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***CARL SCHMITT AND THE TAKING OF  
THE SOUTH CHINA SEA***

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## CARL SCHMITT AND THE TAKING OF THE SOUTH CHINA SEA

*Leonardo Neiva*<sup>1</sup>

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**Abstract:** China has established a string of synthetic islands in the belt of the South China Sea. Then it militarized those islands and began claiming possession of the entire region. Under the body of Carl Schmitt's theories at the *Nomos* of the earth and the relation of political enmity, this work aims to explain the consequences of this issue for the international legal order. To this purpose, we clarify the idea of *Nomos* of the earth and stress its relevance for the development of International Law. Then, we describe the international legal system on the Nations of the Sea, namely The United Nations Convention on the Law of the Sea (UNCLOS). We also exhibit the strategic value of the South China Sea and the current framing of those problems inside present day international law. However, we argue that the mere deployment of law enforcement cannot settle the situation. For the only country which could effectively challenge the new South China Sea Nation, given the volume of the Chinese financial and navy power, is the USA. Hence, this work explains how the relationship among the two powers, i.e., on the one hand, the democratic capitalist United States of America and, on the other hand, the dictatorial communist China, grew to what Carl Schmitt describes as a relation of enmity. An enmity stems from the ultimate existential conflict among groups, that could in the end lead to war. It is, then, from the conflict between the US and China that will emerge a new *Nomos* of the earth as well as a new law regulating the possession of the South China Sea.

**Summary:** 1. Introduction; 2. The nomos of the earth and the evolution of International Law; 3. The nomos of the sea and the United Nations Convention on the Law of the Sea; 4. The taking of the South China Sea; 5. The enmity between China and the United States; 6. A new *nomos* of the Earth and a new ordering of land and sea?

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### 1. Introduction

China has built a string of artificial islands in the Pacific Ocean region known as the South China Sea. Then it established military bases on those islands to enforce recognition of the country's sovereignty over that vast portion of the sea, including the territories of the Paracel Islands and of the Spratly Islands. Beijing insists on its historical ownership of the region, hence why the only purpose of the militarized artificial islands would be to help to uphold their claims.

However, neighboring countries oppose Chinese demands. They essentially allege that Beijing has trespassed territories that pertain to their exclusive economic zones and seized international waters (in offshore zones) high in oil and fish. And since the region holds some of the most important maritime trade routes, including a valuable route towards the Pacific countries, China's territorial demand also

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faces opposition by some farther countries, such as Australia, Japan, and even the United States, which own the important territory of Guam in the Pacific region.

In light of Schmitt's theories on the *Nomos* of the earth and the relation of political enmity, this article aims to analyze the implications of China's takeover of the South China Sea for the international legal order. Therefore, it will exceed the mere framing of the issues within the laws currently in force in International Law.

To properly understand the issue, the second section of the article will demonstrate the importance of the *nomos* of the earth, as well as the taking and ordering of the land, accordingly to Schmitt, for the shaping of the international legal order. We will explain how International Law originated from the European Law of Nations, which had the goal of regulating the taking of land and the circumscription of war – that is, its restriction within the determined boundaries of given locations as well as the constraint of its engagement within the limits of given civilizational rules. Then, in the third section, we will display the history of the *nomos* of the Sea and the international regulation of the taking and ordering of the sea. Furthermore, we will examine and explain the key provisions of the United Nations Convention on the Law of the Sea, i.e., the norm that currently regulates the legal relations between sovereign states and the sea that bathes their coats (including the assets it contains). In the fourth section, following the necessary theoretical accounts, we will analyze the taking of the sea carried out by China in light of the current International Law. In the fifth section, we will explain how the relationship between the U. S. and China developed into what Schmitt called an enmity relationship. Finally, in the sixth and last section, we will argue, considering Carl Schmitt's definition of policy, that the solution to the present situation is not merely legal but necessarily military, the hostile relationship between two major powers, China, and the United States. This enmity presumes war, at least as a potentiality. And it is from the clash that will succeed a new *Nomos* of the earth and a new ordering of international law.

## **2. The *nomos* of the earth and the evolution of International Law**

Each legal order follows the conquest, measurement, and division of land by a group, whether it is a tribe or a nation. Therefore, the taking of the land is at the very commencement of all states and empires. Hence, all kinds of property stem essentially from the initial demarcation of the land, followed by the first division of fields and pastures. This implies that the ownership or possession of land is the first legal title ever. But the legal consequences of the land-taking surpass ownership. For whoever is the lord of the land is also the lord of the men settled in it. In other words, the essence of political power consists of jurisdiction over the land. Just like it was in the ancient world, it still is in the modern world. Every legal relation stem from the *nomos* of the earth, i.e., from the historical event of the actual

land-taking. This real force, this historical reality legitimates the whole legal order. Carl Schmitt (2014, p 37-47) explains this in his work entitled *The Nomos of the Earth*.

Once a tribe or nation takes control over the land, the people start to work its soil, changing it forever. First, they turn land into farms. Then, to establish the boundaries between the ordered (and sacred) territory and the chaotic outer world, they build cities and fortifications. Moreover, as tribes and nations must interact with each other, international relations also derive from land-taking. For many millennia neighboring empires and tribes had the costume of establishing relationships, which essentially means signing peace treaties, commercial treaties, and marriage (between the nobility) treaties. But each ancient empire perceived itself as the center of the globe, and the rest of the surface as utterly land without lord, i.e., land available for takeover and colonization. And if the neighboring tribe was to be perceived as a threat or effectively was a threat, then the usage of war typically meant a form of extermination and capturing of slaves. Roughly speaking, this was the situation regarding war and land-taking in the ancient world.

This scenario only changed with the settlement (consented or not) of barbarian armies within the borders of the Roman Empire. The merge of conquerors and conquered generated new Christian nations, from which emerged a new *nomos* of the earth, resulting in a new ordering of the land, as well as in the creation of a new kind of unit, the *Respublica Cristiana*. Also, *from this originated a sort of a family of Christian nations. Its foundations were the earthly power of the Empire and the spiritual power of the Church, the feudal lordship over the land, and the personal relationships of vassalage. The European Law of Nations was created, aimed to conduct the relations between the continent's rulers and to restrict the violence of war within certain boundaries (SCHMITT, 2014, p. 54-56).*

*In terms of spatial ordering, there was, on the one hand, the European / Christian soil; and, on the other hand, the non-European / Christian soil. The first was designated for distribution between Christian princes, who could fight restrained wars; the other was available for military conquest, especially if it was a part of a Christian reconquest of land. Thus, as they aimed reconquest, the Crusades were considered just wars and received authorization by the very Church. They gave the acquisition of the land a just title.*

But since the 16<sup>th</sup> century, from France to the rest of the continent, gradually all the feudal, estate, and ecclesiastical rights underwent the authority of the centralized national monarchy. Then the European national state began to arise, settled within the borders of its territory and sovereign, not only in relation to its neighbors but also in relation to the Sacred Empire and the papacy of Rome. This led to the replacement of the medieval Law of Nations order by a new legal order, based on the interstate relation and established upon a solid territorial foundation. The terrible religious civil wars were

neutralized by the state, which resulted in a change in the concept of just war. Papal authority was no longer very relevant, and the idea of just war was to become that which implies the conflict between sovereign states and within the boundaries of some formal rules and with equal rights.

