



IMO
INTERNATIONAL MARITIME LAW INSTITUTE

Established under the auspices of the International Maritime Organization
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MARITIME ZONES (CONTIGUOUS ZONE)
REGULATIONS

A Legislation Drafting Project submitted in partial fulfillment of the requirements for the award of the Degree of Master of Humanities (M.Hum.) in International Maritime Legislation at the IMO International Maritime Law Institute

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Academic Year 2019-2020

ACKNOWLEDGEMENT

I am grateful to Almighty Jehovah God for his blessings and mercies to pursue this Master of Humanities Degree in International Maritime Legislation at the International Maritime Law Institute (IMLI). In this regard, I wish to express immeasurable appreciation to the Staff of IMLI who have contributed to my success in one way or another and also for providing me this exceptional opportunity. Also, to the Lloyd's Register Foundation for making it possible through their generous scholarship programme.

I would like to express my sincere gratitude to my academic supervisor Professor Norman Martinez Gutierrez for his support, guidance, inspiration and expertise knowledge for my drafting project, recalling “ *I wouldn't help you to swim but I wouldn't allow you to drown either*”, he has allowed me the freedom to articulate my thoughts and concepts, but has guided me in the right direction when the need arise.

I am thankful for my family, especially my parents for their continuous prayers, support and encouragement. Ryan, Ariana, Jolée and Anne I can always depend upon to relieve my anxiety and stress.

Finally, I ought to express my gratitude to the Honourable Carl B. Greenidge, the former Vice President and Minister of Foreign Affairs of Guyana, for his nomination and to my colleagues at work and friends that have kept in touch, offered encouragement and assistance especially Donnette.

These persons all played a critical role in my accomplishment. Thank you!

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PART A - EXPLANATORY NOTE

Maritime Zones (Contiguous Zone) Regulations

1. Introduction

The contiguous zone is a belt of sea contiguous to but beyond the territorial sea where the Coastal State may exercise enforcement jurisdiction to prevent and punish infringement of its customs, fiscal, immigration and sanitary laws and regulations within its territory or territorial sea.¹ This functional zone exists to strengthen a State's law enforcement capacity and prevent criminals from fleeing the territorial sea and it will only exist if it is claimed by a State, giving jurisdiction to the State on the ocean's surface.²

It is of importance because it allows the Coastal State to exercise specific powers concerning customs, fiscal, immigration and sanitary laws and regulations that cannot be enforced in the Exclusive Economic Zone (EEZ) that it is strictly for economic functions. Nevertheless, those four branches of law are not defined by the United Nations Convention on Law of the Sea, 1982 (UNCLOS), therefore it is up to the coastal State to determine what falls under each category of those laws within the context of international law.

Finally, with global issues on the rise such as political conflicts and instability, food insecurity, lack of economic opportunity and employment, piracy and crimes against humanity; this zone importance is better appreciated given the purpose of each zone. In an effort to adequately discipline or prevent reprobates to protect the interest of one's State, this zone is encouraged to be claimed and sufficiently regulated and monitored; as the contiguous zone allows for the exercise of prevention which is proactive and punishment which is reactive in nature. These measures are all necessary to combat crimes. In summary, it exists to enable the coastal State to have an added layer of protection to its national interest located in its territory or territorial sea.³

¹ United Nations Convention on the Law of the Sea (signed on 10 December 1982, entered into force 16 November 1994) 1833 UNTS 397, Article 33.

² Center for Ocean and Law Policy; University of Virginia School of Law, *UNCLOS 1982 a Commentary* (Martinus Nijhoff Publishers, 1993) pg 266.

³ Peter Malanczuk, *Akehurst's Modern Introduction to International Law* (7th edn, Routledge 1997) pg 304.

2. Historical Development of the Contiguous Zone

The development of the contiguous zone concept dates back to the Hovering Acts enacted by Great Britain in the 18th century against foreign smuggling ships.⁴ Similarly, the United States of America exercised customs jurisdiction over inward bound foreign vessels.⁵

In the 19th century, many incidents involving British ships within Spanish Customs Zones triggered emphasis on the extent of maritime claims. It gave rise to the doctrine of Hot Pursuit, whereby when a ship was found within the territorial sea of a State and there were reasonable grounds to believe that it had violated the local law of that State, it can be pursued and arrested on the High Seas.⁶

Coastal States determined to extend their power seaward by developing generally recognized specialized extension and associated rights and the contiguous zone was the first of such to emerge.⁷

In the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone⁸ in Article 24 was the first attempt to codify the contiguous zone which was later codified in Article 33 of UNCLOS.

⁴ Allan M. Frommer, 'The British Hovering Acts: A Contribution to the Study of the Contiguous Zone' <<http://rbdi.bruylant.be/public/modele/rbdi/content/files/RBDI%201981%20et%201982/RBDI%201981%20et%201982%20-%202/Etudes/RBDI%201981-1982.2%20-%20pp.%20434%20%C3%A0%20458%20-%20Alan%20M.%20Frommer.pdf>> accessed on November 19, 2019.

⁵ James Crawford, *Browlie's Principles of Public International Law* (8th edn, Oxford 2012) pg 265-269.

⁶ This doctrine is incorporated in the Geneva Convention on the High Seas as Article 23, and in United Nations Law of the Sea Convention as Article 111.

⁷ Janusz Symonides, 'Origin and Legal Essence of the Contiguous Zone' (1989) 20 *Ocean Development & International Law* <<https://www.tandfonline.com/doi/abs/10.1080/00908328909545889?journalCode=uodl20>> accessed on 26 October, 2019.

⁸ Geneva Convention on the Territorial Sea and Contiguous Zone (adopted 29 April 1958, entered into force 10 September 1964) 516 UNTS 205.

3. Overview of the Contiguous Zone

Article 33 of UNCLOS states:

1. *In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to:*

(a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;

(b) punish infringement of the above laws and regulations committed within its territory or territorial sea.

2. *The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.*

UNCLOS describes the contiguous zone as a zone contiguous to the territorial sea of the coastal State in Article 33. However, in Article 55, if it is claimed it will superimpose upon the EEZ, in the absence of a claimed EEZ, such area forms part of the High Seas according to Article 86 and the outer limit of the contiguous zone may not extend more than 24 nm from the baseline from which the Territorial Sea is measured according to Article 33(2).⁹ Further, landlock States have access to and from the sea and freedom of transit as elaborated in Article 125 and 132 respectively.¹⁰ UNCLOS also incorporated ancillary rights in Article 111; the right of hot pursuit and further Article 303 regarding archaeological and historical objects found at sea within the Contiguous Zone regarded as having a dual legal fiction.¹¹

4. Regulations of the Contiguous Zone

Traditionally, where the territorial sea ended the high seas began and the laws of the coastal State no longer were applicable. The solution was to permit coastal States to arrest vessels outside their territorial seas regarding offences that had been committed or where it was suspected that such offence were going to be committed within their territory or territorial sea of the coastal State.¹²

⁹ Anthony Aust, *Handbook on International Law* (2nd edn, Cambridge 2010) pg 284.

¹⁰ Yoshifumi Tanaka, *The International Law of the Sea* (2nd edn, Cambridge 2015) pg 124.

¹¹ Ibid.

¹² Malcom Evans, *International Law* (4th edn, Oxford 2014) pg 667.

