

The Territorial Waters and Maritime Zones Act, 1974 এর সংশোধনীর লক্ষ্য আইন কমিশনের সুপারিশ

গত কয়েক দশকে আন্তর্জাতিক সমুদ্র আইনের ব্যাপক পরিবর্তন হয়েছে যার পরিপূর্ণ প্রকাশ ঘটেছে ১৯৮২ সনের সমুদ্র আইন বিষয়ক জাতিসংঘ চুক্তিতে। রাষ্ট্রীয় সমুদ্র (Territorial Waters) সীমার পরিধি বৃদ্ধি, উপকূলের ভিত্তিরেখা হতে দুইশত মাইল একচ্ছত্র অর্থনৈতিক অঞ্চল (Exclusive Economic Zone) সৃষ্টি এবং উক্ত অঞ্চলে সম্পদ ও অর্থনৈতিক কর্মকাণ্ডের উপর উপকূলীয় রাষ্ট্রের সার্বভৌম অধিকার প্রতিষ্ঠা এবং দুইশত মাইলের পরেও মহীসোপান (Continental Shelf) বিস্তৃত হলে তার উপর অধিকার প্রতিষ্ঠা এই চুক্তির বিধানবলীর কয়েকটি উল্লেখযোগ্য দিক। বাংলাদেশ এই আন্তর্জাতিক চুক্তির একটি পক্ষরূপে বিধায়, চুক্তির শর্তাবলীর সঙ্গে সামঞ্জস্য বিধান ও উল্লিখিত অঞ্চলসমূহে বাংলাদেশের অধিকার বাস্তবায়নের লক্ষ্যে ১৯৭৪ সনের Territorial Waters and Maritime Zones Act এর সংশোধনী প্রয়োজন। এ লক্ষ্যে আইন কমিশন কর্তৃক উল্লিখিত সংশোধনীর একটি খসড়া আইন সরকারের নিকট এতদসঙ্গে পেশ করা হলো।

খসড়া সংশোধনী আইনটি তৈরীতে অনেক বিশিষ্ট ব্যক্তি বিশেষ করে বাংলাদেশের প্রথম নৌবাহিনী প্রধান রিয়ার এডমিরাল এম.এইচ. খান (অবঃ), প্রাক্তন রাষ্ট্রদূত ব্যারিস্টার হারুনঅর রশিদ, জাতীয় মানবাধিকার কমিশনের চেয়ারম্যান ড. মিজানুর রহমান, পররাষ্ট্র মন্ত্রণালয়ের এমএইউ-এর সচিব রিয়ার এডমিরাল মোঃ খুরশেদ আলম (অবঃ) ও চট্টগ্রাম বিশ্ববিদ্যালয়ের আইন অনুষদের ডীন ড. আব্দুল্লাহ আল ফারুক আইন কমিশনকে সহযোগিতা প্রদান করেছেন।

২০১৪ সনের ----- নং আইন

The Territorial Waters and Maritime Zones Act, 1974 এর সংশোধনকল্পে প্রণীত আইন

যেহেতু নিম্নবর্ণিত উদ্দেশ্যসমূহ পূরণকল্পে The Territorial Waters and Maritime Zones Act, 1974 (Act XXVI of 1974) এর সংশোধন সমীচীন ও প্রয়োজনীয়;

সেহেতু এতদ্বারা নিম্নরূপ আইন করা হইলঃ-

১। সংক্ষিপ্ত শিরোনাম ও প্রবর্তন।- (১) এই আইন The Territorial Waters and Maritime Zones (Amendment) Act, 2014 নামে অভিহিত হইবে।

(২) ইহা অবিলম্বে কার্যকর হইবে।

২। Act XXVI of 1974 এর section 2 এর সংশোধন।- The Territorial Waters and Maritime Zones Act, 1974 (Act XXVI) of 1974, অতঃপর উক্ত Act বলিয়া উল্লিখিত, এর Section 2 এর clause (a) - (e) সমূহের পরিবর্তে নিম্নরূপ clause (a) - (o) সমূহ প্রতিস্থাপিত হইবে, যথাঃ-

