



“CREEPING JURISDICTION”: THE ENLARGEMENT OF ECONOMIC EXCLUSIVE ZONES

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ABSTRACT:

Property rights are in the center of fisheries management difficulties. The problem becomes more complex when fisheries are transboundary by nature.

Extended Fisheries Jurisdiction gave the coastal states property rights and the potential of a sustainable management of fisheries resources, but the Law of the Sea doesn't exclude free access in the High Sea. Imprecise definition of use rights in the areas of High Seas adjacent to the EEZs and the consequent difficulties in the management of the straddling stocks, made the origins of a lot of “fish wars”, in the 90s. The U. N. Agreement (1995) on Transboundary Stocks and Highly Migratory Species pretended to be a formula of cooperation among interested states. Curiously, in the European Union, USA and Canada it was well received, but in Portugal it was seen with reserves.

Despite some interesting results, this Agreement continues to be the motive of discussion, especially in the context of NAFO. Given the poor results in restoring the stocks of cod, the leaders of Newfoundland fisheries organizations have been proposing the enlargement of EEZs and a certain rehabilitation of the juridical and economical statute of the Continental



Platform. The United Nations recognise that the limit of the 200 miles doesn't make any biological sense. The statute of EEZ is much more of functional type. On the contrary, the Continental Platform has a geomorphologic unquestionable existence. The coastal countries consider it an extension of their territory. For some policy makers a new extension of EEZ would be a logical step in the process that took to the establishment of EEZs, recognising that it was not enough to assure the necessary conservation of the stocks.

In recent times, Portuguese Governments assured that a fundamental objective of the marine policy should be the exploitation of the Platform but, perhaps, that is not a prudent declaration. These appeals, in the *media*, could be interpreted, by other States, as a position of agreement with EEZ extension. In the context of Portuguese fisheries, extension of EEZs would have undesirable effects. Portugal would loose fishing opportunities for long distance fleet, without granting additional benefits or resources, given the closeness of the Platform.

The aim of the paper is to discuss (by using Game Theory) the possible efficiency gains arising from the 95-Agreement and to investigate this fracture in decision makers opinions, making the repertory of related issues, critics and doubts. And, of course, to discuss the Portuguese and Cape Verde and other islands countries positions in this debate.

INTRODUCTION

Since the seminal papers of GORDON, SCHAEFER and SCOTT, in the 50s, the central idea in the Fisheries Economics is that, in conditions of free access and competition, the market leads to non -optimal solutions in the use of the resources. The nature of “common property” of the resources and the presence of externalities in the capture lead to market equilibrium solutions that implicate an overexploitation of the resources - “The Tragedy of the Commons” (HARDIN, 1968).

The property rights are in the core of the problem of fisheries management. The problem becomes more complex when fisheries are transboundary by nature. Extended Fisheries



Jurisdiction gave the coastal states property-rights and the potential of a sustainable management of fisheries. However, the Law of the Sea (1982) doesn't exclude the principle of the "freedom of the seas" which remains in force in the High Sea.

One of the most penetrating subjects that emerged as a consequence was the management of straddling stocks. Given that the fish are endowed with mobility, it was inevitable that the coastal states, after the establishment of Economic Exclusive Zones (EEZs), verified that they were sharing some of those resources with neighbouring countries. Many coastal countries also verified that some of the acquired stocks passed the border of EEZ to the High Sea, where they were subject to the exploitation of distant waters fishing fleets from other countries. There is no rigorous typology: we can designate the first ones as transboundary resources, the seconds as straddling.

The development of a theory for these cases is still on going. The imprecise definition of use rights in the areas of High Seas adjacent to EEZs, and the difficulties in the management of straddling stocks, were the roots of many "fish wars", in the 90s. The U.N. Agreement (1995) on transboundary stocks and highly migratory fish species pretended to be a new formula of cooperation among interested states. Curiously, in the European Union it was well received, but, in Portugal, it was seen with reserves.