With the establishment of the contiguous zone, it gives enforcement jurisdiction beyond the territorial sea for special purposes namely; customs, fiscal, immigration or sanitary purposes only but not exceeding 24 nm limit from the territorial sea baseline. The ability to punish means that vessels that have committed such offences within the territory or territorial sea of the State may be arrested even though they have left the territorial sea, similarly the ability to prevent indicates that a State might stop a vessel from entering its waters when it has reason to believe that such offence would be committed should that vessel proceed its journey.¹³ Considering, an incoming vessel cannot commit an offence until it crosses the outer limit of the territorial sea, it would appear that Article 33(1)(b) can apply only to an outgoing ship. Similarly, Article 33(1)(a) can apply only to incoming ships because prevention cannot arise with regard to an outgoing ship in the contiguous zone.

Further, coastal States are not obliged to give publicity to charts, there exist no specific requirement concerning notice for the establishment of a contiguous zone according to Article 16 of UNCLOS.¹⁴ It is putative that the internal waters are included in the scope of its territory or territorial Sea. It is further interpreted that the coastal State may only exercise enforcement, not legislative jurisdiction within its contiguous zone.¹⁵

Moreover, Article 111(1) made it clear that coastal States may commence hot pursuit of foreign ship within the Contiguous Zone that has breached the laws and regulations of the coastal State within its territory or territorial sea.¹⁶ Additionally, Article 111(6)-(8) provides the coastal State's rights to stop a ship, the right to arrest the ship, and the right to escort the ship to ports.¹⁷

Importantly, the removal of archaeological and historical objects is to be regarded as an infringement of customs, fiscal, immigration or sanitary laws and regulations of the coastal State, the removal of archaeological and historical objects found within the contiguous zone is to be considered as an act within the territory or territorial sea.¹⁸ By using the dual fiction, the removal

¹³ Ibid.

¹⁴ Kevin Aquilina, 'The Territorial Sea and Contiguous Zone', D. Attard, D. M. Fitzmaurice, and N. Martínez Gutiérrez, *The IMLI Manual on International maritime Law: Volume I* (Oxford, 2014) pg 60.

¹⁵ Ibid.

¹⁶ Gerald Fitzmaurice, *Some Results of the Geneva Conference on the Law of the Sea* (1959) 8 ICQL pg 114.

¹⁷ Ibid.

¹⁸ Tanaka (n10) pg 123.

of archaeological and historical objects within the contiguous zone is subject to control of the coastal state, including Hot Pursuit.¹⁹ So far, as the prevention of the removal of archaeological and historical objects are concerned, the coastal State may exercise both legislative and enforcement jurisdiction within its contiguous zone by virtue of Article 303(2).²⁰

For States that claim an EEZ and a contiguous zone, the contiguous zone is part of the EEZ and the coastal State may exercise both legislative and enforcement jurisdiction for limited matters provided by UNCLOS. Considering that the contiguous zone is becoming important for the purpose of regulation of illegal traffic in drugs, claims to legislative jurisdiction in the zone may not be problematic. If such is the case, as a matter of practice, it may not be fair to extend the legislative jurisdiction of the coastal State over the contiguous zone for the limited purposes provided in Article 33 of UNCLOS.

For delimitation purpose it is the EEZ that should be delimited in terms of Article 74, where no EEZ is declared and the contiguous zone overlaps with the high seas, UNCLOS does not provide for delimitation of the high seas as this would be an infringement on freedom of the High Seas stated in Article 87.²¹ Disputes regarding the exercise by coastal State of its jurisdiction over the contiguous zone, fall within the scope of the compulsory settlement of dispute settlement in Part XV of UNCLOS.²²

Finally, when dealing with islands it is treated in accordance with the provisions applicable to land territory, in accordance with Article 11, a contiguous zone is only applicable to natural islands as laid down in Article 121 and archipelagic States can enjoy the rights of a contiguous zone with the only difference is that it should be drawn from the archipelagic baseline in accordance with Article 47 and 48 of UNCLOS.²³

¹⁹ Ibid.

²⁰ Ibid.

²¹ Aquilina (n 14) pg 67.

²² Simmon Williams, *Law of the Sea Mechanisms; Examining UNCLOS Maritime Zones* (The Maritime Executive Intellectual Capital for Executive, 2019) < <https://www.maritime-executive.com/article/Law-of-the-Sea-Mechanisms-Examining-UNCLOS-Maritime-Zones-2014-12-01>> accessed on 5/12/2019.

²³ Aquilina (n 14) pg 68.

5. The need to Legislate the Contiguous Zone in Guyana

On November 16, 1993, Guyana deposited the 60th instrument of ratification of UNCLOS with the Secretary General of the United Nations and the ratification by Guyana facilitated the entry into force of the abovementioned Convention 12 months later (November 16, 1994) in accordance with Article 308.²⁴ Subsequently, Guyana enacted the Maritime Zones Act in 2010 (MZA) to appropriately facilitate its rights and obligation in the international community under UNCLOS and the wider aspect of the International Law of the Sea.

5.1 *The Current Legal Regimes of Guyana relating to the Contiguous Zone*

a) The Maritime Zones Act

The Maritime Zones Act²⁵ incorporates provisions from UNCLOS and the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Protection of Underwater Cultural Heritage, 2001²⁶. The MZA in section 17, defines the limits of the contiguous zone and in Section 18, it gives the Minister of Foreign Affairs the authority to deny entry to a person in the Contiguous Zone from entering Guyana if there is sufficient reason to believe that if such person were to enter Guyana would infringe on the state's customs, fiscal, immigration or sanitary law. However, it does not stipulate the specific grounds for denial nor does it define exactly what falls under custom, fiscal, immigration and sanitary laws and regulations. Further, Section 19 contains 6 subsections, it defines the duty of the Minister to make regulations to prevent and punish infringers and exercise necessary power, take measures to safeguards Guyana's national interest; these provisions are broad and general in nature. Additionally, it fails to exercise its rights provided by UNCLOS concerning the right of hot pursuit and the removal of archaeological and historical objects found in the contiguous zone.

²⁴ Robert R. Churchill and Alan V. Lowe, *The Law of the Sea* (Melland Schill Studies in International Law, 3rd edn. Manchester University Press; Yonkers 1999) pg 19.

²⁵ Maritime Zones Act 2010 (No. 18 of 2010).

²⁶ Convention on the Protection of the Underwater Cultural Heritage (adopted 2 November 2001, entered into force 2 January, 2009) 45694 UNTS 2562.

It further designated power to the Attorney General of Guyana stipulating that arrest of a vessel shall not be exercised in the contiguous zone on board any vessel registered outside Guyana without the consent of the Attorney General of Guyana but it lacks the existence of a provision that specifically specify the reasons for denial of entry into Guyana considering the right of innocent passage. Also, there is the need for provisions stipulating grounds that can prevent a vessel entering Guyana territorial sea to prevent infringement of the stated laws. This clearly is an inefficient way of protecting and preserving the interest of the State. Therefore, there is the need for more direct rules that adequately in practical allow effective prevention and punishment for the infringement of the said laws and regulations.

