BRASIL'S BLUE AMAZON:
EXTENDING SOVEREIGNTY, DEFENSE AND SECURITY INTO THE SOUTH ATLANTIC

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ABSTRACT
In 2004, Brazil submitted a claim to extend the limits of its continental shelf beyond 200 nautical miles to the UN Commission on the Limits of the Continental Shelf. This article analyzes the normative evolution on continental shelf, and the implications of Brazil’s claim, with attention to the security and defense in the South Atlantic.

Keywords: Brazil. Blue Amazon. LAW of the seas. International norms. Security.

AMAZÔNIA AZUL DO BRASIL: EXTENSÃO DA SOBERANIA, DEFESA E SEGURANÇA NO ATLÂNTICO SUL

RESUMO
Em 2004, o Brasil submeteu pedido de reconhecimento da extensão de sua plataforma continental para além do limite de 200 milhas à Comissão do Limites da Plataforma Continental (CLPC) da ONU. O presente artigo analisa a evolução normativa sobre a regulação da extensão da plataforma continental, e as implicações do pleito brasileiro na ONU, com atenção especial à política de segurança e defensa no Atlântico Sul.


AMANZONIA AZUL: EXTENSIÓN DE LA SOBERANÍA, DEFENSA Y SEGURIDAD EN EL ATLÁNTICO SUR

RESUMEN
En 2004, Brasil presentó un reclamo para extender los límites de su plataforma continental más allá de 200 millas náuticas a la Comisión de la ONU sobre los Límites de la Plataforma Continental (CLPC). Este artículo analiza la evolución normativa

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1 INTRODUCTION

The ocean, its surrounding costal area, as well as the high seas, the seabed and its subsoil, have always been the object of political dispute. Covering ¾ of the Earth’s surface, the oceans are instrumental to the peoples and nations for navigation, transportation, defense and security, food, energy and scientific exploration. The regulation of the use and exploration of the ocean dates from the 17th century doctrine of the freedom of the seas, whereby the national rights were limited to a specified belt of water extending from a nation’s coastline to 3 nautical miles (5.6 km) as pursuant to Cornelius van Bynkershoek’s golden rule of the cannon shot. All waters beyond that boundary were to be considered international waters, that is, *mare liberum*, ‘free to all nations but belonging to none of them’, as written by Hugo Grotius in 1609.

The current international regime of the seas has considerably progressed since then in terms of normative scope and complexity. From the 1945 Truman Proclamation to extend US rights over its continental shelf, to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the regime evolved to slowly but gradually to regulate the rights and responsibilities of nations in respect to the use of world’s ocean and its resources.

In 2004, Brazil submitted a plea to extend the limits of its continental shelf beyond the 200 nautical miles (370 km) to the United Nations Commission on the Limits of the Continental Shelf (CLCS), a body created by UNCLOS. The Brazilian plea will increase the continental shelf to 963 thousand square kilometers (km²). This increase will represent an area larger than the Green Amazon and for that reason; the Brazilian Navy named the continental shelf the Blue Amazon, classifying it as Brazil’s “last frontier”. The CLCS did not oppose the Brazilian request and in 2007 asked for additional arguments to 19% of the pleaded area.

If accepted in full, the Brazilian claim will incorporate an area of 3.6 million km² to the continental shelf. This represents an area similar to the Amazon Forest. The new area means that Brazil will be able to develop the potential of more than 900 thousand km² of seabed with economic and scientific opportunities resulting from fishing, marine biodiversity, access to mineral resources and oil and the possibility to advance sea-driven energy and offshore wind power.

Today 95% of foreign trade reach Brazil from the ocean, crossing the Blue
Amazon area. 90% of oil and 73% of natural gas produced by Brazil are currently extracted from the continental shelf (BRASIL/DHN, 2016). Additionally, the recently discovered oil deposits known as ‘pre-salt’ are located within the boundaries of the Blue Amazon. The pre-salt reserves are expected to total over 50 billion barrels of oil, a volume four times greater than the current national reserves. Additionally, large oil and natural gas reserves are expected to be found under salt layers that extend 800km along the Brazilian coast (JIMENEZ, 2017). The incorporation of this new area will thus not only increase the nation’s wealth, but will also bring new responsibilities, especially in terms of controlling, monitoring and defending the area from any potential threats.

This paper proposes to analyze the Brazilian plea for recognition of the Blue Amazon, and the implications for the exercise of full sovereignty over the new area, with special attention to the security and defense in the South Atlantic. The article is divided in five main sections. First, we will describe the origins and evolution of international norms regarding the law of the seas, which function as the cornerstones of the current international regime of the seas. Afterwards, we will describe the four main categories that articulate the Blue Amazon project: territorial sea, exclusive economic zone, and continental shelf. The third section will revisit the unilateral decision by the Brazilian government to extend its continental shelf in 1971. The controversial decision successfully laid the ground, we will argue, to the 2004 plea presented to the United Nations (UN) regarding the Blue Amazon, which details we will explore in the fourth part of this paper. Finally, we will highlight some of the implications of the Blue Amazon project for the security and defense of the South Atlantic.

2 CURRENT NORMS REGARDING THE LAW OF THE SEAS

As briefly mentioned above, the principle of the freedom of the seas, the cornerstone of the contemporary international regime that regulates the use of the sea and its limits, was born in a long historical process and became widely accepted as a norm due to Dutch legal scholar Hugo Grotius. Grotius helped transitioning international law from the ancient practice of *mare clausum* to the modern universally accepted principle of *mare liberum*.

