

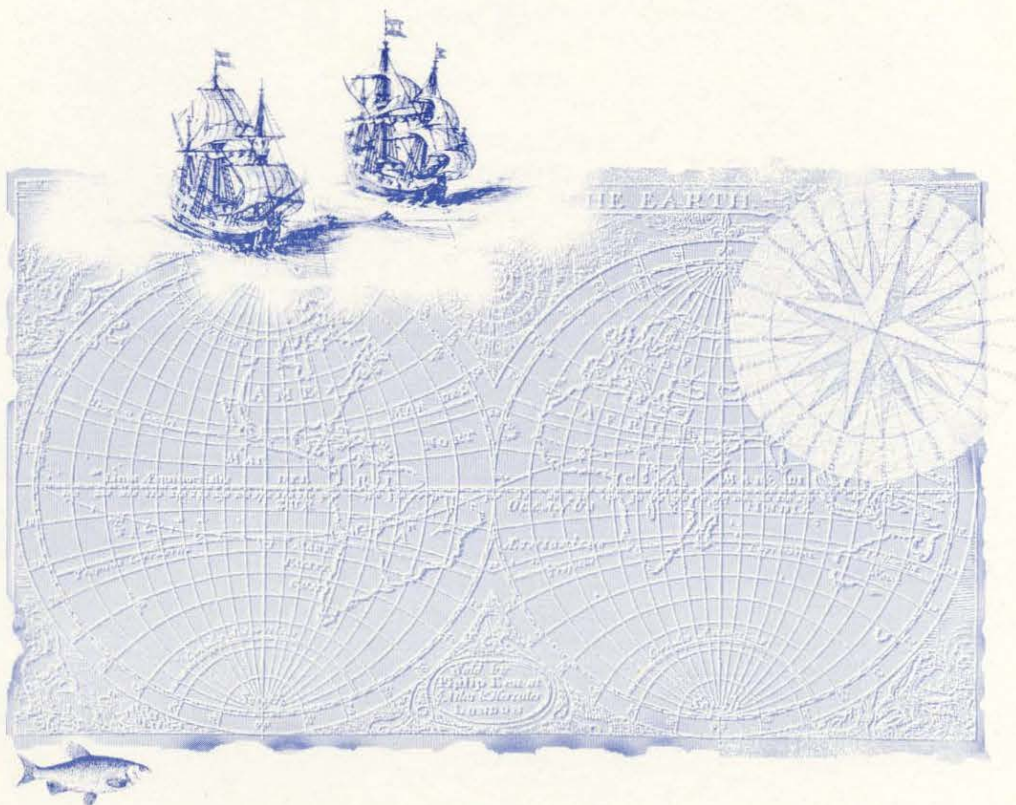
United States Department of State
*Bureau of Oceans and International
Environmental and Scientific Affairs*



Limits in the Seas

No. 123

Uruguay's Maritime Claims



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November 27, 2000

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limitation for bay closing lines, it follows that, as a rule, no straight baseline segment should exceed 24 miles.¹⁰

ANALYSIS OF URUGUAY'S MARITIME CLAIMS AND BOUNDARIES

Straight Baselines¹¹: Uruguay is bordered by Brazil to the north and east, and Argentina to the west. The southeast coastline of Uruguay faces the South Atlantic Ocean and its southern coastline fronts on the Rio de la Plata. Overall, the entire Uruguayan coastline from its border with Brazil to the entrance of the Rio de la Plata is smooth with no major indentations. The mainland coastline does not contain localities that are “deeply indented and cut into” or where there is “a fringe of islands.” With the exception of a few isolated islets, there are no offshore islands.

Article 14 of its Act No. 17.033 of 20 November 1998 sets forth Uruguay’s baseline claim (the geographical coordinates of the straight baseline turning points are reproduced in Annex 1 of this study) and states:

The baseline for the measurement of the breadth of the territorial sea and of other maritime areas of Uruguay are the normal and straight baselines established in annex I (list of geographical coordinates and features specifying the baselines) of this Act, including the straight line which marks the outer limit of the Rio de la Plata from the maritime lateral limit with the Argentine Republic to Punta del Este, in accordance with the provisions of the Treaty concerning the Rio de la Plata and the corresponding maritime boundary of 19 November 1973. The delineation of these lines is shown on the nautical charts which are annexed hereto as Annex II to this Act.

