

THE GOVERNMENT REPUBLIC OF INDONESIA

ACT OF THE REPUBLIC OF INDONESIA

NUMBER : 6 OF 1996

DATED : AUGUST 8, 1996

RE

INDONESIAN WATERS

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :**
- a. that based on the historical facts and the viewpoint of the Indonesian nation, the State of the Republic of Indonesia, which was proclaimed on August 13, 1945, as an archipelago state with the Declaration dated December 17, 1957 and Act Number 4 prp of 1960 on Indonesian Waters, has stipulated the waters territory of the State of the Republic of Indonesia;
 - b. that the Indonesian nation has succeeded in striving for the legal concept of Archipelago State, by the inclusion of provisions on legal principles and regime of Archipelago State in Chapter IV of the United Nations Convention on the Law of the Sea, which was ratified by Act number 17 of 1985 on Ratification of the United Nations Convention on the Law of the Sea;

- c. that the regulation of the archipelago state law as stipulated in Act Number 4 Prp of 1960 on Indonesian Waters, is not suitable anymore with the development of the archipelago state law regime as contained in Chapter IV of the Convention as referred to in letter b.;
- d. that in connection therewith, and to confirm the legal basis, regulating the Indonesian Waters, the sovereignty, jurisdiction, rights and obligations as well as activities in Indonesian waters, in the framework of the national development, based on the Archipelago Principle, it is necessary to revoke Act Number 4 Prp of 1960 on Indonesian Waters, and replace it with a new act;

**Bearing in
mind**

- : 1. Article 5 paragraph (1), Article 20 paragraph (1), and Article 33 paragraph (3) of the 1945 Constitution;
- 2. Act Number 17 of 1985 on Ratification of the United Nations Convention on the Law of the Sea (State Gazette of 1985 Number 76, Supplementary State Gazette Number 3319);

With the approval of :

**THE HOUSE OF REPRESENTATIVES OF
THE REPUBLIC OF INDONESIA**

HAS DECIDED :

To Stipulate : ACT ON INDONESIAN WATERS

**CHAPTER I
GENERAL PROVISIONS**

Article 1

In this Act, meant by :

- 1. Archipelago State is a state which entirely consists of one or more islands, and can cover other islands.
- 2. Island is a land area, formed in a natural way, surrounded by water, and is located on the water surface at flood tide.
- 3. Archipelago is a group of islands, including parts of islands and water between said islands, and other natural manifestations, of which the reciprocal relationship is so close that said islands, waters and other natural manifestations constitute one geographical, economic, security and defense and political unity of intrinsic nature, or which is historically regarded as such.
- 4. Indonesian Waters is the Indonesian territorial sea with the archipelago waters and the inland waters there-of;

5. Low water line is the fixed water line at a certain place indicating the sea-water surface level at the lowest ebb-tide;
6. Ebb-tide elevation is a land area, formed in a natural way, surrounded and is above the sea surface at ebb-tide, but is below the sea surface at flood-tide.
7. Gulf/Bay is a clear concavity of which the penetration is proportional in such a way with the width of its mouth, that it contains closed waters, which is more than just a coastal curve, but a concavity, not constituting a gulf/bay, except if the extent there-of is as wide as-or is more extensive than the extent of a half-circle, of which the diameter is drawn, crossing the relative concavity mouth.
8. The archipelago's sea channel is the channel of the sea through which vessels sail or foreign aircraft fly to conduct their sailing and flying in a normal way merely for continuous transits, directly and as rapidly as possible, not obstructed through or over the waters of the archipelago and adjacent territorial sea between one part of the open sea or the Indonesian Exclusive Economic Zone and part of the open sea or other Indonesian Exclusive Economic Zones.
9. Convention shall be the United Nations Convention on the Law of the Sea.

Article 2

- (1). The State of the Republic of Indonesia is an Archipelago.
- (2). All waters in the surroundings, in between and those which connect the islands or part of the islands included in the land area of the State of the Republic of Indonesia, with disregard of the extent and width there-of, constitute an integral part of the territories of the land area of the State of the Republic of Indonesian waters existing under the sovereignty of the State of the Republic of Indonesia.

CHAPTER II THE TERRITORIES OF THE INDONESIAN WATERS

Article 3

- (1). The territories of the Indonesian waters comprise the Indonesian territorial sea, the archipelago waters and the inland waters.
- (2). The Indonesian Territorial Sea is the sea channel of a width of 12 (twelve) sea miles measured from the Indonesian archipelago basic line as referred to in Article 5.
- (3). The Indonesian Archipelago waters are all the waters located on the innerside of the straight basic line of the archipelago without regard to the depth or the distance from the coast.
- (4). The Indonesian Inland Waters are all waters located on the land side of the low water line from the coasts of Indonesia, including there-in all parts of the waters located on the land side of a closing line as referred to in Article 7.