Until mid-1600s, the states claimed sovereign rights over waters beyond their respective borders based on the Roman concept of *dominium maris*. The Age of Discoveries led by Europeans sailors such as Bartolomeo Dias, Vasco da Gama, and Christopher Columbus had pushed European powers to a set of disputes regarding new territorial borders. One main dispute involved Portugal and Spain in regards to territorial claims in the New World, which was only settled by the 1479 Alcaçova and the 1494 Tordesillas.
The treaties divided the newly discovered lands between Portugal and Spain along a meridian 370 leagues west of the Cape Verde islands. The lands to the east would belong to Portugal and the lands to the west to Spain.

The treaties not only established a division between the two powers, but also consecrated the *mare clausum* doctrine in international negotiation to recognize sovereign rights to the seas, which was subsequently adopted by other European powers to settle claiming disputes. Consequently, Genova claimed rights over the Tyrrhenian Sea, Venice over the Adriatic, Spain and Portugal over the seas in the New World, and UK over the Northern Sea (BEIRÃO; PEREIRA, 2014).

Although contested by the Netherlands and France, the *mare clausum* doctrine ruled for almost 200 years. According to Brownlie (1977, p. 250), besides the Iberian states, UK, Denmark, the city-states by the sea in Italy, the Pontifical states and Turkey, all of them claimed sovereign rights over waters beyond their territorial seas, and all argued strongly for the *mare clausum* principle. This doctrine lived until the 1600s, when Hugo Grotius contested the exclusive sovereignty of Portugal and Spain over trade routes to the Indies. Based on natural law, Grotius argued that the ocean should be open to navigation and trade to all peoples and nations, and that the freedom of the seas constituted a fundamental right of the states (BEIRÃO; PEREIRA, 2014).

Today the principle of the freedom of the seas is consolidated in UNCLOS, which resulted from the third United Nations Conference on the Law of the Sea. The negotiations took nine years and eleven sessions until the signature of the Montego Bay Treaty in Jamaica in 1982. UNCLOS has been the ‘largest and most successful effort in codification of international law in history, in the most traditional realm of coexistence between nations” (MACHADO, 2015, p. 50). The construction of this agreement is considered one of the largest normative endeavor in UN History for it regulates all uses in both maritime and sea areas, which correspond to 4/5 of the surface of the planet (MACHADO, 2015).

With the participation of 170 states, the UNCLOS is a multilateral treaty signed under recommendations by the UN, which defined and codified concepts from customary international law pertaining to territorial seas, exclusive economic zones, and continental shelves. It established and regulated the general principles of exploration of sea natural resources such as sea life, the seabed and subsoil. In force since 1994, the UNCLOS has also created the International Court on the Law of the Seas to settle any dispute regarding its interpretation and application.

The aim of UNCLOS, with due regard for the sovereignty of all contracting states, is to create a ‘legal status of the territorial sea, of the air space over the territorial sea and of its bed and subsoil’, which ‘enables international communications, and promotes peaceful use of the seas and oceans,
the equitable and efficient use of its resources, the conservations of sea life, and the study, protection and preservations of marine environment (see UNCLOS preamble). Amidst its many innovations, the UNCLOS has consecrated the concepts of territorial sea, exclusive economic zone, and continental shelf, giving them clear boundaries regarding state sovereignty, which we will explore in greater detail in the next section.

In 1970, Brazil has unilaterally established the 200 nautical miles’ boundary for its territorial sea, whereby it would exercise full sovereignty on waters, bottom of the sea, seabed and subsoil, and air space over the area. In 1971, two 100-mile fishing zones were created. One exclusive to Brazilian economic agents and another other open to foreigners so authorized by Brazil.

In terms of international law, however, the issue around the limits of territorial sea remained undefined. Geographically speaking, not all countries could claim such a large territorial sea. In order to equalize Brazilian sea borders with UNCLOS norms, which set a 12-mile boundary, Brazil wrote into law a body of rule regarding its sovereign rights over the exclusive economic zone and the continental shelf (Law nº 8.617/1993). As for the territorial sea, the 1988 Constitution affirmed the principle of full sovereign in its article 20.

According to the UNCLOS, the contiguous zone is set to 24 nautical miles from the baselines from which the breadth of the territorial sea is measured, that is, 12 nautical miles. Within that area, the coastal state has full sovereign rights to implement any measures to prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea, and to punish infringement of the above laws and regulations committed within its territory or territorial sea (UNCLOS, art. 33). As for the high seas, article 87 establishes that they are open to all states, whether coastal or land-locked, where they will enjoy freedom of navigation, of over flight, and to lay submarine cables and pipelines, to construct artificial islands and other installations permitted under international law, as well as freedom of fishing and scientific research.

Beirão and Pereira (2014) call our attention to the positive and negative aspects of UNCLOS for Brazil. Although the general principles affirmed at the preamble are pursuant to Brazilian values – sovereignty, cooperation, justice, peace, equity, security, equal rights, protection of the environment, scientific research, a fair international economic order – the UNCLOS did feature some negative elements under a Brazilian perspective. The decision regarding fishing quotas in the exclusive economic zone as well as its characterization as a common heritage for humankind – decisions that have been taken by consensus rather than a direct vote – convey much about the hegemony of core states in the conference. This scenario points to the ‘weakening of the national interests of periphery states,
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some of which are considered today emerging powers’ (such the members of the BRICS and BASIC). Those states condone ‘unequal treatment and fight for a structural and operational balance’ (BEIRÃO; PEREIRA, 2014, p. 23).

