Seabed Politics and International Law: A Review of *Seabed Politics* by Barry Buzan – And New Developments in International Seabed Politics

LIU Zhongmin* LI Xingya**

Abstract: This article introduces the main contents and research methods of the book *Seabed Politics* by the Canadian scholar Barry Buzan. The book analyzes the occurrence and the development of the political process of the international seabed regime by reference to full and accurate historical data, adopting a historical approach. The book, through seabed politics, reviews the interactive relationship between economic value and political processes, as well as the interaction and interplay between political actions taken by countries and international organizations and the international legal regime. Barry Buzan's thinking is significant for both research into the present international seabed regime and the law of the sea, and even the whole international legal regime. Based on the review of Barry Buzan's thinking, this article discusses the new development of the international seabed regime over the 30 years since that book was published.

Key Words: Seabed Politics; Law of the sea; Continental shelf; Area; International seabed regime

---

* LIU Zhongmin, a researcher of Marine Development Institute of the Ocean University of China, a MOE Research Base for Humanities and Social Sciences, the professor of School of Law of the Ocean University of China. This article is part of the research achievement of the MOE Project of Key Research Institute of Humanities and Social Sciences in Universities of 2004 "The Development of World Ocean Politics and the Selection of Maritime Strategies of China" (Project No.: 04JJDZH017), of the sub-program of MOE Key Project of 2003 "Research on Strategies of Chinese Ocean Politics " (Project No.: 03JZD0024), an of Shandong Social Sciences Planned Project of 2004 "Research on Strategies of Chinese Ocean Politics in the 21st Century" (Project No.: 04BMZ01).

** LI Xingya, a graduate student enrolled in 2004 in the School of Law of the Ocean University of China.

Since ancient Rome, people have begun to pay close attention to the ocean - the azure waters, and ocean regime has experienced changes. During the changes in the ocean regime over thousands of years, the seabed has been sleeping all the while, hardly being noticed by the human society. In the 19th century, under the impact of a rapid developing science and technology, the seabed began to acquire an importance of its own: the laying of marine telegraph cables, offshore oil exploitation and the discovery of the economic value of all kinds of seabed nodules have drawn people's attention to this long ignored area. The political scramble among States developed as economic interest in the seabed grew, with the core and key lying in the ownership of the seabed and the allocation of relevant interests. The fight in connection with the international seabed regime and the establishment of the U.N. Seabed Committee gave rise to the profound changes made in the entire international law of the sea, which directly led to the Third United Nations Conference on the Law of the Sea and the creation of the United Nations Convention on the Law of the Sea. However, among the research on international law and international politics, there is rarely any systematic research on the international seabed regime. While the *Seabed Politics*[1] by the Canadian scholar Barry Buzan is a masterpiece in the field of international seabed regime.

Barry Buzan is a researcher at the Institute of International Relations of the University of British Columbia who attended the three Conferences on the Law of the Sea of the United Nations. In his book *Seabed Politics*, he uses full and accurate historical data to provide a systematic discussion about the generation, development, evolution and development of the seabed issue as well as the development of seabed law, and gives an accurate analytical prediction about the development of international seabed conditions in the future based on his incisive insight. In 1976 when Barry finished this book, the argument about the seabed had not finished and the Third United Nations Conference on the Law of the Sea was still under way. As the recorder and summarizer of this segment of history, Barry laid a solid foundation for later researchers. This book was published 30 years ago and seabed law has undergone 30 years of twists and turns, however, the development of seabed law has not ended. Hence, it is beneficial for us to review Barry Buzan's thoughts and to apply his unique analytical method to today's research on seabed law and the law of the sea, and even the whole international

---

1 Barry Buzan, translated by Shi Fuxin, *Seabed Politics*, Shanghai: SDX Joint Publishing Company, 1981. (in Chinese)

legal regime.

I. Main Contents of *Seabed Politics*

There are in total eleven chapters in the book *Seabed Politics*. In the Introduction, Barry Buzan raises three questions in the first place: (1) who owns the seabed and how should its development and use be controlled, and how does it develop into an international issue? (2) How is the issue resolved? (3) What are the factors deciding the resolution of this issue? Through these three questions, the subjects of the research in *Seabed Politics* are put forward, namely the generation, resolution and influencing factors of the issues related to seabed ownership and control. From Chapter 1 to Chapter 10, based on a large amount of historical data, he carries his chronological account of the generation and development of the seabed issue involving political forces, as well as the evolution of seabed law in detail. Additionally, he carries out an in-depth analysis of the international political contest over the seabed. In this part, he examines the following three aspects: the development of economic and technical factors increasing the value of the seabed; the actions taken by various countries against the seabed issue, especially the claims made by countries to seabed area; and the actions taken by international organizations against the seabed issue, particularly the possibility whether such actions may generate positive international jurisdiction and supervision. Chapter 11, the last chapter, is the summary and conclusion, where the author arrives at his own opinion based on the analyses of the previous historical data: the issue of seabed politics became international due to the influence of economic and technical factors and reflected the interaction of economic value and political processes. Countries and international organizations took actions to seek a solution for the seabed issue, and the factors influencing the resolution of such an issue were very profound and complex. The resolution of the seabed issue depends on the initiative of international organizations to take an active part in international seabed affairs and to promote organizational development. Various interest groups and political alignments in connection with seabed politics were created, which had a profound influence on the political process of the seabed issue, the seabed law and the development of oceans law. The following is a concrete analysis and exploration of seabed politics in chronological order.

