Translated from Spanish

Aquatic Areas Organic Act

(Special Official Gazette No. 6,153 of 18 November 2014)

Decree No. 1,446 of 17 November 2014

I, Nicolás Maduro Moros,

President of the Republic,

With the supreme commitment and will to achieve the highest degree of political efficacy and revolutionary quality in the construction of socialism and the greater glory of the country, on the basis of humanistic principles and Bolivarian moral and ethical standards, by mandate of the people, and in exercise of the powers conferred on me by article 236, paragraph 8, of the Constitution of the Bolivarian Republic of Venezuela and in accordance with the provisions of article 1, paragraph 2, subparagraphs (a) and (c) of the Act authorizing the President of the Republic to issue decrees with the rank, value and force of law in delegated matters, published in Special Official Gazette of the Bolivarian Republic of Venezuela No. 6,112, of 19 November 2013, in Cabinet,

Hereby issue the following

Decree with the rank, value and force of organic law on aquatic areas

Part I

General provisions

Object

Article 1. The object of this Decree with the rank, value and force of organic law is to regulate the exercise of sovereignty, jurisdiction and control over aquatic areas in accordance with domestic and international law, and to regulate and control the administration of the aquatic, insular and port areas of the Bolivarian Republic of Venezuela.

Purpose

Article 2. The purpose of this Decree with the rank, value and force of organic law is to preserve and guarantee the best use of aquatic, insular and port areas, taking into account their potential and the guidelines established through centralized planning.

Scope of application

Article 3. This Decree with the rank, value and force of organic law is applicable to the aquatic areas comprising the maritime, river and lake areas of the Bolivarian Republic of Venezuela.

Aquatic interests

Article 4. Aquatic interests are interests related to the sustainable use and development of the aquatic and insular areas of the nation. They derive from national interests.

Aquatic policies

Article 5. Aquatic policies concern the development of strategic guidelines on the basis of the potential, productive capacity and resources available in coastal and other aquatic areas to guarantee sustainable and endogenous social development, territorial integration and national sovereignty. They relate to such matters as:

1. The development of the navy.

2. The development, regulation, promotion, control and consolidation of the shipping industry.

3. The development, regulation, promotion and control of economic activities in aquatic, insular and port areas.

4. The development, regulation, promotion and control of the shipping and port affairs of the State.

5. Fair and equitable participation in strategic public services provided in aquatic, insular and port areas through directly socially-owned enterprises, mixed enterprises and social production units.

6. Social security for seafaring workers.

7. The safety of human life and the rendering of assistance in aquatic areas.

8. Surveillance and control to prevent and punish illicit activity.

9. Harmonious habitation of insular land territory and maritime coasts, and around waterways and lakes.

10. The preservation of aquatic and sub-aquatic archaeological and cultural heritage.

11. The development, regulation, promotion and control of the tourism industry.

12. The development, regulation, promotion and control of scientific and research activities.

13. The development, regulation, promotion and control of aquatic sports and recreational activities in aquatic areas.

14. The enjoyment of the freedoms of international communication, the deployment and use of installations, fishing and scientific research on the high seas.

15. Cooperation with the international community for the conservation of migratory species and their associated species in the high seas.

16. The sustainable exploration for and exploitation of natural resources in the wider Caribbean region and the oceans, in particular the Atlantic and the Pacific.

17. Participation, alongside the international community, in the exploration for and development of natural resources in the international seabed area and the high seas, the equitable sharing of benefits derived from such activities, and the control of production in those areas.

18. The protection, conservation and sustainable exploration for and exploitation of energy sources, natural resources, genetic resources, resources from migratory species and their derivatives.

19. Research into and the conservation and sustainable harnessing of biodiversity.

20. The development of high-seas and artisanal fishing fleets.

21. The security of goods transported by water.

22. The promotion of the transport of persons and goods, and the development of markets.

23. The preservation of sources of fresh water.

24. The protection of the marine environment from the risks of and harm from pollution.

25. The protection, conservation and sustainable use of bodies of water.

26. The enjoyment of the freedoms enshrined in international law.

27. Cooperation in peacekeeping and the upholding of the international legal order.

28. International cooperation under the statutory rules of the various organizations of which the Bolivarian Republic of Venezuela is a member.

29. A share of the benefits under agreements and conventions concerning development, technology transfer for exploration for and the exploitation, conservation and administration of resources, the protection and preservation of the marine environment, scientific research and other relevant activities.

30. The promotion of integration, in particular Latin American, Ibero-American and Caribbean integration.

31. The promotion of nuclear non-proliferation in the Caribbean.

32. Other areas covered by the national economic and social development plan.

33. Any other areas ordered by the National Executive in line with centralized planning.

Public interest and utility

Article 6. All matters related to aquatic, insular and port areas are declared to be of public interest and utility, in particular the domestic and international maritime transport of goods and persons; ports; the shipping industry; and, in general, all activities related to national maritime and shipping activities, work in hydrography, oceanography, meteorology, dredging and aquatic signalling, and other activities supporting nautical navigation and cartography.

Sustainable use

Article 7. The State shall ensure the sustainable management and use of the water resources and biodiversity of its aquatic, insular and port areas. The promotion, conduct and control of and scientific research into the classification of natural resources, navigation and other uses of resources, and all activities related to the sustainable management and development of resources shall be regulated by law.

The National Executive shall promote international cooperation on transboundary hydrographic basins, the development of the resources they contain and the protection of their ecosystems, while safeguarding the rights and legitimate interests of the State.

Part II

Maritime areas

Chapter I

Territorial sea

Sovereignty

Article 8. National sovereignty in the territorial sea shall be exercised over the air space, waters, bed and subsoil, and over the resources contained therein.

Breadth of the territorial sea

Article 9. The breadth of the territorial sea adjacent to all mainland and insular coasts of the Bolivarian Republic of Venezuela shall be 12 nautical miles, which shall ordinarily be measured from the low-water line as marked on large-scale charts officially published by the National Executive, or from the baselines established in this Decree with the rank, value and force of organic law.

Straight baselines

Article 10. When a special regime is required as a result of the configuration of the coastline or the presence of islands, or justified on the basis of the interests of a certain region, the measurement shall be taken from straight baselines joining appropriate points defined by the State. The waters enclosed by straight baselines shall be internal waters.

The straight baselines shall be established by the National Executive and appear on official nautical charts.

Mouths of rivers

Article 11. If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-water line of its banks.

Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective unless they are changed by the National Executive.

Bays

Article 12. In the case of bays, including historic bays and waters, the straight baseline shall be a closing line joining the appropriate entrance points of the bay.

Structures off the coast

Article 13. The outermost permanent harbour works which form an integral part of the harbour system shall be used as the baseline for measuring the breadth of the territorial sea.

Low-tide elevations

Article 14. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from national continental or insular land territory, the low-water line on that elevation shall be used as the baseline for measuring the breadth of the territorial sea.

Chapter II

Innocent passage

Cases of innocent passage

Article 15. Foreign ships shall enjoy the right of innocent passage through the territorial sea of the Bolivarian Republic of Venezuela. Innocent passage means:

1. Navigation through the territorial sea for the purpose of traversing that sea without entering internal waters or calling at any part of the port system.

2. Proceeding to or from the internal waters or ports of the Bolivarian Republic of Venezuela.

Prohibited activities

Article 16. Passage shall cease to be innocent if a foreign ship engages in any of the following activities:

1. Threat or use of force against the sovereignty, territorial integrity or political independence of the Bolivarian Republic of Venezuela, or any other violation of the principles of domestic and international law embodied in the Charter of the United Nations.

2. Exercise or practice with weapons of any kind.

3. Acts aimed at collecting information to the prejudice of the defence or security of the Bolivarian Republic of Venezuela.

4. Acts of propaganda aimed at affecting the defence or security of the Bolivarian Republic of Venezuela.

5. The launching, landing or taking on board of any aircraft.

6. The launching, landing or taking on board of any military device.

7. The loading or unloading of any commodity, money or person contrary to the law.

8. Acts or events that involve any sort of pollution.

9. Illegal fishing activities.

10. Research or survey activities.

11. Acts aimed at interfering with any systems of communication or any other facilities or installations of the Bolivarian Republic of Venezuela.