For Mattos (2014, p. 21), after three decades, UNCLOS offers both a balance of pros and cons in regards to state sovereignty over coastal waters: ‘Pros: respect to sovereignty, peaceful use of the seas, delimitation of concepts of territorial sea, contiguous zone, exclusive economic zone, and the continental shelf. Cons: fishing quotas in the exclusive economic zone, the notion of the seas as a common heritage for humankind, and timid measures to fight illegal commerce of drugs over the ocean.’

The above authors agree that the definitive establishment of the sea limits has been the greatest achievement of the UNCLOS. Indeed, the convention not only consecrated definitive understandings of technical concepts such as inner waters, territorial sea, contiguous zone, exclusive economic zone, continental shelf, high seas, and seabed – much contested until then – but was able to create three international bodies in charge of settling disputes and regulating the use of the oceans: the International Seabed Authority, the International Court on the Law of the Seas, and the CLCS.

Due to its impact on the law of the seas, including the principle of environmental preservation, norms and principles regarding the uses of the seas have served as a reference even to states that have not signed UNCLOS. Furthermore, the principle of peaceful use of the oceans inspired the 1986 Brazilian proposal for the creation of a peace and cooperation zone in the South Atlantic (ZOPACAS – Acronyms in Portuguese).

3 THE CONCEPTS OF TERRITORIAL SEA, EXCLUSIVE ECONOMIC ZONE, AND CONTINENTAL SHELF

The notion of sovereign rights of a nation over a band of the water – what could become known as the territorial sea – was first argued by Cornelius van Bynkershoek (1673-1743) and progressively adopted as a norm in international law. It is based on the principle of assuring the right to use naval weapons as a state’s territorial sea extends up to 3 nautical miles (3.45m, 5.5km), which was originally the range of a cannon shot at van Bynkershoek’s time (BEIRÃO; PEREIRA, 2014). The 1818 Treaty between United States and UK was the first international agreement to adopt the benchmark of three nautical miles, which became the general practice later on.

In the 20th Century, the limit of three nautical miles of the territorial sea began to be contested by a growing number of states, especially by Latin American and African coastal states. In the preparatory meetings for UNCLOS, two distinct positions emerged. The first advocated the extension of the limits of the territorial sea of coastal states beyond 3 nautical miles.
in order to assure greater control of the coastal waters. The second proposal stood by the current norm arguing for the freedom of the seas. The first proposal won out at UNCLOS, codifying the largest limit practiced then (Russia, 12 nautical miles). The current norm is now written in article 3 of UNCLOS as follows:

Article 3: Breadth of the territorial sea. Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

However, aware of the difficulty or even the ‘impossibility of convincing the international community to adopt the rule of 200 nautical miles for the territorial sea’, Brazil joined forces with other coastal nations in an attempt to ‘include in the concept of exclusive economic zone the largest possible number of characteristics of a 200 nautical miles territorial sea’. They argued for the notion of ‘an exclusive economic zone whereby the coastal state would be entitled to comprehensive rights, characterized by a special zone in which the coastal state would exercise full sovereign rights and exclusive jurisdiction’ (BEIRÃO; PEREIRA, 2014, p. 84). Article 55 and 56 of UNCLOS set the current regime as follow:

Article 55: Specific legal regime of the exclusive economic zone. The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

Article 56: Rights, jurisdiction and duties of the coastal State in the exclusive economic zone. 1. In the exclusive economic zone, the coastal State has: (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; (b) jurisdiction as provided for in the relevant provisions of this Convention with regard to: (i) the establishment and use of artificial islands, installations and structures; (ii) marine scientific research; (iii) the protection and preservation of the marine environment; (c) other rights and duties provided for in this Convention. 2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of
other States and shall act in a manner compatible with the provisions of this Convention. 3. The rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with Part VI.

The UNCLOS also guarantees the jurisdiction of coastal states in regards to artificial islands, installations, and structures, to scientific research, and to environmental protection of their respective territorial seas. In the exclusive economic zones, third states enjoy freedom of navigation, overflight, and installation of submarine cables and pipelines.

In regards to the continental shelf, it is defined by the UNCLOS as follows:

Article 76: Definition of the continental shelf. 1. The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

According to Trindade (2014, p. 155), the ‘major difficulty in relation to today’s ocean regime has to do with the relation between the exclusive economic zone and the continental shelf.’ The establishment of limits of both areas, especially between bordering states, may result in simultaneous coexistence or application of the norms, mainly within the 200 nautical miles’ limit. The article 77 of UNCLOS so defines the exclusive sovereign rights of coastal states in regards to the continental shelf:

Article 77: Rights of the coastal State over the continental shelf. 1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources. 2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State. 3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation. 4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say,
organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Trindade (2014, p. 212) argues that the concept of continental shelf expresses the tendency towards extending the jurisdiction of coastal states ‘so to recognize a 200-nautical mile exclusive economic zone, as well as to admit the possibility of coastal states with large continental shelf to extend their jurisdiction – under certain criteria – until the outer limit of 350 nautical miles.’