“(a) “accretion” means process of increase of land territory by silt-deposits from the river flows to the coasts, or by formation of new land adjacent to the coast by earth quakes or by any other natural way;

(b) “artificial island” means any man made extension of the seabed of a feature, whether or not the extension breaks the surface of the superjacent waters;

(c) “baseline”, in general, is the low-water line or straight line system along the coast of a state, from where breadth of the maritime zones is measured;

(d) “contiguous zone” of Bangladesh means the zone of the seas contiguous to the territorial waters of Bangladesh and extending seaward to a line twenty four nautical miles measured from the baselines;

(e) “continental shelf” of Bangladesh means generally the seabed and subsoil of the submarine areas adjacent to the coast of Bangladesh but beyond the limits of the territorial waters throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of two hundred nautical miles from the baselines, where the breadth of the outer edge of the continental margin does not extend up to that distance;

(f) “continental margin” comprises the submerged prolongation to the land mass of Bangladesh consisting of the seabed and its subsoil, the slope and the rise of the continental shelf, but does not include the deep ocean floor with its oceanic ridges or its subsoil;

(g) “exclusive economic zone” of Bangladesh means the zone of the seas extending two hundred nautical miles seaward from the baselines;

(h) “innocent passage” means passage of a foreign ship through the territorial waters as long as it is not prejudicial to peace, good order or security of Bangladesh;

(i) “installations” include any structure, submarine-cable, pipeline, exploration an

production platform, moored vessel, communication cable, military surveillance installation, telecommunication apparatus or any physical facilities necessary for exploration and exploitation of resources in the seabed, water-mass and water surface, research or any other economic activity;

- (j) “internal waters” of Bangladesh means the areas of the sea (a) that are on the landward side of the baselines from where the breadth of the territorial waters is measured; and (b) all rivers, bays, historic bays, ports, harbours and waters lying landward of the baselines;
- (k) “low-water line” in any specified area, it is the lowest astronomical tide level on the coast of Bangladesh that can be predicted to occur under average metrological conditions and under any other combination of astronomical phenomena;
- (l) “maritime zones” of Bangladesh includes the internal waters, territorial waters, contiguous zone, continental shelf and exclusive economic zone;
- (m) “resources” means the living and non-living resources of the seabed, its subsoil and the waters above as well as resources for the production of energy from tides, currents and winds;
- (n) “territorial waters” of Bangladesh means the zone of the seas extending twelve nautical miles seaward beyond the land territory and internal waters of Bangladesh, measured from the baselines; and where a single island, rock or a composite group thereof constituting the part of the territory of Bangladesh is situated seawards from the main coast or baseline, breadth of the territorial waters would be measured from the low waterline along the coast of such islands, rocks or composite groups;
- (o) “waste” includes any matter prescribed to be waste and any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume, composition or manner as to cause an adverse effect on the environment.

৩। Act XXVI of 1974 এর Section 3 এর সংশোধন।- উক্ত Act এর Section 3 এর-

(ক) Sub-section (1) এবং Sub-section (2) বিলুপ্ত হইবে;

(খ) Sub-section (3) এর প্রাস্তস্থিত “ Waters” শব্দটি এবং ফুলস্টপ চিহ্নটির পরিবর্তে যথাক্রমে “(sea)” এবং কমা শব্দটি ও চিহ্নটি প্রতিস্থাপিত হইবে এবং তৎপর “ subject to the right of innocent passage enjoyed by a foreign ship.” শব্দগুলি ও চিহ্নটি সন্নিবেশিত হইবে;

(গ) Sub-section (7) এর পরিবর্তে নিম্নরূপ Sub-section (7) প্রতিস্থাপিত হইবে, যথাঃ-

“(7) No foreign warship of any kind shall pass through the territorial waters except prior information, in writing, to the government, however, foreign submarines and other underwater vessels, during passage through the territorial waters, shall navigate on the surface of the sea and show their flag.”;

