Editorial Note

Volume 5, number 2 of the *Asia-Pacific Journal of Ocean Law and Policy* features a diverse set of articles that cover pertinent issues relevant to ocean law and policy.

In the first article in this issue, Robert C. Steenkamp of the University of Hamburg in Germany and Cameron Jefferies of the University of Alberta in Canada, analyze the legal ramifications of Japan's withdrawal from the International Whaling Commission (IWC). Their article entitled, 'In Pursuit of the White Whale of Cooperation: The Ability of UNCLOS to Steer the Trajectory of (Future) Commercial Japanese Whaling Operations,' examines the relationship between Japan and the IWC *ex ante* and *ex post* Japan's withdrawal, and, specifically, the ability of the United Nations Convention on the Law of the Sea (UNCLOS) to respond to this withdrawal. The article examines the interaction between the International Convention for the Regulation of Whaling (ICRW)/IWC regime and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regime, which could give content to Japan's duty to cooperate under Articles 65 and 120 of UNCLOS. The article also draws lessons from cases to expound on the content of the duty to cooperate for the conservation, management and study of cetaceans. The article concludes that cooperative action at the IWC, albeit elusive and fraught with cultural and political obstacles, is necessary to effectively steward whale populations and is essential to achieve long term conservation.

The next article, entitled, 'Strengthening the Legal Protection of Female Labourers in Marine Fisheries - A Chinese Perspective,' by Ruiyao He and Yen-Chiang Chang of Dalian Maritime University in China, highlights the vulnerability and lack of effective legal protection of the rights of women employed in marine fisheries in China. The article laments that whilst China is a signatory to numerous international human rights conventions, and has passed extensive domestic legislation that apply international human rights law; however, the authors observe that "[M]ost laws and regulations, which can be applied in the field of the fishing industry ... are still more acknowledged in theory and

difficult to operate in practice.” The authors advocate “to raise society’s awareness of the current predicament of female workers in the fishing industry,” in order to help women obtain the same recognition as men employed in the marine sector, as well as to improve the national fishing industry.

The third article, written by Vasco Becker-Weinberg of the NOVA School of Law in Portugal, ‘South Korea boundary disputes in the East China Sea and the Yellow Sea,’ contextualises the complex situation of the overlapping claims against the backdrop of two challenges. The first challenge for Korea is the future of the joint development agreement signed with Japan, the implementation of which remains at a stalemate after more than four decades since the agreement was signed. The second challenge concerns inter-Korean relations and the legal relevance of the Northern Limit Line for the purpose of drawing a maritime boundary. The author proposes that a pragmatic way forward is for Korea to implement functional provisional arrangements which will serve as “catalysts for extended maritime cooperation, including on a wide variety of matters beyond the development of marine natural resources.” He observes that whilst political will amongst the relevant States is currently lacking, the States concerned must develop confidence-building measures to facilitate regional cooperation and the possibility of resuming meaningful negotiations and safeguarding the rule of law at sea.

The final main article of this volume, by Chris Whomersley of the UK Foreign and Commonwealth Office, is entitled ‘The Principle of Exclusive Flag State Jurisdiction: Is It Fit for Purpose in the Twenty-First Century?’ The article revisits the firmly established principle that a ship is subject to the exclusive jurisdiction of the flag State on the high seas. It illustrates the persistence of this fundamental principle by an examination of relevant State practice and judicial decisions. Nonetheless, the article recognises the growth in open registries and the practical ineffectiveness of the principle which have propelled States to consider other ways to ensure compliance with international conventions on the safety of life at sea, marine pollution, and illegal, unregulated and unregulated (IUU) fishing. The author concludes that, “[W]hilst it is still important that flag States should bear the burden of their responsibilities, it has been increasingly recognised that port States have a crucial role to play.” The article answers the question it posed in the negative, arguing that “flag State jurisdiction is not fit for purpose in the twenty-first century, at least not unless heavily supplemented by port State measures.”

The main articles of the *Journal* are followed by brief reports on “State Law of the Sea Practice in Asian Pacific States.” This volume features State Practice reports from the following countries: Canada, China, Indonesia, Japan, New Zealand, Philippines, Singapore, and the United States.

In the final section of the *Journal*, James Kraska of the United States Naval War College writes a commentary for the “Current Legal Development” section entitled, “The Trump Administration Aligns U.S. Policy with the 2016 South China Sea Ruling.” The article notes that the tough, new U.S. position, fully accepts the decision of the 2016 Philippine-China tribunal award and rejects China’s claims in the South China Sea. The author observes that the U.S. position, is designed to reassure and embolden the other States in the South China Sea to resist China’s dominance, and to promote a greater willingness in the region to contest China’s unlawful maritime claims.

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