4 THE BRAZILIAN UNILATERAL DECISION TO EXTEND ITS TERRITORIAL SEA

Due to a number of bi- and unilateral initiatives since the turning of the 20th Century that established multiple limits of 3, 4, and 12 nautical miles to the territorial sea, international law lacked a definitive standard. It became necessary to settle disputes that emerged between divergent normalization of such limits, especially as the cold war tensions between two superpowers with invested sea interests escalated. On one hand, both the United States and the Soviet Union advocated an international agreement to consecrate a 12-nautical mile limit to the territorial sea. On the other hand, diplomatic consultations at the UN General Assembly pointed to the willingness of states to conduct a comprehensive reform of the ocean regime, not only of the limits of the territorial sea. At the same time, there was a need to design a special regime in regards to deep-sea exploration beyond the national jurisdictions, which still lacked a definitive limitation (MENEZES, 2015).

As the end of 1940s, Latin American states converged in a common position in favor of the extension of the limits of territorial seas from 12 to 200 nautical miles. The movement encompassed not only Brazil but also other key coastal states such as Argentine, Chile, and Uruguay, who perceived that a large territorial sea would be instrumental to protect their interests in terms of security, defense, navigation, fishing, scientific research, exploration of sea bottom resources, and air flight.

After the mid-1940s, there was a clear tendency in Latin America to enlarge the sea area under sovereignty or jurisdiction of regional states to a 200-mile limit. A sequence of Latin American unilateral proclamations in the following years created a regional practice that would acquire its own legal validity and serve as inspiration to similar actions by states from other regions of the world (CARVALHO, 1999, p. 116)
As pointed out by Cervo and Bueno (2014, p. 430), the support of Latin American was key to create a consensus against a proposal by the great powers to define a 12-nautical mile limit to the territorial sea, as well as to mobilize other nations in favor of a new conference on the law of the seas, which eventually happened in 1974.

Brazil needed to adopt a definitive position in regards to the limits of its territorial sea. At the end of 1969, direct conversations between the heads of the Ministry of Foreign Relations and the Ministry of the Navy led to the creation of a joint working group in charge of tackling the issue. The main objective was to evaluate the potential repercussions of any decision in favor of a 200-nautical mile limit. The agenda for the working group already pointed out to the possible solutions: ‘a) the maintenance of the 12-nautical mile criterion but with possible complementary measures; or b) the adoption of a larger limit for the territorial sea’ (RODRIGUEZ, 1970, p. 123). The later was recommended to the Presidency by then Chancellor Gibson Barbosa with the full support of Navy Minister Admiral Adalberto de Barros Nunes. The joint recommendation was accepted by president Médici, who wrote it into law in 1970.

As such, article 1 of Decree nº 1.098/1970 modified the limits of the Brazilian territorial sea to 200 nautical miles from the coastal baseline. Although the freedom of navigation between the stretch of 12 and 200 nautical mile had been assured – the so-called right of ‘innocent passage’ of foreign vessels, the new law made express reference to the nation’s needs of ‘security and defense’ as a key factor for fixating the new limits of the territorial sea.

The Brazilian decision in favor of the 200-nautical mile limit was primarily taken due to the lack of a specific norm in the international law of the time in regards to the territorial sea. It was the opinion of the Brazilian government that coastal states had been free to establish unilaterally the limits of their own territorial sea as their own right as a politically independent and autonomous state (CARVALHO, 1999).

As a result, between the 1960s and the 1970s, a sequence of Latin American unilateral proclamations legitimized a regional practice in international law that eventually inspired coastal states in other regions, especially in Africa. According to Saraiva (2010), the 1970 decision by Medici was coherent with both discourses of national development and rapprochement with African states:

The extension of Brazilian territorial to 200 nautical miles, which had been a strategic objective of foreign policy for the South Atlantic, was also part of the package of rapprochement with Africa. The decision was to engage African nations in support of Medici’s proclamation. African solidarity to the Brazilian unilateral decision was an important gain at multilateral organizations (Saraiva, 1996, p. 135).
Domestically, the repercussion was generally positive, and it was considered cohesive to the national discourse of ‘Brazil Potência’ (Brazil as a Great Power). Internationally, however, there was protest as well as formal acts of non-recognition of Brazil’s extended territorial sea. The Ministry of Foreign Relations received notes from a few nations, mostly from outside Latin America. In all replies, Gibson Barbosa reaffirmed the Brazil’s firm conviction about the lack of codified norm in international law in regards to the limits of the territorial sea. He argued that the Brazilian diplomatic orientation at the time had been coherent with the discourse of ‘Brasil Potência’, which called for disentanglement with automatic alignments with the United States and European industrialized nations, and prioritize its own national interests (BARBOSA 1992). As correctly noted by Carvalho (1999, p. 117):

Besides bearing bilateral pressures – mostly from the United States – Brazil had to go the extra mile in international fora in order to get the full recognition of its decision. For that it developed a concerted action with other Latin American nations that had made the identical decision in regards to the territorial sea.

Nevertheless, Brazil took on an impossible responsibility according to Carvalho (1999) for its coastline grew to 8,500 km (5,281 m), which totaled a surface of 3,200 million of km² (1,988 million of m²) to be patrolled and controlled. In the meantime, Brazil’s naval fleet had only 57 vessels. In the last section of this paper, we will point out the implications of the burden of patrolling such a large extension of ocean.