Uruguay has created 13 straight baseline segments ranging in length from 60 miles (segment 1-2 across its half of the mouth of the Rio de la Plata) to 0.3 miles (segment 16-17; see Table 1 and attached illustrative map).

Table 1
Straight Baseline Lengths
(nautical miles)

Segment	Length	Segment	Length
1-2	59.9	11-12	17.0
3-4	0.8	12-13	10.3
4-5	7.5	13-14	0.5
8-9	1.0	14-15	2.4
9-10	24.6	15-16	4.6
10-11	3.1	16-17	0.3
		17-18	1.8

¹⁰ Roach and Smith, footnote 24, pp. 64-65.

¹¹ Analysis of this straight baseline claim was based on NIMA charts NO 24000 (39th ed., August 9, 1997 (Corrected through NM 32/9, 1:990,526) and NO 23030 6th ed., Nov. 22, 1997 (Corrected through NM 47/97, 1: 778,790).

Starting in the south, Uruguay's first baseline segment of approximately 60 miles connects points 1-2 and is a part of the Rio de la Plata closing line that it established in an agreement with Argentina. On November 19, 1973, Uruguay and Argentina signed a treaty defining their lateral maritime boundary in the Rio de la Plata and a continental shelf boundary seaward of the river closing line.¹² One provision of this treaty reaffirmed the closing line at the mouth of the Rio de la Plata between Punta del Este (Uruguay) and Punta Rasa del Cabo San Antonio (Argentina) established in the Joint Declaration on the External Limit of the Rio de la Plata of 1961 and the Protocol of the Rio de la Plata of 1964.

This Rio de la Plata closing line claim was protested by the United States in 1963. According to the United States, Argentina and Uruguay did not assert an historic claim to these waters, but rather their claim took into account the provisions of Article 13 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone regarding river closing lines. The U.S. protested on the grounds that this claim was counter to international law and that Article 13 "relates to rivers which flow directly into the sea which is not the situation of the Rio de la Plata which flows into an estuary or bay".¹³ Thus, this is an invalid baseline from which to measure the breadth of its territorial sea because it exceeds 24 miles and because more than one state borders this body of water.

Basepoints 2 and 3 are situated on the west and south coast of Punta del Este, respectively, and the baseline between them is the normal baseline, or low-water line.

Along the next 7.5 mile stretch of smooth mainland coastline Uruguay has drawn straight lines between Points 3 and 4 (Punta del Vapor) and between points 4 and 5 (Punta Piedras). This coastline is neither deeply indented and cut into, nor fringed with islands. Thus, these segments exceed the provisions of Article 7 of the LOS Convention. And, in fact, the straight baselines have no impact on the outer limit of the territorial sea. About 6 miles seaward of the mainland in this area sits Islote de Lobos, a very small islet. Uruguay has established a low-water point (point 6) on this island from which to measure the territorial sea. The 12-mile limit drawn from this islet makes segments 3-4 and 4-5 irrelevant.

From point 5 through point 8, about 35 miles along the mainland coast, the baseline is the low-water line.

From point 8 (Cabo Santa Maria) to point 18 (Punta de la Coronilla) Uruguay has drawn 9 straight baseline segments, ranging in length from 0.3 miles (segment 16-17) to 24.6 miles (segment 9-10- see Table 1). While none of the baseline segments are

¹² For an analysis of this agreement see: *Limits in the Seas No. 64* Continental Shelf Boundary: Argentina- Uruguay, October 24, 1975, and Charney and Alexander (eds), *International Maritime Boundaries*, Martinus Nijhoff Publishers, Vol. 1, 1993, 757.

¹³ *57 Am. J. Int'l L.* 403-04 (1963); 4 Whiteman 342-43. It should be noted that the United Kingdom (1961) and the Netherlands (1962) also protested this claim for the same reasons. See Roach and Smith, 35.

excessively long, they all are drawn along a coastline that does not meet the LOS Convention geographic criteria.

Then, from point 18 (Punta de la Coronilla) to point 19, where the Brazil- Uruguay land boundary reaches the coast, Uruguay employs the normal (low-water line) baseline.