If there was a formal declaration, a sovereign state could simply decide to attack its enemy to carry out a land seizure, hence why this enemy was not seen as a criminal, but, rather, as a *Justus Hostilis*, i.e., a just enemy. And, as such, an adversary worthy of respect. Because each state had the *Jus Belli*, the right to declare and wage war, the European land war was fought, so to speak, like a gentlemen's duel. The restraint of the war was guaranteed through a process of formalization, and its usual course tended towards a peace agreement. Only identified soldiers engaged in the battles, whereas the civilians were always put aside the conflict (SCHMITT, s. a., p. 91). Doing it so, the annihilation of the enemy was no longer an objective of war. And many of the European wars were started by reason of succession disputes and, therefore, were fought between closely related princes. This was the very axis of European policy (SCHMITT, 2014, p. 149-157).

But during the 16<sup>th</sup> century, as a result of the discovery of the New World, the spatial order changed thoroughly. Now there was plenty of open spaces for colonization and expansion of the European world. In this context, the European sovereign states developed a new *nomos* for the rest of the globe. "From the perspective of the *jus publicum euroæum*, all the land on the planet is either state territory of European States or of similar States, or it is still necessary to be occupied, that is, potential state territory or potential colony" (SCHMITT, 2014, p.182).

In the beginning, the Pope apportioned the New World between the reigns of Portugal and Spain, but after a few years the papal authority no longer reached much of Europe, and the Law of Nations had no force in the new overseas lands. England and Holland wanted their own colonies, and there was no longer a higher authority that could arbitrate the struggles, as they were for the New World a part of the struggle between Protestants and Catholics. This time the war had been fought without limit within the newly discovered lands. In certain colonial conflicts, not even women and children were spared. This implies that, unlike what happened on European soil, in the space of the New World there was a true state of nature, that is, the law of the strongest prevailed. In short, there was a clear difference between European state soil and colonial soil, and likewise between European war and colonial war (SCHMITT, s.a., p. 77-81).

The expansion of Christianity was used by both Protestants and Catholics as a pretext for their territorial conquest so that the initial land acquisition title was the discovery for catechesis. However, it soon passed to effective occupation and so remained until the 19th century.

The order of sovereign States lasted from the 16th century to the beginning of the 20th century. And much like the previous order, it allowed land-taking in particular areas of the continent, settled

by wars between States. The prince of the land changed, but the private property remained the same, as guaranteed by the constitutions that upheld the liberal state. More importantly, the preservation of the general order also occurred. They intended to avoid the kind of *nomos* that break the entire spatial order, i.e., the one that usually follows great annihilation wars between great powers.

Then, in the 18<sup>th</sup> century, European Public Law began to decay. In the context of the independence of the United States of America and other countries of the continent, the Western Hemisphere freed itself from the European colonial rule and imposed a limitation on the international order centered on Europe. Following the Monroe Doctrine, Americans enforced that the continent would no longer be a land of unrestricted warfare and land-grabs for Europeans, i.e., a sort of a no man's land. Rather, it would be, thenceforth, a region of high interest for the United States.

However, the deterioration of the legal order grew in intensity throughout the 19<sup>th</sup> century, when the European powers began to accept other powers at the negotiating table, such as Japan, Turkey, and America itself. If the old distinction was between Christian and non-Christian peoples, the new was between civilized and uncivilized (SCHMITT, s. a., p. 78). At the commencement of the 20<sup>th</sup> century, there was already a real International Law, although not very well defined. Henceforth, Europeans could no longer impose their legal order on the world, neither their concepts of just war nor their permitted land-taking hypotheses (SCHMITT, 2014, p.244-248).

American diplomacy repeatedly attacked the European idea of the free *Jus Belli* of sovereign states. Public opinion and American authorities started to treat the aggressor prince as a criminal, i.e., to consider the author of the first shot worthy of punishment, just like someone who commits a crime. Thus, one began perceiving wars as strange criminal actions, in which the winner becomes the judge of the loser. In these terms, World War I broke under the former European Public Law of sovereign states but ended, much by America's strong influence, with the discriminatory treatment given to William II, the Emperor of Germany who initiated the conflict. The former Kaiser was almost severely punished. This was a decisive step towards the criminalization of the war of aggression and the taking over of land (SCHMITT, 2014, p. 279-287).

Then, there occurred another meaningful shift in the concept of just war. The winning side of the war created the League of Nations in Geneva through which they implanted a system of financial, economic, and diplomatic sanctions for aggressive war and reclaimed the power of assessing the very lawfulness of the act. That is, there was again an attempt to criminalize land-taking. The League intended to guarantee the territorial integrity and political independence to all its members.

In 1928, however, American diplomats finally succeeded in changing the legal meaning of war through the signing of the Kellogg Pact, which contemplated the formal condemnation of war as an

instrument of national policy. At the same time, according to the Stimson Doctrine, the United States has reclaimed the right not to recognize any territorial change, anywhere on the planet, that was carried out by force rather than by law. Of course, America has reclaimed the very power to define, in the specific case, what the Law is, acting as a judge for every land seizure that takes place in the world (SCHMITT, 2014, p. 330-336). Moreover, the country adopted the Tobar Doctrine, for which only democratically elected governments of states organized under a democratic constitution would be recognized as legitimate. Once again, it is the American interest that defines the concepts of a democratic and legal election. Just remember, for instance, that countries like Saudi Arabia, a monarchy that barely respects individual rights, are not only recognized by America: they are allies. Thus, while condemning the war of aggression, the United States granted itself the right to intervene worldwide. This is the new face of international law, shaped by American power. As Schmitt (1940) asserts, equality between states is a mere fiction.

And this entire process of changing the meaning of war reached its peak after World War II, with the creating of the UN. The organization was founded with the declared purpose of saving "succeeding generations from the scourge of war" and ensuring "that armed force shall not be used, save in the common interest." Thus, to "maintain international peace and security", the UN intends to suppress "acts of aggression or other breaches of the peace", replacing war with peaceful settlement of disputes, such as negotiation, international arbitration, and the judicial solution. Thus, the taking of land was definitively prohibited by all major world powers.

