

Foreword[†]

AMIT S. PAREKH*
HARRY N. SCHEIBER**

The major nations, at this stage of history, will not risk war over fishery disputes nor will they justify major diplomatic confrontations on these grounds. They will not protect their distant-water vessels in their activities by force under any except the most grave conditions. Accordingly, peaceful means must be found for the settlement of these disputes if the industries are to develop as desired. The only such means yet proven to be very practical is that of scientists working together to solve the natural history parts of the problems under some sort of formal or informal international auspices, and the diplomats and administrators using their agreed scientific results as a secure foundation for their own negotiations of the political, economic and social parts of the problems.¹

The fisheries scientist and former State Department official Dr. Wilbert M. Chapman made the above statement in a *San Diego Law Review* symposium on Law of the Sea in 1970. His remarks were accurate 34 years ago, and his words resonate remarkably well to this day with respect to ocean-resources law and international relations.

While there has been much progress in the development of ocean law since Chapman wrote, most notably the coming into force of the UN

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* Editor-in-Chief, 6 *SAN DIEGO INT'L L.J.* (2004). J.D. candidate 2005, University of San Diego School of Law; Bachelor of Science in Business Administration, University of Kansas (2002).

** The Stefan Riesenfeld Professor of Law and History, Director of the Earl Warren Legal Institute, and Co-director of the Law of the Sea Institute, School of Law (Boalt Hall), University of California, Berkeley.

1. Wilbert McLeod Chapman, *The Theory and Practice of International Fishery Development-Management*, 7 *SAN DIEGO L.REV.* 408, 454 (1970).

Convention on the Law of the Sea, there remains the urgent need for multilateral agreements designed to avert conflicts and resolve disputes amongst nations, as well as to protect the marine environment and its resources. Of critical importance to success in meeting this need is the role of scientists who continue to work toward the creation of a “secure foundation” (in Chapman’s words)² for diplomats and administrators to rely upon when negotiating ocean issues. To enable ideas to be shared, to communicate new theories, and to analyze problems that require the attention of both scientists and policy makers, the *San Diego International Law Journal* seeks to provide a sounding board that can also be a useful forum for the consideration of strategic solutions and a venue for analysis of the historical background of ocean-law development.

The *Journal*, in partnership with the Law of the Sea Institute at the University of California, Berkeley, is therefore proud to present a symposium on “Multilateralism in International Ocean Resources Law.” The authors represented in this symposium delivered papers last year at a conference organized by the Institute at the Boalt Hall School of Law, UC Berkeley; and those papers have been extensively revised for publication in this issue.

The quest to develop multilateral agreements which will advance the twin goals of cooperation and rule of law in international relations has been a central element of developments in international law since World War II and the founding of the United Nations. Cold War imperatives, the ambitions of regional blocs, and the North-South division over sustainable development have given context—and in some measure each has presented roadblocks—to the achievement of progress in the pursuit of these twin goals. In that complex history, only in regard to military security treaties has there been as much productive activity as we have seen in the field of ocean law. And in regard to legal ordering on the high seas and in the division of jurisdiction between national and international waters, some of the most important debates and significant advances have occurred with respect to marine resources. Hence the importance of this subject in the *Journal*’s symposium on Law of the Sea.

The fate of the globe’s marine natural resources has also been a significant issue in the field of international relations and international law questions in recent decades. This is especially true in regards to marine fisheries law and policy because of the precipitous deterioration of the fishery stocks under the combined impacts of rising demand from an expanding world population, pressures from technological innovations which has increased the efficiency of fishing, and, not least, the overcapitalization of the world’s fishing fleets. Moreover, the relationship

2. *Id.*

of scientific advances to the conceptualization of marine fisheries management and the progressive embedding of new scientific concepts and methods in the instruments of international marine environmental law have made ocean law an important example of the process by which new science can drive legal innovation—and of the ways in which legal objectives and policy goals can, in turn, drive the demands that stimulate new science. Again, the developing law of marine fisheries is a particularly rich source for an understanding of these processes. For all these reasons, it is particularly fitting that this symposium gives attention not only to vital contemporary questions in ocean resources law and policy, but also to the postwar origins of multilateralism and international cooperation in sustainable fisheries management on the half-century anniversary of a path-breaking multilateral effort in this field—the International North Pacific Fisheries Convention. Indeed, it was this anniversary that inspired the decision of the Law of the Sea Institute to organize the conference.

It is also especially fitting that a journal published at the University of San Diego School of Law should be the vehicle for dissemination of these papers to scholars and policy makers in the field of ocean affairs. Partly because of its physical proximity to the Scripps Institute of Oceanography (SIO) at University of California, San Diego; partly because of the local importance in San Diego of the American tuna fleet for several decades after 1945; and partly because of the intellectual interests of SIO researchers such as Professor Warren Wooster (now of the University of Washington faculty and represented as co-author of a paper in this symposium), our school's *San Diego Law Review* was for many years a principal outlet for the publication of research on ocean law and especially for some of the classic commentaries on the developments that included the long years of negotiations preceding the UN Convention on the Law of the Sea, which was signed in 1982.

The Law of the Sea Institute, founded forty years ago, relocated to UC Berkeley's Boalt Hall School of Law in 2002. It is co-directed by Professors David D. Caron and Harry N. Scheiber, and its international board of advisers is a roster of leading jurists and scholars in the field of ocean law, among them Judges Tullio Treves and Choon-ho Park of the UN International Tribunal on the Law of the Sea, and professors of law and policy, institute directors, and others based in leading universities and research centers on several continents. The Institute maintains at Boalt Hall an active program of conferences and research projects,

including the recent book publication *Bringing New Law to Ocean Waters*,³ thus continuing a long tradition of publications of conference proceedings, working papers, and journal symposia that the Law of the Sea Institute had produced in earlier years when based at the University of Rhode Island (where it was founded), the University of Hawaii, and the University of Miami.

The editorial board of the *Journal* and the Institute's co-directors are thus pleased to cooperate in producing a symposium that is the latest in a long line of contributions by both the University of San Diego School of Law and the Law of the Sea Institute to the global discourse on ocean law and policy.

3. David D. Caron and Harry N. Scheiber, eds., 2004; also, *THE LAW OF THE SEA: THE COMMON HERITAGE AND EMERGING CHALLENGES* (Harry N. Scheiber, ed., 2000).