



# The dispute between Madagascar and France concerning the restitution of the Scattered Islands which arbitrarily separate from Madagascar

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**Abstract:** The scattered islands of the Indian Ocean are small Malagasy islands located off Madagascar administered by France for over a century; they are now integrated within the French Southern and Antarctic Territories. There are five of them: Europa Island, Bassas-da-India Island, Juan-de-Nova Island, the Glorious Islands, made up of Grande Glorieuses Island and Lys Island, and finally Tromelin Island, the only one located outside the Mozambique Channel and they are called "ocean sanctuaries of primitive nature", with a remarkable terrestrial and marine biological heritage. A bundle of evidence shows that the islets claimed by the successive governments of Madagascar from 1972 were Malagasy state territories and more precisely dependencies of the Sovereign Kingdom of Madagascar until its annexation by France, August 6 1896. Sovereignty over the Scattered Islands has poisoned Franco-Malagasy relations since the independence of Madagascar on June 26, 1960, the date when France granted it independence. With independence, French sovereignty was challenged by Madagascar, Mauritius and the Comoros. These claims, which have been attenuated for a number of years, have been gaining momentum recently, presumably for economic reasons. The Exclusive Economic Zones (ZEE) granted by the United Nations Convention on the Law of the Sea (UNCLOS), in fact give hope for significant hydrocarbon resources in the Mozambique Channel.

**Index Terms** – Scattered Islands, Sovereignty, Exclusive Economic Zones (ZEE), Co-management, territory.

## I. INTRODUCTION

### 1.1. Research background

The Scattered Islands are at the heart of a territorial dispute between France and Madagascar. Many Madagascans claim the restitution of this territory which still belongs to France, and sometimes make voice their dissatisfaction through demonstrations. In international conflicts, territorial contestation concerns the same territory but for a different sovereignty. A distinction is made between de facto international territorial disputes by force and assertive international territorial disputes, by law and negotiations. The concept of territorial conflict is defined by Jean Salmon as a "conflict between States relating to the ownership of a territory or to the manner in which the latter must be divided between them by a border delimitation", [1] definition which extends to State "maritime territory", or even beyond. Territorial negotiations on the Scattered Islands did not exist until April 1960 and the claims come not only from Madagascar but also from Mauritius, which has claimed Tromelin since 1976. What existed were the negotiations for independence. In fact, the paradox or "double bind" [2] is that France by withdrawing these territories from the decolonization process two months before the proclamation of independence challenges them to the future independent Madagascar which was not yet.[3] Territorial conflicts linked to the decolonization process are well known in the region, such as that concerning the Scattered Islands which were attached from 1896, for their administration, to the French colony of Madagascar. The Glorious Islands, Juan de Nova, Europa and Bassas da India, [4] On the other hand, Jean Marc The General Assembly of the United Nations, questioned by Madagascar, adopted Resolution 34/91 of December 12, 1979, entitled Questions of Châtaigner, who defends the French position, maintains that the reference to the principle of the right of peoples to self-determination turns out to be inappropriate if we consider that when France colonized Madagascar, these islands were territories without a master. According to André Oraison, on the contrary:

"A bunch of evidence shows that the four islets claimed by the successive governments of Madagascar from 1972 were indeed Malagasy state territories and more precisely dependencies of the Sovereign Kingdom of Madagascar until its annexation by France, August 6, 1896. It is obvious that they were, thereafter, administrative dependencies of the Big Island until the entry into force of the decree of April 1, 1960. [5]

For the author, thus, "the Franco-Malagasy dispute over the Scattered Islands appears essentially to be the trial of the French decree of April 1, 1960", since it was adopted without consulting the Malagasy populations. This decree of April 1, 1960 placed these territories under the authority of the Minister of Overseas, in a context where the independence of Madagascar had not yet been proclaimed since it only intervened on June 26 1960. In addition, the law of April 21, 2007 [6] provides for the attachment of the Scattered Islands, classified as a natural reserve since 1975, to the French Southern and Antarctic Territories for their administration, granting them a specific status in the same way as the islands of Kerguelen. They thus form an overseas territory endowed with legal personality and having administrative and financial autonomy, although remaining a disputed territory. Regarding its sovereignty, France asserts "original sovereignty", resulting from the taking of possession. This is a custom codified by the General Act of the Berlin Conference of February 26, 1885, taken up by the Saint-Germain Conference and the arbitral award of April 4, 1928 in the Palmas Island case. France also advances the effective occupation of a territory without a master (*terra nullius*) and its administration. If Madagascar insists on its geographical proximity to the islands and, even more, on the presence of ancient Madagascar burials on Tromelin, none of these territories has been effectively occupied by the big island and therefore administered. This has been essential since the 1975 "Western Sahara" case in which the International Court of Justice excluded from *terra nullius* the territories occupied by socially and politically structured human groups. No human presence being attested at the time of taking possession, France can all the more base its sovereignty on the principle of *terra nullius* based on the case law of the Bakassi peninsula (Cameroon against Nigeria) and Clipperton Island, the latter recalling in particular the principle of taking physical and non-fictitious possession.

It is in the Mozambique Channel that delimitations and conflicts of sovereignty reveal a new acuity due to the importance of the hydrocarbon reserves discovered since 2008. [7] The boundaries of the Exclusive Economic Zones (ZEE) are "subject to agreement". They require concerted action and a consolidated agreement between contiguous States, and / or in International Territorial Disputes, even if this is strictly a matter of enlarged co-management, in particular of securing resources and investments, without seeking to settle controversies of sovereignty.

### 1.2. Problem Formulation

Based on this condition, this paper discuss that the exercise of the right of locality turns out to be complex as to the determination of its beneficiary given that the geographical location of these islands is within the limit of the Exclusive Economic Zone of Madagascar. In addition, in principle the sea is not a property of anyone rather it is said that it is sometimes *res nullius* that is *res communis*, see *res nullius communis usus*.

Hence the theory of the easement bundle [8] which is based on two essential ideas:

- The sea is *res communis*, its only sovereign being the international community?
- The coastal state has on the territorial sea only a simple bundle of servitude which would reveal itself and be exercised from the military, customs and health point of view; they would be analyzed as restrictions imposed on the sovereign of the sea (the international community) and based on the need for the personal protection of the coastal state. Indeed, with regard to this protection which of these two main belligerents would be truthfully sovereign to exercise the protection of animal species that the conservation of the mineral wealth of the bottom and of the very bottom of the sea if France persists on co-management whiles that Madagascar insists on the restriction?

### 1.3. Research Objectives

From the formulation of the problem mentioned above, this research aims to evaluate that this research is therefore intended to be comprehensive and synthetic; it aims to take stock of the Scattered Islands to show the interest of these islands in order to open the field to new research, in particular on the status of these islands which we believe must evolve to allow the development of these remarkable islands. However, the object of this work is not intended to be foresight and even if certain parts of our study address the future, it takes place above all in a reflection of the study of international law and properly speaking the law of the sea.