Article 4

The sovereignty of the State of the Republic of Indonesia in the Indonesian Waters comprises the territorial sea, the archipelago waters and the inland waters as well as the air space above the territorial sea, the archipelago waters, and the inland waters as well as the sea bottom and land there-under including the sources of natural wealth contained there-in.

Article 5

- (1). The basic line of the Indonesian Archipelago is drawn using the archipelago's straight basic line.
- (2). In case the archipelago's straight basic line as referred to in paragraph (1) cannot be used, then the common basic line or the straight basic line is used.
- (3). The straight basic line of the archipelago as referred to in paragraph (1) shall be the straight lines which connect the most outside points of the low water line of the islands and most outside dry rocks of the Indonesian Archipelago.
- (4). The archipelago's straight basic line as referred to in paragraph (3) shall not be drawn from and to the ebb-tide elevation, except if a lighthouse or a similar installation has already been built there-on, which exists permanently on the sea surface or if said ebb-tide elevation is located entirely or partly at a distance not more than the width of the territorial sea from the closest island.
- (6). The normal basic line as referred to in paragraph (2) is the lowest water line along the coast.
- (7). The straight basic line as referred to in paragraph (2) shall be the straight line connecting the most outside points on the coastal line protruding far forward and turning landwards or a range of islands found close by and along the coast.

Article 6

- (1). The basic line of the Indonesian Archipelago drawn as referred to in Article 5, is set forth in maps of adequate scale or scales to confirm the position there-of, or a list of geographic coordinate points can also be made which clearly specifies the geodetic data.
- (2). The maps with adequate scale or scales illustrating the Indonesian territorial waters or the list of geographic coordinate points of the basic lines of the Indonesian Archipelago as referred to in paragraph (1), are further regulated by Government Regulation.
- (3). The Indonesian Government publishes as appropriate the maps with adequate scale or scales or the list of geographic coordinate points as referred to in paragraph (1), and shall deposit a copy of said list of geographic coordinate points with the United Nations Secretary General.

Article 7

- (1). In the archipelago waters, to stipulate the borders of the inland waters, the Indonesian Government can draw closing lines at the river mouth, estuary, bay, inland sea and harbours.
- (2). The inland waters consist of :
 - a. inland sea, and
 - b. land waters
- (3). The inland sea as referred to in paragraph (2) letter a, shall be part of the sea located at the land side of the closing line, at the sea side of the low water line.
- (4). The land waters as referred to in paragraph (2) letter b shall be all waters located at the land side of the low water line, except at a river mouth of land waters, shall be all waters located at the land side of the closing line of a river mouth.

Article 8

The outside border of the Indonesian territorial sea is measured from the basic line, drawn according to the provisions as referred to in Article 5.

Article 9

- (1). Without prejudice to the provisions of Article 4, the Indonesian Government shall respect honour the existing approvals and agreements with other countries which concern the part of the waters which constitutes its archipelago waters.
- (2). The terms and conditions for the implementation of the rights and activities as referred to in paragraph (1) including the nature, the scope, and the region in which said rights and activities are effective, at the request of one of the countries concerned, shall be regulated by bilateral agreement.
- (3). The rights as referred to in paragraph (2) shall not be transferred or partly given to a third country or its nationals.
- (4). The sub-marine telecommunication cable already installed by a foreign country or legal entity crossing the Indonesian waters without entering the landside, shall be respected/honoured.
- (5). The Indonesian Government shall allow the maintenance and replacement of cables as referred to in paragraph (4) after a notification has been received as appropriate concerning the location and the intention to repair and replace said cables.

Article 10

- (1). In the matter of the location of the Indonesian coast which is confronting or adjacent to another country, provided that there is no agreement on the contrary, the border line of

the territorial sea between Indonesia and said country, shall be the center line of which the points are of equal distance from the closest points at the basic line from where the width of the territorial sea of the respective countries is measured.

- (2). The provisions as referred to in paragraph (1) are not valid if there is a reason of historical right or another special condition, causing the necessity to stipulate the borders of the territorial sea between both countries according to a different way from said provisions.

