

UNITED NATIONS  
GENERAL  
ASSEMBLY



Distr.  
GENERAL

A/AC.138/93  
2 August 1973

Original: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED  
AND THE OCEAN FLOOR BEYOND THE LIMITS OF  
NATIONAL JURISDICTION

Draft Articles relating to Land-Locked States  
submitted by Afghanistan, Bolivia, Czechoslovakia,  
Hungary, Mali, Nepal and Zambia

Explanatory Note

This document has been drafted with the intention to contribute to the work of the Committee in adopting various articles relating to land-locked States. Since the right of free access to and from the sea is the established principle of international law, much care has been taken to include the special provisions regarding this right of the land-locked States. This document also contains, in the form of general guidelines, certain articles with regard to the participation of land-locked States in the exploration and exploitation of the sea-bed and its resources.

These draft articles are not intended to stand alone but shall form an inseparable part of the law of the sea to be fitted at appropriate places into a comprehensive Convention relating to the law of the sea.

Preamble

Recognizing that the right of free access to and from the sea of land-locked States is one of the essential principles of the law of the sea and forms an integral part of the established principles of international law, as the right of free access to and from the sea of land-locked States derives from the application of the fundamental principles of freedom of high seas and has further been strengthened by the principle of the Area of the sea-bed as the common heritage of mankind.

## ARTICLE I

### Definitions

For the purpose of this Convention:

- (a) "land-locked State" means any State which has no sea coast;
- (b) (i) the term "traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without transshipment, warehousing, breaking bulk or change in the mode of transport is only a portion of a complete journey which begins or terminates within the territory of the land-locked State;
- (ii) for the purpose of traffic in transit "person in transit" means the passage of person whose movement is not prejudicial to security, law and order of the transit State;
- (c) the term "transit State" means any State with or without a sea-coast, situated between a land-locked State and the sea, through whose territory the land-locked State shall have access to and from the sea;
- (d) the term "means of transport" includes:
  - (i) any railway stock, seagoing and river vessels and road vehicles,
  - (ii) where the local situation so requires, porter and pack animals,
  - (iii) pipelines, gaslines, and storage tanks when they are used for traffic in transit and other means of transport subject to appropriate arrangements as and when necessary;

## ARTICLE II

### Right of free access to and from the sea

1. The right of land-locked States to free access to and from the sea is one of the basic principles of the law of the sea and forms an integral part of the principles of international law.
2. In order to enjoy the freedom of the seas and to participate in the exploration and exploitation of the sea-bed and its resources on equal terms with coastal States, land-locked States irrespective of the origin and characteristics of their land-locked conditions, shall have the right of free access to and from the sea in accordance with the provisions of this Convention.
3. The right of free access to and from the sea of land-locked States shall be the concern of the international community as a whole and the exercise of such right shall not depend exclusively on the transit States.

### ARTICLE III

#### Freedom of transit

Transit States shall accord free and unrestricted transit for traffic in transit of land-locked States, without discrimination among them, to and from the sea by all means of transport and communication, in accordance with the provisions of this Convention.

### ARTICLE IV

#### Right of flag and equal treatment

1. A land-locked State shall have, equally with coastal States, the right to fly its flag on vessels which are duly registered in its territory.
2. On the high seas, vessels flying the flag of a land-locked State shall have identical rights to those enjoyed by vessels of coastal States.
3. In the territorial sea and in internal waters, vessels flying the flag of land-locked States shall have identical rights and enjoy treatment equal to that enjoyed by vessels flying the flag of coastal States.

### ARTICLE V

#### Right to use Maritime Ports

1. Vessels flying the flag of a land-locked State shall have the right to use maritime ports.
2. Vessels of land-locked States are entitled to the most favoured treatment and shall under no circumstances receive a treatment less favourable than that accorded to vessels of coastal States as regards access to and exit from the maritime ports.
3. The use of these ports, facilities, installations and equipments of any kind shall be provided under the same conditions as for coastal States.

### ARTICLE VI

#### Customs Duties and other Charges

1. Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connexion with such traffic.
2. If the port installations and equipments or the means of transport and communication or both existing in a transit State are primarily used by one or more land-locked States, tariffs, fees or other charges for services rendered shall be subject to agreement between the States concerned.
3. Means of transport in transit used by the land-locked State shall not be subject to taxes, tariffs or charges higher than those levied for the use of means of transport of the transit State.

ARTICLE VII

Free Zone or Other facilities

1. For convenience of traffic in transit; free zones and/or other facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.
2. Such zones shall be exempted from the customs regulations of the coastal States. They remain, however, subject to the jurisdiction of those States with regard to police and public health regulations.