Despite some interesting results, this Agreement continues to be the motive of discussion, especially in the context of NAFO. The debate is now turning to the problematic of the enlargement of EEZs and suggests a certain rehabilitation of the juridical and economical statute of the Continental Platform.

The aim of this paper is to discuss the possible efficiency gains in the international fisheries arising from this new agreement and investigate this fracture in decision makers' opinions, making the repertory of related issues, critics and doubts.

It reviews the historical and legal background and surveys the relevant economic theory. It goes on evaluating the Agreement of 95 and reflects about the Portuguese position in this



debate. Finally it starts a debate about the possible position of islands countries as Cape Verde.

1. LEGAL BACKGROUND

What are the reasons for concern with the straddling stocks?

The Law of the Sea attributes to the coastal states almost exclusive property rights on the fisheries in the 200 miles. The fundamental article (art. 56) reflects these sovereign rights to explore, to manage and to conserve the resources in EEZs.

One of the subjects that were inconclusive, in 1982, concerned highly migratory species. It rested for a clear debate the subject of who should be entitled management on these resources.

During the Conference, the nations of distant fishing argued that, given the mobility of those stocks, management should not be under jurisdiction of coastal states but under the competence of the International/Regional Fisheries Organisations. This position had the vigorous opposition of many coastal countries.

The debate took the commitment established in the art. 64. This ended for being the focus of subsequent controversy. Art. 64 count two paragraphs seemingly contradictory:

- In the paragraph 1 it is said that, where International Organisation exist, coastal states should cooperate with the countries of distant fishing. For these countries it means, obviously, that, inside those Organisations, they can influence the regulation of the resources.
- The paragraph 2 says that the art. 64 should be applied “in addition to the other provisions of the part V of the Convention”. Coastal states interpret this paragraph as implicating that the art. 56 should be applied integrally in their EEZs; that is, also to the migratory species.

An area of potential conflict grew up. The high negotiation costs implicated in the problem resolution were enough to maintain this vague stance situation. But, in the 90s, the problem arose strongly, in the context of straddling stock fisheries. The consideration of the small importance of the highly migratory resources, globally accomplished in the early 80s (about



90% of the resources were in the EEZs), and the reasonable conjectures of certain coastal countries, who believed that the long distance fisheries fleets could only explore the resources of High Seas adjacent areas if it was guaranteed the access to EEZs; all showed to be wrong.

The problem, in the essence, is a problem of property rights. The conviction of coastal states, that they would be entitled “de facto” property rights on the resources, was wrong. These virtual rights ended for showing emptiness. Actually, these straddling stocks remain as “international common property” and the usual “tragedy of the commons” is well reflected in the overexploitation of the resources. The vague, imprecise form as they are defined in the Convention of 82 is in the origin of the problem. So, they can be called the “unfinished business” of the Law of the Sea (KAITALA e MUNRO (1993)).

2. REGULATION OF HIGH SEAS FISHERIES: REVIEW OF The THEORETICAL LITERATURE

The common analytical proposal has been the one that takes the basic model of the Fisheries Economics and combines it with Game Theory.

The starting point is the model of GORDON-SCHAEFER working with two essential issues: the nature of free access of the resource and the consequent effect of total dissipation of rents, and the exercise of intertemporal management of the resource, implicating a trade-off among present sacrifices and future gains.

The Game Theory can be understood as an instrument of applicable analysis to situations in which a decisor is influenced not only for his decision, as for those taken by the other players of the economic game. His value, in this case, is obvious.

The first subject to discuss: Is the cooperation worthwhile?

There are several alternatives approaches: Colin CLARK (1980) and LEVHARI and MIRMAN (1980) classic approaches, and the developments of the Group of Helsínquia (see, for example, KAITALA (1986)). The general conclusion is that the non-cooperation leads to inferior performances. The authors predict that the non-cooperation translates in



results very seemed to the non-regulated/ free access fisheries case, that is, the dissipation of the rents.