12. Any other activity not having a direct bearing on innocent passage.

Measures for the admission of ships

Article 17. The Bolivarian Republic of Venezuela will take steps in its territorial sea to prevent passage which is not innocent, as well as to prevent any breach of the conditions to which admission of ships is subject in the case of ships proceeding to internal waters or a call at a port facility.

Conditions for innocent passage

Article 18. Innocent passage shall be continuous and expeditious. Ships shall be allowed to stop or drop anchor only if such acts are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger. During their passage, foreign fishing ships shall stow or gather up all fishing gear, equipment and other tackle in a way that prevents it from being used. In the territorial sea, submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

Nuclear-powered and other ships

Article 19. Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances shall, when exercising the right of innocent passage through the territorial sea, carry documents and observe special precautionary measures established for such ships in accordance with international agreements.

Foreign nuclear-powered ships may enter port facilities with the prior approval of the National Executive, through the ministry of people’s power responsible for security and defence, which must be sought at least 30 days before the date of entry. Such ships shall carry the documents established for them and their cargo by international agreements, and observe the special measures and precautions established in those agreements and in national regulations.

Sea lanes

Article 20. Where necessary for the safety of navigation, the National Executive shall designate and require the use of sea lanes, maritime traffic separation schemes and a position notification system in its territorial sea to regulate the passage of ships. It may also establish specific sea lanes and maritime traffic separation schemes for foreign warships, ships of a specific nature or ships carrying specific cargo navigating in the territorial sea or in internal waters. Sea lanes and traffic separation schemes shall be indicated on the respective nautical charts.

Exclusive surveillance jurisdiction zones

Article 21. The National Executive may establish exclusive surveillance jurisdiction zones in aquatic areas when so required by the interests of the Bolivarian Republic of Venezuela. In such zones, persons, ships, vessels and aircraft may be identified, visited or detained if there are reasonable grounds for suspecting that

they might pose a threat to public order in aquatic areas. The right of innocent passage shall continue to be upheld, where applicable.

Suspension of the right of innocent passage

Article 22. The National Executive may suspend temporarily the right of innocent passage for foreign ships in specified areas of the territorial sea for security and defence reasons.

Criminal jurisdiction

Article 23. The criminal jurisdiction of the Bolivarian Republic of Venezuela shall not apply to offences committed on board foreign ships during their passage through the territorial sea, unless:

1. The consequences of the offence extend to the territory of the Bolivarian Republic of Venezuela.

2. The offence disturbs the peace of the nation or the good order of the territorial sea.

3. The master of the ship or a diplomatic or consular agent of the ship's flag State has requested the assistance of the relevant national authorities.

4. Such measures are necessary to counter illicit traffic in narcotic drugs or psychotropic substances.

These provisions shall not restrict the application of criminal jurisdiction if the foreign ship passes through the territorial sea after leaving internal waters.

Offences committed prior to entering the territorial sea

Article 24. If a foreign ship, in the exercise of the right of innocent passage, does not enter the internal waters of the Bolivarian Republic of Venezuela, it shall not be affected by any measure related to offences committed before it entered the territorial sea of the Bolivarian Republic of Venezuela.

That rule shall not apply in the event of violations of the rights of the Bolivarian Republic of Venezuela in the exclusive economic zone, in the contiguous zone or on the continental shelf, or in the event of the prosecution of individuals who are polluting the marine environment.

The authorities that take action in the area of criminal jurisdiction shall, if the master of the ship so requests, notify the relevant diplomatic mission or consular office of the flag State.

Civil jurisdiction

Article 25. A foreign ship passing through the territorial sea in the exercise of its right of innocent passage may not be stopped even if the State claims to exercise civil jurisdiction over a natural person on board the ship. The State may not levy execution against or arrest, for the purpose of any civil proceedings, a foreign ship passing through the territorial sea, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course of or for the purpose of its voyage through the internal waters or the territorial sea.

The provisions of the previous paragraph shall not apply to a foreign ship lying in the territorial sea or passing through the territorial sea after leaving internal waters.

Regulations

Article 26. The regulation of innocent passage shall relate primarily to the following:

1. The safety of navigation and maritime traffic.

2. The protection of navigational aids and facilities and other facilities or installations.

3. The protection of submarine cables and pipelines.

4. The conservation of biodiversity.

5. The prevention of offences related to fishing.

6. Marine scientific research and hydrographic surveys.

7. The prevention of offences related to taxation, immigration and sanitation.

8. Nuclear-powered ships.

9. The protection of the marine environment and the prevention, reduction and control of pollution.

10. Any other issues that are considered relevant.

The present Decree with the rank, value and force of organic law shall develop the regulations mentioned in this article.

Chapter III

Warships

Warships

Article 27. Foreign warships may navigate or lie in the internal waters and ports of the Bolivarian Republic of Venezuela with the prior authorization of the National Executive through the ministries responsible for foreign affairs and defence.

Other ships

Article 28. The provisions of this Decree with the rank, value and force of organic law shall apply equally to foreign warships performing commercial functions, foreign naval auxiliary vessels and the aircraft of foreign armed forces that alight on the internal waters of the Bolivarian Republic of Venezuela.

Length of stay

Article 29. Foreign warships may not remain in the internal waters or ports of the Bolivarian Republic of Venezuela for more than 15 days, unless they are granted special authorization by the National Executive; in addition, they must depart within a maximum of six hours if required to do so by the national authorities, even if the period established for their stay has not yet expired.

Ships on manoeuvres

Article 30. No more than three warships of the same nationality may lie in the internal waters or ports of the Bolivarian Republic of Venezuela at the same time.

Warships of countries that are invited to participate in joint manoeuvres with the navy or are part of a multinational maritime operation in which Venezuelan units are participating may be admitted under

different conditions, provided that authorization has been granted through diplomatic channels by the National Executive.

Obligations of warships

Article 31. Foreign warships that enter the internal waters or ports of the Bolivarian Republic of Venezuela are obliged to observe the laws relating to navigation, ports, the police, sanitation, taxation and environmental and maritime security, as well as other applicable rules.

Prohibitions

Article 32. Foreign warships lying in waters under the sovereignty of the Bolivarian Republic of Venezuela may not carry out topographic, hydrographic or oceanographic work, or studies related to defence or the naval and military capacities and positions of ports; produce drawings, take soundings or carry out underwater works, with or without divers; or conduct exercises involving disembarkation, gunfire or torpedoes, unless they are given express authorization to do so.

Ceremonial matters

Article 33. The National Executive, through the ministry of people’s power responsible for security and defence, shall lay down all provisions relating to the ceremonial procedures to be followed upon the arrival of foreign warships, except as provided for in international agreements.

Authorization to disembark

Article 34. Only the ship’s officers, non-commissioned officers and police service personnel, with prior authorization from the ministry of people’s power responsible for security and defence, may disembark carrying weapons, which must be small arms for self-defence. Sabres, swords and similar weapons shall be permitted for ceremonial purposes.

Authorization for funerals

Article 35. In the event of funerals or other solemn occasions, the ministry of people's power responsible for security and defence may allow an armed group to disembark, subject to the conditions set forth in the previous article.

Departure order

Article 36. In the event that the crew of a foreign warship does not abide by the rules set forth under the law, the competent authority shall first alert the commanding officer of the offence committed and formally request that the rules be complied with. If that step fails, the National Executive may stipulate that the commander of the ship should be invited to leave immediately the port and the waters under the sovereignty of the Bolivarian Republic of Venezuela.

Special admission rules

Article 37. The relevant provisions of international law are applicable to the admission and continued presence of warships belonging to belligerent States in waters under the sovereignty of the Bolivarian Republic of Venezuela; however, the National Executive has the power to subject such ships to special rules and to restrict or even prohibit their admission if it deems such admission to be contrary to the rights and duties of neutrality.

Restrictions on submarines

Article 38. In the event of armed conflict between two or more foreign States, the National Executive may prohibit submarines belonging to the belligerent States from entering, navigating or lying in waters under the sovereignty of the Bolivarian Republic of Venezuela. Submarines may be exempted from this prohibition if they are obliged to enter Venezuelan waters owing to a technical failure or sea conditions, or to save human lives. In such cases, the submarine in question must navigate on the surface and show its national flag and the international signal indicating the reason for its entry into waters under the sovereignty of the Bolivarian Republic of Venezuela, and it must leave those waters once the reason for its entry is no longer applicable or if it is ordered to leave by the National Executive, through the ministry of people's power responsible for security and defence.