A. Before 1945: the Sprouting of Seabed Politics

Barry Buzan indicates that the history of seabed politics is closely related with the history of ocean politics. In ancient Rome, the ocean was considered as a "common possession" without the division into high seas and territorial waters. People thought the whole ocean was just as inexhaustible as air, and anyone could use it but not own it. In the Middle Ages, maritime countries were impelled to raise sovereignty claims to the oceans due to the competition in the oceans with the development of commerce and seafaring. In 1493, to confirm the geographical discoveries made by Portugal and Spain, the then Pope Alexander VI enacted a papal edict to specify a meridian in the Pacific Ocean as the boundary for Portugal and Spain to exercise their control over the ocean. By then, the ocean, which had been deemed a common possession in ancient Rome, had started its process of division. Division of the ocean hampered the development of capitalism, giving rise to a fierce fight between supporters of sovereignty over the ocean and those of the maintenance of freedom of the seas. In 1609, Hugo Grotius, the Dutch jurist known as the "father of modern international law", published his book *Mare Liberum* (*The Free Sea*), which first formulated the notion of freedom of the seas. This notion was opposed by Selden, a British jurist representing the interests of traditional maritime countries, which began the debate about the concepts of "*mare clausum*" and "*mare liberum*". The debate ended in the 17th century with the establishment of the legal order of the freedom of the seas and sovereignty over territorial waters, and it was generally established that an area covering three nautical miles off the coast should be under the control of the coastal State.

In these changes to the ocean regime, the seabed drew very little attention because it was a region out of reach. However, with the rapid advancement of technology, people had turned their attention from the surface to the bottom of the sea. The exploration of the ocean depths and the laying of marine cables gradually highlighted the importance of the seabed. In the meanwhile, the development of marine science and technology and fishing technology, among others, caused States to be dissatisfied with the existing jurisdiction of coastal States, and some States started to seek more extensive coastal jurisdiction unilaterally. In the Conference for the Codification of International Law held in 1930, it was obvious that the two parties were in opposition to each other: one was the maritime powers trying to defend the existing ocean regime, and the other was the less-powerful States and

non-maritime States seeking changes to the old regime that damaged their interests. As this conference failed to reach an agreement as to the limits of territorial waters, more and more countries took unilateral action thereafter, which symbolized the beginning of the long process of coastal States enlarging their jurisdiction unilaterally. For the issue of seabed politics in this period, Barry only briefly introduces in the first chapter the fact that this is the start of the seabed issue, the initial development and achievement of seabed science and technology. A great amount of information was acquired through the long and tedious survey of the seabed by the end of the 19th century, which was powerful enough to prove that the continental shelf is the natural extension of the continental plate.[2] This conclusion was the cornerstone for the countries to assert claims to the continental shelf.

B. The First Stage of the Development of Seabed Politics: 1945-1958 [3]

After the World War II, coastal States sought every way to enlarge their jurisdiction over maritime areas by extending the breadth of the territorial sea, changing the baselines for its measurement and declaring special contiguous zones, etc. On September 28, 1945, the then American President published the President Truman's Proclamations on U.S. Policy Concerning Natural Resources of Sea Bed and Fisheries on High Seas to claim that "the Government of the United States regards the natural resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control",[4] which again broke the traditional order and attracted the attention of the world to the continental shelf. Afterwards, claims over the continental shelf became an important means for coastal States to enlarge their jurisdiction. For example, such countries as Mexico, Guatemala, Iran and the Philippines declared their functional jurisdiction over resources in the same way as America.

With the wave of countries raising claims over the continental shelf unilaterally, many countries, one after another, started to claim broader territorial

---

2 Barry Buzan, translated by Shi Fuxin, *Seabed Politics*, Shanghai: SDX Joint Publishing Company, 1981, p. 12. (in Chinese)

3 In the book *Seabed Politics* by Barry Buzan, the seabed issue involves the continental shelf as well as the deep-sea bed, but not merely the "international seabed area" we now refer to.

4 Barry Buzan, translated by Shi Fuxin, *Seabed Politics*, Shanghai: SDX Joint Publishing Company, 1981, p. 15. (in Chinese)

waters. Countries such as Argentina, Chile, Costa Rica, Ecuador, El Salvador and Peru made territorial claims to the continental shelf and the superjacent waters over the continental shelf. The government of Chile declared it would carry out protection and control over the maritime area covering 200 nautical miles from it coast, and El Salvador even declared the whole of the 200 nautical miles to be territorial waters. These extreme claims were, as a matter of fact, using the seabed to seek broader fishing areas.

While unilateral actions were increasing with each passing day, countries with the same ocean policies in small geographic regions started to make joint declarations, and alignments about seabed politics came into being. In August 1952, Chile, Ecuador and Peru in the Latin America published the Santiago Declaration to declare that the three governments had complete sovereignty and jurisdiction over the sea area adjacent to and extending 200 nautical miles from the coasts of their countries.[5] This Declaration laid the foundation for the extreme coastal States to build long-term positive alignments to defend their standpoint. Yet in the whole Latin America region at that time, Latin American States did not reach a regional consensus as to the question of oceans law because of their differing geographical conditions.

