

United States Department of State
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Limits in the Seas

No. 137

Vanuatu:

Archipelagic and other Maritime Claims and Boundaries



LIMITS IN THE SEAS

No. 137

VANUATU

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 study represents the views of the United States Government only on the specific matters discussed therein and does not necessarily reflect an acceptance 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 Republic of Vanuatu, including its archipelagic baseline claim. Vanuatu's Maritime Zones Act [CAP 138], Amendments of the Schedule, Order No. 81 of 2009, took effect July 29, 2009 (Annex 1 to this study), and established the coordinates of the archipelagic baselines of Vanuatu and normal baselines around Matthew Island, Hunter Island, and other features.¹ The archipelagic baselines are shown on Map 1 to this study. Vanuatu's Maritime Zones Act No. 6 of 2010 established a 12-nautical mile (nm) territorial sea, a 24-nm contiguous zone, and a 200-nm exclusive economic zone (EEZ) (Annex 2 to this study).² Vanuatu ratified the 1982 United Nations Convention on the Law of the Sea (LOS Convention) and consented to be bound by the 1994 Agreement Relating to the Implementation of Part XI of the Convention on August 10, 1999.³

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. In addition, the length of any baseline segment shall not exceed 100 nm except 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).

¹ Text of the Amendments of the Schedule, Order No. 81 of 2009, 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/vut_mzn78_2010.pdf.

² Text of Act No. 6 is available from DOALOS, at:

http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/vut_2010_Act06.pdf and *Law of the Sea Bulletin*, No. 73, available at http://www.un.org/Depts/los/doalos_publications/los_bult.htm.

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.

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.”

Analysis⁴

Vanuatu is an archipelagic State located in the South Pacific Ocean directly west of Fiji, northeast of New Caledonia (France) and southeast of Solomon Islands. Vanuatu consists of numerous islands and other smaller features, some of which are used for drawing Vanuatu’s archipelagic baselines. The archipelagic baseline system of Vanuatu is composed of 59 line segments, ranging in length from less than 0.01 nm (segment 21-22) to 96.57 nm (segment 9-10), with a total length of 1,020 nm. The archipelagic baselines do not include Matthew and Hunter Islands, which are located to the south of Vanuatu’s main islands; Vanuatu and France contest the sovereignty of these islands.⁵

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

Total Area = 83,303 square kilometers
 Water Area = 71,114 square kilometers
 Land Area = 12,189 square kilometers⁶
 Thus, the water-to-land-area-ratio is 5.83:1

In accordance with Article 47.2 of the LOS Convention, none of the baseline segments exceed 100 nm in length. 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, Vanuatu’s archipelagic baseline system set forth in Order No. 81 of 2009 appears to be consistent with Article 47 of the LOS Convention.

⁴ The analysis was conducted in ESRI ArcMap 10, using the Universal Transverse Mercator, Zone 58 South, projection and is based on the World Geodetic System 1984 (WGS84) datum.

⁵ See e.g., Communication from the Government of France to the United Nations Secretariat, Dec. 6, 2010, at: http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/communicationsredeposit/mzn78_2010_fra_en.pdf. This communication objects to certain provisions of Vanuatu’s Maritime Zones Act No. 6 of 2010 pertaining to “Mathew (Umaenupne) and Hunter (Leka) Islands,” and states that France “exercises full sovereignty over Matthew and Hunter Islands, which have always been an integral part of the French territory of New Caledonia.”

⁶ Land area number may be found in the CIA World Factbook entry for Vanuatu, at: <https://www.cia.gov/library/publications/the-world-factbook/geos/nh.html>.

Territorial Sea, Contiguous Zone, Exclusive Economic Zone, and Continental Shelf

By Act No. 6 of 2010, the archipelagic waters of Vanuatu comprise those waters enclosed by the archipelagic baselines. Vanuatu's 12-nm territorial sea and 24-nm contiguous zone, set forth in Sections 7 and 8 of the Act, are measured from the archipelagic baselines and from the normal baseline of Matthew and Hunter Island (Section 7.2.b).⁷ Section 9 of Act sets forth a 200-nm EEZ measured from the baselines.

Section 11 of Act No. 6 refers to Vanuatu's continental shelf, extending 200 nm from the baselines, or further wherever the continental margin extends beyond this distance. On April 21, 2009, Vanuatu, Fiji, and the Solomon Islands submitted to the Commission on the Limits of the Continental Shelf (CLCS) preliminary information on the limits of its continental shelf beyond 200 nm in the North Fiji Basin. On August 10, 2009, Vanuatu submitted to the CLCS preliminary information on the limits of its continental shelf beyond 200 nm from the islands of Hunter (Leka) and Matthew (Umaenupne); this information was revised on July 18, 2012.⁸

Navigation

Section 5 of Act No. 6 recognizes the right of innocent passage of foreign ships through the archipelagic waters and territorial sea of Vanuatu. However, paragraph 10 of Section 5 provides that, for certain vessels such as foreign warships, the right of innocent passage is "subject to the prior written approval of the Minister [responsible for the Maritime Zones]." This provision is not permitted by the LOS Convention and is not recognized by the United States.