Exceptions to the restrictions on length of stay

Article 39. The rules on the length of time that foreign warships may stay in the internal waters and ports of the Bolivarian Republic of Venezuela shall not apply:

1. To foreign warships that have been authorized to enter in exceptional circumstances.

2. To ships that are forced to seek refuge in the waters or ports of the Bolivarian Republic of Venezuela owing to and for the duration of navigation risks, bad weather or other unforeseen events.

3. When such ships are carrying Heads of State or diplomatic officials on mission to the Government of the Bolivarian Republic of Venezuela.

Boarding and searches

Article 40. National or foreign-flagged vessels may be boarded and searched by personnel from Bolivarian National Armed Forces ships and aircraft in the aquatic areas of the Bolivarian Republic of Venezuela and on the high seas, where there are substantial grounds for believing that such vessels are violating or have violated national or international law. The commanders of Bolivarian National Armed Forces ships and aircraft may question, examine, search or detain individuals and vessels.

The ministry of people’s power responsible for security and defence shall establish the procedure for boarding and searches in peacetime and in emergencies or armed conflicts; the procedure must conform to the customs and norms of international law.

Hot pursuit

Article 41. The hot pursuit of a foreign ship may be undertaken by Bolivarian National Armed Forces ships and aircraft in the aquatic areas of the Bolivarian Republic of Venezuela and on the high seas, in accordance with international norms, when there are substantial grounds for believing that the foreign ship is violating or has violated national or international law.

Use of force

Article 42. In peacetime, units of the Bolivarian National Armed Forces may use force:

1. In self-defence against a current or imminent threat to or attack against the unit or its crew.

2. In self-defence against a current or imminent threat to or attack against the life or property of Venezuelan citizens or foreigners.

3. To stop ships and aircraft that have not complied with an order to stop.

4. To protect the integrity of the national territory in the event of an incursion by foreign military units.

The President of the Bolivarian Republic of Venezuela shall set forth the rules of engagement for units of the Bolivarian National Armed Forces. The rules of engagement for each component shall be proposed through the ministry of people's power responsible for security and defence.

Chapter IV

Contiguous zone

Extent

Article 43. For the purposes of maritime surveillance and the protection of its interests, the Bolivarian Republic of Venezuela has, contiguous to its territorial sea, a zone that extends up to 24 nautical miles from the low-water lines or the baselines from which the breadth of the territorial sea is measured.

Control measures

Article 44. The Bolivarian Republic of Venezuela may exercise control in the contiguous zone to prevent and punish infringement of its fiscal, immigration or sanitary laws and regulations.

Chapter V

Exclusive economic zone

Breadth

Article 45. The exclusive economic zone adjacent to the continental and insular coasts of the Bolivarian Republic of Venezuela shall extend 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Sovereignty and jurisdiction

Article 46. In the exclusive economic zone, the Bolivarian Republic of Venezuela enjoys:

1. Sovereign rights for the purpose of exploring, exploiting, conserving and managing the natural resources of the superjacent waters, and with regard to other activities for the sustainable economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;

2. Jurisdiction as provided in this Decree with the rank, value and force of organic law, as it relates to:

a. The establishment and use of artificial islands, installations and structures;

b. Marine scientific research;

c. The protection and preservation of the marine environment;

3. The right to take measures that it considers appropriate for the conservation and sustainable use of biodiversity and other elements of the marine environment, beyond the limits of the exclusive economic zone, as set forth in international law.

Outer limit lines

Article 47. The National Executive shall show the outer limit lines of the exclusive economic zone on official geographical and nautical charts and shall give due publicity to such charts.

Freedoms

Article 48. All States, whether coastal or land-locked, enjoy the freedom of navigation, the freedom of overflight and the freedom to lay submarine cables and pipelines, and may make other legitimate uses of the sea related to those freedoms in the exclusive economic zone of the Bolivarian Republic of Venezuela, as recognized by international law.

Artificial islands and installations

Article 49. In the exclusive economic zone, the Bolivarian Republic of Venezuela has the exclusive right to construct and to authorize and regulate the construction, exploitation and use of: artificial islands, and installations and structures for the purposes provided in this Part and other economic purposes, and to prevent the construction, exploitation and use of installations and structures which may interfere with the exercise of the rights of the Bolivarian Republic of Venezuela. It also has exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to health, fiscal, safety and immigration matters, among others. To that end:

1. It shall give due notice of the existence of artificial islands, installations and structures using permanent means for giving warning of their presence to ensure safety of navigation.

2. Any installations or structures which are abandoned or disused shall be removed, taking into consideration any generally accepted international standards established in this regard by the appropriate international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed.

3. The Bolivarian Republic of Venezuela may, where necessary, establish safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

4. The breadth of the safety zones shall be determined by the National Executive, taking into account relevant international standards. Such zones shall be established such that that they are duly related to the nature and function of the artificial islands, installations and structures, and shall not exceed a distance of 500 m, measured from each point of their outer edge, unless authorized by generally accepted international standards or as recommended by the appropriate international organization.

5. All ships must respect these safety zones and comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations and structures.

6. Artificial islands, installations and structures and the safety zones around them may not be established where they may hamper the use of recognized sea lanes essential to international navigation.

7. Artificial islands, installations and structures have no sea of their own, and their existence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

8. The authorizations referred to in this article shall be granted in accordance with the provisions set out in environmental and other related laws.

Development of resources

Article 50. As regards the study, exploration, conservation, exploitation and sustainable development of natural resources in the exclusive economic zone, the Bolivarian Republic of Venezuela may take all measures necessary to ensure compliance with the law, including visits, inspections, seizures and administrative and legal procedures.

The Bolivarian Republic of Venezuela shall seek, either directly or through appropriate organizations, to agree on the measures necessary to coordinate and ensure the conservation and development of hydrobiological resources or associated species that exist in the Venezuelan exclusive economic zone and in the exclusive economic zones of neighbouring States.

In the event that the exclusive economic zone of the Bolivarian Republic of Venezuela and an area beyond and adjacent to it that is not within the exclusive economic zone of any other State contain fish stocks or stocks of associated species, the Bolivarian Republic of Venezuela shall seek, either directly or through appropriate organizations, to agree with the States fishing for such stocks in the adjacent area upon the measures necessary for the conservation of those stocks.

Protection and conservation

Article 51. The National Executive, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. The Bolivarian Republic of Venezuela shall cooperate with the relevant organizations to that end.

Associated species

Article 52. The National Executive may dictate conservation and management measures in the exclusive economic zone, taking into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

Conservation measures

Article 53. The Bolivarian Republic of Venezuela may contribute and exchange available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks through competent international organizations, with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

Harvesting capacity

Article 54. The ministry of people's power for fisheries and aquaculture shall periodically determine the allowable catch for the exploitation of the living resources of the exclusive economic zone. When the Bolivarian Republic of Venezuela does not have the capacity to harvest the entire allowable catch thus determined, it may grant foreign fishing vessels access to the exclusive economic zone for the exploitation of the surplus allowable catch, subject to the prior signature of a fisheries agreement with the Government of the State of nationality of such vessels and upon the fulfilment of the requirements set out in domestic law, taking into account economic and social benefits to the Bolivarian Republic of Venezuela.

Nationals of other States fishing within the exclusive economic zone of the Bolivarian Republic of Venezuela shall comply with the conservation measures and other terms and conditions established by the law.

Preservation measures

Article 55. The National Executive may, where necessary, take all the measures it considers necessary to preserve the environment and combat pollution beyond the outer limits of the exclusive economic zone.

Chapter VI

Continental shelf

Extent

Article 56. The continental shelf of the Bolivarian Republic of Venezuela 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, or to a distance of 200 nautical miles from the low-water

line or from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

Wherever the continental margin extends beyond 200 nautical miles, the Bolivarian Republic of Venezuela shall establish the outer edge of that margin, which shall establish the limit between the continental shelf and the international area of the seabed and ocean floor, in accordance with international law.

