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**AN ACT TO INCORPORATE CERTAIN PROVISIONS FROM THE UNITED
NATIONS CONVENTION ON THE LAW OF THE SEA 1982 RELATING TO
THE MARITIME ZONES INTO THE LAWS OF THE SUDAN**

**A Legislative Drafting Project submitted in partial fulfillment of the requirements for the
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In the Name of Allah, the Gracious, the Merciful

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Explanatory Note

1. Introduction

All states, from thousands years ago, were in a constant search to determine their territories and extend their sovereignty and jurisdiction seaward, in order to have access to the natural resources.¹ Accordingly, the regime of maritime zones, which are the internal waters, territorial sea, contiguous zone, the continental shelf, the Exclusive Economic Zone, and the high seas, has been developed gradually over the centuries.

The Maritime Zones regime aims to achieve balance between the rights of the Coastal state over the sea under their exclusive sovereignty (*mare clausum*),² and the interests of the international community on the free sea (*mare liberum*).³ Such balance can only be achieved through the 'due regard principle', which shall be applied by all States when exercising their rights and duties over the mentioned zones.

This Explanatory Note will articulate the development of the maritime zones in the international law, starting from the customary international law, the Geneva Convention on the Law of the Sea⁴, and the United Nations Convention on

¹ James Crawford and Ian. P o p i l Brownlie, *Brownlie's principles of public international law* (8th ed./ by James Crawford, Oxford university Press 2012); Crawford and Brownlie (n 1) 253.

² Bo Johnson Theutenberg, '*Mare Clausum et Mare Liberum*' (1984) 37(4) ARCTIC 482 accessed 21 April 2018.

³ Hugo Grotius and others, *The free sea* (Natural law and enlightenment classics, Liberty Fund 2004) 1.

⁴ United Nations Conference on the Law of the Sea, held in Geneva from 24 February to 27 April 1958, opened for signature four conventions and an optional protocol, namely the convention on the Territorial Sea and Contiguous Zone, The Convention on the High Seas, the Convention on Fishing and Conservation of the Living Resources of the High Seas, the Convention on the Continental Shelf, and the Optional Protocol of Signature concerning the Compulsory Settlement of Disputes.

the Law of the Sea 1982 (UNCLOS).⁵ Further, it will define the nature of the rights and duties of the Coastal state over each zone under UNCLOS. Moreover, the Explanatory Note will specify the need of the Republic of the Sudan to declare its maritime zones. And incorporate certain provisions from the United Nations Convention on the Law of the Sea 1982, relating to the maritime zones into the Sudanese legislations with the adequate legislative instrument, and general overview of the legislation itself.

2. Maritime Zones under the International Law

Most of the rules governing the maritime zones have been developed from customary international law, since the early debate about the status of the ocean, to the dominance of the freedom of the seas doctrine, and the practice of the states of dominion over the ocean for different purposes.⁶ This custom has been codified in the 1958 Geneva Conventions and some provisions of UNCLOS.

2.1 Customary international Law

Customary international law played vital role in the law of the sea. In the thirteenth and fourteenth centuries the Roman law Laid down that the sea is by nature common to all mankind, and not susceptible of possession as in the same manner as land.⁷ In the sixteenth and seventeenth centuries the Holly Roman Empire has been changed into several independent states with definite boundaries, which led to the birth of the rule of the 'territoriality'. It has been generally accepted that Coastal States enjoy some rights to regulate in their own interests, activities in the sea adjoining to their coasts.⁸ From this practice the regime of the territorial sea has emerged. Furthermore, the measurement of the breadth of the territorial sea developed gradually, starting from the so-called 'the cannon-shot rule'⁹ which did not receive acceptance for its unequal result in respect of the State's territory. Then the three-Mile limit rule began to be applied

⁵ The united Nation Convention on the Law of the Sea (Montego Bay, opened for signature 10th Dec.1982, entered into force 16th Nov.1994).

⁶ Donald Rothwell and Tim Stephens, *The international law of the sea* (Second edition, Hart Publishing 2016) 4.

⁷ Sayre A Swartrauber, *The three-mile limit of territorial seas* (U S Naval Inst 1972).

⁸ R. R Churchill and A. V Lowe, *The law of the sea* (New rev. ed. Manchester University Press 1988).

⁹ Swartrauber (n 7).

by important Maritime States. However, this rule was never universally accepted.¹⁰

Historically, the first State that set a precedent for extending its competence beyond the territorial sea was the Great Britain. Which enacted the so-called “Hovering Act 1736” which allowed the capture and control of the foreign vessels engaged in contraband and hovering within a zone of five miles from the British Territorial Sea. The Act has been reviewed several times to prescribe criminal penalties for vessels and individuals engaged in smuggling offshore.¹¹

In 1799, the congress of the United States enacted a 12-miles zone, within which all the foreign ships could legally be boarded, examined and searched, for custom, fiscal and immigration, by the American authorities. Further, the US Tariff Act 1922 established special zone of nine miles outside the three-Mile limits of the territorial sea.¹²

In the early years of twentieth century, in the period leading up to the Hague codification conference of 1930, it became generally accepted that the possession of a territorial sea gave the Coastal State proprietary rights over the resources of that sea including its sea bed and subsoil.¹³

The first major challenge to the rule of the freedom of the sea was made by the United States president Harry S Truman. Where he issued two Proclamations in 1945, upon which the US exercise jurisdiction and control over the natural resources of the subsoil and seabed of the contiguous continental shelf. On the basis that, ‘the continental shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it’.¹⁴ The Proclamation did not specify the outer shelf boundary.

¹⁰ *United Nations Convention on the Law of the Sea: A commentary* (C.H. Beck; Hart; Nomos 2017).

¹¹ Bardo Fassbender, Anne Peters and Simone Peter, *the Oxford handbook of the history of international law* (Oxford university Press 2012) 376.

¹² JANUSZ SYMONIDES, *Ocean development and international law: origin and legal essence of the contiguous zone* (vol 20, 1989) 203.

¹³ R. R Churchill and A. V Lowe, *The law of the sea* (Melland Schill studies in international law, 3rd ed. Manchester University Press; Yonkers 1999).

¹⁴ Donald Rothwell and Tim Stephens, *the international law of the sea* (Hart Publishing 2010, opyright 2010).

Through the Proclamation, with respect to Coastal Fisheries in certain areas in the high seas, the United States proposed the establishment of fishery conservation zones to be regulated and controlled by the US, in waters contiguous to its coast, but beyond the three nautical miles territorial sea.¹⁵ After the US unilateral act, many countries followed this practice, and made unilateral claims. Latin America States claimed sovereignty over the shelf and the water above since it has utmost importance to fisheries, Chile established 200 nautical miles maritime zones, and proclaimed national sovereignty over its shelf and resources. Peru extended its national sovereignty and jurisdiction to submarine areas regardless of the depth of the superjacent water for exploitation of the natural wealth, the width of the zone was 200 nautical miles, within the right of free navigation of all states.¹⁶

2.2 The Geneva Conventions 1958

In 1958, The United Nations Conference on the Law of the Sea 'UNCLOS I', was held in Geneva from 24th February 1958 to 27th April 1958. The conference resulted in the conclusion of four Conventions, that predominantly codified the customary international law, these Conventions are; the Convention on the Territorial Sea and Contiguous Zone, the Convention on the Continental Shelf, the Convention on the High Seas, and the Convention on Fishing and Conservation of the Living Resources of the High Seas.

The Convention on the Territorial Sea and the Contiguous Zone provided for the first time the regime of the territorial sea; however, it failed to provide its breadth. The Convention articulated the regime of the Contiguous Zone, as it granted the Coastal State the right to exercise control necessary to prevent infringement of its custom, fiscal, immigration or sanitary regulations within its territory or territorial sea as stipulated in article 24.

The Convention on the Continental Shelf, set rules based on the practice of the States since the Truman Proclamation in 1945. The Convention granted the

¹⁵ David J Attard, *The exclusive economic zone in international law* (Oxford monographs in international law, Clarendon 1987) 7.

¹⁶ *ibid* 5.

Coastal State sovereign rights to explore and exploit the natural resources of the area of the seabed and subsoil beyond the external limit of its territorial sea. The breadth of the continental shelf did not clearly define. This Convention gave the developed states greater capacity than other developing states in respect of the exploitation of the natural resources for reasons of technological superiority.¹⁷

The Convention on the High Seas stated in its preamble the intention of the States to codify the rules of international law relating to the high seas as generally declaratory of established principles of international law. Such rules comprise the freedom of the high seas which is open to all States.

