ENVIRONMENTAL LEGISLATION IN INDONESIA
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ENVIRONMENTAL LEGISLATION
IN INDONESIA

ABSTRACT

During the Dutch East-Indies period, environmental legislation could be characterized as "classical", in that it concerned primarily with sectoral aspects. It mainly emphasized environmental control.

A few of the regulations of this period are still valid on the basis of the provisions as contained in Article II concerning Transitional Provisions of the 1945 Constitution.

The environmental legislation in Indonesia today therefore comprises both the laws and regulations of the pre-independence period and those developed during the independence period. The 1972 Stockholm Declaration on the Human Environment gave an impetus to the development of modern environmental legislation.

An important breakthrough in the overall management of the environment is the promulgation on March 11th, 1982 of the Act No. 4 of 1982 concerning Basic Provisions for the Management of the Living Environment.

It encompasses all aspects of the living environment in order to form the basis for further regulations. In addition, it serves as the basis for the evaluation and adjustment of all legislations heretofore valid.

The Act strongly advocates a development, which is based upon environmental consideration as a means of achieving continuity and the well-being of present and future generations.

This paper studies the various implications of the principles contained in the Act.
1. INTRODUCTION

Environmental legislation is the legal instrument for the management of the environment. As the legislation follows society’s trend, environmental legislation in Indonesia has developed on a gradual scale along the society’s increasing awareness of the problems affecting the environment. In previous decades, legislation was enacted to conserve marine resources, to control and abate pollution, to control nuisance, to conserve wildlife and nature, etc. While this legislation was effective from the point of view of sectoral management, it did not provide the necessary basis for an overall integrated management, which is of paramount importance to the implementation of national development.

In view of this situation, efforts have been undertaken to seek a more comprehensive legal foundation. The Act of the Republic of Indonesia No. 4 of 1982 concerning Basic Provisions for the Management of the Living Environment is a result of an intensive endeavour to provide that comprehensive legal foundation.

This paper, while taking into consideration such specific aspects prevailing in Indonesia as cultural patterns, tradition and outlook as well as aspirations and perspective for the future, studies the various implications of the principles contained in the Act.

2. THE PRE-INDEPENDENCE PERIOD

a. The Dutch Colonial Period

The legislation in the field of environment during the Dutch East-Indies period could be identified as “classical environmental legislation” with the main emphasis upon the “environmental control”. Observing the laws and regulations of this period, we notice that at least three categories of those “older statutes” are now still enforced. They regulate the following:

1) Pollution control and abatement, such as “Harbours Regulation of 1925” as amended in 1927 and 1935, and “The Petroleum Transport Ordinance of 1927”;

2) Nuisance control, such as “The Nuisance Ordinance of 1926”;
3) Wildlife and nature conservation, such as “Wild Animal Protection Ordinance of 1931” and “Nature Protection Ordinance of 1941”.

Derived from these basic statutes, there are regulations related to planning, health and sanitation, working conditions and building specifications, which are still valid. The abovementioned regulations are directed towards the preservation or conservation of the natural environment in the “traditional” sense. The chief characteristic of these “classical” environmental legislations is their “static nature”. Although the premises are still valid, it is difficult to handle modern environmental problems with them. The continuing validity of those regulations is based on Article II concerning Transitional provisions of the 1945 Constitution, which reads as follows:

“All existing institutions and regulations of the State shall continue to function as long as new ones have not been enacted in conformity with this Constitution”.

b. The Japanese Occupation Period

There were almost no regulations in the field of environment during this period, except Osamu S. Kanrei No. 6 on the prohibition to cut aghata, alba and balsa trees without special permits from the Gunseikan. Regulations in this period pertained mostly to matters related to strengthening the power structure of the occupation forces.

3. THE INDEPENDENCE PERIOD


Laws, regulations and decisions on environmental management and protection have their source in the 1945 Constitution, promulgated on August 18th, 1945, one day after the proclamation of the Indonesian independence. The Constitution consists of 37 articles, 4 transitional provisions and additional provisions and is preceded by a
Preamble. In its four paragraphs of its preambuler statements, the Constitution stipulates a condemnation of any form of colonialism in the world; an account of Indonesia's struggle for independence; the declaration of its independence; and a statement of the following aims and principles:

"Indonesia's national independence shall have the state-form of a Republic with the sovereignty vested upon the People, which shall be based upon: (1) Belief in the One Supreme God; (2) Just and civilized humanity; (3) The unity of Indonesia; (4) Democracy led by the wisdom of unanimity arising from deliberations amongst representatives, for creating a condition of (5) Social justice for the whole of the people of Indonesia."

These five principles are called Pancasila. Guided and inspired by these fundamental principles, the basic aims which the Constitution is striving for are:

"to set up a Government of the Indonesian State which shall protect the whole of the Indonesian people and their entire native country, to advance the general welfare of the people to develop the intellectual life of the Nation and to contribute to the implementation of order in the world on the basis of freedom, peace and social justice."

This preambuler statement on the principle that the Government of Indonesia shall protect the whole of the Indonesian people and their entire native country may be referred to as the principle of the responsibility and obligation of the Indonesian State to protect "the Indonesian human resources and their environment."

The above-mentioned preambuler provision is further defined in Article 33 para (3) of the Constitution, which establishes the principle of the management of its environmental resources, which reads as follows:

"Land and water and the natural resources therein shall be controlled by the State and shall be utilized for the greatest welfare of the people."

These constitutional provisions indicate the scope of:

a) the authority of the State and the responsibility of the Government;
b) public versus private rights and obligations, so as to permit the future
development of "environmental control" and the development of "environmental policy and legislation".

b. **National Environmental Policy**

The principles as stated in the fourth paragraph of the Preamble and Article 33 para (3) of the 1945 Constitution are the fundamental guidelines for the national environmental policy.

The 1972 Stockholm Declaration on the Human Environment gave an impetus to the development of environmental policies, including a.o. the legal aspects, by nations around the world.

The general outline for the national environmental policy is provided by the 1973 GBHN (Guidelines of the State Policy, decreed by the People's Consultative Assembly once every five years), as follows:

"In the implementation of development, Indonesia's natural resources should be rationally utilized. The exploitation of these natural resources should not destroy the human environment and should be executed by a comprehensive policy which takes into account the needs of future generations".

This general outline is translated into programs in the subsequent Second Pelita (Five Years Development Plan) for the period 1974—1979. A further elaboration of the national environmental policy is stated in the 1978 GBHN and the following Third Pelita (1979—1984).

The 1983 GBHN stipulates the national environmental policy in the general pattern of the Fourth Pelita (1984—1989) as follows:

"The management of national resources and the living environment is directed towards the utmost benefit for the welfare of the people by maintaining their balance and preservation, thus continuing to be useful for future generations. Efforts to rehabilitate and restore the damaged natural resources and the living environment to their original function will be continued and intensified".

