

Fifth Session Second Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 24 of 1986

[L.S.]

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 inter-connecting 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 twenty-four 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 in 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 of 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 fifty-one 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 assigned;

“nautical mile” means 1852 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
Archipelagic
waters

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

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

Legal status
of archipelagic
waters, air
space bed
and subsoil

5. The sovereignty of Trinidad and Tobago as 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 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 section 6(1) 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 the charts or lists of geographical co-ordinates by Notice in the *Gazette*, and shall cause a copy of each such chart or list 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.

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.

Internal waters

Chap. 1:51

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.

Existing agreements

(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.

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.

Submarine cables

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.

Right of innocent passage

(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.

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.

Meaning of innocent passage

(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

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 two hundred nautical miles from the nearest point of the baselines from which the breadth of the territorial sea is measured.

Establishment of
exclusive economic
zone

15. Where the distance between Trinidad and Tobago and opposite or adjacent States is less than four hundred 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.

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

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 two hundred nautical miles from the nearest point of the archipelagic baseline, as specified in such Order.

Minister may
reduce outer
limits of
exclusive economic
zone

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 therefor 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.

Outer limits of
exclusive economic
zone to be shown
on charts

Vested rights of
Trinidad and
Tobago over
sea-bed and
submarine areas
continued
Chap. 1:51
Chap. 1:52

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 over-exploitation, 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.

22. No State, international organisation, 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—

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

- (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.

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 fifty-one per cent of the shares are owned by citizens of Trinidad and Tobago.

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

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

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

- (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 organisation 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 authorise fishing by agreement or treaty

25. Trinidad and Tobago may by agreement or treaty, authorise any State, international organisation 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 the 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
- (e) experience in fishing activities.

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.

Foreign fishing craft not to exceed prescribed allowable catch

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,

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

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 authorised in writing by the Minister.

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 fifty-one 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 fifty-one per cent of the shares is vested in citizens of Trinidad and Tobago.

Exemption

(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 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.

32. The President may make Regulations for implementing the provisions of this Act for anything that is required or authorised 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;

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- (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 authorisation and control of the Government of specified fisheries research programmes including the sampling of catches, disposition 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;

and conditions relating to joint ventures
mutually agreed arrangements;

arrangements for the training of personnel and
transfer of technology and research
technology related to the conservation and
management of the living and non-living
resources;

regulation of archipelagic sea lanes

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

R. L. GRIFFITH
Acting Clerk of the House

Passed in the Senate this 28th day of October, 1986.

M. CARRINGTON
Acting Clerk of the Senate