STRATEGIC COALITIONS FOR MARITIME DIPLOMACY: BRIEF CONSIDERATIONS[1]

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ABSTRACT

To understand the political-diplomatic process that has taken place during the nine years of negotiation that resulted in the United Nations Convention on the Law of the Sea, it is necessary to understand the interest groups that have formed over the years. States, which are components of the Convention, differed so in their capacity for use of the sea as in their technical scientific knowledge. Such differences are of particularly important for explaining the political positions and the results of negotiations for ocean space planning. Besides, the process and results were significantly affected by the Conference's diplomatic action in global models. This dynamic has turned to the need to build and maintain winning coalitions based on the decision-making method. It is necessary to understand to which extent maritime issues are influenced by the foreign policy of pioneer countries in maritime technology. Thus, this study aims at a brief understanding of the diplomatic and structural process, that is, how the States aligned themselves with the complex issues that arose during the negotiations. In a second phase, it will be observed how these influence groups worked, formed by strategic interests of each State. Finally, we will consider how the influence groups acted during the conference, from the perspective of geographical representation for the ocean space planning. In this regard, it has been observed that it is necessary to understand the positioning of countries in accordance to their degree of influence in the diplomatic process in the Convention, to ensure the hegemony of use and exploitation of natural resources from the ocean.

Keywords: Diplomacy; Ocean Geopolitics; International Ocean Policy.

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INTRODUCTION

Governments have taken steps to secure large areas of adjacent ocean in their jurisdictions. Provisions are made regarding rights to neighboring seas, to assess the water resources and soil of the continental shelf. In almost all respects, State practice is carried out in a manner consistent with the Convention, particularly after its implementation and rapid acceptance by the international community as the regulator of all actions related to the oceans. According to Keohane (1988), specific institutions of world politics embed rules that can be resorted to in the most fundamental practices. Just as actors in world politics are sometimes coerced by existing institutions, prospects for institutional change make the international system work. In each set of entities, institutionalized conflicts are identified. In this respect, with the advent of the United Nations Convention on the Law of the Sea (UNCLOS), the definition of the territorial sea has been a relief to conflicting claims, as navigation by the sea and straits has been firmly established in legal principles. Coastal States enjoy the benefits of legitimate provisions, which grant them broad economic rights over an exclusive economic zone of 200 nautical miles along their shores. The right of landlocked (geographically disadvantaged) countries, without access to the sea, is politically and legally agreed, and marine scientific research is based on accepted principles.

Considering the United Nations Convention on the Law of the Sea (UNCLOS) as an international public policy, it is assumed that all States (which have ratified it) are required to regulate national maritime public policies, in compliance with the considerations expressed in its final document. The political interpretation of the Convention requires the work of a team of multidisciplinary professionals. In this context, it is evident the need for a brief historical review of the process.

Therefore, this study is based on the strategic coalitions that took place during the diplomatic process at the Third United Nations Conference on the Law of the Sea (1973-1982). As the discussions were diverse in relation to the themes dealt with during the formulation of the Treaty, it was decided to make a brief approach on the delimitation of the oceanic spaces. It is important to note that the nine-year negotiation during the Conference gave rise to one of the most successful documents in world history and diplomacy: the United Nations Convention on the Law of the Sea (UNCLOS).

It is noted that the institutionalization related to the sea issues, from the current Convention, shows the countries' concern to organize the oceanic jurisdictional space, the focus of this study, which historically was subject to the Doctrine of the Freedom of the Seas. The legal delimitation of maritime areas, through the 1982 Convention, was necessary to organize the uses arising from the oceanic ecosystem. The States have rights and duties derived from the proper administration of these territories.

Interest in the delimitation of maritime spaces and, consequently, the dispute of coastal States that have an extended continental shelf is inherent in sovereign rights for the exploitation of resources in the ocean. Coastal states face significant research expenditures to prove the expansion of their borders (extension of the continental shelf). It should be highlighted that the expansion of these domains is linked to the consequent socio-economic and political-environmental implications for the nations, which is justified by the fact that the outer limit of the extended continental shelf will be the limit for the international area. The Convention explains how maritime areas and their possible forms of use will be determined according to the space to be explored (VAN PAY, 2008; WALKER, 2012). In this way, it is intended to understand how the coalitions that have formed, diplomatically and strategically, in the historical course of the III United Nations Conference on the Law of the Sea, established the current limits of the ocean space from distances determined on land.

Although the complex situation of delimitation of coastal areas by coastal States prevailed until the middle of the twentieth century, there was an impetus to extend national claims on the resources coming from the oceans. There was a certain urgency to regulate maritime spaces, as the tension over the use of the oceanic ecosystem generated tension between some nations. There was growing concern about the number of catches of coastal fish stocks by long-range fishing fleets and the threat of pollution from carrier ship and oil tanker residues, which transported toxic loads on any sea lanes. The sea powers competed to ensure their presence on the global waters and on the deep sea. A range of claims and growing tension between States over rights to mineral resources on the seabed threatened to transform the oceans into an arena of instability.[3]

[3] Refer to OCEANS & LAW OF THE SEA. Is Ocean Division affair and the Law of the Sea. The United Nations Convention on the Law of the Sea. A Historical Perspective. Available at: <http://www.un.org/depts /los/convention_agreements/convention_historical_perspective. htm>. Access on: 17 jul. 2012.

In this respect, it is important to clarify that the claims were long-standing. In 1945, President Harry Truman, responding in part to the pressure of the nation's oil interests unilaterally, extended the jurisdiction of the United States over all the natural resources of that nation's continental shelf – oil, gas, minerals, and others. This was the first major challenge to be faced. Soon other countries followed suit. In October 1946, Argentina claimed rights over its continental shelf. Chile and Peru in 1947 and Ecuador in 1950 affirmed sovereign rights over a 200-nautical-mile zone, thereby hoping to limit the access of distant fishing fleets and control the depletion of fish stocks in their adjacent seas. When World War II was over, Egypt, Ethiopia, Saudi Arabia, Libya, Venezuela and some Eastern European countries claimed a territorial sea of 12 miles, which clearly deviated from the traditional 3-nautical-mile limit (MARRONI, 2013).

In 1956, in Mexico City, the III Meeting of the Inter-American Council of Jurists was held to define the breadth of the territorial sea of a country. The extension of 3 nautical miles to delimit the territorial sea was insufficient and did not constitute an international standard. It was therefore justified to extend an area of the sea, traditionally called the territorial sea. The document at that time stated that each coastal State had the competence to establish its territorial sea and continental shelf within reasonable limits, considering geographic, geological and biological factors, as well as the economic needs of its population, security and defense. However, the decisions taken at this meeting were not followed by most countries, for lack of a parameter to follow. In 1958, at the Geneva Convention on the Territorial Sea, which took place in parallel with the First United Nations Conference on the Law of the Sea (UNCLOS), there was again indecision in the final report on the breadth of the territorial sea and contiguous zone of coastal, island and archipelagic States, as well as about determining the boundaries of the continental shelf. None of the proposals submitted reached the necessary majority. The II UNCLOS, convened in 1960 to solve this obstacle, was also unable to resolve the issue (ANDRADE, 1995, CASTRO, 1989, CASTRO, 1969).

The situation of the oceans generated frequent complaints and disputes of sovereignty. The generalized hope was for a more stable order that would promote the rational management of ocean resources and the establishment of mechanisms to resolve conflicting claims between coastal States.

On November 1, 1967[4], the Ambassador of Malta to the United Nations, Arvid Pardo, asked the nations of the world to look around them and open their eyes to a looming conflict that could devastate the oceans. In a speech to the UN General Assembly, he spoke of the super-Power rivalry that was spreading to the oceans, of the pollution that was poisoning the seas, of the conflicting legal claims and their implications for a stable order and of the rich potential that lay on the seabed. He called for an effective international regime over the seabed and the ocean floor beyond a clearly defined national jurisdiction. What began as a regular exercise for ocean management has turned into a global diplomatic effort to regulate and establish rules directed to all areas of the ocean: uses and resources. These factors, among others, led to the convening of the Third United Nations Conference on the Law of the Sea, which would aim to write a Global Treaty for the oceans. It was then that the United Nations General Assembly gave the starting signal for one of the longest, most complex and all-encompassing international negotiation processes of all time.