(ঘ) Sub-section (8) এর পর নিম্নরূপ নতুন Sub-section (9) এবং Sub-section (10) সন্নিবেশিত হইবে, যথাঃ-

- “(9) (a) Foreign vessels shall not store, transport or permit to store or transport any nuclear or other inherently dangerous or noxious substances, harmful substances and hazardous wastes in the internal or territorial waters except with the prior written permission, agreement or consent of the Government.
- (b) Where any foreign nuclear-powered vessel or foreign vessel carries nuclear or other inherently dangerous or noxious substances while exercising the right of innocent passage through the territorial waters, the master of the vessel shall, in relation to the vessel and substances, carry the necessary documents and shall observe the precautionary measures that are established and obligatory for those vessels by any international treaty, charter or agreement as applicable to the carrying of those substances in accordance with any law for the time being in force in Bangladesh.
- (c) A vessel carrying radioactive materials shall not pass through any part of the internal waters or territorial waters unless prior notification of intended passage and the route to be taken by the vessel through those waters or the sea has been given in accordance with regulations that may be prescribed.
- (d) In this section, "radioactive materials" means waste that, as a result of being radioactive, is subject to an international control system or international instruments applying specifically to radioactive materials.
- (e) A vessel to which subsections (b) and (c) apply may be required to confine its passage to such sea lanes as may be prescribed.
- (f) A master of a vessel who contravenes the provisions of this sub-section commits an offence punishable with imprisonment or fine to be determined by the rules to be framed under this Act.
- (g) The Government may regulate the passage of vessels carrying hazardous waste, nuclear and other radioactive materials through all or any part of the internal waters and territorial waters.

- (h) Rules made under this sub-section shall provide for the action that may be taken, including stopping and boarding vessels, to ensure compliance with the rules.
- (10) A foreign vessel shall not discharge or permit to discharge any nuclear or other inherently dangerous or noxious substances, harmful substances and hazardous wastes in the internal waters and territorial waters except with the prior written permission, agreement or consent of the Government. A master of a vessel who contravenes this sub-section commits an offence punishable with imprisonment or fine to be determined by the rules framed under this Act.’

৪। Act XXVI of 1974 এর Section 4 এর সংশোধন।- উক্ত Act এর Section 4 এর-

(ক) Sub section (1) বিলুপ্ত হইবে;

(খ) Sub section (2) এর-

(অ) “or regulation” শব্দগুলি বিলুপ্ত হইবে;

(আ) Clause (b) এর “sanitation” শব্দটির স্থলে “sanitary matters” শব্দগুলি প্রতিস্থাপিত হইবে; এবং

(গ) Clause (c) এর পর নিম্নরূপ নতুন Clause (d) এবং Clause (e) সন্নিবেশিত হইবে, যথাঃ-

“(d) conservation, preservation and protection of marine resources; and

(e) preservation and protection of marine environment from all kinds of pollutants.”

৫। Act XXVI of 1974 এর Section 5 এর সংশোধন।- উক্ত Act এর Section 5 এর-

(ক) Sub-section (1) বিলুপ্ত হইবে;

(খ) Sub-section (2) এর “the ” এবং “economic” শব্দটির মধ্যবর্তি স্থানে “exclusive ” শব্দটি সন্নিবেশিত হইবে;

(গ) Sub-section (2) এর পর নিম্নরূপ নতুন Sub-section (2) (a) এবং (2) (b) সন্নিবেশিত হইবে, যথাঃ-

“(2) (a) Rights and jurisdictions of Bangladesh in the Exclusive Economic Zone shall be of the nature of sovereign rights for the purpose of exploring, exploiting, conserving and managing the natural resources as well as undertaking all other economic exploitation of the zone such as producing energy from the water currents and winds. Bangladesh shall have all exclusive rights and jurisdictions to establish and use artificial islands, installations and structures in the zone for implementing its economic rights.

