

"DILIGITE JUSTITIAM QUI JUDICATIS TERRAM." "Ye who judge the earth, give diligent love to justice"



TERRUM.

The Department of the Navy: New Airport Administrator.
By Edgar Bezares.



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It is well known that every State requires armed forces that are available, effective, and properly subordinated to those who constitutionally can dispose of them to protect the security and sovereignty of the country against any external or internal danger that may threaten its existence, territory, population, and government. Thus, almost all the countries of the world have armed forces, except 31 of them, among them Aruba, Costa Rica, Iceland, Liechtenstein, Monaco, and Panama¹.

“...the Department of the Navy was made completely independent of the Army in order to “concentrate in a single dependency all national affairs related to the sea and the waters”²...”

Mexico is not an exception in having the Army, the Navy, and the Air Force as its armed institutions, as established in Article 73, Section XIV, of the Mexican Constitution, whose establishment, organization, and service are exclusive powers of the Congress of the Union, which will do it through the corresponding laws, while the President may appoint the senior officers of these forces.

Once Mexico's Independence was achieved, in 1821, four ministries were created: Foreign and Domestic Relations, Justice and Ecclesiastical Business, Treasury, and War and Navy. The latter was assigned all matters related to the arms of the sea and war. It was not until 1939 that the Department of the Navy was made completely independent of the Army in order to “concentrate in a single dependency all national affairs related to the sea and the waters²”, and which to this day subsists in accordance with Article 26 of the Organic Law of the Federal Public Administration.

Today, the functions and organization of the Department of the Navy are regulated by Article 30 of the Organic Law of the Federal Public Administration, as well as Article 2 of the Organic Law of the Mexican Navy, and from these provisions, the main functions of the Department are as follows: (a) organize, prepare and administer the navy; (b) exercise sovereignty in the territorial sea, its airspace and the coasts of the national territory; (c) act as national maritime authority; (d) maintain the rule of law in maritime, coastal and port areas; among others related to naval matters, i.e., concerning navigation.

In addition to the above, it is necessary to specify what the Organic Law of the Mexican Navy establishes as the mission of the Mexican Navy:

Article 1.- The Mexican Navy is a national military institution, of permanent character, whose mission is to employ the naval power of the Federation for external defense, protect the sovereignty of the Nation, maintain the rule of law in the Mexican marine areas and assist in the internal security of the country, under the terms established by the Political Constitution of the United Mexican States, the laws derived therefrom and the international treaties to which the Mexican State is a party.

At this point, it is clear that historically and to this day the Secretariat of the Navy has been one of the armed forces of the country with the particular object of protection relating to the sea and, by guarding the same, assists the Army and the Air Force in safeguarding the sovereignty and security of the country. On the other hand, the army performs these protection functions on land and the air force in the air of our territory.

1.- <https://www.publico.es/economia/son-31-paises-no-ejercito-son-paraisos-fiscales.html>

2.- Departamental decree 307/2021 - “General Organization Manual of the Secretariat of the Navy”.

Despite the clear legal delimitation of the functions, missions, and objectives of the Armed Forces, the government of President Andrés Manuel López Obrador (AMLO) has been known for allowing the Armed Forces to interfere in several areas and activities that are completely alien to their organic functions, since, for example, he assigned the construction of the Felipe Ángeles International Airport (AIFA) to the Army and, likewise, has left the ownership of several federal agencies in charge of active or retired military personnel, which is contrary to the provisions of Article 129 of the Mexican Constitution.

"...what is inadmissible is to entrust the Navy with business and operational functions alien to its own constitutional, legal, teleological and historical attributions..."

However, by decree of AMLO published in the Official Gazette of the Federation on August 8, 2023, the Mexico City International Airport (AICM) and its operating companies are no longer controlled by the Department of Communications and Transportation and will now be controlled operationally and administratively by the Department of the Navy, which will operate them through the military entity "*Grupo Aeroportuario Casiopea*³", with the Navy making its own decisions and determining the type of airport we will have in Mexico City.

According to the President in the morning conference on June 28, 2023, this decree is intended to continue with the security status of the AICM facilities, since, according to him, this service has been in charge of the Navy for some time and drug trafficking, smuggling and baggage theft have been avoided in its airport facilities. He even stated that other public airports in the country, such as those of Ciudad del Carmen in Campeche, Ciudad Obregón, and Guaymas, in Sonora, will soon be operated by the Department of the Navy. Meanwhile, AIFA, Campeche, Puebla, Tulum, Chetumal, and Nuevo Laredo, will, for the time being, be guarded by the Army, that is to say, by the Department of National Defense⁴. However, these statements by the President do not provide a logical justification for the reason why, beyond providing airport security services, the Navy and the Army are to take over the complete administration and operation of these airports in the country.

Without wishing to prejudge the viability and efficiency of the militarization of airports, particularly the AICM, the use of the country's armed forces institutions, such as the Navy, to take absolute charge of the operation of airports is, at the outset, contrary to their own warlike and national security nature and, likewise, contravenes the provisions of the legislation that gave rise to them, from which it is concluded -as already explained-that the purpose of the Secretariat of the Navy is to preserve the security of the seas, beaches and maritime ports, not their use as managers and operators of a highly lucrative enterprise such as the AICM, which is the responsibility of the individuals and corporations holding the concession pursuant to Article 2, Section VII, of the Airports Law.

Then, although it is debatable, it could be legally possible for AMLO to assign to the Department of the Navy functions proper of the national police forces such as the security of the AICM, but what is inadmissible is to entrust the Navy with business and operational functions alien to its own constitutional, legal, teleological and historical attributions, since AMLO should never have overlooked that it is his obligation "*... to preserve national security and to use the entire permanent Armed Forces, that is, the Army, the Navy, and the Air Force for the internal security and external defense of the Federation*⁵...", exclusively. This is without omitting the fact that the Navy is not characterized for having skills in business administration, which of course reduces the possibility of the longed-for improvement in the functionality of the AICM and the other airports in which this agency is involved.

3. <https://elpais.com/mexico/2023-04-13/casiopea-la-nueva-empresa-militar-para-gestionar-siete-aeropuertos.html>

4.- <https://www.youtube.com/watch?v=DicM2nAFnA8>

5.- Article 89, section VI, of the Mexican Constitution

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