

United States Department of State
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Limits in the Seas

No. 128

The Bahamas:

Archipelagic and other Maritime Claims and Boundaries



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No. 128

THE BAHAMAS

ARCHIPELAGIC AND OTHER MARITIME CLAIMS AND BOUNDARIES

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**Office of Ocean and Polar Affairs
Bureau of Oceans and International Environmental and Scientific Affairs
U.S. Department of State**

This study is one of a series issued by the Office of Ocean and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs in the Department of State. The purpose of the series is to examine a coastal State's maritime claims and/or boundaries and assess their consistency with international law. This paper represents the views of the United States Government only on the specific matters discussed therein and does not necessarily reflect an acceptance of the of the limits claimed.

This study, and earlier studies in this series, may be downloaded from <http://www.state.gov/e/oes/ocns/opa/c16065.htm>. Comments and questions should be emailed to LimitsInTheSeas@state.gov. Principal analysts for this study are Brian Melchior and Kevin Baumert.

Introduction

This study analyzes the maritime claims and maritime boundaries of the Commonwealth of The Bahamas, including its archipelagic baseline claim. The Bahamas' Archipelagic Waters and Maritime Jurisdiction (Archipelagic Baselines) Order, 2008 (Annex 1 to this study) took effect on December 8, 2008, and established the coordinates for the archipelagic baselines of The Bahamas.¹ The archipelagic baselines are shown on Map 1 to this study. This Order was made in exercise of the powers conferred by section 3.2 of the Archipelagic Waters and Maritime Jurisdiction Act, 1993 (Act No. 37, Annex 2 to this study).² The 1993 Act also established a 12-nautical mile (nm) territorial sea and 200-nm exclusive economic zone (EEZ). The Bahamas ratified the 1982 United Nations Convention on the Law of the Sea (LOS Convention) on July 29, 1983 and consented to be bound by the 1994 Agreement Relating to the Implementation of Part XI of the Convention on July 28, 1995.³

Basis for Analysis

The LOS Convention contains certain provisions related to archipelagic States. Article 46 provides that an "archipelagic State" means "a State constituted wholly by one or more archipelagos and may include other islands." An "archipelago" is defined as "a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such."

Only an "archipelagic State" may draw archipelagic baselines. Article 47 sets out geographic criteria to which archipelagic States must adhere when establishing archipelagic baselines (Annex 3 to this study).

Under Article 47.1, an archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago, provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1. For the purpose of computing this ratio, "land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau" (Article 47.7).⁴ In addition, the length of any baseline segment shall not exceed 100 nm except

¹ Text of the Order is available from the UN Division for Ocean Affairs and the Law of the Sea (DOALOS), at: http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/bhs_mzn65_2008.pdf.

² Text of Act No. 37 is available from DOALOS, at:

http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/BHS_1993_37.pdf.

³ United Nations Convention on the Law of the Sea, Montego Bay, opened for signature Dec. 10, 1982, entered into force Nov. 10, 1994, 1833 UNTS 397, available from DOALOS, at:

http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm.

⁴ The quoted text of article 47.7 "was added in order to accommodate the concerns of such countries as The Bahamas." DOALOS, *The Law of the Sea: Archipelagic States – Legislative History of Part IV of the United Nations Convention on the Law of the Sea*, 1990, at 78. During the meeting of the Second Committee of the Third UN Conference on the Law of the Sea on August 12, 1974, concerning the agenda item on archipelagos, the representative of The Bahamas explained the need for such a provision: "The Bahama Banks ... presented a special

that up to 3 percent of the total number of baselines may have a length up to 125 nm (Article 47.2).

Additional provisions of Article 47 state that such baselines shall not depart to any appreciable extent from the general configuration of the archipelago; that such baselines shall not be drawn, with noted exceptions, using low-tide elevations; and that the system of such baselines shall not be applied in such a manner as to cut off from the high seas or exclusive economic zone (EEZ) the territorial sea of another State (Article 47.3 - 47.5).

The LOS Convention further reflects the specific rights and duties given to archipelagic States over their land and water territory. Article 53 allows the archipelagic State to “designate sea lanes . . . suitable for the continuous and expeditious passage of foreign ships . . . through . . . its archipelagic waters and the adjacent territorial sea.” Also, Article 53.12 provides that “[i]f an archipelagic State does not designate sea lanes . . . , the right of archipelagic sea lanes passage may be exercised through the routes normally used for international navigation.”

Analysis⁵

The Bahamas is an archipelagic State located in the North Atlantic Ocean to the southeast of the continental United States, to the north of Cuba, and to the northwest of Haiti and the Turks and Caicos Islands (U.K.). The Bahamas consists of nearly 700 islands, and many smaller features and underwater banks, some of which are used for drawing The Bahamas’ archipelagic baselines. The archipelagic baseline system of The Bahamas is composed of 95 baseline segments, ranging in length from 0.01 nm (segment 52-53) to 124.69 nm (segment 59-60), with a total length of 1,257 nm.