As this study is based on the historical and political context of the Third United Nations Conference on the Law of the Sea, a methodology based on content analysis will be used, from a historical and institutional perspective. According to Marconi and Lakatos (2003), it is assumed that institutions and customs originate in the past. In this way, it is important to research their roots to understand their nature and function. Therefore, once the study of the United Nations Convention on the Law of the Sea refers us back to the knowledge of the reality in which it is being politically internalized by the countries, it becomes important to use the Minutes of the Meetings of States Parties participating in the Conference under study.

In view of historical and institutional facts, it is understood that the whole political-diplomatic process of negotiations on the management of the oceans occurred during the three United Nations Conferences on the Law of the Sea, resulting in a large Multilateral Treaty, which originated the Convention. In this case, it may be assumed that the diplomatic strategic processes in the first two Conferences, although not enlightening on the jurisdictional format of the maritime space, provided

[4] Refer to OCEANS & LAW OF THE SEA. Is Ocean Division affair and the Law of the Sea. The United Nations Convention on the Law of the Sea. A Historical Perspective. Available at: <http://www.un.org/depts / them / convention_agreements / convention_historical_ perspective. htm>. Access: 17 July 2012.

the procedural framework so that the negotiations and strategic coalitions, which took place during the Third Conference (1973-1982), could have practical results in their formulation in the final text that originated the Convention. Thus, briefly in this article, we intend to explore three approaches to the delimitation of ocean space. Firstly, the diplomatic and structural process will be assessed, i.e. how the States aligned themselves towards the complex issues that arose during the negotiations. In a second moment, it will be observed how these influence groups worked, formed by strategic interests of each State. And then we will study how the influence groups acted during the Conference, from the perspective of geographical representation.

THE DIPLOMATIC AND STRUCTURAL PROCESS IN THE THIRD UNCLOS: DELIMITING MARITIME SPACES

The Third United Nations Conference on the Law of the Sea had a majority presence of newly independent states, with first-generation diplomats, initially launched in the context of global diplomacy. The Conference, in this regard, played a critical educational role while it lasted, generated conflicts, with diverse consequences, but, on the other hand, achieved satisfactory results for most of the participating nations (MILES, 1998).

Since the first working session in 1974, the Conference has encountered difficulties relating to the complexity and scope of its purposes, that is, it has endeavored to fulfill an agenda with more than 100 specific and difficult issues, simultaneously involving from 137 to 155 States. Difficulties that were exacerbated by the dynamics of diplomacy in a global conference where there is often a natural disagreement about the diverse interests that are being negotiated, as well as the considerable inertia that meetings of this size usually present. In the preparatory phase (1971-1973), it was clear that two dimensions could be superimposed on the conflicts that arose at the Conference. The first would be the gap between developing countries and advanced industrial countries (North/South confrontation). The second would be the barrier between all landlocked and geographically disadvantaged countries, against coastal States, privileged from the rising concept of exclusive economic zone. The combined effect of these two factors increased the likelihood that no coalition would have votes for a two-thirds majority, or that the emergence

of a third block would create a permanent obstacle. Both consequences could significantly delay the organization of a treaty (NORDQUIST, 1985; KOH; JAYAKUMAR, 1985).

Turning to the question of the meetings or negotiations that took place behind the scenes of the Third United Nations Conference on the Law of the Sea, it is important to emphasize the conceptual and definition divergences on maritime spaces. According to Castro (1989), the concept of patrimonial sea generated the concept of exclusive economic zone. The background to this terminological question was based on the Declaration of Santiago (Chile) in 1952, which was cited as the precursory text of the concept of exclusive economic zone, consolidated in the III Conference. Other precursors of such concepts were the Declaration of Montevideo (Uruguay) in May 1970 and the Declaration of Lima (Peru) in August 1970. From the Lima Declaration, Latin American countries reached consensus on a confusing issue of the text of the Declaration of Montevideo, summarized as follows: Territorial Sea: sovereignty AND jurisdiction; Exclusive Economic Zone: sovereignty OR jurisdiction.

It was necessary to understand how to establish maritime spaces by means of a unique mapping and terminology. The topic of expansion of the maritime jurisdiction of coastal States was discussed at a meeting of the Afro-Asian Legal Consultative Committee held in Colombo (Sri Lanka), still in 1971, with observers from Argentina, Chile, Ecuador and Peru, who did not lose the opportunity to gain adherents to the thesis of 200 nautical miles. Reunited again in Lagos, Nigeria, in January of the following year, the Committee pointed out the need to create an additional zone to the territorial sea, which could be called an economic zone. However, a year later, they decided to adopt another concept: patrimonial sea. The first to propose this term were the Caribbean countries, together with Colombia, Mexico and Venezuela, as of the Declaration of Santo Domingo, which took place in the Dominican Republic in June 1972. The Caribbean Basin countries, signatories of the Declaration of Santo Domingo, were Barbados, Costa Rica, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Dominican Republic, Trinidad and Tobago. The concept of patrimonial sea, as enunciated in Santo Domingo, has become viable in the negotiating context of the United Nations, since it was reinforced by the adhesion of African countries to the analogous context of exclusive economic zone (CASTRO, 1989; MARRONI, 2013).

In June 1972, the Regional Seminar of African States on the Law

of the Sea was held in Yaoundé, Cameroon, where it was decided that coastal States would have the right to establish an economic zone over which they would exercise exclusive jurisdiction. Francis Njenga, a delegate from Kenya, who had participated in discussion forums, was one of the main proponents of this idea and, moreover, took the initiative to formally present to the Preparatory Committee for the Third United Nations Conference on the Law of the Sea the document entitled Draft Articles on Exclusive Economic Zone Concept. So, in early 1973, through a formal statement adopted in the Summit of the Organization of African Unity in Addis Ababa (Ethiopia), the accession of the countries of the continent to the concept of exclusive economic zone was consolidated, solving a terminology problem, which could occur during the Conference, and making suggestions as to the mapping of the new oceanic boundaries of coastal States[5] .

> The Council of Ministers of the Organization of African Unity, meeting in its Twenty-first Ordinary Session in Addis Ababa, Ethiopia, from 17 to 24 May 1973, [...]. Considering that in accordance with the charter of the Organization of African Unity, it is our responsibility to harness the natural and human resources of our continent for the total advancement of our peoples in all spheres of human endeavour. [...] Recalling the Permanent Sovereignty of African Countries over their natural resources. [...]Recognizing that the marine environment and the living and mineral resources therein are of vital importance to humanity and are not unlimited, Noting that these marine resources are currently being exploited by only a few States for the economic benefit of their people, Convinced that African countries have a right to exploit the marine resources around the African continent for the economic benefit of African peoples

[5] Refer to United Nations. Document A / CONF.62 / 33: Declaration of the Organization of African Unity on the issues of the Law of the Sea. In: UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA, 3, 1974. v.3 (Documents of the Conference, First and Second Sessions). Available at: <http://legal.un.org/diplomaticconferences/lawofthesea-1982/docs/vol_III / a_conf-62_l-4.pdf>. Access: 30 July 2011.

> [...]Noting the recent trends in the extension of coastal States' jurisdictions over the area adjacent to their coasts. Having noted the positions and the views of other States and regions [6].

In the light of the foregoing, the engagement of the African continent in matters related to the use of the resources of the sea, as well as in the defense of its sovereignty, is observed. It is noteworthy that the African continent did not usually get involved in pending matters related to the sea. However, it was from the union of the African group, with clear and objective proposals, that it was possible to recognize what is now the basis of the exclusive economic zone of the coastal states.

> That the African States recognize the right of each coastal State to establish an exclusive economic zone beyond their territorial seas whose limits shall not exceed 200 nautical miles, measured from the baseline establishing their territorial seas. That in such zones the coastal States shall exercise permanent sovereignty over all the living and mineral resources and shall manage the zone without undue interference with the other legitimate uses of the sea, namely, freedom of navigation, overflight and laying of cables and pipelines. That the African countries consider that scientific research and the control of marine pollution in the economic zone shall be subject to the jurisdiction of the coastal States. That the African countries recognize, in order that the resources of the region may benefit all peoples therein, that the land-locked and other disadvantaged countries are entitled to share in the exploitation of living resources of neighboring economic zones on an equal basis as nationals of coastal States on bases of African solidarity and under such regional or bilateral agreements. [7]

[6] Ibid.

