

Archipelagic Waters and Exclusive Economic Zone Act, 1986, Act No. 24 of 11 November 1986

An Act to declare the Republic of Trinidad and Tobago an archipelagic State, and to define the new areas of marine space appertaining to Trinidad and Tobago in the exclusive economic zone, and in the archipelagic waters, and the nature and extent of the jurisdiction to be exercised by it in each of these areas and to make provision for matters connected therewith in accordance with the United Nations Convention on the Law of the Sea, done in Montego Bay, Jamaica on 10th December, 1982.

[Assented to 11th November, 1986]

Enactment

Enacted by the Parliament of Trinidad and Tobago as follows:

Short title

1. This Act may be cited as the Archipelagic Waters and Exclusive Economic Zone Act, 1986.

**PART I
PRELIMINARY**

Interpretation

2. In this Act:

"allowable catch" means the amount of living resources determined by the Minister to whom responsibility for fisheries is assigned in accordance with relevant environmental and economic factors;

"archipelagic State" means the political entity of Trinidad and Tobago comprising that group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that they form an intrinsic geographical and economic entity;

"archipelagic waters" means the waters enclosed by the archipelagic baselines as drawn in accordance with section 6;

"conservation and management" includes all methods and measures which are:

(a) Required to rebuild, restore or maintain, or which are useful in rebuilding, restoring or maintaining any living resource or the marine environment; and

(b) Designed to ensure that:

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources or the marine environment are avoided;
and

(iii) there will be a multiplicity of options available with respect to the use of such resources;

"contiguous zone" means that area contiguous to the territorial sea which does not extend beyond 24 nautical miles from the archipelagic baselines from which the breadth of the territorial sea is measured;

"continental shelf" shall have the meaning assigned to it in the Continental Shelf Act;

"Convention" means the United Nations Convention on the Law of the Sea, done at Montego Bay, Jamaica, on 10th December, 1982;

"fish" includes oysters, crabs, shrimps, turtles, turtle eggs, coral and any species of other marine fauna;

"fishery" means any one or more stocks of fish, which can be treated as a unit for the purpose of conservation and management, and which are identified on the basis of geographical, scientific, technical, recreational and economical characteristics, and includes any fishing for any such stocks;

"fishing craft" means a vessel, aircraft, hovercraft or other craft or whatever size and however propelled that is capable of being used for fishing and is operated for financial reward or other material gain, scientific research or processing, storage or carriage of fish and includes any vessel used in support of or ancillary to fishing operations, but does not include a vessel transporting fish or fish products as part of its general cargo;

"foreign fishing craft" means a fishing craft flying the flag of a foreign State or registered in a foreign State;

"foreign ship" means a vessel in which less than 51 per cent of the ownership is vested in nationals of Trinidad and Tobago;

"master" means any person having command of a ship;

"Minister" means the Minister to whom responsibility for the subject of External Affairs is assigned;

"nautical mile" means 1,852 metres;

"territorial sea" shall have the meaning assigned to it in the Territorial Sea Act.

PART II ARCHIPELAGIC STATE

Declaration of Trinidad and Tobago as an archipelagic State

3. The Republic of Trinidad and Tobago is declared an archipelagic State.

Archipelagic waters

4. The archipelagic waters of Trinidad and Tobago shall include any areas of the sea that are enclosed by the archipelagic baselines drawn in accordance with section 6.

Legal status of archipelagic waters, airspace, bed and subsoil

5. The sovereignty of Trinidad and Tobago as an archipelagic State extends to:
- (a) The archipelagic waters regardless of their depth or distance from the coast; and
 - (b) The airspace over the archipelagic waters as well as their bed and subsoil and the resources both living and non-living contained therein.

Archipelagic baselines

6. (1) The archipelagic baselines of Trinidad and Tobago shall consist of straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago.
- (2) The baselines drawn in accordance with this section shall be shown on charts of a scale or scales adequate for ascertaining their position, or alternatively lists of geographical co-ordinates of points specifying the geodetic datum may be substituted.
- (3) The Minister shall give due publicity to such charts or lists of geographical co-ordinates by Notice in the Gazette, and shall cause a copy of each such chart or lists of geographical co-ordinates to be deposited with the Secretary-General of the United Nations.

Measurement of territorial sea, contiguous zone, exclusive economic zone and continental shelf

7. The breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall be measured from archipelagic baselines drawn in accordance with section 6.

Internal waters

8. Trinidad and Tobago may draw closing lines within its archipelagic waters for the delimitation of the internal waters as defined in the Territorial Sea Act.

Existing agreements

9. (1) Without prejudice to section 5, Trinidad and Tobago shall respect existing agreements and other treaties with other States affecting areas falling within the archipelagic waters.
- (2) The extent and the areas to which the existing agreements apply shall, at the request of any of the States concerned, be regulated by bilateral agreements between them.

