

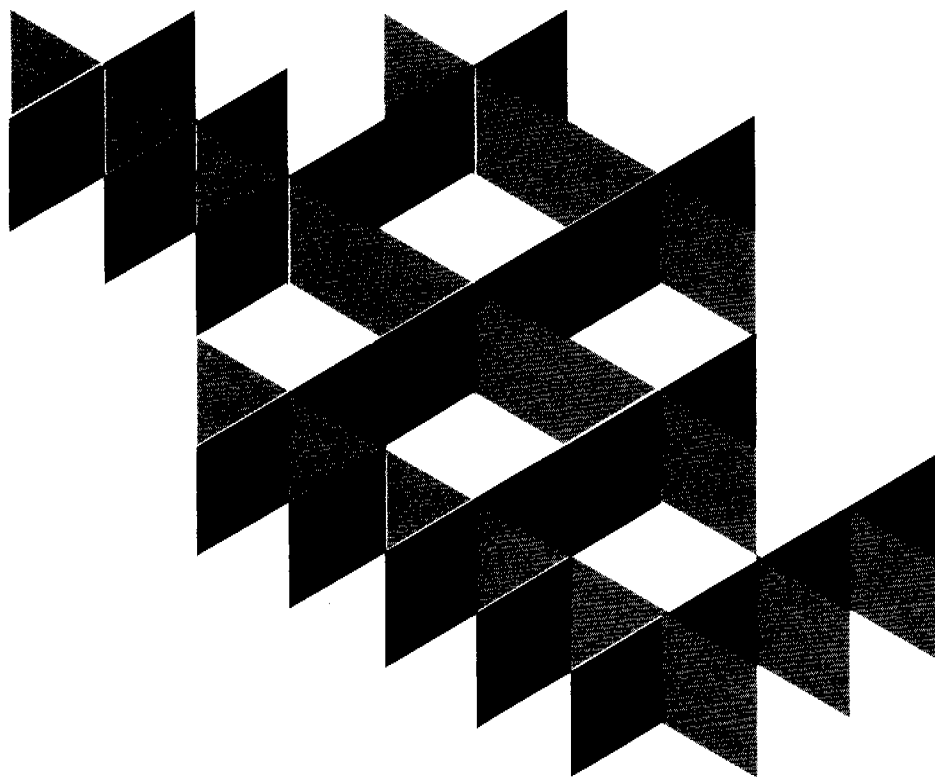
United States Department of State
*Bureau of Oceans and International
Environmental and Scientific Affairs*



Limits in the Seas

No. 110

**MARITIME BOUNDARY:
CUBA - UNITED STATES**



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LIMITS IN THE SEAS

No. 110

MARITIME BOUNDARY:

CUBA - UNITED STATES

February 21, 1990

Office of Ocean Law and Policy
Bureau of Oceans and International
Environmental and Scientific Affairs

Introduction

On December 16, 1977, the Governments of the United States of America and the Republic of Cuba signed an agreement delimiting a maritime boundary in the Straits of Florida and eastern Gulf of Mexico. The parties agreed to provisional application of the agreement, effective January 1, 1978, pending permanent entry into force of the agreement following the exchange of instruments of ratification. To date, this exchange has not occurred. Subsequent to the signing of this agreement Notes have been exchanged on six occasions (every two years) extending the provisional application of the agreement. The latest agreement occurred December 26, 1989.

The text of the maritime boundary agreement is reproduced at Annex 1 of this report; a copy of the most recent exchange of notes extending the provisional application of the agreement is reprinted at Annex 2.

Background

The 1977 negotiations leading to the maritime boundary agreement were one of the first formal and direct discussions the United States and Cuba held for many years. Each country had, in 1977, extended its maritime jurisdiction to 200 miles, Cuba claiming an exclusive economic zone, the United States claiming an exclusive fishing zone.¹ Since the two countries are less than 400 miles apart there exists an area in the southern portion of the Straits of Florida and eastern Gulf of Mexico where their respective claims overlap. (See attached illustrative map).