In relation to its continental shelf, Brazil framed the definition of its limits as strategic for its national interests for the largest oil and gas deposits rest on the sea bottom (GUEDES, 1998). In a way, Brazil followed the international trend to fixate a larger limit to its continental shelf:

A new concept was incorporated to old notions of the law of the seas: the continental shelf. Vaguely mentioned since the early 1900s, the concept of continental shelf becomes reaffirmed with the pioneer proclamation by the United States President in 1945. After that, many states, one after the other, affirmed their right over the geological continuation of their own territory under sea waters. The shelf is, above all, a source of mineral resources, located both on the sea bottom and under it. And it was also discovered that the shelf has a close relationship with living resources in superjacent waters. (RODRIGUEZ, 1970, p. 125).
The 1967 Constitution incorporated for the first time as property of the Union (then called continental platform), based on a 1950 decree. However, neither the decree nor the Constitution said anything about its limits. As a result, there was a negligent attitude of Brazil in regards to a clear definition of the limits of the continental shelf that the nation claimed for its jurisdiction (CASTRO, 1989). In 1968, the Brazilian government finally defined its limits on a decree that regulated exploration and scientific research in the Brazilian submarine platform, its territorial sea, and in inner waters.

As stated by Saraiva Guerreiro, then Minister of Foreign Relations, in 1974: ‘Brazil had favored the extension of jurisdiction over sea limits beyond the 200-mile mark when the continental baseline, including its bottom, stretched beyond said 200 miles. The area potentially holds oil, and we are close to the technology needed for deep offshore exploration.’ (Apud MACHADO, 2015, p. 58)

The 1968 decree, however, had a short span of validity for it was revoked two months later by Decree nº 63.164, which silenced about the outer limits of the continental shelf. The situation remained undefined until the 1980s, when the UNCLOS approached its conclusion in drafting a new agreement on the law of the seas. The resulting treaty, signed in Montego Bay, Jamaica, in 1982, under article 77, established that coastal states had sovereign rights over the continental shelf for the purposes of exploration and utilization of its natural resources. As a result, the Brazilian government was forced to take a stand: to sign or not to sign an international treaty that would limit the territorial sea to 12 nautical miles but would recognize an exclusive economic zone up to 200 nautical miles, with jurisdiction over the soil and undersoil of the seabed up to the outer limit of the continental shelf (CASTRO, 1989).

Additionally, pursuant to the terms set on the treaty, UNCLOS created the Commission on Limits of the Continental Shelf (CLCS), with offices at the UN Headquarters in New York. Annex II of the Convention describes the technical profile of the members of the commission, who are charged with analyzing requests for the extension of the continental shelf beyond 200 nautical miles. The appointed members ‘do not represent the interests of their states of origin, being recognized of their own technical expertise in their respective areas’ (SUAREZ, 2008, p. 76). The Commission would then independently verify the validity of claims by coastal states and sanction, if fitting, the extension of jurisdiction.

For Jares (2009), the UNCLOS decision to create a multilateral technical commission to define the limits of the continental shelf is due to two factors. First, the sheer complexity of the scientific and technological criteria set forth by article 76 of the Convention. Second, the characterization of the sea bottom, soil and undersoil beyond the limits of national jurisdiction as world heritage for humankind, pursuant article 136, would warrant such a multilateral arrangement.
Therefore, ‘although the coastal states may unilaterally declare the outer limits of their continental shelf, that its, beyond the 200 nautical miles, their requests are subjected to some kind of endorsement by the international community due to the requirement of a CLCS verification’ (JARES, 2009, p. 1276).

Suarez (2008, p. 210) argues that the definition of the outer limits of the continental shelf remains a unilateral act by a coastal state, which is only required to forward its plea to the CLCS for a solely technical verification. The CLCS either accepts the request for recognition or not, and is entitled to make recommendations as pursuant article 76 of the UNCLOS. The limits of the continental shelf set by the coastal state based on said recommendations become thus definitive and mandatory to all states.

Aware of the importance of delimitating its continental shelf, Brazil took steps to follow this course of action after ratifying the Treaty of Montego Bay. In 1989, the Presidency announces its ‘Plano de Levantamento da Plataforma Continental Brasileira – LEPLAC’ (Plan for the Verification of the Brazilian Continental Shelf). Its purpose is to determine the clear limits of ocean area located beyond the exclusive economic zone over which Brazil will attempt to claim exclusive jurisdiction rights under UNCLOS.

According to Figueirôa (2014), the completion of a full mapping of the new limits of the continental shelf will represent the sum of over thirty years of diplomatic efforts by Brazil at the UN. It’s the ‘largest exercise in terms of border consolidation since Rio Branco’, he argues. Figueirôa quotes Brazilian Ambassador Luiz Alberto Figueiredo Machado when he evaluating the task ahead: ‘now it is time to Brazil to determine its last legal limit, the continental shelf, so that the definitive drawing of the physical borders of this nation is finally completed’ (FIGUEIRÔA, 2014, p. 32). As a result, Brazil became the first coastal state to submit to the CLCS a formal request to extend the limits of its continental shelf beyond the 200-nautical mile rule, in a plea that has been called Blue Amazon, as described in the following section.

5 BRAZIL’S ‘BLUE AMAZON’ PLEA TO THE COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF (CLCS)

Over four decades ago, that is, even before the conference for the UNCLOS, Brazil occupied Trindade Island, 540 nautical miles off the coast of Vitoria in Espírito Santo. In 1998, it occupied Saint Peter and Saint Paul Archipelago – a group of 15 small islets and rocks in the central equatorial Atlantic Ocean 500 nautical miles off the coast of Rio Grande do Norte. There, on Belmonte Island, the construction of a small scientific research station enabled the permanent occupation of the archipelago. For the purposes of the Convention, the occupation of both areas represented the addition of 450,000 km² to Brazil’s exclusive economic zone. With the incorporation of both areas, the territorial sea limit of Brazil would raise from 3,539,919 km² to of 12,087,322 km² (MINSTÉRIO DA DEFESA, 2012).
Brazil also hopes to gain the recognition of its claim by the CLCS to an additional area of 960,000 km², which is currently the basis for the so-called Blue Amazon Project.