The international community also made active responses to the increasing number of unilateral actions. In response to the swift development of legislation on the oceans, since 1949, the International Law Commission had discussed the various problems relating to the territorial waters, high seas and continental shelf many times and proposed draft provisions on the law of the sea, which provided a series of systematic proposals to be discussed at the United Nations Conference on the Law of the Sea.

C. The Initial Establishment of the Seabed Regime and Its Destruction: 1958-1967

The second and third chapters of *Seabed Politics* describe the processes and results of the First and Second United Nations Conferences on the Law of the Sea, and the process whereby international power thereafter rendered the Geneva Conventions unsuitable to the development of new trends. When the First and

---

5 Barry Buzan, translated by Shi Fuxin, *Seabed Politics*, Shanghai: SDX Joint Publishing Company, 1981, p. 28. (in Chinese)

the Second United Nations Conferences on the Law of the Sea were held in 1958 and 1960 respectively, oceanology was blooming and marine activities were diversifying, such as research and development of navy technologies, research on marine science and the development of the offshore oil industry. The development of the offshore oil industry, in particular, had made people become aware that marine resources might be exhausted, and caused the international community to gradually agree on the coastal States' expansion of jurisdiction over the resources on their continental shelves. At this point, the argument about the limits of territorial waters had become increasingly furious, and at least half of the countries attending the United Nations Conference on the Law of the Sea wished to have jurisdiction over the maritime area extending more than three nautical miles.

Blocs of countries emerged at the two Conferences, in which 29 belonged to the western bloc, 10 to the Soviet Bloc, 20 to Latin American countries, 9 to Arab countries, 16 to Asian countries and 2 to African countries. These countries formed different alignments based on their own claims: one side consisted of the vast majority of the Western countries, and the other side consisted of Arab countries and Eastern European countries. Latin American countries and Asian-African countries were scattered between these two alignments about half-and-half. The alignments resulted in polarization. The divergence between the parties to the cold war and the opposition between maritime States and coastal States dominated the Conferences, which reflected alignment conditions in the era of the cold war as well as the true divergence of interests in the dispute. The western developed countries with their colonies and allies insisted on the regime of narrow territorial seas out of tradition and economic interest, hoping to keep freedom of the seas to the largest extent for ocean users, while the developing countries such as Latin America and Arab countries wished to increase the extent of their control over offshore resources and activities as well as the forms of control. Due to the cold war and for the purposes of fishing and security, the Soviet Bloc shared the same standpoint as the developing countries to seek greater coastal interests, which lead to a balance of power between the alignment based on ocean benefits and the alignment based on coastal benefits. The interweaving of the cold war and the divergence of ocean interests made the problem even more complicated.

Four conventions were adopted at the Geneva Conference of 1958, including the Convention on the Territorial Sea and the Contiguous Zone, Convention on the High Seas, Convention on Fishing and Conservation of the Living Resources of the High Seas and Convention on the Continental Shelf. As no agreement on the

breadth of territorial sea had been reached, the Second Conference on the Law of the Sea was convened in 1960 to focus on the territorial waters and fishing zone. However, due to the fact that the divergences could not be bridged, no agreement was reached on the conference. As for the seabed issue, the Geneva Conference of 1958 established the principle of continental shelf, and coastal States acquired exclusive rights to explore and develop the natural resources of the continental shelf. "The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation."[6] It also defined the continental shelf as "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas."[7] This definition flexibly employed the term "admits of the exploitation" to reduce the difficulty of establishing a regime, which was widely accepted at that time and helped to maintain seabed politics quiet for a certain period, but such ambiguous concepts as "adjacent" and "admits of exploitation" served as the basis for future adjustment to the regime.

Of the 86 countries which attended the Geneva Conference of 1958, developed countries were in the majority, as only 30 Asian, African, and Latin American developing countries attended the conference. Therefore, the Geneva Conventions better reflected the will of developed countries. After the 1960s, the appearance of a large number of emerging countries significantly changed the context of the international community, and the Geneva Conventions gradually failed to meet the new trend. In addition, with the rapid development of science and technology, technological development capability advanced increasingly beyond the 200 meters of exploitable depth of the continental shelf, and certain principles and rules in the Geneva Conventions were difficult to apply.

The springing-up of the movement for national independence on a large-scale caused the developing countries to shake off their relationship with their ex-colonial masters and to become a group with common interests. The Group of 77 had become an important means for the developing countries to oppose the developed countries. In the 1960s, the fact that a large number of new countries were founded in Africa and the establishment of Organization of African Unity

---

6 Article 2 of the Convention on the Continental Shelf.
7 Article 1 of the Convention on the Continental Shelf.

gradually strengthened Africa's say on the international stage. Before 1967, more and more developing countries claimed a broader limit for territorial waters, and the claims for 12 nautical miles were no longer in a minority; instead, they became equal in number to the claims for a narrow territorial sea. Back then, the western developed countries were dedicated to utilizing marine technology and capability, and Soviet Union improved its ability to fish on the high seas and its oceanographic research to establish its position as a great maritime power, starting a "marine competition" with the United States. The progress of marine activities, especially the rapid development momentum of the offshore oil industry, re-attracted people's attention to the seabed, and the prospect of the exploration of nodules on the seabed also caught people's eye. From 1966, the United Nations General Assembly paid even closer attention to the seabed issue, and the developing countries also realized their common interest in it and were unwilling to let the minority of developed countries use their technical advantages to monopolize numerous important new resources in the area which was not yet open to possession or control by anyone. All the evidence indicated that a new round of political scramble for the seabed was just around the corner.