Apart from the MZA, regulating customs, fiscal, immigration and sanitary laws can be found in several other legislations which govern matters related to the contiguous zone. These are discussed below.

b) The Customs Act

The Customs Act²⁷ requires the reporting of arrival of ships whether laden or in ballast and to furnish information of expecting ships and cargoes and same upon departure (Section 67). Only duly reported cargoes shall be loaded or unloaded at approved wharf and verified by a custom officer (Sections 70-80,129 -136) and no person on board shall disembark and go ashore (Section 96). Penalty exist for breaching of the regulations and attempting to ship prohibited or restricted goods (Sections 144-146, 177). Also, ships shall not depart Guyana until the master, or his agent satisfy the custom laws as stipulated (Sections 156 and 157). Goods not accounted for will be forfeited and failure to produce goods after clearance which were loaded in Guyana or which remained onboard and are no longer on board the master shall be held liable (Sections 164 and 165). If any coasting ship deviates from its voyage, unless forced by unavoidable circumstances or has taken on board any wrecked or other goods or discharged any goods in the course of a voyage, fails to enter an account of the circumstances and of any goods so taken on board or discharged in the cargo book is an offence (Section 174). Further, persons found on board smuggling or attempting to smuggle, and their accomplice shall be liable to a fine while goods shall be forfeited; every smuggling ship or which attempts to smuggle shall also be forfeited and

²⁷ Customs Act 2019, Cap 82:01.

when under chase if any person on board during chase throws overboard any part of the contents or destroys any part to prevent seizure, such ship shall be forfeited (Sections 199-202). Any intermeddling with goods found floating or sunk that are prohibited to be imported or exported is liable to a fine also (Section 208). While the legislation gives specific details of the safeguards and penalties imposed by the law in relation to custom, the vessels are subject to searches and goods are subject to examinations only by custom authority. Further only with reasonable suspicion shall custom authority stop and examine any ship and stop carriage within Guyana to ascertain whether any uncustomed goods or prohibited goods are contained to prevent smuggling.

c) The Immigration Act

The Immigration Act²⁸ stipulates that persons shall not enter or depart Guyana by sea except at port of entry stipulated and neither embark nor disembark without the consent of the authority. The master shall also not allow persons to embark or disembark without the consent of the authority (Sections 7 and 10), further the master of a vessel arriving or departing Guyana shall provide a list of passengers and crew member in advance to the authority and the authority has the right to board and search the vessel (Section 8). The master may be issued with a warrant to arrest and convey back on board any deserting seamen, stowaway, or prohibited immigrant who has landed from the vessel (Section 29). Although this legislation mitigates illegal immigration and emigration it applies to vessels that are in the territorial sea of Guyana and does not allow for interception in the contiguous zone to prevent the infringement of the laws.

d) The Environmental Protection Act

According to the Environmental Protection Act²⁹, no one shall cause pollution to the environment unless all reasonable and practicable measure to prevent or minimize adverse effect are taken, and if such persons contravenes he/she shall be guilty of an offence and liable to penalties prescribed (Sections 19 and 22). Where there is a serious threat to the natural resources or the environment; risk of pollution or any damage to public health, the Environmental Protection Agency (EPA) shall

²⁸ Immigration Act 2007, Cap 14:02.

²⁹ Environmental Protection Act 2012, Cap 20:05.

serve to the person responsible for such action a prohibition notice that order the cessation of the offending activity, specify a specific period for the amelioration of the effect and possibly the restoration of the environment as before (Sections 33 and 39). It also provides for the investigation, prosecution and civil proceeding of such offences. Although this legislation provides for the conservation, management and protection of the environment and the prevention and control of pollution and such related matters in an effort to prevent and mitigate pollution, this legislation does not adequately address pollution from ships in relation to sanitation purposes in the contiguous zone to prevent sanitation violation. It is also important to note that there is no limitation or boundary to pollution and the flowing resources that is the oceans and seas are resources of the common therefore there should be a more stringent approach to this matter.

e) Guyana Shipping Act

Guyana Shipping Act³⁰ specifies that every ship trading in or from Guyana waters shall provide evidence of financial responsibility against risks of damage to third parties and the master and owner or agent of any ship that is in breach shall be guilty of an offence and liable to a fine (Section 10). Additionally, there is a penalty for taking belongings from a vessel that is in distress or wrecks that occur in Guyana waters and persons who conceals or keep possession of such is deemed an offender (Section 439). If a Guyanese commits an offence whether on a Guyanese ship on the high seas or on a foreign vessel, in a foreign port or harbour or if a foreigner committed an offence onboard a Guyanese ship on the high seas and within the jurisdiction of any court in Guyana that court shall have the power to try that offence (sections 433-435). This legislation provides for the regulation of ships in the territorial sea and high sea, behaviour of masters and mariners, their rights and duties and related liabilities in shipping but fails to enforce jurisdiction in the contiguous zone. Little attention is given to pollution emerging from ships especially regarding sanitation.

³⁰ Guyana Shipping Act 2012, Cap 49:01.

f) The Shipping Casualties (Investigation and Prevention) Act

The Shipping Casualties (Investigation and Prevention) Act³¹ postulates that where a foreign ship has taken on board all or any part of her cargo within Guyana and while within the territorial waters of Guyana, is unsafe by reason of overloading or improper loading, the provisions of this Act with respect to the detention of Commonwealth ships shall apply to that foreign ship as if she were a Commonwealth ship. The Director of Maritime Affairs along with the surveyor may cause the ship to be detained and can refer the matter to the High Court (Section 31). Albeit this legislation makes provision for due investigation into the causes and prevention of shipping casualties it does not adequately address matters that are repercussions of such casualties and it is applicable only to water under national jurisdiction with sovereignty.

g) Trafficking in Person Act

According to the Trafficking in Person Act³², companies or persons who transport individuals shall verify that every passenger on board possesses the necessary travel document to enter their destination and the failure to comply with such may be sanctioned by the revocation of license to operate; further, there is liability of transportation company or individual who knowingly transport victims of trafficking (Sections 26 and 27). Human trafficking is still a major international problem and does not only affect Guyana but it is widespread and many cases are still unreported. The limitation of this legislation is that it is only applicable on land and persons are easier to traffic via watercraft than aircraft.

h) The Passengers Act

The Passenger Act³³ is applicable for the conveyance of passengers between Guyana and other territories. In Sections 8 and 9, passenger ship without a certificate of clearance from the principal officer of custom at the port of clearance which indicates that the necessary requirements are duly observed and the number of passengers on board are within the allowable amount, such vessel

³¹ Shipping Casualties (Investigation and Prevention Act) 2012, Cap 49:07.

³² Combatting of Trafficking in Persons Act 2005, Cap 10:06.

³³ Passengers Act 2012, Cap 49:03.

shall not proceed to sea; and if such vessel proceed, or if other persons are taken on board after the issuance of such document, the ship may be seized by the authority and be forfeited to Guyana. Further, if a person is found on board without permission from the person incharge of the vessel he/she and every accomplice shall be held liable and face penalty. This legislation is general in context as it concerns immigration and customs and only enforceable at port of entry and disembarkment.

i) Anti-Money Laundering

The Anti-Money Laundering Act³⁴ stipulates that a person commits an offence of money laundering if he/she knowingly or have reasonable grounds to believe it is the proceeds of a crime whether directly or indirectly and then conceals the true nature , acquires possess or uses that property (Section 36). It is also an offence, if a person knowing falsify, conceal, destroy, dispose or permit any document or material which is likely to be relevant to an investigation into money laundering, terrorist financing or the proceeds of crime (Section 37). Guyana may render assistance when requested by a foreign state to locate or seize property suspected in relation to a crime within its jurisdiction (Sections 67 and 68). Although this legislation intends to prevent the criminal act of money laundering, it covers a limited range of actions and criminal behaviours with little consideration that their implications are far-reaching. There is the need for more stringent enforcement and a wider range for interception of fiscal matters.

j) The Maritime Drug Trafficking (Suppression) Act

According to the Maritime Drug Trafficking (Suppression) Act³⁵, when Guyana law enforcement officials have reasonable grounds for suspecting that a foreign vessel of a treaty State is engaging in illicit traffic seaward of any State's territorial sea, a request may be made to that state to authorize the boarding and search of such vessel and its cargo and persons found on board (Sections 5 and 13). Further Guyana may seek permission to follow vessel into treaty state waters when it have reasonable grounds to suspect that the vessel is engaged in illicit traffic in order to

³⁴ Anti-money Laundering and Countering the Financing of Terrorism Act 2010, Cap 10:11.