CLARK (1980) combines the basic model of the fisheries with the Theory of Nash of non-cooperative Games, with two players (NASH, 1951).

THE GORDON-SCHAEFER MODEL

Consider a given country 1. The conditions of the basic model are assumed in:

$$\dot{x} = F(x) - h(t)$$

$$\text{and } h(t) = qE^v(t).x^\phi(t)$$

The first equation represents the dynamics of the resource as a function of the natural growth of the species and of the capture. The function of natural growth of the species, $F(x)$, is given by a differential equation that relates the stock growth with the dimension of the biomass in every moment. In the model of Schaefer, a quadratic function is used that, integrated, drives us to the popular logistic curve of Lotka/Volterra.

The second equation can be identified as the function of production of the fishery, the capture depending on the stock dimension, on the level of applied effort and on a capture-ability coefficient species' specific.

x represents the biomass, $h(t)$ the capture, q the capturability coefficient and $E(t)$ the measure of effort. The exponents v and ϕ are, for hypothesis, same to 1.

Supposing that the fishery is made by the country 1 alone:

The function of total cost is $C(t) = a_1 E(t)$, a_1 is the unit cost of the effort; a_1 is a constant that implicates that the supply of effort is perfectly elastic. The same condition is put for the demand, being p the fixed price of fish.

The country 1 objective is just the maximization of the liquid benefits along the time:

$$\text{Max } PV_1 = \int_0^\infty e^{-\delta_1 t} (p - c_1(x)) h(t) dt,$$

where δ_1 is the social discount rate in the country 1 and $c_1(x)$ it is the capture unit cost.



The solution of the problem is the modified Golden Rule

$$F'(x^*_1) - \frac{c'(x^*_1)F(x^*_1)}{p - c_1(x^*_1)} = \delta_1$$

This equation establishes the rule of resource use, the way the society owes to invest/disinvest in the resource along the time. The right side of the equation can be interpreted as the sustained marginal income of investing in an additional unit of the resource, divided by the cost of the investment, for that can be identified as the “rate of interest” of the resource. It is divided in two components. The first corresponds to the instantaneous marginal productivity of the resource. The 2nd term is the Marginal Stock Effect that reflects the impact, in the capture costs, of the dimension of the biomass.

The approach to the optimal solution will be the fastest and we’ll have a “bang-bang” result

$$h^*_1(t) = \begin{cases} h_1 \text{ Max } & \text{if } x_{(t)} > x^*_1 \\ F(x) & \text{if } x_{(t)} = x^*_1 \\ 0 & \text{if } x_{(t)} < x^*_1 \end{cases}$$

$h_1 \text{ Max}$ is the maximum, arbitrary, capture rate.

The argument of the traditional model is that, in conditions of free access, the solution will be driven to the "bionomic equilibrium", where the rent is totally dissipated. The resource will be led to a level $x(t)=x_1$, in such a way that $c_1(x(t)) = p$.

MODEL WITH 2 PLAYERS

Suppose the existence of a co-user 2 that shares the resource. If the country 2 was the only user of the resource we could define the optimal biomass, according to the perspective of 2, x^*_2 , in the same way we did for 1. Therefore, the "bionomic equilibrium" would be at the level x_2 in that $c_2(x_2) = p$.

Supposing that there is no cooperation between the two countries and there is no communication among the managers, we are in presence of a non-cooperative game that leads us to the Prisoner's Dilemma. We fell back upon the Theory of Nash of non-cooperative games between two people. The nature of the solution of Nash is that each player doesn't have incentive to alter his strategy given the other player's strategy. So, in the



context of a fishery shared among two countries, the balance of Nash implicates, for both, capture rates ($h1^{**}(t)$, $h2^{**}(t)$) stable. These rates should satisfy the inequalities:

$$PV1(h1^{**}, h2^{**}) \geq (PV1(h1, h2^{**})) \quad \text{for any } h1$$

$$PV2(h1^{**}, h2^{**}) \geq (PV2(h1^{**}, h2)) \quad \text{for any } h2$$

If the costs of effort in the two countries are different and exists barriers to the mobility of the labour and capital that perpetuate the inequality and if $a1 < a2$ (the country 1 has low capture costs), CLARK (1980) proves that, in these circumstances, and supposing that $Maxh1$ and $Maxh2$ are sufficiently big, the solution for the no-cooperative game of Nash should satisfy

$$h1^{**}(t) = \begin{cases} h1 \text{ Max} & \text{if } x > \min(x1^{*}, x2^{\infty}) \\ F(x) & \text{if } x = \min(x1^{*}, x2^{\infty}) \\ 0 & \text{if } x < \min(x1^{*}, x2^{\infty}) \end{cases}$$

$$h2^{**}(t) = \begin{cases} h2 \text{ max} & \text{if } x > x2^{\infty} \\ 0 & \text{if } x < x2^{\infty} \end{cases}$$

This result means that the country with higher production costs will be, for all of the effects, pursued outside of the fishing.

If $x1^{*} < x2^{\infty}$ an optimal, lucky, solution would be found. The cooperation is punctual. If, on the other hand, $x1^{*} > x2^{\infty}$, then the resource will be driven to $x2^{\infty}$, a result clearly undesirable for both countries. We are confronted with the Prisoner's Dilemma - both players' rational decision leads to results that both consider undesirable, but that are inevitable without cooperation. Therefore, the incentive to the cooperation exists. The consequences of the non-cooperation approach the result that would be reached by a non-regulated fishery in the equivalent waters of only one country. Overexploitation and overcapacity will occur ((MUNRO, 1987, 1990); CLARK (1990)).



COOPERATIVE MANAGEMENT

Recognised the advantage of the cooperation for some fisheries, we should continue an analysis of cooperative management. The process is the same, i.e., combination of the basic model of the fisheries with the Theory of Games, in this case, of the cooperative games among two people (NASH (1953)).

In the cooperative games it is assumed that the two players can communicate and are capable of establishing firm agreements. The first subject is the one of knowing if the co-managers are willing to establish a formalised agreement, susceptible to enforcement, a coercive (binding) agreement, or, simply, more informal agreements, no-coercive (non-binding), without the establishment of a management structure and rigorous enforcement rules.

The analysis of the cooperative fisheries is simpler in the cases of formalised, coercive agreements. There are several alternatives. The seminal analysis is the one of MUNRO (1979). The functional objective of the two co-managers can be described in the following:

$$MaxPV_1 = \int_0^{\infty} e^{-\delta_1 t} (p - c1(x))\alpha(t)h(t)dt$$

$$MaxPV_2 = \int_0^{\infty} e^{-\delta_2 t} (p - c2(x))(1 - \alpha(t))h(t)dt$$

$\alpha(t)$ it is the quota/share in total capture, for the country 1.

The co-managers have to consider two subjects: division of the liquid benefits and the possibility of different management objectives. A potential agreement can be characterized in the following way:

$$Max PV = \beta PV_1 + (1 - \beta) PV_2 \quad \text{with } 0 \leq \beta \leq 1.$$

The objective is to maximize the global common profit. The coefficient β can be seen as the negotiation coefficient. If $\beta=1$ the preferences in terms of conservation policy of the country 1 are totally dominant, if $\beta=0$ the dominant preference is the one of the country 2. The value of this coefficient will be determined by the solution, if it exists, of the cooperative game of Nash. Using the common procedures in treating these problems, we'll find another modified Golden Rule:



$$F'(x^*) - \frac{c'(x^*)F(x^*)}{p - c(x^*)} = \frac{\delta_1 \beta \alpha e^{-\delta_1 t} + \delta_2 (1 - \beta)(1 - \alpha) e^{-\delta_2 t}}{\beta \alpha e^{-\delta_1 t} + (1 - \beta)(1 - \alpha) e^{-\delta_2 t}}$$