[7] Ibid.

Although there were conciliatory proposals concerning ocean space, as was the case with the African proposal on the exclusive economic zone, the multiplicity of issues was a huge challenge for all delegations. It is important to clarify that the list of topics and issues was extraordinarily more complex than could be expected and practically paralyzed the preparatory work of the Conference for two years (between 1971 and 1972), a period when there was a decisive increase in the base of support for the thesis of 200 nautical miles and the exclusive economic zone.

The principle of interrelation and joint treatment of all problems of the sea has become the basic rule of the negotiations, benefiting coastal and developing States until the end of the process. At the outset of preparations for the Third United Nations Conference on the Law of the Sea, countries that had extended their maritime jurisdictions up to 200 nautical miles were a small group. The Latin American states, which are minorities within their own regional group, were joined by only a few other countries, mostly Afro-Asians, with rights beyond the 12 miles already proclaimed.

However, an essential issue needed to be addressed. How to incorporate geographically disadvantaged States in the context of the Conference? It is worth mentioning that geographically disadvantaged states, according to the final text of the Convention[8], were those where there was no coastline, or with land-locked continental shelf, narrow shelf or short coastline.

> In this context, in 1973, in New York City, the Assembly of the United Nations convened the Third United Nations Conference on the Law of the Sea, and gave it a new regime for the use of more than two-thirds of the Earth's surface. They aimed at the redefinition of the boundaries of the different marine spaces and regulation of the most varied types of sea activities, as well as the standardization of terminologies and concepts applied to oceanic management.
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> The Third United Nations Conference on the Law of the Sea began in December 1973 without a draft

[8] Cf. United Nations. . United Nations Convention On The Law Of The Sea Available at: <http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf>. Access: 15 July 2017

> text. The five years of preliminary negotiations at the Seabed Committee of the United Nations General Assembly had produced numerous serious proposals, but no project could form the basis for multilateral diplomatic negotiations. Thus, after the initial organization to establish the procedural framework for the Conference, the task of reconciling substantive national positions began in 1974 at the Caracas, Venezuela session. There, some 115 delegations started the negotiation process, beginning with political statements in the plenary of the Conference (MOORE, 1985, p.35).

According to Castro (1989), there were agreements for the establishment of a range of connected issues, including those relating to the regimes of high seas, continental shelf, territorial sea (extension and international straits) and contiguous zone, fisheries and living resources of the high sea (preferential rights of coastal States), marine preservation and scientific research. Thus, at the beginning of the negotiations that took place in Caracas (Venezuela) in 1974, the III United Nations Conference on the Law of the Sea defined its composition, determination of concepts and the line of action of different groups.

On August 8, 1974, Resolution 3067 was issued, when it was established that the reports of the representatives of the countries present at the Conference should be associated with three Study Committees: First Committee (International Area of sea-bed and ocean floor), Second Committee (Jurisdictional Affairs) and Third Committee (Preservation of Marine Environment). It was therefore decided that the Committees should advocate for the peaceful use of the seabed and the ocean, beyond the limits of national jurisdictions, which would be instituted during the Conference.

Table 1: Summary of topics and issues on the agenda of the Committees of the III UNCLOS

Committee I. International Area of Seabed and Ocean Floor
a) Definition, nature and characteristics; b) Structures, functions, powers; c) Economic implications of seabed exploration; d) Equitable sharing of benefits.
Committee II: Jurisdictional Issues
a) Definition and limits of territorial sea; b) Innocent passage; c) Straits used for international navigation; d) Limits of continental shelf; e) Exclusive economic zone: definition and limits; f) Preferential rights: full use and settlement of disputes; g) Rights and interests of land-locked countries; h) Rights and interests of Stales with narrow continental shelf; i) Regime for archipelagos j) Regime for Islands
Committee III. Preservation of the marine environment: pollution control, scientific research and transfer of technology
a) Preservation of the marine environment: general duties; b) Control on marine pollution; c) Scientific research; d) Transfer of technology

Source: adapted from MILES, 1976.

The structural question was drawn from compositions between similar groups or with common interests. At a major conference, this factor testified to the need to reduce the complexity of the issues to be addressed, as well as to build and maintain winning coalitions. Not all groups, established since the Third United Nations Conference on the Law of the Sea, achieved the necessary reduction of the issues at hand to facilitate the

work of the Treaty. The proliferation of small groups became out of control and produced fragmentation in the meetings. Large structural clashes occurred at all stages of the negotiations, and this process substantially increased the possibility of reaching a consensus.

A group of States, led by Algeria, sought to minimize the problem created by the numerous dispersions of group interests witnessed at the Conference, and succeeded. Thus, the dynamics of the negotiation process was organized from Study Commissions. We must consider that Algeria was one of the main interlocutors of the G77.

> The Group of 77 (G-77) was established on 15 June 1964 by seventy-seven developing countries signatories of the "Joint Declaration of the Seventy-Seven Developing Countries" issued at the end of the first session of the United Nations Conference on Trade and Development (UNCTAD) in Geneva. The first "Group of 77 Ministerial Meeting" took place in Algiers (Algeria), between October 10 and 25, 1967, where the "Algiers Charter" was approved, transforming the Group into a permanent institutional structure gradually developed. Although the members of the G-77 have increased to 134 countries, the original name was retained due to its historic significance. (THE GROUP ..., [2013])[9]

Because of the complexity and technical scope of the issues, each issue was negotiated separately, rather than being negotiated together, as had been done in Commission II regarding the exclusive economic zone, the boundaries of the continental shelf, and the passage in transit through the straits. An example of the Algerian leadership, referring to the limits of the continental shelf, can be seen in a document dated August 13, 1974:

> Algeria, Argentina, Bangladesh, Burma, Brazil, Chile, Colombia, Cuba, Cyprus, Ecuador, El Salvador, Ghana, Guatemala, Guinea, Guyana, Haiti, India, Indonesia, Iran, Jamaica, Kenya, Libyan Arab

[9] The Group of 77 at the United Nations. General Information. Available at: <http://www.g77.org/doc/>. Accessed on: January 30, 2013.

> Republic, Mauritania, Mauritius, Mexico, Morocco, Nigeria, Panama, Peru, Philippines, Senegal, Somalia, Trinidad and Tobago, United Republic of Cameroon, Uruguay, Venezuela and Yugoslavia: revised draft article on the continental shelf [...] No State shall be entitled to construct, maintain, deploy or operate on or over the continental shelf of another State any military installations or devices or any other installations for whatever purposes without the consent of the coastal State.[10]

Thus, it appears that coastal, island and archipelagic States mobilized to try to safeguard their sovereign rights along their submerged territory. Another major problem, generated by the dynamics of the negotiation process at the Third United Nations Conference on the Law of the Sea, came up in Committee I, which dealt with the theme of Seabed and Ocean Floor. In fact, only 20 or 30 countries showed indirect interests on the subject. For the rest, about 100 delegations, the issues surrounding this matter were of the utmost importance, for which they predicted a serious North/South confrontation. In this regard, the G77 (considered to be the largest intergovernmental organization of developing countries in the United Nations), provided the means for the countries of the South to articulate and promote their collective economic interests and enhance their joint negotiating capacity on all major international economic issues within the United Nations system, and promote South-South cooperation for development[11].

The challenges faced by Committee I (Seabed and Ocean Floor) were reflected in Committee II (Jurisdictional Issues) because the discussion on the extended continental shelf was taking place simultaneously in Committee II. If the maritime area of a country increased, the International Area of the Oceans would consequently decrease, which greatly bothered

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[10] UNITED NATIONS. Diplomatic Conferences. Third United Nations Conference on the Documents Law of the Sea of the Conference, First (New York 3 – 15 December, 1973). And Second Sessions (Caracas, 20 June to 29 August 1974). v. III. Document A / CONF.62 / C.2 / L.42 / Rev.l. Available at: http://untreaty.un.org/cod/diplomaticconferences/ lawofthesea-1982/ docs/vol_III/a_conf-62_c-2_l-42_rev-1.pdf>Access: 30 July 2011.

