

LAW NO. 03/2009 OF 21 JANUARY 2009
ESTABLISHING THE MARITIME ZONES OF THE
SAHARAWI ARAB DEMOCRATIC REPUBLIC

Whereas the Constitution of the Saharawi Arab Democratic Republic provides that the State shall exercise full sovereignty over its territory, including its territorial waters;

Whereas the Saharawi Arab Democratic Republic wishes to update its domestic law regarding sovereign rights, jurisdiction and duties in the State's exclusive economic zone and continental shelf;

Whereas the ocean and its natural living and non-living resources offer significant opportunities for economic diversification, sustainable development and the generation of wealth for the benefit of all the citizens of the Saharawi Arab Democratic Republic, and in particular for coastal communities;

Considering the need to safeguard the rights and fundamental interests of the nation with regard to the living and non-living resources in the waters off the coast of the Saharawi Arab Democratic Republic;

Considering the Saharawi Arab Democratic Republic is entitled to exercise the rights and fulfil the duties of a coastal state in accordance with international law, as set forth in the United Nations Convention on the Law of the Sea, 1982 (hereinafter "the Convention");

Considering the Saharawi Arab Democratic Republic's commitment to adhere to the Convention at the earliest possible date;

For these reasons, the Saharawi Arab Democratic Republic establishes and defines its maritime zones as follows:

SECTION I
INTERNAL WATERS AND TERRITORIAL SEA

Article 1
Territorial Sea

The territorial sea of the Saharawi Arab Democratic Republic comprises those areas of the sea having as their inner limit the baselines described in Article 2 of this Law and as their outer limit a line established seaward from those baselines every point of which is at a distance of twelve miles from the nearest point of the baseline.

Article 2

Baselines

1. The normal baseline is the low-water line along the coast of the Saharawi Arab Democratic Republic.
2. If it deems it appropriate, the Saharawi Arab Democratic Republic may define straight baselines for measuring the breadth of the territorial sea in accordance with the applicable principles of international law.
3. Baselines across the mouths of rivers and bays may be defined in accordance with the applicable principles of international law.

Article 3

Internal Waters

1. The internal waters of the Saharawi Arab Democratic Republic include those areas of the sea on the landward side of the baselines from which the breadth of the territorial sea is measured.
2. No foreign vessel shall enter the internal waters except with prior authorization from the Government of the Saharawi Arab Democratic Republic in accordance with its laws and regulations.

Article 4

Sovereignty

The Saharawi Arab Democratic Republic exercises sovereignty in its internal waters and territorial sea, which is understood to include:

- a) the mass of water;
- b) the superjacent airspace;
- c) the corresponding seabed, soil and subsoil; and
- d) the living and non-living resources.

Article 5

Innocent Passage

1. The vessels of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea of the Saharawi Arab Democratic Republic, in accordance with international law and with such laws and regulations as the Saharawi Arab Democratic Republic may adopt.
2. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the Saharawi Arab Democratic Republic.

3. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the Saharawi Arab Democratic Republic if while in the territorial sea it engages in any of the following activities:

- a) Any threat or use of force against the sovereignty, territorial integrity or political independence of the Saharawi Arab Democratic Republic, or in any other manner in violation of the principles of international law;
- b) Any exercise or practice with weapons of any kind;
- c) Any act of propaganda or any act aimed at collecting information to the prejudice of the defence or security of the Saharawi Arab Democratic Republic;
- d) The launching, landing or taking on board of any aircraft or military device;
- e) The loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the Saharawi Arab Democratic Republic;
- f) Any act of serious international pollution contrary to international law;
- g) The carrying out of any fishing activities, research activities or hydrographic surveys without the corresponding authorization or license;
- h) Any act aimed at interfering with any systems of communication or any other facilities or installations of the Saharawi Arab Democratic Republic; or
- i) Any other activity not having a direct bearing on passage.

4. Foreign nuclear-powered ships and ships carrying nuclear substances or radioactive products or other inherently dangerous or noxious substances shall notify in advance the competent authorities in the Saharawi Arab Democratic Republic of their entry and passage through the territorial sea.

5. In the territorial sea, submarines and other foreign underwater vehicles are required to navigate on the surface and to show their flag.