A special chapter within the 1983 GBHN deals with National Resources and the Living Environment which states the following:

"a. The inventory and evaluation of natural resources need to be
2) The existing legislation does not sufficiently cover environmental aspects, while, on the other hand, there is a growing environmental

Five-Year Development Plan, which is from 1979 to 1984.

Government to carry out this directive within the period of the Third

management of the living environment. It is then mandatory for the

Provision of Living Environment. It provides a directive on the

Of the environment. I.e.

There were four reasons for drafting an act on the management

The Environmental Management Act

and preservation of the living environment to be continued and improved. Without improving the quality

e. The effective use of the coastal areas, sea, and air space has

and areas. In this context, the programme on forest, land

and water which have been damaged, will be further increased.

D. The rehabilitation of natural resources, such as forests, land

Criteria for the environmental quality standard should be
determined, both sectorally and regionally, for which purpose a

way. Such assessment should be carried out in an integrated

in the living environment in the best possible manner, both sectorally and regionally, for which purpose a

in the improvement of development, if necessary, to conduct

Continued development to support

natural resources and the living environment is necessary to maintain the quality and the preservation of

natural resources; as well as promoting the living environment

It is carrying out research, exploration, exploitation and utilization of

land and sea and in the air, comprising soil, water, energy, etc., very much needed in development.

Continuing increased with the aims to know more and to
awareness among the general public as “potential victims of pollution” as well as among the industrial producers as “potential polluters”.

3) Industrial development will be increased substantially in the Fourth Five-Year Development Plan (1984-1989). Without proper environmental legislation, this industrialization process could very well produce negative side-effects in the other sectors.

4) National development is carried out in the context of the development of the Indonesian man and the whole Indonesian society in all aspects of life, as mentioned in the 1978 Guidelines of State Policy. The Guidelines further state, that the Indonesian nation desires to have a harmonious relationship between man and his God, between man and his fellowmen and between man and his environment”.

The subject matters to be regulated cover a very vast area, comprising human resources, organic as well as inorganic natural resources, and man-made resources. A series of regulations will be required since it will not be possible to regulate those subject matters in one single act. To provide an umbrella for regulations related to the environment, a draft act was prepared by the Office of the Minister of State for Development Supervision and the Environment. The preparation for this draft act started in 1976 and was intensified after 1978 with the establishment of the Office.

The drafting process was escalated in 1981 and on January 12th, 1982, the Draft Act was submitted by the President to the Parliament.

The Draft Act was accorded high priority by the Parliament, which established a special committee to discuss the Draft Act. After intensive discussions with the Government, the special committee was able to submit its proposal to the plenary session on February 25th, 1982. The Draft Act was then unanimously approved by the plenary session of the Parliament.


For practical purposes, the abbreviation EMA 1982 (En-
vironmental Management Act 1982) will be used in this paper.

The general elucidation of EMA 1982 states that the Act has the following characteristics:
1) It is simple and yet includes the possibility of development in the future, in accordance with circumstances, time and place.
2) It contains basic provisions as the basis for further regulations concerning its implementation.
3) It encompasses all aspects of the living environment in order to form the basis for further regulations concerning each aspect, which shall be formulated in separate regulations.

In addition, this Act will serve as the basis for the evaluation and adjustment of all legislations containing provisions concerning aspects of the living environment heretofore valid, i.e. legislations regarding irrigations, mining and energy, forestry, protection and conservation of nature, industry, settlements, spatial management, land use, and so forth. In this way, all the above mentioned legislations can be included within one system of Indonesian environmental law.

Among the various implications of the provisions as contained in EMA 1982, are the following:

1) The Wawasan Nusantara (Archipelagic Concept)
   Article 2 states the following:
   "The Indonesian living environment, based upon the Archipelagic Concept, encompasses the space where the Republic of Indonesia holds sovereignty and exercises sovereign rights and jurisdiction".
   On this Archipelagic Concept, the elucidation of the Act reads as follows:
   "The living environment of Indonesia as an areal concept is a legal term. Under this interpretation, the living environment of Indonesia is none other than the area of the Archipelago, which lies at the juncture of two continents and two oceans, with a tropical climate, weather, and seasons providing natural conditions and a strategic position of great value, where the Indonesian nation and people live out their lives as a nation in all its aspects. Therefore, the concept encompassed in the management of the living environment of Indonesia is the Archipelagic Concept".

The provision concerning the Exclusive Economic Zone implies new rights and responsibilities, which demand further regulations. The basis for these regulations is provided by Act No. 5 of 1983 concerning the Indonesian Exclusive Economic Zone, promulgated on October 18th, 1983.

Indonesia has ratified the UNCLOS on December 31st, 1985 by Act No. 17 of 1985.

2) The Right to a Good and Healthy Living Environment

Article 5 reads as follows:

“(1) Every person has the right to a good and healthy living environment.

(2) Every person has the obligation to maintain the living environment and to prevent and abate environmental damage and pollution”.

Heinhard Steiger pointed out in “The Fundamental Right to a Decent Environment” that the so-called “subjective rights” are the most extensive form of protection. Such a subjective right grants a legal claim to the individual to have his interest in a decent environment respected. The claim may fulfill two different functions, i.e.:

(1) the function of defense (Abwehrfunktion), which is the right of the individual to defend himself against an interference with his environment which is to his disadvantage;

(2) the function of performance (Leistungsfunktion), which is the right of the individual to demand the performance of an act in order to preserve, to restore or to improve his environment”.

The functions are reflected in Article 20 of EMA 1982, i.e. the provision in para (1) concerning the right of the victim to be given compensation and the provision in para (2) related to procedures for the submission of complaints by victims, procedures for the investigation by a team of the type, kind, and extent of damages, and
procedures for seeking compensation, while para (3) contains a provision for payment to the State of the costs of the restoration of the living environment.

Constitutionally, these subjective rights could be derived from the provision as contained in the fourth paragraph of the Preamble of the 1945 Constitution: “.........to set up a Government of the Indonesian State which shall protect the whole of the Indonesian people and their entire native country ..........” and from the provision in Article 33 para (3): ”......... shall be utilized for the greatest welfare of the people”.

3) Polluter Pays Principle

Para (1) and para (3) of Article 20 adhere to the principle that the polluter must pay. Under the existing Civil Code, compensation is based upon two articles, i.e.: Article 1243: compensation caused by breach of contract and Article 1365: compensation caused by unlawful act. The liability is one based on fault (culpa rule). Fault is the constitutive element for liability.

Since causing damage and polluting are unlawful acts, compensation is based on Article 1365.

With industrialization producing new and greater risks and complicated causal relationships, legal theory has moved away from the concept of fault and turned its attention to the concept of risk. The development of modern industry has brought with it a large number of daily occurring risk which for economic reasons cannot be avoided but which inevitably lead to injuries which the injured persons cannot reasonably be expected to bear without compensation.