D. The Second Stage of the Seabed Politics: 1967-1976 [8]

Chapters 4 to 10 of *Seabed Politics* recount the process of the second round of political scramble for the seabed. On August 17, 1967, Arvid Pardo, the Maltese ambassador, presented a proposal "Declaration and Treaty Concerning the Reservation Exclusively for Peaceful Purposes of the Seabed and of the Ocean Floor, Underlying the Seas beyond the Limits of Present National Jurisdiction, and the Use of Their Resources in the Interest of Mankind" to the 22nd United Nations General Assembly. Pardo's proposal became a key event in the history of seabed politics, which brought the seabed issue to the center of people's attention again. He proposed that the seabed and ocean floor and their resources beyond national jurisdiction should be the common heritage of mankind, a key principle soon supported by the United Nations and the great majority of countries. In December of the same year, the United Nations General Assembly adopted the

8 As a matter of fact, the negotiations in connection with seabed politics did not end in 1976. It is only that the book solely covers matters before this point, and developments after 1976 will be introduced in what follows.

Resolution No. 2340 establishing an ad hoc committee, consisting of 35 members, to study the peaceful uses of the seabed and the ocean floor beyond the limits of national jurisdiction. The ad hoc committee collected and collated a large amount of background information concerning the seabed issue, clarified the divisions between each group and tried to reach an agreement on the principles for a declaration on the seabed. As no agreement on the principles for a declaration on the seabed was reached in the United Nations General Assembly in 1968, it was agreed in December 1968 by Resolution No. 2467A of the United Nations General Assembly that a permanent seabed committee consisting of 42 members, namely the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (hereinafter referred to as "Sea-Bed Committee"), should be established, which basically continued the work of the ad hoc committee. The Sea-Bed Committee spent two years of hard work to draft the declaration of principles, in which process various interest groups had gone through disintegration and unification, confrontation and compromise. In 1970, Resolution No. 2749 was passed by the 25th United Nations General Assembly, namely the "Declaration of Principles governing the Sea-bed and the Ocean Floor, and the Subsoil thereof, beyond the Limits of National Jurisdiction", which included all the top-drawer points in Pardo's proposal. The international seabed area was proclaimed to be the common heritage of humankind, of which no country may take possession, and the income arising from the seabed should be used to promote development. This area should be reserved for peaceful purposes and an international regime and organization should be established to this end.

In the two years from 1969 to 1970, the political background to the seabed issue started to change. In seabed politics and maritime politics, the interests of coastal States and maritime States conflicted with each other, and the discussion about the seabed regime had been expanded into an extensive discussion on all issues related to the law of the sea.

By the year 1970, the number of the countries advocating broader limits for territorial waters had increased, so had the claims made to the continental shelf. In this context, the international community had concluded an increasing number of agreements on maritime delimitations; however, more conflicts over delimitation also appeared. In the meanwhile, with the great debate over the seabed issue among the international community, all sorts of alignments based on such issues gradually took shape. In the book *Seabed Politics*, alignments were divided into such groups as alignments outside the Conference, regional alignments and specific

alignments, etc. The most outstanding alignment outside the Conference was the developed countries as against the Group of 77 of developing countries. The Group of 77 wished to establish an international marine regime consistent with the general objective of the new international political and economic order, and to take the advantage of their number to challenge the old marine regime by their voting power; developed countries, however, were utilizing their economic and technical superiority to defend the old regime favorable to them. Yet as the negotiations became deeper, the mere analysis of these two alignments was no longer enough to cover all interest groups concerned, and as the negotiations proceeded to a later stage, regional alignments and specific alignments became all the more important. Amongst the regional alignments, Latin America and Africa had developed important roles, and the group of coastal States and the group of land-locked States were independently formed at a relatively early stage amongst the specific alignments.