## II. LITERATURE REVIEW

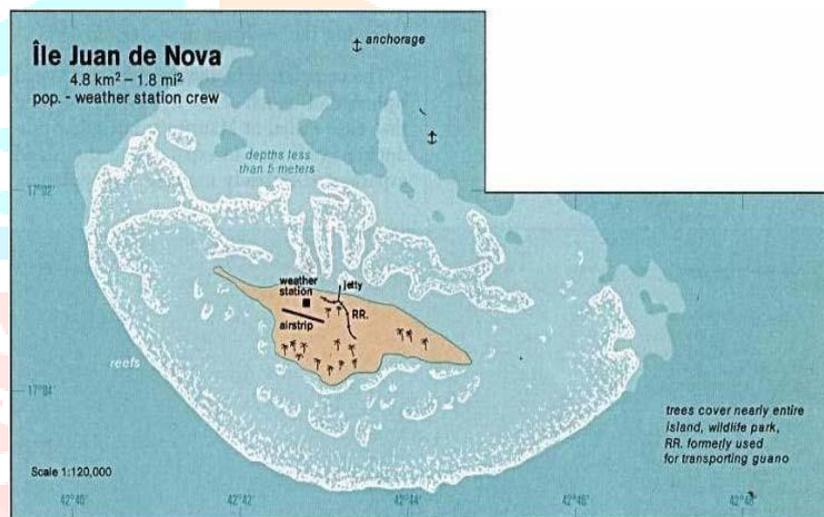
The Scattered Islands are still a subject to be cleared. Authors or scientists who have written on the subject have generally tackled a theme and they have not studied or thought about the islands as a whole. The change of statute of the islands intervenes in 1960. These dependences of Madagascar are detached from the authority of the Governor General a few days before independence, to pass under the direct authority of France. This decision sparked new interest in these territories. A new field of study was then opened in international law necessary to determine the membership of these islands to one or other of the nations which claim them or on the contrary to legitimize their membership in France.

On the issue of sovereignty and co-management in the Indian Ocean, in the context of globalization and the growing strategic importance of maritime issues, the Scattered Islands have certainly become more than ever an issue of sovereignty in the Indian Ocean. This therefore implies a new role and increased competition from States at sea. When discussing sovereignty issues in this part of the world, we must not forget to discuss about Mayotte, but also to approach Tromelin, the only land located in outside the Mozambique Channel. For nearly five decades, the Scattered Islands have been the subject of a double territorial dispute, that of Madagascar for Juan de Nova, Europa, Bassas de India and Glorieuses, and that of Mauritius for Tromelin. The other issue concerns marine biodiversity, a natural heritage and ecosystems that are still exceptional functional. Environmental issues make it necessary to strengthen scientific research projects and the protection of these areas.

## 2.1. Maritime delimitation and territorial questions between Madagascar and France

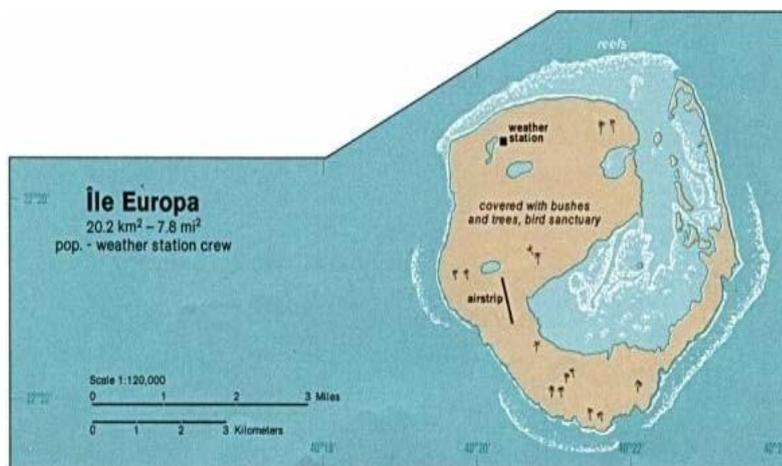
Maritime boundaries are normally the result of negotiations between the States concerned, following the requirements of international law of the sea (based essentially on customary law and UNCLOS 1982). France and Madagascar disputes can cause in the delimitation negotiation process. The border between France and Madagascar is entirely maritime, in the Indian Ocean, and concerns the various Scattered Islands, under French administration but claimed by Madagascar. Because of this sovereignty disagreement, no border agreement has been signed between the two countries. According to the analysis, France had invoked another reason to justify the maintenance of the scattered ones in the lap of France, from its 50 square kilometers hardly of emerged lands; it allows taking the hand on a maritime surface of 640,000 square kilometers. No sleight of hand in what could resemble a gift fallen from the sky: this delimitation results from the application of the international convention of Montego Bay of 1982 on the law of the sea, which authorizes any country to exercise its sovereignty over a strip between its coasts and the 200 nautical mile (370 km) line. As a result, owners of tiny pebbles have been able to secure considerable expanses of Exclusive Economic Zones (EEZs), with the exclusive right to exploit their marine and subsoil resources. The EEZ is one of the most important pillars of LOSC. The concept of EEZ was quickly and widely accepted in state practice and is therefore now considered by some scholars to be part of customary international law. [9]

The rules that have been developed to govern the EEZ are set out in Articles 55 to 75 of the LOSC. The legal concept of the EEZ was born from the practice of States and from the negotiations of UNCLOS III and was never linked to physical characteristics of the sea or the seabed as in the case of the continental shelf. The delimitation of French maritime areas is still underway for two reasons. On the one hand, it is not completed everywhere, including the baselines. This is particularly the case for the Scattered Islands. On the other hand, it is sometimes difficult because of the bilateral negotiations necessary to fix them. This is the case for the EEZs for which the stakes are highest given the size of the areas concerned. Finally, the sea is a space that evolves and it is necessary to constantly re-specify the baselines when the configuration of the coasts changes. Juan de Nova Island, one of the scattered islands is a low semicircular sandy island located near the center of a large circular coral platform. The south side of the reef is steep while on the north side there is a coral bank stretching about 7 nm. [10] A meteorological station was built in 1970 and there is small landing strip. Juan de Nova Island was previously a source of guano and phosphate and is 4.8 km<sup>2</sup>.



Source: Central Intelligence Agency: India Ocean Atlas, 1976: 45.

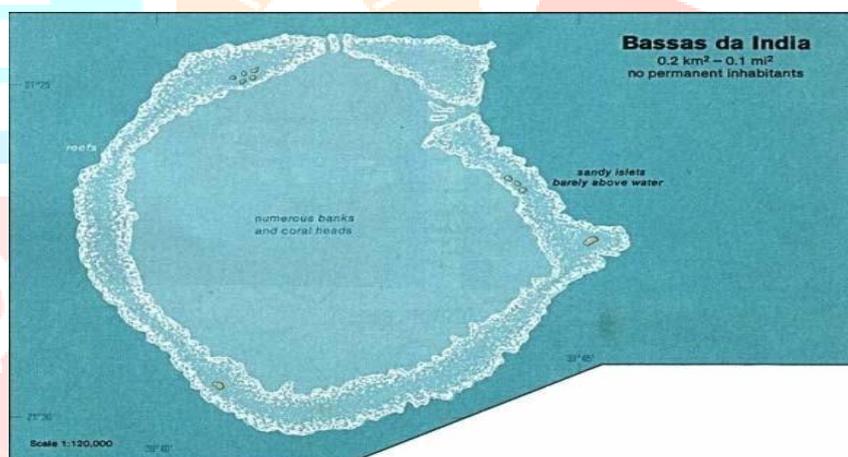
Article 74 of the UNCLOS relating to the delimitation of the EEZ between States whose coasts are adjacent or face each other thus maintains certain vagueness. This states that the delimitation "is carried out by agreement in accordance with international law as referred to in article 38 of the Statute of the International Court of Justice, in order to reach a just solution", any the question being to find a fair solution. This could be, by default, the principle of equidistance, as envisaged for territorial seas in article 15 of the UNCLOS. Arbitration solutions can obviously be envisaged, but bilateral negotiation seems preferable, especially since oil resources can paradoxically push for an agreement. The equidistance principle applied to Juan de Nova would thus tip the area corresponding to the Juan de Nova East exploration plot (9,010 km<sup>2</sup> east of the island) under Malagasy sovereignty. The Europa Island is mainly composed of sand which supports bushes and some trees which reach 24 meters; its weather station was built in 1950 and there is an airstrip. The island is approximately 20.2 km<sup>2</sup> and is heavily forested. This island takes its name from the British ship Europa which visited it in 1774. Given the characteristics listed above of these characteristics, it becomes necessary to establish their status in the LOSC definitions. It seems that the possessions belong to the category of sand islands formed naturally above the water at high tide, which cannot by themselves maintain human life or economic life. Therefore, an analysis of the problem is posed, namely, should islands under the sovereignty of very distant countries be able to have a complete EEZ, particularly where the Economic Exclusive Zone would overlap with another State's coast-based claims?



