

Decree of 10 June 2010 determining the outer limit of the exclusive economic zone of the part of the Kingdom of the Netherlands situated in the Caribbean (Exclusive Economic Zone of the Part of the Kingdom of the Netherlands Situated in the Caribbean (Outer Limits) Decree)

We Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

On the recommendation of Our Minister of Foreign Affairs of 9 April 2010, no. DJZ-IR 2010-034;

Having regard to sections 2 and 4 of the Exclusive Economic Zone (Establishment) Act;

Having heard the Council of State (advisory opinion of 12 May 2006, no. W02.10.0140/III/K);

Having seen the further report of Our Minister of Foreign Affairs of 21 May 2010, no. DJZ-IR 2010-113;

Having taken the provisions of the Charter for the Kingdom of the Netherlands into account;

Have approved and decreed:

Article 1

Without prejudice to article 2, the outer limit of the Kingdom's exclusive economic zone for Aruba and the Netherlands Antilles is formed by the line of which every point is at a distance of 200 nautical miles, being 370 kilometres and 400 metres, on the seaward side from the baseline from which the breadth of the territorial sea is measured.

Article 2

1. Where a boundary agreed with other States lies completely or partially landwards of the line referred to in article 1, this boundary is the outer limit of the exclusive economic zone.

2. Where no boundary has yet been agreed with other States, and the line referred to in article 1 is situated further from the baselines than from the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured, the outer limit of the exclusive economic zone is this median line.

Article 3

If sections I and II of the Bill, submitted by Royal Message of 11 November 2009, amending the Charter for the Kingdom of the Netherlands in connection with the changes to the constitutional status of the island territories of the Netherlands Antilles (Act amending the Charter in connection with the dissolution of the Netherlands Antilles) (Parliamentary Papers II 2009/10, 32 213 (R1902), nos.1-3) enter into force, the words 'Aruba and the Netherlands Antilles' in article 1 of this Decree is replaced by: Aruba, Curaçao, Sint Maarten and the public bodies Bonaire, Sint Eustatius and Saba.

Article 4

1. The Exclusive Economic Zone (Establishment) Act enters into force for Aruba and the Netherlands Antilles on the date when this Decree enters into force.
2. This Decree enters into force on the first day of the second calendar month after the date of publication of the Bulletin of Acts and Decrees in which it appears.

Article 5

This Decree may be cited as the Exclusive Economic Zone of the Part of the Kingdom of the Netherlands Situated in the Caribbean (Outer Limits) Decree.

We order and command that this Decree and the explanatory memorandum pertaining to it be published in the Bulletin of Acts and Decrees, the Official Bulletin of the Netherlands Antilles and the Official Bulletin of Aruba.

The Hague, 10 June 2010

Beatrix

M.J.M. Verhagen

Minister of Foreign Affairs

Published on the thirteenth of July 2010

E.M.H. Hirsch Ballin

Minister of Justice

EXPLANATORY MEMORANDUM

General

This Decree establishes the outer limit of the exclusive economic zone for Aruba and the Netherlands Antilles. It also provides for the entry into force of the Exclusive Economic Zone (Establishment) Act for Aruba and the Netherlands Antilles. It implements sections 2 and 4 of the Act. These provisions of the Act are implemented for the Netherlands in the Exclusive Economic Zone of the Netherlands (Outer Limits) Decree.

The Exclusive Economic Zone (Establishment) Act implements the wish of all countries of the Kingdom to make optimal use of the jurisdiction assigned to coastal states by international law, including the United Nations Convention on the Law of the Sea (UNCLOS), with annexes, concluded at Montego Bay on 10 December 1982 (Treaty Series 1983, 83). Within the exclusive economic zone the coastal state has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil including energy produced from water, currents and wind. The coastal state also has the jurisdiction, for example, to establish and use artificial islands and installations, and to protect and preserve the marine environment (see in particular article 56 of UNCLOS and section 3 of the Exclusive Economic Zone (Establishment) Act).