The fundamental results of the analysis are as follows:

- The differences in the social rates of discount produce different arrangements in the favourite strategies. Ceteris-paribus, the co-manager that uses a relatively lower discount rate prefers a conservationist policy and it is willing to invest in the resource. Therefore, the commitment favours in the immediate future the co-manager more short-sighted. In the long term, the preferences of the better conservationist will be considered.
- The existence of different weights that each one of the players puts in the conservation of the resources is inevitable. For MUNRO (1990), an optimum-optimum will be found if the preferences of that, which attributed a higher value to the fishery, are predominant. This player should establish the management program, and obviously, should compensate the other members, in any way. It is the “The Compensation Principle”: as a general rule it is optimal (with side payments) that is dominant the preference of the partner that puts a higher value in the resource. [KAITALA and MUNRO, (1993)].
- The economic analysis indicates that the commitments in the fisheries policy through cooperative games with transfers are more efficient. With transfers (side payments), the partners are encouraged to focus on the allocation of the benefits instead of the division of capture shares.

THE STRADDLING STOCKS CASE

When the resource is a straddling the management analysis is similar to the applied to all shared resources.

It is assumed that the relevant coastal state is confronted with one or more nations of distant fishing in the waters of High Seas, adjacent to EEZ. However, an important difference in terms of the Theory of Games subsists: it concerns the symmetry. In the relationship between two countries of contiguous EEZs, a relationship of perfect symmetry exists, in the sense that each one has a power perfectly defined in his EEZ and none can use the



resources of the other's EEZ without previous authorization. In the case of the straddling stocks, the relationship is asymmetrical. Nothing impedes the fleet of the coastal country in accessing to the waters of High Sea where the free access is maintained, but the fleets of distant fishing nations only enter the coastal countries EEZs if they are allowed.

In spite of this difference, the common trunk can stay with small alterations. The results don't also stand back significantly: if the non-cooperation prevails in the management of the resources the result will be the depletion of the resources.

Be noticed that, in the case of the straddling stocks, the number of participants can vary. Plus, that number can vary in time. When these issues are considered, the problem becomes significantly more complex. Two additional issues are to be considered: the possibility of alliances between partners and the capacity of the "new entrants" to enter a given fishery.

The existent analysis still constitutes an introduction to the problem (see KAITALA and MUNRO (1993)). The theoretical analysis suggests some interesting conclusions, namely:

- With the number of players exceeding two, the possibilities of alliances between competitors must be considered. The analysis can get complicated considerably and, in practical terms, increase the difficulty of finding a stable cooperative arrangement.
- The search of a cooperative agreement requests that each partner receives, at least, the payoff equivalent to the threaten point. But also that the partners of any sub-alliance obtain a result at least as good as that they would have if they chose any other partner and they refused the cooperation with the third part of the organisation. In practice, it is the fundamental question of drawing the institutions (Regional Fisheries Organisations) and asking for their operational capacity: definition, constitution, game rules, management objectives.
- The problem suggested by the possibility of non-members of the Regional Organisations enter the fisheries in High Seas is very significant. Using Game Theory we can conclude that the possibility of a member to transfer his property for the "**new entrant**" ends for increasing his bargain position, extracting a larger part from the liquid benefit resulting from the cooperation. The simple threat of transfer of his position increases his expected payoff immediately. The theoretical foundations of these games are still for proving, but evidence the difficulty of reaching a stable agreement if there aren't restrictive regulations in relation with "new entrants" to the



Regional Organizations. The blackmail strategies and bluff can happen. The negotiations become more difficult and the agreement more unstable.

Anyway, the advantages of the cooperation are unquestionable. The process of establishing the agreements and his operational performance is a subject whose analysis stays unfinished. And it puts in relief the institutional subjects and the need of evaluating the transaction costs involved in the process of establishing the agreements.