The archipelagic baseline system of The Bahamas meets the water-to-land area ratio set forth in Article 47.1:

Total Area = 250,102 square kilometers
 Water Area = 218,292 square kilometers
 Land Area = 31,810 square kilometers
 Water-to-land area ratio = 6.86 to 1

For the land area portion of the water-to-land area ratio, all islands and most of the underwater banks were considered as land.⁶ Great Bahama Bank was not included in the land portion of the

problem of delimitation since both the ratio of very shallow water to dry-land areas and the steepness of the slopes appeared to be unparalleled.” Official Records of the Third United Nations Conference on the Law of the Sea, Vol. II, at 265, para. 77, available at: <http://legal.un.org/diplomaticconferences/lawofthesea-1982/Vol2.html> (36th meeting). See also, II *United Nations Convention on the Law of the Sea, 1982: A Commentary* 399-405, 416-432, Martinus Nijhoff Publishers, 1993.

⁵ The analysis was conducted in ESRI ArcMap 10, using the Universal Transverse Mercator, Zone 18 North, projection and is based on the World Geodetic System 1984 (WGS84) datum.

⁶ Underwater bank features were extracted from 100 fathom (182.8 meter) depth contours on NOAA ENC US2EC01M.000, November 9, 2010, and US2EC02M.000, December 3, 2010.

ratio.⁷ Article 47.7 states that land area *may* include such waters. Thus, a State is permitted but not required to consider such waters as land area for the purpose of computing the water-to-land ratio in Article 47.1.

Consistent with Article 47.2 of the LOS Convention, two baseline segments (segments 59-60 and 60-61), which comprise 2.11 percent of the total number of segments, exceed 100 nm in length; none of the segments exceed 125 nm. Annex 4 to this study lists the lengths of each segment.

The configuration of the baselines does not appear to depart to any appreciable extent from the general configuration of the archipelago (Article 47.3). None of the baselines appear to be drawn using low tide elevations (Article 47.4). The baselines are not drawn in a way that would cut off from the high seas or EEZ the territorial sea of another State (Article 47.5).

Therefore, The Bahamas' archipelagic baseline system set forth in the Archipelagic Waters and Maritime Jurisdiction (Archipelagic Baselines) Order, 2008, appears to be consistent with Article 47 of the LOS Convention.

Territorial Sea, Exclusive Economic Zone, and Continental Shelf

By Act No. 37 of 1993, the archipelagic waters of The Bahamas comprise those waters enclosed by the archipelagic baselines. The Act further establishes The Bahamas' territorial sea and exclusive economic zone of 12 nm and 200 nm, respectively. The breadth of each of these zones is measured from the archipelagic baselines.

Act No. 37 does not address the contiguous zone or continental shelf. On May 12, 2009, The Bahamas submitted to the Commission on the Limits of the Continental Shelf preliminary information on the limits of its continental shelf beyond 200 nm.⁸

Navigation

Act No. 37 recognizes certain navigational rights within the maritime zones of The Bahamas, including the right of archipelagic sea lanes passage through archipelagic waters and the right of innocent passage through archipelagic waters and the territorial sea.⁹ In section 11.1 of the Act,

⁷ Great Bahama Bank was excluded in the land portion of the ratio on the basis of an analysis conducted by the government of The Bahamas and shared with the government of the United States in December 2012. This analysis was shared at the request of the U.S. government, in preparation for the publication of this study. The analysis conducted by the government of The Bahamas resulted in a slightly different water-to-land area ratio—7.03 to 1—than the one reported in this study, likely due to differences in the spatial definition and extent of underwater banks.

⁸ The preliminary information of The Bahamas is available from DOALOS, at: http://www.un.org/Depts/los/clcs_new/commission_preliminary.htm.

⁹ The Bahamas and the United States entered into a maritime law enforcement cooperation agreement in 2004 that states that “the terms of this Agreement under which law enforcement officials of the Government of the United States are permitted to operate within waters under the sovereignty of the Government of the Commonwealth of The Bahamas shall continue to apply in the event the Government of the Commonwealth of The Bahamas draws and deposits straight archipelagic baselines in accordance with Articles 47 and 49 of the 1982 Law of the Sea Convention.” Agreement between the Government of the United States of America and the Government of The Bahamas Concerning Cooperation in Maritime Law Enforcement, Art. 6(6), Nassau, June 29, 2004; entered into force June 29, 2004. TIAS 04-629. Text available at: <http://www.state.gov/documents/organization/108940.pdf>.

The Bahamas declared the right to prescribe archipelagic sea lanes and air routes for the passage of foreign ships and aircraft through or over the archipelagic waters and adjacent territorial sea. Similarly, section 12 declares the right of The Bahamas to prescribe traffic separation routes within archipelagic sea lanes for the passage of ships.