Source: Central Intelligence Agency: India Ocean Atlas, 1976: 45.

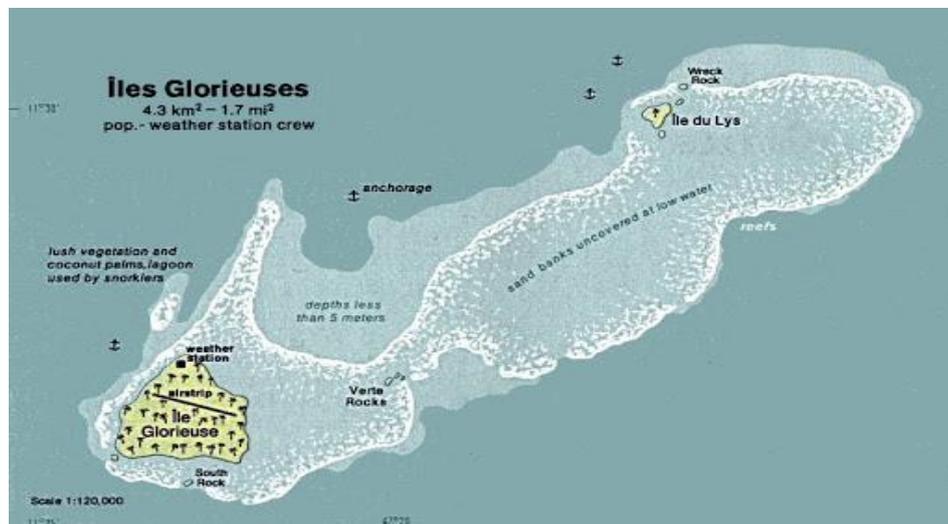
Article 121 of the UNCLOS 1982 establishes the regime of the islands. It indicates what constitutes an island and provides for the treatment of islands like any other land territory for the purpose of demarcating Territorial Sea, Contiguous Zone, Exclusive Economic Zone and Continental Shelf. It also specifies which geographic formations similar to the islands do not generate an EEZ or Continental Shelf.

Bassas da India is a coral atoll about 6 miles in diameter, surrounding a shallow lagoon; it rises sharply from the depths of the ocean and is mainly dry. The sea breaks sharply over the reef, which can be seen from above, on a clear day, about 10 miles. According to Article 13 (2) of the UNCLOS 1982, any elevation at low tide which is entirely situated at a distance exceeding the TS of the mainland or of an island does not have its own Territorial Sea. As no State (France or Madagascar) can claim territorial waters out to Bassas da India.



Source: Central Intelligence Agency: India Ocean Atlas, 1976: 45.

In the case of Bassas da India and Juan de Nova, the positions of the two states are questionable. Bassas da India was first recorded by Portuguese explorers at the beginning of the 16th century, and it was not until 1897 that it became a French possession, and then placed under the administration of the Commissioner residing in Reunion in 1968. Juan de Nova was discovered in 1501 by João da Nova (Juan de Nova), a Galician admiral in the service of Portugal. This suggests that Mozambique was supposed to claim Bassas da India and Juan de Nova due to the fact that it was a Portuguese discovery and, therefore, Mozambique inherited all Portuguese possessions within the framework of Mozambican territory. Mozambique, however, says nothing about its position on the islands. The General Assembly of the UN has intervened in the conflict opposing France and Madagascar by passing two resolutions both entitled "*Question of the Islands of Glorieuses, Juan de Nova, Europa and Bassas da India*". [11] The first resolution invites the Government of France to start negotiations with the Government of Madagascar without further delay for the reintegration of the islands which were arbitrarily separated from Madagascar. The second resolution seems to be a reiteration of the first: invite the government of France to engage with the government of Madagascar "as a matter of urgency" [12] the negotiations provided for in resolution 34/91". This conflict is motivated by economic interests rather than by "the question of sovereignty", each State believing that having these islands will allow it to claim maritime spaces (as France did) like the TS, the Economic Exclusive Zone and the Continental Shelf. Note that the issue of sovereignty disputes is not directly resolved by UNCLOS, but rather by international law. UNCLOS does not provide a basis for settling disputes relating to island sovereignty. While UNCLOS provides for several dispute settlement bodies, nothing in the body of the UNCLOS deals with sovereignty issues, even in international law there is no rule that prescribes sovereignty over the islands on the basis of a maritime claim. The UNCLOS deals with the creation of maritime jurisdictional zones. In fact, the application of the LOSC is based on the assumption that a particular State has an undisputed title to the territory from which the maritime area is claimed.



Source: Central Intelligence Agency: India Ocean Atlas, 1976: 45.

The Glorieuses account for nearly 200 km<sup>2</sup> of reef area for the archipelago and 257 km<sup>2</sup> for the Geyser bank. The scientific community agrees that the archipelago, the Geyser Bank and the seamounts of the EEZ have exceptional heritage character (OCTA, 2013). The archipelago is an important nesting site for green turtles from the Indian Ocean (between 1,500 and 2,500 females per year), the number of which has increased since the cessation of production activities in the 1970s. Les Glorieuses are home to also every year a few hawksbill turtles laying eggs. Several scientific missions have made it possible to acquire a good knowledge of the marine biodiversity present in the area. If the inventory is not exhaustive, it lists approximately 1,660 species in the Glorieuses archipelago, all groups combined.

