

FREEDOM OF TRANSIT

The Convention defines land-locked states as those states which have no sea-coast.¹ These states are at a definite disadvantage in comparison with those states which have their own coast and consequent access to their own ports and the sea for transportation. But they have the right to sail vessels flying their flag on the high seas,² and they are free to carry on activities on the high seas, enjoying equal rights with all other states.³

Furthermore, land-locked states are barred from claiming parts of the sea for the benefit of the state. They do have a rather weak right to participate in the living resources of the exclusive economic zone of coastal states of the same subregion or region.⁴ However, even this right is limited to developing land-locked states when the harvesting capacity of a coastal state approaches a point which would enable it to harvest the entire allowable catch.⁵ Preferential treatment is granted developing land-locked states with regard to activities in the Area.⁶ All land-locked states are denied rights for participation in sea-bed activities on the continental shelf or in the exclusive economic zone of other states, but they must be given the opportunity to participate in marine scientific research in these zones of neighboring coastal states.⁷

As far as their use of the ocean in any way is concerned, land-locked states are at the mercy of other states, especially neighbouring states with a coastline, willing to grant the land-locked states access to seaports under reasonable conditions. The Convention provides a minimum of protection for the interests of land-locked states by guaranteeing the right of access to and from the sea and freedom of transit⁸ as well as equal treatment of ships flying the flag of a land-locked state.⁹ Freedom of transit is ensured by provisions of the Convention which prohibit the levying by the transit state¹⁰ of customs duties, taxes, and other charges on traffic in transit¹¹ or subjecting means of transport in transit to higher taxes or charges than those customary in the transit state;¹² preferential treatment of certain nations is prohibited.¹³ Transit states are obligated to take all appropriate measures to avoid delays or other difficulties of a technical nature in transit,¹⁴ and in the event that such difficulties arise, the authorities responsible in the transit states and land-locked states concerned are to co-operate in eliminating such difficulties quickly.¹⁵ Naturally, these minimum requirements do not in any way preclude agreements between transit states and land-locked states providing facilities for the convenience of traffic in transit,¹⁶ co-operation in the construction and improvement of means of transport,¹⁷ or the granting of greater transit facilities, either now or in future, than those provided for by the Convention.¹⁸ In addition to the means of transport listed in the Convention (railway rolling stock, sea, lake and river craft, road vehicles, porters and pack animals),¹⁹ the states concerned may agree to include pipelines and gas lines as well as other means of transport.²⁰ But all of the "rights of transit" mentioned above must be considered in light of the condition that the transit state exercises full sovereignty over its territory and may act to protect its "legitimate interests" as well as insist that agreements be made regarding terms and conditions for exercising the freedom of transit.²¹

¹ Art. 124, Subpara. 1 (a)

² Art. 90

³ Art. 87

⁴ Art. 69, Para. 1

⁵ Art. 69, Para. 3

⁶ Art. 148

⁷ Art. 77; Art. 254

⁸ Art. 125

⁹ Art. 131

¹⁰ Art. 124(1(b)), definition

¹¹ Art. 127, Para. 1

¹² Art. 127, Para. 2

¹³ Art. 126

¹⁴ Art. 130, Para. 1

¹⁵ Art. 130, Para. 2

¹⁶ Art. 128

¹⁷ Art. 129

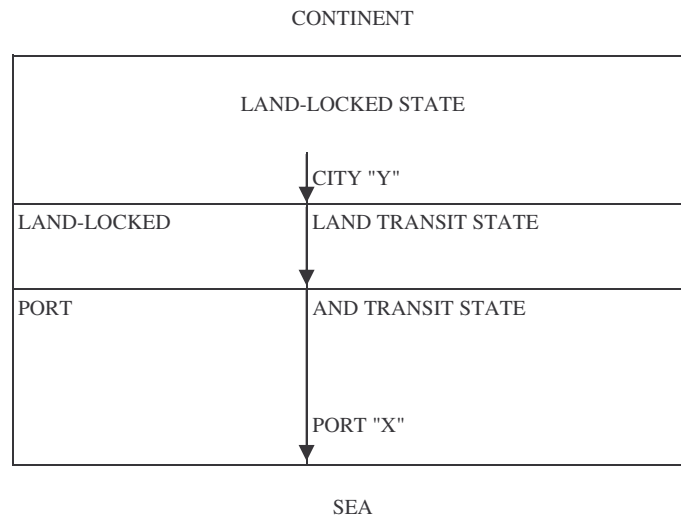
¹⁸ Art. 132

¹⁹ Art. 124, Subpara. 1(d)

²⁰ Art. 124, Para. 2

²¹ Art. 125, Para. 2-3

PRINCIPLES OF "FREEDOM OF TRANSIT"



"Traffic in Transit" means movement of passengers or goods from City "Y" to Port "X" or vice-versa
(Article 124, Subpara. 1(c))

Rights of Transit States

(Article 125, Paragraphs 2-3)

- Can exercise full sovereignty over their territory
- Rights of land-locked states are not to infringe in any way on the legitimate interests of the transit states

Rights of Land-Locked States

(Article 125, Paragraph 1)

- Have the right of access to and from the sea for the purpose of exercising their rights under the Convention
- Enjoy freedom of transit

(Article 125, Paragraph 2)

The terms and modalities for exercising freedom of transit are to be agreed between the states concerned through bilateral, subregional, and regional agreements

Further regulations Articles 124, 126-132