and coordination for response and clean-up of pollution	87-92	
10	Lack of incentives for sustainable development, in particular the provision of the National Environmental Quality Policy that specifies that development in the coastal zone must minimize impact on coastal resources	16(17), 52, 83, Chapter 6, generally	
11	Inadequacy of law governing the specific issues of land possession and tenure in	48, 64	The draft law provides for cooperation on

	<b>Issue</b>	<b>Draft law provision/s</b>	<b>Notes</b>
	the coastal zone		issues related to land tenure in the coastal zone, including enforcement by designated competent officers acting on behalf of DMCR as well as of the agency which employs them
12	Need to review and harmonize definitions of all terms in all laws governing resources and activities in the coastal zone and marine areas	3	The need to review definitions was also raised by the Steering Committee, by the Legal Officers, and by the DMCR Law Development Team following review of the 2 <sup>nd</sup> draft. All definitions were reviewed.
	<b>Consultations on 1<sup>st</sup> draft</b>		
	<i>Steering Committee</i>		
13	Ensure that the draft CZM law does not overlap and/or conflict with existing law	50, 55, 64, 65, 71, 84, 87, 93, 114	
	<i>Public consultation</i>		
14	Electing local committees would open them to influence from outside business interests and weaken local communities in the long-term		Appointing local committees could have the same effect. It is preferable to allow local communities to elect their own committees, even if there is a possibility of interference, than to have the committees appointed by outside authorities.
15	Specify the functions and scope of the powers of the committees at each level and harmonize the powers and functions of the provincial and local committees with existing powers of local authorities	16, 22, 26, 33, 46, 55, 63, 64, 71	
16	Enable a trial period of one year for regulations adopted at the local level		This is an informal practice that has emerged, in particular, in the process of enforcing the National Environmental Quality Act. It may continue to be tested in implementing the draft Promotion of Marine and

	<b>Issue</b>	<b>Draft law provision/s</b>	<b>Notes</b>
			Coastal Resources Management Act.
17	Establish an effective system for collaboration among local committees and other law enforcement authorities, including the Navy and the Marine Police, to enforce the law	64, read with 113	The Navy and the Marine Police are competent officers under the Fisheries Act and may therefore also be designated as Marine and Coastal Resources Officers under the draft Promotion of Marine and Coastal Resources Management Act.
18	The committee system should be a mechanism for coastal communities to negotiate with the State, particularly where mega-projects are concerned	62	
19	The scope of the law should include the Exclusive Economic Zone	3	Definition of "sea" includes the EEZ
20	Contributions by local fishermen to the proposed local fund	98, 105	Local fishermen are not required to contribute to either the national or the provincial fund
21	The fund should have to have a strong committee administering it, to deal with conflicts of interest within communities	99, 106	
22	The greater percentage of benefits shared should go to local communities	52	
23	There must be a requirement for public access to information to ensure transparency in implementation of the law	17(10), 58	
24	Penalties for violations should be more severe	54, 129-135	
	<b>Consultations on 2<sup>nd</sup> draft</b>		
	<i>Steering Committee</i>		
25	Make the proposed committee structure as flexible as possible so that a delay in committee decision-making would not hamper management operations	17(1), 55, 63	
26	Review the powers and duties of competent officers under the draft law	18, 64 read with 113	
27	Provide explicitly for links in the implementation of the draft CZM law and existing legislation, in particular laws on land tenure and use and on the designation of zones for different purposes	47, 50, 64(1), 84, 87	
	<i>Public consultation</i>		
28	Need provisions on controlling and mitigating coastal erosion	16, 17, 36, 37, 42, 46, 48, 56-58, 75, 79-82,	All provisions that deal with planning and with ecosystem rehabilitation would cover control and

	<b>Issue</b>	<b>Draft law provision/s</b>	<b>Notes</b>
		84-86, 98	mitigation of coastal erosion, among other impacts.
29	Provide for funding for certain activities, such as the laying of artificial reefs	79-82, 102, 109	
30	Provide for more effective enforcement, particularly of the existing three-mile zone that is supposed to be reserved for coastal fisheries and where trawlers are not permitted		Such a provision would be included in the amendments to the Fisheries Act.
31	Provide for accountability of public officials so that any official action that has a negative impact on the sustainable use of the coastal zone and marine areas may be sanctioned, particularly in cases where one governmental authority acts in violation of laws and regulations administered by another governmental authority	37, 54	
	<i>Legal officers</i>		
32	Provide a mechanism to ensure that all committees work in harmony	16, 22, 26, 33, 46, 55, 63, 64, 71	
33	Provisions on civil liability need to be reviewed and harmonized	115-118	
34	Legal personality of the coastal community needs to be specified	27	
35	Provide for national-level representation on the provincial committees	17(6), 18, 24	
36	Provide for more stringent regulation of tourism	93, 94	
37	Zoning of public land must be consistent with the Land Law	79, 83	The draft Promotion of Marine and Coastal Resources Management Act consolidates land use for conservation – for example, a hotel developer may not destroy a turtle nesting beach. The Land Law regulates possession and ownership, and the Ministry of Agriculture regulates land use for agriculture and irrigation.
	<i>DMCR Law Development Team</i>		
38	Clarify coastal communities' rights, particularly with respect to the area that is under their responsibility	27, 33	
39	Clarify that including the 3,000 meter marine area is consistent with the Fisheries Act		Such a provision would be included in the amendments to the