Uruguay's mainland coastline from Punta del Este to the land boundary terminus with Brazil has a geographic consistency where the coastline, in its entirety, is relatively smooth with minor coastal curvatures. Yet, Uruguay has employed straight baseline segments in areas that have similar qualities as those areas where it has used the normal baseline, the low-water line. The straight baselines have enclosed very small areas that are not "sufficiently closely linked to the land domain to be subject to the regime of internal waters:" (as called for in Article 7(3) of the LOS Convention). Further, the straight baseline segments have virtually no impact on the outer limits of the territorial sea. There are no areas along the Uruguayan coastline where straight baselines would be appropriate.¹⁴

Territorial Sea¹⁵: Prior to its 1998 law, Uruguay claimed a 200-mile territorial sea.¹⁶ Its new Act 17.033 claim of a 12-mile limit is the maximum allowed by the LOS Convention. Uruguay's territorial sea area, as drawn from its claimed straight baselines listed in Annex 1, encompasses approximately 2,200 square nautical miles (n. miles).

Article 2 of the Act states that the executive authority "shall also adopt the regulations applicable to the passage of warships through the territorial sea." International law does not permit a coastal State to require a foreign warship to seek the prior authorization of, or notification to, the coastal State as a condition of conducting innocent passage through its territorial sea.

Contiguous Zone: The LOS Convention allows coastal States to claim a 24-mile contiguous zone for the purposes of "customs, fiscal, immigration or sanitary laws or regulations."¹⁷ Uruguay's 24-miles zone, as measured from its straight baselines encloses an area of approximately 4,450 square n. miles, or about 2,250 square n. miles seaward of the territorial sea limit.

Exclusive Economic Zone¹⁸: The maritime boundary described below between Uruguay and the Government of Brazil, according to the original agreement, extended

¹⁴ The Government of the United States protested Uruguay's straight baseline claim and several other provisions of its law in 2000.

¹⁵ United States NIMA charts 23030 and 24000 were used to analyze Uruguay's maritime claims.

¹⁶ Decree 604/969 and Ordinance 1983, December 3, 1969. It should be noted that in this decree innocent passage within 12 miles of the baseline was permitted and navigation and overflight rights were guaranteed beyond 12 miles.

¹⁷ LOS Convention, article 33(a).

¹⁸ The area for the exclusive economic zone was measured using an electronic planimeter and Operational Nautical Chart (ONC) R-24 (1:1,000,000).

ANNEX 1**Act No. 17.033 of 20 November 1998**¹

The Senate and the Chamber of Representatives of the Eastern Republic of Uruguay, meeting in general assembly, decree:

Article 1

The sovereignty of Uruguay extends beyond its continental and island territory and internal waters to the territorial sea, including its bed and subsoil and the airspace over it.

The breadth of the territorial sea of Uruguay is fixed at 12 nautical miles, measured from baselines determined in accordance with article 14 of this Act.

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 2

Ships of all States are recognized as having the right of innocent passage through the territorial sea, provided that such passage is in conformity with the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter referred to as "the Convention"), other rules of international law and such laws and regulations as Uruguay may adopt as a coastal State.

Nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances which wish to exercise the right of innocent passage shall observe the special precautionary measures established by the applicable international agreements and by such regulatory provisions as the executive authority may adopt for these purposes.

The executive authority shall also adopt the regulations applicable to the passage of warships through the territorial sea.

Article 3

The contiguous zone of Uruguay extends from the outer limit of the territorial sea up to a distance of 24 nautical miles from the baselines established in article 14 of this Act for measuring the breadth of the territorial sea.

¹ Transmitted by the Permanent Mission of Uruguay to the United Nations in a note No. 147/99 of 13 July 1999.

In this zone, Uruguay shall exercise the control necessary to:

- A. Prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;
- B. Punish infringement of the above laws and regulations committed within its territory or territorial sea.

Article 4

The exclusive economic zone of Uruguay extends from the outer limit of the territorial sea up to a distance of 200 nautical miles from the baselines established in article 14 of this Act for measuring the breadth of the territorial sea.

Article 5

In the exclusive economic zone of Uruguay 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, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.

Article 6

In the exclusive economic zone, Uruguay has jurisdiction with regard to:

- A. The establishment and use of artificial islands, installations and structures.

Uruguay has the exclusive right to construct and to authorize and regulate the construction, operation and use of such artificial island, installations and structures, regardless of their nature or characteristics;

- B. Marine scientific research;
- C. The protection and preservation of the marine environment.

In its exclusive economic zone, Uruguay shall also have the other rights and duties provided for in the Convention.

In the exclusive economic zone, all States enjoy, subject to the Convention, the freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, where this does not affect the sovereign rights and jurisdiction of Uruguay and compliance with its obligations in this zone.