To carry out its goals, the UN granted itself broad powers. Through the Security Council, a body composed of fifteen members, whose permanent members are the war powers, China, France, Russia, the United Kingdom, and the United States, the United Nations can take severe measures against States that resort to a war of aggression or promote the breach of peace. According to article 41 of the UN Charter (BRASIL, 1945), measures may initially be taken such as the complete or partial interruption of economic relations, railway, maritime, air, postal, telegraphic, radio, or other means of communication of any kind and the disruption of diplomatic relations. Any regime can be destroyed or destabilized by a non-military blockade of this nature.

But if this is not enough, the Security Council can carry out, through air, naval or land forces, the action it deems necessary to maintain or restore international peace and security, which may "include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations", by article 42 of the Charter. This implies that the United Nations may use military operations against States that attack others. Considering International Law, the *jus belli* no longer belong to the sovereign State, at least not fully, as defense actions are still authorized by article 51 of the Charter.

It should be noted that, under the terms of article 27 of the UN Charter, to apply the measures it is required the vote of nine members of the Security Council, including all permanent members. In other words, the negative vote of any of the five powers that are permanent members works as a veto for the resolution, and nothing can be done. Partly because of this rule, the UN was not successful in completely preventing the land-grabbing war. In fact, since the signing of the letter, new conflicts arise every year, many of them fought by the powers that make up the permanent members of the Security Council. However, there is no denying that a completely new international legal order had been established, an order that prohibits and severely punishes the taking of land.

### **3. The *nomos of the sea* and the United Nations Convention on the Law of the Sea**

According to the *jus publicum euroæum* of the 16th and following centuries, while, on the one hand, sovereign States had to divide the land, on the other hand, the sea was outside the territory of any State; it was not owned by any lord. Thus, the surface of the sea was considered a fully free zone for any nation to act on, whether for trade, for carrying out maritime warfare, or for the seizure of booty. There were two distinct legal orders, one applicable for land and the other one applicable for sea. Therefore, land law (including property rights) and peace did not reach the sea, where prevailed a certain state of nature, i.e., the law of the strongest. (SCHMITT, 2014, p.182-188).

Such dualism of legal orders had a reason to be, namely, the global presence of the British Navy, the only one that could act efficiently in all parts of the world. The British were the lords of the sea; therefore, they knew that it was in their interests to maintain it free, especially for their corsairs, who played a double role. First, during the 16th and 17th centuries, British privateers, who acted beneath state authorization, were a powerful weapon of the country's offensive against Spain in the struggle between the head of Protestant states against Catholics. Second, the spoils they plundered enriched both the privateers themselves and their country. Thus, under the reign of Elizabeth I, England went from just a humble country of shepherds to a wealthy nation of bold sailors, who built a global empire based on the domination of the seas (SCHMITT, s.a., p. 46-48).

This scenario, however, also started to change due to British hegemony. It turns out that the sea supremacy of the British was so prominent that they began applying their jurisdiction over other nation's ships when they passed nearby the country's coasts, such as the North Sea and the English Channel. Dutch author Bynkershoen then spread the idea that state sovereignty extended over the seacoast, as far as land-based cannon batteries could reach. The peace treaties of Utrecht, in 1713, established that the sea strip of three nautical miles (equal to 5.5 km, counted from the coast towards the ocean) would henceforth be state territory. Thus, the first officially recognized sea *nomos* took



place. Also, after this period, the corsairs were all outlawed (SCHMITT, 2014, p. 193), through which they became pirates.

In 1823, the prohibition of new land-takings in the Western Hemisphere by European princes was reinforced by the Monroe Doctrine, held by the U. S., although the country had already taken broad areas of territories itself. Thenceforth, it was in its best interest to protect that area, organized for self-defense, to be a kind of buffer zone, where American supremacy surpasses their borders. Initially, there was no definition of its range. But, in 1939, the Declaration of Panama established a neutral safety zone at sea that extends for no less than three hundred nautical miles (550 km), both in the Atlantic Ocean as in the Pacific Ocean. The demarcation of such an exclusion zone for war activities, this defensive line, represented a new form of sea-taking. “Now the borders of America have also extended to the sea” (SCHMITT, 2014, p. 306).

Interestingly, the technical progress of naval warfare means did not change the three nautical mile framework until 1982, when the United Nations Convention on the Law of the Sea was signed in Montego Bay (BRASIL, 1990). Since then, there was the development of a legal order for the seas and oceans. In other words, a new sea nomos was established, but this time under the tutelage of the UN and, therefore, intended to achieve the institution's stated principles, such as the maintenance of peace, justice, and progress of all peoples of the world.

UNCLOS regulates several aspects concerning both civil and military navigation. For instance, the right of way for vessels and through international straits, the waters of archipelagic States, the creation of a Court International Law of the Sea, the set of criteria for marine research, inland waters. But, most importantly, the definitions of the territorial sea, contiguous zone, exclusive economic zone, international waters, and their respective ordering. Once more: the Convention created a new sea nomos and a whole legal order based on it. With that, we will establish the premises to analyze Chinas' behavior in the South China Sea, an analysis which, as mentioned, will not be decisive.

Early on, in the Preamble, UNCLOS establishes a critical point for our study. The seabed, its subsoil, and natural resources located in waters that are beyond the limits of national jurisdiction are acknowledged as a common heritage of humanity. Its exploitation, then, must be carried out for the benefit of humanity in general, in spite of the geographical situation of the States. Thus, all areas of sea that are not a territorial sea, EEZ, inland waters, or archipelagic waters are considered high seas, i. e., extends over which no State can exercise sovereignty. The high seas, therefore, is not “anyone's water”, but an asset that belongs to the whole of humanity, without restrictions on navigation, fishing, flyby, laying submarine cables, building artificial islands, and scientific research, according to the Article 87 of UNCLOS (MATTOS, 2014).

According to Article 2 of UNCLOS, the sovereignty of the littoral State fully extends beyond its territory to an adjacent sea zone designated by the name of territorial sea, which may be fixed up to a limit of 12 nautical miles (or about 19 km) from the coastlines. Immediately after the territorial sea begins, under Article 33 of UNCLOS, it is the contiguous zone, a sea area of 24 nautical miles (38 km) from the baseline, in which the State can carry out inspection activities, to prevent violations of its customs, health or migration legislation in its territory or territorial sea. That is, it is an area where the State can board vessels, to prevent the crime to reach its territory. In the Article 55 et seq., UNCLOS regulates the exclusive economic zone, an area of sea 200 nautical miles (slightly more than 320 km) from the baseline, where the coastal State has sovereignty for conservation purposes nature and economic use of both marine resources and the subsoil below the seabed. In the exclusive economic zone, all States enjoy freedom of navigation.