On 2 March 2007 the Antillean national ordinance on maritime management came into being (Official Bulletin of the Netherlands Antilles 2007, no. 18). The ordinance specified the rules for implementing the relevant UNCLOS provisions on the exclusive economic zone. The ordinance entered into force on 26 January 2008 (Official Bulletin 2008, no. 1), with the exception of the articles awarding jurisdiction in the exclusive economic zone. The enactment of the present Decree means the outstanding articles of the national ordinance on maritime management can enter into force by Antillean national decree.

Article 57 of UNCLOS determines the maximum size of the exclusive economic zone. Under article 55, the zone's border with the coastal state is formed by the outer limit of the territorial sea. The outer limit is determined by the baselines from which the breadth of the territorial sea is measured. Under article 57 the exclusive economic zone may not extend beyond 200 nautical miles from these baselines (see also section 1, subsection 2 of the Exclusive Economic Zone (Establishment) Act).

The exclusive economic zone of Aruba and the Netherlands Antilles is described in the article-specific part of this explanatory memorandum and shown on the maps in the annexes. These maps show the situation at the time this Decree was drafted. Any change to the baselines, for example due to geological developments, may be indicated on official maps without necessitating any change in the relevant legislation. Having regard to article 2 of this Decree, this also applies to maritime borders with other States which have not yet been agreed, and to which the median line (or line of equidistance) between the two baselines applies.

Article-by-article explanation

Article 1

This article determines the outer limit of the exclusive economic zone of Aruba and the Netherlands Antilles. In principle, the maximum size of the exclusive economic zone may not extend beyond that specified in UNCLOS and in section 1, subsection 2, of the Exclusive Economic Zone (Establishment) Act. States whose baselines lie opposite those of Aruba and the Netherlands Antilles at a minimum distance of less than 400 nautical miles delimit the exclusive economic zone of Aruba and the Netherlands Antilles. This applies to the entire outer limit of the exclusive economic zone of Aruba and the Netherlands Antilles in the context of the rights or titles to rights other States have under UNCLOS or bilateral treaties. Accordingly, the exclusive economic zone of Aruba and the Netherlands Antilles is limited to a distance of less than 200 nautical miles from the baselines (see article 2 below).

The baselines from which the breadth of the territorial sea is measured are laid down for Aruba and the Netherlands Antilles in article 1 of the Decree of 23 October 1985, implementing section 1 of the Territorial Sea of the Kingdom (Extension in the Netherlands Antilles) Act (Bulletin of Acts and Decrees 1985, 559; Official Bulletin 1985, no. 174). These baselines are the low-water lines along the coast (normal baseline), the straight baselines or the closing lines of bays which are drawn seawards of that. The low-water line is the zero-metre isobath, as indicated on official charts or, where these isobaths are absent, the coastline or the edge of the drying reefs (seaward low-water line of the reef).

Article 2

This article determines the outer limit of the exclusive economic zone of Aruba and the Netherlands Antilles in relation to maritime zones in which other States have rights or titles to rights under UNCLOS or bilateral treaties. If a treaty establishing sea borders has been

concluded with another State, the borderline agreed in that document is the outer limit of the exclusive economic zone (paragraph 1). If a treaty on establishing sea borders has not yet been concluded with another State, the outer limit is unilaterally established in this Decree on the basis of equidistance (paragraph 2).

These States' baselines lie partly at a distance of less than 24 nautical miles from the baselines of Aruba or the Netherlands Antilles. This applies to all or part of the baselines of Sint Eustatius (part of lines H and I), Sint Maarten (line F and part of line E), Saba (part of line G) (see annex 1), Bonaire (parts of line R) and Aruba (line N) (see annex 2). In these cases the Kingdom makes no claim to an exclusive economic zone, but exclusively to a territorial sea. The outer limit of the territorial sea is, in those instances, established in article 5 of the Decree of 23 October 1985, implementing section 1 of the Territorial Sea of the Kingdom (Extension in the Netherlands Antilles) Act (Bulletin of Acts and Decrees 559; Official Bulletin 1985, no. 174).

Venezuela is the only country with which a boundary treaty has been concluded. Article 2 of the Boundary Delimitation Treaty between the Kingdom of the Netherlands and the Republic of Venezuela, concluded in Willemstad on 31 March 1978 (Treaty Series 1978, 61) specifies the coordinates of the sea borders in question. The treaty applies to all sea borders which the parties have set or could set in accordance with international law (article 1, paragraph 1). The boundary line established in the treaty therefore also applies to the boundary of the exclusive economic zone. Article 2, paragraph 1 of the Decree applies.