The Convention on Fishing and Conservation of the Living Resources of the High Seas set out rule and principles for management and conservation of fisheries in the high seas. Upon which State parties are obliged to cooperate to achieve the objectives of the Convention.

2.3 The United Nations Convention on the Law of the Sea 1982 (UNCLOS)

UNCLOS is a globally recognized regime dealing with all matters relating to the law of the sea. It prevails as between state parties over the Geneva Convention on the Law of the Sea of 1958.¹⁸

The Convention comprises of 320 articles and nine annexes, governing all aspects of ocean space such as, the maritime zones, the delimitation of the sea Boundaries, the environmental control, marine scientific research, economic and commercial activities, transfer of technology and the settlement of disputes relating to ocean matters.¹⁹

Concerning the Maritime Zones, UNCLOS includes eight maritime zones namely; the internal waters, the territorial sea, the contiguous zone, the exclusive

¹⁷ Rothwell and Stephens, *The international law of the sea* (n 6) 8.

¹⁸ UNCLOS article 311 (1).

¹⁹ To see the full text of the Convention visit:

, < http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf > 4/12/2017.

economic zone, the continental shelf ,the archipelagic waters, the high seas, and the area.

UNCLOS defined the mentioned zones and their extent, the legal status of each zone, the rights and duties of the States over them. Furthermore, UNCLOS specifies the baselines by which the breadth of the territorial sea is measured.

Sudan has signed UNCLOS on the 10th of December 1982, and ratified on 23rd of January 1985. However, any UNCLOS provisions relating to the maritime zones have never been incorporated in the Sudanese legislations. For that, certain provisions regulating the maritime zones will be incorporated in this act, which are; the internal waters, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf.

2.3.1 Overview of the Provisions on the maritime zones

UNCLOS in part II contains provisions clarified the internal waters, the territorial sea and the baselines for measuring the territorial sea. Besides this, UNCLOS clarified the legal status of the territorial sea, its breadth, and the rights of the Coastal State over the territorial sea. in addition to the rights of the other States of the innocent passage through the territorial sea, and the jurisdiction of the Coastal state in relation to foreign ships.

The Contiguous zone provisions stipulated in part II section 4 which consists of two articles govern this zone.

Part V, identified the specific regime of the exclusive economic zone. Furthermore, it stipulated the rights, jurisdiction of the Coastal States in the mentioned zone, the rights and duties of the other States in the zone.

The continental shelf has been regulated by part VI, which defined it and specified the rights of the Coastal State over the continental shelf.

All these mentioned zones will be discussed in further detail in the following paragraphs, starting with the baselines, from the breadth of the territorial sea is measured, as follow:

2.3.1.1 The Baselines

the baseline, is a legal expression of a State's coastal front. Such line serves three functions; first; the baseline divides the land and internal waters of a Coastal State from the territorial sea. Secondly, it is from the baseline that the outer limits of the territorial sea, contiguous zone, the exclusive economic zone (EEZ) and the juridical 200 nautical miles continental shelf is measured. Thirdly; the baseline is relevant to the delimitation of the maritime boundary between two states with overlapping maritime zones.²⁰

UNCLOS contains rules on drawing the baselines.²¹ These rules deal with two regimes of Baselines, the Normal Baseline²² and the Straight Baselines.²³

Article 5 from the UNCLOS provides that, "except where otherwise provided in this convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal state".

State shall not apply the system of the straight baselines in such a manner as to cut off the territorial sea of another state from the high seas or exclusive economic zone.²⁴

Article 14 allows Coastal states to determine baselines that suit different situations. the large number of exceptions on the normal baselines jeopardizes the established rules governing the same. Nevertheless, states may deviate from the low-water mark in those exceptional circumstances and may claim that their shorelines reflect the same and use straight baselines that do not meet the conditions set forth in the UNCLOS.²⁵

²⁰ *ibid.*

²¹ UNCLOS art 5-7,9-11,13-14,33,57,76

²² UNCLOS article 5.

²³ UNCLOS article 7.

²⁴ UNCLOS Article .7 (6).

²⁵ James Kraska, *Maritime power and the law of the sea: Expeditionary operations in world politics*/ James Kraska (Oxford university Press 2011) 110.

Article 16(1) requires the baselines to be shown on charts of a scale adequate for ascertaining their positions, without any clarification of what constitute such scale. For that the United Nations Division for Oceans Affairs and the Law of the Sea, defined the large-scale as “an expression of the relationship between the distance measured on the earth’s surface and the length that represents it on the chart”.²⁶ The range of that scale may lie between 1:50,000 to 1:200,000 that means States have discretionary powers to choose between the mentioned ranges.²⁷ This definition may lead to variety and uncertainty in the charts, hence, they should be accurate in a way that required for Navigation, upon which the vessels rely, in order to determine their positions²⁸. Further, States have to publish the charts or list of geographical coordinates, and deposit copy of them with the Secretary-General of the United Nations according to article 16 UNCLOS.

2.3.1.2 The Internal Waters

The Internal Waters defined in UNCLOS article 8 (1) as “the waters on the landward side of the baseline of the territorial sea”. Such waters classed as appertaining to the land territory of the coastal state. The Internal Waters may include bays, ports, permanent harbour, rivers, lakes and Canals.²⁹

The Internal Waters constitute an integral part of the Coastal State, and have the same legal character as the land itself. The Coastal State enjoys full territorial sovereignty over them in the sense that no State can claim the right of innocent passage or transit over such waters.³⁰ However, there is an exception to this rule, where straight baselines are drawn along an indented coast enclosing as Internal Waters areas which have not previously been considered as such, the right of innocent passage continues to exist through those waters. The

²⁶United Nations Division for Oceans Affairs and the Law of the Sea’ <http://www.un.org/depts/los/nippon/unff_programme_home/fellows_pages/fellows_papers/lokita_0910_indonesia.pdf> .

²⁷ Yoshifumi Tanaka, *The international law of the sea* (Cambridge University Press 2012); Tanaka (n 27) 45.

²⁸ (n 10); (n 10) 75.

²⁹ UNCLOS articles 8, 9,10 and 11.

³⁰ Arthur W Robert Jening, *Oppenheim’s international law: Peace* (I, 9th, Oxford university Press 1996); Robert Jening (n 30) 573.

landlocked State has the right to transit through the internal water.³¹ Entrance to internal waters requires permission from the Coastal State, except for ships that are in distress, since the ports are regulated by the Coastal State.³² The entrance for purposes of commerce, navigation or even fisheries is subject to bilateral agreement with the Coastal State.

The Coastal State has a right to take the necessary steps to prevent any breach of any conditions or Regulations and to protect its Internal Waters.³³ Those steps include seizure of ships in cases of violations, arrest of ships as a security in civil action or action in *rem* against the ship itself. In addition to the detention of ships for the unseaworthy condition or for incompliance with the formalities and legal requirements set forth in accordance to UNCLOS and related international Instruments. Or even in cases of pollution caused by the ships.

In all cases, the Coastal State has sovereignty over the Internal Water, and all ships will be subject to it. The regime of the internal waters led to emerge of the port state control.

2.3.1.3 The Territorial Sea

The territorial sea is a narrow belt of water extending seaward from a Coastal State's baselines. It is also called the 'Territorial Waters' or 'Maritime Belt'. The breadth of the Territorial Sea provided for in article 3 UNCLOS, which allows the State to establish the breadth of the Territorial Sea up to a limit not exceeding 12 nautical miles, as a maximum limit measured from baselines.

The Coastal State has inherent right to have a territorial sea, it does not need to declare or claim it, as its sovereignty extends beyond its land territory and its Internal Waters, and to the airspace over the territorial sea, as well as its bed and subsoil.³⁴ Meaning, the Coastal State has jurisdiction over its territorial sea to make rules and regulations to regulate activities occurred in it, and take enforcement measures thereto. The rights of the Coastal State over its territorial

³¹ UNCLOS article 131.

³² Churchill and Lowe, *The law of the sea* (n 13); Churchill and Lowe, *The law of the sea* (n 13) 52.

³³ UNCLOS article 25 (2).

³⁴ UNCLOS article 2.

sea, include the exclusive rights to fishing and exploit seabed and subsoil, the right to exclude foreign vessels from fishing and trading along its coast, regulate the navigation, custom, fiscal, sanitary health and immigration.

The sovereignty of the Coastal State over the territorial sea is not absolute, since it is subject to limitation stipulated in article 2 (3) UNCLOS that it should be exercised in accordance to the Convention and to other rules of international law.

