

Responsible freedom of navigation is of course as much an international need as a national interest, and naval mobility is a critical factor in the global strategic balance. There can be no new law of the sea convention which does not provide for these twin imperatives through a narrow limit for the territorial sea and guarantees of passage through straits. On the other hand, it is equally important to note that these imperatives cannot be secured readily without a new convention. One wonders, however, whether the emerging new straits provisions may not contain the seeds of what could eventually prove to be a de-stabilizing factor, with "straits states" chafing at the restrictions imposed upon them, and with the two superpowers in disagreement about the very definition of an international strait.

Developing countries

As to the developing countries, finally, their great objectives at the conference were a new, more responsive law-making process, a new ideal of equity, and a new international economic order. They have had mixed success in all three areas.

The very presence of the developing countries at the Law of the Sea Conference signals a revolutionary change — a decolonization — of the law-making process. The developing countries, in effect, have become subjects rather than objects of international law. As such, they have had a profound influence on the Conference and also on the development of customary law. Indeed we owe them the inspiration for the two great concepts which provide the foundation for the new law of the sea — the economic zone, and beyond the limits of national jurisdiction, the common heritage of mankind.

In seeking a new ideal of equity, the coastal states among the developing countries have looked especially to the benefits they would obtain from the economic zone. Certainly, that zone has brought about a redistribution of resources between distant-water fishing states and coastal states, and to some extent between developed and developing countries. It also offers some hope for transfer of technology from industrialized countries which might wish to enter into joint ventures for the development of economic zone resources in the Third World, although such arrangements have their risks and pitfalls, especially since any evaluation of their merits may itself require quite sophisticated expertise.

The economic zone of course does not offer much in the way of direct benefits for those developing countries which are landlocked or geographically disadvantaged, although they are to obtain favourable terms of access to fisheries in the zones of their neighbours. They are also to be given special consideration, together with the least developed countries, in the distribution of payments from coastal states from revenues accruing in respect of continental shelf exploitation beyond 200 miles. These various special benefits, of course, depend on the actual conclusion and entry into force of the new convention.

Common heritage

The greatest expectations of the developing countries, however, have been tied up with the notion of "the common heritage of mankind". Here, above all, they hoped to build a new system of equity and a new international economic order at sea.

Simply put, the notion of the common heritage requires that "the resources of the