[11] The Group of 77 at the United Nations. General Information. Available at: <http: // www. g77.org/doc/>. Accessed on 30 January 2013.

the pioneering countries, holders of mineral exploration technologies in deep water.

According to the document, dated August 8, 1974, prepared during the III Conference of the United States of America, entitled United States of America: Working paper on the economic effects of deep sea-bed , only a small number of developing countries appear as producers and potential exporters of nickel, copper, cobalt and manganese, metals of chief commercial interest. The document emphasizes that if the world production of the four metals were considered as an aggregate, it is the producers in industrialized countries that account for the greater share. It also notes that restrictions on sea-bed production would harm mainly five developed country producers – Australia, Canada, Japan, the former Soviet Union and the United States of America – and seven developing country producers – South Africa, Chile, China, Peru, the Philippines, Zaire (now Congo) and Zambia. Restrictions on sea-bed production, resulting from the increase of marine spaces by Coastal States, would lead to more rapid price increases for these raw materials, a setback to marine scientific research, and would largely benefit only land-based producers.

Therefore, in view of the Conference format to circumvent problems of geopolitics of the seas, the competition for marine resources, freedom of navigation and the increasing complexity of issues and questions, it was necessary to persist in years of negotiations and face diplomatic issues, resolved with the formation of larger groups with similar interests.

GROUPS OF INFLUENCE FORMED FROM STRATEGIC INTERESTS

According to studies by Nordquist (1985), on the sidelines of the conference, the groups were formed, strategically, by affinities and political and economic interests. There was the Territorialist group, representing the countries that defended the rights of coastal States, islands and archipelagos of extending their territorial sea beyond the 12-nautical mile limit, up to 200 miles. This group had 23 countries: Latin American (6): Brazil, El Salvador, Ecuador, Panama, Peru and Uruguay; African (16): Benin, Cape Verde, Congo, Gabon, Guinea-Bissau, Republic of Guinea, Libya, Madagascar, Mauritania, Mozambique, Sao Tome and Principe, Senegal, Sierra Leone, Somalia, Togo and, as an observer, Angola; Asian

(1): Democratic Yemen.

> Members of this group belonged to States whose national law provided for a territorial sea of more than 12 nautical miles, and therefore wished to maintain the rights acquired under the new Law of the Sea. Some of these countries have adapted national legislation to that end. One of the group's objectives was to ensure that the proposal of the 200 nautical miles of exclusive economic zone was adapted as much as possible to the territorialist concept. This meant determining strong regulations for the EEZ, to strengthen jurisdictional and regulatory powers to the coastal States (KOH; Jayakumar, 1985, p.76).

For Nordquist (1985) and Koh and Jayakumar (1985), the group of Zonists were supporters of patrimonial sea, which would correspond to an exclusive economic zone of up to 200 miles. Their proposal stemmed from the texts that formed the basis for the Declaration of Santo Domingo (Dominican Republic) and the Declaration of Addis Ababa (Ethiopia). The Zonists were from countries from Africa, Latin America (Caribbean, Argentina and Chile), Asia, Europe (Iceland, Norway, Spain), Oceania (Australia and New Zealand) and North America (Canada).

According to Miles (1998), the problems arising from the sovereign issue between the 12- mile of territorial sea and 200 miles of exclusive economic zone were frequent in the debates that took place during the Third Conference. Thus, within the groups themselves, there were subdivisions among those who wanted a consensual solution of the two strands (territorialists and zonists). The Territorialist group, to which Brazil belonged, was defending an area between 12 and 200 nautical miles, which would be submitted to the territorial sovereignty of the coastal State. In short, it would be part of the territory of the country. However, the group of Zonists faced internal divisions. The Strong Zonists proposed different characteristics and stood for unlimited rights in their patrimonial sea, whereas the Weak Zonists defended a high-sea area where the coastal State would exercise limited economic rights. So began the discussions on the establishment of an exclusive economic zone proposed by Africans.

On the initiative of Mexico and according to Miles (1998), the Group

of Territorialists joined the Strong Zonists in defense of a patrimonial sea. It was the so-called Group of Coastal States, which brought together most of the countries participating in the III Conference. This group did not include the maritime powers, subsumed in the Traditionalist Group, nor geographically disadvantaged coastal States. The Group of Coastal States (Territorialists + Strong Zonists) was the mainly responsible for the articulation of the exclusive economic zone regime, considering the current form of the Convention.

> The group met regularly during the sessions and usually in plenary. The leader of the Mexico delegation, Ambassador Jorge Castañeda, was the president of the Group. There was a EEZ Coordination Committee composed of ten members: Argentina, Australia, Canada, Fiji, India, Kenya, Mexico, Norway, Peru and Senegal. The leader of the Peruvian delegation, Ambassador Alfonso Arias-Schreiber, was the group's spokesman in negotiations with the Group of Landlocked and Geographically Disadvantaged Countries (KOH; Jayakumar, 1985, p.71).

Miles (1998) states that in the Group of Coastal States, there were delegations that were more active and influential than others. In the African Group, the most influential countries were Kenya, Madagascar and Senegal; from Asia, Fiji, India and Pakistan; Latin America, Argentina, Brazil, Chile, Mexico, Peru and Uruguay, and from the Western European Group and others, Australia, Canada and Norway. If the Group of Coastal States was composed of most of the developing countries and a small number of developed countries, an unusual phenomenon in multilateral negotiations, the Group of Geographically Disadvantaged and Landlocked States was even more unusual. It included all Mediterranean States from different continents and countries that, although coastal, would have little or no benefit from the recognition of the right of extending national jurisdictions up to the 200 nautical miles.

This group was composed of 55 States, 29 of which landlocked and 26 geographically disadvantaged. Austria presided over the group, with the participation of Burundi, East and West Germany (now the Federal Republic of Germany), Bolivia, Zaire (now the Democratic Republic of

Congo) and Singapore. Initially, these countries sought to prevent any recognition of exclusive rights of the coastal State beyond 12 nautical miles. After a few rounds of negotiations, they started to show their qualified support in exchange for formulas that guarantee them free access to the sea (Austria, Burundi and Bolivia) and participation in the exploitation of living resources of the area of 200 nautical miles.

> The common denominator that made these states one group was the realization that the proposals of geographically advantaged coastal States to extend the limits of national jurisdiction, whether for living or non-living resources, or both, as the proposal of exclusive economic zone would have serious negative consequences. Such adverse effects would not only reduce seriously the rights of these States, under the current legislation, for fishing in certain areas of the high seas today. The biggest concern was focused on increasing the extensions of national boundaries, when the extent of seabed resources available to the international community would be diminished, under the concept of common patrimony (KOH; Jayakumar, 1985, p.73).

Miles (1998) stated that other groups influence the negotiations involving the maritime sovereignty of coastal States, but with little political support. These groups correspond to Archipelagic States, States Bordering International Straits, States with Broad Shelf, and States with Opposite or Adjacent Coasts. The Arquipelagic States advocated a special regime for archipelagic waters, interesting to countries like Indonesia, the Philippines, Fiji, Mauritius Islands and Cape Verde. According to the author, the common interest of those States was to ensure that the Convention recognized the special method of straight archipelagic baselines, which would connect the outermost points of the outermost islands in order to create a sense of political unity. Then, the territorial sea would be measured off such baselines. The States Bordering International Straits claimed the application of the innocent passage regime in straits less than 24 miles wide, a group which included countries such as Cyprus, Spain, Morocco, South Yemen, North Yemen, Indonesia, Greece, Malaysia,

Oman and the Philippines.

> Initially, the common interest of the group was to ensure that the Convention had a single regime of innocent passage through the territorial sea and the straits which are part of the territorial sea. Later, when experts at the Third Conference distinguished passage through the territorial sea (innocent passage) and passage through straits (transit passage), the common interest became double. First, to oppose the concept of transit passage; second, to manage to reformulate the concept of transit passage, aimed at accommodating more immediate concerns, such as preventing pollution (KOH; Jayakumar, 1985, p.77).