The international community has interests over the territorial sea, since foreign ships of all States whether Coastal or Land-Locked States, have a right to innocent passage through the territorial sea. This right is given for States not for ships, which must have a genuine link with the States that they are flying its flag. The ships of all States may navigate through the territorial sea for purposes of traversing without entering the Internal Waters or calling at the port facility outside Internal Waters, or proceed to or from the same. Providing that, such passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.³⁵

The passage of the vessels should be innocent that it must not prejudice the peace, good order or security of the Coastal State, there is no precise definition of the term "Innocent Passage" however the convention stipulated the activities upon which the passage cannot be considered as an innocent one, namely; (a) where the foreign ship engages in activities constitutes a threat or use of force against the State's sovereignty, territorial integrity or political independence; (b) exercise or practice weapons of any kind; (c) collecting information to the prejudice of the defense of the Coastal State; (d) committing any act of propaganda that prejudice the defense or security of the Coastal State; (e) the launching, landing or taking on board of any aircraft or military device; (f)

³⁵ UNCLOS article 18.

contravene the Laws and Regulations of the Coastal State govern custom, fiscal, immigration or sanitary; (g) commits any act of willful and serious pollution contrary to the Convention; (h) any fishing activities; (i) carry out research and survey activities; (j) any act aim to interfere with the communication system, and finally (l) any other activity not having direct bearing on passage.³⁶

The provision of art 19 (1) (l) which states; “any other activity not having a direct bearing on passage” gives the Coastal State discretionary power to decide what activity that prejudice its peace, good order, safety and security. In return any state can consider many activities not innocent even though they may be innocent.

On the other side, the list of activities in article 19 (2) is exhaustive, for that, a foreign ship can abuse this right and pass innocently and though, conduct an activity that may severely prejudice the safety and security of the Coastal State, and yet is not provided for in article 19 (2) taking into account the rapid development of technology in the shipping industry, the telecommunication system and the satellite and the ambitious and endless demands and interests of the States.

Article 20 stipulated that submarine and other underwater vehicles are required to navigate on the surface and show their flag, in order to enjoy the right of innocent passage, which is specifically granted for ships under article 17 UNCLOS. The wording of the two articles are different, it seems difficult to consider a submarine and underwater vehicles as ships, since the two have different criteria, intended uses and purposes. However, in the absence of any definition of the ‘Ship’ they may be considered as ships and exercise the right of innocent passage in accordance with the condition set forth in article 20.

Under article 21 Coastal State has a right to enact legislations in conformity with the international law, relating to the innocent passage in respect of safety of navigation, and the regulation of maritime traffic, the protection of navigational aids and facilities or installations, protection of pipelines and cables,

³⁶ UNCLOS article 19.

conservation of the living resources, prevention of infringement of fisheries laws and regulations, the preservation of the marine environment and control of the pollution, marine scientific research and hydrographic surveys, the prevention of custom, fiscal, immigration or sanitary laws and regulations of the Coastal State. The foreign ships shall comply with all the laws and Regulations that implement internationally accepted standards.³⁷ In return, the Coastal State shall not impose arbitrary, unreasonable or discriminatory standards on ships transiting in innocent passage.³⁸

The foreign ships that are powered by nuclear and those carrying nuclear or other inherently dangerous or noxious substances, shall carry documents, and observe special precautionary measures established by international agreements, when exercising the right of innocent passage.³⁹

The Coastal State is under a duty not to hamper the innocent passage,⁴⁰ however, it has a right to take the necessary measures to prevent any passage that is not innocent, and suspend temporarily in specified area of the territorial sea, the innocent passage, if that deems essential to protect its security. Such suspension shall take effect after having been duly published.⁴¹ The recent publication in this regard made by Mexico in 11 Jan.2018.⁴²

There are situation where the Coastal State exercises criminal jurisdiction on board a foreign ship passing through the territorial sea. Such situations include the extension of the crime to the Coastal State, or if the crime disturb the peace of the country or the good order of the territorial sea. or if the assistance of the local authorities has been requested by the master of the ship of the Flag State, or if such measures are necessary for suppression of illicit traffic in narcotic drugs or psychotropic substances.

³⁷ UNCLOS art21 (4).

³⁸ Kraska (n 25) 122.

³⁹ UNCLOS art23.

⁴⁰ UNCLOS art24.

⁴¹ UNCLOS art25.

⁴² DOALOS website:

<http://www.un.org/depts/los/nippon/unff_programme_home/fellows_pages/fellows_papers/lokita_0910_indonesia.pdf>22.1.2018.

The Coastal State can arrest or investigate the foreign Ship, even after leaving the Internal Water. This should be exercised after the Coastal State has due regard to the interest of navigation, and also notify a diplomatic or agent officer of the flag state. All these procedures must be conducted in the Territorial Sea.⁴³

Article 27 (2) concerning the right of the Coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a Foreign Ships, shall be read with article 211 (4) and 220 under Part XII dealing with the protection and preservation of the Marine Environment. Article 220 gives the Coastal State a power of enforcing its laws and regulations adopted in accordance with the international rules and standards for the prevention and reduction and control of pollution from vessels, when the violation occurred in the territorial sea or exclusive economic zone of that State. These enforcements include institute proceedings of detention of the vessel; require information from the vessel regarding the port of registration and the identity of the vessel and physical inspection of the violating vessel.⁴⁴

Regarding the civil jurisdiction, Coastal State under obligation not to stop or divert a Foreign Ship passing through the territorial sea, for purpose of exercising civil jurisdiction in relation to person on board the ship. And also not levy execution against or arrest the ship for the same mentioned purpose, except in respect of the obligation or liabilities assumed or incurred by the ship itself during its voyage in the Territorial Sea.⁴⁵ Unlike article 27, this article contains no reference to the diplomatic agent or consular officer of the Flag State.

2.3.1.4 The Contiguous Zone

The Contiguous Zone is a narrow belt of water lying seaward of the Territorial Sea.⁴⁶ in fact, it is the extension of the Coastal State's jurisdiction that extends beyond the Territorial Sea.⁴⁷ The Contiguous zone has to be declared by the

⁴³ UNCLOS article 27.

⁴⁴ UNCLOS article 220 (1), (2), (3), (5) and (6).

⁴⁵ UNCLOS article 28.

⁴⁶ Churchill and Lowe, The law of the sea (n 13).

⁴⁷ Crawford and Brownlie (n 1).

Coastal State in order to exercise control and enforcement according to the Convention.

Article 33 (1) UNCLOS stipulated that, State in a zone contiguous to the Territorial Sea, may exercise the control necessary to prevent infringement of its customs, fiscal, immigration, or sanitary laws and Regulations within its territory or Territorial Sea, and punish the infringement of the mentioned laws committed within its territory or Territorial Sea, In this regard, a reference shall be made to article 19 (2) (g) which considers the passage of the foreign ship not innocent if it involves any activity of the loading or unloading of any commodity, currency or person contrary to the custom, fiscal, immigration and sanitary laws and regulation of the coastal state. The function of the Contiguous Zone is to protect the Coastal State from any threats and punish infringements of its laws. There are other purposes for the contiguous zone that seem essential for the Coastal State, that the Convention did not expressly mentioned them, such as the security, safety, defence and military purposes; however, no law can deny States from such right.

Subject to article 33 (1) UNCLOS, the Contiguous Zone may extends up to 12 nautical miles from the baselines from which the breadth of the Territorial Sea is measured. This provision limits the extension of this zone in order to maintain the freedom of the high seas.

In addition to the powers granted to the Coastal State under article 33 (1), it has a right under article 111 UNCLOS, to the hot pursuit of a Foreign Ship, if it has a good reason to believe that, such ship has violated the laws and Regulations of the Coastal State. The mentioned pursuit must be commenced when the Foreign Ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State. The pursuit may only be continued outside the territorial sea or the contiguous zone, if the it has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone, receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 33, the

pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.⁴⁸ Based on this, the hot pursuit has to start from the territorial sea, and it should be uninterrupted in the area from the territorial sea into the contiguous zone. This right comes to an end, once a ship pursued enters the territorial sea of another state.⁴⁹

Another important power granted to the Coastal State in relation to the contiguous zone, is found in article 303 UNCLOS, dealing with the Archaeological and historical object found at sea. The article obliges the States to protect such objects and cooperate for this purpose. In order to control traffic in these objects, the Coastal State may in applying article 33, presume that their removal from the seabed in the contiguous zone, without its approval, would result in an infringement within its territory or territorial sea of the Coastal State's laws and Regulations.