Vanuatu's law does not mention the right of archipelagic sea lanes passage for all ships and aircraft, which is provided for in Article 53 of the LOS Convention. As of March 2014, the Vanuatu government had not formally designated any archipelagic sea lanes. In accordance with Article 53.12 of the LOS Convention, since Vanuatu has not designated archipelagic sea lanes, the "right of archipelagic sea lane passage may be exercised through the routes normally used for international navigation."

Exclusive Economic Zone and Continental Shelf Jurisdiction

Act No. 6 of 2010 does not refer to the exercise in Vanuatu's EEZ of the high seas freedoms of navigation and overflight and of the laying of submarine cables and pipelines. In this regard, the relevant provisions of international law are reflected in Articles 58 (pertaining to the EEZ) and 79 (pertaining to the continental shelf) of the LOS Convention.

Underwater Cultural Heritage

Section 10(2) of the Act provides in part that "Vanuatu has jurisdiction and control in the exclusive economic zone, in respect of . . . the authorization, regulation and control of . . . the

⁷ Article 5 of the LOS Convention provides that the normal baseline "is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State."

⁸ Preliminary information documents of Vanuatu, including the 2012 revision, are available from DOALOS, at: http://www.un.org/Depts/los/clcs_new/commission_preliminary.htm.

recovery of archaeological or historical objects.” Under Article 303.1 of the LOS Convention, all nations share a duty to protect such objects and cooperate for this purpose. However, the LOS Convention limits a coastal State’s jurisdiction over such objects to the seaward limit of the coastal State’s 24-nm contiguous zone. Any enforcement of this provision of Vanuatu’s law with respect to objects outside of the 24-nm contiguous zone against a foreign flagged vessel would be inconsistent with the LOS Convention, unless it is done with the consent of the flag State.

Maritime Boundaries

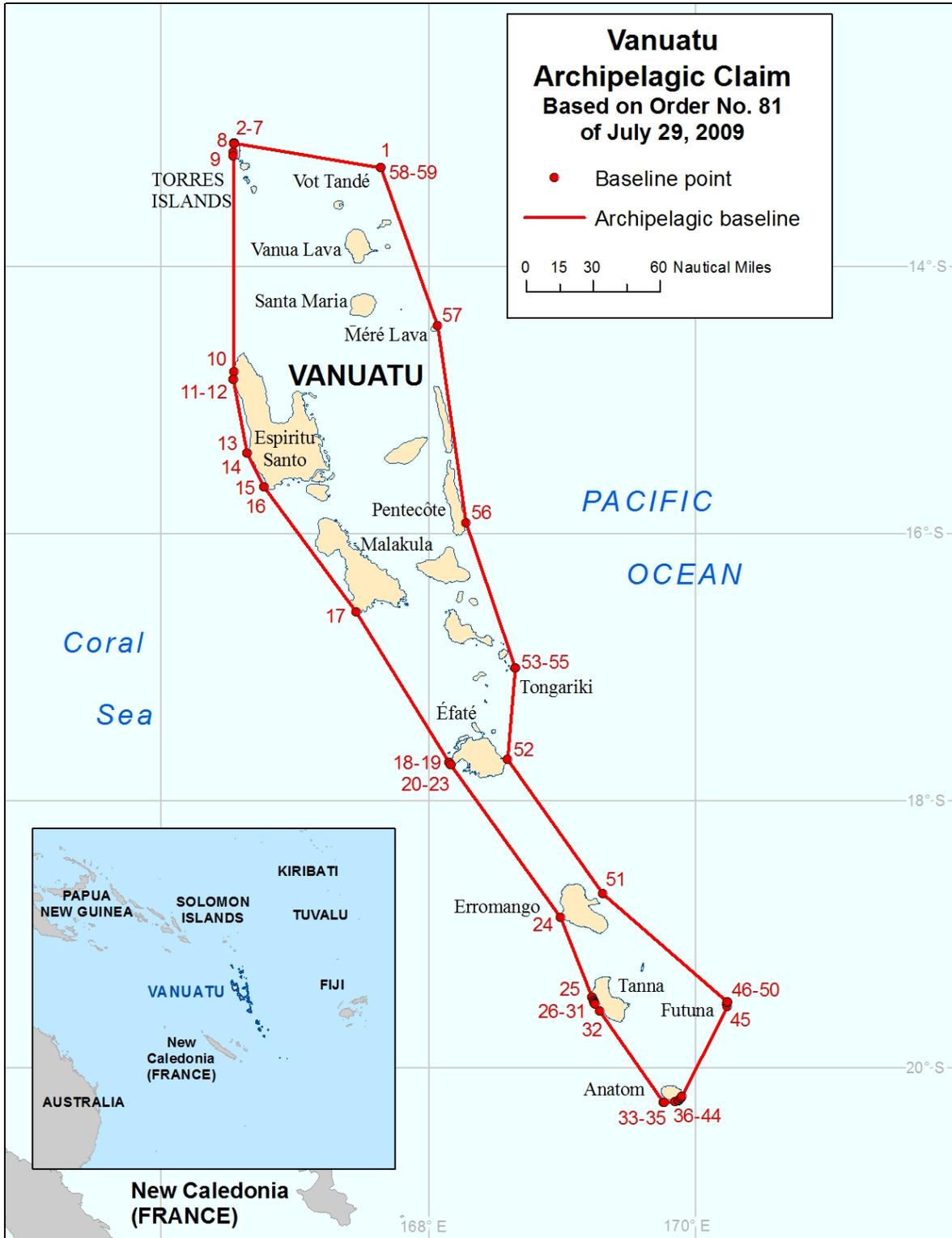
As of March 2014, Vanuatu had not yet established the maritime boundaries with its neighbors, France (New Caledonia), Solomon Islands, and Fiji.⁹