Since the middle of the nineteenth century, strict liability has been introduced, at least for particular types of cases, a large number of which are connected to environmental hazards.

The concept of strict liability is prevailingly understood as being an absolute responsibility linked solely to the causation of damage. An important feature of strict liability is the absence of the requirement of fault.

The doctrine of strict liability can be of great aid and comfort
in environmental litigation because many of the activities which experience has shown to be frequent cases of injury to the environment have been held to be ultrahazardous for purposes of application of a rule of liability without fault.

Another important factor related to the doctrine of strict liability is the burden of proof. One of the traditional criteria governing allocation of burden of proof is the consideration suggesting that the burden should be placed on that party within whose control lies the greater ability to prove evidence on a given point. In this case, the environmental manipulator obviously has the greater ability to produce evidence.

Article 21 of EMA 1982 contains a provision concerning the strict liability principle.

It states that “in certain activities pertaining to specific kinds of resources, strict liability rests on those causing the damage and/or pollution of the living environment at the time of the occurrence of the damage and/or pollution, which shall be stipulated in relevant legislation”.

The elucidation of Article 21 reads as follows:

“Strict liability will be conferred selectively in cases to be determined by legislation, which can specify the type and category of the activities within the scope of the relevant provision”.

At the moment Indonesia has adopted the strict liability principle in the case of marine pollution by oil through the ratification in 1978 of the International Convention on Civil Liability for Oil Pollution Damage 1969.

4) Environmental Impact Analysis

Article 16 clearly states that every plan which is considered likely to have a significant impact on the environment must be accompanied with an analysis of environmental impact, carried out according to government regulations.

The elucidation of this article reads as follows:

“In principle, development projects and activities produce impact on the living environment. Early planning of any development effort or activity must include a consideration of
its major impact on the living environment, both physical and nonphysical, including socio-cultural, so that an assessment can be made as to whether an environmental impact analysis should be carried out. This analysis will indicate more precisely the negative and positive impact of a particular activity so that steps may be prepared as early as possible in order to abate its negative impact and to develop its positive impact.

Major impact to be considered includes, among others:

a. the total number of people affected;
b. the size of the area affected;
c. the length of time during which the impact will persist;
d. the intensity of the impact;
e. the number of other environmental components affected;
f. the cumulative nature of the impact;
g. reversible or irreversible impact.

The Government can assist economically weak groups, whose fields of enterprise are suspected to lead to this type of major impact, in carrying out analyses of environmental impact."

Based on the mandate of Article 16, the Office of the Minister of State for Population and Environment has prepared a Draft Government Regulation on Analysis of Impact upon the Environment (AIE).

In drafting the regulation, serious attention has been given not only to the impact on the physical environment, but also to the impact upon the socio-cultural environment.

With traditional and cultural bound communities, socio-cultural aspects are very important and need to be carefully considered.

Special mention must be made on the provision of assistance from the government for economically weak groups to carry out analysis of environmental impact. This assistance could be channeled through the services of the environmental study centres at the universities.
The regulation governing the AIE has been promulgated on June 5th, 1986 as the Government Regulation No. 29 of 1986.

The general elucidation of the regulation states that the incorporation of the AIE into the planning process of an activity enables decisionmakers to have a broader perspective and deeper insight concerning the various aspects of such activity, so that they can make the optimal decision from the various available alternatives.

AIE is a tool for decisionmakers to consider the consequences which may arise from an activity to the environment in order to prepare measures to cope with the negative impacts and to develop the positive impacts.

The elucidation of Article 1 of Government Regulation No. 29 of 1986 points out that the Analysis of Impact upon the Environment as a process constitutes the drafting of five documents, i.e. (1) the preliminary environment information report, (2) the terms of reference for the environmental impact analysis, (3) the environmental impact analysis; (4) the environmental management plan; and (5) the environmental monitoring plan.

Article 39 of the Transitional Provision states that for activities which have not been accompanied by AIE, a preliminary environmental evaluation report, and or an environmental evaluation study, as the case may require, should be submitted.


In cooperation with the designated environmental study centres, the Office of the Minister of State for Population and Environment has organized various courses on AIE, comprising basic courses (A courses) and courses for those who are going to be AIE drafters (B courses).

5) The System of Incentives and Disincentives

The elucidation of Article 8 states that the provisions in that article authorize the Government to take certain measures, for example in the field of taxation, as an incentive for further improving the maintenance of the environment and as a disincentive preventing and abating environmental damage and pollution.

Reduction of import duties for anti-pollution devices is
another source of incentives. The same applies to the provision of long term credits for the purchase of anti-pollution devices.

Pollution charges could serve as a disincentive. Based on analyses of and experience concerning the application of pollution charges in developed countries, the following practical rules should be observed:

a) Systems of charges should be as simple and easy to manage as possible.

b) Decentralization of management provides the best framework for implementing a system of charges.

c) The interested parties should be involved in the application of the system of charges, a.o. through public participation.

d) The effectiveness of charges will depend to a large extent on a gradually rising scales of rates in accordance with a predetermined timetable.

A correctly calculated pollution charge induces polluters to reduce emissions since it makes the treatment of waste less expensive than polluting and paying the charge. Article 10 of EMA 1982 provides the basis for levying pollution charges, i.e. through para (3) c.

6) **Licensing System**

With the promulgation of EMA 1982, a direct linkage between the licensing system and the protection of the environment is established.

The elucidation of para (2) of Article 7 reads as follows:

"With the stipulation of the obligation as one of the requirements for obtaining the license, the person engaged in an enterprise is always required to carry out activities for the sustenance of the capability of the living environment to support continued development".

The requirement as mentioned in this articles must be related to the responsibility of the Government to provide guidance for the enterprises to enable them to fulfil that requirement.
7) Preventing and Abating Damage/Pollution

Article 17 states the following:

"Provisions on the overall and sectoral prevention and abatement of damage and pollution of the living environment and its control shall be established by legislation."

The elucidation of this article reads as follows:

"The provisions as stated in this article provide the means of enforcing the law. Within the framework of the abatement of negative impact, the government can assist economically weak groups, whose activities are considered to have damaged or polluted the environment. The abatement of environmental damage and pollution caused by activities outside the State territory is carried out through agreements between countries."

Related to the provisions as contained in this article, Chapter VIII, Article 21, para (1) of Act No. 5 of 1984 concerning Industry, promulgated on June 29th, 1984, requires that:

"...industrial enterprises have the obligation to carry out efforts in maintaining the balance and sustainability of natural resources to prevent damage and pollution resulting from their industrial activities."