2.3.1.5 The Exclusive Economic Zone (EEZ)

The provisions regulating the EEZ are one of the innovative features of UNCLOS. The EEZ appears to be a *sui generis zone*, as it has characteristic of the territorial sea and the high seas. It is a transition zone between the mentioned zones. The Coastal State does not enjoy territorial sovereignty, but only sovereign rights over the natural resources of the EEZ.⁵⁰

Article 55 described the EEZ as an area beyond and adjacent to the territorial sea, which shall not extend beyond 200 nautical miles from the baselines.⁵¹ The outer limit lines of the EEZ and the lines of delimitation between States, shall be shown on charts of scale or scales adequate for ascertaining their positions, where appropriate, lists of geographic coordinates of points. The Coastal State are obliged to give due publicity to such charts or lists of geographical

⁴⁸ UNCLOS article 111.

⁴⁹ David J Attard and others, *The IMLI manual on international maritime law: Vol.I (The Law of the Sea, Oxford university Press 2014-2016)* 67.

⁵⁰ *ibid* 185.

⁵¹ UNCLOS article 57.

coordinates and shall deposit a copy of each with the Secretary General of the United Nations.⁵²

Article 56 set forth the rights, jurisdiction and duties of the Coastal State in the EEZ. Subject to article 56 (1) (a) the Coastal State has sovereign rights over the EEZ for purposes of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and its subsoil. In addition to the Jurisdiction in respect to the establishment of the artificial islands, installation and structure, marine scientific research and the protection and the preservation of the marine environment, as provided for in article 56 (1) (b). The enjoyment of these sovereign rights and jurisdictions is contingent on a Coastal State`s claiming its EEZ.

In respect of conservation of the living resources, the Coastal State is given exclusive sovereignty over fisheries and extensive jurisdiction to regulate fishing in the EEZ. Further, the Coastal State is given sole jurisdiction pursuant to article 61, to determine the allowable catch of the living resources, taking into account the best scientific evidence to ensure proper conservation and management measures to for the maintenance of the same. Such measures shall also design to maintain and restore the population of harvested species. And promote the objectives of optimum utilization of the living resources.

This provision has been complemented by article 62 (4), which obliges the nationals of the other States to comply with the conservation measures and other conditions established in the laws and regulations of the Coastal State in accordance to the Convention. Such measures may relate, *enter alia*, to the licensing for fishermen and fishing vessels, and determination of the species which may be caught, regulating seasons and areas for fishing, fixing the age and size of the fish and other species which may be caught, specifying information required of fishing vessels, conduct specified fisheries research programs, placing of observers or trainees on board such vessels, the landing of all or any part of the catch by such vessels in ports of the Coastal State, and

⁵² UNCLOS article 75.

training the personnel and transfer of fisheries technology. The Coastal State shall give due notice of conservation management laws and regulations as provided for in article 62 (5).

In order to ensure compliance with such laws, the Coastal State, pursuant to article 73 (1) may enforces laws and Regulations and take measures that include boarding, inspection, arrest and judicial proceedings. The arrest of the vessel and its crew shall be promptly released upon posting of reasonable bond or security. In addition to this, the penalties for violations may not include imprisonment. The Coastal State, in the case of arrest or detention of foreign vessels, shall promptly notify the flag state with the action taken and penalties imposed.

In relation to non-living resources found in the seabed and subsoil, the EEZ regime, matches the rights exercised in the continental shelf. According to article 56 (3), these rights shall be exercised in accordance with the provisions governing the Continental Shelf in part VI. Such rights are exclusive in the sense that other States cannot engage in activities in the EEZ without the consent of the Coastal State.

In addition to the rights granted to the coastal state under article 56 (1) (a) it has jurisdiction over matters other than exploration and exploitation, conserving and managing the living resources, such as those found in article 56 (1) (a) concerning the establishment and use of artificial islands, installation and structure; (ii) marine scientific research; (iii) the protection and the preservation of the marine environment, besides the provision of article 56 (1) (c) which stated that other rights and duties of the Coastal State provided for in the convention.

The rights of the Coastal State to establish artificial islands, installation and structure in the EEZ, regulated by article 60, which give the Coastal State the exclusive rights to construct and authorize construction and regulate the operation and the use of the same. And the exclusive jurisdiction over such

artificial islands, installation and structure, including jurisdiction with regard to custom, fiscal, health, safety and immigration law and Regulations.⁵³

In return, the Coastal State under obligation according to article 60 (3) to give due notice of such artificial islands, installation or structure, and also permanent means for giving a warning for their presence must be maintained. Any installation or structure which is abandoned or disused shall be removed to ensure the safety of navigation. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. In addition to this, subject to article 60 (4) the Coastal State may, where necessary establish reasonable safety zones around the artificial islands, installation and structures, for the same purpose of safety of navigation, under article 60 (5) such zones shall be established under certain conditions determined by the Coastal State, taking into account the applicable international standards, concerning their breadth, design and distance. The establishment of the artificial islands, installations, structures and the safety zones shall not cause any interference to the use of the recognized sea lanes which are essential to the international navigation.⁵⁴ This article attempted to create a balance between the exclusive rights of the Coastal state over the EEZ and navigational interests of the international community.⁵⁵

The rights of the Coastal State over the EEZ with respect to the seabed and subsoil shall be exercised in accordance with Part VI dealing with continental shelf.⁵⁶

The jurisdiction of the Coastal State over the EEZ also includes the conduct of marine scientific research as stated in article 56 (1) (b) (ii), in this regard ,article 246 grants the Coastal State a right to regulate, authorize and conduct marine research in their EEZ .providing that, such research shall be carried in accordance with the convention and for peaceful purposes, and it shall be conducted with appropriate scientific methods, and it shall not unjustifiably

⁵³UNCLOS article 60(1) and (2).

⁵⁴ UNCLOS article 60(7).

⁵⁵ Attard (n 15) 91

⁵⁶ UNCLOS article 56(3).

interfere with other legitimate uses of the sea compatible with the convention and shall be duly respected in the course of such use, and also it shall be conducted in compliance with all relevant regulations adopted in conformity with the convention including that related to environmental protection⁵⁷, in order to increase scientific knowledge of the marine environment for the benefit of all mankind⁵⁸. According to article 246 (5), the Coastal States may however in their discretion withhold their consent to the conduct of the marine scientific research of another state, in four specified cases.

The United Nations Division for ocean affairs and Law of the Sea, the office of Legal Affairs issued a Marine Scientific Research: a revised guide to implementation of relevant provisions of UNCLOS 1991, to advise States of the means by which articles of the convention could be implemented by Coastal and researching States, includes guidelines relating to the conduct of marine scientific research in the EEZ and the Continental Shelf.⁵⁹

This will lead to the provisions relating to the preservation and conservation of the marine environment, in this regard, UNCLOS contains certain provisions in respect of the Coastal State's enforcement of their environmental Laws, such as article 210 dealing with pollution by dumping, in article 210 (1) which allows the Coastal State to adopt laws and regulations to prevent, reduce and control pollution of the marine environment by Dumping, and article 211 dealing with pollution from vessels, article 211 (5) allows the Coastal State for the purpose of enforcing the right ,to adopt laws and Regulations for the reduction and control of pollution from vessels.⁶⁰ As well as, article 216 dealing with the enforcement with respect to pollution by Dumping. The article obliges the Coastal State to enforce with regard to Dumping within their Territorial Sea, EEZ, or the Continental Shelf, the relevant Laws and Regulations adopted in accordance

⁵⁷ Attard (n 15); Attard (n 15) 109

⁵⁸ UNCLOS article 246 (1) and (30).

⁵⁹ The guidelines relating to the conduct of marine scientific research in the EEZ and the Continental Shelf Available at:

http://www.un.org/depts/los/doalos_publications/publicationtexts/msr_guide%202010_final.pdf date of access 21.1.2018.

⁶⁰ Tanaka (n 27) 133.

with the Convention and applicable international rules and standards, established through competent international organizations and diplomatic conferences.

The rights granted to Coastal State under article 56 (1) subject to restrictions, set forth in article 56 (2), which provides that 'in exercising rights and performing duties under the convention, the Coastal State shall have due regard the rights and duties of the other States and shall act in a manner compatible with the provision of the Convention. Such as the article 193 which stipulated that States have the sovereign rights to exploit natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment. Furthermore, the Coastal States do not enjoy exclusivity in exploitation of living resources, other States have the right to participate in the zone's surplus stocks.⁶¹

UNCLOS in article 58 (1) granted for all States, whether Coastal or Land-Locked States, the right to enjoy the freedom referred to in article 87 of navigation and overflight and of the laying of the submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with other provisions of the convention.

The freedoms mentioned in the above article don't include the other freedoms of the High Seas granted to States under article 87, such as fishing and scientific research subject to Part VI and XIII⁶², according to article 58 (2), articles 88-115 and other pertinent rules of the international law apply to the EEZ as far as they are incompatible with the provisions regulating the EEZ.