³⁵ Maritime Drug Trafficking (Suppression) Act 2012, Cap 10:07.

maintain contact with the vessel and to investigate, board and search such vessel (Sections 7 and 15). This Act also provides for Guyana to request assistance from treaty States to conduct patrols and surveillance in Guyana's Water for the prevention and detection of illicit traffic (Sections 11 and 18). These are all reciprocated between Guyana and the treaty State and the laws of Guyana are extended to any offence committed outside Guyana Water on vessel registered in Guyana (Section 21). Despite, this legislation provides for co-operation in the suppression of illicit maritime drug trafficking and for connected matters, but it does not address sea area that Guyana has sovereign rights to prevent and punish infringers.

k) The Hijacking and Piracy Act

The Hijacking and Piracy Act³⁶ states that offences such as armed robbery, piracy or hijacking and also when murder is involved, persons committing such offence is outside Guyana it may be dealt with as if such offences had been committed at any place within Guyana or its territorial water (sections 3-7). The court in Guyana have jurisdiction over such matter; if the offender is a citizen of Guyana, is onboard a vessel that has relation to the offence when it enters Guyana or is found in Guyana, lessee principal place of business or is a permanent resident of Guyana or the offence is committed onboard a vessel registered in Guyana as stated in Section 14. Although there is no current existing subsidiary legislation for this Act, it makes special provisions for punishment for the offences of armed robbery hijacking and piracy and for matters connected therewith which may have implications on immigration policy.

5.2 Other considerations for regulating the Contiguous Zone

A robust and effective implementation of the Contiguous Zone Regime (CZR) would be of immense benefit for Guyana in several areas. The MZA has already delegated power to the Minister of Foreign Affairs to exercise necessary measures to safeguard Guyana's interest as it relates to custom, immigration, fiscal and sanitary infringements; which is yet to be fully utilized. A general regime might be successful in safeguarding Guyana's security, but a regime designed to address foreseeable circumstances will be more efficient. The implementation of this regime will

³⁶ Hijacking and Piracy Act 2008, Cap 10:08.

allow Guyana to meet its international obligations simultaneously safeguarding its national interests economically, socially and environmentally.

First and foremost, the current regime fails to define the scope of custom, immigration, fiscal and sanitary law under the CZR. This is necessary to avoid legal uncertainty; since it is up to each state to determine what comprises of those branches of law and to what extent that the contiguous zone can take effect, in accordance with Article 33 of UNCLOS.

Secondly, at this most opportune time in the history of Guyana with its emerging hydrocarbon industry as evidenced by the Guyana-Suriname Basin immense richness, it is inevitable that there will be an influx of migrants whether legally or illegally for employment and financial opportunity, and definitely more vessels in the coastal region of Guyana conducting business related operations either lawful or not and in addition to those traversing the area. It is therefore important to have clear administrative and legal rules to effectively address such matters to prevent misfortunate activities from occurring and to deal with such issues should it arise, hence the importance of an equipped regime.

Furthermore, with the current humanitarian crisis currently faced in Venezuela has lead to contraventions of Guyana's law. Although it is basic human instinct to escape such situations in search of food and water for survival, security and well-being and basic healthcare by whatever means possible, the Government of Guyana is urging for it to be done in accordance with its law, as measures are being put in place to accommodate refugee. As a result of such situation, Guyana has seen a great increase in the numbers of illegal immigrants that have no documentation to evidence their entry. In several cases there have also been accidents involving the transporting of persons and fuel illegally to Guyana, causing pollution to the marine environment and loss of lives. As a matter of fact, there have been several reports of females trafficked for prostitution and Haitian trafficked for inexpensive labour to Guyana. Persons are trafficked through the contiguous zone and territorial sea and when about to be apprehended have also fled through these zones. These activities have had negative repercussions for Guyana in addition to stress on the health, sanitation, employment and food security sectors coupled with increase crimes and violence. The CZR is an added protective measure to prevent the influx of illegal migrants in Guyana and dissuade illegal trade and criminal activities and thus should be rigidly provided for in national legislations.

Additionally, majority of international trade carried out in Guyana is done through the exportation and importations of goods that are carried by sea and most importantly consideration must be given to the infringement of fiscal and custom laws of Guyana such as in cases of smuggling of illegally substances, mis-declared cargoes, shipment of endangered wildlife and wood species that require special permission among many others. In this regard, the contiguous zone should be regarded as an additional protection mechanism for the State, especially since it allows for hot pursuit of vessels whether belonging to the coastal State or not but also it contains stringent measures to deter such actions.

Besides the abovementioned, it must be taken into account that violation of the stipulated laws specifically sanitary laws can occur outside of the territorial sea or the contiguous zone and be felt elsewhere besides the source of the pollution. Such activities may occur from operational activities of shipping such as ballast water disposal, sewage disposal, pollution of the environment from oil spills or dangerous/noxious substances or even from incoming vessel that are contaminated or from ports with highly contagious public health issues such as Ebola and Coronavirus. Whatever the case may be, the aftermath may have effect on the shore, near-shore and marine environment holistically of the State. An effective regime will seek to specifically address intentional or accidental situations and the liability and consequences of the accountable party.

It should not be readily dismissed that there exists the absence of valuable archeological and historical objects to be found in the contiguous zone of Guyana. As much as there are advanced technology to assist in the discovering of underwater treasures, Guyana waters are untouched and holds a vast amount of riches that are yet to be exploited. In addition to that, given the lack of human resources and data of the area, the potential should be safeguarded in advance which is not addressed in the current CZR. Furthermore, the coastal ecosystem there is a critical region, as it is part of the North Brazil Large Marine Ecosystem; that is one of the most productive ecosystems in the world and any sort of pollution may have a negative impact on the marine environment and its constituents. Thus, all necessary precautionary or retribution measures should be in place to safeguard the environment.

Finally, the current CZR fails to incorporate collaboration with other governments which is an important aspect because no country can exist in isolation in the international community and is necessary for effective management and control. In addition, although it makes reference to the contiguous zone falling under the mandate of the Ministry of Foreign Affairs (MFA) it fails to

reference to a specific body of agency that is responsible to undertake the enforcement measure, since the MFA have no enforcement capacity.

**PART B - DETAILS OF THE MARITIME ZONES (CONTIGUOUS ZONE)
REGULATIONS 2020**

6. Details of the Maritime Zones (Contiguous Zone) Regulations 2020

The following Maritime Zones (Contiguous Zone) Regulations 2020 are being proposed to support the adequate implementation of the MZA, it aims at providing clear and direct rules to govern the protection of the national laws of Guyana with regards to customs, immigration, fiscal and sanitary purposes and rigorous consequences for breaching of those laws. In the absence of clear administrative and legal rules, there is ambiguity as to what consist of infringement of these laws and what are enforceable under these laws in the contiguous zone.