Broad Shelf States claimed the recognition of the sovereign rights of the coastal State over the shelf, to the outer limit of the continental margin (supported by Brazil). This group was composed of Argentina, Australia, Brazil, Canada, Iceland, India, Ireland, Madagascar, New Zealand, Norway, Sri Lanka, United Kingdom and Venezuela.

Miles (1998) states that the group was interested in ensuring that the Convention allowed the exercise of the rights of the continental shelf beyond 200 nautical miles. Specifically, the countries supported a formula (Irish Formula) for defining the outer limit of the continental shelf beyond 200 miles. They also had a common interest in opposing revenue sharing beyond 200 miles, not agreeing with the proposed system at the Third Conference on the establishment of an International Seabed Authority for the management of these resources. Members of this group were very active and, often, the ambassador from Australia, Keith Brennan, assumed the role of spokesman. Particularly, the group showed its dynamism in the Committee on jurisdictional issues, particularly in the negotiations on the extended continental shelf. There was also an intermediate group that advocated clear rights to an exclusive economic zone and continental shelf between States with opposite or adjacent Coasts. More complex and arising from neighboring territories disputes, the group included Greece, Colombia and Chile, supporting a policy of equidistance, but on the other hand, Turkey, Venezuela and Argentina, supporting an equity criterion.

According Koh and Jayakumar (1985), a coalition of maritime

superpowers was formed in 1976, in order to exchange information, coordinate positions and submit joint proposals at the conference. This coalition, called Group of Five, intended to minimize the power of the Group of Coastal States over natural resources from the seabed. As justification, they argued that developing countries did not have advanced technologies, nor encouraged scientific research in these areas, which made technological progress and the rational use of these resources impossible. The Group of Five comprised the United States of America, the former Union of Soviet Socialist Republics, Japan, the UK and France. This group was considered by large coastal powers and other countries a threat to a possible increase in jurisdictional maritime spaces. The Group of Coastal States claimed that the union of maritime superpowers was a way to coerce and hasten matters relating to international navigation and national security, as opposed to economic reasons and environmental protection, linked to the increase of national maritime areas. Thus, exploring the concept of exclusive economic zone and the increase in national jurisdictions through the extended continental shelf, the superpowers would get strong allies such as the Group of Landlocked or Geographically Disadvantaged States. The conceptual components of what would become the exclusive economic zone and the increase beyond the 200 nautical miles of the continental shelf generated intense conflict, harming groups of strategic interests, already consolidated in the Conference. The Group of Landlocked or Geographically Disadvantaged States did not accept the concept of exclusive economic zone and, therefore, allied to the Group of Five, the maritime superpowers, opposing the proposal of the Group of Coastal States.

The commitment on the fishing rights put the super coalition (Group of Coastal States), which advocated an exclusive economic zone, against maritime superpowers (Group of Five). However, Miles (1998) clarifies that fishing was only a pretext of the superpowers to minimize the impact of the "colonization" of the oceans. What suited, especially the United States, was the interest in safety, navigation and natural resources of the seabed. Still according to the author, the super coalition was consistent and uncompromising in their demands, which bothered the United States of America. This is because, during the negotiations, the United Kingdom supported the Group of Coastal States on the expansion of maritime spaces, weakening the Group of Five. Another point to be considered, according to the author, was the fact that marine States with

advanced technology, such as Australia, Canada, Norway, Iceland, New Zealand, United Kingdom and Ireland, joined in favor of an exclusive economic zone, causing significant conflict in the European Economic Community Group that, at the time, was trying to establish a common policy on fishing.

Faced with this situation, as highlighted by Koh and Jayakumar (1985), the USA, the former USSR, Japan and France proposed that the exclusive economic zone of coastal States should be a jurisdictional space, not sovereignty of a country. Japan, France and the then Soviet Union were the most incisive on this argument, considering the US as an uncertain ally in the Conference. The US administration, in order to protect national security and economic reasons, opposed the dominant trend of the Group of Coastal States. Once the coalition of superpowers was weakened, the other groups, present at the Conference, supported the proposal of the coastal States, a decisive factor in the extinction of the Group of Five. In such circumstances, Japan and the former Soviet Union did not conform with the "betrayal" of the US.

Miles (1998) states that the most important issue, involving the negotiation of maritime areas, was due to the new limits of the continental shelf and not the establishment of the exclusive economic zone. An issue that referred to the rules to be applied in resolving future conflicts between opposite and adjacent States. The main factors involved in the issue of the continental shelf were economic interest (expansion of the sovereignty of the coastal State over hydrocarbon resources, therefore, wealth) versus the national security interest of the superpowers. The author says that the expansion of the sovereignty of the coastal State for hydrocarbons resources, in times of declining supply (1970s), would imply higher provisions regarding national security. The two superpowers at the time, US and USSR, were among the States with broad continental shelves, and it was extremely important for both to monitor the submarine technological development between each other. From this perspective, to expand the sovereignty of the coast meant reducing the flexibility and maneuverability of these States in the oceans.

Koh and Jayakumar (1985) stated that, during the Conference, some interests of small groups proliferated. This proliferation sometimes caused divisions within coalitions. As an example, the emergence of the Central American Group as a result of the seizure of a Panamanian tuna boat by Ecuador. Others, such as the Oceania Group, composed of

Australia, New Zealand, Fiji, Tonga, Western Samoa and Micronesia, represented coalitions arising from newly-perceived common interests. In this case, the interests revolved around regulation of the coastal State of large migratory species (tuna) within the exclusive economic zone and, to a lesser extent, equal protection of territorial sea rights to small islands. The Arab Group also opted by supporters of a territorial sea of 200 miles. At the beginning of the conference, only nine (9) members of this group comprised this group, but at the end, the membership increased, with the presence of 23 members. There was, too, the Group of 17, a group of the northern hemisphere, which was organized for pollution control, including countries such as USA, the former USSR, France, Japan, Norway, Sweden, Denmark, Finland, East Germany and West Germany (current Federal Republic of Germany), Belgium, Holland, Italy, Greece, Poland and Bulgaria and the Dispute Resolution Group, formed from an initiative of the US.

The 1974-1975 period was also critical in the negotiations on the straits and the territorial sea, to the point of generating a new group, the Group of Straits States, consisting of: Cyprus, Greece, Indonesia, Malaysia, Morocco, Oman, the Philippines, and Democratic Yemen. This group was formed mainly by the accession of Fiji and the United Kingdom, because there were organic links between the issue of the straits and the issue of the archipelagic regime. Such countries promoted significant changes in the group. In this respect, they wished there was a distinction between the regime of innocent passage through the territorial sea and the regime of transit passage through the straits. The group found that the transit passage regime would be favorable to the interests of the advanced maritime states and tried to change the rules to impose state authority over the straits, particularly for the control of pollution. But at this point, members of the group, who were also members of the Arquipelagic States, found that the transit passage regime could form the basis of a commitment on the issue of passage through Straits in archipelagos. The group then split up, remaining inactive until the end of the Conference, when, again unsuccessfully, they tried to achieve their goals (KOH; JAYAKUMAR, 1985; MILES, 1976, 1998).

In the Group of Coastal States there were serious disagreements between its components, relating to the outer limit of the continental shelf, which increased the likelihood of reaching no agreement. This conflict resulted in a subgroup, the Margineers, which sought to ensure control

of the coastal State on the extent of the continental margin, even when it extended beyond 200 miles. The coalition was composed of 13 members (Argentina, Australia, Brazil, Canada, Iceland, India, Ireland, Madagascar, New Zealand, Norway, Sri Lanka, United Kingdom and Venezuela), which supported the Irish Formula, subsequently the basis of Article 76 of the 1982 Convention [12].

