

Maritime Areas Act, 1982, Act No. 18 of 17 August 1982(1)

An Act to provide for the extension of the limits of the territorial sea of Antigua and Barbuda, to make provision with respect to the continental shelf of Antigua and Barbuda, to provide for the drawing of archipelagic baselines and the enclosing of archipelagic waters in relation to Antigua and Barbuda and to make provisions for contiguous, exclusive economic and fishing zones and for matters connected therewith or incidental thereto.

ENACTED by the Parliament of Antigua and Barbuda as follows:

Short title

1. This Act may be cited as the Maritime Areas Act 1982.

Interpretation

2. In this Act:

- "archipelagic waters" means the waters defined in section 2B;
- "baselines" means the baselines of the territorial sea specified in section 4;
- "Competent Authority" means the Minister or any person designated by him as the Competent Authority for the purposes of this Act;
- "exclusive economic zone" means the exclusive economic zone of Antigua and Barbuda as defined in section 7;
- "fishery zone" means the fishing zone of Antigua and Barbuda as defined in section 8;
- "foreign ship" means the ship of a foreign State;
- "foreign State" means a State other than Antigua and Barbuda;
- "innocent passage" means passage which is not deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda;
- "internal waters" means the internal waters of Antigua and Barbuda as defined in section 2A;
- "low-water line" means the low-water line of the coasts of Antigua and Barbuda at lowest astronomical tide;
- "Minister" means the Minister responsible for External Affairs;
- "nautical mile" means the International Nautical Mile of 1852 metres;
- "passage" means the navigation of a ship in archipelagic waters or territorial sea without stopping or hovering, but includes stopping, hovering and anchoring in so far as the same are rendered necessary by force majeure or by reason of distress or for the purpose of affording assistance to persons, ships or aircraft in danger or distress;
- "ship" includes vessel, boat, or sea-craft of any kind;
- "submarine areas" includes the seabed and subsoil thereof;
- "territorial sea" means the territorial sea of Antigua and Barbuda as defined in section 3.

Internal waters

- 2A. (1) The internal waters of Antigua and Barbuda comprise the areas of the sea that are on the landward side of:
- (a) the low-water line; or
 - (b) closing lines prescribed pursuant to subsection (2).

(2) The Minister may, whenever he considers it appropriate to do so having regard to international law and practice, by order prescribe closing lines for the purpose of defining any of the internal waters of Antigua and Barbuda.

Archipelagic waters

2B. The archipelagic waters of Antigua and Barbuda comprise the areas of the sea (other than internal waters) on the landward side of the baselines.

Limits of territorial sea

3. (1) Subject to subsection (2), the territorial sea of Antigua and Barbuda comprises those areas of the sea having, as their landward limit, the baseline and, as their seaward limit, a line measured seaward from the baselines, every point of which is twelve nautical miles distant from the nearest point of the baselines.

(2) Where the equidistance line between Antigua and Barbuda and a foreign State is less than 12 nautical miles from the nearest point of the baselines, the delimitation of the territorial sea shall, if practical be effected by agreement between Antigua and Barbuda and the foreign State; but to the extent that no such agreement is effected, the equidistance line shall constitute the seaward limit of the territorial sea.

(3) In this section, "equidistance line" as between Antigua and Barbuda and a foreign State, means a line every point of which is equidistant from the nearest point of the baselines and the corresponding baselines of the foreign State.

Baselines of the territorial sea

4. The baselines, for the purpose of measuring the breadth of the territorial sea, shall be straight archipelagic baselines drawn in relation to Antigua and Barbuda.

Contiguous zone

5. (1) Subject to subsection (2), the contiguous zone of Antigua and Barbuda comprises those areas of the sea that are beyond and adjacent to the territorial sea having, as their seaward limit, a line, measured seaward from the baselines, every point of which is twenty-four nautical miles distant from the nearest point of the baselines.

(2) The contiguous zone shall not extend into any part of the territorial sea of a foreign State and, where appropriate, subsection (1) shall operate as though it were modified to the extent necessary to meet the requirement of this subsection in any particular case.