Several provisions of Act No. 6 address the situation of undelimited boundaries. Sections 9 and 11 provide, respectively, that EEZ and continental shelf boundaries with other States are “to be effected by agreement on the basis of international law as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.” Both sections further provide that disputes between Vanuatu and another State concerning a maritime boundary are to be resolved by an agreement; however, “if ... the dispute cannot be resolved by an agreement, the dispute is to be resolved by (i) the Conciliation procedures under Part XV of the [LOS] Convention; or (ii) any other procedure authorized by international law.”

⁹ This is acknowledged in paragraph 5 of Vanuatu’s revised preliminary information on its continental shelf, *supra* note 8. For a discussion of the possible maritime boundaries with Vanuatu, *see* V. Prescott and C. Schofield, *The Maritime Political Boundaries of the World*, at 399-402 (Nijhoff, 2nd ed. 2005).

Map 1

Illustrative Map of Vanuatu's Archipelagic Baselines



Annex 1

**Amendment of the Schedule of the Maritime Act [CAP 138]
29 July 2009**

SCHEDULE

ARCHIPELAGIC BASELINE

An archipelagic baseline commencing at the outermost point of the low - water line on the reef off Vat Tande Island co-ordinate 167° 38' 39.2244" East 13° 15' 18.4248" South, and, except where the contrary intention appears, following the geodesic lines successfully linking the outermost points on the low-water lines of the land area specified below –

COORDINATES (WGS84)

Point No.	Land Area	Longitude (DMS)	Latitude (DMS)
1	Vat Tande Island	167° 38' 39.2244" E	13° 15' 18.4248" S
2	Vewoag Point on Hiu Is.	166° 32' 53.1564" E	13° 04' 19.884" S
3	Vewoag Point on Hiu Is.	166° 32' 51.81" E	13° 04' 19.7796" S
	And thence along the low-water line to point 4		
4	Vewoag Point on Hiu Is.	166° 32' 50.784" E	13° 04' 19.812" S
5	Vewoag Point on Hiu Is.	166° 32' 45.5352" E	13° 04' 21.6156" S
6	Vewoag Point on Hiu Is.	166° 32' 43.1268" E	13° 04' 25.986" S
	And thence along the low-water line to point 7		
7	Vewoag Point on Hiu Is.	166° 32' 41.2584" E	13° 04' 34.9464" S
8	Repemutu Point on Hiu Is.	166° 32' 33.2016" E	13° 08' 28.7016" S
9	Nremoyofpoint on Hui Is.	166° 32' 34.7244" E	13° 10' 08.0184" S
10	Latsmagabe Point	166° 32' 55.7808" E	14° 47' 11.1048" S
11	Lovia Point on Santo Is.	166° 32' 29.3568" E	14° 50' 45.9456" S
	And thence along the low-water line to point 12		
12	Lovia Point on Santo Is.	166° 32' 29.5908" E	14° 50' 49.02" S
13	Linduri Village, Wusi	166° 38' 48.318" E	15° 23' 45.5316" S
	And thence along the low-water line to point 14		
14	Linduri Village, Wusi	166° 38' 50.7156" E	15° 23' 51.0828" S
15	Lavusvo, Santo Is.	166° 46' 21.4212" E	15° 39' 04.3056" S
	And thence along the low-water line to point 16		
16	Lavusvo, Santo Is.	166° 46' 23.502" E	15° 39' 07.4232" S
17	Toman (Urur) Is.	167° 27' 43.5636" E	16° 35' 21.786" S
18	Leinamaia Point, SW Efate	168° 09' 24.246" E	17° 42' 43.596" S
19	Leinamaia Point, SW Efate	168° 09' 27.6012" E	17° 42' 48.8988" S
20	Tukutuku Point, SW Efate	168° 10' 13.2024" E	17° 43' 57.36" S
21	Tukutuku Point, SW Efate	168° 10' 14.6136" E	17° 43' 59.4516" S
	And thence along the low-water line to point 22		
22	Tukutuku Point, SW Efate	168° 10' 14.8584" E	17° 43' 59.8404" S
23	Tukutuku Point, SW Efate	168° 10' 16.392" E	17° 44' 01.932" S
24	Toven Kasau Pt, Erromaango Is.	168° 59' 29.0652" E	18° 52' 33.15" S
25	SW Imanaka	169° 13' 29.8488" E	19° 28' 18.2532" S
26	SW Imanaka	169° 13' 30.8352" E	19° 28' 20.6148" S
27	Lenus, Lekapo, Louteth (Tanna)	169° 14' 12.012" E	19° 29' 48.5736" S
	And thence along the low-water line to point 28		
28	Lenus, Lekapo, Louteth (Tanna)	169° 14' 18.5928" E	19° 30' 01.7532" S
29	Itunga (Tanna)	169° 14' 40.0416" E	19° 30' 50.274" S
	And thence along the low-water line to point 30		
30	Itunga (Tanna)	169° 14' 46.4064" E	19° 31' 01.5564" S