Article 7

Where the same stock or stocks of associated species (straddling species) occur both within the exclusive economic zone and in an area beyond and adjacent to it on the high seas, Uruguay shall agree with the States fishing for such stocks in the adjacent area upon the measures necessary for the management and conservation of these stocks, which measures shall take into account and be compatible with the measures adopted in that regard by Uruguay in its exclusive economic zone.

In addition, Uruguay shall, taking into account the best scientific evidence available to it, adopt emergency management and conservation measures with regard to straddling fish stocks or highly migratory fish stocks in its exclusive economic zone; it shall extend such measures to the adjacent high seas area, in coordination, where applicable, with the States fishing for such stocks in that adjacent area, where a natural phenomenon would have adverse effects on the situation of one or more of the said species or their survival would be threatened as a result of human activity, through either fishing or pollution.

Article 8

The carrying out by other States of military exercises or any other military activities in the exclusive economic zone of Uruguay, particularly involving the use of arms, explosives or other aggressive or polluting means for any non-peaceful purpose shall in every case be subject to the authorization of the Government of Uruguay.

Article 9

The provisions of the preceding articles are without prejudice to the provisions of the Treaty concerning the Rio de la Plata and the corresponding maritime boundary, of 19 November 1979, particularly chapters XV (Navigation), article 72; XVI (Fishing), articles 73 to 77; XVIII (Research), article 79; and XX (Defence), articles 85 and 86.

Article 10

The continental shelf of Uruguay comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin.

The executive authority shall, through a special commission, chaired by a representative of the Ministry of Foreign Affairs and composed of representatives of the competent organizations, arrange for and coordinate the actions necessary to establish the outer edge of the continental shelf of Uruguay, in accordance with the provisions of article 76 of the Convention.

Article 11

Uruguay exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

“Natural resources of the continental shelf” means the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, 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.

Article 12

The delineation of the course for the laying of submarine cables and pipelines on the continental shelf of Uruguay shall be subject to the consent of the executive authority and shall in every case be granted.

Article 13

Marine scientific research in the exclusive economic zone and on the continental shelf of Uruguay shall in every case be subject to the authorization of the executive authority, in conformity with the relevant provisions of the Convention and the regulations adopted by the executive authority in that regard.

Article 14

The baselines for the measurement of the breadth of the territorial sea and of the other maritime areas of Uruguay are the normal and straight baselines established in annex I (List of geographical coordinates and features specifying the baselines) of this Act, including the straight line which marks the outer limit of the Rio de la Plata from the maritime lateral limit with the Argentine Republic to Punta del Este, in accordance with the provisions of the Treaty concerning the Rio de la Plata and the corresponding maritime boundary, of 19 November 1973. The delineation of these lines is shown on the nautical charts which are annexed hereto as annex II to this Act.

Article 15

The waters situated within the baselines established pursuant to article 14 of this Act form part of the internal waters of Uruguay.

Article 16

The lateral limits of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf are those derived from the Treaty concerning the Rio de la Plata and the corresponding maritime boundary, of 19 November 1973,

signed with the Argentine Republic, and from the Exchange of Notes signed on 21 July 1972 between the Eastern Republic of Uruguay and the Federative Republic of Brazil.

Article 17

“Nautical mile” means the international nautical mile, which is equivalent to 1,852 metres.

Article 18

The Uruguayan navy, through the Naval Oceanography, Hydrography and Meteorology Service, shall be responsible for the studies and works necessary to delineate the outer edge of the continental shelf, in conformity with the provisions of article 10 of this Act.

Article 19

The executive authority shall prepare the corresponding budgetary estimates to cover the costs of the above-mentioned studies, works and other actions relating to the preparation and updating of the charts referred to in articles 10 and 18 of this Act.

Article 20

The Ministry of Defence, through the Naval General Command, is entrusted with the monitoring and supervision of the maritime areas of Uruguay established by this Act. Such monitoring and supervision may be extended beyond those areas in exercise of the right of hot pursuit, in accordance with article 111 of the Convention, or in compliance with the obligations established by the rules of international law with regard to the conservation and management of fishing in the adjacent area and to maritime search and rescue.

Article 21

The executive authority shall adopt the regulations necessary for compliance with this Act.

Article 22

All legal regulatory provisions which conflict with this Act are hereby repealed.

DONE in the Conference Room of the Uruguayan Senate in Montevideo on 10 November 1998.

MARIO FARACHIO
Secretary
[Signed]

HUGO FERNANDEZ FAINGOLD
President
[Signed]