Para (3) of the same article exempts specific kinds of small industries from the obligation as stated in para (1). If this para (3) is related to the provisions contained in the elucidation of Article 17 of EMA 1982, especially regarding the assistance to economically weak groups which are considered to have damaged or polluted the environment, then the government has the obligation to abate the damage and/or pollution resulting from industrial activities of specific kinds of small industries which are economically weak groups.

Para (1) of Article 21 of the Industrial Act 1984 is a follow-up of Article 7 of EMA 1982. It is also a follow-up of the provisions as contained in GBHN 1983 regarding the industrial development where endeavours should continuously be made to prevent environmental pollution, destruction of the living environment and waste of natural resources, in other words: industrial development with environmental consideration.

Another act which is very much influenced by Article 17 of EMA 1982 is the Act No. 9 on Fishery, promulgated on June 19th,
1985. This Act supersedes the Fisheries Conservation Ordinance of 1920.

8) Public participation

Article 6 para (1) states the following:
“Every person has the right and obligation to participate in the management of the living environment”.

In OECD’s publication on “Public participation and Environmental matters”, the following is stated:

“Effort to engage the public at the earliest feasible point in the policy planning process provides an opportunity for assessing public desires and needs, clarifying elements of controversy, and evaluating the full range of policy options. Information is a prerequisite to effective public participation, and governments have a responsibility not only to make information on environmental matters available to the public in a timely and open manner, but also to ensure that citizens are able to provide constructive and timely feedback to government. Public participation can be seen as an essential means for increasing environmental as well as political awareness, for clarifying choices to be made, and for seeking social consensus on the balance to be sought between economic development and environmental concerns”.

The balance between economic development and environmental concerns is stipulated in Article 1 of EMA 1982, i.e. development with environmental consideration, defined as “a conscious and planned endeavour to utilize and manage resources wisely in continued development to improve the quality of life”.

Public consciousness of the necessity to have development with environmental consideration could be obtained through public participation in development efforts.

In developed countries, with their critical mass, various forms of public participation have been established.

In the Netherlands, one finds the system of inspraak, which literally means “speak-in”, to voice and contribute opinion to a mat-
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ter under discussion. This *inspraak* has three elements, i.e.

1. it has to be organized;
2. discussions are held with executive organs and planning agencies where there is a right to speak and an obligation to listen;
3. the result of the *inspraak* to a certain extent influences the final decision taken by the government.

The *inspraak* is a social technique; it does not substitute for the decisions taken by legislative councils.

In Canada, *community hearings* are held, which have an informal character and where the public could voice their opinion in a free and open manner.

"Cross examinations" as an element in public hearings are not found in community hearings. A combination between the formal (public) hearing and the informal (community) hearing provides an amount and diversity of information and view which are important for the decision-making process.

The use of "planning cells" or *citizen panels* is one technique which has been widely experimented with, especially in Germany, for the promotion of broader public involvement in municipal government decision-making. This consists of instituting ad hoc panels of citizens, randomly selected from the local community, who meet to study and discuss specific municipal plans or projects for a fixed period, varying in duration from three days to three weeks.

A more recent technique which has been developed in the United States relates to "*citizen review boards*".

These are bodies where the decision-making authority is delegated to citizen representatives who are either elected or appointed to sit on a board with authority to review alternative plans and decide which plan should be implemented.

Which technique is the best suited to channel public participation in environmental management in Indonesia depends on the cultural patterns, tradition and outlook, prevailing in the country. A special study is required to determine modes of public participation which would suit the needs for environmental protection in Indonesia.
An important factor in realizing public participation is the existence of self-reliant community institutions, which are non-government organizations.

Article 19 is specially dedicated to these institutions and relates to the supporting role they perform in the management of the living environment.

The definition of self-reliant community institutions, as stated in Article 1, reads as follows:

"A self-reliant community institution is an organization which develops in a self-reliant manner, on the basis of its own initiative and desire, within the community, and is concerned with and active in the field of the living environment".

The elucidation of Article 19 mentions groups which are self-reliant community institutions, i.e.:

1) professional groups, who on the basis of their profession are interested in handling the problem of the environment;

2) hobby groups, who love nature and are motivated to sustain it;

3) interest groups, who are interested in contributing to the development of the living environment.

9) **Development of Environmental Awareness**

Article 9 contains provision of the obligation of the Government to cultivate and develop the public's awareness of its responsibility in the management of the living environment by means of information, guidance, education, and research in the field of living environment.

The elucidation of that article states that education to initiate and encourage awareness among people is carried out through formal education from kindergarten/primary school up to institutions of higher learning and through non-formal education.

Particular importance of Article 9 from the legal point of view is related to facing damage and or pollution resulting from actions undertaken by the community-at-large, such as polluting rivers by throwing domestic waste into those rivers, or cutting trees upstream
for energy purposes and thereby causing damage to areas downstream.

The polluter pays principle could hardly be applied in these cases. Article 9 provides the alternative to the polluter pays principle, i.e. preventing and abating damage and/or pollution through the development of environmental awareness among the community-at-large.

10) Compensation and Restoration

Apart from the penalties as contained in Article 22, there are civil liability provisions in Article 20, which are faced by damagers and/or polluters. The provisions in Article 20 cover two aspects, i.e. compensation for the victims and restoration of the living environment.

With regard to the combination of penalties and civil liability provisions, the European Council of Environmental Law has adopted Resolution No. 5 at its meeting on July 25th, 1977 in London, which reads:

"The main sanctions of imprisonment and fines should be supplemented by compensatory provisions, possibly subject to penalty dues for non-performance, such as restoration of the area or premises affected, installation of pollution control devices, etc."

The elucidation of Article 20 para (2) points out that the form and type of loss as result of the damage and the pollution will determine the extent of the loss. The investigation of the form, type, and extent of the loss is carried out by a team established by the Government. The investigation includes ecological, medical, socio-cultural and other aspects deemed necessary. The team, which consists of the injured parties or their representatives, the polluting agents or their representatives, and government agents, is formed separately for each case. When and if necessary, experts may be appointed members of the team. If a unanimous agreement among the concerned parties cannot be reached within a certain period of time, the matter is taken to the court.

A good example of how disputes are settled is the procedure for handling pollution disputes in Japan. A national agency of set-
tling disputes is established under the Law concerning the Settlement of Environmental Pollution Disputes. This national agency is called the Environmental Disputes Coordination Commission, which has been conciliating, mediating or arbitrating pollution disputes which are serious or which are related to a wide area. For other disputes, the Environmental Disputes Council of each prefecture is charged with conciliation, mediation and arbitration.

Claimants of pollution disputes regarding civil law can settle their disputes by selecting the most practically suitable solution through the civil courts, the Environmental Disputes Coordination Commission or Prefectural Environmental Disputes Council.