Sovereign rights

Article 57. The Bolivarian Republic of Venezuela exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources in a sustainable manner. No one may undertake these activities without the express consent of the Bolivarian Republic of Venezuela.

The rights of the Bolivarian Republic of Venezuela over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

The natural resources referred to herein consist of the mineral resources and the living resources 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.

Superjacent waters and air space

Article 58. The rights of the Bolivarian Republic of Venezuela over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters.

Conservation measures

Article 59. The Bolivarian Republic of Venezuela shall take measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention, reduction and control of pollution from submarine pipelines.

Cables or pipelines

Article 60. The delineation of the course for the laying of cables or pipelines on the continental shelf and their entry onto the national territory is subject to the consent of the Bolivarian Republic of Venezuela, taking into account existing cables or pipelines.

Drilling and tunnelling

Article 61. The Bolivarian Republic of Venezuela shall have the exclusive right to authorize and regulate drilling and tunnelling on its continental shelf.

Artificial islands, installations and structures on the continental shelf shall be governed by the provisions of article 50 of this Decree with the rank, value and force of organic law.

Chapter VII

Areas beyond the limits of national jurisdiction

High seas

Article 62. The Bolivarian Republic of Venezuela shall exercise, in accordance with international law, its rights on the high seas, which comprise all marine areas that are not included in the exclusive economic zone, in the territorial sea, in the internal waters or in any other marine or submarine areas that may be established.

Seabed and ocean floor

Article 63. The Bolivarian Republic of Venezuela shall exercise, in accordance with international law, its rights in the international area of the seabed and ocean floor, which is the common heritage of humankind and which extends beyond the outer edge of the continental margin and beyond the limits of the jurisdiction of the Bolivarian Republic of Venezuela.

Part III

Insular areas

Insular areas

Article 64. The insular areas of the Bolivarian Republic of Venezuela include the archipelagos, islands, islets, cays, banks and similar elevations that are located or, for any reason, emerge in the territorial sea, the sea that covers the continental shelf or the exclusive economic zone, in addition to marine or submarine areas that have been or may be established.

Organization of the insular areas

Article 65. The insular areas shall be organized on the basis of its own administrative regime, which may be established by special legislation for an island, a group of islands or the insular land territory in its entirety.

Part IV

Underwater cultural and archaeological heritage

Protection of heritage

Article 66. Underwater cultural and archaeological heritage assets in the aquatic and insular areas of the Bolivarian Republic of Venezuela are publicly owned.

Location, intervention and protection

Article 67. The location, appropriate intervention and protection of underwater cultural and archaeological heritage by public and private bodies require a prior opinion from the ministries of people’s power responsible for maritime transport and defence.

Part IV

Scientific research

Promotion and limitations

Article 68 The promotion and conduct of scientific research in aquatic, insular and port areas should comply with the guidelines of the national plan for science, technology and innovation and the national development plan for the aquatic sector.

The competent bodies may withhold their consent to the conduct, by natural or legal persons, of scientific research projects or activities that:

1. relate directly to the sustainable exploration or exploitation of natural resources, or involve drilling, the use of explosives or the introduction of substances or technologies that could damage the marine environment.

2. Involve the construction, operation or use of artificial islands, installations, structures and devices, whatever their function.

3. Run counter to the national interest.

4. Unjustifiably interfere with economic activities undertaken by the Bolivarian Republic of Venezuela in the exercise of its jurisdiction and as provided by law.

Authorization

Article 69. Scientific research to be conducted in the aquatic areas of the Bolivarian Republic of Venezuela shall be subject to the corresponding authorization from the competent bodies, which, in the exercise of their powers, shall coordinate to ensure the legitimacy of the authorization in accordance with the law.

Part VI

Administration of aquatic areas

Chapter I

Governing body

Aquatic authority

Article 70. It is the responsibility of the National Executive, through its organs and bodies, to exercise the competences entrusted to it in aquatic and port areas in accordance with the law.

Governing body

Article 71. The ministry of people's power responsible for water transport shall be the governing body for maritime, river and lake navigation for the transport of people and goods, fishing, tourism, sport, recreation and scientific research; matters related to ports; and any other matter as prescribed by law. It shall have the following competences:

1. To formulate national water transport projects and plans in line with centralized planning.

2. To approve the water transport component to be included in the national development plan for the aquatic sector.

3. To supervise and control the exercise of aquatic authority.

4. To study, supervise and include in development plans for the aquatic sector plans and projects related to the construction of ports, navigation canals, piers, docks, ships, marinas, works and installations, and related services.

5. To control, supervise and oversee the navigation regime, public and private ports and related activities in accordance with the law.

6. To control and supervise the transport of reserved cargo.

7. To set fees for public passenger transport services and activities related to the aquatic sector, in coordination with the ministry of people's power responsible for trade.

8. To supervise the Venezuelan shipping registry of vessels.

9. To coordinate, with the ministry of people's power responsible for fisheries and aquaculture, the promotion, development and protection of fishery and aquaculture production.

10. To participate in the specialized international bodies of the aquatic sector, in accordance with the policy set by the ministry of people's power responsible for foreign affairs.

11. To strengthen financing policies for the aquatic sector.

12. To promote scientific and technological research activities in the sector, in coordination with the other bodies and entities of the public administration.

13. To approve projects in the aquatic sector in accordance with national and international technical standards.

14. To supervise, oversee and control the application of standards for the security of national water transport.

15. To approve the internal regulations of the National Institute for Aquatic Areas.

16. To propose regulations related to the present Decree with the rank, value and force of organic law.

17. To approve and exercise control over the staff policies of the National Institute for Aquatic Areas, in accordance with the relevant laws.

18. To request from the entity or body under its governance administrative and financial information regarding the management of the entity or body.

19. To assist in the education, development and training of human talent in the aquatic sector.

20. Other competencies established by law.

The governance functions and powers of the ministry of people's power responsible for water transport shall be subject to the guidelines, policies and plans issued by the National Executive in accordance with centralized planning.

Management body

Article 72. The National Institute for Aquatic Areas has legal personality and its own assets; it is the management body for the policies issued by the governing body and for the national development plan for the aquatic sector. The Institute is attached to the ministry of people's power responsible for water transport. The location of its headquarters shall be determined by the governing body and it may establish regional offices.

The National Institute for Aquatic Areas shall enjoy all the fiscal prerogatives, privileges and benefits of the Bolivarian Republic of Venezuela.

Article 73. It is the responsibility of the National Institute for Aquatic Areas to:

1. Exercise aquatic authority.

2. Carry out aquatic administration.

3. Produce the preliminary draft of the national development plan for the aquatic sector, comprising the plans and projects for the construction of ports and marinas, navigation channels, piers, and other works, installations and services associated with the operations of ships in ports and marinas.

4. Implement the governing body's shipping and port policy and control navigation and water transport.

5. Control and supervise the management of the Aquatic Development Fund.

6. Prepare the proposal for the setting of fees for services related to the aquatic sector.

7. Produce statistics specific to the aquatic sector, subject to the provisions of the Public Function of Statistics Act.

8. Provide the related services in accordance with the law.

9. With the prior approval of the Board, grant concessions for the related services established by law.

10. Authorize the transport of reserved cargos.

11. Manage the Venezuelan shipping registry of vessels and navigation aids.

12. Develop and implement, in coordination with the fishing and aquaculture entity or body, the consolidation of programmes for the construction of ships and fishing ports.

13. Provide representation in specialized international organisations in the aquatic sector, with the prior approval of the governing body.

14. Promote financing policies for the aquatic sector.

15. Promote scientific and technological research activities in the aquatic sector, in coordination with the ministry of people's power responsible for science and technology.

16. Promote the establishment of solidarity-based associations, community organizations, social production networks and citizen participation, for the purpose of ensuring the comprehensive development of water and port navigation and related activities.

17. Contribute to improving the quality of life of coastal and island communities and to the consolidation of endogenous development centres.

18. Exercise the other powers assigned to it in this Decree with the rank, value and force of organic law and other applicable laws.

The management functions and powers of the Institute shall be subject to the guidelines, policies and plans issued by the National Executive, in accordance with centralized planning.