This provision set an express condition for the enjoyment of the mentioned rights that it should be not incompatible with the provision regulating the EEZ ,as it give the Coastal State sovereign rights and other State the rights granted in the High Sea Regime, which need to exercised with due regard to the Coastal

⁶¹ Attard (n 15); Attard (n 15) 48

⁶² Attard and others (n 49) 191.

States Rights. In this regard, a reference shall be made to article 300 which obliges States parties, to fulfill in good faith, their obligations, and exercise the rights, jurisdiction and freedoms recognized in the convention, in a manner which would not constitute an abuse of rights.

Article 58 (3) in return, obliges all States to have due regard to the rights and duties of the Coastal State when exercising their freedoms under article 58 (1) and (2). This provision prescribes a mutual due regard rule to be observed by the Coastal State and other States when exercising their rights and duties in the EEZ. The co-existence of the rights and jurisdiction of the Coastal State on one hand ,and the continuing freedoms of other States on the other hand, may results in a considerable potential for conflict between the Coastal State and the other States. the mutual obligation to have due regards must be considered as primarily procedural in nature, which requires the State relying on one of the aforementioned freedoms to undertake a balancing exercise with concurrent rights and jurisdiction of the Coastal State.⁶³

There is a fundamental provision found in UNCLOS article 300 concerning the good faith and abuse of rights, this article requires the States to fulfill in good faith the obligations assumed under the Convention and shall exercise the rights, jurisdiction and freedoms recognized therein, in a manner which would not constitute an abuse of rights. ‘The due regard rule’ can be considered as a mechanism of exercising the rights under the Convention in good faith.

In this respect, the International Tribunal for the Law of the Sea held in the M/V ‘Saiga’ case that Guinea violated article 56 and 58 by prohibiting all activities in the EEZ which it decided to characterize as activities affecting its economic ‘public interest’ or entail ‘fiscal losses’ for it.⁶⁴

⁶³ (n 10) 455.

⁶⁴ *ibid* 456.

2.3.1.6 The Continental Shelf

The continental shelf is the relatively shallow area of the seafloor adjacent to the coast where what is known as continental margin slopes down gradually from the landmass into the sea until it begins to drop more sharply toward the deep ocean floor,⁶⁵ the reaches from the shore to the shelf edge, where at an average depth of 135 meters.⁶⁶

In order to define its continental Shelf, the Coastal State need to submit scientific and technical data on its outer limits. Except for the Continental Shelf, the legal maritime zones have a width defined by a specific distances from the baselines of the states, and for the continental shelf the extent of the depth depends on the width of the coastal State continental margin.⁶⁷

UNCLOS in article 76 (1) described the Continental Shelf of a Coastal State that “comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea” that means the Continental Shelf does not include the seabed of the Territorial Sea, since it extends beyond the same.

Article 76 (2) of UNCLOS, provides that it should be extended throughout the natural prolongation of the Coastal State’s land and territory to the outer edge of the continental margin, or to a distance of Nautical miles from the baselines, providing that the continental shelf of the Coastal State shall not extend beyond the limits provided for in article 76 (4) and (6). By this the Convention sets two limits to the Continental Shelf, the natural prolongation and the legal limits as stated in 76 (1).

The doctrine of the natural prolongation, based on the fact that, the continental shelf is an inherent prolongation of the land territory, and therefore no declaration is required by the Coastal State to exercise the rights vested in it under the UNCLOS.

⁶⁵ Rothwell and Stephens, *The international law of the sea* (n 14).

⁶⁶ Attard and others (n 49) 137.

⁶⁷ United Nation environmental program ’ <www.unep.org/dewa/portals/67/pdf/continental>.

Article 76 (4) stipulated the delineation process of the outer limit of the continental shelf of the Coastal State, wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Article 76 (9) obliges the Coastal State to deposit with the Secretary General of the United Nations, charts and relevant information, including geodetic data permanently describing the outer limits of the continental shelf, such limits cannot be changed after such submission to the Secretary General and publication thereby.

The rights of the Coastal State over the continental shelf have been stipulated in article 77 of UNCLOS provides that, the Coastal State exercises sovereign rights for the purposes of exploring it and exploiting its natural resources, article 77 (3) described the natural resources in the continental shelf, including living organism belonging to sedentary species which at the harvestable stage, either immobile or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil. This lead to a certain fact that, only the Coastal State has a right to exploit these living recourses, and other State who are exercising fishing, are excluded from such exploitation, since fishing is practiced on the surface of the sea and not in the seabed or the subsoil.

Article 78 (1) UNCLOS provides that; the rights of the Coastal State over the Continental Shelf do not affect the legal status of the superjacent waters or of the air above those waters. The rights granted to the Coastal State under this article are not absolute they are subject to restriction, under which they shall not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States, conferred to them under the convention,. Such as, the right granted to all States to lay submarine cables and pipelines on the continental shelf subject to certain conditions, as stipulated in article 79 UNCLOS.

Coastal State has the exclusive right as provided in article 80 UNCLOS, to construct and to authorize and regulate the construction, operation and use of artificial islands, installation and structure, for purposes of exploring and

exploiting the Continental Shelf subject to certain conditions. Article 60 regulating these structures, shall be applied *mutatis mutandis* in the continental shelf. Besides the right to authorize and regulate drilling in the Continental Shelf for all purposes as mentioned in article 81 UNCLOS.

3. The need to incorporate the provisions from the UNCLOS relating to Maritime Zones into the Sudanese Legislations

The Republic of the Sudan is the third largest country in the North Eastern Africa. Sudan has borders with nine countries. Those borders include Maritime Borders on the Red Sea with the Kingdom of Saudi Arabia, Egypt and Eritrea, Sudan must declare its Maritime Zones in order to Exercise its sovereign rights over the Maritime Zones in accordance to the rules stipulated in the UNCLOS.

As a result of the Sudan's ratification of the convention on the Territorial Sea and Contiguous Zone 1958, The Sudanese Territorial Sea and Continental Shelf Act 1970 has been enacted. The 1970 Act consists of thirteen sections; including those dealing with the interpretation of certain terms of the Act, such as the Internal Waters, the Territorial Sea, and The baseline. In addition to other provisions relating to the Sudanese jurisdiction over foreign Ships passing through the territorial sea, the power to impose control over certain area in the High Seas, and provisions relating to the Continental Shelf.⁶⁸

In the 1970 Act, except in the interpretation provisions relating to the baselines, there are no other provisions regulating the baselines. Further, the provisions concerning the Internal Waters and the territorial sea did not specify the power of the State to take the necessary steps to prevent any breach of any laws or Regulations, to protect the Internal Waters and the territorial sea of the Republic of Sudan. This makes the 1970 Act very vulnerable in respect of the protection of the state's territory. In addition to this, the Act did not provide any provisions relating to the Contiguous Zone, the Exclusive Economic Zone and the right and duties of the State over these zones. Furthermore, it does not have any competent body to execute its provisions, and did not specify any crimes and penalties

⁶⁸ The Sudanese Territorial Sea and the Continental Shelf Act 1970, available on: <<http://moj.gov.sd/sudanlaws/#/reader>>.

provisions. This Act does not comply with UNCLOS, as it deprives the State of its rights as a Coastal State, which has a preferential status under UNCLOS.

Against this background, it became obvious that the current legislation of the Maritime zones ‘the 1970 Act’ does not reflect the regime of the Maritime zones under UNCLOS. This situation required an urgent response by the Sudan. The perfect solution is to enact another legislation that comply with UNCLOS, and incorporate relating provisions to the maritime zones therein. In order to preserves the integrity, sovereignty and the sovereign rights vested in Sudan under the UNCLOS.

The first step taken by the Sudan in this regard was the deposit a copy of the list of the geographical coordinates, of the points concerning the straight baselines for measuring the breadth of the territorial sea, with the United Nations Secretary General, in accordance to article 16(2) UNCLOS. The mentioned list has been attached to the “Decree of the President of the Republic of the Sudan No (148) 2017, issued on the 2nd of March 2017, concerning the straight baselines for measuring the breadth of the territorial sea”. The list of the geographical coordinates clarifies the Sudanese Maritime Zones. And it has been published by the United Nation Secretary General. The Presidential Decree has been published in the Law of the Sea Bulletin No (94 /2017). The mentioned geographical coordinates referenced to the Geodetic System (WGS84).⁶⁹

3.1 Incorporation into the Laws of the Sudan

The Interim National Constitution of the Republic of the Sudan 2005 ‘will be referred to as INC’. In the schedules attached to it, clarifies the competences of the three levels of government, which are; the National level, State and the local level. The schedules show that, the signing of the international treaties on behalf of the republic of the Sudan, and Maritime matters are national competences. Therefore, the president of the Republic, under Article 58 (1) (k) from the INC, has the power to ratify treaties and international agreement with the approval of the National legislature.