A series of maritime issues, led by the seabed issue, brought all issues relating to the law of the sea on the agenda of the United Nations General Assembly. In 1971, the Sea-Bed Committee turned into a large-scale preparatory committee responsible for the preparation of the Third United Nations Conference on the Law of the Sea, and the full members increased to 91. The expanded Sea-Bed Committee consisted of three working groups responsible for research on the seabed issue, issues relating to the law of the sea and marine environmental protection and scientific research respectively. At this point, developed countries made a series of developments in the exploration of nodules on the deep seabed, and the mining industry in the United States repeatedly submitted the Deep Seabed Hard Mineral Resources Bill to the Congress, wishing to extend US jurisdiction over the exploration of the resources of the deep seabed. The Bill was strongly condemned by developing countries, which triggered a violent debate, and no agreement to completely suspend exploration was reached because of the serious divergences. The United States put the Bill aside at the beginning of 1973 in order temporarily to ease the quarrel. This episode lead to tension in the continuing seabed negotiations, but the proposals of the countries on the seabed regime and organizational problems indicated that the two parties stood prominently on opposing grounds. Most developed countries wished to establish a loose international body, yet the developing countries wished to have a strong international body because the developed countries had mastered the economic and technical advantages in developing the seabed. From 1971 to 1973, as compared with the deadlock in the

seabed discussions, ocean law issues, which were more extensive, attracted people's attention. The Africa Group became stronger and became a unified entity, and land-locked and shelf-locked States, the two major "geographically disadvantaged States", joined up to become the major power opposing the coastal States. Due to the increasing complexity of the policy divergences on the entire ocean issue, these regional alignments or specific alignments played a key role on this issue. The 200 nautical mile exclusive economic zone was initiated by a regional alignment in this period, which was widely accepted by countries.

On December 3, 1973, the Third United Nations Conference on the Law of the Sea was inaugurated in New York. By the end of 1975 when the *Seabed Politics* was finished, three sessions of the conference had been held, with the 2nd session in Caracas, Venezuela and the 3rd in Geneva. After continuous negotiations during these sessions, the continental shelf regime and the 200 nautical mile exclusive economic zone were finally accepted. However, the divergence on the seabed regime and organization was still fairly serious. The progress of the conference made people realize that only by reaching a blanket agreement would it be possible to resolve the entire issue of the law of the sea.

II. The Major Theoretical Achievements of the *Seabed Politics*: the Analysis of the Relationship between International Law and the Political Actions of the Subjects Thereof

Countries and international organizations are the two major subjects of international laws. In the concluding chapter of *Seabed Politics*, Barry Buzan makes a detailed analysis of the roles these two subjects played in seabed politics, and suggests the interaction model for seabed politics (see the Figure below). This characteristic and the conclusion also form the major theoretical achievement of the book.

As shown in the Figure, the economic value of the seabed was boosted with the development of undersea technology and the fishing industry, as well as the increasing demand for resources by countries after the World War II, which caused various countries to make unilateral claims to the continental shelf. The influence of such economic value on the actions of countries also motivated international action. With the increase in unilateral claims, the convening of the International

Law Commission meetings and the United Nations Conference on the Law of the Sea lead to the adoption of the Geneva Conventions in 1958, which was a result of such international action. After the conclusion of the Conventions, countries were subject to the Conventions: on the one hand, the new ocean regime triggered disputes over plenty of maritime areas, for example, many disputes over the delimitation of the continental shelf to various extents occurred in the North Sea, the Persian Gulf, the Baltic Sea, the South China Sea, the Aegean and other sea areas; on the other hand, many new continental shelf delimitation agreements were reached, but in the continental shelf delimitation agreements adopted after the Convention on the Continental Shelf, the principle of "equidistance median line" approved by the Convention was more fully followed. The further development of economics and politics caused an increasing number of countries to become dissatisfied with the provisions of the Geneva Conventions, which no longer provided a balance between certain disputes over maritime rights and interests. The international political conflict evoked by maritime rights disputes required the international community to introduce a general scheme as soon as possible to provide comprehensive and thorough institutional arrangements for maritime issues.

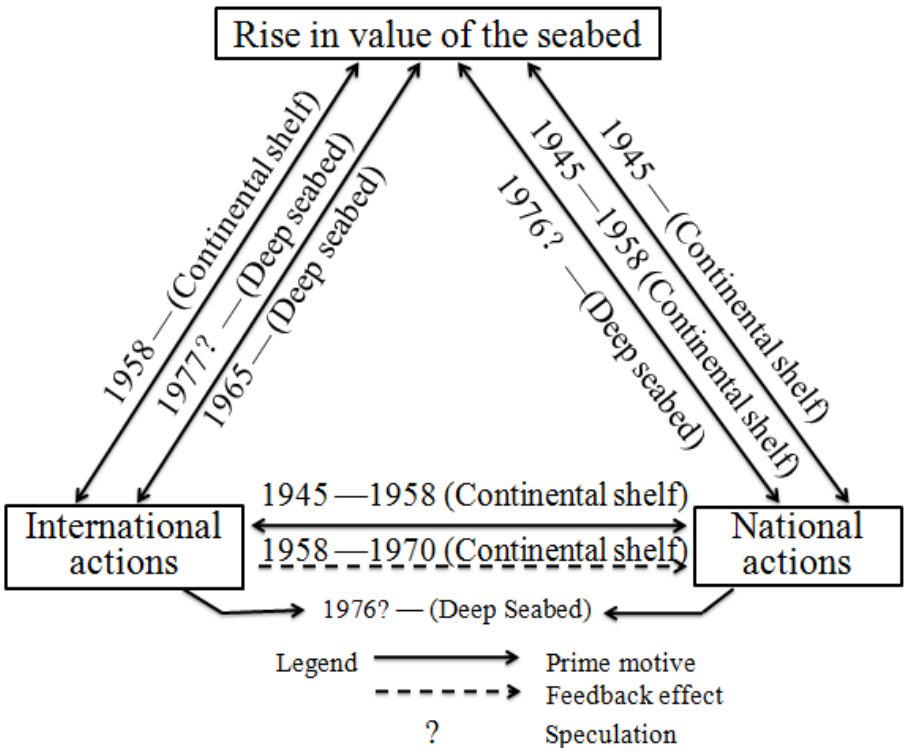

Fig. 1 Interaction Model for Seabed Politics[9]

