Decree 172 - 99

The National Congress:

Whereas,

On October 5, 1993, Honduras ratified the United Nations Convention on the Law of the Sea, an instrument that contains the basic principles for guaranteeing the right of States to maritime space;

The 1982 Constitution of the Republic of Honduras enshrines the principles of sovereignty and jurisdiction over the airspace and the subsoil of its continental and island territory, territorial sea, contiguous zone, exclusive economic zone, and continental shelf; delimiting the national territory;

Honduras is a country surrounded by two oceans, and, for this reason, it is necessary to approve laws that regulate the maritime spaces and harmonize legal, political, economic, and environmental matters, with priority being given to the conservation and exploitation of the natural resources of the marine environment, in view of its importance from an economic and environmental standpoint;

Therefore,

Hereby Decrees:

The following:

Law on the Maritime Spaces of Honduras

Article 1 Internal Waters

(1) All waters located within the baseline from which the territorial sea is measured, and those of ports, bays, inlets, and coves shall be considered internal waters:
(2) The sovereignty of the State extends to the water column, the seabed, subsoil, and air column over the internal waters; and
(3) When the establishment of a straight baseline, in accordance with the method set forth in Article 3, has the effect of enclosing as internal waters waters that had not previously been considered as such, a right of innocent passage to international maritime navigation shall exist in those waters.

Article 2 The Territorial Sea

The sovereignty of the State of Honduras extends beyond its territory and internal waters to the territorial sea adjacent to its coasts, that is, the belt of sea between the baseline from which all Honduran maritime spaces are measured and an external line whose points are located twelve nautical miles from those corresponding to the baseline.

Article 3 Internal Delimitation of the Territorial Sea and the Remaining Honduran Maritime Spaces

(1) The normal baseline for measuring the breadth of the Honduras territorial sea and the remaining marine spaces is the low-water line along the coast;
(2) The foregoing notwithstanding, in cases where the configuration of the coast is irregular, with pronounced openings and indentations or where there is a fringe of islands along the coast situated in its immediate vicinity, the straight baselines that join the appropriate points may be used, provided that the drawing thereof does not depart to any appreciable extent from the general direction of the coast.
In drawing these lines, consideration shall be given to the principles set forth in the 1982 United Nations Convention on the Law of the Sea; and
(3) The baselines shall be shown on charts drawn to scale or lists of geographical co-ordinates of points, and the geodetic datum shall be specifically indicated on each. Honduras shall give due publicity to such charts or lists, pursuant to international law.

In the case of the Gulf of Fonseca, the baseline shall be the straight line that joins Punta Amapala and Punto Consiguina, as defined in the September 11, 1992 ruling of the International Court of Justice.

Article 4 The Legal System of the Territorial Sea

Pursuant to international law, Honduras shall exercise sovereignty over its territorial sea, which is understood to mean the water column, its sea-bed, subsoil, and natural resources, and its suprajacent air space.

Therefore, unless a more liberal system has been agreed upon by means of a Convention, vessels of other States shall enjoy the right of innocent passage in the manner regulated by the 1982 Law of the Sea Convention.

Article 5 Contiguous Zone

(1) In the zone contiguous to its territorial sea, Honduras may exercise the control necessary to:
(a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea; and
(b) punish infringement of the above laws and regulations committed within its territory or territorial sea.
(2) The contiguous zone shall extend up to 24 nautical miles from the baseline from which the breadth of the territorial sea is measured. In other words, this area extends from the outer limit of the territorial sea, located 12 miles from the baseline, to a distance of 24 miles therefrom.

Article 6 Exclusive Economic Zone

Honduras hereby establishes an exclusive economic zone along its coasts, extending from the outer limit of the territorial sea up to 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Article 7 Exclusive Economic Zone Regime

(1) In its exclusive economic zone, Honduras shall exercise sovereign rights for purposes of exploring and exploiting, conserving and managing all natural resources, whether living or non-living, of the water column, the sea-bed and its subsoil, and with regard to other possible economic uses of this part of the marine environment;
(2) Fishing and the extraction of any other marine resource by foreign vessels are expressly prohibited, unless an international treaty stipulates otherwise or Honduras provides its express consent thereto; and
(3) In addition to the foregoing, Honduras has jurisdiction to:
(a) Establish and use artificial islands, facilities, and structures for the exploration and exploitation of the resources of the marine sea-bed and subsoil;
(b) Conduct scientific research in the marine environment;
(c) Protect and preserve the marine environment from pollution; and
(d) Punish infringements of Honduran laws and regulations in the foregoing areas, primarily related to e fishing and the extraction of any other natural resource, marine scientific research, and preventing and combating pollution.