(2) (b) No one including a foreign government shall without the permission of the Government of Bangladesh, explore or exploit any resource within the Exclusive Economic Zone or carry out any research within the zone or drill therein or construct, maintain or operate any artificial island, installation or other structure or device therein for any purpose whatsoever.”;

(ঘ) Sub-section (3) এর “Sub-section (2)” শব্দগুলি, সংখ্যা ও চিহ্নটির পরিবর্তে “Sub-section (2) and “Sub-section (3)” শব্দগুলি, সংখ্যা ও চিহ্নটি প্রতিস্থাপিত হইবে এবং “the ” এবং “economic” শব্দদ্বয়ের মধ্যবর্তি স্থানে “ exclusive ” শব্দটি সন্নিবেশিত হইবে;এবং

(ঙ) Sub section (3) এর পর নিম্নরূপ নূতন Sub-section (4) এবং Sub-section (5) সন্নিবেশিত হইবে, যথাঃ-

“(4) In the exclusive economic zone and the air space over the said zone, every State shall, subject to exercise by Bangladesh of its sovereign rights within the zone, enjoy freedom of navigation and over flight.

(5) The Government, by order, may -

(a) declare any area of the exclusive economic zone or continental shelf under section 7 be a designated area for any purpose; and

(b) make provisions as the Government considers necessary with respect to-

(i) the exploration, exploitation and protection of the resources of the designated area;

(ii) any other activities for the economic exploitation and exploration of the designated area such as the production of energy from tides, currents and winds;

(iii) the safety and protection of artificial islands, offshore terminals, installations and any other structure and devices in the designated area;

(iv) the protection of the marine environment of the designated area;

(v) customs and other fiscal matters in relation to the designated area;

or

(vi) entry into and passage through the designated area of foreign vessels by the establishment of fairways, sea lanes, traffic separation schemes or any other mode of ensuring freedom of navigation which is not prejudicial to the interests of Bangladesh”.

৬। Act XXVI of 1974 এর Section 6 এর বিলুপ্তি।- উক্ত আইনের Section 6 বিলুপ্ত হইবে।

৭। Act XXVI of 1974 এর Section 7 এর সংশোধন।- উক্ত আইনের Section 7 এর -

(ক) Sub-section (1) এর পরিবর্তে নিম্নরূপ Sub-section (1) প্রতিস্থাপিত হইবে, যথাঃ-

“(1) Bangladesh shall exercise over its continental shelf sovereign rights for the purpose of exploring, exploiting mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species.”;

(খ) Sub-section (2) বিলুপ্ত হইবে;

(গ) Sub-section (3) এর “by ” এবং “Government” শব্দদ্বয়ের মধ্যবর্তি স্থানে “the” শব্দটি সন্নিবেশিত হইবে;

(ঘ) Sub-section (4) এর পর নিম্নরূপ নতুন Sub-section (5) এবং Sub-section (6) সন্নিবেশিত হইবে, যথাঃ-

“(5) Subject to any measures that may be necessary for protecting the interests of Bangladesh, the Government shall not impede the laying or maintenance of any submarine cables or pipelines on the continental shelf by other States, provided the consent of the government in writing, shall be necessary for the delineation of the course for laying of such cables or pipelines.

(6) Bangladesh shall delineate/establish the outer limits of the continental shelf based on Art. 76 (4) (a) (i) of the UN Convention of the Law of the Sea, where such limit shall not exceed 100 nautical miles from the 2500 metre isobath, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitude.”

৮। Act XXVI of 1974 এর নূতন Section 7A, Section 7B, Section 7C, Section 7D Section 7E এবং Section 7F এর সন্নিবেশ।- উক্ত আইনের Section 7 এর পর নিম্নরূপ নূতন Section 7A, Section 7B, Section 7C, Section 7D, Section 7E এবং Section 7F সন্নিবেশিত হইবে, যথাঃ-

“7A. **Internal Waters.**- Sovereignty of Bangladesh extends beyond its land territory to the internal waters, the seabed and its subsoil under, and the air space over the internal waters. Bangladesh in exercise of its sovereignty has exclusive jurisdiction over its internal waters.