(3) Antigua and Barbuda has and may exercise in respect of the contiguous zone such sovereign rights as Antigua and Barbuda deems necessary to prevent or punish the infringement within Antigua and Barbuda (including the archipelagic waters and the territorial sea), of any enactment providing controls or prohibitions for or with respect to customs fiscal, immigration or sanitation.

Continental shelf

6. (1) Subject to subsection (3), the continental shelf of Antigua and Barbuda comprises those areas of the seabed and subsoil of the submarine areas that are beyond and adjacent to the territorial sea throughout the natural prolongation of the land territory of Antigua and Barbuda to the outer edge of the continental margin, or to a distance of two hundred nautical miles from the nearest point of the baselines when the outer edge of the continental margin does not extend up to that distance.

(2) For the purposes of subsection (1), wherever the continental margin extends beyond two hundred nautical miles from the nearest point of the baselines, the outer limits of the continental shelf shall be established with all due regard to the requirements and limitations of international law relevant to the establishment and delineation of the continental shelf beyond that distance.

(3) For the purposes of this section, the continental margin comprises the submerged prolongation of the land mass of Antigua and Barbuda consisting of the seabed and subsoil of the shelf, the slope and the rise, but does not include the deep ocean floor with its oceanic ridge or the subsoil thereof.

Delimitation of continental shelf in certain cases

6A. (1) Wherever the equidistance line between Antigua and Barbuda and a foreign State is less than two hundred miles from the nearest point of the baselines, the delimitation of the continental shelf shall be effected by agreement between Antigua and Barbuda and the foreign State on the basis of international law in order to achieve an equitable settlement.

(2) In this section, "equidistance", as between Barbuda and Antigua and a foreign State, means a line every point of which is equidistant from the point of the baselines and the corresponding baselines of the foreign State.

Exclusive economic zone

7. The exclusive economic zone comprises those areas of the sea and of the submarine area that are beyond and adjacent to the territorial sea, having as their seaward limit a boundary line which at every point is a distance of two hundred nautical miles or such other lesser distance from the nearest point of the baselines as the Minister by order prescribes.

Fishery Zone

8. The fishery zone comprises those areas of the sea that are beyond and adjacent to the territorial sea, having as their seaward limit a boundary line which at every point is a distance of two hundred nautical miles or such other lesser distance from the nearest point of the baselines as the Minister by order prescribes.

Jurisdiction in internal and archipelagic waters and territorial sea

9. Antigua and Barbuda exercises sovereignty over:

- (a) The internal waters, archipelagic waters and territorial sea; and
- (b) The airspace over and the bed and subsoil of the internal waters, archipelagic waters and territorial sea.

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Jurisdiction in exclusive economic zone

10. In the exclusive economic zone Antigua and Barbuda shall, subject to international law, exercise:

- (a) sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living, of the exclusive economic zone as well as sovereign rights with regard to producing energy from tides, winds and currents in the exclusive economic zone;
- (b) jurisdiction with regard to:
 - (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; and
- (c) such other rights and duties for which provision is made by international law.

Jurisdiction in fishery zone

11. In the fishery zone Antigua and Barbuda shall exercise the sovereign right and exclusive authority to explore and exploit, conserve and manage the fishery resources of the fishery zone and the submarine areas thereof in accordance with international law.

Jurisdiction in respect of the continental shelf

11A. In respect of the continental shelf Antigua and Barbuda shall, subject to international law, exercise:

- (a) sovereign rights for the purpose of the exploration for, and the exploitation and management of, natural resources;
- (b) the exclusive rights to construct and to authorize and regulate the construction, operation and use of:
 - (i) artificial islands;
 - (ii) installations and structures for the purposes provided for under paragraph (a) or any other economic purposes;
 - (iii) installations and structures which may interfere with the exercise of Antigua and Barbuda rights in respect of the continental shelf; and
- (c) the exclusive right to regulate, authorize and conduct marine scientific research.