Article 8 The Fishing Regime and Exercise of Other Freedoms in the Exclusive Economic Zone

(1) In the Honduras economic zone, fishing shall be reserved to Hondurans and, upon conclusion of an international agreement with the respective Governments, to the nationals of those countries whose fishing vessels have habitually engaged in this activity;
(2) In the exercise of the right of free passage within this zone, foreign fishing vessels shall comply with Honduran provisions aimed at preventing said vessels from engaging in fishing activities, including those related to the stowage of fishing gear; and
(3) The establishment of this zone shall not affect the remaining rights of passage, overflight, and the laying of submarine cables or pipelines, as well as the legitimate rights of vessels of third States, pursuant to the 1982 Convention on the Law of the Sea.

Article 9 The Continental Shelf

The Honduran continental comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea to a distance of 200 nautical miles from the baselines or up to the outer edge of its continental margin.

Article 10 Resources of the Continental Shelf

Natural resources of the Honduran continental shelf shall mean the mineral and other non-living resources of the sea-bed 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 sea-bed or are unable to move except in constant physical constant physical contact with the sea-bed or the subsoil.

Article 11 The Continental Shelf Regime

(1) Honduras exercises sovereign rights for the purpose of exploration and exploitation of the natural resources of the continental shelf, which shall be closed to any foreigner without the express consent of the Republic;
(2) Honduras has jurisdiction to establish and install artificial islands, and to set up installations and structures for the exploration and exploitation of resources, for uses pertaining thereto, and to prevent infraction of its laws and regulations pertaining thereto; and
(3) The sovereignty and jurisdiction of Honduras expressed above shall not affect the rights and freedoms of other States, especially those pertaining to the laying of submarine cables and pipelines, in the manner set forth in the 1982 United Nations Convention on the Law of the Sea.

Article 12 Delimitation of the Territorial Sea, the Exclusive Economic Zone, and the Continental Shelf between States with Opposite or Adjacent Coasts

(1) The delimitation of the foregoing maritime areas between Honduras and its neighboring States shall be undertaken by means of an agreement between them based on international law.
(2) Under such agreements, an equitable solution shall be reached. To this end, with a view to applying the principle of equity, consideration shall be given not only to equidistance, but also to proportionality as a concrete manifestation of equity, as well as other pertinent special circumstances, such as the existence of islands, and
(3) In the specific situation of the Gulf of Fonseca, Honduras shall adhere to the provisions stipulated, in accordance with international law, in the September 11, 1992 ruling of the International Court of Justice, with respect to the delimitation of the respective maritime spaces with its neighboring countries, with which it has historical ties and friendly relations.

Article 13 Regional Maritime Cooperation

In those maritime areas where Honduras has shared interests with its neighboring countries in the areas of protection of the environment and ecosystem, or the sustainable production of specific types of species or resources, or shared use for scientific, tourism, or economic development purposes, the provisions of this Law may be amended by means of an international agreement among the countries involved, with a view to achieving more effective protection or rational use of the environment.

Article 14

In semi-enclosed seas where Honduras has coasts, it shall be the policy of the Republic to, establish the proper mechanism for cooperation with the other coastal States, in order to:
(1) Coordinate activities with a view to the orderly and effective conservation and exploitation of the living resources of the sea;
(2) Ensure the best possible protection and preservation of the marine environment from pollution caused by users; and
(3) Coordinate national policies on scientific research.

Article 15 Anti-Pollution Efforts

The Republic of Honduras shall take all measures necessary within its maritime spaces that are compatible with international law in order to prevent, reduce, and control pollution of the marine environment derived from any source, using, for this purpose, the most viable resources at its disposal, both internal and those derived from international cooperation within the framework of an agreement.

In this context, the Executive Branch shall oversee, in particular, the protection of the Honduran marine environment, in order to contribute to the protection of the interests of the international community as a whole.

Article 16 Provision Vesting the Executive Branch with Regulatory Authority

With respect to this Law, the Executive Branch has the authority to take the following action, by means of decrees:
(1) Establish the straight baselines along the coast of the Republic that may be appropriate. Once the straight baselines along the coasts of the Republic have been defined, the Foreign Ministry shall so inform the National Congress in a private special session;
(2) Issue special regulations pertaining to the contiguous zone, especially in the area of sanctions;
(3) Establish administrative sanctions with respect to fisheries; and
(4) Adopt regulatory measures in the areas of scientific research and the prevention of pollution of the marine environment, as well as measures imposing administrative sanctions on violators.

Article 17 Final Repeal Provision

All laws and regulations of the Republic that are not in keeping with the provisions of this Law (specifically the Decree of April 12, 1960 and the Decree of 1980) are hereby repealed.

Article 18

This Decree shall enter into force on the date of its publication in the Official Gazette (Diario Oficial La Gaceta).

Done in the city of Tegucigalpa, Central District Municipality, in the Assembly Hall of the National Congress, October 30, 1999.

Rafael Pineda Ponce
President

Jose Alfonso Hernandez Cordova
Secretary

Jose Angel Saavedra Posadas
Secretary

To the Executive Branch
To be implemented
Tegucigalpa, M.D.C., November 12, 1999

Carlos Roberto Flores Facusse
President of the Republic

The Minister of Foreign Affairs
Roberto Flores Bermudez