## 2.2. The status and conflict of sovereignty in the Scattered Islands related to the problem

The only institution capable of deciding on the merits of the conflict of sovereignty between France and Madagascar over the Scattered Islands would be the International Court of Justice (ICJ) if the two countries agreed to seize it. For comparison, the ICJ is thus examining a maritime delimitation conflict in the Indian Ocean between Kenya and Somalia. However, one might think, for different reasons, that the two countries are not necessarily enthusiastic about such a jurisdictional solution: [13] for Madagascar, the risk would be great that the ICJ would not definitively recognize French sovereignty over the Scattered Islands, by virtue of a number of principles, which the Court has traditionally applied in this area; France could, for its part, be criticized for having developed an extensive interpretation of its claim for an EEZ in the Mozambique Channel and be forced, as a result, to lower some of its maritime claims. Contrary to nationalist positions, expressed on the subject both in Madagascar and in France, it seems to us that the only way to overcome this sovereignty dispute in the long term would be that of a co-management agreement; it would be based on the recommendations of the final declaration of the 1999 IOC summit and would be modeled on the Franco-Mauritian agreement currently being ratified by the French Parliament. This co-management agreement could initially focus on the environmental governance of this area, without immediately addressing the more delicate question of the exploitation of natural resources. Could this be negotiated only in a second phase (the horizon of a possible oil and gas exploitation remaining, as we have seen, both much more uncertain and distant)? The prospect of cooperation or even co-management seems appropriate for the Scattered Islands vis-à-vis Madagascar, as the rapporteurs indicated during his hearing, Mr. Serge Segura, Ambassador in charge of the oceans. [14] The Government is in favor. As indicated in the Government's response of January 12 to written question No. 91465 from Mr. Laurent Furst, MP, France is "willing to open discussions with Madagascar on these reservoirs of biodiversity in the vulnerable ecosystem and to tie with its neighbors, possible collaborations, in particular on the scientific or environmental aspects linked to the threats hanging over these islands, like what has been done with Mauritius with regard to Tromelin".

French diplomacy is therefore inclined to seek a negotiated co-management solution, but subject to conceding nothing with regard to sovereignty. The explanatory memorandum to the aforementioned bill for the ratification of the agreement with Mauritius on Tromelin may serve as a reference in this regard: "this agreement [on Tromelin] could contribute to the solution of other disputes in the same area by serving of reference on the substance or on the method used. Four of the five member states of the Indian Ocean Commission (IOC), Madagascar, Mauritius, Comoros and France (Reunion) could not find a consensus concerning sovereignty over certain islands in the Indian Ocean as well as over the delimitation and control of their exclusive economic zones (EEZ). This concerns the islands of the Mozambique Channel (Europa, Bassas da India, Juan de Nova, and Glorieuses) and an island north-west of Reunion: Tromelin. This agreement could inspire other agreements that could resolve the difficulties while circumventing the obstacle of the dispute over the sovereignty of the territory concerned". Since 1973, French sovereignty over the Scattered Islands is mainly ensured by the military presence of the armed forces in the southern Indian Ocean zone (FAZSOI): a detachment of the 2nd regiment of naval infantry paratroopers - based in Saint- Pierre de la Réunion for the islands of Juan de Nova and Europa - as well as a detachment of the foreign legion of Mayotte - for the Grande Glorieuses, each island hosting fourteen soldiers. They participate in the surveillance and protection of the Scattered Islands, in the maintenance of infrastructure, while ensuring access to the islands by air and sea. In addition, a judicial police officer from the gendarmerie is present on each of these three islands. In Tromelin, sovereignty is exercised by the head of the weather station (the only station that is not automatic). Their logistical support is provided by Air Force transport planes and French Navy ships. These vessels also participate in the surveillance of territorial waters and the Economic Zone.

The oil companies ENI and Anadarko discover in the Mozambique Channel important deposits of natural gas estimated as important as those of the North Sea. President Barack Obama requests a strategic report from the US Geological Survey in 2012. He assesses the exploitable gas reserves in the south of Kenya to Madagascar at 12.5 trillion cubic meters. [15] This landmark

report identifies four new Energy "provinces" in the Indian Ocean: the coast Tanzanian, the Mozambican coast, the Seychelles and the Madagascar west coast, "Morondava Basin". Concerning the Scattered Islands, "it is in Juan de Nova that the hydrocarbon reserves are presumed to be the most interesting" In this context, the question of the boundaries of EEZ and that of international territorial disputes takes on crucial importance since it involves the sovereign rights of exploration and use of resources. Ordinance No. 73-060 of August 31, 1973 fixes in its article 2 the "continental shelf" of Madagascar "100 nautical miles beyond its territorial sea". Juan de Nova, for example, is 81 nautical miles away. For its part, France adopted decree 78-146 of February 3, 1978, which created an EEZ off the Scattered Islands on which it based state action. In 1979, the Scattered and their EEZ were disputed by Madagascar, which obtained a resolution from the United Nations General Assembly in its favor. While nothing is moving in application, in 1985, Madagascar obtains the extension to 200 miles of the continental shelf of its EEZ created by Montego Bay. All can today request the extension of the continental shelf, and the production of rights to the seabed and its subsoil, up to 350 nautical miles

According to the Prefect of TAAF (French Southern and Antarctic Lands), the situation of the Scattered to date is a "delimitation EEZ not yet formally validated". [16] On maritime border claims at the heart of the question of sovereignty and the prospects for co-management, the EEZs of five countries largely cover the Mozambique Channel:

Mozambique, Madagascar, the Comoros, Tanzania and France, which are States Parties to the World Heritage Convention. These EEZs which, according to international conventions, make it possible to delimit economic sovereignty over maritime areas, are not spared disputes, which can lead to diplomatic crises, like that of February 2009 between France and Canada concerning the EEZ of Saint Pierre and Miquelon. [17]

March 21, 1978 in an official statement, Admiral Ratsiraka<sup>19</sup> advanced his support to Mauritius in its claim on Tromelin, while reciprocally Mauritius had to support Madagascar, in its claim of sovereignty over the other Scattered Islands of the Mozambique Channel and northern Madagascar. A "tactical barter" confirmed several times and notably reaffirmed, during a joint press release in December 2002 during Marc Ravalomanana's mandate: point 5 of the press release states that "on the question of Tromelin and the Scattered Islands, the Mauritian government will continue to support the claim of the Malagasy government over the Scattered Islands (Juan de Nova, Europa, Bassas da India and the Glorious Islands). The Mauritian government, for its part, reiterated its sovereignty over Tromelin and wished to be able to continue to benefit from the support of the Malagasy government for this purpose. The Malagasy government has taken note of the Mauritian position".

### 2.3. Research Framework

The framework is a diagram that describes the logical flow of a study. On the other hand, the reflective framework is based on research questions and represents a set of several concepts and relationships between these concepts (Polancik, 2006). It aims to study a given situation through geography and maritime delimitation and territorial questions between Madagascar and France, the status and conflict of sovereignty in the Scattered Island and the political positions of the various actors. The Scattered Islands are still a subject to be cleared. Authors or scientists who have written on the subject have generally tackled a theme and they have not studied or thought about the islands as a whole. The change of statute of the islands intervenes in 1960. These dependences of Madagascar are detached from the authority of the Governor General a few days before independence, to pass under the direct authority of France. This decision sparked new interest in these territories. A new field of study was then opened in international law necessary to determine the membership of these islands to one or other of the nations which claim them or on the contrary to legitimize their membership in France.

In the context of a research on the status of sovereign and political geography, it is about re-locating the Scattered Islands in a region, the southwest of the Indian Ocean. As such, the major regional players are also part of our study so we are also obliged to study in a precise way the diplomatic positions of Australia, India and South Africa which are the unavoidable riparian powers of the Indian Ocean. It is a question of determining the influence of their foreign policy on the Scattered Islands and especially on the actors who claim these islets. It is understandable that if Madagascar is supported by South Africa in its demands against France, they do not have the same diplomatic weight. This is why we will study with precision their positions and especially the geopolitical forces to which these states are subjected and whose current or future role is important in the game of international relations around the Scattered Islands.