The name refers to the fact that the now claimed area is equivalent to the Brazilian Amazon and because it has similar untapped potential in terms of natural resources. In the last twenty years Brazil has been investing in planning and preparing the submission of its claim to the CLCS, which required the cooperation of the Navy officers, diplomats, scientists, and legal advisers.

**Illustration 1**: Limits proposed by Brazil for its continental shelf

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**Source**: Brazilian Navy. Available at: [http://www.mar.mil.br/dhn/dhn/ass_leplac.html](http://www.mar.mil.br/dhn/dhn/ass_leplac.html)
The Blue Amazon Project is a joint endeavor by the Brazilian Navy and the Ministry of Foreign Relations, and it is being developed along four main axes (BRASIL, 2012, BRASIL/LEPLAC, 2016):

- **Economic Axis**: pursuant the potential resources of the extended continental shelf, such as navigation routes, installation of telecommunication lines, fishery activities, oil and gas offshore exploration and drilling, and seabed.

- **Environmental Axis**: connected to the rational utilization of the oceans, it possess a very specific character for the ocean currents present in the area that allows for maritime navigation and fishery activities have the potential to harm the sea environment. As a result Brazil is committed to the development and implementation of public policies as well as to the negotiation of international cooperation agreements to protect the sea environment.

- **Scientific Axis**: The oceans are vastly understudied and their research faces many difficulties. Brazil promotes important scientific initiatives and is highly committed to them: the Antarctic Project, the Pilot Program of a Global System of Ocean Observation, LEPLEC, the Survey Program for Mineral Potentiality, and the Sustainable Ocean Reefs Survey.

- **National Sovereignty Axis**: the extension of Brazilian jurisdiction brings both responsibilities and opportunities. As the continuity of Brazilian territory, the extended continental shelf functions as a space for power projection in global politics, from increasing international trade relations regarding maritime activities to diffuse non-state threats such as international traffic and piracy. As a result, the Brazilian continental shelf rises in terms of priority on the national security agenda, especially regarding the surveillance and patrolling of both the surface and the sea bottom where Brazil intends to fully exercise its sovereignty.

After 17 years of extensive scientific and technical research conducted by the Brazilian Navy and LEPLEC in order to map the sea bottom of its continental shelf, Brazil was able to organize its request to the CLCS in 2004 to extend its continental shelf. In its plea for recognition of jurisdiction, Brazil formally requested the incorporation of an area of approximately 963,000 km² beyond the 200-nautical mile limit defined by UNCLOS.
Illustration 2: Proposed limits for the Brazilian continental shelf regarding its dominions and margins.

After three and a half years of consideration, the CLCS gave its reply. It agreed to the extension of the outer limits of continental shelf for the Saint Peter and Saint Paul plateau, but not to other claimed sea areas. In fact, CLCS did not expressly refuse to recognize the totality of the Brazilian in relation to the areas of the Amazon Cone, the Northern and Vitoria-Trinidad Ranges, and the Southern Continental Margin – totaling about 25% of the Brazilian new claimed jurisdiction –, and requested further information from Brazil. As a result, the CLCS did not issue a final recommendation on the issue thus requesting the submission of an amended proposal with further detailing of the sea bottom.

If the amendment is deemed satisfactory by the CLCS, and once it is formally recognized within the UNCLOS system, Brazil will be granted the right to incorporate an area between 700,000 and 950,000 km² into its jurisdiction. As of today, the CLCS has already recognized 771,000km² from the original request, which correspond to areas beyond the 200-nautical mile limit of the exclusive economic zone at the northern, southeast and southern parts of the outer limits of the continental shelf.

In April 2015, Brazil submitted its revised claim to the CLCS featuring the additional information about the southern sea area as requested previously requested. The CLCS is currently studying the submission and shall make its final recommendation pursuant article 76 of the UNCLOS (CLCS, 2015).
After the Brazilian partially successful claim, other coastal states have also submitted their own claims. Russia had first presented its claim in 2001 but the CLCS rejected the submission due to insufficient scientific data. In 2015 Russia resubmitted its proposal for the recognition of 1.2 million km² in the Artic modeling its claim after the Brazilian. In 2009 Uruguay claimed the formal recognition of a continental shelf of 350 nautical miles. The CLCS issued a positive recommendation in 2014 which allowed Uruguay to formally incorporate 80,500 km² to exclusive economic zone thus increasing 64% of its sea territory. The CLCS decision allowed Uruguay to be the very first Latin American nation to obtain the UN formal recognition under UNCLOS to fully increase its outer limit beyond the standard 200 nautical miles. Finally, Argentina filed its claim in 2009. In 2012, the CLCS formed a committee to evaluate the Argentinian claim to extend its continental shelf to 350 nautical miles, including the area over the Falklands, South Georgia, South Sandwich, and parts of Antarctic. In March 2016, the CLCS issued its recommendation to increase in 35% the Argentinian sea waters, including the formal recognition of national jurisdiction over the Falklands.