Aquatic administration

Article 74. The functions of aquatic administration shall include:

1. Supervising, controlling and overseeing the functioning of harbourmaster’s offices and their delegations.

2. Contributing to and supervising the education and training of merchant navy personnel.

3. Overseeing and monitoring the implementation of national and international aquatic legislation.

4. Maintaining the register of merchant navy personnel.

5. Certifying merchant navy personnel, in accordance with international agreements and domestic legislation.

6. Ensuring compliance with the disciplinary regime of merchant navy personnel.

7. Managing the registration, certification and supervision of personnel of the piloting and shipping inspection service.

8. Managing registration, authorization and monitoring related to the shipping industry.

9. Managing the registration, authorization and monitoring of shipping companies, cargo certification companies, cargo operators and agencies, cargo consolidation companies, multimodal transport companies and maritime brokering companies.

10. Maintaining the registration and certification of nautical training institutes in coordination with the ministry of people's power responsible for higher education.

11. Maintaining the registration, control, monitoring and certification of organizations dedicated to underwater activities.

12. Supervising, controlling and overseeing the activities of public and private ports as well as port structures, facilities, related services and other works.

13. Safeguarding, through supervision and control, maritime security and life within the aquatic districts, in coordination with the competent authorities.

14. Establishing sea lanes, traffic separation schemes, and ship notification and reporting systems.

15. Supervising and controlling, in collaboration with the ministries of people's power responsible for ecosocialism, defence and security, dumping and other forms of pollution that may affect the aquatic and port areas within the aquatic jurisdictions.

16. Supervision and control of search and rescue activities.

17. Assisting the relevant bodies and entities in the signage, nautical charting, hydrography, meteorology, oceanography, hydrography, canalization and maintenance of waterways.

18. Controlling and supervising activities related to marine sports, recreation and tourism.

19. Controlling and supervising fishing ships, in coordination with the body or entity responsible for fishing and aquaculture.

20. Cooperating with the Public Prosecutor’s Office in the exercise of criminal investigations, as required.

21. Controlling and supervising piloting, lighterage, tugboat and shipping inspection services.

22. Exercising the functions of the port State.

23. Exercising the functions that result from the Convention on Facilitation of International Maritime Traffic.

24. Participating in the development of coastal, riparian and island communities.

25. Providing assistance in the event of natural disasters, in coordination with the competent authorities.

26. Approving, supervising and controlling environmental contingency plans in aquatic and port areas, in coordination with the competent bodies and entities.

27. Keeping national and international environmental contingency plans, in particular the national contingency plan against oil spills, updated; coordination mechanisms shall be established in those plans.

28. Coordinating all matters relating to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage.

29. Exercising other powers conferred by this Decree with the rank, value and force of organic law and other applicable laws.

Board of the Institute

Article 75. The Board of the National Institute for Aquatic Areas exercises the highest authority and is composed of the President of the Institute and four directors appointed by the governing body, each of whom has an alternate who will, with the same rights and powers, replace him or her in the event of his or her temporary absence.

The Board shall be considered validly constituted and its decisions fully effective when the session is attended by the President or his or her alternate and two directors or their alternates.

The organization and functioning of the Board shall be governed by the provisions of the present Decree with the rank, value and force of organic law and the internal regulations issued for that purpose by the Institute.

The members of the Board shall be jointly responsible, civilly and administratively, for the decisions taken at Board meetings.

Functions of the Board

Article 76. The Board of the National Institute for Aquatic Areas shall have the following functions:

1. To approve the draft component of the national development plan for the aquatic sector, to be submitted to the governing body for consideration.

2. To approve the proposal on the setting of fees for services related to the aquatic sector, to be submitted to the governing body for consideration.

3. To approve the Institute's annual operating plan and budget, to be submitted to the governing body for consideration.

4. To approve the Institute's draft annual report and accounts.

5. To approve the processes for equipping and authorizing ports and port structures, in accordance with the law.

6. To approve licences or authorizations for tugboats and lighterage.

7. To approve studies, projects and other matters within the Institute's sphere of competence, submitted by the President of the Institute or any of its members for consideration.

8. To remain informed regarding proposals and periodic reports on the implementation of the national development plan for the aquatic sector.

9. To decide on appeals against acts of the National Institute for Aquatic Areas, within its sphere of competence.

10. To exercise the other functions set forth in this Decree with the rank, value and force of organic law and related regulations.

Appointment

Article 77. The National Institute for Aquatic Areas shall have a President and a Vice-President, to be appointed and removed at will by the minister for people's power responsible for water transport.

Powers of the President

Article 78. The President shall have the following powers:

1. To lead, manage and legally represent the National Institute for Aquatic Areas.

2. To represent the Aquatic Development Fund.

3. To conclude contracts and agreements on works, services and the acquisition of goods.

4. To accept donations, bequests, contributions, subsidies and other gifts from domestic natural or legal persons, public or private.

5. To convene and preside over meetings of the Board.

6. To draw up proposals for elements of the national development plan for the aquatic sector, and to prepare the Institute's budget, annual report and accounts, to be submitted to the Board for consideration.

7. To submit to the Board, for its approval, draft internal regulations and manuals setting forth organizational guidelines, standards and other normative instruments required by law to organize the Institute and guide its operation, and to submit proposals to reform those instruments.

8. To inform the Board of actions, approval and revocation of contracts, financing programmes, negotiations and agreements that need to be submitted to the governing body for consideration.

9. To implement Board decisions pertaining to the processes of equipping and authorizing ports and port-related infrastructure, in accordance with the law.

10. To grant authorizations, waivers, patents, special permits, titles and licences, in accordance with the law.

11. To appoint, transfer and dismiss Institute staff, in exercise of the authority and powers set forth in the relevant legislation.

12. To delegate to other Institute officials the signing of certain documents in accordance with the law.

13. To issue the internal regulations of the Institute.

14. To exercise all other powers conferred by law.

Powers of the Vice-President

Article 79. The Vice-President shall have the following powers:

1. To collaborate with the President of the Institute in the exercise of his or her powers.

2. To coordinate with public and private bodies and entities, as instructed by the President of the Institute.

3. To serve as President of the Institute on a temporary basis in the absence of the President of the Institute.

4. To exercise the powers delegated to him or her by the President of the Institute.

Assets

Article 80. The assets of the National Institute for Aquatic Areas shall consist of:

1. Property, entitlements and stocks of any kind that may be transferred, assigned or allocated to the Institute by the National Executive.

2. The movable and immovable property owned by the Institute.

3. Revenue from taxes and fees established by law.

4. Contributions made under the Budget Act and extraordinary contributions allocated by the National Executive.

5. The proceeds from the collection of payment of any duties that may be established in the concession, equipping and authorization contracts for ports.

6. The proceeds from the collection of taxes, fees and other contributions for services related to the aquatic sector, waivers, patents, special permits, titles and licences, in accordance with the law.

7. The proceeds from the fines provided for by law.

8. Donations, bequests, contributions, subsidies and other gifts from domestic natural or legal persons, public or private.

9. Other property, rights and obligations of any nature that the Institute has acquired or will acquire in the conduct of its activities or that are added to its assets.

10. 10 per cent of gross revenue from lighterage and tugboat services provided by private entities under concession. If the service is provided directly by the Institute, 100 per cent of the revenue shall go to the Institute.

Chapter II

National Council for Aquatic Areas

Advisory body

Article 81. The National Council for Aquatic Areas shall be the advisory body of the National Executive on the promotion and development of the merchant navy, ports, the shipping industry, the development of navigation channels in rivers and lakes, scientific and technological research in the

aquatic sector; and the education, training, upgrading of skills of and certification of workers in that sector.

It shall also serve as a body that will enable organized communities to participate in advising on the formulation and monitoring of aquatic sector policies, plans and programmes.

Board of the Council

Article 82. The National Council for Aquatic Areas shall be composed of the Vice-Minister for Water Transport of the ministry of people's power responsible for water transport, who shall serve as its President; one Vice-Minister representing each of the ministries of people's power responsible for defence; foreign affairs, internal affairs, justice and peace; economic affairs, finance and public banking; higher education, science and technology; youth and sport, tourism, petroleum and mining; agriculture and fisheries; ecosocialism, habitat and housing; and planning; one representative of the Venezuelan Chamber of the Shipping Industry; one representative of the Venezuelan Chamber of Shipowners; one representative of the Association of Merchant Navy Officials; one representative of the Venezuelan Association of Maritime Law; one representative of the fisheries associations; one representative from the universities active in the field; and their alternates.