Nevertheless, Madagascar and Mauritius will not give up their traditional territorial claims. These two developing African countries will never be satisfied with a "co-management" targeted on the Scattered Islands of the Mozambique Channel and on the Tromelin reef. What they want in the more or less long term is a pure and simple transfer of sovereignty for their benefit over the various islands claimed. However, these state complaints today do not have the same intensity. The 1972 Convention concerning the Protection of the World Cultural and Natural Heritage identifies this area as one of the primary area regions constituting the future of World Marine Heritage. However, the EEZs of 5 countries cover the Mozambique Channel: Mozambique, Madagascar, the Comoros, Tanzania and France. Potential sovereignty conflicts are therefore logical, since they affect fisheries, environmental or mineral matters. The Scattered Islands are thus claimed by Madagascar, while Tromelin is by Mauritius. Nevertheless, given the recent history of these islands, these claims are debatable: the Scattered Islands were never "inhabited" by indigenous populations and were, since 1896, attached for their administration to the French Colony of Madagascar. In 1960, General de Gaulle placed these islands under the direct authority of the French Overseas Ministry, which then aroused no dispute. It was not until the mid-1970s that it appeared in Madagascar, prompting a claim first to the Organization of African Unity (OAU), then to the United Nations in 1979.

Only the International Court of Justice appears competent to arbitrate this conflict of sovereignty, subject to referral by France and Madagascar. The conflict between Mauritius and France over Tromelin was resolved through a co-management agreement which, however, was not ratified by the French Parliament. Would such a solution be likely to ease tensions in the Mozambique Channel? A change of sovereignty is perhaps not the option favored by the Malagasy who are perfectly aware that they do not have the means to secure the area, while the use of the term "restitution" seems inappropriate, since 'before the arrival of the French in the 18th century, these islands were always unoccupied.

The Franco-Malagasy dispute over the Scattered Islands, including the Glorious Islands, Juan de Nova, Europa and Bassas da India is not only a problem of "*unfinished decolonization*" or "*imperfect decolonization*" as periodically claimed by government authorities in Madagascar since 1972. It also covers the vast oceanic expanses that surround the islets and represent a major economic interest since the spectacular reconstruction of customary international law of the sea, now codified by the Montego Bay Convention of December 10, 1982. To this title, the Franco-Malagasy quarrel over the Scattered Islands is part of a more global framework which is that of the "*war of the seas*".

On the economic issue, as long as international legislation was limited to the traditional notion of territorial sea placed under the sovereignty of the coastal State and subject to the no less traditional customary rule of 3 nautical miles (i.e. a width of 5.556 kilometers corresponding to originally within reach of the cannonball), [18] the countries with a maritime coast did not bother to enforce it in the vicinity of their small, uninhabited, isolated islets, rocks or reefs.

### III. RESEARCH METHODOLOGY

#### 3.1. Research Methods

Research methods are generally defined as the blueprint for the collection, measurement, and analysis of data based on the research questions of the study. This research applied a qualitative descriptive method which intends to describe and classify phenomena or social realities. Qualitative research is used to understand the reasons, motivations and fundamental opinions in order to solve a given problem. By doing depth interview and observation, this study leads to describing qualitatively the claims of the scattered islands by Madagascar according to the law. With this research method, the research is able to find out detailed theoretical explanations, a literature review of the international public law and international law of the sea. Through questions and answers to obtain primary data directly from the respondent based on purposive sampling technique (*purposive sampling provided that the sample must be representative*). [19]

Research locations were conducted in several libraries, among others, the Mochtar Kusumaatmadja Library at the Faculty of Law, Padjadjaran University in Bandung City, Library of Postgraduate Masters in Law, Padjadjaran University in Bandung, and Libraries in other related state institutions. In addition to using literature study, this research is supported by field research which is intended to increase the completeness of the data obtained in the literature study.

#### 3.2. Subject and Object Research

The subject of the research was the informants include academics, Malagasy jurists and politician organization, KBRI Madagascar, Malagasy people and government.

#### 3.3. Source and Collection Method of Data

For the source and collection method of data, the type of data used in this study is a qualitative data which is non-numerical, while the source of data is divided into two types which are primary data and secondary data. Primary data concerns all data collected from individual obtained through in depth interviews and observation. While secondary data refer to information gathered by someone other than the researcher conducting the current study, it includes information collected from books and periodicals, French or Malagasy government publications about the claims of the islands scattered by Madagascar and the monopolization of these islands by France, news, info on social networks, news live on radio France international (RFI), and so on.

Interviews were conducted for collecting the primary data. Interviewing is a useful data collection, especially during the exploratory stages of research. It may be structured, semi-structured, and unstructured. Usually interviews are conducted face-to-face, by telephone or online. Semi-structured interviews was appropriated to this study and conducted with face-to-face or direct interviews. The main advantages of this form of interview are that the research can adapt the questions, clarify doubts, and ensure that the response is properly understood, by repeating and rephrasing the questions. However, it may have disadvantage related to the geographical limitations that may impose on the vast resources needed if such survey or observation need to be done nationally or internationally.

The technics of Data analysis is the process of systematically searching and compiling data from interviews, observations, and documentation by organizing and selecting the data that are important and those that need to be studied and make conclusions so that they are easy to understand.

The validity and Reliability of Data for testing the validity of the data is very necessary so that the data produced can be trusted and reliable. It is a step to reduce errors in the process of obtaining research data which of course will have impact on the end of a study. Therefore, in the process of testing the validity of the data in the study must go through several testing technique. The method used to test the validity or the accuracy of the data is the method of triangulation. Triangulation is a technique that facilitates data validation by cross-checking from two or more sources. In particular, it refers to the application and combination of several research methods in the study of the same phenomenon. It consists of seeing something of reality from different angles, in different ways, to make it more credible and accurate.

The type of triangulation used to test the validity of this research concerns methodological triangulation and source triangulation. Methodological triangulations involve the use of several options for data collection, such as interviews, observations and documents. These research tools for data collection were important to measure. The interviews and the respective questions addressed to the interviewees were expressed in three languages, namely English, French and Malagasy.

#### IV. RESULTS AND DISCUSSION

We can discuss about the legal basis of the Malagasy claim on the Scattered Islands, to recover sovereignty over the Glorieuses archipelago and the islets of Juan de Nova, Europa and Bassas da India, the Malagasy Republic denounces a triple violation by France of positive public international law. More precisely, it maintains that France has disregarded in this case the legal title of geographical contiguity, the fundamental principle of the right of peoples to self-determination and the traditional rule of the territorial integrity of a colonial country promoted to independence.