Following the claims to extended resource jurisdiction, each side viewed an agreed boundary as important to avoid enforcement problems and to establish an agreed limit for fisheries and continental shelf activities. Meetings were held in New York City and in Havana in early 1977. Realizing that there were several technical issues to overcome, the parties on April 27, 1977, agreed, through an exchange of notes, on a line to serve as a modus vivendi for 1977, pending conclusion of negotiations. The boundary agreement that was signed later that year differs only slightly from the April agreement. Although the treaty has been submitted to the U.S. Senate for its advice and consent to ratification, final action on the agreement has been deferred because of the political relations between the two countries, not due to any stated objection to the boundary itself.

The Boundary Area

The United States and Cuba have opposing coasts that range between 77 and 90 miles apart. The coastlines facing the boundary are the Florida Keys of the United States and the northern coast, including Havana, of Cuba. To the east each state will have a maritime boundary with The Bahamas. The eastern-most point in this delimitation is equally distant from The Bahamas, Cuba, and the United States.

The water depths along the boundary are relatively deep. The 100-fathom depth contour is encountered quite near both coasts. Along the eastern half of the boundary the water depths are generally less than 1000 fathoms (6000 feet) and relatively uniform, ranging between 350 and 650 fathoms. The water depth along the course of the western half of the boundary is deeper at about 1800 fathoms.

The Negotiations

The parties agreed early on in their talks to employ the equidistance method. The fishery enforcement limit the United States had unilaterally established on March 1, 1977, was a strict equidistant line with 48 turning and terminal points. The modus vivendi line agreed to by Cuba and the United States in April 1977 (to remain in force through 1977) simplified this line to 17 turning and terminal points. In the east, the first three points of the modus vivendi line included the tripoint, equidistant with The Bahamas, and two new turning points; the remaining 14 turning points coincided with the published United States fishery enforcement limit. The modus vivendi line was slightly north of the published United States line in the east, displacing an area of about 39 square nautical miles.

During the first round of discussions it was clear that each side did not have up-to-date and accurate data of the other side's coastline. This data gap resulted in incorrect positioning of the other side's basepoints and minor disagreement over the location of an equidistant line. Since both Cuba and the United States make their charts using the 1927 North American Datum and Clarke Ellipsoid of 1866, this technical problem was easily overcome with the exchange of large-scale charts.

One issue requiring compromise concerned Cuba's straight baseline claim made in February 1977.* The United States does not recognize Cuba's straight baselines along its northern coast on the grounds that the geographic conditions, as prescribed under international law, are not met. Specifically, Cuba's coastline is neither deeply indented nor fringed with islands in this area. The United States does not claim straight baselines along its coast. Cuba gains an advantage over the United States in the eastern part of the boundary if an equidistant line is created by using Cuba's straight baselines against the United States low-water line. The western portion of the boundary was not influenced by Cuba's straight baselines.

To avoid an impasse in the talks, Cuba and the United States agreed to calculate an equidistant line from the relevant basepoints on their respective low-water lines and a second equidistant line from the Cuban straight baselines and comparable hypothetical construction lines along the United States coast. These two equidistant lines were separated by as much as approximately three miles. A compromise line was then negotiated that ran between these two equidistant lines, essentially dividing the intervening area equally between them. Comparing the negotiated boundary line to the original line published

by the United States in March 1977, the United States gained a net area of approximately 235 square nautical miles; a slight area loss in the eastern part of the boundary area, offset in the central and western portions of the boundary.

The Boundary

The boundary consists of 27 turning and terminal points and is 313.4 miles long. In the east, the starting point is a tripoint, approximately 40 miles distant from the coasts of The Bahamas (Cay Sal), Cuba, and the United States. From the tripoint the boundary extends in a general westward direction until turning point 13; it then turns in a northwestward direction until reaching the terminus, 200 miles from the Cuban and U.S. coasts. The distance between boundary turning points ranges from 2.12 miles (between points 10 and 11) to 35.34 miles (between points 26 and 27) and averages about 12 miles.