Advisory Committees

Article 83. The National Council for Aquatic Areas shall establish committees to advise on and participate in specific and specialized activities on an *ad honorem* basis, in order to address matters related to aquatic, insular and port activities, as it deems appropriate. These advisory and participatory committees for specific and specialized activities shall be composed of representatives of the various sectors linked to maritime activity.

Permanent Secretariat

Article 84. The National Council for Aquatic Areas shall have a permanent secretariat, headed by the President of the National Institute for Aquatic Areas, whose functions shall include:

1. Deciding when meetings of the National Council for Aquatic Areas and of its advisory committees are to be held.

2. Attending meetings, preparing meeting records and submitting said records to the head of the ministry of people's power that oversees the aquatic sector.

3. Updating files, collecting and distributing information on the aquatic sector.

4. Assessing preliminary drafts to be submitted to the Council for consideration.

5. Any other functions established by the regulations of this Decree with the rank, value and force of organic law.

Operational guidelines

Article 85. The Regulations of the National Council for Aquatic Areas shall establish the guidelines for the Council's operation, including the composition of advisory and participatory committees for specific and specialized activities.

Part VII

Aquatic Development Fund

Fund

Article 86. The National Institute for Aquatic Areas shall have a special fund for educating and training seafarers and aquatic sector workers and upgrading their skills; and financing studies and projects aimed at promoting the development of the navy, ports and port infrastructure. The fund shall cover the following:

1. The shipping industry.

2. Pilotage, tugboat and lighterage services.

3. Search and rescue services.

4. National aquatic navigation support system.

5. Hydrographic, meteorological, oceanographic and nautical cartography work.

6. Aquatic scientific research and exploration.

7. Channelling and maintenance services for navigable waterways.

The Aquatic Development Fund shall allocate a portion of its resources for investment projects undertaken by the National Institute for Aquatic Areas.

Financing Programmes

Article 87. Programmes to fund studies, projects and the purchase of equipment, shall be guided by the overarching policies and plans for the development of the aquatic sector and shall primarily concern:

1. The construction, alteration, maintenance and repair of ships in national shipyards.

2. Channelling and maintenance work for navigable waterways.

3. Hydrography, meteorology, oceanography and nautical charting.

4. Aquatic security systems, search and rescue systems; and systems to monitor and control maritime, river and lake traffic.

5. Aquatic scientific research and exploration.

6. The improvement, development and construction of ports and port infrastructure.

7. Education, training and upgrading of skills for aquatic sector workers.

8. The acquisition of tugboat and lighterage equipment and machinery, and the improvement and development of tugboat and lighterage services.

9. The acquisition of shipping industry equipment, machinery and infrastructure.

10. All other activities related to the aquatic sector.

Technical and Administrative Unit

Article 88. The Aquatic Development Fund shall be operated by a Technical and Administrative Unit. The head of the Unit shall be freely appointed and dismissed by the Board of Directors of the National Institute for Aquatic Areas, to which the Unit shall report.

Qualifications

Article 89. The head of the Technical and Administrative Unit must:

1. Be a Venezuelan national.

2. Be over 30 years of age.

3. Have a professional background in economics and finance.

Competence

Article 90. The Aquatic Development Fund shall be responsible for:

1. Allocating non-reimbursable financial resources for services that contribute to the development of the aquatic sector, comprising up to 10 per cent of Fund resources, by concluding contracts or agreements on technical assistance, training, technology transfer, research, the provision of funds, trusts, donations and subsidies.

2. Overseeing and monitoring said contracts or agreements in order to verify that the resources are used for their intended purpose.

3. Managing the resources allocated to the Fund by the National Executive and by national and international agencies.

4. Performing financial transactions with eligible national or international institutions. A majority vote of the members of the Board of the National Institute for Aquatic Areas, following a preliminary profitability assessment, shall be required for such transactions.

5. Assessing the feasibility of projects in the context of the programmes or policies adopted by the Board of the National Institute for Aquatic Areas.

6. Submitting activity reports and financial statements to be consolidated to the Board of the of the National Institute for Aquatic Areas for its consideration.

7. Submitting quarterly reports on the Fund's activities to the Board of the National Institute of Aquatic Areas for its consideration.

Reserve

Article 91. In order to meet the objectives set forth in article 86 of this Decree with the rank, value and force of organic law, the National Institute for Aquatic Areas may not commit more than 75 per cent of the resources of the Aquatic Development Fund.

Resources of the Fund

Article 92. The resources of the Aquatic Development Fund shall include:

1. Contributions from the National Institute for Aquatic Areas;

2. The income generated from the proceeds of its management.

3. Payments of the fee calculated on the basis of the gross tonnage of national and foreign ships travelling on international transit and foreign-flagged ships that in exceptional cases perform cabotage.

4. Payments of a portion of the fees, taxes and duties payable for use of canals, aquatic signalling, pilotage, tugboats and lighterage, concessions, authorizations and the equipping of public ports in public and private use.

5. Payments from port management bodies.

6. Revenue from donations, bequests and transfers of resources performed by natural or legal persons, public or private.

7. Any other income to which it is entitled by law.

Calculation of the fee

Article 93. The fee referred to in article 92, paragraph 3, of this Decree with the rank, value and force of organic law shall be calculated on the basis of the gross tonnage of ships, national or foreign, in international traffic.

This fee shall be paid directly by the owner, operator or agent of a ship, whenever it reaches port, according to the following non-cumulative scale:

1. Ships of or under 500 gross tons shall pay 1 tax unit.

2. Ships of between 501 and 5,000 gross tons shall pay 0.0045 tax units per gross ton.

3. Ships of between 5,001 and 20,000 gross tons shall pay 0.0040 tax units per gross ton.

4. Ships of between 20,001 and 40,000 gross tons shall pay 0.0035 tax units per gross ton.

5. Ships of more than 40,001 gross tons shall pay 0.0030 tax units per gross ton.

Payment of the fee provided for in this article shall be a prerequisite for authorization of the departure of the ship. Ships registered in the Venezuelan shipping registry shall pay 50 per cent of the corresponding fee when in international traffic. This discount shall be applied up to the same percentage to those foreign-flagged ships under the principle of reciprocity in accordance with law.

Those foreign-flagged ships that by way of exception undertake cabotage shall pay in only one port the fee referred to in this article, whenever they leave their home port, and shall also pay that fee when undertaking the international carriage of goods for import and export.

The owners of foreign ships shall be required to pay the National Institute for Aquatic Areas the equivalent of the fee established in this article, in foreign currency, applying the exchange rate set in the respective exchange rate agreement in force on the date the fee falls due, in accordance with the regulations issued for that purpose.

The foreign exchange obtained through these payments must be sold by the National Institute for Aquatic Areas to the Central Bank of Venezuela, at the exchange rate set in the exchange regulation

that is in effect on the date of the respective operation and by the deadline set for that purpose, unless the Institute agrees to hold such sums in foreign currency accounts, for which they must obtain the authorization of the Central Bank of Venezuela, as stipulated in the applicable exchange rate agreements.

Verification of gross tonnage

Article 94. For the purposes of this Decree with the rank, value and force of organic law, gross tonnage shall be verified through the International Tonnage Certificate.

Contribution parameters

Article 95. The contributions set out in article 92, paragraph 4, of the present Decree with the rank, value and force of organic law by the corresponding bodies shall be calculated on the basis of the following parameters:

1. 2 per cent of the amount collected through the canal use service.

2. 2 per cent of the amount collected through the aquatic signalling service.

3. 10 per cent of revenues collected through the tugboat service.

4. 10 per cent of revenues collected through the lighterage service.

5. 20 per cent of revenues collected through the piloting service.

6. 10 per cent of revenues collected through the concessions, permissions and authorizations corresponding to the rights established in the concession, permission and authorization contracts of public ports for public and private use.

7. 1 per cent of the gross revenue of the port management bodies.