31	Lenuvalu (Tanna)	169° 15' 00.9756" E	19° 31' 29.6796" S
32	Ikiyo, SW Tanna (Tanna)	169° 17' 12.2172" E	19° 34' 35.7348" S
33	Mystery Is.	169° 45' 37.5012" E	20° 15' 36.6984" S
	And thence along the low-water line to point 34		
34	Mystery Is.	169° 45' 44.874" E	20° 15' 41.2632" S
35	Mystery Is.	169° 45' 59.0832" E	20° 15' 43.6644" S
36	Niav Pt.	169° 51' 01.35" E	20° 15' 16.2792" S
37	SE Anietyum	169° 52' 08.7348" E	20° 14' 55.4604" S
38	SE Anietyum	169° 52' 15.4812" E	20° 14' 52.1124" S
39	SE Anietyum	169° 52' 28.218" E	20° 14' 44.0988" S
40	SE Anietyum	169° 52' 37.4484" E	20° 14' 36.7224" S
41	SE Anietyum	169° 52' 40.9944" E	20° 14' 33.3492" S
42	SEAnietyum	169° 53' 10.968" E	20° 13' 56.8092" S
43	SE Anietyum	169° 53' 29.4216" E	20° 13' 27.6528" S
44	SE Anietyum	169° 53' 56.6196" E	20° 12' 45.216" S
45	Imad Point, Futuna	170° 14' 09.7764" E	19° 32' 23.2008" S
46	Sinow Point, Futuna	170° 14' 17.6028" E	19° 30' 41.8248" S
47	Sinow Point, Futuna	170° 14' 17.7864" E	19° 30' 36.0288" S
	And thence along the low-water line to point 48		
48	Sinow Point, Futuna	170° 14' 17.3256" E	19° 30' 33.984" S
49	Sinow Point, Futuna	170° 14' 15.432" E	19° 30' 30.294" S
	And thence along the low-water line to point 50.		
50	Sinow Point, Futuna	170° 14' 14.1936" E	19° 30' 28.8468" S
51	Vetemanu Island	169° 18' 16.6212" E	18° 41' 49.7832" S
52	Manuro Point, SE of Efate.	168° 35' 43.71" E	17° 41' 21.9912" S
53	Initatam Pt, Tongariki	168° 38' 56.382" E	17° 00' 24.0156" S
54	Initatam Pt, Tongariki	168° 38' 56.1588" E	17° 00' 18.8352" S
55	Initatam Pt, Tongariki	168° 38' 55.662" E	17° 00' 16.7256" S
56	Pantayal Point	168° 16' 58.3608" E	15° 55' 20.2656" S
57	Vot Totlav Island	168° 04' 11.0712" E	14° 26' 32.028" S
58	Vot Tande Island	167° 38' 45.3948" E	13° 15' 24.75" S
	And thence along the low-water line to point 59		
59	Vot Tande Island	167° 38' 44.5704" E	13° 15' 23.6952" S

[Coordinates of normal baseline of Matthew and Hunter Islands, and adjacent islands and rocks, omitted.]

Annex 2

Republic of Vanuatu Maritime Zones Act No. 6 of 2010

An Act to provide for the delimitation of the maritime zones and for other related matters.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY MATTERS

1 Interpretation

In this Act, unless the contrary intention appears:

bay means an indentation of the coast with an area of not less than that of the semicircle, the diameter of which is a line drawn across the mouth of the indentation;

Convention means the United Nations Convention on the Law of the Sea of 1982;

foreign vessel means any vessel other than a local vessel;

island means a naturally formed area of land, surrounded by water, which is above water at high tide;

Minister means the Minister responsible for the Maritime Zones;

nautical mile means an international nautical mile of 1,852 metres;

ship or vessel includes any kind of ship, vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation without regard to method or lack of propulsion;

warship means a ship belonging to:

- (a) the armed forces of a State bearing the external marks distinguishing such ships of its nationality; and
- (b) is under the command of an officer duly commissioned by the government of the State; and
- (c) has its name appears in the appropriate service list of the State or its equivalent; and
- (d) is manned by a crew which is under regular armed forces discipline.