Moreover, it introduces a system of measures and procedures to conduct the operations in the contiguous zone that are in accordance with international law simultaneously safeguarding the State's national interest. It is designed to reflect the policy of Guyana and strengthen it in areas where it is lacking, with the intention for continued international trade while seeking to promote safe, secure and environmentally sound international trade which protects the State and the marine environment. Furthermore, it provides avenues for cooperation between States which also can foster bilateral or even multilateral relationships.

Additionally, it is recognized that the contiguous zone falls under the mandate of the Minister of Foreign Affairs also, in the absence of clear direct rules. However, the permission of the Attorney General must be sought before intercepting foreign vessels. This approach is substituted for a more inclusive and collaborated approach. Clear conditions prior and subsequent to intercepting vessels are laid out to ensure rules are followed and liability and compensation towards party are taken into account and regulated for.

It is noted that a cross-sectorial approach would offer a more effective implementation since matters of customs, immigration, fiscal and sanitary are encompassed under several ministries and their agencies. Therefore, it is proposed that the entire process involve certain critical governmental agencies to efficiently carry out required operations related to the contiguous zone, in order to perform effective enforcement jurisdiction. The Regulations includes inspections and continuous reporting to ensure that suspicious vessels are monitored, and delinquents are recorded.

Other considerations include minimizing the adverse environmental impacts from contravention of sanitation laws.

The Regulations are divided into a preambular section, seven parts and twenty-five sections as explained below.

Part I -Preliminary

Regulation 1 - Name of Regulation

Regulation 1 provides that the name of the Regulations is the ‘Maritime Zones (Contiguous Zone) Regulations 2020’.

Regulation 2 – Definition of the Contiguous Zone

Regulation 2 defines the limits of the contiguous zone.

Regulation 3 – Limits of the Contiguous Zone

Regulation 3 specify the limits of the Contiguous Zone.

Regulation 4 - Application of Regulations

Regulation 4 provides that the regulations that will apply to incoming vessels and outgoing vessel in the Contiguous Zone to prevent and punish infringement on the State’s law and further take priority over other legislation in situations of conflict.

Regulation 5 – Definitions

Regulation 5 defines several terms for the purposes of the Regulation. If a term is not defined in the Regulations, then it will have the meaning ascribed to it in the Maritime Zones Act Cap 63:01, the Principal Act.

Part II – Establishment of a Coordinating and Enforcement Committee

Regulation 6 – Maritime Coordinating and Enforcement Committee

Regulation 6 establishes a Coordinating and Enforcement Committee comprising of the various governmental agencies involved in the protection and preservation of Guyana’s interest relating to

customs, immigration, fiscal and sanitary matters which is also applicable to the territorial sea, EEZ and continental shelf.

These agencies are:

- Ministry of Foreign Affairs
- Ministry of Legal Affairs,
- Ministry of Public Infrastructure
 - Guyana Maritime Administration Department
- Ministry of Presidency
 - Department of Citizenship
 - Department of Environment
 - Environmental Protection Agency
- Ministry of Public Security
 - Customs Anti-Narcotics Unit
 - Guyana Defence Force
 - Coast Guards
- Ministry of Finance
 - Guyana Revenue Authority
 - Customs and Immigration Authority
- Ministry of Public Health

Regulation 7 – Operation of Committee

Regulation 7 outlines the operation of the committee. As the Maritime Zones are under the mandate of the Minister of Foreign Affairs, this Regulation allows for the Ministry to chair the committee since the obligation of communicating with other Government rest upon this agency. The aim is to ensure there is a collaborative effort among all the stakeholder agencies to communicate and manage information and take appropriate enforcement measures when required, applicable to the

maritime zones. In that regard, the committee should set up a secured online data-base and meet every six months to ensure effective reporting and information sharing and may request impromptu meeting should the need arise.

Regulation 8 – Competence of Committee

Regulation 8 specifies that the committee will have the power to examine matter regarding the infringement of the laws of Guyana relating to customs, immigration, fiscal and sanitary matter that arise; which are applicable to the contiguous zone and the territorial sea. Further, the committee is free to request Law of the Sea experts and legal experts during its discussion on certain issues. After every discussion there should be a conclusion on the way forward and the agencies should report to their superior.

In addition, the committee is entitled to make suggestions how to better facilitate operations such as improved technological devices, programmes and conditions of pursuing agreement with States in situations of hot pursuit.

Part III - Obligations

Regulation 9 – Obligation of vessel

Regulation 9 specifies that all vessels respect the Laws of Guyana and seek permission when required.

Regulation 10 - Liability for breach of the laws

Regulation 10 makes all vessel liable for any infringement on the customary, immigration, fiscal and sanitation laws and for any damage to the marine environment.

The Government of Guyana is not liable for any damage or destruction of property or loss of life when in situation whereby the vessel does not cooperate with the Coast Guard or authorize government official in stopping, boarding and searching the vessel.

Part IV – Permissible Actions

Regulation 11 – Action that are permissible

Regulation 11 outlines the situation in which the government may prevent a vessel from entering Guyana's territorial sea even in cases of innocent passage, given it have sufficient reason to believe it will be pose a threat or be an impending danger.

The coast guard or authorize government official may conduct investigation when necessary having sufficient justifications for doing so in the area applicable, to vessels leaving or entering the contiguous zone.

Having reasons to believe the vessel is an impending danger to Guyana, the coast guard or authorize government official have the right to deny entry into Guyana Territorial Water.

If a vessel was hailed to stop, and tries to flee, the coast guard or the authorize government official has the right to commence hot pursuit.

If the pursuit follows into the maritime zones of another State which Guyana have an agreement to pursue the chase, the coast guard or authorize government official should continue and inform that State of the activity.

Part V - Conditions Connected with the Contiguous Zone

Regulation 12 - Grounds for denial of entry

Regulation 12 specifies the grounds for denial into the contiguous zone.

In the case of a disease outbreak regionally or globally, and the incoming vessel may be a threat to Guyana; providing that Guyana is not adequately equip to handle such cases whether at port for both immigration and custom purposes or for even the transfer of cargo to another vessel, the coast guard or authorize government official has the right to deny entry of that vessel in the contiguous zone preventing it from entering the territorial sea of Guyana, which be discussed prior at the committee level. However, depending on the situation which should also be discussed at the committee level there may be exceptions.

Regulation 13 – Action with respect to vessels within the contiguous zone

Regulation 13 states the actions with respect to suspected vessel within, leaving or entering the contiguous zone, such as those suspected in piracy, crimes against humanity or concealing it's identity or flag and such.

Regulation 14 - Vessels flying unauthorized flag

Regulation 14 provides the right of the officer to verify and inspect a vessel and its right to fly the flag shown, where there is suspicion.

Regulation 15 – Flagless vessel

Regulation 15 - states then duty of the State acting in accordance with international law regarding a stateless ship in the area.

Regulation 16 – Vessel no longer suspected

Regulation 16 states the duty of the officer to keep under surveillance the once suspected vessel until it departs the area.

Regulation 17 – Vessel still under suspicion

Regulation 17 stipulates the further actions that must be taken by the officers on duty when a vessel is still under suspicion after certain actions such as verifications and inspections of document has been conducted.