⁶⁹ All the mentioned documents Available at:
<<http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/SDN.htm>> 22.1.2018.

Under the INC, the concluding of international treaty by the Government of Sudan passes through several stages, starting from the Negotiations, Adoption and Authentication of the text of the Treaty by the State's representatives. Usually those representatives are from the Executive including members from the Ministry of Foreign Affairs and Ministry of Justice. After that, the text of the Treaty shall be approved by Council of Ministers and the legislature. This approval is followed by the ratification of the Treaty by the president of the republic. By the end of these proceedings, the International Convention shall be Published in the official Gazette.

The Council of Ministers issued a Resolution No (195) 2002, pursuant to the provision of article 49 from the constitution of the Republic of the Sudan 1998, regulating the proceedings of concluding of the international Treaties by the Republic. The resolution obliged all Governmental bodies to follow certain procedures when concluding a Treaty on behalf of the Republic.

After concluding an international Convention, the Sudan became bound by such Convention and must fulfil its obligation thereunder. by incorporating its provisions into the national legislation. Either by enact a new Act or amend an existing one dealing with the matter and other related Acts.

Any international Convention that has been ratified by the Sudan, does not automatically be part of the Sudanese legal system, therefore, applied by the domestic courts, since they adjudicate on disputes and render judgments in accordance with the national laws only⁷⁰. Only by way of incorporation into the national laws, such Convention becomes part of the Sudanese legislations.

In respect of Maritime Zones, Sudan must incorporate the relating articles from UNCLOS dealing with the same, repeal the Territorial sea and the Continental shelf 1970 Act, and enact another one complies with the UNCLOS.

⁷⁰ Art 123(2) the interim National constitution of the Republic of the Sudan 2005.

3.2 Overview of the Sudanese Maritime Zones Act 2018

By The Sudanese Maritime Zones Act 2018, the Sudanese Territorial Sea and Continental Shelf Act 1970 is repealed. The Bill contains a set of comprehensive provisions comply with UNCLOS. Here are the main characteristics of the Act:

1. Chapter 1 includes preliminary provisions, title and commencement, repeal and saving of the Sudanese Territorial Sea and Continental Shelf Act 1970, and the interpretation section.
2. Chapter II defines the Territorial Sea, and specified the Baselines by which the breadth of the Territorial Sea is measured, the geographical coordinates clarifying the same, the Internal Waters, the Sovereignty of the State over the Territorial Sea and the Internal Waters, the right of the Foreign Ships to Innocent Passage, the conditions for such passage, the power of the Minister to regulate it and take security measures necessary for protection the peace, good order and security of the State, in addition to this the Chapter identified the passage that is non-innocent, the obligations of the foreign nuclear-powered ships or foreign ships carrying nuclear or other inherently dangerous or noxious substances when passing through the Territorial Sea, the powers of the state to protect the same, beside the criminal and civil jurisdiction of the State on board foreign ship and the conditions for exercising such jurisdiction, and the right to hot pursuit.
3. Chapter III contains provisions governed the Contiguous Zone, its limits and the rights of the State over it.
4. Chapter IV addresses the Exclusive Economic Zone, its limits, the rights and jurisdiction of the State over it, including the Sovereign rights for purposes of exploration and exploitation, conservation and managing the natural resources, and exclusive rights and jurisdiction for construction, establishment, maintenance use or operation of the artificial islands, installation and structure, the right of the Authority to take measures over

them, including the right to establish Safety Zones according to certain conditions, and obligations of the Foreign Ships in respect of such zones. Further the Chapter III stipulates the power of the Authority to take measures necessary for conservation of the living resources in the exclusive economic zone, the utilization of such resources, and the enforcement of laws and Measures in the Exclusive Economic Zone.

5. Chapter V articulates the Continental Shelf, its limits, the rights of the State over it, which sovereign rights for purposes of exploring it, or exploiting its natural resources, and Lay submarine cables and pipelines and establish artificial islands ,installation and structure and the right of the State to drill in the Continental Shelf .
6. Chapter VI contains the General provision, the penalties and the power to make Regulations, Rules and Orders by the Authority, upon assent of the Minister, as may be necessary for implementation of the provisions of the Act.

In the Name of Allah, the Gracious, the Merciful

The Maritime Zones Act 2018

Be it hereby passed, by the National Assembly, and signed, by the President of the Republic, in accordance with the provisions of the Interim National Constitution of the Republic of the Sudan, 2005, the following Act:

Chapter I

Preliminary Provisions

Title and Commencement

1. This Act may be cited as the, "Maritime Zones Act, 2018"; and shall come into force, as of the date of signature.

Repeal and Saving

2. The Sudanese Territorial Sea and Continental Shelf Act, 1970, is hereby repealed; provided that all the regulations, rules and orders made thereunder, shall remain in force, until revoked or amended, in accordance with the provisions of this Act.

Interpretation

3. In this Act, unless the context otherwise requires:-

"**Authority**" means the Boundaries Authority, established under the provisions of the Boundaries Authority Act 2017;

"**Artificial Islands**" mean any man-made extension of the seabed or feature, whether or not the extension breaks the surface of the superjacent waters;

"**Baseline**" means the baseline referred to in section 5;

"**Coast**" means the coast of the Red Sea clarified on the charts authorized by the competent bodies, and shall include the permanent ports and harbor works as an integral part of the coast;

"**Contiguous Zone**" means Contiguous Zone, mentioned in the provisions of Section 20;

"**Continental Shelf**" means the Continental Shelf defined in section 32;

"Dumping" means:

- (a) (i) any deliberate disposal of wastes or other matters from vessels, aircraft platform or other man-made structure at sea;
- (ii) Any deliberate disposal of vessels, aircraft platform or other man-made structure at sea;
- (b) Dumping does not include:
 - (i) the disposal of wastes or other matter incidental to or derived from the normal operation of vessels, aircraft, platforms, or other man-made structures or sea and their equipment, other than wastes or other matter transported by or to vessels, aircrafts, platforms or other man-made structure at sea, operating for the purposes of disposal of such matters or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms, or other structures;
 - (ii) Placement of matter for purpose other than the mere disposal thereof.

"Exclusive Economic Zone" means the Exclusive Economic Zone established under the provision of section 22 (1);

"Foreign Ships" mean any ship or warship belonging to another State, holding its nationality and flies its flag; such ships include the submarines;

"Flag State" means the State which the foreign ship is national, or registered, flies the flag of that State;

"High Seas" mean all parts of the sea that are not included in the Exclusive Economic Zones, in the Territorial sea or in the internal waters;

"Internal Waters" mean the Internal Waters mentioned in section 7;

"Innocent Passage" means the passage stipulated for in the provision of section 9;

"Island" means naturally formed area of land surrounded by water, which is above water at high tide;

"Maritime Zones" mean, the internal waters, the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone and the Continental shelf;

"Master" means every person lawfully having for the time being, command or charge of any vessel or submarine;

"Minister" means the Minister determined by the president of the republic;

"Nautical Mile" means the international nautical miles of 1852 meters each;

“**Straight baselines**” mean the shortest distance between two points at the surface;

"**State**" means the Republic of the Sudan;

"**Territorial Sea**" means the territorial sea referred to in section 4.

Chapter II

The Territorial Sea and the Internal Waters

The Breadth of the Territorial Sea

4. The Territorial Sea of the State, comprises those areas of sea having as their inner limits the baselines referred to in section 5, as their outer limits a line measured from the baseline, every point which is twelve nautical miles from the nearest point of the baselines, as shown in the geographical coordinates shown in schedule I attached with this Act.

Baselines for the Measurement of the Territorial Sea

5. (1) The baseline for the measurement of the Territorial Sea shall be the low-water line along the coast. And where the coast line is broken by Islands, a method of straight baseline joining appropriate points may be employed, as marked on the geographical coordinates showed in schedule I attached with this Act.
- (2) For purposes of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be treated as forming part of the coast.

Charts and Geographical coordinates

6. (1) The geographical coordinates, mentioned in section 5, which mark the Baselines, shall be shown on charts of a scale adequate for ascertaining their position.
- (2) The State shall give due publicity for the list of the geographical coordinates, mentioned in sub-section (1), and shall deposit a copy with the Secretary General of the United Nations.

The Internal Waters

7. The Internal Waters of the State comprise:
- (a) The areas of sea that are on the land ward side of the baselines which form the inner limits of the Territorial Sea, and;

(b) Bays, ports, harbour and waters lying landward of the Baselines.