3. THE UNITED NATIONS AGREEMENT (1995) AND THE ENLARGEMENT OF EEZs

In 1992, the United Nations accepted the accomplishment of a Conference on the Management of Transboundary Resources and Highly Migratory Species. The final Agreement came in 1995.

In the negotiations *two thought schools* emerged. For both it seems obvious that the management regime of the stocks in the areas adjacent of High Seas should be the same that guides the portions of that stock in EEZs.

The first school supports the “consistency-principle”. This simply states that the applied regime to the portion of the stock in the area adjacent of High Sea should be consistent with the established regime for the portion of the stock inside the EEZ. Innocuous (or maybe not), the principle seems to repeat the need of no divergence in the management regimes for the same stock. Be noticed, however, that the relationship, just as it is put, has not the two senses. By the article 56, the coastal country determines the management regime in his EEZ and, consequently, if it goes acceptance the consistence need, it owes the same regime to be in force for the remaining part of the stock. The preferences of the coastal State appear as dominant. MILES and BURKE (1989), great defenders of this solution, maintain that the article 116 establishes that the coastal State has a superior right, responsibility and interest in the management of the straddling stocks.

For the marine potencies that principle is just a reflex of the “Creeping Jurisdictionalism” that shapes the recent evolution in the Maritime International Laws. Some coastal countries,



especially those with extensive continental platforms (like Canada), intend to maintain, or simply to waive, that principle to value his negotiation power. The distant waters fishing nations speak about co-management and justify their role in the determination of a management regime for those stocks. However, if such a rule was established, for consequence, the marine potencies could influence the administration regime out of EEZs, and inside of them. For the coastal countries, this position, designated "School of Artº 64", limits the sovereignty in their EEZs.

In this context, a commitment emerged:

- It maintains the free access over the 200 miles and guarantees to the Regional Organizations the regulation power in the areas adjacent to EEZs. The largest innovation is the capacity of those Organisations to extend their rules to the non-members.
- It was not solved the problem of the “new entrants”. The Agreement just defined that any state with a “real interest” can be member and it should be encouraged to integrate the Organization. However, it was not defined what means, in practice,” real interests.”
- To the Organizations, the right is checked of establishing capture shares and controlling the number of boats for a given stock or area. But the Agreement doesn't say anything concerning as the decision it should be taken, if for consensus, if for majority. Once again, it will depend on the practice. The enforcement is another problem, because any state, by itself, can apply the law out of his territory.
- The extension for there of the 200 miles was not referred at least by two reasons: the administration experiences inside the EEZs were not brilliant and there are historical reasons that put irreconcilable interests face to face.

The Agreement intended to promote a new cooperation formula among states interested in the administration of the resources. Surprisingly, in the European Union, USA and Canada the Agreement was well received, but in Portugal it was seen with reserves.

The Agreement foresees the constitution of a regime of management and control to assure the sustainable use of the population units in the High Sea and appeals for the international co-operation in the management. In practice the cooperation has been



sensible, especially in the NAFO area, and the new rules seem to work. After the “turbot war” case, the bilateral relationships between UE and Canada have been directing for a more narrow collaboration in terms of conservation measures and control in the area of NAFO. This cooperative atmosphere was not enough, however, to hide some important problems.

THE ENLARGEMENT OF EEZ: A SOLUTION OR A NEW PROBLEM?

Despite some interesting results, this Agreement continues being reason for discussion, especially in the context of NAFO. Facing the weak results obtained in the recovery of cod stocks, the leaders of the organizations of fishing of the Newfoundland have been proposing the enlargement of the EEZ to the limit of the 350 miles making it to coincide with the limits of the Continental Platform.