International activities in exclusive economic zone

12. Antigua and Barbuda recognizes the freedoms of navigation and overflight and of the laying of submarine cables and pipelines and other related activities on or within the continental shelf or the exclusive economic zone in accordance with the principles, practice and provisions of international law.

Negotiating maritime boundaries

13. Where the sea or waters of any foreign State are adjacent or opposite to the territorial sea, the continental shelf or the exclusive economic zone and there is any dispute, difference or disagreement between that foreign State and Government concerning any matter or thing relating to the seaward limits of the territorial sea, the continental shelf or the exclusive economic zone, it shall be lawful for Government to enter into negotiations with that foreign State with a view to resolving or otherwise settling such dispute, difference or disagreement.

Entitlement to right of innocent passage

14. (1) Subject to subsection (2) and section 15 (1A) and 15 (1B), a foreign ship shall be entitled to enjoy the right of innocent passage in Antigua and Barbuda.

(2) A foreign ship of war shall not navigate in archipelagic waters and territorial sea without prior permission of the Competent Authority obtained by the State to which the ship belongs.

Non-innocent passage

15. (1) Subject to subsection (2), the passage of a foreign ship shall be deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda if, without the prior permission of the Competent Authority obtained by the captain or person in charge of the ship, the ship while in archipelagic waters or territorial sea engages in any of the following activities:

- (a) Any threat or use of force against the sovereignty, territorial integrity or political independence of Antigua and Barbuda, or acts in any other manner in 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 Antigua and Barbuda;
- (d) The launching, landing or taking on board of any aircraft or military device;
- (e) The loading or unloading of any person, commodity or currency contrary to the customs, fiscal, immigration or sanitary laws;
- (f) Any wilful act of pollution calculated or likely to cause damage or harm to Antigua and Barbuda, its resources or its marine environment;
- (g) Any fishing activities;

- (h) The carrying out of research or survey activities;
- (i) Any act aimed at interfering with any systems of communication or any other facilities or installations of Antigua and Barbuda; or
- (j) Such other activity as may be prescribed.

(1A) In the archipelagic waters or the territorial sea, any submarine or other underwater vehicles is, for the purpose of exercising the right of innocent passage, required to navigate on the surface and to show its flag.

(1B) The Minister may, by Order published in the Gazette, suspend the right of innocent passage for such and in such of the archipelagic waters or the territorial sea as specified in the Order, when he is satisfied that it is essential to do so for the protection of the security of Antigua and Barbuda, including weapon exercises.

(2) The passage of a foreign ship in the archipelagic waters or the territorial sea shall be deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda if the ship navigates in the archipelagic waters or the territorial sea without the permission required by section 14 (2).

Transit passage

15A. (1) Every foreign ship or aircraft may, subject to and in accordance with this Act and international law, exercise in relation to a relevant strait the right of transit passage, that is to say, the right of freedom of navigation for the purpose of continuous and expeditious transit of the relevant strait.

(2) For the purposes of subsection (1), a foreign ship or aircraft that engages in a relevant strait in any activity of a kind referred to in section 15(1) shall be deemed to have engaged in an activity which is not an exercise of the right of transit passage.

(3) In exercising the right of transit passage of a relevant strait a foreign ship shall comply with:

- (a) generally accepted international regulations, procedures and practices for safety at sea, or for the prevention, reduction and control of pollution from ships, which have effect in the strait; and
- (b) the provisions of the regulations, and any enactment, order or direction, which have effect in the strait, for or with respect to:
 - (i) the safety of navigation and the regulation of marine traffic including the use of sea lanes and the operation of traffic separation schemes;
 - (ii) fishing vessels, and the prevention of fishing including the stowage of fishing gear; and
 - (iii) customs, excise, immigration or sanitation controls in relation to the loading or unloading of any commodity, currency or person.