An archipelagic State may designate such sea lanes, and also traffic separation schemes, provided that “an archipelagic State shall refer [such] proposals to the competent international organization with a view to their adoption” (Article 53, paragraphs 1 and 9). As the competent international organization, the International Maritime Organization (IMO) may “adopt only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate, prescribe, or substitute them (Article 53.9). As of January 2014, The Bahamas had not designated sea lanes or prescribed traffic separation schemes, nor had it presented proposals to this effect to the IMO. Consistent with Article 53.12 of the LOS Convention, section 11.5 of The Bahamas Act No. 37 states that, “Where there is no designation made pursuant to [section 11.1] the right of archipelagic sea lane passage may be exercised through the routes normally used for international navigation.”

Maritime Boundaries

The Bahamas has established its maritime boundary with Cuba.¹⁰ The Bahamas’ maritime boundary agreement with Cuba, concluded in 2011, establishes a boundary of approximately 475 nm in length composed of geodetic lines connecting 69 points. The boundary is based on equidistance.

As of January 2014, The Bahamas had not yet concluded maritime boundary agreements with its other neighbors: the United States, Haiti, and United Kingdom (Turks and Caicos Islands). Although the United States and The Bahamas do not have an agreed maritime boundary, the United States published its fishery enforcement line in a 1977 Federal Register notice, pursuant to the provisions of the Fishery Conservation and Management Act of 1976. This line, now the U.S. EEZ limit, was reiterated, and published, as a notice to the 1995 Federal Register.¹¹ As of January 2014, the governments of The Bahamas and the United States were engaged in maritime boundary negotiations.

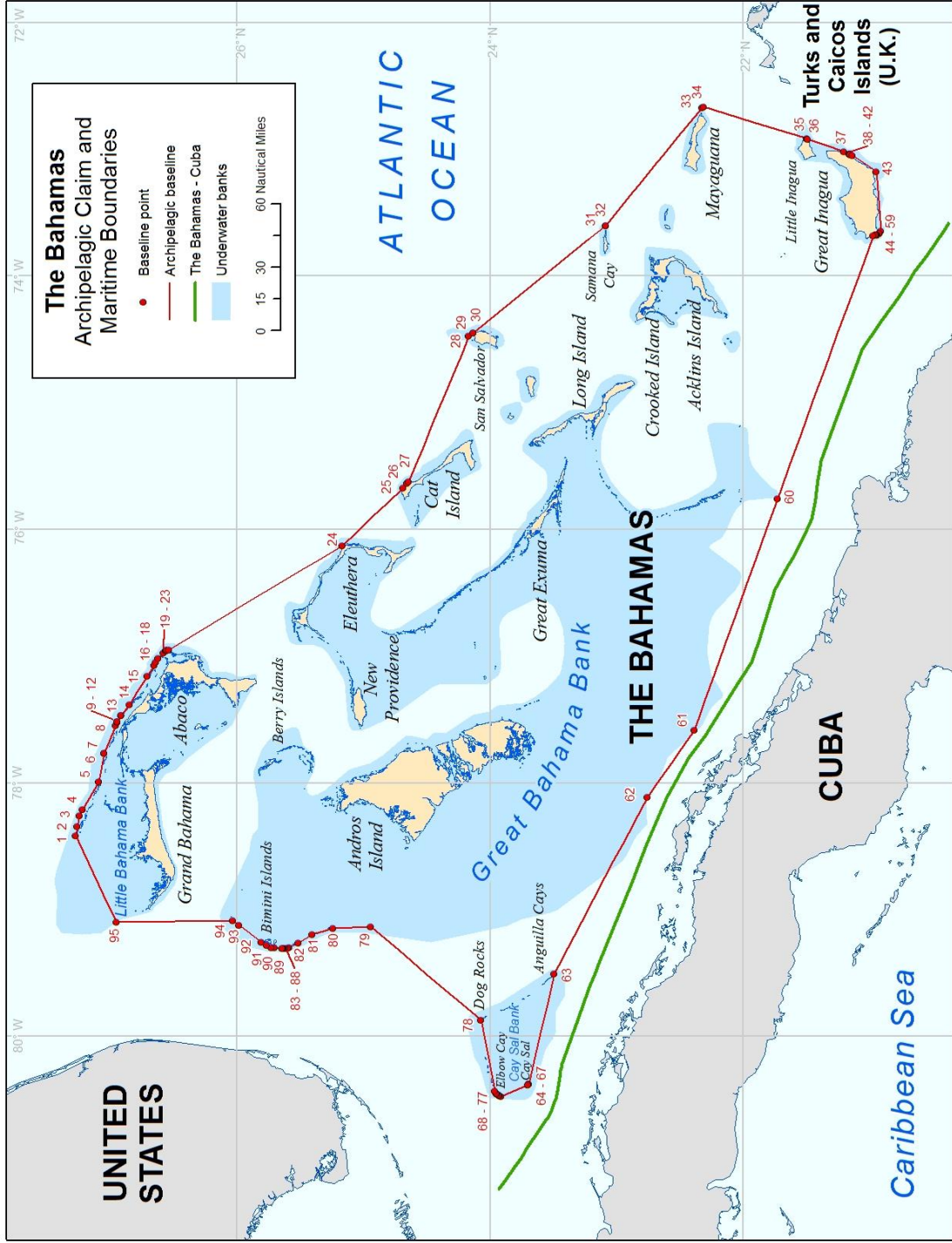
One provision of Act No. 37 addresses the situation of undelimited boundaries. Specifically, concerning the EEZ, Section 8 of the Act states that “[w]here the median line . . . is less than two hundred miles from the nearest baseline, and no other line is for the time being specified . . . , the outer limits of the exclusive economic zone of The Bahamas extend to the median line.”¹²