Payment deadline

Article 96. The contributions referred to in the article above shall be paid on a quarterly basis by the collecting bodies.

Placement of resources

Article 97. The resources of the Aquatic Development Fund mentioned in the present Decree with the rank, value and force of organic law shall be placed in a financial institution governed by the Act governing the banking sector institutions, in a special account under the name of the Aquatic Development Fund; movements of those resources shall be effected by the President of the National Institute for Aquatic Areas, in conjunction with one of the signatures authorized for such purpose by the Board, with the authorization of the Board of the Institute.

Financing period

Article 98. The financing provided for under this Decree with the rank, value and force of organic law may be granted for a period of up to 10 years.

Resources

Article 99. The resources of the Aquatic Development Fund shall not be part of the assets of the National Institute for Aquatic Areas.

Operating expenses

Article 100. In exchange for the corresponding payment, the National Institute for Aquatic Areas shall provide the services, goods, personnel and other facilities necessary for the functioning of the Aquatic Development Fund.

Accounting

Article 101. The accounts of the Aquatic Development Fund shall be recorded in its ledgers and financial statements in accordance with generally accepted accounting principles and shall be kept entirely separate from the accounts of the National Institute for Aquatic Areas.

The financial statements of the Fund shall be audited annually by an independent firm of auditors which shall issue the corresponding opinion.

Part VIII

Related activities

Classification

Article 102. For the purposes of this Decree with the rank, value and force of organic law, the following are related activities:

1. The Venezuelan shipping registry.

2. The shipping industry.

3. Piloting, tugboat and lighterage services.

4. Search and rescue services and activities to prevent and combat environmental pollution in aquatic areas.

5. The national aquatic navigation support system.

6. Nautical education.

7. Activities involving shipping, certification, shipping agencies, cargo operations and agencies, multimodal transport and maritime brokering.

8. Shipping inspection, audit, consultancy and advisory services.

9. Hydrographic, meteorological, oceanographic and nautical cartography work.

10. Channelling and maintenance services for navigable waterways.

11. The management of security, inspections and audits.

12. Companies providing water transport services.

13. Other activities as determined by law.

Venezuelan shipping registry.

Article 103. The Venezuelan shipping registry shall be maintained by the Aquatic Authority; the relevant law shall regulate all matters relating to this registry.

Shipping industry

Article 104. The shipping industry consists of principal and auxiliary shipping production centres. The relevant law shall regulate all matters relating to the shipping industry.

Principal shipping production centres are shipyards, slipways and shipbuilders.

Auxiliary shipping production centres are shipping workshops; shipping consultancy firms; inspection, testing and trials companies or laboratories; ship and navigation aid classification societies; manufacturers and vendors of shipping machines, equipment and systems, as well as their parts and spare parts; and manufacturers and vendors of materials and inputs used in the activities of the shipping industry.

The principal and auxiliary shipping production centres that comprise the shipping industry must comply with the registration, authorization and control requirements established under the relevant law.

Piloting, tugboats and lighterage

Article 105. Piloting, tugboat and lighterage services are public services and shall be provided by the National Institute for Aquatic Areas, in accordance with law.

Search and rescue

Article 106. Aquatic search and rescue services shall be provided by the Aquatic Authority, in coordination with the competent bodies. To that end, it shall coordinate participation in the national search and rescue plan and other national and regional authorities and organizations certified for that purpose, in accordance with the regulations governing the matter.

The law shall determine the cases in which the National Executive may demand compensation for the provision of the property salvage service, in the terms and conditions set forth in international conventions.

Other related services

Article 107. Aquatic signalling services and hydrographic, meteorological, oceanographic and nautical cartography work shall be provided by the ministry of people's power responsible for defence.

Channelling and maintenance services for navigable waterways, shipping security and inspection management and companies providing water transport services shall be regulated by the relevant law and supervised, policed and controlled by the ministry of people's power for petroleum and mining.

Part IX

Cabotage and domestic navigation

Cabotage

Article 108. Cabotage means navigation between points and ports over which the Bolivarian Republic of Venezuela exercises sovereignty and jurisdiction. Cabotage shall only be conducted by ships in the Venezuelan shipping registry, without prejudice to the provisions of international agreements or treaties adopted by the Bolivarian Republic of Venezuela.

Shipping of goods by cabotage

Article 109. Shipping by cabotage of domestic or foreign goods between Venezuelan ports or by foreign-flagged ships requires prior certification establishing that foreign-registered ships comply with the requirements of national and international legislation on maritime security, and domestic tonnage must not be available.

Certification

Article 110. The National Institute for Aquatic Areas may grant, at the request of an interested party and by way of exception, a special permit for foreign-registered ships to carry out cabotage or domestic navigation, subject to payment of the fee established for this purpose.

Domestic navigation

Article 111. Domestic navigation means any activity other than cabotage carried out within the scope of the jurisdiction of a particular harbour master or in jurisdictional waters of the Bolivarian Republic of Venezuela, such as fishing, dredging, sporting and recreational navigation and scientific research activities.

Part X.

Seafarers

Crew

Article 112. Without prejudice to the provisions of the Decree with the rank, value and force of organic law on labour and workers, the captain, 50 per cent of the officers and 50 per cent of the remainder of the crew of every ship on the Venezuelan shipping registry must be of Venezuelan nationality.

Interns

Article 113. Foreign ships engaged in cabotage by way of exception are obliged to enlist as crew members interns who are Venezuelan students of higher nautical education for such time as they conduct cabotage in Venezuelan waters.

Special working conditions

Article 114. Special working conditions for seafarers shall be established in law, in accordance with the relevant conventions, agreements and treaties adopted by the Bolivarian Republic of Venezuela.

Part XI

Tax benefits

Exemptions

Article 115. The following are exempt from import tax: ships; navigation aids; drilling rigs; goods related to the shipping and port industry that are intended exclusively for the construction, modification, repair and recycling of ships; and equipment, machinery repairs, and parts and components for the shipping and port industry.

Exclusion

Article 116. Ships and navigation aids for sporting and recreational use are expressly excluded from the tax benefit provided for in the preceding article.

Requirements and conditions for exemption

Article 117. In order to enjoy the tax benefit provided for in this Part, the interested party must submit to the Customs and Tax Administration a favourable opinion issued by the Aquatic Authority indicating that the goods described in article 115 of this Decree with the rank, value and force of organic law comply with national and international engineering and industry standards, in

accordance with their purpose and allocation, and without prejudice to the requirements and conditions laid down in the legal framework governing customs matters or in other sublegal regulations.

Registration

Article 118. Natural and legal persons requesting the exemption provided for in this Part must be registered and authorized to carry out the relevant activity, in the register which the Aquatic Authority shall establish for this purpose.

Issuance of opinions and granting of exemptions

Article 119. The Aquatic Authority, having considered a request, shall issue its opinion within 20 working days.

The Customs and Tax Administration, having reviewed the documentation submitted and found it to comply with requirements, shall grant an exemption within twenty 20 working days.

Rebates for investment

Article 120. Those receiving income from activity in the merchant navy sector or shipping industry shall be granted an income tax rebate equivalent to 75 per cent of the amount of their new investments consisting of the purchase or hire of new ships or existing navigation aids; the acquisition of new maritime security equipment or technologies; the expansion, improvement or equipping of existing ships and navigation aids; the establishment of commercial companies or the acquisition of shares in commercial companies which receive such income as described above; or the training and capacity-building of their employees.

The rebates established in this article shall be granted only in those tax years in which the new investments are made and may be transferred to subsequent tax years for the time period stipulated in the Income Tax Act. These rebates shall also apply to debt converted into investment.

Obligation to use Venezuelan shipyards

Article 121. National ships, dredges, drilling rigs and navigation aids, and those chartered or leased by national shipowners or State companies who invoke the benefits of this Decree with the rank, value and force of organic law are obliged to have normal maintenance work carried out in Venezuelan shipyards, except in cases of force majeure, when shipowners must request authorization from the National Institute for Aquatic Areas for the work to be carried out elsewhere.

An exception to this obligation exists for emergencies that might require a ship to enter a shipyard due to force majeure or a risk of damage to its hull and machinery, when the ship is located in international waters.

Part XII.