In the mid and late 1960s, the increase in the economic value of the seabed directly brought about international action. At that time, the value of the deep seabed was not closely noted by any country while international organizations adopted an active attitude, such as Pardo's proposal in the forum of the United Nations in 1967 and the resolution of the United Nations General Assembly in 1970, which declared that the seabed should be the common heritage of mankind. These actions laid the foundation for the establishment of the deep seabed regime.

The international legal regime applicable to a particular region created by the political actions of countries and international organizations would in turn make a difference to the resource development of that region. Just as the conventions concluded in the first two Conferences on the Law of the Sea influenced the succeeding ocean politics and marine economy, the results of the Third Conference on the Law of the Sea will similarly have a material effect on the subsequent world

9 Barry Buzan, translated by Shi Fuxin, *Seabed Politics*, Shanghai: SDX Joint Publishing Company, 1981, p. 319. (in Chinese)

maritime order.

After a brief introduction to the interactive relationship among economic value, political actions and legal rules in the international community, Barry Buzan reaches pertinent conclusions about international negotiations, international organizations and international laws through an analysis of the international political negotiations process at this stage.

A. Analysis of Factors Influencing the International Political Negotiation Process and Their Effect by Taking the Example of the Seabed Political Process

In the analysis of the negotiations, Barry's primary interpretation is from the perspective of the influence on the negotiation process, the influence on the negotiations on the continental shelf and the influence on the seabed regime and organization. And he discusses the factors influencing the speed of negotiations and a State's assumption of international commitments and the contents of specific negotiations.

As for the speed of negotiations, the effect of factors delaying the process was far greater than the stimuli. The complexity of the seabed issue, the procedural problems of a large number of countries participating in the negotiations, and the inability to stipulate rigid deadlines caused negotiations on seabed politics to be a time consuming process. The effect of procedural rules needed particular attention. In the confrontation between alignments backed by the economic and political strength of their member countries, procedural rules for the seabed issue were a matter for negotiation, which slowed down the negotiation process and, however, reflected the strong influence of economic and technical capability on action. Although the developing country group was great in the number of members, its economic and technical capability lagged far behind the minority of developed countries. Further, a unified ocean regime established without these powerful minorities would be unstable. Because of the strong influence of this kind of action, developing countries had a weaker say in international forums even if they could get a large number of votes.

It can be concluded from the analysis of the commitments made by countries that more countries showed a positive attitude toward international commitments. Developed and developing countries both hoped to establish a stable maritime order to make the best of marine and seabed resources. In addition, the development

of such issues as free maritime trade, prevention of military conflicts and marine environmental pollution, drove the countries to agree that certain international issues involving the common interest of almost all countries may only be resolved at an international level. Generally speaking, a region's stable legal regime would always increase its economic value, and the expectation for such a legal regime was just the reason why the time consuming negotiations never stopped, despite the fact that there was grave divergence on the deep-sea bed issues.

Specific subjects of negotiations were the increase in economic value, unilateral actions by countries, the political opinions of various alignments, proposals by international organizations and other results from multiple factors. The above factors interweaved to form the international political negotiation process and the framework of the conclusion, and the above analysis also underlay the entire process of the Third UN Conference on the Law of the Sea from argument, deadlock, and compromise to the final outcome.

B. Discussion of the Role Actively Played by International Organizations in International Politics: Experiences, Lessons and Implications

With regards to the two development stages of seabed politics, the first stage was mainly concerned with the continental shelf. Countries made unilateral claims in the first place, and then actions were taken at the international level, till preliminary agreement was reached via an international conference. At this stage, international organizations, to a certain extent, mainly provided platforms for countries to hold international negotiations. At the second stage, the relevant divergences centered on the deep-sea bed, and the international organizations took the initiative. After 1967 when countries had not yet made claims to the value of deep-sea bed, Pardo's proposal at the United Nations General Assembly motivated the United Nations' active reaction, which thereby dominated the entire scenario of seabed politics in this stage. Well then, would it be feasible in international practice for international organizations to take the initiative to make policies? Barry considers the prolongation of the negotiation process to be the biggest X factor. If the negotiation progressed too slowly, all sorts of factors may have an impact on

the negotiation.[10] At the worst, if progress went too slow, all kinds of deceleration and destruction may lead to a break-down of the entire negotiation. Yet from the perspective of the effect of the international regime, these actions might cause some gradual changes to the international regime where some countries had a dominating place, even if the active conduct of international organization had limited effect.

In addition, the analysis of the seabed politics process may also show the importance of planning and organizing international actions with discretion. In international political negotiations, certain delaying factors may be avoided with care. However, the practical significance of such prudent design and preparation may be weakened because international action may be manipulated by great powers. Anyway, such active conducts by international organizations on the seabed issue as well as their results were highly meaningful for the future evolution of international organizations and the creation of all kinds of international regimes.