¹⁰ Agreement between The Commonwealth of The Bahamas and Republic of Cuba for delimiting line between their maritime zones, Nassau, Oct. 3, 2011, entered into force Mar. 9, 2012, UNTS Registration No. I-49590. See also *International Maritime Boundaries*, 1-14 (Rpt. No. 2-32). Text available from DOALOS, at: <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/BHS-CUB2011.pdf>.

¹¹ 60 *Fed. Reg.* 43825, Vol. 60, No. 163, Aug. 23, 1995, available at: <http://www.gpo.gov/fdsys/pkg/FR-1995-08-23/pdf/95-20794.pdf>.

¹² Section 8.4 of the Act states: “The median line is a line every point of which is equidistant from the nearest points of the baselines from which the breadths of the territorial sea of The Bahamas and of any neighbouring state are measured.”

Map 1
Illustrative Map of the Archipelagic Baselines of The Bahamas



Annex 1

The Archipelagic Waters and Maritime Jurisdiction (Archipelagic Baselines) Order, 2008

In exercise of the powers conferred by section 3(2) of the Archipelagic Waters and Maritime Jurisdiction Act, the Governor-General hereby makes the following Order –

1. This Order may be cited as the Archipelagic Waters and Maritime Jurisdiction (Archipelagic Baselines) Order, 2008.
2. The geographical coordinates of the points which define the archipelagic baselines of the Commonwealth of The Bahamas, which baselines constitute the outer limits of the archipelagic waters and the inner limits of the territorial sea, are –
 - (a) based on the World Geodetic System 1984 (WGS84) datum; and
 - (b) specified in the First Schedule.
3. (1) The archipelagic baselines under paragraph 2 are illustrated in the Second Schedule.
 (2) The archipelagic baselines defined by the geographical coordinates specified in the First Schedule shall be the baselines from which the territorial sea and the exclusive economic zone of the Commonwealth of The Bahamas shall be measured.

FIRST SCHEDULE

Geographical Coordinates of Points for the Drawing of the Archipelagic Baselines for the Commonwealth of The Bahamas (World Geodetic System 1984 – WGS84)

Point	Name of Feature	Latitude North	Longitude West
1	Walker's Cay	27 16 22.74138N	78 25 16.52046W
2	Walker's Cay	27 15 43.54019N	78 21 04.75053W
3	Cay/Rock off of Abaco	27 14 19.49672N	78 16 01.47211W
4	Cay/Rock off of Abaco	27 13 08.93732N	78 12 46.36072W
5	Carter's Cay	27 05 13.57268N	77 59 48.32446W
6	Moraine Cay	27 02 38.53659N	77 46 24.23077W
7	Moraine Cay	27 02 35.50331N	77 46 13.48603W
8	Cay/Rock off of Abaco	26 57 25.21218N	77 33 06.75857W
9	Cay/Rock off of Abaco	26 56 37.58084N	77 31 28.75417W
10	Cay/Rock off of Abaco	26 56 35.32738N	77 31 23.70923W
11	Cay/Rock off of Abaco	26 56 29.34224N	77 31 15.76183W
12	Powel Cay	26 54 39.68819N	77 28 29.94990W
13	Powel Cay	26 54 33.57811N	77 28 20.85446W
14	Nun Jack Cay	26 50 45.40917N	77 23 04.19562W
15	Great Guana Cay	26 42 19.66613N	77 09 32.23539W
16	Scotland Cay	26 39 05.59160N	77 04 32.25558W
17	Scotland Cay	26 38 12.11239N	77 03 10.11363W
18	Man of War Cay	26 37 00.03040N	77 01 20.27302W
19	Cay/Rock off of Abaco	26 34 31.92437N	76 58 36.94314W
20	Elbow Cay	26 33 31.33490N	76 57 37.13959W
21	Elbow Cay	26 33 19.43260N	76 57 30.39684W