Communal participation

Community promotion and participation

Article 122. The Aquatic Authority shall promote and institutionalize just and equitable participation in services related to aquatic areas, in particular in connection with the national and international maritime transport of goods and persons, ports, the shipping industry and, in general, all activities related to national maritime and shipping activities, through local community organizations, social production networks and cooperatives.

Incentives to voluntary work

Article 123. The Aquatic Authority shall develop systems and mechanisms to encourage and recognize the voluntary work of individuals in their communities and of employees of the National Institute for Aquatic Areas.

Social monitoring and oversight

Article 124. The community, organized through the community councils or other forms of community organization and participation, shall monitor and ensure the fulfilment of the duties of solidarity and social responsibility established by the present Decree with the rank, value and force of organic law.

Part XIII.

Maritime courts

Senior judges

Article 125. Senior maritime judges have jurisdiction over the entire national aquatic area and the ships registered in the Venezuelan shipping registry, irrespective of the jurisdiction over the waters where these ships are located.

In the superior maritime courts, decisions are made by a single judge. To be appointed as a senior judge, it is necessary to be a lawyer, a Venezuelan national, over 30 years of age, and of recognized good standing and competence in the field. It is preferable for candidates to specialize in the law of the sea, shipping and foreign trade law or an equivalent, be senior professors in that field or have practised in that area of law for more than 10 years.

Jurisdiction of the superior courts

Article 126. The superior maritime courts are competent to adjudicate on:

1. Appeals of decisions handed down in the first instance by the maritime courts.

2. Conflicts relating to jurisdiction that arise between courts whose decisions can be appealed before the superior maritime courts, and between these and other courts when the conflict concerns matters heard by the maritime courts.

3. Proceedings for review of leave to appeal against decisions regarding the admissibility of appeals in cases which are referred to them at the appeal stage.

4. Any other appeal or legal action assigned to them under the applicable law.

Decisions handed down by the superior maritime courts may be appealed in cassation within a period of five (5) working days before the Supreme Court of Justice.

Courts of first instance

Article 127. The maritime courts of first instance are single-judge courts. To be appointed as a first instance judge, it is necessary to be a lawyer, a Venezuelan national, over 30 years of age, and of recognized good standing and competence in the field. It is preferable for candidates to specialize in the law of the sea, shipping and foreign trade law or an equivalent, be senior professors in that field or have practised in that area of law for more than 5 years.

Jurisdiction of the courts of first instance

Article 128. The maritime courts of first instance are competent to adjudicate on:

1. Disputes arising from civil and commercial acts which concern maritime, river and lake trade and traffic, as well as disputes related to port activity or to the use of multimodal transport in connection with maritime trade.

2. Legal action taken against a ship, its captain or the shipowner, or his or her representative, when the ship has been the subject of a precautionary measure or asset freezing.

3. Cases involving more than one ship when one is nationally registered, or when national legislation is applicable under the contract or the law, and cases involving foreign ships located in waters that are under the jurisdiction of the Bolivarian Republic of Venezuela.

4. Ship mortgage enforcement procedures, and legal actions to claim maritime liens.

5. The enforcement of foreign judgments, following the receipt of the relevant enforcement order.

6. The enforcement of arbitral awards and resolutions related to maritime cases.

7. Bankruptcy trials concerning the limitation of liability of shipowners or ship operators.

8. Legal actions relating to the law of general average.

9. Legal actions related to pilotage, towing and lightering services; aquatic signalling; hydrographic, meteorological or oceanographic work; nautical charting; and the dredging and maintenance of waterways.

10. Legal actions arising in connection with the handling of containers, goods, materials, supplies, fuel and equipment that are supplied, or services that are rendered, to the ship, for its use, management, conservation or maintenance.

11. Legal actions arising in relation to the construction, maintenance, repair, alteration and recycling of ships.

12. Legal actions arising in connection with insurance premiums, including mutual insurance contributions payable by the owner of the ship or the bareboat charterer, or on his or her behalf, in relation to the ship.

13. Legal actions related to shipping agency commissions, brokerage fees or other fees payable by the owner of the ship or the bareboat charterer, on his or her own behalf, in relation to the ship.

14. Disputes relating to ownership or possession of the ship, its use or the proceeds of its use.

15. Legal actions related to the use of the various means of transport used in connection with maritime trade.

16. Mortgages or charges applicable to the ship.

17. Legal actions arising from a wrongful act in connection with national and international maritime, river and lake transport of goods and persons, and environmental crimes perpetrated in the aquatic areas, as defined by the legislation in force, according to the procedure established in the Code of Criminal Procedure.

18. Any other legal action, measure or dispute relating to matters regulated by the law.

Repealing provision

Sole article. The following are repealed:

1. Articles 1, 2, 3, 4, 5 and 6 of the Territorial Sea, Continental Shelf, Fisheries Protection and Airspace Act of 27 July 1956, published in Special Official Gazette of the Republic of Venezuela No. 496, of 17 August 1956.

2. Shipping Act of 1 September 1998, published in Special Official Gazette of the Republic of Venezuela No. 5,263, of 17 September 1998.

3. Reactivation of the National Shipping Industry Act, published in Official Gazette of the Bolivarian Republic of Venezuela No. 36,980, of 26 June 2000.

4. Aquatic and Insular Areas Organic Act, published in Official Gazette of the Bolivarian Republic of Venezuela No. 37,596 of 20 December 2002.

Transitional provisions

Sole article. Definitions and regulations not established in the present Decree with the rank, value and force of organic law shall be set out in its implementing regulations.

Final provision

Sole article. This Decree with the rank, value and force of organic law shall enter into force upon its publication in the Official Gazette of the Bolivarian Republic of Venezuela.

DONE at Caracas on 17 November 2014. 204 years since independence, 155 years since federation and 15 years since the Bolivarian revolution.

To be executed,

(Seal)

Nicolás Maduro Moros

Endorsed by:

Executive Vice President of the Republic, Jorge Alberto Arreaza Montserrat

Minister of People's Power for the Office of the President and Monitoring of Government Management, Carlos Alberto Osorio Zambrano

Minister of People's Power for Internal Affairs, Justice and Peace, Carmen Teresa Meléndez Rivas

Minister of People's Power for Foreign Affairs, Rafael Darío Ramírez Carreño

Minister of People's Power for Planning, Ricardo José Menéndez Prieto

Minister of People's Power for Economic Affairs, Finance and Public Banking, Rodolfo Clemente Marco Torres

Minister of People's Power for Defence, Vladimir Padrino López

Minister of People's Power for Trade, Isabel Cristina Delgado Arria

Officer in charge of the Ministry of People's Power for Industry, José David Cabello Rondón

Minister of People's Power for Tourism, Andrés Guillermo Izarra García

Minister of People's Power for Agricultural Production and Lands, José Luis Berroterán Núñez

Minister of People's Power for Higher Education, Science and Technology, Manuel Ángel Fernández Meléndez

Minister of People's Power for Education, Héctor Vicente Rodríguez Castro

Minister of People's Power for Health, Nancy Evarista Pérez Sierra

Minister for People's Power for the Social Process of Work, Jesús Rafael Martínez Barrios

Minister of People's Power for Ground Transport and Public Works, Haiman El Troudi Douwara

Minister of People's Power for Water and Air Transport, Giuseppe Ángelo Carmelo Yoffreda Yorio

Minister of People's Power for Ecosocialism, Habitat and Housing, Ricardo Antonio Molina Peñaloza

Minister of People's Power for Petroleum and Mining, Asdrúbal José Chávez Jiménez

Minister of People's Power for Communication and Information, Jacqueline Coromoto Faría Pineda

Minister of People’s Power for Communes and Social Movements, Elías José Jaua Milano

Minister of People’s Power for Food, Yván José Bello Rojas

Minister of People’s Power for Culture, Reinaldo Antonio Iturriza López

Minister of People’s Power for Youth and Sport, Antonio Enrique Álvarez Cisneros

Minister of People’s Power for Indigenous People, Aloha Joselyn Núñez Gutiérrez

Minister of People’s Power for Women and Gender Equality, Andreína Tarazón Bolívar

Minister of People’s Power for Electricity, Jesse Alonso Chacón Escamillo

Minister of People’s Power for Penitentiary Services, María Iris Varela Rangel

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