PART 2 INTERNAL WATERS AND ARCHIPELAGIC WATERS

2 Sovereignty of Vanuatu

The Sovereignty of Vanuatu comprises of:

- (a) all islands within the archipelago including Mathew (Umaenupne) and Hunter (Leka) islands; and
- (b) any islands or reefs forming or formed within the Exclusive Economic Zone of Vanuatu.

3 Internal waters

The internal waters of Vanuatu form part of the national territory of Vanuatu and consist of

- (a) the waters on the landward side of the baselines from which the territorial sea of Vanuatu is measured; and

(b) for areas enclosed by archipelagic baselines- all waters that are contained within the innermost limits of the archipelagic waters.

4 Archipelagic waters

(1) In this section:

low-water line means:

- (a) the relevant low water datum line shown on the latest relevant British Admiralty Charts or where there is no such datum, the lowest astronomical tide line; or
- (b) if there is doubt on the relevant British Admiralty chart, the Minister may by order establish a chart for the purpose of this definition.

(2) The sovereignty of Vanuatu extends to the archipelagic waters, including the airspace over them as well as the seabed, subsoil and all resources contained in them and enclosed by the archipelagic baselines points 1:59 as prescribed by the Minister.

(3) The innermost limits of the archipelagic waters comprise of:

- (a) the low water line; or
- (b) in the case of the sea adjacent to a bay if
 - (i) the bay has only one mouth and the distance between the low water line of the natural entrance points of the bay does not exceed 24 nautical miles- along a closing line joining those low water lines; or
 - (ii) because of the presence of islands, the bay has more than one mouth and the distance between the low waterlines of the natural entrance points of each mouth added together do not exceed 24 nautical miles- along a series of closing lines across each of the mouths so as to join those low water lines; or
 - (iii) neither paragraph (i) or (ii) applies- along a closing line 24 nautical miles in length drawn from low water line to low water line within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length; or
- (c) in the case of the mouth or each mouth of a river which flows into the sea- a closing line across the river mouth between points on the low water line of its banks.

5 Innocent passage

(1) In this section:

innocent passage means navigation through the territorial sea and archipelagic waters for the purpose of:

- (a) traversing the territorial sea or archipelagic waters without entering the internal waters of Vanuatu 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.

(2) Subject to this Act, a foreign vessel, warship or submarine may enjoy the right of innocent passage.

(3) The right of innocent passage by a foreign vessel, submarine or warship must be:

- (a) continuous, expeditious, and in conformity with the Convention and other rules of international law; and
- (b) in a manner that is not prejudicial to the peace, good order or security of Vanuatu.

- (4) A foreign vessel, submarine or warship that exercises the right of innocent passage may be allowed to stop and anchor if
- (a) such activities are incidental to the ordinary navigation of the foreign vessel, submarine or warship; or
 - (b) it is necessary because of natural disaster or distress; or
 - (c) it is necessary to provide assistance to a person, foreign vessel, submarine, warship or aircraft that is in danger or distress ..
- (5) A foreign vessel, submarine or warship that exercises the right of innocent passage must not engage in all or any of the following activity:
- (a) causing any threat or use of force against the sovereignty, territorial integrity or political independence of Vanuatu or acts in any other manner in violation of the principles of international law embodied in the Charter of the United Nations; or
 - (b) engaging in any exercise or practice using weapons of any kind; or
 - (c) being involved in any act aimed at collecting information to the prejudice of the defence or security of Vanuatu; or
 - (d) taking part in any act of propaganda aimed at affecting the defence or security of Vanuatu; or
 - (e) being involved in the launching, landing or taking on board of any Aircraft
- (6) For the purpose of this section, a foreign vessel, submarine or warship may engage in any exercise if it has obtained a prior written approval of the Minister to carry out that exercise
- (7) The captain of a foreign vessel, warship or submarine that contravenes paragraph (5) (a), (b), (c), (d) or (e) commits an offence and is liable on conviction to a fine not exceeding VT3,000,000.
- (8) The Minister may by Order prescribe the sea lanes or traffic separation scheme for foreign vessels, submarine or warships exercising the right of innocent passage for the purpose of the safety of the navigation and regulation of the passage of such foreign vessels, submarine or warship.
- (9) A submarine that enjoys the right of innocent passage must navigate on the surface and display its flag in a prominent place.
- (10) The following foreign vessels, or warship are to enjoy the right of innocent passage, subject to the prior written approval of the Minister:
- (a) a foreign warship; or
 - (b) a foreign nuclear- powered ship; or
 - (c) a foreign vessel or ship carrying any nuclear substance or any other dangerous or noxious substance; or
 - (d) a submarine
- (11) A foreign vessel or foreign warship that exercises the right of innocent passage through the territorial sea or archipelagic waters, must carry necessary documents and observe special precautionary measures established by the international agreements

