Foreword

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The Law of the Sea, the subject to which this issue of the San Diego Law Review is devoted, has been under discussion at the United Nations since 1958 when governments began their efforts to try to work out a global agreement on the issues. The present Law of the Sea Conference began its substantive work in 1974. The result has been the longest and largest Conference in United States history.

This fact attests to the complexity and broad range of the issues involved in trying to achieve a universal code of conduct for the oceans and for the future exploitation of sea-bed resources under the principle that they are the common heritage of mankind. Many problems remain but, as I have told the Conference, we must succeed in achieving what I believe is one of the most important treaties in the history of human affairs, one which will affect the lives of all peoples in the generations to come and which will open a new and potentially huge resource for the use and benefit of all national societies. This goal is worthy of our utmost efforts.

The oceans cover seventy percent of the world's surface and it
is essential that we develop a comprehensive law and international regime to make certain that the exploration and exploitation of the resources of the seas will benefit all. Without such a system, conflict will become the price of the sea's resources and everyone will be the loser.

I cannot overstate the importance I attach to this endeavour. The nations of the world cannot sensibly or safely face the future without some regime of law and order on and beneath the oceans. The international community cannot afford failure to produce an agreement.

There are, of course, conflicting positions and national interests which can only be reconciled through a process of negotiation and accommodation. In the introduction to this symposium, my Special Representative to the Conference, Mr. Bernardo Zuleta, describes the process that has taken place up to now (April 1980). This strengthens the conviction that, considering the divergence of positions on nearly every major issue that existed when the Conference began, the remaining problems are not beyond resolution if they are addressed realistically and in a spirit of compromise.

The international community has given this Conference the great responsibility of adopting a legal regime to cover the traditional uses of the sea, the rational management of living and non-living resources, the preservation of the marine environment, the new scientific frontier, and the exploration and exploitation of the sea-bed beyond the limits of national jurisdiction as the common heritage of mankind. It has been agreed that the problems of ocean space are closely interrelated and need to be considered as a whole, for during the past decades, and at an accelerating pace since deliberations began in 1974, the traditional framework of the law of the sea has come under increasing strain. Advances in technology and the actions of States in response to the new capabilities, as well as the growth in number in the community of nations, make it obvious that we cannot go back to the former system or expect States to be bound by rules which many of them had no part in making, or which are plainly not in their national interest.

The issue, moreover, goes well beyond that of the oceans themselves. Directly involved is the overall effort now under way in the United Nations to establish a new international economic order. The old order is shown to be no longer capable of meeting the world's economic requirements. Despite all that has been done, the gap separating the poor and rich countries of the world continues to widen. Providing greater access to the riches of the
sea for the developing countries is a major supportive effort in the search for a more equitable and better functioning global economic system. Of particular importance also, in the light of the unprecedented growth in world population and the consequent demands for greater food production, will be the potential protein harvest from living marine resources.

Therefore, we are thus confronted with a problem that is larger than the separate and specific issues of ocean management. For the ocean is not only the source of life; it may well be one of the key sources for building a better life. Governments are being called upon to protect and defend that source for the common development and progress of all people. We could have no more urgent task.

On the outcome of this Conference, therefore, depends whether all these problems can be solved under the rule of law, or whether they will be left in a legal vacuum that can only increase inequities and widen the gap between developing and developed nations. If a new and broadly accepted law of the sea does not emerge through international agreement, we face the prospect of each State determining its own view, with ever-widening claims to ocean space and resources. The acceptance of such a situation, which would favour power at the expense of justice, and risk unforeseeable possibilities of conflict, is unthinkable. It would refute the common heritage principle adopted without dissent by the General Assembly 10 years ago and would be directly contrary to the purposes and principles of the Charter of the United Nations.

As Secretary-General of the United Nations, it is my duty to draw attention to these dangers, which go beyond the consideration of the law of the sea. For it is not an exaggeration to say that failure to arrive at a convention on the law of the sea will weaken the credibility of the United Nations as a forum for international negotiations. We must not permit this to happen. We must not lose the moment to complete the decision-making process leading to the adoption of a comprehensive law of the sea convention and thereby a new legal order for the oceans. Success in achieving this critical goal would stand not only as a hallmark for international cooperation; it would give vital impetus to our efforts to solve the other difficult global problems faced by the world community.