Chapter Two

Mexican Marine Zones: Their Legal Regime under the Federal Oceans Act of 1986

1. Legal Historical Background

At the initiative of Lic. Miguel de la Madrid Hurtado, then President of Mexico, the Congress of the Union enacted the Federal Oceans Act (Ley Federal del Mar or FOA) in January of 1986. This legislation constitutes the first statute enacted in the history of that country that defines and regulates in a systematic and comprehensive manner the ocean spaces under Mexico’s jurisdiction. The FOA is a public order statute derived from Article 27, para. 8, of Mexico’s 

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Political Constitution (*Ley Reglamentaria*). Its provisions repeal “any and all legal provisions in force that oppose the FOA.”

The statute specifies six oceanic spaces, legally characterized as “Mexican marine zones” (*Zonas marinas mexicanas*). These oceanic spaces consist of the following: a) the territorial sea; b) internal marine waters; c) the contiguous zone; d) the exclusive economic zone; e) the continental shelf and insular shelves; and f) “any other [marine zone] permitted by international law.” The legal regime applied by Mexico to its surrounding marine spaces, whether (i) subject to Mexico’s full sovereignty (as is the case with respect to the internal marine waters and the territorial sea); (ii) for the exercise of sovereignty rights for the purpose of exploring or exploiting natural resources (such as is the case with the continental shelf); (iii) to project certain jurisdictions for specific purposes (as those exercised in the contiguous zone for customs, fiscal, immigration or sanitary reasons); or (iv) where there is a *collage* of sovereignty rights, jurisdiction and other rights and duties (as occurs in the exclusive economic zone, for example), is contained in the 65 articles of the Federal Oceans Act of 1986.

When Mexico enacted this piece of domestic legislation – four years after the final conclusion of UNCLOS III – the international legal community was still under the global sense of accomplishment generated by the successful termination of the *United Nations Convention on the Law of the Sea*, adopted on April 30, 1982, and opened for signature at Montego Bay, Jamaica, on December 10, 1982.

Mexico’s fundamental purpose for enacting the FOA, as one of the first States to ratify the 1982 Law of the Sea Convention, was to put in symmetry that country’s domestic legislation with the general rules, principles and institutions contained in the Convention. Mexico realized that certain law of the sea rules in the Convention notably the exclusive economic zone provided that country with modern and effective legal tools to protect its marine resources. In essence, this purpose was identical to the reasons articulated in 1960 when

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4 FOA, Article 2 (*Transitorio*). Matters not addressed by the FOA “relating to activities in the marine zones under national jurisdiction shall be governed by the national legislation in force to the extent that they do not oppose the FOA.” (*Artículo Tercero Transitorio*).

5 Article 3, FOA.

6 FOA’s decree prescribed that this federal statute was to enter into force on the date of its publication in the *D.O.*, namely, January 8, 1986.


8 See the Executive’s *rationale* to amend Articles 27, 42 and 48 of the Constitution (*Exposición de Motivos a la Iniciativa de Reformas de los Artículos 27, 42 y 48 de la Constitución Política*), Chapter 1, note 72 and the accompanying text.