The boundary separates all types of maritime jurisdiction permitted under international law. At the time the treaty was signed, Cuba claimed a 200-mile exclusive economic zone and the United States a 200-mile fishery zone. Subsequent to the signing the United States, in 1983, claimed a 200-mile exclusive economic zone.

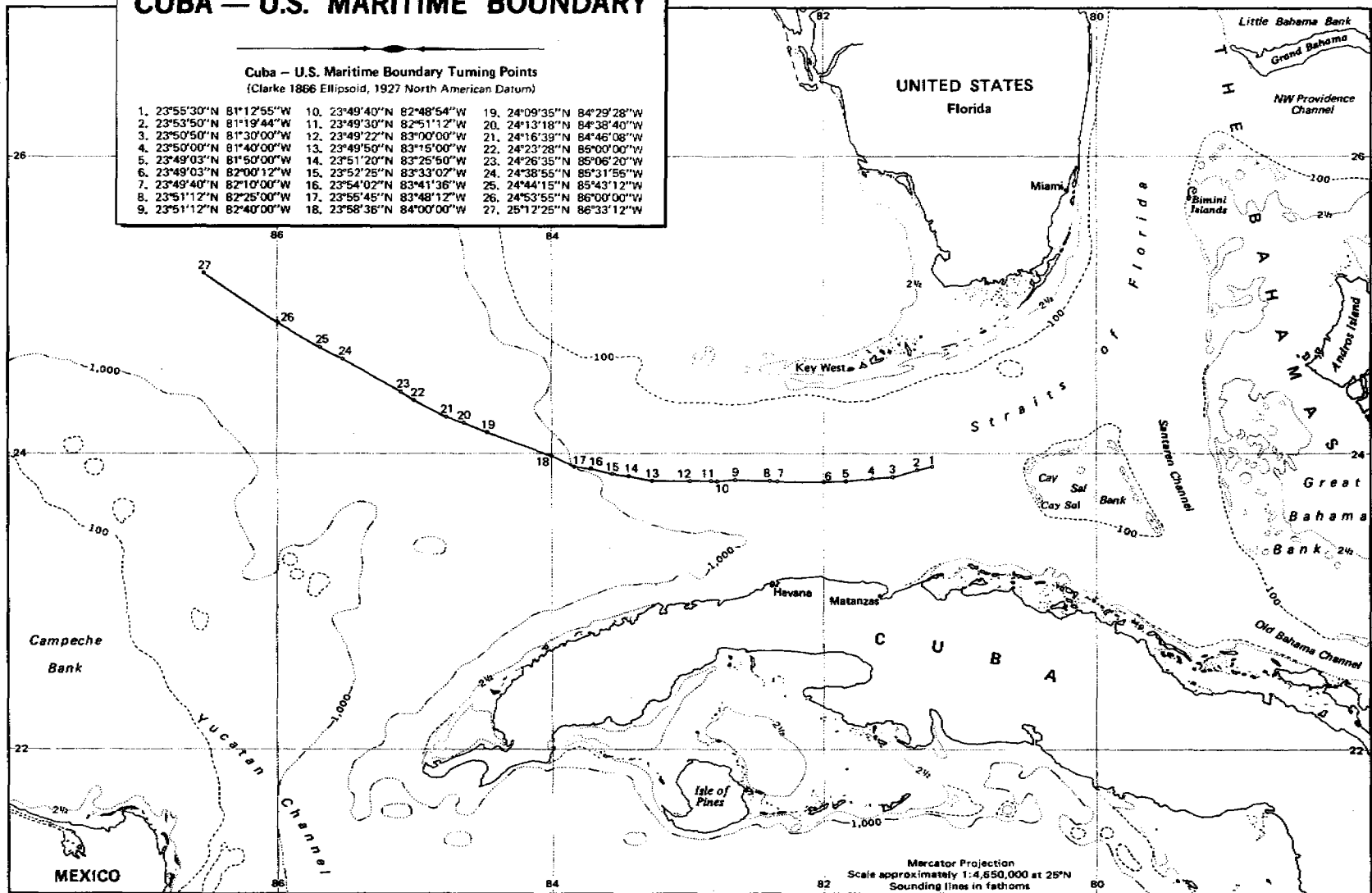
*All distances in this study are nautical miles. One nautical mile equals 1,852 meters.