Sovereignty over the Territorial Sea and the internal water

8. The Sovereignty of the State extends beyond its land territory the Internal Waters to the Territorial Sea and the air space over the territorial sea as well as to its bed and subsoil.

The right of Innocent Passage

9. Foreign Ships of all States, shall enjoy the right of Innocent Passage through the Territorial Sea mentioned in section 4, for the purposes of:

- (a) Traversing the sea without entering the Internal Waters or calling at a roadstead or port facility outside internal waters; or
- (b) Proceeding to or from the Internal Waters or a call at such roadstead or port facility.

Conditions of the innocent Passage

10. (1) The passage stipulated for in section 9, shall be continuous and expeditious, and shall not be prejudicial to the peace, good order or security of the State.

(2) Where the passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purposes of rendering assistance to person, ship or air craft in danger or distress, the prior consent of the Authority shall be required before such stopping and anchoring.

(3) In exercising the right of innocent passage through the Territorial Sea, the Foreign Ship shall comply with the laws and regulations and all generally accepted international regulations relating to the prevention of collisions at sea.

The Passage of foreign warship, submarine and under water vehicles

11. (1) Foreign warship, including submarine and any other underwater vehicle, may enter or pass through the territorial sea after giving prior notice to the Authority.

(2) Foreign warships, including submarine and any other under water vehicle, whether or not a vessel of war, exercising the right of Innocent Passage through the Territorial Sea, shall navigate on the surface and show its flag,

and comply with conditions stipulated for in section 10 (3).

(3) The authority may take the all necessary measures against the foreign warships, in case of contravening the provisions provided for in sub-sections (1) and (2).

Regulating the Innocent Passage

12. The Minister May, by order designates sea lanes and prescribe traffic separation scheme for regulation of the passage of the vessels through the Internal Waters and Territorial Sea, in the interest of safety of navigation.

Security measures

13. (1) The Minister may, make orders, exercise powers and take measures in relation to the passage through the Territorial Sea, as are necessary in the interest of protection national peace, good order or security of the State, and such measures may include:

- (a) The suspension of the right of Innocent Passage, whether absolute or subject to any exceptions or qualifications in specified areas of the Territorial Sea ;
- (b) The prevention of any passage which is not innocent, in accordance to section 14;
- (c) The exercise of weapons against contravening ships.

(2) The suspension provided for in the provision of sub-section (1) (a) shall take effect, only after having duly published.

Non-Innocent Passage

14. The passage of the Foreign Ship is prejudicial to the national peace, good order and security of the State, if in the Territorial Sea, the Foreign Ship engages in any of the following activities:

- (a) Any threat or use of force against the sovereignty, territorial integrity or political independence of the State or in any other manner in violation of the principles of the international law;
- (b) Any exercise or practice of weapons of any kind;
- (c) Any act, in contemplation of collecting information, which would be prejudicial of the defense and national security of the State;

- (d) Any act of propaganda aimed to affect the defense and national security of the State;
- (e) The launching, landing on board of any aircraft or military device;
- (f) The loading or unloading of any commodity, currency or person contrary to any laws relating to Customs, fiscal, immigration or sanitation;
- (g) The willful discharge of any substance which cause pollution, in contravention of the related laws;
- (h) Any fishing activities;
- (i) Any act designate to interfere with any system of communication or any other facility or installation in the State;
- (j) Any other activities not having a direct bearing on passage.

Foreign Nuclear-powered ships and ships carrying nuclear or other inherently dangerous substances

15. Any foreign nuclear-powered ships or foreign ships carrying nuclear or other inherently dangerous or noxious substances, while exercising the right of Innocent Passage through the Territorial Sea, shall comply with the following:
- (a) carry the necessary documents clarifying the type of the ship and its cargo;
 - (b) the precautionary measures that are established for such ships by international agreement;
 - (c) Give prior notice to the Authority and the other competent authorities, before entering to, or passing through the Territorial Sea;

The protection of the Territorial Sea and the Internal Waters

16. (1) The Authority, may in respect of the protection the Territorial Sea and Internal Waters, take the necessary measures to prevent:
- (a) Any passage that is not innocent , as provided for in section 14;
 - (b) Any breach of the conditions that determined thereby, in relation to the Innocent Passage, including the proceeding of the Foreign Ships to the Internal Waters, or their stopping or anchoring outside the Internal Waters.
- (2) The Authority may order any ship to leave the Territorial Sea,

immediately if it did not comply with the provisions regulating the Innocent Passage provided for in this Act.

Criminal Jurisdiction on board of Foreign Ship

17. (1) The Authority may exercise criminal Jurisdiction on board any Foreign Ship passing through the Territorial Sea, to arrest any person or to conduct any investigation in connection with any crime committed on board the ship during its passage, in any of the following cases:
- (a) If the consequences of the crime extend to the State;
 - (b) If the crime of a kind to disturb the peace, good order and the security of the Territorial Sea;
 - (c) If the Master of the ship, the diplomatic agent or consular or officer of the Flag State request the assistance of the local authorities;
 - (d) If such measures are necessary for suppression of illicit traffic in narcotic drugs or psychotropic substances.
- (2) Notwithstanding of the provision mentioned in subsection (1), the Authority may take any other legal proceedings for the purposes of an arrest or investigate on board a Foreign Ship passing through the Territorial Sea after leaving Internal Waters.
- (3) (a) The Authority shall, upon request of the Master of the ship, notify the diplomatic agent or the consular officer of the Flag State before taking any proceedings provided for in sub-sections (1) and (2) for the purposes of facilitate contact between them; and
- (b) In the cases of emergency, the Authority may send the notification provided for in subsection (3) (a) while measures are being taken.
- (4) The Authority where exercising the criminal jurisdiction on board a Foreign Ship, shall have due regard to the interest of navigation.

Civil Jurisdiction in Relation to Foreign Ship

18. The Authority, may exercise civil jurisdiction against Foreign Ship passing through the Territorial Sea, and arrest the ship for any civil proceeding in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purposes of its voyage.

The Hot Pursuit

19. (1) The Authority and the competent bodies in the State may exercise the right of hot pursuit against any Foreign Ship, where there is a good reason that the ship has violated the provisions of this Act and other related Acts.
- (2) The pursuit referred to in subsection (1) shall commence where the Foreign Ship or one of its boats within the Internal Waters, the Territorial Sea, the Contiguous Zone, and the Exclusive Economic Zone of the State.
- (3) The hot pursuit shall not commence, save after a visual or auditory signal to stop, has been given at distance, which enables it to be seen or heard by the Foreign Ship.
- (4) The right of hot pursuit may be exercised only by warships or military air craft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.
- (5) The right of the hot pursuit shall ceases as soon as the ship pursued enters the Territorial Sea of its own State or other State.

Chapter III

The Contiguous Zone

Limits of the Contiguous Zone

20. The Contiguous Zone comprises the area of the sea that has as its inner limit the outer limit of the territorial sea and as its outer limit 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.

Rights of the State over the Contiguous Zone

21. (1) The Authority shall, with coordination with other competent bodies, exercise in the Contiguous Zone, control and measures necessary to:
- (a) prevent any infringement of customs, fiscal, immigration and sanitary laws and regulations, or related laws within the territory of the State and the Territorial Sea;
 - (b) control Traffic in Archeological and historical objects found at sea;
 - (c) Punish infringements of the laws and regulations referred to in subparagraph (a) and (b) committed therein.

Chapter IV

The Exclusive Economic Zone

Limits of the Exclusive Economic Zone

22. (1) The Exclusive Economic Zone comprises an area of the sea beyond and adjacent to the Territorial Sea extending to a line every point of which a distance of two hundred nautical miles, from the Baselines from which the Territorial Sea is measured, this area designated the Exclusive Economic Zone.
- (2) The limit of the Exclusive Economic Zone shall be shown in the geographical coordinates in schedule I attached with this Act.
- (3) The Authority shall prepare the geographical coordinates mentioned in subsection (2), and give due publicity to the same, and deposit a copy with the Secretary General of the United Nations.

The Rights and Jurisdiction of the State over the Exclusive Economic Zone

23. (1) In the Exclusive Economic Zone, there is vested in the State:
- (a) Sovereign rights for purposes of exploration and exploitation, conservation and managing the natural resources, whether living or non-living as well as for producing energy from tides, currents and winds;
 - (b) Exclusive rights and jurisdiction for construction, establishment, maintenance, use or operation of the artificial islands, installation and structures, and devices necessary for the exploration and exploitation of the resources of the zone or for the convenience of the shipping or for any other purposes;
 - (c) Jurisdiction to:
 - (i) conduct, regulate and authorize marine scientific researches;
 - (ii) Preserve and protect the marine environment, and prevent and control marine pollution and Dumping that cause such pollution;
 - (iii) Any other rights that are recognized by the International Convention on the Law of the Sea 1982.