- (12) The Minister may:
- (a) take any steps necessary to prevent any passage which is not innocent; or
 - (b) take any steps to prevent any breach of the conditions upon which ships proceeding to internal waters or call at a port facility are to be admitted;
 - (c) suspend temporarily the right of innocent passage in such areas of the territorial sea or archipelagic waters if it is necessary to do so for the protection of the security of Vanuatu,
- (13) A suspension made under paragraph (12) (c) takes effect on the date on which it is made.

PART 3 TERRITORIAL SEA AND CONTIGUOUS ZONE, ROADSTEADS, TERRITORIAL SEA AND CONTIGUOUS ZONE

6 Roadsteads

For the purposes of this Act, roadsteads which are used for the loading, unloading and anchoring of ships, and which are situated wholly or partly outside the outer limit of the territorial sea of Vanuatu, are taken to be included in the territorial sea of Vanuatu ..

7 Territorial Sea

- (1) The sovereignty of Vanuatu extends beyond its land territory, internal waters, and archipelagic waters, to an adjacent belt of sea, described as the territorial sea and to the airspace over it and its seabed and subsoil.
- (2) The territorial sea of Vanuatu comprises:
- (a) those areas of the sea having as their inner limits the baselines described in subsection 4(2), and as their outer limits a line established seaward from those baselines every point of which is at a distance of 12 nautical miles, from the nearest point of the relevant baseline; and
 - (b) those areas of the sea having as their inner limits the low water line of the coasts of Matthew (Umaenupne) and Hunter (Leka) Islands enclosed by basepoints 1:249 for Mathew (Umaenupne) and basepoints 1:255 for Hunter (Leka) Islands and as their outer limits a line established seaward from those baselines every point of which is at a distance of 12 nautical miles
- (3) If the Minister is satisfied that Vanuatu has historic or other title of sovereignty over a bay, waters or any other area, he or she may, by Order, declare a title to that bay, waters or other area and define the seaward limits of such bay, waters or other area.

8 Contiguous Zone

The contiguous zone of Vanuatu comprises the maritime zone contiguous to the territorial sea which extends to a distance of 24 nautical miles from the baseline from which the breadth of the territorial sea is measured.

PART 4 DELIMITATION OF THE EXCLUSIVE ECONOMIC ZONE

9 Establishment of an exclusive economic zone

- (1) An exclusive economic zone of the Republic of Vanuatu is established beyond and adjacent to the territorial sea of Vanuatu.
- (2) The exclusive economic zone comprises the maritime zone contiguous to the territorial sea which extends to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.
- (3) The boundaries of the exclusive economic zone are to be resolved as follows:

- (a) the exclusive economic zone boundaries with other States is to be effected by agreement on the basis of international law as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution; or
- (b) if there is any dispute between Vanuatu and another State concerning the delimitation of the boundaries of the exclusive economic zone of Vanuatu and such other State, the dispute is to be resolved by an agreement; or
- (c) if, however, the dispute cannot be resolved by an agreement under paragraph (3)(b), the dispute is to be resolved by:
 - (i) the Conciliation procedures under Part XV of the Convention; or
 - (ii) by any other procedure authorized by international law

10 Rights and jurisdiction of Vanuatu in its exclusive economic zone

- (1) Vanuatu has sovereign rights in the exclusive economic zone, in respect of:
 - (a) the exploration, exploitation, conservation and management of the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil; and
 - (b) all other activities for the economic exploitation and exploration within the exclusive economic zone, including production of energy from currents and winds; and
 - (c) all other rights as are recognized by the Convention or otherwise by international law.
- (2) Vanuatu has jurisdiction and control in the exclusive economic zone, in respect of:
 - (a) the establishment and use of artificial islands, installations and structures; and
 - (b) the authorization, regulation and control of scientific research and the recovery of archaeological or historical objects; and
 - (c) the preservation and protection of the marine environment and the prevention and control of marine pollution; and
 - (d) all other areas of jurisdiction as are recognized by the Convention or otherwise by international law

PART 5 DELIMITATION OF THE CONTINENTAL SHELF

11 Continental Shelf

- (1) The continental shelf of Vanuatu comprises of the sea-bed and subsoil of the submarine areas that extend:
 - (a) beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin; or
 - (b) to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance,
- (2) If the continental margin referred to in section (1) extends beyond 200 nautical miles from the nearest point of the baselines from which the breadth of the territorial sea is measured, the outer limits of the continental shelf is to be established in accordance with Article 76 of the Convention.
- (3) The boundaries of the continental shelf of Vanuatu are to be resolved as follows:

- (a) the continental shelf boundaries with other States is to be effected by agreement on the basis of international law- as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution; or
- (b) if there is any dispute between Vanuatu and another State concerning the delimitation of the boundaries of the continental shelf of Vanuatu and such other State, the dispute is to be resolved by an agreement; or
- (c) if, however, the dispute cannot be resolved by an agreement under paragraph (3)(b), the dispute is to be resolved by:
 - (i) the Conciliation procedures under Part XV of the Convention; or
 - (ii) any other procedure authorized by international law.