Firstly, the violation by France of the title of geographical contiguity:

- First proposition: the Scattered Islands are natural dependencies of Madagascar: Although having a very relative value, judging by the jurisprudence of international arbitral tribunals, [20] the thesis of "*geographical proximity*" or "*territorial contiguity*" thesis classic according to which the sovereignty regularly established on a territory also entails sovereignty over the accessory elements of this territory by virtue of the principal accessorium sequitur rule which was presented by Christian Rémi RICHARD in Monrovia (Liberia). During the summit of heads of state or government of the OAU, the Malagasy Minister of Foreign Affairs declared on July 19, 1979: "No independent state in the region is closer to these islands than Madagascar and they consequently constitute natural dependencies of Madagascar: this membership has moreover been recognized implicitly or explicitly by the States of the region. Neither the Comoros, neither Mauritius, Mozambique, Seychelles claimed any claim to these islands, either before or after their independence". [21]
- Second proposition: the Scattered Islands were frequented by inhabitants of Madagascar. On a more general level, Blaise RABETAFIKA was also to challenge on November 27, 1979 the classic public international law in the development of which the Third World States in general and the Malagasy State in particular were unable to participate. Here, on this precise point, the essential passage of his intervention: "The concept of discovery or occupation is legally invalid to justify the French territorial sovereignty on these islands. In the XIX century, the concept of sovereignty was specific to the European States and was of no practical or political interest to the fishermen and sailors who frequented these islands". [22]

The Malagasy political authorities thus argue that territories inhabited even episodically can in no case be assimilated to territories without master "*terra nullius*" or "*res nullius*"

- Third proposition: the Scattered Islands depended on the sovereign Kingdom of Madagascar. To the original sovereignty that France claims to have established over the Scattered Islands of the Mozambique Channel by way of discovery and effective occupation at the end of the 19th century, the representative of Madagascar at the United Nations has above all opposed the traditional sovereignty of Madagascar over each of the islets. The four islets dispersed in the Mozambique Channel were, on the contrary, natural extensions of the Malagasy state territory and, more precisely, dependencies of the fully sovereign Merina monarchy, by application of an elementary principle well known in all legal arrangements according to which accessory should always follow the condition of the principal (*accessorium sequitur principal*): "Before colonization, there was already an independent Malagasy state whose sovereignty had been recognized internationally by Germany, England, the United States, France and Italy. Legally and naturally, these islands were dependencies of the sovereign state of Madagascar and their taking of possession (by France) had no legal basis". [23]

Secondly, France's violation of the principle of the inviolability of colonial borders, the Government of Antananarivo affirms that its claim on the Glorious Archipelago and on the islets of Juan de Nova, Europa and Bassas da India is based on the fact that, throughout the colonial period, these island territories were considered by France as natural dependencies of the Big Island and were effectively administered by the authorities of this one. Insofar as the four Scattered Islands anchored in the Mozambique Channel were indeed administered by the territorial collectivity of Madagascar until April 1, 1960, should not have continued to be so after June 26, 1960, it is that is to say once the full independence of the Big Island has been proclaimed. It is at the level of logic as at the level of law:

- The excision of the Scattered Islands of the Republic of Madagascar is illogical;
- The excision of the Scattered Islands of the Republic of Madagascar is illegal.

France's request was filed on May 8, 2009 to CLCS in the aim of determining the exterior limits of the continental shelves off the coast of the island of Reunion. The presentation that France could carry out in August of 2009 had been reported. The inquiry which has not yet started should take place in 2022-2025 No delimitation agreement is provided to the extent that the French claim does not overlap the claim of Madagascar limited to 200Miles.

The filing of the application with CLCS153 is the file clarifies that this extension is found in the Indian Ocean to the south of Mascarene Plateau, to the east of Madagascar. It highlights the absence of dispute between France and all other states in regards to the continental shelf of Reunion Isle, the expanded continental shelf being located south of Reunion. A delimitation agreement of maritime zones had been reached between France and Madagascar on April 14, 2005 and came into effect on June 18, 2007154. The exterior limit of the continental plate had been built from 136 fixed points calculated by using the Hedberg Formula (60 nautical miles from the foot of the slope) in the interior of the 350 nautical mile long constraint line and a fixed point in the limit of 200 nautical miles. The file had been established in collaboration of the Paul-Émile Victor Polar Institute (IPEV). The extension of the continental shelf off the coasts of Reunion concerns Madagascar who had filed its application on April 29, 2011. This state presented its application on August 24, 2011 indicating the absence of dispute between third-party states and the existence of discussion about the bilateral delimitation with Mozambique. Being number 56 in the order of requested registrations, on the basis of the current speed of file process by the CLCS, the examination should not take place before 2028-2030. The extended continental shelf that it claims does not overlap with that presented by Reunion in its request to the CLCS. The French claim stops in the west in the limit of 200 nautical miles of the Madagascar coasts, and in the south of the last point of the 2005 delimitation agreement between these two states. One could however wonder about the nearly miraculous ruling of Reunion's expanded continental shelf in the limit of 200 nautical mile of Madagascar. One could wonder if the non-objection of Madagascar would persist if France had considered in its extension request the prolongation inside 200 nautical miles from Madagascar. An issue of

delimitation could be considered if France envisaged extending its continental shelf more to the west so that it overlapped with the continental shelf inside 200 nautical miles from Madagascar. One could wonder why France did not apply its rights over the entirety of the continental shelf against the Madagascar continental shelf limited to 200 nautical miles in this zone, if not to avoid a discussion over the bilateral delimitation to the south of the April 2005 agreement.

Madagascar filed an application April 29, 2011 that didn't aim for the zone of the continental shelf concerned at 200 nautical miles south of Europa.

Maurice had claims of sovereignty on Tromelin<sup>198</sup>. This State filed a conjunctive application with the Seychelles on December 1, 2008, regarding the continental shelf zone located in the north east area and beyond 200 nautical mile of Tromelin Island. The French law of 1968 allocated a continental shelf up to 200 nautical miles which is covered by the agreement frameworks on the joint economic, scientific and environmental management relative to the Island of Tromelin and its surrounding maritime areas concluded June 7, 2010 between France and Mauritius. It "sets the scope of the application which included the island, territorial sea and the EEZ of 200 nautical mile around Tromelin, with the exception of the part located to the south of the island in order to avoid infringement by joint management on the EEZ of 200 nautical miles off the coast of Reunion Island as well as off the coast of Mauritius Island 199". As indicated in the impact study of the government bill "[i] there wouldn't be question that France eschewed the sovereignty on Tromelin not only on principle but also because it could have an impact on the other disagreements relative to the French Overseas possessions, in particular those with Madagascar speaking of the Scattered Islands located in the canal of Mozambique. Each of the States keeps to its position regarding the question of sovereignty or territorial and maritime skills of the island of Tromelin and the surrounding maritime areas". EXTRAPLAC didn't convey proof of an expanded continental shelf for Tromelin, which didn't bother Mauritius who had filed its own application and already obtained its recommendation of the Commission of the limits of the continental shelf (CLPC).