(4) In exercising the right of transit passage of a relevant strait, an aircraft:

- (a) shall observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft, and a State aircraft shall normally comply with such safety measures and shall at all times operate with due regard for the safety of navigation; and
- (b) shall at all times monitor the radio frequency assigned by the appropriate internationally designated air traffic control authority or the appropriate international distress radio frequency.

(5) In this section, "relevant strait" means a strait between Antigua and Barbuda and a foreign State which is being used for international navigation between:

- (a) one part of the high seas or an exclusive economic zone; and
- (b) another part of the high seas or an exclusive economic zone.

Archipelagic sea lanes passage

15B. (1) Every foreign ship or aircraft may, subject to and in accordance with this Act and international law, exercise the right of archipelagic sea lanes passage, that is to say, the right of navigation and overflight in the normal mode through or over archipelagic waters for the purpose of continuous expeditious and unobstructed transit between:

- (a) one part of the high seas or an exclusive economic zone; and
- (b) another part of the high seas or an exclusive economic zone.

(2) Subject to subsection 4, the right of archipelagic sea lanes passage shall be exercised only through sea lanes or air routes designated pursuant to section 20C.

(3) In exercising the right of archipelagic sea lanes passage a foreign ship shall observe international regulations, procedures and practices of the kind referred to in section 15A(3)(a), and regulations, enactments, orders or directions of the kind referred to in section 15A(3)(b), which have effect in the archipelagic waters.

(4) If the Minister does not, pursuant to section 20C, designate sea lanes or air routes through or over archipelagic waters, the right of archipelagic sea lanes passage may be exercised through the routes normally used for international navigation.

Power of police and authorized persons

16. (1) Where a foreign ship engages in any of the activities specified in section 15 (1) or where a submarine or other underwater vehicle fails to comply with section 15 (1A) or where a member of the Police Force or person authorized by the Minister in writing suspects upon reasonable grounds that a foreign ship is engaged in any such activities, such member of the Police Force or authorized person may:

- (a) Stop and board the offending ship for the purpose of carrying out enquiries and investigations;
- (b) Without a warrant arrest the offending ship and bring it to a port in Antigua and Barbuda;
- (c) Without a warrant arrest the captain and any person on board the ship participating in the activity of the ship which is deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda.

(2) Where the passage of a foreign ship is deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda, the captain or other person in charge of such ship and any person participating in the activities of the ship which is deemed to be so prejudicial, is guilty of an offence under this Act.

(3) In the exercise under this section of the power of enforcement against a foreign ship a member of the Police Force or a person authorized by the Minister shall not endanger the safety of navigation or otherwise create a hazard to the ship or bring the ship to an unsafe port or anchorage, or expose the marine environment to an unreasonable risk.

Immunity

17. (1) Where the passage of a foreign ship is deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda and the ship or any person on board thereof who participates in the activity which is deemed to be prejudicial is entitled to State or other immunity recognized by law, the State of such ship and the State of nationality of such person shall be deemed to bear international responsibility for the activity of the ship.

(2) Where the flag State of a ship or the State of nationality of a person is deemed to bear international responsibility under this section, the Minister shall take all steps possible to obtain redress under international law.

Jurisdiction

18. (1) For the purpose of the exercise of the jurisdiction of the courts of Antigua and Barbuda, the territory of Antigua and Barbuda shall include the internal waters, the archipelagic waters and the territorial sea.

(2) Where any offence punishable on summary conviction is committed or suspected to have been committed within or in relation to the internal waters, the archipelagic waters or the territorial sea, the offence may be dealt with and determined by a

magistrate appointed to any magisterial District, and such magistrate shall have and exercise all the powers, privileges, rights and jurisdiction as are conferred on him by the Magistrate's Code of Procedure Act.

(3) The quasi-criminal and the civil jurisdiction conferred on a magistrate by the Magistrate's Code of Procedure Act shall in relation to the internal waters, archipelagic waters and the territorial sea be exercised by a magistrate appointed to any magisterial District.

(4) The jurisdiction conferred on any court under this Act shall be without prejudice to any jurisdiction conferred on or exercisable by such court apart from this Act.