22	Elbow Cay	26 32 58.10648N	76 57 22.53029W
23	Elbow Cay	26 32 12.36026N	76 57 21.39033W
24	Eleuthera	25 09 41.40925N	76 07 52.91286W
25	Cat Island	24 41 01.47041N	75 40 28.86923W
26	Cat Island	24 39 08.47227N	75 38 23.86147W
27	Cat Island	24 38 16.99114N	75 37 30.02454W
28	White Cay, San Salvador	24 09 41.62705N	74 28 35.75392W
29	Man Head Cay, San Salvador	24 07 34.62143N	74 26 55.97085W
30	Man Head Cay, San Salvador	24 07 28.29211N	74 26 51.49185W
31	Samana Cays	23 04 51.37382N	73 36 06.71778W
32	Samana Cays	23 04 45.82356N	73 36 03.68596W
33	Mayaguana Island	22 19 12.25538N	72 40 10.99276W
34	Mayaguana Island	22 18 24.35151N	72 39 44.75746W
35	Little Inagua	21 29 18.61463N	72 54 59.92065W
36	Little Inagua	21 29 07.91511N	72 55 06.59873W
37	Great Inagua	21 11 43.71530N	73 01 04.09407W
38	Great Inagua	21 09 06.33332N	73 02 12.30585W
39	Great Inagua	21 09 00.35682N	73 02 15.50744W
40	Great Inagua	21 08 57.58091N	73 02 17.56099W
41	Great Inagua	21 08 42.98818N	73 02 27.70746W
42	Great Inagua	21 07 54.07989N	73 03 04.38029W
43	Great Inagua	20 56 26.50377N	73 10 31.15649W
44	Great Inagua	20 54 22.01102N	73 38 46.70054W
45	Great Inagua	20 55 02.34958N	73 39 39.85026W
46	Great Inagua	20 55 05.12227N	73 39 44.24033W
47	Great Inagua	20 55 58.87920N	73 40 27.56698W
48	Great Inagua	20 56 00.70975N	73 40 28.12483W
49	Great Inagua	20 56 08.59392N	73 40 31.73067W
50	Great Inagua	20 56 10.85737N	73 40 32.95148W
51	Great Inagua	20 56 27.52912N	73 40 38.42491W
52	Great Inagua	20 56 28.75195N	73 40 38.92617W
53	Great Inagua	20 56 29.18488N	73 40 38.99894W
54	Great Inagua	20 56 31.02291N	73 40 39.24957W
55	Great Inagua	20 56 34.08375N	73 40 39.17680W
56	Great Inagua	20 56 39.11930N	73 40 39.24957W
57	Great Inagua	20 56 41.99781N	73 40 39.61338W
58	Great Inagua	20 56 48.80290N	73 40 40.65633W
59	Great Inagua	20 57 45.50349N	73 40 51.55469W
60	Cay Santa Domingo	21 43 08.89816N	75 45 28.89755W

61	Cay Lobos	22 22 44.02868N	77 35 11.07912W
62	Guinchos Cays	22 44 54.78658N	78 06 58.43782W
63	South Anguilla Cay	23 29 21.26984N	79 30 52.88234W
64	Cay Sal	23 41 08.97774N	80 23 09.51634W
65	Cay Sal	23 41 09.00752N	80 23 11.40819W
66	Cay Sal	23 41 09.53616N	80 23 12.55624W
67	Cay Sal	23 41 33.63702N	80 23 33.43129W
68	Elbow Cays	23 54 23.18496N	80 28 54.84401W
69	Elbow Cays	23 55 12.67771N	80 28 31.35755W
70	Elbow Cays	23 55 14.58031N	80 28 30.23376W
71	Elbow Cays	23 55 22.62170N	80 28 24.88968W
72	Elbow Cays	23 55 33.73225N	80 28 18.55926W
73	Elbow Cays	23 55 38.08722N	80 28 16.14998W
74	Double-Headed Shot Cays	23 56 21.12188N	80 27 49.67213W
75	Double-Headed Shot Cays	23 56 39.72861N	80 27 33.29225W
76	Double-Headed Shot Cays	23 56 48.41496N	80 27 24.99721W
77	Water Cays	23 57 34.24407N	80 26 14.00425W
78	Dog Rocks	24 03 59.59047N	79 52 47.24246W
79	Orange Cay	24 56 19.16889N	79 08 25.89181W
80	South Riding Rock	25 14 06.41833N	79 09 05.20837W
81	Brown's Cay	25 23 57.01557N	79 12 03.64074W
82	Wedge Rock	25 30 29.38474N	79 16 04.21316W
83	South Cat Cay	25 35 09.14128N	79 18 17.30576W
84	Cay leading to Bimini	25 35 51.96540N	79 18 36.98425W
85	Cay leading to Bimini	25 36 56.69561N	79 18 49.49150W
86	South Picket Rock	25 37 40.95281N	79 18 52.12715W
87	North Picket Rock	25 37 48.63394N	79 18 53.92199W
88	Triangle Rocks	25 38 09.25799N	79 18 52.90330W
89	Bimini	25 41 54.40831N	79 18 20.40225W
90	Unnamed rock off N. Bimini	25 43 26.35667N	79 18 19.22187W
91	Unnamed rock off N. Bimini	25 45 40.70569N	79 17 07.44468W
92	North Rock	25 48 08.34665N	79 15 47.21075W
93	Hen and Chicken Cays	25 58 57.46966N	79 07 46.90672W
94	Great Isaacs Cay	26 01 40.20717N	79 05 35.22089W
95	Cay/Rock off of North West Grand Bahama	26 57 05.20104N	79 06 19.18623W

Made this 8th day of December, 2008

GOVERNOR-GENERAL

Annex 2

An Act (No. 37 of 1993) respecting the territorial sea, archipelagic waters, internal waters and the exclusive economic zone

Enacted by the Parliament of The Bahamas.