First solution, the famous "co-management" of the Scattered Islands between France and Madagascar referring to the file on the RFI (Radio France International) antenna, the Malagasy Minister of Foreign Affairs Naina Andriantsitohaina underlined the limits of "restitution": "We must be frank, he declared, Madagascar, today, does not have the means to secure this zone. We have many other priorities such as education and health ". And we will have noticed that in his speech the President of the Republic of Madagascar had mentioned "management or restitution". But what is this co-management? The final declaration of the 1999 summit of the Indian Ocean Commission [24], pending the settlement of these sovereignty issues, wanted to set up co-management: "In the absence of a consensus between certain Member States concerning sovereignty over certain islands in the Indian Ocean, as well as the delimitation and control of EEZs, the Summit decided that pending the outcome of the current consultations, these control zones will be co-managed by the countries which claim them. The terms of this co-management will be defined by the Member States concerned as soon as possible". But the first real co-management agreement, the one to be signed between France and Mauritius on the subject of Tromelin, and related to the economic, scientific and environmental dimensions, could not see the light of day. The treaty, adopted by the Senate in 2012, was indeed going to arouse a rebellion in the National Assembly, where politically diverse deputies (including Gilles Le Bris of the PS, Philippe Folliot of the UDI and Laurent Furst of LR) opposed it, believing that an undeniable French sovereignty was being sold off in a very useless manner. Alain Juppé himself, in his presentation of the ratification bill of January 25, 2012, also mentioned the risk of a "domino effect": "There can be no question of France giving up sovereignty over Tromelin, he declared [...] because that could have an impact on other disputes relating to French overseas possessions, in particular the one with Madagascar over the Scattered Islands ". The text was finally withdrawn from the agenda in January 2017. The same problems would undoubtedly arise in connection with the co-management of the Scattered Islands. We must in fact not have any illusions: cooperation between riparian states is a very useful thing, and France has undertaken some with many of its neighbors. But "co-management", even though this term may seem trivial, is quite another, which quite naturally leads to the idea of shared sovereignty ... and therefore, in fact, of an abandonment of French sovereignty to which France, as we have said, is by no means obliged to accede [25]. Contrary to what one sometimes reads, there is no co-management without limitation of sovereignty, which is and remains the power to decide alone.

Something that may seem curious, the reaffirmation of French sovereignty once clearly made, and the file closed once and for all, the situation could finally become less conflictual with the Malagasy neighbor and more protective of the interests of all. It will first be recalled that specifying the limits of the respective EEZs of France and Madagascar, as one could then do, could be enough to reassure the Big Island as to the potential exploitation of resources. Indeed, the application of the simple principle of equidistance in Juan de Nova, which seems the most promising in terms of hydrocarbons, would share the prospecting areas. We could then evoke the framework agreement of March 29, 2007 on Clipperton, by which, on the one hand, Mexico recognizes the French sovereignty that the international judge had defended, while, on the other hand, France grants licenses free fishing to a few Mexican fishermen in its EEZ. As long as we respect precise limits in terms of type of fishing and catch quotas, and the French scientists from IFREMER are particularly competent to set them, the ecosystems concerned would be slightly affected and perhaps less than by current wild catches. French sovereignty over the Scattered Islands, legally justified, therefore currently allows better protection of the environment, such as the defense of our geostrategic interests, without harming any population. Give it up, whether for the benefit of the economic interests of a few, sacrificing a part of our sovereignty for a few contracts, to satisfy a "decolonial" ideology that has no place here, or under pressure from States which would like to assert their control over the area would be a major political error.

## V. CONCLUSION AND RECOMMENDATIONS

Based on the description above, the following conclusions could be drawn. Firstly, the Glorious archipelago and the islets Juan de Nova, Europa and Bassas da India represent a real political and constitutional issue for France, especially within the framework of the Constitutional Charter of the Fifth Republic, these lands have also officially become, from 1972, the retrocession to the Malagasy State and also an important political and constitutional stake in Madagascar. Secondly, the Malagasy Republic denounces a triple violation by France of positive international public law namely that the Scattered Islands are natural dependencies of Madagascar, the Scattered Islands were frequented by inhabitants of Madagascar, the Scattered Islands depended on the Sovereign Kingdom of Madagascar. More specifically, it contends that France disregarded the legal title of geographic contiguity in this case, the fundamental principle of the right of peoples to self-determination and the traditional rule of the territorial integrity of a colonial country promoted to independence. It also appears that they were thereafter administrative dependencies of the Big Island until the entry into force of the decree of April 1, 1960. Thirdly, we can also question the French thesis that Madagascar has acquiesced in the dismemberment of its territory. Rather, this amputation was imposed on it by the administering Power on the eve of its resurrection as a sovereign state on June 26, 1960.

For suggestion, this is because the two countries have agreed to deal with this issue not by legal recourse or in international forums but in a bilateral framework, by the establishment of a joint commission, in order to reach a consensual solution d " by June 2020, the 60th anniversary of Madagascar's independence. Given the legal, political and economic situation, Madagascar must change the system of claims by way of the International Court of Justice and the International Tribunal for the Law of the Sea ITLOS to quickly find a solution for the management or the restitution of the Scattered Islands in Madagascar because since 1972 until now all the negotiations by diplomatic and bilateral way even the resolution of the UN which was not respected by France was not effective.

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- [2] Changement de type 2 ou changement du changement selon l'École de Palo alto: Paul WaTzLaWick, John WEakLaND, Richard FISCH, Changement (Change. Principles of Problem Formation and Problem Resolution), Seuil, Paris, 1975, pages 189. « Type 2 change or change of change according to the Palo Alto School: Paul WaTzLaWick, John WEakLaND, Richard FISCH, Change (Change. Principles of Problem Formation and Problem Resolution), Seuil, Paris, 1975, pages 189 ».
- [3] Le « double bind » est identifié par l'École de Palo alto comme une injonction et son contraire et a souvent pour effet de paralyser l'action. «The "double bind" is identified by the Palo Alto School as an injunction and its opposite and often has the effect of paralyzing the action».
- [4] The islands, which France wished to keep under its jurisdiction, are however claimed by Madagascar since the 1970s and the coming to power of Admiral Didier Ratsiraka, in particular the four Islands located in the Mozambique Channel (Juan de Nova, Europa, Bassas da India and the Glorious Islands).
- [5] A. Oraison, « Radioscopie critique de la querelle franco-malgache sur les îles Éparses du canal de Mozambique. (La succession d'États sur l'archipel des Glorieuses et sur les îlots Juan de Nova, Europa et Bassas da India) », pp. 147-234, Revue Juridique de l'océan Indien, n° 11, 2010, p. 216.». « A. Oraison, "Critical radiology of the Franco-Malagasy quarrel on the Scattered Islands of the Mozambique Channel. (The succession of states on the Glorioso archipelago and on the islets Juan de Nova, Europa and Bassas da India) ", pp. 147-234, Legal Review of the Indian Ocean, n° 11, 2010, p. 216. »
- [6] Loi ordinaire n° 2007-224 du 21 février 2007, « portant dispositions statutaires et institutionnelles relatives à l'outre-mer», JORF, 22 février 2007, p. 3241. À la suite de leur rattachement aux TAAF et en raison de leurs spécificités, les îles Tromelin, Glorieuses, Juan de Nova, Europa et Bassas da India forment un nouveau et cinquième district au sein de la nouvelle collectivité territoriale sui generis . Voir en ce sens l'arrêté n° 2007-18 bis du 23 février 2007, "portant création du district des îles Éparses de l'océan Indien", in Journal officiel des TAAF, 15 mars 2007, n° 33, p. 17. « Ordinary law n° 2007-224 of February 21, 2007, "relating to statutory and institutional provisions relating to overseas ", JORF, February 22, 2007, p. 3241. Following their attachment to the TAAF and because of their specificities, the Tromelin, Glorious, Juan de Nova, Europa and Bassas da India islands form a new and fifth district within the new sui generis territorial community. See in this sense the decree n° 2007-18 bis of February 23, 2007, "creating the district of the Scattered Islands of the Indian Ocean", in Official Journal of the TAAF, March 15, 2007, n° 33, p. 17».
- [7] Christiane RAFIDINARIVO et Thierry SABATHIER, Carte Ressources hydrocarbures et Contestations Territoriales Internationales, 2015, dans ce dossier. « Christiane RAFIDINARIVO and Thierry SABATHIER, Hydrocarbons Resources and International Territorial Challenges Map, 2015, in this file».
- [8] Professeur Albert de la Pradelle, Droit d'État sur la mer territoriale, R.G., 1898, p264-284 et 309-347. « Professor Albert de la Pradelle, State law on the territorial sea, R.G., 1898, p264-284 and 309-347».
- [9] See: Kwiatkowska, Barbara (1989: 27-37), The Exclusive Economic Zone in the New Law of the Sea, Publications on Ocean
- [10] The Hydrographer, 1971, 215; International Union for the Conservation of Nature and Nature Resources, 1988, 270, Prescott & Clive Schofield (2005: 468).
- [11] Resolution 34/91 of 12 December 1979 ([www.un.org/documents/ga/res/34/a34res91.pdf](http://www.un.org/documents/ga/res/34/a34res91.pdf), Accessed 11th April 2020) and Resolution 35/123 of 11 December 1980 (<http://www.un.org/documents/ga/res/35/a35r123e.pdf>). [Accessed on 12th September 2020]
- [12] Emphases added.
- [13] Dans une déclaration faite en 1996 et en conformité avec le droit international maritime, la France a ainsi marqué son opposition au recours à une cour internationale ou à un tribunal arbitral en matière de délimitations maritimes. « In a declaration made in 1996 and in accordance with international maritime law, France thus expressed its opposition to the use of an international court or an arbitral tribunal in matters of maritime delimitations. »
- [14] Aux yeux de l'auteur, qui tient ici à le réaffirmer pour qu'il n'y ait aucun doute sur sa pensée et d'ambiguïté quelconque sur les principes de cogestion qu'il défend, les Iles Éparses sont, de par leur histoire (territoires inhabités à l'origine et sans maître, entre 1960 et 1974), des conditions de leur contrôle et gestion (militaire et scientifique) et de leur administration (simple «rattachement » administratif l'autorité coloniale de Madagascar), des territoires à part entière de la République Française. «In the