Submarine cables

10. Trinidad and Tobago shall respect existing submarine cables laid by other States and passing through its waters without entering upon its territory and shall permit the maintenance and replacement of such cables upon receiving due notice of their location and the intention to repair or replace them.

Right of innocent passage

11. (1) Without prejudice to section 8 ships of all States enjoy the right of innocent passage in the archipelagic waters of Trinidad and Tobago.

(2) For the purpose of this section passage means navigation through the archipelagic waters of Trinidad and Tobago for the purpose of:

(a) Crossing those waters without entering the internal waters or calling at a roadstead or port facility outside internal waters; or

(b) Proceeding to or from internal waters or a call at such roadstead or port facility.

(3) Such passage shall be continuous and expeditious and includes stopping and anchoring but only in so far as they 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 aircrafts in danger or distress.

Meaning of innocent passage

12. (1) Passage is innocent so long as it is not prejudicial to the peace, good order or security of Trinidad and Tobago and is in conformity with the provisions of the Convention and such other relevant rules of international law.

(2) The passage of a foreign ship shall be considered prejudicial to the peace, good order or security of Trinidad and Tobago where it engages in the archipelagic waters, in the following activities:

(a) Any threat or use of force against the sovereignty, territorial integrity or political independence of Trinidad and Tobago or any violation of the principles of international law embodied in the Charter of the United Nations;

(b) Any exercise or practice with weapons of any kind;

(c) Any act aimed at collecting information to the prejudice of the defence or security of Trinidad and Tobago;

(d) Any act of propaganda aimed at affecting the defence or security of Trinidad and Tobago;

(e) The launching, landing or taking on board of any aircraft;

(f) The launching, landing or taking on board of any military device;

(g) The loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of Trinidad and Tobago;

(h) Any act of wilful and serious pollution contrary to the Convention;

(i) Any fishing activities without the consent of the Minister;

(j) The carrying out of research or survey activities without the consent of the Minister;

(k) Any act aimed at interfering with any systems of communication or any other facilities or installation of Trinidad and Tobago;

(l) Any other activity not having a direct bearing on passage.

Suspension of innocent passage

13. (1) The President may by Proclamation suspend, temporarily, in specified areas of the archipelagic waters,

the innocent passage of foreign ships, where such suspension is essential for the protection of its security.

- (2) Such suspension shall take effect only after due publication.
- (3) Failure to comply with a proclamation made under this section is an offence.

PART III

EXCLUSIVE ECONOMIC ZONE

Establishment of exclusive economic zone

14. The exclusive economic zone of Trinidad and Tobago (hereinafter referred to as "the exclusive economic zone") comprises all areas of sea, having as their innermost limits the outermost limits of the territorial sea, and as their outermost limits a line drawn seaward from the baseline from which the territorial sea is measured every point of which is at a distance of 200/nautical miles from the nearest point of the baselines from which the breadth of the territorial sea is measured.

Delimitation of exclusive economic zone between States with opposite or adjacent coasts

15. Where the distance between Trinidad and Tobago and opposite or adjacent States is less than 400 nautical miles, the boundary of the exclusive economic zone shall be determined by agreement between Trinidad and Tobago and the States concerned on the basis of international law in order to achieve an equitable solution.

Minister may reduce outer limits of exclusive economic zone

16. The Minister may by Order, and for the purpose of implementing an international agreement or the award of an international body declare that the outer limits of the exclusive economic zone extend to such line, any point of which may be at a distance of less than 200 nautical miles from the nearest point of the archipelagic baseline, as specified in such Order.

Outer limits of exclusive economic zone to be shown on charts

17. The Minister:

- (a) Shall cause the outer limits of the exclusive economic zone and any lines of delimitation drawn to be shown on charts of a scale or scales adequate for determining them; or
- (b) May substitute therefore lists of geographical co-ordinates of points specifying the geodetic datum;
- (c) Give due publicity to such charts or lists of geographical co-ordinates by Notice in the Gazette, and
- (d) Shall cause a copy of each such chart or lists of geographical co-ordinates to be deposited with the Secretary-General of the United Nations.

Vested rights of Trinidad and Tobago over sea-bed and submarine areas

18. The establishment of the exclusive economic zone shall not affect the vested rights of Trinidad and Tobago over the sea-bed and submarine areas of the territorial sea and continental shelf as set out in the Territorial Sea Act

and the Continental Shelf Act.