1. Short title and commencement

This Act may be cited as the Archipelagic Waters and Maritime Jurisdiction Act, 1993 and shall come into operation on such date as the Minister responsible for the Law of the Sea may appoint by notice published in the Gazette.

2. Interpretation

In this Act:

"**archipelagic baselines**" means the baselines drawn under section 3(2);

"**baseline**" means the line from which the width of the territorial sea of The Bahamas is measured;

"**Convention**" means the United Nations Convention on the Law of the Sea signed on 10 December 1982;

"**exclusive economic zone**" means the exclusive economic zone of The Bahamas as defined in section 8;

"**innocent passage**" means passage which is not deemed to be prejudicial to the peace, good order, or security of The Bahamas and is in conformity with the provisions of the Convention and such other relevant rules of international law;

"**island**" means a naturally formed area of land which is surrounded by and above water at mean high-water;

"**miles**" means international nautical miles of 1,852 meters each;

"**Minister**" means the Minister responsible for Lands and Surveys;

"**passage**" means the navigation of a ship in the territorial sea or archipelagic waters of The Bahamas 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;

3. Archipelagic waters

(1) The archipelagic waters of The Bahamas comprise those areas of the sea enclosed by the baselines established by this section.

(2) The Governor-General may by Order issue one or more lists by reference to physical features marked on official charts or to geographical coordinates of points between which archipelagic baselines may be drawn in accordance with international law for the purpose of determining the inner limits of the territorial sea of The Bahamas, and may as he deems necessary amend those lists.

(3) In respect of any area for which physical features marked on official charts or geographical coordinates of points have been listed in a list issued pursuant to subsection (2), subject to any exceptions in the list for the use of the low-water line along the coast as the baseline between given points, baselines are straight lines joining the consecutive geographical coordinates of points as listed.

(4) In respect of any other area, and until such time as physical features marked on official charts, or geographical coordinates of points have, for such other area, been listed in a list issued pursuant to subsection (2), baselines remain those applicable immediately before the coming into force of this Act.

4. Territorial sea

(1) The territorial sea of The Bahamas comprises those areas of the sea having as their inner limits the baselines described in this section and as their outer limits a line established seaward from those baselines every point of which is at a distance of twelve miles from the nearest point of the appropriate baseline.

(2) Where archipelagic baselines are drawn under section 3, those baselines shall be the baselines from which the breadth of the territorial sea of The Bahamas shall be measured.

(3) In all other cases the baselines from which the breadth of the territorial sea of The Bahamas is measured shall be the low-water line along the coast of each island.

(4) Where a low-tide elevation lies wholly or partly within the breadth of sea which would be the territorial sea of The Bahamas if all low-tide elevations were disregarded for the purpose of measurement of the breadth thereof, the low-tide elevation shall be treated as an island.

(5) For the purposes of this section, a low-tide elevation is a naturally formed area of land which is surrounded by and is above water at mean low-water but is submerged at mean high-water.

5. Right of innocent passage

(1) Subject to subsections (2) and (3) and section 13 and without prejudice to sections 7 or 11, a foreign ship shall be entitled to enjoy the right of innocent passage through the archipelagic waters and territorial sea of The Bahamas.

(2) The passage of a foreign ship shall be deemed to be prejudicial to the peace, good order or security of The Bahamas if, the ship while in the archipelagic waters or territorial sea of The Bahamas, engages in any of the following activities;

- (a) any threat or use of force against the sovereignty, territorial integrity or political independence of The Bahamas, or in any other manner in violation of the principles of international law;
- (b) any exercise or practice with weapons of any kind;
- (c) any act aimed at collecting information relating to the defence or security of The Bahamas;
- (d) any act of propaganda aimed at affecting the defence or security of The Bahamas;
- (e) the conveyance, taking on board or off-loading of any person, commodity or currency in breach of any law relating to exchange control, customs, immigration, health or drugs;
- (f) any act of pollution calculated or likely to cause damage or harm to The Bahamas, its resources or its marine environment;
- (g) any fishing activities other than in accordance with the Fisheries Resources (Jurisdiction and Conservation) Act;
- (h) any act aimed at interfering with systems of communication or telecommunication of The Bahamas;
- (i) such other activity as the Governor-General may by Order prescribe.

(3) Without prejudice to subsection (2) the passage of a foreign ship shall also be deemed to be prejudicial to the peace, good order or security of The Bahamas if without the prior permission of the Minister obtained by the captain or person in charge of the ship, the ship while in the archipelagic waters or territorial sea of The Bahamas, engages in any of the following activities:

- (a) the launching, landing or taking on board of any aircraft;
- (b) the launching, landing or taking on board of any military device;
- (c) the carrying out of research or survey activities;
- (d) being a submarine or other underwater ship, underwater navigation.