12 Rights in Jurisdiction over Continental Shelf

- (1) Vanuatu has the following exclusive rights in the continental shelf
 - (a) rights for the purpose of exploring and exploiting its natural resources; and
 - (b) rights to authorize and regulate drilling for all purposes; and
 - (c) rights to construct, operate, maintain and use of artificial islands, installations and structures; and
 - (d) rights to prevent, reduce or control pollution from pipelines; and
 - (e) rights to exploit the subsoil by means of tunnelling, irrespective of the depth of the water above the subsoil.
- (2) A person must not exercise any of the rights under paragraph 1 (a), (b), (c), (d) or (e), unless the person has obtained a prior written approval of the Council of the Ministers to do so.
- (3) The natural resources referred to in paragraph (1)(a) consists of:
 - (a) the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, and
 - (b) organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.
- (4) To avoid doubt, the rights of Vanuatu over the continental shelf do not depend:
 - (a) on Vanuatu's occupation of the continental shelf; or
 - (b) on the notion of occupation of the continental shelf; or
 - (c) by any express order.

13 Artificial islands, installations and structures

- (1) Vanuatu has the exclusive right in its exclusive economic zone and continental shelf to regulate the construction, operation and use of, artificial islands, installation and structures.
- (2) Vanuatu has the exclusive jurisdiction and control over artificial islands, installations and structures, including with respect to customs, fiscal, health, safety and immigration laws and regulations.

- (3) The Minister may with the prior approval of the Council of Ministers, by order:
- (a) establish safety zones around artificial islands, installations and structures to ensure the safety of navigation and of the artificial islands, installations and structures; or
 - (b) determine the breadth of safety zones, taking into account applicable international standards:
 - (i) to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures; and
 - (ii) that they do not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the competent international organization; or
 - (c) determine the depth, position and dimensions of the artificial islands, installation and structure; or
 - (d) determine the depth, position and dimensions of the safety zones.
- (4) The Minister is responsible to ensure that permanent means for giving warning of artificial islands, installations and structures is established and maintained.
- (5) A local or foreign vessel must observe and respect the safety zones and must comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations, structures and safety zones
- (6) The laws and regulations of Vanuatu apply:
- (a) to any marine installation or structure from the time it is attached or anchored to the continental shelf of Vanuatu for:
 - (i) the exploration of that shelf; or
 - (ii) the exploitation of its mineral ;or
 - (iii) the exploitation of other non-living resources,
 until the marine installation or structure is removed from the waters above the continental shelf of Vanuatu; or
 - (b) to any artificial island constructed, erected or placed on the continental shelf of Vanuatu; or
 - (c) within such safety zone surrounding any marine installation or structure or artificial island referred to in paragraph (a) or (b) as determined by the Regulations.
- (7) In this section, **marine installation or structure** includes:
- (a) any ship or ship wreck, anchor, anchor cable or rig pad; and
 - (b) any offshore drilling unit, production platform, sub-sea installation, pumping station, living accommodation, storage structure, loading or landing platform, dredge, floating crane, pipe laying or other barge or pipeline and any anchor, anchor cable or rig pad.

PART 6 MISCELLANEOUS

14 Definition

In this Part:

research means a marine scientific research.

15 Research in the Seas of Vanuatu

- (1) The State has the exclusive right to regulate, authorize and conduct a research in its territorial seas and archipelagic waters.
- (2) Subject to the provisions of the Convention, the State may in the exercise of its jurisdiction:
 - (a) regulate, authorize and conduct a research in its:
 - (i) exclusive economic zone; and
 - (ii) on its continental shelf.
- (3) A person other than the State must not carry on a research in the continental shelf unless the person has obtained a prior written approval of the Minister after consultation with other relevant agencies to do so.
- (4) A person who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding VT20,000,000.
- (5) The Minister may impose conditions for his or her decision made under subsection (3)
- (6) A copy of the report of findings of the research must be submitted to the Minister within 3 months after the completion of the report
- (7) A person who conducts a research must declare to the Minister, any data or sample taken or anything that is of a unique feature found during the course of the research within Vanuatu's sovereign boundary.
- (8) To avoid doubt, any data or sample taken and any unique feature found during the course of the research remains the property of the State
- (9) A person who fails to comply with subsection (7) commits an offence and is liable on conviction to a fine not exceeding VT10,000,000.

