Forgotten Rights? Landlocked States and the Law of the Sea

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I Introduction

On 10 December 2012 the thirtieth anniversary of the opening for signature of the 1982 United Nations Convention on the Law of the Sea (UNCLOS)² was commemorated at United Nations Headquarters in New York. This occasion was a most propitious moment to look back at past achievements as well as to reflect on the future evolution of the law of the sea. In this context the rights of landlocked States recognized by the Convention, their historical development and their realization over the last three decades also merit particular consideration. In particular, the question needs to be asked whether these rights, or at least some of them, have perhaps fallen into oblivion.

UNCLOS, which entered into force on 16 November 1994, has rightly been called a ‘Constitution for the Oceans’,³ as it provides a comprehensive legal framework to regulate all ocean space, its uses and resources. As of 1 February 2013, 165 States, including 28 landlocked countries and the European Union, were parties; another eight landlocked States have signed the Convention but...
so far have not adhered to it. At present, the total number of landlocked States with United Nations membership stands at 445 – 17 in Africa, 13 in Europe, 12 in Asia and two in South America. It is to be noted that none of the Central Asian landlocked States has become a party to UNCLOS.

Although the Convention tries to strike a careful balance between the rights of coastal States and the freedoms enjoyed by all States, whether coastal or landlocked, it is quite obvious that the pendulum has clearly swung from the principle of *mare liberum* to that of *mare clausum* by the recognition of substantial sovereign rights and jurisdiction of coastal States over the most valuable areas of the seas. UNCLOS in fact constitutes the greatest expansion of sovereign rights and jurisdiction in history, substantially limiting the rights of landlocked States to maritime resources.

It should be recalled that the oceans and their marginal seas cover almost 71 per cent of the Earth’s surface and have since earliest times played a significant role in the development of humanity, not only as a means of communication, but also as a source of living and non-living resources as well as an important object of scientific research. The fact is, however, often overlooked that not just coastal but also landlocked States have maritime interests. Thus, it is by no means general knowledge that besides having pleasure craft flying their flags on the seas, quite a number of landlocked countries – Azerbaijan, Bolivia, Czech Republic, Ethiopia, Kazakhstan, Laos, Luxembourg, Moldova, Mongolia, Paraguay, Slovakia, Switzerland and Turkmenistan – also have ocean-going merchant vessels under their own flags, and Bolivia furthermore has a small

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6 See status of the Convention (note 4).