6. Power of law enforcement officers to search foreign ships etc.

(1) Where a foreign ship engages in any of the activities specified in subsections (2) and (3) of section 5 or prescribed under paragraph (i) of section 5(2), as the case may be, or where a law enforcement officer suspects on reasonable grounds that a foreign ship is engaged in any such activity, such law enforcement officer may in the course of his duty:

- (a) stop, board and search the ship for the purpose of carrying out enquiries and investigations;
- (b) without warrant or other process seize and detain the ship and bring it into a port of The Bahamas;

(c) without warrant or other process arrest the captain and any person on board the ship whom he reasonably suspects to be participating in the activity of the ship which is deemed to be prejudicial to the peace, good order or security of The Bahamas.

(2) Where a foreign ship is seized or detained or any person is arrested under this section, such ship or person shall forthwith be taken:

(a) to the nearest or most convenient place in The Bahamas and delivered into the custody of the most senior police officer; or

(b) before a magistrate to be dealt with according to law.

(3) Where the passage of a foreign ship is deemed to be prejudicial to the peace, good order or security of The Bahamas, the captain or other person in charge of such ship and any person participating in the activity of the ship which is deemed to be so prejudicial, is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars or imprisonment for a term of five years or both.

(4) The Court may in addition to any penalty which it may impose under subsection (3) order the forfeiture to the Crown of any ship engaged, or equipment used, in any activity which is the subject of the offence.

(5) Any person who assaults or obstructs a law enforcement officer acting under the authority of this section is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars or imprisonment for a term of five years or both.

(6) In this section: "law enforcement officer" means any peace officer, a member of the Royal Bahamas Defence Force, an officer of Customs or an officer of the Department of Immigration.

7. Internal waters

(1) The internal waters of The Bahamas comprise those areas of the sea that are on the landward side of the closing lines referred to in this section.

(2) The Governor-General may by Order issue one or more lists of geographical coordinates of points from which the closing lines of the internal waters may be determined in accordance with international law and may, as he deems necessary, amend those lists.

8. Exclusive economic zone

(1) Subject to this section, the exclusive economic zone of The Bahamas comprises those areas of the sea, having as their inner limits the outer limits of the territorial sea of The Bahamas and, as their outer limits, a line drawn seaward from the baselines every point of which is at a distance of two hundred miles from the nearest point of the appropriate baseline.

(2) The Governor-General may by Order, for the purpose of implementing any international agreement or the award of any international body, or otherwise, declare that the outer limits of the exclusive economic zone of The Bahamas extend to such line, any point or which may be at a distance of less than two hundred miles from the nearest point of the appropriate baseline, as may be specified in such Order.

(3) Where the median line, as defined in subsection (4), is less than two hundred miles from the nearest baseline, and no other line is for the time being specified under the provisions of subsection (2), the outer limits of the exclusive economic zone of The Bahamas extend to the median line.

(4) The median line is a line every point of which is equidistant from the nearest points of the baselines from which the breadths of the territorial sea of The Bahamas and of any neighbouring state are measured.

9. Sovereignty

(1) The sovereignty of The Bahamas extends over the territorial sea, the archipelagic waters, the internal waters, the seabed and subsoil thereof as well as the airspace over such sea and waters.

(2) Within the exclusive economic zone The Bahamas has:

(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living of the seabed and subsoil and superjacent waters;

(b) exclusive rights for the purpose of constructing and authorizing and regulating the construction, operation and use of artificial islands; and

(c) exclusive jurisdiction over artificial islands including jurisdiction with regard to customs, fiscal, health, drugs, safety and immigration laws.

10. Baselines charts

The Minister may cause charts to be issued indicating baselines referred to in sections 3 and 4.

11. Sea lanes and air routes

(1) The Governor-General may by Order prescribe sea lanes and air routes above archipelagic waters suitable for the continuous and expeditious passage of foreign ships and aircraft through or over the archipelagic waters and the adjacent territorial sea.

(2) Subject to section 5 all ships and aircraft shall enjoy the right of archipelagic sea lanes passage in the sea lanes and air routes prescribed under subsection (1).

(3) Archipelagic sea lane passage shall be the exercise in accordance with international law and with any laws of The Bahamas of the rights of navigation and overflight in the normal mode solely for the purpose of continuous, expeditious and unobstructed transit between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

(4) Sea lanes shall be defined by a series of continuous axis lines from the entry points of passage routes to the exit points and ships and aircraft in archipelagic sea lanes passage shall not deviate more than twenty-five miles to either side of such axis lines during passage nor navigate closer to the coast of the islands of The Bahamas than ten percent of the distance between the nearest points on islands bordering the sea lane or air route.

(5) Where there is no designation made pursuant to subsection (1) the right of archipelagic sea lane passage may be exercised through the routes normally used for international navigation.

12. Traffic separation routes

The Governor-General may by Order prescribe traffic separation routes within archipelagic sea lanes for the passage of ships and make alterations to those routes.