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Charts of maritime areas, etc.

18A. The Minister shall cause to be prepared such charts or lists of geographical co-ordinates as he thinks fit, showing all or any of the following matters:

- (a) the low-water line, closing lines prescribed pursuant to section 2A(2), or the baselines;
- (b) the seaward limits of the territorial sea, the contiguous zone, the continental shelf or the exclusive economic zone;
- (c) the axis of sea lanes or traffic separation schemes designated or prescribed pursuant to section 20 (C).

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Evidence of charts, etc.

18B. A document, purporting to be certified by the Minister to be a true copy of a chart or list of geographical co-ordinates prepared pursuant to section 18A, shall be received in any proceedings as evidence of any matter referred to in that section and shown in the document.

Publicity of charts, etc.

18C. The Minister shall cause:

- (a) due publicity to be given to charts or lists of geographical co-ordinates prepared pursuant to section 18A; and
- (b) a copy of each such chart or list to be deposited with the Secretary-General of the United Nations.

Regulations

19. (1) The Minister may make regulations:

- (a) for the safety of navigation and the regulation of marine traffic;
- (b) for the conservation of the living resources of the sea;
- (c) for the preservation of the marine environment of Antigua and Barbuda of navigation and the prevention and control of pollution thereto;
- (d) generally, for regulating the use of the internal waters, the archipelagic waters and the territorial sea including prescribing the fees to be paid for any activity in relation thereto.
- (e) providing for the forfeiture to the Crown of any ship engaged, or any equipment used, in any of the activities specified in section 15; and
- (f) annexing to the contravention of any regulation made under this section or punishment on summary conviction of a fine of twenty thousand dollars or of imprisonment for a term of 2 years or both.

(2) Regulations made under this section shall be subject to affirmative resolution of the Legislature and shall be judicially noticed.

Offence

20. (1) A person who assaults or obstructs a person acting under the authority of this Act or the regulations is guilty of an offence under this Act.

(2) A person who is guilty of an offence under subsection (1) or section 16 (2) is liable:

- (a) On conviction or indictment to a fine of one hundred thousand dollars or imprisonment for a term of 5 years or both; or
- (b) On summary conviction to a fine of twenty thousand dollars or imprisonment for a term of 2 years or both.

(3) The court may in addition to any penalty which it may impose under this section for an offence under section 16 (2), order the forfeiture to the Crown of any ship engaged, or equipment used, in any activity which is the subject of the offence.

Arrest on board foreign ship in territorial sea, etc.

20A. (1) Subject to this section, where an offence is committed on board a foreign ship (being a merchant ship or a government ship operated for commercial purposes) during its passage through the territorial sea, a prescribed power may be exercised, in relation to the offence, on board the ship during that passage, only if:

- (a) The consequences of the offence extend to Antigua and Barbuda;
- (b) The offence is of a kind likely to disturb the peace of Antigua and Barbuda or the good order of the territorial sea;
- (c) The assistance of the Government or any public officer has been requested by the master of the foreign ship or by a diplomatic agent or consular officer [illegible];
- (d) It is necessary to exercise a prescribed power for the purpose of suppressing any illicit traffic in narcotic drugs or psychotropic substances.

(2) The limitations in subsection (1) shall not apply in any case where a foreign ship is passing through the territorial sea after leaving internal waters.

(3) Subject to this section where a foreign ship, proceeding from a port outside Antigua and Barbuda, is passing through the territorial sea without having entered internal waters, a prescribed power may be exercised in relation to any offence committed before the ship entered the territorial sea, on board the ship during that passage only if:

- (a) there are clear grounds for believing that the ship has, in the exclusive economic zone, committed a violation of:
 - (i) applicable international rules and standards for the prevention, reduction and control of pollution from ships; or
 - (ii) any provision of the regulations or any enactment conforming to and giving effect to any such rules and standards; and
- (b) there are clear grounds for believing that the violation has resulted in substantial discharge causing or threatening significant pollution of the marine environment; or
- (c) there is clear objective evidence that the violation has resulted in a discharge causing major damage or the threat of major damage to the coastline of Antigua and Barbuda, or to any resources of its territorial sea or exclusive economic zone.