Regarding the ownership of marine resources, the Montego Bay Convention also determines that coastal States have sovereignty over the Continental Shelf, which is the natural extension of the terrestrial territory under submarine areas, up to the outer edge of the continental margin, or even 200 nautical miles away from the baselines. Such sovereignty comprises neither the ocean floor and its oceanic crests nor its subsoil.

It is worth mentioning that the importance of islands increased significantly after the signing of UNCLOS, since the States that own small landmasses have sovereignty over large areas of territorial sea and exclusive economic zone. That is to say that, when States dispute the ownership of uninhabited islets, they are, in fact, disputing ownership of the adjacent sea and its assets, which involves both fishing and oil and gas of the ocean floor (SOUZA, 2018). It's not the taking of land that matters. Rather, it is the taking of the. For instance, this is why Brazil maintains a permanent scientific expedition in the archipelago of São Pedro and São Paulo, almost 600 miles (960 km) from its coast.

According to Articles 56 and 60 of UNCLOS, the coastal State has exclusivity in founding artificial islands throughout its exclusive economic zone and may set up 500 meters safety zones around these islands. However, such artificial islands do not have the legal status of islands, nor do they have their territorial sea, so that their presence does not affect the delimitation of the territorial sea, the exclusive economic zone, nor the continental shelf. That is, the building of artificial islands does not change the limits of coastal State sovereignty.

Lastly, UNCLOS's article 279 establishes the peaceful settlement of the conflicts between its signatory countries on the interpretation and application of the convention. Thereby, for instance, if there mounts a controversy over the range of the territorial sea, the parties must seek a solution through negotiation, inquiry, mediation, conciliation, arbitration, judicial means, resort to regional entities or

agreements, or any other peaceful means to their choice. First, they must attempt a consensual solution, and if this is not possible, they must send the issue to the International Tribunal for the Law of the Sea, located in the German city of Hamburg, or to the International Court of Justice.

There are more than 150 signatory countries of the Convention on the Law of the Sea, including Brazil and the greatest military powers in the world such as Russia, India, Great Britain, France, and China. The United States of America did not sign the Convention, challenging the interpretation criteria of the expression “qualified majority” used in it. Other countries such as Venezuela, Israel, and Turkey also refused to sign the Convention. The U. S., the United Kingdom, West Germany, and France signed a treaty on the exploitation of some deep-sea resources, Polymetallic Nodules, in open disagreement with the newest discipline of the International Law of the Sea.

#### **4. The taking of the South China Sea**

The South China Sea is a substantial part of the Pacific Ocean, occupying over 2.174,000 mi<sup>2</sup> (3.500.000 km<sup>2</sup>), extending from Singapore to Taiwan, from Vietnam to Brunei, from Malaysia to the Philippines. It also reaches the coasts of Indonesia, Thailand, and Cambodia. And, although it does not reach Japan, South Korea, or Australia, the South China Sea is crucial to these countries, as it hosts the most relevant sea-borne trade routes within the entire Pacific region. It is, actually, the shortest route between Asia and the Middle East. Furthermore, American commercial ships carry many billions of dollars across it. Also, almost half of the world's oil travels through those waters, plus at least one-third of global transport. And, finally, to maximize its total worth, the region encompasses plenty of natural resources, accounting for 23% of fisheries on the Asian continent, besides oil and gas reserves even higher than the Brazilian subsalt (SOUZA, 2018).

In 2015, images of Chinese ships building a series of artificial islands in this part of the sea were captured by satellites. The construction started with the burial of natural reefs and used sand dredged from the seabed. Then, in the following years, military intelligence footage began to record massive constructions on such artificial islands, such as airstrips, concrete buildings, and harbors. Initially, the Chinese authorities claimed that the islands would have only peaceful purposes, serving as support to fishing and cargo shipping. After a few more years, however, it became evident the militarization of these artificial islands. They mounted the islands with intercepting missile launchers, naval guns, radar, and modern fighter planes. In sum, the Chinese artificial islands operate as naval air military bases, really fixed aircraft carriers.

Once the islands were well-armed, China began to forcefully reaffirm its former claim to ownership of virtually the entire South China Sea (90% of the area), according to its map, the so-called “nine-line line”. For instance, some of the areas claimed by the Chinese are 1,200 nautical miles from

their mainland coast, and only 100 miles from the coast of the Philippines, Malaysia, and Vietnam (GAZETA DO POVO, 2020). Beijing argues that the area is its historical possession, dating from the conquest of the imperial era, that is, many centuries ago. But with the military islands, China started to demand the recognition of its sovereignty over that region, started demanding a new sea nomos in that area.

That extent of sea is crucial for the flow of Chinese production, especially because of its plan to recreate the Silk Road, i.e., the “One Belt One Road” project, which involves the construction of a series of roads and railways between the country and Europe, in addition to a network of ports around the world. China has built an extensive infrastructure network designed to move its industrial exports and the raw materials the country needs. Much of these goods pass through the sea area claimed by Beijing.

So where does China stand regarding UNCLOS? Following a basic operation of framing the facts into the norm, it is possible to conclude that Beijing quite clearly violated the terms of the Montego Bay Convention. States cannot take for themselves areas of international waters and extend their territorial sea far beyond 12 nautical miles, according to Article 2, especially areas that belong to the EEZ of other nations. An area of the sea located between artificial islands is also not suitable for the expansion of the territorial sea or the exclusive economic zone, according to articles 56 and 60 of the already mentioned convention. Neither can China extract natural resources from the claimed area, given that the preamble of UNCLOS ensures that the exploitation of underground resources in international waters must be done for the benefit of all humanity. Finally, China cannot prevent the passage of ships through the region, whether civil or military, as the area, under international law, simply does not belong to it. This is all very clear, so there can be no confusion about the present issue. Beijing acted illegally and carried out a takeover, against the terms of the agreement it signed within the scope of the United Nations.

So, what can be done by States that are at odds with the decision? UNCLOS itself asserts that the solution must be sought by peaceful means, such as international arbitration or the filing of a complaint in the International Tribunal for the Law of the Sea or in the International Court of Justice. This is what the Philippines did about the issue of artificial Chinese islands and the ownership of Islands Spratly and Scarborough Reef submitting it to an arbitral tribunal under UNCLOS, which ruled against Beijing in 2016.