13. Ships to use prescribed sea lanes and traffic

Where sea lanes and traffic separation routes have been prescribed under sections 11 and 12:

(a) foreign ships exercising the right of innocent passage through the archipelagic waters and territorial sea of The Bahamas; and

(b) ships exercising archipelagic sea lane passage, shall use the sea lanes and traffic separation routes so prescribed.

14. Alteration of seaward limit

The Governor-General may, whenever he considers it necessary or expedient so to do having regard to international law, by Order alter the seaward limit of the territorial sea of The Bahamas.

15. Territorial sea of The Bahamas meets with territorial sea etc. of another State

Where the territorial sea of The Bahamas meets with the territorial sea of another State to the extent only to which such limits are recognized by The Bahamas to be validly established pursuant to international law, the Governor-General may initiate and conduct negotiations with that State to establish the boundary of the territorial sea of The Bahamas and in the absence of agreement the boundary of the territorial sea of The Bahamas shall not extend beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadths of the territorial seas of The Bahamas and that other State are measured.

16. Charts

(1) The Minister may cause charts to be issued delineating the territorial sea of The Bahamas as settled by agreement under section 15 or any portion thereof as may be delineated consistent with the nature and scale of the charts.

(2) In any proceedings in any court a certificate purporting to be signed by the Minister or a person authorized by him that the chart issued pursuant to section 10 or to this section is for the time being an authorized and accurate chart shall be admissible as conclusive evidence of the matter stated in the certificate.

(3) Every person signing any such certificate shall, in the absence of proof to the contrary, be presumed to be duly authorized to sign it.

17. Savings

(1) Nothing in this Act shall be construed or have the effect of prejudicing the prerogative powers or privileges of the Crown, including any authority conferred by any treaty or agreement concluded thereby by the Commonwealth of The Bahamas with any foreign State or agency of such State prior to or after the commencement of this Act.

(2) For the purpose of any law references to the territorial sea or the waters of The Bahamas shall, unless the context otherwise requires, be construed and have effect as including the archipelagic waters of The Bahamas.

18. Repeal

The Territorial Waters Jurisdiction Act 1878 enacted by the Parliament of The United Kingdom in so far as that Act is applicable to The Bahamas is repealed.

The Archipelagic Waters and Maritime Jurisdiction Act, 1993 (Act No. 37 of 1993)

In exercise of the powers conferred by section 1 of the Archipelagic Waters and Maritime Jurisdiction Act, 1993 the 4th day of January, 1996 is appointed the day on which the Archipelagic Waters and Maritime Jurisdiction Act, 1993 shall come into operation.

Annex 3**United Nations Convention on the Law of the Sea*****Article 47******Archipelagic Baselines***

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1.
2. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.
3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.
4. Such baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.
5. The system of such baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.
6. If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighbouring State, existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue and be respected.
7. For the purpose of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.
8. The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted.
9. The archipelagic State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

Annex 4

Archipelagic Baseline Segments

Baseline Segment	Length (nm)		Baseline Segment	Length (nm)		Baseline Segment	Length (nm)
1-2	3.80		33-34	0.89		65-66	0.02
2-3	4.72		34-35	50.92		66-67	0.51
3-4	3.13		35-36	0.21		67-68	13.73
4-5	14.01		36-37	18.20		68-69	0.90
5-6	12.24		37-38	2.82		69-70	0.03
6-7	0.17		38-39	0.11		70-71	0.16
7-8	12.79		39-40	0.06		71-72	0.21
8-9	1.66		40-41	0.29		72-73	0.08
9-10	0.08		41-42	0.99		73-74	0.82
10-11	0.15		42-43	13.37		74-75	0.40
11-12	3.07		43-44	26.52		75-76	0.19
12-13	0.17		44-45	1.07		76-77	1.33
13-14	6.05		45-46	0.08		77-78	31.36
14-15	14.74		46-47	1.12		78-79	66.11
15-16	5.52		47-48	0.03		79-80	17.76
16-17	1.51		48-49	0.14		80-81	10.19
17-18	2.03		49-50	0.04		81-82	7.47
18-19	3.46		50-51	0.29		82-83	5.07
19-20	1.35		51-52	0.02		83-84	0.77
20-21	0.22		52-53	0.01		84-85	1.09
21-22	0.37		53-54	0.03		85-86	0.74
22-23	0.76		54-55	0.05		86-87	0.13
23-24	93.53		55-56	0.08		87-88	0.34
24-25	37.87		56-57	0.05		88-89	3.78
25-26	2.67		57-58	0.11		89-90	1.53
26-27	1.18		58-59	0.96		90-91	2.48
27-28	68.98		59-60	124.69		91-92	2.74
28-29	2.60		60-61	109.21		92-93	12.99
29-30	0.13		61-62	36.80		93-94	3.35
30-31	77.82		62-63	89.21		94-95	55.32
31-32	0.10		63-64	49.54		95-1	41.40
32-33	68.74		64-65	0.03			