(2) The laws regulating customs, fiscal, immigration, health and safety shall be applied in the artificial islands, installation and structures provided for in subsection (1) (b).

(3) The Authority shall, with coordination of the competent bodies, exercise the sovereign rights and the jurisdiction referred to in subsection (1).

Measures in the Artificial Islands, Installations and Structures

24. The Authority, in respect of the artificial Islands, Installation and structures established under the provisions of section 23 (1) (b), shall take the following measures:

- (a) give due notice of their construction, and maintain permanent means for giving warning of their presence;
- (b) remove any installation or structure which are abandoned or disused ,to ensure safety of navigation, taking into account:
 - (i) any generally accepted international standards established in this regard by the competent international organization;
 - (ii) fishing, the protection of marine environment, and the rights and duties of other States;
 - (iii) Appropriate publicity of the depth, position and dimension of any installation or structure not entirely removed.

Establishment of the Safety Zones

25. The Authority, where necessary, may establish reasonable safety zones around the artificial island, installations and structures, in which it may take appropriate measures to ensure the safety of the navigation, and the artificial islands, installation and structures.

Conditions of Establishment of the Safety Zones

26. (1) The Authority shall determine the breadth of the safety zone ,taking into account the international standards applied thereon, provided that:

- (a) such zones shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installation and structures;
- (b) They shall not exceed a distance of 500 meters around the artificial islands, installation and structures, measured from the point of their outer

edge, except as authorized by generally accepted international standards or as recommended by the competent international organization.

(2) The Authority shall give due notice of the existence of the safety zones and their extent.

Obligation of the Foreign Ships in respect of safety zones

27. All Foreign Ships must respect the safety zones and shall comply with generally accepted international standards regarding navigation in the vicinity of the artificial islands, installation, structures and safety zones.

Conservation of the Living resources in the Exclusive Economic Zone

28. (1) The Authority shall, for purpose of conservation of the living resources in the exclusive economic zone, take measures necessary and coordinate with the other competent bodies, for the following:

- (a) Determine the allowable catch of the living resources;
- (b) Take measures necessary to conservation of:
 - (i) The living resources in the exclusive economic zone, maintenance and management and of the same, to ensure that they are not endangered by over-exploitation,
 - (ii) Population of harvested species and maintain them at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors.
- (c) placing of observers or trainees on board foreign ships;
- (d) Oblige the Foreign Ships to land of all or part of the catch in the port of the State.

(2) The authority shall, when taking measures referred to in sub-section (1), take into account, the fishing patterns, the interdependence of stock, effect on species associated with or dependent on the harvested species with view to maintain or restore population of the same ,above level at which their production may become seriously threatened, and any generally recommended international minimum standards.

Exchange of Scientific Information

29. For purposes of conservation of the living resources in the Exclusive Economic Zone referred to in section 28, available scientific information, catch and fishing effort statics ,and other data relevant to the conservation of fish stock, shall be contributed

and exchanged on a regular basis, through competent international organizations, whether regional or international, where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the Exclusive Economic Zone of the State.

Utilization of the Living Resources

30. (1) The Authority, in order to utilize the living resources in the Exclusive Economic Zone, shall undertake the following:

(a) Promote the objective of optimum utilization of the living resources in the Exclusive Economic Zone without prejudice for the provisions of section 28.

(b) Determines the capacity of the State to harvest the living resources ;

(2) Where the State does not have the capacity to harvest the entire allowable catch, the Authority may give other States access to the surplus of the same through agreements or other arrangements, with due regard the interests of the State, and without prejudice of section 28.

(3) Any State with which there has been agreement or arrangement in accordance to the provisions of sub-section (2), shall comply with the conservation measures and other terms and conditions established in this Act, Regulations and any other related Acts.

Enforcement of laws and Measures in the Exclusive Economic Zone

31. (1) The Authority, in exercising the sovereign rights of the States in the Exclusive Economic Zone provided for in section 23 (1) (a), may take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the this Act and other related Acts.

(2) Where the Authority arrested any ship in accordance to subsection (1), such ship shall be released upon posting of reasonable bond or other security.

(3) The Authority, in case of arrest or detention of a Foreign Ship, shall promptly notify the Flag State through appropriate channels, of the action taken and of any penalties subsequently imposed.

Chapter V

The Continental Shelf

32. (1) The Continental Shelf of the State comprises the seabed and subsoil of the submarine areas that extend beyond the Territorial Sea throughout the natural prolongation of the land territory to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baselines from which the territorial sea is measured.
- (2) The Authority shall prepare the geographical coordinates describing the outer limit of the Continental Shelf, and give due publicity to the same, and deposit a copy with the Secretary General of the United Nations.

Rights of the State over the Continental Shelf

33. (1) The State exercises over the Continental Shelf, sovereign rights for purposes of exploring it, or exploiting its natural resources.
- (2) The rights referred to in subsection (1) are exclusive, if the State does not exercise them, no other State undertake the mentioned activities without the express consent of the State.
- (3) The sovereign rights of the State mentioned in subsection (1) do not depend on occupation, effective or national, or any express proclamation.

The Natural Resources in the Continental Shelf

34. (1) The natural resources in the continental shelf consist of the minerals and other non-living resources of the seabed and subsoil together with living organism belonging to sedentary species.
- (2) For the purposes of subsection (1), the living organism belonging to the sedentary species, shall mean, organism which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Submarine Cables and pipelines on the Continental shelf

35. The Authority shall, in cooperation with the related competent bodies, for purposes of exploring and exploiting the natural resources in the Continental shelf, exercise the following:

- (a) Lay submarine cables and pipelines in the Continental Shelf , and having due regard to cables or pipelines already in position and without prejudice the possibilities of their repairing ;
- (b) Take reasonable measures for the prevention ,reduction and control of the pollution from the pipelines;
- (c) Establish conditions for cables or pipelines entering the territory or the territorial sea of the State ;
- (d) Exercise jurisdiction over cables and pipelines constructed or used in connection with the exploration of the Continental Shelf or exploitation of its resources or the operations of the artificial islands.

Artificial Islands, Installations and Structures on the Continental Shelf

36. For the application of this section, the provisions of sections 23(1) (b), 24, 25 and 26, shall apply to submarine cables and pipelines in the Continental Shelf.

Drilling in the Continental Shelf

37. (1) The Authority in coordination with the competent bodies shall have the right to exploit and utilize the subsoil of the Continental Shelf by means of drilling and tunneling, irrespective of the depth of the water above the subsoil.
- (2) The Authority shall authorize and regulate drilling in the continental shelf for all purposes.

Chapter VI

General Provisions

Penalties

38. There shall be deemed to have been committed an offence, whoever committed an act in contravention of this Act and the other related Acts, and be punished by the penalty specified therein.

Power to make Regulations, Rules and Orders

39. The Authority, upon assent of the Minister, may make such regulations, rules and orders, as may be necessary for further implementation of the provisions of this Act.

Schedule I

The coordinates of the straight Baselines of the Sudan at the Red Sea

The Coordinates Of The Straight Base Line Of The Sudan In The Red Sea

No	Position	Coordinates	
		Latitude	Longitude
1	Dahrat Abid Island	18°20' 54.3"	38°44' 40.9"
2	Qab Miyum Island	18°30' 17.2"	38°50' 07.8"
3	Ed Domeshe Shesh Island	18°37' 30.6"	38°50' 48.1"
4	Masamirit Island	18°50' 10.1"	38°45' 33.4"
5	Dibsel Island	18°54' 06.9"	38°35' 44.0"
6	Biar Musa Kabir Island	19°13' 06.8"	38°11' 29.4"
7	Sanganeb Reef	19°43' 29.9"	37°26' 33.4"
8	Angarosh Island	20°51' 43.3"	37°26' 15.8"
9	Abington Reef	20°53' 17.0"	37°27' 20.3"
10	Elba Reef	21°59' 12.2"	37°01' 22.9"
11	Shab Abu Fendera Reef	22°54' 43.3"	36°16' 28.4"
12	Mirear Island	23°09' 42.7"	35°44' 34.0"

The Map Datum is:
World Geodetic System (WGS 1984)



Certificate

I, hereby certify that ,the National Legislature, have approved the Maritime Zones Act,2018,in their session ,dated the ,1439 A.H., Being the..... 2018,A.D.

(Signed)

.....

Speaker of the National Legislature.

(Signed)

.....

I assent

Field Marshal Omer Hassan Ahmed Al Basheir

President of the Republic

Date: /... /1439,A.H.

Being: /... /2018, A.D.