Regulation 18 – Rights of hot pursuit

Regulation 18 identifies the situations for the right of hot pursuit within the contiguous zone of Guyana. The relevant vessel may continue hot pursuit of the criminal or suspected vessel into the high seas provided that the pursuit has not been interrupted.

Regulation 19 – Archaeological and historical objects

Regulation 19 identifies the rights and conditions regarding archaeological and historical objects found within the contiguous zone, and further to vessels stealing such.

Regulation 20 - Unauthorized Broadcasting

Regulation 20 states the consequence for vessel that are involved in unauthorized broadcasting.

Regulation 21 - Activities carried out must be in compliance with the Laws of Guyana

Regulation 21 provides that all vessel entering the contiguous zone and leaving the territorial sea of Guyana must comply with the laws of Guyana, more specifically those relating to customs, immigration, fiscal and sanitary law for the purpose of this Regulation.

Any vessel may be liable if it is found in breach of any of these laws.

Regulation 22 - Duty of non-interference with other activities

Regulation 22 requires all vessels whether incoming, outgoing or traversing regardless of whichever flag State, is not to interfere with other legitimate use of Guyana's maritime spaces.

Regulation 23 – Boarding and Inspection

Regulation 23 provides that any vessel with the exception to warships or governmental ships engaged in non-commercial activities, when signalled to stop and allow entry to board the vessel; must allow the Coast Guard or other authorized government official to board, inspect and search the vessel in areas under national jurisdiction and must be complied with.

Regulation 24 - Compulsory Inspections

Regulation 24 provides that any vessel in the contiguous zone is liable to be inspected except that constituting transverse innocent passage. For vessels constituting lateral passage whose intended destination is Guyana, such practice should only be carried out if there are reasonable grounds to believe that it is involved in activities that contravenes the laws of Guyana relating to customs, immigration, fiscal or sanitation laws.

In a case where a vessel was signaled to allow the boarding and inspection of a vessel but was deliberately ignored, the coast guard or other authorized government official may nevertheless board the vessel if circumstances allow; if they suspect that the vessel is being used for activities in contravention to the laws of Guyana in relation to customs, immigration, fiscal or sanitation. Also, a penalty will be imposed for the failure to cooperate.

Upon inspection, every person on board if requested must show the requested documentations. In failing to do so, the person may be punished accordingly, and the master will be liable to a fine since he is answerable for all persons onboard his vessel.

The master of every vessel, upon inspection must give accountability for every person on board his vessel and cargoes inspected. If the master is unanswerable for persons or goods; the vessel can be denied entry and the cargo can be confiscated. If the goods are disallowed in Guyana or should not be exported from Guyana they can be confiscated; and the vessel can be ordered to port whether the vessel is entering or leaving the territorial sea of Guyana.

Part VI - Commission of Offences in the Contiguous Zone

Regulation 25 - Commission of offence in the Contiguous Zone

Regulation 25 specifies where there is reasonable ground to believe that a person has committed an offence in the contiguous zone in respect of any customs, fiscal, immigration or sanitary law the Government has the authority to take required actions.

Regulation 26- Monitoring of vessels

Regulation 26 stipulates that all masters of vessels that are aware that their vessel pose a risk or may be a threat to the sanitation of Guyana should notify the port state authority at its soonest and prior to arrival.

In cases of emergency, the master should notify the port state authority atleast before entering the contiguous zone or in the contiguous zone. If an emergency occurs in the territorial sea during innocent passage such as an oil spill, the port state should be notified immediately.

In the case of a vessel that may be pose a risk or be a threat to Guyana except in the case of emergency, the Government of Guyana has the right to prevent such vessel from to proceeding to the territory of Guyana.

However, in the case of emergency, the Government has the right to prevent such vessel from proceeding; if there are not sufficient measure in place to adequately address the situation in order to protect Guyana's interest. But the Government will render assistance as available to lessen the stress of the situation.

If the vessel that pose a risk or is a threat, is allowed to proceed to Guyana, it should be a non-hindrance to international shipping routes neither should it cause environmental degradation, maintain a safety zone and take necessary precautions.

Further, it should bear the identification mark indicating the State of registry or the international organization to which it belongs.

All vessels are required to have the required internationally agreed warning signals to ensure safety at sea and the safety of air navigation in accordance with internationally accepted rules and standards.

A penalty is imposed for failure to comply with this Regulation.

Part VIII- Entry into Force

Regulation 27 - Entry into Force

Regulation 27 states that the Regulations will enter into force on the day of publication in the Official Gazette.

PART C - ARRANGEMENT OF REGULATIONS

LAWS OF THE COOPERATIVE REPUBLIC OF GUYANA

Maritime Zones (Contiguous Zone) Regulations 2020



ARRANGEMENT OF REGULATIONS

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27. Entry into Force

LAWS OF THE COOPERATIVE REPUBLIC OF GUYANA
Maritime Zones (Contiguous Zone) Regulations 2020



MARITIME ZONES (CONTIGUOUS ZONE) REGULATIONS 2020

Parliament wishes to affirm in Guyana’s domestic law the control necessary, jurisdiction and responsibilities in the contiguous zone of Guyana. In promoting effective management of the contiguous zone, the Minister of Foreign Affairs, in collaboration with other ministers, boards and agencies of the Government of Guyana is encouraging the development and implementation of national strategy for the peaceful management of the maritime zones in accordance with the United Nations Convention on the Law of the Sea (1982). All activities, enforcement and regulations carried out in the contiguous zone must be in accordance with the legislation in force.

PART I – PRELIMINARY

Citation

1. These Regulations may be cited as the Maritime Zones (Contiguous Zone) Regulations.

Definition of the Contiguous Zone

2. The contiguous zone is a belt of sea area that is adjacent to the territorial sea of Guyana extending seaward from the coast.

Limits of the Contiguous Zone

3. The contiguous zone has its inner limit as the outer limit

of the territorial sea and as its outer limit as the line every point of which is a distance of twenty-four nautical miles from the nearest points of the baselines of the territorial sea.

Application of Regulations

4.(1) These Regulations apply to incoming and outgoing vessels in the contiguous zone of Guyana that is in the zone of the open sea contiguous to the territorial waters of Guyana as defined in Section 2, such zone being in this Regulation referred to as "the contiguous zone". The State shall have such jurisdictions and powers as recognized in respect of such zone by international law and in particular may exercise there in the control necessary:

a) to prevent any contravention of any law relating to customs, fiscal, immigration, and sanitation matters, including pollution within Guyana, its internal water and territorial sea; and

b) to punish offences committed against any such law.

(2) The Minister may make regulations that permit in, the contiguous zone the exercise and control necessary to:

a) Prevent infringement of any customs, fiscal, immigration or sanitary laws within Guyana;

b) Punish the infringement of those laws committed within Guyana.

(3) When the provisions of the Maritime Zones (Contiguous Zone) Regulations conflict with other legislation, it prevails unless otherwise stated by the Minister of Foreign Affairs.