**Sovereign rights and jurisdiction of Trinidad and Tobago
in exclusive economic zone**

19. Trinidad and Tobago in the exclusive economic zone has:

(a) Sovereign rights over:

(i) the exploration and exploitation, conservation and management of the living and non-living natural resources of the waters superjacent to the sea-bed and of the sea-bed and its subsoil;

(ii) the production of energy from the water, currents and winds; and

(b) Jurisdiction over:

(i) the establishment and use of artificial islands, installations and structures;

(ii) marine scientific research; and

(iii) the protection and preservation of the marine environment.

Other States in the exclusive economic zone

20. Subject to any other law in force every State enjoys in the economic zone, the freedom of:

(a) Navigation;

(b) Overflight;

(c) Laying of submarine cables and pipelines on the continental shelf subject to the jurisdiction of Trinidad and Tobago over such cables and pipelines and the right of Trinidad and Tobago to establish conditions for their laying.

Conservation and management of living resources

21. The Minister to whom responsibility for fisheries is assigned shall ensure, through proper conservation and management, that the living resources in the exclusive economic zone are not endangered by overexploitation, and may from time to time by Notice in the Gazette:

(a) Determine the allowable catch in respect of every fishery within the exclusive economic zone;

(b) Determine the proportion of the allowable catch to be harvested by citizens of Trinidad and Tobago in the exclusive economic zone;

(c) Prescribe on the basis of agreements or other arrangements for the remaining proportion of the allowable catch which other States or the nationals of such States are permitted to harvest in the exclusive economic zone.

Certain activities of a State, etc., prohibited without consent

22. No State, international organization, nor person, shall without the consent in writing of the President signified by Notice engage within the exclusive economic zone in any of the following activities:

(a) The exploration and exploitation, conservation and management of living and non-living natural

resources;

- (b) The production of energy from water, currents and winds;
- (c) The establishment and use of artificial islands, installations and structures;
- (d) Marine scientific research;
- (e) The protection and preservation of the marine environment; and
- (f) Any other such activity.

**Right of citizen or body corporate to fish
in exclusive economic zone**

23. The provisions of section 22 in relation to the activity of fishing, shall not apply to the right of a citizen of Trinidad and Tobago or a body incorporated in Trinidad and Tobago in which at least 51 per cent of the shares are owned by citizens of Trinidad and Tobago.

**President may withhold consent to marine
scientific research project of a State**

24. The President may withhold his consent to the conduct of a marine scientific research project of another State or international organization in the exclusive economic zone where the project proposal:

- (a) Is of direct significance for the exploration and exploitation of living and non-living natural resources;
- (b) Involves drilling into the continental shelf, the use of explosives or the introduction of harmful substances into the marine environment;
- (c) Involves the construction, operation or use of artificial islands, installations and structures;
- (d) Contains information regarding the nature and objectives of the project which is inaccurate;
- (e) Is made by a researching State or competent international organization which has outstanding obligations to Trinidad and Tobago from a prior research project;
- (f) Will result in activities that unjustifiably interfere with activities undertaken by Trinidad and Tobago in accordance with its sovereign rights and jurisdiction.

**Trinidad and Tobago to authorize fishing
by agreement or treaty**

25. Trinidad and Tobago may by agreement or treaty, authorize any State, international organization or person to fish within the exclusive economic zone, the territorial sea and the archipelagic waters.

**Licences for foreign fishing craft and crew to fish in exclusive
economic zone, territorial sea, and archipelagic waters**

26. (1) No foreign fishing craft nor the master and members of the crew of a foreign fishing craft may engage in fishing in the exclusive economic zone, the territorial sea and the archipelagic waters without a licence issued by the Minister to whom responsibility for fisheries is assigned.

(2) The Minister to whom responsibility for fisheries is assigned may, on payment of the prescribed fees, issue licences in respect of:

- (a) A foreign fishing craft; and
- (b) The master and members of the crew of a foreign fishing craft.

(3) A licence issued in respect of a foreign fishing craft shall state the craft's specifications and operating conditions.

(4) A licence issued in respect of the master and members of the crew of a foreign fishing craft shall state their:

- (a) Names and addresses;
- (b) Ages;
- (c) Fisherman registration numbers;
- (d) Identification numbers; and
- (f) Experience in fishing activities.

Foreign fishing craft not to exceed prescribed allowable catch

27. The Minister to whom responsibility for fisheries is assigned shall ensure that:

(a) The total catch of all foreign fishing craft does not exceed the total allowable catch prescribed for all such craft; and

(b) The total catch by all foreign fishing craft of any one State does not exceed the apportionment prescribed for that State.

Surveillance in the exclusive economic zone, the territorial sea and the archipelagic waters

28. (1) The persons referred to in subsection (2) are empowered in the exercise of their official functions to:

- (a) Stop and board, inspect, seize and detain a foreign fishing craft,
- (b) Seize any fish and equipment found on board the foreign fishing craft, and
- (c) Arrest the master and crew of any foreign fishing craft,

in the exclusive economic zone, the territorial sea and the archipelagic waters, and may also institute such criminal proceedings against them, as may be necessary to ensure compliance with the Act and the Regulations.