eyes of the author, who here wishes to reaffirm it so that there is no doubt about his thought and any ambiguity on the principles of co-management that he defends, the Scattered Islands are, by their history (territories originally uninhabited and without master, absence of any territorial claim by Madagascar during the precolonial period or between 1960 and 1974), the conditions of their control and management (military and scientific) and their administration (simple "attachment") colonial authority of Madagascar, full-fledged territories of the French Republic ».

[15] USGS, assessment of undiscovered oil and Gas Ressources of Four East Africa Geological Provinces, [www.usgs.gov/fs/2012/3039/contents/FS12-3039.pdf](http://www.usgs.gov/fs/2012/3039/contents/FS12-3039.pdf), 2012. [Accessed on 12th April 2020] Cf. références 10, 11, 12 et 17 sur andriandory ou andriangory des Îles Crab dans le bassin de Morondava. « See references 10, 11, 12 and 17 on andriandory or andriangory from the Crab Islands in the Morondava basin.

[16] Cécile Pozzo DI BoRGo, 2015, op cit.

[17] Cette crise franco-canadienne fait suite à une demande d'extension du plateau continental au-delà de 200 milles marins et a fait l'objet de plusieurs articles (Dupont Gaele, « Les fonds marins, objet de convoitise pour les États » Le Monde, 13 mai 2009 ; Sabourin Clément, « Querelle Ottawa-Paris autour des fonds marins de Saint-Pierre et Miquelon », dépêche AFP, 25 mars 2009 ; Dossier « Plateau continental : la France étend ses eaux », Le Marin, n°3227, 15 mai 2009). « This Franco-Canadian crisis follows a request to extend the continental shelf beyond 200 nautical miles and has been the subject of several articles (Dupont Gaele, "The seabed, object of lust for States" Le Monde, May 13, 2009; Sabourin Clément, "Quarrel Ottawa-Paris around the seabed of Saint-Pierre and Miquelon", AFP dispatch, March 25, 2009; File "Continental shelf: France extends its waters", Le Marin, n° 3227, May 15, 2009)».

[18] Le mille marin ou mille nautique - qui ne doit pas être confondu avec le mille terrestre - correspond à 1 852 mètres. « The nautical mile or nautical mile - which should not be confused with the statute mile - corresponds to 1,852 meters. »

[19] Soehardi Sigit, Introduction to Social Research Methodology - Business - Management, Faculty of Economics, Sarjanawiyata, Yogyakarta: 1999, p. 68.

[20] Concernant l'attitude des juges et arbitres internationaux à l'égard de la théorie de la contiguïté géographique, voir notamment DAILLIER (P.), FORTEAU (M.) et PELLET (A.), Droit International Public, Éditions L.G.D.J., Paris, 2009, pp. 594-595. Sur ce point précis, voir également la position de la France exprimée par Henri EMMANUELLI, en sa qualité de secrétaire d'État à la France d'outre-mer, in J.O.R.F., Déb. Parl., Ass. Nat., 7 October 1981, p. 1560. « Concerning the attitude of international judges and arbitrators towards the theory of geographical contiguity, see in particular DAILLIER (P.), FORTEAU (M.) and PELLET (A.), Public International Law, Éditions L.G.D.J., Paris, 2009, pp., Éditions LGDJ, Paris, 2009, pp. 594-595. On this specific point, see also the position of France expressed by Henri EMMANUELLI, in his capacity as Secretary of State for Overseas France, in J.O.R.F., Déb. Parl., Ass. Nat., October 7, 1981, p. 1560. »

[21] See A/SPC/34/SR.37, p. 2. « See A / SPC / 34 / SR.37, p. 2. »

[22] See A/SPC/34/SR.37, p. 3. « See /SPC/34/SR.37, p. 3. »

[23] See A/SPC/34/SR.37, p. 3. « See /SPC/34/SR.37, p. 3. »

[24] Créée en 1984, la Commission de l'Océan Indien (COI), rassemble les Comores, la France (La Réunion), Madagascar, Maurice et les Seychelles mais ses activités sont pour le moins réduites.

[25] Sur la cogestion éventuelle des Éparses, vue sous une approche favorable, cf. Jean-Marc Châtaigner, « Les îles Éparses : enjeux de souveraineté et de gestion dans l'océan Indien », La Revue maritime, 2015, p.70-87.

## REGULATIONS

[1] United Nations Convention on the Law of the Sea (UNCLOS)

[2] Loi ordinaire n° 2007-224 du 21 février 2007, « portant dispositions statutaires et institutionnelles relatives à l'outre-mer », « Ordinary Law n° 2007-224 of February 21, 2007, "relating to statutory and institutional provisions relating to overseas" Terres australes et antarctiques françaises, Livret de découverte des îles Eparses Tromelin, Glorieuses, Juan de Nova, Europa et Bassas da India. « French Southern and Antarctic Lands, Discovery Booklet of the Scattered Tromelin, Glorious, Juan de Nova, Europa and Bassas da India Islands.

[3] Annex VIII, Resolution 64/382 adopted on December 2, 2009 by the United Nations General Assembly on the implementation of the Declaration making the Indian Ocean a zone of peace.

[4] Annex VII, Decree No. 60-555 of April 1, 1960 relating to the administrative situation of certain islands under the sovereignty of France