Another endless conflict was led by countries like Greece and Turkey[13] . Having reason for defining the form of the continental shelf and the exclusive economic zone between adjacent and opposing states. Such disagreement continued until the last day of the Conference, forcing the creation of two groups: the Median Line Group, with 24 members, including Greece, and the Equitable Principles Group, with 29 members, including Turkey. To try to resolve the antagonism, a trading group was called by the Seabed Committee, composed of the presidents of the regional groups. Surprisingly, such a procedure caused no major differences in the Western European Group and others, but it was difficult for this heterogeneous group to agree with the impositions of Greece and Turkey, who wanted the formation of new discussion subgroups. This quarrel, which seemed endless, prevailed in almost all the conference. The reason for the clash was Greece (member of the Median Line Group) and Turkey (member of the Equity Principles Group), which were on opposite sides concerning the delimitation of boundaries in the East Aegean Sea. Finally, after 1980, with the theme discussed in small sessions, they reached a consensus, deciding that issues related to nearby maritime borders should be resolved through bilateral or multilateral agreements.

The last coalition, created in the Conference, resulted from an initiative of Canada in 1982, to mediate a dialogue between the US and

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[12] United Nations. Document A/CONF.62/C.2/L.42/Rev.1: Algeria, Argentina, Bangladesh, Burma, Brazil, Chile, Colombia, Cuba, Cyprus, Ecuador, El Salvador, Ghana, Guatemala, Guinea, Guyana, Haiti, India, Indonesia, Iran, Jamaica, Kenya, Libyan Arab Republic, Mauritania, Mauritius, Mexico, Morocco, Nigeria, Panama, Peru, Philippines, Senegal, Somalia, Trinidad and Tobago, United Republic of Cameroon , Uruguay, Venezuela and Yugoslavia: revised draft article on the continental shelf. In: United NATIONS CONFERENCE ON THE LAW OF THE SEA. 3, 1974. v. 3 (Documents of the Conference First and Second Sessions). Available fromt: <http://legal.un.org/diplomaticconferences/lawofthesea-1982/docs/vol_III/a_conf-62_c-2_l-42_rev-1.pdf>. Accessed: May 21, 2012.

[13] United Nations. Document A / CONF.62 / C.2 / G-34: Turkey: draft article on delineation between adjacent and opposite States. In: UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA, 3, 1974. v.3 (Documents of the Conference, First and Second Sessions). Available at: <http://legal.un.org/diplomaticconferences/lawofthesea-1982/docs/vol_III/a_conf-62_C-2_l-34.pdf>. Access: 30 July 2011.

the G77[14] for the resolution of conflicts in the Seabed Committee. Canada has created a group that came to be called Group of 11 or "Friends of the Conference." It included Australia, Austria, Canada, Denmark, Finland, Iceland, Ireland, New Zealand, Norway, Sweden and Switzerland. Later, the Netherlands joined them, forming the Group of 12. The commitments made by this group were accepted by the G77 as a basis for negotiations, but rejected by the United States of America.

GROUPS OF INFLUENCE FROM GEOGRAPHICAL REPRESENTATION

Regional groups formed the basic units for the representation, distribution and functions of the Conference, and especially of the Seabed Committee, where problems relating to the extended continental shelf were discussed. They included the Latin American, African, Arabic, Asian, Eastern European and Western European groups, among others, and all of them were negotiating groups. There was a larger group, composed of coalitions with common interests, called Group of 77 (G77). This group represented the union of Latin American, African, Arab, and some dissidents of the Asian group, forming an overlap between the regional groups in the global coalition. G77 was also integrated by the group of landlocked and geographically disadvantaged States, i.e. by all those that did not have a coastline or had a narrow or closed continental shelf.

> It is important to remember that the states and delegations representing them are rarely homogeneous. Politically they are councils, and the degree of internal cohesion is typically a variable rather than a constant. The positions of the countries (the so-called national interest) result from a commitment between government agencies, each with its own set of interests and different constituents in their domain of influence. In some cases, countries' positions were also determined by individuals or small groups.

[14] Refer to UNITED NATIONS. Document A/CONF.62/C.1/L.7: text on conditions of exploration and exploitation prepared by the Group of Seventy-Seven. In: UNITED NATIONS

> In theory, in the context of the Third Conference, each delegation had to reconcile conflicting national interests, related to the different uses of the ocean (JOHNSTON, 1988, p.157).

It should be considered in any work involving groups that, sometimes, there will be competing interests. Hardly will a consensus be immediate, especially on issues dealt with in an international conference, which are varied and complex. For some delegations, coalitions or groups are not configured as a difficult task, while for others, especially those of countries that are holders of modern marine technology, it can be an obstacle. Consequently, when in the context of a conference there is a multiplicity of interests, the political process takes place in a set, almost simultaneously, of agreements between nations, groups and delegations of countries. This increases the complexity, the time to find solutions, and the difficulty of achieving acceptable commitments.

> The delay in the process of the III Conference negotiations showed a growing frustration in many coastal states, which longed for achieving results. A growing number of delegations argued about the unsatisfactory nature of the agreements and reiterated the benefits of acting unilaterally. Uncertainty increased in 1975, when the US acted unilaterally and extended by 200 nautical miles its exclusive economic zone. This unilateral act, amid the III Conference, almost jeopardized negotiations on a new regime for the oceans. Doubt remained if there were conditions for reaching a universal agreement (JOHNSTON, 1988, p.158).

Immediately, the related groups began a mobilization around the regionalization of coalitions. Regional groups with similar aims and ideologies began to form, which favored a more dynamic political process, focusing on regional geopolitics. Miles and Gamble (1977) historically considered Latin American countries as the pioneers in matters relating to the increase in maritime areas. Maybe this was why the Latin American

group was cohesive in their claims in the Third Conference. Altogether, this group consisted of 28 Caribbean countries, both those of Hispanic origin and those belonging to the Commonwealth. The 20 Latin American countries constituted a relatively coherent group, with good leadership and a long history of involvement in international negotiations on the law of the sea. Caribbean countries did not organize in a similar fashion and individual differences were evident. While the group that was being formed had no formal leadership, there was a subgroup, comprising Peru, Brazil, Chile, Venezuela and Mexico, that represented a stable and informal leadership. However, after the military coup in Chile in 1973, the Chilean influence declined within the group. It is difficult to assess to what extent the influence was determined by the country's reality, the personality and competence of its leadership, or a combination of these factors. Clearly, however, some weight assigned to the positions of the countries resulted from the initiative and authority of individuals.

For authors like Miles and Gamble (1977), Nordquist (1985) and Koh and Jayakumar (1985), the presence of the Commonwealth and the Hispanic Caribbean countries, apparently influenced and decreased the consistency of the Latin American Group concerning a number of crucial issues, with tensions occurring between the 20 countries of the original make-up. For example, Bolivia and Paraguay, landlocked countries, were wary about the promises made by the coastal States. In addition, Bolivia, who wanted an outlet to the sea provided by Chile, continued to seek redress for injustices suffered during the Pacific War in 1879[15] . However, representatives of the countries on the west coast of South America, especially Peru and Chile, assumed the Bolivian claim as an attempt by Brazil to obtain an outlet to the Pacific Ocean. There were difficulties in the relationship between Peru and Chile and between Colombia and Venezuela, where conflicting claims for the territorial sea were involved.

[15] The Pacific War (1879-1883), also known as the Saltpeter War, was a conflict involving three South American countries – Chile, Peru and Bolivia – that culminated in the loss of access to the sea of the latter. The war was caused by the great economic importance acquired by saltpeter deposits in the regions of Tarapaca (in Peru), Antofagasta and Atacama (in Bolivia). The Pacific War confronted Chile to the joint forces of Bolivia and Peru. At the end of the war, Chile annexed areas rich in natural resources of both defeated countries. The Pacific War had its origins in disputes between Chile and Bolivia over control of part of the Atacama Desert, rich in mineral resources. This controversial territory used to be exploited by Chilean companies of British capital. The increase of taxes on mineral exploration soon became a commercial dispute, diplomatic crisis and finally, war (FOSTER, CLARK, 2003).

Issues relating to fisheries, boundaries and extension of the continental shelf generated serious incidents between Venezuela and Trinidad and Tobago. Problems related to the continental shelf arose as well between Venezuela and Guyana, Brazil and Uruguay, Uruguay and Argentina, and Argentina and Chile.