However, the Chinese simply ignored the decision and mentioned a range of mistakes such as UNCLOS' lack of competence to deal with the matter. Beijing further claimed that “the Chinese people have been present in the South China Sea region for over two thousand years”, and that there would

be no international challenge to their historic rights in the region until the 1960s (EMBASSY OF THE PEOPLE'S REPUBLIC OF CHINA IN BRAZIL, 2020). Article 33 of Annex VI of UNCLOS establishes that the judgment of the International Tribunal for the Law of the Sea “is final and shall be complied with by all the parties to the dispute”, but why would the Chinese obey such a provision if they did not respect the rest of the convention?

What happens within any State is, when one appeals to the judiciary, the judge pronounces the sentence and, thereby, practices justice in the concrete case. Usually, the defeated party admits the decision and willingly endures it. In many other cases, however, the losing party refuses to comply. Thereby the security forces are put into action and enforce the judge's order by force, whether by capturing the fugitive, seizing the stolen vehicle, or evicting the defaulting tenant. Coercivity is an essential component of the Law, i.e., the potential to forcefully apply the norm on those who attempt to violate it (CARVALHO, 2003). But how to execute a sentence of an arbitral tribunal at the expense of a superpower? How to compel a powerful state to quit an international area it illegally occupied? There are some means foreseen in the UN Charter. As explained in the first section of this paper, the Security Council can impose several measures against a state that threatens international peace, both military and non-military. But, given that any resolution of this body depends on the affirmative vote of the five permanent members, including China itself, the UN, therefore, will do nothing against Beijing in this case.

And since the international bodies are not able to settle this issue properly, the solution, then, will necessarily come from China's clash with other sovereign states, especially the most powerful of all: the United States.

## **5. The enmity between China and the United States**

The United States of America is the most powerful nation in the world, its hegemonic superpower. Economically, it also has the largest GDP in the world, which reached the figure of twenty-one trillion dollars in 2019 (WORLD BANK, 2020). Its currency, the dollar, is the store of value and the standard medium of exchange for the international financial market. The largest companies in the world, technology leaders, are American. Militarily, it is also the greatest power of all, with its regular army having more than 480,000 men, the most prepared troops in the world; more than 14,000 medium and large armored vehicles; 100,000 light armored cars; and more than 2,000 attack helicopters. Furthermore, U.S. Air Force has their planes equipped with the best technologies available, with more than 1200 fighter planes, including the stealth fighters (invisible to radar) of the fifth-generation F-22 and F-35; more than 150 strategic bombers; and more than 200 attack drones. U.S. major force, however, is its Navy, having no less than 11 large nuclear aircraft carriers, in which

more than 650 fighter planes, 90 large ships, 69 nuclear submarines, including fighter and attack submarines and guided missile launcher submarines operate. If in the past centuries England was the Mistress of the Seas, nowadays this title and space are both held by America. The fourth arm of its military, the Marines, still gives it an amphibious assault capability, unmatched by any force, and performs with no fewer than 32 amphibious assault ships (many being small aircraft carriers), 17,000 armored vehicles, among traditional and amphibious assault, 177 attack helicopters and 422 fighter jets. And, as if that wasn't enough, U.S. has more than 3800 nuclear warheads set for employment (THE HERITAGE FOUNDATION, 2020).

Culturally and religiously, the U.S. is capitalist, republican, Masonic, and Protestant Christian (CARVALHO, 2015). This is their common ground, so to speak. strong internal debate between progressive liberals and conservatives. Thus, it can be said that, historically, liberal thinking prevails in America, but is moderated by Christianity. In recent years, the internal debate has been waged between a conservatism focused on the working class, prevalent in rural regions, and radical liberalism in the field of customs associated with certain socialist ideas, which prevails in large cities, especially among the younger ones. In general, the ideas of individual freedom, economic freedom, free thought, and freedom of expression, and equality before the law are deeply rooted in the American popular mentality, which is reflected in the legal order. The American Constitution consecrated the country under democratic rule of law, a classic bourgeois liberal State, in which public power is strictly controlled by society, serving to guarantee individual liberty, private property, and the freedom of industry and commerce. In other words, the American State works as an armed guarantee to order and peace, and that is why it is divided and limited. The idea of equality before the law results in inequality in voting and the universal suffrage of American democracy (SCHMITT, 2011, p 187).

Culturally and religiously, the U.S. is capitalist, republican, Masonic, and Protestant Christian (CARVALHO, 2015). This is their common ground. The nation also holds a strong internal debate between progressive liberals and conservatives. Thus, it is reasonable to say that liberal thinking historically prevails in the U.S., though mitigated by Christianity. In recent years, the domestic debate has been carried, on the one hand, by a conservatism focused on the working class, prevalent in rural regions, and, on the other hand, by radical liberalism in the field of customs associated with socialist ideas, which prevails in bigger cities, especially among the younger population. In general, individual freedom, economic freedom, free thought, freedom of expression, and equality before the law are deeply rooted in the American mentality, whence it reflects on the legal order. The American Constitution set the country under democratic rule of law, a classic bourgeois liberal State, in which public power is strictly controlled by society and intended to guarantee individual liberty, private

property, and the freedom of industry and commerce. In other words, the American State works as an armed guarantee to order and peace, and that is why it is divided and limited. The idea of equality before the law results in inequality in voting and the universal suffrage of American democracy (SCHMITT, 2011, p 187).

Clearly, the U.S. is, in some sense, an empire. Some would say the contemporary Rome or the new see of the Western Empire. According to Schmitt (1940), the concept of empire does not only apply to a giant state that absorbs other nations nor only to large unions of states, but also to situations in which a given state projects its political idea over a significant territorial area and does not admit another power interfering in such territory. Thus, in an empire, a given people act as the protector of other people in a spatial sphere. History illustrates that this kind of rule does not always end quite well for the ruled people, but this discussion exceeds the scope of this work. What is relevant here is that the U.S. is an empire in the Schmittian sense, just like China is too.

Surely this is a new type of empire, given that the U.S. has shifted its relations of power towards other states to a different ground. Following its independence from the British, the country went through a period of imperial expansion. Through remarkable military and diplomatic efforts, the American people carried out a huge process of land taking, of *the nomos* of the Earth. They bought Louisiana, annexed Texas, waged war against Mexico, from which they took California, bought Alaska from Russia, waged war against Spain, from which they took Rico, Guam, and the Philippines (that soon became independent). All of that occurred between the 18th and 19th centuries (CARVALHO, 2015). Then, in the 20th century, the country signed several intervention agreements with Caribbean and Central American nations, through which such smaller nations, such as Panama, Haiti, and Cuba (before the revolution) remained formally independent, but had their foreign policy linked to America and lost their *Jus Belli*, i.e., precisely what characterized them as States (SCMITT, 2014, p. 330-336).