*For analysis of Cuba's straight baseline claim see Limits in the Sea No. 76, October 28, 1977. The United States protested parts of the baseline system in 1984.

CUBA — U.S. MARITIME BOUNDARY

Cuba — U.S. Maritime Boundary Turning Points
(Clarke 1866 Ellipsoid, 1927 North American Datum)

1. 23°55'30"N 81°12'55"W	10. 23°49'40"N 82°48'54"W	19. 24°09'35"N 84°29'28"W
2. 23°53'50"N 81°19'44"W	11. 23°49'30"N 82°51'12"W	20. 24°13'18"N 84°38'40"W
3. 23°50'50"N 81°30'00"W	12. 23°49'22"N 83°00'00"W	21. 24°16'39"N 84°46'08"W
4. 23°50'00"N 81°40'00"W	13. 23°49'50"N 83°15'00"W	22. 24°23'28"N 85°00'00"W
5. 23°49'03"N 81°50'00"W	14. 23°51'20"N 83°25'50"W	23. 24°26'35"N 85°06'20"W
6. 23°49'03"N 82°00'12"W	15. 23°52'25"N 83°33'02"W	24. 24°38'55"N 85°31'55"W
7. 23°49'40"N 82°10'00"W	16. 23°54'02"N 83°41'36"W	25. 24°44'15"N 85°43'12"W
8. 23°51'12"N 82°25'00"W	17. 23°55'45"N 83°48'12"W	26. 24°53'55"N 86°00'00"W
9. 23°51'12"N 82°40'00"W	18. 23°58'36"N 84°00'00"W	27. 25°12'25"N 86°33'12"W



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ANNEX 1

MARITIME BOUNDARY AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA AND
THE REPUBLIC OF CUBA

Desirous of establishing the maritime boundary between the United States of America and the Republic of Cuba, as a result of the enactment, by the Government of the United States of America, of Public Law No. 94-265 of April 13, 1976, and by the Government of the Republic of Cuba of Decree-Law No. 2 of February 24, 1977, the two Governments have agreed as follows:

ARTICLE I

The maritime boundary between the United States of America and the Republic of Cuba shall be determined by the geodetic lines connecting the following coordinates:

<u>Latitude (north)</u>	<u>Longitude (west)</u>
1. 23°55'30"	81°12'55"
2. 23°53'50"	81°19'44"
3. 23°50'50"	81°30'00"
4. 23°50'00"	81°40'00"
5. 23°49'03"	81°50'00"
6. 23°49'03"	82°00'12"
7. 23°49'40"	82°10'00"
8. 23°51'12"	82°25'00"
9. 23°51'12"	82°40'00"
10. 23°49'40"	82°48'54"
11. 23°49'30"	82°51'12"
12. 23°49'22"	83°00'00"
13. 23°49'50"	83°15'00"
14. 23°51'20"	83°25'50"
15. 23°52'25"	83°33'02"
16. 23°54'02"	83°41'36"
17. 23°55'45"	83°48'12"
18. 23°58'36"	84°00'00"
19. 24°09'35"	84°29'28"
20. 24°13'18"	84°38'40"
21. 24°16'39"	84°46'08"
22. 24°23'28"	85°00'00"
23. 24°26'35"	85°06'20"
24. 24°38'55"	85°31'55"
25. 24°44'15"	85°43'12"
26. 24°53'55"	86°00'00"
27. 25°12'25"	86°33'12"

ARTICLE II

The geodetic and computational bases used are the Clarke 1866 Ellipsoid, the 1927 North American Datum, and the following charts:

Charts published by the National Ocean Survey of the United States of America:

Chart NOS No. 11438, 6th Edition, September 20, 1975;
Chart NOS No. 11439, 13th Edition, June 7, 1975;
Chart NOS No. 11441, 27th Edition, July 24, 1976;
Chart NOS No. 11442, 16th Edition, April 10, 1976;
Chart NOS No. 11445, 15th Edition, July 24, 1976.