11) Integration and Coordination

The management of the living environment demands that a system with integratedness as its main characteristic be developed. Article 18 contains provisions which direct the horizontal, intersectoral integratedness as well as the vertical, central-provincial integratedness. The elucidation of Article 18 states a.o. that the implementation of the integrated policy requires coordination so that sectoral and regional implementation of the management of the living environment is closely linked with the national policy of the management and that there exists a uniformity of procedures and steps which will guarantee the attainment of the goals of the management of the living environment efficiently and effectively.

The elucidation further points out that for the purpose of coordination at the national level, an institutional mechanism headed by a minister is established.

'It was in 1978 that for the first time a minister for the environment was appointed, a minister of state who has been given two tasks, i.e. as minister for development supervision and as minister for the environment. Prof. Dr. Emil Salim is entrusted to take the office as Minister of State for Development Supervision and the Environment.

The provision in Article 18 para (1) which states that on the national level the management of the living environment shall be carried out in the integrated manner by means of institutional
mechanism headed by a Minister guarantees that the responsibility for the environment remains at the ministerial level.

With the new formation of the Cabinet in 1983, Professor Dr. Emil Salim is again appointed as minister, responsible for the environment. The Office of the Minister of State for Development Supervision and the Environment has been changed into the Office of the Minister of State for Population and Environment.

To achieve the same wavelength of thought and view, a forum of liaison officers from various ministries with the Office has been established at national level. At the regional level, the Office cooperates with three institutions, i.e. the Provincial Government: Bappeda (Regional Planning Agency) and Biro KLH (Bureau for Population and Environment), the Environmental Study Centres at the Universities, and the NGO’s.

4. CONCLUSION

1) The EMA 1982 contains basic provisions for the management of the living environment, which require follow-up regulations. The Office of the Minister of State for Population and Environment has finalized the process of drawing up a matrix of follow-up regulations, which determines what subject matters have to be regulated under the mandate of EMA 1982, which government agency is responsible for preparing the drafts concerned, which government agencies must be involved in preparing the draft so that integratedness could be secured, whether the follow-up regulations will take the form of an act or government regulation or presidential decision, whether it is a new regulation or an existing one which has to be adjusted to the provisions of EMA 1982. This matrix covering 96 follow-up regulations functions as a monitoring document.

A few follow-up regulations have already been promulgated, such as the Act No. 5 of 1983 on the Indonesian Exclusive Economic Zone, Act No. 5 of 1984 on Industry, Act No. 9 of 1985 on Fishery, Government Regulation No. 29 of 1986 on Analysis of Impact upon the Environment.
2) Follow-up actions, resulting from the provisions contained in EMA 1982, call for manpower development in legal sciences related to environmental law and regulations. Environmental lawyers are needed in the following fields:
   a. as teachers of environmental law in law schools;
   b. as legal drafters for environmental regulations;
   c. as legal consultants in settling environmental disputes;
   d. as legal consultants in drawing up AIE;
   e. as legal researchers in the field of environment;
   f. as writers, editors, translators of legal books in the field of environment.

Environmental law as a course in the school of law is only recently provided. It is taught at the School of Law of the following universities: the Padjadjaran University in Bandung, the Diponegoro University in Semarang, the Airlangga University in Surabaya, the Gadjah Mada University in Yogyakarta and the University of Indonesia in Jakarta. Being a new discipline in the realm of legal sciences, environmental law has still to win its place.

3. The Environmental Manpower Development in Indonesia (EMDI) Project, which later became the Environmental Management Development in Indonesia Project (with the same abbreviation) a joint project between Indonesia and Canada, has provided a good start in making it possible for five faculty members of various law schools in Indonesia to attend the Master’s Course in Environmental Law at the Law School of Dalhousie University. Other possibilities should also be explored to build up the expertise in environmental law, covering the needs as mentioned above. In addition, upgrading courses for judges and prosecutors as well as attorneys should also be developed, since cases are submitted to the court related to environmental disputes. Numerous problems in the management of the environment have to be faced and solved, a.o. through environmental law and regulations as legal instruments for the management of the environment.
REFERENCES


Guidelines of the State Policy, Department of Information, 1983.


ACT OF THE REPUBLIC OF INDONESIA
NO. 4 OF 1982

CONCERNING

BASIC PROVISIONS FOR THE
MANAGEMENT OF THE LIVING
ENVIRONMENT *)

WITH THE BLESSINGS OF GOD
THE ALMIGHTY

THE PRESIDENT OF THE
REPUBLIC OF INDONESIA

Considering:

a. that the living environment, which is bestowed by God the Almighty upon the people of Indonesia, constitutes the living space of the Indonesian people, in all its aspects and dimensions in accordance with the Wawasan Nusantara (Archipelagic Concept);

b. that in the effective use of natural resources for the advancement of general welfare as stipulated in the Constitution of 1945 and the attainment of happiness based upon Pancasila, it is necessary to sustain the capability of the harmonious and balanced living environment to support continued development by means of an integrated and comprehensive national policy with due consideration of the needs of present and future generations;

c. that a policy of protecting and developing the living environment in relation to life among nations is in accordance and compatible with the growing awareness of mankind's living environment;

d. that for the management of the living environment, which is based on an integrated and comprehensive national policy, it is necessary to enact legislation containing basic provisions as the basis for the management of the living environment.

*) Translated from the original text in the Indonesian language.
Recalling:

1. Article 5 Paragraph (1), Article 20 Paragraph (1) and Article 33 of the Constitution of 1945:
2. The Decree of the People’s Consultative Assembly No. IV/MPR/1978 concerning the Guidelines of State Policy.

With the approval of
the House of Representatives of
the Republic of Indonesia

DECIDES

to enact:
ACT ON BASIC PROVISIONS FOR THE MANAGEMENT OF THE LIVING ENVIRONMENT.

SECTION I
GENERAL PROVISIONS

Article 1

As defined under this Act:
1. The living environment is the spatial entity with all objects, potentials, conditions and living organisms, including man and his behaviour, which influence the continuance of the life and welfare of man and other living organisms.
2. The management of the living environment is an integrated effort in the utilization, regulation, conservation, supervision, control, restoration and development of the living environment.
3. An ecosystem is the comprehensive, total system of all interacting elements of the living environment.
4. Carrying capacity of the environment is the capability of the environment to support human life and that of other living organisms.
5. Resources are elements of the living environment consisting of human resources, organic natural resources, inorganic natural resources, and man-made resources.
6. An environmental quality standard is the limit or standard for living organisms, matters, energy, existing or necessary components and/or pollutants, the existence of which is tolerated in certain resources as elements of the living environment.
7. Environmental pollution is the entry or introduction of living organisms, matters, energy and/or other components into the environment, and/or change
in the environmental system due to man's activities or natural processes resulting in the decline of the environmental quality to such a level which causes the environment to function insufficiently or to lose its proper functions.

8. Environmental damage is an action which directly or indirectly affects the physical and/or organic characteristics of the environment which causes the environment to function insufficiently or to lose its proper functions in supporting continued development.