All other outer limits of the exclusive economic zone of Aruba and the Netherlands Antilles, with the exception of the internal sea border between Aruba and the Netherlands Antilles (Curaçao), are determined on the basis of the median line with adjacent States in accordance with article 2, paragraph 2.

The internal sea border between the Netherlands Antilles (Curaçao) and Aruba is set by the Kingdom Act of 12 December 1985 establishing a sea border between the Netherlands Antilles and Aruba (Bulletin of Acts and Decrees 1985, 664; Official Bulletin 1986, no. 23; Official Bulletin of Aruba 1986, no. 7). This internal border divides the exclusive economic zone between the Netherlands Antilles (Curaçao) and Aruba in two. The establishment of this internal sea border is important in terms of determining the geographic scope of the two countries' national ordinances relating to UNCLOS articles on the exclusive economic zone.

The exclusive economic zone of the Netherlands Antilles' Windward Islands is divided into three parts (see annex 1). The outer limit of zone 1, with the exception of the southern border with Venezuela (Aves Island), is formed by the median line with the adjacent States. To the west of Saba this zone is bordered by the median line with the United States (American Virgin Islands (Saint Croix)) (line B), to the south of Sint Eustatius by the median line with Saint Kitts and Nevis (Saint Kitts) (line I), to the northwest of Saba and to the south of Sint Maarten by the median line with France (Collectivité Outre Mer Guadeloupe (Saint Martin)) (line D and part of line E) and to the northwest of Saba also by the median line with the United Kingdom (Anguilla) (line C). To the south of Saba and Sint Eustatius this zone is bordered by the boundary specified in the treaty with Venezuela (lines A and J).

To the northeast of Saba and northwest of Sint Eustatius there is a small exclusive economic zone (zone 2) of only a few square kilometres. It is bordered by the median line with France (Collectivité Outre Mer Guadeloupe (Saint Barthélemy)).

There is another small exclusive economic zone located to the northeast of Sint Eustatius (zone 3) of about the same size. It is bordered by the median lines with France (Collectivité Outre Mer Guadeloupe (Saint Barthélemy)) and Saint Kitts and Nevis (Saint Kitts).

Annex 1 also gives the Kingdom lines of equidistance between Saba, Sint Eustatius and Sint Maarten. Sint Maarten's exclusive economic zone is currently located in zone 1, has an area of a few square kilometres and is bordered by the median lines with France (Collectivité Outre Mer Guadeloupe (Saint Martin)) (line E) and the Kingdom line of equidistance with Saba (line L).

The outer limit of the exclusive economic zone of Aruba (zone 6, annex 2) is formed by the boundary specified in the treaty with Venezuela (line N), the median line with the Dominican Republic (line O) and the Kingdom line of equidistance with the Netherlands Antilles (Curaçao) (line S).

The exclusive economic zone of the Leeward Islands of the Netherlands Antilles is divided into two parts (see annex 2). The outer limit of zone 4 is formed by the boundary specified in the treaty with Venezuela (lines M, Q and R), the median line with the Dominican Republic to the north of Curaçao (line P) and the Kingdom line of equidistance with Aruba to the west of Curaçao (line S). To the east of Bonaire there is another small exclusive economic zone

with an area of a few square kilometres (zone 5), bordered by the boundary specified in the treaty with Venezuela (line R).

Annex 2 also shows the Kingdom line of equidistance between Curaçao and Bonaire (line T).

Article 3

This Decree is not related to the constitutional reform of the Kingdom of the Netherlands intended to dissolve the Netherlands Antilles. However, with this reform in mind, this article provides for the necessary changes to the names of the existing island territories.

