**Small Island States and the LOS Convention 30 Years On: Have the Benefits Been Realized?**

Ruth Davis*

*Australian National Centre for Ocean Resources and Security (ANCORS), Faculty of Law, University of Wollongong, Australia*

Quentin Hanich

*Australian National Centre for Ocean Resources and Security (ANCORS), University of Wollongong, Australia*

**INTRODUCTION**

Although the 1982 United Nations Convention on the Law of the Sea¹ (LOSC) is of great importance to a majority of countries, coastal states, naval powers and distant water fishing nations alike, there is a group of countries for whom the sea is such an integral part of their existence that the LOSC, as the “Constitution for the Oceans,”² must be regarded as being of fundamental significance. The populations of these countries, comprised of one or more relatively small islands, find their way of life, indeed their very existence, dominated by the sea. The UN Secretary-General noted in 2011 that small islands are, “by their very nature, highly dependent on oceans and seas for the livelihoods of their people, while also remaining extremely vulnerable to sea-level rise and the adverse effects of climate change, pollution and other stresses on oceans and marine resources.”³ The LOSC provides small island states with a degree of stability and security, allowing them to deal on a more even footing with larger and more prosperous nations and to more easily access the benefits of marine resources.

* The authors would like to acknowledge the assistance of Rocky Ruperto in the preparation of this article.


Despite the benefits conferred by the LOSC, the goal of sustainable development remains a real challenge for many small island states. Their small size and remoteness pose very real disadvantages for island communities trying to function in a globalized world. In addition, the stereotype of the lush tropical island paradise has often hindered small island nations in their struggle to have their particular problems recognized. “Overall, the international community has tended to view island societies as relatively prosperous, and has not been inclined to appreciate the intrinsic reality of “small islandness,” which is characterized by environmental and social fragility, and a high degree of economic vulnerability to many possible external shocks beyond domestic control.”

One of the initial difficulties one faces when attempting to assess the success of the LOSC from a small island state perspective is in identifying who are the small island states. In general, states identify as small island states on a self-selecting basis, and the term will be used in this article accordingly. However, where appropriate, the more specific term ‘small island developing states’, (SIDS) will be used specifically to denote those states and territories that are recognized in some capacity by the United Nations as requiring differential treatment on the basis of their small-islandness and developing nature (see Table 1). Although the designation is not without its issues, the small island developing states have become the most clearly defined advocacy group for small island interests, particularly in the context of sustainable development and climate change debates. However, the first part of this article will delve further back to identify various small island alliances that have operated since the 1960s and to consider the international community’s willingness to address small island states’ needs prior to the Third United Nations Conference on the Law of the Sea (UNCLOS III).

The article will then move on to identify the issues that were of primary importance to small island states at the time the LOSC was negotiated and their success in achieving a preferred outcome in the text of the Convention. The extent to which the anticipated benefits from the LOSC have been achieved in practice will then be considered, focusing on fisheries management, with some consideration of mineral resources and other issues. It is clear that equity and food security remain fundamental concerns for small island developing states,


6. As Hein points out, the UN lists include some nations that are not islands, some populations that are not independent States, and considerable variation as to what is regarded as ‘small.’ See Hein, n. 5 above.

7. See, for example, the Alliance of Small Island States (AOSIS), available online: <http://aosis.info/>.