But America was founded on an anti-imperialist discourse. There were always some segments of its society that promoted this belief. Moreover, commercial interests often led the country to curb its expansionist inclination. Thus, the U.S. did not develop a continuous imperial policy. Instead, they alternated between moments of expansion and isolationism, depending on who was in power (CARVALHO, 2015). Throughout the 20th century, however, they developed a new approach concerning the taking of land, an unprecedented event in human history. The country not only refused to annex territories after winning World War II. Also, it was the main author of the UN doctrine of prohibition of the war of aggression and land taking. But, rather than classic imperialism, the U.S. opted to build a network of strategic alliances amidst the major Western powers (Canada, Great Britain, France, and defeated West Germany) and the new allies of the Pacific region (South Korea, Australia,

and Japan). This time, the American strategy consists of compounding military and economic strength, by trade agreements and investment exchange, without direct political subordination. The Allies became American military protectorates. The European dependence on military aid from the U. S. is so high that Hazony (2019) even states that the American President acts, in practice, as an emperor of Europe. So, again: there is no doubt that we are dealing with an empire, although a different one.

At times – for instance, during the Bill Clinton and the Obama Administrations – the U.S. attempted to strengthen a project aiming a foundation of a world government, at the expense of its very sovereignty, as envisioned by its financial elite and by its billionaire foundations. Although this idea of globalism is one of Schmitt's great themes, the analysis of the American role in such a globalist project does not fit in the present work.

China, in turn, is one of the oldest empires in the world. For millennia it was one of the most advanced civilizations, concentrating a large part of the world's population. Indicatively, agriculture developed in the Yellow River region around 6,000 years ago, and Chinese writing around no fewer than 4,000 years ago. The country's enormous territory, the third largest in the world, results from the forced embodiment, by a series of dynasties, of several small kingdoms, unified about 2,200 years ago.

Throughout the 19th century, imperial China suffered a dismal decline that provoked profound wounds on its people and, hitherto, yet stirs a strong nationalist feeling in them. After getting rich exporting quality silk and porcelain to Europe, the Chinese suffered a loss by British troops in the Opium War plus a series of succeeding humiliations. First, the British forced the opening of many of their ports, intended mainly for the opium trade in the country. As a result, a significant part of the population ended up addicted to the substance, and rich Hong Kong was taken over. Yet in the 19th century, China suffered trade constraints from several nations and lost its northern territories to Russia, as well as Taiwan to Japan. Many uprisings stirred up the country, to the overthrow of the Qing Dynasty and the very fall of the Chinese monarchy itself. A republican government backed by the Soviet Union even attempted to react, but then the Japanese invaded the region of Manchuria, from where they were expelled only after World War II. Following the conflict, the country was rushed into a bloody civil war between nationalist forces, before Mao Tse-Tung defeat Chiang Kai-shek, who then escaped to Taiwan with more than 1 million people. Then, China shifted to a communist state, and the country was closed once again (SOUZA, 2018). Under Mao, China suffered both an economic and a humanitarian disaster, provoked by the installation of a communist economy plus a violent cultural revolution. Millions of Chinese died from starvation, and many thousands were killed. In 1950, the People's Republic of China annexed Tibet, which considered itself an independent nation. For the



Chinese, however, it was not even a land-grabbing, given the fact, as they argued, that the region pertains, since the 13th century, to the Empire's territory.

In the 1970s, under Deng Xiaoping's government, the country launched a process of economic opening and rapprochement with the United States. The very low wages paid to diligent Chinese workers drew many billions of dollars in foreign investment, especially from the West. This resulted in strong economic growth and, therefore, the country developing into an economic superpower. Having a population of 1.3 billion people, China's GDP of over 14 trillion dollars in 2019 is the second largest in the world. But the most surprising fact about the export-oriented Chinese economy is its high level of sustainable long-term growth. Since 1975, there has not been a single year that its economy has not grown, which usually occurs no less than 5% per year. To illustrate, in 2009, the Chinese GDP was 5 trillion dollars. In the same ten-year period, the American GDP jumped from 14 to 21 trillion (WORLD BANK, 2020).

In the military sphere, Chinese development is also impressive. Around 2000, one of the People's Liberation Army's (the official designation of China's armed forces) greatest assets is its size, having the most extensive military personnel in the world, with more than one million active soldiers. Its armor consisted of lesser-quality copies of Soviet weapons, its missiles were low accuracy and short-range missiles, and its naval and air assets were practically obsolete. But since then, the state-owned Chinese war industry has focused on assembling high-quality equipment, increasing its use of artificial intelligence. China, by the way, has strived to become the world leader in artificial intelligence and integrate cutting-edge both civil and military technology. Currently, Chinese capabilities surpass even American capabilities in some features. It is the case, for instance, in shipbuilding and the development of conventional ballistic and cruise missiles (vital for the modernization of nuclear assets), as well as in integrated anti-aircraft defense systems (DEPARTMENT OF DEFENSE, 2020).

The Chinese Communist Party plans to reach, by the year 2049, a leading position on the international stage and have world-class armed forces, to ensure its status of "a strong, modern, unified and rich nation". The PLA, in all its branches, has no less than 6,300 armored vehicles, 6 nuclear attack submarines and 4 ballistic missile submarines, 46 diesel-electric submarines, 33 large ships, and 37 amphibious assault ships, 2 aircraft carriers diesel, sky jump, in operation (and a CATOBAR-type nuclear aircraft carrier under construction), plus more than 1,500 fighter planes, including the fifth-generation J-20 stealth, and 450 bombers. This requires lots of money. China's military spending exceeded \$200 billion in 2019 and is forecasted to reach \$270 billion by 2023. Furthermore, China has a few hundred nuclear weapons. The effect of so much firepower is the prominence of Chinese military power beyond its borders, which should increase significantly following the construction of military

bases abroad. The PLA already has a military post in Djibouti, in the Horn of Africa region, and plans to build a set of logistical support bases in both Asia and Africa (DEPARTMENT OF DEFENSE, 2020).

The country's complete reunification is one of the main goals of the Chinese Communist Party and means both the full integration of Hong Kong into its political system (i.e., the end of individual freedoms in Hong Kong) and the reconquest of Taiwan. To achieve this, the Chinese have been building several modern amphibious assault ships required for deterrence and military intervention in the Indian and Pacific Ocean regions. Moreover, an increasingly likely scenario is a military incursion against Taiwan.