9. Environmental impact is a change in the environment caused by an activity.

10. An analysis of environmental impact is a study of the impact of a planned activity on the living environment needed for decision-making process.

11. Conservation of natural resources is the management of natural resources which ensures their wise utilization and, in the case of renewable natural resources, ensures their continued supply by constantly maintaining and improving their value and variety.

12. A self-reliant community institution is an organization which develops in a self-reliant manner, on the basis of its own initiative and desire, within the community, and is concerned with and active in the field of the living environment.

13. Development with environmental consideration is a conscious and planned endeavour to utilize and manage resources wisely in continued development to improve the quality of life.

14. Minister is the Minister whose duty is the management of the living environment.

Article 2

The Indonesian living environment, based upon the Archipelagic Concept, encompasses the space where the Republic of Indonesia holds sovereignty and exercises sovereign rights and jurisdiction.

SECTION II

PRINCIPLES AND OBJECTIVES

Article 3

The management of the living environment is based upon the sustenance of the capability of the harmonious and balanced environment to support continued development for the improvement of human welfare.

Article 4

The objectives of the management of the living environment are:
a. to achieve harmonious relations between man and the living environment as an objective of the development of the Indonesian individual in his totality;
b. to control wisely the utilization of natural resources:
c. to develop the Indonesian individual as a proponent of the living environment;
d. to implement development with environmental consideration for the interest of present and future generations;
e. to protect the nation against the impact of activities outside the State's territory which causes environmental damage and pollution.

SECTION III

RIGHTS, OBLIGATIONS AND AUTHORITIES

Article 5

(1) Every person has the right to a good and healthy living environment.
(2) Every person has the obligation to maintain the living environment and to prevent and abate environmental damage and pollution.

Article 6

(1) Every person has the right and obligation to participate in the management of the living environment.
(2) The participation as stated in Paragraph (1) of this Article shall be established by legislation.

Article 7

(1) Every person engaged in an enterprise has the obligation to maintain the sustenance of the capability of the harmonious and balanced living environment to support continued development.
(2) The obligation as stated in Paragraph (1) of this Article shall be entered into every operating license issued by authorized agencies.
(3) Provisions governing the obligation as referred to in Paragraph (1) and Paragraph (2) of this Article shall be established by legislation.

Article 8

(1) The Government shall establish policies and take measures designed to encourage promotion of the efforts to sustain the capability of the living environment to support continued development.
(2) The Government policies and measures as stated in Paragraph (1) of this Article shall be established by legislation.
Article 9

The Government has the obligation to cultivate and develop the public's awareness of its responsibility in the management of the living environment by means of information, guidance, education and research in the field of the living environment.

Article 10

(1) Natural resources are controlled by the State and utilized for the maximum welfare of the people.

(2) The utilization of man-made resources which affect the livelihood of the general public shall be regulated by the State for the maximum welfare of the people.

(3) The right to control and regulate by the State, as stated in Paragraph (1) and Paragraph (2) of this Article, gives authority to:
   a. regulate the allocation, development, use, reuse, recycling, provision, management and supervision of resources as stated in Paragraph (1) and Paragraph (2) of this Article;
   b. regulate legal actions and legal relations between persons and/or other legal subjects pertaining to resources as stated in Paragraph (1) and Paragraph (2) of this Article;
   c. regulate environmental taxes and retribution.

(4) Further provisions pertaining to Paragraph (3) of this Article shall be established by legislation.

SECTION IV

PROTECTION OF THE LIVING ENVIRONMENT

Article 11

Provisions on the protection of inorganic natural resources shall be established by an act.

Article 12

Provisions on the conservation of organic natural resources and its ecosystem shall be established by an act.
Article 13

Provisions on the protection of man-made resources shall be established by an act.

Article 14

Provisions on the protection of cultural heritage shall be established by an act.

Article 15

The protection of the living environment shall be based on environmental quality standards established by legislation.

Article 16

Every plan which is considered likely to have a significant impact on the environment must be accompanied with an analysis of environmental impact, carried out according to government regulations.

Article 17

Provisions on the overall and sectoral prevention and abatement of damage and pollution of the living environment and its control shall be established by legislation.

SECTION V

INSTITUTIONS

Article 18

(1) The management of the living environment on the national level shall be carried out in the integrated manner by means of institutional mechanism headed by a Minister and established by legislation.

(2) The management of the living environment, in relation to the integrated implementation of the national policy pertaining to the management of the living environment, shall be carried out sector-wise by departments and non-departmental institutions in accordance with their respective functions and responsibilities.

(3) The management of the living environment, in relation to the integrated implementation of the national policy pertaining to the management
of the living environment, shall be carried out on the regional level by Regional Governments in accordance with the existing legislation.

Article 19

Self-reliant community institutions shall perform a supporting role in the management of the living environment.

SECTION VI
COMPENSATION AND RESTORATION

Article 20

(1) Whosoever damage and/or pollutes the living environment is liable for payment of compensation to victims whose rights to a good and healthy living environment have been violated.

(2) Procedures for the submission of complaints by victims, procedures for the investigation by a team of the type, kind, and extent of damages, and procedures for seeking compensation shall be established by legislation.

(3) Whosoever damages and/or pollutes the living environment is liable for payment to the State of the costs of the restoration of the living environment.

(4) Procedures for the determination and payment of the costs of the restoration of the living environment shall be established by legislation.

Article 21

In certain activities pertaining to specific kinds of resources, strict liability rests on those causing the damage and/or pollution of the living environment at the time of the occurrence of the damage and/or pollution, which shall be stipulated in relevant legislation.

SECTION VII
PENALTIES

Article 22

(1) Whosoever intentionally does an action which causes damage or pollution of the living environment under the provisions of this and other acts shall be
liable to punishment of imprisonment to a maximum of 10 years and/or a fine to a maximum of Rp. 100,000,000.00

(2) Whosoever, through negligence, does an action which causes damage or pollution of the living environment under the provisions of this and other acts shall be liable to punishment of imprisonment to a maximum of one year and/or a fine to a maximum of Rp. 1,000,000.00.

(3) Actions as stated in Paragraph (1) of this Article constitute a crime and actions stated in Paragraph (2) of this Article constitute a misdemeanor.

SECTION VIII
TRANSITIONAL PROVISIONS

Article 23

At the time this Act takes effect, all other regulations pertaining to the living environment shall remain in effect, insofar as they do not conflict with this Act.

SECTION IX
CONCLUDING PROVISIONS

Article 24

This Act takes effect as of the date of its promulgation.

In order that the public be informed thereof, it is hereby ordered that this Act be promulgated by publication in the State Gazette of the Republic of Indonesia.

Done in Jakarta
On March 11, 1982

THE PRESIDENT OF THE
REPUBLIC OF INDONESIA

SOEHARTO
Promulgated in Jakarta
On March 11, 1982

THE MINISTER/
STATE SECRETARY OF THE
REPUBLIC OF INDONESIA

SUDHARMONO, S.H.