C. The Analysis of the Influence of the Seabed Political Process on International Law from the Perspective of Process and Outcome

"International laws are laws for countries. Countries are subject to international laws and are also the law maker. Therefore the force of international laws should rest with the countries themselves, namely the will of the countries".[11] In the process of seabed politics, rules agreed by countries by unanimity would become new provisions of international law. With the emergence of coastal States and developing States, the contents of the law of the sea may differ from those of the previous ones due to the diversification of subjects concluding them and the multiplicity of interest groups. The new maritime order may indicate a greater balance of interests among subjects. The new development of the law of the sea may have some influence on and provide a reference point for other provisions of international law in the future.

The negotiation process on seabed politics was slow but continuous, which indicated, on the one hand, most countries unexpectedly assumed their basic

10 Barry Buzan, translated by Shi Fuxin, *Seabed Politics*, Shanghai: SDX Joint Publishing Company, 1981, p. 347. (in Chinese)

11 Wang Tieya ed., *International Law*, Beijing: Law Press China, 1995, p. 9. (in Chinese)

obligations under the international law.[12] Their trust in international law showed that the seemingly frail international negotiations might in fact be capable of bearing greater pressures, and the international political process which appeared to be all divergence and in danger may, in fact, be endowed with unpredictable flexibility. Even if the negotiations really broke down, this may have a fairly significant influence on international relations. No matter what is the final result of the Third United Nations Conference on the Law of the Sea, this conference would have a major impact on international law. On the other hand, the fact that the slow negotiations on continental shelf issues objectively reinforced coastal States' position demonstrated that customary international law had played a significant role in this process: a claim challenging tradition was raised and accepted by more and more countries with time, and to some extent it can be regarded that this claim was gradually achieving legal status. An analysis like this made people retain confidence in the significance of international law after experiencing repeated, critical incidents where the authority of international law was challenged, and pay more attention to the influence of similar international law-making procedures when handling issues in international relations.

The political process of drafting the international law leaves signposts in the final texts, and "these signposts take the form of vaguely worded compromises, and are often the focus of difficulties in practical implementation of the law".[13]At the first stage of seabed politics, the Geneva Conventions, as the achievement of a political process, were themselves stamped with the then political die. These vaguely worded compromises also became the weak link, which afterwards caused the destruction of the conventions including the Convention on the Continental Shelf. At the second stage, where serious divergences could not be resolved in the international negotiations, abstract and ambiguous texts were adopted to satisfy all parties, which naturally would create difficulties in practical implementation in the future and result in new disputes. With the alleviation, escalation or compromise of these disputes, international law would also be modified, improved and developed.

---

12 Barry Buzan, translated by Shi Fuxin, *Seabed Politics*, Shanghai: SDX Joint Publishing Company, 1981, p. 350. (in Chinese)

13 Barry Buzan, translated by Shi Fuxin, *Seabed Politics*, Shanghai: SDX Joint Publishing Company, 1981, p. 349. (in Chinese)

III. New Developments in Seabed Politics after the Publication of the Book *Seabed Politics*

The book *Seabed Politics* was published over 30 years ago, during which period the Third United Nations Conference on the Law of the Sea has long since finished. The conference adopted the United Nations Convention on the Law of the Sea (hereinafter referred to as the "Convention"), a convention praised as the "comprehensive maritime charter", which created an international maritime legal regime, including the international seabed regime. The Convention finally entered into force in 1994 after many setbacks. Yet the length of the Third United Nations Conference on the Law of the Sea lasted even longer than that estimated in *Seabed Politics* by Barry Buzan. In 1982, after 9 years and 11 sessions of negotiations, various interest groups finally came to a compromise to reach a "blanket agreement". The Convention, while re-stating such customary international law rules as the freedom of the high seas, established a series of regimes such as the territorial waters regime, the transit passage regime, the archipelagic State regime, the regime of exclusive economic zones, the continental shelf regime, the international seabed regime and the regime relating to marine environmental protection and scientific research to establish a whole integrated legal order for the oceans.

The Convention established the regime that the international seabed area (the "Area") and its resources are the common heritage of mankind,[14] which should be used solely for peaceful purposes. "1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State or natural or juridical person appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights nor such appropriation shall be recognized. 2. All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alienated in accordance with this Part and the rules, regulations and procedures of the Authority. 3. No State or natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area except in accordance with this Part. Otherwise, no such claim, acquisition or exercise of such rights shall be

14 Article 136 of the United Nations Convention on the Law of the Sea.

recognized."[15] The Convention set up a specialized International Seabed Authority to carry out the control of Area and the management of its resources, and used the "parallel exploration system" for the transitional period to develop a regime for the resources in the Area.[16]

The adoption of the seabed regime went through all sorts of difficulties, and the seabed regime under the Convention was finalized in 1977. Nevertheless, the United States and some western industrialized countries enacted domestic laws contradictory to this regime and requested that the draft convention should be reexamined. Therefore at the end of the Third United Nations Conference on the Law of the Sea, the consensus principle had to be given up and the Conference ended in voting. The Convention was adopted with an overwhelming majority of 130 affirmative votes, with four negative votes and 17 abstentions. However the use of voting meant that divergences among different interest groups still existed.