However, according to Johnston (1976), given the diversity of interests, the original nucleus of the Latin countries was not willing to forgo their hegemony. Early in the process, three Caribbean countries – Jamaica, Trinidad-Tobago and Barbados – showed the cost of their group membership: access to the living resources in the economic zones of other States in the region. Even those countries that originally made up the group of 20, without claiming a 200-nautical mile territorial sea, sought to find some way of making Brazil and Peru (main advocates of a 200-mile territorial sea) accept the access to the exclusive economic zone. Peru seemed to be dominant in the group as an organizer, but the division between the five proponents of territorial seas (Brazil, Peru, Ecuador, Panama and Uruguay) on the one hand, and those supporting limited territorial seas with large economic zones on the other, delayed and frustrated attempts to reach an agreement in the Seabed Commission.

Africans made up the largest regional group in the Conference, with 47 member countries. It was a diverse group, but organized and well run. There was a good relationship between the African positions in the Seabed Commission and manifest positions at the ministerial level and by heads of the Organization of African Unity. It seemed that, except for Ghana and Nigeria, the variations of individual personalities represented much more an exercise of influence, quite different from the Latin American group. This is justified because there was no African history of government concern with sea-related issues. The right to the sea was not a national priority in Africa. By contrast, in the Latin American group, the governments of Ecuador and Peru went so far as to break diplomatic relations because of these issues[16]. Koh and Jayakumar (1985) stated that Ghana and Nigeria, respectively, on account of their fishing capacity and hydrocarbons exploitation, proved to be very active in various respects, but

[16] United Nations. Document A/CONF.62/C.1/l.7: text on conditions of exploration and exploitation prepared by the Group of Seventy-Seven. In: UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA, 3, 1974. v.3 (Documents of the Conference, First and Second Sessions). Available at: <http://legal.un.org/diplomaticconferences/lawofthesea-1982/docs/vol_III/a_conf-62_c-1_l-7.pdf>. Accessed on 23 February 2013.

did not establish themselves as political leaders. However, two countries stood out as leaders of the African Group, Tanzania and Kenya, with the unconditional support of countries like Senegal, Cameroon, Egypt and Tunisia. For some of these States and the delegation of Algeria, ocean management was important, particularly as a means of mobilizing the region and the G77, in a possible clash of interests between North/South. Consequently, ideology per se appeared to be the strongest variable in the African group but not in the Latin Americans. It should be clarified that, of the African group, only 13 countries are coastal. Therefore, the tension between African countries, with and without coasts, was bigger and more difficult than in the other continents. Therefore, Africans had to put much effort to manage this issue than the Latin Americans.

The Asian Group had 41 members, of seven States without a coast. According to Miles (1998), like the African Group, it was a large and diverse group, but without an efficient organization. Representatives from several Asian countries have exerted significant influence on the Conference and on the Seabed Committee, but they were not the leaders of the group. The State that showed the greatest leadership was Sri Lanka, to the point of his representative chairing the Seabed Committee and also the Conference (Amerasinghe). Thomas Koh became the most important personality of the Conference, as he replaced President Amerasinghe after his death in 1980. Koh was tireless in his efforts to get a global agreement. Other States that had an influence on this group were: India, Singapore[17] , Indonesia, the Philippines and Fiji. China and Japan were also part of the Asian Group, which was seen as a big problem. Considering that Japan is one of the world's most advanced countries as regards ocean use, many common interests were observed between Japan and the other members of the group. China, which has great global influence, was little engaged in the Conference. The Chinese delegation sought, whenever possible, to maintain the ideological and political integrity of the G77 coalition.

The Arab Group, composed of 21 members (including a delegation of observers for the Palestine Liberation Organization), did not have a convincing performance until the end of the Conference. Sometimes demonstrations regarding their interests were diverse and conflicting. As Koh and Jayakumar (1985) observed, "the common interest of the Arab group was opposition to the rights of the continental shelf beyond

[17] Singapore, whose representative, Thomas Koh, was chairman of the conference after the passing of Amerasinghe, from Sri Lanka (MILES 1998).

200 miles." However, they strongly supported the right of national liberation movements to sign and ratify the Convention. Latin Americans, Africans, Arabs and Asians comprised the Group of 77, with a potential of 118 countries, 103 of which participated in the Caracas session. In the super-coalition there was considerable diversity due to large individual differences, geographical location and competence of their members. But the coalition sought the community of interests of "have-nots' against "haves." So it was not an endemic tension within the group that emphasized the difficulty of negotiations. To preserve the unity, the members stood firm in their positions, since they could not negotiate individually successfully such complex Jurisdictional Issues (Committee II), e.g., those related to straits, exclusive economic zones and limits of the continental shelf. In Committee I (Seabed), the North/South confrontation was evident from policy decisions of the pioneering states in mineral exploration technologies.

The Eastern European Group consisted of eleven (11) countries led by the former Soviet Union, a factor which led to divergences in the group. The solution was to indicate Romania to form a dual leadership with the Soviets. Czechoslovakia (now Slovakia and the Czech Republic) and Hungary were very active states in the negotiating committees, so as to make that their political positions by the Group were compatible with the interests of the communist bloc. The only surprise in this group was the independent participation of Bulgaria, clearly justified by the personality, reputation and respectability of Ambassador Alexander Yankov, head of the Bulgarian delegation at the Conference. The so-called Western European and Others Group did not express their geographical location, as it was composed of 27 countries with different characteristics, and important smaller coalitions with conflicting interests. The lack of unity of the nine countries of the European Economic Community is an example. While Ireland was a major interlocutor of Committee I (Seabed), the United Kingdom showed clear interests in Committee II, where jurisdictional issues were handled, especially those related to fisheries. In this way, the Group could not successfully reach unanimous positions. The five Nordic countries (Norway, Sweden, Finland, Iceland and Denmark) have historically worked together and were consistent in their political positions at the Conference. But at one point, there was some tension between Norway and Denmark, because the latter joined the European Economic Community, on the grounds of being harmed by the

Norwegian exclusive economic zone of 200 miles. Canada, Australia and New Zealand formed a subgroup that, when it comes to matters relating to the sea, was closer to the Western European Group (hence the name Western European and Others Group). The US were isolated, but had to join this group to occupy positions in committees, based on the principle of equitable geographical representation. Turkey and Greece were members of the Group as well and, as always, clashed on issues concerning the islands, economic zone and continental shelf delimitation, among others[18].

Miles (1998) believed that the Group of Landlocked and Geographically Disadvantaged States, although united by strategic interests, also kept so in the distribution of positions along the Committees, in view of equitable geographical representation. In this group, there was a global coalition of 55 members, mobilized by Austria (representative of landlocked countries) and Singapore (representative of the countries with narrow continental shelf). Only 16 delegations from it were present in the Seabed Committee (Committee I). It is likely that the small participation of the landlocked or geographically disadvantaged States in this Committee was due to their representatives' awareness of the difficulties they would face in negotiations with their neighbors, coastal States, to have access to the ocean and its resources. However, over the course of negotiations, active participation ranged from 20 to 30 delegations. In 1978, the presence of 51 countries was recorded and, at the end of the conference, this number increased to 55, which clearly demonstrates the strengthening of the group on seabed-related issues.

In terms of substantial attempts to break deadlocks, the most important groups were not regional but other negotiating groups created ad hoc, from time to time. Four of these groups worked concurrently in the Seabed Committee: the Evensen Group, the Group of Coastal States, the Group of Five and the Group of Arquipelagic States. For Koh and Jayakumar (1985), the Evensen Group, working with the Seabed Committee, was initially the most active one, in an attempt to break the deadlock on key jurisdictional issues. For doing so, they held meetings or mini-conferences, including all interests of Commission I (Seabed) and seeking to reach an agreement on such issues. Much of the resolutions proposed by this group shaped the space and the means of using the resources of the exclusive economic zone and were incorporated into the

[18] See KOH; Jayakumar, 1985; Nordquist, 1985; MILES, 1998.

final text of the Conference.

A similar group, but with a longer history, was the of Coastal States Group (CSG), organized by Canada, which included 18 countries. In 1974, at the beginning of the III Conference, GSG members proposed guidelines for the use of resources from the exclusive economic zone and adjacent regions. By 1974, at the end of the works on the EEZ, only 9 countries had managed to reach agreements on the set of negotiations presented at the Conference[19], namely: Canada, India, Mexico, Norway, Iceland, Chile, Indonesia, Mauritius and New Zealand.

