

**St. Kitts & Nevis  
International Ship  
Registry**

*Flying the flag of the  
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**Maritime Circular to Maritime Registrars, Shipowners, Masters, Managers & Operators of St. Kitts & Nevis Ships, Classification Societies, Recognised Organisations, Recognised Security Organisations, Surveyors of Ships & Flag State Inspectors to this SKANReg, Seafarers & IMO Member States**

**Maritime Circular No.MC/63/15**

**DATE: 7<sup>TH</sup> September 2015**

**PROHIBITANCE OF VESSELS >300GT ENTERING OR CROSSING THROUGH SABA BANK AREA**

This Maritime Circular is to advise the Owners and Managers/Operators of St. Kitts & Nevis Ships that under no circumstances are St. Kitts & Nevis ships allowed to enter or pass through the Saba Bank Area.

On 01<sup>st</sup> June 2013, the Saba bank area became a Particular Sensitive Sea Area (PSSA) as well as an Area To Be Avoided (ATBA). Subsequently, this area is closed for all shipping > 300 GT.

Defiance of this notice will result in financial implications/charges being imposed by the Dutch Caribbean Coast Guard

Please take notice of the contents of this circular letter and be guided accordingly and if you have any questions please do not hesitate to contact us.

Yours truly,

Nigel E Smith  
*International Registrar of Shipping and Seamen*





**Regulation of the Minister of Economic Affairs, Agriculture and Innovation of December 15, 2010, No. 169929, designating the Saba Bank as nature park;  
Amended by regulation of the State Secretary of Economic Affairs, of May 29, 2013, no. 13030645 to implement Resolution MEPC 226(64) (Regulation to prohibit large ships from passing over the Saba Bank)**

The State Secretary for Economic Affairs, Agriculture and Innovation, in consultation with the Minister of Infrastructure and Environment;

Noting Article 2a and 8d, first paragraph, of the Nature Conservation Framework Act BES;

Decides:

**Article 1**

In this regulation the following definitions shall apply:

- a. Act: Nature Conservation Framework Act BES;
- b. Minister: Minister of Economic Affairs, Agriculture and Innovation.

**Article 2**

1. The Saba Bank is designated as a nature park as referred to in Article 2a of the Act.
2. The nature park referred to in the first paragraph includes the area as indicated on the map in the Annex to this Regulation.
- 2a. Ships larger than 300 GT are prohibited from entering the nature park indicated in article 2.1t

**Article 3**

1. It is prohibited to anchor in the nature park referred to in Article 2, first paragraph.
2. The prohibition referred to in the first paragraph shall not apply to hydrographic survey vessels, salvage vessels and vessels used for search and rescue.
3. The prohibition referred to in the first paragraph does not apply to fishing vessels on the condition that the captain of the ship has a valid fishing license for any part of the Saba Bank.
4. The master of a vessel or ship referred to in the second or third paragraph shall report to the Coast Guard of the Kingdom of the Netherlands in the Caribbean when the external border of the nature park referred to in Article 2, first paragraph, is crossed either going in or passing outward.
5. The prohibition in the first paragraph shall not apply in cases of force majeure or providing assistance.

**Article 4**

1. The Minister may grant an exemption from the prohibitions referred to in Articles 2a. and 3, first paragraph.
2. The Minister grants an exemption referred to in the first paragraph only if the applicant has shown that:
  - a. the exemption is necessary to conduct scientific research or for instructional purposes, and
  - b. the interests of underwater nature in the national park are served by the exemption.
3. The Minister may attach conditions or restrictions to an exemption.
4. The Minister may extend, amend, revoke or add rules and restrictions to an exemption issued.



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**Article 5**

This Regulation may be cited as: Designation of Saba Bank as Nature Park.

**Article 6**

This regulation enters into force on the day of issue of the National Gazette in which it is placed.

This regulation including its explanatory note, will be published in the Government Gazette.