CHAPTER III CROSSING RIGHTS FOR FOREIGN VESSELS

First Part Peaceful Crossing Rights

Article 11

- (1). Vessels of all countries, coastal as well as non-coastal countries, enjoy peaceful crossing rights through the territorial sea and waters of the Indonesian Archipelago.
- (2). Crossing means navigation through territorial sea and waters of the Indonesian Archipelago for the purpose of:
 - a. crossing said sea without entering the inland waters or making a call at an anchoring place mid-sea or at harbour facilities outside the inland waters, or
 - b. to pass by or from the inland waters or making a call at mid-sea or at said harbour facilities.
- (3). The peaceful crossing as referred to in paragraph (1) shall be continuous, direct and as quickly as possible, including stopping or riding anchor as far as this is in connection with normal navigation, or shall be conducted because of a forced condition, difficulties experienced, the provision of assistance to another person, a ship or aircraft in danger or difficulties.

Article 12

- (1). A crossing is considered as peaceful if it is not harmful to the peace, order or security of Indonesia and is conducted according to the provisions of the convention and other international laws.
- (2). Crossing by a foreign vessel shall be considered as endangering the peace, order or security of Indonesia if said vessel when being at territorial sea and or at archipelago waters, conducts one of the activities prohibited by the Convention and/or by another international law.
- (3). Further provisions concerning the peaceful crossing as referred to in paragraph (1) and paragraph (2), shall be regulated by Government Regulation.

Article 13

- (1). The Government of Indonesia can temporarily postpone the peaceful crossing of all kinds of foreign ships in certain regions of the territorial sea or the archipelago waters, if such a postponement is necessary for the protection of its security, including the purpose of arms/weapous training.
- (2). The postponement as referred to in paragraph (1) is only effective after an announcement has been made according to the provisions in force.
- (3). Further provisions on the temporary postponement as referred to in paragraph (1) and paragraph (2), shall be regulated by Government Regulation.

Article 14

- (1). As required with due observance of the navigation safety, the Government of Indonesia shall stipulate the sea channel and traffic dividing scheme in the territorial sea and archipelago waters.
- (2). Further provisions on the use of the sea channel and traffic dividing scheme at territorial sea and archipelago waters as referred to in paragraph (1), shall be regulated by Government Regulation.

Article 15

In the implementation of the right of peaceful crossing at territorial sea and archipelago waters, a sub-marine and other sub-marine vehicles shall conduct navigation above the water surface and show the national flag.

Article 16

A nuclear powered foreign vessel and a foreign vessel carrying nuclear or other material which because of the dangerous or toxic nature, if they have to use their peaceful crossing right they have carry documents and adhere to the special preventive measures stipulated by international agreement.

Article 17

The further provisions concerning the right and obligations of foreign merchant ships, warships and government vessels operated for commercial and non-commercial purposes in conducting a peaceful crossing right through the Indonesian waters, shall be regulated by Government Regulation.

SECOND PART ARCHIPELAGO SEA CHANNEL CROSSING RIGHT

Article 18

- (1). Archipelago sea channel crossing at specially stipulated sea channels is the implementation of shipping and aviation rights in accordance with the provisions of the Convention in a normal way, is conducted only to conduct continuous, direct and as quickly as possible transits, and shall not be obstructed.

- (2). All kinds of vessels and aircraft of foreign countries, coastal and non-coastal countries, shall enjoy crossing rights over the archipelago sea channels through the Indonesian Archipelago waters between one part of the open sea or the Indonesian Exclusive Economic Zone with part of the open sea or another Indonesian Exclusive Economic Zone.
- (3). Further provisions concerning the rights and obligations of vessels and aircraft of foreign countries which are using their crossing rights over an archipelago sea channel as referred to in paragraph s (1) and (2), shall be regulated by Government Regulation.

Article 19

- (1). The Indonesian Government shall determine the sea channels, including the flight routes above them, which are suitable to be used for the implementation of the crossing rights over archipelago sea channels by foreign ships and aircraft, as referred to in Article 18 and may also stipulate the traffic dividing scheme as referred to Article 14 for the purpose of a safe ship crossing over the sea channel.
- (2). The sea channels and flight routes as referred to in paragraph (1), are determined by a range inter-connected axis lines starting from the route's entrance place up to the exit place through the archipelago waters and territorial sea adjacent there-to.
- (3). If required, after an announcement has been made as appropriate, the sea channel and the traffic separating scheme already stipulated before, can be replaced with another sea channel and a traffic separating scheme.
- (4). In determining or substituting the sea channel or the traffic separating scheme, the Indonesian Government shall forward a proposal to the competent international organization to reach mutual agreement.
- (5). The Government determines the sea channel axes and the traffic separating schemes and set them forth in maps to be published.
- (6). Foreign vessels conducting a crossing of an archipelago sea channel, shall adhere to the sea channels and the traffic separation scheme already stipulated.
- (7). Further provisions on sea channels and traffic separation schemes as referred to in paragraph (1), shall be regulated by Government Regulation.