(4) Nothing in this section shall affect the exercise of any power under section 16.

(5) The decision to exercise, and the exercise of, a prescribed power in circumstances of the kind referred to in sub-section (1) or (3) shall be made or, as the case maybe, corrected out, with due regard to the interest of navigation.

(6) The prescribed power referred to in subsection (8) (a) shall not be exercised in relation to a ship unless the ship has

refused, when lawfully required to do so to give information regarding its identity and part of registry, its last and next port of call and other relevant information required to be established whether a violation of the kind referred to in subsection (3) (a) has occurred.

(7) The prescribed power referred to in subsection (8) (b) shall not be exercised in relation to a ship where appropriate procedures, which bind Antigua and Barbuda, have been established, either through the competent international organization or as otherwise agreed, whereby compliance with requirements for landing or other appropriate financial security has been assured in relation to the ship.

(8) For the purpose of this section, "prescribed power" means the power lawfully to arrest any person or to conduct an investigation into any alleged offence, and

(a) for the purpose of subsection (3) (b), includes a power to undertake a physical inspection of a ship for matters relating to a violation of the kind referred to in subsection (3) (a); and

(b) for the purposes of subsection (3) (c), includes a power to detain a ship.

Civil jurisdiction in relation to foreign ships in territorial sea

20B. (1) No foreign ship passing through the territorial sea shall be stopped or diverted for the purposes only of the exercise of any civil jurisdiction in relation to a person on board a ship.

(2) Subject to subsection (3), no person shall arrest or levy execution against a foreign ship for passing through the territorial waters for the purpose of any civil proceedings, except where the proceedings are in respect of obligations or liabilities assumed or incurred in relation to the ship in the course or for the purpose of its voyage through the territorial sea.

(3) Subsection (2), in so far as it prohibits the arrest of, or levying of execution against, a foreign ship, shall not apply in the case of a foreign ship which is lying in or passing through the territorial sea after leaving internal waters.

Sea lanes, etc.

20C. The Minister may, by order:

(a) Designate sea lanes or air routes to be used for or in connection with the exercise of and right of innocent transit or archipelagic sea lanes passage under this Act; and

(b) Prescribe traffic separation schemes [illegible].

Binding of the Crown

21. This Act binds the Crown.

Application of laws

22. (1) Any reference in any enactment or law having effect as part of the law of Antigua and Barbuda prior to the commencement of this Act, to coastal waters, archipelagic waters and territorial sea waters of Antigua and Barbuda and Redonda or any analogous expression in whatever terms used, shall be construed as a reference to internal waters, archipelagic waters and territorial sea.

(2) Any reference in any enactment or law having effect as part of the law of Antigua and Barbuda prior to the commencement of this Act to a distance of three miles or a longer or shorter distance in relation to coastal waters, territorial waters, waters of Antigua and Barbuda and Redonda or any analogous expression in whatever terms used, shall be construed as a reference to a distance of twelve nautical miles or the equidistance line under section (3)(2).

Repeal and amendments, 41 & 42 Vict. c 73

23. (1) The Territorial Waters Jurisdiction Act, 1878 of the United Kingdom Parliament and any Act of the United Kingdom Parliament altering that Act, in so far as they form part of the law of Antigua and Barbuda, are repealed.

(2) The enactments specified in the first column of the Schedule are amended in the respects specified in the second column

thereof.

Commencement

24. This Act shall come into operation on such day as the Governor-General may by proclamation appoint.

(2)

Endnotes

1 (Note - Note)

Original: English

Reprinted 15 September 1986.

Text transmitted to the Office by the Permanent Mission of Antigua and Barbuda to the United Nations in a letter of 1 April 1987.

2 (Note - Note)

Illustrative map: United Nations Cartographic Unit, November 1988.