Foreword

It is over three decades since the adoption by the Third United Nations Conference on the Law of the Sea of the treaty with that name containing general provisions on the living resources of the sea and it is more than a half century since the initial consideration of this subject by the International Law Commission. Observably, the effort devoted to fisheries conservation and management at national and international levels has increased enormously since the 1950s and very substantially in the past three decades. During the earlier years, the conservation of marine living resources on the high seas was regulated by a specialized branch of international law commonly referred to as fisheries law. In addition, during this interval, the scope of international concern grew noticeably to include the overall general condition of the marine environment, its characteristics and contents. This development occurred under the aegis of another specialized branch of international law, namely environmental law, which addresses *inter alia* the conservation of wildlife in general.

These regimes adopt different methodologies but share the same objective, namely conservation of high seas living resources through sustainable use. The 1982 Convention on the Law of the Sea sought to achieve a balance between the different perspectives underlying the regulation of the conservation and sustainable use of high seas living resources and the right of freedom of fishing. Nevertheless the general provisions of the United Nations Convention on the Law of the Sea (UNCLOS) did not help to resolve fragmentation resulting from the different strategies, standards and rules that different applicable regimes have adopted. Subsequent state practice may also not be in conformity with the applicable UNCLOS provisions themselves but the Convention's provisions serve as a basis for objection. These circumstances have led to fragmentation providing conflicting legal interpretation as to what constitutes conservation and sound management of marine living resources on the high seas.

The changes and interactions of the decision processes involving the law of the sea, fisheries law and environmental law from an international perspective, are the main focus of Simone Borg's comprehensive work, moving beyond a study of UNCLOS alone. The major theme of

the book is the evolution of agreements, both on fisheries and on more general environmental matters that have been negotiated following the creation of UNCLOS. The discussion is organized about the competence of states to proscribe for the issues involved, about the prescriptions that result from the exercise of this competence and their enforcement. The title of the book itself captures the essence of the analysis, namely the need to harmonize international regimes that seek to achieve sustainable use of living resources beyond national jurisdiction. The introductory chapter spells out the methodology of the project, calling attention to the developing fragmentation as agreements are required for specific fisheries over time and to the resulting need for their harmonization. The following chapters are organized thus; jurisdiction to regulate high seas living resources (Chapter 2); the specific content of the general obligation to conserve high seas resources (Chapter 3); specialized conservation measures for particular categories of species (Chapter 4); specific elements of the general conservation regime for high seas living resources, including promotion of compatibility between measures adopted unilaterally by high seas fishing states and consideration of the precautionary and ecosystem approaches (Chapter 5); the general regime for seeking compliance and enforcement on the high seas involving flag state jurisdiction (Chapter 6); the specific elements involved in compliance and enforcement actions, including registration of fishing vessels, control, monitoring and surveillance, reporting, observers, port state controls, and dispute settlement (Chapter 7); and the conclusion summarizing the major causes for fragmentation of regimes and recommendations for harmonizing regimes (Chapter 8).

In order to identify major conflicts, the author has traced the history behind the applicable UNCLOS provisions and then carried out a comparative analysis between later developments and the same provisions. She highlights the four main types of normative conflicts that may arise between different regimes: those arising as a result of prior and subsequent norms addressing the same circumstances, conflicts between special and general rules, laws emerging from different sources and the diverse application of the same rules in different contexts. The author then skilfully identifies potential and apparent conflicts according to the basic elements constituting any regime aiming at the conservation of living resources on the high seas, namely jurisdiction, regulation of conservation, enforcement, the link with scientific research and institutional capacity as a basis for cooperation amongst stakeholders. Simone Borg's discussion, as a whole, is a formidable piece of work that highlights the great range and variety of prescriptive and enforcement measures that are necessary to

cope with widespread fishing activity over the vast part of the world ocean beyond national jurisdiction. The resulting analysis particularly emphasizes the important and continuing need for cooperative action to realize the enormous benefits available from high seas living resources.

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