ARTICLE VIII

Right to Appoint Customs Officials

Land-locked States shall have the right to appoint Customs Officials of their own in the ports of transit or free zones empowered in accordance with practice of States, to arrange the berthing of vessels whose cargo is bound for or coming from the land-locked State and to make arrangements for and supervise loading and unloading operations for such vessels as well as documentation and other necessary services for the speedy and smooth movement of traffic in transit.

ARTICLE IX

Transportation, Handling and Storage of goods in transit

Transit States shall provide adequate means of transport, storage and handling facilities at the points of entry and exit, and at intermediate stages for the smooth movement of traffic in transit.

ARTICLE X

Improvement of the Means of Transport and Communications

When means of transport and communication in the transit States are insufficient to give effect to the rights of land-locked States of free access to and from the sea or when the aforesaid means of transport and communication or the port installations and equipment are inadequate or may be improved in any respect, the land-locked States shall have the right to construct, modify or improve them in agreement with the transit State or States concerned.

ARTICLE XI

Delays or difficulties in traffic in transit

1. Except in cases of force majeure all measures shall be taken by transit States to avoid delays in or restrictions on traffic in transit.
2. Should delays or other difficulties occur in traffic in transit, the competent authorities of the transit State or States and of land-locked States shall co-operate towards their expeditious elimination.

ARTICLE XII

Right of access to and from the sea through rivers

A land-locked State shall have the right of access to and from the sea through navigable rivers which pass through its territory and the territory of transit States or form a common boundary between those States and the land-locked State.

ARTICLE XIII

Alternative routes

Land-locked States shall have the right to use one or more of the alternative routes or means of transport for purposes of access to and from the sea.

ARTICLE XIV

Rights of Transit States

The transit State, while maintaining full sovereignty over its territory, shall have the right to take all indispensable measures to ensure that the exercise of the right of free and unrestricted transit shall in no way infringe its legitimate interests. This provision shall not be construed as prejudicing territorial disputes of any kind.

ARTICLE XV

Temporary deviation in exceptional cases

The measures of a general or particular character which a contracting State is obliged to take in case of an emergency affecting the security of the State or the vital interests of the country may in exceptional cases and for as short a period as possible, involve a deviation from the provisions of the above Articles, it being understood that the principle of freedom of transit must be observed to the utmost possible extent.

ARTICLE XVI

Reciprocity

Since free transit of land-locked States forms part of their right of free access to and from the sea which belongs to them in view of their special geographical position, reciprocity shall not be a condition of free transit of land-locked States required by transit States but may be agreed between the parties concerned.

ARTICLE XVII

Access to and from the Sea-bed Area

- (1) Land-locked States shall have the right of free access to and from the Area of the sea-bed in order to enable them to participate in the exploration and exploitation of the Area and its resources and to derive benefits therefrom in accordance with the provisions of this Convention.
- (2) For this purpose the land-locked States shall have the right to use all means and facilities provided for in this Convention with regard to traffic in transit.

#### ARTICLE XVIII

##### Representation of Land-locked States

In any organ of the International Sea-bed Machinery in which not all Member States will be represented, in particular in its Council, there shall be an adequate and proportionate number of land-locked States, both developing and developed.

#### ARTICLE XIX

##### Decision-Making

- (1) In any organ of the Machinery, decisions on questions of substance shall be made with due regard to the special needs and problems of land-locked States.
- (2) On questions of substance which affect the interests of land-locked States, decisions shall be made with their participation.

#### ARTICLE XX

##### Relation to Previous Agreements

- (1) The provisions of this Convention which govern the right of free access of land-locked States to and from the Sea shall not abrogate existing special agreements between two or more States concerning the matters which are regulated in this Convention, nor shall they raise an obstacle as regards the conclusion of such agreements in the future.
- (2) In case such existing agreements provide less favourable conditions than those contained in this Convention, the States concerned undertake that they shall bring them in accord with the present provisions at the earliest occasion.
- (3) The provisions contained in the preceding paragraph shall not affect existing bilateral or multi-lateral agreements relating to air transport.

#### ARTICLE XXI

##### Exclusion of Application of Most-Favoured-Nation Clause

Provisions of this Convention, as well as special agreements which regulate the exercise of the right of free access to and from the sea and the Area of the Sea-bed, establishing rights and facilities on account of special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

#### ARTICLE XXII

##### Settlement of Disputes

Any dispute arising from the interpretation and application of the provisions of the foregoing Articles shall be subject to the procedures for the settlement of disputes provided for in the Convention.