THIRD PART TRANSIT CROSSING RIGHTS

Article 20

- (1). All foreign vessels and aircraft are free to sail or fly merely for the purpose of continuous transits, directly and as quickly as possible through Indonesian territorial sea in a strait between one part of an open sea or the Indonesian Exclusive Economic Zone and other part of an open sea or the Indonesian Exclusive Economic Zone.

- (2). The transit crossing right shall be conducted in accordance with the provisions of the Convention, other international laws and/or the legislative regulations in force.

Article 21

- (1). If required, with due observance of the navigation safety, the Indonesian Government can stipulate a sea channel and a traffic separating scheme for shipping at a transit crossing as referred to in Article 20.
- (2). The further provisions on the use of the sea channel and transit traffic separating scheme as referred to in paragraph (1), shall be regulated by Government Regulation.

FOURTH PART ACCESS AND COMMUNICATION RIGHTS

Article 22

- (1). If a part of the Indonesian Archipelago waters is located between two territorial parts of a neighbouring country which is directly adjacent, Indonesia shall respect/honour the existing rights and other legal interests conducted traditionally by the country concerned in said waters through a bilateral agreement.
- (2). The Indonesian Government respect/honour the installation of a sea cable and shall permit the maintenance and replacement of already existing cables by prior appropriate notification.

CHAPTER IV UTILIZATION, MANAGEMENT, PROTECTION AND PRESERVATION OF THE ENVIRONMENT OF THE INDONESIAN WATERS

Article 23

- (1). The utilization, management, protection, and preservation of the environments of the Indonesian waters are conducted based on the national legislative regulations in force and on the international law.
- (2). The administration and jurisdiction, protection, and environmental preservation of the Indonesian waters are implemented based on the prevailing legislative regulations.
- (3). If required, to increase the utilization, management, protection and preservation of the environment of the Indonesian Waters as referred to in paragraph (1), a coordination agency can be established to be stipulated by Presidential Decree.

CHAPTER V UPHOLDING OF THE SOVEREIGNTY AND LAW IN THE INDONESIA WATERS

Article 24

- (1). The upholding of the sovereignty and law in the Indonesian waters, the air space above them, the sea bottom and the land there-under including the natural wealth contained there-in as well as the sanctions on the violations there-of, shall be implemented in accordance with the provisions of other international law convention, and the prevailing legislative regulations.
- (2). The jurisdiction in the upholding of the sovereignty and law towards foreign ships crossing the Indonesian territorial sea and the archipelago waters, shall be conducted in accordance with the provisions of the Convention, other International Laws and the prevailing legislative regulation.
- (3). If required, for the implementation of the upholding of the law as referred to in paragraph (1) and paragraph
(2), a coordinating agency can be established, stipulated by Presidential Decree.

CHAPTER VI TRANSITIONAL PROVISIONS

Article 25

- (1). As long as the Government Regulation as referred to in Article 6 paragraph (2) has not yet been stipulated, to this Act shall be attached an illustrative map with a scale or scales illustrating the Indonesian water territories or the list of geographic coordinate points from the basic lines of the Indonesian archipelago.
- (2). The implementation regulation of Act Number 4 Prp. of 1960 on the Indonesian Waters shall continue to be effective, provided that it is not contradictory to or not yet replaced with a new implementation regulation based on this Act.

CHAPTER VII CONCLUDING PROVISIONS

Article 26

With the effectiveness of this Act, Act Number 4 Prp. of 1960 concerning the Indonesian Waters (State Gazette of 1960 Number 22, Supplementary State Gazette Number 1942) is declared as no longer effective.

Article 27

This Act shall be effective as of the date of Promulgation.

For the information of the public, it is instructed to promulgate this Act by inserting it in the State Gazette of the Republic of Indonesia.

Legalized in : Jakarta
On : August 8, 1996
THE PRESIDENT OF THE REPUBLIC OF
INDONESIA

signed

S O E H A R T O

Promulgated in : Jakarta
On : August 8, 1996
THE STATE MINISTER/SECRETARY OF
STATE OF THE REPUBLIC OF INDONESIA

signed

M O E R D I O N O

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 73 OF 1996

ATTACHMENT

To be continued