7B. **Innocent Passage.**- Innocent passage of a foreign ship in the territorial waters shall be continuous, expeditious and by shortest route, and includes stopping and anchoring, but only so far as it is incidental to ordinary navigation or is rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, vessels or aircraft in danger or distress.

(1) In exercising the right of innocent passage, a foreign vessel shall comply with the laws of Bangladesh, any order, direction or any other directives relating to the exercise of innocent passage through the territorial waters.

- 7C. **Baselines.-** Baselines from where the breadth of territorial waters is measured are straight lines interpreted as geodesics joining the consecutive geographical coordinates of points so prescribed. The territorial base lines of Bangladesh shall consist of the series of geodesics joining points that will from time to time be notified by geographic coordinates in the official gazette of Bangladesh.
- 7D. **Acquisition of New Territory by Accretion.-** Lands, lagoons, mudflats (chars) and sand bars formed naturally in the maritime zones of Bangladesh by the river depositing its silts and sediments, by the erosive action of the tides and currents of the sea or by an outgrowth of the land into the waters, resulting from the deposition at the estuaries of the rivers of the detritus brought down by their currents from inland or by any other natural means are to be included in the territories of the Republic with all legal consequences.
- 7E. **Delimitation of Maritime Boundaries.-** Delimitation of maritime zones between Bangladesh and any State opposite to or adjacent thereof, shall be determined either by the principle of equity, or by agreement between Bangladesh and that State, and failing such arrangements, the equidistant line from the nearest points on the baselines from where the breadth of the territorial waters of each of the two States is to be measured; Provided, this provision, however, shall not apply where it is necessary by reason of historic title or other special circumstances, to delimit the maritime zones of Bangladesh in a manner which may be at variance with this sub-section.
- 7F. **Settlement of Disputes.-** If no agreement can be reached under section 11, Bangladesh shall resort to the procedures provided for in Part XV of the United Nations Convention on the Law of the Sea.”

৯। Act XXVI of 1974 এর Section 8 এর সংশোধন।- উক্ত আইনের Section 8 এর পরিবর্তে নিম্নরূপ Section 8 প্রতিস্থাপিত হইবে, যথাঃ-

“8. **Control of pollution.-** (1) Bangladesh has the sovereign right to exploit its natural resources pursuant to its environmental policies and in accordance with its duty to conserve, protect and preserve the marine environment.

(2) The Government may, with a view to preventing and controlling marine pollution and preserving the quality and ecological balance of the marine environment in the exclusive economic zone and the adjacent high seas, take such measures as it may deem appropriate for the purpose, using the best practicable means at its disposal and in accordance with its capabilities.

১০। Act XXVI of 1974 এর Section 9 এর সংশোধন।- উক্ত আইনের Section 9 এর-

(ক) Sub section 2 (a) এর- “zone” শব্দ ও চিহ্নটি এবং “economic” শব্দটির মধ্যবর্তী স্থানে “exclusive” শব্দটি সন্নিবেশিত হইবে এবং “conservation zone” শব্দদ্বয় বিলুপ্ত হইবে;

(খ) Sub section (3) এর-

“Imprisonment” শব্দটির পর “which may extend to one year” এবং “fine” শব্দটির পর “which may extend to five thousand takas” শব্দগুলি এবং প্রাপ্তস্থিত ফুলস্টপ চিহ্নটি বিলুপ্ত হইবে; এবং শেষে “or both” শব্দগুলি সন্নিবেশিত হইবে।

স্বাক্ষরিত

১০/০৪/২০১৪

প্রফেসর ড. এম. শাহ আলম
সদস্য

স্বাক্ষরিত

১০/০৪/২০১৪

বিচারপতি এ.টি.এম. ফজলে কবির
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১০/০৪/২০১৪

বিচারপতি এ.বি.এম. খায়রুল হক
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