Being dissatisfied with the international seabed regime provided under the Convention, the United States, United Kingdom, Germany and other western countries did not sign it and requested to resume the talks about the seabed part of the Convention. Some developed countries even concluded restricted treaties to oppose the Convention and establish their own deep sea-bed mining regime. For example, the United States, Germany, United Kingdom and France concluded the Agreement Concerning Interim Arrangements Relating to Polymetallic Nodules of the Deep Sea Bed in September 1982, and the US, Germany, France, Japan and other States concluded the Provisional Understanding Regarding Deep Sea-bed Matters in 1984. The developing countries were compelled to make concessions in consideration of the integrity and universality of the Convention, the huge cost burden of establishing the International Seabed Authority and the International Tribunal on the Law of the Sea and the concern that the market for

---

15 Article 137 of the United Nations Convention on the Law of the Sea.

16 The Area may be co-developed by the Enterprise of the International Sea-Bed Authority with the State or private individuals by the following method: any State or entity desiring to exploit the international seabed should, in the first place, file an application with the International Sea-Bed Authority to acquire a contract. The applicant should provide the Authority with two "mine sites" of equal commercial value as well as the information and data thereon. The Authority chooses one as the "reserved area" to be the exploited by the Enterprise itself or jointly with the developing States, and the other as the "non-reserved area" to be granted by the Authority to the applicant for development. The applicant must transfer technology to the Enterprise, and transfer profit pro rata to the Authority, which should distribute such profits to developing States. This system is to be implemented for 15 years and then move to the single exploitation system.

deep seabed mining was not as promising as imagined. The Group of 77 issued a statement in 1989, declaring that: in order to ensure the universal acceptability of the Convention, the Group of 77 was willing to negotiate with any group and any countries that signed or did not sign the Convention about the Convention and any issue in the work of the Seabed Preparatory Committee. In July 1990, the Secretary-General of the United Nations addressed a letter to the five permanent members of the Security Council as well as other countries concerned to suggest the initiation of informal negotiations on the international seabed issue to seek the universality and integrity of the Convention and to bring the Convention into force as soon as possible. The Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10, December 1982 (hereinafter referred to as the "Agreement") was finally adopted after two rounds of informal negotiations (15 negotiations in total) were carried out from July 1990 to June 1994. The Agreement made significant adjustments to the provisions under Part XI of the Convention, including those in connection with the decision-making process of the organs under the International Seabed Authority, the functioning and operation of the Enterprise, the deep sea mining production policies and financial clauses. It also laid down stipulations regarding provisional applications and arrangements concerning temporary membership, considering the divergent interests and requirements of all the parties concerned, especially those of the developed countries and potential deep-sea bed mining countries, thus laying the foundation for the full implementation of the Convention and avoiding the coexistence of two international seabed area regimes. On November 16, 1994, the Convention became formally effective and the International Sea-Bed Authority was established, which symbolized the fundamental establishment of a widely-accepted international seabed area regime.

It was quite a tortuous and complicated journey for the seabed regime from its first proposal to the final establishment. It could be said that the adoption of the Convention through voting in 1982 was a victory for group efforts and the huge number of countries who manifested their voting power, but the developed countries fully gained the upper hand in the international negotiations thereafter with their strong economic and technical resources. The seabed issue, a primary issue discussed at the Third United Nations Conference on the Law of the Sea, triggered the reconstruction of the whole ocean regime. It could be observed from the analysis of the factors influencing the negotiations that the pressure from developed countries' unilateral actions resulted in deadlock in the negotiations

on the one hand, and on the other hand bestowed them with important chips to be tough in international negotiations. After 1977, the internal legislation of developed countries concerned with the seabed regime and the restricted treaties, though they violated the principle that "the international sea-bed area is the common heritage of mankind", created a powerful political effect in the international community. Not all unilateral actions could achieve their purposes, however, and the reason why the requirements of developed countries may be achieved is that they were backed by strong resources and technical capability. On the contrary, the insufficiency of resources and technology and the lack of relevant seabed information were the Achilles' heel for developing countries in the international negotiations, putting the developing countries at a disadvantage, though they had the advantage of voting power. Judged from the perspective of the establishment of a new international maritime order, the modification of Part XI of the Convention undoubtedly leads to frustration on the part of developing countries that have been opposed in the fight for a new international economic order. This is a significant and temporary compromise under pressure from developed countries, showing that the gross divergences have not been bridged. Seeing from the perspective of the developmental track of seabed politics, one can say that it was still possible to break the temporary calmness of the relevant seabed regimes through the enhancement of the comprehensive national power of developing countries and the gradual improvement of the new international political and economic order.

It should be noted that, however, the negotiations on this Agreement were initiated and convened by the Secretary-General of the United Nations. International organizations once again played an active role in the new round of international negotiations, promoting the universal application of the Convention and the establishment of such organizations as the International Sea-Bed Authority. The active involvement of international organizations opened up new thinking for the international political process as well as the construction of an international legal regime for the future.

Translator: CHENG Xiaoyan
Editor (English): Chris Whomersley