Interpretation

5. (1) In these Regulations, unless otherwise indicated, the following terms will have the following meaning:

a) 'Baseline' means the mark from which the territorial sea of Guyana shall be measured. It shall be the low-water mark along the coast and where the coastline is broken by a river, a line adjoining the two points where the low-water line on the coast ends on either side of the river;

b)'Government' means the Government of Guyana;

c)'Law' means any instrument having the force of law in Guyana;

d)'Coast Guard' means any member of the Guyana Defence Force of the Coast Guard Unit vested with the power to conduct maritime surveillance and enforcement;

e)'Authorized government official' means any other officer vested with the law enforcement authority by the Government of Guyana;

f)'Offence' means any offence against any law relating to customs, fiscal matters, immigration and sanitation, including pollution;

g) 'Master' includes every person lawfully having for the time being, command or charge of any vessel on the ocean's surface or submerged;

h) 'Minister' means the Minister of Foreign Affairs, unless otherwise stated;

i) 'Vessel' includes ship, boat, or any other mode of water transport employed in navigation but does not include a foreign warship;

j) 'Suspected vessel' means any vessel under suspicion by the authority in respect of which appropriate action is to be taken; and

k) 'Appropriate action' means all or any of the following actions: to hail a vessel, to stop a vessel, to board a vessel, to search a vessel, to arrest and or detain a vessel or any person onboard suspected to have committed or about to commit a criminal offence, to confiscate anything on board a vessel suspected of having any connection with a criminal offence, to instruct the master of a vessel to take the vessel and crew out of Guyana's waters or to a port or harbour in Guyana and to cooperate with the authority when requested.

(2) Terms which are not specifically defined in these Regulations have, the meaning assigned to them in the Maritime Zones Act 2010 Cap 63:01, unless the context requires otherwise.

PART II – ESTABLISHMENT OF A COORDINATING AND ENFORCEMENT COMMITTEE

Coordinating and Enforcement Committee 6. (1) For the purposes of these Regulations, the Coordinating and Enforcement Committee is hereby established. The Committee shall comprise of a representative of each of the following agencies:

- a) Ministry of Foreign Affairs;
- b) Ministry of Legal Affairs;
- c) Ministry of Public Infrastructure;
- d) Guyana Maritime Administration Department;
- e) Ministry of Presidency;
- f) Department of Citizenship;
- g) Department of Environment;
- h) Environmental Protection Agency;
- i) Ministry of Public Security;
- j) Customs Anti-Narcotics Unit;
- k) Guyana Defence Force, the Coast Guards;
- l) Guyana Revenue Authority; and
- m) Ministry of Public Health.

Operation of the Committee 7. The representative of the Ministry of Foreign Affairs shall be the chairperson of the Committee and shall be responsible for the following: convening the meetings and directing the proceedings of the Committee; and formulating the agenda for each meeting of the Committee. The Committee shall determine any issue regarding its efficient and effect operation and function.

8. (1) The Committee is conferred with the competence to perform the following roles:

a) Examine and discuss any matter regarding the infringement of customs, fiscal, immigration and sanitary laws in the territorial sea, contiguous zone and exclusive economic zone;

b) determine what action should be taken relating to certain situation based on the examination of the matter;

c) request the presence or written opinion of any representative of a public or private law organisation whose views or expertise on a particular issue is deemed useful or necessary to its work;

d) inform the head of the agencies identified at Section 6 (1) of the decision of the Committee in relation to matters concerning the way forward on particular issues;

e) request the Ministry of Foreign Affairs to communicate its decision to foreign State or international organization, should the need arise; and

f) implement and use new measures to efficiently facilitate operations in accordance with international law.

PART III - OBLIGATIONS

9. All vessels are required to respect the laws of Guyana and conduct their action in accordance with international law.

Liability for breach of the laws

10. (1) All vessel shall be liable for any infringement on the customs, fiscal, immigration and sanitary laws of Guyana and for any damage to the marine environment.

(2) The Government of Guyana shall not be liable for any loss of life, personal injury, damage or destruction to property in situation whereby the vessel does not cooperate with the coast guard or authorize government official in stopping, boarding and searching the vessel.

PART IV - PERMISSIBLE ACTIONS

Action that are permissible

11. (1) The Regulations outlines the situation in which the government shall prevent a vessel from entering Guyana's territorial sea from the contiguous zone, given it have sufficient reason to believe it is a threat or an impending danger to Guyana.

(2) The Coast Guard or authorized government official whose mandate incorporate maritime surveillance shall conduct investigation when necessary having sufficient justifications for such action to both incoming vessels from the high sea and departing vessel from the territorial sea, in the contiguous zone.

(3) Having reasons to believe the vessel is an impending danger to Guyana, the Coast Guard or authorize government official have the right to deny entry into Guyana's territorial water.

(4) Providing a vessel was signaled for examination and it was deliberately ignored, the coast guard or the authorized government official has the right to commence hot pursuit.

(5) If hot pursuit follows into the maritime zones of another State which Guyana have an agreement to pursue the chase, the Coast Guard or authorize government official shall continue and inform that state of the activity.

PART V - CONDITIONS CONNECTED WITH THE CONTIGUOUS ZONE

Grounds for denial of entry into Guyana

12. (1) Where there are reasonable grounds to believe that a person in the contiguous zone would, if that person were to enter Guyana, commit an offence in relation to customs, fiscal, immigration or sanitary laws, subject to Guyana's international obligations the Minister may deny that person or vessel entry into Guyana.

(2) Incoming vessels that visited a port where a disease outbreak is present and such disease is an imminent danger to Guyana, such vessel shall be denied entry into Guyana territorial sea.

Action with respect to vessels in the Contiguous Zone

13. The Coast Guard or authorized government official within the contiguous zone, shall take appropriate action with respect to any vessel, other than a foreign military vessel or other vessel owned by a foreign state used only for non-commercial services. Regardless, whether the vessel is flying the Golden-Arrowhead or any other flag the coast guard or authorized government official may proceed to

verify the suspected vessel documentations when there exists reasonable ground for suspecting that;

- a) the suspected vessel is harbouring any person assumed about to commit a crime or committed a crime within the jurisdiction of the courts of Guyana;
- b) the suspected vessel is engaged in piracy;
- c) the suspected vessel is engaged in the slave trade;
- d) the suspected vessel is engaged in any crime against humanity;
- e) the suspected vessel is without nationality;
- f) it refuses to show it's flag or identity; or
- g) the suspected vessel is a vessel registered in Guyana.

Vessel flying an unauthorized flag

14. The coast guard or authorized government official in the contiguous zone subject to Section 13, shall proceed to board and verify a suspected vessel and its right to fly the current flag. Upon checking its documents and suspicion remains as to the nationality or other matters that would contravene international law and the laws of Guyana, the suspected vessel, crew and other persons on board may be subjected to further examination and prosecution with all possible considerations.

Flagless vessel

15. A vessel not flying any flag or refuses to show its flag, shall be arrested by the coast guard or authorized government official and subjected to investigation in accordance with international law.

Vessel no longer suspected

16. Where appropriate action have been taken by the coast guards or authorized government official in respect of a suspected vessel flying a foreign flag, and no suspicion

remains that an offence against the laws of Guyana has been committed by any person onboard that vessel or by the vessel, the vessel may be kept under surveillance until it departs the limits of the contiguous zone.

Vessel still under suspicion

17. (1) Where appropriate action have been taken in respect of a suspected vessel by the coast guards or authorized government official, whether flying the Golden Arrowhead or flying a foreign flag without prejudice to Section 11; and the suspicion remains that any person on that board vessel or the vessel itself has committed within the jurisdiction of the courts of Guyana any offence against the laws of Guyana, the coast guards or authorized government official may take further appropriate action in respect of that person and of the vessel and crew.

