

Decree No. 38 of 8 April 1977

Jean-Claude Duvalier, President for Life of the Republic,

Having considered:

Articles 90 and 93 of the Constitution;

The Conventions on the Territorial Sea and Contiguous Zone and the Continental Shelf, done at Geneva on 29 April 1958 and ratified by the Republic of Haiti on 26 October 1959;

The Declaration of Santo Domingo, signed at Santo Domingo, Dominican Republic, by the Republic of Haiti in 1972;

The Decree of 6 April 1972, setting the limits of Haitian territorial waters at 12 nautical miles;

Article 11 of the aforesaid Decree;

The 6 April 1977 declaration of the Haitian Government setting the limits of the territorial waters at 200 nautical miles; and

The 21 August 1976, Decree of the Legislative Chamber, suspending the guarantees provided under Articles 17, 18, 19, 20, 25, 31, 34, 48, 70, 71, 72, 93 (last paragraph), 95, 112, 113 and 122 (second paragraph) and granting full powers to the Chief of the Executive Branch, so that he may issue, up to the second Monday of April 1977, decrees having the force of law and containing any measures deemed necessary by him to safeguard the integrity of the national territory and the sovereignty of the State, consolidate order and peace, maintain the political, economic, and financial stability of the nation, improve the well-being of rural and urban populations, and defend the general interests of the Republic;

WHEREAS:

It is advisable to determine the limits of the territorial waters of the Republic of Haiti and negotiate the necessary agreements with the States concerned whenever that would serve the interests of the Republic;

The borders of States establish the limits of the territory over which they exercise their sovereignty;

The territory of a State includes not only its dry land but also its airspace and territorial sea and the seabed and subsoil covered by its waters;

It is desirable to use all available resources of the Republic of Haiti within the framework of the Economic Revolution;

The sea, seabed and subsoil covered by this sea constitute a considerable source of mineral, energy and other resources; and

In exercising their sovereignty, States have the right to establish an economic zone in addition to their territorial sea;

On the basis of the report of the Secretary of State for Foreign Affairs and Worship and of the Secretary of

State for the Interior and National Defense, and after deliberation of the Council of Secretaries of State:

HEREBY DECREES:

Article 1

The limit of the territorial sea over which the Republic of Haiti has sovereignty shall be set at 12 nautical miles from the low-water line of adjacent islands or the corresponding straight baselines.

Article 2

The internal waters and coast of the Republic of Haiti shall remain as established under the provisions of Articles 2 and 3 of the Decree of 6 April 1972.

Article 3

The Haitian State will exercise full sovereignty over the seabed and subsoil corresponding to the limits of its territorial sea as well as over the superjacent airspace.

Article 4

The zone contiguous to the territorial sea shall be set at 12 nautical miles from the outer limit of the territorial sea in the direction of the high seas.

Over this zone the Haitian State has jurisdiction with regard to the protection of its fiscal and customs interests and its security, as provided by the pertinent international law.

Article 5

An 'Exclusive Haitian Economic Maritime Zone' extending over a distance of 200 nautical miles from the baseline of the territorial sea shall be established.

In this zone the Republic of Haiti will exercise:

1. Sovereign rights with regard to the exploration, exploitation, conservation and management of natural resources, whether animal, vegetable or mineral of the seabed, subsoil, and superjacent waters;
2. Exclusive rights of jurisdiction with regard to the establishment and utilization of artificial islands, facilities and structures;
3. Exclusive jurisdictional authority with regard to:
 - (a) Activities to explore or exploit the zone, such as the production of energy through the use of water, marine currents, and winds, and
 - (b) Scientific research;
4. Jurisdictional authority with regard to the conservation of the marine environment, including the control and reduction of pollution;
5. Any other rights and obligations that may be established under Haitian law.

Article 6

The Haitian State will regulate fisheries in the territorial sea, in the contiguous zone and in the exclusive maritime economic zone, taking into account the rational use and the conservation of mineral and biological resources.

Article 7

The Haitian State will exercise, within the limits indicated above, any control which it deems necessary to:

1. Ensure navigational safety and prevent violations of its health, fiscal, customs and immigration laws; and
2. Prevent pollution, contamination, and other hazards which could threaten the biological balance of the marine environment.

Article 8

The continental platform of Haiti consists of the seabed and subsoil of submarine regions adjacent to the coast but located outside the territorial sea. It shall extend to the point where the depth of the superjacent waters allows exploitation of the natural resources of such regions.

Article 9

The Haitian State will exercise sovereign rights over the continental platform with regard to the exploration and exploitation of its natural resources.

These rights shall be exclusive. No one may engage in exploration or exploitation of this platform as referred to above without the explicit consent of the Haitian State, even if no such activities are being carried out by the Haitian State itself.

The rights of the Republic of Haiti over the continental platform shall be independent of its effective or feigned occupation as well as of any statement made.

Article 10

This decree shall enter into force within 24 hours of its promulgation. It shall supersede all laws or legal provisions, decrees or provisions of decrees, and decree-laws or provisions of decree-laws which run counter to it. It shall be published and executed at the request and within the respective purviews of the Secretaries of State for Foreign Affairs and Worship, Interior and National Defense, Justice, Agriculture, National Resources and Rural Development, Commerce and Industry, and Finance and Economic Affairs.

DONE at the National Palace, Port-au-Prince, on 8 April 1977, the 174th year of independence.