	<b>Issue</b>	<b>Draft law provision/s</b>	<b>Notes</b>
			Fisheries Act.
40	Clarify that the coastal area includes mangroves	3	Definition of "coast" includes mangroves
41	Ensure that coastal community areas will not conflict with existing laws	64, paragraph 2, 71	
42	Define "sea" as it is defined internationally		The definition of "sea" in the draft Promotion of Marine and Coastal Resources Management Act is consistent with the definition to be included in the amendment to the National Environmental Quality Act.
43	Ensure that DMCR has a role in approving and permitting all activities that impact coastal and marine resources	17, read with 51, 55-59, 64, 73-78, 79-83, 87, 90-92, 95	

## APPENDIX 9

### THAILAND ENVIRONMENT MONITOR CHAPTER ON LEGAL AND INSTITUTIONAL FRAMEWORKS

In the aftermath of the tsunami, Thailand is giving special attention to the regulatory regime and the institutional framework for managing the coastal zone and marine areas. In the absence of specific legislation, management of the natural resources and of the activities carried out in the coastal zone and marine areas is governed by more than three dozen laws, administered by at least ten different ministries and national authorities as well as provincial and local governments. Although the Department of Marine and Coastal Resources (DMCR) of the Ministry on Natural Resources and Environment (MoNRE) nominally has the mandate to administer integrated coastal zone and marine area management, it lacks the express legal authority to do so. Jurisdiction over coastal and marine natural resources is also allocated to other ministries, jurisdiction over processes and activities carried out in the coastal zone and marine areas is exercised by others, and provincial and local authorities have expanded powers under an ongoing process of governmental decentralization. One of the greatest challenges facing Thailand is to rationalize the sometimes conflicting provisions of the various laws and to clarify institutional jurisdictions for implementing them.

Thailand's draft National Coastal and Marine Policy, prepared in 2003 and completed before the tsunami in 2004, is awaiting approval by the Marine Policy and Restoration Committee. Until the comprehensive National Coastal and Marine Policy is approved, coastal and marine issues will continue to be guided by policies and plans including the: Thai Seas Security Strategic Plan 2004–2008; National Environmental Quality Promotion Policy and Plan 1998-2016; Five-Year Natural Resource Management Action Plan 2002-2006; National Policy on Fisheries Development 2002-2006; Master Plan for Coral Reef Management; National Action Plan for Mangroves; and the National Oil Spill Contingency Plan, Action Plan on Pollution Source Control to Improve Coastal Water Quality in the Gulf of Thailand and the Andaman Coast; as well as provincial Environmental Management Plans.

Some of these policies are implemented by legislation, while others have yet to receive legislative support. Four laws, including the Forest Act and the National Preserved Forest Act, implement the National Action Plan for Mangroves. The Fisheries Act and the National Environmental Quality Act implement certain provisions of the National Fisheries Development Policy, but aspects of the policy concerning ocean and deep sea fisheries and development of the fishery industry lack implementing legislation. The National Environmental Quality Promotion Policy and Plan calls for ensuring that development in the coastal zone and marine areas minimizes impact on coastal and marine resources, but as yet there are no legal provisions to implement this aspect of the policy. The Master Plan for Coral Reef Management calls for setting up zones for tourism and conservation, but this is yet to be formalized in legislation.

Legislation governing the coastal zone and marine areas ranges from the Thai Territorial Waters Navigation Act, adopted in 1913, to the Wildlife Conservation and Protection Act and the Enhancement and Conservation of National Environmental Quality Act, both adopted in 1992. Other laws governing natural resources include the Forest Act, Fisheries Act, National Parks Act, National Reserved Forests Act, and the Forest Plantation Act. Legal instruments that govern activities in the coastal zone and marine areas include the Fisheries Act, Factory Act, Land Development Act, Tourism Authority of Thailand Act, Industrial Estate Authority Act, Building Control Act, Investment Promotion Act, Town and Country Planning Act, Petroleum Act, and Minerals Act.

There is no lack of policies, long-term plans, or legislation related to the coastal zone and marine areas. What remains a challenge is the need to fully implement existing policies and plans, harmonize legislation currently in force, adopt legislation to implement the National Coastal and Marine Policy when it is approved, and simplify and streamline jurisdiction for administering the coastal zone and marine areas.

Jurisdiction over living coastal and marine resources is currently divided between MoNRE and the Department of Fisheries of the Ministry of Agriculture and Cooperatives. Other ministries, including the Ministry of Tourism and Sport, the Ministry of Interior, the Ministry of Industry, the Ministry of Energy, the Ministry of Transportation, the Ministry of Defense, and the Port Authority of Thailand have jurisdiction over non-living natural resources as well as processes and activities that are carried out in the coastal zone and marine areas.

Responsibility for certain aspects of coastal zone and marine area management was transferred to DMCR from other government institutions, principally from the Department of Fisheries, the Royal Forest Department, the Land Development Department, and the Prime Minister's Office. The Department of Fisheries retained responsibility for marine fisheries, while DMCR assumed the responsibility for marine biodiversity – including endangered marine species – mangroves, and the ecology of the coastal zone.

Within MoNRE, although DMCR was assigned responsibility for the management, preservation and rehabilitation of marine and coastal resources, its jurisdiction remains to be clarified among other departments of the ministry. The Office of Natural Resources and Environmental Policy, the Department of National Parks, Wildlife and Plant Conservation, and the Royal Forest Department all have jurisdiction over specific coastal and marine ecosystems and species and their respective authority is set out in several legal instruments, including the Fisheries Act, National Parks Act, National Reserved Forest Act, and National Environmental Quality Promotion and Conservation Act, while DMCR does not yet have equivalent, legally-supported jurisdiction to implement its mandate.

Issues that await clarification in the second phase of restructuring of the bureaucracy are responsibility for conservation of marine resources and research on the marine environment. Implementation of the second phase of bureaucratic reform – MoNRE and DMCR were created in the first phase – is contingent on consideration of the reform bill by both houses of parliament, which is currently scheduled for March-April 2006 but may begin later, in mid-2006.