Charts published by the Instituto Cubano de Hidrografia of the Republic of Cuba

Chart ICH No. 15001, 1st Edition, October 1, 1975;
Chart ICH No. 15002, 1st Edition, March 1, 1976;
Chart ICH No. 15003, 1st Edition, September 1, 1975;
Chart ICH No. 15004, 1st Edition, October 1, 1975;
Chart ICH No. 15005, 1st Edition, October 1, 1975;
Chart ICH No. 15006, 1st Edition, May 1, 1975.

ARTICLE III

South of the maritime boundary the United States of America shall not, and north of the maritime boundary the Republic of Cuba shall not, claim or exercise sovereign rights or jurisdiction over the waters or seabed and subsoil.

ARTICLE IV

This Agreement, the sole purpose of which is to establish the location of the maritime boundary between the United States of America and the Republic of Cuba shall not prejudice or affect the positions of either Party concerning the nature of the sovereign rights exercised by States; the rules of international law with respect to the exercise of jurisdiction over the waters or seabed and subsoil; or any other matter relating to the law of the sea.

ARTICLE V

This Agreement is subject to ratification in accordance with the respective constitutional procedures of the two States.

The Parties agree to apply the terms of this Agreement provisionally from January 1, 1978, for a period of two years, and it will enter into force permanently on the date of exchange of instruments of ratification.

Done at Washington, December 16, 1977, in English and Spanish, both texts being equally authentic.

For the Government of the United States of America:
Mark Feldman

For the Government of the Republic of Cuba:
Olga Miranda

ANNEX 2

COPY OF 1989 AGREEMENT
TO EXTEND THE PROVISIONAL APPLICATION OF THE
MARITIME BOUNDARY AGREEMENT,
SIGNED DECEMBER 16, 1977

Department of State
Washington

Excellency:

In connection with your representation of Cuban interests in the United States, I have the honor to refer to the Maritime Boundary Agreement between the United States of America and the Republic of Cuba, signed at Washington on December 16, 1977, and to the agreement of those governments in Article V to apply the terms of that Agreement provisionally from January 1, 1978, for a period of two years pending entry into force of the Agreement permanently on the date of exchange of instruments of ratification. I refer further to the agreement between the Government of the United States of America and the Government of the Republic of Cuba of December 28, 1979, to continue to apply the Maritime Boundary Agreement provisionally for a period of two years, from January 1, 1980 to December 31, 1981; to the similar agreement of December 28, 1981 to continue provisional application for an additional period of two years, from January 1, 1982 to December 31, 1983; to the similar agreement of December 30, 1983 to continue provisional application for an additional period of two years, from January 1, 1984 to December 31, 1985; to the similar agreement of December 3, 1985 to continue provisional application for an additional period of two years, from January 1, 1986 to December 31, 1987; and to the current agreement of December 21, 1987 to continue provisional application from January 1, 1988 to December 31, 1989.

On behalf of the Government of the United States of America, I propose that the terms of the Maritime Boundary Agreement of December 16, 1977 continue to apply provisionally from January 1, 1990 for a period of two years, pending entry into force of the Agreement permanently on the date of exchange of instruments of ratification.

If the above-mentioned proposal is acceptable to the Government of the Republic of Cuba, I propose that this note and the reply of the Cuban Interests Section constitute an agreement between the Governments of the United States of America and the Republic of Cuba to continue to apply provisionally from January 1, 1990, for a period of two years, pending permanent entry into force, the Maritime Boundary Agreement signed December 16, 1977.

Accept, Excellency, the renewed assurances of my highest consideration.

Lawrence Eagleburger, Acting

His Excellency
Miroslav Housdecky
Ambassador of the Czechoslovak Socialist Republic

[Note: An identical note was received by the United States from His Excellency Miroslav Housdecky dated December 26, 1989].