*The Hague, December 15, 2010*

*The State Secretary for Economic Affairs, Agriculture and Innovation, H. Bleker.*

The amendment came into force as of June 1, 2013

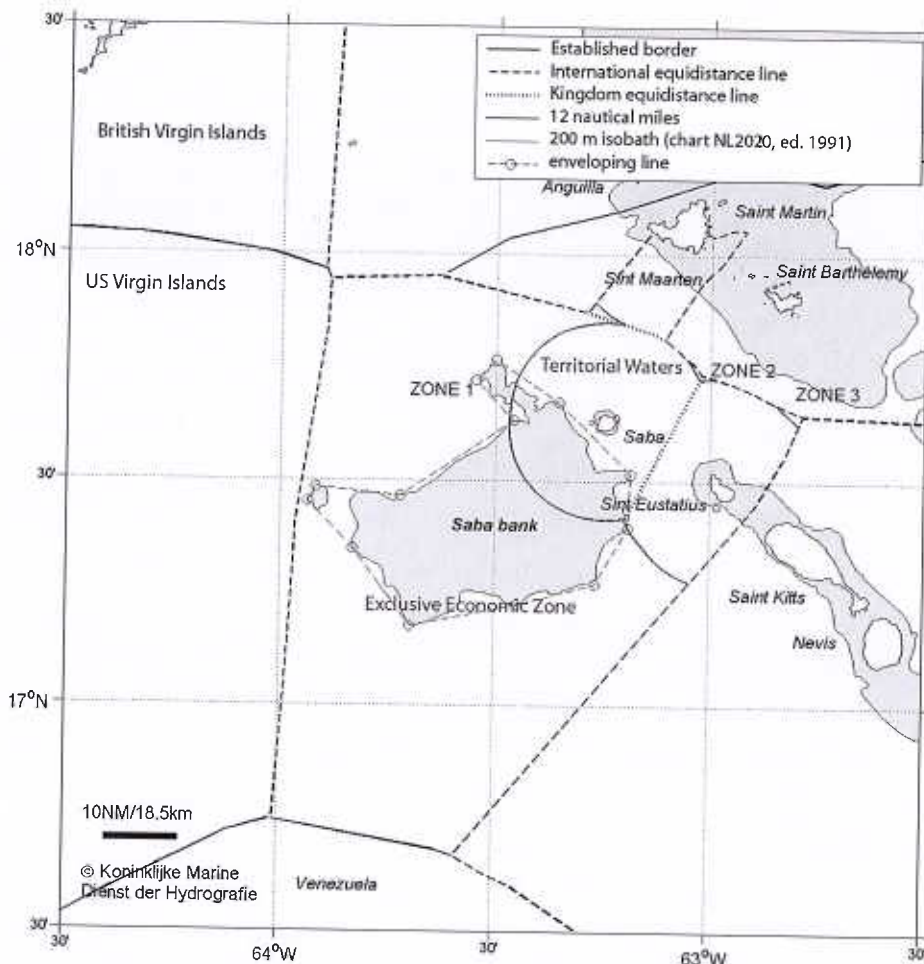
*The Hague 29 May, 2013*

*The State Secretary of Economic Affairs, S.A.M. Dijkema*



**ANNEX TO ARTICLE 2, SECOND PARAGRAPH, OF THE DESIGNATION OF SABA BANK AS NATURE PARK**

Map for the designation of Saba Bank as national park



De enveloping line is defined by the following coördinates in degrees, minutes en seconds in WGS84, shown as blue circles:

- |     |              |               |
|-----|--------------|---------------|
| 1.  | 17° 27'.06 N | 063° 56'.14 W |
| 2.  | 17° 29'.00 N | 063° 55'.09 W |
| 3.  | 17° 27'.94 N | 063° 43'.32 W |
| 4.  | 17° 38'.03 N | 063° 27'.41 W |
| 5.  | 17° 43'.35 N | 063° 32'.74 W |
| 6.  | 17° 45'.98 N | 063° 29'.98 W |
| 7.  | 17° 40'.34 N | 063° 21'.10 W |
| 8.  | 17° 30'.88 N | 063° 10'.92 W |
| 9.  | 17° 23'.80 N | 063° 11'.25 W |
| 10. | 17° 16'.27 N | 063° 15'.85 W |
| 11. | 17° 13'.44 N | 063° 26'.89 W |
| 12. | 17° 10'.55 N | 063° 41'.81 W |
| 13. | 17° 20'.85 N | 063° 49'.89 W |



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## EXPLANATORY MEMORANDUM

### 1. Introduction

In this regulation, the area known as the Saba Bank is designated as nature park in the sense of the Nature Conservation Act BES. AS yet only one control measure will apply within the designated area, namely a total ban to anchor in the area. This regulation replaces the National Decree designating Saba Bank a protected area established by the government of the former Netherlands Antilles, on 30 September 2010 (Official Gazette of the Netherlands Antilles, 2010, No. 94).