China is governed by a communist dictatorship, in which political power concentrates in the hands of an elite of bureaucrats, the military, and members of the secret service (CARVALHO, 2012). In economics, Chinese communism slightly resembles Soviet communism. Although the Chinese Communist Party still idolizes Karl Marx, and despite the country has plenty of state-owned companies, there is also ample freedom for individuals to develop economic activity. Chinese citizens can be entrepreneurs and get rich, and many of them are billionaires. But make no mistake: there is no individual freedom in China. People are under 24/7 surveillance. Any criticism of the regime or inappropriate statements can culminate in severe punishment that ranges from job loss to long-term imprisonment. Dissidents simply disappear, no explanations given, including among the famous and billionaires. Companies can be destroyed on a whim. So, private property is actually quite precarious and conditioned. The condition, in turn, is both simple and perverse: complete obedience. In reality, the entire economy remains under the control of the Chinese Communist Party, for the entire society is submissive to it.

Now, *“el comunismo tiene un fin: la unidad del planeta y su smisión a un solo dueño. Su credo es ele materialismo histórico, piedra angular del marxismo”* (SCHMITT, 2012, p. 78) So what we have in the South China Sea region is a collision of interests between two superpowers, one currently hegemonic and the other on the rise. One capitalist, the other communist. One democratic, the other authoritarian. One society based on freedom, the other on obedience. One Christian, the other atheist (who persecutes Christians). The ruling classes are quite different. Naturally, that strategic competition between such diverging empires should result in a relationship of enmity. In fact, it is not like this is unprecedented. The enmity between America and the Soviet Union was based on the same general points of dissension. Since then, East and West have dueled for the right to unify the world in their image.

For Carl Schmitt (2008a, p. 27-29), enmity arises from the ontic incompatibility, from an extreme dissimilarity, between two groups. Enemies manifest a key difference between them, so strong it can lead them to war. Their sole existence calls into question the existence of the other. Then physical elimination becomes a possibility. Such divergence is not necessarily in the economy. In fact, it can derive from anything, religious, cultural, or ethnic reasons, and even a choice for this rather than that other prince, for instance. In the present case, i.e., of China versus the United States, the reasons for the enmity are much evident. One country is democratic and the other a totalitarian dictatorship; one country is capitalist, and the other communist (even though on its own way), one is founded on freedom, and the other on the authority of the Communist Party. In short, each country sees the other as a real threat to their lifestyle. And both fight for the rule of the world. It is ever more evident that the two superpowers are ontologically diverse and in an extreme manner. At this moment, less and less important is the fact that the two countries celebrate big deals with each other becomes

What is common to the ideology of the two enemies is the faith in technical progress as a solution to humanity's problems. On the one hand, the West's belief in this kind of progress derives from Enlightenment and positivism. On the other hand, the East's faith in it derives from the Marxist philosophy of history. Lenin proclaimed the unity of the electrified Earth. However, for technocratic thought, world unity is not only possible but also necessary. Therefore, for the sake of progress (for those who believe in it), one of these two nations, along with their political idea, must accomplish this world unity sooner or later. Thus, the advancement of the technique brings the conflict closer instead of pushing it away (SCHMITT, 2012).

But there is still a crucial point in the America x China relationship, i.e., Taiwan. The Chinese sustain the island's situation as non-negotiable and aim to get it back, for better or worse. The Americans, in turn, established a solid relationship with the island during the Cold War. Although they do not maintain formal diplomatic relations, they sell tens of billions of dollars in advanced weapons to the Taiwanese and pledged, by federal law, to defend the small island's sovereignty. How is it possible to reconcile such antagonistic postures in the long term?

## **6. A new *nomos* of the Earth and a new ordering of land and sea?**

The United States of America and China are in an open dispute for the leadership of the world. Their enmity exceeds the trade rivalry, for they are enemies in Schmitt's conception (2008a, p. 30-31). Hence, both are preparing for war.

Following the building and then increasing militarization of Chinese artificial islands, the Americans have been carrying out a series of naval operations in the reclaimed areas. They simply ignore China's complaints and fly over the islands or sail right alongside them, claiming to exercise

their right of way in international waters. In fact, the Donald Trump Administration has stated that it supports the 2016 UNCLOS arbitral tribunal decision in favor of the Philippines and against Chinese territorial claims (GAZETA DO POVO, 2020). Such activities regularly lead to warnings over the radio and have almost resulted in a crash between ships of the two countries. The Chinese carry out military exercises in the South China Sea, firing anti-ship missiles of the next generation, as well as amphibious landing to show that the area belong to them, and is strongly defended. The Americans arrange naval exercises in the Pacific, along with Australia, Japan and India (all these states that are also enemies of China, each for their own reasons), to show that they can pass through the area if they wish. Military tension in the region is just growing and war in the South China Sea denotes nowadays a real possibility.

“War arises from enmity, for this is the ontological negation of the other being. War is just the extreme realization of enmity” (SCHMITT, 2008a, p. 35). The question of taking the South China Sea, then, is just another event in a much larger dispute. And, in a sense, this war has already started, at least as the Cold War, as an intermediary condition between war and peace. Throughout 2020, the U.S. imposed import tariffs to China above 250 billion dollars, in addition to blocking the operation of the Chinese company Huawei in its country, a key company for the Chinese global 5G internet strategy. However, economic sanctions aim to cause economic damage to the enemy, damage their infrastructure and weaken their ability to fight. To some extent, they are similar to bombings (RICKARDS, 2015). So, it is no overstatement to assert that the two countries are already fighting a trade war. Diplomatic relations have also been weakened, as a Chinese consulate in Texas was closed by order of the U.S. government, which preceded a China's equal response. Members of the Chinese Communist Party will no longer be able to emigrate to the United States.

The dispute also includes propaganda, especially concerning the COVID-19 pandemic. Chinese authorities claim they have made every effort to fight the infection, while U.S. officials point out that China has lied about the seriousness of the disease and deliberately facilitated its transmission to the rest of the world, thus contributing to the deaths of thousands of Americans. They also recall that the Chinese Virus (as President Trump calls it) provoked a severe drop in the country's GDP, whereas China had grown more than 4% in that year of 2020. Surely, it is not up to this work to assess the credibility of the claims of each side. The relevant point here is that the American speech demands China to be held accountable, and this battle of words and accusations between the two nations seems to bring closer the extreme and armed conflict.

The Chinese understand quite properly the nature of the dispute against their enemy. Mao Tse-tung started his military life as a soldier, i.e., a *partisan*, which shaped his political conceptions. Instead

of imagining a world class warfare (like the Soviets), his conception of the enemy had always been strongly territorial. Mao had a very clear idea about what the *nomos* of the earth should be: for the author of Chinese communism, the world should be divided into three, with one part for Europe, one for America, and another for China. On the cold war, Mao had in mind that nine-tenths of combat takes place before the first shot. "The regular red army only appears when the situation is ready for the communist regime." So, for China, everything is arrangement for war. Xi Jinping is very intimate to the ideas of the regime's founder (SCHMITT, 2008b, p. 208-209).

