

Act No. 6 of 8 August 1996 regarding 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 13 August 1945, as an archipelagic State with the Declaration dated 17 December 1957 and Act No. 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 archipelagic State, by the inclusion of provisions on legal principles and regime of archipelagic State in Chapter IV of the United Nations Convention on the Law of the Sea, which was ratified by Act No. 17 of 1985 on ratification of the United Nations Convention on the Law of the Sea;

(c) That the regulation of the archipelagic State law as stipulated in Act No. Prp. of 1960 on Indonesian Waters is not suitable anymore with the development of the archipelagic 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 national development, based on the archipelago principle, it is necessary to revoke Act No. 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 No. 17 of 1985 on Ratification of the United Nations Convention on the Law of the Sea (State Gazette of 1985 No. 76, Supplementary State Gazette No. 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,

1. "Archipelagic State" means a State which entirely consists of one or more islands and can cover other islands;
2. "Island" means a land area, formed in a natural way, surrounded by water, and located on the water surface at flood tide;
3. "Archipelago" means 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 the said islands, waters and other natural manifestations constitute one geographical, economic, security and defence and political unity of intrinsic nature, or which is historically regarded as such;

4. “Indonesian waters” means the Indonesian territorial sea with the archipelagic waters and the inland waters thereof;
5. “Low-water line” means the fixed water line at a certain place indicating the sea-water surface level at the lowest ebb tide;
6. “Ebb tide elevation” means a land area, formed in a natural way, surrounded [by] and above the sea surface at ebb tide, but below the sea surface at flood tide.
7. “Gulf/bay” means 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 thereof 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” means 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, without regard to the extent and width thereof, 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 archipelagic waters and the inland waters.
2. The Indonesian territorial sea is the sea channel of a width of twelve (12) sea miles measured from the Indonesian archipelagic baseline as referred to in article 5.
3. The Indonesian archipelagic waters are all the waters located on the inner side of the straight baseline 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 therein 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 archipelagic waters and the inland waters as well as the airspace above the territorial sea, the archipelagic waters and the inland waters as well as the sea bottom and land thereunder including the sources of natural wealth contained therein.

Article 5

1. The baseline of the Indonesian Archipelago is drawn using the archipelago’s straight baseline.
2. In case the archipelago’s straight baseline as referred to in paragraph 1 cannot be used, then the common baseline or the straight baseline is used.
3. The straight baseline 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 the most outside dry rocks of the Indonesian Archipelago.

4. The archipelago's straight baseline 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 thereon, 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.
5. The normal baseline as referred to in paragraph 2 is the lowest-water line along the coast.
6. The straight baseline 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 baseline 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 thereof, 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 baselines 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 Secretary-General of the United Nations.

Article 7

1. In the archipelagic 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, [where they] 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 baseline, 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 and honour the existing approvals and agreements with other countries which concern the part of the waters which constitutes its archipelagic 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 submarine telecommunication cable already installed by a foreign country or legal entity crossing the Indonesian waters without entering the land side 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 to the contrary, the borderline of the territorial sea between Indonesia and said country shall be the centre line of which the points are of equal distance from the closest points at the baseline 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 the 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) Passing 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 archipelagic 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 archipelagic waters if such a postponement is necessary for the protection of its security, including the purpose of arms/weapons 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 safety of navigation, the Government of Indonesia shall stipulate the sea channel and traffic dividing scheme safety of the territorial sea and archipelagic waters.
2. Further provisions on the use of the sea channel and the traffic dividing scheme at the territorial sea and the archipelagic 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 archipelagic waters, a submarine and other submarine 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 to carry documents and adhere to the special preventive measures stipulated by international agreement.

Article 17

The further provisions concerning the rights 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
ARCHIPELAGIC SEA CHANNEL CROSSING RIGHTS

Article 18

1. Archipelagic 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 and direct transits as quickly as possible 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 archipelagic sea channels through the waters of the Indonesian Archipelago 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 archipelagic sea channel, as referred to in paragraphs 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 archipelagic 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 of interconnected axis lines starting from the route's entrance place up to the exit place through the archipelagic waters and territorial sea adjacent thereto.
3. If required, after an announcement has been made as appropriate, the sea channel and the traffic separation scheme already stipulated beforehand can be replaced with another sea channel and a traffic separation scheme.
4. In determining or substituting the sea channel or the traffic separation 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 separation schemes and sets them forth in maps to be published.
6. Foreign vessels conducting a crossing of an archipelagic 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 another 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 safety of navigation, 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 separation 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 waters of the Indonesian Archipelago 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 respects/honours 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 INDONESIA 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 airspace above them, the sea bottom and the land

thereunder including the natural wealth contained therein as well as the sanctions on the violations thereof, shall be implemented in accordance with the provisions of other international law conventions 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 archipelagic 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 of the list of geographic coordinate points of the baselines of the Indonesian Archipelago.

2. The implementation regulation of Act No. 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 No. 4 Prp. of 1960 concerning the Indonesian Waters (State Gazette of 1960 No. 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.