(2) The persons to whom subsection (1) applies are:

- (a) Members of the Trinidad and Tobago Coast Guard;
- (b) Members of the Police Service;

- (c) Fisheries Officers of the Ministry responsible for fisheries;
- (d) Customs Officers;
- (e) The Harbour Master; and
- (f) Any other person authorized in writing by the Minister.

Exemption

29. (1) The provisions of section 26 shall not apply to a foreign fishing craft or to the master and members of the crew of such craft:

- (a) In which at least 51 per cent of the ownership thereof is vested in citizens of Trinidad and Tobago; or
- (b) Owned by a company incorporated in Trinidad and Tobago in which at least 51 per cent of the shares is vested in citizens of Trinidad and Tobago.

(2) The Minister to whom responsibility for fisheries is assigned may issue a Certificate of Exemption to every such foreign fishing craft referred to in subsection (1).

(3) The Certificate of Exemption shall be carried out on board the foreign fishing craft, and shall be tendered for inspection at the request of any one or all of the persons referred to in section 28.

Offences

30. (1) Any foreign fishing craft and the master and members of the crew of a foreign fishing craft who, in breach of section 26:

- (a) Fish in the exclusive economic zone, the territorial sea or the archipelagic waters without a licence;
- (b) Fail to comply with the terms of a licence; or
- (c) Obstruct a person empowered to undertake surveillance in the exclusive economic zone, the territorial sea or the archipelagic waters in the performance of his duties,

is guilty of an offence and liable on summary conviction in the case of an offence in the exclusive economic zone to a fine of fifty thousand dollars and in the case of an offence in the territorial sea and the archipelagic waters to a fine of ten thousand dollars and imprisonment for six months and in addition in all cases to suspension or cancellation of the licence, forfeiture of the craft, equipment and all the fish found on board.

(2) Any foreign ship and the master and members of its crew that pass through the archipelagic waters of Trinidad and Tobago contrary to section 11 or 13 is guilty of an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for six months.

(3) Any offence, under the provisions of this Act or Regulations which is committed within the exclusive economic zone shall be deemed to have been committed in Trinidad and Tobago.

Release of arrested crafts and their crews

31. A foreign fishing craft which is seized and detained and the master and crew of which are arrested under section 28 shall be promptly released upon the posting of the prescribed bond in the sum of one hundred thousand

dollars or other surety.

Regulations

32. The President may make Regulations for implementing the provisions of this Act for anything that is required or authorized to be prescribed by or under this Act and in particular for the:

(a) Protection and preservation of the marine environment, and the prevention, reduction and control of pollution of that environment arising from:

(i) land-based sources including rivers, estuaries, pipelines and outfall structures;

(ii) sea-bed activities under the jurisdiction of Trinidad and Tobago and artificial islands, installations and structures under its jurisdiction;

(iii) dumping;

(iv) vessels; and

(v) the atmosphere;

(b) Marine scientific research within the exclusive economic zone;

(c) Construction operation and use of:

(i) artificial islands;

(ii) installations and structures for economic purposes;

(iii) installations and structures which may interfere with the exercise of the rights of Trinidad and Tobago,

within the exclusive economic zone;

(d) Exploration and exploitation of the exclusive economic zone for the production of energy from waters, currents and winds;

(e) Administration of the Act;

(f) Licensing of the master and members of the crew of a foreign fishing craft, fishing craft and equipment;

(g) Payment of licence fees;

(h) Determination of the species of fish which may be caught;

(i) Fixing of quotas of catch of fish, whether in relation to particular stocks or groups of stocks or catch per craft over a period of time or to the catch by foreign States or the citizens of such States during a specified period;

(j) Regulating seasons and areas of fishing;

(k) The types, sizes and amount of gear and the types, sizes and number of fishing crafts that may be used for fishing;

(l) Fixing of the age and size of fish and other species that may be caught;

(m) The specifying of information required of fishing craft, including catch, and effort statistics and craft position reports;

(n) Conduct and regulation under the authorization and control of the Government of specified fisheries research programmes including the sampling of catches, dispositions of samples and reporting of associated scientific data;

(o) The placing of observers or trainees, by the Government, on board crafts involved in fisheries research programmes;

(p) Landing of all or any part of the catch by such craft in the ports of Trinidad and Tobago;

(q) Terms and conditions relating to joint ventures or other mutually agreed arrangements;

(r) Requirements for the training of personnel and the transfer of technology and research methodology related to the conservation and management of the living and non-living marine resources;

(s) The designation of archipelagic sea-lanes passage.

Passed in the House of Representatives this 18th day of August, 1986.