(2) Where the master of a suspected vessel has been required to take the vessel to a port in Guyana, the crew members of the vessel suspected to have committed or about to commit an offence within the jurisdiction of the courts of Guyana, shall be handed over to the Police or relevant authority for further investigation.

Right of Hot Pursuit

18. (1) Subject to the provision of Section 13, providing the suspected vessel is within the contiguous zone when it is ordered to stop by the Coast Guard or authorized government official, having reasonable grounds to believe that the suspected vessel committed an offence to the laws of Guyana, only then the pursuit may be undertaken.

(2) The right of hot pursuit shall not be undertaken unless the coast guard or authorized government official has first given the suspected vessel a visual or auditory signal to stop.

(3) Whereby the Coast Guard or authorized government official within Guyana's internal water, territorial sea, or within the contiguous zone, commences the pursuit of a suspected vessel, the hot pursuit of the suspect vessel may continue into the high seas provided that the pursuit has not been interrupted. The right of hot pursuit shall cease where the suspect vessel enters the territorial sea of its own State or of a third State; however, given there is an existing agreement between the State and Guyana that allows for hot pursuit into their territorial sea, it shall continue and the State shall be informed simultaneously.

(4) Where hot pursuit is effected by an aircraft the provisions of subsections 2 and 3 shall apply *mutatis mutandis*. The provision of subsection 5 shall also apply.

(5) An aircraft shall not arrest a suspected vessel outside the territorial waters of Guyana unless the aircraft had itself ordered the suspected vessel to stop and had pursued it without interruption. Where hot pursuit had been undertaken by an assisting aircraft or vessel, the assisting aircraft or vessel shall only be authorized to arrest the suspect vessel outside the territorial waters of Guyana, if the pursuit was not interrupted.

(6) The right of hot pursuit shall apply *mutuatis mutandis* to any violation in the contiguous zone established by sections

4 and 13 or of any law for the purposes of which the said area is established.

Archaeological and Historical Objects

19. The State has the right to control traffic of archaeological and historical objects found in the contiguous zone. In relation to objects of archaeological and historical character, their removal from the seabed of this zone without the approval of the State constitutes an infringement of its national interest. If captured, the crew and vessel shall be arrested, the objects taken and belongings confiscated, followed by prosecution.

Unauthorized Broadcasting

20. Any person or vessel discovered to be engaged in unauthorised broadcasting shall be arrested by the coast guard and any apparatus used in the said unauthorised broadcasting shall be confiscated.

Activities carried out must be in compliance with the Laws of Guyana

21. (1) All activities related to the contiguous zone for the purpose of this regulation, shall be carried out in accordance with legislation in force relating Guyana's territorial sea, exclusive economic zone and continental shelf, including those relating to safety, health, protection and preservation of the marine environment.

(2) A failure to comply with any of the legislation above will result in the liability of the master of the vessel in accordance with the provisions of Section 19(4) of the Maritime Zones Act of 2010.

*Duty of non-interference with
other activities*

22. The master of a vessel has the duty to ensure that all activities his vessel is involve in, do not unjustifiably interfere with other legitimate uses of the territorial sea, contiguous zone, exclusive economic zone and continental shelf of Guyana

Boarding and Inspection

23. The master has a duty to comply with a request from the coast guard or authorized government official when signaled, to allow the boarding and inspection of vessels in the contiguous zone.

Compulsory Inspections

24. (1) Any vessel in the contiguous zone is liable to be inspected subject to Section 13 and those constituting innocent passage. Providing those constituting innocent passage intended destination is Guyana, having reasons to believe that it is involved in activities that contravenes the laws of Guyana relating to customs, immigration, fiscal or sanitation laws it is subject to inspection in the contiguous zone.

(2) In the case of non-compliance with a request from the coast guard or other authorized government official to stop and/or allow for boarding and inspection of a suspected vessel, inspection may nevertheless be carried out providing circumstances allow; with reasonable suspicion that the vessel is being used for activities in contravention to the laws of Guyana in relation to customs, immigration, fiscal or sanitation.

(3) If the vessel fails to cooperate, it shall be suspended from entering the territorial water of Guyana for a minimum of five years.

(4) Upon inspection, every person on board when requested, shall produce the requested documentation pertaining to their identification, destination, and related matters. In failing to produce the requested documents, the person is liable to a fine of seven million dollars and imprisonment for seven years providing there are evidences that the person(s) intended to infringe on the laws of Guyana. Further the master shall be liable to pay a fine of the same amount.

(5) The master of every vessel, upon inspection shall give accountability for every person on board his vessel and cargoes inspected. In failing the ship may be denied entry and cargo confiscated if restricted goods are contained.

PART VI - OFFENCES IN THE CONTIGUOUS ZONE

Offences in the Contiguous Zone

25. (1) Subject to subsection (2) where there is reasonable ground to believe that a person has committed an offence in the contiguous zone in respect of any customs, fiscal, immigration or sanitary laws; every power of arrest, entry, search or seizure or other power that could be exercised in Guyana in respect of that offence may also be exercised in the contiguous zone.

(2) A power of arrest shall not be exercised in the contiguous zone on board any vessel registered outside Guyana without the consent of the Attorney General of Guyana.

(3) Without limitation to subsections (1) and (2) and the Minister may exercise other powers and take measures in relation to the contiguous zone as the Minister considers necessary for the security of Guyana. Any person who commits an offence in Guyana from the contiguous zone or enters Guyana having committed an offence in the contiguous zone or vice versa is liable to conviction of indictment and to a fine of seven million dollars and to imprisonment for seven years.

Guyana has and may exercise in respect of the contiguous zone such powers and authority as may be necessary to prevent or punish the infringement within Guyana, including its internal waters and territorial sea, of any written law with respect to customs, fiscal, immigration or sanitation.

Monitoring of Vessels

26. (1) The Government of Guyana may require vessel in its exclusive economic zone, contiguous, zone and territorial sea and all vessel whose destination is a port in Guyana to have satellite tracking equipment installed; identify port(s) the vessel stopped at on its voyage; give notification of matters relating to health risk to Guyana's port authority; notify the port authority of emergencies before entering the contiguous zone; otherwise when emergency occur on its way to the port the port authority should be notified immediately.

(2) In the case of a vessel that may be a threat or risk to Guyana except in the case of emergency, the Government of Guyana has the right to prevent such vessel from proceeding to the territory of Guyana and can be stopped in the contiguous zone.

(3) In the case of emergency, the Government has the right to prevent such vessel from proceeding; if there are not sufficient measure in place to adequately address the situation, protecting Guyana's interest. However, the Government will render assistance as available to lessen the stress of the situation.

(4) Providing a vessel that is a risk is allowed to proceed to Guyana, it should be a non-hindrance to international shipping routes neither shall it cause environmental degradation.

A safety zone should be maintained to take necessary precautions. The vessel shall always bearing the identification mark indicating the State of registry or the international organization to which it belongs must be clearly visible at all times.

(5) The vessel should be to be equipped with internationally agreed warning signals to ensure safety at sea and the safety of air navigation in accordance with internationally accepted rules and standards.

(6) A failure to comply with these regulations is an offence, and the master shall be responsible and liable pursuant to Section 19 (4) of the Maritime Zones Act of 2010.

PART VII- ENTRY INTO FORCE

Entry into Force

27. These Regulations shall enter into force on the day of publication in the Official Gazette.

Signed on day of ,2020.

Honourable Dr. Karen Cummings
Minister of Foreign Affairs
The Cooperative Republic of Guyana