

## Legal flashes regarding environment and marine environment

*Marine environment has been gaining an increased attention from the environmental specialists and experts from all over the world. Pollution of seas and oceans leads to destructive impact on marine environment, marine life and human health, therefore every state pays serious attention to environment and marine environment. Great effort is exerted to preserve a suitable environment for humans and marine life. Many regional and international agreements, conventions and treaties regarding environment and marine environment have been signed. This chapter of the report sheds light on a number of Palestinian and international environmental agreements and conventions regarding environment and marine environment.*

### *First: some definitions*

The first Chapter of **The Palestinian Environmental law No.7, of 1999** included some definitions in its first article:

1. **Environment**: the vital surroundings with all forms of life, including air, water, land, the facilities and the reactions among them.
2. **Water**: Includes surface and underground water in all forms, fresh, saline or semi-saline.
3. **Environmental Pollution**: Any direct or indirect change in the characteristics of the environment, which may cause harm to any of its components or disrupts its natural balance.
4. **Water Pollution**: Any change in the characteristics or components of water, which may cause harm to the environment.
5. **Dumping**: discharge of variant pollutants generated by all types of facilities or transportation facilities in land and territorial or free economic zone.
6. **Ship**: Any marine unit, floating on or plunged in water, whether it is civil or military one.
7. **Marine Installations**: Any stationary or mobile facility built on or under water for commercial, industrial, touring, military or scientific purposes.
8. **Discharge**: Throwing, leaking, emitting, pumping, pouring, or discharging - in a direct or indirect manner - of any environmental pollutants in the air, land, inland or territorial waters.

### *Second: Some domestic Palestinian environmental laws*

§ **Article (33)** from the Palestinian Basic law states: "The enjoyment of a balanced and clean environment is a human right. The preservation and protection of the Palestinian environment from pollution for the sake of present and future generations is a national duty"

§ **Article (2)** of the Palestinian environmental laws No.7, year 1999

1. Protection of the environment against all forms and types of pollution;
2. Protection of Public health and welfare;

3. Insertion of the bases of environmental protection in social and economic development plans; and encouragement of sustainable development of vital resources in a manner that preserves the rights of future generations;
4. Protection of bio-diversity and environmentally sensitive areas, as well as improvement of environmentally harmed areas;
5. Encouragement of collection and publication of environment-related information to raise public awareness of environmental problems.

§ *Article (5)* This law shall guarantee:

- (a) The right to every individual to live in a sound and clean environment and enjoy the best possible of health care and welfare.
- (b) Protection of the country's natural wealth and economic resources, the preservation of its historical and cultural heritage without any harms or side effects that are likely to occur sooner or later as a result of the variant industrial, agricultural or constructional activities, with an impact on the quality of life and basic ecosystems such as air, water, soil; marine resources, animals and plants.

§ *Article (29)* The Ministry, in coordination with the specialized agencies, shall set standards and norms for collecting, treating, reusing, or disposing waste and rain water in a sound manner, along with the preservation of the environment and public health.

§ *Article (30)* No person shall be allowed to discharge any solid or liquid or other substance unless such a process conforms to the conditions and standards that the specialized agencies determine.

§ **Chapter 4 Marine Environment of the [Palestinian Environmental law No.7, of 1999](#)**

- *Article (31)* The Ministry, in coordination with specialized agencies, shall set standards for the quality of sea water specifying the norms, instructions and conditions necessary to control sea pollutants.

- *Article (32)* it shall be forbidden, for every one, to perform any action, which may cause pollution of sea water in a manner that contradicts with the standards, instructions or conditions prescribed for the purposes of marine environment protection against pollution.

- *Article (33)* The Ministry, in coordination with the specialized agencies, shall specify the necessary environmental conditions required for the establishment of any buildings or facilities on the sea shore or within the sea water.

- *Article (34)* It shall be forbidden to perform any action, which may affect the natural track of the shore, or adjust it inside or far from the sea unless an environmental approval is obtained from the Ministry

- *Article (35)* The Ministry shall prescribe rules and regulations for the prevention of pollution, preservation and control of the marine environment, against what is generated by the different activities that occur in the free economic zone; or the

continental drift or the activities occur in the sea bottoms which are subject to the jurisdiction of Palestine.

- *Article (36)* The Ministry, in cooperation with specialized agencies, shall set the rules and regulations for prevention of marine environment pollution that comes as a result of dumping.
- *Article (37)* The Ministry, in cooperation with specialized agencies, shall set the rules and regulations to prevent reduce or control marine environment pollution generated by ships in the Palestinian ports and territorial water.
- *Article (38)* all entities including ships, regardless of their nationalities, shall be forbidden to throw or discharge oil or oil compounds or any other pollutants in the territorial water or the free economic zone of Palestine.
- *Article (39)* all national and international companies and agencies authorized to undertake digging or exploration activities, or to produce or manufacture crude oil, or to extract or exploit oil fields and other marine natural sources, shall abide to the environmental conditions.

### ***Third: Some International Laws and Conventions***

- § International Convention relating to intervention on the high seas in cases of oil pollution casualties (Brussels, 1969).
- § London Convention for Control of marine pollution by cargos of hydrocarbons. 1954; (amended 1963, 1969).
- § Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil (London, 1973)
- § Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, London, Moscow, Washington, 1971.
- § Convention for the prevention of marine pollution by dumping from ships and aircrafts, Oslo 1972, and amendment
- § Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter Done: Washington, London, Mexico City and Moscow, 1972.
- § Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972
- § Barcelona convention for the Protection of the Mediterranean Sea against Pollution 1976

### **Geneva Convention, 1958 on the Territorial Sea and the Contiguous Zone**

#### ***1. Article (1)***

1. The sovereignty of a State extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.
2. This sovereignty is exercised subject to the provisions of these articles and to other rules of International law.

3. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

- § Geneva Convention, *Article 24*, chapter 2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.
- § *Article (33)* of the New Geneva convention, 1985 allowed the area adjacent to the territorial sea water to reach 12 miles starting the exterior boundaries of the territorial sea; it also stated that “the adjacent area can not exceed 24 miles from the base lines from which the width of the territorial sea is measured.
- § The net economical territory was defined in Geneva Convention *articles (55) and (75)* as 200 miles from the base line.
- § *Article (2)* of the Geneva Convention stated that " the water adjacent to the dry land at the line base of the territorial waters is considered a part of the internal water of the state, except in the situations detailed in part (4). If the base line from which the territorial waters measurement starts, the waters located behind those lines across from the dry territory of the state are considered internal waters and not a part of the territorial sea".
- § The third paragraph of Article (194) of Geneva **convention** referred that the measures taken according to Part (12) must include all sources of Marine Pollution. It specifically focused on urgency of reducing:
  1. The discharge of toxic, harmful or hazardous material from sources on land, in the air, of by air or by dumping.
  2. Pollution caused by installation or devices used to discover or use the natural resources at the bottom of sea.
  3. Pollution caused by other installations of machinery operating in the sea.

### ***The United Nations Sea Law from Geneva Convention, 1958***

- § Article (56) of the states' coastal rights agreement:
  1. Sovereignty rights for the purposes of exploring and benefiting from the natural resources alive or dead, that rise from the sea floor and underneath it, to preserve and manage those resources, and in relation to other exploration and economical use of the territory like energy production from waters, currents and wind.
  2. Building and using artificial islands, structures and installations.
  3. Scientific research.
  4. Preserving and protecting marine environment.
  5. The rights and duties included in this agreement:
- § *Article (3)* of the agreement stated that "every state has the right to define its territorial sea within a distance of 12 miles from the base lines estimated according to this agreement.