In the case of Portugal, this subject deserves an additional reflection. The Continental Platform (and its own statute) lost importance in the new Law of the Sea. But it didn't disappear and, we should remember, it was starting from the platform that grew the pretensions to the 200 miles. Now, it is possible (and probable) that the eventual failure of the system now proposed will carry up the attempts of presenting the resolution of the problem of the straddling stocks with a simple answer: to enlarge EEZs. And the most evident *corollary*, that extension coincides with the continental platform.

In fact, the United Nations recognize that the limit of the 200 miles doesn't make any biological sense. On the contrary, the Continental Platform has an unquestionable geomorphological existence. It's natural that the coastal countries consider it as an extension of their territory and appeal to the management of the resources, not just of the bed, but also of the above adjacent waters. HANNESSON (1996) puts the things in a clear way. The solution for the problem of High Sea fisheries would be a new extension of EEZ. This extension would be a logical step in the process that took the establishment of EEZs, recognizing that it was not enough to assure the necessary conservation of the stocks. To extend EEZ for the waters above the continental platform would be in agreement with the rules that govern the bed of the platform. These rights belong to the coastal State of whose terrestrial mass the platform is the natural extension.



So, a new group of several issues needs now to be answered:

- The “domestic authority” that Canada is complaining for the areas adjacent to EEZ, following Russia and other countries of Latin America is (or is not) a pressure position?
- The Cooperative atmosphere that suited the 95 Agreement is a case of co-management or is just a necessary truce face to the depletion situation of the stocks? Is the cooperative management of the High Seas possible? Maintaining the competition and a simple process of division of shares? Are we approaching the “common property/res communes”, in the sense of Bromley, “property of all, managed by all?” Or, on the contrary, as soon as the stocks are recomposed (if such it is still possible) will the pressures for the enlargement of EEZ turn to be the first priority to Canada?

The Canadian Minister of Fisheries, in diverse interviews, is denying those pretensions. But, he always reminds that, in agreement with the Law of the Sea, the management of sedentary species in the Continental Platform for there of the 200 miles is already domain of the coastal state and that Canada will never stop exercising all their rights (!). We also retain the position of the Portuguese Fisheries Minister, in 1995 (after the turbot war case) for whom the intention of Canada was to increase his negotiation weight and to justify a possible increase of his EEZ for the 300 or 400 miles. And a hidden intention: from behind of everything there is the historical right to the cod fishing and the Canada/Norway alliance to remove the Portuguese and Spanish fleets of the waters where the "precious fish" inhabits.

CONCLUDING REMARKS

The discussion around the enlargement of EEZ and a certain rehabilitation of the juridical and economical statute of the Continental Platform that have been proceeding, brings a new impulse to the debate about the possible evolution of the International Maritime Law. The United Nations recognizes that the limit of the 200 miles doesn't make biological sense; the statute of ZEE is of functional type. On the contrary, the Continental Platform has a geomorphological existence and it's natural that the coastal countries consider it a natural extension of their territory and intend to manage the resources in the above waters. For



some decision makers, an extension of the EEZs would be a logical step in the process that took the establishment of those zones recognizing that the limit of the 200 miles is insufficient in terms of conservation of the resources.

In Portugal, the recent Governments have been assuring that a fundamental objective of the Portuguese marine policy should be the exploitation of the Continental Platform. Without putting in cause the economic, political and scientific interest of this action, we think, however, that the *media* apparatus that has been accompanying this declaration of intentions is not, perhaps, very careful, especially because these interventions can be interpreted as an agreement position in relation to the possible extension of EEZs. Does Portugal have advantages to align in the process of “creeping jurisdiction” so wanted by Canada or by Norway? In the context of Portuguese fisheries, extension of EEZs would have undesirable effects. Portugal would loose fishing opportunities for long distance fleet, without granting additional benefits or resources, given the closeness of our Platform.

And, what about islands countries like Cape Verde? Have they advantages in the EEZ enlargement? Of course they will have more fisheries resources but at the same time more enforcement costs. We don't have an answer by now but what we want is to push the debate. Nothing better than a Congress like this...

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