Given all that has been exposed, it is clear that an operation of mere comparison of Chinese attitudes with current International Law, embodied in the United Nations Convention on the Law of the Sea, is not relevant. We can see very clearly that China has violated the laws in force. Nevertheless, the East Asian country does not seem to care much about that. No one will be able to impose effective sanctions on China, not even the UN. Its only menace is the U.S. and its allies.

The *nomos* is not a phenomenon from the distant past. New *nomos*, new partitions and ordering of the earth happen, in some part of the globe, every year, and many will happen in the future, as long as humanity exists. In the words of Schmitt (2014, p. 79), "every new era of coexistence between peoples, empires and countries, between power holders and power formations of all sorts, is founded upon new spatial divisions, new circumscriptions and new ordering of the earth's space".

Thus, in the case of the South China Sea, what the People's Republic of China wants is a new legal order to safeguard its new sea *nomos* and earth *nomos*. Further than that, the Chinese want a new order for the entire world. Just as the current ordinance was shaped under American leadership, China wants rules that support its expansion, a goal familiar to all empires, whatever its ideology be. This sets China in a relationship of enmity with the United States of America. Therefore, the solution for this issue will not come from UNCLOS, but rather from war.

This is not to say that war will necessarily take place. Anyone who witnessed the enmity between the Soviet Union and the U.S. could have predicted the outbreak of a nuclear conflict as a result, but it didn't happen. Neither country fired a missile nor started the war of aggression. Nevertheless, there was an unmistakable winner. The equivalent must happen in the contemporary dispute. Furthermore, everything can change due to a change of government in the American democracy. But what matters is that, whether or not there is an effective conflict, one of the two nations (along with its allies) will have to overcome the other. War must be present at least potentially. If China ends up victorious, new international treaties will endorse its possession of the South China Sea. But if it loses, China will have to accept the American claims to respect the current international law in force in the region.

## References

BRASIL. Decreto nº 19841, de 22 de outubro de 1945. Promulga a Carta das Nações Unidas, da qual faz parte integrante o anexo Estatuto da Corte Internacional de Justiça, assinada em São Francisco, a 26 de junho de 1945, por ocasião da Conferência de Organização Internacional das Nações Unidas. Available on: [http://www.planalto.gov.br/ccivil\\_03/decreto/1930-1949/D19841.htm](http://www.planalto.gov.br/ccivil_03/decreto/1930-1949/D19841.htm). Access on: 22 out. 2020.

BRASIL. Decreto nº 99.165, de 12 de março de 1990. Promulga a Convenção das Nações Unidas sobre o Direito do Mar. Available on: <https://www2.camara.leg.br/legin/fed/decret/1990/decreto-99165-12-marco-1990-328535-publicacaooriginal-1-pe.html>. Access on: 22 out. 2020.

CARVALHO, Olavo de. **Curso Teoria do Estado**. Aula 09. 2003. Available on: <http://www.seminariodefilosofia.org/>. Access on: 03. mar. 2018.

CARVALHO, Olavo de. **O jardim das aflições**. Campinas: Vide, 2015.

CARVALHO, Olavo de. DUGIN, Alexandre. **Os EUA e a nova ordem mundial: um debate entre Alexandre Dugin e Olavo de Carvalho**. Campinas: Vide, 2012.

DEPARTMENT OF DEFENSE (United States of América). Office Of the Secretary of Defense. **Military and security developments involving the People's Republic of China: annual report to congress**. Annual report to Congress. 2020. Available on: <https://media.defense.gov/2020/Sep/01/2002488689/-1/-1/1/2020-DOD-CHINA-MILITARY-POWER-REPORT-FINAL.PDF>. Access on: 18 out. 2020.

EMBAIXADA DA REPÚBLICA POPULAR DA CHINA NO BRASIL (China). **Por que a China diz Não à Arbitragem sobre o Mar do Sul da China?** Available on: <http://br.china-embassy.org/por/sghds/t1388063.htm>. Access on: 22 out. 2020.

GAZETA DO POVO: **Por que a China espera uma vitória de Biden**. Curitiba, 02 nov. 2020. Available on: <https://www.gazetadopovo.com.br/mundo/por-que-a-china-espera-uma-vitoria-de-biden/>. Access on: 02 nov. 2020.

HAZONY, Yoram. **A virtude do nacionalismo**. Campinas: Vide Editorial, 2019.

MATTOS, Adherbal Meira. Os novos limites dos espaços marítimos nos trinta anos da Convenção das Nações Unidas sobre o Direito do Mar. In: ANDRÉ PANNO BEIRÃO (Distrito Federal) (org.). Reflexões sobre a Convenção do Direito do Mar. Brasília: Funag., 2014. p. 21-66.

RICKARDS, James. **A grande queda: como aumentar seu patrimônio no colapso por vir**. São Paulo: Empiricus Research, 2015.

SCHMITT, Carl. El concepto de Império em el Derecho Internacional. 1940. In: SCHMITT, Carl. **Escritos de Política Mundial**. Buenos Aires: Heracles, 1995.

SCHMITT, Carl. **Ex captivitate salus. La unidad del mundo. Catolicismo y forma política**. Lanus: Struhart & Cia, 2012.

SCHMITT, Carl. **O conceito do político**. Belo Horizonte: Del Rey, 2008.

SCHMITT, Carl. **O nomos da Terra: o direito das gentes do jus publicum europaeum.** Rio de Janeiro: Contraponto, 2014.

SCHMITT, Carl. **Teoria de La Constitucion.** Madrd: Alianza Editorial, 2011.

SCHMITT, Carl. **Teoria do Partisan.** Belo Horizonte: Del Rey, 2008.

SCHMITT, Carl. **Tierra y mar: consideraciones sobre la historia universal.** Lanus: Struhart & Cia, [s.a.]

SOUZA, Juarez de. **AS OCUPAÇÕES DAS ILHAS ARTIFICIAIS PELA CHINA NO PACÍFICO: IMPLICAÇÕES GEOPOLÍTICAS E ECONÔMICAS.** Universidade de Brasília. Instituto de Ciência Política e Economia Mundial. Brasília: 2018.

THE HERITAGE FOUNDATION (United States of América). **An Assessment of U.S. Military Power: army, navy, air force, marine corps, nuclear weapons, missile defense.** Army, Navy, Air Force, Marine Corps, Nuclear Weapons, Missile Defense. 2020. Available on: <https://www.heritage.org/military-strength/an-assessment-of-us-military-power>. Access on: 19 out. 2020.

THE WORLD BANC. **GPD (current US\$):** world bank national accounts data, and OECD national accounts data files. World Bank national accounts data, and OECD National Accounts data files. Available on: <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD>. Access on: 18 out. 2010.