Furthermore, if the Brazilian claim is fully accepted by the CLCS, Brazil would make a key contribution to clarify the rules and procedures regarding the extension of the continental shelf as well as being able to make a significant normative change in terms of the law of the seas. The potential success of the Blue Amazon Project at the CLCS could position Brazil so to raise awareness of coastal states to pursue plans to set the limits of their own continental shelf. As a result, Brazil is currently planning how to apply the expertise earned by the Brazilian Navy and LEPL and direct it towards cooperation agreements with Latin American and African nations. Brazilian diplomats at the Ministry of Foreign Relations are already advising governments of coastal states such as Namibia, Angola e Mozambique to prepare their own claims to the CLCS.

6 IMPLICATIONS TO THE SECURITY AND DEFENSE IN THE SOUTH ATLANTIC

With the rapid growth of world trade in the last few decades, intensified by globalization, commercial navigation has increased considerably. According to a 2016 United Nations report on navigation on international waters, 80% of all world trade is dependent on maritime routes. In case of developing economies, it reaches 90%. As a result, the efficient functioning of an international regime of the seas is instrumental for the stability and growth of the international economy.
Because of the sheer volume of trade between economies located around the Pacific, it should not come as a surprise that the Atlantic Ocean is perceived as peripheral when compared to the Pacific Ocean. In fact, the largest concentration of commercial navigation routes in the Atlantic connects Europe and United States. Additional relevant routes in the region are mostly due to ships and vessels that bypass the crossing of the Panama Canal, and have to sail across the Strait of Magellan to reach the Atlantic. According to a recent report by the World Shipping Council, which ranks the top 100 world ports, the main South Atlantic port is Santos, Brazil, ranked at #35 in terms of volume/tons. The also Brazilian port of Tubarão comes next at #36 (WORLD SHIPPING COUNCIL, 2014).

If on a global scale the South Atlantic demonstrates to being a mainly secondary navigational sea area, in geopolitical terms, the scenario is slightly different. The region is considered strategic for the development of a security community in the South Atlantic that could bring together both South American and African states. As previously mentioned, Brazil took an active role for the submission and approval of the ZOPACAS proposal at the 1986 UN General Assembly. The purpose of this joint South American and African initiative was to promote peace and cooperation between nations of the South Atlantic. Although the ultimate goal was to ban the introduction of nuclear weapons in the region, it also sought out the elimination of military presence of nations from outside the region in what had been perceived as a spike in East-West tensions under Ronald Reagan (MOURÃO, 1988; CERVO; BUENO, 2014).

After almost a decade of paralysis due to the rapidly changing environment after the end of the Cold War, ZOPACAS member states relaunched the initiative in 2007. The agenda was opened up to include issues like support for the UN Security Council reform, fairer terms for trade relations, and South-South cooperation agreements. As then Brazilian Ministry of Foreign Relations, Antonio Patriota, commented: ‘ZOPACAS has been conceived for the promotion of common goals in areas related to Peace and security but with a keen perspective on cooperation. Although these objectives do not have a direct economic or commercial connotation, it is in perfect alignment with the promotion of trade and investment flows between both sides of the Atlantic. At the same time, it would be in full conformity to think about the eventual development of mechanisms and a legal framework that would allow the creation of the conditions favorable to trade and investments’. (PATRIOTA, 2013).

Brazil, for example, established under its National Strategy of Defense a set of projects designed to assure the due monitoring of the Blue Amazon area. Specifically, they seek to guarantee the necessary means to deny the use of the ocean to enemies, control maritime communications lines, and execute broad surveillance over the extended continental shelf.
The ultimate goal is to assure the territorial integrality of the nation, regional stability, and the international projection of Brazil’s power.

Three specific programs developed by Brazilian Navy are worth mentioning: the Nuclear Program, the Nucleus for Sea Power, and the Blue Amazon Management System (Sistema de Gerenciamento da Amazônia Azul - SisGAAz). While the former predates the Blue Amazon claim at the CLCS, the latter two have close ties to it. They were designed to modernize and enlarge the fleet, including the construction of four conventional and one nuclear submarine, plus a brand new navy base. SisGAAz is a system of combined radars, satellites, and submarine positioning systems with the purpose to enlarge Brazil’s capabilities to monitor and control its jurisdictional waters, and is expected to be ready by 2024.

Additionally, ZOPACAS member states have been increasingly participating in joint military exercises on high seas, as well as engaging in diplomatic conversations to pursue common economic projects focused on the potential of their army and navy forces. Indeed, the development of sea power by coastal states is understood as a key responsibility within ZOPACAS, as it is perceived as the only way to assure the non-interference of extra regional powers in the South Atlantic (PENHA, 2011, p. 187).

Brazil has been developing a set of bilateral agreements with ZOPACAS member states. In 2013, it signed an agreement with Angola to help restructure its defense industry in order to reduce Angola’s dependency on foreign powers. Soon afterwards, a second agreement was signed with Senegal to create a training program for its Navy officers, and a possible cooperation to acquire Brazilian Navy equipment in the future (MINISTÉRIO DA DEFESA, 2013a).

Since 2008 Brazil has been conducting joint war exercises in the South Atlantic with ZOPACAS member states, primarily African nations (FIGUEIRÔA, 2014, p. 45). Every two years, Operation Atlantic prepares navy officers and personnel to ‘defend the Brazilian sea resources as well as other strategic structures by using attack simulations to oil drilling platforms located at the continental shelf’. The program has been upgraded by the 2012 White Book of National Defense, which highlights the importance of such installations, as well as of maritime navigation routes and communication lines with Africa. It expressly calls for the ‘intensification of the exchange with Armed Forces of foreign nations, particularly within South America and the Western Coast of Africa, in order to reinforce bonds with nations that interact [with Brazil] in concertation fora such as IBAS, BRICS and other traditional partnerships’ (BRAZIL, 2012).