6. The Government of the Saharawi Arab Democratic Republic may, by order published in the official Gazette, suspend temporarily the right of innocent passage in such areas of the territorial sea as are specified in the Order if such suspension is essential for the protection of the security of the Saharawi Arab Democratic Republic.

SECTION II CONTIGUOUS ZONE

Article 6 Contiguous Zone

1. The contiguous zone is comprised of those areas of the sea beyond and adjacent to the territorial sea and having as their seaward limit a line every point of which is twenty-four nautical miles from the nearest point of the baseline used to measure the breadth of the territorial sea.

2. In the contiguous zone, the Saharawi Arab Democratic Republic shall exercise the control necessary to:
- a) Prevent infringement of its security, customs, fiscal, immigration, or sanitary laws and regulations within its land territory, internal waters or territorial sea; and
 - b) Punish infringement of the above laws and regulations committed within the land territory of the State, its internal waters or territorial sea.

SECTION III EXCLUSIVE ECONOMIC ZONE

Article 7 Exclusive Economic Zone

An exclusive economic zone is hereby established beyond and adjacent to the territorial sea, out to a distance of 200 nautical miles from the baselines used to measure the breadth of the territorial sea.

Article 8 Rights and Obligations

1. In the exclusive economic zone, the Saharawi Arab Democratic Republic has sovereign rights for the purpose of exploring, exploiting, conserving and managing the natural resources, whether living or non-living, of the sea-bed and subsoil and the superjacent waters, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from water, currents and winds.
2. In the exclusive economic zone, the Saharawi Arab Democratic Republic has exclusive jurisdiction with regard to:
 - a) Marine scientific research;
 - b) The establishment and use of artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, drugs, safety and immigration laws;
 - c) The protection and preservation of the environment;
 - d) Punishing infringements of national laws and regulations pertaining to the above matters, chiefly with regard to fishing and extraction of any other natural resource, marine scientific research and pollution prevention and control; and
 - e) Any other matters which the Government of the Saharawi Arab Democratic Republic may establish, in accordance with international law.
3. There shall be no exploration or economic exploitation of the natural resources of the exclusive economic zone by persons or vessels other than nationals of the Saharawi Arab Democratic Republic, and no scientific research may be conducted within the zone and no artificial island, installation or structure may be constructed, operated or used within the zone, for any of the foregoing purposes, unless such activity has been authorized by the Government of the Saharawi Arab Democratic Republic.

SECTION IV CONTINENTAL SHELF

Article 9 Continental Shelf

1. The continental shelf of the Saharawi Arab Democratic Republic comprises the seabed and subsoil of the submarine areas adjacent to and beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.
2. The Saharawi Arab Democratic Republic shall exercise over its continental shelf sovereign rights for the purposes of exploring and exploiting its natural resources. These rights shall be exclusive to the Saharawi Arab Democratic Republic in the sense that no one shall exercise them without its express consent. These rights do not depend on occupation, effective or notional, or on any express proclamation.
3. The natural resources referred to in the preceding paragraph consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, meaning the organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.
4. There shall be no establishment or use of artificial islands, installations or other structures for the purpose of exploring and exploiting the natural resources of the continental shelf, or for any other purpose, unless such activity has been authorized by the Government of the Saharawi Arab Democratic Republic. The Saharawi Arab Democratic Republic exercises jurisdiction over such artificial islands, installations and structures, including jurisdiction with respect to customs, tax, health and immigration laws and safety laws and regulations.

SECTION V GENERAL PROVISIONS

Article 10 Additional Rights under International Law

In addition to matters provided in this Law, the Saharawi Arab Democratic Republic shall enjoy all other rights and jurisdiction States enjoy under the international law as regards maritime zones.

Article 11
Delimitation

Where the maritime entitlements of the Saharawi Arab Democratic Republic overlap with the maritime entitlements of neighbouring states, the Saharawi Arab Democratic Republic may negotiate and conclude agreements with neighbouring states regarding the delimitation of its maritime boundaries.

Article 12
Final Provisions

1. All legislation conflicting with this Law is hereby revoked.
2. This Law shall enter into force on the date of its publication in the official Gazette.