STATE GAZETTE OF THE REPUBLIC OF INDONESIA
YEAR 1982 NUMBER 12.
ELUCIDATION

OF

THE ACT OF THE REPUBLIC OF INDONESIA
NO. 4 OF 1982

CONCERNING

BASIC PROVISIONS FOR THE
MANAGEMENT OF THE LIVING
ENVIRONMENT

A. GENERAL

1. The living environment of Indonesia, which is bestowed by God the
Almighty upon the Indonesian nation and people, is a blessing from Him, and its
capability must be developed and sustained so that it can continue to serve as a
life source and support for the Indonesian nation and people and other beings for
the sake of the continuance and the improvement of the quality of life itself. Pana-
casila as the foundation and the philosophy of the State is a whole and complete
unity which gives the Indonesian nation and people the conviction that happiness
shall be attained if it is based upon harmony and balance in the life of man as in-
dividual, in his relationship with his fellowman, in his relationship with nature, in
his relationship with God the Almighty, as well as in his pursuit of worldly progress
and spiritual contentment. There are interlocking relationships between man, his
community and his living environment, which must always be cultivated and
developed so that they continue to be in harmonious and dynamic balance. The
Constitution of 1945 stipulates that natural resources must be used for the maxi-
mum welfare of the people. This welfare must be available to both present and
future generations.

The Guidelines of State Policy state that development aims not only at
bringing about prosperity or spiritual contentment but also at achieving a balance
between the two. Therefore, the utilization of natural resources must be in
equilibrium with the harmony and balance of the living environment.

2. The living environment, in ecological terms, recognizes no areal
boundaries, either state of administrative. However, if the living environment is to be related to its management, the boundaries of areas of authority of management must be clearly defined.

The living environment of Indonesia as an areal concept is a legal term. Under this interpretation, the living environment of Indonesia is none other than the area of the Archipelago, which lies at the juncture of two continents and two oceans, with a tropical climate, weather, and seasons providing natural conditions and a strategic position of great value, where the Indonesian nation and people live out their lives as a nation in all its aspects. Therefore, the concept encompassed in the management of the living environment of Indonesia is the Archipelagic Concept.

3. The living environment of Indonesia as an ecosystem consists of a number of areas, each of which constitutes a separate subsystem comprising socio-cultural, economic, and physical aspects, with characteristics which vary from one subsystem to another, and with different environmental carrying capacities. Cultivation and development based on the conditions of the carrying capacity of the environment will improve the harmony and balance of the subsystems, which also means enhancing the resilience of these subsystems. At the same time the cultivation and development of one subsystem will affect others, which ultimately will affect the equilibrium of the entire ecosystem. Therefore, the management of the living environment demands that a system with integratedness as its main characteristic be developed. This means that a national policy of the management of the living environment is necessary.

4. Development is a conscious effort to manage and utilise resources for the purpose of improving the quality of life of the people. At the same time natural resources are not unlimited either in quantity or in quality, while the demands for the resources increase, as a result of the increase in the total population and the increase in their needs. Along the same line, the carrying capacity of the environment may be disturbed and the quality of the living environment may decline.

The implementation of development as an effort at increasing rates brings with it the risk of polluting and damaging the environment in such a way that the basic structure and function of the ecosystem as a life support could also be impaired. Conditions of this type are a burden on society, since ultimately it is the people and the government who will have to bear the burden of restoring the environment.

The maintenance of a good and healthy ecosystem is a responsibility which requires the participation of each member of the community in improving the carrying capacity of the environment. Therefore, a wise development must be based upon environmental consideration as a means of achieving continuity and the
well-being of present and future generations.

5. Consistent with the nature of the State of the Republic of Indonesia as a constitutional state, the development of the system of the management of the living environment of Indonesia must be based upon a clear, firm, and comprehensive legal foundation in order to guarantee the legal certainty for the management effort. The legal foundation is based upon the principles of environmental law and on the obedience of everyone to these principles, all of which are in turn based upon the Archipelagic Concept.

This Act concerning Basic Provisions for the Management of the Living Environment is of the following characteristics:

a. It is simple and yet includes the possibility of development in the future, in accordance with circumstances, time and place.

b. It contains basic provisions as the basis for further regulations concerning its implementation.

c. It encompasses all aspects of the living environment in order to form the basis for further regulations concerning each aspect, which shall be formulated in separate regulations.

In addition, this Act will serve as the basis for the evaluation and adjustment of all legislations containing provisions concerning aspects of the living environment heretofore valid, i.e., legislations regarding irrigations, mining and energy, forestry, protection and conservation of nature, industry, settlements, spatial management, land use, and so forth. In this way, all the above-mentioned legislations can be included within one system of Indonesian environmental law.

B. ARTICLE BY ARTICLE

Article 1

The terms formulated in this Article are intended to provide a uniformity of understanding of this Act and its regulations for implementation:

1. Living environment here is a system comprising the organic natural environment, the inorganic natural environment, the man-made environment, and the social environment, which influences the continuity of life, and the welfare of man and other living organism.

   The terms living environment and environment are used with the same meaning.

2. Self-explanatory.


5. Man-made resources include among others reservoirs, dams, and prime species.


7. The pollution of the living environment by natural processes is included in the formulation in view of the fact that its effects must be abated. The abatement is the responsibility of the Government.

   Environmental components include information.

   Environmental systems are systems of natural or man-made environmental components.

8. Self-explanatory.

9. Impacts can be positive, i.e. in the form of benefits, or negative i.e. in the form of risks, in relation to the physical and non-physical, including socio-cultural, environment.

10. Self-explanatory.


12. The term organisations includes social groups.

13. To utilize and manage resources wisely means to always consider the impact of an activity both on the environment and on the capability of the resources to support continued development.


Article 2

Self-explanatory.

Article 3

The term sustenance contains the meaning of attainment of the capability of a harmonious and balanced environment and the improvement of that capability. Only in a harmonious and balanced environment can optimal life be achieved.

Article 4

To control wisely the utilization of resources requires that attention be paid to
aspects such as economy, effectiveness, efficiency, and recycling.

**Article 5**

Paragraph (1)
By *person* is meant an individual person, a group of persons, or a legal body.

Paragraph (2)
The obligation of *every person* as stated in this Paragraph is not separated from his position as a member of the community, which reflects the value of man as an individual and as a social being.

**Article 6**

Paragraph (1)
The right and obligation of *every person* as a member of the community to participate in the management of the living environment include the planning phase as well as the implementation and the evaluation phases. Through their participation, the members of the community will be strongly motivated to overcome the problems of the living environment together and to endeavor to carry out successful management of the living environment.