16 Minister to regulate matters in relation to research

- (1) The Minister may make Regulations prescribing matters in relation to the research and may provide for all or any of the following:
 - (a) collection of data and carrying out of investigations for the purpose of understanding oceans and their ecosystems and living and nonliving resources;
 - (b) conducting of hydrographic and oceanographic surveys of the seas and internal waters of Vanuatu;
 - (c) conducting of maritime scientific surveys relating to fisheries resources and their supporting habitat and ecosystems;
 - (d) conducting of basic and applied research relating to hydrography, oceanography and other marine sciences, including the study of fish and their supporting habitat and ecosystems;
 - (e) preparation and publication of data, reports, statistics, charts, maps, plans, sections and other documents relating to the seas and internal waters of Vanuatu.
 - (f) authorization and distribution or sale of data, reports, statistics, charts, maps, plans, sections and other documents;

- (g) preparation and publication of charts delineating, consistent with the nature and scale of the charts, all or part of the territorial sea, archipelagic waters, contiguous zone, exclusive economic zone and continental shelf of Vanuatu and adjacent waters; and
 - (h) participation in ocean technology development
- (2) In addition to subsections (1), the Minister may regulate:
- (a) the coordination, promotion and recommendation of national policies and programs with respect to fisheries science, hydrography, oceanography and other marine sciences;
 - (b) the conduct, and cooperation of persons conducting, applied and basic research programs, investigations and economic studies for the purpose of understanding oceans and their living resources and ecosystems;
 - (c) the maintenance and operation of ships, research institutes, laboratories and other facilities for research, surveying and monitoring for the purpose of understanding oceans and their living resources and ecosystems;
 - (d) the provision of scientific advice, services and support to the ministries and departments of the Government of Vanuatu and, on behalf of the Government of Vanuatu, to other States, international organizations and to other persons, regarding marine and maritime matters.

17 Regulations

- (1) The Minister may make Regulations prescribing matters:
- (a) required or permitted by this Act to be prescribed; or
 - (b) that are necessary or convenient to be prescribed for the carrying out or giving effect to the provisions of this Act
- (2) Without limiting subsection (2), the Minister may make Regulations to:
- (a) regulate the use of the internal waters, territorial sea, archipelagic waters, contiguous zone, exclusive economic zone, and continental shelf;
 - (b) set, and collect the fees to be paid in relation to any activity other than fishing, pleasure boats, exploration and exploitation of nonliving resources taking place in the internal waters, territorial sea, archipelagic waters, contiguous zone, exclusive economic zone, and continental shelf;
 - (c) prescribe any other matter authorized to be prescribed by this Act, the Convention, or international law pertaining to internal waters or the seas.

18 Charts and Geographical Coordinates

- (1) The Minister may by Order publish charts or lists of geographical coordinates specifying the geodetic data showing the following:
- (a) the baselines, low-water lines, straight baselines, and any closing lines; and
 - (b) the seaward limits of the territorial sea, the archipelagic waters, the contiguous zone, the exclusive economic zone and the continental shelf; and
 - (c) any sea lanes, air routes or traffic separation schemes
- (2) The data prepared under subsection (1) may be provided to the United Nations and other authorities as required by the Convention.

19 Reservation of Rights

To avoid doubt, all rights and powers of the State that are provided in the Convention but are not expressly provided in this Act, are reserved to the State.

20 Saving of orders

An Order made under paragraph 13 (a) of the Maritime Zones Act [CAP 138] that was in force immediately before commencement of this Act continues in force, on and after commencement of this Act, as if it had been made under this Act. [*See Annex I.*]

21 Repeal

The Maritime Zones Act [CAP 138] is repealed.

22 Commencement

This Act commences on the date on which it is published on the Gazette.

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

Vanuatu Archipelagic Baseline Segments

Baseline Segment	Length (nm)						
1-2	65.06	16-17	68.67	31-32	3.72	46-47	0.10
2-3	0.02	17-18	78.07	32-33	48.94	47-48	0.03
3-4	0.02	18-19	0.10	33-34	0.14	48-49	0.07
4-5	0.09	19-20	1.35	34-35	0.23	49-50	0.03
5-6	0.08	20-21	0.04	35-36	4.77	50-51	71.96
6-7	0.15	21-22	0.01	36-37	1.11	51-52	72.66
7-8	3.88	22-23	0.04	37-38	0.12	52-53	40.95
8-9	1.65	23-24	82.83	38-39	0.24	53-54	0.09
9-10	96.57	24-25	38.05	39-40	0.19	54-55	0.04
10-11	3.59	25-26	0.04	40-41	0.08	55-56	68.07
11-12	0.05	26-27	1.60	41-42	0.77	56-57	89.33
12-13	33.34	27-28	0.24	42-43	0.57	57-58	75.02
13-14	0.10	28-29	0.87	43-44	0.83	58-59	0.02
14-15	16.79	29-30	0.21	44-45	44.61	59-1	0.12
15-16	0.06	30-31	0.52	45-46	1.69		