

# **SAHARAWI ARAB DEMOCRATIC REPUBLIC NATURAL RESOURCES SOVEREIGNTY ACT**

**Law No1/2019, adopted on 6 July 2019  
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An Act to better ensure sovereign rights and protection of the natural resources of the Saharawi Arab Democratic Republic

## **PREAMBLE**

WHEREAS Article 14 of the Constitution of the Saharawi Arab Democratic Republic prescribes that the state and the government of the Republic exercise sovereignty over the nation's land territory, territorial sea and airspace.

WHEREAS Article 17 of the Saharawi Arab Democratic Republic Constitution affirms the public goods of the Republic are the property of the people, including mineral riches, energy resources, the riches of the seabed and territorial waters, and other goods of the Republic defined by law.

WHEREAS the Saharawi Arab Democratic Republic affirms the importance of the rule of law, nationally and internationally, including the obligation of the government of the Republic and every Saharawi citizen to support and advance the rule of law.

RECALLING the peremptory norm of international law which vests in the Saharawi people permanent sovereignty over the natural resources of the whole territory of the Saharawi Arab Democratic Republic.

NOTING the government of the Saharawi Arab Democratic Republic reaffirms sovereign rights, jurisdiction and responsibilities over the natural resources in the territory of the Republic, such territory including the maritime areas of the Atlantic Ocean defined under Law No. 3 of 21 January 2009, the Law Establishing the Maritime Zones of the Saharawi Arab Democratic Republic and detailed in a letter of the Saharawi presidency to the United Nations Secretary-General on 5 March 2016.

EMPHASIZING the lawful conduct of mineralogical and geophysical exploration, and mining development throughout the territory of the Republic, contemplated by Law No. 2 of 26 May 2014, the Saharawi Arab Democratic Republic Mining Code.

HAVING REGARD for the continuing occupation of a part of the territory of the Saharawi Republic and the unauthorized taking of natural resources from such territory by foreign states, persons and corporations contrary to international law, international humanitarian law and national law.

THEREFORE, the government of the Saharawi Arab Democratic Republic enacts as follows:

## **SHORT TITLE**

1. This Act may be cited as the Saharawi Arab Democratic Republic Natural Resources Sovereignty Act.

## **INTERPRETATION**

### Definitions

2. In this Act,

“international criminal law”. “international criminal law” is that source of law defined in the *Rome Statute* 1998 of the International Criminal Court, the *Fourth Geneva Convention* of 1949 and the Hague Regulations of 1907.

“Minister”. “Minister” means the Minister of the government of the Saharawi Arab Democratic Republic responsible for justice and law matters.

“national laws”. “national laws” includes the Saharawi Arab Democratic Republic Constitution, Acts of the Republic and such other regulations and decrees as may be legislated from time to time by the government of the Republic.

“natural resources”. “natural resources” includes fauna and flora, including fisheries resources in fresh water, internal, coastal and exclusive economic zone areas; forests; minerals; sand and soil; and petroleum and energy reserves, but does not include livestock and pastured animals under private ownership, fauna and flora originating from private land holdings and such other resources and goods designated by regulation as outside the scope of this Act. For greater certainty, mineral, petroleum and fisheries natural resources include manufactured and altered variants derived from such resources, including refined and smelted minerals, petroleum in all its forms, and processed fisheries products.

## **BINDING ON GOVERNMENT**

3. This Act is binding on the government of the Saharawi Arab Democratic Republic including its agencies, boards, government corporations, elected and appointed officials, officers and employees.

## **PART I - SOVEREIGNTY TO NATURAL RESOURCES**

4. The natural resources of the Saharawi Arab Democratic Republic are the property of the state, vested as such in trust for the Saharawi people, wherever and in whatever form such

resources may be found including outside the territory of the Republic until such time as they are disposed of according to national laws.

## **PART II - AREA OF APPLICATION**

5. The natural resources of the Saharawi Republic include those natural resources found in the land territory of the Republic within the boundaries existing at the date of the proclamation of the Republic on 27 February 1976, such boundaries being recognized by the organized international community under treaties dating from 1900, 1904 and 1912.

6. The natural resources of the Saharawi Republic also include those resources in the maritime territory defined by Law No. 3 of 21 January 2009, the Law Establishing the Maritime Zones of the Saharawi Arab Republic including the fisheries, mineral and petroleum resources of the state's internal waters, territorial sea, continental shelf, exclusive economic zone and extended continental shelf.

7. This Act has continuing application in respect of natural resources removed without lawful authority from the territory of the Saharawi Republic except where such removal, for export or otherwise, has been authorized by the government of the Republic, including by authority delegated under regulations to this Act or according to national laws. For greater certainty, resources removed without authorization from the territory of the Saharawi Republic remain the property and subject to sovereign rights of the Saharawi Republic wherever situated.

## **PART III - PRESERVATION OF NATURAL RESOURCES**

8. The natural resources of the Saharawi Republic may not be developed, processed, converted, removed or exported from the territory of the Saharawi state without the express authorization of the government of the Republic, which authorization may from time to time be delegated to agents, corporations and persons acting on behalf of the government.

9. Nothing in this enactment shall be construed to prohibit or enjoin the *in situ* exploration for and assessment of natural resources in the Saharawi Republic, providing such activity is duly authorized by the government of the Republic and is not otherwise contrary to law.

## **PART IV – PENALTIES & COMPENSATION**

10. The unauthorized removal of natural resources from the Saharawi Republic or assistance, aiding and abetting in such removal, is punishable by imprisonment for a period not exceeding 10 years, by a fine prescribed under the regulations, by forfeiture of such natural resources or by any combination of the foregoing.

11. The unauthorized removal of natural resources from the Saharawi Republic and any aiding or abetting in their removal, is actionable by the government of the Republic and by any Saharawi citizen acting in the name of the Republic, including proceedings for criminal and civil

compensation to enjoin the removal, modification, movement and trade of any such resource, and for tracing and recovery of monies realized from the unauthorized removal and trade of natural resources.

12. The government of the Saharawi Republic, on the advice of the Minister of Justice and after consultation with a Saharawi citizen who has initiated proceedings in their name under this Act, may assume the conduct of and direct such proceedings, including the giving of directions for their more efficient prosecution and their termination.

## **PART V - MISCELLANEOUS**

13. The government of the Saharawi Republic may, on the recommendation of the Minister of Justice, make regulations for the better application, interpretation and enforcement of this Act, including for evidence establishing the right and title of the Saharawi Republic to natural resources.

14. The government of the Saharawi Arab Democratic Republic may, by certificate authorized by any minister of the government and any executive manager of the state Petroleum & Mining Authority or other designated competent authority, confirm approval of any single export shipment of natural resources, and also the prohibition, restraint or directed recovery of any such shipment having been exported contrary to this Act.

15. This Act shall be interpreted and applied with regard to the Saharawi Arab Democratic Republic Constitution, the international law applicable to the permanent sovereignty of the Saharawi people over their natural resources, and international humanitarian law governing the development and removal of natural resources from the territory of the Republic while under occupation by a foreign power.

16. This Act shall have retrospective application to 27 February 1976 for natural resources removed from the Saharawi Arab Democratic Republic, except that no penalty of imprisonment shall result from any removal done prior to the coming into force of this Act except as permitted by international criminal law.

This Act shall enter into force from the date of its enactment by the government of the Saharawi Arab Democratic Republic.

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