M.J.M. Verhagen

Minister of Foreign Affairs

Annexe 2

Exclusive Economic Zone of the Leeward Netherlands Antilles and Aruba

Dominican Republic

[alle andere plaatsnamen onveranderd]

line O [etc.]

territorial sea

contiguous zone

nautical miles

kilometres

© Royal Netherlands Navy

Hydrographic Department

EEZ Netherlands Antilles, zones 4-5

EEZ Aruba, zone 6

established boundary

international line of equidistance

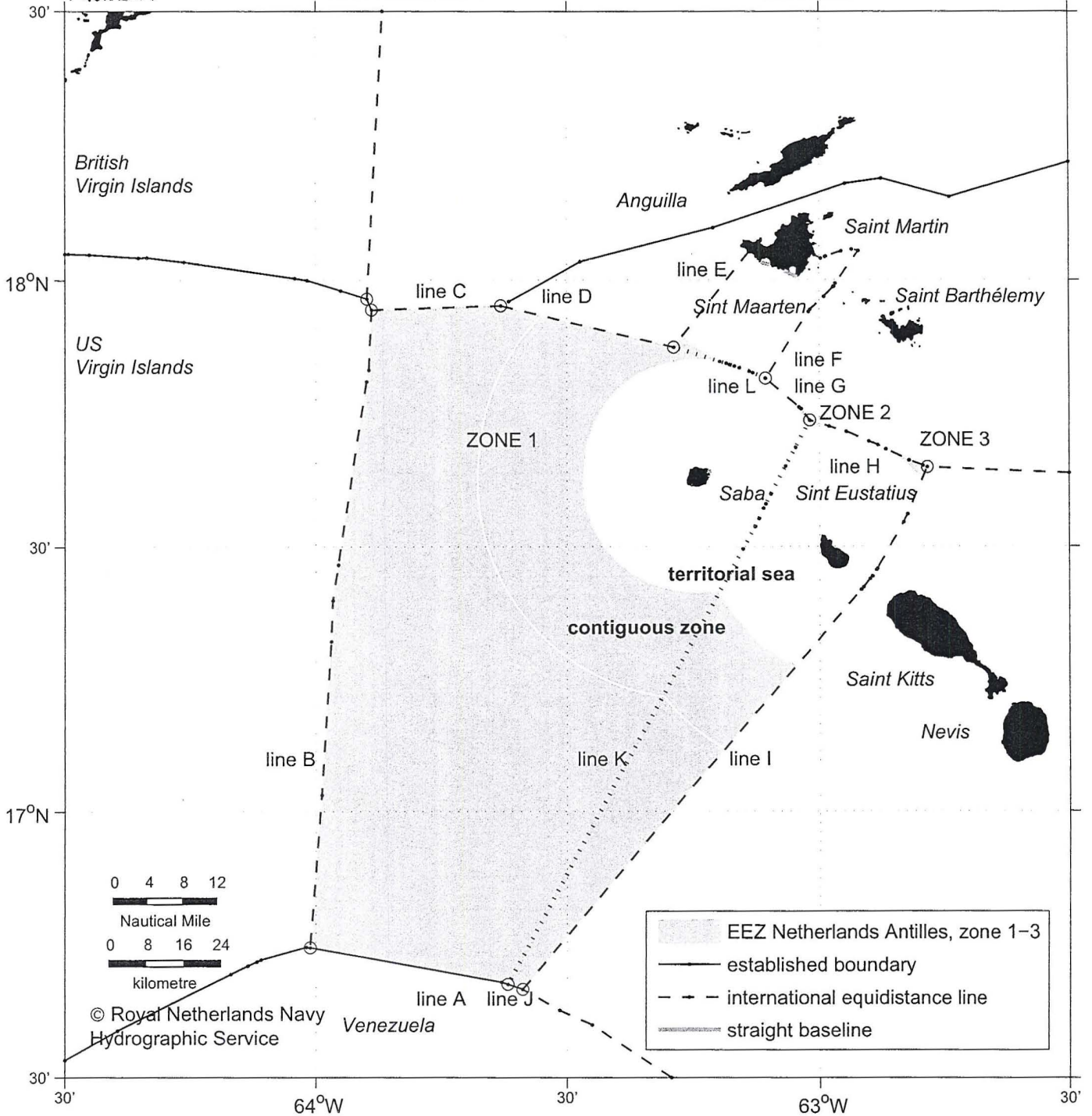
Kingdom line of equidistance

tripoint

straight baseline

ANNEX 1

Exclusive Economic Zone of the windward Netherlands Antilles



ANNEX 2

Exclusive Economic Zone of the leeward Netherlands Antilles and Aruba