### 2. Saba Bank as nature area

The Saba Bank is a unique and important area, also for the surrounding region. The Bank is a submerged atoll and as such the largest actively growing atoll in the region, possibly even the fourth largest of the world. Recent studies on the Saba Bank have shown that the biodiversity of the bank is incredibly rich. The coral reefs are not only rich in species and highly developed, but by virtue of their location far from the influences of human settlement and coastal development they are also relatively safe refuges, uniquely suitable for comparison to measure the decline of coastal coral reefs in the Caribbean and so distinguish regional effects from local effects. The rich biodiversity is also a natural resource not just for the islands of Saba and Sint Eustatius, but for the entire region as an important recruitment source for fish, lobster and conch stocks and corals. This effect may even extend to the Greater Antilles and upstream to the east by anti-gyral counterflow effects. The area is therefore of special ecological, socio-economic, scientific and cultural significance.

### 3. Legal framework

#### International rights and obligations to protect the marine environment

Under Article 56 of the Convention of the United Nations Convention on the Law of the Seas<sup>1</sup> a coastal State has sovereign rights for the conservation and management of natural resources and protection of the marine environment in its exclusive economic zone. The Kingdom is a party to the Convention on the Protection and Development of the Marine Environment of the Wider Caribbean<sup>2</sup> (Trb. 1983, 152) and the related SPAW protocol<sup>3</sup>. Based on this, the parties take measures to protect the marine environment of the Caribbean, and may designate protected areas.

#### National framework

Based on the Nature Conservation Act BES the State Secretary of EZ and the Island Councils are authorized to designate nature parks for the implementation of the SPAW Protocol. Where it concerns areas located in the territorial sea, the National government and the island councils share competence, when areas are located in the Caribbean exclusive economic zone (Caribbean EEZ) only the State Secretary is empowered. A similar division of powers governs the adoption of management regulations within the designated areas.

Around eighty percent of the Saba Bank is located in the Caribbean EEZ and the remainder lies almost entirely in the territorial waters belonging to the public entity of Saba. A very small portion, amounting to 0.1 percent of the total area of the Saba Bank (two square kilometers), is located in the territorial waters on the southwest side of St. Eustatius. In view of this it stands to reason that the State Secretary designates the area including the parts located in territorial waters. The extensive coral reefs, fisheries and seaweed fields on the Saba Bank are vulnerable to damage, particularly by anchors of tankers and other large ships. The heavy anchor chains, hundreds of meters in length, scour the bottom as the ship swings around on its anchor, causing a great deal of damage. The regulation therefore includes a ban to anchor inside the nature park. The anchoring ban is a legitimate measure to protect the marine environment. The anchoring ban imposes justifiable restrictions based on the great importance of protecting the living resources on the bottom of the Saba Bank without imposing unjustified restrictions on international shipping. Because it concerns a limitation of shipping the regulation was established in consultation with the Minister of Infrastructure and Environment, who is responsible for the general management and shipping in the Caribbean EEZ.

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<sup>1</sup> The United Nations Convention on the Law of the Sea, agreed at Montego Bay on December 10, 1982.(Trb. 1983, 83).

<sup>2</sup> Cartagena Convention, March 24, 1983 in Cartagena de Indias (Trb. 1983, 152).

<sup>3</sup> Protocol on special protected areas and living in nature animals and plants, January 18, 1990 to Kingston (Trb. 1990, 115).



#### **4. Exemptions and waivers**

The hydrographic survey vessels, salvage vessels and vessels that are used for search and rescue are exempt from the ban on anchoring because of the nature of their activities on the Saba Bank (Article 3, second paragraph). The local fishing vessels with a valid fishing permit will usually not anchor and, in case they occasionally do this anyway, the impact on the natural resources of the lowering of an anchor with a limited weight for this category ships are minimal and for this reason considered acceptable. In terms of proportionality, these boats are therefore exempted from the prohibition (Article 3, third paragraph).

The State Secretary of EL&I is authorized to grant an exemption for research (Article 4, first paragraph). Such research can benefit the protection and preservation of the Saba Bank and the natural environment and should therefore be allowable. The Secretary of State may impose conditions on the license, such as duration of the study and size and type of anchor that is used in the investigation.

#### **5. Supervision and enforcement**

Under the Coast Guard Act Aruba, Curaçao and Sint Maarten as well as public bodies Bonaire, Sint Eustatius and Saba the Coast Guard oversees navigation, the environment and fisheries. Under Article 3 of the Act the oversight shall be exercised in inland waters, territorial sea, the contiguous zone and the other sea areas in the Caribbean Sea, inasmuch as international and interregional law allow. With an eye to this supervisory task of the Coast Guard, Article 3, paragraph a, requires notification when entering and leaving the maritime region of the Saba Bank.