In regard to specific cooperation pursuant the continental shelf, Brazil has signed an agreement with Namibia to help with the preparatory work to submit a claim to the CLCS. Since 2000, a group of researchers and technical personnel from the Brazilian Navy is permanently working...
at Namibia largest navy base, Walvis Bay) to train Namibian officers in mapping their continental shelf. Brazil has also been in conversations with Sao Tome and Principe, Mauritania, Benin, and Senegal to negotiate similar agreements. The Brazilian expertise with the Blue Amazon project is slowly becoming a valuable asset to Brazil’s global strategy of expanding its influence through South-South technical cooperation agreements (BRAZIL, 2012).

ZOPACAS has also been playing an important role in consolidating a South Atlantic common identity for their member states. Despite acute power asymmetries between its members, especially in relation to Brazil, they do share common history and face similar challenges. Bi- and multilateral agreements within ZOPACAS help consolidate the ties of cooperation and peace between the member states (BRAZIL, 2012), especially under the shadow of the presence of extra-regional powers in the South Atlantic. This deeply felt presence of the ‘Other’ is voiced by former Brazilian Defense as well as Foreign Relations Minister, Celso Amorim: ‘If we do not take care of peace and security in the South Atlantic, others will do it. And not in the manner we desire: coherent to a developing nation vision that condones any colonial and neocolonial attitude.’ (MINISTÉRIO DA DEFESA, 2013b)

Silva (2014) calls attention to the fact that there are indeed extra-regional actors in the South Atlantic: UK (Saint Helena, Ascension, Tristan da Cunha, Falklands, and South Georgia and South Sandwich), France (French Guiana, home to the Guiana Space Center, a primary launch base for the European Space Agency), and Norway (Bouvet Island). Finally, with the reactivation of the US Fourth Fleet in 2008, which covered the Caribbean, Central America, and South America between 1943 and 1950, many ZOPACAS states became increasingly cautious of extra-regional actors.

Finally, it should also be mention the 2013 creation of Amazul S.A., a defense public company created by President Dilma Rousseff (2011-2016) tasked to promote, develop, transfer, and update technology sensitive to the main defense programs related to the Blue Amazon, such as the nuclear fuel program and the submarine construction program.

7 CONCLUDING REMARKS

In the last five decades, Brazil has evolved from a state attached to traditional dichotomies of the law of the seas to an active supporter of norm change in ocean regimes. Although it acted later than other coastal states to claim sovereignty rights over its territorial sea and continental shelf – which happened only in the late 1950s and in 1970, respectively –, Brazil became the very first developing nation to submit a claim to the CLCS to extend its continental shelf beyond
200 nautical miles as pursuant to the Treaty of Montego Bay. The Blue Amazon Project, a joint initiative by the Brazilian Navy and the Ministry of Foreign Relations, represents an important benchmark to other claims by coastal states, such as Russia, Argentina, and Uruguay.

According to the UNCLOS system, a coastal state may submit a claim to the CLCS to extend its continental shelf beyond the 200 nautical miles of its exclusive economic zone up to 350 nautical miles from the coastal baseline. If the claim is accepted, the coastal state would have full rights to the exploration of the seabed and its undersoil within that area. If accepted, the Brazilian claim over the Blue Amazon would mean an increase of 3,6 million km2 to its continental shelf, thus consolidating what some Brazilian diplomats have called ‘the last frontier’.

The success of the Blue Amazon project at the CLCS will not only increase the nation’s wealth but its responsibilities as well. On one hand, Brazil would be able to develop the potential of over 900,000 km² of seabed with economic and scientific opportunities raging from fishing due to vast marine biodiversity, access to mineral resources such as pre-salt oil and gas reserves, as well as potentiality for sea-driven energy and offshore wind power. On the other, Brazil would have an enormous new area to control and monitor in terms of security and defense while still maintaining limited navy war power when compared to other sea powers such as the U.S.

From a Brazilian perspective, the Blue Amazon is also key to a larger, strategic alliance in the field of security and defense that brings together both South American and African coastal states: the ZOPACAS. Created in 1986 by a Brazilian initiative at the UN General Assembly, ZOPACAS remained mostly dormant until after the end of the Cold War. As a result, critics argue that it did not play much of a role during its 30 years of existence. However, the creation of zone for peace and cooperation in the South Atlantic, free from nuclear proliferation and extra-regional intervention, allows for the multiple partnerships between diverse actors, be it in bilateral or multilateral arrangements. The discoveries of pre-salt oil and gas deposits, combined with the Brazilian technical expertise in preparing claims to the CLCS, work together to bind Brazilian and African interests in cooperation agreements to reproducing the success of the Blue Amazon on the other side of the Atlantic. As a result, ZOPACAS emerges as possible ‘Pax Atlantic’ for both South American and African states (SARAIVA, 2013, p. 2), where Brazil would have a key role to play.

REFERENCES

ABDENUR, Adriana Erthal; NETO, Danilo Marcondes de Souza. O Atlântico Sul e a cooperação em Defesa entre Brasil e África. In: NASSER, Reginaldo Mattar;


Recebido em: abr. 2020
Aceito em: jun. 2020