Paragraph (2)
Legislation as stated in this Article regulates the implementation of the participation as stated in Paragraph (1).

**Article 7**

Paragraph (1).
Self-explanatory.

Paragraph (2)
With the stipulation of the obligation as one of the requirements for obtaining the license, the person engaged in an enterprise is always required to carry out activities for the sustenance of the capability of the living environment to support continued development.

Paragraph (3)
Self-explanatory.

**Article 8**
The provisions in this Article authorize the Government to take certain measures, for example in the field of taxation, as an incentive for further improving the
maintenance of the environment and as a disincentive for preventing and abating environmental damage and pollution.
The policies and actions as stated in this Article can also be aimed at extending recognition to any person who renders outstanding service in the sustenance of the capability of the living environment to support continued development.

Article 9

Education to initiate and encourage awareness among the people is carried out both through formal education from kindergarten/primary school up to institutions of higher learning and through non-formal education. Research on the living environment includes among others the development of the concept of the living environment, studies of the existing environmental conditions, tendencies of natural and man-made environmental changes, and the reciprocal link between man’s increasing needs and the organic and inorganic environment.

Article 10

Paragraph (1)
Self-explanatory.

Paragraph (2)
Self-explanatory.

Paragraph (3)
The regulating authority as stated in Paragraph (3) of this Article concerns among others the spatial management, which is a system of controlling space as a conscious effort to regulate the relationships of various activities and functions for the purpose of achieving environmental harmony and balance.

Paragraph (4)
Self-explanatory.

Article 11.

The provisions as stated in this Article include all kinds of inorganic natural resources, such as water, earth, air, anything extracted from the earth, wilderness areas, geological formations, or beautiful natural phenomena which are important for sciences.

Article 12

Conservation of organic natural resources and their ecosystem has three aspects,
i.e.

a. protection of life-support systems;
b. conservation and maintenance of the varieties of plant and animal species and their ecosystems, in the sphere of earth, water and air;
c. sustained utilization of organic natural resources and their ecosystems.

The term *conservation* above also includes protection of animal species whose lives are not regulated by man, rare or endangered plants, and protected forests.

**Article 13**

Protection of important man-made resources means conservation of the functions of these resources for continued development.

**Article 14**

The protection of cultural heritage is aimed at conservation of cultural heritage of esteemed value.

**Article 15**

In order to determine whether the damage of the living environment has occurred, it is necessary to establish environmental quality standards, i.e. criteria for both the quality of the living environment and the quality of domestic or industrial waste. These criteria and standards may differ for different environments, regions or times, taking into consideration the diversity of their systems of utilization. Changes in local environmental conditions and technological development will affect the criteria and standards already established.

**Article 16**

In principle, development projects and activities produce impact on the living environment. Early planning of any development effort or activity must include a consideration of its major impact on the living environment, both physical and nonphysical, including socio-cultural, so that an assessment can be made as to whether an environmental impact analysis should be carried out. This analysis will indicate more precisely the negative and positive impact of a particular activity so that steps may be prepared as early as possible in order to abate its negative impact and to develop its positive impact.

Major impact to be considered includes, among others:

a. the total number of people affected;
b. the size of the area affected;
c. the length of time during which the impact will persist;
d. the intensity of the impact;
e. the number of other environmental components affected;
f. the cumulative nature of the impact;
g. reversible of irreversible impact.

The Government can assist economically weak groups, whose fields of enterprise are suspected to lead to this type of major impact, in carrying out analyses of environmental impact.

Article 17

The provisions as stated in this Article provide the means of enforcing the law. Within the framework of the abatement of negative impact, the Government can assist economically weak groups, whose activities are considered to have damaged or polluted the environment.

The abatement of environmental damage and pollution caused by activities outside the State territory is carried out through agreements between countries.

Article 18

Paragraph (1)

The management of the living environment demands the development of a system with integratedness as its principal characteristic. Therefore, for the purpose of implementing the management of the living environment it is necessary to establish an integrated national policy concerning the management of the living environment, which is to include formulations, implementation, control and supervision, as part of the national development policy.

Supervision of the implementation of a national policy concerning the management of the living environment is to be carried out by supervisory institutions in accordance with existing regulations. The implementation of the integrated policy requires coordination so that sectoral and regional implementation of the management of the living environment is closely linked with the national policy of the management of the living environment, and so that there exists a uniformity of procedures and steps which will guarantee the attainment of the goals of the management of the living environment efficiently and effectively. For the purpose of coordination at the national level, an institutional mechanism headed by a minister is established.

Paragraph (2)

The sectoral implementation of the management of the living environment in the regions shall be carried out under the coordination of the head of the region, in relation to the integrated implementation of the national policy pertaining
to the management of the living environment.

Paragraph (3)
Self-explanatory.

Article 19
Self-reliant community institutions include among others:
a. professional groups, who on the basis of their profession are interested in
handling the problem of the environment;
b. hobby groups, who love nature and are motivated to sustain it;
c. interest groups, who are interested in contributing to the development of the
living environment.
In performing their supporting role, self-reliant community institutions function as
a means of involving as many members of the community as possible in the effort
to attain the goals of the management of the living environment.

Article 20
Paragraph (1)
These obligations constitute the duty of every person to sustain the capability of the
environment for the purpose of supporting continued development.

Paragraph (2)
The form and type of loss as a result of the damage and pollution will determine
the extent of the loss. The investigation of the form, type, and extent of the loss is
carried out by a team established by the Government. The investigation includes
ecological, medical, socio-cultural and other aspects deemed necessary. The
team, which consists of the injured parties or their representatives, the polluting
agents or their representatives, and government agents, is formed separately for
each case. When necessary, experts may be appointed members of the team. If a
unanimous agreement among the concerned parties cannot be reached within a
certain period of time, the matter is taken to the court.

Paragraph (3)
Besides the obligation to compensate losses as stated in the elucidation of
Paragraph (2), the damager and/or polluter of the living environment is also
under the obligation to pay to the State the costs of the restoration of the environ-
ment.
The team as stipulated in the elucidation of Paragraph (2) can also be assigned the
authority to determine the amount of the costs of the restoration of the living en-
vironment.
Paragraph (4)
Self-explanatory.

Article 21
Strict liability will be conferred selectively in cases to be determined by legislation, which can specify the type and category of the activities within the scope of the relevant provisions.

Article 22
Taking into account the fact that environmental damage and/or pollution can be of different kinds, this Article specifies only the maximum penalties which can be imposed. Legislation regulating aspects of the living environment can always specify penalties not exceeding those specified in this Article. The amount of fines as stated in this Article is the nominal value at the moment when this Act takes effect.

Article 23
Self-explanatory.

Article 24
Self-explanatory.

SUPPLEMENT TO THE STATE GAZETTE OF
THE REPUBLIC OF INDONESIA
NUMBER 3215.
Environment Registration

19.4.046