> The representatives of Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand and Norway have held a number of informal consultations on certain issues relating to the law of the sea. They are presenting the following draft articles as a possible framework for discussion on those issues by the Third United Nations Conference on the Law of the Sea. Preparation of this informal working paper does not imply withdrawal of the proposals submitted, individually or jointly, by some of the above-named States, nor does the paper necessarily reflect their final positions (UNITED NATIONS, 1974).[20]

However, the basic guidelines of the exclusive economic zone should be approved unanimously, so from 1978, at the Caracas session (Venezuela), the group joined in negotiations with the landlocked or geographically disadvantaged States. At the end of the conference, there were 76 representations supporting the proposal on the exclusive economic zone, a proposition made by the Coastal States Group (CSG).

In a document dated August 8, 1974 , the United States, concerned

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[19] Refer to United Nations. Document A/CONF.62/L.4: Organization of the second session Conference and the allocation of items: decisions taken by the 15th Conference at its meeting on 21 June 1974. In: United Nations Conference on the Law of the Sea, 3., 1974. v.3 (Documents of the Conference First and Second Sessions). Available at: <http://legal.un.org/diplomaticconferences/lawofthesea-1982/docs/vol_III/a_conf-62_l-4. pdf>. Accessed on: 30 jul. 2011

[20] Ibid.

about the division of ocean spaces and the formation of more strengthened interest groups, presented a project called "United States of America: draft articles for a chapter on the economic zone and the continental shelf". The introduction of the document already presented the US perspective on the establishment of the outer limits of maritime spaces and the use of natural resources in it. In fact, a mixture of affairs of Commission I (Seabed) with Commission II (Jurisdictional Issues).

> 1. The coastal State exercises in and throughout an area beyond and adjacent to its territorial sea, known as the economic zone, the jurisdiction and the sovereign and exclusive rights set forth in this chapter for the purpose of exploring and exploiting the natural resources, whether renewable or nonrenewable, of the sea-bed and subsoil and the superjacent waters.
> 2. The coastal State exercises in the economic zone the other rights and duties specified in this Convention, including those regarding the protection and preservation of the marine environment and the conduct of scientific research.
> 3. The exercise of these rights shall be in conformity with and subject to the provisions of this Convention, and shall be without prejudice to the provisions of part III of this chapter.

Part III, referred to by the document proposed by the United States of America, is related to the continental shelf.

> 1. The coastal State exercises sovereign rights over the continental shelf for exploring and exploiting its natural resources.
> 2. The continental shelf is the sea-bed and subsoil of the submarine areas adjacent to and beyond the territorial sea to the limit of the economic zone or, beyond that limit, throughout the submerged natural prolongation of the land territory of the coastal State to the outer limit of its continental margin, as precisely

> defined and delimited in accordance with article 23 .
> 3. The provisions of this article are without prejudice to the question of delimitation between adjacent and opposite States.

The US concern was on the reduction of their freedom in the seas and oceans, as developing countries mapped the coastal areas, limiting and reducing the international area of the oceans. As pioneers of mineral exploration in deep water, as well as their freedom to navigate their fishing vessels and warships on the high seas, the US were targets of protests by several countries present at the Conference, particularly those linked to the G77. For this reason, the representation of the United States of America allied to the maritime powers of the time: the USSR, Japan, United Kingdom and France.

We must point out that, with the establishment of the Convention, each State was free to decide sovereignly, accepting or not the legal obligations of an international treaty/agreement. The final text of the Convention met the interests of Latin American countries, which had already expanded their maritime jurisdictions – including Brazil. For the Brazilian government, the adoption of the Convention by the National Congress took place on November 9, 1987. However, the Government decided to wait for the new Constitution of 1988 to complete the ratification process. President José Sarney signed the document on November 28, 1988, placing Brazil as the 37th State to approve the text of the Convention.

FINAL CONSIDERATIONS

During nine years, issues about different topics were discussed concerning the rational use of ocean spaces by coastal and non-coastal States. During this period, representatives of over 160 sovereign States discussed, negotiated national rights and obligations, in a script that led to the Convention, source of an unprecedented document in the history of multilateral diplomacy, peaking in 1982, when a constitution was sanctioned for the Oceans – the United Nations Convention on the Law of the Sea

Arrangements for a new order of the oceans, as observed during

the study, gradually increased among developing States, especially in the mid-1960s. However, the developed states, reluctant by the prospect of change, continued to be the main beneficiaries of the old order of the oceans. The challenge in the International System was to face the traditional accommodation and characteristic of the great maritime powers, promoting a new fairer global order for the rational use of the oceans.

The Declaration of Santiago in 1952 (Tripartite Treaty between Chile, Ecuador and Peru), constituted a big reason for the proliferation of unilateral acts in coastal States of Latin America and Africa. Thus, according to Putnam (1988), international pressure was a key factor for political change.

At any rate, it is inferred that the most important contribution of the United Nations Convention on the Law of the Sea is the general recognition that the disputes over oceanic borders may be carried out in two separate but not independent processes: negotiation and management of oceanic space. The Convention gives priority to negotiation, as a matter of principle, in the case of a boundary problem between two neighboring states. But the Convention goes beyond the purpose of providing general guidelines for a system for boundary disputes that cannot be resolved through regular, bilateral diplomacy. So it was created, in the light of the Convention itself, the International Maritime Court, the International Seabed Authority and the Commission on the Limits of the Continental Shelf, linked to the United Nations Organization.

Disputes over oceanic boundaries passed to the management of the International Maritime Court, the body responsible for the analysis and decision of disputes concerning the delimitation of the contour of the adjacent ocean between the conflicting states. The theoretical influence will be limited by the degree of geographical specificity adopted by the courts or by diplomacy. Based on the formulation of guidelines, the Commission on the Limits of the Continental Shelf will contribute to the delimitation of ocean borders by non-judicial means. To the International Seabed Authority will be up the task of organizing and controlling activities related to the area, advocating, always, by distributive justice, with a view to the exploitation of mineral resources of this area.

For Waltz (2010), one must understand how States perceive and respond to the need for regulation and, therefore, cooperation between them. Thus, what is meant by management of ocean space is the existence

of a system of norms, rules and institutions governing a surprising number of issues in world politics. Keohane and Nye (2000) observed that governance is not only a system of unitary States, interacting with each other through diplomacy, public international law and international organizations. So the search for new ocean areas involves much more than only interactions between institutions. The very planning of ocean space is accomplished by means of a range of public and private projects, coupled to each other. And, for a coastal State to obtain the expansion of their submerged limits, a high degree of investment in specific technology, highly skilled labor and political support in the international system are required.

In this expansionist context of overseas borders, and supported by a range of political, economic and environmental concerns, developing countries demanded, then, prior consent of a coastal State for all scientific research on the continental shelf and the exclusive economic zone. Developed countries would give prior notification to coastal States on research projects to be carried out on the continental shelf and the exclusive economic zone, and would share all relevant data to offshore resources.

In the preparatory period of the Convention, some countries opposed as to a possible solution of disputes being decided by judges from nations not involved in the conflict, insisting that these issues could be resolved through bilateral or multilateral negotiations between the participating States. Others, pointing to a history of failed negotiations or long maritime disputes, sometimes resolved by force, argued that the only chance for a peaceful solution was the will of States to be bound in advance to the decisions of the judiciary. What happened, according to the text of the Convention, was a combination of arguments, considered by the representatives of the States Parties as a landmark in the International System.

From this perspective, strategic coalitions for maritime diplomacy allows us to visualize more effective solutions to possible external conflicts that may arise. Such conflicts may arise from territorial, marine, political, social or cultural issues, among others. Finally, after nine years of negotiations, the participating countries have reached an agreement, called "New Constitution for the Oceans". Among the various proposals, the United Nations Convention on the Law of the Sea legitimized the exclusive economic zone (EEZ) of 200 nautical miles, under the national jurisdiction of coastal countries, established the 12 nautical miles as

maximum breadth of territorial waters and developed measures for the protection of freedom of navigation. The Convention, in a total of 320 items, addressed all the issues related to the seas and oceans and established international standards for ocean governance, which became effective from then.

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