The work resulting from this regulation forms part of the regular duties of the Coast Guard and therefore no additional expenditures are provided for the enforcement. In the long-term plan of the Coast Guard the designation of the Saba Bank as protected area has already been taken into account.

#### **6. Entry into force**

Notwithstanding the Permanent Change Moments, these regulations shall enter into force on the day after publication in the National Gazette. The scheme replaces a National Decree of the former government of the Netherlands Antilles. That decree already enacted the anchor prohibition mentioned as of 30 September 2010. As a result of the transition on October 10, 2010, that decision shall automatically expire. Given the importance of the ban and the awareness already accrued by the publication of the National Decree, it was decided to keep the period between the expiration of the National Decree and entry into force of this regulation as short as possible

*The State Secretary of Economic Affairs, Agriculture and Innovation,  
H. Bleker.*



## EXPLANATORY MEMORANDUM WITH THE AMENDMENT

The Saba Bank is a unique and important nature area, also for the surrounding region. The bank is the largest, actively growing atoll in the area, possibly even the fourth largest in the world. The rich biodiversity is not only a natural resource for the Islands Saba and Sint Eustatius, but also an important source of recruits of fish, lobster and conch populations, as well as corals for the entire region. This possibly extends even upstream to the East and west to the Greater Antilles by anti-gyral counter current effects. The area is therefore of special ecological, socio-economic, scientific and cultural significance.

This is one of the reasons why the Netherlands Government in 2010 proposed the Saba Bank to the International Maritime Organisation (IMO) as a Particularly Sensitive Sea Area (PSSA) referred to in resolution 982 (24) of the General Assembly of the IMO and including two associated protective measures (APMs) being a shipping restriction (Area To Be Avoided; ATBA) and an anchor ban (no anchoring area). The Dutch proposals were taken into consideration by the IMO under the coordination of the Marine Environment Committee (MEPC), and with resolution MEPC 226 (64) of 5 October 2012 the MEPC designated the Saba Bank as PSSA. During the 91st meeting of 26 to 30 November 2012, the Maritime Safety Commission then adopted the proposed APMs.

The Saba Bank was designated by Ministerial regulation as a nature park in the sense of Article 2a of the Nature Conservation Framework Act BES. The nature park has the same size as the PSSA that the maritime environment Committee has designated. The regulation designating the Saba Bank as nature park already included an anchor ban. To this a ban on passing over the Saba Bank is now added for ships of 300 GT or more in accordance with the ATBA as adopted by the Maritime Safety Committee (article 2a). The Minister of Economic Affairs is given the power to provide for exemption from the prohibition for the purpose of scientific investigations in the nature park (article 4). Finally, a new annex is included in the Regulation. In this new annex the coordinates defining the extent of the nature park, are provided in accordance with the notation in the set of coordinates used by the MEPC in its Resolution 226 (64) defining the extent of the PSSA. It concerns a technical change that does not lead to any change in the boundaries of the nature park.

Violation of the prohibitions is punishable under article 33 in conjunction with article 8d of the Nature Conservation Framework Act BES. For intentional infringements a fine of up to \$ 560,000 can be imposed. The work resulting from this regulation forms part of the regular duties of the Coast Guard and therefore no additional expenditures are provided for the enforcement. In the multi-year plan of the Coast Guard the designation of the Saba Bank as protected area has already been taken into account.

The amendment will come into force on June 1, 2013, in accordance with the decision of the Maritime Safety Committee for the adopted measures to take effect on that date. Therefore the regulation is exempted from the so-called system of fixed change moments in order to timely implement the international regulations.

The National Government and the Public Entities consult with each other on the management of the EEZ exclusive economic zone in the Caribbean Marine Biodiversity and Fisheries Management Committee. The intentions of the Dutch proposals to the IMO were discussed in the context of this Management Committee. The contents of the regulation and the explanatory memorandum were also officially submitted for assessment by the public entities of Bonaire, St. Eustatius and Saba. Positive advice was received from Bonaire, Sint Eustatius and Saba. In light of article 8d, third paragraph, of the Nature Conservation Framework Act BES this regulation was established in consultation with the Minister of Infrastructure and Environment.

*the State Secretary for Economic Affairs,  
S.A.M. Dijkema*